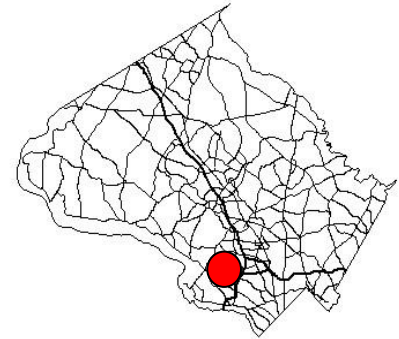




MONTGOMERY COUNTY PLANNING DEPARTMENT
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
1/13/2011



MEMORANDUM

DATE: December 22, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
 Catherine Conlon, Subdivision Supervisor
 Development Review Division

FROM: Richard A. Weaver (301) 495-4544
 Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision; Resubdivision

APPLYING FOR: 2 lots for 2 one-family detached dwelling units, one existing

PROJECT NAME: Clewerwall
CASE #: 120100150
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RE-2
LOCATION: At the intersection of Saunders's Court and Saunders's Lane
MASTER PLAN: Potomac

APPLICANT: Mr. John Troha and Carol Tutera
ENGINEER: Landmark Engineering
ATTORNEY: Schulman and Rogers

FILING DATE: April 20, 2010
HEARING DATE: January 13, 2011

Approval signatures

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RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 2 one-family detached residential lots.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The Applicant must satisfy these conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Conditions include, but are not limited to:
 - a. Provide permanent signs along the boundaries of the Category I conservation easement area.
 - b. The final forest conservation plan must be submitted in accordance with section 109.B. of the forest conservation regulations and approved prior to any land disturbance activities.
- 3) Record plat to reflect a Category I conservation easement over all areas of forest retention and environmental buffers as shown on the approved preliminary forest conservation plan.
- 4) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated November 3, 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 comply with the conditions of the MCDOT letter dated July 6, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 6) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 7) Before any building permit is issued for the new dwelling unit, the applicant must make the school facilities payment at the middle school level to the Montgomery County Department of Permitting Services (MCDPS).
- 8) The certified preliminary plan must contain the following note: “Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the building permit process.
- 9) 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.
- 10) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION (Figure 1 and Figure 2)

The site, “Property” or “Subject Property”, for the Clewerwall preliminary plan is identified as part of Lot 1 (N272) and part of Lot 1 (N299), at 2.17 and 3.03 acres respectively, and located on the west side of Saunders Court approximately 400 feet south of the intersection of Saunders Lane and Saunders Court in the Potomac Subregion Master Plan area. A house and driveway are currently located on N272 which is the easternmost of the two pieces of land described above. A third 74,487 square foot adjacent portion of the originally recorded “Lot 1”



Figure 2

PROJECT DESCRIPTION (Figure 3)

The Applicant proposes to create 2 lots from the two parts of lots, which constitutes a resubdivision. The current configuration of N272 and N299, as shown in Figure 1, is very similar to the proposed lot lines as shown in Figure 2. Proposed Lot A will be 2.03 acres in size and proposed Lot B will be 3.17 acres in size. Lot B will be a pipestem configuration that will mirror the adjacent two lots to the south, Lot 2A and 2B.

The existing house will remain on Lot A. Both lots will have private driveway access from Saunders Court. The house on proposed Lot A will continue to use its private well and septic system; Lot B will be provided public water and sewer house connections and a public utility easement has been provided to accommodate any necessary installation of utilities.

