

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

**June 1, 2009**

**CALL TO PODIUM:**

**Jacqueline Marsh**

**RESPONSIBLE STAFF:**

**Jacqueline Marsh, Planner**

**Greg Ossont, Director  
Planning and Code  
Administration**

**Lauren Pruss, Planning Director**

**AGENDA ITEM:**

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Joint Public Hearing
<input type="checkbox"/>	Historic District Commission
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	N/A
Advertised	2/25/09
	3/4/09
Hearing Date	3/16/09
Record Held Open	5/15/09
Policy Discussion	6/1/09

**TITLE: SDP-08-005 POLICY DISCUSSION**

**SDP-08-005** is an application requesting the redevelopment of 3.6859 acres of land located at 12-26 South Frederick Avenue, and includes Parcels N323 & N271, commonly known as the Executive Gardens Apartments. The plan proposes to demolish the existing buildings and redevelop the site with a 263-unit multiple-family building with structured parking.

**SUPPORTING BACKGROUND:**

The applicant, Keystone REI, represented by Mr. Jody Kline of Miller, Miller and Canby, has submitted a schematic development plan, as required by §24-160G.6 (Procedure for application and approval) of the City Code, in conjunction with rezoning application Z-309. A joint public hearing was held March 16, 2009.

The applicant is proposing to redevelop 85 garden style apartments, currently known as the Executive Gardens, located at the intersection of South Frederick Avenue (MD 355) and the State Highway Administration (SHA) service ramp. The proposal also includes Parcels N323 and N271, adjacent to George Street. The proposed plan would include a 263-unit multiple family building with structured underground parking.

As part of the proposed application, the applicant is seeking a height waiver for the multiple-family complex not to exceed five (5) stories or sixty (60') feet, in accordance with §24-160G.5(a)(2) of the City Code. The waiver must be granted concurrently with any schematic development plan approval.

The Planning Commission recommended approval of SDP-08-005 at their May 6, 2009 meeting, with 11 conditions. The Council's record closed at 5:00 pm May 15, 2009.

*Attachments:*  
*Draft SDP-08-005 Resolution*  
*CPC From Planning Commission Recommendation*  
*Staff Analysis*  
*Index of Memoranda and Exhibits (In **Bold**)*

**DESIRED OUTCOME:**

**Conduct Policy Discussion.**

**A draft resolution for SDP-08-005 has been attached.**

RESOLUTION No. \_\_\_\_\_

RESOLUTION OF THE MAYOR AND CITY COUNCIL  
OF GAITHERSBURG GRANTING APPROVAL OF  
SCHEMATIC DEVELOPMENT PLAN SDP-08-005,  
KNOWN AS SUITES 355, FOR  
APPROXIMATELY 3.6859 ACRES OF PROPERTY  
ZONED CORRIDOR DEVELOPMENT (CD)

**SDP-08-005**

OPINION

Schematic development plan (SDP) application SDP-08-005, zoned Corridor Development (CD), has come before the Mayor and City Council for approval. The City Council's authority in this matter is pursuant to §24-160G.6(b) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Council and Planning Commission to conduct public hearings on a schematic development plan application following appropriate notification procedures and to take action on the application following receipt of a recommendation by the City Planning Commission.

The subject case involves approximately 3.6859 acres of land and concerns the development of the subject property ("Property") known as 12-26 South Frederick Avenue, and includes Parcels N323 and N271, known as Executive Gardens Apartments. The site is located at the intersection of South Frederick Avenue (MD 355) and the State Highway Administration (SHA) service ramp, in the City of Gaithersburg. The schematic development plan application was submitted to the City Planning and Code Administration on November 13, 2008. This application was designated as SDP-08-005.

OPERATIVE FACTS

A. Background

The applicant is requesting approval to rezone 3.6859 acres of land from the R-20 (Medium Density Residential) Zone to the CD (Corridor Development) Zone in accordance with §24-196 (Map Amendments) and §24-160G.6 (Procedure for Application and Approval) of the City Code. The property is located at 12-26 South Frederick Avenue and includes Parcels N323 & N271, commonly known as Executive Gardens. An application to rezone property to the CD Zone requires the concurrent submission of either a concept plan or schematic development plan. The applicant has elected to submit a schematic development plan application.

B. Current Application:

On November 13, 2008, Jody Kline of Miller, Miller and Canby, representing the applicant, Keystone REI, submitted an application for schematic development plan, SDP-08-005. This application proposes to demolish the existing garden style apartments and redevelop the site with a 263-unit multiple-family building with structured underground parking.

The Mayor & City Council and Planning Commission held a joint public hearing for SDP-08-005 on March 16, 2009. During the course of the hearing, specific aspects of the application were commented upon. These key issues concerned the amount of parking onsite, pedestrian connectivity, density, fire and rescue access, and traffic impacts on the surrounding neighborhoods.

The Planning Commission record on SDP-08-005 closed as of 5:00 PM, April 30, 2009. The Planning Commission reviewed the SDP-08-005 application at its regular meeting on May 6, 2009. Based upon their review of the evidence, the Planning Commission found the SDP-08-005 application to be in conformance with the Corridor Development (CD) Zone standards and requirements. Consequently, the Planning Commission recommended approval of the SDP-08-005 application with the following conditions:

1. Applicant shall receive all necessary State Highway Administration (SHA) access permits prior to the issuance of site development permits;
2. Applicant shall continue to work with staff and the SHA in order to pursue an easement for land on the northwestern side of the property in order to expand the twenty foot drive aisle;
3. Applicant shall continue to work with the SHA to provide improvements to the SHA retaining wall, including, but not limited to the removal or replacement of the perimeter chain link fence and landscape and streetscape enhancements;
4. Applicant shall contribute \$20,000 for Montgomery County Ride-On bus shelter upgrades prior the recordation of final subdivision plats;
5. Applicant shall obtain Storm Water Management approval prior to Final Site Plan approval;
6. Applicant shall obtain final forest conservation plan and landscape plan approval prior to the issuance of site development permits;

7. Applicant shall coordinate with staff and the Art in Public Places (AIPP) Committee to establish an AIPP project prior to the issuance of site development permits;
8. Applicant shall coordinate with the Department of Public Works (DPW) and the Planning and Code Administration staff to develop an infrastructure improvement plan including, but not limited to off street improvements to George Street and Cedar Avenue prior to final site approval;
9. Applicant shall continue to work with city staff on the final architectural elevations with emphasis given to the northern corner adjacent to South Frederick Avenue/SHA service ramp intersection, to be reviewed and approved by the Planning Commission at final site plan;
10. The applicant shall receive a parking waiver of no more than 10 spaces by the Mayor and City Council at schematic development plan. The final number of parking spaces waived shall be granted by the Planning Commission at the time of final site plan; and
11. The applicant shall receive final approval of the sign package by the Planning Commission at the time of final site plan approval.

#### C. Evaluation and Findings

The City Council, upon careful review of the evidence of record, agrees with the findings, conclusions and the recommendation of approval for schematic development plan SDP-08-005 by the City Planning Commission and City staff. The City Council finds those recommendations to be well reasoned and adopts and incorporates their findings as part of this action. The City Council further agrees with the Planning Commission in that the procedures governing the application for the CD Zone and approvals necessary to seek building permits are subject to a multi-step process and that this is only one of several steps of the process, which subsequently includes Final Site Plan reviews and approvals.

In reviewing the subject application for the approval of schematic development plan SDP-08-005, the City Council finds the application and development proposal meets or accomplishes the purposes, objectives, and minimum standards and requirements of the CD Zone that are set forth in Chapter 24 (Zoning) Article III, Division 19 of the City Code.

The City Council finds that the application meets the submission requirements and the standards and requirements for approval of the subject schematic development plan, as set forth in §24-160G.6(b) in that:

- 1) The applicant filed, together with the prescribed application fee, an application for approval of a schematic development plan which is consistent with the approved sketch plan in terms of nature, density, location of use, access, circulation, and preservation features;
- 2) The schematic development plan is scaled at one inch equals fifty (50) feet and contains: a) boundary survey; b) the uses of all buildings and structures within the schematic development plan area, as well as existing uses of adjacent property external to the CD zoned area and proposed uses within adjoining zoned areas; c) the location, height, approximate dimensions and conceptual elevations of all buildings and structures, and the setbacks and densities and/or square footage thereof; d) the location of points of access to the site and all public and private roads, pedestrian and bike paths; e) the location and setbacks of parking areas; f) existing topography, including, contour intervals of not more than two (2) feet; an approved forest stand delineation and forest conservation plan; one-hundred-year floodplains; other natural features; and utility easements; g) all landscaped areas, proposed conceptual screen planting, open spaces, plazas, malls, courts, community identification signage, recreation and amenity areas; i) demonstration of general compliance with any Master Plan recommendations for the property, including any special conditions or requirements related to the property set forth in the Master Plan;
- 3) The City Council and City Planning Commission have conducted a joint public hearing(s) on the application subject to the notification procedures in section 24-196 of this Code.
- 4) The Planning Commission delivered its recommendation to the City Council on May 6, 2009, within thirty (30) days of the close of the commission's hearing record of April 30, 2009.
- 5) The Council is taking action on the application within ninety (90) days after the close of the Council's hearing record on May 15, 2009;
- 6) The approval of this schematic development plan with its degree of detail shall substitute for preliminary site plan approval; and
- 7) The schematic development plan demonstrates compliance with Master Plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan for among other reasons, the nature, and density, and mix of uses proposed, future accessibility to public transportation improvements, retention of forested areas, and interrelationship and compatibility of uses.

Furthermore, the City Council finds from the evidence of record that the application for schematic development plan approval, SDP-08-005, as currently amended, fulfills the findings required under §24-160G.7(b):

(1) The plan is substantially in accord with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the city council for the applicable corridor area:

- a. Application SDP-08-005 maintains the residential land use called for in both the 2001 Frederick Avenue Corridor Special Study Area Master Plan and the associated Design Guidelines.
- b. Application SDP-08-005 provides a multiple family building complex that fronts upon the public streets of South Frederick Avenue and the SHA service road.
- c. Application SDP-08-005 provides all off street parking set back twenty feet (20') from any front building line due to the multiple family complex proposing an underground parking structure.
- d. Application SDP-08-005 incorporates requirements from the Frederick Avenue Corridor Design Guidelines by providing frontage along public streets, providing off street parking so as to not be visible from the street, and providing adequate buffers from adjoining properties by using heavy landscaping.

(2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone:

Purpose & Objective:

- a. Application SDP-08-005 will provide economic vitality by creating a new multiple-family community serving a diverse economic demographic through a variety of multiple-family housing options and by focusing redevelopment on an underutilized area.
- b. Application SDP-08-005 will incorporate innovative land planning practices and timeless architecture to create an appropriate scale of development that is more attractive and cohesive and provides an enhanced sense of place, contributing to the Frederick Avenue Corridor and also nearby Olde Towne.
- c. Application SDP-08-005 provides for the redevelopment of an aging, declining apartment complex.
- d. Application SDP-08-005 will provide for pedestrian enhancement by creating a sidewalk connection from the front end of the property to the adjacent property along South Frederick Avenue, and will improve the existing streetscape along the SHA service road by proposing street trees and creating an easier access to the site than what currently exists.

- e. Application SDP-08-005 provides the applicant the ability to construct a multiple-family building using quality architectural materials that will be consistent with and match the proposed Residences at Olde Towne project, creating an architectural theme along the SHA service road.

Standards and Requirements:

- a. Application SDP-08-005 provides a multiple family building complex that fronts upon the public streets of South Frederick Avenue and the SHA service road.
- b. Application SDP-08-005 provides all off street parking set back twenty feet (20') from any front building line due to the multiple family complex proposing an underground parking structure.
- c. Application SDP-08-005 incorporates requirements from the Frederick Avenue Corridor Design Guidelines by providing frontage along public streets, providing off street parking so as to not be visible from the street, and providing adequate buffers from adjoining properties by using heavy landscaping.

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration:

- a. The location of application SDP-08-005 was identified within the study limits of the Fairgrounds Commercial District of the 2001 Frederick Avenue Corridor Special Study Area Master Plan.
- b. Application SDP-08-005 maintains the residential land use called for in both the 2001 Frederick Avenue Corridor Special Study Area Master Plan and the associated Design Guidelines.

(4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and:

The Suites 355 project will not have an adverse affect on adjacent properties or on the character of the corridor. The site is surrounded by a variety of land uses, including medium density residential, to the south and southeast, an office/commercial building fronting South Frederick Avenue to the south, and an industrial/commercial establishment to the northwest. Within close proximity to the project, the City recently approved a 191-unit multiple family building. These adjacent and nearby uses range from two (2) stories to five (5) stories.

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan:

- a) As stated, MCPS has determined that there is sufficient overall school capacity to absorb future students generated by the development.
- b) WSSC has established that this site maintains W-1 and S-1 (areas served by community systems which are either existing or under construction) categories.
- c) A traffic impact analysis has been submitted and reviewed by the City which determines that no appreciable impacts requiring mitigation will be caused by this development
- d) The Suites 355 Property is located within the ten (10) minute response areas of the following Montgomery County Fire & Rescue stations: Station numbers 8 and 31.
- e) The community pool will be sized to County standards that will adequately serve the Suites 355 neighborhood.

(6) The development staging or phasing program if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development;

The proposed redevelopment project will be built in one (1) phase so the entire community will be served by public facilities and amenities simultaneously.

(7) That the plan, if approved, would be in the public interest:

The Suites 355 plan, SDP-08-005, will allow for higher density that makes it economically feasible to redevelop the site in a manner that satisfies many City goals and strategies including, but not limited to, the goals of the Frederick Avenue Corridor Special Study Area Master Plan, that will provide a higher quality of life within the Corridor.

Suites 355 will be designed through the application of good design principles, including the Frederick Avenue Corridor Design Guidelines, and will provide a strong sense of place and a distinct identity. Redeveloping the property will take advantage of a unique site constraint imposed by the existing Father Cuddy Bridge and SHA service road retaining wall running adjacent to South Frederick Avenue, by incorporating thoughtful land planning and architectural design techniques that are encouraged by the CD zone development standards. The subject proposal utilizes the best of smart growth planning principals by providing the opportunity to create connections between existing communities and preserving existing green space.

The project will provide adequate residential areas for residents with a range of different incomes and lifestyles, including those that meet the MPDU requirements. The project will redevelop a blighted property and provide a larger tax base for the City to generate additional revenue that will help support a wider array of public programs, services, and improvements.

(8) The existing buildings with historic significance are considered for preservation and retention pursuant to the city's historic preservation ordinance.

There are no existing buildings of historic significance; therefore this finding is not applicable.

In summary, the City Council finds SDP-08-005, as amended, containing a 268-unit multiple-family unit complex, with underground structured parking, to be in accordance with §§ 24-160G.6(b) and 24-160G.7(b) and as hereafter conditioned, is in the public interest and should be approved due to the presence of substantial evidence in the record to indicate that the subject Schematic Development Plan has accomplished the purposes of the Corridor Development (CD) Zone, as well as generally accepted City planning and land use policies, subject to the applicant complying with the following conditions:

1. Applicant shall receive all necessary State Highway Administration (SHA) access permits prior to the issuance of site development permits;
2. Applicant shall continue to work with staff and the SHA in order to pursue an easement for land on the northwestern side of the property in order to expand the twenty foot drive aisle;
3. Applicant shall continue to work with the SHA to provide improvements to the SHA retaining wall, including, but not limited to the removal or replacement of the perimeter chain link fence and landscape and streetscape enhancements;
4. Applicant shall contribute \$20,000 for Montgomery County Ride-On bus shelter upgrades prior the recordation of final subdivision plats;
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6. Applicant shall obtain final forest conservation plan and landscape plan approval prior to the issuance of site development permits;
7. Applicant shall coordinate with staff and the Art in Public Places (AIPP) Committee to establish an AIPP project prior the issuance of site development permits;
8. Applicant shall coordinate with the Department of Public Works (DPW) and the Planning and Code Administration staff to develop an infrastructure improvement plan including, but not limited to off street improvements to George Street and Cedar Avenue prior to final site approval;
9. Applicant shall continue to work with city staff on the final architectural elevations with emphasis given to the northern corner adjacent to South

Frederick Avenue/SHA service ramp intersection, to be reviewed and approved by the Planning Commission at final site plan;

10. The applicant shall receive a parking waiver of no more than 10 spaces by the Mayor and City Council at schematic development plan. The final number of parking spaces waived shall be granted by the Planning Commission at the time of final site plan; and
11. The applicant shall receive final approval of the sign package by the Planning Commission at the time of final site plan approval.

SCHEMATIC DEVELOPMENT PLAN SDP-08-005

RESOLUTION

NOW, THEREFORE BE IT ORDAINED by the City Council of Gaithersburg, that SDP-08-005, being an application filed by Miller, Miller and Canby, on behalf of Keystone REI, requesting approval of Schematic Development Plan is hereby approved subject to the conditions required of the applicant.

ADOPTED by the City Council this 1<sup>st</sup> day of June, 2009.

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SIDNEY A. KATZ, MAYOR and  
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in a public meeting assembled on the 1<sup>st</sup> day of June, 2009.

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Angel L. Jones, City Manager

**COMMUNICATION: PLANNING COMMISSION**

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**MEMORANDUM TO:** Mayor and City Council

**FROM:** Planning Commission

**DATE:** May 7, 2009

**SUBJECT:** SDP-08-005 -- Keystone Real Estate Investments  
Requests the redevelopment of 3.6859 acres of land located at 12-26 South Frederick Avenue, and includes Parcels N323 & N271, and is known as Executive Gardens Apartments. The plan proposes a 263-unit multiple-family building with structured parking.

At its regular meeting on May 6, 2009, the Planning Commission made the following motion:

Commissioner Kaufman moved, seconded by Commissioner Hopkins, to recommend SDP-08-005 for APPROVAL to the Mayor and City Council, with the following conditions:

1. Applicant to receive all necessary State Highway Administration (SHA) access permits prior to the issuance of site development permits;
2. Applicant shall continue to work with staff and the SHA in order to pursue an easement for land on the northwestern side of the property in order to expand the twenty foot drive aisle;
3. Applicant shall continue to work with the SHA to provide improvements to the SHA retaining wall, including, but not limited to the removal or replacement of the perimeter chain link fence and landscape and streetscape enhancements;
4. Applicant shall contribute \$20,000 for Montgomery County Ride-On bus shelter upgrades prior the recordation of final subdivision plats;
5. Applicant shall obtain Storm Water Management approval prior to Final Site Plan approval;

**Joint Hearing - MCC & PC**  
**SDP-08-005**  
**#72**

6. Applicant shall obtain final forest conservation plan and landscape plan approval prior to the issuance of site development permits;
7. Applicant shall coordinate with staff and the Art in Public Places (AIPP) Committee to establish an AIPP project prior the issuance of site development permits;
8. Applicant shall coordinate with the Department of Public Works (DPW) and the Planning and Code Administration staff to develop an infrastructure improvement plan including, but not limited to off street improvements to George Street and Cedar Avenue prior to final site approval;
9. Applicant shall continue to work with city staff on the final architectural elevations with emphasis given to the northern corner adjacent to South Frederick Avenue/SHA service ramp intersection, to be reviewed and approved by the Planning Commission at final site plan;
10. The applicant shall receive a parking waiver of no more than 10 spaces by the Mayor and City Council at schematic development plan. The final number of parking spaces waived shall be granted by the Planning Commission at the time of final site plan; and
11. The applicant shall receive final approval of the sign package by the Planning Commission at the time of final site plan approval.

Vote: 5-0

## COMMUNICATION: PLANNING COMMISSION

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**MEMORANDUM TO:** Planning Commission

**FROM:** Jacqueline Marsh, Planner

**DATE:** April 30, 2009

**SUBJECT:** Staff Comments: Z-309/SDP-08-005- This application requests the rezoning of 3.6859 acres of land from the R-20 (Medium Density Residential) Zone to CD (Corridor Development) Zone, located at 12-26 South Frederick Avenue, and includes Parcels N323 & N271, and is known as Executive Gardens Apartments. The schematic development plan proposes a 263-unit multiple-family building with structured underground parking.

### **APPLICANT/OWNER**

Keystone Real Estate Investments, LLC  
103 Leekes Lot Way  
Gaithersburg, MD 20878

### **REQUEST**

This application requests approval to rezone 3.6859 acres of land from the R-20 (Medium Density Residential) Zone to the CD (Corridor Development) Zone in accordance with §24-196 (Map Amendments) and §24-160G.6 (Procedure for Application and Approval) of the City Code. The property is located at 12-26 South Frederick Avenue, and also includes Parcels N323 & N271, and is known as Executive Gardens. The schematic development plan proposes to demolish the existing garden style apartments and redevelop the site with a 263-unit multiple-family building with structured underground parking.

### **BACKGROUND**

Two joint public hearings of the Mayor and City Council and the Planning Commission were held regarding the subject applications on March 16, 2009. Mr. Jody Kline, counsel for the applicant, introduced the application for rezoning. Mr. Rich Koch, of Keystone REI gave a description of the existing conditions onsite and presented the proposed schematic

Joint Hearing - MCC & PC  
SDP-08-005  
#68

development plan and the conceptual architecture. During the joint public hearing, Mr. Koch answered questions as they related to the amount of parking provided onsite, pedestrian connectivity, density, fire and rescue access, and traffic impacts on the surrounding neighborhoods. There were eight speakers from the public.

As a part of the public hearing for the schematic development plan, Mr. Kline indicated all testimony from the previous public hearing should be included in the record and there was no further presentation. There were three speakers from the public.

The Mayor and City Council announced that their records for Z-309 and SDP-08-005 would close on May 15, 2009 at 5:00 PM. The Planning Commission announced that their records for Z-309 and SDP-08-005 would close on April 30, 2009 at 5:00 PM.

## **REQUIRED ACTIONS**

The applicant, Keystone REI, is requesting a map amendment from the R-20 Zone to the CD Zone, which is identified by §24-10A of the City Code as a floating zone. According to §24-10A(2) of the City Code:

*(2) The approval of and placement of floating zones may only occur upon a finding by the city council that the application therefore:*

*(a) Complies with the purposes and intent of the zone as stated in the zoning ordinance; and*

*(b) As applied will be compatible and harmonious with existing and planned land uses in the surrounding area.*

The applicants have the burden of showing that this application complies with the purpose and intent of the CD Zone, as defined in §24-160G.1. ("Purpose, CD"). In addition to the oral testimony provided by the applicant's team, written testimony was entered into the record outlining the applicant's evidence to show compliance with the purpose and intent of the CD Zone. The written testimony is the Statement of Support, the transcript of the public hearing(s).

Further, §24-10A(5) states:

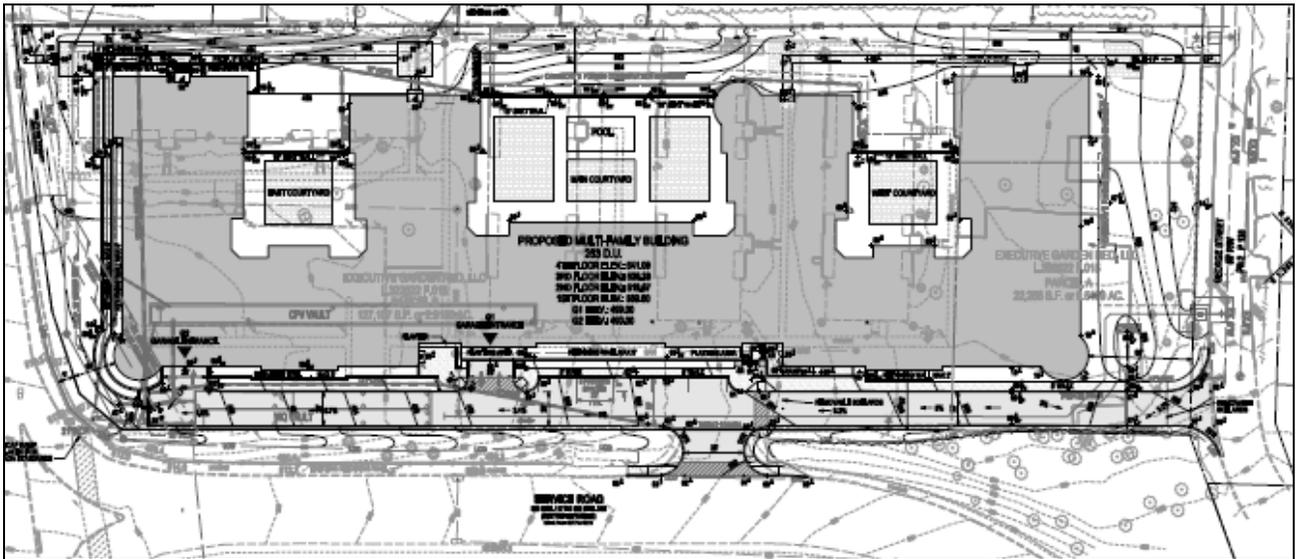
*Notwithstanding the provisions of section 24-10A(3) and (4) above, any schematic development plan, concept plan, (CD Zone) or site development plan shall only be approved upon satisfaction of the respective findings for approval of such plans with or without conditions.*

In conjunction with the map amendment application, the applicant has submitted a schematic development plan. As §24-160G.6(b)(2), "Application for CD zone and schematic development plan approval," mandates:

An application for CD zone approval and schematic development plan approval shall be subject to joint public hearings before the mayor and city council and city planning commission. The city planning commission shall thereafter submit its recommendation to the city council and the city council shall render a final decision. The city council may set conditions on the approval of the schematic development plan which are in the public interest.

## **SDP-08-005:**

The schematic development plan application, SDP-08-005, is proposing to demolish 85 garden style apartments and construct a 263-unit multiple family building with underground parking. The project's density will be seventy-one (71.3) units per acre. The percentage of green area provided will equal fifty percent (50%). The height of the tallest portion of the building will be no taller than sixty (60) feet.



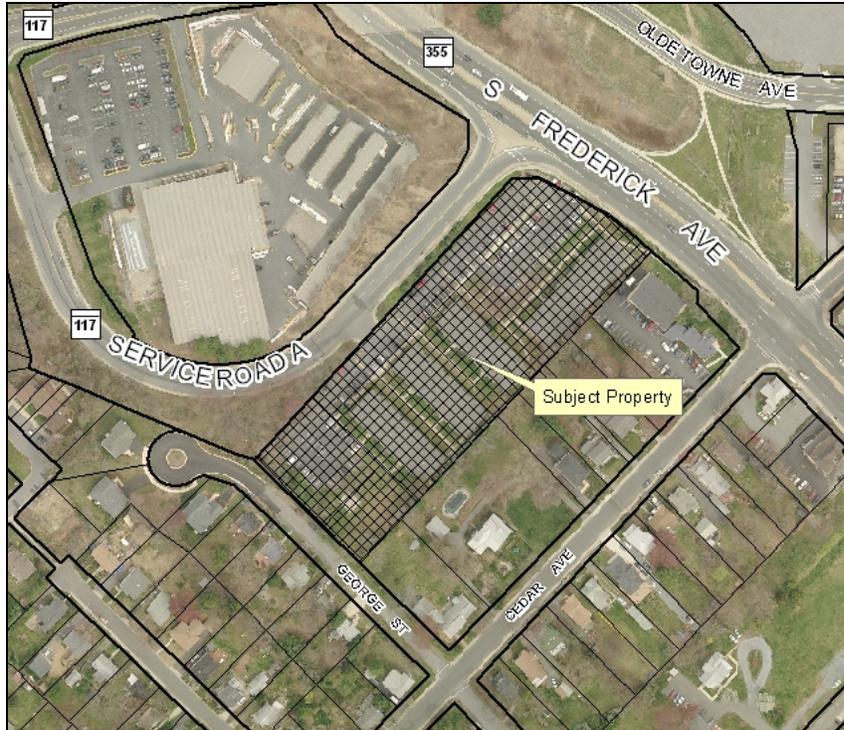
Schematic Development Plan<sup>1</sup>

## **GENERAL INFORMATION**

### **LOCATION:**

The site is located on South Frederick Avenue (MD 355). The State Highway Administration (SHA) service ramp, which leads from West Diamond Avenue to southbound Route 355, or South Frederick Avenue, is located west of the property and George Street is located to the south.

<sup>1</sup> Z-309, Exhibit #29  
SDP-08-005, Exhibit #56



Location Map

**TAX MAP REFERENCE:**

Tax Map: FT51

**TAX ACCOUNT NUMBERS:**

Parcel A, N-271 – ID #09-02856015  
Parcel B, N-220 – ID #09-02856026  
Lot 1, N-323      ID #09-02856037

**MASTER PLAN AND ZONING HISTORY**

The subject property consists of three separate parcels: Parcel A (N-271), Parcel B (N-220), and Lot One (N-323). When the Executive Gardens property was developed in 1964, Parcel B was zoned R-20, which was established in the 1958 Master Plan. The vacant parcel to the south/southeast (later subdivided into two lots), was zoned R-90 (Medium Density Residential), and used for open space and play apparatus for the Executive Gardens apartment complex.



Parcel & Property Line Boundaries

The 1986 Neighborhood Two Land Use Plan did not change the existing R-20 zoning for the Parcel B property, but did however, recommend rezoning Parcel 271 from the R-90 Zone to the R-20 Zone and retain the medium density residential designation for both properties. Accordingly, Parcel 271 was rezoned R-20 as part of the Comprehensive Rezoning Two application for Neighborhood Z-247, adopted by the Mayor and City Council on February 4, 1986.

In 1989, the property owner subdivided Parcel 271 into two lots, creating Lot One (Parcel N-323) in addition to Parcel 271.

In 1995, the City of Gaithersburg embarked on a master plan update for Neighborhoods Six, Two and Four. The result was the 1997 Neighborhood Two Master Plan Amendment that reaffirmed the retention of both land use and zoning categories for the subject property. Following a recommendation made in the 1997 Neighborhood One Master Plan Amendment, the City began a review of the Maryland Route 355, Frederick Avenue corridor.

Through 1998 and 1999, the City sponsored a review of land areas abutting and confronting the MD 355 corridor. This resulted in the publication of a Final Report entitled "Frederick Avenue Corridor Master Plan." That publication was followed by the "Special Study Area - Frederick Avenue Corridor Land Use Plan" adopted by the City in January, 2001. These two documents established three districts with associated land uses and design guidelines. To implement the recommendations of the two planning documents, the City proposed and adopted regulations for a new zone, called the Corridor Development (CD) Zone.

The subject site was included within the Fairgrounds Commercial District of the Frederick Avenue Corridor Special Study Area Master Plan. Concurrently with the adoption of the 2001 Frederick Avenue Corridor Plan, certain properties were designated for comprehensive rezoning to the CD Zone. The subject property was not one of those designated parcels of land, although the property located to the southeast of this site was rezoned. The Master Plan does; however state that, "Owners of properties not comprehensively rezoned are encouraged to apply for rezoning to the CD zone to meet the goals and objectives of the Frederick Avenue Corridor Master Plan."

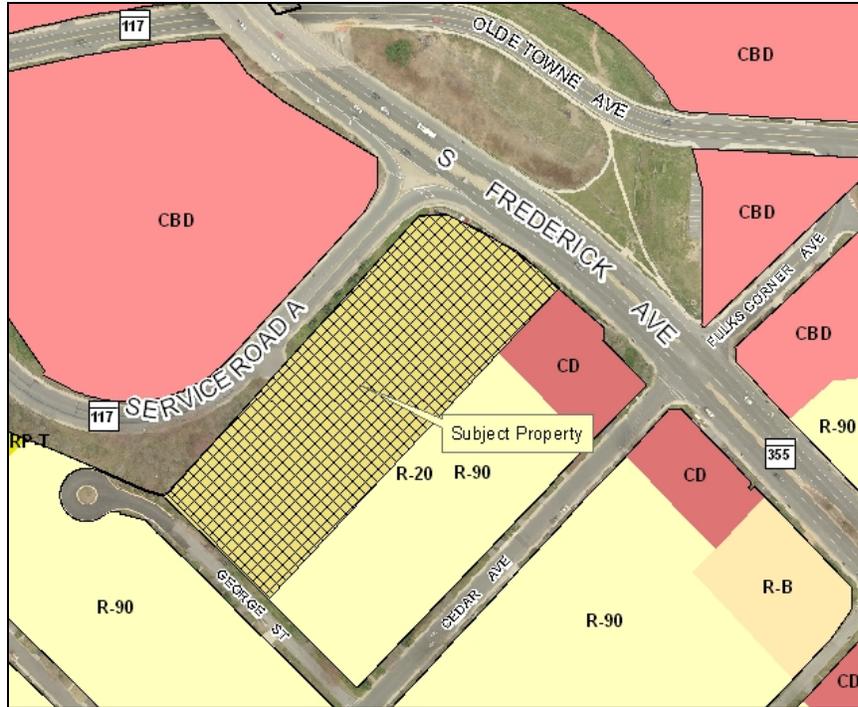
### **EXISTING LAND USE/ENVIRONMENTAL CHARACTERISTICS:**

The 3.68-acre property consists mainly of four multiple family apartment buildings and associated parking lots and maintained lawns. The paved area amounts to 1.13 acres of impervious surfaces. Some trees exist along the southern and southeastern property boundary. There is no forested area onsite, however the Natural Resources Inventory (NRI), approved on September 6, 2007, noted five specimen trees. The site is located in the Great Seneca creek, Long Draught Branch Watershed.

The applicant has included a preliminary forest conservation plan as a part of the SDP-08-005 submission. The plan notes there is no forest onsite, therefore there are no reforestation requirements. The afforestation requirement is 0.55 acres or fifteen percent (15%) of the site. In accordance with §22-9(d)(2), the applicant has identified this site as an urban, high density residential redevelopment site, and is requesting the afforestation requirements be satisfied by tree cover (or, known as canopy coverage). Staff supports this request, which must be approved by the Planning Commission. The final forest conservation plan will be submitted with any final site plan submission.

### **NEIGHBORHOOD LAND USE AND ZONING:**

The subject property is currently zoned R-20. Northwest of the subject property, Barron's Lumber, is zoned CBD. The primary use of this site is light industrial with some commercial use. South of the property, located along South Frederick Avenue, is an office/commercial building zoned CD. To the immediate south and southeast of the property is the Observatory Heights subdivision, zoned R-90 (Medium Density Residential). This block contains six single-family lots.



Surrounding zoning of site

## **PUBLIC FACILITIES:**

### **Water and Sewer Services and Public Utilities**

The subject proposal is a redevelopment project of an existing residential use, therefore the site maintains W-1 and S-1 (areas served by community systems which are either existing or under construction) categories. Service does exist and therefore, the application complies with the requirements of the City's Adequate Public Facility Ordinance (APFO) for water and sewer, § 24-247.

### **Fire and Emergency Services**

The Gaithersburg/Washington Grove Fire Station 8 (Montgomery Village Avenue) provides an eight-minute response time to the property. The property is also served by Fire Station 31 (Rockville Station at Quince Orchard and Darnestown Roads) within a ten-minute response time. Therefore, the site complies with the requirements for the Adequate Public Facilities requirements for Emergency Services, §24-248.

### **Adequacy of School Capacity**

The subject property is currently located within the Gaithersburg Cluster of the Montgomery County Public School (MCPS) system. Within the cluster, the schools that currently serve the proposed development are Rosemont Elementary School, Forest Oak Middle School

and Gaithersburg High School. Using the MCPS student generation rate, this project will generate 11 elementary school (kindergarten through fifth grade) students, 10.3 middle school (sixth through eighth grade) students, and 8.7 high school (ninth through twelfth grade) students.

The City Manager's review of the *2009-2014 MCPS Capital Budget and Capital Improvements Program* in July of 2008, indicated none of the schools within the Gaithersburg Cluster are above the capacity level of 110 percent. Therefore, the subject application complies with §24-246, Adequacy of School Capacity at this time.

## **TRANSPORTATION**

### **Traffic Impacts & Roads**

The applicant submitted a Traffic Impact Study (TIS) by The Traffic Group, dated June 25, 2008, in accordance with the City of Gaithersburg's Adequate Public Facilities Ordinance. Engineering Services Director Mumpower reviewed the findings of the revised study, which show that all the intersections in the study area will continue to operate within the City's acceptable standards for Critical Lane Volumes in both the AM and PM peak hours under total traffic conditions. He agrees with the finding detailed in the study and has granted approval of the final TIS for this project.

The applicant is proposing a restricted twenty (20') foot lane providing a connection to George Street for Fire Department access. Vehicle access will be prohibited through the placement of two sets of removable bollards along the lane. Both the Department of Public Works and the City's Fire Marshal have given conceptual approval to this design, and the final details will be approved at final site plan.

