TITLE: Jefferson Place at Jefferson Technology Park

FILE NUMBER: S-1136/SP-06-07 (AP14287, APFO14289, FRO14290)

REQUEST: Combined Preliminary Subdivision/Site Development Plan Approval
The Applicant is requesting Combined Preliminary Subdivision/Site Development Plan approval for Phase 2-5 for a total of 465 units including 263 townhouses, 120 Two Over Two’s, and 82 Back To Back’s on a 34.5 acre site

PROJECT INFORMATION:
ADDRESS/LOCATION: South side of MD180 at the southwest corner of I70 and I270
TAX MAP/PARCEL: TM 76, P 108
COMP. PLAN: Office Research Industrial
ZONING: Mixed Use Development
PLANNING REGION: Frederick
WATER/SEWER: W3/S3

APPLICANT/REPRESENTATIVES:
APPLICANT: Jefferson Park Development, LLC
OWNER: Jefferson Park Development, LLC
ENGINEER: Bowman Consulting
ARCHITECT: N/A

STAFF: John Dimitriou R.A., Principal Planner

RECOMMENDATION:
Approval

ATTACHMENTS:
Exhibit 1 - Preliminary Subdivision/Site Plan Rendering
Exhibit 2 - Parking modification request
Exhibit 3 – Second Amendment to APFO LOU
STAFF REPORT

ISSUE

- Development Request -

The intent of this plan is to attain combined preliminary/site plan approval for phases 2-5 of the project and APFO approval for a revised mix of 825 dwellings. The Applicant is requesting Combined Preliminary Subdivision/Site Development Plan approval for 465 total units consisting of 263 townhouses, 120 Two Over Two’s, and 82 Back To Back’s on a 34.5 acre site. The project is subject to the requirements of the Frederick County Code, specifically Chapter 1-16 Subdivision Rules and Regulations for the Preliminary Subdivision review, and Section 1-19-3.300 through 1-19-3.300.4 for the Site Development Plan review.

This site was previously approved for 825 dwellings on 8/14/2013 under AP#13421. The purpose of the current application is to modify only a portion of that approval. As described in the chart below, the change to the unit mix for the project as a whole is to reduce the number of two-over-two’s by 70, to reduce the number of back-to-back units by 34, and to make up the difference by increasing the number of townhouses by 104.

<table>
<thead>
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<th>Dwelling Type</th>
<th>Approved Development Mix</th>
<th>New Development Mix (project-wide)</th>
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<td>Phase 1</td>
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<td>apartments</td>
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<td>two-over-twos</td>
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<td><strong>total</strong></td>
<td><strong>825</strong></td>
<td><strong>360</strong></td>
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</table>

The “back-to-back” dwelling type has not been previously constructed in Frederick County. It is similar to the two-over-two dwelling in that a building is configured where two units are grouped abreast of two units in a repeating row, much like townhouses. However, instead of one unit being on top of another, in the back-to-back one unit is in front and one unit is behind. The diagram below illustrates the general configuration of the back to back unit type. However, the specific application of this type can vary, and this illustration is not necessarily reflective of the specific design of back to back unit being proposed for this project.

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BACKGROUND

-Development History-

This site was rezoned to MXD on June 23, 2005 as part of rezoning case R-05-01. On November 29, 2012, the MXD was part of case R-05-01(A).

This site received combined preliminary/site development plan approval for 825 dwellings (AP13241 approved 8/14/2013) in 2013. A portion of the 2013 approval is being modified with this application, and is a new request to approve a different mixture of housing types for the remaining 465 dwelling units.

-Existing Site Characteristics-

The Site is currently zoned MXD (see below) and the major roads serving the project are under construction. The Site is bounded by MD 180 (Jefferson Pike) on the north and US340/US15 (Catoctin Mountain Highway) on the south. Property to the north of the Site is primarily agricultural with some land along MD 180 to the northwest in commercial use, including a variety of commercial and industrial uses at Enterprise Court, two trailer parks, and a small office building. The Site is bordered on the west by the New Life Foursquare Church. The eastern portion of the Site is bordered by low density residential uses including a small residential subdivision along Fair Oaks Drive. The far eastern corner the Site borders an interchange with I-70.

The topography of the Site and its surroundings is relatively flat or rolling, with no slopes greater than 15%. In general, the land slopes from high ground on the west to the Pike Branch on the eastern edge of the Site. Pike Branch is a first order creek, and crosses the Site from north to south, eventually flowing into Ballenger Creek to the south. There is very little tree cover on the Site.
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.

