



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

MCPB
Item #
02/01/07

MEMORANDUM

DATE: January 23, 2007

TO: Montgomery County Planning Board

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

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board Agenda
for February 1, 2007

The following record plats are recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plan and site plan, if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code. Attached are specific recommendations and copies of plat drawings for the record plats. The following plats are included:

220070660 Clarksburg Village
220070670 Clarksburg Village

Subdivision Plats No. 220070660 and 220070670

Clarksburg Village

Located on the southwest quadrant of Stringtown Road and Piedmont Road

R-200/TDR Zone

Community Water, Community Sewer

Master Plan Area: Clarksburg

Elm Street Development, Applicant

These two record plats are being brought back to the Planning Board for a new approval date. The plats are for lots included in the Clarksburg Village development that was the subject of a Compliance Program. However, as clearly stated in the Compliance Program staff report dated September 25, 2006, and considered by the Planning Board on October 5, 2006, the lots shown on these plats are not affected by any correction due to site plan non-compliance. The staff report suggested that these plats, previously identified as 2-05025 and 2-05026, may proceed prior to the approval of the signed Site Plan Amendment. (See Staff Recommendation #6 in Attached Staff Report) The Board did not object to this course of action at the hearing.

The plats have been assigned new record file numbers 220070660 (formerly 2-05025) and 220070670 (formerly 2-05026) and are unchanged from their original configuration except for the new file number. They are being brought back to Planning Board for a new approval date that indicates an approval after the Compliance Program hearing, in conformance with the Board's guidance at the October 5, 2006 hearing.

These record plats have been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Record Plat Review Sheet. Staff has determined that the plats comply with Preliminary Plan No. 120010300, as approved by the Board; and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Clarksburg Village Plan Number: 1201030
 Plat Name: Lot 43-50 Cl Village Plat Number: 220070660
 Plat Submission Date: 11/9/06
 DRD Plat Reviewer: PW/TA
 DRD Prelim Plan Reviewer: CC

Initial DRD Review:

Signed Preliminary Plan - Date 1/24/03 Checked: Initial CAC Date 1/23/07
 Planning Board Opinion - Date 1/23/03 Checked: Initial PW Date 12/12/06
 Site Plan Req'd for Development? Yes No Verified By: PW (initial)
 Site Plan Name: Clarksburg Village Site Plan Number: 2003002A
 Planning Board Opinion - Date 12/18/03 Checked: Initial PW Date 12/12/06
 Site Plan Signature Set - Date 8/9/04 Checked: Initial PW Date 12/12/06
 Site Plan Reviewer Plat Approval: Checked: Initial MM Date 1/23/07

Review Items: Lot # & Layout Lot Area Zoning Bearings & Distances
 Coordinates Plan # Road/Alley Widths Easements Open Space
 Non-standard BRLs Adjoining Land Vicinity Map Septic/Wells
 TDR note Child Lot note Surveyor Cert Owner Cert Tax Map

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>MD</u>	<u>11/21/06</u>	<u>12/8/06</u>	<u>✓144</u>	<u>no Rev.</u>
Research	Bobby Fleury	↓	↓		
SH's	Doug Mills				
PEPCO	Steve Baxter				
Parks	Doug Powell				
DRD	Steve Smith			<u>✓12/12</u>	

Final DRD Review:

DRD Review Complete: Initial TA Date 12/12/06
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up): Initial TA Date 12/12/06
 Final Mylar w/Mark-up & PDF Rec'd: Initial TA Date 1/17/07

Board Approval of Plat:

Plat Agenda: _____
 Planning Board Approval: _____
 Chairman's Signature: _____

DPS Approval of Plat:

Engineer Pick-up for DPS Signature: _____
 Final Mylar for Reproduction Rec'd: _____

Plat Reproduction:

Addressing: _____
 File Card Update: _____
 Final Zoning Book Check: _____
 Update Address Books with Plat #: _____
 Update Green Books for Resubdivision: _____
 Notify Engineer to Seal Plats: _____
 Engineer Seal Complete: _____
 Complete Reproduction: _____
 Sent to Courthouse for Recordation: _____

No. _____

* See compliance plan memo - MCPB 10/05/06 - Sept 25, 2006 Memo
 pg 6.

