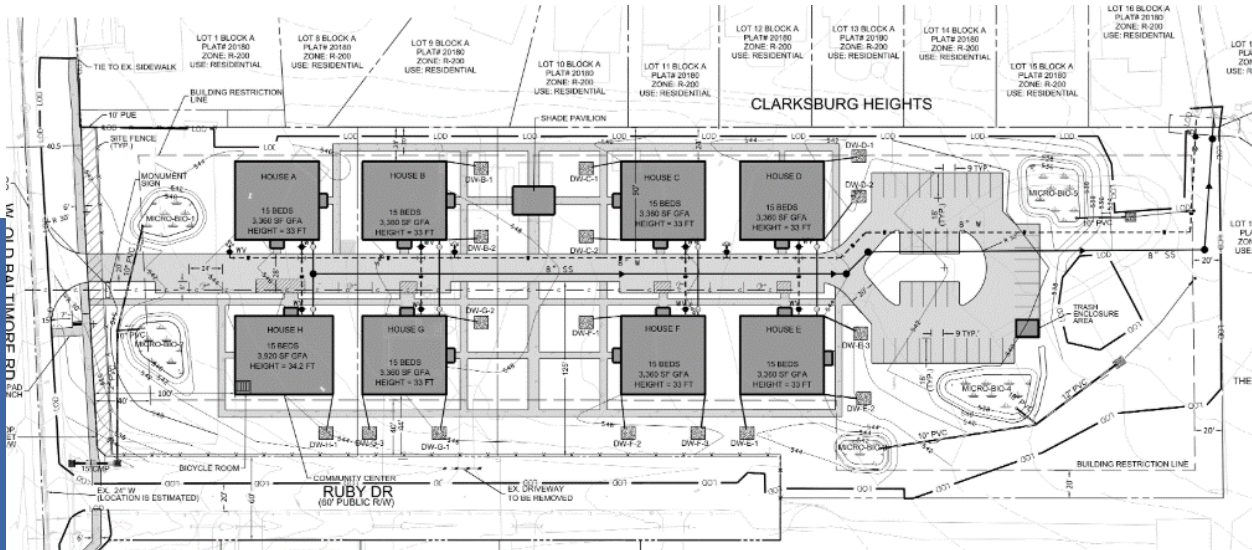


RUBY SENIOR LIVING
PRELIMINARY PLAN NO. 120250030 &
FINAL FOREST CONSERVATION PLAN NO. F20250100



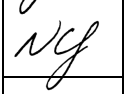
Subdivision will create one lot for a Residential Care Facility comprised of eight buildings with 120 beds. The project is within the Clarksburg Special Protection Area and includes a Final Water Quality Plan as part of the review.

COMPLETED: 2/28/2025
PLANNING BOARD HEARING DATE: 3/13/2025
MCPB ITEM NO. 6

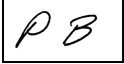
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LOCATION/ADDRESS

21908 Ruby Drive & 12405 W. Old Baltimore Rd,
Boysds

MASTER PLAN

1994 Clarksburg Master Plan & Hyattstown Special
Study Area

ZONE

R-200

PROPERTY SIZE

4.66 acres

APPLICANT

Worldshine Home, LLC

ACCEPTANCE DATE

September 17, 2024

REVIEW BASIS

Chapter 50

Chapter 22A

Summary:

- Staff recommends approval of the Preliminary Plan and Forest Conservation Plan with conditions for creating one lot for a Residential Care Facility (over 16 persons).
- The Project is within the Clarksburg Special Protection Area and includes a Final Water Quality Plan.
- Conditional Use Plan CU2023-11 was approved by OZAH on April 16, 2024, for the redevelopment of the Property into a Residential Care Facility for up to 120 beds in eight buildings.
- The Subject Site is currently improved with two single-family homes and several smaller outbuildings, which will all be removed.
- Staff has not received any public correspondence as of the date of this Staff Report.
- Staff has not received an Approval letter from MCDOT as of the posting of this report. The approval letter is anticipated to be received prior to the hearing.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 120250030

Staff recommends approval with conditions of Preliminary Plan No. 120250030 to create one (1) lot for a Residential Care Facility. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120250030 as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.

GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for the development a Residential Care Facility with up to 120 beds.

ADEQUATE PUBLIC FACILITIES

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

PLAN VALIDITY PERIOD

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter **[Dated March X, 2025]** and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which MCDOT may amended if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepted the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section, in its Final Water Quality Plan letter dated October 10, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each recommendation in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. The Planning Board has reviewed and accepted the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section, in its letter dated August 12, 2024, and incorporates them as conditions of

approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

8. Before approval to release any portion of the preliminary plan performance bond, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the fire access improvements have been constructed and installed per the recommendations from the Fire Department Access and Water Supply Section, and as shown in the approved MCDPS fire access plan.

OTHER APPROVALS

9. The Applicant must comply with the conditions of the Hearing Examiner's Report and Decision dated April 16, 2024, approving Conditional Use 2023-11.
10. Before approval of a record plat or any clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.

TRANSPORTATION

Frontage Improvements on Existing Roads

11. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a. All land necessary to accommodate forty (40) feet from the existing pavement centerline along the Subject Property frontage for West Old Baltimore Road.
 - b. All land necessary to accommodate thirty (30) feet from the existing pavement centerline along the Subject Property frontage for Ruby Drive.
12. Before approval of a record plat, the Applicant must satisfy all necessary requirements to ensure the construction of a buffered six (6)-foot wide sidewalk along the West Old Baltimore Road frontage of the Subject Property, connecting to the existing sidewalk along West Old Baltimore Road.

SURETY

13. Before issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions:
 - a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - b. Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.

- c. The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

RECORD PLATS

14. There shall be no clearing or grading of the site before recordation of the plat.
15. The record plat must show necessary easements.
16. The record plat must show no vehicular access to Ruby Drive.

CERTIFIED PRELIMINARY PLAN

17. The certified Preliminary Plan must contain the following notes:
 - a. *Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
 - b. *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.*
18. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified set.
 - b. Include the approved Fire Department Access Plan.
 - c. Include all landscape and lighting plans associated with approved Conditional Use No. CU 2023-11.
 - d. Replace the bicycle storage lockers with a secure storage room on the ground floor of House H and update the bicycle parking requirements.

FINAL FOREST CONSERVATION PLAN F20250100

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
4. Before recordation of the plat and the start of any clearing, grading, or construction, whichever comes first, for the associated development application the Applicant must Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Little Seneca Creek watershed or Priority Area to satisfy the reforestation requirement of 2.24 acres of mitigation credit. If no off-site forest banks exist within the Little Seneca Creek watershed or Priority Area, then the off-site requirement may be met by purchasing 2.92 acres of mitigation credits from a mitigation bank within Montgomery County outside of the Little Seneca Creek watershed or Priority Area, subject to Staff approval. If forest mitigation bank credits are not available for purchase, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits outside of the same watershed or Priority Area.
5. Within the one year or two growing seasons following the release of the first building permit of the primary structure from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches, totaling 115.75 caliper inches, as shown on the approved FCP. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property, delineated in the thick red line in Figure 1 below, is located at 12405 West Old Baltimore and 21908 Ruby Drive, Boyds, in the northwest quadrant of West Old Baltimore Road and Ruby Drive. The Property is subject to the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan").