### **Public Transportation**

The site is serviced by Montgomery County Ride On Bus routes #55 and #59. These bus routes provide transit assistance to the Shady Grove Metro station within a 12-25 minute time frame, the Rockville Metro Station within 28 minutes and the Rio at Washingtonian within 9 minutes.

The property is also located within a 10-minute (approximately 0.4 miles) walk of the Maryland Area Rail Connection (MARC) train station in Olde Towne, Gaithersburg. There are nine morning trains to Washington D.C. and nine trains from Washington D.C. in the afternoon.

## **SCHEMATIC DEVELOPMENT PLAN PROPOSAL:**

The applicant is proposing a 263-unit multiple family building with structured parking. The proposed units per acre is 71.3. The unit range is as follows:

Studio Units: 59  
 One Bedroom units: 96  
 Two Bedroom units: 108



Illustrative Layout Plan

### Conceptual Architectural Elevations

Below are the samples of the architecture presented by the applicants' team:



Elevation facing SHA service ramp



Elevation facing George St.



Elevation facing S. Frederick Ave



Rear Elevation<sup>2</sup>

In accordance with the City's Building Code, the applicant must comply with the City's Green Building Requirements. Additionally, according to the applicant's Leadership in Environmental and Energy Design (LEED) checklist, the project may also achieve LEED certification.

## REQUESTED WAIVERS

### Height Waiver

To accomplish the proposed design of the multi-family building, the applicant is seeking a height waiver from the Mayor and City Council. Under §24-160G.5.(a)(2) of the City Code, the City Council may, by resolution, waive building and structure height requirements for a commercial district project, allowing a height not to exceed five (5) stories, or sixty (60) feet. The five story condition is limited to the east end of the building adjacent to the SHA wall abutting South Frederick at the southern end of the Father Cuddy Bridge/Route 355. Staff recommends the granting of said waiver based upon the findings that:

1. The applicant will provide either on-site or off-site public amenities to further enhance the corridor development zone and the purposes of the CD zone;

<sup>2</sup> Revised Rear Elevation, submitted April 14, 2009, Exhibit #60

The Suites 355 project is proposing a spacious, well located and accessible outdoor community use park/green along the western edge of the site for the full length of its George Street frontage that will service the residents of the development and nearby neighborhoods. This area will provide ample space for active recreation activities. The schematic development plan proposes an excess of 50% green area, as defined by the City Code, which includes the park/green lawn to the south/southeast of the project, a green setback at the rear of the site, and landscaped courtyards.

The applicant will also be providing a community use clubhouse, a fitness center and business center, professionally landscaped courtyards with seating areas, and a swimming pool for the residents of the multiple family building.

The applicant is proposing to eliminate surface parking and driveways (impervious area) and providing parking for the community in a garage under the building footprint. The parking garage essentially becomes another onsite amenity by being conveniently located to the building in an air conditioned, well lit, secure area for its residents.

2. The additional height is necessary to implement the master plan and a specific corridor plan for Gaithersburg, or attract an appropriate and compatible type or caliber of user;

The intent of the Frederick Avenue Corridor Land Use Plan is to "...focus on the development of a comprehensive approach to improve the aesthetic quality of the Corridor, to provide a safer pedestrian environment,...and to ensure continued economic revitalization." To these ends, SDP-08-005 proposes a plan that redevelops an aging apartment complex to a more upscale multiple family building in an urban setting, that will provide for a range of incomes, including moderately priced apartments.

Application SDP-08-005 also complies with the adopted themes, objectives and actions expressed in the 2003 Process and Overview Element. Two actions adopted under the Redevelopment Theme include "Consider waiving the density or height requirements for a more desired project" and "Increase public green/open space through infrastructure re-design in existing neighborhoods." The Housing Theme includes the action "Encourage the redevelopment of aging apartment complexes." Granting the height waiver for SDP-08-005 will allow this project to fulfill the stated goals of the City by supporting a desired project, redeveloping aging stock, and creating more open/green spaces by reducing building footprints and surface parking.

3. The additional height will be compatible with existing and proposed adjacent land uses and would not detrimentally impact those uses or public facilities serving a specific corridor.

The project demonstrates compliance with all required adequate public facility ordinance (APFO) standards required by the City of Gaithersburg. Additional height and stories for the Suite 355 project will not have an adverse affect on adjacent properties or on the character of the corridor.

The land use to the south and southeast is medium density residential and directly to the south is a CD zoned property used as commercial/office building. To the northwest is Barron's Lumber yard, which is used mainly for industrial purposes with a smaller commercial component. These adjacent and nearby uses range in a height from two (2) to five (5) stories. The proposed higher-density residential use will complement the immediate neighborhood by introducing a new aspect to the mix of uses strived for in the corridor.

## Parking

Based on the number of studio, one bedroom, and two bedroom units, and a 1,200 square foot leasing office, the City's parking ordinance requires 447 parking spaces for the proposed development. At the joint public hearing, the Council and Commission expressed concerns as they related to the shortage of parking onsite and the amount of the requested parking waiver. Since that time, the applicant has revised the plans to provide more parking for the development. The number of units has been reduced from 268 to 263 and a total of forty-eight (48) parking spaces have been added to the parking garage.

The plan now proposes a two level parking garage with approximately 432 parking spaces and five (5) parallel parking spaces, shown on the site plan, in front of the building for a total of 437 parking spaces. This would equate to a 1.65 parking space/unit ratio.

<b>SUITES 355</b>					DVA
EXECUTIVE GARDEN REO LLC					4/2/2009
<b>CALCULATIONS</b>					
<b>UNIT COUNT</b>					
UNIT TYPE	# OF UNITS	PERCENT			
STUDIO	59	22.43			
A	96	36.50			
B	108	41.06			
SUBTOTAL	263	100			
<b>TOTAL UNITS</b>	<b>263</b>				
<b>PARKING PROVIDED</b>					
LEVEL	P1	P2	SUBTOT	PERCENT	
STANDARD	179	245	424	97.03	
COMPACT			0	0.00	
SURFACE		5	5	1.14	
HC	3	4	7	1.60	
HCV	1	0	1	0.23	
	183	254		100.00	
			<b>437</b>	<b>PARKING PROVIDED</b>	
<b>PARKING REQUIRED</b>					
<b>PER ZONING</b>					
		MULTIPLIER	CITY REQD.		
S	59	1	59		
A	96	1.75	168		
B	108	2	216		
LEASING	1200SF/300SF	PER SPACE	4		
<b>TOTAL</b>	<b>263</b>		<b>447</b>	<b>CITY REQD PARKING</b>	

Parking Calculations for Suites 355

While the plans are in the schematic development stage, the applicant will require some design flexibility for the final garage layout and is requesting a parking waiver (Exhibit #63<sup>3</sup>) not to exceed ten (10) spaces. In accordance with §24-160G.4(e), the parking requirements may be waived in whole or in part by the city council as part of the schematic development plan approval for CD zoned properties. At time of final site plan review, the Planning Commission will waive the final number of parking spaces.

### **AFFORDABLE HOUSING**

The proposed project is required to provide an affordable housing component per City ordinance O-12-06, implemented under City regulation no. 02-07. Fifteen percent (15%) of the 263 multi-family units are required to be as moderately priced dwelling units (MPDUs). This will equal thirty-nine (39) units. The final distribution of units within the multi-family structure will be determined at final site plan, in accordance with the City regulations.

### **PROPOSED AMENITIES**

The proposed Suites 355 development is located within a fifteen (15) minute walk of a number of off-site recreational amenities; the primary being Bohrer Park at Summit Hall Farm. Bohrer Park is home to the City's Activity Center, skate park, water park, fields, and path system. The subject site is also located within 0.3 miles of Walder Park, a 2.7-acre active park that offers basketball courts, hiking trails, and playground equipment.

The applicant is proposing a number of onsite amenities, including a swimming pool, outdoor courtyards, and passive outdoor seating areas. An accessible outdoor community use park/green is proposed along the western edge of the site that can be used either passively or actively. Also, the community residents will have the use of an internal clubroom, fitness center, and business center.

The applicant is proposing to eliminate surface parking and driveways (impervious area) and providing parking for the community in a garage under the building footprint. The parking garage essentially becomes another onsite amenity by being conveniently located to the building in an air conditioned, well lit, secure area for its residents.

### **STAFF ANALYSIS & RECOMMENDATION**

#### **Z-309**

Staff recommends approval of zoning map amendment application Z-309 to rezone the subject property from the existing R-20 (Medium Density Residential) Zone to the CD (Corridor Development) Zone based upon the following findings as required under §24-160G.7(a) of the City Code:

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<sup>3</sup> SDP-08-005 Exhibit, #63

(1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone;

Purpose & Objective:

- a. Application Z-309 will provide economic vitality by creating a new multifamily community serving a diverse economic demographic through a variety of multiple family housing options and by focusing redevelopment in an underutilized area.
- b. Application Z-309 will incorporate innovative land planning practices and timeless architecture to create an appropriate scale of development that is more attractive and cohesive and provides an enhanced sense of place, contributing to the Frederick Avenue Corridor and also nearby Olde Towne.
- c. Application Z-309 provides for the redevelopment of an aging, declining apartment complex.
- d. Application Z-309 will provide for pedestrian enhancement by creating a sidewalk connection from the front end of the property to the adjunct property along South Frederick Avenue, and will improve the existing streetscape along the SHA service road by proposing street trees and creating an easier access to the site than what currently exists.
- e. Application Z-309 provides the applicant the ability to construct a multiple housing family building using quality architectural materials that will be consistent with and match the proposed Residences at Olde Towne project, creating an architectural theme along the SHA service road.

Standards and Requirements:

- a. Application Z-309 provides that the multiple family building complex fronts upon the public streets of South Frederick Avenue and the SHA service road.
- b. Application Z-309 provides that all off street parking is set back twenty feet (20') from any front building line due to the multiple family complex proposing an underground parking structure.
- c. Application Z-309 incorporates requirements from the Frederick Avenue Corridor Design Guidelines in that the design of the building provides frontage along public streets, providing off street parking so as to not be visible from the street, and providing adequate buffers from adjoining property by using heavy landscaping.

(2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements in said master plan.

Application Z-309's site location was identified within the study limits of the Fairgrounds Commercial District of the 2001 Frederick Avenue Corridor Special Study Area Master Plan. Application Z-309 is provided the ability to rezone by the Frederick Avenue Corridor Special Study Area Master Plan, which states:

“Owners of properties not comprehensively rezoned are encouraged to apply for rezoning to the CD Zone to meet the goals and objectives of the Frederick Avenue Corridor Master Plan.”

(3) The application and schematic development plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned areas and adjacent areas.

Application Z-309 proposes a residential use that demonstrates compliance with all the required adequate public facility ordinance (APFO) standards required by the City of Gaithersburg and will not have an adverse affect on adjacent properties or the character of the corridor. The land use to the south and south is medium density residential and directly to the south is a CD zoned property used as commercial/office building. To the northwest is Barron’s Lumber yard, which is used mainly for industrial purposes with a smaller commercial component. The proposed multiple family building will be built with the same style and character as the recently approved Residence at Olde Towne project, which is in close proximity to the subject redevelopment. These adjacent and nearby uses range in a height from two (2) to five (5) stories. The proposed higher-density residential use will complement the immediate neighborhood by introducing a new aspect to the mix of uses strived for in the corridor.

(4) Compliance with standards for rezoning by local map amendment in Article 66B of the Maryland Code.

Application Z-309’s intent to rezone is a reflection of change in the surrounding and adjacent neighborhoods. The current R-20 zoning of the subject property was established in the 1950s and 1980s and has not reconsidered since.

Many properties were comprehensively rezoned to the CD zone in conjunction with the 2001 Frederick Avenue Corridor Special Study Area Master Plan. The City has stated an adopted a policy towards upgrading its housing stock, in the 2003 Process and Overview Element. Two actions adopted under the Redevelopment Theme include “Consider waiving the density or height requirement for more desired project” and “Increase public green/open space through infrastructure redesign in existing neighborhoods.” The Housing Theme includes the action “Encourage the redevelopment of aging apartment complexes. These adopted public policy actions coupled with the fact that the subject property confronts Frederick Avenue property zoned CD show a change that warrants a rezoning to the CD zone for the subject property and the 2001 Frederick Avenue Corridor Special Study Area Master Plan invites and encourages such rezoning.

### **SDP-08-005**

Staff recommends approval of schematic development plan application SDP-08-005 based upon the following findings as required under §24-160G.7(b) of the City Code:

(1) The plan is substantially in accord with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the city council for the applicable corridor area:

- a. Application SDP-08-005 maintains the residential land use called for in both the 2001 Frederick Avenue Corridor Special Study Area Master Plan and the associated Design Guidelines.
- b. Application SDP-08-005 provides a multiple family building complex that fronts upon the public streets of South Frederick Avenue and the SHA service road.
- c. Application SDP-08-005 provides all off street parking set back twenty feet (20') from any front building line due to the multiple family complex proposing an underground parking structure.
- d. Application SDP-08-005 incorporates requirements from the Frederick Avenue Corridor Design Guidelines by providing frontage along public streets, providing off street parking so as to not be visible from the street, and providing adequate buffers from adjoining properties by using heavy landscaping.

(2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone:

Purpose & Objective:

- a. Application SDP-08-005 will provide economic vitality by creating a new multifamily community serving a diverse economic demographic through a variety of multiple family housing options and by focusing redevelopment on an underutilized area.
- b. Application SDP-08-005 will incorporate innovative land planning practices and timeless architecture to create an appropriate scale of development that is more attractive and cohesive and provides an enhanced sense of place, contributing to the Frederick Avenue Corridor and also nearby Olde Towne.
- c. Application SDP-08-005 provides for the redevelopment of an aging, declining apartment complex.
- d. Application SDP-08-005 will provide for pedestrian enhancement by creating a sidewalk connection from the front end of the property to the adjacent property along South Frederick Avenue, and will improve the existing streetscape along the SHA service road by proposing street trees and creating an easier access to the site than what currently exists.
- e. Application SDP-08-005 provides the applicant the ability to construct a multiple housing family building using quality architectural materials that will be consistent with and match the proposed Residences at Olde Towne project, creating an architectural theme along the SHA service road.

Standards and Requirements:

- d. Application SDP-08-005 provides a multiple family building complex that fronts upon the public streets of South Frederick Avenue and the SHA service road.
- e. Application SDP-08-005 provides all off street parking set back twenty feet (20') from any front building line due to the multiple family complex proposing an underground parking structure.
- f. Application SDP-08-005 incorporates requirements from the Frederick Avenue Corridor Design Guidelines by providing frontage along public streets, providing off street parking so as to not be visible from the street, and providing adequate buffers from adjoining properties by using heavy landscaping.

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration:

- a. The location of application SDP-08-005 was identified within the study limits of the Fairgrounds Commercial District of the 2001 Frederick Avenue Corridor Special Study Area Master Plan.
- b. Application SDP-08-005 maintains the residential land use called for in both the 2001 Frederick Avenue Corridor Special Study Area Master Plan and the associated Design Guidelines.

(4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and:

The Suites 355 project will not have an adverse affect on adjacent properties or on the character of the corridor. The site is surrounded by a variety of land uses, including medium density residential, to the south and southeast, an office/commercial building fronting South Frederick Avenue to the south, and an industrial/commercial establishment to the northwest. Within close proximity to the project, a recently approved 191-unit multiple family building is proposed. These adjacent and nearby uses range from two (2) stories to five (5) stories.

The proposed plan will have no negative impacts upon these diverse uses and will help to further the City's goal to revitalize the Frederick Avenue Corridor.

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan:

- a) As stated, MCPS has determined that there is sufficient overall school capacity to absorb future students generated by the development.
- b) WSSC has established that this site maintains W-1 and S-1 (areas served by community systems which are either existing or under construction) categories.

- c) A traffic impact analysis has been submitted and reviewed by the City which determines that no appreciable impacts requiring mitigation will be caused by this development
- d) The Suites 355 Property is located within the ten (10) minute response areas of the following Montgomery County Fire & Rescue stations: Station numbers 8 and 31.
- e) The community pool will be sized to County standards that will adequately serve the Suites 355 neighborhood.

(6) The development staging or phasing program if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development;

The proposed redevelopment project will be built in one (1) phase so the entire community will be served by public facilities and amenities simultaneously.

(7) That the plan, if approved, would be in the public interest:

The Suites 355 plan, SDP-08-005, will allow for higher density that makes it economically feasible to redevelop the site in a manner that satisfies many City goals and strategies including, but not limited to, the goals of the Frederick Avenue Corridor Special Study Area Master Plan, that will provide a higher quality of life within the Corridor.

Suites 355 will be designed through the application of good design principles, including the Frederick Avenue Corridor Design Guidelines, and will provide a strong sense of place and a distinct identity. Redeveloping the property will take advantage of a unique site constraint imposed by the existing Father Cuddy Bridge and SHA service road retaining wall running adjacent to South Frederick Avenue, by incorporating thoughtful land planning and architectural design techniques that are encouraged by the CD zone development standards. The subject proposal utilizes the best of smart growth planning principals by providing the opportunity to create connections between existing communities and preserving existing green space.

The project will provide adequate residential areas for residents with a range of different incomes and lifestyles, including those that meet the MPDU requirements. The project will redevelop a blighted property and provide a larger tax base for the City to generate additional revenue that will help support a wider array of public programs, services, and improvements.

(8) The existing buildings with historic significance are considered for preservation and retention pursuant to the city's historic preservation ordinance.

There are no existing buildings of historic significance; therefore this finding is not applicable.

## **STAFF RECOMMENDED CONDITIONS**

Staff recommends approval of SDP-08-005 with the following conditions:

1. Applicant to receive all necessary State Highway Administration (SHA) access permits prior to the issuance of site development permits;
2. Applicant shall continue to work with staff and the SHA in order to pursue an easement for land on the northwestern side of the property in order to expand the twenty foot drive aisle;
3. Applicant shall continue to work with the SHA to provide improvements to the SHA retaining wall, including, but not limited to the removal or replacement of the perimeter chain link fence and landscape and streetscape enhancements;
4. Applicant shall contribute \$20,000 for Montgomery County Ride-On bus shelter upgrades prior the recordation of final subdivision plats;
5. Applicant shall obtain Storm Water Management approval prior to Final Site Plan approval;
6. Applicant shall obtain final forest conservation plan and landscape plan approval prior to the issuance of site development permits;
7. Applicant shall coordinate with staff and the Art in Public Places (AIPP) Committee to establish an AIPP project prior the issuance of site development permits;
8. Applicant shall coordinate with the Department of Public Works (DPW) and the Planning and Code Administration staff to develop an infrastructure improvement plan including, but not limited to off street improvements to George Street and Cedar Avenue prior to final site approval;
9. Applicant shall continue to work with city staff on the final architectural elevations with emphasis given to the northern corner adjacent to South Frederick Avenue/SHA service ramp intersection, to be reviewed and approved by the Planning Commission at final site plan;
10. The applicant shall receive a parking waiver of no more than 10 spaces by the Mayor and City Council at schematic development plan. The final number of parking spaces waived shall be granted by the Planning Commission at the time of final site plan; and
11. The applicant shall receive final approval of the sign package by the Planning Commission at the time of final site plan approval.

Joint Public Hearing  
Mayor and City Council  
And Planning Commission  
March 16, 2009

**INDEX OF MEMORANDA**  
**SDP-08-005**  
**Suites 355**

- | <b>No.</b> | <b>Exhibit</b>   |
|------------|--|
| 1.         | Application for Schematic Development Plan   |
| 2.         | Aerial Location Map  |
| <b>3.</b>  | <b>Approved NRI/FSD</b>  |
| 4.         | Schematic Development Plan Cover Sheet   |
| 5.         | Schematic Development Plan   |
| 6.         | Schematic Landscape Plan   |
| 7.         | Schematic Development Plan at 1 = 50 scale   |
| 8.         | Preliminary Forest Conservation Plan, Preliminary Forest Conservation Counted Canopy Coverage Plan, & Preliminary Forest Conservation Details                    |
| 9.         | Traffic Circulation Plan   |
| 10.        | Front Entry Turning Radii Study/Fire Department Access Plan  |
| 11.        | Water and Sewer Concept  |
| 12.        | DA Map & Plan View for Stormwater Management, DA Map & Plan View Stormdrain Stormwater Management Plan, & Profiles & Plan View Details for Stormwater Management |
| 13.        | Floor Plans, including Parking Calculations  |
| 14.        | Conceptual Architectural Elevations  |
| 15.        | Illustrative Sketch of proposed Front Elevation  |
| 16.        | Illustrative Layout Plan   |
| <b>17.</b> | <b>Suites 355 LEED Worksheet, dated February 23, 2009</b>  |
| 18.        | Affordable Housing Plan, dated November 25, 2008   |

19. Environmental Noise Measurement, Exterior Noise Measurement, and Preliminary Interior Noise Assessment, dated September 13, 2007
20. Wildlife Management Report
21. Statement in Support of Parking Waiver Request
22. Statement in Support of Height Waiver Request
23. Revised Traffic Impact Analysis (TIS) for Residences at Olde Towne – Phase 1 (known as Suites 355), dated June 25, 2008
24. Proposed Suites 355 Sign Package
25. Letter from Steve Goley, of Loiederman Soltesz Associates (LSA), dated November 11, 2007
26. E-mail from Doug Raby, of PEPCO, dated November 25, 2008
27. Letter from Gregory Leck, of Montgomery County Department of Transportation, dated December 2, 2008
28. Letter from Corren Giles, of the Maryland State Highway Administration, (SHA) dated December 2, 2008
29. Comments received from Stephanie Sullivan of Washington Suburban Sanitary Commission (WSSC), dated December 3, 2008
30. Letter from Theresa Poliizzi, of LSA, to Corren Giles, of the SHA, dated January 8, 2009
31. Sight Distance Measurement and Evaluation Worksheet for Suites 355 project
- 32. E-mail from Ollie Mumpower, dated July 29, 2008**
33. Letter to Gazette requesting legal advertisement of Joint Public Hearing in the February 25 and March 4, 2009, issues
34. Copy of Notice of Joint Public Hearing, Mailed February 23, 2009
35. Notice of Joint Public Hearing notification mailing list
36. Letter from le-ru Wang, dated February 26, 2009
37. Memorandum from Greg Ossont, Director of Planning and Code, dated February 23, 2009
38. Z-309/SDP-08-005 Preliminary Background Report

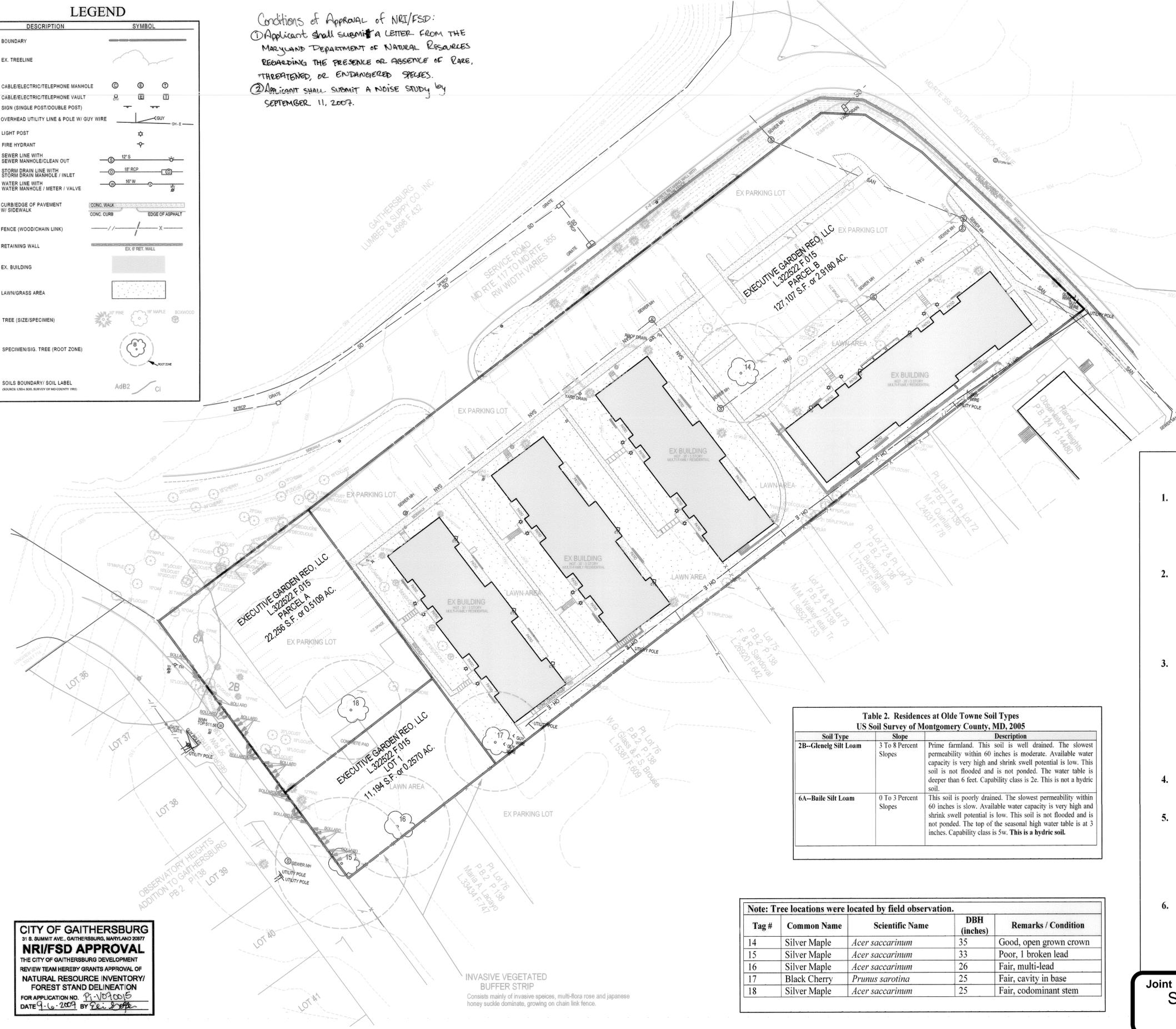
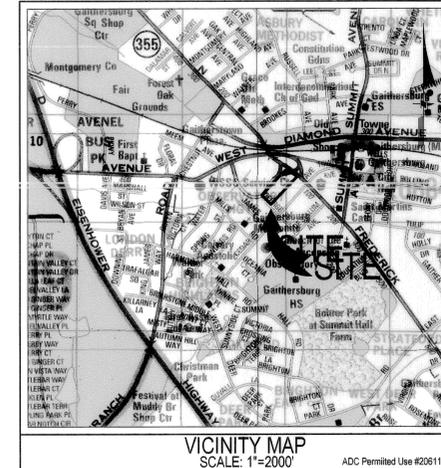
39. Revised Preliminary Forest Conservation Plan, Preliminary Forest Conservation Counted Canopy Coverage Plan, & Preliminary Forest Conservation Details (March 9, 2009)
40. Joint Public Hearing Cover Sheet, March 16, 2009
41. Aerial photograph, as presented at the March 16, 2009 Joint Public Hearing
42. Photographs of existing conditions, as presented at the March 16, 2009 Joint Public Hearing
- 43. Colored front elevation, as presented at the March 16, 2009 Joint Public Hearing**
- 44. Colored rear elevation, as presented at the March 16, 2009 Joint Public Hearing**
- 45. Colored side elevations, as presented at the March 16, 2009 Joint Public Hearing**
- 46. E-mail from Chris Kirtz, dated March 16, 2009**
- 47. E-mail from Dan Searles, dated March 16, 2009**
- 48. Transcript of Z-309/SDP-08-005 Joint Public Hearings**
- 49. Minutes from the March 16, 2009 Mayor and Council Meeting**
- 50. E-mail from Rich Koch, with attachment, dated March 17, 2009**
- 51. Comparison of unit types by surrounding new development, submitted by Rich Koch, dated March 25, 2009**
- 52. E-mail from Rich Koch, with attachment, dated March 27, 2009**
- 53. Letter from Christopher Zindash, dated April 6, 2009**
- 54. E-mail from Rich Koch, dated April 10, 2009**
- 55. Revised Schematic Development Plan Cover Sheet (April 10, 2009)**
- 56. Revised Schematic Development Plan (April 10, 2009)**
- 57. Revised Schematic Landscape Plan (April 10, 2009)**
58. Revised Rear Elevation (April 10, 2009)
- 59. Revised Affordable Housing Plan (April 10, 2009)**
- 60. Revised Rear Elevation with faded courtyards (April 14, 2009)**

61. Revised Preliminary Forest Conservation Plan, Preliminary Forest Conservation Counted Canopy Coverage Plan, & Preliminary Forest Conservation Details (April 14, 2009)
62. Revised Floor and garage plans with parking calculations (April 15, 2009)
63. Revised Statement in Support of Parking Waiver Request (April 15, 2009)
64. Comments from the Environmental Services Division, dated April 17, 2009
65. Memorandum from Rich Koch, dated April 22, 2009
66. Revised Preliminary Forest Conservation Plan, Preliminary Forest Conservation Counted Canopy Coverage Plan, & Preliminary Forest Conservation Details (April 23, 2009)
67. Letter from Linda Gore, received April 30, 2009
68. Staff Analysis (April 30, 2009)
69. E-mail from Bruce Crispell, of Montgomery County Public Schools (MCPS), dated April 28, 2009
70. Revised Affordable Housing Plan (May 5, 2009)
71. E-mail from Louise Kaufman, dated May 5, 2009
72. CPC, dated 5/07/09, from the Planning Commission with their recommendation re: SDP-08-005 to the Mayor and City Council

**LEGEND**

DESCRIPTION	SYMBOL
BOUNDARY	---
EX. TREELINE	~
CABLE/ELECTRIC/TELEPHONE MANHOLE	⊙
CABLE/ELECTRIC/TELEPHONE VAULT	⊞
SIGN (SINGLE POST/DOUBLE POST)	⊞
OVERHEAD UTILITY LINE & POLE W/ GUY WIRE	—○—
LIGHT POST	⊙
FIRE HYDRANT	⊙
SEWER LINE WITH SEWER MANHOLE/CLEAN OUT	—○—
STORM DRAIN LINE WITH STORM DRAIN MANHOLE / INLET	—○—
WATER LINE WITH WATER MANHOLE / METER / VALVE	—○—
CURB/EDGE OF PAVEMENT W/ SIDEWALK	—○—
FENCE (WOOD/CHAIN LINK)	—X—
RETAINING WALL	—○—
EX. BUILDING	▭
LAWN/GRASS AREA	▭
TREE (SIZE/SPECIMEN)	☼
SPECIMEN/SIG. TREE (ROOT ZONE)	☼
SOILS BOUNDARY / SOIL LABEL	AdB2

Conditions of Approval of NRI/FSD:  
 ① Applicant shall submit a letter from the Maryland Department of Natural Resources regarding the presence or absence of rare, threatened, or endangered species.  
 ② Applicant shall submit a noise study by September 11, 2007.



**NATURAL RESOURCES INVENTORY – GENERAL NOTES**

- Site Description & History**
  - Gross Tract Area: 3.68 Acres
  - The property consists mainly of four multi-family apartment building and associated parking lots and maintained lawns. Some trees exist along the southern and southwestern property boundary.
- Vegetation**
  - Total Forested Area: 0 acres
  - Where appropriate, specimen or significant trees (generally those trees ≥ 24 inches DBH or 75% of the diameter size of the currently listed State Champion for a given species) are noted on the NRI plan.
  - There are 5 specimen trees located on the property. These trees were field located.
- Hydrology**
  - Watershed: Great Seneca creek, Long Draught Branch, Use I.
  - Wetland Area: 0 Acres, Forested Wetland Area: 0
  - Stream valley buffers (SVB): 0 Acres, Forested SVB: 0 Acres.
  - Wetland information on this plan is from a study performed by: LSA, Inc. dated June 27, 2007.
  - Floodplain Area: 0 Acres, Forested Floodplain: 0 Acres
- Topography**
  - The topography shown on this plan is from field survey, dated August 2007.
- Rare, Threatened or Endangered Species**
  - No rare, threatened, or endangered (RTE) species were observed during the field visit. An inquiry to the Maryland Department of Natural Resources (MDNR) Wildlife and Heritage Division was made in August 2007 requesting any information on recorded occurrences or potential for RTE species for the property and the immediate vicinity. A response has not yet been received.
- Historical Features**
  - Historical Features: No historic feature exist onsite. (Source: Location Atlas and Index of Historic Sites for Montgomery County, Maryland (MNCPPC, 1976)).
  - Scenic/Historic Roads: No Scenic/Historic Roads exist onsite. (Source: Designated Scenic and Historic Road list of Montgomery County, MD.)

**Table 2. Residences at Olde Towne Soil Types**  
 US Soil Survey of Montgomery County, MD, 2005

Soil Type	Slope	Description
2B-Glenelg Silt Loam	3 To 8 Percent Slopes	Prime farmland. This soil is well drained. The slowest permeability within 60 inches is moderate. Available water capacity is very high and shrink swell potential is low. This soil is not flooded and is not ponded. The water table is deeper than 6 feet. Capability class is 2e. This is not a hydric soil.
6A-Baile Silt Loam	0 To 3 Percent Slopes	This soil is poorly drained. The slowest permeability within 60 inches is slow. Available water capacity is very high and shrink swell potential is low. This soil is not flooded and is not ponded. The top of the seasonal high water table is at 3 inches. Capability class is 5w. This is a hydric soil.

**Note: Tree locations were located by field observation.**

Tag #	Common Name	Scientific Name	DBH (inches)	Remarks / Condition
14	Silver Maple	<i>Acer saccharinum</i>	35	Good, open grown crown
15	Silver Maple	<i>Acer saccharinum</i>	33	Poor, 1 broken lead
16	Silver Maple	<i>Acer saccharinum</i>	26	Fair, multi-lead
17	Black Cherry	<i>Prunus serotina</i>	25	Fair, cavity in base
18	Silver Maple	<i>Acer saccharinum</i>	25	Fair, codominant stem

**CITY OF GAITHERSBURG**  
 31 S. SUMMIT AVE., GAITHERSBURG, MARYLAND 20877  
**NRI/FSD APPROVAL**  
 THE CITY OF GAITHERSBURG DEVELOPMENT REVIEW TEAM HEREBY GRANTS APPROVAL OF NATURAL RESOURCE INVENTORY/FOREST STAND DELINEATION FOR APPLICATION NO. P-1-08-0005  
 DATE 9-6-2007 BY [Signature]

**Joint Hearing - MCC & PC**  
**SDP-08-005**  
**#3**

# SUITES 355 LEED Worksheet

LEED® Review Checklist

February 23, 2009



## LEED for New Construction v2.2 Preliminary Project Checklist

Project Name: Suites 355

Project Address: Old Town Gaithersburg, MD

Yes	?	No		
7	4	5	<b>Sustainable Sites</b>	
			<b>14 Points</b>	

Y					
Y			Prereq 1	<b>Construction Activity Pollution Prevention</b>	Required
1			Credit 1	<b>Site Selection</b>	1
1			Credit 2	<b>Development Density &amp; Community Connectivity</b>	1
		1	Credit 3	<b>Brownfield Redevelopment</b>	1
1			Credit 4.1	<b>Alternative Transportation</b> , Public Transportation Access	1
1			Credit 4.2	<b>Alternative Transportation</b> , Bicycle Storage & Changing Rooms	1
		1	Credit 4.3	<b>Alternative Transportation</b> , Low-Emitting & Fuel-Efficient Vehicles	1
		1	Credit 4.4	<b>Alternative Transportation</b> , Parking Capacity	1
		1	Credit 5.1	<b>Site Development</b> , Protect or Restore Habitat	1
1			Credit 5.2	<b>Site Development</b> , Maximize Open Space	1
	1		Credit 6.1	<b>Stormwater Design</b> , Quantity Control	1
1			Credit 6.2	<b>Stormwater Design</b> , Quality Control	1
1			Credit 7.1	<b>Heat Island Effect</b> , Non-Roof	1
	1		Credit 7.2	<b>Heat Island Effect</b> , Roof	1
		1	Credit 8	<b>Light Pollution Reduction</b>	1

Yes	?	No		
2	2	1	<b>Water Efficiency</b>	
			<b>5 Points</b>	

1			Credit 1.1	<b>Water Efficient Landscaping</b> , Reduce by 50%	1
	1		Credit 1.2	<b>Water Efficient Landscaping</b> , No Potable Use or No Irrigation	1
		1	Credit 2	<b>Innovative Wastewater Technologies</b>	1
1			Credit 3.1	<b>Water Use Reduction</b> , 20% Reduction	1
	1		Credit 3.2	<b>Water Use Reduction</b> , 30% Reduction	1

4	1	12	<b>Energy &amp; Atmosphere</b>	
			<b>17 Points</b>	

Y			Prereq 1	<b>Fundamental Commissioning of the Building Energy Systems</b>	Required
Y			Prereq 2	<b>Minimum Energy Performance</b>	Required
Y			Prereq 3	<b>Fundamental Refrigerant Management</b>	Required
2		8	Credit 1	<b>Optimize Energy Performance</b>	1 to 10
				10.5% New Buildings or 3.5% Existing Building Renovations	1

Joint Hearing - MCC & PC  
 SDP-08-005  
 #17

# Olde Towne Alley LEED Worksheet

September 19, 2008

				<b>2</b>	14% New Buildings or 7% Existing Building Renovations	2
					17.5% New Buildings or 10.5% Existing Building Renovations	3
					21% New Buildings or 14% Existing Building Renovations	4
					24.5% New Buildings or 17.5% Existing Building Renovations	5
					28% New Buildings or 21% Existing Building Renovations	6
					31.5% New Buildings or 24.5% Existing Building Renovations	7
					35% New Buildings or 28% Existing Building Renovations	8
					38.5% New Buildings or 31.5% Existing Building Renovations	9
					42% New Buildings or 35% Existing Building Renovations	10
			<b>3</b>	<b>Credit 2</b>	<b>On-Site Renewable Energy</b>	1 to 3
					2.5% Renewable Energy	1
					7.5% Renewable Energy	2
					12.5% Renewable Energy	3
			<b>1</b>	<b>Credit 3</b>	<b>Enhanced Commissioning</b>	1
<b>1</b>				<b>Credit 4</b>	<b>Enhanced Refrigerant Management</b>	1
	<b>1</b>			<b>Credit 5</b>	<b>Measurement &amp; Verification</b>	1
<b>1</b>				<b>Credit 6</b>	<b>Green Power</b>	1

continued...

