TITLE: Jefferson Park West MXD

FILE NUMBER: S1164 (AP 13847, APFO 13848, FRO 14570)

REQUEST: Preliminary Subdivision Plan

The Applicant is requesting Preliminary Subdivision Plan approval for a total of 340 total lots consisting of 325 residential lots (147 Townhouses, and 178 two-over-two dwellings), and 15 commercial/employment lots on a 102 acre property.

PROJECT INFORMATION:

ADDRESS or LOCATION: South side of MD180, west of Jefferson Tech Park
TAX MAP/PARCEL: Tax Map 76, Parcel 107
COMP. PLAN: Office/Research/Industrial (ORI)
ZONING: Mixed Use Development (MXD), Office/Research/Industrial (ORI)
PLANNING REGION: Frederick
WATER/SEWER: W-4, S-4

APPLICANT/REPRESENTATIVES:

APPLICANT: Jefferson Park West, LLC
OWNER: Jefferson Park West, LLC
ENGINEER: Rodgers Consulting

STAFF: John Dimitriou, R.A., Principal Planner

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
EXHIBIT 1 – Preliminary Plan Rendering
EXHIBIT 2 – General Architectural and Streetscape guidelines
EXHIBIT 3 – APFO LOU
STAFF REPORT

ISSUE

Development Request

The Applicant is requesting Preliminary Subdivision Plan approval for 325 residential lots in the following mix:

- Single-family attached (townhouses): 147 units
- Two over two dwellings: 178 units

Additionally, 15 lots are proposed for commercial and employment uses to be developed with a minimum of 32 acres of employment and a maximum of 9 acres of commercial.

The Project is subject to the requirements of the Frederick County Code, specifically Chapter 1-16 Subdivision Rules and Regulations for the Preliminary Subdivision Plan review.

BACKGROUND

Development History

The Site of this preliminary plan was the subject of a floating zone map amendment in 2006, which changed the zoning on the property from ORI-Office/Research/Industrial to MXD-Mixed Use Development (November 2006, R-05-10, Ordinance No. 06-38-434). At the time of rezoning, the MXD floating zone could not be applied to land that had a Resource Conservation comprehensive land use plan designation. As such, the land along Butterfly Branch, which is a first order creek running from north to south across the Site, remains ORI. The ORI portion of the Site is approximately 20 acres.

The 2006 rezoning conditions included in ordinance 06-38-434 restrict development to the following:

- The maximum amount of residential land use shall be 18.7 acres (375 dwelling units)
- The maximum amount of commercial land use shall be 9 acres (90,000 sq ft)
- The minimum of employment land use shall be 32 acres
- The minimum amount of open space land use shall be 13.8 acres

The proposed project meets the above conditions.

This proposal builds on the land use pattern, urban design standards, and overall layout established in the adjacent Jefferson Technology Park MXD development to the east of the Site. Similar to the planned development of Jefferson Technology Park, the proposed type of development for the Jefferson Park West MXD includes residential, commercial, and employment uses.

The Jefferson Park West proposal constitutes an implementation of a portion of the area identified by Frederick County as its Advanced Technology Park (ATP), comprising approximately 25% of the total 400+ acres of the ATP delineated in the February 2003 feasibility analysis.
Existing Site Characteristics

Adjacent to the site on the east is the Jefferson Technology Park (JTP), zoned Mixed Use Development (MXD) and currently in various stages of the Phase II development review process. A combined preliminary/site development plan approval for the residential portion of the JTP project was granted on August 14, 2013. To the south of the site is US 340/15, the Ballenger Creek Meadows subdivision zoned Planned Unit Development (PUD), and the Ballenger Creek Park. To the west is a combination church/private school facility and farmland, zoned Institutional Euclidean and Agriculture (A). To the north of the site is the remaining portion of the study area for the Frederick County Advanced Technology Park, and land that is currently zoned General Commercial (GC) and Agriculture (A). Also, further to the north in Frederick City are other residential developments. The Site is served by Orchard Grove Elementary School, Crestwood Middle School, and Frederick High School.

The Site has a gently rolling topography and is crossed by Butterfly Branch Creek, a first order tributary of Ballenger Creek. The Site is located in the Ballenger Creek Watershed, draining to the south into Ballenger Creek and the Monocacy River. A 100-year floodplain extends along Butterfly Branch within the Site and is underlaid by Rowland silt loam (RWA), a floodplain soil with a 0-3% slopes and a depth to water table of 2-3 feet. There are also areas of mapped wetlands adjacent to the stream. Overall, slopes range from less than 15% on the majority of the parcel to greater than 25% in some areas along the stream. The site also contains wet soils which require specific development restrictions. A fragmented bottomland forest runs along Butterfly Branch.
ANALYSIS

Summary of Development Standards Findings and Conclusions

As indicated below, the Project meets the requirements of Chapter 1-16 of the Frederick County Code. The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance form the basic theme of the design pattern of the proposed subdivision. The subdivision design takes advantage of the uniqueness of the Site reflected by the surrounding natural, built, and planned landscape. Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized. Water and sewer service is or will be provided to the Site and the Site has the appropriate designation. Access to the Site is adequate and sight distance is sufficient at the proposed access points.

Setbacks and height restrictions are proposed and must be approved with this application. The Adequate Public Facilities Ordinance Letter of Understanding (APFO LOU) outlining required public facility improvements is attached.

