TITLE: Overlook at Long Branch (Formerly Shapiro)

FILE NUMBER: S-1145, AP 15117 (APFO 15118, FRO 14928/15126)

REQUEST: Preliminary Plan Approval
The Applicant is requesting Preliminary Plan and Adequate Public Facilities approval for 103 single family residential lots (102 new lots and 1 lot for an existing historic structure) on a 53.89-acre site.

PROJECT INFORMATION:
ADDRESS/LOCATION: East side of Linganore Road at its intersection with MD 144 and across from Bartonsville Road
TAX MAP/PARCEL: Map 78, Parcels 5, 190, & 494
COMP. PLAN: Low Density Residential (LDR)
ZONING: Low Density Residential (R-3), Low Density Residential (R-1), and Agricultural (A)
PLANNING REGION: New Market
WATER/SEWER: W-4/S-4 (R-3); W-5/S-5 (R-1); W-NPS/S-PS (A)

APPLICANT/REPRESENTATIVES:
APPLICANT: Hogan Reality Development LLC
OWNER: Herbert Shapiro
SURVEYOR/ENGINEER: Dewberry
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Denis Superczynski, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
Exhibit 1- Preliminary Plan Rendering
Exhibit 2- Street Tree Modification
Exhibit 3- FRO Modification Request
Exhibit 5- APFO Letter of Understanding (LOU)
STAFF REPORT

ISSUE
DEVELOPMENT REQUEST
The Applicant is requesting preliminary plan and APFO approval for 103 single family residential lots (102 new homes and one existing historic residence) on a 53.89-acre site that is located north of Baltimore Road and Old National Pike (MD 144) and south of I-70 between the Monocacy River and the Spring Ridge PUD. The proposed use is being reviewed as a ‘single-family detached’ land use under the heading of Residential Uses per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the R-3 Zoning District. No Site Development Plan application is required for single-family detached dwellings in the R-3. The Preliminary Subdivision Plan review is subject to the Subdivision Regulations (Chapter 1-16 of the Frederick County Code). The proposal integrates a realignment of a portion of Linganore Road into the design of the proposed community consistent with the County Comprehensive Plan.

Modification Requests
- Street tree modification to provide 147 of the required 298 street trees at alternative locations rather than adjacent to the existing or proposed public rights-of-way.
- FRO modification to permit the removal of specimen trees.

Graphic #1 Aerial

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FcPc

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BACKGROUND

Concept Subdivision Plan (for MPDU Density determination):
In November 2014, and pursuant to Section 1-19-8.620.3 of the Zoning Ordinance, the Applicant submitted a Concept Plan for Staff review to determine and establish the density bonus available to the developers as a result of providing for a corresponding increase in MPDU requirements.

The Concept Plan provided an opportunity for Staff to verify the density bonus, but also allowed for the open discussion and resolution of several design and engineering issues facing the Applicant including:

1. Location of realignment of Linganore Road.
2. Disposition of historic home on the site.
3. Status of Ag-zoned parcels on the eastern portion of the site.
4. Lot configuration along frontages of both old and new Linganore Road alignments.
5. Location and character of park & open space areas.

The Site has been zoned R-1 since the 1970’s. The R-3 zoning was applied during the 2012 Comprehensive Plan update process.

Existing Site Characteristics

The Site is predominantly zoned R-3, with a small sliver (0.14 acres) of R-1 occurring on the northern edge of the parcel near Long Branch Road. Approximately 22 acres of the 53.89 acres total are zoned Agricultural (A). However the proposed subdivision activity will not occur in the R-1 or Ag-zoned areas of the site. The property is composed of three parcels: Tax Map 78, Parcels 5, 190, and 494. Parcel 494, located at the corner of Linganore Rd and MD 144, is 11.26 acres in size and is zoned R-3. Parcel 190 is the largest portion of the Site at 30.14 acres in size with frontage along both Linganore Rd and MD 144. The majority of Parcel 190 is zoned R-3, though the northern and eastern portions of the land are zoned Agricultural. Parcel 5 (12.59 acres) is located on the far eastern portion of the site along MD 144 and is zoned Agricultural (A).

The Property is located along the Long Branch tributary stream, with a small stream flowing from the south to the north on the eastern property boundary.

The Property is comprised of primarily woodland with open fields south and east of the historic home. Of the total area of the Property (53.89 acres), 36 acres are in forest cover. The total area encumbered by FEMA floodplain, waterbody buffer, wetlands, or floodplain soils is located along Long Branch.

Figure 1: View of parcel from Linganore Road at SW corner of site looking north (Rosenstock House visible at center of photo)
Wetlands and 100-year FEMA floodplain exist at the southern portion of the site along MD 144. These areas are not significantly impacted by the proposed development with the only incursions being those areas of existing forest cover being cleared and set aside for right-of-way access to water and sewer infrastructure in the stream valley.

The site adjoins existing residential PUD development to the east on the ridge above the eastern bank of the stream. Low density residential development is located north and west of the site, with the oldest residences being located on the western side of Linganore Road facing the Subject Site.

Figure 2: Aerial view of Site vicinity showing I-70 (north); MD 144 (south); Monocacy River (west); and Spring Ridge PUD (east). Linganore Road runs north-south between the highways creating the western boundary of the Subject Site.
Graphic #2 Comprehensive Plan Map

Graphic #3 Zoning Map
ANALYSIS

Summary of Development Standards and Findings and Conclusions
The primary issue associated with the review of this project involves the design decisions stemming from
the proposed realignment of Linganore Road as well as the avoidance of activities within the waterbody
buffer located on the eastern portion of the development site. The Applicant and Staff also worked
closely on the design of the street network to ensure adequate and safe local and through-streets while
maintaining the requested residential density conceptually approved in May 2015.

General Site Development and Layout

The Preliminary Plan proposes development of the Site as follows:

1) The design follows a modified grid(loop street network as proposed, with the realigned Linganore
   Road, forming the central north/south spine road through the new community.
2) All streets will be dedicated as public streets.

The Preliminary Plan application proposes 102 new single-family detached units and 1 lot for the existing
historic house. The 102 new, single-family lots are front-loading units with approximately ¼ of the
proposed parcels identified as 'high visibility' lots on the Preliminary Plan (identified on Plan Sheet 5).
3) A 100 ft. forest buffer is proposed along the entire eastern boundary of the subject property, adjacent
to the tributary stream, Long Branch.

Detailed Analysis of Findings and Conclusions

Preliminary Subdivision Plan approval is granted based upon review of the requirements found in
Chapter 1-16 of the Frederick County Code.

