

GARNKIRK FARMS

PRELIMINARY PLAN AMENDMENT NO. 12008024A

Description

Request to reinstate Preliminary Plan No. 120080240 and establish a new validity period until July 19, 2024.

No. 12008024A

Completed: 12-4-2023

MCPB

Item No. 11

12-14-2023



Montgomery County

Planning Board

2425 Reedie Drive, Floor 14

Wheaton, MD 20902

Planning Staff

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LOCATION/ADDRESS

On Shawnee Lane, 1,000 feet west of Frederick Road

MASTER PLAN

1994 Clarksburg Master Plan & Hyattstown Special Study Area

ZONE

PD-11 Zone

PROPERTY SIZE

37.18 acres

APPLICANT

Ventaq I, LLC

ACCEPTANCE DATE

June 5, 2023

REVIEW BASIS

50.4.2.F.2.b; 50.4.3.H.2.b; 50.4.2.I

Summary:

- Staff recommends approval with conditions of the Preliminary Plan Amendment.
- A request to reinstate Preliminary Plan No. 120080240, which was approved for 392 total residential dwelling units (including 12.5% MPDUs), consisting of 208 lots for 18 one-family detached units and 190 townhouses, and one lot for 184 multi-family units, on 37.18 acres of land, due to undue hardship caused by the expiration of the Plan. The plan validity expired in July 2020.
- The purpose of the request for reinstatement is to accommodate the platting of the lot for the remaining multifamily building; all other residential lots have been platted and built.
- The multi-family building is the result of a partnership with the Montgomery County Housing Opportunities Commission to provide 184 housing units, the majority of which will be designated as affordable units exceeding the affordability guidelines for MPDUs, in a range of sizes to accommodate a diverse range of incomes, family sizes, and housing needs.
- The Applicant is prepared to file for building permit before July 19, 2024.
- No community correspondence has been received as of the date of this Staff Report.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 12008024A

Staff recommends approval of the Preliminary Plan Amendment which seeks to reinstate Preliminary Plan No. 120080240, which approved 392 residential dwelling units (including 12.5% MPDUs) consisting of 18 one-family detached units, 190 townhouses and 184 multi-family units, and to provide a new Preliminary Plan validity period. All site development elements shown on the latest electronic version of the Preliminary Plan Amendment as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions. Except for the additional new condition below, all other conditions approved under Preliminary Plan No. 120130280 remain valid and in full force and effect.

New Condition

PLAN VALIDITY PERIOD

26. The Preliminary Plan will remain valid until July 19, 2024, and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property (outlined in red in Figure 1) is located on the north side of Shawnee Lane, approximately 400 feet northeast of its intersection with Gateway Center Drive and approximately 1,700 feet west of MD 355, in Clarksburg, east of I-270.



Figure 1 – Vicinity and Property Map

PROPERTY DESCRIPTION

The Property is comprised of a combined total area of 37.18 acres and is zoned PD-11 following legacy provisions of Section 59.7.7.1.B.1 of the Zoning Ordinance. The majority of the Subject Property includes single-family attached and single-family detached dwelling units that were approved by and have been constructed since the time of the original Preliminary Plan approved on June 19, 2013. The remaining southeast quadrant of the Subject Property (outlined in orange in Figure 1) is currently vacant and is the focus of the remaining development for a multifamily building with 184 units.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

LMA G-832

In 2006, the District Council approved Local Map Amendment G-832, associated development plan, and Preliminary Water Quality Plan to reclassify the Subject Property from the R-200 Zone to the PD-11 Zone.

Preliminary Plan No. 120080240 and Site Plan No. 820120100

On June 19, 2013, the Planning Board approved Preliminary Plan No. 120080240 (MCPB No. 13-76) and Site Plan No. 820120100 (MCPB No. 13-77) for 392 total residential dwelling units (including 12.5% MPDUs), consisting of 208 lots for 18 one-family detached units and 190 townhouses, and one lot for 184 multi-family units, on 37.18 acres of PD-11 zoned land.

Site Plan Amendment No. 82012010A

On July 21, 2017, the Planning Director approved a Site Plan Amendment No. 82012010A for revisions to the recreational play equipment for the tot lot located on Green Poplar Loop; revisions to the monument signage, fencing, and landscaping at the corner of Shawnee Lane and Tate Street; and revisions to the light fixture style to match the style utilized in the Gallery Place subdivision located directly along Shawnee Lane.

Site Plan Amendment No. 82012010B

On April 14, 2021, the Planning Director approved a Site Plan Amendment No. 82012010B for modifications to the clubhouse size, pool area, recreational amenities, lighting, and landscaping.

Site Plan amendment No. 82012010C

On January 13, 2023, the Planning Director approved Site Plan Amendment No. 82012010C for architectural modifications, including reduction of the building footprint and amount of retaining walls.

PROPOSAL

Preliminary Plan Amendment No. 12008024A (“Application” or “Amendment”) requests reinstatement of the Preliminary Plan approval, including the original Adequate Public Facilities finding and validity period, and establishment of a new Preliminary Plan validity through July 19, 2024. The overwhelming majority of the Plan has been platted and all one-family detached units and townhouses have been

built out as approved. The only remaining unplatted portion of the property is the area outlined in orange in Figure 1 for the multifamily building. Reinstatement of the Preliminary Plan will afford the Applicant the ability to obtain the single remaining Record Plat and in turn file for building permit for the multifamily building, and ultimately deliver much needed housing in Montgomery County. This multi-family building is the result of a partnership with the Montgomery County Housing Opportunities Commission to provide 184 housing units, the majority of which will be designated as affordable units exceeding the affordability guidelines for MPDUs, in a range of sizes to accommodate a diverse range of incomes, family sizes, and housing needs. This reinstatement request is in accordance with Section 50.4.2.H.2.b. of the Montgomery County Code, which permits the Board to reinstate a Preliminary Plan if an Applicant will suffer a practical difficulty or undue hardship if the plan is not reinstated.