Yes	?	No	<b>Materials &amp; Resources</b>		<b>13 Points</b>
<b>4</b>	<b>7</b>	<b>2</b>			

Y						
				Prereq 1	<b>Storage &amp; Collection of Recyclables</b>	Required
		<b>1</b>		Credit 1.1	<b>Building Reuse</b> , Maintain 75% of Existing Walls, Floors & Roof	1
			<b>1</b>	Credit 1.2	<b>Building Reuse</b> , Maintain 100% of Existing Walls, Floors & Roof	1
		<b>1</b>		Credit 1.3	<b>Building Reuse</b> , Maintain 50% of Interior Non-Structural Elements	1
<b>1</b>				Credit 2.1	<b>Construction Waste Management</b> , Divert 50% from Disposal	1
	<b>1</b>			Credit 2.2	<b>Construction Waste Management</b> , Divert 75% from Disposal	1
		<b>1</b>		Credit 3.1	<b>Materials Reuse</b> , 5%	1
			<b>1</b>	Credit 3.2	<b>Materials Reuse</b> , 10%	1
<b>1</b>				Credit 4.1	<b>Recycled Content</b> , 10% (post-consumer + ½ pre-consumer)	1
		<b>1</b>		Credit 4.2	<b>Recycled Content</b> , 20% (post-consumer + ½ pre-consumer)	1
<b>1</b>				Credit 5.1	<b>Regional Materials</b> , 10% Extracted, Processed & Manufactured Regionally	1
		<b>1</b>		Credit 5.2	<b>Regional Materials</b> , 20% Extracted, Processed & Manufactured Regionally	1
		<b>1</b>		Credit 6	<b>Rapidly Renewable Materials</b>	1
<b>1</b>				Credit 7	<b>Certified Wood</b>	1

Yes	?	No	<b>Indoor Environmental Quality</b>		<b>15 Points</b>
<b>8</b>	<b>7</b>	<b>0</b>			

<b>Y</b>			Prereq 1	<b>Minimum IAQ Performance</b>	Required
<b>Y</b>			Prereq 2	<b>Environmental Tobacco Smoke (ETS) Control</b>	Required
	<b>1</b>		Credit 1	<b>Outdoor Air Delivery Monitoring</b>	1
		<b>1</b>	Credit 2	<b>Increased Ventilation</b>	1
<b>1</b>			Credit 3.1	<b>Construction IAQ Management Plan</b> , During Construction	1

# Olde Towne Alley LEED Worksheet

September 19, 2008

	1		Credit 3.2	<b>Construction IAQ Management Plan, Before Occupancy</b>	1
1			Credit 4.1	<b>Low-Emitting Materials, Adhesives &amp; Sealants</b>	1
1			Credit 4.2	<b>Low-Emitting Materials, Paints &amp; Coatings</b>	1
1			Credit 4.3	<b>Low-Emitting Materials, Carpet Systems</b>	1
1			Credit 4.4	<b>Low-Emitting Materials, Composite Wood &amp; Agrifiber Products</b>	1
1			Credit 5	<b>Indoor Chemical &amp; Pollutant Source Control</b>	1
1			Credit 6.1	<b>Controllability of Systems, Lighting</b>	1
1			Credit 6.2	<b>Controllability of Systems, Thermal Comfort</b>	1
	1		Credit 7.1	<b>Thermal Comfort, Design</b>	1
	1		Credit 7.2	<b>Thermal Comfort, Verification</b>	1
	1		Credit 8.1	<b>Daylight &amp; Views, Daylight 75% of Spaces</b>	1
	1		Credit 8.2	<b>Daylight &amp; Views, Views for 90% of Spaces</b>	1

Yes ? No

1	4		<b>Innovation &amp; Design Process</b>		<b>5 Points</b>
---	---	--	--	--	-----------------

	1		Credit 1.1	<b>Innovation in Design: Transportation Management Plan</b>	1
	1		Credit 1.2	<b>Innovation in Design: Outdoor Places of Respite</b>	1
	1		Credit 1.3	<b>Innovation in Design: Interpretive Signage Program</b>	1
	1		Credit 1.4	<b>Innovation in Design: PBT Source Reduction: Mercury</b>	1
1			Credit 2	<b>LEED® Accredited Professional</b>	1

Yes ? No

26	23	20	<b>Project Totals (pre-certification estimates)</b>		<b>69 Points</b>
----	----	----	---	--	------------------

**Certified:** 26-32 points, **Silver:** 33-38 points, **Gold:** 39-51 points, **Platinum:** 52-69 points

**From:** [Ollie Mumpower](#)  
**To:** [Jacqueline Marsh](#)  
**Subject:** RE: Residences at Olde Towne Phase 1 traffic study - revised June 25, 2008  
**Date:** Tuesday, July 29, 2008 2:28:39 PM

---

In accordance with the City's Adequate Public Facilities Ordinance the applicant has submitted a required Final Traffic Impact Study (TIS) indicating that all intersections in the study area will continue to operate within the City's acceptable standards for Critical Lane Volumes in both the AM and PM peak hours.

Engineering Services Director Ollie Mumpower has reviewed the TIS and agrees with the findings detailed in these documents. As such approval of the final TIS for this project is granted.

---

**From:** Jacqueline Marsh  
**Sent:** Tuesday, July 29, 2008 2:23 PM  
**To:** Ollie Mumpower  
**Subject:** RE: Residences at Olde Towne Phase 1 traffic study

Can you send me a statement that says this is now an approved TIS?

---

**From:** Ollie Mumpower  
**Sent:** Tuesday, July 29, 2008 1:02 PM  
**To:** Jacqueline Marsh  
**Subject:** RE: Residences at Olde Towne Phase 1 traffic study

If was fine - they just updated the study to reflect the changes we asked.

---

**From:** Jacqueline Marsh  
**Sent:** Tuesday, July 29, 2008 12:47 PM  
**To:** Ollie Mumpower  
**Subject:** Residences at Olde Towne Phase 1 traffic study

Have you reviewed this or have any comments? The latest one was dated July 2. Let me know.

Jacqueline Marsh  
Planner  
Planning and Code Administration

City of Gaithersburg  
31 S. Summit Avenue  
Gaithersburg, MD 20877

Phone: 301-258-6330  
Fax: 301-258-6336

Joint Hearing - MCC & PC  
SDP-08-005  
#32



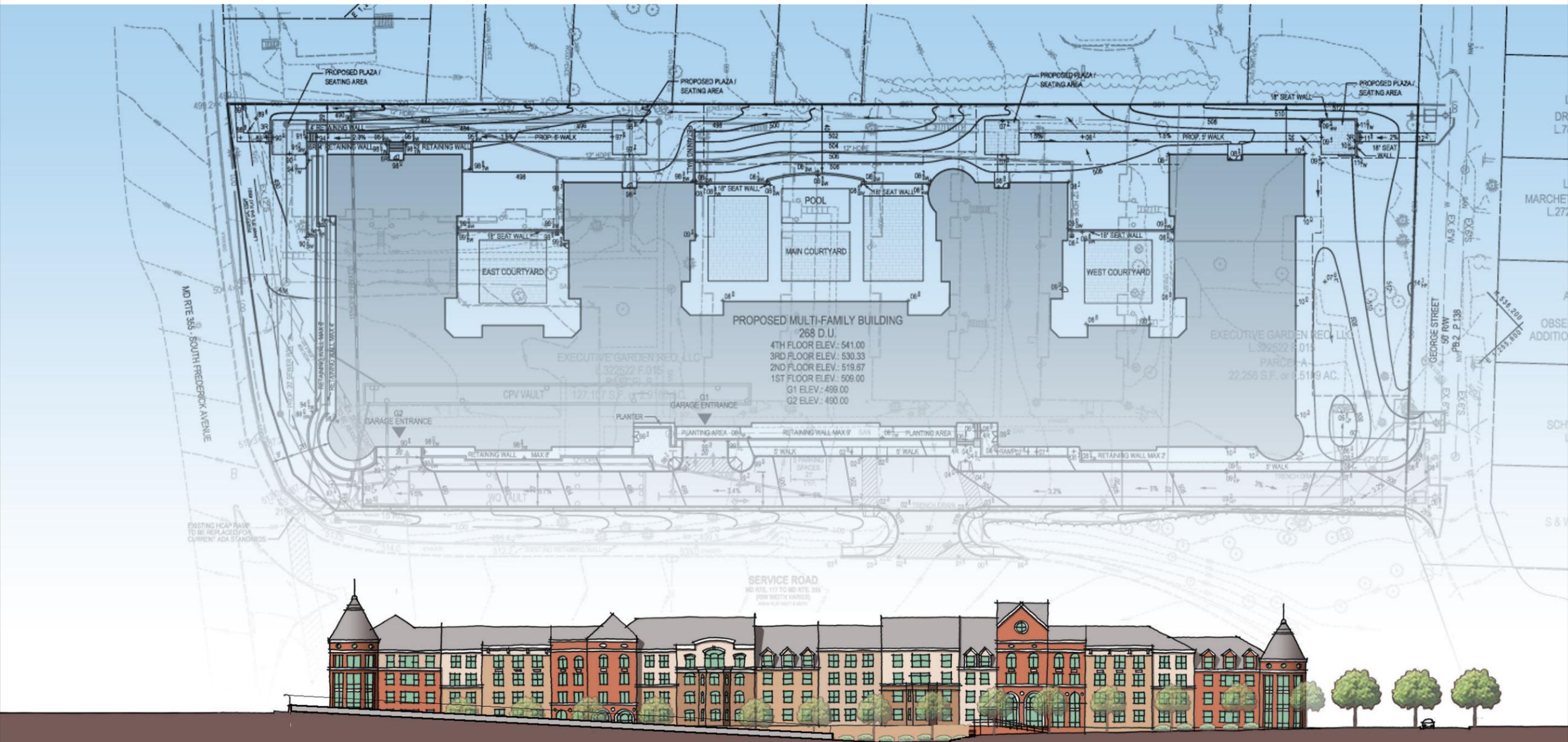
**DVA**  
**DONNALLY VUJIC ASSOCIATES, I.L.C.**  
 architecture ■ planning ■ interiors  
 400 Professional Drive ■ Suite 200 ■ Gaithersburg, Maryland 20879-3433  
 301-590-8900 ■ Fax 301-590-8620 ■ EMAIL: DVA-ARCH.COM



EXECUTIVE GARDEN REO LLC  
 103 Leakes Lot Way  
 Gaithersburg, MD 20878

SUITES 355  
 Service Road  
 Gaithersburg, MD  
 ELEVATION

REVISIONS	
Submission - Dec 2008	
ISSUED	
DRAWN FL A.403/0X	CHECKED FL
DRAWING	
<b>A201</b>	
SHEET ___ OF ___	



**1** FRONT ELEVATION  
 SCALE: 1/32" = 1'

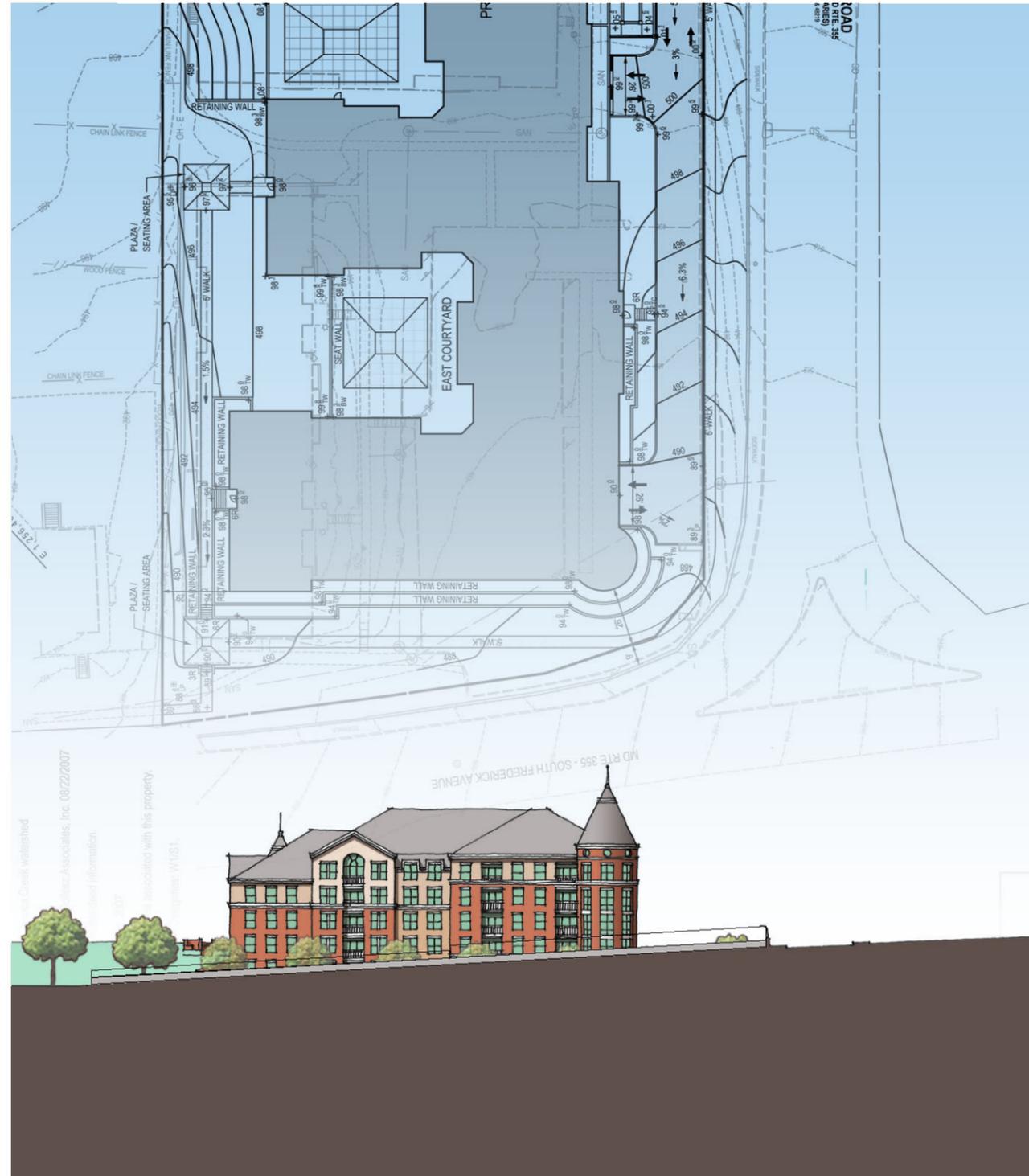
Joint Hearing - MCC & PC  
 SDP-08-005  
 #43

NOT FOR CONSTRUCTION



\*NOTE: NO SIGNAGE

1 RIGHT ELEVATION  
A203 SCALE: 1/32" = 1'



1 LEFT ELEVATION  
A203 SCALE: 1/32" = 1'

Joint Hearing - MCC & PC  
SDP-08-005  
#45

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DONNELLY VUJIC ASSOCIATES, L.L.C.  
architecture ■ planning ■ interiors  
400 Professional Drive ■ Suite 200 ■ Gaithersburg, Maryland 20879-3433  
301-590-8900 ■ Fax 301-590-8620 ■ EMAIL: DVA-ARCH.COM

EXECUTIVE GARDEN RHO LLC  
103 Leekes Lot Way  
Gaithersburg, MD 20878

SUITES 355  
Service Road  
Gaithersburg, MD  
ELEVATION

REVISIONS  
Submission - Oct 2008

ISSUED  
DRAWN: FL  
CHECKED: FL  
DVA JOB NO. A.40310X

DRAWING  
**A203**  
SHEET \_\_\_ OF \_\_\_

NOT FOR CONSTRUCTION

**From:** [Chris Kirtz](#)  
**To:** [Jacqueline Marsh](#)  
**Subject:** Tonights Town Council Agenda Items  
**Date:** Monday, March 16, 2009 3:04:37 PM

---

Jackie:

Hope all goes well with you.

Terry and/or I may or may not be at tonight's meeting in person.

However the purpose of this e-mail is to tell you that we have reviewed the background materials and are in full support of Z-309 the Rezoning request and of SDP-08-005 the redevelopment request fo the 3.6859 acres known as 12-16 S. Frederick Avenue.

Please enter this into the record as our endorsement of these requests being approved and implemented with dispatch.

Thanks in advance,

Charles [Chris] Kirtz for himeself and Terry T. Kirtz  
104 Russell Avenue, dba the Gaithersburg Inn.

---

Express your personality in color! Preview and select themes for Hotmail®. [See how.](#)

Joint Hearing - MCC & PC  
SDP-08-005  
#46

**From:** [Britta Monaco](#)  
**To:** [Jacqueline Marsh](#)  
**Subject:** FW: rich kochs project//Jackie Marsh  
**Date:** Wednesday, March 18, 2009 9:41:37 AM

---

---

**From:** the Searles family [mailto:searles@starpower.net]  
**Sent:** Monday, March 16, 2009 6:42 PM  
**To:** CityHall External Mail  
**Subject:** rich kochs project//Jackie Marsh

My suggestion is to close public comment tonight and move ahead poste haste. DAN Searles 18 Walker Ave.

TRANSCRIPT  
OF  
CONSOLIDATED  
JOINT PUBLIC HEARING

ON

**Z-309, Application Requests Rezoning of 3.6859 Acres of Land From R-20 (Medium Density Residential) to CD (Corridor Development) in Accordance With §24-196 (Map Amendments) and §24-160G.6 (Procedure for Application and Approval) of the City Code. The Property is Located at 12-16 South Frederick Avenue, and Includes Parcels N323 & N271, and is Known as Executive Gardens**

**SDP-08-005, Application Requesting the Redevelopment of 3.6859 Acres of Land Located at 12-16 South Frederick Avenue, and Includes Parcels N323 & N271, and is Known as Executive Gardens Apartments. The Plan Proposes a 268-Unit Multiple-family Building With Structured Parking**

BEFORE THE  
CITY OF GAITHERSBURG  
MAYOR AND CITY COUNCIL  
and  
PLANNING COMMISSION

on

March 16, 2009

Transcribed by  
Doris R. Stokes

PARTICIPANTS

CITY COUNCIL

Mayor Katz  
Council Vice President Sesma  
Council Member Ashman  
Council Member Drzyzgula  
Council Member Marraffa  
Council Member Spiegel

PLANNING COMMISSION

Chair Bauer  
Commissioner Hopkins  
Commissioner Kaufman  
Commissioner Lanier (Alt.)  
Commissioner Levy

STAFF

Planning and Code Administration Director Ossont  
Planner Marsh

SPEAKERS FROM THE PUBLIC

Jody S. Kline, Miller, Miller & Canby, Attorney representing the applicant  
Richard Koch, Applicant Keystone REI,  
Linda Gore, 60 Oak Shade Road  
Mike Quinlan, 2 Cedar Avenue  
Donna Buckingham, 4 Cedar Avenue  
Tom Rowse, 101 Dogwood Drive  
Clark Day, 26 Walker Avenue  
Patricia Marchetti, 106 George Street  
Prentiss Searles, 10 Walker Avenue  
Jim Clifford, 320 East Diamond Avenue

Katz           Next is we can please ask the Planning Commission to come forth and joins us. We are going to have two joint public hearings. There are two public hearings, but they are on the same property. Please Jackie begin.

Marsh           Thank you. This is a public hearing on Z-309 and SDP-08-005. These hearings have been duly advertised in the Gaithersburg Gazette on February 25 and March 4, 2009 and the property has been posted. At the present time, there are fourteen (14) exhibits in the record file for Z-309 and thirty-seven (37) exhibits in the record file for SDP-08-005. These exhibits are referenced in an exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning Office during regular business hours at City Hall. Any objections to the receipt of any exhibits should be noted prior to the closing of the record; otherwise, they will deem received into evidence. Tonight, the applicant is requesting to rezone 3.6 acres of land from the R-20 (Medium Density Residential) Zone to CD (Corridor Development) Zone and redevelop the site with a 268 unit multi-family building. I am now going to orient you to the site. The property located on 355 (South Frederick Avenue). It is located at the intersection of 355 and the State Highway Administration (SHA) service ramp. The property includes the site know as Executive Gardens and the proposal also includes two parcels (N323 and N271) located to the south, also George Street runs to the south. Beginning your presentation tonight is Jody Kline of Miller, Miller and Canby.

Katz           Thank you. Mr. Kline please.

Kline           Good evening. As announced, my name is Jody Kline, attorney with the law firm of Miller, Miller and Canby, representing the applicant in this case. As a preliminary comment, I would like to join the well wishes and the council and wish good health to former Council Member Keller. I had the

opportunity, the Planning Commission may remember, the hearing the other night to advise them that Ms. Keller will be happy to know that we are redeveloping a property that she always considered to be a very big problem and I hope that she heard my comment before the Planning Commission because I know it was going to cheer her up. And I would like to say that I am looking forward to her next art show on her recovery. As Ms. Marsh pointed out and the Mayor just pointed out, these are two applications on the same property, but you have slightly different development standards to deal with in each case. My role is to kind of give you an overview of the principles that you are going to have to apply primarily I would say with regard to the zoning application. I will be followed by Mr. Rich Koch, the principal of the applicant so that he can go ahead and show you the real nuts and bolts. Everybody always wants to know what it is going to look like Mr. Kline. We do have members of our development team here. The engineers and architects are here. We didn't invite the traffic engineer because that traffic study has already been accepted by Mr. Mumpower and approved so we think the traffic issue is taken care of. It does meet your City standards for levels of service, but of course if you do have questions about that, we can answer those as well. We had an opportunity to take a look at the memorandum from Mr. Ossont dated February 23 telling you about some of the development matters you have in the pipeline and two of those from the three that he mentioned deals with Route 355 Corridor. It must be the hot place in town because I thinking here how many times this evening you all had a comment to make about Route 355 whether it was redevelopment or pedestrian safety. It clearly is an area that is getting a lot of attention in the City right now and we are pleased to be an application, not only contributing to the improvement of the Route 355 Corridor, but also following, I guess I would say the protocols for the presentation. You staff has spent a lot of time impressing upon us the way you would like to have these applications

presented so that we can deliver to you the information you need in order to make your decisions for each of the two applications before you this evening. The staff report does give you a lot of the background information dealing with infrastructure issues and the adequate public facilities issues. I am just going to address the principles, the policies that you will need to deal with in the application. The foundation in looking at the rezoning application would be the Frederick Avenue Corridor Plan. And that is alluded to in Mr. Ossont's February 23 memorandum because it really gives you the principles that you should be looking at. Though I'm quoting from the plan in the February 23 memorandum, he has indicated that the purpose, focus of the Frederick Avenue Corridor Plan was to "...improve the aesthetic quality of the Corridor, to provide a safer pedestrian environment, to identify and preserve historic resources in the Corridor, and to ensure continued economic revitalization." Which I understand from your recent deliberations have taken a high priority in the City. And that is great, very timely because you find that goal running through the language of not only the Corridor Plan, but also the purpose clause in the CD Zone. If you remember back how this was all done, you simultaneously developing three documents, implementation tools for the Corridor Plan itself, the design guidelines that went along with that and the CD Zone itself. What we have done is we have taken the purpose clause of the zone and again I am going to highlight a couple of the factors in that to create a framework for your decision-making process. If you take a look at Section 24-160G.1 that shows up on your camera now, subparagraph (a), one of the purposes of the CD Zone is to enhance the economic vitality of the City. A second one found in subparagraph (c) is to encourage development and redevelopment and renovation of declining or underutilized properties along the corridor. That of course is what we are doing. We are taking an older multi-family building and we are redeveloping it in a very aggressive but sensitive way that will be

elaborated on by Mr. Koch. And then interestingly enough also included in the guidance in the Master Plan, but also in the purpose clause and you find sprinkled all through the purpose clause, a number of those design criteria you will be applying as you look more particularly at the schematic development plan. I will just grab a couple of those plans, visual character, sense of place, attractive cohesive development pattern and attractive streetscape and visual themes. Our goal tonight is to present to you our explanation of how we can satisfy all of those criteria that are found first of all in the Master Plan. Then in the purpose clause. And then in the Master Plan themes. We took the liberty of abstracting a couple of those themes. You got an awful lot of themes to deal with but because of housing which is the use we are proposing for the property and economic development which is one of the things that you are stressing in the City right now. We took the liberty of highlighting some of the themes that relate to that. As you can imagine, they basically say again the same things that we have just been talking about and that is replacing declining properties, creating visual character and those both leading to an increase in economic vitality or revitalization of the economic well-being of that Corridor. That is our goal. It is to give you a project that accomplishes the goals of the Master Plan, the purpose clause of the CD Zone, and the combination of the other City goals of economic revitalization. One thing that I would kind of add is there is a parking waiver application included in this application. We had both a height waiver which Mr. Koch will elaborate on. I will just very quickly address the parking waiver. One of the really important development features of this development is to take an awful lot of surplus, unused asphalt area, getting rid of it by incorporating the parking necessary for the building inside the building and eliminating the unsightly parking, getting it inside. You don't want to have to build any more parking than you need. I have been in this forum before indicated that we thought (inaudible) City was overly generous in terms of

parking. But in this case, justified using the parking waiver, using the same principles you have applied in other cases. That is in proximity to the rail system within the rail system within walking distance to the property. As well as extremely good public transportation. Multiple lines, multiple stops near the property. So we feel that we can support our lower required parking and the numbers are in the package that you all got and we can get into that detail if you would like to do so. I tried to kind of paint the background, sought of framework that you got to deal with. But as I said everybody always wants to know what it is going to look like, how big is it, what color is it going to be. That is Mr. Koch's job and then I will come back up and answer any questions and wrap everything up. As I said, the engineers and the architects are available if you should have specific questions about materials, stormwater management, whatever of interest to you. Any questions?

Katz Thank you Mr. Kline.

Koch Before I start, I would like to take a moment on TV to shout out to Blanche to wish her the best and send out our love and hope that she has a speedy recovery. Again, I want to acknowledge that the development team is here. The architects from Donnally, Vujcic Associates (DVA), LLC and the engineers and land planners from Loiederman Associates are here to back me up and to make sure if I misstep and misrepresent something that correct me. I have the opportunity to present what I consider to be the exciting part of this plan. I am very proud of it. I think it accomplishes so many of the goals that have been set out by the planning documents that the City uses. This is an aerial photograph of the site. I just wanted to make sure everybody knows exactly where the site is. This Route 355 and this is what is called the service road or service ramp which connects West Diamond Avenue to

south 355. Cedar Avenue is over behind the site. To the south George is over here to the westside of the site. Back in April of last year, my company submitted an application for rezoning from R-20 to CBD for a project known as Residences at Olde Towne. All of you I think were part of that process. I believe much of what you see here tonight is going to be similar in many ways to the project. In my opinion that project is a project to be copied and there is no reason to reinvent the wheel. In terms of zoning, the Barons property here in the middle is currently zoned CBD. The area on the east side of Route 355 is zoned CBD. The Residences at Olde Towne project at the corner of Water Street is now zoned CBD. The area behind the site is R-90 which is single family residential lots. The area on the other side of George Street to the east is R-90 and the site that we talking about is currently zoned R-20. I want to spend a little bit of time and maybe a 1/3 of my presentation talking about existing conditions. This site is actually creates a lot of challenges in terms of redevelopment that I think it would be important for the Mayor and Council and Planning Commission to understand. The site in terms of acreage is about 3.7 acres. Existing on the site are one, two, three, four multi-family buildings. There is what is called a 2/3 split. They have two stories on one side and three stories on the other, two-stories, three-stories, two-stories, three-stories, two-stories on the front and three-stories on the back. The site itself from George Street all the way to Route 355 drops 25 ft. So once again this area down here in this corner is 25 ft. lower than the elevation up here in this corner. In the 80s, the service ramp wasn't always here, but when they built the bridge over top the railroad track, they elevated the street out in front of the site and at the same time, in order to make the connection from West Diamond, they create what is called the service road or the service ramp which elevates from West Diamond Avenue up to Route 355. If you follow the pointer here in this location here, this black line is actually a retaining wall. We call it the SHA retaining wall. It varies

in height, but the at the height point, it is actually 25 ft. high. So it is 25 ft. above the service elevation of the parking lot here. The traffic is actually 24-25 ft. above the parking lot here. The site, other than the existing four buildings, the majority of the site is paved. Parking is along here, parking along the front, parking back in the back. It is a site with three lots, three parcels. My understanding looking at the subdivision approvals, all three parcels are part of the existing subdivision approval for Executive Garden Apartments. The setback from the back of each of those buildings to the property line, to the single family zoned property here is currently 15 ft. The length of this building here is 190 ft. Each one of these ends of the buildings are 50 ft. So we have 340 ft. of building within 15 ft. of the existing R-90 zone properties. These are (inaudible) lots, Cedar Avenue is here and the homes are up in here. And I guess I should clarify in terms of zoning, the parcel here up on the front of 355 is currently zoned CD and there is an existing office building in this location right here. Let me just talk a bit about George Street in the back. It is essentially a two lane paved roadway. In the last year, year ½, the cul-de-sac on the back here was added and three new single family homes were built back there. The lady that owns the properties and built the homes has been trying now for about a year ½ to sell them. Unfortunately for her, every time she gets a potential buyer, they call me and ask the status of the redevelopment plans for the property and I have always told that, here is the plans, here is the project web page, but currently we have no approvals and we can't tell them when we might get approvals or when we can start. As a result of that most of those people because you haven't sold anything, all have passed on buying her homes.

I would like to go to the schematic development plan and describe what we are proposing and how we believe we are approving the conditions on the site. And how we are working with the existing constraints on the site

to provide what I think is an exciting project. We are maintain the same entrance here off the service ramp and what we have provided what I originally called an alley across the front. For fire safety, access considerations, we connected this alley so it now actually becomes a roadway. We connected it to George and what that allows the fire trucks to do is actually enter the site and go through. One of the critical reasons for that is a fire hydrant located back here. When the fire trucks comes from the fire station over on Montgomery Village Avenue, most likely, they will come in this location. And because this would be the address of the building, if they needed to get to here, they would have to go back and come back out like this which would be the proper design. So we added this road to connect to George Street so that they can get to this fire hydrant back over in this location here. The front of the building has two entrances. One here and one here.

There is an entrance to the upper level garage here and there is an entrance to the lower level garage here. I guess I am getting a little bit ahead of myself because there are two levels of garage below the building. As I told you before, the site is 25 ft. taller here than it is here. So what we have actually done is we buried both levels of the garage in this location here and as we come down the site, portions of the garage start coming out of ground and you will see in this location down here, the upper level garage stops and the lower level garage continues to go down into the building here. There is a height waiver request. You will see an elevation that our buildings are all the same height. They cross the roof line. The condition that creates the need for the height waiver request is that as we get down into the eastern end of the site in the basement level, we added another level which is our basement level. By code it is a fifth level although we are not going any higher than any of the other roof lines on the balance of the buildings. For clarification, in terms of creating

compatibility and integrating the project with the existing single family development, this side of the building, this wing here, this roof line here and here and here are all three stories high. The balance of the site through here and through here are all four stories high with the exception of what I told about a basement level down here which actually makes it five stories but the height is still the same. The setbacks from the rear property line as you recall, there were 15 ft. in the existing conditions. Our closest location was 29 ft. here and 29 ft. here, 45 ft. here and we are 45 ft. here in this location. The set back to backside of the building within the courtyard, this distance here is 110 ft. This distance here is a 120 ft., this distance here is a 120 ft. The garage comes across like this.

As an amenity, there is a swimming pool in the center of the courtyard. The swimming pool is in a filled condition so it is not over top of the garage. In addition to the swimming pool and amenities that we are providing inside the building, there is a fitness center, a club room, a business center and the swimming pool. Up front (inaudible) we have leasing offices and marketing offices up front. You will see a lot of green on the site across the back. One of the things that staff wanted us to try to accomplish was to increase the green area on the site and to try to satisfy the City's aforestation requires. The green area percentage for the site is 51 percent. That does include the courtyard areas. Without the courtyard areas, the green area is about 39 percent. The aforestation requires for the site is .55 acres and we are providing .62 acres so we are exceeding the aforestation requirement. As you can see where we have located the forest is along the backside of the site to increase the buffer between the rear of the building and the single family lots to the south and single family lots across George Street to the east. The tree line is currently along the property line. There should be no reason that that needs to be touch. There is an existing chain link fence and some mature trees that grown up

and a pretty nice hedge line. So we don't see any reason why that that need to be changed in the future. The site today is like a bathtub. That 25 ft. wall creates the outer edge of the bathtub. When it rains, with the exception of the water the infiltrates into the grassy areas. All the rain that is going on roofs and the sidewalks and the parking lots, currently flows down. There is a single inlet right here to the storm drain system that actually goes up underneath 355 and then comes back around underneath the Barons parking lot. So as part of our development, what we are putting in is a new storm drain, stormwater management system which is all underground which includes a water quality structure here. A water quantity structure which is actually underneath the lower level garage. There are a couple of (inaudible) of landscaping wall and it is actually a bio retention filter so that is included in our LEED certification survey that we prepared and we will get points for this but here we actually included as part of our stormwater management, again a bio retention filter which will be a nice feature. Not only in terms of stormwater management, but also for watering the plants. Not (inaudible) similar to what you talked about capturing the down spouts of the single family homes using barrels. In part something similar to that, but on a much large scale.