Applicable Zoning Ordinance Requirements:

Vehicle Parking §1-19-6.220: The Zoning Ordinance requires 2 parking spaces for each single
family dwelling therefore, the target number of required parking for the development is 206
spaces. The Applicant has provided a tabular summary of the proposed parking plan for the
development on Plan Sheet 1 (Cover Sheet). The Applicant is providing an attached two-car
garage for each new house and 2 spaces in each driveway which satisfies the Code
requirements, The Applicant is not proposing any on-street parking in order to satisfy on-lot
required parking.

Although not required in single-family housing developments, the Applicant has agreed to provide
bicycle racks at the ovaloid park area (Parcel F). These racks shall meet the standards identified
in the Frederick County Bicycle Parking Guidelines.

Signage §1-19-6.300: The Applicant is not proposing any signage at this time.

Landscaping §1-19-6.400: The Applicant has provided a landscaping plan in accordance with
Zoning Ordinance Section 1-19-6.400. The plan proposes a mix of evergreens and deciduous
trees. Street tree plantings are proposed to be planted in alternate locations in order to meet the
required planting of 1 tree every 35 feet of roadway frontage. A total of 298 street trees are
required along the public right of ways of both existing and proposed roads of the subdivision
which total approximately 10,436 linear feet. The Applicant proposes 151 street trees on-site,
located to function as proper street trees. However, due to sight distance issues, utility
placement, driveway siting and street tree viability requirements set forth in the Guidelines for
Traffic Control Devices, Street Lights and Street Trees for New Developments, the Applicant is

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requesting a modification (see Exhibit #2) to provide 147 of the 298 street trees at alternative locations in the open space parcels throughout the project. Staff has no objection to granting this landscaping modification. Additional plantings are provided in order to maintain, and establish where needed, a vegetative screen for the benefit of the Maryland National Road Scenic Byway (MD 144) corridor.

**Lighting §1-19-6.500:** The Applicant is not proposing any street lighting at this time.

**Historic Structural Lot Sizes §1-19-6.170:** The proposed lot surrounding the existing historic home exceeds the minimum dimensional standards of the Zoning Ordinance.

**Design Requirements (Dimensional Standards) §1-19-6.100/§1-19-8.620.5:** The Applicant is utilizing reduced dimensional standards within the R-3 District, for a project that is subject to Section 1-19-8.620 as a result of seeking an MPDU density bonus. These standards are identified in the Zoning Ordinance in Sect. 1-19-8.620.5 *Lot Area, Width, and Yard Measurements.*

<table>
<thead>
<tr>
<th></th>
<th>Conventional Standards (SFD in R-3 District)</th>
<th>Density Bonus Standards (SFD in R-3 District)</th>
<th>Proposed Standards (SFD in R-3 District)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Lot Area</td>
<td>12,000 sf</td>
<td>4,000 sf</td>
<td>5,200 sf (minimum)</td>
</tr>
<tr>
<td>Lot Width</td>
<td>80 ft</td>
<td>40 ft</td>
<td>52 ft – 100 ft (range)</td>
</tr>
<tr>
<td>Front Yard</td>
<td>30 ft</td>
<td>10 ft</td>
<td>20 ft/40 ft</td>
</tr>
<tr>
<td>Side Yard</td>
<td>10 ft</td>
<td>4 ft</td>
<td>4 ft</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>30 ft</td>
<td>25 ft</td>
<td>25 ft</td>
</tr>
<tr>
<td>Max. Height</td>
<td>30 ft</td>
<td>40 ft</td>
<td>- Not Shown -</td>
</tr>
</tbody>
</table>

**Conditions:**

- **Landscape Modification:** Approval of the an Alternate Landscape Plan in accordance with Section 1-19-6.400.I in order to allow for placement of 147 of the 298 required street trees in open spaces throughout the development due to site distance, utility locations, driveway siting, and tree viability.

**Zoning Ordinance Findings/Conclusions:**
The proposed Preliminary Plan demonstrates the ability to meet the applicable portions of the Zoning Ordinance. If the Planning Commission approves the requested modifications the project will meet the Zoning Ordinance requirements.

**Subdivision Regulation Requirements:**

**Subdivision Regulations – Chapter 1-16:** This application is subject to the requirements of the subdivision regulations in Chapter 1-16.

**Public Facilities Road Adequacy §1-16-12 (B)(3)(b):** The proposed subdivision must have access to 1 or more paved collector or higher classification road(s) either directly, or via continuous and adequate public roads, in the direction(s) determined by the Planning Commission. The road(s) which provide the most direct access route to the proposed subdivision for the closest emergency response service must also be adequate.

The subdivision will be directly accessed from the public network of streets via Linganore Road.
which is classified as a collector road on the County Comprehensive Plan, and via Old National Pike (MD 144), which is classified as a minor arterial roadway. Access to Linganore Road will occur at multiple points in the subdivision. The realignment of this collector roadway - as identified in the County Comprehensive Plan - brings the road to a new 4-way intersection with MD 144, opposite Bartonville Road. The proposed street network provides connections to the old roadway at two locations providing access to several existing houses, as well as six proposed homes, located on the eastern side of the older roadway alignment.

The Project’s primary access point onto the public street network will occur on the southern portion of the Site where the newly aligned Linganore Road will intersect with MD 144 near the location of the existing driveway serving the historic house. This intersection will serve both as a primary project entrance for the proposed Overlook at Long Branch development as well as a critical access point for off-site vehicles using Linganore Road as a conduit to and from points north and south of the Subject Site.

All proposed lots will have access to a publicly maintained road with continuously paved surface of at least 20 feet in width:

<table>
<thead>
<tr>
<th>Paved Width</th>
<th>Roads in Proposed Subdivision</th>
</tr>
</thead>
<tbody>
<tr>
<td>22 ft.</td>
<td>Linganore Road</td>
</tr>
<tr>
<td>27 ft.</td>
<td>General Lafayette Drive, Stone Jug Place, Gambril Mill Circle, Jug Bridge Circle, and Leonard Harbaugh Way</td>
</tr>
</tbody>
</table>

All of the lots proposed for this development will gain their vehicular access from a local public street. Thirteen of the Project’s 103 lots are served via ‘eyelid’ lanes. The two (2) eyelid configured lanes minimize direct curb cuts onto Linganore Road, as required by FCPC policy. In addition, five (5) shared driveways are proposed, serving ten (10) lots.

The project includes 1 cul-de-sac. Stone Jug Place is approximately 60 feet long to its center point and will serve a total of seven (7) lots.

The Spring Ridge Fire Station is located less than one mile from the subject property and provides fire response and emergency medical services (EMS). The most direct route from the fire station to the proposed subdivision is via MD 144 (classified as a collector roadway). The proposed lot layout and transportation network meet Subdivision requirements.

