White Oak Property, Preliminary Plan Amendment No. 11991099A, Site Plan Amendment No. 82005018C

Description

- Request to add 3.04 acres of land to an approved Preliminary Plan of subdivision in order to build 22 additional townhomes, including 4 MPDUs, and associated recreational/open space;
- Located on Stewart Lane approximately 350 feet east of its intersection with Lockwood Drive within the 1997 White Oak Master Plan;
- 29.34 gross acres, R-90 Zone;
- Filing date: 4/3/2013;
- Applicant: White Oak Investments, LLC

Summary

- Staff recommends approval of the amended Preliminary and Site Plans, with conditions.
- The proposed amendment will add 22 townhomes to the existing 106 units for a total of 128 townhomes.
- Staff recommends approval of an over-length turnaround pursuant to Section 50-26(b).
- Consistent with previous approvals for the larger property, Staff supports all 22 units on the Subject Property to be townhouses as allowed by §59-C-1.62, Optional Method of Development that includes Moderately Priced Dwelling Units (MPDUs).
SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan 11991099A subject to the following conditions:

1. The Applicant must comply with all the conditions of approval for Preliminary Plan No. 119910990, except as modified by this Amendment.

2. Approval is limited to twenty-two (22) additional one-family attached lots including a minimum of 15 percent moderately priced dwelling units (MPDUs) and associated Homeowners Association (“HOA”), stormwater management and park parcels on the 3.04 acres added to the approved Preliminary and Site Plan by this amendment.

3. Prior to issuance of the first building permit, the Applicant must satisfy the Transportation Policy Area Review (“TPAR”) test by making a TPAR Mitigation Payment, pursuant to the 2012-2016 Subdivision Staging Policy, equal to 25 percent of the General District Transportation Impact Tax. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

4. The private street network must be located within its own parcel, separate from the rest of the development, and the Record Plat must reflect a public use and access easement over the private streets and adjacent parallel sidewalks. The Applicant must construct the private internal streets to the applicable Montgomery County secondary residential street structural standards and must construct all sidewalks to applicable ADA standards.

5. At the time of Record Plat, the Applicant must dedicate to the Maryland-National Capital Park and Planning Commission (M-NCPPC), approximately two (2) acres (Parcel O and Parcel P) adjacent to existing Paint Branch Stream Valley Park.

6. Prior to the approval of Certified Plans, the Applicant must provide maintenance access easements to park dedication areas as approved by M-NCPPC Parks staff. The final location of the easements must be shown on the Certified Preliminary Plan, Certified Site Plan, Final Forest Conservation Plan, and Record Plat.

7. Prior to issuance of sediment control permit, the Applicant must amend and record by plat the Category I Conservation Easement to remove 0.04 acres to accommodate the additional stormwater management facilities.

8. Prior to issuance of sediment control permit, a Category I Conservation Easement must be recorded by Record Plat on 0.15 acres of forest planting area required as mitigation for forest easement removal to accommodate the additional stormwater management facilities.

9. The Planning Board has accepted the recommendations of the Montgomery County Fire and Rescue Service (MCFRS) in its letter dated January 14, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCFRS provided that amendments do not conflict with other conditions of approval for the Preliminary Plan Amendment.
10. The Applicant must make a School Facilities Payment to the Department of Permitting Services (DPS) at the elementary school level at the “single-family attached” unit rate for all units for which a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code and as determined by DPS.

11. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan Amendment with respect to lot configuration, right-of-way location, width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to approval of a Certified Site Plan.

12. 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. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”

13. The Applicant must show all necessary easements on the Record Plat.

14. The Adequate Public Facility (APF) approval for the Preliminary Plan Amendment will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

SITE PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of a total of 22 townhouses including 4 MPDUs on approximately 3.06 acres in the R-90 Zone. All site development elements as shown on the latest electronic version as of the date of this staff report, submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

1. **Preliminary Plan Conformance**
   The Applicant must comply with the conditions of approval for Preliminary Plan No. 119910990 and Preliminary Plan Amendment No. 11991099A.

2. **Site Plan Conformance**
   The Applicant must comply with the conditions of approval for Site Plan No. 820050180, and Site Plan Amendments No. 82005018A and 82005018B, except as amended by this Application.

3. **Transportation**
   The Applicant must provide four bike parking spaces (inverted-U bike rack, or equivalent approved by Staff that conforms to American Pedestrian and Bicycle Professionals Guidelines) near the proposed tot lot on Regent Manor Court.
4. **Environment**
   a. The limits of disturbance shown on the approved Sediment Control Plans must be consistent with the limits of disturbance shown on the Amended Final Forest Conservation Plan.
   b. Prior to issuance of sediment control permit, the Applicant must provide financial surety to M-NCPPC for the required 0.82 acres of forest planting.

5. **Moderately Priced Dwelling Units (MPDUs)**
   Prior to issuance of the first building permit, the Applicant must execute an Agreement-to-Build with the Department of Housing and Community Affairs (DHCA) to provide the required 15 percent MPDUs (four townhouses).

6. **Recreation Amenities**
   The Applicant must provide the following recreation amenities in accordance with the 1992 *Montgomery County Planning Board Recreation Guidelines*, as shown on the Certified Site Plan:
   a. One Tot Lot; and
   b. Pedestrian paths.

7. **Maintenance**
   Maintenance of all on-site open space and recreation amenities, including paving, plantings, lighting, benches, and play equipment, is the responsibility of the Applicant and subsequent owner(s).

8. **Architecture**
   The exterior architectural character, proportion, materials, and articulation must be substantially similar to the illustrative elevations shown on the Certified Site Plan. Minor changes and adjustments can be made subject to Staff approval.

9. **Financial Surety and Maintenance Agreement**
   Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:
   a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
   b. The cost estimate must include plant material, on-site lighting, play equipment, private roads, paths and associated improvements.
   c. The bond or surety shall be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by inspection and potential reduction of the surety.
10. Development Program

The Applicant must construct the development in accordance with a development program, which will be reviewed and approved by Staff prior to the Certified Site Plan approval, and must include the following items:

a. A phasing, or sequence, for the various stages of construction of the approved development.

b. Demolition of existing structures, and clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan, Staff inspection, and approval of all applicable environmental protection devices.

c. Street lamps and sidewalks adjacent to each building must be installed prior to release of any Use-and-Occupancy Certificate for the respective building. Street tree planting may wait until the next planting season.

d. Prior to the issuance of the building permit for the last stick of townhouses, the Applicant must construct a connection from the proposed tot lot to the existing natural surface path to the Park.

e. Phasing for installation of on-site landscaping and lighting, if applicable.

f. Phasing of applicable dedications, stormwater management, sediment and erosion control, afforestation, and other features.

11. Certified Site Plan

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

a. Include the Amended Final Forest Conservation Plan approval, stormwater management concept approval, development program, and Planning Board Resolution of approval.

b. Revise the recreation amenities table and all Site Plan and landscape/lighting plan sheets to be consistent with the Recreation Amenities Calculations Table approved by the Planning Board.

c. Ensure consistency of all details and layout between architecture, site, and landscape plans.
SECTION 2: SITE DESCRIPTION

SITE VICINITY

The Subject Property is located off of Stewart Lane, approximately 350-feet east of its intersection with Lockwood Drive. It is zoned R-90 and located in the 1997 White Oak Master Plan area and within the pending White Oak Science Gateway Master Plan area. Abutting the Property to the south is the Food and Drug Administration campus, zoned RE-2. To the north and east is M-NCPPC parkland, which is part of the Paint Branch Stream Valley Park and zoned R-90 and RE-2. Directly to the west and southwest are several apartment complexes that range in height from two to four stories and are zoned R-20.

Stewart Lane beyond its intersection with Lockwood Drive is a 60-foot wide right-of-way and is the only access to the Subject Property.

![Vicinity Map](image-url)

Figure 1: Vicinity Map
SITE ANALYSIS

The Subject Property comprises 29.34 gross acres, including the 3.04 acres added by this amendment, and is currently improved with 106 townhouse units, a vacant single-family dwelling, open spaces, trails and tot lots. The existing townhouse units are three levels, have brick façades, and provide front-loading, one- and two-car garages (see Figure 2). Existing landscaping includes a variety of deciduous and evergreen trees. Parcels P56, P82, P108, P110, and P158 are proposed to be added to the approved development (see Figure 3). These Parcels have forested areas, and P158 contains an abandoned single-family home, which is proposed for demolition. The Property is currently served by public water and sewer.

Figure 2: Existing Conditions
The entire Property is within the Paint Branch watershed – a Use III watershed, but is not within the Upper Paint Branch Special Protection Area. It generally slopes from northwest to southeast by approximately 150 feet and is bisected by a tributary of the Paint Branch Creek. There are 1.67 acres of environmental buffers associated with the stream, with 1.01 acres of environmental buffer forested. The existing single-family house on P158 proposed for demolition is within the environmental buffer for the stream located on the Subject Property.

Figure 3: Aerial Photo
SECTION 3: DESCRIPTION OF THE PROPOSED AMENDMENTS

A) PREVIOUS APPROVALS

The Planning Board approved a Preliminary Plan, Site Plan and Site Plan Amendments on the larger property for 106 townhomes, including 16 MPDUs, on 26.30 acres of land in the R-90 Zone as follows (see Attachment 1):

- Preliminary Plan 119910990, approved with conditions (Planning Board Opinion dated May 28, 2003) for up to 100 percent single-family attached dwelling units pursuant to §59-C-1.621 of the Montgomery County Zoning Ordinance. The APF was approved under the “Alternative Review Procedure for Expedited Development Approval (a.k.a. Pay and Go) of the FY 2003 Annual Growth Policy. In lieu of submitting a traffic study to satisfy Local Area Transportation Review (LATR) test and mitigating new peak-hour trips to satisfy the Policy Area Review test, the Applicant entered into an “Expedited Development Approved Excise Tax Agreement” with the Montgomery County Planning Board and paid an excise tax per housing unit approved.

- Site Plan 820050180, approved with conditions (Planning Board Opinion dated April 12, 2005) for 106 one-family attached dwelling units, including 16 MPDUs, on 26.30 gross acres in the R-90 Zone (MPDU Development Option).

- Site Plan Amendment 82005018A, approved with conditions (Planning Board Resolution 06-28, dated October 2, 2006) included development standards for the MPDUs, corrected setbacks for lots abutting the subdivision, and revised the lot lines to accommodate utility easements and refinement of building product type (brick facades).

- Site Plan Amendment 82005018B, approved with conditions (Planning Board Resolution 07-214, dated December 6, 2007) to modify the top of fence to pointed pickets and change grading along Warwick Court.

B) PROPOSED AMENDMENTS

Preliminary Plan Amendment
Since the original Preliminary Plan was approved, the Applicant has acquired five new (Figure 3) properties (Parcels P56, P82, P108, P110 and P158) that total 3.04 acres, and is seeking to amend the approved Preliminary Plan of Subdivision to add the five new properties to the approved Preliminary Plan in order to add 22 lots for construction of 22 townhouses including 15 percent MPDUs (see Attachment 2 and Figure 4).
Site Plan Amendment
The proposed Site Plan Amendment will allow 22 additional townhouses, the relocation and enlargement of the existing tot lot, and modification of the existing stormwater management area (see Attachment 3). Similar to the approved plan for the larger property, the added parcels will be developed under the optional method of development allowed by §59-C-1.6, Development including moderately priced dwelling units. The proposed density includes an allowable increase over the standard density limits of the R-90 Zone because the Applicant is proposing to provide 15 percent of total units as MPDUs. The proposed development will have similar lots sizes, building setbacks, yards and building heights as the existing townhouses for both the market-rate and MPDU units. All market-rate townhouses will have a two-car garage and a 2-car driveway. The MPDU units will have one-car garages with one-car driveways. Nine additional on-street parking spaces for residents and guests are also proposed.
Figure 5: Schematic Building Elevations

Figure 6: Schematic Building Elevations, MPDUs
SECTION 4: PRELIMINARY PLAN ANALYSIS AND FINDINGS

MASTER PLAN

The 1997 *White Oak Master Plan* emphasizes the positive attributes of the various communities within the Plan area and envisions them to remain primarily residential in nature. It identifies elements that can strengthen the existing communities, such as protection of natural resources, a variety of housing for residents of all ages and incomes, and infill developments to follow existing residential patterns and be compatible with surrounding neighborhoods. The proposed development achieves the Plan’s vision through the protection of stream buffers, and dedication of property to the M-NCPCC to be added to the Paint Branch Stream Valley Park (Parcels O and P). It supports the Master Plan’s housing objectives by providing more than the minimum 12.5% required MPDUs and by maintaining compatibility with the surrounding neighborhoods through a unit type that is consistent with adjacent development.

