



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

SEP 14 2015

MCPB No. 15-97  
Site Plan No. 820150030  
The Courts at Clarksburg  
Date of Hearing: July 30, 2015

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on October 6, 2014, Windridge Farms LLC ("Applicant"), filed an application for approval of a site plan for 140 age-restricted one-family detached units including 12.5 percent MPDUs on 54.32 acres of PRC zoned-land, located on the west side of Ridge Road/MD-27, north of Brink Road ("Subject Property"), in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820150030, the Courts at Clarksburg ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 17, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 30, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 30, 2015, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Fani-Gonzalez, seconded by Commissioner Presley, with a vote of 4-0; Commissioners Anderson, Fani-Gonzalez, Presley, and Wells-Harley voting in favor and Commissioner Dreyfuss being absent.

Approved as to  
Legal Sufficiency

*Christina Sout* 8/11/15  
MNCPPC Legal Department

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820150030 for 140 age-restricted one-family detached units including 12.5 percent MPDUs on the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals & Agreements**

1. Development Plan and Local Map Amendment Conformance  
The development must comply with all binding elements of District Council Resolution No. 17-780 approving Local Map Amendment G-881 dated June 11, 2013.
2. Preliminary Plan Conformance  
The development must comply with the conditions of approval for Preliminary Plan No. 120150060, or as amended.

### **Environment**

3. Forest Conservation & Tree Save  
The Applicant must comply with the conditions of the approved Final Forest Conservation Plan No. 820150030.
  - a) The Applicant must submit and obtain Staff approval of a revised Final Forest Conservation Plan as described below.
    - i. Include a list of all trees 24" DBH and greater that were identified on the approved Natural Resource Inventory/Forest Stand Delineation and Preliminary Forest Conservation Plan, with size, species, condition, and impact status noted. The trees in the list should be numbered and correspond to the number identifying the tree on the sheet where they are located.
    - ii. Incorporate all offsite limits of disturbance into the forest conservation plan, including the forest conservation worksheet. Include any resulting additional forest planting on the revised Forest Conservation Plan.
  - b) The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- c) The Applicant must provide financial surety to the M-NCPPC Planning Department for the 7.01 acres of new forest planting prior to the start of any demolition, clearing, or grading on the Property.
  - d) The Applicant must submit a five year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
  - e) The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements.
  - f) Afforestation plantings that are located outside the limits of disturbance must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
  - g) The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
  - h) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
4. Clarksburg SPA Water Quality Plan  
The Applicant must comply with the conditions of the approved Final Water Quality Plan No. 820150030.
- a) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) Final Water Quality Plan approval letter dated April 17, 2015 and the reconfirmation letter dated June 30, 2015.
  - b) Prior to recording of the plat, the Applicant must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 28.0 percent on the Property and not more than 29.5 percent total including any offsite improvements required to be constructed by the Applicant. The impervious surface agreement may provide for the phased release of building permits to ensure ongoing compliance with the impervious surface limit, and must be reviewed and approved by the M-NCPPC Office of General Counsel.
  - c) Prior to release of the first building permit, the Applicant must demonstrate that the approved plans conform to the impervious surface limit. Any modifications which increase impervious surfaces beyond 28.0 percent on the Property, or 29.5 percent total including any offsite improvements will require Planning Board approval.

5. Noise Attenuation

- a) Prior to issuance of the first building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer that specializes in acoustical treatment that:
  - i. The location and construction materials of the noise mitigation techniques to attenuate current and/or proposed noise levels to no more than 60 dBA  $L_{dn}$  for the outdoor backyard area of homes and areas of common outdoor activity are adequate.
  - ii. The building shell and materials used for residential dwelling units to be constructed within the projected 60 dBA  $L_{dn}$  noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA  $L_{dn}$ .
- b) Prior to issuance of the first building permit, the Applicant must provide certification to M-NCPPC Staff that they will construct the noise impacted units in accordance with the recommendations of the engineer that specializes in acoustical treatments.
- c) Prior to issuance of the first building permit, the Applicant must provide acknowledgement to M-NCPPC Staff that if any changes occur to the plan which affect the validity of the noise analysis dated March 17, 2015, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the revised plans and new noise attenuation features may be required.

**Public Use Space, Facilities, Amenities**

6. Common Open Space Covenant

The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578.

