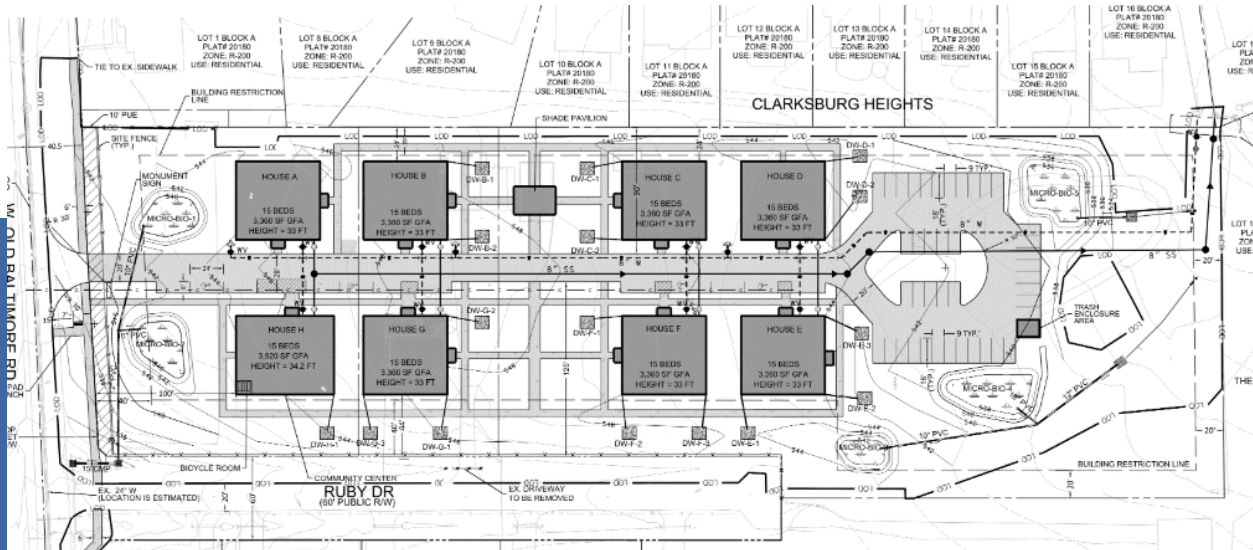


**RUBY SENIOR LIVING**  
**PRELIMINARY PLAN NO. 120250030 &**  
**FINAL FOREST CONSERVATION PLAN NO. F20250100**



Subdivision will create one lot for a Residential Care Facility comprised of eight buildings with 120 beds. The project is within the Clarksburg Special Protection Area and includes a Final Water Quality Plan as part of the review.

COMPLETED: 2/28/2025  
PLANNING BOARD HEARING DATE: 3/13/2025  
MCPB ITEM NO. 6

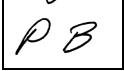
# Planning Staff



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## LOCATION/ADDRESS

21908 Ruby Drive & 12405 W. Old Baltimore Rd,  
Boyd

## MASTER PLAN

1994 Clarksburg Master Plan & Hyattstown Special  
Study Area

## ZONE

R-200

## PROPERTY SIZE

4.66 acres

## APPLICANT

Worldshine Home, LLC

## ACCEPTANCE DATE

September 17, 2024

## REVIEW BASIS

Chapter 50

Chapter 22A

## Summary:

- Staff recommends approval of the Preliminary Plan and Forest Conservation Plan with conditions for creating one lot for a Residential Care Facility (over 16 persons).
- The Project is within the Clarksburg Special Protection Area and includes a Final Water Quality Plan.
- Conditional Use Plan CU2023-11 was approved by OZAH on April 16, 2024, for the redevelopment of the Property into a Residential Care Facility for up to 120 beds in eight buildings.
- The Subject Site is currently improved with two single-family homes and several smaller outbuildings, which will all be removed.
- Staff has not received any public correspondence as of the date of this Staff Report.
- Staff has not received an Approval letter from MCDOT as of the posting of this report. The approval letter is anticipated to be received prior to the hearing.

## TABLE OF CONTENTS

<b>SECTION 1: RECOMMENDATIONS AND CONDITIONS</b> .....	<b>4</b>
PRELIMINARY PLAN 120250030 .....	4
<i>General Approval</i> .....	4
<i>Adequate Public Facilities</i> .....	4
<i>Plan Validity Period</i> .....	4
<i>Outside Agencies</i> .....	4
<i>Other Approvals</i> .....	5
<i>Transportation</i> .....	5
Frontage Improvements on Existing Roads.....	5
<i>Surety</i> .....	5
<i>Record Plats</i> .....	6
<i>Certified Preliminary Plan</i> .....	6
FINAL FOREST CONSERVATION PLAN F20250100 .....	7
<b>SECTION 2: SITE DESCRIPTION</b> .....	<b>8</b>
VICINITY.....	8
PROPERTY DESCRIPTION.....	10
<b>SECTION 3: PROJECT DESCRIPTION</b> .....	<b>11</b>
PREVIOUS APPROVALS.....	11
<i>Conditional Use CU 2023-11</i> .....	11
<i>Preliminary Forest Conservation Plan CU202311</i> .....	13
PROPOSAL .....	13
<i>Transportation</i> .....	14
<i>Environment</i> .....	15
<b>SECTION 4: COMMUNITY OUTREACH</b> .....	<b>15</b>
<b>SECTION 5: PRELIMINARY PLAN 120250030 FINDINGS AND ANALYSIS</b> .....	<b>15</b>
<b>SECTION 6: FOREST CONSERVATION PLAN F20250100 AND WATER QUALITY PLAN FINDINGS AND ANALYSIS</b> .....	<b>22</b>
Natural Resource Inventory/Forest Stand Delineation Plan .....	23
Environmental Guidelines.....	23
Special Protection Area Water Quality Plan.....	23
MCDPS AND MCDEP SPECIAL PROTECTION AREA REVIEW ELEMENTS .....	23
Planning Board Special Protection Area Review Elements.....	24
Forest Conservation Plan .....	25
<b>SECTION 7: CONCLUSION</b> .....	<b>29</b>

ATTACHMENTS ..... 29

## SECTION 1: RECOMMENDATIONS AND CONDITIONS

### PRELIMINARY PLAN 120250030

Staff recommends approval with conditions of Preliminary Plan No. 120250030 to create one (1) lot for a Residential Care Facility. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120250030 as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.

#### GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for the development a Residential Care Facility with up to 120 beds.

#### ADEQUATE PUBLIC FACILITIES

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

#### PLAN VALIDITY PERIOD

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date 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 filed.

#### OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter **[Dated March X, 2025]** and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which MCDOT may amended if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepted the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section, in its Final Water Quality Plan letter dated October 10, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each recommendation in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. The Planning Board has reviewed and accepted the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section, in its letter dated August 12, 2024, and incorporates them as conditions of

approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

8. Before approval to release any portion of the preliminary plan performance bond, 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 the fire access improvements have been constructed and installed per the recommendations from the Fire Department Access and Water Supply Section, and as shown in the approved MCDPS fire access plan.

## OTHER APPROVALS

9. The Applicant must comply with the conditions of the Hearing Examiner's Report and Decision dated April 16, 2024, approving Conditional Use 2023-11.
10. Before approval of a record plat or any clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.

## TRANSPORTATION

### Frontage Improvements on Existing Roads

11. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
  - a. All land necessary to accommodate forty (40) feet from the existing pavement centerline along the Subject Property frontage for West Old Baltimore Road.
  - b. All land necessary to accommodate thirty (30) feet from the existing pavement centerline along the Subject Property frontage for Ruby Drive.
12. Before approval of a record plat, the Applicant must satisfy all necessary requirements to ensure the construction of a buffered six (6)-foot wide sidewalk along the West Old Baltimore Road frontage of the Subject Property, connecting to the existing sidewalk along West Old Baltimore Road.

## SURETY

13. Before issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions:
  - a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
  - b. Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.

- c. The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

#### RECORD PLATS

14. There shall be no clearing or grading of the site before recordation of the plat.
15. The record plat must show necessary easements.
16. The record plat must show no vehicular access to Ruby Drive.

#### CERTIFIED PRELIMINARY PLAN

17. The certified Preliminary Plan must contain the following notes:
  - a. *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 issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
  - b. *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.*
18. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
  - a. Show resolutions and approval letters on the certified set.
  - b. Include the approved Fire Department Access Plan.
  - c. Include all landscape and lighting plans associated with approved Conditional Use No. CU 2023-11.
  - d. Replace the bicycle storage lockers with a secure storage room on the ground floor of House H and update the bicycle parking requirements.

## FINAL FOREST CONSERVATION PLAN F20250100

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. 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 Inspection Staff.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
4. Before recordation of the plat and the start of any clearing, grading, or construction, whichever comes first, for the associated development application the Applicant must Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Little Seneca Creek watershed or Priority Area to satisfy the reforestation requirement of 2.24 acres of mitigation credit. If no off-site forest banks exist within the Little Seneca Creek watershed or Priority Area, then the off-site requirement may be met by purchasing 2.92 acres of mitigation credits from a mitigation bank within Montgomery County outside of the Little Seneca Creek watershed or Priority Area, subject to Staff approval. If forest mitigation bank credits are not available for purchase, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits outside of the same watershed or Priority Area.
5. Within the one year or two growing seasons following the release of the first building permit of the primary structure from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches, totaling 115.75 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.



## SECTION 2: SITE DESCRIPTION

### VICINITY

The Subject Property, delineated in the thick red line in Figure 1 below, is located at 12405 West Old Baltimore and 21908 Ruby Drive, Boyds, in the northwest quadrant of West Old Baltimore Road and Ruby Drive. The Property is subject to the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan").

The vicinity is comprised of residential communities in the R-200 Zone. Directly to the west of the Property is a single-family development known as Clarksburg Heights, containing approximately 130 homes. This development was approved under the MPDU Optional Method of Development (*e.g.* at higher than standard density, with smaller than typical lots). To the north is a child daycare facility operated by the Goddard School. Confronting the Property, across Ruby Drive, are several single-family homes. Further to the east, and across West Old Baltimore Road to the south, is a new residential subdivision containing 57 detached dwellings and 10 semi-detached units, also approved with higher than standard R-200 density pursuant to the MPDU Optional Method of Development.

The area surrounding the Site is comprised of low-density residential development, with a Conditional Use to the north for the Goddard School. The properties surrounding the property are all zoned R-200 with the properties to the west having a TDR overlay zone of TDR 4.0.

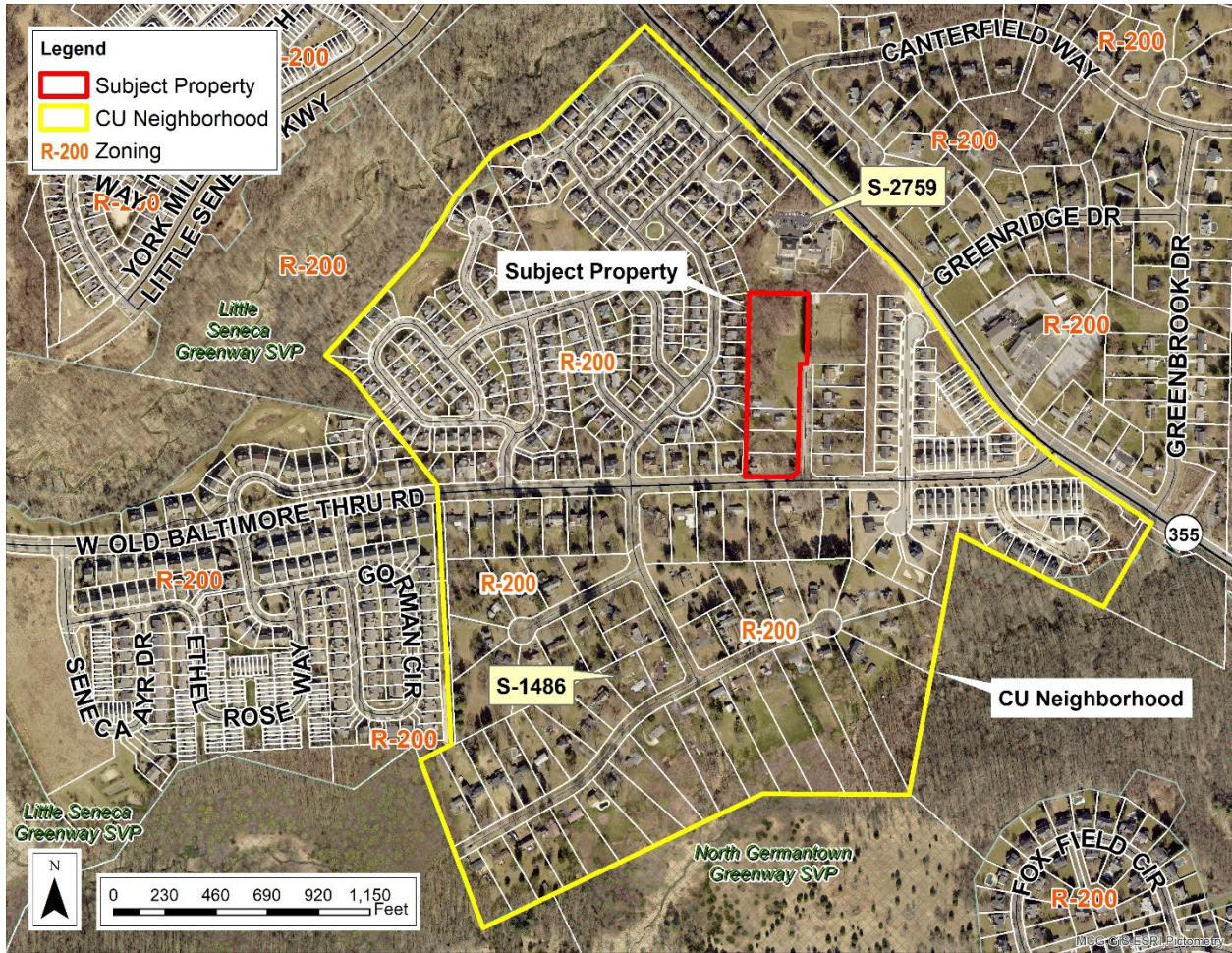


Figure 1 – Vicinity Map showing the Neighborhood used for analysis purposes during the review of the Conditional Use application

## PROPERTY DESCRIPTION

The Property is an assemblage of four pieces of land, more particularly known as Lot 1 (consisting of two tax parcels or parts of lots), Lot 2 and Lot 3 in the “Neelsville” subdivision, as recorded among the Land Records of Montgomery County, Maryland at Record Plat No. 7681 (Attachment D). Collectively, the Property is comprised of approximately 202,898 square feet or 4.66 acres (“Property” or “Subject Property”). The Property is improved with two single-family detached homes and associated accessory structures. One house is on part of Lot 1, directly adjacent to West Old Baltimore Road, and accessed via an existing driveway. The second dwelling is located on Lot 2, which is accessed via Ruby Drive. The Property contains one forest stand containing 1.36 acres of forest and scattered trees across the Property, which are 24-inches DBH and greater.



Figure 2- Subject Property with lot and block information

## SECTION 3: PROJECT DESCRIPTION

### PREVIOUS APPROVALS

#### CONDITIONAL USE CU 2023-11

On April 16, 2024, the Hearing Examiner issued a report approving Case No. CU 2023-11 for a Residential Care Facility with the following conditions (exhibits referenced are those from the OZAH Report):

1. Physical improvements to the Subject Property are limited to those shown on the Applicant's Conditional Use site plan, Lighting Plan, and Landscape Plan (Exhibits 5, 17c and 36).
2. The maximum number of residential care units is limited to eight (8) buildings with 120 beds.
3. The height of any structure will be limited to forty (40) feet.
4. The maximum number of employees on-site at any one time must not exceed 44.
5. Food supply deliveries to the facility shall be limited to twice per week.
6. The collection of solid waste refuse and recyclable materials must occur on weekdays only, between 8:00 a.m. and 9:00 p.m., consistent with Solid Waste Regulations. No collection shall occur on Saturdays or Sundays.
7. The Applicant must maintain 52 parking spaces as shown on the Conditional Use Plan and may not expand or reduce the parking facility without explicit permission from the Hearing Examiner through modification of this Conditional Use.
8. The Applicant must provide a minimum of five (5) bicycle parking spots.
9. Before issuance of any building permit for the subject Conditional Use, the Applicant must obtain approval of a Preliminary Plan of Subdivision and a Record Plat pursuant to Chapter 50 of the Montgomery County Code. If changes to the approved Conditional Use site plan or other plans filed in this case are required at Subdivision, the Applicant must file a copy of the revised site and related plans with OZAH.
10. Before approval of the Preliminary Plan of Subdivision, the Applicant must obtain approval of the Final Water Quality Plan from the Montgomery County Department of Permitting Services (MCDPS).
11. The Applicant must obtain a permit for the proposed monument sign from the Department of Permitting Services, or if required, the Sign Review Board, and a copy of the permit for the approved sign must be submitted to the Hearing Examiner before the sign is constructed.
12. The Applicant must obtain and satisfy the requirements of all licenses, including a use and occupancy permit.
13. The Applicant and any successors in interest must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code.
14. The Applicant must obtain approval of a Final Forest Conservation Plan.
15. The facility must be operated in accordance with all applicable County noise regulations.

16. Transfers to successor conditional use holders must follow the procedures in Rule 27.0 of OZAH's Amended Land Use Rules of Procedure.
17. The conditional use must be operated in a manner to provide the facilities and services to residents outlined in the Applicant's Statement of Operations (Exhibit 6). Use of the on-site facilities and services must be restricted to residents of the conditional use site, their guests and employees, and personnel providing services to the residents.
18. The Applicant and any successors in interest must obtain and satisfy the requirements of all Federal, State, and County licenses, regulations, and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant and any successors in interest shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety, and handicapped accessibility requirements), regulations, directives, and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

## PRELIMINARY FOREST CONSERVATION PLAN CU202311

On January 18, 2024, the Planning Board approved with conditions, Preliminary Forest Conservation Plan (“PFCP”) No.CU202311, in association with the Conditional Use application no. 2023-11. The PFCP proposed clearing all 1.36 acres of forest onsite and based on the land use category, High Density Residential (“HDR”) and the forest conservation worksheet generated an afforestation/reforestation requirement of 2.24 acres within the same watershed/Priority Area or 2.92 acres outside of the same watershed/Priority Area. The Applicant proposed to meet the requirement offsite. The PFCP approval included a Variance request that the Planning Board approved.

## PROPOSAL

The Applicant proposes to create one (1) lot, 4.58 acres in size, to allow the construction of a new Residential Care Facility (greater than 16 persons) per Section 59-3.3.2.C.2.c, as allowed by the approved Conditional Use CU 2023-11 in the R-200 zone. The Application includes eight (8) new multi-bed buildings, a parking lot, lighting, and landscaping. The Property will have access via a new driveway entrance on West Old Baltimore Road. The buildings will contain up to a total of 120 beds.

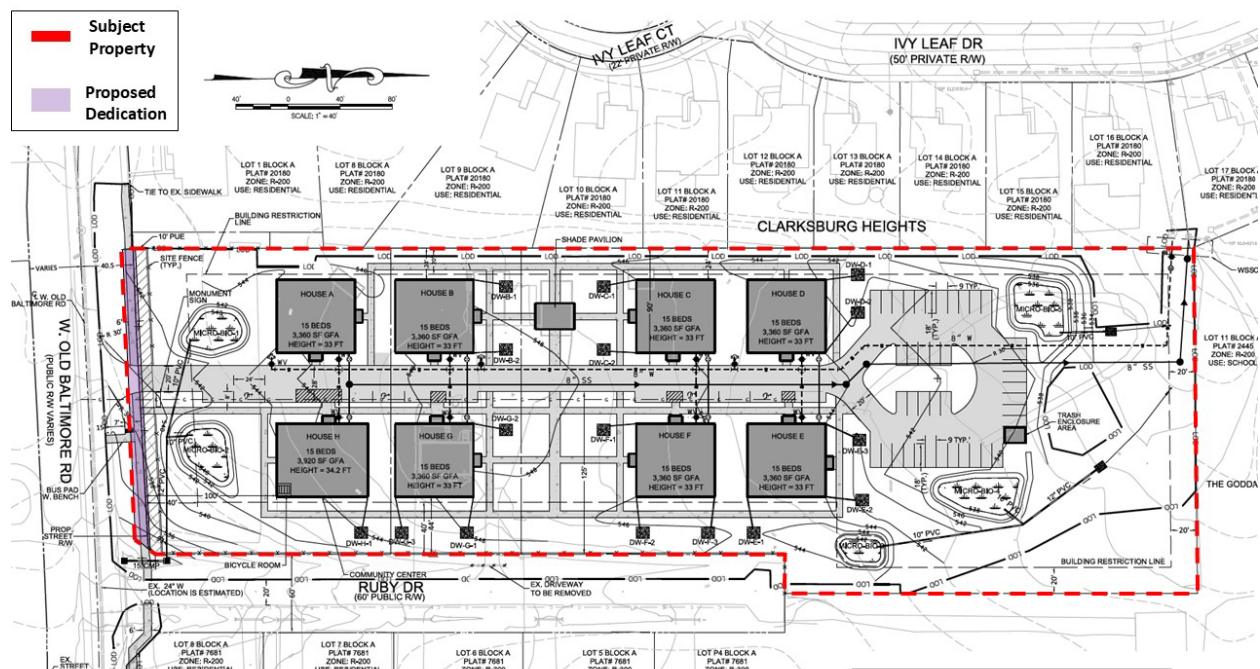


Figure 4: Preliminary Plan

# TRANSPORTATION

Motor vehicle access to the Subject Property will be located off West Old Baltimore Road. The proposed development will have one access point for motor vehicles, which is provided by a single driveway that serves as an “internal street” and terminates in a circular parking lot. The existing driveway apron on Ruby Drive will be removed. The proposed buildings front the “internal street” with limited amount of parallel parking (see Figure 5 below) along the main driveway. The Applicant will be required to improve West Old Baltimore Road to the standard of an Area Connector per the 2024 *Complete Streets Design Guide*. There are no master planned bicycle facilities along the north side of West Old Baltimore. As conditioned, the Applicant will provide a buffered 6-foot-wide sidewalk along the Subject Property frontage (north side of West Old Baltimore Road) connecting to the existing sidewalk portions to the east (including off-site improvements, continuing to Oak Ridge Place) and west.

Additionally, the applicant will provide five (5) long term bike parking spaces within House H. These spaces will be made available to staff at all operational hours and visitors during visiting hours.

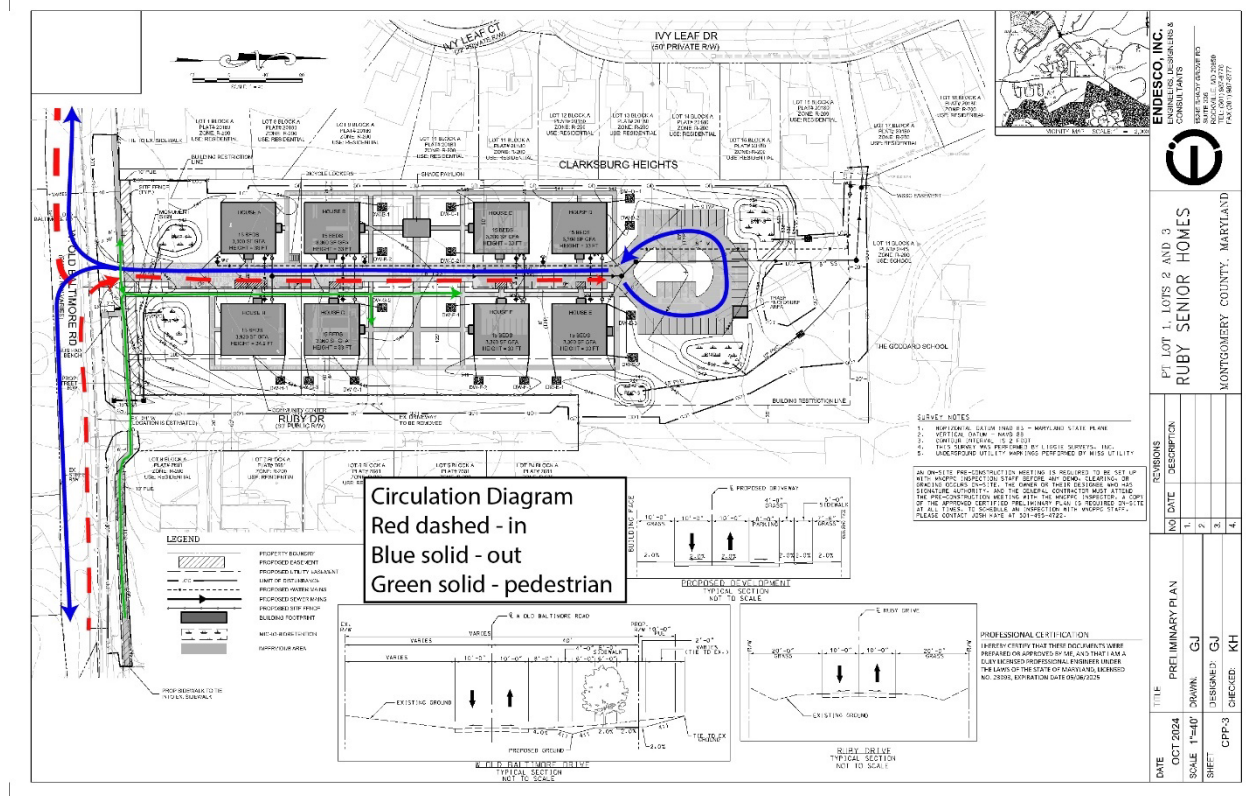


Figure 5: Circulation Diagram

## ENVIRONMENT

The Final Forest Conservation Plan No. F20250100 (“FFCP”) shows 1.36 acres of existing forest on the Property, of which all 1.36 acres will be cleared and all mitigation is proposed to be taken offsite. The site contains numerous specimens and significant trees. There are no Stream Valley Buffers onsite. A full analysis is provided in Section 6 of this Staff Report.

## SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. A pre-submittal public meeting was held on June 27, 2024, via a virtual meeting platform and a sign was posted on the Property. Three people attended the meeting, as per the submitted sign-in sheet.

As of the date of this Staff Report, no correspondence related to these Applications has been received.

## SECTION 5: PRELIMINARY PLAN 120250030 FINDINGS AND ANALYSIS

The Preliminary Plan would create one (1) lot, measuring approximately 199,802 square feet or 4.59 acres of site area, for a maximum density of up to a total of 120 beds, in eight (8) buildings. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable State, County, and City agencies.

- 1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***

***a) The block design is appropriate for the development or use contemplated***

The block design is existing, not changing and appropriate for the development and use. The length, width, and shape of the block are compatible with the development in the neighborhood in which the Site is located.

***b) The lot design is appropriate for the development or use contemplated***

The lot has been reviewed for compliance with Chapter 50, the Subdivision Regulations. The layout of the single-lot subdivision, including its size, shape, and orientation is appropriate for residential development in the R-200 Zone. The proposed Residential Care facility and the proposed lot mimic a typical R-200 layout using detached residential sized buildings and a

Ruby Senior Living,



similar development pattern to the surrounding neighborhood. As proposed, the Lot can accommodate the proposed buildings, stormwater management, parking, and other required infrastructure while meeting the standards established by the approved Conditional Use.

**c) *The Preliminary Plan provides for required public sites and adequate open areas***

**iii. *Master Planned Sites***

The Property is located within the "Brink Road Transition Area" of the Master Plan. The Master Plan contains no site-specific recommendations for the Property, yet the Master Plan recommends compatible, low-density residential uses in the Brink Road Transition Area (p. 77). The approved Conditional Use is residential in use and character and furthers the Master Plan's goals by providing compatible, low-density residential infill development, green open space, and landscape screening, resulting in minimal impact on the surrounding neighborhood. Furthermore, the approved use provides diverse housing opportunities to allow existing seniors in the Clarksburg/Boyd's area to age in the community, consistent with the Master Plan.

**iv. *Local Recreation***

The Preliminary Plan does not include land dedication for public recreation purposes, nor is such dedication required.

**v. *Transportation and Utilities***

The proposed frontage improvements comply with the 2024 *Complete Streets Design Guidelines* and consist of a buffered sidewalk on the Subject Property's side of West Old Baltimore Road. These improvements are discussed in detail under the Transportation heading in Section 3.

**d) *The Lot(s) and Use comply with the basic requirements of Chapter 59***

Residential Care Facilities (greater than 16 persons) are allowed uses in the R-200 Zone as a conditional use. The Hearing Examiner approved CU 2023-11 for the Subject Property in a report dated April 16, 2024. The Subject Preliminary Plan conforms with all required conditions. As required in Condition No. 2 of the Conditional Use approval, the Preliminary Plan proposes no more than the approved eight (8) buildings with 120 beds.

As shown in the data table below, the Application will comply with the development standards of the R-200 Zone, Standard Method. The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The lot's size, width, shape, and orientation are appropriate for the zone, location, and use provided for the Site.

Table 1: Ruby Senior Living Preliminary Plan Data Table as approved by the Hearing Examiner for CU23-11.

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed</b>
<b>Tract Area</b>	n/a	4.66 Ac
Prior Dedication	n/a	n/a
Proposed Dedication	n/a	0.08 Ac
<b>Site Area</b>	n/a	4.58 Ac (199,802 SF)
<b>Density – 1,200 sqft/bed</b>	148 Beds (max)	120 Beds
<b>Minimum Lot Area</b>	20,000 sf	199,802 sf
<b>Minimum Lot Frontage</b>	40 ft	100ft or more
<b>Maximum Lot Coverage</b>	25%	14%
<b>Principle Building setbacks<sup>1</sup></b>		
Front (W. Old Baltimore)	40 ft	100 ft
Side Street (Ruby Drive)	40 ft	40 ft
Side Street (West)	20 ft	22 ft
Rear (North)	20 ft	280 ft
<b>Height</b>	50 ft	40 ft
<b>Site Plan Required</b>	No	No
<b>Vehicular Parking Requirement</b> (Section 59-6.2.4.B) Spaces/Unit	0.25 spaces/bed + 0.5 spaces/employee 52 spaces	52 spaces
<b>Bicycle Parking Requirement</b> (Section 59-6.2.4.C) Spaces/Unit	0.1 spaces/employee 5 spaces	Five (5) spaces
<b>Green Space</b>	50%	> 50%

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

**a) Land Use**

The Master Plan confirms the R-200 zoning for the Property but does not contain any site-specific recommendations. The Project conforms with the general recommendations contained in the Master Plan.

The Project maintains a footprint compatible with low density, single-family properties. Although proposing approximately 120 beds in eight buildings, the Residential Care Facility use has low impacts on traffic and no impact on schools. The Applicant will construct landscaped buffers around the periphery of the Site, to provide ample screening and buffering from the surrounding roads.

<sup>1</sup> These development standards meet or exceed the requirements of the R-30 zone pursuant to section 59-3.3.2.c.ii.e.

The Master Plan endorsed compatible, low-density residential uses in the Brink Road Transition Area. The Project achieves this goal by splitting the beds into eight smaller residential scale buildings.

**b) Environment**

Of particular significance, the Master Plan focuses on environmental protection by establishing a Special Protection Area (Clarksburg SPA). No environmental features onsite and the Project has minimized impervious surfaces to the greatest extent possible. As discussed below, the Project requires a Water Quality Plan, which staff recommends approval.

**c) Transportation**

The Master Plan recommends that roads linking major highways to neighborhoods be “pedestrian friendly” and include features like “medians, street trees, and generous sidewalk areas.”<sup>2</sup> The frontage improvements proposed by the Project further this recommendation by linking two sections of the existing sidewalk along W. Old Baltimore Road.

The 2024 *Complete Streets Design Guide* sets a goal for Area Connector road types to “accommodate and encourage pedestrian and bicycle activity”.<sup>3</sup> The improvements proposed meet the objectives of this road type.

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

**a) Roads and other Transportation Facilities**

**vi. Existing Facilities**

The Subject Property fronts on West Old Baltimore Road, identified as an Area/Neighborhood Connector in the 2023 Technical Update of the *Master Plan of Highways and Transitways*. Per the 2024 *Complete Streets Design Guide*, the pedestrian and bicycle facilities for the designated street type are a 10-foot sidepath (on the south side, opposite the Subject Property in this case) and a 6-foot sidewalk (on the north side, along site frontage). The predominant bikeway type for West Old Baltimore Road is a sidepath, as recommended in the 2018 *Bicycle Master Plan*. At present, a sidewalk terminates along the south side of West Old Baltimore, 300 feet west of Manor Crest Way, and approximately 1,400 feet west of the Subject Property’s western property line.

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<sup>2</sup> 1994 *Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* page 24.

<sup>3</sup> 2024 *Complete Streets Design Guide* page 62.

Currently, no pedestrian facilities exist along the Property frontage on West Old Baltimore Road (north side). However, adjacent sidewalk connections terminate to the east and west of the Site. A sidewalk currently ends at the western property line. An additional sidewalk connection exists east of the Subject Property and terminates at Red Oak Ridge Place.

The Property also fronts Ruby Drive – currently a 20-foot-wide Neighborhood Street without sidewalks that provides access to six single family homes. As shown on the preliminary plan, the required 30-feet of dedication from the centerline along Ruby Drive has been accommodated, and no additional dedication is required. An internal sidewalk system will serve the Property, and a privacy fence will be added along the Ruby Drive at the property line.

***Proposed public transportation infrastructure***

West Old Baltimore Road: The Application proposes a 6-foot sidewalk with a 15-18-foot wide buffer, along the Property’s West Old Baltimore frontage – connecting to the existing western sidewalk section. Additionally, the Applicant is providing an off-site continuation of the proposed sidewalk to the east, connecting to the existing sidewalk at Red Oak Ridge Place (Figure 6). The completion of this gap in the sidewalk network will significantly improve pedestrian circulation and safety. The future sidewalk will create a continuous pedestrian connection extending westward from Frederick Road to Little Seneca Creek, serving a multitude of residential communities.

Ruby Drive: Per the 2024 *Complete Streets Design Guide*, Neighborhood Streets should have sidewalks on both sides of the street. However, in retrofit applications, a sidewalk on one side of the street may be an interim condition in existing neighborhoods with limited right-of-way. No properties (the Subject Site or others) will have access on the west side of Ruby Road. Furthermore, the design of Ruby Drive and limited access to the larger transportation network ensures that there will be relatively low vehicular traffic volumes, traveling at relatively low speeds. Therefore, consensus was reached that the Applicant would not be required to install a buffered sidewalk with the Subject Application. The Property will be served by an internal sidewalk system, and a privacy fence will be constructed along the Ruby Drive property line.