The vicinity is comprised of residential communities in the R-200 Zone. Directly to the west of the Property is a single-family development known as Clarksburg Heights, containing approximately 130 homes. This development was approved under the MPDU Optional Method of Development (*e.g.* at higher than standard density, with smaller than typical lots). To the north is a child daycare facility operated by the Goddard School. Confronting the Property, across Ruby Drive, are several single-family homes. Further to the east, and across West Old Baltimore Road to the south, is a new residential subdivision containing 57 detached dwellings and 10 semi-detached units, also approved with higher than standard R-200 density pursuant to the MPDU Optional Method of Development.

The area surrounding the Site is comprised of low-density residential development, with a Conditional Use to the north for the Goddard School. The properties surrounding the property are all zoned R-200 with the properties to the west having a TDR overlay zone of TDR 4.0.

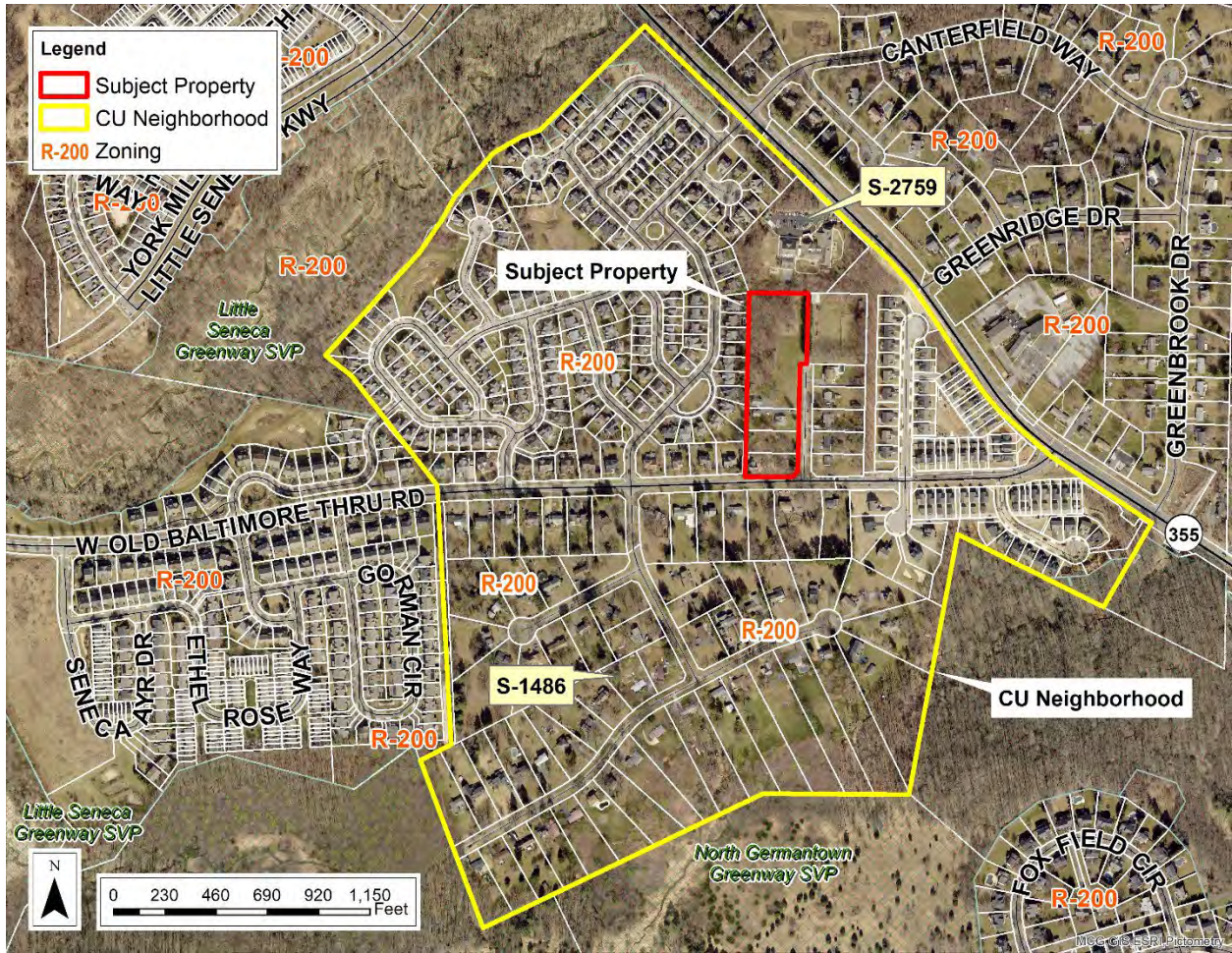


Figure 1 – Vicinity Map showing the Neighborhood used for analysis purposes during the review of the Conditional Use application

PROPERTY DESCRIPTION

The Property is an assemblage of four pieces of land, more particularly known as Lot 1 (consisting of two tax parcels or parts of lots), Lot 2 and Lot 3 in the “Neelsville” subdivision, as recorded among the Land Records of Montgomery County, Maryland at Record Plat No. 7681 (Attachment D). Collectively, the Property is comprised of approximately 202,898 square feet or 4.66 acres (“Property” or “Subject Property”). The Property is improved with two single-family detached homes and associated accessory structures. One house is on part of Lot 1, directly adjacent to West Old Baltimore Road, and accessed via an existing driveway. The second dwelling is located on Lot 2, which is accessed via Ruby Drive. The Property contains one forest stand containing 1.36 acres of forest and scattered trees across the Property, which are 24-inches DBH and greater.