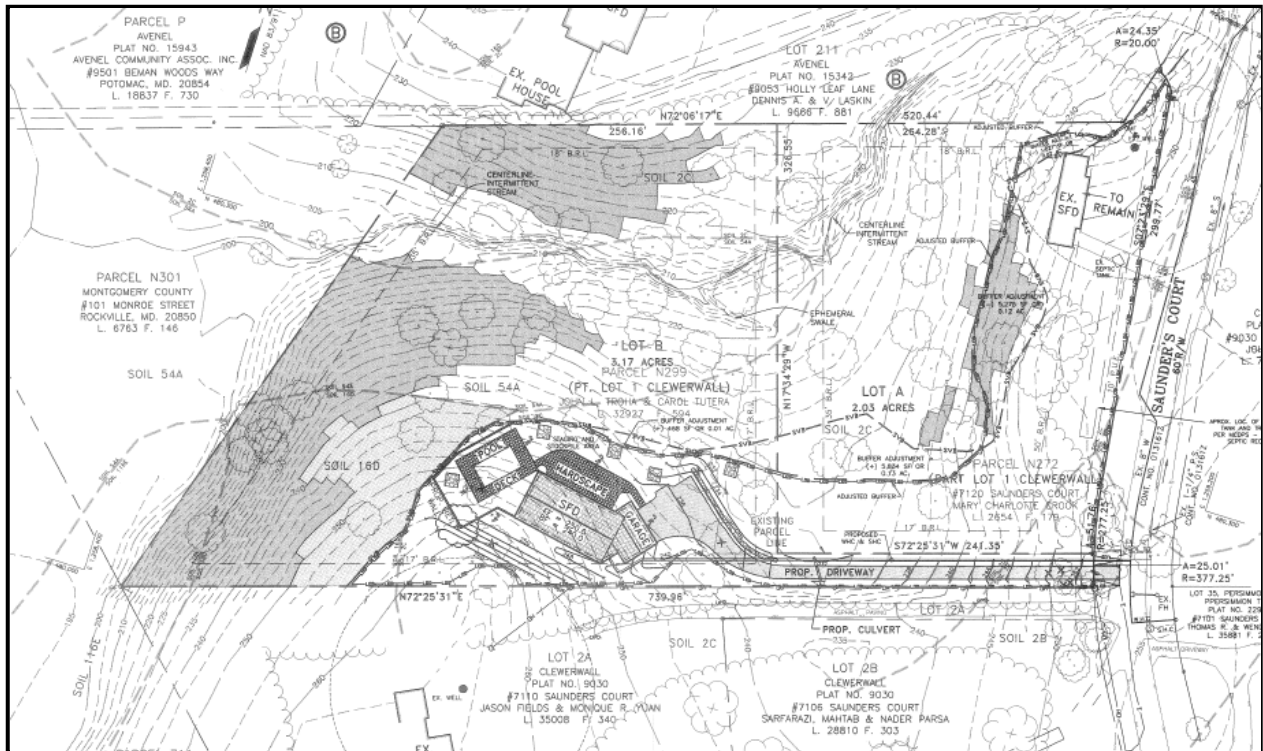


Figure 3: Preliminary Plan

ANALYSIS AND FINDINGS

Substantial Master Plan Conformance

The *Approved and Adopted 2002 Potomac Subregion Master Plan* does not specifically discuss the Subject Property but does recommend that the RE-2 zoning designation remain on the Property as it was before the master plan update. The master plan only briefly discusses the adjacent Rock Run stream but makes no specific recommendations that would affect the Subject Property.

Staff finds that this preliminary plan of subdivision substantially conforms to the Master Plan because it proposes residential development under the RE-2 standards that generally conforms to the current development pattern of the area, and it meets the area and dimensional requirements for the RE-2 zone.

Adequacy of Public Facilities

Roads and Transportation Facilities

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review. In addition, Transportation Planning staff has determined the application is not subject to Policy Area Mobility Review because the proposed development generates fewer than 3 new peak-hour trips within the weekday morning and evening peak periods. The existing right-of-way for

Saunders Court meets the 50-foot standard for a tertiary residential street, and no additional dedication is necessary. A sidewalk does not currently exist along the Subject Property's frontage and none is required because pedestrians can safely walk in the streets in this low density neighborhood. Staff finds that vehicular and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The Department of Permitting Services will allow the existing house to continue to use the existing wells and septic system while the new lot will be provided with a public water and sewer hookup. The application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. The Walt Whitman High School cluster is currently operating between 105% and 120% capacity for the middle school level and, therefore, a school facilities payment is required at the time of building permit for the one new residential lot. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the lots.

Environment

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420100040 for the Property was approved on September 15, 2009. The NRI/FSD identifies the environmental constraints and forest resources. The Property contains 4.8 acres of forest including 22 trees that are 30 inches and greater in diameter at breast height (DBH) and 40 trees between 24" and 30" DBH. The site has some hydraulically adjacent steep slopes (> 25%); however, the overall site generally slopes less than 15%. The stream runs roughly east to west across the property. The environmental buffer associated with this stream contains 3.5 acres of forest. There are no wetlands or mapped 100-year floodplains on the property.

Stream Buffer Encroachments

The applicant has proposed 5,840 square feet of encroachment into the regulatory "delineated" stream buffer to accommodate a usable yard area for the existing house on Lot A. *The Environmental Guidelines: Guidelines for Environmental Management of Development in Montgomery County* (approved January 2000) section V. A.1.(e) provides for small amounts of clearing and grading for other purposes within the SVB on a case-by-case basis so long as the modification is consistent with a comprehensive approach to protecting the environmental resources. While it is standard practices for all stream buffers, both forested and unforested, to be protected by a Category I conservation easement, the Board has permitted permanent encroachments in some instances.

In reviewing buffer encroachment proposals, the guidelines require consideration of *buffer averaging, enhanced reforestation, bioengineering practices, and other environmentally*

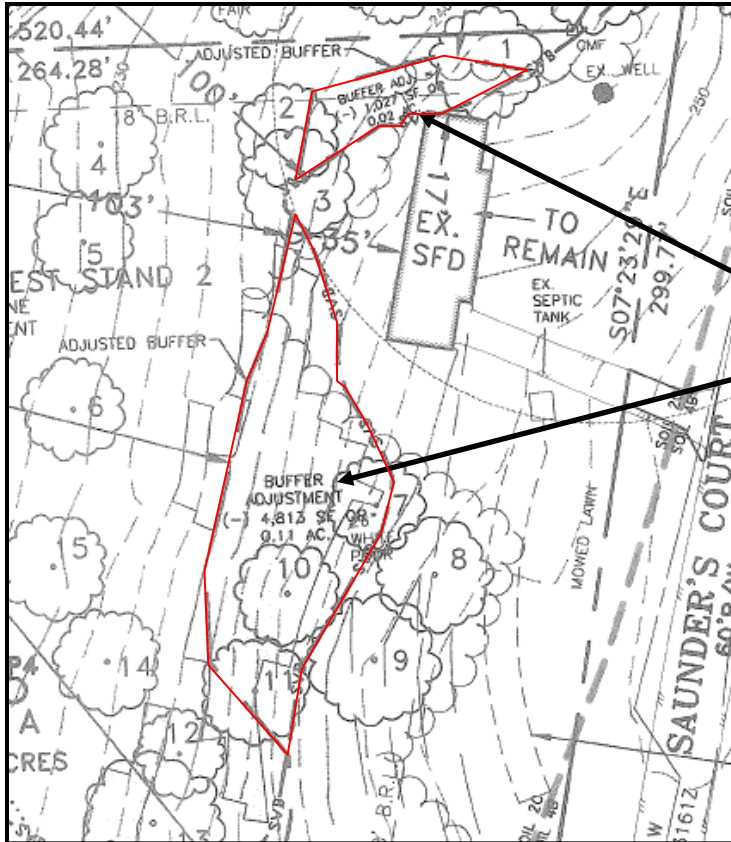
beneficial techniques to offset the encroachment area. The applicant is proposing buffer averaging in this specific case to compensate for the permanent encroachment into the delineated stream buffer. Buffer averaging provides environmentally comparable, on site areas outside the delineated stream buffer in exchange for allowing encroachment elsewhere within the delineated buffer.

