

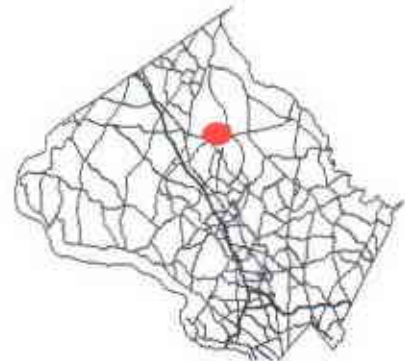


MONTGOMERY COUNTY PLANNING DEPARTMENT
 THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item #
MCPB 3-22-07

MEMORANDUM

DATE: March 9, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
 Development Review Division
FROM: Robert A. Kronenberg, Acting *RAK*
 Supervisor
 Development Review Division
 (301) 495-2187



REVIEW TYPE: **Site Plan Review**
CASE #: **82003002B**
PROJECT NAME: Clarksburg Village
APPLYING FOR: Amendment of Site Plan 82003002A to address Site Plan changes and to implement the Plan of Compliance that includes: modifications to the unit mix and design, specifically in Blocks "P" and "T"; adjustment of the Greenway trail, revisions to site elements such as the clubhouse and recreational facilities, landscaping, lighting, stormwater management facilities, lot lines; clarification of development standards in the data table and on the plans; revisions to the forest conservation easement; correct the right-of-way for Foreman Boulevard from 70 feet to 80 feet; provide the R-200 zoning line on the site plan; compliance with Fire and Rescue comments with regard to pavement width, access, radii and turning movements; and changes in the total number of TDRs and MPDUs.

REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance
 Section 19-64 for Final Water Quality Plan
ZONE: R-200/MPDU, R-200/TDR-3
LOCATION: Southwest Quadrant of the intersection of Stringtown Road and Piedmont Road
MASTER PLAN: Clarksburg Master Plan
APPLICANT: Elm Street Development
FILING DATE: May 5, 2005
HEARING DATE: March 22, 2007

Attached is the staff report for the proposed amendment to the Clarksburg Village-Phase I Site Plan. The Planning Board public hearing for this application is scheduled for March 22, 2007. The Staff recommends Approval with conditions as delineated in the staff report.

TABLE OF CONTENTS

A.	BACKGROUND AND PRIOR APPROVALS	3
B.	SUMMARY OF COMPLIANCE PROGRAM	5
C.	SUMMARY OF PROPOSED AMENDMENT	8
D.	STAFF RECOMMENDATION.....	24
E.	PROJECT DESCRIPTION.....	30
	Surrounding Area	31
	Site Description	32
	Proposed development	33
	Development Status	
F.	PLANNING AND REGULATORY FRAMEWORK.....	43
	Master Plan / Sector Plan	
G.	REQUIRED FINDINGS.....	45
	Conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan	45
	Requirements of the Zone	51
	The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.	52
	Compatibility with the general neighborhood	57
	Requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection	57
	ATTACHMENTS	59
A.	Prior Opinions for Site Plan 820030230 and 82003023A and Infrastructure Plan 820020380	
B.	Prior Opinions for Preliminary Plan 120010300, 12001030A and 12001030B	
C.	Previous staff report for Plan of Compliance dated September 26, 2006	
D.	Previous staff report for Preliminary Plan dated February 5, 2007	
E.	Letter from Applicant dated October 12, 2006	
F.	Agency Comments	
G.	Receipts for payments to Clarksburg HOA and MNCPPC	

A. Background and Prior Approvals

Sectional Map Amendment

The subject property was reclassified from the R-200 Zone to the R-200/TDR-3, R-200/TDR-4 and PD Zones by Sectional Map Amendment G-710 on October 25, 1994. Phase I of the Clarksburg Village project is comprised of the R-200 Zone, with an MPDU option and the R-200/TDR-3 Zone.

Preliminary Plan

Preliminary Plan 120010300 was approved by the Planning Board on July 26, 2001 (Opinion dated January 23, 2002) for a maximum of 2,563 residential dwelling units, 20,000 square feet of office/retail use, and 5,000 square feet of daycare facility in the R-200, R-200/TDR-3, R-200/TDR-4 and PD Zones. The preliminary plan was subsequently amended in January 2003 and December 2004 to incorporate additional property and units into the development. Copies of the Preliminary Plan opinions are provided in Attachment B of this report.

The Preliminary Plan was amended again in February of 2007 to extend the validity period, to modify the street rights-of-way and to create outlots for lots affected by minimum lot size requirements and setbacks. A copy of the staff report for the preliminary plan amendment (12001030C) is provided in Attachment C.

Infrastructure Plan

The Infrastructure Plan 820020380 was approved by the Planning Board on July 25, 2003 (Opinion dated December 18, 2003). The Infrastructure Plan included roads, stormwater management, school sites, parkland, the Clarksburg Greenway, recreational facilities and phasing of the MPDUs for the overall development.

Site Plan (Phase I)

The Site Plan 820030020 and Final Water Quality Plan for Phase I was approved by the Planning Board on July 31, 2003 (Opinion dated December 18, 2003) for 933 dwelling units (471 one-family detached dwelling units, 414 townhouses (inclusive of 44 MPDU townhouses and 48 MPDU multi-family units in four buildings, all of which were MPDUs) and 144 TDRs in the R-200, R-200/TDR-3 Zones. The entire signature set package, inclusive of the Site Plan Enforcement Agreement and Development Program, was approved on May 12, 2005.

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 additional property included in the "A" amendment is known as the Brickley Property. The amendment approved 997 dwelling units in Phase One. This is an increase of 64 dwelling units over the original site plan approval.

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 an additional 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. Staff recommended approval of only 65 units and the proposed pool facility on Parcel A of Block P. 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 the 65 additional units, including 47 one-family detached units and 18 townhouses, and the proposed pool facility.

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

On July 27, 2006, the Planning Board approved the 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 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.

October 5, 2006-Continuation of July 27, 2006 Hearing

On October 5, 2006, the Planning Board approved Staff’s recommendation to find acts of non-compliance associated with the site plan. The Planning Board accepted the Applicant’s proffer, including correction of lot sizes and setbacks, a payment of \$50,000 to the HOA, \$100,000 fine to be paid to M-NCPPC and re-design of Block T that originally included multi-family units.

B. 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 as part of 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 (See Data Table on Page 34)

All of the above-mentioned compliance program issues are being addressed and resolved with the Site Plan Amendment.

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 reforestation areas, and picnic shelters, and (3) make a \$50,000 contribution to the Clarksburg Village Homeowners Association (HOA) fund and pay a fine of \$100,000 to the M-NCPPC.

The following summarizes the respondent’s actions for compliance with the additional corrective measures required by the Planning Board:

(1) Plan Improvements

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.

The revised site plan proposes a better integration of various dwelling types in Blocks P, U, and T. The Plan has been substantially modified to reflect an alternative design for the entire section of Block T/V by eliminating 4 multi-family buildings (total 48 units), and adding 21 detached homes and other dwelling types, such as the one-family attached units and townhouses. The revision also includes the relocation of the two-over-two units (2 buildings) closer to Foreman Boulevard. The revised layout of Block T and new Block V provides a better green space network throughout the block, which connects the units with the surrounding greenway open space, and reduces the density by 41 units. Some of the units originally located in Block T/V will be relocated to Blocks P and U to provide a better mix of detached units and townhouses. The overall reduction for the Phase I section of development is 24 units. The original breakdown of units 933 dwelling units (471 one-family detached dwelling units, 414 townhouses (inclusive of 44 MPDU townhouses and 48 MPDU multi-family units in four buildings, all of which were MPDUs) and 144 TDRs. The “A” amendment increased the total yield to 997 dwelling units, with 64 additional townhouses and two-over-two units. The current proposal consists of 515 one-family detached, 322 townhouses, 4 one-family attached with connection details, 108 one-family attached (2 over 2), and 24 multi-family. The following indicates the breakdown of units in Block U, P and T from the original site plan through the two amendments:

	8-03002	8-03002A	8-03002B
# MPDUs	92	108	132
# TDRs Required	144	137	145
Unit Counts:			
SFD	471*from opinion	481	515
SFA		36	112
Town Homes	414	408	322
Multi-Family	48	72	24
TOTAL	933	997	973

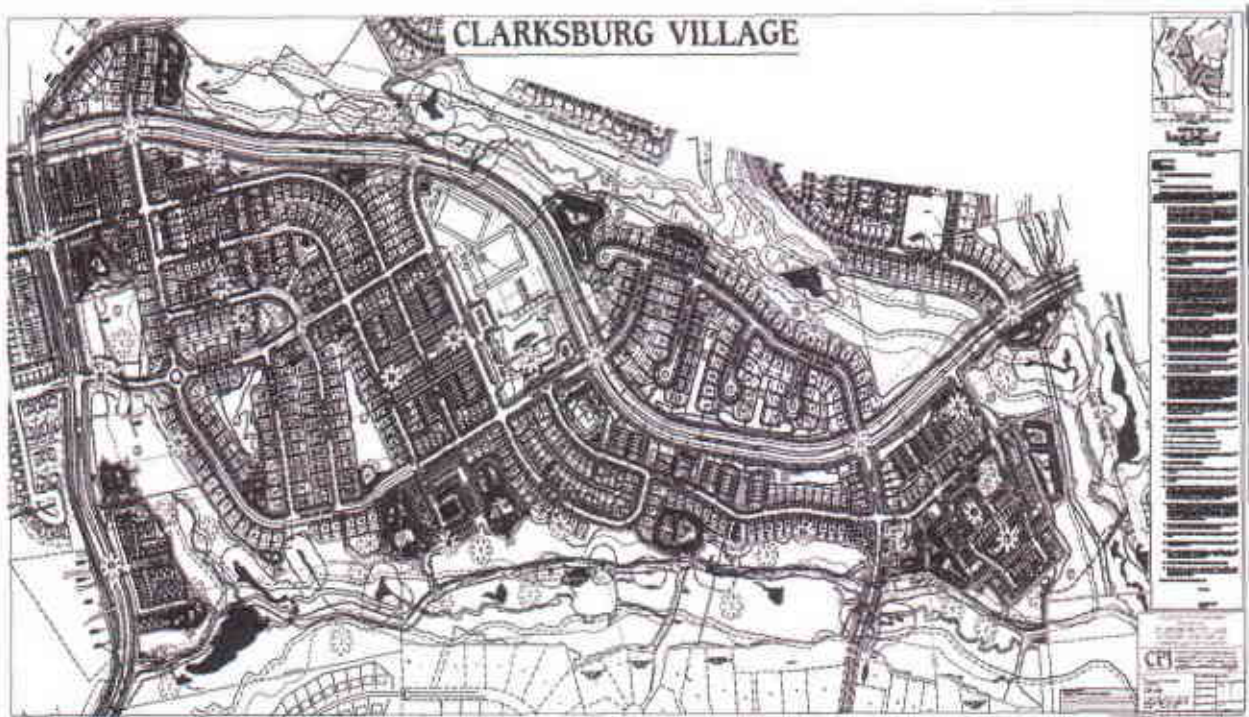
(2) Additional Amenities

The Planning Board directed the respondent to provide additional amenities and park facilities, larger trees along the public roads, additional plant materials in the reforestation areas and three picnic shelters throughout the Phase I portion of the development.

(3) Payments

The Planning Board required the respondent to make a \$50,000 contribution to the Clarksburg Village Homeowners Association and pay a fine of \$100,000 to the M-NCPPC. These costs were in addition to the plan revisions, which include the loss of units and overall design improvements.

The Applicant paid the fine of \$100,000 to M-NCPPC on October 10, 2006 and made the \$50,000 contribution to the Clarksburg Village Homeowners Association on October 10, 2006. The receipts for each deposit are included in Attachment G.



C. Summary of the Proposed Amendment to the Original Site Plan

The original site plan application (820030020) was approved by the Planning Board on July 31, 2003 for Phase I of the Clarksburg Village development for 471 one-family detached units and 414 townhouses, including MPDUs and TDRs. An opinion was issued on December 18, 2003. The signature set was approved on August 8, 2004. The site plan was amended (amendment "A") to include revisions to Phase I and inclusion of additional properties and units for the overall development.

The current "B" amendment to Clarksburg Village was initiated by the Applicant on May 5, 2005 due to multi-family units proposed within the R-200 Zone; a use not permitted in the zone by right or by special exception. Pursuant to the revision to the units in the zone, the amendment further requests clarifications to the approved development standards, conformance with as-built conditions and changes to the site plan initiated by the Applicant and other agencies.

The Applicant has attended numerous meetings with representatives of the Clarksburg Civic Association, along with M-NCPPC in Clarksburg to listen to concerns by the residents for discrepancies in the plans, future improvements and the timing associated with the improvements and assurances that issues related to height and setbacks would not be incurred on this development.

The Applicant prepared a composite plan that identified the specific areas to be amended, along with a corresponding letter dated October 12, 2006 (Attachment E) that provides a narrative of the change. Elements of the plan changed from the October 12, 2006 letter based upon direction from Staff, including an increase in the number of MPDUs, unit mix and changes to Blocks T, V and P. The following narrative identifies the requested changes to the approved plan in bold, numbered 1-29, followed by a point-by-point response of why the change occurred; who initiated the change and the recommendation by staff:

1. **The entire Block "T" has been redesigned. The multi-family units have been eliminated. The number of single-family attached units (2 over 2 style) increased by 58 units. The number of MPDU's for Phase One increases from 108 to 118 units. We request the condition to withhold market rate building permits until Phase Two MPDU construction be either removed or reduced to 65 market units.**

The original site plan approved four multi-family buildings in the R-200 Zone in the southwestern quadrant of the Phase I development. The zoning lines and boundaries were not identified as part of the approval process. The four buildings included 48 MPDUs.

The Applicant is removing the multi-family buildings and replacing them with a mix of one-family attached, detached and townhouse units, in order to comply with the split-zoned section of the site. The allocation of units changed from a total of 191 units in Block T to 178 units. The multi-family units were eliminated and will presumably be integrated into the Phase II portion of the site.

The total unit change for Phase I between #82003002A and #82003002B is a decrease in 24 units from 997 units to 973 units. Final unit mix and count resulted from the requirements outlined in the Plan of Compliance and recommendations from several agencies. Unit changes were concentrated in the following blocks: Block G, H, P, T, U, V. The table below summarizes the change in the number of units from the "A" amendment site plan to the "B" amendment site plan for Clarksburg Village.

Block	Net Unit Gain (Loss)	Remove	Add	Reason
T (&V)	(41 Units)	48 Condos 72 TH	21 SFD 58 SFA	Plan of Compliance
P	12 Units	10 SFD	20 TH 2 SFD	Plan of Compliance
U	8 Units	7 TH 2 SFD	14 SFA 3 SFD	Per direction of DCHA; DPWT; M-NCPPC
G & H	(3 Units)	3 SFD	0	Plan of Compliance
TOTAL	(24 Units)			

Staff recommended design changes to Block T/V to incorporate additional green space, windows to the Greenway Trail, mix of units to include one-family detached units with less emphasis on the parking areas. A detail is included on page 40 of the Landscape and Lighting Plans for the one-family attached units, which satisfies the criteria of the definition for the type of unit. The detail includes individual front and rear yards, useable for the occupants, within the two-over two units and includes dimensions, planting details and ornamental fencing.

Staff further recommended a minimum of 10 percent of the unit mix for Block T and V to be designed for one-family detached units. The old T block (new T and V block) lost 41 total units. The previous Clarksburg Village Signature Set called for 219 units in block T. The 219 units were a mix of condos and town homes. The Plan of Compliance required the redesign of block T. With the redesign, the Applicant lengthened Turtle Rock Terrace, a public street. Lengthening Turtle Rock Terrace split the T block into two separate blocks, T and V. After the redesign, the combined unit total for the T and V blocks is 178 units. Additionally, the Applicant relocated the two-over-two units to front onto Foreman Boulevard and Turtle Rock Terrace, placing the surface parking for the non-garage units to the rear of the site. A linear internal greenway linking Snowden Farm Parkway (A-305) and the Greenway was also integrated into the design of this block, creating a visual and functional pattern. The re-design of Block T satisfies the requirement set forth in the Plan of Compliance.

Block P gained 12 units. Block P originally consisted of single-family detached units only. The Plan of Compliance required the redesign block P to include a variety of unit types. Specific staff direction was to incorporate one-family detached homes with town

homes. As a result, ten one-family detached units were eliminated and 20 additional town homes were included in this block. Two additional one-family detached units were added along Foreman Boulevard to increase compatibility with one-family detached units across the street.

Block U gained eight units. The Department of Housing and Community Affairs required the applicant to treat Clarksburg Village - Phase I as a stand-alone development (i.e., act as if Phase II were never built). Consequently, the Applicant added 14 additional MPDUs in Block U by eliminating seven town homes and building 14 one-family attached units in their place. This change netted a gain of seven units in Block U. In addition, two one-family front loaded garage units were removed from Foreman Boulevard and replaced with three one-family detached alley loaded garages, for a gain of one unit.

Blocks G and H lost three units to ensure that all remaining lots comply with development standards set forth in the R-200 MDPU zone.

All of the changes have been incorporated into the subject amendment.

- 2. The location of the trails within the Greenway has been adjusted so as to minimize the impact to the environment. The amount of boardwalk for the trail has been revised to match the actual wetlands. This has been field verified with the Parks Department.**

The approval of the original site plan allowed for field changes to the location of the Greenway Trail in order for the Applicant and M-NCPPC to verify and modify the location based upon existing environmental conditions, such as wetlands. Staff met with the Applicant on numerous occasions to delineate the overall alignment and to ensure that the trail followed the sewer alignment in order to minimize tree clearing. The amount of wetlands was actually less than originally shown based upon current conditions, allowing the boardwalk to be decreased through the field meetings.

The original condition reads as follows:

“Applicant to construct an 8-foot-wide asphalt/boardwalk hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the route established by the Clarksburg Greenway Facility Plan and be constructed to park standards and specifications. The Applicant will provide necessary bridges and boardwalk per the Facility Plan.”

The Applicant made the necessary field changes prescribed by DPS and Staff in order to facilitate park standards and the Clarksburg Greenway Facility Plan. The Applicant included the change to the trail as part of this amendment to minimize environmental impacts based upon existing field conditions and illustrate that field changes are necessary to a project of this magnitude. The as-built conditions are acceptable to Staff

based upon field visits to address the final location of the trail connections and the amount of boardwalk.

The approved final forest conservation plan has been modified to incorporate a different limit of disturbance based on the most appropriate location for the hard surface trail that connects the Clarksburg Village and Greenway Village developments. The modifications are the initiative of the developer. M-NCPPC Environmental Planning staff and the DPS stormwater management reviewer met with the Applicant in the field to determine the most appropriate location for the Greenway Trail. Environmental Planning staff agrees with the requested change because it provides a better stream crossing location and avoids wetlands. The proposed amendment to the forest conservation plan expands the limits of disturbance to include areas designated for vernal pools. The vernal pools will be created and used for stormwater management from the hard surface trail. Creation of the vernal pools will not clear forest. There is an existing berm that will be expanded in order to hold the water in the vernal pools. Environmental Planning recommended approval of this modification citing that the proposed additional forest clearing of 0.02 acres may actually result in less forest clearing than originally proposed; and the expansion provides an alignment across the stream that is easier to construct and is further from a stream meander.

- 3. The pool area and the associated clubhouse have been revised based on the final architecture and pool footprint. The shade pavilions have also been relocated. All recreational amenities remain. Diving boards have been removed.**

The footprint of the clubhouse building changed based upon Montgomery County Department of Permitting Services' comments. However, the comments were predicated by the Applicant's desire to upgrade facilities in the lower level and a clubroom on the upper level, for the benefit of the residents. The increase in size required the Applicant to add a secondary handicap access to the upper level and provide a second means of egress from the 2nd floor. The overall size of the pools and deck remained the same; however, the configuration of the pools changed due to architectural revisions to the clubhouse. The change in location included the shade pavilions as well.

The permit application for the clubhouse was issued on September 26, 2006, following the Board's approval of a corrective order that included the pool facility. The permit for the pool was issued on January 4, 2007. The pool is currently under construction. The revised design was accepted by the staff and is shown on the pending "B" amendment. The amendment is requesting the changes to the footprint, which will also required modifications to the exterior for landscaping, lighting and paving treatments.

As part of the Compliance Program for Clarksburg Village-Phase I site plan, the Planning Board authorized the staff to approve changes to the design of the proposed pool and pool house. The applicant slightly modified the footprint of the pool house, the shape of the deck, and associated landscaping. The revised design was accepted by the staff and is shown on the subject site plan amendment.

Staff recommends approval of the changes based upon improvements to the overall facility and due to the fact that the recreation guidelines are not being diminished.

4. Revisions to the street tree species and spacing have been updated based on MCPDS comments through the approval process.

The types of tree species and the appropriate tree spacing have been an on-going dialogue between M-NCPPC and DPS/DPWT for trees within the county rights-of-way. The M-NCPPC required the Applicant to utilize the Clarksburg Streetscape Guidelines, which do not entirely adhere to the DPWT standards. During the 2003 hearing, Staff informed the Planning Board that street tree spacing would vary from 40-50 feet in order to complement design programs. Street trees in the neo-traditional area of the site, such as the entry areas from Stringtown Road, would be 40 feet on center, and in the conventional suburban portion of the site, they would be 50 feet on center. The condition for street tree spacing calls for "40-50 on center". Furthermore, the certified site plan/landscape plan does not reflect the spacing in the condition.

The as-built conditions are not entirely consistent with the 40-50' spacing, due to required distances from driveways and intersections, manholes, structures, fire hydrants etc.; although, in most cases 45' to 50', or more applies. The species that have been installed on many of the public roads are a cultivar of the Red Maple. The plans approved October Glory Red Maples, which are similar in shape and spread to the Red Maple, even though the cultivar is not on DPW&T's approved list. The Applicant is attempting to get DPWT to accept substitutions that are more in keeping with the approved species.

The issue of spacing and species being selected affects all public streets, not just Snowden Farm Parkway.

Staff recommends a consistent spacing and species (40 feet minimum and October Glory Red Maples) originally intended for the neo-traditional section of the development and up to 50 feet spacing with the same tree species for the more traditional segment of the development. Staff also recommends that DPS and DPWT be part of the agreement, in writing, if a change is requested to the species. Staff understands that spacing becomes a practical assessment by the contractor and inspector due to physical constraints; however, judgement should be made by the collective parties to move the trees, if applicable, in order to keep the minimum 40-foot spacing in tact.

5. Street grades have all been adjusted per the approved MCDPS street grades.

The M-NCPPC reviews and approves initial street grades for a development. MCDPS approves the street grades, which are the final grades determined with the Street Grade Plan. The Street Grade Plan is a document that shows plan and profile views for all public streets. The Street Grade Plan does not establish the grades for the private streets. The alignment of the roads is reviewed and approved by M-NCPPC, DPS and DPWT during the preliminary and site plan process.

The elevations approved during the Street Grade Plan typically change the final grades/elevations of the finished floor elevations for the units due to final engineering. The height of the buildings is regulated by either the street grade or finished grade in front of the units, depending on the distance of a proposed unit from the street.

Staff recommends that the Board accept the street grades as revised by the Street Grade Plan and implement the maximum heights of the building based upon the final grades and in accordance with the definition governing the measurement of height. An overall building height plan and exhibit is incorporated in the Certified Site Plan package, identifying the maximum heights for each unit type and their locations for measurement.

6. **The stormwater management ponds and stormwater management devices have all been revised based on final approval plans and comments from MCDPS. In some instances these revisions have necessitated relocating the maintenance access locations, causing the relocation of benches and moving pathway locations. In other cases grades in parking areas have been modified in order to increase cover over the facility. Other changes required retaining walls to be modified. Some of the MCDPS revision required stormwater management easements to be moved affecting some of the forest conservation easements. In these cases the Applicant has revised and resubmitted the final Forest Conservation Plans to the Environmental Planning Department of MNCPPC. A small parcel adjacent to the Park site containing underground SMQ will be conveyed to the HOA.**

Individual cells within the stormwater management facilities changed due to reviews by the Department of Permitting Services during the plan review and approval as well as the construction process. The changes affected the access for maintenance and many of the site elements such as retaining walls, benches and pathways near the facilities. Notwithstanding, the change in the overall shape and design of the structures prompted changes to the site grading and impacts to the forest conservation easements that abut many of the structures.

Any change to the stormwater management facilities adjacent to forest conservation areas requires a change to the approved forest conservation plan to account for impacts to the forested areas and thresholds permitted for clearing. Additionally, the site is subject to final water quality review and approval for any changes to impervious coverage, grading and clearing of forested areas.

DPS and M-NCPPC Staff has re-evaluated the impacts to the forest conservation easements due to changes in the stormwater management facilities. Stormwater management and the comprehensive changes to the site plan have been reevaluated by M-NCPPC and DPS and reconfirmed the final water quality approval for Phase I only.

Additionally, in the future, the Applicant and the county agencies need to better inform the M-NCPPC regarding changes to facilities that directly impact the site plan and associated elements.

7. **The general notes and data table have been updated so as to clarify and correct the design standards as they pertain to unit type, building heights, setbacks, mews and single family attached units. Building restriction lines have been labeled on every lot for further clarity. Building heights and lot coverage are being specifically established for each lot in the R-200/TDR zoned land.**

The original site plan and subsequent amendment did not adequately address the development standards for each use in the supporting zones. The May 4, 2006 and May 11, 2006 hearings for alleged violations requested additional information with respect to setbacks, mix of uses and classification of uses.

The Plan of Compliance outlined specific and complete development standards for each use and the pertinent zoning ordinance development standard for each zoning category. The amended data table and development standards are included in the staff report on page 34 and are incorporated into the Certified Site Plan. Staff required the Site Plan Amendment to incorporate development standards for individual lot sizes, setbacks and maximum height for each unit type and structure.

8. **Grades at the ball fields and at the school/park site have been raised to provide better play fields. The area with underground SWQ facilities will be dedicated to the HOA. Additional park facilities have been added as required by the Compliance Program approved October 5, 2006.**



Snowden Farm Parkway (A-305) was sited higher than the ball fields during the site plan review due to overall road grades for the entire Phase I development. During the review and approval of the Street Grade Plan, the Applicant raised the street elevation to decrease the swale between ballfield and the PUE (swale in between). The changes to the ball fields were initiated by the Applicant to crown the fields and to provide better drainage; however, any changes or modifications to the school/park site will need to be processed through a park permit and facility planning with the Board of Education.

The M-NCPPC Parks Development Staff and the Board of Education has indicated their acceptance of the changes with minor adjustments that have been incorporated into the amendment.

Staff recommended the following adjustments to the Park School Site, directly off of A-305 (Snowden Farm Parkway) to be done by the Applicant: "grade entire site; surface with topsoil and fine grade to a maximum of +/- 6 inches over 100 feet; seed as appropriate for ball field cover; and provide for stormwater quantity control for the entire park/school site." Staff

also recommended re-orientation of the two ballfields as shown on the attached sketch. The park site will also include a picnic shelter (22' x 22') and 57 parking spaces. In addition to the fields and shelter, the parking and shelter area includes shade trees and perimeter shrub planting.

9. Revise the forest conservation easement.

Many of the proposed changes to the final forest conservation plan are a result of final review and approvals of stormwater management facilities by the Department of Permitting Services, final review and approvals of roadway elevations by Department of Public Works and Transportation and the Department of Permitting Services, and final review and approval of sewer alignments by the Washington Sanitary and Sewer Commission.

Environmental Planning recommended approval of the amendment to the final forest conservation plan, as submitted, except for the reconfiguration of Pond "T" on the Brickley Property. Environmental Planning recommended reconfiguring pond "T" to keep the facility outside of the environmental buffer as originally approved and as conditionally approved in preliminary plan 120010300. Environmental Planning recommended complete reforestation created by locating the sewer line in the environmental buffer along forest save 32. Environmental Planning recommended approval of the stormwater management facility located in the environmental buffer that treats stormwater from Stringtown Road only after the preliminary plan of subdivision was amended to add this facility to the list of facilities permitted in the environmental buffers. All of the recommendations have been incorporated into the "B" amendment.

10. Revise the elevations of some of the units due to final architecture, site drainage and revised street grades.

The revised elevations indicate the actual grades on the individual houses at the time of building permit review. These elevations indicate as-built conditions. The topographical elevations of some of the lots have changed due to final street grades being approved by DPS. The final architecture is different due to the varying finished floor elevations. Because the unit may have been a deeper unit requiring different grading, the as-built elevations are different than the approved site plan.

Staff recommends approval of the changes to the elevations due to the changes to the grades.

11. Changes to the right-of-way for portions of Granite Rock Road, British Manor Drive, Bent Arrow Drive and Robin Song Drive to accommodate modified MC-210.03 standards. The Applicant is requesting a reduction of the right-of-way for 8 one-family homes for compliance with the zoning ordinance, abandonment of a portion of the right-of-way for lot 13, Block G to be included in the lot and waiver of the public street frontage for 13 one-family lots.

The Applicant is addressing non-conformance to the required development standards for lot size and setbacks to the above-noted lots. These were a primary focus of the compliance hearing within the Phase I development. The developer was found to be in violation for constructing units that did not conform to the development standards for one-family detached and one-family attached units. The new square footages are shown on the amended site plan and are in conformance with the lot sizes in the R-200/MPDU Zone. DPWT has agreed to reduce the existing right-of-way from 50 feet to 27'4" to accommodate this. The area that was right-of-way was converted to an outlot for the benefit of the individual owner and the HOA. The pavement width remains the same and the PUE/PIE and sidewalk are included within the outlot to allow for continuous public access.

The Applicant applied for an abandonment on December 28, 2006 of the existing right-of-way from the County Council for Granite Rock Road, British Manor Road, Bent Arrow Drive and Robin Song Drive. A waiver to the public street frontage for lots 50-52 (Block F), lots 39, 24, 25, 50 (Block G), lot 10 (block H), lots 10, 30, 31, 32 (block K) and lot 10 (block L) was requested with the preliminary plan amendment to accomplish this procedural change. The Board approved the Preliminary Plan on February 11, 2007.

12. Correct the right-of-way for Foreman Boulevard from 70 feet to 80 feet to match the approved Clarksburg Master Plan.

Due to the additional 10 feet of right-of-way specified in the Preliminary Plan for Foreman Road, the Applicant needed to revise the road width in the site plan and modify the front lot line for those 4 single family detached lots on the northern boundary of the road (lots 98, 147 Block U and 1, 2, 3, 44 and 45 in Block P). The increased area did not change the side and rear lot lines; however, the additional 5 feet of right-of-way did come out of the homeowners' association property on Block T and V. This was an issue that was addressed by the Plan of Compliance with specific recommendations by Staff to make certain modifications to the site plan through the subject amendment process, and be subject to penalties for the mistake made by the Applicant.

Staff recommends the site plan reflect the additional ten feet of right-of-way.

13. Propose an equivalent play equipment consistent with the M-NCPPC Recreation Guidelines.

The approved site plan specified certain play equipment by a specific manufacturer based upon staff review of the plans during the site plan process. Recreation equipment, including the details and specifications of the equipment, is provided on the plans to establish conformance with the M-NCPPC Recreation Guidelines. The Guidelines are based upon a point system for demand (quantity and type of residential unit) and supply (type of equipment being proposed) to establish a minimum threshold. The Applicant, through the site plan process, proposes equipment that meets the criteria based upon the demand/supply point totals.

The Applicant proposed equipment that was later changed but similar in style and consisting of the number of activities associated with the particular type of equipment. The equipment included the note "or approved equal" next to the detail, allowing the Applicant to substitute the referenced equipment for a different model or style, or simply because the specified model was not available anymore. The Applicant also chose a different manufacturer from what was approved on the plans.

Staff acknowledges the recreational facilities proposed may be different from the approved plans, but meet the criteria in the M-NCPPC Recreation Guidelines for safe fall zones, number and quantity of materials and adequate base material. The recreation chart was amended to include the type of equipment proposed for each area of the site. Staff recommends that substitutions should be permitted to allow for model changes, different manufacturers and styles of equipment, however, any changes need to be approved by Staff to verify that the criteria in the M-NCPPC Recreation Guidelines have been met. A substitution request with the appropriate forms needs to be completed by the Applicant and approved by M-NCPPC in advance of changes to the equipment specified on the approved plans.

14. Resite the two-over-two units in Block "U" adjacent to Pond "T" further back from the sidewalk.

Staff requested larger front yards for the two-over-two units to compensate for the small size of the rear yards, primarily in Block T and for some of the units along Stringtown Road. The change does not affect any existing units adjacent to the proposed two-over-two's. Additionally, the larger yard areas were intended to satisfy the criteria for one-family attached units, which requires an abutting ground level outdoor area for the exclusive use of its occupants. The lot areas are being appropriately designed to define the outdoor area.

Staff required a typical detail of the two-over-two units be provided on the site plan referencing compliance with the definition for one-family attached units and the specific criteria for the useable outdoor area. The detail is pertinent to the approval in order to ensure that these units are not defined as multi-family, a use not permitted in the underlying zone.

15. Provide mailbox cluster locations on the site plan.

Mailbox clusters are typically required by the post office for all townhouse and multi-family units. The locations of the mailbox clusters were not shown on the original site plan. The Applicant coordinated with the U.S. Postal Office to place the cluster boxes in convenient locations for the residents to accommodate more convenient delivery and community gathering area for the residents. It is Staff's understanding that the USPS decides where mailbox clusters are located based upon criteria relevant to the housing conditions, such as number of units concentrated within a specific area and access to the clusters.

The amendment identifies the locations of the existing mailbox clusters and places the proposed mailbox clusters in areas identified by the USPS based upon their criteria. Staff believes that many of the clusters are located in poor areas that conflict with pedestrian circulation and are not attractive in the locations selected. Staff also believes that the clusters should be located in areas that support pedestrian circulation, and foster activities associated with their locations such as tot lots, seating areas and common green areas.

Staff recommends that the existing mailbox clusters incorporate architectural treatments or landscape treatments that will give the chosen locations a sense of identity. The treatment should be carried over to the un-built portions and possibly to the Phase II portion of the development. Staff also believes that certain criteria should be established in order for the Applicant and USPS to decide on the best locations during the construction process, such as near recreation facilities, green areas or common gathering or seating areas near the more intense uses. The mailbox clusters should not be located in parking lot islands or in areas where there is no pedestrian access. Attractive pad sites and settings should be established for the cluster boxes.

16. Provide entrance monument signs on the site plan.

The locations of the monument signs were not shown on the approved site plan, nor were details of the signs presented as part of the overall approvals of the site. The monument signs are proposed to be constructed in key locations that demarcate and identify entrances to Clarksburg Village.

Staff was sensitive to the signage issue and wanted identifying features at key locations and entrances to symbolize a village concept within the overall development. This concept is different from the traditional curving walls and monumental features associated with many suburban stand-alone developments.

The amendment identifies the markers and signs designed for key locations within Clarksburg Village. The markers are to be designed as stone monuments with precast caps. A detail has been provided on the plans. The amendment incorporates associated plant materials, lighting and material integral to the design and aesthetics of each monument feature.

Staff recommends approval of the monument signs and markers as shown on the site plan.

17. Provide the R-200 zoning line on the site plan.

The approved site plan dated August 9, 2004 did not include the zoning boundaries for the R-200 and R-200/TDR-3 Zones and no distinction was made in the development standards for the separate zoning categories.

The Applicant has provided the zoning boundaries on the amended site plan with the appropriate acreage breakdowns, density calculations and development standards for each

zoning category. Due to the nature of the amendment, the indication of the zoning boundaries is crucial in determining specific unit types within each zoning category and established specific development criteria pertinent to the specific uses.

18. Comply with Fire and Rescue comments with regard to pavement width, access, radii and turning movements.

The Office of the Fire Marshall did not provide comments during the review process of the original plan, resulting in road widths, radii and termini that did not comply with the NASD standards used by the Office of the Fire Marshall. However, the Fire Marshall's comments were directed toward the Applicant during the building permit stage and construction of the units, resulting in changes from what was shown in the site plan. The Applicant has met with the Fire Marshall and received approval for the existing conditions and for the overall amendment to the site plan for Phase I. (see attached letter dated December 4, 2006-Attachment F)

Staff understands that review by the Fire Marshall did not occur on many aspects of this and other projects covered by a site plan and recommends that the Applicant incorporate the required modifications to the plan, many of which have already occurred or been implemented.

19. Adjust the lot lines for lot 29L and 30L to comply with minimum lot standards.

The plan of compliance required establishment of minimum lot standards in accordance with the zone and specified on the approved site plans.

Staff recommends that the lot lines for the specified lots be modified to meet the current zoning standards for minimum lot widths and file a plat of correction to record the change.

20. Provide the stormwater management facility for the Stringtown Road widening.

This change was initiated by DPS within the confines of the conditions associated with the Final Water Quality Plan approval. The facility in question, which is part of the Stringtown Road widening, was not reviewed by DPS during the Town Center review for improvements to the road, nor was it reviewed during the Clarksburg Village site plan review. The revised Final Water Quality Plan addresses the need for the facility along Stringtown Road, which would initiate an encroachment into the forest conservation easement. Any encroachment into the conservation easement would require an amendment to the site plan and a revision to the approved preliminary plan.

The Preliminary Plan included specific language for encroachment into the stream valley buffers for outfalls and grading due to stormwater management facilities. The facilities that were allowed to encroach into the easement were spelled out in the conditions, and the facility associated with the Stringtown Road widening was not among them since it was not reviewed as part of the original plan.

The revisions to the forest conservation plan are included in the amendment to the site plan.

The applicant is required to “dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage”. Newland Communities, the Town Center developer is constructing Stringtown Road. Reluctantly, the applicant has provided stormwater management for Stringtown Road on their property that is outside of the public right-of-way.

The forest conservation plan submitted for amendment shows a stormwater management facility, in the environmental buffer between forest save areas 34 and 35, near the Stringtown Road stream crossing. This stormwater management facility is not located on either the approved site or final forest conservation plans. The proposed amendment to the forest conservation plan also shows an enlarged pond “T” with part of the dam in the environmental buffer. The approved forest conservation plans shows this facility entirely outside of the environmental buffers. The location of the stormwater management facility that is entirely within the environmental buffer and the enlargement of pond “T” in the environmental buffer contradicts condition 12 of the September 12, 2002 Planning Board opinion for preliminary plan 12001030. This condition permits only limited encroachment into the environmental buffer for a select number of stormwater management facilities.

