MCPB

Item No.: Consent

Date: 2-28-19

Dowden's Station: Site Plan Amendment No. 82016006B for Forest Conservation Plan Purposes



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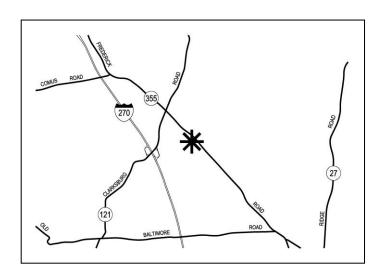
Completed: 2-14-19

Description

Dowden's Station: Site Plan Amendment No. 82016006B: Amendment to remove a portion of a Category I Conservation Easement along the proposed alignment of Observation Drive to provide a side slope easement for the construction of the future roadway; 24.37 acres; PD-4; 1994 Clarksburg Master Plan & Hyattstown Special Study Area.

Recommendation – Approval with conditions

Applicant: Clarksburg Mews, LLC **Acceptance Date:** 12/12/2018 **Review Basis:** Chapter 22A



- Staff recommends Approval with conditions.
- Applicant requests to remove approximately 43,049 sq. ft. (0.99 acre) of an area identified as a Category I Conservation Easement located on the west side of the development, on the approved Final Forest Conservation Plan (FFCP), but not recorded in the Land Records, located adjacent to the proposed alignment of the future Observation Drive.
- Staff received no community correspondence regarding this Application.

SECTION 1 – RECOMMENDATIONS AND CONDITIONS

Staff recommends approval of the Site Plan Amendment No. 82016006B for Forest Conservation Plan purposes, with all site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC. All previously approved plans, findings, and conditions of approval remain in full force and effect, except as modified by the following conditions:

Final Forest Conservation Plan

7a. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must submit to M-NCPPC, for approval, a certificate of compliance to use an offsite forest mitigation bank for 1.01 acres of mitigation credit. The certificate of compliance must be recorded In the Office of Land Records before scheduling a pre-construction meeting.

SECTION 2 – SITE LOCATION & DESCRIPTION

Site Location

The subject property is zoned PD-4 (Planned Development Zone), a 24.37-acre parcel of unimproved land located on the west side of Frederick Road/MD 355. The property is approximately 1,300 feet north of the intersection of MD 355 and Shawnee Lane, and 2,300 feet south of Stringtown Road in the Clarksburg Special Protection Area ("SPA"). This property is identified on tax map EW31 as Parcel N780 (Part of Lot 21) and Parcel N888 (Lot 22) ("Property" or "Subject Property").

Site Vicinity

Surrounding properties include: Gateway 270 West/ Corporate Park (Site Plan No. 819990350) toward the west, Clarksburg Town Center (Site Plan No. 82007022D) toward the north including the Clarksburg Historic District, Highlands at Clarksburg (Site Plan No. 82002002C) toward the east, Garnkirk Farms (Site Plan No. 820120100) toward the southwest and Avalon Residential (Preliminary Plan No. 120180110 and Site Plan No. 820190070) across MD 355 to the northeast (Figure 1).

Site Description

The Subject Property is currently undeveloped with existing forest cover over almost the entire Property (Figure 2). The Subject Property contains one perennial stream system and one intermittent stream. Both streams are classified as Use IV-P streams by the State of Maryland. The Subject Property features significant grade change from the northeast side along MD 355 sloping down to the southwest toward the rear of the Property.

The perennial stream system is located at the rear of the Property along the southwest property line. This stream system is composed of two perennial streams, one flowing from the north and the other from the northwest onto the Property. These two perennial streams then join up about midway along the rear of the Subject Property and continue to flow to the southeast off-site. In addition, this stream system has five forested wetland areas, one spring, two seeps and ephemeral drainage channels which empty into this stream. This stream system has a defined channel that lies within a broad floodplain type of topography. All sensitive environmental features and their buffers that are located outside of the temporary slope easement for Observation Drive are protected by a Category I Conservation Easement.

¹ For the purposes 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.

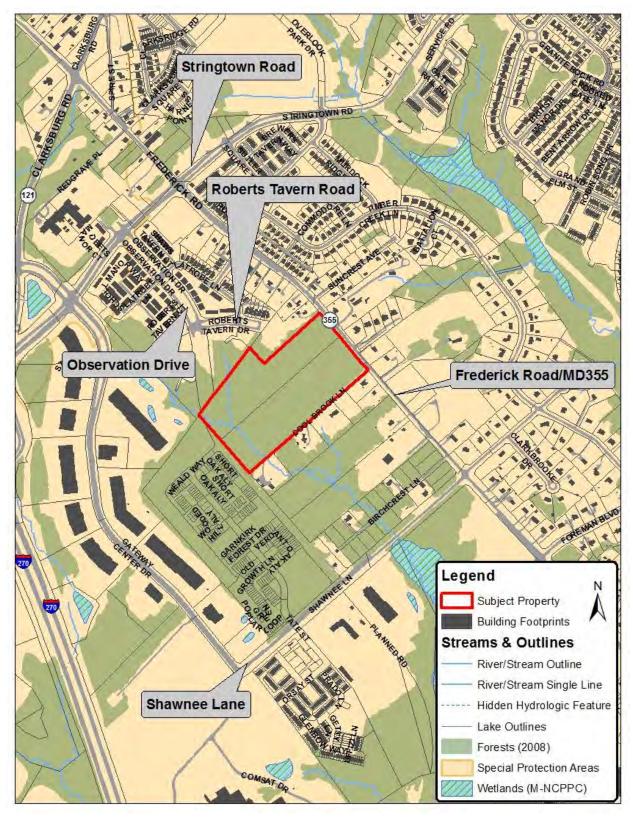


Figure 1 - Vicinity

The intermittent stream is located approximately mid-point of the Property along the southeast property line and drains to the southeast. The stream begins in a forested area with two springs. The intermittent stream runs for about 150 feet, drains under Cool Brook Lane and off-site. All sensitive environmental features, buffers and existing forest within the buffers are protected by a Category I Conservation Easement.



Figure 2 - Site

SECTION 3 – APPLICATIONS AND PROPOSAL

Previous Regulatory Approvals

Preliminary Plan 120160160

On October 20, 2016, the Planning Board approved Preliminary Plan and Preliminary Forest Conservation Plan (PFCP) No. 120160160 for a subdivision of 84 lots for 84 one-family attached houses and 21 lots for 21 one-family detached houses, multiple open space outlots and parcels for private streets (MCPB Resolution No. 16-106). The Preliminary Plan was found to conform with Chapter 50, Subdivision Regulations and is in substantial conformance with the recommendations of the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan"). The Preliminary Forest Conservation Plan was found to conform to Chapter 22A, Forest Conservation Law.

Site Plan 820160060

On October 20, 2016, the Planning Board approved Site Plan and Final Forest Conservation Plan (FFCP) No. 820160060 for constructing 84 townhouses (80 percent of the total units) and 21 one-family detached dwelling units (20 percent of the total units), including 13.3% MPDUs with associated on-street parking

and open space amenities (MCPB Resolution No. 16-107, Attachment 1). The application was found to conform to Chapter 59, the Zoning Ordinance and Chapter 22A, Forest Conservation Law.

Site Plan 82016006A

On July 12, 2018, the Planning Board approved Site Plan Amendment and FFCP Amendment No. 82016006A to increase the MPDU amount from 13.3% to 25% of the total number of units; realignment of the public street entering the subdivision from MD355; as well as other minor revisions for the construction of 105 previously approved residential units (21 one-family detached dwelling units and 84 townhomes) along with minor modifications to the FFCP to accommodate the above changes (MCPB Resolution No. 18-069, Attachment 2). The application was found to conform to Chapter 59, the Zoning Ordinance and Chapter 22A, Forest Conservation Law.

Current Application

Final Forest Conservation Plan Amendment 82016006B

Final Forest Conservation Plan Amendment No. 82016006B ("Application"), proposes to remove approximately 43,049 square feet (0.99 acre) of previously approved, but unrecorded Category I Conservation Easement to allow the placement of a temporary slope easement to facilitate the construction of the proposed Observation Drive by the Montgomery County Department of Transportation ("MCDOT") at some point in the future (Figure 3).

The temporary slope easement for the future Observation Drive was not previously shown on any plan approvals include the Preliminary Plan, Site Plan, FFCP or amendments. The issue of the slope easement arose during the review of the record plat when Montgomery County Department of Permitting Services ("MCDPS") made the comment that the required slope easement for Observation Drive must be shown on the plat. During the review process for the Preliminary Plan, Staff had received a letter from MCDOT dated August 11, 2016 (Attachment 3) outlining their agency's comments on the plan. MCDOT's comments included asking for the dedication of right-of-way and easements necessary for the future construction and maintenance of Observation Drive, a master planned roadway. The right-of-way was shown on both the Preliminary Plan and the Site Plan. However, the temporary slope easement was not identified at that time. MCDPS, Right-of-Way Plan Review Section has analyzed the proposed temporary side slope for Observation Drive and is satisfied that what is shown on the plans matches the required slope easement requirements for Observation Drive as specified in the CIP (Attachment 4).

The Applicant is proposing to deduct the area of slope easement from the Total Tract Area in the FFCP Worksheet and take this area out of Category I Conservation Easement. This results in the forest conservation obligations being transferred from the Applicant, who is not constructing Observation Drive, to MCDOT, or whoever may construct the roadway, at the time of roadway construction.

The construction of the future Observation Drive and the temporary slope easement will have some impacts on the perennial stream system located at the rear of the Dowden's Station development. When the roadway is constructed, the existing forest within the side slope easement will be removed, the western branch of the perennial stream system will be under the roadway and the existing wetlands will be impacted. These proposed impacts will be reviewed by various governmental agencies including the U.S. Corp of Engineers, Maryland Department of the Environment, Montgomery County Department of the Environment and M-NCPPC. MCDOT will need to obtain the approval and permits for the impacts to the streams and wetlands as well as obtaining M-NCPPC's approval of the FFCP prior to beginning construction.

