



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

MCPB
7/2/09
Item #

MEMORANDUM – Development Plan Amendment

DATE: June 15, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division
Ralph Wilson, Zoning Supervisor *RW*

FROM: Carlton W. Gilbert, Planner Coordinator *CW Gilbert*
(301) 495-4576

SUBJECT: **Development Plan Amendment No. DPA-08-1 (The Village of Cloppers Mill East)** Great Seneca Investment, LLC, applicant, - an amendment to the approved development plan associated with (G-650) to permit a maximum of 20 townhouse dwelling units on Parcel U; Planned Development (PD-4) Zone; located in Germantown.

MASTER PLAN: 1989 Approved and Adopted Germantown Master Plan

STAFF RECOMMENDATION: APPROVAL of Development Plan Amendment 08-1, to allow development of 20 townhouses on Parcel U, including 2 MPDUs.

The Code provides that If there is public opposition to a Development Plan Amendment (DPA), or if a public hearing is either recommended by the Planning Board or requested by any aggrieved party, the Hearing Examiner must conduct a Public Hearing on the plan amendment. It is staff's understanding that agreement has been reached among the affected parties for the proposed amendment. For this reason, staff is not inclined to recommend that a public hearing by the Hearing Examiner be held.

SUMMARY OF REPORT

Site Size and Location: The subject property is known as Parcel U located within the Village of Cloppers Mill East. The property consists of approximately 1.32 acres. The property is bounded by Cloppers Mill Drive to the north, the Riverstone Condominium residences to the east, a

daycare facility to the west and commercial shopping center to the south.

Current Zone and Use: The 1.32-acre tract of land is zoned PD-4 and is an undeveloped tract of land that is part of a rezoning and associated development plan (G-650) approved in October 1990 as a mixed-use community of residential, retail, and office uses.

Proposed Use: The Development Plan Amendment (DPA) proposes construction of 20 single-family attached residences (townhouses) in order to complete the “build-out” total of 602 dwelling units originally approved for this community.

Density: The applicant is seeking to develop 20 townhouses on Parcel U in the Village of Cloppers Mill East, which would increase the overall MPDU requirement for this development to 87 MPDUs. To date, 85 MPDUs have been or will be provided within the existing developed sections of Cloppers Mill East, leaving an outstanding MPDU requirement of two (2) units. (See Binding Elements).

Master Plan Consistency: The proposal is in substantial compliance with the mixture of uses and overall density and recommendations of the Germantown Master Plan.

Transportation Issues: The site is located in the Germantown West Policy Area where there is no trip mitigation requirement under the Growth Policy.

SUMMARY AND BACKGROUND

The Development Plan Amendment (DPA) 08-1 is a request to modify the originally approved development plan (G-650) to construct 20 single-family attached residences on Parcel U. The rectangular shaped site is currently vacant and contains 1.32 acres of land.

The District Council approved zoning application G-650 and the associated development plan on October 9, 1990. (See attached Council resolution) The approximately 117-acre mixed-use development, known as the Village of Cloppers Mill, was approved for a total of 602 dwelling units, along with 153,000 square feet of retail uses, 17,000 square feet of office uses, an automobile filling station, and a day care facility. At that time, the approved development plan showed the subject site (Parcel U)

for loading and parking for a commercial building on the approved development plan. The approved use for parcel "u" was later changed to allow for construction of elderly housing units. The Planning Board approved relocation of the elderly housing to an alternate site, south of Mateny Road in July, 2004.

It is the purpose of this application to add 20 attached single-family dwelling units to the currently vacant Parcel U within the Village of Cloppers Mill East in order to complete the residential "build-out" for the community of 602 dwelling units. As noted earlier, this site is currently vacant. The proposed townhouses replace the previously approved elderly housing.

Description of Property and Surrounding Area

The 1.32-acre tract (Parcel U), in question, is bounded by Cloppers Mill Drive to the north, the Riverstone Condominium residences to the east, a daycare facility to the west and the commercial shopping center to the south. The development plan shows access to the property via an entrance from Cloppers Mill Drive off of Great Seneca Highway. The rectangular shaped property is approximately 220 wide and 265 feet deep. The site consists of 220 feet of frontage along Clopper's Mill Drive. The property is vacant and contains no trees.

The 117-foot acre Village of Cloppers Mill subdivision is located on the east side of the Great Seneca Highway and lies immediately north of the Seneca Creek State Park. The area surrounding the Cloppers Mill subdivision is bounded on the north by Clopper Road, on the west by Great Seneca Highway, and on the east by Seneca Creek State Park. The neighborhood area contains a mixture of densities and land uses. Existing multi-family development is located north of the site along the east side of Great Seneca Highway extending to Clopper Road. The South Gunners Branch local park and elementary school are located east of the multi-family development. Additionally, townhouse communities developed under both the R-90 and RT-12.5 zones are located north and east of the subdivision.

Intended Use and Approval Procedures

As previously noted, the Development Plan Amendment application seeks to incorporate a maximum of 20 townhouses including 2 MPDUs on a site that was previously identified for elderly housing. An agreement for providing the 2 MPDU's was reached as documented in an attached letter dated April 2, 2009, from DHCA that provides conditions to allow the off-site purchase of the MPDUs as an alternative to locating them in the proposed development. The land area proposed for the townhouses is approximately 1.32 acres. The proposed 3 story townhouses are shown on the amended development plan located to the south of Cloppers Mill Drive. Each townhouse will have interior parking for two cars and two spaces per driveway. Based on the amended development plan, 10 spaces are proposed for visitor parking. Additionally, the applicant has agreed to grant a private parking and maintenance easement to the Riverstone Condominium Association and plant a landscape buffer along the common property line. (See attached Elm Street Letter).

A site plan consistent with an approved development plan must be submitted and approved in accordance with the provisions of Section 59-D-3. If the amendment is approved, key elements such as the final location of the building, building design, open space location, access points and parking will be determined during the Planning Board's site plan review process. The proposed building will also require an amendment to the underlying preliminary plan.

Additionally, this development plan amendment must be reviewed by the District Council. If the District Council approves the amended development plan, the plan must be certified and filed as provided in section 59-D-1.64

Development Plan Textual Binding Elements

Development Standards

Proposed

1. Number of dwelling units.	Not to exceed 20 DU's, including MPDUs.
2. Building Height	Not to exceed forty feet and 3 stories within the 40-foot height limit.
3. Moderately Priced Dwelling Units (MPDUs)	<p>Under an agreement with DHCA, the applicant must provide two MPDUs to satisfy the overall MPDU requirement for the Village of Cloppers Mill East development by either:</p> <ul style="list-style-type: none"> (1) Building 2 of the townhouses approved by this development plan amendment as MPDUs; or (2) Purchasing 2 existing Riverstone Condominium units in the Village of Cloppers Mill East and converting them into MPDUs. <p>Either alternative must be under an agreement with DHCA.</p>

Master Plan Recommendation

The proposed 20 unit townhouse development is consistent with the July 1989 Approved and Adopted Germantown Master Plan which designates the larger area that includes the subject site for Village Center, Residential with PD-4 zoning and a base density of R-200 (Analysis Area CL-9: Figure 20, Pg. 60; Table 10, Pg. 62; and Pg. 66). For the Clopper Village Center area the Master Plan lists guidelines including: 1) the orientation of buildings (to) enhance the image and character of the roads; 2) pedestrian and bicycle connections; 2) buffers and landscaped areas for transitional uses; and 3) screening at back yards of residential units. The proposed plan is compatible with these guidelines.

Previous staff review of the DPA for the subject property resulted in the applicant completing requested modifications to: 1) align the north entrance to the site directly opposite Millhaven Terrace; 2) remove access to the adjacent day care site to the east; and 3) add the provision for emergency access to the Riverside Condominiums adjacent to and east of the site. All of these modifications are included in the amended plan. Additionally, in response to discussions with staff, the Plan includes added appropriate landscape buffer plantings at the south and west property areas.

