

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

Staff Report: **Preliminary Plan Amendment 11991052A: Village at Clopper's Mill**
Site Plan 81993013B: Village at Clopper's Mill East

ITEM #: _____

MCPB HEARING DATE: February 4, 2010

REPORT DATE: January 25, 2010

TO: Montgomery County Planning Board

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 Development Review Division



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APPLICATION DESCRIPTION:

Proposal for a Preliminary Plan Amendment and Site Plan Amendment to create twenty lots for twenty townhouses on a recorded parcel approximately 57,639 square feet (1.32 acres) in size, in the PD-4 Zone; located on Clopper's Mill Drive just northeast of the intersection with Great Seneca Highway (MD 119) within the Germantown Master Plan Area.

APPLICANT: Great Seneca Investments

FILING DATE: October 16, 2009
 Preliminary Plan Amendment and Site Plan Amendment to reflect Development Plan Amendment DPA 08-1 Approved September 22, 2009

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY:

The proposed development would create 20 lots for 20 townhouses on a parcel in the PD-4 Zone. A Development Plan Amendment (DPA 08-1) for the twenty townhouses shown on these plans was approved on September 22, 2009. The subject property was originally intended to be used for elderly housing, but those units were constructed in another area of the Village of Clopper's Mill. The proposed application requires a preliminary plan amendment and site plan amendment for the change in use of the subject property and to increase the number of units permitted for the development.

TABLE OF CONTENTS

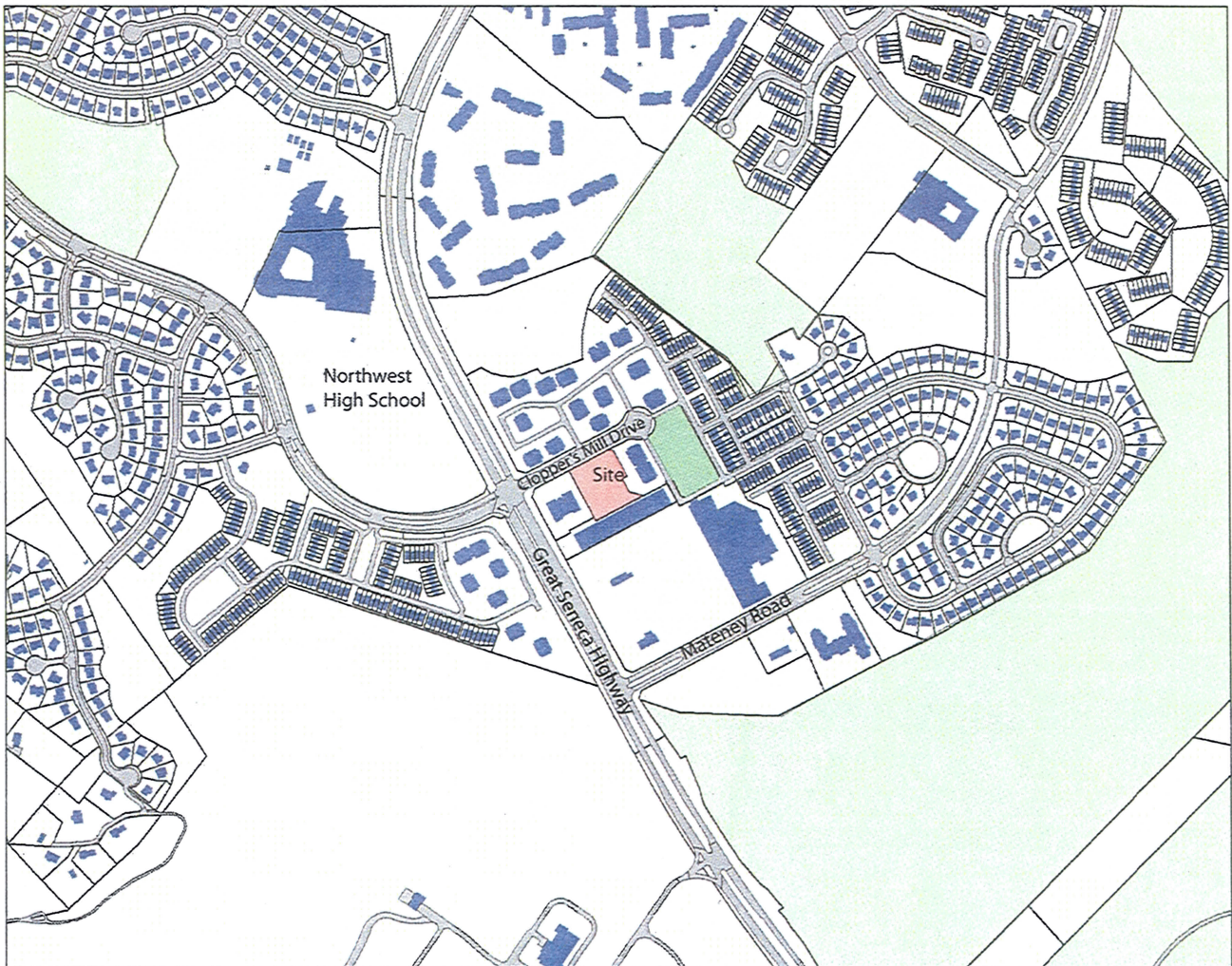
| | |
|---|-----------|
| SECTION 1: CONTEXT & PROPOSAL | 3 |
| Site Description | 3 |
| Vicinity | 3 |
| Site Analysis | 4 |
| Project Description | 4 |
| Previous approvals | 4 |
| Proposal | 5 |
| Issues | 6 |
| Location of MPDUs | 6 |
| Community Outreach | 7 |
| | |
| SECTION 2: PRELIMINARY PLAN REVIEW | 8 |
| | |
| Analysis and Findings | 8 |
| Master Plan | 8 |
| Adequate Public Facilities | 8 |
| Roads and Transportation Facilities | 8 |
| Local Area Transportation Review and Policy Area Mobility Review | 9 |
| Other Public Facilities | 9 |
| Environment | 9 |
| Compliance with the Zoning Ordinance and Subdivision Regulations | 10 |
| Recommendation and Conditions | 11 |
| | |
| SECTION 3: SITE PLAN REVIEW | 12 |
| | |
| Development Standards | 12 |
| Data Table | 12 |
| Findings | 13 |
| Recommendation and Conditions | 14 |
| | |
| Appendices | 17 |
| | |
| ILLUSTRATIONS & TABLES | |
| | |
| <i>Vicinity Map</i> | 3 |
| <i>Aerial Photograph</i> | 4 |
| <i>Preliminary/Site Plan</i> | 6 |
| <i>Project Data Table</i> | 12 |

SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The subject site is located on the south side of Clopper's Mill Drive, just east of the intersection with Great Seneca Highway, within the Germantown Master Plan Area. The site abuts the Village of Clopper's Mill Shopping Center to the southeast, a daycare center to the southwest, and a parking lot for two multi-family condo buildings to the northeast. The Subject Property is known as Parcel U of the Village of Clopper's Mill East. The Village of Clopper's Mill is zoned PD-4 and consists of a mix of single-family detached units, one-family attached units, multi-family units, and elderly housing units. Parcel U is in closest proximity to retail and multi-family units.



Vicinity Map

Site Analysis

The subject property consists of one recorded parcel (Parcel U, Block I of Village of Clopper's Mill) totaling 57,639 square feet (1.32 acres) per Plat 19464. The site is currently vacant, except for a portion of the existing parking for the adjacent residential condos which extends onto the parcel on the eastern side, and is rectangular in shape, with an irregular eastern property. There are no regulated environmental features on-site such as streams, wetlands, 100-year floodplain, environmental buffers, or steep and severe slopes. There are no trees or forest on-site.



Aerial Photo

PROJECT DESCRIPTION

Previous Approvals

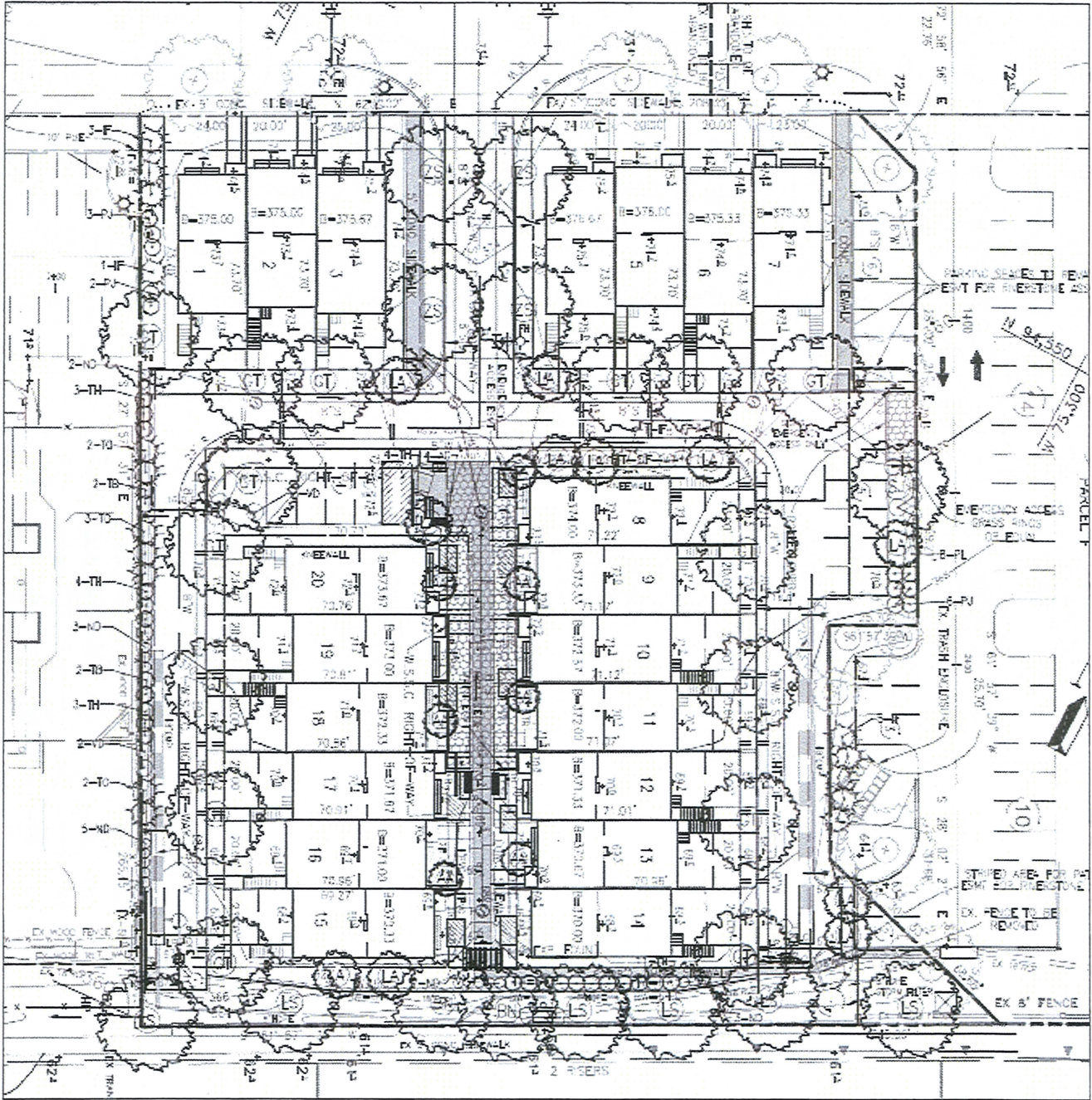
A Development Plan (G-650) to create the Planned Development for the underlying subdivision was approved on October 9, 1990. Since then, several plans have been approved that varied from the conceptual layout of the original Development Plan by increasing the number of townhouses allowed and adjusting the location of uses. These changes were made in the context of subsequent site plan reviews as was anticipated by the previously approved preliminary plan. The plan is now almost fully built out, with the exception of Parcel U. This site was previously approved for elderly housing under site plan 819930130; however, site plan 81994012A relocated that use to the south side of the development next to the gas station on Mateny Road. On October 13, 1994, the Board also approved Site Plan Amendment 81993013A, which increased the maximum size of the daycare use adjacent to the subject parcel.

