

Tapestry - Preliminary Plan No. 120050950 and Site Plan 820050370

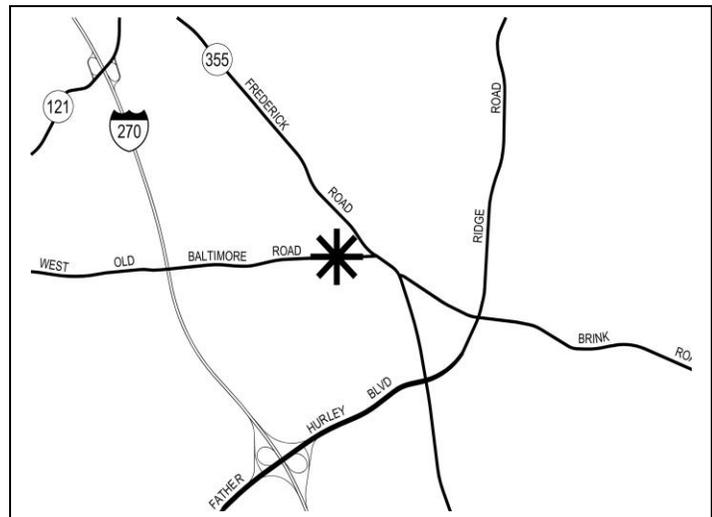
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Tapestry

***A. Preliminary Plan No. 120050950 with a Forest Conservation Plan and Water Quality Plan**
Request for 67 single family units including 10 MPDU's, located at the intersection of MD 355 and West Old Baltimore Road, 30.33 acres, R-200 Zone with the MPDU option, Clarksburg Master Plan & Hyattstown Special Study Area
Staff recommendation: Approval with conditions
Application Submitted: May 4, 2005

***B. Site Plan No. 820050370**
Request for 67 single family units including 10 MPDU's, located at the intersection of MD 355 and West Old Baltimore Road, 30.33 acres, R-200 Zone with the MPDU option, Clarksburg Master Plan & Hyattstown Special Study Area
Staff recommendation: Approval with conditions
Application Submitted: February 10, 2012



Summary

The project as proposed:

1. Complies with specific provisions of the Brink Road Transition Area of the Master Plan (MP pgs. 75 -77) including: the objective to "Create a transition from Germantown to Clarksburg that helps reinforce each community's identity"; conformance to the "two to four units per acre" density range; and the requirement to provide "a scale and character which supports the continuation of the traditional land use pattern in this area: residential units fronting the road";
2. Meets the amended LATR requirements, for projects with multiple applicants, with an executed Letter of Intent establishing a public/private Participatory Project and commitment to a Participation Agreement that will implement a new intersection at Frederick Road, MD 355 and West Old Baltimore Road;
3. Provides 76% of the site as green area, 5.15 acres of Park Dedication, minimizes impervious surfaces, and includes advanced Environmental Site Design (ESD) and Best Management Practices (BMPs);
4. Meets the standards of the R-200 Zone;
5. Provides adequate and accessible internal open space and accessibility to future bus stops and nearby recreational facilities and open spaces;
6. Provides adequate parking and safe access for pedestrians and vehicles;
7. Responds to extensive interagency, community, and staff involvement including multiple public meetings.

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A. Reviewing Agency Approvals and Correspondence

- Montgomery County Department Of Transportation:
Preliminary Plan Review, April 2, 2013
Traffic Impact Study Review, April 2, 2013
Deputy Director for Transportation Policy, May 14, 2013
Approved Roadway Cross Sections from Preliminary Plan, May 20, 2013
- Department of Permitting Services, April 1, 2013
- Montgomery County Department of Environmental Protection
Arborist Letter, February 1, 2013
Applicant's Variance Request, January 22, 2013
- WSSC Development Services Group, December 26, 2012
- Department of Housing and Community Affairs, December 7, 2012
- Montgomery County Fire Marshall, November 19, 2012
- Maryland State Highway Administration, August 27, 2012

B. Local Area Transportation Review and Transportation Policy Area Review Guidelines, January, 2013: Staff's Evaluation of a Traffic Study *Multiple Applicants participating in single transportation improvement (Page 19)*

SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Site and Vicinity Analysis

The 30.33-acre property is located in the northwest and southwest corners of the intersection of Frederick Road (MD Route 355) and West Old Baltimore Road, in Clarksburg (“Property” or “Subject Property”). The Property is bisected and divided into northern and southern portions by West Old Baltimore Road. MD 355 forms the eastern boundary of the Property. The site is within the Brink Road Transition Area of the Clarksburg Master Plan and Hyattstown Special Study Area (“Master Plan”). The North Germantown Greenway Stream Valley Park is located immediately to the south. The Property is located within the Little Seneca Creek watershed and the Clarksburg Special Protection Area (SPA). Streams in this watershed are designated by the State of Maryland as Use IV waters. Streams and associated wetlands and environmental buffers are located in the southeastern portion of the site.

To the west of the Subject Property is the Beau Monde Estates Subdivision (R-200), Musgrove’s Addition to Neelsville (R-200) and the Hurley Ridge Subdivision (R-200/TDR-4). Greenridge Baptist Church and single-family residences (R-200) are located east of and directly front the Property on MD 355. The Goddard School, under construction, abuts the site at its northwest corner. The Property is an assemblage of three unplatted parcels (P090, P250, P430, Tax Map EV52) and Lot 1 of Beau Monde Estates. The Property is in water and sewer categories W-3 and S-3, respectively.



The Goddard School (12011002A), a child daycare center with a 283 capacity enrollment was approved by the Planning Board on March 3, 2011. This facility, with a site of approximately 5 acres, fronts MD 355 and abuts the Tapestry site at the northern corner.



Aerial Photo with Site Boundary Outlined in Red

PROJECT DESCRIPTION

Previous Planning Board Reviews / Pre-Preliminary Plan and Preliminary Plan

A Pre-Preliminary plan (72004062) was presented to the Planning Board for discussion on September 30, 2004. The plan that was brought before the Board consisted of 88 units including 14 MPDU's but included the property now owned by the Goddard School. The Planning Board discussed the resubdivision of the recorded portions of the Property, however, since the Property has changed in shape due to the conveyance to the Goddard School, the issues discussed at that hearing have changed.

At that time the Board also discussed the relationship of the proposed lots that were contiguous to the homes on Ruby Drive. The majority of Board members believed that the proposed lots adjacent to the Ruby Drive homes, while not being held to the resubdivision criteria, should be "roomier" and "larger", although one Board member believed that this was an issue to be dealt with at site plan. One Board member was also concerned about the cookie cutter nature of homes along MD 355.

The subsequent Preliminary Plan (120050950) for the property was presented to the Planning Board on July 26, 2007 and continued to include the approximately 5 acres now owned by the Goddard School. At that time the project density had been reduced and consisted of seventy-eight (78) lots with 66 one-

family detached, and 12 one-family semi-detached (duplex) residential dwelling units, including 12 moderately priced dwelling units (MPDUs). The Planning Board’s primary attention, during this discussion, however, was directed to the project density, the specific plan layout, and the consideration of the locations, and number of units and the fit of the project as then proposed, in the context of the Master Plan provisions for compatibility in the Brink Road Neighborhood. Clarksburg residents voiced strong concerns about the location, character and proximity of the “rows” of units adjacent to the public right-of-ways, and particularly considering the MD 355 gateway entrance to Clarksburg. The Board at that time also expressed that the specific issue of the character of the rows of units at the adjacent public right-of-ways was a problem with the plan as presented, and needed to be addressed by the Applicant. The Applicant requested deferral to address those issues. The Planning Board granted that request. Since that hearing, approximately 5 acres was sold to the Goddard School and construction of that facility has begun.

Proposal



Illustrative Site Plan / Miller and Smith at Tapestry

The Tapestry development consists of a 67 lot residential subdivision containing 57 one-family detached dwellings and 10 semi-detached units as 5 duplex pairs. The plans appropriately include access for all units from West Old Baltimore Road. Internal access is provided by a combination of public streets and private alleys at rear yards. Public Street “A”, at the northwest area of the site, serves the 36 units north of West Old Baltimore Road. Public Streets “B” and “C” serve the 31 units south of West Old Baltimore Road. Street “B” is the first intersection west of MD 355, Street “C” is located at the west portion of the site opposite the entry to Street “A”. All three of these public streets will have dedicated right-of-ways (ROWs) with Streets “A” and “B” having 60 ft. ROWs, and Street “C” classified as Tertiary, with 54-foot ROW. (see Approved Road Cross Sections – Appendices)

The Application requests a 20% density bonus under the R-200 Zone with MPDUs, and the project provides the required 10 MPDUs to achieve this bonus. The MPDU method of development allows lots as small as 6,000 square feet for single family detached units and 3,500 square feet for semi-detached units, commonly referred to as duplexes. The Applicant proposes 10 semi-detached (duplex units) as MPDUs. This plan requests a total of 67 units on 28.06 acres of net useable area. The resulting density at 2.38 units per acre is at the lower end of the 2-4 units per acre density range recommended in the Master Plan.

All units have frontage on a public right-of-way. The units that have detached garages will also have access provided from the rear by a system of private alleys. The Montgomery County Department of Transportation (MCDOT), the Maryland State Highway Administration (MDSHA), and the Department of Fire and Rescue Services have approved the plans, finding that emergency equipment can safely access all units with the planned street system.

Public sewer and water will be provided to the site. The Applicant will be required to build a sewage pump station to serve the needs of this subdivision and upstream properties that can drain to it. The pump station will be transferred to the WSSC for long-term maintenance. Water lines will need to be installed by the Applicant.

The Property abuts M-NCPPC parkland along the southern boundary. Parcel "G" as shown on the plan drawings is at the southeastern portion of the Property and is partially within the stream valley buffer. It contains a tributary of Little Seneca Creek. As part of this development, the Applicant will be required to dedicate Parcel "G" to MNCPPC for park purposes. Access to the Park will be provided by a natural surface trail that links to sidewalks at Street B. No formal trail system for this section of Stream Valley Park exists or is proposed by the Parks Department at this time.

Major Changes from Previous Plans

The Applicant and staff and have worked to make a number of improvements to the plans previously reviewed by the Planning Board. The current project includes a modified layout and unit count following the sale of the Goddard School property. These improvements include:

1. Acceleration of the Frederick Road/West Old Baltimore intersection improvements through a Participatory Project with Montgomery County, The Goddard School, and Cabin Branch;
2. Adjusting the alignment of Frederick Road to match the Master Plan ultimate curb location on the west side of the road;
3. Removal of 40% (9) of the 23 homes previously proposed along the Frederick Road frontage;
4. Increasing the percentage of the Frederick Road frontage in parkland and open space from 49% to 78.5%
5. Increasing forest retention by 25% even though the site was reduced by 14%;
6. Increasing the total amount of forest saved within the current site to 26.5%;
7. Updating the stormwater management approval to meet environmental site design (ESD);
8. Increasing separations between proposed homes and existing streets; homes on lots 17-24 will be located 10 feet (40%) farther than the minimum front yard setback.
9. Reducing the number of homes from 78 to 67.

With the development of the Goddard School site, the total Tapestry land area and the number of units have been reduced as compared with the previous proposal. While the number of units has reduced from 78 homes to 67, and by 14%, the Tapestry Application provides the following:

1. Funding it's pro-rata share of the Frederick Road/West Old Baltimore Road intersection improvements;

2. Dedication of 13% (3.9 acres) of the site for Frederick Road and West Old Baltimore Road ROW;
3. Participation in the construction of Snowden Farm Parkway (A-305) from Dutrow Drive to Clarksburg Road;
4. Construction of a sewer pump station that will be available to serve existing homes and parkland; and
5. Dedication of 19% (5.72 acres, total area) of the site for public parkland.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. The Applicant and Staff have met with community residents including the Clarksburg Citizens Association on several occasions during the development and refinement of the current Preliminary Plan and Site Plan. Staff has not received non-County Agency correspondence on either application after the March 19, 2012 Development Review Committee meeting.

SECTION 2: PRELIMINARY PLAN REVIEW

STAFF RECOMMENDATION

Staff recommends approval of Preliminary Plan 120050950 including the abandonment of a portion of West Old Baltimore Road, a Special Protection Area Water Quality Plan No. 820050370, and forest conservation plan, subject to the following conditions.

1. Total development is limited to 67 residential units on 67 lots with a minimum of 10 MPDU's to include 57 one-family detached and 10 one-family semi-detached units.
2. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its letter dated April 1, 2013, for the Preliminary and Final Special Protect Area Water Quality Plan No. 820050370 and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan No. 820050370, approved as part of this Preliminary Plan, subject to:
 - a. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
 - b. A Category I conservation easement must be shown on the record plat(s) over all areas of forest retention and forest planting that will not be dedicated to the M-NCPPC Department of Parks as shown on the approved Final Forest Conservation Plan.
 - c. Reforestation must begin within the first planting season after issuance of the first grading permit, with appropriate phasing to allow for construction of sediment and erosion control structures and other utilities.
 - d. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Additional or adjustments to the tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

- e. The Applicant must submit financial security for planting 0.50 acres of forest prior to the start of clearing and grading.
 - f. Reforestation Area G, as shown on the Final Forest Conservation Plan must be accessed by foot for planting and maintenance.
 - g. The Applicant must obtain M-NCPPC approval of a five-year maintenance and management agreement prior to M-NCPPC accepting any on-site planting.
 - h. The Applicant must install permanent Category I Forest Conservation Easement signage along the perimeter of the conservation easements.
 - i. Prior to land disturbing activities, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for use of a M-NCPPC-approved offsite forest mitigation bank to satisfy the offsite forest mitigation planting requirements. The offsite forest mitigation requirement must be met within the Clarksburg Special Protection Area or within the Seneca Creek watershed.
4. The Planning Board has accepted the recommendations of the Maryland State Highway Administration (“MDSHA”) in its letter dated August 27, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 5. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in two letters dated April 2, 2013 regarding the review of the Traffic Impact Study and review of roadway Design Exceptions and does hereby incorporate them, as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 6. Record plat(s) to reflect the County Council Resolution reference that abandons the portion of the West Old Baltimore Road right-of-way under abandonment AB 671 and to include a revertible public access easement, as required by MCDOT, to provide continued public use of pavement until realigned West Old Baltimore Road is completed and accepted for maintenance.
 7. Dedicate all road rights-of-way as shown on the approved Preliminary Plan, as follows:
 - MD 355:** 120 feet from opposite right-of-way, where applicable or 60 feet from centerline of the future right-of-way
 - West Old Baltimore:** 80 foot right-of-way
 - Public Streets “A” and “B”:** 60 foot right-of-way
 - Public Street “C”:** 54 foot right-of-way
 8. The Applicant must satisfy Local Area Transportation Review (LATR) requirements for the West Old Baltimore Road/MD 355 intersection by either:
 - a. Enter into a road club, other funding mechanism, or a participation agreement to reconstruct the intersection as approved by MDSHA and MCDOT, or
 - b. Permit and bond or have under contract for construction, the intersection improvements, as approved by MDSHA and MCDOT, prior to issuance of the 48th building permit.
 9. Construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the design standards imposed by all applicable road codes or as approved by MCDOT and MDSHA unless otherwise noted on the Preliminary Plan “To Be Constructed by Others”. Frontage improvements that are the sole responsibility of the Applicant must be coordinated with the intersection improvements at West Old Baltimore and MD 355 and include:
 - Construct an 8 foot wide shared use path along the Subject Property frontage with MD 355 from northern property line to end at Greenbrook Drive

- Construct curb and gutter on west side of MD 355 from northern property line to just south of entrance for the Greenridge Baptist Church
 - Construct median and other pavement widening requirements beyond those required under the LATR intersection improvements on West Old Baltimore at MD 355.
 - Public Streets “A”, “B”, and “C” interface with West Old Baltimore Road.
10. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
 11. The Applicant must dedicate to M-NCPPC the 5.15 acre portion of the Subject Property identified as “Parcel G” on the approved Preliminary Plan for use as a conservation park per the Clarksburg Master Plan. The land must be dedicated to the Commission through notation on the record plat and by conveyance at the time of record plat in a form of deed approved by the Office of General Counsel. At the time of conveyance, the property must be free of any trash and unnatural debris.
 12. The final number of MPDU’s as per condition #1 above to be determined at the time of Site Plan.
 13. Prior to recordation of any plat, Site Plan No. 820050370 must be certified by MNCPPC Staff.
 14. 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 location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the site plan.
 15. Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
 16. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (“Covenant”). The Applicant must provide verification to Staff in accordance with the Site Plan requirements that the Applicant’s recorded HOA Documents incorporate the Covenant by reference.
 17. The certified Preliminary Plan must contain the following note: “Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures, and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
 18. The record plat must show necessary dedications and easements.
 19. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

PRELIMINARY PLAN ANALYSIS AND FINDINGS

Master Plan Conformance

Preliminary Plan No. 120050950 – Tapestry (“Preliminary Plan”) conforms to the recommendations in the 1994 Clarksburg Master Plan and Hyattstown Special Study (“Master Plan”). The Subject Property is located in the 860 acre, Brink Road Transitional Area of the Master Plan. The Application is at the southern boundary of the Clarksburg planning area where it abuts the Germantown greenbelt. The Subject Property is also at the southernmost entry point to Clarksburg along MD 355 and it is the last vacant property located along MD 355 in the Brink Road Transitional Area that has significant development potential.



Preliminary Plan / Miller and Smith at Tapestry

The absence of sewer prior to the adoption of the Clarksburg Master Plan has resulted in several of the older plats subdivisions (Greenridge Acres and Beau Monde Estates) being built on well and septic, with average lot sizes that range from one to two acres to accommodate the septic reserve areas and wells. The newer subdivisions in the vicinity (Summerfield Crossing, Hurley Ridge, and the Glens at Hurley Ridge) have been built since the adoption of the Master Plan. The 130-unit Hurley Ridge subdivision is zoned R-200/TDR and located northwest of the intersection of West Old Baltimore Road and MD 355 directly to the northwest of Subject Property. The 325-unit Glens of Hurley Ridge is an extension of the Hurley Ridge community and also zoned R-200/TDR. Unlike Hurley Ridge, transferable development rights (TDR's) were used to increase density in the development of the project.

The 255-unit Summerfield Crossing community, located to the west along West Old Baltimore Road (adjacent to Beau Monde Estates), is zoned R-200 and includes a 9.3-acre future elementary school site. The western portion of Summerfield Crossing in the vicinity of where West Old Baltimore Road crosses under I-270 is zoned I-4 (Low-Intensity, Light Industrial) but has development approvals.

The key land use recommendations of the Master Plan for the Brink Road Transitional Area are summarized below:

1. *Create a transition from Germantown to Clarksburg that helps reinforce each community's identity (page 75).*

The Brink Road Transition Area lies just north of the Germantown greenbelt which forms a green buffer between Germantown and Clarksburg. To further reinforce the transition from Germantown to Clarksburg, the Master Plan proposed the entry to Clarksburg from the south be characterized by low-density residential development (two to four units per acre). The Master Plan suggests that this density will allow single-family units that and be supportive of the existing residential land use pattern along MD 355.

The Preliminary Plan for 57 one-family detached homes and 10 semi-detached units achieve this objective. The lot layout of the Preliminary Plan is sensitive to maintaining the green edge as one approaches the Subject Property from the south on MD 355. The development provides a gradual transition as one travels through the Germantown greenbelt and enters Clarksburg, first passing newly dedicated and forested parkland with a landscaped open space just beyond. It is not until one nears West Old Baltimore Road until a home is easily visible, however, both sides of West Old Baltimore Road at MD 355 will be framed with landscaped open space. Once north of West Old Baltimore, homes front to MD 355 in accordance with the recommended land use in the Master Plan. The northernmost tip of the Subject Property will be green space located immediately adjacent to MD 355 which again, begins the transition for those traveling south on MD 355 to enter the Germantown greenbelt.

