

Gateway Commons Site Plan

Site Plan No. 82003023A

LIST OF ATTACHMENTS

- A. Prior Opinion for Site Plan 820030230 and Site Plan Enforcement Agreement
- B. Prior Opinions for Preliminary Plan 120020480 and 12002048A
- C. Site Plan Amendment Staff Report dated July 7, 2006
- D. Original Site Plan Staff Report dated July 24, 2003
- E. Letter from CTCAC dated November 19, 2006 and list of Questions and Issues dated November 17, 2006
- F. Development Standards as modified in the July 20, 2006 hearing
- G. Letter from the Applicant dated November 17, 2006
- H. Agency Comments

ATTACHMENT A

**(Prior Opinion for Site Plan 820030230 and Site Plan
Enforcement Agreement)**



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: November 18, 2003

SITE PLAN REVIEW #: 8-03023

PROJECT NAME: Gateway Commons

The date of this written opinion is November 18, 2003, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before December 18, 2003 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1-02048 is valid, as provided in Section 59-D-3.8

On July 24, 2003, Site Plan Review #8-03023 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required;*
2. *The Site Plan meets all of the requirement of the R-200/TDR-7 zone;*
3. *The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*
4. *Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
6. *The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection*

Therefore, the Montgomery County Planning Board **APPROVES** Site Plan #8-03023 which consists of: 27 One - Family Detached, 93 Townhouses, 88 Multi-family, 84 Attached, inclusive of 44 MPDUs including 128 TDRs on 45.24 acres, subject to the following conditions:

FINAL WATER QUALITY APPROVAL FOR SPECIAL PROTECTION AREA

Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Wellington, with a vote of 4-0, Commissioners Bryant, Robinson, Perdue and Wellington voting for, no Commissioners voting against. Commissioner Berlage was necessarily absent.

Approval of Final Water Quality Plan for Site Plan # 8-03023 with the following conditions:

1. Off-site reforestation must occur in the Clarksburg Special Protection Area (SPA). If a reforestation site is unavailable in the Clarksburg SPA, the applicant shall pay the in lieu fee to M-NCPPC prior to any clearing or grading.
2. Conformance to the conditions as stated in the Montgomery County Department of Permitting Services (DPS) letter dated June 25, 2003 approving the elements of the SPA water quality plan under its purview (see Attachment).
3. Off-site reforestation must occur in the Clarksburg Special Protection Area (SPA). M-NCPPC Parks may provide an off-site reforestation site for remaining reforestation that would have originally gone in the dedicated parkland or applicant may find another site in the SPA. Alternatively, applicant may pay the in-lieu fee to M-NCPPC prior to any clearing or grading

SITE PLAN # 8-03023

Action: Approval subject to conditions. A motion was made by Commissioner Bryant and seconded by Commissioner Wellington. With a vote of 4-0, Commissioners Bryant, Robinson, Perdue and Wellington voted for, and no Commissioners voted against. Commissioner Berlage was necessarily absent.

Approval of 27 One-Family Detached, 93 Townhouses, 88 Multifamily, 84 Attached units, inclusive of 44 MPDUs and 128 TDRs on 45.24 acres:

1. Site Plan, Lighting and Landscaping Plan

The applicant shall submit the following items for staff review prior to release of signature set.

- a. Street trees for all public streets and internal streets shall be coordinated with the Public Utility Easements and draft Clarksburg Streetscape design guidelines; street tree species shall include more native species;
- b. The plans for the open space planting and foundation planting shall reflect more plants with seasonal interest and shall be more conducive to open space development.
- c. The landscaping adjacent to the fountain on Sheet 5 shall be designed to allow more pedestrian access, visibility and attractiveness.
- d. Townhouse units at the end of Woodport Road moved to increase common open space in the rear of the units.
- e. Construction of the necessary retaining wall adjacent to the southern corner of the park to be engineered to avoid wall height(s) of greater than 6' if reasonably possible and said wall to match the design and structure of the wall being constructed along Route 355 in front of the M-NCPPC park. The dedicated parcel shall reflect the reduction in acreage from the Preliminary Pan approval.
- f. The centerline station at MD Route 355 to create a matched intersection with Highlands of Clarksburg subdivision to the north shall be confirmed by exhibit provided to staff by applicant.
- g. All truncations shall measure 25 feet and all plans shall be adjusted accordingly.
- h. The interior sidewalk system shall be revised to meet a staff sketch that indicates location of crosswalks, all brick/special paver walks and other pedestrian connections.
- i. All trees and shrubs shall be removed from the PUE.

- j. Ground cover shall be added in between the driveways for the townhouse units.
- k. Sitting areas shall be integrated into the open spaces throughout the project according to staff sketch.
- l. Plant sizes shall reflect standard plant sizes i.e. evergreens to be 6-8 ft average.
- m. Dumpsters or other trash receptacles shall be located on the site plan for staff review.

2. Environmental Planning

- a. Certification from an acoustical engineer that the building shell of impacted buildings as defined below along Stringtown Road, Observation Drive and MD Route 355 by-pass shall be reviewed to provide an interior level not to exceed 45 dBA Ldn. All residential units that will be subject to projected future exterior noise levels equal or exceeding 65 dBA Ldn (Impacted Units), must be constructed to meet the 45dBA Ldn interior noise standard. Certification shall be distributed to M-NCPPC technical staff for review prior to release of building permit.

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

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

- b. Compliance with the conditions of approval for the final forest conservation plan. The applicant must satisfy all conditions of the forest conservation plan prior to recording of plat(s).
- c. Plan to include SWM waiver of open section streets within Special Protection Areas per DPS Approval.
- d. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.

3. Division of Permitting Services

- a. Streets and Paving Memo Dated July 15, 2003, unless modified by DPS.

4. Parks and Historic Preservation

- a. Applicant to dedicate "Parcel B" consisting of approximately 2.84 acres and located at the corner of Route 355 and extended Stringtown Road to M-NCPPC. The final area to be dedicated to be adjusted to exclude areas on which retaining walls have or will be constructed, except the wall at the Route 355/Stringtown Road corner, and to be conveyed free of trash and unnatural debris and the boundaries staked and signed by Applicant to delineate between parkland and private properties.
- b. Applicant to construct on dedicated park property the following amenities:
 1. A "ghost structure" recreation of the historic Dowden's Ordinary including stone (or acceptable alternative) seating walls, stone flooring, and interpretive panels. The structure to be approximately 16' x 30' and constructed of corten steel, if reasonably feasible, or other material acceptable to M-NCPPC staff and Applicant.
 2. A simple, stone retaining wall entrance feature and park identification sign at the corner of Route 355 and Stringtown Road extended. Park sign name to be determined by M-NCPPC staff.
 3. An 8' wide, hard surface trail from Route 355 near the intersection with Stringtown to the Dowden's Ordinary structure. Trail to be constructed of modified tar and chip such as that used at the Sandy Spring Museum and should meet ADA accessibility standards, if such standards are applicable.
 4. An historic replication of the original Dowden's Ordinary sign to be located along side the 8' wide trail entrance.
 5. A 6' wide, hard surface circuit trail that passes near the Dowden's Ordinary structure and continues around the open play areas and sitting areas. Trail to be constructed of modified tar and chip such as that used on the 8' wide trail with nodes of cobblestone circles or equivalent separating portions of the trail.
 6. At least 4, six-foot long sitting benches to be placed at locations along the side of the circuit trail.
 7. Appropriate sculptural recreational pieces or other recreational amenities to serve the park, historic and neighborhood needs in the open play area, acceptable to M-NCPPC staff and Applicant. The pieces may be historic in nature and be compatible with the history surrounding the Dowden's Ordinary. They may include pieces such as an elephant play structure and a cannon or cannon replica.
 8. Simple tubular bicycle rack(s) near the park entrance off Route 355 or near the Dowden's Ordinary recreation structure.
 9. A natural surface trail leading from the hard surface trail to the historic Dowden's Ordinary marker. Trail to be marked with a sign acceptable to M-NCPPC staff and Applicant.

10. Native trees shall be used in selected locations throughout the park site. Final choice of tree locations and species to be determined in coordination with M-NCPPC staff and acceptable to staff and the applicant.
- c. Grading of the park site to result in slopes of no greater than 3:1 unless necessary to avoid grading on or near any locations that M-NCPPC staff determines may contain archeological artifacts. Staff to advise applicant of any grading restrictions in park site based on archeological artifacts within 90 days of site plan approval.
- d. Reforestation required to be done by Applicant in this dedicated park to be located only along the southwest side of the park. Appropriate fencing and signage at the reforestation site to be included. If additional reforestation is required, Applicant may satisfy said additional planting requirement within other parkland in the watershed to be designated by M-NCPPC staff.
- e. Final design of the park site, including facilities and plantings therein, to be coordinated with M-NCPPC staff and to be acceptable to staff and Applicant.
- f. All park amenities to be constructed to park standards and specifications if available. Specifications for benches, walls, ghost structure, trails, recreational pieces, bicycle racks, historic signage and all other features built within the park to be submitted to M-NCPPC staff for approval prior to construction of park features.

5. Signature Set Documentation

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

- a. Development Program to include a phasing schedule as follows:
 - 1) Streets tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
 - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Coordination of each section of the development and roads.

- 6) Phasing of dedications, stormwater management, recreation, forestation, community paths or other features.
 - 7) Noise attenuation to be completed and accepted by M-NCPPC technical staff prior to release of building permits.
- b. Site Plan Enforcement Agreement to reference dedication of park at time of record plat and completion of park amenities before the release of the 200th building permit and transportation conditions per Preliminary Plan # 1-02048.
 - c. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for M-NCPPC technical staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 1. Undisturbed stream buffers as shown on plan.
 2. Limits of disturbance.
 3. Methods and locations of tree protection.
 4. Forest Conservation areas.
 5. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 6. The development program inspection schedule and Site Plan Opinion.
 7. Streets trees along all public streets.
 8. Centralized, screened trash areas for all multi-family and one-family attached units except townhouses
 - d. No clearing or grading prior to M-NCPPC approval of signature set of plans.

6. Waivers

The Applicant requires the following waivers with this project:

- a. Percentage of single family detached from 15 % to 9.2% as approved with the Preliminary Plan.
- b. Maximum number of allowed multifamily as approved with the Preliminary Plan

7. MCPS

- a. Applicant to provide five foot wide concrete pedestrian sidewalk connection to Clarksburg Elementary School in a location to be determined by staff with Montgomery County Public Schools.

- b. Along the common property line with the school, Applicant to install six-foot high chain link fencing (black vinyl coated) and adequate landscape buffering.

SITE PLAN ENFORCEMENT AGREEMENT

This Agreement by and between Gateway Commons LLC ("Applicant"), and the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ("Planning Board"), is effective the date signed by the Planning Board.

WHEREAS, § 59-D-3.3 of the Montgomery County Code ("Code") requires the Applicant, as part of the site plan review process, to enter into a formal agreement with the Planning Board; and

WHEREAS, the Code requires the Applicant to agree to execute all features of the approved site plan noted in § 59-D-3.23 in accordance with the development program required by § 59-D-3.23(m).

NOW THEREFORE, in consideration of the mutual promises and stipulations set forth herein and pursuant to the requirements of § 59-D-3.3 of the Code, the parties hereto agree as follows:

1. The Applicant agrees to comply with all of the conditions set forth in the Planning Board's Opinion and to execute all of the features of approved Site Plan No. 8-03023 ("Site Plan"), including all features noted in § 59-D-3.23, in accordance with the approved Development Program required by § 59-D-3.23(m), attached and incorporated herein by reference.
2. This Agreement is binding on the Applicant, its successors and assigns, and on the land and improvements in perpetuity or until released in writing by the Planning Board.

IN WITNESS WHEREOF, the parties hereto have set our hands and seals as of the date and year set forth below.

APPROVED AS TO LEGAL SUFFICIENCY

TAB

M-NCPPC LEGAL DEPARTMENT

DATE

8/17/04

Richard Hawthorne
Montgomery County Planning Board
of The Maryland-National Capital Park
and Planning Commission

8/31/04

Date

Philip F. Barber

Gateway Commons, LLC

By: US Howe, Managing Member

By: Philip F. Barber, Division President

EXHIBIT "A": DEVELOPMENT PROGRAM

Site Plan No. 8-03023 Site Plan Name: Gateway Commons

THE PROJECT WILL BE DEVELOPED IN 3 PHASES AS SET FORTH IN THIS DEVELOPMENT PHASING PLAN. DEVELOPER RESERVES THE RIGHT TO ADJUST THE NUMBER OF PHASES OR THE SEQUENCE OF PHASING, PROVIDED DEVELOPMENT IN EACH PHASE PROCEEDS IN ACCORDANCE WITH THE ELEMENTS SET FORTH BELOW. ADJUSTMENT TO THE NUMBER OF PHASES OR SEQUENCE OF PHASING IS SUBJECT TO THE APPROVAL OF PLANNING BOARD STAFF. INFRASTRUCTURE AND AMENITIES FOR EACH PHASE TO BE PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1, REGARDLESS OF WHICH PHASE OF THE DEVELOPMENT PROCEEDS FIRST.

Phase	Units/Lots in Phase	Common Areas in Phase	Local Recreational Facility in Phase	Community-Wide Recreational Facility	Plat Recordation Due date for Phase	Begin Construction of Units	Turn Over All Common Area/ Community-Wide Facilities in Phase to HOA
I	111	Parcel A, Block 1		Entrance Feature; Community Gateway	9/12/05*	9/12/05*	See Section II
II	113	Parcel B, Block 1; Parcel A, Block 2; Parcel A, Block 3; Parcel B, Block 3	Tot Lots; Multi-age Play Area ; Sitting Area	Community Sitting Area; Fountain; Pergola; Natural Area; Nature Trail; Community Gateways; Trail to Public Park; Public Park	9/12/05	12/1/05	See Section II
III	68	Parcel A, Block 4; Parcel B, Block 4; Parcel A, Block 6	Playlot; Sitting Area	Natural Area	9/12/05	3/1/07	See Section II

- I. A. Applicant will complete the following site plan elements prior to occupancy of units constructed in that phase.

1. Paving of roads (excluding final topping)
2. Parking areas
3. Sidewalks (on-site and adjacent to occupied units)
4. Lighting¹ (driveway adjacent to occupied units)

* Plat recordation and commencement of construction for this phase may begin earlier. The outside dates are shown on the program.

5. Grading
 6. Landscaping (adjacent to dwellings)(weather permitting in growing season)
 7. Foundation landscaping (weather permitting in growing season)
 8. Fences or noise berms (adjacent to occupied units)
- B. Applicant will complete the following site plan elements prior to 70% occupancy of approved units in that constructed phase or section.
1. Pedestrian pathways and bikeways
 2. Parking lot and perimeter landscaping (weather permitting in growing season)
 3. Recreation facilities
 4. Landscaping (weather permitting in growing season)
 5. Final topping of roads and parking lots in areas with completed residential units prior to occupancy, unless construction vehicles are still utilizing said roads and parking lots to complete construction of units.
- C. Street tree planting must progress as street construction is completed, but no later than 6 months after completion of the units adjacent to those streets.
- D. Other stipulations as required by the PLANNING BOARD and detailed in Exhibit A-1, attached and incorporated herein. If no other stipulations are required, Exhibit A-1 to be attached stating "None."
- E. Applicant shall send written notice to M-NCPPC's Inspection Unit to initiate scheduling of site inspections at the following milestones:
1. Applicant shall conduct a preconstruction meeting with M-NCPPC staff and MCDPS sediment control staff prior to clearing and grading.
 2. At 70% occupancy.
 3. At 100% completion.

II. A. Local Recreational Facilities

The Local Recreational Facilities, including all required improvements and associated Common Area for each phase, shall be completed and conveyed to the Association by the earlier of:

1. The date that applicants has closed on title to seventy percent (70%) of the lots or units planned within such phase; or

¹ Street and parking lighting to be completed after completion of all units.

2. 24 months from the date of receipt of the initial building permit for a lot or unit in that phase.

B. Community-Wide Recreational Facilities

1. All Community-Wide Recreational Facilities and related Common Areas must be completed and conveyed to the Association as established in the above Phasing Plan. If the phases are delayed, all uncompleted Community-Wide Facilities must be completed and turned over no later than the earlier of the receipt of the 200th building permit or by 5 years from the date of the preliminary plan approval ("Community-Wide Facilities Completion Date"). All unconveyed Common Areas (whether or not associated with local or Community-Wide Recreational Facilities) also must be transferred to the Association by the Community-Wide Facilities Completion Date.

III. General Provisions

- A. Before conveyance to the Association, all lot owners shall have the right to access and make use of all Common Areas, except those areas as may reasonably and necessarily be restricted for access by Applicant for temporary safety reasons.
- B. Applicant must construct all Recreational Facilities, and convey such facilities and related Common Areas within the timeframes contemplated in the Phasing Schedule and in these binding elements. Applicant must arrange for inspections by staff to ensure that all facilities are timely, correctly, and completely constructed.
- C. All local and Community-Wide Recreational Facilities shall be designed and constructed in accordance with Parks Department standards and criteria and M-NCPPC's adopted Recreational Facilities Guidelines.
- D. Applicant shall warrant to the Association that all facilities have been constructed in a good and workmanlike manner and are fit for each of their intended purposes.
- E. Unless the Planning Board has agreed to modify the Phasing Schedule, the Applicant's failure to timely complete and turn over facilities and Common Areas shall operate to preclude Applicant from receiving any additional building permits for that particular phase and all remaining phases until such time as the default is cured.

- F. The Applicant may seek an amendment to any regulatory approval for the purpose of modifying the location and amount of real property comprising the common area and for the purpose of modifying the improvements to be constructed on such common area, including, but not limited to, the right not to construct such improvements, which amendment shall be reviewed by the Planning Board in accordance with applicable law. Such amendment shall be effective only if approved by the Planning Board.

EXHIBIT A-1

OTHER STIPULATIONS

In accordance with the conditions set forth in the Montgomery County Planning Board's decision approving Site Plan No. 8-03023, the Developer agrees to the following other stipulations:

1. Applicant shall provide, for M-NCPPC technical staff review and approval, the noise attenuation design and shall further provide the necessary certification from an acoustical engineer, which certification is required in Condition No. 2 of the Site Plan Opinion dated November 18, 2003. M-NCPPC technical staff must review and approve the noise attenuation design and acoustical engineer certification prior to the release of any building permits.

2. Applicant shall dedicate to M-NCPPC all applicable property (as required by the terms of the Planning Board approval) at the time of record plat.

3. Applicant shall complete the construction of all park amenities, and M-NCPPC technical staff must inspect and approve said amenities, prior to release of the 200th building permit.

4. Applicant shall comply with all transportation conditions set forth in Preliminary Plan Opinion No. 1-02048, which was mailed on August 13, 2002.

ATTACHMENT B

**(Prior Opinions for Preliminary Plan 120020480 and
12002048A)**

Date: Ailed: August 13, 2002

Action: Approved Staff Recommendation

Motion of Comm. Robinson, seconded
Comm. Perdue with a vote of 4-0;
Comms. Berlage, Perdue, Robinson
and Wellington voting in favor with
Commissioner Bryant absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02048

NAME OF PLAN: GATEWAY COMMONS

On 12/12/01, US HOMES submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 TDR zone. The application proposed to create 292 Units on 45.25 Acres of land. The application was designated Preliminary Plan 1-02048. On 07/18/02, Preliminary Plan 1-02048 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-02048 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-02048.

Approval, Including Waivers of Open-Section Roadways and Pursuant to Section 59-C-1.395, Waiver for the Minimum Percent of Single Family Detached Dwelling Units, and the Maximum Number of Allowed Multi-Family Units, Subject to the Following Conditions:

- (1) Limit approval under this preliminary plan to a maximum of 292 residential dwelling units
- (2) Satisfy the APF test by paying the Development Approval Payment (DAP) under the Alternative Review Procedure for Limited Residential Development provision of the FY 02 Annual Growth Policy for the proposed residential development. The APF test includes:
 - a. Policy Area Review: Site-generated traffic has to be mitigated within the Clarksburg Policy Area, which is in a moratorium. There is no capacity available for residential development as of June 30, 2002 (-8,717 units) in the Clarksburg Policy Area. The applicant is satisfying policy area review by paying the DAP under the FY 02 Annual Growth Policy staging ceiling capacity.
 - b. Local Area Transportation Review: A traffic study (to analyze the traffic impact at nearby intersections) is required since the proposed land use generates more than 50 total peak-hour trips during the weekday morning peak period (7:00 a.m. to 9:00 a.m.) and the evening peak period (4:00 p.m. to 6:00 p.m.).

- (3) As a condition of site access, construct the outside lanes of Stringtown Road (A-260 from Gateway Drive to intersection with Observation Drive as a two-lane arterial road including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.
- (4) As a condition of site access, construct the outside lanes of Observation Drive (A-19) from Stringtown Road to the on-site intersection with relocated MD 355 by-pass as a two-lane arterial road with a future transit way in the median including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.
- (5) For the first 200 building permits as a condition of site access, construct the outside lanes of MD 355 by-pass through the property as a two-lane arterial road including a five foot sidewalk, an eight foot bike path, street trees, and grading for a future four-lane divided roadway.
- (6) Prior to issuance of the 201st building permit, but not later than eighteen (18) months after approval of the Preliminary Plan, obtain two (2) appraisals of the fair market value of the right-of-way for the By-Pass ("ROW") and make a cash offer to the owners of this ROW of up to 110 percent of the highest appraised value ("maximum cost") via certified letter.
 - a. If the offer is not accepted by the owner(s), or no response is received, the County shall act to acquire the ROW. The applicant shall be responsible to reimburse the County the maximum cost and to construct a half-section of the roadway in accordance with County standards at their sole cost and expense.
 - b. In the event neither the applicant nor the County acquires the ROW within three years of preliminary plan approval of Gateway Commons, the applicant shall be free to proceed with full build-out of Gateway Commons and be issued all remaining building permits without obtaining the ROW or constructing the By-Pass.
- (7) As a condition of site access, construct Woodport Road from Public Road "B" to MD 355 (as a right-in/right-out at MD 355) as a tertiary residential street.
- (8) At the time of site plan address issues of transition and compatibility of height of units along Stringtown Road with existing and proposed development to create the "gateway" to the Town Center. Maintain 25-foot building setbacks along Stringtown Road and 20 feet along Observation Drive to achieve an appropriate "gateway" transition from I-270 into Clarksburg's Town Center. Applicant to explore, with MCDPS, relocation of the proposed SWM pond located in the northeastern quadrant of the intersection with MD 355 and Observation Drive to better implement street oriented development as per Master Plan recommendations.
- (9) Applicant to dedicate "Parcel H" consisting of 2.84 acres and located at the corner of Route 355 and extended Stringtown Road to M-NCPPC. Said land to be conveyed free of trash and unnatural debris and the boundaries staked and signed by Applicant to delineate between parkland and private properties
- (10) Applicant and M-NCPPC staff to discuss possible use of portions of Parcel H for needed re-forestation requirements and passive recreation amenities compatible with the historic significance and use of the site.
- (11) Any agreed re-forestation or construction of passive recreational amenities being done by Applicant on Parcel H to be coordinated with M-NCPPC staff to prevent damage to historic areas and artifacts.
- (12) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s)

- (13) Record plat to include note "No Driveway Access to MD 355"
- (14) Compliance with conditions of MCDPS approval of the Preliminary Special Protection Area Water Quality Plan
- (15) No clearing, grading or recording of plats prior to site plan enforcement agreement approval
- (16) Final approval of the number and location of dwelling units, parking, site circulation, sidewalks, and bikepaths will be determined at site plan
- (17) Record plat to identify all homeowners association parcels and stormwater management parcels and any common ingress/egress easements
- (18) Provide a minimum number of forty-four (44) MPDU's and one hundred and (127) TDR's dependent upon condition number 16 above
- (19) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff
- (20) Prior to recording of plat provide an affidavit to verify the availability of a TDR for each existing and proposed dwelling unit shown on the approved preliminary plan. Include a note referencing recorded covenant regarding the TDR's on record plat
- (21) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
- (22) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
- (23) Other necessary easements

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

Public Hearing Date: August 04, 2005

Date Mailed: FEB 09 2006

Action: Approved Staff

Recommendation

Motion of Commissioner Perdue,
seconded by Commissioner Berlage,
with a vote of 2-1;
Chairman Berlage and Commissioner
Perdue voting in favor. Commissioner
Wellington voting against.
Commissioners Bryant and Robinson
necessarily absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02048A

NAME OF PLAN: Gateway Commons

The date of this written opinion is FEB 09 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

INTRODUCTION

On July 13, 2005, Gateway Commons, LLC ("Applicant") submitted an application for the review of an amendment to a previously approved preliminary plan of subdivision of property in the R-200/TDR-7 zone ("Preliminary Plan"). The approved Preliminary Plan proposed the creation of 202 lots on 45.25 acres of land located in the southwest quadrant of the intersection of Frederick Road (MD 355) and Stringtown Road, in the Clarksburg master plan area ("Property" or "Subject Property"). The instant application for amendment of the Preliminary was designated Preliminary Plan 1-02048A ("Amendment Application"). On August 4, 2005, the Amendment was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for the Amendment Application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

PRIOR APPROVALS

The Planning Board reviewed the underlying Preliminary Plan on July 18, 2002. The Board approved the Preliminary Plan subject to certain conditions and memorialized its decision in a written opinion dated August 13, 2002. The Planning Board subsequently approved a site plan for the subject development.

PROJECT DESCRIPTION / SCOPE OF AMENDMENT

The subject development proposes the development of a residential community of 292 residential dwelling units, consisting of 26 one-family detached residences, 176 townhouses, and 90 multi-family condominium apartments on 202 lots.

On July 11, 2005, the Applicant submitted a request to amend Condition Nos. 5 and 6 of the Preliminary Plan, which concerned certain roadway improvements required as part of the adequate public facilities review for the Preliminary Plan. Condition No. 5 obligated the Applicant to construct the proposed Maryland Route 355 By-Pass ("By-Pass") through the Property and read as follows:

- (5) For the first 200 building permits as a condition of site access, construct the outside lanes of MD 355 by-pass through the property as a two-lane arterial road including a five foot sidewalk, an eight foot bike path, street trees, and grading for a future four-lane divided roadway.

In its application letter, the Applicant requested that Condition No. 5 be revised to permit termination of the on-site portion of the By-Pass roadway a distance of 45 feet from the eastern property line (measured from the centerline of the roadway), as the off-site portion of the By-Pass is presently not planned for construction. In its Staff Report, dated July 29, 2005 ("Staff Report"), Staff advised the Board that such a termination is necessary to provide a logical terminus to the roadway.