On September 22, 2009, the Montgomery County Hearing Examiner approved DPA 08-1 (Appendix A), which amended the original development plan and allows up to twenty townhouses on the subject property.

A preliminary plan amendment and site plan amendment are required to reflect the approved development plan, change the use allowed on Parcel U from elderly housing to one-family attached residential, increase the number of one-family attached units allowed, and reflect the percentage of residential unit mix accurately.

Proposal

The proposed development, as shown below on the following page, would create twenty townhouse lots on a 1.32-acre site that is accessed from Clopper's Mill Drive. Vehicular access and circulation is provided by a twenty-foot-wide private driveway that splits into two separate private driveways. A private mews is located at the center of the development with townhouses facing each other. Seven of the townhouses front on Clopper's Mill Drive, while the remaining thirteen townhouses are located along the private driveways in the interior of the property. Five-foot-wide sidewalks will serve the property from Clopper's Mill Drive, and will be located within the mews. Substantial vegetative screening will be provided along the eastern and southern property boundaries, and trees will be planted along the street and private driveways. A passive recreational seating area is to be located at the split of the entrance drive where the mews begins. The northwest corner of the site also includes six residential parking spaces for use by the adjacent condominium and which are accessible only from the condominium parking lot.



Illustrative Plan

ISSUES

Location of MPDUs

The 20 townhouses added by the approved DPA 08-1 increased the overall MPDU requirement for the Village of Clopper's Mill East, in which Parcel U is located, to 87 MPDUs. The Applicant has already constructed 85 MPDUs, requiring the final two MPDUs to be realized with this last development parcel. During the DPA deliberations, there was much discussion as to where those two MPDUs should be located: integrated into the 20 proposed townhouse units on Parcel U; or

elsewhere within the larger Village of Clopper's Mill East community, specifically within the adjacent Riverstone Condominium. The applicant has submitted comments from the Council's discussion on the topic (Appendix B).

The binding elements of the District Council's approval of DPA 08-1 allows the Applicant:

to satisfy the overall MPDU requirement for the Village of Clopper's Mill East development...by either: (1) building 2 of the townhouses approved by this development plan amendment as MPDUs; or (2) purchasing 2 existing Riverstone Condominium units in the Village of Clopper's Mill East and converting them into MPDUs. Either alternative must be under agreement with DHCA.

Staff respects and defers to DHCA's prerogative to identify the final location of the MPDUs within the overall development, but respectfully recommends the two MPDUs be located within the 20 approved townhouse units. Including the MPDUs in this parcel will further enhance and reinforce the integration of these units with their market-rate counterparts, provide additional choice for potential residents and augment the diversity of housing types available as MPDUs. Staff is not proposing to include this recommendation as a condition of approval.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements. Staff has received correspondence from both the Clopper's Mill Community Association and residents of the adjoining condominium. The Clopper's Mill Community Association wrote to support the proposal overall (Appendix C), and to register their strong preference that the two required MPDUs be located within the 20 townhouses, and not in the adjacent Riverstone Condominium. Staff also received a petition with signatures of over 100 community residents registering a similar preference. Staff agrees and makes the same recommendation.

Two residents of the adjacent condominium building on Clopper's Mill Terrace wrote to identify several concerns (Appendix C) identified below with staff comment/response:

- *The two MPDUs should be located among the townhouses.* Staff agrees.
- *The emergency vehicle access point, located between the townhouse driveway and the abutting condominium parking lot, is not sufficiently restrictive and may invite inappropriate use by non-emergency vehicles.* The Department of Fire and Rescue has approved the proposed Fire Access Plan, and the remedies suggested by the commenter might impede access to the site for emergency vehicles. Staff recognizes that, short of these physical barriers, there remains an opportunity for residents to cut through the adjacent parking lot, but believes the overall impact would likely be small and episodic.
- *The general vehicular access is insufficient for vehicular turnaround, especially for emergency equipment.* Staff acknowledges that, while not ample, the proposed plan provides sufficient space for both residents and visitors (including emergency vehicles) to access, turnaround, and exit the site. For residents, each driveway terminus includes a turnaround area, allowing residents to back out of their garage or driveway apron into that area and turn around. Typical visitors will similarly be able to use the proposed driveways adjacent to the provided visitor parking to back out and turn around to exit onto Clopper's Mill Road. Emergency vehicles, according to the approved Fire Access Plan, have

extensive access to the front and rear of each of the units, and could extricate themselves by backing out onto Clopper's Mill Drive or through the adjacent condominium parking lot, performing a multi-point turn, or some combination.

- *The common area lighting conditions should be augmented with on-building lights to improve safety.* The site currently includes area pole-mounted lighting along the alley driveways adjacent to both the daycare and condominium as well as on the entrance drive and at the mailbox seating area. The proposed townhouse units will further include building-mounted lights at the front and rear of each building for additional safety.

SECTION 2: PRELIMINARY PLAN REVIEW

ANAYSIS AND FINDINGS

Master Plan Compliance

The subject site is located within the Germantown Master Plan area. The property is part of the CL-9 Analysis Area identified on page 66 of the Master Plan. The Master Plan recommendations that are applicable to the proposed plan include:

1. Creation of pedestrian and bicycle connections between the village center and the adjoining uses.
2. Creation of buffers between adjacent residential areas and the commercial uses of the center using public spaces or low-intensity offices, landscaped areas or recreation areas as transitions.

In addition to these specific development guidelines, the Master Plan also identifies the residential area immediately surrounding the retail component of the Village Center as appropriate for higher density residential development such as garden apartments or one-family attached units.

The application meets the applicable recommendations of the Master Plan listed above. The applicant is proposing to enhance the pedestrian connection of Parcel U by providing internal sidewalks, connecting those to existing sidewalks, which connect to the nearby Village Center. The applicant has also provided adequate landscaping as a buffer between the adjoining commercial center, child care center, and multi-family units. The area is also identified by the Master Plan as suitable for one-family attached units. Therefore, staff finds that the preliminary plan and site plan are consistent with the Germantown Master Plan.

Adequate Public Facilities Review

Roads and Transportation Facilities

Adequate vehicular access to the site is provided by a full-movement driveway connection to Clopper's Mill Drive. The access point and five-foot-wide sidewalks currently exist along Clopper's Mill Drive, but the internal vehicular facilities have not yet been constructed. Pedestrian access is provided via three five-foot-wide sidewalks, and one three-foot-wide sidewalk. Two of the five-foot-wide sidewalks provide access from Clopper's Mill Drive, while one of the five-foot-wide

sidewalks is to be located in the mews between the rows of townhouses. The three-foot-wide sidewalk provides access to the adjoining parking lot at the southern end of the subject property.

Local Area Transportation Review and Policy Area Mobility Review

To satisfy the Local Area Transportation Review (LATR) component of the APF test, the consultant for the Applicant submitted a traffic statement, which examined the number of trips generated by the proposed densities and uses for the Village of Clopper's Mill East. The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review. The site is located in the Germantown West Policy Area where there is no trip mitigation requirement in the Annual Growth Policy. Therefore Policy Area Mobility Review (PAMR) is not required.

Other Public Facilities

The Northwest Schools Cluster is operating at greater than 120% at the elementary school level; however, the County Council amended the FY2009-2014 Capital Improvements Program to increase funding to this cluster. Therefore, instead of imposing a moratorium on this cluster, the applicant is required to make a School Facilities Payment at this level. Other public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities such as police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. Electrical, gas, and telecommunications services are available to serve the Property.

Environment

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for Parcel U and was approved by Environmental Planning staff in March of 2008. As previously stated, there are no regulated environmental features onsite such as streams, wetlands, 100-year floodplain, environmental buffers, steep slopes, or highly erodible soils. There is no forest onsite. The site is well removed from the existing streams, wetlands and forest conservation easements associated with the overall Village of Clopper's Mill development. Therefore, this plan complies with the Montgomery County Environmental Guidelines.

The Forest Conservation Plan (FCP) was approved on March 22, 1994. The current preliminary and site plan amendments do not alter any aspect of the previously approved forest conservation plan. Staff finds the proposed amendment satisfies the requirements of the Forest Conservation Law.

A noise analysis was performed by Staiano Engineering, Inc. The noise analysis report dated December 18, 2009 shows that the proposed townhouse development is located entirely outside the 60-dBA day-night average noise level line and that no acoustic or structural mitigation is necessary for this development.

Stormwater Management

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the project on September 18, 2008. The stormwater management concept consists of on-site channel protection measures via existing Pond B; on-site water quality control via a volume based Stormfilter; and onsite recharge via drywells.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations, and Chapter 59, the Zoning Ordinance. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed use, with the exception of public schools which will be addressed as previously discussed. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan (Appendix D).

Lot Frontage on a Private Street

Section 50-29(a)(2) of the Subdivision Regulations requires "...that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road." Thirteen of the twenty townhouse lots will front onto a mews and will have alley access to their garages. Therefore, if the Planning Board approves the preliminary plan, it must also find that the proposed private streets have acquired the status of public roads. As reflected in other similar cases approved by the Board, this finding is based upon the proposed road being fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road structural standards, except for right-of-way and pavement widths.

In the case of this subdivision, the proposed alleys which provide access to thirteen of the twenty townhouse lots do not meet the minimum standards necessary to make a finding that they will attain the status of a public road. The proposed plan includes several lots without frontage on public streets. Instead, the frontage is on private driveways and green space. Since these driveways and green spaces are the only frontage provided for the lots, it is staff's opinion that a waiver of Section 50-29(a)(2) is needed to permit the proposed configuration. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements. Staff finds that a waiver of lot frontage is justified in this case based on the practical difficulties associated with implementing design principles that the approved Development Plan and pending Site Plan want to achieve; specifically, lining Clopper's Mill Road with residential units while taking advantage of a deep site to increase residential density near the public space and retail uses. The location of the seven townhomes along Clopper's Mill Road makes it impractical, given the dimensions of the lot, to provide a loop driveway or cul-de-sac turnaround while still maintaining a more dense residential character. In the proposed configuration, the mews is connected directly to the main street not only by sidewalk but also by a landscaping plan which integrates the interior units both to Clopper's Mill Road and the more informal pedestrian connection to the adjacent retail and nearby park.

Staff finds that the houses will be adequately served and accessed by the proposed private driveways. The driveways have not been designed to serve guests and service providers, but they

can be accommodated in this instance by parking on Clopper's Mill Drive, and in the additional parking provided onsite.