2. *Continue the residential character of MD 355. (page 75)*

The Master Plan recommends that MD 355 be widened to four lanes in this portion of the planning area but that a traditional residential pattern be maintained along MD 355 with homes that front to the street. The preliminary plan establishes this traditional pattern but the plan also accommodates open spaces and separation of lots at certain locations to provide separation of homes so that a continuous wall of house fronts is not the predominant experience from MD 355.

3. *Reinforce the North Germantown greenbelt concept (page 76).*

The Master Plan suggests that the stream valley buffers and parks create the open space pattern in the Brink Road Transitional Area. The Master Plan encourages pedestrian connections to the Little Seneca Creek Greenway as development proceeds.

The Applicant will dedicate the 5.67 acres of forested open space area at the southeast end of the property to the M-NCPPC for protection of natural resources and additional access to adjacent parkland from the subdivision and MD 355. The proposed plan establishes a direct connection between the development and the park by dedicating this land and building a portion of the shared use path along MD 355 that connects into the project's internal sidewalks and those along West Old Baltimore Road. The shared use path will not immediately connect to the existing path on MD 355 to the south. As part of this review, it was not deemed reasonable for this Applicant to construct the remaining length of pathway through the dedicated park land, across the stream with a new bridge and off-site to the shared path that terminates on the Milestone project. A CIP project to design and construct unfinished sections of the shared use path is underway. The path's alignment across the stream and the physical location of the bridge to carry that path cannot be determined until MD 355 is designed to a full four

lanes from near Brink Road to and across the stream. It should be noted that this road improvement is also a CIP project currently being reviewed and is to be executed by Elm Street developers.

Staff finds that the Application addresses all three of the specific Master Plan recommendations and is in substantial conformance with the Master Plan.

Adequate Public Facilities Review (APF)

Site Access, Vehicular, and Pedestrian Circulation

The Tapestry development will have three access points to West Old Baltimore Road, one on the north side and two to the south side. Given the proximity of the easternmost access point to the intersection of West Old Baltimore Road and MD 355, Street "B" will be a right-in/right-out movement restricted by a median in West Old Baltimore Road to prohibit any other movements. West Old Baltimore Road will be re-aligned and rebuilt with sidewalks on both sides. MD 355 will undergo significant reconstruction and will have a shared use path from the Subject Property's northern boundary south, to end opposite Greenridge Drive.

All lots will front on public streets; some units will have vehicular access available from both the public street and those with rear load garages will also have alley access. The internal public streets, Streets "A" and "B", are within 60 foot wide publically dedicated rights-of-way and have 28 feet of pavement. On street parking will be accommodated where allowed on the public streets. The alleys are 28 feet wide and of sufficient width to also accommodate parallel parking were allowed given fire and rescue restrictions. The alleys are well connected to the public street system at both ends to provide good through-circulation. One segment of alley to the rear of Lots 23 through 31, Block B has no through connection but does have a turnaround at its terminus to provide an adequate area for 3 point maneuvers. Both sides of the public streets have 5 foot wide sidewalks that are conveniently located in close proximity to each unit. The internal sidewalks are connected to the shared use path along MD 355 and to the sidewalks along West Old Baltimore Road. In addition, an internal natural surface trail is connected to the pedestrian system near the area of park dedication.

Staff finds the proposed vehicular access to the site is adequate as well as the internal vehicular and pedestrian circulation system.

Local Area Transportation Review (LATR)

Two local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,425 Critical Lane Volume (CLV) for the Clarksburg Policy Area. The proposed development trips were added to the existing and the background traffic (trips generated from approved but unbuilt developments) to determine the total future traffic. The total future traffic was assigned to the critical intersections to calculate the total future CLVs. The result of CLV calculation is shown in the following table.

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour								
	Existing		Background		Total*		Total**	
	AM	PM	AM	PM	AM	PM	AM	PM
MD 355/W. Old Baltimore Road	1,379	1,424	1,723	1,816	1,783	1,875	1,337	1,291
MD 355/Brink Road	1,717	1,603	1,637	1,596	1,664	1,627	1,545	1,519

* Total development conditions without proposed roadway improvements

** Total development conditions with proposed roadway improvements

As shown in the above table, the intersection MD 355 and Brink Road is currently operating at the unacceptable congestion standard (higher than 1,425 CLV) during the AM and PM peak hours. Under the background development condition, both of the intersections analyzed exceed the acceptable congestion standard of 1,425 CLV during the AM and PM peak hour. Under the total development condition, the congestion at these two intersections further deteriorates and must be improved. The Applicant has proposed to participate in the reconstruction of the intersection of MD 355 and West Old Baltimore to alleviate the CLV issue.

West Old Baltimore/MD 355 intersection

When a development is conditioned on intersection and roadway improvements that are also required by other developments, such as is the case for the West Old Baltimore Road. MD 355 intersection, those improvements must be permitted and bonded, under construction, or under contract for construction prior to the issuance of building permits for any new development. This intersection is also identified as a required APF improvement for the following projects: Cabin Branch 12003110B, The Goddard School 12011002A, Linthicum West 120050030, and Crystal Rock 120120210. The January 2013, Local Area Transportation Review and Transportation Policy Area Review Guidelines provide for an exception if an applicant’s trip contribution at an intersection or roadway is less than 25 percent of the sum of total trips and states:

This requirement may be fulfilled by the creation of a road club or other mechanism approved by the Planning Board that:

- Includes the terms, conditions, and responsibilities for funding 100 percent of the cost for design approval, right-of-way acquisition, and construction of the improvements as set

forth in the individual project APF approval; and ensures that all parties contribute in accordance with their respective shares to the total cost of improvements

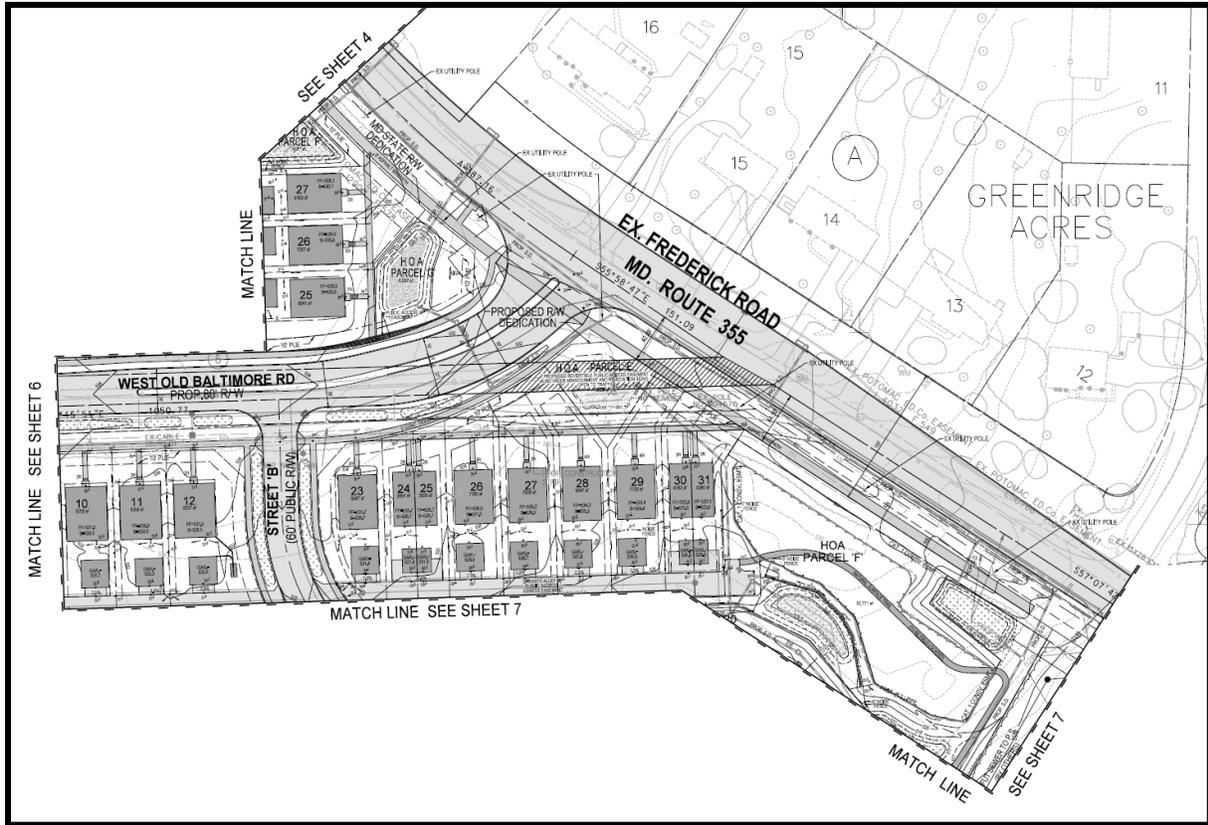
- Ensures the improvements are either permitted and bonded or under contract for construction within three years of the first building permit issued for any of the development dependent on the required improvements
- Ensures the improvement are substantially complete and open within five years of the first building permit issued for any development dependent on the required improvements.

The Goddard School project is approved for 283 students (daycare and after school). As a project that contributes less than 25% of the sum total trips, the Goddard School was allowed to proceed to building permit after signing a Letter of Intent (attached) to participate in a County/State participation project to make the necessary improvements to this intersection. The Goddard Scholl was issued a building permit on November 13, 2012, which starts the clock as to when the construction of the intersection should commence (November 2015) and when it should be completed (November 2017).

The Tapestry development also contributes less than 25% of the sum total of traffic to this intersection. As such, the Tapestry development may take advantage of the exception for small participating projects. The Letter of Intent was signed by the developers of Cabin Branch, Goddard School and Tapestry and generally gave their consent to enter into a participation agreement with the County to fund their individual pro rata share, design the intersection, and dedicate land to accommodate the improvements. The project is to be completed under a general Capital Improvement Project item that includes the necessary funding to complete this intersection project. Based on conversations with MCDOT, (see email dated May 14, 2013 – Appendices) the timeline for this intersection should have construction commencing by the Fall of 2014 and completed by December of 2015. MCDOT is also coordinating this project with other CIP projects in the area including: MD 355 shared use bike path; Brink Road/MD 355 intersection improvements; and the WSSC CIP water main extension to Cabin Branch via West Old Baltimore Road.

The Applicant has elected to participate in the participation project for the reconstruction of the intersection. The Applicant has substantially completed the design of the intersection and will dedicate the necessary right-of-way when record plats are recorded. As part of the recordation of the initial plat, MCDOT will require that the first installment (payment) be made. The intersection improvements are as follows:

- On MD 355: An exclusive northbound left-turn lane and an exclusive southbound right-turn lane on MD 355 to westbound West Old Baltimore Rd.
- On West Old Baltimore Road: Two eastbound lanes approaching MD 355 (one left-turn and one right-turn lane) and a 16 foot wide westbound lane from MD 355 and tapering to a 12 foot travel lane beyond median.



The Applicant also has the option to not participate in the participation project. Although unlikely, if this were the preferred route, the Applicant would need to commence construction, prior to the issuance of the 48th building permit. The Applicant would then be responsible to recoup any contributions from other developers who rely on the intersection improvements to satisfy their APF requirements.

With these proposed roadway improvements at the MD 355/West Old Baltimore Road intersection, it is projected to operate at the acceptable congestion standard under the total development condition.

MD 355/Brink Road intersection

The Applicant will also participate in the construction of A-305 from MD 355 to Clarksburg Road (MD 121) to address unacceptable CLV levels at the MD 355/Brink Road intersection. The construction of this section of A-305 was the area-wide transportation review condition for approval of the Woodcrest subdivision (preliminary plan #1-04039) by Miller and Smith, the Applicant. The LATR Guidelines permit the Applicant to provide a trip mitigation program that results in improved operating conditions equal to 150 percent of the CLV impact attributable to the development that would occur without the applicant's development. With redistributed traffic as a result of the Applicant's participation in the A-305 construction, the total traffic condition at the MD 355/Brink Road intersection is projected to improve traffic conditions compared to the background development condition.

With these two improvements, the Application satisfies the LATR requirement.

Transportation Policy Area Review (TPAR)/Policy Area Mobility Review (PAMR)

The Subject Property is located in the Clarksburg Policy Area. According to the 2012-2016 Subdivision Staging Policy (SSP), the Clarksburg Policy Area is adequate under the roadway test and inadequate under transit test, requiring 25% of Impact Tax payment under the recently adopted TPAR Guidelines. However, the Application for the preliminary plan was completed and submitted before January 1, 2013. Therefore, according to the current SSP, the Application may meet its requirement under TP Transportation Policy Area Review by either complying with all applicable requirements of either Transportation Policy Area Review or Policy Area Mobility Review that were in force immediately before the County Council's SSP resolution, Resolution No. 17-601, amended in 2012. The Applicant decided to choose PAMR. According to the applicable PAMR provision, an application that was submitted prior to July 1, 2011 must apply the trip mitigation requirements in effect by the FY 2012 PAMR. For the Clarksburg Policy Area, there was no PAMR trip mitigation requirement in FY 2012, therefore, the Application meets the TPAR requirement under the current SSP.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Department of Fire and Rescue Service and they have determined that the development has appropriate access for fire and rescue vehicles. Electrical and telecommunications services are also available to serve the development. Washington Suburban Sanitary Commission recommends approval of the plan finding that local lines exist, and they are of adequate size to serve the proposed number of homes. WSSC has also approved the design of the pump station that will handle the sewage flows from the development but will also provide sewer service to offsite properties that have not yet developed or that might have failing septic systems and need public sewer. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy. The Property is located in the Clarksburg High School cluster. Clarksburg High School and all middle and elementary schools within this cluster are operating at acceptable capacities; therefore, no school facilities payment is required.

Environment

Special Protection Area Preliminary/Final Water Quality Plan

As part of the requirements of the Special Protection Area law, a SPA Water Quality Plan must be reviewed in conjunction with a Preliminary Plan. Under the provision of the SPA law, MCDPS and the Planning Board have different responsibilities in the review of a water quality plan. The Planning Board must determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied. MCDPS must review and approve site performance goals, stormwater management, sediment and erosion control and monitoring of Best Management Practices.

- Planning Board Review of the SPA Water Quality Plan

Environmental Buffers - The stream, wetlands, and associated environmental buffers are located in the southeastern portion of the property. The plan includes a permanent encroachment into the environmental buffer for a Washington Suburban Sanitary Commission (WSSC) wastewater pumping station and a paved access driveway to the pumping station. The amount of encroachment into the buffer has been minimized and will not impact any wetlands, wetland buffers or 100-year floodplains. The pump station itself will be located below ground with a turf surface. The pump station is necessary

in order to avoid over 4,000 linear feet of disturbance to the Germantown Stream Valley Park that would be necessary to construct a gravity sewer. The pump station will serve the Tapestry development, existing older homes using septic systems (in the event of failure), and future development that can gravity feed to the pump station. Some stormwater management outfalls must enter into the environmental buffer in order to provide safe conveyance of stormwater discharges at non-erosive velocities. Approximately 0.18 acres of the environmental buffer will be impacted and the remaining 4.53 acres will not be disturbed and will be protected through dedication to M-NCPPC Parks Department. Approximately 0.70 acres of additional area (retained and planted forest) adjacent to, and outside of the environmental buffer will be dedicated to M-NCPPC Parks Department as mitigation for the buffer encroachment.

Forest Conservation and Planting Requirements - As part of the Final Forest Conservation Plan, 7.60 acres of the 22.6 acres of existing onsite forest will be retained, including 4.53 acres of forest within the environmental buffer. Approximately 0.18 acres of onsite forest within the environmental buffer will be cleared to accommodate the proposed WSSC wastewater pump station and associated access driveway. The Applicant proposes to plant 0.50 acres of forest onsite, with the remainder of the planting requirement being met through an offsite forest bank. Per SPA requirements, the forest planting will occur during the first planting season after issuance of the first grading permits when possible, and a five year maintenance program is required. The offsite bank should be located in the Clarksburg SPA or within the Seneca Creek watershed. The retained and planted forest onsite will be protected through either a Category I conservation easement or dedication to M-NCPPC Parks.

Site Imperviousness - The Clarksburg SPA does not have a numerically defined impervious surface limit; however, impervious surface levels must be minimized to the extent possible. The Applicant is required to make improvements to MD 355 and West Old Baltimore Road, which contributes to the amount of impervious area that is included as part of this plan. As the Application has evolved, the Applicant has reduced the amount of impervious surface for the project by increasing open space along MD 355, eliminating homes at the northern end of the Subject Property which would have required long, shared driveways, and has eliminated a left turn lane and associated transitional paving along West Old Baltimore Road and Street A. The Application proposes 7.96 acres of impervious surface for the 29.86 acre net tract area, resulting in an impervious rate of 27 percent.

- Montgomery County Department of Permitting Service Special Protection Area Review Elements

MCDPS has reviewed and conditionally approved the elements of the SPA Preliminary/Final Water Quality Plan under its purview in a letter dated April 1, 2013.

Site Performance Goals - As part of the water quality plan, the following performance goals were established for the site: maintain the natural onsite stream channels, minimize storm flow runoff increases, minimize increases to ambient water temperatures, minimize sediment loading, maintain stream base flows, protect springs, seeps, and wetlands, minimize nutrient loading, and control insecticides, pesticides, and toxic substances.

Sediment and Erosion Control - Redundant sediment control measures are to be used throughout the site. The use of sediment traps with forebays that provide 125% of the normally required storage volume is acceptable for larger disturbed areas. The use of silt fence alone will not be allowed as a perimeter control measure. MCDPS is requiring the use of super silt fence around small areas of disturbance, with an emphasis on immediate stabilization.

Monitoring of Best Management Practices - Stormwater monitoring is required for this project as

described in a memo from Montgomery County Department of Environmental Protection that is an attachment to the MCDPS Preliminary/Final Water Quality Plan approval memo . Monitoring will include groundwater levels, stream cross section profiles, sediment trap performance during storm events, and stormwater management pollutant removal efficiency.

With the conditions of approval, Staff finds the Applicant has satisfied all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas.

Final Forest Conservation Plan and Protection of Sensitive Features

The site is subject to the Forest Conservation Law and a Final Forest Conservation Plan, including a variance for impacts and removal of certain trees otherwise required to be protected.

Natural Resource Inventory/Forest Stand Delineation - The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420102130) for this property was approved on July 15, 2010. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. Streams, associated wetlands and environmental buffer lie in the southeastern portion of the property. The property contains 22.6 acres of forest. There were 159 trees that were identified with a Diameter at Breast Height (DBH) of 24 inches or greater that are located on or within 100 feet of the property.

Final Forest Conservation Plan - As required by the County Forest Conservation Law (Section 22A of the County code), a Final Forest Conservation Plan (FCP) for the project was submitted with the Preliminary Plan and Site Plan applications. The FCP proposes to clear approximately 15.00 acres of existing forest. The FCP propose to retain and protect approximately 7.60 acres of forest with 5.03 acres protected through dedication to M-NCPPC Parks and the remaining 2.57 acres to be protected in a Category I conservation easement. The area within the proposed WSSC easement in the vicinity of the pump station will allow for future sewer connections to the pump station by other off site parties. Therefore, the easement area was deducted from the net tract area as was the forest within it. This forest loss will be accounted for by those who must build the sewer within the easement area. The FCP includes also includes 0.07 acres of offsite area that will be disturbed as part of this application.