RECORD PLAT REVIEW SHEET

Plan Name: Clarkburg Village Plan Number: 12001030
 Plat Name: lots 24, 42, 19-26 Plat Number: 220070670
 Plat Submission Date: 11/9/06
 DRD Plat Reviewer: PW/TA
 DRD Prelim Plan Reviewer: CC

Initial DRD Review:

Sign: J Preliminary Plan - Date 1/24/07 Checked: Initial CAC Date 1/23/07
 Planning Board Opinion - Date 1/23/07 Checked: Initial PW Date 12/12/06
 Site Plan Req'd for Development? Yes No Verified By: PW (initial)
 Site Plan Name: Clarkburg Village Site Plan Number: 82003002A
 Planning Board Opinion - Date 12/12/06 Checked: Initial PW Date 12/12/06
 Site Plan Signature Set - Date 8/9/04 Checked: Initial PW Date 12/12/06
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 TDR note Child Lot note Surveyor Cert Owner Cert Tax Map

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	MP	12/21/06	12/8/06	✓ 12/9	
Research	Bobby Fleury				
SHA	Doug Mills				
PEPCO	Steve Baxter				
Parks	Doug Powell				
DRD	Steve Smith			✓ 12/12	

Final DRD Review:

DRD Review Complete: (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up):
 Final Mylar w/Mark-up & PDF Rec'd:

Initial	Date
<u>TA</u>	<u>12/12/06</u>
<u>TA</u>	<u>12/12/06</u>
<u>TA</u>	<u>1/17/07</u>

Board Approval of Plat:

Plat Agenda:
 Planning Board Approval:
 Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:
 Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:
 File Card Update:
 Final Zoning Book Check:
 Update Address Books with Plat #:
 Update Green Books for Resubdivision:
 Notify Engineer to Seal Plats:
 Engineer Seal Complete:
 Complete Reproduction:
 Sent to Courthouse for Recordation:

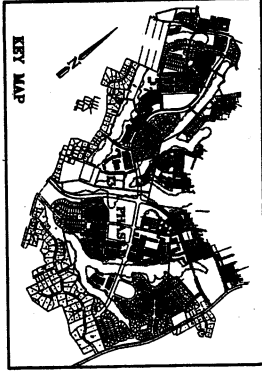
No. _____

* See Compliance Plan, MCLPB 10/05/06 stay right 9/21/06, pg 6



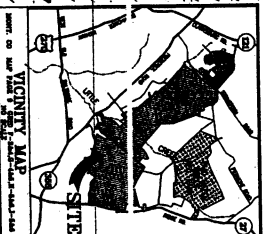
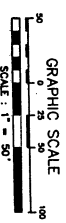
LEGEND

	PROPOSED BUILDING FOOTPRINT
	PROPOSED PARKING
	PROPOSED ROAD
	PROPOSED UTILITY
	PROPOSED STORM SEWER
	PROPOSED SEWER
	PROPOSED WATER
	PROPOSED GAS
	PROPOSED ELECTRIC
	PROPOSED TELEPHONE
	PROPOSED CABLE
	PROPOSED STORM SEWER
	PROPOSED SEWER
	PROPOSED WATER
	PROPOSED GAS
	PROPOSED ELECTRIC
	PROPOSED TELEPHONE
	PROPOSED CABLE



NOTES

1. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF ZONING ADJUSTMENTS.
2. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF PUBLIC WORKS.
3. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF HEALTH.
4. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF EDUCATION.
5. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF SOCIAL SERVICES.
6. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF COMMUNITY DEVELOPMENT.
7. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF ECONOMIC DEVELOPMENT.
8. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF ENVIRONMENTAL AND PLANNING.
9. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF HISTORIC PRESERVATION.
10. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF LAND AND NATURAL RESOURCES.
11. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF TRANSPORTATION.
12. THE SITE PLAN IS SUBJECT TO THE APPROVAL OF THE MONTGOMERY COUNTY BOARD OF UTILITIES.



DATE	10
DATE	14

Site Plan #8-03002
 APPROVED SITE PLAN
 IN THE NO. 48 DISTRICT
 MONTGOMERY COUNTY PLANNED ROAD

Richard Hartman
 PROJECT MANAGER

SITE DEVELOPMENT PLAN - PHASE I
CLARKSBURG VILLAGE
 CLARKSBURG (2nd) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND

CPJ Associates

Charles Johnson & Associates, Inc.
 PLANNING - DESIGN - LANDSCAPE ARCHITECTURE - SURVEYING
 10000 WOODBURN ROAD, SUITE 200, CLARKSBURG, MARYLAND 20841
 PHONE: (301) 441-1111 FAX: (301) 441-1112



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Held: January 23, 2003

Action: Approved Staff Recommendation

Motion of Comm. Bryant, seconded by
Comm. Wellington with a vote of 4-0;

Comms. Bryant, Perdue, Robinson and
Wellington voting in favor

Comm. Berlage temporarily absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01030