As evident in the Applicant's Statement of Justification (Attachment A) and detailed in the findings below, the Applicant has suffered a practical difficulty or undue hardship which prevented completion of the record plat process. Additional undue hardship would occur should the Preliminary Plan not be reinstated. As discussed in Section 5 below, the Amendment does not alter the intent of the original Preliminary Plan approval.

SECTION 4: COMMUNITY OUTREACH

This Application was submitted and noticed in accordance with all required procedures. The Application has posted proper signage and the notice for public hearing has been mailed to all persons of record. To date, Staff has not received any community correspondence regarding the Application.

SECTION 5: PRELIMINARY PLAN 12008024A FINDINGS AND ANALYSIS

On June 19, 2013, the Planning Board approved Preliminary Plan No. 120080240, MCPB No. 13-76, to create 208 lots for 18 one-family detached units and 190 townhouses, and one lot for 184 multi-family units on the Subject Property with conditions. The Preliminary Plan was valid until July 19, 2020, by which time plats needed to be recorded for all of the Preliminary Plan area. A total of 207 plats were recorded for 33 acres, leaving 4 acres unrecorded.

Preliminary Plan Amendment 12008024A requests to reinstate Preliminary Plan No. 120080240 to allow for recordation of the plat for the remaining 4 acres. The proposed Preliminary Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

Preliminary Plan Reinstatement

Section 50.4.2.H.2.a of the Montgomery County Code states that failure to submit an extension request in a timely fashion voids all non-validated portions of a preliminary plan. Section 50.4.2.H.2.b.

goes on to state that the Board may reinstate a Preliminary Plan and establish a new validity period, with or without a new APF review, if the Applicant demonstrates practical difficulty or undue hardship.

As part of this Amendment, the Applicant requests reinstatement of the Preliminary Plan, including establishing a new Preliminary Plan validity period to July 19, 2024, matching the current APF validity period. This will allow the Applicant to plat the remaining four-acre lot for the multifamily building and request a building permit.

As detailed in Table 1 below, the Preliminary Plan was originally approved in June 19 of 2013 and provided with a 5-year plan validity period, which expired on July 19, 2018. Through County Council legislative action, the Preliminary Plan was automatically extended by an additional 2 years to July 19, 2020.

Table 1: Approved Staged Development Validity Period

Action	Approved Development	Validity Duration	Updated Validity Expiration
Original Approval	120080240	5 years	07/19/2018
Ord. No. 19-12, § 3	One automatic 2-year extensions for active preliminary plans	2 years	07/19/2020

As detailed in the Statement of Justification for the reinstatement, the Applicant would face practical difficulties and undue hardship if the Preliminary Plan is not reinstated. In the months following the outbreak of the COVID 19 pandemic, the Applicant paused efforts to construct the multifamily building due to the complex economic and logistical challenges at that time. Within that challenging time, the Applicant inadvertently allowed the Preliminary Plan to lapse. The Plan validity expired just 11 days prior to being eligible for an additional County Council bill that would have extended validity further; the county-wide extension legislation is indicative that the chaos of the pandemic warranted additional time for plan implementation. The expiration of this particular Plan was likely an oversight of the legislation which only offered relief to still valid applications as of July of 2020, but not retroactively to applications still valid at the start of the pandemic. The Applicant in turn was unaware that the plan had expired until requesting a building permit for construction. The Applicant has invested significant resources into the project to date, building out all necessary infrastructure, utilities, including all internal roads and conditioned improvements (Table 2) and community amenities. The delay through a possible new application process would add additional months to the construction calendar, adding additional significant costs. The delay and cost overruns could jeopardize the viability of project, specifically the provision of affordable housing. In partnership with the Montgomery County Housing Opportunities Commission, the building will provide 184 housing units, the majority of which will be designated as affordable units exceeding the affordability guidelines for MPDUs, in a range of sizes to accommodate a diverse range of incomes, family sizes, and housing needs.

Table 2: Conditioned Infrastructure Improvements

Condition #	Infrastructure Requirement	Completed Y/N
4	Dedicate all public road rights-of-way	Y
5	Construct extension of Observation Drive from Shawnee Lane to northernmost access point as a two-lane arterial roadway including a shared use path	Y
6	Construct sidewalk along frontage of Shawnee Lane	Y
7	Intersection improvements at Frederick Road (MD 355) and Foreman Boulevard	Y

The request to reinstate the Preliminary Plan through July 19, 2024, does not alter the intent of the original approval and the only change is to update the Plan validity period necessary to complete the record plat process. The Application would continue to comply with the prior APF approval.

As part of the review of this application, nearby intersection capacity based on recent available counts was observed. All previously studied intersections continue to operate within congestions standards and there are no concerns over transportation adequacy (Table 3).

Table 3: Previously Studied Intersections

Intersection	Continues to Meet Congestion Standard?
MD 121 & Gateway Center Dr./Stringtown Rd.	Yes
MD 355/Stringtown Rd.	Yes
MD 355/Shawnee Lane	Yes
Gateway Center Dr./Shawnee Lane	Yes
MD 355/Foreman Blvd.	Yes

Additionally, local school capacity was analyzed for Clarksburg Elementary School, Rocky Hill Middle School, and Clarksburg High School. At present, Clarksburg High School is over capacity. However, the school will complete an expansion project in July 2024 that is anticipated to address all capacity concerns, prior to any residents moving into the project. The remaining schools will continue to operate within capacity. Therefore, there are no concerns over the existing approved APF finding; all public facilities will continue to be adequate.

