



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

**Staff Report: Preliminary Plan 120090310: Buffington Building II**  
**Site Plan 820100010: Buffington Building II**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING DATE:** February 11, 2010

**REPORT DATE:** February 1, 2010

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
 Cathy Conlon, Supervisor *CAC*  
 Robert Kronenberg, Supervisor *RAK*  
 Development Review Division



**FROM:** Patrick Butler, Planner *P.B.*  
 Development Review Division  
 301.495.4561  
[Patrick.Butler@mncppc.org](mailto:Patrick.Butler@mncppc.org)

Joshua Sloan, Planner Coordinator *J.S.*  
 Development Review Division  
 301.495.4597  
[Joshua.Sloan@mncppc-mc.org](mailto:Joshua.Sloan@mncppc-mc.org)

**APPLICATION DESCRIPTION:**

Proposal for a Preliminary Plan and Site Plan to create one 39,755 net square foot lot (0.91 acres) for a 14,288-square foot, two-story building with retail and restaurant uses on the first floor and office uses on the second floor. The site is located on Frederick Road (MD 355) in the Clarksburg Historic District approximately 300 feet northwest of the intersection with Stringtown Road within the Clarksburg Master Plan Area. The subject property is split zoned C-1 and R-200.

**APPLICANT:** Buffington Enterprises, LLC

**FILING DATE:** Preliminary Plan: June 12, 2009  
 Site Plan: July 16, 2009

**RECOMMENDATION:** Approval with conditions

**EXECUTIVE SUMMARY:**

The proposed development would create one lot and a 14,288-square foot building for a combination of retail, restaurant, and office use. The plan has been reviewed and approved by the Historic Preservation Commission (HPC). In conjunction with the preliminary and site plan applications, the Applicant is requesting a waiver of the setback requirements for parking and a waiver of the number of spaces required by the Zoning Ordinance, which the Planning Board is authorized to permit under Sections 59-A-6.22 and 59-E-2.8. The Applicant is also asking the Planning Board to allow permanent encroachment of a porch into the public utilities easement.

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# SECTION 1: CONTEXT AND PROPOSAL

## SITE DESCRIPTION

### Vicinity

The subject site is located along the east side of Frederick Road (MD 355) approximately 300 feet northwest of its intersection with Stringtown Road, within the Clarksburg Master Plan Area. The site abuts an unrecorded parcel zoned C-1 with a one story commercial building along the northwest property line and a vacant, unrecorded parcel zoned R-200 along the southeast property line. A portion of the northern part of the site will be dedicated for future construction of Clarksridge Road. The area is primarily developed with detached, one-family residential units with the exception of the commercial properties located along 355 in the historic district. The new Town Center, when finally constructed, will be located just northeast of the subject property.



*Vicinity Map*

### Site Analysis

The subject property is a vacant, rectangular-shaped, unrecorded parcel totaling 41,640 gross square feet (0.96 acres). Street frontage along the east side of MD 355 runs along approximately 125 feet of the site and the lot extends from this edge approximately 315 feet back to the master-planned



Clarksridge Road. Approximately 2,000 square feet of the northern portion of the site will be dedicated for the future construction of Clarksridge Road, leaving a net lot area of 39,755 square feet.

The topography is relatively flat, gently sloping at an average 5% grade from the western corner of the property to the eastern corner of the property. This moderate slope, however, results in a total grade change of 14 feet, which will require a retaining wall to accommodate any on-site parking.

The subject site is within the Little Seneca Creek watershed (Use Class IV streams). Although in a special protection area, there are no regulated environmental features on-site such as streams, wetlands, 100-year floodplain, environmental buffers, or steep and severe slopes. There are approximately 0.38 acres of forest cover consisting of primarily Sugar Maple, Black Locust, and Black Cherry with a mix of invasive species covering the herbaceous layer. A variance request is required for the removal of one 31 inch diameter sugar maple, which is listed in poor condition.

The site is within a historic district and a historic area work permit will be required for any construction.



*Aerial Photo with approximate site boundary outlined in red*

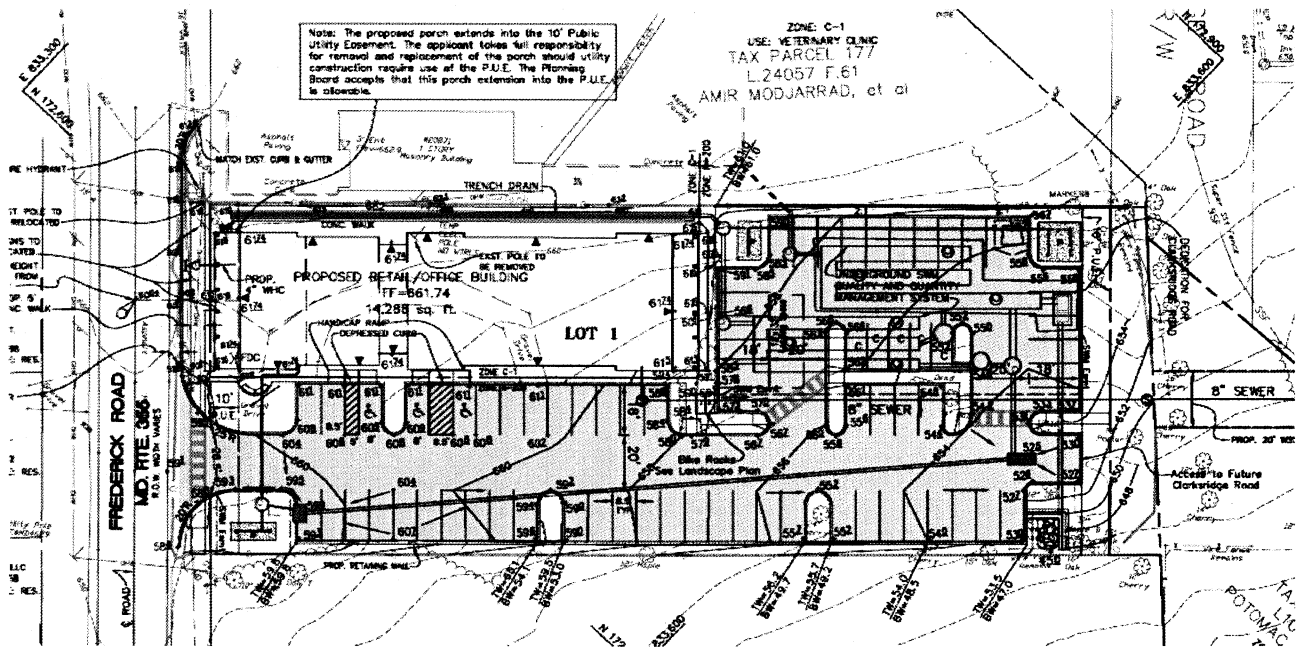


## PROJECT DESCRIPTION

### Proposal

The proposed development (See Appendix A) would create one 14,288-square foot two-story building with 1,964 sq ft of retail uses and 2,800 sq ft of restaurant use on the first floor and 7,144 sq ft of office space on the second floor. The net lot, after dedication for Clarksridge Road, is 39,755 square feet. The building will be located in the southwestern area of the subject property within the boundaries of the property that is zoned C-1. Vehicular access is proposed from Frederick Road with a potential future connection to Clarksridge Road. Conceptually, the primary parking lot driveway has been designed to function as a future street connecting these two roads. An internal sidewalk also connects MD 355 to the Clarksridge Road right-of-way.

Seventy-one parking spaces are proposed on site in the R-200 zoned portion of the site – 22 less than required by the zoning ordinance. A waiver request is detailed in the site plan analysis section of this staff report. The Applicant is also requesting a waiver of the setback requirements for parking areas adjacent to residentially-zoned properties.



Site Plan

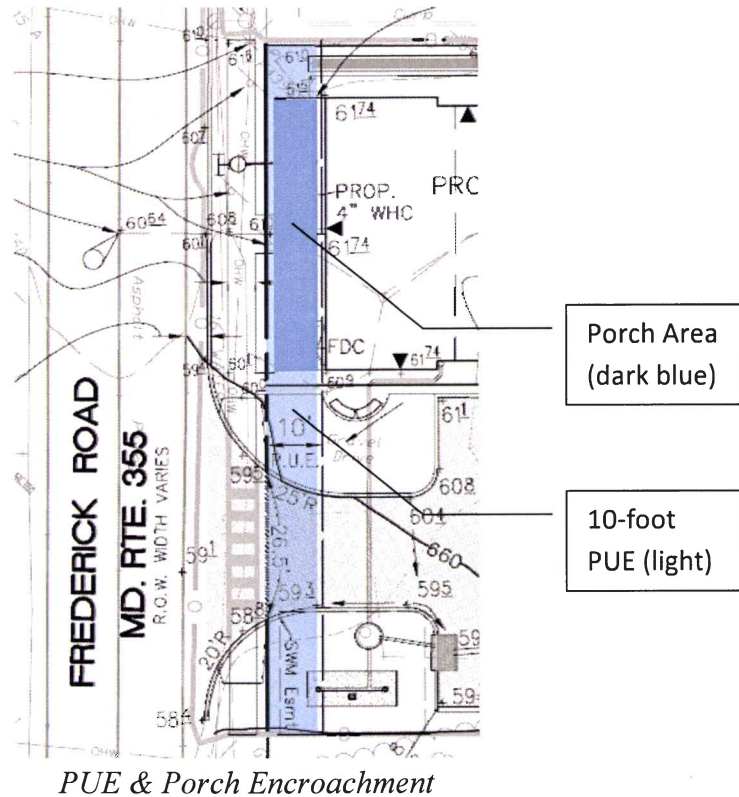
### Public Utilities Easement (PUE)

A standard requirement for all new lots is the provision of a PUE. PUEs are established to provide an area that allows the orderly present and/or future extension of utilities as necessary. As discussed below, one of the recommendations for the Clarksburg Historic District is to orient buildings to the street with parking located behind structures. This is also a requirement of providing parking for commercial uses on residentially-zone properties under section 59-A-6.22. The proposed building

was originally lacking adequate street activation due to the way the property and zoning lines are drawn. To implement this important recommendation, the Historic Preservation Commission (HPC) has required the Applicant to install a porch on the front of the building with doors and windows to focus its orientation towards Frederick Road. The Applicant has consistently expressed their desire to maximize the size of the building, which minimizes the footprint of the building as well as the amount needed for parking. The Applicant insists that reducing the square footage of the building makes it economically infeasible for lending purposes. Given these constraints and the requirements of the HPC approval, the building cannot be moved back from Frederick Road. Thus, the Applicant originally proposed to leave the building and porch as shown on the plan without providing a PUE. Before agreeing to this scenario, Staff required the Applicant to obtain approvals from all applicable utilities, however, the letters that were received had been drafted by the Applicant and signed by utility companies verifying adequate space within the right-of-way of Fredrick Road to accommodate the underground installation in accordance with Section 50-40 of the Montgomery County Code. In the letters, the Applicant claims that due to requirements by the Historic Preservation Commission, the design of the subject project precludes the granting of a PUE along MD 355 frontage. Although individual utilities anticipate they will be accommodated for in the right-of-way, Staff contacted the State Highway Administration (SHA) to be certain SHA would accept the future extension of utilities. SHA has made it clear they will only consider accepting underground utilities within their rights-of-way if they are already installed. This leaves the scenario of not providing a PUE untenable.

In response, the Applicant is proposing to provide a 10-foot PUE along the Frederick Road right-of-way and construct the proposed porch in a way that permanently encroaches into the PUE. By doing so, they are assuming full responsibility to remove and replace the porch as required by the Historic Preservation Commission consistent with Chapter 24A of the Montgomery County Code if any utility company requires access to the PUE.





Although this is not the preferred alternative, staff supports this position only with the included condition of approval addressing the removal and replacement of the porch in the event utilities would need to be installed or maintained. In most cases where a PUE is not required, such as central business districts, the utilities are put under sidewalks within the right-of-way, but neither the Montgomery County Department of Transportation nor the State Highway Administration generally accept this alternative outside of urban areas. Although certainly not “urban”, the situation for this site is similar and for many of the same reasons. Town main streets, at any scale, provide a more pedestrian-oriented and aesthetically pleasing atmosphere when buildings are close to the sidewalks. The proposed sidewalk, porch, and building entrance are in line with the guidelines for an historic main street and even if the building were smaller, it should not be moved back from the street. Given all of these constraints it is hoped that a solution, such as pre-installing conduit to hold future utilities, can be reached in order to eliminate the need to remove and replace the porch. In any case, the preliminary plan and site plan will not need to be amended if the proposed condition is approved and enforced. Requests to the applicable utility companies for comment on the proposed solution have received little meaningful response.

## COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements. Development Review Staff have received no correspondence from interested parties regarding the preliminary or site plan applications as of the date of this staff report.