Staff and the Board must consider five factors when reviewing buffer averaging requests:

- 1) Whether reasonable alternatives for avoidance of the buffer are available;
- 2) Whether the area of encroachment has been minimized to the greatest extent possible;
- 3) Whether sensitive areas have been avoided (forest, wetlands and their state designated buffers, floodplain, steep slopes, habitat for rare, threatened, and endangered species and their associated buffers);
- 4) Whether the proposed use is consistent with the preferred use of the buffer; and
- 5) Whether the plan design provides compensation for the loss of buffer function.

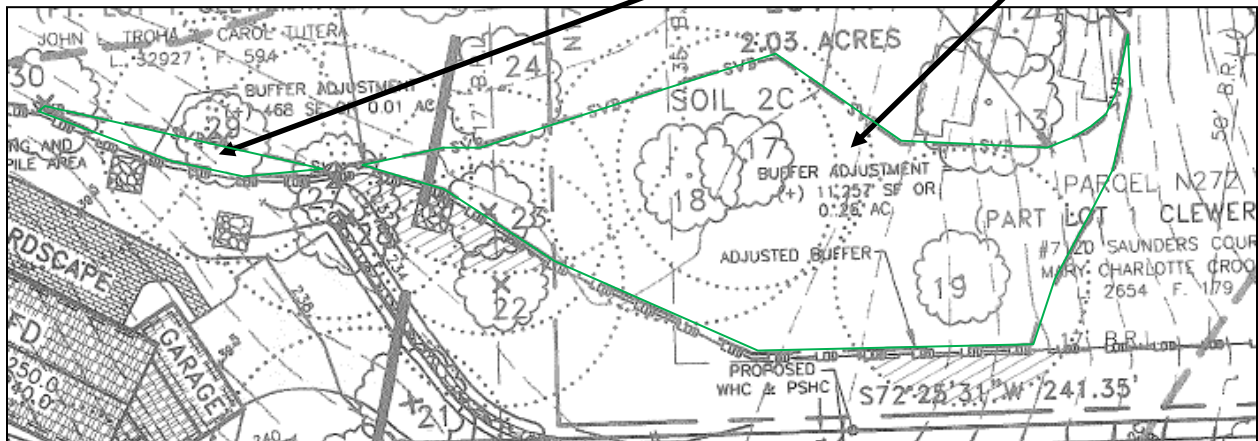
The forest conservation plan and preliminary plan shows 5,840 square feet of buffer encroachment. (See Figures 4 and 5) A typical request for encroachment would be to allow actual land disturbing activities within the delineated buffer, however; there is no grading or land clearing activity proposed within the encroachment area in this instance. This request is simply to exclude an area 35 feet from the back and side of the existing house from the restriction of a Category I easement so that the home may have a usable backyard and side yard free of restrictions. It will also allow for the existing modest home to be expanded or to be replaced with a larger home at a later time. Without permitting a modification to the buffer, there would be very little usable yard space around the house for active play, sheds, or gardens. Staff also notes that if the easement were placed on the delineated buffer line, it would significantly increase the likelihood of forest conservation easement violations. Staff believes that because of the current location of the house on proposed Lot A, it is appropriate to consider buffer averaging to eliminate these issues.

The requested encroachment area does contain a small area of steep slopes and forest, but it does not include any wetlands, rare threatened and endangered species habitat, or any state mandated buffers. The applicant is proposing to mitigate the 5,840 square feet of buffer encroachment by placing 11,725 square feet of land that currently lies outside but is abutting to the delineated stream buffer in a Category I conservation easement. The compensation area is forested and adjacent to the delineated buffer and exhibits many of the same characteristics of buffer area. This proposed mitigation is slightly greater than a 2:1 ratio.



Areas to be excluded from Category I easement totaling 5,840 s.f.

Figure 4- Encroachment Area



Areas to be included in Category I easement totaling 11,725 s.f.

Figure 5- Compensation/Mitigation Area

From an environmental perspective, the forest resource in the compensation area is of equal or greater value than what might have been protected in the delineated buffer simply given the size of the compensation area and the forest resource within it. The mitigation offset is consistent with the overall goal of protecting environmental resources. After reviewing the plan

and considering the five factors above, staff believes the applicant's proposal is consistent with a comprehensive approach to protecting environmentally sensitive areas while providing flexibility for the existing uses. Staff recommends that buffer averaging be accepted and approved as part of the preliminary forest conservation plan and that the buffer shown on the preliminary forest conservation plan be placed in a Category I conservation easement and shown on the record plat.

Forest Conservation

Of the 4.8 acres of forest on the Property, the preliminary forest conservation plan shows that 1.30 acres will be removed and 3.5 acres will be protected in a Category I easement. The 3.5 acres of forest proposed for retention exceeds the break-even point of 2.0 acres. The break-even point is the exact level of forest retention at which a developer is not required to reforest, therefore; no forest planting is required on this project. The final forest conservation plan must include details of forest preservation and signage that will provide the appropriate forest protection measures during construction of the subdivision. This is included as a condition of approval.