Figure 6: Proposed Public Transportation Infrastructure

**vii. Proposed private transportation infrastructure**

Private infrastructure includes internal sidewalks connecting each structure within the facility to the sidewalk along West Old Baltimore Road as well as five (5) long term bike parking spaces provided in a secure room in Building H.

**b) Local Area Transportation Review (LATR)**

The Subject Property is located in the Clarksburg East Transportation Policy Area, which is classified as an Orange Policy Area under the 2020-2024 *Growth and Infrastructure Policy* (“the GIP”)<sup>4</sup>. The proposed use is a 120-bed residential care facility with a maximum of 44 employees on-site per shift. Demonstrated by the Transportation Exemption Statement (“TES”) submitted by the Applicant on October 3, 2023, the Proposed Development will generate 34 AM net-new person trips during the AM weekday peak hour, and 45 net new person trips during the PM weekday peak hour. These calculations are based on the ITE Trip Generation Manual, 11th Edition, adjusted for the Clarksburg policy area, a yellow policy area (Table 2). The 2020-2024 *Growth and Infrastructure Policy* (“the GIP”) requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. Since the uses

<sup>4</sup> This project was accepted prior to Jan 1, 2025, and is therefore subject to the prior 2020-2024 GIP.

proposed in this Application do not exceed 50 net new person trips in either peak hour, the Local Area Transportation Review is satisfied with a transportation exemption statement. A summary of the trip generation analysis is provided:

*Table 2: Trip Generation Analysis*

LATR Trip Generation							
	Units	AM Peak Hour			PM Peak Hour		
Total Vehicle Trips Per ITE 11 <sup>th</sup> Edition	120 Beds	In	Out	Total	In	Out	Total
ITE Generation Code – 254 (Assisted Living)		13	9	22	11	18	29
Policy Area Adjustment Factor (Clarksburg Policy Area – 100%)		13	9	22	11	18	29
Auto Driver		22			29		
Auto Passenger		9			12		
Transit		1			1		
Non-Motorized (Bike)		1			3		
Pedestrian (Transit + Bike)		0			0		
<b>Total Person Trips</b>		<b>34</b>			<b>45</b>		

Source: Trip generation rates are based on the ITE Trip Generation Manual, 11th Edition and adjusted as detailed in the 2022 LATR guidelines. Figures are rounded to the nearest whole number. Source: Wells + Associates Traffic Consulting Local Area Transportation Review – October 3rd, 2023

**c) Schools**

The Subject Application is for a Residential Care Facility. Therefore, there is no impact on school capacity.

**d) Other Public Facilities and Services**

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. Water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission (“WSSC”) through connection to the existing water and sewer lines. On September 30, 2024, WSSC approved a Hydraulic Planning Analysis (HPA) for the extension of an 8-inch sewer main and 8-inch water line, within an existing water and sewer easement, located at the northwest corner of the Subject Property (WSSC Project No. DA7861Z25). On-site water and sewer house connections will be extended from the proposed main extensions to each structure. Other utilities, public

facilities, and services, such as electric, telecommunications, police stations, firehouses, and health services are currently operating within the standards set by the 2020-2024 GIP in effect when the Application was submitted.

**4. All Forest Conservation Law, Chapter 22A requirements are satisfied.**

The Final Forest Conservation Plan satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, and complies with the Montgomery County Planning Department’s Environmental Guidelines. Please refer to Section 6 of this report for the analysis and findings for the Final Forest Conservation Plan.

**5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.**

MCDPS approved a Stormwater Management Concept on October 19, 2024, as part of the Water Quality Plan. The Preliminary Plan proposes to meet required stormwater management goals via Environmentally Sensitive Design (“ESD”) to the Maximum Extent Possible (MEP) using drywells and micro bio-retention facilities.

**6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.**

This finding is not applicable to the Subject Application because the Applicant has no actual notice or constructive notice of a cemetery located within the subdivision.

**7. Any other applicable provisions specific to the property and necessary for approval of the subdivision are satisfied.**

No other provisions apply to the Subdivision.

## SECTION 6: FOREST CONSERVATION PLAN F20250100 AND WATER QUALITY PLAN FINDINGS AND ANALYSIS

**All Forest Conservation Law, Chapter 22A requirements are satisfied.**

The Final Forest Conservation Plan (“FFCP”) satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines.

## Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420240140 for this Property was approved on October 27, 2023. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is comprised of multiple parcels totaling a 4.66-acre lot. The Subject Property is located within the Little Seneca Creek watershed and is classified as a Use Class IV-P watershed by the State of Maryland. The NRI/FSD identified 1.36 acres of forest on the Subject Property. The site contains numerous specimen and significant trees. There are no streams or floodplain or stream valley buffers onsite.

## Environmental Guidelines

The Application is in compliance with the Environmental Guidelines.

## Special Protection Area Water Quality Plan

The Preliminary Plan Application satisfies all of the applicable requirements of Chapter 19 of the Montgomery County Code and the Environmental Guidelines, as conditioned and discussed below.

This Property is located within the Clarksburg Special Protection Area (“SPA”), on privately owned property where land disturbance is proposed; as such, it is required to obtain approval of a water quality plan under Section 19-62(b) of the Montgomery County Code.

As required by Chapter 19, a Preliminary Water Quality Plan must be reviewed in conjunction with a Preliminary Plan Application. The Final Water Quality Plan is reviewed in conjunction with the Site Plan Application. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (“MCDPS”), the Montgomery County Department of Environmental Protection (“MCDEP”), and the Planning Board have different responsibilities in the review of a Water Quality Plan. MCDPS and MCDEP review the Preliminary Plan Application for site performance goals, stormwater management, sediment and erosion control, monitoring of streams and Best Management Practice performance. The Planning Board’s responsibility is to determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

## MCDPS AND MCDEP SPECIAL PROTECTION AREA REVIEW ELEMENTS

The Preliminary Plan Application and Conditional Use site plan received an approved Combined Preliminary/Final Water Quality Plan/Site Development Stormwater Management Plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on October 10, 2024 (Attachment D). The Application will meet stormwater management goals through the use of drywells and micro bioretention. The approval is for elements of the Water Quality Plan of which DPS has lead agency responsibility and does not include limits on imperviousness or buffer encroachments. MCDEP will require stream monitoring and BMP monitoring fees per Special Protection Area regulations.



## Planning Board Special Protection Area Review Elements

Following is an analysis of the Planning Board's responsibilities in the review of the Water Quality Plan.

### FOREST CONSERVATION

As discussed below, the FFCP Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The Preliminary FCP was submitted with the Conditional Use Application and the Final FCP was submitted with the Preliminary Plan Application.

### ENVIRONMENTAL BUFFER PROTECTION

An NRI/FSD No. 420240140 was approved by Staff in October 2023. The approved NRI/FSD did not identify any environmental buffers on the Property, so this requirement is not applicable to this Application.

### IMPERVIOUS SURFACES

As noted previously in this report, the Property is located within the Clarksburg SPA. The Clarksburg SPA does not have a numerical limit on impervious surfaces; however, a main goal for development in all SPAs is to reduce or minimize impervious surfaces.

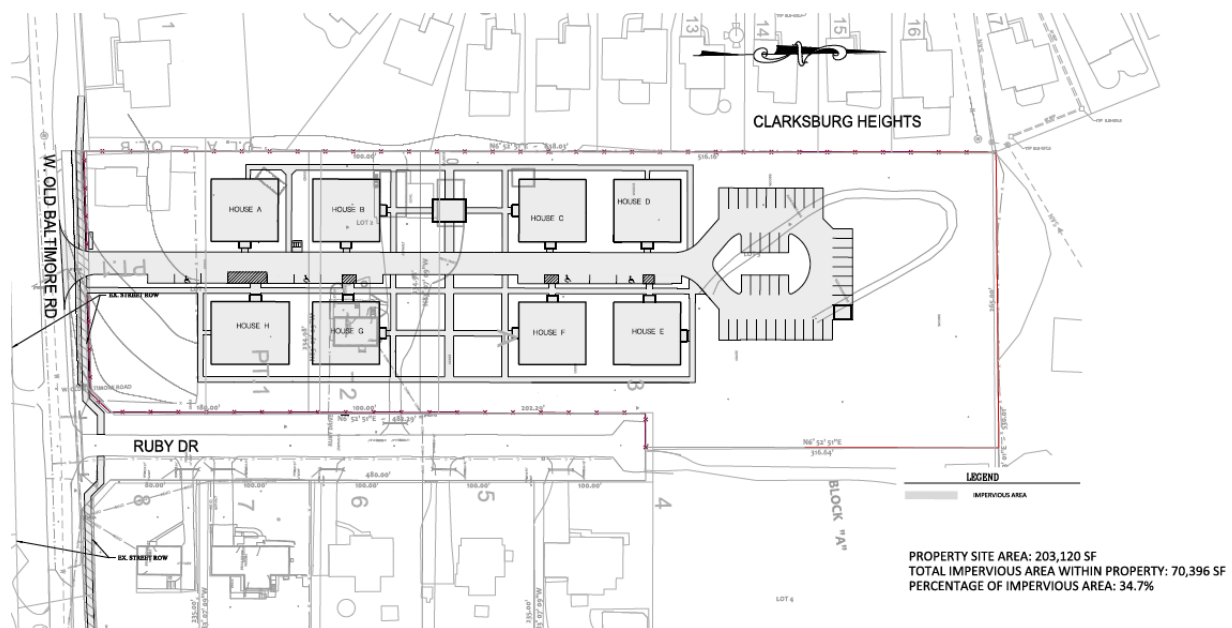


Figure 7: Proposed Impervious Surface Exhibit

The Preliminary Plan Application includes an Impervious Surface Exhibit (Attachment C). The Application proposes to construct 70,396 square feet of impervious surfaces within the 203,120 square feet property and offsite LOD resulting in 34.7% imperviousness over the Property within the Clarksburg SPA.

The Applicant minimized impervious surfaces by using five-foot internal sidewalks and minimizing parking areas. Overall, the impervious surfaces are at levels below other institutional uses within the same zone.

The Preliminary Plan Application meets all applicable requirements of Chapter 19 and Chapter 59 for SPA Water Quality Plans.

Staff recommends the Planning Board approve the elements of the SPA Water Quality Plan under its purview.

### Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan No. F20250100 (“FFCP”) (Attachment B) for concurrent review with the Preliminary Plan No. 120250030. The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

The Subject Property is zoned R-200 and is assigned a Land Use Category of High Density Residential (“HDR”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 15 percent and a conservation threshold of 20 percent of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 4.66-acre Total Tract plus 0.54 acres of offsite improvements associated with this Application, for a total Net Tract area of 5.20 acres.

The Application proposes clearing all 1.36 acres of forest onsite and results in an afforestation/reforestation requirement of 2.24 acres if within the same watershed or a Priority watershed or 2.92 acres if met elsewhere in the County. The applicant is proposing to meet the entire requirement offsite through the purchase of forest mitigation bank credits or, if none are available, through payment of a free-in-lieu.

### Forest Conservation Variance Request

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left undisturbed. An applicant for a variance must provide certain written information in support of

the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that measure 30 inches or greater diameter breast height (DBH); are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

**Variance Request**

The project had the approval of a variance request at the time of the Preliminary Forest Conservation Plan. This application had significant changes and additional tree impacts; therefore, the Applicant submitted a new Variance Request, which will supersede the previous approval.

The Applicant submitted a Variance request dated October 21, 2024 (Attachment B). The Applicant proposes to impact three (3) and remove twelve (12) trees that are 30 inches or greater DBH, which are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Table 4).

<b>ID</b>	<b>Scientific Name</b>	<b>Common Name</b>	<b>Condition</b>	<b>DBH</b>	<b>Remove or Save</b>
E00	Picea Pungens	Blue Spruce	good	34	Remove
E01	Liriodendron Tulipifera	Tulip Poplar	fair/poor	30	Remove
E02	Prunus Serotina	Black Cherry	fair/poor	34	Remove
E03	Acer Rubrum	Red Maple	good	33	Remove
E04	Qurecus Rubra	Red Oak	fair/poor	31	Remove
E05	Quercus Velutina	Black Oak	Poor	43	Remove
E06	Qurecus Alba	White Oak	good	36	Remove
E09	Quercus Alba	White Oak	good	33	Save
E13	Quercus Velutina	Black Oak	good	32	Save
E17	Ulmus Americana	American Elm	fair	39	Remove
E21	Acer Rubrum	Red Maple	fair/poor	53	Remove
E25	Acer Saccharinum	Silver Maple	good/fair	59	Remove
E29	Prunus Serotina	Black Cherry	Fair	31	Remove
E32	Acer Saccharinum	Silver Maple	Fair	40	Remove
E34	Acer Saccharinum	Silver Maple	Poor	31	Remove

*Table 1 – Protected Trees, Retained or Removed*

**Unwarranted Hardship Basis**

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of their property. Reasonable and significant use of the Property is the

expectation to subdivide and subsequently develop the Property in accordance with applicable development standards of the R-200 zone. The unwarranted hardship is caused by the combination of the necessary layout of the proposed development on the Property, which is dictated by the existing site conditions, development standards of the zone, and Montgomery County agency requirements combined with the location of the Protected Trees. There are three Protected Trees requested to be impacted and twelve Protected Trees requested to be removed all of which are located within or adjacent to the limits-of-disturbance (“LOD”) within the developable area of the Property (Figure 7/8). These trees are, for the most part, centrally located within the Property. Therefore, virtually any permitted use constructed in accordance with the R-200 development standards, would be expected to impact Protected Trees.

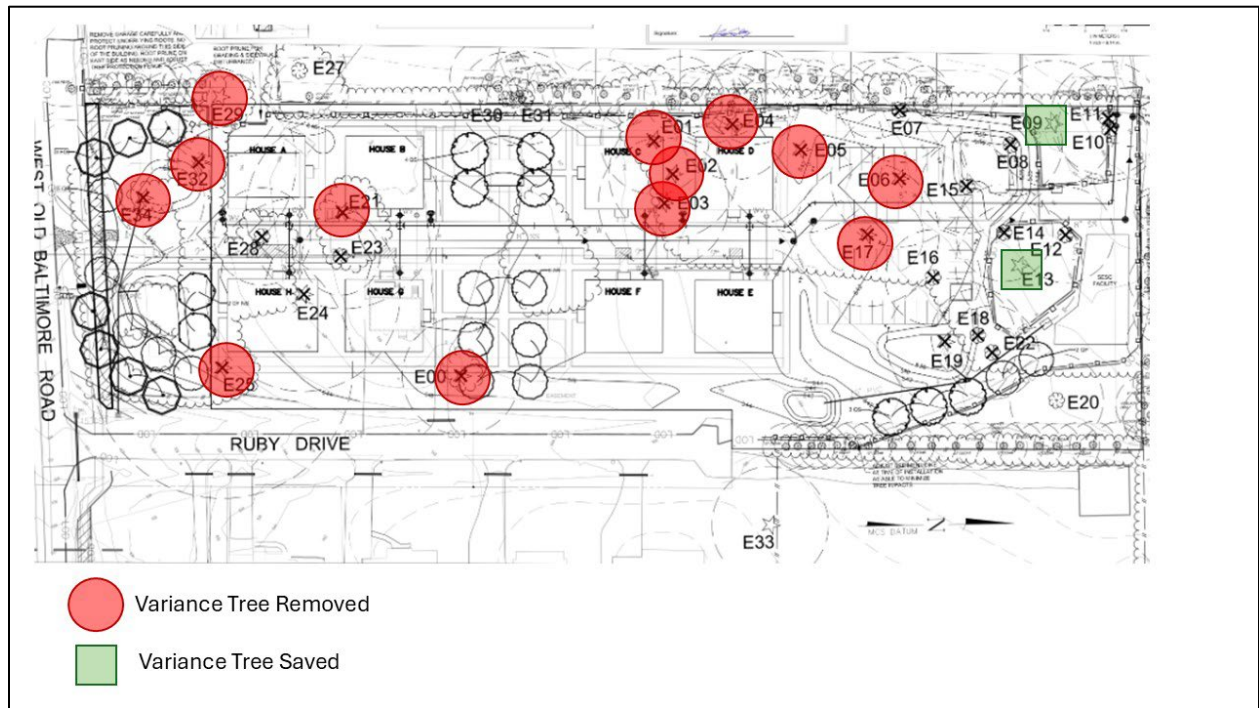


Figure 8 - Variance Trees

The inability to impact or remove these highly impacted Protected Trees would potentially render portions of the Site undevelopable for this Project. Therefore, there is a sufficient unwarranted hardship to justify a variance request because the Applicant would otherwise be denied the ability to use the Property for the proposed subdivision and subsequent development, which is a reasonable and significant use of the Property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed Forest Conservation Plan:

**a. Variance Findings.**

The following determinations are based on the required findings for granting of the requested variance:

**i. 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 impacts to three trees and the removal of twelve trees are due to the location of the trees within and adjacent to the limits-of-disturbance (“LOD”) of the Property and necessary site design requirements for this Property. Granting a variance to allow disturbance within the developable portion of the site is not unique to this Applicant. Therefore, the granting of this variance is not a special privilege that is granted only to this Applicant and denied to other applicants.

**ii. 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 resulting from actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application.

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

The requested variance results from the existing conditions and the proposed site design and layout of the Property, and not from land or building use on a neighboring property.

**iv. 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 Protected Trees being removed are not located within a stream buffer, or wetland. Proposed mitigation includes planting 29 three-inch caliper, Maryland native overstory trees on-site. The mitigation trees will replace the ecological and water quality functions that may be lost by the removal of the seven trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

Twelve Protected Trees were proposed for removal in this variance request, resulting in a total of 463.0 inches of DBH being removed, as shown on the FFCP. The Applicant proposes mitigation at a rate approximating the form and function of the removed trees. These trees will be replaced at a ratio of approximately one-inch caliper for every four inches removed using trees that are a minimum of

three caliper inches in size. This results in a total mitigation of 115.75 inches with the installation of 29 four-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of twelve Protected Trees. There is some disturbance within the CRZ of three trees; however, such trees will receive adequate tree protection measures, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As conditioned, the mitigation trees will be protected as part of a five-year maintenance and management agreement.

#### Variance Recommendation

Staff recommends approval of the variance request.

## SECTION 7: CONCLUSION

As conditioned, the Preliminary Plan substantially conforms to the recommendations of the 1994 *Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* and satisfies the findings of the Subdivision Regulations. The Forest Conservation Plan satisfies applicable requirements of the Forest Conservation Law and is in compliance with the Montgomery County Planning Department's Environmental Guidelines.

Therefore, Staff recommends approval of the Preliminary Plan and Final Forest Conservation Plan with the conditions specified at the beginning of this report.

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#### ATTACHMENTS

*Attachment A: Preliminary Plan*

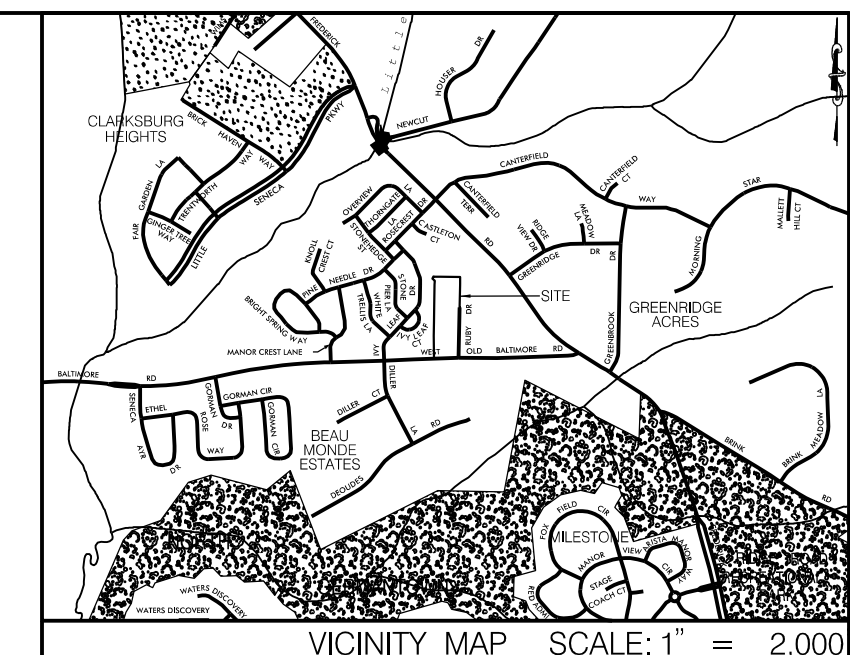
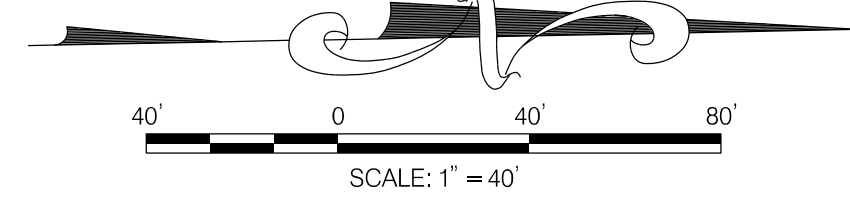
*Attachment B: Forest Conservation Plan*

*Attachment C: Impervious Surface Exhibit*

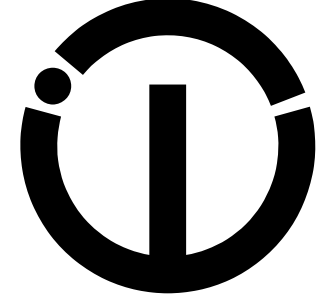
*Attachment D: Prior Approvals*

*Attachment E: Agency Letters*

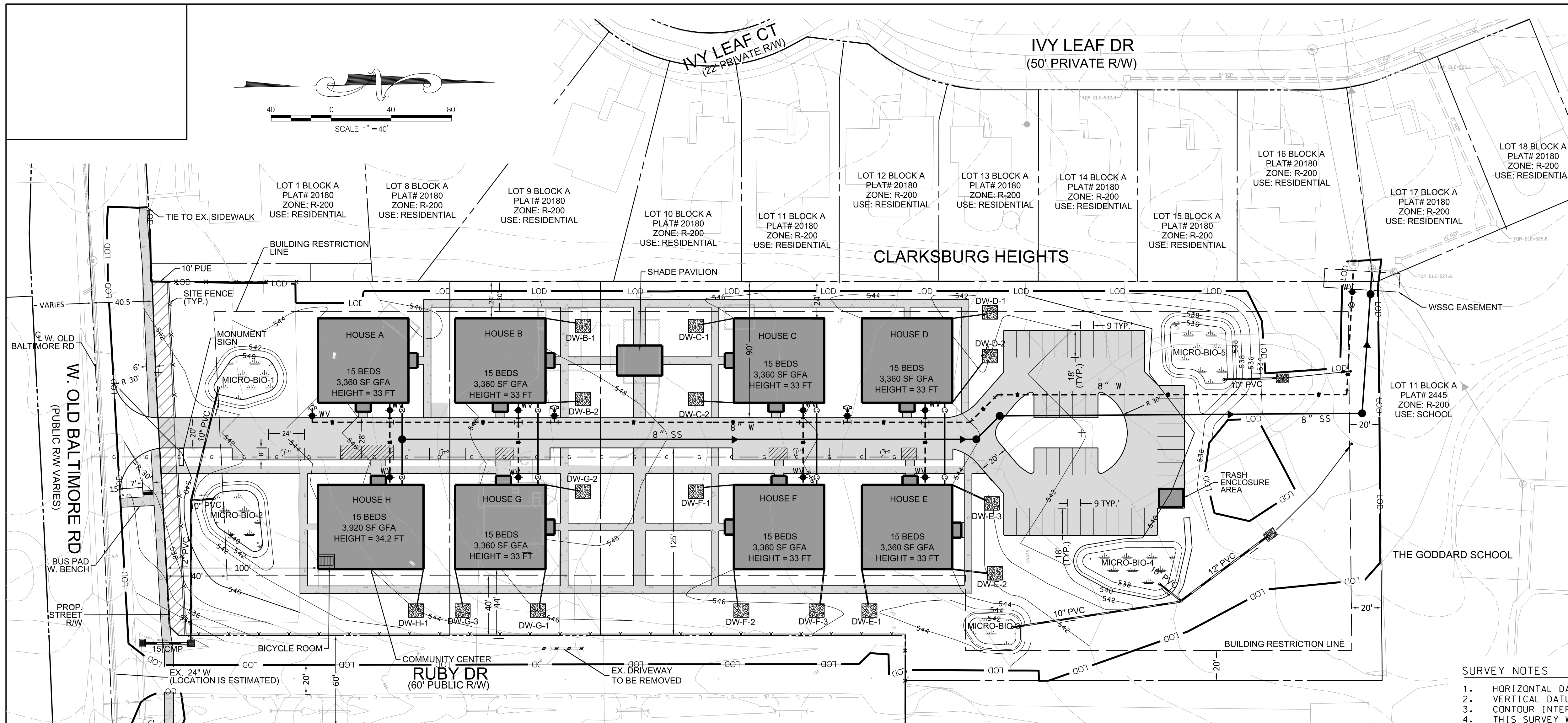
Attachment A: Preliminary Plan



**ENDESCO, INC.**  
ENGINEERS, DESIGNERS &  
CONSULTANTS  
19245 SHADY GROVE RD  
SUITE 335  
ROCKVILLE, MD 20850  
TEL: (301) 987-8776  
FAX: (301) 987-8777



**RUBY SENIOR HOMES**  
12405 W OLD BALTIMORE RD BOYDS, MD 20841  
0 RUBY DR BOYDS, MD 20841  
21908 RUBY DR BOYDS, MD 20841  
LOTS PL. 2 & 3, BLOCK A  
NEELVILLE SUBDIVISION  
RECORD PLAT 7681  
MONTGOMERY COUNTY, MARYLAND

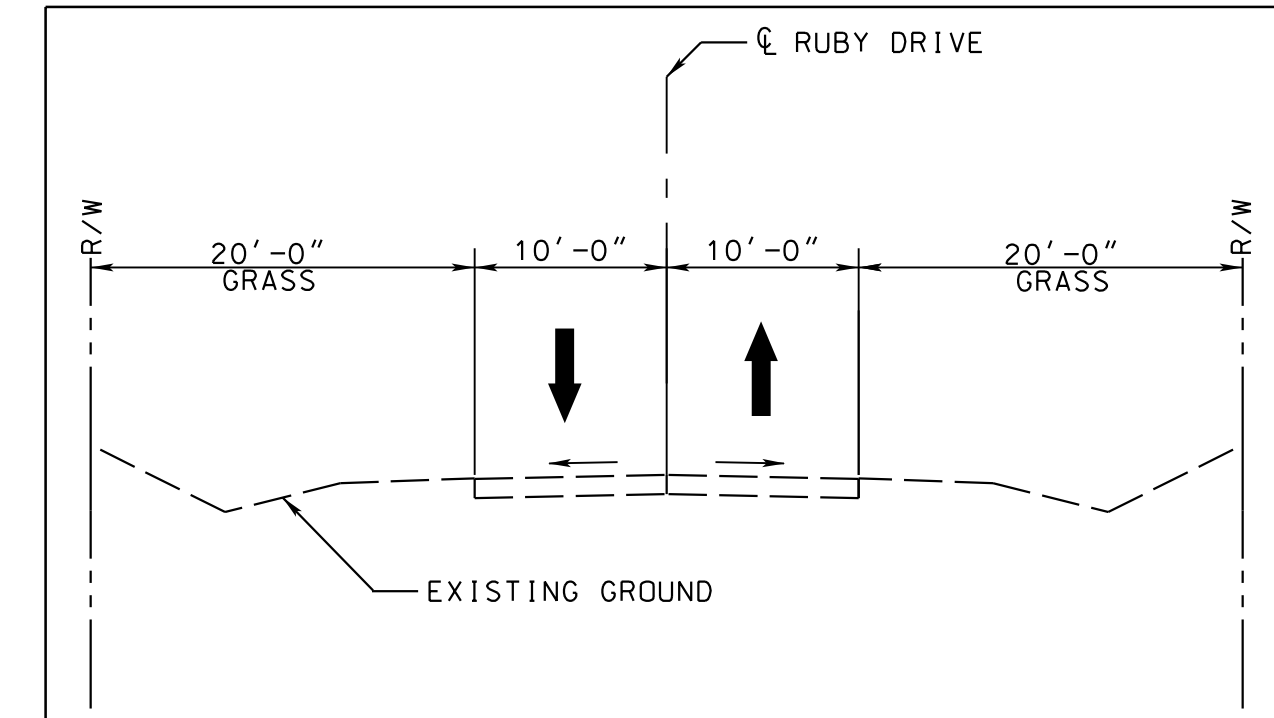
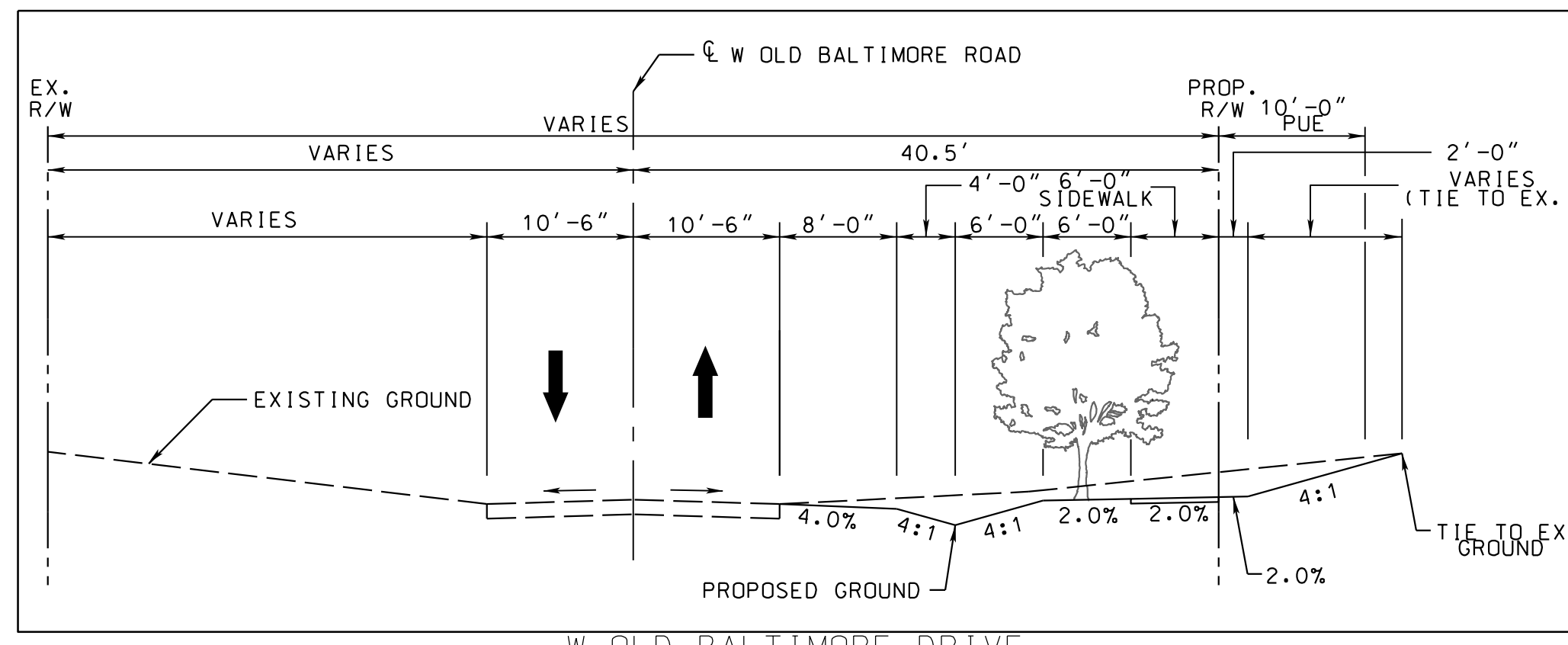
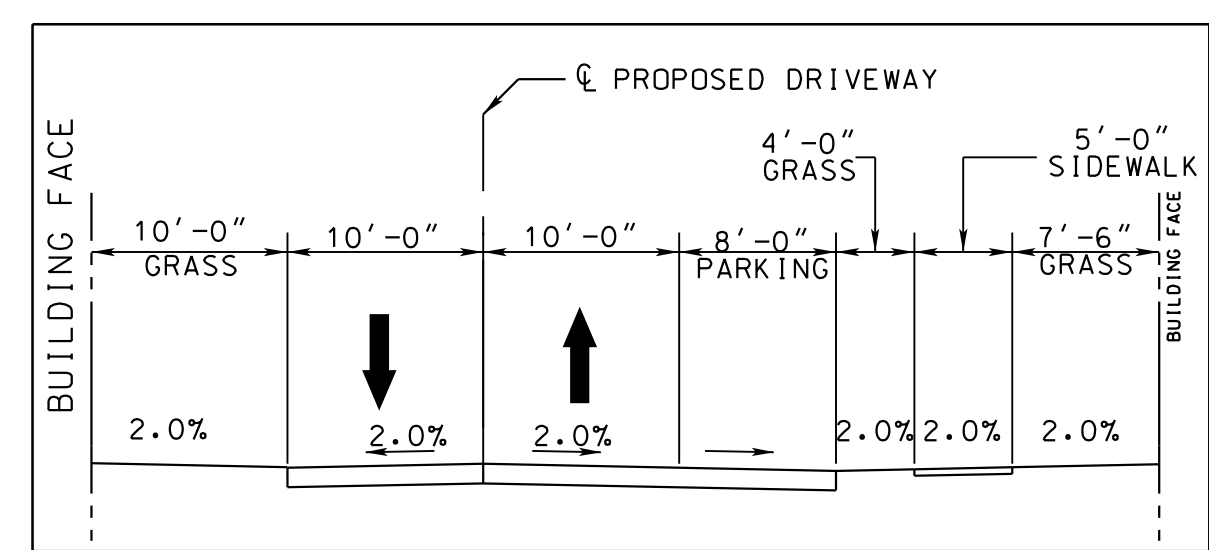


- SURVEY NOTES**
- HORIZONTAL DATUM :NAD 83 - MARYLAND STATE PLANE
  - VERTICAL DATUM - NAVD 88
  - CONTOUR INTERVAL IS 2 FOOT
  - THIS SURVEY WAS PERFORMED BY LIGGIE SURVEYS, INC.
  - UNDERGROUND UTILITY MARKINGS PERFORMED BY MISS UTILITY

AN ON-SITE PRE-CONSTRUCTION MEETING IS REQUIRED TO BE SET UP WITH MNCPPC INSPECTION STAFF BEFORE ANY DEMO, CLEARING, OR GRADING OCCURS ON-SITE. THE OWNER OR THEIR DESIGNEE WHO HAS SIGNATURE AUTHORITY, AND THE GENERAL CONTRACTOR MUST ATTEND THE PRE-CONSTRUCTION MEETING WITH THE MNCPPC INSPECTOR. A COPY OF THE APPROVED CERTIFIED PRELIMINARY PLAN IS REQUIRED ON-SITE AT ALL TIMES. TO SCHEDULE AN INSPECTION WITH MNCPPC STAFF, PLEASE CONTACT JOSH KAYE AT 301-495-4722.

