



MCPB
ITEM #
6/7/07

MEMORANDUM

DATE: May 25, 2007

TO: Montgomery County Planning Board

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

Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: Richard A. Weaver, Coordinator *RAW*
Development Review Division

SUBJECT: Request for an extension to the validity period – Preliminary Plan No. 12003110A, Cabin Branch

Staff Recommendation: Grant twenty-four (24) month extension to Stage I until July 22, 2009, and a twenty-four (24) month extensions to each successive stage.

BACKGROUND

The Planning Board approved the preliminary plan for Phase I of Cabin Branch on June 3, 2004. The Opinion for the project (Attachment A) was mailed on June 22, 2004 approving 1600 residential units, 1,538,000 square feet of commercial space and 500 elderly housing dwelling units spread across 535 acres. The approval was phased over four stages with each stage having a three-year validity period and a requirement that record plats be recorded for a specified number of residential units and commercial square footage. The validity period for Stage I was for 37 months, or July 22, 2007, with each stage extended out from that date in three-year increments culminating in the expiration date of Stage IV, 145 months (12 years) from the date of mailing of the Opinion, or July 22, 2016.

The Planning Board's approval of the Preliminary Plan required, by condition, that an Infrastructure Plan be approved prior to any other Site Plan approvals. That Infrastructure Site Plan was submitted in October 2004. The Infrastructure Plan was required because the project is so large that the Board believed there needed to be a single plan, approved by all appropriate review agencies and ultimately the Board, that concentrated on the roads, water and sewer lines, parks and stormwater management for the site. The Infrastructure Plan required that a Final Water Quality Plan also be approved by MCDPS. In anticipation of an approval of the Infrastructure Plan, four individual Site Plan applications have been submitted to Park and Planning for the Property. An amended Preliminary Plan has also been submitted to capture remaining development for the property that was not possible at the time of the original approval due to Policy Area limitations. The pending amendment (Phase II) will seek approval of the remaining 286 dwelling units and 898,000 square feet of non-residential space.

DISCUSSION OF THE EXTENSION

Pursuant to Section 50-35 (h)(3)(d) of the Subdivision Regulations, "the Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that:

- i. delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms of conditions of the plan approval, have materially prevented applicant from validating the plan, provided such delays are not created by the applicant; or
- ii. the occurrence of significant, unusual, and unanticipated events, beyond applicant's control and not facilitated or created by applicant, have substantially impaired applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended."

The applicant's memorandum seeks the extension based on both: 1) delays, subsequent to the approval of the plan, and essential to Applicant's ability to perform the terms and conditions of the plan, which have materially prevented the timely validation of the plan, and 2) significant, unusual and unanticipated events that have occurred beyond the Applicant's control which prevent timely validation of the plan.

Applicant's position

By letter dated January 2, 2007 (Attachment B) and May 17, 2007 (Attachment C), the Applicant makes a timely request to extend the validity period for three years for each of the four stages approved by the Planning Board. The applicant's letter cites certain delays, subsequent to the Board's approval, that have lengthened the time it has taken to complete the Infrastructure Plan approval process, which in turn has prevented

the individual Site Plans from proceeding to the Planning Board. The applicant states that it has taken an inordinate amount of time to secure approvals by the Montgomery County Department of Permitting Services (MCDPS) for the Final Water Quality Plan. The difficulty of this review was compounded by the massive size of the Cabin Branch, which required numerous water quality structures, each requiring MCDPS approval. The nature of a neo-traditional development, which has structures close to the street, requires that some stormwater management water quality facilities be located within the public road rights-of-way. These facilities require approvals and coordination with the Montgomery County Department of Public Works and Transportation (MCDPWT). Further, since Montgomery County Fire and Rescue Services (MCFRS) now take a more active role in plan review, plans had to be re-submitted to MCFRS to show compliance with their requirements. The supplemental letter from the applicant dated May 17, 2007 provides a list of all meetings, submittals, and correspondence on the project from its inception to the present; the purpose of which is to establish that the applicant and review staffs have been actively engaged with the plan process throughout. The applicant believes that despite the best efforts of all parties concerned, the process for this plan has been particularly slow and that this could not have been anticipated when the Planning Board approved the preliminary plan. The applicant believes this delay is justification for their extension request.

The applicant's letter also refers to the Clarksburg Town Center plan, and issues related to that review, as a significant, unusual and unanticipated event that they believe has slowed their approval process. The letter argues that this event is beyond the Applicant's control and that it has impaired the ability to validate the plan.