## SECTION 2: PRELIMINARY PLAN REVIEW

### ANAYSIS

#### Master Plan Compliance

The subject site is located within the Town Center planning analysis subarea of the Clarksburg Master Plan area. The property is part of the Historic District of the Town Center discussed in pages 42 through 53. The Master Plan recommendations that are applicable to the proposed plan include:

- The Town Center is recommended to be “a strong central focus for the entire Study Area” (MP Pg. 42). The Buffington project as a mixed use building is compatible in the Historic District and will augment the Town Center as the central focus for the planning area.
- A “mixed-use development pattern” is encouraged “to help create a lively and diverse place” (MP Pg. 44). The mix of office, retail, and restaurant uses in a relatively moderate two floor building fits this objective by providing an obvious mix of uses, and by providing an outdoor patio area associated with the restaurant use.
- A total of 300,000 sq. ft. of retail area is proposed in the Master Plan (MP Pg. 46) for the entire Town Center analysis area, which includes the new Town Center core area and the Clarksburg Historic District. With 194,720 sq. ft. of commercial space approved in the Town Center core area, the addition of the proposed retail and restaurant components of the Buffington project will add approximately 4,764 square feet of commercial space for a total of approximately 199,484 square feet of commercial space in the Town Center analysis area. Therefore, approximately 100,000 square feet of retail space will remain available for future development in the Town Center analysis area. An additional provision for retail space in the Master Plan includes retail in the Newcut Road and Cabin Branch neighborhoods following development of 90,000 sq. ft. of retail space in the Town Center (MP Pg. 190). This provision is only applicable to future retail in these two large development areas and not applicable to the relatively small commercial component of the Buffington project which is viewed as compatible infill in the Historic District.
- One of the Master Plan objectives for the Town Center analysis area is to “Encourage infill within the historic district in accord with the historic development patterns” (MP Pgs. 47-48). Supporting Design Guidelines include:



- Orient buildings to the street with parking behind;
- Preserve and enhance the existing rural character of streets;
- Assure that all road improvements are sensitive to the historic character of the District;
- Reaffirm and strengthen current historic building patterns;
- Encourage renovation to include both residential and compatible commercial uses;
- Encourage a limited amount of new construction, compatible with historic buildings;
- Encourage the installation of historically appropriate sidewalks along both side of Frederick Road; and
- Encourage appropriate lighting and street furniture.

The application meets the applicable recommendations of the Master Plan listed above. Due to the location of the C-1 zone on the subject property, the proposed building could only be oriented in a way that appears to have a narrow side of the building oriented to the street. At the request of the Historic Preservation Staff, and in order to comply with the recommendation that buildings must be oriented to the street, the Applicant has provided a porch and entrance on the side of the building fronting on MD 355.

To further preserve and enhance the existing rural character of the street, the Applicant is providing landscaping, lighting, sidewalks, seating, signs, and fences that have been approved by the Historic Preservation Commission as sensitive to the rural character of the historic district. The Historic Preservation Commission and Staff have also determined that the new construction is compatible with the existing historic structures in terms of size, scale, rhythm, percentage of lot coverage, relationship to the street, and relationship to open space (See Appendix B). Therefore, the proposed development is in substantial conformance with the Master Plan objectives as set forth and described for the Town Center and Historic District areas of the Clarksburg Master Plan.

### **Adequate Public Facilities Review**

#### Roads and Transportation Facilities

Adequate vehicular access to the proposed building is provided by a full-movement driveway connection to MD 355. The parking lot has been designed in a way to accommodate future access to Clarksridge Road, a tertiary residential street. The primary driveway passes straight through the site and terminates at the northeastern property line. The driveway also provides access to the parking behind the proposed building. Pedestrian access is provided via sidewalks along the property frontage of MD 355 and internally through the site to the rear of the property at Clarksridge Road. The proposed access points will be adequate to accommodate the site-generated traffic.

Local Area Transportation Review (LATR)

A traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. Two intersections were identified as critical intersections affected by the proposed development and were examined in a submitted traffic study to determine whether they met the applicable congestion standard. The congestion standard in the Clarksburg Policy Area is 1,425 Critical Lane Volumes (CLV). The result of the CLV analysis is summarized in Table 1 below.

*Table 1: Calculated Critical Lane Volume Values at Studied Intersections*

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total
MD 355 & MD 121	Morning	1,063	1,135	1,139
	Evening	1,326	1,188	1,190
MD 355 & Stringtown Road	Morning	1,122	1,357	1,373
	Evening	933	1,294	1,306

As shown in the above table, all intersections are currently operating within an acceptable CLV level of 1,425 and they are expected to continue to do so for the background (the existing traffic in addition to traffic from all approved but un-built developments), and the total future development condition (when traffic from the site is added to the background traffic) during the weekday AM and PM peak hours. There will also be intersection improvements made at the intersection of MD 355/MD 121 as part of the Clarksburg Town Center plan that will result in operational improvements for future traffic conditions. The proposed development associated with this preliminary plan application, therefore, meets the LATR requirements of the APF review.

Policy Area Mobility Review (PAMR)

The site is located within the Clarksburg Policy Area where 10% of new trips must be mitigated as part of the PAMR requirements according to the Growth Policy in effect when the application was filed. Upon review of the Applicant's proposal, the Montgomery County Department of Transportation (DOT) recommended that the Applicant construct pedestrian refuge islands and/or handicap ramps at alternative locations. In order to satisfy this PAMR requirement, the Applicant has proposed to construct three handicap ramps from a list of several possible locations. Staff recommends that an agreement on the specific locations and improvements be approved by DOT prior to approval of the record plat. Staff also recommends that the Applicant and DOT engage the area Civic Associations to identify their priorities among the several options being discussed. The construction of three handicap ramps and/or pedestrian refuge islands satisfies the PAMR requirements of the APF review.



### Other Public Facilities

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. Electrical, gas, and telecommunications services are also available to serve the Property.

The Department of Environmental Protection has been evaluating the issue of sewer service for the Clarksburg Historic District in light of:

1. The district's designation as a public health problem area in the Water and Sewer Plan;
2. Interest on the part of the County Executive's Office and the County Council in securing public sewer service for the district as soon as possible; and
3. The proposed construction of a new County fire station opposite the historic district along Frederick Road (MD 355).

A solution to the problems listed above is to require the applicant to provide an easement for the extension of the sewer main proposed to serve this project across the subject property to Frederick Road (MD 355). A condition requiring this easement is listed in the conditions of approval below.

### **Environment**

#### Environmental Inventory

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was initially approved in June 2007 and recertified in August 2009. There are no streams, wetlands or environmental buffers on this site. There is a stream adjacent to the property, however, and the stream valley buffer associated with this off-site stream is in close proximity to the northeast corner of the site.

The topography of the property slopes gently at an overall 5% grade from the high point at the western corner of the site along Frederick Road to the eastern corner at the rear of the property. The property lies within the Little Seneca Creek watershed, a Use Class IV stream and drains into an unnamed tributary stream which then drains into the Town Center tributary – a major tributary to the Little Seneca Creek. The Little Seneca is considered to be in good condition based on Montgomery County Department of Environmental Protection's 2003 Countywide Stream Protection Strategy (CSPS) update. The Special Protection Area designation, which encompasses the area of the proposed development, was applied to provide extra protection to its water quality from proposed development.

The vegetative cover on the site consists of 0.58-acres of open field with the remaining 0.38-acres consisting of forest cover. The forest consists primarily of sugar maple (*Acer saccharum*), black locust (*Robinia pseudoacacia*) and black cherry (*Prunus serotina*) with a mix of invasive species

covering the herbaceous layer. The forest is classified as a pioneer mixed deciduous forest with good structure and is rated as high priority for retention.

#### Forest Conservation

A forest conservation plan was submitted along with the preliminary plan of subdivision and the site plan. The forest conservation plan indicates that the Applicant will remove the entire 0.38 acres of existing forest on-site as well as an additional 0.06 acres of off-site forest to install the sewer connection. This results in a reforestation planting requirement of 0.35 acres. The Applicant is proposing to meet this reforestation requirement in an off-site forest mitigation bank within the Clarksburg Special Protection Area.

#### Forest Conservation Variance

On October 1, 2009, Maryland State Senate Bill 666 (SB 666) became law statewide and mandated new criteria for all local forest conservation laws. Bill 666 identifies certain individual trees as high priority for protection. If a forest conservation plan cannot be altered to protect these trees, the Applicant is required to submit a variance to remove them. In general, the variance provision of Bill 666 applies to all trees that measure 30" DBH and greater; trees that are 75% the diameter of the county champion for that species; and rare, threatened and endangered species. Since this project did not obtain approval of a Preliminary Forest Conservation Plan prior to October 1, 2009, and the Applicant is proposing to remove one tree greater than 30 inches DBH, a variance is required. The large tree that is requested to be removed is identified on the Preliminary Forest Conservation Plan as tree #3 and is located along the eastern property line toward the rear of the site. The tree is a 31" DBH sugar maple (*Acer saccharum*) listed in poor condition with a hollow trunk, rot, and sapsuckers evident. The tree is currently within the existing forest stand that is proposed to be removed. If this tree were preserved, it would become a standalone tree and most likely become a hazard tree due to its location and condition. The Applicant has requested a variance to remove this tree.

Montgomery County Code 22A (Forest Conservation Law (FCL)) Section 22A-21(c) requires the Planning Board to refer a copy of each variance request to the County Arborist in the Montgomery County Department of Environmental Protection and other appropriate officials or agencies for a written recommendation prior to acting on the request. The County Arborist has 30 days to comment. If the County Arborist does not provide a recommendation within 30 days the recommendation is presumed to be favorable. In this case, the variance request was forwarded to the Montgomery County Arborist within the Montgomery County Department of Environmental Protection (DEP) on December 16, 2009. The County Arborist has elected not to review the variance request. As such, the County Arborist's recommendation for the variance request is therefore presumed to be favorable.



FCL, Section 22A-21(e) states that the Planning Board must make findings that the Applicant has met all requirements of this section before granting a variance. In this case, staff finds that granting the variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

The tree in question will most likely become a hazardous tree if it is required to remain in place. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The site layout and design necessitates the removal of the 31" DBH Sugar Maple (*Acer saccharum*) since this tree will become a hazardous tree following the removal of the surrounding forest and the installation of the required parking for the commercial building.

3. *Does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the small subject property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The tree proposed to be removed is in such poor condition that it would most likely not survive once the surrounding trees are removed. As such, the removal of this tree is not considered to have an adverse impact on the water quality standards or degradation in water quality.

As a result of the above findings staff recommends the approval of the applicant's request for a variance from Forest Conservation Law to remove the 31" Sugar Maple (*Acer saccharum*).

#### Clarksburg Special Protection Area (SPA) Water Quality Plan

This project site is exempt from submitting an SPA Preliminary and Final Water Quality Plan because it falls under the "less than 2-acre commercial/industrial exemption" (County Code Section 19-63(b)(2)). However, a Water Quality Inventory must be filed in accordance with County Code Chapter 19-64(a). DPS' responsibilities for approval of certain water quality inventory elements would be implemented as part of their stormwater management concept plan approval (May 2009) and sediment and erosion control review and approval.

#### Stormwater Management

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the Water Quality Inventory and stormwater management concept for the project on December 29, 2009. The stormwater management concept consists of on-site water quality

control and groundwater recharge via the use of underground filtration and recharge trenches. Channel protection is provided via the use of underground storage.

### Site Imperviousness

The water quality inventory review under MNCPPC's purview (County Code Section 19-64(a)(4) requires that the "*preliminary plan describing the proposed development which minimizes impervious area and, if applicable, meets impervious limits for the project....*" There is no set impervious cap for developments in this portion of the Clarksburg Special Protection Area. In comparable situations, however, Environmental Planning typically references countywide impervious surface averages for similar development and then assess the development to look for ways to reduce the amount of impervious surface proposed by the project to conform to these averages. Throughout the county, land in the C-1 zone has a countywide impervious surface average of 90 percent while land in the R-200 zone has an average of 19 percent.

According to the preliminary forest conservation plan there is 31,394.2 square feet (0.72 acres) of proposed impervious surface on the 1.02-acre property. This equates to a total impervious surface coverage of approximately 71 percent for the site. Under Montgomery County Zoning Ordinance, Section 59-A-6.22 parking is permitted by right within a historic district as long as the proposed parking meets the requirements within the ordinance. In this case, the proposed parking area meets all six requirements and should be allowed even though this may result in higher than average amounts of impervious surface for the R-200 zone.

Following County Code 19-64(a)(4) the Applicant has made proposals to reduce the high level of impervious surface within the Clarksburg Special Protection Area. Staff and the Applicant had originally discussed both the use of a green roof structure and porous pavement in the parking and drive areas. For both design and technical reasons, however, both of these concepts were deemed to be unacceptable. The green roof concept was rejected because this development is located within the historic district of Clarksburg and a sloped metal roof is more in character with historic buildings within the area.

The porous pavement concept was rejected by the Montgomery County Department of Permitting Services because the parking area is supported by a retaining wall structure. The site slopes from the front of the property to the back and requires a retaining wall along with fill material to raise the grade at the rear of the property. It was felt that placing porous material behind a retaining wall would create a situation that would allow the water to be trapped behind the wall leading to structural failure of the retaining wall system. For this reason the concept of using porous pavement in the parking areas had to be abandoned.

The rejection of the green roof and porous pavement concepts left the Applicant few options to offset the high amount of impervious surface, however, the Applicant has agreed to increase the amount of required tree canopy coverage, increase the landscaped area within the parking boundary,

reduce the number of parking stalls from the total required by the Zoning Ordinance, and add a bio-recharge facility to handle the anticipated stormwater runoff.