**Project Entrance onto MD 144:** As described above, the applicant proposes to relocate Linganore Road consistent with the Comprehensive Plan. The alignment will travel through the site with access onto MD 144, opposite Bartonville Road, with a new signal installed by the applicant at that location. Currently, it is difficult to make a turnout from Bartonville Road because of inadequate intersection site distance. The new signalized intersection will not only give clear right of way for motorists approaching MD 144, but also provide a signal that will be visible over the MD 144 vertical crest to the west, causing the sight distance problem.

The applicant proposes no additional improvements other than the signal as it meets the LOS = E requirements of APFO (see the APFO section of this report). However, the SHA’s minimum threshold for adequate level of service (LOS) is LOS = D which the applicant’s plan does not meet. Because site access requirements with a State road are under control of the SHA and not the County, this matter is being deferred to the time of Improvement Plan approval.
Water and Sewer Facilities. Public Facilities §1-16-12 (C): The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.

The Project will be served by a network of public water and sewer connections. The Division of Utilities and Solid Waste has reviewed and conditionally approved the proposed preliminary plan.

§1-16-72 (B)(19)(a & b) Soil Types: Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that “wet soils” are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the “wet soils” are located within open space areas.

The wet soils on-site are located primarily within the open space stream valley that runs along the eastern portion of the site. The wet soils areas that lie within the Waterbody Buffer and the proposed Forest Resource Ordinance preservation easements will not be impacted by the proposed development. An area of wet soils is present in the southwestern corner of the site (GoB, Glenville silt loam). While not subject to flooding, this soil type typically hosts a high water table which may restrict road construction and the construction of basements on this soil. Lots 10 through 15, as well as the entrance from General Lafayette Drive onto old Linganore Road, appear to be the areas potentially affected by soil restrictions. However, it is highly likely that the regrading of the landscape and reconfiguration of the street network and built environment in the vicinity of the Glenville soils will alter the drainage patterns there and result in changed hydrological conditions.

§1-16-109 Street, Common Driveway, and Sidewalk Construction:

The project shall provide for the complete construction of street improvements, including drainage facilities as provided in section 1-16-234 through 1-16-241 of the Subdivision Regulations and in accordance with the Frederick County Design Manual.
Closed-section construction is required along collector roads by subdivision regulations where the lot frontage is less than 80-feet or the minimum lot size is less than 15,000 square feet. The Applicant has proposed closed-section construction of all streets except for Linganore Road. Section 1-16-30 Modifications of the Subdivision Regulations allow the Planning Commission to modify the standards and requirements of the chapter where such a modification would not undermine the intent of the Comprehensive Plan, Zoning ordinance, Subdivision Regulations, or other pertinent rules and standards. The Applicant has proposed open section construction of the realigned Linganore Road in response to County preferences for this type and classification of roadway. Staff has no objection to the combination of open and closed section construction of Linganore Road.

The Applicant proposes 4 common driveways to serve a total of 8 lots to reduce the number of entrances onto the roadways within the project and to reduce the amount of paved surface within the project.

The project will provide sidewalks a minimum of four (4) feet wide throughout the development.

§ 1-16-111 Parks Requirements:

The project is subject to the Parks requirements within the Subdivision Regulations since it proposes greater than 59 lots for development. Open space and park land is provided as follows:

Total Required Park Area: 103 DUs @ 726 sf per DU – 74,778 sf (approx. 1.75 acres)
Active Park Areas Provided:
- Ovaloid Park (Parcel F): 16,640 sf
- Gambrill Mill Circle (Parcel D): 4,072 sf
- Jug Bridge Circle (Parcel B): 2,692 sf
- Old Linganore Rd (Parcel I): 16,670 sf

Total Park Area Provided: 6.32 acres

The proposed Preliminary Plan demonstrates compliance with the qualitative and quantitative standards set forth in Section 1-16-111(B) of the Subdivision Regulations.

While Staff would have preferred some additional park area for active recreational use, the proposed plan meets minimum subdivision regulations and both Pinecliff Park and the Spring Ridge Elementary School sites are within 1 mile of the proposed subdivision. These existing public facilities include playing fields and open areas for a variety of active recreational pursuits. A County ‘special use’ park – Overlook Park – is located directly across Linganore Road along the Monocacy River. Access to this unimproved passive park area occurs via Doctor Baxter Road on the southwestern edge of the Subject Site.

§ 1-16-217(A) & (B) Land Requirements:
The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The Comprehensive Plan land use designation for the site is Low Density Residential (LDR). The LDR designation is applied only within Community Growth Areas and represents the least dense residential land use pattern in the growth areas at a density range of from 3 to 6 dwellings per acre with public water and sewer. The proposed subdivision is within the Spring Ridge/Bartonsville Community Growth Area and will be developed with public water and sewer at a gross density of 1.91 DUs per acre and a net density of 4.24 DUs per acre. This density is well within the range established by the County Comprehensive Plan.
Existing nearby residential development along Linganore Road is comprised of ¾ acre to 1.25 acre lots both west and north of the proposed development. East of the subdivision ½ acre lots prevail. The proposed Preliminary Plan reflects lot sizes along Linganore Road that are slightly larger than those located on the interior of the project. These Linganore Road lots serve as transitional parcels between the denser internal lots and those already existing along the road.

The Preliminary Plan reflects the anticipated land use and development pattern set forth in the Comprehensive Plan.

*The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The proposed development was designed to avoid the environmental features present on-site (wetlands, wet and flooding soils, waterbodies, and wooded areas) and to cluster development on the remaining lands.

The Site is comprised of a mix of open fields affiliated primarily with the historic home and significant wooded areas on the remaining portions of the site. The property is aligned along a central north-south ridge that slopes gently westward toward Linganore Road and more significantly eastward toward Long Branch with a majority of the site at a grade of less than 15%.

The Site is located along the Long Branch tributary stream (tributary to Linganore Creek and the Monocacy River), with a small stream flowing from the south to the north on the eastern property boundary. The site contains FEMA floodplain, wetlands, wet soils and flooding soils. These environmental features are contained within the Waterbody Buffer surrounding the stream. There are no natural hazards located on site that are affected by the development proposal.

The existing forest, as well as new forest plantings, will provide additional buffers along these sensitive areas. This network of forest provides a scenic buffer between the existing development east of this site and preserves the environmental features of the area. The street network and lot layout are designed to minimize significant grading and respect established slopes.

An internal trail network is implied along water and sewer infrastructure access corridors in the open space and forest retention areas on the eastern portion of the site.

§ 1-16-218. **Block Shape**: The maximum block dimension shall be 1,800 feet.

