TITLE: Woodbourne Manor.

FILE NUMBER: S-962, AP 18184 (APFO 18185, FRO 18186)

REQUEST: Preliminary Plan Approval
The Applicant is requesting re-approval of the previously approved Preliminary Plan (AP13374), which was approved by the Planning Commission on June 12, 2013 and is due to expire June 12, 2018. This request does not involve any changes to the approved plan for 194 R-3 residential single family lots and 3 AG Zoned lots on a 137.93-acre site. The re-approval request would extend the plan approval until February 21, 2019, which is the date of expiration of the current APFO approval associated with this development.

PROJECT INFORMATION:
ADDRESS/LOCATION: Northeast quadrant of MD 180 (Jefferson Pike) and MD 383 (Broad Run Rd.).
TAX MAP/PARCEL: Map 84, Parcel 120
COMP. PLAN: Low Density Residential and Agriculture
ZONING: R-3 Residential and Agriculture
PLANNING REGION: Brunswick
WATER/SEWER: W-4, S-4 (southern half of R-3 zoned property); W-5, S-5 (remaining R-3 area); NPS (Ag zone)

APPLICANT/REPRESENTATIVES:
APPLICANT: Jefferson Valley, LLC
OWNER: Jefferson Valley, LLC
SURVEYOR/ENGINEER: Fox and Assoc.
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Jerry Muir, Principal Planner I

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
EXHIBITS
1- Preliminary Plan
2- 2013 Staff Report
3- Current APFO LOU
ISSUE
The Applicant is requesting Preliminary Plan re-approval for 194 R-3 residential single family lots and 3 Agricultural zoned lots on a 137.93-acre site. The site contains 86.37 acres of R-3 zoning and 51.56 acres of Agricultural zoning. The current approved Preliminary Plan expires June 12, 2018 and the approved APFO LOU is valid until February 21, 2019.

BACKGROUND
This property has been the subject of several previous subdivision applications.

- November 2005 - a Preliminary Plan for an all age community of 199 lots failed due to APFO school inadequacies.
- November 15, 2006 - a Preliminary Plan was approved by the FCPC for a 175 unit age restricted community.
- February 2007 - a Preliminary Plan was approved by the FCPC for a non-age restricted community of 181 lots. Twelve additional lots were shown on this plan to illustrate the ultimate design but were not approved as part of the 2007 plan. At this time, the property consisted of Village Center (VC), R-3, and Agricultural (AG) zoning.
- March 2013 – the Preliminary Plan known as Woodbourne Manor, consisting of 194 SFDs, 3 agriculturally zoned out-lots and a large 22.6 acre remainder property was approved by the Planning Commission. The final APFO agreements were also approved and remain valid until February 21, 2019 or until the Preliminary Plan expires, whichever comes first.

ANALYSIS
Seventy-six of the 194 approved single family lots are currently platted along Puller Drive, Boyington Drive, Foss Way, and Basilone Lane. Plats have been submitted to the County for an additional 35 SFDs on Carswell Place and Prussman Drive, including the HOA open space parcel. The three agricultural out-lots and the 22.6 acre remainder portion also have plats currently under review.

The original approval required several improvements to the existing water system in Jefferson. Five well out-lots have been platted and their waterlines have been completed to tie into the existing system. The waterline extensions to serve this development, including the line along Route 180, have also been completed. A contract for the additional water tank has been executed between the developer and Frederick County.

Road improvements to Route 180 and the intersection of Lander Road have also been completed and accepted by the State Highway Administration. SHA has granted an extension to the required road improvements along Route 383, Broad Run Road.

As noted above, the APFO letter of understanding remains valid until February of 2019, or as long as the Preliminary Plan remains valid, whichever comes first.

All Forest Resource requirements for the development have been met. An MPDU agreement has been executed and MPDU payments-in-lieu are being assessed with each building permit application.
Summary of Agency Comments

<table>
<thead>
<tr>
<th>Other Agency or Ordinance Requirements</th>
<th>Comment</th>
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<tbody>
<tr>
<td>Development Review Planning:</td>
<td>Conditional Approval  Must meet all agency and FCPC comments and conditions.</td>
</tr>
<tr>
<td>Health Dept.</td>
<td>Conditionally Approved. Adequate water and sewer taps must be available.</td>
</tr>
<tr>
<td>Office of Life Safety</td>
<td>Approved</td>
</tr>
<tr>
<td>DPDR Traffic Engineering</td>
<td>Approved.</td>
</tr>
</tbody>
</table>

Recommendation

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. Should the FCPC grant approval of this application (S-962, AP 18184), 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 Plan approval will expire on February 21, 2019, which is the date on which APFO approval expires.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission Approve S-962 (AP 18184) with conditions as listed in the staff report for the proposed preliminary plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
TITLE: Woodbourne Manor.