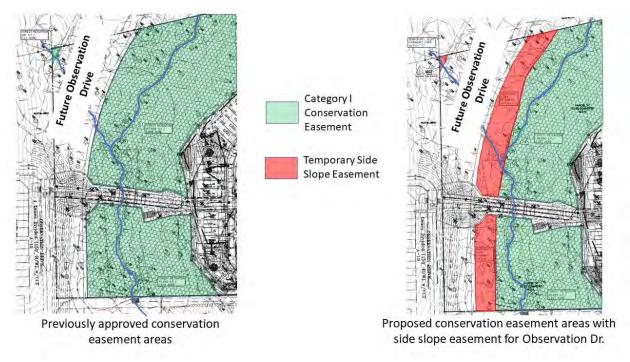


Figure 3 – Proposed Changes to Conservation Easement Areas

SECTION 4 - ANALYSIS AND FINDINGS

Unless specified below, the Application continues to conform with the findings in Site Plan #820160060 and Site Plan Amendment 82016006A.

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.

Planning Board Review Authority

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FFCP. COMCOR 22A.00.01.13.A(2), the Forest Conservation Regulations, state:

Major amendments which entail more than a total of 5,000 square feet of additional forest clearing must be approved by the Planning Board or the Planning Director (depending on who approved the original plan).

The Applicant proposes to remove 43,049 square feet (0.99 acres) of Category I Conservation Easement on the Property. This submittal is considered a major amendment under Section 22A.00.01.13.A(1) of the Forest Conservation Regulations and it has been Planning Board practice to review all plans that remove or change any conservation easement.

Water Quality Plan Review in Special Protection Areas

The current Site Plan Amendment for forest conservation plan purposes does not alter the previously approved elements of the Final Water Quality Plan approved by the Planning Board on October 20, 2016.

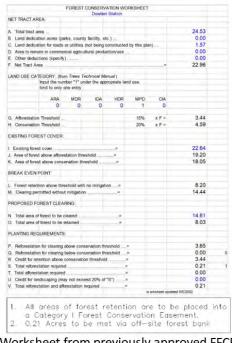
Forest Conservation Plan

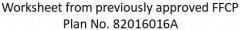
During the review of the record plats for the subdivision, the applicant displayed a 75-foot wide slope easement running adjacent to the Observation Drive right-of-way. This was the first time staff received a plan that showed a temporary slope easement. The Montgomery County Department of Transportation required a slope easement as part of their approval for the Preliminary Plan. Slope easements are temporary in nature and once a road is constructed and the slope easement is no longer needed it is automatically abolished.

DPS will not approve a record plat that shows an overlapping conservation easement with a temporary slope easement. Since the conservation easement is recorded prior to the record plat, the slope easement would be subordinate to the conservation easement for the slope easement is only shown on the record plat. Planning Staff does not object to the overlapping of temporary easements as long as the conservation easement has primacy over other easements that are not compatible with the terms of the conservation easement and the areas that are impacted can be adequately restored to eventually recreate a naturally regenerating forest. However, Montgomery County does not like overlapping for easements for they don't want to be responsible compensating for the forest within a conservation easement. In this case, Montgomery County will only become liable for the removal of the forest when the road is constructed since the applicant is not responsible for the construction of Observation Road.

Before Montgomery County can construct this portion of Observation Drive a Mandatory Referral will need to be submitted for Planning Board review. The Mandatory Referral will show the removal of approximately 40,000 square feet of forest, and the County will need to compensate for each acre of forest removed on a 1 to 1 basis. Regardless, the County will still need to mitigate for the removal of forest prior to the construction of Observation Drive. Since there are no engineered drawings for the construction of this section of Observation Drive it would be better to assess the forest removal needed to construct this roadway during the Mandatory Referral process versus the development application. The area to be put into slope easement is based on preliminary discussions between the applicant and DPS, but when the Mandatory Referral is submitted staff will work with the County to reduce the amount of forest removed and the impacts to the stream and forested wetlands.

The Site Plan Amendment for Forest Conservation Plan purposes meets all applicable requirements and intents of Chapter 22A regarding forest conservation. The original FFCP requirements associated with Site Plan No. 820160060 have been slightly altered with this amendment to accommodate the modifications proposed. The area of the slope easement has been deducted from the Total Tract Area in the FFCP Worksheet. Due to the temporary slope easement area being deducted from the Total Tract Area of the project site, the Net Tract Area for Dowden's Station was reduced from the original 22.96 acres down to 21.64 acres on the FFCP Worksheet. This decrease in the Net Tract Area for Forest Conservation Plan purposes results in an increase in the total reforestation required on the FFCP Worksheet from the original 0.21 acres up to 1.01 acres. The Applicant proposes to take this requirement to an offsite forest mitigation bank. The figure below (Figure 4) shows the previously approved FFCP Worksheet on the left and the proposed FFCP Worksheet on the right.







Worksheet from current FFCP Plan No. 82016006B

Figure 4 – Proposed Changes to FFCP Worksheet

SECTION 5: CITIZEN COORESPONDENCE

The Applicant has met all proper signage and noticing requirements for the submitted Application. As of this date of this staff report, Staff has not received correspondence or comment on the Site Plan Amendment.

SECTION 6: CONCLUSION

The proposed Site Plan Amendment and associated Final Forest Conservation Plan meets all requirements established of the Zoning Ordinance, Chapter 22A, 19 and continue to substantially conform to the recommendations of the 1994 Clarksburg Master Plan & Hyattstown Special Study Area.

ATTACHMENTS

Attachment 1 – MCPB Resolution No. 16-107 for Site Plan No. 820160060

Attachment 2 - MCPB Resolution No. 18-069 for Site Plan No. 82016006A

Attachment 3 – MCDOT Comments, dated August 11, 2016

Attachment 4 - MCDPS, Right-of-Way Plan Review Section email dated February 7, 2019

Attachment 5 - Amended FFCP

ATTACHMENT 1



MCPB No. 16-107 Site Plan No. 820160060 Dowden's Station

OCT 20 2016

Date of Hearing: September 22, 2016

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on October 20, 2015, by Resolution No. 18-299, the Montgomery County Council, sitting as the District Council approved a Development Plan with Local Map Amendment G-957, that rezoned the Subject Property (as hereinafter defined) to the PD-4 zone; and

WHEREAS, on December 23, 2015, Clarksburg Mews ("Applicant") filed an application for approval of a site plan for 105 residential units (21 one-family units and 84 townhouses), including 14 moderately priced dwelling units ("MPDUs"), associated on-site parking spaces, recreation facilities, and landscape on 24.37 gross acres of PD-4 zoned-land, located approximately 1/3 mile from the intersection of Stringtown Road and Frederick Road ("Subject Property"), in the Clarksburg Policy Area and 1994 Clarksburg Master Plan and Hyattstown Special Study Area ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820160060, Dowden Station ("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 September 9, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to Legal Sufficiency:

8787 Georgia Aventa CRRC Special Department 10 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on September 22, 2016, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on the motion of Commissioner Wells-Harley, seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Wells-Harley all voting in favor. Commissioner Dreyfuss was absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820160060 for 105 residential units (21 one-family and 84 townhouses), including 14 MPDUs (13.3% of the total number of residential units), associated on-site parking spaces, recreation facilities and landscape on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals & Agreements

- 1. <u>Development Plan and Local Map Amendment Conformance</u>
 The development must comply with all binding elements of District Council Resolution No. 18-299 approving Local Map Amendment G-957 dated October 20, 2015.
- 2. <u>Preliminary Plan Conformance</u>
 The development must comply with the conditions of approval for Preliminary Plan No. 120160160.

Environment

Final Water Quality Plan

- 3. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services Final Water Quality Plan approval letter dated June 23, 2016.
- 4. Prior to the issuance of the first building permit, the Applicant must enter into an agreement with the Planning Board to limit overall impervious surfaces to no greater than 30 percent of the net tract area. Net Tract Area is defined as the gross tract area including off-site areas of impervious improvements completed by the Applicant, but excluding dedicated but unbuilt rights-of-way to be improved by other entities as specified in the Planning Board Resolution dated July 24, 2015 for the approval of the Preliminary Water Quality Plan. The

¹ 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.

impervious surface agreement will provide the phased release of building permits to ensure ongoing compliance with the impervious surface limit. The impervious surface agreement must be submitted, reviewed and approved by the M-NCPPC Office of General Counsel.

5. Prior to release of the first building permit, the Applicant must demonstrate to the Planning Department that the approved plans conform to the impervious surface limit of no greater than 30%. Any modifications which increase impervious surfaces beyond this limit will require Planning Board approval.

Final Forest Conservation Plan

- 6. The Applicant must use best management practices (BMP) to avoid impacts to the stream valley buffer and wetland areas while installing the Pedestrian/Utility Bridge to Observation Drive and must not disturb natural stream flow or wetlands.
- 7. The Applicant must record a Category I Conservation Easement over all areas of forest retention, 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.
- 8. The Applicant must install 4-foot high, 2-rail, split-rail fencing along the boundary line of the Category I Conservation Easement beginning at the northern corner of Lot 105 and ending at the northern side of the pedestrian bridge; then beginning again at the southern side of the pedestrian bridge and continuing to the terminus of this easement boundary behind and slightly southwest of Lot 93 or as determined by the Maryland-National Capital Park and Planning Commission (M-NCPPC) forest conservation inspector.
- 9. The Applicant must install permanent forest conservation easement signage along the perimeter of the conservation easements in all areas, as determined by the Final Forest Conservation Plan (FFCP) and the M-NCPPC forest conservation inspector.
- 10. 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.
- 11. The limits of disturbance (LOD) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FFCP.

Noise Attenuation

12. 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 the building shell and materials used for residential dwelling

units located within the projected 60 dBA L_{dn} noise contour are designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA L_{dn} .

- 13. Prior to the 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.
- 14. 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 June 22, 2016, 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.

15. Green Area

The Applicant must provide a minimum of 9.75 acres (424,710 square feet) of green space (40% of net lot area) on-site.

16. Common Open Space Covenant

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

17. Recreation Facilities

- a) Prior to the certification of the Site Plan, the Applicant must meet the square footage requirements for all of the applicable recreational elements in accordance with M-NCPPC Recreation Guidelines.
- b) Prior to the issuance of the 14th building permit, the multi-age playground must be completed.
- c) Prior to the issuance of the 60th building permit, the open play area I and seating area (south of Lots 41 through 47) must be completed.
- d) Prior to the issuance of the 78th building permit, the 10-foot pedestrian pathway (over the stream valley buffer) must be completed.
- e) The Applicant is responsible for maintaining all publicly accessible amenities, including but not limited to the playground facilities, sitting areas, open play area I, pedestrian system, and bike system until such time when the property is legally transferred to a Homeowner's Association.
- f) The Applicant must provide at a minimum the following recreation facilities:
 (1) play lot, (1) open play area, (1) multi-aged playground, (1) natural area,
 (1) sitting areas, (1) pedestrian system, and (1) bike system. Each of the
 playground facilities must contain play equipment that attracts a broad
 range of children in order to provide closer access to engaging play areas for
 residents of both the townhouse and one-family dwelling units. The play
 equipment must be approved by Staff and shown on the Certified Site Plan.