No block dimension is greater than approximately 1,000 feet. Pedestrian walkways are provided and are adequate to serve both old and new residences in the neighborhood. In consultation with FCPS staff, the County explored possible pedestrian connections to Spring Ridge Elementary School across the eastern edge of the site and through the Spring Ridge neighborhood. Due to the topographically-challenging eastern side of the site it became apparent that the pedestrian connection would not be feasible. The area of logical connection between the proposed development and the adjoining residential and school to the east would require traversing steep slopes and a stream. A hard-surfaced walkway along the property frontage at MD 144 might ultimately prove to be a better option in the future though the responsibility for its design and construction would fall on the County, FCPS, or other public and private organizations.

§ 1-16-219. **Lot Size and Shape**: The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.
The Preliminary Plan proposes lots sizes that range from 5,200 square feet to approximately 32,704 square feet. The Applicant is utilizing reduced dimensional standards within the R-3 District, for a project that is subject to Section 1-19-8.620 as a result of seeking an MPDU density bonus. These standards are identified in the Zoning Ordinance in Sect. 1-19-8.620.5 Lot Area, Width, and Yard Measurements. The proposed lot sizes are consistent with those conceptually identified in the earlier Concept Plan for this site and are fully consistent with the requirements set forth in the Ordinance. The majority of lots proposed measure between 6,200 sf and 8,500 sf with only a handful meeting the minimum standard of 4,000 sf. Front yards provided generally exceed the required 10’ stipulated in the Ordinance in order to accommodate minimum distances between public sidewalks and the faces of garages. The Applicants have provided a series of diagrams (Sheet 2) that describes typical setbacks, yards, lot widths, and building placement within the proposed subdivision. The configuration and arrangement of lots in the community are in keeping with a development pattern generally consistent with medium density development patterns elsewhere in the County. Allowances are made for special conditions such as corner lots.

No panhandle lots are proposed within the project.

**Development on Dead End Streets §1-16-236 (C) & (K):**

(C) Rights-of-way for proposed streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties unless such extension is not feasible because of topography or other physical conditions, or unless, in the determination of the Planning Commission, such extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tracts. In any event, no subdivision shall be designed so as to create or perpetuate the landlocking of adjacent undeveloped land.

Two non-vehicular connections to adjacent properties – north and east of the subject Site - are proposed to provide access for pedestrians as well as access to water and sewer infrastructure. Severe topography along the eastern boundaries of the proposed subdivision prevents the practical extension of new roads that would intersect with streets in the adjoining neighborhood (Fieldcrest Drive & Shady Brook Drive). During the Concept Plan review, Staff discussed the possibility of a connection to Long Branch Road on the northern boundary of the Site. It was determined that a street connection at this location would have provided little practical benefit given the realignment of Linganore Road and would not have significantly improved access to an existing or planned through-road.

(K) Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:

(1) For proposed development on new or existing cul-de-sac or dead end street(s)…the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

(c) In the R-3… zoning district, the length of cul-de-sac or dead end street(s) may vary based on the density in the development section or land bay, property shape and size, topography, environmental constraints, lot size, unit types, and proposed land use. The density and length of cul-de-sac or dead end streets shall be reviewed by the Planning commission and approved on a case-by-case basis. The Planning Commission shall consider the goals and principles of Section 1-16-234 when considering the length and density of streets under this subsection.

One cul-de-sac street is proposed, shown as Stone Jug Place. Stone Jug Place is the
termination of the proposed Demijohn Trail and serves Lots 51-57 of the development. This cul-de-sac is approximately 60 feet long to its center point and will serve seven (7) lots. Through the careful design of the street network in the proposed subdivision, the Applicant has avoided the gratuitous use of cul-de-sacs. The relatively short segment of cul-de-sac proposed as Stone Jug Place has been designed to take maximum advantage of developable land without diminishing the safety or functionality of the neighborhood.

One dead end street is proposed that will be created with the realignment of Linganore Road to the east and will consist of a short segment of the roadway that currently provides its connection to MD 144. This dead end section will be approximately 600 feet in length and serve five (5) existing and four (4) new single-family homes. While establishing the new Linganore Road alignment (and intersection with MD 144) identified in the County Comprehensive Plan, the Applicant has minimized both the length and number of existing/proposed homes affected by the design of the new roadway. A well-integrated street network designed to maximize points of intersection between the old road and the new streets has resulted in a proposal that diminishes any negative impact of the realignment and avoids the creation of a lengthy dead end road along the project’s western boundary.

**Subdivision Regulation Findings/Conclusions:**
The project will meet all Subdivision Regulation requirements once the Applicant has satisfied all agency comments and conditions.

**OTHER APPLICABLE REGULATIONS**

*Moderately Priced Dwelling Units – Chapter 1-6A:*
The calculation of required MPDUs was determined based upon the Applicant’s submittal of a Concept Plan which established the density bonus and mitigation as follows:

- **Site Area:** 53.89 acres
- **Area Zoned R-3:** 31.69 acres
- **Gross Maximum Density:** 95 dwelling units (@ 3 DU/acre)
- **Standard MPDU Factor:** 12.5% of total DUs (or fee in lieu payment)
- **Max. Permitted Density Bonus:** 22% (20 additional DUs, or potential total of 115 DUs)
- **Bonus Density Achieved:** 103 total DUs (8 units more than 95 Gross Max DUs) = 8.4% density bonus
- **Required MPDU Factor:** 13.4% (for up to a 9% density increase over gross density)

The Applicant will provide 14 ‘Fee In Lieu’ MPDUs and will memorialize this requirement in a “Payment in Lieu” Agreement executed between the Applicant and the County. MPDU requirements will be met under terms established by this Agreement which must be in place prior to recordation of Final Plats for the project.

*Stormwater Management – Chapter 1-15.2:* Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept Plan has been submitted and approved (AP14167).

**APFO – Chapter 1-20:** This subdivision is subject to meeting APFO requirements for schools and roads.

The following areas are addressed in the APFO Letter of Understanding (LOU). A summary of the APFO findings and requirements are as follows:

1. **Schools:** Attendance Areas: Spring Ridge ES, Gov. Thomas Johnson MS, Oakdale HS. The Project is projected to generate 20 elementary school students, 10 middle school students and 23
high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level for Oakdale HS, beginning in year 6, the build-out year of the development. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid at plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

2. **Roads**: A traffic impact analysis (TIA) dated June 11, 2015 and revised on August 20, 2015, was performed for this Project by The Traffic Group. The Project will generate 82 am and 101 pm weekday peak hour trips, which triggers the 50 peak hour trip threshold required for APFO testing. The TIA studied 4 existing intersections along MD 144, at Quinn Orchard Rd., Linganore Rd., Bartonsville Rd. and the intersection where MD 144 makes a 90 degree turn, just west of Ijamsville Rd. All four of these intersections failed to meet the adequacy standard of LOS=E or better at site build-out.

