



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

MCPB No. 16-138  
Preliminary Plan No. 120170060  
**Bradford's Landing**  
Date of Hearing: December 15, 2016

JAN 13 2017

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on August 29, 2016, Craig Kazanjan ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create 244 lots on 28.3 acres of land in the R-200/TDR-7 zone, located on the north side of Norbeck Road (MD 28), 1,000 feet east of the Coolidge Avenue intersection ("Subject Property"), in the Olney Policy Area and 2005 Olney Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120170060, Bradford's Landing ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 2, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 15, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170060 to create 244 lots on the Subject Property, subject to the following conditions:<sup>1</sup>

<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Approved as to  
Legal Sufficiency:

*Christina Jones* 1/4/17

8787 Georgia Avenue, Suite 100, Rockville, MD 20850 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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- 1) This Preliminary Plan is limited to 244 lots for 222 one-family attached dwelling units and 22 one-family detached dwelling units, including a minimum of 15 percent MPDUs.
  - 2) Include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
  - 3) The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan ("PFCP") No. 120170060, approved as part of this Preliminary Plan, subject to:
    - a. The Applicant must submit and obtain Staff approval of a Final Forest Conservation Plan ("FFCP") prior to Certified Site Plan.
    - b. The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
    - c. The Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved forest bank for the total afforestation/reforestation off-site requirement prior to any clearing, grading or demolition on the project site.
    - d. The Applicant must provide financial surety to the M-NCPPC Planning Department for the required new forest planting as determined by the FFCP prior to the start of any demolition, clearing, or grading on the Property.
    - e. The Applicant must submit a two-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
    - f. The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements as specified on the approved FFCP or as directed by the M-NCPPC Forest Conservation Inspector at the time of installation of the reforestation planting material.
    - g. Reforestation plantings that are located outside the limits of disturbance must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the
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- first planting season following the stabilization of the applicable disturbed area.
- h. The limits of disturbance ("LOD") shown on the Final Sediment Control Plan must be consistent with the final LOD shown on the approved FFCP.
  - i. The Applicant must comply with all required M-NCPPC site inspections as specified in section 22A.00.01.10 of the Forest Conservation Regulations ("FCR").
  - j. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- 4) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 14, 2016, and amended letter dated November 23, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
  - 5) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
  - 6) The Planning Board accepts the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated November 23, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
  - 7) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA, including any required improvements along the Norbeck Road frontage including those that may result from the corridor planning project No. MO 8665170, Norbeck Road/Spencerville Road (MD 198) Corridor Planning Study.
  - 8) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated November 18, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 9) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Fire Code Enforcement Section in its letter dated November 14, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
- 10) The Applicant must dedicate all public road rights-of-way to the full width mandated by the Olney Master Plan or as otherwise designated on the Preliminary Plan.
- 11) The Applicant must dedicate sufficient right-of-way for the master-planned 75 feet from the centerline of Norbeck Road along their property's frontage.
- 12) The Applicant must dedicate and construct all road improvements within the public rights-of-way as shown on the certified Preliminary Plan on Sheets 3 and 3a.
- 13) Prior to Site Plan approval, the Applicant must establish a development trigger for the construction of a 10-foot wide shared use path along the property's frontage on Norbeck Road.
- 14) The Applicant must provide Private Road A and alleys, as shown on Sheet 3a of the Certified Preliminary Plan, subject to the following conditions: Private Road A and alleys must be shown on separate parcels that are subject to an approved restrictive covenant ("Covenant"), to be recorded in the Montgomery County Land Records with the Liber and Folio referenced on the record plat.
  - a. Private Road A and alleys include any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Roads"), all of which must be included in a long-term maintenance plan along with the Private Roads.
  - b. The Covenant must be approved by the M-NCPPC Office of General Counsel and must include at a minimum:
    - i. That Applicant is fully responsible for the design, construction, operation maintenance and repair of the Private Roads, including other necessary improvements as shown within the delineated area in accordance with the criteria set forth in the Preliminary Plan and any subsequent Site Plan;
    - ii. Utilities located within the Private Roads area must be in an easement approved by the applicable utility provider, or be provided as private connections;