The Application is subject to Section 22A12(f) which requires that onsite forest retention must equal the conservation threshold of 20%, or 5.97 acres. The plan proposes to retain 7.60 acres of onsite forest, thereby meeting this requirement. There is a 2.12-acre reforestation requirement that is proposed to be met by a combination of onsite reforestation (0.50 acres), onsite landscape credits (0.12 acres), and an offsite forest bank (1.50 acres).

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

Variance Request - The Applicant submitted a variance request on January 22, 2013 for the impacts/removal of Protected Trees with the proposed layout. The Applicant has requested a variance for the removal of seventeen (17) Protected Trees, and to impact, but not remove, ten (10) others

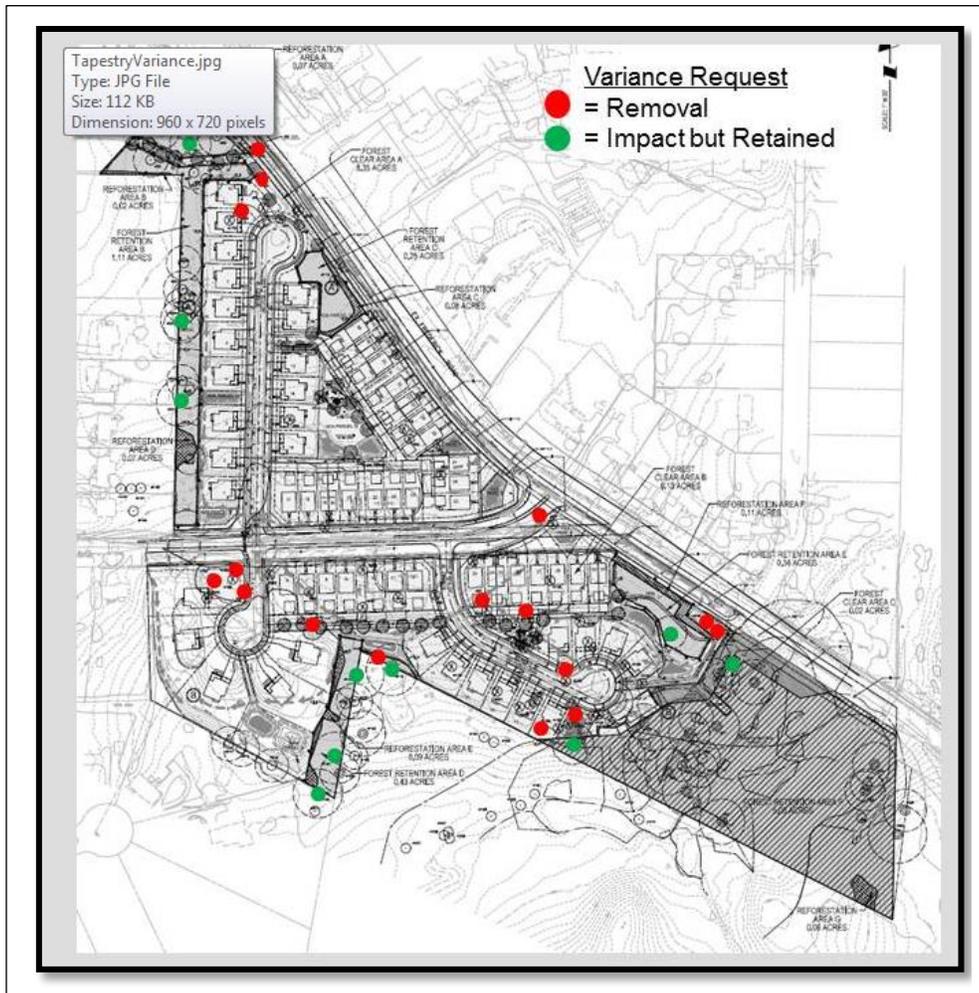
Protected Trees (Tables 1 and 2). The seventeen Protected Trees that are proposed for removal are # 23, 45, 53, 97, 98, 107, 108, 130, 131, 141, 150, 164, 165, 181, 183, 196, and 217. All of these Protected Trees are located within existing forest that is proposed to be removed and are accounted for in the reforestation requirements; therefore, additional mitigation for their removal is not recommended.

Table 1. Protected Trees to be Removed

Tree No.	Common Name	Botanical Name	D.B.H. (Inches)	Tree Condition	Location
23	Black Oak	<i>Quercus velutina</i>	32	Good	MD 355 (north)
45	White Oak	<i>Quercus alba</i>	30	Good	Interior
53	Elm	<i>Ulmus sp.</i>	35	Good	Old Baltimore Road
97	Tuliptree	<i>Liriodendron tulipifera</i>	33	Fair	Interior
98	Tuliptree	<i>Liriodendron tulipifera</i>	31	Good	Interior
107	Tuliptree	<i>Liriodendron tulipifera</i>	31	Fair	MD 355 (south)/SWM
108	Tuliptree	<i>Liriodendron tulipifera</i>	32	Good	MD 355 (south)/SWM
130	Tuliptree	<i>Liriodendron tulipifera</i>	31	Good	Interior
131	Tuliptree	<i>Liriodendron tulipifera</i>	32	Good	Interior
141	Red Cedar	<i>Juniperus virginiana</i>	41	Poor	Interior
150	White Oak	<i>Quercus alba</i>	49	Fair	SWM
164	Black Gum	<i>Nyssa sylvatica</i>	39	Good	Old Baltimore Road
165	Tuliptree	<i>Liriodendron tulipifera</i>	31	Good	Old Baltimore Road
181	Red Oak	<i>Quercus rubra</i>	31	Good	MD 355 (north)
183	Black Oak	<i>Quercus velutina</i>	32	Good	MD 355, utilities
196	Red Maple	<i>Acer rubrum</i>	32	Fair	Lot/house/hazard
217	Black Walnut	<i>Juglans nigra</i>	31	Poor	Interior/Road

Table 2. Protected Trees to be Impacted but Retained

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Impact	Tree Condition	Location
71	Tuliptree	<i>Liriodendron tulipifera</i>	34 inch	9%	Fair	SWM
91	Red Oak	<i>Quercus rubra</i>	31 inch	8%	Good	Sewer
142	White Oak	<i>Quercus alba</i>	39 inch	1%	Fair	stormdrain
154	White Oak	<i>Quercus alba</i>	39 inch	1%	Fair	SWM
156	Tuliptree	<i>Liriodendron tulipifera</i>	37 inch	1%	Good	SWM
194	Tuliptree	<i>Liriodendron tulipifera</i>	31 inch	30%	Good	SWM
210	Red Oak	<i>Quercus rubra</i>	39 inch	27%	Good	SWM
221	Red Oak	<i>Quercus rubra</i>	35 inch	3%	Fair	SWM
224	Red Oak	<i>Quercus rubra</i>	32 inch	2%	Good	Sediment Control
232	Black Cherry	<i>Prunus serotina</i>	25 inch	21%	Good	SWM



Unwarranted Hardship – As per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship. Development on the property is dictated by the existing conditions on the site, the development standards of the R-200 zone, the provision of Moderately Priced Dwelling Units, and requirements associated with Master Plan objectives and County agency requirements. Reasonable development of the Subject Property cannot avoid forest impacts since the majority of the property is forested. Of the seventeen Protected Trees proposed for removal, eight are located within the right-of-way of MD 355 or West Old Baltimore Road, seven are located within the interior of the site, one is within a proposed stormwater management facility and one on a proposed lot. Staff has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, 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:

Variance Findings - Staff has made the following determination based on the required findings that granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified trees are due to the development of the property. The property contains numerous large trees located within the developable area of the site and within the Master Planned road rights-of-way. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this applicant. Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

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

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, Master Plan recommendations, and the development standards of the R-200 zone.

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

The need for a variance is a result of the existing conditions, the proposed site design and layout on the subject property, and fulfillment of Master Plan objectives.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. Reforestation and landscaping proposed on the site will replace the functions currently provided by the subject trees. In addition, Montgomery County Department of Permitting Services has found the stormwater management concept for the proposed project to be acceptable. The stormwater management concept incorporates Environmentally Sensitive Design.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist. On February 1, 2013, the County Arborist issued a letter recommending that the variance be granted, with mitigation.

Staff recommends that the tree variance be granted. Staff finds that, with the conditions of approval, the Application is in compliance with the Montgomery County Forest Conservation Law, and the Special Protection Area Law. The Application protects all identified sensitive environmental features.

Noise Analysis

A Traffic Noise Impact Analysis was prepared for the development and the results provided in a report dated December 18, 2011 and subsequent addendums dated May 16, 2012 and October 17, 2012. A noise analysis is required as part of the Site Plan for the development. The Site Plan will show the location of noise mitigation features.

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, and Chapter 59, the Zoning Ordinance. Access and public facilities will be adequate to support the proposed 67 residential lots. The public facilities for the development are adequate to serve the proposed units. Additionally, the proposed lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision given the recommendation for the Brink Road Transition Area section of the Clarksburg Master Plan. The lots provide for a traditional residential pattern along MD 355 where the Master Plan recommends that homes are to front to the street.

The lots have been reviewed for compliance with the dimensional requirements specified in the Zoning Ordinance for the R-200 zone utilizing the MPDU development option. The lots meet the R-200 zoning standards and utilize the MPDU option to achieve a density of 2.38 units per acres which is within the recommended Master Plan density of 2 to 4 units per acre. The lots as proposed will meet all applicable dimensional requirements for area, frontage, width, and setbacks in that zone.

Conformance with Section 50-29(b)(2)

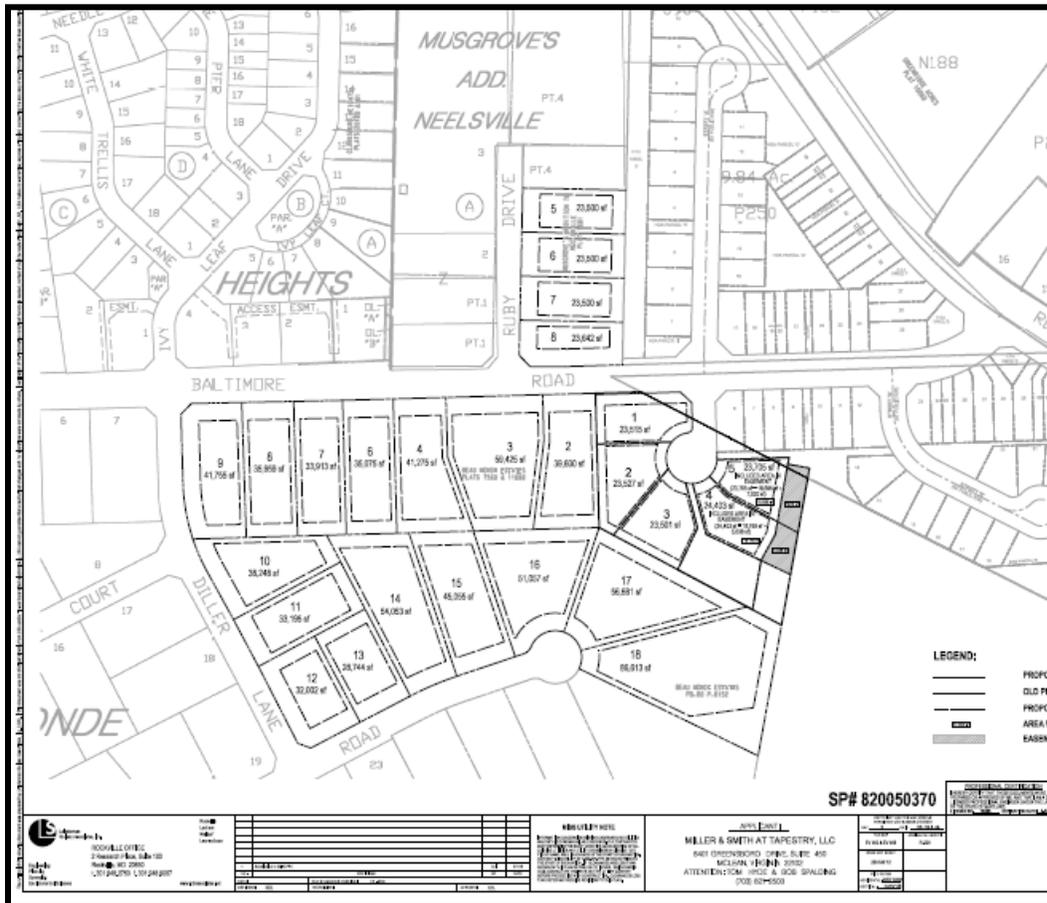
The Subject Property consists of numerous existing properties including one previously recorded lot, therefore, a resubdivision analysis is required. Consistent with prior direction of the Planning Board at the hearing for the Pre-Preliminary Plan for this subdivision on September 30, 2004, only the proposed lots that are located on the previously platted lot will be held to the resubdivision criteria analysis. This includes Lots 1-5, Block B, or the five lots that surround the cul-de-sac in the southwestern section of the Subject Property. And, while it has been standard practice of the Planning Board to not compare proposed lots to those that developed using different development methods, prior Board direction on the Pre-Preliminary Plan for this development suggested that would be appropriate for this Application. There are no lots near Lot 1-5, Block B, that were developed under the R-200 MPDU optional method of development which allows lot sizes to be substantially smaller than one half acre. The adjoining lots all developed under the R-200 standard method, and for the most part, are well in excess of one-half acre.

In order to approve an application for resubdivision, the Planning Board must find that the proposed lots are of the same character by analyzing all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "Neighborhood" for evaluating the Application. In this instance the Neighborhood consists of 20 lots. The lots included in the Neighborhood about the Subject Property in the Musgrove's Addition to Clarksburg and the Beau Monde Estates Subdivision. While all properties within the Neighborhood are of the same R-200 zoning, none developed using the same R-200/MPDU optional method as proposed by the Subject Property. Beau Monde Estates and Musgrove's Addition developed using the standard R-200 method of development using private septic systems. The Neighborhood provides an adequate sample of the lot and development patterns in the area. A Neighborhood Map and tabular summary has been provided below.



Resubdivision Analysis										
Tapestry Resubdivision of Lot 1 Beau Monde Estates										
3/27/2013										
Existing Beau Monde Estates Lots										
Lot	Block	Frontage (ft)	Lot Size (sf)	Lot Area (sf) (area within zoning setbacks)	Width at Building Line	Shape of Lot	Alignment	Septic	Suitable for Residential Use	Notes
2	A	120	39,600	24,468	120	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
3	A	220	59,425	40,370	220	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
4	A	120	41,275	25,410	120	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
6	A	115	35,075	21,150	115	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
7	A	111	33,913	20,252	111	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
8	A	118	35,959	21,829	118	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
9	A	138	41,755	20,348	138	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
10	A	206	38,248	22,693	141	Rectangular	Perpendicular	Yes	Yes	West Old Baltimore
11	A	120	33,195	19,418	120	Rectangular	Perpendicular	Yes	Yes	Diller Lane
12	A	146	32,002	14,196	146	Rectangular	Perpendicular	Yes	Yes	Diller Lane
13	A	130	28,744	15,886	130	Rectangular	Perpendicular	Yes	Yes	Deoudes Rd
14	A	115	54,053	36,223	115	Rectangular	Perpendicular	Yes	Yes	Deoudes Rd
15	A	140	45,055	28,821	140	Rectangular	Perpendicular	Yes	Yes	Deoudes Rd
16	A	108	51,057	31,876	150	Pie	Radial	Yes	Yes	Deoudes Rd bulb
17	A	59	56,681	36,580	113	Pie	Radial	Yes	Yes	Deoudes Rd bulb
18	A	42	86,613	64,246*	167	Pie	Radial	Yes	Yes	Deoudes Rd bulb
* Area would be 58,480 sf if the area outside of the platted Building Restriction Line is excluded.										
Existing Musgrove's Add To Neelsville Lots										
Lot	Block	Frontage (ft)	Lot Size (sf)	Lot Area (sf) (area within zoning setbacks)	Width at Building Line	Shape of Lot	Alignment	Septic	Suitable for Residential Use	Notes
5	A	100	23,500	12,375	100	Rectangular	Perpendicular	Yes	Yes	Ruby Dr
6	A	100	23,500	12,375	100	Rectangular	Perpendicular	Yes	Yes	Ruby Dr
7	A	100	23,500	12,375	100	Rectangular	Perpendicular	Yes	Yes	Ruby Dr
8	A	325	23,642	8,089	104	Rectangular	Perpendicular	Yes	Yes	Ruby Dr
Resubdivision of Beau Monde Estates Lot 1, Block A										
Tapestry Lot Number	Block	Frontage (ft)	Area (sf)	Lot Area (sf) (area within zoning setbacks)	Width at Building Line	Shape of Lot	Alignment	Septic	Suitable for Residential Use	Notes
1	B	116	23,515	13,705	112	Rectangular	Perpendicular	No	Yes	Street 'A'
2	B	64	23,527	15,970	118	Pie	Radial	No	Yes	Street 'A'
3	B	52	23,501	17,062	124	Pie	Radial	No	Yes	Street 'A'
4	B	42	18,765 ¹	12,589	102	Pie	Radial	No	Yes	Street 'A'
5	B	42	16,685 ¹	11,153	100	Pie	Radial	No	Yes	Street 'A'
1. When adjacent easement areas are included, the Areas are 24,403 sf for Lot 4 and 23,705 sf for Lot 5.										

Comparison of the Character of Proposed Lots to Existing

Staff applied the above-noted resubdivision criteria to the Neighborhood. Based on the analysis, staff concludes a waiver is required in order to meet the resubdivision criteria. The Application proposes two lots that would be the smallest with respect to size in the Neighborhood. The size of the lots is driven by the general Planning Board practice to discourage forest easements on lots if the easement might become an enforcement issue. As such, the Applicant has reduced the size of Lot 4 and 5, Block B and created an HOA parcel to the rear of these lots with a Category I easement on it. If the waiver is granted, the proposed lots are of the same character with lots in the Neighborhood as determined by analysis of the six remaining resubdivision criteria. As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Size: See Subdivision Waiver Section

The existing lots range in size from 23,500 square feet to 86,613 square feet. The proposed lots range in size from 16,685 square feet to 23,527 square feet. As discussed in the Subdivision Regulation Waiver section below, two proposed lots, Lots 4 and 5, Block B, are the smallest in the Neighborhood and this has historically been a sufficient basis to find that such lots are not of the same character with other

lots. In this instance, the lots could be made larger and staff would find that they are of the same character with the Neighborhood lots but this would require that forest easements be placed on the rear of these two lots, rather than the separate HOA parcel that is now to the rear of Lots 4 and 5, Block B. In the review of the FCP, staff suggested a preference to create the HOA parcel so that the easements would be on a quasi-public property, rather than on private property. The conflict created for this Application pits a Planning Board practice against a regulation in Chapter 50. Should the Board agree to eliminate a portion of the HOA parcel and attach this land to the two lots in question, the lots would be 24,403 square feet and 23,705 square feet (Lots 4 and 5 respectively) and be of the same character with respect to size. The Subdivision Waiver would then be unnecessary.

Frontage: The proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

At the street frontage, the width of existing lots range from 42 feet to 220 feet. For the Tapestry project, the proposed lots 1-5, Block B range in frontage width from 42 feet to 116 feet. The proposed lots are similar in frontage width as the existing lots within the Neighborhood and of the same character.

Width (at the building restriction line): The proposed lots will be in character with existing lots in the Neighborhood with respect to width.

The existing lots range in width at the building restriction line from 100 feet to 220 feet. The proposed lots range in width from 100 feet to 124 feet. The proposed lots fall within the range of widths in the Neighborhood. The lots are of the same character with respect to width.

Alignment: The proposed lots will be in character with the existing lots with respect to the alignment criterion.

The existing lots are either perpendicular or radial to the street line. The proposed lots will be either perpendicular or radial to the street and, therefore, of the same character.

Area: Staff finds the proposed lots to be of the same character as other lots in the Neighborhood with respect to buildable area.