The Application will remain in compliance with Chapter 22A of the Forest Conservation Law of Montgomery County Code through the previously approved NRI/FSD and Final Forest Conservation Plan (FFCP). A Final Water Quality Plan was approved by MCDPS on September 12, 2022.

The Application meets the requirements for the reinstatement for the Preliminary Plan. Staff recommends approval of the request.

SECTION 6: CONCLUSION

Based on the information provided by the Applicant, Staff believes that the Applicant will suffer a practical difficulty and an undue hardship if the Preliminary Plan is not reinstated and recommends that the Planning Board reinstate the Preliminary Plan, with the new condition enumerated in Section 1. As proposed, the approved lots continue to meet all requirements established in the applicable

Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the 1994 Clarksburg Master Plan and Hyattstown Special Study Area.

ATTACHMENTS

Attachment A: Statement of Justification

Attachment B: Prior Approvals

Attachment A

M-NCPPC
2425 Reedie Drive, 14th Floor
Wheaton, Maryland 20902
Attn: Mr. Patrick Butler

Re: Garnkirk Farms
Preliminary Plan Amendment #12008024A – Request to Reinstate Preliminary Plan

Dear Mr. Butler,

On behalf of our client, Ventaq I, LLC (“Applicant”), we are respectfully requesting an amendment to the approved preliminary plan for the Garnkirk Farms subdivision (“Preliminary Plan Amendment #12008024A,” or the “Amendment”), in order to reinstate the validity period of the underlying preliminary plan of subdivision (“Preliminary Plan #120080240,” or the “Preliminary Plan”).

The Amendment proposes to reinstate the Preliminary Plan until at least July 19, 2024. This date corresponds with the duration of the Adequate Public Facilities (“APF”) Determination that the Montgomery County Planning Board (“Planning Board”) originally approved with the Preliminary Plan on June 19, 2013, which the Montgomery County Council (“County Council”) subsequently extended pursuant to a series of automatic legislative extensions (as described below). The Applicant anticipates that this short duration will be sufficient to process the two remaining record plats for the Preliminary Plan, both of which our firm previously has prepared and submitted to the Montgomery County Planning Department (“Planning Department”) for review, as described below.

This Amendment is for reinstatement purposes only. The subject development will continue to meet all of the standards and requirements of the original approved Preliminary Plan, and the Amendment will have no impact on the approved development standards and layout of the associated project. For this reason, the application materials submitted with this Amendment are limited to the following:

- a. Cover Sheet
- b. Resolution Sheets
- c. Statement of Justification
- d. Certificate of Compliance
- e. Notice List
- f. Draft Notice of Application Letter

I. Background

The Preliminary Plan applies to the Garnkirk Farms subdivision, which is comprised of approximately 37.18 acres of land in Clarksburg, Maryland (the “Property”). The Property is located east of I-270 on the north side of Shawnee Lane, approximately 400 feet northeast of its intersection with Gateway Center Drive and approximately 1,700 feet west of MD 355. The Property is zoned PD-11 pursuant to Local Map Amendment LMA G-832, which was approved by the County Council sitting as the District Council on October 31, 2006, via Resolution No. 15-1680. The site is within the Little Seneca Creek watershed and the Clarksburg Special Protection Area (“SPA”).

The Planning Board approved the Preliminary Plan, together with a site plan (“Site Plan No. 820120100”), a Final Water Quality Plan, and a Final Forest Conservation Plan (collectively, the “Approvals”) on May 30, 2013. The Approvals allow for development of the Property with a total of 392 residential units, including a minimum of 12.5% Moderately Priced Dwelling Units (“MPDUs”). More specifically, the Approvals allowed for the creation of 208 lots for 18 single-family detached houses and 190 townhomes and 1 lot for 184 multi-family units on the Property, along with associated parking, infrastructure, and amenities (collectively, the “Project”).

As specified in its associated Planning Board Resolution, the Preliminary Plan originally was to have remained valid for 60 months from its initiation date (*i.e.*, 30 days from the date of the Resolution’s mailing), or until July 18, 2018. However, the Preliminary Plan was subject to a cumulative, automatic four-year legislative extension that applies pursuant to the County Council’s approval of certain Subdivision Regulation Amendments (“SRAs”). With the SRAs approved as SRA No. 15-01 (effective March 31, 2015) and SRA No. 20-01 (effective July 28, 2020), the Preliminary Plan’s validity period was extended until July 17, 2022.

Since the Planning Board’s original approval of the Preliminary Plan in 2013, the Applicant has been actively recording plats and obtaining building permits for the single-family detached houses and townhomes approved with the Project, as well as for the associated site infrastructure and amenities.¹ The Applicant also has been working to advance plans for the multi-family residential building, the development and construction of which is the result of a partnership between the Applicant and The Housing Opportunities Commission of Montgomery County, Maryland (“HOC”). Most recently, in January 2023, the Applicant received approval for Site Plan Amendment No. 82012010C (as amended, the “Site Plan Amendment”), which authorized certain architectural modifications to the multi-family building, a reduction of the building footprint, and a reduction in the amount of retaining walls planned for the multi-family lot.²

Plats for the majority of the lots shown on the Preliminary Plan – including townhouse lots, single-family detached lots, and open-space and recreation parcels – now have been approved and recorded. However, the Applicant has not yet processed or recorded the plat for the approved multi-family lot and for one remaining open space parcel, although these plats previously have been prepared and submitted to the Planning Department. More specifically, our firm submitted a record plat for the future multi-family lot on April 19, 2023 (“Record Plat #220230820”). We also submitted a record plat for the remaining open space parcel in August, 2015 (“Record Plat #220150930”), which remains pending with the Montgomery County Department of Permitting Services (“MCDPS”) at this time pending resolution of certain road design issues for future Weald Way and final details for associated temporary slope easements and Forest Conservation Plan revisions.

