




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

MCPB
Item # 2
03/29/07

MEMORANDUM

DATE: March 13, 2007

TO: Montgomery County Planning Board

FROM: Catherine Conlon, Supervisor 
Development Review Division
(301) 495-4542

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board
Agenda for March 29, 2007

The following record plats are recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plan and site plan, if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code. Attached are specific recommendations and copies of plat drawings for the record plat. The following plats are included:

220061560 - Clarksburg Village (1)
220061870 - Travilah Acres (Amended) (1)
220070380 - 220070390 Woodside (2)
220070920 - Garrett Park-Sec. 2 (1)

PLAT NO. 220061560

Clarksburg Village (Preliminary Plan: Clarksburg Village)

Located on southwest quadrant, intersection of Stringtown Road and Piedmont Road

R-200 TDR zone; 8 Lots, 3 Parcels

Community Water, Community Sewer

Master Plan Area: Clarksburg Vicinity

Elm Street Development, Inc., Applicant

This record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Record Plat Review Sheet. Staff has determined that the plat complies with Preliminary Plan No. 120010300 and the Compliance Program for Site Plan No. 820030020 and 82003002A, as approved by the Board. This plat is allowed to go forward as per condition number 6 of the MCPB Resolution No. 07-11, which is attached. Any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Clarksburg Village Plan Number: 120010300
 Plat Name: Clarksburg Village Plat Number: 220061560
 Plat Submission Date: 1/23/06
 DRD Plat Reviewer: P. Weiss
 DRD Prelim Plan Reviewer: M. Shaneman

Initial DRD Review:

Signed Preliminary Plan – Date _____ Checked: Initial _____ Date _____
 Planning Board Opinion – Date 2/20/07 Checked: Initial _____ Date _____
 Site Plan Req'd for Development? Yes ☒ No _____ Verified By: TA (initial)
 Site Plan Name: Clarksburg Village Site Plan Number: 820030020
 Planning Board Opinion – Date 2/20/07 Checked: Initial _____ Date _____
 Site Plan Signature Set – Date 8-1-01 Checked: Initial _____ Date _____
 Site Plan Reviewer Plat Approval: Checked: Initial _____ Date _____

Review Items: Lot # & Layout ☒ Lot Area ☒ Zoning ☒ Bearings & Distances ☒
 Coordinates ☒ Plan # ☒ Road/Alley Widths ☒ Easements ☒ Open Space ☒
 Non-standard BRLs NA Adjoining Land ☒ Vicinity Map ☒ Septic/Wells NA
 TDR note NA Child Lot note NA Surveyor Cert ☒ Owner Cert ☒ Tax Map ☒

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>M. Pessere</u>	<u>1/31/06</u>	<u>2/17/06</u>	<u>3/14/06</u>	<u>see comments</u>
Research	<u>Bobby Fleury</u>			<u>3/11/06</u>	
SHA	<u>Doug Mills</u>			<u>NC</u>	<u>NC</u>
PEPCO	<u>Steve Baxter</u>			<u>NC</u>	<u>OK</u>
Parks	<u>Doug Powell</u>			<u>NC</u>	<u>OK</u>
DRD	<u>Steve Smith</u>			<u>2/9/06</u>	<u>see plat</u>

Final DRD Review:

DRD Review Complete:

(All comments rec'd and incorporated into mark-up)

Engineer Notified (Pick up Mark-up):

Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:

Planning Board Approval:

Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:

Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:

File Card Update:

Final Zoning Book Check:

Update Address Books with Plat #:

Update Green Books for Resubdivision:

Notify Engineer to Seal Plats:

Engineer Seal Complete:

Complete Reproduction:

Sent to Courthouse for Recordation:

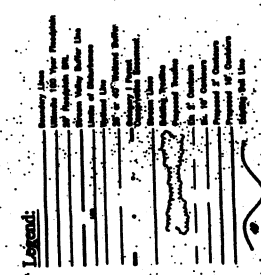
Initial

TATATATA

Date

3/14/073/13/073/15/073/29/07

No. _____



GENERAL NOTES:

1. The subject property is TELL'S AGENCY, located at 1714, 18th St., N.W., Washington, D.C. 20036. The subject property is owned by TELL'S AGENCY, INC., a corporation organized under the laws of the State of Maryland. The subject property is currently being operated as a real estate agency.

2. The subject property is being offered for sale by TELL'S AGENCY, INC., a corporation organized under the laws of the State of Maryland. The subject property is currently being operated as a real estate agency.

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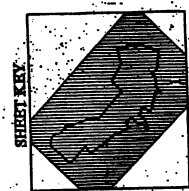
7. The subject property is being offered for sale by TELL'S AGENCY, INC., a corporation organized under the laws of the State of Maryland. The subject property is currently being operated as a real estate agency.

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DEVELOPMENT SUMMARY

[illegible]

SHEET KEY



Graphing Scale

OWNER/DEVELOPER:
CLARESBURG VILLAGE, L.L.C.
9820 ELM STREET
SUITE 200
MELBURN, VIRGINIA 22101
PHONE: (703) 734-8730
CONTACT: MR. DAVID FLANNERY

AMENDED
PRELIMINARY PLAN

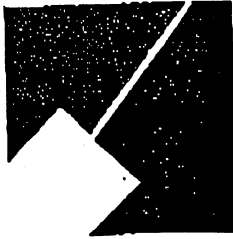
CLARKSBURG VILLAGE

~~PRELIMINARY NOT FOR CONSTRUCTION.~~

[illegible]

11-20-71 JAL/VOR/PA

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

**THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

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

Date Mailed: JUL - 6 2005

**Action: Approved Staff
Recommendation**

**Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 5-0;
Chairman Berlage and Commissioners.
Perdue, Bryant, Wellington, and
Robinson voting in favor.**

MONTGOMERY COUNTY PLANNING BOARD

OPINION

**Preliminary Plan 1-01030B
NAME OF PLAN: Clarksburg Village**

The date of this written opinion is JUL - 6 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

INTRODUCTION

On 2/13/04, the applicant, Elm Street Development ("Applicant") submitted an application for the approval of a second amendment to a previously approved and amended preliminary plan of subdivision of property in the R-200/TDR-4, R-200/TDR-3, R-200, PD-4 zone. The instant application for amendment sought the Board's approval to create an additional 64 lots (for a development total of 2,654) on 689.5 acres of land located at southwest quadrant of the intersection of Stringtown Road and Piedmont Road, in the Clarksburg master plan area. The application was designated Preliminary Plan 1-01030B.¹ On 12/23/04, Preliminary Plan 1-01030B was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the

¹ The application was incorrectly noticed as Preliminary Plan No. 1-01030A, which is the plan number for the first amendment.

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Charles P Johnson Assoc

003/008

**Preliminary Plan No. 1-01030B
Clarksburg Village
Page 2**

Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. A corporate officer of the Applicant appeared in person and testified that the Applicant agreed with the Staff recommendation and the recommended condition of approval.

At the hearing, Staff advised the Board that it had received a letter from an adjacent homeowners association ("HOA") expressing a concern with the alignment of A-305, an arterial road that traverses the subject property. Staff stated that the HOA wanted the record to reflect that they do have an issue with the alignment. Staff testified that the alignment in question is not before the Board as a part of the instant application but that Staff would consider the concerns of the HOA at such time as it reviews the site plan for the relevant phase of the Clarksburg Village development.

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, including the Staff Report dated December 17, 2004; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

PROJECT DESCRIPTION

This amendment includes the addition of approximately 30 acres of land to the area of approved preliminary plan. The 30-acre tract is located along Stringtown Road in Clarksburg between the previously approved Clarksburg Village and Clarksburg Highlands preliminary and site plans. The site is completely forested except for a strip of forest cleared for the construction of a WSSC sewer line to service the Clarksburg Town Center development. The property is zoned R-200. The proposed development of the site includes single-family detached units, townhouses and associated infrastructure. The entire site is within the Clarksburg Special Protection Area.

The site is located within the Little Seneca Creek watershed. Water flows to the Town Center tributary, a first order tributary, and then directly to the Little Seneca Creek. The streams are designated as Use IV-P. The natural resource inventory for the 30-acre tract delineates the onsite environmental buffers, forests, steep and moderately steep slopes.

Preliminary Plan No. 1-01030B
Clarksburg Village
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STAFF ANALYSIS AND FINDINGS FOR THE PRELIMINARY PLAN AMENDMENT

Staff's review of Preliminary Plan #1-01030B, Clarksburg Village, indicated that the subject plan conforms to the recommendations of the Clarksburg Master Plan. The application proposed to add acreage to the overall site and construct 64 additional one-family attached residential dwelling units.

TRANSPORTATION

Staff determined that no additional transportation improvement conditions were needed for the proposed 64-townhouse addition to the approved Clarksburg Village development. The previously required transportation improvements provide sufficient transportation capacity to accommodate the proposed addition and no other transportation issues have been identified regarding the proposed amendment. Staff concluded that the subject preliminary plan satisfies the Adequate Public Facilities test.

ENVIRONMENTAL

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

Forest Conservation

The applicant proposed to amend the previously approved preliminary plan by adding an additional 30 acres of land to the Clarksburg Village property. The final forest conservation for Clarksburg Village will also be amended with this approval.

The undeveloped 30-acre tract includes 27.5 acres of forest. The applicant proposed removal of 7.5 acres of forest from the tract and the retention of the remainder of the forest onsite. The total planting requirements for the Clarksburg Village final forest conservation plan will be modified and the forest planting amount will also changed. The applicant proposed to meet the forest conservation requirements for the entire Clarksburg Village development through a combination of forest retention, onsite forest planting of unforested portions of stream valley buffers, planting of upland areas, landscape credit. A five-year maintenance period is required for all forest plantings per the environmental guidelines.

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Site Imperviousness

There are no impervious limitations within the Clarksburg SPA. The impervious amount proposed for the additional 30-acre tract is less than 10 percent. Environmental Planning and the applicant worked together to reduce the amount of forest loss, and impervious surfaces, to better protect the environment for this addition to the previously approved plan.

Environmental Guidelines

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village site identified the environmental buffers, steep and moderately steep slopes, soil types, and priority forests. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The applicant will place forest conservation easements on the environmental buffers and all forests preserved outside of the environmental buffers.

Site Performance Goals

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

1. Protect the streams and aquatic habitat.
2. Maintain the nature on-site stream channels.
3. Maintain stream base flows.
4. Identify and protect stream banks prone to erosion and slumping.
5. Minimize storm flow runoff increases.
6. Minimize increases in ambient water temperatures.
7. Minimize sediment loading.
8. Minimize pollutant loadings (nutrient and toxic substances).
9. Protect springs, seeps, and wetlands.

Stormwater Management

To help meet these performance goals, the stormwater management plan requires water quality control and quantity control to be provided through a system of linked best management practices (BMPs). Dry ponds, vegetated swales, dry swales, bioretention structures, sand filters, and infiltration/recharge structures will be used for stormwater management.

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STAFF RECOMMENDATION

Staff concluded that Preliminary Plan #1-01030B, Clarksburg Village, conforms to the Clarksburg Master Plan and meets all necessary requirements of the Subdivision Regulations. As such, Staff recommended approval of the amendment to the preliminary plan subject to specified conditions.

FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies²; 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 that:

- a) The Preliminary Plan No. 1-01030B substantially conforms to the Clarksburg master plan
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- 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 Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

² 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.

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Charles P Johnson Assoc

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CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-01030B in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-01030B, subject to the following conditions:

1. Approval under this preliminary plan is limited to a maximum of 2,654 residential dwelling units, 20,000 square feet office/retail use, and 5,000 square foot daycare facility. All previous conditions of approval of the Planning Board opinion dated January 23, 2003, for Preliminary Plan No. 1-01030 remain in full force and effect.

APPROVED AS TO LEGAL SUFFICIENCY
TJS
M-NCPPC LEGAL DEPARTMENT
DATE 6/12/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

Clarksburg Village
Preliminary Plan No. 1-01030B.
Page 7

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

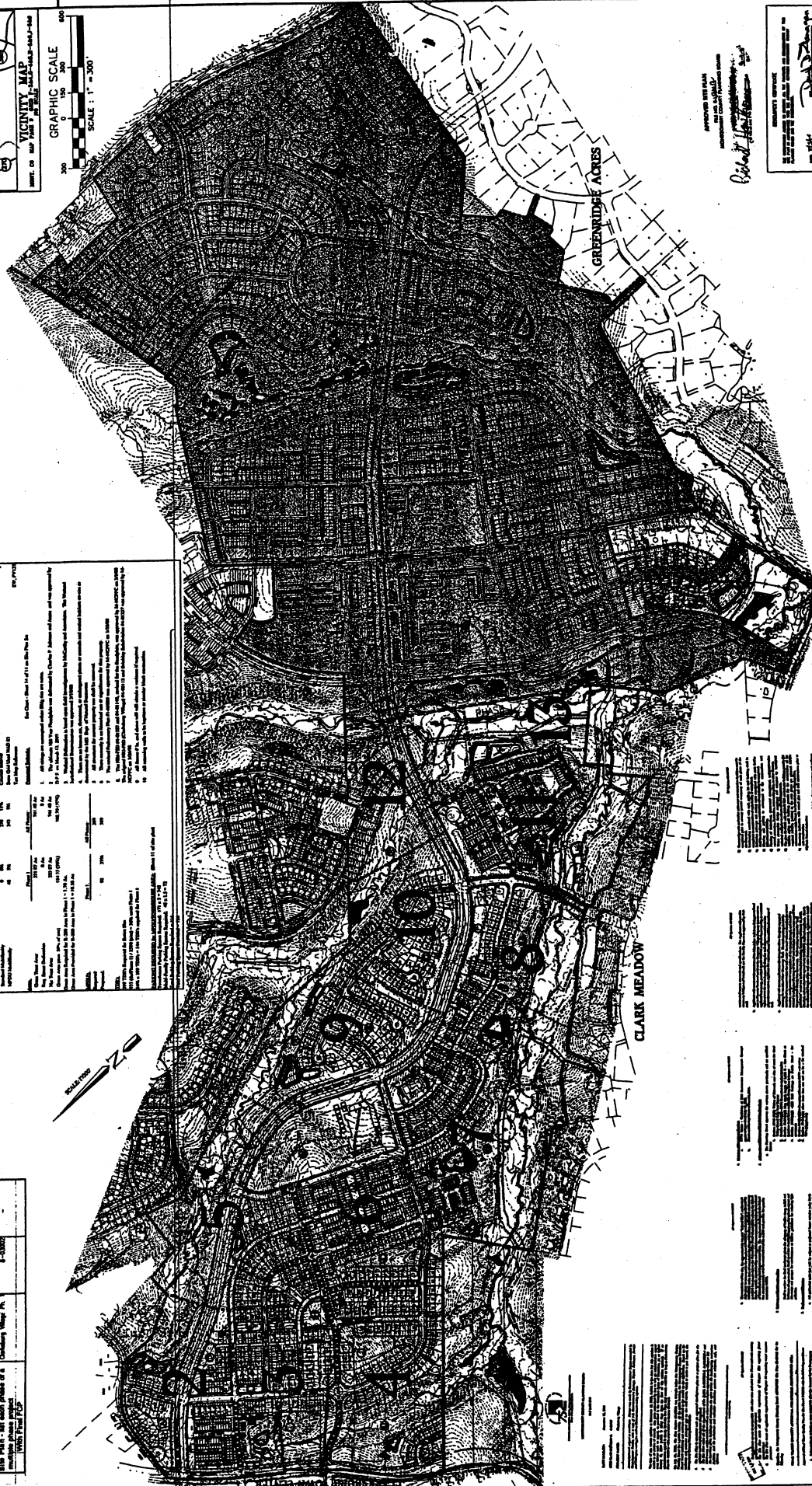
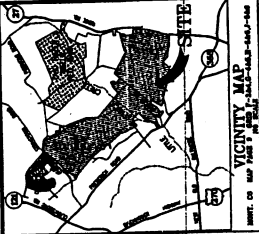
At its regular meeting, held on Thursday, June-23, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Clarksburg Village, Preliminary Plan No. 1-01030B.



