

**MEMORANDUM**

DATE: September 25, 2006
 TO: Montgomery County Planning Board
 VIA: Rose Krasnow, Chief *RK*
 Development Review Division
 FROM: Michael Ma *Ma*
 Planning Department Staff
 (301) 495-4523



REVIEW TYPE: **Compliance Program**
 PROJECT NAME: **Clarksburg Village**
 CASE #: **820030020 (formerly 8-03002) and 82003002A (formerly 8-03002A)**

APPLYING FOR: Approval of the Compliance Program to correct non-compliance with the approved site plan and the Zoning Ordinance
 REVIEW BASIS: Section D-3.6. of the Zoning Ordinance (Failure to comply)
 ZONE: R-200/R-200-TDR 3
 LOCATION: Southwest Quadrant of the Intersection of Stringtown Road and Piedmont Road
 MASTER PLAN: Clarksburg Master Plan
 RESPONDENT: Elm Street Development
 HEARING DATE: October 5, 2006

SUMMARY

On June 29, 2006, the Planning Board held a public hearing on Clarksburg Village, conducted a preliminary vote on alleged acts of non-compliance, rejected the respondent's proffer, and directed staff to determine an appropriate Compliance Program and/or fines. The purpose of this report is to present staff recommendations on the Compliance Program for the Clarksburg Village development to the Planning Board for approval.

Non-Compliance Items and Corrective Actions

The following table summarizes the six non-compliance items found by the Planning Board and the corrective actions required by the subject Compliance Program:

	Non-compliance Items	Corrective Actions through Site Plan Amendment
1	Discrepancy between Planning Board opinion and Signature Set of Site Plan 8-03002 in the numbers of one-family detached units and townhouses.	Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
2	Multiple-family units in the R-200/MPDU Zone.	Eliminate the proposed 48 multiple-family units in four buildings in Block T.
3	Lot size for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 6,000 square feet for one-family detached units.	Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one-family detached units with a lot area no less than 6,000 square feet (through combining lots and reducing street rights-of-way) except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units.
4	Building setbacks for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 25 feet setback from street for one-family detached units.	Provide a minimum building setback of 25 feet from street for all one-family detached units in the R-200 zone through combining lots and reducing street rights-of-way. Zoning Text amendment 06-12 modified the setback requirements (Section C-1.623 of the Zoning Ordinance) for corner lots in the R-200 zone under MPDU option.
5	The Right-of-way for Foreman Boulevard is less than that shown on the approved Preliminary Plan.	Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.
6	Lack of Complete Development Standards in the R-200/TDR3 zone.	Establish complete development standards for the entire development (Attachment A)

Design Improvements and Additional Amenities

In addition to the corrective actions, the Compliance Program requires the respondent to (1) improve the design of the approved site plan in Blocks P, U, and T, (2) provide additional amenities, such as park facilities, larger plant materials, additional trees in forestation areas, and picnic shelters, and (3) make a \$50,000 contribution to the Clarksburg Village Homeowners Association (HOA) fund.

The Revised Plan

The respondent has revised the site plan for certain areas within the development in accordance with the Compliance Program to meet the Zoning Ordinance requirements and to improve the design of the development (**Attachment B**). To increase the lot size and building setback for those non-compliant lots to meet the Zoning Ordinance requirements of one-family detached units in the R-200/MPDU zone, the respondent proposes to eliminate four dwelling units and use the lot areas to make up the differences. In addition, to solve the lot size and setback problems associated with certain built and occupied homes, the revised plan proposes to reduce the rights-of-way of certain portions of four public streets to gain additional lot areas and building setbacks for those homes. Four of the non-compliant lots, which were going to be attached with a trellis, will be built with attached garages.

A major component of the Compliance Program is to require design improvements to certain areas of the development. The revised plan proposes a better integration of various dwelling types in Blocks P, U, and T. It substantially modifies the design of the entire Block T by eliminating 4 multiple-family building (total 48 units), adding 21 detached homes and other dwelling types. The revised layout of Block T provides a better green space network throughout the block, which connects the units with the surrounding greenway open space, and reduces the density by approximately 40 units. Some of the reduced units in Block T will be relocated to Blocks P and U to provide a better mix of detached units and townhouses. The net density reduction for the entire development would be 31 units.