**LEGEND**

	PROPERTY BOUNDARY
	PROPOSED EASEMENT
	PROPOSED UTILITY EASEMENT
	LIMIT OF DISTURBANCE
	PROPOSED WATER MAINS
	PROPOSED SEWER MAINS
	PROPOSED SITE FENCE
	BUILDING FOOTPRINT
	MICRO-BIORETENTION
	IMPERVIOUS AREA
	CONCRETE SIDEWALK



**PROFESSIONAL CERTIFICATION**  
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSED NO. 23093, EXPIRATION DATE 05/06/2025

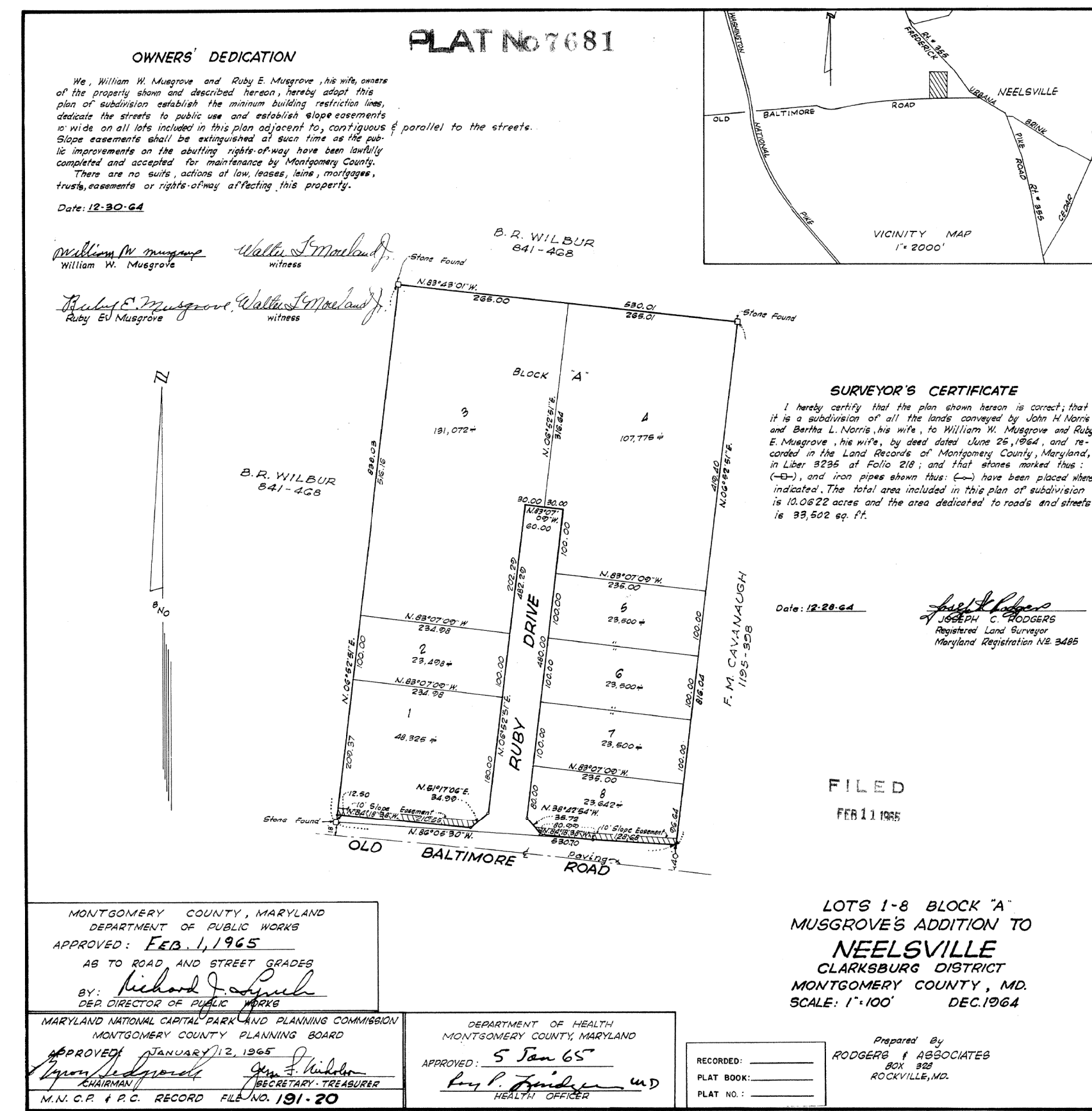
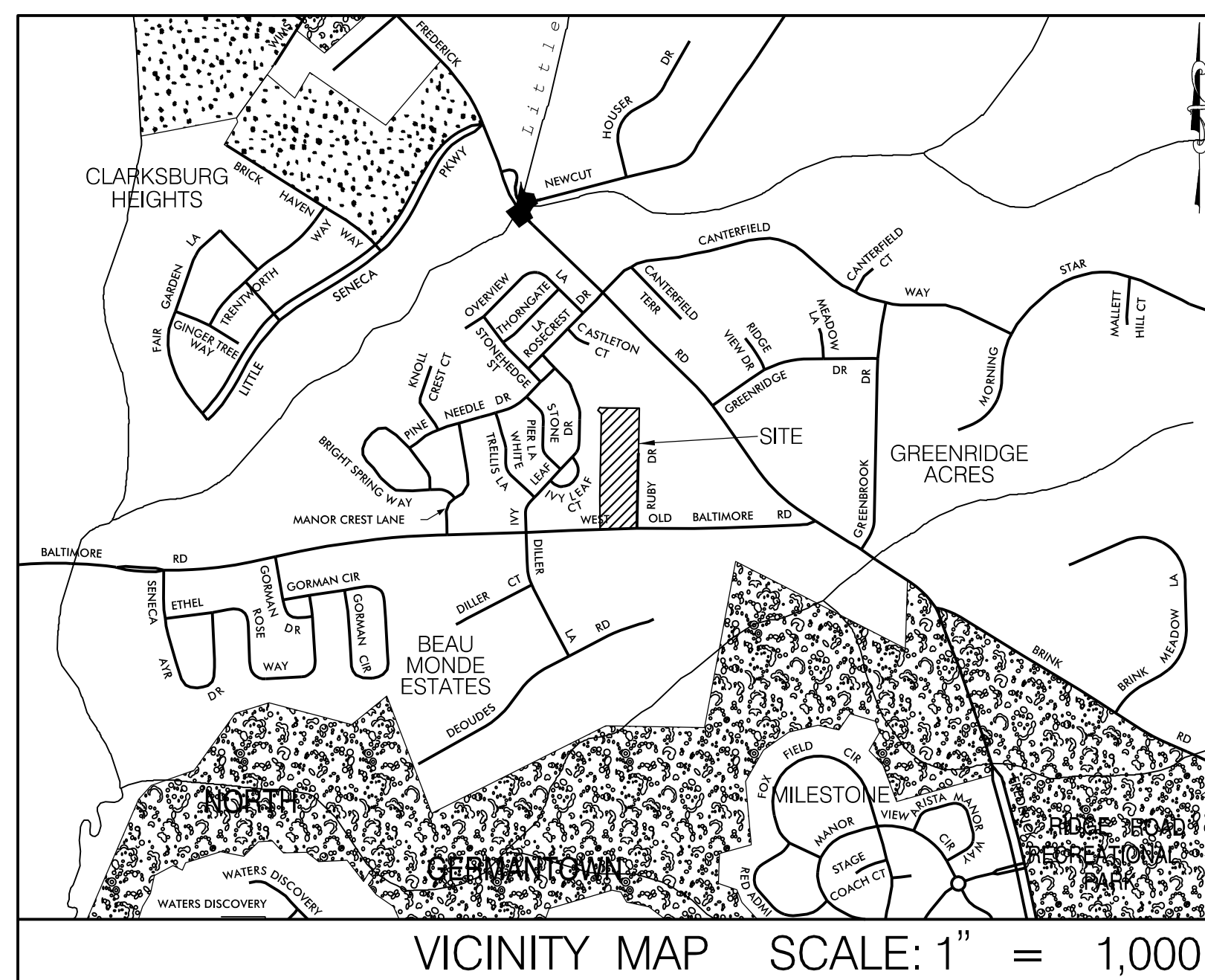
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		NO.	DESCRIPTION
OCT 2024	PRELIMINARY PLAN	1.	
SCALE 1"=40'	DRAWN: GJ	2.	
SHEET	DESIGNED: GJ	3.	
CPP-3	CHECKED: KH	4.	



# PRELIMINARY PLAN RUBY SENIOR HOMES

## SHEET INDEX:

- CPP-1 COVER SHEET
- CPP-2 PLAN APPROVAL SHEET
- CPP-3 PRELIMINARY PLAN



EXISTING SUBDIVISION PLAT NO. 7681

- SURVEY NOTES:
- HORIZONTAL DATUM :NAD 83 - MARYLAND STATE PLANE
  - VERTICAL DATUM - NAVD 88
  - CONTOUR INTERVAL IS 2 FOOT
  - THIS SURVEY WAS PERFORMED BY LIGGIE SURVEYS, INC.
  - UNDERGROUND UTILITY MARKINGS PERFORMED BY MISS UTILITY

### DATA TABLE

ZONING DISTRICT	R-200 (RESIDENTIAL-ONE FAMILY)	
TAX ACCOUNT NO:	00021024, 00021035, 00026857, 02-00028253	
ELECTION DISTRICT:	02	
BUILDING SETBACKS:		
TYPE	REQUIRED	PROVIDED
FRONT (W. BALT)	40' (MIN.)	100'
SIDE STREET (RUBY)	40' (MIN.)	40'
SIDE (WEST PL)	20' (MIN.)	22'
REAR (NORTH PL)	20' (MIN.)	280'
MIN. LOT AREA	20,000 SF	199,802 SF*
MAX. BEDS	148 BEDS	120 BEDS
RESIDENT PARKING	30 (0.25/BED)	30
PEAK TIME STAFF PARKING(44 STAFF)	20 (0.5/EMPLOYEE)	22
OFF STREET PARKING	50	52
ON-STREET PARKING	0	0
ADA PARKING	0	4
BICYCLE PARKING	0	5 (LONG TERM)
UNITS/ACRE	2.18	N/A**
COVERAGE	25%	14%
BUILDING HEIGHT	50' (MAX.)	40'
EXISTING SITE SIZE:		4.66 ACRES
PROPOSED SITE SIZE:		4.58 ACRES
TOTAL LOD AREA:		4.66 ACRES

\*THIS PLAN IS APPROVED UNDER CONDITIONAL USE PLAN #202311

\*\*THIS REQUIREMENT IS NOT APPLICABLE AS THERE ARE NO "DWELLING UNITS" PROPOSED BY THIS PROJECT. RATHER, THE PROPOSED USE IS GOVERNED BY THE LOT AREA REQUIREMENT UNDER SECTION 3.3.2.E.2.C.II.(D), THAT REQUIRES A MINIMUM OF 1,200 SQUARE FEET PER BED. HOWEVER, THE APPLICANT HAS DEMONSTRATED THAT FOR PURPOSES OF COMPATIBILITY, IF THIS REQUIREMENT WERE TO APPLY, THE PROJECT WOULD COMPLY AS THERE ARE 8 INDIVIDUAL COTTAGES PROPOSED.

### GENERAL NOTES & ZONING ANALYSIS

- PROJECT NAME: RUBY SENIOR HOMES, BOYDS MONTGOMERY COUNTY, MARYLAND
- OWNER / DEVELOPER: WORLDSHINE HOME, LLC  
700 PROFESSIONAL DR.  
GAITHERSBURG, MD 20879  
CONTACT: BECKY JIA  
PHONE: (202) 903-4530
- CIVIL ENGINEER: ENDESCO, INC.  
15245 SHADY GROVE RD, SUITE 335  
ROCKVILLE, MD 20850  
CONTACT: MR. KEVIN HUANG  
PHONE: (301) 987-8776, FAX: (301) 987-8777
- LEGAL DESCRIPTION: MUSGROVE'S ADDITION TO NEELSVILLE LOT 1, LOT 2, & LOT 3
- SURVEY: ORIGINAL TOPOGRAPHIC SURVEY PREPARED BY LIGGIE SURVEYS, INC. IN OCTOBER 2018
- PROPOSED USE: CONDITIONAL USE - RESIDENTIAL CARE FACILITY (OVER 16 PERSONS)
- CONSTRUCTION WITHIN PUBLIC RIGHT-OF-WAY: ONE ENTRANCE ROADS AND UTILITY CONNECTIONS
- STORMWATER MANAGEMENT: STORMWATER MANAGEMENT IS BEING PROVIDED IN ACCORDANCE WITH MCDPS REQUIREMENTS.
- NOTIFY MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES 48 HOURS BEFORE BEGINNING CONSTRUCTION OF PROPOSED IMPROVEMENTS.
- WSSC 200 SCALE SHEET NO. 230NW12
- NRI / FSD PLAN #42040140
- PUBLIC UTILITY COMPANIES:  
WATER AND SANITARY SEWER: WSSC PH: 800-828-6349  
ELECTRICITY: PEPCO PH: 202-833-7500  
NATURAL GAS: WASHINGTON GAS PH: 703-750-1000
- WATERSHED: LITTLE SENECA CREEK
- ROADWAY AND PAVEMENT SECTION IS PER MC DOT STANDARD MC-211.03

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND

23093  
License No.

05/06/2025  
Expiration Date

**ENDESCO, INC.**  
ENGINEERS, DESIGNERS &  
CONSULTANTS

15245 SHADY GROVE RD  
SUITE 335  
ROCKVILLE, MD 20850  
TEL: (301) 987-8776  
FAX: (301) 987-8777

PT LOT 1, LOTS 2 AND 3  
**RUBY SENIOR HOMES**

MONTGOMERY COUNTY, MARYLAND

REVISIONS	DESCRIPTION	
	NO.	DATE
	1.	
	2.	
	3.	
	4.	

TITLE

COVER SHEET

DRAWN: GJ

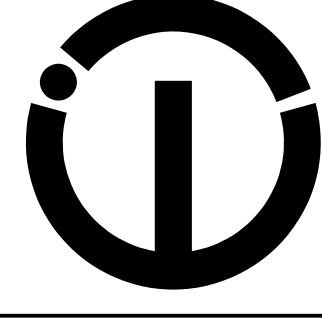
DESIGNED: GJ

CHECKED: KH

DATE	OCT 2024
SCALE	NTS
SHEET	CPP-1



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PT LOT 1, LOTS 2 AND 3  
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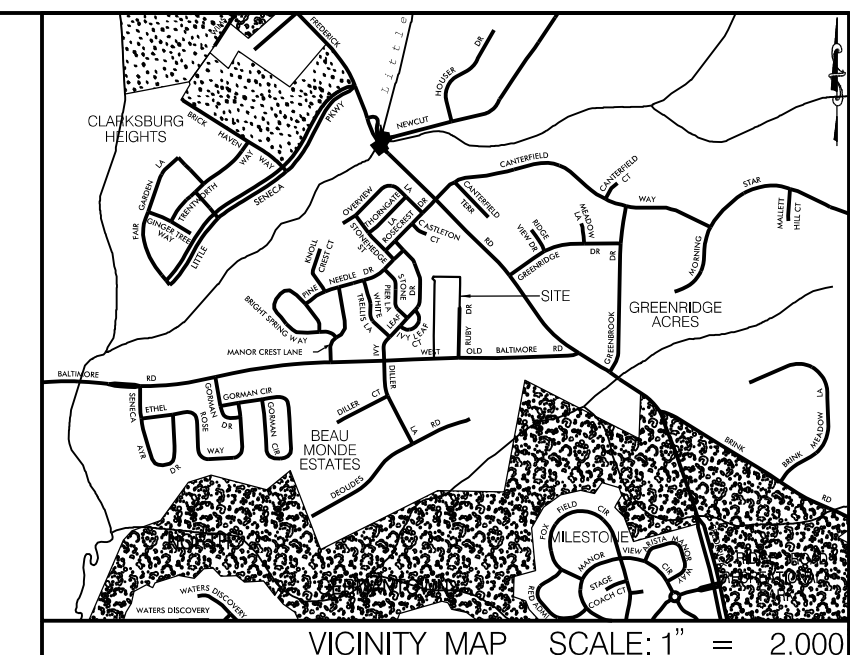
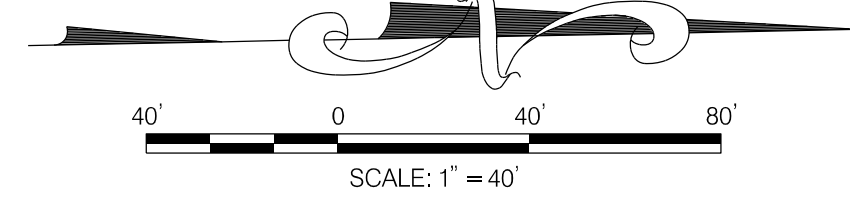
MONTGOMERY COUNTY, MARYLAND

REVISIONS

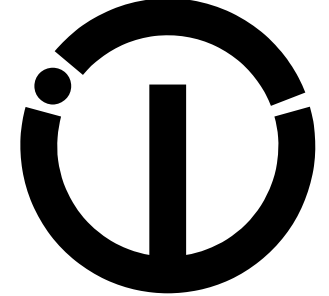
NO.	DATE	DESCRIPTION
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TITLE	PLAN APPROVALS
DRAWN: GJ	
DESIGNED: GJ	
CHECKED: KH	

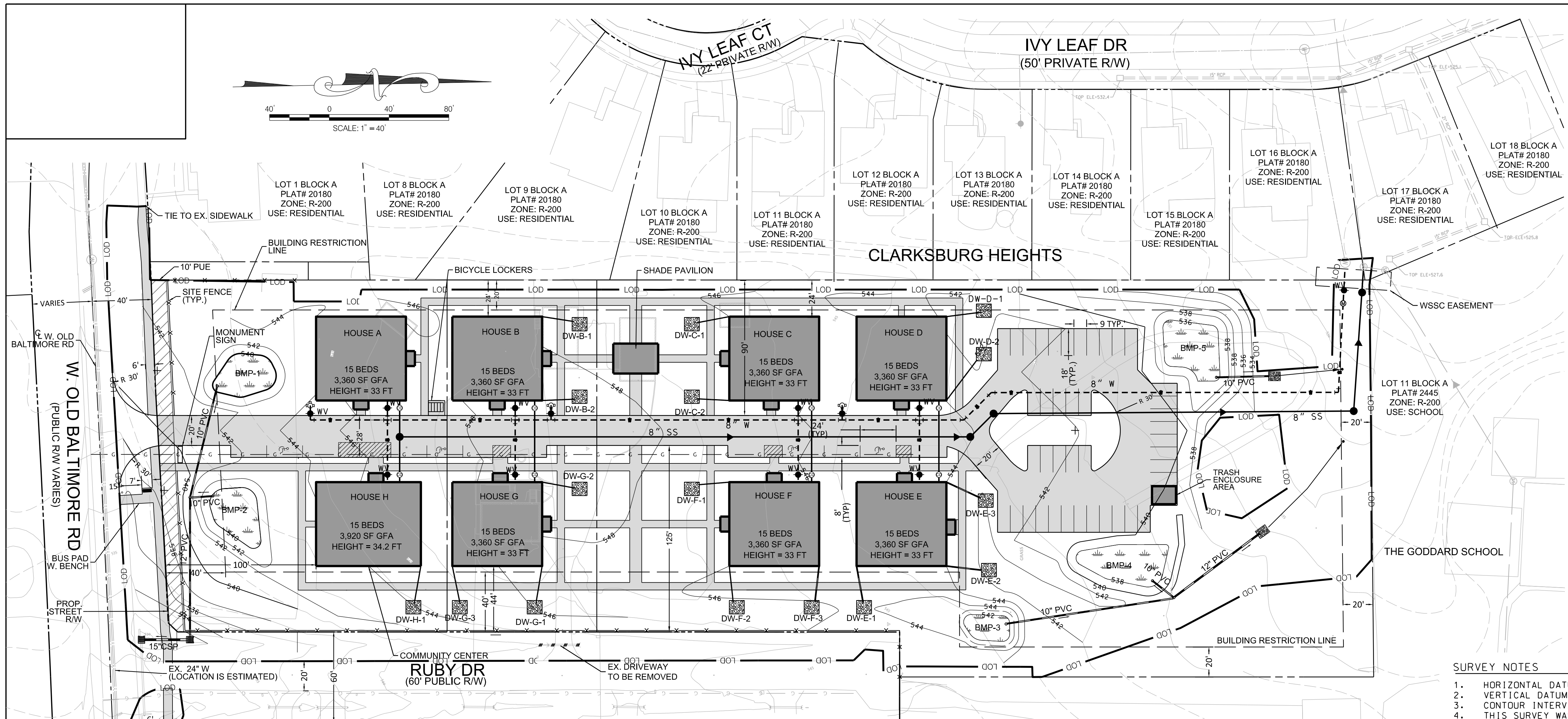
DATE	JUN 2024
SCALE	NTS
SHEET	CPP-2



**ENDESCO, INC.**  
ENGINEERS, DESIGNERS & CONSULTANTS  
19245 SHADY GROVE RD  
SUITE 335  
ROCKVILLE, MD 20850  
TEL: (301) 987-8776  
FAX: (301) 987-8777



PT LOT 1, LOTS 2 AND 3  
**RUBY SENIOR HOMES**  
MONTGOMERY COUNTY, MARYLAND

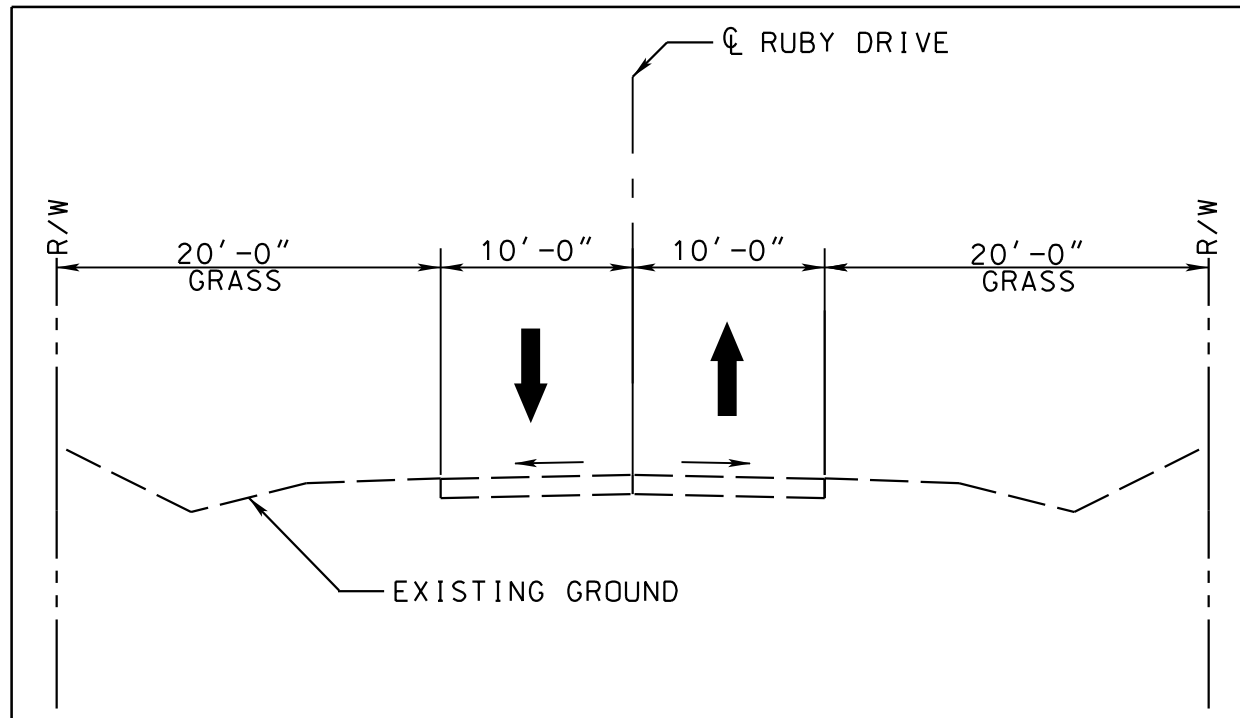
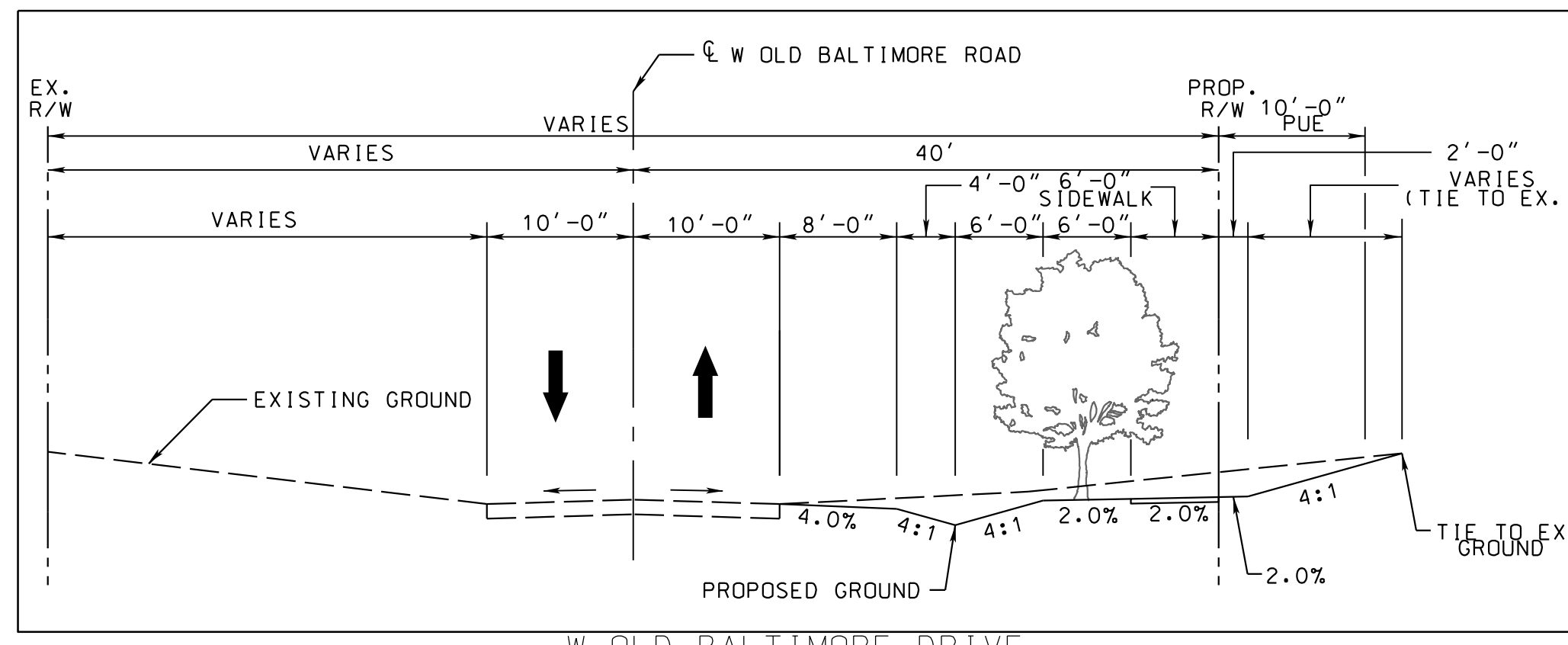
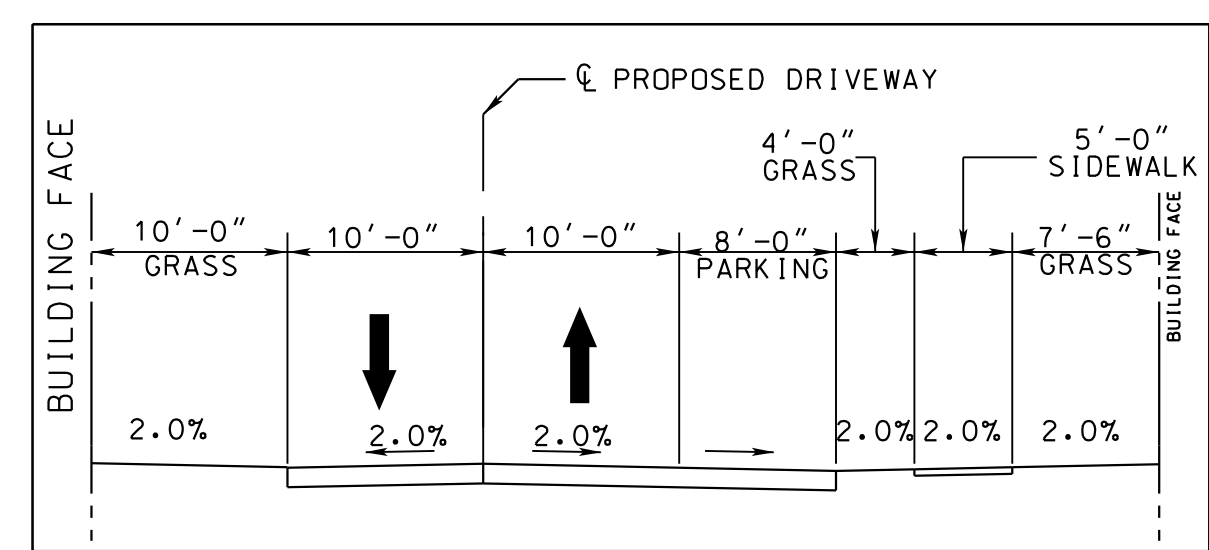


- SURVEY NOTES**
- HORIZONTAL DATUM : NAD 83 - MARYLAND STATE PLANE
  - VERTICAL DATUM - NAVD 88
  - CONTOUR INTERVAL IS 2 FOOT
  - THIS SURVEY WAS PERFORMED BY LIGGIE SURVEYS, INC.
  - UNDERGROUND UTILITY MARKINGS PERFORMED BY MISS UTILITY

AN ON-SITE PRE-CONSTRUCTION MEETING IS REQUIRED TO BE SET UP WITH MNCPPC INSPECTION STAFF BEFORE ANY DEMO, CLEARING, OR GRADING OCCURS ON-SITE. THE OWNER OR THEIR DESIGNEE WHO HAS SIGNATURE AUTHORITY, AND THE GENERAL CONTRACTOR MUST ATTEND THE PRE-CONSTRUCTION MEETING WITH THE MNCPPC INSPECTOR. A COPY OF THE APPROVED CERTIFIED PRELIMINARY PLAN IS REQUIRED ON-SITE AT ALL TIMES. TO SCHEDULE AN INSPECTION WITH MNCPPC STAFF, PLEASE CONTACT JOSH KAYE AT 301-495-4722.

**LEGEND**

	PROPERTY BOUNDARY
	PROPOSED EASEMENT
	PROPOSED UTILITY EASEMENT
	LIMIT OF DISTURBANCE
	PROPOSED WATER MAINS
	PROPOSED SEWER MAINS
	PROPOSED SITE FENCE
	BUILDING FOOTPRINT
	MICRO-BIORETENTION
	IMPERVIOUS AREA



**PROFESSIONAL CERTIFICATION**  
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSED NO. 23093, EXPIRATION DATE 05/06/2025

REVISIONS	
NO.	DESCRIPTION
1.	
2.	
3.	
4.	

DATE	TITLE	DRAWN:	DESIGNED:	CHECKED:
OCT 2024	PRELIMINARY PLAN	GJ	GJ	KH
SCALE 1"=40'				
SHEET				
				CPP-3

# Attachment B: Forest Conservation Plan

# RUBY SENIOR HOMES

## F20250100



Civil Engineers  
Land Planners  
Landscape Architects  
Land Surveyors

9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886  
Phone: 301.670.0840  
www.mhgpa.com

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FRANK C. JOHNSON  
12/16/2024

DATE  
RECOGNIZED AS QUALIFIED PROFESSIONAL BY  
MD DEPT. OF NATURAL RESOURCES  
COMAR 08.19.06.01

**Qualified Professional Certification**  
I hereby certify that the information shown hereon is correct and that this plan has been prepared in accordance with the requirements of the existing state and county forest conservation legislation.