Because this project is a limited impacting development (impacts are less than ½ of a level of service), the roadway impacts for this Project will be mitigated by the installation of a signal at the site access opposite Bartonsville road and pro-rata contributions to existing County-held escrow accounts in accordance with Frederick County standards. The Applicant agreed (as provided in the attached APFO LOU) to contribute $38,200 to the following improvements in order to mitigate the effects upon the transportation network serving the Project:

1. I-70/Meadow Road Westbound Ramp. The Developer shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3937. As determined by County Traffic Engineer, the Developer’s pro-rata contribution to this road improvement is 0.18% of $3,000,000 or $5,400.

2. I-70/Meadow Road Eastbound Ramp. The Developer shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3938. As determined by County Traffic Engineer, the Developer’s pro-rata contribution to this road improvement is 0.41% of $8,000,000 or $32,800.

Once the two missing Meadow Road Interchange ramps identified above are constructed, sufficient through traffic will be removed from MD 144 to achieve adequacy at all of the critical MD 144 intersections. With the above mitigation provided, the County adequacy standards will have been met.

3. **Public Water & Sewer**: The portion of the property under consideration in this Application has a water and sewer classification of W-4/S-4. The Project will be served by public water and sewer by extending public water and sewer lines to the site as shown on the plan.

**Other:**
APFO approval for water and sewer does not guarantee that plats will be recorded or building permits issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512 et.seq. and all applicable County policies and regulations. Water and/or sewer capacity is not guaranteed until purchased or otherwise contractually committed (with appropriate guarantees by the Project).

**Period of Validity:** The effective date of the APFO approval referenced herein is November 18, 2015 and shall remain valid through November 18, 2021.
Forest Resource Ordinance – Chapter 1-21:
The Applicant has submitted a Forest Stand Delineation and Preliminary Forest Conservation Plan. The property contains 24.33 acres of existing forest (excluding the 11.62 acres within the undeveloped portion of the floodplain that is located in the AG zone). The Applicant proposes to clear 16.71 acres of forest. The remaining 7.62 acres of forest will be placed under a perpetual forest conservation easement. The project generates additional mitigation requirements due to the amount of forest being cleared, which will be met by planting 2.35 acres of new forest on site, purchasing 2.75 acres of forest banking credit, and placing an easement over the 11.62 acres of existing forest within the floodplain area of the Ag zoned portion of the property.

The site contains 61 specimen trees (trees that are 30 inches or greater in diameter). Six specimen trees are proposed to be removed by the Applicant. Removal of two of these specimen trees does not require FcPc approval:

<table>
<thead>
<tr>
<th>Tree ID #</th>
<th>Size and Species</th>
<th>Location</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>31” Red Maple</td>
<td>Between Lot 69, behind existing garage.</td>
<td>Poor</td>
</tr>
<tr>
<td>54</td>
<td>32” Elm</td>
<td>Intersection of MD 144 and realignment of Linganore Rd.</td>
<td>Poor</td>
</tr>
</tbody>
</table>

Tree 6 has been deemed a hazardous tree by Staff. The tree exhibits one or more structural defects and has a target (existing garage associated with the historic house). Tree 54 is located within the SHA right of way for MD 144. Since this tree is within existing road right of way the Maryland Roadside Tree Law supersedes the County FRO. The Maryland Department of Natural Resources is the approving authority for tree removal within existing road right of ways.

The Applicant is seeking a modification of the Forest Resource Ordinance (FRO) to permit the removal of the following four specimen trees under the provisions of §§1-21-21 and 1-21-40:

<table>
<thead>
<tr>
<th>Tree ID #</th>
<th>Size and Species</th>
<th>Location</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>45” Red Maple</td>
<td>Between Lots 6 and 7</td>
<td>Poor</td>
</tr>
<tr>
<td>4</td>
<td>33” Silver Maple</td>
<td>Within realignment of Linganore Rd., opposite Lot 66</td>
<td>Poor</td>
</tr>
<tr>
<td>5</td>
<td>33” Red Maple</td>
<td>Within realignment of Linganore Rd., opposite Lot 7</td>
<td>Poor</td>
</tr>
<tr>
<td>8</td>
<td>33” Black Cherry</td>
<td>Lot 71</td>
<td>Poor</td>
</tr>
</tbody>
</table>

The Applicant’s FRO Modification Request (Exhibit #3) discusses each tree, its condition, and why its removal is proposed:

- Tree #3 exhibits crown dieback and trunk cavities. The Applicant notes that plan cannot be altered due to the Linganore Road realignment and the required grading.
- Tree # 4 exhibits significant limb damage but no other structural defects. This tree is within the proposed new alignment of Linganore Road.
- Tree #5 exhibits cavities but no other structural defects. This tree is within the proposed new alignment of Linganore Road.
- Tree #8 exhibits crown dieback and cavities. The Applicant states that this tree must be removed to facilitate the construction Stone Jug Place and the house site on Lot 71.
Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FCPC finds that the requirements for granting a modification have been met.

§ 1-21-21. MODIFICATIONS.
(A) Modification requests. A person may submit a request to the Frederick County Planning Commission (FCPC) for a modification from this chapter or the requirements of Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612, if the person demonstrates that enforcement would result in unwarranted hardship to the person.

(B) Required information. An applicant for a modification shall:
1. Describe the special conditions peculiar to the property that would cause the unwarranted hardship;
2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
3. Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;
4. Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;
5. Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
6. Verify that the granting of a modification will not adversely affect water quality.

(C) Modification approval. The FCPC must make a finding that the applicant has met the requirements in subsection (B) of this section and that enforcement would cause the applicant unwarranted hardship before the FCPC may approve any modification.

In order for the FCPC to grant a modification to allow the removal of specimen trees, the FCPC must find:
- that reasonable efforts have been made to protect the specimen trees and that the plan cannot reasonably be altered (in accordance with § 1-21-40 (B)(1), and;
- that the Applicant meets the six criteria outlined under §1-21-21 (B) (a detailed discussion of the six criteria is provided in the Applicant’s modification request)

The Preliminary FRO Plan must be approved prior to Preliminary subdivision plan approval. A Final FRO plan must be submitted and approved, and FRO mitigation must be provided, prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.

Historic Preservation – Chapter 1-23: There is a notable historic home located on the south central portion of the site. Known as the Howard-Brangle-Rosenstock House (MIHP # F-5-090), the structure was originally built in the early 19th century and later purchased and extensively renovated by Jacob and Nettie Rosenstock in 1919.
The family renovated their home around an existing brick structure, maintaining the essential layout of the original home yet transforming its appearance and function significantly. Jacob Rosenstock’s cousin, Benjamin Frank, was a notable Baltimore architect who completed the renovation establishing a good example of an early 20th century colonial revival style building. The Rosenstock family owned a prominent clothing store in Frederick. In an earlier incarnation, the clothing store was the setting for the only photographic image of an invading army on U.S. soil. Known as the ‘Rosenstock Photo’, the image is most likely that of Confederate troops under the command of General Jubal Early marching through the city in 1862. The photograph was likely taken from the 2nd story of the J. Rosenstock Dry Good & Clothier building on East Patrick Street less than a block away from the Square Corner at Market Street.