Detailed Analysis of Findings and Conclusions

ANALYSIS OF SUBDIVISION REVIEW

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

SITE DEVELOPMENT

- **Land Requirements §1-16-217(A) & (B)**

  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 designated land use in the County Comprehensive Plan for the Site is Office/Research/Industrial, which is intended to support business, professional, and corporate office uses as well as research and development uses. The Mixed Use Development (MXD) floating zone is eligible to be placed on a tract of land with an ORI comprehensive land use designation. The MXD zone allows for a mixture of employment, residential, commercial, and/or civic uses within Community Growth Areas. The Project is within the Ballenger Creek Community Growth Area, is part of the Advanced Technology Park, and includes a combination of commercial, employment, and residential uses.

  The Zoning Ordinance describes that the MXD zoning district is established to provide for new development and redevelopment within identified growth areas that result in an integrated mixture of commercial, employment, residential, recreational, civic and/or cultural land uses. Land uses are intended to be planned as a unit and among other purposes, result in efficient use of land, innovative design involving flexibility not permitted within the Euclidean zoning districts, and promote building and site design that reduces dependence on vehicular movement.

  An interconnected system of streets with potential for on-street parking and sidewalks is proposed, and the development includes a limited variety of housing types such as 2-over-2 units and townhouses.

  The Phase I conditions allow a maximum of 375 dwelling units on 18.7 acres (Ordinance 06-38-434, November 16, 2006). The Applicant is proposing 325 units on 11.41 acres which is below the
maximum number of dwelling units set at Phase I. The Applicant has proposed a total of 4.88 acres of commercial land area, and 37.82 acres of employment which meets the maximum and minimum requirements of the Phase I conditions. A chart on sheet 1 depicts the number of acres approved at the Phase I rezoning for each type of land use within the MXD and how the proposed preliminary plan meets those requirements.

The proposed interconnected street network promotes transportation efficiency by creating a flexible web of possible travel routes, distributing potential transportation load across the network. Additionally, the proposed street alignment corresponds and connects to the street system of the adjacent Jefferson Tech Park development to the east, providing a leveraged and more robust circulation network. Additionally, the integration of the development with the adjacent Jefferson Technology Park helps enhance a mutually reinforcing arrangement between the planned residential uses of Jefferson Park West and the planned retail uses of Jefferson Tech Park by bolstering the trade area of the retail while providing services for the residential. As such, the proposed design supports the intended land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance.

The Phase I rezoning included a condition that ensured that the development is capable of being serviced by public transportation. The proposed plan employs a development pattern that facilitates the integration of residential and non-residential uses and is designed at a density which locates a large resident population in close proximity to potential future transit stops. Additionally, the proposed street network is interconnected and provides multiple points of ingress and egress. Sidewalks, pedestrian crosswalks, and street lighting are provided.

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 Project integrates Butterfly Branch into the open space system of the development, which includes existing areas of flooding or wet soils, wooded areas, or wetlands.

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

  No block dimension is greater than 1,000 feet. Multiple housing styles and the location of open space create variety in the arrangement and size of blocks in the proposed development. Pedestrian circulation is supported by neighborhood design and placement of sidewalks and paths.

- **Lot Size and Shape §1-16-219**

  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.

  Setbacks and height within the Planned Development Districts (PUD & MXD) shall be established by the Planning Commission at Phase II as provided in §1-19-10.500.7(F)(2) of the Zoning Ordinance.
The Applicant proposed setbacks for residential lots are as follows:

<table>
<thead>
<tr>
<th>Lots 1-17, 141-147</th>
<th>Lots 18-140</th>
<th>Lots 148-165</th>
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</thead>
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<tr>
<td>(Townhouses)</td>
<td>(Townhouses)</td>
<td>(Two Over Two's)</td>
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<td>Front Yard:</td>
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<tr>
<td>Side Yard:</td>
<td>4'</td>
<td>4'</td>
</tr>
<tr>
<td>Rear Yard:</td>
<td>15'</td>
<td>15'</td>
</tr>
</tbody>
</table>

The proposed setbacks correspond to typical dimensions in urban settings, and are appropriate for this Project in that it is designed with an urban density range and style of layout.

The Applicant proposed setbacks for commercial/employment lots are as follows:

<table>
<thead>
<tr>
<th>Lot 201 (Commercial)</th>
<th>Lots 301-302 &amp; 401-406 (Employment)</th>
<th>Lots 501-505 (Employment)</th>
<th>Lot 506 (Employment)</th>
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<tr>
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<tr>
<td>Side Yard:</td>
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<tr>
<td>Rear Yard:</td>
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<td>50'</td>
<td>25'</td>
</tr>
</tbody>
</table>

**Streetscape**

Condition #3 of the rezoning for this project (R-05-10, Ordinance No. 06-38-434) states the following:

“The Planning Commission must approve the architectural and streetscape guidelines for the project before any plats are recorded.”

The Applicant has not finalized the architecture for the project and has therefore submitted generalized architectural and streetscape guidelines to satisfy the condition (see Exhibit 2). Detailed guidelines will be reviewed and approved by the FCPC prior to final Site Development Plan Approval.

**TRANSPORTATION AND PARKING**

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

The project shall provide for the complete construction of street improvements, including drainage facilities as provided in §1-16-234 through §1-16-241 of the Subdivision Regulations and in accordance with the Frederick County Design Manual.

Proposed streets are closed section with curb and gutter, and are designed according to County specifications. The Plan proposes sidewalks 5-ft in width with marked street crossings at appropriate locations. The sidewalk network provides internal pedestrian mobility and facilitates movement to and from adjacent land uses. Sidewalks are provided that link the Project to the proposed adjacent commercial and employment uses to the east. Alleys are provided for dwellings with rear access garages.