Condition No. 6 obligated the Applicant to attempt the purchase of off-site right-of-way for the By-Pass; and, if such attempts proved unsuccessful, to reimburse the County for the costs of its acquisition of the right-of-way. However, in the event that neither the Applicant nor the County acquired the By-Pass right-of-way within three years from Preliminary Plan approval date, Condition No. 6 removed Applicant's obligation to construct the off-site portion of the By-Pass. Preliminary Plan Condition No. 6 is set forth below:

- (6) Prior to issuance of the 201st building permit, but not later than eighteen (18) months after approval of the Preliminary Plan, obtain two (2) appraisals of the fair market value of the right-of-way for the By-Pass ("ROW") and make a cash offer to the owners of this ROW of up to 110 percent of the highest appraised value ("maximum cost") via certified letter.
 - a. If the offer is not accepted by the owner(s), or no response is received, the County shall act to acquire the ROW. The applicant shall be responsible to reimburse the County the maximum cost and to construct a half-section of the roadway in accordance with County standards at their sole cost and expense.
 - b. In the event neither the applicant nor the County acquires the ROW within three years of preliminary plan approval of Gateway Commons, the applicant shall be free to proceed with full build-out of Gateway Commons and be issued all remaining building permits without obtaining the ROW or constructing the By-Pass.

Applicant had requested the deletion of Condition No. 6 as a part of the instant Amendment Application.

EVIDENCE OF RECORD AND TESTIMONY

Staff Report

In its Staff Report, Staff advised the Board that the Applicant had demonstrated, to Staff's satisfaction, that Applicant had made a good-faith effort to acquire the offsite By-Pass right-of-way within eighteen months of Preliminary Plan approval; and, additionally, that the County would not effect acquisition of the By-Pass right-of-way before August 13, 2005, the date upon which, pursuant to the terms of Preliminary Plan Condition No. 6, the Applicant could obtain all its building permits without first having to procure the right-of-way or construct the By-Pass.

The Staff Report noted that Preliminary Plan Condition No. 3 obligated the Applicant to construct only the outside lanes of Stringtown Road from Gateway Center Drive through the intersection with Observation Drive as a two-lane arterial with all necessary grading for a future four-lane divided roadway. Staff informed the Board that

the Montgomery County Department of Public Works and Transportation ("DPWT") has a CIP Project for construction of Stringtown Road from I-270 to MD 355 as a four-lane divided arterial roadway. The Staff Report discusses Applicant's coordination with DPWT, including the execution by those two parties of a Road Participation Agreement ("RPA"), which is intended to accelerate and consolidate the construction of Stringtown Road.

Staff advised the Board that it recommended approval of the modified conditions dealing with the construction of Stringtown Road and the By-Pass based on the RPA and the County's support of the Applicant's request to revise certain Preliminary Plan conditions to reflect the terms of the RPA. Staff further advised the Board that it recommended additional changes to the Preliminary Plan conditions to clarify when certain roadway improvements were expected to be fully bonded or completed in relation to the release of specific building permits. Staff's recommendation included the requirement for bonding of the full construction of roads after release of a certain number of building permits.

Public Hearing

Staff presented its findings consistent with the Staff Report at the August 4, 2005 public hearing ("Hearing"). At the Hearing, Staff presented a copy of recommended revisions to the conditions set forth in the Staff Report and discussed the scope of those changes, which included defining the RPA and adding its date of execution, which had occurred following issuance of the Staff Report; and clarifying that the requirement in the conditions for full bonding "for Storm Drain and Paving" is intended to require bonding for the full and complete construction of the applicable roadway. Staff advised the Board that it had consulted with a representative of DPWT, Mr. Edgar Gonzalez, in advance of the Hearing and that Mr. Gonzalez had assured Staff that the recommended conditions of approval do not conflict with the RPA. Staff noted that the Commission's Transportation Planning Staff had reviewed the RPA and similarly agreed that there existed no conflict between the RPA and the recommended conditions of approval.

The Applicant appeared at the hearing represented by an officer, its legal counsel, and an engineer. Applicant's legal counsel presented the Amendment Application to the Board, generally discussing the background of the project and the applicable Preliminary Plan conditions of approval. Applicant confirmed that it had expended good faith efforts attempting to acquire the By-Pass right-of-way and that those attempts had not been successful. Applicant discussed its coordination over the two preceding years with DPWT concerning the County's CIP project to improve Stringtown Road. Applicant noted that the RPA required Applicant to fully design and construct Stringtown Road between Gateway Drive and MD 355 and observed that the objective was to coordinate its construction of that portion of Stringtown Road with the portion of Stringtown west of Gateway Drive to I-270, which is to be constructed by the County. The Applicant advised the Board that it agreed with the revised conditions

proposed by Staff. In response to Board questions concerning the proposed deletion of Preliminary Plan Condition No. 6, the Applicant testified that its intent was to have the record reflect that the Applicant had made a good faith effort to acquire the By-Pass right-of-way and that the Applicant had met its obligations under the condition, given the expenditures that the Applicant would incur moving forward with the project. Applicant requested that the Board make a finding that the Applicant had fulfilled its obligations under Condition No. 6.

The Board received testimony from representatives of two civic organizations, the Montgomery County Civic Federation ("MCCF") and the Clarksburg Civic Association ("CCA"). The MCCF testified that, in its view, the road network in Clarksburg would become less adequate if the master-planned By-Pass is not constructed. The MCCF opined, however, that shifting the Applicant's responsibility from constructing the off-site segment of the By-Pass to the construction of additional improvements to Stringtown Road would result in a better road network. The speaker observed that the County was giving up the opportunity to be reimbursed by the developer for the land required to connect the By-Pass but acknowledged that the Applicant was taking on additional responsibilities vis-à-vis Stringtown Road. The speaker commented that road budgets have been cut in the County since 1995 and expressed concern with the state of roadway connections and construction-induced road damage in Clarksburg. MCCF testified that all required roads in Clarksburg should be constructed before the first occupancy permit is released, including final topping, and that contractors should be required to patch damaged roads upon project completion. The speaker expressed his view that the Applicant had done enough to justify getting building permits in advance and expressed support for the proposed requirement for full bonding by the 101st building permit.

The CCA representative opened his testimony with a request for rebuttal time, which was granted by the Chairman. The CCA requested that the Board consider postponing its decision on the instant application until a decision is taken on the alignment of an off-site portion of Observation Drive, which CCA is concerned will directly impact an existing off-site residence. The CCA expressed its desire that, in Clarksburg, roads strong enough to support heavy construction equipment should be built before additional development is approved. In that vein, the speaker proposed revising recommended Condition No. 1 (Preliminary Plan Condition No. 3), to require completion of Stringtown Road improvements before the first building permit is issued for the project. The CCA expressed its regret that Preliminary Plan Condition No. 6, concerning the By-Pass, is not proposed to be renegotiated to ensure completion of the By-Pass before completion of the proposed development. In the CCA's view, the lack of a completed By-Pass would present a hazardous condition at the intersection of Woodport Road and MD 355. The speaker also expressed the CCA's view that additional transit options should be implemented to support the additional development.

Mr. Gonzalez, testifying for DPWT, generally discussed why the County saw it in the best interest to enter into the RPA with the Applicant and what the Applicant's specific obligations are under the RPA. He informed the Board that, although it made sense in 2002 to have a Preliminary Plan condition placing obligations on the Applicant with respect to acquisition and construction of the By-Pass, following the approval of the Preliminary Plan, the County recognized an opportunity to have the Applicant contribute to the construction of a segment of Stringtown Road that would complete the connection of MD 355 and I-270. Mr. Gonzalez described elements of the RPA, including the Applicant's obligation to construct that segment of Stringtown Road between Md 355 to Gateway Center Drive. Mr. Gonzalez urged the Board to approve the requested Amendment Application, expressing his view that the public interest is better served by the completion of Stringtown Road than the By-Pass, which would only serve approximately 200 persons.

In rebuttal testimony, the Applicant addressed the alignment of Observation Drive, noting that the alignment was determined by DPWT and that the right-of-way had been dedicated as part of the Preliminary Plan approval and that it is not at issue in the Amendment Application. The Applicant also commented that it could not take on the responsibility for both the improvement of the By-Pass and the additional work on Stringtown Road.

During the surrebuttal portion of his testimony, the CCA representative questioned whether the County had done everything in its power to determine that the proposed alignment of Observation Drive is environmentally sound and to avoid the existing house. Mr. Gonzalez responded that the Applicant is following the master-planned alignment within the Property and added that the final alignment of Observation Drive would be determined not by the County but by the U.S. Army Corps of Engineers and the Maryland Department of the Environment. Mr. Gonzalez commented that the County is at the beginning of its facility planning process with respect to Observation Drive. The CCA restated its concern with the safety of the Woodport Road and MD 355 intersection. In response, a Transportation Planner testified that it was his view that a majority of the residents of the proposed development would utilize the four-lane Stringtown Road rather than Woodport Road. On the latter subject, the Applicant testified that it is improving the Woodport Road/355 intersection, including the addition of acceleration and deceleration lanes.

Following receipt of testimony, the Planning Board members considered all evidence and testimony of record during the deliberations phase of the Hearing, discussing, in considerable detail, each proposed condition.

In response to Board queries, DPWT and the Applicant confirmed that, under the terms of the RPA, the only scenario under which the Applicant would be relieved of its obligation to participate in the construction of Stringtown Road from MD 355 to Gateway Center Drive is if the County failed to acquire the off-site right-of-way—which Mr.

Gonzalez testified had already been acquired. The Applicant confirmed its understanding that the second, alternative, clause of recommended condition No.1 would only take effect if the County failed to obtain the off-site Stringtown Road right-of-way. The Board proposed, and the Applicant agreed to, revising the language of the recommended condition to require that the two outside lanes of Stringtown Road be open to traffic prior to issuance of the 112th building permit.

Following discussion, the Board ultimately voted to revise proposed Condition No.2, with the concurrence of the Applicant, to require that the western segment of Observation Drive (between Stringtown Road and Public Road 'B') be open to traffic before the issuance of the 112th building permit. Commissioner Perdue commented that any decision the Board takes with respect to Observation Drive in this application does not include a decision on matters related to the potential taking of an off-site residence that may lie in the path of Observation Drive to the south of the Property.

With respect to proposed Condition No. 3, Staff clarified that the termination of that portion of the By-Pass to be constructed within the Property would be terminated short of the property line in order to provide an appropriate vehicular turnaround; and, Mr. Gonzalez added, to facilitate snow plowing of the road. Staff advised the Board that, with approval of the Amendment Application, the Applicant would not be required to construct the off-site portion of the By-Pass but confirmed that the master-planned By-Pass option has not been foreclosed. Mr. Gonzalez added that the Planning Board could—if it was concerned about the status of the By-Pass—write to the County and request that the By-Pass be considered as a part of the Capital Improvements Projects. In response to Board questions, Mr. Gonzalez testified that the County was unable to acquire the By-Pass right-of-way because of staffing and financial considerations.

Concerning proposed Condition No. 4, the Board expressed its reluctance to delete the Preliminary Plan Condition No. 6. However, the Board ultimately voted to make a finding that the Applicant has met its obligations under Preliminary Plan Condition No. 6. Commissioner Wellington stated that she could not join in such a finding because she could not factually conclude that the Applicant had met its obligations. The Board also acknowledged that, even though the construction of the off-site portion of the By-Pass was not realized as a part of the Preliminary Plan, the Applicant worked with the County to agree on additional road contributions, which will result in the construction of a very important roadway connection for the Clarksburg community at Stringtown Road.

FINDINGS

Having given full consideration to the findings and recommendations of its Staff, which the Board hereby adopts; the recommendations of DPWT; the Applicant's position; testimony of the CCA and the MCCF; and other evidence contained in the

Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The subject revisions to the conditions of approval of Preliminary Plan No. 1-02048 substantially conform to the Clarksburg Master Plan ("CMP").

The Board expressly finds that the revision to Preliminary Plan Condition No. 3, in tandem with the applicable terms of the RPA, which were described by Staff, DPWT, and the Applicant at the Hearing, will achieve the goal of providing a significant roadway connection from the Clarksburg town center to I-270, consistent with the Master Plan recommendation that "Stringtown Road be constructed as a four-lane divided arterial roadway between I-270 and A-305[, the MidCounty Highway]." CMP at 123. The Board acknowledges that the Applicant has worked closely with the County to achieve this vital roadway connection and recognizes that the Applicant agreed to take on additional responsibility for the completion of the above connection than had been required by the Board's approval of the Preliminary Plan.

With respect to the 355 By-Pass, although the Board declines Applicant's request to delete Preliminary Plan Condition No. 6, the Board expressly finds that the Applicant has met its obligations under that condition. As evidence of record makes clear, neither the Applicant nor the County were able to acquire the necessary off-site By-Pass right-of-way within the time limitations of Condition No. 6, and, pursuant to the terms of that condition, the Board recognizes that "the [A]pplicant [would have been] free to proceed with full build-out of Gateway Commons and be issued all remaining building permits without obtaining the ROW or constructing the By-Pass." The Board continues to view the By-Pass as an important element of the Clarksburg transportation network and finds that the Application Amendment continues to substantially conform to the recommendation in the CMP of such a by-pass through the continuing requirement that the Applicant construct a portion of the By-Pass within the Property.

With respect to the CCA's concerns regarding the alignment of Observation Drive and its potential impact on an existing off-site residence to the south of the Property, the Board finds, based on testimony of Staff, the Applicant, and Mr. Gonzalez, that the Applicant has already dedicated the requisite right-of-way within the Property, consistent with the master-plan alignment. The Board finds that any issues related to the off-site alignment of Observation Drive are not properly before the Board through this Amendment Application.

- b) Public facilities will be adequate to support and service the area of the proposed subdivision.

The Board finds that the below features of the Amendment Application support this finding:

- The addition of an express requirement for bonding full and complete roadway construction prior to issuance of a building permit for the 112th unit.
- The requirement that specified segments of Stringtown Road and Observation Drive shall be open to traffic prior to issuance of the 112th building permit. The Board finds, based on testimony of record, that the initial 111 units will be adequately served by Woodport Road; and, furthermore, that the Applicant's obligation to provide acceleration and deceleration lanes at the Woodport Road/MD 355 intersection serves to dispel safety concerns raised by the CCA.
- The termination of the onsite segment of the By-Pass forty-five feet from the property line, will serve to provide an appropriate and necessary vehicular turnaround until such time as the adjoining off-site portion of the By-Pass is constructed.

The Planning Board notes that the scope of the Amendment Application is limited to roadway issues and, therefore, its findings on the instant application are restricted to substantial conformance with the master plan and adequacy of public facilities issues. The Board made the other statutorily-required subdivision review findings during its review of the Preliminary Plan in 2002.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-02048A in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-02048A, subject to the following conditions:

- 1) Previous Condition 3 shall be amended as:
 - (3) As a condition of site access approval, the Applicant shall participate in the pro-rata cost, as determined by DPWT, for constructing Stringtown Road (A-260) from Gateway Center Drive to MD 355 as a four-lane divided arterial road as part of the County's CIP Project that includes a five-foot sidewalk, an eight-foot bike path, street trees, and intersection improvements at Gateway Center Drive as described in the Road Participation Agreement dated July 29, 2005, between the Applicant and Montgomery County, MD ("RPA"); or, in accordance with the RPA, the Applicant shall construct the

two outside lanes of Stringtown Road (A-260) from Gateway Drive to the intersection with Observation Drive as a two-lane arterial road, including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future full four-lane divided roadway. This portion of two outside lanes of Stringtown Road shall be open to traffic prior to the issuance of the 112th building permit.

2) Previous Condition 4 shall be amended as:

- (4) The Applicant shall construct the outside lanes of Observation Drive (A-19) from Stringtown Road to the on-site intersection of the MD 355 Bypass as a two-lane arterial road with a future transit way in the median, including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway. Before the 100th building permit is issued, this project shall be fully bonded for Storm Drain and Paving (full and complete construction). The western half of this section of Observation Drive (Stringtown Road to Public Road "B") shall be open to traffic prior to the issuance of the 112th building permit. The remaining section of Observation Drive (Public Road "B" to MD 355 Bypass) shall be open to traffic before the 201st building permit is issued.

3) Previous Condition 5 shall be amended as:

- (5) The Applicant shall construct two outside lanes of the MD 355 Bypass within the property from Observation Drive to within 45 feet (as measured from the center line of the right-of-way) of the property line as a two-lane arterial road including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway. Before the 100th building permit is issued, the roadway project shall be fully bonded for Storm Drain and Pavement construction (full and complete construction). This section of the MD 355 Bypass shall be open to traffic before the 201st building permit is issued. If and when the remainder of the MD 355 by-pass is constructed by others, Applicant shall allow entry within the proposed right-of-way for purposes of construction of the remaining on-site portions of the MD 355 by-pass from Observation Drive to the property line.
- 4) All other previous conditions of approval as included in Planning Board Opinion dated August 13, 2002 remain in full force and effect.

APPROVED AS TO LEGAL SUFFICIENCY


TAB
M-NCPPC LEGAL DEPARTMENT

DATE 1/27/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

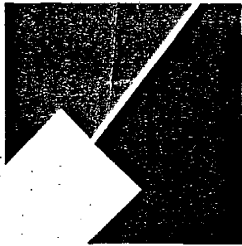
At its regular meeting, held on **Thursday, February 2, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission by unanimous consent, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 1-02048A, Gateway Commons**.



Certification As To Vote of Adoption
M. Clara Moise, Technical Writer

ATTACHMENT C

(Staff Report for Site Plan Amendment 82003023A)



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.orgItem # 6
~~MCPB 7 20 06~~**MEMORANDUM**

DATE: July 7, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief
Michael Ma, Supervisor
FROM: Development Review Division
Robert A. Kronenberg
Development Review Division
(301) 495-2187



REVIEW TYPE: Site Plan Review
CASE #: 82003023A
PROJECT NAME: Gateway Commons
APPLYING FOR: Approval of amendment to Site Plan 820030230 to 1) reflect minor adjustments to building locations and footprints and removal of the basements of some units; 2) the adjustment of certain grades, 3) the deletion and addition of certain retaining walls; 4) the relocation of a driveway and historical marker in Dowden's Ordinary; 5) modifications to curbs and sidewalks and the deletion of the Latrobe Lane traffic circle and median; 6) the provision of emergency access driveways to private streets; 7) the reduction in the overall number of dwelling units from 292 to 286 and 8) the clarification of the development notes and tables to reflect the proposed changes and clarify and define items.

REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance

ZONE: R-200/TDR-7
LOCATION: Southwest quadrant of the intersection of Stringtown Road and MD 355 (Frederick Road)
MASTER PLAN: Clarksburg Master Plan
APPLICANT: Gateway Commons, LLC, c/o U.S. Home Corp.
FILING DATE: March 31, 2006
HEARING DATE: July 20, 2006

STAFF RECOMMENDATION: Approval of Site Plan amendment 82003023A to reflect minor adjustments to building locations and footprints and removal of the basements of some units; the adjustment of certain grades, the deletion and addition of certain retaining walls; the

relocation of a driveway and historical marker in Dowden's Ordinary; modifications to curbs and sidewalks and the deletion of the Latrobe Lane traffic circle and median; the provision of emergency access driveways to private streets; the reduction in the overall number of dwelling units from 292 to 286 and the clarification of the development notes and tables to reflect the proposed changes and clarify and define items. All site development elements as shown on the Gateway Commons Site Plan Amendment plans stamped by the M-NCPPC on June 13, 2006, shall be required except as modified by the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan #120020480 as listed in the Planning Board opinion dated August 13, 2002 [Appendix A].

2. Site Plan Conformance

The proposed development shall comply with the conditions of approval for Site Plan #820030230 as listed in the Planning Board opinion dated November 18, 2003 [Appendix B], except as modified by this amendment.

3. Site Design

Label the setbacks, building restriction lines and respective building envelopes for all of the unit types.

4. Dowden's Ordinary Park and Historic Preservation

The Applicant shall comply with the conditions of approval from site plan 820030230, except as modified by the following conditions of approval in the memorandum from Park Development Division dated July 6, 2006 [Appendix C]:

- a. Applicant shall dedicate "Parcel B" consisting of approximately 2.84 acres and located at the corner of Route 355 and extended Stringtown Road to M-NCPPC. The final area to be dedicated to be adjusted to exclude areas on which retaining walls have or will be constructed, except the wall at the Route 355/Stringtown Road corner. The dedicated site shall be conveyed free of trash and unnatural debris and the boundaries staked and signed by the Applicant to delineate between parkland and private properties. The additional 50-foot utility easement requested by Allegheny Power shall be sited to not impact the historic site limits of disturbance shown on the approved site plan. The applicant shall provide protective fencing around all limits of disturbance areas prior to site construction. Allegheny Power shall locate three utility poles along the Frederick Road frontage to minimize conflict with the approved site plan opinion. The first pole shall be located on the adjacent residential property easement obtained by Allegheny Power; the second pole shall be located along the frontage of 355; and the third pole shall be located at the corner of Stringtown Road and Frederick Road. M-NCPPC staff shall review and approve final pole locations. *[This modified condition replaces condition 4(a) from site plan 820030230]*
- b. Applicant shall construct on dedicated park property the following amenities:
A "ghost structure" recreation shall be constructed of the historic Dowden's Ordinary including stone seating walls, flagstone flooring, and interpretive panels. The structure to be approximately 16' x 30' and constructed of corten steel. The architecture shall include two brick chimneys, two dormer

windows, porch with overhead roof frame/support posts, and an outline doorframe entrance. M-NCPPC Park Development Staff shall approve final architectural design. Three interpretive panels shall be provided with photos and wording selected and approved by M-NCPPC historic preservation staff; panels shall be located at a) the Dowden's Ordinary original tavern structure site, b) the Dowden's Ordinary ghost structure site, and c) the cannon replica site. *[This modified condition replaces condition 4(b) 1 from site plan 820030230].*

- c. Applicant to construct on dedicated park property the following amenities: Appropriate sculptural recreational pieces or other recreational amenities to serve the park, historic and neighborhood needs in the play area shall be acceptable to M-NCPPC staff and Applicant. The pieces may be historic in nature and be compatible with the history surrounding the Dowden's Ordinary. A 3 lb. metal cannon replica and companion metal carriage, as approved by M-NCPPC staff, shall be provided adjacent the main pathway (securely anchored according to cannon manufacturer specifications) and shall include a secure welded stack of cannon balls which shall be placed in the park with coordinating interpretive signage as an amenity. An interpretive sign (including historic photos and text) shall be located at the cannon replica site. *[This modified condition replaces condition 4(b) 7 from site plan 820030230].*
- d. Applicant to construct on dedicated park property the following amenities: A bike rack shall be located near the park entrance off Route 355 which shall consist of four (4) cannon carriage wheels (secured or direct buried into pavement) to compliment the historic cannon carriage and blend with the historic site context. The cannon wheel bike rack shall include small signage that states "bike rack use". Bike rack design to be approved by M-NCPPC staff. *[This modified condition replaces condition 4(b) 8 from site plan 820030230]*
- e. Applicant to construct on dedicated park property the following amenities: Native trees consistent with the Dowden's Ordinary historic period shall be used in selected locations throughout the park site. Final choice of tree locations and species to be determined in coordination with M-NCPPC staff and acceptable to staff and the applicant. Existing trees and shrubs along the property line shall be selectively cleared along with exotic and invasive species as determined by M-NCPPC staff. New plant material shall be provided to define park boundary edges along the proposed historic fence line. *[This modified condition replaces condition 4(b) 10 from site plan 820030230]*
- f. Grading of the park site to result in slopes of no greater than 3:1 unless necessary to avoid grading on or near any locations that M-NCPPC staff determines may contain archeological artifacts. Staff to advise applicant of any grading restrictions in park site based on archeological artifacts within 90 days of the site plan approval. All 3:1 slope areas along Frederick Road (355) and Stringtown Road shall be sodded as well as the high activity area adjacent the playground area. Final sod limits to be determined by M-NCPPC staff.

The sod installation shall be provided to ensure stabilization of the 3:1 slope areas and prevent soil from running off-site into the storm water management systems. The remaining park site shall be stabilized with a seed and straw method. *[This modified condition replaces condition 4(c) from site plan 820030230]*

- g. All park amenities to be constructed to park standards and specifications if available. Specifications for benches, walls, ghost structure, trails, recreational pieces, bicycle racks, historic signage and all other features built within the park to be submitted to M-NCPPC staff for approval prior to construction of park features.

1) Fencing –

Shall be a rustic split rail “V” fence replica of the 1765 period. Fencing shall be located along the east park boundary adjacent residential home, along the north park boundary of Route 355 (approximately 155 linear feet. along the 3:1 slope border for safety purposes; extending from the relocated boulder to the proposed bike rack area) and along the south park boundary reforestation area (approximately 150 linear feet. along the 3:1 slope border for safety purposes; extending to the pedestrian path for safety measures).

2) Dowden’s Ordinary Site –

Shall be protected and marked in field by constructing an 18-inch height historic type bollard & chain guard (black paint) as determined by Historic Preservation staff.

3) Trail –

Shall contain coordinated trail signage to match a modified Dowden’s Ordinary tavern type sign and include a handrail design consistent with the historic elements of the park as determined by M-NCPPC staff.

4) Benches –

Shall provide 6-foot length teak wood benches similar to a Monarch style bench

5) Lighting –

Shall provide two (2) historic gas-type style wood post lights to be located near the entrance to the ghost structure as determined by the M-NCPPC staff; style of fixture to be reviewed and approved by M-NCPPC staff.

[This modified condition replaces condition 4(f) from site plan 820030230].

5. Landscaping

- a. Provide an optional landscape plan in conjunction with the “Optional Retaining Wall Grading Plan” behind proposed one-family lots 1-5 to include an evergreen buffer mixed with deciduous trees.
- b. Provide a detail for each paving element or treatment for the walkways, paths, plaza areas and specialty facilities.
- c. Provide the location of all of the fixed site features (i.e. lights, hydrants, signs, etc.) that will also accurately reflect the location of the plant material.