Fines

In the staff report prepared for the June 29, 2006, non-compliance hearing for Clarksburg Village, staff recommended a total fine of \$1,192,500 for all six non-compliance items. Staff, however, also recommended that certain areas of Clarksburg Village, which have already been approved, could be significantly enhanced and the costs inherent in such a redesign, including the possible loss of some units, might be viewed as an acceptable alternative to the assessment of some or all of the proposed fines. Staff considers the design improvements identified in the Compliance Program significant but still recommends a fine of \$100,000.

Future Action

If the Planning Board approves the Compliance Program, the respondent will finalize the amended Site Plan 82003002B in accordance with the Compliance Program and resubmit it to the Planning Board for review and approval. Certain details and elements of the Compliance Program, such as the development standards for individual units, final numbers and types of various dwelling units, and the design of the added amenities, may be modified during the review process. The Planning Board's approval of amended Site Plan 82003002B will also set the final timing requirement for all the amenities which will be provided by the respondent for the entire Clarksburg Village development.

STAFF RECOMMENDATION: Approval of the following Compliance Program for Clarksburg Village to permit the respondent to take corrective action to comply with the approved plans and the Zoning Ordinance requirements, and to allow the respondent to propose modifications to the

approved site plan:

1. Corrective Action

The respondent shall provide the following site plan modifications through Site Plan Amendment 82003002B to meet the Zoning Ordinance requirements and to be in conformance with the approved Preliminary Plan 12001030A:

- a. Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
- b. Eliminate the proposed 48 multiple-family units in four buildings in Block T.
- c. Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one-family detached units with a lot area of no less than 6,000 square feet, except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units with attached garages.
- d. Provide a minimum building setback of 25 feet from street for all the one-family detached units in the R-200 zone, except for corner lots, in accordance with Section C-1.623 of the Zoning Ordinance.
- e. Modify the right-of-way from 50 feet (Department of Public Works and Transportation Design Standards mc-210.02) to 27 feet and 4 inches (mc-210.03) on Granite Rock Road (from station 10+15 to 15+07), British Manor Drive (from station 1+03 to 0+00), Bent Arrow Drive (from station 10+52 to 5+90), and Robin Song Drive (from station 5+90 to 8+11). This right-of-way modification resolves the 25-foot minimum building set back issue on eight existing homes (Lots 12, 13, 23, and 26 of Block G, Lot 10 of Block H, Lots 10 and 13 of Block K, and Lot 10 of Block L), and the 6,000-square-foot minimum lot size issue for one existing home on Lot 12 of Block G.
- f. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.

2. Provision of Complete Development Standards for the R-200/TDR 3 zone portion.

The development standards as shown on **Attachment A** shall be established through Site Plan Amendment 82003002B for the proposed development. These standards may be modified in accordance with the Planning Board’s review of Site Plan Amendment 82003002B.

3. Design Improvements

The respondent shall modify the design of Blocks P, U, and T as shown on **Attachment B** to provide the following design features:

- a. Integration of various dwelling types.
- b. Reduction of the density in Block T by approximately 40 dwelling units.
- c. A north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail.
- d. A major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space.
- e. A trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail.

- f. Replacement of the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community.

All of the design changes shall be incorporated into Site Plan Amendment 82003002B and approved by the Planning Board prior to issuance of any building permit.