NAME OF PLAN: CLARKSBURG VILLAGE

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

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

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

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

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

- 170A030
- property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail
- (18) Applicant will construct Foreman Boulevard and Midcounty Highway to allow for grade separated crossing for the hiker/biker Greenway Trail. The trail crossings should be constructed to accommodate the trail under the roads without changing the natural location, configuration or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream
 - (19) The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed or clearly delineated and marked prior to construction of the residences that abut the Greenway
 - (20) The park area marked as Jeane Onufry Local Park will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The park area will be dedicated to M-NCPPC
 - (21) The school/park site off of Midcounty Highway will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The parking and ball field area at the north end of the site will be separately delineated and dedicated to M-NCPPC
 - (22) Phasing of the dedication of the school/parks sites shall be incorporated as part of the phasing schedule included with site plan approval
 - (23) At site plan address specifically the following:
 - a) Dwelling unit type and layout within the mixed use center
 - b) Coordinate with adjoining property owner to achieve a well integrated and designed commercial center that locates parking to the rear and provides special treatment for paving, seating, landscaping, lighting and other pedestrian amenities
 - c) Provide adequate "windows" into open space areas
 - d) Dwelling unit orientation along all road rights of way
 - (24) Provide a minimum of 600 TDR's pursuant to the objectives of the Clarksburg Master Plan
 - (25) Final number and location of units to be determined at site plan
 - (26) Final number of MPDU's to be determined at site plan dependent on Condition #23
 - (27) No clearing, grading, unless designated on "Infrastructure Plan" and recording of lots prior to site plan approval
 - (28) All prior applicable conditions of Preliminary Plan No. 1-93007, Nanna Property remain in full force and effect
 - (29) The validity of the Preliminary Plan will remain valid until July 30, 2013 and shall be phased for recordation of lots as follows:
 - Phase One: 300 lots by July 30, 2004
 - Phase Two: 1,000 lots by July 30, 2007
 - Phase Three: 1,700 Lots by July 30, 2010
 - Phase Four: All lots by July 30 2013

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



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

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: December 18, 2003

SITE PLAN REVIEW #: 8-03002

PROJECT NAME: Clarksburg Village

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

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

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

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

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BY: 5

- Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
- The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
- 6. The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection*

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

FINAL WATER QUALITY APPROVAL FOR SPECIAL PROTECTION AREA

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

- 1. Reforestation is to begin as soon as possible after the issuance by the Montgomery County Department of Permitting Services (DPS) issuance of grading permits, with appropriate phasing to allow for the construction of sediment and erosion control structures.
 - 2. Conformance to the conditions as stated in the DPA letter dated July 18, 2003 approving the elements of the SPA water quality plan under its purview, attached.
- DRC.Montrose Crossing.dec103

SITE PLAN

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

1. Park School Site

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

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

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

2. Lighting and Landscaping Plan

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

3. Environmental Planning

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

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

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

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

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

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

4. Division of Permitting Services

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

5. Affirmation of Waiver of Subdivision Standards

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

6. Block Design Standards

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

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

7. M-NCPPC Parks Greenway Trail

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

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

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

8. Signature Set Documentation

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

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

- 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
- 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
- 5) Clearing and grading to correspond to the construction and infrastructure phasing.
- 6) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, or other features.
- 7) Noise attenuation design completed and accepted by M-NCPPC technical staff prior to release of building permits.
- 8) Site plan #8-03002 will withhold 231 market-rate building permits (30 MPDUs /13%) until building permits for the construction of the required MPDUs (offsite) in the next phase are released. MPDU construction within Phase I to be included in Phasing Plan.
- 9) Greenway dedication with record plat and trail construction prior to unit construction
- 10) Park School dedication

b. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for M-NCPPC technical staff review prior to approval by Montgomery County Department of Permitting Services (DPS):

- 1) Limits of disturbance.
- 2) Methods and locations of tree protection.
- 3) Forest Conservation areas.
- 4) Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- 5) The development program inspection schedule and Site Plan Opinion.
- 6) Conservation easement boundary.
- 7) Streets trees 40 or 50 feet on center along all public streets.
- 8) Centralized, screened trash areas for all multi-family and one-family attached units except townhouses.
- 9) Units to conform to zoning restrictions.

c. No clearing or grading prior to M-NCPPC approval of signature set of plans unless authorized by Infrastructure Plan or other approvals.


MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

 THE MARYLAND-NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION

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

 Item #
 MCPB 10/05/06

MEMORANDUM

DATE: September 25, 2006
 TO: Montgomery County Planning Board
 VIA: Rose Krasnow, Chief *RK*
 Development Review Division
 FROM: Michael Ma *Ma*
 Planning Department Staff
 (301) 495-4523



REVIEW TYPE: **Compliance Program**
 PROJECT NAME: **Clarksburg Village**
 CASE #: **820030020 (formerly 8-03002) and 82003002A (formerly 8-03002A)**

APPLYING FOR: Approval of the Compliance Program to correct non-compliance with the approved site plan and the Zoning Ordinance
 REVIEW BASIS: Section D-3.6. of the Zoning Ordinance (Failure to comply)
 ZONE: R-200/R-200-TDR 3
 LOCATION: Southwest Quadrant of the Intersection of Stringtown Road and Piedmont Road
 MASTER PLAN: Clarksburg Master Plan
 RESPONDENT: Elm Street Development
 HEARING DATE: October 5, 2006

SUMMARY

On June 29, 2006, the Planning Board held a public hearing on Clarksburg Village, conducted a preliminary vote on alleged acts of non-compliance, rejected the respondent's proffer, and directed staff to determine an appropriate Compliance Program and/or fines. The purpose of this report is to present staff recommendations on the Compliance Program for the Clarksburg Village development to the Planning Board for approval.

Non-Compliance Items and Corrective Actions

The following table summarizes the six non-compliance items found by the Planning Board and the corrective actions required by the subject Compliance Program:

	Non-compliance Items	Corrective Actions through Site Plan Amendment
1	Discrepancy between Planning Board opinion and Signature Set of Site Plan 8-03002 in the numbers of one-family detached units and townhouses.	Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
2	Multiple-family units in the R-200/MPDU Zone.	Eliminate the proposed 48 multiple-family units in four buildings in Block T.
3	Lot size for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 6,000 square feet for one-family detached units.	Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one-family detached units with a lot area no less than 6,000 square feet (through combining lots and reducing street rights-of-way) except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units.
4	Building setbacks for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 25 feet setback from street for one-family detached units.	Provide a minimum building setback of 25 feet from street for all one-family detached units in the R-200 zone through combining lots and reducing street rights-of-way. Zoning Text amendment 06-12 modified the setback requirements (Section C-1.623 of the Zoning Ordinance) for corner lots in the R-200 zone under MPDU option.
5	The Right-of-way for Foreman Boulevard is less than that shown on the approved Preliminary Plan.	Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.
6	Lack of Complete Development Standards in the R-200/TDR3 zone.	Establish complete development standards for the entire development (Attachment A)

Design Improvements and Additional Amenities

In addition to the corrective actions, the Compliance Program requires the respondent to (1) improve the design of the approved site plan in Blocks P, U, and T, (2) provide additional amenities, such as park facilities, larger plant materials, additional trees in forestation areas, and picnic shelters, and (3) make a \$50,000 contribution to the Clarksburg Village Homeowners Association (HOA) fund.

The Revised Plan

The respondent has revised the site plan for certain areas within the development in accordance with the Compliance Program to meet the Zoning Ordinance requirements and to improve the design of the development (Attachment B). To increase the lot size and building setback for those non-compliant lots to meet the Zoning Ordinance requirements of one-family detached units in the R-200/MPDU zone, the respondent proposes to eliminate four dwelling units and use the lot areas to make up the differences. In addition, to solve the lot size and setback problems associated with certain built and occupied homes, the revised plan proposes to reduce the rights-of-way of certain portions of four public streets to gain additional lot areas and building setbacks for those homes. Four of the non-compliant lots, which were going to be attached with a trellis, will be built with attached garages.

A major component of the Compliance Program is to require design improvements to certain areas of the development. The revised plan proposes a better integration of various dwelling types in Blocks P, U, and T. It substantially modifies the design of the entire Block T by eliminating 4 multiple-family building (total 48 units), adding 21 detached homes and other dwelling types. The revised layout of Block T provides a better green space network throughout the block, which connects the units with the surrounding greenway open space, and reduces the density by approximately 40 units. Some of the reduced units in Block T will be relocated to Blocks P and U to provide a better mix of detached units and townhouses. The net density reduction for the entire development would be 31 units.

Fines

In the staff report prepared for the June 29, 2006, non-compliance hearing for Clarksburg Village, staff recommended a total fine of \$1,192,500 for all six non-compliance items. Staff, however, also recommended that certain areas of Clarksburg Village, which have already been approved, could be significantly enhanced and the costs inherent in such a redesign, including the possible loss of some units, might be viewed as an acceptable alternative to the assessment of some or all of the proposed fines. Staff considers the design improvements identified in the Compliance Program significant but still recommends a fine of \$100,000.

