



Clement East (Lynwood) Consent Amendment: Preliminary Plan 12006074A

RS Ryan Sigworth, AICP, Senior Planner, Area 3, ryan.sigworth@montgomeryplanning.org 301- 495-2112

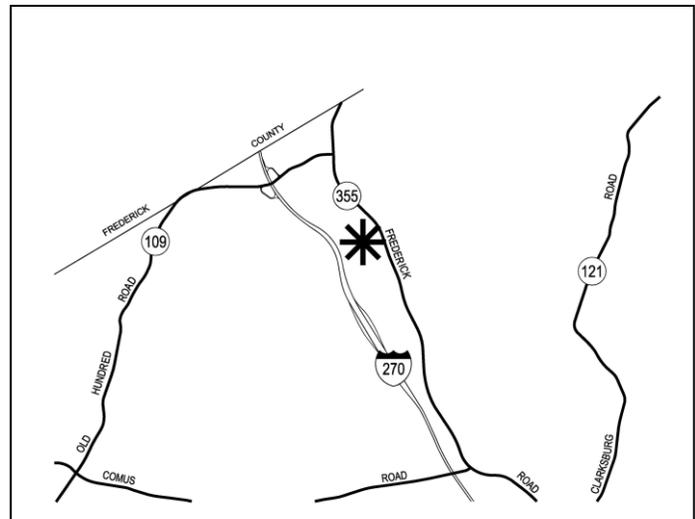
PAW Richard A. Weaver, Supervisor, Area 3, richard.weaver@montgomeryplanning.org 301-495-4544

KRR Kipling Reynolds, Chief Area 3, kipling.reynolds@montgomeryplanning.org, 301-495-4575

Staff Report Date: 7/17/15

Description

Clement East (Lynwood) Consent Amendment: Preliminary Plan 12006074A: Request to amend Preliminary Plan No. 120060740 to adjust lot lines for a previously approved eighteen (18) lot subdivision for single-family detached residential dwelling units, located on the east side of Frederick Road (MD-355), approximately 1,600 feet north of Little Bennett Drive, 53.55 acres; RE-2 zone; 1994 Clarksburg Master Plan & Hyattstown Special Study Area ("Master Plan"^{1,2}).



Applicant: Winchester Homes Inc.
Submitted: 11/6/2014

Summary

- Amends Preliminary Plan #120060740 approved on July 5, 2007 to adjust lot lines on some of the eighteen approved but unplatted lots.
- Modifies the lot layout but no new lots are created.
- Relocates and widens a Master Planned shared use path from 8 feet wide to 10 feet wide.
- Revises Final Forest Conservation Plan and Tree Variance to address modified grading.
- Since this is a relatively minor amendment it was noticed as a Consent Item; no comments have been received by staff.

¹ The 1994 Master Plan was amended by the 2011 Limited Amendment to Allow an Exception to the Retail Staging Provisions, which is not applicable to the Subject Property because no retail/commercial uses are proposed.

² The Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area does not include the Subject Property.

STAFF RECOMMENDATION

On November 6, 2014, Winchester Home Inc. ("Applicant") filed a Preliminary Plan Amendment. Staff recommends approval of the proposed modifications in Preliminary Plan 12006074A: Clement East (Lynwood). The proposed modifications are minor; however, the size of the adjusted area disqualifies it from consideration as a minor lot line adjustment. All previous conditions of approval still apply except for those modified and/or added below:

Modified Conditions

Modify Condition #7 of Resolution No. 07-138: The Applicant must construct a 10-foot wide, shared use path along the MD 355 frontage within a Public Improvement Easement as shown on the Preliminary Plan

New conditions

- 1.) A notation on the record plat shall be added which states "No access allowed" along the MD 355 frontage of Lots 1, 18, 17, 16, and 13 as shown on the Amended Preliminary Plan.
- 2.) No plat shall be recorded which includes Lots 17 and 18 as shown on the Amended Preliminary Plan until documentation is provided to the Montgomery County Department of Permitting Services ("MCDPS") that the existing house has been razed.
- 3.) Prior to Certified Preliminary Plan, the Applicant must correct notations on the Amended Preliminary Plan to indicate that the shared use path will be constructed by the Applicant.
- 4.) Prior to Certified Preliminary Plan, the grading shown on the Amended Preliminary Plan must be revised to match on the Preliminary Forest Conservation Plan.

SITE DESCRIPTION

Vicinity

The property is 56.56 acres in size and is located on the east side of Frederick Road (MD 355), approximately 1,600 feet north of Little Bennett Drive, identified as Parcel 177, Tax Map DX51 ("Property" or "Subject Property"). The Subject Property is in the RE-2 zone and is located in the *1994 Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan").