6. Lighting
 - a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.
 - b. All light fixtures shall be full cut-off fixtures or able to be equipped with shields, refractors or reflectors.
 - c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
 - d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting adjacent residential properties.
 - e. The height of the light poles shall not exceed 16 feet including the mounting base.
7. Recreation Facilities

Revise the Recreation calculations to be consistent with the total number and mix of units.
8. Fire and Rescue

The Applicant shall comply with the memorandum of approval from the Fire Marshall dated March 1, 2006 [Appendix C].
9. Moderately Priced Dwelling Units (MPDUs)
 - a. The Applicant shall provide 43 Moderately Priced Dwelling Units (12.5% of the total number of units) within the building, consistent with Chapter 25A.
 - b. The MPDU agreement shall be executed prior to the release of the first building permit.
 - c. If all of the required MPDUs are not provided on-site, a Site Plan amendment application shall be filed by the applicant and approved by the Planning Board prior to issuance of any building permit.
10. Transferable Density Rights (TDRs)

Prior to issuance of any building permit, the applicant shall provide verification of the availability of the required 128 transferable development rights (TDRs) for the proposed development.
11. Stormwater Management (SWM)

The proposed development is subject to Final SWM and Sediment Control Plans approved on October 14, 2004 and reconfirmation of the Stormwater Management Concept dated March 24, 2006 [Appendix C], unless amended and approved by the Department of Permitting Services (DPS).
12. Development Program

Applicant shall construct the proposed development in accordance with the Development Program and Site Plan Enforcement Agreement. The Development Program and Site Plan Enforcement Agreement shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. The Development Program and revised Site Plan Enforcement Agreement shall include a phasing schedule as follows:

 - a. Recreation facilities on the east side of Observation Drive, shall be completed prior to issuance of building permits for the 112th unit based upon the units on the east side of Observation Drive.
 - b. Recreation facilities on the west side of Observation Drive, shall be completed prior to issuance of building permits for the 89th unit, based upon the units on the west side of Observation Drive.

- c. Community-wide pedestrian pathways and recreation facilities, including the tot lot and multi-age play areas, shall be completed prior to issuance of building permit for the 200th unit of the entire development.
- d. Provide staff a copy of the off-site grading easement for the proposed one-family lots 1-5 for the elimination of the retaining walls prior to the issuance of a permit for the proposed lots.

13. Certified Site Plan

Prior to approval of the certified site plan the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Resolution.
- b. Revised data table and development standards.
- c. Details of the recreation facilities bases and perimeters, including the surface material (micro-engineered wood fibers), timber borders, access to the walkways and underdrains, for all of the facilities.
- d. A key map and matchline number on each sheet.

Summary of the Proposed Amendment to the Original Site Plan

The original site plan application (820030220) was approved by the Planning Board on July 24, 2003 for Gateway Commons for a total of 292 dwellings including 27 one-family detached units and 93 townhouses, 88 multi-family units and 84 attached units, inclusive of 44 MPDUs and 128 TDRs on 45.24 acres. An opinion was issued on November 18, 2003. The signature set was approved on August 10, 2004.

Site Plan issues were extensive during the original review and approval of this project. The bulk of the issues were generated from attempting to achieve the Master Planned densities on a site that had several significant constraints, including special protection area storm water management treatment that increased the SWM facility size; new forest conservation legislation that increased the tree preservation areas on site; the presence of two major roads and one minor road intersecting at the center of the site; the park dedication and developing an appropriate entry into Clarksburg given the topographical constraints. All of these issues were resolved with the approval of the original site plan.

The majority of the site is under construction, including the public roads and their associated bike paths, the private roads and courts, parking areas, utility connections and stormwater management facilities. Permits for the buildings have not been signed off by M-NCPPC nor have they been issued by the Montgomery County Department of Permitting Services.

The subject "A" amendment to Gateway Commons was initiated by the Applicant to address architectural, engineering and construction changes, as well as changes requested by county agencies.

The following narrative identifies the requested change to the approved plan followed by a point-by-point response of why the change occurred, who initiated the change and the recommendation by staff:

1. Minor adjustments to building locations and footprints and removal of the basements of some units.

The Applicant has modified the design of the one-family detached and multi-family units. The new architectural plans include the revisions to first floor elevations of some of the unit types, which in turn necessitated modifications to the site such as lead walks, driveway slopes and lot grading.

Many of the unit revisions accurately reflect the builders' architectural prototypes. The lots have all been recorded and the pad sites for all of the units have been rough graded.

2. Adjustment of certain grades

Proposed grades associated with the units have changed due to final engineering and selection of models appropriate for the selected lots. The lot grading shown on the amended plans is intended for the construction and drainage of the specific lot only.

Adjacent lot grading, except for the proposed driveway and house location is illustrative and subject to change based upon the final engineering for the specific lot and unit. Driveway grades have also been changed to reflect architectural considerations and final engineering. All of the private and public roadways have been constructed in conformance with the site plan, except as modified by the requirements by the Fire Marshall, and in conformance with Montgomery County standards for road construction.

The Applicant is also requesting a change to the grades in the area of the adjacent parcels (N414, Lot 8, part of Lot 7 and N452, lot 1-Hammermill) southeast of the proposed Dowden's Ordinary Park, but only if the adjacent property owners grant a grading easement on their properties in return for sewer service. Subsequently, the grading will need to be modified in the rear of proposed one-family lots 1-5 that back up to the adjacent lots previously referenced.

Staff recommends approval of the changes to the grading in the specified areas to accommodate final engineering and elimination of retaining walls on the adjacent parcels, only if an easement is granted by the owners of the parcels. If the owners do not grant easements to the Applicant, the original site plan remains valid.

3. Deletion and addition of certain retaining walls

As mentioned in the previous request for amendment, the Applicant is also requesting a change to the grades in the area of the adjacent parcels (N414, Lot 8, part of Lot 7 and N452, lot 1-Hammermill) southeast of the proposed Dowden's Ordinary Park, only if the adjacent property owners grant a grading easement on their property in return for sewer service. The grading would eliminate the series of retaining walls in the rear of the adjacent properties and proposed one-family lots 1-5 that back up to the adjacent parcels previously referenced.

The Applicant is also requesting minor changes to the site plan to add 2-foot-tall retaining walls for the lead walk adjacent to townhouse unit 3385 due to re-siting of the block of units further from the road to accommodate setbacks from the street. A series of additional retaining walls are proposed in front of the units (8-13, Block 5) due to more accurate architecture presented by the Applicant. The retaining walls along the MD 355 property frontage in the location of the Dowden's Ordinary site and adjacent parcel N414, Lot 8 have been removed due to final grading and road design plans for the widening of MD 355. Additional retaining walls have been deleted in the areas of the proposed emergency access roadways and the areas in between townhouse units where the final grading has been adjusted.

Staff recommends approval of the changes to the grading in the specified areas to accommodate final engineering and elimination of retaining walls on the adjacent parcels, only if the owners of the parcels grant an easement. If the owners do not grant easements to the Applicant, the original site plan remains valid.

4. The relocation of a driveway and historical marker in Dowden's Ordinary

The original site plan included a dedication of the Dowden's Ordinary Park (Gateway Commons Special Park) and initial design that included a number of recreational and historic amenities, such as seating walls, interpretive panels and art elements. The historical marker was initially shown on the site plan along the frontage of MD 355 and listed as Braddock Monument #1915. At the request of our Parks Department through the park permit process, the Applicant agreed to change the location of the proposed monument to move it near the front of the existing Dowden's Ordinary, a pre-revolutionary war historic tavern site.

A 10-foot-wide grasscrete driveway from Stringtown Road was also requested by our Parks Department through the park permit process. A vehicular entrance to the park site did not previously exist. The apron will be constructed in accordance with Montgomery County standards as noted on the site plan amendment.

The Applicant was conditioned to provide numerous amenities and facilities on the subject park site. Condition 4 (e) specifically allows the *"final design of the park site, including facilities and plantings therein, to be coordinated with M-NCPPC staff and to be acceptable to staff and the Applicant"*.

Staff recommends approval of this request because the Applicant is still required to satisfy the above noted condition and original site plan conditions. Furthermore, the Applicant is required to continue processing the park permit to satisfy the original conditions of approval.

5. Modifications to curbs and sidewalks and the deletion of the Latrobe Lane traffic circle and median

Modifications to the curbs and sidewalks were necessary as a result of the reduction to the units, which were necessitated by the inclusion of the emergency access roadways from Stringtown Road and Latrobe Lane. Dual 3-foot-wide lead-walks from the two-over-two units have been consolidated into a single 8-foot-wide lead-walk. In addition to the changes predicated by the Fire Marshall, the Applicant has made changes to the sidewalks to the units due to architectural revisions to the builder's models being proposed with the application.

The deletion of the Latrobe Lane traffic circle and median is a result of a requirement by the Fire Marshall to maintain a 20-foot-wide emergency access roadway to the proposed units. The initial median design included two 13-foot-wide travel lanes separated by a 6-foot-wide landscaped median. The amendment would eliminate the median and provide for full pavement within the road section. The traffic circle was also required to be eliminated because of the width of the travel lanes.

Staff recommends that the plans be modified to reflect as-built conditions based upon requirements by the Fire Marshall.

6. Provision of emergency access driveways to private streets.

During the permit review, the Fire Marshall required changes to the private streets for turning radii, road termini and road widths, as well as providing emergency access to the private streets.

The Fire Marshall comments during the review of the construction permits required emergency access to Shaws Tavern Court from Stringtown Road and emergency access to Scholl Manor Way and Roberts Tavern Court from Latrobe Lane. The emergency roadway access consists of a 20-foot-wide connection that incorporates grasscrete pavers to prevent a dead-end condition to the private courts. The Fire Marshall also requires the elimination of the median and traffic circle in private Latrobe Lane from Observation Drive to Scholl Manor Way to provide a wider paved area.

The curb and gutter, which includes the turning radii for most of the private driveways, including Roberts Tavern Drive and Court, Scholl Manor Way and Shaws Tavern Court, has been widened in many locations and/or removed and replaced with mountable curb to satisfy requirements by the Fire Marshall.

Staff recommends that the Fire Marshall modify the plans to reflect as-built conditions based upon requirements.

7. Reduction in the overall number of dwelling units from 292 to 286.

The Applicant reduced the overall number of dwelling units by a total of six units, from 292 to 286, primarily due to the requirements by the Fire Marshall for emergency access to Shaws Tavern Court from Stringtown Road and access to Scholl Manor Way and Roberts Tavern Court from Latrobe Lane. The reduction of the one-over-one units on Shaws Tavern Court resulted in the elimination of a stick of two buildings that housed a total of four units and shifted the remaining two buildings in the stick further to the northern property line.

Two additional emergency access points were provided from Latrobe Lane to Scholl Manor Way and Roberts Tavern Court that caused the elimination of two townhouses. Originally, the stick of units consisted of seven townhouses in a single row; however, the amended condition breaks up the stick into groupings of two units and four units separated by the emergency access. This results in additional green space between the groups of townhouses into the private court areas.

The reduction of the one-over-one units eliminated three surface parking spaces, changed the lead walk locations of the units to remain directly onto Stringtown Road, and created a separate lead walk from the adjacent two-over-two units to Observation Drive. The reduction in the townhouse units resulted in the loss of garage parking spaces and changes to the lead walk conditions to Latrobe Lane.

Staff views the changes as mandatory as a result of the failure by the Fire Marshall to adequately review the original plans during the mandated review period and believes the loss of units adequately addresses the concerns.

The change in unit numbers has been correctly revised in the data table, development charts, green space computations and the recreation tabulations to be consistent with the total number of units.

8. Clarification of the development notes and tables to reflect the proposed changes and clarify and define items.

The original site plan did not adequately address the development standards for each use, specifically maximum building heights and clarification of setbacks for many of the units on the private streets. Setbacks were established for the primary public roads, including MD 355, Observation Drive, Stringtown Road, Roberts Tavern Drive, Woodport Road and Latrobe Lane. The units that front onto the private streets and courts have not been identified with specific setbacks. The setbacks would have been "as depicted or graphically shown on the approved site plan". Staff does not believe this is a violation because none of the units are constructed and permits have not been issued by the respective agencies.

The Site Plan deficiencies have been clarified with the proposed amendment. The neighboring site plans such as Clarksburg Village and Greenway Village that incorporated R-200/TDR standards with a PD underlying standard, have been studied for consistency.

The following table shows the maximum height limitations proposed for this project and the corresponding site plans that also did not include specific development standards:

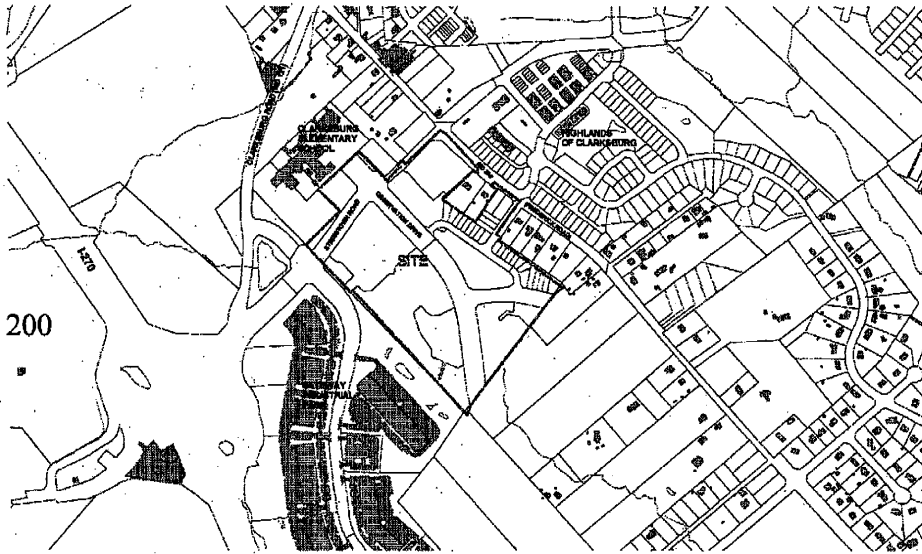
Unit Type	Gateway Commons Amendment 82003023A	Clarksburg Village Amendment 82003003A	Greenway Village Amendment 82003
One-family detached	35 feet	35 feet	35 feet
Townhouse (one-family attached)	35 feet	35 feet	35 feet
One-over-one (one-family attached)	35 feet	35 feet	35 feet
Two-over-two (multi-family)	45 feet	45 feet	45 feet
Multi-family	45 feet	55 feet	55 feet

All of the lots on the site plan amendment have been modified to clearly identify setbacks and building restriction lines for the one-family detached lots and townhouses with lots, and building envelopes for the multi-family and attached units.

Staff has placed a condition in the report to incorporate the revised data table and development standards.

PROJECT DESCRIPTION: Site Vicinity and Description

The proposed development spans the intersection of new Observation Drive, the extension of Stringtown Road and new alignment of MD Route 355 (Frederick Road). Stringtown Road forms the northwestern boundary of the site.

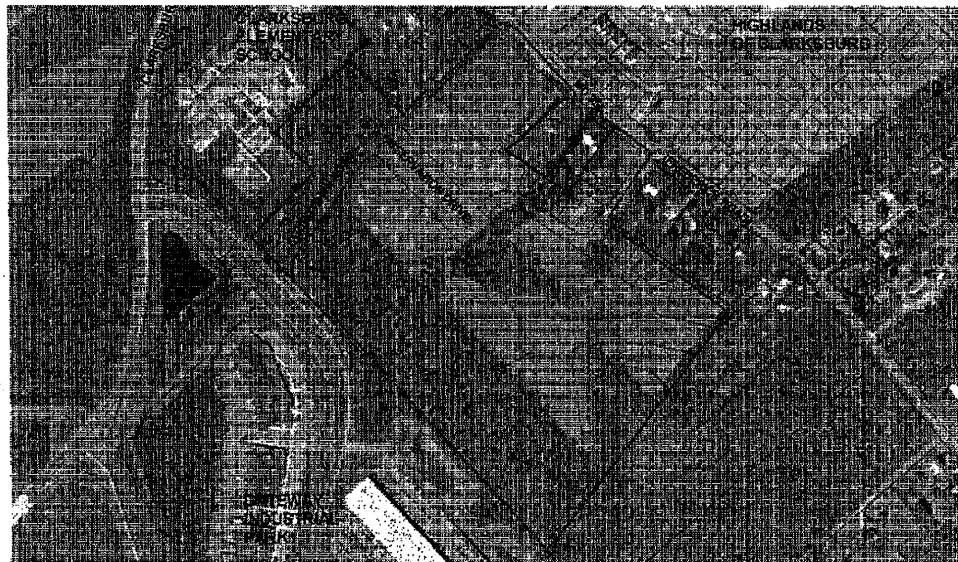


The site is northeast of the Gateway Industrial Parkway and the industrial office park. Northeast of the site are existing homes and lots in the R-zone. The lots are over 180 feet deep and have over 125 foot rear yards. Immediately north of the site is the Clarksburg

Elementary School and the Clarksburg Historic District within the perimeter of the town.

The Highlands of Clarksburg community is located directly opposite MD 355. The northeast corner of the site contains Dowden's Ordinary, a pre-revolutionary war historic tavern site. The site was dedicated to M-NCPPC for use as a specialty park and preservation site for archeological artifacts.

The property has been completely cleared and graded within the parameters of the forest conservation plan and sediment and erosion control plan. All of the roads and associated facilities, both public and private, have been constructed.



Additionally, all of the sediment control facilities have been installed consistent with the Clarksburg SPA standards and guidelines.

PROJECT DESCRIPTION: Proposal

The proposed amendment to the originally approved site plan for Gateway Commons specifically addresses modifications to the building footprints, as a result of the selection of final architectural elements, clarification of development standards in the data table and plan, site details such as retaining wall and driveway features and revisions to the access points and stormwater management facilities based upon other agency review. Additionally, the site design has remained consistent, with the exception of the specific modifications to the original concept and approval. The changes have resulted in reduction of 6 units.

The project provides a variety and mix of unit types as prescribed in the Clarksburg Master Plan and the provision of the future transit stop for the implementation of the Corridor City Transitway. The unit arrangement and orientation to the streets has not changed with this proposed amendment. All of the public and private roadway systems, including the bike path on Observation and Stringtown Roads, have been installed.

All of the amenities associated with this development, including the landscaping, lighting, entry features along the Stringtown Road and community recreational facilities, will be installed in accordance with the development program that has been modified with this amendment. The applicant is dedicating the northeastern-most portion of the site to M-NCPPC because it contains the Dowden's Ordinary site, a tavern in operation during revolutionary era. The site is perched on a hill that keeps it removed from the rest of the development but connected by a long staircase. A portion of the forestation requirements and two open space play areas will be located on the Dowden's Ordinary site. The development of the park is undergoing review by the M-NCPPC Parks staff and Historic Preservation Staff to create a blend of historic and park opportunities. The proposed park will be directly accessible by foot or bicycle and a 10-foot-wide grasscrete driveway from Stringtown Road. The Applicant continues to work with the Parks Department, through the permit process, toward the ultimate construction and preservation of the park.

PROJECT DESCRIPTION: Prior Approvals

Preliminary Plan

Preliminary Plan 120020480 for the site was approved on July 25, 2002 by the Planning Board for a total of 292 dwelling units, including 44 MPDUs and 128 TDRs.

Site Plan

Site Plan 820030230 was approved on July 24, 2004 (Opinion mailed November 18, 2003) for 27 one-family detached, 93 townhouses, 88 multi-family, and 84 attached units, inclusive of 44 MPDUs and 128 TDRs on 45.24 acres.

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE

R-200/TDR 7 - utilizing PD Standards per Section 59-C-1.394(b) and as determined at Site Plan approval.

R-200/TDR-7 Development Standards				
Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 8200030230	Proposed with Site Plan Amendment 82003023A	Change
Gross Site Area (ac):		45.2463	45.2463	No Change
Less dedication of Roads with 100' or greater right-of-way		10.700	10.700	No Change
Less Floodplain		0.00	0.00	No Change
Net Site Area:		34.5463	34.5463	No Change
Density Tabulations:				
Max. Density with MPDU density bonus:	295 dwelling units (8.54 du/ac x 34.5147 ac.)	295 dwelling units (8.54 du/ac x 34.5147 ac.)	294 dwelling units (8.54 du/ac x 34.5147 ac.)	(1 dwelling unit)
Proposed Units		292 dwelling units	286 dwelling units	(6 dwelling units)
MPDU Calculations	45	44	43	(1 MPDU)

	(295 x 15%, includes 22% density bonus)	(292 x 15%, includes 22% density bonus)	(286 x 15%, includes 22% density bonus)	
TDR Calculations				
Base Density	69	68	69	+1 unit
TDR Density	128	128	128	No change
½ Multi-family units	44	44	44	No change
MPDUs	45	44	43	(1 MPDU)
Bonus Market Rate Unit	8	8	8	No change
Total	295	292	291	(1 unit)
Unit Breakdown: (From Master Plan)				
One-family detached	15% Min. 44 units	9.2% 27 units (waiver approved with Preliminary Plan 120020480)	9.4% 27 units	+0.2% No change in # of units
One-family attached	Not Specified	62% 177 units	59.8% 171 units	(2.2%) No change in # of units
Multiple-family	35% Max. 102	30% 88 units	30.8% 88 units	+0.8% No change in # of units
Building Setbacks:				
Front yard setback from public streets (ft.):				
Stringtown Road	25	25	25	No change
Observation Drive and Roberts Tavern Drive	20	20	20	No change
Woodport Road, Latrobe Lane and MD 355	15	15	15	No change
Side yard setbacks (ft.):				

Townhouse (one-family attached)	Not Specified	Not Specified		
One over One (one-family attached)	Not Specified	Not Specified		
One-family detached	Not Specified	Not Specified		
Two over two multi-family	Not Specified	Not Specified		
Rear yard setbacks (ft.):				
Townhouse (one-family attached)	Not Specified	Not Specified		
One over One (one-family attached)	Not Specified	Not Specified		
One-family detached	Not Specified	Not Specified	20	
Two over two multi-family	Not Specified	Not Specified		
Setbacks for accessory buildings for the one-family detached units (ft.):				
From public street right-of-way	Not Specified	Not Specified	20	
From rear lot line	Not Specified	Not Specified	2	
From side lot line	Not Specified	Not Specified	2	
Max. Building Height (ft.):				
Townhouse (one-family attached)	Not Specified	Not Specified	35	
One over One (one-family attached)	Not Specified	Not Specified	35	
One-family detached	Not Specified	Not Specified	35	
Two over two multi-family	Not Specified	Not Specified	45	
Accessory building for the one-family detached units	Not Specified	Not Specified	25	
Min. Green Area (%/sf.):	40% of Gross Site Area (788,371 sf)	58.4% of Gross Site Area (1,150,761 sf)	67.3% of Gross Site Area (1,326,173 sf)	+8.9% of Gross Site Area (175,412 sf)

Min. Internal Landscaping (% of parking areas)	5% Based on 87,210 sf of parking area (4,361 sf.)	11.6% Based on 87,210 sf of parking area (10,129 sf.)	11.6% Based on 87,210 sf of parking area (10,129 sf.)	No Change
Parking Requirement:				
Townhouse (one-family attached) 2 spaces/du	93 x 2 = 186	91 x 2 = 182	91 x 2 = 182	
One over One (one-family attached) 2 spaces/du	84 x 2 = 162	84 x 2 = 162	84 x 2 = 162	
One-family detached 2 spaces/du	27 x 2 = 54	27 x 2 = 54	27 x 2 = 54	
Two over two multi-family 1 BR @ 1.5 sp/du 2 BR @ 2 sp/du	44 x 1.5 = 66 44 x 2 = 88	44 x 1.5 = 66 44 x 2 = 88	44 x 1.5 = 66 44 x 2 = 88	
Total Parking Required:	634	634	599	
Total Parking Provided:	644	644	609	
On -site Impervious Area (sf.):				
Buildings	Not Specified	190,993	227,211	+36,218
Parking and Roads	Not Specified	307,143	355,627	+48,484
Driveways	Not Specified	45,423	61,916	+16,493
Sidewalks	Not Specified	87,624	125,328	37,704
Total On-site Impervious		631,183 (32% of Gross Tract Area)	770,082 (39.1% of Gross Tract Area)	+138,899 (7.1% of Gross Tract Area)

RECREATION CALCULATIONS:

	Tots	Children	Teens	Adults	Seniors
Demand Points					
28 SFD III	3.78	5.13	6.21	34.29	3.51
171 Townhouse	29.07	37.62	30.78	220.59	11.97
88 Multi-family	9.68	12.32	10.56	103.84	14.08
TOTAL DEMAND	42.53	55.07	47.55	358.72	29.56
Supply Points					
<u>On-Site Facilities:</u>					
Tot Lot (2)	18	4	0	8	2
Multi-age area (1)	9	11	3	7	1
Pedestrian System (1)	4.88	12.68	10.79	169.25	9.95
Natural Area (1)	0	3.17	5.4	37.61	1.11
Nature Trail (1)	2.44	6.34	8.09	56.42	3.32
Play Lot (1)	0	9	3	4	1
Sitting Areas	6	6	9	30	12
Open Play Area I (2)	12	18	24	60	4
On-Site Total	52.32	70.19	63.28	372.28	34.38
<u>Off-Site Facilities @ 35% Credit:</u>					
@ Elementary school	17.08	22.19	18.87	131.64	7.74
TOTAL SUPPLY	69.40	92.38	82.15	503.92	42.12

ANALYSIS: Conformance to Master Plan

Relationship to the Clarksburg Master Plan

Gateway Commons is located in the northern edge of the Transit Corridor District of the 1994 Clarksburg Master Plan Area. It directly adjoins the Clarksburg Historic District and is zoned R-200/TDR (7 units per acre) in accord with the Master Plan recommendation. The Master Plan recommends that the Corridor Cities Transitway bisect the subject property.

The Transit Corridor District includes properties fronting MD 355 that have developed over many decades in accord with traditional patterns found elsewhere in the "Up-County," single-family detached lots fronting the road. The most significant planning challenge here is to maintain and continue this residential character while addressing the need for increased traffic capacity along MD 355.

The Transit Corridor also includes properties traversed by the proposed transitway. The planning challenge here is to introduce housing into a predominantly employment area. The scale and intensity of residential uses must be compatible with neighboring subdivisions along MD 355, yet densities must be supportive of transit.

A mixed-use neighborhood is proposed at the northernmost transit stop (Shawnee Lane) where there is a 45-acre vacant site. Gateway 270, an office park approved for one million square feet, will be the major employment center. A mix of residential and local retail uses is proposed at the transit stop itself. The Land Use Plan for the Transit Corridor District is attached.

The proposed site plan for 286 units complies with the Master Plan objectives as follows:

Continue the present residential character along MD 355.

The proposed site plan achieves this objective by locating single-family detached units on small lots adjacent to larger lot, single-family residences. Due to the significant change in lot sizes, extensive landscaping should be provided in the rear of the smaller lots in order to provide compatibility with the existing residences.

Balance the need for increased carrying capacity along portions of MD 355 with the desire to retain a residential character along MD 355.

The Master Plan recognizes that MD 355 through this part of Clarksburg cannot remain a two-lane roadway in the long term given its regional significance in the northern part of the County. At the same time, widening of MD 355 to six lanes would be in direct conflict with the Plan objective to retain the road's present residential character.

