



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

MCPB
Item #
12/17/09

MEMORANDUM



DATE: December 7, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Build Division

FROM: Richard A. Weaver, Coordinator (301) 495-4544 *RAW*
Build Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: Subdivision of a portion of Parcel 907 and Parcel 968, Tax Map HS 342, into nineteen (19) lots for nineteen (19) one family attached residential units.

PROJECT NAME: Townhouses at Small's Nursery
CASE #: 120070610
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RT-10
LOCATION: On the north side of Norbeck Road (MD 28) between the intersections with Georgia Avenue (MD 97) and Muncaster Mill Road (MD 115)
MASTER PLAN: Olney

APPLICANT: The Tower Companies
ENGINEER: Site Solutions

FILING DATE: January 25, 2007
HEARING DATE: December 17, 2009

RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to nineteen (19) lots for nineteen (19) one family attached units.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
- 3) The record plat(s) must reflect a Category I conservation easement over all areas of forest conservation.
- 4) At the time of site plan review, the applicant must amend final forest conservation plan #819950150 (Small's Nursery) to accommodate the proposed off-site access/connector road shown on the certified preliminary plan drawing.
- 5) The Applicant must place in reservation for a period of three years the remainder of Parcel P907, which is not part of this development, but is necessary to accommodate the Maryland State Highway Administration (SHA) selected design alternative for the master-planned Georgia Avenue/Norbeck Road interchange (Alternative 7 Enhanced).
- 6) Prior to the submission of site plan for this development, the Applicant must finalize the Policy Area Mobility Review (PAMR) trip mitigation proposal to reduce four (4) peak-hour trips and must satisfy the PAMR requirement(s) prior to the release of the 14th building permit for the development.
- 7) The applicant must dedicate and show on the record plat, all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 8) The applicant must construct all road improvements within the rights-of-way shown on the approved certified preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. This includes construction of the private off-site access/connector road to a minimum of tertiary street standards with sidewalk on at least one side.
- 9) The off-site portion of the connector road and sidewalks, between the Subject Property and Thistlebridge Road, must be within a recorded ingress/egress and utility easement and the liber/folio must be properly referenced on the record plat(s) for this subdivision.
- 10) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 19, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 11) The applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated October 7, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 12) The applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated August 10, 2007. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the preliminary plan approval.

- 13) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (“Covenant”). Applicant must provide verification to Commission staff prior to release of final building permit that Applicant’s recorded HOA Documents incorporate by reference the Covenant.
- 14) No clearing, grading or recording of plats prior to certified site plan approval.
- 15) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 17) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION (Fig. 1)

The subject property “Subject Property” or “Property” is 3.11 acres in size and is comprised of the northern portion of Parcel 907 and Parcel 768 as shown on Tax Map HS42. It is zoned RT-10 as recommended by the 2005 Olney Master plan. The Property is located on the south side of Thistlebridge Drive, directly adjacent to the future access road for the proposed realignment of Norbeck Road (MD 28). The property is currently undeveloped. Uses surrounding the site are MNCPPC park uses to the west, the existing Preserve at Small’s Nursery subdivision to the north, commercial uses to the east and townhomes across Norbeck Road to the south. The Property is located in the Rock Creek watershed, a Use IV/IV-P stream, and is not in a Special Protection Area.

The property includes 2.97 acres of forest in two different stands; 1.72 acres of high priority forest and 1.25 acres of moderate priority forest. The high priority forest is so designated because of the presence of an intermittently flooded wetland. The wetland drains to a stream that runs east-west, under Thistlebridge Drive, and crosses the property at the northern point. There are no trees ≥ 24 ”, no slopes greater than 25 percent, and no highly erodible soils on the property. There is a significant area of hydric soils associated with the wetlands.