Certification As To Vote of Adoption
Technical Writer

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LEGEND	
	BOARD ON BOARD FENCE PRICE: 1.00 PER LINEAL FOOT SHEET: 10' 0" x 4' 0" PER SHEET
	HORSE FENCE PRICE: 1.00 PER LINEAL FOOT SHEET: 10' 0" x 4' 0" PER SHEET
	SPLIT FENCE PRICE: 1.00 PER LINEAL FOOT SHEET: 10' 0" x 4' 0" PER SHEET



GREENRIDGE ACRES

CLARK MEADOW

CLARKSBURG VILLAGE
CLARKSBURG (2nd) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
SITE DEVELOPMENT PLAN - PHASE I

Site Plan #8-03002

[illegible][illegible]

LANDSCAPE ARCHITECT CERTIFICATE

I HEREBY CERTIFY THAT THE INFORMATION
CONTAINED ON THIS CERTIFICATE IS TRUE
AND CORRECT AND THAT I AM A
PROFESSIONAL LANDSCAPE ARCHITECT

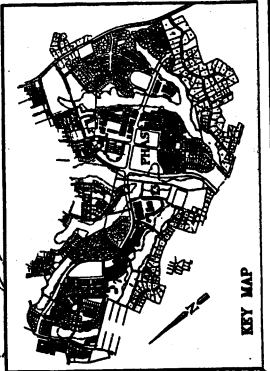
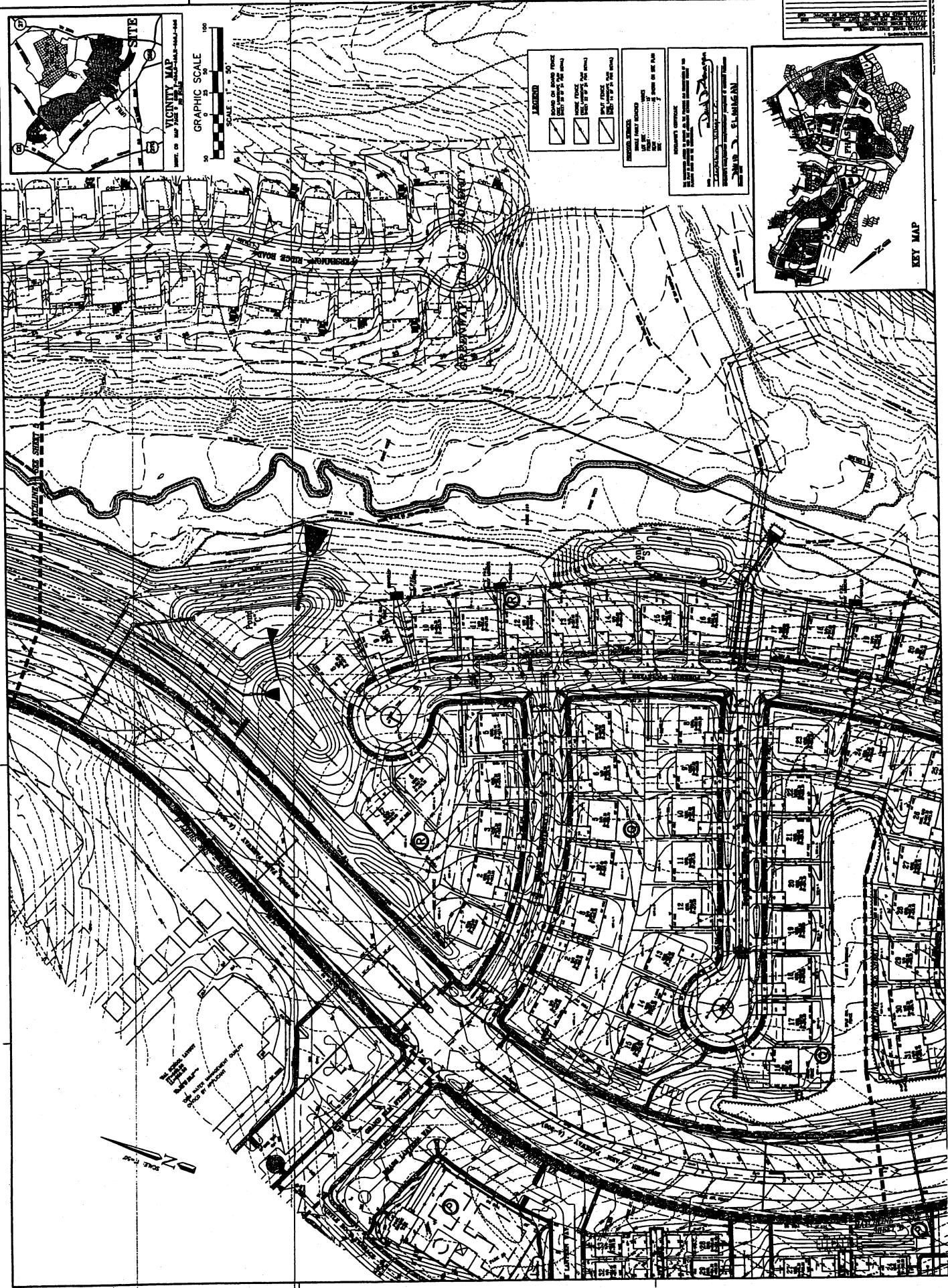
John D. [Signature]

STATE OF CALIFORNIA
COUNTY OF [Blank]

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JULY 1964

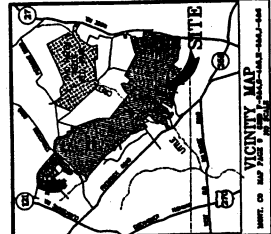
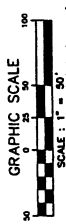
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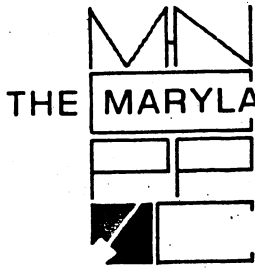
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LEGEND

	EXISTING BUILDING FOOTPRINT
	PROPOSED BUILDING FOOTPRINT
	EXISTING PARKING LOT
	PROPOSED PARKING LOT
	EXISTING ROAD
	PROPOSED ROAD
	EXISTING TOPOGRAPHIC CONTOUR
	PROPOSED TOPOGRAPHIC CONTOUR





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

FEB 20 2007

MCPB No. 07-11

Site Plan No. 820030020 and 82003002A

Compliance Program for Clarksburg Village, Phase I

Date of Hearing: October 5, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is required to review site plan applications; and

WHEREAS, pursuant to Montgomery County Code § 50-41 and § 59-D-3.6, the Planning Board has the authority to enforce the terms of approval of site plans; and

WHEREAS, on June 29, 2006, the Planning Board held a hearing on Site Plans 820030020 (formerly 8-03002) and 82003002A (formerly 8-03002A) (Clarksburg Village, phase I) ("Site Plans"), found six non-compliance items associated with the Site Plans, rejected the proffer of Elm Street Development, Inc. ("Respondent"), and directed staff to determine an appropriate Compliance Program; and

WHEREAS, on October 5, 2006, the Planning Board held a hearing to consider the staff-recommended Compliance Program ("Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony, received evidence submitted, and approved the staff-recommended Compliance Program with modifications on the motion of Commissioner Robinson, seconded by Commissioner Bryant, with a vote of 4-1, with Chairman Hanson and Commissioners Bryant, Perdue, and Robinson voting in favor, and Commissioner Wellington voting against.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapters 50 and 59, the Montgomery County Planning Board APPROVES the following Compliance Program agreed to by the Respondent in connection with the non-compliance with Site Plans 820030020 and 82003002A:

APPROVED AS TO LEGAL SUFFICIENCY

[Signature] 1/19/07
M-NCPPC LEGAL DEPARTMENT

1. Corrective Action

The Respondent shall provide the following site plan modifications through Site Plan Amendment 82003002B to meet the Zoning Ordinance requirements and to be in conformance with the approved Preliminary Plan 12001030A:

- a. Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
- b. Eliminate the proposed 48 multiple-family units in four buildings in Block T.
- c. Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one-family detached units with a lot area of no less than 6,000 square feet, except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units with attached garages.
- d. Provide a minimum building setback of 25 feet from street for all the one-family detached units in the R-200 zone, except for corner lots, in accordance with Section C-1.623 of the Zoning Ordinance.
- e. Modify the right-of-way from 50 feet (Department of Public Works and Transportation Design Standards mc-210.02) to 27 feet and 4 inches (mc-210.03) on Granite Rock Road (from station 10+15 to 15+07), British Manor Drive (from station 1+03 to 0+00), Bent Arrow Drive (from station 10+52 to 5+90), and Robin Song Drive (from station 5+90 to 8+11). This right-of-way modification resolves the 25-foot minimum building set back issue on eight existing homes (Lots 12, 13, 23, and 26 of Block G, Lot 10 of Block H, Lots 10 and 13 of Block K, and Lot 10 of Block L), and the 6,000-square-foot minimum lot size issue for one existing home on Lot 12 of Block G.
- f. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.

2. Provision of Complete Development Standards for the R-200/TDR 3 zone portion.

The development standards as shown on Attachment A shall be established through Site Plan Amendment 82003002B for the proposed development. These standards may be modified in accordance with the Planning Board's review of Site Plan Amendment 82003002B.

3. Design Improvements

The respondent shall modify the design of Blocks P, U, and T as shown on Attachment B to provide the following design features:

- a. Integration of various dwelling types.
- b. Reduction of the density in Block T by approximately 40 dwelling units.
- c. A north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail.

- d. A major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space.
- e. A trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail.
- f. Replacement of the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community.

All of the design changes shall be incorporated into Site Plan Amendment 82003002B and approved by the Planning Board prior to issuance of any building permit.

4. Additional Amenities

The respondent shall provide the following amenities, in addition to those required by the approved site plan, for the proposed development:

- a. Park facilities to be located on the proposed Park/School site:
 - (i) Two rectangular athletic fields with dimensions of 180 feet by 300 feet plus a 20-foot-wide flat sideline area along all sides of the fields.
 - (ii) A paved parking area for 57 cars to be located off Blue Sky Drive as shown on the approved site plan.
 - (iii) One picnic shelter constructed on a concrete slab and including at least two picnic tables, to be located on Blue Sky Drive adjacent to the athletic fields and parking lot.
 - (iv) Adequate stormwater management for the facilities.
 - (v) The remaining site where the school and its facilities are to be located to be fine graded and seeded to adequately accommodate various athletic practice fields.
 - (vi) Paved trails between facilities, landscaping, water fountain and adequate park signage.
- b. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The design of these facilities shall be incorporated into Site Plan Amendment 82003002B.
- c. The park facilities to be provided on the Park/School site shall be completed and accepted by M-NCPPC prior to the issuance of the building permit for the 600th dwelling units for the proposed development.
- d. Additional landscaping:

- (i) Increase the size of all unplanted street trees from 2 ½ - 3" to 3 - 3 ½" caliper.
- (ii) Add 300 trees in reforestation area, which are 2 - 2 ½" caliper in size.
- (iii) Increase landscaping around the proposed pool facility by 25 percent.
- e. Two picnic shelters near the proposed Greenway trail.
- f. A \$50,000 contribution to the Clarksburg Village Homeowners Association prior to October 31, 2006, to be used at the discretion of homeowners, not the developer.

5. Fines

The respondent shall make payment of \$100,000 to M-NCPPC prior to October 31, 2006.

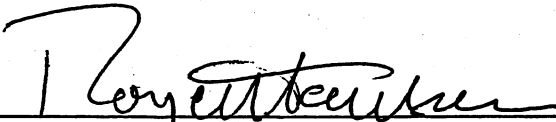
6. Process of Record Plats

The Planning Board staff may process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

BE IT FURTHER RESOLVED, that the date of this written resolution is FEB 20 2007 (which is the date that this resolution is mailed to all parties of record).

* * * * *

At its regular meeting, held on Thursday, January 25, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Hanson, Perdue, Bryant, and Robinson voting in favor, and with Commissioner Wellington abstaining. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 820030020 and Site Plan No. 82003002A, Compliance Program for Clarksburg Village, Phase I.



Royce Hanson, Chairman
Montgomery County Planning Board

PLAT NO. 220061870

Travilah Acres (Preliminary Plan: Travilah Acres)

Located on Turkey Food Road, approximately 1000 feet south of High Meadow Road

RE-2 zone; 3 lots, 2 parcels

Community Water, Community Sewer

Master Plan Area: Potomac

Maryland Development Company; LLC, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120040630, formerly 1-04063, as approved by the Board and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

This plat was amended to add Parcel B.

