



Greenbriar at Norbeck Crossing, Site Plan, 820110040

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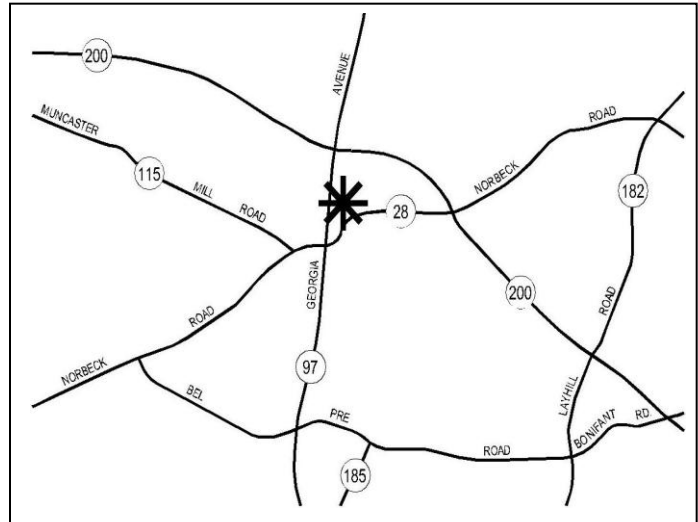
Description

Site Plan 820110040 including a Forest Conservation Plan: Greenbriar at Norbeck Crossing

262 dwelling units (including 15% MPDUs) consisting of 24 one-family detached homes, 95 townhomes and 143 garden apartments; located in the northeast quadrant of the intersection of Norbeck Road (MD 28) and Georgia Avenue (MD 97); 30.76 acres; R-200/TDR-7 Zone, Olney Master Plan.

Staff recommendation: Approval with conditions

Applicant: The Ryland Group, Inc
Submission Date: December 8, 2010



Summary

Staff's analysis addresses the following issues:

- The plan utilizes the optional method of development using Transferable Development Rights (TDR's) and Moderately Priced Dwelling Units (MPDU's).
- The applicant is required to provide 103 TDR's, which is two-thirds of the number of development rights permitted to be transferred to the property. However, the applicant is proposing to acquire only 96 TDR's based upon a multi-family adjustment, or alternatively, a waiver of the two-thirds requirement.
- Staff supports the reconfirmation of the waiver to the unit mix, which was approved by the Planning Board at the time of Preliminary Plan.
- The site plan provides a transition of building heights and densities that decreases with distance from the intersection of Georgia Avenue and Norbeck Road going towards the existing one-family neighborhood on Bradford Road.
- A tree variance is not required for this application since the Preliminary Forest Conservation Plan was approved prior to October 1, 2009, and no additional specimen trees were affected as part of the Site Plan.
- The Leisure World community shared concerns related to on-going flooding problems in their community. As a result and in order not to exacerbate this condition, the proposed SWM facility is larger than typically required by the County.

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SITE DESCRIPTION

Vicinity

The subject property, "Subject Property" or "Property," is zoned R-200/TDR-7 and is located in the northeast quadrant of the intersection of Norbeck Road (MD 28) and Georgia Avenue (MD 97) in Olney. Uses adjacent to the Property are the Park and Ride lot located on State property in the immediate northeast quadrant of the intersection of Georgia Avenue and Norbeck Road. The Intercounty Connector (ICC) and its eastbound ramp from northbound Georgia Avenue generally define the northeastern boundary of the development. To the south, confronting on Norbeck Road, is the Leisure World community in the Planned Retirement Community (PRC) zone. To the east are numerous one-family residences that front Bradford Road. Further to the east is the M-NCPPC, East Norbeck Local Park and beyond that, the recently completed ICC.

Coolidge Avenue and Bradford Road, while dedicated to 30 feet in width, have never been fully dedicated or built to secondary or tertiary road standards. Yet, these substandard roads continue to serve the limited number of homes that were built here.



Vicinity Map

Site Analysis

The most notable existing use on the 30.76-acre site is the former Golden Bear golf driving range which has not operated for a number of years. The Property is irregular in shape and surrounds a 4.0-acre WSSC property in the center. The WSSC property, which includes a water pumping station, is not part of the application.

The Property is located within the Northwest Branch watershed and includes forest in five different stands of moderate to poor retention priority. The existing forest is fragmented on the site, separated by roads, open fields and existing development. Although there is a small area of wetlands, both staff and applicant believe that it was created by improper grading and is not connected to any groundwater hydrology. There are no other streams, wetlands, floodplains, or sensitive features on-site. There are no known historic properties or features on site. The site will be served by public water and sewer.



Aerial Photo with approximate site boundary outlined in red

PROJECT DESCRIPTION

Previous Approvals

On May 21, 2009, the Planning Board approved with conditions **Preliminary Plan No. 120060610** for Greenbriar at Norbeck Crossing (MCPB Resolution No. 09-62) to create 118 lots for a maximum of 262 dwelling units, including a minimum of 15 percent MPDU's on 30.76 acres [Appendix A].

Proposal

The Site Plan proposes to remove any existing structures on-site and develop the Property with 262 dwelling units (including 15 percent MPDU's) consisting of 24 one-family detached homes, 95 townhomes and 143 garden apartments.

The plan utilizes the optional method of development using Transferable Development Rights (TDR's) and Moderately Priced Dwelling Units (MPDU's). By providing 15 percent of the units as MPDU's, the applicant is receiving a 22 percent density bonus for a total of 262 dwelling units. The applicant has chosen to maximize the number of MPDU's and minimize the number of TDR's required to achieve these densities as allowed. The applicant is required to provide 103 TDR's, which is two-thirds of the number of development rights permitted to be transferred to the property, per Section 59-C-1.393(b).

Density calculations are as follows:

Gross Tract Area	30.76 acres
Zoning	R-200/TDR-7
Density of Base Zone	$30.76 \times 2 = 61$ units
Density with TDR's	$30.76 \times 7 = 215$ units
Density with MPDU Bonus (22%)	$215 \times 1.22 = 262$ units
Number of MPDU's required (15%) ...	$262 \times 0.15 = 40$ MPDU's (16TH and 24MF)
Maximum TDR's allowed	$215 - 61 = 154$
Minimum number of TDR's required ...	$2/3 \times 154 = \mathbf{103}$
Number of TDR's proposed	96

Instead, the applicant is proposing to acquire only 96 TDR's based upon a multi-family adjustment, or alternatively, a waiver of the two-thirds requirement pursuant to Section 59-C-1.393(b). As described in the Applicant's letter dated February 22, 2012 [Appendix C], the multi-family adjustment of 2 multi-family dwelling units for each TDR (per Section 59-C-1.391) should be credited into the number of TDR's required for this site.

Staff finds that the multi-family adjustment has been factored into the TDR calculations by requiring only the minimum number of TDR's (or 103) even though the application proposes the full density allowed for this site (or 262 units). The full density would require the corresponding maximum number of TDR's (or 154) if no multi-family units were being proposed. Because 119 market rate multi-family units are proposed, the multi-family adjustment would result in 95 TDR's ($= 154 - 119/2$) which is below the two-thirds minimum requirement. Therefore, the applicant still has to meet the two-thirds minimum requirement and provide 103 TDR's. The language in Section 59-C-1.393(b) states that "a preliminary plan must include at least two-thirds of the number of development rights permitted to be transferred to the property" regardless of the unit type.

Staff does not support the request for a waiver of the two-thirds requirement because the Site Plan proposes the full density allowed (262 units), which was enabled by a waiver of the required unit mix, which the Planning Board approved at the time of the Preliminary Plan for compatibility reasons. The waiver of the unit mix allowed an increase in the overall number of multi-family units (from 35 to 55%) and a decrease in the overall number of one-family detached units (from 15 to 8.8%).



Illustrative site plan

Access to the site from the local street network will be from two locations on Norbeck Road; one at Coolidge Avenue and the other at what is now the access road to the Park and Ride lot and the golf driving range. The internal street network will consist of public and private roads. As proposed, the majority of internal street linkages, Roads “A”, “B”, and Coolidge Avenue, will be public. Private roads will provide access to a significant portion of the multi-family units and townhomes.

As required by the Preliminary Plan, the Site Plan proposes three distinct neighborhoods based on unit

types and their location within the property. The multi-family neighborhood is located in the southwest corner of the site, adjacent to the Park and Ride lot and in proximity to the future Georgia Avenue busway. As amenities, this neighborhood has an open play area, a tot lot, seating areas, and landscaped areas. The townhouse neighborhood, located in the central portion of the Property, includes an open space area with a multi-age playground, open play area, and a picnic area. The one-family detached units, located to the east of the site, also form their own cluster or neighborhood and are in proximity of the "Village Green", which has a large open play area, a play lot and landscaped areas.

Forested green space separates the developed areas from the Georgia Avenue and Norbeck Road intersection as well as from the ICC on-ramp along the northern portions of the site. The plan provides a combined total of 19.6 acres as green space and it meets all the recreation requirements on-site.

Stormwater management is interspersed through the Property with a large storage facility located along Norbeck Road that is designed to handle the 100-year storm. This facility is larger than typically required by the County, and it was the result of numerous discussions with Leisure World to address on-going flooding problems in that community. The stormwater management concept meets MDE and DPS requirements for approval.