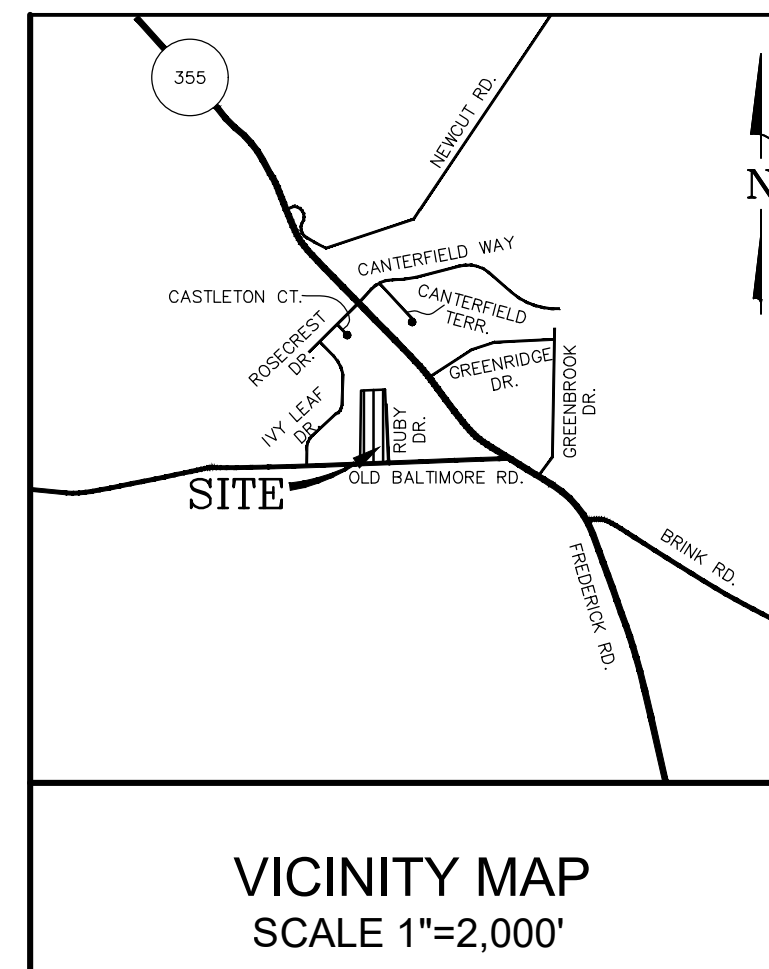
ENDESCO, INC.  
C/O KEVIN HUANG

15245 SHADY GROVE ROAD  
SUITE 335  
ROCKVILLE, MD 20850

301.987.8776  
Kevinhuang@endescoinc.com

### SHEET INDEX

- L2.01 COVERSHEET
- L2.02 APPROVAL MEMO
- L2.03 PLAN VIEW
- L2.04 NOTES & DETAILS



### NOTES

1. TOTAL SITE AREA = 4.66 ACRES (202,895 S.F.) AND CONSISTS OF LOT 1, LOT 2, & LOT 3 OF MUSGROVES ADDITION TO NEELSVILLE. PROPERTY ADDRESS IS 21908 RUBY DRIVE AND 12405 W OLD BALTIMORE ROAD BOYDS, MD 20841 WITH TAX ID#02-00021035, 02-00021024, 02-00026857, AND 02-00028253. PROPERTY IS ZONED R-200. OWNER IS GREENLAND PROPERTIES, LLC ADDRESS IS 20420 CENTURY BLVD GERMANTOWN, MD 20874.
2. TOPOGRAPHY FROM 230NW12 AND TREE, BUILDING, AND UTILITY LOCATIONS FROM LIGGIE SURVEYS OCT. 2018. FOREST CANOPY ADJUSTED PER FIELD OBSERVATIONS.
3. BOUNDARY INFORMATION FROM LIGGIE SURVEYS.
4. SOILS ARE MAPPED ACCORDING TO SOIL SURVEY STAFF, NATURAL RESOURCES CONSERVATION SERVICE, 1995 SOIL SURVEY OF MONTGOMERY COUNTY, MARYLAND, PREPARED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE. WEB SOIL SURVEY. AVAILABLE ONLINE AT <https://websoilsurvey.sc.egov.usda.gov/>. ACCESSED [10/10/2022].
5. NO SLOPES GREATER THAN 25% EXIST ON-SITE. NO SLOPES 15-25% ON HIGHLY ERODIBLE SOILS EXIST ON-SITE.
6. THE SITE DRAINS TO LITTLE SENECA CREEK. THIS PORTION OF THE LITTLE SENECA CREEK WATERSHED IS DESIGNATED AS CLASS IV-P WATERS BY THE STATE OF MARYLAND.
7. PROPERTY IS LOCATED WITHIN THE CLARKSBURG SPECIAL PROTECTION AREA (SPA) AND IS NOT WITHIN A PRIMARY MANAGEMENT AREA (PMA). PER SITE VISIT NO WETLANDS, STREAMS, SEEPS, OR SPRINGS WERE FOUND TO EXIST ON SITE. NO STREAM VALLEY BUFFERS EXIST ON SITE. NO WETLANDS PER NATIONAL WETLANDS INVENTORY ONLINE MAPPING TOOL. NO FLOODPLAIN EXISTS WITHIN 100' OF THE PROPERTY PER FEMA PANEL #24031C0160D.
8. UTILITIES (I.E. WATER, SEWER, STORM DRAIN, CULVERTS, ELECTRIC, PHONE) ARE SHOWN IN SURVEYED LOCATIONS.
9. THERE IS 1.36 ACRES OF FOREST AREA ON-SITE.
10. THE PROPERTY IS NOT LISTED AS A HISTORIC SITE ON MCATLAS.ORG. NO STRUCTURE OR EVIDENCE SUGGESTING HISTORICAL OR ARCHAEOLOGICAL SIGNIFICANCE WAS OBSERVED DURING SITE INVESTIGATIONS.
11. SOME ON-SITE INDIVIDUAL TREE LOCATIONS ARE SURVEYED PER STANDARD SURVEY PRACTICES BY LIGGIE SURVEYS, INC. IN 2019. WHILE OTHER ON-SITE TREES ARE LOCATED PER GPS BY AMY LUTSKO ON 3/28/2019. ON-SITE TREES 15, 18, AND 22 AS WELL AS OFF-SITE TREES ARE LOCATED BY OCCULAR ESTIMATE. TREE DBH WAS MEASURED USING A DIAMETER TAPE.
12. FIELDWORK FOR THE NRI THT ACCOMODATES THIS FCP WAS CONDUCTED ON 07/13/2023 BY FRANK JOHNSON.
13. NO RARE, THREATENED OR ENDANGERED SPECIES WERE OBSERVED ON OR OFF-SITE AT THE TIME OF THE FIELD INVESTIGATION.
14. THERE ARE NO NATIONAL STATE OR COUNTY CHAMPION TREES ON-SITE. TREE #E00 IS GREATER IN DBH THAN THE CURRENT STATE CHAMPION.
15. THE TREE INVENTORY IN NO WAY CONSTITUTES A HAZARD TREE SURVEY. TREE CONDITIONS ARE GENERALLY ACCURATE BASED ON VISUAL OBSERVATION PER USUAL AND CUSTOMARY PRACTICE IN ACCORD WITH STATE AND COUNTY FOREST CONSERVATION LEGISLATION. THE EXAMINATION DETAIL REQUIRED TO PROVIDE A COMPREHENSIVE ANALYSIS OF BIOLOGICAL AND STRUCTURAL HEALTH IS BEYOND THE SCOPE OF THIS INVESTIGATION. CONDITION RATINGS ARE THE OPINION OF THE UNDERSIGNED PREPARER AND NOT THE APPROVING AGENCY. MHG ASSUMES NO LIABILITY FOR INJURY OR PROPERTY DAMAGE THAT MAY OCCUR AS A RESULT OF TREE FAILURE ON THIS PROPERTY.

### REVISIONS

NO.	DESCRIPTION	DATE

TAX MAP EV562 WSSC 230NW12

2ND ELECTION DISTRICT  
MONTGOMERY COUNTY  
MARYLAND

**PART OF LOT 1, 2 & 3  
BLOCK A - MUSGROVE'S  
ADDITION TO NEELSVILLE**

**RUBY SENIOR HOMES**

PROJ. MGR DBP

DRAWN BY FCJ

SCALE NTS

DATE 10.23.2023

**FINAL FOREST  
CONSERVATION PLAN  
COVERSHEET  
#F20250100**

**L2.01**

PROJECT NO. 87.115.41

SHEET NO. 1 OF 4

### DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. F20250100, including financial bonding, forest planting, maintenance and all other applicable agreements.

Developer's Name: ENDESCO INC Kevin Huang  
Company Contact Person

Address: 15245 Shady Grove Rd Suite 335 Rockville, MD 20850

Phone: 301.987.8776

Email: Kevinhuang@endescoinc.com

Signature:



Know what's below.  
Call before you dig.

FOR UTILITY LOCATIONS  
CONTACT "ONE CALL" AT 811  
AT LEAST 48 HOURS  
PRIOR TO CONSTRUCTION



Civil Engineers  
 Land Planners  
 Landscape Architects  
 Land Surveyors

9220 Wightman Road, Suite 120  
 Montgomery Village, MD 20886  
 Phone: 301.670.0840  
 www.mhgpa.com

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FRANK C. JOHNSON  
 12/16/2024

DATE  
 RECOGNIZED AS QUALIFIED PROFESSIONAL BY  
 MD DEPT. OF NATURAL RESOURCES  
 COMAR 08.19.06.01

**Qualified Professional Certification**  
 I hereby certify that the information shown hereon is  
 correct and that this plan has been prepared in  
 accordance with the requirements of the existing state  
 and county forest conservation legislation.

ENDESCO, INC.  
 C/O KEVIN HUANG

15245 SHADY GROVE ROAD  
 SUITE 335  
 ROCKVILLE, MD 20850

301.987.8776  
 Kevinhuang@endescinc.com

**REVISIONS**

NO.	DESCRIPTION	DATE

TAX MAP EV562 WSSC 230NW12

2ND ELECTION DISTRICT  
 MONTGOMERY COUNTY  
 MARYLAND

**PART OF LOT 1, 2 & 3  
 BLOCK A - MUSGROVE'S  
 ADDITION TO NEELSVILLE**

**RUBY SENIOR HOMES**

PROJ. MGR DBP

DRAWN BY FCJ

SCALE NTS

DATE 10.23.2023

**FINAL FOREST  
 CONSERVATION PLAN  
 APPROVAL SHEET  
 #F20250100**

**L2.02**

PROJECT NO. 87.115.41

SHEET NO. 2 OF 4

**DEVELOPER'S CERTIFICATE**  
 The Undersigned agrees to execute all the features of the Approved Final Forest  
 Conservation Plan No. F20250100, including financial bonding, forest  
 planting, maintenance and all other applicable agreements.  
 Developer's Name: ENDESCO INC Kevin Huang  
 Company Contact Person  
 Address: 15245 Shady Grove Rd Suite 335 Rockville, MD 20850  
 Phone: 301.987.8776  
 Email: Kevinhuang@endescinc.com  
 Signature:

**811**  
 Know what's below.  
 Call before you dig.  
 FOR UTILITY LOCATIONS  
 CONTACT "ONE CALL" AT 811  
 AT LEAST 48 HOURS  
 PRIOR TO CONSTRUCTION

*Frank C. Johnson*

FRANK C. JOHNSON  
12/16/2024

DATE  
RECOGNIZED AS QUALIFIED PROFESSIONAL BY  
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Kevinhuang@endescoinc.com

NO.	DESCRIPTION	DATE

TAX MAP EV562 WSSC 230NW12

2ND ELECTION DISTRICT  
MONTGOMERY COUNTY  
MARYLAND

PART OF LOT 1, 2 & 3  
BLOCK A - MUSGROVE'S  
ADDITION TO NEELSVILLE

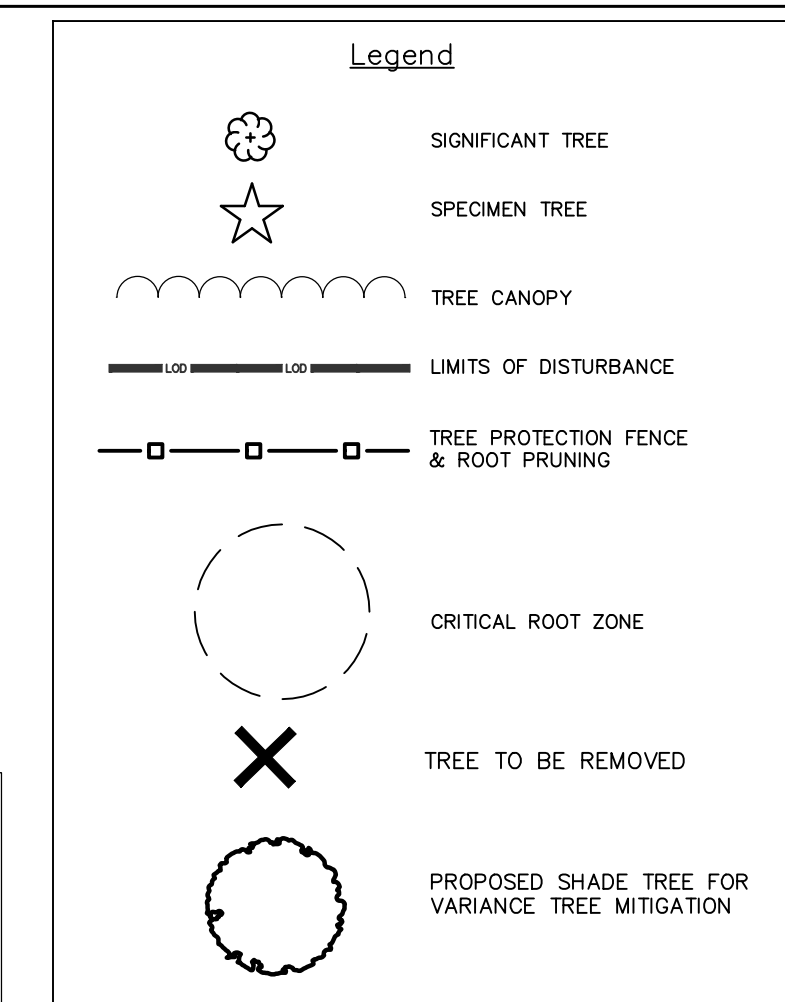
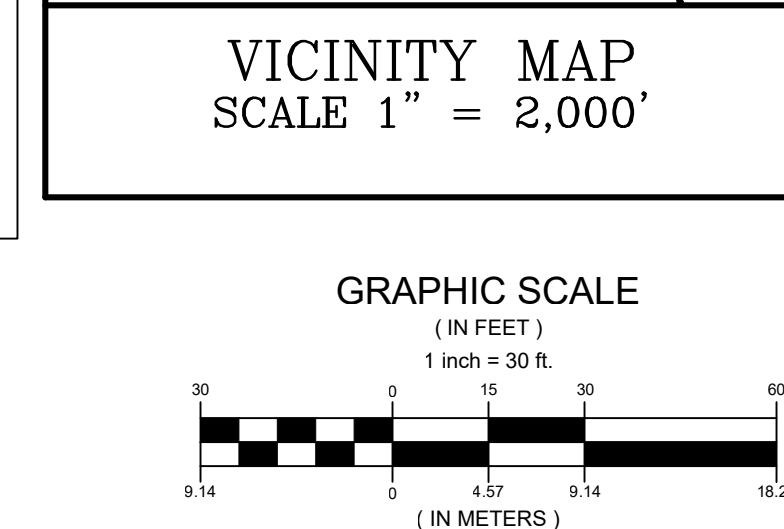
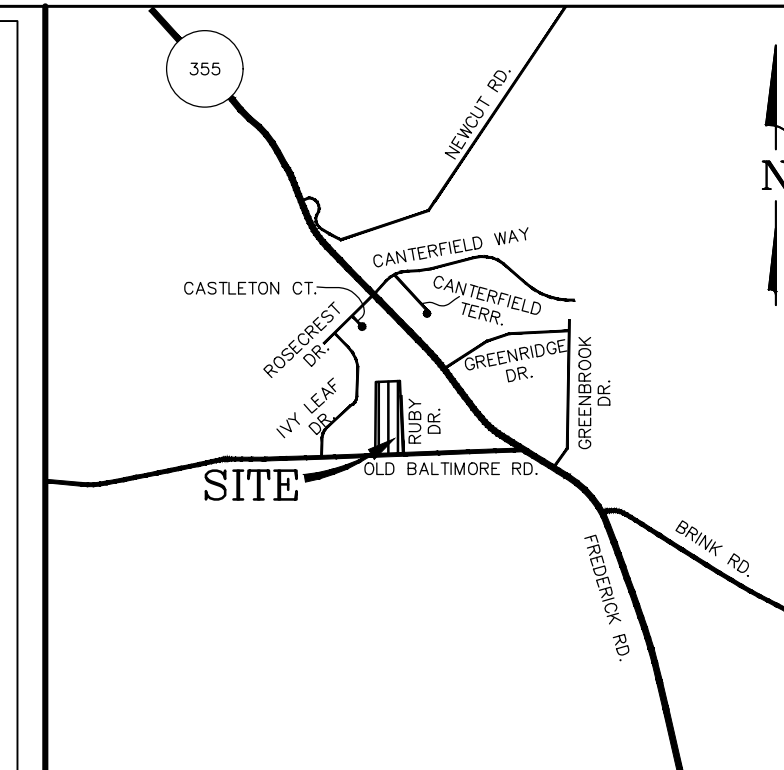
RUBY SENIOR HOMES

PROJ. MGR	DBP
DRAWN BY	FCJ
SCALE	1" = 30'
DATE	10.23.2023

FINAL FOREST  
CONSERVATION PLAN  
#F20250100

L2.03

PROJECT NO.	87.115.41
SHEET NO.	3 OF 4

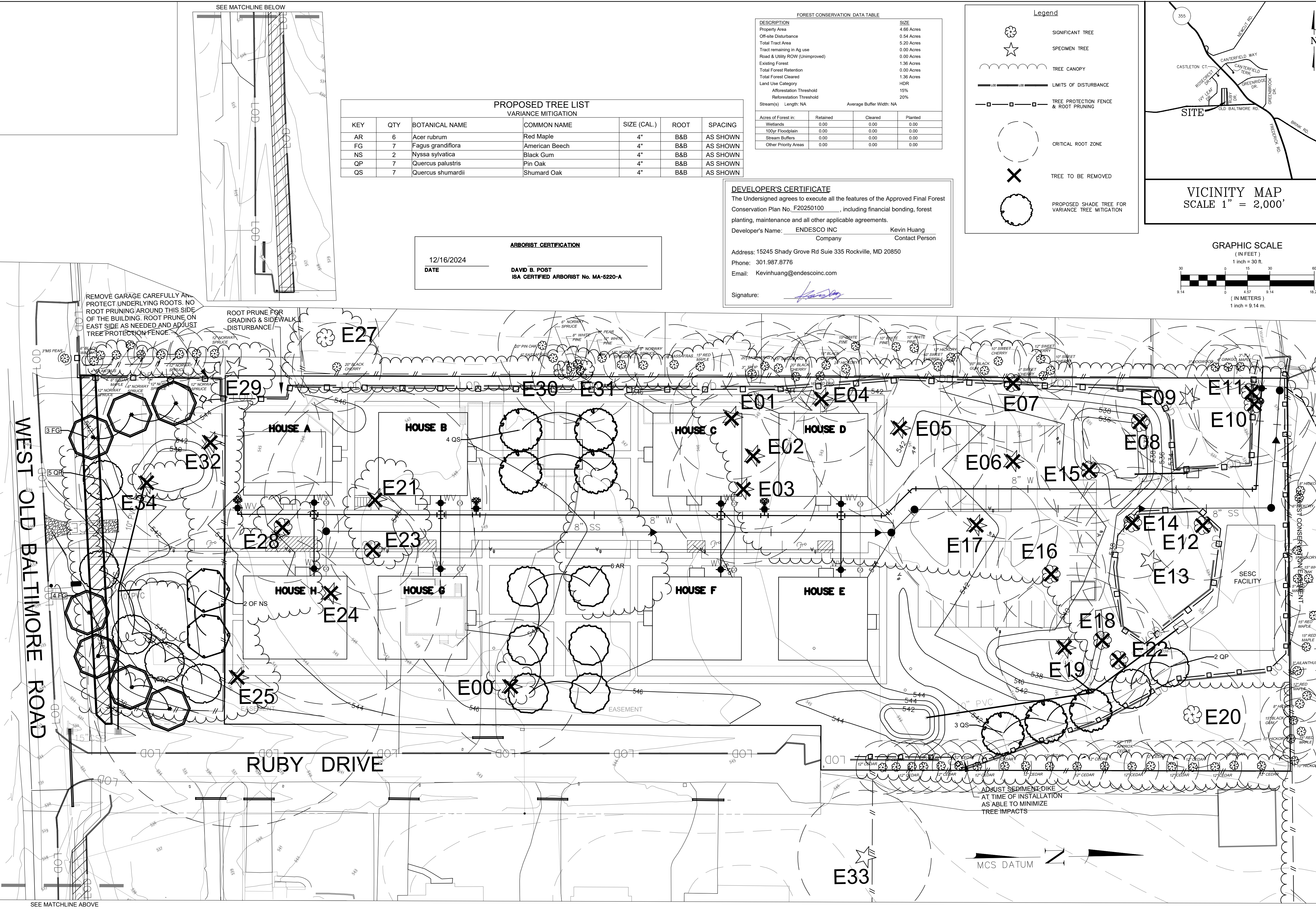


FOREST CONSERVATION DATA TABLE			
DESCRIPTION	SIZE	Retained	Planted
Property Area	4.66 Acres	0.00	0.00
Off-site Disturbance	0.54 Acres	0.00	0.00
Total Tract Area	5.20 Acres	0.00	0.00
Tract remaining in Ag use	0.00 Acres	0.00	0.00
Road & Utility ROW (Unimproved)	0.00 Acres	0.00	0.00
Existing Forest	1.36 Acres	0.00	0.00
Total Forest Retention	0.00 Acres	0.00	0.00
Total Forest Cleared	1.36 Acres	0.00	0.00
Land Use Category	HDR	0.00	0.00
Reforestation Threshold	15%	0.00	0.00
Stream(s) Length: NA	Average Buffer Width: NA	0.00	0.00

PROPOSED TREE LIST VARIANCE MITIGATION						
KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE (CAL.)	ROOT	SPACING
AR	6	Acer rubrum	Red Maple	4"	B&B	AS SHOWN
FG	7	Fagus grandiflora	American Beech	4"	B&B	AS SHOWN
NS	2	Nyssa sylvatica	Black Gum	4"	B&B	AS SHOWN
QP	7	Quercus palustris	Pin Oak	4"	B&B	AS SHOWN
QS	7	Quercus shumardii	Shumard Oak	4"	B&B	AS SHOWN

**DEVELOPER'S CERTIFICATE**  
The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. F20250100, including financial bonding, forest planting, maintenance and all other applicable agreements.  
Developer's Name: ENDESCO INC Kevin Huang  
Company Contact Person  
Address: 15245 Shady Grove Rd Suite 335 Rockville, MD 20850  
Phone: 301.987.8776  
Email: Kevinhuang@endescoinc.com  
Signature: *Kevin Huang*

**ARBORIST CERTIFICATION**  
12/16/2024  
DATE  
DAVID B. POST  
ISA CERTIFIED ARBORIST No. MA-6220-A



I:\8715\dwg\Ruby Senior Homes\_41\DWG\FC\_1\_01.dwg, FC-3, 12/16/2024, 2:18:30 PM, jhmsr, ANSI D (22.00 x 34.00 inches), Copyright © 2024 Macris, Hendricks & Glascock, P.A.



Civil Engineers
Land Planners
Landscape Architects
Land Surveyors

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FRANK C. JOHNSON
12/16/2024

DATE
RECOGNIZED AS QUALIFIED PROFESSIONAL BY
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COMAR 08.19.06.01

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accordance with the requirements of the existing state
and county forest conservation legislation.

ENDESCO, INC.
C/O KEVIN HUANG

15245 SHADY GROVE ROAD
SUITE 335
ROCKVILLE, MD 20850

301.987.8776
Kevinhuang@endescocinc.com

REVISIONS

Table with 3 columns: NO., DESCRIPTION, DATE

TAX MAP EV562 WSSC 230NW12

2ND ELECTION DISTRICT
MONTGOMERY COUNTY
MARYLAND

PART OF LOT 1, 2 & 3
BLOCK A - MUSGROVE'S
ADDITION TO NEELSVILLE

RUBY SENIOR HOMES

PROJ. MGR DBP

DRAWN BY FCJ

SCALE NTS

DATE 10.23.2023

FINAL FOREST
CONSERVATION PLAN
#F20250100

L2.04

PROJECT NO. 87.115.41

SHEET NO. 4 OF 4

Sequence of Events for Properties Required To Comply With
Forest Conservation Plans, Exemptions from Submitting Forest Conservation
Plans, and Tree Save Plans

The property owner is responsible for ensuring all tree protection measures are performed in
accordance with the approved final forest conservation plan or tree save plan, and as modified in
the field by a Planning Department Forest Conservation Inspector. The measures must meet or
exceed the most recent standards published by the American National Standards Institute (ANSI
A300).

Pre-Construction

- 1. An on-site pre-construction meeting is required after the limits of disturbance have been
staked and flagged and before any land disturbance.
2. The property owner must arrange for the meeting and the following people must participate at
the preconstruction meeting: the property owner or their representative, construction
superintendent, International Society of Arboriculture (ISA) certified arborist/MD Licensed
Tree Expert (representing owner) that will implement the tree protection measures, The
Planning Department Forest Conservation Inspector, and Montgomery County Department of
Permitting Services (DPS) Sediment Control Inspector. The purpose of this meeting is to verify
the limits of disturbance and discuss specific tree protection and tree care measures shown on
the approved plan. No land disturbance shall begin before tree protection and stress-reduction
measures have been implemented and approved by the Planning Department's Forest
Conservation Inspector.
a. Typical tree protection devices include:
i. Chain link fence (four feet high)
ii. Super silt fence with wire strung between the support poles (minimum 4 feet high) with
high visibility flagging.
iii. 14 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4
feet high) with high visibility flagging.
b. Typical stress reduction measures may include, but are not limited to:
i. Root pruning with a root cutter or vibratory plow designed for that purpose. Trenchers
are not allowed, unless approved by the Forest Conservation Inspector
ii. Crown Reduction or pruning
iii. Watering
iv. Fertilizing
v. Vertical mulching
vi. Root aeration systems
Measures not specified on the Forest Conservation Plan may be required as determined by the
Forest Conservation Inspector in coordination with the property owner's arborist.

3. A Maryland Licensed Tree expert must perform, or directly supervise, the implementation of
all stress reduction measures. Documentation of the process (including photographs)

Page 1 of 3 February 2017

may be required by the Forest Conservation Inspector, and will be determined at the
preconstruction meeting.

4. Temporary protection devices must be installed per the approved Forest Conservation
Plan, Exemption Plan, or Tree Save Plan and prior to any land disturbance. The Forest
Conservation Inspector, in coordination with the DPS Sediment Control Inspector, may
make field adjustments to increase the survivability of trees and forest shown as saved on
the approved plan.

5. Tree protection fencing must be installed and maintained by the property owner for the
duration of construction project and must not be altered without prior approval from the
Forest Conservation Inspector. All construction activity within protected tree and forest
areas is prohibited. This includes the following activities:
a. Parking or driving equipment, machinery, or vehicles of any type.
b. Storage of any construction materials, equipment, stockpiling, fill, debris, etc.
c. Dumping or any chemicals (i.e., paint thinner), mortar or concrete remainder, trash,
garbage, or debris of any kind.
d. Felling of trees into a protected area.
e. Trenching or grading for utilities, irrigation, drainage, etc.

6. Forest and tree protection signs must be installed as required by the Forest Conservation
Inspector. The signs must be waterproof and wording provided in both English and
Spanish.

During Construction

7. Periodic inspections will be made by the Forest Conservation Inspector. Corrections and
repairs to all tree protection devices must be completed within the timeframe given by the
Inspector.

8. The property owner must immediately notify the Forest Conservation Inspector of any
damage to trees, forests, understorey, ground cover, and any other undisturbed areas shown
on the approved plan. Remedial actions, and the relative timeframes to restore these areas,
will be determined by the Forest Conservation Inspector.

Post-Construction

9. After construction is completed, but before tree protection devices have been removed, the
property owner must request a final inspection with the Forest Conservation Inspector. At
the final inspection, the Forest Conservation Inspector may require additional corrective
measures, which may include:
a. Removal, and possible replacement, of dead, dying, or hazardous trees
b. Pruning of dead or declining limbs
c. Soil aeration
d. Fertilization
e. Watering

Page 2 of 3 February 2017

- f. Wound repair
g. Clean up of retention areas, including trash removal

10. After the final inspection and completion of all corrective measures the Forest
Conservation Inspector will request all temporary tree and forest protection devices be
removed from the site. Removal of tree protection devices that also operate for erosion
and sediment control must be coordinated with both DPS and the Forest Conservation
Inspector. No additional grading, sodding, or burial may take place after the tree protection
fencing is removed.

11. Long-term protection measures, including permanent signage, must be installed per the
approved plan. Installation will occur at the appropriate time during the construction
project. Refer to the approved plan drawing for the long-term protection measures to be
installed.

Page 3 of 3 February 2017

INSPECTIONS

All field inspections must be requested by the applicant.

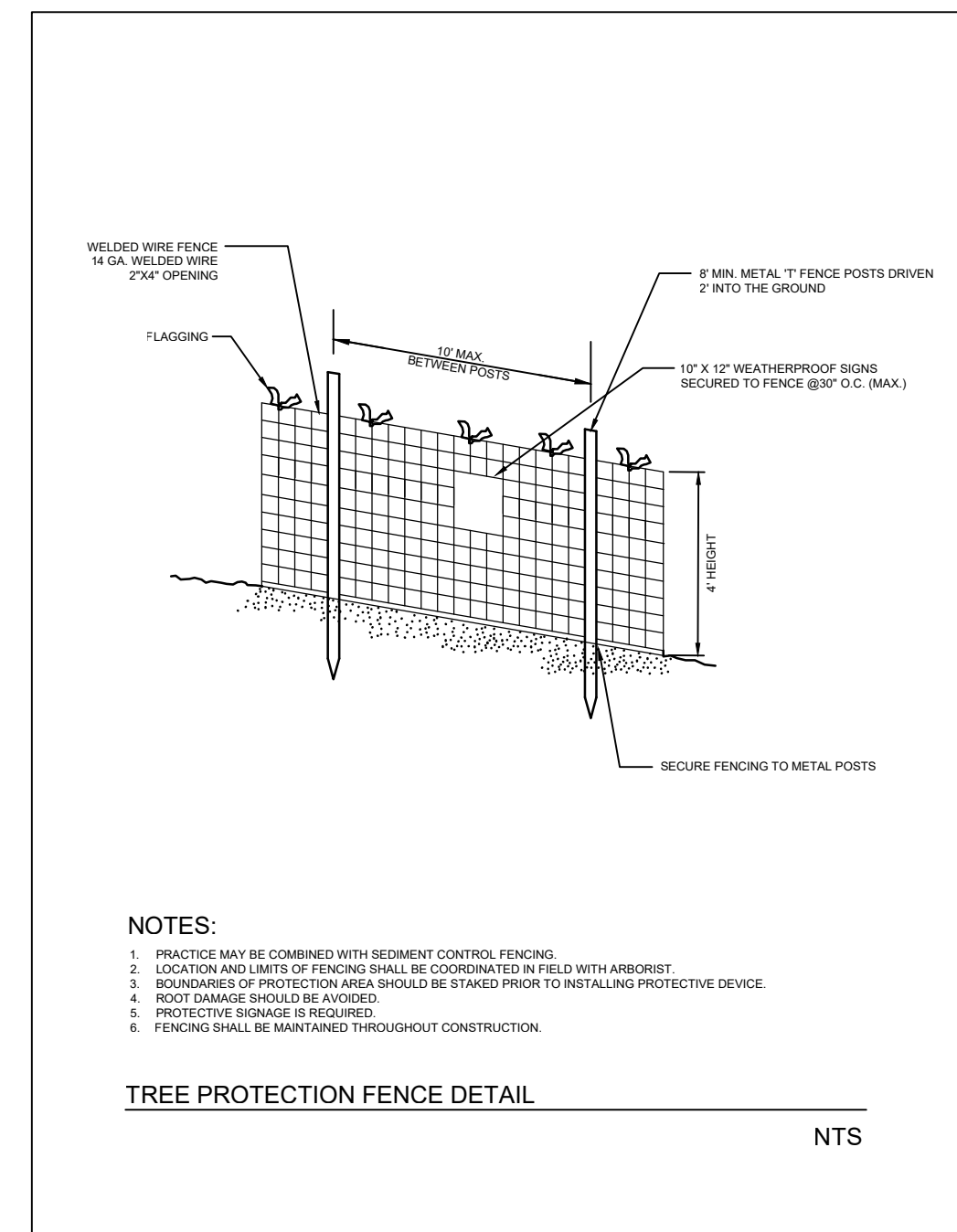
Field Inspections must be conducted as follows:

Plans without Planting Requirements

- 1. After the limits of disturbance have been staked and flagged, but before any clearing or
grading begins.
2. After necessary stress reduction measures have been completed and protection measures
have been installed, but before any clearing and grading begin and before release of the
building permit.
3. After completion of all construction activities, but before removal of tree protection
fencing, to determine the level of compliance with the provision of the forest
conservation.

Additional Requirements for Plans with Planting Requirements

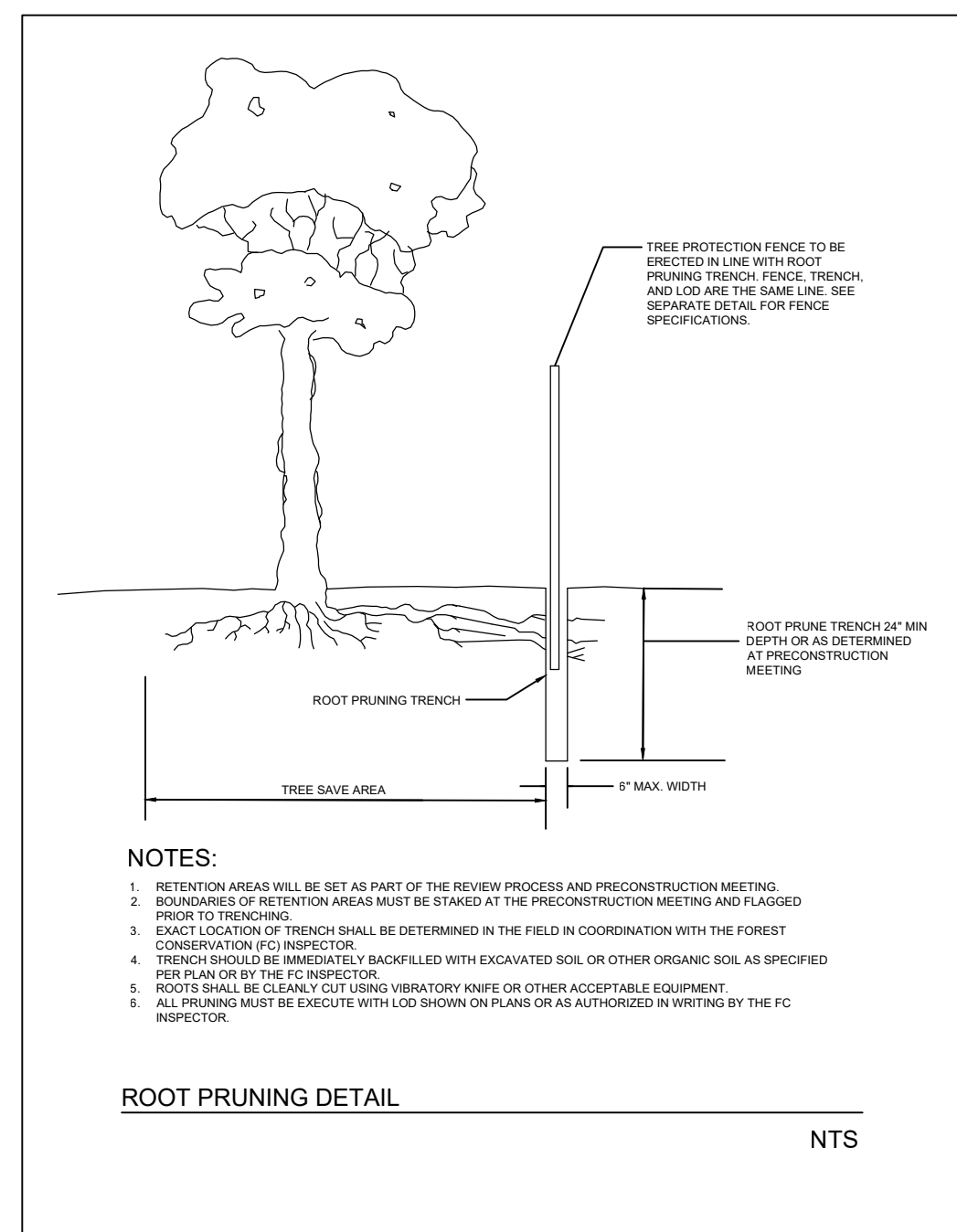
- 4. Before the start of any required reforestation and afforestation planting.
5. After the required reforestation and afforestation planting has been completed to verify
that the planting is acceptable and prior to the start the maintenance period.
6. 2 years after reforestation and afforestation have been completed, to determine survival
and assess necessary maintenance activities for the remaining duration of the
maintenance and management period.
7. At the end of the maintenance period to determine the level of compliance with the
provisions of the planting plan, and if appropriate, release of the performance bond.