Therefore, staff recommends a waiver of Section 50-29(a)(2), pursuant to Section 50-38(a) and finds that the waiver is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

The application meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms with the recommendations of the Germantown Master Plan. Therefore, Staff recommends approval of the Preliminary Plan Amendment including a waiver pursuant to Section 50-38 of the Subdivision Regulations to permit lots without frontage on a public street, subject to the following conditions:

- 1) Approval under this preliminary plan amendment is limited to twenty lots for twenty one-family attached units, including two moderately priced dwelling units (MPDU), to be located on the subject site or within the larger development. Ultimate location of MPDUs will be determined at the time of Site Plan Certification.
- 2) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated December 11, 2009. These conditions may be amended by MCDOT, provided any modifications do not conflict with other conditions of the preliminary plan approval.
- 3) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated September 18, 2008. These conditions may be amended by MCDPS, provided any modifications do not conflict with any other condition of the preliminary plan approval.
- 5) The applicant must construct, per the site plan phasing schedule, three 5-foot-wide sidewalks to serve the proposed development internally as shown on the preliminary plan, and one 3-foot-wide sidewalk to provide access to the adjoining parking lot.
- 6) The record plat must reflect a public use and access easement over all private streets and adjacent parallel sidewalks except for the private driveways behind lots 10-20.
- 7) Site Plan # 81993013B must be approved by the Board and certified by the Development Review Division prior to the approval of the record plat.
- 8) No clearing or grading is permitted prior to certified site plan approval.
- 9) All previous conditions of preliminary plan 119910520 remain in full force and effect unless specifically amended by this approval.
- 10) The Adequate Public Facility (APF) review for the area covered under this preliminary plan amendment will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution for the Preliminary Plan.

SECTION 3: SITE PLAN REVIEW

Development Standards

The purpose of the PD (Planned Development) Zone is to implement community-scale plans, as recommended in a master plan, that feature a compatible mix of land uses, residential unit types, and public spaces. The Zone allows the proposed use, and the larger community, of which Parcel U is the final piece, was approved in accordance with the standards of the zone. The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report.

The following data table indicates the proposed development’s compliance with the Zoning Ordinance.

Project Data Table for the PD-4 Zone

| | Approved per Development Plan Amendment 08-1 | Proposed for Approval Preliminary Plan Amendment / Site Plan Amendment 81999013B |
|--|---|---|
| Gross tract area, Parcel U (acres) | - | 1.32 |
| Gross tract area, Parcel U (sf.) | - | 57,639 |
| Dedication (sf.) | - | 0 |
| Net tract area (sf.) | - | 57,639 |
| Lot size, min. (sf.) | 1,000 | 1,000 |
| Max. dwelling units – townhouses | 20 | 20 |
| Min. MPDU (on-site or on adjacent Riverstone Condominium site) | 2 | 2 |
| Min. Green Space (sf.) | 17,607 | 19,950 |
| Max building height (ft.) | 40 | 40 |
| Min. building setback (ft.) | | |
| Public ROW | 10 | 10 |
| Front BRL | 3 | 3 |
| Side BRL | 0 | 0 |
| Rear BRL | 3 | 3 |
| Parking spaces | 90 | 90 |

FINDINGS

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

The proposed development conforms to all non-illustrative elements of the amended Development Plan 08-1.

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

The Site Plan meets all of the requirements of the PD zone as demonstrated in the project Data Table on page 13, and as set forth in the Development Plan, as amended. The proposed plan meets the requirements for building height and setbacks, as well as for green space on Parcel U.

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

- a. Locations of buildings and structures

The proposed townhouses are grouped in four strings, two fronting onto Clopper's Mill Drive and two facing each other across a residential mews. Although somewhat idiosyncratic for a street populated primarily by walk-up apartment buildings, the arrangement of townhouses nevertheless defines the street edge and encourages pedestrian connection both to Clopper's Mill Drive and through the site to the adjacent Clopper's Mill Terrace, neighborhood park, and shopping center. The location of buildings and structures is adequate, safe, and efficient.

- b. Open Spaces

Being a small part of a larger, and fairly established, mixed-use residential community, Parcel U itself contains only one small, though welcoming, seating area. A large, well-designed neighborhood park is literally just around the corner and provides ample opportunity for residents to recreate and socialize. The open spaces on the site and in the immediate vicinity are adequate, safe, and efficient.

- c. Landscaping and Lighting

The proposed on-site landscaping and lighting are designed to improve compatibility with the existing surrounding buildings, providing both spatial definition and visual interest. The street lighting along Clopper's Mill Drive is existing, and the site lighting is designed to promote safety while limiting light trespass onto adjacent properties. The landscape and lighting are adequate, safe, and efficient.

d. Recreation Facilities

While the dwelling units proposed for Parcel U are too few to require recreation facilities to be provided on-site, the larger overall development includes an extensive pedestrian system, playgrounds, and open park areas. The recreation facilities available to residents are adequate, safe, and efficient.

e. Pedestrian and Vehicular Circulation Systems

The proposed site design well integrates the 20 townhouses with the extensive pedestrian and vehicular circulation systems of the established neighborhood. Sidewalks from each unit connect not only out to Clopper's Mill Drive, but also through the site to an existing sidewalk on the adjacent condominium property, providing a secondary means of access to the neighborhood park and the shopping center, as well as the larger community beyond. Each of the residential units includes rear-loaded parking garages that are served by a common private driveway that connects directly to Clopper's Mill Drive. The approved Fire Access Plan facilitates emergency vehicle access to both the front and rear of each unit. The proposed pedestrian and vehicular circulation systems are well-connected, adequate, safe, and efficient.

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

The height, massing, and scale of the proposed townhouse strings are sufficiently comparable to and compatible with the surrounding walk-up apartment buildings. The site design promotes integration within the larger community, including the various dwelling types, public open space, and retail uses.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The site is subject to forest conservation plan 819920050, which was approved on March 22, 1994. The current site plan amendment would not alter any aspect of the previously approved forest conservation plan. A noise analysis shows that the proposed townhouse development lies entirely outside the 60-dBA day-night average noise level line and that no acoustic or structural mitigation is necessary for this development. Finally, the proposal has an approved stormwater management concept that consists of on-site channel protection via existing Pond B, on-site quality control via a volume-based Stormfilter, and onsite recharge via drywells.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan No. 81993013B, The Village at Clopper's Mill East, Parcel U, for 20 townhouse dwelling units, including 2 MPDUs located either on-site or within the adjacent Riverstone Condominium, on 1.32 acres. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on December 2, 2009, are required except as modified by the following conditions:

1. Development Plan Conformance
The proposed development must conform with the Development Plan G-650, as amended by Development Plan DPA 08-1.
2. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval for Preliminary Plan Amendment 11991052A.
3. Site Plan Conformance
Except as amended by this plan, all elements of the approved Site Plans 819930130 and 81993013A remain in full effect.
4. Pedestrian Circulation
The Applicant must connect the proposed 3-foot pedestrian walkway extending to the southeast corner of the subject site to the existing pedestrian walkway leading from Clopper's Mill Terrace west to the existing parking lot on the condominium site, unless the adjacent condominium association objects in writing to the connection.
5. MPDUs
The MPDU agreement to build must be executed prior to the release of any building permits.
6. Lighting
 - a. On-site downlighting fixtures not located on private lots must be full cut-off fixtures.
 - b. Deflectors must be installed on all up-lighting fixtures causing potential glare or excess illumination.
 - c. Illumination levels, excluding streetscape light fixtures, shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.
 - d. The height of the light poles shall not exceed the height indicated on the Certified Site Plan.
7. Forest Conservation
The proposed development must comply with the conditions of the Final Forest Conservation Plan 819920050, approved on March 22, 1994. 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.
8. Stormwater Management
The proposed development is subject to Stormwater Management Concept approval conditions dated September 18, 2008, unless amended and approved by the Montgomery County Department of Permitting Services.
9. Landscape Surety
The Applicant shall provide a surety (letter of credit, performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:
 - a. The amount of the surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the relevant block of development. Surety must be posted prior to

issuance of first building permit within each relevant block of development and shall be tied to the development program.

- b. Provide a cost estimate of the materials and facilities, which will establish the initial bond amount.
- c. Completion of plantings by block, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the respective parties and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

10. Certified Site Plan

Prior to Certified Site Plan approval the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Include the stormwater management concept approval, Development Program, Inspection Schedule, and Site Plan Resolution on the approval or cover sheet.
- b. In coordination with DHCA, identify the final location of the two MPDUs.
- c. Provide a list of equivalent trees and landscaping to be approved by Site Plan Review Staff and Environmental Planning Staff.
- d. Provide detail of light fixtures showing full cut-off devices.
- e. Minor modifications consistent with the conditions of approval.

11. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and off-site sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- a. On-site amenities including, but not limited to, sidewalks, benches, common area lighting, and trellises must be installed prior to release of any building occupancy permit.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. On-site common area landscaping, including trees, associated with each of the townhouse rows must be installed within six months of the occupancy of that townhouse row.
- d. The development program must provide phasing of any dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.
- e. The pedestrian path connection, described in Condition 4, between Parcel U and the adjacent condominium property, must be completed prior to the issuance of the building permit for the 17th dwelling unit.

APPENDICES

- A. DPA 08-1 Resolution
- B. Community correspondence
- C. Applicant correspondence (regarding location of MPDUs)
- D. Agency approval

APPENDIX A: DPA 08-1 Resolution

ALTERNATIVE "B"

Resolution No: _____
Introduced: September 22, 2009
Adopted: _____
Agenda Item No: 6

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

By: District Council

Subject: Approval of Development Plan Amendment (DPA) 08-1

BACKGROUND

1. The application for Development Plan Amendment ("DPA") No. 08-1 was filed on April 7, 2008. The subject property, consists of 117.73 acres of land located in Germantown, on the east side of the Great Seneca Highway, immediately north of the Seneca Creek State Park and approximately 3,000 feet south of the intersection with Clopper Road. It was reclassified to the PD-4 Zone in Local Map Amendment ("LMA") G-650, in accordance with Resolution No. 11-2268, approved by the District Council on October 9, 1990. The entire tract, which is known as the Village of Clopper's Mill East, was approved for a total of 602 dwelling units, along with 153,000 square feet of retail uses, 17,000 square feet of office uses, an automobile filling station, and a day care facility. Exhibit 35, p. 2.
2. The Applicant, Great Seneca Investments, seeks to amend the approved Development Plan (DP) so as to permit a maximum of twenty (20) townhouses on a 1.32 acre portion of the site known as Parcel U, which is currently undeveloped, but which had been previously approved for uses related to a commercial building and then later, the construction of elderly housing units. In July of 2004, the Planning Board approved relocation of the elderly housing units to an alternate site. Exhibit 35, pp. 2-3. It is the purpose of this application to complete the residential "build-out" for the Village of Clopper's Mill East. The DPA would also call for two moderately priced dwelling units (MPDUs), with binding textual elements to govern their location within the Village of Clopper's Mill East.
3. Technical Staff, in its memorandum dated June 15, 2009, described the proposed townhouses (Exhibit 35, p. 3):

The proposed 3 story townhouses are shown on the amended development plan located to the south of Clopper's Mill Drive. Each townhouse will have

10

DPA 08-1
Page 2.

Resolution No. _____

interior parking for two cars and two spaces per driveway. Based on the amended development plan, 10 spaces are proposed for visitor parking. Additionally, the applicant has agreed to grant a private parking and maintenance easement to the Riverstone Condominium Association and plant a landscape buffer along the common property line. . . .

Staff also noted that the proposed changes would have to go through both site plan review and an amendment to the underlying preliminary plan.