RECORD PLAT REVIEW SHEET

Plan Name: Travilah acres Plan Number: 1-04063
 Plat Name: Travilah acres Plat Number: 220061870
 Plat Submission Date: 3/14/06
 DRD Plat Reviewer: PW
 DRD Prelim Plan Reviewer: Delores Kinney (Jmml) 4/7/06

Initial DRD Review:

Signed Preliminary Plan - Date 2/22/06 Checked: Initial PW Date 3 4/7/06
 Planning Board Opinion - Date 12/19/05 Checked: Initial PW Date 4/5/06
 Site Plan Req'd for Development? Yes No Verified By: (initial)
 Site Plan Name: N/A Site Plan Number:
 Planning Board Opinion - Date Checked: Initial Date
 Site Plan Signature Set - Date Checked: Initial Date
 Site Plan Reviewer Plat Approval: Checked: Initial Date

Review Items: Lot # & Layout Lot Area Zoning Bearings & Distances
 Coordinates Plan # Road/Alley Widths Easements Open Space N/A
 Non-standard BRLs N/A Adjoining Land Vicinity Map Septic/Wells N/A
 TDR note N/A Child Lot note N/A Surveyor Cert Owner Cert Tax Map

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>Mark P.</u>	<u>3/20</u>	<u>4/7</u>	<u>3/24/06</u>	<u>OK, dedicate parcel to Park</u>
Research	<u>Bobby Fleury</u>	<u>"</u>	<u>"</u>	<u>3/21/06</u>	<u>OK</u>
SHA	<u>Doug Mills</u>	<u>"</u>	<u>"</u>	<u>N/C</u>	<u>N/C</u>
PEPCO	<u>Jose Washington</u>	<u>"</u>	<u>"</u>	<u>N/C</u>	<u>OK</u>
Parks	<u>Doug Powell</u>	<u>"</u>	<u>"</u>	<u>6/22/06</u>	<u>Dedicate parcel to Park</u>
DRD	<u>Steve Smith</u>	<u>"</u>	<u>"</u>	<u>4/12/06</u>	<u>OK easement</u>

Final DRD Review:

DRD Review Complete:
 (All comments rec'd and incorporated into mark-up)
 Engineer Notified (Pick up Mark-up):
 Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:
 Planning Board Approval:
 Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:
 Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:
 File Card Update:
 Final Zoning Book Check:
 Update Address Books with Plat #:
 Update Green Books for Resubdivision:
 Notify Engineer to Seal Plats:
 Engineer Seal Complete:
 Complete Reproduction:
 Sent to Courthouse for Recordation:

Initial

TA

TA

TA

TA

PW

PW

PW

PW

Date

6/16/06

4/18/06

6/16/06

7/6/06

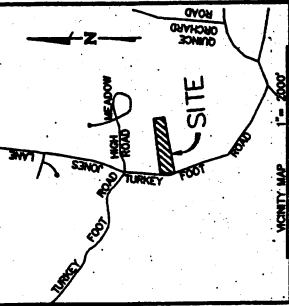
7/6/06

7/6/06

7/6/06

No.

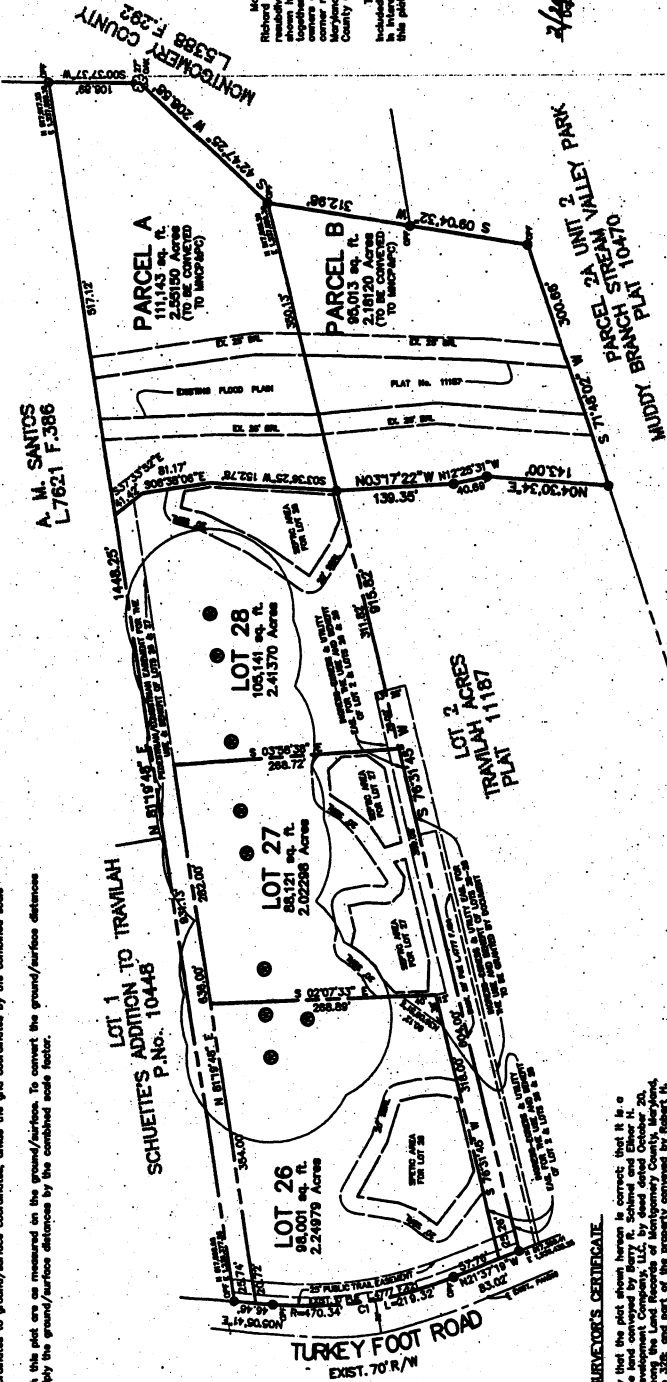
PLAT No.



TAX MAP No. ER562 & 563

CURVE TABLE			
CHORD	ARC	DELTA	CHORD BEARS
100.00	21.13	28.35	111.96
200.00	42.26	56.70	223.92
300.00	63.39	85.05	335.88
400.00	84.52	113.40	447.84
500.00	105.65	141.75	559.80
600.00	126.78	170.10	671.76
700.00	147.91	198.45	783.72
800.00	169.04	226.80	895.68
900.00	190.17	255.15	1007.64
1000.00	211.30	283.50	1119.60

A. M. SANTOS
L7621 F.386



SUBDIVISION RECORD PLAT
LOTS 26-28 & PARCELS A & B
TRAVILAH ACRES
ELECTION DISTRICT No. 6
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 100' FEBRUARY, 2007

MHG Macris, Hendrick & Glascock, P.A.
Engineers & Planners
12200 Waples Mill Road, Suite 100
Waples Mill, Maryland 20786-1000
Phone: 301.670.0040
Fax: 301.670.0041
www.mhga.com



Notes:

- This property is zoned RE-2.
- The plat is limited to use and conditions as required by Preliminary Plan No. 1-0003 entitled "TRAVILAH ACRES".
- Setback Building Restriction Lines subject to change only with Montgomery County Department of Permitting and Inspections. The setbacks for Lot 26, Lot 27, and Lot 28 are as follows: Lot 26, 10 feet; Lot 27, 10 feet; Lot 28, 10 feet.
- Parcels A & B are to be conveyed to the Maryland National Capital Park and Planning Commission.
- This property shown herein is subject to the requirements of the Montgomery County Flood Control Commission and the Montgomery County Department of Permitting and Inspections.
- Utilities (sewer, water, gas, etc.) shown on this plat are as shown on the Montgomery County Department of Permitting and Inspections' utility maps. The plat is not intended to show every utility of record or to depict or indicate the location of any utility.
- Coordinates shown herein are based on the Maryland State Plane NAD 83/91 datum projected by NAD 83 and are for reference only. The coordinates for the corners of the lots are as follows: Lot 26, 786,001.00 N, 224,979.00 E; Lot 27, 786,001.00 N, 224,979.00 E; Lot 28, 786,001.00 N, 224,979.00 E.
- The plat is not intended to show every utility of record or to depict or indicate the location of any utility.
- The distances shown on this plat are as measured in the ground/lot/parcel. To convert the ground/lot/parcel distances to grid distances, multiply the ground/lot/parcel distances by the combined scale factor.

LOT 1
SCHUEITTE'S ADDITION TO TRAVILAH
P.No. 10448

LOT 26
98,001 sq. ft.
2.24979 Acres

LOT 27
98,001 sq. ft.
2.24979 Acres

LOT 28
105,170 sq. ft.
2.41370 Acres

SURVEYOR'S CERTIFICATE

We hereby certify that the plat shown herein is correct, that it is a subdivision of all of the land conveyed by Barry R. Schmitt and Elmer H. Schmitt to the Maryland National Capital Park and Planning Commission, and that the same is in accordance with the provisions of the Maryland Subdivision Control Act, Article 21, Section 2-203, and the provisions of the Montgomery County Department of Permitting and Inspections. The plat is correct in all respects, and the same is in accordance with the provisions of the Maryland Subdivision Control Act, Article 21, Section 2-203, and the provisions of the Montgomery County Department of Permitting and Inspections. The plat is correct in all respects, and the same is in accordance with the provisions of the Maryland Subdivision Control Act, Article 21, Section 2-203, and the provisions of the Montgomery County Department of Permitting and Inspections.

2/28/07
By: [Signature]
Montgomery County Surveyor
M.C. Reg. No. 10712

FOR PRIVATE WELL AND SEPTIC SYSTEMS ONLY
THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD

APPROVED: _____
CHAIRMAN _____ SECRETARY-TREASURER _____
M.C.P. & P.C. RECORD FILE NO. _____

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PERMITTING SERVICES

APPROVED: _____
DIRECTOR _____

DATE: _____
Plat No.: _____

PLAT NO. 1
02-00-010

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

Board Approval Date: Oct. 10, 2005

Date Mailed: DEC 19 2005

**Action: Approved Staff
Recommendation
Motion of Commissioner Perdue,
seconded by Commissioner Robinson,
with a vote of 4-0.
Chairman Berlage and Commissioners
Perdue, Wellington and Robinson
voting in favor. Commissioner Bryant
was absent.**

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Preliminary Plan 120040630 (formerly 1-04063)
NAME OF PLAN: Travilah Acres (Resubdivision)

I. Introduction

The date of this written opinion is DEC 19 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

On 2/17/04, Barry Schimel and Richard A. Heald submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2 zone. The application proposed to create 6 lots on 17.92 acres of land located on the east side of Turkey Foot Road, immediately east of the terminus of Crossland Lane, in the Potomac master plan area. The application was designated Preliminary Plan 120040630 (formerly 1-04063). On 10/10/05, Preliminary Plan 120040930 (formerly 1-04063) was

SENT BY: MNCPPC DEV REVIEW;

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JAN-27-06 13:06;

PAGE 3

Travilah Acres (Resubdivision)
Preliminary Plan 120040630 (formerly 1-04063)
Page 2

brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for 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.

II. Public Hearing

At the public hearing, staff testified in support of the application, and recommended that the Board approve the application as presented.¹ Staff recommended that the proposed lots conform to the reconsideration criteria as analyzed in Section III, below. The Applicant appeared and testified at the public hearing in support of the staff report, and concurred with the recommended conditions of approval. Their record contains no opposition to the application.

III. Analysis of Resubdivision Criterion Comparison of the Character of Proposed Lots to Existing

Determinations regarding resubdivision applications are subject to Section 50-29(b)(2) of the Subdivision Regulations. The application must demonstrate a high correlation in characteristics between the characteristics of the proposed lot and the existing lots in the delineated neighborhood. Specifically, these characteristics are shape, size, alignment, width, frontage, area and suitability for residential use. Staff concludes that the proposed resubdivision complies with the area, size, frontage, alignment, width, shape and suitability criteria of Section 50-29(b) (2). As set forth below, the attached tabular summary supports this conclusion:

Area: In a Neighborhood of 11 lots, the existing lot areas range from 43,124 square feet to 174,240 square feet. All of the proposed lots fall within that range (from 53,579 square feet to 153,767 square feet) and, therefore, staff finds that the proposed lots are of the same character with respect to area as the existing lots in the Neighborhood.

¹ Staff corrected the alignment section of its staff report, page 5, and the corrections are reflected in the Alignment summary in Section III of this Opinion.

SENT BY: MNCPPC DEV REVIEW;

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PAGE 4/7

Travilah Acres (Resubdivision)
Preliminary Plan 120040630 (formerly 1-04063)
Page 3

Lot Size: The Neighborhood consists of 11 lots, which range in size from 87,120 square feet to 625,086 square feet. Staff finds that the proposed lots, which range from 91,476 square feet, to 217,800 square feet, have a high correlation to and consequently Staff finds that the proposed lots will be of the same character with regard to size as the other lots in the Neighborhood.

Alignment: The Neighborhood contains two (2) corner lots, six (6) perpendicular lots, and three (3) radial lots. The proposed resubdivision application will create all perpendicular lots. Because the alignments of the proposed lots reflect lot alignments existing in the Neighborhood, Staff concludes that the resubdivision is of the same character as the existing lots in the Neighborhood, with respect to lot alignment.

Lot Frontage: The lot frontages in the Neighborhood range from 25 feet to 762 feet. The proposed resubdivision will have lots with frontages that are approximately 25 to 360 feet. Staff, therefore concludes that the proposed lots will be of the same character as the other lots in the Neighborhood with respect to lot frontage.

Shape: The Neighborhood consists of two (2) corner lots, eight (8) irregular lots and one (1) pipestem lot. The proposed resubdivision creates two (2) irregular lots, and four (4) pipestem lots. Because the shapes of the lots in the proposed resubdivision reflect lot shapes existing in the Neighborhood, Staff concludes that the resubdivision will be of the same character, with the existing lots in the Neighborhood with respect to shape.

Width: The Neighborhood consists of lots, which range from 260 feet wide to 500 feet wide. The proposed lots range in width from 270 feet to 300 feet. Falling within that range, the proposed lots will be of the same character as the existing lots in the Neighborhood with respect to width.

Suitability for Residential Use: The proposed lots in the Neighborhood are zoned residential and are suitable for residential use.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies²; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this

² 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.

SENT BY: MNCPPC DEV REVIEW;

3014951306;

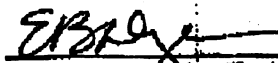
JAN-27-06 13:07;

PAGE 7/7

Travilah Acres (Resubdivision)
Preliminary Plan No. 120040630 (formerly 1-04063)
Page 6

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, December 15, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, ADOPTED the above Opinion, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Travilah Acres (Resubdivision), Preliminary Plan No. 120040630 (formerly 1-04063). Commissioner Bryant was absent.