4. Additional Amenities

The respondent shall provide the following amenities, in addition to those required by the approved site plan, for the proposed development:

- a. Park facilities to be located on the proposed Park/School site:
 - (i) Two rectangular athletic fields with dimensions of 180 feet by 300 feet plus a 20-foot-wide flat sideline area along all sides of the fields.
 - (ii) A paved parking area for 57 cars to be located off Blue Sky Drive as shown on the approved site plan.
 - (iii) One picnic shelter constructed on a concrete slab and including picnic tables, to be located on Blue Sky Drive adjacent to the athletic fields and parking lot.
 - (iv) Adequate stormwater management for the facilities.
 - (v) The remaining site where the school and its facilities are to be located to be fine graded and seeded to adequately accommodate various athletic practice fields.
 - (vi) Paved trails between facilities, landscaping, water fountain and adequate park signage.
- b. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The design of these facilities shall be incorporated into Site Plan Amendment 82003002B.
- c. The park facilities to be provided on the Park/School site shall be completed and accepted by M-NCPPC within 9 months after approval of plats and plans for Stringtown Road improvements or the issuance of the building permit for the 600th dwelling units for the proposed development, whichever comes first.
- d. Additional landscaping:
 - (i) Increase the size of all unplanted street trees from 2 ½ - 3" to 3 - 3 ½" caliper.
 - (ii) Add 300 trees in reforestation area, which are 2 - 2 ½" caliper in size.
 - (iii) Increase landscaping around the proposed pool facility by 25 percent.
- e. Two picnic shelters near the proposed Greenway trail.
- f. A \$50,000 contribution to the Clarksburg Village Homeowners Association prior to October 31, 2006, to be used at the discretion of homeowners, not the developer.

5. Fines

The respondent shall make payment of \$100,000 to M-NCPPC prior to October 31, 2006.

6. Process of Record Plats

The Planning Board staff may process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of

Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

BACKGROUND

Overview

Clarksburg Village is a 771-acre, large-scale development that was proposed for a mix of uses in three different phases. The Planning Board's Preliminary Plan opinion, which was amended twice, ultimately approved 2,654 dwelling units, 20,000 square feet of office/retail, and 5,000 square feet of daycare. The plan also called for two school sites, parks, greenways, trails, and recreational facilities. The subject Compliance Program is for the first phase of the development.

Site Vicinity/Description

Clarksburg Village is located in Clarksburg, Maryland. It is bounded to the north by Stringtown Road, which separates it from Clarksburg Town Center. The eastern portion of the site is bounded by a stream, beyond which is Greenway Village (a.k.a. Arora Hills). The Clarksburg Greenway bounds the western edge of the site, beyond which is Frederick Road (MD 355). The southern boundary of Clarksburg Village is Ridge Road.

The first phase is the northern half of the site closest to Stringtown Road and Clarksburg Town Center. The second phase is to the south. The third phase is the village center, which consists of several blocks of primarily commercial development next to Greenway Village/Arora Hills, along Newcut Road.

Phase One Site Plan Approval 8-03002

The Planning Board approved the Site and Water Quality Plan 8-03002 for Phase One of the development on July 31, 2003 for 933 dwelling units on 333.87 acres. The site development plan of the signature set was approved on August 9, 2004. The entire signature set package, inclusive of the Site Plan Enforcement Agreement and Development Program, was approved on May 12, 2005.

The Planning Board opinion for Site Plan 8-03002 approved 933 dwelling units, including 471 one-family detached dwelling units, 414 Townhouses, inclusive of 44 MPDU Townhomes, and 48 multiple family dwelling units in four buildings, which were all MPDU's.¹

Amended Phase One Site Plan 8-03002A

An amended site plan 8-03002A was approved by the Planning Board on December 23, 2004, to add 30 acres (for a total of 363.87 acres) near Stringtown Road to Phase One and revise the layout in that area. The amendment approved 997 dwelling units in Phase One. This is an increase of 64 dwelling units over the original site plan approval.

¹ The remaining MPDUs required for Phase One are to be provided "off-site" in Phase Two. Building permits for 231 market rate units in Phase One were to be withheld until the building permits were issued for the required MPDUs off-site in Phase Two.

Development Status

Phase I of Clarksburg Village is currently under construction. According to the most recent information provided by the developer, dated September 22, 2006, 245 dwelling units have been built and 59 units are under construction (see **Attachment B**). The following table shows the breakdown of the units.