**Right of Way and Paved Surface Widths §1-16-235**

Whenever a proposed subdivision includes or abuts streets designated on the Highway Plan section of the Comprehensive Plan, the Planning Commission shall require, by dedication to public use, adequate right-of-way for the coordination of roads within the subdivision with other existing, planned or platted roads.
The Applicant has included a combination of public and private streets as well as alleys to serve the transportation needs of the Project. The proposed transportation network extends the transportation network of the approved Jefferson Technology Park MXD to the east. Where feasible and desirable, County Staff worked with the Applicant to connect the two projects via the road network.

The County Comprehensive Plan classifies MD 180 as a Minor Arterial. County standard right of way for this road is proposed and improvements will be completed per the requirements of the APFO LOU. Roads within the subdivision provide the standard right of way and paved surface widths required by the County.

- **Other Street Requirements §1-16-236**
  The project contains one proposed cul-de-sac which is planned to serve the commercial/employment lots in the southwestern portion of the project. In the MXD zone the Proposed Jefferson Technology Court is approximately 1,600 +/- feet in length and will serve 6 lots. While there is no maximum length or maximum number of lots to be served by a cul-de-sac within the MXD zone, the proposed cul-de-sac is well below the standard 1,800 foot length and 30 lot maximum discussed within the ordinance. In the MXD zone, the density and length of cul-de-sac shall be reviewed by the Planning Commission and approved on a case by case basis based on consideration of the goals and principles of §1-16-234 of the Subdivision Regulations. The cul-de-sacs layout meets other relevant requirements of this section.

  The proposed project contains one dead end street system approximately 1,800’ feet in length along Aster View Lane that serves 39 dwellings. This configuration exceeds the standard of 1,800 feet and 30 lots used in other portions of the ordinance, and based upon consideration of the goals and principles of §1-16-234 of the Subdivision Regulations, Staff recommends that Flower Alley be continued through to Dock Street to allow for a secondary access/egress point.

Highways, Streets, and Roads. Generally §1-16-234
In designing highways, streets, roads, or common driveways, the subdivider shall be guided by the following principles.
(A) Design to consider the context of the proposed land use, including the existing and proposed land development patterns on adjacent parcels.
(B) Design for opportunities to create interconnections between adjoining parcels.
(C) Provide for adequate vehicular and pedestrian access to all parcels.
(D) Design local residential street systems to minimize through traffic movement and to discourage excessive speed.
(E) Provide reasonable direct access from local street systems to the primary transportation system.
(F) Local transportation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.
(G) Provide for safety, efficiency, and convenience of all users of the transportation system.
(H) Pedestrian-vehicular conflict points shall be minimized.
(I) Design to preserve, enhance, or incorporate natural, community, and historic resources.
(J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment.
(K) Sidewalk, street design, right-of-way and paving shall be in accordance with these regulations and the County Design Manual.
PUBLIC FACILITIES AND UTILITIES

- **Public Facilities - Road Adequacy §1-16-12;**
  The Project has one access point to Jefferson Pike (MD180), and six access points to the Jefferson Tech Park development to the east. The County Comprehensive Plan classifies MD 180 as a Minor Arterial. Access and proposed sight distance at entry points along MD180 are adequate.

  The site will be served by United Fire Company located in Frederick City and approximately 2.75 miles from the site. In addition, the Jefferson Technology Park Phase II Plan has identified a 3 acre site for a fire and rescue station located on MD 180. Emergency response service to the site will utilize MD 180 or US 340 which are both adequate and meet the requirement of a paved collector or higher classification.

  The subdivision will be primarily served by Jefferson Technology Blvd., a varying 2 to 4 lane collector road, which is a paved public street with a varying ROW width in excess of the collector road 60’ standard. All Internal and external access public streets meet the minimum of at least 20’ in width.

- **Parks §1-16-111**
  Parks and open space requirements were reviewed during the floating zone application for this project. The Applicant proposes 13.8 acres of open space as required by the Phase I condition.

NATURAL FEATURES

- **Land Requirements §1-16-217(B)**
  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.

  Unique features of the Site include the adjacency of the Jefferson Technology Park with its corresponding interconnectivity, and the Butterfly Branch stream corridor. These features are being employed in the design of the project. Corresponding connections to the adjoining project are being provided, and the stream corridor is being proposed as natural, passive open space.

- **Floodplain Developments §1-16-220**
  There is no residential, commercial, or employment development proposed in the mapped FEMA 100-year floodplain on the Site. The Applicant proposes a temporary sewer pump station slightly within the floodplain district setback area, however this will be decommissioned in the future when the employment portion of the project is built under Phase 3 of the planned sewer build-out.
Other Applicable Regulations

- **Moderately Priced Dwelling Units – Chapter 1-6A:**
  Per Section 1-19-8.620.2, all residential developments consisting of 25 units or more on public water and sewer are required to provide no less than 12.5% of the total units as MPDU's. The proposed project includes 325 dwelling units and therefore would be required to provide 41 MPDU’s. As stated in general note 22 on sheet 1 of the Preliminary Plan, the Applicant plans to utilize the Payment-in-Lieu of building option as allowed in accordance with §1-6A-5.1 of the Frederick County Code. The note should be updated to include the total number of MPDUs required.

- **Stormwater Management – Chapter 1-15.2:**
  A stormwater management concept plan was conditionally approved on October 1, 2013. Stormwater Development and Improvement Plans must be approved prior to final Preliminary Plan approval.

