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November 30, 2023

Mr. James Wasilak, AICP  
Chief of Zoning  
City of Rockville Department of Planning and  
Development Services  
111 Maryland Avenue  
Rockville, Maryland 20850

**Re: Level 2 Site Plan Application for 2200 and 2000 Tower Oaks Boulevard (“Tower Preserve”)**

Dear Mr. Wasilak:

Michael Harris Properties, LLC (“Applicant”) is filing this Level 2 Site Plan Application for Tower Preserve (the “Application” or “Site Plan”) pursuant to Chapter 25 of the City Code (the “Zoning Ordinance”). The land area included in this Application consists of: 1) the approximately 6.1-acre (265,749 square-foot) property located at 2200 Tower Oaks Boulevard (“Property”)<sup>1</sup> proposed for redevelopment with a residential townhouse community; and 2) the approximately 2.73-acre (118,791 square-foot) property located at 2000 Tower Oaks Boulevard (“Office Property”).<sup>2</sup> Because the only physical change to the Office Property is the installation of additional bicycle parking, the below analysis focuses primarily on the Property proposed for redevelopment.

### **The Property**

The Property is within the PD-TO (Planned Development-Tower Oaks) zone and is generally located on the east side of Tower Oaks Boulevard, 460 feet south of its intersection with Wootton Parkway. The Property also includes a private access drive connecting Tower Oaks Boulevard to Wootton Parkway, 400 feet east of its intersection with Tower Oaks Boulevard. The Property contains a temporary surface parking lot and is otherwise unimproved. The unimproved areas of the Property are largely open grassy lawn, although there are also clusters of trees in the southeastern and southwestern corners of the Property.

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<sup>1</sup> The Property is more particularly described as Parcel D, Block D, Tower Oaks, as shown on Plat No. 23507 recorded among the Land Records of Montgomery County, Maryland on October 27, 2006 (“Record Plat”).

<sup>2</sup> The Office Property is more particularly described as Parcel C, Block D, Tower Oaks, as shown on the Record Plat.

## Surrounding Area

All of the land surrounding the Property is within the PD-TO zone and is similarly part of the mixed-use, comprehensive planned development known as Tower Oaks. As noted in the *City of Rockville 2040 Comprehensive Plan* (“2040 Plan”), Tower Oaks was originally planned to include “2 million square feet of office space, a hotel, restaurants, 275 dwelling units, and a 12-acre lake for recreational purposes and stormwater management. The original plan has been amended three times, eliminating the lake and altering the land use mix based on changing market trends, and has never been fully implemented.” 2040 Plan at p. 367. A sediment control pond<sup>3</sup> occupies the parcel to the Property’s immediate south. Abutting the Property to the east is a vacant parcel that is heavily wooded and will become City parkland. The parcel to the west across Tower Oaks Boulevard is currently vacant and heavily wooded, but is approved for commercial development. Townhouse communities exist both to the north, across Wootton Parkway, and to the east along Preserve Parkway.

## Previous Approvals

The previous approvals for the Property include the following:

- Comprehensive Planned Development Application CDP-1-25 (“CPD”): The Mayor and Council initially approved the CPD on October 12, 1987 by Resolution No. 25-87. The CPD has been amended three times since its original approval.<sup>4</sup> Currently, the CPD allows for a 300-room hotel and 75,000-square-foot fitness center on the Property.
- Comprehensive Planned Development Detailed Application CPD2005-0001M (the “Detailed Plan”): The Planning Commission approved the Detailed Plan on January 9, 2006. Like the CPD, the Detailed Plan allows for the development of the Property with a 200-room hotel, 100 hotel residences, and 75,000-square-foot fitness center with underground parking.
- Minor Site Plan Amendment No. STP2012-00102 (the “Site Plan Amendment”): The Chief of Planning approved the Site Plan Amendment in October 2011. The Site Plan Amendment allows for the existing temporary surface parking lot on the Property.
- Project Plan Amendment No. PJT 2023-00015 (the “Project Plan Amendment”): The Mayor and Council approved the Project Plan Amendment on October 30, 2023. The Project Plan Amendment allows for the development of up to 82 townhouses on the Property and included approval of a Parking Waiver for the Office Property.