It is also consistent with the vision of the pending White Oak Science Gateway Master Plan, which supports the existing development pattern in this area.
PUBLIC FACILITIES

Master-Planned Roadway Status
The White Oak Master Plan does not list Regent Manor Court or Whitehall Drive as master-planned roadways. Both streets are private, secondary residential streets with approximately 30-foot-wide rights-of-way and five-foot wide sidewalks connecting to Stewart Lane. At its intersection with Whitehall Drive, Stewart Lane is a classified as a secondary residential roadway. Bikeways are not designated on these local private streets.

Available Transit Service
Ride-On bus route 10 and Metrobus routes Z6 and Z8 provide transit service with half-hour headways between weekday buses. Bus stops are located along nearby Lockwood Drive and parts of Stewart Lane.

Transportation Adequate Public Facilities Test
The Planning Board approved the Adequate Public Facilities (APF) test for 106 townhouses under the Preliminary Plan No. 119910990 approved on March 27, 2003. According to the Montgomery County Resolution No. 17-601, 2012-2016 Subdivision Staging Policy (TL1 Standards and Procedures), if use and occupancy permits for 75% of the originally approved development were issued more than 12 years ago, those units will be considered existing houses and not included in the LATR analysis of new units. In this case, all of the use and occupancy certificates were released less than 12 years ago. Therefore, a traffic study was required to include all 128 townhouses (22 proposed and 106 already approved).

Table 1 below shows the number of existing, new and total peak-hour trips generated by the 128 townhouses during the weekday morning (6:30 a.m. until 9:30 a.m.) and evening (4:00 p.m. until 7:00 p.m.) peak hours. Accordingly, the Property will generate a total of 63 weekday morning and 96 weekday evening peak-hour trips.

<table>
<thead>
<tr>
<th>Residential Land Use</th>
<th>Number of Units</th>
<th>Type of Trips</th>
<th>Weekday Peak-Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Morning</td>
</tr>
<tr>
<td>Existing Townhouse Units</td>
<td>106</td>
<td>Existing</td>
<td>51</td>
</tr>
<tr>
<td>Proposed Additional Units</td>
<td>22</td>
<td>New</td>
<td>12</td>
</tr>
<tr>
<td>Total Townhouse Units</td>
<td>128</td>
<td>Total</td>
<td>63</td>
</tr>
</tbody>
</table>

The two studied intersections will have Critical Lane Volume (CLV) values below the maximum congestion standard of 1,475 (Table 2, below). Therefore, the LATR test is satisfied. Table 2 shows the calculated CLV values at the study intersections for the following traffic conditions:

1. Existing traffic conditions include the traffic generated by the existing 106 townhouse units and all other existing developments;
2. Background traffic conditions include the existing traffic, plus the trips generated from approved but unbuilt nearby developments; and
3. Total traffic conditions include the background traffic, plus the traffic impact of the 22 additional townhouse units.

<table>
<thead>
<tr>
<th>Analyzed Intersection</th>
<th>Weekday Peak Hour</th>
<th>Congestion CLV Standard</th>
<th>Traffic Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Existing</td>
</tr>
<tr>
<td>New Hampshire Avenue (MD 650) and</td>
<td>Morning</td>
<td>1,475</td>
<td>1,256</td>
</tr>
<tr>
<td>Lockwood Drive</td>
<td></td>
<td>Fairland/White Oak</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evening</td>
<td></td>
<td>1,194</td>
</tr>
<tr>
<td>Lockwood Drive and April Lane</td>
<td>Morning</td>
<td></td>
<td>313</td>
</tr>
<tr>
<td></td>
<td>Evening</td>
<td></td>
<td>345</td>
</tr>
</tbody>
</table>

A transportation impact tax payment is required to satisfy the TPAR test because the proposed 22 townhouse units will generate three or more new peak-hour trips. The required payment is $49,725 (25% of 18 X $11,050 per unit) based on current DPS rates.

**Other Public Facilities and Services**

The Subject Property is currently serviced by public water and sewer.

The application has been reviewed by the Montgomery County Fire and Rescue Service which has determined that the Property has appropriate access for fire and rescue vehicles (see Attachment 4).

The proposed project is within the Blake High School Cluster, which is currently adequate (under 105% utilization) at the high and middle school levels. However, at the elementary school level the Cluster is over the 105% utilization rate, and the applicant will be required to pay the impact tax for all new units.

Other public facilities and services, such as police, fire and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect, and will be adequate to serve the proposed dwelling units.

**ENVIRONMENT**

**Environmental Guidelines**

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420130100) for the Subject Property on October 31, 2012. A tributary to the Paint Branch bisects the Property from west to east, and there are steep slopes and highly erodible soils leading down to the stream. The Subject Property has 1.67 acres of environmental buffers associated with the stream, with 1.01 acres of the environmental buffer forested. There are a total of 1.22 acres of high priority forest on the added properties. There is currently a single-family dwelling located on P158 located within the environmental buffer.
The entire Property is within the Paint Branch watershed – a Use III watershed, but is not within the Upper Paint Branch Special Protection Area. The proposed development complies with the Environmental Guidelines by removing the existing vacant single-family dwelling from the environmental buffer and restricting the proposed development to areas outside of the environmental buffer.

All areas of unforested environmental buffer will be planted, and all environmental buffer and forested areas outside the buffer will be protected by a Category I Conservation Easement, if not dedicated to Montgomery County Department of Parks.

**Forest Conservation**

The Planning Board approved a Final Forest Conservation Plan (FFCP) with a Site Plan (#820050180) on February 10, 2005, which required the Applicant to dedicate approximately 11.0 acres to the Montgomery County Department of Parks, and placed approximately 0.14 acres in a Category I Conservation Easement.

The proposed amendment to the FFCP (Attachment 5) covers a total tract area of 30.61 acres and includes the five parcels proposed for the additional 22 townhouses and off-site improvements included on the previous approvals. The proposed amendment to the FFCP includes a total of 11.53 acres of forest retention and 0.82 acres of forest planting. It proposes an additional 0.07 acres of forest to be removed, of which 0.04 acres is currently protected by a Category I Conservation Easement. This removal of forest and Category I Conservation

![Figure 8: Contour Intervals at White Oak Property](image-url)
Easement are needed to accommodate the new stormwater management facilities required for the development of the proposed 22 Lots (Figure 8). The Applicant has proposed to mitigate for the easement loss by planting 0.15 acres of forest and placing those 0.15 acres into a Category I Conservation Easement. The remaining 0.67 acres of forest planting will occur on land to be dedicated to the Montgomery County Department of Parks.

**Minimum Retention**
Since the Subject Property is being developed using the MPDU development option for the R-90 Zone, it must follow Section 22A-12(f)(2)(B) of County code, which states: “In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal to the applicable conservation threshold in subsection (a).” For this property, the conservation threshold is 20% of the 30.61 acres in the FFCP, or 6.12 acres. The proposed FFCP amendment continues to meet this requirement by retaining 11.53 acres of forest.

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

The Applicant submitted a variance request on August 7, 2013 for the trees impacted by the proposed layout (Attachment 6) and revised it on October 24, 2013 and January 10, 2014. The Applicant proposes to remove five trees greater than 30 inches DBH and to impact but not remove seven trees greater than 30 inches DBH that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law. The following table describes the impacts to the trees proposed to be removed.

<table>
<thead>
<tr>
<th>ID</th>
<th>Type</th>
<th>DBH</th>
<th>Condition</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>82</td>
<td>Southern red oak</td>
<td>37”</td>
<td>Fair</td>
<td>This tree is located at the edge of the developable area and will be impacted by grading and townhouse development.</td>
</tr>
<tr>
<td>117</td>
<td>Red maple</td>
<td>45”</td>
<td>Good</td>
<td>This tree is freestanding and located in the center of the developable area of the Property.</td>
</tr>
<tr>
<td>119</td>
<td>Tulip poplar</td>
<td>34”</td>
<td>Good</td>
<td>This tree is located at the edge of the forest and the critical root zone will be impacted on the uphill side by grading and stormwater management facilities.</td>
</tr>
<tr>
<td>ID</td>
<td>Type</td>
<td>DBH</td>
<td>Condition</td>
<td>Comments</td>
</tr>
<tr>
<td>----</td>
<td>----------------</td>
<td>-----</td>
<td>-----------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>175</td>
<td>White oak</td>
<td>30”</td>
<td>Fair</td>
<td>This tree is located adjacent to the stormwater management facilities. The Applicant is showing the tree as removed and mitigating for its loss but will use stress reduction measures to try to save this tree.</td>
</tr>
<tr>
<td>206</td>
<td>Paulownia</td>
<td>41”</td>
<td>Good</td>
<td>This tree will be impacted by stormwater management facilities.</td>
</tr>
</tbody>
</table>

Table 4 below describes the trees proposed to be impacted, but not removed:

### Table 4: Trees to be impacted, but not removed

<table>
<thead>
<tr>
<th>ID</th>
<th>Type</th>
<th>DBH</th>
<th>Condition</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>78</td>
<td>Tulip poplar</td>
<td>41”</td>
<td>Good</td>
<td>This tree will be impacted by the demolition of the existing house.</td>
</tr>
<tr>
<td>98</td>
<td>White oak</td>
<td>44”</td>
<td>Good</td>
<td>This tree is off-site and will be minimally impacted by grading associated with the development.</td>
</tr>
<tr>
<td>165</td>
<td>Tulip poplar</td>
<td>32”</td>
<td>Good</td>
<td>This tree will be impacted by the demolition of the existing house.</td>
</tr>
<tr>
<td>184</td>
<td>Tulip poplar</td>
<td>36”</td>
<td>Good</td>
<td>This tree will be minimally impacted by stormwater management facilities.</td>
</tr>
<tr>
<td>210</td>
<td>Tulip poplar</td>
<td>32”</td>
<td>Good</td>
<td>This tree is off-site will be minimally impacted by stormwater management facilities.</td>
</tr>
<tr>
<td>216</td>
<td>White oak</td>
<td>31”</td>
<td>Good</td>
<td>This tree is off-site will be minimally impacted by stormwater management facilities.</td>
</tr>
<tr>
<td>217</td>
<td>Tulip poplar</td>
<td>39”</td>
<td>Good</td>
<td>This tree is off-site will be minimally impacted by stormwater management facilities.</td>
</tr>
</tbody>
</table>

**Unwarranted Hardship**

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship. The variance is necessary because of the severe environmental site constraints that include steep slopes, environmental buffers or forest cover over more than 60% of the additional acreage. Development has been constrained to less environmentally sensitive areas of the site to minimize forest loss and environmental buffer impacts. Therefore, leaving the requested trees in an undisturbed state would result in an unwarranted hardship.
Variance Findings

Based on the review of the variance request and the proposed Amended Final Forest Conservation Plan, staff makes the following findings that granting the requested variance:

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

   Granting this variance will not confer a special privilege on the Applicant as any development on the Subject Property is constrained due to the large areas of steep slopes and environmental buffers. These trees lie outside of the forest or stream buffer and would likely be disturbed under any scenario of development for this property. Granting a variance request to remove five trees and disturb the CRZs of seven trees for the purposes of developing townhouses is not unique to this Applicant. This variance is necessary to achieve the County goals of providing housing while protecting the sensitive environment of the Paint Branch. Therefore, staff believes that 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 requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. It is based on the locations of the trees and the disturbance needed to develop the Subject Property under any scenario.