For the reasons discussed above and as conditioned by this staff report, the proposed development satisfies the requirements and meets the intents of the Environmental Guidelines and Forest Conservation Law and recommends approval.

### **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, and is found to meet the requirements of all applicable sections. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the preliminary plan (See Appendix C).

### **PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS**

The application meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and complies with the recommendations of the Clarksburg Master Plan. Therefore, Staff recommends approval of Preliminary Plan 120090310, subject to the following conditions:

- 1) Approval under this preliminary plan amendment is limited to one lot for a maximum of 7,144 square feet of general office use; 1,964 square feet of general retail use; and 2,800 square feet of high-turnover restaurant use.
- 2) To satisfy the requirements of PAMR, the Applicant must construct three (3) handicap ramps and/or pedestrian refuge islands. Prior to approval of the record plat, the Applicant must submit a selection of at least five (5) alternative locations within the planning area for the proposed ramps and/or refuge islands to Montgomery County Department of Transportation (MCDOT) for their review and approval. Once this list of alternatives is approved by MCDOT, a good faith effort to obtain the input of the local civic association(s) must be made to solicit their opinion regarding which of the improvements from the list are the highest priorities. Documentation of this effort must be provided to Planning Department Staff prior to approval of the record plat. Unless prohibited by MCDOT, the highest priority improvements must be constructed prior to obtaining the building permit.
- 3) The Applicant must satisfy provisions for access and improvements as required by the Montgomery County Department of Transportation (MCDOT) prior to issuance of access permits for Clarksridge Road.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated December 29,

2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.

- 5) The Applicant must construct in accordance with site plan phasing, a five-foot-wide sidewalk within the public right-of-way for the entire length of the property frontage along Frederick Road (MD 355), as shown on the preliminary plan.
- 6) The Applicant must provide, and the certified preliminary plan must reflect, a 20-foot-wide on-site easement for the 8" sewer main to the proposed building, and extension of that easement to the property boundary along MD 355 to provide for potential future extension of the sewer main to other properties within the Historic District.
- 7) No clearing, grading or recording of the plat prior to certified site plan approval.
- 8) The Applicant must comply with all conditions of approval of the final forest conservation plan as stated in the Environmental Approval letter dated January 5, 2010, prior to MCDPS issuance of sediment and erosion control permits.
- 9) The Applicant must satisfy provisions for access and improvements as required by the Maryland State Highway Administration (MDSHA) prior to issuance of access permits.
- 10) The Applicant must record in the land records, and reference on the record plat, a covenant that assigns to the property owner and any heirs or assigns, full responsibility for removal and replacement of the porch, located within the public utility easement (PUE) should utility construction or maintenance require use of the underlying PUE. Such removal and replacement must be consistent with the requirements of Chapter 24A of the County Code. Failure to replace the front porch within 90 days of the completion of the utility construction would constitute a violation of the approved Historic Area Work Permit subject to penalties as described in 24A-11.
- 11) The certified Preliminary Plan must contain the following note: "The building footprints shown on the Preliminary Plan are illustrative. Final building locations and associated parking facilities will be determined at site plan. Please refer to the zoning data table for development standards such as setbacks, building restriction lines and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 12) The record plat must show other necessary easements.
- 13) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

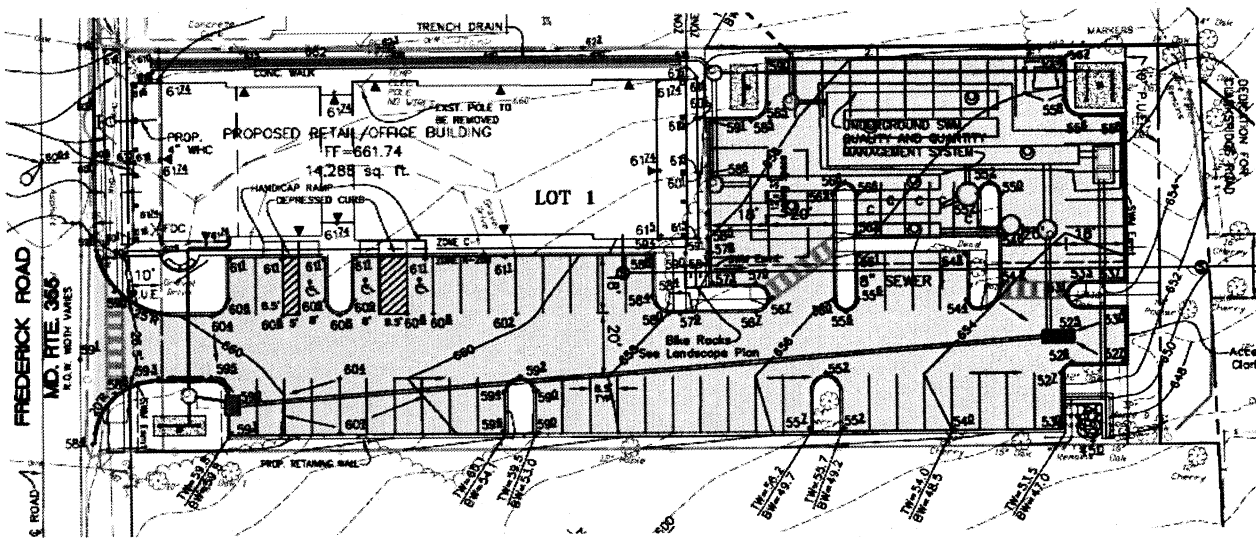


## SECTION 3: SITE PLAN REVIEW

### SITE AND BUILDING DESIGN

#### Site Layout

As mentioned in the proposal section, the site is an elongated rectangle of land almost one acre in size with 125 feet of frontage along Frederick Road. The proposed building is located in the northwest corner of the site with a driveway to the south and parking wrapped around the building. Sidewalks also wrap around the building and connect to the existing and proposed street rights-of-way at each end of the site. This general layout maximizes building frontage along Frederick Road, creates an internal "street" that can connect to Clarksridge Road (when constructed), and allows for a balance between parking area and permeable area.



Site Plan

#### Land Uses

This site layout and building type allows for a flexible mix of uses. The proposed plan provides much needed employment, retail, and restaurant uses in the Clarksburg Historic District. This mix of uses will help begin to enliven the main street of the town with activity over a range of times – daytime and evening – on both weekdays and weekends.

#### Building Layout & Design

Because this building is in an historic district, an enormous amount of design and review time has been devoted to the building siting, layout, and design. The footprint of the proposed building makes the most of the site's narrow frontage by mimicking the long narrow arrangement of the lot, with the narrow façade facing Frederick Road. The front door is oriented towards the street with a small porch and entrance into one of two retail bays.



*Front Building Elevation (south, facing Frederick Road)*

The longer face of the building stretches along the driveway and parking area that runs along the southern half of the property. This façade is articulated with canopies, doorways, large windows, and gabled peaks. Additional entrances to a retail bay, the office foyer, and a restaurant are sited along this façade.

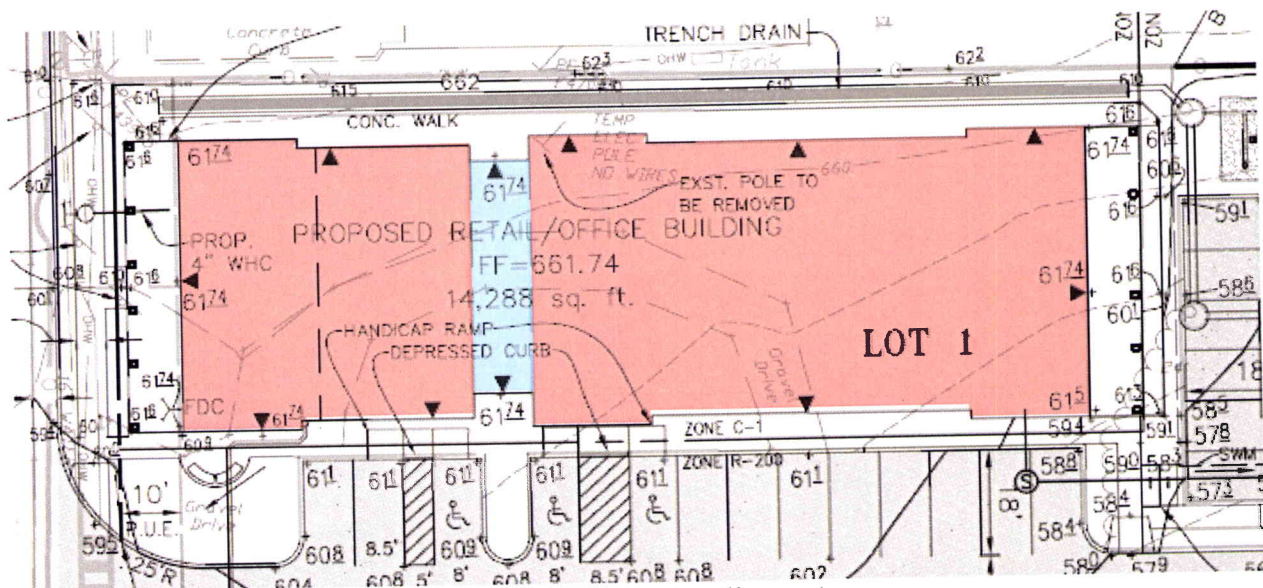


*Side Building Elevation (east, facing parking lot)*

A stone veneer base anchors the building in the style of regional architecture before and after the turn of the previous century. Likewise, the metal-roofed porches, canopies, and gables are patterned after the less ornate farm-style Victorian designs of the region. The clapboard-style siding and trim are a simple, appropriate building skin for this style and region.

One important aspect of the layout that is tied to the façade treatment is the use of a recessed alcove providing access to the second-floor office and separating the retail and restaurant uses on the first floor. This breaks up the massing of the building and is distinguished vertically by reflective panels in contrast to the traditional siding used everywhere else.

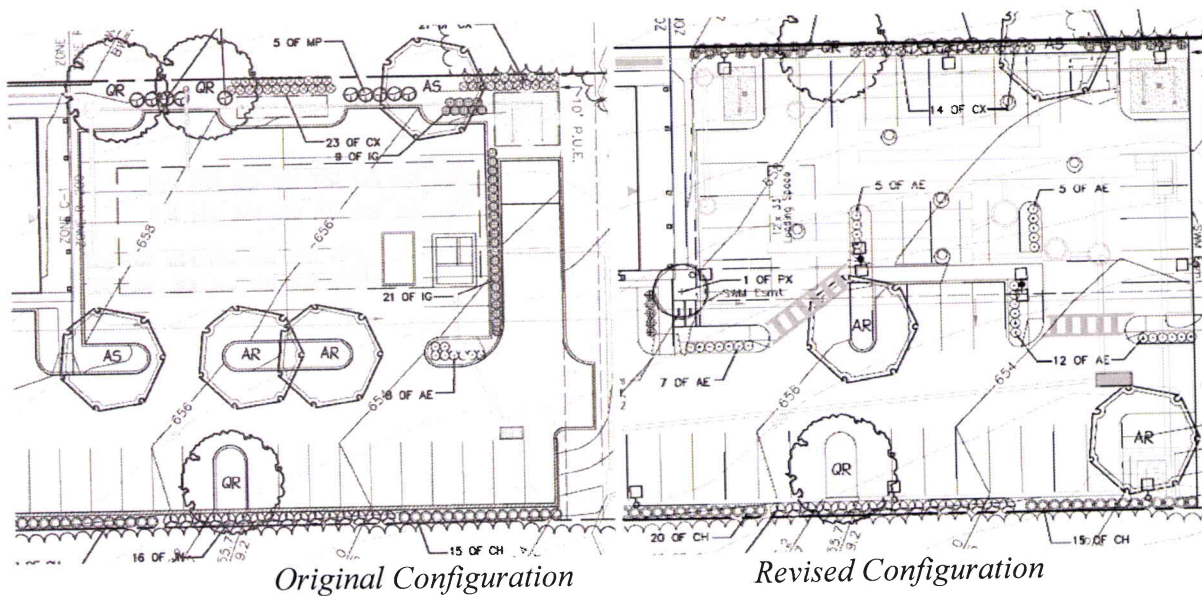




*Massing Footprint Illustration*

**Parking**

The parking layout along the side of the building was closely analyzed by the Historic Preservation Commission and has changed little through the site plan process. The rear parking area, however, has been significantly changed to enhance efficiency (no dead-ends) and pedestrian safety (new sidewalk connection to Clarksridge Road right-of-way) as well as create a little more pervious area within the parking boundary. Minor final revisions recommended by staff are illustrated in the Landscaping section of this staff report.



*Original Configuration*

*Revised Configuration*

Given the constraints of the site and the desire to maintain an efficient, safe, and greener parking layout, the number of parking spaces provided has been reduced below that typically required by the zoning ordinance but only to a point that Staff feels will still provide an adequate amount for the intended use. The Applicant's submittal includes a total of 71 parking spaces. This is 22 spaces

below the 93 spaces required by the mixed-use provisions of the zoning ordinance. A parking waiver is required.