The buildable areas of lots in the Neighborhood range from 8,089 square feet to 64,246 square feet. The proposed lots range in buildable area between 11,153 square feet and 17,062 square feet. The buildable areas of the proposed lots are well within the range of areas for the existing lots in the Neighborhood, and are, therefore, of the same character.

Shape: The shapes of the proposed lots are in character with shapes of the existing lots.

There is a fairly wide variation in lot shapes in the existing Neighborhood with rectangular and pie shaped lots. The proposed lots also are all either rectangular or generally pie shaped and are of the same character.

Suitability for Residential Use:

The existing and the proposed lots are zoned residential and the land is suitable for residential use.

Subdivision Regulations Waiver

Staff has accepted a Subdivision Waiver request from the Applicant to address a compliance issue with one of the seven resubdivision criteria for this Application. As discussed in the Resubdivision section above, proposed Lots 4 and 5, Block B are two of the five proposed lots that are being analyzed under the resubdivision criteria because they are located on land shown on a record plat. All remaining lots are created from unplatted properties and not subject to resubdivision. Because Lots 4 and 5, Block B, are the smallest in size as compared to other lots in the “resubdivision neighborhood”, they technically are not of the same character with respect to the existing lots to which they are compared. Historically, creating the smallest lot(s) by a resubdivision has been reason for Staff and the Board to find that such lots are not of the same character, even though they meet all six other resubdivision criteria.

In a letter dated April 2, 2013 (attached) the Applicant requests a waiver of Section 50-29(b)(2) to waive the size criteria only for Lots 4 and 5, Block B. The Planning Board’s authority to waive requirements of Chapter 50 is found in Section 50-38 – *Waivers from this chapter*, which states:

“The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.”

The Applicant’s letter suggests that practical difficulties and unusual circumstances exist that prevent full compliance with the requirements of the resubdivision analysis, specifically the size requirement for Lots 4 and 5, Block A. To summarize the Applicant’s letter, the size of Lots 4 and 5, Block B, represent the two smallest lots in the Neighborhood used to evaluate the resubdivision. They are the smallest in order to address a Planning Board practice that discourages forest easements on private lots. The Applicant’s letter highlights the fact that the prohibition against easements on private lots is a Planning Board “policy” not based in law. During the review of the forest conservation plan, the Applicant was advised of the Board’s opposition to such easements on private lots and that it was preferable to have the easements on an HOA parcel instead. The Applicant obliged and the conflict with the resubdivision “size” criteria has remained an issue, for which the Applicant has submitted this waiver request.

Staff agrees with the Applicant’s justification that this is a practical difficulty in which two competing factors, one a practice and the other a regulation, are creating the inability to comply completely with the Subdivision Regulations. If the Planning Board were willing to accept the easement on the rear of the lots and the lots could absorb the corresponding areas of the adjacent HOA parcels, the lots would be of sufficient size and this Subdivision Waiver would not be necessary. If not, the Planning Board must determine that the waiver is the minimum necessary to provide relief from the requirement; is not inconsistent with the General Plan, and not adverse to the public interest. Staff finds that waiving the size criteria is the minimum necessary to provide relief and would allow the Application to fully comply with Chapter 50. Granting the waiver is not inconsistent with the purposes and objectives of the General Plan because the subdivision complies with the recommended zoning and otherwise meets all Master Plan recommendations. Granting the waiver is not adverse to the public interest; the location of the lots in question is internal to the Subject Property and allows the forest easements to be placed on the HOA parcel. The house location would likely remain unchanged whether the waiver is granted or the lot is enlarged. Visually there would be no difference to the general public.

Staff finds that there is sufficient justification for the Planning Board to consider the waiver request and that granting the waiver meets the three specific requirements of the waiver provision. Staff finds that,

with the granting of the Subdivision Regulations Waiver, the Application complies with the resubdivision criteria and that the proposed lots are of the same character as the existing lots within the Neighborhood.

SECTION 3: SITE PLAN REVIEW

STAFF RECOMMENDATION

Staff recommends approval of the Tapestry Site Plan 820050370, for 57 one-family detached units, and 10 single family semi-detached units as 10 MPDUs on 30.33 acres. All site development elements shown on the Site Plans and Landscape Plans stamped "Received" by the M-NCPPC on May 20, 2013, subject to the following conditions.

Conformance with the Tapestry Preliminary Plan Approval

1. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval for Preliminary Plan No. 120050950.

Environment

2. Forest Conservation & Tree Save
The Site Plan must comply with the conditions of approval for the Final Forest Conservation Plan No. 820050370, approved as part of Preliminary Plan No. 120050950.
3. Stormwater Management
The proposed development is subject to the SPA Preliminary/Final Water Quality Plan conditionally approved by a MCDPS letter dated April 1, 2013 and as approved by the Planning Board with Preliminary Plan No. 120050950.
4. Noise Mitigation
 - a) Prior to issuance of the first building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer that specializes in acoustical treatment that:
 - i. The location of the noise mitigation techniques to attenuate current and/or proposed noise levels to no more than 60 dBA Ldn for the outdoor backyard area of homes and areas of common outdoor activity are adequate.
 - ii. The building shell for residential dwelling units to be constructed within the projected 60 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
 - b) If any changes occur to the plan which affect the validity of the noise analysis dated, December 18, 2011 and subsequent addendums dated May 16, 2012 and October 17, 2012, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the revised plans and new noise attenuation features may be required.
 - c) Applicant/developer/builder to certify that they will construct the noise impacted units and noise mitigation fences/walls in accordance with the recommendations of the engineer that specializes in acoustical treatments.

Parks, Open Space, and Recreation

5. Common Open Space Covenant

The Record Plat(s) must reference the recorded Common Open Space Covenant at Liber 28045 Folio 578. The Applicant must provide verification to the M-NCPPC staff prior to issuance of the 48th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

6. Recreation Facilities

- a) Meet the requirements for all of the proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide all of the recreation facilities and elements included in the Site and Landscape Plans, including: the dedicated Park, preserved HOA wooded areas, 1 tot lot, 1 play lot, 2 picnic/sitting Areas, 1 open play area II, 1 pedestrian system, 1 nature trail system, and the natural areas.
- c) Provide dedication of the 5.15 acre Park, Parcel G, to the M-NCPPC, in compliance with requirements of the Department of Parks.

Transportation & Circulation

7. Transportation

- a) The development is limited to 67 residential units (57 one-family, market rate, detached units, and 10 semi-detached MPDUs).
- b) Required improvements for the MD 355 and West Old Baltimore Rd. intersection segments must comply with conditions of the Preliminary Plan and be included in the Certified Site Plan.

Density & Housing

8. Moderately Priced Dwelling Units (MPDUs)

- a) The development must provide 14.5 % of the total number of units as MPDUs consistent with the requirements of Chapter 25A. The Applicant is providing 67 total units including 10 MPDUs with a 20 percent density bonus.
- b) The MPDU *Agreement To Build* must be executed with DHCA before the issuance of any building permits by the MCDPS.
- c) The site locations of the MPDUs must follow the plans as proposed with 6 MPDUs north of West Old Baltimore Road and 4 MPDUs south of West Old Baltimore Road.
- d) The Applicant must provide two dedicated off-street parking spaces for each MPDU unit.
- e) The Applicant must provide, at the time of the Offering Agreement submission to DHCA, illustrative architectural elevations of the MPDUs to demonstrate architectural compatibility with adjacent market rate units.
- f) All of the proposed 10 MPDUs must be provided on-site.

Site Plan

9. Site Design

- a) Provide sidewalk ramps in accordance with MCDPS approvals.
- b) For the private access alleys/roadways provide a minimum roadway paving width of 20 ft.

10. Landscape Elements

- a) Provide and install all site landscape elements as included in the Site and Landscape Plans.
- b) Prior to approval of the Certified Site Plan complete the final design of the monumental signage located at the MD 355, West Old Baltimore intersection frontage.

11. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b) All on-site down-light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d) Illumination levels for lighting located outside of right-of-ways must not exceed 0.5 footcandles at property lines abutting residential properties.
- e) The height of the light poles above grade shall not exceed 14 feet including the base.

12. Landscape Surety

Provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) The amount of the surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the relevant phase of development. Surety to be posted prior to issuance of first building permit within each relevant phase of development and shall be tied to the development program.
- b) Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c) Completion of plantings by phase to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d) Provide a Site Plan Surety & Maintenance Agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

13. Development Program

Construct the proposed development in coordination with the intersection of MD 355 and West Old Baltimore Road in accordance with a development program. The development program must include the following items:

- a) Satisfy the requirements for the West Old Baltimore Road/MD 355 intersection in accordance with the conditions of the Preliminary Plan.
- b) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- d) On-site recreational facilities, associated landscape planting, and site elements such as sidewalks, benches, picnic tables and trash receptacles must be installed and completed as each adjacent section of development is completed.
- e) Provide each section of the development with necessary roadway access meeting County MCDOT and MCDPS requirements.

- f) The development program must provide phasing of dedications, installation of landscaping, street lighting, utilities including the WSSC sewer system and pump station, stormwater management, sediment and erosion control, afforestation, and other features as included within the Site Plan.

14. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and information provided subject to Staff review and approval:

- a) Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b) Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c) Modify data table to reflect development standards enumerated in the staff report.
- d) Include all details necessary to meet requirements as proposed by the Applicant’s Noise consultant.
- e) Ensure consistency off all details and layout between site plan and landscape plan.

SITE PLAN ANALYSIS AND 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.*

This finding is not applicable to the Tapestry Project.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements for the R-200 Zone with MPDUs under Sec. 59-C-1.62. As summarized in the following **Data Table**, and as allowed under permitted unit types within this zone.

Development Standard	Zoning Ordinance Required/Allowed	Proposed Standards
Site Area and Dedication (Acres)		
<ul style="list-style-type: none"> ▪ Gross tract area ▪ Dedication (west side of MD 355, 120 ft. ROW) ▪ Useable area 	NA Deduct for useable ac. NA	30.33 acres <u>2.27</u> ac. 28.06 ac. useable
Density		
<ul style="list-style-type: none"> ▪ Maximum Density (with 28.06 acres useable) ▪ Maximum Bonus w/MPDUs ▪ Minimum MPDUs (based on a maximum of 67 units provided) 	68 units (2.44 DUs/acre) 22% 10 MPDUs (14.5%)	67 units (2.38 DUs/Acre) 19.4% or 20% 10 MPDUs (14.9%)
Uses		
<ul style="list-style-type: none"> ▪ One-family detached ▪ One-family semidetached ▪ Maximum percentage of semi-detached units 	NA NA 40.0%	57 units 10 units 14.9%
Net Lot Area (Square Feet) and Width (Feet)		
<ul style="list-style-type: none"> ▪ One-family detached ▪ One-family semi-detached ▪ Minimum lot width for a one-family detached unit at street line 	6,000 minimum 3,500 minimum 25 feet	6,000 minimum 3,500 minimum 25 feet minimum
Setbacks (Feet)		
<ul style="list-style-type: none"> ▪ From street (front and side all units) ▪ From subdivision boundary (rear all units) ▪ From subdivision boundary (side all units) ▪ From rear (accessory detached structures) ▪ From any property line (Noise fence (>6.5')) 	25' 20' min. rear yard or equal to adj. zoning 12' N/A N/A	25' 20' min. rear yard or equal to adj. zoning N/A 5' 0 feet
Green Area		
2,000 square feet per one-family attached unit	0.46 acres (10 units = 20,000 square feet)	23.05 acres (76%)
Building Height (Feet)		
<ul style="list-style-type: none"> ▪ One-family detached or semi-detached units ▪ Accessory building 	40 feet (3 stories) 25 feet (2 stories)	40 feet (3 stories) 25 feet (2 stories)
Parking for Vehicles		
<ul style="list-style-type: none"> ▪ 31 one-family detached front load (2 per/du) ▪ 26 one-family detached rear load (2 per/du) ▪ 10 one-family semi-detached (2 per/du) ▪ Visitor on street ▪ Visitor off street ▪ Total 	62 52 10 garage/10 off street 134	124 52 20 17 29 242 (avg. 3.61/d.u.)

The Tapestry project as proposed satisfies the purpose and description provisions and standards of the R-200 Zone developed with MPDUs. The project will provide a range of unit types consistent with the zoning requirements with detached units and 10 MPDU semi-detached units.

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



Illustrative Site Plan / Miller and Smith at Tapestry

Locations of Buildings and Structures

The site design provides for a unified form of residential development at an overall density and mixture of unit types that is consistent with the recommendations within the Brink Road Transition Area of the Clarksburg Master Plan that specify a density range of 2 to 4 units per gross acre for the Tapestry Property. The allowable maximum density for the site, under the R-200 zone with MPDUs is 68 units or 2.44 units/ ac. on the net usable land area. The proposed density of 67 units applied to the total 30.33 ac. gross area of the site is 2.2 units per ac., and applied to the net usable site area is 2.38 units per acre. These density ranges are just over the low point of the Master Plan density range.

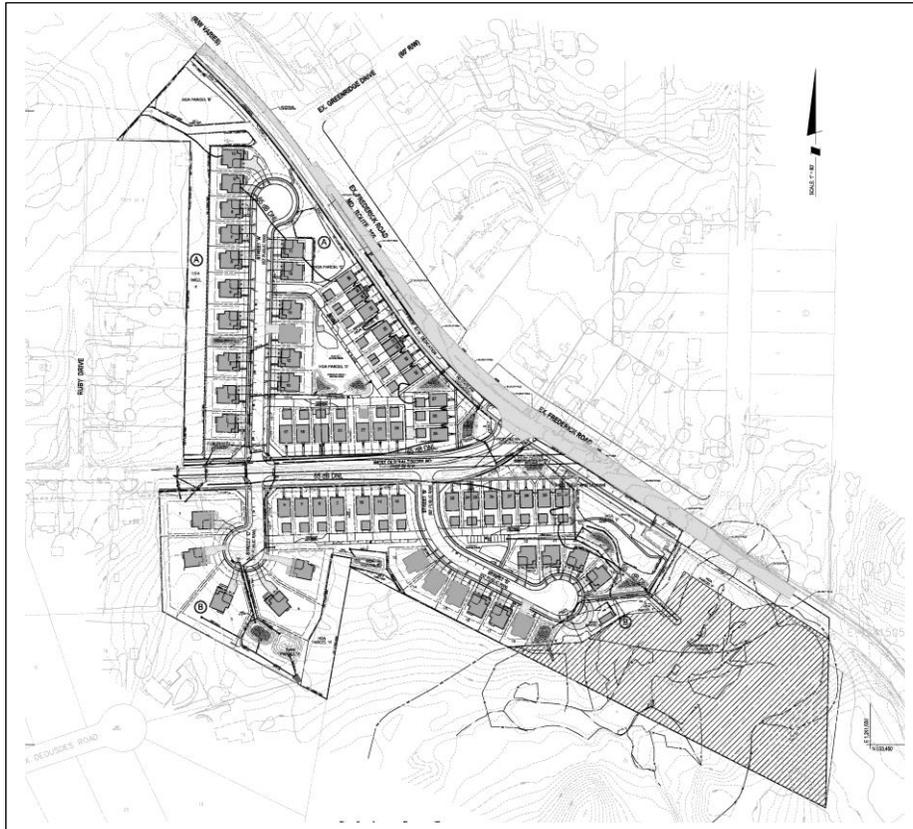
This overall low, single family residential density provides a scale and pattern that complies with the Master Plan and assures compatibility with adjacent residential uses.

Property Configuration, Access, and Building Locations

The residential units are efficiently and appropriately located on the site in response to:

1. The two north and south areas required by the east-west alignment of the dedicated 80 ft. right-of-way of West Old Baltimore Rd. that bisects the site.
2. The unique configuration of the site consisting of the triangular shape of the north portion, and the south portion divided into two segments linked by a somewhat narrow land area adjacent to and parallel to West Old Baltimore Rd.
3. The primary design objective of fronting all of the residential units to public right-of ways.
4. The design, location, and area requirements of the proposed new intersection at West Old Baltimore Rd. and Frederick Rd., MD 355. This intersection as proposed requires a minimum distance of approximately 290 ft. from the centerline of the future MD 355 right-of-way to the centerline of the first intersecting internal street, Street B.
5. Internal access roads, with ingress and egress at West Old Baltimore Rd., consisting of: Street A at the northwest portion of the Property; Street B at the southeastern portion, and Street C at the southwest area.
6. Preservation of a significant amount of internal open space including buffers and forested areas, and the 5.15 net acre "Parcel G" Park Dedication at the southeast portion of the property.

The internal roadways with street fronting residential units, are located efficiently on the separated geometry of the site. The plan contains woodland buffer areas and significant internal open space areas that provide separation of the units throughout the site.



Detailed Site Plan

Residential units fronting the adjacent major public right-of-ways at MD 355 and West Old Baltimore Rd. conform to the specific provisions of the Brink Road Transition Area of the Clarksburg Master Plan (MP pg. 75) to:

- “allow single family units supportive of the existing residential land use pattern along MD 355”
- “ Continue the residential character of MD 355”
- (provide) “a scale and character which supports the continuation of the traditional land use pattern in this area: residential uses fronting the road.”

These Brink Road Transition Area provisions are further strengthened by the site layout with all of the internal units, those not fronting the two major public right-of-ways, also fronting the internal streets: Street A, with a 60 ft. public ROW, and located north of West Old Baltimore and at the west side of the site; Street B, with a 60 ft. ROW, and located south of West Old Baltimore at the east side of the site; and, Street C, with a required 54 ft. ROW, and located south of West Old Baltimore Rd., at the southwest side of the site.

The residential units are appropriately distributed within the developable area of the site, in the two areas, north and south of West Old Baltimore Road. The plan layout and distribution of the units is also successful in that the unit locations respond well to the difficult site geometry. The site plan efficiently accommodates the new realigned intersection, with dedication of the required 80 feet of right of way for West Old Baltimore Rd. and dedication of the western portion of the 120 feet of right-of-way for MD 355.

Residential Units Fronting Frederick Road, MD 355



Illustrative Plan



Plan at MD 355 and Intersection

The Tapestry site includes approximately 2,100 feet, or 0.4 mile, of streetscape frontage along the southwest side of MD 355. Of this extensive site area, 9 lots (Lots 28-36), front directly adjacent to the MD 355 roadway. These 9 lots include 5 of the single family detached units and 4 of the semi-detached MPDU units. The 4 MPDU's include units in 2 pairs of 2 each, and with the 4 detached units result in a total of only 7 separated building areas directly fronting MD 355. These 9 units will be setback from the

MD 355 right-of-way at an average distance of approximately 25 ft. from the building restriction lines to the right-of-way, and from the building restriction lines to the face of the MD 355 roadway curb at an average distance that will exceed 50 ft.

An additional 12 units flank the MD 355 and West Old Baltimore reconfigured intersection. Three of these units are located north of West Old Baltimore Road and face east, and 9 units are south of West Old Baltimore and face north. These 12 units have significant setbacks from MD 355 which provide a generous area for a landscaped entryway from MD 355 to West Old Baltimore Road.

The location of the above 21 described units at and near the MD 355 roadway frontage will provide an attractive, green, and very appropriate gateway entry sequence for vehicles traveling north from Germantown into Clarksburg. This area of the Tapestry site will also present an attractive, largely green frontage for southbound vehicles on MD 355.

Residential Units North of and Fronting West Old Baltimore Road

The total site area north of West Old Baltimore Rd. includes 30 single family detached, market rate units, and 6 of the MPDU units. The north side of the West Old Baltimore Rd. frontage includes 8 units directly facing the roadway, 2 of which are MPDUs. Three units front the open space to the east at the intersection. All of the remaining north side units are accessed by Street A, a cul-de-sac that is oriented in a north south direction and parallel to the west property line. One of these units (Lot 1) fronts Street A and is well set back from West Old Baltimore Rd. The 8 units that directly front West Old Baltimore Rd. are separated by a pedestrian greenway (HOA). These 8 units will be setback from the roadway curb an average of approximately 44 ft. This distance will provide an adequate and attractive streetscape frontage at the north side of West Old Baltimore Rd.