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

   The requested variance is a result of the unique conditions and constraints of the Subject Property and not a result of land or building use on a neighboring property.

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

   The Proposed Amendment allows for the removal of existing encroachments, and includes additional plantings within the environmental buffer, which will help protect water quality. The requested variance will not violate State water quality standards or cause a measurable degradation in water quality.

**Mitigation for Trees Subject to the Variance Provisions**

The Applicant is requesting a variance to remove five trees and to impact but not remove seven trees. Generally, mitigation is not recommended for trees impacted but retained. The Applicant will plant 16, 3-inch caliper, native shade trees as part of the Amended FFPC as mitigation for the loss of five specimen trees. These plantings will be located within the environmental buffer and will help protect water quality.
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. On January 14, 2014, Staff forwarded the request to the County Arborist, who has recommended approval (Attachment 4).

Variance Recommendation
Staff recommends that the variance be granted.

COMPLIANCE WITH ZONING ORDINANCE AND SUBDIVISION REGULATIONS

The application has been reviewed for compliance with Chapter 50 of the Montgomery County Code, the Subdivision Regulations. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The proposed development substantially conforms to the recommendations of the White Oak Master Plan. It meets all requirements established in the Subdivision Regulations, provided the Planning Board grants greater than 50% of the units to be townhomes (discussed in more detail below) and approves the proposed turnaround to be longer than 500 feet.

More than 50 percent of the units as townhouses
Section 59-C-1.6 prescribes the procedure and standards for Development that include moderately priced dwelling units, and allows townhouses in the R-90 Zone for a development under the optional method of development pursuant to §59-C-1.621, footnote 1, of the Zoning Ordinance, which requires at least 50 percent of the units to be townhouses. This section also allows the Planning Board to approve a development in which up to “100% of the total number of units are one-family attached dwelling units, upon a finding that (1) a proposed development is more desirable from an environmental perspective than development that would result from adherence to these percentage limits, or (2) limits on development at that site would not allow the applicant to achieve MPDUs under Chapter 25A on-site. However, any increase in any dwelling unit type above the standard percentage allowed must achieve not less than the same level of compatibility as would exist if the development were constructed using the standard percentage of that type of dwelling unit. Any development that exceeds the maximum percentage of allowable dwelling unit types must be compatible with adjacent existing and approved development.”

The Subject Property is encumbered by several environmental elements, such as a stream valley buffer, steep slopes and forest that cover more than 60% of its land area. A 100% townhouse development will protect the environmentally sensitive areas through multiple conservation measures, such as greater buffers for the stream valley and steep slopes than if developed as one-family detached units, and additional areas of reforestation. There are 1.67 acres of environmental buffers associated with the stream, with 1.01 acres of environmental buffer forested. There are a total of 1.22 acres of high priority forest on-site. The forest planting is not required to meet requirements of Chapter 22A, but does support the granting of 100% townhouse units.
The proposed development of 100% townhouses will achieve the same level of compatibility as a development with a maximum of 50% townhouses. As fully described under the Site Plan section of this report, the proposed development is of similar characteristics (e.g., building height, scale and massing) to the existing developments and any developments within the surrounding neighborhood.

Staff carefully considered the 100% townhouses proposal and recommends granting this request because the proposed lot arrangement will be the least intrusive within the environmental context of the Subject Property, will maintain compliance with the Zoning Code, and will be compatible with the surrounding neighborhood.

Lot Frontage on a Private Street
Section 50-29(a)(2) of the Subdivision Regulations requires “… that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road.” The proposed townhouse lots will be on individually recorded lots and will front onto private streets. Therefore, in order to approve the proposed Preliminary Plan Amendment, the Planning Board must find that the proposed private streets have acquired the status of a public road. This finding must be based upon the proposed road being fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way and pavement widths.

The proposed private street with frontage to the proposed individually recorded townhouse lots meets the minimum standards necessary to make the finding that it has the status of a public road. These standards include 20-foot pavement width, 25-foot or larger curve radii, an appropriate circulation pattern, and an appropriate paving cross-section. As a condition of this report, the proposed private road will also be placed within an easement that ensures it remains fully accessible to the public.

Road and Street Design Standards
Section 50-26(b) of the Subdivision Regulations allows the Planning Board to approve cul-de-sacs and turnarounds only if they will produce an improved street layout because of the unusual shape, size or topography of the subdivision. The Planning Board must not approve a turnaround or cul-de-sac longer than 500 feet, when measured on its centerline. However, the Board may approve a greater length because “…of the property shape, size, topography, large lot size or improved street alignment...”

The extension of these existing turnarounds is highly desirable because it will continue the existing pattern of development with minimal disturbance of steep slopes and the stream valley buffer. It will also avoid excessive pavement in or near the existing natural resources that could result from entirely new access roads for the proposed units.

When extended to accommodate the six new units proposed for Parcel 158, Whitehall Drive will be approximately 550 feet long from the intersection of Whitehall Drive and Chiswick Court to its eastern terminus. Staff supports the proposed over-length street (approximately 50 feet longer the than the standard 500-foot maximum) for the same reasons described above: the
extended-length eastern segment of Whitehall Court will help protect sensitive environmental resources, and it will avoid excessive impervious surface by creating a more compact development pattern consistent with the existing development on the larger site.

SITE PLAN 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.**

   The Site Plan is not subject to a development plan, diagrammatic plan, schematic development plan, or project plan.

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 Property is Zoned R-90, whose purposes include: encourage social and community interaction and activity; provide a broad range of housing types; preserve and take the greatest possible aesthetic advantage of trees; provide open space for the general benefit of the community; encourage pedestrian circulation networks; and assure compatibility and coordination of each development with existing and proposed surrounding land uses. The zone allows the proposed use, with provisions stated below.

   The Applicant proposes to amend the approved Site Plan to include an additional 22 townhomes, including four MDPUs, under the Optional Method of Development in the R-90 Zone for projects including Moderately Priced Dwelling Units pursuant to §59-C-1.6 of the Zoning Ordinance. One-family attached units are a permitted use under the R-90 Zone Optional Method, but the maximum percentage of attached units (townhouses) allowed is 50 percent. The balance must be one-family detached units. However, per §59-C-1.62, footnote 1, the Planning Board may approve up to 100 percent of the units as one-family attached units, upon a finding that: (1) a proposed development is more desirable from an environmental perspective than development that would result from adherence to these percentage limits; or (2) limits on development at that site would not allow the applicant to achieve MPDUs under Chapter 25A on-site. Any increase above the standard percentage allowed must achieve not less than the same level of compatibility as would exist if the development were constructed using the standard percentage of that type of dwelling unit.

   The Applicant is requesting 100 percent of the total additional units as one-family attached units. Staff finds that the proposed development with 100-percent one-family attached units is more desirable from an environmental perspective than a development that would result from adherence to the standard 50 percent limit, as discussed above.
The following data table indicates the proposed development’s compliance with the applicable standards of the Zoning Ordinance. The Site Plan meets all the development standards of the zone.

**Table 5: Project Data Table (R-90 Zone/MPDU Option)**

<table>
<thead>
<tr>
<th>Development Standard</th>
<th>Permitted/ Required</th>
<th>Previously Approved/Built</th>
<th>Proposed with Addition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Tract Area (ac)</td>
<td>N/A</td>
<td>26.30</td>
<td>29.34</td>
</tr>
<tr>
<td>Max. Number of Dwelling Units (29.34 ac X 4.39)</td>
<td>128</td>
<td>106</td>
<td>128</td>
</tr>
<tr>
<td>Max. Percentage of one-family attached lots (%)</td>
<td>50</td>
<td>100¹</td>
<td>100</td>
</tr>
<tr>
<td>Min. Number of MPDUs at 15%</td>
<td>20</td>
<td>16</td>
<td>20 (16 existing + 4 proposed)</td>
</tr>
<tr>
<td>Min. Yard Requirements for lots that abut a lot Not development under MPDU provisions (ft.) (59-C-1.623)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear Yard</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Side Yard</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Min. Yard Requirements (feet) (59-C-1.624):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard</td>
<td>N/A</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Side Yard</td>
<td>N/A</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>N/A</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Min. Lot Area (sf) (59-C-1.625)</td>
<td>1,500</td>
<td>1,500</td>
<td>1,500</td>
</tr>
<tr>
<td>Max. Building Height (feet) (59-C-1.626)</td>
<td>40</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>Min. Green Area (59-C-1.627) (2,000 sf per unit)</td>
<td>256,000</td>
<td>888,824</td>
<td>83,842 for added portion 972,666 Total Green Area</td>
</tr>
<tr>
<td>Parking spaces (59-E-3.7)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attached Units (2 per unit)</td>
<td>256</td>
<td>212²</td>
<td>56 (for new units)</td>
</tr>
<tr>
<td>Visitors</td>
<td>30</td>
<td>9 (for new units)</td>
<td></td>
</tr>
<tr>
<td>Total parking spaces</td>
<td>242</td>
<td>65 (for new units)</td>
<td></td>
</tr>
</tbody>
</table>

Total Proposed Parking Spaces 307

¹ The Planning Board approved a Preliminary Plan (11991099) of up to 100% one-family attached dwelling units pursuant to §59-C-1.62 of the Montgomery County Zoning Ordinance.

² As previously approved, the 90 market-rate units include 2 driveway spaces per unit. Lots 29 -32 (MPDU units) include a parking space in the garage and the driveway. The remaining MPDUs have 2 designated parking spaces in the parking areas directly in front of the units.
3. The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.

a. Locations of buildings and structures
The proposed townhouses are similar to what has been built in the existing development, and are located on the site to take full advantage of the varying slopes to accommodate walkout situations. The locations of the buildings are clustered to maximize the preservation of open space, including area containing steep slopes. The proposed development extends pedestrian and bicycle paths to provide access to new units and existing and proposed recreation amenities and open spaces.

b. Open Spaces
The Applicant will dedicate approximately 2 acres of environmental buffers to the Parks Department for addition to the adjacent stream valley park. In addition, the Applicant will provide recreation amenities per the Planning Board’s Recreation Guidelines as described below.

c. Landscaping and Lighting
The proposed landscaping consists of a mix of shade, evergreen and flowering trees along the existing streets. The proposed trees are similar to the existing trees within the townhome community, and consistent with previous approvals, the new street trees are within ten-foot wide grass panels along Regent Court and Whitehall Drive.

The proposed lighting for the new townhomes will closely match the lighting in the existing townhome community and will consist of the lantern-style fixtures on 14-foot tall poles, spaced similarly to existing poles but varied as needed to accommodate adequate coverage. Proposed light fixtures near the proposed townhomes will be equipped with deflectors/refractors to prevent glare.

The proposed landscaping and lighting will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors.

d. Recreation Amenities
The Applicant is proposing relocation and expansion of an existing tot. The proposed tot lot is double the size of the existing tot lot, and located at the end of extended Regent Manor Court. It will consist of safety tiles, activity panels for toddlers, swings and a play structure. It will be enclosed by a timber border, and include proper drainage. The structure will be located near the street to provide adequate visibility and easy access while ensuring safety of the children. The Applicant also proposes a re-alignment of the natural surface trail to connect with the relocated tot lot and sidewalks that terminate at Regent Manor Court. Table 6 below contains the Recreation Amenity Calculations based on the total development. The previously approved amenities exist on-site and are in good condition.
The proposed Site Plan Amendment meets the Planning Board Guidelines for recreation amenities. As reflected in the outline and data tables below, the development (existing and proposed addition) will provide adequate, safe, and efficient recreation amenities.