- **APFO – Chapter 1-20:**
  The APFO approval is valid for 8 years from the date of Commission approval; therefore, the APFO approval would expire on August 13, 2022.

**Schools**
The Project is served by Orchard Grove Elementary School, Crestwood Middle School, and Frederick High School. The Project is projected to generate 69 elementary school students, 25 middle school students and 25 high school students. The school adequacy test fails at the elementary school level.

The Applicant has chosen to mitigate school inadequacy by paying School Construction Fees allowed under §1-20-62 of the County APFO. The School Construction Fees shall be paid, per unit type and school levels to be mitigated, at plat recordation based on the specific fees required by §1-20-62(E) at the time of plat recordation.

**Water/Sewer**
The Property has a water and sewer classification of W-4 S-4. The developer will acquire the appropriate water and sewer classification necessary for the project to continue based on the stage of the development process.

All 325 residential units will utilize those water and sewer stubs provided to the property line by the Jefferson Technology Park and Jefferson Place projects. Prior to the recordation of any of the residential or commercial (retail) lots, the improvements to the Hannover Outfall required of Jefferson Technology Park and approved under Frederick County Sewer Contracts 342 SW and 342C SW must be completed and accepted by the County.

The sewer service for the final phase (research and development type uses) will be provided by a new sewer outfall following Butterfly Branch of Ballenger Creek south under US Route 340/15 to either the Stuart Mechanic Sewer Pump Station or to the existing Ballenger Creek Interceptor. The sewer outfall proposed in this phase will receive the effluent from the phase III improvements as well as the effluent collected at the sewer pump station, thus removing the temporary sewer pump station from service.
Roads
The project will generate 538 am and 529 pm external weekday peak hour trips which requires APFO testing per Section 1-20-30. As a result, a Traffic Impact Analyses was performed by The Traffic Group dated September 10, 2013 and revised on April 17, 2014 to address APFO requirements and proposed mitigation to satisfy certain level of service standards per section 1-20-31.

The study area included: MD 180 intersections with Mt. Zion Road, Butterfly Lane, US 340/15 ramp intersections and site access, as well as the soon to be completed interchange with US 340/15. All the MD 180 off-site intersections failed to meet County adequacy standards, as well as the intersection of the far side US 340/15 diamond interchange ramps with Jefferson Technology Parkway. All but the latter failure will pay fair share contributions to existing and new road escrow accounts, being that this project has limited impact at these intersections. The failing interchange intersection with Jefferson Technology Parkway, now under construction, will be mitigated via either a new traffic signal or roundabout.

In addition, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12 (H), including a significant contribution to the new US 340/15 interchange, which will be delineated in the LOU.

• **Forest Resource – Chapter 1-21:**
  This development is subject to FRO. A Preliminary FRO plan has been submitted and is currently under review. The site contains 6.95 acres of forest along the stream corridor that runs through the property. The Applicant proposes to clear 0.56 acres of forest, retain the remaining 6.39 acres of forest, and plant 9.53 acres of new forest. The Applicant is also proposing to remove 0.02 acres of forest that was placed into a FRO easement on the adjoining Jefferson Technology Park (JTP) property. The Applicant must submit a revised FRO plan for the JTP site and request a partial FRO easement release. The required mitigation for this off-site forest disturbance will be 0.04 acres, which will be provided by planting an additional 0.04 acres of new forest on the Jefferson Park West property.

  The site contains 37 specimen trees (trees 30” or greater in diameter). Two specimen trees are proposed to be removed. Due to their poor condition they do not qualify as “nonhazardous” specimen trees, and may be removed without a FcPc modification. All other specimen trees will be retained and protected. Approximately 7 specimen trees are located near the proposed sewer easement, and a portion of the critical root zones will be impacted. Staff will require as a condition of FRO approval that a licensed arborist conduct root pruning prior to any earth disturbance around the trees in order to minimize the impact to these specimen trees.

• **Historic Preservation – Chapter §1-23:**
  No historically significant structures or other resources are present on this Site.
Summary of Agency Comments

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RECOMMENDATION

Staff has no objection to conditional approval of the Preliminary Subdivision Plan, if the Planning Commission approves the proposed cul-de-sac and requires the connection of Flower Alley to Dock Street to eliminate the dead end street system in accordance with 1-16-236(k). If conditionally approved, the Preliminary Plan will be valid for the lesser of five (5) years from the date of Planning Commission approval or the period of adequate public facilities ordinance approval of the preliminary plan. Therefore the Preliminary Subdivision plan is valid until August 13, 2019, with APFO approval valid until August 13, 2022.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following modifications are approved and conditions are met:

1. Planning Commission approval of the proposed setbacks as requested by the Applicant and as shown on the Preliminary Plan. Individual building height shall be approved by Planning Commission prior to final Site Development Plan approval.


3. Detailed architectural and streetscape guidelines for the Project shall be reviewed and approved by the Planning Commission prior to any final Site Development Plan approval for the Project.

4. The Applicant shall address all agency comments as the plan proceeds through to completion.

5. Prior to final Preliminary Plan approval, all active recreational areas shall be labeled on the Preliminary Plan.

6. A detailed amenities plan depicting development of the open space/recreation area within the development shall be submitted for review and approval by Staff prior to recordation of the Project’s first residential lot. The detailed amenities plan shall identify one of the proposed active recreation areas, or an additional active recreation area, that is a minimum of 20,000 square feet in size. The 20,000 square feet of recreation area shall be unencumbered by stormwater management features or facilities.
7. Prior to final Preliminary Plan approval, all commercial and employment lots shall be labeled on the Preliminary Plan with general locations consistent with the Phase I Concept Plan approved as rezoning R-05-10, (ordinance 06-38-434).

