



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB 02/08/07

Item #



MEMORANDUM

DATE: January 26, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
Michael Ma, Supervisor *Ma*
Development Review Division
FROM: Piera Weiss *W*
Community-Based Planning Division
(301) 495-4728

REVIEW TYPE: Site Plan and Final Water Quality Plan Review
CASE #: 820050380
PROJECT NAME: Eastside
APPLYING FOR: Approval of 265 dwelling units on 23.82 acres
REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance

ZONE: PD-11 Zone
LOCATION: Southside Shawnee Lane 100 feet east of the intersection with Gateway Center Drive
MASTER PLAN: Clarksburg Master Plan
APPLICANT: Miller and Smith
FILING DATE: 05/25/05
HEARING DATE: 02/08/07

STAFF RECOMMENDATION: Approval of the Final Water Quality Plan and 265 dwelling units, including 34 MPDUs, on 23.82 acres. All site development elements as shown on Eastside Site Plans stamped by the M-NCPPC on January 25, 2007, shall be required except as modified by the following conditions:

1. Development Plan Conformance

The proposed development shall comply with the binding elements listed in the District Council Resolution 15-881 for Zoning Map Amendment G-824 and associated Development Plan.

2. Conformance with Preliminary Plan

The proposed development shall comply with the conditions of approval for Preliminary Plan 120051010 as listed in the Planning Board's opinion dated November 27, 2006.

3. Forest Conservation

- a. Applicant to comply with the following conditions of approval from the M-NCPPC Environmental Planning in the memorandum dated January 21, 2007:
- b. Applicant to protect all areas within the environmental buffers and all retained forests with a Category I conservation easement.
- c. Applicant to reforest unplanted environmental buffers.
- d. Stormwater management outfall trenches to be field located with the M-NCPPC Forest Conservation inspector

4. Stormwater Management

The proposed development is subject to a Final Water Quality Plan and a Stormwater Management Concept as approved by Montgomery County Department of Permitting Services (MCDPS) in a letter dated December 21, 2006, or as amended.

5. Common Open Space Covenant

Record plat of subdivision shall reference the standard HOA Common Open Space Covenant recorded at Liber 28045, Folio 578. Applicant shall provide verification to the M-NCPPC staff before the issuance of the first building permit that the recorded Homeowners Association Documents refer to the Covenant.

6. Certified Site Plan

The following items shall be included and/or information provided subject to staff review and approval before the approval of the certified site plan:

- a. Development program, inspection schedule and Site Plan Resolution
- b. Indicate handicapped accessible ramps are designed to County/State Standards.
- c. Lighting standards shall include measurement for base and a maximum height of 16 feet.

- d. Show typical detail for each unit type and indicate minimum setbacks, maximum heights, and on-lot parking inside and outside units.
- e. Indicate phases and sequencing of construction including recreational facilities and MPDU units for each phase.
- f. Delineate parcels for storm water management and natural area.

7. Development Program

The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. The Site Plan Development Program shall include, but is not limited to the following:

- a. Street tree planting shall be completed no later than six months after completion of the units adjacent to completed streets.
- b. Pedestrian paths, recreation facilities and landscaping located in phases 1 and 2 shall be completed before the issuance of the 214th building permit and the construction of units in phase 3.
- c. MPDUs to be provided in each phase.

8. Clearing and Grading

No clearing or grading before the M-NCPPC approval of the Certified Site Plan.

9. Prior Approvals

The terms and conditions of all applicable prior regulatory approvals and agreements remain in full force and effect.

10. Record Plats

- a. Record plat of subdivision shall reflect a Category I conservation easement over all areas of stream buffers and forest conservation
- b. In order to facilitate the future connections for the private streets to adjoining properties, record plats shall indicate provision for future ingress and egress easements to the property line including vehicular and pedestrian access.

11. MPDUS:

All MPDUS are to be provided on site.

DEVELOPMENT ISSUES

1. Waiver of Subdivision Regulation 50 - 29(a)(2)

On June 22, 2006, the Planning Board approved Preliminary Plan 120051010 for Eastside. Included in that approval was a waiver from Subdivision Regulation 50-29 (a) (2), which requires “. . . that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road.”

In their review of Preliminary Plan 120051010, Staff determined that the proposed streets met the status of a public road with one exception. Townhouse Lots 152-155 abutted an alley/driveway that couldn't attain the status of a public road because it did not provide appropriate circulation or terminus required for a public street. The Planning Board found the public facilities adequate to support and service the area of the proposed subdivision and waived the requirement that Lots 152-155 abut a public street. (See page 7, Finding b, Planning Board's Opinion dated November 27, 2006.)

During the public hearing for the Preliminary Plan, the Planning Board directed the applicant to revise the layout to add more green space. (See pages 7 and 8, Finding c, Planning Board's Opinion.) To that end, the applicant reduced the total number of lots, increased the number of townhouse units, reduced the number of multi-family units and rearranged the location of units.

The proposed layout is superior to the layout approved during the subdivision process. But the improved layout places four more townhouses, Lots 145-148, in the same situation as Lots 152-155, that is, not abutting a roadway dedicated to public use.

If the Planning Board were not willing to grant a waiver, which will be presented to the Board as a separate item, the applicant would like to replace the four-townhouse lots with eight multi-family units. The total number of units, in that event, would be 269 units. The layout would not change materially.

2. Community Input

During the review and public hearing for Preliminary Plan 120051010, there were some objections from the community regarding the total number of units, the number of multi-family units and adequate extra parking.

The applicant met with the community on November 13, 2006 and presented the revised plan (See Appendix D, Letter and Community Meeting Minutes). There have been no objections to date on the revisions.

PROJECT DESCRIPTION: Site Vicinity

The property lies within a 900-acre area identified in the *1994 Approved and Adopted Clarksburg Master Plan* as the Transit Corridor District Study Area (Figure 1). The following described the area surrounding the site: Clarksburg Road to the north and northwest, I-270 to the west, West Old Baltimore Road to the south and Frederick Road (MD 355) to the east and northeast

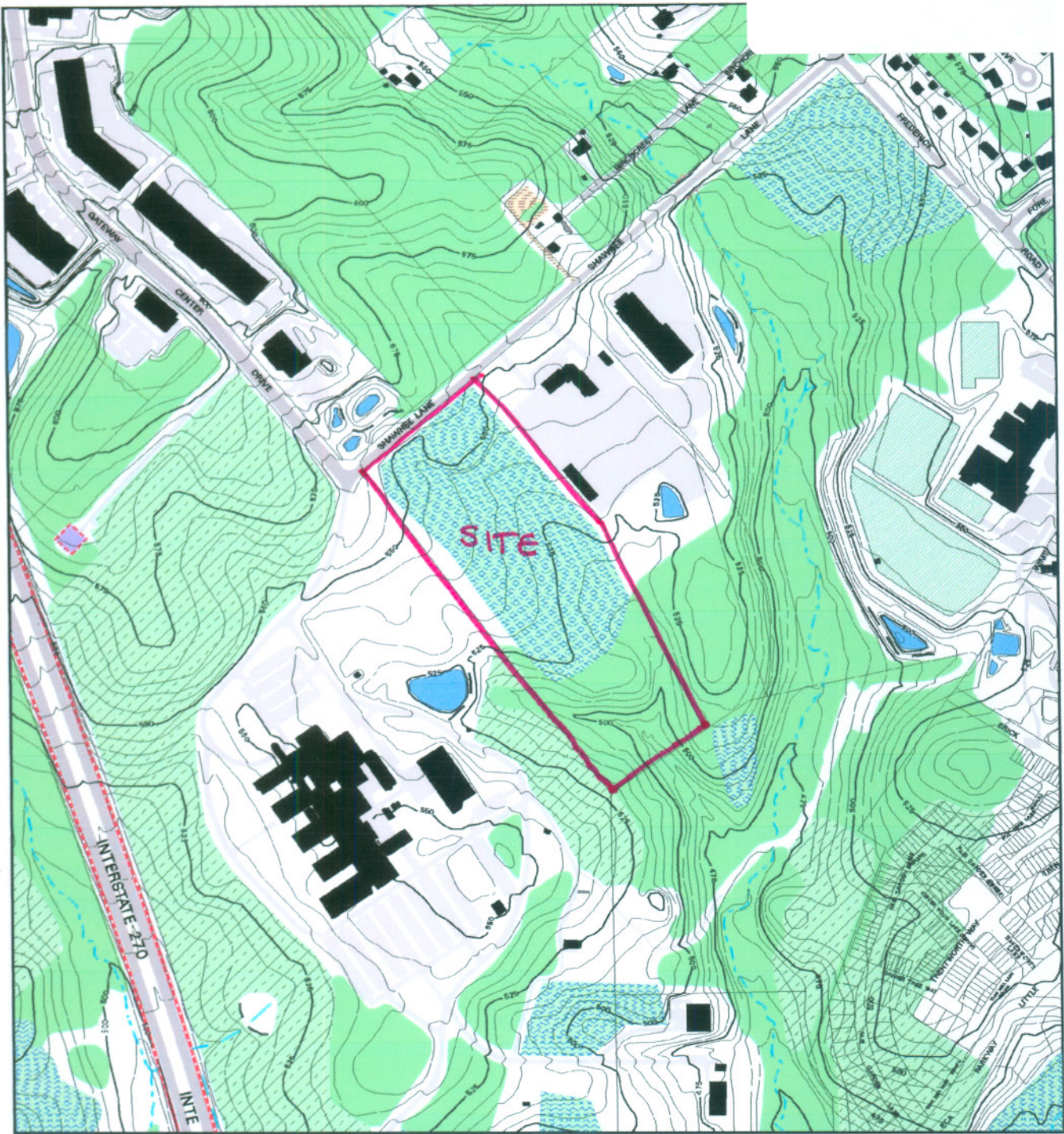
Adjoining the site on the west and northwest are the LCOR property and Gateway 270 Corporate Office Park, both in the I-3 zone. Also to the north across Shawnee Lane is the Garnkirk Property, the subject of a zoning case for which the District Council granted PD-11 Zoning on October 31, 2006. To the south is R-200 zoned land surrounding a tributary to Little Seneca Creek. The Board of Education Bus Depot property, zoned R-200, abuts the property to the east (Figure 2).

LIGHTS



Figure 2 - Vicinity Map

EASTSIDE SITE PLAN 820050380



Map compiled on January 08, 2007 at 11:59 AM | Site located on base sheet no - 231NW13

NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-7700



Figure 3 - Aerial Photograph

EASTSIDE 8-20050380



Map compiled on September 15, 2006 at 9:13 AM | Site located on base sheet no - 231NW13 | Date of Orthophotos - April 2004 | Orthophoto Images Licensed from VARGIS LLC.

NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3700

Key Map



Research & Technology Center



1 inch = 200 feet
1 : 2400

PROJECT DESCRIPTION: Site Description

The 23.82-acre subject property is located on the south side of Shawnee Lane, 100 feet from the proposed intersection with the Gateway Center Drive and approximately 2,000 feet west of MD355 in Clarksburg. The property is generally rectangular in shape and approximately 1,650 feet long and 650 feet wide. The subject property is undeveloped, as can be seen in Figure 3.

The southern portion of the property is densely wooded and slopes with increasing steepness to a tributary of Little Seneca Creek. There is an average slope of 5% on two-thirds of the property, but the stream valley buffer area has a slope of 20%. The contour elevations measure 560 feet at the property line parallel to Shawnee Lane and become progressively lower southward, reaching 500 feet at the edge of the stream. A wooded stream buffer covers approximately 6 acres of the tract area and there are an additional 0.6 acres of woodland outside the stream buffer. The total forested or wooded area is 6.6 acres or 27.7% of the site. The remainder of the property once used for pasture contains small trees scattered about and hedgerows line the edges of the old fields.

PROJECT DESCRIPTION: Proposal

The proposed site plan (Figure 4) contains 265 units, 20 fewer than in the approved Preliminary Plan. Seventy-five units (75) are townhouses; 190 are two-over-two multi-family units. Thirty-four of the multi-family units are Moderately Priced Units (MPDUs). The MPDUs are dispersed throughout the development and located in the first floor unit of designated buildings.

The design for this private community derives from the Clarksburg Master Plan recommendation for densities up to 11 units per acre in the Transit Corridor District to support the proposed transit way. The planned transit way is located about 1,100 feet east of the site and the planned stops are within walking distance (1/4 of a mile) of the property.

The layout is based on a neo-traditional community concept emphasizing walkability and separation of public and private areas. The grid pattern contains street-facing units served by rear-loaded alleys. All streets have sidewalks and street trees. Pedestrian walkways parallel the building fronts; access for the units is located at the building rears. The number of alley and street intersections has been reduced to the bare minimum to limit pedestrian-automobile conflicts. End units have landscaped five-foot high walls and/or hedges to screen views into the alleys.

The design has prominent public spaces, such as mews or greens. All units front a street or a common green. All the green spaces are wide enough (minimum of 20 feet) to accommodate walkways and sitting areas. Two greens are centrally located and large enough to function as open play areas. Recreational facilities are provided on-site and include 13 (thirteen) sitting areas, 2 (two) 5,000 SF open play areas, one 10,000 SF open

play area, a tot lot, nature trail and natural area. All MPDU units are located on site and dispersed throughout the buildings.

The private areas are the alleys and parking. The multi-family units have stacked parking, one in the unit, and one in the driveway. The townhouses have two garage spaces. Additional parking is provided in parallel spaces along the streets. Parking is accommodated in driveways and garages.

Because most of the units must be located on relatively flat sites, the grading plan employs retaining walls where necessary. The most visible retaining wall is along Shawnee Lane. The wall functions as a decorative wall and fence along Shawnee Lane and as a retaining wall on the inside face. The other retaining walls are located at the rear of the front-loaded townhouses where grades must meet the existing topography of the stream buffer and forested areas.

All streets are private but designed to standards (width, radii and intersection angles) that match those for corresponding public streets as described and approved in Preliminary Plan 120051010.

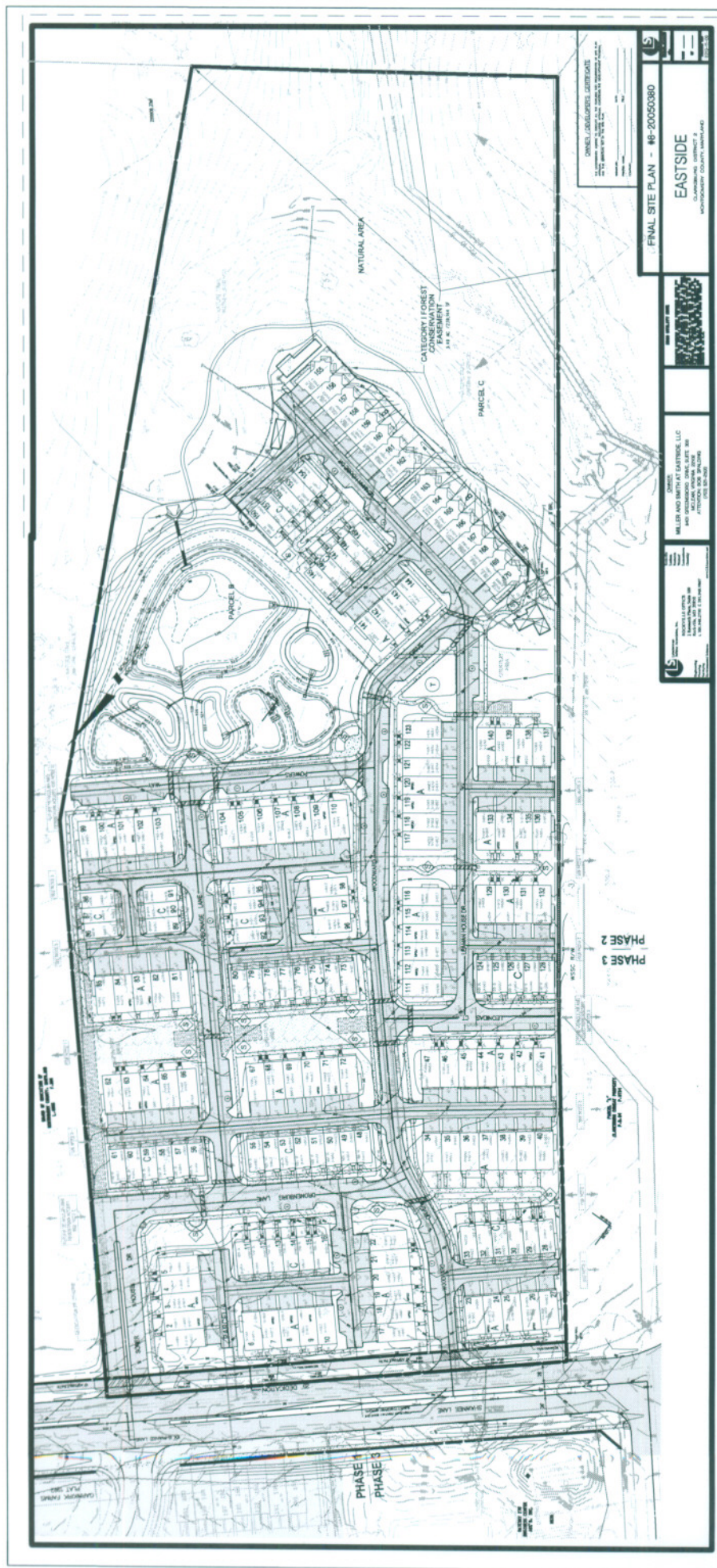


Figure 4 - Site Plan

PROJECT DESCRIPTION: Prior Approvals

1. Zoning

On February 1, 2005, Resolution 15-881, Zoning Case G-824, the District Council granted PD-11 zoning for 290 units on the subject property. The Development Plan includes a phasing plan that consists of three phases, each of which has amenities, open space, recreational facilities and MPDUs. The complete Council resolution is included in Appendix A. The certified Development Plan is attached at Appendix B.