Figure 1 - Vicinity Map

TOWNHOUSES AT SMALL'S NURSERY 120070610



Preserve at Small's Nursery

Subject Property

Map compiled on December 03, 2009 at 2:51 PM | Site located on base sheet no - 221NWD4

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Key Map



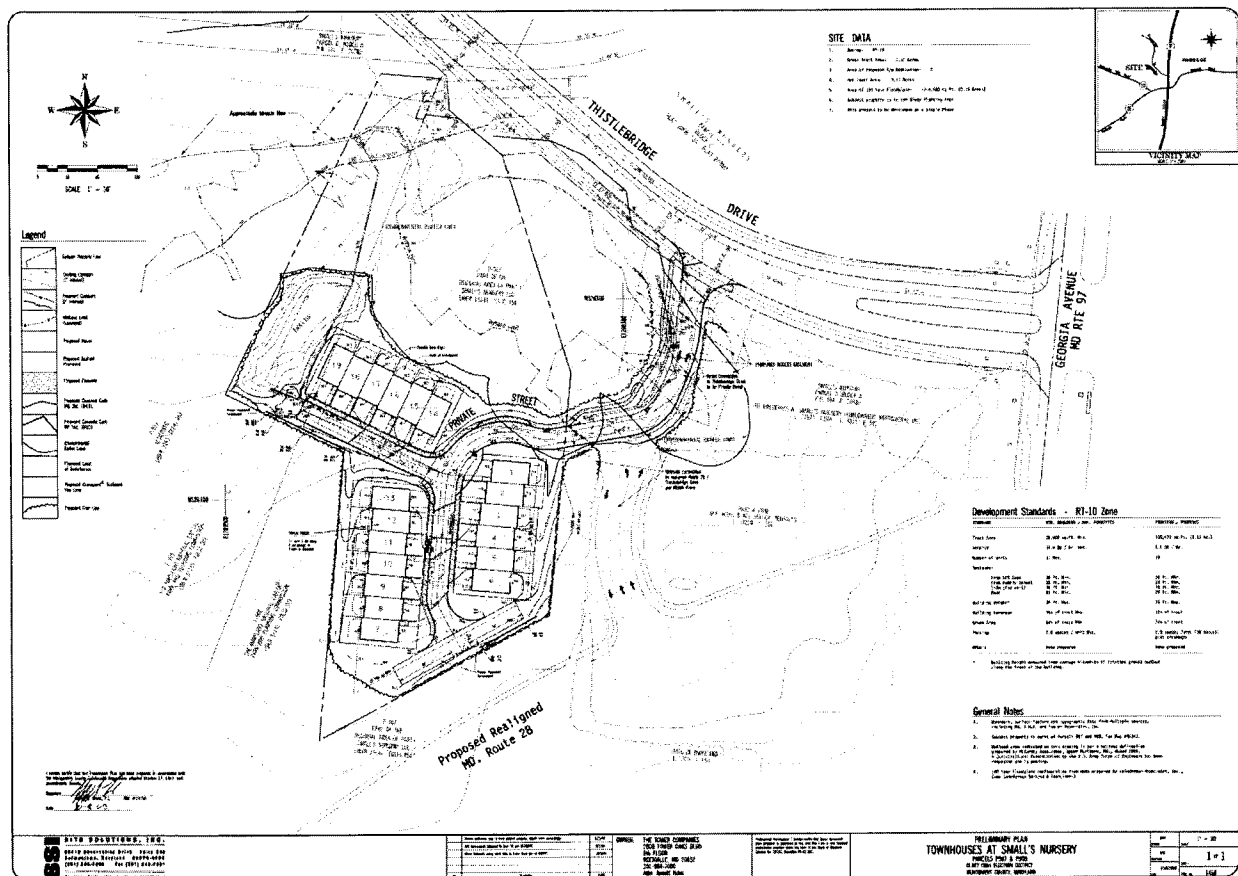
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-5700

PROJECT DESCRIPTION (Fig. 2)

The project proposes 19 townhouse lots accessed from existing Thistlebridge Road via 20 foot wide private streets. A portion of the private street system to Thistlebridge Road will be off-site; located on property currently owned by The Preserve at Small's Nursery Homeowners Association "HOA". An agreement with the HOA has been reached to use this property for said street as access for the Subject Property. This access street is located within the future right-of-way for a public connector street to MD 28 that SHA will build as part of their re-alignment of MD 28 beneath MD 97. An environmental justification for this atypical street connection is provided in the environmental section and is generally supported by all transportation staff.