Certification As To Vote of Adoption
Technical Writer

PLAT NO. 220070380 to 220070390

Woodside (Preliminary Plan: Woodside Courts)

Located on southeast quadrant, intersection of Georgia Avenue and Noyes Drive

RT-12.5 zone; 26 lots, 5 parcels

Community Water, Community Sewer

Master Plan Area: North & West Silver Spring Sector Plan

Noyes 3 LLC, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120050610, formerly 1-05061 and Site Plan No. 820060030, as approved by the Board and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Woodside Courts Plan Number: 1-20050610
 Plat Name: Woodside Courts Plan Number: 220070380
 Plat Submission Date: 10/3/06
 DRD Plat Reviewer: PW/TA
 DRD Prelim Plan Reviewer: Carly Conlan

Initial DRD Review:

Signed Preliminary Plan - Date 8/23/06 Checked: Initial PAE Date 1/4/07
 Planning Board Opinion - Date 7/19/06 Checked: Initial PW Date 10/20
 Site Plan Req'd for Development? Yes ☒ No ☐ Verified By: _____ (initial)
 Site Plan Name: Woodside Courts Site Plan Number: 820060030
 Planning Board Opinion - Date 7/14/06 Checked: Initial PW Date 10/20/06
 Site Plan Signature Set - Date 12/1/06 Checked: Initial PAE Date 2-16-07
 Site Plan Reviewer Plat Approval: Checked: Initial PAE Date 2-16-07

Review Items: Lot # & Layout ☒ Lot Area ☒ Zoning ☒ Bearings & Distances ☒
 Coordinates ☒ Plan # ☒ Road/Alley Widths ☒ Easements ☒ Open Space ☒
 Non-standard BRLs NA Adjoining Land ☒ Vicinity Map ☒ Septic/Wells NA
 TDR note NA Child Lot note NA Surveyor Cert ☒ Owner Cert ☒ Tax Map ☒

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>M. Pfefferle</u>	<u>10/6</u>	<u>10/27</u>	<u>NC</u>	<u>OK</u>
Research	Bobby Fleury			<u>11/2/06</u>	<u>OK</u>
SHA	Doug Mills			<u>NC</u>	<u>NC</u>
PEPCO	Steve Baxter			<u>NC</u>	<u>NA</u>
Parks	Doug Powell			<u>NC</u>	<u>NA</u>
DRD	Steve Smith			<u>10/20</u>	<u>see plat</u>

Final DRD Review:**DRD Review Complete:**

(All comments rec'd and incorporated into mark-up)

Engineer Notified (Pick up Mark-up):

Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:

Planning Board Approval:

Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:

Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:

File Card Update:

Final Zoning Book Check:

Update Address Books with Plat #:

Update Green Books for Resubdivision:

Notify Engineer to Seal Plats:

Engineer Seal Complete:

Complete Reproduction:

Sent to Courthouse for Recordation:

Initial

TATATATA

Date

3/12/072/23/073/7/073/29/07

No. _____

RECORD PLAT REVIEW SHEET

Plan Name: Woodside Courts Plan Number: 12005 0610
 Plat Name: Woodside Plat Number: 220070390
 Plat Submission Date: 10/3/06
 DRD Plat Reviewer: PW/TA
 DRD Prelim Plan Reviewer: Larry London

Initial DRD Review:

Signed Preliminary Plan - Date 8/23/06 Checked: Initial CAC Date 1/14/07
 Planning Board Opinion - Date 7/19/06 Checked: Initial PW Date 10/20/06
 Site Plan Req'd for Development? Yes ☒ No ☐ Verified By: _____ (initial)
 Site Plan Name: Woodside Courts Site Plan Number: 820060030
 Planning Board Opinion - Date 7/14/06 Checked: Initial PW Date 10/20/06
 Site Plan Signature Set - Date 12/1/06 Checked: Initial Ram Date 2/16/07
 Site Plan Reviewer Plat Approval: Checked: Initial Rak Date 2/16/07

Review Items: Lot # & Layout ☒ Lot Area ☒ Zoning ☒ Bearings & Distances ☒
 Coordinates ☒ Plan # ☒ Road/Alley Widths ☒ Easements ☒ Open Space NA
 Non-standard BRLs NA Adjoining Land ☒ Vicinity Map ☒ Septic/Wells NA
 TDR note NA Child Lot note NA Surveyor Cert ☒ Owner Cert ☒ Tax Map ☒

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment		10/6	10/27	NC	OK
Research	Bobby Fleury			11/7/06	OK
SHA	Doug Mills			NC	NC
PEPCO	Steve Baxter			NC	OK
Parks	Doug Powell			NC	NC
DRD	Steve Smith			10/20/06	see plat

Final DRD Review:

DRD Review Complete:

(All comments rec'd and incorporated into mark-up)

Engineer Notified (Pick up Mark-up):

Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:

Planning Board Approval:

Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:

Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:

File Card Update:

Final Zoning Book Check:

Update Address Books with Plat #:

Update Green Books for Resubdivision:

Notify Engineer to Seal Plats:

Engineer Seal Complete:

Complete Reproduction:

Sent to Courthouse for Recordation:

Initial

TATATATA

Date

3/12/072/23/073/7/073/29/07

No. _____

**The Maryland National Capital
Montgomery County Planning Board**

Approved: _____

M.N.C.P. & P.C. Record File No.

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Board Approval Date: March 16, 2006

Date Mailed: JUL 19 2006

Action: Approved Staff

Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Wellington,
with a vote of 4-0Chairman Berlage and Commissioners
Bryant, Wellington, and Robinson voting
in favor. Commissioner Perdue was
necessarily absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

RECEIVED

JUL 20 2006

Preliminary Plan [REDACTED] (formerly 1-05061)

GUTSCHICK, LITTLE & WEBER, P.A.

NAME OF PLAN: Woodside Courts

The date of this written opinion is JUL 19 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On 12/23/04, the applicant, Noyes Lane, L.L.C. ("Applicant"), submitted an application for the approval of a preliminary plan of subdivision of property in the RT12.5 zone. The application proposed to create 26 lots 2.68 acres of land located at northwest and southwest quadrants of the intersection of Georgia Avenue (MD 97) and Noyes Drive, in the North and West Silver Spring master plan area. The application was designated Preliminary Plan 120050610 (formerly 1-05061) ("Preliminary Plan"). On 03/09/06, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for 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.

I. SITE DESCRIPTION AND SURROUNDING AREA

The subject property consists of 2.68-acres located on the west side of Georgia Avenue (MD 97) on both the north and south sides of Noyes Drive in Silver Spring (see Attachment A). The property is zoned RT-12.5 per Local Plan Amendment G-817 adopted October 12, 2004. The property consists of several recorded parts of lots and contains five existing one-family detached dwelling units. Three of the existing houses were determined to be historically significant, and will be preserved as part of the proposed subdivision.

The site lies within the Sligo Creek watershed, classified as Use I. The site does not contain environmentally sensitive areas, but does include a small amount of forest and several specimen size individual trees.

II. PROJECT DESCRIPTION

The development yield for the subject property has been limited in accordance with the development plan approved by the County Council per zoning case G-817 in order to protect historically significant buildings and preserve specimen trees. This application proposes to create a residential community with 26 dwelling units, including 23 new market-rate townhouses, retention and renovation of 2 existing one-family detached historic dwellings, and relocation and renovation of 1 existing one-family detached historic dwelling. The lot layout is consistent with the previously approved schematic development plan. Lot sizes for the detached houses are between 6,000 and 7,000 square feet, and from 1,250-2,760 square feet for the townhouses. Per the binding elements of the zoning approval, the preliminary plan reflects maximum lot coverage of 25% of the gross tract area and 60% of the gross tract as green area. The plan incorporates proposed protection measures to preserve several individual trees both on the site, and on adjacent lots along the property boundaries.

Safe and adequate access for vehicles and pedestrians will be provided by proposed private streets accessed from existing Noyes Drive. Site plan review is required for this project and the Planning Board reviewed a site plan application concurrently with its review of the instant Preliminary Plan.

III. CONFORMANCE WITH SECTION 50-29(b)(2)

A. Statutory Review Criteria

Staff advised the Board that the Application includes previously recorded parts of lots and is, therefore, subject to resubdivision review. In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. In this instance, the neighborhood selected by Staff for lot comparison purposes consists of 23 lots ("Neighborhood"). These lots are within the adjacent townhouse subdivision to the north of the Subject Property on Georgia Avenue, which shares the same zoning. Staff advised the Board that, in its view, the Neighborhood provided an adequate sample of the lot and development pattern of the area covered by the RT-12.5 zone. The Board concurs with Staff's analysis and expressly adopts the Neighborhood delineated by Staff for analysis purposes.

C. Analysis

Comparison of the Character of Proposed Lots to Existing Lots

In performing the analysis, Staff applied the above-noted resubdivision criteria to the delineated neighborhood. The proposed one-family detached dwelling lots were not included by Staff in the analysis. These lots were required as part of the rezoning to protect historic resources, and are not comparable with the townhouse lots otherwise permitted in the zone. Staff advised the Board that it had considered the inclusion of these lots in the binding elements of the rezoning to be a de facto indication that they are in character for their location in the subdivision. The Applicant contended that resubdivision analysis for all the proposed lots is not necessary because of the underlying RT-12.5 zoning. The RT-12.5 zone is a floating zone in which the individual zoning approvals, and schematic development plans, determine specific development

requirements. Comparison of different plans could be likened to comparison of different zones, which is not Planning Board practice in applying the resubdivision provisions.

Although the Application is required to meet specific historic preservation and green space requirements, which did not apply to the existing townhouse community to the north of the site, Staff determined that it was still appropriate to review at least the proposed townhouse lots under the resubdivision criteria. Based on its analysis, Staff concluded that the proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined Neighborhood. Therefore, Staff concluded that the proposed resubdivision complies with the criteria of Section 50-29(b)(2). The Board finds that the tabular summary and graphical documentation presented in the Staff Report support Staff's conclusion, as set forth in detail below, in the Findings section of this Opinion.

IV. MISCELLANEOUS ISSUES RELEVANT TO PRELIMINARY PLAN REVIEW

Several letters were received from the Woodside Civic Association ("WCA") and concerned neighbors during review of this Preliminary Plan. Their initial concerns, of relevance to preliminary plan review, included: that the originally submitted Preliminary Plan's non-conformance to the approved Schematic Development Plan; the proposed development's contribution to existing neighborhood stormwater runoff problems; and concerns about traffic control and pedestrian safety. Of particular concern with regard to traffic and pedestrians was the lack of speed control for vehicles traveling on Noyes Drive from Georgia Avenue to First and Second Avenues, and the overall lack of adequate sidewalks in the existing neighborhood. Subsequent letters reiterated these issues and raised additional concerns related to site plan review.

Subdivision staff advised the Board that Staff had requested revision of the Preliminary Plan to address the initial inconsistencies with the approved development plan. With those revisions, Staff advised the Board that they were of the view that the proposed preliminary plan is consistent with the requirements of the development plan. Staff noted that a stormwater management ("SWM") concept had been approved by the Montgomery County Department of Permitting Services ("DPS") which includes a combination of underground retention pipes and dry wells into which stormwater runoff from the proposed impervious surfaces will be directed and controlled to ensure that it does not contribute to existing neighborhood problems. In addition, the Applicant has agreed to provide certain offsite improvements to the neighborhood storm drain system to improve the existing situation.

Traffic and pedestrian concerns were reviewed as part of the preliminary plan, and in more detail as part of the concurrently reviewed site plan. Although M-NCPPC and Montgomery County Department of Public Works and Transportation (DPWT) staff did not support conversion of existing Noyes Drive into a cul-de-sac, as suggested in the submitted letters, other measures were incorporated into the plan to improve the

existing situation. These include requiring the Applicant to improve the existing cross-section and pavement of Noyes Drive and to install sidewalks. In addition, the Applicant agreed to install additional offsite sidewalks within the neighborhood. Pedestrian circulation, compatibility and parking were reviewed in detail as part of the concurrently submitted site plan.

V. STAFF RECOMMENDATION

Staff found that the size, width and orientation of the proposed lots are appropriate for their location in the proposed subdivision and that the overall plan complies with the requirements of Chapter 50, the Subdivision Regulations and Chapter 59, the Zoning Ordinance. Based on these findings, staff recommended approval of the proposed subdivision plan.

VI. PUBLIC HEARING TESTIMONY

Development Review Staff appeared at the public hearing and presented testimony consistent with the Staff Report evaluating the Preliminary Plan, dated February 24, 2005. Staff described the Subject Property and the history of the rezoning to the RT-12.5 zone and adoption of the Schematic Development Plan. Staff described the proposed development's compliance with relevant binding elements and design configuration, including frontage of townhomes on proposed private streets. In the Staff Report, Staff informed the Board that the Applicant needed to obtain a waiver of the § 50-29(a)(2) requirement that every lot shall abut on a public street. However, at the Hearing, Staff testified that it had reconsidered the matter and was of the view that such a waiver was not, in fact, required under the circumstances of this case. Instead, Staff recommended that the Planning Board make a finding that the fronting of lots on the proposed private streets is acceptable because the private streets (1) do not prohibit access to the public road and will be subject to a public use easement; (2) meet the pavement and circulation standards of a public road; and (3) have been approved by Montgomery County Fire & Rescue. Staff further testified that the resubdivision criteria were applied to this Preliminary Plan, which was found compatible under those criteria.

Applicant appeared at the public hearing represented by legal counsel. Applicant testified that utilizing a private rather than a public street allowed Applicant to achieve tree conservation, environmental objectives, and compatibility. Applicant agreed to an additional condition that would establish a public use easement on the proposed private road.

Applicant testified that it did not believe that application of the resubdivision criteria to this Application was required because the zoning had changed from a Euclidean to a floating zone. However, acknowledging Staff's application of the resubdivision criteria, Applicant testified that it supported the analysis in the Staff Report.

The President of the WCA and WCA's Counsel testified at the public hearing. WCA presented a number of community concerns pertaining to both the Preliminary Plan and Site Plan. WCA testified that the reference in the Staff Reports regarding the July 6, 2005 DPS approval of the Stormwater Management Concept did not harmonize with the November 29, 2005 letter from DPWT. WCA also expressed concern that DPS did not have full information necessary to evaluate the project and that both the developer and the County had paid sufficient attention to problems of runoff from the subject property.