Staff Position

Staff supports extension of the preliminary plan validity period and phasing schedule, but not for the three years requested by the applicant. Staff acknowledges that the size and neo-traditional design of the proposed plan, combined with Special Protection Area (SPA) water quality plan requirements, result in an unusually complex review. Staff notes that over 260 individual stormwater management structures needed MCDPS approval as part of the Final Water Quality Plan. The Final Water Quality Plan was done in the absence of site plan approval that is not typically how one would want to design and locate individual water quality structures... In staff's opinion, this complicated review and the number of different plans and agencies involved, have resulted in unexpected delay of the project; but not enough of a delay to warrant three additional years of validity. Instead, staff recommends a twenty four month extension.

In staff's opinion, a shorter extension is more commensurate with the delays that have actually been experienced due to forces outside the applicant's control. Park and Planning staff have been involved with meetings on the water quality plan with county agencies since the Fall of 2004, approximately thirty months ago. Hence, we are basing our recommendation on this timeframe. Staff supports a twenty four-month extension to all four stages of the Phase I approval. The three-year extension that the applicant requests is not representative of the actual delays experienced. The extension should

commence from the current expiration dates of each stage, i.e. twenty-four (24) months from July 22, 2007 for Stage I.

The issues surrounding Clarksburg Town Center have certainly changed the pace of the review process for Park and Planning staff, however, staff has accommodated the Cabin Branch team when meetings were requested. Although it is true that staff has not been actively reviewing the other Cabin Branch site plans because the Infrastructure Plan needed to be approved first, there does not appear to be a direct connection between this and the Clarksburg Town Center project.. Just how the Clarksburg Town Center issues have affected the review of other county agencies is unknown.

CONCLUSION

It is staff's determination that delays, which occurred during the Infrastructure Plan review, are reasonable justification upon which the Planning Board can base the approval of a limited extension of the current validity period pursuant to Section 50-35(h)(3)(d) of the Subdivision Regulations. Staff, therefore recommends that the Stage I of the preliminary plan be extended twenty four (24) months to July 22, 2009, and each subsequent stage be extended similarly to allow adequate time for Site Plans to be approved and for plats to be recorded. Stage IV would expire on July 22, 2018.

Attachments:

Attachment A – January 2, 2007 extension request letter

Attachment B – May 17, 2007 supplemental letter



Robert R. Harris
301 215 6607
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May 17, 2007

Via: E-Mail & U.S. Mail

Dr. Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Cabin Branch Management, LLC (Preliminary Plan No. 1-03110A)

Dear Chairman Hanson:

We represent Cabin Branch Management, LLC, the Developer of this Project. By Opinion dated June 22, 2004, the Montgomery County Planning Board approved this Preliminary Plan for 1600 residential dwelling units, 1,538,000 square feet of non-residential space and 500 elderly housing units. The approval provided for the development to proceed in four, roughly equivalent stages, with the first stage expiring 37 months from the date of the Opinion (i.e., July 22, 2007) and the remaining three stages expiring in successive three-year periods. In order to validate the various stages of development, the Preliminary Plan Opinion calls for record plats to be recorded for each stage, and the recording of plats first requires approval of both an Infrastructure Site Plan covering the entire property as well as individual, detailed Site Plans for the actual development with each such area.

By letter of January 2, 2007, we requested a three-year extension for the Preliminary Plan. That letter explains that Applicant and staff have been working diligently since approval of the Preliminary Plan to complete the requirements for validating each stage of the development, including filing the Infrastructure Site Plan Application in October, 2004. Despite the best efforts of all parties concerned, this matter has moved forward at a very slow pace and the Infrastructure Site Plan is now potentially scheduled for Planning Board review on June 7, 2007. Obviously, this will not enable detailed Site Plans to be filed, approved and signed and for plats to then be recorded by July, 2007, thus requiring a Preliminary Plan extension. We are submitting this letter in order to provide more detailed supporting information for the requested three-year extension.

