



MEMORANDUM

October 17, 2012

TO: Montgomery County Planning Board

VIA: Rose Kransnow, Interim Director *PKK*
Montgomery Planning Department

FROM: Valdis Lazdins, Chief *W*
Area 1: Inside the Beltway

Mary Dolan, Chief *MD*
Functional Planning and Policy

SUBJECT: Request for FY13 Special Appropriation to the Planning Department Operating Budget for the Clarksburg Master Limited Amendment for the Ten Mile Creek Watershed

ACTION REQUESTED

Staff Recommendation: Request a Special Appropriation of \$250,000 for Consultant Services in support of the Clarksburg Master Plan Amendment for the Ten Mile Creek Watershed. This includes:

- \$200,000 for an Environmental Consultant to prepare an analysis of the existing conditions including specific natural resources to protect, potential mitigation and enhancement projects that would further strengthen the resiliency of the watershed, the potential impacts of various development scenarios and recommendations for protective measures, performance standards and guidance for development in the watershed.
- \$30,000 for an analysis of economic implications for the Town Center concept.

- \$20,000 for analysis of traffic associated with potential development scenarios.

A draft request to the Council president for this funding is attached to this memorandum.

BACKGROUND

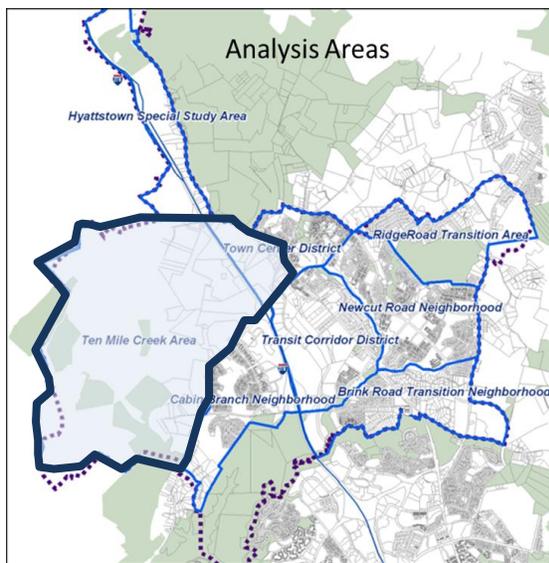
On Thursday, October 4th the Planning Board voted to recommend that the County Council add to the Planning Department work program a new master plan amendment that would cover **Clarksburg Stage 4 and the associated Ten Mile Creek watershed**. In reaching this decision, the Board recognized that the sensitivity and importance of protecting the Ten Mile Creek watershed was an essential goal of the 1994 Master Plan and that monitoring done to date appears to indicate that additional protections might be necessary before development should be allowed to proceed. The County Council, on October 9th, agreed with the Board and asked that a plan amendment be delivered to the Council within one year.

In order to complete this ambitious schedule, the analytical work would need to be largely completed by the early part of 2013. Both the schedule and the need for specialized expertise require that we hire consultants to complete this work. We will be able to accomplish this through a collaboration with the Executive departments, particularly the Department of Environmental Protection (DEP) and the Department of Permitting Services (DPS). DEP has a consultant currently on board to do similar work for other watersheds and DEP has been collecting and analyzing data from this and other Special Protection Areas for many years. We can ride their contract, enabling a quick start to the process. We have been assured of their active participation, working collaboratively with us to bring the best information to the Planning Board and County Council.

The 1994 *Clarksburg Master Plan* was adopted with a specific staging plan, “to address fiscal concerns and to be responsive to community building and environmental protection objectives.” Key among these was environmental concern for the Ten Mile Creek watershed. Development in Ten Mile Creek is the last stage of the master plan (Stage 4). The staging triggers have been met to consider whether to allow development to go ahead in Stage 4, and the County Council has asked the Planning Board to prepare a limited master plan amendment with recommendations for how to achieve these goals.

The Ten Mile Creek watershed (a tributary of the Little Seneca watershed) was identified in the 1994 master plan as having the greatest constraints for development of the Little Seneca’s tributaries and the most prone to environmental degradation by development. Sampling data collected in the process of preparing the master plan indicated that Ten Mile Creek had good water quality that supported a diverse environmental community. The master plan identified the combination of relatively healthy streams, existing wetlands, significant woodland and

diverse land cover as providing valuable habitats, while at the same time, steep slopes and poor soils limited opportunities for development. These conditions led planners and the County Council to delay development in this watershed until the last stage of implementation. That consideration was to be held until sufficient information was available to determine that the creek's special qualities could be protected, considering the impact of development in other portions of the Little Seneca watershed (as well as other monitoring in similar watersheds).



The headwaters of Ten Mile Creek lie in the Town Center District and are planned for intense mixed uses to support the Town Center. West of I-270, between the mainstem of Ten Mile Creek and Clarksburg Road, is zoned for employment uses and housing. There is significant concern that the development, as proposed in the 1994 Master Plan, could compromise the resources in the watershed. The limited master plan will consider development scenarios, impact avoidance, development guidelines and practices, mitigation and offsets to arrive at recommendations that will protect Ten Mile Creek and promote the community-building objectives of the 1994 Master Plan.

The attached County Council staff report gives additional background on previous actions and the issues at stake.

MD/am

ATTACHMENTS

1. Draft Chairman's Transmittal Memo for Supplemental Budget Request
2. County Council Staff Report 100812

Draft MEMORANDUM

October 19, 2012

To: Roger Berliner, President
Montgomery County Council

From: Françoise Carrier, Chair
Montgomery County Planning Board

Re: FY13 Special Appropriation to the Planning Department Operating Budget for
Funding of Work Program associated with the Clarksburg Master Plan Amendment for
the Ten Mile Creek Watershed

On October 9, 2012, the County Council asked the Planning Board to prepare an amendment to the Clarksburg Master Plan to determine how to protect Ten Mile Creek and achieve the community-building goals of the Master Plan for the Town Center. The attached Council staff memorandum gives the background and context for this decision.