Residential Units Fronting West Old Baltimore Road

Residential Units South of and Fronting West Old Baltimore Rd.

The area of the Property south of West Old Baltimore Rd. includes 27 single family detached, market rate units, and 4 of the MPDU units. All of these units have internal street access from Street B at the southeast side of the Property and Street C at the southwest corner. The streetscape on the south side of West Old Baltimore Rd. will include 10 units that have a direct frontage relationship to the roadway with 6 other units that will front the open area in the southeast corner of the West Old Baltimore/MD 355 intersection. One other lot (Lot 1) is located to the west of Street C. The unit will access Street C and will be well set back from the West Old Baltimore Rd. frontage. The row of lots and units fronting the south side of West Old Baltimore Rd. are spatially separated by a pedestrian greenway (HOA) and by Street B which reduces the perception of a continuous row of units. These units will be setback from the

roadway curb, by an average of approximately 55 ft. This distance will provide an adequate and attractive streetscape frontage.

When considered together, the streetscape formed by the 8 units fronting the roadway on the north, and the 10 units fronting the roadway on the south, will be a well-spaced, open, and attractive east-west gateway at the center of the project.

Open Spaces

The open spaces provided are adequate, safe, and efficient. The plan as proposed will include 76% of the total site area as green space. The southeast portion of the development will preserve an extensive portion of the MD 355 frontage as woodlands and open space, providing a green, low density gateway entry to Clarksburg.

The overall plan preserves sensitive environmental areas and significant areas of woodlands while also accommodating right-of-way dedications, utility easements, including a required WSSC structure, and a 5.15 ac. Park Dedication on Parcel G.



Southeast Property Area at MD 355 Frontage



Intersection at MD 355 Frontage

The intersection gateway from MD 355 to West Old Baltimore Rd. will include approximately 1.2 acres of streetscape frontage, and this area does not include the added green, landscaped portion of the dedicated MD 355 ROW.



Central Neighborhood Park North of West Old Baltimore Road

A 0.4 acre open and landscaped park is located in the north central area of the site. Open play and seating areas are included in this HOA Parcel D area. North of this Park, a wooded area, HOA Parcel C, abuts the MD 355 frontage, providing a green buffer at the Street A cul-de-sac.

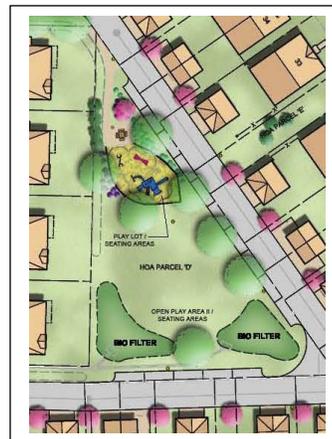
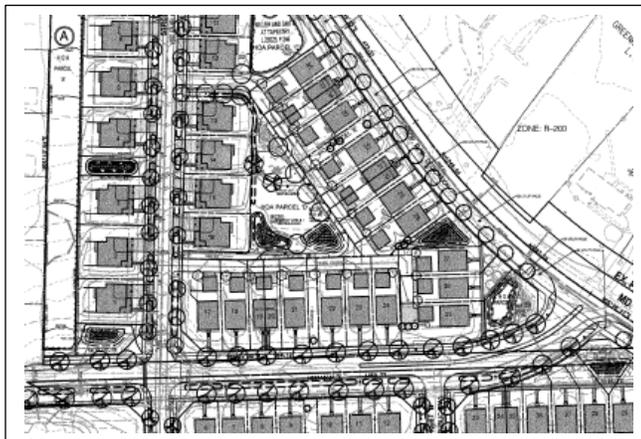


North Property Areas

An open landscaped frontage at MD 355, together with a 1.25 acre wooded buffer at the north corner of the Property, abutting the Goddard School site, will provide an attractive streetscape.

Landscape Design and Lighting

The Landscape and Lighting Plan includes a generous commitment for installation of: deciduous streetscape trees along both sides of the dedicated frontages of West Old Baltimore Road, and along the full frontage of the MD 355 ROW dedication; deciduous trees, well-spaced, along both sides of each of the internal public roadways; and an adequate spacing of street lighting standards throughout the project. The Landscape Plans includes wood fencing provided in locations necessary to meet the consultant's findings of the noise impact analysis. Mitigation of noise levels will be required at the rear yard, outdoor locations of some of the residential units. Planning Board guidelines stipulate a 60 dBA maximum noise level for outdoor recreation areas. The fencing will be installed in the north Property area of 16 lots near MD 355 (Lots 9-12, and 25-36), and 4 lots (19-22) near West Old Baltimore Rd; and in the south Property areas with 3 lots near MD 355 (Lots 29-31). The Landscape Plan include: Lighting Photometric Plans; details for the board on board, noise mitigation fencing; installation requirements; lighting standards and fixtures; and the gateway signage at the MD 355 and West Old Baltimore Rd. intersection frontage.



Landscape Plans / Including Central Neighborhood Park / HOA Parcel D

Recreation Facilities

The following table includes the Applicant's demand and supply calculations for the proposed on-site recreation facilities. Eight recreational facilities are provided on site for the Tapestry project: 1 Tot Lot; 1 Play Lot; 2 Picnic/Sitting Areas; 1 Open Play Area II; 1 Pedestrian System; 1 Nature Trails system; and 1 Natural Access Area. Using the on-site facilities with Planning Board Approved Recreation Guidelines, and for each of the Population Category areas measured, the recreational Supply ratings exceed the Demand criteria. Therefore, the recreational facilities provided on-site will be adequate.

RECREATION CALCULATIONS

Montgomery County Recreation Calculations For the Tapestry Property

DEMAND

Unit Type	Number of Units	D1 Tots 0-4 yrs	D2 Children 5 - 11 yrs	D3 Teens 12 - 17 yrs	D4 Adults 18 - 64 yrs	D5 Seniors 65+ yrs
SFD I	3	0.30	0.60	0.66	2.55	0.24
SFD II	21	2.73	5.04	5.25	22.26	2.31
SFD III	33	4.62	6.27	7.59	41.91	4.29
TH	10	1.70	2.20	1.80	12.90	0.70
GARDEN*		0.00	0.00	0.00	0.00	0.00
HI-RISE		0.00	0.00	0.00	0.00	0.00
Total Demand		9.35	14.11	15.30	79.62	7.54
On-Site Supply		15.40	21.94	16.89	83.73	11.90
% met On-Site		164.73%	155.48%	110.36%	105.17%	157.84%
Off-Site Supply*		0.00	0.00	0.00	0.00	0.00
Total On + Off Site		15.40	21.94	16.89	83.73	11.90
% Demand met On + Off		164.73%	155.48%	110.36%	105.17%	157.84%

GARDEN*

Multiple-Family, 4 stories or less (Per Montgomery County Recreational Guidelines)

ON-SITE SUPPLY

Recreation Type	Qty. Provided	D1	D2	D3	D4	D5
		Tots	Children	Teens	Adults	Seniors
		Recreation Value				
1. Tot Lot (0-6)	1	9	2	0	4	1
2. Play Lot (5-14)	1	0	9	3	4	1
4. Picnic/Sitting	2	2	2	3	10	4
5B. Open Play Area II	1	3	4	4	10	1
21. Pedestrian System	1	0.94	2.82	3.06	35.83	3.39
22. Nature Trails	1	0.47	1.41	2.30	11.94	1.13
23. Natural Areas	1	0.00	0.71	1.53	7.96	0.38
Total Recreation Value		15.40	21.94	16.89	83.73	11.90

Pedestrian and Vehicular Circulation Systems

The pedestrian and vehicular circulation systems are adequate, safe and efficient.

1. Walkways are provided throughout the Tapestry project and the adjacent roadway dedications.
2. An 8 ft. shared use path will be constructed along the MD 355 site frontage.
3. The intersection and associated roadway improvements will meet County and State requirements.
4. Internal vehicular circulation is well planned and integrated with the adjacent intersection and new roadways.

Pedestrian Circulation

Sidewalks and pathways are integrated throughout the proposed Tapestry development. Sidewalks are provided on both sides of each of the three major internal streets. The Master Plan required 8 ft. shared use pathway will be constructed along the entire MD 355 frontage. Sidewalks will be constructed along the full frontage at both sides of the dedicated right-of-way of West Old Baltimore Road. These pedestrian facilities, within the Tapestry project and adjacent roadway right-of-ways, will allow excellent pedestrian circulation within the project area and neighborhood.

Bikeway at MD 355

The Applicant and the County will jointly implement the Master Planned 8 ft. shared use path on the Tapestry frontage of MD 355. As shown on the Site Plan the Applicant will be responsible for the segment from the northern most Tapestry frontage to a point opposite Greenbrook Drive. The County will complete the remaining segment to the south Property line and beyond as part of a CIP project approved for MD 355.

Vehicular Circulation / Site Access Plan and Facilities

The reconfigured and reconstructed MD 355 and West Old Baltimore Rd. intersection and improvements to West Old Baltimore Rd. will result in three points of access for the development to West Old Baltimore Rd: one on the north side, Street A, with a 60 ft. public ROW; and two on the south side, Street B, with a 60 ft. public ROW, and Street C with a 54 ft. ROW. These 3 site access locations are well spaced and provide a distribution of vehicle trips and turning movements at adequate distances from the West Old Baltimore Rd. and MD 355 intersection.

Street A provides access to all 36 residential units located north of West Old Baltimore Rd., with: 16 single family detached units fronting the cul-de-sac portion; and with 20 units accessed from two non-dedicated, private alleys that access rear yard garages. The alley ways are 20 ft. wide and provide on street parking in addition to rear lot garage parking. The 31 units south of West Old Baltimore Rd. will be provided access by Streets B and C.

The intersection locations of the three new streets on West Old Baltimore Rd. are spaced in response to the geometry of the site and the operational requirements of the intersection. Due to the required minimum distance from the MD 355 intersection, turning movements at the Street B intersection will be restricted by a median in West Old Baltimore Rd. to prohibit left turns for vehicles approaching from the east (MD 355). These vehicles must proceed to Street C to make a left turn into the development. The roadway width and design has been approved by MCDOT and it will be adequate, safe and efficient for these required directional trips.

For the site plan as proposed, staff and the County agencies participating in plan review and approval of the project have determined that vehicular circulation associated with the Tapestry development and the intersection will be adequate, safe, and efficient.

Tapestry Development and Infrastructure Facility Phasing

The Tapestry project and the required intersection improvements, implemented by the public/private Participatory Project, will be coordinated and managed as one overall development phase with both projects proceeding together. The Applicant will continue assistance with design, engineering, and coordination. Construction sequencing of the intersection will be managed by MCDOT and MDSHA with County MCDPS requirements enforced to assure safe intersection operations while accommodating construction staging for both projects.

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

The structures and uses proposed are well spaced internally and are compatible with other uses and site plans, and with existing and proposed adjacent development. The landscaped streetscapes with residential units fronting the two major public roadways provide well designed, attractive circulation gateways adjacent to and through the project.



Illustrative Site Plan

Compatibility at MD 355 and West Old Baltimore Road

Staff has worked with the Applicant to improve the streetscapes from the plan previously reviewed by the Planning Board. The proportion of frontage comprised of proposed parkland and open space has increased from 49% to 68.5% of the Frederick Road frontage. Modifications to the proposed curb line along Frederick Road were moved to match the location of the master plan curb line resulting in more than a 50-foot separation from the homes to the curb. The same result was achieved along West Old Baltimore Road by the Applicant agreeing to an additional 10 feet (40% increase) of setback for lots 17 to 24 on Block A.

The following illustrative (non-binding) photos are submitted by the Applicant to illustrate the view of comparably-sized homes built by Miller and Smith at the Woodcrest development in Clarksburg. The first (left) photo is taken from approximately the same distance as would be between the Tapestry homes and the church across MD 355. The second photo is taken at about the same distance as the

homes would be from the centerline of MD 355, 150-foot north of the West Old Baltimore Rd. intersection. The homes at the Tapestry intersection have even greater setbacks with additional open space at the intersection.



Woodcrest homes

at about the same distance as Tapestry homes from the homes and church across the Frederick intersection



Woodcrest homes

at about the same distance as Tapestry homes from the centerline of Frederick Road, 150 feet north of West Old Baltimore Road

Differences between Woodcrest photos and the Tapestry proposal are noted by the Applicant, including: the homes at Tapestry will be 42% farther from the curb (minimum of 50 versus 35 feet) than the homes at Woodcrest; and the nine homes shown above are greater than the number of homes on any block along MD 355 or West Old Baltimore Rd. In addition, the architecture of single family homes is not a condition of site plan approval. However, the elevations of the MPDU duplex homes (combined to be the same massing as each market rate home) will be reviewed and approved by DHCA during the MPDU Agreement To Build process to provide compatibility with the market rate homes.

Compatibility at Northwest Property Line

The retention of existing wooded areas at the site’s north boundary adjacent to the Goddard School, and along the eastern boundary of the adjacent Musgrove’s Addition at Neelsville Subdivision (Ruby Drive lots), provide an appropriate buffer between the Tapestry Property and these two developments.

The Tapestry residential units (Lots 1-10) along this northwestern property line are well sized and spaced, providing internal compatibility among the units fronting Street A.



Compatibility at Southwest and South Property Areas

The large lot residential units (Lots 1-5) in the southwest area of the Tapestry Property are sized to be compatible with the adjacent Beau Monde Estate subdivision to the west and south. The Preliminary Plan analysis addresses the resubdivision criteria and the lot size waiver for the two smallest lots in this group (Lots 4 and 5) that would also be the smallest in this designated neighborhood. Both of these lots, however, are relatively large, at 18,765 sq. ft. and 16,685 sq. ft., without inclusion of the forested open space area to the east of the rear yards. The remaining entire southeastern Tapestry property frontage

abuts the large forested greenway, a significant amenity that extends to Black Hill Regional Park to the southwest.



Lots 1-5 at the Southwest Portion of the Site

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.*

The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, and Chapter 19 regarding water resource protection.

This Application is subject to the County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the property was approved on July 15, 2010.

As part of the Final Forest Conservation Plan, the Applicant will be retaining 7.60 acres of the 22.6 acres of existing on site forest, including 4.53 acres of forest within the environmental buffer. Approximately 0.18 acres of onsite forest within the environmental buffer will be cleared. This portion of the environmental buffer is located within the area of the proposed WSSC wastewater pump station and associated access driveway. The Applicant proposes to plant 0.50 acres of forest onsite, with the remainder of the planting requirement being met through an offsite forest bank.

The Preliminary/Final Water Quality Plan was approved by MCDPS by a letter dated April 1, 2013. The Applicant's Water Quality Plan meets the required stormwater management goals by the use of environmentally sensitive design measures to the maximum extent practicable. Treatment is provided by a combination of micro-scale practices, non-structural measures, porous pavement and structural measures.

The Clarksburg SPA does not have a numerically defined impervious surface limit; however, impervious surface levels must be minimized to the extent possible. The Applicant is required to make improvements to MD 355 and West Old Baltimore Rd. that contribute to the amount of impervious area that is included as part of this plan. The Applicant has minimized the amount of impervious surface for the project by increasing the open space along MD 355 and reduced number of homes at the northern end of the Property which would have required long, shared driveways. The Application results in 7.96

acres of impervious surface for the 29.86 acre net tract area, resulting in an impervious coverage of 27 percent of the total Property area.

Development Program and Phasing

The Tapestry residential project and the associated, required intersection Participation Project improvements will be managed and constructed as one overall neighborhood development. The required sewer service system, including the WSSC pump station and the sewer outfall requires construction of pressure sewer lines from the southeast corner of the site up to the northwest corner of the site. Coordination of final design, engineering, and construction staging areas, safe operation of the intersection during construction, and mitigation of impacts during construction are necessary. MCDPS requirements for both projects will be followed.

Tapestry has provided design and preliminary engineering input for the intersection, and MCDOT and MDSA will provide final design coordination and will construct the intersection.

APPENDICES

A. Reviewing Agency Approvals and Correspondence

- Montgomery County Department of Transportation
Draft Amendment Letter, May 24, 2013 (added)
Preliminary Plan Review, April 2, 2013
Traffic Impact Study Review, April 2, 2013
Deputy Director for Transportation Policy, May 14, 2013
Approved Road Cross Sections from Preliminary Plan, May 20, 2013
- Department of Permitting Services, April 1, 2013 (added)
- Montgomery County Department of Environmental Protection, February 1, 2013
Arborist
Applicant's Variance Request
- WSSC Development Services Group, December 26, 2012
- Department of Housing and Community Affairs, December 7, 2012
- Montgomery County Fire Marshall, November 19, 2012
- Maryland State Highway Administration, August 27, 2012

B. Local Area Transportation Review and Transportation Policy Area Review Guidelines, January, 2013: Staff's Evaluation of a Traffic Study *Multiple Applicants participating in single transportation improvements (Page 19)*

May 24, 2013

Mr. Richard Weaver, Supervisor
Area Three Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120050950
Tapestry

AMENDMENT LETTER

Dear Mr. Weaver:

We have completed our review of the amended preliminary plans package dated May 20, 2013. This letter supersedes certain parts of our letter dated April 2, 2013. This letter also incorporates our emailed amendments of April 28, 2013 and May 16, 2013. A new comment has been added with respect to the proposed abandonment of a section of existing West Old Baltimore Road.

Previous comments in our April 2, 2013 letter remain applicable unless modified below.

○ P. 1. Roadway Cross Sections

Streets A and B: We accept the proposed modified sixty (60) foot wide right-of-way and typical section. Parking will be allowed on one side only along these streets; locations and limits of on-street to be determined at the permit stage. We accept the proposed Public Improvements Easements; the maintenance strip behind the five (5) foot concrete sidewalks should be no less than one (1) foot wide.

Street C: We accept the proposed modified fifty four (54) wide right-of-way and typical section. On-street parking will not be allowed within the twenty (20) pavement section.

West Old Baltimore Road: The typical sections indicate different typical sections apply to different locations along West Old Baltimore Road, depending on location. However, the plans do not reflect centerline stationing (to delineate the limits noted on the typical sections); the plan views should be updated accordingly. We agree that left turn storage lanes need not be provided at the intersection with Streets A and C. However, the pavement width at the proposed inlets (west of that intersection) needs to be twenty eight (28) feet. We accept the proposed sixteen (16) foot wide westbound lane width, as requested by Montgomery County Fire and Rescue Services. The PIE note on the typical section at centerline station 1+75 should be clarified – why is a Public Improvements Easement located in that area?

P.2, Stormwater Quality Swales and Filters in the Rights-of-Way

The typical section for Streets A and B should indicate providing a two (2) foot [minimum] width shelf behind the curb. The typical section for West Old Baltimore Road at centerline station 1+75 should be amended to reflect a two (2) foot [minimum] width shelf behind the curb adjacent to the bio-swale and clarify the PIE note. We do not support the use of curb openings (per the asterisks on several of the typical sections); use MSHA standard MD 374.68 modified for 6” curb per MSHA standard MD 375.55-01 instead.

○ P.3, #2, Participation Agreement for future construction (by others) to the MD 355/West Old Baltimore Road Intersection

The Participation Agreement is to be fully executed prior to approval of any record plat within the limits of the MD355/West Old Baltimore Road intersection improvement project. The applicant must use their reasonable best efforts to secure a fully executed Participation Agreement in advance of submitting the affected record plat(s). The County may waive this condition if the applicant demonstrates satisfactory evidence of their efforts to complete that Agreement in a timely manner.

