



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

**Staff Report: Site Plan 820100060, Townhouses at Small's Nursery**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING DATE:** June 24, 2010

**REPORT DATE:** June 10, 2010

**TO:** Montgomery County Planning Board

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

**FROM:** Sandra Pereira, Senior Planner *SP*  
Development Review Division  
301.495.2186  
Sandra.pereira@mncppc.org



**APPLICATION**

**DESCRIPTION:** 19 one-family attached dwelling units; 3.11 acres; RT-10 zone; on Thistlebridge Drive, approximately 500 feet west of Georgia Avenue (MD 97); Olney Master Plan.

**APPLICANT:** Small's Nursery LLC c/o The Tower Companies

**FILING DATE:** February 12, 2010

**RECOMMENDATION:** Approval with conditions

**EXECUTIVE**

**SUMMARY:** The application proposes 19 one-family attached dwelling units accessed from existing Thistlebridge Road via 20 foot wide private streets. A portion of the private street system to Thistlebridge Road will be off-site within the future right-of-way for a public connector street to MD 28. The development will have a total of 46 parking spaces, which meets the zoning requirements for this community, and still have additional spaces for visitors.

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## SITE DESCRIPTION

### Vicinity

The subject property is located on the south side of Thistlebridge Drive, directly adjacent to the future access road for the proposed realignment of Norbeck Road (MD 28). Uses surrounding the site are M-NCPPC Norbeck-Muncaster Mill Neighborhood Park to the west, the existing Preserve at Small's Nursery subdivision to the north, commercial uses to the east and townhomes across Norbeck Road to the south. The Property is located in the Rock Creek watershed, a Use IV/IV-P stream, and is not in a Special Protection Area.



*Vicinity Map*

## Site Analysis

The 3.11-acre property, currently undeveloped, is zoned RT-10 as recommended by the 2005 Olney Master Plan. It includes 2.97 acres of forest in two different stands: 1.72 acres of high priority forest and 1.25 acres of moderate priority forest. The high priority forest is comprised of an intermittently flooded wetland that drains to a stream running east-west, under Thistlebridge Drive, and crossing the property at the northern point. There are no trees greater than 24 inches, no slopes greater than 25 percent, and no highly erodible soils on the property. There is a significant area of hydric soils associated with the wetlands.



*Aerial Photo*

## PROJECT DESCRIPTION

### Previous Approvals

The County Council adopted Resolution No. 15-1145 on September 20, 2005, for the Sectional Map Amendment G-838, which included rezoning of the Tower Company property (subject site) from the RE-1/R-200 zone to the RT-10 zone for that portion of the property not recommended for parkland dedication or considered for the intersection improvement.

The Planning Board approved Preliminary Plan No. 120070610 on December 17, 2009 (Resolution dated February 1, 2010) to create nineteen (19) lots for nineteen (19) one family attached units [Appendix A].

### Proposal



*Illustrative site plan*

The project proposes 19 one-family attached dwelling units accessed from existing Thistlebridge Road via 20 foot wide private streets. A portion of the private street system to Thistlebridge

Road will be off-site within the future right-of-way for a public connector street to MD 28 in order to minimize environmental impacts. The development will have a total of 46 parking spaces, which meets the zoning requirements of 2 spaces per dwelling unit, and still have some additional spaces for visitors. There will be an entrance sign and a retaining wall along the rear of some units to limit disturbance to the environmental buffer area. Overall, the proposed road layout, building orientation, and design details such as porous pavement in the turn-around areas, adequately address site constraints and minimize impacts on environmentally sensitive areas.

## **PROJECT ANALYSIS**

### **Master Plan**

The subject site is located within the boundaries of the 2005 Approved and Adopted Olney Master Plan. Specifically, the Olney Master Plan makes the following recommendations for the 10.5 acre Tower Company Property which includes the 3.11 acre Subject Property (p.35):

1. Maintain the current RE-1/R-200 Zone with community water and sewer for a portion of the property needed for the proposed road interchange project. The remaining portion of the property would be suitable for the RT-10 Zone.
2. Encourage SHA to acquire and provide parkland on this property to augment the existing Norbeck–Muncaster Road Neighborhood Local Park in exchange for any land used for Norbeck/Georgia interchange project.

The Master Plan suggests that the 10.5 acre Tower Company property was appropriate for a special exception use and determined that 5.4 acres of the tract was needed by MNCPPC to expand the Norbeck – Muncaster Mill Neighborhood Park. The Plan indicates that SHA will likely need some of the acquired Park property plus additional portions of the 10.5 acre tract to complete the MD28/97 interchange improvements. The plan then suggests that there “would be approximately 3.2 acres of the Tower Company property available for development” and that it, “would be suitable for a small special exception use or a townhouse development under the RT-10 Zone.” Sectional Map Amendment G-838, adopted September 20, 2005, rezoned the remaining 3.2 acres (actually 3.11 acres - Subject Property) to the RT-10 Zone.

