TITLE: The Estates at Rosehaven Manor  
(Formerly The Overlook at Long Branch and Shapiro Property)

FILE NUMBER: S-1145, AP 18030 (APFO 18031, FRO 18032)

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

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

APPLICANT/REPRESENTATIVES:
APPLICANT: Long Branch Land, LLC
OWNER: Herbert Shapiro
SURVEYOR/ENGINEER: Dewberry
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Graham Hubbard, Principal Planner

RECOMMENDATION: Conditional Approval

ATTACHMENTS:
Exhibit 1- Preliminary Plan Rendering
Exhibit 2- Parking Modification Request
Exhibit 3- Street Tree Modification Request
Exhibit 4- FRO Modification Request
ISSUE
The Applicant is requesting preliminary plan approval for 103 single family residential lots (102 new homes and one existing historic residence) on a 53.89-acre site. The site is located north of Baltimore Road and Old National Pike (MD 144) and south of I-70 between the Monocacy River and the Spring Ridge PUD. The proposed use is being reviewed as a ‘single-family detached’ land use under the heading of Residential Uses per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the R-3 Zoning District. No Site Development Plan application is required for single-family detached dwellings in the R-3. The Preliminary Subdivision Plan review is subject to the Subdivision Regulations (Chapter 1-16 of the Frederick County Code). The proposal integrates a realignment of a portion of Linganore Road into the design of the proposed community consistent with the County Comprehensive Plan.

Modification Requests
- Parking modification to provide an additional 103 on-lot spaces and an additional 96 on-street spaces over the 206 space requirement.
- Street tree modification to provide 119 of the required 295 street trees at alternative locations rather than adjacent to the existing or proposed public rights-of-way.
- FRO modification to permit the removal of 5 specimen trees.
BACKGROUND

The Site has been zoned R-1 since the 1970’s. The R-3 zoning was applied during the 2012 Comprehensive Plan update process. This property has been subject to previous development applications.

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

Preliminary Plan
In November 2015 the Planning Commission approved a Preliminary Plan for a slightly different layout consisting of the same number of dwelling units.

APFO
The APFO was approved by the Planning Commission on November 18, 2015 with a six year validity period extending through November 18, 2021.

Revised Concept Plan
In December 2017, a revised Concept Plan was submitted for staff level review of the proposed redesign to reduce the dimensional criteria of the MPDU optional method, while maintaining the same number of units.

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

The Property is located along the Long Branch tributary stream, with a small stream flowing from the south to the north on the eastern property boundary.
The Property is comprised of primarily woodland with open fields south and east of the historic home. Of the total area of the Property (53.89 acres), 36 acres are in forest cover. The total area encumbered by FEMA floodplain, waterbody buffer, wetlands, or floodplain soils is located along Long Branch.

Wetlands and 100-year FEMA floodplain exist at the southern portion of the site along MD 144. These areas are not significantly impacted by the proposed development with the only incursions being those areas of existing forest cover being cleared and set aside for right-of-way access to water and sewer infrastructure in the stream valley.

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

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

Graphic #3 Zoning Map
ANALYSIS

Summary of Development Standards and Findings and Conclusions

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

General Site Development and Layout

The Preliminary Plan proposes development of the Site as follows:

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

The Preliminary Plan application proposes 102 new single-family detached units and 1 lot for the existing historic house. The 102 new, single-family lots are front-loading units with 21 of the proposed parcels identified as ‘high visibility’ lots on the Preliminary Plan (identified on Plan Sheet 5).
3) A generous forest buffer is proposed along the entire eastern boundary of the subject property, adjacent to the tributary stream, Long Branch.

Detailed Analysis of Findings and Conclusions

Preliminary Subdivision Plan approval is granted based upon review of the requirements found in Chapters 1-16 and 1-19 of the Frederick County Code.