FILE NUMBER: S-962, AP 13374 (APFO 13412, FRO 13375)

REQUEST: Preliminary Plan Approval
The Applicant is requesting Preliminary Plan approval for 194 R-3 residential single family lots and 3 AG Zoned lots on a 137.93-acre site.

PROJECT INFORMATION:
ADDRESS/LOCATION: Northeast quadrant of MD 180 (Jefferson Pike) and MD 383 (Broad Run Rd.).
TAX MAP/PARCEL: Map 84, Parcel 120
COMP. PLAN: Low Density Residential and Agriculture
ZONING: R-3 Residential and Agriculture
PLANNING REGION: Brunswick
WATER/SEWER: W-4, S-4 (southern half of R-3 zoned property); W-5, S-5 (remaining R-3 area); NPS (Ag zone)

APPLICANT/REPRESENTATIVES: [as applicable]
APPLICANT: Jefferson Valley, LLC
OWNER: Jefferson Valley, LLC
SURVEYOR/ENGINEER: Fox and Assoc.
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Wilkins

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBITS
1- Preliminary Plan
2- Parking Modification Request
3- Amended APFO Letter of Understanding
ISSUE
The Applicant is requesting Preliminary Plan approval for 194 R-3 residential single family lots and 3 Agricultural zoned lots on a 137.93-acre site. The site contains 86.37 acres of R-3 zoning and 51.56 acres of Agricultural zoning.

BACKGROUND
This property has been the subject of several previous subdivision applications.
- November 2005 - a Preliminary Plan for an all age community of 199 lots failed due to APFO school inadequacies.
- November 15, 2006 - a Preliminary Plan was approved by the FcPc for a 175 unit age restricted community.
- February 2007 - a Preliminary Plan was approved by the FcPc for a non-age restricted community of 181 lots. Twelve additional lots were shown on this plan to illustrate the ultimate design but were not approved as part of this plan. At this time the property consisted of Village Center (VC), R-3, and Agricultural (AG) zoning.

Current Application: Since the last Preliminary Plan was approved, the VC portion of the property has changed to R-3 zoning, and a portion of the AG has been changed to R-3. The proposed street and lot layout is essentially the same as the previously approved plans, with the exception of added lots and streets in the portion of the property that changed from Ag to R-3. The duplexes that were proposed along MD 180 in the previous VC zoned portion of the property have been replaced with single family detached units. Previous plans proposed to meet the MPDU requirements by constructing MPDUs on site. The current application proposes to utilize the MPDU payment-in-lieu option.
The R-3 portion of this application is being reviewed as an R-3 single family residential subdivision under §1-19-6.100 of the Zoning Ordinance and is utilizing the permitted Moderately Priced Dwelling Unit (MPDU) reduced bulk standards under §1-19-8.620 of the Zoning Ordinance. The three proposed lots in the Ag zoned portion of the property are being reviewed under §1-19-7.300 of the Zoning Ordinance.

**Existing Site Characteristics**

The 137.93 acre site is unforsted open ground. The site adjoins previously recorded residential lots to the east, adjoins property zoned R-3 to the south and west, and adjoins VC zoned property near the southeast corner of the property. The Ag portion of this property adjoins Ag zoned parcels to the north and northwest.
A. ZONING ORDINANCE REQUIREMENTS

1. Specific Use Regulations, Moderately Priced Dwelling Unit (MPDU) §1-19-8.620:

§1-19-8.620.1: The purpose of the MPDU program is to substantially increase the county’s supply of moderately priced housing units as a natural function of the development process. This program permits an increase in density above the total number of dwelling units permitted by the standard method of development. It also permits a reduction in certain area and dimensional requirements.

§1-19-8.620.2: The provisions of this division shall apply to all residential developments consisting of 25 units or more on public water and sewer. Residential developments consisting of 25 units or more are required to provide no less than 12.5% of the total units as MPDUs. This includes all developments in VC, R-1, R-3, R-5, R-8, R-12, R-16 residential districts, MX, MXD, and PUD districts.