The Council supported an amendment that includes the entire Ten Mile Creek watershed, including all Stage 4 properties to be delivered to the Council within one year. In order to accomplish this within the current work program, consultant services will be necessary to supplement the Planning Department staff to expedite the process.

On October 18, 2012, the Planning Board voted to request a special appropriation of \$250,000 for consultant services, which include:

- \$200,000 for an Environmental Consultant to prepare an analysis of the existing conditions including specific natural resources to protect, potential mitigation and enhancement projects that would further strengthen the resiliency of the watershed, the potential impacts of various development scenarios and recommendations for protective measures, performance standards and guidance for development in the watershed.
- \$30,000 for an analysis of economic impacts and benefits of various development scenarios on approved residential and non-residential development in adjacent neighborhoods of Clarksburg, and to the extent necessary on development in Germantown.
- \$20,000 for analysis of traffic associated with potential development and alternatives for new roadways and transit facilities.

ADDENDUM
AGENDA ITEM #8
October 9, 2012

SEMI-ANNUAL MEETING

MEMORANDUM

October 8, 2012

TO: County Council

FROM: Marlene Michaelson, Senior Legislative Analyst

SUBJECT: Semi-Annual Report of the Planning Board – Clarksburg Master Plan

As noted in the Semi-Annual Report of the Planning Board to the Council, the Planning Board is recommending an amendment to the Clarksburg Master Plan to reconsider the Ten Mile Creek Area and related Stage 4 recommendations. A letter from the Board is attached at © 1-2. Staff supports this recommendation and believes that the only appropriate way to determine how to best protect Ten Mile Creek while serving other Master Plan objectives is **via a comprehensive analysis of all properties in the watershed that also considers land use objectives**. While the water and sewer category change process can consider water quality issues, it is clearly not the best mechanism to balance water quality and land use. Staff believes this is a critical element in allowing less stringent standards for areas that support master plan development objectives, while imposing more stringent standards for those areas that do not support master plan development standards (e.g., land zoned rural density transfer (RDT)).

Staff also recommends that the Council consider whether the amendment should address the Town Center District to determine whether any change in zoning, public facilities, or amenities could help facilitate the development of Town Center, as well as how to provide water and sewer to properties with failing septic systems. If the Council includes the Town Center, it should be with the caveat that the master plan process should not in any way delay the approval of development plans currently underway in Town Center.

BACKGROUND

Ten Mile Creek

As background for this discussion, it is useful to understand the unique conditions of Ten Mile Creek. The Council appointed Ad Hoc Water Quality Working Group summarized the condition of the Ten Mile Creek Area in its July 2010 report to the Council:

The Ten Mile Creek watershed is extremely sensitive and fragile, comprised of numerous headwater streams. The east side of the Ten Mile Creek watershed is noted in the Master Plan an ecologically unique Special Protection Area. The remainder of the Ten Mile Creek watershed (approximately 64%) is zoned Rural Density Transfer (RDT) and is not part of the Special Protection Area because the rural zoning precludes significant development of that area.

The water in Ten Mile Creek flows clear, cold, and steadily, and supports one of the most diverse aquatic life communities in Montgomery County, including species of fish, aquatic insects, and amphibians that are found rarely (if ever) elsewhere in the county. This excellent water quality is indicative of a rural watershed that has many small and ephemeral streams, springs and seeps. The current total imperviousness in the Ten Mile Creek watershed is 3.3%, and current total forest cover is 45%. Ten Mile Creek is a high quality Use I-P stream (defined as: water contact recreation, protection of aquatic life, and public water supply¹) and is part of the Little Seneca Lake backup drinking water supply.

Ten Mile Creek has been monitored by the Montgomery County Department of Environmental Protection since 1994. Stream conditions averaged within the *excellent* to *good* ranges. The stream conditions of many of the upper headwaters were in *excellent* condition. The headwaters east of I-270 were in *good* condition. Since Special Protection Area development began, stream conditions in the headwaters east of I-270 declined to *fair*. The upper headwater areas declined to *good* condition. County staff field located mapped seeps, springs and wetlands in the Stage 4 portion of Ten Mile Creek in 2009. These extremely sensitive features are critical to the protection of the high quality conditions of the Ten Mile headwater streams.

1994 Clarksburg Master Plan

In June 1993, the Planning Board submitted to the Council the Draft Clarksburg Master Plan and Hyattstown Special Study Area. After almost a year of discussion and 26 Planning, Housing, and Economic Development (PHED) Committee and Council worksessions, the Council approved the Master Plan in May 1994. The Master Plan confirmed the 1968 Plan recommendation that Clarksburg develop as a town, not a “corridor city” (as earlier contemplated in the General Plan) and made several recommendations to create a pedestrian oriented town center, allow employment uses along the I-270 corridor, provide zoning to allow for approximately 43,000 residents at build out, and protect the environment, including recognizing the Ten Mile Creek Watershed as an environmentally sensitive area of County-wide significance.

Excerpts from the Master Plan are attached on © 3 to 8, including the Stage 4 recommendation (© 3 to 4); a map showing the districts (© 5); a map showing the Staging plan (© 6); and a zoning map (© 7).

The Council made numerous changes to the Draft Plan submitted by the Planning Board, recorded in a record long 95 page adoption resolution. Most notable, relative to the Council’s pending discussion:

- It changed the land use on the properties between I-270 and MD 355 in the Ten Mile Creek Watershed from high density residential to mixed-use to allow for an employment use along I-270.

¹ as defined by MDE - <http://www.mde.maryland.gov/programs/waterprograms/tmdl/wqstandards/index.asp>

- It allowed for two employment sites west of I-270 in the Ten Mile Creek Watershed.
- It increased residential density in the area west of I-270 and east of the Ten Mile Creek main-stem ten-fold (from one unit per 5 acres to 2 units per acre).
- It added a 15% impervious surface area cap that applied only to commercial development west of I-270.
- It added a staging plan and indicated that development could not proceed until certain triggers related to environmental quality were met.