Please note that the MSHA and/or County will need to approve the Concept Plan for the realignment of West Old Baltimore Road before any record plats (to dedicate the realigned right-of-way and grant necessary easements along that road) can be recorded in the vicinity of the MD355/West Old Baltimore Rd Intersection Improvements project. The applicant shall coordinate with MCDOT and MSHA for minor right-of-way dedication adjustments along West Old Baltimore Road and Frederick Road/MD355 provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

○ P.4, #11, Recommended limits of applicant shared use path construction along Frederick Road (MD 355)

The third paragraph in Comment # 11 is hereby amended to read: “The applicant has also proposed to terminate the shared use path at the Frederick Road (MD 355)/Greenbrook Road intersection due to environmental constraints. We support that proposal and recommend the shared use path be extended west to connect with the Tapestry subdivision’s internal path system.

If, for some reason unknown at this time, the Tapestry applicant is not required or is unable to construct the Shared Use Path at this time under a MSHA Access Permit, we recommend the applicant be required to:

- execute and record a Declaration of Covenants (for Road Construction) – or –
- include this improvement in the pending Participation Agreement for MD 355/West Old Baltimore Road Intersection Improvements

as a condition of approval of the record plat(s) for the portions of the site frontage along MD 355.

○ P.4, #14, Relocation of Utilities

Comment no. 14 is hereby amended to read: “Relocation of utilities along existing roads necessary for the required right-of-way improvements for this subdivision, not including those relocations required for the MD355/West Old Baltimore Road Intersection Improvements project, shall be the responsibility of the applicant. Utility relocations required for the MD355/West Old Baltimore Road Intersection Improvements project shall be the responsibility of the joint public-private project, as allowed in the pending Participation Agreement.”

○ P.5, #19 (B), Improvements to West Old Baltimore Road (by the applicant)

Comment no. 19 (B) is hereby amended to read: “On West Old Baltimore Road between the intersections of Streets A/C and B, widen the existing pavement as shown on the plan and construct curbs and gutters with trapezoidal side ditch/water quality swales, sidewalks and handicap ramps, and storm drainage and appurtenances.”

○ Access to Street B prior to completion of the MD 355/West Old Baltimore Road intersection improvements project

We would prefer development of the Tapestry site initiate at the west end (via Sts A/C), to minimize conflicts with constructing the MD 355/West Old Baltimore Road intersection improvements project. We recognize that how/when the site is developed is under the applicant’s control – and that construction of St B (from the existing pavement of West Old Baltimore Road) may occur prior to commencement of the MD 355/West Old Baltimore Road intersection improvements project. If that occurs, we will require the applicant to preclude westbound left turn and northbound left turn movements by interim measures. We appreciate the applicant’s proposals to restrict those movements, however we do not believe the preferred options will properly control those movements while still allowing limited ingress and egress to the nearby lots via Street B. For that reason, we will require the applicant to:

- Construct an interim channelized (porkchop) island to physically limit turning movements to right in, right out on West Old Baltimore Road (and preclude a westbound left turn movement into the site and a northbound left turn movement from the site). To facilitate removal and reconstruction efforts under the MD 355/West Old Baltimore Road intersection improvements project, the island and nearby curblines on Street B may be constructed in bituminous concrete. Storm drain inlets should not be located within the limits of the West Old Baltimore/St B intersection.
- The applicant may be required to amend their contribution to the MD 355/West Old Baltimore Road intersection improvements project to bear the costs of removing the temporary porkchop island and curblines.

Mr. Richard Weaver
Preliminary Plan No. 120050950
May 24, 2013
Page 4

○ AB671 – Abandonment of a portion of West Old Baltimore Road at Frederick Road (MD 355)

On May 22nd, we were advised that, due to the passage of time, a new Public Hearing will be required for the proposed abandonment. That hearing has been tentatively scheduled for September 18, 2013. This decision may delay recordation of record plat(s) within the limits of the proposed abandonment.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at greg.leck@montgomerycountymd.gov or (240) 777-2197.

Sincerely,

Gregory M. Leck, Manager
Development Review Team

m:/correspondence/FY13/Traffic/Active/120050950, Tapestry, 052413 AMENDED MCDOT plan review letter.com

Enclosure

cc: Thomas Hyde, Jr.; Miller & Smith at Tapestry, LLC
Robert Spalding; Miller & Smith at Tapestry, LLC
Phil Isaja; Loiederman Soltesz Associates, Inc.
John Carter; M-NCPPC Area 3
Ronald Cashion; M-NCPPC Area 3
Ki Kim; M-NCPPC Area 3
Catherine Conlon; M-NCPPC DARC
Scott Newill; MSHA AMD
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Atiq Panjshiri; MCDPS RWPR
Sam Farhadi; MCDPS RWPR
Mark Etheridge; MCDPS WRMS
Leo Galanko; MCDPS WRMS
Edgar Gonzalez; MCDOT DO
Emil Wolanin; MCDOT DTEO
Fred Lees; MCDOT DTEO
Kenneth Kendall; MCDOT DTE
Wayne Christiansen; MCDOT DTE
Michael Cassedy; MCDOT DTE
Mark Terry; MCDOT DTEO
William Haynes; MCDOT DTEO
Andrew Bossi; MCDOT DTEO



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

April 2, 2013

Mr. Richard Weaver, Supervisor
Area Three Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120050950
Tapestry

Rich:
Dear Mr. Weaver:

We have completed our review of the updated preliminary plan that was signed and sealed on January 31, 2013. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on December 20, 2010. This letter is also intended to address the applicant's February 5, 2012 (updated March 5, 2013) Design Exceptions letter.

This letter supercedes and replaces our July 19, 2006 letter for the original plan.

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 the Department of Permitting Services 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.

Design Exception Requests and Stormwater Management Concept Plan

o Roadway Cross Section

This Design Exception proposes to provide twenty eight (28) of pavement (for parking on one side of the street; limits of same to be affirmed on the Signs and Markings Plan at the Permit Stage) and a modified closed/open section roadway to achieve Context Sensitive Road Design goals.

RESPONSE: We support approval of the applicants' request to modify the closed section residential street typical sections to provide twenty eight (28) feet of pavement within the proposed sixty (60) foot wide modified tertiary rights-of-way on the three internal public streets.

Division of Traffic Engineering and Operations

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trafficops@montgomerycountymd.gov

The typical sections show the back edge of the sidewalk coincident with the right-of-way line. We believe the applicant needs to accommodate a maintenance strip (between the sidewalk and property line) a minimum one (1) foot wide.

To locate the proposed improvements within the proposed sixty (60) foot wide rights-of-way, we support allowing the applicant to execute a Public Improvements Easement along West Old Baltimore Road and the two internal public streets, in order to accommodate the required sidewalk construction. The Declaration of Public Improvements Easement document is to be recorded in the Land Records of Montgomery County, with the liber and folio referenced on the record plat.

○ Stormwater Quality Swales and Filters in the Rights-of-Way

This Design Exception proposes to provide stormwater management facilities within the public rights-of-way by providing a trapezoidal side ditch/water quality swales between the roadway curb and the sidewalks, within the dedicated rights-of-way. These water quality swales will not extend through the residential driveways.

○ RESPONSE: We support approval of the applicants' proposal to construct trapezoidal side ditches and bio-swale (and/or landscape filter) stormwater management facilities in the right-of-way, AS A SITE-SPECIFIC APPROVAL, conditioned on the following comments:

- Instead of providing slotted curb openings (on streets expected to have parallel parking), construct curb opening inlets which incorporate paved flumes between the edge of pavement and trapezoidal ditch (MSHA Standard MD 374.68 modified for 6" curb per MSHA Standard MD 375.55-01. The inlet/shelf width, per the comment above, should be a minimum of 2'8" to allow space for passengers to enter and exit parked cars. *(The consultant's Design Exception letter indicates the Department of Permitting Services/Right-of-Way Plan Review Section has "supported the use of curb cuts based on detail reviewed by his [that] office;" we request that office to gain MCDOT concurrence of that proposal prior to approval of the Storm Drain and Paving Plans for this project.)*
- Enclosed storm drain systems should be designed and located to handle the 10 year storm event in accordance with the MCDOT Storm Drain Criteria.
- The location of the proposed trapezoidal ditch (with respect to the face of curb) will necessitate locating standard width curb opening inlets and traffic control signage within those ditches.
- The proposed trapezoidal ditches and bio-swales should include opportunity for pedestrians to cross them (between parked cars and the sidewalks). These path locations should be selectively located to minimize mid-block pedestrian crossings of the adjacent streets.
- Coordinate the species and location of proposed street trees with respect to the side ditch and streetlights.

General Site Layout and Plan Review Comments

1. Necessary dedication for future widening and realignment of West Old Baltimore Road approaching Frederick Road (MD 355) in accordance with the master plan.
2. Participation in the public/private project to improve the Frederick Road (MD 355)/West Old Baltimore Road intersection. In concept, those improvements include:
 - o Widening the southbound MD 355 at West Old Baltimore Road and construct a right-turn lane
 - o Widening the eastbound West Old Baltimore Road at MD 355 to two approach lanes – separate left- and right-turn lanes [within a modified closed section arterial road cross-section, as delineated on the typical section on sheet 1 of 7 for the amended preliminary plan)
 - o Widening the northbound MD 355 at West Old Baltimore Road and construct a left-turn lane.

A Letter of Intent between Miller and Smith at Tapestry, Clarksburg Development LLC (developer of the Goddard School Clarksburg), Cabin Branch Management (developers of the Cabin Branch subdivision), and this Department was executed on November 15, 2012. That document addresses the right-of-way dedications from this project and the pro-rata contributions by the various parties for the cost of those intersection improvements. A formal Participation Agreement document is under preparation. The Participation Agreement is to be fully executed prior to approval of the record plat for this subdivision.

This design of these improvements should also incorporate construction of the proposed median on West Old Baltimore Road (from west of Street B to the intersection with MD 355).

3. Full width dedication and construction of all interior public streets.
4. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
5. Grade establishments for all new public streets and/or pedestrian paths must be approved prior to submission of the record plat.
6. 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.
7. Prior to approval of the record plat by the Department of Permitting Services, submit a completed, executed and sealed MCDOT Sight Distances Evaluation certification form, for the proposed intersections on West Old Baltimore Road, for our review and approval.

8. 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.
9. This site is located in the Little Seneca Creek (Class IV) watershed. In accordance with Section 49-33(l) of the Montgomery County Code, curb and gutter may not be installed in an environmentally sensitive watershed unless the applicant has obtained approval for same from the Department of Permitting Services.
10. Dedication or reservation of park and/or school sites as required by the Montgomery County Planning Board or the Montgomery County Board of Education.
11. In accordance with Section 49-33(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.

We note that the plan proposes constructing an eight (8) foot wide shared use path along Frederick Road (MD 355) from the northern property line to a point opposite the intersection with Greenbrook Drive. We do not support installing a handicap ramp to cross MD 355 at this intersection; instead, we recommend the path be directed to tie into the proposed internal on-site path system.

The applicant has also proposed to terminate the shared use path at the Frederick Road (MD 355)/Greenbrook Drive intersection due to environmental constraints. We defer decision on that proposal to the Planning Board and the Department of Permitting Services.

12. Access and improvements along Frederick Road (MD 355) as required by the Maryland State Highway Administration.
13. 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.
14. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
15. 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) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

16. 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 Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
17. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with Brett Linkletter, Chief of the Division of Highway Services, Tree Maintenance Section at (240) 777-7651.
18. At or before the permit stage, please coordinate with Ms. Stacy Coletta of our Division of Transit Services to coordinate improvements to the RideOn bus facilities in the vicinity of this project. Ms. Coletta may be contacted at 240 777-5800.
19. 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 with trapezoidal side ditch/water quality swales, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along the three internal public streets, terminating in cul-de-sacs.
 - B. On West Old Baltimore Road between the intersections with proposed Streets A/C and B, widen the existing pavement to fifty (50) feet and construct curbs and gutters with trapezoidal side ditch/water quality swales, sidewalks and handicap ramps, and storm drainage and appurtenances.

West of the intersections with proposed Streets A/C, transition the improvements to match the existing cross-section at the western property line.
 - C. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
 - D. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - E. 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 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.
 - F. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.

Mr. Richard Weaver
Preliminary Plan No. 120050950
April 2, 2013
Page 6

- G. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Andrew Bossi, our Development Review Area Engineer for this project at andrew.bossi@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

m:/correspondence/FY13/Traffic/Active/120050950, Tapestry, MCDOT plan-Design Exceptions letter.com

Enclosure

cc: Thomas Hyde, Jr.; Miller & Smith at Tapestry, LLC
Robert Spalding; Miller & Smith at Tapestry, LLC
Edward Wallington; Loiederman Soltesz Associates, Inc.
John Carter; M-NCPPC Area 3
Ronald Cashion; M-NCPPC Area 3
Ki Kim; M-NCPPC Area 3
Catherine Conlon; M-NCPPC DARC
Scott Newill; MSHA AMD
Edgar Gonzalez; MCDOT DO
Emil Wolanin; MCDOT DTEO
Fred Lees; MCDOT DTEO
Dan Sanayi; MCDOT DTEO
Bruce Mangum; MCDOT DTEO
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Atiq Panjshiri; MCDPS RWPR
Sam Farhadi; MCDPS RWPR
Mark Etheridge; MCDPS WRMS
Leo Galanko; MCDPS WRMS
Wayne Christiansen; MCDOT DTE
Brett Linkletter; MCDOT DHS
Stacy Coletta; MCDOT DTS
Mark Terry; MCDOT DTEO
William Haynes; MCDOT DTEO
Andrew Bossi; MCDOT DTEO



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

April 2, 2013

Arthur Holmes, Jr.
Director

Mr. Ki H. Kim, Planner Coordinator
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120050950
Tapestry
Traffic Impact Study

Dear Mr. Kim:

We have completed our review of the July 2012 Traffic Impact Study (TIS) by Integrated Transportation Systems for the proposed Tapestry development. The report is based on the proposed 67 unit residential (57 single family dwelling units and 10 townhouse/duplex units) buildout. We offer the following comments at this time:

General Comment

It appears that the MCDOT fee to review this document has not yet been paid. Per our previous agreement with the applicant, we agreed that reduced fees (to review the amended preliminary plan and the TIS) would be acceptable. Our records indicate a payment of \$1, 522.50 was submitted on April 7, 2010 to review the plans; however the TIS portion was omitted. Prior to approval of the record plat by the Department of Permitting Services, the applicant will need to provide documentation that confirms prior remuneration or submit a payment of \$700.00 to DOT for the review of this document.

Local Area Transportation Review (LATR)

The report analyzes the traffic impacts at two intersections: Frederick Road (MD 355)/Brink Road and Frederick Road (MD 355)/West Old Baltimore Road. The report indicates the Road (MD 355)/Brink Road intersection exceeds the Clarksburg area congestion standard (CLV=1425) under existing conditions; it concludes that both intersections exceed that threshold under the background conditions.

To mitigate this project's impact, the following measures are proposed:

1. To mitigate the impact at the Frederick Road (MD 355)/Brink Road intersection, the applicant proposes to (implement the previous proffer to) participate in the construction of Snowden Farm Parkway (A-305) between Clarksburg Road north to Frederick Road (MD 355). The consultant indicates this measure will result in a CLV reduction of 119 vehicles in the AM hour and 108 in the PM hour – thereby satisfying the requirement to mitigate at least 150 percent of this project's impact at the aforementioned intersection. We accept this proposal.

Division of Traffic Engineering and Operations

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trafficops@montgomerycountymd.gov

Mr. Ki H. Kim
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April 02, 2013
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2. To mitigate the impact at the Frederick Road (MD 355)/West Old Baltimore Road intersection, the applicant proposes to participate in the public/private reconstruction of that intersection to:
 - o Widen southbound MD 355 at West Old Baltimore Road and construct a right-turn lane
 - o Widen eastbound West Old Baltimore Road at MD 355 to two approach lanes – separate left- and right-turn lanes
 - o Widen northbound MD 355 at West Old Baltimore Road and construct a left-turn lane.

A Letter of Intent between Miller and Smith at Tapestry, Clarksburg Development LLC (developer of the Goddard School Clarksburg), Cabin Branch Management (developers of the Cabin Branch subdivision), and this Department was executed on November 15, 2012. That document addresses the right-of-way dedications from this project and the pro-rata contributions by the various parties for the cost of these intersection improvements. A formal Participation Agreement document is under preparation. We accept this proposal. The Participation Agreement is to be fully executed prior to approval of the record plat for this subdivision.

Policy Area Mobility Review (PAMR)

We note the March 1, 2012 TIS Scoping Letter indicates this original application for this preliminary plan was filed and accepted on May 4, 2005 (and thereby precedes the adoption of PAMR); we accept this conclusion.

Pedestrian and Bicycle Impact Statement

Tapestry will construct a bikeway (SB-72) along the west side of MD 355. The phrasing in the TIS gives the impression that the applicant proposes to construct this bikeway only north of West Old Baltimore Road, whereas the plan attached with the TIS shows the bikeway along the full length of the site frontage. This issue should be resolved as part of the preliminary plan review. Tapestry will construct sidewalk along the site frontage along West Old Baltimore Road.

SUMMARY

1. Tapestry passes LATR with the proffers to participate in the construction of A-305 and the improvements to the Frederick Road (MD 355)/West Old Baltimore Road intersection.
2. PAMR is not required for this subdivision.

Mr. Ki H. Kim
Preliminary Plan No. 120050950
April 02, 2013
Page 3

Thank you for the opportunity to review this document. Your cooperation and assistance is appreciated. Please call Andrew Bossi at (240) 777-2197 if you have any questions or comments regarding this letter.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

m:\correspondence\FY13\Traffic\Active\120050950, Tapestry, MCDOT TIS review letter.doc

cc: Thomas Hyde, Jr.; Miller & Smith at Tapestry, LLC
Robert Spalding; Miller & Smith at Tapestry, LLC
Craig Hedberg; Integrated Transportation Solutions, Inc.
John Carter; M-NCPPC Area 3
Ronald Cashion; M-NCPPC Area 3
Richard Weaver; M-NCPPC Area 3
Scott Newill; MSHA AMD
Edgar Gonzalez; MCDOT DO
Emil Wolanin; MCDOT DTEO
Fred Lees; MCDOT DTEO
Dan Sanayi; MCDOT DTEO
Bruce Mangum; MCDOT DTEO

cc-e: Atiq Panjshiri; MCDPS RWPR
Sam Farhadi; MCDPS RWPR
Gary Erenrich; MCDOT DO
Mark Terry; MCDOT DTEO
William Haynes; MCDOT DTEO
Andrew Bossi; MCDOT DTEO

From: Gonzalez, Edgar [<mailto:Edgar.Gonzalez@montgomerycountymd.gov>]
Sent: Tuesday, May 14, 2013 10:18 AM
To: Krasnow, Rose
Cc: Leck, Gregory; Kate Mazzara
Subject: Intersection of Md 355 at West Old Baltimore Road

Ms. Krasnow:

I am sending you this e-mail at your request, to summarize the funding and activities that the County, the State and three developers have been pursuing for the design and construction of the intersection of Md 355 at West Old Baltimore Road.