Future Action

If the Planning Board approves the Compliance Program, the respondent will finalize the amended Site Plan 82003002B in accordance with the Compliance Program and resubmit it to the Planning Board for review and approval. Certain details and elements of the Compliance Program, such as the development standards for individual units, final numbers and types of various dwelling units, and the design of the added amenities, may be modified during the review process. The Planning Board's approval of amended Site Plan 82003002B will also set the final timing requirement for all the amenities which will be provided by the respondent for the entire Clarksburg Village development.

STAFF RECOMMENDATION: Approval of the following Compliance Program for Clarksburg Village to permit the respondent to take corrective action to comply with the approved plans and the Zoning Ordinance requirements, and to allow the respondent to propose modifications to the

approved site plan:

1. Corrective Action

The respondent shall provide the following site plan modifications through Site Plan Amendment 82003002B to meet the Zoning Ordinance requirements and to be in conformance with the approved Preliminary Plan 12001030A:

- a. Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
- b. Eliminate the proposed 48 multiple-family units in four buildings in Block T.
- c. Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one-family detached units with a lot area of no less than 6,000 square feet, except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units with attached garages.
- d. Provide a minimum building setback of 25 feet from street for all the one-family detached units in the R-200 zone, except for corner lots, in accordance with Section C-1.623 of the Zoning Ordinance.
- e. Modify the right-of-way from 50 feet (Department of Public Works and Transportation Design Standards mc-210.02) to 27 feet and 4 inches (mc-210.03) on Granite Rock Road (from station 10+15 to 15+07), British Manor Drive (from station 1+03 to 0+00), Bent Arrow Drive (from station 10+52 to 5+90), and Robin Song Drive (from station 5+90 to 8+11). This right-of-way modification resolves the 25-foot minimum building set back issue on eight existing homes (Lots 12, 13, 23, and 26 of Block G, Lot 10 of Block H, Lots 10 and 13 of Block K, and Lot 10 of Block L), and the 6,000-square-foot minimum lot size issue for one existing home on Lot 12 of Block G.
- f. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.

2. Provision of Complete Development Standards for the R-200/TDR 3 zone portion.

The development standards as shown on Attachment A shall be established through Site Plan Amendment 82003002B for the proposed development. These standards may be modified in accordance with the Planning Board's review of Site Plan Amendment 82003002B.

3. Design Improvements

The respondent shall modify the design of Blocks P, U, and T as shown on Attachment B to provide the following design features:

- a. Integration of various dwelling types.
- b. Reduction of the density in Block T by approximately 40 dwelling units.
- c. A north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail.
- d. A major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space.
- e. A trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail.

- f. Replacement of the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community.

All of the design changes shall be incorporated into Site Plan Amendment 82003002B and approved by the Planning Board prior to issuance of any building permit.

4. Additional Amenities

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

- a. Park facilities to be located on the proposed Park/School site:
 - (i) Two rectangular athletic fields with dimensions of 180 feet by 300 feet plus a 20-foot-wide flat sideline area along all sides of the fields.
 - (ii) A paved parking area for 57 cars to be located off Blue Sky Drive as shown on the approved site plan.
 - (iii) One picnic shelter constructed on a concrete slab and including picnic tables, to be located on Blue Sky Drive adjacent to the athletic fields and parking lot.
 - (iv) Adequate stormwater management for the facilities.
 - (v) The remaining site where the school and its facilities are to be located to be fine graded and seeded to adequately accommodate various athletic practice fields.
 - (vi) Paved trails between facilities, landscaping, water fountain and adequate park signage.
- b. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The design of these facilities shall be incorporated into Site Plan Amendment 82003002B.
- c. The park facilities to be provided on the Park/School site shall be completed and accepted by M-NCPPC within 9 months after approval of plats and plans for Stringtown Road improvements or the issuance of the building permit for the 600th dwelling units for the proposed development, whichever comes first.
- d. Additional landscaping:
 - (i) Increase the size of all unplanted street trees from 2 ½ - 3" to 3 - 3 ½" caliper.
 - (ii) Add 300 trees in reforestation area, which are 2 - 2 ½" caliper in size.
 - (iii) Increase landscaping around the proposed pool facility by 25 percent.
- e. Two picnic shelters near the proposed Greenway trail.
- f. A \$50,000 contribution to the Clarksburg Village Homeowners Association prior to October 31, 2006, to be used at the discretion of homeowners, not the developer.

5. Fines

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

6. Process of Record Plats

The Planning Board staff may process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of

Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

BACKGROUND

Overview

Clarksburg Village is a 771-acre, large-scale development that was proposed for a mix of uses in three different phases. The Planning Board's Preliminary Plan opinion, which was amended twice, ultimately approved 2,654 dwelling units, 20,000 square feet of office/retail, and 5,000 square feet of daycare. The plan also called for two school sites, parks, greenways, trails, and recreational facilities. The subject Compliance Program is for the first phase of the development.