Forest Conservation Variance

Section 22A-12(b)(3) of the County Code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. This section of the code requires that those areas be left in an undisturbed condition unless the applicant obtains a variance in accordance with Chapter 22A, Section 21 of the County Code. More specifically the vegetation to remain undisturbed includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
 - (1) *The federal Endangered Species Act of 1973,*
 - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
 - (3) *COMAR 08.03.08;*
- B. *Trees that:*
 - (1) *Are part of an historic site,*
 - (2) *Are associated with an historic structure, or*
 - (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*
- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
 - (1) *30 inches or more, or*
 - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Section 22A-21 a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the

- unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
 - (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
 - (4) Provide any other information appropriate to support the request.

Since this project will require the removal of two trees greater than 30 inches dbh, and the impact to a third tree greater than 30 inches dbh, a variance is required. The trees that are requested to be removed are identified on the Preliminary Forest Conservation Plan as tree #20 and tree #30. Tree #20, a 31" DBH tulip poplar (*Liriodendron tulipifera*) listed in good condition, is located within the proposed driveway. Tree #30, a 32" red oak (*Quercus rubra*) listed in good condition, is located where the proposed house will be located. Tree #24, a 36" DBH Ash (*Fraxinus sp.*) listed in poor condition, will experience impacts to its critical root zone. Tree #24 is located approximately forty feet north of the limits of disturbance. The applicant is proposing some tree preservation measures to help ensure that this tree survives after construction.

County Arborist's Recommendation

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Department is required to refer a copy of a variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on November 24, 2010. The County Arborist has elected not to review the variance request. Chapter 22A-21 states that if a recommendation is not made within 30 days of the referral the recommendation must be presumed favorable. As such, the County Arborist's recommendation for the variance request is therefore presumed to be favorable.

Variance Findings

The Planning Board must find that the applicant has met all requirements of this Chapter 22A-21 before granting the variance. Staff has made the following determination on the required findings:

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

Granting the variance will not confer a special privilege as the removal and/or disturbance of the specimen trees noted above are the minimum necessary in order to develop the property as illustrated on the plan provided. Furthermore, the loss of certain trees and the need for a variance is often necessary and unavoidable in order to develop property for the use and enjoyment of its owner. Based on the constraints of the Stream Valley Buffer and the topography of the site the proposed house is in the only suitable

location. The driveway is located within the pipe stem for lot B and is in the only viable location.

2. Is not 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 of the applicant. The variance is based upon proposed site development, required stormwater management best management practices, and the environmentally sensitive areas on the site. The house and driveway are located in the only areas on proposed Lot B outside the stream valley buffer.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property

The requested variance is a result of the proposed development and not 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 requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed or disturbed are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Plan will be approved by Montgomery County.

Forest Conservation Variance mitigation

All three trees, #20, #24, #30, are being impacted or removed from within existing forest and will be compensated for as part of the forest conservation plan in accordance with Chapter 22A of the County Code. Staff is not recommending any mitigation for the removal or impacts to these trees. The proposed Preliminary Forest Conservation Plan complies with the requirements of Chapter 22A the Montgomery County Forest Conservation Law.

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. The application meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is

included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

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

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate “Neighborhood” for evaluating the application. In this instance, the Neighborhood agreed upon by staff and the Applicant consists of 20 lots. The Neighborhood is depicted in Figure 6 on the following page. The Neighborhood includes all lots that abut Saunders Lane and Saunders Court. Even though the lots on the north side of Saunders Lane are zoned RE-2/TDR, those that physically front on Saunders Lane were platted under the RE-2 zone standard method and are, therefore, appropriate for inclusion in this resubdivision Neighborhood because they developed under the same method as the Subject Property. As is staff and Board practice, unplatted parcels are not included in the Neighborhood. The designated Neighborhood provides an adequate sample of the lot and development pattern of the area. A tabular summary of the area based on the resubdivision criteria is included in the data table in Figure 7 below.