4. Technical Staff recommended approval of DPA 08-1, with the proposed binding elements as submitted by the Applicant (Exhibit 35, p. 4). These binding elements would permit Applicant to locate the two MPDUs either by establishing two of the newly proposed 20 townhouses as MPDUs or, alternatively, by converting two existing Riverstone Condominium units in the Village of Clopper's Mill East into MPDUs. Either alternative would have to be approved by the Department of Housing and Community Affairs (DHCA), which agreed to this arrangement. Exhibit 35, Attachment 7.
5. Concerns about this arrangement were raised in a June 29, 2009 e-mail from Cathy Balogh, a "spokesperson for Riverstone residents" because it gave Riverstone residents "no options" regarding the MPDUs. Exhibit 37. Ms. Balogh appeared before the Planning Board at its July 2, 2009 meeting and indicated her preference for the townhouse MPDU alternative, but did not oppose the overall 20-townhouse proposal. Exhibit 39. Ms. Balogh ultimately followed up with a one-line letter of July 7, 2009, indicating that she was not seeking a hearing before the Hearing Examiner in this case. Exhibit 40.
6. The Montgomery County Planning Board reviewed DPA 08-1 at its regular meeting on July 2, 2009 and, by a vote of 3-to-2, the Board recommended that DPA 08-1 be approved, with modifications to the proposed binding elements. As stated in the Chairman's July 6, 2009 Memorandum to the Council (Exhibit 38, pp. 1-2):

The Planning Board had a lengthy discussion regarding the location of MPDUs for this project. Chairman Hanson and Commissioners Cryor and Presley voiced support for providing the MPDUs on Parcel U, and eliminating any option for the MPDUs to be provided in the Riverstone Condominium community. They agreed that the financial implications for the applicant, alone, are not enough of a reason to not locate the MPDUs on site. Although Commissioners Robinson and Alfandre support the townhouse proposal, their preference is to allow flexibility in terms of location of MPDUs within the overall community and for the final decision over the location of MPDUs to be maintained under the jurisdiction of DHCA.

11

DPA 08-1

Page 3.

Resolution No. _____

7. The Applicant did not accept all the modifications to the binding elements proposed by the Planning Board; however, Applicant did not request a public hearing before the Hearing Examiner. Instead, it submitted a revised DPA (Exhibits 46(a), (b) and (c)) which modified only Binding Element numbered 2, relating to the height of the townhouses, in accordance with the Planning Board recommendation, and left unchanged its binding elements 1 and 3 which relate to locating the MPDUs. Nevertheless, in a letter dated August 24, 2009 (Exhibit 45), Applicant agreed to have alternative resolutions submitted to the Council, one referencing binding elements consistent with all the Planning Board's recommendations and the other consistent with the Applicant's wishes. Applicant stated, "In the event that the Council . . . approves an Amended Development Plan with conditions as recommended by the Planning Board, then the Applicant will promptly file a revised Amended Development Plan that will be consistent with the conditions of approval of the District Council."
8. There is no opposition to DPA 08-1, and no request has been made for a hearing. The Planning Board also does not recommend a public hearing in this case. Therefore, under the provisions of Zoning Ordinance §59-D-1.74(c)(3), the matter can be considered directly by the District Council without a hearing by the Office of Zoning and Administrative Hearings (OZAH). Usually, in these cases, a draft resolution is prepared by OZAH based solely on the Planning Board's transmittal and the record prepared by Technical Staff, including its report.
9. However, in this case, because of the MPDU location issue, the Hearing Examiner submitted alternative resolutions. Resolution Alternative "A" would approve the DPA, conditioned upon Applicant revising the DPA's Textual Binding Elements as proposed by the Planning Board. Resolution Alternative "B" would approve the DPA with the Textual Binding Elements substantially as written in the current version (Exhibits 46(a), (b) and (c)).
10. The District Council, having reviewed the record in this case, is persuaded by the Planning Board's minority recommendation to give DHCA the flexibility to determine the best location for the two MPDUs.
11. Because the Hearing Examiner has conducted no hearing in this matter, he has no recommendations on the substance of this issue. He did suggest one clarification to the box showing the textual binding elements on Exhibit 46(b), which would apply to both alternatives. That clarification would make it explicit that the language in new Binding Element 1 applies only to the portion of the site changed in this DPA (*i.e.*, the area currently designated "Parcel U"). Since the overall development has 602 units, the language in the current Binding Element 1 specifying that the number of dwelling units is "Not to exceed 20

DUs" may create confusion unless the text specifies that the "20 DU" limitation relates only to Parcel U. The language in the Textual Binding Elements has been changed accordingly.

12. The Textual binding Elements which must be imprinted on the approved DPA are as follows:

| DEVELOPMENT PLAN TEXTUAL BINDING ELEMENTS | |
|--|--|
| DEVELOPMENT STANDARDS | BINDING ELEMENTS |
| 1. Number of dwelling units. | Not to exceed 20 DUs in the tract currently identified as "Parcel U," including MPDUs if they are located on Parcel U. |
| 2. Building Height | Not to exceed forty feet in height |
| 3. Moderately Priced Dwelling Units (MPDUs) | <p>The applicant must provide two MPDUs to satisfy the overall MPDU requirement for the Village of Clopper's Mill East development by building 2 of the townhouses approved by either:</p> <ul style="list-style-type: none">(1) Building 2 of the townhouses approved by this development plan amendment as MPDUs; or(2) Purchasing 2 existing Riverstone Condominium units in the Village of Clopper's Mill East and converting them into MPDUs. <p>Either alternative must be under agreement with DHCA.</p> |

ACTION

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

DPA 08-1, which requests an amendment to the Development Plan approved on October 9, 1990 in LMA G-650 (Resolution No. 11-2268), for 117.73 acres of land known as the Village of Clopper's Mill East, located in Germantown, on the east side of the Great Seneca Highway, approximately 3,000 feet south of the intersection with Clopper Road, Maryland, to permit a maximum of twenty (20) townhouses on a 1.32 acre portion of the site known as Parcel U and to

DPA 08-1
Page 5.

Resolution No. _____

provide textual binding elements as spelled out in Paragraph numbered 12 above, **is hereby approved**, subject to the specifications and requirements of the Development Plan Amendment, Exhibits 46(a), (b) and (c), **provided that** the Applicant revises the Development Plan Amendment, Exhibits 46(a), (b) and (c), with the modified textual binding element language specified in the table in Paragraph numbered 12 of this Opinion; and that the revised DPA is submitted to the Hearing Examiner for certification within 10 days of the District Council's action, pursuant to the provisions of Zoning Ordinance §59-D-1.64.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

APPENDIX B: Applicant's Correspondence



LAW OFFICES
MILLER, MILLER & CANBY
 CHARTERED

PATRICK C. McKEEVER (DC)
 JAMES L. THOMPSON (DC)
 LEWIS R. SCHUMANN
 JODY S. KLINE
 ELLEN S. WALKER
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 MICHAEL G. CAMPBELL (DC, VA)
 SOO LEE CHO (CA)
 AMY C. GRASSO

** All attorneys admitted in Maryland and where indicated*

JSKLINE@MMCANBY.COM

October 2, 2009

Ms. Rose Krasnow
 Development Review Division
 Maryland-National Capital Park and Planning Commission
 8787 Georgia Avenue
 Silver Spring, MD 20910

Mr. Ralph Wilson
 Development Review Division
 Maryland-National Capital Park and Planning Commission
 8787 Georgia Avenue
 Silver Spring, MD 20910

RE: Comments by Council Member Nancy Floreen upon consideration of
 Development Plan Amendment 08-1, Village of Clopper's Mill East

Dear Rose and Ralph:

I have mentioned to each of you the monologue of Council Member Nancy Floreen, not contradicted by any other Council member, during the consideration of Development Plan Amendment Application 08-1. We have partially transcribed the text of Council Member Floreen's comments and the responses of the Hearing Examiner, Mr. Grossman, for your consideration.

By way of background, DPA 08-1 is a proposal to install 20 townhouse units on a parcel of land originally shown on an approved development plan for an elderly housing building (which had been built elsewhere in the project). During M-NCPPC's review, Staff wanted us to identify the location of the MPDUs within this project. That seemed an unnecessary request to the Applicant because, in this case, the MPDU units would not be markedly different in size than market rate units and for that reason we thought that the location could be determined upon review of the site plan. But we never really engaged in a strong debate with Staff about that subject because an alternative proposal to provide the MPDUs "offsite" (in an adjacent multi-family condominium project) was acceptable to DHCA and Staff with the final location of the MPDUs to be determined prior to site plan review. But Carlton Gilbert did press to include a binding element that there would be two MPDUs associated with the twenty new townhouses, either in the townhouses or in the adjacent condominium building. It was that binding element that prompted Ms. Floreen's comments.

As the attached "transcript" suggests, the majority of the Planning Board (three members) did not agree with Staff's support of a binding element indicating that the location of MPDUs would be determined at a later point in time. Commissioners Robinson and Alfandre felt that the location of the MPDUs should be made by DHCA, at least in this case.

The point that I am trying to make is that at least Council Member Floreen, and I believe other Council members since no one contradicted her comments in the attached "transcript," believes that the designation of MPDUs on a development plan was not necessary for the Council to approve the Development Plan. I would appreciate if you would discuss this matter among yourselves and with the zoning analysts in Ralph's section and give me a "sense" of what will be future practice reviewing zoning applications with development plans. Based on Ms. Floreen's comments, I anticipate resisting a reviewer's request to identify the location of MPDUs in the development plan since it constitutes a constraint on the developer too early in the development process and does not seem to provide any measure of protection or information that the Council considers to be important.

But I would appreciate your advice in this matter.

Sincerely yours,

MILLER, MILLER & CANBY

A handwritten signature in black ink that reads "Jody". The signature is written in a bold, slightly stylized font. Above the signature is a thick horizontal black line.

Jody S. Kline

JSK:cdp

Enclosure

NOTES

Montgomery County Council Session
September 22, 2009
Agenda Item 6 - Action on Schematic Development Plan 08-1
Great Seneca Investments LLC (Village of Clopper's Mill)

Hearing Examiner Grossman explained that the only issue here is whether the Planning Board's majority or minority recommendation should be followed for the location of the 2 MPDU's for the project. The majority recommend they be located on-site. The minority went with technical staff recommendation to leave the specific location of the 2 MPDU's to be later determined by the Department of Housing and Community Affairs, possibly on an adjacent site. Mr. Grossman explained that there is one small clarification on the language of either option, but it just a language issue. He did not explain what was the clarification.

Councilmember Floreen asked why Council was deciding this zoning case. "We enact all kinds of rules about . . . locating MPDU's and off-site things" and other sorts of negotiations, "why is this little portion of the decision making process a zoning decision?" "Because it was a sentence in a previous approval?"

Mr. Grossman explained that the development plan amendment, as approved by the Planning Board would ordinarily be the only resolution in front of Council. In this situation, the applicant did not agree with what the Planning Board recommendation and wanted to go with the technical staff recommendation. The applicant did not want to amend their plans but has agreed that whatever the Council decides on this issue, they would do.

Ms. Floreen responded that that was a good position of the applicant, to go with whatever Council decides. "So this was a debate?"

Grossman - Yes, the Planning Board was split 3-2.

Floreen - "And Planning staff had recommended something else, the alternative?"

Grossman - The 2 MPDU's would be located at a location determined by the Department of Housing and Community Affairs.