7. Recreation Facilities

- a) Before Certified Site Plan approval, the Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate to M-NCPPC Staff that each element meets M-NCPPC Recreation Guidelines.
- b) Prior to the issuance of the 2nd building permit (the first building permit being for the sales model unit), the Applicant must submit to the M-NCPPC Office of General Counsel recorded documents confirming that all of the property in the Courts at Clarksburg has been annexed to and is part of the Clarksburg Village Homeowners Association in order to make all amenities at Clarksburg Village available to all residents at the Courts at Clarksburg. Any subsequent changes to the Homeowners Association documents pertaining to access to recreational amenities for residents of the Courts at Clarksburg must be approved by the Planning Board prior to becoming effective.

- c) The Applicant must provide at a minimum the following recreation facilities:  
(1) indoor community space, (1) community garden, (2) natural areas, (7) picnic/sitting areas, (1) pedestrian system.

## **Transportation & Circulation**

### **8. Transportation**

- a) The perpendicular vehicular parking spaces being constructed on Street A (2 spaces), Street B (4 spaces), and Street C (4 spaces) must be placed outside of the right-of-way. The spaces must be privately maintained along with the sidewalk that is outside of the right-of-way unless a maintenance agreement is executed with the MCDOT. Signs must be posted that these spaces are for visitors and should be based on the Manual on Uniform Traffic Control Devices (MUTCD).

### **9. Pedestrian & Bicycle Circulation**

- a) The Applicant must construct the following paths as shown on the Site Plan:
- i. A 5-foot hard surface path from Street A to the 10-foot shared use path being constructed by the Applicant on Ridge Road (MD 27).
  - ii. A 5-foot hard surface path from the cul-de-sac on Street C to the 8-foot shared use path on the south/west side of Snowden Farm Parkway.
  - iii. A 5-foot natural surface path from the cul-de-sac on Street C to Street B.
  - iv. A 5-foot natural surface path from Street B to the 8-foot shared use path on Ridge Road (MD 27).
  - v. A 5-foot hard surface path from the perpendicular parking spaces on Street B to the 8-foot shared use path on Ridge Road (MD 27).
  - vi. A 5-foot natural surface path from the cul-de-sac on Street B to Street D.
- b) The Applicant must install public bicycle parking racks (inverted U or an equivalent design approved by the Department of Permitting Services "DPS") to accommodate four bicycle parking spaces at the community center as indicated on the Site Plan.

## **Density & Housing**

### **10. Moderately Priced Dwelling Units (MPDUs)**

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated June 9, 2015, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a) The development must provide 12.5 percent MPDUs on-site consistent with the requirements of Chapter 25A and the applicable Master Plan.
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and DHCA must be executed.

## **Site Plan**

### **11. Site Design**

- a) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

### **12. Private Lighting**

- a) Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for residential development.
- b) All on-site down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on proposed fixtures causing potential glare or excess illumination.
- d) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The light pole height must not exceed 12 feet including the mounting base.

### **13. Site Plan Surety and Maintenance Agreement**

Before issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to, plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, paths and associated improvements within the relevant Phase of development. The surety must be posted before issuance of any building permit within each relevant Phase of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by inspection and potential reduction of the surety.

- d) The bond or surety for each block/phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each block/phase.

14. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

15. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the final forest conservation approval letter, stormwater management concept approval letter, development program, and Site Plan Resolution (and other applicable resolutions) on the approval or cover sheet(s).
- b) Prior to Certified Site Plan, the Applicant must address Eplans markups including minor clarifications and corrections to the plan drawings.
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Consolidate "amenity planting plans" and "amenity layout plans" in one set of plan drawings.

BE IT FURTHER RESOLVED, that all site development elements as shown at the end of Review Cycle No. 2 as submitted via ePlans to the M-NCPPC, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan conforms to all non-illustrative elements and all binding elements of the Development Plan approved with Zoning Application G-881 by the District

Council on June 11, 2013, with Resolution No. 17-780. The binding elements specified densities, use, mix of housing types, building heights, impervious cap, and age restriction. The Development Plan also included a note about landscape screening for stormwater management facilities along the western property line.