*Parking Calculation Table*

Required Parking (59-E-3.7)						
Use	Square Feet	Spaces /1000sf		Total		
Office	7,144	3		22		
Retail	1,964	5		10		
Restaurant	2,800	25		70		
Outdoor Patron Area	613	15		10		
<b>Total</b>				<b>112</b>		
Mixed-Use Provisions (59-E-3.1)						
Use	Required Total	Weekday		Weekend		Nighttime
		Daytime	Evening	Daytime	Evening	
Office	22	22	3	3	2	2
Retail	10	6	9	10	7	5
Restaurant	80	40	80	80	80	8
<b>Total</b>	<b>112</b>	<b>64</b>	<b>92</b>	<b>93</b>	<b>89</b>	<b>15</b>

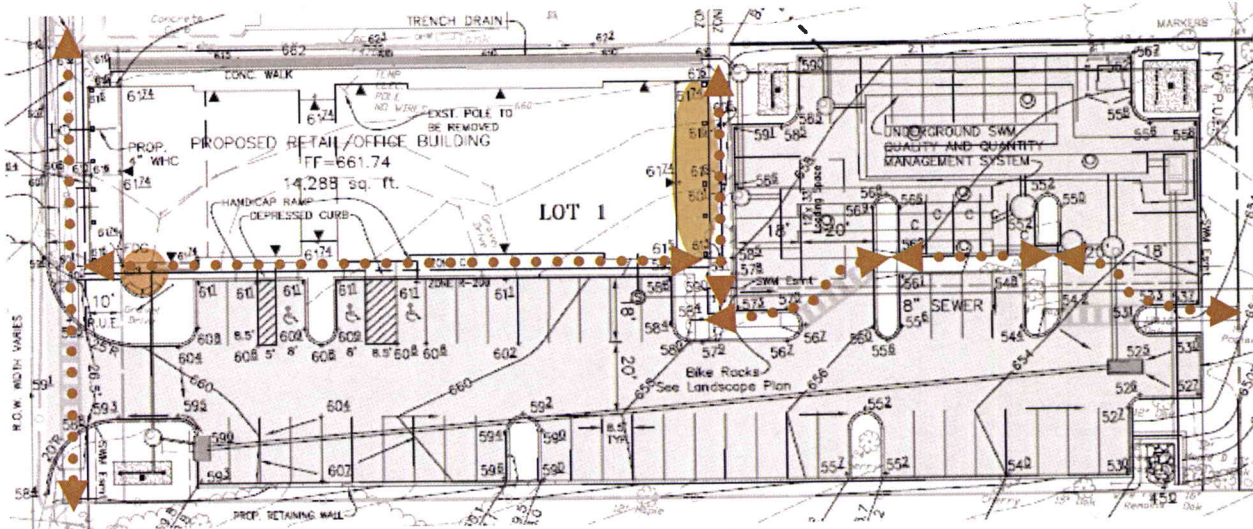
General community input for the Clarksburg area has focused on the need to provide adequate on-site parking, particularly for restaurant uses since parking is at a premium in the historic district and on street parking in the immediate area is not available for overflow parking. For these reasons the Clarksburg Civic Association in 2008 had expressed opposition to any parking waiver. Staff has reviewed the proposed uses and conferred with the Applicant regarding the parking provisions for the development with the objective of balancing the need for adequate on-site parking with the need to provide as much tree canopy, green space, and pervious surface area as possible.

The 71 proposed parking spaces equates to 6 spaces per 1,000 sq. ft. applied to the net use area of the building and 5 spaces per 1,000 sq. ft. applied to the total building area. This is significantly more spaces per 1,000 sq. ft. than is typically expected for mixed-use development, which is closer to an average of under 4 spaces per 1,000 sq. ft. Staff, therefore, initially examined the possibility of reducing the parking below the 71 spaces to increase green and pervious area on the developed site. Because of concerns raised by the Applicant and citizens in earlier testimony, however, Staff supports the 71 space total and the required waiver. Any increase from what is proposed would reduce needed green space and any decrease could create a risk of inadequate parking at peak use periods. The waiver promotes the walkable main street and future connection to Clarksridge Road will encourage pedestrian activity.



## Pedestrian Circulation

Pedestrian routes and amenities are provided around, within, and across the site. Sidewalks run along Frederick Road, parallel to the footprint of the building and across the back parking lot to the right-of-way of the future Clarksridge Road. The design has been slightly altered from the original submittal to accommodate café seating under the rear porch; a separate seating area is tucked into the entry landscape near the front retail bay. Ramps, differentiated paving and markings ensure safe and easy access for all pedestrians.



*Pedestrian Circulation*

## Landscaping & Environment

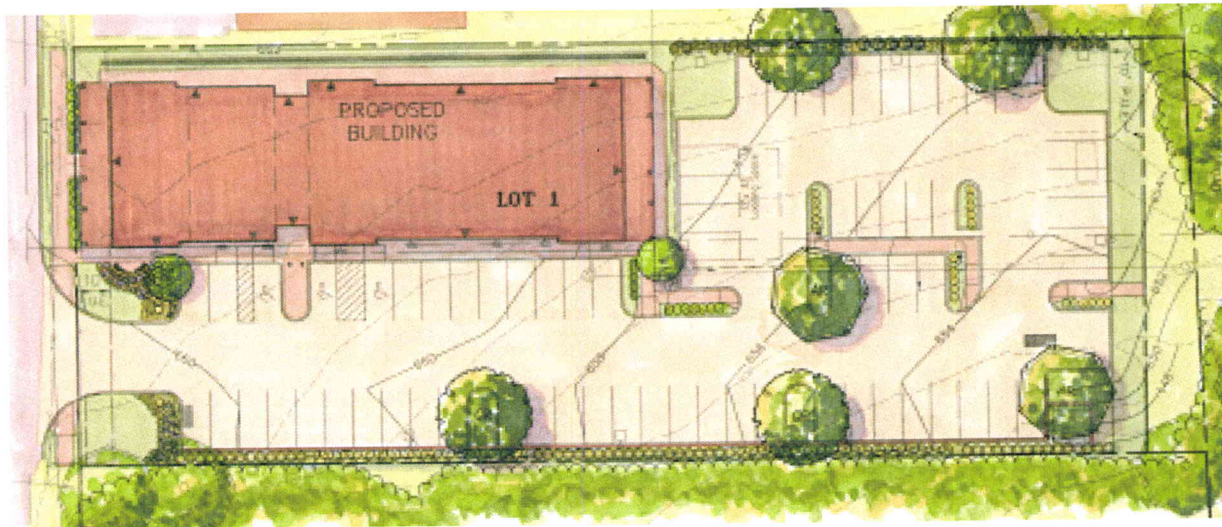
The proposed landscape plans provide plantings and pervious area to balance an otherwise environmentally intense building program. Because of the small site and the economics of viable office/restaurant/retail square-foot requirements, the amount of land that is impacted is proportionately large. Although the green area provided is nearly three times the required amount, it is necessary to provide as much environmental mitigation as possible in this ecologically sensitive Special Protection Area.

As mentioned in the preliminary plan analysis, the site is exempt from the requirements to obtain a Final Water Quality Plan because it is less than two acres of commercial development. The stormwater management approval, however, ensures that typical elements of a water quality plan will be installed. It turns out that this requirement creates a tension between the groundwater recharge goals and tree canopy goals. And these are both balanced against site design and parking requirements. In the end, the proposed development provides areas for necessary groundwater recharge in trenches and underground storage, while providing a maximum number of shade trees in areas that will not adversely impact structures or facilities.

These diverse environmental and site design goals are summarized:

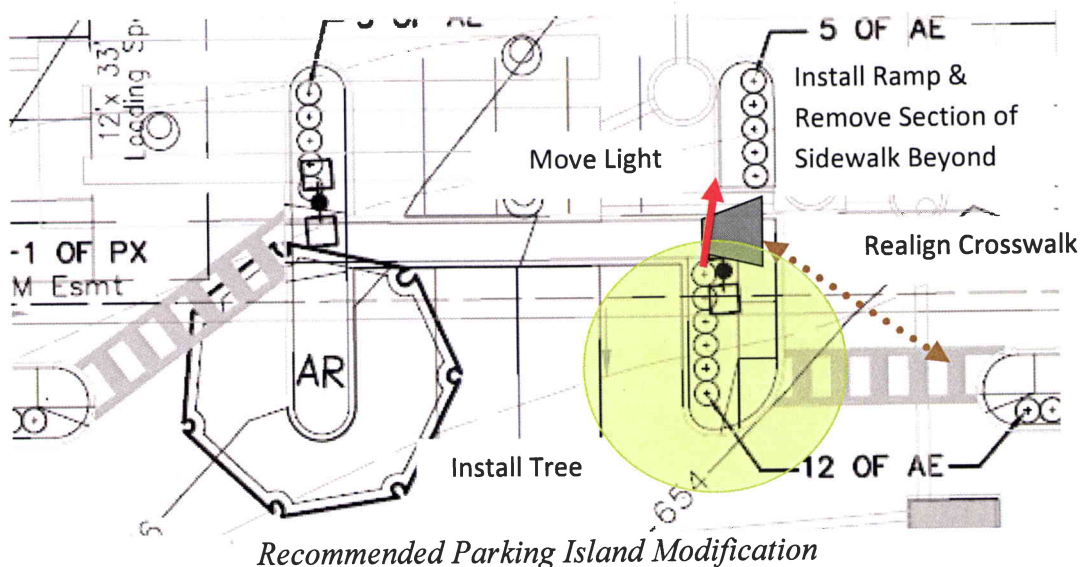
- Stormwater Management
  - Maximize permeable area
  - Collect and recharge all run-off on-site
- Planting
  - Maximize tree canopy area, especially over pavements

- Maximize amount of on-site plantings to sequester carbon, provide habitat, and provide pleasing context for historic district
- Parking
  - Provide enough parking to meet need
  - Provide parking layout that minimizes paving and is safe and efficient
- Site Design
  - Integrate site features with stormwater management, landscaped area, parking, and building in context of a historic district



*Landscape Plan*

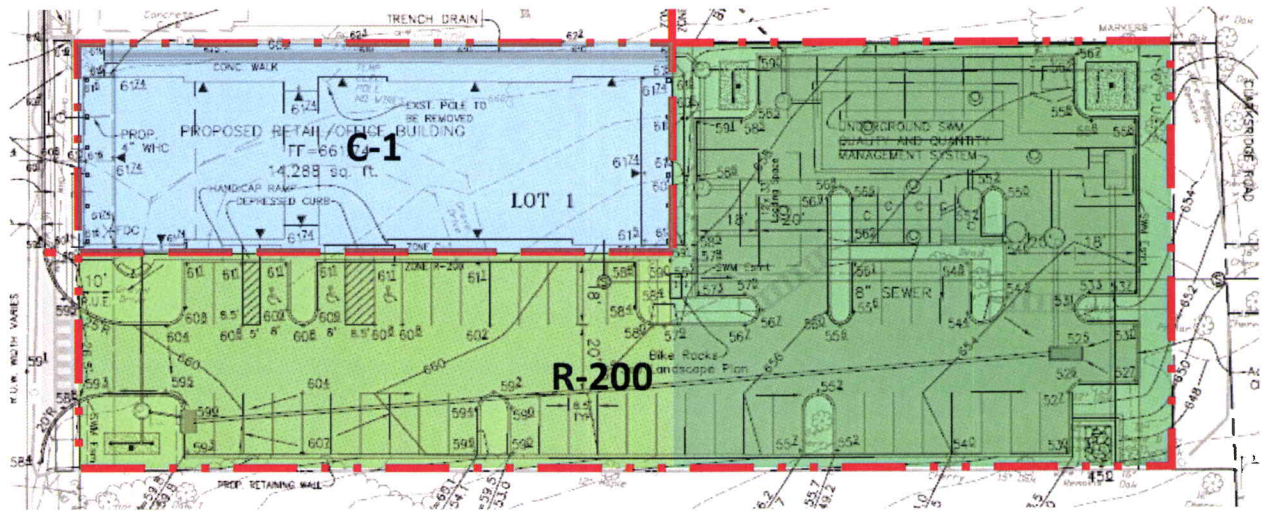
The proposed plan adequately addresses all of the concerns with an integrated layout. One change to the layout is being proposed to the interior island of the parking area and is recommended as a condition of approval in this staff report. Staff is recommending a modification of the sidewalk, ramp, and crosswalk on the northern end of the island to match the treatment on the southern end nearer the building. This will allow for a more natural walking pattern and the installation of an additional shade tree. The light pole will have to be relocated and incorporated into the adjacent island bed.