Applicable Zoning Ordinance Requirements:

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

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

Landscaping §1-19-6.400: The Applicant has provided a landscaping plan in accordance with Zoning Ordinance Section 1-19-6.400. The plan proposes a mix of evergreens and deciduous trees. Street tree plantings are proposed to be planted in alternate locations in order to meet the required planting of 1 tree every 35 feet of roadway frontage. A total of 295 street trees are required along the public right of ways of both existing and proposed roads of the subdivision which total approximately 10,328 linear feet. Due to sight distance issues, utility placement, driveway siting and street tree viability requirements set forth in the Guidelines for Traffic Control Devices, Street Lights and Street Trees for New Developments, the Applicant is requesting a modification (see Exhibit #2) to provide 119 of the 295 street trees at alternative locations in the open space parcels throughout the project. The alternative locations are depicted on sheets 15-16 of the Preliminary Plan. Staff has no objection to granting this landscaping modification. Additional plantings are provided in order to maintain, and establish where needed, a vegetative screen for the benefit of the Maryland National Road Scenic Byway (MD 144) corridor.

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

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

<table>
<thead>
<tr>
<th></th>
<th>Conventional Standards (SFD in R-3 District)</th>
<th>Density Bonus Standards (SFD in R-3 District)</th>
<th>Proposed Standards (SFD in R-3 District)</th>
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</thead>
<tbody>
<tr>
<td>Min. Lot Area</td>
<td>12,000 sf</td>
<td>4,000 sf</td>
<td>4,900 sf (minimum)</td>
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<tr>
<td>Lot Width</td>
<td>80 ft</td>
<td>40 ft</td>
<td>50 ft</td>
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<tr>
<td>Front Yard</td>
<td>30 ft</td>
<td>10 ft</td>
<td>10 ft/20 ft</td>
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<tr>
<td>Side Yard</td>
<td>10 ft</td>
<td>4 ft/10 ft</td>
<td>4 ft/10 ft</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>30 ft</td>
<td>25 ft</td>
<td>25 ft</td>
</tr>
<tr>
<td>Max. Height</td>
<td>30 ft</td>
<td>40 ft</td>
<td>30 ft</td>
</tr>
</tbody>
</table>

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

**Conditions:**
- **Landscape Modification:** Approval of the an Alternate Landscape Plan in accordance with Section 1-19-6.400.1 in order to allow for placement of 119 of the 295 required street trees in open spaces throughout the development due to site distance, utility locations, driveway siting, and tree viability.

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

**Subdivision Regulation Requirements:**

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

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

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

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

All proposed lots will have access to a publicly maintained road with continuously paved surface of at least 20 feet in width. All of the lots proposed for this development will gain their vehicular access from a local public street. The project includes 1 cul-de-sac at the terminus of Jug Bridge Place. The cul-de-sac is approximately 200 feet long to its center point and will serve a total of seven (7) lots.

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

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

![Figure 3: Proposed location of realigned Linganore Road at its intersection with MD 144 across from Bartonsville Road](image)
Water and Sewer Facilities. Public Facilities §1-16-12 (C): The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.

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

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

The wet soils on-site are located primarily within the open space stream valley that runs along the eastern portion of the site. The wet soils areas that lie within the Waterbody Buffer and the proposed Forest Resource Ordinance preservation easements will not be impacted by the proposed development. An area of wet soils is present in the southwestern corner of the site (GoB, Glenville silt loam). While not subject to flooding, this soil type typically hosts a high water table which may restrict road construction and the construction of basements on this soil. Lots 86 through 90, as well as a section of Leonard Harbaugh Place, appear to be the areas potentially affected by soil restrictions. However, it is highly likely that the regrading of the landscape and reconfiguration of the street network and built environment in the vicinity of the Glenville soils will alter the drainage patterns and change the hydrologic conditions.

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

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

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

The project will provide sidewalks a minimum of four (4) feet wide throughout the development, except along Relocated Linganore Road where it will be 5’.

§ 1-16-111 Parks Requirements:

(A) The proposed subdivision shall not be approved unless the provisions set forth below are met.

(1) Every subdivider/developer who develops a residential subdivision shall dedicate a portion of such land as set forth in this section for the purpose of providing land for neighborhood parks.