Transportation & Circulation

18. Transportation

Private Roads. The Applicant must design, construct, and maintain the private roads as identified on the Site Plan, subject to the following conditions:

- a. As identified below, each of the private roads must be designed and constructed according to the Montgomery County Road Code Standard designated per the modified typical section specified in the Site Plan. Prior to recordation of the plat, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed in accordance with the paving detail and crosssection specifications as shown on the Site Plan, and further certifying that the road has been designed in accordance with good engineering principles for safe use including horizontal and vertical alignments for target speed, adequate typical section(s) intended vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access, and parking ("Certified Design").
 - (i) <u>Private Street A: Construct</u> to MCDOT Road Code Standard MC-210.03: Modified Tertiary Residential Street.
 - (ii) <u>Private Street B: Construct</u> to MCDOT Road Code Standard MC-210.03: Modified Tertiary Residential Street.
 - (iii) <u>All Private Alleys</u> Construct to MCDOT Road Code Standard MC-200.01: Residential Alley Modified as shown on the Certified Preliminary Plan.
- b. Prior to final inspection of the Site Plan and release of that portion of the Site Plan Surety related to private road construction, Applicant must deliver to the Planning Department, with a copy to MCDPS, a certification by a professional engineer licensed in the State of Maryland that the Private Road has been properly constructed with appropriate materials testing and in accordance with the paving detail and cross-section specifications of the Preliminary Plan and Site Plan and in accordance with the Certified Design.
- c. Utilities may be located within the Private Road Easement as private connections. The Applicant is responsible for the design, construction, operation, maintenance and repair of the private fire hydrants and the water system that serves any private fire hydrants serving the Project ("Private Hydrant System"). The Applicant must cause the Private Hydrant System to be maintained in good operating condition at all times and Applicant must have the Private Hydrant System inspection and testing as required by the Montgomery County Fire Marshall, overseen by a professional engineer, who must provide certified reports evidencing that the water and private hydrant system is properly

designed and constructed and in good operating condition. These certified reports must be provided annually to DPS. A description of repairs or maintenance that were performed to keep the Private Hydrant System in good operating condition must be noted on the certified report.

d. Applicant must install and maintain signage as approved on the Certified Site Plan that notifies the public that the road is not publicly maintained.

- e. Occupiable structures above or below the area designated for the Private Road as shown on the Certified Site Plan must be inspected bi-annually by a structural engineer licensed in the State of Maryland, and the Applicant must deliver to the Planning Department, with a copy to MCDPS, bi-annual certifications that the structural integrity of the Private Road, and any above or below-ground occupiable structures, have been properly maintained in good condition and repair and in accordance with applicable laws and regulations, and identifying any necessary structural repairs to be made by the Applicant. Inspections and certifications will be required every five years if there are no above or below-ground occupiable structures.
- f. The Applicant must maintain a commercially reasonable operating budget to address both short-term and long-term maintenance, and capital reserves to address capital repairs of the Private Road and the improvements within the Private Road area. The amount of the reserves will be at least 5% of the construction cost of the Private Road as approved with the Site Plan Surety. The Applicant must include biannual certification to the Planning Department of the reserves with the engineering certification. Certification will be required every five years if there are no above or below-ground occupiable structures.

19. Pedestrian & Bicycle Circulation

The Applicant must construct the following paths as shown on the Site Plan:

- a) The 10-foot wide pedestrian access pathway between Observation Drive and Street B. (i.e. crossing the stream valley buffer).
- b) The 5-foot wide sidewalks surrounding the Open Space I ("Parcel A").
- c) The 5-foot wide sidewalk along the frontage of public Street B.
- d) The 5-foot wide sidewalk along the frontage of public Street C.
- e) The 5-foot wide sidewalk along the frontage of public Street D.
- f) The 5-foot wide sidewalk along the frontage of private Street B.
- g) The 5-foot wide sidewalk along the frontage of private Street A.
- h) The 5-foot wide sidewalk adjacent to the frontage of Lots 27 through 33.
- i) The 5-foot wide sidewalk adjacent to the frontage of Lots 34 through 40.
- j) The 5-foot wide sidewalk adjacent to the frontage of Lots 41 through 47.
- k) The 5-foot wide sidewalk adjacent to the frontage of Lots 56 through 62.

Density & Housing

20. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated May 13, 2016, 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 a minimum of 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

21. 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.
- b) The shared use pathway (pedestrian access across the stream valley buffer) will be 10-feet wide.
- c) The Applicant will provide a natural surface trail that connects the east and west portions of the development as approved by Staff and shown on the Certified Site Plan. The trail will not be counted as impervious surface.

22. Private Lighting

a) Prior to issuance of any above-grade building permit, the Applicant must provide certification to Staff from a qualified lighting professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

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) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

27 Site Plan Surety and Maintenance Agreement.

Prior to issuance of any building permit or sediment control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 [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, indoor and outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of the any building permit 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 a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

d) The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of development.

23. 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.

24. 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 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.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Dowden Station Site Plan No. 820160060, submitted via ePlans to the M-NCPPC as of the date of the Staff Report September 2016, are 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 Local Map Amendment Application G-957 by the District Council on October 20, 2015, with Resolution No. 18-299 (Appendix B). The binding elements, as set forth, specified densities, permitted use, mix of housing types (including MPDUs), number of parking spaces, minimum green area, and impervious cap. The Development Plan associated with zoning case G-957 has a variety of binding elements. The binding elements cannot be changed without an approved Development Plan Amendment. The Development Plan was approved for a minimum of 42% green area and 257 parking spaces. By agreement with the Planning Board, off-street parking will be limited to 2.25 space per dwelling unit in order to reduce imperviousness. The following elements were considered binding to the Development Plan:

- a) The Development Plan is subject to a Site Plan review by the Planning Board.
- b) The densities, use and mix of housing types are as specified in the following table.
- c) Impervious Area will not exceed 30 percent; excluding Master Planned Roadways.

Table 1: Uses Permitted

Uses Permitted			
	No. of Units	No. of Bedrooms	No. of Parking Spaces Required (spaces)
Residential Uses	105 units		210
Detached	21 units	4 to 6	42
Units Attached Units	84 units	3 min.	168

MPDU Density Bonus	
Required	Provided
118 total units (4.84	105 total units
du/ac.)	(4.31 du/ac.)
21.6% Bonus Density	8.2% Bonus
	Density
16 additional market	7 additional
units,	market units,
plus 5 additional	plus 1
MPDUs	additional
	MPDUs
Green Area	
40% or 9.75 ac.	42% or 10.24
	ac.

The Site Plan conforms to these binding elements by developing the site with 21 single family detached homes and 84 townhouses; providing 13.3% of the units (or 14 units) as MPDUs; and maintaining the maximum surface parking space at 2.25 space per dwelling unit, maximum impervious area (30%), and minimum green area (45%) as further discussed in the Conformance with Chapter 19 and 22a Findings.

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

The Site Plan meets all of the requirements of the Planned Development (PD-4) 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-7.1 indicates that the purpose of this zone is to implement

the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by the master plans. This zone is intended to provide a means of regulating development, which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations permit as a right under the conventional zone categories. This zone is also intended that the zoning category be utilized to implement the general plan, area master plans and other pertinent county policies in a manner and to a degree more closely compatible with County plans and policies that may be possible under other zoning categories.

Consistent with the District Council findings for G-957, the Site Plan satisfies the purpose of the PD-4 Zone. As demonstrated in Table 2 below, the project meets all of the applicable requirements and development standards of the Zone.

Table 2: Data Table for the PD-4 Zone

Development Standard	Zoning Ordinance Permitted/Required	Site Plan No. 820160060
Site Area (ac.)		
Min. Gross Tract Area [59-C-7.12]	Accommodates 50 or more dwelling units.	24.37
Road Dedication Observation Drive Intersection of Robert's Tavern Drive & MD 355	n/a n/a	2.59 1.97
Min. Net Tract Area	n/a	19.81
Max. Density w/ MPDU Bonus	118 units (4.84 d.u./ac.)	105 units (4.31 d.u./ac.)
Total Units	² 50 or more units	105 units
PD-4 Detached	10 units	21 units
PD-4 Attached	40 units	84 units
Development Program (continued)	Zoning Ordinance Permitted/Required	Site Plan No. 820160060
Residential Density (du/acre)	4.0	³ 4.31

² In accordance with Section 59-C-7.122 (a), no land may be classified in the planned development zone unless the district council finds that the proposed development contains sufficient gross area to construct 50 or more units under the density category.

[59-C-7.44-a]		
Min. MPDUs [Chapter 25A] [59-C-7.44-b3]	12.5% (12 MPDUs)	13.3% (14 MPDUs)
Min. Building Setbacks (ft.) [59-C-7.45]		
Attached dwelling units from adjoining properties	100 ft.	100 ft.
Attached dwelling units front setback BRL	N/A	5 ft.
Single-family dwelling units front setback BRL	N/A	15 ft.
Attached dwelling units side setback BRL	N/A	6 ft.
Single-family dwelling units side setback BRL	N/A	6 ft.
Attached dwelling units rear setback BRL	N/A	5 ft.
Single-family dwelling units rear setback BRL	N/A	20 ft.
Lot 94	50 ft.	⁴ 27 ft.
Lot 104	50 ft.	12 ft.
Lot 105	50 ft.	32 ft.
Min. Green Area (ac.) [59-C-7.462]		
ti	40% (9.75 ac.)	45% (10.97 ac.)
Max. Building Height (ft.) [59-C-7.47]		
Attached Units	N/A	50 ft.
Single-family Units	N/A	50 ft.
Max. Vehicle Parking Spaces (59-E)		
Residential (105 units)	210 spaces (2 spaces/ du.)	253 spaces (2.25 spaces/du.)
Off-Street Parking	N/A	210 spaces
On- Street Parking	N/A	42 spaces
Handicap Spaces	N/A	1 spaces

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.

³ In accordance with Section 59-C-7.14 (c), the maximum density may be exceeded to accommodate more MPDUs.