In rebuttal, Applicant noted that the SWM concept was approved and conditions on-site would improve with this development, draining most water towards the state highway and requiring state approval. The Board questioned Staff about the citizens' concerns regarding stormwater management. Staff informed the Board that DPS had approved the SWM concept and included a waiver of channel protection volume, consistent with County standards for developments of this size. Additionally, because runoff would flow to Georgia Avenue, a state road, the Applicant is subject to permitting by the State Highway Administration, which will assure that the Applicant meets storm drain standards. Staff testified that because the Board did not have the authority to grant that permit, the citizens' proposed revised condition was not appropriate. Further, Staff explained that the waiver granted by DPS applied to all properties that generated less than 2 cubic feet per second of runoff, and that the DPS waivers were in the Record.

VII. FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies¹; the Applicant's position; the respective positions of WCA and other citizens; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board:

- a) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-35(l), and based on uncontested evidence of record, that the Preliminary Plan No. 120050610 (formerly 1-05061) substantially conforms to the North and West Silver Spring master plan.

The Master Plan provides guidance for townhome development in this vicinity by suggesting that the location of townhouses be limited to the blocks along Georgia Avenue. Buildings should front on Georgia Avenue and the ends of buildings should have an appearance as fronts rather than blank facades. The Plan further suggests that the minimum front yard setback be 25 feet on Georgia Avenue. The Plan recommends that vehicular access be minimized

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.

on Georgia Avenue and that attractive streetscaping, along with sidewalks, be provided. Parking and garage access on the site should be oriented to the rear of buildings and sufficiently screened from adjoining properties. The Board finds that the proposed development conforms with the Master Plan guidance for townhome development on Georgia Avenue.

- b) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-35(k), that public facilities will be adequate to support and service the area of the proposed subdivision.

Staff advised the Board that the subject preliminary plan will provide safe and adequate access for vehicles and pedestrians. The development is not anticipated to generate more than 30 peak-hour trips and is therefore, not subject to Local Area Transportation review. No significant impact to the adjacent transportation infrastructure is anticipated as a result of this development. To facilitate safe pedestrian access through and around this site, sidewalks will be improved and installed along property frontages, within the development and within the neighborhood. In addition, SHA has installed a crosswalk across Georgia Avenue at Noyes Drive and a pedestrian refuge will be created as part of this application in an extension of the Georgia Avenue median. Finally, this application will provide a crosswalk across Noyes Drive at Georgia Avenue, and improve the existing sidewalks along the Georgia Avenue frontage by providing a green strip between the sidewalk and roadway.

- c) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-29(a)(2), and based on uncontested evidence of record, that the fronting of lots on the proposed private streets is acceptable because the private streets have acquired the status of a public road in that they: (1) do not prohibit access to the public road and will be subject to a public use easement; (2) meet the pavement and circulation standards of a public road; and (3) have been approved by Montgomery County Fire & Rescue. As such, the Board further finds that a waiver of §50-29(a)(2) is not required.
- d) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-29(a)(1), and based on uncontested evidence of record, that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- e) Finds, based on uncontested evidence of record, that the application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.

The Woodside Courts property contains 0.34 acres of forest and 22 individual trees that are 24 inches or more in diameter. The individual trees, including

nine specimens (30" or greater in diameter) are located throughout and just off the site. The previous development plan approval focused on protection of certain specimen trees of community significance found at strategic locations around the site. The site layout has been designed to maximize the level of protection afforded to these special trees. There are no stream valleys or other environmentally sensitive areas on the property.

To achieve the proposed density on the subject property, all existing forest is being removed. To compensate for this forest removal, 0.75 acres of reforestation is required. The Applicant has proposed payment of a "fee-in-lieu" for the required planting. Based on recently amended rates, the fee is \$0.90/square foot, or \$32,670, for this site. Alternatively, staff will accept offsite planting or use of available forest banks.

Trees on the subject property were evaluated by an ISA certified arborist for size, health, impact from development, and potential for save. The site design was adjusted where possible to preserve several trees determined to be of community significance. These trees include a 43" tulip poplar along Georgia Avenue, a 33" horse chestnut at the southwest corner of Noyes Drive and Georgia Avenue, and a 34" silver maple in front of the historic house south of Noyes Drive. In addition, potential impacts to several existing trees on adjoining lots were evaluated, and protection measures have been incorporated into the proposed plan to provide protection of these trees, where feasible.

- f) Finds that 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.

Staff and Applicant testimony and documents of record demonstrate that DPS approved the SWM concept and included a waiver of channel protection volume, consistent with County standards for developments of this size. Additionally, testimony and evidence of record indicate that water will flow to Georgia Avenue, a state road, and that the Applicant is subject to permitting by the State Highway Administration, which will assure that the Applicant meets storm drain standards. Moreover, the Board is persuaded by Staff testimony that the waiver granted by DPS applied to all properties that generate less than 2 cubic feet per second of runoff. The Board notes that DPS is the lead agency with respect to stormwater management issues; and, therefore, the WCA proposed condition requiring a revision to the SWM Concept and refusal of any waivers is not appropriate.

- g) Finds, based on uncontested evidence of record, that, as conditioned, the proposed development provides adequate exterior and interior noise mitigation.

The proposed residential units along the Georgia Avenue frontage of the development will be impacted by vehicle noise up to 72 dBA Ldn. The noise standard for exterior noise is 65 dBA Ldn. Both exterior and interior noise mitigation is needed to provide quieter backyard spaces and acceptable interior noise levels. Walls are proposed to attenuate noise in the rear yard spaces of the side-facing units on proposed Lots 26, 27 and 58. In order to achieve an acceptable interior noise level of 45 dBA Ldn for affected units (Lots 26, 27, and 53-58), acoustical treatments must be incorporated into the final design and construction of the buildings. These requirements are incorporated into the conditions of approval.

- h) Finds, based on uncontested evidence of record, pursuant to MONTGOMERY COUNTY CODE § 50-29(b)(2), that the proposed lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood, as analyzed below:

Frontage: The existing lots range in frontage from 20.67 feet to 37.38 feet. The proposed lots range in frontage from 20.67 to 40.61 feet. Most of the proposed townhouses fall within the range of frontages in the designated Neighborhood, and those that do not are larger by no more than 3 feet, an insignificant difference in frontages that does not result in lots uncharacteristic of the neighborhood. Therefore, the Board finds that the proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.

Width: The existing lots range in width from 20.67 feet to 37.38 feet. The proposed lots range in width from 20.67 to 40.61 feet. The proposed lots substantially fall within the range of widths in the designated Neighborhood. Therefore, the Board finds that the proposed lots will be in character with existing lots in the neighborhood with respect to width.

Alignment: All the proposed lots are perpendicular in alignment, which is consistent with the existing lots in the designated Neighborhood. Therefore, the Board finds that the proposed lots will be in character with the existing lots with respect to the alignment criterion.

Size: The existing lots range in size from 1,416 square feet to 2,712 square feet. The proposed lots range in size from 1,250 to 2,760 square feet. Seven of the proposed lots will be the smallest lots in the delineated Neighborhood.

However, the difference in size between the smallest proposed lots and the existing lots within the Neighborhood ranges between 9 and 166 square feet. Therefore, the Board finds that the proposed lots will be in character with existing lots in the designated Neighborhood with respect to size.

Area: The buildable areas of lots in the designated neighborhood range from 1,075 square feet to 2,210 square feet. The proposed lots range in area between 992 square feet and 1,875 square feet. Eight of the proposed lots will have the smallest buildable area in the delineated neighborhood. The difference in areas between the smallest proposed lots and the existing lots in the neighborhood ranges between 42 and 183 square feet. Therefore, the Board finds the proposed lots to be of the same character as other lots in the neighborhood with respect to buildable area.

Shape: The proposed lots are rectangular, which is consistent with the majority of lots within the designated neighborhood. Therefore, the Board finds that the shapes of the proposed lots are in character with shapes of the existing lots.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

- i) Finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

VII. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120050610 formerly 1-05061 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120050610 formerly 1-05061, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 26 dwelling units.
- 2) Final approval of the number and location of buildings and dwelling units shall be determined at site plan.
- 3) Final approval of on-site parking, site circulation, sidewalks, and bikepaths will occur at site plan.
- 4) No clearing, grading or recording of plats prior to site plan signature set approval.
- 5) Compliance with the binding elements stipulated in Resolution No. 15-788 approved with the schematic development plan as part of the County Council approval of zoning case G-817.
- 6) The proposed development shall comply with all conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS)

- issuance of sediment and erosion control permits, as applicable. Approval includes compliance with all ISA certified arborist's recommendations and details in TPO (Tree Preservation) plans dated 10/20/2005.
- 7) Compliance with all exterior and interior noise mitigation recommendations and detailed building shell analysis as specified in report entitled "Traffic Noise Analysis - Woodside Courts" from Phoenix Noise and Vibration, LLC dated 2/24/2005.
 - a) Certification from an acoustical engineer that the building shell for residential dwelling units will be constructed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The certification shall be provided to M-NCPPC Environmental Planning staff for concurrence prior to issuance of building permits.
 - b) Prior to issuance of building permits, the builder shall provide a signed commitment to construct the impacted units in accord with the acoustical design specifications required above. Any changes to the building shell construction that may affect acoustical performance must be approved in writing by an acoustical engineer with a copy to MNCPPC staff prior to implementation.
 - 8) Compliance with the conditions of the MCDPS stormwater management approval dated July 6, 2005.
 - 9) Applicant shall dedicate right-of-way along the Georgia Avenue (MD 97) and Noyes Drive frontages of the property to meet the full width mandated by the North and West Silver Spring Master Plan.
 - 10) Applicant shall extend the center median on southbound Georgia Avenue (MD 97) toward Noyes Drive and provide a marked pedestrian crosswalk with pedestrian refuge as approved by Maryland State Highway Administration (SHA).
 - 11) Applicant shall relocate the sidewalk along the Georgia Avenue (MD 97) frontage of the property to be set back from the road by a sufficient width green panel to be shown on the site plan.
 - 12) On Noyes Drive between Georgia Avenue (MD 97) and the proposed private streets, applicant to widen the existing pavement to thirty-six (36) feet. East of the proposed private streets, the applicant shall taper the pavement width to twenty-six (26) feet. Throughout the entire site frontage on both sides of Noyes Drive, the applicant shall construct curbs and gutters, planting strip with street trees, and four (4) foot wide concrete sidewalks.
 - 13) Compliance with conditions of MCDPWT letter dated November 29, 2005, unless otherwise amended.
 - 14) Record plat to reflect a Category II conservation easement to protect individual trees shown to be saved in Homeowners open space parcels and on proposed Lots 19 and 20.
 - 15) 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.

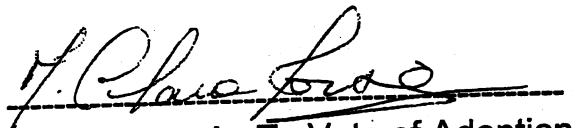
- 16) Record Plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 17) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 18) Access and improvements as required to be approved by MDSHA prior to issuance of access permits.
- 19) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 20) Other necessary easements.
- 21) Record plat to reflect the grant of a public use easement over all private streets.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

APPROVED AS TO LEGAL SUFFICIENCY
TAP
M-NCPPC LEGAL DEPARTMENT
DATE 6/30/06

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on **Thursday July 6, 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 Wellington, by a vote of 4-0, with Commissioner Robinson necessarily absent, and Commissioners Berlage, Perdue, Bryant and Wellington 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. 120050610 (formerly 1-05061), Woodside Courts.**



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

JUL 14 2006

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

MCPB No. 06-09
Site Plan No. 820060030
Woodside Courts

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is required to review site plan applications; and

WHEREAS, on July 6, 2005, Noyes Lane LLC ("Applicant"), filed an application for approval of a site plan for 26 proposed dwelling units, including 3 single-family detached units and 23 single-family attached (townhome) units, on 2.86 acres of RT-12.5-zoned land within the North and West Silver Spring Master Plan area in the northwest and southwest quadrants of the intersection of Georgia Avenue (MD 97) and Noyes Drive, consisting of Lots 53-68, Parcels B, C and D of Block 3 and Lots 19-28, Parcels A and B, Block 4 of Woodside Courts, shown on plat no. 5534 ("Property" or "Subject Property"); and

WHEREAS, on October 12, 2004, the District Council approved Zoning Application No. G-817 by Resolution No. 15-788, reclassifying the Property from the R-60 Zone to the RT-12.5 Zone, subject to the specifications and requirements of the revised Schematic Development Plan; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820060030, Woodside Courts (the "Application" or "Site Plan"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on March 9, 2006, Staff presented the Application to the Planning Board at a public hearing for its review and action (the "Hearing"); and

WHEREAS, on March 9, 2006, the Planning Board concurrently considered the Preliminary Plan for the subject application ("Preliminary Plan"), and approved the Preliminary Plan subject to conditions before acting on the Site Plan; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, prior to the Hearing, on February 24, 2006, Staff had issued a memorandum to the Board setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application;

WHEREAS, on March 9, 2006, following the Hearing, the Planning Board approved the Application subject to certain conditions on motion of Commissioner Bryant; duly seconded by Commissioner Berlage; with a vote of 4-0, Commissioners Berlage, Bryant, Wellington, and Robinson voting in favor. Commissioner Perdue was necessarily absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board approved Site Plan No. 820060030 for 26 units, including 3 single-family detached units and 23 single-family attached (townhome) units. All site development elements, as shown on Woodside Courts plans stamped by the MNCPPC on January 30, 2006, shall be required, except as modified by the following conditions:

1. Development Plan and Preliminary Plan Conformance
The proposed development shall comply with the Binding Elements of the Development Plan (G-817) as listed in the Resolution No. 15-788 adopted on October 12, 2004. The proposed development shall comply with the Preliminary Plan No. 120050610, as conditioned.
2. Site Design
 - a. Provide a detail of the pea gravel path. The detail shall include the appropriate base, transition from the 5-foot-wide sidewalk and the edging or enclosure.
 - b. Provide a detail of the curb-stops in the private parking areas.
 - c. Label the appropriate setbacks on the site plan.
 - d. Provide a maximum 4-foot high picket fence on the perimeter of the interior green spaces surrounding the historic houses to remain and relocated, as shown on the M-NCPCC-stamped January 30, 2006 site plan.
3. Lighting
 - a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.
 - b. All light fixtures, with the exception of the bollards, shall be full cut-off fixtures or able to be equipped with refractors, reflectors or shields.
 - c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
 - d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting adjacent residential properties.

- e. The height of the light poles adjacent to the existing one-family residences shall not exceed 9 feet including the mounting base.