Proposed setbacks and height restrictions are not proposed to change. Parking modifications are proposed and attached, and can be approved with this application. The Amended Adequate Public Facilities Ordinance Letter of Understanding (APFO LOU) outlining required public facility improvements is forthcoming.

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Detailed Analysis of Findings and Conclusions

**COMBINED ANALYSIS OF SUBDIVISION AND SITE DEVELOPMENT PLAN REVIEW**

Preliminary Plan Subdivision approval is granted based upon the requirements found in Chapter 1-16 of the Frederick County Code. Site Development Plan approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County Zoning Ordinance.

**SITE DEVELOPMENT**

- **Land Requirements §1-16-217(A)**
  
  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 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 subdivision and land uses, both proposed and existing.

  The Comprehensive Plan designation for this site is Mixed Use Development. The Mixed Use Development designation is intended to accommodate a mix of medium to high intensity commercial, civic, employment, and residential uses within new and existing Community Growth Areas. This plan is for the residential portion of a larger project that includes employment and commercial uses. The gross density of phases 2-5 of the residential portion of the project is approximately 14 dwellings per acre.

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

  The block design generally provides convenient access, circulation control and safety of street traffic. No block dimension is greater than 1,000 feet. Residential blocks are of sufficient depth to accommodate 2 tiers of lots of minimum depth.

- **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.

  The size, width, depth, shape, orientation and yards of lots are appropriate for the type of development proposed, the use contemplated and future utilities. No panhandle lots are proposed.

Within the MXD District, dimensional requirements are approved by the Planning Commission at Phase II and governed by §1-19-10.500.7(F)(2). Setbacks and building heights must also be consistent with the General Development Standards described in §1-19-10.500.9. The Applicant has proposed the following minimum setbacks and maximum height for the JTP Combined Preliminary Subdivision/Site Development Plan:
Site Development §1-19-3.300.4 (A): Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.

Proposed lighting is directed downward and does not exceed the maximum height of 14’ as permitted by Zoning Ordinance in pedestrian oriented portions of MXD developments. Proposed lighting does not exceed .5 foot-candles as measured from the Site property line.

Proposed setbacks are as previously described and as depicted on the proposed plan. The plans have been reviewed by DUSWM and other agencies with the proposed setbacks, with consideration given to required utility easements, and have received conditional approval.
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.

While changes have been made to the unit mix of this project, the dimensional standards as proposed are consistent with the previously approved Combined Preliminary/Site Development Plan standards (AP13421).

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 south/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.

Proposed streets meet minimum right-of-way and paved surface width requirements as stated in the Frederick County Design Manual or as approved by the County Transportation Engineer. A majority of local streets are proposed with 40’ public rights-of-way with two-way 10’ drive aisles. Wider rights-of-way are provided along major roads, including Lambeth Lane, Forum Square, Imperial Drive, and Village Way. Eight feet wide drive aisles are provided in all alleys. A proposed collector through the site is designated on the Comprehensive Highway Plan. This is provided by the Applicant by a network of collectors that have been platted with adequate right of way and are currently under construction.

The westernmost access to MD180 has changed from a two way entrance/exit to a one way exit only. There are no other changes to the street network from the previously approved plan.

□ **Other Street Requirements §1-16-236**

Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission. In the MXD zone, the length of cul-de-sacs and dead end streets may vary based on the density in the development section or land bay, property shape and size, topography, environmental constraints, lot sizes, 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 §1-16-234 when considering the length and density of streets.
The streets within the proposed development comply with subdivision requirements within this section. No cul-de-sacs are proposed.

□ Transportation and Parking §1-19-3.300.4 (B): The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.

Clearly delineated pedestrian crosswalks, sidewalks, and walkways are provided that allow safe, convenient, and direct access within parking areas, and from parking areas to building entrances. No bicycle parking is required within the scope of this current application. Bicycle parking for the overall residential project has been approved in previous applications and has not been proposed for modification as part of this proposal.

Consistent with the previously approved Plan, the Applicant proposes a combination of on-street and off-street parking to address zoning ordinance requirements. The parking requirements below have been updated based on the changes to unit mix:

Parking Requirements for Phases 2-5:

- Townhouse, Back to Back, Two over Two Dwellings:
  - (1 per dwelling + (½ per bedroom X 3 bedrooms)) = (1 + 1.5) = 2.5 per dwelling
  - 2.5 spaces per dwelling X 465 dwellings = 1162.5 spaces

Total parking spaces required = 1,163 spaces

Parking Provided:

- On-site parking spaces:
  - 18’ TH, B/B, 2/2
    - One car garages = 267 garages X .5 = 133.5 credited spaces
    - One car driveway = 267 driveways = 267 spaces
  - 20’ TH, 22’TH
    - Two car garages = 198 garages = 198 spaces
    - Two car driveways = 198 driveways = 396 spaces