While the plan is lacking in internal green space, it does contain direct walkway connections to the sidewalk at Cloppers Mill Drive and, via Cloppers Mill Terrace, to the nearby Village Green. Added design review will occur with Site Plan submittal.

Transportation

Based on staff's review of the applicant's traffic statement and amended development plan, Transportation Planning staff recommends the following condition as part of the APF test for transportation requirements related to approval of this development plan amendment application.

1. Total development under this development plan amendment application is limited to a 20 townhouses shown on the amended development plan and analyzed in the traffic statement.

Site Access and Vehicular/Pedestrian Circulation

Access points to the site are proposed from Cloppers Mill Drive. The site is located in the Village of Cloppers Mill East in the vicinity of Great Seneca Highway (MD 119)/Cloppers Mill Drive intersection in Germantown West area. Staff finds that the access points and the vehicular and pedestrian circulation system shown on the amended development plan are adequate.

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Local Area Transportation Review

Based on information contained in the traffic statement, the revised densities/uses for the Village of Cloppers Mill East with the proposed 20 townhouses generate fewer total trips and fewer “new” trips than reflected in the original approval. Since the site generates fewer trips than analyzed in the original approved development plan, no traffic study is required to satisfy the Local Area Transportation Review (LATR) test.

Policy Area Mobility Review

The site is located in the Germantown West Policy Area where there is no trip mitigation requirement in the New Growth Policy.

Staff concludes that the proposed development plan amendment application for the 20 townhouses, with the proposed access, internal circulation, and pedestrian facilities shown on the amended development plan, will be adequate and not result in an adverse impact on the surrounding roadway network.

Environment

The Environmental Planning staff has performed an initial review of the proposed DPA. The forest conservation plan requirements were addressed in the approved forest conservation plan for the Cloppers Mill East project (#81993013).

Stormwater Management

Based on a review by the Department of Permitting Services staff, the stormwater management concept for the proposed DPA is acceptable. Final approval of the Stormwater Management Plan will be required at the time of Site Plan review.

Landscape and Lighting – No Landscape or Lighting Plan was submitted with this application. Both plans will be reviewed at the time of site plan review.

59-D-1.6 – Approval by District Council

59-D-1.61 – Findings

Review and approval of a DPA is governed by Sections 59-D-1.61 and 59-D-1.7 of the Zoning Ordinance, which requires the District Council to make specific findings before approving a development plan. In general, the District Council must find that the development plan fulfills the “purposes and requirements” of the PD zone as enumerated in Section 59-C-7.1. The required specific findings are intended to ensure

that the overall purpose of the zone is served by approval of the development plan or any amendment thereof.

The five specific findings as set forth in Section 59-D-1.61 are:

(a) That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.

Staff finds that the amended development plan satisfies this standard. The zoning for this property is not under review. The PD-4 zone has previously been deemed in compliance with the use and density identified for the site in the Germantown Master Plan when zoning application G-650 was granted in 1990. The Germantown Master Plan, as amended in 1989, recommends PD-4 as an alternative zone for the subject property and encourages a mix of residential, retail services, offices and community facilities on the property.

A total residential density of 602 dwelling units was approved in the original DPA in conjunction with zoning application G-650, along with 153,000 square feet of retail uses, 17,000 square feet of office uses, an automobile filling station and day care facility. With the construction of the 20 single-family attached residences proposed by the applicant on the 1.32 acre site, the total "build-out" figure for the community will be 602 dwelling units, which is consistent with the total residential density originally approved under zoning application G-650. Under the submitted DPA, the PD-4 zone continues to be in compliance with the use and density recommended by the Germantown Master Plan. Additionally, various provisions in the Germantown Master Plan encourage a variety of housing types and a mix of uses. According to the applicant, the proposal will require no new public infrastructure and will enable more complete use of the public and private infrastructure already built or planned. The amended development plan is in substantial compliance with the use and density recommended in the applicable master plans and does not conflict with any county plans and policies.

(b) That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.

This amended development plan satisfies the purposes, standards, and regulations of the PD zone and provides for the safety and convenience of the residents of the development. The proposed development encourages social and community interaction by its mixture of land uses and pedestrian linkages and recreational areas. The proposal will use land efficiently for purposes of housing and it will serve as an excellent transition between the retail uses to the south and the daycare facility to the west.

The proposed development of 20 townhouses is compatible with adjacent land uses. The height of the proposed townhouse will be 3-stories and no higher than 40 feet. The Riverstone Condominiums that are located to the east and across Clopper Mill Drive are 3-4 stories in height. Binding elements have been added to ensure height limits are within reason and adequate parking for residents and visitors is shown on the development plan. Staff is satisfied that the townhouse location, density, and scale of development will be compatible with surrounding development. These elements of the project will be more fully addressed at site plan.

(c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate and efficient.

The points of internal vehicular and pedestrian circulation systems for the commercial center and the residential community are established under the existing development plan, which was deemed to be safe, adequate and efficient. The interconnection with retail and residential areas of the site is provided by the use of sidewalks, pathways and streets. Additionally, the interconnected street system with trees, paths and sidewalks provides access to the Village Green area. This development plan amendment will not change the approved plan in this respect. Rather, it will incorporate a 20-unit townhouse development into the southwest area and will use the existing approved points of access off of Cloppers Mill Drive.

(d) That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.

Stormwater management will be provided pursuant to County regulations and no additional grading will be required other than that already contemplated for development of the townhouses. Water quality, along with a comprehensive stormwater management plan, will be reviewed at the time of site plan review.

The actual amount of green area in the overall community exceeds the original development plan where approximately 47% of the net tract area was devoted to green area. The PD zone's minimum requirement is 40%. The proposed DPA to construct 20 additional townhouse shows a total provided green area for the overall community that amounts approximately to 54% of the net tract area.

(e) That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.

The original development plan included several documents intended to assure perpetual maintenance of recreational, common or quasi-public areas that were found to be adequate and sufficient in previous approvals. These documents included a declaration of covenants; conditions and restrictions; homeowners' association by-laws; and articles of incorporation. The 20 additional townhouse units are proposed to be annexed into the umbrella homeowners' association for the Village of Cloppers Mill East.

Community Comments

The Riverstone Condominium Association submitted a letter and a petition signed by residents in the neighboring Riverstone Condominium in support of the 20 townhouse proposal. The community prefers residential housing on Parcel U and finds that townhouses are an appropriate addition to the neighborhood. As noted in the attached letter, concerns regarding parking, landscape buffers, and safety were raised by the community. Elm Street Development has addressed their concerns by granting a private parking easement for use by residents of Riverstone Condominium; proposing to plant a landscape buffer and to make the natural buffer as shortcut proof as possible. Additionally, the Clopper's Mill Community Association (CMCA) submitted a letter, on behalf of the Board of Directors, that expresses unanimous support for the development of Parcel U as a 20 townhouse complex. (See attached letters)