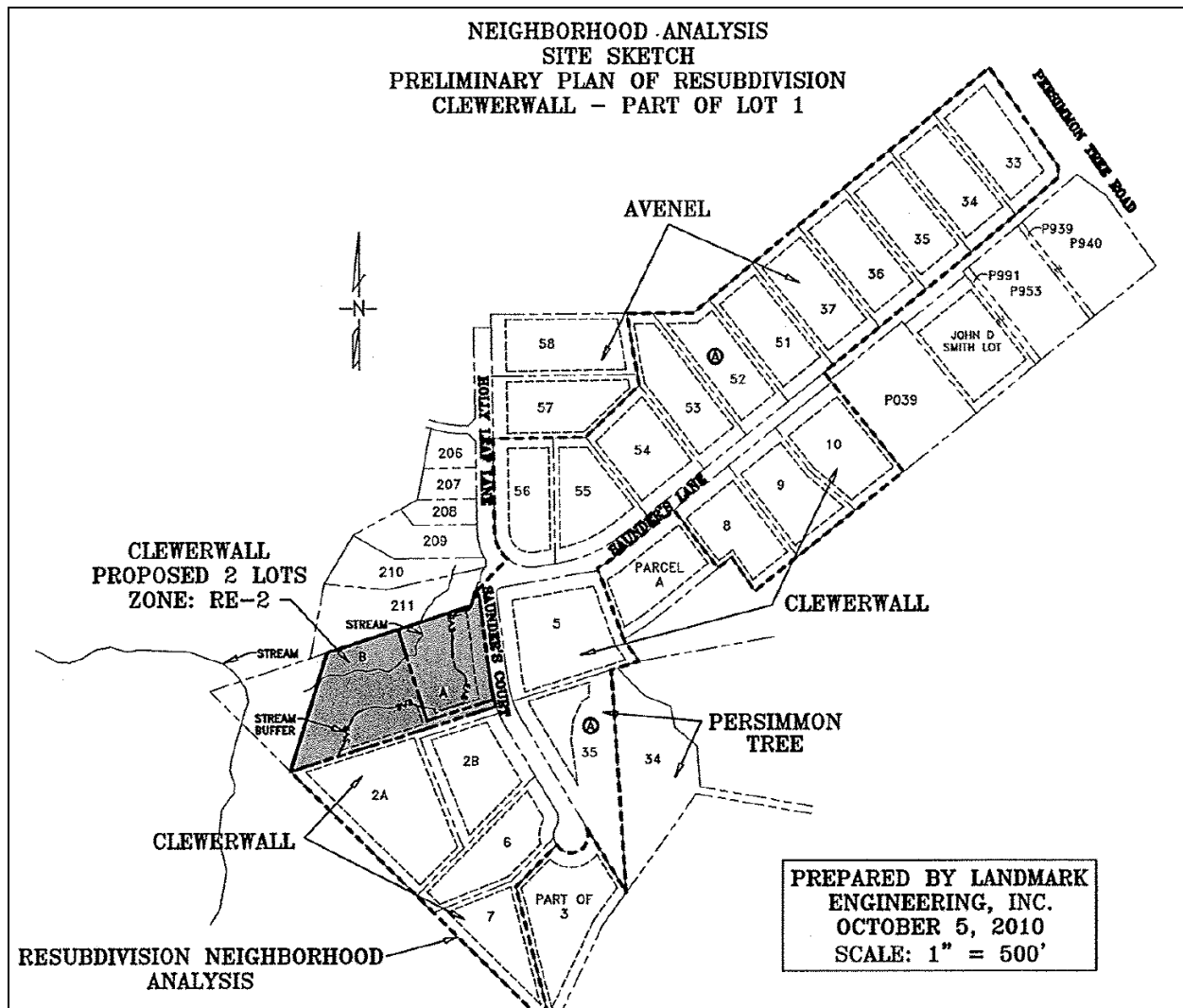


Figure 6: Resubdivision Neighborhood Map

Neighborhood Analysis For Proposed Resubdivision of Part of Lot 1 ; Clewerwall.
All Properties Currently Zoned RE-2

| Lot #/Block | Origin | Frontage | Alignment | Size (1) | Shape | Width (2) | Area (3) w/ Buffer | Area (3) w/o Buffer | Street Name |
|---------------------------------------------|--------|-----------------|---------------|----------|-------------|-----------------|--------------------|---------------------|----------------|
| CLEWERWALL PROPOSED SUBDIVISION LOTS | | | | | | | | | |
| A | Resub | 375.91' | Perpendicular | 94,894 | Rectangular | 332.67' | 16,294 | 53,039 | SAUNDERS COURT |
| B | Resub | 25' | Askew | 131,831 | Pipestem | 357.14' | 24,480 | 100,439 | SAUNDERS COURT |
| CLEWERWALL EXISTING SUBDIVISION LOTS | | | | | | | | | |
| 2A | Resub | 25' | Askew | 174,889 | Pipestem | 414.51' | 129,037 | 129,037 | SAUNDERS COURT |
| 2B | Resub | 249.22' | Askew | 99,535 | Rectangular | 273.76' | 64,454 | 64,454 | SAUNDERS COURT |
| 5 | Sub | 353.52'/385.55' | Askew | 144,136 | Rectangular | 382.75'/368.57' | 92,449 | 92,449 | SAUNDERS COURT |
| 6 | Resub | 236.12' | Askew | 88,253 | Irregular | 238' | 61,328 | 61,328 | SAUNDERS COURT |
| 7 | Resub | 25' | Askew | 87,259 | Pipestem | 498.87' | 47,721 | 47,721 | SAUNDERS COURT |
| 8 | Sub | 242.01' | Perpendicular | 87,120 | Irregular | 242.08' | 53,624 | 53,624 | SAUNDERS LANE |
| 9 | Sub | 209.59' | Perpendicular | 87,120 | Irregular | 210.27' | 57,055 | 57,055 | SAUNDERS LANE |
| 10 | Sub | 248.79' | Perpendicular | 93,314 | Irregular | 249.37' | 62,906 | 62,906 | SAUNDERS LANE |
| PERSIMMON TREE SUBDIVISION | | | | | | | | | |
| 35/A | Resub | 499.04' | Askew | 134,404 | Irregular | 487.16' | 28,133 | 72,771 | SAUNDERS COURT |
| AVENEL SUBDIVISION | | | | | | | | | |
| 33/A | Sub | 231.03'/435.42' | Askew | 103,077 | Irregular | 222.64'/442.88' | 59,411 | 59,411 | SAUNDERS LANE |
| 34/A | Sub | 200.97' | Perpendicular | 88,568 | Rectangular | 200.54' | 59,007 | 59,007 | SAUNDERS LANE |
| 35/A | Sub | 201' | Perpendicular | 89,445 | Rectangular | 201' | 59,760 | 59,760 | SAUNDERS LANE |
| 36/A | Sub | 204' | Perpendicular | 90,780 | Rectangular | 204' | 60,840 | 60,840 | SAUNDERS LANE |
| 37/A | Sub | 205' | Perpendicular | 91,225 | Rectangular | 205' | 61,200 | 61,200 | SAUNDERS LANE |
| 51/A | Sub | 199.38' | Perpendicular | 87,120 | Rectangular | 198.59' | 57,840 | 57,840 | SAUNDERS LANE |
| 52/A | Sub | 185.44' | Perpendicular | 87,120 | Irregular | 185.44' | 56,549 | 56,549 | SAUNDERS LANE |
| 53/A | Sub | 187.50' | Perpendicular | 94,742 | Irregular | 187.50' | 64,988 | 64,988 | SAUNDERS LANE |
| 54/A | Sub | 254.05' | Perpendicular | 89,326 | Trapezoidal | 254.05' | 58,370 | 58,370 | SAUNDERS LANE |
| 55/A | Sub | 358.61' | Askew | 88,700 | Trapezoidal | 326.08' | 56,826 | 56,826 | SAUNDERS LANE |
| 56/A | Sub | 171.63'/422.81' | Askew | 87,450 | Irregular | 136.35'/379.60' | 48,331 | 48,331 | SAUNDERS LANE |

Figure 7- Resubdivision Data Table

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated Neighborhood. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined Neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion.