The proposal to develop the site with townhouses conforms to the land use envisioned by the Master Plan and the Property is being developed within the density limits established by the RT-10 Zone. MNCPPC has acquired, in fee simple, the 5.4 acres needed to expand the Norbeck-Muncaster Mill Neighborhood Park. SHA has yet to determine the ultimate right-of-way needed to accommodate the interchange improvements but will likely need the southern portion of Parcel 907 which is also owned by the Applicant for this subdivision. The preliminary plan placed this portion of Parcel 907 be placed in reservation for a period not to exceed 3 years so SHA can further assess the need for, and/or acquire, this land.

### **Transportation and Circulation**

A Local Area Transportation Review (LATR) and a Policy Area Mobility Review (PAMR) were completed as part of the preliminary plan review. The proposed lot does not generate 30 or more

vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to LATR. As a use located within the Olney Policy Area, this application is required to mitigate 25% of site-generated “new” peak-hour trips (the mitigation percentage is based on the preliminary plan filing date) to satisfy the PAMR requirements of the APF test.

The Applicant is meeting the PAMR requirement to mitigate four (4) peak-hour trips, as conditioned by the Planning Board’s Preliminary Plan Resolution dated February 1, 2010, by the proposal to construct a set of handicapped ramps (one on either side of Thistlebridge Drive as mitigation for 2 peak-hour-trips) and to pay \$22,000 (@\$11,000 per trip as mitigation for 2 peak-hour trips) to MC Department of Transportation. The Applicant is required to satisfy this requirement prior to the release of the 14th building permit for the development [Appendix B].

The west leg of the future Georgia Avenue/Norbeck Road interchange will eventually be aligned through the southern section of the subject property and will include a connecting roadway between realigned Norbeck Road and Thistlebridge Drive. Access to the subject development will be provided from Thistlebridge Drive, which currently serves as access to The Preserve at Small’s Nursery subdivision to the north.

The Applicant is providing 2 parking spaces per unit, including pad and garage spaces, as well as visitor spaces on the two private drives serving the development. Visitor spaces were not provided with the Preliminary Plan, but were important due to the lack of a thru-connection and inability to park on a public road.

### **Environment**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved by Environmental Planning staff on November 15, 2007 (NRI/FSD #420061500).

There will be no other disturbance of the environmental buffers, except for that of the access and one stormwater management outfall. The proposed development meets the Environmental Guidelines by minimizing the impact to the wetlands and associated environmental buffers.

A preliminary forest conservation plan was approved by the Planning Board on December 17, 2009 as part of Preliminary Plan No. 120070610. The final forest conservation plan, submitted with the site plan, is consistent with the approved preliminary forest conservation plan. There are 2.97 acres of existing forest on the property. The Applicant is proposing to remove 1.96 acres, retain 1.01 acres, and plant 0.10 acres of forest. All planting will be done within the stream valley buffer, with species appropriate to the hydric soils profile. All forest conservation planting requirements will be met on-site. This plan does not propose to remove any trees or vegetation that would necessitate a variance request. Therefore no waiver of any of the provisions of Chapter 22A, Forest Conservation Law, is required.

As a condition of preliminary plan approval, the Applicant is amending the final forest conservation plan for The Preserves at Small’s Nursery (Preliminary Plan No. 119940110 & No. Site Plan No. 819950150) to accommodate the proposed off-site access/connector road that is located on The Preserves at Small’s Nursery Homeowners Association property, in land currently protected by a Category I forest conservation easement.

The Department of Permitting Services approved the stormwater management concept for the proposed development on October 7, 2008. The concept consists of onsite water quality control and recharge via a combination of non-structural measures (grass swales, rooftop disconnect, pervious pavement, etc.) and 1 biofilter facility adjacent to the environmental buffer.

**Development Standards**

The subject site is zoned RT-10. The purpose of the RT-10 zone is to provide suitable sites for townhouses. The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report.

The following data table indicates the proposed development’s compliance with the Zoning Ordinance.

*Project Data Table for the RT-10 Zone*

<b>Development Standard</b>	<b>Permitted/Required</b>	<b>Proposed for Approval</b>
<b>Min. Tract Area</b> (square feet) 59-C-1.731(a)	20,000	135,470 (3.11 acres)
<b>Max. Density</b> (du/acre) 59-C-1.731(b)	10	6.1
<b>Max. No. of Units</b>	31	19
<b>MPDUs</b>	None required	0
<b>Min. Building Setbacks</b> (feet)		
From Land zoned one-family detached 59-C-1.732(a)	30	30
Public street, 59-C-1.732(b)	25	25
Adjoining lot, 59-C-1.732(c)		
- Side (end unit)	10	10
- Rear	20	20
<b>Max. Building Height</b> (feet) 59-C-1.733		
- Main building	35	35 <sup>(a)</sup>
- Accessory building	25	25
<b>Max. Building Coverage</b> (% of lot) 59-C-1.734(a)	35	12
<b>Min. Green Area</b> (% of lot) 59-C-1.734(b)	50	71
<b>Min. Parking Spaces</b> 59-E-3.7	38 (2 spaces/du)	<u>46 total spaces</u> 19 garage spaces 18 driveway spaces 9 surface spaces

<sup>(a)</sup> Building height measured from the average elevation of the finished ground surface along the front of the building.

## COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on this matter.

## FINDINGS

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

Neither a development plan, diagrammatic plan, schematic development plan, nor a project plan were required for the subject site.

- 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 proposed use is allowed in the RT-10 Zone and the site plan fulfills the purposes of the zone by providing a suitable site for townhouses in an area that is designated for residential developments at the densities allowed in the RT zones. As the project data table on page 8 indicates, the site plan meets all of the development standards of the zone. With respect to density and building coverage, the proposal is well under the maximum standards allowed since a large portion of the property falls within environmental buffer areas, which will be protected. The development will provide 71 percent of the lot as green area allowing for a greater amount of permeable surface and landscaped open space. The building height and setbacks are under all the maximum standards allowed.

The proposal also meets the design requirements for the townhouse rows as described in section 59-C-1.722 of the Zoning Ordinance. The maximum number of townhouses allowed in a group is eight; and three continuous, attached townhouses is the maximum number permitted with the same front building line. Variations in the building line must be at least 2 feet. The proposal shows three rows of townhouses, with none exceeding eight units. All the groups show the required two-foot variation in their front building lines.

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

- a. Buildings and structures

The location of the proposed buildings and structures is safe, adequate and efficient, while minimizing impacts on environmentally sensitive areas. The 19 townhouses, divided into three sticks, are located along a private street, which is accessed off

Thistlebridge Drive. All the buildings front onto this private street and have rear yards facing vegetated areas.

The main structures proposed include an entrance sign and a retaining wall. The sign, located at the intersection of the private street and Thistlebridge Drive, will serve to identify this community and contribute to the sense of arrival. The retaining wall behind lots 15-19 will limit the impacts on the environmental buffer to the north and help create more usable backyards for these units.

b. Open spaces

This proposal has a significant area of forest and wetlands with associated buffers that is being protected. This area, located to the north of the property between the proposed townhouses and Thistlebridge Drive, effectively screens and buffers the proposed development from the road. The green area requirement of 50 percent is far exceeded with 71 percent of the tract area to remain as green. The open spaces are safe, adequate and efficient.

c. Landscaping & Lighting

The landscaping proposed includes shade trees along the private street, evergreens along the eastern and southern property boundaries to provide screening from the future connector road to MD 28 when this is built, and shrubs mostly as foundation planting for the buildings. The lighting plan consists of pole-mounted light fixtures with a pole height of approximately 14 feet located on the perimeter of the private street. Interior lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The landscape and lighting are safe, adequate and efficient.

d. Recreation facilities

The development is not required to provide recreation facilities and amenities because this is a subdivision with less than 25 one-family homes; however, a pedestrian connection is provided from this development to the Norbeck-Muncaster Mill Neighborhood Park.

e. Pedestrian and vehicular circulation systems

Access to this townhouse development will be provided via a new private street that connects to the existing Thistlebridge Drive in such a way that minimizes environmental impacts on the wetland area. A portion of this alignment is within the ROW for the future Georgia Avenue/Norbeck Road interchange, which will be aligned through the southern section of the subject property and will include a connecting roadway between realigned Norbeck Road and Thistlebridge Drive.

Parking will be provided in garages, driveways, and surface parking spaces along the private street. Although as originally submitted the proposal showed 2-car garages, the garage width of 17 feet was not adequate or practical for 2 cars. Therefore, for the parking calculations, the Applicant is receiving credit for 1 parking space in the garage and 1 space on the driveway of each unit, with the exception of the corner units (units 1, 13, and 14) where the driveways are truncated. The proposal meets the parking

requirements by accommodating two parking spaces per unit (one space in the garage, the other on the driveway – with the exception of 3 units), and an additional 9 spaces as surface parking.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety is enhanced by providing a crosswalk on Thistlebridge Drive. A lead-in sidewalk directs pedestrians to the site from Thistlebridge Drive, which has sidewalk on both sides of the roadway. The proposal also includes a woodchip trail with signage leading pedestrians to the M-NCPPC owned park property to the southwest of the site.