While the Preliminary Plan has now expired without the Applicant requesting an extension, this outcome was unintentional and is attributable to the following unusual circumstances:

1. The Applicant has always intended to record the multi-family plat only after the construction of development-wide infrastructure was substantially completed, so that the necessary easements could be finalized and included in that plat. However, the project construction was complex and multi-phased, and took much longer than originally anticipated due to the recent economic

¹ In fact, as of October 30, 2023, all single-family homes and townhouse units have now been constructed as has much the associated infrastructure for the development.

² The Applicant’s application for the Site Plan Amendment was accepted on June 28, 2022, prior to the expiration of the Preliminary Plan.

downturn and then the COVID 19 pandemic. Additionally, during this period, the Applicant and its consultants experienced employee turnover that interfered with institutional knowledge about certain aspects of the Approvals, including Preliminary Plan validity.

2. Based on the site plan for the multi-family building and associated applicable reviewing agency conditions and agreements, the Applicant believed that the Garnkirk Farms subdivision was approved as a phased project, with a separate initiation date that would start a new 60 month validity period with the onset of the multifamily component of the Project (*i.e.*, Phase 2, as per the original site plan). Upon the approval of the recent Site Plan Amendment in January, 2023, which finalized the multifamily building design, the plats for the final phase of the Project were prepared with the initial understanding that the now-defined phasing schedule for the Project would be incorporated into the Preliminary Plan by amendment. Only after discussions with Montgomery County representatives did our client become aware that the phasing schedule had not been so incorporated, and that the Preliminary Plan must be reinstated.
3. As noted above, our firm submitted the record plat for the multi-family lot to the Planning Department on April 19, 2023. It was only at this time that the Applicant, its consultants, and the Planning Department became aware of the expiration of the Preliminary Plan. Had any of these parties become aware of the issue during the processing of the preceding Site Plan Amendment (which was already in process with the Planning Department prior to, and approved after, Preliminary Plan expiration), the Applicant would have submitted an extension request without delay.

Although the processing of the remaining record plats for the multi-family lot and for the open space parcel have been on hold pending the Planning Board's consideration of this Amendment, it is the Applicant's intention to immediately resume efforts to process and record the record plats, should the Planning Board approve the reinstatement of the Preliminary Plan. Because the Applicant and its consultants also are nearing completion on construction documents for the multi-family building, the Applicant anticipates that building permit applications also would follow shortly after approval and recordation of the plats.

II. Justification

Section 50.4.2.H.2.B of the Montgomery County Code provides as follows with respect to the reinstatement of a preliminary plan of subdivision that has been allowed to expire prior to the submission of a timely extension request:

Where a preliminary plan has been allowed to expire due to the applicant's failure to file a timely request for extension, the Board may reinstate the preliminary plan and establish a new validity period if practical difficulty or undue hardship is demonstrated by the applicant. The Board may require the applicant to get a new APF review and approval by the Board as a prerequisite or condition of its action to extend an expired plan.

In this case, the Applicant will face both practical difficulties and undue hardships if the Preliminary Plan is not reinstated. Most immediately, the Applicant and the Planning Department will not be able to resume the processing of the record plat that already has been submitted for the multi-family parcel. As a consequence, the Applicant will not be able to obtain the building and miscellaneous permits necessary to construct and implement the approved site plan for the multi-family building.

These practical difficulties, in turn, will create undue hardships for Applicant. The Applicant already has invested several years and significant monetary resources in designing and obtaining the necessary entitlements and permits for the approved subdivision, including for the multi-family building (not limited to Design Excellence coordination with Planning Department staff). In addition, the infrastructure and

traffic improvements associated with the Preliminary Plan for the broader subdivision – which were predicated, in part, on the future existence of the approved multi-family building – also largely have been permitted, funded, and installed.

However, beyond the significant expenditures of time and money that have already been incurred in connection with implementing the approved Preliminary Plan, the practical difficulties that arise from its expiration also will undermine a fundamental objective for the approved development: to deliver needed multi-family housing units – including affordable housing – in the Clarksburg community. More specifically, as noted above, the approved building is the result of a partnership between the Applicant and HOC. Consequently, the building will provide 184 housing units, the majority of which will be designated as affordable units exceeding the affordability guidelines for MPDUs, in a range of sizes to accommodate a diverse range of incomes, family sizes, and housing needs. These 184 units will provide much-needed, ready-to construct, high quality housing and recreational amenities, at lower-price points for working families, seniors, and young professionals, and is an essential part of meeting the County’s housing goals and the recommendations of the 1994 *Clarksburg Master Plan*. Thus, expiration of the Preliminary Plan will result in undue hardship not only to the Applicant, but to its development partners, prospective residents, and to the County itself (due to the inability to achieve important policy objectives).

In contrast to these practical difficulties and hardships, reinstating the Preliminary Plan via the Amendment would significantly benefit the public by allowing for implementation of the approved land use entitlements for the multi-family building, facilitating the provision of much-needed affordable housing and housing diversity in the neighborhood in the near future. As noted above, the record plat already has been drafted and submitted for Planning Department review. Reinstatement would allow the Planning Department to resume its processing of the already submitted record plat, after which the Applicant would be able to complete recordation of the existing multi-family and open space parcels that were shown on the approved Preliminary Plan. This will allow the approved multi-family building to be delivered much sooner than would be the case if a new Preliminary Plan is required.