Table 6: Recreation Amenity Calculations

<table>
<thead>
<tr>
<th>Demand Points</th>
<th>Tots</th>
<th>Children</th>
<th>Teens</th>
<th>Adults</th>
<th>Seniors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Type</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attached units (128)</td>
<td>21.76</td>
<td>28.16</td>
<td>23.04</td>
<td>165.12</td>
<td>8.96</td>
</tr>
<tr>
<td>Total Required Points</td>
<td>21.76</td>
<td>28.16</td>
<td>23.04</td>
<td>165.12</td>
<td>8.96</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Supply Points</th>
<th>Tots</th>
<th>Children</th>
<th>Teens</th>
<th>Adults</th>
<th>Seniors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tot Lot (2)</td>
<td>9.00</td>
<td>2.00</td>
<td>0.00</td>
<td>4.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Multi-Age Playground (1)</td>
<td>9.00</td>
<td>11.00</td>
<td>3.00</td>
<td>7.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Picnic/Sitting (4)</td>
<td>4.00</td>
<td>4.00</td>
<td>6.00</td>
<td>20.00</td>
<td>8.00</td>
</tr>
<tr>
<td>Open Play Area II (3)</td>
<td>9.00</td>
<td>12.00</td>
<td>12.00</td>
<td>30.00</td>
<td>3.00</td>
</tr>
<tr>
<td>Pedestrian System</td>
<td>2.18</td>
<td>5.63</td>
<td>4.61</td>
<td>74.30</td>
<td>4.03</td>
</tr>
<tr>
<td>Nature Trails (1)</td>
<td>1.09</td>
<td>2.82</td>
<td>3.46</td>
<td>24.77</td>
<td>1.34</td>
</tr>
<tr>
<td>Natural Areas (1)</td>
<td>0.00</td>
<td>1.41</td>
<td>2.30</td>
<td>16.51</td>
<td>0.45</td>
</tr>
<tr>
<td>Total Supply Points</td>
<td>34.27</td>
<td>38.86</td>
<td>31.37</td>
<td>176.58</td>
<td>18.82</td>
</tr>
<tr>
<td>% of Demand</td>
<td>157%</td>
<td>138%</td>
<td>136%</td>
<td>107%</td>
<td>210%</td>
</tr>
</tbody>
</table>

e. Pedestrian and Vehicular Circulation Systems
The proposed project will promote safe and efficient movement of vehicles. Vehicular circulation will not change on the existing developed portion of the overall site. The circulation routes, access points, and movements have been reviewed to ensure minimal conflicts with pedestrians and found to be in accordance with code requirements.

Pedestrian and bicycle access is provided from the sidewalk at Stewart Lane/Lockwood Drive to the main entrance of the entire property (DOT has requested, but not required, that the Applicant work with them on pedestrian safety improvements along Lockwood Drive from the site entrance at Stewart Lane to Oak Leaf Drive, one mile to the south). The existing sidewalk system within the development consists of four-foot wide sidewalks and natural surface trails. The proposed amendment will extend the existing four-foot wide sidewalks, and continue the 4-foot wide natural surface trail from Whitehall Drive through Parcel B to connect with the relocated tot lot on Regent Manor Court. This network will continue to provide adequate, safe, and efficient pedestrian and vehicular circulation systems.
4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed townhouses are compatible with existing uses and developments on adjacent properties regarding scale, massing, and design. The fronts and sides of the units will contain brick or masonry facades for a consistent appearance with the existing townhouses and will continue to be compatible with the surrounding neighborhood.

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

a. **Forest Conservation**
   This plan is in compliance with the Planning Board’s Environmental Guidelines and Montgomery County Forest Conservation Law (Chapter 22A of the Code). Staff recommends approval of the Amended Final Forest Conservation Plan as part of the Site Plan Amendment with the conditions cited in this Staff Report.

b. **Stormwater Management**
   This development has an approved Stormwater Concept from the Department of Permitting Services (DPS) dated September 25, 2012. (See Attachment 4.)

**COMMUNITY OUTREACH**

The Applicant has met all proper signage, noticing, and submission meeting requirements. As of the date of this report, staff has received verbal and written communications on this Application. Citizen concerns include interruption of wildlife habitat, decrease of open space, increased traffic, and overcrowding. Staff believes that with the addition of over 2 acres of dedicated park land, coupled with multiple forest conservation measures, removal of structures within the floodplain, and minimizing the development’s footprint, the Applicant has minimized the environmental impacts of this development. With regards to increased traffic and overcrowding, the project has been reviewed for transportation circulation and adequacy, and is not anticipated to exceed the applicable congestion standards for this area.

**ATTACHMENTS**

1. Previous Approval
2. Preliminary Plan
3. Site Plan
4. Agency Approval Letters
5. Final Forest Conservation Plan
6. Applicant’s Variance Request
7. Citizen Comments
ATTACHMENT 1

Date Mailed: May 28, 2003
Action: Approved Staff Recommendation
Motion of Comm. Robinson, seconded by Comm. Bryant with a vote of 3-0;
Comms. Berlage, Bryant, Robinson voting in favor
Comms. Perdue temporarily absent and Wellington necessarily absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-91099
NAME OF PLAN: WHITE OAK PROPERTY

On 06/22/99, PAINT BRANCH PARTNERSHIP submitted an application for the approval of a preliminary plan of subdivision of property in the R-90 zone. The application proposed to create 106 lots on 26.3 acres of land. The application was designated Preliminary Plan 1-91099. On 03/27/03, Preliminary Plan 1-02110 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-02110 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-02110.

Approval, Pursuant to the Annual Growth Policy Alternative Review Procedures for Expedited Development Approval (“pay-and-go”), Subject to the Following Conditions

1) Prior to MCPB release of building permits, applicant to enter into an Adequate Public Facilities (APF) agreement with the Planning Board to limit development to a maximum of one hundred six (106) single family attached units and pay to the Montgomery County Department of Finance the balance of the expedited development approval excise tax prior to receipt of building permits, as provided by County law

2) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits

3) All road rights-of-way shown on the approved preliminary plan shall be dedicated, by the applicant, to the full width mandated by the Fairland -White Oak Master Plan unless otherwise designated on the preliminary plan

4) All road right-of-ways shown on the approved preliminary plan shall be constructed, by the applicant, to the full width mandated by the Fairland - White Oak Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, “To Be Constructed By _______” are excluded from this condition
5) Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation
6) Record plat to reflect common ingress/egress and utility easements over all shared driveways
7) Record Plat to reflect all areas under Homeowners Association ownership and all stormwater management areas
8) Compliance with the conditions of approval of the MCDPS stormwater management approval
9) Dedication to MNCPPC of the land adjacent to the northeast side of the entrance road (proposed Stewart Lane) between the road and current parkland up to the first proposed set of town homes. Curb cut to be provided to allow access to this land
10) Dedication of Parcel 207 and adjacent stream valley buffer area to MNCPPC for park purposes. All dedicated land to be conveyed free of trash and unnatural debris and signed to park standards
11) Applicant to provide 4-foot wide natural surface trails within the development for resident access to adjacent parkland. Trails to be designed and constructed to park standards; access points to be coordinated with park staff
12) Final access and improvements as required to be approved by MCDPWT prior to recordation of plat(s)
13) No clearing, grading or recording of plats prior to site plan enforcement agreement approval
14) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan
15) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff
16) Provide a minimum of sixteen (16) MPDU’s dependent on Condition No. 14 above
17) All driveway access connections to parcels not included in the subdivision are to be identified on the final record plat and the Homeowner Association documents must provide for the continued provision of such access until other direct access to a public road is provided in the future
18) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
19) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
20) Other necessary easements
Site Plan No.: 8-05018
Project: White Oak
Date of Hearing: February 10, 2005

Action: APPROVAL SUBJECT TO CONDITIONS. (Motion to approve was made by Commissioner Wellington; duly seconded by Commissioner Bryant; with a vote of 5-0, Commissioners Berlage, Perdue, Bryant, Wellington, and Robinson voting in favor.)

The date of this written opinion is APR 12 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State). This site plan shall remain valid as provided in Section 59-D-3.8.

INTRODUCTION

On February 10, 2005, Site Plan Review #8-05018 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

THE SUBJECT PROPERTY

The subject property is located on Stewart Lane approximately 350 feet east of the northeastern intersection with Lockwood Drive ("Subject Property"). The 26.30-acre site is bordered by the Montgomery-White Oak Apartments directly to the west and southwest, ranging in height from 2-4 stories and zoned R-20. The property abutting the site directly to the south is the White Oak Naval Surface Warfare Center (NSWC) (Pcl. 700), containing a variety of government complexes and a public golf course. This property is zoned RE-2. The Subject Property encompasses approximately 14 parcels, some of which are improved with one-family homes and others that are vacant. These
Site Plan No. 8-05018
White Oak
Page 2

out parcels currently access Stewart Lane and are zoned R-90. The property to the
north and east of the subject site is owned by M-NCPPC and is part of Paint Branch
Stream Valley Park. The Park property is zoned R-90 and RE-2.

BACKGROUND

Preliminary Plan #1-91099 was approved on May 28, 2003, for 106 one-family attached
dwelling units with conditions. The Planning Board’s approval of the Preliminary Plan
included approval of up to 100 percent one-family attached dwelling units pursuant to
Sect. 59-C-1.621 of the Montgomery County Zoning Ordinance.

PROPOSED DEVELOPMENT

White Oak Investments, LLC, ("Applicant") proposed to construct 106 one-family
attached units, including 16 MPDUs, on 26.30 acres in White Oak, Maryland. The
proposed development is utilizing the MPDU development option in the R-90 Zone,
increasing the project’s density while providing a greater percentage of MPDUs on the
property. The Subject Property is comprised of fourteen (14) parcels with direct access
from Stewart Lane, via Stewart Drive.

The proposed development is separated into two development pod areas by virtue of
the outlying parcels that are not part of this development. The first development pod
area, located along the western boundary, contains approximately 44 townhouse units
near the extended segment of Stewart Lane. The second development pod area
consists of the remaining 62-townhouse units primarily to the east of the parcels that are
not part of the development. The latter development area is accessed via Private Street
E running east to west from Stewart Lane to the northern portion of the southern stream
buffer.

Vehicular Circulation
Stewart Lane is an existing 26 foot-wide paved public road within a 60 foot-wide right-of-way
that extends east from Lockwood Drive to provide access to numerous parcels, including the
Subject Property. Stewart Lane/Lockwood Drive provides an alternative connection between
New Hampshire Avenue and US 29. The proposed subdivision extends Stewart Lane into the
site and terminates the right-of-way at the northwest corner of Parcels 139 and 194. The street
will terminate as a T-intersection in order to provide future connections to potentially landlocked
parcels surrounding the Subject Property.
The townhouses will gain direct access through a series of private streets that connect to Stewart Lane. All of the units front onto the private streets. Off-street parking bays will be provided for the MPDUs in the western tract area. The Applicant will provide garage townhouse MPDU units in the eastern development area to address compatibility within the site in context with the market-rate units.

As stated in the site plan review issues on page 7 of the Staff Report, Staff expressed concern that adequate access be provided to Stewart Lane for the parcels that could potentially become landlocked through the site plan and development process. The approved preliminary plan identified ingress/egress and utility easements to all of the parcels requiring access to Stewart Lane through the proposed development. The only deviation from the preliminary plan is the minor realignment of the access to Parcel 158. This site plan provides an improved access to Stewart Lane via Private Street E, rather than the circuitous route anticipated in the subdivision process.

Pedestrian Circulation
The sidewalk system within the right-of-way for Stewart Lane will be extended into the Subject Property and consists of 5-foot-wide sidewalks separated by a 10-foot green panel for street trees. All of the remaining sidewalks associated with the private streets and lead walks to buildings will be 4-feet-wide. The parking areas associated with the MPDUs will provide a 2-foot-wide grass panel to separate the integrated sidewalk system. The separation provides for continuous pedestrian movement without conflicts from the parking lot.

A 4-foot-wide natural surface trail will be provided from Private Street B to Private Street E through the dedicated parkland and the homeowners’ association parcels (A and C). The connection will provide residents an alternative access to the community recreational areas as well as to trails within the surrounding existing parkland.