8. Prior to the recordation of any of the residential or commercial (retail) lots, the improvements to the Hannover Outfall required of Jefferson Technology Park and approved under Frederick County Sewer Contracts 342 SW and 342C SW must be completed and accepted by the County.

9. Prior to final Preliminary Plan approval, an MPDU agreement must be executed.

10. Update General Note #22 to include a statement that a total of 41 MPDUs are required.

11. The maximum and minimum amount of residential, commercial, employment and open space land use in the MXD shall be as provided in ordinance 06-38-434.

12. Continue Flower Alley to connect with Dock Street to allow for a secondary access/egress point at the dead end system along Aster View Lane.

13. No building permits for structures within Jefferson Park West MXD will be issued until the US 340/15 Interchange—to be constructed by the developers of the Jefferson Technology Park—is under construction and within 12 months of estimated completion date (Ordinance 06-38-434).


15. FRO plans must be approved prior to final preliminary plan approval.

16. Prior to final Preliminary Plan approval, a geotechnical report shall be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the Preliminary Plan that all construction shall be in conformance with the geotechnical report.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission APPROVE the Jefferson Park West MXD Preliminary Subdivision Plan (AP#13847, S-1164), including approval of the proposed cul-de-sac in accordance with §1-16-236, with conditions as listed in the staff report including APFO approval, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
ADEQUATE PUBLIC FACILITIES

LETTER OF UNDERSTANDING

Jefferson Park West

Preliminary Plan #S-1164 AP #13848

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Jefferson Park West, LLC (the "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 Jefferson Park West Preliminary Plan (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 102.4 +/- acre parcel of land, which is zoned Mixed Use Development (MXD) and Office Research Industrial (ORI), and is located between US 340/15 and MD 180, just south of I-70, and with access with both US 340/15 and MD 180. This APFO approval is effective for development of up to 325 residential units (147 town homes and 178 2 over 2 condo units) and approximately 300,000 SF of commercial mixed use, or any variation such that the generation of vehicles trips (which is shown on the Traffic Report associated with the preliminary plan) and/or student generation as noted below are not exceeded for the above-referenced Project, which was conditionally approved by the Commission on August 13, 2014.

The improvements required for Jefferson Park West are defined in three phases and are shown on the APFO Phasing Exhibit, which is attached.
PHASE I
(Phase IA & IB)
325 Residential Units

Due to sewer capacity limitations placed upon the residential development in the Project, Phase I is further divided into Phase IA and Phase IB. Phase IA represents the 189 Units that can have the wastewater conveyed directly to the Jefferson Technology Park (JTP) sewer system by gravity. Phase IB represents the remaining 136 Residential units that require construction of an interim sewage pump station to convey wastewater up to and through the Jefferson Technology Park gravity sewer system.

**Schools:** The residential portion of the Project, all part of this phase is projected to generate 69 elementary school students; 25 middle school students; and 25 high school students. Based on these numbers and considering enrollment projections from background and pipeline development, the school adequacy test fails at the Elementary School level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees in accordance with Section 1-20-62 of the APFO. The School Construction Fees shall be paid at plat recordation for any single-family and townhouse lots and at building permit for any multi-family or two-over-two units, based on the specific fees required per Section 1-20-62(E), per unit type and the school level(s) to be mitigated. The Property has a water and sewer classification of W-4/S-4. The Developer will acquire the appropriate water and sewer classification necessary for the Project to continue based on the stage of the development process. All 325 residential units will utilize those water and sewer stubs provided, or expected to be provided, to the project property line by the Jefferson Technology Park and Jefferson Place projects. Developer understands that he/she may have to construct offsite extensions if JTP fails to do so.

**Water and Sewer:** While the public water/sewer facilities are currently adequate, or will be adequate upon completion of specified improvements, to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable County regulations, including but not limited to §1-16-106 of the Frederick County Subdivision Regulations.

Prior to the recordation of any of the residential lots, the improvements to the Hannover Outfall required of the Jefferson Technology Park (JTP) project and approved under Frederick County Sewer Contracts 342-SW and 342A-SW must be under construction and within 90-days of completion. The Applicant understands that construction of contract 342A-SW has not begun as of the date of this LOU. If JTP fails to construct 342A-SW, or any other offsite water/sewer improvement to the subject property, the Applicant must construct same or wait for others to construct prior to progressing through the development process.

**Phase IA**
Wastewater generated from the 189 residential units of Phase IA will flow by gravity to existing Manhole 31 of contract 342D-SW for the JTP. Water service will be provided by line extensions from stubs installed under contracts 342D-SW and future W&S contracts for Jefferson Place @JTP.

**Phase IB**
Wastewater generated from the 136 residential units of Phase IB will flow by gravity to an interim sewage pump station located on an outlot as shown on the approved Preliminary Plan. The Developer
understands that the outlot location and/or size may have to be modified after a detailed design is completed for the pump station. The wastewater collected at the sewage pump station will be pumped via mechanical means through a force main to existing Manhole 31 of the 342D-SW contract for the JTP. Water service will be provided by line extensions from stubs installed under contracts 342D-SW and future Jefferson Place at JTP contracts.

The sewage pump station is temporary and may remain in place until the Phase III development is executed, at which time the gravity Butterfly Branch Outfall and Ballenger Interceptor Phase II needs to be constructed and the wastewater collected at the sewage pump station conveyed down Butterfly Branch Outfall in accordance with the Jefferson Park West Sewer Study.