  Total on-site provided = 994 spaces

- Off-site parking spaces:
  - On street and private bays = 286 spaces

Total parking spaces provided = 1,280 spaces

Since the total number of on-site parking provided (994 spaces) is slightly less than the required amount (1,163 spaces), the Applicant has submitted a modification request to allow a reduction in the required spaces. Staff has no objection to the modification given that additional spaces are
provided off-site that bring the overall total to in excess of the requirement. Specifically, an additional 10% of the required number of spaces is provided. Additionally, on-street parking implemented in an “urban format”, as it is in this project, provides benefits in terms of efficiency and traffic calming. Finally, additional parking serving the site is also provided adjacent to the site along Jefferson Commons Way.

The Zoning Ordinance provides for modifications within the MXD zone in 1-19-10.500.9(D). Prescribed parking stall width and depth per § 1-19-6.220 (B)(1) of the Zoning Ordinance for parallel parking spaces is 8’ x 22’. A decrease in width dimensions from 8’ to 7’ feet and a reduction from 22’ in length to 20’ in length is requested by the Applicant for parallel parking along the proposed residential local roads. This was included in the original approval. Staff has no objection to the Applicant’s justification for a decrease in the dimensional requirement for parallel parking spaces along local roads.

PUBLIC FACILITIES AND UTILITIES

□ Public Facilities - Road Adequacy/Water and Sewer Facilities §1-16-12
The proposed subdivision has direct access to an existing minor arterial (Jefferson Pike) at two points, and has adequate sight distance at proposed entrances. Additionally an interchange is being constructed over US15/US340 that will provide additional access to the site. The County Comprehensive Plan classifies Jefferson Pike as an existing Minor Arterial.

The site will be served by United Fire Company located in on Market Street in Frederick City, approximately 3 miles from the site. Emergency response service to the site will utilize I70 and Jefferson Pike, which both meet the requirement of a paved collector or higher classification.

The project will be served by three residential collector roads identified on the plan as Jefferson Commons Way, Jefferson Technology Boulevard, and Jefferson Place Boulevard. These will be paved public streets with varying ROW widths either meeting or in excess of the collector road 60' standard. All other internal and external access public streets meet the minimum of at least 20' in width.

□ Parks §1-16-111
Active and passive park space has been required through the MXD rezoning process. Total open space acreage provided by the Jefferson Technology Park project as a whole (including employment, commercial, and residential uses) is 34.8 acres. This open space includes an active recreational trail system that serves the entire development and connects with the residential area. Additional active park areas are proposed within the residential portion of the Jefferson Technology Park that are distributed throughout the development and not encumbered by stormwater management facilities.

In phases 2-5, the approved plan provides 1.9 acres of active park space in the form of neighborhood parks distributed throughout the development. The proposed plan for phases 2-5 reduces the acreage to approximately 1.3 acres distributed in a similar manner throughout the development.

□ Public Utilities §1-19-3.300.4 (C): Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned

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community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.

The site is to be served by public water and sewer and is classified W-3/S-3. Treated water is supplied by the New Design Water Treatment Plant. Sewage from this site is treated at the Ballenger/McKinney Wastewater Treatment Plant.

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.

  The subdivision design takes advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas (including an open space area along the eastern border), water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing. For example, the proposed street alignment corresponds and connects to the street system of the adjacent Jefferson Park West development to the east, providing a leveraged and more robust circulation network. Additionally, the integration of the development with the adjacent Jefferson Park West 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.

- **Floodplain Developments §1-16-220**
  There is no mapped FEMA 100-year floodplain in Phases 2-5 which are the subject of the proposed plan. Soil type information is provided and appropriate boundaries are shown. Wet soils are present on the site and residential structures are proposed within 100 feet of wet soils. No residential structures with basements are proposed within areas of wet soils.

- **Natural features §1-19-3.300.4 (D):** Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.

  The site is largely deforested with the exception of a valley bordering the eastern edge of the site. The topography of the land within the site is level, with steeper slopes within the valley. Soils within the site are classified as Restricted. As previously noted, a portion of the site contains wet soils.

COMMON AREAS

- **Common Areas §1-19-3.300.4 (E):** If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.

  The plan provides a central community/recreational space composed of programmed uses, such
as courts and fields, as well as an open, multipurpose field. Additionally, several parks are distributed throughout the Site. Staff worked with the applicant to ensure there are both active and passive areas, including the addition of a ‘central green’ to the plan as shown in prior concepts.