Let me take you into some elevations. I am going to show you two different views of the elevations. This would be the front elevation. If you were looking at it and the SHA retaining wall didn't exist, we are purposely trying to compliment and to some extent copy the architectural design and style that we used on the Residences at Olde Towne project. We think that as you come up the west side of the service road it would be nice to have some consistency in that design. We have changed the towers on the corner. The corners of the building are round instead of the octagon shapes that we used at the Residences at Olde Towne. We had a large

tower in the middle of the building at Residences at Olde Towne. Here to mark the entrances to the building, we got distinguishable features but not as tall of towers that you saw in the other project. This would be the entrance to the higher level garage. This would be the entrance to the lower level garage. As you see down in here, this would be the existing elevation of the parking lot. How's our wall that is 25 ft. taller. Here is the 355 up here. What we are going to see if we are actually standing on 355, you will see it more like this. The wall would go away which is down here and this is that service road ramp that comes up and connects to 355. So you are actually, although we are five stories and in some cases because of the exposed garage, we are actually six levels above ground here because we are 24 ft. below grade. We are actually only seeing three and four stories from one end of the project to the other. Once again, this three stories down here and it jumps to four stories and across even though this is five stories down here, it actually reads as three stories. That would be your front elevation. The rear elevation is a very similar style to the front. We added a tower in the back. The swimming pool area and interior courtyard is here. There is another courtyard here and here. Looking at this elevation it looks pretty long and massive, but what we want to do is have you look at it with what you actually see so we are giving you another view. Here where is the significant of the amount of the building that currently is running against single family homes becomes important. Because what you actually would see is the one, two, three, four fingers that stick out. The balance of the four story buildings were pushed back, 115, 110 ft. back from the existing property line. And although you don't see it, the artist has shown some trees in this area. But over time because all of this is afforested, all that would be grown in with forest and further buffer the existing community on the back. We turn to the site plan, if I can just jump back real quick. I talked about 29 ft. and 45 ft. distances here; the setback from here to the property line on George

Street is 60 ft. The curb line, there is no existing curb, but the end of the pavement is 70 ft. Across to the other side of the street at the front of these lots over here is 100 ft. We have a large setback here and large setbacks on the backside. I would like to show you side elevations. If we could focus on this one here first. This would be the side elevation facing George Street. On along here everything is three stories. As it goes down the hill, it goes to four stories and five stories. As it comes to this side, this is the elevation facing 355. Once again, here's the wall. Here is the existing grade. Here's the bio filtered that we talked about for the stormwater management. And you see that the building is five stories here, it's actually four stories here, but the height of this is no higher than the rest, it is just that based on elevation that is created because of the way that the grade drops. Once again we wanted you to see how it would look. If we could stay over here because the one on the other side stays the same. If you are building where the wall is, what you will actually see from 355 is a three and four story buildings on the site looking like that. One of the Master Plan recommendations for the site, I am going to go through a couple of the Master Plan recommendations for the site. Unlike existing conditions all the buildings are pulled to the back in the CD zone, one of the recommendations in the Master Plan is to pull all the buildings to the front and put all the parking behind. We pulled the buildings the front as suggested in the CD Zone. But rather than putting parking behind, we put the parking underneath because it is more an amenity to the community that way. It is also an amenity to the residents, but it also allows us to get the density we need to redevelop the site. The tower feature is also a recommendation in the Master Plan which is one of the reasons you see the tower feature here. In the Master Plan it describes that as a landmark to mark when you have arrived at the Father Cuddy Bridge. I think I have two more exhibits to show you. This would be the existing front entry to the site coming off the existing service road. The

existing building style, the buildings were built in the 60s. They are 45 years old. The parking area goes back in the back and these are the homes that see on George Street. The same view with an artist rendering of the elevations we just showed you. One of the front entrances, one of the featured pieces of the building in this location here. Looking the other way, you will see something very similar with another entrance like this. As you come down the alley in the front you see the three story tower. And down here you will see the elevations of the building. We included a signage package. We are proposing to use banner signs so you will see something similar to this in this location here. The same thing in a similar location on the other front of the building. And then we are proposing along 355 on the side elevation, you have a similar style (inaudible) that would identify the site. I think that would conclude my presentation unless you have questions.

Katz I do Mr. Koch, thank you. On the part that you were discussing, George Street, as it exist today, there is no access from this parcel to George Street. Am I correct in that?

Koch You are correct, yes sir.

Katz So this would change the potential for changing the pattern for traffic from this site onto another pattern. Potentially, much of this development could go out to George Street if they so choose.

Koch The concern would be that they would come in this way. Traffic coming south would come around and come in this direction. We discussed this with staff. What we are struggling with this is, one of the goals is to create connectivity between existing communities and new communities. To do that one the way is from a pedestrian connection or it can be vehicular

connections. One of the things with staff and we were going back and forth on is do we put (inaudible) here and here on the existing site plan so that it is nothing more than fire safety access which can be done and then it is nothing more than a pedestrian walkway. So our (inaudible) would go here, a couple here and here and then it is just a pedestrian use and let the fire truck (inaudible) have the keys to get through and get there. So that is an option but again, back and forth with staff, staff did not want to make that decision or recommendation. We are going to leave that up to the Mayor and City Council and Planning Commission.

Katz And on the idea of the 67 car parking, the parking waiver, how did you come to that figure?

Koch A variety of different ways. We included in our application a justification, but we would be at a ratio of about 1.45 parking spaces per unit. While it is below the requirements for the City, the City's requirements is actually 160 something spaces more than what the county would require for a similar building in a similar location. The ratio is the same as what we presented and what was approved for Residences at Olde Towne. One of the struggles with urban redevelopment and I heard you talk about it earlier with (inaudible) with his site on East Diamond Avenue. This parking is expensive. It runs \$20-25,000 a space. So you don't over build structure parking. You try to come up with the right requirement to provide what is needed for the community. Based on my experience and survey of a multitude of different projects, 1.45, 1.5 is the right number to be at especially when you are considering the close proximity to Marc Rail and three bus stations adjacent to the site. In terms of how it lays out, this is the upper level, this is the entry here. The other thing that you try to do is make the layout as efficient as possible to make it the most cost effective as possible. The rectangular sharp provides that. The other thing that

you try to do is you try to put the ramps outside the building as opposed to within the parking garage because when you start slopping the concrete floors within the garage it just gets more expensive. The flats floors are the cheapest to execute. There are a couple of things that we are doing in terms of value engineering trying to make the site as cost effective as possible.

Katz As you said in Mr. (inaudible) question that was mentioned earlier about his discussion of his parking, obviously there is a parking garage in Olde Towne there is a proximity that people could walk to from his site. His site has not been approved for any parking waiver at this point. Where would people park if you are not correct for 67 cars? Where would they park if you didn't provide on your site.

Koch Well what has always been done and the only place I have seen this happen was I built a project in D.C. next to the MCI Center. The parking requirement down there is for every four apartments, you are required to one parking space. That situation, there was a larger demand for parking because people were affluent and they had fancy cars. So what we did was we implemented a valet service so that instead of the individuals parking there, the valet service actually parked the car.

Katz I would believe the MCI Center is a little bit different than this site.

Koch And I would agree you.

Katz So are you saying that you would provide a valet parking for this site if 67 cars weren't correct, if the waiver wasn't the correct number?

Koch Yes. We would not be looking to provide parking offsite. I am very confident in the number.

Sesma How many external spaces could we have? And the road along the front of the building, it looks like there is one area where I guess would be short term parking? How many other parking (inaudible) on the outside of the building are you going to apply for?

Koch There are five parking spaces in the front here that work as parking and delivery areas. During the business hours, while the leasing office is there, at least five spaces would be designated for future residents so that it is convenient for them to come in and park and negotiate a lease. After hours, anybody can park here. But this is done purposely. Garages are expensive, parking is expensive. We want people to rent parking spaces. We don't want to give them free parking spaces on site. And that is the part of the urban planning is that if you are going to build parking spaces, people need to pay rent for them; otherwise, it is not economic feasible to do it. So these are for convenience and these are for double duty as delivery and move in and move outs. And purposely, the numbers are limited for the reasons I said.

Sesma So how wide is the street?

Koch The street is 20 ft. wide from here to here. And with the additional parallel parking it is seven to eight ft wide, so 27, 28 ft. wide here.

Sesma So ok, I was going to get to this eventually, the footprint question. I am also concerned about the under parked site here. I do thing there is a little bit of a difference between the site down the hill at Water Street, the Residences at Olde Towne. In terms of the access to off site parking is

probably a little bit better there. Still, people who live in apartments still have visitors, a number of visitors for an occasion. And if more than one apartment has a party or something like that, you still need to find spaces for them assuming they are going to visit people in the apartment. They are going to need places to park and the options I see are in a 20 ft. roadway which is too narrow to be parking on or George Street which then has an impact on the adjacent neighborhood. The other part of it is you look at the northeast corner where you have the (inaudible) basically. I am a little bit concern about the fire and rescue access for this entire building. Basically you only have one side of the building that has access for fire and rescue and that is a concern especially for a building of this size. There is no access by road or street from basically two sides of the building. I suppose a truck could park along 355 and lower hoses over the wall if they needed to serve fire and rescue on the side of the wall. So I am a little bit concerned about the footprint that you provided here. Even just trash trucks. Access to trash trucks in and out of the space or other utility vehicle that need to get in and service the facility. That is a bit of a concern. The other parking is a concern. Address those first and then I got some other questions.

Koch Your fire marshal and the county fire marshal had reviewed the plan they had approved the design. The building is completely sprinkler system. You enunciator panels are at each location. The fire truck needs to come in be able to get into within 50 ft. of the entrance to the building. Actually the building in terms of construction design and inside the corridors in the buildings, there is actually fire doors and fire walls so that building is actually separated into four different buildings. So each of those buildings if you look at the internal plan you will see that they have stairwells that provide emergency access. The fire department goes within the building and uses the connections within the buildings and the (inaudible) out front,

fire hydrants right here, fire hydrants right here. They are placed in locations as required by the fire code so that the fire department can come and address a fire that might be in any location. The fire truck will not be pull up here and expect to jump over this wall down 24 ft. from over here. They are not going to pull up here.

Sesma Well that is why I asked the question.

Koch And that is what I am trying to explain to you. They have to be able to get within 50 ft. of the entrance and then when they are within 50 ft. of that entrance and when the leave, they can't be required to back up more than 150 ft. to get out. So all those calculations, all the analysis has been done and in fact we redesigned the front of the building in order to satisfy the City's Fire Marshal because he was not comfortable with the initial design that we had. He forced us to make modification that would better comply with the fire code.

Katz If I can jump in. Mr. Koch you said something that I think I need clarification on. When you were talking about the expensive parking and that was one the reasons you asked for the 15 percent waiver, you said you want to charge for parking? Is that correct?

Koch You typically charge for parking.

Katz So if someone leases an apartment from you, they don't necessarily get a parking space?

Koch It is priced different ways. What is typically done is you get one parking space in your lease included in your based rent.

Katz So everyone would get that one space at no extra charge?

Koch Correct. They will get that one space. If they want an additional space, they would pay for it. A couple living in a two bedroom apartment may have one car.

Katz I understand and that is my concern for a parking waiver. What I was concern with is that you were going to charge for every space and that was going to be my next question.

Koch Let me clarify for you. At some point as the City evolves, people are not going to have cars.

Katz Any idea when that is going to happen?

Koch They will have fewer cars. A year ago when gas was at \$4.00, people were rethinking whether they need two or three cars.

Levy (inaudible) took into account the higher price of gas which is not a factor today, but it may in six months. I did want to ask, when Councilman Sesma bought up about parking for visitors, I don't see any calculation for staff parking. I assume you are going to have a couple of employees here?

Koch Within our parking calculations if you look at the waiver request, there are four spaces that we added to the requirements for the multi-family for the people that work in the leasing office. So that has been included. The other thing that everybody needs to realize is that your parking counts include provisions for visitors. It is not just for the residents that live in the community. So ultimately built into your ratios is that they are going to

have visitors. That is understood and it is nice to have space on the outside for the parties that people have once in a while, but....

Marraffa How many parking spaces are there on the service road?

Koch Right now they parallel park on the way down to here. At some point, the State Highway may take that away. Right now they park there, but I am not going say that is a place that we can park. Apparently that is what is done. Certainly not up here in this location, but all the way down here, there is a ten ft. wide shoulder that all along here people park.

Katz Mike go ahead, I interrupted you.

Sesma So your ratio and split of units include two bedrooms, one bedrooms and studio apartments and why is there no consideration of three bedroom apartments at all in your project. I mean you are replacing three to four buildings and some of those three bedrooms, is that correct?

Koch There are 20 or so three bedrooms. In my marketing plan in my vision for Olde Towne, I don't see families with children moving back into the area when in fact that can rent a single family home over here or over here for less than what they can rent a three bedroom apartment in this community for. So what I am focused on, what I try to do is provide smaller unit sizes, studios, one bedroom, two bedrooms that are more affordable that would bring the type of residents in that we would want to revitalize the area of Olde Towne by spending time and money in the restaurants and the bars and utilizing the existing services. We all know and I don't think I am misspeaking here, that schools in Gaithersburg are not considered the best right now. I don't envision and I am not going to design a building or

plan to bring in families when I don't think existing conditions are going warrant them coming in.

Sesma It's an interest model and you already have a project that has been approved so we are anxious to see how that model works, but to continue to base the second model on that notion does, well, I will just leave it at that.

Koch I talked to the bank (inaudible), the property right here foreclosed on it and may it available to me. It is a three bedroom single family house for \$89,000 on George Street.

Sesma Are you going to put one bedroom in it?

Koch No, I am not going to buy but I can go to different locations on Cedar Avenue and George Street and I can find home for less than what it is going to cost me per unit.

Sesma You can do that throughout the county too.

Koch That is my point I am making.

Sesma That doesn't make this the market for your project area. And I am not saying that it is not the market. It's an interesting notion and basically we agreed to the notion in your first project. I am just a little bit concerned about that because a lot of that depends on whether that model is going to be successful or not. So we are putting a lot of density there in terms of the total of the units based on that model that we still have not tested yet. So I just wanted to raise that as a question and an issue to consider. And right now, I guess let some of the others speak that have questions.

Katz Anybody else, please?

Bauer I want to I think correct an impression. The schools in Montgomery County are recognized as some of the best in the country and the schools in Gaithersburg are an integral part of that system. So I don't want to leave the impression that somehow there is an undesirable component here because of the schools because they are very good.

Katz And I appreciate it. I was biting my tongue and I guess I shouldn't. I actually just this last week at Gaithersburg High School for the contest of Mr. Gaithersburg.

(unknown) Was that you?

Katz It was not me. Believe me, the only reason I could be there was as a judge not as a student. I can tell you that your impression by those students would not be the same. Gaithersburg High School and other areas of the City, the schools are well received by the students. One of the questions that I asked is whether they thought that Gaithersburg High School had a fair assessment when people say certain things about them. And to a young man, there were eight young men; all of them said no, they felt that it was extremely unfair. Enough said on that. That has nothing to do with this site.

Bauer I wanted to clarify one other thing. On the parking calculation, maybe staff can answer this. When the criteria is established, the criteria that we have established I assume that that means free parking or parking that is assigned to units just as a matter of right for the (inaudible) to use. I wonder if we had any model in the City or any kind of benchmark with

other jurisdiction that said once you start paying or having to lease the additional the parking, if we know that it reduces the (inaudible) it controls the parking count.

Ossont That is a good question. Every multi-family project with structure parking in the City right now charges for additional spaces. That includes the Colonade and includes Park Station down the street here as well some of the others. The parking waiver for the Archstone project that is right here on East Diamond for even higher than what is being requested today. A lot of that is for the very same reasons. We know that the ratio is too high. It is based on a type of unit which is the three story garden style apartments with lots of surface parking and over flow. Candidly, there are different demographics. They were in apartments 30 and 40 years ago in the 60s as when this was built. So there is a little bit of that involved. The parking ratio, parking requirements whether they are 1.75 or 2.0 or 2.5 for three bedrooms are artificially high to cover both as Koch indicated such visitors and extra vehicles and that type of thing. With that said getting to your answer, Park Station for example does not max out their parking garage. They do have parking Park Avenue as well as Brookes Avenue which is fairly limited but we did go through a lot of that at the very beginning. Certainly, their garage is not maxed out. People have a tendency to not want to park for their third car if they can park it on the street. At the Colonade, everybody pays for extra space. They buy one essentially with the condominium and then they are required to lease one. And that garage is certainly not full, the building is not fully occupied, but that project certainly has plenty of room in these garages. I guess with the notion that has been brought up this evening is when try very hard not to over park structured parking because it just sits unused or it turned into storage spaces or things like that, cages. That does has some merit. We just don't have enough experience with multi-family structured parking

projects other than those two examples to really go any further through, it is just basic analysis.

Katz One of the things that you said that I think should be thought about is that if they did not charge for the second car parking and people who are parking on Brookes Avenue or Park Avenue, how many of those people would be in the parking garage rather than parking on residential streets. It's a substantial number and you can certainly see it in the mornings on Brookes Avenue as you look down Park Avenue. You can certainly see it.

Drzyzgula It could also be that they just don't like the garage.

Ossont It is not as convenient going four and five stories up and coming back down every time you want to go somewhere. So there is that.

Katz The one on Park Avenue, you can park on your own level where you can walk into your apartment. So I agree that some don't like to park in parking garages, but, in some cases if you are carrying groceries it is probably much more convenient than walking (inaudible).

Ossont Usually what they do and this is consistent, all over the county we had similar projects where the unit that you get the parking space that comes with it is on your level. Depending on the demand and how full they are or what the vacancy rates are and things like that. Your second space may be in the lower level or it may be on the top deck. It depends on what's available. Ideally, you would want it on the same level, but there are no guarantees when you go into to purchase or rent that second space but that is a very good point.

Marraffa Greg let me ask you a question. We you all did this your staff, were they comfortable with this from your professional opinion?

Ossont As I said multi-family projects with structured parking are few and far between, but it is a common thing that we come up with every development project that we brought to you in the last ten years and probably longer than that, has structured parking. Casey East, Casey West, Archstone, Crown Farm, all similar projects, structured parking some underground, some of it out of ground, but all have warranted to a parking waiver in a lowered ratio. The county uses an array of ratios for an array of different zones. They have 40 and 50 different zoning categories. Whether it CBD, there are five categories. We look at some of those for Water Street. There are five different zones within a zone sought of speak so those all carry different ratios. You get further to places like Bethesda where the parking is very low, it is less than a unit, but you have Metro and you also have better walk ability than you have here. I wouldn't go any lower.

Marraffa I just wanted to make sure you all were comfortable with it. The other thing for what it is worth, my son lives in Virginia in a condo and unless you have sticker, you can't park on his property. So when we have to visit we have to park somewhere else. We park down the street or two blocks away and walk over. So that is the new thing. With this number of units that are less than, you got the one bedrooms and efficiency, those are typically are only going to have one car.

Katz I don't know that. There could be two people living in one bedroom.

Ossont Sure. I think to Council Member Sesma's point is that we don't have a lot of examples yet and the ones that we do have, we haven't gotten to that

experiment to see how well they work yet. So, a lot of this is based on what we see around the country. Adopted parking standards in other jurisdictions. As soon as you go locally, the dynamics change a little bit with the demographics and the accessibility to Metro. So we get comfortable with a number, certainly, I am not advocating for anything lower. So people might, but I don't think we should go lower.

Marraffa The county has made some of those studies and I assume those are available.

Katz I tell you what I find interested that if you went to Park Station and went to the other, Cedar Courts. I would like to know how many cars and how actual bedrooms are there, etc. and how many cars are actually parking and how many are on the street. If we can get some sought of data. That would be (inaudible).

Ossont I inadvertently left out Cedar Court. That is a great example. They have enough parking for all their residents and then they sell an additional space. We have gone back to them and say can we retrieve those if you are using them for our own public parking.

Katz But they are also using the street and there is a parking lot across street. I would get (inaudible) on what we are doing.

Sesma So the impact of the parking is going to be felt in the neighborhood. And this particular site has limitations in that respect and that is why there are a number concerns about this.

Ossont This is probably the most sensitive parking waiver request that we have really dealt with recently. There are avenues for, if you don't get it right on

this project, then you are looking at overflow onto George and on to Cedar and places like that. We don't want to do that. You can't go on 355. You can use the on ramp now, but that is not going to be a forever. We don't have the (inaudible) of Water Street as we did with that project. So we want to get it right. We will go back and get that information and get back to you.

Sesma I think Cathy had a question.

Drzyzgula Well first of all I wanted to say as far as the rezoning, I certainly think it does fits the goals of the CD Corridor and that it would be a big improvement. I walked all throughout the site this afternoon and it really is fairly unique. I visited a lot of places that were subjected to some kind of proposed change. Between the location of the service ramp and the slope of the property, it really is a difficult site. I certainly really favor moving the building towards the ramp so that you have the green space behind. Right now the only (inaudible) is towards George Street and it is not very good shape. You are going to have a little park like area on that end which will be an improvement and I think that there is adequate buffer against the single-family homes in the back. In fact you are really increasing that. In terms of the Master Plan calling for a tower, I'm not sure that I think you really have a tower. I think you put a different kind of roof on one corner of the building. I don't know whether one says you have to have a tower because that was a fairly loose recommendation, but I think a tower would actually have stories that were higher than the rest of the building and I don't see that here. I don't know if it would make any sense to reconfigure it. I certainly would favor it more if there was something that actually looked like a tower. The way I look at the drawings, you see the five stories coming across almost a third of the building; it is not just on one end. I had one question. It was fair mentioned in here about the sidewalk

on the service ramp between the entrance on the ramp and 355. That part is not ADA compliant and its going to be removed and you are going to substitute an alternative pathway through the property, but I can't tell from the drawings how that works.

Koch           What you are reading from is our initial submittal. Currently pedestrians walk along the state highway ramp here to go down to Cedar Avenue to go across. We so that as potential unsafe conditions so in our original submittal, we had proposed a sidewalk that would come like this and come down here and connect to the sidewalk here. And the purpose of this sidewalk here is because we think the majority of our residents that are going down to Cedar Avenue or going to Olde Towne are going to come out these back locations here and go across like this and come in like this. What we wanted to do was create a situation where the other pedestrians can get off of the sidewalk here and go down in here within the front of our site. It would be safer and more attractive, but what we learned that because that slope was too steep, it did not meet ADA requirements so therefore we could not put it in. As a result of that, we abandon the idea of putting it here. We kept it over here to bring this connection here. And there is no reason that, if people wanted to, they could walk in the pave area, but in terms of a (inaudible) sidewalk it can't be ADA compliant.

Drzyzgula     Public sidewalk outside the law will stay there?

Koch           That's standard, that would stay there. We were just trying to improve that condition because reasons that we just stated.

Katz           Anybody else?

Spiegel      What's the square footage of this additional floor that is actually under the east side of the building?

Koch          Its about 20,000 sq. ft., 20 units roughly about 1,000 ft. each. It could be 18 or 21, but I am going to stay 20,000 sq. ft.

Spiegel      And this floor runs into the upper level parking structure.

Koch          This would be the G1 level, so this is the lower level here and the upper level here. So this would sit directly on top of this. The elevator (inaudible) is right here. So this wing of the building over here on the basement level is simply units.

Spiegel      If you would entertain a hypothetical for me, setting aside economic feasibility, is there an architectural or engineering reason why that portion of that floor couldn't be parking spaces?

Koch          Difference between revenue and no revenue.

Spiegel      Right, obviously its just a cost issue.

Koch          Yes. You could extend it but then you would over (inaudible) because you will be loosing 21 units and then one of the things you are struggling with is to create economics to make the project work. The other thing, its (inaudible) talk to lenders. You think projects are being done outside the City and we they have parking ratios that are lower then the City the lender would say then why are we building so much parking. It's the number that, if you are going to build it, you have to generate revenue to pay the debt service for the money that you borrowed to build it.

- Spiegel      Certainly not suggesting that it is something that I would push for. I just wanted to ask how that would fit together.
- Koch          In theory, this same thing could be put right here. At least 21 units, pick up probably 67 spaces but we would no longer need those 67 spaces.
- Levy          You can do a balancing calculation to see if you got rid of certain units then added parking, where are we when we are asking for less of a waiver but we still have enough units to be economically feasible.
- Koch          And we have done that. For those that done know, your designs starts on excel spread sheet. Your design doesn't start on paper. So we pencil out what you need in terms of units, parking revenue and so forth to order to create a redeveloped project. Then you go to the drawing board and see how you can get it on the site. We have done that exercise and will be happy to share with you.
- Marraffa      One of the things that we are going to have to come to grips with and the reason I asked if staff was comfortable with this. We talk about most of our work coming up now is going to be redevelopment. And we are going to faced with these problems. As Cathy just said, this is a very difficult piece of property. We are putting the parking underground, giving more greenspace, a beautiful design. It is much better than the aging stock that we have. We come to grips that we need to build new housing around the center core of our city. And this is a start. This is very difficult. You just don't walk in there and putting parking everywhere. You can go in and maybe buy half the lots behind that housing, that is not going happen, its not realistic. So, we have to come to grips with what we have and how do we pay for it and how do we get the synergy in the City and that is where we are. We need to look at this. That model has been duplicated and

looked at in the county. That makes a little more comfort zone for me to say ok it has been done somewhere else. Maybe not in the City but we still live in the same area, the same county. So, we have to come to grips with these things and I sure that the staff struggles very hard with this. I sure that Mr. Koch didn't come to staff just on a sail boat and get whatever he wanted. So we need to look at this and say guys this is what we want to do in the City. If we are going to make the City work and if we want young people to come in, smaller units are where we are now. We just have make minds that we have a new environment. No every building has to have large families. This is a young upward mobile group of kids that are coming into the City we hope. The train, buses, all of that is going to happen, so I think we have to come to grips with that.

Sesma That is what was talking about. We are talking about a new model of redevelopment development that we haven't tried yet. I think the other issue that I am actually concerned about is that one. There is a lot about the plan that is very appealing and very innovated, but I thinking about all the projects that we have considered since we have been on the Council. In the last three years, I am thinking about the projects that have been built or been approved to go ahead in the Olde Towne, Central Business District and along the Corridor. I remember that one of our themes is that the majority of our housing should be owner occupied and not rental, not multi-family. A number of complaints about the housing stock in the Olde Towne area is that there are too many multi-family units yet just about every project that we have approved in the last three years has been a multi-family project. We are increasing actually with this project and your earlier project. We are increasing the density of multi-family in this area yet again. The City fathers did not basically 40 years ago and that is how we got where we are now with some of these issues. I am concerned that three years ago or two years ago, you were looking at townhouses on this

property. I know that was a plan that you proposed. I believe it was less than 100 units. And now we are looking at three times that number of apartments to replace what it is 77 apartments. Your other project is over 200 units as well. We added over 300 apartments in the Archstone project. So I am still waiting for this mix of owner occupied options that we are going to be able to look at in terms of one of our development themes. This is a model that works in other parts of the county and the region that relies heavily on mass transit, in close proximity to it. We clearly don't have that great advantage here. I'm hopeful that MARC could turn into something like that but its not here yet. So I don't know that creating the kind of density that we are talking about here in terms of multi-family is going to be in the inducement to drive that but it we will certainly take advantage of it if MARC does develop. I got to say that I hope that you recheck your attitude on schools in the City and the area because it doesn't matter where you live in the City, the quality of schools is going to effect whether or not people choose to live in Gaithersburg. So you need to learn a little bit more about the schools and the families that send their kids there and how a lot of people have ended up moving to the area because of the quality of schools in the City. So just think about that a little bit as well.

Katz           Go ahead Jud. You have been very patience.

Ashman       Well I think that both Henry and Mike just made good points. I definitely thing it is a good idea to redevelop the area. I definitely think this fits into the CD Zone purpose and I definitely think that there are a number of Master Plan goals that this would help us bring forward. I think those are very good things. My big stumbling point is getting back to the parking. I don't think that this particular project is right to gamble on 1.4, 1.5 spaces per unit being sufficient because of what we discussed earlier. The lack of

alternatives in this area could really be a problem. We are talking about bringing young mobile tenants in and those people have social lives and they bring people in so it is not only issue of where do they park, but it is where they guess park. And then the other part of it is. When we talk about what works in the county in very dense areas, the walk ability factor, there is convenient stores, grocery store often nearby, the laundry mats, dry cleaners that are within a reasonable walking distance. I can definitely see people using Ride On and Marc to get back and forth to work, but to do the sought of convenient chores that everybody does, in this particular spots for the foreseeable further and hopefully it won't be too long but for the feasible future, you need a car. So that is a real stumbling area for me in what is I thing a proposal that has a lot to commend about it. The only other thing that I would bring up is you guys have included the traffic study which has been approved or accepted by us during the hearing for the Water Street apartments, but it didn't complete George Street. And I am not sure that this would be a deal breaker for me, but we don't know exactly what we unleashing on George Street. I agree that we should maintain connectivity, we should encourage it and we shouldn't block off the area, but we should go into with more of a sense of what the impact would be on that street.

Katz           Anybody else please?

Drzyzgula    I have been going back and forth, but I have to say something about the schools. I lived in my neighbor for 20 years and every family that wanted to send their kids to public school in my neighborhood moved when their reached five. There are people who are concerned. It may not be a realistic reflection of what the schools are actually like, but if you are trying to sell things to people looking in the area, you have to take that into account. To pretend that it isn't an issue is silly.

- Sesma I wasn't pretending that it wasn't an issue because it clearly is an issue for some people and that why choose to listen such blanket statements like what we heard are the problem. I think we have consider that yes there is variation and quality of schools in the area and clearly this area has some challenges to deals with in terms of the schools. There is no question about that, but I think that we have to be very careful when you make blanket statements about everybody knows that the schools in Gaithersburg are a problem.
- Katz And my point was that the students themselves as of Friday night. I understand what you are saying. There is perception and that perception becomes a reality because some of those go (inaudible).
- Marraffa And that perception is not going to change unless we make up our minds to redevelop not only Olde Towne but the surrounding areas of Olde Towne. Jud was talking about there are no walking grocery stores. You think that they are going to build a grocery store if there they don't build this building. Somebody has to bite the bullet. You either build the building or you could way forever for them to put a grocery store. Which comes first the chicken or the egg?
- Ashman I understand. I wasn't against building the building. It just is the density that concerns me.
- Spiegel Don't assume that we because we have a couple of questions here and there that we are necessarily opposed to the concept.
- Marraffa What I am saying is we are now at the point where we have to get the synergy going in Olde Towne. We are in a position now where we have

buildings that are on hold. We have very difficult piece of property that is sitting there and they are not going to get better over time. That's unfortunate and that is what happens to buildings. They have a life expectancy. We now need to step up and start surrounding and rebuild that synergy so that we do get the restaurants and grocery stores and the other necessary things. I think we have now faced with us, some of our most pressing problems as how to get that area redevelop and start getting new people to come into our City again. That is where we are right now.

Ashman That synergy is important to all of us. It is just the concern about bringing it about at the expense of a practical necessity of a resident in our City. I think that we have to balance these things.

Katz And we are talking about a density of about 72 units per acres which is certainly dense. But what I think it should be pointed out that as an example for Gaithersburg High School, less Gaithersburg residence go to Gaithersburg High School then Gaithersburg residence go to Quince Orchard High School. Exactly where you build the buildings is not necessarily that is where the population for where your schools are coming from.

Koch I just wanted to address the vision that I had for this area because we are focused on this project right now and the maybe the one that I previously brought before you. I would say that the next development on this site is the Barons property. And I envision on the Barons property is a grocery store there and some retail there. And above that, there some multi-family units. This area here is going to be a hub and its going to be a self supporting hub. In order to have that retail and in order to have that grocery store, there has got to be enough density here to justify it. It is

going to be this hub that is going to support the redevelopment of what we now affectionately call Olde Towne. This kind of density can't go on the streets of East Diamond Avenue. So we have to build it in a close enough location where the services and density that is can support what is going to make this viable and hope that those people will then in the evenings and weekends, venture out. We don't want a bunch of people with kids living here that won't go out in the evenings. We want people that are young that are going to go to the restaurants and bars and support the redevelopment. And that is my view.

Sesma        You don't want families living here.

Katz         Anybody else?

Levy         One of the reasons we are being told that the parking waiver is appropriate is because of the proximity of the Marc Train to the location. And one thing I brought up before is I not sure that people will move to Gaithersburg will take the Marc Train into D.C. D.C. is having a very large growth of its own with plenty of housing showing up in areas (inaudible) before. If I were single or a young couple I would think about living in D.C. instead of moving an hour away to take the Marc Train. I think we just have to remember that when we are looking at this progress.

Katz         Is there anybody else have any other comments, because we have not heard from the public? Mr. Kline, did you have final comments?

Kline         Actually I did, but Mrs. Drzyzgula actually took care of it for me and that was the Master Plan, the Corridor Plan invited us to apply for the CD Zoning. So we purpose clause of the zone, the theme, all the language in the Master Plan and I think I heard, I don't want to say a consensus, but I

understanding why CD could be appropriate here. From what I think we gotten is a lot of feedback about what are the hot points, the points of friction the bother the Council and what goal is do is to go out and solve those and bring back information to get you comfortable with something so that we come up with a building within the CD zone and something that the Council can approve.

Katz Ok.. This is the time that the Mayor and Council and Planning Commission hear from anyone who would like to speak on this consolidated joint public hearing topic. We ask that you please keep your remarks to no more than three minutes. Please note the timer will beep and blink yellow when you have 30 seconds left of your three minutes so that you can begin to finish your statement. The timer will beep and turn red when your three minutes is up. Please note that any additional testimony that you might have can be submitted to the City in written form and will be a part of the record just as your oral testimony. Please state your name and address for the record. Who would like to be the first speaker? Please Linda.

Gore Linda Gore I live in Gaithersburg at 60 Oak Shade Road in Bennington. I here speaking as a representative of the Gaithersburg Affordable Housing Committee. I don't even know where to begin because the entire discussion that has been going on tonight is sounding so like discussions we were having several years ago. But, everything has changed in the last six months. Everything that everybody has talked about is as if Gaithersburg is living in a bubble that is completely protected from frankly the crash that happened last September. And I don't know the answer. I know there aren't any easy answers because I agree that there needs to be redevelopment. We know that there needs to be redevelopment and we know that there are no easy answers. This project very clearly, they

didn't use the work luxury, but apparently this is going to be luxury housing (inaudible). So let me just take a second and put it into perspective just to remind everybody what we have been doing in Gaithersburg for the last four years. Since January of 2005, Gaithersburg City has demolished 621 units by your own figures of low cost housing. Now in addition to that 621 units, there are 52 that are planned to be demolished to build the Residences at Olde Towne so that brings us to total of 673 either demolished or planned to be demolish. Then the 85 at Executive Gardens that would demolish. I know that the Council in the last couple of years have done a wonderful job of sticking up for affordable housing and making sure that plans have MDPUs in them even above what is required, but even so, those are just on paper. In the meantime we have empty, boarded up, half burned, fenced off housing that right now could be holding people that need places to live. So, I am just asking for goodness sake as you are grappling with these redevelopment, this project and others, please keep this in mind. Thank you.

Katz Thank you. Next speaker please.

Quinlan Good evening. My name is Mike Quinlan. I am one of the existing homeowners behind there at 2 Cedar Avenue. First I would like to thank the developer. They sent out a brochure and put together a website that is pretty informative about the plan development. I just recently spent the 3-1/2 year over seas. I heard about these townhomes going in behind my house there and was pretty encouraged about that and then I saw this and that is why I am here tonight. Homeownership, homeowner occupancy decreases crime in the neighborhood. It is a big concern about the residents on Cedar Avenue. The new house on Cedar Avenue, at 8 I believe. A lady recently brought it. I don't think she spent a full year in it. She put it up for rent because of the law enforcement activities on Cedar

Avenue. So I guess with that in mind, I would like to know how rental apartment units are better for the community in Observatory Heights than would be ownership in the way of townhomes or something like that. The next concern for me and the residents there, this little area here that has the swimming pool, when I look at that I reminds of this auditorium out here and the way the sounds project from that auditorium, the sounds and lights from that recreation is going to be right in our backyards. I know the trees will ground up eventually. The fence line that was discussed I believe each individual property has there own fence. There is not a single fence line on that property. Or perhaps so sought of ground (inaudible) can be used as a sound barrier. Something in those lines to keep the noise town. One of our ideas was to flip the building so that the noise would project towards the service road, but I understand that that doesn't meet some of the other request. One thing I like, I guess would be what is the desired (inaudible) for the zone from high school up to the railroad tracks if we wanted to look like downtown Bethesda, that's fine I don't want to stand in the way. As a council member said the property, I don't think he is right about it, not being available. Trees and fencing, market analysis for rent what that impact is going to be compared to what it is now.

Katz Thank you. Next speaker please.

Buckingham Good evening. My name is Donna Buckingham. I live next door to Mr. Quinlan at 4 Cedar Avenue. There are no mature trees on the other side of my fence or Mr. Quinlan's fence or my neighbor's fence. The mature trees are in our yards. And at this point when the trees have leaves, we can't see the apartments, but once those apartments become six stories high of course, we will be seeing them. I am very concerned about the noise from the tenant's court. The ball, bounce, bounce, bang, bounce,

bounce, bounce bang, God know how early in the morning, Gods knows how late at night in addition to the sounds of the swimming pool. I can't imagine people buying 268 units would not all own at least one car and if it is an upward mobile building population, then they are certainly going to own at least two cars. Right now it is difficult for us to back out of our driveways because of the traffic on Cedar Avenue. When you had sent out a notice a few years ago about where to place speed bumps I asked for one in front of my house knowing that you probably would choose the one that was further down which makes sense if you don't live there. People turn that corner and they step on the gas. And if you are coming out of your driveway, they don't care. They are just going to speed around behind you. Each one us has had cars severely damaged on that street. So, you are talking about 268 units. To me that translates into approximately 350 to 400 more cars. George Street has no sidewalk. There are children living there. So, to me it seems like a really bad idea even though it might look good. Also, I am teacher in a Gaithersburg school and I can tell that we are all meeting (inaudible) so we are doing something right. Thank you for listening.