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<sup>3</sup> Following construction of the Project, the sediment control pond will be converted to a stormwater management pond pursuant to the Amended and Restated Memorandum of Understanding: Tower Oaks Regional Stormwater Management Facility – 2019, dated March 13, 2020 and recorded among the Land Records in Book 62479 at Page 410.

<sup>4</sup> The CPD has been amended by: 1) Resolution No. 21-93 (approved September 27, 1993); 2) Resolution No. 1-01 (approved January 8, 2001); and 3) Resolution No. 20-16 (approved August 1, 2016); 4) Resolution No. [REDACTED] (approved October 30, 2023). Zoning Ordinance § 25.14.27(a).

The governing documents for the PD-TO zone include the Zoning Ordinance as it existed on March 15, 2009, as well as the resolutions approving the CPD and amendments thereto. Zoning Ordinance § 25.14.27(a).

## **Project Description**

The Applicant proposes to improve the Property with up to 82 townhomes served by a network of public streets and private alleys. 15 percent of the townhomes will be moderately priced dwelling units (“MPDUs”). Additionally, the townhomes will vary in size to serve a variety of families and market segments. The townhomes will all front either on public streets or open space. This orientation will result in an urban walkable community and will activate the adjacent areas. While the majority of the townhomes will have rear-loaded garages accessed via private alleys, the townhomes that form the periphery of the community will be front-loaded due to physical site constraints.

An approximately 14,000-square-foot community green area will be provided in the heart of the Project. All residents of the community will have sidewalks connecting them to this open space. Townhomes will line the central open space, making it feel safe and inviting and creating a gathering space for all residents. The community green will be activated by incorporating a central paving area (in neutral colors similar to the brick of the townhomes), a sculpture by a local or regional artist, and multiple seating areas. The space will also contain open lawn areas for active and passive uses. A ‘tot lot’ is also proposed adjacent to Lot R36, as shown on sheet L-3.3. with nature-based equipment to include steppers, log tunnel and a balance log.

Access to the Project will be provided by converting the existing private access drive into Public Street A connecting Tower Oaks Boulevard to Wootton Parkway. The entirety of Public Street A will be configured to have two travel lanes with bicycle and pedestrian sidewalks on both sides of the road. The bicycle lanes will connect to the existing 8 foot path along Tower Oaks Boulevard that has already been installed pursuant to the City’s Bicycle Master Plan. Public Street B will connect with Public Street A as a full-movement intersection. Private Alley A will also connect to Public Street A with access limited to right-in, right-out. Additionally, an ingress-only entrance will be provided at the southwest corner of the community. This new entrance will fully support fire and safety vehicles for ingress and egress through a mountable curb area. Overall, the proposed condition will allow for safe and efficient bicycle, vehicular, and pedestrian access to the Project, office buildings, restaurants, and other residential communities in Tower Oaks.

## **Compliance with Findings for Approval**

Pursuant to Section 25.07.01.b of the Zoning Ordinance, “[a] site plan that implements all or a portion of an approved project plan is deemed to meet the findings for approval so long as the site plan complies with the conditions and requirements of the approved project plan and where the application will not i) be detrimental to the public welfare or injurious to property or improvements in the neighborhood; ii) constitute a violation of any provision of this chapter or other applicable law; or iii) be incompatible with the surrounding uses or properties. The delineated findings can be made by the Planning Commission in this case, as outlined more fully below:

***The site plan complies with the conditions and requirements of the Project Plan Amendment:***

- 1. The proposed development will be designed and constructed in a manner consistent with the concept design, graphic conceptual representation, and all associated development tables included in the project plan set.*

As shown in the materials included with the Application, the Site Plan complies with the design and development standards of the Project Plan Amendment.

- 2. All construction of Public Streets B and C and public improvements related thereto must meet the requirements of the City of Rockville building, fire, and life safety codes, as well as all applicable accessibility requirements of the State of Maryland and the Americans with Disabilities Act of the Federal Government.*

Public Streets B and C, and the public improvements related thereto, have been designed to meet these requirements.