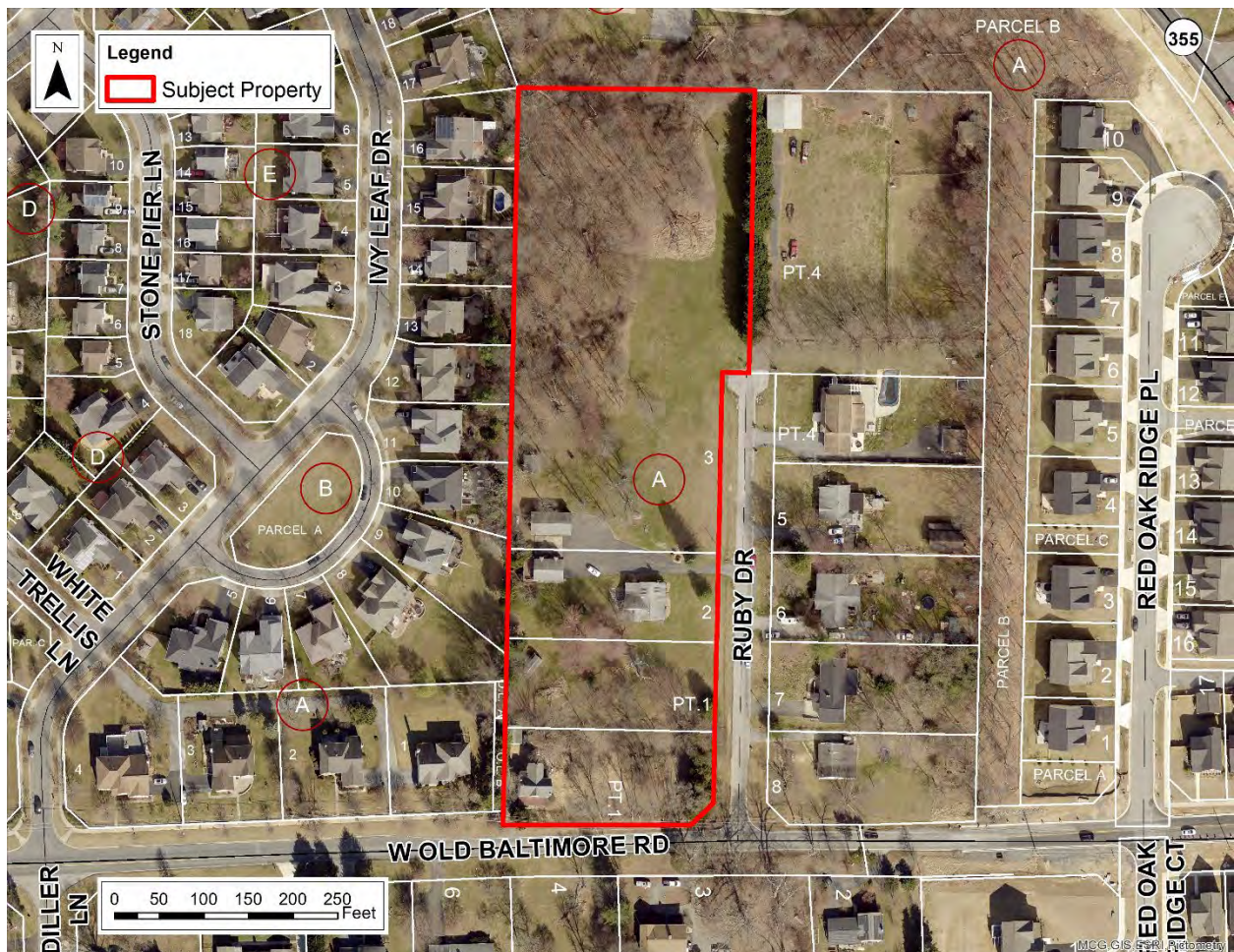


Figure 2- Subject Property with lot and block information

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

CONDITIONAL USE CU 2023-11

On April 16, 2024, the Hearing Examiner issued a report approving Case No. CU 2023-11 for a Residential Care Facility with the following conditions (exhibits referenced are those from the OZAH Report):

1. Physical improvements to the Subject Property are limited to those shown on the Applicant's Conditional Use site plan, Lighting Plan, and Landscape Plan (Exhibits 5, 17c and 36).
2. The maximum number of residential care units is limited to eight (8) buildings with 120 beds.
3. The height of any structure will be limited to forty (40) feet.
4. The maximum number of employees on-site at any one time must not exceed 44.
5. Food supply deliveries to the facility shall be limited to twice per week.
6. The collection of solid waste refuse and recyclable materials must occur on weekdays only, between 8:00 a.m. and 9:00 p.m., consistent with Solid Waste Regulations. No collection shall occur on Saturdays or Sundays.
7. The Applicant must maintain 52 parking spaces as shown on the Conditional Use Plan and may not expand or reduce the parking facility without explicit permission from the Hearing Examiner through modification of this Conditional Use.
8. The Applicant must provide a minimum of five (5) bicycle parking spots.
9. Before issuance of any building permit for the subject Conditional Use, the Applicant must obtain approval of a Preliminary Plan of Subdivision and a Record Plat pursuant to Chapter 50 of the Montgomery County Code. If changes to the approved Conditional Use site plan or other plans filed in this case are required at Subdivision, the Applicant must file a copy of the revised site and related plans with OZAH.
10. Before approval of the Preliminary Plan of Subdivision, the Applicant must obtain approval of the Final Water Quality Plan from the Montgomery County Department of Permitting Services (MCDPS).
11. The Applicant must obtain a permit for the proposed monument sign from the Department of Permitting Services, or if required, the Sign Review Board, and a copy of the permit for the approved sign must be submitted to the Hearing Examiner before the sign is constructed.
12. The Applicant must obtain and satisfy the requirements of all licenses, including a use and occupancy permit.
13. The Applicant and any successors in interest must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code.
14. The Applicant must obtain approval of a Final Forest Conservation Plan.
15. The facility must be operated in accordance with all applicable County noise regulations.

16. Transfers to successor conditional use holders must follow the procedures in Rule 27.0 of OZAH's Amended Land Use Rules of Procedure.
17. The conditional use must be operated in a manner to provide the facilities and services to residents outlined in the Applicant's Statement of Operations (Exhibit 6). Use of the on-site facilities and services must be restricted to residents of the conditional use site, their guests and employees, and personnel providing services to the residents.
18. The Applicant and any successors in interest must obtain and satisfy the requirements of all Federal, State, and County licenses, regulations, and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant and any successors in interest shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety, and handicapped accessibility requirements), regulations, directives, and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services.

PRELIMINARY FOREST CONSERVATION PLAN CU202311

On January 18, 2024, the Planning Board approved with conditions, Preliminary Forest Conservation Plan (“PFCP”) No.CU202311, in association with the Conditional Use application no. 2023-11. The PFCP proposed clearing all 1.36 acres of forest onsite and based on the land use category, High Density Residential (“HDR”) and the forest conservation worksheet generated an afforestation/reforestation requirement of 2.24 acres within the same watershed/Priority Area or 2.92 acres outside of the same watershed/Priority Area. The Applicant proposed to meet the requirement offsite. The PFCP approval included a Variance request that the Planning Board approved.

PROPOSAL

The Applicant proposes to create one (1) lot, 4.58 acres in size, to allow the construction of a new Residential Care Facility (greater than 16 persons) per Section 59-3.3.2.C.2.c, as allowed by the approved Conditional Use CU 2023-11 in the R-200 zone. The Application includes eight (8) new multi-bed buildings, a parking lot, lighting, and landscaping. The Property will have access via a new driveway entrance on West Old Baltimore Road. The buildings will contain up to a total of 120 beds.

