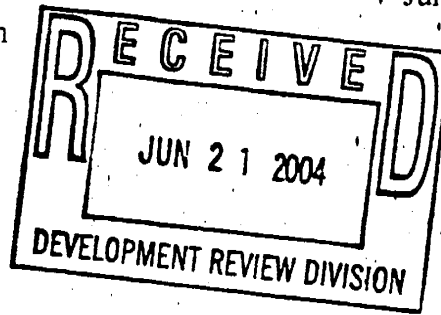


Wynn E. Witthans
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

June 16, 2004



RE: Site Plan 8-94012a (attached)

Ms. Witthans;

We are writing in response to the neighborhood's concern of this proposed building.

As you know this vacant lot was zoned for a church when we purchased our homes. A **four story** 102 apartment structure would not be in compliance with the neighborhood architecture.

Our suggestions to the Planning Commission & Builder is to review the plans for a **THREE** story building and share a picture of the structure with the community.

Please notify our community (not just 6 of us next to the lot on Wheatridge Dr.) of your next planning meeting so that we all have an opportunity to discuss this important issue.

Sincerely,

Robert & Margaret Worrest
17903 Wheatridge Dr.
Germantown, MD 20874
301-240-6820

A handwritten signature in black ink, appearing to read "R. Worrest", written over a horizontal line.

Kurt & Donna Nelson
17905 Wheatridge Dr.
Germantown, MD 20874

①

Patton Harris Rust & Associates, pc
Engineers Surveyors Planners, Landscape Architects

May 19, 2004

SITE PLAN 8-94012a

PRE-PRELIMINARY PLAN _____

PRELIMINARY PLAN _____

Name of Plan Clopper's Mill Manor

Plan Number 8-94012a

Current Zoning PD-4

No. Proposed Lots/Area Included 1 / 2.75 Ac.

Geographical Location Germantown, Maryland

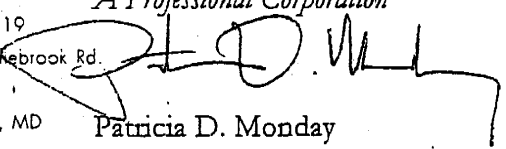
The above referenced plan application has been filed with the Montgomery County Planning Board and is being reviewed under the provision of the Montgomery County Code.

A copy of the proposed plan is enclosed. This plan may change due to the specific reviews and changes suggested by M-NCPPC and other county and state agencies. If you have any comments, please send them to the Development Review Division, Maryland-National Capital Park and Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20910.

The Montgomery County Planning Board will hold a public hearing on the above referenced plan application to obtain public comment. Written notification of the date of the public hearing will be sent to you no later than ten days before the meeting.

If you have any questions, please contact the Park and Planning Commission's Development Review Division at (301) 495-4595.

Respectfully Submitted,
PATTON HARRIS RUST & ASSOCIATES
A Professional Corporation


Patricia D. Monday
Director of Planning

VIRGINIA OFFICES:

Chantilly
Bridgewater
Leesburg
Virginia Beach
Woodbridge

LABORATORY:

Chantilly

MARYLAND OFFICES:

Columbia
Frederick
Germantown
Hollywood

**WEST VIRGINIA
OFFICE:**

Martinsburg

T 301.528.4300

F 301.528.0419

12850 Middlebrook Rd.

Suite 200

Germantown, MD

20876

Witthans, Wynn

From: Michael Jones [mjones@xla.com]
Sent: Monday, June 21, 2004 5:56 PM
To: Witthans, Wynn
Cc: Mary Kroh
Subject: Clopper's Mill Building Plan - Mateny Road

Reference: PHR&A Site Plan 8-94012a in Germantown, MD

Dear Ms. Witthans:

My wife and I are homeowners on Wheatridge Drive, near the planned site for a new senior care facility on Mateny Road. Our neighbor recently alerted us to the fact that the original community development plan for a church on Mateny Road was being amended to allow the construction of a 4-story, 102 unit senior assisted living complex.

We have significant concerns regarding this application for changed use:

1. A bare minimum number of people were provided official notice of this change request. Many people in Clopper's Mill East will be affected.
2. Traffic speeds on Mateny Road consistently run significantly above the posted speed limits.
3. The unregulated intersection/crossover between the Shopper's Food Warehouse lot and the Mobil gas station lot is a site of frequent "fender-benders." This intersection is very close to the proposed entrance for the new property.
4. The original proposed use, a church, would have had less impact on Mateny Road traffic patterns and loads due to the cyclical nature of operations. The substitution of 102 apartments will presumably add significantly to the constant traffic burdens in our neighborhood.
5. The proposed 4-story height would bring the elevation of the property well above current home heights in the immediate vicinity.