4. Pedestrian Circulation

- a. Provide a 5-foot-wide sidewalk on northern, southern and western perimeters and between lots 19 and 20 to connect with sidewalk improvements located within the rights-of-way for Noyes Drive and Georgia Avenue. The sidewalk on the northern perimeter shall be off-set four-feet from the property line and off-set five-feet from all other perimeters.
- b. Extend a 4-foot-wide sidewalk on the southern side of Noyes Drive, from the eastern perimeter of lot 19, to the intersection with First Avenue, in accordance with the Montgomery County Department of Public Works and Transportation (DPWT) standards. Replace any damaged trees in the lawn panel between the property line and the roadway edge, to the extent possible.
- c. Provide a 4-foot-wide sidewalk on the east side of First Avenue, from the intersection with Noyes Drive to Highland Drive, in accordance with the Montgomery County Department of Public Works and Transportation (DPWT) standards.

5. Recreation Facilities

The Applicant shall provide four sitting areas and a pedestrian system (5-foot-wide sidewalk) on the site, in accordance with the M-NCPPC Recreation Guidelines.

6. Fire and Rescue

The Applicant shall comply with the conditions of approval from the Montgomery County Fire Marshall in the memorandum dated February 14, 2006.

7. Transportation Planning

- a. The Applicant shall comply with the conditions of approval from M-NCPPC-Transportation Planning in the memorandum dated November 23, 2005:
The Applicant shall extend the center median on southbound Georgia Avenue toward Noyes Lane and provide a marked pedestrian crosswalk with a pedestrian refuge if approved by the Maryland State Highway Administration (SHA).
- b. The Applicant shall comply with the following conditions of approval from the State Highway Administration in its memorandum dated October 19, 2005.
 - 1) Illustrate the existing crosswalk and curb ramps at the intersection.
 - 2) Modify the reference of two lanes of travel to three lanes.
 - 3) Provide a marked crosswalk across the west leg of Noyes Drive. All curb ramps should be installed with a detectable warning surface.
 - 4) Provide dual accessible curb ramps on the northwest corner of MD 97 and Noyes Drive to facilitate the crossing of MD 97.
 - 5) Provide a connection on the northwest quadrant to incorporate the existing bus stop.
 - 6) Provide a concrete median refuge area by extending the median nose through the crosswalk. The median should account for left turning radii from Noyes Drive on the west leg and left turns from the median.

- 7) The refuge area should be coordinated with the proposed median planting proposed by the community.

8. Forest Conservation

The Applicant shall comply with the following conditions of approval from M-NCPPC Environmental Planning in the memorandum dated January 10, 2006:

- a. The proposed development shall comply with the conditions of the final forest conservation plan. The Applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
- b. Record plat of subdivision shall reflect a Category II conservation easement over all areas of forest conservation. Compliance with the conditions of the final forest conservation plan, including all ISA certified arborist's recommendations and details dated October 20, 2005.
- c. Provide documentation for use of an approved forest bank, use of fee-in-lieu or identify the location of an off-site forestation.

9. Noise Attenuation

The Applicant shall comply with the following conditions of approval from M-NCPPC-Environmental Planning in the memorandum dated January 10, 2006: Compliance with all exterior and interior noise mitigation recommendations and detailed building shell analysis as specified in report entitled "Traffic Noise Analysis – Woodside Courts" from Phoenix Noise and Vibration, LLC, dated February 24, 2005.

- a. Certification from an acoustical engineer that the building shell for residential dwelling units will be constructed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The certification shall be provided to M-NCPPC Environmental Planning staff for concurrence prior to issuance of building permits.
- b. The builder shall provide a signed commitment to construct the impacted units in accord with the acoustical design specifications required above. Any changes to the building shell construction that may affect acoustical performance must be approved in writing by an acoustical engineer and copied to M-NCPPC staff prior to implementation.

10. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 6, 2005.

11. Historic Preservation

The Applicant shall comply with the memorandum from Historic Preservation staff and the Historic Preservation Commission dated February 13, 2006:

- a. Preserve the three existing one-family detached homes currently located on the property at 1403 Noyes Drive, 8918 Georgia Avenue and 8922 Georgia Avenue.
- b. Relocate the existing structure at 1403 Noyes Drive to proposed Lot 19.
- c. File for all necessary Historic Area Work Permits (HAWP) with the Historic

Preservation Commission to perform restoration on the existing homes.

12. Moderately Priced Dwelling Units (MPDUs)

Provide one MPDU on-site or enter into an alternative payment agreement, pursuant to Montgomery County Code Chapter 25A, prior to the release of the first building permit.

13. Maintenance Agreement

The Applicant and subsequent homeowners association shall enter into a maintenance agreement with the Woodside United Methodist Church for the care of the proposed plant material.

14. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 19th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

15. Development Program

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

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Community-wide pedestrian pathways including the relocation of the five-foot-wide sidewalk within the Georgia Avenue and Noyes Drive right-of-way shall be completed prior to issuance of the 19th building permit.
- c. Landscaping associated with each parking area and building shall be completed as construction of each parking area building is completed.
- d. Recreation facilities including the two seating areas with the pea gravel paths shall be installed prior to issuance of the 7th permit for the new townhouse units on the south side of Noyes Drive and prior the issuance of the 12th permit for the new townhouse units on the north side of Noyes Drive.
- e. Pedestrian pathways including the five-foot-wide sidewalk on the northern, southern and western perimeters shall be completed as construction of each townhouse segment is completed.
- f. Landscaping associated with the screening of the northern, southern and western perimeters, as well as the 6'-6" wood fence shall be completed as construction of each townhouse segment is complete. The same fence and landscaping associated with the one-family homes shall be installed at the same time the townhouse segment is constructed.
- g. Documentation of the approved forest bank, use of fee-in-lieu and identification of off-site forestation shall be approved by staff prior to recordation of the plat.
- h. Maintenance agreement for the off-site landscaping on the adjacent Woodside United Methodist Church property shall be executed by both parties prior to

- signature set approval.
- i. Off-site improvements, including the 4-foot-wide sidewalk on the south side of Noyes Drive to the intersection with First Avenue and the 4-foot-wide sidewalk on the north side of First Avenue from the intersection of First Avenue and Noyes Drive to the intersection with Highland Drive and First Avenue shall be completed prior to issuance of the 19th building permit, in accordance with the Montgomery County Department of Public Works and Transportation (DPW&T) and the Department of Permitting Services standards.
 - j. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
 - k. Provide each section of the development with necessary roads.
 - l. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
16. Clearing and Grading
No clearing or grading prior to M-NCPPC approval of signature set of plans.
17. Signature Set
Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:
- a. Development program, inspection schedule, and Site Plan Opinion.
 - b. Limits of disturbance.
 - c. Methods and locations of tree protection.
 - d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - e. Details of the deflectors/shields for the light fixtures that abut the adjacent existing residential properties.
18. Parking
- a. The Applicant shall clearly stripe, designate, and identify visitor parking spaces.
 - b. All parking spaces shall conform to all applicable standards contained in Montgomery County Code Article 59-E, including any required setbacks.

BE IT FURTHER RESOLVED, that all site development elements shown on Woodside Courts plans stamped by the M-NCPPC on January 30, 2006 shall be required, except as modified by the above conditions of approval; and

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

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference (except as expressly modified herein), and other evidence

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

1. *The site plan is consistent with the approved development plan or a project plan for the optional method of development, if required.*

The proposed development is consistent with approved Development Plan (G-817) in land use, density, location, building height and development guidelines. In addition to the seven binding elements associated with the Development Plan, the Applicant has complied with and incorporated the nine commitments proffered as described below.

Binding Elements

1. *Plan is limited to a maximum of 26 dwelling units including 23 townhouses and 3 single-family homes.*

The Site Plan is providing 26 dwelling units including 23 townhouses and 3 one-family detached homes.

2. *Plan is limited to a maximum lot coverage of 25 percent of the tract area (prior to dedication).*

The Site Plan is providing a maximum of 23.4 percent (27,437 square feet) of lot coverage.

3. *Plan is limited to a minimum green area of 60 percent of the tract area (prior to dedication).*

The Site Plan is providing a minimum of 60.1 percent (70,256 square feet) of the tract area as green area.

4. *Preservation of existing home located at 1403 Noyes Drive.*

Applicant shall preserve the existing house located at 1403 Noyes Drive, which will be located on a new lot (proposed lot 68).

5. *Preservation of existing home located at 8918 Georgia Avenue.*

Applicant shall preserve the existing house located at 8918 Georgia Avenue, which will be located on a new lot (proposed lot 20).

6. *Relocation of existing house located at 8922 Georgia Avenue to newly created lot on Noyes Drive.*

Applicant shall relocate and preserve the existing house located at 8922 Georgia Avenue. The house will be relocated to a new lot (proposed lot 19).

7. *Owner and guest parking will be provided entirely on site, and not accessed from Georgia Avenue.*

The parking requirement for the proposed development will be accommodated on the site through parking garages and surface parking. Record of evidence shows that the required number of spaces for the proposed development under the Zoning Ordinance is 52 and the Board finds that the proposed 61 parking spaces is consistent with the binding element that owner and guest parking be provided entirely on site. In response to citizen concerns at the Hearing, about the adequacy of parking, the Board required a condition specifying that the Applicant clearly stripe, designate, and identify the parking spaces allocated for visitor parking.

Commitments

1. *Owner and guest parking will be provided entirely on site, with no direct access from Georgia Avenue.*

The Applicant is providing 61 parking spaces, including 9 visitor spaces on the subject site. All of the parking spaces are internal to the site and accessed from Noyes Drive.

2. *The existing tulip poplar tree on Georgia Avenue and the horse chestnut on the southwest corner of Georgia Avenue and Noyes Drive will be preserved through application of all commercially reasonable tree protection measures.*

The two specimen trees located on the subject site are being preserved using applicable arborist recommendations for tree protection. The arborist's recommendations and preservation methods during construction have been addressed in a Tree Preservation Plan, dated October 20, 2005.

3. *Subject to the Planning Board review at the time of site plan, the Applicant's site plan will reflect the following:*

- a. *On the portion of the Property to the south side of Noyes Drive, in addition to the preserved and relocated homes, the project will have a row of 6*

townhomes on the southern most portion of the Property and a duplex on the east side of the Property, adjacent to Georgia Avenue.

The development includes a row of six townhouses on the southernmost boundary and a duplex (or group of two townhouses) on the east side of the Property, adjacent to Georgia Avenue.

- b. On the portion of the Property to the north side of Noyes Drive, in addition to the preserved existing home, the project will have a row of 6 townhomes on the northern most portion of the Property, 2 duplexes on the west side of the Property, and a triplex and a duplex on the east side of the Property adjacent to Georgia Avenue.*

The development includes a row of six townhouses on the northernmost boundary, 2 duplexes (group of two townhouses) on the west side of the Property, and a triplex (group of 3 townhouses) and a duplex on the east side of the Property adjacent to Georgia Avenue.

- 4. The Applicant will provide landscape and screening improvements to provide an appropriate buffer between the project and the adjacent single-family residential neighbors. The Applicant will coordinate with the adjacent neighbors and community before and during the site plan process to review the project and to collaborate regarding the planting and fence materials and similar screening treatments.*

The Applicant is providing evergreen and deciduous planting, as well as a wood fence, along the property line for the proposed townhouses that abut the existing one-family detached dwellings. The Applicant has met with community representatives on numerous occasions to discuss landscaping, preservation of existing trees and the transportation improvements.

- 5. The Applicant will pursue with the Department of Public Works and Transportation ('DPWT') the installation of the public sidewalk on Noyes Drive from Georgia Avenue to 1st Avenue and further extending along 1st Avenue from Noyes Drive to Highland Drive. The Applicant will provide for the cost of the sidewalk and make all commercially reasonable efforts with DPWT to provide for the installation of such sidewalks to the extent possible given any right-of-way, street improvement and/or storm drainage issues.*

The Applicant formally requested, by letter dated November 28, 2005, to install a sidewalk on 1st Avenue, from Noyes Drive to Highland Drive and on Noyes Drive from Georgia Avenue to 1st Avenue. The improvements are shown on sheets 2 and 3 of 6 in the Site Plan submittal stamped by M-

NCPPC on January 30, 2006. The Applicant, staff and the community reviewed the locations of the appropriate off-site improvements during the review process.

6. *The Applicant will further pursue with DPWT the feasibility of public funding for an expanded sidewalk network to include extension of sidewalk on Noyes Drive between 1st and 2nd Avenue.*

The Applicant formally requested, by letter dated November 28, 2005, to install a sidewalk on 1st Avenue, from Noyes Drive to Highland Drive and on Noyes Drive from Georgia Avenue to 1st Avenue. The improvements are shown on sheets 2 and 3 of 6 in the Site Plan submittal stamped by M-NCPPC on January 30, 2006. The Applicant, staff and the community reviewed the locations of the appropriate off-site improvements during the review process.

7. *The Applicant, with the support of the Woodside Civic Association, will pursue DPWT approval for a 4-way stop sign at Noyes and 1st Avenue.*

The Applicant formally requested, by letter dated November 4, 2005, that DPWT initiate review of the intersection of Noyes Drive and 1st Avenue for approval of a 4-way stop sign.

8. *Support request of Woodside Civic Association for DPWT approval of a speed hump mid-block on Noyes Drive between Georgia Avenue and 1st Avenue, and if approved, the Applicant will fund construction of speed hump if approved within the period extending until the end of construction for the proposed development.*

The Applicant formally requested, by letter dated November 28, 2005, to install a speed hump on Noyes Drive, approximately 50 feet west of the proposed access points into the Subject Property. The speed hump is shown on sheet 2 of 6 in the Site Plan submittal stamped by M-NCPPC on January 30, 2006.

9. *Coordinate construction activity of the project to avoid conflicts with regular (Friday evening and Saturday morning) and holiday services of the confronting synagogue.*

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

The Site Plan meets all of the requirements of the RT-12.5 Zone, as demonstrated in the project Data Table below.

PROJECT DATA TABLE (RT-12.5)

	Development Standard Approved by the Board and Binding on The Applicant
Gross Tract Area (sf.):	116,899 (2.68 acres)
Proposed Road Dedication (sf.)	7,999 (0.18 acres)
Net Lot Area (sf.):	108,900 (2.50 acres)
Max. Density of Development (d.u.'s):	26
Max. Dwelling Units per Acre:	9.70
Min. Green Area (%/ sf.):	(60.1%) 70,256
Max. Building Coverage (%/sf):	(23.4%) 27,437
Max. Building Height (ft.):	35
Setbacks*:	
From any detached dwelling lot or Land classified in a one-family, Detached, Residential Zone (ft.):	30
From any public street (ft.):	25
From any adjoining lot:	
Side Yard (ft.):	10
Rear (ft.):	20
Parking:	
Residential Uses	52
2.0 sp./unit (26 x 2.0)	9
Visitor Parking Spaces	
Total Parking Spaces	61

* Per §59-C-1.71(a)n.1 of the Zoning Ordinance, the setbacks for the 3 single-family detached homes are subject to the requirements of the R-60 zone.