The units will have two car garages, with driveway aprons that can accommodate parking for two additional vehicles. As currently designed there is no visitor parking shown, however, this project will require site plan approvals by the Planning Board and parking will be further reviewed as part of that process.

Figure 2 – Preliminary Plan



ANALYSIS AND FINDINGS

Master Plan Compliance

This plan conforms to the 2005 Olney Master Plan. Specifically, the Olney Master Plan makes the following recommendations for the 10.5 acre Tower Company Property which includes the 3.11 acre Subject Property:

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

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

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

Public Facilities

Transportation

Ongoing Public Transportation Projects in the Area

There are several ongoing transportation projects in the vicinity of the proposed development, which include:

1. The Intercounty Connector (ICC), which is currently under construction.

The first seven mile segment of the ICC from I-370 to MD 97 (also referred to as Contract A) will be open to revenue generating traffic in the fall of 2010, approximately 12 to 15 months in advance of the balance of the ICC connecting to I-95. Contract A will include significant improvements to the MD 28/ MD 97 intersection to improve traffic operations at this intersection over the existing conditions.

2. The final design for the MD 97/MD 28 interchange.

SHA is completing final design for the Georgia Avenue/Norbeck Road interchange selected alternative (MD 28/MD 97, Interchange Improvement Study Alternative 7 Enhanced; See Attachment No. 1). Currently, this master plan recommended interchange project is on hold and is not funded for right-of-way acquisition or construction. The west leg of realigned Norbeck Road (MD 28) between Georgia Avenue (MD 97) and Muncaster Mill Road (MD 115) is aligned over the southern section of the subject property (remainder of Parcel P907; not included on the preliminary plan). This interchange project includes connecting the access roadway for the proposed subdivision from Thistlebridge to MD 28 and will improve access to/from Georgia Avenue and Norbeck Road for residents of The Preserve at Small's Nursery, the subdivision immediately north of the Subject Property.

3. The MD 28/MD 198 corridor improvement study.

To implement area master plan recommendations, SHA is completing planning studies to construct Norbeck Road and Spencerville Road between Georgia Avenue and I-95 as a divided four-lane facility. This project is currently funded for planning study only; a Draft Environmental Impact Statement (DEIS) for the project is currently under preparation.

4. The Georgia Avenue Busway study.

The Georgia Avenue Busway within the median of Georgia Avenue is a proposed two-lane bi-directional express busway that will connect Olney and Aspen Hill communities to the north with Glenmont Metro Station to the south. The busway will serve both express as well as local bus services, and will be serviced by a station/stop at Norbeck Road and supported by the Norbeck Road Park and Ride Lot adjacent to the station.

Master Plan Roadways and Bikeway/Pedestrian Facilities

The 2005 Approved and Adopted Olney Master Plan include the following master-planned roadway/bikeway facilities:

1. Georgia Avenue, as a six-lane divided major highway (M-8) between Norbeck Road to the south and Emory Road to the north with a minimum right-of-way width of 150 feet and a shared-use path (SP-29; currently existing along the west side of the roadway).

2. Norbeck Road, as a four-lane divided major highway (M-18) between Muncaster Mill Road to the west and Layhill Road to the east with a minimum right-of-way width of 150 feet and dual-bikeway (DB-12).

Vehicular/Pedestrian Access and Transit Availability

As noted earlier, the west leg of the future Georgia Avenue/Norbeck Road interchange will eventually be aligned through the southern section of the subject property and will include a connecting roadway between realigned Norbeck Road and Thistlebridge Drive. Thistlebridge Drive currently serves as access to The Preserve at Small’s Nursery development. The preliminary plan proposes access to this connecting roadway as a way to provide access from the subject development to the area roadway system. A lead-in sidewalk is provided to the site from Thistlebridge Drive, which has sidewalk on both sides of the roadway. The immediate area roadways (Georgia Avenue, Norbeck Road, and Muncaster Mill Road) are served by Metrobus Routes Y5, Y7, Y8, and Y9, and RideOn Routes 52 and 53. Staff finds that the development will be adequately served by vehicular and pedestrian facilities, including roads, sidewalks and public transportation. As previously noted, onsite parking should be further reviewed at the time of site plan.