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 Site Plan meets all of the requirements of the R-200/TDR-7 under the optional method of development using Transferable Development Rights (TDR's) and Moderately Priced Dwelling Units (MPDU's). By providing 15% of the units as MPDU's, the applicant is receiving a 22% density bonus for a total of 262 dwelling units. The applicant has chosen to maximize the number of MPDU's and minimize the number of TDR's required to achieve the allowed densities. The applicant is required to provide 103 TDR's, which is two-thirds of the number of development rights permitted to be transferred to the property (or 154), per Section 59-C-1.393(b).

Instead, the applicant is proposing to acquire only 96 TDR's based upon a multi-family adjustment pursuant to Section 59-C-1.391, or alternatively, a waiver of the two-thirds requirement pursuant to Section 59-C-1.393(b). As described in the Applicant's letter dated February 22, 2012 [Appendix C], the multi-family adjustment of 2 multi-family dwelling units for each TDR should be credited into the number of TDR's required for this site.

At the time of Preliminary Plan, the Planning Board approved a waiver of the unit mix for compatibility reasons, in accordance to Section 59-C-1.395. The waiver reduced the minimum percentage of one-family detached units from the required 15% to 8.8%, and raised the maximum percentage of multiple-family units from the required 35% to 55%. The Site Plan is consistent with the maximum and minimum established by the Preliminary Plan. Staff supports the reconfirmation of the waiver to the unit mix.

The development standards for the optional method of development using TDR's require compliance with the compatibility requirements of the PD Zone (Section 59-C-7.15). The Subject Property adjoins land zoned R-200/TDR-7, which is the same zone as the Subject Property and thus enables similar densities as those proposed. As further discussed in Finding no. 4 below, the Site Plan is compatible with other uses, and with existing adjacent development.

As demonstrated in the Data Table below, the project meets all of the applicable requirements of the R-200/TDR-7 under the optional method of development using TDR's and MPDU's.

Data Table for the R-200/TDR-7 Zone, Optional Method of Development

Development Standard	Zoning Ordinance Permitted/ Required	Proposed for Approval & Binding on the Applicant
Site Area (acres)		
Gross Tract Area (GTA)	n/a	30.76
Less Previous Dedication for Norbeck Road & Coolidge Ave	n/a	0.74
Net Lot Area	n/a	30.02
Density		
Density of Base Zone (R-200)	61 du (=30.76 x 2)	
Density with TDR's	215 du	215 du (= 30.76 x 7)
Density with MPDU Bonus (22%)	262 du	262 du (= 215 x 1.22)
MPDU Bonus Density	47 du	47 du (= 262 – 215)
Number of MPDU's - One-family attached - Multi-family 1-bedroom 2-bedroom	15%	40 MPDU's (= 262 x 0.15) 16 24 (3) (21)
Unit Mix (59-C-1.395) - One-family detached - One-family attached - Multi-family 1-bedroom 2-bedroom Total	15% (min) n/a 35% (max)	9.2% ^(a) (24 du) 36.2% (95 du) 54.6% ^(a) (143 du) (18) (125) 100% (262 du)
TDR's - Max TDR's allowed - Min TDR's required (59-C-1.393(b)) - Proposed by the Applicant	154 103	154 (= 215 – 61) 103 (= 2/3 x 154) 96 ^(b)
Min. Green Area		
(% of GTA) (59-C-1.395)	40% (12.3 acres)	64% (19.6 acres)
Min. Setbacks (feet)		
One-family detached - From Street (front) - From Street (side) - Rear - Side	n/a	15 10 20 3
One-family attached - From Street (front) - Rear - Side	n/a	10 5 0

Multi-family	n/a	
- From Street		10
- Front		0
- Rear		0
- Side		0
- Between multi-family buildings		30
Accessory Buildings	n/a	
- Front		40
- Rear		5
- Side		3
Min. Lot Area (square feet)		
One-family detached	n/a	4,000
One-family attached	n/a	
Market rate units		1,500
MPDU's		1,100
Multi-family	n/a	5,000
Max. Building Height (feet)		
One-family detached	n/a	40
One-family attached	n/a	40
Multi-family	n/a	55 (4 stories)
Accessory building	n/a	25
Vehicle Parking (number of spaces) (59-E)		
Residential	<u>449</u>	<u>495</u>
- One-family detached (24)	48 (2 sp/du)	48 (2 sp/du)
- One-family attached (95)	190 (2 sp/du)	200 (2.1 sp/du)
- Multi-family		247
1-bedroom (18)	23 (1.25 sp/du)	
2-bedroom (125)	188 (1.5 sp/du)	
Bicycle Parking (number of spaces)		
Racks	20 (5%/sp provided)	36
Motorcycle Parking		
Number of spaces	5 (2%/MF sp provided)	5

^(a) At the time of Preliminary Plan, the Planning Board approved a waiver to reduce the minimum percentage of one-family detached units from the required 15% to 8.8%, and to raise the maximum percentage of multiple-family units from the required 35% to 55%.

^(b) The applicant is proposing to acquire only 96 TDR's based upon a multi-family adjustment pursuant to Section 59-C-1.391, or alternatively, a waiver of the two-thirds requirement pursuant to Section 59-C-1.393(b) [Appendix C].

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 locations of the proposed buildings and structures are adequate, safe, and efficient. The plan proposes 262 dwelling units, consisting of 24 one-family detached units, 95 one-family

attached/townhouse units, and 143 multi-family units. The Site Plan provides 40 MPDU's, which is 15% of the total number of units, as townhouse units (16), and multi-family units (24).

The Site Plan efficiently locates the higher density multi-family uses near the intersection of Georgia Avenue and Norbeck Road, in proximity to the future Georgia Avenue busway and adjacent to the Park and Ride lot, and adequately transitions to the surrounding one-family neighborhood to the east by locating townhouses in the central portion of the site and one-family detached units towards Bradford Road. The concept of providing a transition of building heights and densities that decreases with distance from the intersection of Georgia Avenue and Norbeck Road was discussed and supported by the Planning Board at the Preliminary Plan Hearing. The location of the units towards the center of the property provides adequate buffer and separation from the Georgia Avenue and Norbeck Road intersection, and from the ICC on-ramp along the northern portions of the site.



Typical front elevation of 32-unit building



Typical rear elevation of 32-unit building

The multi-family units are divided into six, 4-story buildings, which are generally oriented towards the public streets with surface parking in the rear. The buildings follow the street layout with pedestrian egress/ingress points on the side facing the street. In the rear, these

buildings extend providing covered parking for some units. The areas of surface parking adequately meet the parking needs of the future multi-family residents with an excess of 36 spaces, while providing safe access between the parking areas and the buildings away from the main circulation routes.

The units in the townhouse cluster north of the WSSC parcel are oriented towards Public Road B and a large open space area abutting the road. The majority of these units is rear-loaded and follows a well-connected system of private streets. Parking for these units is provided on private lots with a combination of garage and driveway spaces.



Townhouse cluster north of the WSSC parcel

One-family detached units front Public Road B as it extends towards Bradford Road. These units are front loaded with rear yards oriented towards existing rear yards of adjacent homes. Parking for these units is provided on the private lots with a combination of garage and driveway spaces.

South of the WSSC parcel, a group of rear-loaded townhouses fronts on Public Road A and is served by a private street connecting to the multi-family parking areas and internal vehicular circulation system. The location of these townhouses allows for existing forest to be protected between the proposed homes and the southern property boundary at Norbeck Road, which creates an adequate buffer and provides screening.



Townhouse cluster south of the WSSC parcel and forested buffer along Norbeck Road

Additional on-street parking is accommodated along Public Roads A and B, subject to MCDOT and Fire Marshall's approval. Staff recommends continued coordination with the necessary Agencies to accommodate on-street parking.

