



Ridge View Estates, Preliminary Plan No. 120080150

Staff Report Date: October 28, 2011

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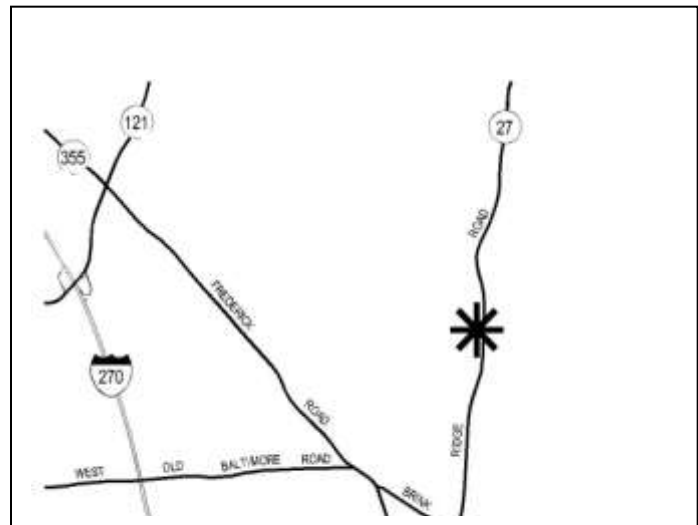


description

Preliminary Plan No. 120080150: Ridge View Estates with a Preliminary/Final Water Quality Plan

Five lots requested for five (5), one family detached residences; located on the west side of Ridge Road (MD 27) approximately 800 feet south of intersection with Wacomor Drive; R-200 zone; 2.53 acres, Clarksburg Master Plan area.

Staff Recommendation: *Approval with conditions.*



summary

This application is a request to create five lots on a 2.53 acre parcel zoned R-200/TDR. It is located on the west side of Ridge Road (MD 27), south of the intersection with Wacomor Drive, in the Clarksburg Planning Area. Because this property is not able to combine, or attach to other developments that have used the optional, Transferable Development Rights (TDR) standards, it is being designed to meet the base, R-200 standard method of development. The property is within the Clarksburg Special Protection Area and has received approval of a Preliminary and Final Water Quality Plan from the Montgomery County Department of Permitting Services.

Access to the property is from Ridge Road (MD 27); all five lots will share a private driveway. It will be served by public water and sewer lines that will be constructed in the Clarksburg Village development that abut the property to the south, west and north. The existing house on the property will remain, and it will be located on one of the five lots. No significant issues have arisen during the review of this application.

RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to five lots for five detached dwelling units.
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or issuance of sediment and erosion control permits by the Montgomery County Department of Permitting Services (MCDPS), as applicable. Conditions include but are not limited to:
 - a. Approval of a final forest conservation plan that is consistent with the preliminary forest conservation plan.
 - b. Approval of a Certificate of Compliance Agreement for reforestation/afforestation requirement by the M-NCPPC staff.
 - c. Required site inspections by the M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- 3) Prior to issuance of building permits applicant to provide certification from an acoustical engineer that the location of the noise mitigation techniques to attenuate current noise levels to no more than 55 dBA Ldn for the outdoor back yard area of homes and areas of common outdoor activity are adequate.
- 4) Prior to issuance of building permits applicant to provide certification from an acoustical engineer that the building shells for the residential dwelling are designed to attenuate interior levels to not to exceed 45 dBA Ldn.
- 5) The applicant must dedicate all road rights-of-way as shown on the approved preliminary plan.
- 6) The applicant must construct an eight foot wide shared use bikepath along the property frontage within the Ridge Road right-of-way as shown on the preliminary plan drawing. The shared use path must be completed commensurate with the completion of the new driveway access apron as required by the Maryland, State Highway Administration (MDSHA).
- 7) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 8) The applicant must comply with the conditions of the MCDPS stormwater management approval dated November 22, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 9) The applicant must comply with the conditions of the MDSHA letter dated November 30, 2007. These conditions may be amended by MDSHA provided the amendments do not conflict with other conditions of the preliminary plan approval.