- NOTES:
1. PRACTICE MAY BE COMBINED WITH SEDIMENT CONTROL FENCING.
2. LOCATION AND DEPTH OF FENCING SHALL BE COORDINATED IN FIELD WITH ARBORIST.
3. BOUNDARIES OF PROTECTION AREA SHOULD BE STAKED PRIOR TO INSTALLING PROTECTIVE DEVICE.
4. ROOT DAMAGE SHOULD BE AVOIDED.
5. PROTECTIVE SIGNAGE IS REQUIRED.
6. FENCING SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.

TREE PROTECTION FENCE DETAIL NTS

NOTE: Tree Protection Fence shall be installed on top of the Limits of
Disturbance. For purposes of legibility only, the Tree Protection Fence is
graphically represented adjacent to the LOD.



- NOTES:
1. RETENTION AREAS WILL BE SET AS PART OF THE REVIEW PROCESS AND PRECONSTRUCTION MEETING.
2. BOUNDARIES OF RETENTION AREAS MUST BE STAKED AT THE PRECONSTRUCTION MEETING AND FLAGGED
PRIOR TO TRENCHING.
3. EXACT LOCATION OF TRENCH SHALL BE DETERMINED IN THE FIELD IN COORDINATION WITH THE FOREST
CONSERVATION INSPECTOR.
4. TRENCH SHOULD BE IMMEDIATELY BACKFILLED WITH EXCAVATED SOIL OR OTHER ORGANIC SOIL AS SPECIFIED
PER PLAN OR BY THE FC INSPECTOR.
5. ROOTS SHALL BE CLEANLY CUT USING VIBRATORY KNIFE OR OTHER ACCEPTABLE EQUIPMENT.
6. ALL PRUNING MUST BE EXECUTE WITH LOD SHOWN ON PLANS OR AS AUTHORIZED IN WRITING BY THE FC
INSPECTOR.

ROOT PRUNING DETAIL NTS

FOREST CONSERVATION WORKSHEET

Table with columns: NET TRACT AREA, A. Total tract area, B. Additions to tract area, C. Land dedication acres, D. Land dedication for roads or utilities, E. Area to remain in commercial agricultural production/use, F. Other deductions, G. Net Tract Area

LAND USE CATEGORY: (from Chapter 22A-3. Definitions)
Input the number "1" under the appropriate land use,
limit to only one entry.

Table with columns: ARA, CDR, MDR, IDA, HDR, MPD, CIA

Table with columns: G. Afforestation Threshold, H. Conservation Threshold

Table with columns: EXISTING FOREST COVER, I. Existing forest cover, J. Area of forest above afforestation threshold, K. Area of forest above conservation threshold

Table with columns: BREAK EVEN POINT, L. Forest retention above threshold with no mitigation, M. Clearing permitted without mitigation

Table with columns: PROPOSED FOREST CLEARING, N. Total area of forest to be cleared, O. Total area of forest to be retained

Table with columns: PLANTING REQUIREMENTS, P. Reforestation for clearing above conservation threshold, Q. Reforestation for clearing below conservation threshold, R. Credit for retention above conservation threshold, S. Total reforestation required, T. Total afforestation required, U. Credit for landscaping, V. Total reforestation and afforestation required

FOREST CONSERVATION WORKSHEET

Table with columns: NET TRACT AREA, A. Total tract area, B. Additions to tract area, C. Land dedication acres, D. Land dedication for roads or utilities, E. Area to remain in commercial agricultural production/use, F. Other deductions, G. Net Tract Area

LAND USE CATEGORY: (from Chapter 22A-3. Definitions)
Input the number "1" under the appropriate land use,
limit to only one entry.

Table with columns: ARA, CDR, MDR, IDA, HDR, MPD, CIA

Table with columns: G. Afforestation Threshold, H. Conservation Threshold

Table with columns: EXISTING FOREST COVER, I. Existing forest cover, J. Area of forest above afforestation threshold, K. Area of forest above conservation threshold

Table with columns: BREAK EVEN POINT, L. Forest retention above threshold with no mitigation, M. Clearing permitted without mitigation

Table with columns: PROPOSED FOREST CLEARING, N. Total area of forest to be cleared, O. Total area of forest to be retained

Table with columns: PLANTING REQUIREMENTS, P. Reforestation for clearing above conservation threshold, Q. Reforestation for clearing below conservation threshold, R. Credit for retention above conservation threshold, S. Total reforestation required, T. Total afforestation required, U. Credit for landscaping, V. Total reforestation and afforestation required

- FOREST CONSERVATION REQUIREMENT PER ONE OF THE FOLLOWING:
1. 2.92 ACRES IF MET OUTSIDE THE SAME WATERSHED, A PRIORITY WATERSHED, AN SPA OR PMA
2. 2.24 ACRES IF MET WITHIN THE SAME WATERSHED OR IN A PRIORITY WATERSHED, AN SPA OR PMA.

FOREST CONSERVATION REQUIREMENT TO BE MET PER THE ABOVE IN A FOREST
BANK OR IF NOT AVAILABLE TO BE MET VIA FEE IN LIEU.

ARBORIST CERTIFICATION

12/16/2024 DATE
DAVID B. POST ARBORIST No. MA-5220-A

SIGNIFICANT TREE LIST table with columns: ID, Botanical Name, Common Name, DBH ("), Condition, Notes

SPECIMEN TREE SCHEDULE

SPECIMEN TREE SCHEDULE table with columns: ID, Botanical Name, Common Name, DBH ("), Condition, Notes

VARIANCE REQUEST AND MITIGATION WORKSHEET

VARIANCE REQUEST AND MITIGATION WORKSHEET table with columns: ID, Botanical Name, Common Name, Condition, DBH ("), Mitigation, Notes

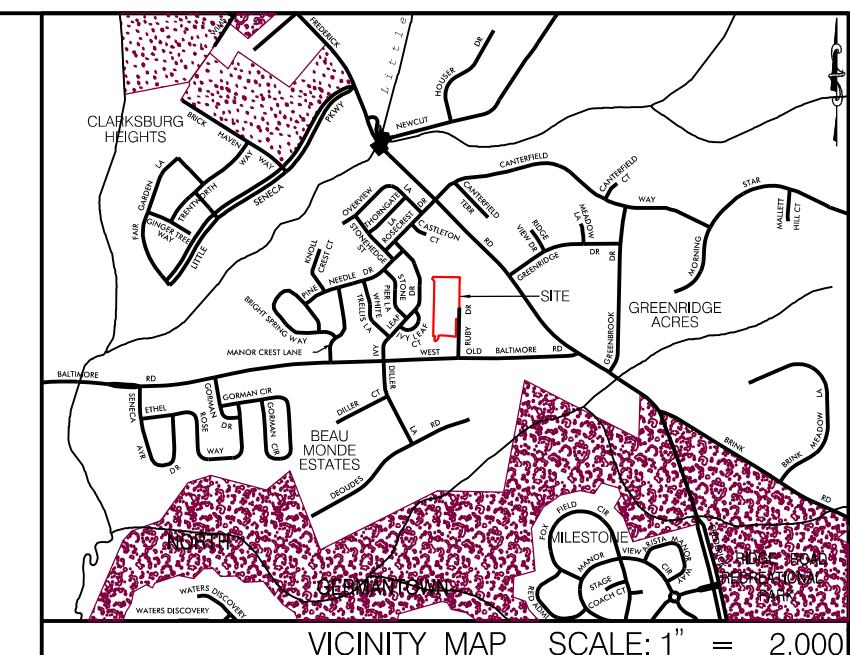
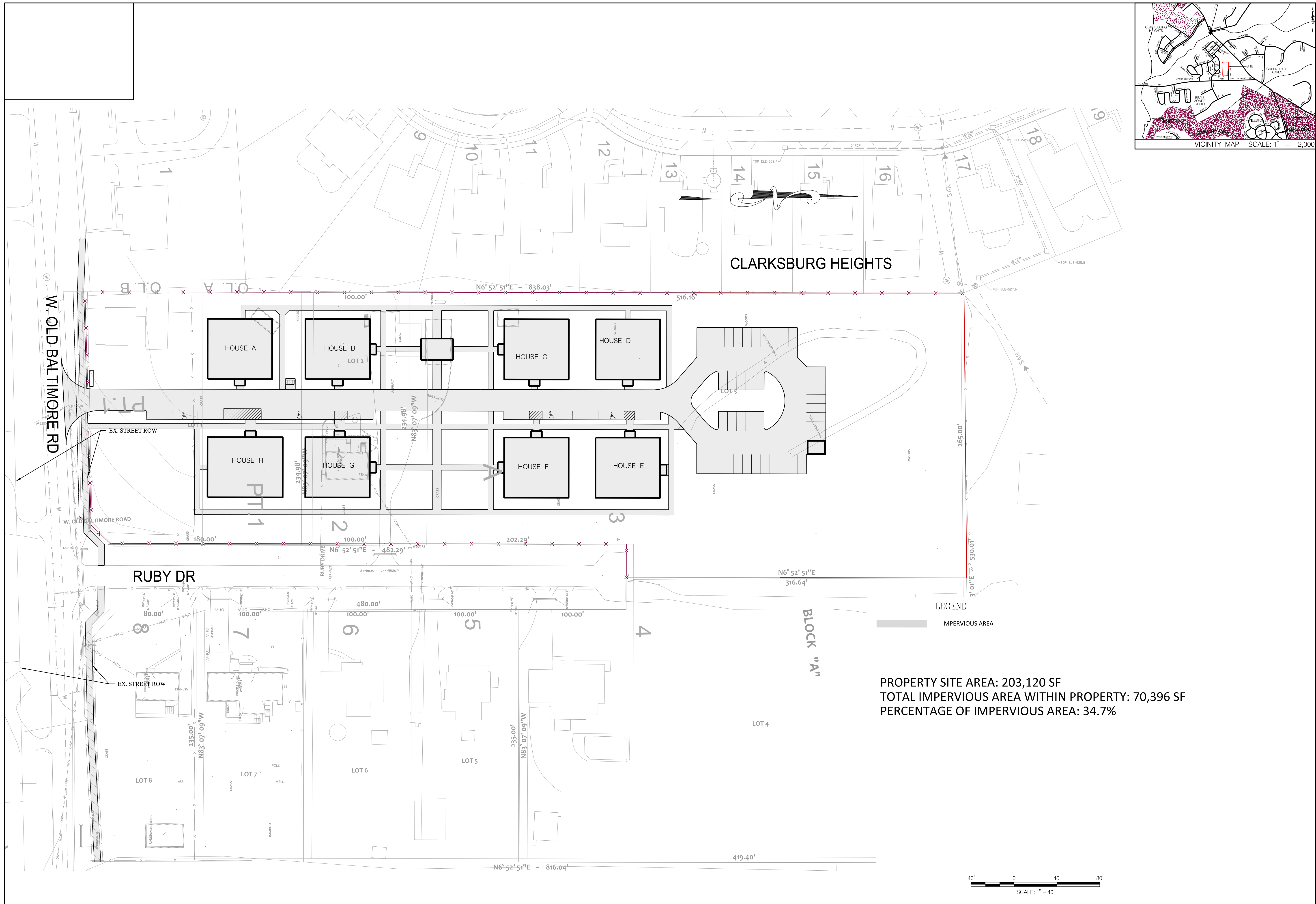
NOTE: TREE INFORMATION UPDATED BY MHG ON 08/08/19, 10/06/2022 AND 07/13/2023.

DEVELOPER'S CERTIFICATE form with fields for Developer's Name, Kevin Huang, Address, Phone, Email, Signature

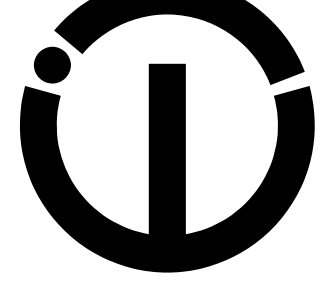
811 logo and text: FOR UTILITY LOCATIONS CONTACT "ONE CALL" AT 811 AT LEAST 48 HOURS PRIOR TO CONSTRUCTION



Attachment C: Impervious Surface Exhibit



**ENDESCO, INC.**  
 ENGINEERS, DESIGNERS &  
 CONSULTANTS  
 15245 SHADY GROVE RD  
 SUITE 335  
 ROCKVILLE, MD 20850  
 TEL: (301) 987-8776  
 FAX: (301) 987-8777

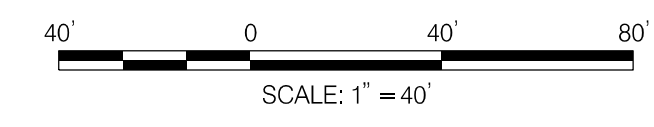


PT LOT 1, LOTS 2 AND 3  
**RUBY SENIOR HOMES**  
 MONTGOMERY COUNTY, MARYLAND

REVISIONS	
NO.	DATE DESCRIPTION
1.	
2.	
3.	
4.	

DATE	TITLE	EXHIBIT - IMPERVIOUS AREA
JAN 2024		
SCALE	DRAWN:	GJ
1"=40'	DESIGNED:	GJ
SHEET	CHECKED:	KH

PROPERTY SITE AREA: 203,120 SF  
 TOTAL IMPERVIOUS AREA WITHIN PROPERTY: 70,396 SF  
 PERCENTAGE OF IMPERVIOUS AREA: 34.7%



Attachment D: Prior Approvals



MONTGOMERY COUNTY, MARYLAND

April 16, 2024

TO: Parties to OZAH Case No. CU 23-11, Worldshine Homes, LLC

FROM: Montgomery County Office of Zoning and Administrative Hearings

SUBJECT: Notification of Decision and Applicable Procedures

On April 16, 2024, the Hearing Examiner issued a Report and Decision in OZAH Case No. CU 23-11, Application of Worldshine Homes, LLC, approving a conditional use under Zoning Ordinance §59.3.3.2.E.c for a Residential Care Facility (over 16 persons) on property located at 12450 West Old Baltimore Road and 21908 Ruby Drive, Clarksburg, Maryland 20841, subject to the following conditions:

1. Physical improvements to the Subject Property are limited to those shown on the Applicant's Conditional Use site plan, Lighting Plan and Landscape Plan (Exhibits 5, 17c and 36).
2. The maximum number of residential care units is limited to eight (8) buildings with 120 beds.
3. The height of any structure will be limited to forty (40) feet.
4. The maximum number of employees on-site at any one time must not exceed 44.
5. Food supply deliveries to the facility shall be limited to twice per week.
6. The collection of solid waste refuse and recyclable materials must occur on weekdays only, between 8:00 a.m. and 9:00 p.m., consistent with Solid Waste Regulations. No collection shall occur on Saturdays or Sundays.
7. The Applicant must maintain 52 parking spaces as shown on the Conditional Use Plan and may not expand or reduce the parking facility without explicit permission from the Hearing Examiner through modification of this Conditional Use.
8. The Applicant must provide a minimum of five (5) bicycle parking spots.
9. Before issuance of any building permit for the subject Conditional Use, the Applicant must obtain approval of a Preliminary Plan of Subdivision and a Record Plat pursuant to Chapter 50 of the Montgomery County Code. If changes to the approved Conditional Use site plan or other plans filed in this case are required at Subdivision, the Applicant must file a copy of the revised site and related plans with OZAH.

10. Before approval of the Preliminary Plan of Subdivision, the Applicant must obtain approval of the Final Water Quality Plan from the Montgomery County Department of Permitting Services (MCDPS).
11. The Applicant must obtain a permit for the proposed monument sign from the Department of Permitting Services, or if required, the Sign Review Board, and a copy of the permit for the approved sign must be submitted to the Hearing Examiner before the sign is constructed.
12. The Applicant must obtain and satisfy the requirements of all licenses including a use and occupancy permit.
13. The Applicant and any successors in interest must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code.
14. The Applicant must obtain approval of a Final Forest Conservation Plan.
15. The facility must be operated in accordance with all applicable County noise regulations.
16. Transfers to successor conditional use holders must follow the procedures in Rule 27.0 of OZAH's Amended Land Use Rules of Procedure.
17. The conditional use must be operated in a manner to provide the facilities and services to residents outlined in Applicant's Statement of Operations (Exhibit 6). Use of the on-site facilities and services must be restricted to residents of the conditional use site, their guests and employees, and personnel providing services to the residents.
18. The Applicant and any successors in interest must obtain and satisfy the requirements of all Federal, State, and County licenses, regulations, and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant and any successors in interest shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

The full text of the Hearing Examiner's report is available at the following website address: [http://www.montgomerycountymd.gov/OZAH/spec\\_excep.html](http://www.montgomerycountymd.gov/OZAH/spec_excep.html). Any person receiving this notice who does not have access to the internet or to a printer may request a paper copy of the report by stating in writing that he or she lacks internet or printer access. Any interested person may also make a paper copy of the report, at a cost of ten cents per page, by making an appointment to visit our office at 100 Maryland Avenue, Room 200, Rockville, MD 20850. For further information on obtaining a paper copy, please call the Office of Zoning and Administrative Hearings at: 240-777-6660.

## NOTICE OF RIGHT TO APPEAL

Any party of record may file a written request to appeal the Hearing Examiner's Decision by requesting oral argument before the Board of Appeals within 10 days after issuance of the Hearing Examiner's Report and Decision. Any party of record may, no later than 5 days after a request for oral argument is filed, file a written opposition to it or request to participate in oral argument. If the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. A person requesting an appeal, or opposing it, must send a copy of that request or opposition to the Hearing Examiner, the Board of Appeals, and all parties of record before the Hearing Examiner.

The Board of Appeals will consider your request for oral argument at a Worksession. Agendas for the Board's Worksession can be found on the Board's website and in the Board's office. You can also call or email the Board's office to see when the Board will consider your request. If your request for oral argument is granted, you will be notified by the Board of Appeals regarding the time and place for oral argument. Because decisions made by the Board are confined to the evidence of record before the Hearing Examiner, no new or additional evidence or witnesses will be considered. If your request for oral argument is denied, your case will likely be decided by the Board that same day, at the Worksession.

Parties requesting or opposing an appeal must not attempt to discuss this case with individual Board members because such *ex parte* communications are prohibited by law. If you have any questions regarding this procedure, please contact the Board of Appeals by calling 240-777-6600, emailing [BOA@montgomerycountymd.gov](mailto:BOA@montgomerycountymd.gov), or visiting the Board's website: <http://www.montgomerycountymd.gov/boa/>.

Additional procedures are specified in Zoning Ordinance §59-7.3.1.f.1. Contact information for the Board is:

Montgomery County Board of Appeals  
100 Maryland Avenue, Room 217  
Rockville, MD 20850  
(240) 777-6600  
<http://www.Montgomerycountymd.gov/boa/>

### COPIES TO:

Elizabeth A. Rogers, Esquire  
Steven C. Robins, Esquire  
Terri Meyer  
Vyjayanthi Krishan  
Jeanean Martin  
Carl Martin  
Debra Duffin  
Elias Sevilla  
Jerome Pajot  
Julius Cinque

Emily Martin  
Seneca Creek Watershed Partners  
Barbara Jay, Executive Director  
Board of Appeals  
Stephanie Dickel, Planning Department  
Grace Bogden, Planning Department  
Greg Nichols, Manager, Department of Permitting Services  
Victor Salazar, Department of Permitting Services  
Michael Coveyou, Director, Finance Department

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**  
**Stella B. Werner Council Office Building**  
**Rockville, Maryland 20850**  
**(240) 777-6660**

<https://www.montgomerycountymd.gov/ozah/>

**IN THE MATTER OF:**  
**WORLDSHINE HOMES, LLC**  
 Applicant

For the Application  
Elizabeth A. Rogers, Esquire  
Steven C. Robins, Esquire  
 Attorneys for the Applicant

\*\*\*\*\*

OZAH Case No. CU 23-11

Terri Meyer  
 Vyjayanthi Krishan  
 Jeanean Martin  
 Carl Martin  
 Debra Duffin  
 Elias Sevilla  
 Jerome Pajot  
 Julius Cinque  
 Emily Martin  
 Seneca Creek Watershed Partners

In Opposition to the Application

\*\*\*\*\*

Before: Andrea LeWinter, Hearing Examiner

**HEARING EXAMINER’S REPORT AND DECISION**

**Table of Contents**

**I. STATEMENT OF THE CASE** ..... 3

**II. FACTUAL BACKGROUND** ..... 4

**A. The Subject Property** ..... 4

**B. Surrounding Neighborhood**..... 5

**C. Proposed Use**..... 7

**1. The Proposed Development**..... 7

**a. Conditional Use Plan, Perspectives and Floor Plans** ..... 11

**b. Site Landscaping, Lighting and Signage** ..... 13

**c. Operations**..... 14



<b>2. Environmental Constraints and Mitigation</b> .....	16
<b>D. Community Response</b> .....	17
<b>III. FINDINGS OF FACT AND CONCLUSIONS OF LAW</b> .....	18
<b>A. Necessary Findings (Section 59.7.3.1.E)</b> .....	18
<b>1. Substantial Conformance with the Master Plan</b> .....	19
<b>2. Adequate Public Services and Facilities</b> .....	22
<b>a. Local Area Transportation Review</b> .....	22
<b>3. Compatibility with the Neighborhood</b> .....	24
<b>a. Compliance with Sections 59.7.3.1.E.1.d and 59.7.3.1.E.2</b> .....	25
<b>b. Inherent v. Non-Inherent Adverse Impacts (59.7.3.1.E.1.g)</b> .....	26
<b>c. Conclusion</b> .....	30
<b>B. Development Standards of the Zone (Article 59.4)</b> .....	34
<b>C. Use Standards for a Residential Care Facility (Section 59.3.3.2.E)</b> .....	35
<b>D. General Development Standards (Article 59.6)</b> .....	39
<b>1. Access (Division 59.6.2)</b> .....	40
<b>2. Parking, Queuing and Loading (Division 59.6.2)</b> .....	40
<b>3. Open Space and Recreation (Division 6.3)</b> .....	41
<b>4. Outdoor Lighting (Division 6.4)</b> .....	41
<b>5. Screening (Division 6.5)</b> .....	42
<b>6. Signage (Division 6.7)</b> .....	42
<b>IV. Conclusion and Decision</b> .....	43

## I. STATEMENT OF THE CASE

On January 9, 2023, Worldshine Homes, LLC (hereinafter Applicant or Worldshine) filed an application seeking a conditional use to establish a Residential Care Facility (over 16 persons) under Section 59.3.3.2.E.2.c of the *2014 Zoning Ordinance*. The property is located at 12450 West Old Baltimore Road and 21908 Ruby Drive, Clarksburg, Maryland 20841 and is an assemblage of four pieces of land identified as Lot 3, Lot 2, and Lot 1 (Lot 1 is comprised of two parts of lots) in the Neelsville subdivision that is recorded in the Montgomery County land records as Record Plat 7681. Exhibit 1 and 28.

On March 1, June 29, and December 6, 2023, the Applicant submitted requests to OZAH for extensions of the time by which a hearing must be held, all of which were granted. Exhibits 23-25. On December 13, 2024, a notice of public hearing was issued for February 2, 2024, Exhibit 26, and a hearing on the merits proceeded as scheduled. 2/2/24 T. 1. The hearing could not be concluded within the time allotted. 2/2/24 T. 303. On February 14, 2024, a notice of continuation of public hearing was issued for March 7, 2024, Exhibit 33, and the hearing proceeded and concluded on that date. 3/7/24 T. 1 and 197.

The Applicant presented five witnesses: Ms. Xibe Becky Ja, Vice President of Worldshine Group, 2/2/24 T. 22; Mr. Joshua Sloan, qualified as an expert in landscape architecture and land planning, Exhibit 27, 2/2/24 T. 63; Mr. Kevin Huang, qualified as an expert in civil engineering, Exhibit 27, 2/2/24 T. 211; Ms. Jun Jennifer Xu, qualified as an expert in architecture, Exhibit 27, 2/2/24, T. 248; and Ms. Anne Nancy Randall, qualified as an expert in transportation planning, Exhibit 27, 2/2/24, T. 289.

Eight individuals testified in opposition to the application and an additional organization, the Seneca Creek Watershed Partners, submitted written testimony because a representative was

unable to attend the hearing on the continuation date. Exhibit 41. Those in opposition also submitted 18 letters of opposition. Exhibit 22.

The record remained open for ten days following the close of the hearing to allow the preparation of the transcript. 3/7/24 T. 196. The record closed on March 17, 2024.

Planning Board Staff (hereinafter Staff) recommended approval with conditions, Exhibit 28, p. 3, and on January 29, 2024, the Montgomery County Planning Board unanimously concurred. Exhibit 29.

After a careful review of the entire record, the Hearing Examiner finds that the application meets the standards of the Zoning Ordinance.

## **II. FACTUAL BACKGROUND**

### **A. The Subject Property**

The property is located on the northwest quadrant of the intersection of West Old Baltimore Road and Ruby Drive. Exhibit 28, p. 5. Collectively, the property consists of approximately 202,898 square feet or 4.66 acres and is improved with two single-family detached homes and associated accessory structures. Exhibit 28, p. 7. One home is located on part of Lot 1 directly adjacent to West Old Baltimore Road and is accessed via an existing driveway. *Id.* The second home is located on Lot 2 and is accessed via Ruby Drive. The Staff Report contains an aerial photograph showing the subject property delineated in red with the existing improvements, excerpted on the following page. Exhibit 28, p. 8.



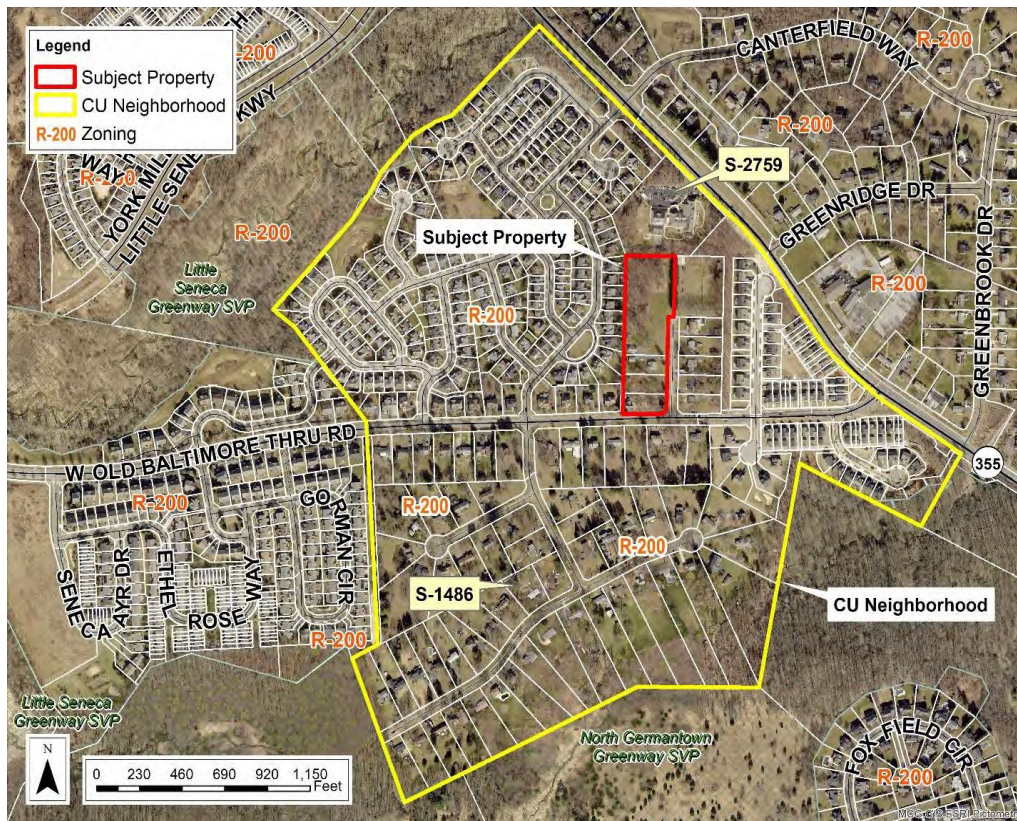
*Aerial photograph of property outlined in red showing existing improvements.*

The property contains one forest stand of 1.36 acres as well as a scattering of trees that are 24-inches in Diameter at Breast Height (DBH) and greater. *Id.* The property does not contain any streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, hydraulically adjusted steep slopes, or known occurrences of Rare, Threatened, and Endangered species. *Id.* The property drains to the Little Seneca Creek watershed; Little Seneca Creek is a State Use Class IV-P stream. *Id.* The property is within the Clarksburg Special Protection Area (SPA) and is located in the *1994 Clarksburg Master Plan & Hyattstown Special Study Area. Id.*

### **B. Surrounding Neighborhood**

To determine whether the proposed use meets the compatibility standards of the Zoning Ordinance, it is necessary to delineate and characterize the “surrounding neighborhood” (i.e., the area that will be most directly impacted by the proposed use). The neighborhood boundaries delineated by Staff are shown in the aerial photograph on the following page, also excerpted from

the Staff Report, and are situated within the larger neighborhood bounded by Frederick Road to the north and east, the single-family detached homes south of West Old Baltimore Road and north of the stream valley, and the Clarksburg Heights residential subdivision to the west, which is south of Little Seneca Creek. Exhibit 28, p. 6. The subject property is zoned R-200 and the properties in the surrounding neighborhood are classified as either R-200 or R-200/TDR 4.0. *Id.* The neighborhood is generally residential in character. *Id.*



*Subject property outlined in red; Staff-defined neighborhood outlined in yellow.*

The vicinity is comprised of residential communities. Directly to the west of the property is the single-family development known as Clarksburg Heights, containing approximately 130 homes. This development was approved under the MPDU Optional Method of Development (e.g. at higher than standard density, with smaller than typical lots). It is in the R-200/TDR overlay. The TDR overlay stretches from the boundary of the subject property to Little Seneca

Parkway. To the north of the subject property is a child daycare facility operated by the Goddard School. Confronting the property across Ruby Drive are several single-family homes. Farther to the east and across West Old Baltimore Road to the south is a new residential subdivision containing 57 detached homes and 10 semi-detached units, also approved with higher than standard R-200 density pursuant to the MPDU Optional Method of Development.

Staff identified two existing, approved conditional uses/special exceptions in the surrounding neighborhood, S-1486, an accessory apartment located at 12505 Deoudes Road and S-2759, the Goddard School Private Education Facility located at 22010 Frederick Road. Exhibit 28, p. 7.

The Applicant recommended to Staff which area should be included in the neighborhood delineation and Staff agreed. 2/2/24 T. 68. No one appearing in opposition contested the Staff's delineation or characterization of the surrounding area. Upon review, the Hearing Examiner adopts the neighborhood boundaries determined by Staff, as they are logically bounded by Frederick Road along the northeast, include both sides of West Old Baltimore Road, and are otherwise bounded by breaks between housing subdivisions. The Hearing Examiner agrees with Staff that the neighborhood character is primarily residential within the R-200 Zone.

### **C. Proposed Use**

#### **1. The Proposed Development**

Worldshine seeks to redevelop the property into a Residential Care Facility (Over 16 persons) under Section 59-3.3.2.E.2.c. for senior residents aged 62 and older, providing assisted living residences as well as programs and services. Exhibit 28, p. 9-10; 2/2/24 T. 31. As Ms. Ja testified, the proposal is to construct eight buildings, Exhibit 28, p. 9-10; 2/2/24 T. 32, seven of which will be devoted to residential use and contain 15 assisted living beds. *Id.* The eighth building

will also house 15 beds (for a total of 120 beds in the facility) but will function as a community center and house a central kitchen for staff to prepare meals and will provide communal amenities and facilities, from therapy and fitness rooms to a beauty salon to a private dining room for special celebrations. *Id.* The eight buildings are oriented around a central amenity courtyard to promote opportunities for walking and socializing. Exhibit 28, p. 10; 2/2/24 T. 38. The entire development will be screened and visually buffered from neighboring homes by landscaping around the perimeter. 2/2/24 T. 76 and 108.

A rendition of the proposed layout, submitted by Worldshine, is shown below. Exhibit 32.



Staff found the site layout and building architecture design to be compatible with the surrounding neighborhood. Exhibit 28, p. 10. Worldshine's expert in land planning, Mr. Sloan, and its expert in architecture, Ms. Xu, testified that the architectural features and building layout were explicitly designed to blend with the neighborhood and were a low-intensity use. 2/2/24 T. 117, 132-34, 143, and 260. Those in opposition asserted that the scale of the buildings, with a 5,000 square foot footprint and approximately 8700 total square feet, was not compatible with the surrounding area. 3/7/24 T. 16, 52-56, 77, 107-110. In rebuttal, Mr. Sloan testified that the proposed buildings conformed with the allowable dimensions of the R-200 zone, but, regardless,

compatibility was more nuanced than simply size and included design features, which the Applicant had endeavored to match with the surrounding neighborhood. 3/7/24 T. 136-138.