The Master Plan makes the following recommendations to achieve a balance between the need for increased carrying capacity and the desire to retain a pleasant residential character:

1. MD 355 should be reclassified from a major thoroughfare to an arterial street (maximum four lanes with a planted median).
2. An alternative north-south thoroughfare (Observation Drive) is recommended to help accommodate anticipated traffic.
3. MD 355 (Frederick Road) should be renamed Old Frederick Road.

The proposed site plan achieves this by providing the Bypass through the subject property.

Provide housing at designated areas along the transitway near significant employment uses.

The proposed site plan cannot provide the Master Plan recommended density (up to 7 units per acre) due to environmental requirements to satisfy the Forest Conservation Law and to meet the Special Protection Areas guidelines. This plan represents an example of competing requirements that result in less than desirable density at a transit location.

Establish strong pedestrian and bicycle linkages to the greenway.

The proposed site plan incorporates the Master Plan's recommended bikeways into the cross sections of Stringtown Road and Observation Drive. Both roadways provide connections to the Greenway Park system and to transit stations.

Improve east-west roadway connections.

One of the transportation challenges in this area is how to improve east-west access. While MD 355, Observation Drive, and Midcounty Arterial (A-305) will facilitate north/south movements through the area, east-west access is more difficult to provide because of environmental constraints (tributaries of Little Seneca Creek in particular) and existing development patterns.

The proposed plan improves east-west connections by dedicating the right-of-way for Stringtown Road.

Encourage an interconnected street system as typically found in older towns.

It is essential that the character of the roadway network is supportive of the Master Plan's vision for the Town Center. The guideline below will help assure that streets and highways are built in a manner that is compatible with land use and urban design objectives for the Town Center.

Because the arterials of Stringtown Road and Clarksburg Road serve as entrance to the Town Center, extensive landscaping, including medians, bikeways, and bus transit access facilities, must be provided.

Staff also recommends a 25-foot setback along Stringtown Road and 20 feet along Observation Drive to achieve this Master Plan objective. This recommendation is based on the King Farm

example and would achieve an appropriate “gateway” transition from I-270 into Clarksburg’s Town Center.

Diversity of Housing Types

The Master Plan endorses a mix of unit types at the neighborhood level. It avoids large concentrations of any single type of housing within each neighborhood. The proposed site plan conforms to the recommended range of units.

FINDINGS: For Site Plan Review

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;*

An approved development plan or a project plan is not required for the subject development.

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

The approved site plan (820030020) was deficient in the requirements of the R-200/TDR-7 Zone, with respect to development standards for each zoning category. The amendment to the site plan fully addresses and provides the necessary development standards for all of the uses in the zone.

The Site Plan meets all of the requirements of the R-200/TDR-7 Zone as demonstrated in the project Data Table on page 12.

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

- a. **Buildings and Structures**

The neo-traditional form that is characteristic of many of the new developments in Clarksburg, including Clarksburg Town Center and Clarksburg Village. The blocks create an interactive neighborhood with accommodating open space areas and an interconnecting pedestrian system. The orientation of the front doors of units onto the streets creates a more inviting view from the streets and more accommodating pedestrian environment. The tighter placement of units is a result of the constraints of the site, including stormwater management, stream valley buffer, extensive road dedications, grades and the historic park dedication. The unit massing and layout is compensated by the additional plantings provided within the open spaces, special pavement, and foundation plantings. The site grading has been adjusted for Stringtown Road to bring the units close to street grade, improving the relationship of the units to the adjacent sidewalk and entry drive to Clarksburg.

The overall unit alignment and design for Gateway Commons did not change significantly with this amendment. Consequently, the number of units was reduced based upon external agency comments.

Many of the retaining walls have been deleted based upon final engineering and grading. The series of walls by the Dowden's Ordinary park site will be deleted if

the Applicant obtains a grading easement from the adjacent property owners. The walls adjacent to the dead-ends at Shaw Tavern Court, Scholls Manor Way and Roberts Tavern Court have been deleted due to the addition of emergency access roadways and relocation of units. Other smaller walls have been added to adjust to the elevations and grades associated with more precise grading.

b. Open Spaces

The open space on site is limited due to the high intensity of development on site as a result of the environmental areas and park dedication. This heightens the importance of landscaping thus requiring more open space planting to counterbalance the effects of paving and architecture.

The green space requirement for the property is 40 percent of the gross tract area. The original site plan was approved for approximately 58 percent of the gross tract area and the amendment increases the amount of green space by an additional 9 percent up to approximately 67 percent. This increase in green space can be attributed to the loss of units and modifications to the plan, but it should be noted that the amendment includes sidewalks, lead walks, stormwater management facilities as permitted by the zoning ordinance for green space.

c. Landscaping and Lighting

The landscaping was designed to provide structure for the streets, shade for pedestrians and park users, buffers to adjacent homes and attractive entryways. Foundation plantings have been modified to coincide with the design for each unit type and units have been sited so these plantings occur outside the Public Utility Easements. The streetscape follows the patterns and species proposed in the draft Clarksburg streetscape guidelines. Additional plantings may be necessary to buffer the proposed one-family detached units by Dowden's Ordinary Park to the adjacent parcels if the series of walls is removed.

The lighting plan the Hadco fixture approved by DPWT for public street use in Clarksburg and the colonial style fixtures in the private street areas and common areas.

Some adjustments are still needed to bring the trees into the best alignment for the adjacent conditions.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table on page 16. The tabulations were revised to correctly reflect the number and category of units. The total demand points were reduced due to the loss of units while the supply points remained the same.

Recreation facilities still include sitting areas, tot lot multiage play facilities and within the historic site, open space play areas and natural areas and trails.

e. Vehicular and Pedestrian Circulation

As amended, vehicular and pedestrian circulation is safe, adequate and efficient.

The street connections to the site are in accordance with the approved Preliminary Plan, and the layout provides an interconnecting system of sidewalks and bike paths. The road network through the site is permitted by the County and complete, with the exception of a portion of Stringtown Road.

The pedestrian paths complement the public street walks and bike paths to create a well integrated pedestrian system. The staircase and various connections provided to the future M-NCPPC Park and the path connection to the school to the north will further connect the future residents with nearby recreation opportunities.

Accessibility by the Fire Marshall during the permit review process resulted in additional connections to the public roads and to the private streets. The additional emergency access roadways resulted in the loss of 6 units. Additionally, the review by the Fire Marshall resulted in modifications to turning radii and appropriate turnaround on dead-end streets.

4. Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.

The proposed residential development is compatible with adjacent residential development because of the provision of setbacks and landscaped buffers and gradation in density.

The evergreen and mixed landscape buffers provided adjacent to housing and the public school will provide for a buffering of views of the new development and the maintenance of the views within the project.

The activity associated with the proposed residential will not cause any negative effect on the adjacent industrial park and residential uses.

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 applicant is proposing an optional method of development for this site. Under Section 22A-12(f) of the Montgomery County code, developments using an optional method of development must meet the appropriate forest conservation threshold on-site. Environmental Planning compared the forest conservation threshold with the amount of

forest retained on-site and determined that the amount of forest retained is greater than the amount necessary to meet the minimum threshold. Therefore, the final forest conservation plan submitted for this site meets the requirements for Section 22A-12(f) of the Montgomery County code.

The site is located within the Little Seneca Creek and Ten Mile Creek watersheds, which are both designated as Use IV-P waterways. The majority of the site drains to the Little Seneca Creek watershed. The natural resource inventory delineated the onsite environmental buffers. The entire site is within the Clarksburg Special Protection area. The Applicant has built the stormwater management facilities in accordance with the Special Protection Area regulations. MCDPS approved the SWM and Sediment and Erosion Control Plan on October 14, 2004. MCDPS has also reconfirmed the approval based upon the proposed amendment on March 24, 2006.

The Applicant has already removed 12 acres of forest consistent with the approval of the final Forest Conservation Plan. The total planting requirement for the forest conservation plan is 11.4 acres. Onsite forest retention, onsite forest plantings and landscaping credit, and planting off-site shall meet the forest conservation requirements. Off-site reforestation must occur in the Clarksburg SPA. A five-year maintenance period is required for all forest planting per the environmental guidelines.

The Final FCP and approved Final Water Quality Plans and stormwater management plans meet the site performance goals, site impervious goals and overall guidelines of the Clarksburg Special Protection Area.

APPENDICES

- A. Planning Board opinion for Preliminary Plan 120020480.
- B. Planning Board opinion for Site Plan 820030230
- C. Memorandums from agencies
- D. Site Plan Checklist

APPENDIX A



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Please cc ERW
+ Please put in copies
Right in file

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: November 18, 2003

SITE PLAN REVIEW #: 8-03023

PROJECT NAME: Gateway Commons

The date of this written opinion is November 18, 2003, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before December 18, 2003 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1-02048 is valid, as provided in Section 59-D-3.8

On July 24, 2003, Site Plan Review #8-03023 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required;*
2. *The Site Plan meets all of the requirement of the R-200/TDR-7 zone;*
3. *The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*
4. *Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
6. *The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection*

ATTACHMENT D

(Staff Report for Site Plan 820030230)



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Items # 9 and 10
MCPB
7/24/03



MEMORANDUM

DATE:
TO: Montgomery County Planning Board
VIA: Joe R. Davis, Chief
Michael Ma, Supervisor
Development Review Division
for MM
FROM: Wynn E. Witthans, AICP, RLA *WW*
Planning Department Staff
(301) 495-4584
REVIEW TYPE: Final Water Quality Plan and Site Plan Review
APPLYING FOR: 27 one family detached, 84 Townhouses, 181 Attached, 44 MPDU's
including 171 TDR's on 33.18 acres
PROJECT NAME: Gateway Commons
CASE #: 8- 03023
REVIEW BASIS: Div. 59-D-3, Montgomery County Zoning Ordinance for Site Plan
Section 19-64 for Final Water Quality Plan
ZONE: R-200/TDR-7
LOCATION: South west and east of intersection of Observation Drive and Stringtown
Road
MASTER PLAN: Clarksburg and Vicinity
APPLICANT: U.S.Home Corportation, William James contact
FILING DATE: January 21, 2003
HEARING DATE: July 24, 2003

FINAL WATER QUALITY APPROVAL FOR SPECIAL PROTECTION AREA

STAFF RECOMMENDATION: Approval of Final Water Quality Plan for Site Plan # 8-03023
with the following conditions:

1. Off-site reforestation must occur in the Clarksburg Special Protection Area (SPA). If a reforestation site is unavailable in the Clarksburg SPA, the applicant shall pay the in lieu fee to M-NCPPC prior to any clearing or grading.
2. Conformance to the conditions as stated in the Montgomery County Department of Permitting Services (DPS) letter dated June 25, 2003 approving the elements of the SPA water quality plan under its purview (see Attachment).
3. Off-site reforestation must occur in the Clarksburg Special Protection Area (SPA). M-NCPPC Parks will provide an off site reforestation site for remaining reforestation that would have originally gone in the dedicated parkland. If the Applicant chooses another venue for reforestation other than what Parks would provide in the Clarksburg SPA, the applicant must pay the in-lieu fee to M-NCPPC prior to any clearing or grading.

SITE PLAN # 8-03023

STAFF RECOMMENDATION: Approval of 27 one family detached, 181 Townhouses, 84 Attached units, inclusive of 44 MPDU's and 171 TDR's on 33.18 acres:

1. Site Plan, Lighting and Landscaping Plan

The applicant shall submit the following items for staff review prior to release of signature set:

- a. Street trees for all public streets and internal streets shall be coordinated with the Public Utility Easements and draft Clarksburg Streetscape design guidelines; street tree species shall include more native species;
- b. The plans for the open space planting and foundation planting shall reflect more plants with seasonal interest and shall be more conducive to open space development.
- c. The landscaping adjacent to the fountain on Sheet 5 shall be designed to allow more pedestrian access, visibility and attractiveness.
- d. Townhouse units at the end of Woodport Road moved to increase common open space in the rear of the units.
- e. Construction of the necessary retaining wall adjacent to the southern corner of the park to be engineered to avoid wall height(s) of greater than 6' and said wall to match the design and structure of the wall being constructed along Route 355 in front of the M-NCPPC park. The dedicated parcel shall reflect the reduction in acreage from the Preliminary Pan approval.
- f. The centerline station at MD Route 355 to create a matched intersection with Highlands of Clarksburg subdivision to the north shall be confirmed by exhibit provided to staff by applicant.
- g. All truncations shall measure 25 feet and all plans shall be adjusted accordingly.

- h. The interior sidewalk system shall be revised to meet a staff sketch that indicates location of crosswalks, all brick/special paver walks and other pedestrian connections.
- i. All trees and shrubs shall be removed from the PUE
- j. Ground cover shall be added in between the driveways for the townhouse units.
- k. Sitting areas shall be integrated into the open spaces throughout the project according to staff sketch.
- l. Plant sizes shall reflect standard plant sizes i.e. evergreens to be 6-8 ft avg.
- m. Dumpsters shall be located on site for staff review.

2. Environmental Planning

- a. Certification from an acoustical engineer that the building shell of impacted buildings along Stringtown Road, Observation Drive and MD Route 355 bypass shall be reviewed to provide an interior level not to exceed 45 dBA Ldn. All residential units that will be subject to projected future exterior noise levels equal or exceeding 65 dBA Ldn, must be constructed to meet the 45 dBA Ldn interior noise standard. Certification shall be distributed to M-NCPPC technical staff for review prior to release of building permit.

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

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

- b. Compliance with the conditions of approval for the final forest conservation plan. The applicant must satisfy all conditions of the forest conservation plan prior to recording of plat(s).
- c. Plan to include SWM waiver of open section streets within Special Protection Areas per DPS Approval.
- d. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.

3. Division of Permitting Services

- a. Streets and Paving Memo Dated July 15, 2003.

4. Parks and Historic Preservation

- a. Applicant to dedicate "Parcel B" consisting of about 2.84 acres and located at the corner of Route 355 and extended Stringtown Road to M-NCPPC. Said land not to include any retaining walls, except wall at the Route 355/Stringtown Road corner, and to be conveyed free of trash and unnatural debris and the boundaries staked and signed by Applicant to delineate between parkland and private properties.
- b. Applicant to construct on dedicated park property the following amenities:
 - i. A "ghost structure" recreation of the historic Dowden's Ordinary including stone seating walls, flagstone flooring and interpretive panels. The structure to be approximately 16' x 30' and constructed of corten steel if reasonably feasible, or other material acceptable to M-NCPPC staff and Applicant.
 - ii. A simple, stone retaining wall entrance feature and park identification sign at the corner of Route 355 and Stringtown Road extended. Park sign name to be determined by M-NCPPC staff.
 - iii. An 8' wide, hard surface trail from Route 355 near the intersection with Stringtown to the Dowden's Ordinary structure. Trail to be constructed of modified tar and chip such as that used at the Sandy Spring Museum and should meet ADA accessibility standards.
 - iv. An historic replication of the original Dowden's Ordinary sign to be located along side the 8' wide trail entrance.
 - v. A 6' wide, hard surface circuit trail that passes near the Dowden's Ordinary structure and continues around the open play areas and sitting areas. Trail to be constructed of modified tar and chip such as that used on the 8' wide trail with nodes of cobblestone circles or equivalent separating portions of the trail.
 - vi. At least 4, six-foot long sitting benches to be placed at locations along the side of the circuit trail.
 - vii. Appropriate, sculptural recreational pieces in the open play area, acceptable to M-NCPPC staff and Applicant. The pieces may be historic in nature and be compatible with the history surrounding the Dowden's Ordinary. They may include pieces such as an elephant play structure and a cannon or cannon replica.
 - viii. Simple tubular bicycle rack(s) near the park entrance off Route 355 or near the Dowden's Ordinary recreation structure.
 - ix. A natural surface trail leading from the hard surface trail to the historic Dowden's Ordinary marker. Trail to be marked with a sign acceptable to M-NCPPC staff and Applicant.
 - x. Native trees in selected locations throughout the park site. Choice of tree locations and species to be determined in coordination with M-NCPPC staff.

- c. Grading of the park site to result in slopes of no greater than 3:1 and to avoid grading on or near any locations that M-NCPPC staff determines may contain archeological artifacts.
- d. Reforestation required to be done by Applicant in this dedicated park to be located only along the southwest side of the park. Appropriate fencing and signage at the reforestation site to be included. If additional reforestation is required, Applicant may satisfy said additional planting requirement within other parkland in the watershed to be designated by M-NCPPC staff.
- e. Final design of the park site, including facilities and plantings therein, to be coordinated with M-NCPPC staff and to be acceptable to staff and Applicant.
- f. All park amenities to be constructed to park standards and specifications if available. Specifications for benches, stone walls, ghost structure, trails, recreational pieces, bicycle racks, historic signage and all other features built within the park to be submitted to M-NCPPC staff for approval prior to building permit release from the Parks Department.

5. Transportation

- a. Transportation Planning Memo dated July 18, 2003

6. Signature Set Documentation

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

- a. Development Program to include a phasing schedule as follows:
 - 1) Streets tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
 - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion.
 - 6) Coordination of each section of the development and roads.

- 7) Phasing of dedications, stormwater management, recreation, forestation, community paths or other features.
 - 8) Noise attenuation to be completed and accepted by M-NCPPC technical staff prior to release of building permits.
- b. Site Plan Enforcement Agreement to reference dedication of park at time of record plat and completion of park amenities before the release of the 200th building permit.
 - c. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for M-NCPPC technical staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 1. Undisturbed stream buffers as shown on plan.
 2. Limits of disturbance.
 3. Methods and locations of tree protection.
 4. Forest Conservation areas.
 5. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 6. The development program inspection schedule and Site Plan Opinion.
 7. Streets trees along all public streets.
 8. Centralized, screened trash areas for all multi-family and one-family attached units except townhouses
 - d. No clearing or grading prior to M-NCPPC approval of signature set of plans.

7. Waivers

The Applicant requires the following waivers with this project:

- a. 2/3 Provision of TDR's due to environmental constraints and parkland dedication.
- b. Percentage of single family detached from 15 % to 9.2% as approved with the Preliminary Plan.

FINAL WATER QUALITY PLAN SPECIAL PROTECTION AREA

DISCUSSION

The 45-acre property is located west of MD 355 and east of the Gateway 270 Business Center. To the north are the Clarksburg Elementary School and the Clarksburg Historic District. The site is a mix of hay fields and woodlands. There are no structures on the property however, Dowden's Ordinary, a historic site is located on the property adjacent to MD 355. The property is zoned R-200/TDR 7 and will consist of single-family detached units, townhouses, multi-family units, and associated infrastructure.

The site is located within the Little Seneca Creek and Ten Mile Creek watersheds, which are both designated as Use IV-P waterways. The majority of the site drains to the Little Seneca Creek watershed. The natural resource inventory delineated the onsite environmental buffers. The entire site is within the Clarksburg Special Protection area.

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS has reviewed and conditionally approved the elements of the final water quality plan under their purview. The Planning Board responsibility is to determine if the site imperviousness, environmental guidelines for special protection areas, and forest conservation requirements have been satisfied.

SITE PERFORMANCE GOALS

As part of the final water quality plan, several site performance goals were established for the project:

1. Maintain stream base flows
2. Minimize storm flow runoff increases.
3. Minimize increases in ambient water temperatures.
4. Minimize sediment loading.
5. Minimize nutrient loading.
6. Control insecticides, pesticides, and toxic substances.

STORMWATER MANAGEMENT

To help meet these performance goals, the stormwater management plan requires water quality control and quantity control to be provided through an extensive system of linked best management practices (BMPs). Water quality control will be provided via two existing off-site wet ponds and one new on-site extended detention dry pond. Quality control will be provided via a treatment train that consists of sand filters, biofiltration structures, and infiltration/recharge structures. Since open section roadways are not possible, additional water quality structures are

incorporated into the water quality plan to compensate for the lost benefits that open section roadways provide.

SITE IMPERVIOUSNESS

There are no impervious limitations with the Clarksburg SPA. The impervious amount proposed for the entire 46-acre site is approximately 36 percent. Environmental Planning does not have impervious data from other sites zoned R200/TDR 7 to compare the data with. Environmental Planning looks for opportunities to reduce impervious surfaces on all plans reviewed. However, based on the density proposed for this site few opportunities exist.

ENVIRONMENTAL GUIDELINES

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the 46-acre tract identified the environmental buffers. As part of the forest conservation plan for the Gateway Commons, the applicant will place forest conservation easements on the environmental buffers and forests retained and planted onsite.

FOREST CONSERVATION

The applicant is proposing an optional method of development for this site. Under Section 22A-12(f) of the Montgomery County code, developments using an optional method of development must meet the appropriate forest conservation threshold on-site. Environmental Planning compared the forest conservation threshold with the amount of forest retained on-site and determined that the amount of forest retained is greater than the amount necessary to meet the minimum threshold. Therefore, the final forest conservation plan submitted for this site meets the requirements for Section 22A-12(f) of the Montgomery County code.

The undeveloped site includes 20.2 acres of forest and the applicant is proposing to remove 12 acres of forest. The total planting requirement for the forest conservation plan is 11.4 acres. The forest conservation requirements shall be met by onsite forest retention, onsite forest plantings and landscaping credit, and planting off-site. Off-site reforestation must occur in the Clarksburg SPA. If an off-site location is not available within the Clarksburg SPA, the applicant may use the fee-in-lieu option to meet the off-site planting requirements. A five-year maintenance period is required for all forest planting per the environmental guidelines.

SITE PLAN REVIEW ISSUES

I. ISSUE - summary

Site Plan issues were extensive in this project. The bulk of the issues were generated from attempting to achieve the Master Planned densities on a site that has several significant constraints: special protection area storm water management treatment that increased the SWM facility size; new forest conservation legislation that increased the tree preservation areas on site; the presence of two major roads and one minor road intersecting in the midst of the site; the park dedication and developing an appropriate entry into Clarksburg given the topographical constraints.

Applicant Position

The applicant has been receptive to staff comments and worked with us to solve many issues. The issues have been resolved on the plan or via condition of approval. The applicant has contacted adjacent citizens, see letter attached, to work out off site grading and landscaping per the homeowners request.

Community Position

Staff has not heard from the community or any adjacent homeowners on this project at the time of this project. Staff has received a letter that addresses all the projects in Clarksburg project they have sent a general letter from civic association that reflects an interest in native plant material.

Staff Recommendation

Staff concurs with the results developed in the review process.

II. ISSUE

Dowden's Ordinary Park Dedication

Units were originally proposed in the Dowdens Ordinary Parcel but after meeting with staff and learning of the significance of the historic site, the applicant decided to dedicate the site and to M-NCPPC and build a park. The Applicant and staff have gone through a series of designs and have reached consensus what to do if not the final plan. The elements of consensus and future discussions have been detailed in the conditions of approval. With the Planning Board's concurrence, staff will continue to resolve the park issues as outlined above prior to final approval.

Applicant Position

The Applicant would like to review the decision made to have as little play equipment as possible in the park and the construction materials for the "ghost house."

Community Position

There have been no comments from citizens at this time.

Staff Recommendation

Staff has re-written the conditions of approval to reflect the Applicants concerns and still pursue Staff goal of historic and park development.

PROJECT DESCRIPTION: Site Description

Gateway Commons is created from a series of lots that span the intersection of new Observation Drive and the proposed MD Route 355 bypass. The land is partially under agricultural use and partially forested stream valleys.

Southwest of the site is the Gateway Industrial Parkway and the industrial office park.

Northeast of the site are existing homes and lots in the R-200 zone. The lots are over 180 feet deep and have over 125 foot rear yards. Along MD Route 355, along the northeast boundary, a portion of the site extends to MD Route 355. Woodport Road will extend from within this site to St. Clair Street in the Highlands of Clarksburg site plan and will create a full intersection.

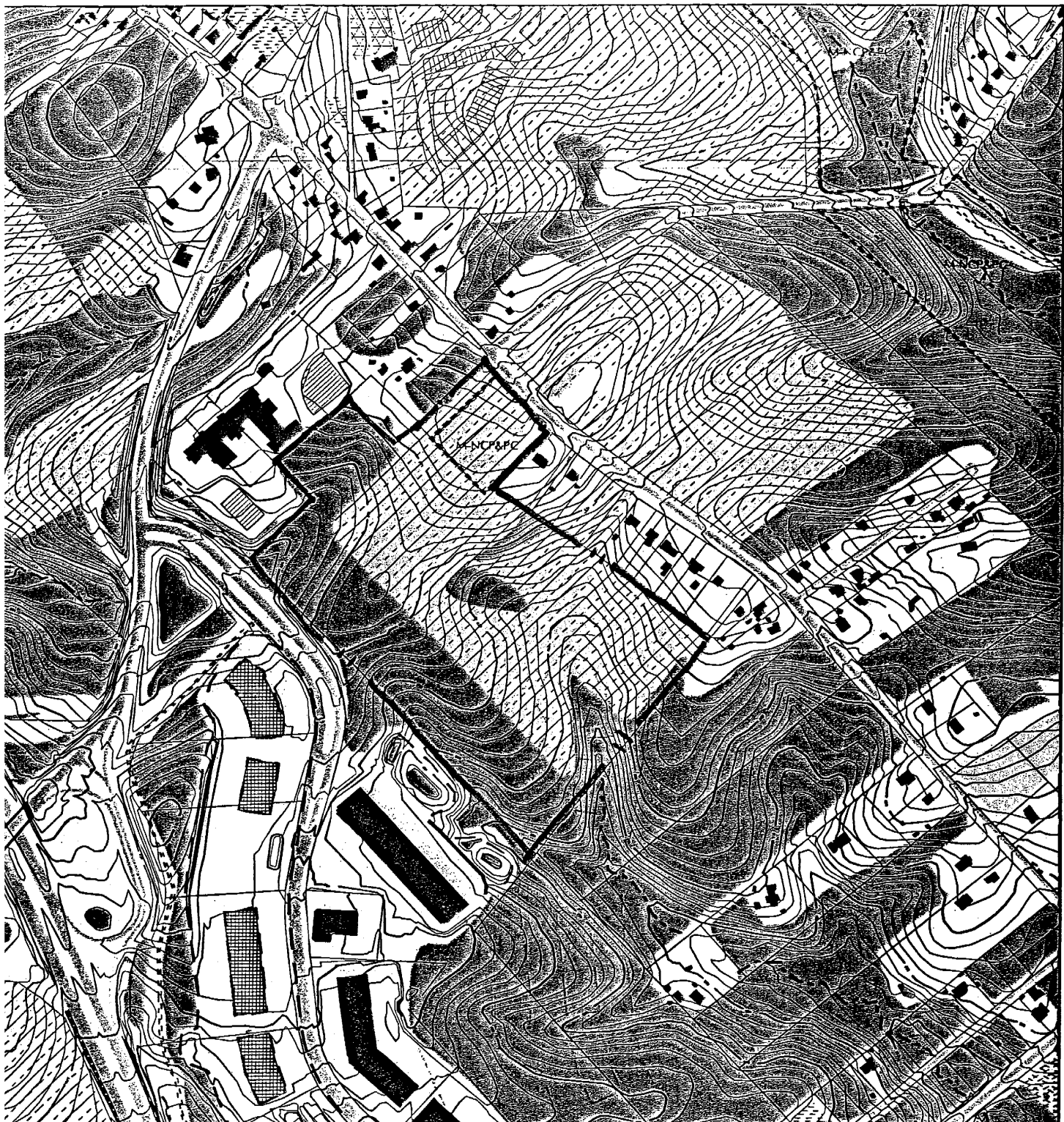
The northeast corner of the site is the site for Dowden's Ordinary, a pre-revolutionary war historic tavern site. The site will be donated to M-NCPPC for use a specialty park. Preliminary archeological digs have yielded many artifacts.