- 10) 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 at the time of issuance of building permit(s), but must be in substantial conformance with that shown on the preliminary plan drawing.
- 11) 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.
- 12) Other necessary easements, including the internal sewer easement, must be shown on the record plat(s).

SITE DESCRIPTION

The subject property or property is 2.53 acres in size and located on the west side of Ridge Road (MD 27) immediately south of the intersection with Wacomor Drive in the Clarksburg Master Plan area. The zoning of the property is R-200/TDR-3. The property sits topographically, at a high point; the existing house and outbuildings appear to have been part of an operating farm at one time and commanded excellent views of surrounding farmland. (See Figure 1 –Vicinity Map)

Single family homes in the R-200 Zone now line Ridge Road to the north and east of the property, and vary in size and shape. (See Figure 2 – Lot/Parcel Pattern) Some homes are built on unplatted parcels and others are located on record lots. To the west and south is the approved Clarksburg Village, Phase II development that is now under construction. Clarksburg Village was approved as an R-200 subdivision, but it developed under the transferable development rights option to maximize density. Lot sizes adjacent to the subject property in Clarksburg Village are in the 12,000 to 15,000 square foot range.

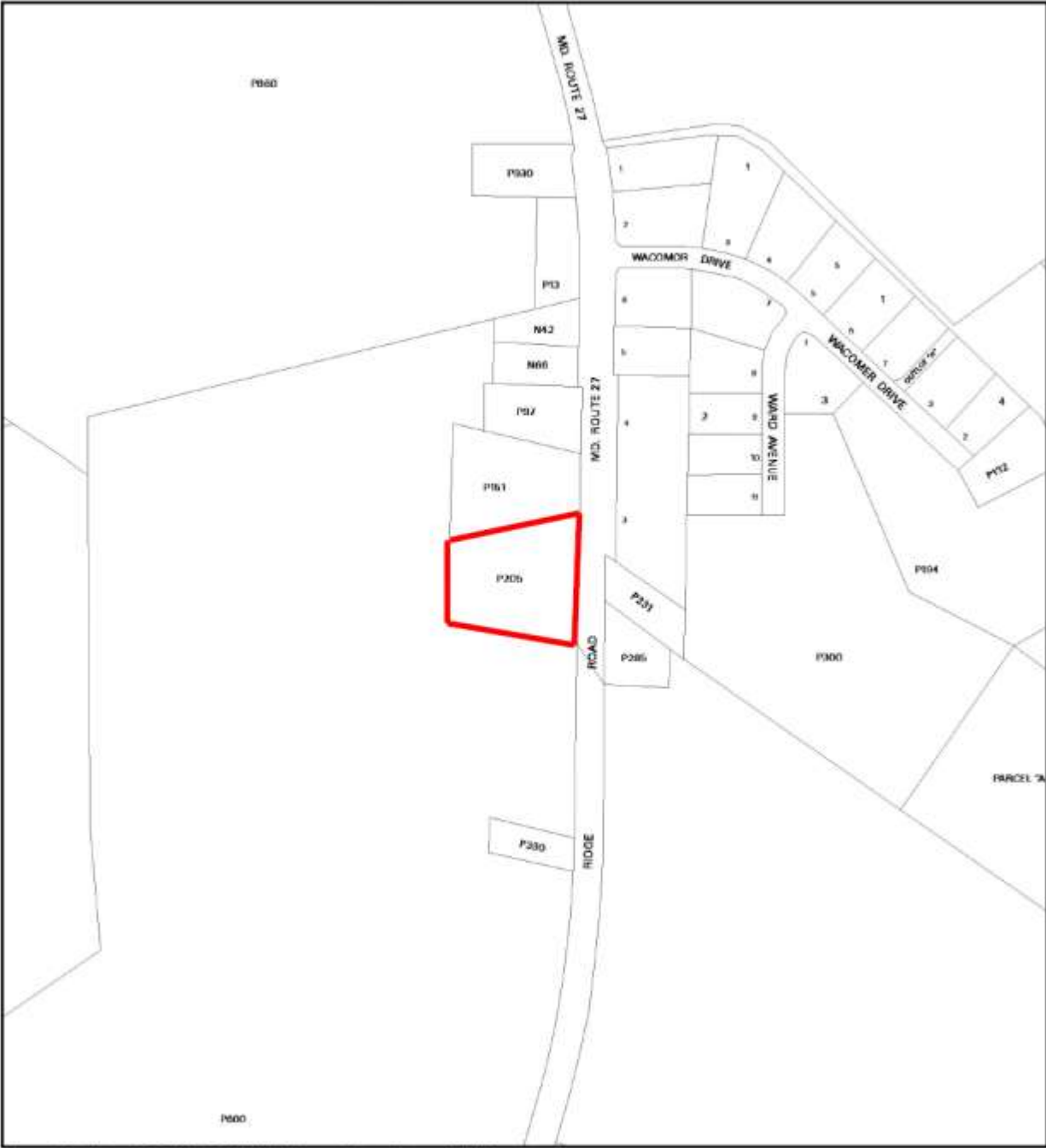
The property is in the Little Seneca Creek watershed which is designated as a Use IV-P stream system. There are no identified sensitive environmental features on the property, however; it is subject to the Special Protection Area-Water Quality Plan requirements for the Little Seneca watershed. This is addressed in the environmental review section of this report.