⁴ In accordance with Section 59-C-7.15, the Applicant is requesting a compatibility waiver for Lots 94, 104 and 105. A more detailed explanation is expressed under the third finding.

a. <u>Buildings and Structures</u>

The location of buildings and structures is adequate, safe, and efficient. The development includes 21 one-family detached units (20% of the total units) located south of Frederick Road (MD 355). As recommended by the Clarksburg Master Plan (page 54), these units (Lots 1, 2, 87 through 105) front onto Frederick Road (MD 355) and Roberts Tavern Drive (extended alignment). The size of the lots and orientation of the buildings are consistent with the existing residential character along the roadway. Lots 94 through 104 are setback approximately 43-feet from Frederick Road in order to accommodate the future alignment of Roberts Tavern Drive (a 120-foot R/W, 4-lane divided roadway). The proposed buildings and grades, near the entrance of the Subject Property, create a noise barrier along Frederick Road. Upon completion of Roberts Tavern Drive, the proposed main entrance from Frederick Road will be eliminated (due to grading constraints) and Roberts Tavern Drive will become the primary vehicular access into the site.

In accordance with Section 59-C-7.15 Compatibility, the Applicant requested a compatibility waiver for the following three lots, because the height of all three residential buildings (50-feet) is greater than the distance of the required setbacks (Table 3 below).

Table 3: Compatibility Table

Lots	Lot Size	Min. Building Setback (ft.)	Max. Building Height (ft.)
94	0.16 acres	27	50
104	0.25 acres	12	50
105	0.23 acres	32	50

Lot 94 is a one-family dwelling unit that is setback from Cool Brook Lane approximately 27 feet and the first floor elevation is approximately 4-feet lower than the existing grades. Lots 104 and 105 are one-family dwelling units that are setback a minimum of 12-feet from the Hal McCord Property (north of the Subject Property, approximately 3-acres). A retaining wall is located between the residential lots and the Hall McCord property line.

The Planning Board finds that the residential buildings will not adversely impact view from adjoining properties. The Roberts Tavern Drive alignment bisects the Hal McCord Property; and therefore, separates the southern portion of the property from the existing residence. Major views from the Hal McCord Property will not be negatively impacted by the location of the proposed one-family dwellings.

In addition to the one-family lots, this development will also include 84 townhouse units (80% of the total number of units). The townhouse units (Lots 3 through 86) are strategically located toward the interior of the Subject Property in order to maximize density, minimize the development area, and accommodate large green areas for community recreation (passive and active recreation facilities). Lots 3 through 33 and 71 through 86 are located along the outer edge of Streets A and B and back onto the stream valley buffer and forested edge. Therefore, the rear yards of these units will be fully enclosed by the forested edge. Major views from the interior of the property toward the forest are preserved through the building's orientation and clustering of the attached units. The arrangement of the townhouses meets the standard provision of no more than 8 units per cluster.

b. Open Spaces

The location of open space is adequate, safe, and efficient. The Site Plan provides a variety of well-connected open and green spaces that meet several goals and requirements including recreation, reforestation, stormwater management and compatibility. The development will provide four open space areas: 1) a multi-age playground, 2) a play lot, 3) a seating area, and 4) an open space area. The open space areas are accessible and adequately spaced throughout the Subject Property. The area dedicated towards open green space exceeds the minimum requirement by providing 10.97 acres (45% of the gross tract area), which has been slightly increased from the Development Plan approvals.

c. Landscaping and Lighting

The landscaping is adequate, safe, and efficient. The Landscape Plan achieves the following objectives: provides a dense buffer between neighboring properties, enhances the open space areas with shade and plant varieties, and frames major views. In accordance with the recommendations of the Master Plan and in order to protect the stream buffers, the natural areas (i.e. forested edges) wrap the outer edges of the Subject Property and make up roughly 33% of the gross tract area. The forested edges adequately screen the surrounding uses and protect the environmentally sensitive features between the neighboring developments. Within the Subject Property, large shade trees and ornamental trees frame major views toward the natural areas and provide shade along the public and private streets.

The streetscape along Private Streets A and B are the most important connections through the community. These streets are oriented in the north/south direction; therefore, the building's frontage along with a combination of

ornamental trees (7-8' tall) and shade trees (3 ½"-4" cal.) provide shade and canopy coverage for the roads, and open space areas. A strong emphasis on linear relationships is expressed through the repetition of street trees and the building facades.

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 MCDPS and MCDOT requirements and can be adjusted without amending the Site Plan. Lighting outside the public right-of-way is located along the private roadways and driveways as well as around the green areas and the 10-foot shared use pathway. The street lighting fixtures will be a maximum 16 feet tall, including the mounted base. The lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or surrounding properties.

d. Recreation Facilities

The recreation facilities are adequate, safe, and efficient. A shared-use pedestrian pathway (10-feet wide) spans the width of the stream valley and provides a critical linkage to Observation Drive and the adjacent residential development (i.e. Garnkirk Farms). This pathway not only connects the adjacent communities, but also provides pedestrian access to the planned transit station at the intersection of Shawnee Lane and the future Observation Drive. The play lot and multi-age playgrounds are located on opposite sides of the development and are designed to blend into the forested edges. The actual play equipment incorporates natural colors and materials from the surrounding landscape (e.g. tree trunks, large climbing rocks, and grassy mounds) and creates a more sustainable and playful learning experience. Furthermore, each of the playground facilities will contain play equipment that attracts a broad range of children to serve residents of both the townhouse and one-family dwelling units. Some of the equipment is built into the topography; creating the illusion of being naturally derived from the earth. Adequate seating is provided within the playground areas.

These 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 properties in Dowden Station will be properly maintained by a Homeowners Association, upon the transfer of ownership by the developer.

e. <u>Vehicular and Pedestrian Circulation</u>

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. Vehicular access is currently provided to the residential units via one full movement point of entry from Frederick Road (MD 355). The primary entrance from Frederick Road is considered an interim access point until such time that Roberts Tavern Drive is full constructed. The pedestrian circulation system (e.g. the 8-foot bikeway, 5-foot sidewalks, and 10-foot shared use pathway) has two primary access points to the Subject Property. The pathways run through the center of the Property and connect the development into existing pathways within the surrounding communities.

Varied plant materials, the 5-foot pedestrian sidewalks, and the on-street parking spaces will slow vehicular traffic entering the Subject Property from Frederick Road or Roberts Tavern Drive (future primary access point). The pedestrian sidewalks form a complete loop and connect into other public amenities. The quality of these streetscapes are further enhanced by the destination nodes (e.g. tot lot, seating space and open space areas) at either ends of the block that help to define neighborhood clusters and create a sense of identity and wayfinding throughout entire development.

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 existing and proposed adjacent developments. Several on-site measures improve the compatibility between this development and the surrounding existing development. These dwelling types are consistent with the dwelling type in the surrounding communities. In accordance with the Master Plan requirements (page 54), the scale and intensity of the residential uses are compatible with neighboring subdivisions along MD 355, yet the prescribed densities (4.31 dwelling units/ ac.) is high enough to support the need for transit. Second, the building height will not exceed the maximum height of 50 feet; which is consistent with the building height requirements for the adjacent zones (e.g. R-200, PD-11, and EOF). Third, with the exception of Lots 94, 104 and 105, the building setbacks 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 development is adequately screened from surrounding roads and properties by preserving natural features and supplementing existing vegetation with new plant material. Finally, noise barriers (e.g. retaining walls) are provided along the property lines near Frederick Road and Cool Brook Lane to address grading issues and reduce noise levels. The Applicant has completed a noise study for Lots 87 to 99, which are the closest units in this development to

Frederick Road (MD 355). No noise impact study was required for the alignment of the future Roberts Tavern Drive since this roadway is not on the Constrained Long Range Plan or on Montgomery County's Capital Improvements Program (CIP). The details of the noise study are discussed in the next finding; however, no mitigation is necessary for the backyards and outdoor recreation areas.

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.

The entirety of this project is located within the Clarksburg Special Protection Area (SPA) and is therefore required to obtain approval of a water quality plan under Section 19-62 of the Montgomery County Code.

Clarksburg Special Protection Area Water Quality Plan

The Preliminary Water Quality Plan was reviewed and approved during the Planning Board hearing of the rezoning case number G-957 on July 24, 2015. The Final Water Quality Plan is consistent with the Preliminary Water Quality Plan and will protect the areas of environmental buffers and existing remaining forest in a Category I Conservation Easement. The Applicant must enter into an agreement with the Planning Board to keep the amount of impervious surfaces below the target of 30 percent of the net tract area set by the Montgomery County Planning Board in its Resolution dated July 24, 2015.

In a letter dated June 23, 2016 MCDPS has found the Final Water Quality Plan to be acceptable for their portion of the Final Water Quality Plan under its purview including 1) stormwater management facilities, and 2) sediment and erosion control measures. In addition, MCDPS has established the following set of performance goals that will be met through implementation of the Final Water Quality Plan:

- 1. Protect the streams and aquatic habitats.
- 2. Maintain the natural on-site stream channels.
- 3. Minimize storm flow run off increases.
- 4. Identify and protect stream banks prone to erosion and slumping.
- 5. Minimize increases to ambient water temperatures.
- 6. Minimize sediment loading.
- 7. Maintain stream base flows.
- 8. Protect springs, seeps and wetlands.
- 9. Minimize nutrient loading.
- 10. Control insecticides, pesticides and toxic substances.

Priority Forest Conservation Areas

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As part of the Final forest conservation plan (FFCP), the Applicant will be retaining 8.00 acres of existing forest, including all of the forest within the environmental buffers. The forest conservation requirements are described in more detail in the Forest Conservation Plan section of this report. The retained forest and all environmental buffers will be protected through a Category I Conservation Easement.

Impervious Surfaces

The Clarksburg SPA does not have a specific numerical limit on impervious surfaces; however, in this case, on July 24, 2015, the Planning Board approved the Preliminary Water Quality Plan requiring that the Applicant must limit impervious surfaces to 30 percent of the net tract area.

As currently designed, the project complies with the Preliminary Water Quality Plan with an impervious surface calculation that is lower than 30 percent, excluding the pedestrian natural surface trail connecting the western and eastern sides of the property as recommended by the Board to be accessible and efficiently located to minimize the negative impact on environmentally sensitive features.

Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420132130 for this Property was approved in April 2014. The NRI/FSD identified the environmental constraints and forest resources on the Subject Property. The Property includes two streams, six forest wetland areas, four springs, three seeps and environmental buffers within the watersheds of these streams. This site drains to the Clarksburg tributary of the Little Seneca Creek watershed. The Property contains approximately 24.19 acres of forest, slopes greater than 25 percent, highly erodible soils, wetlands, seeps and streams.

Forest Conservation

A Preliminary Forest Conservation Plan was approved by the Planning Board on July 24, 2015 as part of the rezoning case for Dowden's Station, Plan Number G-957. As required by Section 22A-11(b)(2) of the Montgomery County Code, this Application includes a Final Forest Conservation Plan (FFCP).

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The project site contains 22.88 acres of existing forest. As part of the FFCP, the Applicant will remove 13.88 acres of forest and retain 8.00 acres. Therefore, there is no afforestation/reforestation requirement since the amount of retained forest is greater than the forest retention threshold of

4.40 acres for this project. The retained forest onsite will be protected through a Category I Conservation Easement.

Environmental Buffer Protection

The project site has two perennial streams with their associated stream valley buffers (SVB) and six forest wetland areas with wetland buffers. Five of the six wetland areas are located adjacent to the western stream while one wetland is located at the terminus of the intermittent portion of the eastern stream. The project will impact a portion of the stream valley buffers (SVB) and wetlands along the western stream. This impact is the result of the construction of the compacted earthen filled bridge structure through the SVB to carry an 8" water line, an 8" sewer line and a 10-foot wide concrete pedestrian sidewalk to Observation Drive offsite. The Board approved this impact as the preferred alternative for provision of water and sewer to the project.

The Final Water Quality Plan meets all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas. The Final Forest Conservation Plan meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law and the Noise Guidelines.

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 _______ (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 Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, October 13, 2016, in Silver Spring, Maryland.

Casey Anderson, Chair

Montgomery County Planning Board

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ATTACHMENT 2



MCPB No. 18-069 Site Plan No. 82016006A Dowden's Station Date of Hearing: July 12, 2018

JUL 3 1 2018

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on October 20, 2016, the Planning Board, by Resolution MCPB No. 16-107, approved Site Plan No. 820160060 for 105 residential units (21 one-family units and 84 townhouses), including 14 moderately priced dwelling units ("MPDUs"), associated on-site parking space, recreation facilities, and landscaping on 24.37 gross acres in the PD-3 zone, located approximately 1/3 mile from the intersection of Stringtown Road and Frederick Road ("Subject Property"), in the Clarksburg Policy Area and 1994 Clarksburg Master Plan and Hyattstown Special Study Area ("Master Plan") area; and

WHEREAS, on October 3, 2017, Clarksburg Mews, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to increase the amount of MPDUs from 13.3% (14 MPDU units) to 25% (27 MPDU units), realign the public street entering the subdivision from MD355, make minor revisions to open space and minor adjustments to the Final Forest Conservation Plan on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82016006A, Dowden's Station ("Site Plan," "Amendment," 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

Approved as to

Legal Sufficiency: Legal Sufficiency: Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320

SPPC Legal Department.org E-Mail: mcp-chair@mncppc-mc.org

Planning Board, dated June 29, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 12, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 12, 2018 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Cichy, seconded by Commissioner Anderson, with a vote of 2-0-1; Commissioners Anderson and Cichy voting in favor, Commissioner Patterson opposed, and Commissioners Dreyfuss and Fani-Gonzalez being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82016006A to increase the amount of MPDUs from 13.3% (14 MPDU units) to 25% (27 MPDU units), realign the public street entering the subdivision from MD355, minor revisions to open space and minor adjustments to the Final Forest Conservation Plan by modifying the following conditions:¹

Final Forest Conservation Plan

11a. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record an M-NCPPC-approved Certificate of Compliance in an M-NCPPC-approved off-site forest bank to satisfy the amended Final Forest Conservation Plan requirement of 0.21 acres to be purchased in an off-site forest bank.

Moderately Priced Dwelling Units (MPDUs)

20. The Planning Board accepts the recommendations of the Department of Housing and Community Affairs (DHCA) in its letters dated March 31, 2017 and December 21, 2017, 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 a minimum of 25 % 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.

Certified Site Plan

¹ 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.

- 24. Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval in order to:
 - a) Ensure that each graphic scale on every sheet is correct.
 - b) Relocate subdivision monument signs outside the County right-of-way to a location to be agreed upon by Staff.
 - c) Label the County/Maryland State Highway Administration maintenance line.
 - d) Include the street names with the alphabetical street-naming convention shown on the Certified Preliminary Plan #120160160 in parenthesis in addition to the new street names.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Dowden's Station No. 82016006A, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are 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 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; that:

- 1. Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.

 The increase to 25% MPDUs does not affect this finding.
- 2. The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.

The Site Plan Amendment continues to meet all of the requirements of the Planned Development (PD-4) 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-7.1 indicates that the purpose of this zone is to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by the master plans. This zone is intended to provide a means of regulating development, which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations permitted by right under the conventional zone categories. This zone also intends that the zoning category be utilized to implement the general plan, area master plans and other pertinent County policies in a manner and to a degree

more closely compatible with County plans and policies than may be possible under other zoning categories.

Consistent with the District Council findings for G-957, the Site Plan satisfies the purpose of the PD-4 Zone. As demonstrated in Table 1 below, the project meets all of the applicable requirements and development standards of the Zone.

Table 1: Data Table for the PD-4 Zone

Development Standard	Zoning Ordinance Permitted/Required		Site Plan No. 82016006A
Site Area (ac.)	The state of the s	a specific decision of the second	
Min. Gross Tract Area [59-C-	Accommodates 50	24.37	24.37
7.12]	or more dwelling		
	units.		
Road Dedication			
Observation Drive	n/a	2.59	2.59
Intersection of Robert's Tavern	n/a	1.97	1.97
Drive & MD 355			
Min. Net Tract Area	n/a	19.81	19.81
Max. Density w/ MPDU Bonus	118 units	105 units	105 units - ' -
	(4.84 d.u./ac.)	(4.31 d.u./ac.)	(4.31 d.u./ac.)
Total Units	² 50 or more units	105 units	105 units
PD-4 Detached	10 units	21 units	21 units
PD-4 Attached	40 units	84 units	84 units
Residential Density (du/acre) [59-C-7.44-a]	4.0	³ 4.31	44.31
Min. MPDUs [Chapter 25A]	12.5% (12 MPDUs)	13.3% (14	25% (27
[59-C-7.44-b3]	,	MPDUs)	MPDUs)
Minn, Brunlidbrag Settloareks (fit.)			
[59-C-7.45]	ale e proposition de la company de la co		
Attached dwelling units from	100 ft.	100 ft.	100 ft.
adjoining properties			
Attached dwelling units front	N/A	5 ft.	5 ft.
setback BRL			
Single-family dwelling units	N/A	15 ft.	15 ft.
front setback BRL			
Attached dwelling units side	N/A	6 ft.	6 ft.

² In accordance with Section 59-C-7.122 (a), no land may be classified in the planned development zone unless the district council finds that the proposed development contains sufficient gross area to construct 50 or more units under the density category.

³ In accordance with Section 59-C-7.14 (c), the maximum density may be exceeded to accommodate more MPDUs.

⁴ In accordance with Section 59-C-7.14 (c), the maximum density may be exceeded to accommodate more MPDUs.

setback BRL			
Single-family dwelling units	N/A	6 ft.	6 ft.
side setback BRL			
Attached dwelling units rear	N/A	5 ft.	5 ft.
setback BRL			
Single-family dwelling units	N/A	20 ft.	20 ft.
rear setback BRL			
Development Standards	Zoning Ordinance	Site Plan No.	Site Plan No.
(continued)	Permitted/	820160060	82016006A
	Required		
Lot 94	50 ft.	⁵ 27 ft.	⁶ 27 ft.
Lot 104	50 ft.	12 ft.	12 ft.
Lot 105	50 ft.	32 ft.	32 ft.

Mim. Green Area (ac.) [59:C. 7.462]	a produkta je sa produkta i produ	Harris Sales of Bellevice Con-	
	40% (9.75 ac.)	⁷ 45% (10.97 ac.)	845% (10.97 ac.)
Max. Building Height (ft.) [59-			
C-7.47]			建筑体管建设层建筑 在
Attached Units	N/A	50 ft.	50 ft.
Single-family Units	N/A	50 ft.	50 ft.
Min. Vehicle Parking Spaces			all substants to the control
(59-E)			San US Orlanda para deservita
Residential (105 units)	210 spaces	253 spaces	253 spaces
	(2 spaces/ du.)	(2.25 spaces/	(2.25 spaces/
		du.)	du.)
Off-Street Parking	N/A	210 spaces	210 spaces
On- Street Parking	N/A	42 spaces	42 spaces
Handicap Spaces	N/A	1 space	1 space

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

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

⁵ In accordance with Section 59-C-7.15, the Applicant was granted a compatibility waiver (Appendix 1b) for Lots 94, 104 and 105 in Site Plan #820160060.

⁶ In accordance with Section 59-C-7.15, the Applicant was granted a compatibility waiver (Appendix 1b) for Lots 94, 104 and 105 in Site Plan #820160060.

⁷ The amount of green area has been increased, per the Development Plan approval.

⁸ The amount of green area has been increased, per the Development Plan approval.

Open Space

None of the modifications to the open spaces on the Site Plan Amendment change the validity of the finding. In many ways, this Site Plan Amendment is a refinement that more efficiently utilizes available space, provides a more cohesive open space concept, and reduces impervious surface. As such, this Site Plan Amendment improves upon the original approval.

Building Massing

While the change from 14 to 27 MPDUs will have some effect on building massing due to the narrower width of an MDPU unit, this modification has minimal impact on the building mass findings made for Site Plan #820160060 and does not change the finding. The largest change in terms of massing is in the length of each section, or stick, of townhouses. For sticks of townhouses which had MPDUs in the originally-approved plan the difference in length is approximately 5 feet shorter. For townhouses sticks with no previous MPDUs, the length is shortened by approximately 15 feet.

Circulation Pattern

The only modification to the circulation pattern pertains to the realignment of Dowden's Station Way and its intersection with MD355. When the Applicant was completing final engineering for the originally approved access location, it became apparent that the original access point would require additional grading and right-of-way on adjacent properties not owned by the Applicant to make the sight distance functional. Subsequent meetings with the Maryland State Highway Administration (MDSHA) confirmed the inadequacy of the original access point to MD355.