§1-19-8.620.3: Density bonuses ranging from 1% to 22% with a corresponding increase in the MPDU requirement from 12.5% to 15% are permitted in R-1, R-3, R-5, R-8, R-12, and R-16 residential districts, VC, MX, MXD, PUD, and co-housing.

This application is subject to the MPDU requirements as it is zoned R-3 and proposes more than 25 lots. The Applicant is required to provide the minimum 12.5% MPDU requirement. A total of 194 lots are proposed within the R-3 zone, requiring 24 MPDU’s (194 x 12.5% = 24.25).

§1-19-8.620.5: Lot Area, Width, and Yard Measurements: R-3 Residential Single Family

<table>
<thead>
<tr>
<th></th>
<th>Standard Min. Lot Size</th>
<th>MPDU Min. Lot Size</th>
<th>Standard Min Lot Width</th>
<th>MPDU Min Lot Width</th>
<th>Standard Min Front BRL</th>
<th>MPDU Min Front BRL</th>
<th>Standard Min Side BRL</th>
<th>MPDU Min Side BRL</th>
<th>4’ with 10’ bldg separation</th>
<th>Standard Min Rear BRL</th>
<th>MPDU Min Rear BRL</th>
<th>Standard Max Bldg Height</th>
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<tr>
<td>Single family</td>
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<td>4,000</td>
<td>80</td>
<td>40</td>
<td>30</td>
<td>10</td>
<td>10</td>
<td>4’ with 10’ bldg separation</td>
<td>30</td>
<td>25</td>
<td>30</td>
<td>40</td>
<td></td>
</tr>
</tbody>
</table>

The typical (non-MPDU) R-3 bulk standards, as well as the permitted MPDU bulk standard reductions (shown in bold), are illustrated in the table above. The Applicant is proposing to use the reduced lot size, lot width, and building restriction lines permitted in R-3 MPDU developments.

All of the proposed lots meet the minimum 4,000 square foot lot size requirement. The “neo-traditional” lots (situated along MD 180) are typically 4,830 square feet, with a minimum lot size of 4,200 square feet. The remaining R-3 lots range in size from 7,150 to 8,800 square feet. The average lot size for all the R-3 zoned lots is 8,936 square feet. The required front, rear, and side setbacks are shown on the plan and meet the Zoning Ordinance requirements.

2. Agricultural District §1-19-7.300:
The three proposed Ag zoned lots are permitted by the Zoning Ordinance. No further subdivision of the remainder parcel is permitted unless the property is rezoned. Two of these lots are 5.00 acres in size, Lot 3 is 18.80 acres, and the remainder is 22.60 acres. The Ag zoned portion of this property is outside of the water and sewer service area, and the recorded Water Recharge Easement prohibits drilling private use wells. Therefore the Applicant has included an area of R-3 zoned land that is within the water and sewer service area. The houses for the Ag lots will be constructed within the R-3 portion of the lots and will be served by public water and sewer. The lots meet the minimum building restriction lines for the Ag zone.

3. Parking Space Requirements and Dimensions §1-19-6.220:

The Zoning Ordinance requires two (2) parking spaces for each single family dwelling unit.

The Neo-Traditional product along MD 180 is rear-alley loaded and will contain either a parking pad or a garage. At least one on-lot space is provided for each Neo-Traditional dwelling. In addition, 31 parking spaces will be provided along MD 180. The 22 Neo-Traditional dwellings require a minimum of 44 parking spaces. A total of 59 parking spaces are provided.

The 20 single family lots along both sides of Puller Drive are rear-alley loaded and will contain either a parking pad or a garage. A minimum of one space is provided on each lot and 41 parking spaces are provided along Puller Drive. A total of 40 parking spaces are required. The Applicant is providing 61 spaces.

The remaining 152 R-3 zoned lots will be developed with a two-car garage and a parking pad that accommodates two vehicles. A total of 304 parking spaces are required. A two-car garage is counted as one space. Therefore 3 parking spaces are provided for each dwelling. A total of 456 on-lot parking spaces are provided.

Parking for the open space/Community Park is provided along north and south fronting streets. A total of 43 spaces are provided.

The Applicant has submitted a modification request for approval of the extra parking spaces in accordance with §1-19-6.220 of the Zoning Ordinance (see Exhibit 2). Staff supports the additional parking spaces. Staff finds that many Neo-Traditional and small-lot developments in the County suffer from inadequate parking. In addition, a portion of the off-street parking is needed to meet the on-site parking for certain units as described above.