RIDGE VIEW ESTATES (120080150)



Figure 1 - Vicinity Map

RIDGE VIEW ESTATES (120080150)



Map compiled on November 08, 2007 at 8:50 AM | Site located on base sheet no - 2319W11

Figure 2 – Lot/Parcel Pattern

PROJECT DESCRIPTION (See Figure 3 and 3a- Preliminary Plan)

The application proposes to subdivide the 2.53 acre parcel into five lots; one for the existing house and four lots for new, one-family residences. All five lots will share a new private driveway out to Ridge Road. All lots will have frontage on Ridge Road; three will be pipestem, or flag lots, two will be conventional rectangular lots. Public water lines will be extended from an existing water main in Ridge Road, while public sewer will be extended from the Clarksburg Village subdivision through an easement established for this property.

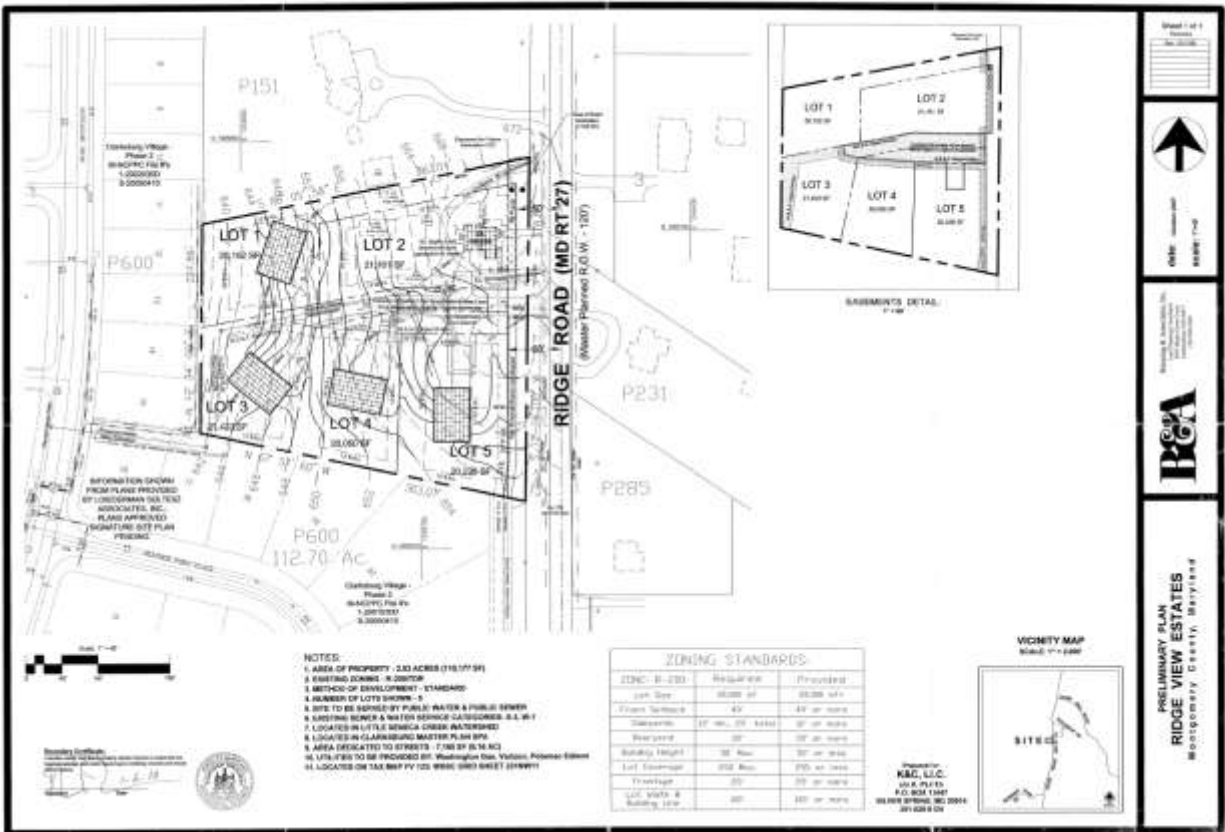


Figure 3 – Preliminary Plan

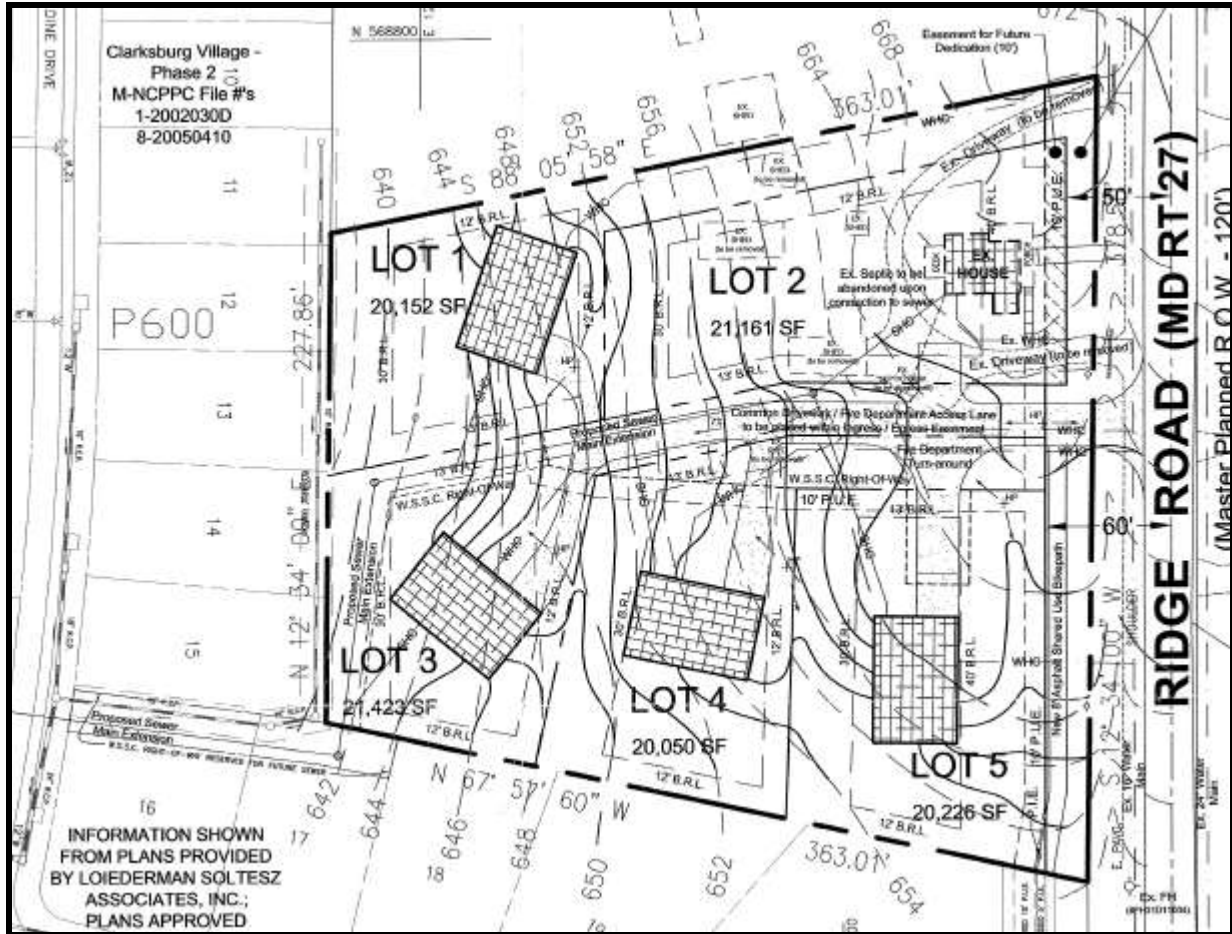


Figure 3a – Preliminary Plan Lots

ANALYSIS AND FINDINGS

Conformance to the Master Plan

The 1994 Clarksburg Master Plan placed this property in the Newcut Road Neighborhood which envisioned higher density development in the “middle” of the 1,060 acre Neighborhood with lower densities such as one family detached units, towards the fringe of the Neighborhood to act as a transition to the rural and agricultural uses to the north and east. This property is located along the fringe of the Newcut Neighborhood and was recommended for the R-200 Zone but it was also designated as a Transferable Development Right (TDR) receiving