**Road Improvements:** Phase I of the Project will generate 133 am and 142 pm weekday external peak hour trips which requires APFO testing per Section 1-20-30. As a result, a Traffic Impact Analyses was performed by The Traffic Group dated September 10, 2013 and revised on April 17, 2014 to address APFO requirements and proposed mitigation to satisfy certain level of service standards per Section 1-20-31. In addition, the Developer is required to provide fair share contributions to existing escrow account per Section 1-20-12 (H). The road escrow accounts and the associated contributions for Phase I development is as follows:

<table>
<thead>
<tr>
<th>Escrow Account Location</th>
<th>Escrow Acct</th>
<th>Escrow Cost</th>
<th>Pro-Rata Share</th>
<th>Pro-Rata Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>MD 180 &amp; Butterfly Lane</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EB Re-stripe</td>
<td>#3310</td>
<td>$28,392</td>
<td>0.73%</td>
<td>$207</td>
</tr>
<tr>
<td>SB widening</td>
<td>#3455</td>
<td>$792,957</td>
<td>0.73%</td>
<td>$5,774</td>
</tr>
<tr>
<td>MD 180 &amp; US 340</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB Off Ramp/Himes Ave</td>
<td>#3311</td>
<td>$140,149</td>
<td>1.99%</td>
<td>$2,787</td>
</tr>
<tr>
<td>WB RT Lane</td>
<td>#3454</td>
<td>$1,530,367</td>
<td>1.99%</td>
<td>$30,433</td>
</tr>
<tr>
<td>MD 351 &amp; US 340</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NB Off Ramp</td>
<td>#3301</td>
<td>$201,240</td>
<td>0.73%</td>
<td>$1,399</td>
</tr>
<tr>
<td>MD 351 &amp; US 340</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NB On Ramp/Solarex Ct</td>
<td>#3302</td>
<td>$250,161</td>
<td>0.27%</td>
<td>$688</td>
</tr>
<tr>
<td>WB Approach Solarex Ct</td>
<td>#3313</td>
<td>$22,923</td>
<td>0.27%</td>
<td>$63</td>
</tr>
<tr>
<td>MD 351 Mainline</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ballenger Ctr Dr to Himes</td>
<td>#3300</td>
<td>$9,002,760</td>
<td>0.31%</td>
<td>$27,965</td>
</tr>
<tr>
<td>Solarex Ct. 3rd SB thru lane</td>
<td>#4054</td>
<td>$97,900.00</td>
<td>0.31%</td>
<td>$304</td>
</tr>
<tr>
<td>US 340/15 Intg at JTP</td>
<td>#4053</td>
<td>$15,500,000</td>
<td>1.93%</td>
<td>$299,150</td>
</tr>
<tr>
<td><strong>TOTAL PHASE I ESCROW CONTRIBUTION</strong></td>
<td></td>
<td><strong>$368,770</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Therefore, prior to building permit issuance for Phase I development, the Developer hereby agrees to pay $368,770 to the escrow accounts described above for these Road Improvements. Should these payments 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.
When requested by the County, during any phase of development, the Developer shall perform one signal warrant analysis at the intersection of Jefferson Technology Blvd. and the northbound US 340/15 ramps, to determine if signalization is warranted. The Developer shall install the traffic signal (or any other traffic control device as determined by the County) and any necessary nominal geometric improvements, within 12 months of a determination by the County that a signal (or other traffic control device) is warranted and deemed necessary.

**PHASE II**  
Mixed Use Commercial/Employment (East of Butterfly Branch)

**Schools:** This phase of the Project is non-residential and therefore does not require school mitigation.

**Water and Sewer:** As is noted above, the Property has a water and sewer classification of W-4/S-4. The Developer will acquire the appropriate water and sewer classification necessary for development of the Project to continue. All 119,507 sf of Mixed Used Commercial/employment/retail will utilize those water and sewer stubs provided to the property line by the JTP project.

Wastewater from the Phase II non-residential uses will flow by gravity to the interim sewage pump station described under Phase IB of this LOU. The effluent collected at the sewage pump station will be pumped via mechanical means to existing Manhole 31 of the 342D-SW contract for the JTP. Water service will be provided by line extensions from stubs installed under contracts 342D-SW and W&S contracts for Jefferson Place at JTP. The sewage pump station is temporary and may remain in place until Phase III development of this LOU is executed, at which time the Butterfly Branch Outfall and Ballenger Interceptor Phase II must be constructed and the wastewater collected at the sewage pump station conveyed by gravity down Butterfly Branch Outfall in accordance with the Jefferson Park West Sewer Study.

**Road Improvements:** Phase II of the Project will individually generate 185 additional am and 223 additional pm weekday external peak hour trips which requires APFO testing per Section 1-20-30. As a result, a Traffic Impact Analyses was performed by The Traffic Group dated September 10, 2013 and revised on April 17, 2014 to address APFO requirements and proposed mitigation to satisfy certain level of service standards per section 1-20-31. In addition, the Developer is required to provide fair share contributions to existing escrow account per Section 1-20-12 (H)

The road escrow accounts and the associated contributions for Phase IIA (lots 201, 501 – 503) development are as follows:

<table>
<thead>
<tr>
<th>Escrow Account Location</th>
<th>Escrow Acct</th>
<th>Escrow Cost</th>
<th>Pro-Rata Share</th>
<th>Pro-Rata Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>MD 180 &amp; Mt. Zion Road</td>
<td>New</td>
<td>$1,900,000</td>
<td>0.396%</td>
<td>$7,518</td>
</tr>
<tr>
<td>MD 180 &amp; Butterfly Lane</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EB Re-stripe</td>
<td>#3310</td>
<td>$28,392</td>
<td>1.30%</td>
<td>$369</td>
</tr>
<tr>
<td>SB widening</td>
<td>#3455</td>
<td>$792,957</td>
<td>1.30%</td>
<td>$10,319</td>
</tr>
<tr>
<td>MD 180 &amp; US 340</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB Off Ramp/Himes Ave</td>
<td>#3311</td>
<td>$140,149</td>
<td>0.65%</td>
<td>$915</td>
</tr>
<tr>
<td>WB RT Lane</td>
<td>#3454</td>
<td>$1,530,367</td>
<td>0.65%</td>
<td>$9,990</td>
</tr>
</tbody>
</table>

JPW LOU  
Page 4
MD 351 & US 340
NB Off Ramp    #3301  $201,240  0.98%  $1,976

MD 351 & US 340
NB On Ramp/Solarex Ct    #3302  $250,161  0.60%  $1,493
WB Approach Solarex Ct    #3313  $22,923  0.60%  $137

MD 351 Mainline
Ballenger Ctr Dr to Himes    #3300  $9,002,760  0.32%  $29,091
Solarex Ct. 3rd SB thru lane    #4054  $97,900  0.32%  $316

US 340/15 Intg at JTP    #4053  $15,500,000  1.89%  $292,669

TOTAL PHASE IIA ROAD ESCROW CONTRIBUTION    $354,793

Therefore, prior to building permit issuance for Phase IIA development, the Developer hereby agrees to pay $354,793 to the escrow accounts described above for these Road Improvements. Should these payments 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.

The road escrow accounts and the associated contributions for Phase IIB (Lots 504 – 506) development are as follows:

<table>
<thead>
<tr>
<th>Escrow Account Location</th>
<th>Escrow Location</th>
<th>Escrow Acct</th>
<th>Escrow Cost</th>
<th>Pro-Rata Share</th>
<th>Pro-Rata Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>MD 180 &amp; Mt. Zion Road</td>
<td>New</td>
<td>$1,900,000</td>
<td>0.64%</td>
<td>$12,113</td>
<td></td>
</tr>
<tr>
<td>MD 180 &amp; Butterfly Lane</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>EB Re-stripe</td>
<td>#3310</td>
<td>$28,392</td>
<td>2.10%</td>
<td>$595</td>
<td></td>
</tr>
<tr>
<td>SB widening</td>
<td>#3455</td>
<td>$792,957</td>
<td>2.10%</td>
<td>$16,626</td>
<td></td>
</tr>
<tr>
<td>MD 180 &amp; US 340</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB Off Ramp/Himes Ave</td>
<td>#3311</td>
<td>$140,149</td>
<td>1.05%</td>
<td>$1,474</td>
<td></td>
</tr>
<tr>
<td>WB RT Lane</td>
<td>#3454</td>
<td>$1,530,367</td>
<td>1.05%</td>
<td>$16,095</td>
<td></td>
</tr>
<tr>
<td>MD 351 &amp; US 340</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NB Off Ramp</td>
<td>#3301</td>
<td>$201,240</td>
<td>1.58%</td>
<td>$3,184</td>
<td></td>
</tr>
<tr>
<td>MD 351 &amp; US 340</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NB On Ramp/Solarex Ct</td>
<td>#3302</td>
<td>$250,161</td>
<td>0.96%</td>
<td>$2,405</td>
<td></td>
</tr>
<tr>
<td>WB Approach Solarex Ct</td>
<td>#3313</td>
<td>$22,923</td>
<td>0.96%</td>
<td>$220</td>
<td></td>
</tr>
<tr>
<td>MD 351 Mainline</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ballenger Ctr Dr to Himes</td>
<td>#3300</td>
<td>$9,002,760</td>
<td>0.52%</td>
<td>$46,869</td>
<td></td>
</tr>
<tr>
<td>Solarex Ct. 3rd SB thru lane</td>
<td>#4054</td>
<td>$97,900</td>
<td>0.52%</td>
<td>$510</td>
<td></td>
</tr>
<tr>
<td>US 340/15 Intg at JTP</td>
<td>#4053</td>
<td>$15,500,000</td>
<td>3.04%</td>
<td>$471,481</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL PHASE IIB ROAD ESCROW CONTRIBUTION    $571,572

JPW LOU
Page 5
Therefore, prior to building permit issuance for Phase IIB development, the Developer hereby agrees to pay $571,572 to the escrow accounts described above for these Road Improvements. Should these payments 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.

When requested by the County, during any phase of development, the Developer shall perform one signal warrant analysis at the intersection of Jefferson Technology Blvd. and the northbound US 340/15 ramps, to determine if signalization is warranted. The Developer shall install the traffic signal (or any other traffic control device as determined by the County) and any necessary nominal geometric improvements, within 12 months of a determination by the County that a signal (or other traffic control device) is warranted and deemed necessary.