To begin, this is a large project in nearly every respect. It covers 540 acres and includes a large number of units and considerable non-residential space. As such, the planning, engineering and review processes necessarily have taken much longer than for a small project. Additionally,

this is one of a few development projects where the Planning Board called for submission of an Infrastructure Site Plan prior to actual Site Plans. In this case, that Infrastructure Site Plan step was added for the review of roads, water and sewer, the public school site and park and recreation areas. Given that part of the Property is located within a Special Protection Area, the Infrastructure Site Plan also includes a review of the Final Water Quality Plan for the project. This alone has been a massive engineering effort resulting in a plan with numerous water quantity and quality control devices located throughout the 540-acre property, each of which required Montgomery County Department of Permitting Services review. Much to the disappointment of all parties, the review of this Water Quality Plan took more than two and a half years but is finally complete. Without the review and recommendation of approval by DPS, however, Applicant has not been able to proceed with approval of the Infrastructure Site Plan or the detailed Site Plans and record plats that will follow it.

Additionally, the Plan for Cabin Branch has included engineering and design solutions intended to reflect the most contemporary practices of community building and the most environmentally sound design. This included the sewer line that is now under construction, site specific roadway designs including planted medians and traffic calming devices, and new fire access standards. We have attached to this letter a list of meetings and reviews with all of the agencies who reviewed these features. These include the Washington Suburban Sanitary Commission, the State Highway Administration, the Montgomery County Department of Public Works and Transportation, DPS, the Montgomery County Fire and Rescue Service, Montgomery County Public Schools, as well as the various divisions within Park and Planning including, most significantly, the Parks Department and the Environmental Planning Division. As reflected in the attached list of meetings, it would be an understatement to say that coordinating the support of all of these various branches of government, given the interplay of the various issues, has taken a huge amount of time both by the Applicant and the consultants, and by the various government staff. Cabin Branch Management alone has invested more than 6 million dollars in engineering, design and review for the Infrastructure Plan not including the 1.5 million dollars spent on construction of the nearly complete sewer line, and we can only assume that the various government agencies have invested similarly through their devotion of staff time in their review. Suffice it to say that we are thrilled to have support from the various County and State government offices and are anxious to present the Infrastructure Site Plan to the Board for approval in June.

As noted above, however, that approval is but the next step in the process towards final approvals for the Project needed to validate the Preliminary Plan. In fact, the Infrastructure Site process is a step not even specified in the Zoning Ordinance or the regulations that provide the validity period for Preliminary Plans. In retrospect the three year validity period to record plats for Stage I was unrealistic given the addition of such a comprehensive Infrastructure Site Plan step into the process. Assuming the Infrastructure Site Plan is approved by the Planning Board in June, Cabin Branch Management can then begin to process the detailed Site Plans for the Project itself and then the record plats required for validation of the Preliminary Plan. In other words, once the Infrastructure Site Plan is approved, we finally will be at the point where most projects are immediately after approval of their Preliminary Plans. We are ready to proceed with the

Chairman Hanson
May 17, 2007
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entire Site Plan process including review and approval of the Site Plans, issuance of the Site Plan Resolution, preparation and review of the signature set Site Plans, review of the final street grades and then recordation of the plats. Even on a small project, these procedures alone can take between one and two years to complete. As reflected in the second attachment, we are assuming it will take three years to do so here. Therefore, we are requesting that Stage I be extended for three years and that each of the following stages be extended similarly so that they can follow the first stage. As described above, delays, subsequent to approval of the Preliminary Plan, essential to Applicant's ability to perform the terms and conditions of the Plan, have materially prevented Applicant from validating the Plan. It is apparent that significant, unusual and unanticipated events have occurred beyond Applicant's control which have impaired Applicant's ability to validate the Plan within the time initially allotted and exceptional or undue hardship would result to Applicant if the Plan were not so extended. This request is consistent with the provisions of Section 50-35(h)d of the Subdivision Regulations, providing for such an extension.

Thank you for your continued support of this major project.

Sincerely,

Holland & Knight LLP



Robert R. Harris

cc: Gwen Wright
Rose Krasnow
Robert Kronenberg
Rich Weaver
Mike Conley
Stan Aldridge

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Process Summary

April, 2007

Pre-Application	2000-2002
WSSC Clarksburg Stage 3 and 4 Area Facility Plan	2000-2005
MXPD Zoning	2002-2003
Preliminary Plan- Phase I	2003-2004
Preliminary Plan- Phase II	7/04-Present
Infrastructure Site Plan	5/04-Present