![Image](image.jpg)

Figure 5: The 'Rosenstock Photo' shows Confederate soldiers on the march in 1862 on East Patrick Street in downtown Frederick; this image was captured from the 2nd story of the clothing store owned by the Rosenstock family, owners of the home at the Subject Site

The Applicant worked with Staff to design the proposed subdivision to maintain the historic structure. The structure will be located on a 32,704 sf lot around the existing house. The Applicant has expended great effort to accommodate the position of the structure within the new development by altering the alignment of Lingenore Road and adjusting the final grade of surrounding streets and lots so as to maintain a viable home site.

**Maryland National Road Scenic Byway:** The MD 144 frontage of this proposed subdivision sits within the corridor of the old National Road. This corridor is an established scenic byway under Maryland’s Scenic Byways program and is also a National Scenic Byway. The corridor at this location is particularly noteworthy as the approach to the old Jug Bridge crossing of the Monocacy River located approximately 1,000 feet to the west of Lingenore Road.

Staff has requested additional landscape screening along the MD 144 road frontage to minimize the visual impact of this new development activity along the National Road corridor. The Applicant has provided two areas of evergreen plantings to complement the existing vegetation on and off-site. Staff
requests that the landscape table reflect a specific mix of trees and shrubs capable of providing a 4-season vegetative screen at the areas identified on the Preliminary Plan.

**Summary of Agency Comments**

<table>
<thead>
<tr>
<th>Other Agency or Ordinance Requirements</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Review Engineering (DRE):</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>FCPS - Schools:</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Development Review Planning:</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>State Highway Administration (SHA):</td>
<td>N/A</td>
</tr>
<tr>
<td>Forest Resource Ordinance</td>
<td>Hold</td>
</tr>
<tr>
<td>Div. of Utilities and Solid Waste Mngt. (DUSWM):</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Health Dept.</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Street Naming</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Office of Life Safety</td>
<td>Approved</td>
</tr>
<tr>
<td>DPDR Traffic Engineering</td>
<td>Conditionally Approved</td>
</tr>
<tr>
<td>Historic Preservation</td>
<td>Conditionally Approved</td>
</tr>
</tbody>
</table>

**RECOMMENDATION**

If the Planning Commission approves the requested modifications, and the removal of specimen trees on the findings and exhibit provided by the Applicant, then Staff has no objection to conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements once the following conditions are met and modifications are granted. Preliminary Plan approval is valid for the lesser of five (5) years from the date of FCPC approval, or the period of APFO approval (per §1-16-71(Q)) whichever is less. Therefore, the Preliminary Plan approval expires on November 18, 2020 with APFO approval valid until November 18, 2021. Should the FcPc grant approval of this application (S-1145, AP 15117), including approval of the APFO (AP 15118), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. The Preliminary FRO Plan must be approved prior to Preliminary subdivision plan approval. FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.
3. Planning Commission approval of request to allow the removal of specimen trees 3, 4, 5, and 8 under the provisions of §§1-21-40 and 1-21-21.
4. The Applicant shall amend the landscape table to reflect a specific mix of trees and shrubs (as approved by Staff) capable of providing a 4-season vegetative screen at the areas identified on the Preliminary Plan along the MD 144 frontage to provide additional screening in support of the Maryland National Road Scenic Byway corridor.
5. Planning Commission approval of an Alternate Landscape Plan to allow 147 of the required 298 street trees to be located within the open space parcels due to site distance, utility locations, driveway siting, and tree viability.

6. Planning Commission approval of the requested modification per section 1-16-30 of the Subdivision Regulations to allow the use of open section construction along significant portions of the realigned Linganore Road.

7. Planning Commission approval of the Old Linganore Road dead end street resulting from the realignment of Linganore Road and approval of the proposed 60’ long Stone Jug Place cul-de-sac serving 7 lots.

8. The Applicant shall comply with the Open/Close/Alter process for the realignment of Linganore Road prior to recordation of the first residential lot.

9. Common driveways must be built before final plat recordation unless this requirement is waived by the Division, in which case a guarantee must be posted.

10. The purchasers of the common driveways on lots 7, 8, 21, 22, 60, 61, 63 & 64 shall be notified of the responsibilities of maintaining the common driveway.

11. Prior to Preliminary Plan signature approval, a note shall be added to the Overlook at Long Branch Cover Sheet and to landscape details sheet 17 to state that bicycle racks shall meet the standards identified in the Frederick County Bicycle Parking Guidelines.

12. Prior to Preliminary Plan signature approval General Note 5 on the Cover Sheet shall be updated to state that the project will provide 14 ‘Fee In Lieu’ MPDUs.

13. Complete the requirements of the Overlook at Long Branch APFO LOU.

14. Prior to recordation of the first plat for the project, the Applicant shall submit an application for review, approval and recordation to combine the three (3) existing parcels that comprise the subject property.

15. Prior to final signature of the Preliminary Plan, the Applicant shall submit an addition plat to combine parcel 5, 190, and 494.

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**PLANNING COMMISSION ACTION**

**MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-1145 (AP 15117) with the conditions and modifications** as listed in the staff report for the proposed Overlook at Long Branch preliminary plan and APFO (AP 15118) for 102 single family residential lots, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
August 6, 2015

Denis Supericzynski, AICP
Frederick County Government
Community Development Division
30 N. Market Street
Fredrick, MD 21701

RE:  Overlook at Long Branch (formerly Shapiro Property) – Preliminary Plan (A/P#15117) Modification Request

Dear Mr. Supericzynski,

On behalf of our client, Hogan Realty Development, LLC, we respectfully submit for consideration by the Planning Commission this request for modifications to requirements set forth in the Fredrick County Zoning Ordinance. In addition, we are providing justification for each requested modification.

Street Tree Modification

Pursuant to §1-19-6.400(A) of the Zoning Ordinance, one (1) street tree must be provided for every 35 feet of roadway frontage along the paved surface of an existing or proposed public right of way. If the number of required street trees cannot be accommodated within the public right of way and alternative planting design may be approved by the Planning Commission. A total of 298 street trees are required along the public right of ways of both existing and proposed roads of the subdivision which totals approximately 10,436 linear feet. Due to sight distance and street tree location requirements set forth in the Guidelines for Traffic Control Devices, Street Lights and Street Trees for New Developments, utility clearance requirements, driveway spacing / locations, and the decision to not provide streets along the western portion of Old Linangore Road, we request a modification to provide 147 of the 298 street trees at alternative locations in the open space parcels throughout the project. One-hundred and fifty one (151) street trees will be provided within the public right-of-ways.