Site Vicinity/Description

Clarksburg Village is located in Clarksburg, Maryland. It is bounded to the north by Stringtown Road, which separates it from Clarksburg Town Center. The eastern portion of the site is bounded by a stream, beyond which is Greenway Village (a.k.a. Arora Hills). The Clarksburg Greenway bounds the western edge of the site, beyond which is Frederick Road (MD 355). The southern boundary of Clarksburg Village is Ridge Road.

The first phase is the northern half of the site closest to Stringtown Road and Clarksburg Town Center. The second phase is to the south. The third phase is the village center, which consists of several blocks of primarily commercial development next to Greenway Village/Arora Hills, along Newcut Road.

Phase One Site Plan Approval 8-03002

The Planning Board approved the Site and Water Quality Plan 8-03002 for Phase One of the development on July 31, 2003 for 933 dwelling units on 333.87 acres. The site development plan of the signature set was approved on August 9, 2004. The entire signature set package, inclusive of the Site Plan Enforcement Agreement and Development Program, was approved on May 12, 2005.

The Planning Board opinion for Site Plan 8-03002 approved 933 dwelling units, including 471 one-family detached dwelling units, 414 Townhouses, inclusive of 44 MPDU Townhomes, and 48 multiple family dwelling units in four buildings, which were all MPDU's.¹

Amended Phase One Site Plan 8-03002A

An amended site plan 8-03002A was approved by the Planning Board on December 23, 2004, to add 30 acres (for a total of 363.87 acres) near Stringtown Road to Phase One and revise the layout in that area. The amendment approved 997 dwelling units in Phase One. This is an increase of 64 dwelling units over the original site plan approval.

¹ The remaining MPDUs required for Phase One are to be provided "off-site" in Phase Two. Building permits for 231 market rate units in Phase One were to be withheld until the building permits were issued for the required MPDUs off-site in Phase Two.

Development Status

Phase I of Clarksburg Village is currently under construction. According to the most recent information provided by the developer, dated September 22, 2006, 245 dwelling units have been built and 59 units are under construction (see Attachment B). The following table shows the breakdown of the units.

	Number of Units Completed	Number of Units Under Construction	Total
One-family Detached	164	22	186
Townhouse	57	17	74
Two-over-two	24	20	44
Total	245	59	304

Within the developed areas, the following recreations facilities have been completed: 2 open play areas (type 2), 1 tot lot, 1 multi-age play area, 1 picnic area, 11 seating areas, and one gazebo.

The site for the proposed pool and pool house/community room has been graded. The respondent will start the construction of the pool facilities upon obtaining permits from the Department of Permitting Service. M-NCPPC staff has signed off on the permit application for the pool facilities. The pool will be open in 2007 according to the respondent's plan.

NON-COMPLIANCE HEARINGS

May 4, 2006- Initial Public Hearing

An initial public hearing regarding the nature and extent of the alleged acts of non-compliance and deficiencies discovered by staff was held on May 4, 2006. Both the developer and general public had an opportunity to respond to the information provided in the staff report, and also to provide any additional information that might be relevant to a Planning Board decision. Six alleged "violations" were identified.

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

May 11, 2006 – Continuation of May 4, 2006 hearing

On May 11, 2006, the Planning Board issued a Corrective Order for 83 lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The developer entered into "stipulations of fact" as part of the Corrective Order. The stipulations identify certain matters of fact that are not contested by the developer – and therefore deemed resolved for the purpose of the Planning Board's decision on the merits – as opposed to any other facts relating to the project that remain open to dispute.

June 29, 2006 – Continuation of May 11, 2006 hearing

On June 29, 2006, the Planning Board conducted a preliminary vote on alleged acts of non-compliance and found non-compliance for all the items identified in the staff report. The Planning Board also rejected the respondent's proffer and directed staff to determine an appropriate Compliance Program and/or fines.

July 20, 2006 – Continuation of June 29, 2006 hearing

On July 20, 2006, the Planning Board reviewed the respondent's request to issue a Corrective Order for 100 lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The Planning Board deferred action to July 27 on the staff recommendation of approval of an amendment to the corrective order of May 11, 2006, to establish development standards for 65 additional units, including 47 one-family detached units and 18 townhouses, and the proposed pool facility on Parcel A of Block P.

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

On July 27, 2006, the Planning Board approved staff recommendation for approval of development standards for 65 identified dwelling units, including 47 one-family detached units and 18 townhouses, and the proposed pool/club facility on Parcel A of Block P, contingent on Department staff receiving written assurances from the respondent from the builders concerning content and timing of disclosure documents. The Planning Board also delegated to staff the decision of whether to accept the adequacy of the disclosure statements and the revised layout for the proposed pool and pool house.