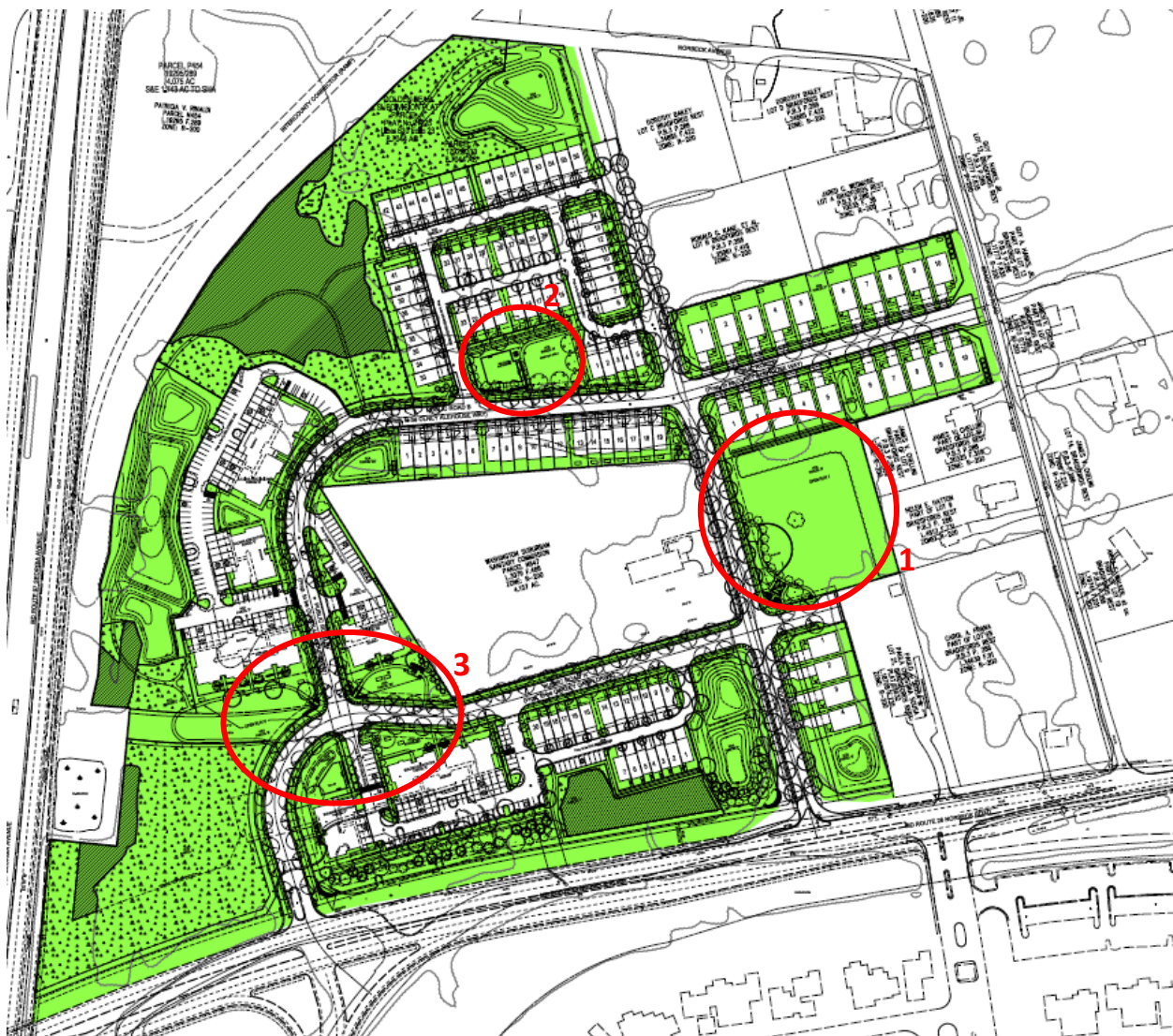
The project proposes entrance piers at the two entrances to the development off Norbeck Road. These piers adequately identify the community and efficiently contribute to the sense of arrival.

b) Open Spaces

The open spaces provided are adequate, safe, and efficient. The plan proposes to preserve the existing forest near the Georgia Avenue and Norbeck Road intersection as well as near the ICC on-ramp along the northern portions of the site as open space and amenity area with limited access, and to provide smaller open spaces and active recreation areas within the residential clusters.

The open spaces proposed are adequately dispersed throughout the development to provide safe and convenient access to all residents, while efficiently softening the elements of the built

environment. The Site Plan proposes three main areas of open space that are visually connected to each other and linked by smaller open spaces, sidewalks, and landscaping. (1) The “Village Green,” located at the intersection of Coolidge Avenue and Public Road “A”, consists of approximately 1.41 acres which includes a large open play area, a play lot and landscaped areas. This significant open space serves as a park like feature, which relates to the vision of the master plan to have a local park on this site (p.34), and its location on the east end of the Property creates an effective buffer for existing homes. (2) Within the townhouse cluster north of the WSSC parcel, 0.5 acres of open space has been consolidated immediately north of Public Road B providing an area of open play, a multi-age playground, and a picnic area. (3) Within the cluster of multi-family buildings, the main area of open space is distributed on all quadrants of the intersection of Public Road A and B, and it includes an open play area, a tot lot, seating areas, and landscaped areas. All open spaces (both active and passive) are accessible to all residents of the development.



Green Area exhibit

The R-200/TDR-7 zone does not have an open space requirement; instead it has a minimum

green area requirement of 40 percent of the gross tract area. The plan exceeds the green area requirements by providing a combined total of 64 percent (or 19.6 acres) of green space.



Illustrative rendering of the open space area within the multi-family buildings cluster

c) Landscaping and Lighting

The landscaping, with an emphasis on native species, is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides an adequate buffer and screening along Norbeck Road on the southern property boundary, where it complements a stand of existing forest to be protected. The plant material in this area includes mostly evergreen trees and shrubs.

Additionally, the landscaping provides canopy coverage and shade for parking areas, roads, and open spaces. A variety of trees line all the streets. Smaller plant material, such as herbaceous plants, evergreen and deciduous shrubs and ornamental trees, frames and complements the entrance to the development and defines amenity areas. The playground areas and open play areas are framed by a variety of plant material that adds interest and delineates the spaces while maintaining a safe environment for children.

Street lighting consists of pole mounted light fixtures with a maximum height of 14 feet located on all public and private roads, and the surface parking areas for the multi-family buildings. The lighting proposed will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The lighting is adequate, safe and efficient.

d) Recreation Facilities

The recreation facilities are safe, adequate, and efficient. The recreation facilities provided include a tot lot, a play lot, a multi-age playground, five picnic/sitting areas, an open play area I and two open play areas II, a bike system, a pedestrian system, and natural areas. As demonstrated in the tables below, this development meets all the recreation requirements on-

site through these facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. The facilities adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation for the various age groups.

Demand		D1	D2	D3	D4	D5
Housing Type	Number of Units	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
SFD III (<7,000)	24	3.36	4.56	5.52	30.48	3.12
TH	95	16.15	20.90	17.10	122.55	6.65
Garden (4 or less)	143	15.73	20.02	17.16	168.74	22.88
		35.24	45.48	39.78	321.77	32.65

On-Site Supply		D1	D2	D3	D4	D5
Recreation Facility	Quantity Provided	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Tot Lot	1	9.00	2.00	0.00	4.00	1.00
Play Lot	1	0.00	9.00	3.00	4.00	1.00
Multi-Age Playground	1	9.00	11.00	3.00	7.00	1.00
Picnic/Sitting	5	5.00	5.00	7.50	25.00	10.00
Open Play Area I	1	6.00	9.00	12.00	30.00	2.00
Open Play Area II	2	6.00	8.00	8.00	20.00	2.00
Bike System	1	1.76	4.55	5.97	48.27	3.27
Pedestrian System	1	3.52	9.10	7.96	144.80	14.69
Natural Areas	1	0.00	2.27	3.98	32.18	1.63
total:		40.29	59.92	51.40	315.24	36.59

Adequacy of Facilities		D1	D2	D3	D4	D5
Total Supply		40.29	59.92	51.40	315.24	36.59
90% Demand		31.72	40.94	35.81	289.6	29.39
Adequate?		yes	yes	yes	yes	yes

Recreation Calculations

Although credit for off-site facilities was not requested with this application, at least two parks in the immediate vicinity of the site provide additional recreation opportunities for the future residents. The Olney Manor Recreational Park, located approximately 0.8-miles north from the site, includes ballfields, basketball, playground, lighted tennis courts, indoor swim center and a recreation building. The East Norbeck Recreation Park, located 0.2-miles east of the site, includes a playground, lighted tennis courts, ballfields, and covered picnic areas.

e) Pedestrian and Vehicular Circulation Systems

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. Access to the site from the local street network will be from two locations on Norbeck Road; one at Coolidge Avenue and the other at what is now the access road to the Park and Ride lot and golf driving range. The internal street network will consist of public roads and private roads. The majority of internal street linkages, Roads "A", "B", and Coolidge Avenue, will be public, and private roads will provide access to a significant portion of the multi-family units and townhomes.

The main entrance to the subdivision will be at the western entrance point currently along the Park and Ride access road. There will be full movement at this location both to, and from, east- and west-bound Norbeck Road. The proposed configuration of this intersection is temporary until such a time that it is reconstructed as part of a future SHA project to tunnel Norbeck Road under Georgia Avenue.

The second point of access will be at Coolidge Avenue, which will require a short service road type entrance to be constructed so that vehicles can gain right-in only ingress at the existing Norbeck Boulevard signalized intersection. Egress from the development at Coolidge Avenue will be a right-out only movement that directs traffic in a west bound direction. The proposed intersections to Norbeck Road and the internal public and private street right-of-way widths are all in conformance with those approved by the Preliminary Plan as part of the Adequate Public Facilities Review.

The pedestrian and bicycle circulation systems adequately and efficiently integrate this site into the surrounding area. An 8-foot wide bike path is provided along the property's frontage on Norbeck Road and enters the site on Public Road A and follows along the north side of Public Road B towards existing Bradford Road. This bike path effectively connects pedestrians and bicyclists in this development to the East Norbeck Local Park as recommended by the Olney Master Plan (p.34). Within the site, 5-foot wide sidewalks on both public and private streets facilitate pedestrian circulation and access to the various units, open spaces, and amenities proposed. A 5-foot wide natural surface path provides limited access to natural areas that are protected with conservation easements.