The stormwater management facility located along Stringtown Road near the stream is not one of the stormwater management facilities permitted in the stream buffer. The facility needs to be at the lowest point possible to treat runoff from Stringtown Road and the only location where this can occur is within the environmental buffer. DPWT is allowing limited stormwater management for the roadway to occur within the public right-of-way. In order for this pond location to be approved there must be an amendment to the preliminary plan of subdivision. Environmental Planning staff recommends approval of the location of the stormwater management facility between forest save areas 34 and 35 only after condition 12 of the preliminary plan of subdivision is amended to include this facility on the list.

In the same area, the WSSC sewer line is realigned to be located inside and parallel to the environmental buffer. The forest conservation plan submitted does not show replanting in the clearing created for the sewer line. The approved final forest conservation plan shows the sewer alignment completely outside of the environmental buffer. Environmental Planning has agreed to this new location provided that the applicant reforests that portion of the WSSC easement that is within the environmental buffer.

Staff recommends changes to the forest conservation plan to reflect the revisions associated with revisions to Pond “T” and the WSSC sewer line.

21. Provide the street light locations for the private streets.

The Applicant provided a photometric plan with all of the light locations for fixtures on the private streets. However, the existing fixtures that were approved as part of the site plan were relocated in the field without modification to the approved plans.

The amendment requests that the Board adopt the as-built conditions of the existing light fixtures and recommend approval for the lights within the areas of the private streets and common areas.

Staff recommended that the fixtures within the private street areas be consistent with the as-built conditions in the recently constructed areas. Additionally, the existing fixtures have been evaluated through a photometric study as part of the "B" amendment for proper illumination, safety aspects of the fixtures adjacent to units and common areas and avoidance of negative glare from fixtures to roadways and adjacent properties. The photometric study will need to be revised as part of the final revisions to Block T and V for the change to the parking layout for the MPDUs on Foreman Boulevard and north-south pedestrian linkage.

22. Increase the number of TDRs required in Phase I from 144 to 146 (total number of TDRs required for overall development is 397) and reduces the number of MPDUs required from 400 to 398 based upon the total number of units.

An April 12, 2006 memo from Sharon Suarez, M-NCPPC, Housing Coordinator, identifies the total number of TDRs required for the project. The memorandum identifies that 137 TDRs are required for Phase I out of the total 399 required. As of January 2007, the plats for less than 1/3 of the lots have been recorded, while nearly 60 percent of the TDRs have been purchased.

The MPDU agreement between the Applicant and DHCA (The Department of Housing and Community Affairs) clearly indicate that a portion of the Phase I requirement can be constructed in the next phase of the development. The Applicant agreed to provide 15 percent MPDUs for the entire project. The original agreement permitted less than 10 percent (92 units) of the number of MPDUs to be constructed in Phase I. However, with this amendment, the total number of MPDUs to be constructed in Phase I equals 13.57 percent (132 units), which is approximately a 4 percent increase from the original amount.

The Applicant has reduced the number of units in Phase I from 997 to 973. Based upon the sliding scale for MPDUs in relation to density bonuses, the Applicant can reduce the overall number of MPDUs for the total project.

It appears that the Applicant is in compliance with the number and type of market-rate units and MPDUs, the number of lots recorded and the total number of TDRs. Based upon the total number of units built and under construction (343), the Applicant has

constructed 44 MPDUs (40 completed and 4 under construction), equaling 33 percent of the total number of units allocated to Phase I.

Staff recommends that the data table and general notes reflect the revised numbers based upon the updated number of units and actual densities achieved.

Staff also anticipates that the numbers will need to be revised again at Phase II, and subsequent phases, to account for the overall development.

23. Revise the lot size and setback from public streets to make specific lots (lots 10-14, block L, 10-13, 27, 29-36, block G and lots 6-9, block H) one-family detached lots.

The previous site plan approved one-family attached lots, that did not meet the minimum requirements of the R-200/TDR-3 Zone. In order to correct the deficiencies of the lot size and setbacks, the Applicant modified the adjacent street section to a modified tertiary, which, in reality only eliminates the portion of the right-of-way outside of the paved area. The remaining area that was previously platted as right-of-way is now proposed as an outlot. The outlot contains both sidewalk and the utility easements within the envelope of the outlot. Three lots were deleted within the blocks to accommodate the minimum lot standards. The maintenance of this area will still remain the responsibility of the County. The outlot for Lot 50, Block G (previously lot 13 G) will be deeded to the owner of the lot, while the remaining outlots will be deeded to the Clarksburg HOA. The setbacks for the affected lots can now be measured from the edge of pavement, which represents the new property line.

Staff recommends approval of the changes to the lots in question. The changes to the right-of-way and lot areas were modified with a preliminary plan amendment and will need new record plats.

24. Revise the bike path location from Snowden Farm Parkway to the Greenway Village Property.

The bike path that connects the north side of Snowden Farm Parkway to Phase I of Greenway Village was relocated in order to minimize wetland impacts. Grading was revised to accommodate the new path location. In addition to the path relocation, the Applicant has constructed a wall that is key to the revised grades. The maximum height of the wall is slightly less than six feet and will include a split-rail fence at the top of the wall for safety and landscaping at the base and near the location of the fence.

Staff accepts the as-built location of the retaining wall to accommodate the revised path location and the addition of a fence and landscaping.

25. Revise the sidewalk terminus and locate benches facing the open space area.

The sidewalk terminus was revised and the benches were reoriented in the open space area near Wren's Nest Lane. The Applicant prompted the revision during construction to assist with pedestrian circulation and to accommodate better use of the space.

Staff recommends approval of the changes to the sidewalk and bench locations.

26. Provide the location of the WSSC easements on the site plan.

The original site plan did not provide all of the locations of all of the WSSC easements and some of the easements were relocated during the construction of the project by WSSC. Staff recognizes that changes are required by other agencies during construction; however, all changes need to be approved by M-NCPPC prior to activity to ensure that the revised easement locations don't interfere with aspects of the approved plan. The changes to the easements did not affect the approved plans in terms of unit layout, although some of the changes did affect forest clearing addressed in this report.

Staff recommends approval of the changes to the easement locations.

27. Revisions to the conceptual grading on the park/school site.

This request is tied to amendment request No. 8 as part of the October 12, 2006 letter to further clarify the continuing dialogue between M-NCPPC Parks and the Board of Education to accommodate the needed ball fields, shelter and parking. Staff recommends approval of the changes as previously addressed in this report.

28. Provide two picnic shelters near the Greenway Trail.

As part of the Plan of Compliance, Staff recommended three additional shelters; two of which are located adjacent to the Greenway Trail, while the third is located in the Park/School site. The addition of the shelters provides for community gathering areas and sitting areas for users of the Greenway within the broader community. The first shelter is located closest to Block U, near Robin Song Court, and the second shelter is located at the southern terminus in Block T. The shelters are 16 x 16 feet in size (or 22' x 22' with 4 tables for the park/school site) and include 2 seating areas within the shelter. A detail is provided on the Landscape Plans.

Staff recommends acceptance of the additional shelters as part of this amendment.

29. Add twenty townhouses to Block "P". Eliminate eight single family detached units and add one single-family detached unit in Block U.

The design for Blocks P and U has been revised due to comments by Staff to incorporate one-family detached homes anchored on the ends of townhouse units to allow for design flexibility and unit mix. The unit mix of singles and towns is presently integrated well throughout the built portion of Phase I and should be continued in Block T and into Phase II. Staff accepts the modifications proposed by the Applicant.

D. STAFF RECOMMENDATION

Approval of Site Plan Amendment 82003002B to: 1) Remove 48 multi-family units in the southern portion of the site to accommodate the R-200 zoning line; 2) adjust the location of the trails in the environmentally sensitive areas to minimize impacts and to provide boardwalk to match the actual wetland limits; 3) revise the design and pool footprint of the pool area and associated clubhouse and relocate the shade pavilions. Remove diving boards; 4) revise the street tree species and spacing along Snowden Farm Parkway (A-305); 5) revise the street grades consistent with the MCDPS street grades; 6) revise the elements associated with the stormwater management facilities due to final engineering and revisions by MCDPS. The elements that necessitated the change to the approved stormwater management plans include: maintenance access locations, relocation of benches, relocation of pathways, site grading, retaining walls, and the relocation of swm easements that affected the forest conservation easements; 7) clarification of development standards in the data table and on the plans; 8) raise the grades of the ball fields at the school/park site; 9) revise the forest conservation easement; 10) revise the elevations of some of the units due to final architecture, site drainage and revised street grades; 11) clarify the connection detail for the one-family attached units; 12) correct the right-of-way for Foreman Boulevard from 70 feet to 80 feet to match the approved Clarksburg Master Plan; 13) propose an equivalent play equipment consistent with the M-NCPPC Recreation Guidelines; 14) resite the two-over-two units further back from the sidewalk; 15) provide mailbox cluster locations on the site plan amendment; 16) provide entrance monument signs on the site plan; 17) provide the R-200 zoning line on the site plan; 18) comply with Fire and Rescue comments with regard to pavement width, access, radii and turning movements; 19) adjust the lot lines for lot 29L and 30L to comply with minimum lot standards; 20) provide the stormwater management facility for the Stringtown Road widening; 21) provide the street light locations for the private streets; 22) increase the number of TDRs required in Phase I from 144 to 152 (total number of TDRs required for overall development remains the same) and reduce the number of MPDUs required from 400 to 399 based upon the total number of units and 23) revise the lot lines and setbacks for lots 29-36, block G and lots 6-8, block H, from the public streets and reclassify the units as one-family detached units, in the R-200 Zone with the MPDU option and R-200/TDR-3 Zone on approximately 333 acres; 24) Revise the bike path within Parcel B and F connecting Snowden Farm Parkway; 25) Revise the sidewalk terminus and benches in the open spaces; 26) provide the WSSC easements on the plans; 27) revise the grading on the Park/School site; 28) provide the two shelters near the Greenway Trail; and 29) change the townhouses and one-family detached units in Block P.

All site development elements as shown on Clarksburg Village-Phase I plans stamped by the M-NCPPC on February 27, 2007, shall be required except as modified by the following conditions:

1. Preliminary Plan Conformance
The proposed development shall comply with the conditions of approval for Preliminary Plan (12001030C) as approved by the Planning Board on February 11, 2007. [Attachment B].
2. Plan of Compliance
The proposed development shall comply with the recommendations of the Plan of Compliance as listed in the Staff Report dated September 26, 2006 [Attachment C].

3. Site Design
 - a. Provide a minimum 20-foot-wide separation between townhouse sticks and two-over-two units.
 - b. Revise the detail of the useable space attributable to the one-family attached units. The detail must provide a minimum of 15 feet of useable space from building face to front yard and rear yard; front and back for the two-over-two units to comply with the definition and criteria for one-family attached units.
 - c. Provide a minimum of 8 feet between end townhouse units.
 - d. Cluster mailboxes shall be located in a central area so as not to interfere with pedestrian circulation and shall not disrupt the design of the community spaces in which they are located. The mailbox clusters in the privately maintained areas of the site shall include special paving leading from the street to the mailbox. The mailbox clusters in the public right-of-way shall include special paving, upon approval by the Department of Public Works and Transportation and/or Department of Permitting Services.
4. Landscaping

Provide additional ornamental planting around the seating areas by the linear walk in Block T/V.
5. Streetscape

Provide street trees at a minimum spacing of 40 feet on center and a maximum spacing of 50 feet on center, except where physical site improvements do not allow for the spacing. Any deviation from the minimum standards need to be approved in writing by DPS, DPWT and M-NCPPC, if the spacing exceeds the minimum standards due to physical site improvements.
6. Lighting
 - a. Provide a revised lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.
 - b. All on-site light fixtures located within the HOA common areas, exclusive of the public street rights-of-way, shall be cut-off fixtures or equipped with shields, refractors or reflectors.
 - c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
 - d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting adjacent residential properties.
 - e. The height of the on-site light fixtures and poles shall not exceed 15 feet including the mounting base.
7. Recreation Facilities
 - a. The Applicant shall provide the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
 - b. The Applicant shall provide the following recreation facilities: (31) picnic/sitting areas, (1) indoor community space and (1) indoor fitness facility. (31) picnic/sitting areas, (4) tot lots, (3) multi-age play facilities, (2) open play areas (type II), (2) regulation soccer fields, natural areas and trails as well as a two swimming pools and a wading pool within the clubhouse area.

8. Park Development

The applicant shall comply with the original conditions of approval dated July 26, 2001, except as modified by the following conditions of approval from M-NCPPC- Park Planning and Stewardship, Department of Parks, in the memorandum dated February 28, 2007 [Attachment F]:

- a. Dedicate to M-NCPPC the property within the delineated Clarksburg Greenway and as indicated on the Site Plan along Little Seneca Creek and Little Seneca Tributary. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris. Boundaries between parkland and private properties to be clearly staked and signed.
- b. Applicant to establish an Easement that grants to M-NCPPC the right to maintain the Greenway Trail, and grants to M-NCPPC and the general public the right to use the Greenway Trail, in those areas where the trail crosses HOA stormwater management parcels. Easement language to be acceptable to M-NCPPC park staff.
- c. Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway. Trail alignment for the portion of the Greenway Trail near the confluence of Little Seneca Creek and the Town Center Tributary to be determined at the time of permitting for the construction of Little Seneca Parkway/A-302. Greenway Trail should be shown on all plans with two alternative routes in this stream confluence area. The preferred route would continue through the Bradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the property owner. The alternative route would circumvent the Bradley property on land already owned by Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway. Greenway Trail and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant to obtain a park permit. Trails to be constructed or clearly marked prior to beginning construction on homes adjacent to the Greenway parkland.
- d. Construct Foreman Boulevard to allow for a grade separated crossing for the hiker/biker Greenway Trail. Construct trail crossing to accommodate the trail under the road without changing the natural location, configuration or composition of the stream channel, and locate trail to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream. Trail crossing to meet the following guidelines unless otherwise agreed to by M-NCPPC staff and Applicant. Trail/road crossing details to be submitted to M-NCPPC park staff for approval.
 1. Minimum clearance of 12 feet to accommodate rescue and maintenance vehicles.
 2. Tread or path width of 10 feet in constricted area under the road; 12 inch to 24 inch cleared area on either side of path.
 3. Locate above floodplain and use construction practices that best help convey water from the trail.
 4. Minimize length of tunnel and maximize light in the tunnel with wing walls, 45 degrees off centerline of trail.
 5. Provide at least a 2-½ foot head wall over the entrance to the tunnel.

6. Provide lighting where the trail length under the road exceeds 50 feet and follow guidelines in the latest AASHTO "Guide for the Development of Bicycle Facilities".
7. Minimize riprap requirement to stabilize stream banks outside the tunnel.
8. Use materials that deter graffiti and facilitate easy maintenance and cleaning.
- e. The school/park site off of Snowden Farm Parkway in the Phase I section of the project will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. The following recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved Compliance Program. Park facilities to be located on the proposed Park/School site:
 1. 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.
 2. A paved parking area for 57 cars to be located off Blue Sky Drive as shown on the approved site plan.
 3. 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.
 4. Adequate stormwater management for the facilities.
 5. 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.
 6. Paved trails between facilities, landscaping, water fountain and adequate park signage.
- f. 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.
- g. The entire school/park site to be conveyed to M-NCPPC at time of record plat for the area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.
- h. Applicant to obtain a Park Permit for construction of any amenities on dedicated parkland. Minor modifications to the agreed construction of amenities made pursuant to the Park Permit process or as agreed by the parties may be made without the need to revise or amend the approved Site Plan.
- i. Applicant to comply, at time of Park Permit, with the provisions set forth in Memorandum from Marian Elsasser of Park Development Division dated February 28, 2007.
- j. Applicant to comply, at time of Signature Set, with the provisions set forth in Memorandum from Linda Komes of Park Development Division dated March 1, 2007.
9. Transferable Density Rights (TDR's)
Prior to issuance of any building permit for Blocks T and V, the applicant shall provide verification of the availability of the required 397 transferable development rights (TDRs) for all phases of the proposed development and 145 TDRs for Phase I.
10. Moderately Priced Dwelling Units (MPDUs)
 - a. The Applicant shall provide 398 Moderately Priced Dwelling Units (15% of the total number of units [2,653] for Phases I and II of Clarksburg Village). Phase I shall

include 132 Moderately Priced Dwelling Units (13.57% of the total number of units [973] for Phase I), consistent with Chapter 25A.

- b. The amended MPDU agreement shall be executed prior to the release of any building permits for Blocks T and V.
- c. All of the required MPDUs shall be provided on-site.

11. Fire and Rescue

The Applicant shall comply with the conditions of approval from the Fire Marshall dated December 4, 2006 [Attachment F].

12. Transportation

The applicant shall comply with the original conditions of approval dated July 26, 2001, except as modified by the following conditions of approval from M-NCPPC- Transportation Planning in the memorandum dated June 8, 2006 [Attachment F]:

- a. The Applicant shall verify that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in the letter dated August 5, 2002 and confirmed in Transportation Planning's letter dated August 22, 2002.

13. Forest Conservation

The applicant shall comply with the condition of approval from M-NCPPC-Environmental Planning in the memorandum dated March 9, 2007 [Attachment F]:

- a. Comply with the conditions of approval of the final forest conservation plan submitted on March 2, 2007.

14. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated June 24, 2005, unless amended by DPS [Attachment F].

15. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. The Development Program shall include a phasing schedule as follows:

- a. All site features associated with each building as defined by the site plan dated February 27, 2007 shall be installed prior to the issuance of the permits as outlined below for each phase of the project.
- b. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- c. Local Recreational Facilities
 - 1. All Local Recreational Facilities shall be completed prior to the issuance of the 682nd building permit for the units in Phase I. The recreation facilities in Blocks O, P and U, including the two tot lots, multi-age play area, and four sitting areas shall be completed prior to the release of 155th building permit. (This number represents 70 percent of 221 units located in these three blocks).
 - 2. The recreation facilities in Block U (Brickley), including a tot lot and sitting area shall be completed prior to the release of 50th building permit. (This number represents 70 percent of 71 units located in this block).
 - 3. The recreation facilities in Blocks T, V and S, including the multi-age play area, open play area and four sitting areas shall be completed prior to the release of

141st building permit. (This number represents 70 percent of 201 units located in these three blocks).

d. Community-Wide Recreational Facilities

1. All Community-Wide Recreational Facilities shall be completed prior to the issuance of the 682nd building permit. Community-wide facilities in Blocks O, P and U, including the 16' x 16' picnic shelter and sitting area, pool, pool house and community center, shall be completed prior the issuance of the 155th building permit. (This number represents 70 percent of 221 units located in these three blocks).
2. Community-wide facilities in Blocks N, Q and R, including the 22' x 22' picnic shelter and tables, nature area and ballfields, shall be completed prior to the issuance of the 59th building permit (this number represents 70 percent of 84 units located in these three blocks).
3. Community-wide facilities in Blocks T, V and S, including the 16' x 16' picnic shelter and sitting area shall be completed prior to the release of 141st building permit. (This number represents 70 percent of 201 units located in these three blocks).

e. The stamped concrete path, on-site landscaping and lighting in Block T and V shall be completed prior to the issuance of the 141st building permit. (This number represents 70 percent of 201 units located in these three blocks).

f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.

g. Phasing of dedications, stormwater management, sediment/erosion control, streetscape, local recreational features, community-wide facilities and paths, trip mitigation or other features.

h. Provide each section of the development with necessary roads.

16. Clearing and Grading

No additional clearing or grading can be performed in Blocks T and V prior to M-NCPPC approval of the final forest conservation plans. A pre-construction meeting with M-NCPPC and DPS inspection staff shall occur after approval of the final forest conservation plans and prior to clearing and grading of Blocks T and V to verify limits of disturbance.

17. Certified Site Plan

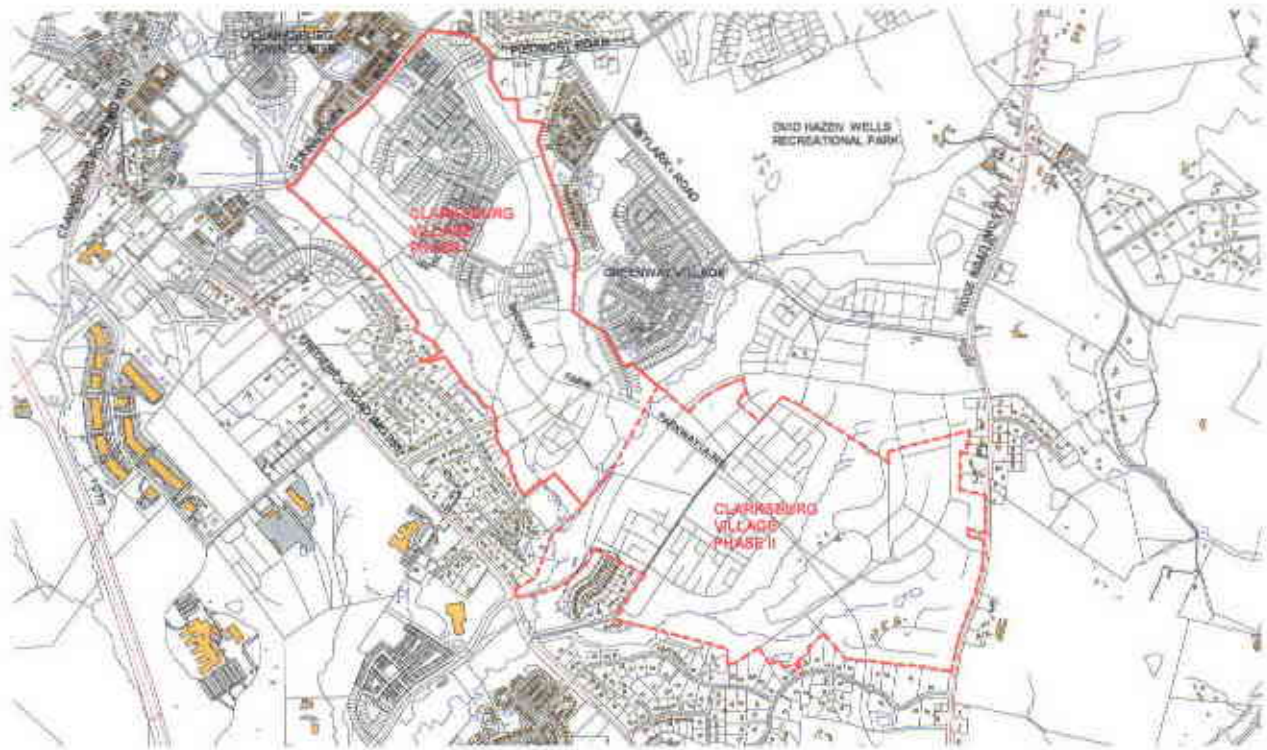
Prior to approval of the certified site plan the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion and revised project data table and development standards.
- b. Revised TDR and MPDU calculations.
- c. Limits of disturbance.
- d. Methods and locations of tree protection.
- e. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading of Blocks T and V.
- f. Revise the two-over-two MPDU Yard Planting Options Detail to include the title "Useable Space for One-family Attached Units" and add dimensions for the front and rear yards.
- g. Revise the Overall Park and Recreational Facilities chart.
- h. Revised parking tabulations.

E. PROJECT DESCRIPTION: Site Vicinity

The overall Clarksburg Village site is located within the Special Protection Area (SPA) portion of the Little Seneca Creek Watershed (use IV waters) that includes several streams and their tributaries. The remaining land is in active agricultural use as fields and hedgerows. The topography over most of the site is rolling, with steep slopes occurring predominately within the stream valleys.

The boundaries of Phase I of the development are comprised of Stringtown Road at the northern boundary, tributaries of the Little Seneca Creek to the east and west, and Newcut Road extended to the south. Clarksburg Town Center is located north of the site across Stringtown Road with Little Bennett Park further to the north, beyond the Town Center. Greenway Village Subdivision is located to the east of the site, bifurcated primarily by a stream tributary and inclusive of the recently constructed Snowden Farm Parkway. Ovid Hazen Wells Park lies further to the north. South of Newcutt Road extended is the Little Seneca Creek, beyond which are future phases of Clarksburg Village. West of the site is the Town Center Tributary and the site of the future Greenway Trail. Beyond the trail are wooded areas and the previously approved Highlands of Clarksburg site plan and the existing Clarkebrook Estates subdivision and Timber Creek Lane.



Site Description

Phase I of Clarksburg Village is a 333-acre neighborhood consisting of 973 dwelling units from Stringtown Road at the northern boundary to the extension of Newcutt Road that separates the Phase II portion of the development. Several streams run through the site, including the main-stem of Little Seneca Creek, its associated tributaries and the Town Center Tributary. About 286 acres of the overall site were in forest cover; however the majority of Phase I has been cleared and graded, with the exception of the stream valleys. All of the stormwater management facilities and sediment control features are in place.

Snowden Farm Parkway (A-305) is constructed from Stringtown Road to Blue Sky Drive, with the majority of the development constructed on the western side of the parkway. The development that is complete is from north to south and along the parkway, consisting of both the detached units and rows of townhouses. Many of the central green areas and recreational facilities on the northern end are complete as well.



Proposed Development

The overall site is a combination of neotraditional and traditional unit layout with interconnecting streets and cul-de-sacs. Snowden Farm Parkway forms the north-south spine for the project and will eventually provide an interconnection from the Clarksburg Town Center to Ridge Road. Phase I includes an elementary school and park site centrally located to the west of Snowdens Farm Parkway, as well as connections to a segment of the M-NCPPC Greenway Trail on the western boundary.

The amendment requests numerous changes to the original site plan, some of which have been initiated by the Applicant and others by various government entities. The primary reason for the amendment is to clarify the zoning lines and relocate the multi-family units out of the underlying R-200 Zone. The development contains a mix of 'Traditional' subdivision lots with front loaded garages, tighter, neotraditional styled units, characterized by tighter unit spacing, free standing garages for detached and townhouse homes and centralized open spaces distributed within the blocks.

The street pattern forms interconnecting grids that allow for even dispersion of traffic and ease of access to each unit. The majority of the street network for Phase I is in place, with the exception of the larger traditional cluster east of Snowden Farm Parkway and the southernmost portion of the site. The pedestrian system is created from sidewalks along each street and paths through the open spaces and mews, linked to the regional systems such as the Clarksburg Greenway Trail.

Landscaping includes street trees with spacing that relates to the location of the street and the adjacent land uses throughout the community. One of the issues pertinent to the amendment is street tree spacing and species within the public road systems. The buffer areas along Snowdens Farm Parkway are primarily intended to incorporate afforestation materials with native evergreens, and noise fences where needed. Additional trees to supplement the reforestation areas are located near U and Pond "E" along the Greenway Trail. The intent remains the same for the amendment, to screen views of units from the streets.

The open spaces and play areas are well developed with plant materials – layers of shrubs, shade trees and groundcovers- and benches and walks. Each mews is defined by landscaped corners and sitting areas which create public access and definition for the spaces. Each unit type has a typical unit foundation planting design that includes a flowering or shade tree that adds to the streetscape definition. The corner lots within the neotraditional areas include screen planting and fencing to buffer private back yards from public views. Tree preservation areas have been incorporated into the landscaping schemes for several areas.

Recreation areas are dispersed throughout the subdivision, providing local play structures or sitting opportunities for each community area. The recreation areas are designed to be attractive focal points within each community area.

Lighting is predominately provided in the public streets, under the review of MCDPW&T. The light fixtures provided within the public roadways will follow MCDPW&T's recommended light fixtures for Clarksburg Town Center area. The alleys will be lit with individual garage light

fixtures that will not cause excessive glare or other light pollution. The private streets include pole-mounted fixtures spaced according to the street tree setting and driveway locations. Additional fixtures are located in common areas and gathering areas associated within the community.

The redesign of Block “T” incorporates a number of new elements envisioned to open up green spaces, create pedestrian links from major roadways to the Greenway and merge recreational facilities within the smaller community. The multi-family units were removed and replaced with a mix of one-family detached, attached and townhouses.

Development Status

Phase I of Clarksburg Village is currently under construction. According to the most recent information provided by the developer, dated February 1, 2007, 309 dwelling units have been built or settled and 34 units are under construction. The following table shows the breakdown of the units.

	Number of Units Completed	Number of Units Under Construction	Total
One-family Detached	190	20	210
Townhouse	79	10	89
Two-over-two	40	4	44
Total	309	34	343

Within the developed areas, the following recreation 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 and is currently under construction. The pool will be open in summer of 2007 according to the respondent’s plan.

Conformance to Development Standards

PROJECT DATA TABLE (R-200, MPDU Option and R-200/TDR-3 Zones)

Gross Tract Area for Phases I and II:	776.88 acres	
Gross Tract Area for Phase I:	363.58 acres	
<u>Phase I</u>		
Net Site Area after dedication:		
Existing Zoning:		
R-200, MPDU Option	117.05 acres	
R-200/TDR-3	246.53 acres	
<u>Area of Development for All Phases</u>		
Existing Zoning:	<u>Phase I</u>	<u>All Phases</u>
R-200, MPDU Option	116.64 acres	165.67 acres
R-200/TDR-3	246.86 acres	520.85 acres
R-200/TDR-4	0.00 acres	85.85 acres
PD-4	<u>0.08 acres</u>	<u>4.51 acres</u>
Total Acreage	363.58 acres	766.88 acres
Development Method:	Optional	
<u>Permitted Density By Zone</u>		
Existing Zoning:		<u>All Phases</u>
R-200, MPDU Option		419.63 dwelling units
R-200/TDR-3		1906.20 dwelling units
R-200/TDR-4		403.57 dwelling units
PD-4		<u>21.65 dwelling units</u>
Total		2751.05 dwelling units
Overall Density Approved in Phase I and II:		2653 dwelling units
<u>Original Approval</u>		
Overall Density <u>Approved</u> in Phase I:		
Townhouse/Semi-detached		360 (44%)
MPDU townhouses (two-over-two)		44 (5%)
One-family detached		481 (51%)
Multi-family Standard		0 (0%)
Multi-family MPDU		<u>48 (5%)</u>
Total Number of Units Approved with SP 8030020		933 (100%)*
Total Number of MPDUs Approved in Phase I:		92 (389 for all Phases)
Total Number of TDRs Approved in Phase I:		147 (399 for all Phases)
<u>Approved with "A" Amendment (Brickley Property)</u>		
Overall Density <u>Approved</u> in Phase I:		
Townhouse/Semi-detached		360 (44%)
MPDU townhouses (two-over-two)		44 (5%)
One-family detached		481 (51%)
Multi-family Standard		0 (0%)
Multi-family MPDU		<u>48 (5%)</u>
Total Number of Units Approved with SP 8030020		997 (100%)*
Total Number of MPDUs Approved in Phase I:		108 (389 for all Phases)
Total Number of TDRs Approved in Phase I:		137 (399 for all Phases)

Proposed "B" Amendment

Overall Density Proposed in Phase I:

Townhouse	322 (33%)
One-family attached	4 (1%)
One-family attached (two-over-two)	108 (11%)
One-family detached	515 (53%)
Multi-family	24 (2%)
Total Number of Units Approved with SP 803002B	973 (100%)

Total Number of MPDUs Proposed in Phase I: 132 (398 for all Phases)

Total Number of TDRs Proposed in Phase I: 145 (397 for all Phases)

Parking for Phase I Development:

	<u>Required</u>	<u>Provided</u>
One-family detached (515 x 2 sp./unit)	1,030 spaces	1,030 spaces
One-family attached (2 over 2) (108 x 2 sp./unit)	216 spaces	216 spaces
One-family attached (4 x 2 sp./unit)	8 spaces	8 spaces
Townhouse (322 x 2 sp./unit)	644 spaces	644 spaces
Multi-family (24 x 2 sp./unit)	48 spaces	48 spaces
Visitor Parking	Not specified	597 spaces
Clubhouse	10 spaces	69 spaces
Pool/School Property	57 spaces	57 spaces
Totals	2,013 spaces	2,669 spaces

Note: Parking for each garage unit is accounted for in the garage space and in the pad space between the garage and sidewalk as long as the space meets the minimum size requirements by the Zoning Ordinance. The School will provide additional parking to accommodate their future needs with the school facilities plan. 57 spaces were required by the Plan of Compliance for the Park/School site.

R-200 Zone (MPDU Option)				
Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 820030020	Approved with Site Plan 82003002A	Proposed for Approval with Site Plan 82003002B
Div.59-C.1.6				
Max. Building Height (ft.):				
Main building	40 (3 stories)	Not Specified	Not Specified	40
Accessory bldg.	25 (2 stories)			25
Min. Lot Area (sf.):				
One-family detached	6,000 ¹	Not Specified	Not Specified	6,000
One-family attached (fee simple)	3,500	Not Specified	Not Specified	3,500
One-family attached (condo-MPDUs)	Not Specified	Not Specified	Not Specified	10,000
Townhouse	1,500	Not Specified	Not Specified	1,500

Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 820030020	Approved with Site Plan 82003002A	Proposed for Approval with Site Plan 82003002B
Min. Lot width at Street Line for One-family detached (ft.):	Not Specified	Not Specified	Not Specified	25
Setbacks (Building Height and Setback Sheet Provided in Certified Site Plan for Individual Lots)				
Min. Setbacks from public street and/or front yard BRL as applicable (ft.):	25 ²	25	25	25
Min. Yard(ft.):				
One-family detached				
Front along street	25	25	25	25
Front along mews	Not Specified	As shown on Plan	As shown on plan	10 from HOA Easement
Front 2 (labeled On individual lot)	15	15	15	15
One-family attached (fee simple market rate units):				
Front along street	Not Specified	15	15	15
Front along mew	Not Specified	As shown on Plan	As shown on Plan	10 from HOA Easement
Front 2 (labeled On individual lot)	Not Specified	8	8	8 from curb
One family attached (MPDUs):	Not Specified	8	8	8 from curb
Townhouses:	Not Specified	Not Specified	Not Specified	3
Rear Yard (ft.):3				
One-family Detached (Non Alley loaded)	20	20	20	20
One-family Detached (Alley Loaded)	Not Specified	0	0	3
One-family Attached (Market Rate Units)	Not Specified	0	0	3
One-family Attached (MPDUs)	Not Specified	Not Specified	Not Specified	0
Townhouse	Not Specified	Not Specified	Not Specified	3
Side Yard (ft.):4				
One-family Detached (Non Alley loaded)	Not Specified	4	4	4

Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 820030020	Approved with Site Plan 82003002A	Proposed for Approval with Site Plan 82003002B
One-family Detached (Alley Loaded)	Not Specified	3	3	3
One-family Attached (Market Rate Units)	Not Specified	0	0	0/3
One-family Attached (MPDUs)	Not Specified	Not Specified	Not Specified	0
Townhouse	Not Specified	Not Specified	Not Specified	2 (only applies to end units, otherwise 0)
Min. Separation Between end of Group Towns)	Not Specified	Not Specified	Not Specified	8
Accessory Building Setback (ft.):	Not Specified	Not Specified	Not Specified	3
Max. Lot Coverage (%):	Not Specified	Not Specified	Not Specified	80
Min. Green Area (ac.):	9.14 (2,000 sf for each townhouse or attached unit)	Not Specified	Not Specified	54.00
The following Split-Zoned lots will be developed using R-200/MPDU Standards: 1, 9, 15, 16, 40, 46, 47 & 48 (Block G); 10 (Block I); 6, 7, 8, 44, 50, 51, 76 & 77 (Block V)				
The following lots are One-family Attached (Market Rate Units): 30 & 31 (Block K); 40 & 41 (Block G)				

- 1 3,000 s.f. for a MPDU.
- 2 15 feet for a MPDU.
- 3 Building restriction lines (BRL) are established for each lot/parcel and shown on the plan for every lot/parcel.
- 4 For a side or rear yard that abuts a lot that is not developed under the provisions of this section 59-C-1.6, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than 20 feet.