Local Area Transportation Review

Based on trip generation rates included in the Local Area Transportation Review (LATR)/Policy Area Mobility Review (PAMR) Guidelines, it is estimated that the proposed 19 single-family attached (townhouse) residential units will generate 10 peak-hour trips during the weekday morning peak period and 16 peak-hour trips during weekday evening peak period. This is summarized in Table 1.

**TABLE 1
SUMMARY OF TRIP GENERATION
TOWNHOUSES AT SMALL’S NURSERY**

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
19 townhouse units	2	8	10	11	5	16

Source: Integrated Transportation Solutions, Inc. LATR/PAMR Traffic Statement (Updated); October 28, 2009. See Attachment No. 3.

Note: Trip generation estimate based on LATR/PAMR Guidelines trip generation rates.

A traffic study is not required for the subject application since the proposed density will generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. With documentation of site trip generation as above, staff finds that the subject application satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

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

With 10 and 16 “new” peak-hour trips during the morning and evening peak-periods, respectively (as summarized in Table 1), the trip mitigation requirement for the proposed use is three (3) trips during the morning peak-hour and four (4) trips during the evening peak-hour. The Applicant is proposing to satisfy the PAMR mitigation requirement to mitigate four (4) peak-hour trips with a variety of options, including constructing off-site sidewalks and/or payment of \$11,000 per trip

Staff is recommending that the applicant coordinate identified mitigation options identified with the Transportation Planning Division and DOT staff at the time of Site Plan and satisfy the PAMR requirement(s) prior to the release of the 14th building permit for the development. With this condition, staff finds the application meets the PAMR requirement of the APF test.

Other Public Facilities and Services

The private streets have been determined to function as public streets in that they will be designed to the structural standards of a public street and provide adequate vehicular circulation. Sidewalks are required and will provide adequate pedestrian circulation. All appropriate local utility agencies have recommended approval of the project; the project will be adequately served by water and sewer, gas, electric, and telecommunications service. The application is not within a school moratorium area; and is not subject to a School Facilities Payment.

The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect.

Environment

Environmental Guidelines

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

As per the Planning Board's Environmental Guidelines (page 22),

“Wetlands and their associated buffer areas must be maintained in their natural condition unless the proposed disturbance is for a project determined to be necessary and unavoidable for the public good, such as;

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

The Property has direct frontage on Thistlebridge Drive; however, the aforementioned wetland system on the Property separates the developable portion of the property from this road, hence a direct connection to Thistlebridge at any point along this frontage would significantly impact the core of the wetlands and possibly sever the hydrology of this wetland system. In order to minimize this disturbance, the applicant worked with SHA and adjacent, Preserves at Small's Nursery Homeowners Association to provide an off-site access location with fewer environmental impacts. The access road shown from Thistlebridge Road and leading to the Subject Property was aligned so that it impacts a less significant edge of the wetland area, rather than cutting through its core. The alignment is within the future ROW for the connector road that will eventually provide not only the access for this development but will also allow the Preserve at Small's Nursery development to access the newly aligned MD 28. This connector road is discussed in the transportation section and is a design element of the MD/28/MD 97 interchange improvements.

The Preserves at Small's Nursery Homeowners Association property on which the access road will be located is currently protected by a Category I forest conservation easement pursuant to approved Site Plan #819950150. That final forest conservation plan will have to be amended. The amendment is not before the Board as part of this preliminary plan but will be included with the future site plan.

While the proposed access still has environmental impacts, staff believes that it is far superior to grading a street through the center of the wetlands as might be proposed. For the following reasons staff supports the proposed alignment:

1. The proposed access is primarily in the future ROW of the Thistlebridge/MD 28 connector road and the area will be disturbed regardless of this development. Using the suggested connector road for both the SHA project and access to the Subject Property significantly reduces impact to the wetlands compared to two separate roads.
2. The area of wetland and wetland buffer disturbed with this access is at the edge of the wetlands, instead of dividing the majority of the wetlands from the stream.

Staff has recommended a condition that requires the final forest conservation plan for The Preserves at Small's Nursery to be amended when the Subject Property is reviewed as a Site Plan and would support such an amendment based on the justification above.