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

The proposed structures and uses are compatible with other uses and with existing adjacent development. Compatibility with existing one-family neighborhoods to the east is achieved by locating the higher density multi-family uses to the west of the property and transitioning them to the lower density townhouse uses in the central portion of the property and one-family detached uses beyond to the east. This step down approach in terms of density and intensity of uses achieves compatibility with the surrounding neighborhoods to the east. In addition, surrounding neighborhoods are zoned R-200/TDR-7, which is the same zoning as the subject site, and as a result, have the potential to develop with similar densities and lot sizes as the proposed development.

Design measures to provide compatibility with existing homes include six-foot high fences in the rear yards of the proposed one-family detached units that abut existing lots; and keeping existing vegetation along the perimeter of the Village Green, where it abuts existing lots. This vegetation will buffer the existing lots and protect the privacy of their rear yards.

The Subject Property is directly adjacent to three major roads (Norbeck Road, Georgia Avenue, and ICC). Negative effects caused by this proximity are mitigated through site layout and noise fences at key locations. The buildings and amenities on-site are located towards the center of the Property, away from the perimeter, which allows for significant areas of forested buffer. Still, some units (townhouse Lots #42-56, Block A, and one-family detached Lot #4, Block D) are affected by exterior noise levels ranging from 60 to 65 dBA Ldn, and as such 6-foot high board-on-batten noise fences will be applied to attenuate noise levels on these units.

Within the site, compatibility will be achieved through architectural treatments on the side façades of corner units and front façades of the MPDU's. As conditioned, the side façades of corner units fronting a public street will include materials and architectural design treatment comparable to the fronts of those units. The fronts of the MPDU's will be designed and finished with architectural elements comparable to those found on market-rate attached units within the site.

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

The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, and Chapter 19 regarding water resource protection. This development is subject to the County Forest Conservation Law. Two Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 419960880 and No. 420053380 were approved on January 5, 1996, and November 28, 2005 (and recertified on June 6, 2012), respectively. The Preliminary Forest Conservation Plan (PFCP) for this proposal was approved by the Planning Board as part of the Preliminary Plan on May 21, 2009. A tree variance is not required for this application since the PFCP was approved prior to October 1, 2009, and no additional specimen trees were affected as part of the Site Plan.

The forest conservation requirements for this plan have been determined using the natural conditions prior to the golf course development per the 1996 NRI/FSD. This means that there is no loss of forest compensation due to the incremental nature of development on the site. The predevelopment existing forest cover is 16.71 acres. Total forest removed as part of both previous (existing) and current (proposed) development is 14.51 acres. The remaining 2.20 acres of forest will be retained and placed in Category I easements.

As per Sec. 22A-12(f)(2)(B), *"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 equal the applicable conservation threshold in subsection (a)"*.

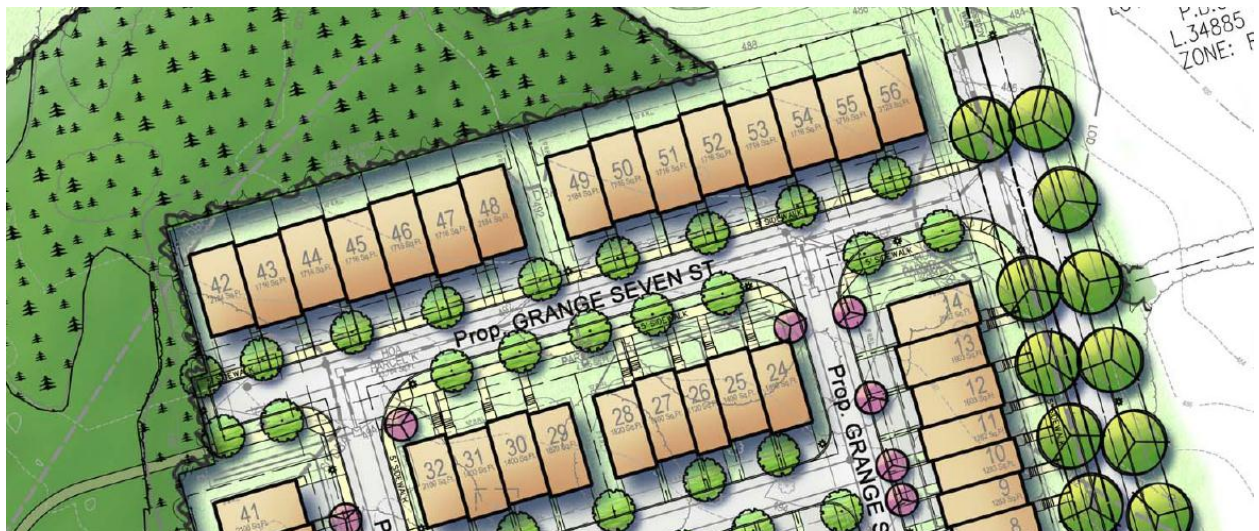
For the Subject Property, the conservation threshold is 20%, or 6.0 acres. The proposed development meets this requirement by planting an additional 3.8 acres onsite. The additional 4.32 acres of forest conservation requirements will be met off-site.

The proposed storm water management concept approved on January 31, 2011, consists of on-site channel protection measures via construction of three detention ponds; on-site water quality control and on-site recharge via construction of five Montgomery County Sand Filters, three biofilters, and other non-structural measures including rain garden, bioswales, dry wells and

recharge trenches. Some of the structures were intentionally over-sized to avoid exacerbating flooding problems in adjacent neighborhoods.

A noise analysis was conducted and it revealed that the proposed residential units nearest Norbeck Road, Georgia Avenue and the ICC will be affected by current and future vehicular noise. The noise analysis indicates that unmitigated noise levels will range from 60 and 65 dBA Ldn for the units adjacent to all three roads, which are greater than the levels recommended in the Planning Board Adopted Noise Guidelines.

In order to mitigate noise to appropriate levels, Townhouse Lots #42-56, Block A, and one-family detached Lot #4, Block D have their rear yards and lower stories protected by a 6-ft high board on batten noise fence. The upper stories of those residential units and all multi-family units and rear loaded townhouse units affected by excessive noise will rely entirely upon acoustical treatment to meet the indoor noise guideline of 45 dBA Ldn.



Site plan illustration of Townhouse Lots 42-56, Block A

COMMUNITY OUTREACH

The applicant has met all proper signage, noticing, and submission meeting requirements. Staff has been contacted by the Leisure World community throughout the review process for updates on the project. Their main concern related to an existing flooding problem along MD 28 on the northern boundary of the community. Buildings in Leisure World have in fact, been damaged by flood water. These drainage issues are also a concern to the State Highway Administration. Because it was determined that runoff from this development should not exacerbate this condition, the stormwater management facility is designed to attenuate the 10- and the 100-year storm event. This facility is located on the Subject Property's southern border and is part of the green buffer that provides screening along this road. Other concerns related to the visual impacts of this development onto Norbeck Road were addressed by creating a landscaped berm and protecting existing forest between the proposed development and Norbeck Road. These measures provided screening of the townhouses and the multi-family buildings on the southern edge of the property.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan 820110040, Greenbriar at Norbeck Crossing, for 262 dwelling units (including 15% MPDU's) consisting of 24 one-family detached homes, 95 townhomes and 143 garden apartments on 30.76 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on December 16, 2011, and January 27, 2012, 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. 120060610 as listed in the MCPB Resolution No. 09-62 [Appendix A] unless amended. This includes, but is not limited to, all references to density, rights-of-way, dedications, easements, transportation conditions, Montgomery County Department of Transportation (MCDOT) conditions, and Montgomery County Department of Permitting Services (MC-DPS) stormwater conditions.

Environment

2. Forest Conservation & Tree Save

The proposed development must comply with the conditions of approval for the Final Forest Conservation Plan dated December 16, 2011. The applicant must meet all conditions prior to the recording of a plat(s) or the issuance of sediment and erosions control permits by the MC-DPS.

- a) A Certificate of Compliance for an off-site forest conservation mitigation bank to meet the 0.25 acre planting requirement must be recorded prior to the start of clearing and grading.
- b) Inspection scheduling must be in accordance with Section 22A.00.01.10 of the Forest Conservation Regulations.
- c) Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
- d) A two-year maintenance and management agreement must be approved prior to M-NCPPC acceptance of any on-site planting.
- e) The Applicant must submit the financial security for planting 0.07 acres prior to the start of clearing and grading.
- f) Applicant must place a Category I conservation easement over all areas of forest retention, forest planting, and show easements on record plats.
- g) Permanent Category I Forest Conservation Easement signs must be placed along the perimeter of the conservation easement area.
- h) Split rail fencing will be required along residential lot property lines that abut Category I easements.
- i) Trails within the conservation easement area must be designed and constructed with mulch or other appropriate natural surface materials, as recommended and approved by M-NCPPC Staff.