Prior to approving the usage change, we request that the M-NCPPC direct the developers to provide additional architectural details and traffic load studies justifying the approval of the change. We also request that full project details be provided to the Clopper's Mill Homeowners Association for promulgation to all area homeowners.

Thank you.

Michael S. Jones
Mary A. Kroh
17902 Wheatridge Drive
Germantown, MD 20874
301-916-2792

Witthans, Wynn

From: Heejeong Yoon [hyoon2001@hotmail.com]
Sent: Saturday, June 19, 2004 10:46 AM
To: Witthans, Wynn
Subject: inquiry

Dear Ms. Wynn Witthans:

Hello. My name is Heejeong Yoon, a resident at 3 Cottage Field Ct., Germantown, MD 20874. I just informed that they are going to build an apartment complex between the Mobil gas station and Wheatridge Dr. on Mateny Rd. I want to suggest 1) they lower the structure to 3 stories and 2) they review the plans and show a picture of the 3 story structure to the community.

Thanks for your consideration and response in advance.

Sincerely,

Heejeong Yoon

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Witthans, Wynn

From: Heejeong Yoon [hyoon2001@hotmail.com]
Sent: Tuesday, June 22, 2004 8:08 AM
To: jkirby@jkirbydevelopment.com; Witthans, Wynn
Subject: RE: inquiry

Thanks for your reply. I feel better after reading your email letter. I hope it will be an asset to our community and all will go well with your project. Please show us the structure of the building once the plan gets solidified. Thanks!

Sincerely,

Heejeong

>From: "Jeff Kirby" <jkirby@jkirbydevelopment.com>
 >Reply-To: <jkirby@jkirbydevelopment.com>
 >To: "'Witthans, Wynn'" <Wynn.Witthans@mncppc-mc.org>, "'Heejeong Yoon'"
 <hyoon2001@hotmail.com>
 >CC: "Scott Wallace (Business Fax)"@raq2.airnetlink.com
 >Subject: RE: inquiry
 >Date: Mon, 21 Jun 2004 14:16:57 -0400

>
 >Heejeong:

>
 >Thank you for your e-mail about our proposed project. I am sorry that I
 >you were not in attendance at our meeting of a few months ago or our
 >meeting last week. In last week's meeting we listened to the concerns
 >of some of your neighbors who live on Wheatridge Drive. Your neighbors
 >asked the same types of questions that you have raised in your e-mail.
 >It would have been better if I could have answered your questions
 >directly in person. I will attempt to address your concern in this
 >reply e-mail. If I am unsuccessful in addressing your concern, please
 >feel free to contact me at 410-442-5080, and we can further discuss your
 >concerns.

>
 >If we were to try to remove an entire floor from the building, this
 >would remove 26 apartments and we would then have a total of 76
 >apartments. This is not enough apartments to make this project
 >financially feasible. We generally try to develop communities with at
 >least 100 apartments. This number of units makes it financially
 >feasible to develop, and more importantly, this number of units makes it
 >financially feasible to operate on an ongoing basis. As I explained to
 >your neighbors the other evening, most of my operating expenses are
 >fixed, and therefore I need a certain number of apartments to spread the
 >cost. If our expenses were too high, we would have to cutback on many
 >of the expense and we would not be able to keep the project in the
 >condition that you and your community would want. The upkeep and
 >maintenance of this community are extremely important to us, and we need

6/22/2004

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>to have the 102 apartments to operate the type of project that we are
>proud of and that you would want as a neighbor.

>

>Further, our first floor slab elevation is approximately 6 to 8 feet
>below Mateny Road, and most of the first floor will be below the road.
>Therefore the Building should appear as a three story building from
>Mateny road. We have spent considerable time and will spend
>considerable money in designing an extremely attractive, residential
>building. The building will have stone veneer and different siding
>treatments on the exterior. The landscaping and lighting package will
>be extensive and attractive. I am fairly certain that once this project
>is complete, your community will be very satisfied with the finished
>product and will welcome us as long-term neighbors.

>

>Thank your for your consideration and please feel free to call me with
>any further questions.