area with a maximum of 3 units per acre. The transportation section of the Master Plan recommends that Ridge Road, from Skylark Road to Mid-County Highway (M-83) be a four lane, divided major highway with a 120 foot wide right-of-way. The Master Plan makes no other recommendations that are specific to this property.

The property was not included in the much larger Clarksburg Village subdivision which acquired many TDR’s to achieve the density and uses envisioned by the Master Plan. As such, the subject property will develop as a standard R-200 subdivision. It is not possible to develop this property as a TDR optional method. The creation of the required 35% open space under the optional method would be infeasible

on a 2.53 acre subdivision. The preliminary plan does provide the one family detached units that are envisioned by the Master Plan to act as a transition to the rural communities to the east.

The preliminary plan drawing shows the required dedication for Ridge Road, 60 feet from the existing centerline of the highway, except for a small section in front of the existing house that is shown as an easement for future dedication. This section cannot be dedicated at this time because it would make the house non-conforming with the R-200 front setback standards of 40 feet. At such a time that the right-of-way is needed, the easement will be conveyed to the State. As a public taking, the house and lot are afforded certain exemptions under Chapter 50 and will remain as a grandfathered, non-conformance with zoning setbacks. An eight foot wide shared use path will also be constructed along the Ridge Road frontage. This path will connect to the shared use path that is to be built by the developers of Clarksburg Village abutting the property to the south. This preliminary plan is in substantial conformance with the 1994 Clarksburg Master Plan.

Public Facilities

Roads, Transportation and Pedestrian 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. The Policy Area Mobility Requirement (PAMR) guidelines for the Clarksburg policy area require mitigation of 10% of new peak hour trips. This project, with four new homes, generates 4.4 new, peak hour trips; ten percent of which is 0.44 trips which is rounded down to zero. The applicant will not be required to mitigate any PAMR trips. The application satisfies LATR and PAMR requirements.

The application provides for adequate, safe and efficient access. Dedication of the right-of-way will provide the necessary space for the eventual widening of Ridge Road in accordance with the Master Plan recommendations by developers of adjacent subdivisions. In the interim, the subdivision will have adequate access using existing Ridge Road. A site distance evaluation was performed for the new driveway access point, and it was found to be a safe location to build the new driveway. The design of the driveway at the right-of-way and internally to the site was reviewed by the Department of Fire and Rescues Services. The driveway was found to be sufficient for maneuvering the County's largest emergency vehicles in a safe and efficient manner.