- iii. That the Private Roads must remain open for pedestrians and both motorized and non-motorized vehicles at all times as part of the project common area, except for temporary closures as permitted by MCDPS and approved by the Montgomery County Fire Marshall;
  - iv. That Applicant must properly maintain all the improvements within the Private Roads area in good condition and repair in accordance with applicable laws and regulations at all times. At a minimum, Applicant is obligated to remove snow and ice, and provide routine and extraordinary repairs, maintenance and replacement to keep the Private Roads open and in good repair for safe use; and
  - v. That any subsequent amendment is subject to approval by the M-NCPPC Office of General Counsel.
- c. Private Road A must be designed and constructed according to the Montgomery County Road Code Standard MC-2001.01 per the modified typical section specified by the subsequent Site Plan. Private alleys must be designed and constructed according to the Montgomery County Road Code Standard MC-200.1 per the modified typical section specified by the subsequent Site Plan.
  - d. Prior to recordation of the plat, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that Private Road A has been designed in accordance with the paving detail and cross-section specifications as shown on the Preliminary Plan, and further certifying that the road has been designed in accordance with sound engineering principles for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access, and parking ("Certified Design").
  - e. The Private Roads must meet all necessary requirements for emergency access, egress and apparatus as determined by the Montgomery County Fire Marshal.
- 15) The Applicant must construct an off-site, eight-foot-wide hard surface trail connection on Montgomery County owned property between the northeastern corner of the Subject Property, off Proposed Public Road A, and the existing pedestrian bridge at East Norbeck Local Park, subject to the granting of easement, license or right of entry.
  - 16) Prior to Site Plan approval, the Applicant must study whether providing pedestrian signal heads and marked crosswalk(s) are warranted to provide adequate and safe pedestrian crossing of Norbeck Road at the intersection with Norbeck Boulevard, and seek SHA's approval. If approved, the Applicant must install the pedestrian signal heads and crosswalk(s).

- 17) Prior to Site Plan approval, the Applicant must demonstrate, through copies of sent and received correspondence, a good faith effort to acquire the necessary right-of-way or public use easements from the adjacent property owners along Norbeck Road to extend the shared-use path off-site to the east and connect to the East Norbeck Local Park and to the west to connect with the existing shared-use path along the Greenbriar at Norbeck Crossing frontage. If all the necessary right-of-way or public use easements are obtained prior to Site Plan approval, the Applicant must construct these paved off-site pedestrian connections subject to SHA approval.
- 18) The record plat(s) must show necessary easements.
- 19) The record plat must reflect a common use and access easement for the benefit of the public over all trails, sidewalks and paths not included in a public right-of-way or private street parcel. The easement must be created by a deed approved by the M-NCPPC Office of the General Counsel and recorded in the Montgomery County Land Records.
- 20) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 21) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant's recorded HOA Documents incorporate the Covenant by reference.
- 22) The record plat must show the abandonment of the existing public rights-of-way for the segments of Bradford Road, Norbeck Avenue, and Coolidge Avenue consistent with the areas being abandoned by AB753 and AB754 if approved by the County Council.
- 23) The record plat(s) must reflect serialization and liber/folio reference for all TDRs utilized by the development.
- 24) Final number of MPDUs/TDRs to be determined at the time of site plan.
- 25) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.
- 26) The Subject Property is within the Rockville School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the middle school level at the single-family detached, and single-family attached unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable.

The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, and any amendments to this chapter.

- 27) The Applicant must make a Transportation Policy Area Review ("TPAR") Mitigation Payment for Transit, equal to 25 percent of the General District Transportation Impact Tax to MCPDS. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, and any amendments to this chapter.
- 28) No clearing or grading of the site, or recording of plats prior to certified site plan approval.
- 29) 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.
- 30) The certified Preliminary Plan must contain the following note:  
*"Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the Site Plan zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."*
- 31) In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width, or alignment, the Applicant may be required to obtain approval of a Preliminary Plan amendment prior to certification of the site plan.
- 32) Prior to Site Plan approval, the Applicant must address the following items:
  - a. Provide an additional lead-in sidewalk from Norbeck Road along the western property boundary.
  - b. Assure all internal pedestrian connections are ADA-compliant with handicap ramps and/or at-grade crossings.
  - c. Provide invert-U (or equivalent as approved by the Planning Board Staff) bike racks in the community recreation areas as determined by Staff.
  - d. Identify the location and construction materials of the noise mitigation techniques to attenuate current and/or proposed noise levels to no more than 60 dBA Ldn for the outdoor backyard area of homes and areas of common outdoor activity.

- e. Outline how the large, centrally located open space area together with the adjoining Village Green at Greenbriar at Norbeck Crossing will function as one large community green in terms of layout, amenities and future maintenance.
- 33) Prior to Certified Preliminary Plan, the Applicant must provide a lotting diagram for the overall preliminary plan.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

*1. The Preliminary Plan substantially conforms to the Master Plan.*

The Preliminary Plan substantially conforms to the 2005 Olney Master Plan. The Master Plan makes general recommendations for the Southeast Olney quadrant but makes specific recommendations for the Subject Property since it is severed from the quadrant by the ICC. The Master Plan identifies the properties within the area south of the ICC as the "Golden Bear Area" (p.34). The Master Plan identifies this area as appropriate for higher densities given its proximity to transit, its lack of environmental and historic resources, and the availability of public sewer. The Master Plan recommends the R-200/TDR zone to support a mix of one family detached, attached and multi-family units with a maximum density of 7 units per acre. The Master Plan supports TDR's to achieve these density levels.

The Master Plan envisions redevelopment of this area to create a "small neighborhood" with a mix of housing, significant open space, a public or private park and a buffer along the ICC and the Georgia Avenue/Norbeck Road interchange. Safe and convenient pedestrian access to the Georgia Avenue busway and neighborhood shopping centers is also encouraged. Specifically, the Master Plan recommends an internal pathway linkage to the East Norbeck Local Park with appropriate open space and play areas.