	Number of Units Completed	Number of Units Under Construction	Total
One-family Detached	164	22	186
Townhouse	57	17	74
Two-over-two	24	20	44
Total	245	59	304

Within the developed areas, the following recreations facilities have been completed: 2 open play areas (type 2), 1 tot lot, 1 multi-age play area, 1 picnic area, 11 seating areas, and one gazebo.

The site for the proposed pool and pool house/community room has been graded. The respondent will start the construction of the pool facilities upon obtaining permits from the Department of Permitting Service. M-NCPPC staff has signed off on the permit application for the pool facilities. The pool will be open in 2007 according to the respondent's plan.

NON-COMPLIANCE HEARINGS

May 4, 2006- Initial Public Hearing

An initial public hearing regarding the nature and extent of the alleged acts of non-compliance and deficiencies discovered by staff was held on May 4, 2006. Both the developer and general public had an opportunity to respond to the information provided in the staff report, and also to provide any additional information that might be relevant to a Planning Board decision. Six alleged "violations" were identified.

The Planning Board requested a continuation of the Public Hearing to May 11, 2006, to accommodate the developer's request for resumption by M-NCPPC of the review of building permits for 83 lots.

May 11, 2006 – Continuation of May 4, 2006 hearing

On May 11, 2006, the Planning Board issued a Corrective Order for 83 lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The developer entered into "stipulations of fact" as part of the Corrective Order. The stipulations identify certain matters of fact that are not contested by the developer – and therefore deemed resolved for the purpose of the Planning Board's decision on the merits – as opposed to any other facts relating to the project that remain open to dispute.

June 29, 2006 – Continuation of May 11, 2006 hearing

On June 29, 2006, the Planning Board conducted a preliminary vote on alleged acts of non-compliance and found non-compliance for all the items identified in the staff report. The Planning Board also rejected the respondent's proffer and directed staff to determine an appropriate Compliance Program and/or fines.

July 20, 2006 – Continuation of June 29, 2006 hearing

On July 20, 2006, the Planning Board reviewed the respondent's request to issue a Corrective Order for 100 lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The Planning Board deferred action to July 27 on the staff recommendation of approval of an amendment to the corrective order of May 11, 2006, to establish development standards for 65 additional units, including 47 one-family detached units and 18 townhouses, and the proposed pool facility on Parcel A of Block P.

July 27, 2006 – Continuation of July 20, 2006 hearing

On July 27, 2006, the Planning Board approved staff recommendation for approval of development standards for 65 identified dwelling units, including 47 one-family detached units and 18 townhouses, and the proposed pool/club facility on Parcel A of Block P, contingent on Department staff receiving written assurances from the respondent from the builders concerning content and timing of disclosure documents. The Planning Board also delegated to staff the decision of whether to accept the adequacy of the disclosure statements and the revised layout for the proposed pool and pool house.

PROCEDURAL POSTURE

Staff recommendation on the Compliance Program for the subject development is based on Section 59-D-3.6 of the Zoning Ordinance, which provides that if the Planning Board finds that "any term, condition, or restriction in a certified site plan is not being complied with," the Board may take the following actions:

- 1) impose a civil fine or penalty authorized by Section 50-41;
- 2) suspend or revoke the site plan;
- 3) approve a compliance program which would permit the developer to take corrective action to comply with the certified site plan;
- 4) allow the developer to propose modifications to the certified site plan, or
- 5) take any combination of these actions.

NON-COMPLIANCE ITEMS

On June 29, 2006, the Planning Board found the following non-compliance items identified in the staff report dated June 19, 2006 (**Attachment C**):

1. Discrepancy between Planning Board opinion and Signature Set of Site Plan 8-03002 in the numbers of one-family detached units and townhouses.
2. Multiple-family units in the R-200/MPDU Zone.
3. Lot size for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 6,000 square feet for one-family detached units.

4. Building setbacks for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 25 feet setback from street for one-family detached units.
5. The Right-of-way for Foreman Boulevard is less than that shown on the approved Preliminary Plan.
6. Lack of Complete Development Standards in the R-200/TDR3 zone.