Pedestrian access will be accommodated with the construction of the eight foot wide, shared use path along the property's frontage. This path will connect to the extensive pathway system built by the developers of Clarksburg Village and give future residents access to all of the amenities within the Newcut Road Neighborhood. Staff finds that all proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Other Public Facilities and Services

Staff finds that all other public facilities and services are available and will be adequate to serve the proposed dwelling units. Water mains about the site and sewer lines will be constructed by other developers and will be available to serve the subdivision. The Washington Suburban Sanitary Commission has determined that local transmission and treatment capacity is adequate to serve the proposed units. All utilities, including Verizon, Washington Gas, Potomac Edison, and cable providers have indicated that local service is available and adequate for the proposed units. Other public facilities

and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The application is not within a school moratorium area and it is not subject to a School Facilities Payment.

Environment

Review for Conformance with the Special Protection Area requirements

As part of the requirements of the Special Protection Area (SPA) law, a SPA water quality plan must be reviewed in conjunction with a preliminary plan application. The MCDPS and the Planning Board have different responsibilities in the review of a water quality plan. MCDPS has reviewed and conditionally approved the elements of the Water Quality Plan under its purview. The Planning Board's responsibility is to determine if environmental buffer protection, forest conservation, and planting requirements have been satisfied.

County MCDPS Special Protection Area Review Elements

MCDPS has reviewed and conditionally approved the elements of the SPA preliminary/final water quality plan under its purview with a synopsis provided below.

Site Performance Goals

As part of the preliminary/final water quality plan, the following performance goal was established by DPS for the site:

- Minimize storm flow runoff increases.
- Minimize sediment loading.
- Minimize nutrient loadings.
- Control insecticides, pesticides, and toxic substances.

Stormwater Management Concept

Stormwater management quality control and recharge will be provided on site via non-structural methods that include dry wells and pervious pavement.

Sediment and Erosion Control

Disturbance of the site is to be limited as much as possible. If the lots are to be built one at a time, the use of a double row of silt fence will be acceptable for sediment control. However, if more than one lot is under construction at the same time, a sediment trap with earth dikes will likely be required.

Monitoring of Best Management Practices

The monitoring requirements must be in accordance with the BMP monitoring protocols which have been established by the Department of Permitting Services and the Department of Environmental Protection.

Planning Board Special Protection Area Review Elements

The application provides adequate protection of any identified sensitive environmental features in conformance with the Planning Board adopted, *Environmental Guidelines*. Further, the application will comply with Chapter 22A, the Montgomery County Forest Conservation Law. Staff has reviewed the SPA preliminary/final water quality plan and finds that it complies with all requirements for which the Planning Board has purview. Staff recommends approval of the preliminary/final water quality plan.

Environmental Guidelines – Natural Resources Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420080220 for this property was originally approved on August 28, 2007 and was recertified on April 5, 2010. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. The property contains 0.35 acres forest. There are two trees 30 inches and greater diameter at breast (DBH) and two trees between 24" and 30" DBH on the property. The site's topography is generally flat sloping gently from the east to the west. There are no streams, wetlands, or environmental buffers on or adjacent to the property. The property is within the Little Seneca Creek watershed; a Use IV-P watershed. The Countywide Stream Protection Strategy (CSPS) rates stream quality in this watershed as good

Impervious Surfaces

Within this section of the Clarksburg SPA there is no impervious surface cap or limit. However, a main goal of all SPA's is to reduce the overall impervious footprint of new development within SPA boundaries (the impervious footprint includes roads, paved surfaces such as driveways, houses, buildings, parking lots, etc.).

The Ridgeview Estates project proposes 0.54 acres (23,321 square feet) of impervious surface area on 2.53 acres of land which results in 20.11% imperviousness. The 20.11% imperviousness level is much lower than the average (35% impervious) for developments using the optional R-200/TDR-3 zone method and consistent with standard R-200 zoning (20%-22%). The applicant proposes a private driveway rather than a public street to serve the five lots. A public street would have required a full cul-de-sac bulb, resulting in considerably more pavement than that proposed by the private driveway shown on the plan. The plan also proposes to construct the minimum amount of pavement required to satisfy fire and rescue requirements for turnarounds and pavement width. Staff believes the applicant has sufficiently minimized impervious surfaces by using the standard method of development and electing to minimize pavement where possible.