Environmental/Forest Conservation
Approximately 11.2 acres of forest will be preserved and placed in a Category I Forest Conservation Easement. Much of the easement area is in the stream buffer and will be dedicated to M-NCPPC for parkland. Forest conservation requirements have been met through the preservation of existing forests, including 10.61 acres of priority forest. No additional planting will be required.
The stream buffer will be impacted in two areas for the stormwater management outfall area and extension of the sewer line through Parcel B and the existing parkland. Specifically, the 8" sanitary sewer outfall extends approximately 1340 feet (or 0.25 mile) through existing and proposed parkland. According to the Applicant, the size and depth/elevation of the sewer will be adequate to serve the entire area, including all developable acreage on the out-parcels. Therefore, no other outfalls will be necessary or allowed through M-NCPPC parkland. The precise alignment through parkland may be refined, and will be subject to all park permit requirements.

The Planning Board’s approval of the Preliminary Plan included approval of up to 100 percent one-family attached dwelling units pursuant to Sect. 59-C-1.621 of the Montgomery County Zoning Ordinance. In addition to the standard conservation easements, approximately 0.60 acres of forested land outside the stream buffer southeast of Parcel 158 (0.52 acres) and east of Lot 41 (0.08 acres at the east end of Street F) will be placed in a conservation easement or dedicated to parkland.

The Applicant proposed to retain the stream buffer areas that are tributaries to the Paint Branch and contain environmentally sensitive natural elements such as wetlands and steep slopes. The stream buffers will be placed in Category I Forest Conservation Easements limiting future construction or encroachment in and around the buffers.

**Open Space/Green Space**

The plan proposes approximately 20 acres of green space, or 77 percent of the property, between units and along the perimeter of the property. The green space consists of dedicated parkland within the stream buffer; open play area for recreation, buffer areas, and stormwater management parcels. The green space along with existing trees and environmentally sensitive areas will provide buffers to adjacent uses and create internal community interaction and separation. Approximately 11 acres, or 42 percent of the total site area, will be dedicated to M-NCPPC for the Paint Branch Stream Valley Park.

The R-90 Zone requires a description of the procedures and methods to be followed for assuming the common use and adequate maintenance of common open space for the proposed project. The site plan contains a standard condition (No. 13) that defines maintenance and use of the common open space for properties in a pre-recorded covenant (liber 28045, folio 578); however, the Applicant will provide additional
language in the homeowners' association documents that provides for maintenance and use of the open space that will be regulated by the future HOA.

The proposed stormwater management concept, approved by the Montgomery County Department of Permitting Services ("DPS") on November 20, 2003, and reconfirmed on January 18, 2005, consists of (1) on-site channel protection measures via construction of two dry detention facilities; (2) on-site water quality control via construction of two Montgomery County Sand Filters (MCSF's); and (3) on-site recharge via dry wells and storage below the sand filters. Channel protection volume is not required for an area of off-site bypass because the one-year post development peak discharge at the proposed outfall is less than or equal to 2.0 cfs.

The site plan shows the location of a regional stormwater management facility at the entrance to the site to the north of the extension of Stewart Lane. The facility was considered in the design of the site and part of the reconfirmation of the concept approved by DPS.

**Landscaping and Lighting**
The proposed landscaping on the site consists of a mix of shade, evergreen and flowering trees along the entrance to the site from Stewart Lane. The access from Stewart Lane will contain three terraced walls with planting to accent the entry into the site and provide for a physical and visual buffer from the proposed units to the stormwater management facility.

Street trees are provided in the 10-foot-wide grass panels within the extended Stewart Lane right-of-way to continue the pattern of Willow Oaks installed in the segment of Stewart Lane to Lockwood Drive. The pattern of street trees will continue on Private Street E that provides service to the eastern portion of the development in front of the townhouse units.

Evergreen screening will be provided on the south side of the tot lot adjacent to parcels 56, 82, and 108 to buffer the recreational activity from the existing residences. A mix of evergreen and deciduous screening will also be provided on the southern end of the multi-age play area adjacent to the proposed townhouses and the stormwater management facility.

The proposed lighting for Stewart Lane will comply with the standard lighting specifications for public roads and is proposed to consist of a Colonial style fixture on
metal poles. The exact location and fixture type in the public road will be determined and approved by DPS.

The proposed lighting for the private streets will closely match the proposed lighting for the public streets and will consist of the New London fixtures on 12-foot-tall poles. Lighting on the private streets is spaced approximately 70 on center, although this may vary to accommodate adequate coverage. Additional light fixtures have been proposed by the visitor parking areas, located near the townhouse units and multi-age play lot. Light fixtures near the existing one-family detached homes will be equipped with deflectors/refractors to negate glare onto the adjacent parcels.

Recreation Requirements
The Applicant proposed four locations for centralized recreational facilities to address the separation of the two development pod areas. A tot-lot is proposed on the south side of Private Street B, which consists of a toddlers Eagle Play structure and benches on safety tiles. The play structure will be enclosed by a timber border and will include proper drainage. The structure will be located as close to the street as possible to provide adequate distance from the existing one-family detached homes. A passive play area including seating is located northeast of Private Street C and adjacent to proposed unit 12. This location is depressed to accommodate grading for the road while creating a common central area for the entire site.

An open play area is proposed at the southwestern end of the property near the terminus of Private Street D. The open play area will be a level area for outdoor recreational activities. A multi-age recreational facility is being provided south of Private Street E and west of the proposed stormwater management facility. This facility will include a multi-level, interconnected play structure with safety tiles and seating areas. Appropriate fencing will be provided to separate the play area and stormwater management area to address safety concerns.

Recreation requirements are also being satisfied by the installation of the 4-foot-wide natural surface trail through the dedicated parkland.

**SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD**

Staff recommended approval of the Site Plan subject to the conditions listed in its memorandum dated February 4, 2005 ("Staff Report"), and the proposed revisions to condition No. 7, which proposed revision was submitted to the Planning Board at the
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hearing. Environmental Planning Staff explained both in its handout and in oral
testimony the need for the proposed revision. Board members recommended certain
clarifying language to proposed Condition 7.d., which would allow Environmental
Planning Staff the opportunity to review and approve the hydraulic planning analysis
prior to recordation of the plat. The Applicant’s legal counsel appeared at the hearing
and testified that the Applicant agreed with Staff’s recommendations, including the
recommended revisions to Condition 7.d. and the Board’s changes to Staff’s proposed
language to that condition.

In addition to the Applicant’s representatives, only one speaker testified at the hearing.
The speaker stressed the need for sediment and erosion control measures, forest
conservation, and well-designed stormwater management facilities, noting that Staff had
shared and advanced these concerns and that the application before the Board
addressed the aforementioned concerns. The speaker added that the Staff Report
addresses with great specificity almost all her issues and concerns. The speaker
commented that it appeared to her that one grouping of eight townhomes was located
over a tributary to the Paint Branch. The speaker testified that her greatest concern
was the amount of traffic that would be generated by this development and its impact in
an already heavily congested area.

In its rebuttal testimony, the Applicant responded to the concerns of the speaker. First,
the Applicant’s engineer testified that the Staff-approved Natural Resources Inventory
had determined that the feature the speaker had identified as a tributary is, in fact, an
eroded swale. The Applicant added that it is aware that the site is environmentally
sensitive and that, during construction, sediment control requirements would be
followed. Second, responding to the speaker’s traffic concerns, the Applicant testified
that, as noted in the Staff Report, the preliminary plan application (#1-91099) had been
approved under the Expedited Development Approval Excise Tax; and that 10% of the
Pay-and-Go fee had already been paid and that the remainder would be paid to
contribute to improvements in the area. He added that the road into the community was
a public road, which would provide safe and adequate access, as had been analyzed at
the time of preliminary plan review. Correcting an error in the Staff Report, Applicant’s
counsel advised the Board that the Applicant has until May 2005 to record plats.

Staff did not dispute the rebuttal testimony of the Applicant. In response to Board
questioning, Staff confirmed that the proposed public road accessing the site would
provide sufficient capacity to handle the undeveloped parcels located within the Subject
Property.
FINDINGS

Based on all of the testimony and evidence presented and on the Staff Report, which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.

   An approved development plan or a project plan is not required for the subject development.

2. The Site Plan meets all of the requirements of the zone in which it is located.

   The Site Plan meets all of the requirements of the R-90 Zone (MPDU Option) as demonstrated in the project Data Table in the Staff Report.

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

   a. Buildings

      The 3-story townhouses are located on the site to take full advantage of the varying slopes to accommodate walkout situations. All of the units, with the exception of two sticks of MPDUs, are garage units fronting on the private streets. The MPDU grouping in the eastern tract will be garage units to address compatibility, in context with the market-rate units.

      The majority of the units are located with the sides of the units along the proposed Stewart Lane. The fronts and sides of these units will contain brick or masonry facades for context and appearance with the neighboring apartment complexes and adjacent one-family homes. The rear and sides of the units at the entrance to the site will also be brick or masonry to address compatibility and appearance.
Additionally, based on testimony presented at the hearing and other evidence of record, including the approved Natural Resources Inventory, the Board further finds that the group of eight townhomes pointed out by the speaker is not located over a tributary to the Paint Branch. Based on the evidence of record, the Board finds the location of all buildings and structures on the site to be adequate, safe, and efficient.

b. Open Spaces

The plan proposes approximately 20 acres of green space, or 77 percent of the property, between units and along the perimeter of the property, although a major portion of the green space consists of dedicated park area within the stream buffer. In addition to the green area surrounding the units and within the stream buffer, open play areas for recreation and stormwater management parcels are included in the overall acreage. The green space, along with existing trees and environmentally sensitive areas, will provide buffers to adjacent uses and create internal community interaction as well as separation. Approximately 11 acres or 42 percent of the total site area will be dedicated to M-NCPPC for the Paint Branch Stream Valley Park.

The R-90 Zone requires a description of the procedures and methods to be followed for assuming the common use and adequate maintenance of common open space for the proposed project. The site plan contains a standard condition (No. 13) that defines maintenance and use of the common open space for properties in a pre-recorded covenant (liber 28045, folio 578); however, in addition, the Applicant will provide additional language in the Homeowners Association Documents that will identify specific use and maintenance of the common open space.

The proposed stormwater management concept consists of (1) on-site channel protection measures via construction of two dry detention facilities; (2) on-site water quality control via construction of two Montgomery County Sand Filters (MCSF’s); and (3) on-site recharge via dry wells and storage below the sand filters. Channel protection volume is not required for an area of off-site bypass because the one-year post development peak discharge at the proposed outfall is less than or equal to 2.0 cfs.
Based on the uncontested evidence of record, as discussed herein, the Board finds the location of open spaces on the site to be adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping on the site consists of a mix of shade, evergreen and flowering trees along the entrance to the site from Stewart Lane. The access from Stewart Lane will contain three terraced walls with planting to accent the entry into the site and provide for a physical and visual buffer from the proposed units to the stormwater management facility.

Street trees are provided in the 10-foot-wide grass panels within the extended Stewart Lane right-of-way to continue the pattern of Willow Oaks installed in the segment of Stewart Lane to Lockwood Drive. The pattern of street trees will continue on Private Street E that provides service to the eastern portion of the development in front of the townhouse units.

Evergreen screening will be provided on the south side of the tot lot adjacent to parcels 56, 82 and 108 to buffer the recreational activity from the existing residences. A mix of evergreen and deciduous screening will also be provided on the southern end of the multi-age play area adjacent to the proposed townhouses and the stormwater management facility.

Foundation planting is provided for each unit type to include a mix of shrubs and groundcover. The public utility easements (PUEs) have been placed adjacent to the public right-of-way for Stewart Lane and in the rear yards of the proposed townhouse units to allow for street trees and flowering trees in front of the units. The relocation of the PUEs permits a greater flexibility for the appearance and function of the streetscape and planting in the front of the units along the private streets.

The lighting plan proposes Colonial style fixtures, which consist of asymmetric panels and 70-100 watt high-pressure sodium bulbs.
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The proposed lighting for Stewart Lane will comply with the standard lighting specifications for public roads and is proposed to consist of a Colonial style fixture on metal poles. The exact location and fixture type in the public road will be determined and approved by Montgomery County Department of Permitting Services.