The Site Plan conforms to these binding elements by developing the Subject Property with 140 one-family age-restricted detached units; providing 12.5% of the units (or 18 units) as MPDUs; limiting building height to 35 feet; and maintaining the impervious area as further discussed in the Conformance with Chapter 19 and 22a Findings below. In addition, the Site Plan includes evergreen trees mixed with some flowering trees as a screen along the western property boundary (as further discussed in the compatibility Finding below).

*2. The Site Plan meets all of the requirements of the PRC zone in which it is located.*

The Site Plan meets all of the requirements of the Planned Retirement Community (PRC) Zone and satisfies the purposes of the Zone as established by the Zoning Ordinance in effect prior to October 30, 2014, when this Application was accepted. Section 59-C-7.41 indicates that the purpose of the Zone is to allow planned retirement communities, "accessible to or providing within" most of the day-to-day recreational, medical, retail, commercial and similar services required by the residents thereof. The section also provides that "Consideration must be given to the size of development (in acres) and the use of the site when determining whether day-to-day services and public facilities must be provided." Consistent with the District Council findings for G-881, given the size of the Property and its proximity to commercial uses and recreational amenities located off-site, the Site Plan satisfies the purpose of the PRC Zone.

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the PRC Zone.

**Data Table**

Development Standard	Zoning Ordinance Permitted/Required <sup>(a)</sup>	Approved & Binding on Applicant
<b>Site Area (acres)</b>		
Min. Gross Tract Area (GTA) [59-C-7.43]	25	54.32
Road Dedication Ridge Road Snowden Farm Parkway Brink Road	n/a	0.02 2.72 0.45
Net Area	n/a	48.54
<b>Density</b>		
Total Units	n/a	140
Max. Residential Density (du/acre) [59-C-7.44-a]	10	2.58
MPDUs [Chapter 25A] [59-C-7.44-b3]	12.5%	12.5% (18 MPDUs)
<b>Min. Building Setbacks (ft)</b> [59-C-7.45]	Not less than the setback of the adjacent zone	
North: Greenridge Acres Subdivision	C-Inn: 75 (min. from boundary)	75
East: Ridge Road	RDT: 50 (min. from street)	50
South: Brink Road	RE-2: 50 (min. from street)	50
West: Brink Meadows	RE-2: 35 (min. rear yard)	35
<b>Min. Individual Lot Setbacks</b>		
Front (from Street)	n/a	15
Side	n/a	4
Rear	n/a	15
Noise fence	n/a	0
<b>Min. Green Area</b> [59-C-7.462]		
	50% (24.33 acres)	67% (32.6 ac.)
<b>Max. Building Height (ft)</b> [59-C-7.47]		
One-family detached	No building higher than 100'	35
Clubhouse		35
Accessory buildings		15
<b>Min. Vehicle Parking Spaces</b> (59-E)		
Residential (140 units)	2 spaces/du = 280	280 <sup>(b)</sup>
Community Center (2,800 SF)	2.5 spaces/1000 SF <sup>(c)</sup>	7
On-street visitor parking	n/a	17
Total	287	304
<b>Bicycle Parking</b> (number of spaces)		
Racks	n/a	4

<sup>(a)</sup> The Site Plan has been reviewed under the standards and procedures of the Zoning Ordinance in effect prior to October 30, 2014 as allowed by Section 7.7.1.B.1 of the Zoning Ordinance.

<sup>(b)</sup> Additional residential parking can be accommodated in some driveways.

<sup>(c)</sup> Consistent with the Development Plan G-881 approval.

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The location of buildings and structures is adequate, safe, and efficient. The Site Plan includes 140 one-family detached units located internally within the site and fronting on internal public streets. The units are efficiently located to maximize density on the infrastructure provided, and free up areas of contiguous open space mostly on the periphery of the Property, which permits adequate setbacks and buffering from adjacent communities and roads.

The location of the Clubhouse, where Street B curves after entering the Property on Future Snowden Farm Parkway, enables adequate visibility and emphasizes it as a focal point for the community. In addition, this location provides efficient access from the internal sidewalk system and nature trail system. This location, approximately at a mid-point in the Property, will be safe and convenient for all.