Floreen - ". . . to be offsite?"

Grossman - It could be offsite or . . .

Florreen - "I see. I just raise the question about zoning cases, how much the Council's expected to resolve every little detail. It's obviously a policy call but at a certain point it is delegated to others."

Grossman - That is a legitimate concern, but I just present you with the alternatives . . .

Floreen - You're just doing your job. Excellent. Thank you very much. . . . I'd propose what the technical staff recommended. . . . Which was Alternative B. "Though I resist the concept that we should have to make a decision because we could end up having a lot of meetings on this kind of stuff."

Council goes on to get a brief description of what the impact of the motion would be from Mr. Grossman.

There was no discussion and the vote was 8-0 for approval.

APPENDIX C: Citizens Correspondence

Catherine Balogh
18001-A Cloppers Mill Terrace
Germantown, MD 20874

November 11, 2009

Patrick Butler
Planner
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Patrick:

As given for development plan amendment 08-1 (DPA 08-1), the undersigned Riverstone Condominium residents at 18001 and 18003 Cloppers Mill Terrace support the proposal to build 20 townhouses on parcel U or the vacant lot adjacent to our condominium buildings on parcel F (see attached letter of October 9, 2008). These 20 townhouses are shown on lighting and landscaping plans submitted by the applicant, Elm Street Development, for site plan review. I received these plans courtesy of the applicant on October 14 for consideration and comment in preparation for preliminary plan (11991052A) and site plan (81993013B) review. On behalf of the residents at 18001/03 Cloppers Mill Terrace, John Reid (resident at 18001-E) and I have studied these plans. Our comments are given below. The residents will also receive copies of them.

As given for DPA 08-1, the proposed townhouses seem compatible with the neighboring condominium and townhouse residences. Building height (no taller than 40 feet and to be built three-stories high) is in keeping with the Riverstone Condominium buildings, which are three and four stories tall.

Resident support remains strong for the parking easement to reserve and create parking spaces for us along the common property line, as shown on the development plan and as confirmed by Mike Bingley of Elm Street Development in a letter to the Riverstone Condominium Board of Directors dated November 7, 2008 (attachment 8 from the DPA 08-1 staff report).

Residents are still concerned about the unimpeded use of the emergency vehicle access point through the landscaped buffer as a shortcut by pedestrians and possibly motorists. John Reid and I along with the Riverstone Condominium Association property manager would like to see an effective barrier that permits access for emergency vehicles yet limits use by unauthorized vehicles and pedestrians. Restrictive signage, which is shown on the development, landscaping, and lighting plans, does not seem to be an effective deterrent. Some effective barriers include a crash or swing gate or a chain. John Reid and I ask that the Planning Board commissioners condition preliminary/site plan approval with a similarly effective method, if during preliminary/site plan review, this safety consideration is not addressed and shown on both plans.

John Reid and I also noted that the center-facing townhouses (numbered 8 to 14 and 15 to 20 on all three plans) do not front on a street. Rear garage access is by way of alleys that dead end. We look forward to reviewing a preliminary/site plan that shows end-of-street vehicle turnaround(s) to facilitate traffic and emergency vehicle circulation on parcel U and that is in keeping with attachment 12 from the DPA 08-1 staff recommendation to approve the parcel development plan and with the Montgomery County fire safety code for fire department apparatus and water supply (attached).

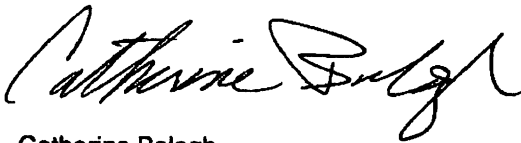
Swift and sure fire suppression on parcel U will be important to those of us living on parcel F, the Riverstone residents living on the other side of Cloppers Mill Drive, the staff of and children enrolled in the daycare center to the west, and employees and patrons of the shopping center to the south.

Community comment on the textual binding element conditioning the Riverstone Condominium Association in an MPDU requirement to build 20 townhouses on this site will be provided under a separate cover.

In addition, the undersigned residents from DPA 08-1 continue to support annexation of our future neighbors into the Village of Cloppers Mill East.

John Reid and I look forward to reviewing the submitted preliminary plan and Development Review Division-approved preliminary plan. Thank you for the opportunity to participate in the subdivision review process.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Catherine Balogh". The signature is written in black ink and is positioned above the printed name.

Catherine Balogh

Catherine Balogh
18001-A Cloppers Mill Terrace
Germantown, MD 20874

November 11, 2009

Elza Hisel-McCoy
Planner Coordinator
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Elza:

As given for development plan amendment 08-1 (DPA 08-1), the undersigned Riverstone Condominium residents at 18001 and 18003 Cloppers Mill Terrace support the proposal to build 20 townhouses on parcel U or the vacant lot adjacent to our condominium buildings on parcel F (see attached letter of October 9, 2008). These 20 townhouses are shown on lighting and landscaping plans submitted by the applicant, Elm Street Development, for site plan review. I received these plans courtesy of the applicant on October 14 for consideration and comment in preparation for preliminary plan (11991052A) and site plan (81993013B) review. On behalf of the residents at 18001/03 Cloppers Mill Terrace, John Reid (resident at 18001-E) and I have studied these plans. Our comments are given below. The residents will also receive copies of them.

As given for DPA 08-1, the height (no taller than 40 feet and three stories tall) of the proposed townhouses on parcel U is in keeping with the neighboring three- and four-story Riverstone Condominium buildings. In addition, the cluster-style arrangement of these attached residences is visually appealing and is well-adapted to this rectangular-shaped parcel of land.

Resident support remains strong for the parking easement to reserve and create parking spaces for us along the common property line, as shown on the development plan and as confirmed by Mike Bingley of Elm Street Development in a letter to the Riverstone Condominium Board of Directors dated November 7, 2008 (attachment 8 from the DPA 08-1 staff report).

Residents are still concerned about the unimpeded use of the emergency vehicle access point through the landscaped buffer as a shortcut by pedestrians and possibly motorists. John Reid and I along with the Riverstone Condominium Association property manager would like to see an effective barrier that permits access for emergency vehicles yet limits use by unauthorized vehicles and pedestrians. Restrictive signage, which is shown on the development, landscaping, and lighting plans, does not seem to be an effective deterrent. Some effective barriers include a crash or swing gate or a chain. John Reid and I ask that the Planning Board commissioners condition site plan approval with a similarly effective method, if during preliminary/site plan review, this safety consideration is not addressed and shown on both plans.

John Reid and I also noted that the center-facing townhouses (numbered 8 to 14 and 15 to 20 on all three plans) do not front on a street. Rear garage access is by way of alleys that dead end. We look forward to reviewing a preliminary/site plan that shows end-of-street vehicle turnaround(s) to facilitate traffic and emergency vehicle circulation on parcel U and that is in keeping with attachment 12 from the DPA 08-1 staff recommendation to approve the parcel development plan and with the Montgomery County fire safety code for fire department apparatus and water supply (attached).

Swift and sure fire suppression on parcel U will be important to those of us living on adjacent parcel F, the Riverstone residents living on the other side of Cloppers Mill Drive, the staff of and children enrolled in the daycare center to the west, and employees and patrons of the shopping center to the south.

John Reid and I find that the lantern-style pole lights (6) shown on the lighting plan are in keeping with the existing lighting in the Village of Cloppers Mill East. Down lights with 180- rather than almost 360-degree illumination would be appropriate as well. Lighting that provides less glare and sky glow and maximum ground coverage is always welcome. We noted that each townhouse will have a front porch light for additional illumination. Down lights attached to the garages would be an added safety precaution. Additional pole lighting at the front and rear of the townhouses would provide an additional measure of security.

The landscaping plan provides details of some exquisite vegetation for these future townhouse residents. The proposed plants for the landscaped buffer between the two properties are also varied and attractive. This buffer should provide a good transition along the property line but probably will not afford much privacy. John Reid and I are not certain whether many of these plants are native to Maryland or the Southeast; however, the nursery description of these trees, shrubs, and ornamentals indicate that they should thrive.

The flowering Japanese Pagoda Tree is a highlight of the buffer area. This tree is said to grow rapidly and tolerate city conditions, heat, and drought. It should thrive in this sunny location. The Fosters' Hollies should partially obscure the view of our trash corral from our future neighbors on parcel U. The purple Crepe Myrtles, Cherry Laurels, and Japanese Pieris with its Lily of the Valley blooms will make for a seasonally colorful buffer.

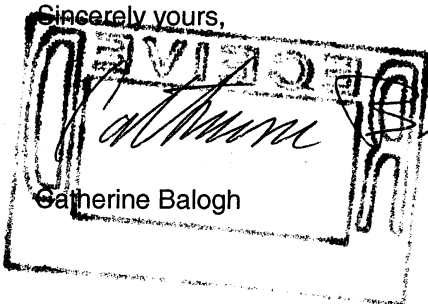
The entire community will enjoy the Japanese Zelkova trees that are to be planted at the entrance to parcel U. The trees umbrella of foliage will provide shade in the summer. In the fall, the leaves are said to put on a showy display, turning from yellow, copper, orange, or deep red.

Note that comments on the MPDU requirement and annexation are as given in my letter to Patrick Butler, who is coordinating the preliminary plan review process.

John Reid and I look forward to reviewing the submitted site plan and Development Review Division-approved site plan. In addition, all of the residents on parcel F are interested in any building plans for these proposed townhouses when they become available.

Thank you for the opportunity to participate in the site plan review process.

Sincerely yours,



John Reid

CLOPPER'S MILL COMMUNITY ASSOCIATION
Board of Directors

Mr. Elza Hisel-McCoy,
Site Plan Coordinator
MNCPPC 8787 Georgia Avenue
Silver Spring, MD 20910

November 12, 2009

Dear Mr. Hisel-McCoy,

I am writing this letter for your consideration in the preparation of the report regarding Elm Street's latest Amended Development Plan for Parcel U, No. 08-1. Please understand that as President of the Clopper's Mill Community Association (CMCA), the comments that follow are made on behalf of the Board of Directors (BOD).

While the Board had submitted an earlier letter on 6/19/09 to Carleton Gilbert for inclusion in the County's Park & Planning Division's report for the hearing on 7/2/09, the BOD was unaware of the applicant's either/or statement as to the location of the MPDUs. The main purpose of the BOD's document at that time was to support the development of the 20 Townhouses (THs). Be assured that if this additional element had been known in advance, this specific issue would have been addressed in that letter.

At this point the BOD wishes to express its position on the location of the MPDUs:

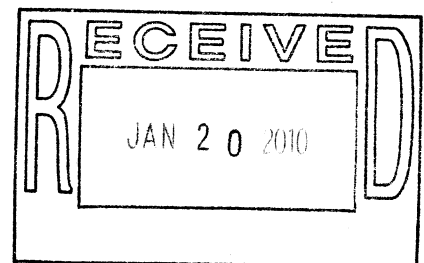
- 1) Due to the fact that the County's 2 unit MPDU requirement is the direct result of the Applicant's proposal for these additional 20 residential units, **the BOD strongly feels that these units should be located within the yet to be developed THs** versus the already established Riverstone Condominiums.
- 2) Further, the BOD is anticipating that possible annexation of these new homes into the greater community of the CMCA is likely to be even more difficult considering that approximately 1/3rd of the 2/3rds votes necessary for approval potentially reside with the residents of the condominiums. The process & final determination of annexation is already a major challenge for the developer without additionally compromising the outcome in advance by proposing the option of purchasing & locating the MPDUs in the condominiums.