As designed, the paved area for both pedestrians and vehicles minimizes imperviousness on site and impacts on environmentally sensitive areas. The pedestrian and vehicular circulation systems are safe, adequate, 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 townhouse development is compatible with surrounding uses, including the M-NCPPC park uses to the west, the existing Preserve at Small's Nursery subdivision to the north, commercial uses to the east and townhomes across Norbeck Road to the south. The proposed development will have limited visibility from the surrounding roads mainly because of the existing vegetation surrounding the property and the forest to be protected on site. Screening will be enhanced along the southern and eastern property boundaries through additional landscaping provided. The building height of 35 feet is within the limits established by the zone.

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 Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved by Environmental Planning staff on November 15, 2007 (NRI/FSD #420061500). A preliminary forest conservation plan was approved by the Planning Board on December 17, 2009 as part of Preliminary Plan No. 120070610.

There will be no other disturbance of the environmental buffers, except for the proposed access and stormwater management outfall. As determined at the preliminary plan approval, the proposed development meets the Environmental Guidelines by minimizing the impact to the wetlands and associated environmental buffers.

The Applicant is proposing to remove 1.96 acres of the existing 2.97 acres, retain 1.01 acres, and plant 0.10 acres of forest. All planting will be done within the stream valley buffer, with species appropriate to the hydric soils profile. All forest conservation planting requirements will be met on-site. This plan does not propose to remove any

trees or vegetation that would necessitate a variance request. Therefore no waiver of any of the provisions of Chapter 22A, Forest Conservation Law, is required.

As a condition of preliminary plan approval, the Applicant is amending the final forest conservation plan for The Preserves at Small's Nursery (Preliminary Plan No. 119940110 & No. Site Plan No. 819950150) to accommodate the proposed off-site access/connector road that is located on The Preserves at Small's Nursery Homeowners Association property, in land currently protected by a Category I forest conservation easement.

The Department of Permitting Services approved the stormwater management concept for the proposed development on October 7, 2008. The concept consists of onsite water quality control and recharge via a combination of non-structural measures (grass swales, rooftop disconnect, pervious pavement, etc.) and 1 biofilter facility adjacent to the environmental buffer.

## **RECOMMENDATION AND CONDITIONS**

Staff recommends approval of site plan 820100060, Townhouses at Small's Nursery, for 19 one-family attached dwelling units on 3.11 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on April 22, 2010, are required except as modified by the following conditions.

### **Conformance with Previous Approvals**

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120070610 as listed in the Planning Board Resolution dated February 1, 2010, unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DOT conditions, and DPS stormwater conditions.

### **Environment**

2. Forest Conservation & Tree Save

The proposed development must comply with the conditions of the approved final forest conservation plan and the conditions of the M-NCPPC Environmental Planning Division in the memorandum dated May 27, 2010 [Appendix B]. The Applicant must satisfy all conditions and requirements prior to the recording of a plat(s) or to the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

- a) An invasive management plan must be developed for areas of retained forest to remove multi-flora rose and other non-native invasive species.

- b) A joint pre-construction meeting with the M-NCPPC Forest Conservation Inspector and Urban Forester from the Parks Department will inspect trees along the LOD adjacent to M-NCPPC parkland and determine which trees will need to be retained or removed. All tree removal on adjacent M-NCPPC parkland will be done at the direction of the Urban Forester at the Applicant's expense. Any trees that need to be removed must be replaced on park property at a rate up to 1" DBH per every 1" lost.
- c) The Applicant must place a category I conservation easement or dedicate to M-NCPPC, all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, M-NCPPC staff must approve any amended language to easements or agreements.

3. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated October 7, 2008, unless amended and approved by the Montgomery County Department of Permitting Services [Appendix B].

### **Parks, Open Space, & Recreation**

4. M-NCPPC Department of Parks

- a) Applicant must provide a signed 4-foot wide natural surface trail from the end of the private drive to the western property boundary that will provide access to Norbeck-Muncaster Mill Neighborhood Park.
- b) Applicant to clearly mark with park boundary posts the border of the adjacent Norbeck-Muncaster Mill Neighborhood Park to delineate between parkland and private properties. Location of boundary posts to be coordinated with the M-NCPPC Department of Parks staff prior to the approval of the certified site plan.

5. 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 18<sup>th</sup> building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

### **Transportation & Circulation**

6. Transportation

The Applicant must satisfy the PAMR mitigation requirements by constructing a set of handicapped ramps (one on either side of Thistlebridge Drive) and to pay \$22,000 to MC Department of Transportation prior to the release of the 14th building permit for the development.

### **Site Plan**

7. Site Design

Mirror entrances of alternating units to create a larger planter area at the end of the steps.

8. Landscape

The Applicant must provide shade trees in the larger planter areas within the currently proposed PUE. In order to achieve this objective, the Applicant must make good faith efforts to obtain approval from the applicable utility companies. If necessary to obtain the approval, the Applicant must offer an alternative design for the PUE, including but not limited to conduit usage, smaller width PUE, relocation of PUE, and/or placement of utilities in the road. In the event that the utility companies do not support trees within the PUE or an alternative design for the PUE by certified site plan, then the Applicant must provide shrubs in the planter areas.

9. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b. All onsite down- light fixtures must be full cut-off fixtures.
- c. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads or residential properties.
- e. The height of the light poles must not exceed 14 feet including the mounting base.

10. Landscape Surety

The Applicant shall provide a surety (performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

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

11. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.

- b. On-site landscaping must be installed within six months after the issuance of the use and occupancy permit for the last building permit.
- c. On-site amenities including, but not limited to, sidewalks and the natural surface trail must be installed prior to release of the 14<sup>th</sup> building permit.
- d. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, forest conservation, trip mitigation, and other features.

## 12. 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 final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c. Modify data table to reflect development standards enumerated in the staff report.

## **APPENDICES**

- A. Preliminary Plan Resolution
- B. Agency Letters

Appendix A  
Preliminary Plan Resolution



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

**FEB 11 2010**

**Memorandum**

**TO:** Rollin Stanley, Planning Director *RS*

**VIA:** Rose Krasnow, Chief *RK*  
 Catherine Conlon, Supervisor *CC*  
 Development Review Division

**FROM:** Richard A. Weaver, Coordinator *RAW*  
 Development Review Division

**RE:** Correction of typographical errors on Preliminary Plan Resolution for Townhouses at Small's Nursery  
 PLAN #120070610

**DATE:** January 28, 2010

Pursuant to Section 4.11.4 of the Montgomery County Planning Board Regulation on Rules of Procedure (Correcting Errors in Resolutions), typographical errors may be corrected by issuance of a corrected Resolution approved by the Planning Director.

On December 17, 2009, the Planning Board approved Preliminary Plan No. 120070610 for the Townhouses at Small's Nursery. The Resolution sent to the Legal Department for review and subsequently approved by the Planning Board on January 14, 2010. Prior to mailing of the Resolution staff noticed typographical errors. On page #1, paragraph #2, the original date of the application submittal was inadvertently omitted and should read,

"WHEREAS, on *January 25, 2007* ~~January 23, 2009~~, the Tower Company ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create *17* ~~19~~ lots on 3.11 acres of land in the RT-10 zone *and later submitted a revised application on January 23, 2009 to create 19 lots on the same 3.11 acres in the RT-10 zone*, located on the north side of Norbeck Road between the intersections of Georgia Avenue and Muncaster Mill Road ("Property" or "Subject Property"), in the Olney Master Plan area ("Master Plan"); and".

Staff recommends correction of these typographical errors; no further changes are required or recommended.

ACCEPTED & APPROVED BY:



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Rollin Stanley, Planning Director

1-26-10

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Date Approved



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB No. 09-155**  
**Preliminary Plan No. 120070610**  
**Townhouses at Small's Nursery**  
**Date of Hearing: December 17, 2009**

**FEB -1 2010**

**MONTGOMERY COUNTY PLANNING BOARD**

**CORRECTED RESOLUTION<sup>1</sup>**

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

WHEREAS, on January 25, 2007, the Tower Company ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 17 lots on 3.11 acres of land in the RT-10 zone and later submitted a revised application on January 23, 2009 to create 19 lots on the same 3.11 acres in the RT-10 zone, located on the north side of Norbeck Road between the intersections of Georgia Avenue and Muncaster Mill Road ("Property" or "Subject Property"), in the Olney Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070610, Townhouses at Small's Nursery ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 30, 2009, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on December 17, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

<sup>1</sup> This is a correction to a resolution adopted by the Planning Board on January 14, 2010. The original resolution was not mailed.

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, N.S.P.C. Legal Department 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

**www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org**

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

WHEREAS, on December 17, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Wells-Harley; seconded by Commissioner Hanson, with a vote of 2-1, Commissioners Hanson and Wells-Harley voting in favor and Commissioner Alfandre not in favor, with Commissioner Presley absent and one seat vacant.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No.120070610 to create 19 lots on the Property in the Olney Master Plan area subject to the following conditions as amended by the Planning Board at the Hearing:

- 1) Approval under this preliminary plan is limited to nineteen (19) lots for nineteen (19) one family attached units.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
- 3) The record plat(s) must reflect a Category I conservation easement over all areas of forest conservation.
- 4) At the time of site plan review, the Applicant must amend final forest conservation plan #819950150 (Small's Nursery) to accommodate the proposed off-site access/connector road shown on the certified preliminary plan drawing.
- 5) The Applicant must place in reservation for a period of three years the remainder of Parcel P907, which is not part of this development, but is necessary to accommodate the Maryland State Highway Administration (SHA) selected design alternative for the master-planned Georgia Avenue/Norbeck Road interchange (Alternative 7 Enhanced).
- 6) Prior to the submission of site plan for this development, the Applicant must finalize the Policy Area Mobility Review (PAMR) trip mitigation proposal to reduce four (4) peak-hour trips and must satisfy the PAMR requirement(s) prior to the release of the 14<sup>th</sup> building permit for the development. The mitigation options that are available to this development are those in effect as of January 23, 2007, and that any mitigation payment will be subject to escalation commensurate with the inflation rate.
- 7) The Applicant must dedicate and show on the record plat, all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.