Pre-Application	
Item	Date
Phase III Staging Release	Spring, 2000
Clarksburg Civic meeting	12/13/2001
Flood plain study submitted to County	1/18/2002
State Highway meeting	2/8/2002
M-NCPPC coordination, Art Holmes meeting	2/13/2002
Adventist settlement on the Gussin Property	2/25/2002
Pre DRC date	3/6/2002
DRC Meeting	3/25/2002
Cabin Branch Neighborhood Open House	4/4/2002
SHA 1-270, MD 15 Public Hearing Open House	6/25/2002
Sewer Outfall, walk with WSSC	6/26/2002
M-NCPPC Planning Board Hearing	6/27/2002
Update on Staging Ceiling letter and meeting with Ron Welke	9/13/2002
Clarksburg Civic Association meeting Rob Jepson with Adventist	9/23/2002
Draft Facility Report meeting with Gonzalez, DPW&T	10/9/2002
Preliminary Water Quality Plan meeting with DPS	10/11/2002
Clarksburg Civic Association 250th meeting	10/19/2002
Wells and Associates meeting Ron Welke	10/30/2002
Wells & Associates meets to review interchange details	11/4/2002
Streetscape, lighting meeting with M-NCPPC at Civic Association	11/7/2002
Meeting with M-NCPPC, Ron Welke	12/18/2002
Pre application Plan to Planning Commission	June, 2002

WSSC Clarksburg Stage 3 and 4 Area Facility Plan	
Item	Date
Project Description Forms for Cabin Branch CIP's, WSSC Proposed Six-Year Capital Improvements Program, Fiscal Years 2003-2008	9/26/2001
Letter from Beth Forbes, Development Project Manager, Development Services Group, WSSC to Randall D. Frey, Rodgers and Associates, Inc.	2/20/2002
Meeting between WSSC and Rodgers Consulting	10/9/2002
Comment response letter from James S. Schlisser, PE to WSSC	1/29/2003
Interoffice memorandum from Kenneth Dixon to Distribution List	1/27/2003
Memorandum from Mark Pfefferle, M-NCPPC	2/20/2003
Memorandum from Alan Soukup, Montgomery County, DEP	4/25/2003
M-NCPPC comment response letter from James M. Schlisser, PE	4/30/2003
MC DEP comment response letter from James M. Schlisser, PE	4/30/2003
Public Outreach Meeting at the Clarksburg Recreational Park	6/9/2004
WSSC Meeting Minutes	6/16/2003
Clarksburg Civic Association Planning Committee- Discuss WSSC facilities for West Side of 270, Ultimate build out of water and sewer facilities, Location of new water tower	7/24/2003
Letter to Germantown Public Library concerning Public Outreach Meeting	8/14/2003
WSSC Meeting Agenda and Minutes	8/19/2003
Clarksburg Public Outreach Meeting Letter	8/28/2003
Correspondence on Water Tower Issues for Alternative 15-J, Ken Dixon and Bob Eisenger	6/17/2004
Clarksburg Public Outreach Meeting Minutes	6/17/2004
Updated CIP Project Description Forms, WSSC Adopted Six-Year Capital Improvements Program, Fiscal Years 2005-2010	6/30/2004
Clarksburg Stage 3 & 4 Area Facility Plan- Final Selection of Alternatives for Water and Sewer CIP Projects	5/23/2005

MXPB Zoning	
Item	Date
MXPB Draft MXPB Zoning/Local Map Amendment Submittal	12/4/2002
Meeting with MNCPPC Director Charles Loehr	5/12/2003
Planning Commission Recommends Approval of zoning map amendment G-80	5/15/2003
Clarksburg Civic Association Meeting	5/19/2000
Marty Klauber meeting at MMC	5/23/2003
Clarksburg Civic Association Letter of Support	5/26/2003
Rodgers Team Meeting/Preparation for Planning Board	5/27/2003
Planning Board for MXPB Zoning	5/29/03 or 6/5/03
Zoning Hearing	6/9/2003
Council Approves MXPB Zoning	Sep-03