3. Noise Attenuation

- a) Prior to issuance of the first building permit, the applicant must provide certification to M-

NCPPC Staff from an engineer that specializes in acoustical treatment that:

- the location of the noise mitigation techniques to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor backyard area of homes and areas of common outdoor activity are adequate.
 - the building shell for residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b) If any changes occur to the plan which affect the validity of the noise analysis dated February 11, 2009, acoustical certifications and noise attenuation features, a new noise analysis will be required to reflect the revised plans, and new noise attenuation features may be required.
 - c) Applicant/developer/builder to certify that they will construct the noise impacted units in accordance with the recommendations of the engineer that specializes in acoustical treatments.
 - d) For all residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour, the applicant/developer/builder shall disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification will be accomplished by inclusion of this information and any measures to reduce the impacts in all sales contracts, brochures and promotional documents, including: any illustrative site plan(s) on display within any sales related office(s); in Homeowner Association documents; with all Deeds of Conveyance; and by inclusion on all certified preliminary and site plans. Notification measures shall be provided to M-NCPPC staff prior to issuance of the first building permit.

4. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated January 31, 2011, unless amended and approved by the Montgomery County Department of Permitting Services.

Open Space and Recreation

5. Common Open Space Covenant

Record plat(s) that include Common Open Space must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to M-NCPPC staff prior to issuance of the 94th building permit that applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

6. Recreation Facilities

- a) Meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide the following recreation facilities: a tot lot, a play lot, a multi-age playground, five picnic/sitting areas, an open play area I and two open play areas II, a bike system, a pedestrian system, and natural areas.

Transportation & Circulation

7. Transportation

The development is limited to 262 dwelling units consisting of 24 one-family detached homes, 95 townhomes and 143 garden apartments.

Density & Housing

8. Transfer of Development Rights (TDR's)

- a) The applicant must purchase 103 TDR's for the proposed development.
- b) The serial number for each TDR acquired must be shown on its respective record plat.

9. Moderately Priced Dwelling Units (MPDU's)

- a) The development must provide 15 percent of the total number of units as MPDU's on-site, consistent with the requirements of Chapter 25A. The applicant is receiving a 22 percent density bonus for providing 15 percent MPDU's on-site.
- b) The MPDU agreement to build must be executed prior to the release of the first building permit.
- c) All of the required MPDU's must be provided on-site.

Site Plan

10. Compatibility/Architecture

- a) The fronts of the one-family attached MPDU's must be designed and finished with architectural elements comparable to those found on other similar attached market rate units within the site.
- b) Provide architectural treatment that includes two or more of the following: box or bay window, minimum of two windows, shutters, or fireplace, on the side facades of high visibility corner lots. These include: Lots 5 and 33 (Block A); Lots 1 and 10 (Block B); Lots 1 and 10 (Block C); Lots 1 and 4 (Block D); Lots 1, 8, and 20 (Block E); Lots 1 and 19 (Block F). The details of the architectural treatments must be shown on the Certified Site Plan and submitted to the DPS-SPE (Department of Permitting Services – Site Plan Enforcement) with the building permit.
- c) The exterior architectural character, proportion, materials, and articulation of the multi-family buildings must be substantially similar to the conceptual elevations shown on Sheets 1-4 of the submitted architectural drawings (date stamped February 3, 2012), as determined by the M-NCPPC staff.

11. Private Lighting

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

12. Surety

Prior to issuance of first building permit within each relevant phase of development, Applicant must provide 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) Applicant must provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial surety amount.
- b) The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture (including gazebo), entrance piers, and private roads within the relevant phase of development.
- c) Prior to issuance of the first building permit, Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d) Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

13. Development Program

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) 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 treesave areas and protection devices.
- b) Street lamps and sidewalks must be installed within six months after street construction is completed (final paving). Street tree planting may wait until the next growing season.
- c) The development program must provide phasing for installation of on-site landscaping and lighting.
- d) Landscaping associated with each parking lot and building must be completed as construction of each facility is completed.
- e) Community-wide pedestrian pathways and recreation facilities must be completed prior to the following thresholds:
 - 1) The Village Green including the large open play area, a play lot, a gazebo, and landscaped areas, must be completed prior to issuance of the 31st building permit, which is the first building permit to be issued in Phase II.
 - 2) The 8-foot bike path must be completed as construction of Public Road B is completed (final paving).
- f) Local recreational facilities and site elements must be completed prior to the following thresholds:
 - 1) Phase I (southwest parcels consisting of 143 multi-family dwelling units, 20 townhouses, and 4 one-family detached units):
 - i. The tot lot adjacent to the multi-family building 6 must be installed prior to the release of the 1st use and occupancy permit for Building 6.
 - ii. The open play area II including the path and associated landscape immediately south of the multi-family building 1 must be completed prior to release of the 1st use and occupancy permit for Building 1.

- iii. The picnic and lawn area immediately south of the multi-family building 4 must be completed prior to release of the 1st use and occupancy permit for Building 4.
- 2) Phase II (northeast parcel consisting of 75 townhouses, and 20 one-family detached units):
 - i. The recreation area including multi-age playground, open play area II, and picnic areas, located within the townhouse cluster and abutting Public Road 'B', must be installed prior to the issuance of the 53rd building permit, which represents 70 percent of the 75 townhouse units in this phase.
 - ii. The 6-foot board-on-board fence in the rear of Lots 6-10 (Block B and C) must be installed prior to release of the use and occupancy permit for the last unit in each block.
 - g) On-site amenities including, but not limited to, sidewalks, benches, picnic tables, trash receptacles, and bicycle facilities must be installed as construction of each recreational facility is completed.
 - h) Provide each section of the development with necessary roads.
 - i) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

14. Certified Site Plan

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

- a) Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b) Modify data table to reflect development standards enumerated in the staff report.
- c) Revise recreation calculations to reflect those in the staff report.
- d) Ensure consistency off all details and layout between Site Plan and landscape plan.
- e) Revise Phase I boundary line to include the Village Green in its entirety.

APPENDICES

- A. Preliminary Plan Resolution
- B. Reviewing Agency Approvals and correspondence
- C. Applicant's correspondence

Appendix A



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

AUG - 6 2009

MCPB No. 09-62
Preliminary Plan No. 120060610
Greenbriar at Norbeck Crossing
Date of Hearing: May 21, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

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 December 6, 2005, Georgia Group Ltd, and Mid-Atlantic Golf/Norbeck L.L.C., ("Applicants"), filed an application for approval of a preliminary plan of subdivision of property that would create 118 lots on 30.76 acres of land located in the northeast quadrant of the intersection of Georgia Avenue (MD 97) and Norbeck Road (MD 28) ("Property" or "Subject Property"), in the Olney master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120060610., Greenbriar at Norbeck Crossing ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 10, 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 May 21, 2009 the Planning Board held a public hearing on the Application (the "Hearing"); and

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

Approved as to
Legal Sufficiency:

Christina Sorenst 7/15/09

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

WHEREAS, May 21, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060610 to create 118 lots on 30.76 acres of land located in the northeast quadrant of the intersection of Norbeck Road (MD 28) and Georgia Avenue (MD 97) ("Property" or "Subject Property"), in the Olney master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a maximum of 262 dwelling units. A minimum of 15% of the dwelling units must be moderately priced dwelling units (MPDUs). The number of multifamily units must not exceed 55% of the total number of units and the number of one family detached units must not be less than 8.8% of the total number of units. At the time of site plan, the application should be designed to provide no less than three distinct neighborhoods based on the unit types approved and their location within the subdivision.
- 2) Final approval of the number of buildings and dwelling units, and location of sidewalks/bikepaths will be determined at site plan approval including final number of MPDUs and TDR's per Condition 1. The final location of the Master Plan recommended internal bikepath must be along a public street.
- 3) The initial stage of development will be limited to 200 units due to the lack of a primary street intersection with Norbeck Road. The staging of development will be determined at Site Plan, MPDU's and TDR's must be provided in accordance with approved percentages and ratios. The building permit for the 201st dwelling unit must not be issued until a primary street intersection at Norbeck Road (MD 28) is provided by either an extension of Public Road "A" from the Park and Ride access road to MD 28, or an extension of Norbeck Boulevard from MD 28 to Public Road "A". The design of this intersection must be reviewed by M-NCPPC Staff prior to SHA approval.
- 4) The proposed one-family detached units located on the north side of the private open space adjacent to Coolidge Avenue must be relocated and the open space enlarged.
- 5) No clearing, grading or recording of plats prior to certified site plan approval.
- 6) The final location of the different unit types will be determined at Site Plan. One-family detached units must have frontage on public roads. Townhouses and multi-family units may front on private roads provided that they are constructed to tertiary street standards and have appropriate public access and circulation.