** Per § 59-E-2.81 of the Zoning Ordinance, the setbacks for a parking facility within or adjoining a residential zone must not be less than the applicable residential zone setback requirement.

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

a. Buildings

The three existing one-family detached dwellings located at the central western portion of the site serve as a transition to the existing Woodside community at the entrance from Noyes Drive. The proposed townhouses are grouped into two clusters, bifurcated by existing Noyes Drive. The cluster to the north of Noyes Drive contains 15 townhouses and one one-family detached dwelling that minimizing the horseshoe pattern of the adjacent townhouse community to the north. The cluster to the south resembles a T-shaped pattern by the existing and proposed dwelling units, with detached garages that frame the western edge of the tract. All of the proposed townhouses are rear-loaded units with garage parking for one or two vehicles. Detached garages will be provided for the existing one-family house to be relocated and the one-family house south of Noyes Drive.

All of the proposed dwelling units are set back the appropriate distance from the property line to allow for screening, pedestrian circulation and compatibility to the adjacent structures. Consistent with the approved binding elements of the Development Plan, the project proposes a maximum of approximately 23 percent (maximum 25 percent permitted) of the site toward building coverage.

b. Open Spaces

The development is providing over 60 percent (70,580 sf.) of the tract area as green area, consistent with the binding elements of the Development Plan, which required a minimum of 60 percent (70,139 sf.) of the site to be set aside toward green area. The green area is comprised of the larger open space areas that have been set aside for the preservation of the specimen trees, areas in and around the existing and proposed dwellings and proposed stormwater management parcels. The green space also serves as a buffer to the adjacent communities and provides lawn areas internally within the site. In response to citizen concerns at the Hearing, the Board and Applicant agreed to a condition, which would be incorporated into the homeowners' association documents, that interior fencing around green space would consist solely of picket fencing not exceeding four feet in height.

Stormwater management for the site consists of on-site water quality control via two StormFilters, a surface sand filter and dry wells. Onsite recharge is not required since the site is considered infill. Channel

protection volume is not required for certain drainage areas because the one-year post development peak discharge is less than or equal to 2.0 cfs.

c. Landscaping and Lighting

The proposed landscaping on the site consists of an evergreen screen along the northwestern boundary of the site to buffer the proposed sidewalk connection and the façade of the townhouse units from the adjacent one-family detached units. The northern boundary contains a mix of evergreen shrubs and small deciduous trees to complement the perimeter adjacent to the existing townhouses. The southern boundary, adjacent to the Woodside United Methodist Church, contains a mix of shade trees, ornamental trees and shrubs as well as evergreen trees to buffer the adjoining properties. The planting on this boundary is partially on the church grounds and partially on the subject site. In addition to the planting proposed along the perimeter of the site, the Applicant is providing a 6-6" wood fence along the southern, western and northern boundaries.

Foundation planting around the base of the units will include primarily shrubs and flowering trees in the courtyard areas where feasible. Planting in the alleys will consist of small shrubs, groundcover and ornamental flowering trees where feasible. The proposed surface parking areas will be screened from adjacent units to diffuse the vehicle headlights.

The improvements along Georgia Avenue allow for a 10-foot-wide green panel that will separate the curb and proposed sidewalk to include street trees 50-feet on center, in conformance with the standards set forth by the MD State Highway Administration.

The lighting plan consists of three separate light standards, including bollards around the seating and pedestrian areas, colonial type fixtures in front of the proposed units and taller security lighting standards on the perimeter of the site. The fixtures along the perimeter of the Property will include shields/reflectors to negate glare to the adjacent properties. Lighting along the face will be illuminated with a combination of building sconces and pavement up-lights and specialty light posts to illuminate and activate the pedestrian space during evening hours.

The Planning Board considered a request by the Woodside Civic Association that illumination levels not exceed 0.1 footcandles at any property line abutting residential properties. However, the Board finds that the staff-recommended illumination levels (not exceeding 0.5 footcandles

(fc) at any property line abutting adjacent residential properties) will ensure that lighting is adequate, safe and efficient while minimizing impacts on adjacent properties.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table on page 15 of the Staff Report. A pedestrian connection along the northern and western perimeter for access to the rear of the units and sidewalk improvements along the Georgia Avenue frontage and the Noyes Drive frontage are included. The Applicant is also providing four seating areas consisting of eight benches located within the open areas at the southeastern entrance to the site and surrounding the tulip poplar near Georgia Avenue. The Planning Board considered the request by citizens for a multi-age play area; however, the Board finds, based on Staff analysis and Staff and Applicant testimony at the hearing, that the demand for such a play area is minimal and the Applicant has proposed recreational facilities that are appropriate for this site. The Planning Board, therefore, finds that the proposed recreational facilities are adequate, safe, and efficient.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient.

Vehicular circulation is provided into the site by a 20-foot-wide private drive with direct access from Noyes Drive. The private drive terminates into a T-intersection for the proposed units at both ends of the Property.

Noyes Drive is an existing 60-foot-wide right-of-way. No additional dedication is needed for Noyes Drive; however, improvements within the right-of-way are proposed with this application to allow for improved pedestrian circulation, runoff and vehicular movement. A five-foot-wide sidewalk is proposed along the property frontage; and extended as a four-foot-wide sidewalk on the south side of Noyes Drive to the intersection with First Avenue. In response to citizen concerns, the Applicant agreed at the Hearing to replace any damaged trees in the lawn panel between the property line and the roadway edge, to the extent possible. A speed hump is also proposed within the right-of-way of Noyes Drive west of the intersection with the proposed private drives.

The proposed development also dedicates an additional 20 feet of right-of-way on Georgia Avenue along the property frontage to provide an ultimate

120 of right-way. Improvements within the right-of-way include removal of a majority of the existing sidewalk to provide a 10-12-foot-wide green panel and new five-foot-wide sidewalk, with the exception of the area in front of the 38" DBH Tulip Poplar. The existing sidewalk will remain in front of the tree and connect with the proposed sidewalk to minimize the impact to the tree.

With respect to parking, the Planning Board spent a considerable amount of time discussing this issue. Firstly, Staff advised the Board that the Department of Fire and Rescue would not permit parking on the private road. Secondly, the Board, in response to citizen concerns regarding the adequacy of parking, added a condition of approval, which would require that visitor spaces be designated as such and, furthermore, that the parking spaces must comply with all standards and requirements of the Montgomery County Code, including any applicable setback standards. Additionally, the Board finds that testimony from Staff and the Applicant and the proposed revised conditions (presented by the Applicant at the Hearing) confirm that the number of proposed, and approved, parking spaces is 61 and that the references to a lesser number in certain documents in the record are erroneous. Record of evidence shows that the required number of spaces for the proposed development under the Zoning Ordinance is 52; and, therefore, the Board finds that the proposed 61 spaces is adequate.

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

The proposed development is compatible with existing and proposed development within the surrounding area with regard to height, design of the building and public spaces, intensity of the development and operational characteristics.

The layout of the proposed units resembles the unit configuration, setback and house placement of the adjacent townhouse community along Georgia Avenue. The two existing historic structures located at 8918 Georgia Avenue and 8922 Georgia Avenue will remain, while the historic structure located at 1403 Noyes Drive will be relocated to proposed Lot 19.

The proposed development will not adversely affect the surrounding properties, the streetscape or the adequacy of providing light and air. In response to citizen concerns at the Hearing, the Board confirmed with Staff and the Applicant that a 35-foot height restriction applied to the development and that no terrace exceptions would apply to the units in this development. The Board finds that the

height restrictions will ensure compatibility with existing, adjacent, residential development.

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

The project satisfies the applicable requirements of forest conservation in terms of planting and forest replacement. All of the existing forest on the Property will be removed and 0.75 acres of forestation will be required off-site. The Applicant proposes a fee-in-lieu, which has recently increased to \$0.90/square foot, or \$32,670 specifically for this site. Alternatively, staff will accept off-site planting or use of a forest bank to satisfy the Applicant's obligations.

Trees on the site have been evaluated by an ISA certified arborist for size, health, impact, and potential for preservation. The Site Plan has been designed to allow greater preservation of the selected trees that are being impacted by the proposed development. These include a 43" dbh (diameter breast height) tulip poplar along Georgia Avenue, a 33" dbh Horsechestnut at the intersection of Noyes Drive and Georgia Avenue and a 34" dbh silver maple in front of the houses to be preserved on Noyes Drive. In addition to the trees being protected on the Subject Property, trees on the adjoining properties have been examined for impact, and preservation measures established for implementation consistent with the Tree Preservation Plan.

6. *Pursuant to its authority under Montgomery County Code Section 25A-6(b), the Planning Board approves a partial waiver of the number of moderately priced dwelling units ("MPDUs") that the proposed development is required to provide under the Montgomery County Code. The Board denies Applicant's request for a full waiver of required MPDUs, grants a waiver for only 3 of the 4 required MPDUs, and, imposes a condition of approval requiring the Applicant to provide one MPDU on site or enter into an alternative payment agreement, as permitted under Code Chapter 25A.*

In support of its grant of a partial waiver, and following consultation with the Department of Housing and Community Affairs ("DHCA"), the Board finds that Applicant cannot attain the full density of the zone because of the limitations imposed by the Binding Elements of Development Plan G-817, including density limitations, more restrictive building coverage requirements, and increased green area requirements, along with further limitations required to achieve objectives of historic preservation and specimen tree preservation.

Chapter 25A requires that a minimum of 12.5% of the total units in a development with 20 or more dwelling units must be MPDUs. Section 25A-6(b)

provides that a partial or full waiver of that requirement may be granted by the Planning Board in the course of site plan review, based on a finding that the applicant "cannot attain the full density of the zone because of any requirements of the zoning ordinance or the administration of other laws or regulations."

Commenting that a proposed development's failure to achieve full density does not, by itself, constitute sufficient grounds for a waiver of the MPDU requirements, Staff had advised the Board that the unique circumstances of this case warranted the granting of Applicant's request for such a waiver. In Staff's opinion, the restrictive binding elements contained in the rezoning approval for the Property provide grounds for the requested waiver. Staff agreed with the Applicant's contention that the requirements for historic preservation, tree save, higher amounts of green area, and reduced lot coverage area, all combine to significantly restrict the Applicant's ability to achieve the full density of the zone or a density that would make providing MPDUs economically feasible. Staff advised the Board that the small size of the proposed development increases the economic impact of market unit losses if the Applicant was required to provide MPDUs. In response to Board questions at the Hearing, Staff testified that, in its opinion, the Applicant could have achieved full density on the subject site had it not been subject to, among others, the historic preservation requirements. Staff also testified that it had considered the question of whether a partial waiver should be imposed in this case but that it had concluded that a full waiver was appropriate. For the above reasons, Staff recommended a waiver from the requirement to provide MPDUs for this project.

As required by Section 25A-6(b), prior to formulating its recommendation, Staff consulted with the DHCA regarding the waiver. In a letter dated February 23, 2006, Elizabeth B. Davison, Director of DHCA, found meritorious Applicant's contention that the MPDU requirement should be waived due to its inability to achieve the full density of the zone because of the limitations resulting from the Binding Elements of the Development Plan, imposed by the District Council. In that letter, Ms. Davison advised the Board's Staff that it was the opinion of the DHCA that a full waiver of the four required MPDUs was appropriate.

At the Hearing, certain Planning Board members remarked that full density of the zone is rarely achieved due to many considerations and questioned Staff as to whether this Applicant had, in fact, lost much density as a consequence of the imposition of the Binding Elements. Staff testified that, in its opinion, absent the imposition of the restrictions, the Applicant could have achieved full density on the subject site. The Applicant testified that it had modified an initial plan proposing 33 units in response to community concerns and that the MPDU law was not applicable to this project at the time binding commitments were made. A member of the Montgomery County Civic Federation testified that he was

pleased with the historic preservation aspects of the proposal and expressed his opinion that it would be economically unfair to require this Applicant to provide MPDUs on-site; however, he expressed concern about the recommended MPDU waiver, suggesting that a buyout would be a more appropriate approach here. The Woodside Civic Association testified that it neither supported nor opposed the Applicant's request for a waiver of MPDUs.

The Planning Board finds that a full waiver of the Code requirement to provide four MPDUs is not justified and concurs with the stated position of Staff that a proposed development's failure to achieve full density does not, in itself, constitute sufficient grounds for a waiver of the MPDU requirements. The Board does, however, find the waiver of three MPDUs is appropriate under the unique circumstances of this case. Such unique circumstances include: the fact that the District Council imposed the restrictive Binding Elements before an amendment to Chapter 25A was enacted, lowering the threshold number of units to 20 for providing MPDUs in a proposed development; and, additionally, the Applicant cannot achieve the full density of the zone as a consequence of those Binding Elements, including density limitations, more restrictive building coverage requirements, and increased green area requirements, and additional limitations required to achieve objectives of historic preservation and specimen tree preservation.

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

BE IT FURTHER RESOLVED, that the date of this written opinion is JUL 14 2006 (which is the date that this opinion is mailed to all parties of record); and

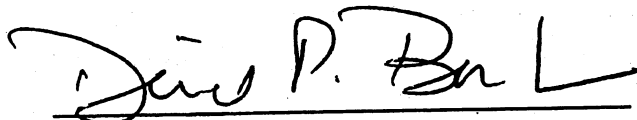
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203,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

* * * * *

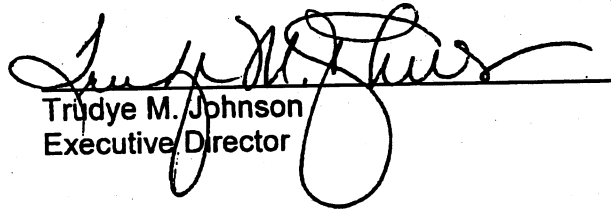
This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Bryant, seconded by

Commissioner Wellington, with Commissioners Berlage, Bryant, Wellington and Perdue voting in favor of the motion, with Commissioner Robinson absent, at its regular meeting held on Thursday, July 6, 2006, in Silver Spring, Maryland.