Most of the Council votes on these issues were very controversial and Ten Mile Creek zoning decisions were 5-4 votes. Based on the concerns related to wastewater treatment, fiscal concerns, public infrastructure needs, community identity, market responsiveness, water quality, and the potential relocation of the Federal Food and Drug Administration, the Council added a Staging Plan with four stages of development. The first three stages have already proceeded and the question before the Council is whether to allow development to proceed in Stage 4, which is entirely in the Ten Mile Creek Watershed.

The Master plan contained six staging triggers for Stage 4 (see © 3). Triggers 1 - 4 were met many years ago. Trigger 5 required the issuance of at least 2,000 building permits in Clarksburg and trigger 6 required an evaluation of Best Management Practices and the issuance of the annual County water quality report for the year after the 2000th permit. The 2000th building permit was issued a few years ago and the County has since prepared annual water quality reports.

Once these triggers were met, the Master Plan indicated that the Council would consider water and sewer category changes that would permit the extension of these facilities in Ten Mile Creek. Factors to be considered by the Council are set forth on © 4. The Master Plan indicated that sewer and water should not be provided in the Ten Mile area until further environmental analysis was completed and the Council determined “if the methods, facilities, and practices then being utilized by applicants as part of the water quality review process then in place are sufficient to protect Ten Mile Creek.” The Master Plan then identified four options for the Council to consider:

- Option 1: Grant water and sewer category changes without limiting conditions.
- Option 2: Grant water and sewer category changes with conditions related to water quality measure.
- Option 3: Defer action on a Water and Sewer Plan category change.
- Option 4: Consider other land use actions as are deemed necessary.

To Staff’s knowledge, this may be the only master plan to stage development and indicate that the Council may reconsider land use actions recommended in a master plan based on a future environmental assessment. Some Councilmembers believed that the future assessment would prove that best practices required during development would protect water quality and validate the zoning decisions in the Plan, while others believed that the assessment would indicate that the Plan recommended densities in Ten Mile Creek would not protect the watershed and that the only option would be to reconsider the zoning and land use recommendations in the Master Plan. The history of the Council discussion and the final Master Plan language is relevant, since some have asserted that property owners in Ten Mile Creek have proceeded on the expectation of being allowed to develop under the zoning in the adopted Master Plan.

Once the Department of Environmental Protection issued the 2007 Annual Report (issued in February 2009), there was significant debate over its findings and whether this information provided the basis for proceeding with sewer and water category changes or alternatively, whether its findings indicated that a

master plan amendment was required. The Council asked the Planning Board to add an amendment to Clarksburg Master Plan to its workprogram. The Master Plan amendment was added to the workprogram but subsequently removed at the fall 2009 Semi-Annual Report meeting when the Council decided to appoint an Ad Hoc Water Quality Working Group to further explore the water quality issues associated with Ten Mile Creek.

Water Quality Working Group

The Ad Hoc Water Quality Working Group was appointed in October 2009 and submitted a report to the Council in July 2010. The charge of the Working Group as stated in the resolution is as follows:

“The Working Group will collect information on all new and pending State and Federal regulations regarding water quality, stormwater management, and sediment control; analyze how these new requirements could impact future development in Clarksburg, especially in Stage 4; seek input from Clarksburg stakeholders as to the methods they propose for minimizing development impacts on water quality in the Ten Mile watershed; and advise the Council on the steps necessary to preserve water quality in Stage 4.”

The nine member Working Group could not reach consensus on their key recommendations and ultimately five members recommended that the Council initiate a master plan amendment (master plan option 4) and 3 members recommended that the Council grant water and sewer category changes, subject to property owner commitments to take additional water quality measures to protect the environmentally fragile Ten Mile Creek watershed (master plan option 2). The final member did not endorse either specific approach but indicated that he believed that some of the water quality measures suggested by property owners were not workable and that there was no compelling purpose for development in the Ten Mile Creek Watershed west of I-270.

EXECUTIVE MEMORANDUM

On September 21, 2012, the County Executive sent a memorandum to the Council regarding Ten Mile Creek and Stage 4 (see © 9 to 10). He indicated that although he supported the Ad Hoc Water Quality Working Group’s recommendation for a limited master plan amendment as a prerequisite for Stage 4 development, since a master plan had not been initiated, he now believes “it is time to begin the evaluation of water and sewer category change applications in the Stage 4 area as a means of initiating a dialogue on the controls required to allow development to proceed while protecting this sensitive stream valley. I am prepared to recommend approval of an application, if and only if it clearly protects the watershed and water quality through enforceable conditions.” Executive staff will be available at the Council meeting to elaborate on the Executive position.

STAFF RECOMMENDATIONS

Staff continues to believe very strongly that a master plan amendment is the best approach. It allows for a comprehensive analysis of all Stage 4 properties and allows the Council to balance environmental protection and land use objectives. In addition, there is no precedent for requiring the types of conditions necessary to protect Ten Mile Creek as part of a sewer and water category change, but master

plan recommendations would be implemented through court tested legislative processes. Established methods of protecting the environment are the preferred approach for this critical watershed.

It appears from the Executive’s memorandum that he is suggesting multiple individual water and sewer category changes. **If environmental issues are not considered comprehensively via a master plan, then Staff would have no alternative but to recommend that the most stringent environmental conditions (including impervious surface area caps) apply equally to every property.** This would be a significant problem for those property owners who have assumed they can exceed maximum acceptable impervious surface area limits, since other properties will provide an offset with very low impervious surface area limits. **Alternatively, a comprehensive approach that considers land use objectives, as well as environmental standards, could allow for less stringent standards for properties where development serves an important land use objective and offsetting more stringent standards for other areas in the watershed.**

Some of the key differences between the master plan approach and sewer and water category changes are outlined below.