- 8) The Applicant must construct all road improvements within the rights-of-way shown on the approved certified preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. This includes construction of the private off-site access/connector road to a minimum of tertiary street standards with sidewalk on at least one side.
- 9) The off-site portion of the connector road and sidewalks, between the Subject Property and Thistlebridge Road, must be within a recorded ingress/egress and utility easement and the liber/folio must be properly referenced on the record plat(s) for this subdivision.
- 10) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 19, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 11) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated October 7, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 12) The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated August 10, 2007. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 13) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 14) No clearing, grading or recording of plats prior to certified site plan approval.
- 15) 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.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 17) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

The Planning Board finds that this plan conforms to the 2005 Olney Master Plan. Specifically, for the 10.5 acre Tower Company Property, which includes the 3.11 acre Property, the Olney Master Plan recommends:

- a. Maintain the current RE-1/R-200 Zone with community water and sewer for a portion of the property needed for the proposed road interchange project. The remaining portion of the property would be suitable for RT-10 Zone.
- b. Encourage SHA to acquire and provide parkland on this property to augment the existing Norbeck–Muncaster Road Neighborhood Local Park in exchange for any land used for Norbeck/Georgia interchange project.

The Master Plan suggests that the 10.5 acre Tower Company property was appropriate for a special exception use and determined that 5.4 acres of the tract was needed by MNCPPC to expand the Norbeck – Muncaster Mill Neighborhood Park. The Plan indicates that SHA will likely need some of the acquired Park property plus additional portions of the 10.5 acre tract to complete the MD28/97 interchange improvements. The plan then suggests that there “would be approximately 3.2 acres of the Tower Company property available for development” and that it, “would be suitable for a small special exception use or a townhouse development under the RT-10 Zone.” Sectional Map Amendment G-838, adopted September 20, 2005, rezoned the remaining 3.2 acres (actually 3.11 acres - Subject Property) to the RT-10 Zone.

The proposal to develop the site with townhouses conforms to the land use envisioned by the Master Plan and the Property is being developed within the density limits established by the RT-10 Zone. MNCPPC has acquired, in fee simple, the 5.4 acres needed to expand the Norbeck - Muncaster Mill Neighborhood Park. SHA has yet to determine the ultimate right-of-way needed to accommodate the interchange improvements but will likely need the southern portion of Parcel 907 which is also owned by the Applicant for this subdivision. SHA has requested that the southern portion of Parcel 907 be placed in reservation for a period not to exceed 3 years so SHA can further assess the need for, and/or acquire, this land. Condition No. 5 addresses the requirement for reservation. With this, the Planning Board finds this plan is in conformance with the Olney Master plan.

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

LATR

A traffic study is not required for the subject Application, because the proposed density will generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. The Board finds that the Application satisfies the LATR requirements of the Adequate Public Facilities test.

### PAMR

As a use located within the Olney Policy Area, this Application is required to mitigate 25% of site-generated “new” peak-hour trips (the mitigation percentage applicable to the preliminary plan based on the filing date of the Application) to satisfy the PAMR requirements of the APF test.

With 10 and 16 “new” peak-hour trips during the morning and evening peak-periods, respectively, the trip mitigation requirement for the proposed use is three (3) trips during the morning peak-hour and four (4) trips during the evening peak-hour.<sup>2</sup> The Applicant is proposing to satisfy the PAMR mitigation requirement to mitigate four (4) peak-hour trips with a variety of options available to them as of the date of the Application, including constructing off-site sidewalks and/or payment of \$11,000 per trip. This payment is subject to an escalation clause outlined in the PAMR guidelines.

The Applicant must coordinate mitigation options with the Transportation Planning Division and DOT staff at the time of Site Plan and satisfy the PAMR requirement(s) prior to the release of the 14th building permit for the development. With the conditions outlined herein, the Board finds the Application meets the PAMR requirement of the APF test.

### Other APF Findings

The private streets will function as public streets in that they will be designed to the structural standards of a public street and provide adequate vehicular circulation. Sidewalks are required and will provide adequate pedestrian circulation. All appropriate local utility agencies have recommended approval of

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<sup>2</sup> At the public hearing, the Applicant requested that the Planning Board reduce the PAMR mitigation requirement from four trips to two, citing as support for their request that there was no PAMR requirement in place at the time the Application was filed, and that the PAMR mitigation requirement has since been reduced from 25% to 10%. Generally, the Planning Board determines the PAMR requirement as of the time the application is filed. Moreover, late in 2006, the Council rejected proposals to place certain areas of the County in a moratorium, but in doing so announced that in connection with adopting a new Growth Policy in 2007 it would adopt a new traffic mitigation policy that would apply to any application filed on January 1, 2007 or later. Thus, the Planning Board does not find that there is any basis for reducing the mitigation requirement as the Applicant requests.

the project; the project will be adequately served by water and sewer, gas, electric, and telecommunications service. The Application is not within a school moratorium area; and is not subject to a School Facilities Payment.