Additional structures provided include entrance monument signs, which are located outside the right-of-way and coordinated with Clarksburg Village for style and materials.

b. Open Spaces

The location of open space is adequate, safe, and efficient. The Site Plan provides a variety of well-connected open spaces that accomplish several goals and requirements including recreation, reforestation, stormwater management and compatibility. The amenity and open space concept consists of 3 main areas connected by a trail and sidewalk system. Area 1 is a natural park with an area of open lawn, seating and a pergola. Area 2 is the Clubhouse with a community garden, and an outdoor patio for grilling and seating. Area 3 is a passive linear seating area with lawn and seating nooks. These Areas are connected by sidewalks and thematic trails that include specific plantings and design elements, such as bird boxes, to attract butterflies and birds, respectively. Also at key locations along the trails, the plan provides dog stations.

Another significant open space feature, that also meets reforestation requirements, is located along the western property boundary and has been designed as a linear park with the Clubhouse at its northern terminus. This open space feature includes a trail system linking Ridge Road Local Park, across Brink Road to the south, to Future Snowden Farm Parkway to the north and the open space network and amenities beyond it in Clarksburg Village.

Other areas of open space, such as along the northern property boundary and at the corner of Brink and Ridge Roads, in addition to meeting reforestation and forest conservation requirements, enable buffering from adjacent communities and roads, which improves compatibility.

c. Landscaping and Lighting

The landscaping with an emphasis on native species is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides screening and buffering within the project, as well as between the project and adjacent roads and property. The Property is adequately screened and buffered through the use of perimeter landscaping along Ridge Road and Snowden Farm Parkway, as well as the western property boundary from the adjacent community as required in G-881. Within the project, larger evergreen shrubs and trees contribute to an adequate visual separation between the passive linear seating area and adjacent residential units.

The Linear Park benefitted from additional landscape design to better accomplish amenity and recreation goals, while meeting reforestation requirements. Measures include locating individual plant species to create maximum visual display and effect, and planting larger caliper trees than customary. Several 5-inch caliper trees are located along the edge of the path and the rest of the trees are 3 ½ - 4 inch caliper in size. This will help establish the forest sooner, and keep the smaller vegetation from getting accidentally trampled.

Lastly, the landscape provides canopy coverage and shade for roads, and open spaces. It defines open spaces and amenity areas by creating an edge or boundary, and adding interest. For instance, the Natural Park at the corner of Ridge Road and Future Snowden Farm Parkway has plant material efficiently delineating the perimeter of the open play area. Smaller plant material, such as herbaceous plants, evergreen and deciduous shrubs, and ornamental trees, in conjunction with monument signs emphasize the entrances to the development.

The lighting is adequate, safe, and efficient. The majority of the light fixtures provided are located along the new public streets within the public right-of-way, which must comply with MC-DPS and MC-DOT requirements and can be adjusted without amending the Site Plan. Lighting outside the public right-of-way is located around the community center near the parking area and the main entrance, and consists of pole mounted light fixtures with a maximum pole height of 12 feet. The lighting provided will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties.

d. Recreation Facilities

The recreation facilities provided are adequate, safe, and efficient. As an age 55 and older community (consistent with the PRC Zone and binding elements of G-

881), the Site Plan emphasizes recreation facilities for the older age groups. It provides a Clubhouse with indoor community space that will serve the future residents and envisioned to accommodate HOA meetings, classes and gatherings. Outside the Clubhouse, the Site Plan has a patio for grilling and picnicking, and a community garden. The Site Plan provides natural areas with a trail system, and seating at key locations. Certain trail connectors were designed with a theme (i.e. greenway trail, butterfly garden trail, bird trail) in which specific plant material and features (i.e. flowers to attract butterflies, bird boxes) were used to enrich the recreational experience of the users. Boulders placed on slopes were intended for more informal recreational opportunities that could appeal to the younger age groups as well.

The Site Plan requests credit for off-site facilities located in Ridge Road Recreational Park immediately to the south of the Property across from Brink Road. Facilities at this Park range from multi-age playground, volleyball, multipurpose court, tennis, soccer fields, softball, to open play areas amongst others. These off-site facilities supplement those provided on-site by offering recreation opportunities for the younger age groups. The Site Plan meets all the recreation requirements through on-site and offsite facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. The facilities adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation for the various age groups.