Importantly, the Amendment does not propose any changes to the type of housing approved with the Preliminary Plan, the size of any buildings, or the number of units; it only proposes to reinstate the Preliminary Plan for at least the minimum duration necessary to complete the plat recordation process. Thus, the Project will continue to satisfy requirements for stormwater management, forest conservation, and adequate public facilities in the manner determined with its initial approval and with the recent Site Plan Amendment, as applicable, as follows:

- Forest Conservation. The Project is subject to the requirements of Chapter 22A of the Montgomery County Code (the "Forest Conservation Law"), and will continue to comply with these requirements. A Natural Resources Inventory/ Forest Stand Delineation ("NRI/FSD") (No. 420031760) was prepared for the Property and approved on January 18, 2010. The Final Forest Conservation Plan ("FFCP") was approved on May 30, 2013 in conjunction with the approved Preliminary Plan. In accordance with Planning Department requirements, the FFCP was approved for the entire site by Staff and bonded. Since that time, the Property has been rough graded in accordance with the Final Forest Conservation Plan, and there are no trees on the multi-family site at present.
- Sediment Control/Water Quality. The Project will continue to comply with the requirements of Chapter 19 of the Montgomery County Code. The Property is located in the Clarksburg Special Protection Area and, thus, was required to submit a water quality plan for approval with the original Preliminary Plan. The Final Water Quality Plan was approved by MCDPS on September 12, 2022.

- Adequate Public Facilities. With approval of the Amendment and reinstatement of the Preliminary Plan, public facilities will remain adequate to accommodate the Garnkirk Farms subdivision, including the approved multi-family building. As stated in the Planning Board Resolution for the Preliminary Plan, the APF Determination for the project originally was valid for 85 months from its initiation date (*i.e.*, 30 days from the date of mailing of the Planning Board Resolution), or until July 19, 2020. With an automatic, cumulative four-year legislative extension pursuant to SRA No. 15-01 (effective March 31, 2015) and SRA No. 20-01 (effective July 28, 2020), the APF Determination for the project was subsequently extended until July 19, 2024.

The Property already is served by existing water and sewer facilities, and is located within water and sewer categories W-1 and S-1. Water and sewer needs are expected to be met by the Washington Suburban Sanitary Commission ("WSSC") through connections to the existing water and sewer lines. Electric, gas and telecommunications services also will be available.

Other public facilities and services – including police stations, firehouses, and health care facilities – were deemed to operate within acceptable levels at the time of the prior Preliminary Plan approval and APF Determination. These facilities continue to be located in proximity to the Property, and will serve the Project. With respect to police, Montgomery County Police Department 5D is located approximately 6 miles away (or 9 minutes driving distance) at 20000 Aircraft Drive in Germantown. With respect to fire and rescue services, Montgomery County Fire Station 35 is located approximately 1 mile away (or 3 minutes driving distance) at 22610 Gateway Center Drive in Clarksburg. As for health care, Holy Cross Germantown hospital is located approximately 5 miles away (or 11 minutes driving distance) at 19801 Observation Drive in Germantown.

For all of these reasons, and because the Amendment will not inflict any harm or negative effects on the public, we respectfully request that the Planning Board reinstate the Preliminary Plan until at least July 19, 2024 as proposed.

We look forward to the Board's consideration of this matter. Please feel free to contact me with any questions or comments.

Sincerely,



Amy Sommer, PLA

Charles P. Johnson & Associates



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

JUN 19 2013

MCPB No. 13-76
Preliminary Plan No. 120080240
Garnkirk Farms
Date of Hearing: May 30, 2013

Attachment B

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on February 1, 2008, Garnkirk, Inc. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 208 lots for 18 one-family detached units and 190 townhouses, and 1 lot for 184 multi-family dwelling units, on 37.18 acres of land in the PD-11 zone, located on Shawnee Lane approximately 3,000 feet west of Fredrick Road (MD 355) ("Subject Property"), in the Clarksburg Policy Area and Clarksburg master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080240, Garnkirk Farms ("Preliminary 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 May 17, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 30, 2013, 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 motion of Commissioner Anderson and seconded by Commissioner Presley, by a vote 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor;

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board approves Preliminary Plan No. 120080240 to create 208 lots for 18 one-family detached units and 190 townhouses, and 1 lot for 184 multi-family dwelling units on the Subject Property,

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

subject to the following conditions:¹

- 1) This Preliminary Plan is limited to 208 lots for 18 one-family detached units and 190 townhouses, and 1 lot for 184 multi-family dwelling units, with an overall total of 392 dwelling units, including 12.5 percent MPDUs.
- 2) The Applicant must comply with the binding elements and conditions of County Council Resolution No. 15-1680 approving Local Map Amendment G-832.

Final Forest Conservation Plan

- 3) The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan No. 820120100, approved as part of this Preliminary Plan, as follows:
 - a. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved final forest conservation plan.
 - b. A Category I conservation easement must be shown on the record plat over all areas of forest retention and forest planting as shown on the approved Final Forest Conservation Plan.
 - c. Onsite reforestation must begin within the first planting season after completion of the construction of the retaining walls located adjacent to the planting areas, with appropriate phasing to allow for construction of sediment and erosion control structures.
 - d. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - e. The Applicant must submit financial security for planting 0.26 acres prior to the start of clearing and grading.
 - f. The Applicant must obtain M-NCPPC approval of a five-year maintenance and management agreement prior to M-NCPPC accepting any on-site planting.
 - g. The Applicant must install permanent Category I Forest Conservation Easement signage along the perimeter of the conservation easements.
 - h. Prior to clearing and grading, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for use of an M-NCPPC-approved forest mitigation bank or other approved location to satisfy the forest mitigation planting requirements. The offsite forest mitigation requirement must be met within the Clarksburg Special Protection Area or within the Seneca Creek watershed.