The Site Plan Amendment moves the access further south. This allows the intersection to be placed in the low point between the two hills. The relocation of the intersection requires Dowden Station Way to curve, as opposed to the straight road in the original approval. This modification is encompassed within the previously-approved Master Plan right-of-way, Robert's Tavern Road. As such, no preliminary plan amendment is necessary to accommodate the revised road curvature. MDSHA provided reassurance that the angle of Dowden's Station Way at MD355 as measured by MDSHA was within the established Access Guideline. Furthermore, this new alignment in no way limits the County from constructing the ultimate cross-section of Robert's Tavern Road as envisioned by the 1994 Clarksburg Master Plan & Hyattstown Special Study Area.

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

The increase to 25% MPDUs does not affect this finding. Each structure and use continues to be compatible with other uses and existing and proposed adjacent developments.

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.

Water Quality Review in Special Protection Areas

Under Chapter 19, Section 19-65, the Planning Board has the responsibility in the review of the Final Water Quality Plan (FWQP) to ensure conformity of the FWQP with (1) all policies under Chapter 22A, (2) all policies under the Board's Environmental Guidelines and (3) all policies or requirements for Special Protection Areas. The Application proposes no changes to priority forest conservation areas or SPA environmental buffers. The Application does propose a slight decrease in the amount of impervious surface associated with this project.

a. Priority Forest Conservation Areas

The Application continues to meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. An Amended Final Forest Conservation Plan (FFCP) was submitted with this Application. The Amended FFCP does not change any of the priority forest conservation areas that were approved as part of the original FFCP, Plan No. 820160060.

b. SPA Environmental Buffer Protection

The Application does not change the SPA Environmental Buffers that were approved as part of the original FFCP, Plan No. 820160060.

c. 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 Planning Board Condition of Approval Number 2 of the Preliminary Water Quality Plan required that the Applicant limit impervious surfaces to an overall target of 30%. The Board understood that this target 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 target of 30% impervious surface limit was used to allow flexibility for future adjustments that might be necessary due to specific design requirements or other county regulations at the Site Plan review stage.

The previously approved Site Plan and the Impervious Surface Exhibit submitted with the Final Water Quality Plan contained 7.20 acres of impervious

MCPB No. 18-069 Site Plan No. 82016006A Dowden's Station Page 8

surface over the gross tract area, under which 24.45 acres which resulted in an impervious surface calculation of 29.46 percent.

Table 2: Previously Approved Impervious Surfaces Calculations

	Impervious Surface for	Impervious Surfaces
	Site Plan #820160060	for Site Plan
The state of the s		Amendment
		#82016006A
Tract Area:		
Gross Tract	1,065,042 sq. ft. (24.45	1,068,527 sq. ft. (24.53
	acres)	acres)
Impervious Surfaces:		
Tract Total	263,793 sq. ft. (6.05 acres)	261,283 sq. ft. (6.00
Future Allowance	<u>50,000 sq. ft.</u>	acres)
Net Impervious	313,793 sq. ft. (7.20 acres)	<u>50,000 sq. ft.</u>
Surface		311,283 sq. ft. (7.15
		acres)
% Impervious Area:		
Net Tract	29.46%	29.13%

The Site Plan and FFCP Amendment propose 7.15 acres of impervious surface over the gross tract area of 24.53 acres, which results in an impervious surface calculation of 29.13 percent (Table 2).

Forest Conservation

Final Forest Conservation Plan

A FFCP was approved by the Planning Board on September 22, 2016 as part of the development application case for Dowden's Station, Preliminary Plan No. 120160160 and Site Plan No. 820160060. The Final Forest Conservation and Final Water Quality Plans were approved as part of that application.

Amended Final Forest Conservation Plan

An amendment to the approved FFCP was submitted as part of this application in order to revise the internal site layout and final grading of the amended Site Plan.

This Property is zoned PD-4, which is assigned a Land Use Category of Mixed-Use Development in the Land Use Table of the Trees Technical Manual. This gives the Subject Property an afforestation requirement of 15% of the net tract and a conservation threshold of 20%.

MCPB No. 18-069 Site Plan No. 82016006A Dowden's Station Page 9

The Amended FFCP shows a revised Net Tract Area of 22.96 acres, which is an increase of 0.95 acres over the approved FFCP. This increase is due to a revision in the off-site limits of disturbance because of the revised alignment of Dowden's Station Way at Frederick Road, and the decrease in right-of-way dedication due to this realignment. In addition, due to the realignment of Dowden's Station Way, the amount of forest clearing has increased from 13.88 acres to 14.61 acres. This results in a Total Reforestation/Afforestation requirement of 0.21 acres. The applicant proposes to meet this requirement by purchasing the appropriate credits in an M-NCPPC-approved off-site forest bank. All retained forest and environmental buffer areas will be protected by Category I Conservation Easements.

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 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 Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, July 26, 2018, in Silver Spring, Maryland.

Casey Anderson, Chair

Montgomery County Planning Board

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By email <u>lisa.schwartz@montgomerycountymd.gov</u>

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MR. CHRISTOPHER ANDERSON MPDU MANAGER, DHCA 100 MARYLAND AVENUE, 4TH FLOOR **ROCKVILLE, MD 20850** By email

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By email mark.etheridge@montgomerycountymd.gov

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Michael FISHER Clarksburg Mews, LLC 4938 Hampden Lane Bethesda, MD 20814

JODY KLINE MILLER, MILLER & CANBY 200-B MONROE STREET **ROCKVILLE, MD 20850**

	·		

ATTACHMENT 3



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdieh Director

August 11, 2016

Mr. Ryan Sigworth, Senior Planner Area Three Planning Division The Maryland-National Capital Park & Planning Commission 8787 Georgia Avenue Silver Spring, MD 20910-3760

RE:

Preliminary Plan No. 120160160

Dowden's Station

Dear Mr. Sigworth:

We have completed our review of the revised preliminary plan dated July 26, 2016. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on January 11, 2016. We appreciate the cooperation and additional information provided by the applicant and their consultant. We recommend conditional approval of the plan subject to the following comments, to be depicted prior to Certified Preliminary Plan:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

Preliminary Plan Review Comments

- 1. Dedication of right-of-way and easements necessary for the future construction and maintenance of Observation Drive, in accordance with the Facility Planning Study prepared by our Division of Transportation Engineering (Transportation Planning and Design Section). Contact Project Manager Mr. Jon Hutchings at 240-777-7220 for coordination details.
- 2. Dedication of right-of-way and granting of necessary easements for the future construction and maintenance of Roberts Tavern Drive extension to Frederick Road (MD355), in accordance with the Facility Planning Study prepared by our Division of Transportation Engineering (Transportation Planning and Design Section). Contact Project Manager Mr. Greg Hwang at 240-777-7220 for coordination details. We accept the proposed Roberts Tavern Drive right-of-way dedication area as shown on the plan.

Office of the Director

101 Monroe St., 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX www.montgomerycountymd.gov/dot

- 3. Full width dedication and construction of all interior public streets including proposed Street C and Street D from its intersection with Street C to its entire loop around Lots 90-93.
- 4. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
- 5. Grade establishments for all new public streets and/or pedestrian paths must be approved prior to submission of the record plat.
- 6. As this project is being reviewed after the adoption of County Council Regulation No. 16-809 and Executive Regulation No. 31-08AM ("Context Sensitive Road Design Standards"), all new County-maintained roads are to be designed and constructed in accordance with that document and the subsequently approved Context Sensitive Road Design Standards or receive approved Design Exceptions.
- 7. MCDOT did not receive a Design Exception submittal for nonstandard street designs. Prior to certified preliminary plan, provide this office with a Design Exception submittal for all nonstandard street designs.
- 8. Typical sections for all roadways should be shown on the preliminary plan. Prior to certified preliminary plan, provide this office with typical sections for all roadway sections.
- 9. It appears that public Street D (between its intersection with proposed Street C and the beginning of the loop at Lot 93) is proposed as an off-center, closed section, secondary residential road with on-street parking; the comparable MCDOT design standard for this scenario is MC-2002.02. We support Planning Board approval of the proposed design.
 - The plan also does not propose a sidewalk on the west side of this street within the aforementioned limits. In accordance with Expedited Bill 33-13 ("Streets and Road Urban Road Standards and Pedestrian Safety Improvements"), sidewalks may be deleted "in an environmentally sensitive area with limits on the amount of impervious surface allowed, if . . . Planning Board finds that a sidewalk is unnecessary for pedestrian movement." We do not oppose a Planning Board finding to not require a sidewalk on the west side of this street within these limits.
- 10. Proposed future public Street B (between its intersection with Street C and private Street B) appears to propose that road to be consistent with our design standard MC-2002.02 ("Secondary Residential Street-Parking on One Side") with sidewalks on both sides of the street. However, the plan depicts an approximately seven (7) foot high retaining wall within the public right-of-way where the road curves to intersect private Street B ten (10) feet behind the curb. We have not received a concept plan for the proposed retaining wall so the engineering details for this retaining wall remain questionable (temporary and perpetual easements from the adjacent property owner may be necessary to enable construction and maintenance of this wall).

While we support dedication of this section of right-of-way at this time, we cannot support public maintenance on Street B (within these limits) due to the proposed retaining wall. For these reasons, we recommend the Planning Board:

- Street B (between its intersection with Street C and the northern limit of the proposed onstreet parking) should be designed and constructed in accordance with Standard MC-2002.02. On-street parking may be constructed within these limits.
- o The driveway apron for proposed Lot 104 may be located as shown on the plan.
- O The section of Public Street B, between its intersections with Street C and private Street B will not receive public maintenance until the retaining wall is removed. In the interim, the Homeowners Association will be responsible for maintenance of this road under a Maintenance and Liability Agreement with the County. That agreement will be extinguished when the road is taken over for public maintenance when private Street B is extended (as a public street) to intersect with future Roberts Tavern Drive.
- The applicant will need to submit a revised fire access plan to Ms. Marie LaBaw of Montgomery County Fire & Rescue Services (MCFRS) – soon to be in the Department of Permitting Services.
- 11. We have not seen a truck turning template to confirm that the proposed loop of Street D around Lots 90-93, with reduced centerline turning radii, provides adequate room for County vehicles to turn within the right-of-way. At the permit stage, the applicant will need to submit these diagrams to the Department of Permitting Services and modify the design to accommodate those movements, if necessary.