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. Phases 2-5 of the proposed project includes 465 dwelling units and therefore would be required to provide 59 MPDU’s. For the 825 dwellings proposed for the entire project, 104 MPDU’s are required. General note 26 on sheet 1 of the Preliminary Plan states that the Applicant will pay the fee in lieu of construction for the MDPU’s.

**Stormwater Management – Chapter 1-15.2:**
The project has previously approved stormwater management plans currently in effect.

**APFO – Chapter 1-20:**
- Schools: This site development plan increases the intensity of student yield. As a result it was re-tested for school adequacy. The new mix in housing results in yields of 154, 54 and 58, elementary, middle and high school students, respectively, the test was released by FCPS on March 3, resulting in a failure at the Crestwood Middle School, as was the case in the last APFO approval in 2011. An amended LOU, which is attached, reflects the results of the March 2014 re-test for school adequacy.
- Water/Sewer: No change to the November 2012 LOU
- Roads: No change to the November 2012 LOU

**Forest Resource – Chapter 1-21:**
A Final Forest Conservation plan was approved in 2006. The forest easements were recorded in 2008 and remaining mitigation was provided via the payment of fee-in-lieu in 2007. The site contained 8.06 acres of forest, of which 6.51 acres was preserved. In addition, 8.09 acres of new forest is to be planted within the recorded FRO easements.

**Historic Preservation – Chapter 1-23:**
The Harry Howard Farmstead (MIHP # F-3-228) occupied the center portion of what was once a 108-acre dairy operation. The collection of nine outbuildings, plus the house, was a representative example of an early 20th century Maryland dairy farm and was found to be eligible for inclusion on the National Register of Historic Places. A report produced by R. Christopher Goodwin and Associates in April 2006 documented the farmstead in preparation for the Jefferson Technology Park development. The applicants sought, and were granted a demolition permit for all of the farmstead buildings in May 2007 and the structures were removed shortly thereafter. No further archaeological study or preservation action was recommended by the Army Corps of Engineers in their analysis of the historic resources in the vicinity as part of the Section 106 consultation process for the development.
Summary of Agency Comments

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<th>Other Agency or Ordinance Requirements</th>
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RECOMMENDATION

Staff has no objection to conditional approval of the Combined Preliminary Subdivision/Site Development Plan. If the Planning Commission conditionally approves the Combined Preliminary Subdivision/Site Development Plan, the Preliminary Plan will be valid for the lesser of a period of five (5) years from the date of Planning Commission approval or the period of adequate public facilities ordinance approval for the Preliminary Plan, and the Site Development Plan will be valid for a period of three (3) years from the date of Planning Commission approval. APFO approval is valid until December 14, 2025. Therefore, the Preliminary Plan will expire on October 8, 2019 and the Site Plan will expire on October 8, 2017.

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 conditions are met:

1. Address all agency comments as the project proceeds through to completion.
2. Planning Commission approval of the proposed setbacks and height as depicted on the Combined Preliminary/Site Plan.
3. Planning Commission approval of the parking modification request to allow more on-site parking spaces than is required by Zoning Ordinance, to allow a parallel parking space reduction to 20’ in length rather than the standard 22’, and to allow a parallel parking space stall width of 7’ instead of the required 8’.
4. Execute and comply with all the requirements of the amended LOU to address the increase in student intensity prior to final approval of the Combined Preliminary/Site Development Plan.
5. Tree separation and conflicts with water and sewer lines shall be further addressed at the IP stage. Revisions to address this issue may include, but not be limited to, realignment of water/sewer lines and species of trees.

6. Condo document for use of single domestic water and sewer lateral for back-to-back condos shall be approved by the County prior to final site plan approval.

**PLANNING COMMISSION ACTION**

**MOTION TO APPROVE**

I move that the Planning Commission **APPROVE** Combined Preliminary Subdivision/Site Development Plan Subdivision S-1136 and Site Plan SP-06-07 Jefferson Place at Jefferson Technology Park **with conditions** as listed in the staff report and with approval of requested modifications for the proposed 465 dwellings, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
April 18, 2013  
Revised: May 13, 2013  
Revised: July 1, 2013  
Revised: August 6, 2014  
Revised: September 2, 2014

Frederick County  
Division of Permitting and Development Review  
Attn: Mr. John Dimitriou  
30 North Market Street  
Frederick, MD 21701

Re: Jefferson Tech Park Improvements  
File # SP0607, Project Number 13421  
BCG Project # 5705-01-003  
Parking Modification Letter

Dear Mr. Dimitriou,

We are formally requesting a parking modification to:

1. Allow more parking spaces as required under Section 1-19-6.200; and
2. Allow parallel parking spaces to be 20’ in length vs. 18’ in length and 7’ in width.