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.

- i. The Applicant must field locate and install the natural surface trail required on the Approved Development Plan G-832, within the first planting season after issuance of the first grading permit. The exact location of the path through the Category I conservation easement must be approved by M-NCPPC Staff prior to installation.

Road Dedication/ Improvements

- 4) The Applicant must dedicate and show on the record plat, the following rights-of-way:
 - a. 60 feet from the centerline of the approved four lane divided, Shawnee Lane cross section (MR2010815A) along the Subject Property frontage.
 - b. 75 feet along the eastern property line for Observation Drive.
 - c. 83 feet along the eastern property line for Observation Drive at future Transit Station.
 - d. Internal Street "A" – 60 feet (Secondary Street MC-2002.02)
 - e. Internal Street "C" – 50 feet (Tertiary Street MC-201.02 (Modified))
- 5) The Applicant must construct Observation Drive (A-19) from Shawnee Lane to the northernmost point of access as a two-lane arterial roadway including an eight-foot shared use path. Construction of Observation Drive from Shawnee Lane to Street "C" must be completed and open to traffic prior to issuance of 200th building permit.
- 6) Prior to plat recordation, the Applicant must satisfy Montgomery County Department of Permitting Services (MCDPS) requirements to ensure the construction of a 5-foot wide sidewalk along the property frontage on Shawnee Lane, unless MCDPS waives construction.
- 7) Prior to issuance of the 50th building permit, the Applicant must provide the following intersection improvement at MD 355 and Foreman Boulevard/Clarksburg High School to meet Local Area Transportation Review (LATR) requirements: One exclusive right-turn lane by re-designating one exclusive northbound left-turn lane as a shared left/through lane with the particular design requirements to be approved by Montgomery County Department of Transportation. Applicant is responsible for all changes required to the traffic signal system as a result of the change in lane configuration at this location.
- 8) The property known as the Cawood Property, located in the northeast quadrant of the Observation Drive/Shawnee Lane intersection, must be placed in reservation for a period of five years from the date of Preliminary Plan approval for future acquisition by the governmental authority should it be required for transit related parking.

Other Agencies

- 9) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated March 15, 2013, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 10) Prior to plat recordation, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 11) The Planning Board accepts the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated May 14, 2012, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 12) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
- 13) The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its Final Water Quality Plan approval letter dated April 16, 2013, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

Record Plat(s)

- 14) The record plat(s) must show necessary easements.
- 15) The record plat(s) must reflect common ingress/egress and utility easements over all shared driveways.
- 16) The record plat(s) must reflect a public use and access easement over all private streets and adjacent parallel sidewalks.
- 17) The record plat(s) must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 18) The record plat(s) must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Prior to issuance of the 294th building permit, the Applicant must provide verification to Staff that the Applicant's recorded HOA Documents incorporate the Covenant by reference.

Concurrent Site Plan

- 19) Prior to recordation of any plat, Site Plan No. 820120100 must be certified by Staff.
- 20) No clearing, grading or recording of plats prior to Certified Site Plan approval.
- 21) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at Site Plan.
- 22) The final number of MPDUs will be determined at the time of Site Plan.
- 23) The Certified Preliminary Plan must contain the following note:
"Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 24) In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

APF Validity Period

- 25) The Adequate Public Facilities review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

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 Preliminary Plan substantially conforms to the Master Plan.*

The Development Plan approved with Local Map Amendment G-832 was found to be in conformance with the 1994 Clarksburg Master Plan. The Preliminary Plan is substantially the same as the Development Plan and is also in conformance with the 1994 Clarksburg Master Plan.

- The PD-11 Zone and residential density at 10.54 units per acre (392 units / 37.18 ac.) complies with the land use and zoning recommendations of the Master Plan;
- The residential mix substantially conforms to the unit types and mix specified for the Transitway Area within the Transit Corridor District. The Master Plan recommends a range of 5 to 10 percent for one-family detached units, and the project proposes 4.6 percent. The Board finds that overall mix substantially conforms to the Master Plan recommendations because the other unit types are well within the recommended ranges.

	Recommended Master Plan Range	Approved Garnkirk Farms
Sing. Fam. Detached	5 -10 %	4.6 % (18 units)
Sing. Fam. Attached (Townhouse)	40-60 %	48.5 % (190 units)
Multi-family	30-50 %	46.9 % (184 units)
Total units provided		100% (392 units)

The Project substantially complies with the applicable Objectives of the Transit Corridor District:

- *Continue the present residential character along MD 355.*
 This Objective is not applicable since the Subject Property is separated from MD 355 by land zoned R-200 and environmental buffers.
- *Balance the need for increased carrying capacity along portions of MD 355 with the desire to retain a residential character along MD 355.*
 The Application will provide dedication and construction of Observation Drive as an alternative north-south thoroughfare recommended in the Master Plan to alleviate anticipated traffic from MD 355.
- *Provide housing at designated areas along the transitway near significant employment uses.*
 The Application fulfills this Objective by introducing 392 residential units consisting of 18 one-family detached, 190 townhouses, and 184 multi-family units in land adjoining one of the transit stops for the CCT.
- *Allow small amounts of office and retail uses at transit stop areas as part of a mixed-use development pattern.*
 The Application does not provide office or retail uses for the following reasons: 1) lack of patrons in the foreseeable future to support a retail use even with the full built out of the Application; 2) the topography of the Subject Property poses challenges to the creation of functional, accessible retail and compromises the visibility of the retail from the transit stop.