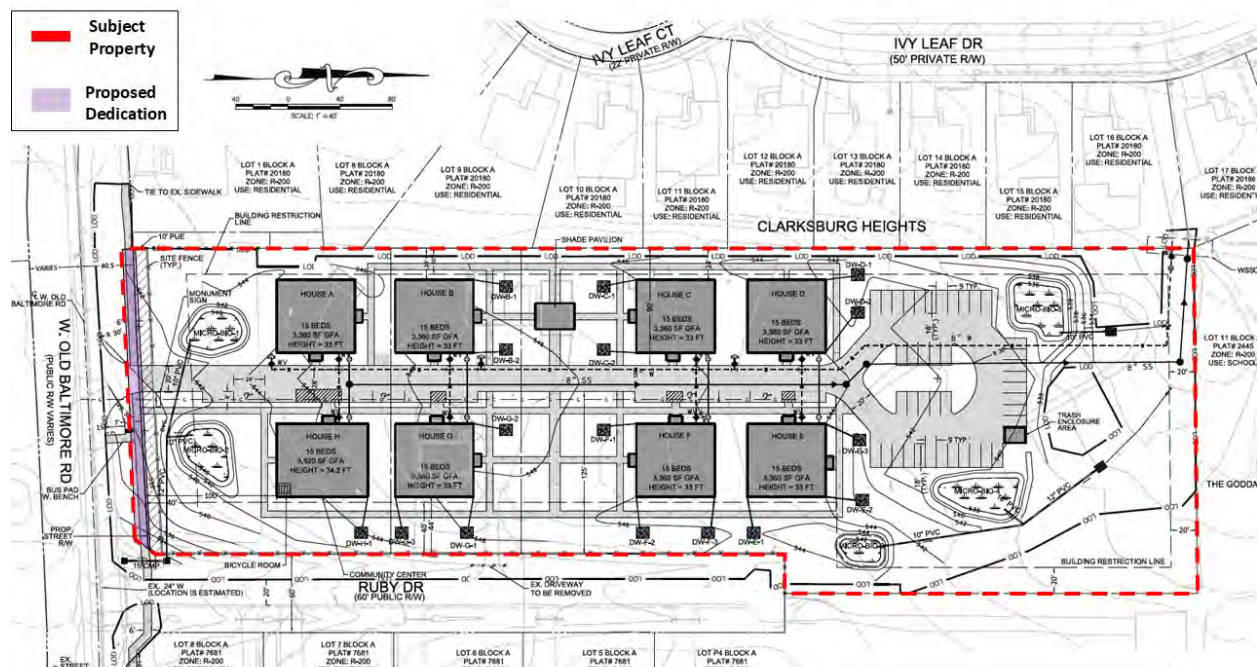


Figure 4: Preliminary Plan

TRANSPORTATION

Motor vehicle access to the Subject Property will be located off West Old Baltimore Road. The proposed development will have one access point for motor vehicles, which is provided by a single driveway that serves as an “internal street” and terminates in a circular parking lot. The existing driveway apron on Ruby Drive will be removed. The proposed buildings front the “internal street” with limited amount of parallel parking (see Figure 5 below) along the main driveway. The Applicant will be required to improve West Old Baltimore Road to the standard of an Area Connector per the 2024 *Complete Streets Design Guide*. There are no master planned bicycle facilities along the north side of West Old Baltimore. As conditioned, the Applicant will provide a buffered 6-foot-wide sidewalk along the Subject Property frontage (north side of West Old Baltimore Road) connecting to the existing sidewalk portions to the east (including off-site improvements, continuing to Oak Ridge Place) and west.

Additionally, the applicant will provide five (5) long term bike parking spaces within House H. These spaces will be made available to staff at all operational hours and visitors during visiting hours.

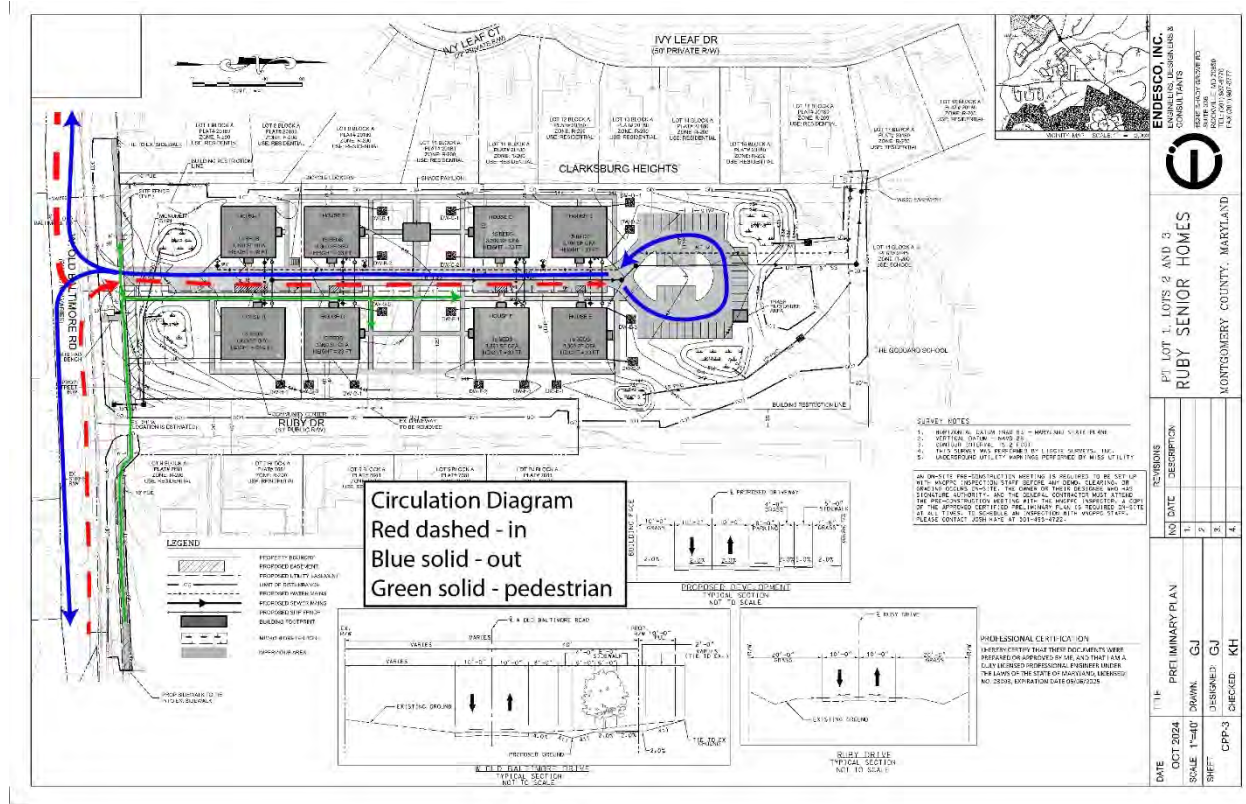


Figure 5: Circulation Diagram

ENVIRONMENT

The Final Forest Conservation Plan No. F20250100 (“FFCP”) shows 1.36 acres of existing forest on the Property, of which all 1.36 acres will be cleared and all mitigation is proposed to be taken offsite. The site contains numerous specimens and significant trees. There are no Stream Valley Buffers onsite. A full analysis is provided in Section 6 of this Staff Report.