- Under CIP Number 500722, State Transportation Participation, the Council authorized "...50 % design and construction costs of several intersection improvements..." in the amount of \$ 6,447,000. The State had a similar amount in their own program. The PDF did not identify the number or location of the intersections to be implemented.
- The State and the County initially identified ten intersections of State – County Roads for the effort. Six of the intersections have been completed and four more are under construction. The last one should be completed by the Fall, 2013. The remaining three will be completed earlier this summer.
- The State obtained very favorable bids for the work on all ten intersections. Each one of them came under our engineer's estimate. As a result, there is a significant amount of money available for additional intersection improvements.
- The State and the County deliberated on several ideas for other intersections to be added. At that time, there were many community requests for improvements to the intersection of Md 355 at West Old Baltimore Road, including calls from Council members and the Up County Regional Service Center Director. Contemporaneous with those calls, the Goddard School was going thru the subdivision process and was required to contribute to the improvements of the intersection. The Cabin Branch Development had already been approved and was previously required to participate in the improvements, and Tapestry was contemplating moving forward with their subdivision approval, and had been given notice they also would have to participate in the construction of the intersection.
- As a result, and in coordination with the State, we agreed to use the remaining money left in our respective budgets to improve this intersection. We entered into a Letter of Intent for the County, the State and the three developers to proceed to the design and construction of the intersection. A draft Road Participation Agreement has been prepared and is under review by the parties.
- The State has been doing some preliminary engineering design and we plan to meet in the immediate future to finalize the scope of the work. Not only to do the intersection, but if funding permits it, to extend the work along Md 355 to Brink Road. That extension, however, is not certain until we evaluate our respective approved budgets for this type of effort.
- We anticipate that the completion of final design and utility relocation for the intersection work could be completed by the Spring of 2015, with construction start immediately thereafter.
- Finally, the State and the County had independently identified this intersection for improvement. With the funding assistance from developers it makes it the perfect next candidate and within our approved budgets. So, it is extremely unlikely that any other State County intersection will displace this work.

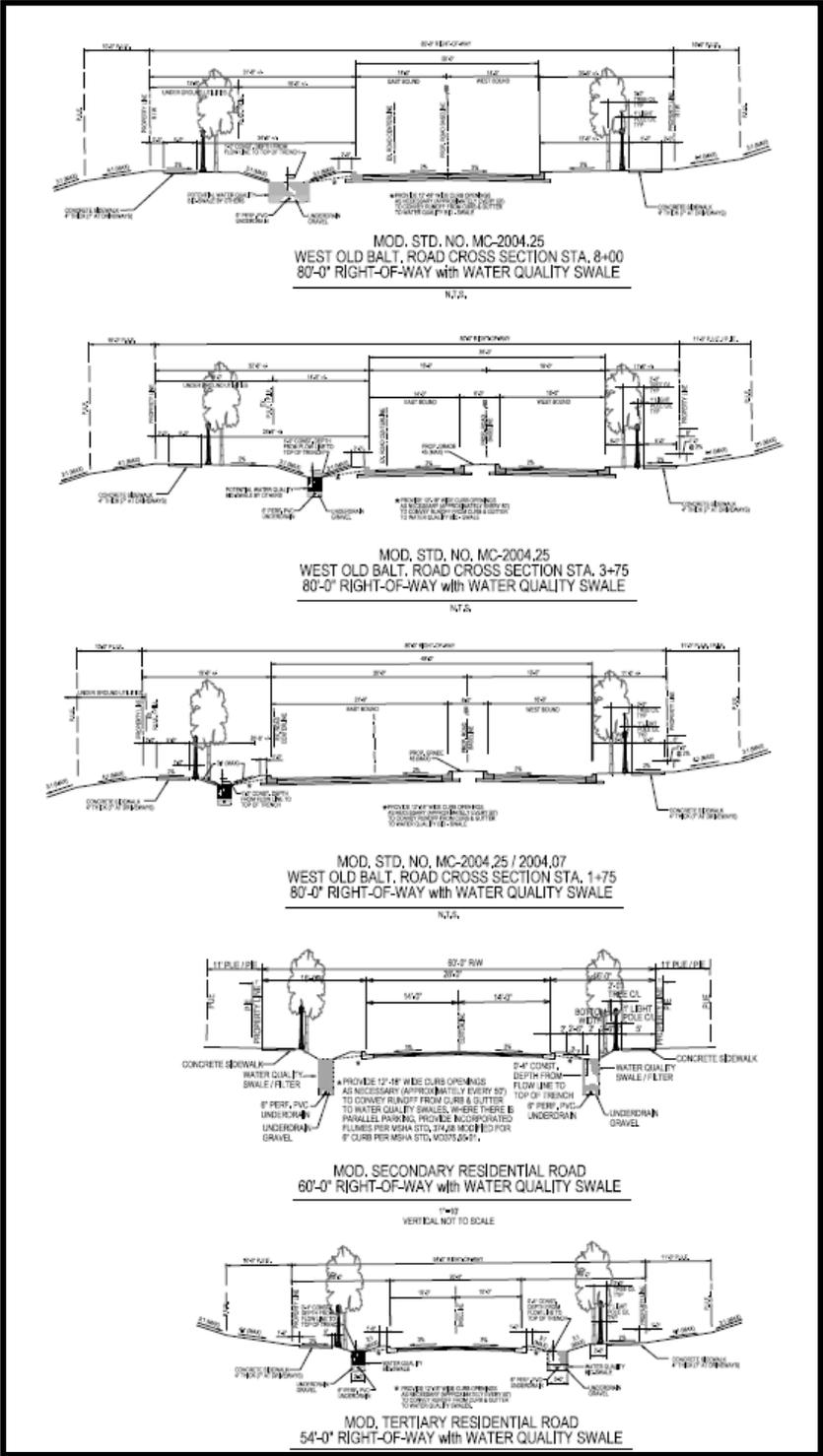
I hope this information assists you and your staff on the review of the Tapestry Subdivision, and that it meets your request for additional information.

Do not hesitate to call me if you have any other questions.

Regards,

Edgar Gonzalez, P.E.
Deputy Director for Transportation Policy
240-777-7185

Approved Road Cross Section





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

April 1, 2013

Diane R. Schwartz Jones
Director

Mr. Edward Wallington
Loiederman Soltesz Associates, Inc.
2 Research Place, Suite 100
Rockville, Maryland 20850

Re: **Revised Preliminary/Final Water
Quality Plan for Tapestry**
SM File #: 212724
Tract Size/Zone: 30.33Ac/R-200C/MPDU
Watershed: Little Seneca Creek

SPECIAL PROTECTION AREA

Dear Mr. Wallington:

Based on a review by the Department of Permitting Services, the Revised Preliminary/Final Water Quality Plan (P/FWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream buffer encroachments.

Site Description: The site is located at the intersection of MD Route 355 and West Old Baltimore Road. This development proposal is for residential development on 30.33 acres. This site is located within the Little Seneca Creek watershed of the Clarksburg Special Protection Area.

Stormwater Management: The stormwater management concept proposes to meet the required stormwater management goals via the use of micro-bioretenion, bioswales, dry wells and a surface sand filter.

Sediment Control: Redundant sediment controls are to be used throughout the site. The use of sediment traps with forebays that provide 125% of the normally required storage volume is acceptable for larger disturbed areas. Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance with emphasis on immediate stabilization.

Performance Goals: The performance goals that were established at the pre-application meeting still apply. The performance goals are as follows:

1. Maintain the natural on-site stream channels.
2. Minimize storm flow run off increases.
3. Minimize increases to ambient water temperatures.

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240-773-3556 TTY

4. Minimize sediment loading.
5. Maintain stream base flows.
6. Protect springs, seeps, and wetlands.
7. Minimize nutrient loading.
8. Control insecticides, pesticides and toxic substances.

Monitoring: The monitoring must be in accordance with the BMP monitoring protocols which have been established by the Department of Permitting Services (DPS) and Department of Environmental Protection (DEP). The monitoring requirements are described in the "Attachment to the Preliminary/Final Water Quality Plan" memorandum by DEP and included with this approval letter.

Prior to the start of any monitoring activity, a meeting is to be held on site with DEP, DPS, and those responsible for conducting the monitoring to establish the monitoring parameters.

Conditions of Approval: The following items will need to be addressed during the detailed sediment control/stormwater management plan stage. This list may not be all inclusive and may change based on available information at the time of the subsequent plan reviews:

1. Provide a drainage easement in the back of lots 1-3 block "B" to provide safe conveyance to the proposed sand filter.
2. Provide 20" of separation between on lot dry wells.
3. Future water quality structures #4 and #12 shown on this plan for reference and are intended to provide treatment for the MD 355 improvements are to be placed in parcels. The design and maintenance requirements for these structures will be determined during the design of the State Highway Administrations road improvements for MD 355. The improvements shown on West Old Baltimore Road and MD 355 are for illustrative purposes only and not part of this plan approval.
4. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
5. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.

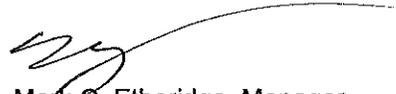
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

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 Water Quality Plan requirements.

Edward Wallington
April 1, 2013
Page 3

If you have any questions regarding these actions, please feel free to contact Leo Galanko at (240) 777-6242.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE:img:CN212724

cc R. Cashion (MNCPPC)
J. Penn (MNCPPC-ED)
W. Green (MCDEP)
L. Galanko
SM File # 212724

ESD to the MEP 30.33 ac.



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

**Attachment to the Final Water Quality Plan for the Tapestry Project
Description of BMP Monitoring Requirements**

SM # 212724
February 13, 2013

The purpose of this attachment is to add specificity to the standard monitoring requirements and procedures contained in Montgomery County BMP monitoring protocols. Some supplemental QA/QC, data analysis, reporting and record keeping tasks will be explained in this attachment. Monitoring efforts and reports must follow report and monitoring methods and requirements contained in the BMP Monitoring Protocols in an attempt to determine effectiveness of BMPs. Monitoring is to be done according to BMP Monitoring Protocols. Prior to initiation of monitoring, consultants must contact DEP to review procedures and requirements. Thorough and careful analysis of data is required. Method(s) of data analysis and required statistical procedures will be provided by DEP before the start of field work. Methods and assumptions should be detailed. BMP Monitoring Protocols are available at <http://www6.montgomerycountymd.gov/content/dep/downloads/water/bmpprotocols.pdf>

Monitoring Requirements

1. BMP monitoring reports must include a table with dates of all major construction activities which take place on the site. (Groundbreaking, clearing, grading, BMP construction, BMP conversion, pond maintenance, etc.) Information should refer to specific structures and portions of the site.
2. Two (2) groundwater monitoring wells with continuous level loggers are to be maintained for one year prior to construction (baseline data), continue throughout construction and for five years after completion of construction. Continuous level loggers are to be in place before June 1, 2013. Completion of construction is defined as the release of the sediment and erosion control bond. Groundwater elevations are to be collected continuously in 30 minute intervals. Loggers are to be downloaded quarterly. Well installation logs should be provided. The groundwater well is to be surveyed to determine exact elevation. Groundwater levels are to be reported as actual elevations (surface elevation - depth to water). Data should be analyzed to determine the effectiveness of site design and stormwater management in maintaining groundwater levels. Data from the pre-construction period should be compared to results obtained in

subsequent periods. Effect of site design, including BMPs, on stormwater infiltration should be evaluated. Graphs should be provided to support conclusions. DEP will provide rainfall data from rain gages located in the Clarksburg area which will be considered in the analysis.

3. Three (3) cross sections will be surveyed annually on the receiving stream near the southern property boundary. Surveys are to be done for one year prior to construction, continue throughout construction and for five years after completion of construction. Cross sections were last completed in 2005. To account for any change since 2005 one set of cross sections are to be completed 90 days before the start of construction. Completion of construction is defined as the release of the sediment and erosion control bond. Preconstruction data will be compared to data obtained in subsequent periods to evaluate the effectiveness of BMPs in maintaining channel stability. Cross sectional profiles of the stream channel are to be done in accordance with the BMP Monitoring Protocols.
4. Total Suspended Solids (TSS) will be measured quarterly at the largest sediment control structure on the site during construction. Automated composite samples will be collected from all inflow and outflow points for the entire storm event. Exact sampling locations will be determined in consultation with DEP in the field. Storms should have at least one half inch of rainfall in a 24 hour period to be counted towards this requirement. The storms should also be characterized for duration and total rainfall. Storm frequency (return interval) should be reported using the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Data Server (http://dipper.nws.noaa.gov/hdsc/pfds/orb/md_pfds.html) . Results are to be examined to determine the efficiency of the structure and percent removal of suspended sediments. Data should be compared to past periods and published results for similar structures. Graphs should be provided to support conclusions.
5. Pollutant removal efficiency will be determined for one BMP. Pollutants to be analyzed are listed in table 1. The collection of automated flow-weighted storm composite samples at the inflow and outflow points of each structure will be required. Samples are to be collected quarterly. Data on BMP efficiency must be successfully collected according to county BMP monitoring protocols for five years following approval of the submitted "as-built" for the selected BMP. Analysis will evaluate effects of site design, whether pollutant removal efficiency changes over time, and compare removal efficiencies with published results. Drainage area, percent imperviousness, percent and total area of road surface, amount of open section or closed section roadway, and water quality pre-treatment approaches are to be reported and considered in the analysis. If BMPs are non-structural and cannot be monitored in the above manner other monitoring options will be explored.

Table 1. Pollutant parameters, lab methods and detection limits

Parameter	Method	Detection Limit
Nitrate	EPA 353.2	0.05 mg/L as N
Nitrite	EPA 354.1	0.02 mg/L as N
TKN	EPA 351.3	0.2 mg/L as N
Orthophosphorus	EPA 365.3	0.01 mg/L
Total Phosphorus	EPA 365.3	0.05 mg/L
BOD (5 day)	SM 5210 B	4 mg/L
Total Suspended Solids	EPA 160.2	1.0 mg/L

A report on pre-construction baseline conditions must be deemed acceptable by DEP and DPS prior to the issuance of a sediment control permit. For subsequent periods a draft annual report on BMP monitoring is due to DEP by **October 31st** of each monitoring year. All reports are to follow the report outline/format checklist located at:

<http://www.montgomerycountymd.gov/content/dep/downloads/bmpchecklist.pdf> . Progress reports are to be submitted at the end of each quarter and will follow the format at

<http://www.montgomerycountymd.gov/content/dep/downloads/ProgressReportTemplate.doc> .

BMP monitoring reports are to be delivered with data in an electronic format (excel spreadsheet) to William Green at Montgomery County DEP and also to Leo Galanko at Montgomery County DPS. All information submitted to DEP will be public information that DEP may freely copy and distribute. Questions on the monitoring requirements and procedures may be directed to the following personnel.

William Green

(240) 777-7745

William.green@montgomerycountymd.gov

Leo Galanko

(240) 777-6242

leo.galanko@montgomerycountymd.gov



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

February 1, 2013

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Tapestry Project - Revised, DAIC 820050370, NRI/FSD application accepted on 5/26/2012

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, is not interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Chief



January 22, 2013

Mark Pfefferle, Acting Chief
M-NCPPC
Environmental Planning Division
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Tapestry
Final Forest Conservation Plan - Variance Request
LSA Project #0319-10-00

Dear Mr. Pfefferle,

On behalf of Miller and Smith at Tapestry, LLC., Loiederman Soltesz Associates, Inc. is requesting a variance for the removal of seventeen (17) trees and the critical root zone (CRZ) impacts of eight (8) trees, all 30 inches or greater in dbh, as required under Section 22A-21 of Montgomery County's Forest Conservation Law and recent revisions to the State Forest Conservation Law enacted by State Bill 666. Where it notes the variance pertains to "Trees having a diameter measured at 4.5 feet above the ground of 30 inches diameter or 75% of the diameter of the current state champion tree of that species as designated by the department". The removal or impact of these trees is for the residential development of a 30.33 acre site within the Clarksburg Master Plan's area.

Project Information

The property consists of four parcels, which are mostly wooded. It is located west of Frederick Road (Rte 355) on both sides of West Old Baltimore Road, north of the Frederick Road/Brink Road intersection. The property is bordered to the north, west and east by residential development and to the south by woodland. The property is in the Clarksburg Special Protection Area. During the Natural Resources Inventory, 36 specimen trees were located on the property. The subject plan proposes to retain 19 (53%) of these specimen trees. The property is zoned R-200.

The property is in the process of being subdivided for residential single family homes and 10 moderately priced dwelling units in semi-detached single family homes. Previously, the property had been submitted for subdivision that included two additional lots in the northern corner where the Goddard school is now proposed. A Preliminary Forest Conservation Plan (PFCP) was submitted with the previous subdivision plan and was recommended by the Environmental Planning Department for approval for presentation to the Planning Board. At the Planning Board hearing, the applicant requested a deferral of Planning Board Action to address design issues raised by the planning Board and surrounding community. Therefore, the Preliminary Plan and PFCP

were not formally approved. Subsequently, the Goddard School application on the 2 northern lots addressed tree protection as part of its PFCP. As requested by staff, the applicant has revised the PFCP and FFCP to reflect the reduction in property size and the updated site design and is submitted with this variance application.

The trees identified in this variance request for removal or CRZ impacts are shown on the FFCP. The trees to be removed are either located within the limits of disturbance or the LOD impacts to their critical root zone are too large to expect tree survival.

Trees for Removal

The trees identified for removal are located outside of forest retention areas. Listed below are the trees identified for removal on the FFCP. No other trees are intended for removal, including trees number 61 and 62, which are not impacted by the project nor are within the LOD.

Tag #	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	NOTES	% Impact
23	32"	Black Oak	<i>Quercus velutina</i>	Good		100%
45	30"	White Oak	<i>Quercus alba</i>	Good		100%
53	35"	Elm	<i>Ulmus sp.</i>	Good		100%
97	33"	Tulip Tree	<i>Liriodendron tulipifera</i>	Fair	Not a retention priority	100%
98	31"	Tulip Tree	<i>Liriodendron tulipifera</i>	Good		100%
107	31"	Tulip Tree	<i>Liriodendron tulipifera</i>	Fair	Not a retention priority	100%
108	32"	Tulip Tree	<i>Liriodendron tulipifera</i>	Good		100%
130	31"	Tulip Tree	<i>Liriodendron tulipifera</i>	Good		100%
131	32"	Tulip Tree	<i>Liriodendron tulipifera</i>	Good		100%
141	41"	Red Cedar	<i>Juniperus virginiana</i>	Poor	Multistem with cavity, 85% of County Champion, Not a retention priority	100%
150	49"	White Oak	<i>Quercus alba</i>	Fair	Not a retention priority	100%
164	39"	Black Gum	<i>Nyssa sylvatica</i>	Good		100%
165	31"	Tulip Tree	<i>Liriodendron tulipifera</i>	Good		100%
181	31"	Red Oak	<i>Quercus rubra</i>	Good		100%
183	32"	Black Oak	<i>Quercus velutina</i>	Good		100%
196	32"	Red Maple	<i>Acer rubrum</i>	Fair	Cavity, Not a retention priority	100%
217	31"	Black Walnut	<i>Juglans nigra</i>	Poor	trunk damage, Not a retention priority	100%

Trees # 23 and 181 are located along MD Route 355 at the northern corner of the property. Improvements to MD Route 355 are recommended in the Master Plan and are being required by MNCPPC Staff as a condition of the subdivision. The improvements include Master Plan required street widening, storm drain, PUE, relocation of overhead utility lines, and a Master Plan required Hiker/Biker path. The improvements extend into the property causing for the unavoidable removal of the trees.

Trees # 108 and 107 are located along MD Route 355 at the southeastern corner of the property. Master Plan recommended improvements to MD Route 355 will also cause for unavoidable impacts to these trees. They are not in the direct path of the improvements, but the impacts from the street improvements, the proposed outfall and stormwater quality facility for the treatment of the storm water from MD Route 355, and relocation of above ground utility lines cause the trees to be removed. Tree # 107 is in fair condition and is not a priority for retention.