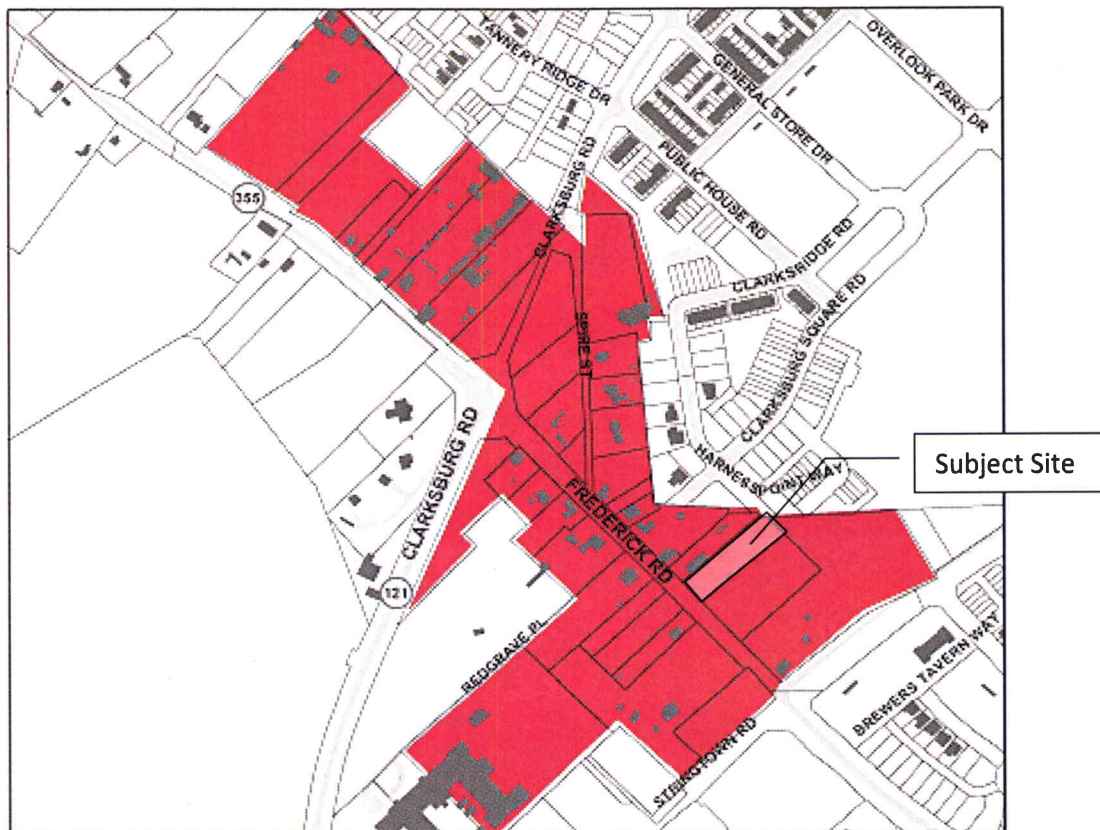


## DEVELOPMENT STANDARDS

The proposed development is located on a split zoned C-1/R-200 property in an historic district. Most of the development standards are met by the plan for each respective zone given the provisions of 59-A-6.2: Historic Sites; Historic Districts. The following section reviews the purposes, uses, and development standards that apply to the project and two waiver requests related to the on-site parking.



Site Zoning Plan



Clarksburg Historic District

## **Purposes of the Zones**

### Commerical-1 (C-1)

The entirety of the proposed building is located on the C-1-zoned area of the lot. The purpose of the C-1 zone is to provide “commercial uses [that] have a neighborhood orientation and [that] supply necessities usually requiring frequent purchasing with a minimum of consumer travel” (Section 59-C-4.340). Facilities satisfy the purposes of the zone by remaining relatively small and located within residential areas. The proposed development meets this purpose in several ways:

- By providing two retail bays, each with less than 1,000 square-foot bays providing excellent opportunities for small-businesses;
- By providing a small sit-down restaurant space for local employment and use;
- By providing a relatively small amount of office space for a local business; and
- By integrating such uses into the historic district mix of uses within walking distance of numerous residences.

### Residential-200 (R-200)

The purposes of the R-200 zone are not specified in the zoning ordinance but are geared toward one-family detached homes. In this case, parking is proposed in the R-200 zone to satisfy the parking requirements of the commercial building and this parking meets the standards required to permit this use. It is assumed, therefore, that if a proposed development meets all of the requirements and standards of the ordinance, that it meets the intent of the zone. The proposed development meets the requirements and standards of the ordinance provided that the Planning Board approves the two waivers described in the Dimensional Standards section of this staff report.

## **Allowed Uses in the Zones**

### C-1

Office, retail, and restaurant (“eating and drinking establishment”) uses are all permitted uses in the C-1 zone. Because the use table is very specific about such things, it might be noted that “Offices, general” is not a permitted use, but “offices, professional and business” is.<sup>1</sup> Further, because “retail” is not specifically listed, the exact type of retail or service enterprise that occupies any approved retail space will be subject to the minutia of the land use table – “dry goods store” and “telegraph or messenger service”, permitted and quite apropos; “express or mailing offices”, forbidden.

### R-200

The only use being proposed in the R-200 zone is parking to support the commercial uses. Like many other aspects of the proposed development, this is more complicated than it typically would be. “Parking of automobiles, off-street, in connection with commercial uses” is a permitted use only if it meets one of two conditions: it is in a historic district or it was approved in connection with a special exception prior to May 6, 2002. This proposed development meets the former

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<sup>1</sup> Acknowledging that this is editorial, this is odd because the definition of “Office, general” is described as “an office for the use of (a) professional persons ... or (b) general business offices...”. Emphasis added. There is no definition of “Offices, professional and business”. The Applicant should remember the terminology when they file for a building permit, lest they be denied for being too general. JCS

condition and is a permitted use subject to the provisions of section 59-A-6.22. These provisions are:

- The residentially-zoned land must be vacant;
- The amount of parking proposed is the minimum required under Article 59-E for the proposed commercial use [which Staff assumes to mean the minimum or less because the following section outlines the process to waive the number of spaces required];
- The land allows a density no greater than 2 dwelling units per acre;<sup>2</sup>
- No portion of the parking area will be located forward of the front building line [with some caveats including for through-lot properties, which this will become when Clarksburg Road is built];
- The Historic Preservation Commission must review and approve the project; and
- A site plan is approved.

This plan meets all of these provisions.

### **Dimensional Standards**

Generally, the plan meets the height, coverage, green area, and setback standards of the zoning ordinance with two exceptions: the parking setback adjacent to a residentially-zoned property and the minimum required number of parking spaces. Due to the subject property's location in the historic district, these development standard requirements may be waived by the Planning Board at the time of site plan review.

### Waiver of the Parking Setback and Number of Parking Spaces

The requested parking setback waiver is from the required 12 feet to 3 feet along the eastern property line. The requested parking waiver is from 93 spaces to the 71 proposed spaces. As these issues are intertwined, they are discussed as one concern.

Given 1) the density of the proposed development; 2) the requirement for green area – and a desire to provide additional pervious area; 3) the requirements for onsite stormwater recharge; and 4) the provision of design elements to be compatible with the historic district, the project would be unfeasible in any other configuration. The Applicant has also argued that a development any smaller in scale is economically impossible. Regardless of whether this is accurate or not, Staff feels the proposed mix of uses and density is important for the viability of the project as a whole and is compatible with the context.

That said, the building envelope is then dictated by the density and the zoning. Building to a greater height is not an option – the development is proposing a 30-foot building, which is the limit of the zone. So once the footprint is established and the intensity of development is deemed appropriate, the space required for providing two parking bays and an access drive aisle places the edge of development three feet from the subject property line. The only way to comply with the required setback would be to alter the parking layout to a system of parallel parking spaces along

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<sup>2</sup> Staff has agreed that this particular piece of land allows a density less than two units per acre despite that fact that the R-200 zone technically allows 2.178 dwelling units per acre. It is our position that the intent of the provision was to apply to R-200 and larger-lot zones.



the internal drive, thereby allowing the drive aisle to shift to the west, away from the property line. But this would result in a decrease of nearly 30 parking spaces and create an untenable situation for the proposed uses. Having already reduced the number of parking spaces below the required amount to accommodate landscaped islands and efficient drive aisles, further reduction is not recommended. As outlined in the site plan analysis, a goal of around 4 spaces per 1,000 square feet of mixed-use development is appropriate for most contexts. Given the lack of density immediately adjacent to the project and the lack of any continuous sidewalks to areas that have greater density, this ratio is probably unrealistic.

Given the Historic Preservation Commission's support of the waiver, and Staff's support of the land uses, density, and design the only viable option is to provide the parking as has been configured. Staff recommends that the waiver of the parking setback and the number of parking spaces be granted as providing the development with the most appropriate regulatory envelope in which a project such as this could be built.

**Project Data Table**

With approval of the waivers, this site plan proposes a design that meets the purposes, requirements, and development standards of the zones. The table below demonstrates the proposed development's compliance with the Zoning Ordinance.

*Project Data Table for the C-1 and R-200 Zones*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed for Approval</b>
Gross Lot Area (square feet)	N/A	41,640
Dedications (sf)	N/A	1,885
Net Lot Area (sf)	N/A	39,755
Max. building height <sup>3</sup> (feet)	30	30
Min. green area (% of lot)	10	11 <sup>4</sup>
Min. building setbacks (ft.)		
“Mainstreet” right-of-way	0	0
Adjacent to non-residential zone	0 (10 if provided)	10
Adjacent to residential zone	12	65

<sup>3</sup> As measured from the average elevation of finished grade surface along the base of the front, rear, and sides of the building to the mean height level between eaves and ridges, provided that the height at any given point not exceed 45 feet.

<sup>4</sup> Only 10,710 sf of the total 39,755 sf lot is zoned C-1; the remainder is zoned R-200. Staff interprets the code to imply that the minimum green area should be provided on that area of the C-1 zoned land not the entire lot.

*Parking Data Table*

Development Standard	Permitted/ Required	Proposed for Approval
Min. parking facility setbacks (ft.)		
Adjacent to non-residential zone	4	4
Adjacent to residential zone	12	3 <sup>5</sup>
Min. parking (spaces)	93	71 <sup>6</sup>
Min. parking lot internal landscaping (% of parking lot area)	5	9 <sup>7</sup>

**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 is not subject to a Development Plan, Diagrammatic Plan, Schematic Development Plan, nor a Project Plan.

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 C-1 and R-200 zones as demonstrated in the project Data Table on page 26 with the exception of the two waiver provisions. The building conforms to the purposes of the zone, meets the maximum height limit, meets the minimum green area requirement, and meets the minimum setbacks required. With respect to parking, the minimum setbacks and number of spaces provided is below the requirements of the ordinance and the Planning Board must grant a waiver to approve this application. The setback and number of spaces provided are specifically identified in section 59-A-6.22 as standards that may be modified on properties within Historic Districts to accomplish the

<sup>5</sup> The minimum required setback may be waived by the Planning Board during site plan review per section 59-E-2.81(b)(3) when the parking facility is located on agriculturally or residentially-zoned land in a designated historic district in conjunction with a commercial uses also located in the historic district. Staff supports this waiver for reasons outlined in this staff report.

<sup>6</sup> The minimum required number of parking spaces may be waived by the Planning Board under section 59-E-4.5 and 59-A-6.22(a) if the requirement is not necessary to accomplish the objectives in Section 59-E-4.2: protection of health, safety, and welfare of the users of any adjoining land or public road; safety of pedestrians and motorists; optimum internal circulation and access to limit traffic congestion; and provision of appropriate lighting. Staff supports this waiver for reasons outlined in this staff report.

<sup>7</sup> This estimate was made by Staff from the submitted application plans and must be verified by the Applicant prior to approval of the certified site plan.

broader goal of creating development that is “found to be compatible with the character of the designated historic district”. These waivers must also be approved by the Historic Preservation Commission (HPC) through the Historic Area Work Permit process. The HPC supports these waivers as does the analysis of this application in the context of the numerous competing objectives for development on this site. These include creating a compatible and integrated building and landscape design, achieving an appropriate density, encouraging a mix of uses, maximizing permeable area, and providing a realistic amount of parking. For these reasons, the parking setback and parking space waivers are found to be compatible with the character of the designated historic district and are acceptable for approval of this site plan.

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 building is located, by default, on the southwest corner of the site that is zoned C-1. Coincidentally, it also happens to be the most appropriate and adequate location for the building because it is closer to the adjacent commercial property and further from land that may develop with one-family detached units. The building’s proximity to the fronting sidewalk is necessary to achieve the desired visual atmosphere along a historic mainstreet and provides the most efficient and safe pedestrian access.

Unfortunately, the parking must be supported by a retaining wall that runs along the eastern edge of the property. This wall is necessary to achieve an adequate and safe slope across the parking area and will be buffered by plantings and topped with an appropriately designed metal fence. These mitigating details efficiently help soften the mass of the wall and ensure compatibility with any future adjacent development.

b. Open Spaces

The plan adequately meets the green area requirements for the C-1 zone on the applicable area of the lot. This area is lit and landscaped to provide a safe environment for employees and patrons. Additional amenities such as a café area, a sitting area, and sidewalks connecting to adjacent properties make efficient use of the small lot.

c. Landscaping and Lighting

The landscape design adequately meets the internal landscaping requirements for parking facilities and efficiently balances the permeable area between both stormwater management areas and planting areas. These planting areas provide an attractive entry to the commercial area of the historic district, provide shade over parking areas to reduce heat-island effect, and provide visual buffering of walls and structures.

The lighting plan provides fixtures compatible with the historic district, while providing illumination levels on all sidewalks and parking areas that will ensure a safe environment for nighttime patrons and employees.

d. Recreation Facilities

The application has no recreation facility requirements but, as previously mentioned, does offer sidewalks and seating areas.

e. Pedestrian and Vehicular Circulation Systems

As there are no sidewalks on Frederick Road or the future Clarksridge Road, connections to an existing pedestrian network is not possible. That said, this plan begins the process of creating more adequate pedestrian connections in and around the historic district and to the Town Center. A sidewalk will be installed along Frederick Road that will provide a starting point for further connections as redevelopment occurs to the north and south of the subject site. An internal sidewalk crosses the property from Frederick Road, along the building entrances, and to the right-of-way being dedicated for Clarksridge Road. This will allow for a pedestrian connection directly from the Town Center area to the subject site when Clarksridge Road is improved.