(2) The provisions of this section shall apply to all residential development districts with the exception of the R-1 zoning district and except subdivisions containing 59 or less residential lots, dwelling units, apartments or condominiums.
(3) The basis for determining the total number of dwelling units shall be the number of units approved by the county on the property included on a preliminary subdivision plan or a site plan filed with the Planning Commission.

(B) The area, location and physical characteristics of land required to be dedicated pursuant to this section shall be as follows.

(1) Seven hundred and twenty-six square feet shall be dedicated for each dwelling unit (1 acre per 60 dwelling units) shown on the preliminary subdivision plan or site development plan. The Planning Commission may allow less than the full 726 square feet, as provided for in (B)(2) below.

(2) Recreation land shall be located so as to be reasonably accessible from all lots in the subdivision and in accordance with the following. Up to 50% of the land area to be dedicated may be steep slopes, streams, lakes or floodplain. In all instances, 50% of the parkland requirements shall be suitable for dry ground recreational use. Fifty percent of the dry ground recreational area shall not exceed a grade of 5%. If no land meeting these requirements exists in the subdivision, or, if the subdivider/developer chooses to provide more than the required amount of land meeting the 5% slope criteria, modifications can be made by the Planning Commission with the recommendation of the Parks and Recreation Division.

(3) Where on-site detention and/or retention facilities are provided, the detention/retention facilities may only count as part of the recreational area requirement at the discretion of the Planning Commission, with the recommendation of the Parks and Recreation Commission.

(4) Title to recreation lands and facilities shall be held by an established homeowners association in which membership is mandatory and automatic upon conveyance of title to any lot or unit in the subdivision. The association shall be incorporated and the articles of incorporation shall be submitted to the Planning Commission for review and approval. Upon acceptance by the Department of Assessments and Taxation of the State of Maryland, appropriate notations shall be made on the plat as to date of approval and acceptance. This requirement shall not apply if the county takes title to the land pursuant to paragraph (5).

(5) At the discretion of the Planning Commission, and with the recommendation of the Parks and Recreation Division, where public ownership is deemed desirable, the required recreation land may be conveyed to the county.

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

Total Required Park Area: 103 DUs @ 726 sf per DU – 74,778 sf (1.72 acres)

Active Park Areas Provided:
- Parkland "A": 18,000 sf
- Parkland "B": 20,000 sf
- Parkland "C": 2,500 sf
- Parkland "D": 2,000 sf
- Parkland "E": 25,000 sf
- Parkland "F": 2,500 sf
- Parkland "G": 5,000 sf

Total Park Area Provided: 75,000 sf (1.72 acres)

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

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

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

The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The Comprehensive Plan land use designation for the site is Low Density Residential (LDR). The LDR designation is applied only within Community Growth Areas and represents the least dense residential land use pattern in the growth areas at a density range of from 3 to 6 dwellings per acre with public water and sewer. The proposed subdivision is within the Spring Ridge/Bartonsville Community Growth Area and will be developed with public water and sewer at a gross density of 1.91 DUs per acre and a net density of 4.24 DUs per acre. This density is well within the range established by the County Comprehensive Plan.

Existing nearby residential development along Linganore Road is comprised of ¾ acre to 1.25 acre lots both west and north of the proposed development. East of the subdivision ½ acre lots prevail. The proposed Preliminary Plan reflects lot sizes along Linganore Road that are slightly larger than those located on the interior of the project. These Linganore Road lots serve as transitional parcels between the denser internal lots and those already existing along the road.

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

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

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

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

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

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

An internal trail network is implied along water and sewer infrastructure access corridors in the open space and forest retention areas on the eastern portion of the site.
§ 1-16-218. Block Shape: The maximum block dimension shall be 1,800 feet.

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

§ 1-16-219. Lot Size and Shape:
The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.