The proposed lighting for the private streets will closely match the proposed lighting for the public streets and will consist of the New London fixtures on 12-foot-tall poles. Lighting on the private streets is spaced approximately 70 apart, although this may vary to accommodate adequate coverage. Additional light fixtures have been proposed near the visitor parking areas situated by the townhouse units and multi-age play lot. Light fixtures near the existing one-family detached homes will be equipped with deflectors/refractors to negate glare onto the adjacent parcels.

The Board finds, based on the uncontested evidence, including Applicant's Landscape and Lighting Plan, that the proposed landscaping and lighting is adequate, safe, and efficient.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above.

The proposed recreation facilities include four locations for centralized recreational facilities to address the separation of the two development pod areas. A tot-lot is proposed on the south side of Private Street B, consisting of a toddlers Eagle Play structure and benches on safety tiles. The play structure will be enclosed by a timber border and will include proper drainage. The structure will be located as close to the street as possible to provide adequate distance from the existing one-family detached homes. A passive open play area including seating is located northeast of Private Street C and adjacent to proposed unit 12. This location is depressed to accommodate grading for the road and units, however the location is a central gathering area for the entire site.
An open play area is proposed at the southwestern end of the property near the terminus of Private Street D. The open play area will be a level area for outdoor recreational activities. A multi-age recreational facility is being provided south of Private Street E and west of the proposed stormwater management facility. This facility will include a multi-level and interconnected play structure with safety tiles and seating areas. Appropriate fencing will be provided to separate the play area and stormwater management area to address safety concerns.

Recreation requirements are also being satisfied by the installation of the 4-foot-wide natural surface trail through the dedicated parkland. The final location of the trail will be determined by staff and the Applicant prior to construction.

Based on the uncontested evidence of record, the Board finds the proposed recreation facilities to be adequate, safe, and efficient.

e. Vehicular and Pedestrian Circulation

Stewart Lane is an existing 26 foot-wide paved public road within a 60 foot-wide right-of-way that was extended from Lockwood Drive to provide access to numerous parcels and the subject site. Stewart Lane/Lockwood Drive provides an alternative connection between New Hampshire Avenue and US 29. The proposed subdivision is extending Stewart Lane into the site and terminating the right-of-way at the northwest corner of parcel 139 and 194. The termination of the paved area will be a T-intersection in order to provide future connections to potentially landlocked parcels surrounding the subject site.

The townhouses will gain direct access through a series of private streets that connect to Stewart Lane. All of the units front onto the private streets. Off-street parking bays will be provided for the MPDUs in the first development pod area, however, the Applicant has agreed to provide garage townhouse MPDU units in the eastern development area to address compatibility within the site among the market-rate units.
Staff was concerned about adequate access to Stewart Lane for the parcels that could potentially become landlocked through the site plan and development process. The preliminary plan identified ingress/egress and utility easements to all of the parcels requiring access to Stewart Lane. The only deviation from the preliminary plan is the minor realignment of the access to parcel 158. This site plan improves access from this parcel to Stewart Lane, via Private Street E, rather than the circuitous route anticipated in the subdivision process.

The Applicant is proposing direct frontage onto the extended Stewart Lane for parcels 82 (Matthews), 134 (Van Vu), 139 (Washington) and 194 (Wilkerson). In addition, an outlot will be created for the land area between parcels 82 and 134 and Stewart Lane should the parcels further subdivide. The outlots would be owned by the future homeowners association and deeded over at such time as the respective parcels subdivide. The remaining parcels 108 (Hyson), 56 (Jones), 158 (Hunter), 245 (Colachico) and 299 (Taggart) will gain access to the extended Stewart Lane via a series of ingress/egress easements through the proposed private streets. The driveway access points from Stewart Lane to these parcels will be improved during construction. Staff advised the Board that the Applicant has agreed to extend paved access from the proposed private drives and Stewart Lane to the respective parcels, except where the existing access does not change. The ingress/egress easements, as shown on the site plan will be delineated on the record plat.

Pedestrian circulation consists of a sidewalk system internally that leads to the public road network with access to Stewart Lane/Lockwood Drive, as well as a natural surface path system.

The sidewalk system within the right-of-way for Stewart Lane will be extended into the subject site and will consist of 5-foot-wide sidewalks separated by a 10-foot green panel for street trees. All of the remaining sidewalks associated with the private streets and lead walks to buildings will be 4-feet-wide. The parking areas associated with the MPDUs will provide a 3-foot-wide grass panel for trees to separate the integrated sidewalk system. The separation provides for continuous pedestrian movement without conflicts from the vehicular parking.
A 4-foot-wide natural surface trail will be provided between Private Street B and E through the dedicated Parkland (parcel B) and the Homeowners Association parcels (A and C). The connection will provide residents an alternative access to the community recreational areas as well as to trails within the surrounding parkland.

The Board notes that traffic issues were addressed at the time of the preliminary plan review, as reported by the Applicant’s testimony at the hearing.

Based on the uncontested evidence of record, the Board finds the proposed vehicular and pedestrian circulation to be adequate, safe, and efficient.

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

The proposed development is compatible with the adjacent uses and developments in terms of height, density, type of building and location of the proposed units. The height is limited to forty feet, which is comparable to the three and four-story Montgomery-White Oak apartments to the east and southeast. The location of the proposed townhouses fronting on Private Street B creates a more consistent street frontage for the 1-story existing detached homes south of the private street. The townhouses in the eastern development pod are physically removed and separated by elevation and forest from the existing detached homes.

The plan proposes a unit type that is consistent with the adjacent apartments and townhouses and is transitional in nature to the one-family detached units on the adjacent parcels. A compatibility finding was addressed with the approved preliminary plan to comply with the provisions of Sect. 59-C-1.621 of the Montgomery County Zoning Ordinance to provide 100 percent townhouses.

Based on the uncontested evidence of record, the Board finds that each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.
5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

Approximately 11.2 acres of forest will be permanently preserved and placed in a Category I Forest Conservation Easement. Much of the easement area is in the stream buffer and will be dedicated to M-NCPPC for parkland. Forest conservation requirements have been met through the preservation of forested, including 10.6 acres of priority forest. No additional planting is required due to the amount of forest being preserved. The stream buffer will be impacted in two areas for the stormwater management outfall area and extension of the sewer line through Parcel B to the existing parkland.

The Board notes, as stated in the Staff Report, that an environmental finding was addressed at the time of preliminary plan approval, concerning the provisions of Sect. 59-C-1.621 of the Montgomery County Zoning Ordinance to provide 100 percent townhouses in-lieu-of the maximum 50 percent required by the R-90 Zone development standards.

PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board APPROVES Site Plan Review #8-05018 for 106 one-family attached dwelling units, including 16 Moderately Priced Dwelling Units (MPDUs), on 26.30 gross acres in the R-90 Zone (MPDU Development Option) with the following conditions:

1. Preliminary Plan Conformance
   The proposed development shall comply with the conditions of approval for Preliminary Plan 1-91099 as listed in the Planning Board opinion dated May 28, 2003.

2. Site Design
   a. Provide dimensions for the proposed ingress/egress easements.
   b. Include outlots x and y, as shown on the site plan, on the record plat and site plan, as well as a general note for the future use of outlots.
   c. Provide public utility easements for all of the lots.
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d. Provide the locations of the mailbox clusters on the site plan. The locations of the mailbox clusters shall not impede pedestrian circulation or be a visual detriment to the open space areas within the site.

e. The fronts of units 1-7, sides of units 1, 13, 14 and 24, as well as the rear of units 1-5 and 24-34 shall contain brick or masonry facades to be compatible with the surrounding apartments and existing one-family detached units.

3. **Landscaping**  
The public utility easements for the private streets shall be located be located in the rear of the townhouse units, where feasible, to provide a free and clear area for trees and foundation planting.

4. **Lighting**  
a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.

b. All light fixtures shall 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 shall not exceed 0.5 footcandles (fc) at any property line abutting or adjacent to residential properties.

e. The height of the light fixtures shall not exceed 12 feet including the mounting base.

5. **Pedestrian Circulation**

a. Provide a 4-foot-wide natural surface trail from Private Street B to Private Street E through the dedicated Parkland (Parcel B) and the Homeowners Association Parcels (A and C). Exact location of trail alignment and construction specifications shall be coordinated with, and approved by M-NCPPC staff.

b. The sidewalks in front of the non-garage MPDU units shall be 4-feet-wide and separated by a 2-foot grass strip from the parking bay.

6. **Recreation Facilities**

a. Provide detail specifications of the Toddlers Play Area and Children’s Play Area including the safety tiles, micro-engineered wood chips, fencing, timber borders and appropriate underdrains within the play areas.

b. Provide a detail for proper access into the play area to accommodate handicap accessibility.
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7. M-NCPPC Park Facility  
The Applicant shall comply with the following conditions of approval from M-NCPPC-Park Planning and Resource Analysis, Countywide Planning Division in the memorandum dated January 3, 2005:
   a. The Applicant shall dedicate to M-NCPPC the areas previously identified on the Preliminary Plan (#1-91099) as the land adjacent to the northeast side of the entrance road (proposed Stewart Lane) between the road and current parkland up to the first proposed set of townhomes. Dedication of parkland shall not include any stormwater management ponds or facilities. Land to be conveyed immediately following recordation of the record plat for the project areas that include the dedicated parkland and adjacent roads and lots. Dedicated property shall be conveyed free of trash and unnatural debris and the boundaries to be adequately staked and signed to delineate between private properties and parkland.
   b. The Applicant shall adequately mark and sign the location of the proposed trail.
   c. The Applicant shall minimize disturbance of forested areas during installation of the proposed sewer line through current and proposed parkland. The sewer line alignment shall generally follow the alignment as shown on the site plan. Reasonable adjustments in the final alignment may be incorporated at time of park permit to further minimize impacts to existing and dedicated park resources.
   d. Applicant shall submit a hydraulic planning analysis request to WSSC. WSSC to perform and approve a hydraulic planning analysis, which must demonstrate that all developable areas within this plan and the excluded outparcels can be serviced by gravity without additional outfalls through parkland. Following WSSC approval, the hydraulic planning analysis shall be forwarded to M-NCPPC Environmental Planning staff for its review and approval. Environmental Planning Staff approval must be obtained prior to record plat.
   e. The Applicant shall provide a curb cut at a point along the northeast side of proposed Stewart Lane, approved by M-NCPPC staff, to accommodate a future entrance road into the dedicated parkland.

8. Ingress/Egress Easement  
The Applicant shall delineate on the record plat, ingress/egress easements for the benefit of parcels 56, 108, 110, 134, 136, 139, 158, 194, 240, 245 and 249 from Stewart Lane to the respective parcels, as generally provided in the approved preliminary plan opinion dated May 28, 2003 and as delineated on the site plan. The Applicant shall construct the necessary improvements for continuous access.
for these parcels to Stewart Lane (either direct access to Stewart Lane or via the private street network).

9. Moderately Priced Dwelling Units (MPDUs)
The proposed development shall provide 16 (or 15 percent) MPDUs on-site in accordance with Chapter 25A.

10. Transportation Planning
The Applicant shall comply with preliminary plan (1-91099) conditions of approval from M-NCPPC- Transportation Planning.

11. Forest Conservation
The Applicant shall comply with the following conditions of approval from M-NCPPC-Environmental Planning in the memorandum dated February 3, 2005:
   a. The proposed development shall comply with the conditions of the final forest conservation plan. The Applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
   b. Record plat of subdivision shall reflect a Category 1 conservation easement over all areas of stream buffers and forest conservation. In addition to the standard conservation easements, approximately 0.60 acres of forested land outside the stream buffer southeast of Parcel 158 (0.52 acres) and east of Lot 41 (0.08 acres at the east end of Street F) will be placed in a conservation easement or dedicated to parkland.
   c. Applicant shall remove the limits of disturbance from within the stream valley buffer behind lot 24 on Street E.