2. Preliminary Plan

On June 22, 2006, the Planning Board approved Preliminary Plan 12005101. The Opinion, issued on November 27, 2007 is attached at Appendix C. The Board approved 285 dwelling units, including 39 MPDUs. The Planning Board waived the frontage requirement, Section 50-29 (a) (2) for lots 152-155 (Finding b) and concluded that the amount and location of green space would be reviewed in more detail at the time of site plan (Finding c).

The revised plan shows 4 more townhouses (Lots 145-149) with access only to an alley. A waiver from the frontage requirements of Section 50-29 (a) (2) is necessary for these units. If the Board approves the waiver, a total of 8 townhouses would be waived from the requirements of Chapter 50-29 (a) (2).

The applicant has provided an exhibit, Figure 5, depicting the layout revisions. The proposed site plan is an improvement to that shown at subdivision. The revisions reduce the number of units, provided additional green space and usable common space and reduce the number of multi-family units.

GREEN SPACE ENHANCEMENT AND UNIT REDUCTION EXHIBIT "A"

CHANGES FROM PRELIMINARY PLAN TO SITE PLAN

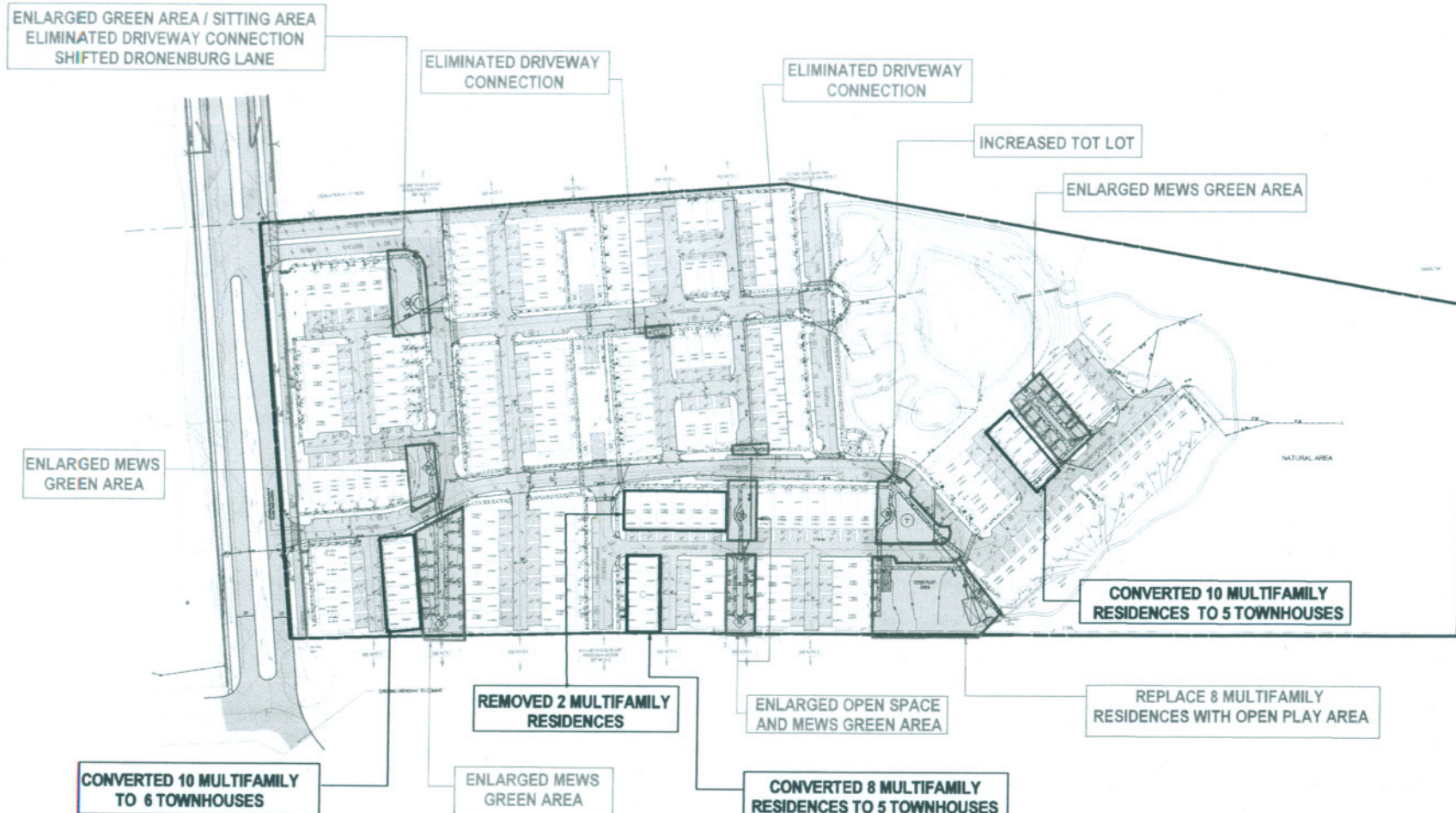


Figure 5 - Applicant's Exhibit
Additional Green Space

ANALYSIS: Conformance To Development Standards

The PD zone does not contain detailed development standards. The number, type, height and percentage of different unit types and the amount of green space are established at the time of zoning in conjunction with the finding of compatibility, a key finding in granting PD zoning. Detailed standards are established through the site plan review process in accordance with the Binding Elements and Certified Development Plan as approved by the District Council.

The Development Plan for Zoning Case G-824 specified the maximum number of dwelling units by type and percentage, the maximum height of structures, and the minimum amount of green/open space.

Table 1 compares the general development standards established at the time of zoning, changes as approved in Preliminary Plan 120051010 and those proposed in the site plan. Table 2 provides the detailed standards for site plan review. There is a minimum 5-foot setback from the property boundary for all units. There are different setbacks for rear and front - loaded townhouses that relate to the specific unit features, such as a side porch.

Table 1: Comparison of Standards for the Development Plan, Preliminary Plan and Site Plan for Eastside

	Established per G-824	Approved Preliminary Plan	Proposed Site Plan
Gross Tract Area in acres	23.82	23.82	23.82
Dedication Shawnee Lane	.95	.95	.95
Net Tract Area in acres	22.86	22.86	22.86
Dwelling Units	290	285	265
Detached	0	0	0
Attached	58	59	75
Front Load Townhouses	17	16	16
Rear Load Townhouses	41	43	59
Multi-family – two/two	232	226	190
MPDUs required	40 (13.6%)	39 (13.6%)	34 (12.7%)
Lot sizes			
Townhouses	NA	NA	1,100 SF
Minimum Setbacks			
From Property Boundary	NA	NA	5 feet
Between Sticks, Attached Buildings			10 feet
Townhouses			
Front	NA	NA	20 feet, front loaded 5 feet, rear loaded
Side (end units only)	NA	NA	0 feet, front loaded 3 feet, rear loaded
Rear	NA	NA	5 feet
Multifamily			
Front	NA	NA	0 feet
Side			0 feet
* Rear (to alley)			20 feet
Green Space	13.94 acres	13.86 acres	14.11 acres
Building Height			
Townhouses	Four stories	Four stories	40 feet
Multifamily	Four stories	Four stories	55 feet
Parking Spaces	648	697	652
2 per townhouse unit	116 (2x58)	118 (2x59)	190 (2x75 + 40)
Per multifamily unit	406	405	380 (2x190)
**1.5 spaces per 2 bedrm	174		
**2.0 spaces per 3 bedrm	232		
Visitor/Extra	34	87	82

*To accommodate pad parking.

**These numbers appearing only in the zoning case. The Site Plan provides 2 spaces for every dwelling unit, but some of this parking is stacked. The parking provided is an average of 2.4 per dwelling unit, which is greater than the statutory requirement and the average, described in the Council Resolution, page 16.

Table 2: Site Plan Data Table, PD-11 Zone

	Zoning Ordinance	Established per G-824	Proposed Site Plan
Gross Tract Area in acres		23.82	23.82
Dedication Shawnee Lane		.95	.95
Net Tract Area in acres		22.86	22.86
Total Number of Dwelling Units		290	265
Unit mix: TH	20%	20%	26%
Unit mix MF	35%	80%	74%
Detached		0	0
Attached		58	75
Multi-family		232	190
MPDUs required	12.5% minimum	40 (13.6%)	34 (12.7%)
Lot Sizes – Townhouses		NA	1,100 SF
Green Space	50%	58.5%(13.94acres)	59.4 %(14.11 acres)
Building Height			
Townhouses		Four stories	40 feet
Multifamily		Four stories	55 feet
Building setbacks			
From Property Boundary	NA	NA	5 feet
Between Attached Building Sticks	NA	NA	10 feet
Townhouses Front	NA	NA	20 feet, front loaded 5 feet, rear loaded
Side (end units only)			0 feet, front loaded 3 feet, rear loaded
Rear			5 feet
Multi-family Front Side Rear (to alley)			0 feet 0 feet 20 feet
Total Parking Spaces		648	652
2 per townhouse unit		116	190
2 Per multifamily unit		306	380
Visitor/Extra		126	82

Table 3: Recreation Calculations

Demand Points	Tots D1	Children D2	Teens D3	Adults D4	Senior D5
TH 75	x 17 = 12.75	x 22 = 16.50	x 18 = 13.50	x 129 = 96.75	x 9 = 6.75
MF 190	x 11 = 20.90	x 14 = 26.60	x 12 = 22.80	x 18 = 224.20	x 16 = 30.40
TOTAL Demand	33.65	43.10	36.30	320.95	37.15
Supply Points					
Open Play I	6.00	9.00	12.00	30.00	2.00
Open Play II (2)	6.00	8.00	8.00	20.00	2.00
Sitting Area (13)	13.00	13.00	19.50	65.00	26.00
Pedestrian System	3.37	8.62	7.26	144.43	16.72
Nature Trails	1.68	4.31	5.45	48.14	5.57
Natural Areas	0.00	2.16	3.63	32.10	1.86
Tot Lot (1)	9.00	2.00	0.00	4.00	1.00
TOTAL Supply	39.05	47.09	55.84	343.67	55.15
TOTAL Demand	33.65	43.10	36.30	320.95	37.15
Difference	+5.40	+3.99	+19.54	+22.72	+18.00

Table 4: MPDU Calculations (Chapter 25A-5)

Base Density PD 11	11 x 23.82 = 262
Proposed Density	265
Bonus Units	3
Percentage Bonus Units	3/262 = 1.1%
Required MPDUS for bonus between 1 and 2% is 12.7%	265 x 12.7% = 33.7 or 34 units
MPDUs provided	34 units

CONFORMANCE WITH THE ZONING ORDINANCE

1. Conformity with Binding Elements

Site Plan review (Division 59-D-3) must address conformity with approved zoning cases and specific elements approved in the rezoning as required in Section 59-D-3.1.2 Conformity with previous actions, “. . . If the land is classified in a zone that requires a development plan, the site plan must conform to all non-illustrative elements of the approved development plan.”

The following describes the eight non-illustrative Binding Elements, approved as part of the zoning case and included in the certified Development Plan. Staff response for each item follows in italics.

Binding Element 1 - Moderately Priced Dwelling Units

All required MPDUs would be provided on the Property.

The proposed Site Plan provides all MPDUs on site.

Binding Element 2 - Road Improvements

The applicant or its successors or assigns (the “Applicant”) will improve or fund the transportation capacity improvement of Shawnee Lane, a County Road, to an arterial standard from Gateway Center Drive to Frederick Road (MD Route 355). Any additional right-of-way or associated easements for the improvement of Shawnee Lane will be acquired or funded by the Applicant.

Applicant must comply with this requirement as per Condition 5 of the Approved Preliminary Plan.

Binding Element 3 - Connection to Shawnee Lane and Adjoining Properties

Consistent with the Clarksburg Master Plan objectives for strong pedestrian and vehicular linkages and accessibility to Transit Stops and throughout the neighborhood, sidewalk and road connections will be provided to: (1) improved Shawnee Lane to the north; (2) LCOR’s Comsat property to the west and (3) the Board of Education’s property to the east.

The Site Plan indicates that road connections will be provided as follows: the main entrance road, Soper House Drive and Power Way, will connect to the adjoining Board of Education Property. Leonidas Court will connect to the LCOR Property. All roads are private and will have sidewalks and street trees.

Binding Element 4 - Recreational Facilities

All required recreational facilities would be provided on the Property.

All recreation facilities will be provided on site.

Binding Element 5 - Forest Conservation

All required forest conservation measures would be provided on the Property

As per the Final Forest Conservation Plan (FCP), all forest conservation measures will be provided on site.

Binding Element 6 - Stream Valley Preservation

With the exception of a possible sewer outfall, the existing wooded stream valley on the Property will be preserved in its entirety.

The wooded stream valley is being preserved in its entirety. The nature trail, storm and sanitary sewer outfalls are permitted in the Category I easement. The easements will be recorded in accordance with the final FCP.

Binding Element 7 - Stormwater Management

With the exception of possible upgrading of the existing stormwater management facility on the Post Office property, all stormwater management facilities will be provided on the Property.

The Final Water Quality Plan indicates that all SWM facilities will be provided on site and the Post Office stormwater management facility will be upgraded.

Binding Element 8 - Gateway Center Drive and Stringtown Road Extended

At or prior to preliminary Plan of subdivision, Applicant will meet with DPWT and the Technical Staff of M-NCPPC to determine what if any modifications to the intersection of Gateway Center Drive and Stringtown Road are required to meet LATR standards, and Applicant will undertake such changes in accordance with the schedule specified by DPWT and the Technical Staff of M-NCPPC.

This issue has been addressed as part of Conditions 5 and 6 of the Approved Preliminary Plan.

2. Affidavit of Conformance with Development Plan

Under Section 59-D-3.3, Zoning Certification, the Applicant “. . . must submit a sworn statement certifying that the proposed site plan conforms to all the non-illustrative elements of the development plan approved by the District Council.

An affidavit is contained in Appendix E.

3. Findings

Under Section 59- D-3.4 (c), the Planning Board must require that:

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

An approved diagrammatic, schematic or project plan is not required for this development. The Site Plan conforms to all non-illustrative elements of the Development Plan certified by the Hearing Examiner.

(2) The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.

The Site Plan meets all of the requirements of the zone in which it is located and is not the subject of an urban renewal plan. Table 2 contains the development standards required for this development.

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

a. Buildings and Structures

The townhouse and multi-family units are arranged in the same layout as approved in the Development Plan. The MPDU units are distributed throughout the site.

Staff notes that the mix of units in the proposed plan is different from that shown in the preliminary plan. In both the preliminary plan and zoning case, the mix of units was 80% multi-family and 20% attached. The deletion of 20 lots and rearranging unit types results in a loss of 36 multi-family units and an increase of 16 townhouses, for a final mix of 74% multi-family and 26% townhouses. The mix of units was an issue for the community and the Community-Based Planning Division at the time of the preliminary plan. The revisions address that concern.