Internal vehicular and pedestrian improvements ensure a safe and efficient set of connections between the parking and the building by using ramps, markings, and paving indicators. The vehicular circulation design efficiently directs traffic down a primary drive aisle that may connect to Clarksridge Road in the future. When Clarksridge Road is built it will have to be decided whether or not to make this connection. Because this would lead to cross-through traffic it may necessitate a redesign of the internal drive to function more like a street. Of course, this would entail major revisions and require that any lost parking would be provided very near to the subject site. These issues, however, are not part of this application but provide a context for possible impacts of future redevelopment.

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

The structures and uses proposed are compatible with other uses and with existing adjacent development. The main structure is compatible in size and location with the adjacent commercial building, while the uses augment the viability of the historic district more generally by providing a greater variety of services and employment opportunities. Any future development of detached one-family houses on the currently vacant adjacent properties will not be adversely affected by the layout of the structures, the nature of the uses, or the proposed landscaping and lighting.

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 forest conservation plan allows the Applicant to remove the entire 0.38 acres of existing on-site forest as well as an additional 0.06 acres of off-site forest to install the sewer connection. This results in a reforestation planting requirement of 0.35 acres. The Applicant will meet this reforestation requirement in an off-site forest mitigation bank within the

Clarksburg Special Protection Area. The forest conservation plan also incorporates approval of a variance from Forest Conservation Law to remove a 31" sugar maple (*Acer saccharum*).

This project site is exempt from submitting an SPA Preliminary and Final Water Quality Plan because it falls under the less than 2-acre commercial/industrial exemption (County Code Section 19-63(b)(2)). A Water Quality Inventory, however, must be filed in accordance with County Code Chapter 19-64(a). DPS' responsibilities for approval of certain water quality inventory elements would be implemented as part of their stormwater management concept plan approval (May 2009) and sediment and erosion control review and approval.

The stormwater management concept consists of on-site channel protection measures via the use of underground storage. On-site water quality control and on-site recharge are provided via the use of underground filtration and recharge trenches.

## **RECOMMENDATION AND CONDITIONS**

Staff recommends approval of Site Plan No. 820100010, Buffington Building II, for a 14,288 gross square foot mixed-use commercial building on 0.96 gross acres. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on December 18, 2009, are required except as modified by the following conditions:

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 120090310.

2. Historic Preservation Committee

This plan is subject to approval of a Historic Area Work Permit. Minor changes to architectural and site materials, finishes, or layout required to obtain that permit will not require a site plan amendment, but must be submitted to Staff for review and incorporated in the application file.

3. Lighting

- a. On-site street and parking lot downlighting fixtures must be full or partial cut-off fixtures as approved by staff;
- 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 16 feet including the mounting base.



4. Forest Conservation

The proposed development must comply with the conditions of the Final Forest Conservation Plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

5. Development Program

The Applicant must construct the proposed development in accordance with the Development Program submitted on the site plan application. This includes, but is not limited to, erosion control measures, stormwater management, sidewalks, lighting, landscaping, and site amenities.

6. Clearing and Grading

Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan.

7. Performance Bond and Agreement

The Applicant is subject to the following provisions for surety as described in Section 59-D-3.5 of the Montgomery County Zoning Ordinance and Site Plan approval:

- a. The Applicant must provide a cost estimate from the landscape architect or landscape contractor indicating the installed costs of site plan elements such as but not limited to landscaping, lighting, recreation facilities, special paving, art work and site furnishings. The cost estimate should include a 10% inflation factor for the site plan elements to account for changes in price and materials and modifications to the approved plans.
- b. The Applicant must submit a Performance Bond or other satisfactory form of surety as approved by M-NCPPC to cover the installed costs of site plan elements such as but not limited to landscaping, lighting, recreation facilities, special paving, art work and site furnishings as shown and described in the cost estimate.
- c. The Applicant must execute an agreement for site plan elements in conjunction with the performance bond indicating the Applicant's agreement to install, construct and maintain the site plan elements.
- d. The Bond and agreement must be submitted and accepted prior to the release of the first building permit.

8. 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. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Provide a list of equivalent plant materials allowed for use.

- d. Modify data table to reflect all development standards enumerated in the staff report and any actions taken by the Planning Board.
- e. Provide updated lighting plans and details.
- f. The crosswalk from the internal parking lot island to the sidewalk to the north must be realigned in a fashion similar to the diagonal connection provided between the parking lot island and the sidewalk to the south. Any associated landscaping, lighting, and parking island revisions may be made to accommodate this change.
- g. The detail for the 5' wide concrete sidewalk along Frederick Road must include use of a colored tinting agent as approved by Staff prior to the certified site plan.

## **APPENDICES**

Appendix A – Preliminary and Site Plan

Appendix B – HPC Staff Report (summary)

Appendix C – Agency Correspondence



**MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION**  
**STAFF REPORT**

<b>Address:</b>	Parcel 200, Frederick Road, Clarksburg	<b>Meeting Date:</b>	06/24/2009
<b>Resource:</b>	<b>Vacant Lot</b> Clarksburg Historic District	<b>Report Date:</b>	06/17/2009
<b>Applicant:</b>	Buffington Enterprises II, LLC (Sharon Horvath, Architect)	<b>Public Notice:</b>	06/10/2009
<b>Review:</b>	HAWP	<b>Tax Credit:</b>	None
<b>Case Number:</b>	13/10-09B	<b>Staff:</b>	Josh Silver
<b>PROPOSAL:</b>	New construction		

**STAFF RECOMMENDATION:**

Staff recommends that the HPC **approve** this HAWP application.

**BACKGROUND**

The HPC has held two Preliminary Consultation hearings where they have reviewed a proposal for new construction at the subject property. (See attached HPC Meeting Transcripts and Staff Reports on Circles 51 and 52, 53-54).

**PROPERTY DESCRIPTION**

**SIGNIFICANCE:** Clarksburg Historic District  
**STYLE:** Vacant Lot

This vacant lot (Parcel 200) on Frederick Road in Clarksburg is a split zone parcel, 25% C-1 and 75% R-200. It is relatively flat with trees at the rear of the property. The lot is roughly 130' x 330' and just under an acre in area (42,900 SF). It is flanked on the north by a non-contributing 1960s post office and on the south by a heavily treed vacant parcel. Across the street are a c.1920s vernacular residence and another vacant lot.

**PROPOSAL:**

The applicant is proposing the construction of an approximately 14,284 square foot (7,142 square foot footprint) commercial building containing office, retail, and restaurant uses, and 72 parking spaces. The proposed 2 ½ story (2 floor) building is broken into 2 wings connected by a hyphen: Wing A is 33 feet tall; Wing B is 33 feet tall (from grade to ridge), the proposed building would be located on the C-1 zoned section of the parcel with a front setback of 10'; the parking on the R-200 zoned area. The proposal also includes the installation of two brick-faced retaining walls along the north and south property lines, lighting, a sign at the entrance to the parking area, and a dumpster enclosure.

**APPLICABLE GUIDELINES:**

When reviewing alterations and new construction within the Clarksburg Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the *Vision of Clarksburg: A Long Range Preservation Plan* and the *Montgomery County Code Chapter 24A (Chapter 24A)* and pertinent guidance in applicable Master Plans. The pertinent information in these documents is referred to below in the staff discussion section.

***Montgomery County Code; Chapter 24A***

- (a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.
- (b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:
  - (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
  - (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or
  - (3) The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site or historic resource located within an historic district in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or
  - (4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or
  - (5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or
  - (6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.
- (c) It is not the intent of this chapter to limit new construction, alteration or repairs to any 1 period or architectural style.
- (d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

**STAFF DISCUSSION**

Site Plan and Parking Program: Staff supports the revised parking area program at the site. The proposed design responds directly to comments made by the HPC. The front section of the proposed parking area is in alignment with the rear termination of the front roof gable of Wing A. (Termination of the front gable is 20' behind the front wall plane; the parking area should begin no less than 20' behind the front wall plane).



As a result of these modifications, staff finds that the parking program and other site plan elements are consistent with review criteria and recommends that the HPC support a parking area waiver at the site. At the 2<sup>nd</sup> Preliminary Consultation the HPC indicated their non-binding support for a waiver of the parking space requirement at the property.

Wings A and B: The proposed design for Wing A and B responds directly to the comments the applicant received from the HPC at each subsequent Preliminary Consultation hearing. The HPC recommended no changes to the massing of Wing A or connector hyphen.

The applicant presented two design schemes for Wing B. There was consensus among the HPC the three gable roof system along the north-south elevations and single gable on the east and west elevation could be approved if this design was submitted as part of a HAWP application. The HPC recommended the applicant further refine the details for Wing B to demonstrate how the exterior ventilation and major systems would be incorporated into the design program. The applicant has provided additional details about how these systems will be treated in both the renderings and attached narrative. Staff finds that the building's design is consistent with review criteria, as outlined below.

Staff supports the proposed development of the site and new construction. The revised design responds directly to the comments and feedback the HPC provided the applicant with at each subsequent Preliminary Consultation hearing. Section 24A-(b) (1) and (2) and the *Vision and Master Plan*. The proposed parking area program and site development is consistent Chapter 24A-8(b) (1) & (2).

#### **STAFF RECOMMENDATION**

Staff recommends that the Commission **approve** the HAWP application as being consistent with Chapter 24A-8(b) (1) & (2)

- (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
- (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter and;

with the general condition that the applicant shall present the **3 permit sets of drawings to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans. Once the work is completed the applicant will contact the staff person assigned to this application at 301.563.3400 or [joshua.silver@mncppc-mc.org](mailto:joshua.silver@mncppc-mc.org) to schedule a follow-up site visit.




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

August 14, 2009

**MEMORANDUM**

**TO:** Cathy Conlon, Supervisor  
Development Review Division

**FROM:** Joshua Silver, Senior Planner   
Historic Preservation Section

**SUBJECT:** Review of Preliminary Plan #120090310 | Site Plan #820100010 [**Buffington Building II**]  
DRC Meeting, August 24, 2009

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The Historic Preservation Section has reviewed the subject development plan for potential impacts to historic properties listed on the Locational Atlas and Index of Historic Sites and Master Plan for Historic Preservation.

On June 24, 2009, the Montgomery County Historic Preservation Commission (HPC) reviewed and approved with no conditions a Historic Area Work Permit (HAWP) application for **new construction and site development on Parcel 200**, a split-zoned (25% C-1 and 75% R-200), 0.96 acre vacant lot located on Frederick Road/Route 355, within Master Plan Historic District, #13/10, Clarksburg Historic District.

The HPC found the applicant's proposal to:

Construct a 2 ½ story, 14,284 square foot (7,142 square foot footprint) commercial building containing office, retail, and restaurant uses on the C-1 zoned section of the parcel with a front setback of 10', and 71 parking space on the R-200 zoned area as being consistent with Chapter 24A-8(b) (1) & (2);

- (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
- (2) The proposal is compatible in character and nature with the historical, archaeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter.

The HPC voted in favor of supporting a parking area waiver of 12 parking spaces, below the minimum 83 parking space requirement prescribed by the zoning ordinance for the R-200 zoned section of the parcel.

Any changes to the approved HAWP application, such as project revisions, selection of alternative materials, or additional exterior alterations to this parcel, must be reviewed by the Historic Preservation Commission prior to any review by the Montgomery County Planning Board.

January 21, 2010

**MEMORANDUM**

**TO:** Joshua Sloan, Planner Coordinator  
Build/ Development Review Division

Patrick Butler, Planner  
Build/ Development Review Division

**VIA:** Sue Edwards, AICP, Team Leader, North Central Transit Corridor Team  
Vision Division

**FROM:** Ronald Cashion, RA, AICP, Planner Coordinator, Urban Designer  
North Central Transit Corridor Team  
Vision Division

**SUBJECT:** **Buffington Building II:**  
**Site Plan 820100010 and Preliminary Plan 120090310**  
Vision Staff Comments for Consideration of Site Plan and Preliminary Plan

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**RECOMMENDATION:** Staff recommends approval of the proposed Site Plan and Preliminary Plan for the Buffington II project. The Plans are in conformance with applicable provisions of the June 1994 Clarksburg Master Plan and the Applicant's submissions respond to multiple previous and recent reviews by Department staff.

**BACKGROUND AND SUMMARY**

This proposed 14,288 sq. ft. project consists of three uses with 7,144 sq. ft. of office, 1,964 sq. ft. of gross leasable retail area, and a 2,800 sq. ft. restaurant. The project and building has undergone extensive analysis with multiple submissions and design reviews by Historic Preservation staff and the Historic Preservation Commission (HPC).

The HPC reviews involved significant attention to the size of the building and its fit to the site with a resulting support of staff recommendations and approval of the project in June 2009.

**LAND USE AND MASTER PLAN GUIDANCE**

The .96 acre, 41,640 sq. ft. subject property is located in the Clarksburg planning area and within the Town Center planning analysis subarea. It is within the Clarksburg Historic District and has approximately 125 ft. frontage on Frederick Road, MD Route 355.