North of the site, generally, is the Clarksburg Historic District and immediately north of the site is the Clarksburg Elementary School.

The Observation Drive right-of-way divides the site in a north south direction. The 150-foot right of way will contain transit in the future. A stop will be adjacent to the school to the north. The MD Route 355 bypass intersects with the Observation Drive mid site and contains a 120-foot right-of-way.

Observation Drive Intersects with this new section of Stringtown Road, the new entrance to Clarksburg Town Center from I-270 located west of the entire site. Stringtown Road forms the northwestern boundary of the site.

VICINITY MAP FOR
GATEWAY COMMONS (8-02022A)



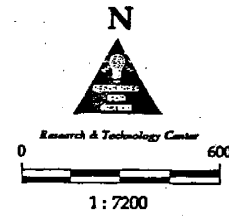
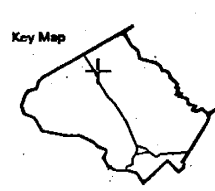
Map compiled on June 30, 2003 at 4:41 PM | Site located on base sheet no - 232NW13

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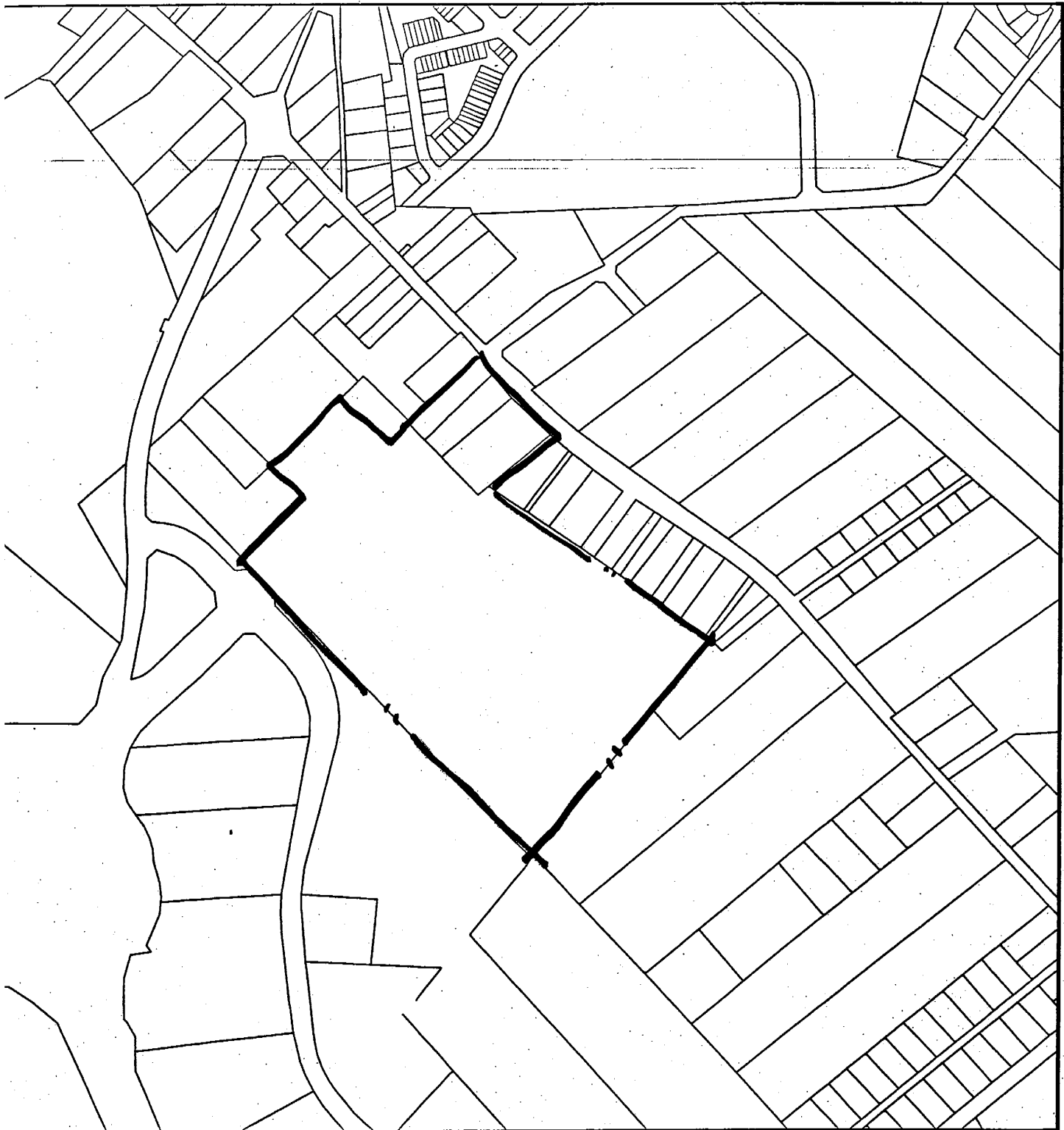
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

CITY MAP FOR
GATEWAY COMMONS (8-02022A)



Map compiled on June 30, 2003 at 4:28 PM | Site located on base sheet no - 232NW13

NOTICE

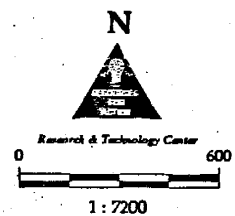
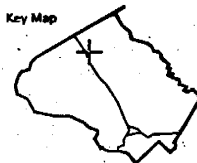
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-6376

Key Map



PROJECT DESCRIPTION: Proposal

The proposed project conforms to the Master Planned densities proscribed for this entrance to Clarksburg and this future transit station stop. The plan also conforms to the special protection area requirements by the numerous SWM treatment facilities and the tree preservation and afforestation areas.

The project provides a variety of unit types – single-family detached units, townhouses, and attached units (a two floor unit over a two floor unit). The units are arranged with front door orientation to the public streets and private interior parking courts/driveways. Internal private walks connect to external public sidewalks present on the intersecting public streets. One lead walk with Special paving or brick paver will be developed for major pedestrian travel routes inside the blocks. Cross walks and accepting sidewalk connectors are needed for the main walk within the private parking courts and around the roundabout. A bike path is provided on the far north side of Stringtown Road. Parking is provided in a tandem arrangement with one parking space under the one over one unit or in surface parking areas.

The units are arranged in blocks and ordered into a grid, creating a neo-traditional type layout typical within Clarksburg. The northeastern boundary with MD Route 355 includes an intersection with the proposed project across the street.

Landscaping for the residential project includes street tree planting, buffer planting for adjacent neighbors and SWM facilities, entry accent planting and open space planting. Foundation plantings are designed for each unit type and units have been sited so these plantings occur outside the Public Utility Easements or PUE. Where units are close together – back_door-to-back_door – trees are placed to create a visual buffer between the two. Evergreen buffers are placed next to adjacent housing and to the adjacent school. A mixed planted screen is adjacent the storm water management facilities to screen them from view. The streetscape follows the patterns and species proposed in the draft Clarksburg streetscape guidelines. Some adjustments are still needed to bring the trees into the best alignment for the adjacent conditions.

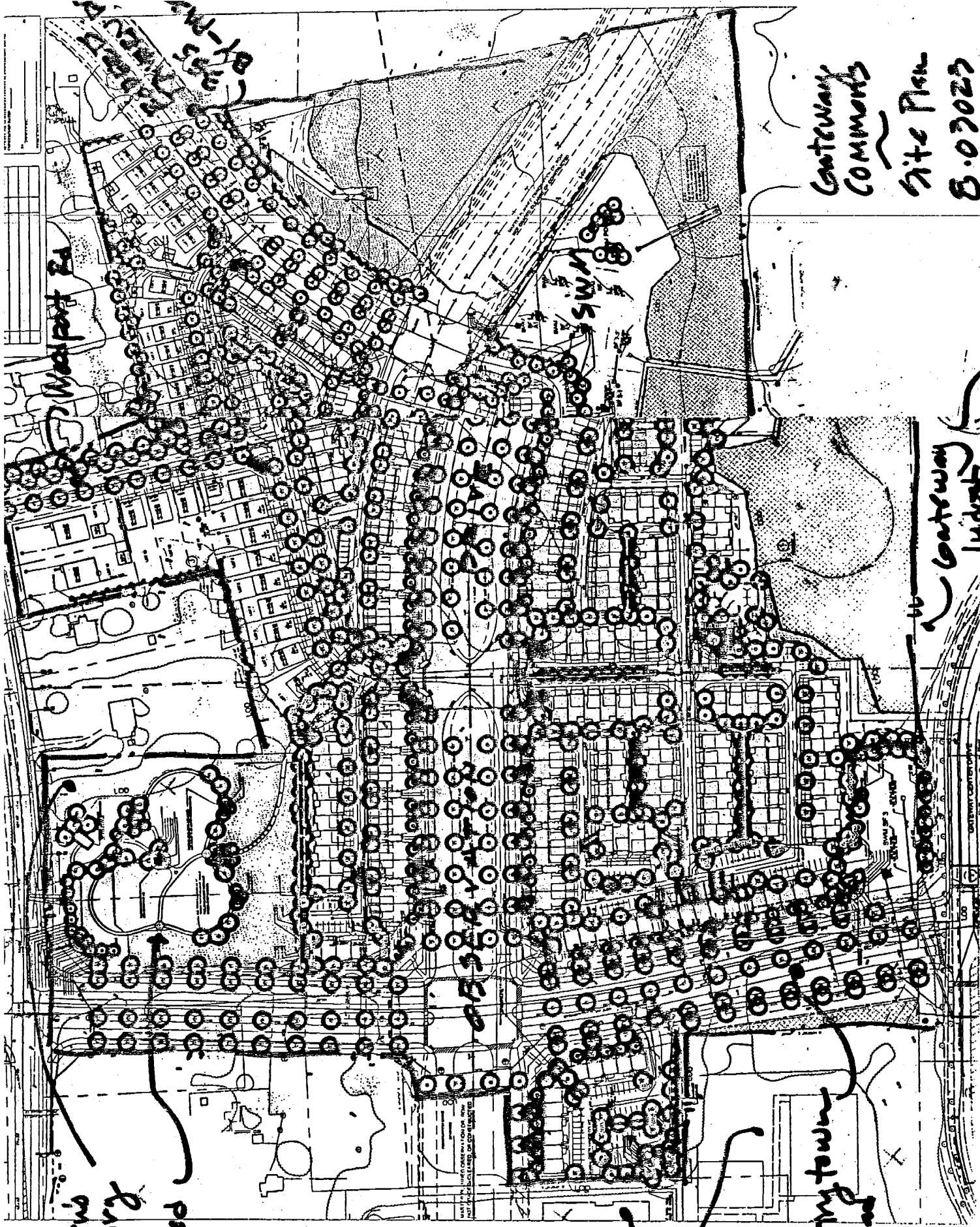
Entry features are designed along the Stringtown Road frontage intersections. They include brick walls, an arch to walk under and decorative planting areas. A sitting area and tot lot/multiage play area and pergola/fountain is centrally located within the western side of the project. This area provides a major open space for the units in that section of the project. The pergola/fountain area needs a revision to the planting scheme to allow for more attractive seasonal planting and access to the open space and water feature.

Recreation facilities include sitting areas, tot lot multiage play facilities and within the historic, site – open space play areas. Additional sitting areas are needed within the areas of the housing site not adjacent to the play areas for a more dispersed recreation opportunities.

The applicant is dedicating the northeastern-most portion of the site to M-NCPPC because it contains the Dowden's Ordinary site – a tavern in operation during revolutionary era. The site is perched on a hill that keeps it removed from the rest of the development but a long staircase creates a connection. A portion of the forestation requirements and two open space play areas

will be located on the Dowden's Ordinary site. The development of the park is undergoing review by the M-NCPPC Parks staff and Historic Preservation Staff to create a blend of historic and park opportunities. The proposed park will only be directly accessible by foot or bicycle. One concern is the lack visibility of the park from the units in the project – a 20-foot slope separates the two. The Parks Department has requested that the retaining walls supporting the stairs between the units level and the park be placed in HOA land to preclude future maintenance requirements on the

The stormwater management facilities are located along the western boundary of the site – the downhill portion of the project. Although engineering constraints prevent some landscaping, the ponds are landscaped where feasible.



Gateway
Commons
Site Plan
8.07.2023

Dowd's
Ordinary
Proposed
Park
Site

Elem.
School

Stringtown
Road

Gateway
Commons
Park



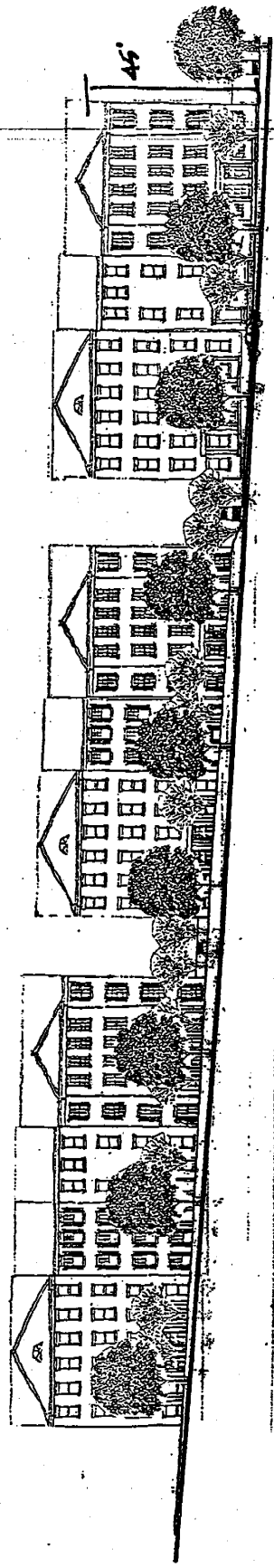
THE LAND GROUP, INC.
PLANNING & DESIGN
5800 WENTWORTH DRIVE
PHILADELPHIA, PA 19121
TEL: 215-381-1234
FAX: 215-381-1235

DATE: 11/11/03	BY: J. J. JONES
PROJECT: GATEWAY COMMONS	SCALE: 1/8" = 1'-0"
SHEET: 1 OF 1	

GATEWAY COMMONS

ILLUSTRATIVE ELEVATION

Sheet:
1 of 1



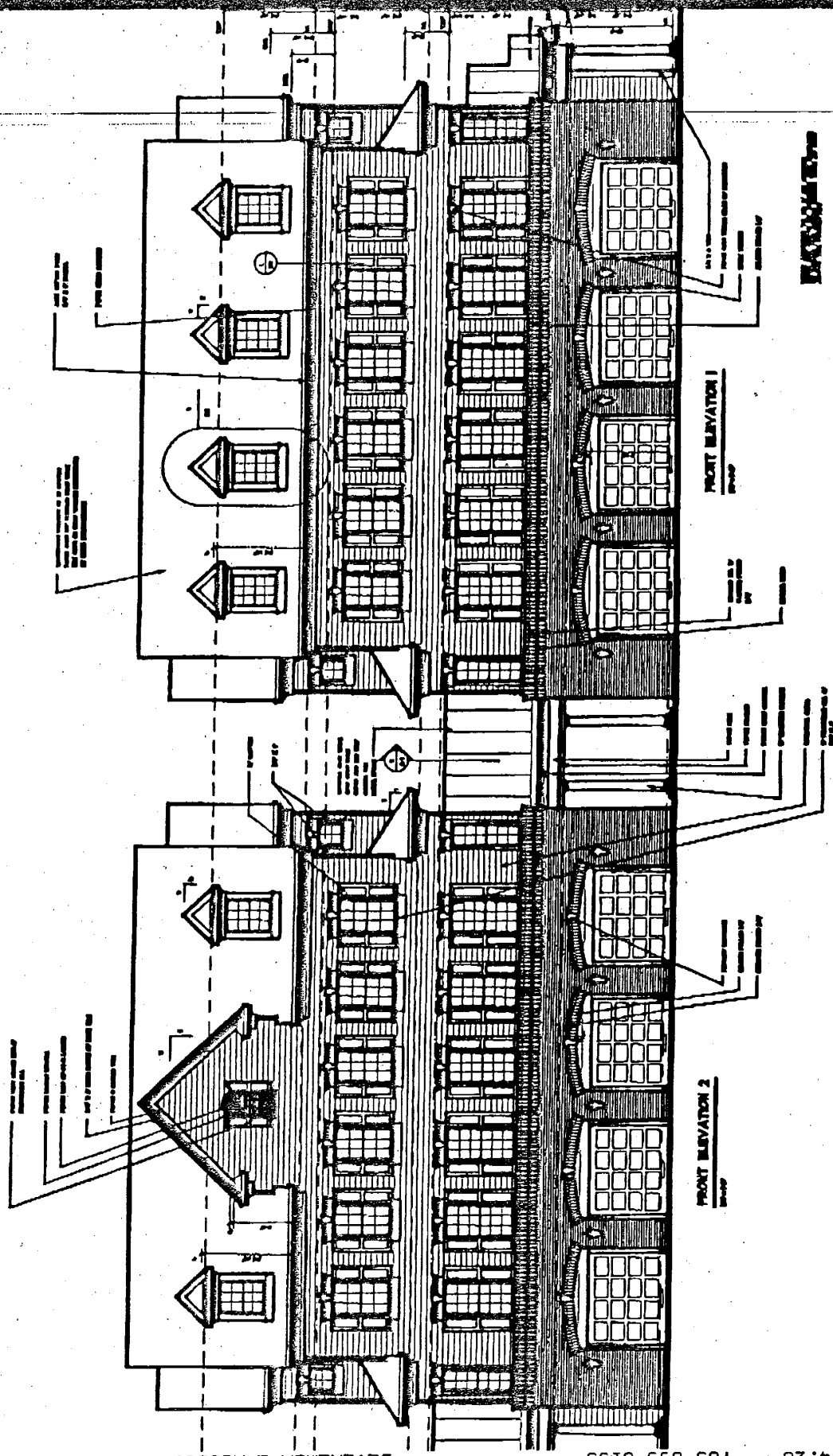
ELEVATION - STRINGTOWN ROAD STREETSCAPE

SCALE: 1/8" = 1'-0"

Deane & Deane

Town houses -

THE NEW YORK PUBLIC LIBRARY



ANALYSIS: Prior approvals

Preliminary Plan # 1- 02048 for the site was approved on July 25, 2002, Opinion Attached. The site plan addresses the conditions of approval as follows:

1. 292 unit limit	1. 292 unit limit
2. APF test	2. Satisfied at time of Building Permit
3. Construct outside lanes of Stringtown Road, bike path, street trees and grading from Gateway Drive to Observation Drive.	3. Construct prior to site access
4. Construct outside lanes of Observation Drive, bike path, street trees and grading from Stringtown Road to MD Route 355 by-pass.	4. Construct prior to site access
5. Build outside lanes of MD Route 355 by-pass through the property	5. With access for first 200 Building Permits
6. Acquire right-of-way for MD Route 355 by-pass off site	6. Prior to 201 st Building Permit
7. Construct Woodport Road	7. Prior to building Permit
8. At site plan, address transition and compatibility of units at Stringtown Road and Observation Drive	8. So addressed – grades lowered, unit setbacks achieved
9. Dedicate Parcel “H” to M-NCPPC for 2.84 park	9. To be completed with Record Plat – SEPA to specify “free of trash” and other conditions
10. Applicant to use site for off site reforestation and recreation uses	12. Achieved with site plan
11. Reforestation and recreation uses to be compatible with preservation of historic resources	11. Negotiated with site plan
12. Access improvements with record plat	12. To be done with record plat
13. No Driveway access to MD Route 355	13. Achieved with site plan
14. Compliance with FWQP and SPA approval	14. Approval obtained
15. No clearing or grading prior to SPEA approval	15. Include in SPEA
16. Final approval of du's, parking, site circulation, sidewalks, bike paths with site plan	16. Achieved with site plan
17. Record plat detail	17. To be done with record plat
18. Min 44 MPDU's and 127 TDR's	18. Achieved with site plan
19. Landscape and Lighting Plan	19. Achieved with site plan
20. Verify TDR's at record plat	20. To be done with record plat
21. Validity date for 37 months from mailing date (8/13/02)	21. To be done with record plat
22. APF valid for 61 months from mailing date (8/13/02)	22. To be done with record plat
23. Other necessary easement	23. Achieved with site plan and record plat

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE

R-200/TDR 7 - utilizing Section 59-C-1.394/5 and as determined at Preliminary Plan approval.

Development standard	Required	Provided
Development type allowed for TDR-7 – 292 units	15% min SFD /44 du required	27 (9.2%)- waiver approved with Preliminary Plan #1-02048
	One Family Attached and Townhouses - Permitted	181 townhouses (62%) 84 attached (28.8%)
Green Space	40% or 788,371 sf	58.4 % or 1,150,761 sf.
Parking	SFD – 2 per du	27 SFD's du/54 pkg sp
	TH's – 2/du	181 TH's du's/362 sp
	84 attached -1.5 pkg sp per 2BR du and 2 pkg sp per 3BR	150 pkg spaces
	Guest Spaces – not required	(60 spaces)
	Accessible spaces -12.7	13
	Bicycle	20 spaces

MPDU CALCULATIONS:

MPDUs required (15% of 292 units)= 44

MPDUs provided=44

TDR CALCULATIONS

Goal: Maximum density with Maximum MPDU Density Bonus
Utilizing Example B

292 DU's proposed

Net density 34.4263 ac

Base Density (2du/ac R-200 dev std) = 68 du's

MPDU's 292 (du's proposed) x.15%= 44 du's

Non-Density bonus units 292 x 1.22 = 239 du's

TDR's (non density bonus – base density) 239-68 = 171 TDR's required

Bonus Market Rate du's @.22 of 68= 14

This differs from the applicant proposal of 127 TDR's. 171 is 58.5 % of the 292 units proposed on site thus a waiver of the 2/3 TDR requirement is needed. Staff recommends the Planning Board support such a waiver in light of the park dedication and environmental constraints on site.

RECREATION CALCULATIONS:

	Tots	Children	Teens	Adults	Seniors
Demand Points					
For 28 sfd units	3.92	5.32	6.44	35.56	3.64
For 264 TH's	44.88	58.08	47.52	340.56	18.48
TOTAL DEMAND	48.80	63.40	53.96	376.12	22.12
Supply Points					
<u>On-Site Facilities:</u>					
Tot Lot (2)	18	4	0	8	2
Multi-age area (1)	9	11	3	4	1
Pedestrian System (1)	4.88	12.68	10.79	169.25	9.95
Natural Area (1)	0	3.17	5.4	37.61	1.11
Nature Trail (1)	2.44	6.34	8.09	56.42	3.32
Play Lot (1)	0	9	3	4	1
Sitting Areas	6	6	9	30	12
Open Play Area I (2)	12	18	24	60	4
On-Site Total	52.32	70.19	63.28	372.28	34.38
<u>Off-Site Facilities @ 35% Credit:</u>					
@Elementary School	17.08	22.19	18.87	131.64	7.74
TOTAL SUPPLY	69.04	92.38	82.15	503.92	42.12

The site plan meets the recreation requirements as specified in the Recreation Guidelines.

ANALYSIS: Conformance to Master Plan

Relationship to the Clarksburg Master Plan – July 14, 2003 memo attached.

Gateway Commons is located in the northern edge of the Transit Corridor District of the 1994 Clarksburg Master Plan Area. It directly adjoins the Clarksburg Historic District and is zoned R-200/TDR (7 units per acre) in accord with the Master Plan recommendation. The Master Plan recommends that the Corridor Cities Transitway bisect the subject property.

The Transit Corridor District includes properties fronting MD 355 that have developed over many decades in accord with traditional patterns found elsewhere in the "Up-County," single-family detached lots fronting the road. The most significant planning challenge here is to maintain and continue this residential character while addressing the need for increased traffic capacity along MD 355.

The Transit Corridor also includes properties traversed by the proposed transitway. The planning challenge here is to introduce housing into a predominantly employment area. The scale and intensity of residential uses must be compatible with neighboring subdivisions along MD 355, yet densities must be supportive of transit.

A mixed-use neighborhood is proposed at the northernmost transit stop (Shawnee Lane) where there is a 45-acre vacant site. Gateway 270, an office park approved for one million square feet, will be the major employment center. A mix of residential and local retail uses is proposed at the transit stop itself. The Land Use Plan for the Transit Corridor District is attached.

The proposed site plan for 292 units complies with the Master Plan objectives as follows:

Continue the present residential character along MD 355.

The proposed site plan achieves this objective by locating single-family detached units on small lots adjacent to larger lot, single-family residences. Due to the significant change in lot sizes, extensive landscaping should be provided in the rear of the smaller lots in order to provide compatibility with the existing residences.

Balance the need for increased carrying capacity along portions of MD 355 with the desire to retain a residential character along MD 355.

The Master Plan recognizes that MD 355 through this part of Clarksburg cannot remain a two-lane roadway in the long term given its regional significance in the northern part of the County. At the same time, widening of MD 355 to six lanes would be in direct conflict with the Plan objective to retain the road's present residential character.

The Master Plan makes the following recommendations to achieve a balance between the need for increased carrying capacity and the desire to retain a pleasant residential character:

1. MD 355 should be reclassified from a major thoroughfare to an arterial street (maximum four lanes with a planted median).
 2. An alternative north-south thoroughfare (Observation Drive) is recommended to help accommodate anticipated traffic.
-
3. MD 355 (Frederick Road) should be renamed Old Frederick Road.

The proposed site plan achieves this by providing the Bypass through the subject property.

Provide housing at designated areas along the transitway near significant employment uses.

The proposed site plan cannot provide the Master Plan recommended density (up to 7 units per acre) due to environmental requirements to satisfy the Forest Conservation Law and to meet the Special Protection Areas guidelines. This plan represents an example of competing requirements that result in less than desirable density at a transit location.

Establish strong pedestrian and bicycle linkages to the greenway.