The Master Plan also encourages exploring the feasibility of a "dedicated" local park within the overall Golden Bear Area to provide open space and play areas (p.34). Because East Norbeck Local Park is less than one-half mile distance from the Subject Property and was recently renovated to include ball fields, a soccer field, tennis courts, basketball courts, picnic areas, and natural surface trails, Parks Staff has determined that additional park dedication within this development is not desirable. Instead, the Planning Board approved the large, centrally located open space that abuts the existing Village Green on the adjoining development to the

west to be privately owned and maintained. The combined open space areas amount to nearly three acres and will accommodate a wide range of recreation opportunities, which will be fully evaluated at the time of Site Plan review.

Overall, the Preliminary Plan substantially conforms to the vision of the Olney Master Plan to provide a neighborhood type development for most of the Golden Bear Area. The assemblage of properties included in this application enables the extension of the road network and development patterns approved in the Greenbriar at Norbeck Crossing at a density that fulfills the goals of the Master Plan. Safe and convenient pedestrian and bicycle access will be provided through internal sidewalks and shared use paths. An internal eight-foot wide shared use path connection will be built from the existing terminus at Doc Berlin Drive, to Bradford Road to Proposed Public Road A and it will be extended offsite through the adjoining County Property to the existing pedestrian bridge at East Norbeck Local Park. M-NCPPC Department of Parks is coordinating with the County to obtain an easement or license for the construction of the offsite trail extension.

The private open space area approved will nearly double the size of the existing private park created by Greenbriar at Norbeck Crossing and create a very sizeable amenity for the entire Golden Bear Area. To better implement this vision, the Planning Board recommends that the Applicant coordinate with the Greenbriar development on the design, amenities and maintenance of the private park. The private park combined with other open space areas approved will provide sufficient recreational and outdoor opportunities for the future residents.

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

#### Master Planned Roads and Transportation Facilities

The Subject Property is located on the north side of Norbeck Road, approximately 1,000 feet east of the intersection with Coolidge Avenue, south of the Intercounty Connector (MD 200). The development provides one new vehicular access point to Norbeck Road at Proposed Public Street "A". Other access points to Norbeck Road are achieved through internal road connections to the Greenbriar at Norbeck Crossing development.

Norbeck Road is identified in the Master Plan as a four-lane divided major highway, M-18, with a recommended 150-foot wide right-of-way and a dual bikeway (signed shared roadway on the north side and an on-road bikeway), DB-12. The *Countywide Bikeways Functional Master Plan* recommends the same dual bikeway, DB-12. The existing right-of-way is between 110-153 feet wide. As conditioned, the Applicant will dedicate sufficient right-of-way to achieve the required 75 feet from the centerline along their property's frontage. Road improvements are not being

required because of the ongoing Norbeck Road/Spencerville Road (MD 198) Corridor Study listed below.

Area Transportation Projects

The nearby on-going transportation roadway projects are as follows:

- SHA Project MO8665170 for the Norbeck Road/Spencerville Road (MD 198) Corridor Study that is in project planning now with only Planning funding through FY 2017. The applicable plan sheet along the property's frontage is Segment A, Alternative 3.
- SHA Contract No. MO1685187 for providing double left turn lanes for northbound Georgia Avenue to westbound Norbeck Road that are in design with an advertisement date of January 31, 2017 and a notice to proceed on May 15, 2017.
- SHA Project MO8525171 for the construction of an interchange at Georgia Avenue/Norbeck Road. The project is currently in preliminary engineering phase. However, no CIP funding has been allocated for the next two phases – right-of-way and construction funding.

Abandonments No. AB753 & AB754

Section 49-63(c)(1) of the County Code permits the County Council to abandon a right-of-way if it finds that it "is no longer necessary for present public use or anticipated public use in the foreseeable future." Abandonment Cases No. AB753 & AB754 were filed by the Applicant for the abandonment of existing segments of Bradford Road, Norbeck Avenue, and Coolidge Avenue that will no longer be needed for public use as shown on the Preliminary Plan. A public hearing was held on the abandonment request on December 7, 2016 in the Executive Office Building, but the record remains open for the Planning Board's recommendations

The Planning Board recommends granting of the abandonment of portions of Norbeck Avenue, Coolidge Avenue and Bradford Road, none of which are listed as master planned streets. Consistent with the road network shown on the Preliminary Plan, these existing rights-of-way are no longer needed for public use. They will be replaced by a hierarchy of roads that connect to the existing development to the west and Norbeck Road. Abandoning these road segments will enable a more orderly and comprehensive development of the Subject Property in conjunction with the Greenbriar at Norbeck Crossing development as envisioned by the Master Plan. The Montgomery County Council will make the final decision regarding the abandonments, prior to site plan approval. As part of the approval of this Preliminary Plan, the Planning Board recommends approval of Abandonment Cases No. AB753 & AB754 to the County Executive.