- 3. At the Level II Site Plan, the Applicant must submit the bicycle parking plan for the property located at 2000 Tower Preserve Blvd consistent with the Bicycle Parking Plan narrative. The plan must indicate the location of all existing and proposed short-term and long-term bicycle parking so as to increase the number of long-term spaces in the garage from the current 20 to 40, and increase the number of short-term spaces outside from the current seven (7) to a minimum of fourteen (14), in accordance with the bicycle parking space design standards in Section 25.16.09.*

The Bicycle Parking Plan for the Office Property is included with the Application materials and meets the delineated requirements.

- 4. The Applicant must provide at least one publicly accessible electric vehicle (EV) charging station, unless staff determines there is no feasible publicly accessible location. The final location of the EV charging station shall be coordinated with staff during review of the Level II Site Plan and approved with the Level II Site Plan if staff determines a feasible publicly accessible location exists.*

After a detailed analysis following approval of the Project Plan Amendment, it has been determined that no feasibly accessible location exists on the Property. The Applicant has been advised by Staff that EV charging stations would not be allowed in public right-of-way, and only 6 parking spaces are proposed on the Property outside of public right-of-way. These spaces are traversed with public utility easements that would not allow for permanent improvements such as an EV charging station in these areas.

- 5. The Applicant must construct all proposed roads, private alleys and public improvements within the Property per City standards and specifications, except as otherwise approved or waived. Minor deviation from the approved cross-sections requires approval from the Director of Public Works at the Site Plan phase. The right-of-way for all public roads within the Property must be dedicated to public use in accordance with the Project Plan and exhibits*

*and shall be reflected on a Final Record Plat to be reviewed by staff and approved by the Planning Commission and other approving agencies having an interest in the right-of-way dedication.*

All proposed roads, private alleys and public improvements will meet applicable standards, with the exception of a number of minor deviations requiring Director of Public Works approval, as detailed more fully below.

6. *Applicant must construct all necessary public improvements, including but not limited to street trees, streetlights, street light conduit, and traffic signals in accordance with all applicable City standards. Public improvements must be located within the right-of-way or within a Public Improvements Easement as approved by the Director of Public Works.*

All necessary public improvements will be constructed in accordance with applicable City standards and will be located either within the right-of-way or a Public Improvement Easement.

7. *The street cross-sections for Streets A, B and C are contingent upon Mayor and Council's authorization of Road Code Waivers from Chapter 21 of the Rockville City Code. Should Mayor and Council approve the Road Code Waivers, all street sections shall comply with the Project Plan and exhibits. Any deviation from the sections must be approved by the Director of Public Works at the Site Plan phase.*

The Mayor and Council approved the Road Code Waivers on October 30, 2023. All street sections comply with the exhibits from the Project Plan Amendment, as shown on the Site Plan. As discussed more fully below, and outlined in Condition 5 above, minor deviations requiring Director of Public Works approval are also included in the Site Plan, as detailed more fully below.

8. *Mayor and Council approval of the Project Plan does not constitute approval of the Grade Establishment for all proposed public roads. The Grade Establishment for proposed public roads B and C must be submitted for review with the initial Site Plan submission and must be approved prior to the Site Plan approval. The maximum slopes on public roads B and C and sidewalks within the rights-of-way of public roads B and C may not exceed 5.0% (4.8% to allow for construction tolerance) without prior approval from Director of Public Works.*

The Grade Establishment for Public Streets B and C is included in the Site Plan submission for approval.

9. *Applicant shall grant a Public Access Easement (PAE) across the entire width of the privately maintained alleys and grant a 1' Public Improvement Easements (PIE) adjacent to public rights-of-way for maintenance of public sidewalks as shown on the Project Plan and exhibits. Any deviation from the location of the PIE must be approved by the Director of Public Works at the Site Plan phase. The PAE and PIE must be reviewed and approved by DPW and in a format acceptable to the Office of the City Attorney and be recorded in the Montgomery County Land Records, prior to DPW issuance of any Public Works (PWK) permit.*

10. *Applicant shall execute a Revocable Right-of-Way Agreement authorized by Mayor and Council for the shared maintenance of Stormwater Management Facilities located within the public right-of-way. The agreement must be executed by the property owner and other parties of interest and submitted for review and approval by DPW and the Office of the City Attorney. The Agreement must be recorded in the Montgomery County Land Records with the land associated with the proposed streetscape or private improvements prior to DPW issuance of a Stormwater Management Permit for these facilities.*

This condition will be satisfied prior to DPW issuance of a Stormwater Management Permit for the Project.