Adopted by the Montgomery County Planning Board this 6th day of July, 2006.



Derick P. Berlage
Chair, Montgomery County Planning Board



Trudy M. Johnson
Executive Director

DPB:TMJ:mm:rak:df

PLAT NO. 220070920

Garrett Park, Sec. 2

Located on Rokeby Avenue, approximately 300 feet west of Waverly Avenue

R60 zone; 1 lot

Community Water, Community Sewer

Master Plan Area: North Bethesda-Garrett Park

Charles Berry, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section **50-35A (a)(3)** of the Subdivision Regulations, which states:

Consolidation of Two or More Lots or a Part of a lot into One Lot. Consolidating more than one lot into a single lot is permitted under the minor subdivision procedure provided:

- a. Any conditions applicable to the original subdivision remain in full force and effect and the number of trips generated on the new lot do not exceed those permitted for the original lots or as limited by an Adequate Public Facilities agreement.
- b. Any consolidation involving a part of a lot may occur under the minor subdivision process if the part of a lot was created by deed recorded prior to June 1, 1958

Staff applied the above-noted minor subdivision criteria for this lot (previously known as lots 16 and 17) and concludes that the proposed minor subdivision complies with the criteria of Section 50-35A (a)(3)b of the subdivision regulations and supports this minor subdivision record plat.

RECORD PLAT FOR MINOR SUBDIVISION REVIEW SHEET

(This form contains 3 pages)

Plat Name: Garrett Park Plat Number: 220070920
Plat Submission Date: 11/9/07
DRD Plat Reviewer: TA
DRD Prelim Plan Reviewer: NA

*For category of minor see pages 2 and 3

Initial DRD Review:

Pre-Preliminary Plan No. NA Checked: Initial Date
Preliminary Plan No. Checked: Initial Date
Planning Board Opinion - Date Checked: Initial Date
Site Plan Name if applicable: Site Plan Number:
Planning Board Opinion - Date Checked: Initial Date

Lot # & Layout ✓ Lot Area ✓ Zoning ✓ Bearings & Distances ✓ Coordinates ✓
Plan # ✓ Road/Alley Widths ✓ Easements ✓ Open Space NA Non-standard
BRLs NA Adjoining Land ✓ Vicinity Map ✓ Septic/Wells NA
TDR note NA Child Lot note NA Surveyor Cert ✓ Owner Cert ✓ Tax Map ✓
SPA NA

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment		<u>11/10/07</u>	<u>1/26/07</u>	<u>1/14/07</u>	<u>OK</u>
Research	Bobby Fleury	<u>↓</u>	<u>↓</u>	<u>NC</u>	<u>NC</u>
SHA	Doug Mills	<u>↓</u>	<u>↓</u>	<u>NC</u>	<u>OK</u>
PEPCO	Steve Baxter	<u>↓</u>	<u>↓</u>	<u>NC</u>	<u>NA</u>
Parks	Doug Powell	<u>↓</u>	<u>↓</u>	<u>1/24/07</u>	<u>see plat</u>
DRD	Steve Smith	<u>↓</u>	<u>↓</u>		

Final DRD Review:

DRD Review Complete:

(All comments rec'd and incorporated into mark-up)

Engineer Notified (Pick up Mark-up):

Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:

Planning Board Approval:

Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:

Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:

File Card Update:

Final Zoning Book Check:

Update Address Books with Plat #:

Update Green Books for Resubdivision:

Notify Engineer to Seal Plats:

Engineer Seal Complete:

Complete Reproduction:

Sent to Courthouse for Recordation:

Initial

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No.

RECORD PLAT REVIEW SHEET – MINOR SUBDIVISION SEC-50-35A

Select which Category of Minor Subdivision and fill information as required

Requirements under Sec 50-35A (A)

(1) Minor Lot Adjustment

- a) Total area does not exceed 5% of combined area affected: _____
- b) No additional lots created: _____
- c) Adjusted line is approximately parallel/does not significantly change shape of the lots: _____
- d) Date sketch plan submitted: _____
- e) Sketch plan revised or denied within 10 business days: _____
- f) Final record plat submitted within ninety days: _____
- g) Sketch shows following information:
 - i. proposed lot adjustment: _____
 - ii. physical improvements within 15 feet of adjusted line: _____
 - iii. alteration to building setback: _____
 - iv. amount of lot area affected: _____

(2) Conversion of Outlot into a Lot

- a) Outlot not required for open space or otherwise constrained: _____
- b) Adequate sewerage and water service/public or private: _____
- c) Adequate public facilities and AGP satisfied: _____
- d) Any conditions/agreements of original subdivision: _____
- e) Special Protection Area, Water Quality Plan required: _____

(3) Consolidation Of Two of More Lots

- a) Any prior subdivision conditions: _____
- b) Part of lot created by deed prior to June 1 1958:  _____

(4) Further Subdivision of Commercial/Industrial/Multi-Family Lot

Any subdivision/conditions; APF agreement satisfied: _____

(5) Plat of Correction

- a) All owners and trustees signed: _____
- b) Original Plat identified: _____

(6) Plats for Residentially Zoned Parcels Created by Deed prior to June 1958

- a) Deed(s) submitted: _____
- b) Developable with only one single family detached unit: _____

(7) Plat for Existing Places of Worship, Private Schools, Country Club, Private Institution, and Similar Uses located on Unplatted Parcels

- a) Adequate Public Facilities satisfied: _____
- b) Street dedication required: _____
- c) Forest conservation: _____
- d) Storm water management: _____
- e) Special Protection Area/Water Quality Plan: _____
- f) Landscaping and lighting plan including parking lot layout: _____

g) Approved Special Exception: _____

(8) Plats for Certain Residential Lots in the RDT Zone; 5 Lot Maximum

a) Number of Lots: _____

b) Written MCDPS approval of proposed septic area: _____

c) Required street dedication: _____

d) Easement for balance of property noting density and TDRS: _____

e) Average lot size of 5 acres: _____

f) Forest Conservation requirements met: _____

NOTES

7. 87"/PS = IRON PIPE OR IRON PIN FOUND/SET
8. THE APPROVAL OF THIS PLAT IS PREDICATED ON THE ADEQUACY AND AVAILABILITY OF PUBLIC WATER AND SEWER.
9. THIS PLAT CONFORMS TO THE REQUIREMENTS FOR MINOR SUBDIVISION APPROVALS CONTAINED IN SECTION 50-35A OF MONTGOMERY COUNTY SUBDIVISION REGULATIONS, BEING CHAPTER 50 OF THE COUNTY CODE. THIS PLAT PROVIDES CONSOLIDATION OF TWO LOTS INTO ONE LOT AS PROVIDED FOR IN SECTION 50-35A(X)(3).
10. THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE OWNERSHIP AND USE OF THE SECOND PLAT. THE SECOND PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF THE TITLE OR TO DEFINE OR NOTE ALL MATTERS AFFECTING TITLE.
11. THE PROPERTY SHOWN HEREON IS NOT SUBJECT TO THE REQUIREMENTS OF CHAPTER 23A, 11. THE PROPERTY SHOWN HEREON IS NOT SUBJECT TO THE REQUIREMENTS OF CHAPTER 23A, 11. THE PROPERTY SHOWN HEREON IS NOT SUBJECT TO THE REQUIREMENTS OF CHAPTER 23A, 11.

WE HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT IT IS A RE-SUBMISSION OF ALL THE RECORDS CONTAINED BY MARTHA MONTGOMERY CHURCH; THAT IT IS A RE-SUBMISSION OF ALL THE RECORDS IN LINES 17342 AT FOLD 448 DATUM 17342, 17343, 17344, 17345, 17346, 17347, 17348, 17349, 17350, 17351, 17352, 17353, 17354, 17355, 17356, 17357, 17358, 17359, 17360, 17361, 17362, 17363, 17364, 17365, 17366, 17367, 17368, 17369, 17370, 17371, 17372, 17373, 17374, 17375, 17376, 17377, 17378, 17379, 17380, 17381, 17382, 17383, 17384, 17385, 17386, 17387, 17388, 17389, 17390, 17391, 17392, 17393, 17394, 17395, 17396, 17397, 17398, 17399, 17400, 17401, 17402, 17403, 17404, 17405, 17406, 17407, 17408, 17409, 17410, 17411, 17412, 17413, 17414, 17415, 17416, 17417, 17418, 17419, 17420, 17421, 17422, 17423, 17424, 17425, 17426, 17427, 17428, 17429, 17430, 17431, 17432, 17433, 17434, 17435, 17436, 17437, 17438, 17439, 17440, 17441, 17442, 17443, 17444, 17445, 17446, 17447, 17448, 17449, 17450, 17451, 17452, 17453, 17454, 17455, 17456, 17457, 17458, 17459, 17460, 17461, 17462, 17463, 17464, 17465, 17466, 17467, 17468, 17469, 17470, 17471, 17472, 17473, 17474, 17475, 17476, 17477, 17478, 17479, 17480, 17481, 17482, 17483, 17484, 17485, 17486, 17487, 17488, 17489, 17490, 17491, 17492, 17493, 17494, 17495, 17496, 17497, 17498, 17499, 17500, 17501, 17502, 17503, 17504, 17505, 17506, 17507, 17508, 17509, 17510, 17511, 17512, 17513, 17514, 17515, 17516, 17517, 17518, 17519, 17520, 17521, 17522, 17523, 17524, 17525, 17526, 17527, 17528, 17529, 17530, 17531, 17532, 17533, 17534, 17535, 17536, 17537, 17538, 17539, 17540, 17541, 17542, 17543, 17544, 17545, 17546, 17547, 17548, 17549, 17550, 17551, 17552, 17553, 17554, 17555, 17556, 17557, 17558, 17559, 17560, 17561, 17562, 17563, 17564, 17565, 17566, 17567, 17568, 17569, 17570, 17571, 17572, 17573, 17574, 17575, 17576, 17577, 17578, 17579, 17580, 17581, 17582, 17583, 17584, 17585, 17586, 17587, 17588, 17589, 17590, 17591, 17592, 17593, 17594, 17595, 17596, 17597, 17598, 17599, 17600, 17601, 17602, 17603, 17604, 17605, 17606, 17607, 17608, 17609, 17610, 17611, 17612, 17613, 17614, 17615, 17616, 17617, 17618, 17619, 17620, 17621, 17622, 17623, 17624, 17625, 17626, 17627, 17628, 17629, 17630, 17631, 17632, 17633, 17634, 17635, 17636, 17637, 17638, 17639, 17640, 17641, 17642, 17643, 17644, 17645, 17646, 17647, 17648, 17649, 17650, 17651, 17652, 17653, 17654, 17655, 17656, 17657, 17658, 17659, 17660, 17661, 17662, 17663, 17664, 17665, 17666, 17667, 17668, 17669, 17670, 17671, 17672, 17673, 17674, 17675, 17676, 17677, 17678, 17679, 17680, 17681, 17682, 17683, 17684, 17685, 17686, 17687, 17688, 17689, 17690, 17691, 17692, 17693, 17694, 17695, 17696, 17697, 17698, 17699, 17700, 17701, 17702, 17703, 17704, 17705, 17706, 17707, 17708, 17709, 17710, 17711, 17712, 17713, 17714, 17715, 17716, 17717, 17718, 17719, 17720, 17721, 17722, 17723, 17724, 17725, 17726, 17727, 17728, 17729, 17730, 17731, 17732, 17733, 17734, 17735, 17736, 17737, 17738, 17739, 17740, 17741, 17742, 17743, 17744, 17745, 17746, 17747, 17748, 17749, 17750, 17751, 17752, 17753, 17754, 17755, 17756, 17757, 17758, 17759, 17760, 17761, 17762, 17763, 17764, 17765, 17766, 17767, 17768, 17769, 17770, 17771, 17772, 17773, 17774, 17775, 17776, 17777, 17778, 17779, 17780, 17781, 17782, 17783, 17784, 17785, 17786, 17787, 17788, 17789, 17790, 17791, 17792, 17793, 17794, 17795, 17796, 17797, 17798, 17799, 17800, 17801, 17802, 17803, 17804, 17805, 17806, 17807, 17808, 17809, 17810, 17811, 17812, 17813, 17814, 17815, 17816, 17817, 17818, 17819, 17820, 17821, 17822, 17823, 17824, 17825, 17826, 17827, 17828, 17829, 17830, 17831, 17832, 17833, 17834, 17835, 17836, 17837, 17838, 17839, 17840, 17841, 17842, 17843, 17844, 17845, 17846, 17847, 17848, 17849, 17850, 17851, 17852, 17853, 17854, 17855, 17856, 17857, 17858, 17859, 17860, 17861, 17862, 17863, 17864, 17865, 17866, 17867, 17868, 17869, 17870, 17871, 17872, 17873, 17874, 17875, 17876, 17877, 17878, 17879, 17880, 17881, 17882, 17883, 17884, 17885, 17886, 17887, 17888, 17889, 17890, 17891, 17892, 17893, 17894, 17895, 17896, 17897, 17898, 17899, 17900, 17901, 17902, 17903, 17904, 17905, 17906, 17907, 17908, 17909, 17910, 17911, 17912, 17913, 17

OWNERS CERTIFICATION

WE, CHARLES V. BERRY AND PATRICIA C. GUAY-BERRY, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION.

FURTHER GRANT A 10-FOOT PUBLIC UTILITY EASEMENT, SHOWN HEREON AS "10' P.U.E." TO THOSE PARTIES NAMED IN THE DOCUMENT ENTITLED "DECLARATION OF TERMS AND PROVISIONS OF PUBLIC UTILITY EASEMENTS", AS RECORDED IN LIBER 5834 AT FOLIO 457 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

THERE ARE NO SUITS, ACTIONS AT LAW, LEASES, LIENS, MORTGAGES, OR TRUSTS AFFECTING THE RECORDS OF REMITTANCE.

PATRICIA C. QUAY-BERRY

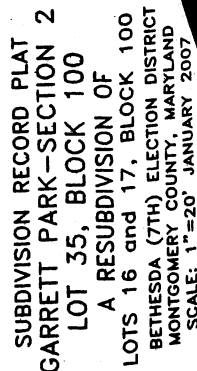
MESSAGING AS REMISSION FOR

Margaret Christine Dorothy E. Gentry 03/16/79

**The Maryland National Capital Park and Planning Commission
Montgomery County Planning Board**

Approved: _____ Date _____ Chairman _____
MNCB & P.C. Record File No. _____

MNC P & P.C. Record File No.



**POTOMAC VALLEY
SURVEYS**
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