Preliminary Plan- Phase I	
Item	Date
Preliminary Plan Submitted	6/26/2003
RMX preliminary plan was accepted	6/30/2003
Annual Growth Policy Testimony	7/10/2003
Meeting at Hyattstown Fire Station, Clarksburg Civic Planning Committee to discuss the WSSC Facility Plan	7/24/2003
Development Review Committee (DRC) meeting at MNCPPC	7/28/2003
Submit Rte 121 Bridge Concept , traffic study and preliminary plan to SHA	8/5/2003
SHA Roundabout Peer Review	9/1/2003
Amended Preliminary Plan Submittal	9/17/2003
MNCPPC Preliminary Plan Staff Report	10/14/2003
Development Review Committee (DRC) meeting at MNCPPC	10/20/2003
Clarksburg Civic Association Planning Committee Meeting	10/23/2003
Meeting with MNCPPC to discuss the school, park and RMX roads.	10/28/2003
Meeting with SHA and Transportation at MNCPPC to discuss Rte 121 and Newcut Road	11/3/2003
Clarksburg Civic Association Planning Committee Meeting	11/20/2003
School & Park DRC Review	11/24/2003
School & Park DRC Review	12/4/2003
Clarksburg Planning Committee Meeting- DAC/AGP/Preliminary Plan	1/22/2004
Preliminary Plan Phasing Correspondence with MNCPPC	2/11/2004
Clarksburg Planning Committee Meeting- Preliminary Plan	3/25/2004
Clarksburg Civic Association Recommendation for Preliminary Plan Approval	3/28/2004
Meeting with MCDPW&T	3/30/2004
Development Review recommends approval of the preliminary plan	5/28/2004
Environmental Planning recommends approval of the preliminary plan	5/28/2004
Environmental Planning recommends approval of the preliminary water quality plan for Preliminary Plan #1-03110 with conditions.	5/28/2004
Clarksburg Civic Association letter of support	6/1/2004
Preliminary Plan Approved	6/23/2004
Preliminary Plan Mylar Submitted to Richard Weaver	7/2/2004

Infrastructure Phase I	
Item	Date
Meet with WSSC	5/26/2004
Preliminary Planning Board Meeting	6/3/2004
M-NCPPC re: Site Plan requirements and rough grading information	7/21/2004
MCDPS re: water quality devices	7/28/2004
MCDEP re: water quality monitoring	9/2/2004
SHA re: MD121 upgrade issues	9/15/2004
SHA Roundabout Peer Review	9/1/2003
M-NCPPC - Mark Pfefferle re: forest conservation requirements	9/17/2003
M-NCPPC re: Infrastructure Site Plans	10/6/2004
MCPS regarding School site	10/12/2004
M-NCPPC - Robert Kronenberg re: Initial submission of Infrastructure Plans	10/18/2004
M-NCPPC - Angela Brown re: Infrastructure Site Plan Submission	10/29/2004
WSSC re: water tower & 24" water line	11/3/2004
M-NCPPC - Angela Brown re: Infrastructure Site Plan Submission	11/4/2004
MCDPS - Leo Galanko, Dan Harper, Doug Marshall, mark Sommerfield re: stream restoration requirements	11/17/2004
MCDPS Final Water Quality Plan meeting with Leo Galanko	12/2/2004
M-NCPPC - DRC Meeting	1/18/2005
Clarksburg Civic Association Meeting	1/18/2005
Information to Clarksburg Civic Association per request	1/26/2005
M-NCPPC - Mark Pfefferle to discuss Final Forest Conservation comments	2/16/2005
MCDPS - Sarah Navid, Wells Associates (Chris Turnbull) re: roundabouts	4/13/2005
MCDPS - Final Water Quality Plan meeting with Leo Galanko and Blair Lough	6/13/2005
MCDPS, MCDPW&T, M-NCPPC to discuss SWM in R/W, FWQP, Infrastructure Plan Processing	8/4/2005
SHA (Baltimore) - re: MD121/I-270 Interchange	9/2/2005
SHA - Steve Foster re: MD121/I-270 Interchange	9/2/2005
Conference call with SHA	9/9/2005
SHA, KCI, Winchester re: MD121/I-270 Interchange	9/15/2005
MCDPS - Final Water Quality Plan meeting with Leo Galanko	9/16/2005
SHA - Greg Cooke re: MD/121 design	9/22/2005
MCDPS, MCDPW&T, M-NCPPC - Sarah Navid, Robert Kronenberg, Greg Leck, Mark Pfefferle re: road revision issues	9/2/2005
M-NCPPC - re: density shifting on the site	9/27/2005
DPS, MCFRS, Greg Leck, Christina Contreras re: Public road width	10/7/2005
Clarksburg Civic Association Meeting	10/10/2005
M-NCPPC - re: development and preliminary plan	10/25/2005
M-NCPPC - re: Phase 2 Preliminary Plan	11/10/2005
M-NCPPC- Mark Pfefferle & Robert Kronenberg re: Forest Conservation Plan	11/30/2005
Conference call with SHA	9/9/2005
SHA, M-NCPPC, DPW&T, CBMLLC re: Clarksburg Road	12/1/2005