The layout of the units consistently reinforces the differentiation between public and private spaces in a dense development. Each unit faces public spaces and private spaces and parking for each unit is provided at the rear. There are smaller groups of units within the overall plan and each group has open space for community interaction. The layout provides adequate space between and around units. All units are setback from the property boundary at least 5 feet. Townhouse units have front and rear setbacks from the individual lot. The rears of the condominium multi-family units are setback at least 20 feet from the alleys to accommodate on-site parking. There is a distance of at least 10 feet between the multifamily units. Staff finds that the overall layout is adequate, safe and efficient.

b. Green/Open Spaces

The plan proposes more than 14 acres of green space for different uses: protected forested areas along the streams and green space for active and passive recreation. Approximately 6.6 acres are to be protected and the remainder, approximately 8.5 acres are recreational and stormwater management areas. The Planning Board requested a more detailed examination of green space at the time of site plan. The rearranging and reduction of units have resulted in 0.3 acres, or 13,068 square feet, more green space. The additional green space has been provided to expand existing common open space and to provide a third large play area of 10,000 square feet. Figure 5 indicates where units were removed or shifted and green space added. Green space was enlarged at key locations such as along the main thoroughfare and in the mews. Two sitting areas were also added. Overall green space has been increased from that approved in the zoning case.

Staff finds that the green space as proposed is an improvement over that shown in the preliminary plan and is adequate, safe and efficient.

c. Landscaping and Lighting

The proposed landscaping includes street trees, planted areas to delineate between private and public spaces, entrance plantings, plantings along walls, and plantings for each unit. There is a six-foot planting panel between the streets and sidewalks, in conformance with the conditions of approval for the preliminary plan. Landscaping delineates the edges between private and public spaces surrounds all sitting areas and play areas.

The layout generally places the utility feeds and boxes to the rear of units or in utility rooms subject to final approval by utility companies. The individual feeds are located on pads between each unit. Plantings are located on the pads if there is sufficient length to accommodate the structures and plants. As shown on the landscape plan, end units are equipped with walls or landscaping to deflect direct view into the alleys and parking places.

The proposed lighting plan consists of streetlights at regular intervals. All lighting standards are 16 feet in height including the base. The lighting fixture is similar to those used elsewhere in the Clarksburg planning area. According to the lighting plan, no illumination will be greater than 0.1 at the property line. This is less than the maximum recommended in IESNA .5.

Staff finds that the landscaping and lighting plans are adequate, safe and efficient.

d. Recreation Facilities

Recreation demand calculations, as recommended in the Planning Board's 1992 Recreational Guidelines, have been exceeded by the proposed recreational facilities, Table 3. The plan includes 13 sitting areas, one tot lot, one Open Play I area (10,000 SF), two Open Play II areas (5,000 SF), a nature walk, natural area and pedestrian system.

According to the Guidelines, recommended setbacks for tot-lots and open play areas may be "... reduced, provided that other measures, such as landscaping and fencing, are used as necessary to achieve compatibility."

The Applicant is requesting a reduction for setbacks for two categories of facilities, the tot lot and open play areas. The recommended 30-foot setback between tot lots and buildings/curbs would be reduced to no less than 20 feet to buildings and 10 feet to curbs. Setbacks for Open Play Areas II would be reduced from 30 feet to a minimum of 15 feet from buildings. Setbacks for the Open Play Area I would be reduced from 30 feet to buildings and curbs to 20 feet for buildings and 10 feet for curbs.

The Recreational Guidelines state that landscaping may compensate for a reduction on setbacks. The applicant is proposing landscaping and fencing around the tot lot as buffer from the nearest unit. Landscaping and sidewalks are used similarly around the two centrally located Open Play I areas. Units face the fifty-foot wide play areas. There are sidewalk and landscaping in the fifteen-foot area between the open play area and units. The alleys are located to the rear of the units, a feature that greatly reduces conflict between playing children and vehicles.

Landscaping and sitting areas are placed in strategic locations to delineate the different uses of the common open spaces. The larger open play area is separated from the street by sidewalks, a 6-foot wide street tree panel and parallel parking spaces. The parking spaces are protected by bump-outs. Landscaping, sitting areas and sidewalks clearly delineate the recreational areas for community use. The tot lot and open space I play area, sitting areas and stormwater/nature area form a large connected common space where adults and children of all ages can recreate side-by-side.

Staff finds that the recreational facilities are adequate, safe and efficiently designed.

e. Vehicular and Pedestrian Circulation

Vehicular access points conform to those required in the zoning case. The main entrance will serve both the proposed development and future development of the adjacent properties. The entrance lines up with the entrance opposite, on Shawnee Lane as approved in the zoning case for the Garnkirk Property. There is a second right-in/right-out as shown on the preliminary plan. The main entrance will ultimately have four lanes and median. Access to the adjoining properties, as required in the zoning case and preliminary plan, is provided.

All the streets are private and are designed in a hierarchy: main thoroughfare, connecting streets, local streets and alleys. In conformance with conditions of the preliminary plan, connecting streets have 30-foot radii at intersection. All streets intersect at right angles. There are no offsets where interior streets intersect alleys. All streets have a, four feet wide sidewalk and a six feet wide tree panel. All radii for intersections that provide for fire access are 25 feet wide, all roads have a paved surface of 20 feet and all parking spaces are 8 feet wide and protected by bump-outs. Sidewalks are provided to the fronts of all units. Lead-in sidewalks are provided along the main entrance. Pedestrian access to the natural area and around the wooded stream buffers (outside the buffer) is provided. A ten-foot-wide bike path (Class I bikeway) is shown along Shawnee Lane.

The Fire Marshal approved the plan for circulation and access for fire safety, see Appendix F.

Staff finds that the vehicular and pedestrian circulation is safe, adequate and efficient.

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

Each structure and use is compatible with other uses. The proposed site plan is compatible with all existing development. No site plans have been approved for any adjoining properties to date.

- (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 site is in the Clarksburg Special Protection Area (SPA) and subject to the Special Protection Area Law and requires a water quality plan. 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 reviewed and conditionally approved the elements of the final water quality plan under their purview in December 21, 2006 (Appendix F). The Planning Board responsibility is

to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied.

The Environmental Planning Staff memorandum, dated January 21, 2007, attached at Appendix G, recommends approval of the final water quality plan and the final forest conservation plan with the following conditions:

- a. Applicant to comply with the final forest conservation conditions of approval.*
- b. Applicant to protect all areas within the environmental buffers and all retained forests with a Category I conservation easement.*
- c. Applicant to reforest unplanted environmental buffers.*
- d. Stormwater management outfall trenches to be field located with M-NCPPC Forest Conservation inspector.*

APPENDICES

- Appendix A: Council Resolution 15-881 Granting PD 11 Zoning
- Appendix B: Certified Development Plan
- Appendix C: Planning Board Opinion Preliminary Plan 120051010
- Appendix D: Minutes from Applicant's meeting with Community
- Appendix E: Affidavit for conformance with Development Plan
- Appendix F: Memoranda from Review Agencies
 - Fire Marshal - 12/16/06
 - Sarah Navid, DPS - 10/10/06
 - Richard Brush, DPS, Water Resources Section- 12/21/06
- Appendix G: Memoranda from MNCPPC Staff
 - Community-Based Planning- 01/08/07
 - Transportation Planning - 06/02/06
 - Environmental Planning – 01/21/07

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: County Council

SUBJECT: APPLICATION NO. G-824 FOR AMENDMENT TO THE ZONING ORDINANCE
MAP, Timothy Dugan, Larry A. Gordon and Gus Bauman, Attorneys for Applicant, Miller
and Smith Land, Inc. OPINION AND RESOLUTION ON APPLICATION
Tax Account No. 02168441

OPINION

Application No. G-824, filed on May 5, 2004, by Applicant Miller and Smith Land, Inc., requests reclassification of a 23.8211-acre parcel of unimproved land ("Eastside") from the R-200 Zone to the PD-11 Zone. The applicant proposes to develop the property with 290 residential units, including 232 stacked ("2 over 2") townhome condominiums and 58 single-family attached (SFA) townhome units. Forty of the units will be Moderately Priced Dwelling Units (MPDU's). The Eastside Property (Part of Liber 15162, Folio 596) includes Parcel P600 and a previously dedicated right-of-way, which are located on the south side of Shawnee Lane, between Gateway Center Drive and MD 355, in Clarksburg.

The application for rezoning was reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) who, in a report dated October 15, 2004, recommended approval. The Montgomery County Planning Board ("Planning Board") considered the application on October 21, 2004 and, by a vote of 4 to 0, also recommended approval, as stated in a memorandum dated October 22, 2004. On November 12, 2004, the Planning Board filed a revised memorandum, indicating its approval of the Preliminary Water Quality Plan (PWQP), as well as its recommended approval of the requested rezoning.

The Clarksburg Civic Association Executive Committee (CCAEC) sent Technical Staff an e-mail stating that it opposed PD-11 rezoning, but no representative of that organization appeared at the hearing. A public hearing was noticed for October 25, 2004, and it proceeded as scheduled. There was no opposition testimony, and no member of the community participated at the hearing. Applicant filed a revised Development Plan (Exhibit 53(d)) on November 8, 2004. No further public comment was received, and the record closed on November 12, 2004.

The subject property is located on the south side of Shawnee Lane, approximately 100 feet east of its intersection with Gateway Center Drive and approximately 2,000 feet west of MD 355, in Clarksburg. It is generally rectangular in shape, and it is approximately 1,650 feet long and 650 feet wide, comprising 1,037,650 square feet (23.8211 acres) of land. That Gross Tract Area to be rezoned includes the current Parcel P.600, which contains 996,188 square feet (22.8693 acres), as well as 41,462 square feet (0.9518 acres) of land previously dedicated to Shawnee Lane. Approximately 0.3411 acres will be dedicated in the future to provide 25 feet of additional right-of-way for Shawnee Lane. The subject property was placed in the R-R Zone during the 1958 Countywide Comprehensive Zoning. In October of 1973, Text Amendment 73013 rezoned the property from the R-R Zone to the R-200 Zone. The 1994 Clarksburg Sectional Map Amendment (G-710) retained the property's R-200 zoning.

The subject property is currently undeveloped. The southern side of the property is densely wooded and is defined by slopes and a stream valley. Two streams converge at this portion of the property and ultimately flow to a tributary of Little Seneca Creek. The property has a frontage of approximately 594 feet on Shawnee Lane and is entirely within the Clarksburg Special Protection Area. Slopes on the subject property are relatively gentle, at an average slope of five percent for the area above the stream confluence; the confluence of the two streams creates a stream valley buffer area of approximately six acres, representing about 26% of the net tract area; and the property is mostly clear pastureland, but includes some scattered

wooded areas with most of the forested area at the confluence of the two streams. Approximately 6.6 acres, or 29% of the net tract area is forested.

The surrounding area is bounded by Clarksburg Road to the north and northwest, I-270 to the west, West Old Baltimore Road to the south and Frederick Road (MD 355) to the east and northeast. This area lies within the 900-acre area that is identified as the Transit Corridor District Study Area in the 1994 Clarksburg Master Plan. The surrounding area is characterized by a large employment facility, LCOR (formerly known as COMSAT/ Lockheed Martin), undeveloped land, schools and related service facilities, and scattered residential uses. Immediately west and northwest of the subject property are the LCOR property and the Gateway 270 Corporate Office Park in the I-3 Zone. To the north across Shawnee Lane are undeveloped parcels of land in the R-200 Zone. The Board of Education Bus Depot abuts the property to the east in the R-200 Zone, and further east are a moving company in the I-3 Zone and the new Clarksburg Area High School in the R-200 Zone. To the south, the subject property abuts undeveloped, mostly wooded area in the I-3 Zone.

Pursuant to Code § 59-D-1.11, development under the PD-11 Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the PD-11 Zone. The Development Plan in the present case includes a land use plan, labeled "Development Plan," that shows the proposed locations of all structures, as well as additional information regarding the planned development, both in diagram and textual form. The Development Plan is binding on the Applicant except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements (*i.e.*, those used in evaluating compatibility and compliance with the zone) cannot be changed without a separate application to the District Council for a development plan amendment.

The binding elements listed by Applicant in this case are as follows:

1. Moderately Priced Dwelling Units

All required MPDUs will be provided on the Property.

2. Road Improvements

The Applicant or its successors or assigns (the "Applicant") will improve or fund the transportation capacity improvement of Shawnee Lane, a County Road, to an arterial standard from Gateway Center Drive to Frederick Road (MD Route 355).

Any additional right-of-way or associated easements necessary for the improvement of Shawnee Lane will be acquired or funded by the Applicant.

3. Connections to Shawnee Lane and Adjoining Properties

Consistent with Clarksburg Master Plan objectives for strong pedestrian and vehicular linkages and accessibility to Transit Stops and throughout the neighborhood, sidewalk and road connections will be provided to: (1) improved Shawnee Lane to the north; (2) LCOR's Comsat property to the west; and (3) the Board of Education's property to the east.

4. Recreational Facilities

All required recreational facilities will be provided on the Property.

5. Forest Conservation

All required forest conservation measures will be provided on the Property.

6. Stream Valley Preservation

With the exception of a possible sewer outfall, the existing wooded stream valley on the Property will be preserved in its entirety.

7. Stormwater Management

With the exception of possible upgrading of the existing stormwater management facility on the Post Office property, all stormwater management facilities will be provided on the Property.

8. Gateway Center Drive and Stringtown Road Extended

At or prior to preliminary plan of subdivision, Applicant shall meet with DPWT and the Technical Staff of M-NCPPC to determine what if any modifications to the intersection at Gateway Center Drive and Stringtown Road are required to meet LATR standards, and Applicant will undertake such changes in accordance with the schedule specified by DPWT and the Technical Staff of M-NCPPC.

Applicant proposes to construct 290 townhome units in the Clarksburg "Transit Corridor District," consistent with the 1994 Clarksburg Master Plan's concept of residential development near a proposed transitway (A-19 Observation Drive). As shown on the Development Plan, the 290 residential units will consist of 232 stacked ("2 over 2") townhome condominiums and 58 single-family attached (SFA) units.

Half of the condominiums units are planned as two bedroom homes and the other half as three bedroom homes. The SFA units will each be owned in fee simple. Seventeen of those units will have front-loading garages, while 41 are designed with rear loading garages. Forty of the condominium units will be Moderately Priced Dwelling Units (MPDU's).

The PD-11 Zone permits a density of 11 units per acre. Applicant's 23.82 acres would thus yield a permitted base density of 262 Dwelling Units (11 per acre x 23.82 acres = 262.02). As shown in the Applicant's "General Notes and Site Data," Applicant seeks a density bonus of an additional 28 units, which is 10.7% above the 262 unit base density. To obtain a density bonus of an extra 28 units, bringing its total density to 290 units, Applicant is required by Montgomery County Code §25A-5(c)(3), to have 13.6% of its units as Moderately Priced Dwelling Units (MPDU's). Applying that factor of 13.6% to the planned 290 units yields a figure of 40 required MPDU's, which Applicant will scatter throughout the development.

Applicant has also committed to dedicating to the public right-of-way, a 25 foot strip of land along Shawnee Lane. This new dedication of 0.3411 acres is depicted in the diagram on the Development Plan, and it is in addition to the prior Shawnee Lane dedication which Applicant references in the "General Notes and Site Data" on the Development Plan. It also calls for 58.5% green space, though only 50% is required for the PD-11 Zone, and 648 parking spaces, though only 522 spaces are required the Zoning Ordinance for the number of dwelling units.

Development is planned in three phases, commencing on the western end of the property, abutting Shawnee Lane. Phase One will consist of 74 "2 over 2" "stacked" condominiums and 17 SFA townhomes. Phase Two, in the middle portion of the property will consist of 104 of the stacked condominiums units and 20 SFA townhomes. Phase Three, toward the eastern end of the property will consist of 54 stacked condominiums and 17 SFA townhomes. Each phase, when complete, will incorporate vehicular and pedestrian circulation systems, and all required utilities, recreational amenities and open spaces.

The Clarksburg Civic Association Executive Committee (CCAEC), in an e-mail to Technical Staff, raised concerns about density of development before the transitway is constructed; the amount of green space which will be provided; the health impact of the nearby school bus depot; the effect of the development on well water; the calculation of MPDU's and the language of certain provisions of the Zoning Ordinance. The CCAEC's critique of the Zoning Ordinance itself cannot be considered in this type of proceeding, and the Council finds that the other concerns raised by CCAEC have been satisfactorily answered by the evidence in this case, as set forth in the Hearing Examiner's report.

The District Council finds that the Development Plan submitted with this application satisfies all the requirements for a development plan under Code §59-D-1.61(a)-(e). Each of the required findings is addressed below.

§59-D-1.61(a): consistency with master plan and other County policies.

The subject site is located within the area governed by the *Clarksburg Master Plan*, approved and adopted in June, 1994. The Master Plan's recommendations for the subject site center around the Plan's proposal for "a comprehensive transit system that will reduce dependence on the automobile." Master Plan, page 22. A significant part of this proposal is a north-south Transitway that "will serve the transportation needs of the residents and workers in the I-270 Corridor north of Shady Grove." The subject property is within "Transit Corridor District" and has a recommended density of 9 to 11 dwelling units per acre, consistent with the PD-11 Zone sought in this case.