The Buffington II mixed-use building and associated site development is consistent and in compliance with the Master Plan objectives as set forth and described for the Town Center and

Historic District areas (MP Pgs. 42-53). Primary applicable master plan objectives and supporting guidelines are summarized as follows:

- The Town Center is recommended to be “a strong central focus for the entire Study Area” (MP Pg. 42). The Buffington project as a mixed use building is compatible in the Historic District and will augment the Town Center as the central focus for the planning area;
- A “mixed-use development pattern” is encouraged “to help create a lively and diverse place” (MP Pg. 44). The mix of office, retail, and restaurant uses in a relatively moderate two floor building fits this objective;
- A total of 300,000 sq. ft. of retail area is proposed in the Master Plan (MP Pg. 46). With 194,720 sq. ft. of commercial space approved in the Town Center core area the addition of the proposed retail and restaurant components of the Buffington project will allow approximately 100,000 sq. ft. of additional future retail space in the entire Town Center analysis area. An additional provision for retail space in the Master Plan includes any retail in the Newcut Road and Cabin Branch neighborhoods having to follow development of 90,000 sq. ft. of retail space in the Town Center (MP Pg. 190). This provision is only applicable to future retail in these two large development areas and not applicable to the relatively small commercial component of the Buffington project as compatible infill in the Historic District;
- One of the Master Plan objectives for the Town Center analysis area is to “Encourage infill within the historic district in accord with the historic development patterns” (MP Pgs. 47-48). Supporting Design Guidelines include:
  - orient buildings to the street with parking behind
  - preserve and enhance the existing rural character of streets
  - assure that all road improvements are sensitive to the historic character of the District
  - reaffirm and strengthen current historic building patterns
  - encourage renovation to include both residential and compatible commercial uses
  - encourage a limited amount of new construction, compatible with historic buildings
  - encourage the installation of historically appropriate sidewalks along both side of Frederick Road
  - encourage appropriate lighting and street furniture

Staff finds that the Buffington project will comply with the above objective and guidelines in terms of size, scale, character and fit to the Historic District.

- The Master Plan has an added objective to “assure that future development around the Historic District complements the District’s scale and character” (MP Pgs. 48-49). For the adjacent area 400 ft. from MD 355, and eastern areas of the District beyond, a buffer area of single family structures up to two stories is recommended. The approved adjacent residential portion of the Town Center development outside of the Historic District and northeast of the site conforms to this buffer provision.

Vision staff is in agreement with prior findings of the Historic Preservation staff and HPC approvals that the Buffington proposal is compatible in character and nature with the Historic District. Staff also finds that the project complies with the above summarized guidance and provisions of the Master Plan.

## **ZONING**

The .96 acre site consists of both C-1 and R-200 zoned areas. The proposed Buffington building is located on the C-1 zoned parcel and the entire vehicular access and parking area is located within the R-200 zoned area. A building FAR of 1 is allowed and the proposed FAR is .35. Parking is allowed on the R-200 parcel due to flexibility provided by the project location in the Historic District.

The project is located in the Clarksburg Special Protection Area and staff is aware of Environmental Division policy of recommending that new development have an impervious coverage consistent with impervious levels typically expected with development in the underlying zone, in this case R-200. With the Buffington project as proposed, Vision staff recommends approval of the project due to:

- the opportunity provided by a mix of uses as infill development that is compatible in the Historic District, and
- the project's consistency with the Master Plan's Town Center and Historic District objectives and design guidelines.

## **SITE DEVELOPMENT CONSIDERATIONS**

The Applicant has had numerous meetings with staff throughout the history of project development including input from multiple agency staff representatives as part of the Department's Development Review Committee process. The Applicant has also initiated meetings with community representatives as the project has evolved. The following development considerations are highlighted due to citizens concerns with the adequacy of on-site parking and the Applicants requested parking waiver.

### **Parking**

For parking calculations, the 14,288 sq. ft. building as approved by the Historic Preservation Commission and submitted for site plan approval consists of three uses -

- Office                7,144 sq. ft.
- Retail                1,964 sq. ft.
- Restaurant        2,800 sq. ft.

The Applicant's submission includes parking provided with a surface lot occupying a majority of the R-200 zoned portion of the site with a total of 71 parking spaces. This is a reduction of 22 spaces from the 93 spaces referenced as required by the mixed use provisions of the zoning ordinance. Therefore a parking waiver is required.

Community input related to parking for the project has focused on the need to provide adequate on-site parking, particularly for the restaurant use since parking is at a premium in the historic district and on street parking in the immediate area is not available for overflow parking. For these reasons the Clarksburg Civic Association in 2008 had expressed opposition to any parking waiver.

Staff has reviewed the proposed uses and conferred with the applicant relative to parking provisions for the development with the objective of providing both adequate on-site parking, and also as much tree canopy, green and pervious surface area as possible. Any increase to the 71 spaces would reduce needed green space and any decrease could create a risk of inadequate parking at peak use periods.

The 71 spaces as proposed is 6 spaces per 1,000 sq. ft. applied to the net use area of the building and 5 spaces per 1,000 sq. ft. applied to the total building area. This is significantly more spaces per 1,000 sq. ft. than is typically expected for mixed use development which is closer to an average of under 4 spaces per 1,000 sq. ft. Staff therefore initially examined the possibility of reducing the parking below the 71 spaces to increase green and pervious area on the developed site. However, because of the need and concern to provide adequate on-site parking, staff supports the 71 space total and the required waiver. Additionally, the on-site pervious area has been increased somewhat with a reconfiguration of the parking area and added tree canopy.

### **Vehicular and Pedestrian Circulation**

The building has an appropriate street frontage and presence within the Historic District at Frederick Road, MD Route 355. Vehicular access is provided at the south corner of the site. The parking area is setback approximately 30 ft. from the street frontage property line and 40 ft. from the proposed new edge of street pavement. At the northeast rear yard area the parking lot is configured to allow continuous circulation back to MD 355. In the rear yard area the surface parking lot extends to within 22 ft. from the rear property line.

The southwestern portion of the approved Clarksburg Town Center is adjacent to the north corner of the site. This single family residential portion of the Town Center is separated from the rear area of the subject property by open space and the possible future extension of Clarksridge Road to the north. With the development of the Town Center Clarksridge Road will not be extended fully to the rear property line of the Buffington site. The Master Plan calls for an "interconnected street system", a "high density network of smaller roads", and local streets "which allow on street parking (and) close spaces of intersections". (MP Pgs. 51-52). Although the alignment of Clarksridge Road will allow a potential extension, an extension beyond the point north of the Buffington site is not included within the Clarksburg Master Plan.

The Buffington development does not require a vehicular connection to Clarksridge Road. The Applicant has, however, committed to dedication and construction of the required roadway and walkway segments that would be needed in the event that Clarksridge Road is extended at some time in the future.

To provide internal pedestrian access and a continuous pedestrian connection from MD 355 through the rear parking area of the Buffington site a walkway is proposed within the rear yard parking area.

### **Recommended Conditions of Approval**

While Department staff finds that the 71 on-site parking spaces will be adequate for the mix of uses as proposed, staff recognizes the concern of the community due to the requested parking



reduction, the necessary waiver and the lack of available off-site parking in the vicinity of the development.

Therefore, for site plan approval, staff recommends consideration of the following conditions associated with parking and circulation for the project:

- Parking. The Applicant/Owner should commit to monitoring parking use and if necessary initiating a Transportation Management Plan (TMP). After the Restaurant and other uses within the building are occupied and operational the Applicant/Owner should report peak hour parking use percentages to Transportation Planning staff for evaluation as to whether a TMP will be necessary. If it is determined by staff at the time of the parking report that a TMP is necessary then the TMP would be initiated in coordination with staff; and
- Vehicular and Pedestrian Circulation. Approval of the site plan should be conditioned upon facility occupancy and operation with no vehicular connection to Clarksridge Road. If in the future any initiation is made to extend Clarksridge Road beyond the location currently shown in the Clarksburg Town Center Certified Site Plan staff would evaluate any consideration for vehicular connection from the Buffington project.

Additionally, following Transportation PAMR requirements the Applicant is required to mitigate 6 vehicular trips. The applicant proposes to satisfy these requirements by constructing off-site ADA compatible sidewalk ramps. As an additional condition for site plan approval and prior to building permit, Vision staff recommends that the Applicant, in coordination with Department and County DOT staff, confer with community representatives regarding the locations of the off-site construction.

## CONCLUSION

The Buffington development will fit this immediate neighborhood in the Clarksburg Historic District and the larger Town Center planning analysis area:

- The proposed development is consistent with the objectives and provisions set forth in the Clarksburg Master Plan. The mixed use building and site development proposal conforms to the primary applicable master plan objective to "Encourage infill within the historic district in accord with the historic development patterns" (MP, pgs. 47-49); and
- The design of the project has been fully reviewed by Historic Preservation staff and approved by the Historic Preservation Commission. The Applicant is aware that any changes to the proposal, including those associated with the site plan approval, that differ from the Historic Preservation Commission approval must be reviewed by the HPC.

*Patrick Butler*



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

December 23, 2009

**MEMORANDUM**

TO: Joshua Sloan, Planner/Coordinator  
Patrick Butler, Planner/Coordinator  
Development Review Division

VIA: Shahriar Etemadi, Supervisor  
Transportation Planning Division

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

*[Handwritten signature]*  
*KHK*

SUBJECT: Buffington Building II  
Preliminary Plan No. 120090310  
Site Plan No. 82010010

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This memorandum represents Transportation Planning staff's Adequate Public Facilities (APF) review and recommendations on the subject preliminary plan and site plan applications for the proposed Buffington Building II development located on the east side of Frederick Road (MD 355), north of Stringtown Road in the Clarksburg area.

**RECOMMENDATION**

Based on our review of the site plan and the traffic analysis submitted by the applicant, staff recommends the following conditions as part of the APF test related to approval of the subject preliminary plan and site plan applications.

1. Total development under the subject preliminary plan and site plan is limited to 7,144 square feet of general office, 1,964 square feet of general retail space, and 2,800 square feet of high-turnover (sit down) restaurant.
2. The applicant must construct three (3) handicap ramps or pedestrian refuge islands to satisfy the requirements of PAMR. Prior to approval of the record plat, the applicant must submit alternative locations to install their proposed pedestrian refuge islands and/or handicap ramps to MCDOT for their review and approval. The handicapped ramps and/or pedestrian refuge islands construction must be complete prior to obtaining the building permit.

## DISCUSSION

### Local Area Transportation Review (LATR)

Two intersections were identified as critical intersections affected by the proposed Buffington Building II development and were examined in a submitted traffic study to determine whether they met the applicable congestion standard. The congestion standard in the Clarksburg Policy Area is 1,425 Critical Lane Volumes (CLV). The result of the CLV analysis is summarized in Table 1.

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

Intersection	Weekday Peak Hour	Traffic Condition		
		Existing	Background	Total
MD 355 & MD 121	Morning	1,063	1,135	1,139
	Evening	1,326	1,188	1,190
MD 355 & Stringtown Road	Morning	1,122	1,357	1,373
	Evening	933	1,294	1,306

As shown in the above table, all intersections are currently operating within an acceptable CLV level of 1,425 and they are expected to continue for the background (the existing traffic plus traffic from the approved/unbuilt developments) and the total future development condition (the background traffic plus traffic from the site) during the weekday AM and PM peak hours. There will be intersection improvements at the intersection of MD 355/MD 121 by the Clarksburg Town Center applicants, that will result in the background and total development traffic conditions to operate better than the existing traffic condition. Therefore, this preliminary plan application meets the LATR requirements of the APF review.

### Policy Area Mobility Review (PAMR)

The site is located within the Clarksburg Policy Area where 10% of new trips must be mitigated as part of the PAMR requirements according to the Growth Policy. In order to satisfy this PAMR requirement, the applicant proposed to construct three (3) handicap ramps with a list of recommended locations. Upon review of the applicant's proposal, MCDOT recommends that the applicant construct pedestrian refuge islands and/or handicap ramps at alternative locations. Staff recommends the applicant to construct refuge islands and/or handicap ramps at alternative locations as determined by MCDOT. Alternative locations should be reviewed and approved by MCDOT prior to approval of record plats. We also recommend that the applicant coordinate with the area Civic Associations to identify the alternative locations. Staff finds that with construction of three (3) handicap ramps and/or pedestrian refuge islands, the subject preliminary plan an site plan applications meet the PAMR requirements of the APF review.

### Site Access and Vehicular/Pedestrian Circulation

The site is proposed to gain one access from Frederick Road (MD 355) and one future access point to Clarksridge Road when Clarksridge Road is constructed. Staff finds that the proposed

access points to be adequate to accommodate the site-generated traffic. Staff has also reviewed proposed internal traffic/pedestrian circulation system shown on the site plan and finds them to be adequate.

## **CONCLUSION**

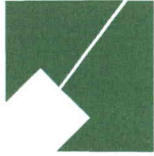
Transportation Planning staff concludes that the subject preliminary plan and site plan applications for the proposed Buffington Building II development satisfies the LATR/PAMR requirements of the APF review with conditions described in this memorandum.