The Preliminary Plan proposes lots sizes that range from 5,200 square feet to approximately 38,367 square feet. The Applicant is utilizing reduced dimensional standards within the R-3 District, for a project that is subject to Section 1-19-8.620 as a result of seeking an MPDU density bonus. These standards are identified in the Zoning Ordinance in Sect. 1-19-8.620.5 Lot Area, Width, and Yard Measurements. The proposed lot sizes are consistent with those conceptually identified in the earlier Concept Plan for this site and are fully consistent with the requirements set forth in the Ordinance. The majority of lots proposed measure between 5,000 sf and 7,500 sf with only a handful slightly less than 5,000 sf but meeting the minimum standard of 4,000 sf. Front yards provided generally exceed the required 10' stipulated in the Ordinance in order to accommodate minimum distances between public sidewalks and the faces of garages. The Applicants have provided a series of diagrams (Sheet 2) that describes typical setbacks, yards, lot widths, and building placement within the proposed subdivision. The configuration and arrangement of lots in the community are in keeping with a development pattern generally consistent with medium density development patterns elsewhere in the County. Allowances are made for special conditions such as corner lots.

No panhandle lots are proposed within the project.

Development on Dead End Streets §1-16-236 (C) & (K):
(C) Rights-of-way for proposed streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties unless such extension is not feasible because of topography or other physical conditions, or unless, in the determination of the Planning Commission, such extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tracts. In any event, no subdivision shall be designed so as to create or perpetuate the landlocking of adjacent undeveloped land.

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

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

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

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

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

One cul-de-sac street is proposed at the terminus of Jug Bridge Place which serves Lots 25-31 of
the development. This cul-de-sac is approximately 200 feet long to its center point and will serve
seven (7) lots. Through the careful design of the street network in the proposed subdivision, the
Applicant has avoided the gratuitous use of cul-de-sacs. The relatively short segment of cul-de-
sac proposed as Jug Bridge Place has been designed to take maximum advantage of developable
land without diminishing the safety or functionality of the neighborhood.

One dead end street is proposed that will be created with the realignment of Linganore Road to
the east and will consist of a short segment of the roadway that currently provides its connection
to MD 144. This dead end section will be approximately 500 feet in length and serve five (5) existing
single-family homes. While establishing the new Linganore Road alignment (and intersection with
MD 144) identified in the County Comprehensive Plan, the Applicant has minimized both the length
and number of existing/proposed homes affected by the design of the new roadway. A well-
integrated street network designed to maximize points of intersection between the old road and
the new streets has resulted in a proposal that diminishes any negative impact of the realignment
and avoids the creation of a lengthy dead end road along the project’s western boundary.

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

OTHER APPLICABLE REGULATIONS

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Calculation</th>
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<tbody>
<tr>
<td>Site Area:</td>
<td>53.89 acres</td>
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<tr>
<td>Area Zoned R-3:</td>
<td>31.69 acres</td>
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<tr>
<td>Gross Maximum Density:</td>
<td>95 dwelling units (@ 3 DU/acre)</td>
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<td>Standard MPDU Factor</td>
<td>12.5% of total DUs (or fee in lieu payment)</td>
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<td>Density Bonus (Max):</td>
<td>22% (20 additional DUs, or potential total of 115 DUs)</td>
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<tr>
<td>Bonus Density Achieved:</td>
<td>103 total DUs (8 units more than 95 Gross Max DUs) = 8.4% density bonus</td>
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<tr>
<td>Required MPDU Factor:</td>
<td>13.4% (for up to a 9% density increase over gross density)</td>
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This project is subject to the MPDU Ordinance as outlined in Chapter 1-6A of the Frederick County Code. The Applicant has elected to pay a fee-in-lieu of providing MPDUs in accordance with 1-6A-5.1. The Applicant is seeking an 8.4% bonus density, thereby requiring the fee-in-lieu equivalent of 13.4% MPDU’s (up to 9%). A total of 13,668 MPDU’s is required. The fee-in-lieu must be paid at time of building permit application. Based on the current rate, ($26,500) approximately $3,551 must be paid with each building permit. Payment is based on the rate at the time payment is made. A MPDU Agreement shall be recorded in the Land Records.