The approved internal roadways are as follows:

Public Streets

The Preliminary Plan creates a network of public streets that connects to and extends the current public road network that was approved with the Greenbriar at Norbeck Crossing. Public Street "A", Bradford Road, Doc Berlin Drive, Clara Downey Avenue are not listed in the master plan, but will have the following residential streets cross-sections:

1. The north-south segment of Public Street "A" is a secondary residential street with a 60-foot wide right-of-way that widens to 70 feet approaching Norbeck Road and the following:
  - An 8-foot wide bike path on the west side between Norbeck Road and Clara Downey Avenue.
  - A 5-foot wide sidewalk on the east side and on the west side between Clara Downey Avenue and the east-west segment of Public Street "A".
  - Green panels on both sides.
2. North-south Bradford Road is a tertiary residential street with a 50-foot, 44.71-foot, and 44-foot wide rights-of-way with an 8-foot wide bike path on the east side, a 5-foot wide sidewalk on the west side, and green panels on both sides.
3. The east-west segment of Public Street "A" is a tertiary residential street with a 50-foot wide right-of-way. Between the north-south segment of Public Street "A" and Bradford Road with an 8-foot wide bike path on the north side, a 5-foot wide sidewalk on the south side, and green panels on both sides.
4. East-west Doc Berlin Drive is a tertiary residential street with a 50-foot wide right-of-way with 5-foot wide sidewalks and green panels on both sides. Doc Berlin Road connects to the adjacent Greenbriar at Norbeck Crossing development to the west.
5. East-west Clara Downey Avenue is a tertiary residential street with a 50-foot wide right-of-way with an 8-foot wide bike path on the south side, a 5-foot wide sidewalk on the north side, and green panels on both sides. Clara Downey Avenue terminates at the western property line until the adjacent property redevelops.

Private Internal Roadways

6. The east-west segment of Private Street "A" is a reduced tertiary residential street with a 44-foot wide right-of-way with 5-foot wide sidewalks and green panels on both sides.

7. Coolidge Avenue is a reduced tertiary residential street with a 50-foot wide right-of-way with 5-foot wide sidewalks and green panels on both sides
8. Private Alleys "A", "B", "C", and "D" are 20-foot wide paved alleys with no sidewalks.
9. The other internal streets are private modified tertiary residential streets with 44-foot wide rights-of-way and 5-foot wide sidewalks.

#### Pedestrian and Bicycle Facilities

Along the property frontage of Norbeck Road, there are no sidewalks on both sides. The Preliminary Plan provides a 10-foot-wide shared-use path with a green panel. All internal streets have 8-foot wide shared use paths or 5-foot wide sidewalks with green panels. The Applicant must provide and show the internal pedestrian connections with ADA-compliant features (i.e., handicap ramps and/or at-grade crossings) on the certified preliminary plan.

At site plan review, the Applicant must provide invert-U (or equivalent as approved by the Planning Board Staff) bike racks in the community recreation areas. The Applicant is providing the required 10-foot wide shared-use path along Norbeck Road, and an 8-foot wide shared-use path through the site and County's property between the East Norbeck Local Park and the Greenbriar at Norbeck Crossing development.

At the Public Hearing, the Planning Board and members of the community raised concerns about unsafe pedestrian access and circulation on Norbeck Road due to the lack of sidewalks or gaps in the existing sidewalk system. As a follow-up, the Planning Board wrote a letter to MDSHA and MCDOT requesting them to evaluate this area to determine if funding sources are available to install the missing sidewalk links, with the north side of Norbeck Road being the priority if the developer does not succeed in acquiring land or permission of the intervening property owners. The Planning Board understands that there is currently a MDSHA project planning study for the Norbeck Road/Spencerville Road Corridor; however, the timing of this project is not immediate, and the community and the Planning Board are asking for an evaluation of interim measures.

#### Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR)

##### *Local Area Transportation Review*

The existing 14 single-family dwelling units on the Subject Property will be removed and are not being claimed as a trip credit for the new units. The Preliminary Plan includes 22 one-family detached dwellings and 222 townhouses. The peak-hour trip generation estimates for this Application was based on the trip generation rates

included in the M-NCPPC Local Area Transportation Review and Transportation Policy Area Review Guidelines. The development would generate the following number of peak-hour trips on the adjacent street:

- 134 peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.)
- 166 peak-hour trips within the evening peak period (4:00 and 7:00 p.m.)

The total number of site-generated trips is less than 250 peak-hour trips that require only one tier of signalized intersections from the site access point be analyzed in the traffic study. Thus, the intersection of Norbeck Road and Georgia Avenue was not analyzed in the traffic study because it is the second tier of signalized intersection from the site access point.

A traffic study was submitted to satisfy the LATR test because the total number of site-generated peak-hour trips is 30 or more. Based on the traffic study results, the capacity/Critical Lane Volume (CLV) values at the studied intersections are shown in the table below for the following traffic conditions:

- 1) Existing: The traffic condition as it is currently.
- 2) Background: The existing condition plus the trips generated from approved but un-built nearby developments including the adjacent Greenbriar at Norbeck Crossing.
- 3) Total: The background condition plus the additional site-generated trips based on the Preliminary Plan.