R-200 / TDR-3 Zone				
Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 820030020	Approved with Site Plan 82003002A	Proposed for Approval with Site Plan 82003002B
Div. 59-C-1.395				
Min. Lot Area (sf.):				
One-family Detached	Not Specified	Not Specified	Not Specified	3,500
One-family Attached (Fee Simple)	Not Specified	Not Specified	Not Specified	3,500
One-family Attached (condo)	Not Specified	Not Specified	Not Specified	10,000
Townhouse	Not Specified	Not Specified	Not Specified	1,400
Min. Lot width at Street Line for One-family detached (ft.):	Not Specified	Not Specified	Not Specified	25
Setbacks (Building Height and Setback Sheet Provided in Certified Site Plan for Individual Lots)				
Min. Yard(ft.):				
One-family detached Front:				
Front along Street	Not Specified	15	15	15
Front along Mews	Not Specified	As shown on Plan	As shown on Plan	10 from HOA Easement
Front 2 (where labeled on lot)	Not Specified	8	8	8 from curb
One-family attached (MPDUs)	Not Specified	Not Specified	Not Specified	8 from curb
Townhouses	Not Specified	0	0	3
Rear Yard				
One-family Detached (Front Garage)	20	20	20	20
One-family Detached (Rear Garage)	Not Specified	3	3	3
One-family Attached (MPDUs)	Not Specified	Not Specified	Not Specified	0
Townhouses	Not Specified	0	0	3
Side Yard				
One-family Detached (Front Garage) ¹	Not Specified	4	4	4

¹ Excludes blocks A, B, D, F, 58-96 Block U, and 5-12 Block P

Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 820030020	Approved with Site Plan 82003002A	Proposed for Approval with Site Plan 82003002B
One-family Detached (Front Garage) ²	Not Specified	3	3	3
One-family Detached (Rear Garage)	Not Specified	3	3	3
One-family Attached (MPDUs)	Not Specified	Not Specified	Not Specified	0
Townhouses	Not Specified	0	0	2
Accessory Building Setback (ft.):	Not Specified	Not Specified	Not Specified	0
Max. Building Height (ft.):				
One-family detached	Not Specified	Not Specified	Not Specified	40
One-family attached (2 over 2)	Not Specified	Not Specified	Not Specified	40
Townhouse	Not Specified	Not Specified	Not Specified	40
Multi-family	Not Specified	Not Specified	Not Specified	40
Accessory Buildings	25	Not Specified	Not Specified	25
Min. Lot width at Front Building Line for One-family detached (ft.):	Not Specified	Not Specified	Not Specified	25
Max. Lot Coverage (%):	Not Specified	Not Specified	Not Specified	80
Green Area (ac.):	45 ac. (35%)	Not Specified	Not Specified	129 ac. (50%)
The following split zoned lots will be developed using R-200/TDR3 Standards 49, 50, 52 (Block F); 2, 3, 7 & 8 (Block G); 48, 49 & 50 (Block R); 32 (Block L); 12, 13 & 14 (Block T); 5, 45, 46, 47 & 52 (Block V)				

2 Blocks A, B, D, F, 58-96 Block U, and 5-12 Block P

RECREATION CALCULATIONS

Demand Points Per Population Category

Housing Type	No. of Dwelling Units	Tots (D1)	Children (D2)	Teens (D3)	Adults (D4)	Seniors (D5)
SFDIII Single Family Detached	519	72.7	124.6	129.8	659.1	67.5
TH Townhouses and Single Family Attached	430	73.1	94.6	77.4	554.7	38.7
Garden Multi-family 4 stories or less	24	2.6	3.4	2.9	28.3	3.8
Total Demand Required	973	148.40	222.50	210.00	1,242.20	110.00

Supply Points of On-Site Recreation Facilities

Facility	Quantity	Tots (D1)	Children (D2)	Teens (D3)	Adults (D4)	Seniors (D5)
Bike System	N/A	7.4	22.3	31.5	186.3	11.0
Pedestrian System	N/A	14.8	44.5	42.0	559.0	49.5
Nature Trails	N/A	7.4	22.3	31.5	186.3	16.5
Nature Areas	N/A	0.00	11.1	21.0	124.2	5.5
Swimming Pool	1	8.2	45.6	43.1	310.5	16.5
Wading Pool	1	22.3	11.1	0.0	62.1	5.5
Subtotal		60.10	156.90	169.10	1,428.50	104.50
Tot Lots (Ages 0-6)	4	36.0	8.0	0.0	16.0	4.0
Multi-Age Play Areas	3	27.0	33.0	9.0	21.0	3.0
Picnic/Sitting Areas	31	31.0	31.0	46.5	155.0	62.0
Open Play Area II	2	6.0	8.0	8.0	20.0	2.0
Soccer-Regulation	2	4.0	30.0	40.0	80.0	4.0
Subtotal		104.0	110.0	103.5	292.0	75.0
Total Provided On-Site		164.10	266.90	272.60	1,720.50	179.50

Supply Points of Off-Site Recreation Facilities

Facility	Quantity	Tots	Children	Teens	Adults	Seniors
----------	----------	------	----------	-------	--------	---------

		(D1)	(D2)	(D3)	(D4)	(D5)
Max. Off-Site Credit Allowed (35%)		51.9	77.9	73.5	434.8	38.5
Ovid Hazen Wells Recreational Park						
Tot Lots (Ages 0-6)	1	9.0	2.0	0.0	4.0	1.0
Multi-Age Play Areas	1	9.0	11.0	3.0	7.0	1.0
Picnic/Sitting Areas	9	9.0	9.0	13.5	45.0	18.0
Basketball Court	1	3.0	10.0	15.0	10.0	2.5
Adult Softball Field	1	2.0	15.0	20.0	40.0	2.0
Adult Baseball Field	1	2.0	15.0	20.0	40.0	2.0
Big Pines Local Park						
Multi-Age Playground	1	9.0	11.0	3.0	7.0	1.0
Picnic Shelter	3	1.0	3.0	4.5	15.0	6.0
Tennis Court	2	0.0	3.0	21.0	48.0	2.0
Basketball Court	1	3.0	10.0	15.0	10.0	2.5
Clarksburg Neighborhood Park						
Multi-Age Playground	1	9.0	11.0	3.0	7.0	1.0
Picnic Shelter	1	1.0	1.0	1.5	5.0	2.0
Tennis Court	1	0.0	1.5	10.5	24.0	1.0
Basketball Court	1	3.0	10.0	15.0	10.0	2.5
Subtotal		62.00	112.5	145.0	272.0	44.50
Total Provided Off-Site @ 35%		21.70	39.40	50.80	95.20	15.60
Total Provided		185.80	306.30	323.30	1,815.70	195.10
% Required		125.20	137.63	153.94	146.17	177.33

Overall Park and Recreation Facilities

Description	Facility	Park Area Acreage	Public or Private HOA
Park 1	Multi-age Play area (4,561 sf; 2 benches), Picnic/Sitting Areas (2 benches; 2 Picnic	0.43	Private HOA

	Tables) Open Play Area II (5,000 sf)		
Park 2	Tot Lot (1,732 sf; 2 benches)	0.08	Private HOA
Park 3	Open Play Area II (5,000 sf) Picnic/Sitting Area (2 benches)	0.70	Private HOA
Park 4	Tot Lot (1,307 sf)	0.03	Private HOA
Park 5	Tot Lot (1,812 sf; 2 benches) Pool house/Swimming Pool (Block P, Pcl A)	2.11	Private HOA
Park 6	Multi-age Play area (3,905 sf)	0.27	Private HOA
Park 7	Park Site @ School (2 Sports Fields; 22' x 22' picnic shelter, 4 picnic tables; 3 bike racks, 1 water fountain)	13.05	Public
Park 8	Multi-age Play area (2,802 sf; 2 benches)	0.11	Private HOA
Park 9	Natural Area (Block U/Parcel E; Block U/Parcel I)	62.10	Public
Park 10	Natural Area (Area within Phase I) Block V	28.84	Public
Park 11	Natural Area Block R/Parcel A, Block R/Parcel B, Block R/Parcel C, Block R/Parcel D, Block R/Parcel I)	13.45	Public
Park 12	Natural Area (Area within Phase I) Block B/Parcel B, Block R/Parcel F)	19.70	Private HOA
Park 13	Type II Open Play Area (5,000 sf)	0.53	Private HOA
Park 14	Tot Lot (1,600 sf; 2 benches)	0.06	Private HOA
Picnic/Sitting Areas			
	Block D (2 benches and 1 gazebo)		
	Block E (4 benches)		
	Block F (4 benches)		
	Block G (6 benches)		
	Block H (4 benches)		
	Block J (2 benches)		
	Block M (8 benches)		
	Block P (12 benches)		
	Block U (3 benches and 16' x 16' picnic shelters)		
	Block V (7 benches and 16' x 16' picnic shelters)		

Conformance to Master Plan

Clarksburg Village is located in the Newcut Road Neighborhood District of the 1994 Clarksburg Master Plan Area and is traversed by the proposed A-302 (Newcut Road Extended), which separates Phases I and II of this development, and proposed A-305 (Snowden Farm Parkway). It is also located south of Stringtown Road, northeast of Ridge Road, and northeast of MD 355.

This neighborhood incorporates approximately 1,060 acres, most of which has been approved for development, including the subject development and Greenway Village. Clarksburg Village is separated from the Clarksburg Town Center and Transit Corridor Districts by Stringtown Road and Little Seneca Greenway and will be traversed by the proposed Snowden Farm Parkway (A-305), part of which has been completed for the Phase I development.

As shown in Figure 1, the land use recommendations for the Newcut Road Neighborhood propose a mixed-use center on Newcut Road, approximately midway between A-305 and Skylark Road. This will provide a concentration of activity and density in the middle of the neighborhood while promoting lower densities at the edges. This concept also clusters development near the greenway system and enhances public access to Ovid Hazen Wells Park.

The Clarksburg Master Plan recommends a mixed-use neighborhood with transit-oriented land use patterns for this District. The proposed site plan recommends a significant number of new residential units. In combination with Greenway Village located directly to the east, these two large projects will provide approximately 3,900 residential units and 109,000 square feet of commercial space.

The proposed site plan complies with the Master Plan land use objectives as follows:

1. Range of Units

The Master Plan emphasizes 45-55 percent single-family detached, 35-45 percent single-family attached, and 10-20 percent multi-family dwelling units. The proposal provides for a mix of units that satisfies the range of residential unit types proposed in the Master Plan. The proposed unit mix for Phase I is 53% one-family detached, 45% one-family attached, which includes townhouses, two-over-two units, and 2% multi-family.

2. Street Oriented Buildings

Street oriented buildings are one of the major principles of the Master Plan. The Planning Board at time of Preliminary Plan approval recommended that dwelling unit orientation along all road right-of-ways be addressed at the time of site plan review.

Conformance to the Master Plan's Policy 7, on street orientation and specific language in the Newcut Road Neighborhood, page 62, is very important if Clarksburg is to be a different, neo-traditional type of community that will make Clarksburg unique and appealing.

To assure that rear yards shall not be seen from adjacent roadways, especially at street intersections, unit orientation should be to major streets. The proposed site plan generally conforms to this Master Plan objective.

3. Windows into the Park

The “park bordered by a street” relationship opens up views of the Greenway and is a significant design principle of the Master Plan. This important relationship allows the community to visually experience the beauty of Clarksburg’s stream valley parks and not have the open space hidden behind a row of residential lots. In general, along the Master Plan roadways (A-305 and A-302), there will be significant vistas of the Little Seneca Creek Greenway.

The proposed site plan satisfies this Master Plan objective. Staff has recommended screening in locations where the rear yards would be visible from the street.

4. Bikeway Connection

The Master Plan emphasizes bikeway access from neighborhoods to shopping and employment areas as well as to key community facilities. The applicant will provide a bikeway connection through the greenway trail to the adjacent Greenway Village community, Ovid Hazen Wells Regional Park, and the proposed elementary school. This will improve access to the neighborhoods, school, and the park.

The Greenway bikeway trail needs to run under A-305 within a structure and continue up to the Greenway Village community. Connections to the Greenway bikeway trail need to be shown from the traffic roundabout.

F. FINDINGS: For Site Plan Review

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan;*

An approved development plan or a project plan is not required for the subject development.

The Compliance Program for Clarksburg Village proposed the following modifications to the approved site plan in order to permit the respondent to take corrective action to comply with the approved plans and the Zoning Ordinance requirements:

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.*

The Site Plan Amendment (82002003B) includes a comprehensive data table with development standards for each use in the respective zones.

- b. *Eliminate the proposed 48 multiple-family units in four buildings in Block T.*

The 48 multi-family units (4 buildings) have been eliminated from the Block T and Phase I.

- 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.*

The Applicant has changed the semi-detached units in Blocks G, H, K and L to detached units and has satisfied the minimum lot size and setbacks for the respective lots through modifications to the road rights-of-way and elimination of three units.

- 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.*

The minimum 25-foot setback has been provided for all of the one-family detached lots in the R-200 Zone. Additionally, the Applicant has specified each split-zoned lot and which zoning category applies based upon the acreage of the lot within each zone.

- 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.*

Preliminary Plan 12001030C was approved by the Planning Board to reduce the rights-of-way for the 8 affected lots to resolve the setback issue and increasing the lot size for lot 12, block G. The record plats for the affected lots will need to be re-recorded with the correct information after approval of the subject "B" site plan amendment.

- f. *Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.*

The Applicant has increased the right-of-way for Foreman Boulevard from 70 to 80 feet, affecting 4 lots in Block P and future HOA land in Block T. Record plats will need to reflect the modification to the road right-of-way.

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.

The Site Plan Amendment (82002003B) includes a comprehensive data table with development standards for each use in the respective zones.

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.*

The Applicant has revised the site plan to accommodate a broader unit mix in Blocks P, U and T by removing the multi-family units and revising the plan to allow for more detached, attached, townhouse and two-over-two unit

types. The unit mix of singles and towns is presently integrated well throughout the built portion of Phase I and should be continued in Block T and into Phase II. The original intent appeared to incorporate the multi-family units closer to the retail segment; however, the revisions to Block T incorporates a broader mix of units than any of the blocks in Phase I.

- b. *Reduction of the density in Block T by approximately 40 dwelling units.*

The old T block (new T and V block) lost 41 total units. The previous Clarksburg Village Signature Set called for 219 units in block T. The 219 units were a mix of condos and town homes. The Plan of Compliance required the redesign of block T. With the redesign, the Applicant lengthened Turtle Rock Terrace, a public street. Lengthening Turtle Rock Terrace split the T block into two separate blocks, T and V. After the redesign, the combined unit total for the T and V blocks is 178 units. Additionally, the Applicant relocated the two-over-two units to front onto Foreman Boulevard and Turtle Rock Terrace, placing the surface parking for the non-garage units to the rear of the site. The overall reduction in density for Phase I is 24 units.

- c. *A north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail.*

A north-south connection is provided linking Snowden Farm Parkway and the Greenway Trail through the center of the block. Special paving, pedestrian lighting, seating areas and specialty landscaping for this pedestrian connection is provided to identify the importance of the spine. The shelter is a marker on the southern end of the spine identifying the entrance to the 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.*

In addition to the north-south connection, the plan proposes an east-west internal green strip providing for a central linear green area. The location of the green area also allows for units to face onto mews, eliminates head-in parking in some areas of the ring road and re-orientates some of the units along the road. The re-orientation of the units provides additional green space in the southern area of the block.

- 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.*

After discussion with Staff and DPS, only a wood-chip path with timber edging would be permitted through the stormwater management facility. The hard surface portion of the path connection terminates at the edge of the stormwater management easement where the wood-chip path starts. DPS will not allow a hard surface path on a dam structure, primarily due to potential conflicts with integrity of the structure and maintenance requirements of the facility.

- 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.*

The proposed site plan amendment was revised to replace the double-row of head-in parking along the ring road with some parallel and single-loaded spaces. The revision has a positive effect on the visual impact of the units, reduces the imperviousness and assists with the re-orientation of some of the units to provide for additional green space.

- g. *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.*

A development program has been incorporated into the conditions of approval, identifying triggers for site amenities to be completed prior to issuance of specific building permits.

4. **Additional Amenities**

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

- a. Park facilities to be located on the proposed Park/School site:
 - 1. *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.*

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 to accommodate safe play.

- 2. *A paved parking area for 57 cars to be located off Blue Sky Drive as shown on the approved site plan.*

A paved parking area for 57 cars is shown with access directly off of Blue Sky Drive. The parking area is all head-in spaces with curb stops where the spaces abut sidewalks that connect to the school and shelter.

The parking includes interior shade trees and perimeter planting from the roadway.

3. *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.*

One 22' x 22' picnic shelter on a concrete slab with four picnic tables is located directly north of the parking area and includes a sidewalk to Blue Sky Drive and the parking area. The picnic shelter is located adjacent to the athletic fields.

4. *Adequate stormwater management for the facilities.*

The Applicant is providing for adequate quantity and quality stormwater management.

5. *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.*

The Park/School site and associated facilities will be fine graded and seeded to adequately accommodate various athletic practice fields.

6. *Paved trails between facilities, landscaping, water fountain and adequate park signage.*

An 8-foot-wide sidewalk is provided between the park facilities and adequate park signage is located throughout the development.

- 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.*

The specifications for seeding, sodding and adequate topsoil have been incorporated into the conditions of approval for the Applicant to meet the minimum requirements for Park standards. 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.*

A condition to this effect has been incorporated into the conditions of approval.

d. Additional landscaping:

1. *Increase the size of all unplanted street trees from 2 ½ - 3" to 3 - 3 ½" caliper.*

Additional 3-3.5" caliper street trees have been incorporated in the site plan amendment.

2. *Add 300 trees in reforestation area, which are 2 - 2 ½" caliper in size.*

300 additional 2-2.5" caliper trees have been added in forest conservation areas along the Greenway Trail and abutting the community.

3. *Increase landscaping around the proposed pool facility by 25 percent.*

Additional landscaping has been provided around the clubhouse and pool facility in excess of 25 percent.

e. *Two picnic shelters near the proposed Greenway trail.*

As part of the Plan of Compliance, Staff recommended three additional shelters; two of which are located adjacent to the Greenway Trail, while the third is located in the Park/School site. The addition of the shelters provides for community gathering areas and sitting areas for users of the Greenway within the broader community. The first shelter is located closest to Block U, near Robin Song Court and the second shelter is located at the southern terminus in Block T. The shelters are 16 x 16 feet in size and include 2 seating areas within the shelter. A detail is provided on the Landscape Plans.

- 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.*

A \$50,000 contribution was issued by the Applicant to the Clarksburg Village Homeowners Association on October 10, 2006.

5. Fines

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

The respondent made a \$100,000 payment to M-NCPPC on October 10, 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.

The record plats for the above-noted applications were processed by Staff and approved by the Planning Board on February 11, 2006.

2. The Site Plan meets all of the requirements of the zone in which it is located.

The approved site plan (820030020) and the amendment to the site plan (82003002A) did not meet all of the requirements of the R-200/TDR-3 Zone and the R-200 Zone, utilizing the MPDU option, with respect to development standards for each zoning category. Many of the development standards were not established in a data table during the site plan process. The amendment to the site plan fully addresses and provides the necessary development standards for all of the uses in the zone.

The site data table on page 34 indicates the development standards within each zone and the standards approved during each phase of the site plan process, specifically for this amendment.

Section 59-C-1.394 (b) of the Montgomery County Zoning Ordinance provides:

For TDR densities of 3 or more per acre, the lot sizes and other development standards will be determined at the time of preliminary plan and site plan for conformance with applicable master plan guidelines and in accordance with the purposes and provisions of the PD Zone, except as may be specified in Section 59-C-1.395.

The “compatibility” requirement (Section 59-C-7.15) provides that all uses must be compatible with the other uses proposed for the planned development and with other uses existing or proposed adjacent to or in the vicinity of the area covered by the proposed planned development:

Section 59-C-1.394 (b) of the Montgomery County Zoning Ordinance provides:

In order to assist in accomplishing compatibility for sites that are not within, or in close proximity to a central business district or transit station development area, the following requirements apply where a planned development zone adjoins land for which the area master plan recommends a one-family detached zone.

- (1) *No building other than a one-family detached residence can be constructed within 100 feet of such adjoining land; and*
- (2) *No building can be constructed to a height greater than its distance from such adjoining land.*

Consistent with the provisions for TDR densities of 3 or more, the proposed site plan provides a comprehensive data table that includes all of the development standards for all of the uses in the zone. Consistent with the provisions recommended in the PD Zone; no building, other than a one-family detached building can be located closer than 100 feet of an adjoining land. All buildings must be constructed within the height limitations from the adjoining land as specified above. No building other than a one-family detached building is located closer than 100 feet from the property line.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

- a. Buildings and Structures

The location of the buildings and structures within the Phase I portion of the Clarksburg Village development are adequate, safe and efficient.

The design of the overall neighborhood for Phase I has not changed significantly from the originally approved plans with respect to building types and orientation. The primary change in design has been the removal of the approved multi-family buildings, originally located in the R-200 Zone. The balance of the units allocated toward the multi-family unit type has been transferred internally to the Phase II portion of the development.

The overall concept for the development consists of a range of housing types, located to create individual neighborhoods with common unifying elements within a dense environment, such as a sense of connection to the open space and green areas, tree preservation areas, building orientation, and architectural treatments. The common areas also provide pedestrian connections into adjacent open spaces. Units along Snowden Farm Parkway have been carefully sited to prevent direct views to the rear yards of units. The views are diverted through design layout, plant material and noise wall location.

The orientation of units directly to the entry streets within the subdivision helps to shape the entry and the corresponding streetscape defines the pedestrian environment as well.

The pool and clubhouse facility is centrally located in Phase I and adjacent to the school and ballfields. Permits were issued for the clubhouse/3 shelters in September of 2006 and the pool in January of 2007.

The Master Plan emphasizes 45-55 percent single-family detached, 35-45 percent single-family attached, and 10-20 percent multi-family dwelling units. The proposal provides for a mix of units that satisfies the range of residential unit types proposed in the Master Plan. The proposed unit mix for Phase I is 53% one-family detached, 45% one-family attached, which includes townhouses, two-over-two units, and 2% multi-family. Since the multi-family units were removed from the T and V blocks, and reducing the percentage allocated by the Master Plan, the remaining multi-family units will need to be planned for Phase II and should be integrated near the retail segment.

Retaining walls on lots that are visible from roads have been minimized where possible and planting has been incorporated at the base to reduce the visual impacts from the road.

The MPDUs have been placed in various areas of the site, so as not to concentrate the type of unit in one location. The one-family lots include a building envelope with setbacks allowing for individual unit types to be placed on each lot once selected by a purchaser.

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 Applicant proposes to eliminate four dwelling units and use their 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.

b. Open Spaces

The site provides open spaces that are integral with the developed areas as mentioned above. The Greenway Trail will provide a major feature for the subdivision and anchor for outdoor activities. As part of this amendment, the Applicant, in coordination with M-NCPPC Parks Development, has realigned and relocated portions of the Greenway Trail to lessen impacts to environmentally sensitive areas. Additional boardwalk areas along the Greenway Trail have been constructed based upon updated wetland information.

The original stormwater management concept consisted of (1) on-site water quality and recharge control via grass swales, dry swales, a modified dry swale, drywells and a surface sand filter. Channel protection volume was not required because the one-year post development peak discharge was less than or equal to 2.0 cfs.

Clarksburg Village is located within a Special Protection Area, warranting special regulations for sediment control and runoff. The Final Water Quality approval was granted during the initial site plan process. The site is almost completely graded and has approval from the Montgomery County Department of Permitting Services for the construction of the sediment traps and stormwater management facilities. DPS requested changes to the facilities during the final design process, requiring site elements associated with the facilities to be relocated or eliminated, as well as modifications to the limits of disturbance. The revisions to the design of the facilities have necessitated the relocation of maintenance access locations, the locations of benches, and modifications to pathways and retaining walls.

Additional clearing of forest within an adjacent conservation easement is also included with the modifications to the facilities.

Numerous open play areas associated with the recreation facilities are included in the overall development and provide varying level of open space for different users.

The redesign of Block "T" incorporates a number of new elements envisioned to open up green spaces, create pedestrian links from major roadways to the Greenway and merge recreational facilities within the smaller community. The multi-family units were removed and replaced with a mix of one-family detached, attached and townhouses.

c. Landscaping and Lighting

The landscaping concept adequately provides for an attractive, environmentally sound and functional project by providing shade, screens and buffers. The Clarksburg Village Plan also provides for the preservation of existing trees and incorporates them into developed areas, creating environmental benefits for shade erosion control. The street trees define the streets, provide a buffer between the units and the street, and provide for a pedestrian experience. The foundation plantings and accent plant materials create an attractive separation between the units and the paved surfaces. The buffers will screen views to the street and views of the units providing separation and privacy.

The Applicant is also including the species selected and the spacing of the street trees within the right-of-way for A-305 (Snowden Farm Parkway), as part of the amendment to the site plan. The spacing for the street trees will remain consistent with the original approval at 40-50 feet on center, unless certain physical site constraints affect the location of trees.

The lighting plan includes street lights that are regulated by the Montgomery County Department of Public Works & Transportation ("DPWT"). The styles of the light fixtures proposed are consistent with the light fixtures allowed by DPWT within the Clarksburg Town Center Planning Area. Alleys and private streets will

be lit by garage-mounted fixtures with cut-off features to prevent light pollution and upright pole-mounted fixtures.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table on page 39. The proposed recreational amenities and facilities provided did not change with the amendment from the approved site plans. Some of the play equipment was substituted during the construction process to an approved equal based on availability, manufacturer and specific style. The design of the pool and associated clubhouse was revised due to final architectural drawings, including the relocation of shade pavilions and the removal of the diving boards.

The recreation amenities provide for a variety of outdoor exercise and play opportunities by providing numerous play areas within close proximity to housing. The existing Greenway Trail, constructed by the Applicant, provides for local and regional recreational opportunities. As noted in the findings for Open Space, portions of the trail have been relocated due to environmental settings and the boardwalk was changed due to current wetland boundaries. In addition to the revisions to the local recreational facilities, the grading for the ball fields on the school/park site have been raised in accordance with the elevations from the Street Grade Plan, in order to provide better playing conditions.

The recreation facilities have been sited to become part of each neighborhood by their central location and sitting areas. Their attractive designs will make the play areas a desirable part of the community and open space systems.

Recreation demand is in conformance with the minimum requirements of the M-NCPPC Recreation Guidelines as demonstrated with the site plan amendment application. The tabulations were revised to correctly reflect the number and category of units. The total demand points were reduced due to the loss of units while the supply points remained the same. The Applicant is taking credit for off-site facilities (Ovid Hazen Wells Recreational Park, Big Pines Local Park and Clarksburg Neighborhood Park) even though the proposal exceeds the demand points set forth by the Guidelines in terms of facilities provided.

Recreation facilities include 31 picnic/sitting areas, 4 tot lots, 3 multi-age play facilities, 2 open play areas (type II), 2 regulation soccer fields, natural areas and trails as well as a swimming and wading pool within the clubhouse area.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient.

The street connections to the site are in accordance with the approved Preliminary Plan and subsequent site plans. The layout provides an interconnected grid

throughout the development; however, the street grades for the public roads were revised by DPWT to accommodate site conditions. The network of public and private streets link the individual neighborhoods, along with a roundabout that helps regulate traffic flow at Granite Rock Road and Grand Elm Street, the primary intersection from the entrance off of Stringtown Road.

Several waivers were proposed by the Applicant, and approved by the Planning Board, to provide more flexibility for a neo-traditional designed project. The waivers for modifications to the right-of-way widths allowed for a tighter development envelope, allowing for more preservation of natural areas, common areas and treatment of storm water management facilities. These waivers have been shown on earlier approvals at Preliminary Plan and are specified and detailed with this approval.

As part of the modification to the roadways, one outlot is being dedicated to an individual homeowner (block G, lot 15) while the remaining outlots are being dedicated to the Clarksburg Village HOA to comply with lot size and setbacks. The outlots will be formalized through the record plat process in conjunction with the approval of the subject site plan.

The right-of-way for Foreman Boulevard is being corrected to provide for the ultimate 80-foot right-of-way, which was not shown on the originally approved site plans. The 10-foot increase in right-of-way width reduces the lot frontage for four units on the north side of Foreman Boulevard and decreases the HOA property on the south side of Foreman Boulevard in Block T.

The proposed site plan amendment was revised to replace the double-row of head-in parking along the Horseshoe Bend Court with some parallel and single-loaded spaces. The revision has a positive effect on the visual impact of the units, reduces the imperviousness and assists with the re-orientation of some of the units to provide for additional green space.

The pedestrian paths along the roadways and internally within the development, as well as the 8-foot-wide bike paths within the A-305 right-of-way, provide a superior pedestrian environment with access to all parts of the site. The pedestrian circulation allows for local and regional connections to off site development, parks and open spaces. The relocation of the Greenway Trail does not alter the ultimate connections envisioned with the Master Plan or overall Clarksburg Village development. Some of the more prominent connections to the Greenway Trail are from Grand Elm Street, via Robin Song Court, Blue Sky Drive and Horseshoe Bend Court.

The redesigned Block T and V provide for pedestrian circulation around the ring road (Horseshoe Bend Court) that links to Snowden Farm Parkway, Foreman Boulevard and the Greenway Trail, as well as an internal pedestrian circulation

for a prominent north-south connection through the block. The north-south location

4. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.*

The various structures, including the residential buildings, clubhouse and retaining walls are compatible with existing and proposed adjacent development. The residential land uses as proposed within the project will be compatible with internal land uses.

The height and massing of the buildings is consistent with the neighboring communities of the Clarksburg Town Center and the Greenway Village community for the various land uses and unit types. The establishment and clarity of the development standards through the Plan of Compliance illustrates a compatible relationship with the standards expressed within the surrounding communities.

The potential noise levels generated by traffic are planned to be mitigated through the use of buffers such as berms and noise walls/fences. Buffer planting further accents the berms and fences specifically along the major thoroughfares.

The activity associated with the proposed residential will not cause any negative effect on adjacent residential uses.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The applicant is proposing an optional method of development for this site. The preliminary forest conservation plan was approved prior to the effective date of the forest conservation law as amended by Bill 35-00. Therefore, the development is not required to meet the requirements of Section 22A-12(f) of the Montgomery County code, which requires developments utilizing an optional method to meet the appropriate forest conservation threshold on-site.

The Montgomery County Planning Board approved site plan 820030020 on July 31, 2003 and site plan 82003002A on December 23, 2004. Environmental Planning staff approved the final forest conservation plan for site plan 820030020 on September 9, 2003 and April 12, 2005 for site plan 8200300A. Since approval of the April 12, 2005 final forest conservation plan, the applicant needed to make changes. The changes increase the amount of forest removed and decrease the amount of forest to be planted. The net result is a reduction of 1.97 acres (0.84 acres of existing forest and 1.13 acres of planted forest) of forest from the approved final forest conservation plan.

The Forest Conservation Regulation requires Planning Board action for certain types of modifications to an approved FCP. Section 113.A.(2) of the Forest Conservation Regulation states:

Major amendments, which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or Planning Directory (depending on who approved the original plan). Notice of each major plan amendment must be given to adjacent property owners as part of the Planning Board or Planning Directory approval processes.

This amendment proposes the removal of 36, 590 square feet (0.84-acres) and therefore constitutes a major amendment requiring Planning Board approval.

Many of the proposed changes to the final forest conservation plan are a result of final review and approvals of stormwater management facilities by the Department of Permitting Services, final review and approvals of roadway elevations by Department of Public Works and Transportation and the Department of Permitting Services, and final review and approval of sewer alignments by the Washington Sanitary and Sewer Commission.

The applicant proposes to satisfy all of the proposed changes within the Phase 2 portion of the Clarksburg Village property. Reduction in tree save areas, or additional forest loss, will be compensated at a rate of 2:1 and areas of proposed reforestation will be compensated at a rate of 1:1. All requirements will be met onsite.

Environmental Planning recommends approval of the subject amendment to the final forest conservation plan. As part of the approval, pond "T" has been reconfigured to keep the stormwater management facility outside of the environmental buffer as originally approved and as conditionally approved in preliminary plan 120010300. Environmental Planning recommends complete reforestation clearing created by locating the sewer line in the environmental buffer along forest save 32. Environmental Planning recommends approval of the stormwater management facility located in the environmental buffer that treats stormwater from Stringtown Road only after the preliminary plan of subdivision is amended to add this facility to the list of facilities permitted in the environmental buffers.

ATTACHMENT A

**Prior Opinions for Site Plan 820030230 and 82003023A and Infrastructure
Plan 820020380**



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Executive Director

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: December 18, 2003

SITE PLAN REVIEW #: 8-03002

PROJECT NAME: Clarksburg Village

Action: Approval subject to conditions. Motion was made by Commissioner Bryant seconded by Commissioner Perdue, with a vote of 5-0, Commissioners Berlage, Bryant, Robinson, Perdue and Wellington voting for, and no Commissioners voting against.

The date of this written opinion is December 18, 2003, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before January 18, 2004 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed this Site Plan shall remain valid for as long as Preliminary Plan #1- 01030 is valid, as provided in Section 59-D-3.8.

On July 31, 2003, Site Plan Review #8-02038 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

- 1. The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required;*
- 2. The Site Plan meets all of the requirement of the R-200, R-200/TDR-3, R-200/TDR-4 and PD-4 zones, and is consistent with an urban renewal plan approved under Chapter 56;*
- 3. The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*

RECEIVED
DEC 19 2003

Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;

- 5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
- 6. *The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-03002 for the following:

FINAL WATER QUALITY APPROVAL FOR SPECIAL PROTECTION AREA

Approval of Final Water Quality Plan for Site Plan # 8-03002 with the following conditions:

- 1. Reforestation is to begin as soon as possible after the issuance by the Montgomery County Department of Permitting Services (DPS) issuance of grading permits, with appropriate phasing to allow for the construction of sediment and erosion control structures.
- 2. Conformance to the conditions as stated in the DPA letter dated July 18, 2003 approving the elements of the SPA water quality plan under its purview, attached.

DRC.Montrose Crossing.dec103

SITE PLAN

STAFF RECOMMENDATION: Approval of 471 SFD, 414 Townhouses (inclusive of 44 MPDU Townhomes) and 48 MPDU Multifamily homes inclusive of a total of 92 MPDU's and 144 TDR's with the following conditions to be met prior to signature set:

1. Park School Site

The school/park site off of A-305 within the Phase I site plan area, shall be dedicated as follows:

- a. The ball-field area (approximately 3 acres) at the north end shall be dedicated to M-NCPPC at the time of record plat for Phase I Site Plan. The site will be graded by the Applicant simultaneous with the construction of A-305, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover.

471
414
48
933

- b. The remainder of the site, the approximately ten acre "School Site", to the south shall either be conveyed in fee simple to M-NCPPC or other party as directed by M-NCPPC at the time of record plat for Phase I Site Plan. MNCPPC shall convey to MCPS fee simple title to the School Site if and when MCPS selects the School Site for a public school facility and establishes a construction project in the Board of Education's Capital Improvement Plan. The Applicant shall grade the School Site simultaneously with the construction of the A-305 and provide for quantity control for MCPS.

2. Lighting and Landscaping Plan

Staff to review the final landscape plans for adequacy of buffer along A-305 and inclusion of native plant. Staff to review final lighting plans for private streets and driveways and garages for conformance to IESNA guidelines for reducing light pollution.

3. Environmental Planning

- a. All residential units that will be subject to projected future exterior noise levels equal or exceeding 65 dBA Ldn, must be constructed to meet the 45 dBA Ldn interior noise standard.

Certification from an acoustical engineer that the building shell of impacted buildings along A-305 has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. Certification shall be distributed to M-NCPPC technical staff for review prior to release of building permit.

The builder shall construct these units in accord with acoustical design specifications, with any changes that may negatively affect acoustical performance approved by an acoustical engineer and M-NCPPC staff in advance of installation.

Prior to occupancy, the builder must certify, via written notice to M-NCPPC staff, that the residential units are constructed in accordance with the acoustical design specifications as identified.

All residential units that are subject to projected future exterior noise levels equal or exceeding 65 dBA Ldn shall be protected with exterior noise attenuation fencing.

- b. SWM waiver of open section streets within Special Protection Areas
- c. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.

4. Division of Permitting Services

- a. SWM Memo - Conditions of DPS Stormwater Management Concept approval letter dated July 18, 2003.
- b. Streets and Paving Memo of June 24, 2003.

5. Affirmation of Waiver of Subdivision Standards

- a. The Planning Board approves the waivers shown previously and are specified here as:
 1. Section 50-26 (h)(3) Waiver of Sidewalk one side of street for Cool Valley Ct and Tulip Tree Terrace
 2. Section 50-26(e)(3) - 25 Ft Truncation to radius truncation
 3. Section 50-26-(a)(1) Max block length of 1,600 ft - One Block at Rainbow Arch Drive and Robin Song Drive is longer
 4. Section 50-29(a)(2) -SFD Unit frontage on Public Street - for courtyards
 5. Section 50-29(a)(3)lot lines perpendicular to ROW - at radius
 6. Section 59-C-(a)(4) allow more than one unit on lot - for attached TH's (piggybacks)

6. Block Design Standards

For all single family lots less than 60 feet width at the building restriction line with front load garages, the following restrictions apply:

1. No house elevations or colors will be the same as any home on either side or across the street.
2. A minimum of 20% and a maximum of 70% of the homes will have a brick or stone front.
3. A minimum of 30% of the homes will have a front porch of at least 15 feet in width.
4. No more than 50% of the homes shall have garages which project closer to the street than the front wall or porch of the home. Homes with this type of elevation may be built only two in a row.
5. Homes with the same elevation and color shall not be built within sight of each other.

7. M-NCPPC Parks Greenway Trail

- a. Applicant to construct an 8-foot wide asphalt/boardwalk hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the route established by the Clarksburg Greenway Facility Plan and be

constructed to park standards and specifications. The Applicant will provide necessary bridges and boardwalk per the Facility Plan or as approved by Park staff.

- b. Applicant will construct the portions of the hiker/biker trail from Stringtown Road east to Newcut Road and north to the Greenway Village Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail.
- c. Applicant will construct Foreman Boulevard to allow for grade separated crossing for the hiker/biker Greenway Trail. The trail crossing should be constructed to accommodate the trail under the road without changing the natural location, configuration or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream. Trail crossing to meet the "staff guidelines" as set out in the attached Meeting Summary of March 18, 2002, attached, unless otherwise agreed to by M-NCPPC staff and Applicant. Due to the substantial length of the trail under Foreman Boulevard, Applicant to install adequate lighting along the trail under the road. Final trail/road crossing details to be submitted to M-NCPPC staff for approval.
- d. The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed or clearly delineated and marked prior to construction of the residences that abut the Greenway. Dedication to be made at time of record plat and boundaries to be clearly staked to delineate between parkland and private property. Dedicated property to be transferred free of trash and unnatural debris.
- e. The entire school/park site on Snowdens Mill Parkway, including the ball field area at the north end, will be graded by Applicant, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover.

8. Signature Set Documentation

Submit a Site Plan Enforcement Agreement, Development Review Program and Homeowner Association Documents for review and approval prior to release of the signature set as follows:

- a. Development Program to include a phasing schedule as follows:
 - 1) Streets tree planting must progress, as street construction is completed, but no later than six months after completion of the units adjacent to those streets.

- 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Clearing and grading to correspond to the construction and infrastructure phasing.
 - 6) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, or other features.
 - 7) Noise attenuation design completed and accepted by M-NCPPC technical staff prior to release of building permits.
 - 8) Site plan #8-03002 will withhold 231 market-rate building permits (30 MPDUs /13%) until building permits for the construction of the required MPDUs (offsite) in the next phase are released. MPDU construction within Phase I to be included in Phasing Plan.
 - 9) Greenway dedication with record plat and trail construction prior to unit construction
 - 10) Park School dedication
- b. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for M-NCPPC technical staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
- 1) Limits of disturbance.
 - 2) Methods and locations of tree protection.
 - 3) Forest Conservation areas.
 - 4) Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - 5) The development program inspection schedule and Site Plan Opinion.
 - 6) Conservation easement boundary.
 - 7) Streets trees 40 or 50 feet on center along all public streets.
 - 8) Centralized, screened trash areas for all multi-family and one-family attached units except townhouses.
 - 9) Units to conform to zoning restrictions.
- c. No clearing or grading prior to M-NCPPC approval of signature set of plans unless authorized by Infrastructure Plan or other approvals.

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date of Mailing: JUN 29 2005

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Site Plan No.: 8-03002A
Project: Clarksburg Village
Date of Hearing: December 23, 2004

Action: APPROVAL OF FINAL WATER QUALITY PLAN SUBJECT TO CONDITIONS. Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Berlage, Bryant, Wellington, and Robinson voting in favor.

Action: APPROVAL OF SITE PLAN SUBJECT TO CONDITIONS. Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Berlage, Perdue, Bryant, Wellington, and Robinson voting in favor. Commissioner Perdue was temporarily absent.

The date of this written opinion is JUN 29 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State). This site plan shall remain valid as provided in Section 59-D-3.8.