The proposed site plan incorporates the Master Plan's recommended bikeways into the cross sections of Stringtown Road and Observation Drive. Both roadways provide connections to the Greenway Park system and to transit stations.

Improve east-west roadway connections.

One of the transportation challenges in this area is how to improve east-west access. While MD 355, Observation Drive, and Midcounty Arterial (A-305) will facilitate north/south movements through the area, east-west access is more difficult to provide because of environmental constraints (tributaries of Little Seneca Creek in particular) and existing development patterns.

The proposed plan improves east-west connections by dedicating the right-of-way for Stringtown Road.

Encourage an interconnected street system as typically found in older towns.

It is essential that the character of the roadway network is supportive of the Master Plan's vision for the Town Center. The guideline below will help assure that streets and highways are built in a manner that is compatible with land use and urban design objectives for the Town Center.

Because the arterials of Stringtown Road and Clarksburg Road serve as entrance to the Town Center, extensive landscaping, including medians, bikeways, and bus transit access facilities, must be provided.

Staff also recommends a 25-foot setback along Stringtown Road and 20 feet along Observation Drive to achieve this Master Plan objective. This recommendation is based on the King Farm example and would achieve an appropriate "gateway" transition from I-270 into Clarksburg's Town Center.

Diversity of Housing Types

The Master Plan endorses a mix of unit types at the neighborhood level. It avoids large concentrations of any single type of housing within each neighborhood. The proposed site plan conforms to the recommended range of units.

FINDINGS: For Site Plan Review

1. The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required.
2. The Site Plan meets all of the requirements of the zone in which it is located. See project Data Table above.
3. The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.

a. Buildings

The buildings' tight knit layout in blocks creates a neo-traditional form that is characteristic of Clarksburg. The blocks create a legible neighborhood with regularly spaced open space areas and an interconnecting pedestrian system. The orientation of the front doors of units onto the streets creates a more inviting view from the streets and more accommodating pedestrian environment. The tighter placement of units is a result of the constraints of the site – environmental requirements, road dedications, grades and the historic park dedication - and is compensated by the additional plantings provided within the open spaces, special pavement, foundation plantings and streets. Of particular importance is the frontage along Stringtown road - the site grading has been adjusted to bring the units close to street grade, thus improving the relationship of the units to the adjacent sidewalk and entry drive to Clarksburg.

b. Open Spaces

The open space on site is limited due to the high intensity of development on site as a result of the environmental areas and park dedication. This heightens the importance of landscaping thus requiring more open space planting to counterbalance the effects of paving and architecture.

To help meet these performance goals, the stormwater management plan requires water quality control and quantity control to be provided through an extensive system of linked best management practices (BMPs). Water quality control will be provided via two existing off-site wet ponds and one new on-site extended detention dry pond. Quality control will be provided via a treatment system that consists of sand filters, biofiltration structures, and infiltration/recharge structures. Since open section roadways are not possible, additional water quality structures are incorporated into the water quality plan to compensate for the lost benefits that open section roadways provide.

c. Landscaping and Lighting

The landscaping will provide structure for the streets, shade for pedestrians and park users, buffers to adjacent homes and attractive entryways. The plant material selections need to be improved with a greater variety of materials that have seasonal interest and more native tree species. The open space plantings need to be enhanced with more variety of plantings that enhance the spaces and provided the needed buffer between the four level buildings and the pavement. Additionally the water feature needs to be enhanced to create a more attractive setting that is conducive to pedestrian interaction.

The proposed lighting plan will include footcandle averages of .72 and .64 for the different parking areas and .01 along all property lines. The light fixture – the Hadco fixture approved by DPWT for public street use in Clarksburg - includes a semi cutoff features with an opaque top and a symmetrical light distribution. The pole height is 12 feet tall and they are located on the site with approximately 60-foot separation.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. The recreation will provide for a variety of outdoor exercise and play opportunities by providing for paths within the project and adjacent natural areas, by providing structured and unstructured play areas, and by providing a variety of outdoor sitting areas. Additional sitting areas are needed within the project to provide for more areas for outdoor enjoyment.

e. Vehicular and Pedestrian Circulation

The street connections to the site are in accordance with the approved Preliminary Plan, and the layout provides an interconnecting system of sidewalks and bike paths. The Transportation Planning Department Memo of July 17, 2003, attached, reconfirms the Preliminary Plan approval and updates the status of the off site road improvements.

The pedestrian paths complement the public street walks and bike paths to create a well integrated pedestrian system. The staircase and various connections provided to the future M-NCPPC Park and the path connection to the school to the north will further connect the future residents with nearby recreation opportunities

4. Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.

The proposed residential development is compatible with adjacent residential development because of the provision of setbacks and landscaped buffers and gradation in density.

The evergreen and mixed landscape buffers provided adjacent to housing and the public school will provide for a buffering of views of the new development and the maintenance of the views within the project.

The units may be exposed to noise from the adjacent roads and the closest tier of units will be attenuated to meet interior noise criteria.

The activity associated with the proposed residential will not cause any negative effect on the adjacent industrial park and residential uses.

5. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The applicant is proposing an optional method of development for this site. Under Section 22A-12(f) of the Montgomery County code, developments using an optional method of development must meet the appropriate forest conservation threshold on-site. Environmental Planning compared the forest conservation threshold with the amount of forest retained on-site and determined that the amount of forest retained is greater than the amount necessary to meet the minimum threshold. Therefore, the final forest conservation plan submitted for this site meets the requirements for Section 22A-12(f) of the Montgomery County code.

The undeveloped site includes 20.2 acres of forest and the applicant is proposing to remove 12 acres of forest. The total planting requirement for the forest conservation plan is 11.4 acres. Onsite forest retention, onsite forest plantings and landscaping credit, and planting off-site shall meet the forest conservation requirements. Off-site reforestation must occur in the Clarksburg SPA. If an off-site location is not available within the Clarksburg SPA, the applicant may use the fee-in-lieu option to meet the off-site planting requirements. A five-year maintenance period is required for all forest planting per the environmental guidelines.

APPENDIX

Memos as stated in report.



THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION

MEMORANDUM

TO: Wynn Witthans, Development Review

FROM: Mark Pfefferle, Planning Coordinator, Countywide Planning *MP*

DATE: July 16, 2003

SUBJECT: Final Water Quality Plan for Gateway Commons – Site Plan # 8-03023

RECOMMENDATION

Staff recommends approval of the final water quality plan for Site Plan # 8-03023 subject to the following conditions:

- Off-site reforestation must occur in the Clarksburg Special Protection Area (SPA). If a reforestation site is unavailable in the Clarksburg SPA, the applicant shall pay the in lieu fee to M-NCPPC prior to any clearing or grading.
- Conformance to the conditions as stated in the Montgomery County Department of Permitting Services (DPS) letter dated June 25, 2003 approving the elements of the SPA water quality plan under its purview (Attachment A).

DISCUSSION

The 46-acre property is located west of MD 355 and east of the Gateway 270 Business Center. To the north is the Clarksburg Elementary School and the Clarksburg Historic District. The site is a mix of hay fields and woodlands. There are no structures on the property however, Dowden's Ordinary, a historic site is located on the property adjacent to MD 355. The property is zoned R-200/TDR 7 and will consist of single-family detached units, townhouses, multi-family units, and associated infrastructure.

The site is located within the Little Seneca Creek and Ten Mile Creek watersheds, which are both designated as Use IV-P waterways. The majority of the site drains to the Little Seneca Creek watershed. The natural resource inventory delineated the onsite environmental buffers. The entire site is within the Clarksburg Special Protection area.

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS has

reviewed and conditionally approved the elements of the final water quality plan under their purview. The Planning Board responsibility is to determine if the site imperviousness, environmental guidelines for special protection areas, and forest conservation requirements have been satisfied.

SITE PERFORMANCE GOALS

As part of the final water quality plan, several site performance goals were established for the project:

- Maintain stream base flows.
- Minimize storm flow runoff increases.
- Minimize increases in ambient water temperatures.
- Minimize sediment loading.
- Minimize nutrient loading.
- Control insecticides, pesticides, and toxic substances.

STORMWATER MANAGEMENT

To help meet these performance goals, the stormwater management plan requires water quality control and quantity control to be provided through an extensive system of linked best management practices (BMPs). Water quality control will be provided via two existing off-site wet ponds and one new on-site extended detention dry pond. Quality control will be provided via a treatment train that consists of sand filters, biofiltration structures, and infiltration/recharge structures. Since open section roadways are not possible, additional water quality structures are incorporated into the water quality plan to compensate for the lost benefits that open section roadways provide.

SITE IMPERVIOUSNESS

There are no impervious limitations with the Clarksburg SPA. The impervious amount proposed for the entire 46-acre site is approximately 36 percent. Environmental Planning does not have impervious data from other sites zoned R200/TDR 7 to compare the data with. Environmental Planning looks for opportunities to reduce impervious surfaces on all plans reviewed. However, based on the density proposed for this site few opportunities exist.

ENVIRONMENTAL GUIDELINES

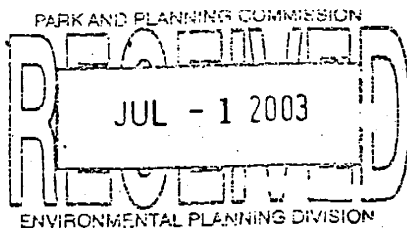
The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the 46-acre tract identified the environmental buffers. As part of the forest conservation plan for the Gateway Commons, the applicant will place forest conservation easements on the environmental buffers and forests retained and planted onsite.

FOREST CONSERVATION

The applicant is proposing an optional method of development for this site. Under Section 22A-12(f) of the Montgomery County code, developments using an optional method of development

must meet the appropriate forest conservation threshold on-site. Environmental Planning compared the forest conservation threshold with the amount of forest retained on-site and determined that the amount of forest retained is greater than the amount necessary to meet the minimum threshold. Therefore, the final forest conservation plan submitted for this site meets the requirements for Section 22A-12(f) of the Montgomery County code.

The undeveloped site includes 20.2 acres of forest and the applicant is proposing to remove 12 acres of forest. The total planting requirement for the forest conservation plan is 11.4 acres. The forest conservation requirements shall be met by onsite forest retention, onsite forest plantings and landscaping credit, and planting off-site. Off-site reforestation must occur in the Clarksburg SPA. If an off-site location is not available within the Clarksburg SPA, the applicant may use the fee-in-lieu option to meet the off-site planting requirements. A five-year maintenance period is required for all forest planting per the environmental guidelines.



Attachment 4

DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

June 25, 2003

Robert C. Hubbard
Director

Ms. Joanne Cheek
Dewberry and Davis
804 West Diamond Avenue, Suite 200
Gaithersburg, Maryland 20878

Re: Final Water Quality Plan for Gateway Commons
SM File #: 204507
Tract Size/Zone: 45.25 Ac/R-200/TDR-7
Tax Plate: EW 31
Liber/Folio: 5473/660
Montg. Co. Grid: 9C4&5
Watershed: Little Seneca Creek

SPECIAL PROTECTION AREA

Dear Ms. Cheek:

Based on a review by the Department of Permitting Services, the Final Water Quality Plan (FWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream buffer encroachments.

Site Description: The site consists of 45.25 acres located on the west side of MD Route 355 at the intersection with Hammer Hill Road. The proposed zoning of the site is R-200/TDR-7 and will consist of single-family detached units, townhouses and multi-family units with the associated infrastructure. This site is located in the Clarksburg Special Protection Area (SPA) of the Little Seneca Creek Watershed.

Stormwater Management: Water quantity control for this site will be provided via two existing off-site wet ponds and one new on-site extended detention dry pond. The existing ponds will have their release structures modified to provide as close to one-year control as possible for their entire drainage area while maintaining the required freeboard. The new pond will provide control of the one-year storm with a maximum detention time of 12 hours per the new state standards. Quality control will be provided via a treatment train that consists of a structural sand filter, a biofiltration structure and infiltration/recharge structures (where feasible) for small drainage areas and dual cell surface sand filters for larger drainage areas. Since open section roads will not be feasible, additional water quality measures are required to offset the lost benefits that open section roadways provide. These offsetting measures include the proposed water quality inlets, the upland recharge areas (dry wells), the porous bottom storm drain structures (recharge storm drains) that are proposed for some of the private storm drains, and by maximizing the sand surface area in the surface sand filters. Areas that are intended for vehicular use are to be pretreated prior to entering any water quality structures. The water quality structures must be sized to treat a minimum of one-inch over the proposed impervious area without subtracting the required recharge volume.



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Sediment Control: Redundant sediment control structures are to be used throughout the site. ~~These are to include upland sediment traps that drain to secondary traps down grade, or when this is not~~ feasible sediment traps with forebays will be acceptable. If the sediment traps with forebays are used, the total combined trapping volume is to be at least 125% of what is normally required. All sediment trapping structures are to be equipped with dewatering devices. Also, due to the sensitive nature of the watershed coupled with the large amount of proposed development in the watershed, the use of flocculants will be required in the detailed sediment control plan. The following features are to be incorporated into the sediment control concept for the final water quality plan:

1. The earth dikes that feed the sediment traps are to be constructed using trapezoidal channels to reduce flow rates.
2. The site grading shall be phased whenever possible to limit disturbance and immediate stabilization is to be emphasized.
3. Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance.

Performance Goals: The performance goals that were established at the pre-application meeting are to be met as specified in the Preliminary Water Quality Plan and further refined in the Final Water Quality Plan. They are as follows:

1. Minimize storm flow run off increases.
2. Minimize increases to ambient water temperatures.
3. Minimize sediment loading.
4. Maintain stream base flows.
5. Minimize nutrient loading.
6. Control insecticides, pesticides and toxic substances.

Monitoring: The monitoring must be in accordance with the BMP monitoring protocols which have been established by the Department of Permitting Services (DPS) and Department of Environmental Protection (DEP). The monitoring requirements that were established at the pre-application meeting and further described in the Final Water Quality Plan are still applicable. **The comments from DEPs monitoring memorandum dated June 28, 2002 have been incorporated with the submission of the Final Water Quality Plan. The exact structures and locations for construction monitoring and post construction monitoring will be determined at the detailed sediment control review stage and the as-built plan stage respectively.**

Prior to the start of any monitoring activity, a meeting is to be held on site with DEP, DPS and those responsible for conducting the monitoring to establish the monitoring parameters. **One year of pre-construction monitoring must be completed prior to the issuance of a sediment control permit.**

Conditions of Approval: The following conditions must be addressed in the initial submission of the detailed sediment control/stormwater management plan. This list may not be all inclusive and may change based on available information at the time of the review:

1. Provide verification of a joint use agreement with the owners of the off-site Ponds (existing Ponds #2 and #3) that indicates their agreement that the ponds may be modified as stated in the FWQP and shared for stormwater management.
2. Provide four inches of pea gravel on top of all of the proposed surface sand filters.
3. Provide clear access to all stormwater management and recharge structures from a public right-of-way.
4. Water quality structures that are to be used for sediment control must have a minimum undisturbed buffer of two feet from the bottom of the sediment trap to the bottom of the stormwater structure.
5. At a minimum, one foot of stone (dead storage) is to be provided below the outlet pipe of all of the proposed surface sand filters to provide additional groundwater recharge.
6. Minimize the use of insecticides and fertilizers via a residential Integrated Pest Management Plan as part of the Homeowners Association (HOA) documents. A draft of this plan/document is to be submitted at the detailed sediment control plan stage, and the final document is to be submitted prior to bond release.
7. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
8. Stormwater structures are not to be located on residential lots.
9. Additional pretreatment (other than vegetated buffers), such as water quality inlets, will be required for surface sand filters that are treating large drainage areas (greater than 5 acres).
10. Provide level spreaders and/or plunge pools at all of the outfalls of quantity pond "A" and surface sand filter "B". This may require additional stream valley buffer encroachment.
11. MCDPS reserves the right to require the developer to provide full-time, third-party, on-site, sediment control inspection if the department decides the goals of the Water Quality Plan are not being met.

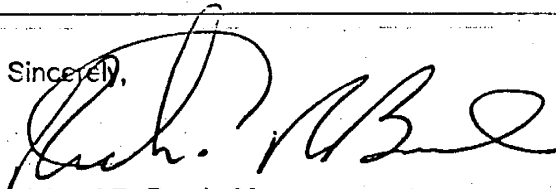
Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended Water Quality Plan requirements.

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Ms. Joanne Cheok
June 25, 2003
Page 4

If you have any questions regarding these actions, please feel free to contact Leo Galanko at
(240) 777-6242.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm:CN204507

cc: W. Witthans (MNCPPPC)
M. Pfefferle (MNCPPPC)
D. Marshall (MCDEP)
L. Galanko
SM File # 204507

Qn: on-site 45.25 ac
Ql: on-site 45.25 ac.

⑦

U.S. Home Corporation

A Lennar Company

July 2, 2003

Gateway 70
Business Center Association, Inc.
7165 Columbia Gateway Drive
Columbia, MD 21046-2539

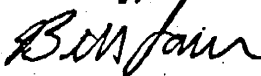
Gentlemen::

As you may be aware, U.S. Home Corporation is the owner of the land parcel known as Gateway Commons located adjacent to Maryland Route 355 in Montgomery County. As it is our intention to develop this property subsequent to acquiring the requisite approvals. We would like to afford those landowners in proximity to our development the opportunity to receive answers to any questions pertaining to the development and timeline of the anticipated improvements.

Please direct your inquiries if any to Bill James at the following address or phone me at (301) 431-2400, ext. 124.

I look forward to the opportunity to provide any necessary clarification or information.

Sincerely,



Bill James
Shenandoah Valley Land Division

BJ/jr



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

MEMORANDUM

July 15, 2003

TO: Wynn Withans
Development Review Division - MNCPPC

FROM: Sarah R. Navid *Sarah Navid*
Right-of-Way Permitting and Plan Review Section

SUBJECT: Site Plan Review #8-03023 – Gateway Commons

We have reviewed the subject site plan and recommend approval based on the following comments:

- Based on DPWT policy, DPS will require that the single lanes being constructed on Roberts Tavern Drive and Observation Drive be 16 feet wide to allow for passing stopped or disabled vehicles and to provide an adequate clearance to the open section median to lessen rutting frequency, etc. A temporary U-turnaround in the median will be needed at the terminus of Roberts Tavern Drive.
- Due to the width, driveway spacing and curvature on Dowdens Ordinary Lane, No Parking will be posted on both sides. No Parking will be posted on one side of Woodport Road.
- Two handicapped ramps should be provided at each intersection corner where feasible.

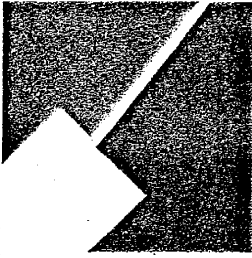
Please let me know if you have any questions regarding these comments.

gatewaycommons.doc

cc: James Crawford
Barbara Sears
Jeff Riese



9



MEMORANDUM

July 16, 2003

TO: Wynn Witthans, Site Plan Review, Development Review Division

FROM: Doug Powell, Plan Review Coordinator, Park Planning and Resource
Analysis Unit, Countywide Planning Division
Gwen Wright, Supervisor, Historic Preservation Section, Countywide
Planning Division

SUBJECT: Gateway Commons Subdivision, Plan #8-03023

D. Powell
Gwen Wright

Park Planning and Resource Analysis and Historic Preservation staff have reviewed the above-referenced Plan and request the following **CONDITIONS OF APPROVAL:**

- Applicant to dedicate "Parcel B" consisting of about 2.84 acres and located at the corner of Route 355 and extended Stringtown Road to M-NCPPC. Said land not to include any retaining walls, except wall at the Route 355/Stringtown Road corner, and to be conveyed free of trash and unnatural debris and the boundaries staked and signed by Applicant to delineate between parkland and private properties.
- Applicant to construct on dedicated park property the following amenities:
 1. A "ghost structure" recreation of the historic Dowden's Ordinary including stone seating walls, flagstone flooring and interpretive panels. The structure to be approximately 16' x 30' and constructed of corten steel if reasonably feasible, or other non-wood material acceptable to M-NCPPC staff and Applicant.
 2. A simple, stone retaining wall entrance feature and park identification sign at the corner of Route 355 and Stringtown Road extended. Park sign name to be determined by M-NCPPC staff.
 3. An 8' wide, hard surface trail from Route 355 near the intersection with Stringtown to the Dowden's Ordinary structure. Trail to be

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constructed of modified tar and chip such as that used at the Sandy Spring Museum and should meet ADA accessibility standards.

4. An historic replication of the original Dowden's Ordinary sign to be located along side the 8' wide entrance trail.
 5. A 6' wide, hard surface circuit trail that passes near the Dowden's Ordinary structure and continues around the open play areas and sitting areas. Trail to be constructed of modified tar and chip such as that used on the 8' wide trail with cobblestone circles separating portions of the trail.
 6. At least 4, six-foot long sitting benches to be placed at locations along the side of the circuit trail.
 7. Appropriate, sculptural recreational pieces in the open play area, acceptable to M-NCPPC staff and Applicant. The pieces must be historic in nature and consistent with the history surrounding the Dowden's Ordinary. They may include pieces such as an elephant play structure and a cannon or cannon replica.
 8. Simple tubular bicycle rack(s) near the park entrance off Route 355 or near the Dowden's Ordinary recreation structure.
 9. A natural surface trail leading from the hard surface trail to the historic Dowden's Ordinary marker. Trail to be marked with a sign acceptable to M-NCPPC staff and Applicant.
 10. Native trees in selected locations throughout the park site. Choice of tree locations and species to be determined in coordination with M-NCPPC staff.
- Grading of the park site to result in slopes of no greater than 3:1 and to avoid grading on or near any locations that M-NCPPC staff determines may contain archeological artifacts.
 - Construction of the necessary retaining wall adjacent to the southern corner of the park to be engineered to avoid wall height(s) of greater than 6', if possible, and said wall to match the design and structure of the wall being constructed along Route 355 in front of the park.
 - Reforestation required to be done by Applicant in this dedicated park to be located only along the southwest side of the park. Appropriate fencing and signage at the reforestation site to be included. If additional reforestation is required, Applicant may satisfy said additional planting requirement within other parkland in the watershed to be designated by M-NCPPC staff.
 - Final design of the park site, including facilities and plantings therein, to be coordinated with M-NCPPC staff and to be acceptable to staff and Applicant.
 - All park amenities to be constructed to park standards and specifications if available. Specifications for benches, stone walls, ghost structure, trails,

recreational pieces, bicycle racks, historic signage and all other features built within park to be submitted to M-NCPPC staff for approval.

Date Mailed: August 13, 2002

Action: Approved Staff Recommendation

Motion of Comm. Robinson, seconded
Comm. Perdue with a vote of 4-0;
Comms. Berlage, Perdue, Robinson
and Wellington voting in favor with
Commissioner Bryant absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02048

NAME OF PLAN: GATEWAY COMMONS

On 12/12/01, US HOMES submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 TDR zone. The application proposed to create 292 Units on 45.25 Acres of land. The application was designated Preliminary Plan 1-02048. On 07/18/02, Preliminary Plan 1-02048 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-02048 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-02048.

Approval, Including Waivers of Open-Section Roadways and Pursuant to Section 59-C-1.395, Waiver for the Minimum Percent of Single Family Detached Dwelling Units, and the Maximum Number of Allowed Multi-Family Units, Subject to the Following Conditions:

- (1) Limit approval under this preliminary plan to a maximum of 292 residential dwelling units
- (2) Satisfy the APF test by paying the Development Approval Payment (DAP) under the Alternative Review Procedure for Limited Residential Development provision of the FY 02 Annual Growth Policy for the proposed residential development. The APF test includes:
 - a. Policy Area Review: Site-generated traffic has to be mitigated within the Clarksburg Policy Area, which is in a moratorium. There is no capacity available for residential development as of June 30, 2002 (-8,717 units) in the Clarksburg Policy Area. The applicant is satisfying policy area review by paying the DAP under the FY 02 Annual Growth Policy staging ceiling capacity.
 - b. Local Area Transportation Review: A traffic study (to analyze the traffic impact at nearby intersections) is required since the proposed land use generates more than 50 total peak-hour trips during the weekday morning peak period (7:00 a.m. to 9:00 a.m.) and the evening peak period (4:00 p.m. to 6:00 p.m.).

- (3) As a condition of site access, construct the outside lanes of Stringtown Road (A-260 from Gateway Drive to intersection with Observation Drive as a two-lane arterial road including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.
- (4) As a condition of site access, construct the outside lanes of Observation Drive (A-19) from Stringtown Road to the on-site intersection with relocated MD 355 by-pass as a two-lane arterial road with a future transit way in the median including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.
- (5) For the first 200 building permits as a condition of site access, construct the outside lanes of MD 355 by-pass through the property as a two-lane arterial road including a five foot sidewalk, an eight foot bike path, street trees, and grading for a future four-lane divided roadway.
- (6) Prior to issuance of the 201st building permit, but not later than eighteen (18) months after approval of the Preliminary Plan, obtain two (2) appraisals of the fair market value of the right-of-way for the By-Pass ("ROW") and make a cash offer to the owners of this ROW of up to 110 percent of the highest appraised value ("maximum cost") via certified letter.
 - a. If the offer is not accepted by the owner(s), or no response is received, the County shall act to acquire the ROW. The applicant shall be responsible to reimburse the County the maximum cost and to construct a half-section of the roadway in accordance with County standards at their sole cost and expense.
 - b. In the event neither the applicant nor the County acquires the ROW within three years of preliminary plan approval of Gateway Commons, the applicant shall be free to proceed with full build-out of Gateway Commons and be issued all remaining building permits without obtaining the ROW or constructing the By-Pass.
- (7) As a condition of site access, construct Woodport Road from Public Road "B" to MD 355 (as a right-in/right-out at MD 355) as a tertiary residential street.
- (8) At the time of site plan address issues of transition and compatability of height of units along Stringtown Road with existing and proposed development to create the "gateway" to the Town Center. Maintain 25-foot building setbacks along Stringtown Road and 20 feet along Observation Drive to achieve an appropriate "gateway" transition from I-270 into Clarksburg's Town Center. Applicant to explore, with MCDPS, relocation of the proposed SWM pond located in the northeastern quadrant of the intersection with MD 355 and Observation Drive to better implement street oriented development as per Master Plan recommendations.
- (9) Applicant to dedicate "Parcel H" consisting of 2.84 acres and located at the corner of Route 355 and extended Stringtown Road to M-NCPPC. Said land to be conveyed free of trash and unnatural debris and the boundaries staked and signed by Applicant to delineate between parkland and private properties
- (10) Applicant and M-NCPPC staff to discuss possible use of portions of Parcel H for needed re-forestation requirements and passive recreation amenities compatible with the historic significance and use of the site.
- (11) Any agreed re-forestation or construction of passive recreational amenities being done by Applicant on Parcel H to be coordinated with M-NCPPC staff to prevent damage to historic areas and artifacts.
- (12) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s)

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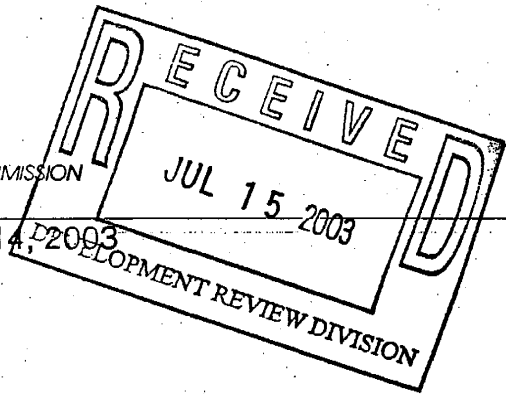
- (13) Record plat to include note "No Driveway Access to MD 355"
 - (14) Compliance with conditions of MCDPS approval of the Preliminary Special Protection Area Water Quality Plan
 - (15) No clearing, grading or recording of plats prior to site plan enforcement agreement approval
-
- (16) Final approval of the number and location of dwelling units, parking, site circulation, sidewalks, and bikepaths will be determined at site plan
 - (17) Record plat to identify all homeowners association parcels and stormwater management parcels and any common ingress/egress easements
 - (18) Provide a minimum number of forty-four (44) MPDU's and one hundred and (127) TDR's dependent upon condition number 16 above
 - (19) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff
 - (20) Prior to recording of plat provide an affidavit to verify the availability of a TDR for each existing and proposed dwelling unit shown on the approved preliminary plan. Include a note referencing recorded covenant regarding the TDR's on record plat
 - (21) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
 - (22) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
 - (23) Other necessary easements

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

July 14, 2003



MEMORANDUM

TO: Wynn Witthans, Site Plan Reviewer
Development Review Division

VIA: Sue Edwards, I-270 Corridor Team Leader *Sue*
Community-Based Planning Division

FROM: Nellie Shields Maskal, Community Planner *NH*
Community-Based Planning Division

SUBJECT: Gateway Commons (Site Plan No. 8-03023)

Relationship to the Clarksburg Master Plan

Gateway Commons is located in the northern edge of the Transit Corridor District of the 1994 Clarksburg Master Plan Area. It directly adjoins the Clarksburg Historic District and is zoned R-200/TDR (7 units per acre) in accord with the Master Plan recommendation. The Master Plan recommends that the Corridor Cities Transitway bisect the subject property.