If you have any questions or concerns related to our understanding written above, or any of the submitted documents, please do not hesitate to contact me at your convenience.

Sincerely,

William "KC" Reed, PE
Associate / Project Manager

Cc:  Victor White, Hogan Realty Development, LLC
September 17, 2015

Mike Wilkins
Frederick County Government
Community Development Division
30 N. Market Street
Fredrick, MD 21701

RE: The Overlook at Long Branch (Shapiro Property)
Request for FRO Modification – Specimen Tree Modification
Concept Plan #14926, Preliminary Plat #15117 and FRO Plan #14928

Dear Mr. Wilkins,

On behalf of the applicant, Hogan Realty Development, LLC, we are requesting a Modification from the provisions of § 1-21-40(B)(1)(e) of the Frederick County Code also known as the Forest Resource Ordinance (FRO) of Fredrick County, to allow for the disturbance of trees, shrubs, and plants in priority areas which include nonhazardous trees that:

(1) Are part of a historic site;

(2) Are associated with a historic structure;

(3) Have been designated by the state or the Department as a national, state, county, or municipal champion tree; and

(4) Are specimen trees, or are 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current state champion tree of that species as designated by the Department of Natural Resources.

The Applicant is seeking a modification to permit the removal of four (4) non-hazardous specimen trees to accommodate the proposed improvements for a 103 lot single family subdivision.

Pursuant to §§1611 of the Natural Resources Article of the Maryland Annotated Code and §1-21-21 of the Fredrick County Code, we respectfully submit this request for a Modification from Chapter 1-21 and provide the following justification explaining the special features, site circumstances or other information that demonstrates that enforcement of the Code would result in an unwarranted hardship to the Applicant.

This Variance is being submitted for review and approval in conjunction with Residential Cluster Concept #14926, Preliminary Plat #15117 and Forest Resource Ordinance Plan #14926.

Background

This Modification Request accompanies the submission of a preliminary plan that proposes 103 single family lots, infrastructure, associated road network, and open space parcels. Situated on the northeast side of existing Linganore Road and Old National Pike (MD144) intersection, approximately 600 feet
The Overlook at Long Branch (Shapiro Property)
Request for FRO Modification – Specimen Tree Variance
Concept Plan #14926, Preliminary Plat #15117 and FRO Plan #14928
September 17, 2015

south of Interstate 70/MD Rt. 46, the Subject Property is identified on Tax Map 76 as Parcel 5, 190 and 494, and totals 53.89 acres.

A Residential Concept Plan has been submitted and reviewed by Staff in which the project is seeking MPDU bonus density by utilizing reduced dimensional standards

Variance Trees

This Variance requests the removal of four (4) non-hazardous specimen trees as described in the below table and as shown on the Forest Resource Ordinance Plan:

<table>
<thead>
<tr>
<th>Tree#</th>
<th>Common Name</th>
<th>Scientific Name</th>
<th>DBH(in.)</th>
<th>Condition</th>
<th>Remarks</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Red Maple</td>
<td>Acer rubrum</td>
<td>45</td>
<td>Poor</td>
<td>Crown dieback, trunk cavities, declining health</td>
<td>To be Removed</td>
</tr>
<tr>
<td>4</td>
<td>Silver Maple</td>
<td>Acer saccharinum</td>
<td>33</td>
<td>Poor</td>
<td>Leaning, broken limbs</td>
<td>To be Removed</td>
</tr>
<tr>
<td>5</td>
<td>Red Maple</td>
<td>Acer rubrum</td>
<td>33</td>
<td>Poor</td>
<td>Cavities, broken limbs, storm damage</td>
<td>To be Removed</td>
</tr>
<tr>
<td>8</td>
<td>Black Cherry</td>
<td>Prunus serotina</td>
<td>33</td>
<td>Poor</td>
<td>Cavity at base, crown dieback, declining health</td>
<td>To be Removed</td>
</tr>
</tbody>
</table>

Explanation of Proposed Disturbances to Individual Trees

Specimen Tree #3 (45" d.b.h. Red Maple)

Tree #3 is located along the existing entrance drive approximately 250 feet north of existing Langanore Road. Based on the proposed development plan, the tree lies on proposed Lot 7. The apparent health of the tree is considered ‘Poor’ with crown dieback and trunk cavities observed in the field. The presence of the cavities and rot may be indications that hidden structural defects may be present that predisposes the tree to failure. In addition, the proposed vertical and horizontal alignment of the relocated Langanore Road will require grading that will significantly impact the CRZ. Since only one of the criteria is met, this tree is considered non-hazardous.

Specimen Tree #4 (33" d.b.h. Silver Maple)

Tree #4 is located along the existing entrance drive approximately 315 feet north of existing Langanore Road. The proposed development plan shows that this tree is located within the proposed alignment for the relocated Langanore Road. The apparent health of the tree is considered ‘Poor’ with an apparent lean and several broken limbs observed. There are no apparent structural defects observed, nor is a potential target present. Since none of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the relocated Langanore Road alignment.

Dewberry
Specimen Tree #5 (33" d.b.h. Red Maple)

Tree #5 is located along the existing entrance drive approximately 315 feet north of existing Linganore Road. The proposed development plan indicates that this tree is located within the proposed alignment for the relocated Linganore Road. The apparent health of the tree is considered 'Poor' with cavities observed. There are no apparent structural defects observed and the existing driveway (located 13' from the tree) is a potential target. Since only one of the criteria is met, this tree is considered non-hazardous. Removal of this non-hazardous tree is required for the relocated Linganore Road alignment.

General Note for Trees #3, #4 and #5:
The Master Plan proposes a realignment of Linganore Road from the intersecting Route 144 to the south. The realignment path in this particular area was determined based on the need to preserve an existing structure just to the east. The proposed improvements which includes pavement, sidewalk and required grading associated with the road require the removal of the three trees. Since there is little flexibility for re-designing the road alignment due to the established approach to the site, the required preservation of the existing structure and the required horizontal road geometry for the realignment, disturbance to these trees is unavoidable.

Specimen Tree #8 (33" d.b.h. Black Cherry)

Tree #8 is located along an existing fence line approximately 200 feet northeast of the existing residence and on proposed Lot 71. The proposed grading required to construct the adjacent streets (Demi John Trail and General Lafayette Drive) in addition to the grading for the proposed single family residence is so significant, that preservation of the tree is not attainable. The presence of an existing target is not confirmed. The apparent health of the tree is considered 'Poor' with cavities and crown dieback observed. There are no apparent structural defects observed, however, the presence of the cavities and rot may be indications that hidden structural defects may be present that predisposes the tree to failure. Since only one of the criteria is met, this tree is considered non-hazardous.