11. *Applicant shall execute a Revocable Right-of-Way Agreement authorized by Mayor and Council for the private maintenance of existing private amenities to remain within the dedicated Street A public right-of-way. The agreement must be executed by the property owner and other parties of interest and submitted for review and approval by DPW and the Office of the City Attorney. The Agreement must be recorded in the Montgomery County Land Records with the land associated with the proposed streetscape or private improvements prior to the issuance of a Public Works Permit by the Department of Public Works.*

This condition will be satisfied prior to DPW issuance of a Public Works Permit for the Property.

12. *Comply with conditions of DPW's Pre-Application SWM Concept dated October 18, 2023.*

This condition complies with the Pre-Application SWM Concept dated October 18, 2023.

13. *Comply with the conditions of DPW's Water and Sewer Authorization Letter dated July 11, 2023.*

This condition complies with the Water and Sewer Authorization Letter Dated July 11, 2023.

14. *Prior to the final approval of the Site Plan by the Planning Commission, Applicant must clearly identify all existing easements and restrictions on the Property and clarify whether the easements will remain or be extinguished upon the complete build-out of the Project Plan. Mayor and Council must authorize the termination of any existing easement that is dedicated to the City of Rockville. Any termination of an easement dedicated to the city must be reviewed and approved in a format acceptable to the Office of the City Attorney and be recorded in the Montgomery County Land Records prior to issuance of any DPW permit. If required by the terms of any existing easement granted to an entity other than the City of Rockville, Applicant must submit plans for work within the easement to Grantee for review. Any proposed development activity within an existing easement will require the permission of the Grantee or the extinguishment of the easement. Written permission must be obtained prior to the final approval of the Site Plan by the Planning Commission.*

Acknowledged. Submitted Site Plan clearly identifies all existing easements and restrictions on the Property and identifies which are to remain and which are to be extinguished.

15. *Applicant must construct all proposed dry utilities underground within Public Utility Easements (PUE) unless otherwise permitted to be located elsewhere by the Director of Public Works. At the Site Plan phase, the Applicant must submit a conceptual dry utility plan to be approved by both the utility companies and the Department of Public Works.*

A conceptual dry utility plan is included with the Application materials for review and approval by DPW.

16. *Conceptual details for any retaining walls adjacent to the Stream Valley Buffer and Stormwater Management Pond must be submitted to the Department of Public Works for review prior to approval of the Site Plan, Development Stormwater Management Concept, or Preliminary Sediment Control.*

Types of retaining walls and height identified on the Site plan. Details will be provided prior to Site Plan Approval, once City confirms road grades are acceptable.

17. *Consistent with the revised street cross-sections for Streets A, Applicant must construct a new 5-foot-wide sidewalk on the south side of Street A between Street B and Wootton Parkway.*

As shown on the Site Plan, this sidewalk is proposed and will be constructed.

18. *During the site plan process, the Applicant will need to submit a proposed traffic signal plan, with wiring diagram, to modify the existing signal at Public Street A and Tower Oaks Boulevard with the proposed additional signal head.*

The traffic signal plan with wiring diagram is included with the Application materials.

19. *The Applicant shall install light-emitting diode (LED) streetlight fixtures within the proposed development. Streetlight materials and locations of lights shall be approved with the issuance of the Public Works permit. All conduit and underground infrastructure shall be specified according to the current Pepco and/or City standards and shall be approved by Pepco prior to the issuance of the Public Works permit.*

LED streetlight fixtures are proposed. Details of street lighting to be reviewed and approved as part of the Public Works permit.

20. *All internal traffic control devices (i.e., signs, marking and devices placed on, over or adjacent to a roadway or walkway) to regulate, warn or guide pedestrians and/or vehicular traffic shall comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD). The signing and pavement marking plans shall be subject to approval by the Chief, Traffic and Transportation Division, and shall be included in the site plan signature set.*

The signing and pavement markings plan are included in this Site Plan submission.