The Transit Corridor District includes properties fronting MD 355 which have developed over many decades in accord with traditional patterns found elsewhere in the "Up-County," single-family detached lots fronting the road. The most significant planning challenge here is to maintain and continue this residential character while addressing the need for increased traffic capacity along MD 355.

The Transit Corridor also includes properties traversed by the proposed transitway. The planning challenge here is to introduce housing into a predominantly employment area. The scale and intensity of residential uses must be compatible with neighboring subdivisions along MD 355, yet densities must be supportive of transit.

A mixed-use neighborhood is proposed at the northernmost transit stop (Shawnee Lane) where there is a 45-acre vacant site. Gateway 270, an office park approved for one million square feet, will be the major employment center. A mix of residential and local retail uses is proposed at the transit stop itself. The Land Use Plan for the Transit Corridor District is shown in Attachment 1.

The proposed site plan for 292 units complies with the Master Plan objectives as follows:

- **Continue the present residential character along MD 355.**

The proposed site plan achieves this objective by locating single-family detached units on small lots adjacent to larger lot, single-family residences. Due to the significant change in lot sizes, extensive landscaping should be provided in the rear of the smaller lots in order to provide compatibility with the existing residences.

- **Balance the need for increased carrying capacity along portions of MD 355 with the desire to retain a residential character along MD 355.**

The Master Plan recognizes that MD 355 through this part of Clarksburg cannot remain a two-lane roadway in the long term given its regional significance in the northern part of the County. At the same time, widening of MD 355 to six lanes would be in direct conflict with the Plan objective to retain the road's present residential character.

The Master Plan makes the following recommendations to achieve a balance between the need for increased carrying capacity and the desire to retain a pleasant residential character:

1. MD 355 should be reclassified from a major thoroughfare to an arterial street (maximum four lanes with a planted median).
2. An alternative north-south thoroughfare (Observation Drive) is recommended to help accommodate anticipated traffic.
3. MD 355 (Frederick Road) should be renamed Old Frederick Road.

The proposed site plan achieves this by providing the Bypass through the subject property.

- **Provide housing at designated areas along the transitway near significant employment uses.**

The proposed site plan cannot provide the Master Plan recommended density (up to 7 units per acre) due to environmental requirements to satisfy the Forest Conservation Law and to meet the Special Protection Areas guidelines. This plan represents an example of competing requirements that result in less than desirable density at a transit location.

- **Establish strong pedestrian and bicycle linkages to the greenway.**

The proposed site plan incorporates the Master Plan's recommended bikeways into the cross sections of Stringtown Road and Observation Drive. Both

roadways provide connections to the Greenway Park system and to transit stations.

- **Improve east-west roadway connections.**

One of the transportation challenges in this area is how to improve east-west access. While MD 355, Observation Drive, and Midcounty Arterial (A-305) will facilitate north/south movements through the area, east-west access is more difficult to provide because of environmental constraints (tributaries of Little Seneca Creek in particular) and existing development patterns.

The proposed plan improves east-west connections by dedicating the right-of-way for Stringtown Road.

- **Encourage an interconnected street system as typically found in older towns.**

It is essential that the character of the roadway network is supportive of the Master Plan's vision for the Town Center. The guideline below will help assure that streets and highways are built in a manner that is compatible with land use and urban design objectives for the Town Center.

Because the arterials of Stringtown Road and Clarksburg Road serve as entrance to the Town Center, extensive landscaping, including medians, bikeways, and bus transit access facilities, must be provided.

Staff also recommends a 25-foot setback along Stringtown Road and 20 feet along Observation Drive to achieve this Master Plan objective. This recommendation is based on the King Farm example and would achieve an appropriate "gateway" transition from I-270 into Clarksburg's Town Center.

- **Diversity of Housing Types**

The Master Plan endorses a mix of unit types at the neighborhood level. It avoids large concentrations of any single type of housing within each neighborhood. The proposed site plan conforms to the recommended range of units.

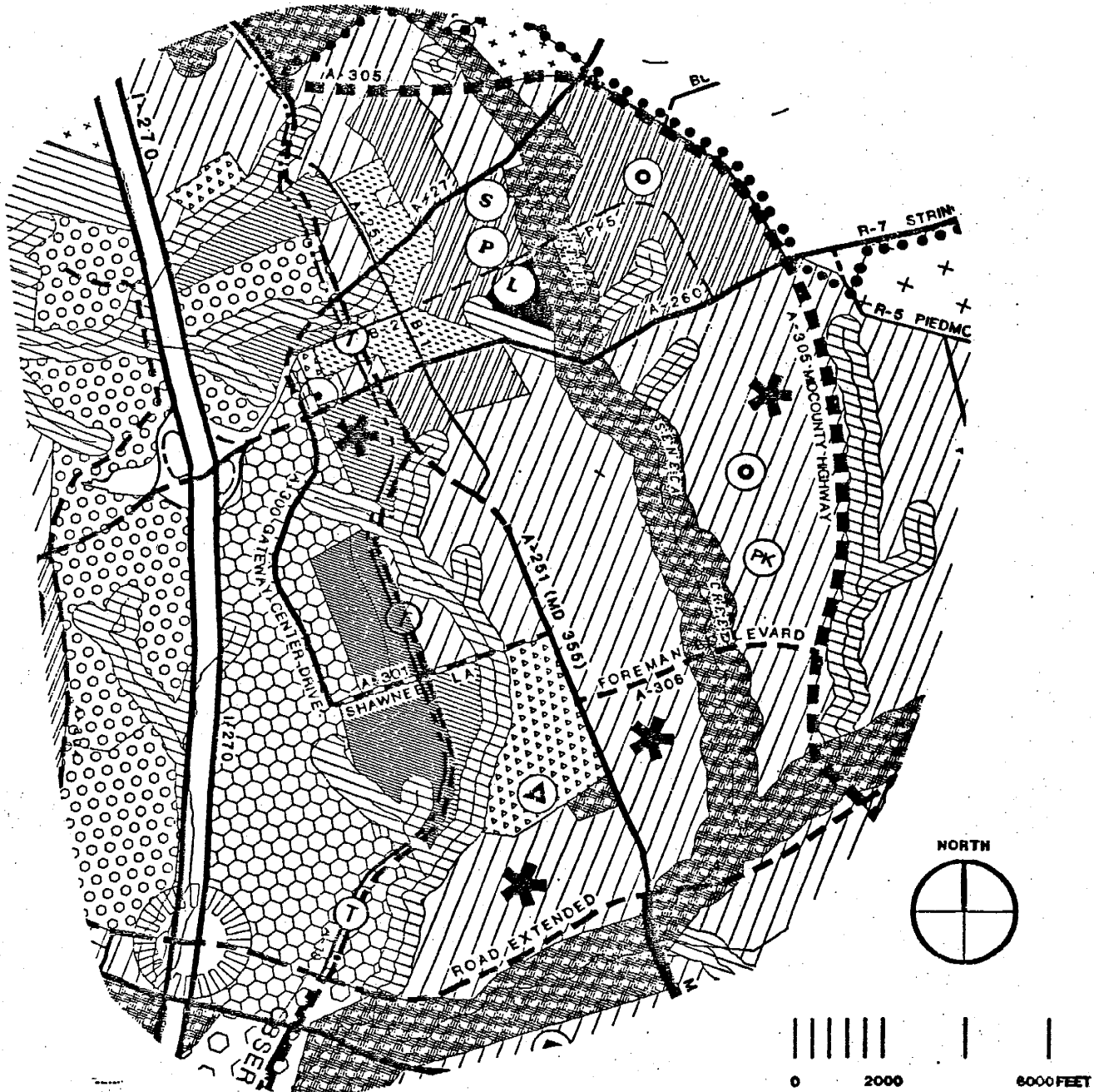
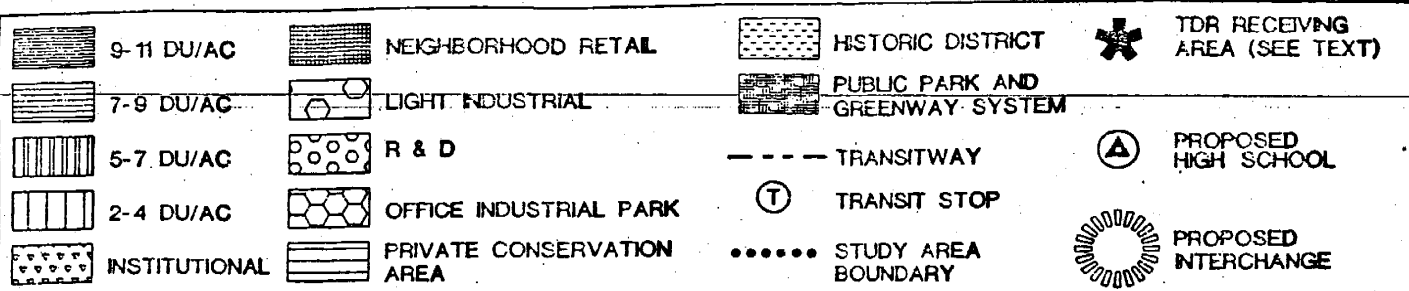
Conclusion

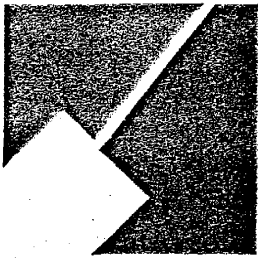
Staff recommends approval of the proposed site plan subject to the conditions mentioned above.

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Attachment

Transit Corridor District Land Use Plan





July 17, 2003

MEMORANDUM

TO: Wynn Witthans
Development Review Division

VIA: Ronald C. Welke, Supervisor
Transportation Planning

FROM: Ki H. Kim, Transportation Planner
Transportation Planning

SUBJECT: Site Plan No. 8-03023
Gateway Commons
Clarksburg Policy Area

This memorandum is Transportation Planning staff's review of the subject site plan. The site is located on the west side of Frederick Road (MD 355) south of future Stringtown Road in Clarksburg. The site has an approved preliminary plan for 292 residential dwelling units under the Development Approval Payment (DAP) procedure.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions as part of the transportation requirements related to approval of this site plan:

1. Limit the site plan to the following uses and density:
292 residential dwelling units
2. As a condition of site access, construct a deceleration/acceleration lane on MD 355 at its intersection with Woodport Road per Maryland State Highway Administration (SHA) access permit requirements.
3. As a condition of site access, construct the outside lanes of Stringtown Road (A-260) through the property as a two-lane arterial road including a five-foot sidewalk,

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an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.

4. As a condition of site access, construct the outside lanes of Observation Drive (A-19) from Stringtown Road to MD 355 by-pass as a two-lane arterial road with a future transitway in the median including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.
5. For the first 200 building permits as a condition of site access, construct the outside lanes of MD 355 by-pass through the property as a two-lane arterial road including a five-foot sidewalk, an eight-foot bike path, street trees, and grading for a future four-lane divided roadway.
- 6a. Prior to issuance of the 201st building permit, but not later than eighteen (18) months after approval of the Preliminary Plan, obtain two (2) appraisals of the fair market value of the right-of-way for the by-pass right-of-way and make a cash offer to the owners of this right-of-way up to 110 percent of the highest appraised value via certified letter.
- 6b. If the offer is not accepted by the owner(s), or no response is received, the County shall act to acquire the right-of-way. The applicant shall be responsible to reimburse the County a maximum price, and to construct a half-section of the roadway in accordance with County standards at their sole cost and expense.
- 6c. In the event neither the applicant nor the County acquires the right-of-way within three years of preliminary plan approval of Gateway Commons, the applicant shall be free to proceed with full build-out of Gateway Commons and be issued all remaining building permits without obtaining the right-of-way or constructing the by-pass.
7. As a condition of site access, construct Woodport Road from Public Road "B" to MD 355 as a tertiary residential street.

DISCUSSION

Local Area Transportation Review (LATR) and Policy Area Transportation Review (PATR)

The Adequate Public Facilities test for the LATR and PATR of the subject site was adequately addressed at the time of preliminary plan review using the DAP procedure.

Site Access and Circulation

Two access points to the site from MD 355 (one from the extension of MD 355 by-pass and the other from Woodport Road) and one access point from Gateway Center Drive are proposed. As described in Recommendations 2 through 7 above, the applicant must construct Stringtown Road (A-260), Observation Drive (A-19), MD 355 by-pass, and

Woodport Road as their access points in order to provide safe and efficient access for the site.

Staff recommends that the applicant make every effort to construct the MD 355 by-pass as described earlier in this memorandum. SHA has reviewed the MD 355 by-pass and the roundabout alternative developed by the applicant's engineer and found that a single-lane roundabout using the geometric layout shown on the roundabout alternative would operate acceptably through or near the design year. Access to the first 200 dwelling units can be adequately served without connecting the MD 355 by-pass to existing MD 355. The applicant must construct the MD 355 by-pass to existing MD 355 beyond the initial 200 dwelling units if the right-of-way is available within three years. Staff supports a proposal submitted by the applicant regarding obtaining the right-of-way as described in the attached letter from Barbara Sears to Gayle Libby Curtiss.

The typical section of Stringtown Road from Observation Drive to MD 355 and an acceleration lane on MD 355 southbound from Stringtown Road are shown on the site plan in accordance with the Department of Public Works and Transportation's Stringtown CIP project. Staff does not believe that the eastbound right-turn lane on Stringtown Road or the acceleration lane will be needed once the "by-pass" connecting MD 355 to Stringtown Road via Observation Drive is constructed. A concept plan for a roundabout at the intersection of MD 355 and the "by-pass" has been prepared by the developer and reviewed and agreed to by SHA. As noted in the site plan, the cross section of Stringtown Road and an acceleration lane on MD 355 will be reviewed at the Mandatory Referral for the Stringtown Road CIP project this Fall.

The site plan includes Observation Drive (A-19) as a continuous roadway with the MD 355 by-pass as a T-intersection rather than the MD 355 by-pass as a continuous roadway with A-19 tied into MD 355 as recommended in the Clarksburg Master Plan. Staff finds that treatment of A-19 as a major through roadway satisfies the intent of the Clarksburg Master Plan since A-19 is projected to carry a higher traffic volume than MD 355 by-pass and a transitway is recommended in the median of A-19.

The site access points as recommended in this memorandum and internal pedestrian/bicycle circulation system shown on the site plan are adequate.

KK:ct

Attachment

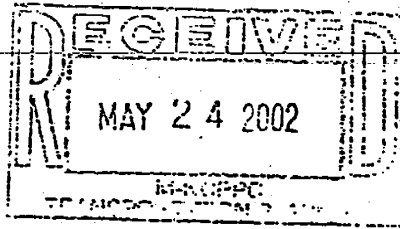
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LINOWES AND BLOCHER LLP

ATTORNEYS AT LAW

1010 Wayne Avenue, Tenth Floor
Silver Spring, MD 20910-5600
301.588.8380
Fax 301.495.9044
Website: www.linowes-law.com

May 23, 2002



Barbara A. Sears
301.650.7057
bas@linowes-law.com

Gayle Libby Curtiss, Esquire
Chief, Property Acquisition
Department of Public Works and Transportation
101 Monroe Street, 6th Floor
Rockville, Maryland 20850

Re: Gateway Commons, Clarksburg, Maryland; Preliminary Plan No. 1-02048

Dear Gayle:

Our firm represents U.S. Home Corporation ("U.S. Home"), applicant for approval of the above Preliminary Plan of Subdivision for Gateway Commons in Clarksburg, Maryland. The proposed community consists of approximately 300 dwelling units in the R200/TDR Zone and is consistent with the recommendations of the approved and adopted Clarksburg and Vicinity Master Plan ("Clarksburg Master Plan"). The subject property contains approximately 45.7 acres and is located generally at the southwest corner of Frederick Road (MD 355) and the proposed extension of Stringtown Road (A-260) ("Property"). The Property borders on or is traversed by three (3) master planned arterials which are critical to the Clarksburg Road network. These arterials include the proposed extension of Observation Drive, MD 355 alternate or by-pass ("By-Pass"), and a major portion of the right-of-way for Stringtown Road Extended between Frederick Road and Gateway Center Drive. Stringtown Road (A-260) is master planned as a 120-foot right-of-way; Observation Drive (A-19) as a 150-foot right-of-way, including a transitway; and the By-Pass (A-251) as a 120-foot right-of-way. Of the 45.7 acres of land comprising the Property, approximately 10.5 acres are needed for the rights-of-way of these planned arterial roadways.

As part of the Preliminary Plan review, U.S. Home representatives have had preliminary conversations with Park and Planning Staff ("Staff") regarding transportation improvements for the proposed development. Staff requested that U.S. Home pursue acquisition of the off-site right-of-way necessary to construct a half section of the By-Pass from MD 355 to Observation Drive (A-251). This area is shown on Attachment 1.

Staff has further proposed that as a condition of Preliminary Plan approval, U.S. Home agree to the following:

1. Building permits shall be issued for construction of the first 200 units in Gateway Commons prior to acquisition or construction of MD 355 Relocated.

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Gayle Libby Curtiss

May 23, 2002

Page 2

2. Prior to issuance of the 201st building permit, but not later than eighteen (18) months after approval of the Preliminary Plan, U.S. Home shall obtain two (2) appraisals of the fair market value of the right-of-way for the By-Pass ("ROW") and make a cash offer to the owners of this ROW of up to 110 percent of highest appraised value via certified letter.
3. If the offer is not accepted by the owner(s), or no response received, the County shall act to acquire the ROW. U.S. Home shall be responsible to reimburse the County a maximum of 110 percent of the appraised value of the ROW depending on the actual purchase price, and to construct a half-section of the roadway in accordance with County standards at U.S. Home's sole cost and expense.
4. In the event neither U.S. Home or the County acquires the ROW within 3 years of preliminary plan approval of Gateway Commons, U.S. Home shall be free to proceed with full build-out of Gateway Commons and be issued all remaining building permits without obtaining the ROW or constructing the By-Pass.

Since this proposal involves possible action by the County to acquire the ROW, Staff has suggested U.S. Home advise you of the proposal and obtain the County's consent as part of the Preliminary Plan review. It is hoped that the enclosed information adequately explains the proposed concept sufficient for your review. Please feel free to contact the undersigned or Ron Welke of the Transportation Staff if you have any questions.

Thank you for your attention to this matter.

Sincerely,

LINOWES AND BLOCHER LLP


Barbara A. Sears

cc: Mr. Ron Welke (w/ enclosure)
Mr. Jeff Riese (w/ enclosure)
Mr. Phil Barber
Mr. Moe Jaymand
Mr. David Little
Mr. Kevin Foster
Ms. Nancy Randall

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ATTACHMENT E

**(Letter from CTCAC dated November 19, 2006 and list of
Questions and Issues dated November 17, 2006)**

Clarksburg Town Center Advisory Committee
PO Box 934
Clarksburg, MD 20871

November 19, 2006

Rose Krasnow, Chief, Development Review
Faroll Hamer, Acting Director
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Rose and Faroll:

As a follow-up to our November 6th meeting with you, I wanted to document some of the serious concerns we raised pertaining to Gateway Commons. As we discussed, there are numerous conditions and legal requirements under the Preliminary Plan, Site Plan, Site Plan Enforcement Agreement and applicable County Code which have either not been met or are currently in question.

The applicant's failure to meet specific conditions of approval as set forth under the Preliminary Plan, and other legal requirements associated with site plan submission, plat recordation, etc. undermines the validity not only of the Site Plan scheduled to be brought before the Board for amendment, but also the underlying Preliminary Plan. Our specific issues, questions and requests for additional information to complete our investigation are outlined in the matrix attached*.

At the risk of detracting from the importance of all the issues detailed in the attachment, I want to emphasize here that the Board failed to include in its resolution of approval "all necessary findings of fact and conclusions of law" (Sec 59-D-3.4(b) (1)) that warrant Site Plan approval. In short, the current resolution of approval of the Site Plan is legally deficient on its face, whatever the merit of the Site Plan itself. But this was not a mere paperwork error. Our examination of the record and the submitted plan documents reveals that there is no way the Board could have justified making the required findings, and neither the applicant nor the Staff attempted to do so when the Site Plan was brought before the Board for approval. Accordingly, the Board should not and cannot now approve an amendment to a legally flawed Plan, unless satisfied that the amendment cures those flaws. Our examination of the original plan documents submitted to the Board makes clear that their myriad problems have not been rectified with the proposed amendment. Just one example, discussed below, should suffice to make clear that all of the problems CTCAC has raised warrant full and complete investigation and resolution.

Gateway Commons is in the R200/TDR-7 zone. As such, both the Preliminary Plan and Site Plan with associated development standards should have been determined in accordance with the numerous purposes and provisions established for the PD zone (Sec 59-C-1.394 (b)). However, neither the Preliminary Plan Opinion nor the Site Plan Opinion contains any discussion, let alone determination, of conformance with the PD zone purposes or provisions. In fact, it is evident upon review of the unit types, location and configuration depicted in the Site Plan, measured against the Purpose clause of the PD zone (Sec. 59-C-7.11), that it would not be possible for the Board to supply the missing finding of conformance today, with or without the amendment.

Specifically, the complaints of CTCAC and other Clarksburg residents already presented effectively enumerate the ways in which the proposed development, evaluated under the PD purposes (quoted below), will *not* adequately serve the community:

- The proposed development does *not* implement the master plan "...to a degree more closely compatible" with the master plan "than may be possible under other zoning categories."
- The proposed development does *not* provide "...a maximum of social and community interaction and activity among those who live and work within an area."
- The proposed development does *not* have "...a distinctive visual character and identity."
- The proposed development does *not* "...provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial concentration so as to function for the general benefit of the community and public at large as places for relaxation, recreation and social activity;..."
- The proposed development does *not* provide open space "...so situated as part of the plan and design...to achieve the physical and aesthetic integration of the uses and activities within each development."
- The proposed development does *not* provide "...comprehensive, pedestrian circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities..."
- The proposed development does *not* result in "compatibility and coordination" of the "development with existing and proposed surrounding land uses."

While I could add page-upon-page of detailed discussion of the defects in the Plan for each of the above deficiencies, my purpose here is only to summarize. And, sadly, the above list is itself not complete.

Had the Site Plan conformed to the purposes and provisions of the PD zone, the proposed development would demonstrate clear benefits to the community, in keeping with the aesthetic and functional goals of the zone. Instead, any fair and objective assessment of the Plan reveals the glaringly obvious fact that the applicant availed itself of the density benefits associated with the PD zone without regard for delivery of the intended community benefits associated with the zone. We are aggrieved by what the applicant is attempting to impose upon the community and we look to the Board for relief.

The Board is not estopped from correcting errors in its approval process – particularly when no development has yet occurred. Not only is it within the Board's authority, but it is truly the Board's obligation to correct rather than ratify legally erroneous approvals which, if perpetuated, will result in development detrimental to the Clarksburg community at large. We maintain not only that the Site Plan amendment cannot be approved, but also that the Site Plan itself, for the reasons outlined above and also as contained in the attached matrix, must be brought back before the Board for a top-to-bottom review and compliance hearing. We respectfully request the staff's assistance in facilitating this request.