Katz Thank you. Next speaker please, Tom.

Rowse Tom Rowse, 101 Dogwood Drive and I also the chair of the Olde Towne Advisory Committee. I heard a lot great input that we got here. There is a few things that we are looking past. One of them is density in our core. I (inaudible) our City to a giant lopsided pretzel. We have to have a strong center to hold the rest of the pretzel together. We have been talking at neighborhood watch meeting and business watch meeting about more walk ability needs to occur around here. I got a little slogan, more eyes equal less crime. We going on with luxury apartments as they are. They are for a younger aged group and I think that is fantastic as an influx. Now

we are also talking about affordable housing. Well there are plenty of stock over in my neighborhood over on West Deer Park. So I think that the market correction is taking care of some of the affordable housing issues for us. They are taking them right off the table. The density here is fantastic. I think it is a good idea to go ahead and ramp up density in this area. It is going to breathe more synergy as Council Member Marraffa was saying. It is going to breathe more synergy. It is going to bring everything more together. I think one of the things that we hadn't really talked about how this would interact with the enterprise zone. I heard recently that we are able to increase the enterprise zone about 50 percent and I really want to know why we haven't explored that already. For us to go ahead and get into this enterprise zone phase over the next four years or ten years, without having the (inaudible) though of increasing it in the beginning so that the scope can be understood by developers. So that we can go ahead and bring that density up so that we can go ahead and bring more shops in. I think it is important to look at that. Over the next ten years, it is going to (inaudible) to us to have that enterprise zone run correctly. Now this, changing it to CD Zone is a fantastic idea. I think that we need bring this into the fold. It is a difficult property to work with. You take a look at it. Now I know there are going to be a number of other concerns with the existing neighborhood there but those are something that we are getting out on the table now before we step forward. The parking density, oil is now going to go down in price much over the course of our life times and we have to realize that. And there are going to be fewer cars. I honestly wish I didn't have a second car but I do. I think that if I were in a position like this, I wouldn't have a second car. I wish I can speaker for longer because we are talking about two topics right now. I know that probably is not going happen. I really see a lot of plus for this. I thank Mr. Koch for bring it forward. This is the beginning of the synergy and movement that has to come over the next ten years as our enterprise

zone status continues. I would like for you all to please think very well about this project.

Katz Thank you. Anybody else please, Clark.

Day Hi, my name is Clark Day I live at 26 Walker Avenue. I'm excited about this project too. I am very happy to see that Mr. Koch has learned a great deal from his approval process at Water Street. This is witnessed by the LEED certified design of the 355 Suites proposed for the Executive Gardens site. It too is a beautiful sustainable, environmentally friendly design. And excellent example smart growth and community rebuilding that will attract a clientele who have the jobs and disposalable income. We need this type of person to sustain a redeveloped Olde Towne. Young employed men who hang around Gaithersburg everyday are not going to support the upscale commercial development that the citizens of Gaithersburg are looking for. So I say bravo Rich. My neighbors and I can only hope and pray that the City will allow this project to be on the fast track and get some shovels in the ground. I have to wonder and I have been to a number of these meeting over the past few years, how many times this body is approached by disgruntle apartment dwellers that don't have enough places to park. It seems like the developer would be the person who would be taking heat if there weren't enough parking spaces and I would think that the developer would not want to be taking heat from not having enough parking spaces. So I guess is that they carefully researched this and have all their ducks in the row regarding that problem. Thanks for the opportunity to speak.

Katz Thank you Clark. Any other speakers, please.

Marchetti I'm Patricia Marchetti. I live at 106 George Street. I am probably the most

impacted person in this room. I want to correct something Mr. Koch said that on the top of his schematic he said where fire hydrant is. He is incorrect. It's down closer to where the cul-de-sac is. I don't know if they will be moving fire hydrant at that point. Personally if this project were to go through as proposed, I would probably consider selling my house and leaving Gaithersburg because I think it is too dense and too much for the area. I have lived here for over 30 years. People in the apartments now come up and park on George Street. George Street is not a real two lane street, it's just a lane and a half. The people next door to me who have technically what is a three bedroom house probably have ten vehicles parking there. So the parking is an extreme concern. If there was some more traffic there, it will in fact impact us quite seriously as well as the children that live in the houses next to us. And that is all I have to say about that.

Katz Thank you very much. Next speaker please.

Searles Prentiss Searles, live at 10 Walker Avenue. It appears that there is a bit of a quandary between the people who are living next door to where the development is and everybody else that is looking around and saying, this seems like quite a project. I heard a word used earlier that was gentrification. People have said that the D.C. area is being gentrified and I tell you, I've worked downtown D.C., 13<sup>th</sup> and L Street and I have been there for 15 years. When I first got there, to be a little bit crafts, everybody's name, every man's name that got there early in the morning name was John. There was no way you can walk and not worry about whether or not you were going to be mugged, whether or not you were going to have your car stolen. Today, there has been a lot of development in that area. There are people that are running in the morning. There are people that are walking their dogs, there are restaurants. You have to

look at a bigger picture. There are no easy answers. I absolutely agree that there are no easy answers. You want people to be able live in places that will keep them in a safe environment and allow them to live there. You don't want to run people out of their neighborhoods. There are no bad people that need to be run out of town. There are opportunities when you look at old buildings that have seen better days that you recognize, it is not feasible to try to build those buildings back and renovate them. They are not old homes that was built in 1905 that you can refurbish and go wow isn't a beautiful place. It will till look like that and you can't make it work on an economical basis. We missed in late 90s, early 2000 when there was a big economic boom. Everybody else was doing lots of building around this area. Guess what Gaithersburg did at that time, goose egg. You now got some stuff going on in the City. It looks great. There is a lot of work that seems to be going on. I see it when I drive to the Metro. Give opportunity to Rich. Make the changes that need to be made, but don't beat this thing and grind it into the dirt with bureaucracy and indecision and golly gee could we, maybe if we twisted everybody arm that much more, they would give it to us. Let's not do that one more time. Be perceive and efficient please.

Katz Thank you. Any other speakers please.

Clifford Jim Clifford. I have an office at 316 East Diamond Avenue. On the (inaudible) commercial (inaudible) downtown. We have been very concern as many people have that we need to develop our commercial area. We feel downtown that we are a little bit short on buildings. We don't have the inventory that a Frederick or some of these other towns have. So it is important that we are able to be able to concentrate on the business end of town and get it healthy and viable. It is important to get a nice mixture, get a good diversity and keep the businesses that we have

right now, but bring in new businesses. I think that is on the table. One of the areas that we have looked at carefully is at Diamond and Summit and what is critical at Diamond and Summit is we need to have synergy if you want to call that or I heard it referred to as rooftops or just enough people living downtown to justify having some of these larger commercial enterprises coming to town like a grocery store. We met time and time again, I met time and time again with many developers and many different commercial enterprises and that is what I keep hearing over and over again. Get your infrastructure straight, in other words get your parking, get things where they belong so that people have a place to park when they come down here. And then get enough people down living in the area that we can open up our businesses and be successful in what we are doing. I think Rich's project is part of that process. I think that and I may be wrong about that maybe Fred can straighten me out on this, but I think we had a 1,000 units in the Master Plan that we were hoping to open here in the Olde Towne area and that would give us the kind of synergy we need for a successful commercial district. I think this project is part of that. And I am very sensitive about the idea of parking and I am very sensitive about the buffers. We have to protect our older neighbors. We got citizens here from some of the older neighborhoods and we have to make sure we are dealing with that and you guys have to be responsible about how you handle a project that comes in and how it will impact the older neighborhoods. stated the proposed project is a component to the revitalization of Olde Towne. It didn't sound to me like you haven't anything here that we can't resolve. I think everybody has put out problems that have resolution. You all can manage that. I've seen you do for many, many years. But at the same time, I think it is important that you don't lose sight of the fact that we have to get bodies downtown if we are going to get a commercial district up and running that will make the area better. Thank you.

Katz Thank you.

Bauer We are going to do two separate motions I assume.

Katz We have a second public hearing.

Bauer I thought the record was the same.

Katz The public record and anything in this record will go in the other record. They don't have to repeat it.

Drzyzgula Actually a lot of the comments that were made for this part applied more to the other.

Bauer So, you want to close out this on the rezoning portion?

Katz Yes.

Bauer This is on Z-309. Staff is recommending that the Planning Commission hold their record open until 5 p.m. on April 30, 2009 (45 days) with anticipated recommendation on May 6, 2009. Is there a motion please?

Kaufman So moved.

Hopkins Second.

Bauer It's been moved and seconded. All in favor please say aye?

Commission Ayes.

Bauer           Opposed? That passes unanimously (5-0), Mr. Mayor.

Katz            Thank you very much. Staff has recommended that the Mayor and Council hold their record open until 5 p.m., Friday, May 15, 2009. What is the pleasure of the Council?

Sesma           This is on Z-309. So moved.

Spiegel         Second.

Katz            It's been moved and seconded. All those in favor please say aye?

Council         Ayes.

Katz            Opposed? That carries unanimously (5-0). Who is going to introduce the second part of this. Jackie are you going to introduce the next joint public hearing SDP-08-005, please.

Marsh          It was the same hearing.

Katz            Well it's not. It is two separate public hearings?

Board          We did need to have two separate public hearing but we did agree that the testimony from one would carry to the next for both. Ok, please.

Marsh          Jody would you like to speak.

Katz            This is for joint public SDP-08-005 which is an application requesting the redevelopment of 3.6859 acres of land located at 12-16 South Frederick

Avenue, and includes parcels N323 & N271, and is known as Executive Gardens Apartments. The plan proposes a 268-unit multiple-family building with structured parking.

Kline Good evening. For the record again, my name is Jody Kline. The applicant will (inaudible) all the presentation testimony admitted from the previous public hearing and ask that you incorporate all the exhibits and testimony into the record of this case and we will just rest on that basis.

Katz Ok. Any questions of Mr. Kline, if not, we are going to hear from the public. Does anybody from the public have anything that they would like to tell us please.

Rowse Tom Rowse, 101 Dogwood Drive. I would speak for a little bit longer, believe me I got the passion in my heart. I believe that this project is fantastic. I believe it needs to move forward. The Olde Towne Advisory Committee has voted unanimously to move forward with the project and recommend that to the Mayor and City Council. I was talking before about the enterprise zone and this is what's coming from the work in the corridor. This is a great opportunity to go ahead and build that synergy. The synergy is what I have been talking about all along. I liken it to snowball. We got to get that snowball going back down the hill. In tough economic times, this is an interesting opportunity to transform this City and a lot of other places in this state, in this United States. They are not going to have the opportunity here that we have. I think we need to step to the plate. We need to get this thing rolling and get it moving and transform this City. I think that, I really enjoy that you are able to do these joint sessions together. It goes ahead and melts all of your voices into one and I think that is what will lead our City in the future. When Rich Koch came to the Olde Towne Advisory Committee with ideas about this, we were all

enthusiastic, everybody. I see how there are going to be many lasting impacts from this redevelopment and this site. With how difficult the site is and with how much Rich has driven to go ahead and come in with what the staff recommended, and we have such a great staff in this City. I know that each and everyone of you up there will second me on that. They have worked diligently with Mr. Koch to get this thing off the ground. To get the presentation down to where it is and so that we have a firm understanding of where this City needs to go. I said earlier that it is giant lopsided pretzel and I mean that. This center will hold it all together and that is what we need to look at. Around Exit 11, we are going to be coming off of that, Exit 11 and if you going to go right that service road right in there, I will say that this is another gateway into Olde Towne, to Gaithersburg and I think it needs to be treated as such. I think something as unique and well thought out as this project just need to move forward. So of the reservations that we have such as parking, density, we need to take those and put those aside right now and get the synergy going in the center of our giant pretzel.

Kat Thank you. Any other speakers please.

Marchetti Patricia Marchetti. I live at 106 George Street. Of course I am emotional about this issue because it is my community. And I suspect that if this was happening on Walker Street, there would be lots of people here that would not be happy about it. But I also wanted to point out as there was all this discussion about all these young people that like to go out and have a night life, they are definitely not going to walk across 355. People are doing now and putting their life at risk. Even the police officers have told me to do not try to cross 355 and make a left turn. If you want to turn left to go north on 355, then come off of Cedar turn right, go to the light and make a u-turn. So the traffic there is extremely heavy. It is even hard

to turn right onto 355. So now you are wanting to increase the amount of cars by somewhere around 500. And if these cars are coming from the Washington area because they are coming north, they will have to turn left on Cedar and right on George. And again, please keep in mind, George has no sidewalks.

Katz Thank you. Next speaker please.

Searles I just wanted to get up here and be able to speak twice in one night. I can see the smiles from ear to ear. Again, Prentiss Searles, 10 Walker Avenue. I glad that you guys are having this discussion. There is obviously a lot of different perspectives you have to take into account. I would recommend, when I look at this I see something that is going to be a more esthetically pleasing structure. Something that when people come into Gaithersburg, wow, they will think it is pretty neat. As opposed when they come into Gaithersburg and go, oh, this is interesting. I was talking with someone that lives off of MidCounty Highway. He said where do you live, I said I live on Walker Avenue. He said, wow, how do you like living over there. I hear you guys have a lot of problems. We got one of the best neighborhoods that I ever lived in. We got parties that happen. People look out every Friday, by the way, you guys are welcome to come. Everybody is welcome, to come to Cathy's house. But the bottom line is that we really do have a good neighborhood, but there is a perception that there is not all the benefits that are in other areas. I think there is an opportunity to build up in a reasonable way that takes into account the people who are living in the old structures behind the project. I live in an old structure to by the way, please don't take offense. I am three rows off of the 7-11 and it gets loud over there. When the trees and leaves are up, you don't see a whole lot going on, but when the leaves fall off, you go wow, there really is a lot of people over there. So you do in deed have to

take that into account. I thought I would change the subject for just a second and go in and I think Mr. Sesma said you were at the National League of Cities. I figure this is an opportunity to address that at the same time. Since I do have six minutes and it is dwindling real fast. You mentioned that a real issue is life cycle analysis of products and I think that one of the things that I wanted to say publicly is that people often look at it and go, we need to make sure that we have such tight environmental regulations that we can't (inaudible) and manufacture anything in the United States and what you end up forgetting is the fact that the U.S. has the most strict environmental regulations that would allow you to build something the best way. If you send it over seas, they don't care, they are trying to put food in their mouths.

Katz Thank you very much. Any other speakers please? Ok.

Bauer Staff has recommended that on SDP-08-005 that the Planning Commission hold their record open until 5 p.m. on April 30, 2009 (45 days) with anticipated recommendation on May 6, 2009. Is there a motion please?

Kaufman So moved.

Hopkins Second.

Bauer It's been moved and seconded. All in favor please say aye?

Commission Ayes.

Bauer Opposed? That passes unanimously (5-0), Mr. Mayor.

Katz Thank you very much. And just like the other, staff is recommending that this be held open until 5 p.m., Friday, May 15, 2009. What is the pleasure of the Council?

Sesma Actually, I am going to move to leave the record open indefinitely. There are a number of issues that came up. I would like to see those resolved before we move to close the record on it. So I would like to make that my motion to leave SDP-08-005 open indefinitely.

Katz Is there a second?

Marraffa I would like to make a comment on that.

Katz Well let me ask for a second. Is there a second.

Ashman I will second so we can discuss it.

Katz Ok go ahead Henry.

Marraffa I obviously don't agree with that. We need to move forward on these projects now then just go ahead and just say more bureaucratic process in a time that we cannot afford it. We have done this over and over and it is time for us to move forward. We need to vote it up or vote it down at some point in time.

Sesma Can I respond. I think we can make it better. I think there were a number of issues raised. I think that we have shown that we can approve a project in very short period of time. The Water Street project was approved the fastest that I ever, in my experience on this Council and yours as well.

There were a number of issues that needed to be addressed there. I thought we addressed them. I think this can be addressed and it can be made a stronger plan, but I think we need to have another hearing to do that. If they are ready to close the record then they can close the record, but I think that there are a number of issues that need to be addressed. There is a project approved already. I am anxious to see that one get started. There is another one, there are several that have been approved for a while. I am anxious to see all of those get started. A delay of a month or two or a few weeks isn't going to change that. So that is why I proposed that. I would like to hear a response to the issues we raised. Basically, I think that consensus was the rezoning was appropriate, but I think that there are elements of the schematic development plan need to be addressed and that is what I would like to do. I think the best way to do that is to leave the record open for a shorter period of time.

Ashman Can I ask a question? Greg, given the time frame of the May 15, and the comments that have come from the hearing I think it is pretty clear what our concerns are. Would it be difficult to make amendments, for you to work with the applicant to make amendments and present them to us within that time frame.

Ossont I guess the real question is, let me just put it right back on you. If the Council wants to have a work session on this, then I would recommend holding the record open indefinitely. If you want to have a work session on this, we are going to need more time to come back and get those things scheduled. So yes hold the record open indefinitely. I don't think that the issues discussed this evening that the resolutions are necessarily insurmountable, but if you want the work session, I will leave that up to you.

Katz            Why couldn't we leave the record open for the sixty (60) days and work under that time frame. If it doesn't work out then we can always extend the record.

Ossont        Yes.

Katz            I think that if we did it that way, then we are trying our best to show good faith here but we are also showing that we have concerns and we need to work them out.

Ossont        My only concern is that puts it, if you want to see it again while the record is still open schedule a work session as to what our solutions are to some of these concerns that we have worked with the applicant to resolve. If you want to see them represented sought of speak, while the record is still open, we need to give ourselves some lead time on that. I am going to be working very hard to accommodate the Planning Commission schedule which is a shorter record and make sure that we get enough exhibits in the record to achieve that comfort level so that they can make a recommendation to you on the SDP. The final details on buffers and type of landscape and things like that, that is really a final site plan issue that I would condition on the SDP but then take up at some point. But we have some significant issues about George Street and how it connects and doesn't connect as well as some parking issues. I don't think that we need more than sixty (60) days, but I am certainly taking all of these comments and often it is not our efforts, but it is the applicant getting things revised and back to us. We need several weeks in advance to get those things in your packets, the paperless packets. Yes, I think it can be done. If at some point I don't think so, I can come back to you at a regular Council meeting from staff and say we are not going to be ready Mr. Mayor, we to either to extend the record indefinitely or schedule a work

session.

Sesma Well first of all, I want to make clear that my motion was offered in good faith. I didn't make a statement of not support or support. I just think that there are issues. That is why I raised that and made that motion. It was made in good faith with the intention that we would come to some resolution on these issues and reach some conclusion on this plan. So I want to make sure staff has adequate time. I want to make sure that staff has adequate time that staff is satisfied that they can do or that we can reopen the record. Then I can withdraw that motion. Do you want to provide that assurance to me, in good faith?

Ossont I know there is a motion on table. I can tell you that if for some reason within the next 30 or 45 days that I am not certain that that assurance is still there, I will come back and let you know and we will extend the record and that would be our recommendation.

Sesma Based on that assurance from staff, they have been very good about living up to those things; I will withdraw my motion and hope that the second is withdrawn as well.

Ashman I will withdraw my second.

Katz Is there a motion on SDP-08-005?

Marraffa I will make a motion on SDP-08-005 that we take staff's recommendation to hold our record open until 5 p.m. on May 15, 2009, with anticipated policy discussion on June 1, 2009.

Sesma And in good faith I will second it.

Katz           It's been moved and seconded, all those in favor please say aye?

Council       Ayes.

Katz           Opposed? That carries unanimously (5-0).     Thank you all very much to  
the Planning Commission.

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End of Consolidated Joint Public Hearing  
Z-309 and SDP-08-005

**Mayor Katz**

1. Reported that he serves on the NLC Fair Committee and the discussions were focused on the economy.
2. Announced the following meeting schedule:
  - work session, Monday, March 23, 2009 to receive a presentation from County Councilmember Marc Elrich on a Concept for Bus Rapid Transit.
  - next regular meeting April 6, 2009.

**VIII. FROM THE CITY MANAGER**

- Announced that the Mayor and City Council identified the priorities in a letter to County Council President Andrews regarding the items that should be included in a binding agreement with the County concerning the GE/FinMarc Tract. In addition, a letter was sent the Chief Executive Officers stating the same priorities. Staff is awaiting a meeting date to discuss the next steps.
- Announced that the County Council's Public Safety Infrastructure Energy and Environmental Committee scheduled a joint work session on March 26, 2009, 2 p.m.

**IX. CONSOLIDATED JOINT PUBLIC HEARINGS**

- A. **Z-309, Application Requests Rezoning of 3.6859 Acres of Land From R-20 (Medium Density Residential) to CD (Corridor Development) in Accordance With §24-196 (Map Amendments) and §24-160G.6 (Procedure for Application and Approval) of the City Code. The Property is Located at 12-16 South Frederick Avenue, and Includes Parcels N323 & N271, and is Known as Executive Gardens**
- B. **SDP-08-005, Application Requesting the Redevelopment of 3.6859 Acres of Land Located at 12-16 South Frederick Avenue, and Includes Parcels N323 & N271, and is Known as Executive Gardens Apartments. The Plan Proposes a 268-Unit Multiple-family Building With Structured Parking**

Planner Marsh introduced the above stating that the hearings were advertised in the *Gaithersburg Gazette* on February 25 and March 4, 2009, property properly posted. The applicant, Keystone REI, represented by Mr. Jody Kline of Miller, Miller and Canby, requests the rezoning of this property, located at the intersection of South Frederick Avenue (MD 355) and the State Highway Administration (SHA) service ramp, from the R-20 (Medium Density Residential) Zone to the CD (Corridor Development) Zone. A requested map amendment to the CD zone requires the concurrent submission of either a concept plan or schematic development plan per §24-160G.6 (Procedure for application and approval) of the City Code. The applicant has selected to submit a schematic development plan. The subject site lies within the Fairgrounds Commercial District of the Frederick Avenue Corridor Special Study Area Master Plan. The Master Plan states that, "Owners of properties not comprehensively rezoned are encouraged to apply for rezoning to the CD Zone in order to meet the goals and objectives of the Frederick Avenue Corridor Master Plan." The applicant is proposing to redevelop 85 garden style apartments. The proposed plan would include a 268-unit multiple family building with underground parking. The proposal also includes Parcels N323 and N271, adjacent to George Street.

*Jody Kline of Miller, Miller and Canby*, gave an overview of the principles to apply to the rezoning application. He stated that the traffic study had been reviewed and approved by the City's Traffic Engineering Services Director Mumpower and noted that it meets the City's standards for levels of service. He further stated that rezoning the site to the CD Zone would meet the goals and strategies of the Corridor Master Plan and improve the quality of life within the Corridor.

*Richard Koch, Applicant Keystone REI*, showed an aerial of the site which is currently zoned R-20 and presented several challenges to the site due to existing conditions. He stated that rezoning the site to the CD Zone and the proposed redevelopment would help enhance the economic vitality of the area. He gave an overview of the onsite amenities such as a swimming pool, outdoor courtyards and seating areas, internal clubroom, fitness center, business center, green area, increased forestation, new stormwater management system, elevations, and a two-level parking garage. He stated that the proposed development meets many of the recommendations of the City's Master Plan.

Several members of the City Council and Planning Commission expressed concern with the impact on George Street residents, traffic patterns, and pedestrian connectivity/sidewalks, requested parking waiver, expense of additional parking for tenants, alternate parking for visitors, fire and rescue access, high density, lack of three bedroom units, perception of area schools, and the proposed tower. It was stated that the proposed redevelopment would support the revitalization of Olde Towne.

Speakers from the public on both hearings:

1. *Linda Gore, 60 Oak Shade Road, representative of the Gaithersburg Affordable Housing Committee*, agreed that redevelopment is needed, but the lack of replacing low income housing is a concern.
2. *Mike Quinlan, 2 Cedar Avenue*, thanked the applicant for the informational brochure and the City's information on the website. Expressed concern with the decrease in homeownership and increase of crime in the area. He asked that increased noise and lighting from the proposed redevelopment be addressed.
3. *Donna Buckingham, 4 Cedar Avenue*, had concern with the lack of mature trees in the area to create a buffer from the redevelopment, increased noise and traffic.
4. *Tom Rowse, 101 Dogwood Drive*, stated the proposed project is another gateway into Olde Towne and expressed support for the requested rezoning to the CD Zone and the project.
5. *Clark Day, 26 Walker Avenue*, expressed support for the project due to the LEED certified design and redevelopment in Olde Towne. He asked that the project be put on the fast track.
6. *Patricia Marchetti, 106 George Street*, corrected the applicant on the location of the fire hydrant and stated she is opposed to proposed project due to the density, traffic, parking, lack of sidewalks and pedestrian safety.
7. *Prentiss Searles, 10 Walker Avenue*, stated that there are no easy answers, but revitalization to the aging buildings in Gaithersburg are necessary.
8. *Jim Clifford, 320 East Diamond Avenue*, stated the proposed project is a component to the revitalization of Olde Towne. He stated that the redeveloped, improvements to the infrastructure and the build up of the businesses in Olde Towne are needed.

There were no other speakers.

Motion was made by Commissioner Kaufman, seconded by Commissioner Hopkins, that the Planning Commission hold the record on Z-309, open until 5 p.m., Thursday, April 30, 2009.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Spiegel, that the Mayor and City Council hold the record on Z-309, open until 5 p.m., Friday, May 15, 2009.

Vote: 5-0

Motion was made by Commissioner Kaufman, seconded by Commissioner Hopkins, that the Planning Commission hold the record on SDP-08-005, open until 5 p.m., Thursday, April 30, 2009.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Ashman, that the Mayor and City Council hold the record on SDP-08-005, indefinitely to address several concerns.

After further discussion, the following motion was made:

Motion was made by Council Member Sesma, seconded by Council Member Ashman, that the Mayor and City Council motion above on SDP-08-005, be withdrawn.

Vote: 5-0

The following motion was made:

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, that the Mayor and City Council hold the record on SDP-08-005, open until 5 p.m., Friday, May 15, 2009.

Vote: 5-0

## **X. ORDINANCES, RESOLUTIONS, AND REGULATIONS**

### **A. Resolution Adopting the Strategic Plan for the City of Gaithersburg**

During the January 26, 2009 Mayor and City Council work session, staff gave a presentation on the City's financial status and outlook and an overview of the CIP. The public was given the opportunity to provide input on issues. During the second session held February 7, 2009, department heads gave presentations and the draft Strategic Plan was reviewed. Guidance was provided by the Mayor and City Council on a number of revisions and key strategic objectives, which were incorporated into the draft plan. Key strategic objectives were consolidated into a list of thirty-one action items. On February 17, 2009, City Manager Jones gave a brief overview of the retreat and the revised Strategic Plan. Public comments had been incorporated into the revised document. The adopted 2009 Strategic Plan will be posted on the City's website and used as a basis for the City Manager's proposed FY'10 Operating and Capital Budgets.

Motion was made by Council Member Marraffa, seconded by, Council Member Ashman, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE STRATEGIC PLAN FOR THE CITY OF GAITHERSBURG (Resolution No. R-14-09), be approved.

Vote: 5-0

**B. Resolution to Enter into a Contract for the B&O Station Roof Replacement Project**

This resolution authorized the City Manager to enter into a contract for construction services for the B&O Station Roof Replacement Project to Xpert Xteriors, 3720 Devin Court, Huntington, Maryland 20639, in the estimated amount of Eighty-Four Thousand Seven Hundred Seventy-Seven Dollars (\$84,777), plus an additional Sixteen Thousand Nine Hundred Fifty-Five Dollars (\$16,955) contingency for unexpected expenses; said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE B&O STATION ROOF REPLACEMENT PROJECT (Resolution No. R-15-09), be approved.

Vote: 5-0

**XI. FROM STAFF**

**City Attorney Board**

Updated the Mayor and City Council on two cases pending against the City. She stated that the City filed a motion for summary judgment in the Fliegel matter asking for a deposition that all the counts to be dismissed. The plaintiff also requested a summary judgment against the City on two of the counts. She added that it will be several months before a hearing is scheduled.

In addition, a hearing on the Mora case was heard in the Circuit Court. The case was dismissed and remanded back to the District Court for further proceedings within the next 45 days.

**XII. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:20 p.m.

Respectfully submitted,

*Doris R. Stokes*

Doris R. Stokes  
Executive Assistant

**From:** [Richard Koch](#)  
**To:** [Sidney Katz](#); [CityHall External Mail](#); [Trudy Schwarz](#)  
**Cc:** [Angel Jones](#); [Greg Ossont](#); [Jacqueline Marsh](#); [Tony Tomasello](#); [jskline@mmcanby.com](mailto:jskline@mmcanby.com); [pcasey@dva-arch.com](mailto:pcasey@dva-arch.com); [kthakkar@dva-arch.com](mailto:kthakkar@dva-arch.com); [stawes@lsassociats.net](mailto:stawes@lsassociats.net); [klauretti@LSAssociates.net](mailto:klauretti@LSAssociates.net)  
**Subject:** MCPS Public Announcement - May 18, 2008  
**Date:** Tuesday, March 17, 2009 12:14:01 PM  
**Attachments:** [MCPS High Schools Ranked - May 18, 2008.pdf](#)

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Mayor, Council and Planning Commission:

Attached is a MCPS Public Announcement which is posted on the MCPS web page. The announcement shows that the high schools in the Gaithersburg Cluster are ranked 18 (Gaithersburg) and 19 (Quince Orchard) out of the 23 high schools in Montgomery County.

Unfortunately, during the public hearing last evening, my statement that the Gaithersburg high schools are considered undesirable when compared to high schools in other parts of the County, which I believe to be a true statement based in part upon my first hand knowledge working with new home buyers as a home builder and Realtor and in part upon prior knowledge of where the high schools in Gaithersburg rank when compared to the other high schools in the County was misconstrued.

One of the benefits that I hope will eventually accrue from the redevelopment of some of the declining housing in the City will be improvements in the actual ranking and perception of the high schools in the Gaithersburg Cluster. I will leave it at that.

Best regards,

Rich

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Managing Member  
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SEARCH

INDEX OF TOPICS

HOME ABOUT US SCHOOLS COMMUNITY BOARD OF EDUCATION FOR PARENTS FOR STUDENTS FOR STAFF

PUBLIC ANNOUNCEMENTS > BROWSE

## MCPS High Schools Ranked Among Top 100 in Nation

May 18, 2008

PUBLIC ANNOUNCEMENTS

BROWSE

- > Current School Year
- > All School Years
- > Archives

2007-2008

2006-2007

2005-2006

2004-2005

2003-2004

2002-2003

2001-2002

2000-2001

1999-2000

1998-1999

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### Newsweek Ranks Six MCPS High Schools in the Top 100 in the Nation, More than Any Other District Nationwide

*All 23 Eligible High Schools Included in the Top 3 Percent in the Nation*

ROCKVILLE, MD - For the first time ever, *Newsweek* magazine has ranked six Montgomery County public high schools in the top 100 high schools in the nation - more than any other school district in the United States. In the previous four years, five high schools have appeared in the top 100. All of the county's eligible schools are counted among the top 3 percent in the country, according to the *Newsweek* list released today.

The six top high schools and their rankings are:

Richard Montgomery 32  
 Thomas S. Wootton 59  
 Bethesda-Chevy Chase 63  
 Walt Whitman 68  
 Walter Johnson 75  
 Winston Churchill 96

The *Newsweek* rankings highlight the Montgomery County Public Schools (MCPS) reform efforts over the last eight years to encourage more high school students from every background to take challenging Advanced Placement (AP) and International Baccalaureate (IB) courses. Participation in these rigorous programs provides students with the skills and knowledge necessary to be successful in college and the world of work.

*Newsweek* uses the "Challenge Index," which has been featured for the past several years in *The Washington Post*, as a way to measure the rigor of a high school academic program. The index, developed by Jay Mathews, is derived from the number of AP or IB tests taken by all students at a school divided by the number of graduating seniors.

"Our mission is to ensure that every student in Montgomery County Public Schools has the opportunity to participate in challenging academic courses," said Montgomery County Board of Education President Nancy Navarro. "These latest rankings from *Newsweek* are yet another validation of the investment we have made in our educational program."

"It is an extraordinary accomplishment for our schools to consistently achieve such high rankings on the *Newsweek* list year in and year out," said Superintendent Jerry D. Weast. "It speaks to the exceptional performance of our students, who have taken up the challenge of these high level courses, and of MCPS staff members, who have encouraged, supported, and helped our students thrive."

Since 2000, MCPS has undertaken significant reforms to increase academic success for all students and close the achievement gap. Fundamentally, the reforms are predicated upon hiring and training high-quality teachers, reducing class sizes, and offering students a rigorous and challenging curriculum.

Student performance indicates MCPS is making excellent progress in raising achievement and closing the gap in several areas.

\*46 percent of the Class of 2007 scored a 3 or higher on at least one AP exam, more than triple the national average and double the Maryland average.

\*60 percent of the Class of 2007 took at least one AP exam during high school, more than double the national average of 25 percent.

\*In 2007, the percentages of both Hispanic and African American students earning scores of 3 or higher on AP exams were above the national average of 15.2 percent for all students.

\*An historic high of 24,208 Advanced Placement exams were taken by MCPS students in 2007.

\*Record number of students - 283 - named National AP Scholars by The College Board.

\*93 percent of kindergartners in spring 2007 met or exceeded reading targets, compared with 39

percent in 2001.

\*A record 45.6 percent of fifth grade students took advanced math in 2007, compared with just 19.6 percent of the class six years ago.

\*A record 56 percent of Grade 8 students in 2007 completed Algebra 1, compared with the national average of just 25 percent.

\*33 National Blue Ribbon Schools.