Removal of this non-hazardous tree is required for the proposed road construction and house siting.

Pursuant to § 1-21-21 of the Fredrick County Code, a written request may be submitted to the Fredrick County Planning Commission (FCPC) to request a modification from the Chapter or any regulation adopted under it if it is demonstrated that enforcement would result in unwarranted hardship to the person. Under § 1-21-21(B) Required Information, states that an applicant for a modification must:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
(3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;
(4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;
(5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property and
(6) Verify that the granting of a modification will not adversely affect water quality.
As required, we provide the following justification:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

The proposed removal of the four (4) specimen trees is needed to implement the proposed Preliminary Forest Conservation Plan.

A number of constraints/conditions peculiar to the Subject Property affect the proposed layout and which, enforcement of the Chapter would result in an unwarranted hardship. The re-location of Linganore Road (Master Planned), the preservation of the existing historic structure(s), and required lot dimensional standards all influence the request for the removal of the specimen trees cited.

Due to these conditions, if the request for the removal of these trees is denied, it would cause an unwarranted hardship to the applicant.

(2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;

The preservation of the four (4) specimen trees would preclude the implementation of re-locating Linganore Road to provide the recommended alignment to intersect with Bartonsville Road while preserving the existing residence. If the request is not granted, it will deprive the landowner of rights commonly enjoyed by others that develop similar properties with special conditions as this one.

(3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;

The Planning Commission has previously granted requests for specimen tree removal to similar projects, therefore this will not confer the landowner a special privilege that would be denied to other applicants.

(4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;

As described in (1) above, this modification request is not based on conditions or circumstances that are the result of actions by the applicant, however due to conditions peculiar to the property. In addition, the applicant is adhering to the requirements of the Frederick County Zoning Ordinance in the development of the Site Plan.

(5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

This request for the removal of four (4) specimen trees is based on the conditions peculiar to this property as described above and does not arise from a condition related to land or building use on a neighboring property.

(6) Verify that the granting of a modification will not adversely affect water quality.

The project is subject to the Frederick County Stormwater Management Ordinance and Sediment and Erosion Control Ordinance which both are in accordance with State regulations. The removal of the three (3) trees included in this request will not result in measurable degradation in water quality.
Mike Wilkins  
The Overlook at Long Branch (Shapiro Property)  
Request for FRO Modification – Specimen Tree Variance  
Concept Plan #14926, Preliminary Plat #15117 and FRO Plan #14928  
September 17, 2015

Thank you for your consideration of this Modification request. We believe that the supporting information presented with this letter provides adequate justification for the approval of the requested Modification to remove four (4) non-hazardous specimen trees. Please free to contact me at 301-337-2863 if you have any questions.

Respectfully Submitted,  
Dewberry Consultants LLC  

[Signature]  
George R Warholic, RLA  

Cc: Victor White, Hogan Realty Development, LLC
Mike Wilkins
The Overlook at Long Branch (Shapiro Property)
Request for FRO Modification – Specimen Tree Variance
Concept Plan #14926, Preliminary Plat #15117 and FRO Plan #14928
September 17, 2015
TREE #5 - 33" Silver Maple

TREE #5 - 33" Silver Maple

Photos 7
ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Overlook at Long Branch

Preliminary Plat #5-1145 AP #15118

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Hogan Realty Development, LLC ("Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved Overlook at Long Branch (Shaprio Property) Preliminary Plan of Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer’s 53.87 +/- acre parcel of land, which is zoned Medium Density Residential (R-3), and located in the northeast quadrant of MD 144 and existing Linganore Road. This APFO approval will be effective for development of up to 102 new single family detached homes, which are shown on the subdivision plat for the above-referenced Project, which was conditionally approved by the Commission on November 19, 2015.

Schools: The Project is projected to generate 20 elementary school students, 10 middle school students and 23 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level for Oakdale HS. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-02 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-02 of the APFO. The School Construction Fees shall be paid at plat recordation based on the specific fees required by Section 1-20-02(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.
**Water and Sewer:** The Property has water and sewer classification of W-4 and S-4. While the public sewer and water facilities are currently adequate to serve the Project, the Developer acknowledges that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that building permits will be issued. Building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable County regulations.

**Road Improvements:** A traffic impact analysis (TIA) was performed for this Project by The Traffic Group dated June 11, 2015 and revised on August 20, 2015. The Project will generate 82 am and 101 pm weekday peak hour trips, which triggers the 50 peak hour trip threshold required for APFO testing.

Pursuant to Section 1-20-12 of the APFO and in satisfaction of APFO requirements to fully mitigate site-generated trips, prior to the recordation of the first record lot, the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. I-70/Meadow Road Westbound Ramp. The Developer shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3937. As determined by County Traffic Engineer, the Developer’s pro-rata contribution to this road improvement is 0.16% of $3,000,000 or $5,000.

2. I-70/Meadow Road Eastbound Ramp. The Developer shall contribute the appropriate pro-rata share to Frederick County for Escrow Account #3938. As determined by County Traffic Engineer, the Developer’s pro-rata contribution to this road improvement is 0.41% of $8,000,000 or $32,800.

Therefore, the Developer hereby agrees to pay $38,200 to the escrow accounts for these Road Improvements, prior to the recordation of any residential plats. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

In addition, the Developer shall relocate Linganore Road, consistent with the Comprehensive Plan alignment, as shown in the Project. This realignment shall serve as the Project’s spine road and connect to MD 144 with a new intersection opposite Bartonsville Road. The MD 144 access improvements shall be signalized and built as required by the State Highway Administration and in cooperation with the County. It shall be guaranteed prior to the recordation of any residential plat and open to traffic prior to issuance of any building permit, except those being issued for model homes or renovation of the historic house. Contributions to Escrow Account #3936 shall be provided to the Developer per the Surplus Capacity Reimbursement provisions of the APFO and Guidelines to compensate for costs associated with this improvement.

**Period of Validity:** The APFO approval is valid for six years from the date of Commission approval. Therefore, the APFO approval expires on November 18, 2021.
Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

DEVELOPER: Hogan Realty Development, LLC

By: Victor White
Date: 11/9/2015

FREDERICK COUNTY PLANNING COMMISSION:

By: William Hopwood, Chair or Robert White, Secretary
Date: 

ATTEST:

By: Gary Hessong, Director, Permits & Inspections
Date: 

County Attorney’s Office Initials / Date
(Approved as to legal form)