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. A pre-submittal public meeting was held on June 27, 2024, via a virtual meeting platform and a sign was posted on the Property. Three people attended the meeting, as per the submitted sign-in sheet.

As of the date of this Staff Report, no correspondence related to these Applications has been received.

SECTION 5: PRELIMINARY PLAN 120250030 FINDINGS AND ANALYSIS

The Preliminary Plan would create one (1) lot, measuring approximately 199,802 square feet or 4.59 acres of site area, for a maximum density of up to a total of 120 beds, in eight (8) buildings. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable State, County, and City agencies.

- 1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***

a) The block design is appropriate for the development or use contemplated

The block design is existing, not changing and appropriate for the development and use. The length, width, and shape of the block are compatible with the development in the neighborhood in which the Site is located.

b) The lot design is appropriate for the development or use contemplated

The lot has been reviewed for compliance with Chapter 50, the Subdivision Regulations. The layout of the single-lot subdivision, including its size, shape, and orientation is appropriate for residential development in the R-200 Zone. The proposed Residential Care facility and the proposed lot mimic a typical R-200 layout using detached residential sized buildings and a

Ruby Senior Living,

similar development pattern to the surrounding neighborhood. As proposed, the Lot can accommodate the proposed buildings, stormwater management, parking, and other required infrastructure while meeting the standards established by the approved Conditional Use.

c) *The Preliminary Plan provides for required public sites and adequate open areas*

iii. *Master Planned Sites*

The Property is located within the "Brink Road Transition Area" of the Master Plan. The Master Plan contains no site-specific recommendations for the Property, yet the Master Plan recommends compatible, low-density residential uses in the Brink Road Transition Area (p. 77). The approved Conditional Use is residential in use and character and furthers the Master Plan's goals by providing compatible, low-density residential infill development, green open space, and landscape screening, resulting in minimal impact on the surrounding neighborhood. Furthermore, the approved use provides diverse housing opportunities to allow existing seniors in the Clarksburg/Boyd's area to age in the community, consistent with the Master Plan.

iv. *Local Recreation*

The Preliminary Plan does not include land dedication for public recreation purposes, nor is such dedication required.

v. *Transportation and Utilities*

The proposed frontage improvements comply with the 2024 *Complete Streets Design Guidelines* and consist of a buffered sidewalk on the Subject Property's side of West Old Baltimore Road. These improvements are discussed in detail under the Transportation heading in Section 3.

d) *The Lot(s) and Use comply with the basic requirements of Chapter 59*

Residential Care Facilities (greater than 16 persons) are allowed uses in the R-200 Zone as a conditional use. The Hearing Examiner approved CU 2023-11 for the Subject Property in a report dated April 16, 2024. The Subject Preliminary Plan conforms with all required conditions. As required in Condition No. 2 of the Conditional Use approval, the Preliminary Plan proposes no more than the approved eight (8) buildings with 120 beds.

As shown in the data table below, the Application will comply with the development standards of the R-200 Zone, Standard Method. The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The lot's size, width, shape, and orientation are appropriate for the zone, location, and use provided for the Site.

Table 1: Ruby Senior Living Preliminary Plan Data Table as approved by the Hearing Examiner for CU23-11.

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	4.66 Ac
Prior Dedication	n/a	n/a
Proposed Dedication	n/a	0.08 Ac
Site Area	n/a	4.58 Ac (199,802 SF)
Density – 1,200 sqft/bed	148 Beds (max)	120 Beds
Minimum Lot Area	20,000 sf	199,802 sf
Minimum Lot Frontage	40 ft	100ft or more
Maximum Lot Coverage	25%	14%
Principle Building setbacks¹		
Front (W. Old Baltimore)	40 ft	100 ft
Side Street (Ruby Drive)	40 ft	40 ft
Side Street (West)	20 ft	22 ft
Rear (North)	20 ft	280 ft
Height	50 ft	40 ft
Site Plan Required	No	No
Vehicular Parking Requirement (Section 59-6.2.4.B) Spaces/Unit	0.25 spaces/bed + 0.5 spaces/employee 52 spaces	52 spaces
Bicycle Parking Requirement (Section 59-6.2.4.C) Spaces/Unit	0.1 spaces/employee 5 spaces	Five (5) spaces
Green Space	50%	> 50%

2. The Preliminary Plan substantially conforms to the Master Plan.

a) Land Use

The Master Plan confirms the R-200 zoning for the Property but does not contain any site-specific recommendations. The Project conforms with the general recommendations contained in the Master Plan.

The Project maintains a footprint compatible with low density, single-family properties. Although proposing approximately 120 beds in eight buildings, the Residential Care Facility use has low impacts on traffic and no impact on schools. The Applicant will construct landscaped buffers around the periphery of the Site, to provide ample screening and buffering from the surrounding roads.

¹ These development standards meet or exceed the requirements of the R-30 zone pursuant to section 59-3.3.2.c.ii.e.

The Master Plan endorsed compatible, low-density residential uses in the Brink Road Transition Area. The Project achieves this goal by splitting the beds into eight smaller residential scale buildings.

b) Environment

Of particular significance, the Master Plan focuses on environmental protection by establishing a Special Protection Area (Clarksburg SPA). No environmental features onsite and the Project has minimized impervious surfaces to the greatest extent possible. As discussed below, the Project requires a Water Quality Plan, which staff recommends approval.

c) Transportation

The Master Plan recommends that roads linking major highways to neighborhoods be “pedestrian friendly” and include features like “medians, street trees, and generous sidewalk areas.”² The frontage improvements proposed by the Project further this recommendation by linking two sections of the existing sidewalk along W. Old Baltimore Road.

The 2024 *Complete Streets Design Guide* sets a goal for Area Connector road types to “accommodate and encourage pedestrian and bicycle activity”.³ The improvements proposed meet the objectives of this road type.

3. Public facilities will be adequate to support and service the area of the subdivision.

a) Roads and other Transportation Facilities

vi. Existing Facilities

The Subject Property fronts on West Old Baltimore Road, identified as an Area/Neighborhood Connector in the 2023 Technical Update of the *Master Plan of Highways and Transitways*. Per the 2024 *Complete Streets Design Guide*, the pedestrian and bicycle facilities for the designated street type are a 10-foot sidepath (on the south side, opposite the Subject Property in this case) and a 6-foot sidewalk (on the north side, along site frontage). The predominant bikeway type for West Old Baltimore Road is a sidepath, as recommended in the 2018 *Bicycle Master Plan*. At present, a sidewalk terminates along the south side of West Old Baltimore, 300 feet west of Manor Crest Way, and approximately 1,400 feet west of the Subject Property’s western property line.

² 1994 *Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* page 24.

³ 2024 *Complete Streets Design Guide* page 62.