12. Stormwater Management
The proposed development is subject to Stormwater Management Concept approval conditions dated November 20, 2003 and reconfirmed on January 13, 2005.

13. Common Open Space Covenant
Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 75th building permit that Applicant’s
recording Homeowners Association Documents incorporate by reference the Covenant.

14. Homeowners Association Documents
a. Applicant shall include reference to the existence of ingress/egress easements for the benefit of Parcels 56, 108, 110, 134, 136, 139, 158, 194, 240, 245 and 249; and additionally, Applicant shall include reference to the potential for future re-development of such parcels, which may require the shared use and access of the public and private rights-of-way within the proposed White Oak subdivision.

b. The procedures and methods for maintenance of the useable areas for open space shall be included in the homeowners' association documents.

c. The M-NCPCC staff shall review the homeowners' association documents to verify the existence of language adequately addressing the above referenced items.

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

a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.

b. Community-wide pedestrian pathways and recreation facilities including the natural surface trail in the area to be dedicated to M-NCPCC, as shown on the approved preliminary plan (1-91099), and HOA parcels A and C, the tot lot, open play area and multi-age play area shall be completed prior to issuance of the 75th building permit.

c. Landscaping associated with each private street and townhouse grouping shall be completed as construction of each facility is completed.

d. Pedestrian pathways including the sidewalks associated with the private streets to Stewart Lane and seating areas associated with each facility shall be completed as construction of each facility is completed.

e. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.

f. Provide each section of the development with necessary roads.

g. Applicant shall construct driveways and access improvements, as applicable, from the public or private streets over that portion of the ingress/egress
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easements to Parcels 56, 108, 110, 134, 136, 139, 158, 194, 240, 245 and 299, as shown on the delineated site plan, upon completion of the public or private streets that connect to the respective parcels. Such driveways shall be constructed of a paved material and be at least ten feet in width, as shown on the delineated site plan. Open access shall be provided for the parcels to Stewart Lane at all times during construction.
h. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

16. Clearing and Grading  
No clearing or grading prior to M-NCPPC approval of signature set of plans.

17. Signature Set  
Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:
a. Development program, inspection schedule, and Site Plan Opinion.  
b. Undisturbed stream buffers with the exception of stormwater management outfalls and the sewer connection.  
c. Limits of disturbance.  
d. Methods and locations of tree protection.  
e. Forest Conservation easement areas.  
f. MPDU and recreation facility calculations.  
g. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.  
h. Location of outfalls away from tree preservation areas.  
i. All other items specified in the site design, landscaping, lighting, recreation facilities, M-NCPPC-Park Facility, pedestrian circulation, ingress/egress easement and forest conservation conditions of approval above.  
j. Provide verification from the U.S. Postal Service identifying the potential locations of the mailbox clusters.  
k. Details of the retaining walls, paving areas and recreation facilities.

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT  
DATE 7/24/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]
CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on Thursday, March 31, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent ADOPTED the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 8-05018, White Oak. Commissioner Perdue was absent.

Certification As To Vote of Adoption
E. Ann Daly, Technical Writer
RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on October 12, 2005, White Oak Investments, LLC ("Applicant"), filed a site plan amendment application designated Site Plan No. 82005018A ("Amendment") for approval of the following modifications:

1. modifications to development standards for MPDUs;
2. correct setbacks for lots abutting the subdivision;
3. revise the lot lines to accommodate utility easements;
4. refinement of building product type (brick facades); and

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated July 14, 2006, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on July 27, 2006, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board approved the Amendment as a consent item on the motion of Commissioner Perdue, seconded by Commissioner Robinson with Chairman Berlage, Commissioners Perdue, Wellington, and Robinson voting in favor of the motion, and Commissioner Bryant absent, at its regular meeting held on July 27, 2006, in Silver Spring, Maryland.
NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts this Resolution approving Site Plan No. 82005018A based on the Staff's recommendation and analysis set forth in the Staff Report; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written resolution is [OCT 2, 2006] (which is the date that this opinion is mailed to all parties of record); and

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

* * * * * * * * * * * *

At its regular meeting, held on Thursday, September 21, 2006, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Wellington, seconded by Commissioner Robinson, and with Commissioners Perdue, Robinson, and Wellington voting in favor, and with Chairman
Hanson and Commissioner Bryant abstaining. This Resolution constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 82005018A, White Oak.

Adopted by the Montgomery County Planning Board this 21st day of September, 2006.

Royce Hanson
Chairman, Montgomery County Planning Board

Trudy M. Johnson
Executive Director
MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on October 2, 2007, White Oak Investments, LLC, ("Applicant"), filed a site plan amendment application designated Site Plan No. 82005018B ("Amendment") for approval of the following modifications:

1) Alter the original design of the approved 48" aluminum fence from a flat top picket to a pointed picket fence.

2) Change the grading on Parcel C, located at the southern tip of Warwick Court. The site will be changed from a relatively flat 358.61 grade to a 359 grade gradually sloping down to a 358 grade towards the newly constructed townhouses.

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated November 15, 2007 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on November 29, 2007, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPT.

DATE 11/14/07

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org
NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff’s recommendation and analysis set forth in the Staff Report and hereby approves Site Plan No. 82005018B; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written Resolution is DEC 06, 2007 (which is the date that this Resolution is mailed to all parties of record); and

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

* * * * * * * * * * * * * * * * * * *

CERTIFICATION

At its regular meeting, held on Thursday, November 29, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Lynch, seconded by Vice Chair Robinson, with Commissioner Lynch, Vice Chair Robinson, Chairman Hanson, and Commissioners Cryor and Bryant present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board’s findings of fact and conclusions of law for Site Plan No 82005018B, White Oak.

[Signature]
Royce Hanson, Chairman
Montgomery County Planning Board
SEE SHEET 2 FOR AMENDED PORTION OF PRELIMINARY PLAN

**ATTACHMENT 2**

<table>
<thead>
<tr>
<th>Development Tabulation</th>
<th>Development Tabulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Zoning</td>
<td>R-00</td>
</tr>
<tr>
<td>Area Included in This Plan</td>
<td>26.3 ac.</td>
</tr>
<tr>
<td>Area Included in Original Application</td>
<td>34.3 ac.</td>
</tr>
<tr>
<td>Area of street dedication</td>
<td>1.7 ac.</td>
</tr>
</tbody>
</table>

**Development Proposal**

- R/W Profile
- Permitted Density (24.2 x 2.4 x 3.8 ac.) 108
- Number (Units Proposed) ±40

**NOTES**

2. Topography, as shown, from DEC/ESRI 9.0 foot contour aerial mapping.
3. Planning area 33, White Oak Master Plan, which indicates that the zoning shall remain R-00.
4. sewer category G-1.
6. Property is located within the Paint Branch Watershed.
7. MVRPA 44-018568, approved 05/01/19.
8. soils, as shown, from the approved MVRPA.
9. There are no historical resources located on the site.
10. Elements on this plan are scaled and subject to change upon field inspection.
11. This plan is not included in the revision toPending Preliminary Subdivision Plan A 2-00599.

**REVISED PRELIMINARY PLAN**

**WHITE OAK PROPERTY**

**WITTMER ASSOCIATES, LLC**

**Scale: 1" = 20'**

AMENDED SHEET 1 of 2
Professional Certification:
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland, License No 16905, Expiration Date: 4-21-14

__________________________________
Stephen E. Crum
Professional Certification:

I hereby certify that these documents were prepared or approved by me, and state that I am a duly licensed Professional Engineer under the laws of the State of Maryland, License No 16905, Expiration Date: 4-21-14

___________________________________
Stephen E. Crum
November 22, 2013

Ms. Renée Kamen, Senior Planner
Area 2 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Preliminary Plan No. 11991099A
White Oak Property

Dear Ms. Kamen:

We have completed our review of the March 2013 amended preliminary plan (sheet 2 of 2) for this development. This letter is to confirm our comments at the August 8, 2013, meeting of the Development Review Committee.

As the amended preliminary plan proposes additional development located at the ends of two existing private streets, MCDOT does not have any transportation-related issues with the proposed changes. We support Planning Board approval of the amended plan.

Thank you for the opportunity to review this pre-preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. William Haynes at (240) 777-2132 or william.haynes@montgomerycountymd.gov.

Sincerely,

Gregory M. Leck, Manager
Development Review Team

cc: Eric Newquist
    Applicant
    Clark Wagner
    White Oak Investments LLC
    Adam Rude
    Macris, Hendricks & Glascock
    Preliminary Plan folder
    Preliminary Plan letters notebook

cc-e: Glenn Kreger
      M-NCPPC Area 2
    Catherine Conlon
      M-NCPPC DARC
    Sam Farhadi
      MCDPS RWPR
    Henry Emery
      MCDPS RWPR
    William Haynes
      MCDOT DTEO

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

montgomerycountymd.gov/311 301-251-4850 TTY
Mr. Edward Axler, Planner/Coordinator  
Area 2 Planning Division  
The Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  

RE: Preliminary Plan No. 11991099A  
White Oak Property  
LATR/TPAR  
AMENDMENT  

Dear Mr. Axler:

We have completed our review of the Local Area Transportation Review and Transportation Policy Area Review dated March 24, 2014, and prepared by Lenhart Traffic Consulting, Inc. The total development evaluated by the analysis includes:

- 106 Existing Townhouse Units
- 22 Proposed Townhouse Units

We offer the following comments:

**Local Area Transportation Review (LATR)**

1. Include a north arrow on all maps and exhibits depicting the layout of the study network.

2. With regards to the Pedestrian and Bicycle Impact Statement (PBIS):
   
   a. Lockwood Drive from Oak Leaf Drive to Stewart Lane was determined to be a High Incidence Area (HIA) / Pedestrian Priority Location (PPL) for pedestrian crashes based on coordinated State and County pedestrian safety programs. Please coordinate with Fred Lees of the Division of Traffic Engineering & Operations at 240-777-2196 regarding potential site-related pedestrian safety improvements along Lockwood Drive. Also, coordinate with the appropriate Maryland State Highway Administration (MDSHA) staff regarding sections of MD 650 within the study network designated as PPLs.
   
   b. Provide additional and accurate information regarding the inventory of existing pedestrian and bicycle facilities. Currently, the report does not accurately assess the compatibility of network facilities with Montgomery County’s Context Sensitive Standards. For example, the sidewalks at the intersection of Lockwood Drive & Stewart Lane, and along Stewart Lane leading towards the site were field measured to be only 4’ wide. Additionally, the curb ramps at the intersection of Lockwood Drive & Stewart Lane...
Lane (which provides access to the site) are not ADA-compatible. Lastly, at this intersection, there are no marked crosswalks.

c. Propose appropriate measures for addressing any deficiencies (i.e., narrow sidewalks, lack of landing areas and detectable warning surfaces, deteriorated crosswalk markings).

3. Provide information regarding bus stops within the functional limits of the study intersections that is not included. There are bus stops within the functional limits of the intersection of MD 650 & Lockwood Drive (southbound, south of the intersection and northbound, north of the intersection) that should be included with the bus stop inventory.

**Transportation Policy Area Review (TPAR)**

4. The Transportation Policy Area Review test under the Subdivision Staging Policy must be satisfied by paying the “transportation impact tax” that equals to 25% of the development impact tax as an application located in the Fairland/White Oak Policy Area.

**SUMMARY**

5. The findings of the LATR have been accepted. We recommend that more accurate information be provided relating to the pedestrian and bicycle infrastructure and proposed improvement measures prior to Certified Site Plan. Additionally, we recommend that the applicant coordinate with the appropriate MCDOT and MDSHA staff to determine if pedestrian/bicycle-related safety improvements are necessary or planned in close proximity to the site.

6. We concur with the applicant’s proposal to pay $49,725 to satisfy TPAR requirements.

Thank you for the opportunity to review this report. If you have any questions or comments regarding this letter, please contact Mr. William Haynes, our Development Review Area Engineer for this project, at william.haynes@montgomerycountymd.gov or (240) 777-2132.