Master Plan Amendment	Sewer and Water Category Changes
A master plan would look comprehensively at multiple properties.	Sewer and water category changes are generally done on a property by property basis, except when there is a comprehensive change following a master plan or if a public health problem area has been identified. It is unclear how watershed issues can be assessed on a property by property basis.
Can comprehensively consider imperviousness or other environmental protection strategies and can factor land use objectives into recommendations (e.g., it may be appropriate to allow more impervious surface area in locations where development serves a land use objective).	It’s unclear how the Executive would establish property by property environmental measures (e.g., impervious surface area caps), and a single impervious surface area cap for all properties would not be appropriate or allow consideration of land use objectives into the decision.
Environmental protection measures (such as impervious surface area caps) can be established in the master plan and/or as part of a rezoning action associated with the master plan.	While it is not prohibited, we have no precedent for establishing environmental conditions such as area-wide impervious surface area caps for multiple properties as a condition of sewer and water category changes (but it has been associated with sewer and water category changes for individual facilities, such as private institutional facilities) ² . It is

² Although a water and sewer category change that was conditioned upon the approval of a preliminary plan that was in conformance with the master plan was not found to be beyond the Council’s authority by the Court of Special Appeals, a condition that limits the impervious surface area has not been tested in court. The Council has received correspondence indicating that the Council has the authority to establish conditions associated with water and sewer category changes, including setting impervious surface area levels. While Staff agrees this is true, the Council has not previously established impervious surface area limits for multiple properties as part of a sewer and water category change and Staff believes a new approach should not be tested when the Council is making decisions about a critical watershed, particularly when a tested alternative is available.

	unclear how such limits would be implemented and enforced.
A master plan amendment can consider changes in zoning.	Sewer and water category changes are approved or denied assuming the existing zoning. Category changes cannot change zoning. If there is a pending zoning text amendment or master plan in process, category changes are typically deferred until the land use decisions are resolved.
A master plan amendment is a public process that solicits input from the public at each stage through citizen advisory groups and/or citizen meetings, a Planning Board public hearing, and a Council public hearing.	The sewer and water category change process is managed by the Department of Environmental Protection and, while DEP solicits comments from the Department of Permitting Services, WSSC, and the Planning Board Staff, the process is internal to the Executive Branch until the Executive's recommendations are transmitted to the Council. After transmittal, the Planning Board and the Council schedule public hearings and worksessions.

Scope of Master Plan Amendment

The Clarksburg Master Plan is close to 20 years old (1994) and could benefit from a comprehensive review. However, there is a strong desire to see additional development proceed in Clarksburg as soon as possible and a comprehensive analysis would be a lengthier process; therefore, Staff is not recommending one at this time.

At a minimum, Staff recommends the Council support an amendment that includes the entire Ten Mile Creek watershed, including all Stage 4 properties. As with all master plans, the Council determines the scope and timing, but cannot predetermine the outcome of the Planning Board recommendations. It is impossible to predict at this time whether a master plan would recommend any change in zoning, and the Council should proceed on the assumption that this would be the necessary result of a master plan effort.

The Council should also consider whether to include the Town Center District in the master plan amendment. There have been several problems related to the development of Town Center, and Staff believes it could benefit from a master plan assessment of zoning, densities, public facilities and amenities. **The intent would be to consider changes that would support the successful development of Town Center, with caveats that the master plan would not lower any densities in Town Center (but could consider increases) and would not prevent any project prepared to proceed from moving ahead.** (Staff understands that some have expressed concern that a master plan could delay projects currently moving ahead, and this should not be the unintended consequence of a master plan amendment.)

In addition to zoning and land use, an amendment could reconsider whether the existing Master Plan has sufficient recommendations for public facilities and public support to encourage appropriate development in Town Center. It could also address the best means of providing water and sewer service

to existing properties with failing septic systems. A new master plan recommendation for additional facilities could be the basis for future capital improvement program (CIP) projects.

Staff has also been informed by Planning Department Staff that property owners in the Cabin Branch Neighborhood are considering a proposal that would exceed current Master Plan limits. While Staff is not recommending that a master plan amendment include the Cabin Branch Neighborhood at this time, it may be worth exploring this issue further if the current Master Plan would prevent appropriate development.

Timing

The Executive Branch has indicated that if the Council opts for sewer and water category changes instead of a master plan approach, they would probably be submitted sometime next fall (November 2013). The Planning Board letter indicates that a master plan amendment would take approximately 18 months. Staff believes it is worth taking 5 additional months for a more comprehensive analysis. Moreover, if the Council denies or defers a water and sewer category change request next fall (which is entirely possible given the complexity and controversy associated with development in Ten Mile Creek), this option could lead to far greater delays in allowing development to proceed.



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

OFFICE OF THE CHAIR

October 5, 2012

The Honorable Roger Berliner
President, Montgomery County Council
Stella B. Werner Council Building
100 Maryland Avenue
Rockville, Maryland 20850

Dear President Berliner:

On Thursday, October 4th, upon a motion by Councilmember Anderson, seconded by Chair Carrier, the Planning Board voted to recommend, by a vote of 3 -2, that the County Council add to the Planning Department work program a new master plan amendment that would cover **Clarksburg Stage 4 and the associated Ten Mile Creek watershed**. In reaching this decision, the Board recognized that the sensitivity and importance of protecting the Ten Mile Creek watershed was an essential goal of the 1994 Master Plan and that monitoring done to date appears to indicate that additional protections might be necessary before development should be allowed to proceed.

The dissenting members, Commissioners Presley and Dreyfuss, felt that a master plan amendment was not necessary and that the sewer and water permit process would adequately protect the watershed. In the view of the majority, a master plan amendment is necessary to allow a full assessment of potential impacts on the watershed as a whole, rather than a property by property assessment. Commissioner Presley also objected to the lack of direct notice to the Clarksburg community that this issue would be on the Planning Board's agenda.