Currently, no pedestrian facilities exist along the Property frontage on West Old Baltimore Road (north side). However, adjacent sidewalk connections terminate to the east and west of the Site. A sidewalk currently ends at the western property line. An additional sidewalk connection exists east of the Subject Property and terminates at Red Oak Ridge Place.

The Property also fronts Ruby Drive – currently a 20-foot-wide Neighborhood Street without sidewalks that provides access to six single family homes. As shown on the preliminary plan, the required 30-feet of dedication from the centerline along Ruby Drive has been accommodated, and no additional dedication is required. An internal sidewalk system will serve the Property, and a privacy fence will be added along the Ruby Drive at the property line.

Proposed public transportation infrastructure

West Old Baltimore Road: The Application proposes a 6-foot sidewalk with a 15-18-foot wide buffer, along the Property’s West Old Baltimore frontage – connecting to the existing western sidewalk section. Additionally, the Applicant is providing an off-site continuation of the proposed sidewalk to the east, connecting to the existing sidewalk at Red Oak Ridge Place (Figure 6). The completion of this gap in the sidewalk network will significantly improve pedestrian circulation and safety. The future sidewalk will create a continuous pedestrian connection extending westward from Frederick Road to Little Seneca Creek, serving a multitude of residential communities.

Ruby Drive: Per the 2024 *Complete Streets Design Guide*, Neighborhood Streets should have sidewalks on both sides of the street. However, in retrofit applications, a sidewalk on one side of the street may be an interim condition in existing neighborhoods with limited right-of-way. No properties (the Subject Site or others) will have access on the west side of Ruby Road. Furthermore, the design of Ruby Drive and limited access to the larger transportation network ensures that there will be relatively low vehicular traffic volumes, traveling at relatively low speeds. Therefore, consensus was reached that the Applicant would not be required to install a buffered sidewalk with the Subject Application. The Property will be served by an internal sidewalk system, and a privacy fence will be constructed along the Ruby Drive property line.



Figure 6: Proposed Public Transportation Infrastructure

vii. Proposed private transportation infrastructure

Private infrastructure includes internal sidewalks connecting each structure within the facility to the sidewalk along West Old Baltimore Road as well as five (5) long term bike parking spaces provided in a secure room in Building H.

b) Local Area Transportation Review (LATR)

The Subject Property is located in the Clarksburg East Transportation Policy Area, which is classified as an Orange Policy Area under the 2020-2024 *Growth and Infrastructure Policy* (“the GIP”)⁴. The proposed use is a 120-bed residential care facility with a maximum of 44 employees on-site per shift. Demonstrated by the Transportation Exemption Statement (“TES”) submitted by the Applicant on October 3, 2023, the Proposed Development will generate 34 AM net-new person trips during the AM weekday peak hour, and 45 net new person trips during the PM weekday peak hour. These calculations are based on the ITE Trip Generation Manual, 11th Edition, adjusted for the Clarksburg policy area, a yellow policy area (Table 2). The 2020-2024 *Growth and Infrastructure Policy* (“the GIP”) requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. Since the uses

⁴ This project was accepted prior to Jan 1, 2025, and is therefore subject to the prior 2020-2024 GIP.

proposed in this Application do not exceed 50 net new person trips in either peak hour, the Local Area Transportation Review is satisfied with a transportation exemption statement. A summary of the trip generation analysis is provided:

Table 2: Trip Generation Analysis

LATR Trip Generation							
	Units	AM Peak Hour			PM Peak Hour		
Total Vehicle Trips Per ITE 11 th Edition	120 Beds	In	Out	Total	In	Out	Total
ITE Generation Code – 254 (Assisted Living)		13	9	22	11	18	29
Policy Area Adjustment Factor (Clarksburg Policy Area – 100%)		13	9	22	11	18	29
Auto Driver		22			29		
Auto Passenger		9			12		
Transit		1			1		
Non-Motorized (Bike)		1			3		
Pedestrian (Transit + Bike)		0			0		
Total Person Trips		34			45		

Source: Trip generation rates are based on the ITE Trip Generation Manual, 11th Edition and adjusted as detailed in the 2022 LATR guidelines. Figures are rounded to the nearest whole number. Source: Wells + Associates Traffic Consulting Local Area Transportation Review – October 3rd, 2023

c) Schools

The Subject Application is for a Residential Care Facility. Therefore, there is no impact on school capacity.

d) Other Public Facilities and Services

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. Water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission (“WSSC”) through connection to the existing water and sewer lines. On September 30, 2024, WSSC approved a Hydraulic Planning Analysis (HPA) for the extension of an 8-inch sewer main and 8-inch water line, within an existing water and sewer easement, located at the northwest corner of the Subject Property (WSSC Project No. DA7861Z25). On-site water and sewer house connections will be extended from the proposed main extensions to each structure. Other utilities, public

facilities, and services, such as electric, telecommunications, police stations, firehouses, and health services are currently operating within the standards set by the 2020-2024 GIP in effect when the Application was submitted.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

The Final Forest Conservation Plan satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, and complies with the Montgomery County Planning Department’s Environmental Guidelines. Please refer to Section 6 of this report for the analysis and findings for the Final Forest Conservation Plan.

5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.

MCDPS approved a Stormwater Management Concept on October 19, 2024, as part of the Water Quality Plan. The Preliminary Plan proposes to meet required stormwater management goals via Environmentally Sensitive Design (“ESD”) to the Maximum Extent Possible (MEP) using drywells and micro bio-retention facilities.

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

This finding is not applicable to the Subject Application because the Applicant has no actual notice or constructive notice of a cemetery located within the subdivision.

7. Any other applicable provisions specific to the property and necessary for approval of the subdivision are satisfied.

No other provisions apply to the Subdivision.

SECTION 6: FOREST CONSERVATION PLAN F20250100 AND WATER QUALITY PLAN FINDINGS AND ANALYSIS

All Forest Conservation Law, Chapter 22A requirements are satisfied.

The Final Forest Conservation Plan (“FFCP”) satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines.

Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420240140 for this Property was approved on October 27, 2023. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is comprised of multiple parcels totaling a 4.66-acre lot. The Subject Property is located within the Little Seneca Creek watershed and is classified as a Use Class IV-P watershed by the State of Maryland. The NRI/FSD identified 1.36 acres of forest on the Subject Property. The site contains numerous specimen and significant trees. There are no streams or floodplain or stream valley buffers onsite.

Environmental Guidelines

The Application is in compliance with the Environmental Guidelines.

Special Protection Area Water Quality Plan

The Preliminary Plan Application satisfies all of the applicable requirements of Chapter 19 of the Montgomery County Code and the Environmental Guidelines, as conditioned and discussed below.

This Property is located within the Clarksburg Special Protection Area (“SPA”), on privately owned property where land disturbance is proposed; as such, it is required to obtain approval of a water quality plan under Section 19-62(b) of the Montgomery County Code.