Conclusion

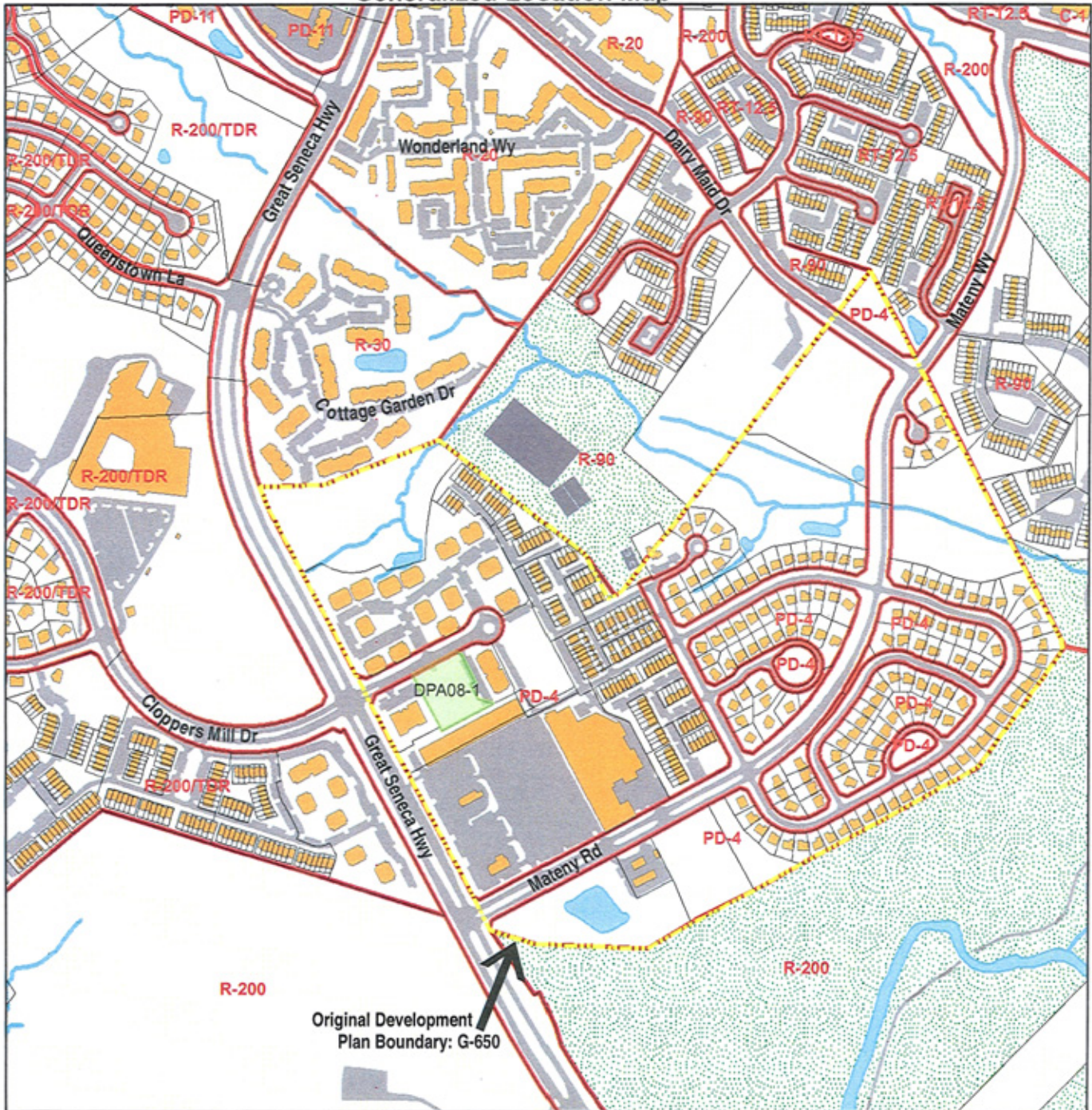
The proposed development satisfies the PD zone standards for approval of a development plan amendment. The plan is consistent with the master plan recommended overall number of housing units for the Cloppers Mill neighborhood and with the distribution of unit types within the overall community. The application implements the Master Plan land-use and zoning recommendations by providing a mix of uses and residential units with higher densities close to and within walking distance of the existing commercial center and other exiting amenities in the community. For these reasons, staff recommends approval of DPA-08-1.

LIST OF ATTACHMENTS

1. Location Map
2. Surrounding Area Map
3. Amended Development Plan (3 sheets)
4. Proposed East Landscape Buffer
5. Illustrative Plan
6. Council Resolution
7. DHCA Letter
8. Elm Street Parking Easement Agreement
9. Vision Division Memo
10. Transportation Planning Memo
11. Environmental Planning Memo
12. Subdivision Review Memo
13. DPS SWM Concept Letter
14. MCPS Letter
15. Riverstone Condominium Assoc. Letter
16. Cloppers Mill Community Assoc. Letter

ATTACHMENT 1

Generalized Location Map



LEGEND

-  Subject Site
-  Parcel
-  Building
-  Paved Area
-  Lake and Pond
-  Stream and River

NOTICE:

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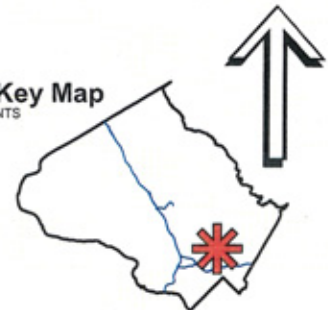
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1 inch = 600 feet

Address: South side of Croppers Mill Dr, east of Great Seneca Hwy, Germantown

Key Map

NTS



THE VILLAGE OF CLOPPER'S MILL EAST (DPA-08-1)



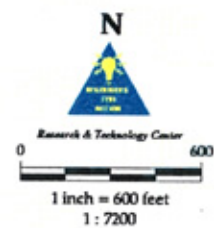
Map compiled on October 22, 2008 at 10:48 AM | Sites located on base sheet no - 224NW13 | Data of Orthophotos: April 2006 - Used with permission from Montgomery County Government

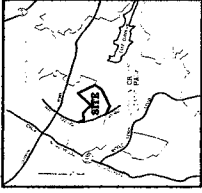
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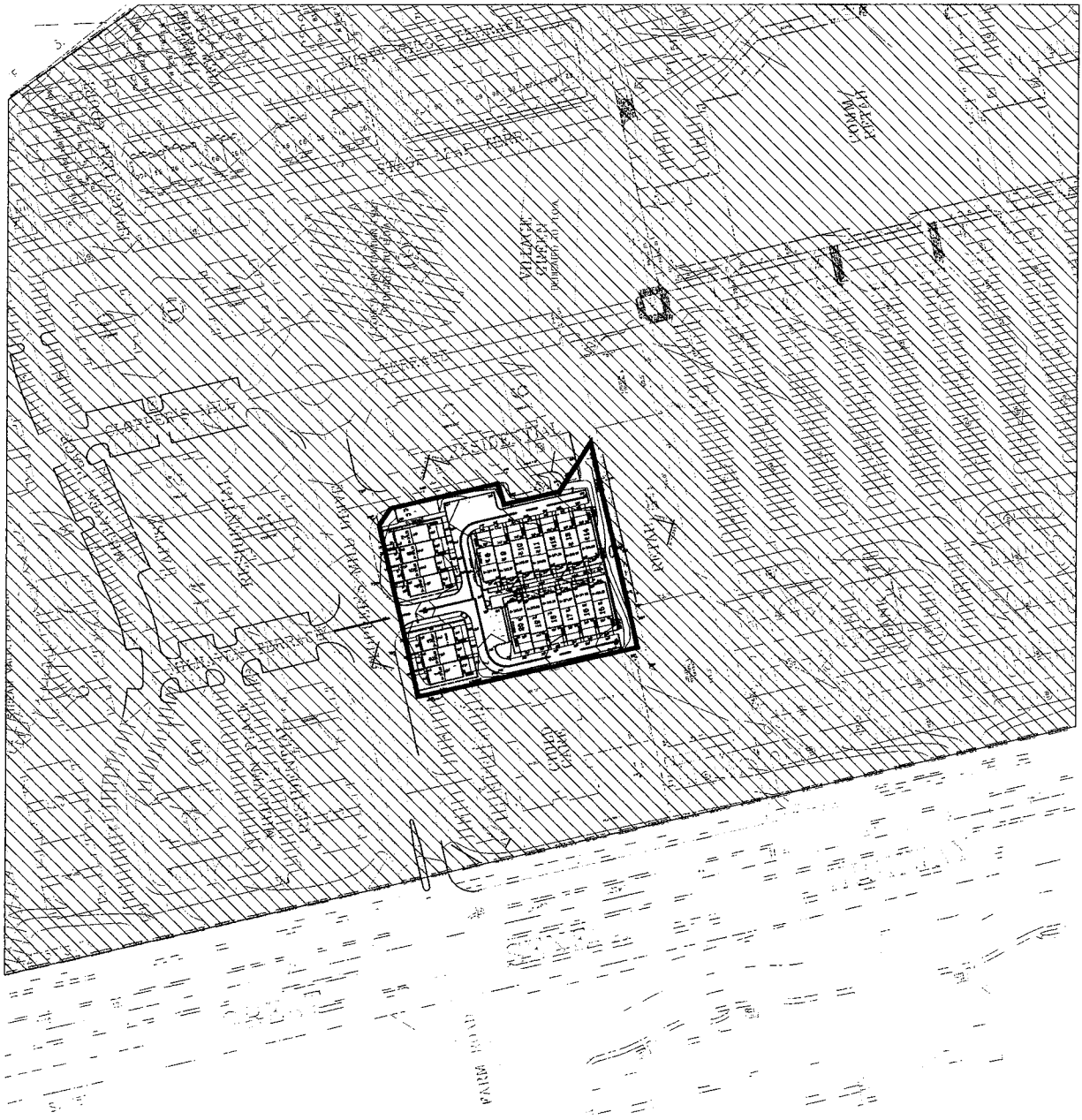
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1" = 1/4 MILE
GRAPHIC SCALE