The proposed Eastside Development Plan will introduce a number of residential units into an existing employment area within walking distance of two proposed Transit Stops, which is a major goal for the development of this area as envisioned by the Master Plan. It also fulfills the Master Plan objective of improving east-west roadway connections through Binding Elements 2 and 8, which respectively call for Applicant to widen Shawnee Lane to arterial standards and to make any modifications necessary at the

intersection of Stringtown Road and Gateway Center Drive to meet Local Area Transportation Review ("LATR") requirements.

The proposed Transitway will be run just to the east of the subject site, and will have two Transit Stops located between Newcut Road Extended and MD 121 (Clarksburg Road). The center of the subject site is approximately 1,500 feet from the proposed Shawnee Lane Transit Stop to the north and approximately 2,000 feet from the Newcut Road-Extended Transit Stop located to the south.

Near the Newcut Transit Stop, the Master Plan recommends that development should be employment-oriented to serve Comsat. Master Plan, page 54. The Plan also notes that the recommended mix of residential uses at this location will only occur "if vacant land on the Comsat site is developed for residential uses." The Eastside development provides for residential development of a portion of Comsat property, thus satisfying the Plan's objective.

Finally, the Master Plan "[e]ndorses an extensive network of interconnected streets to provide local access within neighborhoods." Master Plan at page 24. As noted by Technical Staff, the Development Plan provides such an interconnected street system through its multiple connections to adjacent properties and its planned pedestrian sidewalk network.

Under the County's Adequate Public Facilities Ordinance ("APFO," Code §50-35(k)), the Planning Board has the responsibility, when it reviews a preliminary plan of subdivision, to assess whether the following public facilities will be adequate to support a proposed development: transportation, schools, water and sewage facilities, and police, fire and health services. While the ultimate test under the APFO is carried out at subdivision review, evidence concerning adequacy of public facilities is relevant to the District Council's determination in a rezoning case as to whether the reclassification would serve the public interest

Pursuant to the 2003-05 Annual Growth Policy (AGP) Policy Element (p.14), "[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated." There is no such evidence in this case, and the District Council finds these services to be adequate.

Under the 2003-05 AGP Policy Element, subdivision applications are subject to LATR requirements. LATR generally involves a traffic study intended to evaluate whether a proposed development would result in unacceptable congestion during the peak hour of the morning and evening peak periods. Technical Staff identified four intersections near the subject site as critical in determining whether Applicant will meet the applicable congestion standard for the Clarksburg Policy Area. Both Technical Staff and Applicant's traffic engineer applied the congestion standard in effect on the date of the application, which was May 5, 2004 (*i.e.*, 1,500 Critical Lane Volume (CLV) in the Clarksburg area). The congestion standard in effect since July 1, 2004 for the Clarksburg area is 1,450 CLV. This distinction does not make a difference in this case because all intersections will meet both standards following roadway modifications to which Applicant has committed in Binding Element 8.

Applying the FY 2004 Annual Growth Policy staging ceiling capacity in effect at the time the application in this case was filed, Technical Staff determined that there was insufficient capacity available for the housing development proposed by Applicant. As of May 31, 2004, there was a negative staging capacity of -5,028 housing units in the Clarksburg Policy Area. The Applicant proposed to widen Shawnee Lane to a four-lane divided arterial roadway from Gateway Center Drive to Frederick Road (MD 355) in order to provide sufficient capacity, and Technical Staff determined that the proposed roadway improvements would provide sufficient staging ceiling capacity to accommodate the proposed development. The District Council finds that both the LATR and the PATR standards have been satisfied.

School capacity is a significant concern in this case because of the size of the proposed development. The subject property is located within the Clarksburg/Damascus Cluster, and it is estimated that the Eastside Development of 290 dwelling units will generate 81 elementary, 27 middle and 31 high school students.

The subject site is served by Clarksburg Elementary School, Rocky Hill Middle School and Damascus High School. Clarksburg Elementary School is projected to remain over capacity for the six year forecast period. Two new elementary schools are scheduled to open, one for the 2006-07 school year (Clarksburg/Damascus Elementary School #7) and the other for the 2009-10 school year (Clarksburg/Damascus Elementary School #8). The opening of these schools is intended to address projected space shortages at Clarksburg Elementary School.

Rocky Hill Middle School is projected to exceed capacity beginning in 2008-2009 school year. The 1994 Master Plan identifies a site for a future middle school located in the Greenway Village Subdivision; however, the school is not yet scheduled for construction. At the high school level, Damascus High School is projected to remain over capacity for the six year forecast period. A new high school, the Clarksburg Area High School, is scheduled to open for the 2006-07 school year. The new school is expected to relieve projected space shortages at Damascus High School.

Applicant produced a chart showing how the timing for construction of new schools will match up with the schedule of construction and occupation of the Eastside project. Based the timing shown in this chart, the testimony of record and the fact that the current Annual Growth Policy schools test finds the school capacity adequate in the Clarksburg Cluster, the District Council concludes that MCPS will be able to handle the increased demand projected from the subject development.

Under the FY 2003-05 AGP Policy Element, p.14, "applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is

presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories I, II, and III)."

Technical Staff reports that public water and sewer serve the general Shawnee Road area. Water category is W-1, and the project site is eligible for sewer service. Based on the record in this case, including the completion of the Crystal Rock Wastewater Pumping Station and associated Force Main, the District Council finds that there will be adequate water and sewer service for the site.

The District Council concludes that the proposed development plan would be in substantial compliance with the use and density indicated in the Master Plan and would not conflict with any other applicable county plan or policy.

§59-D-1.61(b): purposes, standards and regulations of the zone; safety, convenience and amenity of residents; and compatibility with adjacent development.

The requirements for the PD-11 Zone are found in Code §59-C-7.1. PD (Planned Development) zones are a special variety of floating zone with performance specifications integrated into the requirements of the zone. These zones allow considerable design flexibility if the performance specifications are satisfied. The applicant is not bound to rigid design specifications, but may propose site-specific criteria, within the parameters established for the zone, for elements such as setbacks, building heights and types of buildings, all of which must be spelled out on a development plan.

The lengthy purpose clause for the PD-11 Zone (as well as the other PD Zones) is found in Code §59-C-7.11. Generally, it is the purpose of the Zone to implement the general and master plans by permitting "unified development consistent with densities proposed by the master plans." Development in the PD Zones should be "so designed and constructed as to facilitate and encourage a maximum of social and community interaction and activity among those who live and work within an area and to encourage the creation of a distinctive visual character and identity for each development." It is intended to produce a

“coordinated mixture of residential and convenience commercial uses . . . and encourage a broad range of housing types....” It is also a purpose of the PD Zones to take advantage of open space and trees, enabling them to function “as places for relaxation, recreation and social activity.” The purpose clause also encourages large scale developments and creation of “pedestrian circulation networks, separated from vehicular roadways . . . [which will] minimize reliance upon the automobile as a means of transportation.” Finally, it is the purpose of the PD Zones “to achieve a maximum of safety, convenience and amenity for both the residents ... [and their neighbors], and to assure compatibility and coordination of each development with existing and proposed surrounding land uses.”

As discussed above, the proposed development will be in substantial compliance with the 1994 *Clarksburg Master Plan*. Accordingly, the requested reclassification will comply with the first element of the purpose clause by allowing implementation of applicable Master Plan objectives.

Social and community interaction is facilitated and encouraged by the site layout, which provides a large green area in the center of the development and numerous pocket parks throughout. It is also well networked with streets and sidewalks to encourage residents to meet their neighbors while walking. Applicant strives for “unit connectivity of pedestrian and vehicles, access ways between properties, and within the property.” Alley ways and garages are used to keep parked cars off the major streets. Community open space is integrated with the plan and is usually spread throughout the residences instead of just having the one large parkland. There is an extensive pedestrian network and a variety of larger and smaller open spaces, passive outdoor recreation area, green spaces, and a larger green space toward the center of the property where a gathering of community residents could occur. The development is also quite compact, thereby encouraging walking. There will also be a road and promenade fronting on the storm water management basins, thus creating a walking environment and making the storm water management basins a part of the recreational and green space for the public.

The Master Plan recommends the area immediately surrounding the Property to be developed as a mixed-use center. The dominant residential type recommended is multi-family (30%-50%) and single-family attached (40% to 60%) with only 5% to 10% of the residences recommended as single-family detached (Master Plan, page 39). There is some variety in both housing types and kinds of ownership provided in this Development Plan, and the Council finds it likely that other local development will provide the kind of variety sought for the Transit Corridor District as a whole.

Another purpose of the Zone is to preserve and take advantage of trees and to minimize grading. Applicant's plan achieves this goal. The southern portion of the property contains approximately six acres of reforestation and preservation area, with varying topography and vegetation. This area also provides a natural barrier from potential visual and noise intrusion. The Development Plan works very well with the natural features and topography on the site, and thus there will be no need for massive grading. The design of the project has minimized grading to prevent the erosion of the soil and preserve natural vegetation. Almost the entire forest stand on this property is being retained. All of the forest stand within the stream valley buffer is being retained, and there is no grading within that area.

The Purpose Clause also calls for use of open space, "not only for use as setbacks and yards," but also "for the general benefit of the community and public at large." Once again, Applicant has met this objective. The units are oriented in such a manner that the residents would be able to enjoy views into green areas throughout the site, including the stream valley and around the stormwater management basins. Stormwater management basins, in addition to their normal function, are thus utilized as part of the amenity package for the planned community, by creating four small cells separated by berms which will have walking paths and some type of nature exhibits, such as flowering shrubs. A large portion of the development will be green space (58%), and there will be eleven picnic sitting areas and three tot lot areas, as well as larger open play areas in the central open space, which is about 90 feet wide.

The linkages recommended in the Purpose Clause are provided by an extensive sidewalk system that interconnects all the open space areas. There are sidewalks also along the street frontages of the housing units, all of which interconnect the residences to the open space and to Shawnee Lane, where the transit is, so everything will be easily accessible for both recreation and transit. Moreover, with a total of 648 parking spaces (an average of 2.23 spaces per dwelling unit), adequate parking accommodation is provided for residents and visitors. As to safety, Technical Staff concluded that "the proposed access to the site as shown on the development plan [is] safe and adequate . . . [and] that the internal pedestrian circulation and walkways provide for a safe and adequate movements of pedestrian traffic."

With regard to compatibility with neighboring properties, the scale and the magnitude of this development, as well as the style of architecture, will work very well with development, past and present. The *Clarksburg Master Plan* recommends the area immediately surrounding the Property to be developed as a mixed-use center. The dominant residential type recommended is multi-family (30%-50%) and single-family attached (40% to 60%) with only 5% to 10% of the residences recommended as single-family detached (Master Plan, page 39). The *Master Plan* recommends that the LCOR/Comsat site to the west be developed with up to 2.3 million square feet of employment or with up to 4 million square feet of transit-oriented development. (Master Plan, pages 56-57). It recommends R&D, Institutional and residential at a density of 2 to 4 units per acre for the wooded and open vacant land to the south (Master Plan, page 55). The Board of Education's 20 acre school bus depot to the east is recommended for a residential community compatible in density to the subject development. The area immediately north of the subject property is recommended for residential density of 9 to 11 units per acre, and the area further north and east is recommended for 2 to 4 units per acre. (Master Plan page 55). The District Council finds, as did Technical Staff, that the proposed development is designed in a manner that is compatible with and will complement existing and future developments in the immediate area.

Through a combination of architectural, topographical and landscaping features, the proposed development represents retention of sensitive environmental features, a balanced site design and adequate green space, which at the same time create an aesthetically pleasing environment on the subject property. Given the fact that a large portion of the property is within the stream valley and not developable, the proposed design and mix of the residential units appear to be appropriate and desirable for the subject site.

In sum, the proposed development is consistent with the intent and purposes of the PD-11 Zone. We next look to the "standards and regulations" of the PD-11 Zone, which are spelled out in Zoning Code §§59-C-7.12 through 7.18.

Pursuant to Code §59-C-7.121, "no land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which shows such land for a density of 2 dwelling units per acre or higher." The applicable Master Plan, the *1994 Clarksburg Master Plan*, recommends that the subject property be developed under the PD-9 or the PD-11 Zone, which permits up to 11 dwelling units per acre. Accordingly, this provision would be satisfied in this case.

Code §59-C-7.122 specifies several criteria, any one of which may be satisfied to qualify land for reclassification to the PD Zone. Alternative criteria (a) requires that the site "contain sufficient gross area to construct 50 or more dwelling units under the density category to be granted." As noted above, the subject property is recommended for the PD-11 Zone by the Master Plan, and contains 23.82 acres. Thus, the permitted base density equals 262 dwelling units (11 X 23.82). This figure clearly exceeds the 50 dwelling unit minimum under this requirement. Moreover, the development will actually have a total of 290 units because it is allowed a 28 unit bonus based on its inclusion of 40 MPDU's.

Pursuant to Code §59-C-7.131, all types of residential uses are permitted in the PD-11 Zone except those over four stories tall. All the dwelling units proposed by Applicant are four stories, or less, and all are therefore permitted. However, the statute also requires a minimum percentage of townhome-and-attached units (20%) and four-story-or-less, multi-family units (35%). Since 290 units are proposed, 20%

of that number would require 58 townhome-and-attached units, which is the number provided for in the Development Plan. The remainder, 80%, will be four-story-or-less, multi-family units, clearly exceeding the 35% minimum for that type of unit.

Code Sections 59-C-7.132 and 7.133, concern commercial and other uses permitted, but there are no non-residential uses proposed here.

Code Section 59-C-7.14, specifies the permitted density of residential development for the Zone. The Master Plan recommends the PD-11 Zone, which is medium-density category permitting a maximum of 11 dwelling units per acre. As noted above, the base density permitted for the acreage in question is 262 units. However, Code §59-C-7.14(c) permits a bonus density if there is a minimum of 12.5% MPDU's. The subject Development Plan calls for 13.6% MPDU's and a bonus density of 28 units (10.7%). The District Council finds that Applicant's calculation is consistent with the statutory requirements.

Code Section 59-C-7.15, evaluates compatibility. The District Council finds that the proposed development will be compatible with other uses existing or proposed in the vicinity of the planned development, for the reasons set forth above in the discussion of the Zone's Purpose Clause.

Code Section 59-C-7.16, requires 50% green space for the PD-11 Zone. The Development Plan shows 58.5% (13.94 acres) of the subject property in green area, thus exceeding the 50% minimum required under the PD-11 density category.

Code Section 59-C-7.17, requires specification of land to be dedicated for public use. The Development Plan calls for dedication of approximately 0.3411 acres in a 25 foot wide right-of-way on Shawnee Lane. There was a prior dedication of 0.9518 acres to the Shawnee Lane right-of-way.

Code Section 59-C-7.18, requires parking facilities in accordance with Zoning Ordinance §59-E, which calls for 2 parking spaces for each single-family townhome, 1.5 spaces for each multi-family dwelling unit with 2 bedrooms and 2 spaces for each multi-family dwelling unit with 3 bedrooms. The total number of spaces required for this development would be 522. The Development Plan promises a

total of 648 parking spaces (an average of 2.23 spaces per dwelling unit), and it therefore exceeds the statutory requirement.

The next part of "Finding (b)" required by Section 59-D-1.61 is a determination that the proposed development would provide the "maximum safety, convenience, and amenity of the residents." Since this required finding is practically identical with one of the purpose clause requirements for the PD-11 Zone, it has been discussed in that context in this resolution. The District Council finds that Applicant has provided the maximum in safety, convenience and amenities for the future residents of this development.

The final required determination under "Finding (b)" is that the proposed development be compatible with adjacent development. For the reasons discussed above in connection with the Purpose Clause of the PD-11 Zone, the District Council concludes that the proposed residential dwelling units will be compatible with other uses existing or proposed in the vicinity of the planned development.

In sum, the District Council finds that Applicant has complied with all of the purposes, standards and regulations of the PD-11 Zone, as set forth in Article 59-C of the Code.

§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems.

The proposed development will have two access points from Shawnee Lane, one full access and one right-in/right-out only. The full access point is to be located on the eastern edge of the property. It is proposed as a three-lane driveway, one entering and two exiting the site. This access will be reconstructed in the future to have four lanes, two egress and two ingress lanes, when the adjoining school property is developed. The new driveway will be shared between this development and the adjoining development. The safety and adequacy of the access and circulation systems were discussed above in connection with the PD-11 Zone's Purpose Clause. The District Council agrees with Technical Staff's conclusion that the proposed access to the site, as shown on the development plan, is safe and adequate, and the internal pedestrian circulation and walkways provide for a safe and adequate movements of pedestrian traffic.