In addition to the option chosen, the Board discussed the following alternative scenarios for the Amendment:

- 1) The 10 Mile Creek Watershed plus the remainder of the Town Center District
- 2) Stage 4A only (the area of the 10 Mile Creek watershed to the east of I-270)
- 3) The Town Center District (the area of the 10 Mile Creek watershed to the east of I-270 and the remainder of the Town Center District)

The Board also considered the possibility of adding the Cabin Branch Employment area to any of the alternatives.

(1)

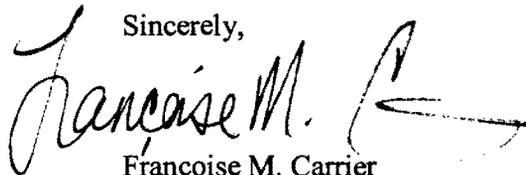
The Board fully understands that Clarksburg is designated as a Corridor Town with three transit stations. However, there continues to be concern that the amount and location of development originally planned for the Ten Mile Creek watershed threatens the health of the creek. Undertaking the Master Plan Amendment will enable us to:

- a. Determine how comprehensive watershed protection and state-of-the art Environmental Site Design can be used in the Ten Mile Creek watershed to best achieve sustainability and the original master plan environmental protection and community building goals;
- b. Involve all stakeholders in assessing the lessons learned from what has been approved and what still needs to be done; and
- c. Incorporate current county policy initiatives and new approaches to help create a more livable community and help support environmental stewardship.

We anticipate that the plan can be completed in approximately eighteen months. A total of 6 work years will be required over the eighteen-month period. To accommodate these demands we will postpone both the Pooks Hills Minor Master Plan and the Sandy Spring Minor Master Plan by eighteen months, and the Gaithersburg East Master Plan by nine months. In addition we are requesting \$200,000 for consultant services. We believe that a multi-agency work program, involving the participation of both DPS and DEP, will be required.

The Planning Board looks forward to the opportunity to discuss this with the County Council at our Semi-Annual presentation next week.

Sincerely,



Françoise M. Carrier
Chair

FC/RK/jh

cc: Rose Krasnow.
John Carter
Mary Dolan
Marlene Michaelson

Stage 4

Table 21

(This stage's triggers and implementing mechanisms are described in detail in the Plan's text. This table summarizes these detailed recommendations.)

Description

This stage allows the remaining areas of Clarksburg (i.e., those properties that drain into the Ten Mile Creek watershed) to proceed with development. (See Figure 54.)

Staging Triggers¹

- 1-2) Same triggers as for Stage 3.
 - 3) Wastewater treatment and conveyance facilities, sufficient to serve all approved development in Germantown and the Stage 4 area of Clarksburg, are 100 percent funded in the first four years of the CIP.
 - 4) **Baseline Monitoring:** Baseline biological assessment of the aquatic ecosystems of the Little Seneca Creek and Ten Mile Creek watersheds has taken place for a minimum of three years.
 - 5) **Community Building:** At least 2,000 building permits have been issued for housing units in the Newcut Road and Town Center sub-areas of Clarksburg.
 - 6) **Eastside BMP's Monitored and Evaluated:** The first Annual Report on the Water Quality Review Process following the release of 2,000 building permits in the Newcut Road and Town Center sub-areas is completed. This report will have evaluated the water quality best management practices (BMP's) and other mitigation techniques associated with Town Center/Newcut Road development and other similar developments in similar watersheds where BMP's have been monitored.
-

Implementing Mechanisms²

- 1) Once all of the above conditions have been met, the County Council will consider Water and Sewer Plan amendments that would permit the extension of public facilities to the Ten Mile Creek area. (See text for further discussion of these mechanisms.)
- 2) Ongoing water quality and BMP monitoring by DEP in accordance with the WQRP.
- 3) Properties in this stage are subject to AGP and APFO approval by the Planning Board.
- 4) One or several development districts (or alternative financing mechanisms) that can provide infrastructure facilities in accordance with the APFO and additional local determinations by the County Council are implemented.

¹ All staging triggers must be met to initiate this stage of development.

² Individual developments within this stage can proceed once public agencies and the developer have complied with all of the implementing mechanisms.

Eastside BMPs Monitored and Evaluated: The first Annual Report on the Water Quality Review Process (WQRP) following the release of 2,000 building permits in the Newcut Road and Town Center sub-areas is completed by the Department of Environmental Protection. This report will have evaluated the water quality best management practices (BMPs) and other mitigation techniques associated with the Town Center/Newcut Road development and other similar developments in substantially similar watersheds where BMP's have been monitored.

Once the above events occur, County Council will consider water and sewer category changes that would permit the extension of public facilities to the Ten Mile Creek area. As part of their deliberations, the Council will:

- Review the demands on the Capital Improvements Program for necessary infrastructure improvements.
- Evaluate the water quality results associated with Newcut Road and Town Center development and other similar developments in substantially similar watersheds where BMP's have been monitored and evaluated. In undertaking this evaluation, the Council shall draw upon the standards established by federal, state, and County laws and regulations and determine if the methods, facilities, and practices then being utilized by applicants as part of the water quality review process then in place are sufficient to protect Ten Mile Creek.
- Assess voluntary measures taken by property owners in the Stage 4 area to protect water quality in the environmentally fragile Ten Mile Creek watershed. Such measures might include stream restoration, afforestation/reforestation, and modified agricultural practices.