- 7) 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, as applicable. Conditions include:
 - a. On-site reforestation and forest retention will total a minimum of 6.0 acres.
 - b. All drywells and other stormwater management devices must be removed from Category I forest conservation easements.
 - c. Approval of final forest conservation plan consistent with approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
 - d. Final forest conservation plan will show a planting plan consistent with adjacent land use. Canopy trees must be sited a minimum distance of 20' from all proposed structures. Understory and shrub plantings may be used to the easement line.
 - e. Split rail fencing and permanent forest conservation signage will be required along boundaries with residential lots and must be shown on the Final Forest Conservation Plan.
- 8) Record plat(s) must reflect a Category I conservation easement over all areas of forest conservation. Prior to plat recordation, MNCPPC Staff must approve any amended language to easements or agreements.
- 9) At time of site plan, noise mitigation measures must be shown to meet the 65 dBA L_{dn} exterior noise guidelines and 45 dBA L_{dn} interior noise guidelines.
- 10) Prior to the release of a building permit that permits construction of the 49th residential unit, the Applicant must implement Maryland State Highway Administration (SHA) required "interim" frontage and site access improvements along MD 28. The Applicant must also construct or fund the "ultimate" frontage, exclusive of any interchange improvements, and access improvements as required by SHA, and any requirement to install/upgrade/modify new/existing traffic signals. The timing for construction of "ultimate" frontage and site access improvements related to this development at a future date will be as directed by SHA.
- 11) To satisfy Adequate Public Facilities (APF) traffic requirements the Applicant must satisfy either of the following requirements prior to release of the building permit for the construction of the 49th residential unit of any type within the proposed development:
 - a. widen westbound MD 28 approach to MD 97 to provide 1 left-turn lane, 3 through lanes, and 1 free-flow right-turn lane in place of existing 1 left/through lane, 2 through lanes, and 1 free-flow right-turn with SHA approval, or

- b. pay a fee-in-lieu contribution towards design and construction of the improvement as described in this condition to SHA
 - 12) The following right-of-way dedications for public roads must be shown on the Certified Preliminary Plan and record plat:
 - a. MD 28 - Not less than 75 feet (Major Highway) from the ultimate road right-of-way centerline along Property frontage. The right-of-way dedication will be expanded if SHA determines that additional right-of-way is necessary to accommodate the MD 97/MD 28 interchange improvements. Any modification to the dedication shown on the Preliminary Plan as may be required by SHA must be coordinated with M-NCPPC Staff and the Applicant and must be shown on the Certified Preliminary Plan;
 - b. Coolidge Avenue - 60 feet (Secondary Street) from MD 28 to Public Road "A". 50 feet (Tertiary Street) from Public Road "A" to the first proposed private road north of proposed Public Road "B". 30 feet from existing road centerline (half Tertiary Street) to the north of this point;
 - c. Bradford Road - 30 feet (Secondary Street) from centerline along Property frontage;
 - d. Public Road "A" - 70 feet (Primary Street) at MD 28, transitioning to 60 feet (Secondary Street) approaching proposed Private Road 1. 50 feet (Tertiary Street) from proposed Private Street 1 to Coolidge Avenue. (Note: Private Street 1 to become a public street per condition (12f), below);
 - e. Public Road "B" - 50 feet (Tertiary Street) from Coolidge Avenue to Property boundary at Bradford Road; and
 - f. Private Road 1 - 50 feet (Tertiary Street) public road right-of-way from Public Road "A" to Coolidge Avenue.
 - 13) Until adjacent development occurs and Bradford Road is improved to full public road standards, Public Road B must terminate as a temporary "hammer-head" turnaround with no access to Bradford Road. This design must be reflected on the Certified Preliminary Plan and future site plan. The development, as proposed on the Preliminary Plan dated April 30, 2009, must not have access to Bradford Road.
 - 14) The Applicant must construct the section of Coolidge Avenue between the proposed alley north of Private Road 1 and proposed Private Road 3 to a minimum width of 20 feet to permit two-way travel.
 - 15) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes except as otherwise noted on the Preliminary Plan.
 - 16) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.

- 17) 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.
- 18) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 13, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 19) The Applicant must comply with the conditions of the MDSHA letter dated May 7, 2009. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 20) The record plat(s) must reflect serialization and liber/folio reference for all TDRs utilized by the development.
- 21) 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.
- 22) Prior to approval of the Site Plan, the stormwater management pond currently shown within the dedicated right-of-way for Norbeck Avenue will need to either be moved out of the right-way or the right-of-way will need to be properly abandoned.

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 the Preliminary Plan substantially conforms to the recommendations of the Olney Master Plan to provide a small neighborhood type development with safe and convenient pedestrian access. Although this development only represents a portion of the overall Golden Bear Area, the Board is satisfied that it provides a reasonable mix of unit types at a density that fulfills the goals of the Olney Master Plan. The internal eight foot wide bikepath connection is provided along Public Road "A", Private Road 1 and Public Road "B" will ultimately provide a connection to the East Norbeck Local Park. With the recommended expansion of the proposed private local park, and other proposed open space areas, the Board believes that sufficient recreational and outdoor opportunities will exist for the future residents here. The Board advises that distinct neighborhoods shall be further refined at the time of Site Plan to ensure continued compliance with the Olney Master Plan.

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

The Application complies with the Local Area Transportation Review Policy criteria. Local intersection improvements are required as conditions of approval to be built to satisfy the LATR. The project is not subject to the Policy Area Mobility Review because the Application for subdivision was filed prior to January 1, 2007

The Board finds that all public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County 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 according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. The Application is not within a school moratorium area and is not subject to payment of a School Facilities Payment. Electrical and telecommunications services are also available to serve the Property.

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

The Board finds that the lots' size, shape, width and orientation is appropriate for the location of this subdivision given the recommendations of the Olney Master Plan including the recommended R-200/TDR zoning.

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

The predevelopment existing forest cover is 16.71 acres and the total forest removed as part of both previous and current development is 14.51 acres. The remaining 2.20 acres of forest will be retained and placed in Category I easements. Per Sec. 22A-12(f)(2)(B) of the forest conservation law, on-site forest retention must equal the applicable conservation threshold, or additional forest must be planted so that the combination of on-site forest retention and planting meets this threshold. For the Subject Property, the conservation threshold is 20%, or 6.0 acres. The proposed development meets this requirement by planting an additional 3.8 acres onsite. The additional 4.32 acres of forest

conservation requirements will be met off-site. The Board finds that the Preliminary Plan meets all the requirements of Chapter 22A, the Montgomery County Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved a stormwater management concept for the project on March 12, 2009, which includes: on-site channel protection measures via three detention ponds, on-site water quality control via construction of seven Montgomery County Sand Filters (MCFS's) and nonstructural methods and recharge via disconnection and other nonstructural elements. The Board finds that the Preliminary Plan meets all applicable stormwater management requirements.

6. *Resubdivision*

This Application represents the resubdivision of a portion of the Olney Master Plan area which was only recently rezoned to the R-200/TDR-7 zone. Since it is the first Application for development under this new zone in the area, there are no other adjacent or confronting properties (lots) where one could establish a resubdivision Neighborhood using the established criteria that the Planning Board has accepted for defining resubdivision Neighborhoods. Historically, the Board only compares proposed lots to existing recorded lots that are in the same zone and that have been developed under the same zoning standards. This Application is the first in this location under the R-200/TDR-7 zone and cannot be directly compared to any of the adjacent lots because none were developed under similar zones or standards. All other existing lots in this quadrant of Olney were platted under RE-2 zoning standards. Leisure World, to the south, was developed under the Planned Retirement Community (PRC) zone standards which also carries an entirely different set of zoning requirements.

For this Application, the Planning Board recognizes that a Neighborhood for which to analyze this resubdivision does not exist, and, therefore, the Board's evaluation of the resubdivision criteria focuses on the Zoning Ordinance standards that apply to the Property and to the appropriateness of the lots with respect to their location. For this Application, the proposed lots comply with the minimum standards established within the Zoning Ordinance for this zone (TDR-7 using the Planned Development (PD) standards) and the Preliminary Plan

compiles with the findings of a standard subdivision as outlined in Section 50-29(A) of the Subdivision Regulations. The size, shape, width and orientation of the proposed lots, as discussed in the sections above, are appropriate for the location of this subdivision given the language in the Master Plan and for the residential uses proposed. The Board therefore, finds that this Preliminary Plan meets the resubdivision criteria by complying with the standards of the R200/TDR7 zone and having lots with size, shape, width, and orientation that are appropriate for the location of the subdivision.

7. Waiver of the Allowed Unit Mix

Section 59-C-1.395 of the Zoning Ordinance specifies that TDR development in the range of 6 to 10 units per acre is required to provide a minimum of 15% of the units as one-family detached, and limits multi-family units to less than 35%. The minimum/maximum percentages can be waived by the Planning Board if the "development is more desirable for environmental reasons or is more compatible with adjacent development..."

The Applicant requested that the Board make a finding to waive the minimum percentage of one-family detached units from 15% to 8.8% and increase the number of multi-family from 35% to 55%. This request is based on a finding that because of compatibility, additional multi-family units are appropriate given the nature of the site. The Applicant argued that the Olney Master Plan envisioned the highest densities within the Golden Bear Area, to the west, along the Georgia Avenue Corridor Park and Ride lot and future Georgia Avenue busway. Densities to the east would transition from higher to lower. Had the entire Golden Bear Area developed as a single piece, one could argue that the greatest concentration of multi-family units would have been located on the Greenbriar at Norbeck Property in the location shown on the Preliminary Plan. Yet, without a compatibility finding by the Planning Board, the Applicant would be unable to reach the types of density that could be expected on this Property because of the limitations that the Zoning Ordinance places on multi-family units. Further, the Applicant argued that as densities transition to the east, the one family homes that exist in the Golden Bear Area justify locating proposed attached and detached units in the eastern portions of the Subject Property.