The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Therefore, the Planning Board finds that the Application satisfies all requirements for Adequate Public Facilities.

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

This Application has been reviewed for compliance within Chapter 50 of the Montgomery County Code, the Subdivision Regulations. The proposed lots size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations of the local master plan and for the type of development or use proposed. The Board finds the Application meets all requirements within Chapter 50.

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

The Plan proposes an alternative off-site road connection that will avoid impact to an area of high quality wetlands located on the Property, impacting instead an off-site wetland that will be disturbed by future SHA road improvements. This connector road also minimizes impact to the on-site environmental buffer. To provide for this off-site connection, the Board will require that the final forest conservation plan (#819950150) for the adjacent Preserve at Small's Nursery project be amended as part of the site plan for the Property. The off-site portion of the connector road is not included within the limits of disturbance for the purposes of the preliminary forest conservation plan for this Property but is shown for graphical purposes.

The preliminary forest conservation plan for the Property shows the removal of 1.95 acres of forest, retention of 1.02 acres, and planting of .09 acres. All forest conservation planting requirements will be met on-site. This plan does not propose to remove any trees or vegetation that would necessitate a variance request. Therefore no waiver of any of the provisions of Chapter 22A, Forest Conservation Law, is required. The Board finds that all requirements for forest

conservation, Chapter 22A, and the protection of sensitive environmental features, have been met for this Application.

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

This Planning Board finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan approval dated, October 7, 2008 meets MCDPS's standards. The approved concept consists of on-site water quality control and recharge via a combination of non-structural measures and one biofiltration facility. Channel protection volume control is not required because the one-year post development peak discharge was calculated to be less than or equal to 2.0 cubic feet per second.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed, and

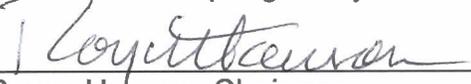
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 21 2010 (which is the date that this Resolution is mailed to all parties of record); and

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioners Alfandre and Presley present and voting in favor of the motion at its regular meeting held on Thursday, January 28, 2010 in Silver Spring, Maryland.

  
\_\_\_\_\_  
Royce Hanson, Chairman  
Montgomery County Planning Board

Appendix B  
Agency Letters



**MEMORANDUM**

TO: Sandra Pereira, Development Review

VIA: Stephen Federline, Supervisor, Environmental Planning

FROM: Amy Lindsey, Environmental Planning

DATE: May 27, 2010

SUBJECT: Site Plan 820100060  
Townhouses at Small's Nursery

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**RECOMMENDATION:**

**Environmental Planning staff recommends approval of the site plan subject to the following conditions:**

1. The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated 5/27/10. The applicant shall satisfy all conditions prior to any clearing, grading or demolition on the site. Conditions include, but are not limited to:
  - a. An invasive management plan shall be developed for areas of retained forest to remove multiflora rose and other non-native invasives.
  - b. A joint pre-construction meeting by MNCPPC Forest Conservation Inspector and Urban Forester from the Parks Department will inspect trees along the LOD adjacent to M-NCPPC parkland and determine which trees will need to be removed. All tree removal on adjacent M-NCPPC parkland will be done at the direction of the Urban Forester at the applicant's expense. Any trees that need to be removed must be replaced at a rate up to 1" DBH per every 1" lost.
2. Applicant shall place a category I conservation easement or dedicate to MNCPPC, all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, MNCPPC staff must approve any amended language to easements or agreements.

**BACKGROUND**

The property is located on Thistlebridge Drive in the Olney Master Plan area, directly adjacent to the proposed access road for re-aligned MD Route 28. The property is currently undeveloped and the applicant proposes to subdivide the property and construct 19 townhouses. The property is within the Manor Run subwatershed of the Rock Creek watershed and is Use IV/IV--P. This property is not in a Special Protection Area.

The property includes 2.97 acres of forest in two different stands – 1.72 acres of high priority forest and 1.25 acres of moderate priority forest. The forest stand designated high priority for retention is classified as such due to the presence of a forested, intermittently flooded wetland. This wetland is part of an unusual braided system bisected by Thistlebridge Drive and is a finely-grained mosaic of wetland and upland characteristics. Thus the wetland boundary is a highly articulated line based primarily on hydric soil indicators. The wetland drains to a stream that runs east-west, under Thistlebridge Drive and crosses the property at the northern point. A 100-year floodplain is also associated with the stream. There is a total of 1.26 acres of environmental buffer on the property. There are no trees  $\geq 24''$ , no slopes greater than 25 percent, and no highly erodible soils on the property. There is a significant area of hydric soils associated with the wetlands.