PROCEDURAL POSTURE

Staff recommendation on the Compliance Program for the subject development is based on Section 59-D-3.6 of the Zoning Ordinance, which provides that if the Planning Board finds that "any term, condition, or restriction in a certified site plan is not being complied with," the Board may take the following actions:

- 1) impose a civil fine or penalty authorized by Section 50-41;
- 2) suspend or revoke the site plan;
- 3) approve a compliance program which would permit the developer to take corrective action to comply with the certified site plan;
- 4) allow the developer to propose modifications to the certified site plan, or
- 5) take any combination of these actions.

NON-COMPLIANCE ITEMS

On June 29, 2006, the Planning Board found the following non-compliance items identified in the staff report dated June 19, 2006 (Attachment C):

1. Discrepancy between Planning Board opinion and Signature Set of Site Plan 8-03002 in the numbers of one-family detached units and townhouses.
2. Multiple-family units in the R-200/MPDU Zone.
3. Lot size for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 6,000 square feet for one-family detached units.

4. Building setbacks for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 25 feet setback from street for one-family detached units.
5. The Right-of-way for Foreman Boulevard is less than that shown on the approved Preliminary Plan.
6. Lack of Complete Development Standards in the R-200/TDR3 zone.

RESPONDENT'S PROFFER / STAFF COMMENTS

The respondent submitted a revised proffer (Attachment D), which includes 21 items, to address the non-compliance issues for the development.

Changes to the Approved Plans to Meet the Lot area and Building Setback Requirements

The proffer proposes the following changes to the approved site plans (see Attachment B- modified lots are outlined in red) to correct lot size and building setback problems for certain lots in Blocks G, H, and K through combining lots and reducing the width of the right-of-way for portions of four public roads:

Block G

1. Six one-family attached units were replaced with five one-family detached units, all lots will have a minimum 6000 square feet. Houses were shifted back to meet the 25-foot front building restriction line. (The location of these units is indicated on the Development Status and Proposed Changes Exhibit -Attachment B as 1A.)
2. Two one-family attached units were replaced with two one-family detached units. The rear lot line was shifted to achieve 25 feet front building restriction line. (Location 1B)
3. Four one-family attached units and one one-family detached unit have been replaced with four one-family detached units. (Location 1C)
4. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location 1D)
5. Building attachments were modified on lots 21 and 22 to have attached garages. Lot 23, which was a one-family attached unit, is now a one-family detached unit. Lot 21, which was a one-family detached unit, is now a one-family attached unit. (Location 1E)
6. Two one-family attached units were replaced with two one-family detached units. (Location 1F)

Block H

1. Five one-family attached units were replaced with four one-family detached units. Houses were shifted back to meet the 25-foot front building restriction line. (Location 2A)
2. Propose a reduced width tertiary road to increase the lot area and setback. (Location 2B)

Block K

1. Four one-family attached units were replaced with two one-family attached units and two one-family detached units. The building attachment was modified on lots 11 and 12 to have attached garages. (Location 3A)
2. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location

3B)

Block L

1. Two one-family attached units were replaced with two one-family detached units. Lots 11- 14 (new lot numbers 31-34) have been adjusted so that lot 11 (new lot number 31) has more than 6000 s.f. (Location 4A)
2. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location 4B)

▪ **Staff Comment**

The approved site plan shows a number of one-family attached units in the R-200/MPDU zoned portion of the development with an unidentified attachment feature between units. The respondent proposed a “trellis” as the connecting element between units, which is not acceptable to the staff and the Department of Permitting Services in accordance with the Zoning Ordinance. Without a qualified attachment feature, such as a common wall or attached garages, these units would be considered as detached units and must have a minimum building setback of 25 feet from street and a minimum lot area of 6,000 square feet.

The approved site plan can be modified to meet the lot size and setback requirements through combining lots for unbuilt units, but there are eight houses which have been built and do not meet the lot size and/or setback requirements. Deleting and combining undeveloped lots would not address all the problems for these eight units. Staff has considered other options, such as a zoning map amendment or zoning text amendment, to solve the problems for the units which are currently occupied by individual homeowners. Staff agrees with the respondent that the most practical way to solve the problems, in addition to combining lots, is to reduce the width of the right-of-way for portions of four public streets on which these lots have a frontage. The right-of-way reduction will not change the design of the road, i.e. the pavement width and the sidewalk location, but will help these lots gain additional areas for lot size and setback. However, it requires the Planning Board’s approval of a waiver to the subdivision regulations.