Staff supported the waiver, believing that the transition of uses is more compatible with adjacent development and existing one-family detached homes. The transition of higher density multi-family uses near Georgia Avenue creates a sensible transition toward Bradford Road to the east. The remaining pockets of attached and detached uses create a step-down approach to the surrounding one-family neighborhoods to the east. Staff also believed that from a compatibility stand point, if properties to the east ever develop, the majority of the

uses will be one-family attached and detached uses, making it more practical to accommodate a greater percentage of multi-family uses on the Subject Property. Finally, the increased percentage of multi-family units is appropriate given that the height proposed for each building is allowed to go to four stories. Based on height considerations, multi-family is most appropriate in the westernmost portions of the Property.

The Planning Board concurred with the Staff rationale for allowing a waiver of the unit mix. Although the Board was concerned about how distinct neighborhoods could be better defined at the time of Site Plan, they generally supported the density and unit mix shown on the Preliminary Plan. The Board agreed that there would be no less than 8.8% one family detached units and no more than 55% of the units as multi-family.

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; 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 AUG - 6 2009 (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 Commissioner Presley, seconded by Commissioner Alfandre, with Commissioners Hanson, Alfandre, and Presley voting in favor of the

motion, and with Commissioner Cryor absent and one Planning Board position vacant, at its regular meeting held on Thursday, July 23, 2009, in Silver Spring, Maryland.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

Appendix B



DEPARTMENT OF PERMITTING SERVICES

Carla Reid
Director

Isiah Leggett
County Executive

January 31, 2011

Mr. Taghi Behzadi
Loiederman Soltesz Associates, Inc.
2 Research Place, Suite 100
Rockville, MD 20850

Re: **Revised Stormwater Management CONCEPT**
Request for Greenbriar at Norbeck Crossing
Preliminary Plan #: 120060610
SM File #: 222339
Tract Size/Zone: 30.8 acres / R-200 / TDR-7
Total Concept Area: 30.8 acres
Lots/Block: N/A
Parcel(s): N457, N512, N542, N591, N700
Watershed: Northwest Branch

Dear Mr. Behzadi:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept revision for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via construction of three detention ponds; on-site water quality control and onsite recharge via construction of five Montgomery County Sand Filters, three bio filters, and other nonstructural measures including rain garden, bioswales, dry wells and recharge trenches.

This project received an administrative waiver in accordance with Section 19-21A of the Montgomery County Code on November 22, 2010. This approval reconfirmed the previous stormwater management concept letter dated March 12, 2009.

The current revision is an attempt to incorporate as many ESD stormwater management techniques as practical into the previously approved stormwater conceptual plan, which was approved on March 12, 2009. **This approval supersedes the approval granted on March 12, 2009 and is consistent with that previously approved conceptual plan, with the addition of certain ESD stormwater management practices.**

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. Proposed SWM #1 will be designed to provide Channel Protection, and Maximum Flood Protection (100-yr).


5. Proposed SWM #2 will be designed to provide Channel Protection and Overbank Flood Protection (10-yr) since it drains to an existing MSHA facility.
6. Proposed SWM #3 is presented with two possible outfall locations. Both proposed outfall locations are acceptable to MCDPS.
7. Because this project received a waiver of the open section roadway requirement, 125% of the required recharge must be provided across the project area.
8. The existing stormwater facilities at the Golden Bear Golf Driving Range will be abandoned and removed as part of this project. The stormwater management easements and covenants covering these facilities must be formally abandoned.
9. Areas of the plan labeled as "gravel trench" appear to be buried recharge/infiltration trenches. These are not acceptable, as they do not meet the requirements for Dry Wells, nor do they meet the requirements for Infiltration Trenches.
10. With the exception of "WQV Pond 1B", all sand filters must underdrain to channel protection facilities.
11. Maximum allowable drainage area to a single dry well shall be 1,000 square feet.

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:tlm

cc: C. Conlon
 M. Pfefferle
 SM File # 222339

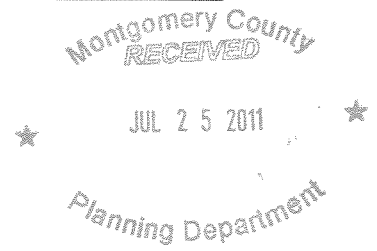
QN - ON; Acres: 30.8
 QL - ON; Acres: 30.8
 Recharge is provided



SP

FIRE MARSHAL COMMENTS

DATE: 07-Jul-11
TO: Keely Laretti
Loiederman Soltesz Associates, Inc
FROM: Marie LaBaw
RE: Greenbriar at Norbeck Crossing
120060610 820110040



PLAN APPROVED

1. Review based only upon information contained on the plan submitted 07-Jul-11 .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.

***** FIRE LANE ORDER MUST BE FINALIZED AND PROCESSED PRIOR TO OCCUPANCY OF FIRST UNIT ON SITE *****

Pereira, Sandra

From: Navid, Sarah [Sarah.Navid@montgomerycountymd.gov]
Sent: Thursday, May 26, 2011 1:16 PM
To: Pereira, Sandra
Cc: Emery, Henry; Linkletter, Brett; Keely Lauretti, RLA; dsilvestri@lsassociates.net; Leck, Gregory
Subject: Greenbrier at Norbeck Crossing - Site Plan #820110040
Attachments: DRC 1-18-11 Greenbrier at Norbeck Crossingl.doc

Hi Sandra,

I have met with staff of Loiderman Associates and we have worked through all of my DRC comments of January 18, 2011 (see attached). The only unresolved design issue is the street/right of way frontage along Road B adjacent to townhouse lots 1-19. We would like to keep the sidewalk in the location shown set back from the street. I suggested that LSA staff meet with you to decide how to handle the space separating the driveways and the area behind the sidewalk in terms of your preference on the "green" issues – grass, street trees, other planting. I also suggested that the driveways might be narrowed to 17' (two 8.5' parking spaces) to get a little more separation between them. Ultimately, Brett Linkletter will need to approve any street tree proposal.

Also, just a reminder, the parking space concept plan is informational only and should not be shown on the actual site plan. No parking spaces are to be actually marked on the pavement. The parking concept plan will go along with the Sign and Marking Plan that will be developed at the permit stage for DOT review and approval.

Otherwise, we are OK with the plan.

Sarah R. Navid

***Department of Permitting Services
255 Rockville Pike, Rockville, MD 20850***

240-777-6304

Pereira, Sandra

From: Eric Waltman <EWaltman@sha.state.md.us>
Sent: Wednesday, November 02, 2011 9:12 AM
To: 'Ed Wallington'
Cc: Pereira, Sandra; Keely Lauretti, RLA
Subject: RE: Norbeck

Follow Up Flag: Follow up
Flag Status: Completed

Ed, thank you for submitting revised plans. At this point, SHA's concerns have been adequately addressed and we give conceptual approval with the understanding that LSA will address final details as part of the formal Access Permit application process.

Eric Waltman
Area Engineer - Access Management Division State Highway Administration
707 N. Calvert St., Mail Stop C-302
Baltimore, Maryland 21202
P: (410) 545-5597
F: (410) 209-5026

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

From: Ed Wallington [<mailto:ewallington@lsassociates.net>]
Sent: Tuesday, November 01, 2011 5:28 PM
To: Eric Waltman
Cc: Sandra.Pereira@montgomeryplanning.org; Keely Lauretti, RLA
Subject: FW: Norbeck

Eric, copy of revised plans showing access points on Route 28 as requested

At Coolidge, we revised the paving taper to be full width pavement as you requested

At street A, we added the anticipated traffic flow movements as you requested, at both the interim(existing Norbeck) and ultimate(future 28 improvement) intersections

If you could email me and Sandra indicating MSHA conceptual approval it would be appreciated, with the understanding that LSA will address final details when we file a formal access permit to MSHA, which is the customary practice. We need your approval to schedule a planning board date

Thank You

Sandra, we will be forwarding an updated set of plans to your attention in the near future. How many sets would you like ??

Ed Wallington
Vice President Land Development
Loiederman Soltesz Associates, Inc.
Engineering | Planning | Surveying | Environmental Sciences



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

August 19, 2011

Ms. Sandra Pereira
Area 3 Team
Maryland-National Capital Park & Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910

RE: Greenbriar at Norbeck Crossing
Site Plan No. 820110040

Dear Ms. Pereira:

The Department of Housing and Community Affairs (DHCA) has reviewed the applicant's revisions to the above-referenced site plan application. DHCA has the following additional comments:

- The MPDUs are still shaded the same way as the market units and are therefore difficult to identify. Therefore, please provide an MPDU exhibit showing MPDU locations.
- Although three phases are referred to in General Note 11 on Sheet 1, only two phases are apparent on Sheet 2, and these are difficult to make out. Please identify the phases more clearly and correct General Note 11 if necessary.

Otherwise the site plan is responsive to DHCA's DRC comments, and DHCA recommends Approval.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: Keely Lauretti, LSA

S:\Files\FY2012\Housing\MPDU\Lisa Schwartz\Greenbriar at Norbeck Letter 8-19-11.doc

Division of Housing and Code Enforcement

Code Enforcement	Moderately Priced Dwelling Unit	Housing Development & Loan Programs	Landlord-Tenant Affairs	Licensing & Registration Unit
FAX 240-777-3701	FAX 240-777-3709	FAX 240-777-3691	FAX 240-777-3691	240-777-3666 FAX 240-777-3699

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

Pereira, Sandra

From: Schwartz, Lisa <Lisa.Schwartz@montgomerycountymd.gov>
Sent: Wednesday, February 08, 2012 10:23 AM
To: Keely Lauretti, RLA
Cc: Pereira, Sandra
Subject: RE: Greenbriar - MPDU distribution

Keely/Sandra,

The revised MPDU bedroom mix that Keely has provided is correct – please note that the one- and two-bedroom units are multi-family and the three-bedroom units are single-family townhouses. The proposed note regarding the distribution (locations) of the multi-family MPDUs was suggested by us and is acceptable.