M-NCPPC re: park site	1/18/2006
M-NCPPC re: Overall Cabin Branch Issues	1/25/2006
DPW&T re: SWM in right of way	2/00/2006
SHA & DPW&T re: R/W issues on Route 121	2/3/2006
SHA	2/8/2006
DPW&T re: SWM in right of way	2/13/2006
SHA re: Round about	2/15/2006
M-NCPPC re: Hammer	2/15/2006
WIN 1 DRC	2/27/2006
M-NCPPC re: Stream valley buffers	3/00/2006
M-NCPPC - Mark Pfefferle re: stream valley buffer	3/14/2006
MCDPS - Sarah Navid re: streets for infrastructure plan	4/7/2006
Clarksburg Civic Association Meeting	4/18/2006
M-NCPPC - Robert Kronenberg re: road improvements	4/20/2006
SHA and KCI	5/10/2006
WSSC - Beth Forbes re: LOF four part plan	5/11/2006
SHA re: superelevation	5/18/2006
M-NCPPC - Mark Pfefferle re: Stream Valley Buffer by Pond 1	5/22/2006
SHA re: Route 121 10' shoulders and bikeways	5/22/2006
DPS (Leo Galanko)	6/2/2006
DPS (Sarah Navid, Joseph Cheung, Atiq Panjshiri) re: street grades and storm drain plans submission	6/9/2006
M-NCPPC - Karen Kumm re: Infrastructure site plan	6/14/2006
MCDPS - Leo Galanko & Blair Lough	6/28/2006
County Council staff re: zoning map errors	7/20/2006
MC - Jennifer Russell re: Project intro	8/3/2006
M-NCPPC (Karen Kumm) re: Infrastructure site plan	8/14/2006
MCDPS - Leo Galanko re: FWQP	8/14/2006
DPW&T re: SWM in right of way	8/25/2006
M-NCPPC - Doug Powell regarding local park	9/6/2006
Open Clarksburg Community Meeting	9/26/2006
MCDPW&T - Greg Leck re: waivers	9/28/2006
M-NCPPC - Doug Powell re: park layout	10/3/2006
MCFRS (John Feisner)	10/4/2006
MCDPW&T (Greg Leck, Sarah Navid)	10/19/2006
M-NCPPC (Gabe)	10/23/2006
MCDFRS, MCDPS - John Feisner & Sarah Navid re: Street width	10/30/2006
M-NCPPC - Mark Pfefferle re: FFCP	10/31/2006
MC Multi-agency meeting at LSA	11/1/2006
Utility Companies	11/2/2006
SHA re: infrastructure plan approval letter	11/2/2006
M-NCPPC - Historic Preservation	11/15/2006
M-NCPPC: to discuss the Planning Board for Phase 2	11/27/2006
MC Multi-agency meeting at LSA	11/28/2006
MCDPS - Leo Galanko re: FWQP	12/11/2006
MCPS - Regarding school site	12/27/2006

M-NCPPC - Robert Kronenberg re: trees in islands and major/minor tree discussion	1/3/2007
DEP (Dan Harper and Leo Galanko)	1/12/2007
MCPS - Regarding school site	1/17/2007
MCDFRS	1/17/2007
DEP (Dan Harper and Leo Galanko)	1/23/2007
MCDFRS	1/25/2007
MCDPS - Teleconference with Leo Galanko and Blair Lough re: FWQP	1/00/2007
MCDPS - Rick Brush, Leo Galanko	1/00/2007
Meeting with multiple utility companies	1/29/2007
SHA Public Hearing	1/30/2007
MCDPW&T - Edgard Gonzalez	2/20/2007
Meeting with Washington Gas	2/26/2007
Meeting with Verizon	2/27/2007
Meeting with Allegheny Power	3/8/2007
MCDPW&T re: Binder Review	3/20/2007