Frontage: Lot frontages in the Neighborhood range from 25 feet to 499 feet. Proposed lot A will have 375.91 feet of frontage and proposed lot B will have 25 feet of frontage. Lot A is similar in character with respect to frontage; Lot B will be one of two other pipestem lots with 25 feet of frontage. While pipestem lots are not prevalent in this Neighborhood, staff does not believe that Lot B is out of character. It is important to note that the two other pipestems are located on Saunders Court, in very close proximity to the Subject Property. In fact, one of the pipestems directly abuts the proposed pipestem, creating a mirror image of the pipestem lot approved by previous Planning Board action. In Staff's opinion, **the proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment: Of the 20 lots in the Neighborhood, 11 are described as perpendicular to the street line and 9 are described as askew to the street line by the Applicant. Staff has a different opinion on how the lot lines align to the street, believing that all of the existing

and proposed lots align in a relatively perpendicular manner to the street line. This difference in opinion does not create any issues that need further clarification in this report other than to say that alignment is a general description of how the side lot lines for each lot meet the street line. **Staff believes that the alignment of each proposed lot is in character with other lots in the Neighborhood with respect to alignment.**

Size: Lot sizes in the Neighborhood range from 87,120 square feet (2.0 acres) to 174,889 square feet (4.01 acres). Proposed Lot A will be 94,894 square feet (2.18 acres) and proposed Lot B will be 131,831 square feet (3.03 acres) in size. Both lots will be within the range of lot sizes for the Neighborhood. **The proposed lot sizes are in character with the size of existing lots in the neighborhood.**

Shape: Eight lots in the Neighborhood are irregular, 8 are rectangular, 2 are trapezoidal and 2 are pipestem shaped. The proposed lots are described as rectangular and pipestem. As discussed above in the frontage section, the occurrence of a pipestem in this portion of the Neighborhood, especially when adjacent to another pipestem, led staff to determine that the pipestem is of the same character with respect to shape. **For these reasons, the shape of both proposed lots will be in character with shapes of the existing lots.**

Width: Lot widths measured at the front building line in the 20 lot Neighborhood range from 185 feet to 442 feet. Proposed lot A has 332 feet of width and proposed lot B is 357 feet wide. **The proposed lots will be in character with existing lots in the neighborhood with respect to width.**

Area: Buildable area calculations for the Neighborhood range from 28,133 square feet to 129,037 square feet. It is important to note that the buildable area, for purposes of this review, exclude the stream valley buffers which affect the Subject Property and one other lot in the Neighborhood. After excluding the stream buffer on Lot A, the buildable area is 16,294 square feet, the smallest in the Neighborhood, but it is in this area where the existing house will remain. On proposed Lot B, the buildable area is 24,480 square feet; the second smallest in the Neighborhood. Although the two lots statistically fall at the bottom of the range with respect to buildable area, staff nevertheless finds that the area of the lots is of the same character with respect to this criterion as other lots within the defined neighborhood. The area criterion (as a measure of developable area within a lot) is less critical in large lot zones than it is in small lot zones because the usable area in a large lot is typically more than adequate to accommodate a house and yard. Therefore, staff does not believe a statistically “high correlation” is necessary to find that the lot is of the same character. At over one-half acre, the buildable area of proposed Lot B as shown on the preliminary plan reveals that there is ample room to accommodate a large home with a garage, large driveway and a pool with surrounding deck and the house on Lot A already exists. The buildable area on Lot B does not restrict the use of this lot for residential purposes and allows a home to be built that one might consider typical for this area of the County. For these reasons, **staff finds that the proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.**

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

Citizen Correspondence and Issues

On August 18, 2009 the Applicant properly notified adjacent and confronting property owners and civic associations of a pre-submission meeting to be held by the Applicant, as required the preliminary plan submission. The meeting was held at the Applicant's home on September 3, 2009. As of the date of this report one letter was received to the file, and it was in support of the subdivision. No other concerns regarding this application have been brought to Staff's attention by affected residents or community associations.

CONCLUSION

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the two proposed lots are of the same character as the existing lots in the defined neighborhood, and in the instance where proposed Lot B was found to have the smallest buildable area of all lots, staff explained that while it statistically, does not have a high correlation, it is of the same character because of the lot's large size and ample building area. Therefore, staff finds that the proposed lots meet the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations. The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the Potomac Subregion Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