RESPONDENT'S PROFFER / STAFF COMMENTS

The respondent submitted a revised proffer (Attachment D), which includes 21 items, to address the non-compliance issues for the development.

Changes to the Approved Plans to Meet the Lot area and Building Setback Requirements

The proffer proposes the following changes to the approved site plans (see Attachment B- modified lots are outlined in red) to correct lot size and building setback problems for certain lots in Blocks G, H, and K through combining lots and reducing the width of the right-of-way for portions of four public roads:

Block G

1. Six one-family attached units were replaced with five one-family detached units, all lots will have a minimum 6000 square feet. Houses were shifted back to meet the 25-foot front building restriction line. (The location of these units is indicated on the Development Status and Proposed Changes Exhibit -Attachment B as 1A.)
2. Two one-family attached units were replaced with two one-family detached units. The rear lot line was shifted to achieve 25 feet front building restriction line. (Location 1B)
3. Four one-family attached units and one one-family detached unit have been replaced with four one-family detached units. (Location 1C)
4. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location 1D)
5. Building attachments were modified on lots 21 and 22 to have attached garages. Lot 23, which was a one-family attached unit, is now a one-family detached unit. Lot 21, which was a one-family detached unit, is now a one-family attached unit. (Location 1E)
6. Two one-family attached units were replaced with two one-family detached units. (Location 1F)

Block H

1. Five one-family attached units were replaced with four one-family detached units. Houses were shifted back to meet the 25-foot front building restriction line. (Location 2A)
2. Propose a reduced width tertiary road to increase the lot area and setback. (Location 2B)

Block K

1. Four one-family attached units were replaced with two one-family attached units and two one-family detached units. The building attachment was modified on lots 11 and 12 to have attached garages. (Location 3A)
2. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location

3B)

Block L

1. Two one-family attached units were replaced with two one-family detached units. Lots 11- 14 (new lot numbers 31-34) have been adjusted so that lot 11 (new lot number 31) has more than 6000 s.f. (Location 4A)
2. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location 4B)

§ Staff Comment

The approved site plan shows a number of one-family attached units in the R-200/MPDU zoned portion of the development with an unidentified attachment feature between units. The respondent proposed a “trellis” as the connecting element between units, which is not acceptable to the staff and the Department of Permitting Services in accordance with the Zoning Ordinance. Without a qualified attachment feature, such as a common wall or attached garages, these units would be considered as detached units and must have a minimum building setback of 25 feet from street and a minimum lot area of 6,000 square feet.

The approved site plan can be modified to meet the lot size and setback requirements through combining lots for unbuilt units, but there are eight houses which have been built and do not meet the lot size and/or setback requirements. Deleting and combining undeveloped lots would not address all the problems for these eight units. Staff has considered other options, such as a zoning map amendment or zoning text amendment, to solve the problems for the units which are currently occupied by individual homeowners. Staff agrees with the respondent that the most practical way to solve the problems, in addition to combining lots, is to reduce the width of the right-of-way for portions of four public streets on which these lots have a frontage. The right-of-way reduction will not change the design of the road, i.e. the pavement width and the sidewalk location, but will help these lots gain additional areas for lot size and setback. However, it requires the Planning Board’s approval of a waiver to the subdivision regulations.

Design Improvements to Blocks P, T, and U and Increase of Foreman Boulevard Right-of-Way

The proffer proposes the changes to the approved site plans (see Attachment B- modified lots are outlined in red) to improve the design of the following areas:

Block P

1. Ten one-family detached units were replaced with twenty town houses. (Location 5A)
2. Four front-loaded-garage lots were revised to six alley-loaded-garage lots. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet. (Location 5B)

Block U

Two front-loaded-garage lots were revised to three alley-loaded-garage lots. (Location 6)

Block T

Complete redesign of the layout of Block T to incorporate various dwelling types and provide a better open space/pedestrian system throughout the block. The following table shows a comparison of the approved development program with the revised plan for Block T.