OFFICE OF ZONING AND ADMINISTRATION
HEADING CERTIFICATION
THIS IS TRUE COPY OF THE DEVELOPMENT PLAN AS PREPARED BY THE APPLICANT, AS SHOWN ON THE ATTACHED SHEETS, AND AS APPROVED BY THE BOARD OF ZONING ADJUSTMENTS ON [DATE].

DATE: _____
APPLICANT: _____
ZONING ADMINISTRATOR: _____

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THE SURVEY INFORMATION CONTAINED HEREON WAS OBTAINED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND ACCORDING TO THE REQUIREMENTS OF THE SURVEYING ACT OF 1948.

DATE: _____
SURVEYOR: _____

OWNER CERTIFICATE
I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I AM THE OWNER OF THE PROPERTY DESCRIBED HEREON.

DATE: _____
OWNER: _____

AMENDED DEVELOPMENT PLAN
THE VILLAGE OF CLOPPER'S MILL EAST
DARNESTOWN (60) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

CPJ Charles F. Johnson & Associates, Inc.
10000 Rockville Pike, Suite 1000, Rockville, MD 20850
Tel: 301-770-1100

DATE	NO. OF SHEETS	SHEET NO.
11/15/00	3	3

DATE: 11/15/00
SHEET NO. 3 OF 3

Resolution No.: 11-2268
 Introduced: October 9, 1990
 Adopted: October 9, 1990

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
 SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
 OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
 IN MONTGOMERY COUNTY

By: County Council

APPLICATION NO. G-650 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Jody S. Kline, Attorney for Great Seneca Investments, Contract Purchaser, Applicant, OPINION AND RESOLUTION ON APPLICATION
Tax Account Nos. 6-1-02753512 & 6-1-00277500

OPINION

Application No. G-650 requests reclassification from the R-200 Zone to the PD-4 Zone of 117.73 acres, known as the property of Great Seneca Investments, located on the east side of the Great Seneca Highway approximately 3,000 feet south of the intersection with Clopper Road, Germantown, in the 6th Election District.

The hearing examiner recommended approval of the development plan and approval of the reclassification subject to the specifications and requirements of the development plan. These recommendations were based on conclusions that the PD-4 Zone at the proposed location is a proper use for the comprehensive and systematic development of the county; that the proposed development is capable of accomplishing the purposes of the PD-4 Zone; that the proposed development is in substantial compliance with the applicable master plan; and, that the proposed development satisfies all the technical requirements of a PD-4 Zone provided recommended waivers are approved. The Technical Staff and the Planning Board provided similar recommendations. The District Council agrees with the findings and conclusions of the Technical Staff, the Planning Board and the hearing examiner.

The subject property lies at the southern tip of the Germantown and Vicinity Planning Area. The property contains about 2,100 feet of frontage along the east side of the Great Seneca Highway and lies immediately north of the Seneca Creek State Park. It is irregular in shape and extends eastward about 2,700 feet.

The site contains some mature hardwood trees along its northern boundary line and contains two streams which cross portions of the site.

The surrounding area is bounded on the north by Clopper Road, on the west by Route 118, on the southwest by Riffle Ford Road, and on the southeast and east by the Seneca Creek State Park. This area contains a mixture of densities and land uses. Existing multi-family development is located north of the site along the east side of the Great Seneca Highway extending to Clopper Road. The South Gunners Branch local park, the proposed South Gunners Branch Elementary School and a townhouse community developed under both the R-90 and RT-12.5 Zones are all located east of the multi-family development. Mateney Road extends from Clopper Road south to the subject property and provides access for the townhouses. Located to the southwest is the site of the future Seneca Waste Water Treatment Plant. Located directly west of the site is an undeveloped 190-acre parcel which is classified in the RDT Zone and was formerly included as part of the zoning application. The remainder of the area consists of public land and residential uses.

The development plan proposes a mixed use community of residential, retail, office, public and quasi-public components. Residential uses include 154 single-family detached units on lots ranging between 6,000 and 8,000 square feet in the eastern portion of the site, 54 townhouses as a transition between the single-family areas and a retail center, 274 garden apartments located north of the retail center, and housing for the elderly containing 120 dwelling units in six-story structures located adjacent to the village center. Retail uses in two separate one and two-story buildings are proposed adjacent to a village square. Two freestanding office buildings and a bank with drive-through facilities comprise the office uses located near the retail uses. The retail uses are proposed at a density of 153,000 square feet and office uses are proposed at a density of 17,000 square feet. An automobile filling station is proposed adjacent to this commercial area.

The proposed development also includes a number of amenities. A 5.4-acre area located at the northeast tip of the site is proposed for an elementary school site to be jointly developed along with an adjacent 8.32-acre parcel already owned by the Board of Education. A child day care center is proposed on a 1.2-acre site located next to the elderly housing. Four acres are reserved for a place of worship. Stormwater management areas are proposed to be located immediately south of the school and at the southwest corner of the property. An off-site recreational area is also proposed for the South Gunners Branch Park if approved at the site plan stage. Almost half the site is proposed as passive open space.

Vehicular and pedestrian circulation systems interconnect with the retail and residential portions of the site by using sidewalks, pathways and streets. Most of the streets will be dedicated. Mateney Road will extend through the site to an intersection with the Great Seneca Highway. This intersection will provide ingress and egress to and from the retail and office components of the village center. Mateney Road is proposed to be constructed within a 100-foot right-of-way throughout the site although it will reflect a four-lane width with a median strip from its intersection with the Great Seneca Highway to the edge of the town center and a two-lane width as it extends eastward through residential portions of the site and past a stream valley conservation area and elementary school site.

The development plan contains a three part phasing schedule that is keyed to the approved capital improvement program, the annual growth policy and transportation improvement agreements. Development of public roads, the pedestrian and bicycle system, community facilities, open space and stormwater management facilities will occur sequentially with each particular phase of development. Phase I is scheduled to begin in 1991 and includes the village center, retail and office uses, the village square, the child day care center, and

the automobile service station. Phase II is scheduled for 1992 and consists of 75 single-family detached units, 54 townhouses, and 274 multi-family units. The last phase is scheduled for 1993 and would complete the development with 82 single-family detached units, 120 elderly housing units, and a place of worship.

The Germantown and Vicinity Master Plan, as amended in 1989, provides PD-4 zoning as an alternative recommendation for the site and encourages a mix of retail services, offices and community facilities with mixed residential densities. The recommended community facilities include an elementary school, local park, child day care center and place of worship. The site was classified for half-acre residential density by comprehensive zoning in 1958. It was downzoned to two-acre density by comprehensive zoning in 1974. The most recent comprehensive zoning occurred on February 13, 1990, and reclassified the property back to its original half-acre density and applied the R-200 Zone to the site. There have been no previous local map amendments pertaining to this property.