Attachment A – Agency Approvals

Table 1: Preliminary Plan Data Table and Checklist

| Plan Name: Clewerwall | | | | |
|--------------------------------------------|----------------------------------------------|------------------------------------------------------|-----------------|-------------|
| Plan Number: 120100150 | | | | |
| Zoning: RE-2 | | | | |
| # of Lots: 2 | | | | |
| # of Outlots: 0 | | | | |
| Dev. Type: Residential, Standard | | | | |
| PLAN DATA | Zoning Ordinance Development Standard | Proposed for Approval by the Preliminary Plan | Verified | Date |
| Minimum Lot Area | 87,120 sq. ft. | 94,894 sq. ft. is min. proposed | <i>RW</i> | 12/22/10 |
| Lot Width | 150 ft. | 332 sq. ft. is min. proposed | <i>RW</i> | 12/22/10 |
| Lot Frontage | 25 ft. | 25 sq. ft. is min. proposed | <i>RW</i> | 12/22/10 |
| Setbacks | | | | |
| Front | 50 ft. Min. | Must meet minimum ¹ | <i>RW</i> | 12/22/10 |
| Side | 17 ft. Min./35 ft. total | Must meet minimum ¹ | <i>RW</i> | 12/22/10 |
| Rear | 35 ft. Min. | Must meet minimum ¹ | <i>RW</i> | 12/22/10 |
| Height | 50 ft. Max. | May not exceed maximum ¹ | <i>RW</i> | 12/22/10 |
| Max Resid'l d.u. or Comm'l s.f. per Zoning | 2 dwelling units | 2 dwelling units | <i>RW</i> | 12/22/10 |
| MPDUs | Not required | | <i>RW</i> | 12/22/10 |
| TDRs | Not required | | <i>RW</i> | 12/22/10 |
| Site Plan Req'd? | No | | <i>RW</i> | 12/22/10 |
| FINDINGS | | | | |
| <i>SUBDIVISION</i> | | | | |
| Lot frontage on Public Street | | Yes | <i>RW</i> | 12/22/10 |
| Road dedication and frontage improvements | | Yes | Agency letter | 7/6/09 |
| Environmental Guidelines | | Yes | Staff memo | 9/2/09 |
| Forest Conservation | | Yes | Staff memo | 9/2/09 |
| Master Plan Compliance | | Yes | <i>RW</i> | 12/22/10 |
| Other (i.e., parks, historic preservation) | | | | |
| <i>ADEQUATE PUBLIC FACILITIES</i> | | | | |
| Stormwater Management | | Yes | Agency letter | 11/3/09 |
| Water and Sewer (WSSC) | | Yes | Agency comments | 5/24/10 |
| 10-yr Water and Sewer Plan Compliance | | Yes | Agency comments | 12/3/10 |
| Well and Septic | | Yes | Agency memo | 5/24/10 |
| Local Area Traffic Review | | N/a | <i>RW</i> | 12/22/10 |
| Policy Area Mobility Review | | N/a | <i>RW</i> | 12/22/10 |
| Transportation Management Agreement | | No | <i>RW</i> | 12/22/10 |
| School Cluster in Moratorium? | | No | <i>RW</i> | 12/22/10 |
| School Facilities Payment | | Yes | <i>RW</i> | 12/22/10 |
| Fire and Rescue | | Yes | Agency letter | 11/3/10 |
| Other (i.e., schools) | | | | |

¹ As determined by MCDPS at the time of building permit.

Attachment A – Agency Approvals



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

November 13, 2009

Mr. Charles T. Grimsley
Landmark Engineering, Inc.
6110 Executive Boulevard, Suite 110
Rockville, MD 20852

Re: Stormwater Management **CONCEPT** Request
for Clewerwall
SM File #: 236851
Tract Size/Zone: 5.2 acres/RE-2
Total Concept Area: 5.2 acres
Parcel(s): N272/N299
Watershed: Rock Run

Dear Mr. Grimsley:

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

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

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The detailed sediment control plan must meet the current sediment control/stormwater management regulations in force at the time the plan is submitted.

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

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

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Nadine Vurdelja Piontka at 240-777-6334.

Sincerely,



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

RRB:dm CN236851

cc: C. Conlon
M. Pfefferle
SM File # 236851

QN -onsite; Acres: 5
QL - onsite; Acres: 5
Recharge is provided

WSSC

PLAN REVIEW COMMENTS

M-NCPPC (MONTGOMERY)
DEVELOPMENT REVIEW COMMITTEE



WSSC STANDARD COMMENTS APPLICABLE FOR ALL PLANS REVIEWED:

1. WSSC comments are made exclusively for this plan review based on existing system conditions at this time. We will reevaluate the design and system conditions at the time of application for water/sewer service.
2. **Coordination with other buried utilities:** No structures or utilities (manholes, vaults, etc.) are permitted in the WSSC right-of-way unless approved by WSSC. Longitudinal occupancy of WSSC rights-of-way is not permitted. Proposed utility crossings of WSSC pipelines or rights-of-way that do not adhere to WSSC's pipeline crossing and clearance standards will be rejected at design plan review. Failure to adhere to WSSC crossing and clearance standards may result in significant impacts to the development plan including: impacts to proposed street and building layouts.
3. **Unless otherwise noted:** ALL extensions to WSSC's system require a request for 'Hydraulic Planning Analysis' and need to follow the System Extension Permit (SEP) process. Contact WSSC's Development Services Center at (301-206-8650) or visit our website ([www.wsscwater.com/Development Services](http://www.wsscwater.com/Development%20Services)) for requirements. For information regarding connections or Site Utility (on-site) reviews, you may visit or contact WSSC's Permit Services at (301) 206-4003.

DATE PROVIDED: 5/24/10



Isiah Leggett
County Executive

DEPARTMENT OF PERMITTING SERVICES
ZONING
May 24, 2010

Carla Reid
Director

Project Name: Clewerwall
Preliminary Plan #: 120100150
Site Plan # N/A
Applicant: John Troha / Carol Tuter / Mary Crook
Engineer: Landmark Engineering, Inc.
Zone: RE-2
Number of Lots (Acres): 2 Lots (5.20 Acres)
Zoning Reviewer: Mark Beall

Development Standards on Submitted Plan(s):

| Standard | Required | Proposed |
|--------------------|-----------------|-------------------|
| Front: | 50' | > 50' |
| Rear: | 35' | > 35' |
| Sides: | 17' & 35' total | > 17' & 35' total |
| Height: | 50' | < 50' |
| Building Coverage: | 25% | 4.0% |
| FAR | N/A | |

- Plan(s) meets zoning requirements.
- Plan(s) meets zoning requirements, but see comments below.
- Plan(s) do not meet zoning requirements. See comments below.