4. Waterbody Buffer Requirements §1-19-9.400:

The Zoning Ordinance requires a minimum 100 foot buffer from the banks of streams and associated wetlands and floodplains. A greater buffer is required when steep or moderate slopes are adjacent to the waterbody. The Applicant has provided a 100 foot buffer in accordance with the regulations. With the exception of a utility easement and SWM facilities, the waterbody buffer is being planted with native trees and shrubs as part of the FRO requirements.

Zoning Ordinance Requirements Findings/Conclusions

The proposed subdivision will meet all Zoning Ordinance requirements.

B. SUBDIVISION REGULATION REQUIREMENTS

1. Land Requirements §1-16-217 (A): The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the Woodbourne Manor Preliminary Plan

Woodbourne Manor Preliminary Plan
June 12, 2013
Page 5 of 11
The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements.

2. Land Requirements §1-16-217 (B): The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.

The site contains no unique topography, soils, or wooded areas. A stream and wetland area runs through the center of the site. Except for a road crossing and a utility easement, the stream, wetlands and the required 100 foot waterbody buffer is being preserved, planted with trees, and placed under a Forest Conservation Easement. The proposed development is similar to the adjoining properties land use.

3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b): Soil types: (a) 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. (b) If residential lots are proposed within "wet soils" then a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the plan that all construction shall be in conformance with the geotechnical report.

Wet soils are located primarily along the stream corridor, with a small finger reaching southward in the vicinity of proposed Puller Alley. A detailed soils study and report were done in 2004, which found 19 lots to be impacted by the wet soils. The Preliminary Plan notes that these lots will be developed in accordance with the Frederick County wet soil requirements (see note 4).

4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b): For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.

The subdivision will access Jefferson Pike (minor arterial) and Broad Run Road (collector), both of which meet or exceed the 20 foot travelway width requirement. Lot access meets the Subdivision Regulations requirements.

The internal street network consists of primarily public streets, with limited private streets and alleys. All streets are designed to closed-section standards. All private streets will be owned and maintained by the HOA.

Through-movement street patterns are proposed throughout the development, with the exception of three dead-end segments;

- **Casamento Place** is approximately 400 feet in length and is designed as a short, private loop road that serves 16 lots. Twelve of these lots have road frontage along Jefferson Pike and utilize Casamento Place for rear-loaded garages. This street will be maintained by the HOA.
- **Carswell Place** ends at a 475 foot turnaround. The right of way for this public street runs to the adjoining property line, facilitating a possible future street connection should the adjoining property develop in the future.
• Damato Court is a 300 foot long small loop road serving 8 lots. This street will be maintained by the HOA.

Buckley Drive is shown on the Comprehensive Plan as a collector road that connects Broad Run Road to Old Middletown Road. The Applicant is constructing the road from Broad Run Road to the Hallein Property. The Hallein Property has an approved Preliminary Plan and is dedicating, but not constructing, the remaining portion of Buckley Drive. Although Buckley Drive is shown on the Comprehensive Plan as a collector status roadway (60 foot right of way), the Applicant is proposing a 50 foot right of way. Planning Staff agree that this road is an extremely low-order collector road. Because of the density of this project, the inclusion of a rotary (round-about) that slows traffic speed, and providing direct lot access to this street, County Staff has no objections to the proposed 50 foot right of way width. Staff notes that the design of Buckley Drive has not changed from the previously approved Preliminary Plans.

The Applicant has submitted a request for modification of the Frederick County Streets and Roads Manual, Section 2.01.16 to reduce the parking lane width from 8 feet to 7 feet (see Exhibit 2). Mountable curb is being provided where parallel parking is provided to allow for ease of maneuvering. This reduction of parking lane width was suggested by the County Traffic Engineer to help accommodate additional space within the right-of- way for infrastructure should the need arise during the Improvement Plan phase of the project.

5. 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 property has three water and sewer classifications;
• Lots 1-152 and 190-194 fall within the W-4, S-4 categories.
• The remaining R-3 lots fall within the W-5, S-5 categories.
• The AG zoned lots have No Planned Service.

Per the Water and Sewer Rules and Regulations, properties must have a water and sewer classification of a “4” or less to connect to public facilities. An application to amend the water and sewer classification must be filed for the W-5, S-5 portion of the property. Preliminary Plan approval is required prior to seeking the upgraded water and sewer classification.