INTRODUCTION

On December 23, 2004, Final Water Quality Plan and Site Plan Review #8-03002A were brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the

Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Site Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

THE SUBJECT PROPERTY

The site is located to the east side of Stringtown Road, immediately north of the Little Seneca Creek stream crossing and immediately south of the Granite Rock Road entry to Clarksburg Village subdivision from Stringtown Road. Opposite Stringtown Road is the Clarksburg Town Center subdivision, Phase I, and existing homes, all single-family detached units.

FINAL WATER QUALITY PLAN APPROVAL

Development Review Division staff of the Montgomery County Department of Park and Planning ("Staff") recommended approval with conditions of the Final Water Quality Plan in its memorandum dated December 16, 2004 ("Water Quality Staff Report").

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services ("DPS") and the Planning Board have different responsibilities in the review of the water quality plan. DPS has reviewed and conditionally approved the elements of the Final Water Quality plan under their purview. The Planning Board's responsibility is to determine if the forest conservation requirements, environmental guidelines for special protection areas, and imperviousness requirements have been satisfied.

Site Performance Goals

As part of the final water quality plan, several site performance goals were established for the project. The goals included:

1. Protecting the streams and aquatic habitat.
2. Maintaining the nature of onsite stream channels.
3. Maintaining stream base flows.
4. Identifying and protecting stream banks prone to erosion and slumping.
5. Minimizing storm flow runoff increases.
6. Minimizing increases in ambient water temperatures.
7. Minimizing sediment loading.
8. Minimizing pollutant loading.
9. Protecting springs, seeps, and wetlands.

Environmental Guidelines

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village site identified the environmental buffers, steep and moderately steep slopes, soil types, and priority forests. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The applicant will place forest conservation easements on the environmental buffers and all forests preserved outside of the environmental buffers.

Forest Conservation

The applicant proposed to amend the previously approved preliminary and site plans by adding an additional 30 acres of land to the Clarksburg Village property. The final forest conservation for Clarksburg village will be amended with this approval.

The undeveloped 30-acre tract includes 27.5 acres of forest. The applicant proposed to remove 7.5 acres of forest from the tract and retain the remainder of the forest onsite. The total planning requirements for the Clarksburg Village final forest conservation plan will be modified, and the forest-planting amount will also change.

The applicant has proposed to meet the forest conservation requirements for the entire Clarksburg Village development through a combination of forest retention, onsite forest planting of unforested portions of stream valley buffers, planting of upland areas, landscape credit. A five-year maintenance period is required for all forest plantings per the environmental guidelines.

Site Imperviousness

There are no impervious limitations within the Clarksburg SPA. The impervious amount proposed for the additional 30-acre tract is less than ten percent (10%). Environmental Planning and the applicant worked together to reduce the amount of forest loss and impervious surfaces to better protect the environment for this addition to the previously approved plan.

Stormwater Management

To help meet the performance goals, the stormwater management plan requires water quality control and quantity control to be provided through a system of linked best management practices. Dry ponds, vegetated swales, bioretention structures, sand filters, and infiltration/recharge structures will be used for stormwater management.

PLANNING BOARD ACTION AND CONDITIONS FOR FINAL WATER QUALITY PLAN

The Montgomery County Planning Board APPROVES the Final Water Quality Plan for Site Plan #8-03002A with the following conditions:

1. Reforestation is to begin as soon as possible after the issuance by the Montgomery County Department of Permitting Services (DPS) issuance of grading permits, with appropriate phasing to allow for the construction of sediment and erosion control structures.
2. Conformance to the conditions as stated in the DPS letter approving the elements of the SPA water quality plan under its purview.

SITE PLAN APPROVAL

PROPOSED DEVELOPMENT

This amendment to the previously approved Site Plan includes two areas of expansion— one adjacent to Stringtown Road and the second adjacent to Grand Elm Street. They have been changed to townhouses and expanded single-family detached areas, respectively.

The townhouses are designed in courts with an open end oriented towards the wooded areas to the east. An internal sidewalk and path system provide for pedestrian linkages between units and to the play area located near the MPDU 2 over 2 units to the eastern end. Landscaping includes tree plantings along the unit frontages and streets and screen planting around the rear and side of townhouse back yards. A recreation area is provided (near the MPDUs) that includes open space, benches, and play structures.

The single-family detached units have expanded slightly down slope towards the stream and trail. The units now create an open space "window" to the park and that is aligned at the end of British Manor Drive and a bike path connection is created at the end of Bent Arrow Drive. The landscaping for these units include street trees in front and landscaping and reforestation areas associated with the open space "windows."

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Staff presented the project as consistent with the Staff Report.

David Flanagan testified on behalf of the Applicant and advised the Board that he agreed with the Staff recommendation, including the recommended conditions of approval.

At the hearing, the President of the Clarksburg Civic Association ("CCA"), Paul Majewski, testified on behalf of residents across Stringtown Road from the proposed development. Among the concerns expressed were: (1) he did not believe that the existing residents received notice that a townhouse community would be developed directly across Stringtown Road and, if they had been notified it was over a year prior to the hearing date. Mr. Majewski suggested dropping a number of units in order to increase the distance between the townhomes and the existing houses across Stringtown. . Mr. Majewski also expressed concerns about the proximity of the units to the remainder of Clarksburg Village, observing that there is a lack of trail connections to this section, effectively isolating the townhome development from the balance of the Clarksburg Village community. He

commented on the access point to the site, specifically the relation between that access road in relation to the crest of the hill and the curve of the road. Additionally, he stated a preference that the new Stringtown Road be completed before construction on the proposed development occur. Mr. Majewski requested buffering be installed on the west side of Stringtown Road also, suggesting that screening landscaping be planted.

With respect to notice, Staff testified that it had provided notice consistent with the Board's Rules of Procedure. Staff informed the Board that the Applicant sent notice of the application to the confronting landowners shortly after the application was filed on February 24, 2004, which notice included a drawing of the proposed development and showed that townhomes were proposed. Staff clarified for the Planning Board that the nearest proposed townhouse unit will be approximately 300 feet from the closest single-family home across Stringtown Road. Staff described the screening buffer, which will consist of street trees in the median and on either side of proposed Stringtown Road. Additionally, the Applicant's engineer pointed out that proposed Stringtown Road is the high point and would serve as a berm between the existing homes and the new development, because both residential areas are situated lower than the grade of the road. The Applicant offered to add landscaping to the signature set drawings to show upper and understory evergreen screening vegetation on the west side of Stringtown Road. Additionally, Staff noted that the project resembles many other recently approved subdivisions in Clarksburg, with townhouses confronting single-family detached housing along arterial right-of-ways.

FINDINGS

Based on all of the testimony and evidence presented and on the Staff Report, which is made a part hereof, the Montgomery County Planning Board finds:

1. An approved development plan or a project plan is not required for the subject development.
2. The Site Plan meets all of the requirements of the R-200 zone as demonstrated in the project Data Table on page 11 of the Staff Report.
3. The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.

a. Buildings

The location of the townhouses creates a desirable relationship to the external streets of the neighborhood by facing front yards towards them. The orientation of units into courtyards makes the housing groups into identifiable neighborhood groups.

b. Open Spaces

The plan proposes 18.50 acres of open space for the R-200 portion of the site beyond the 1.70 acres required. The open spaces are between units and along the perimeter of the property. The open space along with existing trees will provide a natural setting for the units and will provide for the continuation of the Clarksburg Greenway.

c. Landscaping and Lighting

The landscaping concept adequately provides for an attractive, environmentally sound and functional project by providing shade, screens and buffers. The Plan also provides for the preservation of existing trees and incorporates them in to developed areas, creating environmental benefits of shade and less erosion. The street trees define the streets, provide a buffer between the units and the street and they provide for a pleasant walking environment. The foundation plants and open space accent plants will create an attractive separation between the units and the paved surfaces. The buffers will screen views to the street and views of the units providing separation and privacy as needed. The conditions of approval will ensure that the Applicant provides additional roadside buffer planting, improved unit foundation and alley planting and unit side yard buffer planting. As conditioned, landscaping is adequate for the project and will address many of the screening concerns voiced by the confronting neighbors.

The proposed lighting plan will include streetlights that are regulated by MCDPW&T. The styles of the light fixtures proposed are consistent with the light fixtures allowed by DPW&T within the Clarksburg Town Center Planning Area. Alleys will be lit by garage-mounted lights with cut-off features to prevent light pollution. Lighting is adequate for the project.

d. Recreation

Recreation demand is satisfied for the entire project. Final calculations will be incorporated into the signature set. The recreation will provide for a variety of outdoor exercise and play opportunities by providing numerous play areas within close proximity to housing. The Greenway Trail will provide for local and regional recreations opportunities. The Board finds that the Greenway Trail provides an adequate pedestrian link to the balance of the Clarksburg Village community.

e. Vehicular and Pedestrian Circulation

Access points to the site for the townhouses are to be provided from Stringtown Road with an internal street created parallel to it. The access to each townhouse court is well described with good orientation. The single family detached units are directly oriented to the internal public streets.

An eight-foot-wide shared use path (Class I bikeway) is located on the far side of Stringtown Road. With the approval of this site plan, the Greenway Trail will be constructed to the south of this project and it will include an important bike-path and foot-path link to this project and within this region. Connections within the single family detached units will be made directly to the path. The townhouses will utilize sidewalks on A-305 to make the connection to the bike path.

Internal sidewalks will also be provided to facilitate pedestrian circulation throughout the development.

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The building locations are compatible with adjacent development with the difference in densities buffered by open space and plantings. The residential land uses as proposed within the project will be compatible with internal land uses.

The potential noise levels generated by traffic are planned to be mitigated through the use of buffers utilizing berms, landscaping and noise walls/fences.

The activity associated with the proposed residential development will not cause any negative effect on adjacent residential uses, including the existing single-family detached residences across Stringtown Road. The Board notes that, as Staff pointed out at the hearing, the closest any proposed townhome will be located to a single-family residence across Stringtown Road is 300 feet, which separation the Board finds promotes compatibility. The Board finds that the testimony and evidence of record, including the practical effect of Stringtown Road serving as a berm between the existing and new development and the additional screening landscaping agreed to by the Applicant, demonstrates that the proposed development will be compatible with the confronting single-family residences.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The applicant is proposing to amend the previously approved preliminary and site plans by adding an additional 30 acres of land to the Clarksburg Village property. The final forest conservation for Clarksburg Village will also be amended with this approval.

The undeveloped site 30-acre tract includes 27.5 acres of forest. The applicant is proposing to remove 7.5 acres of forest from the tract and retain the remainder of the forest onsite. The total planting requirements for the Clarksburg Village final forest conservation plan will be modified and the forest planting amount will also be changed. The applicant has proposed to meet the forest conservation requirements for the entire Clarksburg Village development through a combination of forest retention, onsite forest planting of unforested portions of stream valley buffers, planting of upland areas, landscape credit. A five-year maintenance period is required for all forest plantings per the environmental guidelines.

6. Staff provided proper notice of the application and the public hearing.

The Planning Board finds, based on Staff testimony and evidence of record, including the contents of the public file, that the Applicant mailed notice of the filing of the instant application to the confronting landowners as required by the Board's Rules of Procedure. Moreover, the Board finds that Staff mailed its notices of the hearing to all required recipients in accordance with the Board's Rules of Procedure.

7. The Planning Board finds that any future objection concerning a substantive matter that was not raised prior to or at the public hearing on this application is waived.

PLANNING BOARD ACTION AND CONDITIONS FOR SITE PLAN APPROVAL

The Montgomery County Planning Board APPROVES Site Plan Review #8-03002A for 997 units in Phase I with a total of 135 Transfer Development Rights (TDRs) (with 358 TDR's for Phase I and II), and 108 Moderately Priced Dwelling Units (MPDUs), 363.87 acres, in the R-200/TDR-3 zone with the following conditions:

1. Preliminary Plan Conformance
The proposed development shall comply with the conditions of approval for Preliminary Plan amendment 1-01030B.
2. Site Plan Conformance
The proposed amendments to this site plan shall include the final conditions of approval as determined by the Planning Board's approval and Opinion dated December 18, 2003.
3. Site Design
 - a. Provide increase in open spaces adjacent to townhouse units.
 - b. Provide sign at bike path connection by Single Family Detached units to indicate public thoroughfare to the Greenway.
4. Landscaping
 - a. Provide increased landscaping around unit foundations and alleys and side yards adjacent to streets.
 - b. Provide additional street trees, internally, and additional buffer planting adjacent to both sides of Stringtown Road. Applicant to provide landscaping on the opposite side of Stringtown Road on a parcel of land immediately adjacent to the right-of-way, as reviewed and approved by Staff.
5. Lighting
 - a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.
 - b. All light fixtures shall be cut-off fixtures.
 - c. Reflectors or house shields shall be installed on all fixtures causing potential

- glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.

6. Recreation Facilities

Provide final calculations showing addition of tot lot and sitting area to Phase I calculations.

7. M-NCPPC Park Facility

The applicant shall comply with the original conditions of site plan 8-03002.

8. Transfer Development Rights (TDRs)

Prior to recording the final plat, the applicant shall provide verification that 137 TDRs have been acquired for the proposed development. Applicant shall provide, to Staff, an updated TDR chart for this phase of the project.

9. Moderately Priced Dwelling Units (MPDUs)

The proposed development shall provide 108 MPDUs on-site (within Phase I). This amendment includes an amendment to Condition 8.a.8) of Site Plan 8-03002, which will reduce the number of market-rate building permits required to be withheld in Phase I (until building permits for the construction, within Phase II, of the required Phase I off-site MPDUs are released) from 231 to 166. MPDU construction within Phase I to be included in Phasing Plan.

10. Noise Attenuation

The applicant shall supply staff with a noise analysis that shows conformance to the original approval or the following standards:

- a. Certification from an engineering firm that specializes in acoustical analysis, that the building shell for residential dwelling units to be constructed within the unmitigated 65 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The certification from the acoustical engineer shall be reviewed and approved by M-NCPPC Environmental Planning staff prior to issuance of building permits. Any changes that may affect acoustical performance shall be approved by the acoustical engineer in advance of installation and M-NCPPC Environmental Planning staff prior to their implementation.

- b. Applicant shall conduct an outdoor-to-indoor noise analysis of constructed units to ensure the 45 dBA Ldn interior noise level is achieved within the unmitigated 65 dBA Ldn contour after construction and shall present verification of noise levels to M-NCPPC Environmental Planning staff prior to occupancy of the residential units.
- c. For all residential dwelling units to be constructed within the 65 dBA Ldn unmitigated noise contour, the applicant/developer/builder shall disclose in writing to all prospective purchasers that those homes are impacted by existing and future highway noise. Such notification will be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including the Illustrative Site Plan(s) on display within any sales related office(s), as well as in Homeowner Association Documents, and by inclusion on all subdivision and site plans, and with all Deeds of Conveyance. Notification shall be provided to M-NCPPC staff prior to issuance of any building permit.

11. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated December 15, 2004.

12. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 698th (the same number used for completion of amenities) building permit that Applicants recorded Homeowners Association Documents incorporate by reference the Covenant.

13. Development Program

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. Development Program shall include a phasing schedule as follows:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Community-wide pedestrian pathways and the open space sitting and play areas and recreation facilities shall be completed prior to issuance of the 698th building permit.
- c. Landscaping associated with each parking lot and building shall be

- completed as construction of each facility is completed.
- d. Pedestrian pathways and seating areas associated with each facility shall be completed as construction of adjacent units are completed.
- e. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- f. Provide each section of the development with necessary roads.
- g. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

14. Clearing and Grading

The Applicant may begin clearing and grading prior to M-NCPPC approval of signature set of plans only after the final Forest Conservation Plan and Sediment Control Plans have been approved. Signature set of plans shall be approved by M-NCPPC prior to issuance of any building permit or recording of plat(s).

15. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

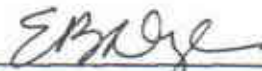
- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Undisturbed stream buffers as shown.
- c. Limits of disturbance.
- d. Methods and locations of tree protection.
- e. Forest Conservation easement areas.
- f. MPDU, TDR, and recreation facility calculations.
- g. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.

APPROVED AS TO LEGAL SUFFICIENCY
TAB
M-NCPPC LEGAL DEPARTMENT
DATE 6/17/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD VOTE ADOPTING OPINON

At its regular meeting, held on Thursday, June 23, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Clarksburg Village, Site Plan No. 8-03002A.



Certification As To Vote of Adoption
Technical Writer

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: December 18, 2003
SITE PLAN REVIEW #: 8-02038
PROJECT NAME: Clarksburg Village Infrastructure Plan

Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Perdue, with a vote of 5-0, Commissioners Berlage, Bryant, Robinson, Perdue and Wellington voting for, and no Commissioners voting against. All Commissioners were present.

The date of this written opinion is December 18 2003, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before January 18, 2004 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1-01030 is valid, as provided in Section 59-D-3.8.

On July 31, 2003, Site Plan Review #8-02038 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required;*
2. *The Site Plan meets all of the requirement of the R-200, R-200/TDR-3, R-200/TDR-4 and PD-4 zones;*

3. *The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*
4. *Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
6. *The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection;*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-02038, which consists of 2,590 units on 741.40 acres subject to the following conditions:

1. M-NCPPC Parks

- a. Clarksburg Greenway to be built on the property applicant currently owns. The alignment will follow the route established by the Clarksburg Greenway Facility Plan and be constructed to park standards and specifications. The Applicant will provide necessary bridges and boardwalk per the Facility Plan or as approved by Park Staff
- b. Applicant will construct the portions of the hiker/biker trail from Stringtown Road east to Newcut Road and north to the Greenway Village Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail.
- c. Applicant will construct Foreman Boulevard to allow for a grade separated crossing for the hiker/biker Greenway Trail. The trail crossing should be constructed to accommodate the trail under the road without changing the natural location, configuration or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream. Trail crossing to meet the "staff guidelines" as set out in the attached Meeting Summary of March 18, 2002 unless otherwise agreed to by M-NCPPC staff and Applicant. The final trail/road crossing details shall be submitted to M-NCPPC staff for approval. The details of the Greenway Trail crossing of Midcounty Highway will be determined at time of Site Plan. A grade separated crossing will be considered at this location provided environmental concerns can be reasonably accommodated.
- d. The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed or clearly delineated and marked prior to construction of the residences that abut the Greenway. Signage to reviewed and approved by staff. Dedication to be made at time of record plat and boundaries to be clearly staked to delineate between parkland and private property. Dedicated property to be transferred free of trash and unnatural debris.

- e. Applicant to construct an 8' wide hiker/biker trail to connect from the bike trail along A-305 to the trail system in parkland on the adjacent Greenway Village subdivision.
- f. The park area marked as Jeane Onufry Local Park will be graded according to the park layout concept plan, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. The park will be dedicated to M-NCPPC at time of record plat. Additional recreational improvements to be constructed by Applicant on the park site with Development District funds, must be constructed to park standards and specifications. Specific types of recreation facilities and their arrangement on the park property must be coordinated with, and approved by, M-NCPPC staff.
- g. Because of the limited size of both the Jeane Onufry Local Park and the school/park site, Applicant must provide stormwater quantity management off the park and school sites to accommodate the runoff from the park and school sites. Storm water quality to be provided by others on each site.

2. Park School Site

The school/park site off of A-305 within the Phase I site plan area, shall be dedicated as follows:

- a. The ball-field area (approximately 3 acres) at the north end shall be dedicated to M-NCPPC at the time of record plat for Phase I Site Plan. The site will be graded by the Applicant simultaneous with the construction of A-305, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover.
 - b. The remainder of the site, the approximately ten acre "School Site," to the south shall either be conveyed in fee simple to M-NCPPC or other party as directed by M-NCPPC at the time of record plat for Phase I Site Plan. MNCPPC shall convey to MCPS fee simple title to the School Site if and when MCPS selects the School Site for a public school facility and establishes a construction project in the Board of Education's Capital Improvement Plan. The Applicant shall grade the School Site simultaneously with the construction of the A-305 and provide for quantity control for MCPS.
3. A site plan enforcement agreement shall be submitted to staff with the signature set for this approval. Any changes to the Infrastructure Plan will require its amendment.
4. Grading prior to staff release of signature set (but after staff review and approval of the Forest Conservation Plan) shall be allowed in accordance with exhibit presented by applicant and as may be adjusted with MCDPS and Environmental Planning Staff (for forest conservation plan) review.

5. Retail areas shall include special streetscape, lighting, sidewalks and paving material pending site plan review.

ATTACHMENT B

Prior Opinions for Preliminary Plan 120010300, 12001030A and 12001030B



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed: January 15, 2003

Action: Approved Staff Recommendation
Motion of Comm. Bryant, seconded by
Comm. Wellington with a vote of 4-0;
Comms. Bryant, Perdue, Robinson and
Wellington voting in favor
Comm. Berlage temporarily absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01030

NAME OF PLAN: CLARKSBURG VILLAGE

On 11/29/00, CLARKSBURG VILLAGE, L.L.C. submitted an application for an amendment of two a preliminary plans of subdivision (1-01030 Clarksburg Village and 1-93007 Nanna Property) of property in the R-200/TDR3 and 4, R-200 and P-D 4 zones. The application proposed to create 2,590 lots, 20,000 Square Feet Retail/Office and 5,000 Square Feet Day Care Facility on 741.4 acres of land. The applications were redesignated Preliminary Plan 1-01030. On 01/09/03, Preliminary Plan 1-01030, Clarksburg Village was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-01030 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01030.

Approval to Revise the Previous Conditions of Approval to Combine Preliminary Plan No. 1-01030 – Clarksburg Village with 1-93007 – Nanna Property

- (1) Approval under this preliminary plan is limited to a maximum of 2,590 Residential Dwelling Units, 20,000 Square Feet Office/Retail Use and 5,000 Square Feet Daycare Facility
- (2) At least sixty (60) days prior to the submission of a complete Site Plan application the applicant shall submit an "Infrastructure Plan" for Planning Board review. The plan shall include the following:
 - a) Location and types of stormwater management facilities for quality and quantity controls that comply with the conditions of MCDPS' preliminary water quality plan
 - b) Delineate bike and pedestrian access pathways including all at grade and below grade crossings along all road rights of way and at stream crossings
 - c) All roadway networks including both private and public connections. Streetscape, lighting, sidewalks and paving materials
 - d) Delineation of "Greenway" and other open space areas including all environmental buffers
 - e) School sites and Park areas
 - f) Recreation guideline concept plan
 - g) Proposed schedule for clearing and grading of site
- (3) To satisfy Policy Area Transportation Review:

- a) The applicant shall participate in widening MD 27 to six through travel lanes from Observation Drive in Germantown through the A-305 intersection; transitioning to two travel lanes through the Skylark Road intersection, including dedication along the site frontage. This improvement along MD 27 is consistent with the master plan recommendation. If, after master plan dedication along the west side of MD 27, sufficient right-of-way is not available for the proposed widening, the applicant has to either acquire additional right-of-way on the east side of MD 27 or dedicate additional right-of-way and widen MD 27 on their development side
 - b) The applicant shall dedicate on-site portions and participate in constructing Relocated Newcut Road (A-302) as a two lane divided arterial roadway between MD 27 and the A-305 intersection and as a four lane divided roadway between A-305 and MD 355
 - c) The applicant shall dedicate and participate in constructing A-305 as a four lane divided arterial roadway between MD 27 and Stringtown Road
 - d) The applicant shall dedicate and participate in constructing Foreman Boulevard as a two lane arterial roadway from its current terminus at Timber Creek Lane to A-305
 - e) The applicant shall dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage. This roadway improvement can be implemented by either the Department of Public Works and Transportation's CIP project, as a developer participation project or as the Clarksburg Town Center Development District.
- (4) To satisfy Local Area Transportation Review;
- a) The applicant shall participate in constructing a second left-turn lane from northbound MD 355 to westbound MD 27
 - b) The applicant shall participate in constructing additional turn/approach lanes on MD 27 and Brink Road at the intersection of MD 27/Brink Road
 - c) The applicant shall participate in providing a separate left-turn lane from southbound MD 355 to eastbound Brink Road and a separate left-turn lane from westbound Brink Road to southbound MD 355.
- (5) The applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in Mr. Rafferty's letter dated August 5, 2002 and confirmed in Transportation Planning Division memorandum dated August 22, 2002
- (6) The applicant shall construct the following roads as standard closed section primary residential streets:
- Street "C" between A-305 and Street "T"
 - Street "M" between A-305 and Street "E"
 - Street "E" between A-305 and Street "M"
 - Street "T" between A-305 and Street "W"
 - Street "Y" between Streets "T" and "Z"
 - Street "GG" between its intersections with A-305
 - Street "R" – approximately 400' from A-305 (or correspond to first intersection)
 - Street "Z" next to School
- (7) The applicant shall construct two roundabouts on A-305 as shown on the preliminary plan to define the boundaries of the business district portion of this roadway.
- (8) The applicant shall construct A-305 as a business district street between the two roundabouts in accordance with DPWT Standard No. MC-219.03

- (9) All roads rights of way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the Clarksburg Master Plan, unless other wise designated on the preliminary plan
- (10) All roads shown on the approved preliminary plan shall be constructed by the applicant to the full width mandated by the approved and adopted Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan "To be Constructed by _____" are excluded from this condition
- (11) Additional forest save areas to be created adjacent to the environmental buffer at the northwestern portion of the property. This will require reconfiguration of the layout for that portion of the property at site plan
- (12) At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N, and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative locations. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01
- (13) Compliance with the conditions of approval for the preliminary forest conservation plan dated July 25, 2001. The applicant must meet all conditions prior to MCDPS issuance of sediment and erosion control permits, as appropriate. Conditions include, but are not limited to, the following:
 - a) Prior to the submission of the first site plan, submit a plan identifying specific areas proposed for natural regeneration and justifying its use in these specific areas. The plan should include measures to enhance the success of natural regeneration. At this time, areas proposed for natural regeneration must be identified in the field so that M-NCPPC may evaluate these areas as to the feasibility of natural regeneration
 - b) Environmental buffers, forest conservation and planting areas, and any natural regeneration areas to be within park dedication areas or in Category I conservation easements. Conservation easements to be shown on record plats
- (14) Conformance to the conditions as stated in DPS preliminary water quality plan approval letter, dated 7-25-01.
- (15) Measures to mitigate traffic noise impacts on residential uses to be shown at site plan. Mitigation measures to be shown along Ridge Road. Mitigation measures may also be needed along Stringtown Rd., A-302, and A-305
- (16) At site plan, provide permanent signage along conservation easement areas to make identify environmentally sensitive areas that are to remain protected Applicant to construct an 8 foot wide paved hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the approximate route as set out in Phase I of the Trail Facility Plan, with the detailed trail location and other design and construction considerations to be worked out by the time of the Infrastructure Plan
- (17) Applicant will construct the portions of the hiker/biker trail from Stringtown Road east to Newcut Road and north to the DiMaio Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed

- (18) Applicant will construct Foreman Boulevard and Midcounty Highway to allow for grade separated crossing for the hiker/biker Greenway Trail. The trail crossings should be constructed to accommodate the trail under the roads without changing the natural location, configuration or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream
- (19) The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed or clearly delineated and marked prior to construction of the residences that abut the Greenway
- (20) The park area marked as Jeane Onufry Local Park will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The park area will be dedicated to M-NCPPC
- (21) The school/park site off of Midcounty Highway will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The parking and ball field area at the north end of the site will be separately delineated and dedicated to M-NCPPC
- (22) Phasing of the dedication of the school/parks sites shall be incorporated as part of the phasing schedule included with site plan approval
- (23) At site plan address specifically the following:
 - a) Dwelling unit type and layout within the mixed use center
 - b) Coordinate with adjoining property owner to achieve a well integrated and designed commercial center that locates parking to the rear and provides special treatment for paving, seating, landscaping, lighting and other pedestrian amenities
 - c) Provide adequate "windows" into open space areas
 - d) Dwelling unit orientation along all road rights of way
- (24) Provide a minimum of 600 TDR's pursuant to the objectives of the Clarksburg Master Plan
- (25) Final number and location of units to be determined at site plan
- (26) Final number of MPDU's to be determined at site plan dependent on Condition #23
- (27) No clearing, grading, unless designated on "Infrastructure Plan" and recording of lots prior to site plan approval
- (28) All prior applicable conditions of Preliminary Plan No. 1-93007, Nanna Property remain in full force and effect
- (29) The validity of the Preliminary Plan will remain valid until July 30, 2013 and shall be phased for recordation of lots as follows:
 - Phase One: 300 lots by July 30, 2004
 - Phase Two: 1,000 lots by July 30, 2007
 - Phase Three: 1,700 Lots by July 30, 2010
 - Phase Four: All lots by July 30 2013

Prior to the expiration of the validity periods, a final record plat for all the property delineated in each phase must be recorded or a request for an extension must be filed

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: JUL - 6 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 5-0;
Chairman Berlage and Commissioners.
Perdue, Bryant, Wellington, and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01030B
NAME OF PLAN: Clarksburg Village

The date of this written opinion is JUL - 6 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

INTRODUCTION

On 2/13/04, the applicant, Elm Street Development ("Applicant") submitted an application for the approval of a second amendment to a previously approved and amended preliminary plan of subdivision of property in the R-200/TDR-4, R-200/TDR-3, R-200, PD-4 zone. The instant application for amendment sought the Board's approval to create an additional 64 lots (for a development total of 2,654) on 689.5 acres of land located at southwest quadrant of the intersection of Stringtown Road and Piedmont Road, in the Clarksburg master plan area. The application was designated Preliminary Plan 1-01030B.¹ On 12/23/04, Preliminary Plan 1-01030B was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the

¹ The application was incorrectly noticed as Preliminary Plan No. 1-01030A, which is the plan number for the first amendment.

Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. A corporate officer of the Applicant appeared in person and testified that the Applicant agreed with the Staff recommendation and the recommended condition of approval.

At the hearing, Staff advised the Board that it had received a letter from an adjacent homeowners association ("HOA") expressing a concern with the alignment of A-305, an arterial road that traverses the subject property. Staff stated that the HOA wanted the record to reflect that they do have an issue with the alignment. Staff testified that the alignment in question is not before the Board as a part of the instant application but that Staff would consider the concerns of the HOA at such time as it reviews the site plan for the relevant phase of the Clarksburg Village development.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing, including the Staff Report dated December 17, 2004; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

PROJECT DESCRIPTION

This amendment includes the addition of approximately 30 acres of land to the area of approved preliminary plan. The 30-acre tract is located along Stringtown Road in Clarksburg between the previously approved Clarksburg Village and Clarksburg Highlands preliminary and site plans. The site is completely forested except for a strip of forest cleared for the construction of a WSSC sewer line to service the Clarksburg Town Center development. The property is zoned R-200. The proposed development of the site includes single-family detached units, townhouses and associated infrastructure. The entire site is within the Clarksburg Special Protection Area.

The site is located within the Little Seneca Creek watershed. Water flows to the Town Center tributary, a first order tributary, and then directly to the Little Seneca Creek. The streams are designated as Use IV-P. The natural resource inventory for the 30-acre tract delineates the onsite environmental buffers, forests, steep and moderately steep slopes.

STAFF ANALYSIS AND FINDINGS FOR THE PRELIMINARY PLAN AMENDMENT

Staff's review of Preliminary Plan #1-01030B, Clarksburg Village, indicated that the subject plan conforms to the recommendations of the Clarksburg Master Plan. The application proposed to add acreage to the overall site and construct 64 additional one-family attached residential dwelling units.

TRANSPORTATION

Staff determined that no additional transportation improvement conditions were needed for the proposed 64-townhouse addition to the approved Clarksburg Village development. The previously required transportation improvements provide sufficient transportation capacity to accommodate the proposed addition and no other transportation issues have been identified regarding the proposed amendment. Staff concluded that the subject preliminary plan satisfies the Adequate Public Facilities test.

ENVIRONMENTAL

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of the water quality plan. DPS has reviewed and conditionally approved the elements of the water quality plan under their purview. The Planning Board responsibility is to determine if the site imperviousness, environmental guidelines for special protection areas, and forest conservation requirements have been satisfied.

Forest Conservation

The applicant proposed to amend the previously approved preliminary plan by adding an additional 30 acres of land to the Clarksburg Village property. The final forest conservation for Clarksburg Village will also be amended with this approval.

The undeveloped 30-acre tract includes 27.5 acres of forest. The applicant proposed removal of 7.5 acres of forest from the tract and the retention of the remainder of the forest onsite. The total planting requirements for the Clarksburg Village final forest conservation plan will be modified and the forest planting amount will also be changed. The applicant proposed to meet the forest conservation requirements for the entire Clarksburg Village development through a combination of forest retention, onsite forest planting of unforested portions of stream valley buffers, planting of upland areas, landscape credit. A five-year maintenance period is required for all forest plantings per the environmental guidelines.

Site Imperviousness

There are no impervious limitations within the Clarksburg SPA. The impervious amount proposed for the additional 30-acre tract is less than 10 percent. Environmental Planning and the applicant worked together to reduce the amount of forest loss, and impervious surfaces, to better protect the environment for this addition to the previously approved plan.

Environmental Guidelines

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village site identified the environmental buffers, steep and moderately steep slopes, soil types, and priority forests. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The applicant will place forest conservation easements on the environmental buffers and all forests preserved outside of the environmental buffers.

Site Performance Goals

As part of the final water quality plan, several site performance goals were established for the project:

1. Protect the streams and aquatic habitat.
2. Maintain the nature on-site stream channels.
3. Maintain stream base flows.
4. Identify and protect stream banks prone to erosion and slumping.
5. Minimize storm flow runoff increases.
6. Minimize increases in ambient water temperatures.
7. Minimize sediment loading.
8. Minimize pollutant loadings (nutrient and toxic substances).
9. Protect springs, seeps, and wetlands.

Stormwater Management

To help meet these performance goals, the stormwater management plan requires water quality control and quantity control to be provided through a system of linked best management practices (BMPs). Dry ponds, vegetated swales, dry swales, bioretention structures, sand filters, and infiltration/recharge structures will be used for stormwater management.

STAFF RECOMMENDATION

Staff concluded that Preliminary Plan #1-01030B, Clarksburg Village, conforms to the Clarksburg Master Plan and meets all necessary requirements of the Subdivision Regulations. As such, Staff recommended approval of the amendment to the preliminary plan subject to specified conditions.

FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies²; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-01030B substantially conforms to the Clarksburg master plan
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

² The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-01030B in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-01030B, subject to the following conditions:

1. Approval under this preliminary plan is limited to a maximum of 2,654 residential dwelling units, 20,000 square feet office/retail use, and 5,000 square foot daycare facility. All previous conditions of approval of the Planning Board opinion dated January 23, 2003, for Preliminary Plan No. 1-01030 remain in full force and effect.

APPROVED AS TO LEGAL SUFFICIENCY
TAB
M-NCPPC LEGAL DEPARTMENT
DATE 6/17/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, June 23, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Clarksburg Village, Preliminary Plan No. 1-01030B.



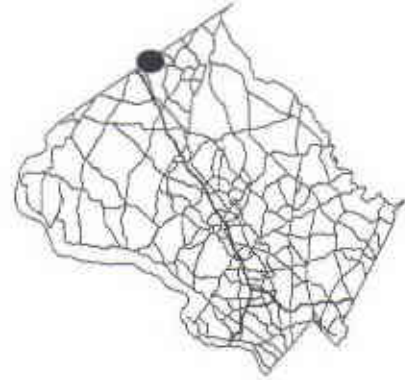
Certification As To Vote of Adoption
Technical Writer

ATTACHMENT C

Previous staff report for Plan of Compliance dated September 26, 2006

**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

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.

area. The amendment approved 997 dwelling units in Phase One. This is an increase of 64 dwelling units over the original site plan approval.