Accordingly, the District Council concludes that the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.

§59-D-1.61(d): preservation of natural features

Because the subject property is located within the Little Seneca Creek Watershed of the Clarksburg Special Protection Area, it received strict environmental scrutiny by the Planning Board and the Department of Permitting Services (DPS). Its Preliminary Water Quality Plan (PWQP) was approved by both agencies.

Applicant also submitted an approved Natural Resources Inventory and Forest Stand Delineation (Exhibit 34(h)), a revised Concept Grading Plan (Exhibit 36(b)), a revised Concept Water and Sanitary Sewer Plan (Exhibit 36(d)), and a revised Concept Forest Conservation Plan (CFCP-Exhibit 36(e)). The Technical Staff reported no environmental issues warranting denial of this application. Moreover, as mentioned in the discussion of the Purpose Clause, above, the project design has minimized grading to prevent the erosion of the soil and preserve natural vegetation. Almost the entire forest stand on this property is being retained.

The District Council concludes that Applicant has demonstrated the environmental controls required by the Code.

§59-D-1.61(e): common area maintenance.

Applicant is the contract purchaser of the subject property from owner LCOR at Clarksburg, LLC. Applicant will use the same property management company that Applicant uses for maintenance in all of its Communities. Applicant establishes a yearly budget for the property management company and the homeowners association, which includes ongoing maintenance funds such as minor paving repairs, grass cutting, and the placement of landscaping, and it also will include reserve funds for replacement of any physical feature that is worn out over time. Applicant will take steps to ensure that, not only is the year-to-

year and day-to-day maintenance being met, but also long term replacement costs are provided for as well. Draft Homeowners Association Documents and Condominium Documents have also been filed.

The District Council finds that Applicant has sufficiently demonstrated ownership of the property, which it has contracted to purchase, and its commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

The Public Interest

The final finding which is required under Maryland law is that the proposed rezoning will be in the public interest. The proposed development will promote the "health, safety, morals, comfort, and welfare of the inhabitants of the regional district" (i.e., the public interest) by providing the kind of residential development called for in the *1994 Clarksburg Master Plan*, without any adverse effect on public facilities. It will bring residents within walking distance of planned transit stops and local employment options, consistent with the Master Plan. In sum, the proposed rezoning is in the public interest.

For these reasons and because to approve the instant zoning application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.


ACTION

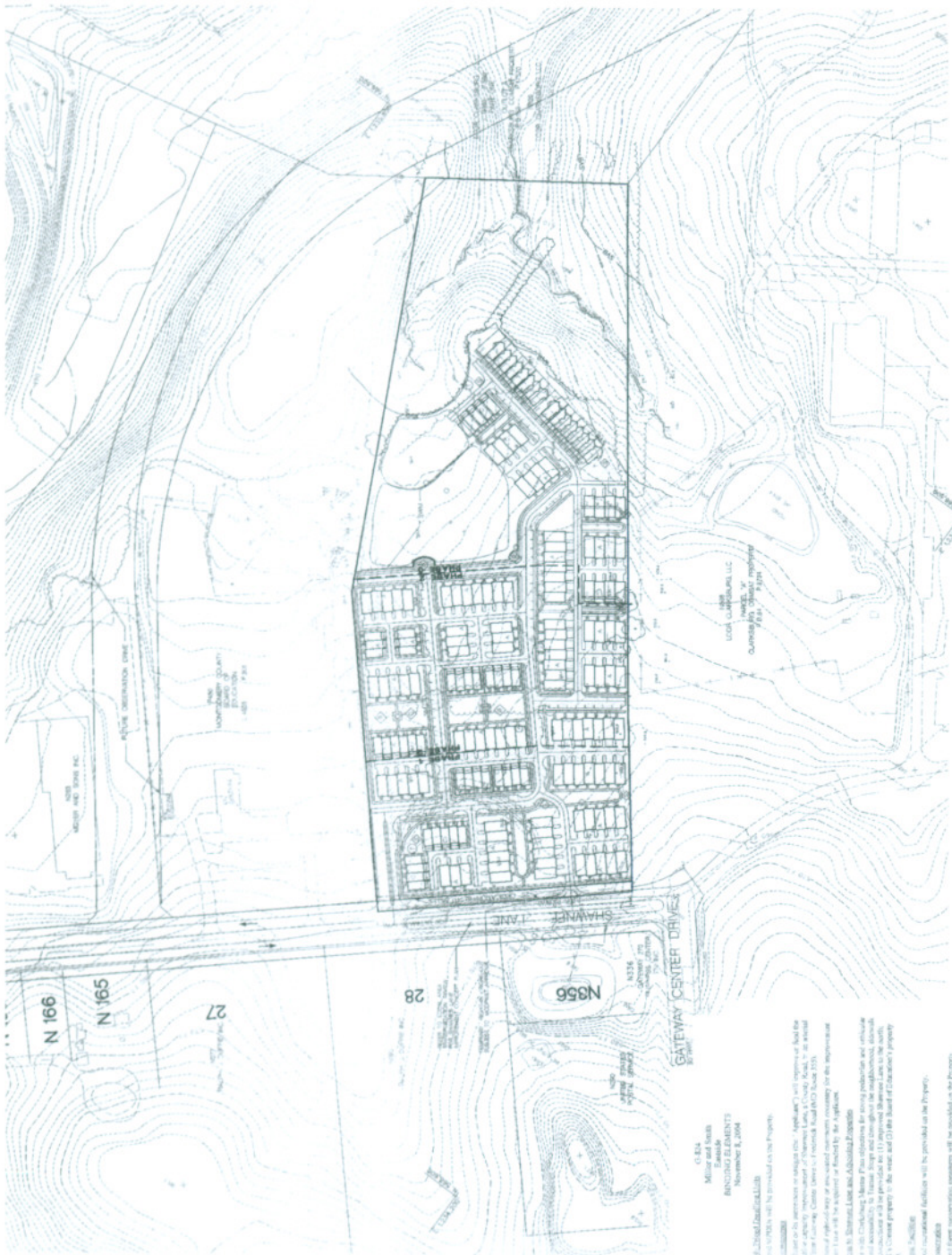
The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-824, requesting reclassification from the R-200 Zone to the PD-11 Zone, of a 23.8211-acre parcel of unimproved land, known as "Eastside" (Part of Liber 15162, Folio 596) including Parcel P600 and a previously dedicated right-of-way, which are located on the south side of Shawnee Lane, between Gateway Center Drive and MD 355, in Clarksburg, is hereby approved in the

amount requested and subject to the specifications and requirements of the revised Development Plan, Exhibit 53(d), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Development Plan approved by the District Council within 10 days of approval, as required under Code §59-D-1.64.

This is a correct copy of Council action.


Elda M. Dodson, CMC
Acting Clerk of the Council



- CONSTRUCTION NOTES AND SPECIFICATIONS:**
1. All construction shall be in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 2. All materials shall be of the highest quality and shall be tested and approved by the Engineer before use.
 3. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 4. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 5. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 6. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 7. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 8. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 9. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.
 10. All work shall be done in accordance with the latest edition of the Maryland State Design Specifications for Highway Construction.

Appendix B - Certified Development Plan

Item	Description	Quantity	Unit
1	Asphalt Paving	10,000	Sq. Yds.
2	Concrete Paving	5,000	Sq. Yds.
3	Gravel Paving	2,000	Sq. Yds.
4	Grass Paving	1,000	Sq. Yds.
5	Water Paving	1,000	Sq. Yds.
6	Electric Paving	1,000	Sq. Yds.
7	Gas Paving	1,000	Sq. Yds.
8	Telephone Paving	1,000	Sq. Yds.
9	Sanitary Paving	1,000	Sq. Yds.
10	Storm Sewer Paving	1,000	Sq. Yds.

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS CERTIFICATION

THIS IS A TRUE COPY OF THE DEVELOPMENT PLAN AS SUBMITTED BY THE APPLICANT TO THE OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS FOR REVIEW AND CERTIFICATION.

APPLICANT: **CLARKE DEVELOPMENT, INC.**

PROJECT: **CLARKE DEVELOPMENT, INC. PROJECT**

DATE: **10/1/2000**

SIGNATURE: *[Signature]*

REPLACES HEARING EXAMINER'S EXHIBIT 52(a)

DEVELOPMENT PLAN

THE EASTSIDE

2ND CLARKE ROAD ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

APPLICANT:

MILLER AND SMITH LANE, INC.
8401 GREENBROOK DRIVE
BETHESDA, MD 20814
Mc LEAN, VA, 22002
ATTN: CHARLES ELLISON

Item	Description	Quantity	Unit
1	Asphalt Paving	10,000	Sq. Yds.
2	Concrete Paving	5,000	Sq. Yds.
3	Gravel Paving	2,000	Sq. Yds.
4	Grass Paving	1,000	Sq. Yds.
5	Water Paving	1,000	Sq. Yds.
6	Electric Paving	1,000	Sq. Yds.
7	Gas Paving	1,000	Sq. Yds.
8	Telephone Paving	1,000	Sq. Yds.
9	Sanitary Paving	1,000	Sq. Yds.
10	Storm Sewer Paving	1,000	Sq. Yds.

Item	Description	Quantity	Unit
1	Asphalt Paving	10,000	Sq. Yds.
2	Concrete Paving	5,000	Sq. Yds.
3	Gravel Paving	2,000	Sq. Yds.
4	Grass Paving	1,000	Sq. Yds.
5	Water Paving	1,000	Sq. Yds.
6	Electric Paving	1,000	Sq. Yds.
7	Gas Paving	1,000	Sq. Yds.
8	Telephone Paving	1,000	Sq. Yds.
9	Sanitary Paving	1,000	Sq. Yds.
10	Storm Sewer Paving	1,000	Sq. Yds.

REPLACEMENT PROGRAM

As part of the development plan, the applicant has agreed to replace any trees removed during construction with new trees of the same or greater size and species. The replacement program shall be completed within 12 months of the completion of construction.

CLARKE DEVELOPMENT, INC.
8401 GREENBROOK DRIVE
BETHESDA, MD 20814
Mc LEAN, VA, 22002
ATTN: CHARLES ELLISON



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING BOARD

Appendix C - Planning Board
Opinion, Preliminary Plan 120051010

Date Mailed: NOV 27 2006

Hearing Date: June 22, 2006

Action: Approved

Staff Recommendation

Motion of Commissioner Bryant, seconded by Chairman Berlage, with a vote of 3-1; Chairman Berlage and Commissioners. Bryant and Robinson voting in favor; Commissioner Wellington voting against; and Commissioner Perdue absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan No. 120051010

NAME OF PLAN: Eastside

NOV 27 2006

The date of this written opinion is _____ (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).

INTRODUCTION

On March 25, 2006, Miller and Smith at Eastside, LLC ("Applicant"), submitted an application for the approval of a preliminary plan of subdivision and preliminary water quality plan for property in the PD-11 zone. The application proposed to create 81 lots and two (2) parcels on 23.82 acres of land located on the southeast side of Shawnee Lane, at the southern terminus of Gateway Center Drive, in the Clarksburg Master Plan Area ("Subject Property"). The application was designated Preliminary Plan No. 120051010 ("Preliminary Plan"). On June 22, 2006, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this 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.

SITE DESCRIPTION

The Subject Property, Parcel 600, is located on the southeast side of Shawnee Lane, at the southern terminus of Gateway Center Drive. The Subject Property contains 23.82 acres and is zoned PD-11. The site is located within the Clarksburg Special Protection Area (SPA) and contains a major stream valley and associated stream valley buffer which drains to Little Seneca Creek.

PREVIOUS ZONING APPROVAL

Rezoning Application No. G-824, adopted on February 1, 2005, rezoned the Subject Property from the R-200 zone to PD-11 for a maximum of 290 residential dwelling units. The rezoning approval contained binding elements which required moderately priced dwelling units; improvement of existing Shawnee Lane to an arterial standard from Gateway Center Drive to Frederick Road (MD 355); onsite connections to Shawnee Lane and adjoining properties; provision of recreational facilities; preservation of the stream valley; provision of stormwater management; and compliance with local area traffic review (LATR).

PROJECT DESCRIPTION

The Preliminary Plan proposes to create 81 lots and two (2) parcels for the construction of a maximum of 285 residential dwelling units, including 39 moderately priced dwelling units (MPDUs). The proposed lots will be served by public water and public sewer. Access to the site will be via private streets from Shawnee Lane.

The Preliminary Plan proposes preservation of the onsite stream and associated buffer in a green space that encompasses the southeastern portion of the site. The stormwater management facility, which includes an extended-detention pond and several pre-treatment structures, abuts the green space. The proposed layout and unit

mix reflects the approved development plan and provides various open spaces and amenities which will be further reviewed as part of the required site plan.

MASTER PLAN COMPLIANCE

The Clarksburg Master Plan recommends residential uses in designated areas near employment uses and along the transitway. The Preliminary Plan is consistent with the master plan in that it proposes housing adjacent to existing employment uses and property which is the future site for transit services. The plan also reflects the master plan's goals to maximize density, including MPDUs; improve east-west connections and provide an interconnected street system that facilitates pedestrian and transit usage; and provide open space that accommodates recreational needs.

TRANSPORTATION

Site Access, Vehicular, and Pedestrian Circulation

The proposed Eastside development will gain access via two points on Shawnee Lane, one full access and one right-in/right-out only. The full access point is to be located at the northeastern corner of the Subject Property. It is proposed to be three lanes, one entering, and two exiting the site.

The proposed access to the site as shown on the development plan is safe and adequate. The internal pedestrian circulation and walkways will provide for a safe and adequate movement of pedestrian traffic.

Local Area Transportation Review

Four local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,450 Critical Lane Volume (CLV) for the Clarksburg Policy Area. The proposed development trips were added to the existing and the background traffic (trips generated from approved but unbuilt developments) to determine the total future traffic. The total future traffic was assigned to the critical intersections to calculate the total future CLVs.

All existing intersections analyzed are currently operating at acceptable 1,450 CLVs. Under the background development condition, the intersection of Clarksburg Road (MD 121) and Gateway Center Drive (becomes Gateway Center Drive/Stringtown Road Extended under the background and total development conditions), exceeds the acceptable congestion standard of 1,450 CLV during the PM peak hour. Under the total development condition, the congestion at this intersection further deteriorates and must be improved. The Applicant proposed to reconfigure the exclusive northbound through lane on Gateway Center Drive as a second exclusive northbound left-turn lane. The through volumes would then share the right-turn lane. This intersection improvement

results in mitigating the site-generated trips. Upon implementation of all required roadway improvements, the Gateway Center Drive/Stringtown Road Extended (MD 121) intersection will operate within the acceptable level of congestion, which is 1,450 CLV.

Policy Area Transportation Review

The zoning application for this property was submitted and reviewed prior to changes in the Annual Growth Policy laws requiring the developments to satisfy staging ceiling capacity. Based on the FY 2004 Annual Growth Policy staging ceiling capacity, there was insufficient capacity available for the housing development (-5,028 housing units as of May 31, 2004, the date this zoning application was filed) in the Clarksburg Policy Area. The Applicant had proposed to widen Shawnee Lane to a four-lane divided arterial roadway from Gateway Center Drive to Frederick Road (MD 355) to satisfy staging ceiling capacity and, therefore, the Applicant is bound by those requirements. The proposed roadway improvements will provide sufficient staging ceiling capacity to accommodate the proposed development.

Access Via Private Streets and Waiver of Lot Frontage on Public Street

Section 50-29(a)(2) of the Subdivision Regulations states that individually recorded lots shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road. Multifamily and condominium units which are not located on individually recorded lots, may abut a private street or right-of-way. The proposed subdivision includes a combination of streets and alleys/driveways, none of which will be dedicated to public use. Therefore, staff determined that a finding needed to be made that all the individually recorded lots abut at least one street that can otherwise attain the status of a public road. Staff further determined that this finding must be based upon the proposed roads being: fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way and pavement widths.

Staff found that the proposed streets which provide frontage to individually recorded lots can meet the minimum standards necessary to make the finding that they have the status of a public road, with one exception. These standards include: minimum pavement widths and turning radii; appropriate circulation pattern and terminus; adequate parking design; and sidewalks with minimum tree panels. These standards also apply to proposed alleys/driveways since they provide fire access and the only frontage for some of the proposed condominium lots. A public use easement should be recorded over all the roads, including alleys/driveways.

The exception is proposed townhouse Lots 152-155, which abut an alley/driveway which does not attain the status of a public road since it does not provide appropriate circulation or terminus. Since this alley/driveway is the only frontage

provided for the lots, a waiver of Section 50-29(a)(2) is needed to permit the proposed configuration. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements.