Lots 153-160 and 182-189 are future lots and cannot be developed until DUSWM approves the required water appropriations.

The AG zoned lots are outside of the service area. Therefore, home construction must be within the R-3 zoned portions of these lots.

While the public sewer and water facilities are currently adequate or will be adequate in the future to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. 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 regulations, including but not limited to §1-16-106 of the Frederick County Subdivision Regulations.

6. Parks §1-16-111:

The Subdivision Regulations require 726 square feet of parkland for each dwelling unit in the R-3 zone. Up to 50% of this land may be steep slopes, streams, or floodplain. The remaining 50% must be “dry ground” with less than 5% slope.

This development requires 3.23 acres of parkland (194 lots x 726 square feet), of which 1.62 acres must be dry ground. The Applicant is providing a total of 27.90 acres, of which 8.84 acres is dry ground for Woodbourne Manor Preliminary Plan June 12, 2013 Page 7 of 11
active recreation, 13.60 acres is within the stream corridor, and 5.46 acres of small open spaces are provided throughout the development.

The Comprehensive Plan shows a Community Park symbol on the Ag zoned portion of the property. In 2006 the Frederick County Land Acquisition Office indicated that the County was not interested in pursuing this site. The Planning Commission approved the two previous Preliminary Plans on this property without the community park. At this time a Water Recharge Easement is recorded across the Ag zoned portion of the property, which would practically prohibit the development of a public recreation facility.

**Subdivision Regulation Requirements Findings/Conclusions**

The project will meet all Subdivision Regulation requirements once all agency comments and conditions are complied with.

**A. Moderately Priced Dwelling Unit, §1-6A**

This application is subject to the MPDU requirements as it is zoned R-3 and proposes more than 25 lots. The Applicant is required to provide the minimum 12.5% MPDU requirement. A total of 194 lots are proposed within the R-3 zone, requiring 24 MPDU’s (194 x 12.5% = 24.25).

**§1-6A-5.1(A):** In lieu of the option specified under § 1-6A-5, an applicant may elect to pay a "per dwelling unit payment in lieu" calculated as described below and included in a written MPDU agreement.

The "payment in lieu" is calculated by multiplying $17,500 by the number of required MPDU’s. Therefore the "payment in lieu" is $424,375.00. The "payment in lieu" breakdown per lot is $2,187.50, which must be paid at the time of building permit application for each lot.

**§1-6A-5.1(C-D):** (C) The MPDU agreement must be signed by the applicant, any other parties having an interest in the property and all other parties whose signatures are required by law for the effective and binding execution of deeds conveying real property. The MPDU agreement must be executed in a manner that will enable the agreement to be recorded in the land records of the county. Partnerships, associations or corporations shall not evade this chapter through voluntary dissolution. The MPDU agreement shall run with and bind the land and all subsequent owners of the land. (D) An MPDU agreement that complies with this section must be approved by the Director and the County Attorney and recorded in the land records prior to signature and final approval of the site plan, preliminary plan or Phase II plan for the proposed development.

An MPDU agreement must be executed prior to final approval of this Preliminary Plan.

**B. OTHER APPLICABLE REGULATIONS**

**Stormwater Management – Chapter 1-15.2:** Stormwater management plans and improvement plans were approved for the area between MD 180 and the HOA community park with the previous Preliminary Plan approval. An administrative waiver from the new 2007 Regulations was granted in 2010.

The area north of the HOA Community Park has been significantly redesigned since the last Preliminary Plan and SWM approvals. Stormwater management for this section must be provided in accordance with the Maryland SWM Act of 2007. SWM design will be reviewed with the future submission of SWM concept, development, and improvement plans.
**APFO – Chapter 1-20:** This subdivision is subject to meeting APFO requirements for schools, roads, public water, and public sewer. The previously approved Letter of Understanding (LOU) is being amended as part of this amended Preliminary Plan application.

The following areas are addressed in the Amended APFO Letter of Understanding (LOU) to be signed by the Applicant and the Planning Commission as a condition of approval of this preliminary plan. See attached Exhibit #3.

1. **Schools:** **Attendance Areas: Valley ES, Brunswick MS, Brunswick HS.** The Project is projected to generate 44 elementary school students, 24 middle school students and 32 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test passes at all levels.