>

>Jeff Kirby

>

>-----Original Message-----

>From: Witthans, Wynn [mailto:Wynn.Witthans@mncppc-mc.org]

>Sent: Monday, June 21, 2004 10:47 AM

>To: Heejeong Yoon

>Cc: jkirby@jkirbydevelopment.com

>Subject: RE: inquiry

>

>Thanks you for your response to the proposed development. We will
>include your email in the staff report that goes to the Planning Board
>for their consideration on July 1. I will also send your comments to
>the developer so he will send a copy of the drawing to you. Jeff by copy
>of this email - please respond to this citizen's request.

>

>Wynn E. Witthans

>Development Review Division, M-NCPPC

>8787 Georgia Avenue, Silver Spring MD 20910-3760

>Site Plan Review

>(301)495-4584

>mailto:Wynn.Witthans@mncppc-mc.org

>

>-----Original Message-----

>From: Heejeong Yoon [mailto:hyoon2001@hotmail.com]

>Sent: Saturday, June 19, 2004 10:46 AM

>To: Witthans, Wynn

>Subject: inquiry

>

>Dear Ms. Wynn Witthans:

>

>Hello. My name is Heejeong Yoon, a resident at 3 Cottage Field Ct.,
>Germantown, MD 20874. I just informed that they are going to build an
>apartment complex between the Mobil gas station and Wheatridge Dr. on
>Mateny Rd. I want to suggest 1) they lower the structure to 3 stories

>and 2) they review the plans and show a picture of the 3 story structure
>to the community.

>

>Thanks for your consideration and response in advance.

>

>Sincerely,

>

>Heejeong Yoon

>

>

> _____

>

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Witthans, Wynn

From: James Rapp [jsrapp@hotmail.com]
Sent: Friday, June 25, 2004 7:25 AM
To: Witthans, Wynn
Cc: jkirby@jkirbydevelopment.com
Subject: Clopper's Mill Association Landscaping

Wynn,

The intention of the Clopper's Mill Community Association is to facilitate and cooperate with Kirby Development and the lot owners adjacent to the Kirby Development site for reaching an agreement on landscaping revisions to the association property berm area between the apartment site and the single family home sites. Because the Association is responsible for maintaining this area, the Association intends to be a party to any agreement for modifications to this area. The Association is supportive of the plan to enhance the berm and add additional screening plantings. Once a final agreement is reached among the lot owners, Kirby Development, and, the Association and a landscape plan generated, the Clopper's Mill Community Association intends to grant permission for the landscape plan to be implemented.

Please let me know if I can provide any additional documentation to facilitate this process.
Thanks.

James Rapp

President, Clopper's Mill Community Association

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<http://movies.msn.click-url.com/go/onm00200509ave/direct/01/>

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

June 25, 2004

Scott C. Wallace
301.961.5124
swallace@linowes-law.com

Ms. Wynn Witthans
Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Clopper's Mill Manor - Site Plan No. 8-94012A (the "Site Plan") - Request for Waiver of Building Setbacks and Waiver of Parking Requirements

Dear Wynn:

As you are aware, this office represents J. Kirby Development, LLC ("Kirby"), the contract purchaser of a 2.75 acre parcel of land located on the south side of Mateny Road, 1000 feet east of the intersection of Mateny Road and Great Seneca Highway, in Clopper's Mill Village and zoned PD-4 (Planned Development) (the "Property"). Pursuant to the referenced Site Plan, the Property is proposed for development of a 102-unit senior adult residential building, including 81 units that will be reserved for seniors with income levels at or below County MPDU requirements (with 21 of the units designated as MPDUs) (the "Project"). As detailed below, the purpose of this letter is to request a waiver of the building setback requirements and the required number of parking spaces for the Project.

Building Setback Waiver

Section 59-C-7.15(b) of the Zoning Ordinance requires a 100-foot building setback for multi-family buildings in the PD Zone where located adjacent to land for which the applicable master plan recommends a one-family detached zone. In the instant case, the southern section of the Property is located adjacent to Seneca Creek State Park, which is zoned R-200, although it is recommended for continued use as parkland in the 1989 Approved and Adopted Germantown Master Plan (the "Master Plan"). In order to allow for an efficient site layout that provides an appropriate front building setback from Mateny Road and reforestation within a 40-70 foot wide conservation easement along the southern and western portions of the Property, a portion of the building is proposed to be setback approximately 60 feet from the property line adjacent to the State Park. The remainder of the building is setback 100 feet or more from the adjacent parkland and the building meets all other setback and height requirements of the PD Zone. Therefore, Kirby requests a reduction of the 100-foot setback requirement for this portion of

Ms. Wynn Witthans
June 25, 2004
Page 2

the proposed building pursuant to Section 59-C-7.15(c) of the Zoning Ordinance, which provides:

(c) A waiver of the requirement of paragraph (b)(1) above, may be permitted upon a finding that:

(1) The area master plan recommends other than a one-family detached zone for the property immediately adjoining the area where the waiver is to occur; and

(2) The immediately adjoining property will not be adversely affected by the waiver for present or future use.