	Approved	Revised	Changes
One-family Detached Units	0	21	+ 21
Townhouses	171	99	- 72
One-family Attached Units	0	58	+58
Multiple-family Units	48	0	- 48
Total	219	178	- 41

§ Staff Comment

Staff has been working with the respondent to identify areas of the development for improvement and to revise the plan for the identified areas. The goal is to achieve a better integration of various dwelling types and to improve the pedestrian/open space system for these areas. Block T, as shown on the approved site plan, has a high concentration of townhouses and four multiple-family buildings with 90-degree parking arrangement along the internal driveway.

The revised plan moved some townhouses from Block T to Block P and added detached units to Block T. It created a north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail and a major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space. It also proposes a trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail. The plan replaced the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community. Overall, the proposed plan improves the design quality of the development, especially in Block T. The revised plan also proposes more MPDUs to be provided in the first phase of the development, an increase from 108 to 118 units.

Additional Amenities

The proffer proposes a number of amenities to be provided by the respondent in addition to the facilities already required by the approved site plan:

1. Increase the caliper of all unplanted street trees in Phase 1 from 2 ½ - 3" to 3 - 3 ½".
2. Add 100 trees in reforestation area which are a minimum 2" caliper in size.
3. Increase landscaping around pool facility by 25%.
4. Add an office in the clubhouse for the use of the HOA's management staff.
5. Make a \$ 50,000 contribution to the HOA to be used at the time and discretion of homeowners, not the developer. Add two covered picnic shelters each having 2 picnic tables.
6. Re-plan the "P", "U", and "T" blocks as shown on the attached exhibit. Eliminate approximately

26 units from these blocks combined. Add additional product types into these blocks.

§ Staff Comment

Staff recommends additional park facilities, including a paved parking lot and a picnic shelter, to be provided by the respondent. In addition, 300 additional trees, not 100, should be provided in the reforestation area. The final design of the facilities will be review in detail at the time of site plan amendment review.

Fines

The respondent also agrees to make a payment of \$ 100,000 to MNCP&P to cover the cost of the violation review and corrections. The respondent requests that this payment shall also serve as the review fee for the necessary Preliminary plan revisions.

§ Staff Comment

In the staff report prepared for the June 29, 2006, non-compliance hearing for Clarksburg Village, staff recommended a total fine of \$1,192,500 for all six non-compliance items. Staff, however, also recommended that certain areas of Clarksburg Village, which have already been approved, could be significantly enhanced and the costs inherent in such a redesign, including the possible loss of some units, might be viewed as an acceptable alternative to the assessment of some or all of the proposed fines. Staff considers the design improvements and the reduction of development density (31 units) identified in the Compliance Program significant and recommends a fine of \$100,000.

Process of Record Plats

As part of the proffer, the respondent requests M-NCPPC staff process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

§ Staff Comment

Staff agrees that, if the Planning Board approves the Compliance Program, the record plat applications for lots which are not affected by any corrections due to site plan non-compliance can be processed prior to the approval of Site Plan Amendment 82003002B by the Planning Board.

CONCLUSION

Staff recommends approval of the Compliance Program as listed in the STAFF RECOMMENDATION section above. The combination of a corrected site plan, design

improvements, additional amenities, and fines adequately addresses the non-compliance items found by the Planning Board for Clarksburg Village. If the Planning Board approves the Compliance Program, the respondent will finalize the amended Site Plan 82003002B in accordance with the Compliance Program and resubmit it to the Planning Board for review and approval.

Certain details and elements of the Compliance Program, such as the development standards for individual units, final numbers and types of various dwelling units, and the design of the added amenities, may be modified during the review process. The Planning Board's approval of amended Site Plan 82003002B will also set the final timing requirement for all the amenities which will be provided by the respondent for the entire Clarksburg Village development.

ATTACHMENT

- A. Development Standards
- B. Revised Plans
- C. June 19, 2006 staff report
- D. Respondent's Proffer