#### **Newsweek's Rankings of Montgomery County Schools Among the Top U.S. High Schools\***

32 Richard Montgomery  
59 Thomas Wootton  
63 Bethesda-Chevy Chase  
68 Walt Whitman  
75 Walter Johnson  
96 Winston Churchill  
199 Montgomery Blair  
296 Springbrook  
312 Poolesville  
313 Rockville  
328 Albert Einstein  
338 James Hubert Blake  
418 Paint Branch  
438 Watkins Mill  
474 Northwest  
505 Sherwood  
552 Col. Zadok Magruder  
651 Gaithersburg  
696 Quince Orchard  
816 Wheaton  
837 John F. Kennedy  
860 Damascus  
906 Seneca Valley

*\* The rankings are based on the Challenge Index, which is derived from the number of Advanced Placement or International Baccalaureate tests taken by all students at a school in 2007 divided by the number of graduating seniors. This list excludes Northwood High School and Clarksburg High School because they did not have graduating seniors in 2007.*

#### **Back to browse**

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Exhibit C

Suites 355

Comparison of Unit Types

Recently Approved Olde Towne Area Multifamily Projects

**Without Suites 355**

<u>Unit Type</u>	<u>Broadstone</u>		<u>Archstone</u>		<u>Residences</u>		<u>Unit Totals</u>	
Studio	0	0%	0	0%	51	27%	51	6%
1 Bed	180	57%	194	50%	60	31%	434	48%
2 Bed	135	43%	195	50%	77	40%	407	45%
3 Bed	<u>0</u>	<u>0%</u>	<u>0</u>	<u>0%</u>	<u>3</u>	<u>2%</u>	<u>3</u>	<u>0%</u>
	315	100%	389	100%	191	100%	895	100%

**With Suites 355**

<u>Unit Type</u>	<u>Broadstone</u>		<u>Archstone</u>		<u>Residences</u>		<u>Suites 355</u>		<u>Unit Totals</u>	
Studio	0	0%	0	0%	51	27%	59	22%	110	9%
1 Bed	180	57%	194	50%	60	31%	101	38%	535	46%
2 Bed	135	43%	195	50%	77	40%	108	40%	515	44%
3 Bed	<u>0</u>	<u>0%</u>	<u>0</u>	<u>0%</u>	<u>3</u>	<u>2%</u>	<u>0</u>	<u>0%</u>	<u>3</u>	<u>0%</u>
	315	100%	389	100%	191	100%	268	100%	1,163	100%

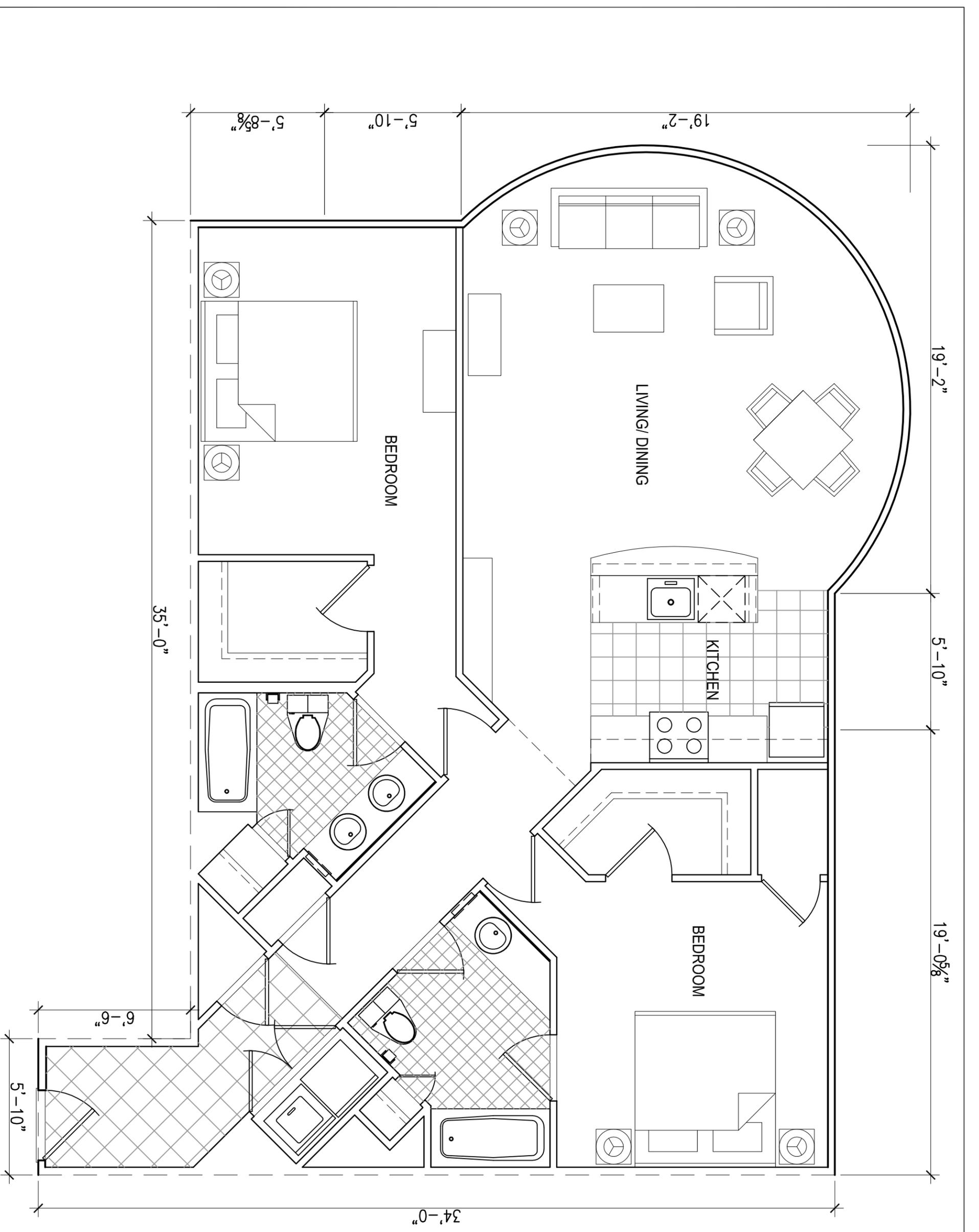
**From:** [Richard Koch](#)  
**To:** [Jacqueline Marsh](#)  
**Subject:** Suites 355 - Unit Floor Plan for Tower Feature  
**Date:** Friday, March 27, 2009 3:24:11 PM  
**Attachments:** [Unit B-7.pdf](#)

---

Jackie:

Attached is the unit floor plan for the two bedroom unit in the tower feature. This is an excellent unit plan that will rent very well in this location. The SHA wall is 35 feet away from the outside living room wall.

Rich



UNIT B-7  
1231.00 SFT

© COPYRIGHT 2004

REVISIONS:	
11-01-08	50% Schematic Design
11-24-08	60% Schematic Design

ISSUED: 10/22/08	UNIT PLAN
DESIGNER: SC	CHECKED: KT
DRAWING NO: 4002.01	SCALE: 1/4" = 1'-0"
DRAWING	

**RESIDENCES AT OLDE TOWNE**  
 OLDE TOWNE, GAITHERSBURG, MARYLAND  
 A PROJECT FOR KEYSTONE<sub>REI</sub>  
 103 Leekes Lot Way, Gaithersburg, MD 20878  
 B-7 UNIT PLAN



**DVA**  
**DONNALLY VUJIC ASSOCIATES, L.L.C.**  
 architecture ■ planning ■ interiors  
 400 Professional Drive ■ Suite 200 ■ Gaithersburg, Maryland 20879-3433  
 301-590-8900 ■ Fax 301-590-8620 ■ EMAIL: DVA-ARCH.COM



THE PLACE TO MEET.

April 6, 2009

Mayor & City Council  
City of Gaithersburg, Maryland  
31 S. Summit Avenue  
Gaithersburg, MD 20877

Distributed to M&CC:4/20/09

Crowne Plaza • Rockville  
3 Research Court  
Rockville, Maryland 20850  
tel 301.840.0200  
fax 301.258.0160  
www.cprockville.com  
1.800.2CROWNE

Re: Rezoning request Z-309 (Suites 355)

Dear Mayor Katz and Members of the City Council:

The Gaithersburg Economic Development Committee recently heard a presentation by Mr. Richard Koch of Keystone REI regarding his company's plan to redevelop the existing Executive Gardens Apartments complex. The Committee, in its role as an advisory board to the Mayor and City Council, desires to provide input on this project.

The Committee supports the redevelopment of the obsolete apartment buildings currently at this site and considers it a natural extension of the renewed emphasis on economic development in the City's Strategic Plan. We feel that the project will vastly upgrade this important entranceway into the Olde Towne Central Business District (CBD), attract new, higher income residents to support retail and restaurant concerns in Olde Towne, and add substantially to the assessed value of the site – providing badly needed tax revenues.

While acknowledging what we believe to be the merits of the project, the members of the Committee at the same time want to avoid insinuating themselves into the planning process. We would note, however, that several Committee members strongly advocated for an increase from "suburban" densities to something more appropriate to an urban core. We hope that the City and Keystone REI will agree on an acceptable plan in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Zindash', written over a horizontal line.

Christopher Zindash, Chair  
Gaithersburg Economic Development Committee

Joint Hearing - MCC & PC  
SDP-08-005  
#53

**From:** [Richard Koch](#)  
**To:** [Jacqueline Marsh](#)  
**Cc:** [Greg Ossont](#); [Lauren Pruss](#); [jskline@mmcanby.com](#); [klauretti@LSAssociates.net](#); [tpolizzi@LSAssociates.net](#); [stawes@LSAssociates.net](#); [kthakkar@dva-arch.com](#); [pcasey@dva-arch.com](#)  
**Subject:** Suites 355 SDP and Garage Plans with garage changes 4-10-09  
**Date:** Friday, April 10, 2009 3:17:44 PM  
**Attachments:** [Suites 355 - Rear elevation with garage change 4-10-09.pdf](#)  
[Suites 355 - SDP Sheet 1 with garage change 4-10-09.pdf](#)  
[Suites 355 - SDP Sheet 2 with garage change 4-10-09.pdf](#)  
[Suites 355 - SDP Sheet 3 with garage change 4-10-09.pdf](#)  
[Suites 355 - Sheet A100 with garage change 4-10-09.pdf](#)  
[Suites 355 - Sheet A102 with garage change 4-10-09.pdf](#)

---

Jackie:

Attached are the following:

1. Revised rear elevation
2. Revised SDP sheets 1, 2 and 3
3. Revised G1 and G2 garage levels plans
4. Revised matrix showing number of units and number of parking spaces and the parking calculation
5. Revised first floor plan

Garage redesign related changes are as follows:

The rear wall of the garage between the two middle wings (including the two middle wings and the main courtyard of the building) were move 5' closer to the R-90 lots to satisfy Ollie's garage layout comments. These wings and the main courtyard are now set back 40 feet from the R-90 lots instead of 45 feet. There is no change to the afforestation calculation or afforestation provided. The green area is reduced by less than 1/2 percent (< .5%). The unit count is reduced from 268 to 263, including MPDUs. The MPDU count is reduced from 40 to 39. The east courtyard floor elevation was raised up 10 feet. (Because the east courtyard is (i) approx. 33 feet back from the rear elevation of the shorter building wing that is facing the R-90 lots (ii) setback 73 feet from the R-90 lots and (iii) well screened with trees and plantings this change in elevation at the ground level really has no visual impact.)

Other SDP changes are as follows:

Bollards were added to the two ends of the connection to George Street to limit the use to fire equipment use. The crosswalk that separated the parallel parking was removed and the parallel parking spaces were increased from 21' to 22' in length.

Affordable Housing Plan

I will send you another email following this one with a revised affordable housing plan for the 39 MPDUs.

I trust the attached plans incorporate the changes that we've discussed and are coordinated. Please let me know if I have overlooked anything.

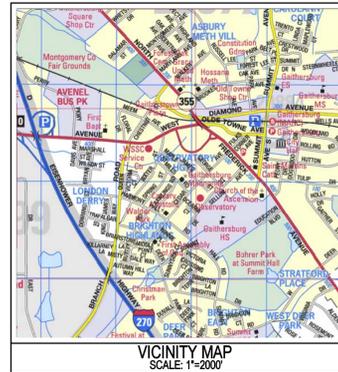
Best regards,

Rich

Richard Koch  
Managing Member  
KEYSTONEREI  
103 Leekes Lot Way  
Gaithersburg, Maryland 20878  
301.840.5424  
301.840.5859 Fax  
rkoch@keystonerei.com E-mail

# SUITES 355

## SCHEMATIC DEVELOPMENT PLAN

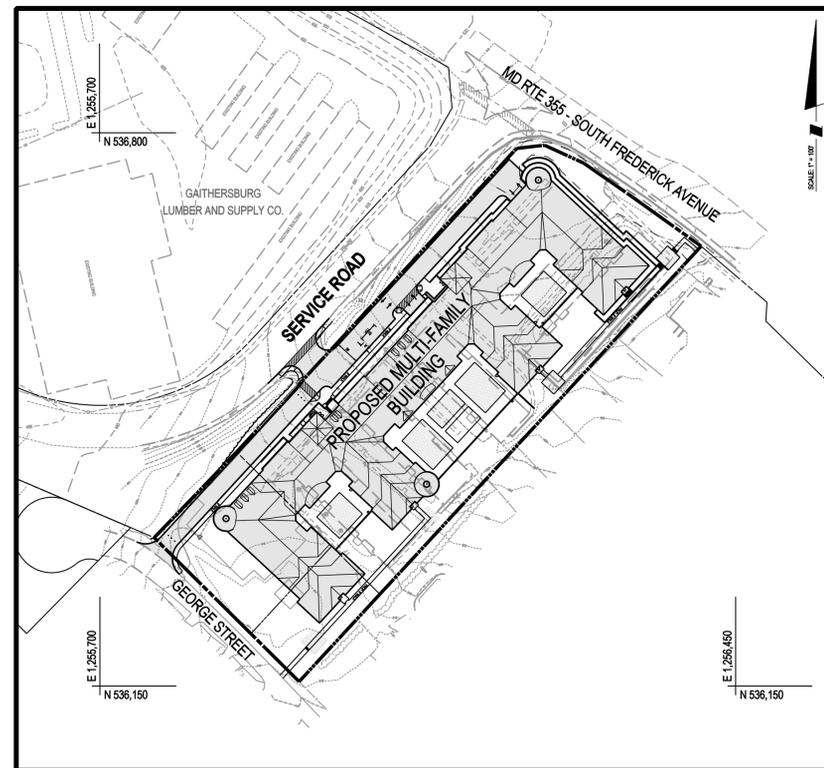


**DEVELOPER**  
 KEYSTONE REAL ESTATE INVESTMENTS, LLC.  
 103 Leekes Lot Way  
 Gaithersburg, Maryland 20878  
 301.840.5424, 301.840.5859 Fax  
 Attn: Richard Koch, Managing Member  
 rkoch@keystonerei.com

**ARCHITECT**  
 DONNALLY VUJIC ASSOCIATES, L.L.C.  
 400 Professional Drive, Suite 200  
 Gaithersburg, Maryland 20879  
 301.590.8900, 301.590.8620 Fax

**CIVIL ENGINEER**  
 LOIEDERMAN SOLTESZ ASSOCIATES, INC.  
 2 Research Place Suite 100  
 Rockville, Maryland 20850  
 301.948.2750, 301.948.9067 Fax

**ATTORNEY**  
 MILLER, MILLER, & CANBY  
 200 B Monroe Street  
 Rockville, MD 20850



**General Notes**

- Gross Tract Area: 3.6859 Acres
- Zoning: R-20 - Proposed Re-zoning to CD
- Maximum Density Permitted by Zoning:  
To Be Determined At Time of Preliminary Plan Approval
- Maximum Number of Dwelling Units Permitted:  
To Be Determined At Time of Preliminary Plan Approval
- Number of Dwelling Units Proposed:  
263 Multi-Family Units
- Number of Affordably Priced Dwelling Units Included: 39 DU
- Building Setbacks - CD Zone:  
No Setbacks Required
- Property is located in the City of Gaithersburg  
and the Frederick Corridor Master Plan
- Property is located in the Great Seneca Creek watershed  
(Use 1 watershed).
- Existing topography by Loiederman Soltesz Associates, Inc. 08/22/2007
- Boundary information from available deed information.
- An approved NRI/FSD on Sept. 5, 2007.
- There are no designated historic sites associated with this property.
- Existing Water & Sewer Service Categories: W1/S1.

**LEGEND:**

----- 382 -----	EXISTING GRADE
----- 380 -----	PROPOSED GRADE
-----	EXISTING BUILDING
-----	EXISTING RIGHT OF WAY
----- 10" W -----	PROPOSED WATER LINE
----- EX. 12" W -----	EXISTING 12" WATER LINE
----- 8" S -----	PROPOSED SEWER
----- EX. 8" S -----	EXISTING 8" SEWER
----- PROP. S.D. -----	PROPOSED STORM DRAIN
----- EX. 21" RCP -----	EXISTING STORM DRAIN
-----	STORM FILTER

**SHEET INDEX**

- SHEET 1 COVER SHEET  
 SHEET 2 SCHEMATIC DEVELOPMENT PLAN  
 SHEET 3 SCHEMATIC LANDSCAPE PLAN

**PROFESSIONAL CERTIFICATION**  
 I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 15490, EXPIRATION DATE: 08/07/09.



**MISS UTILITY NOTE**  
 INFORMATION CONCERNING EXISTING UNDERGROUND UTILITIES WAS OBTAINED FROM AVAILABLE RECORDS. THE CONTRACTOR MUST DETERMINE THE EXACT LOCATION AND ELEVATION OF ALL EXISTING UTILITIES AND UTILITY CROSSINGS BY DIGGING TEST PITS BY HAND, WELL IN ADVANCE OF THE START OF EXCAVATION. CONTACT "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO THE START OF EXCAVATION. IF CLEARANCES ARE LESS THAN SHOWN ON THIS PLAN OR TWELVE (12) INCHES, WHICHEVER IS LESS, CONTACT THE ENGINEER AND THE UTILITY COMPANY BEFORE PROCEEDING WITH CONSTRUCTION. CLEARANCES LESS THAN NOTED MAY REQUIRE REVISIONS TO THIS PLAN.

**SCHEMATIC DEVELOPMENT PLAN  
 COVER SHEET**

**SUITES 355**

12 S. FREDERICK AVE. AND GEORGE STREET  
 GAITHERSBURG (9th) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND



1" = 100'

SHEET 1  
 OF 3

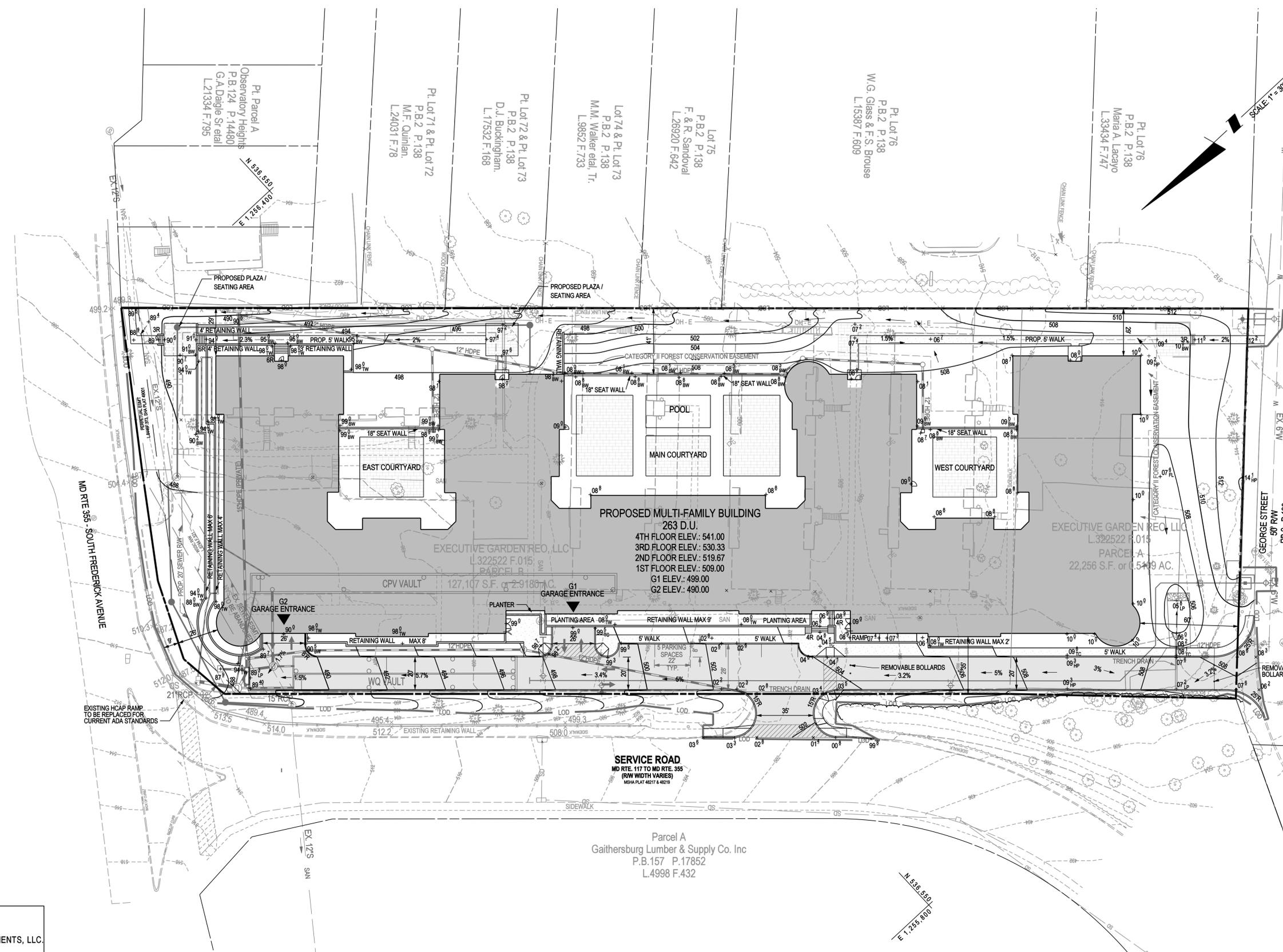
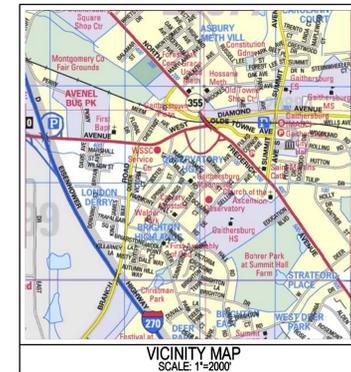
PROJECT NO.  
 29900100

**Loiederman Soltesz Associates, Inc.**  
 Rockville Office  
 2 Research Place, Suite 100  
 Rockville, MD 20850  
 t. 301.948.2750 f. 301.948.9067  
 www.LSAssociates.net

NO.	REVISIONS	BY	DATE
3	REVISED PER ARCHITECTURE CHANGES AND RESUBMITTED TO CITY OF GAITHERSBURG	KDL	4/10/09
3	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	KDL	4/2/09
2	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	JDC	02/18/09
1	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	JDC	1/8/09

Date: NOVEMBER 2008  
 Designed: JDC  
 CAD Standards Version: Microstation V8 Std. 2000  
 Technician: JDC  
 Checked: TP

Copyright ADC The Map People Permitted Use Number 2071186 Map 5047 Grid J8
Tax Map FT 561
Zoning Category: EXISTING: R-20 PROPOSED: CD
WSSC 200' Sheet 223 NW 10
Site Datum Horizontal: NAD 83 Vertical: NAD 83



**DEVELOPER**  
 KEYSTONE REAL ESTATE INVESTMENTS, LLC.  
 103 Leekes Lot Way  
 Gaithersburg, Maryland 20878  
 301.840.5424, 301.840.5859 Fax  
 Attn: Richard Koch, Managing Member  
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**Joint Hearing - MCC & PC**  
**SDP-08-005**  
**#56**

**Loiederman Lanham Waldorf Leonardtown**  
**ROCKVILLE OFFICE**  
 2 Research Place, Suite 100  
 Rockville, MD 20850  
 t. 301.948.2750 f. 301.948.9067  
 www.LSAssociates.net

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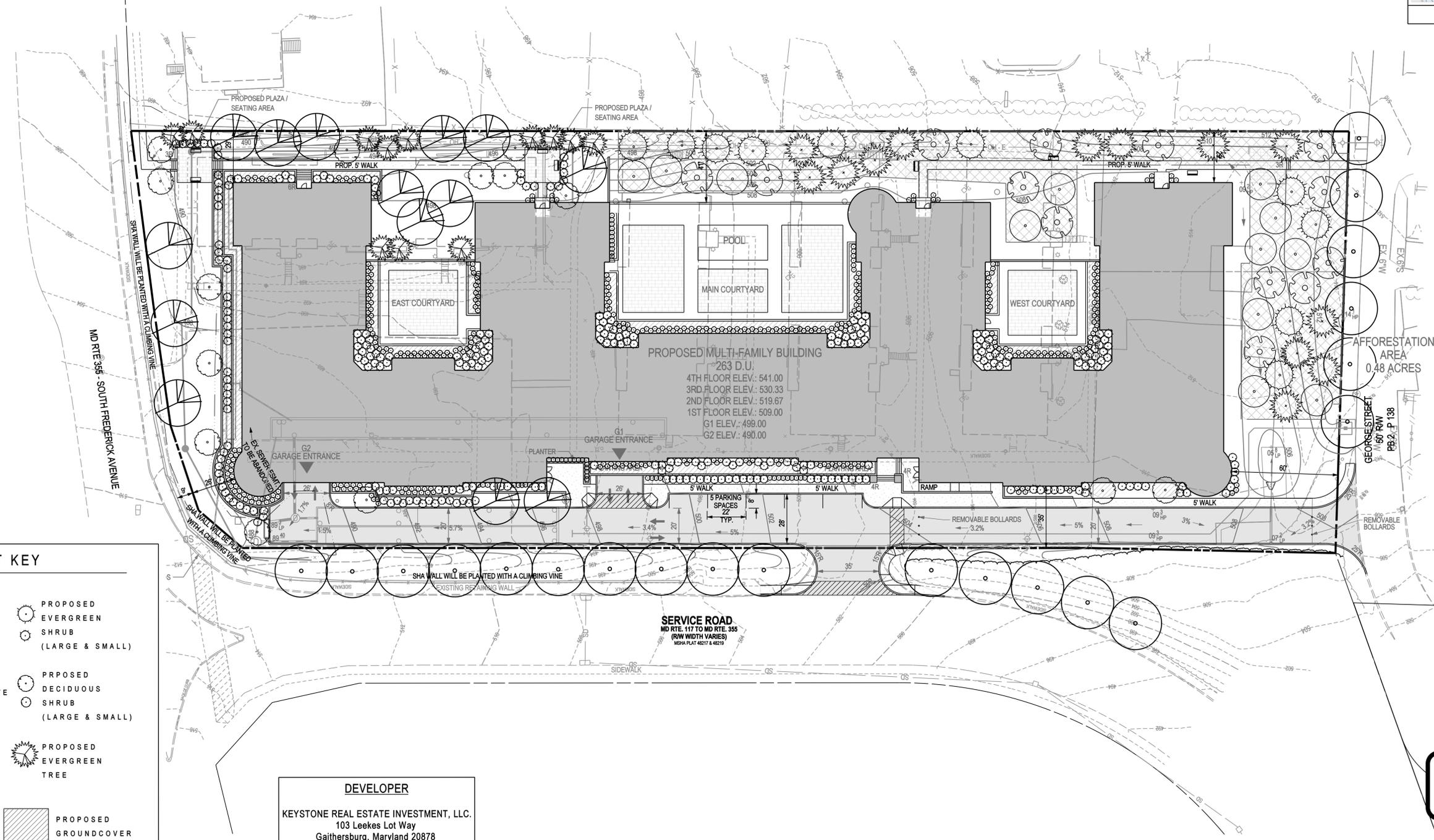
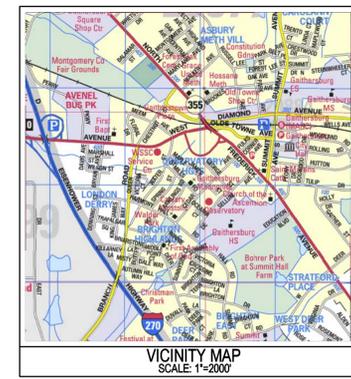
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**SCHEMATIC DEVELOPMENT PLAN**

**SUITES 355**  
 12 S. FREDERICK AVE. AND GEORGE STREET  
 GAITHERSBURG (9th) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

1" = 30'  
 SHEET 2 OF 3  
 PROJECT NO. 29900100

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**PLANT KEY**

	PROPOSED STREET TREE		PROPOSED EVERGREEN SHRUB (LARGE & SMALL)
	PROPOSED LARGE ON-SITE TREE		PROPOSED DECIDUOUS SHRUB (LARGE & SMALL)
	PROPOSED FLOWERING TREE		PROPOSED EVERGREEN TREE
	PROPOSED ANNUALS		PROPOSED GROUNDCOVER

**DEVELOPER**  
**KEYSTONE REAL ESTATE INVESTMENT, LLC.**  
 103 Leekes Lot Way  
 Gaithersburg, Maryland 20878  
 301.840.5424, 301.840.5859 Fax  
 Attn: Richard Koch, Managing Member  
 rkoch@keystonere.com

**Joint Hearing - MCC & PC**  
**SDP-08-005**  
**#57**



FOR LANDSCAPING ONLY

**SCHEMATIC LANDSCAPE PLAN**

1" = 30'  
 SHEET 3 OF 3  
 PROJECT NO. 29900100

**Loiederman Soltesz Associates, Inc.**  
 Rockville Lanham Waldorf Leonardtown  
**ROCKVILLE OFFICE**  
 2 Research Place, Suite 100  
 Rockville, MD 20850  
 t. 301.948.2750 f. 301.948.9067  
 www.LSAssociates.net

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Date: NOVEMBER 2008  
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 CAD Standards Version: Microstation V8 Std. 2000  
 Technician: JDC  
 Checked: TP

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 Permitted Use Number 20711186  
 Map: 5047 Grid: J8  
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**SUITES 355**  
 12 S. FREDERICK AVE. AND GEORGE STREET  
 GAITHERSBURG (9th) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

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**CITY OF GAITHERBURG  
DIVISION OF COMMUNITY DEVELOPMENT  
MPDU AND WFHU PROGRAM**

# AFFORDABLE HOUSING PLAN

This report must be submitted to the City of Gaithersburg prior to SDP and site plan approval.

Instructions: Please fill out this form completely and return the original, along with five copies (including attachments), to the Department of Planning & Code Administration. Pursuant to City Regulation No. 02-07, Section Two (1)(c), this Plan must be submitted, signed and approved prior to approval of any relevant schematic development plan and before receiving Planning Commission approval of any relevant site plan.

**1. Developer Information**

Name of Developer	Keystone REI, LLC	Tax ID	
Contact Person	Richard Koch	Title	Member
Address	103 Leekes Lot Way, Gaith., MD	Zip Code	20878
Phone Number	301-840-5424	Fax	301-840-5859

**2. Project Information**

Project Name	Suites 355
Project Location	12 S. Frederick Avenue
Subdivision Name	n/a
Project Type: rental/sale	Multifamily rental
Total Number of Units	263
Number of Units by Type (1 BR, 2 BR, etc)	TBD

**3. Project Description**

Briefly describe the development concept and design of this project.

263 Unit Multifamily Community

**4. MPDU and WFHU Information:**

Total Number of Units	224 Mkt; 39 MPDU = 263	Planned MPDU/WFHU Location in Development	
Number of MPDUs by type (sale)	None	MPDU (Sale)	None
Number of MPDUs by type (rental)	15% by type	MPDU (rental)	15%
Number of WFHUs by type	None	WFHU	None

**5. Proposed Construction Schedule**

Start Date		Finish Date	
MPDU/WFHU	TBD	MPDU/WFHU	TBD
Market Units	TBD	Market Units	TBD

**6. Attachments**

1. Attach applicable draft covenants in recordable form;
2. Attach a statement attesting that the MPDUs and WFHUs shall be of the same appearance and use comparable exterior materials to the market rate units of the same unit type;
3. Attach a statement attesting that the MPDUs and WFHUs shall be generally dispersed throughout the development and provide a site plan showing planned dispersal;
4. Attach a statement attesting that the MPDUs and WFHUs shall be built along with, or before, other units in the development.

Signature \_\_\_\_\_

Title Managing Member \_\_\_\_\_

Joint Hearing - MCC & PC  
SDP-08-005  
#59

**DECLARATION OF COVENANTS  
FOR  
SUITES 355  
A RENTAL COMMUNITY  
INCLUDING  
MODERATELY PRICED DWELLING UNITS**

This DECLARATION OF COVENANTS (this "Covenant"), made this 25th day of November, 2008, hereinafter set forth by Keystone Real Estate Investments, LLC, (hereinafter referred to as "Declarant").

WHEREAS, Declarant has filed a Schematic Development Plan application for certain property in the City of Gaithersburg, Maryland (the "City") as described on Exhibit A attached hereto and made a part hereof (the "Property") for a multifamily residential community with 263 dwelling units (the "Project").

NOW, THEREFORE, Declarant hereby declares that during the Control Period (as hereinafter defined) the dwelling units identified individually as a Moderately Priced Dwelling Unit or collectively as Moderately Priced Dwelling Units (as hereinafter defined) shall be held, rented, sold and conveyed subject to the following covenants, conditions, and restrictions:

## **ARTICLE I**

Subject to the covenants, conditions and restrictions contained in this Covenant, fifteen percent (15%) of the dwelling units in the Project to be equally spread among all of the unit types in the Project shall be identified by Declarant in its sole and absolute discretion at or before the time of Final Site Plan Approval. The dwelling units identified are to be bound by this Covenant and are hereinafter referred to individually as a Moderately Priced Dwelling Unit or collectively as Moderately Priced Dwelling Units (hereinafter "MPDU" or "MPDUs").

## **ARTICLE II**

With respect to each MPDU, for a period of thirty years, commencing on the date the MPDU is first available for rent, or such lesser period as established by law, all relevant provisions of City Ordinance No. O-12-06, as currently adopted, shall apply to the MPDU and shall run with the land for the entirety of this period (the "Control Period").

## **ARTICLE III**

During the Control Period, with respect to each MPDU, the MPDU shall not be rented for an amount that exceeds the maximum monthly rent established from time to time by the City Manager or his designee in accordance with City Regulation No. 02-07 as currently adopted.

## **ARTICLE IV**

During the Control Period, with respect to each MPDU, the MPDU shall not be conveyed or sold for a price greater than that determined by the City Manager or his designee in accordance with City Regulation No. 02-07 as currently adopted.

## **ARTICLE V**

The Control Period, with respect to each MPDU, shall not be re-set, or otherwise altered, upon the transfer of the MPDUs to another tenant or lessee or the sale or other conveyance of the Property or Project.

## **ARTICLE VI**

During the Control Period, with respect to each MPDU, any sale contract, any deed of conveyance executed by the Declarant or its assigns or successors, and any subsequent sale contract and/or deed or conveyance, must contain conspicuous language specifically reciting that the MPDU is subject to this Covenant and to City Ordinance No. O-12-06, as currently adopted, and City Regulation No. 02-07, as currently adopted, referencing the date of recordation of this Covenant among the Land Records of Montgomery County, including Liber and Folio.

## **ARTICLE VII**

During the Control Period, with respect to each MPDU, if the Declarant or its assigns or successors, as applicable, elects in its sole and absolute discretion to sell the dwelling units in the Project, including the MPDUs as individual condominium units, the Declarant, or its assigns or successors, as applicable, shall be required to comply with the requirements of City Ordinance No. O-12-06, as currently adopted, and City Regulation No. 02-07, as currently adopted, including, but not limited to, selling one-half of the MPDUs under the sale provisions of the above referenced Ordinance and Regulation as Moderately Priced Dwelling Units and one-half as Workforce Housing Units, as defined therein. The above notwithstanding, the Declarant reserves the right to create a condominium regime to own the dwelling units in the Project, including the MPDUs prior to the date the first dwelling unit is first available for rent and the creation of the condominium regime shall not be construed as an election to sell the dwelling units triggering the above provision.

## **ARTICLE VIII**

This Covenant shall be binding upon the MPDUs, and upon the Declarant, its heirs, assigns and successors, and upon all successor owners of the MPDUs during the term of their ownership of the MPDUs during the Control Period. This Covenant shall be fully assignable by the Declarant, its heirs, assigns and successors.

## **ARTICLE IX**

This Covenant may not be terminated without the approval of the City except upon the expiration of the Control Period or with respect to each MPDU upon the sale of the MPDU in accordance with Article VII of this Covenant.

## **ARTICLE X**

Except as permitted by City Regulation No. 02-07 the MPDUs shall be the only residence of the tenant(s) renting the MPDUs. MPDUs shall not be sub-leased or rented to a subtenant(s), except as permitted by City Regulation No. 02-07.

## **ARTICLE XI**

The tenant renting a MPDU shall not close on the purchase of another residence prior to providing notice to the landlord under the lease for the MPDU to terminate their lease for the MPDU in accordance with the lease.

## **ARTICLE XII**

The City may enforce the covenants contained herein by a proceeding, at law or in equity, against any person or persons violating or attempting to violate intentionally or otherwise, any covenant or restriction contained herein, to restrain any violation thereof.

## **ARTICLE XIII**

If a breach of this Covenant occurs, and is continuing after written notice to the party breaching this Covenant and the expiration of thirty (30) days, the City may apply to any state or federal court having jurisdiction for specific performance of this Covenant, for an injunction against any violation of this Covenant, or for such other relief at law or in equity as may be appropriate and consistent with this Covenant. No remedy conferred upon or reserved to the City by this Covenant is intended to be exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and is in addition to every other remedy given under this Covenant, existing at law or in equity. No delay or omission to exercise any right or power accruing upon any breach of this Covenant will impair any such right or power or will be construed to be a waiver thereof. If, upon or after the occurrence of any uncured default hereunder, the City incurs expenses for the enforcement or performance or observance of any obligation or agreement on the part of others contained herein, the City may seek to be reimbursed by the party or parties breaching this Covenant for reasonable expenses paid by the City to third parties to enforce this Covenant.

## **ARTICLE XIV**

In the event any provision of this Covenant shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

## **ARTICLE XV**

This Covenant cannot be amended without the prior written consent of the City.

## **ARTICLE XVI**

This Covenant shall not be recorded in the Land Records of Montgomery County, Maryland and if recorded shall have no force and effect on the Declarant, its successor and assigns, the current owner of the Property, the Property, the Project or the MPDUs unless and until (i) a Final Site Plan for the Project is approved by the City under terms and conditions acceptable to the Declarant and (ii) the demolition, site development and building permits required for the demolition of the existing improvements on the Property and the construction of the MPDUs are issued by the City and/or other agencies with jurisdiction over the Project under terms and conditions acceptable to the Declarant.