Per our July 23, 2014 and August 26, 2014 Technical Advisory Committee (TAC) meetings staff requested we resubmit the Parking Modification Letter for the revised Combined Preliminary / Site Plan for Phases 2 through 5 to allow for the additional parking spaces in excess of the required 1,995 number. The revised plans have been modified in accordance with parking comments as received throughout the various plan revisions. We believe that all comments have been addressed appropriately and look forward to your response to this parking modification request. The parking chart located on the cover sheet has been broken down to reflect the number of spaces occurring within Phase1 and spaces occurring within Phases 2 through 5:

As requested with August, 2013 Combined Preliminary / Site Plan approval, additional parking spaces have been placed throughout the project. The total allowed number of spaces required by Section 1-19-6.200 for this project is 1995 as noted on the cover sheet. Currently the plan proposes 2,452 parking spaces as recognized by the Zoning Ordinance. There are an additional 418 garage spaces that can be utilized for parking however not recognized by the ordinance. This provides a grand total of 2,870 spaces provided on site averaging 3.47 spaces per unit.

Parallel parking spaces occur through the project located on both Residential local and secondary streets. The requested size is 20’ in length and 7’ in width.

Bowman Consulting Group, Ltd.  
2530 Riva Road • Suite 200 • Annapolis, Maryland 21401  
Phone: 410.224.7590 • Fax: 410.224.7592 • bowmanconsulting.com
As well we have included a shared parking sheet within the Combined Preliminary / Site Plan set demonstrating the unit locations that can benefit from the three (3) parking lots with the shared opportunity. The parking exhibit sheets (see sheets 49A and 49B) demonstrates the availability of on and off street parking within the various quadrants of the community. Each quadrant boundary was established utilizing the Zoning Ordinance approximate 500’ distance.

Please accept this parking modification request to exceed the 2,010 required spaces. If you have any questions or concerns please contact us via email at dcorum@bowmaneg.com or by phone at 410-224-7590.

Thank you.

Sincerely,
Bowman Consulting Group, Ltd.

Donavon Corum, RLA, AICP, LEED AP
Planning Director
FIRST AMENDMENT TO THE RESTATED ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING JEFFERSON TECHNOLOGY PARK MXD PHASE II PLAN

This First Amendment ("First Amendment") to Adequate Public Facilities Letter of Understanding, Jefferson Technology Park MXD, dated July 21, 2008, as amended by the Amended and Restated Adequate Public Facilities Letter of Understanding, Jefferson Technology Park, MXD Phase II Plan #S-1136, dated November 29, 2012, (referred to herein as "Letter"), is made this ______ day of ____________, 2014, by and between the Frederick County Planning Commission ("Commission") and JTPA Investments, LLC, a Maryland limited liability company and successor in interest to Jefferson Park Development, Inc. ("Developer").

Explanatory Note: This First Amendment is made for the purpose of amending Section II.4 of the Letter, due to the Developer proposing a revision of the unit mix of the residential portion Project from 602 multifamily units and 223 townhouse units; to 327 townhouse units, 270 2-over-2/back-to-back units, and 228 multifamily units.

Therefore, Letter is hereby amended as follows:

1. The Explanatory Note set forth above is incorporated into the Letter as if fully restated herein.

2. The first paragraph of Section II.4 is replaced with the following paragraph:

   The Project is approved for 327 townhouse units, 270 2-over-2/back-to-back units, and 228 multifamily units (provided that the unit mix may be revised in the future in accordance with the applicable requirements of the County Code, and in accordance with the DRRA). Based on this unit mix, the Project failed to pass the school adequacy test at the middle school level. Accordingly, the Developer has elected the option to mitigate the impacts to school capacity by paying the School Construction Fee for the middle school level in accordance with the criteria set forth in Section 1-20-62 of the APFO (and in accordance with the DRRA).

Except as herein modified, the Letter shall remain unchanged and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]
WITNESS: JTPI INVESTMENTS, LLC, a Maryland limited liability company

By: Jefferson Park Development, LLC, its Sole Member

By: Keyser-Kline JTP, LLC, its Managing Member

By: Bradford S. Kline & Associates, LLC, Member

BY: William H. Kinneer, Jr.
Name: William H. Kinneer, Jr.
Title: Vice President

BY: [Signature]
Name: [Signature]
Title: [Title]

FREDERICK COUNTY PLANNING COMMISSION

BY: Dwaine E. Robbins, Chairman

ATTEST:

Gary Hessong, Director
Department of Permits & Inspections

Date

Date