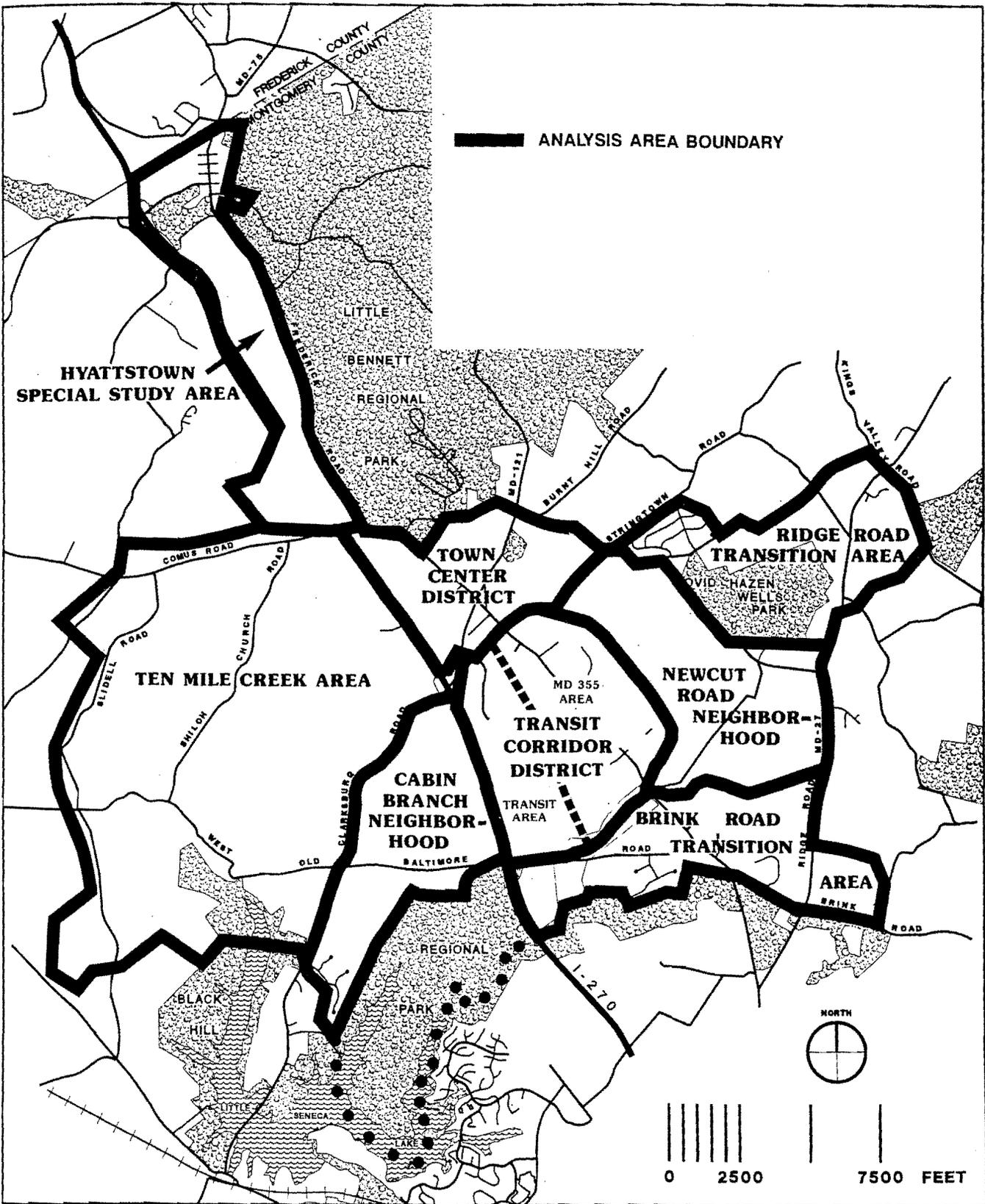
After conducting these assessments, the County Council may:

1. Grant water and sewer category changes, without placing limiting conditions upon property owners.
2. Grant water and sewer category changes, subject to property owner commitments to take additional water quality measures, such as staging of development, to protect the environmentally fragile Ten Mile Creek watershed.
3. Defer action on a Water and Sewer Plan category change, pending further study or consideration as deemed necessary and appropriate by the Council.
4. Consider such other land use actions as are deemed necessary.