## **Article XVII**

By recording this Covenant the City agrees to respond within 10 days of receipt of a written request from the Declarant, its successor and assigns, to provide an estoppel certificate to affirm if there are, or are not, any defaults under this Covenant with respect to the Project or the MPDUs and any other such reasonable information with respect to this Covenant. In addition, the City agrees to negotiate in good faith with any individual or entity that is providing financing for the Project or the MPDUs (the "Lenders") any changes to this Covenant requested by the Lenders that do not violate City Ordinance No. O-12-06 or City Regulation No. 02-07 as currently adopted or the intent thereof. Any notice or communication which may be or is required to be given pursuant to the terms of this Covenant shall be in writing and shall be sent to the respective party at the address for such party set forth below, postage prepaid, by Certified Mail, Return Receipt Requested, by a nationally recognized overnight courier service that provides tracing and proof of receipt of items mailed or by telecopy (with a confirmatory copy of such notice sent by one of the other delivery methods specified above), or to such other address as either party may designate by notice similarly sent. Notices shall be effective upon receipt.

### Notice address for Declarant:

Keystone Real Estate Investments, LLC  
103 Leekes Lot Way  
Gaithersburg, Maryland 20878  
Attention: Richard Koch

### Notice address for City:

City of Gaithersburg Maryland  
31 S. Summit Avenue  
Gaithersburg, Maryland 20877  
Attention: City Manager

IN WITNESS WHEREOF, Declarant has caused this Covenant to be executed by Richard Koch, its Managing Member, its corporate seal to be affixed hereto, and does appoint Richard Koch its true and lawful attorney-in-fact acknowledge and deliver this Covenant.

WITNESS:

DECLARANT:

Keystone Real Estate Investments LLC

\_\_\_\_\_

By: Richard Koch, Managing Member

*STATE OF MARYLAND*

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared Richard Koch, Managing Member of Keystone Real Estate Investments, LLC who is personally well known to me, who acknowledged the same to be the act and deed of Keystone Real Estate Investments, LLC, the Declarant herein, for the purposes herein contained.

WITNESS my hand and seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires:

EXHIBIT A  
DESCRIPTION OF  
PROPERTY AND MPDUs

PROPERTY:

<u>Parcel No./Address</u>	<u>Tax ID #</u>
Parcel N-271	02856015
Parcel N-220 12 S. Frederick Avenue	02856026
Parcel N-323	02856037

MODERATELY PRICED DWELLING UNITS (MPDUs):

<u>Unit Type*</u>	<u>No. of Units*</u>
Studio	TBD
One Bedroom	TBD
Two Bedroom	<u>TBD</u>
Total MPDUs	39

\* Fifteen percent (15%) of the dwelling units in the Project to be equally spread among all of the unit types in the Project shall be identified by Declarant in its sole and absolute discretion prior to the issuance of building permits.

Suites 355 (the "Project")  
Developer Statements  
With Respect to MPDUs

The Developer hereby agrees to the following with respect to the 39 MPDUs in the Project.

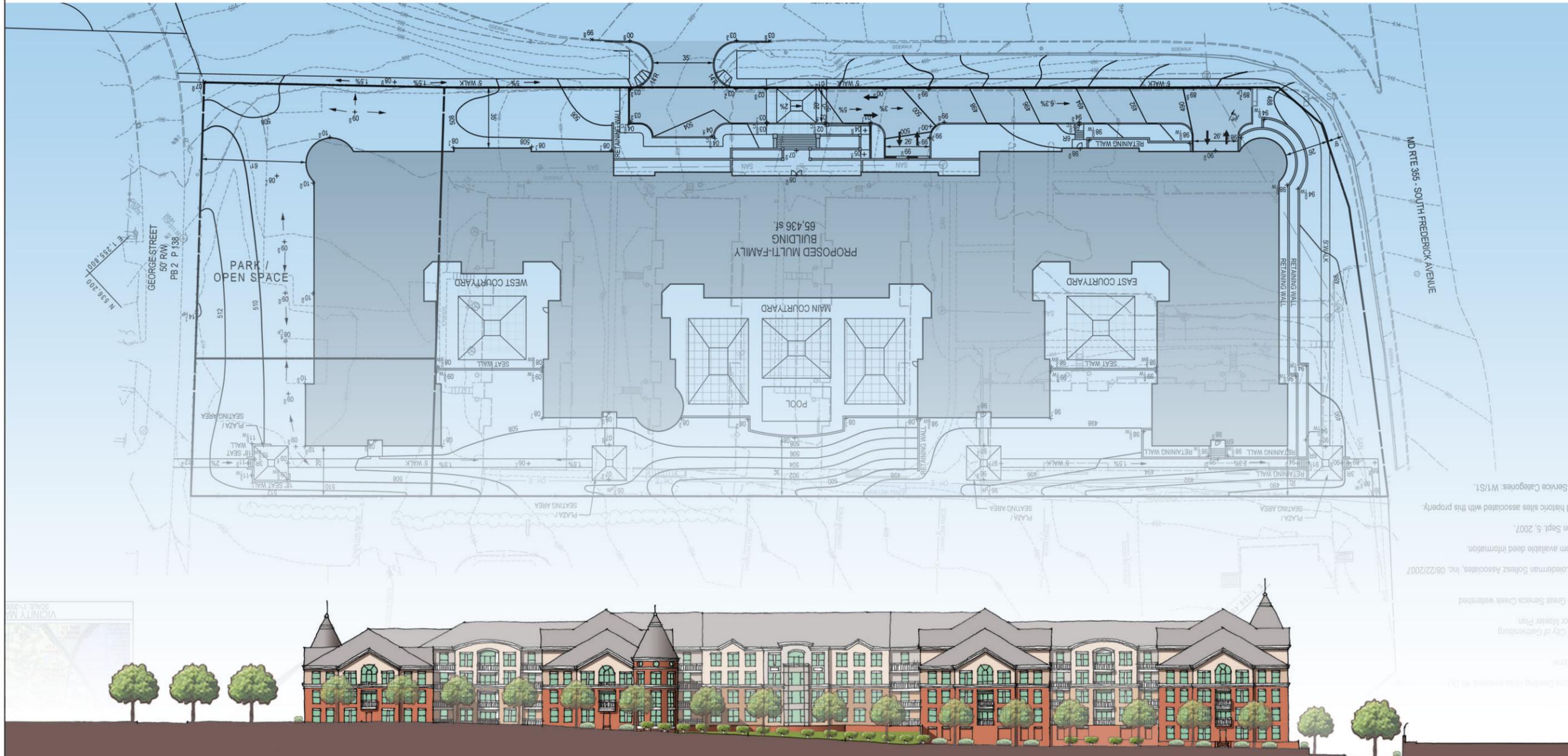
1. The MPDUs shall be of similar exterior appearance and use comparable exterior materials to the market rate units of the same type.
2. The MPDUs shall be generally dispersed throughout the Project but the specific dwelling units and locations shall be selected by the Developer in its sole and absolute discretion.
3. The MPDUs shall be built along with, or before, other dwelling units in the Project.

Developer Acknowledgement:

Keystone Real Estate Investments, LLC

---

By: Richard Koch, Managing Member



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**DVA**  
**DONNALLY VUJIC ASSOCIATES, I.L.C.**  
 architecture ■ planning ■ interiors  
 400 Professional Drive ■ Suite 200 ■ Gaithersburg, Maryland 20879-3433  
 301-590-8900 ■ Fax 301-590-8620 ■ EMAIL: DVA-ARCH.COM

EXECUTIVE GARDEN REO LLC  
 103 Leakes Lot Way  
 Gaithersburg, MD 20878

**SUITES 355**  
 Service Road  
 Gaithersburg, MD  
 ELEVATION

REVISIONS	
Submission - Oct 2008	
ISSUED	
DRAWN FL A.403/0X	CHECKED FL
DRAWING	
<b>A202</b>	
SHEET ___ OF ___	

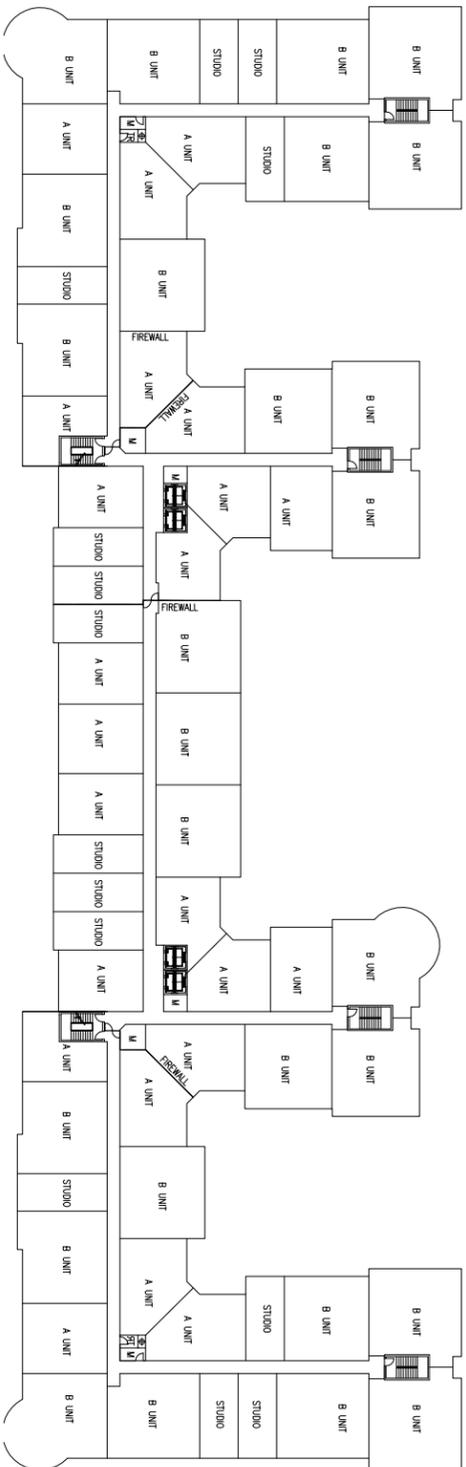
Joint Hearing - MCC & PC  
 SDP-08-005  
 #60

**1** REAR ELEVATION  
 A202 SCALE: 1/32" = 1'

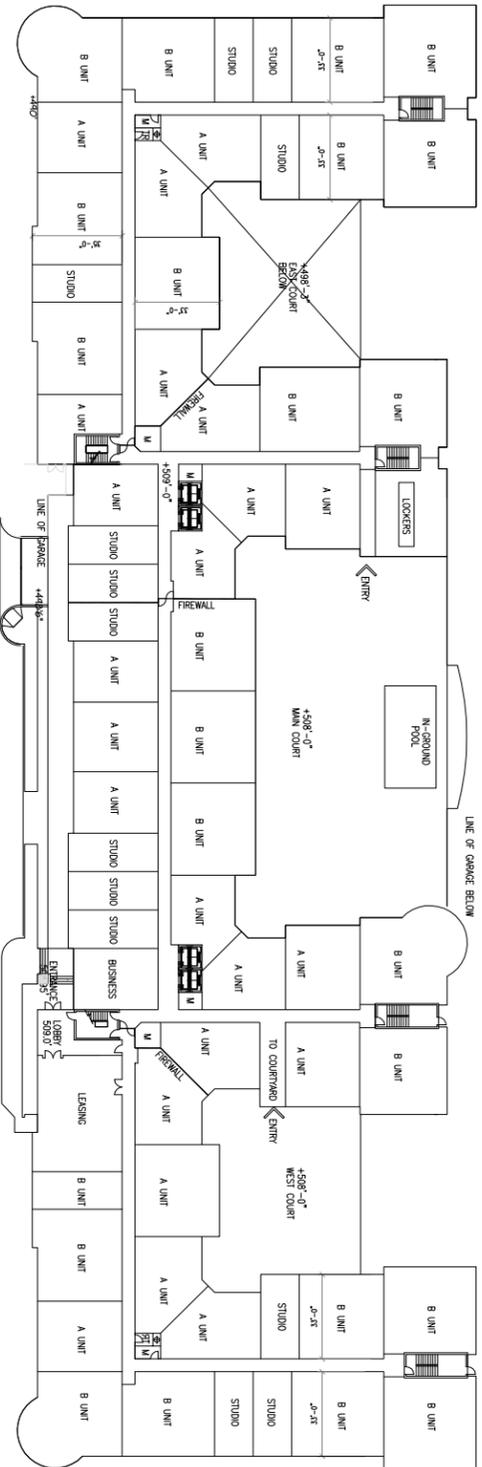
NOT FOR CONSTRUCTION

SUITES 355		EXECUTIVE GARDEN REO LLC		DVA	
EXECUTIVE GARDEN REO LLC		DVA		4/2/2009	
<b>CALCULATIONS</b>					
UNIT COUNT					
UNITTYPE	# OF UNITS	PERCENT			
STUDIO	69	22.43			
A	96	36.53			
B	108	41.06			
SUBTOTAL	283	100			
<b>TOTAL UNITS</b>	<b>283</b>				
<b>PARKING PROVIDED</b>					
LEVEL	P1	P2	SUBTOT	PERCENT	
STANDARD	179	245	424	97.03	
COMPACT		0	0	0.00	
SURFACE		5	5	1.14	
HC	3	4	7	1.60	
HCV	1	0	1	0.23	
	183	254	437	100.00	
<b>PARKING REQUIRED</b>					
PERZONNS					
MULTIPLIER	CITY RECD.				
S	99	1	99		
A	96	1.75	168		
B	108	2	216		
LEASING(203SF/300SF)			4		
<b>TOTAL</b>	<b>283</b>		<b>447</b>	<b>CITY RECD PARKING</b>	

2 CALCULATIONS  
SCALE: NTS



3 2ND-3RD FLOOR PLAN  
SCALE: 1/32" = 1'



1 1ST FLOOR PLAN  
SCALE: 1/32" = 1'

Joint Hearing - MCC & PC  
SDP-08-005  
#62

APRIL 8, 2009

NOT FOR CONSTRUCTION

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REVISIONS  
 02/12/09 - STAIRS, RELOC  
 02/26/09 - PARKING RELOC  
 ISSUED  
 01-24-09  
 DRAWN  
 CHECKED  
 DVA/ABNO  
 A4810X  
 DRAWING

A100  
SHEET \_\_\_ OF \_\_\_

SUITES 355  
 Service Road  
 Gaithersburg, MD  
 FLOOR PLAN

EXECUTIVE GARDEN REO LLC  
 101 Lakeside Lane  
 Gaithersburg, MD 20878

**DVA**  
 DONNALLY VUJIC ASSOCIATES, L.L.C.  
 architecture ■ planning ■ interiors  
 400 Professional Drive ■ Suite 200 ■ Gaithersburg, Maryland 20879-3433  
 301-590-8900 ■ Fax 301-590-8620 ■ EMAIL: DVA-ARCH.COM



BEFORE THE MAYOR AND CITY COUNCIL  
OF GAITHERSBURG, MARYLAND

IN THE MATTER OF THE APPLICATION :  
OF KEYSTONE REAL ESTATE INVESTMENTS LLC : Application No. 08-005  
FOR APPROVAL OF A SCHEMATIC :  
DEVELOPMENT PLAN :

STATEMENT IN SUPPORT OF PARKING WAIVER REQUEST

SUITES 355

Keystone Real Estate Investments LLC proposes to redevelop property located in the City's Commercial District of the Frederick Avenue Corridor with a mixed income residential project containing 263 multi-family units in one building with parking for the residents in a two level garage below the building. Section 24-160G.4(e) of the City Zoning Ordinance authorizes the Mayor and City Council to waive the parking requirements for sites in the CD Zone based on the criteria and findings applicable in Section 24-222A of the City Zoning Ordinance.

A computation of required parking spaces for the project reflects the following:

Multi-family Units:

59 studio @ 1.0 = 59	
96 one bedroom @ 1.75 = 168	
<u>108</u> two bedroom @ 2.0 = 216	443 spaces
263	
Rental Leasing Office (1,200 SF x 1 per 300 SF = 4.0)	<u>4 spaces</u>
Total Spaces Required	447 spaces

The total number of parking spaces planned has been calculated to be 437. Accordingly, the difference between the calculated amount of required on-site parking and the amount planned is 10 spaces. The Applicant requests that the City Planning Commission waive the requirement for on-site parking from 447 to 437 spaces for the following reasons:

1. Residential communities in close proximity to transit facilities and local personal service establishments tend to require less parking. The Suites 355 project, with its close proximity to public transportation, anticipates its residents will own fewer vehicles and are more likely to use public transportation given the convenience of this opportunity provided by its urban location. In this instance, within an easy walking distance of the proposed mixed-use project are (i) three Ride On bus stops with routes to the Shady Grove Metro and Rockville Metro Stations and (ii) the Gaithersburg MARC commuter rail station which provides accessibility by commuter rail service to lower Montgomery County and District of Columbia locations. The Suites 355 project is also within easy walking distance to shops, services, bars and restaurants in downtown Olde Towne. Residents will choose to live at Suites 355 because they seek the lifestyle that is associated with urban living including the convenience of walking to downtown Olde Towne to patronize the shopping, services, restaurants and bars.

2. The City's parking requirements do not differentiate between urban or suburban locations. The same parking is required in all locations in the City even though Smart Growth principles would support that in more urban areas where higher density development is planned, where public transportation is available and where new multifamily housing is designed for an urban lifestyle, the residents will own fewer vehicles and therefore the parking requirement should be less.

3. The City requires that parking be provided for every dwelling unit in the Project as if the Project is always 100% leased and occupied. It is widely accepted that multifamily rental projects are rarely 100% leased and occupied. Market surveys of multifamily rental housing in the DC Metro area typically show a vacancy rate in the 4 - 8% range. Appraisers and lenders typically assume a minimum 5% vacancy when estimating the annual rent income generated by a

multifamily project to determine the estimated value or loan amount. Using the assumption that 5% of the units are vacant then 23 less parking spaces would be required.

4. By comparison, the Montgomery County parking requirement for the proposed development would be 315 parking spaces (132 fewer parking spaces) for a comparable 263 unit multifamily project with the same mix of units within walking distance of a MARC commuter rail station.

5. As the price of gasoline continues to increase reasonable minds will conclude that one of the reasons that many residents will choose to live in more urban areas where public transportation, services and amenities are available is so that they can live without dependency on owning a cars. This doesn't mean that residents will not own cars but for example couples renting a one or two bedroom apartment may choose to only have one car instead of two.

6. Parking garages are expensive to build. Projects that are being designed today need to be mindful of the changes in lifestyles and driving habits that are forthcoming in the future as a result of the rising cost of automobiles, gasoline and insurance, congestions on roads and cost of housing among other things. Building more parking than is needed adds an extraordinary cost on new residential redevelopment projects that the project cannot financially support. Building parking that is not needed increases the cost of multifamily housing making multifamily housing less affordable because rents need to be increased to cover the construction, financing and operating costs directly related to the excess parking.

In summary, for the reasons enumerated above the City parking requirements can be relaxed for communities in and near the central business district and public transportation without any detrimental effect. Accordingly, the Applicant requests a parking waiver and a parking space reduction of 10 spaces from 447 spaces (required) to 437 spaces (planned).

The basis on which the City Council can waive the required parking spaces for a proposed project is that the granting of a waiver should not be detrimental to the public health, safety and general welfare. In this instance, this project promotes the revitalization of a declining and underutilized property in the Frederick Avenue Corridor by integrating a medium density residential component near existing mass public transportation infrastructure and exemplifies “Smart Growth.” This project has been thoughtfully designed to encourage use of public transportation and create convenient pedestrian usage and linkages to access the public transportation as well as the existing and future retail opportunities within Olde Towne. The parking garage is located under the multifamily building. The unique characteristics of the site’s location, particularly its proximity to three Ride On Bus stops, the MARC commuter rail station and its proximity to downtown recreational and shopping opportunities justifies the granting of the modest parking waiver requested above.



City of Gaithersburg  
Environmental Services Division

**PFCP**

Suites 355 (formerly Olde Towne Alley)

Applicant:	Loiderman Soltesz Associates	Application #	Pi-V070027
	2 Research Blvd	Date:	April 17, 2009
	Rockville, MD 20850	Reviewer:	Erica Shingara/Gary Dyson
		Contact:	301-258-6310
		App. rec'd:	April 10, 2009

---

1. The plan shifted the building back by 5' and reduced the proposed FCE from 0.48 to 0.47 acres. However, this building shift further reduced the width of the FCE easement along the back property line. Accordingly, several of the proposed credit areas no longer meet the spirit and intent of the forest conservation/landscape buffer because the planting area is significantly less than the required 35'. For example, two sections only have a 15-18' planting strip adjacent to a 12' sidewalk/lawn. Of the 0.47 proposed FCE acres, approximately only 0.36 acres meets the 35' width requirements, leaving the total afforestation provided to be slightly short of the 0.55 required. Please adjust the building, sidewalk, and/or the storm drain inlet (see comment 4 below) so that the FCE is 35' wide and equals 0.41 acres.
2. The 25% landscape credit should be for large shade trees only. Please substitute shade trees credits for the 12 ornamental trees proposed for landscape credit. These shade trees can be those along George Street or the Service Road (providing permission is received from SHA).
3. Provide permission from SHA for the proposed offsite plantings along the access road. Is it possible to remove invasives on this adjacent property to protect the proposed plantings?
4. Reevaluate the inlet design and water line (?) location north of the FCE by George Street. It should be shifted to the access road to expand the FCE.
5. Forest conservation easement must include 100 2 ½ caliber trees and 1/3 shrubs. Please include a list of shrubs to be planted as understory in the afforestation plant list.
6. Several landscape plants are proposed directly over the storm drain or WSSC lines.
7. Reduce impacts to offsite trees located along the property line of the single family homes. Identify tree types, size, and condition and provide a tree protection schedule for these trees.
8. Provide updated noise analysis for the apartment proposal and identify noise attenuation measures for the interior of buildings in Zone 1 and 2 and the open space within that area.

# KEYSTONE<sub>REI</sub>

103 Leekes Lot Way, Gaithersburg, Maryland 20878 Tel: 301.840.5424 Fax: 301.840.5859

To: Erica Shingara  
Gary Dyson

cc: Greg Ossont  
Lauren Pruss  
Jacqueline Marsh  
Jody Kline, Esquire

From: Rich Koch

Date: April 21, 2009

Re: Suites 355 - Zoning Application Z-309; SDP-08-005

This memo is to address the review comments generated by the Environmental Services Division (ESD) review of the revised Forest Conservation Plan as documented in the April 17, 2009 memo from Erica Shingara and Gary Dyson. As you know we modified the garage layout to decrease our parking waiver request from 67 parking spaces to 10 parking spaces. In order to add the parking spaces a relatively small section of foundation wall at the rear of the building was moved five feet closer to the rear property line. This additional five feet was required to accommodate garage layout design criteria and plan review comments provided by Ollie Mumpower.

This memo addressed the ESD review comments in the order of the April 17, 2009 memo.

- 1. The plan shifted the building back by 5' and reduced the proposed FCE from 0.48 to 0.47 acres. However, this building shift further reduced the width of the FCE easement along the back property line. Accordingly, several of the proposed credit areas no longer meet the spirit and intent of the forest conservation/landscape buffer because the planting area is significantly less than the required 35'. For example, two sections only have a 15-18' planting strip adjacent to a 12' sidewalk/lawn. Of the 0.47 proposed FCE acres, approximately only 0.36 acres meets the 35' width requirements, leaving the total afforestation provided to be slightly short of the 0.55 required. Please adjust the building, sidewalk, and/or the storm drain inlet (see comment 4 below) so that the FCE is 35' wide and equals 0.41 acres.**

Answer. As shown on the attached redlined plan the 5 feet shift doesn't significantly change the size of the afforested area. The change in size is only 2/100 of an acre or 872 square feet. Unfortunately, as you have noted the change did reduce the width of certain areas from 35 feet to 30 feet. However, the change doesn't reduce the number of trees to be planted in the revised afforested area which is 48. The site is by definition in the Tree

Manual and City Code a high density residential area. Section 22-9(d)(2) of the City Code provides that if it can be demonstrated that afforestation using forest cover is inappropriate for a site because of its location in a high density residential area (as defined in Section 22-2) afforestation requirements may be satisfied entirely or in part by tree cover. Using only the 48 trees included in the afforestation area that is shown on the plan the afforestation requirements are satisfied using tree cover in accordance with Section 22-9(d)(2). Incidentally, as required, the trees are spaced 20 feet apart to provide adequate room to grow to maturity. The calculation is as follows:

Afforestation Plant List		Canopy Size	Tree Cover	Tree Cover
No.	Name	Sq.Ft.	Sq.Ft.	Acres
12	Red Oaks	700	8,400	0.19
13	Basswoods	700	9,100	0.21
13	Virginia Pines Southern	700	9,100	0.21
10	Magnolias	300	3,000	0.07
48	Total		29,600	0.68
Afforestation required at 15%			<u>24,045</u>	<u>0.55</u>
Difference			5,555	0.13

The change to the building footprint allows us to satisfy the Mayor and Council concerns about the number of parking spaces and the location, size and shape of the infiltration trench is dictated by the topography and drainage area of the site (see answer to comment #4). We still believe the afforestation area shown on the FCP meets the spirit and intent of the forest conservation/landscape buffer requirements and should be maintained in a conservation easement.

- 2. The 25% landscape credit should be for large shade trees only. Please substitute shade trees credits for the 12 ornamental trees proposed for landscape credit. These shade trees can be those along George Street or the Service Road (providing permission is received from SHA).**

Answer. There are 12 ornamental trees currently proposed for the landscape credit. There are 15 "Street Trees" on the low side of the SHA retaining wall of which 12 can be substituted for the 12 ornamental trees in the calculation of the landscape credit. There are an additional 11 "Street Trees" to be planted along the Service Road and George Street and 26 ornamental trees (including the said 12) to be planted that will not be counted in the landscape credit.

- 3. Provide permission from SHA for the proposed offsite plantings along the access road. Is it possible to remove invasives on this adjacent property to protect the proposed plantings?**

Answer. Most of the trees shown on the FCP that are to be planted in the SHA right of way are on the low side of the SHA retaining wall; only five trees are adjacent to the

Service Road and in the forested area along the Service Road. Permits from SHA to plant these trees will be obtained before they are planted. It should be noted that SHA previously provided permission to plant the existing spruce trees in the SHA right of way on the low side of the SHA wall.

**4. Reevaluate the inlet design and water line (?) location north of the FCE by George Street. It should be shifted to the access road to expand the FCE.**

Answer: The “inlet design” is part of the infiltration trench which is an integral component of the approved onsite stormwater concept plan and provides ground water recharge. Relocation or reduction in size of this area would compromise the approved onsite stormwater management concept plan.

**5. Forest conservation easement must include 100 2 ½ caliber trees and 1/3 shrubs. Please include a list of shrubs to be planted as understory in the afforestation plant list.**

Answer. The detailed design and selection of the understory plantings in the afforested area will be submitted with the site plan application.

**6. Several landscape plants are proposed directly over the storm drain or WSSC lines.**

Answer: The landscape plan and the utility plans will be coordinated to minimize conflicts where possible and submitted with the site plan application.

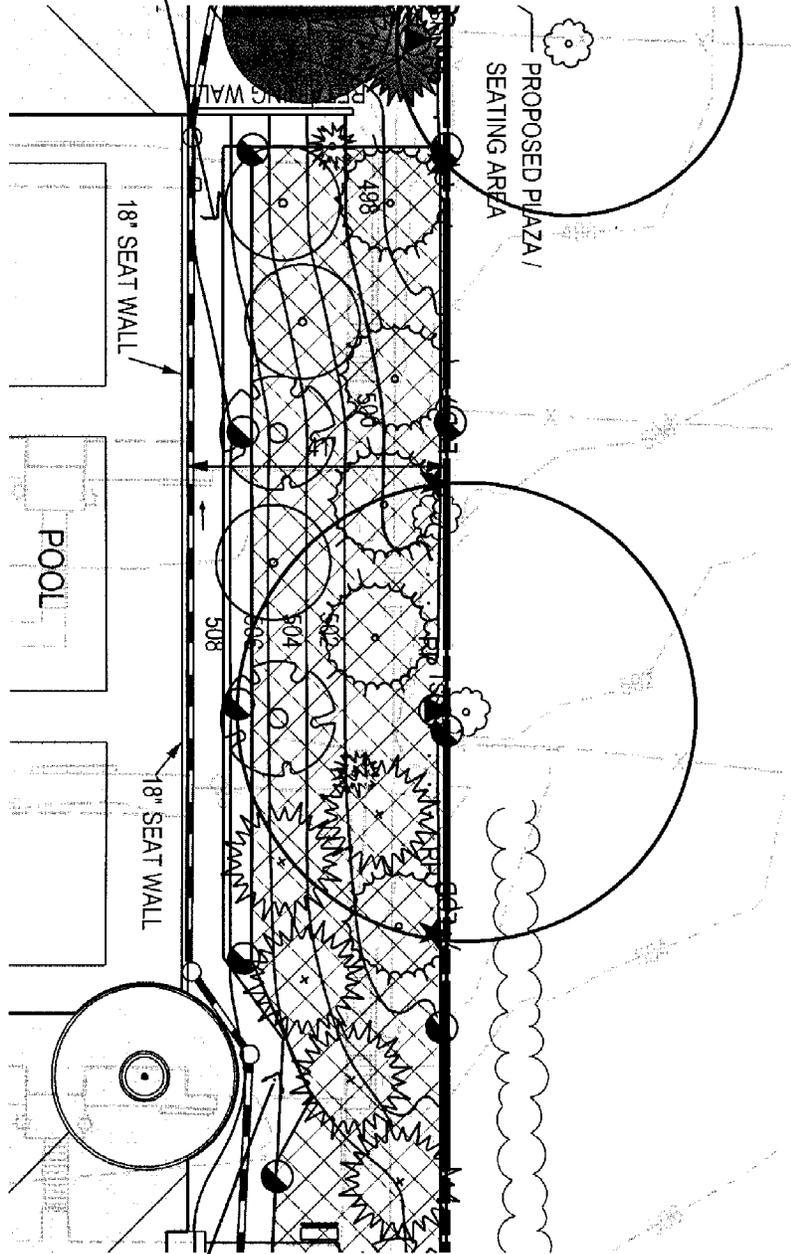
**7. Reduce impacts to offsite trees located along the property line of the single family homes. Identify tree types, size, and condition and provide a tree protection schedule for these trees.**

Answer: These trees and their condition are identified on the approved NRI/FSD. A tree protection plan will be provided as part of the final landscape plan with the site plan application.

**8. Provide updated noise analysis for the apartment proposal and identify noise attenuation measures for the interior of buildings in Zone 1 and 2 and the open space within that area.**

Answer: The multifamily building front and left side (Route 355 side) are in virtually the same locations as the townhomes identified as 38-43 and 37 in Zone 1 (closest to Route 355) and 32-36 in Zone 2 (fronting on the Service Road) in the noise study. Extrapolating the information provided in the noise study to the multifamily building one can infer that the multifamily building front (that is in Zone 2) and left side (that is in Zone 1) will be similarly impacted by noise. Noise attenuation measures for the multifamily building will be provided with the site plan application.

Previous Afforestation Area Line



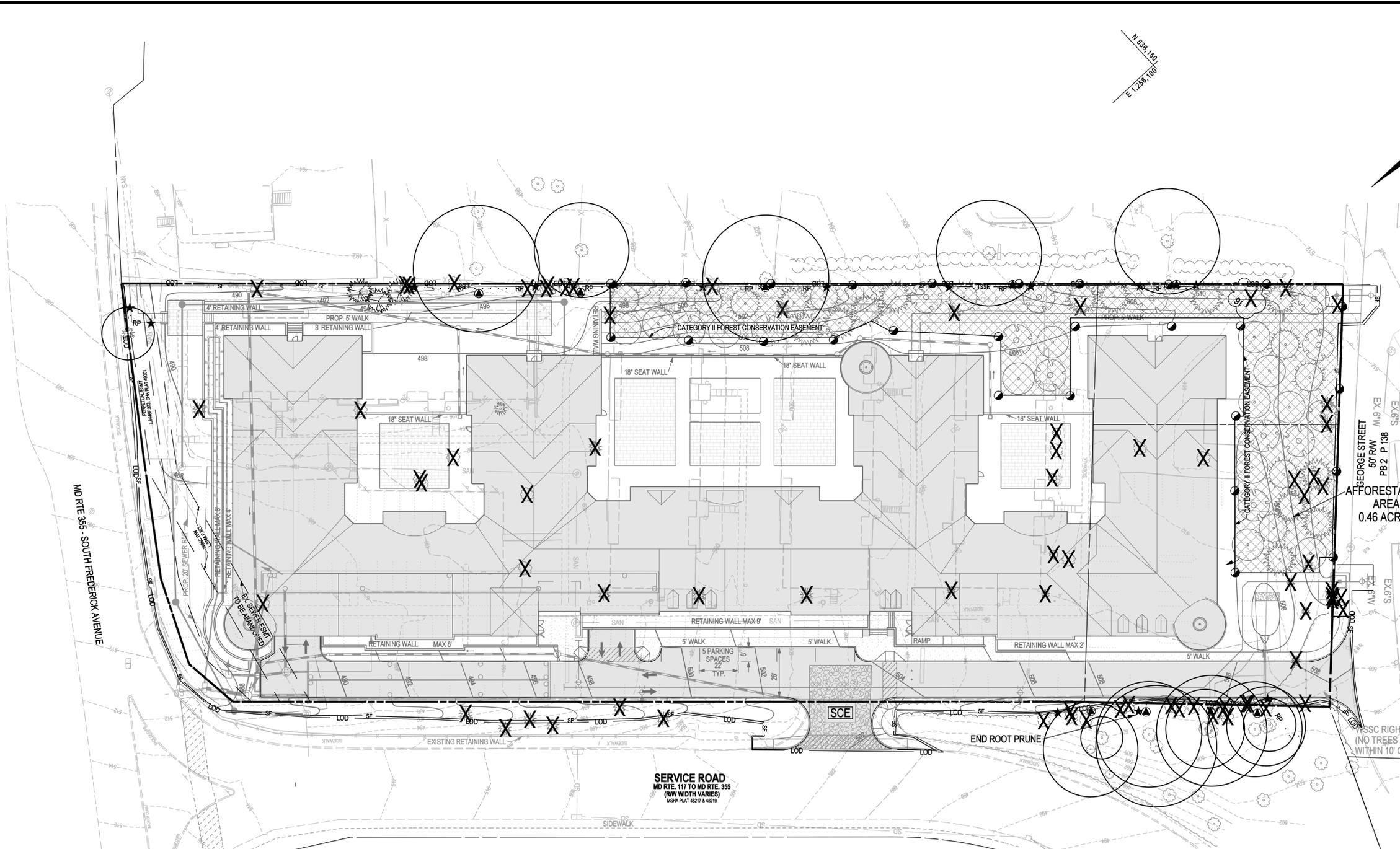
Previous Afforestation Area Line



City of Gaithersburg  
Forest Conservation Worksheet

TRACT AREA, FOREST COVER AND CLEARANCE AREA	
<b>A: Tract Area</b>	3.68
<b>B: Existing Forest Cover</b> B- Forest Cover within Tract Area A	0.00
<b>C: Cleared Forest Cover</b> C- Forest Cover to be cleared as result of development	0.00
<b>D: Retained Forest Cover</b> D-B-C (Existing Forest Cover B - Cleared Forest Cover C)	0.00
nbers resulting from calculations.	
<b>F: Afforestation Required*</b> F-E-B (Afforestation Threshold E - Existing Forest Cover B)	0.55
<b>REFORESTATION</b> Use zero (0) for all negative numbers resulting from calculations.	
<b>G: Conservation Threshold</b> G - Tract Area A x land use conservation percentage	20% x A 0.74
Residential	Commercial
1	0
0	0
0	0
<b>H: Existing Forest Cover greater than Conservation Threshold</b> H - B - G (Existing Forest Cover B - Conservation Threshold G)	0
<b>I: Retained Forest Cover greater than Conservation Threshold</b> I - D - G (Retained Forest Cover D - Conservation Threshold G)	0
<b>J: Clearance greater than Conservation Threshold</b> J - H - I	0
<b>K: Retention Credit for retained forest cover greater than conservation threshold</b> K - D - G (Retained Forest Cover D - Conservation Threshold G)	0
<b>Conservation Threshold</b>	
L = G - D (Conservation Threshold G - Retained Forest Cover D)	0
<b>M: Reforestation Requirement</b> M = 1/4(K+2L)	0
<b>BREAKPOINT POINT</b>	
<b>N: Breakpoint Point</b> N = K x 20% + G (Retention Credit K x 20% + Conservation Threshold G)	0
<b>O: Clearance allowed without reforestation</b> O = B - N (Existing Forest Cover B - Breakpoint Point N)	0

\* Subject to 25% credit for onsite landscaping / tree canopy coverage



**LEGEND**

530	EXISTING CONTOURS	▲	TREE RETENTION SIGN
530	PROPOSED CONTOURS	●	AFFORESTATION SIGN
LOD	PROPERTY BOUNDARY	★ . . . . ★	ROOT PRUNING
FP	LIMIT OF DISTURBANCE	— TSSF —	TREE SAVE/SILT FENCE
FPB	100 YEAR FLOODPLAIN LIMITS (Source: FEMA)	— SF —	SILT FENCE
	100 YEAR FLOODPLAIN BUFFER (Source: FEMA)	~~~~~	EXISTING TREE LINE
⊗	SPECIMEN TREE (Approximate location)	▨	AFFORESTATION AREA
⊗	REMOVED SPECIMEN TREE (Approximate location)		

**DEVELOPER**  
KEYSTONE REAL ESTATE INVESTMENTS, LLC.  
103 Leekes Lot Way  
Gaithersburg, Maryland 20878  
301.840.5424, 301.840.5859 Fax  
Attn: Richard Koch, Managing Member  
rkoch@keystonereit.com

Joint Hearing - MCC & PC  
SDP-08-005  
#66

**Loiederman Soltz Associates, Inc.**  
Rockville Lanham Waldorf Leonardtown  
**ROCKVILLE OFFICE**  
2 Research Place, Suite 100  
Rockville, MD 20850  
t. 301.948.2750 f. 301.948.9067  
www.LSAssociates.net

NO.	REVISIONS	BY	DATE
4	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	KDL	4/22/09
3	REVISED PER ARCHITECTURAL CHANGES AND RESUBMITTED TO CITY OF GAITHERSBURG	KDL	4/10/09
2	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	TP	02/18/09
1	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	TP	12/30/08

Date: NOVEMBER 2008  
Designed: JDC  
CAD Standards Version: Microstation V8 Std. 2000  
Technician: JDC  
Checked: TP/SPT

Copyright ADC The Map People Permitted Use Number 2071186 Map 5047 Grid J8	Tax Map FT 561	Zoning Category: EXISTING: R-20 PROPOSED: CD
WSSC 200' Sheet 223 NW 10	Site Datum Horizontal: NAD 83 Vertical: NAD 83	

**MISS UTILITY NOTE**  
INFORMATION CONCERNING EXISTING UNDERGROUND UTILITIES WAS OBTAINED FROM AVAILABLE RECORDS. THE CONTRACTOR MUST DETERMINE THE EXACT LOCATION AND ELEVATION OF ALL EXISTING UTILITIES AND UTILITY CROSSINGS BY DIGGING TEST PITS BY HAND, WELL IN ADVANCE OF THE START OF EXCAVATION. CONTACT "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO THE START OF EXCAVATION. IF CLEARANCES ARE LESS THAN SHOWN ON THIS PLAN OR TWELVE (12) INCHES, WHICHEVER IS LESS, CONTACT THE ENGINEER AND THE UTILITY COMPANY BEFORE PROCEEDING WITH CONSTRUCTION. CLEARANCES LESS THAN NOTED MAY REQUIRE REVISIONS TO THIS PLAN.