## **REGULATORY FRAMEWORK**

### **Environmental Guidelines**

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the subject site prior to submission of the preliminary plan of subdivision. Environmental Planning staff approved NRI/FSD #420061500 on 11/15/2007.

As per the Planning Board's Environmental Guidelines (page 22), "Wetlands and their associated buffer areas must be maintained in their natural condition unless the proposed disturbance is for a project determined to be necessary and unavoidable for the public good, such as;

- (1) Road crossings, water and sewer lines, and storm drain outfalls for which no alternative exists."

There will be no other disturbance of the environmental buffers, except for that of the access and one stormwater management outfall. Staff believes that the proposed development meets the Environmental Guidelines by minimizing the impact to the wetlands and associated environmental buffers.

### **Forest Conservation**

The Planning Board approved a preliminary forest conservation plan in conjunction with the preliminary plan of subdivision. The applicant submitted a final forest conservation plan with the site plan that is consistent with approved preliminary forest conservation plan. There are 2.97 acres of existing forest on the property. The applicant is proposing to remove 1.96 acres, retain 1.01 acres, and plant 0.10 acres of forest. All planting will be done within the stream valley buffer, with species appropriate to the hydric soils profile.

**Stormwater Management**

The SWM concept was approved on October 7, 2008. The concept includes one large biofilter adjacent to the environmental buffer.

## Pereira, Sandra

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**From:** Eapen, Cherian  
**Sent:** Wednesday, May 12, 2010 9:51 AM  
**To:** Pereira, Sandra  
**Cc:** Etemadi, Shahriar; Hardy, Dan; Greg.Leck@montgomerycountymd.gov; gary.erenrich@montgomerycountymd.gov  
**Subject:** Townhouses at Small's Nursery (Site Plan No. 820100060)

Hi Sandra:

I have completed my review of the site plan submitted for Townhouses at Small's Nursery and have NO comments.

The Applicant is meeting the PAMR condition/requirement to mitigate four (4) peak-hour trips, as conditioned by the Planning Board's Preliminary Plan Resolution dated February 1, 2010, by the proposal to construct a set of handicapped ramps (one on either side of Thistlebridge Drive as mitigation for 2 peak-hour-trips) and to pay \$22,000 (@\$11,000 per trip as mitigation for 2 peak-hour trips) to MC Department of Transportation. The Applicant is required to satisfy this requirement prior to the release of the 14<sup>th</sup> building permit for the development.

Let me know if you have any questions.

Cherian Eapen, PTP  
Planner/Coordinator  
Move | Transportation Planning Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue | Silver Spring | MD 20910  
301-495-4539 : Phone | Fax : 301-495-1302

[cherian.eapen@mncppc-mc.org](mailto:cherian.eapen@mncppc-mc.org)  
[www.mc-mncppc.org](http://www.mc-mncppc.org) | [www.montgomeryplanning.org](http://www.montgomeryplanning.org)



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## FIRE MARSHAL COMMENTS

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**DATE:** 24-Apr-10  
**TO:** Jeffrey Lewis  
Site Solutions, Inc.  
**FROM:** Tyler Mosman  
**RE:** Townhouses at Small's Nursery  
120070610 820100060

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### PLAN APPROVED

1. Review based only upon information contained on the plan submitted **21-Apr-10** .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.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

October 7, 2008

Carla Reid Joyner  
Director

Mr. Jeffrey Lewis  
Site Solutions, Inc.  
20410 Observation Drive, Suite 205  
Germantown, MD 20876

Re: Stormwater Management **CONCEPT** Request  
for Townhouses at Smalls Nursery  
Preliminary Plan #: 120070610  
SM File #: 230741  
Tract Size/Zone: 3.1 Ac./ RT-10  
Total Concept Area: 3.1 Ac.  
Lots/Block: 19 Proposed Lots  
Parcel: P 907  
Watershed: Upper Rock Creek

Dear Mr. Lewis:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control and recharge via a combination of non structural measures (grass swales, rooftop disconnect, pervious pavement etc.) and 1 biofiltration facility. Channel protection volume is not required because the one-year post development peak discharge was calculated to be less than or equal to 2.0 cfs.

The following items will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Rooftop runoff from the rear of lots 14 to 19 can be treated by vegetated disconnection as discussed with Mike Geier of my staff.

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 Mike Geier at 240-777-6342.

Sincerely,



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

RRB:dm CN230741 Townhouses at Smalls Nursery.mjg.doc

cc: C. Conlon  
S. Federline  
SM File # 230741

QN -on-site; Acres: 3  
QL - on-site; Acres: 3  
Recharge is provided