We are still interested in having a condition that the multi-family units will all be part of a single condominium association.

Lisa

Lisa S. Schwartz
Senior Planning Specialist
Montgomery County Department of Housing and Community Affairs
100 Maryland Ave., 4th Floor
Rockville, MD 20850
(240) 777-3786 - office (240) 777-3709 - fax
lisa.schwartz@montgomerycountymd.gov
www.montgomerycountymd.gov/mpdu

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

From: Keely Lauretti, RLA [mailto:klauretti@lsassociates.net]
Sent: Tuesday, February 07, 2012 4:30 PM
To: Schwartz, Lisa
Subject: FW: Greenbriar - MPDU distribution

Lisa,

Can you please review the email I sent Sandra and let her know if revisions to the MPDU mix and distribution are acceptable? Thank you for your help on finalizing this site plan.

Keely

From: Pereira, Sandra [mailto:Sandra.Pereira@montgomeryplanning.org]
Sent: Tuesday, February 07, 2012 4:28 PM
To: Keely Lauretti, RLA
Cc: Schwartz, Lisa; bknauff@ryland.com; Ed Wallington; Michelle Gonsalves
Subject: RE: Greenbriar - MPDU distribution

Keely,

I'll need to hear from DHCA that the proposed revisions to the MPDU mix and distribution are acceptable.

Thanks,
Sandra

Pereira, Sandra

From: Schwartz, Lisa <Lisa.Schwartz@montgomerycountymd.gov>
Sent: Wednesday, February 08, 2012 2:36 PM
To: Harris, Robert R.
Cc: Pereira, Sandra; Keely Lauretti, RLA; Ed Wallington; bknauff@ryland.com; Anderson, Christopher
Subject: RE: Greenbriar - MPDU distribution - DCHA approval email

Bob,

Thank you for taking the time to review with me Ryland's concerns regarding committing at this stage to a specific number of condominium associations for Greenbriar at Norbeck Crossing, particularly given the warranty issue. I have discussed these concerns with my supervisor, Christopher Anderson, and we will not press the issue of a site plan condition. However, can you please send a letter to Chris (with a copy to me) stating that, at the time of the Agreement to Build, Ryland will make every effort to limit the number of condominium associations in the development to no more than 3?

Thanks,

Lisa S. Schwartz
Senior Planning Specialist
Montgomery County Department of Housing and Community Affairs
100 Maryland Ave., 4th Floor
Rockville, MD 20850
(240) 777-3786 - office (240) 777-3709 - fax
lisa.schwartz@montgomerycountymd.gov
www.montgomerycountymd.gov/mpdu

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

From: Harris, Robert R. [mailto:rrharris@lerchearly.com]
Sent: Wednesday, February 08, 2012 1:21 PM
To: Schwartz, Lisa
Subject: FW: Greenbriar - MPDU distribution - DCHA approval email

--

Robert R. Harris - Attorney
Lerch, Early & Brewer, Chtd. *ideas that work*
3 Bethesda Metro Center - Suite 460 - Bethesda, MD 20814
Tel: (301) 841-3826 Fax: (301) 347-1779 Email: rrharris@lerchearly.com
Bio: <http://www.lerchearly.com/team/robert-r-harris>
Vcard: <http://www.lerchearly.com/team/robert-r-harris-vcard>

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Pereira, Sandra

From: Demler, Scott <sDemler@wsscwater.com>
Sent: Friday, October 14, 2011 9:57 AM
To: Pereira, Sandra
Cc: bknauff@ryland.com; Ed Wallington
Subject: Greenbriar at Norbeck Crossing Site Plan #820110040

Follow Up Flag: Follow up
Flag Status: Completed

Sandra,

In regard to the Greenbriar at Norbeck Crossing Project (Site Plan #820110040) please be advised that the applicant and engineer have adequately addressed WSSC's earlier Development Review Committee comments. All remaining WSSC-related items will be evaluated and resolved at the time of detailed engineering plan review. Contact me immediately if you have any comments or questions. Thanks

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

Appendix C



ideas that work

Attorneys at Law

3 Bethesda Metro Center, Suite 460

Bethesda, MD 20814-5367

www.lerchearly.com

Robert R. Harris

Tel. (301) 841-3826

Fax (301) 347-1779

rrharris@lerchearly.com

February 22, 2012

VIA FIRST CLASS MAIL AND E-MAIL

Mr. John Carter

Ms. Sandra Pereira

Maryland-National Capital Park and Planning Commission

8787 Georgia Avenue

Silver Spring, MD 20910

Re: Greenbriar at Norbeck Crossing (Site Plan 820110040) – TDR Issue

Dear John and Sandra:

I am writing to you on behalf of the Applicant in this proceeding. Thank you for taking time over the last week to discuss with me the methodology for calculating TDRs for this project. Based on those discussions, I understand Staff will be recommending that the number of required TDRs be 103, based upon a conclusion that the maximum number of TDRs for the property is 154 and that the general requirement for a minimum of two-thirds of the required number to be included (Section 59-C-1.393(b)) which would result in a net number of 103 after rounding up. As we have discussed, however, the language in the Zoning Ordinance does not explain what should be done in situations where multi-family units are included and the requirement for TDRs is reduced under Section 59-C-1.391 to 1 TDR for 2 multi-family units (the “multi-family adjustment”). As a result, the purpose of this letter is to request either an interpretation by the Planning Board that the required number of TDRs for this project, based upon the multi-family adjustment, is 96 or, alternatively, a waiver of the two-thirds requirement pursuant to Section 59-C-1.393(b).

Before offering my analysis of this issue, I note that the issue of TDRs was not addressed specifically at the time of Preliminary Plan. Although the Preliminary Plan application generally reflected the number of 103 TDRs for the project, it did not address the multi-family adjustment issue and the conditions of approval for the Preliminary Plan, (see Condition No. 2 of Preliminary Plan Resolution, No. 09-62 dated August 6, 2009), indicated that the final number of TDRs would be determined at Site Plan. Additionally, the subsequent Certified Preliminary Plan submitted indicated that the number of TDRs being proposed was 96 based on the multi-family adjustment.

Turning then to the methodology for calculating TDRs, and the requirement for a minimum of two-thirds of the required number, I first note that in Section 59-C-1.391 limits the maximum density in TDR receiving sites to the density recommended in the applicable TDR zone and requires conformance with the guidelines contained in the applicable master plan. That same section then prescribes the multi-family adjustment. The increase in density above the base density (in this case 61 units) is based on a ratio of one single family dwelling unit for each TDR and two multi-family dwelling units for each TDR (not including MPDUs or MPDU bonus units). In this particular case, the Olney Master Plan recommends a TDR density of 7 units per acre and a mix of units including multi-family units. The Preliminary Plan sought the full permitted density under the TDR-7 designation (262 units, including MPDUs), including 144 multi-family units citing compatibility and the inability to achieve the Master Plan vision without this number of multi-family units. As a result, we believe the number of TDRs

Mr. John Carter
Ms. Sandra Pereira
February 22, 2012
Page 2

permitted for this project is 96. A calculation of 154 TDRs without including the multi-family adjustment, resulting in a two-thirds requirement of 103 TDRs, by contrast, only would apply if the multi-family units were not included. Additionally, given the required inclusion of single family detached units in this project, as well as site design features, and requirements for forest conservation, open space and stormwater management, the Master Plan density would not be possible without the full number of multi-family units that has been included because those units necessarily take up considerably less land than would an equivalent number of single family units. Based on the recommendations in the Master Plan and these environmental features of the site, the number and mix of units being proposed is more desirable than alternatives.

Using the multi-family TDR calculation called for in the Zoning Ordinance, we believe the number of TDRs required for the site is 96 and we are proposing to use that full number. Stated another way, given that the applicant is seeking the full density recommended in the Master Plan and is including a multi-family component, any requirement to purchase more than 96 TDRs for the project would require the applicant to purchase TDRs that cannot be used. Although the Zoning Ordinance is not entirely clear, we believe the intent of the two-thirds requirement is to discourage development applications where an applicant proposes measurably fewer units than would be allowed and thereby avoids purchasing an anticipated number of TDRs for the project. This is not the case here. The applicant is seeking the full density permitted under the Zone and the Master Plan and we believe the 96 TDRs required for that density and mix is the designated number.

Alternatively, to the extent the Planning Board concludes that Section 59-C-1.393 of the Zoning Ordinance otherwise requires a minimum of 103 TDRs under the two-thirds requirement, we ask for a waiver of seven TDRs under Section 59-C-1.393(b) with the number set at 96 per Condition No. 2 of the Preliminary Plan resolution, for the reasons discussed above.

Cordially yours,



Robert R. Harris

cc: David Rettew, Esq.
Mr. Brian Knauf
Mr. Ed Wallington