Design Improvements to Blocks P, T, and U and Increase of Foreman Boulevard Right-of-Way
The proffer proposes the changes to the approved site plans (see Attachment B- modified lots are outlined in red) to improve the design of the following areas:

Block P

1. Ten one-family detached units were replaced with twenty town houses. (Location 5A)
2. Four front-loaded-garage lots were revised to six alley-loaded-garage lots. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet. (Location 5B)

Block U

Two front-loaded-garage lots were revised to three alley-loaded-garage lots. (Location 6)

Block T

Complete redesign of the layout of Block T to incorporate various dwelling types and provide a better open space/pedestrian system throughout the block. The following table shows a comparison of the approved development program with the revised plan for Block T.

	Approved	Revised	Changes
One-family Detached Units	0	21	+ 21
Townhouses	171	99	- 72
One-family Attached Units	0	58	+58
Multiple-family Units	48	0	- 48
Total	219	178	- 41

▪ Staff Comment

Staff has been working with the respondent to identify areas of the development for improvement and to revise the plan for the identified areas. The goal is to achieve a better integration of various dwelling types and to improve the pedestrian/open space system for these areas. Block T, as shown on the approved site plan, has a high concentration of townhouses and four multiple-family buildings with 90-degree parking arrangement along the internal driveway.

The revised plan moved some townhouses from Block T to Block P and added detached units to Block T. It created a north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail and a major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space. It also proposes a trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail. The plan replaced the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community. Overall, the proposed plan improves the design quality of the development, especially in Block T. The revised plan also proposes more MPDUs to be provided in the first phase of the development, an increase from 108 to 118 units.

Additional Amenities

The proffer proposes a number of amenities to be provided by the respondent in addition to the facilities already required by the approved site plan:

1. Increase the caliper of all unplanted street trees in Phase 1 from 2 ½ - 3" to 3 - 3 ½".
2. Add 100 trees in reforestation area which are a minimum 2" caliper in size.
3. Increase landscaping around pool facility by 25%.
4. Add an office in the clubhouse for the use of the HOA's management staff.
5. Make a \$ 50,000 contribution to the HOA to be used at the time and discretion of homeowners, not the developer. Add two covered picnic shelters each having 2 picnic tables.
6. Re-plan the "P", "U", and "T" blocks as shown on the attached exhibit. Eliminate approximately

26 units from these blocks combined. Add additional product types into these blocks.

- **Staff Comment**

Staff recommends additional park facilities, including a paved parking lot and a picnic shelter, to be provided by the respondent. In addition, 300 additional trees, not 100, should be provided in the reforestation area. The final design of the facilities will be review in detail at the time of site plan amendment review.

Fines

The respondent also agrees to make a payment of \$ 100,000 to MNCP&P to cover the cost of the violation review and corrections. The respondent requests that this payment shall also serve as the review fee for the necessary Preliminary plan revisions.

- **Staff Comment**

In the staff report prepared for the June 29, 2006, non-compliance hearing for Clarksburg Village, staff recommended a total fine of \$1,192,500 for all six non-compliance items. Staff, however, also recommended that certain areas of Clarksburg Village, which have already been approved, could be significantly enhanced and the costs inherent in such a redesign, including the possible loss of some units, might be viewed as an acceptable alternative to the assessment of some or all of the proposed fines. Staff considers the design improvements and the reduction of development density (31 units) identified in the Compliance Program significant and recommends a fine of \$100,000.

Process of Record Plats

As part of the proffer, the respondent requests M-NCPPC staff process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

- **Staff Comment**

Staff agrees that, if the Planning Board approves the Compliance Program, the record plat applications for lots which are not affected by any corrections due to site plan non-compliance can be processed prior to the approval of Site Plan Amendment 82003002B by the Planning Board.

CONCLUSION

Staff recommends approval of the Compliance Program as listed in the STAFF RECOMMENDATION section above. The combination of a corrected site plan, design

improvements, additional amenities, and fines adequately addresses the non-compliance items found by the Planning Board for Clarksburg Village. If the Planning Board approves the Compliance Program, the respondent will finalize the amended Site Plan 82003002B in accordance with the Compliance Program and resubmit it to the Planning Board for review and approval.

Certain details and elements of the Compliance Program, such as the development standards for individual units, final numbers and types of various dwelling units, and the design of the added amenities, may be modified during the review process. The Planning Board's approval of amended Site Plan 82003002B will also set the final timing requirement for all the amenities which will be provided by the respondent for the entire Clarksburg Village development.

ATTACHMENT

- A. Development Standards
- B. Revised Plans
- C. June 19, 2006 staff report
- D. Respondent's Proffer