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

ATTACHMENT A

Development Standards

DEVELOPMENT STANDARDS - PHASE I 82003002

DEVELOPMENT STANDARDS		
Dwelling Unit Types	R-200/MPDU	R-200/TDR
One-Family Detached		
Minimum Lot Size	6,000 s.f.	3,500 s.f.
Maximum Building Height	40' ³ stories	35'-45' – See Height Exhibit ¹
Min. Setback from Street/Front Yard	25' ²	8' to 15' as specified on individual lots
Min. Side Yard Setback	4'	3' to 4' as specified on individual lots
Min. Rear Yard Setback	20'	0' to 20' as specified on individual lots
One-Family Attached		
Minimum Lot Size	3,500 s.f.	10,000 s.f. (condominium parcel size)
Maximum Building Height	40' ³ stories	35'-45' – See Height Exhibit ¹
Min. Front Yard Setback	15'	10' min from parcel line
Min. Side Yard Setback for End Units	3'	3' min. from parcel line
Min. Rear Yard Setback	0'	10' min. from parcel line
Townhomes		
Minimum Lot Size	1,500 s.f.	1,400 s.f.
Maximum Building Height	40' ³ stories	35'-45' - See Height Exhibit ¹
Min. Front Yard Setback	3'	3'
Min. Side Yard Setback for End Units	2'	2'
Min. Rear Yard Setback ³	3'	3'
Multiple-Family (two-over-two)		
Minimum Lot Size	NA	NA
Maximum Building Height	NA	40'-55' – See Height Exhibit ¹
Min. Front Yard Setback	NA	10' min. from parcel line
Min. Side Yard Setback	NA	10' min. from parcel line
Min. Rear Yard Setback	NA	10' min. from parcel line
Pool Facility (Parcel A of Block P)		
Maximum Building Height		35'
Min. Building Setback from Street		
Snowden Farm Parkway		40'
Grand Elm Street		15'
Turtle Rock Terrace		15'
Min. Setback from Lots 31-33 Blk. P		60'

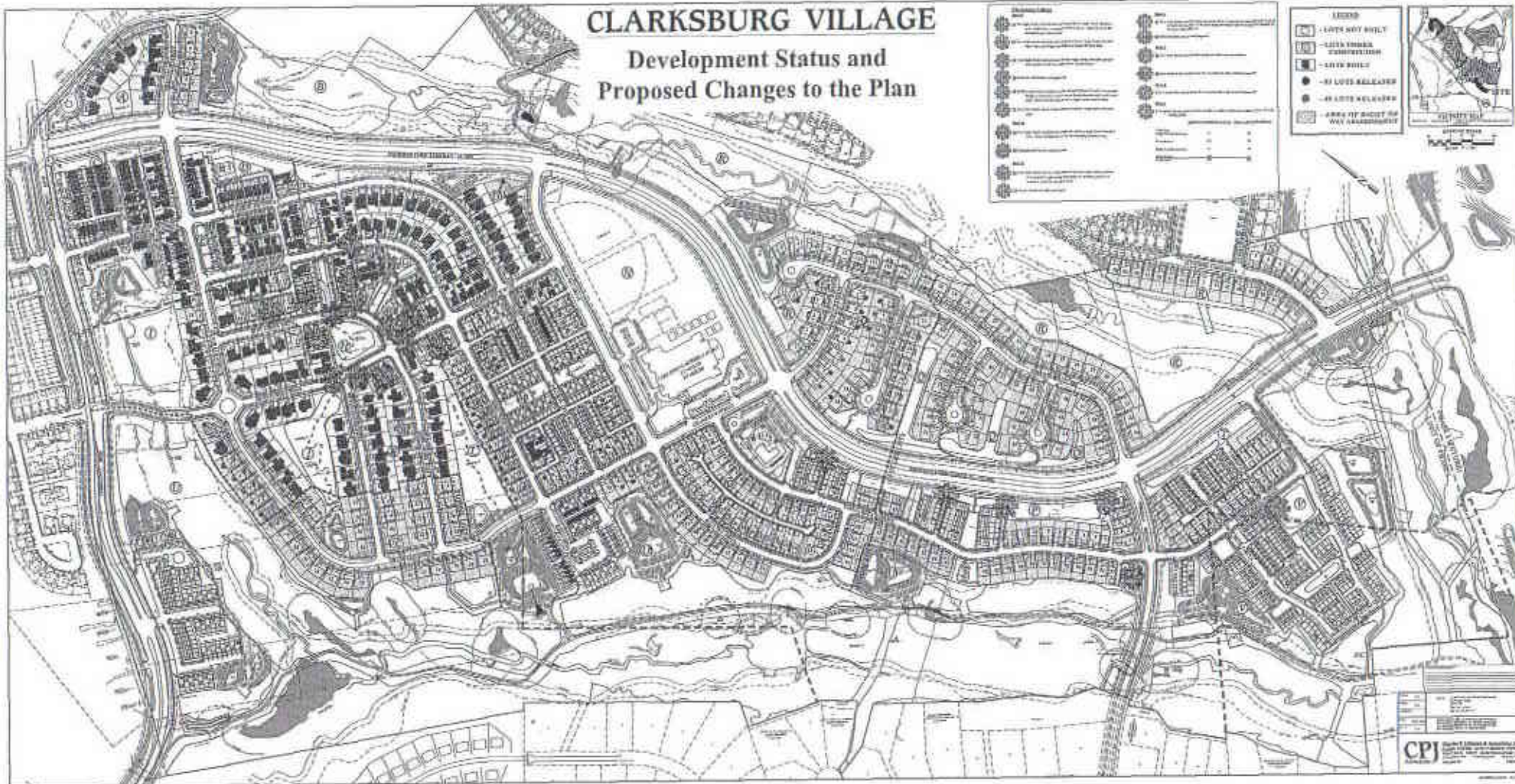
1. Included in Attachment B, second sheet.
2. In accordance with Section C-1.623 of the Zoning Ordinance.
3. Not applicable to accessory buildings.

ATTACHMENT B

- Development Status Exhibit
- Building Height Exhibit
- Revised Plans for Blocks G, H, and L
- Redesign of Blocks P, T, and U

CLARKSBURG VILLAGE

Development Status and Proposed Changes to the Plan



Legend

	• LOTS NOT BUILT
	⊗ LOTS UNDER CONSTRUCTION
	◻ LOTS BUILT
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED
	◌ LOTS RELEASED

Legend

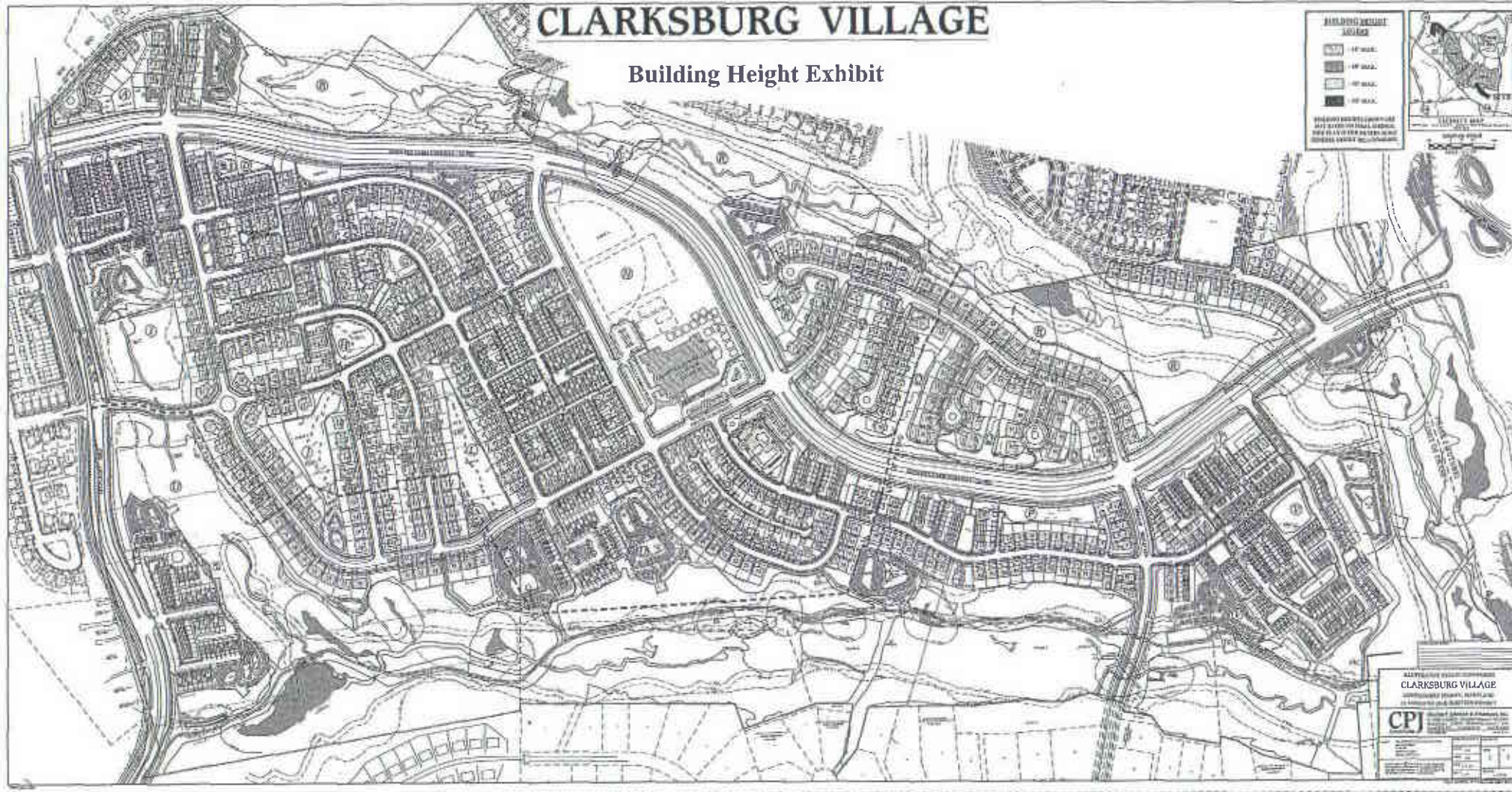
- LOTS NOT BUILT
- LOTS UNDER CONSTRUCTION
- LOTS BUILT
- LOTS RELEASED
- LOTS RELEASED
- LOTS RELEASED
- LOTS RELEASED
- LOTS RELEASED
- LOTS RELEASED
- LOTS RELEASED
- LOTS RELEASED

AREA OF SOCIETY OF WAY ALTERNATIVE

CPI
 CONSULTING PROFESSIONALS
 1000 ...
 ...

CLARKSBURG VILLAGE

Building Height Exhibit



BUILDING HEIGHT ZONES

- 15' MAX.
- 20' MAX.
- 25' MAX.
- 30' MAX.

SHADING INDICATES BUILDING HEIGHT ZONES. THE PLAYS FOR PATERNAL AND OTHER LAND USES.



CLARKSBURG VILLAGE
CLARKSBURG VILLAGE, WEST VIRGINIA
CLARKSBURG VILLAGE, WEST VIRGINIA

CPJ

CLARKSBURG VILLAGE, WEST VIRGINIA
CLARKSBURG VILLAGE, WEST VIRGINIA

	100' CONTOUR LINES		50' CONTOUR LINES
	20' CONTOUR LINES		10' CONTOUR LINES
	5' CONTOUR LINES		2' CONTOUR LINES
	1' CONTOUR LINES		SPOT ELEVATIONS
	PROPOSED ROADS		EXISTING ROADS
	UTILITY LINES		EASEMENTS
	BUILDING FOOTPRINTS		PARKING AREAS
	SITE BOUNDARIES		OTHER FEATURES



CPJ
 CONSULTANTS
 1100 W. BROADWAY
 SUITE 200
 ANNE ARBOR, MI 48106
 (313) 963-1100

AWARDED SITE DEVELOPMENT PLAN - PHASE 1
CLARKSBURG VILLAGE
 CLARKSBURG (2ND ELECTION DISTRICT)
 MONTGOMERY COUNTY, MARYLAND

Site Plan #18-03602B

DATE	11/11/11
SCALE	AS SHOWN
PROJECT	CLARKSBURG VILLAGE PHASE 1
CLIENT	CLARKSBURG VILLAGE
DESIGNED BY	CPJ
CHECKED BY	CPJ
DATE	11/11/11

ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.
 ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.
 ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.



Symbol	Description
(Circle with G)	Proposed Garage
(Circle with H)	Proposed Parking
(Circle with I)	Proposed Structure
(Circle with J)	Proposed Structure
(Circle with K)	Proposed Structure
(Circle with L)	Proposed Structure
(Circle with M)	Proposed Structure
(Circle with N)	Proposed Structure
(Circle with O)	Proposed Structure
(Circle with P)	Proposed Structure
(Circle with Q)	Proposed Structure
(Circle with R)	Proposed Structure
(Circle with S)	Proposed Structure
(Circle with T)	Proposed Structure
(Circle with U)	Proposed Structure
(Circle with V)	Proposed Structure
(Circle with W)	Proposed Structure
(Circle with X)	Proposed Structure
(Circle with Y)	Proposed Structure
(Circle with Z)	Proposed Structure

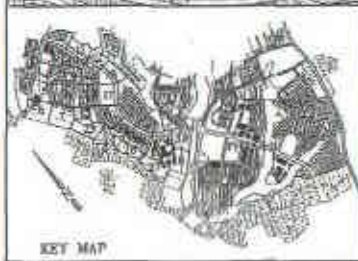
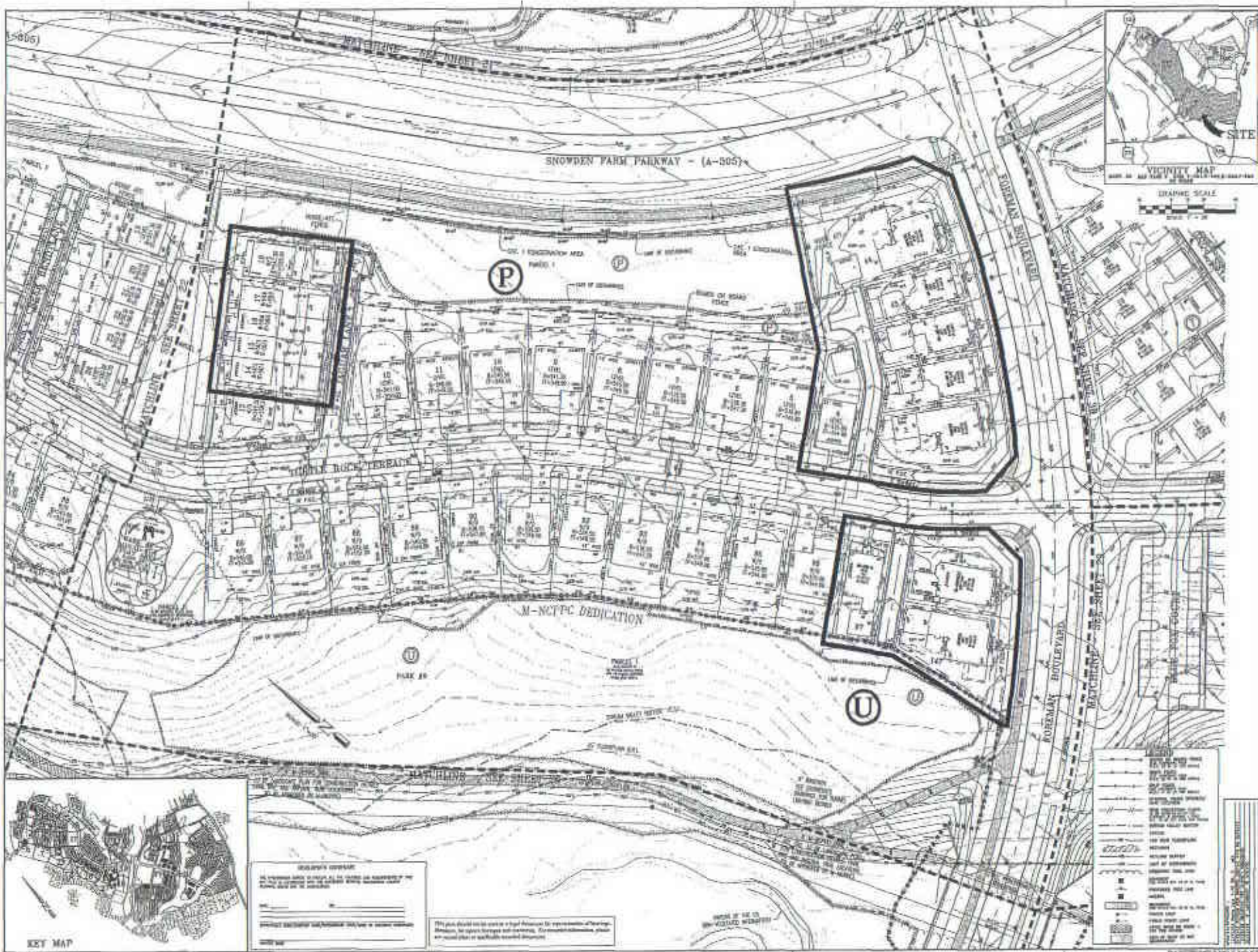
PROPOSED SERVICES
 An approved site plan shall be submitted to the appropriate authority for review and approval. The applicant shall be responsible for obtaining all necessary permits and approvals. The applicant shall be responsible for obtaining all necessary permits and approvals. The applicant shall be responsible for obtaining all necessary permits and approvals.

CPJ
 Civil Planning & Administration
 10000 WOODBURN ROAD
 CLARKSVILLE, MD 21031
 410-326-1000
 www.cpjinc.com

AMENDED SITE DEVELOPMENT PLAN - PHASE I
CLARKSBURG VILLAGE
 CLARKSBURG 2ND ELECTION DISTRICT
 WASHINGTON COUNTY, MARYLAND

Site Plan #B-03002B

NO.	DATE	DESCRIPTION
1	08/15/18	PRELIMINARY
2	09/10/18	REVISED
3	10/15/18	REVISED
4	11/15/18	REVISED
5	12/15/18	REVISED
6	01/15/19	REVISED
7	02/15/19	REVISED
8	03/15/19	REVISED
9	04/15/19	REVISED
10	05/15/19	REVISED
11	06/15/19	REVISED
12	07/15/19	REVISED
13	08/15/19	REVISED
14	09/15/19	REVISED
15	10/15/19	REVISED
16	11/15/19	REVISED
17	12/15/19	REVISED
18	01/15/20	REVISED
19	02/15/20	REVISED
20	03/15/20	REVISED
21	04/15/20	REVISED
22	05/15/20	REVISED
23	06/15/20	REVISED
24	07/15/20	REVISED
25	08/15/20	REVISED
26	09/15/20	REVISED
27	10/15/20	REVISED
28	11/15/20	REVISED
29	12/15/20	REVISED
30	01/15/21	REVISED
31	02/15/21	REVISED
32	03/15/21	REVISED
33	04/15/21	REVISED
34	05/15/21	REVISED
35	06/15/21	REVISED
36	07/15/21	REVISED
37	08/15/21	REVISED
38	09/15/21	REVISED
39	10/15/21	REVISED
40	11/15/21	REVISED
41	12/15/21	REVISED
42	01/15/22	REVISED
43	02/15/22	REVISED
44	03/15/22	REVISED
45	04/15/22	REVISED
46	05/15/22	REVISED
47	06/15/22	REVISED
48	07/15/22	REVISED
49	08/15/22	REVISED
50	09/15/22	REVISED
51	10/15/22	REVISED
52	11/15/22	REVISED
53	12/15/22	REVISED
54	01/15/23	REVISED
55	02/15/23	REVISED
56	03/15/23	REVISED
57	04/15/23	REVISED
58	05/15/23	REVISED
59	06/15/23	REVISED
60	07/15/23	REVISED
61	08/15/23	REVISED
62	09/15/23	REVISED
63	10/15/23	REVISED
64	11/15/23	REVISED
65	12/15/23	REVISED
66	01/15/24	REVISED
67	02/15/24	REVISED
68	03/15/24	REVISED
69	04/15/24	REVISED
70	05/15/24	REVISED
71	06/15/24	REVISED
72	07/15/24	REVISED
73	08/15/24	REVISED
74	09/15/24	REVISED
75	10/15/24	REVISED
76	11/15/24	REVISED
77	12/15/24	REVISED
78	01/15/25	REVISED
79	02/15/25	REVISED
80	03/15/25	REVISED
81	04/15/25	REVISED
82	05/15/25	REVISED
83	06/15/25	REVISED
84	07/15/25	REVISED
85	08/15/25	REVISED
86	09/15/25	REVISED
87	10/15/25	REVISED
88	11/15/25	REVISED
89	12/15/25	REVISED
90	01/15/26	REVISED
91	02/15/26	REVISED
92	03/15/26	REVISED
93	04/15/26	REVISED
94	05/15/26	REVISED
95	06/15/26	REVISED
96	07/15/26	REVISED
97	08/15/26	REVISED
98	09/15/26	REVISED
99	10/15/26	REVISED
100	11/15/26	REVISED
101	12/15/26	REVISED
102	01/15/27	REVISED
103	02/15/27	REVISED
104	03/15/27	REVISED
105	04/15/27	REVISED
106	05/15/27	REVISED
107	06/15/27	REVISED
108	07/15/27	REVISED
109	08/15/27	REVISED
110	09/15/27	REVISED
111	10/15/27	REVISED
112	11/15/27	REVISED
113	12/15/27	REVISED
114	01/15/28	REVISED
115	02/15/28	REVISED
116	03/15/28	REVISED
117	04/15/28	REVISED
118	05/15/28	REVISED
119	06/15/28	REVISED
120	07/15/28	REVISED
121	08/15/28	REVISED
122	09/15/28	REVISED
123	10/15/28	REVISED
124	11/15/28	REVISED
125	12/15/28	REVISED
126	01/15/29	REVISED
127	02/15/29	REVISED
128	03/15/29	REVISED
129	04/15/29	REVISED
130	05/15/29	REVISED
131	06/15/29	REVISED
132	07/15/29	REVISED
133	08/15/29	REVISED
134	09/15/29	REVISED
135	10/15/29	REVISED
136	11/15/29	REVISED
137	12/15/29	REVISED
138	01/15/30	REVISED
139	02/15/30	REVISED
140	03/15/30	REVISED
141	04/15/30	REVISED
142	05/15/30	REVISED
143	06/15/30	REVISED
144	07/15/30	REVISED
145	08/15/30	REVISED
146	09/15/30	REVISED
147	10/15/30	REVISED
148	11/15/30	REVISED
149	12/15/30	REVISED
150	01/15/31	REVISED
151	02/15/31	REVISED
152	03/15/31	REVISED
153	04/15/31	REVISED
154	05/15/31	REVISED
155	06/15/31	REVISED
156	07/15/31	REVISED
157	08/15/31	REVISED
158	09/15/31	REVISED
159	10/15/31	REVISED
160	11/15/31	REVISED
161	12/15/31	REVISED
162	01/15/32	REVISED
163	02/15/32	REVISED
164	03/15/32	REVISED
165	04/15/32	REVISED
166	05/15/32	REVISED
167	06/15/32	REVISED
168	07/15/32	REVISED
169	08/15/32	REVISED
170	09/15/32	REVISED
171	10/15/32	REVISED
172	11/15/32	REVISED
173	12/15/32	REVISED
174	01/15/33	REVISED
175	02/15/33	REVISED
176	03/15/33	REVISED
177	04/15/33	REVISED
178	05/15/33	REVISED
179	06/15/33	REVISED
180	07/15/33	REVISED
181	08/15/33	REVISED
182	09/15/33	REVISED
183	10/15/33	REVISED
184	11/15/33	REVISED
185	12/15/33	REVISED
186	01/15/34	REVISED
187	02/15/34	REVISED
188	03/15/34	REVISED
189	04/15/34	REVISED
190	05/15/34	REVISED
191	06/15/34	REVISED
192	07/15/34	REVISED
193	08/15/34	REVISED
194	09/15/34	REVISED
195	10/15/34	REVISED
196	11/15/34	REVISED
197	12/15/34	REVISED
198	01/15/35	REVISED
199	02/15/35	REVISED
200	03/15/35	REVISED
201	04/15/35	REVISED
202	05/15/35	REVISED
203	06/15/35	REVISED
204	07/15/35	REVISED
205	08/15/35	REVISED
206	09/15/35	REVISED
207	10/15/35	REVISED
208	11/15/35	REVISED
209	12/15/35	REVISED
210	01/15/36	REVISED
211	02/15/36	REVISED
212	03/15/36	REVISED
213	04/15/36	REVISED
214	05/15/36	REVISED
215	06/15/36	REVISED
216	07/15/36	REVISED
217	08/15/36	REVISED
218	09/15/36	REVISED
219	10/15/36	REVISED
220	11/15/36	REVISED
221	12/15/36	REVISED
222	01/15/37	REVISED
223	02/15/37	REVISED
224	03/15/37	REVISED
225	04/15/37	REVISED
226	05/15/37	REVISED
227	06/15/37	REVISED
228	07/15/37	REVISED
229	08/15/37	REVISED
230	09/15/37	REVISED
231	10/15/37	REVISED
232	11/15/37	REVISED
233	12/15/37	REVISED
234	01/15/38	REVISED
235	02/15/38	REVISED
236	03/15/38	REVISED
237	04/15/38	REVISED
238	05/15/38	REVISED
239	06/15/38	REVISED
240	07/15/38	REVISED
241	08/15/38	REVISED
242	09/15/38	REVISED
243	10/15/38	REVISED
244	11/15/38	REVISED
245	12/15/38	REVISED
246	01/15/39	REVISED
247	02/15/39	REVISED
248	03/15/39	REVISED
249	04/15/39	REVISED
250	05/15/39	REVISED
251	06/15/39	REVISED
252	07/15/39	REVISED
253	08/15/39	REVISED
254	09/15/39	REVISED
255	10/15/39	REVISED
256	11/15/39	REVISED
257	12/15/39	REVISED
258	01/15/40	REVISED
259	02/15/40	REVISED
260	03/15/40	REVISED
261	04/15/40	REVISED
262	05/15/40	REVISED
263	06/15/40	REVISED
264	07/15/40	REVISED
265	08/15/40	REVISED
266	09/15/40	REVISED
267	10/15/40	REVISED
268	11/15/40	REVISED
269	12/15/40	REVISED
270	01/15/41	REVISED
271	02/15/41	REVISED
272	03/15/41	REVISED
273	04/15/41	REVISED
274	05/15/41	REVISED
275	06/15/41	REVISED
276	07/15/41	REVISED
277	08/15/41	REVISED
278	09/15/41	REVISED
279	10/15/41	REVISED
280	11/15/41	REVISED
281	12/15/41	REVISED
282	01/15/42	REVISED
283	02/15/42	REVISED
284	03/15/42	REVISED
285	04/15/42	REVISED
286	05/15/42	REVISED
287	06/15/42	REVISED
288	07/15/42	REVISED
289	08/15/42	REVISED
290	09/15/42	REVISED
291	10/15/42	REVISED
292	11/15/42	REVISED
293	12/15/42	REVISED
294	01/15/43	REVISED
295	02/	



DESIGNER'S CERTIFICATE
I, the undersigned, being a duly licensed Professional Engineer in the State of Maryland, do hereby certify that I am the author of the design and content of this plan and that I am a duly licensed Professional Engineer in the State of Maryland.

DATE: 08-05-2008
SIGNATURE: [Signature]

This plan should not be used as a legal document for representation of ownership. It is subject to change without notice. It is not intended to be used as a legal document for representation of ownership. It is subject to change without notice. It is not intended to be used as a legal document for representation of ownership. It is subject to change without notice.

NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	08-05-2008
2	REVISED PLAN	08-05-2008
3	REVISED PLAN	08-05-2008
4	REVISED PLAN	08-05-2008
5	REVISED PLAN	08-05-2008
6	REVISED PLAN	08-05-2008
7	REVISED PLAN	08-05-2008
8	REVISED PLAN	08-05-2008
9	REVISED PLAN	08-05-2008
10	REVISED PLAN	08-05-2008

CPJ
 CONSULTING PROFESSIONALS, INC.
 1100 W. 10th Street, Suite 100
 Annapolis, MD 21403
 TEL: 410-293-1100
 FAX: 410-293-1101
 WWW: www.cpjinc.com

AMENDED SITE DEVELOPMENT PLAN - PRESET
CLARKSBURG VILLAGE
 CLARKSBURG AND SUBJECT PROPERTY
 MONTGOMERY COUNTY, MARYLAND

Site Plan #8-050028

DATE: 08-05-2008	SCALE: 1" = 100'
PROJECT: CLARKSBURG VILLAGE	CLIENT: [Redacted]
DESIGNER: [Redacted]	CHECKER: [Redacted]
DATE: 08-05-2008	SCALE: 1" = 100'

ATTACHMENT C

Staff Report Dated June 19, 2006



MEMORANDUM

DATE: June 19, 2006
TO: Montgomery County Planning Board
VIA: Faroll Hamer, Acting Director *JH*

FROM: Rose Krasnow, Chief, Development Review Division *RK*
 Michael Ma, Supervisor, Development Review Division *Ma*
 Margaret K. Rifkin RLA AICP CNU, Coordinator/Urban Designer, *MKR*
 Community-Based Planning Division
 John Henderson, Enforcement Coordinator, Development Review
 Division

REVIEW TYPE Public Hearing Regarding

- Acts of non-compliance with site plan approval, Zoning Ordinance and approved right-of-way (*Action Item*)
- Other Deficiencies (*Action Item*)
- Compliance Program (*Discussion Item*)

REVIEW BASIS PROJECT NUMBER Division 59-D-3.6 of the Montgomery County Zoning Ordinance
 Site Plans 820030020 (Formerly 8-03002)

PROJECT NAME Clarksburg Village Phase One
ZONES R-200/TDR3
 R-200/MPDU

LOCATION Southwest Quadrant of the Intersection of Stringtown Road and
 Piedmont Road

MASTER PLAN RESPONDENT HEARING DATE Clarksburg Master Plan
 Elm Street Development
 June 29, 2006

Staff Recommendations:

- That the Planning Board find that the following constitute one or more acts of non-compliance with either the Zoning Ordinance, previous approvals of right-of-way or Site Plan approval 82003002:
 - Discrepancies between the Planning Board opinion and the signature set in terms of the number of one-family detached dwelling units and the number of townhouse dwelling units, as well as the types of dwelling units.
 - Thirty-six (36) multiple-family dwelling units shown where they are not permitted; in the R-200 zone where the moderately priced dwelling unit optional method of development (59-C-1.6) is used (R-200/MPDU zone).
 - Lot sizes that do not conform to the standards in the R-200/MPDU zone.
 - Setbacks that do not conform to the standards in the R-200/MPDU zone.
 - Right-of-way width that does not conform to that specified in the Master Plan and approved in the Preliminary Plan.
- That the Planning Board make the finding that there are other deficiencies, which consist of inadequate development standards in the R-200 zone where the optional method of development using transfer development rights (TDR's) is used (R-200/TDR3).
- That the Planning Board provide guidance concerning fines and a compliance program.

PART ONE

BACKGROUND

Organization of this Report

The purpose of this staff report is to address alleged acts of non-compliances and alleged deficiencies for Planning Board action as well as to present proposals for a compliance program for Planning Board discussion.

Part One addresses the background, including a description of the project and the process.

Part Two is an action item, and expresses the recommendations of the staff concerning the alleged acts of non-compliance with site plan approval, with the zoning ordinance and with an approved right-of-way width. The Planning Board is expected to make findings at this time as to whether or not the *alleged acts of non-compliance* are indeed that.

In addition, this staff report provides information in response to the Planning Board's questions of May 4, 2006. The Planning Board was particularly interested in understanding how the acts of non-compliance came about and if there is any evidence that either error (mistake) or fraud was involved.

Part Three of this staff report addresses another action item: deficiencies in the development standards in the area zoned R-200/TDR3.

Part Four of the staff report addresses sanctions and a compliance program. This section is not for action but is for discussion. This is an opportunity for the Planning Board to provide staff with guidance. The staff will then prepare recommendations for the Planning Board concerning sanctions and a compliance program. These will be brought to the Planning Board at a public hearing for action, before the Planning Board's August break.

Previous Planning Board Actions

May 4, 2006- Initial Public Hearing-An initial public hearing and staff report afforded notice to the developer, and relevant information to the Planning Board, regarding the nature and extent of the alleged acts of non-compliance and deficiencies discovered by staff. 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 (These are referred to in this staff report, more correctly as "acts of non-compliance" and "deficiencies".)

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

The Planning Board also requested that the staff provide information concerning how each alleged "violation" came to pass and whether or not there is any evidence that error/mistake or fraud were involved. At that time the Planning Board received testimony from the Developer acknowledging mistakes. The May 4, 2006 staff report is attached. (Recordings of the May 4, 2006 and May 11, 2006 sessions are available at www.mc-mncppc.org. Click on the "weekly agenda" tab and then click on "Recordings of the Planning Board Meetings".)

May 11, 2006 – Continuation of May 4, 2006 Item: Issuance of Corrective Order

On May 11, 2006 the Planning Board issued a Corrective Order for eighty-three lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The staff report and Corrective Order are attached. The developer has 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. These stipulations of fact can be found attached.

Procedural Posture

Under Section 59-D-3.6 of the Zoning Ordinance, 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.

Part Four of this staff report provides the basis for Planning Board discussion concerning which of the above actions may be appropriate should the Board make findings of acts of non-compliance.

Future Planning Board Actions

The Planning Board will have an opportunity to make final decisions concerning what actions to take in response to acts of non-compliance. This will be brought to the Planning Board for action in July 2006. The staff will prepare a proposal that reflects guidance from the Planning Board, taking into consideration testimony received.

The Planning Board will also be brought for approval an amendment to the site plan for Phase One. The amendment will include any features required by the Planning Board as well as any revisions the developer wishes to propose. The amendment will also update the site plan to reflect any changes required by other government agencies since the original approval.

Sources of Allegations of Acts of Non-Compliance

The alleged acts of non-compliance discussed in this staff report came to the attention of M-NCPPC staff from several sources. These included the Department of Permitting Services, a contract purchaser and the developer. They also surfaced as the result of an

extensive site plan audit by M-NCPPC.

A contract purchaser raised concerns about a proposed "trellis" to connect one or more dwelling units as early as last summer. (June 2005).

The Department of Permitting Services (DPS) identified the Foreman Boulevard right-of-way issue at the time of review of the record plat. DPS also identified issues of lot size and setback non-compliance at the time of building permit review, wall checks and site inspections.

As the Board is aware, Montgomery County Council Resolution No. 15-1125 (July 26, 2005) called for staff to conduct a quality control audit intended to evaluate the status of each site plan approved by the Planning Board on or after January 1, 2003. This project fell within the scope of the audit. Staff discovered a number of the potential acts of non-compliance discussed in this staff report based upon the work undertaken in connection with that audit.

As stated earlier, the developer filed Amendment B to address a variety of outstanding issues before the staff investigation of alleged violations began. This was shortly after the Planning Board's initial finding of violations in Clarksburg Town Center. The issues being addressed initially in the amendment were the multiple family buildings in a zone where they are not permitted, and the proposed structures to transform one family detached dwelling units into semidetached dwelling units, and thereby address lot size and setback issues.

The Montgomery County Civic Federation's Site Plan Enforcement Addendum, dated January 23, 2006, noted that they had become aware that staff had uncovered potential acts of non-compliance, causing the Civic Federation to formally request a hearing on this project.

As of the date of this staff report, the Planning Staff is not aware of any acts of non-compliance that have been alleged but not investigated for the purpose of presenting this report.

General Description of the Development Project

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.

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.

Note: The potential acts of non-compliance described in the balance of this report relate to Phase One only.

Plan Approvals

Preliminary Plan- The Planning Board approved the Preliminary Plan 1-01030 and Special Protection Area Water Quality Plan for Clarksburg Village for all phases on July 30, 2001. The Plan was subsequently amended twice in January 2003 and December 2004 to incorporate additional land and dwelling units into the development. The latest amendment authorized development of 2,654 dwelling units, 20,000 square feet of office/retail and 5,000 square feet of daycare on approximately 770 acres.

Infrastructure Plan- The Planning Board approved Site Plan 8-02038 for Clarksburg Village Infrastructure Plan for all phases in July 2003. The Planning Board approved the overall concept for all phases of the project for roads, stormwater management, school sites, parks, the Clarksburg Greenway, recreational facilities, and location and phasing of moderately priced dwelling units.

Phase One Site Plan- The Planning Board approved the Site and Water Quality Plan 82003002 (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 82003002 (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

The approved Signature Set for Site Plan 82003002 (8-03002) showed a different mix of dwelling units, including 481 one-family detached dwelling units, 360 "Townhomes/Semi-detached" dwelling units, 44 MPDU "Townhomes" and 48 MPDU multiple family dwelling units. Although the total number of dwelling units remained at 933, in the Signature Set the number of one-family detached dwelling units increased by 10, the number of "townhomes" decreased by 10, and semidetached dwelling units were

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.

added as a unit type. This discrepancy is listed below as an alleged act of non-compliance.

Amended Phase One Site Plan- An amended site plan (82003002 (8-03002)A) 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.²

Development Status

Phase One of Clarksburg Village is under construction and approximately 200 households have bought homes and many have already moved in. According to recent information provided by the developer on April 1, 2006, 41 dwelling units were under construction at that time. Construction on approximately 20 additional homes has been stopped until outstanding issues are resolved. No new building permits were being issued at the time. After the Planning Board's Corrective Order of May 11, 2006 creating development standards for 83 dwelling units, M-NCPPC has been reviewing building permits for those dwelling units.

Development Standards for Phase One

Phase One of the development is split zoned: R-200 and R-200/TDR 3. There is one area zoned R-200/TDR3 and there are two separate areas zoned R-200. The Zoning Ordinance provides different standards for the R-200/MPDU and the R-200/TDR3 zones. The R-200/TDR3 zone requires that certain standards, such as the lot sizes, building heights and setbacks, be determined and approved by the Planning Board. These standards may be modified through approval of site plan amendments.

R-200/MPDU Zone

In the R-200/MPDU zone, the following standards under Section C-1.62 of the Zoning Ordinance apply:

	R-200 /MPDU
59-C-1.622. Density of development. The maximum number of dwelling units per acre of usable area, as defined in section 59-C-1.628(a), is	2.44
59-C-1.623. Setbacks from street (in feet).	
No detached dwelling must be nearer to any public street than:	25 ⁷

² The applicant presented a proposed signature set for site plan for 82003002A, but that signature set has not been finalized because staff discovered the alleged acts of non-compliance. Applicant has submitted a "B" amendment to the approved site plan to address these issues. It is under review and will reflect the Board's decision on the alleged acts of non-compliance and compliance program.

	R-200 /MPDU
59-C-1.624. Yard requirements (in feet). For a side or rear yard that abuts a lot that is not developed under the provisions of this section 59-C-1.6, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than	20
59-C-1.625. Lot area and width.	
(a) Minimum net lot area (in sq.ft.):	
(1) For a one-family detached dwelling unit	6,000 ⁷
(2) For each one-family semidetached dwelling unit	3,500
(3) For a townhouse, unless a smaller lot size is approved by the planning board.	1,500
(4) Where an individual lot for each dwelling unit is deemed to be infeasible because of the manner in which individual units are attached to each other the Board may approve a site plan depicting more than one dwelling unit on a lot.	
(b) Minimum lot width for a one-family detached dwelling unit at existing or proposed street line (in feet):	25
59-C-1.626. Maximum Building Height (in Feet)	
(a) For a main building. The height must not exceed 3 stories or 40 feet. If the abutting lot is not developed under the provisions of this section 59-C-1.6, the yard abutting that lot must be increased by one foot for each 2 feet of height above 35 feet	
(b) For an accessory building. The height must not exceed 2 stories or 25 feet.	
59-C-1.627. Green area. Green area must be provided for each townhouse or one-family attached dwelling unit erected in the subdivision, at the rate, in square feet per unit, of	2,000

- 7 For Moderately Priced Dwelling Unit lots designated as such on a site plan, the minimum lot area must not be less than 3,000 square feet and the setback from a public street must not be less than 15 feet. For each one-family detached dwelling unit with a lot area less than 3,500 square feet, 500 square feet of green area must be provided in the subdivision.

R-200/TDR 3

In the R-200/TDR 3 zone, the following development standards apply:

The second table under Section C-1.395 of the Zoning Ordinance provides standards for 1) minimum percentage of one-family detached dwelling units ; 2) maximum percentage and height (in stories) for multiple-family dwelling units ; and 3) minimum green area as follows:

TDR Density per Acre Shown on Master Plan	Size of Development ³	Minimum (Maximum) percentage required ⁴			
		One-Family Detached	One-Family Townhouse and Attached	Multiple Family ² Four-Story or Less ⁴	Green Area
3-5	800 dwelling units or more	30 ⁶	P	P(20)	35

6 Development may utilize the R-60/MPDU standards as set forth in Sec. 59-C-1.625(a)(1).

Development may utilize the R-60/MPDU lot size standard for one-family detached dwelling units per Footnote #6, but is not required to do so.