The calculated CLV values do not exceed the CLV standard of 1,475 for intersections on the border of the Olney Policy Area and the Aspen Hill Policy Area. Thus, all intersections analyzed are currently operating at acceptable CLV congestion standards and will continue to do so under the background development condition, and total future traffic condition with the approved use on the Subject Property. The LATR test is satisfied.

At the Public Hearing, members of the community raised concerns about the inability to find adequate gaps in traffic to make left turns, both east and westbound, onto Norbeck Road, especially during weekday peak hours. Although the Application satisfied the LATR test, other aspects of transportation including side street operations, and the availability of gaps in traffic to allow safe access to Norbeck Road, are not measured. Thus, the Planning Board sent correspondence to MDSHA and requested that, in coordination with MCDOT, they investigate traffic operations for the possibility of installing another signal on Norbeck Road (i.e. at Bailey's Lane and Public Road A), or improving the timing of the existing signals to create gaps for traffic entering Norbeck Road.

The Subject Property is located within the Olney Policy Area for the Transportation Policy Area Review ("TPAR") test. For the current TPAR test, the roadway test for the Olney Policy Area is adequate, but the transit test is inadequate. Therefore, the Applicant must make a TPAR mitigation payment equal to 25 percent of the General District Transportation Impact Tax for the housing development, pursuant to the 2012-2016 Subdivision Staging Policy. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code, and any amendments to this chapter. Also as a follow-up, the Planning Board respectfully requested that either the Applicant's required TPAR payment, Transportation Impact Tax, or other funds available in the MCDOT's Capital Improvements Program (CIP) Sidewalk Program, be considered in implementing any appropriate and feasible improvements to improve pedestrian safety on Norbeck Road and to improve gaps in traffic to better accommodate left turns onto Norbeck Road.

The Montgomery County Department of Transportation, the Montgomery County Department of Fire and Rescue Services, and the Maryland State Highway Administration, all of which support the transportation elements of the Preliminary Plan. Access to the site, as shown on the Preliminary Plan, is adequate to serve the traffic generated by the development. The internal and external pedestrian and bicycle circulation system as shown on the Preliminary Plan will provide adequate movement for pedestrian and bicycle traffic.

#### Other Public Facilities and Services

Other public facilities and services will be adequate to serve the dwelling units. The County Council approved two Water and Sewer Category Change Requests (WSCCR) for the Property, 16-OLN-03A and 16-OLN-04A,. The first approved a change from W-6 to W-3; the second approved a change from W-6, S-6 to W-3, S-3. Both requests are consistent with Master Plan recommendations, and as a result all dwellings will be serviced by public water and sewer.

Other telecommunications and utility companies reviewed the Preliminary Plan and found that the Application can be adequately served. The Application has also been reviewed by the Montgomery County Fire and Rescue Services who have determined that the Application provides adequate access for fire and emergency vehicles. Other public services such as police and health services are currently operating within the standards set by the 2012-2016 Subdivision Staging Policy currently in effect. The Application is within the Rockville school cluster which is subject to a school facilities payment at the middle school level per the FY 2017 Annual School Test. The Applicant will be required to make these payments for all dwellings that require a building permit in accordance with Chapter 52 of the Montgomery County Code, and any amendments to this chapter.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections of the Subdivision Regulations, or waivers are justified.

Waiver of the Allowed Building Type Mix

Section 59.4.9.16.B.2.b 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 “a different mix of building types is appropriate for environmental or compatibility reasons.”

The Applicant requests that the Board make a finding to waive the minimum percentage of one-family detached units from 15% to 9%. This request is based on environmental or compatibility reasons. Along the northern portion of the Subject Property, environmental sensitive areas including an intermittent stream and wetlands, will be protected under a Category I Conservation Easement. This area will not be available for development and will limit the amount of developable land. In order to achieve the densities envisioned by the Master Plan in less area, while maintaining compatibility with surrounding properties, the percentage of townhouses provided was increased and one-family detached units decreased. The townhouse building type is more intense than detached units, but less intense than multi-family units, which would be less compatible with surrounding properties. Most of the Preliminary Plan unit mix is townhouses, which are not capped by the Zoning Ordinance, and are compatible with the development pattern established at Greenbriar at Norbeck Crossing. Therefore, the Planning Board finds that the mix of building types is appropriate for environmental or compatibility reasons, while enabling the Preliminary Plan to achieve the densities envisioned by the Master Plan, and the purchase of TDRs and provision of MPDUs in line with the County's priorities. For these reasons, the Planning Board grants the waiver of building type mix.

Additionally, the Preliminary Plan completes the Master Plan vision for the redevelopment of the Golden Bear Area and improves the overall mix of building types by bringing it closer to the minimums/maximums in the Ordinance. If assessed comprehensively, the overall percentage of one-family detached units for the Golden Bear Area is 10%, which is closer to the 15% minimum, and the overall percentage of multi-family units is 28%, which is well below the 35% maximum.