2. **Road Improvements:** The Project will generate 148 am and 195 pm weekday peak hour trips, which is less than the previously approved 149 am and 196 pm weekday peak hour trips, as noted in the January 16, 2007 traffic impact analysis (TIA) by The Traffic Group; therefore, because there is no increase in trip intensity, no APFO testing is required and no additional TIA was performed.

   In addition to site access requirements to be permitted by the State Highway Administration (SHA), the Developer is required to construct or cause to construct an additional approach lane on Lander Road at MD 180, as required by SHA. This improvement shall be guaranteed (permitted by SHA) prior to the issuance of the 42nd building permit and open to traffic prior to the issuance of the 81st building permit.

3. **Public Water & Sewer:** The Property has water and sewer classifications of W-4 (Dev), S-4 (Dev); S-5, W-5; and No Planned Service (NPS). Certain improvements are needed to ensure that water and sewer facilities are adequate.

   **Water:** Developer shall construct those water system improvements required by the Frederick County Division of Utilities and Solid Waste Management (DUSWM) to serve the Project. Water improvements may include but not be limited to: development of water wells, extension of raw and finished water piping, construction of an elevated water storage tank, and upgrade of the existing Copperfield Water system. The Maryland Department of the Environment (MDE) has issued Water Appropriation & Use permits FR2004G003(02) and FR2004G103(2) for this project. Lots 153-160 and 182-189 shall not be platted until DUSWM determines that adequate water supply and appropriation exists based upon actual water usage. If the DUSWM finds the water supply to be inadequate, Applicant shall obtain additional appropriation from MDE on the County’s behalf.

   **Sewer:** The Jefferson wastewater conveyance and treatment system is deemed adequate to serve the project at this time. However, capacity is available on a first come, first served basis.

The Applicant is aware 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 is 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 Sec. 1-16-106 of the Frederick County Subdivision Regulations.

The existing APFO approval expires on February 21, 2019. This is the original APFO expiration date (February 21, 2012), plus the two- 3 year extensions granted by Ordinance 09-23-527 (2009 Extension) and Ordinance 11-03-569 (2011 Extension), plus a 1 – year extension granted by the

Woodbourne Manor Preliminary Plan
June 12, 2013
Page 9 of 11
**Forest Resource Ordinance – Chapter 1-21:** A Preliminary Forest Conservation plan has been submitted and is nearing approval. The site contains no forest. The Applicant proposes to meet the FRO requirements by planting and placing under easement 9.75 acres of forest on-site and by purchasing 8.29 acres of forest banking credits. FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.

### Summary of Agency Comments

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<th>Other Agency or Ordinance Requirements</th>
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<tr>
<td>Development Review Engineering (DRE):</td>
<td>Conditionally Approved. SWM design shall be reviewed with submission of combined SWM concept/ development/ Improvement plan.</td>
</tr>
<tr>
<td>Development Review Planning:</td>
<td>Hold. Must meet all agency and FcPc comments and conditions.</td>
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<tr>
<td>State Highway Administration (SHA):</td>
<td>Conditionally Approved. SHA's conditional approval is contingent upon the engineer submitting five sets of revised plans and point by point response to any outstanding previous comments. SHA may also request a revision to the TIS based on the time that has elapsed since the TIS approval. An access permit will ultimately required for all work within SHA r/w.</td>
</tr>
</tbody>
</table>
| Div. of Utilities and Solid Waste Mngt. (DUSWM): | Conditionally Approved. Per the Water and Sewer Rules and Regulations, properties must have a water and sewer classification of "4" or less to enable connection to public water and sewer. An application to amend the Water and Sewer plan must be filed.  
Add the following notes:  
1) Location of future houses on Ag. lots 1, 2, and 3 must be within the Water/Sewer service area (shown as W-5, S-5 on current Plan) in order to connect to public water/sewer service.  
2) Add note addressing impervious surface limitations and prohibitions on individual, private wells within the groundwater recharge easement area. |
| Health Dept.                          | Conditionally Approved. Adequate water and sewer taps must be available. For any private septic on the property, they will need to be abandoned under health Dept. supervision. |
| Office of Life Safety                 | Approved |
| DPDR Traffic Engineering              | Approved |
| Historic Preservation                 | Conditionally Approved. Prior to demolition of the Smith Farmstead (F-2-111), the applicant shall demonstrate that the NR Eligibility study conducted by Goodwin & Associates has been forwarded to the Maryland Historical Trust. |