Mr. Sloan testified as to the storm water impacts of the proposed development and drafted the Land Use Report submitted by the Applicant. 2/2/24 T. 66; Exhibit 10. He stated that approximately one-third of the property drains to the south and two-thirds to the north, with the water reaching two different streams. *Id.* However, there are no streams or tributaries within 200 feet of the site. 2/2/24 T. 66-67, Exhibit 10. He opined that the development will lightly impact the storm water runoff, but as it will be an internally-focused enclave and the proposed stormwater management will be landscaped, run-off will be effectively treated. 2/2/24 T. 74-75, 82, 91. He noted that the development will result in 34.7% of the property being covered with impervious surface and testified that this in conformance with the Master Plan, as current land planning focuses not on falling below a specific percentage of impervious surface but on using environmentally appropriate site design measures to mitigate impacts. 2/2/24 T. 94-96. He opined that the extensive mitigation measures proposed by Worldshine could not be contemplated when the Master Plan was drafted in 1994 and that these measures would achieve the Master Plan goals. *Id.* He testified that the water leaving the property will be cleaner and freer of silt than it would have been without the proposed development. 2/2/24 T. 98-99. Mr. Sloan also stated that the site's location within the SPA requires an elevated level of stormwater management review and opined that the proposed plan will be deemed sufficient as it can accommodate up to eight (8) inches of rainwater through green bioswales and micro-bioretenion areas. 2/2/24 T. 100-101. Those in opposition expressed concern that stormwater from the development would impact well water for Ruby Drive and negatively impact nearby streams. 3/7/24 T. 25-28, 75-77, 79, 90, 105-106, 117-118. In rebuttal,



Mr. Sloan testified that there will be a sufficient setback between the site and Ruby Drive so that there would be no impact on well water. 2/2/24 T. 102-4.

Mr. Sloan also testified that the development qualifies as "infill" development because it will be the provision of a new use on a previously developed property in an area in which lower density uses have been replaced with higher density ones. 2/2/24 T. 144.

Mr. Sloan concurred with Staff's delineation of inherent effects, including size of the buildings, parking, lighting, outdoor activity, and noise, and with Staff's finding that there would be no non-inherent effects. 2/2/24 T. 116-123; Exhibit 28, p. 27-29.

Mr. Sloan testified that the Forest Conservation Plan had been submitted and that the Applicant would mitigate negative impacts on the treescape and compensate for the loss of specimen trees. 2/2/24 T. 85-87; Exhibit 16.

Mr. Huang testified that vehicular access and circulation, including for emergency vehicles, would be safe and adequate and that the Applicant would construct sidewalk improvements. 2/2/24 T. 223-226. He stated that loading and deliveries will be accommodated solely within the Site and there will be an internal, enclosed dumpster. 2/2/24 T. 226. He opined that the development should comply with noise ordinances and will have access to generators should power be compromised to ensure the safety of residents, although there should be adequate power. 2/2/24 T. 227. He stated that the property is approved for public water and sewer and that it is the intention of Worldshine to access such services. *Id.* He concurred that the amount of impervious surface on the site will be 34.7% and testified that the water quality plan has been approved. 2/2/24 T. 230-31; Exhibit 28.

Ms. Xu testified that in designing the Site's proposed buildings, she studied architectural features common in the surrounding subdivisions to create buildings harmonious with the

surrounding community. 2/2/24 T. 260. She detailed the layout of the buildings in terms of bedrooms (15), bathrooms (9), and common areas (varying depending on the specific building). 2/2/24 T. 262-265. She opined as to the difficulty of matching the buildings to older homes in the surrounding neighborhood and stated that the goal of compatibility is not to exactly copy surrounding buildings but to be sufficiently similar as to blend. 2/2/24 T. 270-272. She testified that the proposed buildings will be three levels, including finished basements, of approximately 2,900 square feet per level, for a total of 8,700 square feet. 2/2/24 T. 284-286.

Ms. Randall testified that access to the property will be from West Old Baltimore Road, there will be improvements to allow for a continuous sidewalk, and access to bus routes. 2/2/24 T. 301-310, 316. She stated that peak parking demand will be 46 spaces (out of 52 available) and there will also be a shuttle service for off-site staff parking on high traffic days. 2/2/24 T. 313-315. She testified that her analysis showed a low trip generating use, limited impact on road capacity, that queuing will remain within County limits, and that the use is not expected to impact the number of car crashes in the vicinity. 2/2/24 T. 316-320.

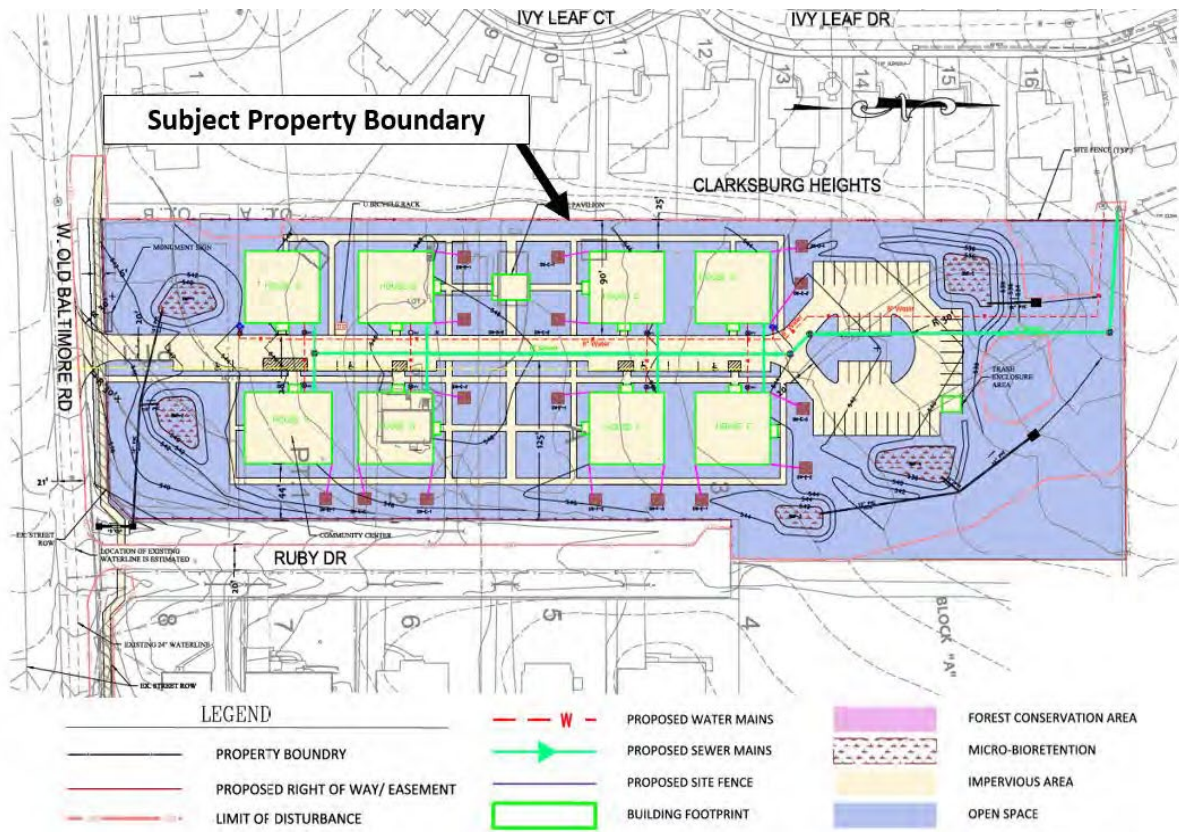
#### **a. Conditional Use Plan, Perspectives and Floor Plans**

The site layout has eight buildings symmetrically oriented around an internal north-south private drive with a central, linear courtyard in the approximate center of the property. Exhibit 28, p. 10. The parking spaces are as far as possible to the west, past the buildings, so that parked cars are not visible from West Old Baltimore Road. Exhibit 28, p. 9-10. The proposed layout, excerpted from the Staff Report, is shown on the following page. Exhibit 28, p. 9; Exhibit 5b.

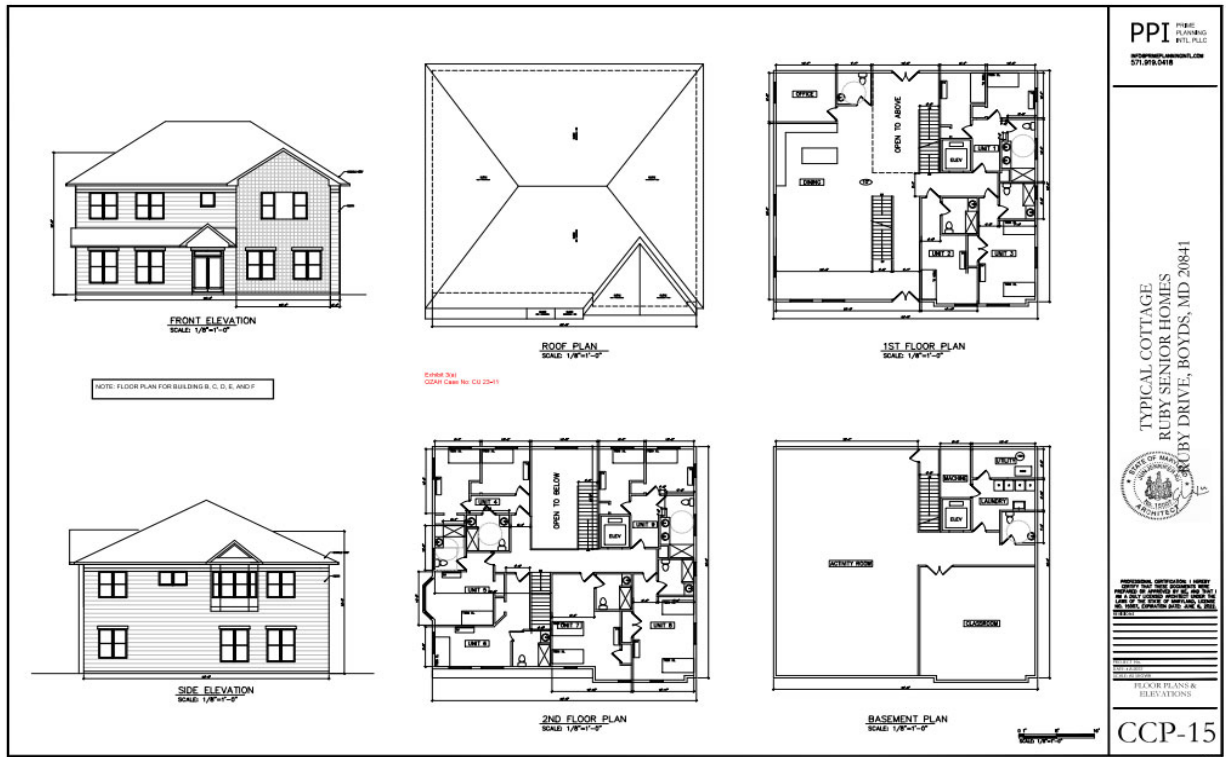
The eight buildings will each be two-stories with a maximum height of 40 feet, which is less than the height permissible in the R-200 zone. Exhibit 28, p. 10. According to Staff, and as testified to by Ms. Xu, the buildings incorporate traditional residential architectural elements and

details and feature a neutral color pallet with stone and wood accents. Exhibit 28, p. 11; 2/2/24

T.254-55. Elevations and floor plans submitted by the Applicant are on the next page. Exhibit 3.



*Proposed layout*



*Proposed elevations and floor plans*

### **b. Site Landscaping, Lighting and Signage**

In response to requests from Staff and the Hearing Examiner to ensure compatibility and sufficient screening, the landscape plan was revised twice, with the final plan submitted during the hearing, and the plan now exceeds the screening requirements under Section 59.6.5.3.C.7. Exhibit 28, p. 15; Exhibit 36; 3/7/24 T. 140-142. Still, additional concerns were raised during the hearing about screening. Mr. Sloan acknowledged in his cross-examination testimony that the site is approximately eight (8) feet higher in elevation than the properties on Ivy Court due east (Ivy Court appears in the top half of the Applicant's rendition of the proposed construction, shown on page 9) inherently limiting the effectiveness of screening. 2/2/24 T. 146. Mr. Jerome Pajot testified that the Applicant's rendition exaggerates the height of Ivy Court homes, thus inaccurately implying a higher level of screening between Ivy Court and the proposed facility than will exist.

3/7/24 T. 108-109. The final landscape plan shows a 12-foot minimum width with two canopy trees, four understory or evergreen trees, eight large shrubs, and 12 medium shrubs along abutting property lines with an increase in the number of evergreen trees along the western border, including 10-foot evergreen trees. Exhibit 36; 3/7/24 T. 140-142, 156.

According to Staff, only minimal building lighting is proposed and the lighting for the parking and amenity areas will be limited to the amount necessary to ensure safety. Exhibit 28, p. 11. Exterior lighting is designed to eliminate light exposure on adjacent properties; all outdoor lighting will be directed, shielded, or screened. *Id.* Full cut-off fixtures will be used in the parking lot to focus the light on the parking areas only. *Id.* The Photometric Plan shows careful design so that light will not spill into adjacent properties. *Id.*; Exhibit 17. Mr. Sloan testified that the lighting would not produce light pollution. 2/2/24 T. 106-110.

The Applicant proposes to install one residential scale monument sign at the site entrance on West Old Baltimore Road and one building-mounted sign on the community center building within the site as well as necessary internal wayfinding and directional signage. Exhibit 28, p. 22.

### **c. Operations**

The proposal is for a Level 2-3 Assisted Living Facility with the relatively novel design of eight separate buildings for residents' living and community activities. Exhibit 28, p. 9-10, 2/2/24 T. 31-32. Seven of the buildings will be devoted to residential use and each will contain 15 assisted living beds. *Id.* The eighth building will also house 15 beds (for a total of 120 beds in the facility) but will function as a community center with a central kitchen for staff to prepare meals and for the provision of communal amenities and facilities, from therapy and fitness rooms to a beauty salon to a private dining room for special celebrations. *Id.* There will be central amenity courtyard to promote walking and socializing. Exhibit 28, p. 10; 2/2/24 T. 38.

The facility will also provide a 14-passenger van to transport residents to appointments and excursions within a 15-mile radius; these rides will be limited to daytime hours. 2/2/24 T. 40.

Medical services will be provided onsite, but considering the health status of the residents, ambulance service is anticipated to be required on site approximately four times per month. 2/2/24 T. 122.

Of necessity, the facility will operate 24 hours a day, although the main business hours for administrative functions will be on a traditional 9:00 a.m.-5:00 p.m. weekday schedule. Exhibit 28, p. 10.

#### **i. Staffing**

Staff reported and Appellant witness Ms. Ja affirmed that 75 individuals will be employed on site with a maximum of 44 staff on the premises at any given time (the maximum will occur during shift changes) and the Appellant also submitted a staffing Statement of Operations. 2/2/24 T. 35; Exhibit 20; Exhibit 28, p. 11. Healthcare staff will work in three eight-hour shifts, with overlapping 15-minute shift changes, beginning at 2:00 p.m., 10:15 p.m., and 5:45 a.m., with a maximum of 13 staff at any time. *Id.* Meal service staff will work two eight-hour shifts, beginning at 6:00 a.m. and 2:15 p.m., with a maximum of 10 staff members at any time. *Id.* Housekeeping and maintenance staff will also work two eight-hour shifts, beginning at 6:00 a.m. and 2:00 p.m., with a maximum of four per shift. *Id.* The remaining employees – social workers, management, and transportation – will work a standard 9:00 a.m.- 5:00 p.m. shift with a maximum of 17 employees on site at any time. *Id.*

#### **ii. Site Access, Parking, Deliveries and Trash Pick-up**

According to Staff and Ms. Ja, deliveries for food will typically be made twice weekly during business hours by 20- to 30-foot box truck, and other necessities and items will be delivered

on standard USPS, UPS, and FedEx routes. Exhibit 28, p. 10; 2/2/24 T. 41. Laundry will be performed in house and will not require an outside vendor. Exhibit 28, p. 10. Waste collection and recycling will occur at an enclosed dumpster at the northeast corner of the property, as far away from the abutting residential homes as possible, which will be emptied twice weekly by a standard garbage truck. Exhibit 28, p. 10; 2/2/24 T. 40-41.

Ms. Randall testified that the parking needs for a Residential Care Facility of 120 beds are expected to be 46 spaces (52 are provided, Exhibit 28, p. 12), the majority of which will be used by staff, and that Worldshine will provide employees off-site parking on high traffic days, like holidays, when there may be many visitors. On high traffic days, visitor attendance will be staggered. 2/2/24 T. 313-315.

## **2. Environmental Constraints and Mitigation**

Mr. Sloan testified that a Natural Resource Inventory for the property was approved in November 2022 and re-approved in October 2023. 2/24/24 T. 65; Exhibit 15. He stated that approximately one-third of the stormwater run-off from the property drains to the south and two-thirds to the north, with the water reaching two different streams within the Little Seneca Creek watershed, both more than 200 feet from the site. 2/2/24 T. 66-67; Exhibit 10. He testified that the development will lightly impact stormwater runoff, but that the development's design of an internally-focused enclave with landscaped stormwater management will more effectively treat runoff than outmoded large drainage ponds. 2/2/24 T. 74-75, 82. 91. He noted that there is no applicable impervious surface cap for the property and opined that the application is in conformance impervious surface recommendations, which look to the property's transitional location between R-200 and R-200/TRD zones. 2/2/24 T. 94-96. He stated that impervious surface should be in the middle of the average for adjacent zones, and stressed that the current land

planning practice focuses on using environmentally appropriate site design measures to mitigate the impacts of development, not simply percentage of impervious surface, and that modern mitigation measures could not be contemplated when the Master Plan was drafted in 1994. *Id.* He testified that the site's location within the SPA requires a high level of stormwater management review and that the proposed plan should be sufficient. 2/2/24 T. 100-101. Those in opposition expressed concern that the impervious surface level was high and that, considering the extent of the usage, would create stormwater issues that would negatively impact the SPA and the Little Seneca Creek watershed as well as the well water of Ruby Drive. 3/7/24 T. 25-27, 76-77, 79, 90, 105-106; Exhibit 41. Some expressed concern that there was insufficient data to determine safety. 3/7/24 T. 25-27, 76-79. Mr. Sloan testified that there was sufficient setback between the site and Ruby Drive such that there would be no impact on well water. 2/2/24 T. 102-4.

#### **D. Community Response**

This application is opposed by members of the surrounding communities as well as the Seneca Creek Watershed Partners, Montgomery Countryside Alliance, and the Friends of Ten Mile Creek and Little Seneca Reservoir. Ten individuals in opposition attended the hearing as well as representatives from Seneca Creek Watershed Partners and Montgomery Countryside Alliance. Six of the ten individuals also submitted Letters of Opposition and an additional nine letters from other individuals in opposition were received as well as a letter from the Friends of Ten Mile Creek and Little Seneca Reservoir. Exhibit 22a-1. Opposition raised environmental concerns related to the impact of stormwater and impervious surface on the Little Seneca Creek watershed, the importance of protecting the SPA, impact on well and septic quality for the homes on Ruby Drive, and the loss of open space development of the property will entail. 3/7/24 T. 25-28, 75-77, 79, 90, 105-106, 117-118. Opposition also stated concerns about compatibility of the design with the



surrounding neighborhood, as the planned buildings are significantly larger than homes in the immediate surrounding community and do not share design features with some of the older homes. 3/7/24 T. 16, 52-53, 77, 107-110, 133. Many also testified that they anticipated light and noise pollution/nuisance, 3/7/24 T.16, 77, 108, and traffic and safety problems due to queuing and congestion, 3/7/24 T. 16, 27-29, 104, and 133.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A conditional use is a zoning device that authorizes certain uses provided that pre-set legislative standards are met. Pre-set legislative standards are both specific to a particular type of use, as set forth in Article 59.3 of the Zoning Ordinance, and general (*i.e.*, applicable to all conditional uses), as set forth in Division 59.7.3 of the Zoning Ordinance. The specific standards applied in this case are those for a Residential Care Facility. Section 59.3.3.2.E.2.c.

Weighing all the testimony and evidence of record under a “preponderance of the evidence” standard (*Zoning Ordinance*, §7.1.1.), the Hearing Examiner concludes that the conditional use proposed in this Application, with the conditions imposed in Part IV of this Report and Decision, will satisfy all the specific and general requirements for the use.

#### **A. Necessary Findings (Section 59.7.3.1.E)**

The general findings necessary to approve a conditional use are found in Section 59.7.3.1.E. of the Zoning Ordinance. Standards pertinent to this approval, and the Hearing Examiner's findings for each standard, are below.<sup>1</sup> The criteria for approval fall generally into four categories, discussed in that order:

1. Substantial Conformance with the Master Plan;
2. Adequate Public Services and Facilities;
3. No Undue Harm from Non-Inherent Adverse Effects; and

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<sup>1</sup> Although §59.7.3.1.E. contains six subsections (E.1. through E.6.), only subsections 59.7.3.1.E.1., E.2. and E.3. contain provisions that apply to this application. Section 59.7.3.1.E.1. contains seven subparts, a. through g.

4. Compatibility with the Neighborhood

***E. Necessary Findings***

***1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:***

***a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;***

As Staff identify, this provision is not applicable as there are no previous approvals for this property. Exhibit 28, p. 17.

Conclusion: The Hearing Examiner finds this criterion is met as there are no previous approvals on this property.

***b. satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;***<sup>2</sup>

Conclusion: This subsection requires an analysis of the standards of the R-200 Zone contained in Article 59-4; the use standards for a Residential Care Facility (Senior Care Facility) contained in Article 59-3; and the applicable development standards contained in Article 59-6. Each of these Articles is discussed below in separate sections of this Report and Decision (Parts III.B, C, and D, respectively).

**1. Substantial Conformance with the Master Plan**

***c. substantially conforms with the recommendations of the applicable master plan;***

The property lies within the geographic area covered by the *1994 Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan") and the property specifically falls within the "Brink Road Transition Area." The Master Plan contains no site-specific recommendations for the

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<sup>2</sup> The underlined language was added by the Council when the 2014 Zoning Ordinance was amended effective December 25, 2015, in ZTA 15-09 (Ordinance No. 18-08, adopted December 1, 2015).

property but does recommend compatible, low-density residential uses and continuation of the residential character of MD 355 within the Brink Road Transition Area. *1994 Clarksburg Master Plan & Hyattstown Special Study Area*, p. 75-77. The Master Plan also specifically recognizes the need to encourage and maintain a wide variety of housing types and neighborhoods for people of all incomes, ages, lifestyles, and physical capabilities, aligned with appropriate densities and locations. *Id.* at p. 9. In terms of environmental goals, the Master Plan calls for a compromise between competing policy concerns with a focus on mitigation of environmental impacts. *Id.* at 138-139. As Mr. Sloan testified, the plan is 30 years old and so does not contemplate or address the mitigation capabilities of current-day land planning. 2/2/24 T. 94-96.

Staff found that the application met the goals of the Master Plan because it is residential in use and character, offers ample green space, and provides compatible, low-density infill development that has little impact on the surrounding neighborhood while providing housing opportunities to the senior community that allow aging in place. Exhibit 28, p. 22. Staff also noted that the chosen architectural elements will ensure a transition between the development and the surrounding single-family residential communities. Exhibit 28, p. 23. Staff concluded that the screening provided, minimal impact on traffic, and residential appearance will result in the project having no material effect on the area's residential character and align with the Master Plan goals. Exhibit 28, p. 22. Further, Staff found that the on-site stormwater management, environmental site design, and micro-bioretenion facilities will mitigate the development impacts. Exhibit 28, p. 22-23. Staff summarized that the proposed use will accord with five of the ten key policies guiding development in the Master Plan area including:

- development in keeping with the small town feel of Clarksburg while promoting housing necessary to promote a diverse and equitable range of options;
- protection of the natural environment through construction of stormwater management facilities on-site, where there currently are none;

- preservation of the rural character along West Old Baltimore Road and the residential character of Ruby Drive;
- improvements to pedestrian orientation with the construction of a new sidewalk that will increase safety and connectivity, integration of a diversity of uses and housing types, and street-oriented buildings that maintain the character of the neighborhood;
- relieves pressure on undeveloped areas, farmland, and environmentally-sensitive areas by integrating senior living within an existing residential neighborhood. Exhibit 28, p. 23.

Applicant provided evidence of the compatibility of the architectural design with the surrounding neighborhood homes and residential character, including the internal, street-orientation of the proposed buildings through the testimony of Ms. Xu and Mr. Sloan. 2/2/24 T. 132-34, 260. Ms. Randall testified to the sidewalk safety improvements. 2/2/24 T. 310. Mr. Sloan and Mr. Huang testified to the environmental mitigation integrated into the site design that will minimize impact on the surrounding watershed, 2/2/24 T. 91, 95-96, 231-233, and Mr. Sloan described why the property constitutes infill development, which will relieve pressure on development of more sensitive and/or critical areas by focusing development on areas already in use. 2/2/24 T. 144.

Those in opposition disputed the design compatibility and maintenance of the character of the neighborhood and expressed concern about the efficacy of the environmental mitigation efforts. 3/7/24, T. 16, 25-28, 52-53, 75-77, 79, 90, 105-110, 117-118, 133.

Conclusion: The Hearing Examiner finds that the application substantially conforms to the Master Plan. From a design perspective, considering the age of the homes on Ruby Drive and the variety of features of residential developments in the surrounding neighborhood, what is critical is compatibility with the small town and rural feel of Clarksburg. The eight proposed buildings mirror many of the surrounding neighborhood's design elements and foster a sense of community with their internal, street-facing structure and, thus, are in harmony with the area. As only eight buildings, even of a relatively large size compared with Ruby Drive, and set off from West Old

Baltimore Road, they will not overwhelm neighboring residential developments. The stormwater management is thoughtfully designed to protect the surrounding watershed in a manner that enhances the attractiveness of the development. The addition of the sidewalk should improve and encourage pedestrian access. The location is logical, providing a needed housing type in the form of infill development that reduces the strain to access more critical or environmentally sensitive areas to diversify the housing stock.

## **2. Adequate Public Services and Facilities**

*f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

*i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*

Staff set out that the proposal will require submission of Preliminary Plan application, which will be reviewed by the Planning Board to determine adequate public facilities. Exhibit 28, p. 24.

### **a. Local Area Transportation Review**

The application was reviewed under the 2020-2024 Growth and Infrastructure Policy (GIP). Because the proposed development will generate less than 50 weekday peak-hour person trips, it was exempt from analysis under the 2022 Local Area Transportation Review (LATR) Guidelines, which test the adequacy of four modes of transportation: motor vehicles, pedestrians, bicycles, and transit. The Applicant was required to complete a Transportation Exemption

Statement (TES), which was submitted on October 3, 2023 and is excerpted below. Exhibit 28, p. 25; 2/2/24 T. 292-294; Exhibit 12.

Trip Generation for the Proposed Use

LATR Trip Generation							
	Units	AM Peak Hour			PM Peak Hour		
Total Vehicle Trips Per ITE 11 <sup>th</sup> Edition		In	Out	Total	In	Out	Total
ITE Generation Code – 254 (Assisted Living)	120 Beds	13	9	22	11	18	29
Policy Area Adjustment Factor (Clarksburg Policy Area – 100%)		13	9	22	11	18	29
Auto Driver		22			29		
Auto Passenger		9			12		
Transit		1			1		
Non-Motorized (Bike)		1			3		
Pedestrian (Transit + Bike)		0			0		
<b>Total Person Trips</b>		<b>34</b>			<b>45</b>		

\*Trip generation rates are based on the ITE Trip Generation Manual, 11th Edition and adjusted as detailed in the 2022 LATR guidelines. Figures are rounded to nearest whole number. Source: Wells + Associates Traffic Consulting Local Area Transportation Review – October 3<sup>rd</sup>, 2023

Several in opposition expressed concern about traffic congestion and roadway -- specifically school bus -- safety, citing already increased traffic and queuing times. However, no data was provided to support these assertions. 3/7/24 T. 16, 27-29, 104, and 133.

**b. Other Public Facilities**

The development is for seniors and so will not access schools and no undue burden on police or fire protection was raised as a concern by Staff or those in opposition. Exhibit 28, p. 26.

Staff stated that the property is located partially within water and sewer categories W-1 and S-1 (Lot 3) and partially within water and sewer categories W-5 and S-5 (Lots 2 and Part of 1) and is not currently served by public water or sewer. Exhibit 28, p. 26. Under a previous category change request, Lot 2 and Part of 1 are recommended for a change in category through the

subdivision approval process. *Id.* The development will then extend public water and sewer to the property via an existing easement connection to the abutting property to the north. *Id.* Staff found that this infrastructure investment will provide a substantial benefit to the confronting residential homes along Ruby Drive, who will now have the ability to connect to public water/sewer systems if they desire. *Id.* Following completion of these extensions, water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission ("WSSC") through connections to the existing water and sewer lines. *Id.*

Staff state that electric, gas, and telecommunications services will also be available on the Site. *Id.* According to Staff, other public facilities and services – including police stations, firehouses, and health care facilities – are currently operating in accordance with the Annual Growth Policy and will continue to be sufficient following construction of the Project. *Id.*

Conclusion: Because this property will have to go through preliminary plan approval, the final determination of the adequacy of public facilities will be made by the Planning Board. While there were anecdotal concerns from neighbors about increased traffic, the more objective evidence (*i.e.*, the Traffic Impact Study) supports a finding that traffic from the neighborhood will not exceed County standards for volume and safety, which will be addressed at the time of preliminary plan. There is no countervailing objective evidence that standards will be exceeded. Additionally, the burden the development will place on other public facilities is negligible. Based on this record, the Hearing Examiner finds that the application meets County standards for adequacy of public facilities, subject to the final determination by the Planning Board.

### **3. Compatibility with the Neighborhood**

**Section 7.3.1.E.1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:**

\* \* \*

**d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;**

\* \* \*

**g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:**

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;**
- ii. traffic, noise, odors, dust, illumination, or a lack of parking;**  
**or**
- iii. the health, safety, or welfare of neighboring residents, visitors, or employees.**

\* \* \*

**Section 59.7.3.1.E.2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.**

**a. Compliance with Sections 59.7.3.1.E.1.d and 59.7.3.1.E.2**

Staff determined that the site design meets the criteria of Section 59.7.3.1.E.1.d because the buildings are symmetrically oriented around the internal north-south private drive with a central, linear courtyard in the approximate center of the property and because no parking is provided between the buildings and the street, which mimics the traditional residential development pattern along both West Old Baltimore Road and Ruby Drive. Exhibit 28, p. 23. Staff found the buildings to be appropriately sized to blend with the surrounding neighborhood and comparable to the footprints of the newly constructed residential homes to the west of the Property. *Id.* The buildings will be two stories, with a maximum height of approximately 40 feet, which is less than the 50 feet allowed in the R-200 Zone (for lots over 40,000 square feet), and, thus, similar in terms of height and massing to nearby two-story residential homes. Exhibit 28, p. 23-24.



Additionally, Staff found that the exterior architecture of the buildings is designed to be residential in nature and incorporates many traditional residential architectural elements that complement the residential character of the surrounding neighborhood, including peaked roofs, covered porches, bay windows, as well as the intended neutral color palette with horizontal siding and natural stone and wood accents. Exhibit 28, p. 29.

Uniformly, those in opposition disagreed with Staff and Applicant's categorization of compatibility, primarily due to the total square footage – upwards of 8,700 square feet including the basement – of the proposed buildings. 3/7/24 T. 52-54, 77, 107-110. Many in opposition also highlighted the design differences with the older and most proximate homes on Ruby Drive. 3/7/24 T. 54, 77, 87, 107-108.

**b. Inherent v. Non-Inherent Adverse Impacts (59.7.3.1.E.1.g)**

This finding requires consideration of the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 1.4.2 of the Zoning Ordinance defines inherent adverse effects as “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” Inherent adverse effects, alone, are not a sufficient basis for denial of a conditional use.

Non-inherent adverse effects are defined as “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effects cause “undue” harm to the surrounding neighborhood. When analyzing whether impacts are

inherent or non-inherent, Staff examine the size, scale, scope, light, noise, traffic, and environmental effects of the proposed use.

**i. Physical and Operational Characteristics**

Staff identified the following physical and operational characteristics necessarily associated with (i.e. inherent to) a Residential Care Facility: (1) building(s) large enough to house the proposed number of residents; (2) on-site parking sufficient to meet the requirements of the use and of the Zoning Ordinance; (3) outdoor lighting consistent with residential standards and adequate for safe vehicular and pedestrian access at night; (4) vehicular trips to and from the site by employees, visitors, residents, delivery, and trash pick-up; (5) a modest level of outdoor activities associated with use of passive recreation areas; and (6) noise from ambulances in emergency situations. Staff did not identify any non-inherent characteristics of the proposed use. Exhibit 28, p. 28-29.

In terms of the inherent characteristics:

1. A building(s) large enough to house the proposed number of residents.

Staff determined that the proposed buildings are large enough to house the proposed number of residents. Exhibit 28, p. 27. The Applicant noted that instead of one large building housing 120 residents, a common design for this type of use, the project divides residency into eight buildings modelled after single-family residences, which allows a large number of residents to be housed in a design more compatible with the surrounding neighborhood. 2/2/24 T. 32.

2. On-site parking facilities.

Staff found and the Applicant's Conditional Use Plan illustrates that nearly all the proposed off-street parking is provided at the rear of the property. Exhibit 28, p. 28; Exhibit 5. Staff concluded that because of the rear location, the proposed buildings and existing/proposed

landscaping will largely screen the parking from view from West Old Baltimore Road and Ruby Drive. *Id.* Staff cited the provision of more than ample parking on-site, which was also attested to by Ms. Randall, as insurance that no vehicles will need to park in the surrounding residential neighborhoods while accessing the senior living facility. Exhibit 28, p. 28; 2/2/24 T. 313-314.

3. Outdoor lighting of parking and amenity spaces.

Staff concluded that the lighting for the parking areas will be limited to the amount necessary to ensure safety, citing the Photometric Plan submitted by the Applicant that shows that, in conformance with the requirements of Section 6.4.4 of the Zoning Ordinance, lighting for the Project will fall to zero (0.0) footcandles well before approaching property lines abutting the surrounding residential uses. Exhibit 28, p. 28; Exhibit 17. Mr. Sloan opined as to the minimization of light pollution. 2/2/24 T. 108-110.