Previously, the Planning Board granted a waiver of the multi-family maximum for the Greenbriar at Norbeck Crossing development.

Lot sizes, widths, shapes and orientations

The lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision given the recommendations of the Master Plan including the recommended R-200/TDR zoning. The private streets will be located on their own parcels, and will be built to County structural standards. The subdivision completes the vision of the Master Plan for the Golden Bear Area by maximizing the density allowed, extending the existing road network through the site, and creating a centrally located park with connections to East Norbeck Local Park.

The lots were reviewed for compliance with the dimensional requirements for the R-200/TDR-7 zone developed under Section 59.4.9.16 Transferable Development Rights (TDR) Overlay Zone for development under the Optional Method. The lots will meet all the dimensional requirements for area and frontage, and the lots can accommodate a residential structure that meets the width at front building line, and setbacks required in the zone. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Modified Right-of-Way Truncation

Section 50-26(c)(3) of the Subdivision Regulations requires that the property lines of corner lots be truncated 25 feet from the intersection. This provides additional right-of-way area at intersections that ensures that adequate sight distance is available and creates space for traffic channelization. But the Subdivision Regulations also allow the Planning Board to specify a greater or lesser truncation if it is needed for safe sight distance or traffic channelization at the intersections.

In this case, the Preliminary Plan provides arced truncations with a radius of 18 feet, and at least 25 feet from point of curvature to point of tangent, at the following intersections:

- Public Street 'A' and Clara Downey Avenue
- Clara Downey Avenue and Bradford Road
- Bradford Road and Doc Berlin Drive
- Doc Berlin Drive and Public Street 'A'
- Private Road 'A' and Public Street 'A'

The Planning Board finds that full truncation at these intersections is not necessary because adequate sight distance exists. Providing full truncations would limit the size of the stormwater management facilities that could be provided in the HOA parcels adjoining the intersections. In addition, none of these intersections will be signalized, which removes the concern for sufficient space within the right-of-way to place traffic signal equipment. MCDOT and the DPS Fire Code Enforcement

Section have no objection to approval of the Preliminary Plan without full truncations. For these reasons, the Planning Board finds that the arced truncations are appropriate at these intersections.

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

#### A. Forest Conservation

The Board finds that as conditioned, the Preliminary Forest Conservation Plan ("PFCP") complies with the requirements of the Forest Conservation Law.

The Preliminary Forest Conservation Plan ("PFCP") shows a total of 3.85 acres of forest on the Subject Property, which agrees with the approved NRI/FSD. The on-site forest cover is a disturbed late-successional/mature mixed hardwood forest comprised of Tulip Polar (*Liriodendron tulipifera*), Red Maple (*Acer rubrum*) and Southern Red Oak (*Quercus rubra*). Non-native invasive ("NNI") species of Multiflora Rose (*Rosa multiflora*), Japanese Honeysuckle (*Lonicera japonica*) and Japanese Stiltgrass (*Microstegium viminea*) cover approximately 40 percent of the forested area.

There are four areas of existing forest on the Property. The largest of these areas is 3.33 acres and is in the east central portion of the site. This area has an overall forest rating of Moderate due to its poor structural character, low native species diversity and significant presence of NNIs. The remaining three areas of existing forest total 0.52 acres and all three are located along the northern property line and have an overall rating of High since these areas include a wetland and an intermittent stream.

This site is zoned R-200 which is assigned a Land Use Category of High Density Residential Development in the Land Use Table of the Environmental Guidelines. This results in an afforestation threshold of 15% and a conservation threshold of 20% for the net tract area of the project site. This project is using an optional method of development. Under the Montgomery County Forest Conservation Law ("FCL"), Section 22A-12(f)(B), if the Applicant is developing using an optional method they must retain a minimum amount of forest on-site.

The PFCP removes 3.33 acres of existing forest in the east central portion of the site and retain the three remaining areas totaling 0.52 acres of forest. When the numbers of the total tract area, land use category, total amount of forest, forest removed and forest retained are entered into the Forest Conservation Worksheet, it results in a total afforestation/ reforestation requirement of 7.39 acres. The Applicant meets this requirement by providing 4.69 acres of

afforestation on-site and taking the balance of 2.70 acres off-site to an approved forest mitigation bank. All retained forest, planted forest and the environmental buffer areas will be protected by a Category I Conservation Easement.

*Minimum Onsite Retention*

Section 22A-12(f) of the FCL, in general, states there are special provisions for minimum retention, reforestation and afforestation on any site developed under a cluster or other optional method of development in a one-family residential zone must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement. Forest retention should be maximized where possible. This site is being developed under an optional method and is located within a one-family residential zone, R-200. As such, 22A-12(f) would be applicable to this development site.