The Applicant's proposed plan reflects the general layout and road network that was reviewed by the Planning Board and the District Council as part of the development plan approved with the rezoning of the Subject Property. The layout was designed to meet master plan goals for density near proposed transit, and creation of a neighborhood that incorporates the general principles of neo-traditional design such as, a hierarchy of streets, including a series of alleyways, with a mix of housing types and densities, and green areas dispersed throughout. The configuration of the lots for which this waiver is necessary does facilitate the creation of internal green spaces between the units.

Staff found that a waiver of the lot frontage requirement is justified where it can be found that it supports the desired design principles for the subdivision. This waiver is justified in that the proposed neo-traditional neighborhood design best implements the intent of the Clarksburg Master Plan, particularly with regard to integrating green space throughout the development. The requested waiver facilitates the replacement of certain roads with green spaces that reduces the amount of paving in the development, and creates visible open areas and gathering spaces for the community. The Montgomery County Fire and Rescue Service (MCFRS) has reviewed the proposed alley for fire access to the lots and determined that all the houses will be adequately served. For these reasons, Staff recommended a waiver of the frontage requirement for proposed Lots 152-155. In Staff's opinion, the waiver is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

ENVIRONMENTAL COMPLIANCE

Environmental Guidelines

The Applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) to M-NCPPC for review and approval. Environmental Planning staff approved NRI/FSD 4-05096 on October 28, 2004. The NRI/FSD indicates 6.43 acres of existing forest, 5.4 acres of environmental buffers, and no wetlands or floodplains. The only slopes greater than 15 percent are located within the environmental buffers. A first order stream diagonally crosses the back quarter of the Subject Property. The forest is concentrated in the back third of the site. The environmental buffers are forested except for 0.22-acres, which will be forested per the environmental guidelines. The only encroachment into the environmental buffers is for a natural surface trail and necessary stormwater management conveyances. There are no stormwater management facilities or drywells proposed for the environmental buffer. All environmental buffers will be included in a Category I forest conservation easement.

Forest Conservation

The Applicant submitted a preliminary forest conservation plan with the Preliminary Plan. There is 6.43 acres of existing forest on the Subject Property. The Applicant is proposing to remove 0.95 acres, retain 5.48 acres, and plant 0.22 acres of unforested stream buffer. Since the Applicant proposes to develop this site as a planned unit development it must comply with Section 22A-12(f) of the Montgomery County Code. This section requires planned unit developments to meet the appropriate forest conservation threshold on site. The Applicant will meet the requirements of Section 22A-12(f) and all forest conservation requirements through forest retention on the Subject Property. In addition, the Applicant will plant the unforested portion of the site, as per the Environmental Guidelines.

Stormwater Management/Water Quality Plan

As part of the water quality plan the following site performance goals were established:

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

To help meet the performance goals, the water quality control for this site will be provided via an extended detention pond. This structure will provide channel protection volume for the one-year storm with a maximum detention time of 12 hours, per state standards. Quality control will be provided via a combination of structural and non-structural measures that include dry wells, surface sand filters, dry swales and water quality inlets.

ADEQUATE PUBLIC FACILITIES VALIDITY PERIOD

Pursuant to Section 50-20(c)(3) of the Subdivision Regulations, a determination of adequate public facilities made under this section of the regulations is timely and remains valid for no less than 5 and no more than 12 years, as determined by the Planning Board at the time of subdivision, for projects approved on or after October 19, 1999. The Applicant requested a 6-year adequate public facilities ("APF") validity period. Staff recommended granting the Applicant's request because, pursuant to the binding elements of the development plan, the Applicant is required to acquire or fund the

County acquisition of right-of-way from 19 properties for the widening of Shawnee Lane. Since the Applicant is required to make a good faith effort to acquire right-of-way and temporary easements from property owners prior to the County exercising its condemnation authority, the additional time required for the Applicant to attempt acquisition, and the County to go through the condemnation process, supports the request for a six-year APF validity.

PRELIMINARY PLAN PHASING

The Applicant also requested permission to record the proposed lots in phases which correspond to the extended validity period for the APF. Section 50-35(h)(2)(b) of the Subdivision Regulations gives the Planning Board authority to establish such phasing at the time of the preliminary plan approval. Staff recommended approval of the Applicant's proposed phasing schedule.

STAFF RECOMMENDATION

In accordance with Staff's findings and conclusions as set forth above, Staff recommended approval of the Preliminary Plan subject to conditions.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies¹; the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, based on the findings and conclusions of Staff as set forth above and with the conditions of approval, that:

- a) Preliminary Plan No. 12005101 substantially conforms to the Clarksburg Master.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision. The Planning Board hereby approves the waiver of Section 50-29(a)(2) requiring frontage along a public street for Lots 152-155 and hereby adopts the Staff's findings and recommendations on this issue as set forth above.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. At the time of site plan review, the Planning

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

Board will review in more detail the amount and location of green space provided for the development.

At the hearing, Commissioner Wellington expressed her concern about public safety and parking enforcement due to the use of private streets throughout the proposed development. Other Boardmembers found that the Preliminary Plan conforms to the approved development plan and stressed the development's proximity to the future transit center as support for the proposed density and layout of the development but noted that, at site plan, the Planning Board would be looking closely at the amount and location of the green space being provided and that the Applicant may not be able to accommodate the maximum of 285 units on the site.

- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The application satisfies all the applicable requirements of Montgomery County Code Chapter 19, Article V (Water Quality Review in Special Protection Areas).

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120051010 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50 and Chapter 59, the Planning Board approves Preliminary Plan No. 120051010, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 81 lots and 2 parcels for 285 residential dwelling units, including 39 MPDUs.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 3) Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation.
- 4) Compliance with conditions of approval for Rezoning Case G-824.

- 5) The Applicant shall dedicate and/or acquire 120 feet of right-of-way for Shawnee Lane from Gateway Center Drive to Frederick Road (MD 355), and construct Shawnee Lane to a four-lane divided arterial roadway. Any additional right-of-way or associated easements necessary for construction of Shawnee Lane will be acquired or funded by the Applicant. The Applicant must acquire or fund the cost of condemnation by Montgomery County Department of Public Works and Transportation (DPWT) for all necessary right-of-way for the entire length of Shawnee Lane prior to issuance of the building permit for the 91st dwelling unit. Construction of Shawnee Lane shall be complete and open to traffic prior to issuance of building permit for the 201st dwelling unit.
- 6) The Applicant shall provide the following improvements at the intersection of Stringtown Road Extended and Gateway Center Drive prior to the issuance of the building permit for the 91st dwelling unit:
 - a. Exclusive dual northbound left turn lanes on Gateway Center Drive, by redesignating one exclusive northbound through lane as an exclusive left turn lane with particular design requirements to be approved by DPWT.
 - b. The third lane on the northbound movement on Gateway Center Drive will be designated as a shared through and right turn lane.
 - c. The Applicant is responsible for all changes required to the traffic signal system as a result of the change in lane configuration at this location.
- 7) The Applicant shall widen the northeastern site access points from Shawnee Lane to a total of 52 feet wide to provide for 22-foot wide in-bound and out-bound lanes and an eight-foot median, prior to redevelopment of the adjoining MCPS property. The egress lanes will be further widened to 26 feet when development of the adjoining school bus depot occurs. The landscaping on the east side of the driveway shall be replaced if the widening of the outbound lanes to 26 feet results in changes in the landscaping at this location.
- 8) The Applicant shall provide a five-foot wide lead-in sidewalk from Shawnee Lane at or near the northwestern site access point.
- 9) The Applicant shall provide a Class I, shared-use path along the south side of Shawnee Lane and extend it to the future intersection with Gateway Center Drive. This improvement shall be complete prior to issuance of building permit for the 201st dwelling unit.
- 10) The Applicant shall provide crosswalks at the following locations:

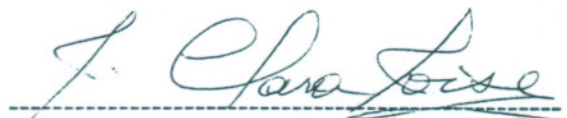
- a. Perpendicular across the internal roadway at the two locations of the three-way handicapped ramps for Phase I, Areas A and C, and for Phase 3, Areas A and B.
 - b. Across the temporary northwestern site access point parallel to Shawnee Lane
- 11) Final approval of the number and location of buildings, dwelling units, MPDUs, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 12) No clearing, grading or recording of plats prior to certified site plan approval.
- 13) The site plan shall reflect the following design standards with respect to proposed roads, including the alleys/driveways:
- a. All roads shall be built to the structural standards of a tertiary road.
 - b. All roads must have a paved surface a minimum of 20 feet wide, exclusive of parking.
 - c. On-street parallel parking must be 8 feet wide and protected by bump-outs, especially at all intersections.
 - d. The radii at intersections for through streets to adjacent properties must be at least 30 feet.
 - e. The radii at intersections for interior streets and alleys/driveways that serve as fire access must be at least 25 feet.
 - f. All sidewalks shall be 4 feet wide with a 6-foot minimum tree panel.
- 14) Record plat to reflect public use, common ingress/egress and utility easements over all roads and alleys/driveways.
- 15) Record plat shall reflect all areas under Homeowners Association and stormwater management parcels.
- 16) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission Staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 17) Access and improvements as required to be approved by the Maryland State Highway Administration (SHA) prior to issuance of access permits.
- 18) Compliance with conditions of DPWT letter dated May 9, 2006, unless otherwise amended.

- 19) Compliance with the conditions of the MCDPS stormwater management and preliminary water quality approval dated October 15, 2004.
- 20) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for seventy-two (72) months from the date of mailing of the Planning Board opinion.
- 21) This preliminary plan will remain valid for 72 months from the date of mailing of the Planning Board opinion. Record plats shall be recorded in phases based on the following schedule:
 - Phase 1: 90 dwelling units within 36 months (3 years) from the date of mailing of the Planning Board opinion;
 - Phase 2: 119 additional dwelling units within 60 months (5 years) from the date of mailing of the Planning Board opinion
 - Phase 3: the remaining 76 dwelling units within 72 months (6 years) from the date of mailing of the Planning Board opinion.
- 22) Other necessary easements.

* * * * *

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday November 2, 2006, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Bryant seconded by Commissioner Robinson, by a vote of 5-0, with Commissioners Hanson, Perdue, Bryant, Wellington, and Robinson present, 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. 120051010, Eastside.



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



8401
Greensboro Drive
Suite 300
McLean, Virginia
22102

703-821-2500
Fax:
703-821-2040

www.millerandsmith.com

January 10, 2007

Ms. Piera Weiss
Planner Coordinator
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, MD 20910

Regarding: Meeting Summary - Clarksburg Civic Association Planning
Committee - Eastside Site Plan

Dear Ms. Weiss,

Chuck Ellison and Bob Spalding of Miller and Smith attended the Clarksburg Civic Association (CCA) Planning Committee on November 13, 2006 to provide an update on changes to the Eastside Site Plan (8-20050380).

A copy of the draft minutes prepared by CCA and the attendance list are attached for your files.

Individual members of the Planning Committee and audience asked questions but no formal positions were taken by the Committee. The following list was prepared by Miller and Smith to summarize the issues raised at the meeting and to provide the current *status* for each issue.

Issues:

1. Is the Fire Department access adequate? *The plan has been approved by Fire and Rescue Services.*
2. There was a concern that Woodward Road is too narrow (36') for parked cars on both sides. *The cross section provides two 8-foot wide parking lanes that are protected by bump-outs and a 20-foot wide travelway. The width meets County standards with additional protection of parked cars provided by bump-outs.*
3. Who would enforce parking standards? *The HOA/Condo Association will be responsible for parking enforcement.*

4. Will the alleys have landscaping? *The alleys behind the multifamily residences will have landscaping in the medians between the parking areas and at the ends of the alleys supplemented by walls or fencing. The alleys for the rear garage townhomes have landscaping at the ends of the alleys.*
5. Will lead walks be brick? *The lead walks and sidewalks are concrete.*
6. Can the end units on the multifamily residences have side entrances have side entrances? *We previously investigated having side entrances but, did not find a satisfactory interior layout with side entrances*
7. Can the tot lot have swings? *The minimum area required for swings would reduce the number of other opportunities on the tot lot equipment.*
8. What landscaping is included in the Stormwater Management facility? *The landscape plan includes trees, shrubs and a wetland seed mix of native species.*
9. How will mail be delivered? *Cluster mailboxes are located in several locations and need to be approved by the United States Postal Service.*
10. Will there be a bike lane on Shawnee Lane to connect to MD355? *Yes, Miller and Smith will construct it as part of the required widening of Shawnee Lane.*
11. What materials will the fence along Shawnee Lane me made from? *The fence will be metal with a brick wall and columns.*
12. Conflicting preferences were voiced regarding the lighting – one individual wanted the lights used in the Clarksburg Town Center and another wanted cut-off light fixtures. *The proposed light is an acorn post top with a fluted pole.*

Please let me know if you have any questions or require additional information during your review.

Sincerely,



Robert J. Spalding, AICP

Attachment:
Clarksburg Civic Association Draft Meeting Notes

cc: Kathie Hulley
Kim Shiley

Draft Planning Meeting Notes

Planning Meeting November 13, 2006

2006/2007 Chair: Kathie Hulley (baines2005@verizon.net 301-972-4724)

Other CCA-PC regulars: Paul Majewski, Joe and Janette Laban, Kim Shiley, Lynn Fantle, ...

Other CCA members:

Guests: Kate Kubic (sp?) Elm St.; Les Powell; Jan Danaceck, Bob Spalding (Miller & Smith)

Nellie Maskal, Jennifer Russel

Meeting started at 7pm. at the MC Correctional Facility on Whelan Lane

After a discussion on Greenway Village -

Bob Spalding gave an update on plans for Eastside.

enlarged mews; shifted some units; the county wants the street near Gateway Center Drive to be closed, ie to not open to Shawnee.

- Prelim plan had 285 units; now 265.
- 36 MFUs dropped to 20 townhouses.
- Now 190 SFU, 75 THs (2 over 2's and "magic" units that have a 22' front but 24'x24' living room.
- Woodward road is 36' w parking on both sides (Joe L said that is tight).
- Increased width of street (reviewed by Fire Dept.)
- Bump outs protect things;
- Private Roads - H.O.A. can ticket.
- Bend taken out. Minimum turning radius; had met it before; improved.
- Subdivision ... waiver
- The eight 2 over 2's have now been reduced to 5.
- Kim: Alley way green space? Trees need space.
- Bob Spalding: Curb-around? Yes. Plants that do well in hot and dry due to driveway.
- 2 over 2 side entrances; utility rooms to combine.
- Kim: Apron bricking? A: Bring sidewalk scattered ... 3 sides brick.
- Dry pond will have a variety of grasses. Someone said flowers.
- Tot lots; Mailboxes scattered - clustering is good.
- Kathie H: P.O thought they would get more central delivery of mail
- Bike lane to 355; west side has sidewalk ... natural trail for walking.
- Grasscrete (vinyl rings better than brick - more root area)
- Fences would be black metal.
- Cooper's lighting used - acorn shaped. Hagerstown lighting is in streetscape plan.
- Screening alley with a wall.

AFFIDAVIT

I, Robert J. Spalding, employed at 8401 Greensboro Drive, Suite 300, McLean, Virginia 22102, and representing Miller and Smith at Eastside, L.L.C. do solemnly, sincerely and truly affirm and declare that to the best of my professional knowledge, the Eastside Site Plan (8-20050380) conforms to the non-illustrative elements of the approved Development Plan (G-824) as required in Section 59-D3.3 of the Montgomery County Zoning Ordinance.


Robert J. Spalding, AICP

Sworn and subscribed before me at McLean,
Virginia this the tenth day of January, 2007.