Light nuisance was a significant concern for many in opposition, particularly those on Ivy Court who will be at a lower elevation. 3/7/24 T. 16, 77, 108. Mr. Pajot testified that the Applicant's renderings do not accurately portray the viewshed and nuisance that Ivy Court will experience because the renderings do not reflect that Ivy Court is of lower elevation than the proposed development and that the houses on Ivy Court are proportionally smaller than the gray boxes used to represent houses in the rendering 3/7/24 T. 108.

4. Vehicular trips.

Staff concurred with the Applicant's Traffic Exemption Statement that the development is anticipated to result in a fewer than 50 net new person trips in either the morning or evening peak hours, specifically generate 34 AM peak hour and 45 PM peak hour person trips, and is thus exempt from further LATR analysis and mitigation requirements. Exhibit 28, p. 28; Exhibit 12.

Ms. Randall also provided queuing analysis and discussed the positive impact of the major intersection realignment at MD355 and West Old Baltimore Road. 2/2/24 T. 298-306. She opined that both intersections proximate to the subject property are within capacity standards and there is not excessive queue overflow or blockage. 2/2/24 T. 305. She also examined crash data over the last four years since the intersection realignment and concluded that the proposal would not have a significant impact. 2/2/24 T. 306-308. She agreed with Staff's assessment that there will be more than sufficient sight distance at MD 355 and West Old Baltimore. 2/2/24 T. 301-310.

Those in opposition expressed concerns about existing traffic levels and the impact of any traffic increase on the surrounding neighborhood. 3/7/24 T. 16, 27-29, 104, and 133.

5. Outdoor amenity space for use by residents and visitors.

Staff described the site layout as featuring a linear, central green amenity area that contains a series of walking paths connected to pathways around the property with seating and shaded areas provided as places for residents and visitors to enjoy the greenspace. Exhibit 28, p. 28. Staff determined the walking paths to be buffered from the surrounding neighborhood by the landscaping proposed along the western property boundary and street trees along Ruby Drive. *Id.* Staff also concluded that senior residents of this facility will be quiet and peaceful by nature and thus not contribute to noise nuisance. *Id.*

Those in opposition did not express concern about the views of the outdoor amenity space as opposed to the buildings themselves, or about the noise generated by the residents. Opposition did raise concerns about noise from staff and delivery vehicles entering and exiting the premises. 3/7/24 T. 17-18, 66-67, 117-118.

6. Noise from ambulances in emergency situations.

Staff accepted Applicant's assertion of approximately one to four an unplanned emergency ambulance visits each month, noting that the facility intends to provide on-site 24-hour nursing and care services and resident access to regular doctor visits, which should minimize the necessity for emergency visits. Exhibit 28, p. 29.

Opposition did not raise specific concerns about the noise of regular ambulance visits. 3/7/24 T. 17-18, 66-67, 117-118.

## **ii. Undue Economic Harm**

Staff did not identify any undue economic harm and neither party raised issues related to economic impact.

## **c. Conclusion**

### **i. Compatibility with Neighborhood (Sections 59.7.3.1.E.1.d and 59.7.3.1.E.2)**

Zoning Ordinance §59.7.3.1.E.2. requires an examination of the compatibility of the use with the character of the residential neighborhood in which it is located. This question is like the one raised by Zoning Ordinance §59.7.3.1. E.1.d., above, which asks whether the proposed use will be harmonious with the neighborhood as envisioned by the applicable master plan.

To determine compatibility, the Hearing Examiner must assess whether the appearance, size, and configuration of the proposed buildings, to the extent they diverge from the surrounding residential neighborhoods, are compatible.

The Hearing Examiner is persuaded that the proposed development is compatible with the surrounding area under Sections 59.7.3.1.E.1.d and 59.7.3.1.E.2 of the Zoning Ordinance for several reasons. She agrees with the Applicant's expert testimony that compatible does not mean identical. 2/2/24 T. Rather, compatible indicates that two uses can co-exist with apparent harmony, not jarring or odd in their proximate appearance. Were compatibility to require identical

relationships, development would be impossible in any area bordering homes built at different times considering the evolution of design features over time. In the instant case, it is not possible to perfectly match both the viewshed of the older homes along Ruby Drive and the newer homes on Ivy Court, West Old Baltimore Road, and Gorman Circle. See Exhibit 32 and 37. Presumably as well, the evolution of design features over time reflects preferences and environmental efficiencies such that copying older design is not *per se* preferable or beneficial. As architect Ms. Xu explained, many of the design features, like height, footprint, and window pattern, mirror those of the surrounding area, 2/2/24 T. 254-55, and the Hearing Examiner finds these elements more than sufficient to achieve the compatibility required by the Zoning Ordinance.

Opposition's biggest concern was the building size, as each will house 15 residents and total approximately 8,700 square feet, 2/2/24 T. 286, which may be up to one-third larger than even the largest homes nearby (and the largest cited are beyond the identified surrounding neighborhood), 3/7/24 T. 53-55. However, Ms. Xu and Mr. Sloan explained that the actual 5,000 square foot footprint and height of the buildings are within the ranges of existing home and in compliance with the Zoning Ordinance. 2/2/24 T. 153, 258. Mr. Sloan opined that an arrangement of residential style homes is far more compatible than one large building. 2/2/24 T. 70. The Hearing Examiner agrees. The issue is one of balance: if the County and Master Plan want to allow for a diversity of housing and assisted living residents need a certain level of services, assisted living residences cannot look exactly like single family homes; they must be larger to accommodate resident needs. The Applicant has provided a suitable compromise, designing the type of larger facility needed to serve the assisted living community in a manner that looks like a modestly amplified version of the surrounding single-family homes.

Similarly, positioning the eight proposed buildings in an enclave, street-oriented manner obscures direct views from West Old Baltimore Road while preserving a neighborhood-like feel, in a manner comparable to surrounding subdivisions. The Applicant balances the residents' need for proximal services and quiet recreation in a manner comparable to a single-family detached residential community and to a maximal extent obscures from view the differences between the site and the surrounding neighborhood.

Additionally, the Hearing Examiner finds that the impacts of the parking lot and lighting, commercial elements that inherently differ from those found in a single-family detached neighborhood, are significantly mitigated. The site plan places the parking lot at the rear of the site, blocked from West Old Baltimore Road. Staff and expert witnesses conclude that the lighting will not have an impact beyond the property boundary. The landscaping plan exceeded county requirements and was expanded to create even further screening to those on Ivy Court. No mitigation plan is perfect and Ivy Court residents will likely still be able to see the development from upper story windows, but the Hearing Examiner concludes that the Applicant has designed the development to prevent as much negative impact as possible.

While concerns about traffic and queuing on West Old Baltimore Road were raised by neighbors, no specific issues were cited and expert testimony established that there is sufficient capacity to accommodate the modest development and that car crashes in the area have been minimal, with none since the intersection realignment.

**ii. Conclusion: Inherent and Non-Inherent Adverse Impacts (Section 59.7.3.1.E.1.G)**

This standard requires consideration of the impact of the inherent and non-inherent adverse operational and physical effects of the proposed use on nearby properties and the general neighborhood. As stated, inherent adverse effects are “adverse effects created by physical or

operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.” *Zoning Ordinance*, §1.4.2. Inherent adverse effects, alone, are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” *Id.* Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the harm caused by the adverse effects would be “undue.”

Staff identified a series of characteristics of the use that have an “effect” on the surrounding area. The Hearing Examiner agrees with Staff’s identification of inherent characteristics. In an application for a continuing care facility, BOA Case No. S-856-B, Petition of Friend’s House, Inc., the Hearing Examiner adopted Staff’s description of the broad characteristics to consider in determining the inherent and non-inherent characteristics of the use: size, scale, scope, light, noise, traffic, and the environment. *Hearing Examiner’s Report and Recommendation*, BOA Case No. S-856-B, pp. 41-42. Characteristics analyzed by Staff in this and other cases involving age-restricted or senior living facilities show these factors determine the “effects” on the surrounding area. *See, e.g.*, Hearing Examiner’s Report and Recommendations in CU 16-01, Brandywine Senior Living, pp. 62-63 (March 21, 2016); CU 20-05, Spectrum Retirement Communities, p. 29 (March 9, 2021).

Staff did not identify any non-inherent characteristics of the proposed use. Exhibit 28, p. 29. While opposition did not frame concerns in terms of non-inherent characteristics, *de facto* many in opposition were arguing that the placement of the use in a SPA was a physical characteristic of the use not necessarily associated with the use that resulted in an adverse impact. However, opposition failed to present anything beyond conjecture that the level of impervious



surface and intensity of use at the site would be problematic. The Applicant provided a detailed stormwater management plan sufficient to mitigate any impacts and established that the site was sufficiently distant from nearby streams so as not to require additional protections.

Thus, the Hearing Examiner finds that the thoughtful design of project sufficiently mitigates any adverse effects. Most importantly, the Hearing Examiner agrees that there are no non-inherent effects. The opposition provided no evidence that location within an SPA, alone, is a non-inherent characteristic of residential care facilities. Regardless, the Applicant effectively showed that the extensive stormwater management design will not adversely impact the watershed. Opposition desired further study because of the importance of the area but did not identify any deficiencies in Applicant’s plan or any specific risks the proposal presented. Thus, as no non-inherent or combined inherent and non-inherent effects exist, this standard is met and cannot be a justification to deny the Application.

**B. Development Standards of the Zone (Article 59.4)**

To approve a conditional use, the Hearing Examiner must find that the application meets the development standards of the R-200 Zone, contained in Article 59.4 of the Zoning Ordinance. Staff concluded that the application met the development standards as set out in Table 1 from that Report below. Exhibit 28, p. 19-20.

*Table 1: Development and Parking Standards (R-200)*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Existing/Proposed</b>
<b>Section 4.4.7 R-200 Zone</b>		
Minimum Lot Area	20,000 SF	202990 SF
Minimum Lot Width at Front Building Line	100 Feet	234 feet
Minimum Lot Width at Front Lot Line	25 feet	217 feet
Maximum Density	1,200 SF per Bed	>1,600 SF per Bed

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Existing/Proposed</b>
<b>Section 4.4.7 R-200 Zone</b>		
Maximum Lot Coverage	25%	14%
Minimum Front Setback	20 Feet	120 Feet
Minimum Side Setback	20 Feet	40 Feet
Minimum Rear Setback	20 Feet	25 Feet
Maximum Height	50 Feet	40 Feet
<b>Vehicle Parking Requirement (Section 59.6.2.4.B)</b>		
<i>Residential Care Facility – Vehicle Parking Spaces</i>	40 spaces: Base parking requirement of 0.25 spaces/bed, plus 0.50 spaces per employee.	52 Spaces
<i>Residential Care Facility – Bicycle Parking Spaces</i>	Base requirement of 0.1 space(s) per employee (44 x 0.1= 4.4)	Minimum of five (5) bicycle spaces

Conclusion: No party contests Staff’s finding that the application meets the required development standards in the R-200 Zone. The Hearing Examiner finds from the uncontroverted evidence that the proposed development meets these standards.

**C. Use Standards for a Residential Care Facility (Section 59.3.3.2.E)**

The specific use standards for approval of a Residential Care Facility are set out in Section 59.3.3.2.E. of the Zoning Ordinance.

**1. Defined, In General**

**Residential Care Facility means a group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual, in which:**

- a. the facility must meet all applicable Federal, State, and County certificate, licensure, and regulatory requirements;**
- b. resident staff necessary for operation of the facility are allowed to live on-site; and**
- c. the number of residents includes members of the staff who reside at the facility, but does not include infants younger than 2 months old.**

Conclusion: No party contests that the application meets the required development standards, thus the Hearing Examiner finds that the proposed development meets these standards.

*Section 3.3.2.E.2.c.ii. Where a Residential Care Facility (Over 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:<sup>3</sup>*

*(a) The facility may provide ancillary services such as transportation, common dining room and kitchen, meeting or activity rooms, convenience commercial area or other services or facilities for the enjoyment, service or care of the residents. Any such service may be restricted by the Hearing Examiner.*

Staff and Ms. Ja described the services that Worldshine will provide, including communal dining and living spaces, a community center, activity rooms, medical and personal care facilities, outdoor amenities, and transportation services. There was no concern raised about the level of services provided or about the adverse impact of any of the services.

Conclusion: The Hearing Examiner agrees with Staff and relies upon the detailed description of services provided by the Applicant to find that this requirement is met.

**(c) Where residential dwelling units are provided**

- (1) the maximum residential density per lot area is 15 units per acre or the maximum density allowed in the zone, whichever is greater; and**
- (2) the minimum green area is 50%.**

Staff explained that the assisted living accommodations provided do not have cooking

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<sup>3</sup> The Hearing Examiner does not include the standard in Section 59.3.3.2.E.2.c.2(b) because it relates to residential care facilities for children.

facilities and so do not qualify as dwelling units under the Zoning Ordinance, but, regardless, the site plan provides for more than 50% green space. *Zoning Ordinance*, §59.1.4.1(definition of "dwelling unit).

Conclusion: This standard is not applicable but, if it were, the Application would comply.

*(d) Where facility size is based on the number of beds, not dwelling units, the following lot area is required:*

\* \* \*

*(2) In all other zones, the minimum lot area is 2 acres or the following, whichever is greater:*

\* \* \*

*(A) in RE-2, RE-2C, RE-1, and R-200 zone: 1,200 square feet per bed;*

Staff concluded that proposed development meets this density standard as the development will be located on a net lot area of 202,898 square feet and provide up to 120 assisted living beds, which calculates to approximately 1,690 square foot per bed, exceeding the Zoning requirement. Exhibit 28, p. 18.

Conclusion: As the proposed density is below the maximum density permitted, the Hearing Examiner agrees with Staff that this standard is met.

**(e) Principal building setbacks for all building types must meet the minimum setbacks required under the standard method of development for the subject building type in the R-30 zone (see Section 4.4.14.B.3, Placement).**

Staff concluded that the proposal satisfies the setback requirements of the R-30 Zone. *Id.*

Conclusion: Having no evidence to the contrary, the Hearing Examiner finds that that setbacks are sufficient and the standard is met.

**f) The minimum side setback is 20 feet to abutting lots not included in the application.**

Staff found that the minimum side setback will be 40 feet. *Id.*

Conclusion: The Hearing Examiner agrees with Staff that that setbacks standard is met.

**(g) Independent dwelling units must satisfy the MPDU provisions of Chapter 25 (Section 25.A-5).**

Staff advises that this requirement is not applicable because Worldshine is not providing dwelling units. *Id.*

Conclusion: The Hearing Examiner agrees with Staff that this standard is not applicable.

**(h) In a Continuing Care Retirement Community and a Senior Care Community, occupancy of any independent dwelling unit is restricted to persons 62 years of age or older, with the following exceptions:**

- (1) the spouse of a resident, regardless of age;**
  - (2) another relative of a resident, 50 years of age and older;**
  - (3) the resident widow, widower, or other surviving relative of a resident who dies while residing at the Continuing Care Retirement Community or the Senior Care Community is allowed to remain, even though the resident widow, widower, or other surviving relative has not reached the age of 62.**
- A minimum of 80% of the dwelling units must be occupied by at least one person per unit who is 55 years of age or older.**

Staff advises that this requirement is not applicable because the proposal is for an assisted living facility, not a continuing care retirement community and so does not provide any independent living units. Exhibit 28, p. 19.

Conclusion: The Hearing Examiner agrees with Staff that this standard is not applicable.

**(i) Height, density, coverage, and parking standards must be compatible with surrounding uses; the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.**

Staff concluded that the proposal is compatible with the surrounding residential neighborhoods as the two-story buildings are comparable in size and scale with the surrounding residential homes and the layout allows vehicular access to be accommodated off West Old Baltimore Road, thereby minimizing the impact on Ruby Drive. *Id.* Adequate parking is provided on-site to eliminate any impacts to the surrounding communities and the parking lot is located to the rear of the site so as to be predominately screened from view from the streets and surrounding

neighborhoods. *Id.* Similarly, the trash enclosure is located to the northeast corner of the Property, as far away from the abutting single-family homes as possible. *Id.*

As Ms. Xu testified, the height and footprint of the buildings is similar to the more modern proximal residential developments and the design incorporates many elements common in the area so that the development should blend well with the neighborhood. The landscape plan and position of the buildings minimizes the impact any non-residential elements may have on the residential feel of the surrounding area.

Conclusion: This has already been discussed in Part III.A.3 of this Report. The Hearing Examiner finds that this standard is met.

#### **D. General Development Standards (Article 59.6)**

Article 59.6 sets the general requirements for site access, parking, screening, landscaping, lighting, and signs. Under the amendments to Section 59.7.3.1.E.1.b. of the 2014 Zoning Ordinance, effective December 21, 2015, the requirements of these sections need be satisfied only “to the extent the Hearing Examiner finds necessary to ensure compatibility.”<sup>4</sup> The applicable requirements, and whether the use meets these requirements, are discussed below. Staff’s report discusses the requirements of the following Divisions of Article 59.6:<sup>5</sup> Division 6.1 Access; Division 6.2 Parking, Queuing and Loading; Division 6.3 Open Space and Recreation; Division 6.4 Outdoor Lighting; and Division 6.7 Signs. Exhibit 28, pp. 20-22. Screening under Division 6.5 was not explicitly discussed by Staff; Staff concluded that all technical screening requirements were met but recommended that the Applicant should increase the evergreen planting above Zoning Ordinance requirements to help with compatibility and ensure effective blocking. Exhibit

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<sup>4</sup> The 2014 Zoning Ordinance for Montgomery County, adopted September 30, 2014 (Ordinance No. 17-52), was amended effective December 25, 2015, in ZTA 15-09 (Ordinance No. 18-08, adopted December 1, 2015).

<sup>5</sup> Division 6.6 Outdoor Display and Storage is not applicable.

28, p. 15. Screening was also discussed in response to community concerns. The Applicant submitted an updated landscape plan prior to the start of the hearing with additional evergreen screening and then increased the screening further before the close of the hearing at the behest of the Hearing Examiner. Exhibits 17 and 36.

### **1. Access (Division 59.6.2)**

According to Staff, the site access provided is adequate for the intended use of the property. Access is provided from West Old Baltimore Road via an internal private driveway that terminates in a full-movement loop, also internal to the site. The development will also contain internal pedestrian pathways that will provide connections to proposed pedestrian facilities along West Old Baltimore Road.

Conclusion: The Hearing Examiner agrees with Staff that the proposed access is sufficient to meet requirements as it will be a private road dedicated solely to the facility's use.

### **2. Parking, Queuing and Loading (Division 59.6.2)**

Under 59-6.2.5.K. *Facilities for Conditional Uses in Residential Detached Zones*, any off-street parking facility for a conditional use that is located in a Residential Detached zone where 3 or more parking spaces are provided must satisfy the following standards:

1. Location: each parking facility must be located to maintain a residential character and a pedestrian-friendly street.
2. Setbacks
  - a. The minimum rear parking setback equals the minimum rear setback required for the detached house.
  - b. The minimum side parking setback equals 2 times the minimum side setback required for the detached house.
  - c. In addition to the required setbacks for each parking facility:
    - i. the required side and rear parking setbacks must be increased by 5 feet for a parking facility with 150 to 199 parking spaces; and
    - ii. the required side and rear parking setbacks must be increased by 10 feet for a parking facility with more than 199 parking spaces.

Staff concluded the application complies with the required location and setbacks because the parking for 52 vehicles (making §59.6.2.5.K.2.c inapplicable) is located at the rear of the property and will largely be screened from view by the eight buildings, and the existing and proposed landscaping is in compliance with parking screening requirements under 6.2.9.C.3.b., and will maintain residential character and a pedestrian-friendly street.

Conclusion: The Hearing Examiner agrees with Staff that the location of the parking minimizes its impact, preserving the residential character of the surrounding area, and that the location meets setback requirements.

### **3. Open Space and Recreation (Division 6.3)**

Staff notes that recreation facilities are not required for the proposed use, but that the development will provide opportunities for residents to recreate throughout the site by using the central green amenity area that contains a series of walking paths connected to a larger series of pathways around the property and seating and shaded areas from which the greenspace may be enjoyed. Staff concluded that this use is in harmony with neighboring residential properties.

Conclusion: The Hearing Examiner finds that while open space and recreation facilities may not be required, they add significantly to the attractiveness of the proposed use and thus the feasibility of offering a Residential Care Facility in this area.

### **4. Outdoor Lighting (Division 6.4)**

Staff concluded that, as required by Section 59-6.4.4.E, the photometric plans for the development indicate that illumination will not exceed 0.1 footcandles at any lot line that abuts a lot with a detached house, which is consistent with the testimony of Applicant's expert, Mr. Sloan, and the Lighting Plan provided in Exhibit 17.



Of note, the proposed fixtures cited on Exhibit 17 must also meet the design requirements and fixture height limits specified in Zoning Ordinance §59.6.4.4.B.

Conclusion: Worldshine's photometric study demonstrates that illumination levels are at 0.0 footcandles within the interior of the property along all property boundaries. No party contested that the fixtures proposed do not meet the applicable standards. Therefore, the Hearing Examiner concludes that his requirement has been met.

### **5. Screening (Division 6.5)**

As stated, Staff found that the Applicant complied with the requirements of this section but recommended additional screening would be necessary to provide effective mitigation and Applicant responded by amended the landscaping plan twice.

Conclusion: The Hearing Examiner finds that this standard has been met as, in response to community concerns and Staff and Hearing Examiner recommendations, the Applicant's plan intentionally exceeds requirements for the provision of effective screening.

### **6. Signage (Division 6.7)**

The Applicant reported to Staff and during the hearing that it is proposing to provide a residential scale monument sign at the Property entrance on West Old Baltimore Road, as well as one building-mounted sign on the community center building, and necessary internal wayfinding and directional signage. The Applicant expressed understanding that any new signage intended for placement on the Property must be reviewed by the Montgomery County Department of Permitting Services ("MCDPS") and designed and installed in accordance with the applicable Zoning Ordinance requirements and procedures for Division 6.7.

Conclusion: The Hearing Examiner finds that the proposed signage should be compatible with the surrounding area but imposes as a condition of approval that the Applicant comply with the

procedures of MCDPS and that all signage comply with Zoning Ordinance requirements. If necessary, the Applicant must obtain a variance from the Sign Review Board and file a copy of the variance in the record of this case.

#### **IV. Conclusion and Decision**

Based on the foregoing findings and conclusions and a thorough review of the entire record, the application of Worldshine Homes, LLC (CU 23-11) for a conditional use under Section 59.3.3.2.E.c. of the Zoning Ordinance to build and operate a Residential Care Facility (Over 16 Persons) at 12450 West Old Baltimore Road and 21908 Ruby Drive is hereby **GRANTED**, subject to the following conditions:

1. Physical improvements to the Subject Property are limited to those shown on the Applicant's Conditional Use site plan, Lighting Plan and Landscape Plan (Exhibits 5, 17c and 36).
2. The maximum number of residential care units is limited to eight (8) buildings with 120 beds.
3. The height of any structure will be limited to forty (40) feet.
4. The maximum number of employees on-site at any one time must not exceed 44.
5. Food supply deliveries to the facility shall be limited to twice per week.
6. The collection of solid waste refuse and recyclable materials must occur on weekdays only, between 8:00 a.m. and 9:00 p.m., consistent with Solid Waste Regulations. No collection shall occur on Saturdays or Sundays.
7. The Applicant must maintain 52 parking spaces as shown on the Conditional Use Plan and may not expand or reduce the parking facility without explicit permission from the Hearing Examiner through modification of this Conditional Use.
8. The Applicant must provide a minimum of five (5) bicycle parking spots.
9. Before issuance of any building permit for the subject Conditional Use, the Applicant must obtain approval of a Preliminary Plan of Subdivision and a Record Plat pursuant to Chapter 50 of the Montgomery County Code. If changes to the approved Conditional Use site plan or other plans filed in this case are required at Subdivision, the Applicant must file a copy of the revised site and related plans with OZAH.
10. Before approval of the Preliminary Plan of Subdivision, the Applicant must obtain approval of the Final Water Quality Plan from the Montgomery County Department of Permitting Services (MCDPS).

11. The Applicant must obtain a permit for the proposed monument sign from the Department of Permitting Services, or if required, the Sign Review Board, and a copy of the permit for the approved sign must be submitted to the Hearing Examiner before the sign is constructed.
12. The Applicant must obtain and satisfy the requirements of all licenses including a use and occupancy permit.
13. The Applicant and any successors in interest must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code.
14. The Applicant must obtain approval of a Final Forest Conservation Plan.
15. The facility must be operated in accordance with all applicable County noise regulations.
16. Transfers to successor conditional use holders must follow the procedures in Rule 27.0 of OZAH's Amended Land Use Rules of Procedure.
17. The conditional use must be operated in a manner to provide the facilities and services to residents outlined in Applicant's Statement of Operations (Exhibit 6). Use of the on-site facilities and services must be restricted to residents of the conditional use site, their guests and employees, and personnel providing services to the residents.
18. The Applicant and any successors in interest must obtain and satisfy the requirements of all Federal, State, and County licenses, regulations, and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant and any successors in interest shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

Issued this 16th day of April, 2024.



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Andrea LeWinter  
Hearing Examiner

RIGHT TO APPEAL

Any party of record may file a written request to appeal the Hearing Examiner's Decision by requesting oral argument before the Board of Appeals, within 10 days issuance of the Hearing Examiner's Report and Decision. Any party of record may, no later than 5 days after a request for oral argument is filed, file a written opposition to it or request to participate in oral argument. If the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. A person requesting an appeal, or opposing it, must send a copy of that request or opposition to the Hearing Examiner, the Board of Appeals, and all parties of record before the Hearing Examiner.

Additional procedures are specified in Zoning Ordinance §59.7.3.1.f.1. Contact information for the Board of Appeals is:

Montgomery County Board of Appeals  
100 Maryland Avenue, Room 217  
Rockville, MD 20850  
(240) 777-6600  
<http://www.montgomerycountymd.gov/boa/>

Please contact the Board of Appeals by calling 240-777-6600 or visit its website (<http://www.montgomerycountymd.gov/boa/>) with any questions or to obtain updated procedures for filing an appeal.

The Board of Appeals will *consider* your request for oral argument at a work session. Agendas for the Board's work sessions can be found on the Board's website and in the Board's office. You can also call the Board's office to see when the Board will *consider* your request. If your request for oral argument is granted, you will be notified by the Board of Appeals regarding the time and place for oral argument. Because decisions made by the Board are confined to the *evidence* of record before the Hearing Examiner, no new or additional *evidence* or witnesses will be *considered*. If your request for oral argument is denied, your case will likely be *decided* by the Board that same day, at the work session.

Parties requesting or opposing an appeal must not attempt to discuss this case with *individual* Board members because such *ex parte* communications are prohibited by law.

NOTICES TO:

Elizabeth Rogers, Esquire  
Steven Robins, Esquire  
Barbara Jay, Executive Director  
Montgomery County Board of Appeals  
Patrick Butler, Planning Department  
Cliff Royalty, Esq., Office of the County Attorney  
Greg Nichols, Department of Permitting Services  
Michael Coveyou, Director of Finance  
Parties of Record to CU 23-11

## NOTICE OF RIGHT TO REQUEST ORAL ARGUMENT

Any party of record or aggrieved party may file a written request to present oral argument before the Board of Appeals, in writing, within 10 days after the Office of Zoning and Administrative Hearings issues the Hearing Examiner's report and decision. Any party of record or aggrieved party may, no later than 5 days after a request for oral argument is filed, file a written opposition or request to participate in oral argument.

Contact information for the Board of Appeals is listed below, and additional procedures are specified in Zoning Ordinance §59.7.3.1.F.1.c.

Montgomery County Board of Appeals  
100 Maryland Avenue, Room 217  
Rockville, MD 20850  
(240) 777-6600

### NOTICES TO:

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Greg Nichols, Department of Permitting Services  
Michael Coveyou, Director of Finance  
Parties of Record



**January 25, 2024**

**Mrs. Lynn Robeson Hannan, Director**

Montgomery County Office of Zoning and Administrative Hearings  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, MD 20850

**Subject:** Request for a Conditional Use for Residential Care Facility (Over 16 Persons) located at 12450 West Old Baltimore and 2190 Ruby Drive, Clarksburg

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**Dear Director Robeson Hannan:**

At its regular meeting on January 18, 2024, the Montgomery County Planning Board reviewed Conditional Use Application CU202311, for a Residential Care Facility (Over 16 Persons) on approximately 4.66 acres, located at 12450 West Old Baltimore and 21908 Ruby Drive, Clarksburg, R-200 Zone, in the 1994 *Clarksburg Master Plan*.

The Applicant, Worldshine Homes, LLC., proposes to redevelop the Property with a Residential Care Facility (Over 16 Persons) (see Section 59-3.3.2.E.c). Specifically, the Project includes eight structures containing up to 120 assisted living beds. Associated lighting, landscaping, and screening for the use on the approximately 4.66-acre property. The Conditional Use Plan shows the proposed layout of the Site.

In its staff report dated January 5, 2024, technical staff recommended approval of the Conditional Use with conditions. The Planning Board concurred with the findings and recommendations of the staff report with one additional condition to address concerns raised during the hearing:

14. Applicant shall use building materials on the rear of the units on the east side of the property closest to Ruby Drive to be equivalent or better than what is on the existing homes on Ruby Drive.

The Planning Board agreed with staff's conclusion that the use is consistent with the recommendations of the 1994 *Clarksburg Master Plan*. The application satisfies all the applicable requirements and regulations of the approval of a Conditional Use for a Residential Care Facility (Over 16 Persons). The Applicant has also met the burden of proof by showing that operating the use at this location will not be a detriment to the neighborhood and will not adversely affect the public interest.

Director Robeson Hannan

January 25, 2024

Page 2

On a motion by Commissioner Hedrick, seconded by Commissioner Linden, and Chair Harris voting in favor of the motion, the Planning Board, voted 3 to 0 (with Commissioner Bartley abstaining and Vice Chair Pedeoem absent) to recommend that the Hearing Examiner approve the Conditional Use with the conditions as discussed herein.

The Planning Board appreciates the opportunity to review this project and looks forward to working with your staff on subsequent reviews. If you have any questions, please contact Joshua Penn at 301-495-4546 or [joshua.penn@montgomeryplanning.org](mailto:joshua.penn@montgomeryplanning.org).

Sincerely,



**Artie L. Harris**

Chair

## Attachment E: Agency Letters





DEPARTMENT OF PERMITTING SERVICES

Marc Elrich  
County Executive

Rabbiah Sabbakhan  
Director

October 10, 2024

Kevin Huang  
Endesco, Inc  
15245 Shady Grove, Suite 355  
Rockville, MD 20850

Re: **FINAL WATER QUALITY PLAN** for  
Ruby Senior Homes  
Preliminary Plan #: CU202311  
SM File #: 289123  
Tract Size/Zone: 4.09 Acres  
Total Concept Area: 4.34 Acres  
Lots/Block: Pt Lot 1. Lots 2 and 3  
Parcel(s): N/A  
Watershed: Little Seneca Creek-Clarksburg SPA

Dear Mr. Huang:

Based on a review by the Department of Permitting Services Review Staff, the Final Water Quality Plan for the for the above-mentioned site is **acceptable**. The Final Water Quality Plan proposes to meet required stormwater management goals via Drywells and Microbioretention (ESD). This approval is for the elements of the Water Quality Plan of which DPS is the lead agency and does not include limits on the imperviousness or for buffer encroachments.

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

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.

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 Final Water Quality Plan 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



2425 Reedie Drive, 7th Floor, Wheaton, Maryland 20902 | 240-777-0311  
[www.montgomerycountymd.gov/permittingservices](http://www.montgomerycountymd.gov/permittingservices)

*Mr. Huang,*  
*October 10, 2024*  
*Page 2 of 2*

there are subsequent additions or modifications to the development, a separate Water Quality Plan request shall be required.

If you have any questions regarding these actions, please feel free to contact Andrew Kohler at 240-777-6275.

Sincerely,

*Mark Etheridge*

Mark Etheridge, Manager  
Water Resources Section  
Division of Land Development Services

MCE: agk

cc: Neil Braunstein - MNCPPC  
SM File # 289123

ESD: Required/Provided 11,333 cf / 12,373 cf  
PE: Target/Achieved: 1.8"/1.96"  
STRUCTURAL: N/A cf  
WAIVED: N/A cf.



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**Department of Permitting Services  
Fire Department Access and Water Supply Comments**

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**DATE:** 05-Jan-24  
**TO:** Guoxing Kevin Huang  
Endesco, Inc  
**FROM:** Marie LaBaw  
**RE:** Ruby Senior Homes  
520220060

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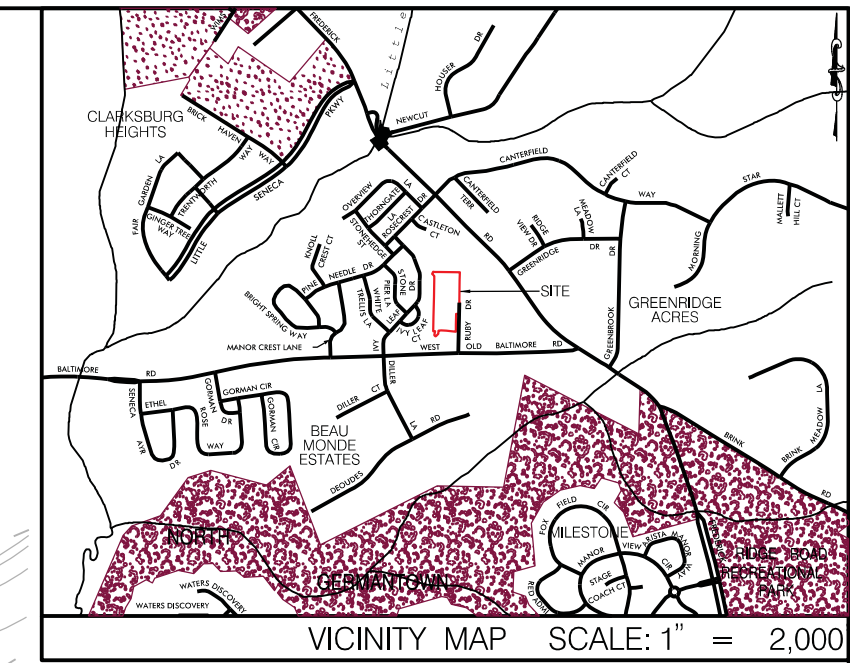
**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **05-Jan-24** .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.