Per Section C-1.394 (b) of the Zoning Ordinance, the lot sizes and other development standards, including height (in feet) and setback, must be determined by the Planning Board for conformance with applicable master plan guidelines and in accordance with the purposes and provisions of the PD zone.

Part R-200/TDR3 and part R-200 MPDU

There are a number of lots which are zoned partly R-200/TDR3 and partly R-200/MPDU. Whatever the majority of the lot area is zoned, determines which development standards apply. There is one case where the lot is 50% in one zone and 50% in the other. In that case, staff has agreed with the developer to use the R-200/TDR3 standards as he originally intended. Staff does not support the interpretation reflected in the Signature Set Data Table (Sheet 14 of 14) which places all split zoned lots automatically in the more flexible zone (R-200/TDR3) regardless of distribution of the area.

Developer's Approach

The developer has explained that the acts of non-compliance are errors.

In a letter dated June 12, 2006, addressed to the Chairman of the Planning Board, the Developer's attorneys wrote:

"...none of the Alleged Violations represents anything more than, at worst, inadvertent missteps by Respondent (and to varying degrees, Staff and even the Board) in obtaining Respondent's various approvals for this Project. No fraud or bad faith on the part of the Respondent has been or could be alleged in regard to any Alleged Violations."

The developer has already offered proposals to address many of the allegations described in this report. Indeed the developer filed on May 5, 2005, a proposed site plan amendment that includes changes that if approved by the Planning Board, might resolve several of the issues or more of the alleged acts of non-compliance. The developer also submitted further revisions to the amendment, the most recent being submitted June 9, 2006. The most recent submittal was intended to meet the requirements of the Planning

Board's Corrective Order of May 11, 2006. The Corrective Order, which sets development standards for 83 specific lots, requires that the developer submit a proposal for all missing development standards by June 10, 2006 as follows:

“ ORDERED, FURTHER, THAT within 30 days of the date of this Order, Respondent shall prepare and file with the Board a Plan of Compliance, Site Plan Amendment or other petition for Planning Board action that is reasonably satisfactory to the Planning Board Staff to establish appropriate height and other necessary development standards with respect to any and all structures within the Project.”

PART TWO

Acts of Non-Compliance

with Site Plan Approval 82003002, the Zoning Ordinance, and with an approved right-of-way width

This part discusses and presents staff recommendations on the followed five alleged acts of non-compliance:

1. *Discrepancies between the planning board opinion and the signature set in terms of the number of one-family detached dwelling units and the number of townhouse dwelling units , as well as the types of dwelling units*
 2. *Thirty-six (36) multiple-family dwelling units shown in the R-200/MPDU zone where they are not permitted*
 3. *Twenty-two (22) lots where the size does not conform to the standards in the R-200/MPDU zone*
 4. *Thirty (30) buildings where the setbacks do not conform to the standards in the R-200/MPDU zone*
 5. *One road (1), Foreman Boulevard, where the right-of-way is shown as 70 feet where the approved width is 80 feet.*
-
1. **Discrepancies between the planning board opinion and the signature set in terms of the number of one-family detached dwelling units and the number of townhouse dwelling units , as well as the types of dwelling units .**

Description- The 471 one-family detached dwelling units approved by the Board in its opinion increased by 10 to 481 in the approved Signature Set. Similarly, the total number of townhouses decreased by 10. In addition, the Board approved only townhouses, but the

approved signature set calls for "Townhomes/Semi-detached" dwellings. In this respect the Signature Set does not conform to the relevant Planning Board opinion.

Discussion

The number of one-family detached dwelling units and the number of townhouses:

The developer has stated that this was a mistake. He has explained that site plan drawings did not change from the time of Planning Board approval to the time of signature set approval. He has stated that the total count of one-family detached homes always should have been 481, in contrast to the original staff report and site plan opinion which show 471.

Staff conducted a thorough investigation of the records and found that the number of one-family detached dwelling units (471) and the total number of dwelling units (933) is stated in two different places in the staff report. In addition, at the public hearing there was no mention of the number of one-family detached dwelling units or townhouses. Four months later, the opinion was mailed consistent with the count in the staff report.

A year after the public hearing, the number of one-family detached dwelling units is shown as 481 in the data table on the first sheet of the Signature Set Site Development Plan drawings. On the same sheet, there is a copy of the opinion with the original number: 471.

Staff finds it credible that the difference in the numbers is an error. The total number of dwelling units remains the same.

The addition of "semi-detached" dwelling units to the "Townhomes" category in the data table

Records show that within six months of the Planning Board approval, discussions started about how to address problems discovered in the site plan. The discussions included a proposal from the developer to address the problems by changing a number of one-family detached dwelling units into semidetached dwelling units. This occurred months before the Signature Set drawings were signed by M-NCPPC. When the drawings were signed by M-NCPPC, the word "semi-detached" appears for the first time in the data table.

In those same drawings, the developer has explained, there are trellis connections shown between pairs of specific dwelling units to change them from one-family detached dwelling units into semidetached dwelling units. However, the connections are not identified with labels, listed in the legend, notes, nor shown in architectural details. The lines between the dwelling units that represent "connections" are thin and difficult to discern. The thickness of the lines is finer than that used for footprints of the dwelling

units they connect. To an observer, they could be defining squares of concrete pavement, for example, rather than connecting structures creating semidetached dwelling units .

Nine months after the Signature Set drawings were signed by M-NCPPC, Staff requested in writing that the developer:

“show the structure that makes the SFD (single family detached units) [into] attached units in the R-200 [MPDU zone area]” (May 13, 2005)

By this time, the developer had also applied and received Planning Board approval to add acreage and dwelling units as part of a single-focus amendment. Neither the staff report, nor the public hearing for that amendment mentioned changing one-family detached dwelling units into either semidetached dwelling units nor did they show a design for a connection. In the staff report; however, the data table lists “Town homes/Semi-detached” and lists the minimum lot size in the R-200/MPDUzone for semidetached dwelling units as 3,500 square feet.

Records indicate that the addition of the “semidetached ” category and the design of an attachment to convert a one family detached home to a semidetached home, were never discussed in a staff report or public hearing; nor was either the subject of an administrative amendment.

Conclusion: Staff recommends that the Planning Board make a finding of acts of non-compliance with the Planning Board opinion with respect to discrepancies between the opinion and the signature set in terms of the number of one-family detached dwelling units and the number of townhouse dwelling units , as well as the types of dwelling units.

2. Thirty-six (36) multiple-family dwelling units shown in the R-200/MPDU zone where they are not permitted

Description

Approved Site Plan 82003002 (8-03002) proposes 48 multiple-family dwelling units (MPDU’s) in four buildings in Block T. Block T includes the southernmost area zoned R-200. However, on the approved site plan, Block T appears to be entirely in the R-200/TDR3 zoned portion of the development because the zoning lines through the block are missing. Three of the four multiple-family buildings, Buildings 1, 3, and 4, are actually located in the area where the developer is using the R-200/MPDU.³ Multiple-family dwelling units are not permitted in the R-200/MPDU zone per Section C-1.621.of the Zoning Ordinance.

³ None of these buildings have been constructed.

Discussion

The developer has explained that this was a mistake. He knew that the Block T included areas with a base zone of R-200 but did not show the zoning information on the site plan. In the course of responding to staff requests to revise the site plan and the locations of the multiple family buildings, he moved them into the R-200 area in error. Since the R-200 zoning was apparently not shown on the site plan, this issue was not discovered by staff and the plan was approved by the Planning Board.

Staff conducted a thorough investigation of the records and found that there were inconsistencies in various submittals from the developer that may have lead to this confusion. Some early applications either did not account numerically for the R-200 acreage in this southern portion of Phase One on the actual application form, or did not reflect the correct zoning on the plans. In fact, even the staff report did not account for this southern area of R-200 zoning. The analysis in the staff report addresses only the R-200 zoning in the northwest corner of the site. There is no plan in the staff report or in the files correctly showing existing zoning on the site.

Conclusion: Staff recommends that the Planning Board make a finding of acts of non-compliance with the zoning ordinance with respect to the thirty-six (36) multiple-family dwelling units shown in the R-200/MPDU zone where they are not permitted

3. **Twenty-two (22) lots where the size does not conform to the standards in the R-200/MPDU zone (and definition of semidetached dwelling units)**

Description

In the R-200/MPDU zone the minimum lot size for a market-rate one-family detached home is 6000 square feet (59-C-1.625 (a)(1)). The twenty-two (22) lots shown in the table below are less than 6000 square feet.⁴ On the signature set for approved Site Plan 82003002 (8-03002) each of the lots is shown with a one-family detached home. The lot size can be reduced to 3,500 square feet if the home is a MPDU, or even to 3,000 square feet if it is an MPDU and additional common open space is provided. None of the homes on the lots listed in the Table are MPDU's.

⁴ Many of these lots also have setback issues .

Table – Lot Size: Summary of Status

Key:

Homeowner: Home settled, private homeowners now owns the house and lot
 Developer: Elm Street Development still owns lot
 Builder: Lot closed and builder now owns the lot
 Not Started: DPS restricted start of construction
 Stopped: DPS halted construction, construction started but not finished

Block	Lots (22 total)	Lot Size on Signature Set	Construction Status	Ownership
F	51	5083	Built	Homeowner
G	12	5500	Built	Homeowner
	13	5845	Stopped	Builder
	21	4000	Not Started	Developer
	22	5000	Not Started	Developer
	32	4400	Not Started	Developer
	33	4400	Not Started	Developer
	34	5500	Not Started	Developer
	35	5500	Not Started	Developer
	36	5500	Not Started	Builder
H	6	4802	Not Started	Developer
	7	4039	Not Started	Developer
	8	4039	Not Started	Developer
	9	5145	Under Construction	Builder
K	11	4371	Not Started	Developer
	12	4200	Not Started	Developer
	13	5663	Stopped	Builder
L	11	5960	Not Built	Developer
	12	4200	Not Built	Developer
V	98	5603	Not Built	Developer
	99	5487	Not Built	Developer
	100	5772	Not Built	Developer

Discussion

The Developer has explained that the one-family detached dwelling units on the lots that are less than 6000 square feet were intended to be one-family attached dwelling units .

A letter dated June 12, 2006 from the Developer's attorneys states:

"...the alleged lots that the Staff Report describes as detached, single-family dwelling ("SFD") were never intended by Elm Street or Staff as anything other than to be attached units."

Staff certainly finds it credible that there was never any intention to include a dwelling unit type that did not meet the standards in the zone. However, the signature set shows these dwelling units as one-family detached – not semidetached and not attached.

Secondly, there are several indications that the desired unit type that the Developer wished to create using a connection, was "semidetached" not "attached". In fact, the dwelling type added to the Signature Set was indeed semidetached. "Attached" and "semidetached" have different definitions in the zoning ordinance.

The minimum lot size for each semidetached dwelling unit in the R-200/MPDU zone is 3,500 square feet. The lots in question would meet that standard. The developer asked certain purchasers to agree to the construction of a trellis between their house and an adjacent house, in order to satisfy the definition of semidetached unit subject to the approval of M-NCPPC and thereby ensure that the lot size was consistent with the development standards. However, the zoning code definition of one-family semidetached dwelling units states that the dwelling units *must share a party wall*.⁵

Staff conducted a thorough investigation of the records and found that in the staff report for the site plan approval, the data table clearly states that the minimum lot size for one-family detached homes is 6000 square feet in the R-200/MPDU zone. The data table also states that these standards apply in the northwest corner of the site; an area zoned R-200/MPDU where lot sizes have since been identified as being smaller than allowed.

The data table shows that the *proposed* minimum lot size for one-family detached homes in the zone is 6,012 square feet. This is a number that customarily is provided by the developer. However, if the number were under discussion, staff could condition the approval on either meeting that minimum or on converting one-family detached homes on lots smaller than 6000 square feet to semidetached dwelling units. This was not discussed in the staff report nor was any aspect of lot size discussed at the public hearing. The staff found the site plan in conformance with the standards in the zones at the time of the public hearing.

The record is inconclusive as to how the submittal and approval of the signature set, record plats and in some cases building permits occurred where lots sizes do not meet the standards in the zone.

⁵ Section 59-A-2.1 of the Zoning Ordinance provides the following definition for one-family semidetached units:

Dwelling unit, one-family semidetached (duplex): One of 2 attached dwelling units located on abutting lots, separated from each other by a party wall along the common lot line, and separated and detached from any other dwelling unit on all sides.

Conclusion: Staff recommends that the Planning Board make a finding of acts of non-compliance with the zoning ordinance, with respect to twenty-two (22) lots where the size does not conform to the standards in the R-200/MPDU zone

4. Thirty (30) Buildings where the setbacks do not conform to the standards in the R-200/MPDU zone

Description

Setbacks from the public street do not meet the development standards for a number of one-family detached dwelling units in the R-200/MPDU zone as listed in the following table.⁶ The minimum setback from a public street for a one-family detached home is 25 feet (Section 59-C-1.6).

The only provision for the reduction of this setback in the R-200/MPDU zone is for Moderately Priced Dwelling Units (Section 59-C-1.6). The homes in question are not Moderately Priced Dwelling Units. Once the Moderately Priced Dwelling Unit optional method of development is selected, as it is here, all of the requirements from that section apply.

The following table is a summary of the lots and their status.

Table – Setbacks: Summary of Status

Homeowner: Home Settled, Private Homeowners now owns the house and lot
 Developer: Elm Street Development still owns lot
 Builder: Lot Closed = Builder now owns the lot
 Not Started: DPS Restricted Start of Construction
 Stopped: DPS Halted Construction, Construction Started but not finished

Block	Lots (30 total)	Setback from Public Street per signature set	Construction Status	Ownership	Notes
F	51	21 feet	Built	Home settled	
G	1	15 feet	Built	Home settled	Corner lot
	12	15 feet	Built	Home settled	
	13	15 feet	not started	builder	
	21	21.5 feet	not started not built	developer	
	22	22 feet	not started	developer	
	23	20 feet	built	home settled	
	26	15 feet	built	home settled	

⁶ some of these lots also have lot size issues (see Section VIII.3 above).

Block	Lots (30 total)	Setback from Public Street per signature set	Construction Status	Ownership	Notes
	30	15 feet	not started	developer	
	31	20 feet	not started	developer	
	32	23 feet	not started	developer	
	33	23 feet	not started	developer	
	34	15 feet	not started	developer	
	35	20 feet	not started	developer	
	36	20 feet	not started	lot closed builder	
	37	15 feet	built	home settled	corner lot
H	1	15 feet	built	home settled	corner lot
	6	15 feet	not started	developer	
	10	22 feet	built	home settled	
	15	18 feet	built	home settled	corner lot
I	16	15 feet	built	home settled	corner lot
K	1	15 feet	not on developer list not built	developer	corner lot replaced in amendment A
	10	23 feet	built	home settled	
	11	21.5 feet	not started	developer	
	12	21.5 feet	not started	developer	
	13	21.5 & 15 feet	stopped	builder developer	
L	1	15 feet	no developer comments not built	developer	corner lot replaced in amendment A
	10	18 feet & 20 feet	built	home settled	
	11	23 feet	not built	developer	
	12	23 feet	not built	developer	

Discussion

Corner Lots

In certain instances, houses on corner lots were located with side yards 15 feet from the street. The developer has explained that he was using a provision in the R-200 standard method zone, 59-C-1.323 (a). Upon study, staff finds that this provision is not applicable in the R-200/MPDU zone. This is because once the MPDU option is used, only the provisions in the MPDU section are applicable, 59-C-1.61. He has requested Zoning Text Amendment 06-12, which the Planning Board made recommendations on June 15, 2006. The Planning Board *supported* the amendment, which would also allow the

flexibility provision to be used when the MPDU option is used. If the County Council adopts the Zoning Text Amendment, then these homes on corner lots with side yards 15 feet from the street could be found in conformance with the zoning ordinance.

Other Lots in the Table

The developer has stated that the setbacks that are smaller than the development standards for the R-200/MPDU allow, are a mistake except where he explains that the reduced setback is allowed for corner lots per provisions in the zoning ordinance for the R-200 standard method of development.

Staff conducted a thorough investigation of the records and found once again, that in the staff report for the site plan approval, the data table clearly states that the minimum setback for a one family detached home "front yard" is 25 feet in the R-200/MPDU zone.

The zoning ordinance actually states "*no detached dwelling unit must be nearer to any public street than*": ... 25 feet. This setback requirement applies to side yards along public streets as well as front yards. As before, the data table states that these standards apply in the northwest corner of the site; the area where setbacks from streets have since been identified as being smaller than allowed.

The data table clearly shows that the developer's proposed minimum setback for *front yards* for one -family detached homes in the zone is 25 feet. This is a number that customarily is provided by the developer.. However, if the number were under discussion, staff could condition the approval on either meeting that minimum or on converting single family detached homes with smaller setbacks to semidetached dwelling units. There is no setback requirement for the semidetached units specified in the zoning ordinance. The Planning Board could establish the setbacks at the time of site plan review. This was not discussed in the staff report. While the sizes of front and rear yards were briefly discussed at the public hearing, there were no revisions requested by the Planning Board. The staff found the site plan in conformance with the standards in the zones at the time of the public hearing.

Summary

The record is inconclusive as to how the submittal and approval of the signature set, record plats and in some cases building permits occurred where setbacks do not meet the standards in the zone.

Conclusion: Staff recommends that the Planning Board make a finding of acts of non-compliance with the zoning ordinance with respect to thirty (30) Buildings where the setbacks do not conform to the standards in the R-200/MPDU zone

4. One road Foreman Boulevard, where the right-of-way is shown as 70 feet where the correct width is 80 feet.

Description

At the time of Preliminary Plan, the Board approved Foreman Boulevard with an 80-foot right-of-way. The approved Site Plan 82003002 (8-03002), however, provides only 70 feet.

Discussion

In the June 12, 2006 letter from the Developer's attorneys, the Foreman Boulevard situation is described as an "innocent and inadvertent mistake on the 70' vs 80' ROW for Foreman Blvd." Staff conducted a thorough investigation of the records and found no evidence to the contrary.

The Planning Board makes the final decision regarding the classification and the required right-of-way width of a road at the time of Preliminary Plan. After that, the Montgomery County Department of Permitting Services and the Department of Public Works and Transportation (DPW&T) make the final decision regarding the *design* of the road within the required right-of-way. There are standard road designs in a publication called "Design Standards" prepared by DPW&T that are referenced.

In the case of Foreman Boulevard, the Preliminary Plan conditions require Foreman Boulevard to be a *two-lane arterial road* between Snowden Farm Parkway and Timber Creek Lane with an 80 foot right-of-way. This is consistent with the master plan, which specifies an 80-foot right-of-way.

Later, the Site Plan conditions require compliance with a memo from the Department of Permitting Service concerning the road *design*. The design was to be that for an alternative primary. The alternative primary is customarily used to reduce impacts on the environment. This design was to apply to the portion of Foreman Boulevard, which included a stream valley crossing.

There is no specific discussion of Foreman Boulevard in the staff report for the site plan, nor was there any discussion of it at the public hearing.

The signature set was submitted and approved by M-NCPPC with Foreman Boulevard shown with 70 feet of right-of-way, which is the right-of-way width for an alternative primary. However, it was supposed to be 80 feet, the standard right-of-way width for a two lane arterial, per the Preliminary Plan.

The record is inconclusive as to exactly how the mistake on the Site Plan drawing occurred. The reference to the alternative primary *design* appears to have been a contributing factor.

Conclusion: Staff recommends that the Planning Board Make a Finding of acts of non-compliance with an approved right-of-way width for Foreman Boulevard.

Conclusion of Part Two

Staff has identified alleged acts of non-compliance of the Planning Board approvals and the zoning ordinance requirements. These recommendations take into consideration testimony that the Board received at the hearing on May 4, 2006 and since that time, as well as the Developer's "Proposed Plan of Compliance/Correction Proffer" (June 12, 2006), and guidance provided by the Board. The staff is not able to construct with certainty, how each of these acts of non-compliance occurred. The evidence reviewed in connection with this investigation, in staff's opinion, does not support any finding of fraud.

PART THREE Other Deficiencies

which consist of inadequate development standards in the
R-200/TDR 3 zoned area

The approved Signature Set for Site Plan 82003002 (8-03002) includes a data table that sets some but not all development standards. It establishes front and side yard setbacks (15 feet and 3 feet, respectively) for one-family detached dwelling units only,⁹ not for other dwelling types. No other development standards, such as lot size or building height¹⁰, were provided for detached dwelling units or other dwelling types. Therefore, there are deficiencies in the data table because of missing development standards.

In addition, construction of some dwelling units was stopped by the Department of Permitting Services (DPS). In this area of the plan where the principles of "new urbanism" are used, front yards sometimes face a mews and do not front on a street. Ambiguity in the development standards there was ambiguity about where the front yard should be measured is also a deficiency.

In the R-200/TDR3 zone, the optional method of development with MPDU's is subject to the purposes and provisions of the PD zone except as shown in the following table which appeared earlier in this staff report:

⁷ A note on the signature set states that rear yard setbacks for one-family detached units are as shown on the site plan, but each unit would have to be individually scaled to determine the rear setback.

⁸ The multiple-family units are limited to four stories under the zoning ordinance but the approved signature set does not identify the height in feet for any of the dwelling unit types including multiple-family in the R-200/TDR3 zone.

⁹ A note on the signature set states that rear yard setbacks for one-family detached units are as shown on the site plan, but each unit would have to be individually scaled to determine the rear setback.

¹⁰ The multiple-family units are limited to four stories under the zoning ordinance but the approved signature set does not identify the height in feet for any of the dwelling unit types including multiple-family in the R-200/TDR3 zone.

Section C-1.395

TDR Density per Acre Shown on Master Plan	Size of Development ³	Minimum (Maximum) percentage required ¹			
		One-Family Detached	One-Family Townhouse and Attached	Multiple Family ² Four-Story or Less ⁴	Green Area
3-5	800 dwelling units or more	30 ⁶	P	P(20)	35

6 Development may utilize the R-60/MPDU standards as set forth in Sec. 59-C-1.625(a)(1).

Development may utilize the R-60/MPDU lot size standard for one-family detached units per Footnote #6, but is not required to do so.

Per Section C-1.394(b) of the Zoning Ordinance, the lot sizes and other development standards, including height (in feet) and setback, must be determined by the Planning Board for conformance with applicable master plan guidelines and in accordance with the purposes and provisions of the PD zone.

A primary purpose of the PD zone is to:

"Provide a means of regulating development which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations under which it is permitted as a right under conventional zoning categories."

Per Section 59-D-3.23(a) of the Zoning Ordinance the contents of a site plan should include the "location, height, ground coverage and use of all structures."

Therefore, while greater flexibility is allowed in the PD zone, any time a site plan is required, it is to provide specific information such as height. In this instance, height standards were not provided. They were not referenced in notes in the signature set; nor were they mentioned in the staff report.

The developer was required to provide signature set drawings that showed graphically what the setbacks would be for each unit. The developer also created a table (Sheet 14 of 14) as requested, that included setbacks for each lot. In some cases instead of providing the setback in feet, the table referenced the drawing by saying "as shown."

The record is inconclusive concerning how this happened.

Conclusion: The Planning Board should make a finding that the lack of complete development standards creates deficiencies in the site plan.

PART FOUR

DISCUSSION ITEM

SANCTIONS AND COMPLIANCE PROGRAM

Staff has carefully analyzed the Clarksburg Village plans and has recommended that the Board find non-compliance with respect to five out of six of the items presented. Assuming that the Board finds agrees with respect to some or all of these items, it will be necessary to determine appropriate sanctions and/or a compliance program.. In past violation cases, fines have been issued under the authority of the subdivision regulations (50-41) and a plan of compliance was set forth under the authority of 59-D- 3. However, the County Council recently amended the zoning code, effective April 1, 2006, giving the Board the ability both to collect a fine and approve a plan of compliance under 59-D-3.6. The new language appears below:

Section 59-D-3.6. Failure to Comply

(a) If the Planning Board finds on its own motion or after a complaint is filed with the Planning Board or the Department, and after giving due notice to the applicant, the complainant, and all parties previously before the Board on this plan and holding a public hearing or receiving a report of a public hearing held by a designated hearing officer, that any term, condition, or restriction in a certified site plan is not being complied with, the Planning Board may:

- (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 that applicant to take corrective action to comply with the certified site plan;
- (4) allow the applicant to propose modifications to the certified site plan, or
- (5) take any combination of these actions.

The acts of non-compliance uncovered in Clarksburg Village are numerous and not easily categorized. In all cases the developer argues that these issues arose as a result of mistakes that were made, and staff was unable to find conclusive evidence that this was not the case. Moreover, some of the alleged violations are relatively easy to correct, such as the width of Foreman Boulevard, while others are seemingly incurable. Staff has spent a significant amount of time trying to determine the appropriate penalties that should be required of the developer as well as an appropriate compliance program that will be in the public interest and improve the community. It should be added that the applicant did present a proffer, but it was viewed as non-responsive so it is not analyzed herein.

Staff's thoughts on the fines and compliance program are presented below. However, since no decision regarding the sanctions and/or compliance program will be made on June 29th, staff is looking forward to receiving guidance, from both the Planning Board

and the public regarding these suggestions. The matter will then be brought back to the Board for a decision later in July.

5. Discrepancy between Planning Board opinion and Signature Set for Site Plan 82003002 (8-03002)

There are two different aspects to this alleged violation. The first is that the approved signature set showed a different number of single family and townhouse units from that which the Board actually approved. In addition, the signature set called for townhouses/semi-detached units, but only townhouses were discussed in the staff report and at the board hearing. The Board did not actually approve semi-detached units.

Staff recommends the following fine and compliance program:

Fine:

The signature set was signed on August 9, 2004, and the applicant submitted an amendment to correct the error on May 2, 2005. This is a period of 265 days.¹¹ Staff recommends that a fine of \$50.00 per day be assessed for this 265 day period for a total of \$13,250.

Compliance Program:

- Add the category of "semidetached" units to the site plan to Amendment B, and specify the number of semidetached units.
- Correct the numbers of dwelling units in Amendment B. Provide a guarantee (affidavit) that the data table accurately reflects the drawings and vice versa and that the "as built" unit types will match the numbers set forth in the certified plans.
- Show, in Amendment B, a data table that identifies semidetached units as a unit type distinct from "townhouses" for clarity in enforcement.
- Solve the problems with the site plan without proposing trellises as a strategy to transform one-family detached units into "semidetached" units.

2. Multiple-Family Units in the R-200/MPDU Zone

At the time this project was originally proposed, the applicant did not choose to seek rezoning of this split-zoned property to a flexible floating zone, as is permitted. However, it has become apparent that the split-zoning that is still in place on this property

¹¹ Staff did not count either August 9th or May 2nd in this calculation.

has made it particularly difficult to implement the approved plans correctly. Different reasons have been advanced to explain why multiple-family units were placed in the R-200/MPDU zone where they are not allowed. Fortunately, none of these units had been built when the problem was uncovered, so it is not difficult to cure. Therefore, staff recommends the following:

Fine:

As calculated above, charge \$50.00/day for 265 days (date of approval of the signature set to the date an amendment was submitted) for a total of \$13, 250.

Compliance Program:

- Ensure that there are no multiple-family units within the R-200 zone.
- If the multiple-family buildings are replaced by two-over-twos, ensure that these units meet the requirements of "attached dwelling units" (i.e. usable outdoor space at ground level for each unit, and so forth)
- Revise Amendment B accordingly and, at the same time, design each block with diverse unit types using principles of new urbanism. Create a circulation system primarily of local streets and enhanced pedestrian routes, rather than parking lots with aisles, and create an open space system that emphasizes physical and visual connectivity to the bike path on Snowden Farm Parkway with the Greenway Trail.

3. Lot Size in the R-200/MPDU Zone (Definition of Dwelling Units)

The R-200/MPDU zone clearly specifies that the minimum lot size for single family detached units is 6000 square feet, and the staff report actually calls out a minimum lot size of 6,012. At some point, however, lots were platted that were significantly less than what the zone allowed. It appears that the developer became aware of this problem and initiated discussions with staff about the possibility of changing the unit type to semi-detached. However, there is no indication that staff and the developer came to any conclusion as to how that could be done. Nevertheless, the developer requested that purchasers of certain units sign a document that would give permission for their home to be connected to another with a trellis. However, the zoning code definition of semi-detached dwellings states that the units must share a party wall. Clearly, a trellis does not meet this definition. Fortunately, not all of the proposed trellis units have been constructed. Those that have not been constructed constitute a curable violation, while those that have been constructed are, in effect, incurable, because, in most cases, third party purchasers now own these properties, so that neither the developer nor the builder can make modifications without the permission of the property owner. Therefore, staff recommends the following:

Fine:¹²

Four of the dwelling units are built and occupied, and therefore, the problem is difficult to cure. Charge each of these units at the rate of \$250 per day for the 265 day period from approval of the signature set to the date an amendment was submitted for a total of \$265,000.

Fourteen lots can still be corrected. Charge each of these units \$50.00 a day for the same 265 day period for a total (for all 14) of \$185,500.

Compliance Program:

- Enlarge the lots to meet the minimum standards in the zone where possible and reflect in Amendment B.
- On those lots where the homes are complete and occupied, attempt to get permission to build connecting structures consisting of enclosed habitable space, with roofs and temperature control, no more than one-story in height, that would meet the zoning code definition of semidetached dwelling units and would be consistent/compatible in exterior design with the house to which it is attached.
- Obtain approval of these connecting structures in a plan amendment.

¹² The table below shows a total of 22 lots that are too small, but staff has only assessed a fine on 18 of these. One unit, F-51, is split 50/50 between the two zones. The applicant has argued that this lot was always supposed to be in the R200/TDR3 zone, in which case the lot size would be acceptable. The other 3 units are V-98, 99, and 100. In the signature set that was originally approved by the Board, these lots were all too small. However, the applicant changed these units to townhouses in the A amendment, which was approved by the Board. Even though the signature set was never signed for the A amendment because a number of discrepancies were uncovered, staff felt that a case could be made that these units should not be fined.

Table Lot Size: Summary of Status

Homeowner: Home Settled ,Private Homeowners now owns the house and lot
 Developer: Elm Street Development still owns lot
 Builder: Lot Closed = Builder now owns the lot
 Not Started: DPS Restricted Start of Construction
 Stopped: DPS Halted Construction. Construction Started but not finished

Block	Lots (22 total)	Lot Size on Signature Set	Construction Status	Ownership
F	51	5083	Built	Homeowner
G	12	5500	Built	Homeowner
	13	5845	Stopped	Builder
	21	4000	Not Started	Developer
	22	5000	Not Started	Developer
	32	4400	Not Started	Developer
	33	4400	Not Started	Developer
	34	5500	Not Started	Developer
	35	5500	Not Started	Developer
	36	5500	Not Started	Builder
H	6	4802	Not Started	Developer
	7	4039	Not Started	Developer
	8	4039	Not Started	Developer
	9	5145	Under Construction	Builder
K	11	4371	Not Started	Developer
	12	4200	Not Started	Developer
	13	5663	Stopped	Builder
L	11	5960	Not Built	Developer
	12	4200	Not Built	Developer
V	98	5603	Not Built	Developer
	99	5487	Not Built	Developer
	100	5772	Not Built	Developer

4. Building Setbacks in the R-200/MPDU Zone

Staff identified a total of 29 lots that have setback problems¹³. Five of these lots are corner lots, where the problem arose because the developer incorrectly assumed that the same standards that applied in the R-200 zone with respect to setbacks for corner lots would apply in the R-200/MPDU Zone as well. A review of the zoning code revealed that this was not the case. However, the developer has sought a text amendment that would, in fact, make the setback standard for corner lots the same in both the R-200 and the R-200/MPDU zone. If the text amendment passes, the setback problem for these lots will be cured.

The majority of the lots that have setback issues are those that are also on lot sizes that are too small. Again, as explained above, when the developer discovered this problem he attempted to solve it by proposing trellises to connect two units in an effort to make them semi-detached. However, staff does not believe the trellis in any way meets the zoning code definition, since a party wall is required. Therefore, staff recommends the following:

Fine:

Four units are built and occupied and two others are substantially complete so the non-compliance is difficult to cure. Charge each of these six units at the rate of \$250 per day for the 265 day period from approval of the signature set to the date an amendment was submitted for a total of \$397,500.

Twenty-three lots can be corrected. Charge each of these units \$50.00 a day for the same 265 day period for a total (for all 23) of \$304,750.

Compliance Program:

- Seek approval of the Zoning Text Amendment that would alleviate the setback issue for the five corner lots.
- Enlarge the lots or reduce the size of the units to meet the minimum setback standards in the zone where possible and reflect in Amendment B.
- On those lots where the homes are complete and occupied, attempt to get permission to build connecting structures as described above, that would meet the zoning code definition of semi-detached units.
- Obtain approval of the connecting structures in a plan amendment.

¹³ Again, staff has not counted the unit located on F-51 because the applicant argues that it should be in the R200/TDR3 zone, which would mean the unit can comply when the development standards are established in the zone.

Table – Setbacks: Summary of Status
and Compliance Program Recommendations

Homeowner: Home Settled ,Private Homeowners now owns the house and lot
 Developer: Elm Street Development still owns lot
 Builder: Lot Closed = Builder now owns the lot
 Not Started: DPS Restricted Start of Construction
 Stopped: DPS Halted Construction. Construction Started but not finished

Block	Lots (30 total)	Setback from Public Street per signature set	Construction Status	Ownership
F	51	21 feet	Built	Home Settled
G	1	15 feet	Built	Home Settled
	12	15 feet	Built	Home Settled
	13	15 feet	Not Started	Builder
	21	21.5 feet	Not Started Not Built	Developer
	22	22 feet	Not Started	Developer
	23	20 feet	Built	Home Settled
	26	15 feet	Built	Home Settled
	30	15 feet	Not Started	Developer
	31	20 feet	Not Started	Developer
	32	23 feet	Not Started	Developer
	33	23 feet	Not Started	Developer
	34	15 feet	Not Started	Developer
	35	20 feet	Not Started	Developer
	36	20 feet	Not Started	Lot Closed Builder
	37	15 feet	Built	Home Settled
H	1	15 feet	Built	Home Settled
	6	15 feet	Not Started	Developer
	10	22 feet	Built	Home Settled
	15	18 feet	Built	Home Settled
I	16	15 feet	Built	Home Settled
K	1	15 feet	Not on developer list Not Built	Developer
	10	23 feet	Built	Home Settled
	11	21.5 feet	Not Started	Developer
	12	21.5 feet	Not Started	Developer
	13	21.5 & 15 feet	Stopped	Builder
L	1	15 feet	No developer comments	Developer

Block	Lots (30 total)	Setback from Public Street per signature set	Construction Status	Ownership
			Not Built	
	10	18 feet & 20 feet	Built	Home Settled
	11	23 feet	Not Built	Developer
	12	23 feet	Not Built	Developer

5. Foreman Boulevard

As discussed, both the Preliminary Plan and the Master Plan call for the construction of Foreman Boulevard as a two-lane arterial that must have a right of way that is 80-feet wide, but the site plan signature set shows the right-of-way with a 70-foot width. The applicant is willing to dedicate the 80-feet required. Therefore, staff recommends the following:

Fine:

Since this is a correctable error, staff recommends assessing a fine of \$50.00 per day for 265 days for a total of \$13,250.

Compliance Program:

- Amend the Site Plan to set the right-of-way width of Foreman Boulevard at 80-feet and construct the road to the required alternative primary standards.

6. Lack of Complete Development Standards in the R-200/TDR3 zone

The development of Clarksburg Village was definitely complicated by the fact that the property was split zoned: R-200 and R-200/TDR3. Although the zoning code sets standards for the R-200 zone, it addresses only a few standards for the R-200/TDR3 zone. Staff does not view this as a violation, but it is important that these standards be set before development is allowed to proceed. Therefore, staff does not recommend any fines but suggests the following:

Compliance Program:

- Set forth a full set of development standards for the area developed under the R-200/TDR3 zone and have these approved as part of the site plan amendment.

Alternate Staff Suggestion with Respect to Fines and the Compliance Program

The fines put forth by staff can be summed up as follows:

1. Discrepancy between # of SFD's and TH's:	\$ 13,250
6. Multiple Family Units in the R-200/MPDU Zone:	\$ 13,250
7. Insufficient Lot Size in the R-200/MPDU Zone:	
a. 4 Uncorrectable units:	\$ 265,000
b. 14 Correctable Units	\$ 185,500
8. Setback violations in the R200/MPDU Zone	
a. 6 Uncorrectable Units	\$ 397,500
b. 23 Correctable Units	\$ 304,750
9. Foreman Boulevard Right of Way	\$ 13,250
10. Lack of Full Development Standards	\$ n/a

The total for all of the above is **\$1,192,500**, which is a significant sum. Staff suggests, however, that certain areas of Clarksburg Village which have already been approved could be significantly enhanced if the original design were changed to better reflect the principles of new urbanism. 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.

Summary

These recommendations take into consideration testimony that the Board received at the hearing on May 4, 2006 and since that time, as well as the Developer's Proposed Plan of Compliance/Correction Proffer (June 12, 2006), and guidance provided by the Board.

ATTACHMENT D

Respondent's Proffer

Proffer

1. Re-plat lots 31-36, block G eliminating one lot and making the remaining 5 lots over 6,000 square feet. Re-plan the unbuilt homes to be a minimum 25' from a public street.
2. Re-plat and re-plan lots 29 and 30, block G to have the unbuilt home on lot 30 to be a minimum of 25' from a public street.
3. Re-plat and re-plan lots 10, 11, 12, , and 27, block G and eliminate one lot. Additional land will be added to 12 (with existing home) to get lot 12 to be over 6,000 square feet.
4. Re-plat lot 13, block G to add a portion of the right of way to the lot to increase the lot to 6,000 square feet in size.
5. Build single family attached homes on lots 21 and 22, block G.
6. Re-plat and re-plan lots 11, 12, 13 and 14, block L. The future house on lot 11 will be sited a minimum of 25' from the street. Lot 12 will be located to be over 50% into the R-200-TDR zoning and will be developed under TDR standards.
7. Re-plat and re-plan lots 11, 12, and 13, block K. Lot 13 will increase to 6,000 square feet. Build single family attached homes on lots 11 and 12.
8. Re-plat and re-plan lots 6, 7, 8, 9, block H and eliminate one lot. The unbuilt house on lot 6 will be sited 25' from the street. Lot 9 will be increased in size to 6,000 square feet.
9. Revise the right of way for Foreman Boulevard to be 80 feet in width.
10. Convert all single family attached/semi-detached units in blocks G, H, K and L to single family detached units except for 21-22, block G and 11-12, block K.
11. Revise the data table to accurately reflect the actual number and types of units.
12. Revise the right of way from 50' (mc-210.02) to 27' 4" (mc-210.03) on Granite Rock Road (station 10+15 to 15+07), British Manor Drive (station 1+03 to 0+00), Bent Arrow Drive (station 10+52 to 5+90), and Robin Song Drive (station 5+90 to 8+11). This right of way revision resolves the set back issue on 8 existing homes.
13. Re-plan the "T" block to remove all multi-family from the R-200 zoned land.