Notary Public

My Commission expires: 8/31/2010



Appendix F - Memoranda
from Agency Staff

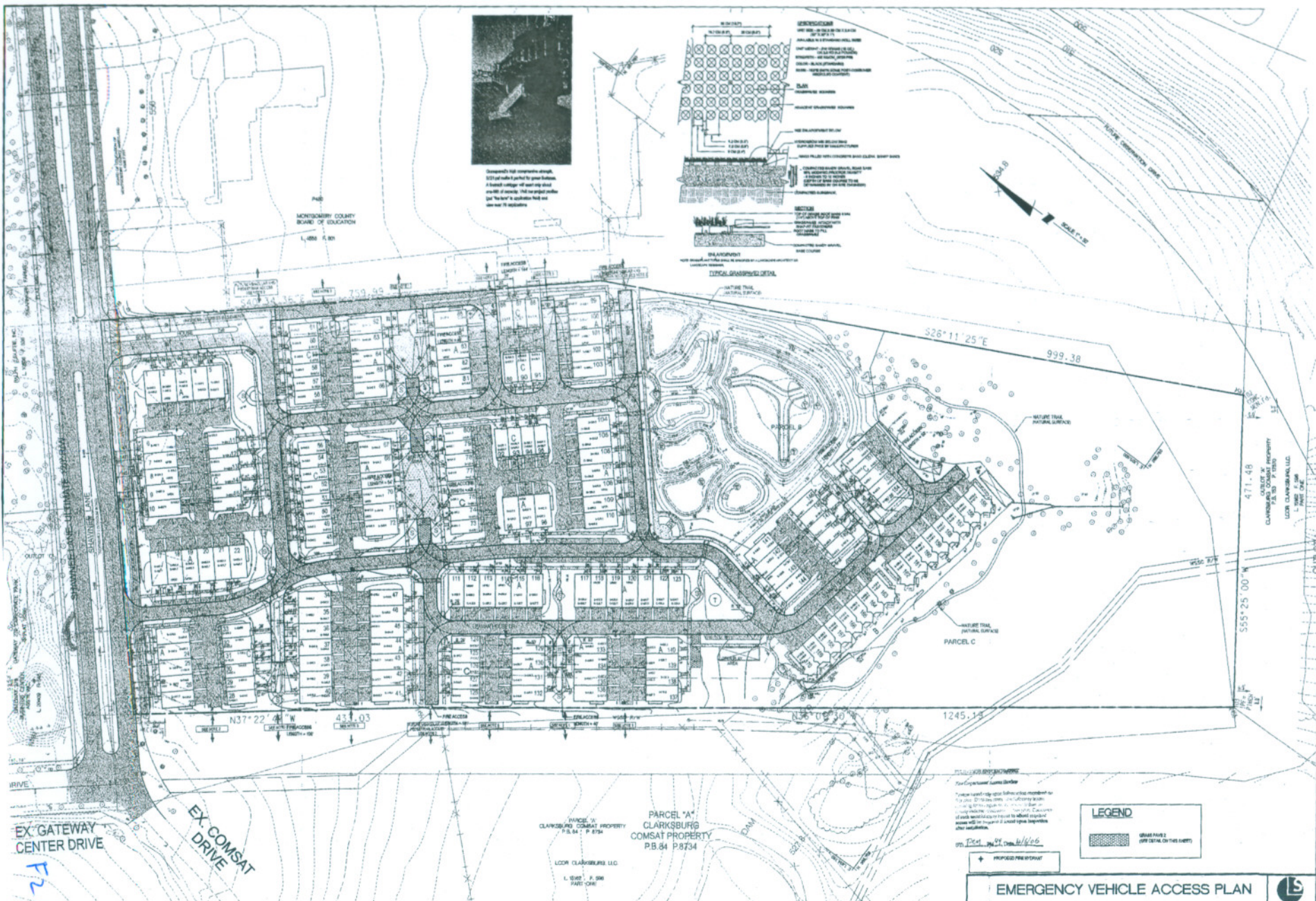


FIRE MARSHAL COMMENTS

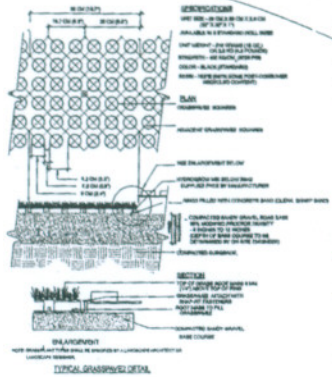
DATE: 12/6/06
TO: PLANNING BOARD, MONTGOMERY COUNTY
FROM: TYLER MOSMAN 240-876-1896
RE: EASTSIDE 1-20051010

PLAN APPROVED provided the following conditions are met:

1. A traffic order establishing a fire lane must be in place prior to occupancy of any part of this community.
-
1. Review based only upon information contained on the plan submitted 9-26-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
 2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



Topographic map showing the site area. The map is a 1:10,000 scale map of the site area. The map shows the site area and the surrounding area. The map is a 1:10,000 scale map of the site area. The map shows the site area and the surrounding area.



EX GATEWAY CENTER DRIVE
EX COMSAT DRIVE

PARCEL "A"
CLARKSBURG COMSAT PROPERTY
P.B. 84 P. 8734
LOC. CLARKSBURG, LLC
L. 5187 P. 596
PAGE ONE

PROPOSED PAVING
PROPOSED PAVING

LEGEND
GRAY PAVE 2
(SEE DETAIL ON THIS SHEET)

EMERGENCY VEHICLE ACCESS PLAN

FINAL SITE PLAN - #820050380
EASTSIDE

Rockville
Location
Proposed
Water
Location
City

NO.	DESCRIPTION	DATE	BY	CHKD.
1	UPDATED SITE PLAN FOR SUBMITTAL	02/01/2010	KL	KL

APPLICANT
MILLER AND SMITH AT EASTSIDE, LLC
8401 GREENSBORO DRIVE, SUITE 300
MCLEAN, VIRGINIA 22102
ATTENTION: KELLY DRUM

MISS UTILITY NOTE
ALL UTILITIES SHOWN ARE BASED ON THE LATEST AVAILABLE RECORDS AND FIELD SURVEY. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS NOTED THE PRESENCE OF UTILITIES. THE ENGINEER HAS NOTED THE PRESENCE OF UTILITIES. THE ENGINEER HAS NOTED THE PRESENCE OF UTILITIES.

Weiss, Piera

From: Navid, Sarah [Sarah.Navid@montgomerycountymd.gov]
Sent: Tuesday, October 10, 2006 10:48 AM
To: Weiss, Piera
Cc: Ed Wallington; Spalding, Bob; Larry Gordon; Farhadi, Sam; Cheung, Joseph; Mangum, Bruce; kdrumm@millersandsmit.com
Subject: Eastside Site Plan 8-05038

Piera,

We have reviewed the site plan dated September 2006 and have the following comments that supplement those provided by DPWT in their preliminary plan letter of May 9, 2006 to Cathy Conlon.

- Shawnee Lane - The roadway geometrics will be reviewed at permit plan review. This will include left turn lanes, medians, curb ramps and the design of the intersection at Gateway Center Drive and at MD 355. Peak hour traffic volume projections will be required to determine left turn storage lengths and intersection design. The applicant will be responsible for providing conduit and handboxes for interconnect cable and fiber per requirements of the Traffic Engineering and Operations Section, DPWT.
- The curb ramps as shown are inconsistently located and designed and many do not meet ADA requirements. The applicant should refer to the December 2005, SHA "Accessibility Policy & Guidelines for Pedestrian Facilities along State Highways" for appropriate design requirements. These guidelines are applicable for all public/private streets, not just state highways.
- The "back-up" area at the end of the alleys should be at least 6 feet long.

Thank you for the opportunity to comment on this plan.

Sarah Navid

Right-of-Way Permitting & Plan Review
Department of Permitting Services
tel. 240-777-6304
fax 240-777-6339

10/11/2006

F3



Letter of WQP Conditional
Approval from DPS, 12/21/06
(4 pages)

DEPARTMENT OF PERMITTING SE

Isiah Leggett
County Executive

December 21, 2006

Shahriar Amiri
Acting Director

Mr. Edward Wallington
Loiederman Soltesz Associates, Inc.
2 Research Place, Suite 100
Rockville, Maryland 20850

Re: **Final Water Quality Plan for Eastside**
SM File #: 214128
Tract Size/Zone: 23.8Ac/PD-11Proposed
Tax Plate: EV 43
Parcels: P600
Montg. Co. Grid: 9D07
Watershed: Little Seneca Creek

SPECIAL PROTECTION AREA

Dear Mr. Wallington:

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 is located at the intersection of Gateway Center Drive and Shawnee Lane. This proposal is for a multifamily and townhouse development with a zoning of PD-11. This is located within the Little Seneca Creek watershed of the Clarksburg Special Protection Area.

Stormwater Management: Water quantity control for this site will be provided via an extended detention dry pond. This structure will provide channel protection volume for the one-year storm with a maximum detention time of 24 hours per state standards. Quality control will be provided via a combination of structures that includes recharge structures, structural sand filters, surface sand filters in series, and water quality inlets. Since open section roads will not be feasible due to the proposed zoning of the site, additional water quality volume will be provided in the proposed water quality and recharge structures. Areas that are intended for vehicular use are to be pretreated prior to entering any water quality structures. The primary water quality structures must be sized to treat a minimum of one-inch over the proposed impervious area with additional volume (1/4" over the impervious area) provided for open section offset.

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 sediment traps with. The total storage volume is to be 125% of the normally required volume. 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, the use of flocculants, compost material or other measures to increase the effectiveness of sediment removal may be required in the detailed sediment control plan. The following features are to be incorporated into the detailed sediment control plan:



1. The earth dikes that feed the sediment traps are to be constructed using trapezoidal channels to reduce flow rates.
2. 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 and Final Water Quality Plans. They are as follows:

1. Maintain the natural on-site stream channels.
2. Minimize storm flow run off increases.
3. Minimize increases to ambient water temperatures.
4. Minimize sediment loading.
5. Maintain stream base flows.
6. Protect springs, seeps, and wetlands.
7. Minimize nutrient loading.
8. 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 pre-construction monitoring requirements that were established at the pre-application meeting and further described in the Preliminary Water Quality Plan are still applicable. The construction and post construction monitoring requirements are described in the "Attachment to the Preliminary Water Quality Plan" memorandum by DEP dated September 24, 2004 and included with the Preliminary Water Quality Plan approval letter.

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 are additional conditions which must be addressed in the initial submission of a 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 subsequent plan reviews:

1. Provide clear access to all stormwater management structures from a public right-of-way.
2. The storage depth over surface sand filters is not to exceed two feet without hazard signage or four feet with hazard signage.
3. 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.
4. 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.
5. Provide level spreaders and/or plunge pools at the quantity pond outfall. Also, all outfalls are to be located at non-erosive (down slope) areas. This may require additional stream valley buffer encroachment and MNCPPC approval.
6. The proposed dry pond will need to have a pond drain due to the small low flow opening coupled with the relatively deep ponding depth to the riser weir crest.
7. Due to perched water in some of the soil borings drain tile may be required for the proposed dry pond.
8. 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 must be submitted as part of the Final Water Quality. The final document is to be submitted prior to bond release.
9. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
10. Stormwater structures are to be located in common areas (not on private lots).
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.
12. All of the buildings are to be slab on grade. If the buildings are not slab on grade all of the recharge structures must be a minimum of 20' from building foundations.
13. Verification from the adjacent property owner must be provided that will allow the offsite pond to be converted to a quality control structure. Details of this conversion and the piping of the quantity flows to the proposed Cpv structure need to be included in the initial submittal of the detailed sediment control plan.

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.

Edward Wallington
December 21, 2006
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:dpm:CN214128

cc: C. Conlon (MNCPPC-DR)
M. Pfefferte (MNCPPC-ED)
M. Sommerfield (MCDEP)
L. Galanko
SM File # 214128

Qn: on-site 23.8 ac
Ql: on-site 23.8 ac.
Recharge Provided

Appendix G - Memoranda
from MNCPPC Staff



January 8, 2007

MEMORANDUM

TO: Piera Weiss, Planner Coordinator
Community-Based Planning Division

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

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

SUBJECT: Site Plan No. 82005038 (Eastside); Located on the south side of Shawnee Lane near Gateway Center Drive in the Clarksburg Master Plan Area

MASTER PLAN CONFORMANCE

- Creates a viable neighborhood within the Transit Corridor District.
- Conforms to the recommended density of 11 dwelling units per acre with bonus MPDU's supporting transit.
- Improves east-west connections with dedicating and constructing Shawnee Lane.
- Creates an interconnected street system that encourages walking and transit ridership by providing street and pedestrian connections to adjacent properties.
- Provides an open space system that accommodates recreational needs and creates vistas to the stream valley areas that will be treated as scenic features.
- Does not attain the range of unit types within this project, as called for in the Master Plan. A range of unit types can be achieved within the entire Transit Corridor District.

BACKGROUND

The subject 23.8-acre property is located south on Shawnee Lane between MD 355 and Gateway Center Drive. It is located adjacent to the LCOR (COMSAT) property and the 20-acre Montgomery County Public Schools (MCPS) Bus Depot property. Gateway 270 Office Park and several scattered single-family detached dwelling units are located nearby. Located directly across from the property is the 37-acre Garnkirk Farms property, which was reclassified to the PD-11 Zone in October 2005 to allow for a mixed-use residential community of 408 homes.

In February 2005, the subject property was reclassified from the R-200 Zone to the PD-11 Zone to allow the parcel to develop with 290 units: 232 two-over-two multi-family units, 42 rear-load garage townhouses, and 16 front-loaded garage townhouses.

In June 2006, the Planning Board approved a preliminary plan for a total of 285 single-family attached and multi-family dwellings for the subject property. The proposed site plan has a reduction in the original number of dwelling units from 285 to 265 of which 190 are two-over-two multi-family units and 75 are townhouse units.

RELATIONSHIP TO THE CLARKSBURG MASTER PLAN

Land Use Plan Recommendations

The subject property is located within the Transit Corridor District of the 1994 Clarksburg Master Plan Area. See Figure 1. 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 in this District is to maintain and continue this residential character while addressing the need for increased traffic capacity along MD 355.

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

A mixed-use neighborhood is proposed at the north most transit stop (Shawnee Lane) where there is a pending site plan amendment for the 45-acre Gateway Commons property. 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 southern transit stop will be employment-oriented and serve the LCOR (COMSAT) property, a major office park only partially developed. A mix of residential uses at this stop will occur if undeveloped land on the LCOR (COMSAT) property is developed for

residential uses in addition to office or research. The Land Use Plan for the Transit Corridor District is shown in Figure 1.

The Master Plan objectives listed on pages 54 to 58 of the Plan are as follows:

- Continue the present residential character along MD 355.
- Balance the need for increased carrying capacity along portions of MD 355 with the desire to retain a residential character along MD 355.
- Continue the present employment uses along I-270.
- Provide housing at designated areas along the transitway near significant employment uses.
- Allow small amounts of office and retail uses at transit stop areas as part of a mixed-use development pattern.
- Establish strong pedestrian and bicycle linkages to the greenway.
- Improve east-west roadway connections.
- Provide an open space system, which includes small civic spaces at the transit stops.

The Master Plan recommends the following mix of unit types for this District, which includes the subject property:

Multi-family	Single-family attached	Single-family detached
30-50 percent	40-60 percent	5-10 percent

Conformance to Master Plan Land Use Objectives

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

The proposed development provides a significant amount of housing as recommended in the Master Plan with the PD-11 zoning recommendation. This level of residential density is appropriate given that it is within walking distance to a future transit station and to existing employment uses.

The Master Plan designates land adjoining the transit stops as residential and will result in approximately 1,000 units in close proximity to employment. There are a number of different residential parcels (Such as Gateway Commons, Garnkirk Farms, and Timber Creek) that comprise the Transit Corridor District and will give the opportunity to achieve a wide range of unit types.

- **Improve east-west roadway connections**

One of the transportation challenges in this area is to improve east-west access, such as Shawnee Lane. The Master Plan recommends that Shawnee Lane be expanded to a divided arterial with a 120-foot right-of-way.

The proposed site plan has been revised to show the Master Plan recommended 120-foot right-of-way along the lot frontage of Shawnee Lane.

Also, the bikeway on Shawnee Lane conforms to the recently approved standards of a 10-foot bikeway with a 7-foot minimum tree panel. The applicant should consider locating the bikeway on the south side of Shawnee Lane because of the location of the new Clarksburg High School.

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

An interconnected street system is essential in achieving a walkable and transit serviceable community. The site plan achieves this by proposing street connections to adjacent Garnkirk Farms property, along Shawnee Lane, to the LCOR (COMSAT) property, and to the Montgomery County Public Schools Bus Depot property. In addition to the vehicular connections, a pedestrian sidewalk network also provides connectivity and encourages transit ridership.

The proposed street connections as shown on the site plan will ensure street connectivity and improve access to transit.

- **Diversity of Housing Types**

The Master Plan endorses a mix of unit types at the neighborhood level. Throughout the Transit Corridor District a range of unit types must be achieved with 30-50 percent multi-family, 40-60 percent single-family attached, and 5-10 percent single-family detached units. The site plan does not achieve a wide range of unit types within this property. The proposed range of units is limited to townhouses and two-over-two multi-family units. The site plan provides a range of units within the single-family attached category. It will be important to ensure that adjacent properties (LCOR and Montgomery County Public Schools Bus Depot) within the Transit Corridor District achieve a more extensive range of unit types. The Development Plan for the Garnkirk Farms property proposes 45 percent multi-family, 50 percent single-family attached (35 percent townhouses and 15 percent two-over-two units), and five percent single-family detached units.