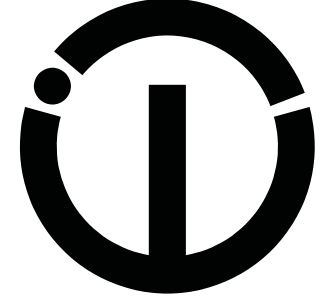
**\*\*\* Applicant shall submit for FD access amendment if floor plans or any other FD access design elements change \*\*\***

**\*\*\* Fire lane order shall be resubmitted for final processing when addresses are officially assigned \*\*\***

**\*\*\* 8/12/2024 Revise House A floorplan and sidewalk \*\*\***



**ENDESCO, INC.**  
ENGINEERS, DESIGNERS & CONSULTANTS  
15245 SHADY GROVE RD  
SUITE 335  
ROCKVILLE, MD 20850  
TEL: (301) 987-8776  
FAX: (301) 987-8777

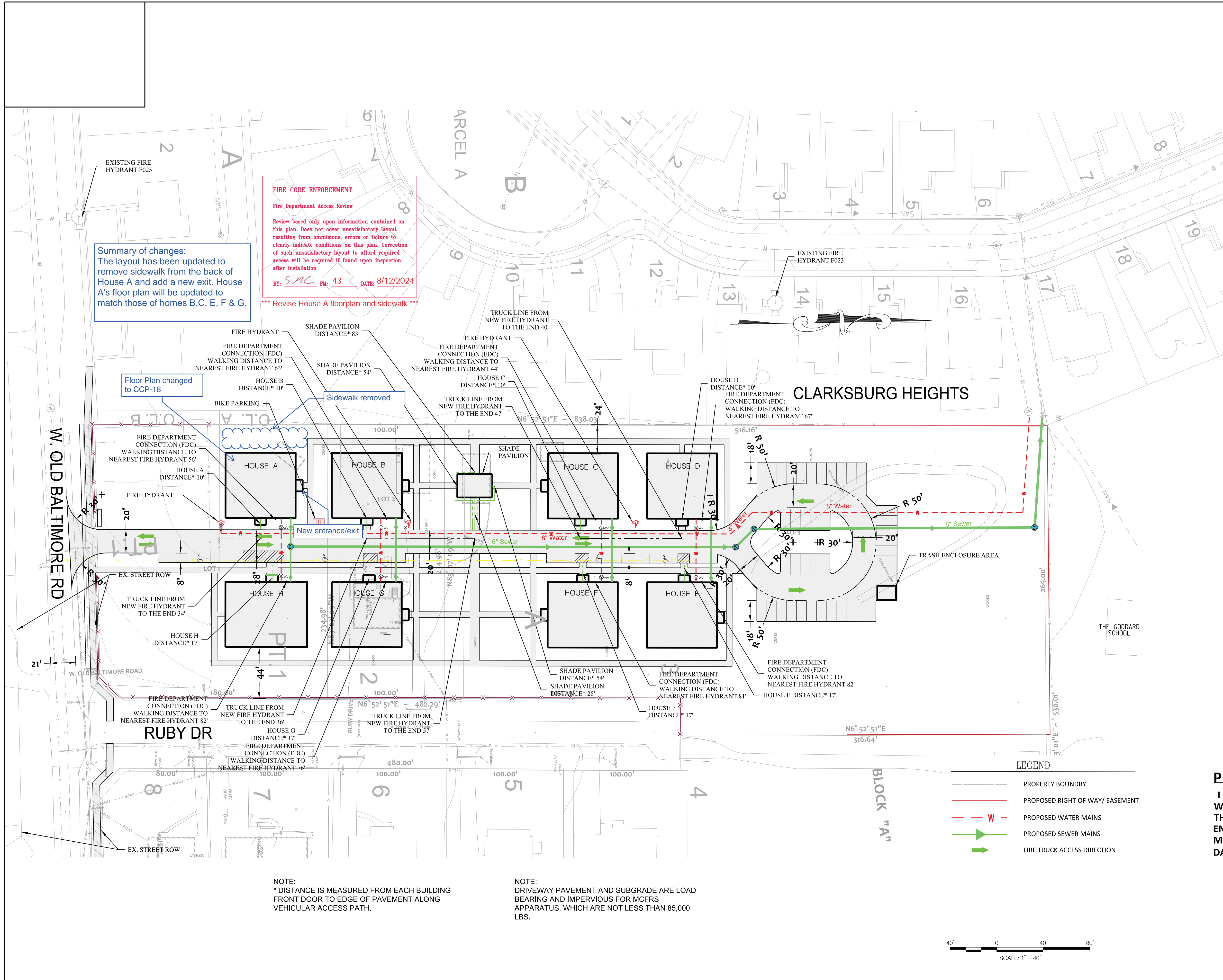


PT LOT 1, LOTS 2 AND 3  
**RUBY SENIOR HOMES**  
MONTGOMERY COUNTY, MARYLAND

REVISIONS	
NO.	DESCRIPTION
1.	
2.	
3.	
4.	

TITLE	DATE
FIRE DEPARTMENT ACCESS PLAN	JUN 2024
DRAWN: GJ	SCALE 1"=40'
DESIGNED: GJ	SHEET
CHECKED: KH	CPP-5

**PROFESSIONAL CERTIFICATION**  
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSED NO. 23093, EXPIRATION DATE 05/06/2025



**FIRE CODE ENFORCEMENT**  
Fire Department Access Review  
Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation.  
BY: SAC PM: 43 DATE: 8/12/2024

**Summary of changes:**  
The layout has been updated to remove sidewalk from the back of House A and add a new exit. House A's floor plan will be updated to match those of homes B,C, E, F & G.

\*\*\* Revise House A floorplan and Sidewalk \*\*\*

FIRE DEPARTMENT CONNECTION (FDC) WALKING DISTANCE TO NEAREST FIRE HYDRANT 63'  
SHADE PAVILION DISTANCE\* 54'  
HOUSE B DISTANCE\* 10'

FIRE DEPARTMENT CONNECTION (FDC) WALKING DISTANCE TO NEAREST FIRE HYDRANT 63'  
SHADE PAVILION DISTANCE\* 54'  
HOUSE B DISTANCE\* 10'

FIRE DEPARTMENT CONNECTION (FDC) WALKING DISTANCE TO NEAREST FIRE HYDRANT 63'  
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SHADE PAVILION DISTANCE\* 54'  
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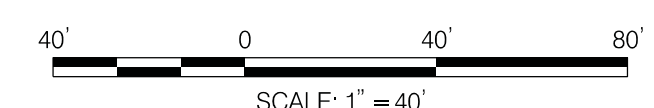
FIRE DEPARTMENT CONNECTION (FDC) WALKING DISTANCE TO NEAREST FIRE HYDRANT 63'  
SHADE PAVILION DISTANCE\* 54'  
HOUSE B DISTANCE\* 10'

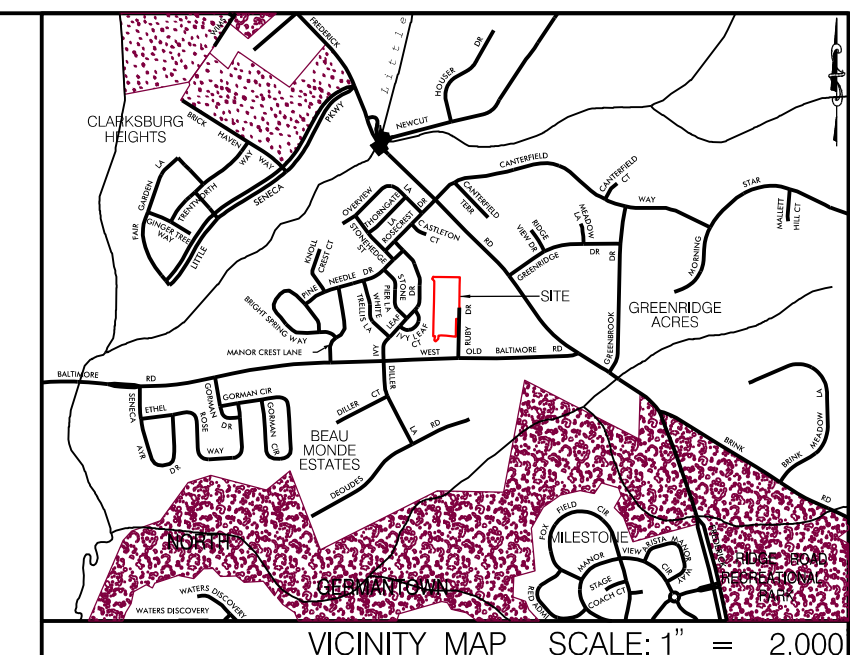
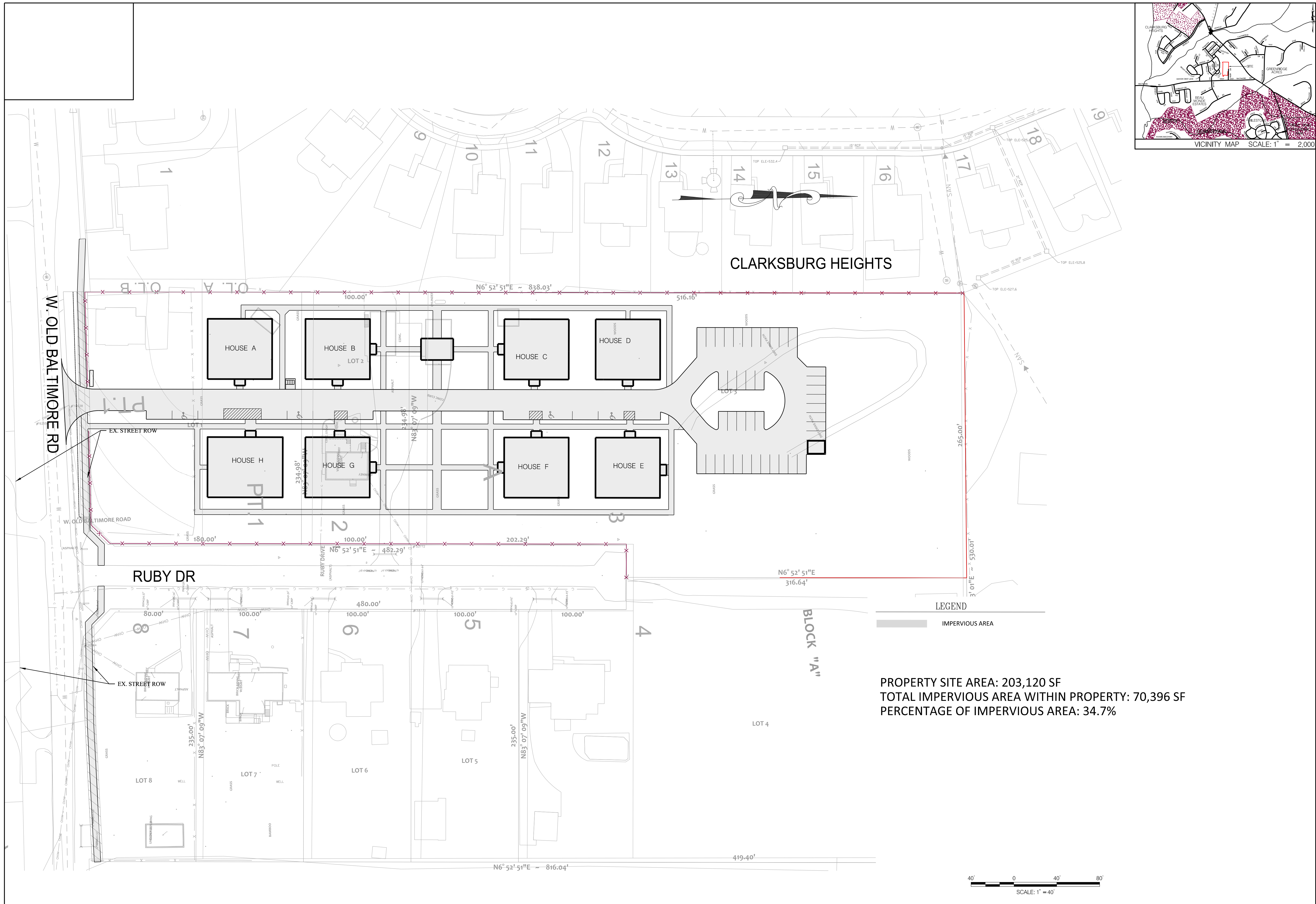
NOTE:  
\* DISTANCE IS MEASURED FROM EACH BUILDING FRONT DOOR TO EDGE OF PAVEMENT ALONG VEHICULAR ACCESS PATH.

NOTE:  
DRIVEWAY PAVEMENT AND SUBGRADE ARE LOAD BEARING AND IMPERVIOUS FOR MCFRS APPARATUS, WHICH ARE NOT LESS THAN 85,000 LBS.

**LEGEND**

	PROPERTY BOUNDARY
	PROPOSED RIGHT OF WAY/ EASEMENT
	PROPOSED WATER MAINS
	PROPOSED SEWER MAINS
	FIRE TRUCK ACCESS DIRECTION





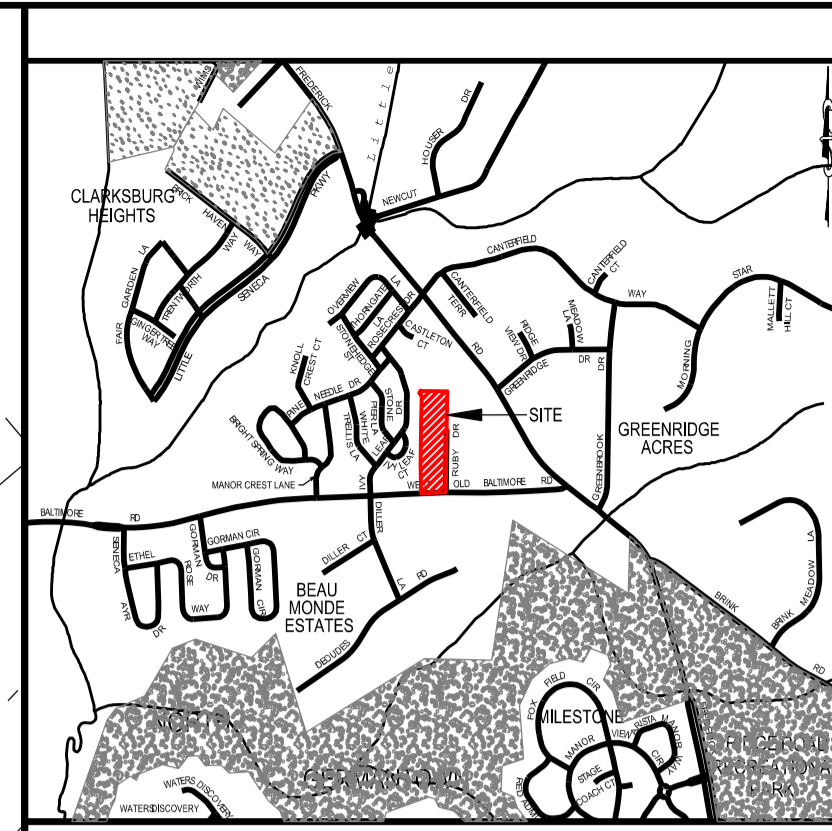
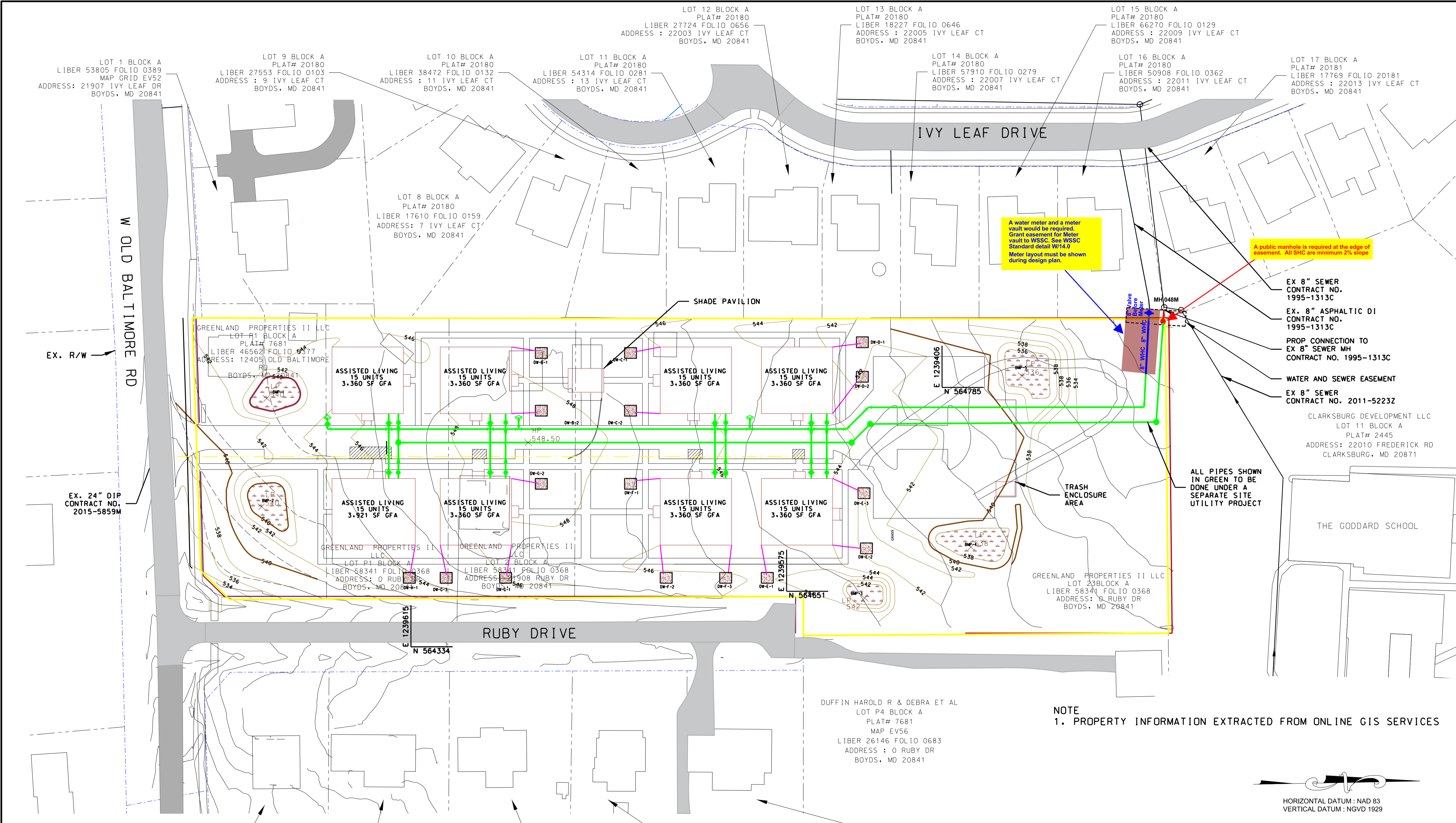
**ENDESCO, INC.**  
 ENGINEERS, DESIGNERS &  
 CONSULTANTS

15245 SHADY GROVE RD  
 SUITE 335  
 ROCKVILLE, MD 20850  
 TEL: (301) 987-8776  
 FAX: (301) 987-8777

PT LOT 1, LOTS 2 AND 3  
**RUBY SENIOR HOMES**  
 MONTGOMERY COUNTY, MARYLAND

REVISIONS	
NO.	DATE DESCRIPTION
1.	
2.	
3.	
4.	

DATE	TITLE	EXHIBIT - IMPERVIOUS AREA
JAN 2024		
SCALE	DRAWN:	GJ
1"=40'		
SHEET	DESIGNED:	GJ
	CHECKED:	KH

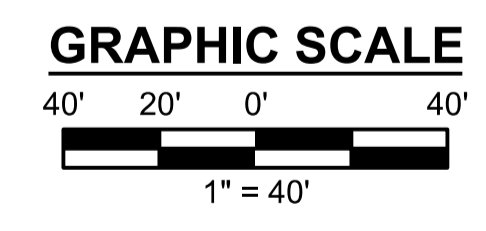


VICINITY MAP  
 RUBY SENIOR HOMES Co. SCALE 1" = 200'  
 PAGE 0 GRID

**LEGEND**

- APPLICANT'S PROPERTY
- MNCPPC, MARYLAND PARK SERVICE, NATIONAL PARK SERVICE, AND BOARD OF EDUCATION PROPERTY
- ADJACENT PROPERTIES
- EXISTING WATER MAINS (CONTRACT # & SIZE)
- EXISTING SEWER MAINS (CONTRACT # & SIZE)
- PROPOSED WATER MAINS
- PROPOSED SEWER MAINS
- PROPOSED LOW PRESSURE SEWER/ FORCE MAIN
- PROPOSED ON-SITE WATER & SITE UTILITY CONNECTIONS
- PROPOSED ON-SITE SEWER & SITE UTILITY CONNECTIONS
- EXISTING BUILDINGS
- PROPOSED BUILDINGS
- STREET NAME ROAD NAMES
- EXISTING PAVING
- EXISTING / PROPOSED EASEMENTS
- PROPOSED 10' CONTOURS
- PROPOSED 2' CONTOURS
- EXISTING 10' CONTOURS
- EXISTING 2' CONTOURS
- HP/LP XXX.XX PROPOSED HIGHLOW POINT ELEVATIONS

HORIZONTAL DATUM : NAD 83  
 VERTICAL DATUM : NGVD 1929



NOTE  
 1. PROPERTY INFORMATION EXTRACTED FROM ONLINE GIS SERVICES

DEVELOPMENT INFO		
ASSISTED LIVING	SEE PLAN FOR UNIT SIZE	# BEDS/UNIT
		15
<b>TOTAL</b>	<b>8 UNITS (27, 440 SF)</b>	<b>120</b>

SERVICE CATEGORIES	
W - 1	S - 1
HYDRAULIC GRADES	
HHG	772
LHG	770
PRESSURE ZONE (TEMP)	760B
PRESSURE ZONE (FINAL)	760A

WASHINGTON SUBURBAN SANITARY COMMISSION



ENGINEER:  
 NAME: ENDESCO INC  
 CONTACT: Kevin Huang  
 ADDRESS: 15245 Shady Grove Rd, Suite 335, Rockville, MD 20850  
 PHONE: (301) 887-8776  
 EMAIL: kevin@endescoinc.com

APPLICANT:  
 NAME: WORLDSHINE HOME, LLC  
 CONTACT: WORLDSHINE GROUP  
 ADDRESS: 700 Professional Dr, Gaithersburg, MD 20879  
 PHONE: (301) 250-3555  
 EMAIL: info@worldshinegroup.com

15-073  
 DRAINAGE BASIN / MINI BASIN SENECA CREEK

HYDRAULIC PLANNING ANALYSIS  
 RUBY SENIOR HOMES

CONTRACT DA7861225  
 200'S 230NW13 08/22/2024

**APPROVED**  
 HPA  
  
 09/30/2024

TEMPLATE LAYOUT CURRENT as of 08/01/2024



COMMISSIONERS  
T. Eloise Foster, Chair  
Mark J. Smith, Vice Chair  
Fausto R. Bayonet  
Lynnette D. Espy-Williams  
Jonathan Powell  
Regina Y. Speed-Bost

GENERAL MANAGER  
Kishia L. Powell

September 30, 2024

Worldshine Home, LLC  
c/o Worldshine Group, Becky Jia  
700 professional Dr,  
Gaithersburg, Md 20879

Re: Letter of Findings, WSSC Project No. DA7861Z25, Ruby Senior Homes

Dear Ms. Jia:

A hydraulic planning analysis has been completed on the Ruby Senior Homes project. The project has been conceptually approved. Please refer to the enclosed sketch along with the summary table and list of conditions included in this letter, which provide the results of our analysis.

<b>HYDRAULIC SUMMARY TABLE</b>	
Proposed Development: 120 bed Assisted Living	
200-ft Sheet: 230NW12	
<b>SEWER</b>	<b>WATER</b>
WRRF Service Area: Seneca Creek	Hydraulic Zone Group: Montgomery High
Mini-Basin Number: 15-073	Pressure Zone: Currently 760b(Temp), 760A (Permanent)
	High Grade: 772 feet
	Low Grade: 720 feet

The following is a list of conditions that apply to this project and must be met before a Service Connection Permit will be issued under the Applicant Built process”, as applicable.

**OUTSIDE METER AND VAULT IS REQUIRED**

The project will require construction of a Meter vault for ultrasonic meter on the 8” water house connection. An 8” valve is required prior to meter vault. Meter vault will require easement to be granted to WSSC at no cost, see sketch for preliminary location of water house connection, valve, and required easement.

#### MANDATORY REFERRAL PROCESS

This project may be subject to the Maryland-National Capital Park and Planning Commission's Mandatory Referral Program, depending on its planned water / sewer infrastructures and associated appurtenances. It is the Applicant's responsibility to contact the appropriate County's Department of Park and Planning for specific guidance and their standards for Mandatory Referral Review. During Phase 2 Design Review, WSSC must be notified, if the project is subject to the Mandatory Referral Process.

#### SUBMIT SHEETING AND SHORING PLAN

If this project involves subsurface features such as an underground parking garage or a deep excavation which will require tiebacks in the area of existing or proposed WSSC mains, submit an Excavation Support System Plan (ESS) to WSSC for review. This ESS Plan must be submitted as a Non-DR Plan to WSSC. No work should be done in the vicinity of WSSC mains until the ESS Plans have been reviewed by WSSC.

#### BLASTING PERMIT

If blasting is proposed within 200 feet of WSSC buried infrastructure, WSSC notification is required per COMAR 29.06.01.10. B (2) at the time of the County's Development Review Committee (DRC) process. This Blasting Plan must be submitted as a Non-DR Plan to WSSC. No blasting work should be done within 200 feet of WSSC mains until the Blasting Plans have been reviewed by WSSC.

#### CORROSION CONTROL

In accordance with the requirements of the latest approved WSSC Pipeline Design Manual Part 3 Section 28, the Form "B" Corrosion Documentation may be required to be submitted as part of the design. If you would like to discuss the corrosion control requirements for this project prior to the submission of the design plans, please contact the Development Services Division's Project Manager.

### ***SANITARY SEWER CONDITIONS***

#### SEWER AVAILABLE

An existing sanitary sewer is available to provide service to this project. Sanitary sewer service may be obtained by constructing service connections without a public extension. Propose sewer house connection must be 8".

#### INSTALL EJECTOR/GRINDER PUMPS

On the sketch, first floor elevation for buildings is not available to make a definite determination. If ejector or grinder pumps are required for service, a registered plumber must install the pumps at the developer's expense.



For properties to be served by a grinder pump system, the developer is responsible for all on-site installation (i.e. materials, electrical equipment, the grinder pump unit and plumbing hook-up which shall be installed by a registered plumber). Grinder pump units must be approved by WSSC. Ultimately the property owner will be responsible for all on-site maintenance of grinder pump systems. Builder/developers/owners should disclose this requirement to purchasers at property settlement.

#### EXTRA-DEPTH SEWER

Due to the topography, it will be necessary to construct sewers deeper than 16 feet. See the latest approved WSSC Pipeline Design Manual, Section C-2.2, for easement width requirements for deep sewers. Any pipe deeper than 20 feet (trench bottom) will require a special design that takes into consideration future maintenance of the deep sewer.

#### ENVIRONMENTAL IMPACTS

The proposed sewer main outfall may impact wetlands, stream buffers, 100-year flood plain, steep slopes, and possibly large trees. The alignment may need adjustment during the design stage.

### ***WATER MAIN EXTENSION CONDITIONS***

#### WATER AVAILABLE

An existing water main is available to provide service to this project. Water service may be obtained by constructing service connections without a public extension. Water house Connection must be minimum 8 inches.

#### EXCESSIVE WATER PRESSURE

This project is in a WSSC designated pressure zone defined as 760 pressure zone where high and low hydraulic grades fluctuate between 772 feet to 720 feet. Pressure reducing valve/regulator may be required since the static pressure exceeds 80 psi below an elevation of 587 feet.

#### OUTSIDE METERS

For outside meter requirements, See WSSC Plumbing and Fuel Gas Code Section 112.5.2.

### ***EASEMENT CONDITIONS***

#### GENERAL

WSSC easements must be free and clear of other utilities, including storm drain systems, ESD devices, gas, electric, telephone, CATV, etc., with the exception of allowed crossings designed in accordance with the latest approved WSSC Pipeline Design Manual.

Landscaping and Hardscaping are also not allowed without approval. Under certain conditions (and by special request) the items listed above may be permitted within the

WSSC easement. However, this will be evaluated on a case by case basis and if allowed, will require execution of a special agreement and/or Hold Harmless Agreement between WSSC and the developer.

#### COORDINATION WITH OTHER BURIED UTILITIES

Refer to the latest approved WSSC Pipeline Design Manual, pages G-7 and G-8 for utility coordination requirements. No structures or utilities (manholes, vaults, pipelines, poles, conduits, etc.) are permitted in the WSSC easement unless specifically approved by WSSC. Longitudinal occupancy of WSSC easements (by other utilities) is not permitted. Proposed utility crossings of WSSC pipelines or easements that do not adhere to WSSC's pipeline crossing and clearance standards will be rejected at the design plan review phase. Refer to the latest approved WSSC Pipeline Design Manual, Section 3. Failure to adhere to WSSC crossing and clearance standards may result in significant impacts to the development plan including impacts to proposed street and building layouts.

The applicant must provide a separate "Utility Plan" to ensure that all existing and proposed site utilities have been properly coordinated with existing and proposed WSSC facilities and easements. Upon completion of the site construction, any utilities that are found to be located within WSSC's easements (or in conflict with WSSC pipelines) must be removed and relocated at the applicant's expense.

#### IMPACTS DUE TO GRADING / PIPE LOADING CHANGES

Any grading, change in pipe loading (including but not limited to proposed fill or excavation), adjustment to manhole rims, fire hydrant relocations, placement of access roads or temporary haul roads, temporary sediment control devices, paving construction or construction related activity of any kind over an existing WSSC water or sewer main or within an existing WSSC easement requires **advance approval** by WSSC. Any proposed public street grade establishment plan (GEP) with an existing WSSC water or sewer main of any size located within the existing or proposed public street easement requires WSSC approval directly on the original GEP **prior to** approval of the GEP by the County Department of Public Works and Transportation. Any work (design, inspection, repair, adjustment, relocation, or abandonment) of existing WSSC facilities is done at the sole expense of the applicant / builder / developer. For Relocations work associated with a Systems Extension Project or a Site Utility Project, contact the Development Services Division. Please arrange for this review before plan submittal. See WSSC Design Manual, Part 3, Section 11.

#### PROVIDE FREE EASEMENT TO WSSC

WSSC Easements for water and sewer house connections must be provided at no cost to the WSSC. The Applicant shall execute and deliver on-property and off-site WSSC easements prior to permit issuance in accordance with the Development Services Code, which shall constitute an irrevocable offer by the Applicant to convey all on-property

easements to WSSC. On-property easements for Site Utility plans shall be executed and delivered prior to plan approval.

#### OFF-PROPERTY EASEMENTS MUST BE OBTAINED

The proposed water and sewer house connections will require the acquisition of easements from other property owners. It is the Applicant's responsibility to obtain these easements.

#### ADHERE TO MINIMUM EASEMENT WIDTHS

The minimum easement width for a normal (14 inches diameter or less) extension, either water or sewer, installed at normal depth is 20 feet. A minimum easement width of 30 feet is required when both normal-diameter water and gravity sewer lines are installed in the same easement at normal depth. Installation of deep or large water and / or sewer mains will require additional easement width. For minimum horizontal separation between a building and a WSSC pipeline, refer to the requirements in the latest approved WSSC Pipeline Design Manual, Part Three, Section 3. d. 2). Based on WSSC requirements, the minimum spacing between adjacent buildings with both water and sewer lines between them should be at least 40 feet and, in some cases, greater when connections, fire hydrants, or deep sewer or water lines are involved. Balconies and other building appurtenances are not to be within the easement. Additionally, water and sewer pipeline alignment should maintain 5 feet horizontal clearance from storm drain pipeline / structures and other utilities.

### ***CONNECTION AND SITE UTILITY CONDITIONS***

#### SERVICE CONNECTION PERMIT FOR NEW AND ABANDONMENT REQUIREMENTS

Individual permit numbers will be required for both new service connections and the abandonment of existing service connections, whether for new, replacement and/or relocation service mains as well as for non-SEP projects.

#### SITE UTILITY PROCESS REQUIRED

The Site Utility process is usually required for water lines greater than 2 inches in diameter or sewer lines greater than 4 inches. Contact Permit Services at 301-206-8650 or at [www.wssewater.com](http://www.wssewater.com) for more information on electronic submittal of Site Utility plans.

#### MULTIPLE BUILDINGS AND COVENANT REQUIREMENT

In general, where multiple properties or buildings under single ownership are served by water and sewer services connections as allowed or required, a multiple building covenant shall be submitted for the Commission's approval. The covenant shall require the property owner to notify the Commission prior to any subdivision or sale of any or all of the properties covered by the multiple building covenant. Such action may require the property owner to obtain separate water and sewer connections or a Shared Site Utility System Agreement.

ENVIRONMENTAL CONDITIONS

Per WSSC Haz screen response 6023, see the signed folder for this project in WSSC ePlan review system, there doesn't seem to be any environmental issues associated with this property. Had there been environmental issues, all environmental issues must be directly resolved with the Environmental reviewer. All outstanding environmental issues must be resolved prior to the Design Phase.

The next step in the process is Site Utility Plan Review. See "Site Utility Process Required," above.

This Letter of Findings will expire if no "actions" are taken by the applicant over the 3-year period following the date of this letter. For definition of "actions", see the latest Development Services Code, Section 405.1.1.

If you have any questions or concerns, please feel free to contact me at 301-206-8812 or Shari.Djourshari@wsscwater.com.

Sincerely,



Shari Djourshari  
Development Services Division

Enclosure: sketch

cc: Kevin Huang – Endesco, Inc  
Mr. Fred Mejias ([Fred.Mejias@wsscwater.com](mailto:Fred.Mejias@wsscwater.com)) - Development Section Manager  
Mr. Alan Soukup ([alan.soukup@montgomerycountymd.gov](mailto:alan.soukup@montgomerycountymd.gov)) - Department of Environmental Protection - Montgomery County Government

bcc: WSSC Development Service  
WSSC Accounting Division  
WSSC Planning Division  
WSSC Environmental and Engineering Services Division