Staff believes that the proposed development meets the Environmental Guidelines by minimizing the impact to the wetlands and associated environmental buffers.

Forest Conservation

The preliminary forest conservation plan shows the removal of 1.95 acres of forest, retention of 1.02 acres, and planting of .09 acres. All forest conservation planting requirements will be met on-site. This plan does not propose to remove any trees or vegetation that would necessitate a variance request. Therefore no waiver of any of the provisions of Chapter 22A, Forest Conservation Law, is required. As such, the off-site portion of the connector road is not included within the limits of disturbance for the purposes of the preliminary forest conservation plan for this Property but is shown for graphical purposes.

Stormwater Management

The Department of Permitting Service approved the stormwater management concept for the proposed development on October 7, 2008. The concept includes one large biofilter adjacent to the environmental buffer. With this approval, staff finds that the plan meets the requirement for subdivision; however, it should be noted that pending changes to the State stormwater regulations, effective May 4, 2010, could alter the layout and /or lot yield on the Property. This will be finally determined as part of the site plan review.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lots size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations of the local master plan and for the type of development or use proposed. Use of internal private streets is found to be appropriate. The private streets will be built to the standards of, and they will function as, tertiary public streets. Access using the off-site connector road is found to be appropriate in order to minimize impact to the unique wetland on the Property.

The lots were reviewed for compliance with the dimensional requirements for the RT-10 zone as specified in the Zoning Ordinance. The proposed lots will meet the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 2. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Citizen Correspondence and Issues

This application was submitted prior to the current requirement to hold a pre-submission meeting. No material or public comments have been received by staff at the time of writing of this staff report.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and the proposed lots comply with the recommendations of the Olney Master Plan. Access has been reviewed and staff has recommended an alternative off-site access road that utilizes a road alignment that will be built by SHA in the future. This alternative significantly reduces environmental impact. All other public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. The lots fully comply with the RT-10 zoning that was recently placed upon the Property and the townhouse development complies with what was specifically recommended in the Olney Master Plan. For these reasons, staff recommends approval of this application with the conditions cited above.

Attachments:

- 1) Alternative 7 - MD 28/ MD 97

Table 2: Preliminary Plan Data Table and Checklist

Plan Name: Townhouses at Small's Nursery				
Plan Number: 120070610				
Zoning: RT-10				
# of Lots: 19				
# of Outlots: 0				
Dev. Type: Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Tract Area	20,000 sq. ft.	3.11 acres	RW	12/4/09
Lot Width	N/A.		RW	12/4/09
Lot Frontage	N/A		RW	12/4/09
Setbacks				
Front	25 ft. Min.	Must meet minimum ¹	RW	12/4/09
Side (end unit)	10 ft. Min.	Must meet minimum ¹	RW	12/4/09
Rear	20 ft. Min.	Must meet minimum ¹	RW	12/4/09
Height	35 ft. Max.	May not exceed maximum ¹	RW	12/4/09
Max. Units as per Zone	31	19	RW	12/4/09
MPDUs	No		RW	12/4/09
TDRs	No		RW	12/4/09
Site Plan Req'd?	Yes		RW	12/4/09
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street (Private)		Yes	RW	12/4/09
Road dedication and frontage improvements		Yes	RW	12/4/09
Environmental Guidelines		Yes	Staff memo	11/5/09
Forest Conservation		Yes	Staff memo	11/5/09
Master Plan Compliance		Yes	RW	12/4/09
Other (i.e., parks, historic preservation)				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Yes	Agency letter	10/7/08
Water and Sewer (WSSC)		Yes	Agency comments	
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	
Well and Septic		N/a		
Local Area Traffic Review		Yes	Staff memo	12/2/09
Policy Area Mobility Review		Yes	Staff memo	12/2/09
Transportation Management Agreement		No	Staff memo	12/2/09
School Cluster in Moratorium?		No	RW	12/4/09
School Facilities Payment		No	RW	12/4/09
Fire and Rescue		Yes	Agency letter	3/26/07

¹ As determined by MCDPS at the time of building permit.