21. *Prior to final approval of the Project Plan, the applicable and required waivers from Chapter 21 of the Rockville City Code for proposed streets A (existing private access drive), B and C (new streets) and proposed Alley D, must be authorized and approved by Mayor and Council.*

The required waivers were approved by the Mayor and Council on October 30, 2023.

22. *The Applicant must obtain an approved Preliminary Forest Conservation Plan (PFCP), prior to the submission of the Level II Site Plan.*

The Preliminary Forest Conservation Plan was approved on Oct 27, 2023.

23. *The Applicant must meet all requirements of Chapter 10.5, Forest and Tree Preservation Ordinance and applicable City requirements, prior to the approval of a Final Forest Conservation Plan for the subject development.*

Final Forest Conservation Plan has been included with the Site Plan Application submission materials.

24. *The Applicant must obtain a forestry permit, to implement improvements associated with the approved Final Forest Conservation Plan.*

The forestry permit will be obtained prior to construction of the Project.

25. *Prior to the issuance of a forestry permit, the Applicant must submit and execute the required legal documents, including forestry bond, 5 year warranty and maintenance agreement, and forest conservation easement documents.*

The required legal documents will be submitted and executed prior to issuance of a forestry permit.

26. *Prior to the issuance of a forestry permit, the Applicant must record the associated forest conservation easement in the Montgomery County Land Records.*

The forest conservation easement will be recorded prior to issuance of a forestry permit.

27. *The Applicant is providing 15% of the total units as MPDUs unit. 13 MPDU units are income tiered at three income bands—50%, 60% and 80% of AMI (4 units at 50% AMI, 4 units at 60% AMI, and 5 units at 80% AMI), as provided below:*

2022 Income Level (4P Household)	Income	# of MPDUs	Maximum @ Sales Price
80% AMI	\$113,840	5	\$340,000
60% AMI	\$85,380	4	\$245,000
50% AMI	\$71,150	4	\$195,000



This mix is being provided.

28. *All MPDUs must have a minimum of 1,200 square feet of habitable space and must include at least 3 bedrooms, 2 bathrooms, and space for 2 cars on each property. Two car spaces must each have a minimum dimension of 9 ft. X 18 ft.*

These minimum requirements are met, as demonstrated by the materials included with the Application.

29. *The Applicant must provide the list and location (site map) of all the MPDU units as shown on the approved plans. Any revisions to these locations will be subject to the approval of the Department of Housing and Community Development. Any changes to the location will be subject to an amendment of the Declaration of Covenants, depending on the timing of the change.*

The list and location of all MPDU units is included with the Site Plan Application.

30. *Declaration of Covenants must be recorded and MPDU Sales Offering Agreement must be executed in a form approved by Mayor and Council and by the Office of the City Attorney before issuance of any building permit.*

These documents will be executed and recorded prior to issuance of any building permit.

31. *The Applicant must comply with the City's Publicly Accessible Art in Private Development Ordinance. Applicant must provide a concept plan for approval prior to issuance of a building permit.*

The concept plan for the public art will be submitted for approval prior to issuance of any building permit.

32. *All conditions of the Approved Concept Plan, as amended, shall remain in effect except as specifically modified by this Project Plan Application and the conditions set forth above. The approvals, development standards, and conditions contained in this Resolution apply only to the development of the Residential Project and to the request for Office Parking Reduction on the Property.*

Acknowledged.

***Approval of the Site Plan will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood***

Approval of the Site Plan will promote the public welfare rather than be detrimental to it. The area of Tower Oaks in which the Property is located is dominated by commercial uses and has minimal human activity after the workday ends. Future residents of the Project will fill in this gap in human activity, enlivening the area in the evenings and contributing to its safety. The proposed townhomes will also complement the existing commercial uses, which largely consist of offices and restaurants. The future residents represent potential patrons for the restaurants and potential employees for nearby offices.