The District Council agrees with the determination of the hearing examiner that the development plan satisfies the requirements of §59-D-1.6. In this respect, the District Council finds that the PD-4 Zone at the proposed location is in compliance with the recommendations of the master plan and does not conflict with the general plan, capital improvement programs or other applicable county plans or policies. Also, the proposed zoning is in compliance with the requirements of the P-D Zone and will provide for a maximum safety, convenience and amenity of residents of the development, as well as being compatible with adjacent development. The evidence of record also demonstrates that the proposed vehicular and pedestrian circulation systems are safe, adequate and efficient. The development plan, by its site design, will minimize grading of the site; and, by the most desirable use of building locations, will prevent soil erosion and preserve natural vegetation and other natural features of the site. Finally, the

5710

development plan proposes an adequate and sufficient method of assuring perpetual maintenance of recreational, common or quasi-public areas.

The District Council also agrees with the determination of the hearing examiner that several waivers from strict requirements of the P-D Zone are justified. Under the provisions of §59-C-7.131, it is more desirable for either environmental reasons or master plan conformity to waive the minimum 25 percent requirement for townhouses and the maximum 40 percent requirement for multi-family housing to allow a minimum of 11 percent for townhouses and the maximum of 56 percent for multi-family housing. Moreover, under the provisions of §59-C-7.15 there is sufficient basis to waive the 100-foot setback requirement to allow the location of multi-family housing units within the northern setback areas because the master plan recommends the adjacent land for use other than one-family detached homes and the adjacent land will not be adversely affected by the waiver.

The District Council also agrees with the determination of the hearing examiner that the application satisfies the requirements of the PD-4 Zone. In this respect, the PD-4 Zone at the proposed location constitutes a proper use for the comprehensive and systematic development of the county, it is capable of accomplishing the purposes of the zone, and is in substantial compliance with the applicable master plan. Moreover, the proposed development satisfies the minimum area, compatibility, greenspace, dedication and parking requirements of the zone. The proposed elderly housing for 120 units satisfies the requirements of §59-C-7.14(d)(3) for a three-acre minimum; adequate accessibility to transportation and medical services, shopping areas, and recreational and community services; a maximum coverage of not more than one-third of the site; compatibility; and promotion of the public interest. Finally, the proposed development satisfies the overall density and technical requirements of the PD-4 Zone given the aforesaid findings and approved waivers.

For these reasons and because to grant the instant application will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be granted in the manner set forth below.

ACTION

The County Council for Montgomery County, Maryland, sitting as a District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

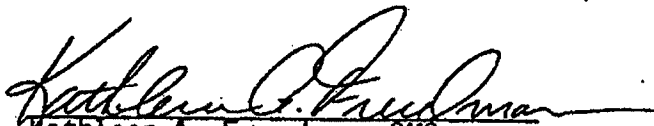
The amended development plan, submitted as Exhibit 54(a) is hereby approved;

Waivers from the 25 percent minimum percentage for townhouses and 40 percent maximum percentage for multi-family units under §59-C-7.131 are hereby approved to permit 11 percent for townhouses and 56 percent for multi-family housing;

A waiver for the location of multi-family units within the 100-foot northern setback area under §59-C-7.15 is hereby approved; and

Application No. G-650, for the reclassification from the R-200 Zone to the PD-4 Zone of 117.73 acres, known as the property of Great Seneca Investments, located on the east side of the Great Seneca Highway approximately 3,000 feet south of the intersection with Clopper Road, Germantown, in the 6th Election District, is granted for the PD-4 Zone in the amount requested and subject to the specifications and requirements of the amended development plan and waivers approved above.

This is a correct copy of Council action.


Kathleen A. Freedman, CMC
Secretary of the County Council



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

April 2, 2009

Mr. John Clarke, Regional Partner
Elm Street Development, Inc.
1355 Beverly Road, Suite 240
McLean, Virginia 22101

**Re: Village of Clopper's Mill East Parcel U
Development Plan Amendment (DPA) 08-01**

Dear Mr. Clarke:

This is to follow up from our several meetings and correspondence concerning the above development plan amendment. Great Seneca Investments is seeking to develop 20 townhouses on Parcel U in the Village of Clopper's Mill East in Germantown, which would increase the overall MPDU requirement for this development to 87 MPDUs. To date, 85 MPDUs have been or will be provided within the existing developed sections of this development, leaving an outstanding MPDU requirement of two (2) units.

In a letter dated September 18, 2008, Elm Street Development requested that the MPDU requirement for the above subdivision be met by increasing the number of MPDUs provided in the Willows at Clopper Mill, an existing age-restricted apartment community included within the boundaries of the original development plan. When approved by the Planning Board, this building had an MPDU requirement of 21 units; it currently contains 81 affordable units financed through the Low Income Housing Tax Credit program. DHCA did not approve the above request, and required that two (2) additional MPDUs be provided, attendant to the development of the new subdivision.

At our meeting on February 18, 2009, you requested permission to provide these two (2) MPDUs by purchasing two (2) existing condominium units at the Village of Clopper's Mill East and converting them to MPDUs, as an alternative to locating the two (2) additional MPDUs in the proposed new townhouse development. I am willing to grant this request, subject to certain conditions. Specifically, Great Seneca must execute an amended MPDU Agreement to Build for the Village of Clopper's Mill to include these two (2) additional MPDUs before building permits are issued for any of the new townhouse units. In addition:

- the two (2) condominium units must be purchased by Great Seneca before the County will execute the amended Agreement to Build; and
- an MPDU Offering Agreement for the two (2) MPDUs must be executed, and the required MPDU covenants must be recorded in the land records, before any settlements occur on the new market rate townhouse units.

Office of the Director

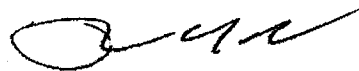
Mr. John Clarke
April 2, 2009
Page 2 of 2

I suggest that your counsel draft a Memorandum of Understanding (MOU) with the County that describes the foregoing agreements. DHCA staff will:

- Draft conditions to be included in the MOU, including pricing, inspections, rehabilitation, appliances, and interior finishes for the substituted units; and,
- Work with the Department of Planning to draft appropriate language to be included as a binding element to DPA 09-01.

If you have any questions or need further information, please contact Lisa Schwartz, Senior Planning Specialist, MPDU Office, at 240-777-3786.

Sincerely,



Richard Y. Nelson, Jr.
Director

RYN:lss

cc: Jody S. Kline, Miller, Miller & Canby
Mike Bingley, Elm Street Development
Ralph Wilson, M-NCPPC
Carlton Gilbert, M-NCPPC
Sharon Suarez, M-NCPPC
Joseph T. Giloley, Chief, Division of Housing and Code Enforcement
Christopher J. Anderson, Manager, Single Family Programs
Lisa S. Schwartz, Senior Planning Specialist, MPDU Office



November 7, 2008

Board of Directors
Riverstone Condominium Association
c/o
Dale Roan
Main Street Property Management
9 Park Avenue
Gaithersburg, MD 20877

Re: Parcel U, Proposed Riverstone Parking Easement

Dear President Kitson, and Board Members:

This letter is to confirm our intention to grant a private parking and maintenance easement to the Riverstone Condominium Association and to plant a landscape buffer along our common property line. Our granting this easement assumes that the current twenty lot Site Plan is approved by Montgomery County. The proposed easement and landscaping will be located as shown on the attached Site Plan.

An easement document will be forwarded to the Riverstone Board for their review no later than 45 day after approval of the Site Plan. We will make every effort to record the easement within 30 day of recording the subdivision plats for the townhouse units.

Sincerely,

A handwritten signature in black ink that reads "Mike Bingley".