Additionally, and as conditioned, the Applicant will submit recorded documents confirming that all of the property in the Courts at Clarksburg has been annexed to and is part of the Clarksburg Village Homeowners Association in order to make all amenities at Clarksburg Village, including the two Clarksburg Village pool facilities and community clubhouses, available to all residents at the Courts at Clarksburg. This was a strong consideration for the District Council in finding that the application met the purpose of the PRC Zone.

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. Access to the 140 one-family detached units is provided via two full movement site access points, one along Brink Road (a County road) and one along the future extension of Snowden Farm Parkway (a County road). An over length cul-de-sac, Public Street A, provides access to 29 units on the northern portion of the Property from Snowden Farm Parkway. The southern portion with the remaining 111 units can be accessed from either Snowden Farm Parkway via Public Street B or from Brink Road via Public Street D.

Pedestrian circulation within the Property is accommodated via sidewalks on both sides of all public streets except on the cul-de-sac bulbs. A well-connected trail system links the sidewalk system to the amenity areas and the shared use

paths on the perimeter of the Property. On Ridge Road, the new 10-foot shared use path will continue the soon-to-be-built path along this frontage. On Brink Road, the new 8-foot shared use path along the Property's frontage will provide a safer condition for bicyclists than on-road bicycle lanes.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development. Several measures improve the compatibility between this development and the surrounding existing development. First, the dwelling type selected is all one-family detached units even though the DPA allowed a mix of detached and attached units. This dwelling type is consistent with the dwelling type in the surrounding communities, which is also mainly one-family detached. Second, the building height is capped at 35 feet for all units and the Clubhouse, which is lower than the maximum height of 50 feet allowed in the adjacent RE-2 zone to the west. Third, the building setbacks shown on the plans are greater than the minimums required, which sets the new units farther away from the property lines and consequently decreases impacts on adjoining properties. Fourth, the new units will have a reduced presence and limited visibility on Ridge Road because the road is generally 5 to 10 feet higher than the Subject Property. Fifth, the development is adequately screened from surrounding roads and properties by preserving natural features and supplementing existing vegetation with new plant material. Lastly, noise barriers are provided along the lot property lines and the site property line ranging between 6 to 10 feet in height to reduce the yard noise levels to meet the exterior noise guidelines, which improves compatibility with the surrounding roads.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A. Forest Conservation

The Board finds that as conditioned, the Site Plan meets all applicable requirements of the Forest Conservation Law. A Preliminary Forest Conservation Plan G-881 was approved on January 16, 2013. As required by Section 22A-4 of the Montgomery County Code, the Application includes a Final Forest Conservation Plan (FCP).

Future A-305/M83 (Snowden Farm Parkway) will bifurcate the Property. A separate Forest Conservation Plan for this master planned road was approved by Planning Board Resolution dated June 28, 2011 and amended on September 4, 2012, as part of a Mandatory Referral (MR2010814) and includes some disturbance, including

forest clearing on the Subject Property. The net tract area and existing forest calculations included in the FCP reflect the revised calculations after deducting the property and forest area included in MR2010814.

The FCP retains the existing 0.21 acres of forest in its entirety and has an afforestation planting requirement of 7.01 acres that will be met on-site. All of the retained and planted forest and the environmental buffer area will be protected in a Category I Conservation Easement. Impacts to trees subject to Section 22A-12(b)(3) of the Montgomery County Code were approved as part of the Planning Board approval of the Preliminary Forest Conservation Plan.

The 7.01 acres of afforestation is required under Section 22A-12(d) of the Montgomery County Code:

“(1) A site with less than 20 percent of the net tract area in forest cover must be afforested in accordance with the required afforestation percentages shown on the table in subsection (a) of this Section.”

The afforestation requirement under 22A-12(a) for planned unit development areas is 15%, and based on a net tract area for forest conservation of 48.12 acres, the afforestation requirement is 7.22 acres.

As a planned unit development, this Application is subject to Section 22A-12(f)(2)(C) of the Montgomery County Code:

“On a site covered by this subsection, if existing forest is less than the minimum required retention, all existing forest must be retained and on-site afforestation up to the minimum standard must be provided. If existing forest is less than the applicable afforestation threshold in subsection (a), the afforestation threshold is the minimum on-site forest requirement.”

As noted above, the Application proposes to retain all of the existing forest (0.21 acres) and provide the required afforestation (7.01 acres) on-site.