Additionally, the Project promotes the public welfare due to its compliance with the 2040 Plan. The Project will significantly contribute towards the 2040 Plan's goal of "[f]oster[ing] sufficient market-rate housing development to provide housing affordable for the wide range of those who live, and wish to live, in Rockville." *Id.* at 193. As noted above, the Project proposes 82 townhomes of varying sizes, 15 percent of which will be MPDUs. The Project also contributes to the 2040 Plan's goal of providing missing middle housing through infill projects by locating new townhomes on an underutilized parcel within the Tower Oaks area. *Id.* at 199.

***Approval of the Site Plan will not constitute a violation of any provision of Chapter 25 or other applicable law***

The Project will comply with the Zoning Ordinance and other provisions of applicable law, as detailed below:

**Zoning Ordinance**

The Project complies with the applicable requirements of the PD-TO zone. Within the PD-TO zone, development must adhere to either the approved development standards in the governing documents or the equivalent zone standards. In this case, the equivalent zone is the MXE zone. Zoning Ordinance § 25.14.27(b)(1). The Project's compliance with the applicable development standards of the MXE zone is detailed on the data table shown on the Site Plan.

The Project will provide adequate parking for the proposed development. One hundred sixty-four (164) parking spaces are required and 220 spaces are provided. Parking for the Project includes 56 visitor parking spaces – a ratio of 0.68 spaces per townhome.

Additionally, the Project achieves compliance with the applicable provisions of Article 17 of the Zoning Ordinance. As shown on the Landscape Plan, the Project provides all required landscaping and screening in accordance with the City's Landscaping, Screening and Lighting Manual and the Forest and Tree Preservation Ordinance (Chapter 10.5 of the City Code).

Section 25.21.21(b) of the Zoning Ordinance requires a minimum of one tree per every 2,000 square feet of lot area, or fraction thereof, for each residential lot within the Project. As delineated on Sheet 4.0 of the Final Forest Conservation Plan Amendment ("FFCPA"), the majority of the proposed lots (69) comply with this requirement. However, some of the proposed lots lack sufficient planting area to accommodate the required number of trees on-site. In recognition of such circumstances, Section 25.21.21.b allows the approval of tree plantings elsewhere on the site

in lieu of the on-site requirement, provided certain findings are met. The Project meets these findings as follows:

1. *The lot does not contain sufficient unencumbered area to provide a planting area consistent with best industry practices established by the International Society of Arboriculture for each required tree;*

While significant efforts have been made to maximize on-lot planting areas, constraints such as necessary utility locations and the accommodation of stormwater management treatment facilities result in some lots not having sufficient planting areas, as established by the International Society of Arboriculture (ISA), to accommodate the required number of trees. As depicted on Sheet 3.1 and noted on Sheet 4.0 of the FFCPA, the lots that cannot accommodate the required number of trees on-lot are constrained by various utilities, including gas, water, and sewer lines, street lights from which a minimum separation of five feet is required for tree plantings. In addition to utility constraints, several of the identified lots are also constrained by stormwater management treatment facilities. The confluence of these constraints results in a lack of the required unencumbered planting area to accommodate the required number of trees on these lots.

2. *For each required tree that is not provided on the lot, two (2) replacement trees are provided on a common area or other lot within the proposed subdivision; and*

As delineated on the tables on Sheet 4.0 of the FFCPA and shown on Sheet 3.1 of the FFCPA, each required lot tree not provided on the applicable lot will be replaced with two replacement trees located within the proposed subdivision either on another lot or in a common area, including the public open space or along the Project's streets.

3. *Reduction of the required trees on the lot and provision of the replacement trees will provide equal or greater aesthetic value to the subdivision and are compatible with the character of the surrounding neighborhood.*

The provision of replacement trees will provide equal or greater aesthetic value to the subdivision and will be compatible with the surrounding neighborhood and environment. With respect to aesthetic value, planting the replacement trees along the Project's streets will allow for more verdant streets and well-shaded sidewalks. The replacement trees planted in the Project's open spaces will help to create green pockets throughout the community, which can be enjoyed by residents and guests alike. Finally, where replacement trees are located on other lots in the subdivision, strategic locations have been selected where the trees will be highly visible and/or contiguous to other groups of trees, including forest conservation areas.