Sincerely,

[Signature]

Gregory M. Leck, Manager
Development Review Team

\traffic\subdivision\haynew01\developments\white oak property (11991099a)\letters\11991099a, white oak property, mcdot tis review letter.doc
cc: Eric Newquist  Applicant
   Clark Wagner  White Oak Investments LLC
   Adam Rufe  Macris, Hendricks & Glascock
   Michael Lenhart  Lenhart Consulting
   Preliminary Plan folder
   Preliminary Plan letters notebook

cc-e: Catherine Conlon  M-NCPPC DARC
      Khalid Afszal  M-NCPPC Area 2
      Edward Axler  M-NCPPC Area 2
      Scott Newill  MDSHA AMD
      Dustin Kuzan  MDSHA OPPE
      Atiq Panshir  MCDPS RWPR
      Sam Farhadi  MCDPS RWPR
      Stacy Coletta  MCDOT DTS
      Fred Lees  MCDOT DTEO
      Khursheed Bilgrami  MCDOT DTEO
      Gary Erenrich  MCDOT DO
      Andrew Bossi  MCDOT DO
      William Haynes  MCDOT DRT
September 25, 2012

Mr. Pearce Wroe
Macris, Hendricks & Glaasock, P.A.
8220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

Re: Stormwater Management CONCEPT Request for White Oak
Preliminary Plan #: 1-91099
SM File #: 245310
Tract Size/Zone: 3.04 acres / R-90
Total Concept Area: 3.34 acres
Lots/Block: NA
Parcel(s): 56,82,108,110,158 & L
Watershed: Paint Branch

Dear Mr. Wroe:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is acceptable. The stormwater management concept proposes to meet required stormwater management goals via installation of Micro-Bioretenion facilities.

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

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.

2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.

3. An engineered sediment control plan must be submitted for this development.

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

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

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

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

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

RRB: tla mce

c: C. Conlon
SM File # 245310

ESD Acres: 3.04
STRUCTURAL Acres: na
WAIVED Acres: na
DATE: 14-Jan-14
TO: Adam Rufe
    Macris, Hendricks & Glascock
FROM: Marie LaBaw
RE: White Oak Property
    11991099A 82005018C

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 14-Jan-14. 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.
February 19, 2014

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

RE: White Oak Property, DAIC 11991099A, NRI/FSD application accepted on 7/26/2012

Dear Ms. Carrier:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). 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, 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: Amy Lindsey, Senior Planner
January 6, 2014

Ms. Renée Kamen  
Area 2 Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: White Oak Property  
Preliminary Plan Amendment #11991099A  
Site Plan Amendment #82005018C

Dear Ms. Kamen:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above Preliminary Plan and Site Plan Amendments. The applicant has addressed DHCA’s Development Review Committee (DRC) comments, and DHCA therefore recommends Approval of the Plan Amendments.

Sincerely,

Lisa S. Schwartz  
Senior Planning Specialist

cc: Clark Wagner, Pleasants Development, Inc.  
R. Adam Rufo, Macris, Hendricks and Glascock, PA

S:\Files\FY2014\Housing\MPDU\Lisa Schwartz\White Oak Property DHCA Letter 1-6-2014.doc
August 7, 2013
Revised - October 24, 2013
Revised – December 23, 2013

Francoise Carrier, Esquire
Chair, Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: White Oak
Preliminary Plan Amendment #11991099A, Site Plan Amendment #82005018C
Tree Variance Request

Dear Chair Carrier:

On behalf of White Oak Investments, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance to remove five (5) specimen trees and to impact, but not remove, seven (7) specimen trees, all of which are over 30 inches in diameter, as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. These trees are listed in the table on page 3.

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship:

   Tree #’s 82, 117, 119, 175, and 206 are proposed for removal and to retain these trees would be an unwarranted hardship. There are special conditions particular to the property, which cause the unwarranted hardship. In general, the proposed plan includes an extension to two existing streets, Regent Manor Court and Whitehall Drive. The proposed townhouse lots are located on one side of existing Regent Manor Court and on the opposite side of Regent Manor Court - extended. Due to the existence and extension of this street and the proximity of the adjacent stream valley buffer, there is very little flexibility in the layout of the proposed lots and associated storm water management structures. The lots located at the end of Whitehall Drive, which is also proposed to be extended are in a similar condition. Due to the location of a large existing storm water management facility on the south side of Whitehall Drive, the proposed lots can only be located on the opposite side of Whitehall Drive – extended. Again, the existence of the adjacent stream valley buffer allows for very little flexibility in the layout of the street extension and the lots. The detailed situation of each of the four trees proposed for removal is outlined below.

   Tree #82 is being removed in order to properly grade the area for the proposed townhouse lots at the end of existing Whitehall Drive. Since these lots are partially fronting on existing Whitehall Drive, it would be an unwarranted hardship to avoid removing this tree since the existing street would have to be relocated, which is virtually impossible given that the existing storm water management facility and existing homes located along the same existing street. The relocation of the existing storm water facility is cost prohibitive and the impact to existing homes would be an unnecessary hardship on those homeowners,
Tree #117 is being removed in order to extend existing Regent Manor Court. The tree is directly in line with the extension of the street. If the alignment of the street extension were modified in order to retain this tree, then other existing trees, which are located within the stream valley buffer and proposed to be retained, would then be impacted. Therefore, it is an unwarranted hardship to retain this tree and modify the alignment of the proposed extension to Regent Manor Court.

Tree #’s 119, 175, and 206 are being removed in order to construct the required storm water management structures, shown on the Amended Preliminary Plan. These structures are bio-retention devices, which are required under the new storm water management guidelines (known as Environmental Site Design or ESD) adopted by the state and county. Due to the slope of the land and the available area outside of the stream buffer, there is no other place on the property where these devices could be located. Therefore, it would be an unwarranted hardship to retain these trees. All three trees have significant impact to their root zones and may not survive construction, which is the reason for this variance request. However, as noted at the bottom of the tree detail table, we will be attempting to save tree #119. Regardless of this effort, all trees will be mitigated accordingly.

The additional seven (7) trees shown in the table below are impacted, but not proposed for removal. These trees are largely located around the perimeter of the development envelope. The impacts to these trees have been minimized to the largest extent practicable.

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

The enforcement of Chapter 22A and the requirement to retain the five trees mentioned above would deprive the landowner of their right to develop their property under the zoning ordinance since the proposed lots and associated homes could not be constructed if the five specimen trees were retained.

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;

This plan has been designed to incorporate storm water management structures under the new State water quality standards, and the removal of the five trees in part allows for the compliance with these standards. Therefore, the granting of this variance will not result in any violation of state water quality standards nor will it result in measurable degradation in water quality.

4. Provide any other information appropriate to support the request.

Pursuant to Section 22A 21(d) Minimum Criteria for Approval:
(1) The Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available by any other applicants.
All of the affected trees are located within the buildable area on the property in the only part of the property that is outside of forest and environmentally sensitive areas.
(2) The variance request is not based on conditions or circumstances which result from the actions of the applicant.
The requested variance is not based upon site conditions and development constraints which are the result of specific actions by the Applicant outside the norm of a development application allowed under the applicable zoning and associated regulations. The variance is based on the proposed site layout that is utilizing the only area that is not existing forest or located within other environmentally sensitive areas.
(3) The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property. The requested variance is a result of the proposed site design and layout on the subject property and not a result of land or building on a neighboring property.

(4) Will not violate State water standards or cause measurable degradation in water quality. Full ESD storm water management will be provided as part of the proposed development. The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not within a stream valley buffer, wetland, or special protection area. The Montgomery County Department of Permitting Services has approved the storm water management concept for the proposed project.

As required under the law, mitigation will be undertaken for all specimen trees to be removed and stress reduction measures provided for all of the impacted trees. A copy of the Forest Conservation Plan and a variance tree spreadsheet has been provided as part of this variance request. Please let us know if any other information is necessary to support this request.

The table below lists all the Specimen Trees being impacted or removed for this project.

<table>
<thead>
<tr>
<th>Tree ID #</th>
<th>Species</th>
<th>DBH</th>
<th>Impact/Remove</th>
<th>% Impacted</th>
<th>Condition</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>78</td>
<td>Tulip Poplar</td>
<td>41</td>
<td>Impact Only</td>
<td>9%</td>
<td>Good</td>
<td>stress reduction measures</td>
</tr>
<tr>
<td>82</td>
<td>Southern Red Oak</td>
<td>37</td>
<td>Remove</td>
<td>100%</td>
<td>Fair</td>
<td>37&quot;</td>
</tr>
<tr>
<td>98</td>
<td>White Oak</td>
<td>44</td>
<td>Impact Only</td>
<td>4%</td>
<td>Good</td>
<td>stress reduction measures</td>
</tr>
<tr>
<td>117</td>
<td>Red Maple</td>
<td>45</td>
<td>Remove</td>
<td>100%</td>
<td>Good</td>
<td>45&quot;</td>
</tr>
<tr>
<td>119</td>
<td>Tulip Poplar</td>
<td>34</td>
<td>Remove</td>
<td>100%</td>
<td>Good</td>
<td>34&quot;</td>
</tr>
<tr>
<td>165</td>
<td>Tulip Poplar</td>
<td>32</td>
<td>Impact Only</td>
<td>16%</td>
<td>Fair</td>
<td>stress reduction measures</td>
</tr>
<tr>
<td>175</td>
<td>White Oak</td>
<td>30</td>
<td>Count as Removed (see note #2 below)</td>
<td>26%</td>
<td>Fair</td>
<td>30&quot; - stress reduction measure</td>
</tr>
<tr>
<td>184</td>
<td>Tulip Poplar</td>
<td>36</td>
<td>Impact Only</td>
<td>7%</td>
<td>Good</td>
<td>stress reduction measures</td>
</tr>
<tr>
<td>206</td>
<td>Paulownia</td>
<td>41</td>
<td>Remove</td>
<td>38%</td>
<td>Good</td>
<td>41&quot;</td>
</tr>
<tr>
<td>210</td>
<td>Tulip Poplar</td>
<td>32</td>
<td>Impact Only</td>
<td>20%</td>
<td>Good</td>
<td>stress reduction measures</td>
</tr>
<tr>
<td>216</td>
<td>White Oak</td>
<td>31</td>
<td>Impact Only</td>
<td>7%</td>
<td>Good</td>
<td>stress reduction measures</td>
</tr>
<tr>
<td>217</td>
<td>Tulip Poplar</td>
<td>39</td>
<td>Impact Only</td>
<td>3%</td>
<td>Good</td>
<td>stress reduction measures</td>
</tr>
</tbody>
</table>

Total: 187"

187"/4 = 46.75" to be replanted with 3" trees = 16 trees

Note:

1. Trees #110, 111 & 207 are being removed and #220 is being impacted but are all dead trees and therefore are not under request for variance.

2. Tree #175 is counted as removed and mitigated with replacement trees but will be saved as able. Tree to be removed if it is determined by an arborist and the MNCPPC inspector that it cannot be saved.
Please contact me via email, at cwagner@pleasants.org, or by phone, at (301) 428-0800 should you have any additional comments or concerns.

Thank you,

Clark Wagner
Senior Project Manager
Pleasants Development, Inc.

CC: Amy Lindsay
    Renee Kamen
    Laura Miller, DEP
    Adam Rufe
Lane, Brittany

From: Hansen <hanzc@hotmail.com>
Sent: Tuesday, March 11, 2014 7:49 PM
To: MCP-Chair
Subject: re: white oak property
Attachments: NPH hearing.docx

please take this into consideration
March 11th 2014

To whom it may concern,

I am a resident of the White Oak Whitehall Square property off Regent Manor Court and am writing to state I am against the White Oak Property plan

Preliminary Plan Number: 11991099A

Site Plan Number 82005018C

Master Plan: White Oak

I feel that the added homes would be detrimental to my well being as there would be too much traffic and overcrowding with the additional units and would add more stress to the neighborhood.

Please don’t approve this plan to build more.

Sincerely

Hansen Chan

1618 Regent Manor Court