Comments:

****Note-**When applying for a building permit please identify both the BRL approved on the certified site plan and the dimensions from the structure to the property lines on all four sides.

Mark Beall: (240) 777-6298 or Laura Bradshaw: (240)777-6296
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4166.



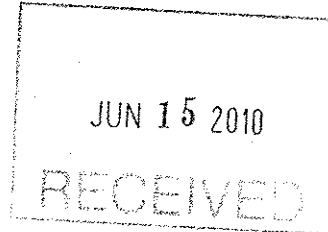
Washington
Gas

6801 Industrial Road
Springfield, Virginia 22151

May 27, 2010

Development Review Division
Montgomery County Planning Department
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760
Attn.: Catherine Conlon

RE: Preliminary Plan Application
Clewerwall Subdivision, Parts of Lot 1
7120 Saunders Court
Bethesda, MD
Washington Gas BCA 53818



Dear Ms. Conlon,

Our consultant, **EN Engineering** has completed the review of your designated area of proposed construction for the subject project plans received on May 21, 2010. Based on our consultant's review in regards to work performed within the scope there should be no conflicts with the existing Natural Gas Facilities and your proposed construction. As-built drawings and Smallworld maps of the area have been emailed to Charles Grimsley of Landmark Engineering on May 27, 2010.

Washington Gas requires a minimum of 2' of cover must be maintained over all gas facilities throughout construction and a minimum of 3' of cover must be maintained at final grade and 5' minimum horizontal separation from the outside of the existing gas to any utility and/or structure.


Please use caution when excavating near all Washington Gas Facilities and contact them one week prior to construction to ensure any necessary oversight is scheduled. Also please Notify "MISS UTILITY" (811), 48 hours prior to the start of any excavation for confirmation.

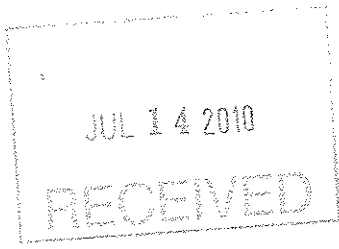
Should you have any questions regarding potential conflicts, or any other correspondence, to may contact **Kyle Malin** at:

EN Engineering (ENE)
808 Landmark Drive Suite 217
Quarterfield Center
Glen Burnie, Maryland 21061
Office (410) 517-1618
Fax (410) 787-0476
kmalin@enengineering.com

If you have any further questions or concerns you may contact me by phone at: (703) 750-4256, or by Email at amelliza@washgas.com

Sincerely,


Allan C. Melliza, P.E.
Manager



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

July 6, 2010

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

RE: Preliminary Plan No. 120100150
Clewerwall

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated April 19, 2010. This plan was reviewed by the Development Review Committee at its meeting on May 24, 2010. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to MCDPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
2. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.
3. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
4. Saunders Court, although a dedicated public right-of-way, is not currently maintained by Montgomery County. Until the roadway has been constructed to standard and accepted for maintenance, it will continue to be privately maintained. We are not proposing any changes to that arrangement under the current plan. However, we recommend the applicant/future owner(s) of proposed Lot B be required to join the other property owners and bear an equal share in the private maintenance of Saunders Court.

Division of Traffic Engineering and Operations

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

Ms. Catherine Conlon
Preliminary Plan No. 120100150
July 6, 2010
Page 2

5. The owner will be required to furnish this office with a recorded covenant whereby said owner agrees to pay a prorata share for the future construction or reconstruction of Saunders Court, whether built as a Montgomery County project or by private developer under permit, prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this location, at david.adams@montgomerycountymd.gov or at (240) 777-2197.

Sincerely,



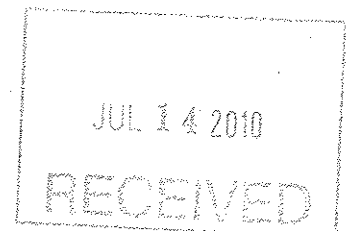
Gregory M. Leck, Manager
Development Review Team

m:/subd/dca/PreLetters/120100150, Clewerwall, gml revs.doc

Enclosures (2)

cc: Carol Tutera, John Troha, Charlotte Crook
Charles T. Grimsley; Landmark Engineering, Inc.
Larry Gordon; Shulman, Rogers, Gandal, Porady, & Ecker, P.A.
Richard Weaver; M-NCPPC DRD
Shahriar Etemadi; M-NCPPC TPD
Preliminary Plan Folder
Preliminary Plans Notebook

cc-e: Sarah Navid; MCDPS RWPR
Henry Emery; MCDPS RWPR
David Adams; MCDOT DTEO



FIRE CODE ENFORCEMENT

Fire Department Access Review

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors, or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation.

BY: Sum 43 Date: 9/20/10

PRELIMINARY PLAN NO.: CLEWERWALL - 120100150

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 11124, EXPIRATION DATE: OCTOBER 3, 2010.

**FIRE / RESCUE PLAN
SAUNDERS COURT
CLEWERWALL**

POTOMAC ELECTION DISTRICT NO. 10
MONTGOMERY COUNTY, MARYLAND

LANDMARK ENGINEERING, INC.

110 EXECUTIVE BLVD, SUITE 110 PHONE: (301) 230-5881
ROCKVILLE, MARYLAND 20852 FAX: (301) 230-5884
CONSULTING ENGINEERS PLANNERS SURVEYORS

DRN: DCV CK: CTG

PROJECT NO.: 0907

SCALE: 1" = 30'

DATE: SEPT. 14, 2010

SHEET 1 OF 1