The Board greatly appreciates in advance the time taken to read & consider its position as to the location of the MPDUs.

Sincerely,
Susan Poisson
President, CMCA

To Elza Hisel-McCoy, Development Review Division
From Cathy Balogh, Riverstone Condominiums
Referencing preliminary plan 11991052A/site plan 81993013B
January 19, 2010

Enclosed are the fax and original MPDU petition letter addressed to Planning Board Chairman Royce Hanson. Also enclosed are the original MPDU petition signatures showing resident support for the location of the required parcel U MPDUs on parcel U rather than with the existing Riverstone community.



Balogh, Cathy

From: Balogh, Cathy
Sent: Tuesday, January 19, 2010 9:27 AM
To: 'mcp-chairman@mncppc-mc.org'
Cc: Butler, Patrick; 'Hisel-McCoy, Elza'; 'JClarke@elmstreetdev.com'; 'Mike Bingley'; 'dhca2@montgomerycountymd.gov'; 'ike.leggett@montgomerycountymd.gov'
Subject: MPDU location problem: petition letter for preliminary plan 11991052A/site plan81993013B
Attachments: ParcelUObject.doc

Dear Dr. Hanson:

Attached is a petition letter and signatures (in three successive e-mails to total 12 pages) from owners of 101 units in the Riverstone Condominium Association, Germantown, MD, in support of the construction of 20 townhouses on parcel U and in opposition to the location of the required two moderately priced dwelling units (MPDUs) within the Riverstone community, which is part of the greater Cloppers Mill Community Association.

The attached letter and a status update on parcel U were mailed to all stakeholders in our 202-unit complex toward the end of October 2009. To note, Riverstone has 53 known units that are rented, to include 18 that are Housing Opportunities Commission rental units. The other Riverstone Condominium Association Board members and I and two residents went door to door to secure these signatures. There is one duplication (duplicate deleted). In some instances, both husband and wife signed the petition (denoted by asterisks) for a total of 105 signatures. One owner was reportedly not in opposition and did not sign: the rest were not available for comment.

My apologies for the slogan "Say 'No' to more MPDUs in Riverstone!" on pages 9 and 10 of the signatures. The thrust of our opposition is not directed against the MPDU program.

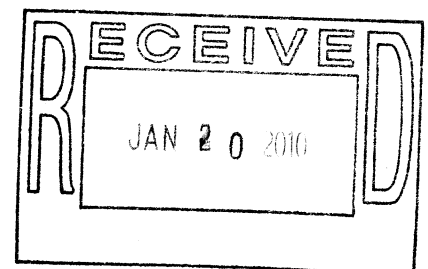
At the July 2, 2009, Planning Board hearing for development plan amendment 08-1, I had fully intended to support the plan amendment on behalf of the 16 participating residents on the adjacent parcel F. With the introduction of the textual binding element giving the applicant a choice as to the location of the required MPDUs, I ended up supporting the plan and voicing my objection to the MPDU location within Riverstone on behalf of the entire community. I assumed the residents and I were like minded on both matters. Now I know that owners of 100 other units agree with me.

As we move toward the preliminary/site plan public hearing, I hope that you, the other Planning Board commissioners, Development Review Division staff, the applicant, and the Department of Housing and Community Affairs give our objection serious consideration before final decisions and approvals are made. The appropriateness of meeting a new construction requirement within the existing Riverstone community remains questionable. Our opposition is strong.

The original letter and signatures will be sent to Elza Hisel-McCoy, Development Review, planning coordinator.

Yours truly,

Cathy Balogh



1/19/2010

Cathy Balogh
18001-A Cloppers Mill Terrace
Germantown, MD 20874

October 28, 2009

Dr. Royce Hanson
Chairman
Montgomery County Planning Board
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Referencing Preliminary Plan No. 11991052A and Site Plan No. 81993013B

Dear Dr. Hanson:

We, the undersigned stakeholders in the Riverstone Condominium Association, support the construction of 20 townhouses on parcel U with both moderately priced dwelling units (MPDUs) located on that site. We oppose the purchase of two existing Riverstone Condominium units for conversion into MPDUs to meet a townhouse building requirement, as provided in the textual binding elements for this property.

We object for the following reasons.

The Riverstone Community may be asked to meet an MPDU requirement twice. When construction began in the mid-1990s, 38 of the 202 condominium units were built as MPDUs, according to the Department of Housing and Community Affairs. Now with the construction of 20 additional townhouses, Riverstone could be asked to meet an affordable housing requirement again, only this time on behalf of the entire community.

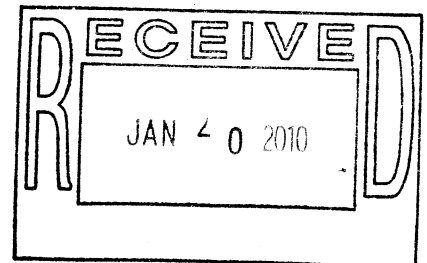
If selection is based on the vagaries of market conditions, then condominium units would be favored over townhouses 99.9% of the time because condominiums are smaller and less expensive.

Also, a larger family group in the market for a townhouse would not be well served by a smaller condominium unit.

We appreciate the opportunity to voice our objection and hope that the Planning Board commissioners will give due consideration to the location of these MPDUs when it comes time to recommend approval of preliminary and final site plans for parcel U.

Sincerely yours,

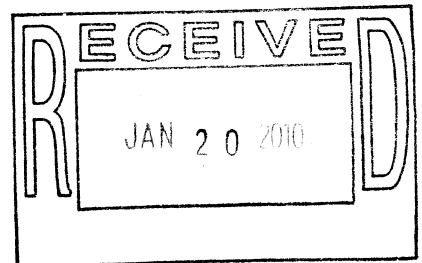
cc: Elza Hisel-McCoy, planning coordinator, Development Review Division
Patrick Butler, planner, Development Review Division
Richard Y. Nelson, director, Department of Housing and Community Affairs
Mike Bingley, project manager, Elm Street Development



We the undersigned agree with the comments pertaining to the location of the townhouse MPDUs on parcel U rather than in the Riverstone Condominium community.

| Print Name | Address | Signature | Date |
|-------------------------------|---|------------------------|----------|
| Catherine Balogh | 18001-A Cloppers Mill Terrace | Catherine Balogh | 10/30/09 |
| Jo Alice White | Mill Terrace 18003K Cloppers | Jo Alice White | 10/30/09 |
| Cindy Graham | 18003F Cloppers Mill Terr. | Cynthia J Graham | 10/31/09 |
| MARTIN GLAUBMAN | 18002 C Cloppers Mill Ter | Max Glau | 10/31/09 |
| Riddle, Erin Riddle, Brian | 18001 Cloppers Mill Terr Unit J | E. Riddle B. Riddle | 10/31/09 |
| Ruth Hinckley | 13115B Millhouse Pl | Ruth Hinckley | 10/31/09 |
| Jean Ward | 13115L Millhouse Pl | Jean Ward | 10/31/09 |
| Kenn Meyers | 18001-G CLOPPERS Mill Terr | K Meyers | 10/31/09 |
| Linda Stamps | 18001-D CLOPPERS Mill Terr | Linda Stamps | 10/31/09 |
| Mary D. Yunge | 13112 D Millhouse Pl Germantown | Mary D. Yunge | 11-1-09 |
| Michael Leong | 18003 Cloppers Mill Terr, Apt J Germantown MD | Michael | 11-1-09 |
| Tamika Yarbrough | 18001 Cloppers Mill Terr. Unit B Germantown | Tamika Yarbrough | 11-2-09 |
| John Reid | 18001 Cloppers Mills Terr. #E Germantown MD | John Reid | 11-2-09 |

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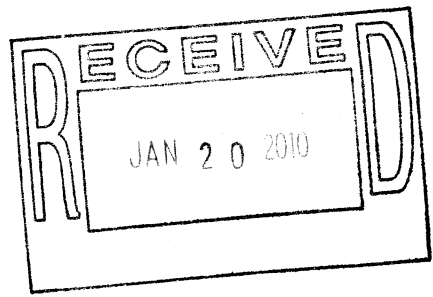
| Print Name | Address | Signature | Date | |
|-----------------------|-------------------------------------|-----------|----------|--|
| Erich Zinke | 18001 F Cloppers Mill Tcr | | 10/02/09 | |
| Kathryn E. Crowley | 18003 Cloppers Mill per unit - H | | 02NOV09 | |
| Wendy Hines | 13115 Millbrook K | | 11/5/09 | |
| Dennis M. BIRKE | 18003 G Cloppers Mill | | 11/7/09 | |
| Nora Cook | 18001 - H Cloppers Mill Tcr | | 11-11-09 | |
| JEAN LAN BOSTON | 18001 - L CLOPPERS MILL Tcr | | 11-15-09 | |
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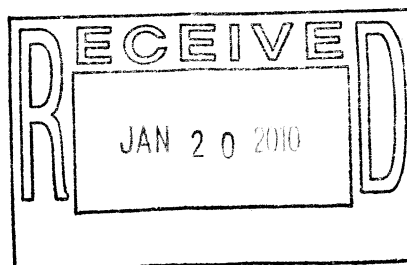
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unit →
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| Print Name | Address | Signature | Date |
|---------------------|------------------------------|-------------|-----------|
| Paul James | 13103 Millhaven | [Signature] | 11/1/09 |
| GARY LEWIS | 13103-L MILLHAVEN | [Signature] | 11/1/09 |
| Diane Kirklin | 13103-E Millhaven | [Signature] | 11/1/09 |
| Emilio VUTN | 13103-F Millhaven | [Signature] | 11-1-09 |
| Don HASSAN | 13103 Millhaven | [Signature] | 11-1-09 |
| Lynne B. Lentine | 13100 L Millhaven | [Signature] | 11-1-09 |
| Debbie Cuerpo | 13100-K Millhaven | [Signature] | 11-1-09 |
| Mary Tolbert | 13103-D Millhaven PL | [Signature] | 11/8/09 |
| Blair L. Mc... | 13100 F Millhaven | [Signature] | 11-6-09 |
| Doreen | 13100 C Millhaven | [Signature] | 11/6/09 |
| Adriana Faustina | 13103 Millhaven | [Signature] | 11-6-09 |
| Jim Harwood | 13103 Millhaven PT # 5 | [Signature] | 11-6-2009 |
| Emmit Jasche | 13100 mill PT UNIT G | [Signature] | 11/6/009 |



| Print Name | Address | Signature | Date |
|-------------------------|---|-------------------------|-----------|
| Esther T. Reeser | 13101 Millhaven Apt-L PL GermanTown, Md | Esther T. Reeser | 12 Nov 09 |
| Alice J. Thompson | 13101-14 Millhaven Pl | Alice J. Thompson | 11-14-09 |
| Fang Xie | 13101 Millhaven # B | Fang Xie | 11/4/09 |
| HOWARD ROTHMEL | 13112 MILLH AVEN PL APT G | Howard Rothmel | 11/14/09 |
| COLETTE C. Champagne | 13112-A Millhaven Pl | Colette C. Champagne | 11/14/09 |
| Shu-Ten Lan | 13112 L Millhaven Pl | Shu-Ten Lan | 11/14/09 |
| Aboubacar Toure | 13101 Millhaven Pl #J 20876 | Aboubacar Toure | 11/14/09 |
| LAWRENCE NJOUM | 13103 MILLHAVEN PL #B 20854 | LAWRENCE NJOUM | 11/15/09 |
| Cheryl Hoyt | 13101 H Millhaven Pl 20874 | Cheryl Hoyt | 11/15/09 |
| Frances Eby | 13101 Millhaven Pl #G GermanTown | Frances Eby | 11/15/09 |
| Alana Buchanan | 13112J Millhaven Pl | Alana Buchanan | 11/15/09 |
| Cheryl Layman | 13105-L Millhaven | Cheryl Layman | 11/16/09 |
| Jonathan Leary | 13101-K Millhaven | Jonathan Leary | 11/16/09 |