Initially, we note the intent of the setback requirements is to ensure an adequate buffer between development in the PD Zone and adjacent single-family detached development. In the instant case, although the adjacent property is zoned R-200, it is recommended for continued use as parkland in the Master Plan. Therefore, the approval of the waiver request would not conflict with the intent of the setback requirement. Further it is our understanding that there are no active recreation facilities in the State Park adjacent to the Property; the area is heavily wooded and drops in grade across the common property line. As noted above, Kirby is required to provide reforestation along the southern section of the Property adjacent to the park within a 40' wide conservation easement that will serve as a buffer between the parkland and the building. In summary, the setback reduction for a portion of the proposed building will allow for a more efficient and desirable site layout and will not adversely impact the continued use of the adjacent property as parkland.

Parking Waiver

In conjunction with the Site Plan application, we are also requesting a waiver from strict compliance with the required number of parking spaces for the Project. This waiver request is filed pursuant to Section 59-E-4.5 of the Montgomery County Zoning Ordinance, which provides that the Planning Board may waive any requirements of Article 59-E not necessary to accomplish any of the following objectives of the Zoning Ordinance for parking facilities:

1. The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility.

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Ms. Wynn Witthans

June 25, 2004

Page 3

2. The safety of pedestrians and motorists within a parking facility.
3. The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exist to public roads so as to reduce or prevent traffic congestion.
4. The provisions of appropriate lighting, if the parking is to be used after dark.

The waiver from the required number of parking spaces will allow for the elimination of unneeded parking, decreased impervious area, and will further promote an efficient site layout.

The Project is located the Northern Area of the County for purposes of determining parking requirements. For senior housing projects in the Northern Area, Section 59-E-3.7 of the Zoning Ordinance requires 1 space for each 1-bedroom unit and 1.35 spaces for each unit with 2 or more bedrooms. The Project proposes 16 1-bedroom units, which would require 16 spaces, and 86 2-bedroom units, which would require 117 spaces, for a total parking requirement of 133 spaces (less applicable credits). In that regard, Section 59-E-3.33 (b)(3) of the Zoning Ordinance provides that credits for up to 20% of the required number of spaces may be given for projects that provide housing that meets the income limits of the Section 25A of the Montgomery County Code (the MPDU law). As noted above, 80% of the proposed units will meet the income limits of the MPDU law and, accordingly, the Applicant requests that the Planning Board grant a credit for 28 of the required spaces. The Project proposes 66 parking spaces in front of the building and therefore, the Petitioner requests a waiver for the balance of the 105 required spaces, or 39 spaces.

The requested waiver, if granted, will not impair any of the objectives of the Zoning Ordinance for parking facilities. National statistics and industry studies confirm that seniors who reside in independent senior housing communities like the Project tend to own fewer automobiles and have less need for parking than other demographic groups. Further, analyses of similar senior adult housing projects in the area show that the number of parking spaces normally required under the Zoning Ordinance for such projects significantly exceeds the actual parking estimate. In particular, the Planning Board's Technical Staff, in reviewing parking waiver requests by Mr. Kirby for senior adult projects located on East Randolph Road in Silver Spring, and Georgia Avenue in Olney, determined that actual parking demand at senior housing apartment projects is .53 spaces per unit. The Planning Board approved development plans for both of these projects with the requested reduction in required parking spaces.

Ms. Wynn Witthans

June 25, 2004

Page 4

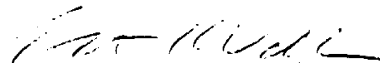
For the Project, using Technical Staff's parking demand ratio of .53 spaces per unit translates into a requirement of 55 spaces to meet projected demand. The Project proposes 66 spaces (.64 spaces per unit), and, therefore, the Project proposes more than adequate parking capacity for the anticipated demand. In turn, the reduction in the required number of parking spaces allows the parking facility to achieve a compact, efficient design that contributes to a reduction in impervious surface area. The parking facility as proposed will be well-lit, and is designed to provide safe circulation for vehicular and pedestrian traffic.