22A-12(f)(2)(B) states, in part, that *"In a planned development or a site development using a cluster or other optional method of development in a one-family residential zone, on-site forest retention must equal the applicable conservation threshold in subsection (a)."* And in 22A-12(f)(2)(C), *"On a site covered by this subsection, if existing forest is less than the minimum required retention, all existing forest must be retained and on-site afforestation up to the minimum standard must be provided. If existing forest is less than the applicable afforestation threshold in subsection (a), the afforestation threshold is the minimum on-site forest requirement."*

Under the applicable sections of 22A-12(f) the Applicant's minimum on-site forest requirement would be 4.58 acres since the existing forest is less than the Afforestation Threshold specified in the PFCP worksheet. Under this section of the FCL, the Applicant would be required to retain all the existing on-site forest of 3.85 acres and then plant an additional 0.73 acres bringing the total reforestation up to the afforestation threshold of 4.58 acres.

However, the Planning Board determined that due to the location of the existing forest, the poor condition of the existing forest and the development requirements of this site, it is not possible to meet the minimum requirements of forest retention on the Subject Property.

In order for the 3.33 acres of existing forest to be removed and the PFCP to be approved, the Planning Board must find that retention of this forest is not possible. Section 22A-12(f)(3) states that: *"If the Planning Board or Planning Director, as appropriate, finds that forest retention required in this subsection is not possible, the applicant must provide the maximum possible on-site retention in combination with on-site reforestation and afforestation, not including landscaping."*

The 3.33 acres of existing forest that is located in the east central area of the site cannot be retained for several reasons. First, both state and county transportation agencies required that the Applicant move the main access of the site near to the eastern property line. This was done in order to increase intersection spacing between this intersection and the traffic controlled intersection at Norbeck Boulevard 800-feet to the west. The relocation of the main access point combined with the internal street network required by M-NCPPC and MCDOT placed the internal main public road in the middle of the 3.33 acres of forest. In addition to the transportation issues, the Applicant redesigned the site to minimize the noise impacts created by the proximity of the ICC to the north by providing greater separation between the new residential units and the ICC. These requirements moved the development more into the lower two-thirds of the site, which also allowed for easier access and connectivity into the neighboring properties and to optimize the use of gravity sewer connections out to Norbeck Road.

These design requirements prompted the Applicant to move the density toward the central/southern section of the project thereby necessitating the removal of the 3.33 acres of existing forest. However, the Planning Board found that the loss of this existing forest is more than off-set by reducing the development impacts to the existing wetland and stream in the northern portion of the site. Also, the Applicant will be creating a better-quality forest by planting approximately 4.69 acres of new forest in this northern area. Over time, this new forest will mature and provide an additional increased barrier to the noise generated by the ICC.

The Applicant will be afforesting as much of the site as possible in the northern area. This includes not only the required afforestation of the 0.39 acres of SVB, but also an additional 4.30 acres outside, but adjacent to the SVB. Totaling to 4.69 acres of afforestation. As such, the Applicant is providing the maximum possible on-site retention. In addition, the Applicant must supplement the existing 0.52 acres of retained forest by the removal of NNIs and selective clearing. This proposal adheres to Section 22A-12(e)(1) which refers to the preferred sequence of reforestation and afforestation. The first preference is to enhance on-site existing forest through selective clearing and/or supplemental planting. The Applicant will supplement the existing 0.52 acres of retained forest by the removal of NNIs and the planting of 4.69 acres surrounding this area.

## B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any

impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to forty Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal of the three trees is due to the location of the trees and necessary site design requirement. The Applicant will remove three trees with mitigation. Therefore, granting of this variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer or special protection area. The Application will mitigate for the removal of the twenty-four (24) specimen trees located outside of the existing forest by planting larger caliper trees on-site.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately  $\frac{1}{4}$  of the number of inches replanted. This results in a total mitigation of 230.75 inches of replanted trees. In this case, the Applicant will plant seventy-seven (77) 3" caliper over story trees native to the Piedmont Region of Maryland on the property outside of any the rights-of-way or utility easements.

### C. Noise Analysis

A Traffic Noise Impact and Barrier Analysis was prepared by HUSH Acoustics, LLC for the development due to its location along Norbeck Road and MD 200. A noise analysis is necessary to determine the projected interior and exterior noise levels requiring mitigation for residential units and outdoor recreational areas. The Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" stipulate a 60 dBA  $L_{dn}$  maximum noise level for outdoor recreation areas and 45 dBA  $L_{dn}$  for indoor areas. HUSH Acoustics, LLC issued its report dated October 22, 2016 outlining its findings and recommendations for the Property.