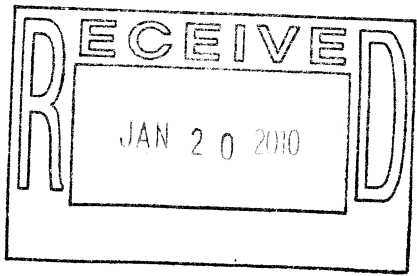


| Print Name | Address | Signature | Date | |
|--------------------|---------------------------------|-----------------|--------------|--|
| MAHIN BEDROUD | 13103 Mill Haven PL APT G | M. Bedrouc | 11, 22, 2009 | |
| SHEILA DAVIDIAN | 13105-F Mill Haven Pl. | Sohela Davidian | 11/23/2009 | |
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| Print Name | Address | Signature | Date |
|-------------------------------------|---------|--------------------|----------|
| Marie Mueller | 13109-B | Marie Mueller | 10/31/09 |
| Michelle Faran | 13109-E | Michelle Faran | 10/31/09 |
| John Hough | 13109-G | John Hough | 10/31/09 |
| Ann Marie Kinahan | 13111-B | Ann Marie Kinahan | 10/31/09 |
| 120 1/2 Beres | 13111-D | Beres | 10/31/09 |
| Steven D. Beatrice | 13109-K | Steven D. Beatrice | 10/31/09 |
| Donna Young | 13109-C | Donna Young | 10/31/09 |
| Millhaven Place Germantown MD 20874 | | | |



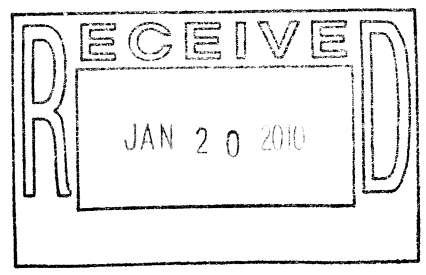
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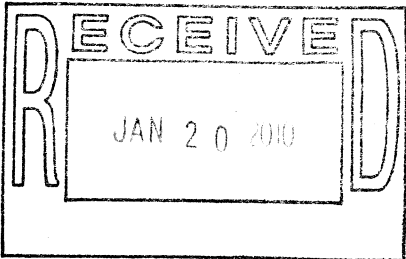
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| Print Name | Address | Signature | Date | |
|--------------------|--|--------------------|----------|--|
| Elaine Reghart | 18101 Clopper Mill Terr. Apt. H | E. Reghart | 11/15/09 | |
| Kenneth N. Ferro | 18101 Clopper Mill Terr. Apt. G | Kenneth N. Ferro | 11/15/09 | |
| Janet Lorman | 18101 Clopper Mill Terr. Apt. K | Janet Lorman | 11/15/09 | |
| David Malarec | 18101 Clopper Mill Terr. Apt. J | David Malarec | 11/15/09 | |
| Darla Shehadeh | 18101 Clopper Mill Terr. Apt. I | Darla Shehadeh | 11/15/09 | |
| Farisa Farid | 18101 Clopper Mill Terr. Apt. E | Farisa Farid | 11/19/09 | |
| Kristen Maloney | 18101 Clopper Mill Terr. Apt. L | Kristen M. Maloney | 11/15/09 | |
| RAKHSHANDEH NABILI | 13117 Millhaven Pl # H Germantown MD 20874 | Rakhshandeh Nabili | 11/15/09 | |
| Mariam Hunt | 13117 Millhaven Pl | Mariam Hunt | 11/15/09 | |
| ELLEN AMOS | 13205L Clopper Mill Dr | Ellen Amos | 11/15/09 | |
| Margaret F Smith | 13201 Clopper Mill Dr Apt. J | Margaret F. Smith | 11/15/09 | |
| George Marinakis | 13201 Clopper Mill Dr Apt. C | George Marinakis | 11/15/09 | |
| DARWIN KUBASIEWICZ | 13201 Clopper Mill Dr Apt. A | Darwin Kubasiewicz | 11/15/09 | |

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unit
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| Print Name | Address | Signature | Date |
|--------------------------------------|-------------------------------------|--------------------------------------|----------|
| Sapi Giordano | 13201 Clappers Mill Dr. Apt. F | <i>Sapi Giordano</i> | 11.29.09 |
| Matthew Dunn for Kathleen Dunn | 13201 Clappers Mill Dr. Apt. I | Kathleen Dunn <i>Matthew Dunn</i> | |
| Kelli Shelton | 13201 Clappers Mill Dr. Apt. E | TS <i>Kelli Shelton</i> | 11/29/09 |
| Darlene Kane | 13201 D Clappers Mill Dr. Apt. D | <i>Darlene Kane</i> | 11/29/09 |
| TREVOR THOMPSON | 13201 G CLAPPERS MILL DR Apt G | <i>Trevor Thompson</i> | 11/30/09 |
| Mel: 4/1/13 | 13201-B CLAPPERS MILL DR #B | <i>Mel</i> | 11/30/09 |
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SAY "NO" TO MORE MPDU'S IN RIVERSTONE!

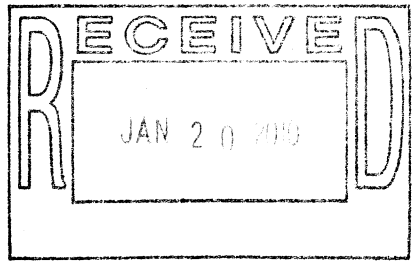
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| Print Name | Address | Signature | Date |
|------------------|------------------------------|-------------|----------|
| Teresa Siegrist | 18101 Cloppers Mill Terr-F | [Signature] | 11/13/09 |
| ERIN Beck | 13117 Millhaven C | [Signature] | 11/13/09 |
| Leslie Sias | 13117 Millhaven D | [Signature] | 11/14/09 |
| Dulciana Chen | 13117 Millhaven Unit F | [Signature] | 11/14/09 |
| Joni Ellis | 18101 Cloppers Mill | [Signature] | 11/14/09 |
| H. STEINER | 12225-E Cloppers Mill | [Signature] | 11/15/09 |
| SANDI Downs | 13201 Cloppers Mill "K" | [Signature] | 11/15/09 |
| William Downs | 13201 Cloppers Mill "K" | [Signature] | 11/15/09 |
| Jayson Kiu | 13201 Cloppers Mill "L" | [Signature] | 11/15/09 |
| Jenny Pellica | 13115 Millhan Place Apt A | [Signature] | 11/15/09 |
| Andrew Bissett | 13115 Millhan Pl. | [Signature] | 11/15/09 |
| Anne E. Schrantz | 18101A Cloppers Mill Terrace | [Signature] | 11/26/09 |
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unit D → CB

Same unit CB

unit A CB

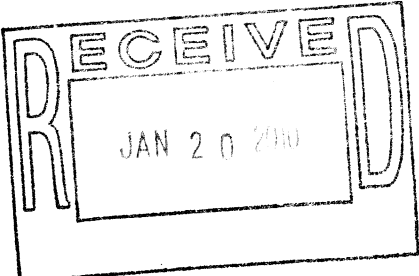


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Sav "NO" to more MPDU's in Riverstone!

| Print Name | Address | Signature | Date | |
|----------------------------|------------------------|---------------------------------------|--------------------|--------------|
| Andrew Schwartz | 13117 Mill Haven Place | <i>[Signature]</i> | 1/9/10 | |
| Andrew Schwartz | 13117 | <i>[Signature]</i> | 1/10/10 | 2 |
| Ellen E. phs | 13205H | <i>[Signature]</i> | 1/10/10 | |
| Robin Davitt | 13205J | <i>[Signature]</i> | 1-10-2010 | |
| Linda Fulop | 13117 Mill Haven Pl. A | <i>[Signature]</i> | 01/10/2010 | |
| | | Mill Haven Place residents (13117) | | (CB) |
| | | Clippers Mill Drive residents (13205) | | (CB) |
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Duplicate signature (CB)



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Parcel U petition

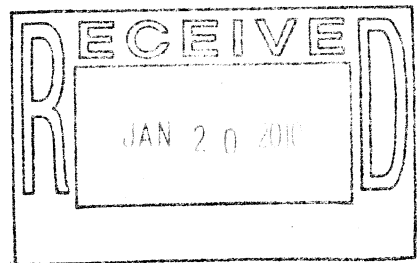
| Print Name | Address | Signature | Date | |
|-------------------------------|--------------------------|--------------------|------------|--|
| MARY ELLEN MADDEN | 13107 Millhaven Place #E | <i>[Signature]</i> | 11/08/2009 | |
| PAT KITSUM | 13107 Millhaven #L | <i>[Signature]</i> | 11/08/09 | |
| ROBERT BRADISH | 13107 MILLHAVEN | <i>[Signature]</i> | 11/8/09 | |
| Cemil Akbayrak | 13107 Millhaven | <i>[Signature]</i> | 11/08/09 | |
| Joy SORTINO | MILLHAVEN 13105-I | <i>[Signature]</i> | 11/08/09 | |
| Margaret & John GLOSS | 13105 N | <i>[Signature]</i> | 11/8/09 | |
| BRIAN TRAINER JODY TRAINER | 13107-C | <i>[Signature]</i> | 11/16/09 | |
| William Verniga | 13107-K | <i>[Signature]</i> | 11/28/09 | |
| Joanna Trainer | 13107-C | <i>[Signature]</i> | 1/5/10 | |
| Elizabeth Phelan | 13107-N | <i>[Signature]</i> | 1/8/10 | |
| Matthew Phelan | 13107-N | <i>[Signature]</i> | 1/8/10 | |
| Sepideh A. Jafar | 13107-A | <i>[Signature]</i> | 11/10/10 | |
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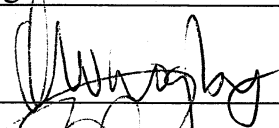

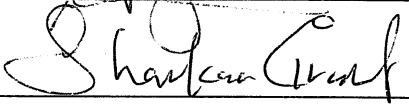
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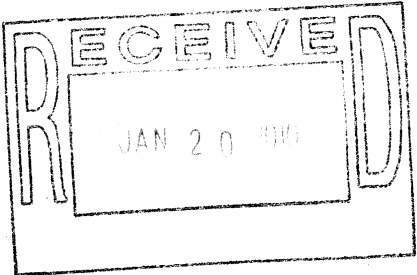
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| Print Name | Address | Signature | Date |
|----------------|----------------------------------|---|---------|
| Obay Nwagbe | 13113 Mill Haven Place Apt. K |  | 1/18/10 |
| Ana Chang | 13113 Mill Haven Place F |  | 1/18/10 |
| Shankara Grant | 13113 Mill Haven Place G |  | 1/18/10 |
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Appendix D: Agency Correspondence



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

December 11, 2009

Arthur Holmes, Jr.
Director

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 1-1991052A
Village of Clopper's Mill

Dear Ms. Conlon:

This letter is to confirm our comments in several email exchanges we have had with the applicant. While the preliminary plan application indicates that all necessary materials were submitted by the applicant, the following items were not found provided to DOT. Therefore, we are unable to conduct our review. Consequently, we would appreciate that the plan not be scheduled for the Planning Board until these materials are provided to us and our concerns have been addressed. In our opinion, this preliminary plan submission is incomplete for the following reasons:

1. The storm drain study does not provide sufficient information on the downstream public storm drain system: where is it located, what is its capacity, pre- and post-development ten (10) year run offs, and what is the impact of the post-development runoff on that system. Since this site drains to an enclosed storm drain system, include spread analysis in this study.
2. Submit a completed, executed and sealed DOT Sight Distances Evaluation certification form, for the proposed driveway(s) for our review and approval.
3. Please be advised that Executive Regulation No. 28-06AM ("Schedule of Fees for Transportation-Related Reviews of Subdivision Plans and Documents") became effective on July 1, 2008. The implementation date for collecting those fees was postponed until November 1, 2008. Since this preliminary plan amendment was submitted to DOT after November 1, 2008, the review fee need to be paid now. Please note MCDOT can not provide an approval letter until the appropriate review fees have been paid.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please Sam Farhadi at (240) 777-2197.