Further, the Project will provide significant on-site amenities, including, for example, a beauty salon, activity rooms, a health spa and offices for visiting health care professionals that reduce the need for residents to own a vehicle. The Property is also well-served by commercial uses located directly across Mateney Road from the Project at Clopper's Mill Village. The Property will be connected to the Village by a sidewalk and crosswalks that will be constructed by Kirby in front of the Property. The Property is also located within a few hundred feet of a Ride-On bus stop. The Project therefore proposes a wide range of services and amenities, and is well-situated near commercial services and transit, to allow residents access to commercial and social activities without requiring vehicle ownership. Accordingly, we request that the Planning Board grant this waiver because strict adherence to the parking space requirement is not necessary to accomplish the objectives of the Zoning Ordinance for parking facilities.

We will be available at the public hearing on the Site Plan to answer any questions you may have regarding both waiver requests. Thank you.

Sincerely,

LINOWES AND BLOCHER LLP



Scott C. Wallace

SCW:bta

cc: Mr. Jeff Kirby
Ms. Patricia Monday
Barbara A. Sears, Esquire

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

June 28, 2004

Scott C. Wallace
301.961.5124
swallace@linowes-law.com

Ms. Wynn Witthans
Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Clopper's Mill Manor - Site Plan No. 8-94012A (the "Site Plan")

Dear Wynn:

As you are aware, this office represents J. Kirby Development, LLC ("Kirby"), the contract purchaser of a 2.75 acre parcel of land located on the south side of Mateny Road approximately 1000 feet east of the intersection of Mateny Road and Great Seneca Highway in Clopper's Mill Village and zoned PD-4 (Planned Development) (the "Property"). Pursuant to the referenced Site Plan, the Property is proposed for development of a 102-unit senior adult residential building, including 81 units that will be reserved for seniors with income levels at or below County MPDU requirements (with 21 of the units designated as MPDUs) (the "Project"). The Property is also subject to the development plan approved as part of the rezoning of Clopper's Mill Village to the PD Zone pursuant to Local Map Amendment G-650, approved by the County Council sitting as the District Council on October 7, 1990 (the "Development Plan"). The Development Plan shows the development of 120 units of elderly housing located on an approximately one acre parcel in a section of Clopper's Mill Village north of the Property, while the Property is shown in the Development Plan for development as a church. Pursuant to Section 59-D-3.1(a) of the Zoning Ordinance, for property subject to a development plan, site plans for proposed development must be consistent with such development plan. As discussed below, we believe the development of the Project as shown on the Site Plan is consistent with the Development Plan and the Site Plan can be approved by the Planning Board without an amendment to the Development Plan.

Initially, we note the Site Plan proposes 102 residential units for senior adults, which is within the density of 120 units shown for senior housing in the Development Plan. (In fact, the location shown on the Development Plan for senior housing is only one acre in area, which is too small to develop a senior housing project at the densities proposed in the Development Plan.) Further, the Development Plan contemplated locating senior housing in close proximity to the commercial uses at Clopper's Mill Village. In furtherance of this objective, the Project is directly across Mateny Road from the Village Center and sidewalks and crosswalks are

Ms. Wynn Witthans
June 24, 2004
Page 2

proposed as part of the Project to allow easy access to the Village Center by residents of the Project. Accordingly, the Project achieves the same convenient location for senior housing as intended in the Development Plan.

We also note that senior housing as proposed in the Site Plan is compatible with the uses that have been developed around the Property, which include single-family detached houses to the east, parkland to the south, and commercial uses to the west and north. Senior housing is a less intense use in terms of traffic than a church and the Project includes extensive buffers, including berms and landscaping adjacent to the single-family detached development, and reforestation adjacent to the parkland to the south. Finally, the proposed building features a residential style of architecture, and is sited on the Property to create a compatible relationship with the adjacent residential community. The Project is thereby appropriate at this location in Clopper's Mill Village in relation to the uses that have developed around the Property pursuant to the Development Plan.

We hope this information has been helpful. Upon review, if you have any questions, please do not hesitate to call. Thank you for your continued assistance in this matter.

Sincerely,

LINOWES AND BLOCHER LLP



Scott C. Wallace

cc: Jeff Kirby
Patricia Monday
Barbara A. Sears, Esq.