Trees # 53, 164, and 165 are located along both sides of West Old Baltimore Road. Improvements to West Old Baltimore Road are proposed with the construction of the subdivision. MNCPPC, DPS, and MCDOT Staff are requiring improvements to West Old Baltimore include the realignment of the road, street widening, PUE, and sidewalks. There are also several existing utility easements along the street. The road realignment at the intersection with MD Route 355 runs directly through tree # 53 causing it to be removed. Trees # 164 and 165 are along West Old Baltimore Road at the western side of the property and must be removed because the unavoidable impacts from the improvements are too great to their critical root zones.

Trees # 97, 98, 141, and 217 are located on the south side of West Old Baltimore Road. These trees are 60 to 140 feet from the West Old Baltimore Road right of way. The trees fall within the required lot depth for units that front on a primary road and have access from a rear alley. MNCPPC Staff have indicated that homes must front on existing public roads which require alley access. To have a network of safe and appropriate vehicular circulation from the subdivision for the homeowners and required services, while meeting Staff design requirements, these trees must be removed. Tree # 97 is in fair condition and trees # 141 and 217 are in poor condition and are not a priority for retention.

Trees # 130 and 131 are located within the needed construction limits of Street 'B' and associated utilities. The street is offset from the property line in coordination with the creation of single family lots. The West Old Baltimore Road intersection location is fixed based on MCDOT and MCDPS requirements for intersection spacing. The street is also used to access the pump station which serves the subdivision and required for future service to the existing houses in The Greenridge Acres Subdivision that are currently using septic as required by WSSC. The property configuration and environmental features establish constraints which dictate the location of the cul-de-sac.

Trees # 183 is located in the northern corner of the property. Above ground and underground utilities extend through the area and cause the unavoidable removal of the tree. These utilities are required for service to the subject property and provide public sewer service to The Greenridge Acres Subdivision.

Trees # 45 is located in the northern corner of the property. The tree is within the proposed subdivision and is being removed to construct Street 'A', associated utilities, the connection of the public sewer pump station to gravity sewer and two lots. The tree will be impacted by the design of the new roadway and two lots, which is coordinated with the design of the new utilities in this area. The proposed street and lot locations are affected by the MNCPPC minimum requirements to create a 0.92 acre forest conservation area, as required to meet the minimum on-site conservation threshold, the proximity to MD 355, and the "pinch point" in the lot configuration to the north.

Tree # 150 is located on the southern side in the center of the property. The tree is located in a low area which naturally collects runoff from a portion of the subdivision based on Environmental Site Design (ESD) principles. A bio-filter is proposed near the tree and impacts to its critical root zone are too great to save the tree. Tree # 150 is in fair condition and not a priority for retention.

Tree # 196 is located along the southern property line in the center of the property. It is in the rear of a proposed home and construction for the home causes the tree to be removed. Tree # 196 is in poor condition and is not a priority for retention.

Although 53% of the specimen trees are protected, further measures to preserve the trees 30 inches and greater in dbh would cause an unwarranted hardship and deprive the owner of commonly enjoyed property rights. Because the applicant will meet or exceed state water quality standards due to the proposed Water Quality Plan, the application meets the county and state criteria for granting of a waiver.

Critical Root Zone Impacts

There are eight (8) trees impacted by the limits of disturbance (LOD) for the development; two (2) of the trees that are impacted are on the adjacent property owned by MNCPPC to the south.

The trees that are impacted on the property are within forest retention areas and the ones on the MNCPPC property are within forest areas. The trees are impacted by the limits of disturbance to construction bio-filters, stormwater management pipe, utilities, and drainage swales at the rear of units. The trees that are on the MNCPPC property are trees # 142 and #210.

Tree save measures, including root pruning and tree protection fencing, will be made for trees which are impacted. An arborist will be involved in writing a Certified Arborist report. Significant measures to preserve the trees 30 inches and greater in dbh would render the improvements impossible.

Tag #	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	NOTES	% Impact
71	34"	Tulip Tree	<i>Liriodendron tulipifera</i>	Fair		9%
91	31"	Red Oak	<i>Quercus rubra</i>	Good		8%
142	39"	White Oak	<i>Quercus alba</i>	Fair		1%
154	39"	White Oak	<i>Quercus alba</i>	Fair		1%
156	37"	Tulip Tree	<i>Liriodendron tulipifera</i>	Good		1%
194	31"	tulip tree	<i>Liriodendron tulipifera</i>	Good		30%
210	39"	red oak	<i>Quercus rubra</i>	Good		27%
221	35"	red oak	<i>Quercus rubra</i>	Fair	twin stem with tree house	3%
224	32"	red oak	<i>Quercus rubra</i>	Good		2%
232	25"	cherry	<i>Prunus serotina</i>	Good		21%

Additional Application Requirements

Per Montgomery County's Forest Conservation Law Section 22A-21(b) of the *Application Requirements* states that the applicant must:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provided any other information appropriate to support the request.

Pursuant to: Item “(1) describe the special conditions peculiar to the property which would cause the unwarranted hardship; and” Item “(2) describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas”.

The use of the property for subdivision is recommended in the Clarksburg Master Plan and is a permitted use. The R-200 zone, the Master Plan and county law requires the provision of moderately priced dwelling units (MPDU) and provides optional development standards to achieve this density. Bonus density available for the provision of MPDUs is not proposed in recognition of site constraints and compatibility with surrounding residential lots. It is bounded by existing residential development on three sides of the property. Previously, the property was in the process of subdivision with a similar layout and the PFCP was recommended for approval. The configuration of the proposed subdivision is constrained by the existing adjoining road ways and environmental constraints. These are the **special conditions peculiar** to the property.

The proposed lots vary, but are typically rather small to maximize retention of existing forest. Many of the detached lots are approximately 6,200 square feet and the semi-detached lots are 3,500 square feet, the minimum size. The proposed lots on the west property line are somewhat larger, but are designed as such to be compatible with the adjoining subdivision as requested by MNCPPC Staff. Also, the applicant has previously met with representatives of the Clarksburg community and was advised that they did not favor a plan with any attached townhomes for this property. For these reasons, it is not feasible to further reduce the lot sizes.

Due to the inability to construct townhomes and the other constraints, the plan results in fewer residences than permitted in the R-200 zone. The plan proposes 10 MPDU units, and reductions to the number of lots would adversely affect the proposed number of MPDU units. The applicant has designed the property in such a way as to meet the minimum forest conservation threshold on-site. The applicant has considered tree protection in the design of this proposed subdivision. Considering the configuration of the property, the design constraints, the location and condition of the specimen trees being removed, and the Master Plan and MPDU objectives, it would cause **unwarranted hardship** to the applicant if the variance request were to be denied.

As previously stated, the residential subdivision is a permitted use in the R-200 zone, and recommended by the Clarksburg Master Plan. The subdivision and PFCP was

previously recommended for approval by MNCPPC Staff. Enforcement of a prohibition of removing the specimen trees would **deprive the applicant of the rights commonly enjoyed by others** who are in similar areas that have many of the same features as the subject property.

Pursuant to **“(3) verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance”**

The portion of the site north of West Old Baltimore Road does not contain any stream or wetland areas and is bordered by roads and existing subdivisions. Thus, the removal/impact of eight (8) specimen trees in this portion of the site will not have a measurable impact of water quality and will not violate State water quality standards. The portion of the site south of West Old Baltimore Road is bordered by roads, existing subdivisions and parkland. Stream, wetland and floodplain resources in this portion of the site are protected by a stream valley buffer that is a minimum of 150 feet wide from stream and wetland resources. Nineteen (19) specimen trees are retained by this proposal. The area within the stream valley buffer will be dedicated to MNCPPC as parkland. The seventeen (17) specimen trees to be removed/impacted in this portion of the site are outside of the stream valley buffer and more than 150 feet from any stream channel or wetland area. Because the site is located in the Clarksburg Special Protection Area (SPA) it will be developed using strict stormwater and sediment control standards. Additionally, the existing roadways adjoining the site drain to the streams without any stormwater management controls. Due to the occurrence of a wooded stream valley buffer and the significant distance these trees are from any aquatic resources and the use of stricter SPA stormwater and sediment control measures, the removal of the trees in this portion of the site **will not violate State water quality standards or cause a measurable degradation of State water quality standards.**

Pursuant to **“(4) Provided any other information appropriate to support the request.”**

All trees identified for removal are within the existing forest stands and are part of the forest cleared areas. Trees, particularly those in fair condition, that mature in forest stands that are now exposed on multiple sides, are particularly vulnerable to becoming hazardous trees which can damage life and property when they fall. As part of the FFCP, compensation for the removed trees is accounted for in the Forest Conservation Worksheet. The forest conservation requirements are met through retention of existing forest, on-site forestation and off-site forestation.

A number of the trees are in poor or fair condition, preservation of specimen trees currently in poor or fair condition would deprive the landowner of rights commonly enjoyed by others, as it would require extraordinary measures not typically required of a forest conservation plan applicant.

A condition required by MNCPPC Staff for development of the property is improvements to MD Route 355 and West Old Baltimore Road. The considerable expense and impact on the neighborhood layout for these public improvements are not an option for the applicant. To construct the improvements, it is necessary to remove several trees. The subdivision is also necessary in order to dedicate right of way and fund the road improvements which service the surrounding the community.

Minimum criteria for Variance

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) *Will confer on the applicant a special privilege that would be denied to other applicants;*
- (2) *Is based on conditions or circumstances which are the result of actions by the applicant;*
- (3) *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or*
- (4) *Will violate State water quality standards or cause measurable degradation in water quality*

Pursuant to “(1) *Will confer on the applicant a special privilege that would be denied to other applicants.*” The use of this site for a residential subdivision is a permitted and Master Plan recommended use and will operate in a manner consistent with that of surrounding residential subdivisions in the area and in Montgomery County. As such, this is not a **special privilege** to be conferred on the applicant.

Pursuant to “(2) *Is based on conditions or circumstances which are the result of actions by the applicant; and (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property*” the applicant has taken no **actions leading to the conditions or circumstances** that are the subject of this variance request. Furthermore, the **surrounding land uses** (residential and parkland) do not have any **inherent characteristics that have created** this particular need for a variance.

Pursuant to “(4) *Will violate State water quality standards or cause measurable degradation in water quality*” the applicant cites the reasoning in the previous response to requirement 22A-21 (b)(3), and restates its belief that granting this variance request **will not violate State water quality standards or cause measurable degradation in State water quality standards**. In fact, the resulting development will use stricter SPA sediment control and stormwater management practices.

For these reasons listed above, we believe it is appropriate to grant this request for a variance. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,
LOIEDERMAN SOLTESZ ASSOCIATES, INC.

Keely Lauretti
Landscape Architect

cc: Tom Hyde, Miller and Smith
Bob Spalding, Miller and Smith
Ed Wallington, LSA

From: Demler, Scott <sDemler@wsscwater.com>
Sent: Wednesday, December 26, 2012 8:15 AM
To: Cashion, Ronald
Cc: Spalding, Bob; Ed Wallington
Subject: Tapestry Site Plan #820050370

Mr. Cashion,

In regard to the Tapestry Property Site Plan (#820050370) located along West Old Baltimore Road In Clarksburg, please be advised that the applicant and engineer have adequately addressed WSSC's Development Review Committee comments from the DRC Meeting Date of March 19, 2012. All remaining WSSC-related items will be evaluated and resolved at the time of detailed engineering plan and permit review. Contact me immediately if you have any comments or questions. Thanks

*Scott W. Demler
WSSC Development Services Group
Phone (301) 206-8749*



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

December 7, 2012

Mr. Ronald Cashion
Area 3 Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Tapestry
Preliminary Plan No. 1-20050950
Site Plan No. 820050370

Dear Mr. ^{Ron}Cashion:

Regarding the above preliminary and site plan applications, the Department of Housing and Community Affairs (DHCA) has reviewed the revised plans and the applicant's December 3, 2012 letter with responses to DHCA's DRC comments from the March 19, 2012 DRC meeting. DHCA recommends the following conditions for approval of the preliminary and site plans:

- Provide illustrative architectural elevations of the MPDUs to demonstrate architectural compatibility with adjacent market units.
- Allow the applicant the option of providing side entrances for the MPDU duplexes.
- Provide two dedicated off-street parking spaces for each MPDU.

Please also note that an MPDU Agreement to Build will need to be executed with DHCA before the Department of Permitting Services (DPS) will issue any building permits for the project.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: Keely Lauretti, Loiederman Soltesz Associates, Inc.
Bob Spalding, Miller and Smith
Tom Hyde, Miller and Smith
Ed Wallington, Loiederman Soltesz Associates, Inc.
Larry Gordon, Shulman, Rogers, Gandal, Pordy & Ecker
Christopher J. Anderson, DHCA

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Division of Housing

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
& Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691

Licensing & Registration Unit
240-777-3666
FAX 240-777-3699

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca



FIRE MARSHAL COMMENTS

DATE: 19-Nov-12
TO: Keely Laretti
Loiederman Soltesz Associates, Inc
FROM: Marie LaBaw
RE: Tapestry
820050370 120050950

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **19-Nov-12**. 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.



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

August 27, 2012

RE: **Montgomery County**
MD 355
Tapestry, LLC
SHA Tracking No. 12APMO008
County Number 120050950
Traffic Impact Study
Mile Point 20.57

Mr. Ki H. Kim
Area 3 Transportation Coordinator
M-NCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910



Dear Mr. Ki H Kim,

Thank you for the opportunity to review the Traffic Impact Study prepared by Integrated Transportation Solutions, Inc, dated July, 2012 (received on August 1, 2012), for the Tapestry residential development in Montgomery County, Maryland. The major report findings and the Maryland State Highway Administration (SHA) comments and conclusions are as follows:

- Access to the 67 residential units is proposed via two site access points along West Old Baltimore Road (a County road).
- The study analyzed the following intersections under existing, background and future conditions:
 - MD 355 & West Old Baltimore Road
 - MD 355 & Brink Road
- The report concludes that with the Tapestry development's participation in realigning/reconfiguring the West Old Baltimore Road approach to MD 355 and the development's participation in construction of a planned roadway, designated A-305, between MD 355 and Clarksburg Road, the requirements of the Local Area Transportation Review are satisfied. Further, the report concludes that the intersection of MD 355 & West Old Baltimore Road will meet the congestion standard for the Clarksburg Policy Area (CLV = 1425), and participation in the northern A-305 construction provides more than adequate capacity to offset the impact of Tapestry traffic at the MD 355 & Brink Road intersection, which operates at LOS E (AM CLV = 1545, PM CLV = 1519) even with the proposed improvements.

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Based on the information provided, the SHA offers the following comments:

1. The improvements at West Old Baltimore Road, Brink Road, and A-305 must be completed prior to the construction of the Tapestry Development. Please provide an estimated timeline for the implementation of these improvements relative to the Tapestry Development.

SHA concurs that the proposed development's participation in the above mentioned roadway improvements will provide adequate capacity to offset the impact of the development at the two State intersections included in the study. The SHA policy regarding intersection level of service requires that all intersections function at a level of service "D" or better in the design year with full build-out of the given project. Given that the Montgomery County policy differs from that of SHA regarding the need for mitigation at off-site intersections, the SHA will defer to the local criteria. However, any proposed mitigating roadway improvements impacting a State-controlled roadway must be reviewed and approved by the SHA.

Seven (7) copies of design plans and a point-by-point response addressing the above comment may now be submitted to the SHA Access Management Division addressed to Mr. Steven D. Foster to the attention of Mr. Jim Renaud. This plan submittal should include all relevant plans for the previously mentioned improvements, including a signing and pavement marking plan. Please reference the SHA Tracking Number on future submissions. Unless specifically indicated in the SHA response on this report, the comments contained herewith do not supersede previous comments made on this development application. If you have any questions regarding the plan review process, please contact Mr. Jim Renaud at 410-545-5595 or via email at JRenaud@sha.state.md.us. If you have questions or comments regarding the enclosed traffic review, please contact Nick Driban at 410-545-0398 or via email at CDriban@sha.state.md.us.

Sincerely,



Steven D. Foster, Chief
Access Management Division

SDF/cnd

cc: Mr. Greg Leck, MCDOT
Ms. Felecia Murphy, SHA District 3
Mr. Venu Nemani, SHA District 3
Mr. Morteza Tadayon, SHA TFAD
Ms. Connie Yarborough, SHA TFAD
Mr. Subrat Mahapatra, SHA TFAD
Ms. Mary Deitz, SHA RIPD
Ms. L'Keisha Markley, SHA RIPD
Mr. Roy Gothie, SHA RIPD
Ms. Reena Mathews, SHA RIPD
Mr. Bob French, SHA CPD
Mr. Johnson Owusu-Amoako, SHA CPD
Mr. Errol Stoute, SHA TDSD
Mr. Saed Rahwanji, SHA TDSD
Mr. Scott Newill, SHA AMD
Mr. Mark McKenzie, SHA AMD
Mr. Nick Driban, SHA AMD
Mr. C. Craig Hedberg, Integrated Transportation Solutions, Inc.

- Vehicles can be assigned to parking garages encountered on their trip into the CBD or MSPA. The capacity of parking garages must be accounted for based on guidance from Planning Department staff and consultation with MCDOT.
- Trip generation rates for background and site development traffic are contained in Appendixes 1, 2, and 3.

Multiple Applicants

Applicants can request that trip mitigation programs or intersection improvements be considered for more than one application. In those cases, the program or improvement must provide enough capacity to allow all participating applicants to satisfy LATR conditions.

An intersection improvement that is not yet complete may be used by two or more developments to meet LATR conditions. To be considered, the improvement must provide sufficient capacity to:

- result in a CLV that is less than the congestion standard for that policy area; and
- result in a CLV reduction equal to 150 percent of the CLV impact generated by the developments, that is, the intersection improvement must not only mitigate the impact of a proposed development, but improve conditions.

Any type of mitigation listed in this document or acceptable to MCDOT, SHA, and the Planning Board can be used to achieve this goal.

When development is conditioned on intersection and roadway improvements by more than one application, those improvements must be permitted and bonded¹, under construction, or under contract for construction prior to the issuance of building permits for any new development. Exceptions may be made if an applicant's trip contribution to an intersection or roadway is less than 25 percent of the sum of total trips².

This requirement may be fulfilled by the creation of a road club or other mechanism approved by the Planning Board that:

- includes the terms, conditions, and responsibilities for funding 100 percent of the cost for design approval, right-of-way acquisition, and construction of the improvements as set forth in the individual project APF approvals; and ensures that all parties contribute in accordance with their respective shares to the total cost of the improvements
- ensures the improvements are either permitted and bonded or under contract for construction within three years of the first building permit issued for any of the developments dependent on the required improvements
- ensures the improvements are substantially complete and open within five years of the first building permit issued for any of the developments dependent on the required improvements.

If the second or third conditions above have not been met, no building permit that is conditioned on construction of the improvements may be issued to any other participant in the road club until all above conditions are met³. If a road club or other mechanism is formed, but not all parties responsible for the improvements join, the non-participating parties will not be permitted to proceed with platting or construction of their projects until they either join the road club or, if the improvements have been completed, reimburse the other road club participants for their share of the total costs. Non-participating parties include those with projects with preliminary plan or APF approvals, which are obligated to participate in the same improvements, whether the approval occurred before or after the road club formation.

Construction of an improvement by one applicant does not relieve other applicants of their responsibility to participate in the cost of that improvement. The final percentage of the construction cost contribution is determined by the participating applicants.

¹ This condition is satisfied if the project is included in the first six years of the County's Capital Improvement Program or the State's Consolidated Transportation Program and the developer's contribution is applied to that project.

² Trip total is the sum of the total peak-hour trips generated by all developments required by the Planning Board to participate in the construction of the particular improvement.

³ In certain APF approvals, an applicant is not required to build an improvement until a certain number of building permits have already been released. Such a project would not be responsible for constructing those improvements until the specified number of building permits has been released.