Forest Conservation

The preliminary forest conservation plan (PFCP) proposes to clear all 0.35 acres of existing forest on-site which generates a 0.73 acre planting requirement. The applicant proposes to meet the planting requirement through an off-site forest conservation bank.

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 those areas

to be left in an undisturbed condition unless the applicant obtains a variance in accordance with Chapter 22A-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 Chapter 22A-21 of the County Code, 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:

Describe the special conditions specific to the property that would cause the unwarranted hardship:

- (1) Describe how enforcement of these rules might deprive the landowner of rights commonly enjoyed by others in similar areas;
- (2) 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
- (3) Provide any other information appropriate to support the request.

Since this project will require two trees, 30 inches and greater DBH to be removed, a variance is required.

Unwarranted Hardship Basis

The location of tree ST-1 (30 inch White Oak) is within the buildable area of proposed lot 1. The siting of any house on this lot and the associated grading for the house will impact the critical root zone of this tree. Because of setback restrictions, there is no option that would eliminate damage to the root zone. In addition, significant impacts to approximately 25% of this tree's roots will result from the construction of the required sewer main extension that is necessary for the whole development. Sewer is not available along Ridge Road and is designed to come from the west through a WSSC easement to be established by record plat in the Clarksburg Village subdivision. The sewer is then extended on to the subject property, down the centrally located driveway, to serve all five homes. Because the sewer must be aligned within this off-site and on-site easement, it is not possible to avoid impacts to the root zone of this particular tree.

Tree ST-6, (32 inch Chestnut Oak) is located very close to the front porch of the existing house. While it is not to be physically removed as part of this development and will likely remain for a considerable time, the tree is within the master plan right-of-way from Ridge Road and it is in a public utility easement (PUE) required by local utility providers. Because of these conflicts, the long term survival of this tree cannot be assured through easements. The result is that tree ST-6 can be cleared at any time by the homeowner or utility companies who might need the PUE, and it is not feasible to provide extraordinary measures to further protect or save the tree.

County Arborist's Recommendation

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Department is required to refer a copy of the 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 June 1, 2011. On July 1, 2011 the County Arborist issued a recommendation to approve the variance request but made no recommendation to mitigate the impacts.

Variance Findings

The Planning Board must make findings 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;

The subject property is zoned for residential use and allows for 5 buildable lots. The project has been planned to meet all applicable requirements for zoning and forest conservation. Multiple approvals from various regulatory authorities were obtained to proceed with the proposed subdivision. The request for removal of two specimen trees is not unusual for a project of this size and does not confer a special privilege to the applicant. Additionally, ST-1 will have significant impacts to nearly 25% of its roots from the required sewer extension. Tree ST-6 is located in the P.U.E. and the conditions of the P.U.E. allows for the clearing of any encroachments by the public utility companies if required to install, or maintain utilities.

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 applicant has prepared and submitted plans which meet all applicable zoning, septic, and forest conservation requirements. The variance request is based upon plans which meet all requirements, but result in impacts to two specimen trees.

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 are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Concept Plan has been approved by the Montgomery County Department of Permitting Services.

Forest Conservation Variance mitigation

The two specimen trees to be shown as not saved by this plan are ST-1 and ST-6 ST -1. The property affords few opportunities to mitigate these impacts, therefore, consistent with the County Arborist; staff is recommending no mitigation for the two variance trees proposed to be removed.

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. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The lots are designed in such a way to meet all other requirements of the Subdivision Regulations, including access, frontage, dedication for public uses, adequacy of public facilities, conformance to Master Plan recommendations, and protection of sensitive environmental features.

The lots were reviewed for compliance with the dimensional requirements for the R-200 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. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

CITIZEN CORRESPONDENCE AND ISSUES

This application was submitted and noticed in accordance with all Planning Board adopted procedures. No citizen correspondence was received in regard to this application. No other inquires were noted in the file. Citizen concerns have been adequately addressed by the proposed plan and with the recommended conditions of approval.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Clarksburg Master Plan, 1994. 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.