The Applicant will provide payments of $3,551 per unit in lieu of building 14 MPDUs and will memorialize this requirement in a “Payment in Lieu” Agreement executed between the Applicant and the County. MPDU requirements will be met under terms established by this Agreement which must be in place prior to Preliminary Plan approval.

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

**APFO – Chapter 1-20:** The APFO was approved by the Planning Commission on November 18, 2015 with a six year validity period extending through November 18, 2021. A preliminary plat was concurrently conditionally approved on that same date.

1. **Schools**
   The Project is served by Spring Ridge Elementary School, Governor Thomas Johnson Middle School and Oakdale High School. The approved residential development mix in the original APFO approval was 102 new single family detached dwelling units. The new mix for this project has not changed the student yield, and therefore this project is exempt from further APFO schools testing.

2. **Roads**
   The project was originally approved to generate 82 am and 101 pm weekday peak hour trips as noted in the 2015 LOU. This project is exempt from further roads testing since the new mix does not increase the trip generation intensity relative to the original approval.

3. **Public Water & Sewer:**
   The portion of the property under consideration in this Application has a water and sewer classification of W-4/S-4. The Project will be served by public water and sewer by extending public water and sewer lines to the site as shown on the plan. The terms of the original Letter of Understanding (LOU) remain unchanged for this project.

**Period of Validity:** The effective date of the APFO approval referenced herein is November 18, 2015 and shall remain valid through November 18, 2021

**Forest Resource Ordinance – Chapter 1-21:**
The Applicant has submitted a Forest Stand Delineation and Preliminary Forest Conservation Plan. The property contains 24.33 acres of existing forest (excluding the 11.62 acres within the undeveloped portion of the floodplain that is located in the AG zone). The Applicant proposes to clear 16.71 acres of forest. The remaining 7.62 acres of forest will be placed under a perpetual forest conservation easement. The project generates additional mitigation requirements due to the amount of forest being cleared, which will be met by planting 2.35 acres of new forest on site, purchasing 2.75 acres of forest banking credit, and placing an easement over the 11.62 acres of existing forest within the floodplain area of the Ag zoned portion of the property.
The site contains 61 specimen trees (trees that are 30 inches or greater in diameter). Seven specimen trees are proposed to be removed by the Applicant. The removal of two of these specimen trees does not require FcPc approval:

<table>
<thead>
<tr>
<th>Tree ID #</th>
<th>Size and Species</th>
<th>Location</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>31” Red Maple</td>
<td>Lot 103, behind existing garage.</td>
<td>Poor</td>
</tr>
<tr>
<td>54</td>
<td>32” Elm</td>
<td>Intersection of MD 144 and realignment of Linganore Rd.</td>
<td>Poor</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Tree ID #</th>
<th>Size and Species</th>
<th>Location</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>31” Silver Maple</td>
<td>Within realignment of Linganore Rd., opposite Lot 89</td>
<td>Good</td>
</tr>
<tr>
<td>3</td>
<td>45” Red Maple</td>
<td>Within realignment of Linganore Rd., opposite Lot 92</td>
<td>Poor</td>
</tr>
<tr>
<td>4</td>
<td>33” Silver Maple</td>
<td>Within Lot 92</td>
<td>Poor</td>
</tr>
<tr>
<td>5</td>
<td>33” Red Maple</td>
<td>Within Lot 103</td>
<td>Poor</td>
</tr>
<tr>
<td>8</td>
<td>33” Black Cherry</td>
<td>Within Lot 40</td>
<td>Poor</td>
</tr>
</tbody>
</table>

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

- Tree #1 is in good condition with no structural defects. However, based on the proposed plan, the tree is unfortunately located on the centerline of the proposed realigned Linganore Road.
- Tree #3 exhibits crown dieback and trunk cavities. The Applicant notes that the plan cannot be altered to save this tree due to the Linganore Road realignment.
- Tree #4 exhibits significant limb damage but no other structural defects. This tree is within Lot 92.
- Tree #5 exhibits cavities but no other structural defects. This tree is within Lot 103.
- Tree #8 exhibits crown dieback and cavities. This tree is within Lot 40.

Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FCPC finds that the requirements for granting a modification under §1-21-21(B) have been met.

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

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

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

In order for the FCPC to grant a modification to allow the removal of specimen trees, the FCPC must find:

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

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

Historic Preservation – Chapter 1-23: There is a notable historic home located on the south central portion of the site. Known as the Howard-Brangle-Rosenstock House (MIHP # F-5-090), the structure was originally built in the early 19th century and later purchased and extensively renovated by Jacob and Nettie Rosenstock in 1919.

The family renovated their home around an existing brick structure, maintaining the essential layout of the original home yet transforming its appearance and function significantly. Jacob Rosenstock’s cousin, Benjamin Frank, was a notable Baltimore architect who completed the renovation establishing a good example of an early 20th century colonial revival style building. The Rosenstock family owned a prominent
clothing store in Frederick. In an earlier incarnation, the clothing store was the setting for the only photographic image of an invading army on U.S. soil. Known as the ‘Rosenstock Photo’, the image is that of Confederate troops marching through the city in 1862 or 1864. The photograph was likely taken from the 2nd story of the J. Rosenstock Dry Good & Clothier building on Market Street less than a block away from the Square Corner at Patrick Street.

![The 'Rosenstock Photo' shows Confederate soldiers on the in 1862 or 1864 on Market Street in downtown Frederick; this image was captured from the 2nd story of the clothing store owned by the Rosenstock family, owners of the home at the Subject Site.](image)

The Applicant worked with Staff to design the proposed subdivision to maintain the historic structure. The structure will be located on a 38,367 sf lot around the existing house. The Applicant has expended great effort to accommodate the position of the structure within the new development by altering the alignment of Linganore Road and adjusting the final grade of surrounding streets and lots so as to maintain a viable home site.

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

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

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

### FINDINGS

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements once the following conditions are met and modifications are granted. Preliminary Plan approval is valid for five (5) years from the date of FCPC approval, or the period of APFO approval (per §1-16-71(Q)) whichever is less. Therefore, the Preliminary Plan approval will be valid until the APFO expires on November 18, 2021. Staff has no objection to conditional approval of this revised Preliminary Plan.

### RECOMMENDATION

Should the Planning Commission conditionally approve this Preliminary Plan for The Estates at Rosehaven Manor (AP 18030, 18031, 18032), the motion for approval should include the following modifications and conditions.

Planning Commission approval of the following modification requests from the Applicant:

1. Parking Modification request to allow an additional 103 on-lot parking spaces and an additional 96 on-street parking spaces above the 206 parking space target for the single family use.
2. Street Tree Modification request of an Alternate Landscape Plan to allow 119 of the required 295 Street Trees to be located within the open space parcels due to site distance, utility locations, driveway siting, and tree viability.
3. FRO Modification to allow the removal of specimen trees 1, 3, 4, 5, and 8 under the provisions of §§1-21-40 and 1-21-21.

Staff-proposed conditions of approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. The Preliminary FRO Plan must be approved prior to Preliminary subdivision plan approval. A Final FRO plan must be submitted and approved and FRO mitigation must be provided prior to applying
for grading permits, building permits, or lot recordation, whichever is applied for first.

3. The Applicant shall amend the landscape table to reflect a specific mix of trees and shrubs (as approved by Staff) capable of providing a 4-season vegetative screen at the areas identified on the Preliminary Plan along the MD 144 frontage to provide additional screening in support of the Maryland National Road Scenic Byway corridor.

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

5. Prior to Preliminary Plan signature approval, General Note 5 on the Cover Sheet shall be updated to state the MPDU Agreement recording reference.