The MPDUs have been dispersed throughout the site and not clustered as shown on the original site plan.

- **Neighborhood Recreation Areas and Civic Open Space**

The Master Plan calls for recreation opportunities for residents within individual neighborhoods, in addition to County operated parks (see page 162 of the Master Plan). These areas are to accommodate private recreation needs for tot lots and picnic areas, and provide usable open areas for gathering and social interaction.

The proposed site plan achieves this type of open space by providing a significant, centrally located commons, which is sufficiently wide enough to accommodate

recreation facilities, such as tot lots and picnic areas. In addition, the site plan provides several vistas of the proposed open space within the stream valley and fronts development around the stormwater management pond. The stream valley area should be treated as a recreational amenity with pathways, seating and appropriate landscaping.

Pathway connections should be provided via the stream valley to adjacent properties to improve pedestrian access, increase nature-oriented recreation, and encourage walking. Finally, the proposed vistas of adjacent open space should be maintained to reinforce the natural scenic character of Clarksburg.

CONCLUSION

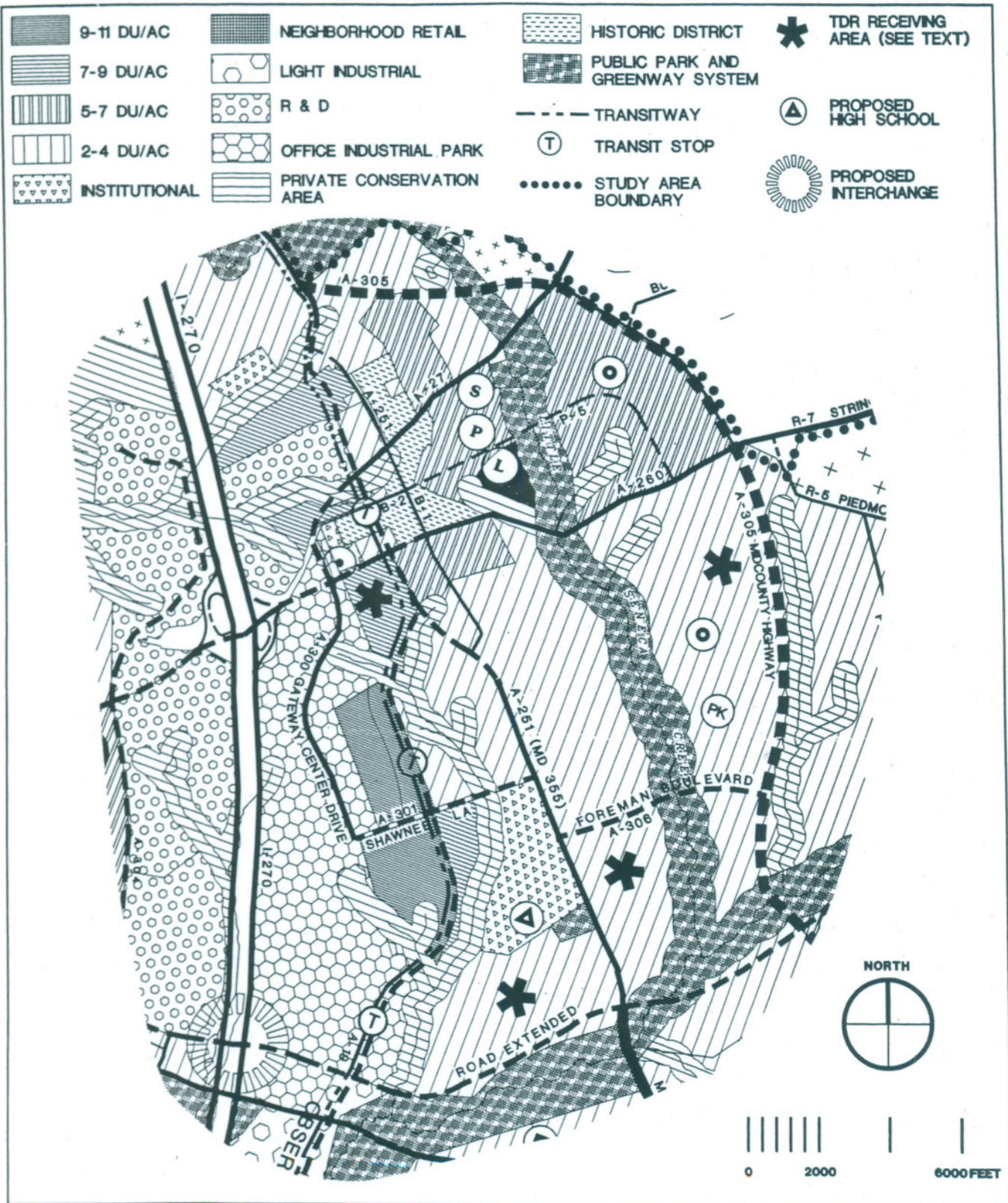
The proposed site plan conforms to the Master Plan recommendations by providing sufficient residential density adjacent to transit and employment areas. The mix of single-family attached and multi-family units is acceptable given that there are more appropriate parcels remaining to be developed in which to achieve a greater range of unit types. The arrangement of units, street system, and open spaces generally achieves the vision of the Master Plan in creating a transit-serviceable, traditional community. The proposed development, as reflected in the site plan, will be compatible with the surrounding area.

NSM:tv: G:/Maskal/8-05038.doc

Attachment

Figure 1

Transit Corridor District Land Use Plan





June 2, 2006

MEMORANDUM

TO: Delores Kinney, Planner/Coordinator
Community-Based Planning Division

FROM: Shahriar Etemadi, Supervisor
Transportation Planning

SUBJECT: Preliminary Plan # 1-05101
The Eastside, Clarksburg

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject Preliminary and Site Plan applications. The application includes 23+ acres of land located south of Shawnee Lane, immediately east of Gateway Center Drive in the Clarksburg Policy Area. The subject site will consist of 285-townhouse residential community called The Eastside.

RECOMMENDATIONS

Based on our review of the submitted traffic analysis, Transportation Planning staff recommends the following conditions as part of the APF test for transportation requirements-related to approval of this zoning application.

1. Total development under this preliminary plan application is limited to 285 townhouses.
2. The applicant shall widen Shawnee Lane to a four-lane divided arterial roadway within 120 feet of right-of-way from Gateway Center Drive to Frederick Road (MD 355). Any additional right-of-way or associated easements necessary for improvements of Shawnee Lane will be acquired or funded by the applicant. The applicant prior to issuance of 91st building permit must acquire or fund the cost of condemnation by Montgomery County Department of Public Works and Transportation for all necessary right-of-way for the entire length of Shawnee Lane. Construction of Shawnee Lane shall be complete and open to traffic prior to issuance of 201st building permit.

3. The applicant shall provide the following improvements at the intersection of Stringtown Road Extended and Gateway Center Drive. The improvements shall provide for exclusive dual northbound left-turn lanes, by re-designating one exclusive northbound through lane as an exclusive left-turn lane with the particular design requirements to be approved by Montgomery County Department of Public Works and Transportation. The third lane on the northbound movement will be designated as a shared through and right-turn lane. Applicant is responsible for all changes required to the traffic signal system as a result of the change in lane configuration at this location. These improvements shall be complete before the 91st building permit is issued.
4. Widen the Northeastern site access points to a total of 52 feet wide to provide for 22-foot-wide in-bound lanes and 22-foot outbound lanes and eight-foot median prior to building of the adjoining school. The egress lanes will be further widened to 26 feet when development of the adjoining school occurs. The landscaping on the east side of the driveway must be replaced if the widening of outbound lanes to 26 feet results in change in the landscaping at this location.
5. Provide a five-foot wide lead-in sidewalk from Shawnee Lane at or near the Northwestern site access point.
6. Provide Class I, shared-use path along the south side of Shawnee Lane and extend it to the future intersection with Gateway Center Drive. This improvement shall be complete prior to issuance of 201st building permit.
7. Provide crosswalks at the following locations:
 - a. Perpendicular across the internal roadway at the two locations of the three-way handicapped ramps for Phase 1, Areas A and C, and for Phase 3, Areas A and B, and
 - b. Across the temporary northwestern site access point parallel to Shawnee Lane.
8. Satisfy all requirements by Maryland State Highway Administration and Montgomery County Department of Public Works and Transportation.

DISCUSSION

Site Access, Vehicular, and Pedestrian Circulation

The proposed Eastside development will gain two access points from Shawnee Lane, one full access and one right-in/right-out only. The full access point is to be located on the eastern edge of the property. It is proposed as a three-lane driveway, one entering and two exiting the site. This access will be reconstructed in the future to have four lanes, two egress and two ingress lanes when the adjoining school property is developed. The new driveway will be shared between this development and the adjoining school.

Staff find the proposed access to the site as shown on the development plan to be safe and adequate. Staff also find that the internal pedestrian circulation and walkways provided as shown on the plan and upon implementation of recommended conditions stated above will provide for a safe and adequate movement of pedestrian traffic.

Local Area Transportation Review

Four local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,450 Critical Lane Volume (CLV) for the Clarksburg Policy Area. The proposed development trips were added to the existing and the background traffic (trips generated from approved but unbuilt developments) to determine the total future traffic. The total future traffic was assigned to the critical intersections to calculate the total future CLVs. The result of CLV calculation is shown in the following table.

Table I

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour								
	Existing		Background		Total*		Total**	
	AM	PM	AM	PM	AM	PM	AM	PM
MD 121/Gateway Center Drive	905	848	1,196	1,509	1,279	1,547	1,160	1,236
MD 355/Stringtown Road	1,438	1,309	*** 1,429	1,382	1,429	1,382	1,429	1,382
MD 355/Shawnee Lane	1,039	1,205	1,186	1,324	1,229	1,379	1,108	1,242
Gateway Center Drive/Shawnee Lane	88	228	159	310	241	388	241	388

* Total development conditions without proposed roadway improvements

** Total development conditions with proposed roadway improvements

*** The CLV for AM background and AM Total future traffic conditions are lower than existing condition because other developments in the area are required to improve this intersection.

As shown in the above table, all existing intersections analyzed are currently operating at acceptable 1,450 CLVs. Under the background development condition, the intersection of Clarksburg Road (MD 121) and Gateway Center Drive (becomes Gateway Center Drive/Stringtown Road Extended under the background and total development conditions), exceeds the acceptable congestion standard of 1,450 CLV during the PM peak hour. Under the total development condition, the congestion at this intersection further deteriorates and must be improved. The applicant has proposed to reconfigure the exclusive northbound through lane as a second exclusive northbound left-turn lane. The through volumes would then share the right-turn lane. This intersection improvement results in mitigating the site-generated trips. Upon implementation of the roadway

improvements conditioned in this memorandum, the Gateway Center Drive/Stringtown Road Extended (MD 121) intersection will operate within an acceptable level of congestion that is 1,450 CLV.

The improvements proposed with this preliminary plan application are less than what was identified in the zoning application. However, as a result of the refined background development and with the improvements identified, the Eastside subdivision application satisfies LATR congestion standard of 1,450 CLV with the above-referenced improvements at identified locations.

Policy Area Transportation Review

The zoning application for this property was submitted and reviewed prior to changes in the Annual Growth Policy laws requiring the developments to satisfy staging ceiling capacity. Based on the FY 2004 Annual Growth Policy staging ceiling capacity, there was insufficient capacity available for the housing development (-5,028 housing units as of May 31, 2004, the date this zoning application was filed) in the Clarksburg Policy Area. The applicant had proposed to widen Shawnee Lane to a four-lane divided arterial roadway from Gateway Center Drive to Frederick Road (MD 355) to satisfy staging ceiling capacity and therefore, the applicant is bound by those requirements. Staff finds that the proposed roadway improvements will provide sufficient staging ceiling capacity to accommodate the proposed development.

CONCLUSION

Staff concludes that the 285-townhouse residential development of the Eastside proposed under PD-11 with roadway improvements that are conditioned in this memorandum will not have an adverse impact on the surrounding roadway network.

SE:gw

mno to Kinney re Eastside



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

MEMORANDUM

TO: Piera Weiss, Planner Coordinator, Community-Based Planning
FROM: Mark Pfefferle, Planning Coordinator, Environmental Planning *MP*
DATE: January 21, 2007
SUBJECT: Final Water Quality Plan
Final Forest Conservation Plan
Site Plan 820050380
Eastside

RECOMMENDATION

Staff recommends approval of the final water quality plan and the final forest conservation plan for site plan 820050380 subject to the following conditions:

1. Applicant to comply with the final forest conservation conditions of approval.
2. Applicant to protect all areas within the environmental buffers and all retained forests with a Category I conservation easement.
3. Applicant to reforest unplanted environmental buffers.
4. Stormwater management outfall trenches to be field located with M-NCPPC Forest Conservation inspector.

BACKGROUND

The 23-acre subject property is located on the south side of Shawnee Lane near the Observation Road intersection in Clarksburg. The property is located within the Clarksburg Special Protection Area (SPA). The site is adjacent to the Montgomery County Public Schools Clarksburg Bus Depot and the LCOR/Comsat site. Across Shawnee Lane are a stormwater management facility, the Clarksburg Post Office, and the Garnkirk Property.

The property includes 6.4 acres of existing forest and 5.4 acres of environmental buffers. There are no floodplains or wetlands on the subject site but there is a stream that runs diagonally through the forested area. The forest is concentrated at the southeastern portion of the property and is one contiguous forest. The open areas of the site, nearest to Shawnee Lane include grasses, a few isolated trees and hedgerows. The property slopes from Shawnee Lane, the high point on the property, to the stream, at the rear of the property. There are no slopes greater than 15 percent outside of the environmental buffers.

DISCUSSION

The site is subject to the Forest Conservation Law and a final forest conservation plan was submitted with the site plan. Since the site is in the Clarksburg SPA development of the property is subject to the Special Protection Area Law and a water quality plan is required. 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 reviewed and conditionally approved the elements of the final water quality plan under their purview in December 2006. The Planning Board responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied.

Environmental Guidelines

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) to M-NCPPC for review and approval. Environmental Planning staff approved NRI/FSD 4-05096 on October 28, 2004. The NRI/FSD indicates 6.4 acres of existing forest, 5.4 acres of environmental buffers, and no wetlands or floodplains. The only slopes greater than 15 percent area located within the environmental buffers. A first order stream diagonally crosses the back quarter of the property. The forest is concentrated in the back third of the property. The environmental buffers are forested except for 0.2-acres, which will be forested per the environmental guidelines. The only encroachment into the environmental buffers is for a natural surface trail and necessary stormwater management conveyances. All environmental buffers will be included in category I conservation easements.

Forest Conservation

The applicant submitted a final forest conservation plan with the site plan. Since the applicant proposes to develop this property as a planned unit development it must comply with Section 22A-12(f) of the Montgomery County code. This section requires planned unit developments to meet the appropriate forest conservation threshold on site. The applicant will meet the requirements of Section 22A-12(f) and through the retention of existing forest on site. The applicant is proposing to remove 0.94 acres, retain 5.48 acres, and plant 0.2 acres of unforested stream buffer.

Site Imperviousness

The subject site is located within the Clarksburg Special Protection Area. There are no impervious limits in this SPA. The total amount of impervious surfaces proposed, based on the water quality plan is 8.77 acres. This is an overall impervious amount of approximately 37 percent over the entire 23.8-acre property. The overall imperviousness for this development is comparable with other developments in Montgomery County using PD 11 standards.

Special Protection Area Water Quality Plan

As part of the water quality plan the following site performance goals were established:

1. Maintain the natural on-site stream channels.
2. Minimize storm flow run off increases.
3. Minimize increases to ambient water temperatures.
4. Minimize sediment loading.
5. Maintain stream base flows.
6. Protect springs, seeps, and wetlands.
7. Minimize nutrient loading.
8. Control insecticides, pesticides and toxic substances.

To help meet the performance goals, the water quality control for this site will be provided via an extended detention pond. This structure will provide channel protection volume for the one-year storm with a maximum detention time of 24 hours per state standards. Quality control will be provided via a combination of structural and non-structural measures that include structural sand filters and water quality inlets. Since open section roadways are not feasible the water quality structures must be sized to compensate for loss of the roadside swales. Stormwater runoff from roadways and driveways must be pretreated prior to entering any water quality structure.

Redundant sediment control structures are to be used throughout the site. These include upland sediment control traps that drain to secondary traps down grad.

RECOMMENDATIONS

Environmental Planning staff recommends Planning Board approval of the final water quality plan and the site plan.