The results of the analysis indicate that there will be no future unmitigated traffic noise levels at or above 60 dBA  $L_{dn}$  along Norbeck Road. However, future unmitigated traffic noise levels along MD 200 above 60 dBA  $L_{dn}$  will impact several residential lots including Lots A 17-23, A 24-39, D 18 and 38. The analysis recommends noise barriers along the rear of the townhouse lots A 17-23 and A 24-39 while adding a three-legged noise barrier between the townhouse Lots D 18 and 38. The report recommends a noise barrier between 6 to 7 feet in height to reduce the yard noise levels to meet the exterior noise guidelines. The Applicant has worked with HUSH Acoustics, LLC to determine locations for barriers along the roadways, which vary between locations along the property lines of the lots and along the property line of the development perimeter to achieve the recommended 60 dBA  $L_{dn}$  in all yards. The analysis recommends that the barriers be constructed with materials with a transmission loss of 20 dB or higher.

The analysis also determined that the highest building façade noise level will be as high as 69.2 dBA  $L_{dn}$  of the most impacted residences. The analysis recommends that a Building Shell Analysis and review of architectural floor plans for the residential buildings be performed to ensure the guideline recommendations for interior areas are achieved.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. The Preliminary Plan meets the Stormwater Management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval on November 18, 2016. The Application will meet stormwater management goals via micro-bioretenion, enhancement of some micro-bioretenion for recharge credit, planters boxes, and drywells. Additionally, the Application is providing a SWM pond to manage up to the 100-year storm event as required by MCDPS due to drainage issues that previously occurred on the Leisure World site.

6. *The approved lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood, as delineated in the Staff Report.*

Waiver of Resubdivision Criteria Section 50-29(b)(2)

The Preliminary Plan is subject to the Resubdivision criteria found in 50-29(b)(2). This Application is a resubdivision of 19 total properties, including a mix of previously recorded lots and unrecorded parcels located in a portion of the Golden Bear Area in the Olney Master Plan. The Golden Bear Area is generally the shape of a triangle with major roads, including the ICC, Georgia Avenue and Norbeck Road, delineating the edges. The major roads effectively separate this area from the surrounding neighborhoods. Except for East Norbeck Local Park, the entire Golden Bear Area was rezoned from RE-2 to R-200/TDR-7 zone as part of the 2005 Olney Master Plan.

Section 50.38. Waivers from this Chapter

The Planning Board, per Section 50-38(a) may grant a waiver of any section of Chapter 50 *upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.*

*Practical Difficulties or Unusual Circumstances*

In 2009, the Planning Board approved the neighboring Preliminary Plan No. 120060610, Greenbriar at Norbeck Crossing, which is also located in the R-200/TDR-7 zone and was approved as an optional method of development. During that approval, there was a waiver granted to not perform a resubdivision analysis, recognizing that the recent rezoning, and isolated nature of this Master Plan study area made it practically difficult to establish a neighborhood to use in performing a resubdivision, and that the high level of density recommended in the Master Plan compared to the existing developed density was an unusual circumstance. Most of the existing lots within the Golden Bear Area were recorded under the previous RE-

2 zone and, as such, required much larger lots than what is currently supported by the Master Plan and zoning. Instead, the Board decided to hold the development to the development standards of the R-200/TDR-7 zone rather than to the existing lot pattern.

The same practical difficulty of establishing a relevant analysis neighborhood and unusual circumstances of Master Plan recommendations recommending high density residential development exist for the current Application, preventing the Planning Board from performing a worthwhile resubdivision analysis based on the language of Section 50-29(b)(2). Furthermore, with the approval of this Preliminary Plan, only a couple of the original RE-2 developed properties will remain within the Golden Bear area, shifting the analysis area's character to be more in line with the Master Plan recommendations. The Planning Board finds that there are practical difficulties and unusual circumstances that warrant waiving the requirements of resubdivision under Section 50-29(b)(2) and that the Planning Board consider the three additional findings for a waiver.

*1. The Minimum Necessary*

Given the described practical difficulties and unusual circumstances in creating a neighborhood for analysis, and the Master Plan recommendations for high residential density, the Planning Board approved a full waiver of the resubdivision requirements under Section 50-29(b)(2), which is the minimum necessary to review this Preliminary Plan. The Planning Board instead approved the lots based on the standards of the current R-200/TDR-7 zone.

*2. Not Inconsistent with the General Plan*

The 2005 Olney Master Plan, which amends the General Plan, recommended densities to the Golden Bear area of up to seven units per acre, using a mix of multi-family, townhome, and single family detached dwellings. Waiving Section 50-29(b)(2) would enable this Application to resubdivide the 19 lots/28.7 acres into a new residential community consistent with the Master Plan.

*3. Not adverse to the public interest*

It is not adverse to the public interest to waive the resubdivision requirements of Chapter 50. As stated before, the Master Plan recommended a high density residential neighborhood in this location because of its access to infrastructure and transportation facilities. As part of this Preliminary Plan, the Applicant is purchasing a total of 143 TDRs and is providing 44 MPDUs which is 15 percent of the total dwellings. Requiring the Applicant to adhere to Section 50-29(b)(2) would create a practical difficulty in establishing a neighborhood boundary for analysis, and the waiver would be consistent with how the Planning Board reviewed the adjacent subdivision to the west.

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)), 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 in the Montgomery County Land Records, 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 JAN 13 2017 (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 Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, January 12, 2017, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board