As required by Chapter 19, a Preliminary Water Quality Plan must be reviewed in conjunction with a Preliminary Plan Application. The Final Water Quality Plan is reviewed in conjunction with the Site Plan Application. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (“MCDPS”), the Montgomery County Department of Environmental Protection (“MCDEP”), and the Planning Board have different responsibilities in the review of a Water Quality Plan. MCDPS and MCDEP review the Preliminary Plan Application for site performance goals, stormwater management, sediment and erosion control, monitoring of streams and Best Management Practice performance. The Planning Board’s responsibility is to determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

MCDPS AND MCDEP SPECIAL PROTECTION AREA REVIEW ELEMENTS

The Preliminary Plan Application and Conditional Use site plan received an approved Combined Preliminary/Final Water Quality Plan/Site Development Stormwater Management Plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on October 10, 2024 (Attachment D). The Application will meet stormwater management goals through the use of drywells and micro bioretention. The approval is for elements of the Water Quality Plan of which DPS has lead agency responsibility and does not include limits on imperviousness or buffer encroachments. MCDEP will require stream monitoring and BMP monitoring fees per Special Protection Area regulations.

Ruby Senior Living,

Planning Board Special Protection Area Review Elements

Following is an analysis of the Planning Board's responsibilities in the review of the Water Quality Plan.

FOREST CONSERVATION

As discussed below, the FFCP Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The Preliminary FCP was submitted with the Conditional Use Application and the Final FCP was submitted with the Preliminary Plan Application.

ENVIRONMENTAL BUFFER PROTECTION

An NRI/FSD No. 420240140 was approved by Staff in October 2023. The approved NRI/FSD did not identify any environmental buffers on the Property, so this requirement is not applicable to this Application.

IMPERVIOUS SURFACES

As noted previously in this report, the Property is located within the Clarksburg SPA. The Clarksburg SPA does not have a numerical limit on impervious surfaces; however, a main goal for development in all SPAs is to reduce or minimize impervious surfaces.

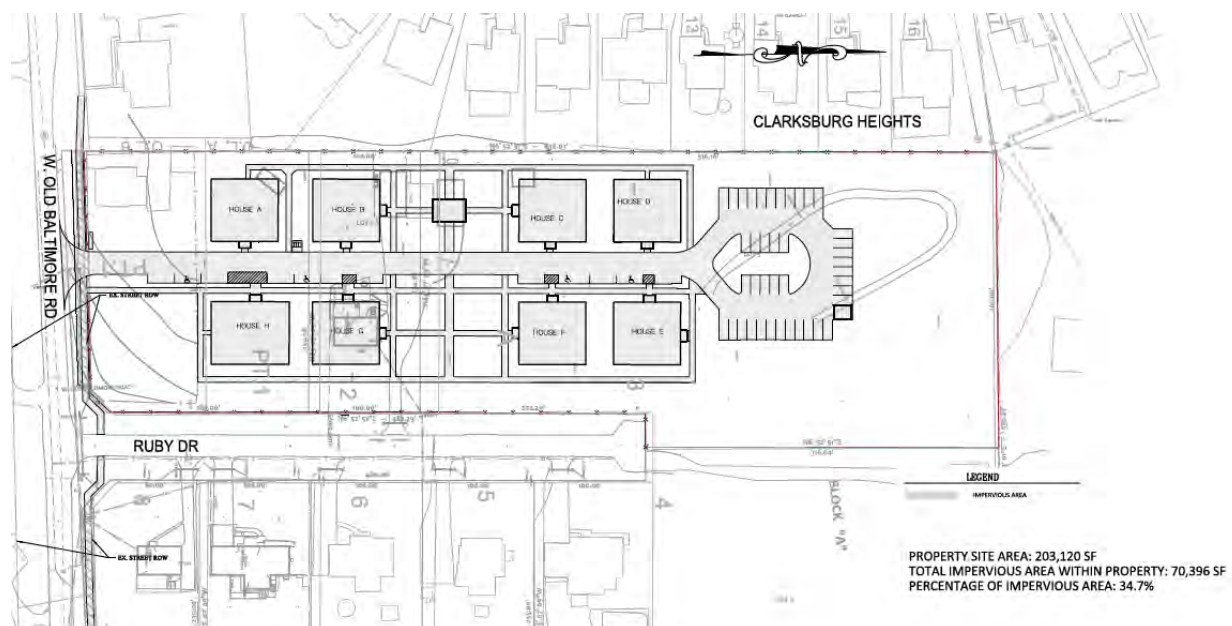


Figure 7: Proposed Impervious Surface Exhibit

The Preliminary Plan Application includes an Impervious Surface Exhibit (Attachment C). The Application proposes to construct 70,396 square feet of impervious surfaces within the 203,120 square feet property and offsite LOD resulting in 34.7% imperviousness over the Property within the Clarksburg SPA.

The Applicant minimized impervious surfaces by using five-foot internal sidewalks and minimizing parking areas. Overall, the impervious surfaces are at levels below other institutional uses within the same zone.

The Preliminary Plan Application meets all applicable requirements of Chapter 19 and Chapter 59 for SPA Water Quality Plans.

Staff recommends the Planning Board approve the elements of the SPA Water Quality Plan under its purview.

Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan No. F20250100 (“FFCP”) (Attachment B) for concurrent review with the Preliminary Plan No. 120250030. The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

The Subject Property is zoned R-200 and is assigned a Land Use Category of High Density Residential (“HDR”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 15 percent and a conservation threshold of 20 percent of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 4.66-acre Total Tract plus 0.54 acres of offsite improvements associated with this Application, for a total Net Tract area of 5.20 acres.

The Application proposes clearing all 1.36 acres of forest onsite and results in an afforestation/reforestation requirement of 2.24 acres if within the same watershed or a Priority watershed or 2.92 acres if met elsewhere in the County. The applicant is proposing to meet the entire requirement offsite through the purchase of forest mitigation bank credits or, if none are available, through payment of a free-in-lieu.

Forest Conservation Variance Request

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left undisturbed. An applicant for a variance must provide certain written information in support of

the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that measure 30 inches or greater diameter breast height (DBH); are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request

The project had the approval of a variance request at the time of the Preliminary Forest Conservation Plan. This application had significant changes and additional tree impacts; therefore, the Applicant submitted a new Variance Request, which will supersede the previous approval.

The Applicant submitted a Variance request dated October 21, 2024 (Attachment B). The Applicant proposes to impact three (3) and remove twelve (12) trees that are 30 inches or greater DBH, which are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Table 4).