KK:tc

DEC 28 2009

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

**MEMORANDUM**

**TO:** Patrick Butler, Development Review  
Joshua Sloan, Development Review

**VIA:** Stephen D. Federline, Master Planner   
Environmental Planning

**FROM:** Doug Johnsen   
Environmental Planning

**DATE:** January 7, 2010

**SUBJECT:** Buffington Building, II  
Preliminary Plan of Subdivision #120090310  
Site Plan #820100010  
Final Forest Conservation Plan

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**RECOMMENDATION**

Environmental Planning staff recommends approval of the Preliminary Plan of Subdivision, Site Plan, and the Preliminary Forest Conservation Plan for the Buffington Building II project subject to the following conditions:

1. Applicant must comply with all conditions of approval of the final forest conservation plan as stated in the Environmental Planning approval letter dated January 5, 2010 prior to County issuance of a sediment and erosion control permit for this site.

**BACKGROUND**

The 1.02-acre property is located at 23315 Frederick Road (MD 355), 450-feet north of the intersection of Frederick Road and Stringtown Road in Clarksburg, MD. The property is located within the historic district of Clarksburg and within the Clarksburg Special Protection Area (SPA). The site is split-zoned with 0.24-acres being zoned C-1 and the remainder being zoned R-200. The applicant proposes to construct a small commercial building approximately 14,300 square feet in size with retail space and a restaurant on the lower level with office space in the upper level on the C-1 portion of the site. The applicant also proposes to install parking on the R-200 portion which is allowed under the County Zoning Ordinance, Section 59-A-6.22. The site is bordered on the north by a small veterinary clinic; the eastern portion abuts the Clarksburg

Town Center development; on the south is vacant land; and on the west across Frederick Road is an older single family residence and open land.

### **Environmental Inventory**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was initially approved in June 2007 and recertified in August 2009 for the 1.02-acre site. There are no streams, wetlands or environmental buffers on this site. However, there is a stream adjacent to the property and the stream valley buffer associated with this off-site stream is in close proximity to the northeast corner of the site.

The topography of the property slopes gently at an overall 5% grade from the high point at the southwestern corner of the site along Frederick Road to the northeastern corner at the rear of the property. The property lies within the Little Seneca Creek watershed, a Use Class IV stream. The site drains into an unnamed tributary stream which drains into the Town Center tributary, a major tributary to the Little Seneca Creek. The Little Seneca is considered to be in good condition based on Montgomery County Dept. of Environmental Protection's 2003 Countywide Stream Protection Strategy (CSPS) update. The Special Protection Area designation was applied to provide extra protection to its water quality from proposed development.

The vegetative cover on the site consists of 0.58-acres of open field with the remainder 0.38-acres consisting of forest cover. The forest consists primarily of Sugar Maple (*Acer saccharum*), Black Locust (*Robinia pseudoacacia*) and Black Cherry (*Prunus serotina*) with a mix of invasive species covering the herbaceous layer. The forest is classified as a pioneer mixed deciduous forest with good structure and is rated as a priority 1 for retention.

### **Forest Conservation**

A forest conservation plan was submitted along with the preliminary plan of subdivision and the site plan. The forest conservation plan indicates that the applicant will remove the entire 0.38 acres of existing forest on-site as well as an additional 0.06 acres of off-site forest to install the sewer connection. This results in a reforestation planting requirement of 0.35 acres. The applicant is proposing to meet this reforestation requirement in an off-site forest mitigation bank within the Clarksburg Special Protection Area.

### **Forest Conservation Variance**

On October 1, 2009, Maryland State Senate Bill 666 (SB 666) became law statewide and mandated new criteria into all local forest conservation laws. Bill 666 identifies certain individual trees as high priority for protection. If a forest conservation plan cannot be altered to protect these individuals, the applicant is required to submit a variance to remove trees. In general, the variance provision of Bill 666 applies to all trees 30" DBH and greater, trees that are 75% the diameter of the county champion for that species, and rare, threatened and endangered species. Since this project did not obtain approval of a Preliminary Forest Conservation Plan prior to October 1, 2009 and the applicant is proposing to remove one tree greater than 30 inches DBH a variance is required. The large tree that is requested to be removed is identified on the Preliminary Forest Conservation Plan as tree #3 and is located along the eastern property line toward the rear of the site. The tree is a 31" DBH Sugar Maple (*Acer saccharum*) listed in poor condition with a hollow trunk, rot and sapsuckers evident. The tree is currently within the existing forest stand that is proposed to be removed. Once the surrounding forest is removed this

tree will become a standalone tree and most likely become a hazard tree due to its location and condition. The applicant has requested a variance to remove this tree.

Montgomery County Code Chapter 22A - Forest Conservation Law (FCL) Section 22A-21(c) requires the Planning Board to refer a copy of each variance request to the County Arborist in the Montgomery County Department of Environmental Protection and other appropriate officials or agencies for a written recommendation prior to acting on the request. The County Arborist has 30 days to comment. If the County Arborist does not provide a recommendation within 30 days the recommendation is presumed to be favorable. In this case, the variance request was forwarded to the Montgomery County Arborist within the Montgomery County Department of Environmental Protection (DEP) on December 16, 2009. The County Arborist has elected not to review the variance request (see Attachment A). As such, the County Arborist's recommendations for the variance request are therefore presumed to be favorable.

FCL, Section 22A-21(e) states that the Planning Board must make findings that the applicant has met all requirements of this section before granting a variance. FCL Sect. 22A-21(d) states that a variance must *not* be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

## Findings

1. *Will confer on the applicant a special privilege that would be denied to other applicants.*

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. Other applicants will require variances and some are already in the process of obtaining a recommendation from the County Arborist before their subdivision plan comes to the Planning Board. Variances will be necessary in some cases to realize master planned densities and in other cases to remove a potentially hazardous tree and still others to obtain other planning goals. In this case the tree in question will most likely become a hazard tree if it is required to remain in place. Therefore, staff believes that is not a special privilege that would be denied to other applicants.

2. *Is based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The requested variance is based on site layout and design for a small commercial development within a C-1 zone and the associated parking within the

R-200 zone. The site layout and design necessitates the removal of the 31" DBH Sugar Maple (*Acer saccharum*) since this tree will become a hazard tree following the removal of the surrounding forest and the installation of the required parking for the commercial building.

3. *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the small subject property and not as a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. Under section 22A-16(d) of the County code "*The Board or Director may treat any forest clearing in a stream buffer, wetland or special protection area as creating a rebuttable presumption that the clearing had an adverse impact on water quality.*" However, in this case, the tree proposed to be removed is in such poor condition that it would most likely not survive once the surrounding trees are removed. As such, the removal of this tree is not considered to have an adverse impact on the water quality standards or degradation in water quality.

As a result of the above findings Environmental Planning staff recommends the approval of the applicant's request for a variance from Forest Conservation Law to remove the 31" Sugar Maple (*Acer saccharum*). The approval for the forest conservation variance is assumed into the Planning Board's approval of the forest conservation plan.

#### **Clarksburg Special Protection Area Water Quality Plan/Inventory**

This project site is exempt from submitting an SPA Preliminary and Final Water Quality Plan because it falls under the less than 2-acre commercial/industrial exemption (County Code Section 19-63(b)(2)). However, a Water Quality Inventory must be filed in accordance with County Code Chapter 19-64(a). DPS' responsibilities for approval of certain water quality inventory elements would be implemented as part of their stormwater management concept plan approval (May 2009) and sediment and erosion control review and approval.

#### **Site Imperviousness**

The water quality inventory review under MNCPPC's purview (County Code Section 19-64(a)(4)) requires that the "*preliminary plan describing the proposed development which minimizes impervious area and, if applicable, meets impervious limits for the project....*". There is no set impervious cap for developments in this portion of the Clarksburg Special Protection Area. However, in comparable situations Environmental Planning references countywide impervious surface averages for similar development and does assess the development to look for ways to attempt to reduce the amount of impervious surface in the subdivision. According to the preliminary forest conservation plan there is 31,394.2 square feet (0.72 acres) of impervious surface for the 1.02-acre property. This equates to a total impervious surface coverage of



approximately 71 percent for the site. The C-1 portion of the site has a countywide impervious surface average of 90 percent while the R-200 portion has an average of 19 percent.

Under the Montgomery County Zoning Ordinance Section 59-A-6.22, parking is permitted by right within a historic district as long as the proposed parking meets the requirements within the Ordinance. In this case the proposed parking area meets all six requirements as outlined in the Zoning Ordinance and as such must be allowed even though this will result in high amounts of impervious surface than the underlying zoning would typically produce.

Following County Code 19-64(a)(4) the applicant has made proposals to reduce the high level of impervious surface within the Clarksburg Special Protection Area. The applicant had proposed to use both a green roof structure and porous pavement in the parking and drive areas. However, for both design and technical reasons both of these concepts were deemed to be unacceptable. The green roof concept was rejected by the Historic Preservation Committee because this development is located within the historic district of Clarksburg which carries a requirement of using a sloped metal roofed designed structure to match other historic buildings within the area.

The porous pavement concept was rejected by the Montgomery County Department of Permitting Services because the parking area is supported by a retaining wall structure. The site slopes from the front of the property to back and requires a retaining wall along with fill material to raise the grade at the rear of the property. It was felt that placing porous material behind a retaining wall would create a situation that would allow the water to be trapped behind the wall leading to structural failure of the retaining wall system. For this reason the concept of using porous pavement in the parking areas had to be abandoned.

The rejection of the green roof and porous pavement concepts left the applicant with few options to offset the high amount of impervious surface. In an attempt to counterbalance the impacts of the amount of impervious surface the applicant has agreed to increase the amount of required tree canopy coverage, has increase the amount of planting islands, has reduced by 12 spaces the number of parking stalls from the total required by code, and has proposed a bio-recharge facility to handle the anticipated stormwater runoff.

## **CONCLUSION**

Environmental Planning recommends the Planning Board approve the Preliminary Plan of Subdivision, the Site Plan, and the Final Forest Conservation Plan. The SPA Water Quality Inventory does not require Board action.

# **ATTACHMENT A**

## **County Arborist's Forest Conservation Variance Recommendations**



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Robert G. Hoyt  
Director

December 24, 2009

Royce Hanson, Chairman  
Montgomery County Planning Board  
Maryland National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

RE: Buffington Property – Clarksburg FCP, DAIC 820100010, NRI/FSD applied for on 4/19/2007  
DOT CIP Goshen Road, MR2009805, NRI/FSD applied for on 12/26/2006

Dear Dr. Hanson:

As stated in a letter to you from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the new provisions of the Forest Conservation Act do not apply to any application required by Chapter 22A of the Montgomery County Code submitted before October 1, 2009. Since the applications for the above referenced requests were submitted before this date, I will not provide a recommendation pertaining to these requests for variances.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Laura Miller  
County Arborist

cc: Robert Hoyt, Director  
Walter Wilson, Associate County Attorney  
Mark Pfefferle, Acting Chief



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

December 29, 2009

Carla Reid  
Director

Mr. Kenneth Jones  
Macris, Hendericks and Glascock, P.A.  
9220 Wightman Road, Suite 120  
Montgomery Village, Maryland 20886

Re: Water Quality Inventory and Stormwater  
Management Concept for Buffington Property  
Pre Preliminary Plan #: 720080200  
Preliminary Plan # 120090310  
Site Plan # 820100010  
SM File #: 235026  
Tract Size/Zone: .96ac/C-1, R-200  
Tax Plate: EW- 341  
Parcel: P 200  
Montg. Co. Grid: 4928F2  
Watershed: Little Seneca Creek

**SPECIAL PROTECTION AREA**

Dear Mr. Jones:

Based on a review by the Department of Permitting Services Review Staff, the Water Quality Inventory and stormwater management concept for the above mentioned site is **acceptable**.

Site Description: The site is located on the east side of Frederick Road which is within the Clarksburg Special Protection Area (SPA) of the Little Seneca Creek watershed. The proposed site development will consist of a 2-story retail/office building and parking area. At the pre application meeting for this project held 7/20/07 it was determined that this project was exempt from preliminary/final water quality plan requirements, and is subject only to an approved water quality inventory (SWM Concept).

Stormwater Management: The stormwater management concept consists of on-site water quality control and groundwater recharge via the use of underground filtration and recharge trenches. Channel protection volume is provided via the use of underground storage.

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

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255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY  
[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

Mr. Kenneth Jones  
December 29, 2009  
Page 2

3. An engineered sediment control plan must be submitted for this development.
4. If the proposed recharge trenches meet the design requirements for infiltration, the volume may be separated and reduced from the proposed underground filtration structure. A formal water quality inventory revision will not be required.

Sediment Control: Disturbance of the site is to be limited as much as possible. The use of a double super silt fence and/or super silt fence and sediment logs will be acceptable for sediment control. Immediate stabilization is to be emphasized on the detailed sediment control plan.

Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended 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 Thomas Weadon at (240) 777-6309.

Sincerely,



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

RRB:dm CN 235026

cc:

L. Galanko  
D. Marshall  
SM File # 235026

QN on-site; Acres: 1.34ac  
QL on-site; Acres: 1.06ac  
Recharge is provided





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## FIRE MARSHAL COMMENTS

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**DATE:** 06-Jan-10  
**TO:** Ray Burns  
Macris, Hendricks & Glascock  
**FROM:** Marie LaBaw  
**RE:** Buffington Building II  
120090310

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### PLAN APPROVED

1. Review based only upon information contained on the plan submitted **19-Dec-09**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.