**PHASE III**
**R&D Center (All lots west of Butterfly Branch)**

**Schools:** This phase of the Project is non-residential and therefore does not require school mitigation.

**Water and Sewer:** The Property has a water and sewer classification of W-4/S-4. The Developer will acquire the appropriate water and sewer classification necessary for development of the Project to continue. The sewer service for Phase III will be provided by a proposed Developer Funded sewer outfall (approx 3800 lf) following Butterfly Branch of Ballenger Creek through the Jefferson Park West site, from MD Route 180 south to and under US Route 340/15 and by the Ballenger Interceptor Phase II (approx. 6650 lf) from the Stewart Mechanic Sewage Pump Station to the existing Ballenger Creek Interceptor. The sewer outfall proposed in this phase will receive wastewater from the Phase III improvements as well as wastewater collected at the interim sewage pump station previously described, thus removing the interim sewage pump station from service. Design of these gravity sewers shall permit gravity connections at each pump station named above and the demolition of same. Developer shall design and construct, or have constructed, the sewer outfall and Ballenger Interceptor Phase II prior to development of Phase III.

**Road Improvements:** Phase III of the Project will individually generate 325 additional am and 268 additional pm weekday peak hour trips which requires APFO testing per Section 1-20-30. As a result, a Traffic Impact Analysis was performed by The Traffic Group dated September 10, 2013 and revised on April 17, 2014 to address APFO requirements and proposed mitigation to satisfy certain level of service standards per Section 1-20-31. In addition, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12 (H).

The road escrow accounts and the associated contributions for Phase III development are as follows:

<table>
<thead>
<tr>
<th>Escrow Account Location</th>
<th>Escrow Acct</th>
<th>Escrow Cost</th>
<th>Pro-Rata Share</th>
<th>Pro-Rata Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>MD 180 &amp; Mt. Zion Road</td>
<td>New</td>
<td>$1,900,000</td>
<td>0.26%</td>
<td>$4,207</td>
</tr>
<tr>
<td>MD 180 &amp; Butterfly Lane</td>
<td>#3310</td>
<td>$28,392</td>
<td>2.18%</td>
<td>$620</td>
</tr>
<tr>
<td>EB Re-stripe</td>
<td>#3455</td>
<td>$792,957</td>
<td>2.18%</td>
<td>$17,322</td>
</tr>
</tbody>
</table>

JPW LOU
Page 6
### MD 180 & US 340

<table>
<thead>
<tr>
<th>Description</th>
<th>#</th>
<th>Amount</th>
<th>Interest Rate</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB Off Ramp/Himes Ave</td>
<td>#3311</td>
<td>$140,149</td>
<td>1.14%</td>
<td>$1,593</td>
</tr>
<tr>
<td>WB RT Lane</td>
<td>#3454</td>
<td>$1,530,367</td>
<td>1.14%</td>
<td>$17,391</td>
</tr>
</tbody>
</table>

### MD 351 & US 340

<table>
<thead>
<tr>
<th>Description</th>
<th>#</th>
<th>Amount</th>
<th>Interest Rate</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>NB Off Ramp</td>
<td>#3301</td>
<td>$201,240</td>
<td>1.96%</td>
<td>$3,946</td>
</tr>
</tbody>
</table>

### MD 351 & US 340

<table>
<thead>
<tr>
<th>Description</th>
<th>#</th>
<th>Amount</th>
<th>Interest Rate</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>NB On Ramp/Solarex Ct</td>
<td>#3302</td>
<td>$250,161</td>
<td>1.19%</td>
<td>$2,981</td>
</tr>
<tr>
<td>WB Approach Solarex Ct</td>
<td>#3313</td>
<td>$22,923</td>
<td>1.19%</td>
<td>$273</td>
</tr>
</tbody>
</table>

### MD 351 Mainline

<table>
<thead>
<tr>
<th>Description</th>
<th>#</th>
<th>Amount</th>
<th>Interest Rate</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ballenger Ctr Dr to Himes</td>
<td>#3300</td>
<td>$9,002,760</td>
<td>0.78%</td>
<td>$70,334</td>
</tr>
<tr>
<td>Solarex Ct. 3rd SB thru lane</td>
<td>#4054</td>
<td>$97,900</td>
<td>0.78%</td>
<td>$765</td>
</tr>
</tbody>
</table>

### US 340/15 Intg at JTP

<table>
<thead>
<tr>
<th>Description</th>
<th>#</th>
<th>Amount</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>#4053</td>
<td>$15,500,000</td>
<td>8.81%</td>
<td>$1,365,550</td>
</tr>
</tbody>
</table>

**TOTAL PHASE III ROAD ESCROW CONTRIBUTION**  $1,484,982

Therefore, prior to building permit issuance for Phase III development, the Developer hereby agrees to pay $1,484,982 to the escrow accounts described above for these Road Improvements. Should these payments 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.

When requested by the County, during any phase of development, the Developer shall perform one signal warrant analysis at the intersection of Jefferson Technology Blvd. and the northbound US 340/15 ramps, to determine if signalization is warranted. The Developer shall install the traffic signal (or any other traffic control device as determined by the County) and any necessary nominal geometric improvements, within 12 months of a determination by the County that a signal (or other traffic control device) is warranted and deemed necessary.

**Period of Validity:** The APFO approval is valid for 8 years from the date of Commission approval; therefore, the APFO approval expires on August 13, 2022.

**Disclaimer:** Notwithstanding anything to the contrary contained herein, 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.

[Signatures on next page]
DEVELOPER: Jefferson Pike Associates, Inc.

By: ________________________________ Date: ________________________________
Henry Forster, Agent

FREDERICK COUNTY PLANNING COMMISSION:

By: ________________________________ Date: ________________________________
Robert Lawrence, Chair or Dwaine E. Robbins, Secretary

ATTEST:

By: ________________________________ Date: ________________________________
Gary Hessong, Acting Director, Community Development Division

Planner’s Initials / Date ____________________________

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