- *Establish strong pedestrian and bicycle linkages to the greenway.*
Walkways are provided at the full perimeter of the Subject Property allowing access to the large wooded areas at the northwest and southwest of the site. Pedestrian and bicycle linkages will be provided to both Observation Drive and Shawnee Lane (A-301). Direct linkages to areas northeast will be provided with the ultimate construction of Observation Drive.
- *Improve east-west roadway connections.*
The Application will complete the north side streetscape of Shawnee Lane opposite the adjacent Gallery Park project (formerly Eastside).
- *Provide an open space system which includes small civic spaces at the transit stops.*
An internal open space system, including a central open space area with an amphitheater, will front onto Observation Drive and be within 800 feet of the intersection with Shawnee Lane, where the transit stop will be located.

The Master Plan recommends a complete transit system as part of the Transportation and Mobility Plan to support future developments in the area with emphasis on transit use in accordance with the Master Plan objectives for transit-oriented community developments in Clarksburg. The Master Plan recommends the location of the transitway within the entire length of the A-19 (Observation Drive) right-of-way from Germantown to MD 355 and identifies the Garnkirk Farms site as one of the Transit Stops. The Park-and-Ride lot at the Cawood Property that was acquired by the Applicant to satisfy the master planned transit stop requirement will be placed in reservation for a period of five years. The Board accepts the Applicant's proposal to place the previously-known Cawood Property in reservation for future acquisition by the governmental authority should it be required for the location of transit related parking.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

As conditioned, the subject Preliminary Plan for a 392-unit residential development will satisfy the LATR and TPAR requirements of the Adequate Public Facilities (APF) review.

Local Area Transportation Review (LATR)

A traffic study dated April 28, 2011, identified five local intersections as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,425 Critical Lane Volume (CLV) for the Clarksburg Policy Area.

As analyzed in the Staff Report, all existing intersections analyzed are currently operating at acceptable 1,425 CLV congestion standards and will also operate at acceptable levels under the background development conditions. However, under

the total development condition, the traffic study indicated that the MD 355/Foreman Boulevard/Clarksburg intersection will operate at an unacceptable CLV (1,465) during the AM peak hour. In order to address this projected AM peak hour failing condition, the Applicant must construct intersection improvements to provide for one exclusive right-turn lane by re-designating one exclusive northbound left-turn lane as a shared left/through lane. Upon implementation of these roadway improvements, the MD 355/Foreman Boulevard/Clarksburg High School intersection is projected to operate at an acceptable 1,425 CLV congestion standard and meet LATR requirements.

Transportation Policy Area Review (TPAR)/Policy Area Mobility Review (PAMR)

As analyzed in the Staff Report, the 2012-2016 Subdivision Staging Policy (SSP), the Clarksburg Policy Area is adequate under the roadway test and inadequate under the transit test, requiring 25% of the Impact Tax as the TPAR payment. However, the Application was submitted before January 1, 2013. As such, the current SSP provides the Applicant with certain discretion to meet the TPAR requirement by either complying with all applicable requirements of TPAR or the PAMR requirements that were in force immediately before the County Council's SSP was amended in 2012. The Applicant chose to be subject to PAMR. According to the applicable PAMR requirements, applications submitted prior to July 1, 2011 are subject to the trip mitigation requirements in effect for FY 2012. There were no trip mitigation requirements for the Clarksburg Policy Area at that time. Therefore, the Application meets the applicable TPAR requirement under the current SSP.

Site Access, Vehicular/Pedestrian Circulation and Rights-of-way

The Planning Board was satisfied that the road network shown on the Preliminary Plan provided the lots with adequate vehicular and pedestrian circulation and access. The Garnkirk Farms development will have three access points, two from Observation Drive and the third from Shawnee Lane which will be aligned with the access point to the Gallery Park (formerly known as Eastside) development. The development will be bisected by Public Street "A," which intersects with Public Street "C" on the northern side of the Subject Property. The internal public streets intersect with Observation Drive and Shawnee Lane to provide adequate vehicular access to the major transportation routes in the planning area. A system of internal private streets provides access to individual units. All of the lots for the detached units have frontage on a public streets as well as some of the townhouse units. The majority of townhome lots front to a private street but in all instances, the private street system has been designed to function as a public street by providing adequate pavement width, turning movements and radii. Montgomery County Fire and Rescue Service (MCFRS) have approved a Fire Access Plan which demonstrates that emergency apparatus can access each unit safely.

Street "C" is to be built as a modified tertiary street with 26 feet of pavement rather than the standard 20 feet of pavement width. The street cross section is also modified to show a sidewalk only on one side. MCDOT has recommended approval of these modifications finding that the additional pavement width will accommodate the number of units that will access it. MCDOT also supports the request to provide a sidewalk on one side of the street only (eastern side) because there is no development on the western side, where a Category I easement is located. MCDOT also considered the safety of pedestrians when they reviewed this design exception.

The entire length of Shawnee Lane from Gateway Center Drive to MD 355 will be widened to a four-lane divided arterial roadway by the Gallery Park development (Preliminary Plan No. 12005101B). As conditioned, the Applicant will dedicate 60 feet from the centerline of the approved Shawnee Lane cross section along the Subject Property frontage. The Applicant will also dedicate land for, and construct, two lanes of Observation Drive along the northeastern property line. This will require a dedication of 75 feet along most of the northeastern property line, providing half of the 150-foot right-of-way recommended in the Master Plan. At the east end of the northern property line, the Applicant has agreed to dedicate an additional 8 feet of land, for 83 feet total, to provide for a 166-foot right-of-way section, which will accommodate the future transit stop at that location.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Preliminary Plan will be served by public water and sewer systems, as recommended in the Master Plan. The Application has been reviewed by MCFRS, which has determined that the Subject Property has appropriate access for fire and rescue vehicles. Electrical and telecommunications services are also available to serve the Subject Property. Washington Suburban Sanitary Commission recommends approval of the plan finding that local lines exist, and they are of adequate size to serve the approved number of homes. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy.