The selected locations for the replacement trees also achieve compatibility with the surrounding neighborhood and environment. In particular, some replacement trees will be located on the eastern and southern edges of the Property, which abut forest conservation areas and the existing stormwater management pond. Planting the replacement trees in these locations will better blend the Project with the surrounding natural areas thereby achieving compatibility.

## Other Applicable Law

The Site Plan is generally consistent with the approved Forest Conservation Plan for the Tower Oaks Planned Development, with the exception of the proposed elimination of one existing forest conservation easement, with appropriate mitigation proposed. Specifically, the Applicant proposes to eliminate an existing forest conservation easement in the southwest corner of the Property and offset its elimination with (1) the addition of a forest conservation area on the east side of the property and (2) planting of additional street trees along Public Street A. In this manner, the Site Plan conforms to the applicable requirements of the Forest and Tree Preservation Ordinance (Chapter 10.5 of the City Code). The Site Plan also includes a stormwater management concept package, which establishes compliance with the applicable requirements of Chapter 19 of the City Code (Sediment Control and Stormwater Management).

Regarding adherence to Chapter 21 of the City Code (Streets, Roads, Right-of-Way, and Public Improvements) the Project requires a number of minor deviations from standard cross-sections and ancillary City standards for Public Street A that are approvable at the Staff level. These deviations are warranted in light of the fact that Public Street A is being created from an existing access drive at the City's request. These deviations include:

- Adjustments to bike lane configuration and buffers, slight deviations in tree panel size, and the provision of a sidewalk adjacent to the curb along a portion of the retaining wall frontage with no vegetated buffer<sup>5</sup>, all as shown on the submitted application materials and relevant cross-sections. With these deviations, Private Street A will still maintain a minimum of two 11-foot travel lanes and 5-foot sidewalks along both sides of its entire length.
- A waiver to allow for existing private utilities, including dry utilities and a grease trap, to remain within the right-of-way of Public Street A.<sup>6</sup> While the Applicant requests that the City assume maintenance responsibilities for the dry utilities, the Applicant will maintain the grease trap through a separate maintenance and liability agreement with the City.
- A waiver to allow for deviations from the specific paving standards for Public Street A, although overall paving depth will exceed City requirements. The existing paving consists of 2" of bituminous surface course paving, whereas the standard is 3". However, 6" of graded aggregate base course is provided, whereas only 4" is required. The existing paving for Public Street A, therefore, exceeds the aggregate paving requirement, is sufficient to ensure safe travel, and will not result in increased maintenance costs for the City.

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<sup>5</sup> There is insufficient room in this area to provide a buffer between the curb and the proposed sidewalk, although it was agreed with Staff that, on balance, the provision of the sidewalk without the buffer was warranted.

<sup>6</sup> Pursuant to Section 25.17.03(a) of the Zoning Ordinance, utilities may be placed within the right-of-way only with the express written permission of the City. The Applicant requests that such permission be granted here.

- A waiver to allow for the existing triangular island (pork chop) to remain within the Public Street A right-of-way at its intersection with Wootton Parkway. Retaining the existing triangular island will allow for safe and efficient access from Wootton Parkway for vehicles, while providing crosswalks and refuge for pedestrians traversing the intersection and ensuring proper vehicular turning movements.

*The Project is compatible with the surrounding uses and properties.*

As noted above, the Project will provide a complementary use in a generally commercial area of Tower Oaks. Future residents will enliven the area and contribute to its safety. While the area immediately to the east of the Property is an environmentally-protected, the area to the south used for stormwater management, and the confronting property to the west vacant, all of which are compatible settings for a townhouse community, the Project is also not far from other residential townhouse communities and will add to the residential fabric of the area in a highly compatible way.

**Conclusion**

As reviewed above, the Project, as proposed in the Application, complies with relevant provisions of the City Code and applicable laws, and will be compatible with surrounding uses and properties. The Applicant looks forward to working with the City to advance the Project through the remainder of the development review process.

Sincerely,

cc: Mr. Harris Schwalb  
Mr. Stuart Miller  
Mr. Eric Posner  
Bill Kominers, Esq.