#### B. Special Protection Area Final Water Quality Plan

The Board finds that as conditioned, the Site Plan meets all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas. The Subject Property is located within the Clarksburg Special Protection Area (SPA) and is required to obtain approval of a water quality plan under section 19-62 of the Montgomery County Code. A Preliminary Water Quality Plan (G-881) was approved by Planning Board Resolution dated January 16, 2013 during the review of the re-zoning of the Property, which included a Development Plan.

As part of the requirements of the SPA law, a Water Quality Plan must be reviewed in conjunction with a preliminary plan and site plan. The Final Water Quality Plan was submitted as part of the Site Plan. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of a Water Quality Plan. By letter dated April 17, 2015 and reconfirmation letter dated June 30, 2015, MCDPS has conditionally approved the elements of the Water Quality Plan under its purview which include site performance goals, stormwater management, sediment and erosion control, and monitoring of Best Management Practices. The Planning Board's responsibility is to determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

#### 1) Priority Forest Conservation Areas

As part of the FCP approval, the Planning Board determined that the Application complies with the SPA forest conservation and planting requirements. Per SPA requirements outlined in the Environmental Guidelines, areas of the environmental buffer currently lacking forest will be reforested and all of the forest plantings will be subject to a five year maintenance program to better ensure forest survival. The forest plantings that are located outside the limits of disturbance must occur within the first planting season following approval of the Certified Site Plan and plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area. The retained and planted forest on-site will be protected through a Category I Conservation Easement.

#### 2) SPA Environmental Buffer Protection

Based on the analysis provided in the Staff Report, the Planning Board determined that impacts caused by the disturbance to the environmental buffer for the creation of a five foot wide natural surface trail were minimized to the extent practicable. In order to avoid unnecessary impacts to existing vegetation, the exact location of the trail will be determined in the field with M-NCPPC Staff, no grading will be permitted, and no mechanized equipment will be used. A Category I conservation easement will provide long term protection to the environmental buffer and forest.

#### 3) Impervious Surfaces

The Clarksburg SPA does not have a specific numerical limit on impervious surfaces; however, a main goal for development in all SPAs is to reduce or

minimize the amount of impervious surfaces. In this case, the Development Plan (G-881) approval for the project included a binding element that limited impervious surfaces to 28% based on a net acreage of 49.4 acres. The Preliminary Water Quality Plan approved by the Planning Board at the time of the Development Plan application included a condition of approval that limited impervious surfaces to 26% over 49.4 acres, with the understanding that this condition may need to be reevaluated at the time of Site Plan and Final Water Quality Plan review due to additional requirements that may be deemed essential for the Site Plan. The Planning Board was satisfied that impervious surface levels have been minimized to the extent possible. As conditioned, the Planning Board revised the impervious surface limit to no more than 28.0 percent on the Subject Property and not more than 29.5 percent total including any offsite improvements required to be constructed by the Applicant. The following discussion outlines the history of the previous reviews and the rationale for approving this revision.

#### Development Plan

The Development Plan approval for the project included the following binding element:

"Impervious Area to be up to 28% based on a net acreage of 49.4 acres."

At the time of review of the Development Plan, the net acreage of 49.4 acres was derived based on the information available at the time which deducted 4.95 acres of proposed right-of-way dedication from the 54.35 acre total tract area. The updated area of right-of-way dedication of 5.78 acres results in a revised net acreage of 48.54 acres. Since the development has been revised in both tract area because of changes in required dedication, and on-site impervious surfaces, the Applicant has demonstrated compliance with the binding element of the Development Plan in two ways:

1. on-site impervious surfaces of 13.59 acres over a net acreage of 48.54 acres = 28%.
2. on-site impervious surfaces of 13.59 acres over a net acreage of 49.4 acres (tract area from binding element) = 27.5%.

The calculations provided above are consistent with the calculations from the Development Plan because they include only on-site impervious surfaces.

### Preliminary Water Quality Plan

The SPA Preliminary Water Quality Plan approval for the project included the following condition:

"The impervious surfaces on the Subject Property are limited to no more than 26 percent of 49.4 acres of land with the SPA as shown on the Impervious Surface Plan portion of the Preliminary Water Quality Plan."