Mike Bingley

c.c.: Sue Poisson, Clöpper's Mill Community Association
John Clarke, Elm Street Development

Annapolis
175 Admiral Cochrane Drive, Suite 112
Annapolis, Maryland 21401
Phone: (410) 266-9700
Fax: (410) 266-9165

Main Office
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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



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

ATTACHMENT 9

June 18, 2009

MEMORANDUM

TO: Carlton Gilbert, Planner Coordinator, Zoning Team
Build Division

VIA: Sue Edwards, Team Leader, North Central Transit Corridor Team *guel*
Vision Division

FROM: Ronald Cashion, RA, AICP, Planner Coordinator, Urban Designer *RC*
North Central Transit Corridor Team
Vision Division

SUBJECT: Village of Clopper's Mill East Parcel U Development Plan Amendment 08-1

RECOMMENDATION: Staff recommends approval of the proposed Development Plan Amendment. The Plan is consistent with the July 1989 Germantown Master Plan, the designated PD-4 zone, and responds to Department input including previous and recent staff reviews.

SUMMARY OF MPDU REQUIREMENTS

A primary consideration of this Development Plan Amendment (DPA) is the Applicant's request to satisfy the moderately priced dwelling units (MPDU) requirement. The Applicant, Great Seneca Investments, requests development of 20 townhouses on Parcel U in the Village of Cloppers Mill East in Germantown.

The proposal increases the MPDU's for the overall development to a total of 87 resulting in the need for 2 additional MPDU's (to date, 85 MPDU's are committed to be built in the overall development). In September 2008 the applicant requested that the MPDU requirement be provided off site by increasing MPDU's in the Willows at Clopper Mill, an age restricted apartment use located within the original overall development plan. This request was initially resisted by Department staff and by the Department of Housing and Community Affairs (DHCA). An agreement for providing the two (2) MPDU's was subsequently reached as documented in a letter dated April 2, 2009, from DHCA that provides conditions to allow the off-site purchase of the MPDU's as an alternative to locating them in the proposed development. DHCA requirements include:

- Execution of an amended MPDU Agreement to Build to include these two (2) units before building permits are issued for any of the new townhouse units;
- The two off-site Condominium units must be purchased by the Applicant before the County will execute the Agreement to Build;
- The MPDU Offering Agreement must be executed and the required covenants must be recorded before any settlements occur on the new market rate units (on subject Parcel U);

- A Memorandum of Understanding (MOU) for the above requirements, and
- Coordination with the Planning Department of a draft of appropriate binding elements for the proposed DPA.

The binding elements for the subject DPA, referenced in the last DHCA condition above, have been included on the Development Plan as Amended May 1, 2009. In summary these binding elements include:

- A not to exceed limit of 20 residential units, inclusive of MPDU's, for the subject site (Parcel U);
- A not to exceed height of 40 ft. and 3 stories;
- A requirement to provide the two (2) MPDU's with either of the following two options under agreement with DHCA -
 - Building two (2) of the townhouses approved by the DPA as MPDU's, or
 - Purchasing two of the existing Riverstone Condominium units in the Village of Cloppers Mill East and converting them to MPDU's.

All of the above requirements for providing the two (2) MPDU's should therefore be binding elements for approval of the Plan Amendment.

LAND USE/MASTER PLAN GUIDANCE

The 1.32 acre subject property is located in the Germantown planning area east of Great Seneca Highway and south of Clopper Road and Cloppers Mill Drive. Access is via Cloppers Mill Drive from Great Seneca Highway.

The proposed 20-unit townhouse development is consistent with the July 1989 Approved and Adopted Germantown Master Plan which designates the larger area that includes the subject site for Village Center, Residential with PD-4 zoning and a base density of R-200 (Analysis Area CL-9: Figure 20, Pg. 60; Table 10, Pg. 62; and Pg. 66). For the Clopper Village Center area the Master Plan lists guidelines including: 1) the orientation of buildings (to) enhance the image and character of the roads; 2) pedestrian and bicycle connections; 3) buffers and landscaped areas for transitional uses; and 4) screening at back yards of residential units. The proposed Plan is compatible with these guidelines.

The site was originally proposed for elderly housing. The Planning Board approved relocation of the elderly housing to an alternate site, south of Mateny Road in July, 2004. The proposed townhouse Plan replaces the previously approved elderly housing.

Previous staff review of a plan for the subject property resulted in the applicant completing requested modifications to: 1) align the north entrance to the site directly opposite Millhaven Terrace; 2) remove access to the adjacent day care site to the east; and 3) add the provision for emergency access to the Riverside Condominiums adjacent to and east of the site. All of these modifications are included in the current Plan. Additionally, in response to discussions with staff, the Plan includes added appropriate landscape buffer plantings at the south and west property areas.

While the Plan is lacking in internal green space it does contain direct walkway connections to the sidewalk at Cloppers Mill Drive and via Cloppers Mill Terrace, to the nearby Village Green. Added design review will occur with Site Plan submittal.

ZONING

The Germantown Master Plan (Table 10, Pg. 62), and the separate February 1990 “Zoning and Highway Plan,” designate the area that includes the site as PD-4 with an R-200 base density. The Plan as proposed complies with the inclusion of townhouses in PD-4. The overall 40% green area requirement for PD-4 should be verified at the time of Site Plan review.



January 14, 2009

MEMORANDUM

TO: Carlton Gilbert
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: Ki H. Kim, Planner/Coordinator
Transportation Planning

SUBJECT: Development Plan Amendment No. DPA-08-01
Village of Cloppers Mill East
Germantown

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject development plan amendment application. The application includes 20 single-family attached residences proposed in The Village of Cloppers Mill East, located in the Germantown West Policy Area.

RECOMMENDATION

Based on our review of the submitted traffic statement and amended development plan, Transportation Planning staff recommends the following condition as part of the APF test for transportation requirements related to approval of this development plan amendment application.

1. Total development under this development plan amendment application is limited to a 20 townhouses shown on the amended development plan and analyzed in the traffic statement.

DISCUSSION

Site Access and Vehicular/Pedestrian Circulation

Access points to the site are proposed from Clopper's Mill Drive. The site is located in the Village of Cloppers Mill East in the vicinity of Great Seneca Highway (MD 119)/Clopper's Mill Drive intersection in Germantown West area. Staff finds that the access points and the vehicular and pedestrian circulation system shown on the amended development plan are adequate.

Local Area Transportation Review

Based on information contained in the traffic statement submitted by the applicant, the revised densities/uses for the Village of Clopper's Mill East with the proposed 20 townhouses generate fewer total and "new" trips than reflected in the original approval. Since the site generates fewer trips than analyzed in the original approved development plan, no traffic study is required to satisfy the Local Area Transportation Review (LATR) test.

Policy Area Mobility Review

The site is located in the Germantown West Policy Area where there is no trip mitigation requirement in the New Growth Policy.

CONCLUSION

Staff concludes that the proposed development plan amendment application for the 20 townhouses with proposed access, internal circulation, and pedestrian facilities shown on the amended plan will be adequate. Approval of this application will not result in an adverse impact on the surrounding roadway network.



**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Carlton Gilbert, Development Review

VIA: Mark Pfefferle, Acting Chief, Environmental Planning *MP*

FROM: Doug Johnsen, RLA; Planner Coordinator, Environmental Planning Division

DATE: January 2, 2009

SUBJECT: Development Plan Amendment
Clopper's Mill
DPA-08-1

The Environmental Planning staff has performed an initial review of the above project. The forest conservation plan requirements were addressed in the approved forest conservation plan for the Clopper's Mill East project (819930130). No further reviews by Environmental Planning are necessary.



MEMORANDUM

Date: January 12, 2008

To: Carlton Gilbert, Master Planner
Build/Development Review Division

From: Patrick Butler, Planner *P.B.*
Build/Development Review Division

Subject: Board of Appeals No. DPA-08-01

The Subject Property, also known as Parcel U of Plat 19464, was previously approved for elderly housing. The applicant is requesting an amendment to the Development Plan to create 20 townhouses.

Because the proposed lots front on mews, the Planning Board must make a finding (at the time that a preliminary plan is approved) that the proposed streets have attained the status of a public road. One aspect of that finding is that the streets provide an appropriate circulation pattern. Subdivision Review staff is concerned that this finding cannot be properly made with respect to this subdivision because of the dead-end streets with no provision for vehicles that need to turn around. Dead-ends should be designated with appropriate turn-arounds, such as hammerheads.