14. In addition to the existing obligation to fine grade and seed fields, construct the two planned ball fields on the park/school site in Section 1. Build a temporary soccer field where the future elementary school will be located if acceptable to School Board. Ball fields to be completed within 9 months after approval of plats and plans for Stringtown Road improvements.
15. Confirm setback standards and set height standards for the R-200 TDR zoned land.
16. Increase the caliper of all unplanted street trees in Section 1 from 2 ½ - 3" to 3 - 3 ½". Add 100 trees in reforestation area which are a minimum 2" caliper in size. Increase landscaping around pool facility by 25%.
17. Add an office in the clubhouse for the use of the HOA's management staff.
18. 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.
19. 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.
20. Make payment of \$ 100,000 to MNCP&P to cover the cost of the violation review and corrections. This payment shall also serve as the review fee for the necessary Preliminary plan revisions.
21. MNCPPC to process plats not affected by any corrections due to violations prior to the adoption of the submitted "B" amendment. Those plats include 15-15, 16, 17, 23, 24, 27, 28, 31, 33, 34, 35 and 42.

ATTACHMENT D

Previous staff report for Preliminary Plan dated February 5, 2007



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item # 3

02/01/07



MEMORANDUM

DATE: January 5, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor (301-495-4542)
Development Review Division *CC*

REVIEW TYPE: Preliminary Plan and Water Quality Plan Amendment

APPLYING FOR: Amendments to the previous conditions of approval to bring the Preliminary Plan into conformance with the Site Plan Compliance Program

PROJECT NAME: Clarksburg Village

CASE NO. 12001030C

REVIEW BASIS: Pursuant to Chapter 50, the Subdivision Regulations

ZONE: R-200, R-200/TDR-3, R-200/TDR-4, PD-4

LOCATION: On the northeast side of Stringtown Road and extending eastward to Ridge Road (MD 27) along the stream valley of Little Seneca Creek

MASTER PLAN: Clarksburg

APPLICANT: Clarksburg Village, LLC

ENGINEER: Charles P. Johnson and Associates

FILING DATE: October 30, 2006

HEARING DATE: January 18, 2007

Staff Recommendation: Approval of Preliminary Plan No. 12001030C, including a Special Protection Area Water Quality Plan and waivers of §50-26(e)(3) pursuant to §50-38(a) to permit non-standard intersection truncations, and §50-29(a)(2) pursuant to §50-38(a) to permit lots without frontage on a public street, as shown on the preliminary plan; and subject to the following revised conditions of the January 23, 2003 and July 6, 2005 Planning Board Opinions. All other previous conditions of these opinions remain in full force and effect.

- 1) Revise condition #1 as follows:

Approval under this preliminary plan is limited to a maximum of 2,022 lots for a maximum of 2,654 residential dwelling units, 20,000 square feet office/retail use, and a 5,000 square foot daycare facility.

- 2) Revise condition #6 as follows:

The applicant shall construct the following roads as standard closed section primary residential streets, unless otherwise approved by MCDPWT:

Street "C" between A-305 and Street "~~P~~" "~~D~~"
Street "M" between A-305 and Street "E"
Street "E" between A-305 and Street "M"
Street "T" between A-305 and Street "W"
Street "Y" between Streets "T" and "Z"
Street "GG" between its intersections with A-305
~~Street "R" approximately 400' from A-305 (or correspond to first intersection)~~
Street "Z" next to school

- 3) Revise condition #7 as follows:

The applicant shall construct two roundabouts (or otherwise acceptable alternative approved by MCDPWT) on A-305 as shown on the preliminary plan to define the boundaries of the business district portion of this roadway.

- 4) Revise condition #12 as follows:

At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative location. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01, or on the amended preliminary plan drawing.

- 5) Replace existing condition #13 as follows:

~~Compliance with the conditions of approval for the preliminary forest conservation plan dated July 25, 2001. The applicant must meet all conditions prior to MCDPS issuance of sediment and erosion control permits, as appropriate. Conditions include, but are not limited to, the following:~~

- ~~a) Prior to the submission of the first site plan, submit a plan identifying specific areas proposed for natural regeneration and justifying its use in these specific areas. The plan should include measures to enhance the success of natural regeneration. At this time, areas proposed for natural regeneration must be identified in the field so that M-NCPPC may evaluate these areas as to the feasibility of natural regeneration.~~
- ~~b) Environmental buffers, forest conservation and planting areas, and any natural regeneration areas to be within park dedication areas or in Category I conservation easements. Conservation easements to be shown on record plats.~~

The Applicant shall comply with the conditions of approval of the final forest conservation plan submitted on December 20, 2006. The applicant shall satisfy all conditions of approval before recording of the record plat(s) or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:

- a) Applicant to post a new financial security instrument for the entire forest planting area that includes the additional 2½" caliper trees required as part of the site plan Compliance Program.
- b) Applicant shall honor the limits of disturbance as shown on the April 12, 2005 approved final forest conservation plan between lots 106 and lot 128 of Block U.
- c) Applicant to provide compensation for the loss of 2.14 acres of forest that is shown on the April 12, 2005 approved plan. Compensation must be in addition to areas previously shown as saved or planted.

- 6) Revise condition #14 as follows:

Conformance to the conditions stated in the MCDPS preliminary water quality plan approval letter, dated July 25, 2001; and the final water quality plan approval letter for the Phase I site plan, dated December 16, 2004.

- 7) Replace existing condition #16 as follows:

~~At site plan, provide permanent signage along conservation easement areas to identify environmentally sensitive areas that are to remain protected. Applicant to construct an 8 foot wide paved hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the approximate route as set out in Phase I of the Trail Facility Plan, with the detailed trail location and other design and construction considerations to be worked out by the time of the Infrastructure Plan.~~

Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway, then north to the Greenway Village development to connect with the portion of trail being constructed as part of that project. Greenway Trail

and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant to obtain a park permit. Trails to be clearly marked or constructed prior to beginning construction on homes adjacent to the Greenway parkland.

- 8) Replace existing condition #17 as follows:

~~Applicant will construct the portions of the hiker/biker trail for Stringtown Road east to Newcut Road and north to the DiMaio Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail.~~

The trail alignment for the portion of the Greenway Trail near the confluence of Little Seneca Creek and Town Center Tributary to be determined at the time of permitting for the construction of Little Seneca Parkway/A-302. The preliminary plan shall be revised to show two alternative routes for the Greenway Trail in this stream confluence area. The preferred route would continue through the Bradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the property owner. The alternative route would circumvent the Bradley property on land already owned by Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway. The exact delineation and details of these two alignments shall be determined as part of the site plan.

- 9) Revise condition #18 as follows:

Applicant will construct Foreman Boulevard and ~~Midcounty Highway~~ to allow for a grade separated crossing for the hiker/biker Greenway Trail. The trail crossings should be constructed to accommodate the trail under the roads without changing the natural location, configuration, or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly to the stream. Applicant to provide a safe and adequate Greenway Trail crossing of Midcounty Highway/Snowden Farm Parkway (either grade separated or at grade) that is satisfactory to M-NCPPC and DPWT staff. Exact configuration of this path shall be determined at site plan.

- 10) Replace existing condition #19 as follows:

~~The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed, or clearly delineated and marked, prior to construction of the residences that abut the Greenway.~~

The Applicant shall dedicate to M-NCPPC the property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary. Include in dedication

the land along the Little Seneca tributary north of Snowden Farm Parkway to the northern boundary of the project property where the Baltimore Checkerspot Butterfly is located. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris, and boundaries between parkland and private properties to be clearly staked and signed.

- 11) Replace existing condition #20 as follows:

~~The park area marked as Jeane Onufry Local Park will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The park area will be dedicated to M-NCPPC.~~

The park area designated as a Local Park and located on the north side of Snowden Farm Parkway in the Phase II section of the project area will be graded according to the park layout concept plan, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. The park will be dedicated to M-NCPPC at time of record plat for the portion of the property that includes the park area. Applicant to provide quantity and quality stormwater management for the park to sufficiently accommodate the planned park facilities. Quality may be provided on site if space permits, but quantity to be provided off the park site. Any park improvements are to be constructed to park standards and specifications. Specific types of recreation facilities and their arrangement on the property must be coordinated with M-NCPPC staff.

- 12) Replace existing condition #21 as follows:

~~The school/park site off of Midcounty Highway will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The parking and ball field area at the north end of the site will be separately delineated and dedicated to M-NCPPC.~~

The school/park site off of Snowden Farm Parkway in the Phase I section of the project, will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. Recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved site plan Compliance Program. 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 entire school/park site to be conveyed to M-NCPPC at time of record plat for the development area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.

- 13) Revise condition #24 as follows:

Provide a minimum of 600 TDRs pursuant to the objectives of the Clarksburg Master Plan, unless the Planning Board approves a lesser number as part of site plan.

- 14) Replace existing condition #25 as follows:

~~Final number and location of units to be determined at site plan.~~ Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.

- 15) Replace existing condition #26 as follows:

~~Final number of MPDUs to be determined at site plan dependent upon Condition #23.~~
Final number of MPDU's/TDR's as per condition #25 above to be determined at the time of site plan.

- 16) Revise condition #29 as follows:

~~The validity of the Preliminary Plan will remain valid until July 30, 2013~~ 2015 and shall be phased for recordation of lots as follows:

- Phase One: 300 lots by July 30, 2004
- Phase Two: 1,000 lots by July 30, ~~2007~~ 2009
- Phase Three: 1,700 lots by July 30, ~~2010~~ 2012
- Phase Four: All lots by July 30, ~~2013~~ 2015

Prior to the expiration of the validity periods, a final record plat for all the property delineated in each phase must be recorded or a request for an extension must be filed.

- 17) The following conditions shall be added:

- 30) The Applicant shall record new record plats to revise the rights-of-way for the following roads to meet MCDPWT Standard No. mc-210.03 (reduced width tertiary) as required by the site plan Compliance Program:

- Bent Arrow Drive (from station 10+52 to 5+90 (approximate))
- British Manor Drive (from station 1+03 to 0+00 (approximate))
- Granite Rock Road (from station 10+15 to 15+07 (approximate))
- Robin Song Drive (from station 5+90 to 8+11 (approximate))

The Applicant shall also record new record plats to modify the square footage of the residential lots abutting these rights-of-way, and show necessary public improvement easements (PIEs).

- 31) The boundary of the preliminary plan shall be expanded to include Outlot C, Block F and Outlot D, Block E in the adjacent Greenridge Acres Subdivision, which were placed in reservation for the construction of A-305 (Midcounty Highway). The Applicant shall file a record plat that dedicates this land for the right-of-way of A-305.

- 32) The Applicant shall submit an amendment to the approved Phase I Site Plan that reflects the revised layouts of blocks F, G, H, K, L, P, T, and V, as shown on the amended preliminary plan and discussed in the site plan Compliance Program. Final design of these areas shall be determined by the amended site plan.
- 33) The boundary of the preliminary plan shall be modified to reflect land swaps between Clarksburg Village and the adjacent Greenway Village Subdivision, as shown on the preliminary plan.
- 34) The Applicant shall comply with the conditions of the MCDPWT approval letter, dated December 21, 2006, unless otherwise amended by MCDPWT.

I. SITE DESCRIPTION and SURROUNDING AREA:

The subject property consists of approximately 776-acres of land located in the Clarksburg Master Plan area between Stringtown Road and Ridge Road (MD 27) (Attachment A). The property is zoned in several different categories, including R-200, R-200/TDR-3, R-200/TDR-4, and PD-4 (Attachment B). The entire property falls within the Clarksburg Special Protection Area (SPA) for the Little Seneca Creek watershed. The Town Center Tributary of Little Seneca Creek flows along the southern boundary, and the site is bisected by the mainstem and another major tributary stream.

A portion of the property covered by the preliminary plan is constructed, or under construction, pursuant to a previously granted site plan approval for residential uses. Future residential uses, and the commercial office/retail use area, remain undeveloped pending necessary site plan approval(s).

II. PREVIOUS APPROVALS AND NON-COMPLIANCE ACTIONS

A. Preliminary Plan

The subject preliminary plan was originally submitted on November 29, 2000. The plan proposed to create a mixed-use development consisting of residential and commercial office/retail uses. The original application was brought before the Planning Board for a public hearing on July 30, 2001 and was approved for a maximum of 2,563 dwelling units, 20,000 square feet of office/retail use, and a 2,500 square foot daycare facility. The approval was granted subject to conditions as set forth in the opinion of the Board dated September 7, 2001 (Attachment C).

Subsequent to this approval, two amendments to the preliminary plan were filed. The first amendment combined the acreage and conditions of approval of the adjacent Nanna Property (Preliminary Plan No. 1-93007) with Clarksburg Village, and increased the size of the daycare facility pursuant to the amended Board opinion dated January 23, 2003 (Attachment D). The second amendment added an additional 30 acres to the preliminary plan and modified the overall plan layout and unit distribution to reflect the site plan approval that had been granted for part of the site, and a concurrently reviewed site plan

compensated. Environmental Planning requests compensation from encroachment into the conservation easements and from permanent loss of forest previously shown as saved on a 2:1 basis. The plan submitted on December 20, 2006 does not address this issue and must be revised.

3. *Site Imperviousness*

There is no impervious limitation in the Clarksburg Special Protection Area. Previous Environmental Planning staff reports indicated an imperviousness of 23 percent. The changes to the approved preliminary plan will add impervious surfaces but still keep the overall site consistent with other similarly developed properties within Montgomery County.

C. Parks

The preliminary plan conditions related to the parkland dedication areas are being revised to reflect the updated requirements that have resulted from the subsequent site plan, and site plan Compliance Program.

Greenway Trail

The previously approved preliminary plan required grade-separated crossings for the Greenway Trail and both Foreman Boulevard and Midcounty Highway (previous Condition #18). The applicant is requesting amendment of this condition to leave open the possibility for an at-grade crossing at Midcounty Highway (A-305). The cost and environmental impacts related to the construction of a grade separated crossing in this location may make it infeasible. A final determination regarding this crossing will be made at site plan.

As of now, the Department of Parks has been unable to acquire land for a final section of the greenway trail which crosses the adjacent Bradley Property on the southeastern boundary of the Phase I site plan, and are reluctant to use their condemnation powers to do so. As a result, Parks staff requested that the preliminary plan be revised to include a second possible alignment that would keep the entire greenway trail within the area developed by Elm Street. Environmental Planning staff objects to the proposed alternate alignment because it would remove existing forest, transverse moderately steep slopes, require a new stream crossing, and create an unusual jog to the path that is not necessary and inefficient for the user. The Bradley Property contains a cleared WSSC easement that is the preferred location for the trail. The other sections of the greenway trail are contained within this cleared area. A final determination on the location of this section of the Greenway Trail will be made as part of the site plan approval for the southern half of the property. However, staff would like the Planning Board's thoughts on acquiring the preferred right-of-way through condemnation, if necessary.

amendment. The revision modified the maximum number of residential dwelling units to 2,564 and maintained all previous Board conditions, as noted in the Board's opinion dated July 6, 2005 (Attachment E).

B. Site Plan

The Planning Board approved the Site and Final Water Quality Plan for Phase One of the development (Plan No. 820030020) on July 31, 2003 for 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). The first phase is located in the northern half of the site closest to Stringtown Road and Clarksburg Town Center and includes approximately 334 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.

An amended site plan (Plan No. 82003002A) 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 was an increase of 64 dwelling units over the original site plan approval.

C. Non-Compliance Actions

Subsequent to the site plan approvals discussed above, staff discovered certain deficiencies in the approved site plans and potential acts of non-compliance. Public hearings regarding the nature and extent of the alleged acts of non-compliance and deficiencies were held on May 4, May 11, June 29, and July 20, 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. On October 10, 2006, a public hearing was held to discuss a Compliance Program related to the Board's findings regarding the allegations. These hearings and the items discussed are summarized in the October 10, 2006 staff report (Attachment F).

III. PROPOSED PRELIMINARY PLAN AMENDMENT

The currently proposed preliminary plan amendment application requests Planning Board approval of a revised layout for the preliminary plan (Attachment G), including two waivers from the Subdivision Regulations, Chapter 50 of the Montgomery County Code. The waiver requests involve variation from the lot frontage and roadway design standards of the Chapter. The waivers are needed to permit certain lot and roadway layout changes included in the approved Compliance Program for the site plan.

In addition to amendments of the layout related to the Compliance Program, the application requests revisions to the existing conditions of approval. The revisions update

previous conditions to: reflect items that will be incorporated into the plan in response to the site plan Compliance Program; update roadway construction requirements to reflect actual MCDPWT approvals; reference the latest approvals for the forest conservation and water quality plans; amend requirements for grade-separated Greenway Trail crossings; clarify that TDR and MPDU numbers and phasing will be established by the final site plan approval(s); modify the boundary of the preliminary plan; and revise the preliminary plan validity period and phasing schedule for recordation of plats.

IV. ANALYSIS AND FINDINGS

A. Discussion of Waivers

The Applicant has requested three waivers from the Subdivision Regulations. Each waiver is discussed below along with staff findings and recommendations.

- Waiver of Section 50-26(e)(3) pursuant to Section 50-38(a) to permit less than 25 foot truncation at roadway intersections.

Section 50-26(e)(3) requires corner lots at intersections to be truncated for road dedication purposes by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements. The proposed radius truncations (Attachment G), which permit houses to be located closer to the road right-of-way, facilitate the community's neo-traditional design. Staff supports the proposed waiver based upon our finding that intersection sight distance and sign installation will not be adversely impacted by the design. Montgomery County Department of Public Works and Transportation (DPWT) and Fire and Rescue Service (MCFRS) staff have reviewed the subject intersections, some of which are already constructed, and recommend approval of the plan (Attachment H). Staff recommends approval of the waiver request and believes it is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

- Waiver of Section 50-26(h)(2) to permit use of a reduced-width tertiary street, with a 27'4" right-of-way in the following locations: Bent Arrow Drive (from station 10+52 to 5+90 (approximate)); British Manor Drive (from station 1+03 to 0+00 (approximate)); Granite Rock Road (from station 10+15 to 15+07 (approximate)); and Robin Song Drive (from station 5+90 to 8+11 (approximate)).

The standard right-of-way width of a tertiary street is fifty (50) feet. However, Section 50-26(h)(2) states that the Planning Board, as part of a site plan approval, may approve a lesser width if it can be demonstrated that: (1) this lesser width is environmentally better, or (2) the limits on development at the site would not allow the applicant to achieve MPDUs under Chapter 25A on-site, and this lesser width either (3) improves compatibility with adjoining properties, or (4) allows better use of the parcel under consideration. In no

case shall the right-of-way be less than twenty-seven (27) feet four (4) inches for two-way traffic and twenty-one (21) feet four (4) inches for one-way traffic. In this instance, the use of certain reduced-width tertiary roads is proposed as part of the site plan Compliance Program to increase the size of several existing one-family detached residential lots to the minimum standard of the zone (6,000 square feet in this case).

Staff supports a Planning Board finding for the reduced-width tertiary streets as part of a future site plan amendment, because it will improve compatibility with adjoining properties by bringing non-compliant lots into conformance with the zone. It could also help to facilitate the construction of additional MPDUs within the Phase I site plan area. A final determination regarding these streets will need to be made at site plan.

- Waiver of Section 50-29(a)(2) pursuant to Section 50-38(a) to permit several individually recorded, one-family detached and one-family attached lots, as shown in Preliminary Plan Amendment Exhibit (Attachment G) to have no frontage on a public street.

Section 50-29(a)(2) requires, except as otherwise provided in the zoning ordinance, that every lot shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road. The subject plan includes both existing (recorded, and in some cases built) and proposed (unrecorded, or in some cases recorded but not built) lots without frontage on public streets. Instead, the frontage is either on private streets or on green space.

In the case of one-family attached (townhouse) lots, Section 59-C-1.628(b) of the Zoning Ordinance permits townhouses to front on public streets, private streets or *a common open space*, when MPDU optional method standards are used. The subject development is using these standards. Where these lots front on private streets, the street will provide access and circulation that will, in staff's opinion, allow them to acquire the status of a public road. Although the townhouses fronting on green space are accessed by private driveways that will not have the status of a public road, fire and rescue access is provided and parking will be available on nearby public roads. For these reasons, a frontage waiver is not needed for townhouses, however, final lot orientation and access should be determined as part of the future site plan(s).

Based on the zoning of the subject property, one-family detached lots with no frontage require a waiver. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements. The waiver request is based on the practical difficulties created by the application of this requirement to the implementation of neo-traditional design principles within Clarksburg Village. Such a design implements the intent and recommendations of the Clarksburg Master Plan by facilitating a community which has a hierarchy of streets, including a series of alleyways, with a mix of housing types and densities, and green areas dispersed throughout. Staff supports the requested waiver of frontage on public streets for the subject development. Staff believes the proposed neo-traditional neighborhood design best

implements the intent of the Clarksburg Master Plan, particularly with regard to integrating green spaces throughout the development. The requested waiver facilitates the replacement of certain roads with green spaces that significantly reduce the amount of paving in the development, increases the areas available for treatment of stormwater runoff, and creates visible open areas and gathering spaces for the community. MCFRS has reviewed the alternative fire access proposed for the lots without public street frontage and determined that all the houses will be adequately served by the proposed driveways. Based on these findings, staff recommends approval of the waiver request and believes it is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

B. Water Quality Plan Review

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS is amending their portion of the water quality plan as individual sediment control plans and stormwater management plans are submitted to them for review and approval prior to any clearing or grading occurring on that phase of the development.

The Planning Board responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied. This discussion follows.

1. Environmental Guidelines

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village identified the environmental buffers. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The Planning Board previously approved encroachments into the environmental buffers for the greenway trail, stormwater management outfalls, and stormwater management facilities.

a) Stormwater Management Encroachments

The preliminary plan of subdivision opinion, mailed on September 7, 2001, includes a condition of approval identifying which stormwater management facilities are allowed within the environmental buffers and how far those facilities may encroach. The applicant has repeated his desire to conform to that preliminary plan condition for all stormwater management facilities. However, there is a new stormwater management facility, not previously shown on any Clarksburg Village plan, that must encroach entirely into the environmental buffer. This facility is located where new and expanded Stringtown Road crosses the town center tributary. The stormwater to be treated at this facility will be

entirely from Stringtown Road, which was not previously accounted for on either the Clarksburg Village or Clarksburg Town Center water quality plans. Environmental Planning supports the encroachment for this facility and adding this facility to the approved facilities in condition 12 of the September 7, 2001, Planning Board opinion for 120010300. All other stormwater management facilities must comply with the condition as previously written and approved by the Planning Board.

b) Sewer Line Encroachment

Since approval of the Final Forest Conservation plan for site plan 820030020 on April 12, 2005, the applicant's engineer has moved a sewer line near lots 106 through 128 of Block U that is accessed from Stringtown Road. On the approved forest conservation plan this sewer line and the limits of disturbance are entirely outside of the environmental buffer. The LOD and sewer line run parallel to the environmental buffer. During the submission of the sediment control plans for this section of the development the applicant moved the LOD and the sewer line into the environmental buffer. Environmental Planning does not support this encroachment and has placed clearing and grading operations in this phase of the development on hold because of the inconsistency in the LODs on the approved forest conservation plan and the rough grading plan approved by MCDPS. The applicant's approved plan shows that all these activities can occur outside the environmental buffer. The applicant's revised plan submitted with this application shows the encroachment, which Environmental Planning does not support. The limits of disturbance in this section of the development must remain consistent with the previously approved plan that shows the sewer line and LOD outside of the environmental buffer. Environmental Planning supports the location of the sewer line as it enters the environmental buffer near the stormwater management facility and connects to the existing sewer main in the environmental buffer, but not where it runs parallel to the stream. Final determination regarding the sewer alignment must be made as part of the site plan.

2. *Forest Conservation*

The applicant is proposing more than 5,000 square feet of new forest removal and therefore the Planning Board must amend the forest conservation plan. The revised forest conservation plan shows 2.14 acres less forest saved and planted than on the April 12, 2005 approved plan. Some of the forest reduction results from the new stormwater management facility in the environmental buffer, extension of stormwater management discharge outfalls, moving a sanitary sewer from outside the environmental buffer to inside the buffer, and the change of a Category I easement area into a Category II easement. Some of the changes in forest sizes are unexplainable other than the engineer recalculating the areas on their computers. However, as previously stated, Environmental Planning does not support all of the proposed encroachments and reduction in forest on the subject site. The applicant has not indicated how the loss of forest will be

D. Transportation

No additional trips beyond those associated with the previous approval of the preliminary plan are being generated as a result of this amendment. The previously required transportation improvements provide sufficient transportation capacity and meet the Adequate Public Facilities test.

E. Boundary Modifications

The applicant is requesting modifications to the boundary of the preliminary plan in order to add land needed for the construction of a portion of Midcounty Highway (A-305), and to include minor changes along the shared boundary with the Greenway Village subdivision to reflect land swaps that are reflected on the last approval for the Greenway Village preliminary plan. The area for Midcounty Highway consists of two outlots that were placed in reservation for the road as part of the approval of the preliminary plan for the adjacent Greenridge Acres subdivision. The outlots are currently owned by the applicant, who will construct the road.

F. Revised Preliminary Plan Validity and Phasing Plan

The current preliminary plan approval is valid until July 30, 2013 with a phasing plan that requires recordation of 300 lots by July 30, 2004, 1,000 lots by July 30, 2007, 1,700 lots by July 30, 2010, and all lots by July 30, 2013. Lot recordation is contingent upon the prior approval of a site plan(s). As of now, one site plan has been approved, and more than 300 lots have been recorded. This meets the requirements for the first phase of the preliminary plan, however, extension of the validity period is needed for the remaining phases. The applicant is requesting a two-year extension of each of the remaining phases of the preliminary plan validity period, due to the length of time involved in the review and approval of the Compliance Program for the first site plan, which has resulted in delay of additional site plan submittals. Staff supports the request to establish a new plan validity period ending on July 30, 2015 with the adjustment to the phasing schedule as noted in the recommended condition above.

G. Citizen Correspondence

This application pre-dated the recent requirement for pre-submission meetings with interested parties, however, the application and the date of the public hearing were noticed. One letter was received prior to this staff report concerning the application. The letter, dated December 4, 2006, is from the adjacent Timber Creek Homeowners Association (Attachment D). They are requesting that the Board consider postponing construction of the master-planned right-of-way for Foreman Boulevard which connects to their community on the south side of the development. At a minimum, they believe that the road should be reclassified as a primary road.

Foreman Boulevard is required to be constructed as part of the Phase I development as two lanes of what could become a larger arterial roadway. Staff does not support delay of

this road connection. The initial construction will only be two lanes, and there is no schedule at this time for additional construction. It is possible that full construction, if it happens, will not occur for some time. In the interim, the road will function like a primary road.

V. CONCLUSION

The revised preliminary plan conforms to the Clarksburg Master Plan and meets all necessary requirements of the Subdivision Regulations and Zoning Ordinance. Based on the findings discussed above, staff finds that the proposed revisions are acceptable, and the requested waivers of the Subdivision Regulations are justified for the subject preliminary plan. Therefore, staff recommends approval of the preliminary plan amendment to modify the previous conditions as specified above, and to grant the requested waivers. Staff also recommends approval of the revised water quality plan. All other conditions of approval as contained in the Planning Board opinions dated January 23, 2003 and July 6, 2005 remain in full force and effect.

Attachments:

- Attachment A – Site Vicinity Map
- Attachment B – Site Zoning Map
- Attachment C – Preliminary Plan Opinion dated 9/7/01
- Attachment D – Preliminary Plan Opinion dated 1/23/03
- Attachment E – Preliminary Plan Opinion dated 7/6/05
- Attachment F – Compliance Program Staff Report
- Attachment G – Preliminary Plan Amendment Exhibit
- Attachment H – Referenced Agency Correspondence
- Attachment I – Citizen Correspondence

ATTACHMENT E

Letter from Applicant dated October 12, 2006



September 21, 2006

Mr. Robert Kronenberg
MNCP&P Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Revised Clarksburg Village MPDU/TDR

Dear Robert,

I have recalculated the number of MPDU's and TDR's that our revised "B" Amendment Site Plan will require. These calculations are attached. The same methodology used for the original approval was used for these calculations. Final numbers for Clarksburg Village MPDU's and TDR's will not be set until the Phase 2 Site Plan is approved, establishing the final number and type of houses.

These numbers should also be reflected in the amendment necessary for our Preliminary Plan. Please note that the current maximum number of units under our approved Preliminary Plan is being reduced from 2654 to 2653.

Thank you for your review of these new numbers. If you do not agree with my calculations, please give me a call to discuss them.

Sincerely,

David D. Flanagan
President

cc: Michad Ma
Cathy Conlon
Tom Marshall
Les Powell
Kate Kubit



October 12, 2006

Mr. Robert Kronenberg
MNCPPC
8787 Georgia Avenue
Silver Spring, MD 20903

Re: Clarksburg Village Amendment "B" # 8-2003002

Dear Robert:

This letter supersedes my letter of June 9, 2006 to you.

Attached are our revised plans for an amendment to the Phase One Clarksburg Village site plan that was approved on December 18, 2003. The number of units proposed for Phase One has decreased from 997 to 966. The following is a breakdown of the revisions that we are requesting and the reasons for them:

1. The entire "T" Block has been redesigned. The multi-family units have been eliminated. The number of single family attached units (2 over 2 style) increased by 58 units. The number of MPDU's for Phase One increases from 108 to 118 units. We request the condition to withhold market rate building permits until Phase Two MPDU construction be either removed or reduced to 65 market units.
2. The location of the trails within the greenway has been adjusted so as to minimize the impact to the environment. The amount of boardwalk for the trail has been revised to match the actual wetlands. This has been field verified with the Parks Department.
3. The pool area and the associated clubhouse have been revised based on the final architecture and pool footprint. The shade pavilions have also been relocated. All recreational amenities remain. Diving boards have been removed.
4. Revisions to the street tree species and spacing have been updated based on MCDPS comments through the approval process. See landscape plan for details.

□ *Annapolis*

175 Admiral Cochrane Drive, Suite 204
Annapolis, Maryland 21401
Phone: (410) 266-9700
Fax: (410) 266-9165

□ *Main Office*

6820 Elm Street, Suite 200
McLean, Virginia 22101
Phone: (703) 734-9730
Fax: (703) 734-0322

□ *Ellicott City*

5094 Dorsey Hall Drive, Suite 104
Ellicott City, Maryland 21042
Phone: (410) 720-3021
Fax: (410) 720-3035

5. Street grades have all been adjusted per the approved MCDPW&T street grades. Adjustments are shown on all Site Plan sheets.
6. The storm water management ponds and storm water management devices have all been revised based on final approved plans and comments from MCDPS. In some instances these revisions have necessitated relocating the maintenance access locations, causing the relocation of benches and moving pathway locations. In other cases grades in parking areas have been modified in order to increase cover over the facility. Other changes required retaining walls to be modified. Some of the MCDPS revisions required storm water management easements to be moved affecting some of the forest conservation easements. In these cases we have revised and resubmitted the Final Forest Conservation plans to the Environmental Planning Department of MNCPPC. A small parcel adjacent to the Park site containing underground SMQ will be conveyed to the HOA.
7. The general notes and data table have been updated so as to clarify and correct the design standards as they pertain to unit type, building heights, setbacks, mews and single family attached units. Building restriction lines have been labeled on every lot for further clarity. Building heights and lot coverage are being specifically established for each lot in the R-200/TDR zoned land. See sheet 1 of 33.
8. Grades at the ball fields at the school/park site have been raised to provide better play fields. The area with underground SWQ facilities will be dedicated to the HOA. Additional park facilities have been added as required by the Compliance Program approved October 5, 2006.
9. Revisions have been made to the forest conservation easements as noted earlier (#6) and for modifications needed for #23 herein.
10. The elevations of some of the units have changed based on architectural considerations, drainage conditions and street grade changes. These changes are shown on each Site Plan sheet.
11. The right of way for portions of Granite Rock Road, British Manor Drive, Bent Arrow Drive and Robin Song Drive has been reduced to mc-210.03 standards. This reduction is necessary to bring 8 existing homes into compliance with the Zoning Ordinance. We are requesting that the abandon ROW adjacent to the lot 13 block G be included into that lot. All other abandon ROW would be dedicated to the HOA. We are requesting a waiver of public street footage for lots 50, 51, 52 block F; 39,23,24,26 block G; 10 block H; 10,30,31,32 block K; and 10 block L.

12. The right of way for Foreman Boulevard has been changed from the 70' shown in the signature set site plan to 80', to match the approved Clarksburg Master Plan. The actual paving widths and location and sidewalk locations have not changed.
13. Equivalent play equipment provided by Sports Systems is proposed. See Landscape Plan details.
14. The 2 over 2 units in Block "U" adjacent to Pond "T" and those on Robin Song Drive are pushed further from the sidewalk.
15. Mailbox locations are now shown on the site plan.
16. Entrance monumentation is now shown on the site plan.
17. Adds a missing zoning line in the proposed greenway.
18. Fire truck access and turn arounds have been added as requested by the Montgomery County Fire Department.
19. Lot line adjustment for 29L and 30L.
20. SWM pond required for Stringtown Road widening shown in proposed Greenway.
21. Street light locations for private streets have been added and/or updated.
22. The number of TDR's required for the entire project is 397. The number of TDR's required for Phase One increased from 144 to 146. The number for MPDU's required for the entire project reduced from 400 to 398. All of the MPDU and TDR calculations will be revised again at the time of the Phase II site plan approval. See sheet 1 of 33.
23. Lots 10-14, block L, 10-13, 27, 29-36, block G and lots 6-9, block H have been revised for lot size and setback from public streets to make them single family detached lots. Lots 21, 22 block G and lots 11, 12 block K remain single family attached. Three lots have been deleted. These revisions are necessary to bring all lots and existing homes into compliance with the Zoning Ordinance.
24. Revised bikepath within Parcel B and F from Snowden Farm Parkway to Greenway Village Property due to Vernal Pool locations.

25. Revised sidewalk terminus and located benches facing open space area.
26. WSSC Easements are shown per approved WSSC plans. See all Site Plan sheets for details.
27. The conceptual school grading has been revised. Final grading and layout to be approved by MC-MNCPPC Parks Department and Montgomery County Board of Education.
28. Two picnic shelters have been added near the Greenway Trail.
29. Twenty townhouses have been added to the "P" block. Eight single family detached units have been eliminated. One single family detached was added to the "U" block.

Thank you very much for your help in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David D. Flanagan". The signature is stylized and somewhat cursive, with a large initial "D" and "F".

David D. Flanagan
President

cc: Michael Ma
Les Powell

ATTACHMENT F

Agency Comments



FIRE MARSHAL COMMENTS

DATE: 11-6-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: JOHN WEISSNER 240 777 2436
RE: CLARKSBURG VILLAGE PHASE 1 #82003002B (FORMERLY 8-03002B) NOT APPROVED.
PLEASE ADDRESS THE FOLLOWING.

- 1) **AFTER CONSULT WITH RICHARD GEE OF DPS, THERE IS CONCERN THAT THE SITE PLAN WHAT WAS APPROVED FOR FIRE DEPARTMENT ACCESS 4-5-06 (8-03002B) HAS CHANGED. PLEASE IDENTIFY ANY CHANGE TO THIS SITE PLAN FROM WHAT WAS PREVIOUSLY APPROVED.**

BELOW CRITERIA IS PROVIDED FOR THE BENEFIT OF THE APPLICANT.

1. Show compliance with NFPA 1 (2003), Section 18.2.2.2 **Access To Building.**
 - a. Recommendation: Designate all Fire Department Access Roads in transparent green highlighter.
 - b. Recommendation: Designate all curb to curb widths of all FD Access Roads in opaque green.
 - c. Note: All FD Access Roads require 20 foot unobstructed width.
 - d. Note: Common driveways are considered fire department access roads for the length they are shared by more than one structure.
 - e. Note: Minimum road width for parking on a FD Access Road: 1 Side – 28 Feet, 2 Sides - 36 Feet.
 - f. Note: Fire Department access roads must be capable of supporting 85,000 lbs.

2. Show compliance with NFPA 1 (2003), Section 18.2.2.5.4 **Dead Ends.**
 - a. Note: Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the turning around of fire apparatus.
 - b. Note: Cul-de-sac type turn-arounds must be 90 ft in diameter with no obstructions in the center.

- c. Note: Hammerhead type turn-arounds must be 60 ft on each leg and meet other requirements for fire department access roads.
3. In accordance with NFPA 1 (2003), Section 18.2.2.5.3 **Turning Radius;**
 - a. Turns in FD Access Roads shall be constructed with a minimum radius of 7.6 m (25 ft) at the inside curb line and a minimum radius of 15.2 m (50 ft) at the outside curb line.
 - b. Recommendation: Designate all radii of all turns on fire department access roads in opaque green.
 4. FD Access Roads connecting to roadways shall be provided with curb cuts extending at least 0.6 m (2 ft) beyond each edge of the fire lane.
 5. The angle of approach and departure for any means of access shall not exceed 8 degrees.
 6. Provide locations of Fire Hydrants and Key for Symbol.



FIRE MARSHAL COMMENTS

DATE: 4-5-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: CAPTAIN JOHN FEISSNER
RICK MERCK, FIRE PROTECTION ENGINEER
RE: APPROVAL OF ~ *CLARKSBURG VILLAGE PROPERTY #8-03002B. SEE NOTE BELOW*

1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 4-5-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Note: Final plan for access approved 4-5-06. Proper Signage, other barrier and installation details still remain. Plan for barrier and installation details in progress with Dave O'Bryan of CPJ (301 434-7000) and Staff of Fire Code Enforcement Section.