The staff report to the Planning Board for the Preliminary Water Quality Plan included a discussion on impervious area noted that the 28% impervious surface limit (over 49.4 acres) required in the Development Plan binding element was used to allow flexibility for future adjustments that might become necessary due to specific design requirements or other county regulations at the Site Plan review stage. If the impervious surface level exceeds the 26% limit (over 49.4 acres) imposed by the Preliminary Water Quality Plan approval, the Planning Board would be obligated to re-evaluate the condition at time of Site Plan and Final Water Quality Plan review. The binding element of the Development Plan would not be required to change unless the plan proposes to exceed the 28% impervious surface level.

### Final Water Quality Plan

The Environmental Guidelines provide direction for calculating impervious surfaces, which includes offsite areas required to be built by the Applicant. The impervious surface calculations at the time of the Preliminary Water Quality Plan approval did not include any required offsite areas.

The Impervious Surface Exhibit provided with the Final Water Quality Plan proposes 14.62 acres of impervious surfaces over the updated net tract area, including offsite areas, of 50.6 acres resulting in 28.9 percent. As anticipated in the staff report for the Preliminary Water Quality Plan discussed above, specific measures were required during the Site Plan review that resulted in an increase in impervious surfaces. These design features include sidewalks on both sides of the majority of the roads rather than just one side, on-street parking, and trail connections. Additionally, the community center, parking lot, leadwalks, and porches for the houses were not included in the original calculations. In conformance with the Environmental Guidelines, the offsite improvements that the Applicant is responsible for (sidewalks in Ridge Road and Brink Road ROW, street paving in Brink Road, and street paving in Snowden Farm Parkway to provide turn lanes to access the Property) are included in these updated calculations. The result is an imperviousness of 28% on-site and 28.9% overall, including required offsite improvements (summarized in the table below).

Tract Area (acres)	
Net	48.54
Offsite	<u>2.06</u>
Total	50.60
Impervious Surfaces (acres)	
Onsite	13.59
Offsite	<u>1.03</u>
Total	14.62
% Impervious Area	
Onsite	28%
Total	28.9%

During the Planning Board hearing, the Board approved a revised condition based on potential additional offsite improvements required of the Applicant. As conditioned, the Planning Board approved that the impervious surface limit of 26% imposed by the Preliminary Water Quality Plan be revised to no more than 28 percent for the Subject Property and not more than 29.5 percent total including any offsite improvements required to be constructed by the Applicant.

### C. Noise Analysis

A Traffic Noise Impact and Barrier Analysis was prepared for the Subject Property due to its location along Ridge Road, Brink Road, and the future Snowden Farm Parkway, and the results were provided in a report dated March 17, 2015. A noise analysis is necessary to determine the projected interior and exterior noise levels requiring mitigation for residential units and outdoor recreational areas. The Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" stipulate a 60 dBA  $L_{dn}$  maximum noise level for outdoor recreation areas and 45 dBA  $L_{dn}$  for indoor areas.

The results of the analysis for this Property indicate that future unmitigated traffic noise levels above 60 dBA  $L_{dn}$  will impact several residential lots including Lots A 1-29, B 1-48 and 54-57, and C 1 and 15-25. The Planning Board approved noise barriers along the lot property lines and the site property line ranging between 6 to 10 feet in height to reduce the yard noise levels to meet the exterior noise guidelines. The Applicant has worked with Polysonics to determine locations for barriers along the roadways, which vary between locations along the property lines of the lots and along the property line of the Property to achieve the recommended 60 dBA  $L_{dn}$  in all yards. The barriers will be constructed with materials with a transmission loss of 20 dB or higher.

The analysis also determined that the highest building façade noise level will be 71.8 dBA  $L_{dn}$  and that several residences will require extensive enhanced building materials such as modified windows, doors, and wall construction to meet the interior noise guidelines. These affected residences are located on Lots A: 1-3, 11-20, 29, and B: 1, 3, 19-26, 28-47. A Building Shell Analysis and review of architectural floor plans for residential buildings will be performed to ensure the guideline recommendations for interior areas are achieved.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and


BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 14 2015 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Presley, with Chair Anderson and Commissioners Presley and Fani-González voting in favor, and Vice Chair Wells-Harley and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, September 3, 2015, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board