Sincerely,

Amy Presley, President
CTCAC

**Please note that the attached issues matrix is an interim draft. We are in the process of editing, and potentially expanding, the document. Once we have received the requested information and completed our investigation of issues, we will finalize and re-submit the document for inclusion in the record.*

DRAFT**Gateway Commons – Issues and Questions Matrix**

Updated: 11-19-06

Documents of Record & Code References	Details	Issues & Questions
<p>Preliminary Plan 1-02048</p> <ul style="list-style-type: none"> Planning Board Hearing: 7/18/02 – Approved with Conditions Opinion Mailed: 8/13/02 	<p>Conditions:</p> <p>(2) a. ... “The applicant is satisfying policy area review by paying the DAP under the FY 02 Annual Growth Policy staging ceiling capacity.</p> <p>(2) b. “A traffic study (to analyze the traffic impact at nearby intersections is required”..)</p> <p>(5) “For the first 200 building permits as a condition of site access, construct the outside lanes of MD 355 by-pass through the property as a two-lane arterial road including a five foot sidewalk, an eight foot bike path, street trees, and grading for a future four-lane divided roadway.”</p> <p>(6) “Prior to issuance of the 201st building permit, but not later than eighteen (18) months after approval of the Preliminary Plan, obtain two (2) appraisals of the fair market value of the right-of-way for the By-Pass (“ROW”) and make a cash offer to the owners of this ROW of up to 110 percent of the highest appraised value (“maximum cost”) via certified letter.”</p> <p>(8) “At the time of site plan address issues of transition and compatibility of height of units along Stringtown Road with existing and proposed development to create the “gateway” to the Town Center. Maintain 25-foot building setbacks along Stringtown Road and 20 feet along Observation Drive to achieve an appropriate “gateway” transition from I-270 into Clarksburg’s Town Center. ... to better implement street oriented development as per Master Plan recommendations.”</p> <p>(12) “Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).”</p> <p>(16) “Final approval of the number and location of dwelling units, parking, site circulation, sidewalks, and bikepaths will be determined at site plan.”</p>	<p>Did this occur? We would like to see the records of the DAP payment and the traffic impact study.</p> <p>To the best of our knowledge, this condition has not been met. We are awaiting staff confirmation (as requested during our meeting of November 6th).</p> <p>To fulfill condition #6, by the required date of (18) months after approval of the Preliminary Plan (February 13, 2004), the two appraisals and cash offer, via certified mail, had to have been made.</p> <ul style="list-style-type: none"> - If the letters were not sent to the owners of the property by this date, then the applicant did not comply with Condition #6. - If the applicant did not notify the County of a negative response from the owners of the property, then the applicant did not comply with Condition #6. <p>Condition #8 required compatibility of heights to be addressed at Site Plan. Beyond the underlying code requirement (Sec. 59-D-3.23(a)) for notation on the Site Plan of development standards including “height” (reference definition – Sec. 59-A-2.1: “Height - ... the vertical distance measured...”), the Preliminary Plan added a condition mandating that heights be addressed at Site Plan – in essence, confirming the sensitivity of heights in the area and providing a double assurance that heights would indeed be addressed at that time. Yet, the applicant did not include heights on the Signature Site Plan (see notes under “Site Plan”), thereby failing to meet this condition.</p> <p>We question whether Condition #12 was met “prior to recordation of plat(s).” We are awaiting requested copies of MCDPWT approvals to verify the timing relative to plat recordation.</p> <p>Applicant proposed a unit mix including 10% Single Family Detached units. There was no finding made by the Board, and no waiver (of the 15% SFD requirement [add citation]) issued (as would be required in accordance with Sec. 59-C-1.395) at the time. (See</p>

	<p>(20) "Prior to recording of plat provide an affidavit to verify the availability of a TDR for each existing and proposed dwelling unit shown on the approved preliminary plan. Include a note referencing recorded covenant regarding the TDR's on record plat."</p> <p>(21) "This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed."</p>	<p>comments under "Site Plan Signature Set" below in this matrix.)</p> <p>We have asked for a copy of the affidavit and confirmation by staff of appropriate notation on the plat records "referencing recorded covenant regarding TDRs," as well as confirmation of the applicant's compliance with the timing aspect of this condition.</p> <p>We are still attempting to determine whether the applicant is in compliance with Condition #21. We have seen no unambiguous documentation that final record plats were appropriately recorded for all the property by 9/13/05 (the original expiration date) and we question recordation of plats after that date butt prior to 9/13/06 (the extended validity period of the amended Preliminary Plan). We are awaiting information from staff (as requested on November 6th), including copies of the request for Preliminary Plan Amendment and all associated documentation, as well as supplemental record plat information to complete our assessment.</p>
<p>Site Plan Opinion</p> <ul style="list-style-type: none"> Planning Board Hearing: 7/24/03; Approved with conditions Opinion Mailed: 11/18/03 <p>Site Plan Signature Set</p> <ul style="list-style-type: none"> Planning Board Approval: 8/10/04 	<p>5. <u>Signature Set Documentation</u></p> <p>d. "Submit a Site Plan Enforcement Agreement, Development Review Program and Homeowner Association Documents for review and approval prior to release of the signature set..."</p> <p>6. <u>Waivers</u></p> <p>"The Applicant requires the following waivers with this project:</p> <p>a. Percentage of single family detached from 15% to 9.2% as approved with the Preliminary Plan.</p> <p>b. Maximum number of allowed multifamily as approved with the Preliminary Plan.</p>	<p>The Site Plan Enforcement Agreement was signed by Richard Hawthorne on August 31, 2004 -- <i>after</i> the date of "approval" of the Signature Set. We do not regard as valid an approval that is granted in the absence of compliance with a condition established as a prerequisite for approval.</p> <p>Requirements under Sec. 59-C-1.395 make necessary waivers for single family minimum unit % reduction or multifamily unit % increase. As described in "Footnote 1" of the section, there must be a "finding" by the Planning Board that the proposed development is "more desirable for environmental reasons" or is "more compatible with adjacent development" than that which would result from adherence to development standards under the zone.</p> <p>There is nothing in the Preliminary Plan Opinion that constitutes the finding necessary for approval of change in unit mix %. In fact, condition #16 states that the final number of dwelling units will be determined at Site Plan. Further, Wynn Witthans' staff memo of July 16, 2003 (made a part of the record of the Site Plan Opinion) states that the applicant requires a waiver of the % of single family detached from 15% to 9.2% "as approved with the Preliminary Plan." Not only does the Site Plan staff</p>

		<p>report not purport to constitute an actual waiver, but the referenced Preliminary Plan specifically includes Condition #16... making the 10 % as listed in the data table only tentatively approved (i.e. to be finally determined at Site Plan). The Site Plan Opinion does not contain any finding justifying a waiver of requirements...it merely reiterates that the applicant requires a waiver.</p> <p>Additionally, the Site Plan submitted by the applicant and subsequently approved by the Board did not contain the development standards (specifically "height"), as required under Sec. 59-D-3.23(a) (See "Preliminary Plan" Condition #8 notes above).</p> <p><i>Note: Failure of Staff and the Board to notice such an omission does not relieve the applicant of its obligation under law relative to site plan submission adequacy. The Board is not estopped from insisting upon complete and correct plans now.</i></p> <p>To complete its assessment, CTCAC needs answers to the following questions:</p> <ul style="list-style-type: none"> - What exactly IS a "One over One?" (i.e. is it two over one, split as 1-1/2 over 1-1/2? How many actual floors? Single family attached? Multifamily?) And, in which type of dwelling category in the Zoning Ordinance is it intended to be? (single family attached or multifamily?) - SP Opinion is entirely vague as to the type of dwelling units that the 84 "attached" units comprise. Please provide whatever justification exists in the record to properly classify these as either single family attached or multifamily. - Where is the exclusive use area (exclusive use for each owner) abutting each unit as required under Sec. 59A-2.1, if classified as single family attached? - Where are drawings of green area allocation? (Applicant claims 58.4% of gross site area. Sec. 59-C-1.395 specifically excludes certain areas from this calculation.)
Site Plan Enforcement Agreement		We are currently reviewing the requirements under the SPEA.

Plat Records		<p>Our initial concerns pertain to timing and completeness of submission, processing, approval and recordation of plats showing block and lot designations for units depicted on the site plan. Additional concerns pertain to whether the requisite condominium regime plats have been created and recorded, and the appropriateness of that form of plat recordation for non-multifamily units.</p> <p>We are awaiting information requested during our November 6th meeting to complete our investigation.</p>
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ATTACHMENT F

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE

R-200/TDR 7 - utilizing PD Standards per Section 59-C-1.394(b) and as determined at Site Plan approval.

R-200/TDR-7 Development Standards				
Zoning Ordinance Development Standards	Permitted/Required	Approved with Site Plan 8200030230	Proposed with Site Plan Amendment 82003023A	Change
Gross Site Area (ac):		45.2463	45.2463	No Change
Less dedication of Roads with 100' or greater right-of-way		10.700	10.700	No Change
Less Floodplain		0.00	0.00	No Change
Net Site Area:		34.5463	34.5463	No Change
Density Tabulations:				
Max. Density with MPDU density bonus:	295 dwelling units (8.54 du/ac x 34.5147 ac.)	295 dwelling units (8.54 du/ac x 34.5147 ac.)	294 dwelling units (8.54 du/ac x 34.5147 ac.)	(1 dwelling unit)
Proposed Units				
One-family detached	Not specified	27	27	No change
One-family attached (townhouses)	Not specified			
One-family attached (2 over 2)	Not specified			
Multiple-family	Not specified	88	88	No change
Total number of units	295 dwelling units	292 dwelling units	286 dwelling units	(6 dwelling units)
MPDU Calculations	45	44	43	(1 MPDU)
	(295 x 15%, includes 22% density bonus)	(292 x 15%, includes 22%	(286 x 15%, includes 22%	

		density bonus)	density bonus)	
TDR Calculations				
Base Density	69	68	69	+1 unit
TDR Density	128	128	128	No change
½ Multi-family units	44	44	44	No change
MPDUs	45	44	43	(1 MPDU)
Bonus Market Rate Unit	8	8	8	No change
Total	295	292	291	(1 unit)
Unit Breakdown: (From Master Plan)				
One-family detached	15% Min. 44 units	9.2% 27 units (waiver approved with Preliminary Plan 120020480)	9.4% 27 units	+0.2% No change in # of units
One-family attached	Not Specified	62% 177 units	59.8% 171 units	(2.2%) No change in # of units
Multiple-family	35% Max. 102	30% 88 units	30.8% 88 units	+0.8% No change in # of units
Building Setbacks:				
Front yard setback from public streets (ft.):				
Stringtown Road	25	25	25	No change
Observation Drive and Roberts Tavern Drive	20	20	20	No change
Woodport Road, Latrobe Lane and MD 355	15	15	15	No change
Side yard setbacks (ft.):				
Townhouse (one-family attached)	Not Specified	Not Specified	5 from building envelope	Building envelope established

One over One (one-family attached)	Not Specified	Not Specified	5 from building envelope	Building envelope established
One-family detached	Not Specified	Not Specified	3	Setback established
Two over two multi-family	Not Specified	Not Specified	4 feet for end units 9 between buildings	Building envelope established
Rear yard setbacks (ft.):				
Townhouse (one-family attached)	Not Specified	Not Specified	4 from building envelope	Building envelope established
One over One (one-family attached)	Not Specified	Not Specified	7 from building envelope	Building envelope established
One-family detached	Not Specified	Not Specified	20	Setback established
Two over two multi-family	Not Specified	Not Specified	11 from building envelope	Building envelope established
Setbacks for accessory buildings for the one-family detached units (ft.):				
From public street right-of-way	Not Specified	Not Specified	20	Setback established
From rear lot line	Not Specified	Not Specified	2	Setback established
From side lot line	Not Specified	Not Specified	2	Setback established
Max. Building Height (ft.):				
Townhouse (one-family attached)	Not Specified	Not Specified	35	Height Established
One over One (one-family attached)	Not Specified	Not Specified	35	Height Established
One-family detached	Not Specified	Not Specified	35	Height Established
Two over two multi-family	Not Specified	Not Specified	45	Height Established
Accessory building	Not Specified	Not Specified	25	Height

for the one-family detached units				Established
Min. Green Area (%/sf.):	40% of Gross Site Area (788,371 sf)	58.4% of Gross Site Area (1,150,761 sf)	67.3% of Gross Site Area (1,326,173 sf)	+8.9% of Gross Site Area (175,412 sf)
Min. Internal Landscaping (% of parking areas)	5% Based on 87,210 sf of parking area (4,361 sf.)	11.6% Based on 87,210 sf of parking area (10,129 sf.)	11.6% Based on 87,210 sf of parking area (10,129 sf.)	No Change
Parking Requirement:				
Townhouse (one-family attached) 2 spaces/du	93 x 2 = 186	91 x 2 = 182	91 x 2 = 182	(4 spaces)
One over One (one-family attached) 2 spaces/du	84 x 2 = 162	84 x 2 = 162	84 x 2 = 162	No Change
One-family detached 2 spaces/du	27 x 2 = 54	27 x 2 = 54	27 x 2 = 54	No Change
Two over two multi-family 1 BR @ 1.5 sp/du 2 BR @ 2 sp/du	44 x 1.5 = 66 44 x 2 = 88	44 x 1.5 = 66 44 x 2 = 88	44 x 1.5 = 66 44 x 2 = 88	No Change
Total Parking Required:	634	634	599	(35 spaces)
Total Parking Provided:	644	644	609	(35 spaces)
On -site Impervious Area (sf.):				
Buildings	Not Specified	190,993	227,211	+36,218
Parking and Roads	Not Specified	307,143	355,627	+48,484
Driveways	Not Specified	45,423	61,916	+16,493
Sidewalks	Not Specified	87,624	125,328	37,704
Total On-site Impervious		631,183 (32% of Gross Tract Area)	770,082 (39.1% of Gross Tract Area)	+138,899 (7.1% of Gross Tract Area)

ATTACHMENT G

(Letter from the Applicant dated November 17, 2006)

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

November 17, 2006

Barbara A. Sears
301.961.5157
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Mr. Royce Hanson, Chairman
and Members of the
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910-3760

***VIA ELECTRONIC MAIL AND
BY OVERNIGHT DELIVERY***

Re: Gateway Commons; Site Plan Amendment No. 82003023A ("Site Plan Amendment")

Dear Chairman Hanson and Members of the Board:

On behalf of our client, Gateway Commons, L.L.C. ("Gateway Commons"), the purpose of this letter is to strongly object to the deferral of the Board's consideration of the above Site Plan Amendment from its current scheduled Board date of November 30, 2006. Staff has just contacted the undersigned to state that, in response to a verbal request of CTCAC, this long-promised date will be moved to December 14, 2006. After a four-month delay during which Gateway Commons has been promised date after date, this continued delay is unacceptable.

This request for Site Plan Amendment approval was filed on March 31, 2006 after numerous discussions with Staff. Gateway Commons' sole basis for seeking this Site Plan Amendment was and remains to address comments of the fire marshal received after the Site Plan was approved and minor footprint and grading adjustments.

The Site Plan Amendment was presented to the Planning Board for approval on July 20, 2006, as a limited amendment, but deferred in order to address certain limited issues raised by the Board. Gateway Commons had hoped that the amendment would be returned to the Planning Board on September 7, 2006, immediately after the Board's summer recess. Gateway Commons feels that it has made every effort to respond appropriately to the limited issues raised by the Planning Board on July 20, 2006, in view of the circumstances applicable to the plan, and the Site Plan Amendment should be scheduled before the Board for action on November 30, 2006. Gateway Commons has had numerous meetings and discussions with staff, and has diligently pressed to be returned to the Planning Board. Finally, on October 24, 2006, the Planning Director set November 30, 2006 for the Site Plan Amendment hearing,

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Members of the
Montgomery County Planning Board
November 17, 2006
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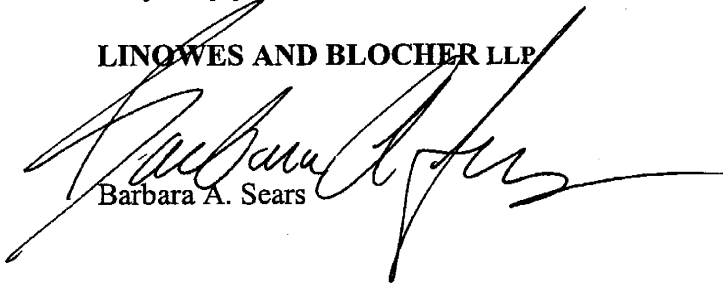
which date was continuously confirmed with Staff by Gateway Commons (including as recently as yesterday). However, as noted above, at approximately 3:00 p.m. today, Gateway Commons was contacted by Staff to advise of the verbal request of CTCAC to have certain questions answered. CTCAC has had four months from the last hearing to develop its case and may seek to assert its points at the November 30, 2006 hearing. Further delay is unacceptable and will cause further damage to Gateway Commons. The Amendment must be retained on the November 30, 2006 agenda for a hearing and vote without further delay.

As stated at the July 20, 2006 hearing, Gateway Commons has fully platted and graded the site, constructed all roadways and parking areas, and installed all utilities, including all storm water management facilities, the cost of which exceeds \$17 million. Further, Gateway Commons incurs more than \$10,000 every day in carrying costs associated with the property. Each day the Planning Board's action is delayed on this matter results in Gateway Commons incurring substantial damages. Indeed, in the four months since the Site Plan Amendment was presented to the Board, Gateway Commons has incurred more than \$1,200,000 in carrying costs. Finally, the extensive delays have exposed Gateway Commons to numerous additional actual and potential liabilities. Gateway Commons has been promised numerous dates for hearing on the Planning Board's agenda by Staff, but these dates have continuously been delayed. It is now nearly four months since the Planning Board last considered this matter with what we believe to have been the intent to obtain certain limited information and return the Site Plan Amendment to the Board as soon as possible. It is time this matter be brought back to the Board and that time should be, as scheduled, on November 30, 2006.

Therefore, we respectfully request that the Planning Board maintain the November 30th date and not allow any further delays in this matter. Please make this letter a part of the Record in the Site Plan Amendment. Thank you for your consideration of this request.

Very truly yours,

LINOWES AND BLOCHER LLP



Barbara A. Sears

Mr. Royce Hanson and
Members of the
Montgomery County Planning Board
November 17, 2006
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cc: Ms. Faroll Hamer
Ms. Rose Krasnow
Mr. Robert Kronenberg
David Lieb, Esquire
Jim Bavouset, Esq.
Mr. Bob Jacoby
Mr. Marty Collier
Erin E. Girard, Esq.

ATTACHMENT H

(Agency Comments)



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

MEMORANDUM

November 20, 2006

TO: Robert Kronenberg, Site Plan Review, Development Review Division, Department of Planning
Faroll Hamer, Director, Department of Planning
Rose Krasnow, Chief, Development Review Division, Department of Planning

FROM: Doug Powell, Plan Review Coordinator, Park Planning and Resource Analysis Unit, Department of Parks
Brenda Iraola, Landscape Architect, Park Development Division, Department of Parks

SUBJECT: Gateway Commons / Dowden's Ordinary Historic Park

RECOMMENDATION

Department of Parks staff recommends reaffirmation and approval of the parkland Conditions of Approval as set forth in the Planning Board Opinion for Site Plan 8-03023 dated November 18, 2003. Staff further recommends approval of the details regarding the design and layout for the park as currently proposed by the Applicant and as set forth in the Memorandum from Brenda Iraola to Robert Kronenberg dated July 10, 2006 (attached hereto).

BACKGROUND

The Gateway Commons Plan was first presented for Development Review in 2001 as a Pre-Preliminary Plan referred to as Clarksburg Investment Associates Property (7-02009). At that time staff requested that the historic Dowden's Ordinary site be preserved and sufficient surrounding land be dedicated to fully protect the tavern and buried archaeological resources. The Applicant worked with staff to determine the areas most important for preservation and agreed to convey the necessary land to M-NCPPC for parkland. This land, consisting of approximately 2.84 acres, was designated in the Preliminary Plan Conditions for dedication.

Numerous subsequent discussions were held with the Applicant to determine the best way to preserve and display the historic site and archaeological resources in a safe and user-friendly manner. These discussions resulted in the Conditions that became a part of the approval of the Applicant's Site Plan in 2003. Park staff has since worked closely with the developer on the park design and is satisfied that all park and historic preservation issues have been adequately addressed as set forth in detail in the above referenced July 10th Memorandum.

HISTORY OF DOWDEN'S ORDINARY

Dowden's Ordinary includes the archaeological remains of a rural tavern (Not much is known about 18th century rural taverns.). The tavern was the site of one of British General Edward Braddock's overnight

encampments (April 15th & 16, 1755) along what has become known as "The Braddock's Road". Braddock's expedition was the first British retaliation against France's occupation of the Ohio Valley. It ended ignominiously in his death and defeat.

Owner and namesake, Michael Dowden, was, later, the primary catalyst for the Repudiation Act of 1765, in which our local judges were the first in the State to repudiate the Stamp Act. The area's political wing of the "Sons of Liberty" met there during the Revolutionary War to plot against the British, and numerous American presidents were overnight visitors and dinner guests. It was also the subject of an early 19th century drawing by Benjamin Latrobe. The Daughters of the American Revolution considered it so important that it was the site of their first historical marker erected in the County (1915). Collectively, Dowden's Ordinary is one of the most significant historical and archaeological sites, and the leading 18th century one, in the County!

Interpreting Dowden's Ordinary is an opportunity to place Montgomery County into the context of one of the most important events in our local and State colonial history, which also links us to the national and international stage of 18th century culture and politics. The end of this war and the imposition of its subsequent taxes were the "making of our revolution", showing our soldiers as the equal of any in Europe and providing a cadre of officers to lead them. With General Braddock were: future British General Thomas Gage, plus, future American Generals: George Washington, Horatio Gates, Charles Lee, Daniel Morgan and Wagoner Daniel Boone.

As the only known site related to the French and Indian War in Montgomery County, Clarksburg has a great opportunity to become a focal point for the interpretation of this War. What began as the first British expedition to try to oust the French from the Ohio Valley, ended as a global war for empire, the first really world war. This was the only war that started in this country and spread to Europe, where it was known as the Seven Years War. It ended with the French losing Canada and the Indians losing their balancing power between the two countries.

The historical and archaeological importance of Dowden's Ordinary makes it truly eligible for The National Register of Historic Places!

PROPOSED PARK

The primary purpose of this park is to preserve and interpret historic and archaeological resources. The proposed plan for the park provides a ghost structure, other interpretive features, educational signage, as well as preserves the visible historic fabric of the site. This will enable the visitor to understand, appreciate, and emotionally connect with its rich history. The park is therefore intended to be primarily passive in nature. It is important, however, to make the park comfortable and user friendly to a diversity of users to encourage visitation to this historic site. The design includes the following elements:

- a. An historic "ghost" structure of Dowden's Ordinary is the focal point of the site. It includes a stone seat wall base around the entire structure and a steel frame, three dimensional structure with two chimneys and dormer window/porch front architecture that outlines the shape and appearance of the original Dowden's Ordinary structure. It is located in a central portion of the site, prominently visible from off the park site, but relocated from the original structure location to preserve archaeological resources. The ghost structure will give a visual rendition of a typical 18th century tavern and will include lighting, seating, interpretive signage, a historic-period garden and paving for the visitor to experience the tavern's history and use.
- b. The known archaeological remains of the original Dowden's Ordinary site will be surrounded by a low bollard/chain iron fence, and an interpretive sign will be included at this location. Archaeological studies began on the site with a Public Dig Day in honor of the 250th anniversary of Braddock's march in April of 2004. When the area around the tavern became an active road construction site, the archaeologists were asked to discontinue excavations until construction activities were finished. Such is the present status of the unfinished excavations on the site. Due to limited staff resources, the archaeological investigation of

this site and the park property will occur over the long term, probably through a number of small projects. The proposed park will construct the facilities above existing grades, in order to preserve the archaeological fabric of the entire site for future study. An archaeologist will monitor the park construction to ensure that resources are protected.

c. A loop trail is included within the park. It will be constructed of tar and chip asphalt with brick pads at entrances to the park. Four seating areas are included along the trail. All site furnishings and signage are historic in nature.

d. A non-firing cannon replica from the 1700's period, mounted on a cannon carriage with a sculptural stack of cannon balls and interpretive signage is included along the trail to demonstrate the significance of the site in the French and Indian War.

e. Bike racks will be provided which include actual cannon carriage wheels for the bike rack structure. These cannon carriage wheels will blend with the historic site features and will add to the interpretation of the cannon replica.

f. An open lawn area is provided for passive park use. Landscaping within the park is proposed with historically accurate species of plants.

g. Signage will include three interpretive signs to be located within the park; one at the Dowden's archeological site, one at the ghost structure replica of Dowden's historic house, and one at the 1700's cannon replica. These signs will express the history of the park, display historic photos, describe the activity that took place on this historic property, list the famous historical people who visited this site, and display photos of some archeological dig findings within the property. In addition, there will be an historic tavern replica sign mounted at the entrance to the site along 355, and this tavern replica concept will also be used for the trail entrance sign.

h. A small playground is included within the park to attract people to the site and encourage visitation. The proposed playground equipment is designed for children from ages 5-12 and includes uniquely designed, high quality playground equipment that is likely to be different from the equipment proposed for the subdivision tot lots.

PLANNING BOARD AND CITIZEN ISSUES

a. Parking Issue - The Planning Board and Clarksburg citizens have expressed concern that since the park may draw outside users due to the historic nature of the park, there should be available parking. In the original planning for the park, approximately four spaces were proposed on Stringtown Road that would allow for limited parking or space for a bus to pull off the road. The subsequent development plan for Stringtown Road apparently eliminated these potential parking spaces. Many special parks, however, do not have parking when it would damage the resource to be protected. There is no acceptable space within the boundaries of the park for parking given the slopes and historical significance of the park. Any on-site parking facility will have a potentially adverse effect on cultural artifacts, alter excavations, and ultimately have a significant impact on the future interpretation of the site. Staff will explore possible acquisition opportunities of off site property(s) to provide additional parking. If the future use of the park generates activity that would require additional parking or bus drop-off, this need could possibly be met in the following ways:

- Acquire special use permits from DPWT on days of scheduled events to facilitate bus drop-off along Stringtown Road.
- Acquire off site property(s) to provide parking and bus drop-off.
- Explore opportunities for limited parking or bus drop-off during future development of nearby municipal parcels, such as the fire station.

b. Access Issue - The Planning Board and Clarksburg citizens have expressed concerns with the access to the park. The steep slope and steps at the south end of the park could impede parents with strollers from entering this way. This steep slope is required by the topography of the site. There is a more accessible route to the site from Rte. 355, although not the most direct route for the community. Staff believes that the community will use the park, despite the pathway with steps, because the park provides open space and a range of activities that are not otherwise provided within the residential development. The park playground is designed primarily for older children from ages 5-12, who would be able to use the steps on the park's southern entrance. There are alternative tot lots provided within the community that could be used by parents with small children in strollers.

c. Safety Issue - Some Clarksburg citizens have expressed safety concerns due to the limited visibility from the community of the play equipment and some of the other park amenities. This historic site and park generally sits on a hill and is not easily visible from surrounding areas. Park Police and region staff have recommended the inclusion of play equipment within the park, in order to draw park users into the site for security reasons in keeping with the principles of the Crime Prevention Through Environmental Design (CPTED) program. Providing other uses within the park also expands the available recreational activities for the community and provides additional reasons to visit the park. Types of equipment were chosen, which would not visually compete with the historic ghost structure or other features of the park.

cc: Mary Bradford, Director, Department of Parks
Michael Riley, Chief, Park Development Division, Department of Parks
Patricia McManus, Design Supervisor, Park Development Division, Department of Parks
John Hench, Supervisor, Park Planning & Resource Analysis, Department of Parks
Tanya Schmieler, Park Planning Supervisor, Park Planning & Resource Analysis, Department of Parks