ID	Scientific Name	Common Name	Condition	DBH	Remove or Save
E00	Picea Pungens	Blue Spruce	good	34	Remove
E01	Liriodendron Tulipifera	Tulip Poplar	fair/poor	30	Remove
E02	Prunus Serotina	Black Cherry	fair/poor	34	Remove
E03	Acer Rubrum	Red Maple	good	33	Remove
E04	Qurecus Rubra	Red Oak	fair/poor	31	Remove
E05	Quercus Velutina	Black Oak	Poor	43	Remove
E06	Qurecus Alba	White Oak	good	36	Remove
E09	Quercus Alba	White Oak	good	33	Save
E13	Quercus Velutina	Black Oak	good	32	Save
E17	Ulmus Americana	American Elm	fair	39	Remove
E21	Acer Rubrum	Red Maple	fair/poor	53	Remove
E25	Acer Saccharinum	Silver Maple	good/fair	59	Remove
E29	Prunus Serotina	Black Cherry	Fair	31	Remove
E32	Acer Saccharinum	Silver Maple	Fair	40	Remove
E34	Acer Saccharinum	Silver Maple	Poor	31	Remove

Table 1 – Protected Trees, Retained or Removed

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of their property. Reasonable and significant use of the Property is the

expectation to subdivide and subsequently develop the Property in accordance with applicable development standards of the R-200 zone. The unwarranted hardship is caused by the combination of the necessary layout of the proposed development on the Property, which is dictated by the existing site conditions, development standards of the zone, and Montgomery County agency requirements combined with the location of the Protected Trees. There are three Protected Trees requested to be impacted and twelve Protected Trees requested to be removed all of which are located within or adjacent to the limits-of-disturbance (“LOD”) within the developable area of the Property (Figure 7/8). These trees are, for the most part, centrally located within the Property. Therefore, virtually any permitted use constructed in accordance with the R-200 development standards, would be expected to impact Protected Trees.

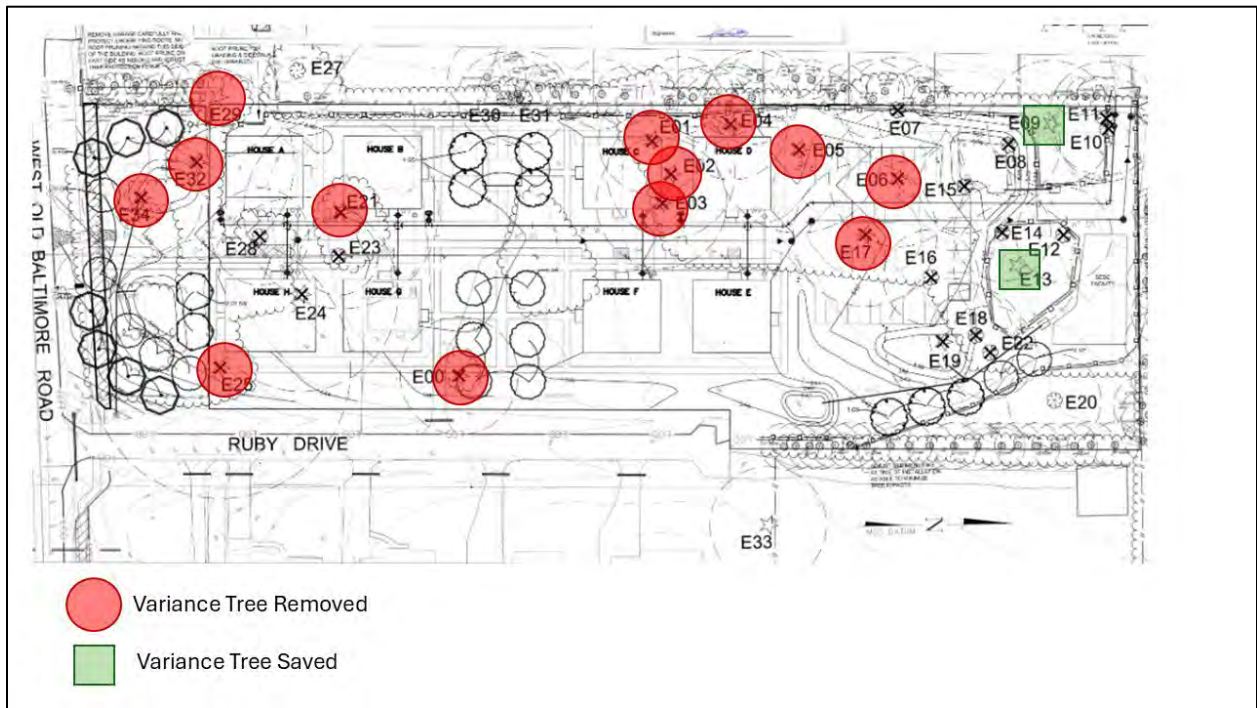


Figure 8 - Variance Trees

The inability to impact or remove these highly impacted Protected Trees would potentially render portions of the Site undevelopable for this Project. Therefore, there is a sufficient unwarranted hardship to justify a variance request because the Applicant would otherwise be denied the ability to use the Property for the proposed subdivision and subsequent development, which is a reasonable and significant use of the Property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed Forest Conservation Plan:

a. Variance Findings.

The following determinations are based on the required findings for granting of the requested variance:

i. Will not confer on the applicant a special privilege that would be denied to other applicants.

Granting the variance will not confer a special privilege on the Applicant as the impacts to three trees and the removal of twelve trees are due to the location of the trees within and adjacent to the limits-of-disturbance (“LOD”) of the Property and necessary site design requirements for this Property. Granting a variance to allow disturbance within the developable portion of the site is not unique to this Applicant. Therefore, the granting of this variance is not a special privilege that is granted only to this Applicant and denied to other applicants.

ii. Is not based on conditions or circumstances which are the result of the actions by the applicant.

The requested variance is not based on conditions or circumstances resulting from actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application.

iii. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance results from the existing conditions and the proposed site design and layout of the Property, and not from land or building use on a neighboring property.

iv. Will not violate State water quality standards or cause measurable degradation in water quality.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed are not located within a stream buffer, or wetland. Proposed mitigation includes planting 29 three-inch caliper, Maryland native overstory trees on-site. The mitigation trees will replace the ecological and water quality functions that may be lost by the removal of the seven trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

Twelve Protected Trees were proposed for removal in this variance request, resulting in a total of 463.0 inches of DBH being removed, as shown on the FFCP. The Applicant proposes mitigation at a rate approximating the form and function of the removed trees. These trees will be replaced at a ratio of approximately one-inch caliper for every four inches removed using trees that are a minimum of

three caliper inches in size. This results in a total mitigation of 115.75 inches with the installation of 29 four-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of twelve Protected Trees. There is some disturbance within the CRZ of three trees; however, such trees will receive adequate tree protection measures, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As conditioned, the mitigation trees will be protected as part of a five-year maintenance and management agreement.

Variance Recommendation

Staff recommends approval of the variance request.

SECTION 7: CONCLUSION

As conditioned, the Preliminary Plan substantially conforms to the recommendations of the 1994 *Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* and satisfies the findings of the Subdivision Regulations. The Forest Conservation Plan satisfies applicable requirements of the Forest Conservation Law and is in compliance with the Montgomery County Planning Department's Environmental Guidelines.

Therefore, Staff recommends approval of the Preliminary Plan and Final Forest Conservation Plan with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Preliminary Plan

Attachment B: Forest Conservation Plan

Attachment C: Impervious Surface Exhibit

Attachment D: Prior Approvals

Attachment E: Agency Letters