This proposed loop will necessitate a Planning Board finding approving the currently proposed reduced centerline turning radii; in consideration of the proposed one-way movement, we recommend Planning Board approval of the reduced radii.

12. Street C (between its intersection with Frederick Road/MD355 and proposed Street B) is depicted and labelled on the plan as a closed section, secondary residential street without on-street parking. The comparable MCDOT design standard for this scenario is MC-2002.01 ("Secondary Residential Street – No Designated Parking").

The plan also does not propose a sidewalk on the north side of this street within the aforementioned limits. In accordance with Expedited Bill 33-13 ("Streets and Road – Urban Road Standards and Pedestrian Safety Improvements"), sidewalks may be deleted "in an environmentally sensitive area with limits on the amount of impervious surface allowed, if . . . Planning Board finds that a sidewalk is unnecessary for pedestrian movement." We do not oppose a Planning Board finding to not require a sidewalk on the west side of this street within these limits.

- 13. All intersection chokers on County-maintained streets are to be designed and constructed in accordance with the Department of Permitting Services' Design Guideline for same.
- 14. MCDOT reviewed and conceptually approved the locations of the proposed stormwater management facilities shown on public Street B, as conveyed via email to Mr. Leo Galanko of MCDPS Water Resources on June 3rd, 2016. The details of those facilities will be finalized at the permit stage.
- 15. In accordance with Section 49-20 of the Montgomery County Code, permanent obstructions cannot be installed in the County right-of-way without a franchise agreement approved by the County Council. However, "franchise" does not include a temporary, removable obstruction or occupation of a right-of-way for which the Department of Permitting Services has [will] issue a permit under Section 49-11.
- 16. Access and improvements along Frederick Road (MD 355) as required by the Maryland State Highway Administration (MSHA).
 - The applicant will need to coordinate with the MSHA regarding the Street C connection to MD Route 355. This coordination includes all improvements necessary for the interim phase for site access via Street C.
- 17. Montgomery County has a Capital Improvements Program project (CIP Project No. 501118, "Frederick Road Bike Path") for a proposed ten (10) foot wide hiker-biker trail along the west side of MD 355 between Stringtown Road and Brink Road. The applicant will need to coordinate the proposed site access and MD355 frontage improvements with the CIP project plans. Contact Project Manager Ms. Yasamin Esmaili of our Division of Transportation Engineering (Transportation Planning and Design Section) at 240-777-7220 for coordination details. That project is currently in the final design phase and is scheduled for advertising in December, 2016.

If any improvements along the MD355 site frontage necessary for access to this project (such as acceleration and/or deceleration lanes) will affect the CIP project design, the applicant will be required to include construction of that path in their MSHA access permit.

- 18. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. We defer to the Planning Board for the composition, typical section, horizontal alignment, profile, access locations and sight distances, landscaping, lighting, drainage characteristics, and maintenance of private common driveways and private streets, beyond the public right-of-way.
- 19. We support construction of a private pedestrian access to the future Corridor Cities Transit (CCT) station west of the site on Observation Drive as part of this project. The applicant will need to coordinate with Rapid Transit System Development Manager Ms. Joana Conklin of our Director's Office and Mr. Rick Kiegel of Maryland Transit Administration regarding the latest plans for the CCT. Ms. Conklin may be contacted at 240-777-7195 or at joana.conklin@montgomerycountymd.gov; Mr. Kiegel may be contacted at 410-767-1380 or at rkiegel@mta.maryland.gov.
- 20. The Traffic Impact Study (TIS) was approved by MCDOT on April 11, 2016.
- 21. The applicant must pay the TPAR mitigation payment that is equivalent to 25% of the Transportation Impact Tax prior to issuance of the building permit.
- 22. MCDOT defers to MNCP&PC for access and improvements for private streets (including alignment, profile, typical section, drainage, maintenance and liability, etc.).
- 23. Private streets are to be built to tertiary roadway structural standars.
- 24. The storm drain study is incomplete and has not been approved. Environmental Site Design (ESD) and reduced runoff curve numbers cannot be credited to reduce the ten (10) year post development storm drain calculations. This detail will need to be addressed at the permit stage.
 - However, based on our analysis of that study and site conditions, downstream improvements to the County maintained storm drain system will not be required for this project.
- 25. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
- 26. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
- A. Construct proposed future public Street B (from its intersection with proposed private Street B through its intersection with proposed Street C) as Secondary Residential Street-Parking on One Side in accordance with design standard MC-2002.02. Execute an interim Maintenance and Liability Agreement in accordance with comment no. 8 of this letter.

- B. Construct proposed public Street D (from its intersection with proposed Street C to its beginning of the loop at Lot 93) as a non-standard Secondary Residential Street-Parking on one side in accordance with design standard MC-2002.02 (modified to delete sidewalk on one side of the road and for an off-center pavement section) in accordance with comment no. 8 of this letter.
- C. Construct the proposed one-way, public Street D loop around Lots 90-93 as a non-standard, Modified Tertiary Residential Street. This street will be designed in accordance with Standard No. MC-210.03 and be modified to add parallel parking on the west side of the loop, to the east of Lots 91 & 92.

*NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.

- D. Enclosed storm drainage and/or engineered channel are to be designed in accordance with the MCDOT <u>Storm Drain Design Criteria</u> within the County rights-of-way and all drainage easements.
- E. Provide permanent monuments and property line markers as required by Section 50-24(e) of the Subdivision Regulations.
- F. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- G. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- H. The developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. William Whelan, our Development Review Engineer for this project, at william.whelan@montgomerycountymd.gov.

Sincerely,

Gregory M. Leck, Manager Development Review Team Office of Transportation Policy

M:\corres\FY17\Traffic\Active\120160160 Dowden's Station - MCDOT FINAL prelim plan ltr.doc

cc: Michael Fisher Clarksburg Mews, LLC
Jonathan Lerner Meridian Homes, Inc

Steve Crum Macris, Hendricks & Glascock, P.A.

Colleen Bowers Macris, Hendricks & Glascock, P.A. Jody Kline Miller, Miller & Canby

Pranoy Choudhury

MSHA District 3

Richard Weaver MNCP&PC, Area 3
Molline Jackson MNCP&PC, Area 3

Preliminary Plan folder

Preliminary Plan letters notebook

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Sam Farhadi MCDPS RWPR Leo Galanko MCDPS WRM

Marie LaBaw MCFRS

Gary Erenrich MCDOT OTP

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Mr. Richard Weaver Area Three Planning Division The Maryland-National Capital Park & Planning Commission 8787 Georgia Avenue Silver Spring, MD 20910-3760

Ms. Molline Jackson Area Three Planning Division The Maryland-National Capital Park & Planning Commission 8787 Georgia Avenue Silver Spring, MD 20910-3760

ATTACHMENT 4

From:

Farhadi, Sam <Sam.Farhadi@montgomerycountymd.gov>

Sent:

Thursday, February 7, 2019 1:26 PM

To:

Johnsen, Douglas

Cc:

Stephen Crum

Subject:

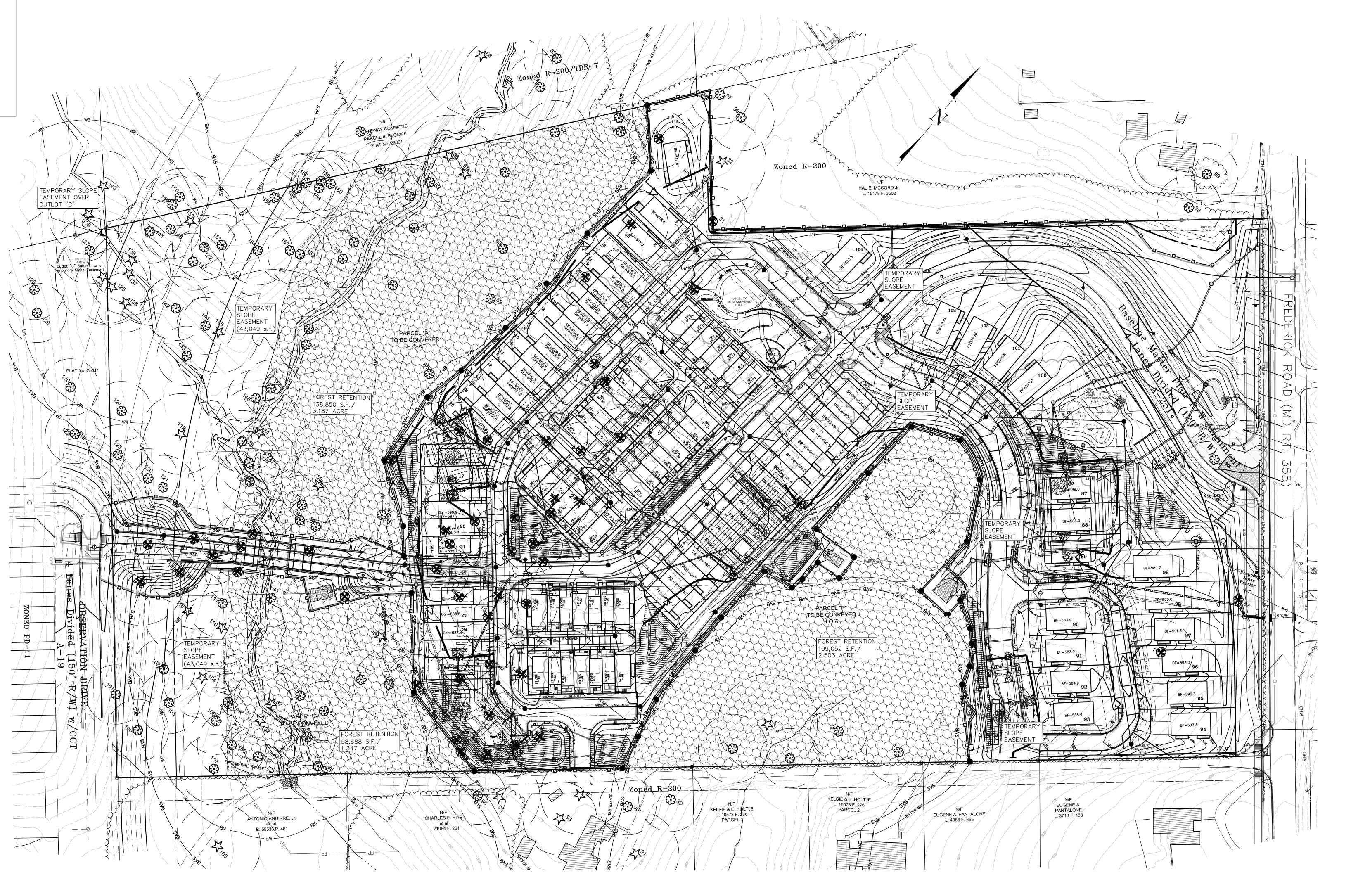
RE: Observation Drive, side slope easement, Dowden's Station; Plan No. 82016006B

Hi Doug,

I have reviewed the slope easement exhibit and compared it with the CIP sections that MHG has provided and they generally match.