4

Analysis Areas

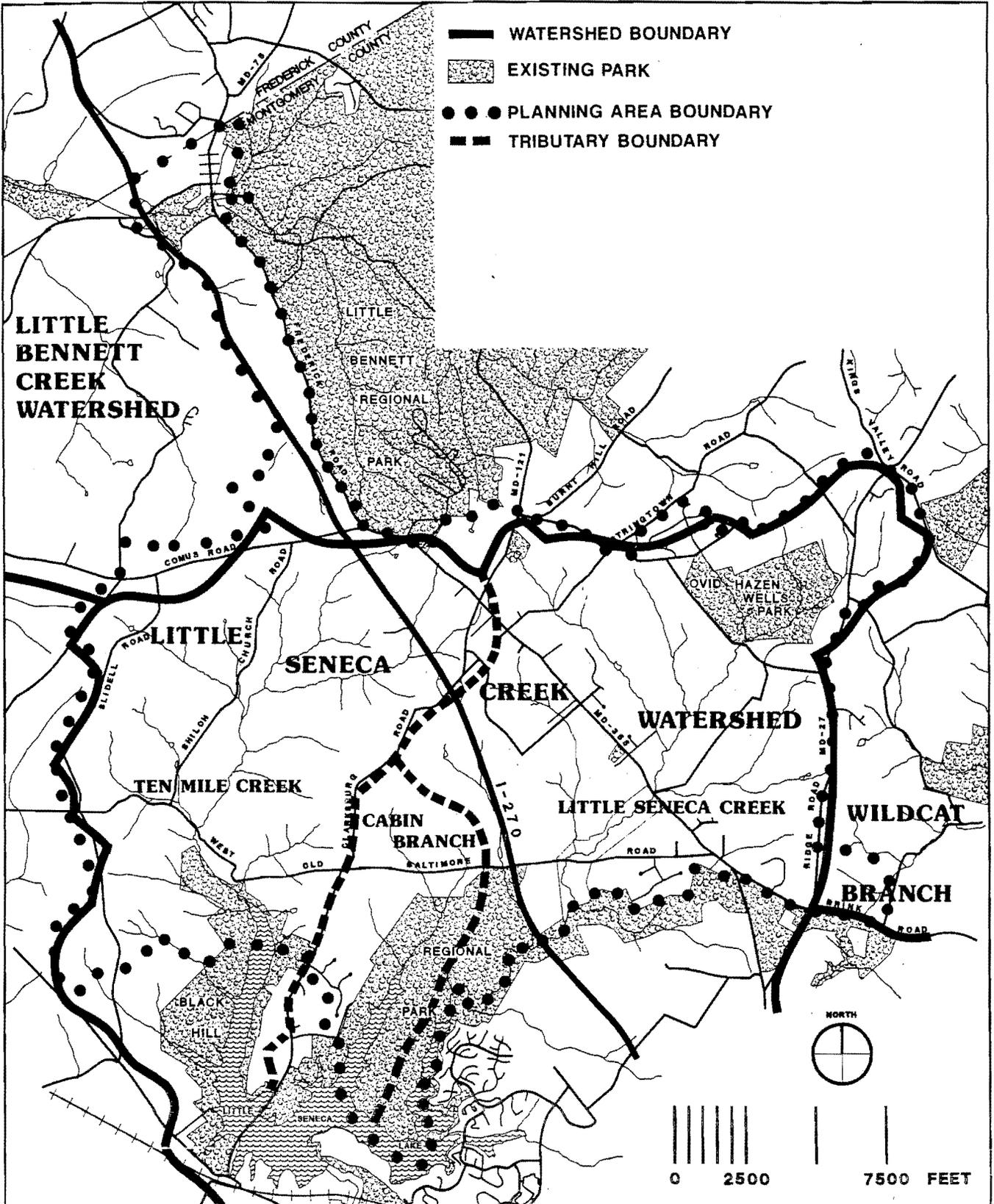
Figure 18



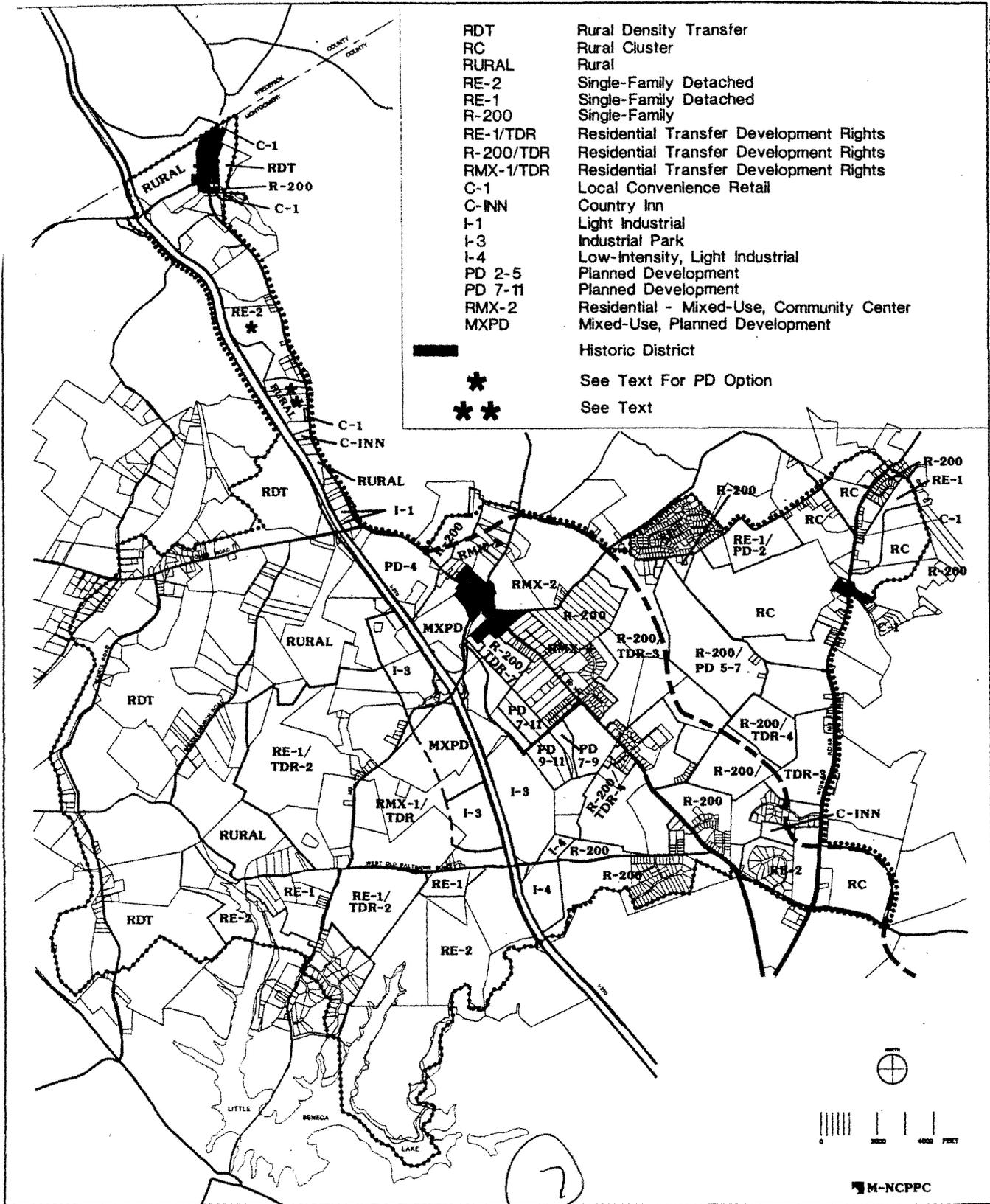
5

Watersheds

Figure 44

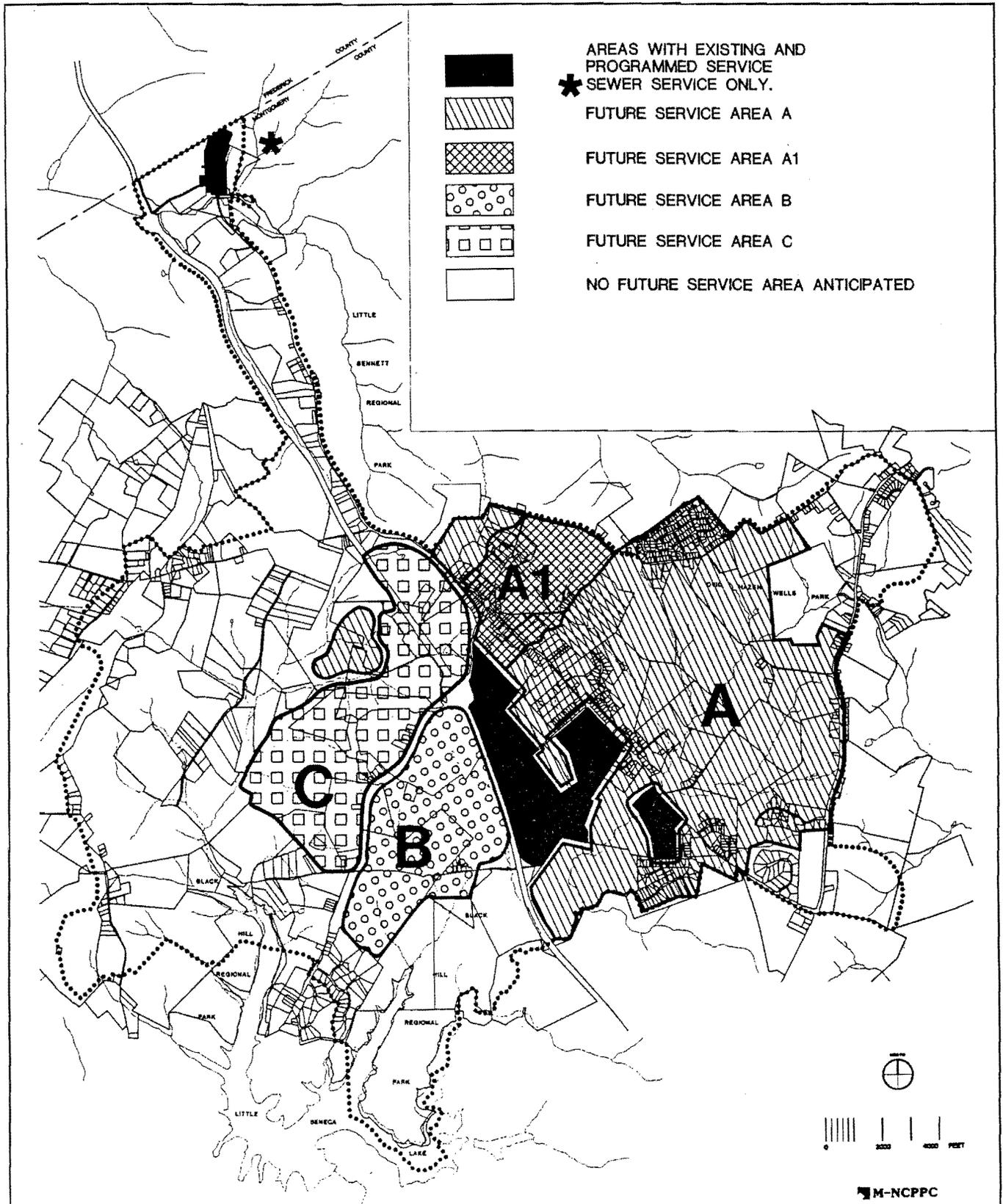


6



Recommended Sewer & Water Staging for Clarksburg

Figure 51





OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 21, 2012

070218

TO: Roger Berliner, President
County Council

FROM: Isiah Leggett 
County Executive

SUBJECT: Clarksburg Stage 4 Development

RECEIVED
MONTGOMERY COUNTY
COUNCIL

2012 SEP 25 PM 2:43

MM
CC
SBF
LL
KL
MF

Development of Clarksburg Stage 4 within the Ten Mile Creek watershed presents the County with significant challenges. Ten Mile Creek is one of the few naturally reproducing trout streams in the county and one of our most pristine water bodies. I am committed to making sure that the Ten Mile Creek watershed is protected and is treated as the natural treasure that it is. I also believe that we must provide the residents of the Clarksburg area with the essential amenities and infrastructure that they need.

The options for the development of the Stage 4 area of the Clarksburg Master Plan have been in question since the last trigger for Stage 4 was met in January of 2009 with the completion of the 2007 Special Protection Area report. In 2010, I supported the Ad-Hoc Water Quality Advisory Group's recommendation for a limited master plan amendment as a prerequisite for Stage 4 development if it could be accomplished expeditiously. Two years have now gone by without a master plan amendment process. Therefore, I believe that it is time to begin the evaluation of water and sewer category change applications in the Stage 4 area as a means of initiating a dialogue on the controls required to allow development to proceed while protecting this sensitive stream valley. I am prepared to recommend approval of an application, if and only if it clearly protects the watershed and water quality through enforceable conditions.

A comprehensive master plan amendment would be an appropriate process to address these development and watershed protection issues. However, absent this approach, I am willing to proceed with sending the Council water and sewer category change applications conditioned on meeting standards to achieve this same end. I believe the water and sewer category change process can include the site development requirements that will ensure protection of the Ten Mile Creek basin. The conditions adopted in this process can be tied to the requirements of the subdivision approval process to insure their enforcement on the proposed

Roger Berliner
September 21, 2012
Page 2

development. This process will identify environmental standards that will allow both development and the environment to coexist as envisioned when the Clarksburg Master Plan was adopted.

The first water and sewer category change for Stage 4 of Clarksburg will be transmitted to the Council based on the standard annual schedule for processing water and sewer category changes.

cc: Bob Hoyt, DEP
Diane Jones, DPS
Steve Shofar, DEP
Dave Lake, DEP
Rick Brush, DPS