### RECOMMENDATION

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. Should the FcPc grant approval of this application (S-962, AP 13374), including approval of the APFO (AP 13412) and approval of the parking space modification (lane width and extra parking spaces), 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. FRO mitigation must be provided prior to lot recordation, grading permit application, or building permit application, whichever is applied for first.
4. An MPDU agreement must be executed prior to final approval of this Preliminary Plan.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission APPROVE S-962 (AP 13374) with conditions as listed in the staff report for the proposed preliminary plan, and approval of the APFO (AP 13412) and the parking space modification (lane width and extra parking spaces) based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
AMENDED AND RESTATED

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Woodbourne Manor

Preliminary Plat #S-962 AP #13412

In General: The following Amended and Restated Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Jefferson Valley, 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 Woodbourne Manor Preliminary Plan of Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The original Adequate Public Facilities Letter of Understanding, Woodbourne Manor, Lots #1-181 (Jefferson Valley, LLC), dated February 6, 2008 (the "Original Letter") is being revised to account for an increase in school student generation intensity resulting from a change in dwelling unit type, to update water and sewer requirements for an increase in total units, and to specify off-site road improvement timing which was not discussed in the Original Letter.

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 136.83 +/- acre parcel of land, which is zoned Low Density Residential (R-3) and Agriculture, and located on the north side of MD 180 between MD 383 and Old Middletown Road. This APFO approval will be effective for development of 198 new single family detached homes, which is shown on the preliminary plat for the above-referenced Project, which was conditionally approved by the Commission on June 12, 2013.

Schools: The Project is projected to generate 44 elementary school students, 24 middle school students and 32 high school students. Based on these numbers and
considering enrollment projections from pipeline development, the school adequacy test passes at all levels.

**Water and Sewer:** The Property has water and sewer classifications of W-4 (Dev), S-4 (Dev); S-5, W-5; and No Planned Service (NPS). Certain improvements are needed to ensure that water and sewer facilities are adequate.

**Water:** Developer shall construct those water system improvements required by the Frederick County Division of Utilities and Solid Waste Management (DUSWM) to serve the Project. Water improvements may include but not be limited to: development of water wells, extension of raw and finished water piping, construction of an elevated water storage tank, and upgrade of the existing Copperfield Water system. The Maryland Department of the Environment (MDE) has issued Water Appropriation & Use permits FR2004G003(02) and FR2004G103(2) for this project. Lots 153-160 and 182-189 shall not be platted until the DUSWM determines that adequate water supply and appropriation exists based upon actual water usage. If the DUSWM finds the water supply to be inadequate, Applicant shall obtain additional appropriation from MDE on the County's behalf.

**Sewer:** The Jefferson wastewater conveyance and treatment system is deemed adequate to serve the project at this time. However, capacity is available on a first come, first served basis.

The Applicant is aware 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 is 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 Sec. 1-16-106 of the Frederick County Subdivision Regulations.

**Road Improvements:** The Project will generate 148 am and 195 pm weekday peak hour trips, which is less than the previously approved 149 am and 196 pm weekday peak hour trips, as noted in the January 16, 2007 traffic impact analysis (TIA) by The Traffic Group; therefore, because there is no increase in trip intensity, no APFO testing is required and no additional TIA was performed.

In addition to site access requirements to be permitted by the State Highway Administration (SHA), the Developer is required to construct, or cause to be constructed, an additional approach lane on Lander Road at MD 180, as required by SHA. This improvement shall be guaranteed (permitted by SHA) prior to the issuance of the 42nd building permit for the Project and shall be open to traffic prior to the issuance of the 81st building permit for the Project.

**Period of Validity:** APFO approval for the Project expires on February 21, 2019; which is 6 years after the original end date due to two 3-year extensions and a 1 – year extension granted by the Circuit Court of Frederick County, Maryland Joint Consent Order dated January 28, 2009, Case No. 10-C-08002657.
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: Jefferson Valley, LLC

By: [Signature] Date: 06/05/13
Name: Marvin E. Ausherman, President

FREDERICK COUNTY PLANNING COMMISSION:

By: [Signature] Date: 06/12/13
Dwaine E. Robbins, Chair or William G. Hail, Secretary

ATTEST:

By: [Signature] Date: 06/14/13.
Gary Hessong, Director, Permits & Inspections

Planner’s Initials / Date: [Signature] 06/11/13

County Attorney’s Office Initials / Date: [Signature] 06/12/13
(Approved as to legal form)