Per the plans submitted for review, Subdivision Review staff has the following concerns:

1. The townhomes do not have frontage on a public street.
2. The alleys/mews do not have appropriate termination for access and turnaround of vehicles.
3. Staff would prefer a street layout that creates a loop with townhomes fronting on a dedicated public street.

Preliminary plan review, site plan review, and plat recordation are required prior to issuance of a building permit on the subject property.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
 Permit Executive

September 18, 2008

Mr. Jeff Blass
 Charles P. Johnson and Associates
 1751 Elton Road, Suite 300
 Silver Spring, MD 20903

Re: Stormwater Management **CONCEPT** Request
 for Villages of Cloppers Mill East
 Preliminary Plan # NA
 SM File #: 234276
 Tract Size/Zone: 1.33 acres/PD-4
 Total Concept Area: 1.33 acres
 Lots/Block: Block 1
 Parcel(s): U
 Watershed: Great Seneca Creek

Dear Mr. Blass:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via existing Pond B, on-site water quality control via a volume based Stormfilter, and onsite recharge via drywells.

The following **item** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. All pipes must enter the proposed Stormfilter at right angles to ensure proper connections.

This list may not be all-inclusive and may change based on available information at the time.

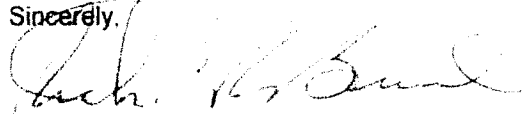
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this

office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm

cc: C. Conlon
S. Federline
SM File # 234276

QN -onsite: Acres: 1.33
QL - onsite: Acres: 1.33
Recharge is provided



MONTGOMERY COUNTY PUBLIC SCHOOLS
 www.montgomeryschoolsmd.org
 MARYLAND

November 10, 2008

Mr. Carlton Gilbert
 Community-Based Planning Division
 Maryland-National Capital Park and Planning Commission
 8787 Georgia Avenue
 Silver Spring, Maryland 20910-3760

Dear Mr. Gilbert:

This letter is sent in response to Zoning Application No. DPA-08-1, known as "Parcel "U", the remaining unbuilt portion of the "Village of Clopper's Mill East." This property is located on the south side of Cloppers Mill Drive and the east side of Great Seneca Highway at its intersection with Richter Farm Road, Germantown, Maryland.

This rezoning would result in up to 20 attached single family residences. Based on average yield factors derived from the Maryland National Capital Park and Planning Commission 2005 Census Update Survey, the impact of this project is estimated to be approximately four elementary, two middle, and two high school students.

This property is located within the Great Seneca Creek Elementary School attendance area, the Kingsview Middle School attendance area, and the Northwest High School attendance area. Enrollment at Great Seneca Creek Elementary School is currently over capacity and is projected to remain over capacity. Enrollments at Northwest High School and Kingsview Middle School are currently under capacity. Projected enrollment at Northwest High School begins to exceed capacity in 2014, and projected enrollment at Roberto Clemente Middle School remains within capacity all six years of the forecast. See enclosed pages from the Montgomery County Public Schools Recommended Amendments to the FY 2009–2014 Capital Improvements Program (CIP).

The current growth policy school test (FY 2009) finds elementary school utilization exceeds the 105 percent in the Northwest Cluster. Therefore, an elementary school facilities payment is required to obtain subdivision approval in this cluster.

Sincerely,

Bruce H. Crispell, Director
 Division of Long-range Planning

BHC:lmr

Enclosure

Copy to: Mr. Bowers, Mr. Lavorgna, Ms. Turpin

Division of Long-range Planning

Carlton Gilbert
Development Review
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20901

October 9, 2008

Catherine Balogh
18001-A Cloppers Mill Terrace
Germantown, MD 20874

Dear Carlton:

We, the undersigned Riverstone Condominium residents at 18001 and 18003 Cloppers Mill Terrace, are readying ourselves for a big change just across the parking lot from us on the adjoining 1.32 acres of grassy land known as parcel U or the vacant lot. At the beginning of April, we noticed the rezoning sign and learned that Elm Street Development planned to move forward with a proposed 20-townhouse building project on this site. We, the undersigned, would like to share some of our thoughts on the planned improvements for parcel U with you and the Planning Board members.

Basically, we recognize that this lot cannot remain vacant forever. Our preference is for residential rather than for any type of commercial/retail use, as originally intended. We choose to see and hear some of the daily activities of residents rather than those of retail customers. We are also aware that a multi-story senior residence was considered for this site but was subsequently built on Mateny Road opposite the shopping center. This relocation paving the way for townhouse development is fortuitous. A senior residence would probably generate more emergency vehicle traffic than we do.

The proposed three-story townhomes (20) with garages also seem compatible with the neighboring Riverstone Condominium residences and the other townhomes on and in the vicinity of Stags Leap Terrace. In addition, they should also fit in well with the other single-family homes in our mixed-use subdivision of the Village of Cloppers Mill East, also known as the Cloppers Mill Community.

While we prefer residential housing on parcel U and find that townhouses are an appropriate addition to our community, we are a bit apprehensive about this addition to an otherwise peaceful stretch of land between the front of our two, 12-unit condominium buildings and the day care center on the opposite side.

To ease the transition from 0 to 20 townhomes on the adjacent lot, Elm Street Development has addressed our concerns as follows:

- **Parking**—reserve some parking spaces for our use in the portion of our parking lot that is actually on parcel U property and possibly create some new spaces for us at the other end of the lot
- **Buffer zone**—replace existing pines and fence with trees and shrubs to provide privacy for residents on either side of the property line
- **Safety**—make the natural buffer area as shortcut proof as possible

- Annexation—secure the consent required to annex or incorporate parcel U into the Cloppers Mill Community and bear the associated expenses

The reconfiguration of our parking lot is an unfortunate consequence of parcel U development. Fourteen of our current 41 parking spaces are actually on parcel U land. The loss of these spaces could make parking a challenge for us and would most likely affect the resale value of our condominiums.

Our concern about parking was presented to Elm Street Development when board members of the Riverstone Condominium and Cloppers Mill Community Associations met with Mike Bingley and Les Powell on June 23 in the second of two meetings with Elm Street representatives. At the June meeting, Mike Bingley presented a solution. He proposed granting the Riverstone Condominium Association a parking easement to reserve some of the existing parking spaces for us at the entrance to our parking lot and possibly create some new spaces at the opposite end of the lot.

We sincerely appreciate Mike Bingley's offer on behalf of Elm Street to address this parking situation with an easement. He was willing to listen to our concern and act upon it. We hope that Park and Planning staff and the Planning Board members will look favorably upon his proposal as well.

Since the removal of the evergreens and fence along the property line is another consequence of development, a suitable, natural replacement buffer between the two properties became another consideration. We do not want to see and hear every little thing that goes on over there. The future residents of parcel U probably will not want to see and hear every little thing that we are doing. Planting trees and shrubs for privacy would be important to those of us on either side of the property line.

Mike Bingley is also aware of this concern and addressed it at the June 23 meeting and in a subsequent conversation with Cathy Balogh. He indicated that Elm Street is willing to buffer for privacy. In addition, if there were to be any break or opening in the buffer, steps would be taken by Elm Street to deter unexpected pedestrian or vehicular traffic between the two properties.

We truly appreciate Elm Street's efforts on our behalf to build a better buffer to make for better neighbors.

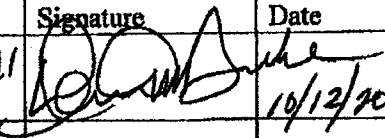




Incorporation or annexation of parcel U into the greater Cloppers Mill Community is important to us, too. As it now stands, we understand that the Cloppers Mill Board of Directors has agreed to take Elm Street up on its offer to spearhead the annexation effort and pay the associated costs.