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

**PLANNING COMMISSION ACTION**

**MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-1145 (AP 18030) with the conditions and modifications** as listed in the staff report, including FRO plan (AP 18031) and the modification to remove five (5) specimen trees, for the proposed Estates at Rosehaven Manor preliminary plan for 103 single family residential lots (for 102 new homes and one existing historic residence), based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
June 15, 2018 (revised June 25, 2018)

Michael Wilkins  
c/o Denis Superczynski, Graham Hubbard  
Frederick County Government Division of Planning & Permitting  
30 N. Market Street  
Frederick, MD 21701

RE: The Estates at Rosehaven Manor (formerly The Shapiro Property and/or The Overlook at Long Branch) – Preliminary Plan (AP# 18030) – Parking Modification Request

Dear Mr. Wilkins,

On behalf of our Client, Long Branch Land, LLC, we respectfully submit for your consideration this request for modification set forth in the Frederick County Zoning Ordinance. In addition, we are providing justification for the requested modification below as follows:

Parking Modification

Pursuant to §1-19-6.200(A)(1) of the Zoning Ordinance, parking spaces shall be limited to the number of spaces required by the proposed use in the table found in 1-19-6.220 and an increase or reduction in the number of required spaces may be granted by the Planning Commission. Based on single family use, a target of two on-lot spaces per unit is required therefore 103 x 2 = 206 on-lot spaces required. The number of spaces provided for each unit is three (3) spaces, with 1 located in a two-car garage and 2 on a two-car driveway; therefore 103 x 3 = 309 on-lot spaces provided. Additionally, the proposed ‘Typical Roadway Section ‘H’, 27’ Public Street with Standard Curbs can accommodate parking on (1) side of the street; and the Applicant estimates this will accommodate an additional 96 spaces.

The Applicant requests that an additional 103 on-lot spaces and an additional 96 on-street spaces be approved over the 206 spaces required for the single family use.

We respectfully request your approval of modification described above. Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Chris Lazration, EIT  
Staff Engineer

cc: Mr. Marc Mezzanotte, Dewberry Engineers Inc.  
Ms. Pamela Scott, Dewberry Engineers Inc.  
Mr. Mike Wiley, Long Branch Land, LLC  
Mr. Victor White, Hogan Realty Development, LLC
June 15, 2018 (revised June 25, 2018)

Michael Wilkins
C/o Denis Supczynski, Graham Hubbard
Frederick County Government Division of Planning & Permitting
30 N. Market Street
Frederick, MD 21701

RE: The Estates at Rosehaven Manor (formerly The Shapiro Property and/or The Overlook at Long Branch) – Preliminary Plan (AP# 18030) – Street Tree Modification Request

Dear Mr. Wilkins,

On behalf of our Client, Long Branch Land, LLC, we respectfully submit for your consideration this request for modification set forth in the Frederick County Zoning Ordinance. In addition, we are providing justification for the requested modification below as follows:

Street Tree Modification

Pursuant to §1-19-6.400(A) of the Zoning Ordinance, one (1) street tree must be provided for every 35 feet of roadway frontage along the paved surface of an existing or proposed public right of way. If the number of required street trees cannot be accommodated within the public right of way and alternative planting design may be approved by the Planning Commission. A total of 295 street trees are required along the public right of ways of both existing and proposed roads of the subdivision which totals approximately 10,328 linear feet. Due to sight distance and street tree location requirements set forth in the Guidelines for Traffic Control Devices, Street Lights and Street Trees for New Developments, utility clearance requirements, driveway spacing / locations, and the decision to not provide streets along the western portion of Old Linagnore Road, we request a modification to provide 119 of the 295 street trees at alternative locations in the open space parcels throughout the project. 176 street trees will be provided within the public right-of-ways.

We respectfully request your approval of modification described above. Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Chris Lazration, EIT
Staff Engineer

cc: Mr. Marc Mezzanotte, Dewberry Engineers Inc.
Ms. Pamela Scott, Dewberry Engineers Inc.
Mr. Mike Wiley, Long Branch Land, LLC
Mr. Victor White, Hogan Realty Development, LLC
February 1, 2018
April 5, 2018 – Updated

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

RE: Rosehaven (Formerly Shapiro Property and/or The Overlook at Long Branch)
Request for FRO Modification – Specimen Tree Modification
Preliminary Plan #18090