CABIN BRANCH VALIDATION TIMELINE

Task	Start Task	Submit Plans	1st Review	2nd Review	Approval
INFRASTRUCTURE SITE PLAN	Completed	10/29/04	1/18/05	On-Going	6/7/07
Site Plan Option	6/7/07				9/7/07
Signature Set	9/10/07	10/8/07			4/11/08
Street Grades		5/13/05	On-Going	N/A	4/11/08
Record Plats	4/11/08	10/10/08			2/13/09
BUILDERS SITE PLAN	Completed	1/17/06	2/27/06	On-Going	9/27/07
Opinion	9/27/07				12/14/07
Signature Site Plan	12/17/07	2/15/08			8/15/08
Street Grades	9/27/07	11/16/07	1/16/08	4/16/08	5/16/08
Record Plats	8/18/08	1/16/09	11/18/08		5/15/09

ⁱ This timeline is only for use as a guide. The dates shown are based on typical agency review times, current workload, and client scope and program at the time of preparation. LSA, Inc. is not responsible for variation in agency or client driven date impacts.

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Robert R. Harris
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January 2, 2007

Dr. Royce Hanson
Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Cabin Branch (Preliminary Plan No. 1-03110A)

Dear Chairman Hanson:

We represent Cabin Branch Management, LLC, the developer of this project. By Opinion dated June 22, 2004, the Montgomery County Planning Board approved this Preliminary Plan for 1,600 residential dwelling units, 1,538,000 square feet of commercial space and 500 dwelling units of elderly housing. The approval provided for the development to proceed in four roughly equivalent stages, with the first stage expiring 37 months from the date of the Opinion (i.e. July 22, 2007) and the remaining three stages expiring in successive three year periods. In order to validate the various stages of development, the Preliminary Plan Opinion calls for record plats to be recorded for each such stage, which first requires approval of an Infrastructure Site Plan covering the entire property and then individual Site Plans for the actual development within that stage.

As your Staff is aware, the Applicant has been working diligently since approval of the Preliminary Plan to complete the requirements for validating each stage of the development. We filed the Infrastructure Site Plan in October, 2004, shortly after approval of the Preliminary Plan, and have been working on all aspects of that approval ever since then. That Infrastructure Plan, however, has required approval from the Department of Permitting Services (DPS) of a Final Water Quality Plan which itself has required various prerequisite approvals from the Department of Public Works and Transportation and others. Despite our continued efforts, DPS still has not completed its review and approval of the Water Quality Plan at this time. Accordingly, we have been prevented from proceeding with the Infrastructure Site Plan approval. That, of course, has prevented us from obtaining the individual Site Plan approvals which themselves are required before recording the plats. The result is that delays, subsequent to approval of the plan, essential to the Applicant's ability to perform the terms and conditions of that plan, have materially prevented Applicant from validating the plan. In addition, in the past year, the Planning Board and other County agencies

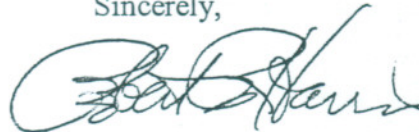
Dr. Royce Hanson
January 2, 2007
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have been focused on issues arising from the Clarksburg Town Center review resulting in projects moving much more slowly through the approval process. It is now apparent that significant, unusual and unanticipated events have occurred beyond the Applicant's control which have impaired Applicant's ability to validate the plan within the time initially allotted.

Applicant is taking every possible step to move this project forward. Presently, we are hoping to have a Planning Board date on the Infrastructure Site Plan in February, 2007, and we then hope to follow with individual Site Plan approvals. (Those plans already are on file and have been waiting approval of the Infrastructure Site Plan). Equally important, based on the Preliminary Plan, the Applicant has acquired properties required for implementing road improvements that are a condition of the approval, has obtained all of the approvals for extension of a major sewer line to serve the property and has begun construction of that sewer line. The Applicant has spent many hundreds of thousands of dollars implementing the Preliminary Plan to the extent possible at this time and is ready, willing and able to complete the Preliminary Plan validation process as soon as governmental approvals can be obtained.

Based on these circumstances, we ask that the phasing schedule be extended or revised by continuing Stage 1 for an additional three year period (from July 22, 2007 to July 22, 2010) with the remaining stages following in successive three year periods. We are submitting with this letter, a complete application form, a copy of the Preliminary Plan Opinion, 3 copies of the approved Preliminary Plan, a list of the adjacent and confronting property owners and a check in the amount of \$1,390 to cover the filing fee.

Sincerely,



Robert R. Harris

cc: Rose Krasnow
Cathy Conlon
Rich Weaver
Robert Kronenberg
Mike Conley
Stan Aldridge
Larry Walker
Benson Klein
Will Collins
John Brundage