Cathy Balogh has agreed to provide resident support on our behalf in the annexation effort. Hopefully, a two-thirds majority of residents will agree to bring our future neighbors into the fold. It would save them money to be part of the community. They would not need to pay for a separate management company to help maintain their property. They could take advantage of reduced costs for trash pickup and snow removal. They could use the swimming pool, no question. Plus, we might want to hear what they have to say about policies and decisions that affect us.

We think that the future townhouse residents on parcel U will be a welcome addition to our planned development. Once they get settled in, we hope that they will come to enjoy the natural beauty of our wooded setting as well as our proximity to shopping, major traffic arteries, the Metro, schools, and recreational facilities.

Yours truly,

We the undersigned all agree with the comments pertaining to considerations for the development of parcel U contained herein.

Print Name	Address	Signature	Date
Dennis M. BIRKE	18003 Clappers Mill Ter, Apt G		10/12/08
Jean Langston	18001-L Clappers Mill Terrace	J. D. Langston	10/13/08
Kenneth Meyers	18001-G Clappers Mill Germanatown	Kenneth Meyers	10/16/08
Tamika Yarbrough	18001-B Clappers Mill Ter. Germanatown	Tamika Yarbrough	10/16/08
Jo Alice White	18003-K Clappers Mill Ter. Germanatown	Jo Alice White	10-17-08
Cindy Graham	18003F CMT Germanatown	Cindy Graham	10-17-08
Erich Zinke	18001F Clappers Mill Ter. Germanatown		10-18-2008
Kathryn Crowley	18003 Clappers Mill Ter unit #	Kathryn E Crowley	1900808
Nora Cook	18003 # 74 18001 Clappers Mill Ter. # 74		10-23-08
MARTIN GLAUBMAN	18003 Clappers Mill Ter # C	Martin Glaubman	10/23/08
Riddle, Brian	18001 Clappers Mill Ter unit #		10/24/08
Linda Stamp	18001-D Clappers Mill Terr.	Linda C Stamp	10/25/08
Mahmoud Baham	18003-I Clappers Mill Terr		10/25/08

June 19, 2009

Mr. Carlton Gilbert
Development Review
The Maryland –National Capital Park & Planning Commission
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Mr. Gilbert,


I am writing as President of the Clopper's Mill Community Association (CMCA), on behalf of the Board of Directors, regarding development plan amendment DPA-08-1. The Board wishes to express its unanimous support for the development of this property, by Elm Street Development, as a 20 unit townhouse complex. In addition, the Board would like to include the following statements for the record.

The Board has agreed to consider annexation of this development into the CMCA with the understanding that:

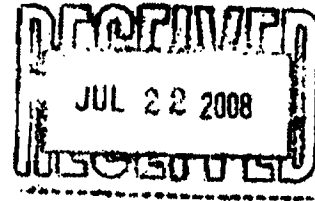
- 2) according to CMCA's Declaration of Covenants, Conditions and Restrictions, annexation of this property into the Association will require the consent of two-thirds of the homeowners within the community,
- 3) the major responsibility for effecting the above process, with participation from CMCA, resides with Elm Street Development as detailed in the two letters attached, and
- 4) depending on the latest version of the parking configuration proposed in the current site plan which impacts both parcels U & F, CMCA strongly favors parking Option #2 of the original three.

Thank you for your time and consideration.

Sincerely,


Susan Poisson
President, CMCA

Attachments: Elm Street Development Letter (7/18/08)
& McMillan Attorneys at Law Metro Letter (7/17/08)



July 18, 2008

Sue Poisson, President
Clopper's Mill Community Association
CMI
16 Executive Park Court
Germantown Maryland 20874

Re: Clopper's Mill, Parcel U, Proposed Annexation

Dear Ms Poisson:

Parcel U is a 1.32 acre parcel of land located next to Kinder Care on Clopper's Mill Drive, and is owned by Great Seneca Investments, L.C. As the managing partner, Elm Street Development Inc. is hereby requesting the approval from the Clopper's Mill Community Association Board of Directors to proceed with the annexation of Parcel U into the Clopper's Mill Community Association.

Since the original plan for Parcel U was for rental apartments, it was not included in the Clopper's Mill Community Association. The plan for parcel U is to build 20 garage town homes.

We believe the annexation would mutually benefit the future residents of Parcel U and the CMCA. Introducing another Home Owners Association into the community could be divisive. Annexing Parcel U into the Community Association will tend to create better social cohesion between the communities, and it will eliminate redundancies. Annexation also makes good economic sense. Parcel U residents will not need to spend money supporting a second management company and contracting effort and the CMCA will receive additional fees to support existing amenities.

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Fax: (703) 734-0322

Ellicott City
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Ellicott City, Maryland 21042
Phone: (410) 720-3021
Fax: (410) 720-3035

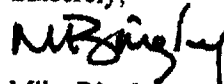
I have attached the following documents to assist the Board in their decision. Please ask CMI to send us the CMCA 2008 operating budget for our review.

- o Parcel U estimated operating budget, audited by Vanguard Management Co.
- o A step-by-step annexation checklist, prepared by the law offices of McMillan and Metro, PC.

With assistance from the Board of Directors and community members, Elm Street Development will take the lead in acquiring the Two-Thirds (2/3's) consent needed and will pay all of the related clerical and legal expenses.

We hope that the Board of Directors will endorse this annexation and we look forward to working with you on it.

Sincerely,



Mike Bingley, Project Manager

cc: John Clarke, Vice President, Elm Street Development
Dale Roan, Manager, Riverstone Condominium Association
Donna McMillan, McMillan Metro, PC

MCMILLAN ATTORNEYS AT LAW METRO

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July 17, 2008

Via Email and Regular Mail

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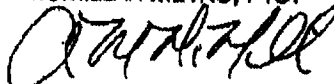
RE: **Annexation of Parcel U
Village of Clopper's Mill Community Ass'n
Our File No.: 0251**

Dear Mike:

At your request, please find enclosed the checklist of actions prepared at your request to effect the annexation of Parcel U into the Village of Clopper's Mill Community Association, Inc. Please give me a call if you have any questions about any of the actions listed. Thanks.

Sincerely,

MCMILLAN METRO, P.C.



Donna M. McMillan

DMM/st
Enclosure [as noted]

**Checklist for Annexation of Parcel U into the
Village of Clopper's Mill Community Association**

Step 1. Secure the approval of 2/3's of the members of the Community Association.

Draft a letter to the owners from the Board of Directors of the Community Association that describes Parcel U and what is to be constructed upon it, discusses its proximity to the Clopper's Mill community and the reasons why its annexation into the Community Association would be beneficial and discusses the need for member consent in order to accomplish it. Enclose in the letter a generic consent form that can be completed by the owner or owners of a lot or condominium unit and, if desired, a self addressed stamped envelope returning it to the Board.

Draft the generic form of member consent to enclose with the letter.

Have the draft letter and generic form of member consent approved by the Board of Directors of the Community Association and the owner of Parcel U.

Mail the letter to all of the members of the Community Association and request a response by a date certain.

Evaluate the response. If the response is not sufficient, consider more assertive action such as posting a table or tables at various places in the community and soliciting consents. Going door to door on weekends and soliciting consents. Offering money to the Community Association or to the members as certain benchmarks are met.

Until Step 1 is accomplished, there is nothing that can be done except prepare to effect Steps 2, 3, 4 and 5 if and when the member consents are received.

Step 2. Draft the Supplementary Declaration that will be executed by the President of the Association and by the owner of Parcel U in order to effect annexation. Secure approval of the form of the Supplementary Declaration by the Board of Directors of the Community Association and by the owner of Parcel U.

Step 3. Make inquiries with the Veterans Administration and Federal Housing Administration to confirm that neither agency approves annexations or, if it is determined that either or both do approve annexations, secure such approval.

Step 4. Once the necessary consents have been received, have the Supplementary Declaration in the approved form signed by the President of the Community Association and by the owner of Parcel U and cause it to be recorded among the Land Records.

Step 5. Amend the Community Association's Depository Statement to include the annexation document.