**PRELIMINARY FOREST CONSERVATION PLAN**

**SUITES 355**  
12 S. FREDERICK AVE. AND GEORGE STREET  
GAITHERSBURG (9th) ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

PROJECT NO.  
29900100

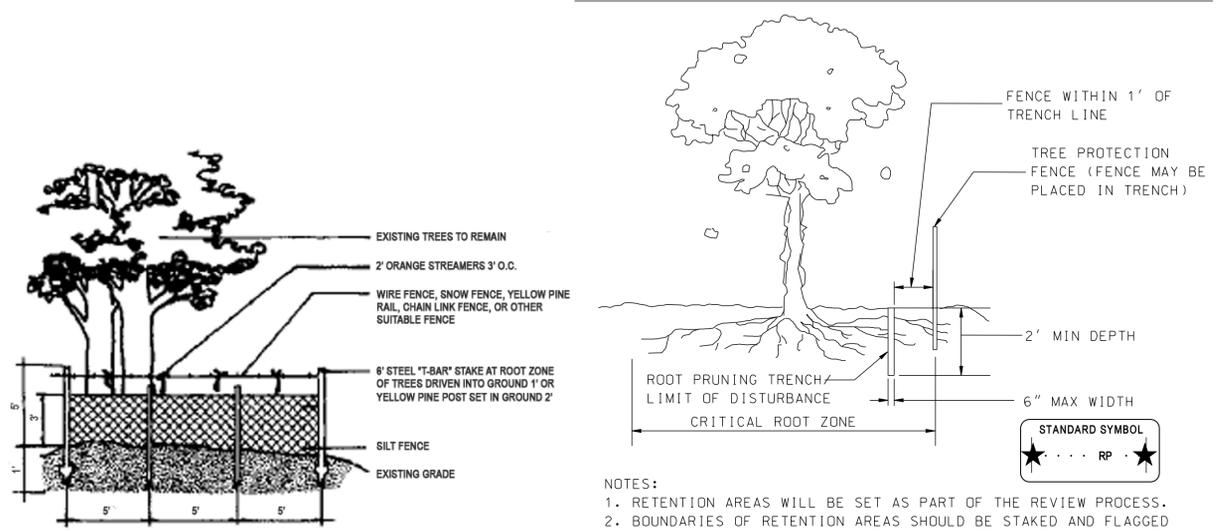
1 SHEET OF 3

1" = 30'

P:\299001\00PREL\PCF\PCF\_01.dwg Scale=30.0000 ft./in. User=laureth PLT Date=PDF\_Grow\_NQ.dwg Pen=TEXT SUB TBL 4/23/2009 10:25:12 AM



### ROOT PRUNING DETAIL WITH TREE PROTECTION FENCE



COMBINED SILT AND TREE PROTECTION FENCE NOT TO SCALE

NOTE: WHEN COMBINED SILT AND TREE PROTECTION FENCE IS USED, ROOT PRUNING SHALL OCCUR ON THE LOD WHERE THE FENCE IS ERECTED.

- NOTES:
1. RETENTION AREAS WILL BE SET AS PART OF THE REVIEW PROCESS.
  2. BOUNDARIES OF RETENTION AREAS SHOULD BE STAKED AND FLAGGED PRIOR TO TRENCHING.
  3. EXACT LOCATION OF TRENCH SHOULD BE IDENTIFIED.
  4. TRENCH SHOULD BE IMMEDIATELY BACKFILLED WITH SOIL REMOVED OR OTHER HIGH ORGANIC SOIL.
  5. ROOTS SHOULD BE CLEANLY CUT USING VIBRATORY KNIFE OR OTHER ACCEPTABLE EQUIPMENT.

### FOREST CONSERVATION INSPECTION PROCEDURES

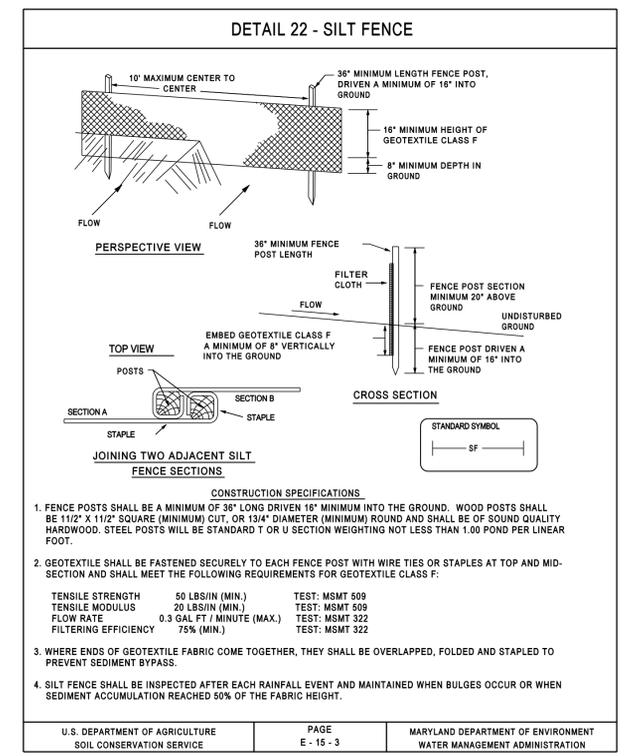
1. Upon permit issuance, the builder/developer must arrange for an engineers' stake out of tree protection in accordance with approved plans. A preconstruction meeting will then be scheduled to determine the location of tree protection devices. The Planning and Code Administration inspector shall adjust tree protection and root pruning in the field as necessary, which may expand or decrease the area being protected. Installation of all tree protection devices should be scheduled and an inspection arranged with the City after all work is complete. The City will issue a punch list for any remaining work needed prior to the start of grading, or issue a report approving the start of grading.
2. Once work begins on-site, the tree protection devices will be reinspected on a biweekly basis, and the builder/developer will be notified of any work that is needed. It shall be the builder/developer's responsibility to maintain all tree protection devices and make any repairs needed.
3. City approval is required prior to removal of any tree protection device or entrance into a tree save area. **Tree save areas cannot be used for storage of any building materials.**
4. The Planning and Code Administration inspector may require pruning and removal of any tree in the tree save area during construction and prior to bond release. These decisions will be based on the trees' health, proximity to buildings, drainage, or other concerns. Every effort will be made to preserve those trees in the tree save area.
5. The City will require mitigation of trees lost during construction in accordance with the Forest Conservation Ordinance. Mitigation will be required prior to bond release, and all replacement trees must be inspected by the City after installation. These replacement trees shall have a one-year guarantee in accordance with the industry standards. The City may also allow the developer to escrow monies for mitigation to satisfy their obligation, which will be used by the City to purchase and install the replacement trees.
6. For mitigation and afforestation, City inspection is required after the plantings have been made. The maintenance period, one year or as stated in the maintenance agreement, will not begin until this inspection has been made. Quarterly reports to the City, if required, on the health of the trees in the save area should also be made, and any recommendations implemented. It shall be the builder/developer's responsibility to maintain these plantings until they are accepted by the City. A final inspection by the City will be made prior to the end of the maintenance period, and a punch list developed for any trees that need to be replaced. The City may allow the developer to escrow monies to satisfy their obligation for any further planting required, which will be used by the City to purchase and install the replacement trees.
7. It shall be the builder/developer's responsibility to satisfy all requirements and conditions of the Forest Conservation Plan and/or any maintenance agreement. In the event of a violation, the City will take enforcement action in accordance with the Trees and Forest Conservation Ordinance (Chapter 22) of the City Code. This may include correction notices, civil citations, or collection of the bond guaranteeing this work.

1. Pre-construction meeting, held on-site to include a presentation of protective measures to construction supervisors, equipment operators, developer's representative, and site and sediment control inspectors.
2. Clearing limits shall be rough staked by developer in order to facilitate location for trenching and fencing installation.
3. No clearing or grading shall begin in areas where tree treatment and preservation measures have not been completed.
4. The sequence of tree treatment and conservation measures shall be:
  - 1) Root pruning trenching.
  - 2) Tree protection fencing.
  - 3) Aeration system installation.
  - 4) Sign installation.
  - 5) Tree pruning and chemical treatment.
  - 6) Mulch treatment.
5. Above measures shall be directed in the field by the project forester, arborist, naturalist, ecologist, site engineer or landscape architect.
6. Tree protection fencing shall be maintained and repaired by the developer or contractor for the duration of construction and once approved by the city site inspector, must not be altered without prior approval by the city site inspector.
7. Access to fenced areas will only be permitted with the prior approval of the owner's representative and the city site inspector;
8. Designated aeration zones shall be protected with temporary fencing until final grading.
9. Any excavation or grading required within the fenced areas shall be done as directed and approved by the person mentioned in note # 5 and the city site inspector.
10. Trees, shrubs, or undergrowth shall be removed from the protected root zone areas only when necessary and shall be removed by hand.
11. Refer to tree protection action key for specific treatment of each specimen tree.
12. Attachment of signage, fencing, etc., to trees to be saved is prohibited.
13. After construction, all temporary barriers, fencing, debris, etc., shall be removed from the site by the contractor.
14. No sod or seed shall be planted within the designated root zones for all trees to be saved.

### Suites 355 Specimen Tree Removal List

Note: Trees were tagged with a metal tag corresponding to the numbers below. Tags were placed approximately 5' from the ground with colored flagging attached. Tree locations were located by survey or field observation.

Tag #	Common Name	Scientific Name	DBH (inches)	Disposition
14	Silver Maple	<i>Acer saccharinum</i>	35	Remove
15	Silver Maple	<i>Acer saccharinum</i>	33	Remove
16	Silver Maple	<i>Acer saccharinum</i>	26	Remove
17	Black Cherry	<i>Prunus serotina</i>	25	Remove
18	Silver Maple	<i>Acer saccharinum</i>	25	Remove



- CONSTRUCTION SPECIFICATIONS
1. FENCE POSTS SHALL BE A MINIMUM OF 36" LONG DRIVEN 16" MINIMUM INTO THE GROUND. WOOD POSTS SHALL BE 1 1/2" X 1 1/2" SQUARE (MINIMUM) CUT, OR 1 3/4" DIAMETER (MINIMUM) ROUND AND SHALL BE OF SOUND QUALITY HARDWOOD. STEEL POSTS WILL BE STANDARD T OR U SECTION WEIGHTING NOT LESS THAN 1.00 POUND PER LINEAR FOOT.
  2. GEOTEXTILE SHALL BE FASTENED SECURELY TO EACH FENCE POST WITH WIRE TIES OR STAPLES AT TOP AND MID-SECTION AND SHALL MEET THE FOLLOWING REQUIREMENTS FOR GEOTEXTILE CLASS F:
 

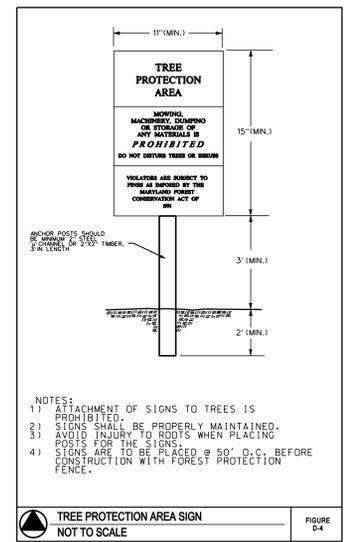
TENSILE STRENGTH	50 LBS/IN (MIN.)	TEST: MSMT 509
TENSILE MODULUS	20 LBS/IN (MIN.)	TEST: MSMT 509
FLOW RATE	0.3 GAL FT / MINUTE (MAX.)	TEST: MSMT 322
FILTERING EFFICIENCY	75% (MIN.)	TEST: MSMT 322
  3. WHERE ENDS OF GEOTEXTILE FABRIC COME TOGETHER, THEY SHALL BE OVERLAPPED, FOLDED AND STAPLED TO PREVENT SEDIMENT BYPASS.
  4. SILT FENCE SHALL BE INSPECTED AFTER EACH RAINFALL EVENT AND MAINTAINED WHEN BULGES OCCUR OR WHEN SEDIMENT ACCUMULATION REACHED 50% OF THE FABRIC HEIGHT.

REFORESTATION AREA

MACHINERY, DUMPING OR STORAGE OF ANY MATERIALS IS PROHIBITED

VIOLATORS ARE SUBJECT TO FINES AS IMPOSED BY THE MARYLAND FOREST CONSERVATION ACT OF 1991

- NOTES:
- 1) ATTACHMENT OF SIGNS TO TREES IS PROHIBITED.
  - 2) SIGNS SHALL BE PROPERLY MAINTAINED.
  - 3) AVOID INJURY TO ROOTS WHEN PLACING POSTS FOR THE SIGNS.
  - 4) SIGNS SHOULD BE POSTED TO BE VISIBLE TO ALL CONSTRUCTION PERSONNEL FROM ALL DIRECTIONS.



**DEVELOPER**

KEYSTONE REAL ESTATE INVESTMENTS, LLC.  
103 Leekes Lot Way  
Gaithersburg, Maryland 20878  
301.840.5424, 301.840.5859 Fax  
Attn: Richard Koch, Managing Member  
rkoch@keystonereit.com

REFORESTATION AREA SIGN

NO SCALE

**Loiederman Soltz Associates, Inc.**

Rockville Lanham Waldorf Leonardtown

ROCKVILLE OFFICE  
2 Research Place, Suite 100  
Rockville, MD 20850  
t. 301.948.2750 f. 301.948.9067

www.LSAssociates.net

NO.	REVISIONS	BY	DATE
4	REVISED PER COMMENTS AND RESUBMITTED TO CITY OF GAITHERSBURG	KDL	4/22/09
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Date: NOVEMBER 2008  
Designed: JDC  
CAD Standards Version: Microstation V8 Std. 2000  
Technician: JDC  
Checked: TP/SPT

Copyright ADC The Map People  
Permitted Use Number 2071186

Map: 5047 Grid: J8

Tax Map: FT 561 Zoning Category: EXISTING, R-20 PROPOSED: CD

WSSC 200' Sheet: 223 NW 10

Site Datum: Horizontal: NAD 83 Vertical: NAD 83

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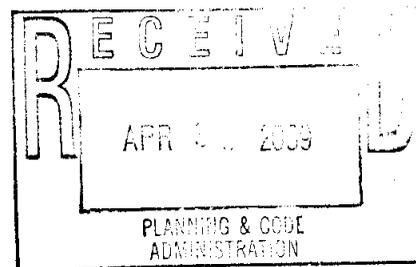
PRELIMINARY FOREST CONSERVATION DETAILS

**SUITES 355**

12 S. FREDERICK AVE. AND GEORGE STREET  
GAITHERSBURG (9th) ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

PROJECT NO. 29900100

60 Oak Shade Rd.  
Gaithersburg, MD 20878  
April 29, 2009



John Bauer, President  
Gaithersburg Planning Commission  
31 South Summit Ave.  
Gaithersburg, MD 20877

Dear Mr. Bauer and Commissioners:

I am writing on behalf of the Gaithersburg Affordable Housing Coalition to discuss SDP-08-005.

While Keystone REI has developed a proposal for an ambitious and attractive luxury apartment complex, the marketability of these units in the near future appears questionable. The applicant has not presented market analysis to support the likelihood that the project would be able—under the economic conditions that may be expected over the next five years—to find tenants.

The situation that Gaithersburg faced with the West Deer Park/Amber Commons development should not be repeated. The parallels are disturbing. The problems with West Deer Park occurred at a time when the economic conditions were not as severe as they are today. While Mr. Cook spoke at length at the joint public hearing of March 16, 2009, about the types of tenants he hopes the project would attract, I did not hear any information from him that supports the need for more luxury rentals over the near or long term. The last thing the City needs is another empty complex surrounded by chain link fencing, fire-damaged by squatters.

Besides the possibility of this plan leading to more blight, as aging units are razed but funding fails, the well-being of the families now residing on the Executive Gardens property should be taken into account. While Gaithersburg's tenant relocation program is generous, eighty-five families would still end up facing a very challenging housing environment if forced to move. Through personal communication with Greg Ossant, I have learned that current rental vacancy rates in Gaithersburg are very low (3-4%), except in the case of luxury rental, where demand is relatively weak; Gaithersburg's rental housing situation is similar to that of Montgomery County as a whole. Information in the media, as well as anecdotal information learned through my employment, indicates that there is probably a "shadow demand" situation for affordable rentals: at present, families that have been forced out of their housing by mortgage difficulties and/or unemployment appear to be crowding in with relatives while they regain their financial footing; as these families begin looking for inexpensive rental housing, the situation has the potential to turn drastic. Any destruction of affordable rental units at this time would require very thoughtful planning to avoid increasing levels of homelessness in the area.

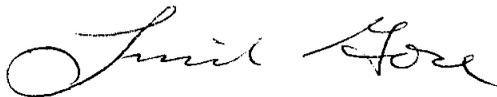
Responsible planning, now more than ever, must take into account the economic realities that are facing families even in wealthy Montgomery County. Since just prior to the passage of Gaithersburg's affordable housing ordinances, the City has experienced the destruction of 621 units of inexpensive rental housing. During this period, ten units of affordable housing have come back on line (at Amber Commons). The plan presented by Keystone REI in SDP-08-005 would produce a net loss of 50% affordable units (85 units to be razed, MPDU requirement to create 40 units) for Gaithersburg City; let it be noted that there was no discussion at the joint public hearing about the MPDU requirement and how it fits into the overall economic structure of the project.

If the City does choose to approve this plan, certain Smart Growth issues should be addressed: for example, Keystone REI should be required to improve connectivity with the site and the MARC station, including sidewalk and crossing improvements; the City should consider requiring that Keystone establish a van system to connect this site and the Water Street site with the Shady Grove Metro station, until public bus access can be improved. It is beyond the scope of this communication to discuss the parking implications of this project for the immediately adjacent neighborhoods; needless to say, it is a realistic concern.

Aging complexes should not be allowed to become a drag on the vitality of Gaithersburg; however, overly optimistic planning under present circumstances could lead to greater blight, as has already occurred with two recent projects. This may be the time for Gaithersburg to encourage thoughtful renovation and rehabilitation—as has been very well done at Grove Park and Orchard Ponds; coupled with energy efficiency improvements, proper design could preserve and strengthen the vitality of older neighborhoods.

As always, your thoughtful approach to planning and development is greatly appreciated.

Sincerely,



Linda Gore

Cc: Pam Lindstrom  
Tom Cowley  
Maggie Gifford

**From:** [Crispell, Bruce](#)  
**To:** [Jacqueline Marsh](#)  
**Subject:** RE: Analysis of Student Generation  
**Date:** Tuesday, April 28, 2009 5:06:52 PM

---

Jacqueline,

Yes, those are the current student generation rates, and the multiplication is correct.  
Bruce

Bruce Crispell  
Director, Division of Long-range Planning

240-314-4702 (o)  
240-314-4707 (fax)  
Suite 201, 2096 Gaither Road, Rockville, Maryland 20850  
[bruce\\_crispell@mcpsmd.org](mailto:bruce_crispell@mcpsmd.org)

---

**From:** Jacqueline Marsh [<mailto:JMarsh@gaithersburgmd.gov>]  
**Sent:** Tuesday, April 28, 2009 4:40 PM  
**To:** Crispell, Bruce  
**Subject:** Analysis of Student Generation

Hi Bruce,

I was wondering if you could confirm some numbers for me. I have an applicant who has submitted an Analysis of Student Generation for a project he is proposing, which is a 263-unit multifamily low rise building with structured parking. He is using the following numbers to predict the student population:

Elementary -  $(0.042)(263) = 11.04$

Middle -  $(0.039)(263) = 10.25$

High  $(0.033)(263) = 8.67$

Total students =  $29.96 = 30$

Could you please just confirm if these are correct? FYI - These would be in the Gaithersburg Cluster.

Thank you,

Jacqueline Marsh, AICP  
Planner  
Planning and Code Administration

City of Gaithersburg  
31 S. Summit Avenue

Joint Hearing - MCC & PC  
SDP-08-005  
#69



**CITY OF GAITHERBURG  
DIVISION OF COMMUNITY DEVELOPMENT  
MPDU AND WFHU PROGRAM**

# AFFORDABLE HOUSING PLAN

This report must be submitted to the City of Gaithersburg prior to SDP and site plan approval.

Instructions: Please fill out this form completely and return the original, along with five copies (including attachments), to the Department of Planning & Code Administration. Pursuant to City Regulation No. 02-07, Section Two (1)(c), this Plan must be submitted, signed and approved prior to approval of any relevant schematic development plan and before receiving Planning Commission approval of any relevant site plan.

**1. Developer Information**

Name of Developer	Keystone REI, LLC	Tax ID	
Contact Person	Richard Koch	Title	Member
Address	103 Leekes Lot Way, Gaith., MD	Zip Code	20878
Phone Number	301-840-5424	Fax	301-840-5859

**2. Project Information**

Project Name	Suites 355
Project Location	12 S. Frederick Avenue
Subdivision Name	n/a
Project Type: rental/sale	Multifamily rental
Total Number of Units	263
Number of Units by Type (1 BR, 2 BR, etc)	59 = Studio, 96 = 1 BR; 108 = 2BR

**3. Project Description**

Briefly describe the development concept and design of this project.

263 Unit Multifamily Community

**4. MPDU and WFHU Information:**

Total Number of Units	224 Mkt; 39 MPDU = 263	Planned MPDU/WFHU Location in Development	
Number of MPDUs by type (sale)	None	MPDU (Sale)	None
Number of MPDUs by type (rental)	9 = Studio; 14 = 1 BR; 16 = 2BR	MPDU (rental)	15%
Number of WFHUs by type	None	WFHU	None

**5. Proposed Construction Schedule**

Start Date		Finish Date	
MPDU/WFHU	TBD	MPDU/WFHU	TBD
Market Units	TBD	Market Units	TBD

**6. Attachments**

1. Attach applicable draft covenants in recordable form;
2. Attach a statement attesting that the MPDUs and WFHUs shall be of the same appearance and use comparable exterior materials to the market rate units of the same unit type;
3. Attach a statement attesting that the MPDUs and WFHUs shall be generally dispersed throughout the development and provide a site plan showing planned dispersal;
4. Attach a statement attesting that the MPDUs and WFHUs shall be built along with, or before, other units in the development.

Signature

Title Managing Member

Joint Hearing - MCC & PC  
SDP-08-005  
#70

5/5/09

Suites 355 (the "Project")  
Developer Statements  
With Respect to MPDUs

The Developer hereby agrees to the following with respect to the 39 MPDUs in the Project.

1. The MPDUs shall be of similar exterior appearance and use comparable exterior materials to the market rate units of the same type.
2. The MPDUs shall be generally dispersed throughout the Project but the specific dwelling units and locations shall be selected by the Developer in accordance with City Regulation No. 02-07.
3. The MPDUs shall be built along with, or before, other dwelling units in the Project.

Developer Acknowledgement:

Keystone Real Estate Investments, LLC



---

By: Richard Koch, Managing Member

**DECLARATION OF COVENANTS  
FOR  
SUITES 355  
A RENTAL COMMUNITY  
INCLUDING  
MODERATELY PRICED DWELLING UNITS**

This DECLARATION OF COVENANTS (this “Covenant”), made this \_\_\_\_ day of \_\_\_\_\_, 2009, hereinafter set forth by Keystone Real Estate Investments, LLC, (hereinafter referred to as “Declarant”).

WHEREAS, Declarant has filed a Schematic Development Plan application for certain property in the City of Gaithersburg, Maryland (the “City”) as described on Exhibit A attached hereto and made a part hereof (the “Property”) for a multifamily residential community with 263 dwelling units (the “Project”).

NOW, THEREFORE, Declarant hereby declares that during the Control Period (as hereinafter defined) the dwelling units identified individually as a Moderately Priced Dwelling Unit or collectively as Moderately Priced Dwelling Units (as hereinafter defined) shall be held, rented, sold and conveyed subject to the following covenants, conditions, and restrictions:

## **ARTICLE I**

Subject to the covenants, conditions and restrictions contained in this Covenant, fifteen percent (15%) of the dwelling units in the Project to be equally spread among all of the unit types in the Project shall be identified by Declarant in accordance with City Regulation No. 02-07 as currently adopted. The dwelling units identified are to be bound by this Covenant and are hereinafter referred to individually as a Moderately Priced Dwelling Unit or collectively as Moderately Priced Dwelling Units (hereinafter “MPDU” or “MPDUs”).

## **ARTICLE II**

With respect to each MPDU, for a period of thirty years, commencing on the date the MPDU is first available for rent, or such lesser period as established by law, all relevant provisions of City Ordinance No. O-12-06, as currently adopted, shall apply to the MPDU and shall run with the land for the entirety of this period (the “Control Period”).

## **ARTICLE III**

During the Control Period, with respect to each MPDU, the MPDU shall not be rented for an amount that exceeds the maximum monthly rent established from time to time by the City Manager or his designee in accordance with City Regulation No. 02-07 as currently adopted.

## **ARTICLE IV**

During the Control Period, with respect to each MPDU, the MPDU shall not be conveyed or sold for a price greater than that determined by the City Manager or his designee in accordance with City Regulation No. 02-07 as currently adopted.

## **ARTICLE V**

The Control Period, with respect to each MPDU, shall not be re-set, or otherwise altered, upon the transfer of the MPDUs to another tenant or lessee or the sale or other conveyance of the Property or Project.

## **ARTICLE VI**

During the Control Period, with respect to each MPDU, any sale contract, any deed of conveyance executed by the Declarant or its assigns or successors, and any subsequent sale contract and/or deed or conveyance, must contain conspicuous language specifically reciting that the MPDU is subject to this Covenant and to City Ordinance No. O-12-06, as currently adopted, and City Regulation No. 02-07, as currently adopted, referencing the date of recordation of this Covenant among the Land Records of Montgomery County, including Liber and Folio.

## **ARTICLE VII**

During the Control Period, with respect to each MPDU, if the Declarant or its assigns or successors, as applicable, elects in its sole and absolute discretion to sell the dwelling units in the Project, including the MPDUs as individual condominium units, the Declarant, or its assigns or successors, as applicable, shall be required to comply with the requirements of City Ordinance No. O-12-06, as currently adopted, and City Regulation No. 02-07, as currently adopted, including, but not limited to, selling one-half of the MPDUs under the sale provisions of the above referenced Ordinance and Regulation as Moderately Priced Dwelling Units and one-half as Workforce Housing Units, as defined therein. The above notwithstanding, the Declarant reserves the right to create a condominium regime to own the dwelling units in the Project, including the MPDUs prior to the date the first dwelling unit is first available for rent and the creation of the condominium regime shall not be construed as an election to sell the dwelling units triggering the above provision.

## **ARTICLE VIII**

This Covenant shall be binding upon the MPDUs, and upon the Declarant, its heirs, assigns and successors, and upon all successor owners of the MPDUs during the term of their ownership of the MPDUs during the Control Period. This Covenant shall be fully assignable by the Declarant, its heirs, assigns and successors.

## **ARTICLE IX**

This Covenant may not be terminated without the approval of the City except upon the expiration of the Control Period or with respect to each MPDU upon the sale of the MPDU in accordance with Article VII of this Covenant.

## **ARTICLE X**

Except as permitted by City Regulation No. 02-07 the MPDUs shall be the only residence of the tenant(s) renting the MPDUs. MPDUs shall not be sub-leased or rented to a subtenant(s), except as permitted by City Regulation No. 02-07.

## **ARTICLE XI**

The tenant renting a MPDU shall not close on the purchase of another residence prior to providing notice to the landlord under the lease for the MPDU to terminate their lease for the MPDU in accordance with the lease.

## **ARTICLE XII**

The City may enforce the covenants contained herein by a proceeding, at law or in equity, against any person or persons violating or attempting to violate intentionally or otherwise, any covenant or restriction contained herein, to restrain any violation thereof.

## **ARTICLE XIII**

If a breach of this Covenant occurs, and is continuing after written notice to the party breaching this Covenant and the expiration of thirty (30) days, the City may apply to any state or federal court having jurisdiction for specific performance of this Covenant, for an injunction against any violation of this Covenant, or for such other relief at law or in equity as may be appropriate and consistent with this Covenant. No remedy conferred upon or reserved to the City by this Covenant is intended to be exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and is in addition to every other remedy given under this Covenant, existing at law or in equity. No delay or omission to exercise any right or power accruing upon any breach of this Covenant will impair any such right or power or will be construed to be a waiver thereof. If, upon or after the occurrence of any uncured default hereunder, the City incurs expenses for the enforcement or performance or observance of any obligation or agreement on the part of others contained herein, the City may seek to be reimbursed by the party or parties breaching this Covenant for reasonable expenses paid by the City to third parties to enforce this Covenant.

## **ARTICLE XIV**

In the event any provision of this Covenant shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

## **ARTICLE XV**

This Covenant cannot be amended without the prior written consent of the City.

## **ARTICLE XVI**

This Covenant shall not be recorded in the Land Records of Montgomery County, Maryland and if recorded shall have no force and effect on the Declarant, its successor and assigns, the current owner of the Property, the Property, the Project or the MPDUs unless and until (i) a Final Site Plan for the Project is approved by the City under terms and conditions acceptable to the Declarant and (ii) the demolition, site development and building permits required for the demolition of the existing improvements on the Property and the construction of the MPDUs are issued by the City and/or other agencies with jurisdiction over the Project under terms and conditions acceptable to the Declarant.

## **Article XVII**

By recording this Covenant the City agrees to respond within 10 days of receipt of a written request from the Declarant, its successor and assigns, to provide an estoppel certificate to affirm if there are, or are not, any defaults under this Covenant with respect to the Project or the MPDUs and any other such reasonable information with respect to this Covenant. In addition, the City agrees to negotiate in good faith with any individual or entity that is providing financing for the Project or the MPDUs (the "Lenders") any changes to this Covenant requested by the Lenders that do not violate City Ordinance No. O-12-06 or City Regulation No. 02-07 as currently adopted or the intent thereof. Any notice or communication which may be or is required to be given pursuant to the terms of this Covenant shall be in writing and shall be sent to the respective party at the address for such party set forth below, postage prepaid, by Certified Mail, Return Receipt Requested, by a nationally recognized overnight courier service that provides tracing and proof or receipt of items mailed or by telecopy (with a confirmatory copy of such notice sent by one of the other delivery methods specified above), or to such other address as either party may designate by notice similarly sent. Notices shall be effective upon receipt.

### Notice address for Declarant:

Keystone Real Estate Investments, LLC  
103 Leekes Lot Way  
Gaithersburg, Maryland 20878  
Attention: Richard Koch

### Notice address for City:

City of Gaithersburg Maryland  
31 S. Summit Avenue  
Gaithersburg, Maryland 20877  
Attention: City Manager

IN WITNESS WHEREOF, Declarant has caused this Covenant to be executed by Richard Koch, its Managing Member, its corporate seal to be affixed hereto, and does appoint Richard Koch its true and lawful attorney-in-fact acknowledge and deliver this Covenant.

WITNESS:

DECLARANT:

Keystone Real Estate Investments LLC

\_\_\_\_\_

By: Richard Koch, Managing Member

*STATE OF MARYLAND*

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared Richard Koch, Managing Member of Keystone Real Estate Investments, LLC who is personally well known to me, who acknowledged the same to be the act and deed of Keystone Real Estate Investments, LLC, the Declarant herein, for the purposes herein contained.

WITNESS my hand and seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires:

EXHIBIT A  
DESCRIPTION OF  
PROPERTY AND MPDUs  
SUITES 355

PROPERTY:

<u>Parcel No./Address</u>	<u>Tax ID #</u>
Parcel N-271	02856015
Parcel N-220 12 S. Frederick Avenue	02856026
Parcel N-323	02856037

MODERATELY PRICED DWELLING UNITS (MPDUs):

<u>Unit Type*</u>	<u>No. of Units*</u>
Studio	9
One Bedroom	14
Two Bedroom	<u>16</u>
Total MPDUs	39

\* Fifteen percent (15%) of the dwelling units in the Project to be equally spread among all of the unit types in the Project shall be identified by Declarant in accordance with City Regulation 02-07.

**From:** [Louise Kauffmann](#)  
**To:** [Greg Ossont](#)  
**Cc:** [Jacqueline Marsh](#); [Fred Felton](#)  
**Subject:** RE: Affordable Housing Plan - Suites 355  
**Date:** Tuesday, May 05, 2009 4:44:50 PM

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Jackie,

The AHP submitted by Mr. Koch today (May 5, 2009) provides the correct number of MPDUs and the correct number of units by bedroom size. Additionally, his developer statement is acceptable. I do have some comments to his draft covenant, but I will hold off inserting those until we get Lynn's master covenant back with her changes.

Louise

-----Original Message-----

**From:** Greg Ossont  
**Sent:** Tuesday, May 05, 2009 3:13 PM  
**To:** Louise Kauffmann  
**Cc:** Jacqueline Marsh; Fred Felton  
**Subject:** Affordable Housing Plan - Suites 355

Louise:

Please find attached the revised Affordable Housing Plan for Suites 355 (aka Executive Gardens). The packet includes # of MPDU's by unit type, the required draft covenants, the name of the project, completed form, etc.

The proposed plan is scheduled for policy discussion and final action in the near term. Please forward approvals and any applicable conditions to Jackie for inclusion in the record as soon as possible.

Thank you