Please let me know if you have any question or I can be at further assistance.

Sam



AMENDMENT B includes the following changes to Site Plan # 82016006A:

1. The Temporary Slope Easements which impact Conservation Easements are shown.

<u>Tree Variance Detail Table(Original Approval MNCPPC #82016006)</u>								
Tree ID#	<u>Species</u>	<u>DBH</u>	Impact/ Remove	% Impacted	Condition	<u>Mitigation</u>		
8	Tulip Poplar	30	Remove	100%	Good	Mitigated per FC worksheet		
10	Tulip Poplar	33	Remove	100%	Good	Mitigated per FC worksheet		
14	Black Cherry	31	Remove	100%	Poor	Mitigated per FC worksheet		
16	Black Oak	43	Remove	100%	Good	Mitigated per FC worksheet		
23	White Oak	30	Remove	100%	Good	Mitigated per FC worksheet		
24	Black Oak	36	Remove	100%	Fair	Mitigated per FC worksheet		
32	Black Oak	37	Impact Only	34%	Good	stress reduction measures		
36	Black Oak	31	Remove	100%	Fair	Mitigated per FC worksheet		
41	Red Oak	32	Remove	100%	Good	Mitigated per FC worksheet		
45	Red Oak	34	Impact Only	29%	Fair/Good	stress reduction measures		
46	Red Oak	30	Impact Only	4%	Poor	stress reduction measures		
115	Tulip Poplar	37	Remove	100%	Fair	Mitigated per FC worksheet		
116	White Oak	37	Impact Only	17%	Good	stress reduction measures		

Tree Variance Detail Table (Amendment MNCPPC #82016006A)								
Tree ID#	<u>Species</u>	<u>DBH</u>	Impact/ Remove	% Impacted	Condition	Mitigation		
45	Red Oak	34	Impact Only	28%	Fair/Good	stress reduction measures		

Impact Only

Impact Only

Good stress reduction measures

11% Good stress reduction measures

White Pine

White Ash

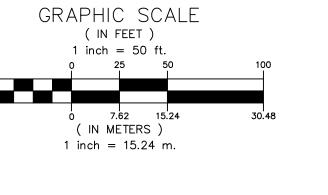
FOREST CONSERVATION DATA TABLE

DESCRIPTION	SIZE
Total Tract Area (includes 0.17 ac. off-site)	24.54 Acres
Tract remaining in Agricultural Use	0.00 Acres
Road & utility ROW (unimproved)	2.57 Acres
Net Tract Area	21.97 Acres
Existing Forest	24.19 Acres
Existing Forest (reduced for forest in ROW that is deducted from tract area)	21.63 Acres
Total Forest Retention	7.03 Acres
Total Forest Cleared	14.60 Acres
Land Use Category	MPD
Afforestation Threshhold	15 %
Reforestation Threshhold	20 %
Forest in Wetlands Retained	0.28 Acres
Cleared	0.002 Acres (93 s.f.)*
Planted	0.00 Acres
Forest in 100-year Floodplain Retained	0.00 Acres
Cleared	0.00 Acres
Planted	0.00 Acres
Forest in Stream Valley Buffer Retained	5.86 Acres
Cleared	0.39 Acres
Planted	0.00 Acres
Forest in other Priority Areas Retained	0.00 Acres
Cleared	0.00 Acres
Planted	0.00 Acres
Stream Valley Buffer Length	1000 Feet
Avg. Width	140 Feet

PREPARED FOR: Clarksburg Mews, LLC c/o Mr. Michael D. Fisher 4938 Hampden Lane Bethesda, Maryland 20814 PHONE: (301) 681-6400 Ext. 110

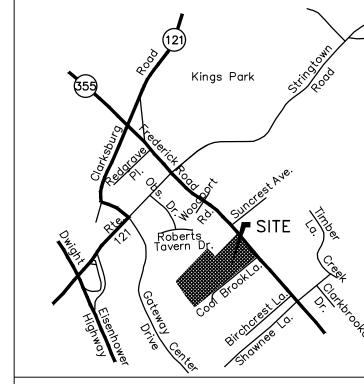
QUALIFIED PROFESSIONAL CERTIFICATION I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF EXISTING STATE AND COUNTY FOREST CONSERVATION LEGISLATION.

FRANK C. JOHNSON RECOGNIZED AS QUALIFIED PROFESSIONAL BY MD. DEPT. OF NATURAL RESOURCES COMAR 08.19.06.01



		1 inch = 15.24 m.		
				2ND
	12.12.18	Amendment B— See Amendment Notes	SEC	—
	11.21.17	Addressed Review Comments	SEC	▎▐▀▀▏ፗ▛
	09.07.17	Amendment A See Amendment Notes	DAC	9220 Wightman Montgomery V 20886-1279
MO	DATE	DESCRIPTION	DV	20000-12/9

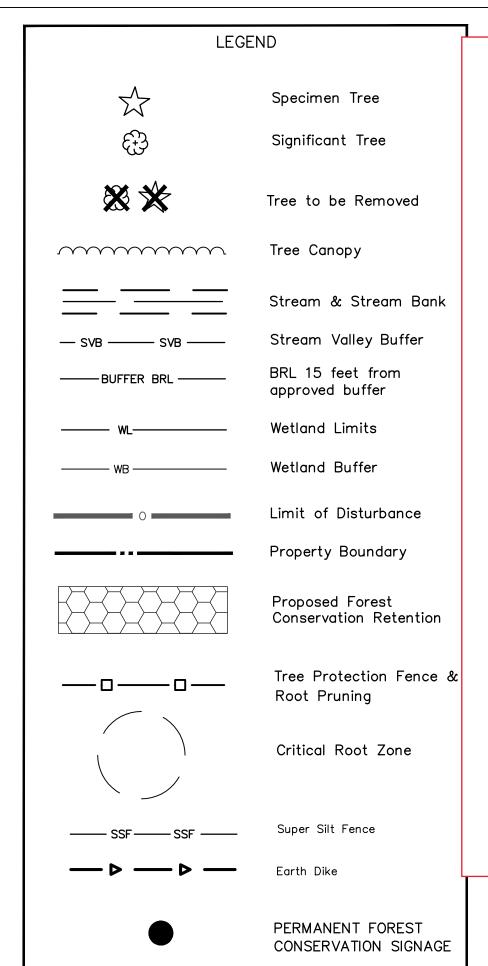
DESCRIPTION



VICINITY MAP SCALE 1" = 2,000'

			Dowden	Station				
NET TRAC	T AREA:							
							2.2	
	act area						24.54	
B. Land de	edication acres (pa	rks, county	facility, etc	3.)			0.00	
C. Land de	edication for roads	or utilities (r	not being c	onstructed	by this p	lan)	1.57	
	remain in comme	The second second second second	The state of the s				0.00	
	deductions (specify						1.00	
F. Net Tra	ct Area					=	21.97	
LAND USE	CATEGORY: (from				duco			
	Input the nun		er the appr	opnate ian	a use,			
	invite to only t	one chiry.						
	ARA	MDR	IDA	HDR	MPD	CIA		
	0	0	0	0	1	0		
				19			1.71	
G. Affores	tation Threshold				15%	xF=	3.30	
H. Conser	vation Threshold				20%	xF=	4.39	
EXISTING	FOREST COVER:							
AL MANAGEMENT	Value of the Park						04.00	
and properties and the state of the latest terminal termi	forest cover						21.63	
20 230023 000	forest above affores	Samuel Committee	1757 25 17712 117	DADE			18.33	
K. Area of	forest above cons	ervation thre	shold	=			17.24	
DDEAK EV	VEN POINT:							
DREAK E	VEN FOINT.							
I Forest	retention above thre	eshold with r	no mitigatio	n =			7.84	
7	g permitted withou			-			13.79	
W. Oleani	ig permitted withou	timingation					10.70	
PROPOSE	ED FOREST CLEA	RING:						
N. Total a	rea of forest to be o	cleared					14.60	
O. Total a	rea of forest to be i	retained		=			7.03	
PLANTING	REQUIREMENTS	;						
D Defere	station for sleading	abova	nation the	achold -			3.65	
	station for clearing							^
	station for clearing			A			0.00	0
	for retention above				4		2.64	
	eforestation require						1.01	1
	forestation required						0.00	
	for landscaping (ma	12 - 11 - 11 - 11 - 11 - 11 - 11 - 11 -					0.00	
V. Total re	eforestation and affor	orestation re	quired	=		w orksheet updated	1.01	

- All areas of forest retention are to be placed into a Category I Forest Conservation Easement.
 1.01 acres to be met via off—site forest bank 1.00 acres deducted from total tract area are areas which are within the Observation Drive slope
- The temporary slope easement shown hereon has been established from Preliminary Design drawings for Montgomery County Capital Improvements Project No. 509337.



DEVELOPER'S CERTIFICATE The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 82016006B including, financial bonding, forest planting, maintenance, and all other applicable agreements. Developer's Name: Clarksburg Mews, LLC Printed Company Name Contact Person or Owner: Michael D. Fisher
Printed Name 4938 Hampden Lane #330 Bethesda, MD 20814 Phone and Email: (301)652-4440 acemifi@aol.com TAX MAP EW31

WSSC 232NW13

FINAL FOREST CONSERVATION PLAN AMENDMENT MNCPPC FILE No. 82016006B

DOWDEN'S STATION

LOTS 21 and 22, PLAT No. 1982 2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

MHG	Macris, Hendricks & Glascock, P.A. Engineers ■ Planners	Proj. Mgr. Dac	Designer FCJ
man Road, Suite 120	Landscape Architects ■ Surveyors	Date 12/12/2018	Scale 1'=50'
y Village, Maryland)	Fax 301.948.0693 www.mhgpa.com	Project No. 2012.185.12	