The Application is located in the Clarksburg School Cluster and subject to the Annual School Test effective for FY13, under which the cluster has adequate capacity at all school levels. Therefore, no school payment is required.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Application complies with all applicable requirements of the Subdivision Regulations. The size, width, shape and orientation of the lots are appropriate for the location of the subdivision, given the recommendations of the 1994 Clarksburg Master Plan. The lot pattern follows new urbanist principles, while accommodating the densities envisioned by the Master Plan, and will set the precedent for the future development of this area. The Board finds that the size, shape, width and orientation of lots on the Garnkirk Farms Preliminary Plan is appropriate.

4. *The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

A. Forest Conservation

The Board finds that as conditioned, the Final Forest Conservation Plan (FCP) complies with the requirements of the Forest Conservation Law. The subject FCP includes 1.80 acres of offsite area to the northeast that will be disturbed as part of this Application. This area has a separate forest conservation worksheet because it is zoned R-200, and the Subject Property is zoned PD-11. Forest conservation requirements may vary for different zones. The FCP proposes to clear approximately 28.37 acres of existing onsite forest, and 0.92 acres of existing offsite forest. The remaining 7.43 acres of onsite forest will be retained and protected in a Category I conservation easement. This Application is subject to Section 22A-12(f), and onsite forest retention must equal the conservation threshold of 20%, or 7.16 acres. The FCP proposes to retain 7.43 acres of onsite forest, thereby meeting this requirement. There is a 7.68-acre reforestation requirement that will be met with 0.26 acres of onsite planting and 7.42 acres in an offsite forest bank or other approved location.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

In accordance with Section 22A-21(a), the Applicant has requested a variance for the removal of 9 Protected Trees, and to impact, but not remove 5 others that are considered high priority for retention as identified in the Staff Report. The Board agreed that the Applicant would suffer unwarranted

hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

- 1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the Protected Trees are due to the development of the Subject Property. The Subject Property contains numerous large trees located within the developable area of the site and within the Master Planned road right-of-way. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this Applicant. The Board believes that the granting this variance is not a special privilege that would be denied to other applicants.

- 2. The need for the Variance is not based on conditions or circumstances that are the result of the actions by the Applicant.*

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, Master Plan recommendations, and the development standards of the PD-11 zone.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for a variance is a result of the existing conditions, the site design and layout on the Preliminary Plan, and fulfillment of Master Plan objectives to construct Observation Drive from Germantown to Clarksburg, and not a result of land or building use on a neighboring property.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. Reforestation and landscaping on the site will replace the functions currently provided by the Protected Trees. In addition, Montgomery County Department of Permitting Services has found the stormwater management concept for the project to

be acceptable. The stormwater management concept incorporates Environmentally Sensitive Design.

The Board granted the variance without additional mitigation required since all the Protected Trees are located within existing forest that will be removed and are accounted for in the reforestation requirements.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

As conditioned, the Applicant has satisfied all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas.

Special Protection Area Final Water Quality Plan

The Subject Property is located within the Clarksburg Special Protection Area (SPA). As part of the requirements of the Special Protection Area Law, a SPA Water Quality Plan was reviewed in conjunction with the Preliminary Plan. MCDPS and the Planning Board have different responsibilities in the review of a water quality plan. By letter dated April 16, 2013, MCDPS has conditionally approved the elements of the SPA Final Water Quality Plan under its purview. These elements include site performance goals, stormwater management, sediment and erosion control and monitoring of Best Management Practices. The Planning Board's responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Environmental Buffers

Based on the analysis provided in the Staff Report, the Planning Board determined that impacts to the environmentally sensitive features on the Subject Property and to off-site areas disturbed by this development were minimized to the extent practicable. Category I easements will provide adequate long-term protection of all remaining environmental buffers and forest.

Forest Conservation and Planting Requirements

As part of the FCP approval, the Planning Board determined that the Application complies with the SPA forest conservation and planting requirements. Per SPA requirements, the onsite forest planting will occur during the first planting season after issuance of the first grading permits, and a five year maintenance program

is required. All offsite planting must be met in a forest bank or other approved location located in the Clarksburg SPA or within the Seneca Creek watershed.

Site Imperviousness

The Clarksburg SPA does not have a numerically defined impervious surface limit. But the Planning Board was satisfied that impervious surface levels are minimized to the extent possible. According to the analysis within the Staff Report, developments in other PD-11 zones within the County result in impervious surface levels of approximately 50%. Development of the Subject Property will result in an impervious level of approximately 47.5%. The Applicant has minimized the amount of impervious surface by eliminating parking along one side of Street "A," reducing its width from 36 feet to 29 feet, obtaining design exceptions in order to eliminate sidewalks along several street frontages, and by eliminating a previously planned cul-de-sac. The Preliminary Plan also incorporates green space in the majority of the recreation facilities in order to minimize the impervious area.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for _____ months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; 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 JUN 19 2013 (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).

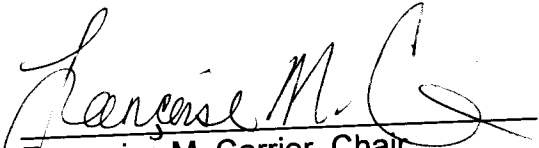
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CERTIFICATION

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 Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners

MCPB No. 13-76
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Garnkirk Farms
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Anderson and Dreyfuss voting in favor, and Commissioner Presley absent, at its regular meeting held on Thursday, June 13, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board

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