Dear Mr. Wilkins,

On behalf of the applicant, Long Branch Land, LLC., we are requesting a Modification from the provisions of § 1-21-403D(3)(c) of the Frederick County Code also known as the Forest Resource Ordinance (FRO) of Fredrick County, to allow for the disturbance of trees, shrubs, and plants in priority areas which include nonhazardous trees that:

1. Are part of a historic site;

2. Area associated with a historic structure;

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

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

The Applicant is seeking a modification to permit the removal of one (1) additional non-hazardous specimen tree to accommodate the proposed realignment of Linganore Road (Master Planned Road). Through previous approvals, four (4) non-hazardous specimen trees are already approved for removal.

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

This Variance is being submitted for review and approval in conjunction with Residential Cluster Concept #18090, Preliminary Forest Conservation Plan #18032, and FRO Modification #18033.

Background

This Modification Request accompanies the submission of a Concept Site Plan that proposes 103 single family lots, infrastructure, associated road network, and open space parcels. Situated on the northeast
side of existing Linganore Road and Old National Pike (MD 444) intersection, approximately 600 feet south of Interstate 70/MD Rt. 40, the Subject Property is identified on Tax Map 76 as Parcel 5, 190 and 494, and totals 53.89 acres.

Variance Trees

This Variance requests the removal of one (1) non-hazardous specimen tree as described in the below table and shown on the Preliminary Forest Conservation Plan:

<table>
<thead>
<tr>
<th>Tree#</th>
<th>Common Name</th>
<th>Scientific Name</th>
<th>DBH(in.)</th>
<th>Condition</th>
<th>Remarks</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Silver Maple</td>
<td>Acer saccharinum</td>
<td>31</td>
<td>Good</td>
<td></td>
<td>To be Removed</td>
</tr>
</tbody>
</table>

A previous Variance was granted for the removal of four (4) non-hazardous specimen trees as described in the below table and as shown on the Preliminary Forest Conservation Plan:

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

Explanation of Proposed Disturbances to Individual Trees

Specimen Tree #1 (31” d.b.h. Silver Maple)

Tree #1 is located along the existing entrance driveway to the existing home, approximately 100 feet east of existing Linganore Road, along the left side of the driveway. Based on the proposed development plan, the tree lies on the centerline of the proposed realigned Linganore Road, which is a County Master Planned road. The apparent health of the tree was considered ‘Good’ at the time of field inspection. The proposed horizontal alignment of the relocated Linganore Road will run through the center of this tree. This tree is considered non-hazardous.

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

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

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

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

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

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

As required, we provide the following justification:

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

The proposed removal of the one (1) specimen tree is needed to implement the proposed Preliminary Forest Conservation Plan.

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

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

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

The preservation of this one (1) specimen tree would prevent the implementation of re-locating Linganore Road to provide the recommended alignment to intersect with Bartonville Road while preserving the existing residence. If the request is not granted, it will deprive the landowner of rights commonly enjoyed by others that develop similar properties with special conditions as this one.

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

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

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

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

(v) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
This request for the removal of one (1) specimen trees is based on the conditions peculiar to this property as above and does not arise from a condition related to land or building use on a neighboring property.

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

The project is subject to the Frederick County Stormwater Management Ordinance and Sediment and Erosion Control Ordinance which both are in accordance with State regulations. The removal of the one (1) tree included in this request will not result in measurable degradation in water quality.

Thank you for your consideration of this Modification request. We believe that the supporting information presented with this letter provides adequate justification for the approval of the requested Modification to remove an additional one (1) non-hazardous specimen tree, in addition to the four (4) non-hazardous specimen trees previously granted. Please free to contact me at 240-772-5624 if you have any questions.

Respectfully Submitted,
Dewberry Engineers, Inc.

Adam J. Mormon, PLA
Senior Project Manager

Cc: Mike Wiley, Long Branch Land, LLC
    Victor White, Hogan Realty Development, LLC
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Poor / weak branching structure

Branches overhanging existing driveway

Branches overhanging existing driveway

Terminal die back
Photos 4

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