Sincerely,

Sam Farhadi, P.E.
Development Review Group
Traffic Engineering and Operations Division

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Customer Service 240-777-6000 • Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Ms. Catherine Conlon
Preliminary Plan No. 1-1991052A
December 11, 2009
Page 2

m:/subdivision/farhas01/postponements/postponement. 1-1991052A, Village of Clopper Mill.doc

cc: Mike Bingley, Great Seneca Investments
Les Powell, Charles P. Johnson Associates
Jody Kline, Miller, Miller & Canby
Joseph Y. Cheung; DPS RWPPR
Henry Emery; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Sam Farhadi, DOT TEO
Preliminary Plan Folder
Preliminary Plans Note Book



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid Joyner
Director

September 18, 2008

Mr. Jeff Blass
Charles P. Johnson and Associates
1751 Elton Road, Suite 300
Silver Spring, MD 20903

Re: Stormwater Management **CONCEPT** Request
for Villages of Cloppers Mill East
Preliminary Plan #: NA
SM File #: 234276
Tract Size/Zone: 1.33 acres/PD-4
Total Concept Area: 1.33 acres
Lots/Block: Block 1
Parcel(s): U
Watershed: Great Seneca Creek

Dear Mr. Blass:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via existing Pond B, on-site water quality control via a volume based Stormfilter, and onsite recharge via drywells.

The following item will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. All pipes must enter the proposed Stormfilter at right angles to ensure proper connections.

This list may not be all-inclusive and may change based on available information at the time.

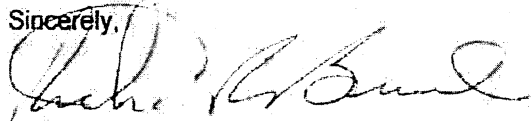
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this

office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



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

RRB:dm

cc: C. Conlon
S. Federline
SM File # 234276

QN -onsite: Acres: 1.33
QL - onsite: Acres: 1.33
Recharge is provided



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

MEMORANDUM

TO: Elza Hisel-McCoy, Development Review
VIA: Mark Pfefferle, Acting Director, Environmental Planning
FROM: Doug Johnsen, RLA; Environmental Planning
DATE: December 23, 2009
SUBJECT: Village of Cloppers Mill, Parcel U
Site Plan 81993013B

Staff recommends approval of the amendment of the Site Plan 81993013B for the above project site.

DISCUSSION

This memorandum contains Environmental Planning staff's review and recommendations on the Site Plan (81993013B).

BACKGROUND

The 1.32-acre property consists of one parcel, Parcel U within the larger Village of Clopper's Mill development. The property in question is a vacant parcel located at 13220 Cloppers Mill Drive, Germantown, MD and is zoned PD-4. The current proposal is to construct twenty townhouses and two MPDUs. The site is surrounded by existing development with a strip mall to the south, residential townhomes to the north and east, and a KinderCare facility to the west. The site will be served with municipal water and sewer.

Environmental Buffers

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for Parcel U and was approved by Environmental Planning staff in March of 2008. There are no streams, wetlands, forests or associated buffers located on Parcel U. The site is well removed from the existing streams, wetlands and forest conservation easements associated with the overall Village of Clopper's Mill development.

Forest Conservation

The site is subject to forest conservation plan 819920050, which was approved on March 22, 1994. The current site plan amendment would not alter any aspect of the previously approved forest conservation plan.

Noise Analysis

A noise analysis was performed by Staiano Engineering, Inc. The noise analysis report dated December 18, 2009 shows that the proposed townhouse development lies entirely outside the 60-dBA day-night average noise level line and that no acoustic or structural mitigation is necessary for this development.

RECOMMENDATION

Environmental Planning staff recommends approval of the amended Site Plan (81993013B).

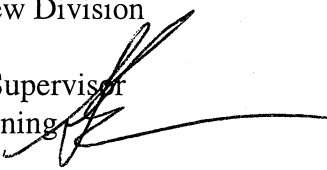



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

December 23, 2009

MEMORANDUM

TO: Elza Hisel-McCoy
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning 

FROM: Ki H. Kim, Planner/Coordinator
Transportation Planning 

SUBJECT: Site Plan No. 8-94012B and Preliminary Plan No. 1-91052B
Village of Clopper's Mill East
Germantown

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject site plan and preliminary plan applications. The application includes 20 single-family attached residences proposed in The Village of Clopper's Mill East, located in the Germantown West Policy Area.

RECOMMENDATION

Based on our review of the submitted traffic statement and amended site plan, Transportation Planning staff recommends the following condition as part of the APF test for transportation requirements related to approval of the subject site plan and preliminary plan applications:

1. Total development under the subject site plan and preliminary plan applications is limited to 20 townhouses shown on the amended site plan and analyzed in the traffic statement.

DISCUSSION

Site Access and Vehicular/Pedestrian Circulation

Access points to the site are proposed from Clopper's Mill Drive. The site is located in the Village of Clopper's Mill East in the vicinity of Great Seneca Highway (MD 119)/Clopper's Mill Drive intersection in Germantown West area. Staff finds that the access points and the vehicular and pedestrian circulation system shown on the amended site plan are adequate.

Local Area Transportation Review

Based on information contained in the traffic statement submitted by the applicant, the revised densities/uses for the Village of Clopper's Mill East with the proposed 20 townhouses generate fewer total trips and fewer "new" trips than reflected in the original approval. Since the site generates fewer trips than analyzed in the original approved development plan, no traffic study is required to satisfy the Local Area Transportation Review (LATR) test.

Policy Area Mobility Review

The site is located in the Germantown West Policy Area where there is no trip mitigation requirement in the Growth Policy.

CONCLUSION

Staff concludes that the subject site plan and preliminary plan applications for the 20 townhouses of the Village of Clopper's Mill East development satisfies the LATR/PAMR requirements of the APF review.

KK:tc



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

MEMORANDUM

TO: Elza Hisel-McCoy, Development Review

VIA: Mark Pfefferle, Acting Director, Environmental Planning *mp*

FROM: Doug Johnsen, RLA; Environmental Planning *dj*

DATE: December 23, 2009

SUBJECT: Village of Cloppers Mill, Parcel U
Site Plan 81993013B

Staff recommends approval of the amendment of the Site Plan 81993013B for the above project site.

DISCUSSION

This memorandum contains Environmental Planning staff's review and recommendations on the Site Plan (81993013B).

BACKGROUND

The 1.32-acre property consists of one parcel, Parcel U within the larger Village of Clopper's Mill development. The property in question is a vacant parcel located at 13220 Cloppers Mill Drive, Germantown, MD and is zoned PD-4. The current proposal is to construct twenty townhouses and two MPDUs. The site is surrounded by existing development with a strip mall to the south, residential townhomes to the north and east, and a KinderCare facility to the west. The site will be served with municipal water and sewer.

Environmental Buffers

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for Parcel U and was approved by Environmental Planning staff in March of 2008. There are no streams, wetlands, forests or associated buffers located on Parcel U. The site is well removed from the existing streams, wetlands and forest conservation easements associated with the overall Village of Clopper's Mill development.

Forest Conservation

The site is subject to forest conservation plan 819920050, which was approved on March 22, 1994. The current site plan amendment would not alter any aspect of the previously approved forest conservation plan.

Noise Analysis

A noise analysis was performed by Staiano Engineering, Inc. The noise analysis report dated December 18, 2009 shows that the proposed townhouse development lies entirely outside the 60-dBA day-night average noise level line and that no acoustic or structural mitigation is necessary for this development.

RECOMMENDATION

Environmental Planning staff recommends approval of the amended Site Plan (81993013B).

January 13, 2010

Memorandum

To: Elza Hisel-McCoy, Development Review
From: Karen Kumm Morris, Urban Design
Subject: Parcel U, Village of Clopper's Mill, Site Plan

Staff Recommendation: Approval

The proposed 20 unit, single family attached residential development is a compatible addition to the existing mixed use community of Clopper's Mill, a planned community of retail, housing and parkland. Applicant should provide a continuous off site sidewalk connection to existing sidewalks if acceptable to adjacent property owners.

Proposed Site Plan

The proposed development provides 20 single family attached housing units directly behind to the existing shopping center on a vacant site. The units are arranged to front Clopper's Mill Drive and form a courtyard within the interior of the site. Proposed building setbacks around the perimeter property line range from 12 to 45 feet from the adjacent, existing multi-family condominiums on either side. The plan provides sidewalk access along Clopper's Mill Drive and access to eastern property line that partially connects to the 2 acre community owned park to the east and the retail shopping center.

Urban Design Recommendations in 1989 Master Plan

The site lies within the Village Center, CL-9, designated as Clopper Village. The Master Plan provides the following, applicable Townscape Design guidance for the Germantown Villages:

- Provide distinguished identity and character
- Provide a mix of housing types
- Provide a identifiable activity area
- Achieve a functional pedestrian/bikeway, sidewalk and roadway system that facilitates inter- and intra- village circulation.

Conformance to the 1989 Master Plan

The proposed site plan conforms to the Townscape Design guidelines in the following ways:

- Achieves a variety of unit types in the Village Center by the provision of single family attached within a predominately multi-family area.

- Establishes a street oriented form of development improving the identity of the residential community.
- Provides pedestrian connections along the street and to the local community park and shopping center.

Additional Urban Design Comments

The proposed site plan arranges the units in a manner that achieves compatibility with adjacent neighbors by orienting front units along Clopper's Mill Drive and substantially setting back units from the side property lines bordering existing multi-family condominiums. Significant landscape treatment with shade trees further improves compatibility with the adjacent neighbors. The proposed courtyard and outdoor gathering place at one end will give the community a place to socialize.

Compatibility with the existing shopping center is a concern for future residents of the development because the proposed end units look directly over the roof of the shopping center. This concern is addressed by the proposed landscaping along the rear property line that provides extensive, closely spaced, tall growing shade trees.

Pedestrian connections are provided on site from the Clopper's Mill Drive into and through the community and extending along the rear property line to the eastern edge of the site. Off site, there is a gap in the connection to the adjacent property's existing sidewalk that connects to the local park and the shopping area. An effort should be made to provide a continuous sidewalk connection off site if accepted by the adjacent condominium owners.