**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING
COMMISSION**

Department of Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Robert Kronenberg, Acting Supervisor, Development Review

FROM: Mark Pfefferle, Planning Coordinator *mp*
Countywide Planning-Environmental Planning

DATE: March 9, 2007

SUBJECT: Site Plan 82003002B
Water Quality Plan Amendment
Clarksburg Village

RECOMMENDATION

Environmental Planning staff recommends approval of the amended site plan and final water quality plan for Clarksburg Village subject to the following conditions:

1. The applicant shall comply with the conditions of approval of the final forest conservation plan submitted on March 2, 2007.

BACKGROUND

The 333-acre property is located in the southwest quadrant of Piedmont and Stringtown Roads in Clarksburg. The site was a mix of hay, corn, and soybean fields and forests. Now it is an active construction site. The property is zoned R-200/TDR 4, R-200/TDR-3, R-200, and PD-4. The entire site is within the Clarksburg Special Protection Area.

The site is located within the Little Seneca Creek watershed. Water, from the subject property, flows to the Town Center tributary, a first order tributary, and directly to the Little Seneca Creek. Both watercourses flow through the subject property and are designated as Use IV-P. The natural resource inventories and forest conservation plans for the site delineate the onsite environmental sensitive areas, buffers, and forest conservation easements.

The Montgomery County Planning Board approved site plan 820030020 on July 31, 2003 and site plan 82003002A on December 23, 2004. Environmental Planning staff approved the final forest conservation plan for site plan 820030020 on September 9, 2003 and April 12, 2005 for site plan 8200300A. Since approval of the April 12, 2005 final forest conservation plan the applicant needs to make changes. The changes increase the amount of forest removed and

decreases the amount of forest to be planted. The net result is a reduction of 1.97 acres (0.84 acres of existing forest and 1.13 acres of planted forest) of forest from the approved final forest conservation plan.

WATER QUALITY PLAN REVIEW

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS is amending their portion of the water quality plan as individual sediment control plans and stormwater management plans are submitted to them for review and approval prior to any clearing or grading occurring on that phase of the development.

The Planning Board responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied. This discussion follows.

ENVIRONMENTAL GUIDELINES

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village identified the environmental buffers. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The Planning Board previously approved encroachments into the environmental buffers for the greenway trail, stormwater management outfalls, and stormwater management facilities. There are no new encroachments proposed with this amended site plan.

FOREST CONSERVATION

The December 20, 2006 revised forest conservation plan submitted with the amended preliminary forest conservation plan showed 2.14 acres of less forest saved and planted than on the April 12, 2005 approved plan. The applicant has made efforts to reduce the amount of clearing and increase the amount of onsite reforestation. The forest conservation plan submitted on March 2, 2007 now indicates a 1.12-acre difference from the April 12, 2005 approved final forest conservation. The applicant still needs to address this deficiency and wishes to do so with the Phase II site plan.

SITE IMPERVIOUSNESS

There is no impervious limitation in the Clarksburg Special Protection Area. Previous Environmental Planning staff reports indicated an imperviousness of 23 percent. The changes to the approved preliminary plan will add impervious surfaces but still keep the overall site consistent with other similarly developed properties within Montgomery County.

Comparison between December 20, 2006 Forest Conservation Plan and March 2, 2007 Forest Conservation Plan in terms of forest saved, lots, and retained			
	Forest Retention Gain In Sq. Ft.	Reforestation Gain In Sq. Ft.	Forest Retention Lost in Sq. Ft.
Sheet 3	1,950	100	0
Sheet 5	3,500	100	0
Sheet 8	0	7,300	0
Sheet 9	0	4,300	1,600
Sheet 12	0	6,170	0
Sheet 13	1,200	21,300	0
Totals	6,650	39,270	1,600

CONCLUSION

Environmental Planning recommends the Planning Board approve the amended site plan and final water quality plan.



**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**
Department of Park & Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Margaret Rifkin, Development Review
FROM: Mark Pfefferle, Planning Coordinator, Environmental Planning
DATE: April 7, 2006
SUBJECT: Site Plan 82003002B, Clarksburg Village Phase 1

STAFF RECOMMENDATION: Staff recommends approval of the amendment to Final Forest Conservation Plan 82003002 subject to the following conditions:

1. Approval of amended forest conservation plan as submitted, except for item 2 identified in the March 30, 2006 memorandum from Charles P. Johnson and Associates to Environmental Planning staff.
2. Applicant shall reconfigure pond "T" so that it is entirely outside of the environmental buffer. Stormwater conveyances and discharges are permitted within the environmental buffer.
3. Applicant to reforest the proposed sewer line location that is within the environmental buffer along forest save area 32.
4. Applicant to submit an amendment to the preliminary plan of subdivision to include the stormwater management facility located between forest save areas 34 and 33 onto the list of allowable stormwater management facilities within the environmental buffer.

SITE DESCRIPTION

The 333-acre property is located in the southwest quadrant of Piedmont and Stringtown Roads in Clarksburg. The site was a mix of hay, corn, and soybean fields and forests. Now it is an active construction site. The property is zoned R-200/TDR 4, R-200/TDR-3, R-200, and PD-4. The entire site is within the Clarksburg Special Protection Area.

The site is located within the Little Seneca Creek watershed. Water, from the subject property, flows to the Town Center tributary, a first order tributary, and directly to the Little Seneca Creek. Both watercourses flow through the subject property and are designated as Use IV-P. The natural resource inventories and forest conservation plans for the site delineate the onsite environmental sensitive areas, buffers, and forest conservation easements.

BACKGROUND

The Montgomery County Planning Board approved site plan 820030020 on July 31, 2003 and site plan 82003002A on December 23, 2004. Environmental Planning staff approved the final forest conservation plan for site plan 820030020 on September 9, 2003 and April 12, 2005 for

site plan 8200300A. Since approval of the April 12005 final forest conservation plan the applicant needs to make changes. The changes increase the amount of forest removed and decreases the amount of forest to be planted. The net result is a reduction of 1.97 acres (0.84 acres of existing forest and 1.13 acres of planted forest) of forest from the approved final forest conservation plan.

PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulation requires Planning Board action of certain types of modifications to an approved FCP. Section 113.A.(2) of the Forest Conservation Regulation states:

Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or Planning Directory (depending on who approved the original plan). Notice of each major plan amendment must be given to adjacent property owners as part of the Planning Board or Planning Directory approval processes.

This amendment proposes the removal of 36, 590 square feet (0.84-acres) and therefore constitutes a major amendment requiring Planning Board approval.

PROPOSED FOREST CONSERVATION PLAN CHANGES

This is an application to amend Final FCP 820030020. The applicant proposes to remove an additional 0.84 acres of forest and not plant 1.13 acres of new forest. Since this site plan is part of a much larger site and preliminary plan, the applicant is proposing to meet the requirements in the remaining site plans.

REVIEW ISSUES

Applicant’s Position

Many of the proposed changes to the final forest conservation plan are a result of final review and approvals of stormwater management facilities by the Department of Permitting Services, final review and approvals of roadway elevations by Department of Public Works and Transportation and the Department of Permitting Services, and final review and approval of sewer alignments by the Washington Sanitary and Sewer Commission. The table below highlights the proposed changes and justification for the requested changes

Changes Requested to Final Forest Conservation Plan 820030020 By Clarksburg Village Applicant				
Item	FCP Sheet Number	Change	Impact	Justification
1	3	<ul style="list-style-type: none"> • Reduce planting area 42 from 1.17 to 1.0 acres • Reduce planting area 43 from 0.58 acres to 0.21 acres • Reduce planting area 44 from 1.74 to 1.39 acres 	<ul style="list-style-type: none"> • Reduced forest planting by 0.89 acres 	Planting requirements changed because of stream bank improvements, culvert design and DPWT easements for Stringtown Road

**Changes Requested to Final Forest Conservation Plan 820030020
By Clarksburg Village Applicant**

Item	FCP Sheet Number	Change	Impact	Justification
2	4 & 5	<ul style="list-style-type: none"> • Reduced forest save 32 from 14.87 to 14.3 acres • Increased forest save 34 from 0.66 to 1.04 acres • Reduce planting area 47 from 0.84 to 0.35 acres • Increased forest save area 46 from 0.28 to 0.54 acres 	<ul style="list-style-type: none"> • Increased forest save by 0.08 acres • Reduced forest planting by 0.49 acres 	Developers of Stringtown Road need location for stormwater management facility on Clarksburg Village Property. SWM outfalls also changed because of SWM final design and WSSC outfalls
3	6	<ul style="list-style-type: none"> • Reduce forest save by 0.02 acres 	<ul style="list-style-type: none"> • Increased forest clearing by 0.02 acres 	Changed hard surface path location to minimize forest loss and impact to stream
4	8	<ul style="list-style-type: none"> • Increase forest save 10 from 4.39 to 4.46 acres • Increase planting area 35 from 4.04 to 4.53 acres 	<ul style="list-style-type: none"> • Increase forest save by 0.07 acres • Increase forest planting by 0.49 acres 	Changes result from minimization of path grading and encroachment into existing forest.
5	9	<ul style="list-style-type: none"> • Increase planting area 30 from 0.56 to 0.78 acres 	<ul style="list-style-type: none"> • Increase forest planting by 0.22 acres 	Changes in SWM outfall reduced the amount of forest to be removed to safely discharge stormwater.
6	9	<ul style="list-style-type: none"> • Reduce planting area 31 from 1.09 to 0.97 acres 	<ul style="list-style-type: none"> • Decreased forest planting by 0.12 acres 	Additional forest clearing needed to provide County access to SWM facility.
7	12 & 13	<ul style="list-style-type: none"> • Reduce planting area 15 from 1.23 to 0.81 acres • Reduce planting area 16 from 0.32 to 0.22 acres 	<ul style="list-style-type: none"> • Decreased forest planting by 0.52 acres 	Result of changes in the sewer outfall and stormwater management facility.
8	13 & 11	<ul style="list-style-type: none"> • Reduce planting areas 11 and 12 from 0.67 to 0.63 acres 	<ul style="list-style-type: none"> • Decreased forest planting by 0.04 acres 	Result of changes in Snowden Farm Parkway (A-305) from DPWT and DPS.
9	13	<ul style="list-style-type: none"> • Reduce forest save 19 from 0.67 acres to 0.61 acres 	<ul style="list-style-type: none"> • Decreased forest save by 0.06 acres 	Change due to final outfall design and approval by WSSC.
10	13	<ul style="list-style-type: none"> • Eliminate forest save 20 	<ul style="list-style-type: none"> • Increased forest removal by 0.57 acres 	Stormwater that was previously piped to an area in Phase 2 is no longer feasible due to street grades and culvert design.
11	13	<ul style="list-style-type: none"> • Same as Item #7 	<ul style="list-style-type: none"> • Same as 	Same as Item #7

**Changes Requested to Final Forest Conservation Plan 820030020
By Clarksburg Village Applicant**

Item	FCP Sheet Number	Change	Impact	Justification
			Item #7	
12	13	<ul style="list-style-type: none"> • Reduce forest save 22 from 6.8 to 6.71 acres 	<ul style="list-style-type: none"> • Increased forest removal by 0.09 acres 	Change due to final outfall design and approval by WSSC.
13	14	<ul style="list-style-type: none"> • Increased planting area 21 from 0.42 to 0.52 acres 	<ul style="list-style-type: none"> • Increased forest planting by 0.1 acres 	Change due to final outfall design and approval by WSSC.
Net Changes			<ul style="list-style-type: none"> • Increased forest removal by 0.84 acres • Decreased forest planting by 1.13 acres 	

The applicant proposes to meet all of the proposed changes in the Phase 2 portion of the Clarksburg Village property. Reduction in tree save areas, or additional forest loss, will be compensated at a rate of 2:1 and areas of proposed reforestation will be compensated at a rate of 1:1. All requirements will be met onsite.

Community's Position

All adjoining and confronting property owners were notified of the proposed amendment as part of the site plan amendment. As of April 7, 2006, no comments were received from the public on the forest conservation plan.

STAFF ANALYSIS/POSITION

All of the proposed changes to the final forest conservation plan are a result of changes and modifications required by WSSC, DPS, and DPWT, or at the initiative of the developer. Staff has no objections to amendments proposed by items 1, 4, 5, 6, 7, 8, 9, 11, 12, and 13. Further discussion is warranted on items 2, 3, and 10 identified above.

Item 2

Changes to the approved final forest conservation plan identified in item 2 above are not at the initiative of the developer. The applicant is required to "dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage". Newland Communities, the Town Center developer is constructing Stringtown Road. Reluctantly, the applicant has provided stormwater management for Stringtown Road on their property that is outside of the public right-of-way.

The forest conservation plan submitted for amendment shows a stormwater management facility, in the environmental buffer between forest save areas 34 and 33, near the Stringtown Road stream crossing. This stormwater management is not located on either the approved site or final forest conservation plans. The proposed amendment to the forest conservation plan also shows an enlarged pond "T" with part of the dam in the environmental buffer. The approved forest conservation plans shows this facility entirely outside of the environmental buffers. The location

of the stormwater management facility that is entirely within the environmental buffer and the enlargement of pond "T" in the environmental buffer contradicts condition 12 of the September 12, 2002 Planning Board opinion for preliminary plan 12001030. This condition permits limited encroachment into the environmental buffer for a select number of stormwater management facilities.

The stormwater management facility located along Stringtown Road near the stream is not one of the stormwater management facilities permitted in the stream buffer. The facility needs to be a lowest point possible to treat runoff from Stringtown Road and the only location that this can occur is within the environmental buffer. DPWT is allowing limited stormwater management for the roadway to occur within the public right-of-way. In order for this pond location to be approved there must be an amendment to the preliminary plan of subdivision. Environmental Planning staff recommends approval of the location of the stormwater management facility between forest save areas 34 and 35 only after the condition 12 of the preliminary plan of subdivision is amended to include this facility on the list.

Pond "T" is one of the facilities identified by condition 12 of the Preliminary Plan Opinion to be entirely outside of the environmental buffer. Space exists outside the environmental buffer to reconfigure pond "T" so that it is entirely outside of the buffer. Environmental Planning does not recommend approval of the encroachment into the stream buffer for Pond "T".

In the same area, the WSSC sewer line is realigned to be located inside and parallel to the environmental buffer. The forest conservation plan submitted does not show replanting in the clearing created for the sewer line. The approved final forest conservation plan shows the sewer alignment completely outside of the environmental buffer. Environmental Planning can agree to this new location provided the applicant reforests that portion of the WSSC easement that is within the environmental buffer.

Item 3

Changes to the approved final forest conservation plan identified in item 3 above are at the initiative of the developer. M-NCPPC Environmental Planning staff and the DPS stormwater management reviewer met with applicant in the field to determine the most appropriate location for the hard surface trail that connects the Clarksburg Village and Greenway Village developments. Environmental Planning staff agrees with the requested change because it provides a better stream crossing location and avoids wetlands. The proposed amendment to the forest conservation plan expands the limits of disturbance to include an area designated as a vernal pool. The vernal pool will be created and used for stormwater management from the hard surface trail. Creation of the vernal pools will not clear forest. There is an already existing berm that will be expanded to provide the means to hold the water in vernal pool. The table above indicates an additional forest clearing of 0.02 acres when it will probably be less than that, if any change at all. Environmental Planning recommends approval of this modification for may actually result in less forest clearing than originally proposed and provides an alignment across the stream that is easier to construct and further from a stream meander.

Item 10

The proposed amendment to the final forest conservation plan indicates a forest clearing of 0.57 acres in item #10 above. Neither the approved site nor final forest conservation plans indicate a stormwater management facility in this location. It was the applicant's intent to pipe the

stormwater generated from Snowden Farm Parkway (A-305) to Phase 2 and treat the stormwater in a facility in that phase of the development. The applicant now indicates that this is infeasible because of a stream crossing culvert design and street grades. Therefore, according to the developer, it becomes necessary to locate the stormwater management facility in the existing forest. The forest to be removed is entirely outside of environmental buffers except for the stormwater discharge. The preliminary plan of subdivision indicated a stormwater management facility in this exact location to manage stormwater from Snowden Farm Parkway. The site plan removed this structure. Environmental Planning recommends approval of this revision because the stormwater management is entirely outside of the environmental buffers and the forest in this area was previously shown for removal as part of the approved preliminary plan of subdivision and preliminary forest conservation plan, approved in July 2002.

STAFF FINDING

Environmental Planning recommends approval of all amendment to the final forest conservation plan, as submitted, except for Item 2. In item 2, Environmental Planning recommends reconfiguring pond "T" to keep the facility outside of the environmental buffer as originally approved and as conditionally approved in preliminary plan 120010300. Environmental Planning recommends complete reforestation clearing created by locating the sewer line in the environmental buffer along forest save 32. Environmental Planning recommends approval of the stormwater management facility located in the environmental buffer that treats stormwater from Stringtown Road only after the preliminary plan of subdivision is amended to add this facility to the list of facilities permitted in the environmental buffers.



June 8, 2006

MEMORANDUM:

TO: Robert Kronenberg
Development Review Division

VIA: Shahriar Etemadi, Supervisor *for KHK*
Transportation Planning

FROM: Ki H. Kim, Planner *HK*
Transportation Planning

SUBJECT: Clarksburg Village Site Plan Amendment
Site Plan No. 82003002B

Transportation Planning staff has reviewed the proposed revisions that are included in the subject Clarksburg Village Site Plan Amendment.

1. Transportation Planning staff offer the following comments: Transportation Planning staff supports the applicant's proposal to change the right-of-way for Foreman Boulevard from the 70 feet shown on the signature set site plan to 80 feet; as indicated in proposed revision number 12 in the David Flanagan's letter to Margaret Rifkin dated February 22, 2006. The 80-foot right-of-way is consistent with the approved Clarksburg Master Plan recommendation.
2. It is noted that there has been a change in the phasing of road improvements for Clarksburg/DiMaio (Greenway Village) development. Condition 5 of the Planning Board's Opinion dated September 12, 2002 for Clarksburg Village Preliminary Plan 1-01030, describes the road improvements as follows:

"The applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in David D. Flanagan's letter dated March 14, 2001 and confirmed in our letter dated March 29, 2001."

Subsequent to the Planning Board's approval of the Clarksburg Village Preliminary Plan, the Board revised the above Condition at the Board's September 20, 2002 hearing for the Greenway Village Preliminary Plan Amendment (1-2002033A) and reflected in the Condition IV of the Planning Board's Opinion dated November 7, 2002 for the Preliminary Plan 12002033A. The new language describes this condition as:

"The applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in David D. Bernard Rafferty's letter dated August 05, 2002 and confirmed in Transportation Planning's letter dated August 22, 2002."

3. It is noted that all other transportation conditions contained in our Transportation Planning memo for the preliminary plan approval dated July 26, 2001 are valid, unless otherwise noted in this memorandum.

KHK:gw

mno to Kronenberg re Clarksburg Village 82003002B



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

November 14, 2006

MEMORANDUM

TO: Robert Kronenberg, RLA, Planner Coordinator
Development Review Division

VIA: Sue Edwards, I-270 Corridor Team Leader *Sue*
Community-Based Planning Division

FROM: Nellie Shields Maskal, Community Planner *Nellie*
Community-Based Planning Division

SUBJECT: Clarksburg Village, Phase 1, Site Plan 82003020A (Formerly 8-03002A)

RELATION TO THE 1994 CLARKSBURG MASTER PLAN

Clarksburg Village is located in the Newcut Road Neighborhood District of the 1994 Clarksburg Master Plan Area containing two major roadways: A-305 (Snowden Farm Parkway) and A-302 (Little Seneca Parkway). It is located south of Stringtown and Piedmont Roads, west of Ridge Road (MD 27), and east of MD 355. The Clarksburg Town Center, Highlands of Clarksburg, and Greenway Village (Arora Hills) developments are located nearby.

The Newcut Road Neighborhood includes approximately 1,060 acres, most of which have been approved for development. It is separated from the Clarksburg Town Center and Transit Corridor Districts by Stringtown Road and Little Seneca Greenway and will be traversed by Snowden Farm Parkway.

As shown in Figure 1, the land use recommendations for the Newcut Road Neighborhood propose a mixed-use center on Newcut Road, approximately midway between Snowden Farm Parkway and Skylark Road. This will provide a concentration of activity and density in the middle of the neighborhood while promoting lower densities at the edges. This concept also clusters development near the greenway system and enhances public access to the 290-acre Ovid Hazen Wells Recreational Park.

The Clarksburg Master Plan recommends a mixed-use neighborhood with transit-oriented land use patterns for this District. In combination with Greenway Village located directly to the east, these two large projects will provide approximately 3,900 residential units and 109,000 square feet of commercial space.

The Site Plan Amendment complies with the Master Plan land use objectives as follows:

1. TDRs and MPDUs

The Planning Board at the time of Preliminary Plan approval recommended that 600 TDR's be provided pursuant to the objectives of the Clarksburg Master Plan based on current dwelling unit approval. This yield is critical to preserving agricultural land in Montgomery County according to the Clarksburg Master Plan and the TDR Status Report.

Staff finds that the site plan is in compliance with the approved number of MPDUs and the required number of TDRs to be purchased. For a detailed discussion of this recommendation, see attached staff memorandum from the staffs of the Community-Based Planning Division and Research and Technology Center.

2. Street-Oriented Buildings

Street-oriented buildings are one of the major principles of the Master Plan (page 28). The Planning Board at time of Preliminary Plan approval recommended that dwelling unit orientation along all road right-of-ways be addressed at the time of site plan review.

Conformance to the Master Plan's Policy 7, street orientation and specific language in the Newcut Road Neighborhood, page 62, is very important if Clarksburg is to be a neo-traditional community that will make Clarksburg unique and appealing. See Figures 2 and 3.

To assure that rear yards shall not be seen from adjacent roadways, especially at street intersections, unit orientation should be to major streets.

The site plan satisfies this Master Plan objective.

3. Range of Units

The Master Plan (page 39) emphasizes 45-55 percent one-family detached, 35-45 percent one-family attached, and 10-20 percent multi-family dwelling units to allow a diversity of housing types. The Master Plan also recommends a mix of unit types to avoid a large concentration of any single type of housing within each neighborhood.

The site plan provides a range of dwelling unit types that is consistent with the Master Plan recommendation. Staff is concerned that the 2 over 2 units do not have outdoor areas for the exclusive use of the occupants that would meet the definition for one-family attached units. The 2 over 2 units as contained in the site plan should meet the Zoning Ordinance definition of one-

family attached. Staff's understanding is that the applicant has agreed to provide outdoor areas for the exclusive use of the occupants. The site plan must indicate that usable front yard area will be provided to ensure that the definition requirement of one-family attached units can be met.

The proportion of unit types conform to the Master Plan guidelines for the mix of housing as follows:

Unit Type	Master Plan Guidelines	Clarksburg Village Unit Count (All Phases)	Greenway Village Unit Count	Cumulative Proportion of All Units	Conforms with Master Plan
One-Family Detached	45-55%	1,256 (47%)	604 (45%)	47%	Yes
Townhouses	35-45%	762 (29%)	530 (40%)	38%	Yes
One-Family Attached – with connection	-	4 (0%)	-	-	-
One-Family Attached (2 over 2's)	-	166 (6%)	-	2%	-
Multi-Family	10-20%	466 (18%)	248 (19%)	13%	Yes

Community-Based Planning staff has consistently recommended that no more than 20 percent of the units be multi-family. The site plan amendment demonstrates that these Master Plan objectives are attainable.

4. Windows into the Park

The “park bordered by a street” relationship opens up views of the Greenway and is a significant design principle of the Master Plan (pages 62 and 63). This important relationship allows the community to visually experience the beauty of Clarksburg's stream valley parks and not have the open space hidden behind a row of residential lots. In general, along the Master Plan roadways (A-305 and A-302), there will be significant vistas of the Little Seneca Creek Greenway.

The site plan satisfies this Master Plan objective.

5. Bikeway Connection

The Master Plan (page 62) emphasizes bikeway access from neighborhoods to shopping and employment areas as well as to key community facilities. The applicant should provide a bikeway connection through the greenway to the

adjacent Greenway Village community, Ovid Hazen Wells Regional Park, and the proposed elementary school. This will improve access to the neighborhoods, school, and the park.

The Greenway bikeway trail needs to run under A-305 within a structure and continue up to the Greenway Village community. Connections to the Greenway bikeway trail need to be shown from the traffic roundabout.

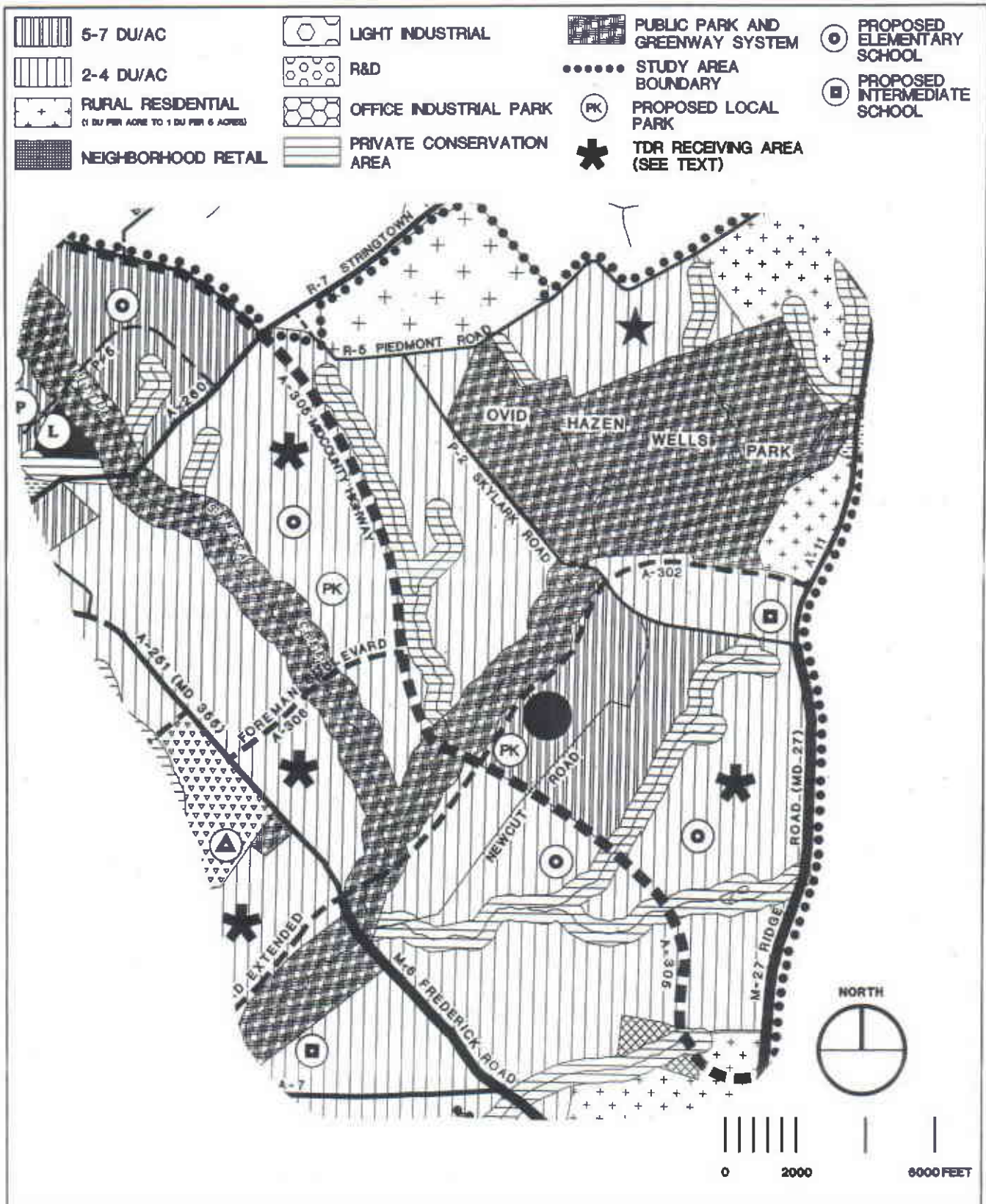
CONCLUSION

The Master Plan endorses a mix of unit types at the neighborhood level. It avoids large concentrations of any single type of housing within each neighborhood. The proposed site plan amendment conforms to the recommended range of units. Also, the site plan amendment is in compliance with the approved number of MPDUs and the required number of TDRs to be purchased.

NSM:tv: G:/maskal/CVPhase1Amended.doc

Attachments

Newcut Road Neighborhood Land Use Plan



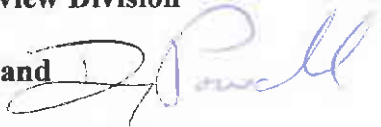


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MEMORANDUM

2/28/07

TO: Robert Kronenberg, Site Plan Review, Development Review Division

FROM: Doug Powell, Plan Review Coordinator, Park Planning and Stewardship Division, Department of Parks 

RE: Planning Board Conditions for Site Plan 8-03002B, Clarksburg Village

Park Planning and Resource Analysis Unit has reviewed the above referenced Preliminary Plan and requests the following Conditions for approval of the project:

- Dedicate to M-NCPPC the property within the delineated Clarksburg Greenway and as indicated on the Site Plan along Little Seneca Creek and Little Seneca Tributary. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris and boundaries between parkland and private properties to be clearly staked and signed.
- Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway. Trail alignment for the portion of the Greenway Trail near the confluence of Little Seneca Creek and Town Center Tributary to be determined at the time of permitting for the construction of Little Seneca Parkway/A-302. Greenway Trail should be shown on all plans with two alternative routes in this stream confluence area. The preferred route would continue through the Bradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the property owner. The alternative route would circumvent the Bradley property on land already owned by

Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway. Greenway Trail and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant to obtain a park permit. Trails to be clearly marked or constructed prior to beginning construction on homes adjacent to the Greenway parkland.

- Construct Foreman Boulevard to allow for a grade separated crossing for the hiker/biker Greenway Trail. Construct trail crossing to accommodate the trail under the road without changing the natural location, configuration or composition of the stream channel, and locate trail to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream. Trail crossing to meet the following guidelines unless otherwise agreed to by M-NCPPC staff and Applicant. Trail/road crossing details to be submitted to M-NCPPC park staff for approval.

- a. Minimum clearance of 12 feet to accommodate rescue and maintenance vehicles.
- b. Tread or path width of 10 feet in constricted area under the road; 12 inch to 24 inch cleared area on either side of path.
- c. Locate above floodplain and use construction practices to best help convey water from the trail.
- d. Minimize length of tunnel and maximize light in the tunnel with wing walls, 45 degrees off centerline of trail.
- e. Provide at least a 2-½ foot head wall over the entrance to the tunnel.
- f. Provide lighting where the trail length under the road exceeds 50 feet and follow guidelines in the latest AASHTO "Guide for the Development of Bicycle Facilities".
- g. Minimize riprap requirement to stabilize stream banks outside the tunnel.
- h. Use materials that deter graffiti and facilitate easy maintenance and cleaning.

- The school/park site off of Snowden Farm Parkway in the Phase I section of the project, will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. The following recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved Compliance Program.

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.

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 entire school/park site to be conveyed to M-NCPPC at time of record plat for the area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.
- Applicant to obtain a Park Permit for construction of any amenities on dedicated parkland. Minor modifications to the agreed construction of amenities made pursuant to the Park Permit process or as agreed by the parties may be made without the need to revise or amend the approved Site Plan.
- Applicant to Comply, at time of Park Permit, with the provisions set forth in Memorandum from Marian Elsasser of Park Development Division dated February 28, 2007.
- Applicant to Comply, at time of Signature Set, with the provisions set forth in Memorandum from Linda Komes of Park Development Division dated March 1, 2007.

February 28, 2007

MEMORANDUM

TO: Doug Powell, PPRA

FROM: Marian Elsasser, Landscape Architect, PDD

SUBJECT: COMMENTS ON CLARKSBURG VILLAGE GREENWAY HIKER-
BIKER TRAIL – SITE PLAN #8-03002B

I have reviewed the plans for the “Clarksburg Village Hiker-Biker Trail”. I have the following comments on the Sediment Control Plans, which only include the area from Stringtown Road to Foreman Boulevard:

- Plans for final submittal for technical review need to be at a scale of 1:30.
- All boardwalks and bridges need to show spot elevations on them. In areas where water is expected to sheet flow underneath them, a cleared height of a minimum of two feet is needed.
- Infiltration trenches should begin between 18-24” from the trail edge. The surface needs to be at grade or slightly lower than surrounding grass.
- Need to show location of temporary bridge crossings. Three will probably be needed to be able to place asphalt between streams.
- More information is required for where the trail is crossing Stringtown Road. If it is not crossing at a signalize intersection, improvements need to be proposed to make a safe crossing.
- For final submittal, all culverts need to show cross sections with flow rates. In addition, all outfalls to park property will need to show discharge rates. Additional stabilization or modifications may be required if rates are too high.
- Sheet 1 of 5 –“Sequence of Construction” Item 1 – Need to add M-NCPPC Park Department Park Inspector to the list to be invited to the pre-construction meeting. Item 11 and 12 – The asphalt is to be standard asphalt. The approved stormwater management concept uses vernal pools and infiltration trenches and not pervious pavement.

- Sheet 2 of 5 – Slopes on parkland should not have a slope steeper than of 3:1. As the trail leaves Stringtown Road, a retaining wall will be required. The sand filter should discharge into the area collected by the vernal pool.
- Sheet 3 of 5 – Remove triangle at intersection of trail and Robin Song Drive connector.
- Sheet 4 of 5 – A culvert is needed to handle water from the swale near lot 89/90. The water should be directed into the vernal pool. The pool may need to be moved towards Foreman Boulevard. Remove triangle from connector to Blue Sky Drive and from connector to Foreman Boulevard.
- Sheet 5 of 5 – Typical Swale Cross-Section – Needs to show grass strip of 18-24” between the trail edge and the start of the trench. A schedule for the depth of the trenches needs to be provided. The boardwalk detail previously provided should be used for the trail. Need to show a vernal pool detail and planting list. Detail for the culverts need to be shown.

Landscape Plan Review

- All reforestation to comply with “Planting Requirements for Land-Disturbing Activities and Related mitigation on M-NCPPC Montgomery County Parkland.”
- Tree species and sizes need to be shown on the plan as recommended in the Planting Requirements.
- Property lines need to be moved to allow a HOA owned forest/reforestation buffer behind proposed property lines.
- Need to show details of stream protection.
- Sheet 22 of 43 – Need a board on board fence between the playground and park property. The large area of rip rap needs some type of visual buffer between it and the boardwalk possibly by providing more separation and the planting of trees. Remove triangle from connector from Blue Sky Drive.

Memorandum

Date: March 1, 2007

To: Doug Powell, Plan Review Coordinator, Park Planning and Stewardship Division

From: Linda Komes, Project Manager, Park Development Division

Re: Clarksburg Village Neighborhood Park

Staff from the Park Development Division have reviewed the submitted plans for Clarksburg Village Neighborhood Park and recommend the following Conditions of Approval:

1. The Applicant will be required to obtain a Park Permit for Construction before beginning construction of the park. Minor revisions may be made to the design of the park during the park permit review process, which will not necessitate a formal revision to the site plan, unless otherwise recommended by staff.
2. Prior to certified site plan approval, the following revisions shall be made to the park plans:
 - a. The plans shall be revised to demonstrate full conformance with Condition 4A(i) as embodied in the Planning Board Resolution for Site Plan 8-03002 and 8-03002A which require that both soccer fields be a minimum of 180' x 300' in size and be separated by a minimum 20 feet of level graded area.
 - b. The grading for both soccer fields shall be revised to create a crown from goal to goal, directing drainage towards the sidelines.
 - c. Decorative metal fencing, approximately 8 feet in height, shall be provided along Blue Sky Drive and Snowden Farm Parkway. The fence shall begin in the vicinity of the picnic shelter, extend parallel to Blue Sky Drive and continue around the corner paralleling Snowden Farm Parkway, approximately 50 feet beyond the southeast corner of the southernmost soccer field. Gates for access and maintenance shall be provided in appropriate locations as directed by PDD staff.
 - d. An enhanced landscape plan with additional trees and shrubs shall be provided and approved by staff as part of the certified site plan. The plan shall replace the proposed HoneyLocust trees with another acceptable species of shade tree.
 - e. The picnic shelter shall be constructed using high quality, low maintenance materials. Full construction details for the picnic shelter shall be included as part of the park permit. The plans shall specify that the interior roof of the shelter shall be finished with bead board or other finish treatment acceptable to staff. The drinking fountain

shown near the parking lot shall be relocated near the picnic shelter.



MONTGOMERY COUNTY DEPARTMENT OF PARKS
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Memorandum

Date: March 1, 2007
To: Doug Powell, Plan Review Coordinator, Park Planning and Stewardship Division
From: Linda Komes, Project Manager, Park Development Division
Re: Clarksburg Village Neighborhood Park-Revised

Staff from the Park Development Division have reviewed the submitted plans for Clarksburg Village Neighborhood Park and recommend the following Conditions of Approval:

1. The Applicant will be required to obtain a Park Permit for Construction before beginning construction of the park. Minor revisions may be made to the design of the park during the park permit review process, which will not necessitate a formal revision to the site plan, unless otherwise recommended by staff.
2. The picnic shelter shall be constructed using high quality, low maintenance materials. Full construction details for the picnic shelter shall be included as part of the park permit. The plans shall specify that the interior roof of the shelter shall be finished with bead board or other finish treatment acceptable to staff.
3. Prior to certified site plan approval, the following revisions shall be made to the park plans:
 - a. The plans shall be revised to demonstrate full conformance with Condition 4A(i) as embodied in the Planning Board Resolution for Site Plan 8-03002 and 8-03002A which require that both soccer fields be a minimum of 180' x 300' in size and be separated by a minimum 20 feet of level graded area.
 - b. The grading for both soccer fields shall be revised to create a crown from goal to goal, directing drainage towards the sidelines.
 - c. Decorative metal fencing shall be provided along Blue Sky Drive and Snowden Farm Parkway. The purpose of the fencing is to provide an attractive barrier which will prevent balls from leaving the park and entering the perimeter roadways. Gates for access and maintenance shall be provided in appropriate locations as directed by PDD staff. The height and exact location of the fencing shall be determined during the Park Permit process.
 - d. An enhanced landscape plan with additional trees and shrubs shall be provided and approved by staff as part of the certified site plan. The plan shall replace the proposed Honey Locust trees with another acceptable species of shade tree.
 - e. The drinking fountain shown near the parking lot shall be relocated to near the picnic shelter.



MONTGOMERY COUNTY DEPARTMENT OF PARKS
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

ATTACHMENT G

Receipts for payments to Clarksburg HOA and MNCPPC