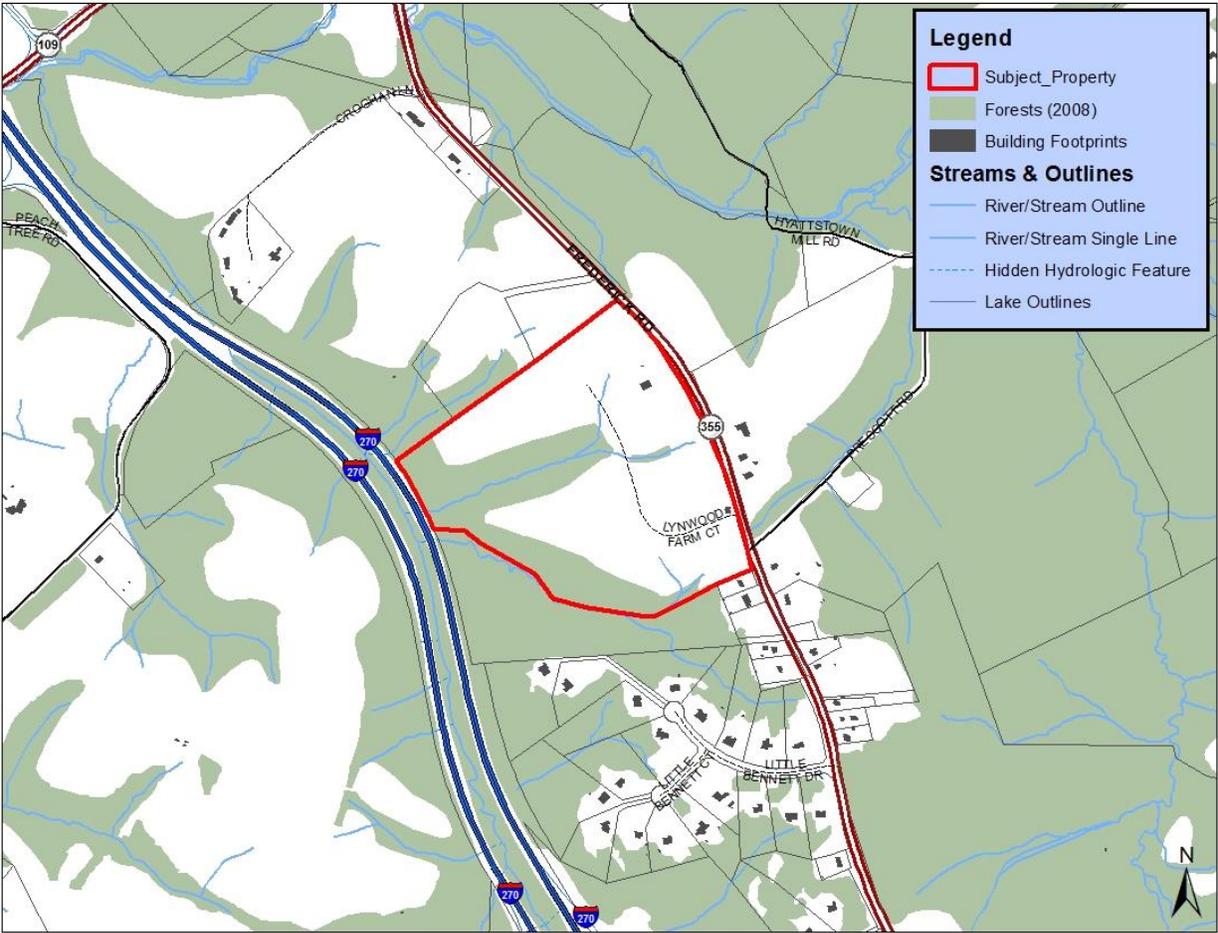


Figure 1

Previous Approvals & Project History

Preliminary Plan

Preliminary Plan No. 120060740, Clement East was approved for eighteen lots on July 5, 2007 by adoption of Resolution MCPB No. 07-138 (Attachment D).

Current Conditions

The condition of the Subject Property has not changed since the previous approval in July 2007. The Subject Property still has two existing houses and remains largely undeveloped.

AMENDMENT DESCRIPTION

At the time Preliminary Plan #120060740 was approved, the Applicant intended to retain one of the two existing houses on the Subject Project. Now, the Applicant proposes to remove both houses and build new homes in their place. However, one of the houses is bifurcated by the lot line between Lots 17 and 18 proposed by this Amendment. As such, this house will need to be razed prior to recordation of a plat which includes Lots 17 and 18 in order to avoid a zoning violation. The reorientation of the lots provides superior lot layout that staff finds to be acceptable.

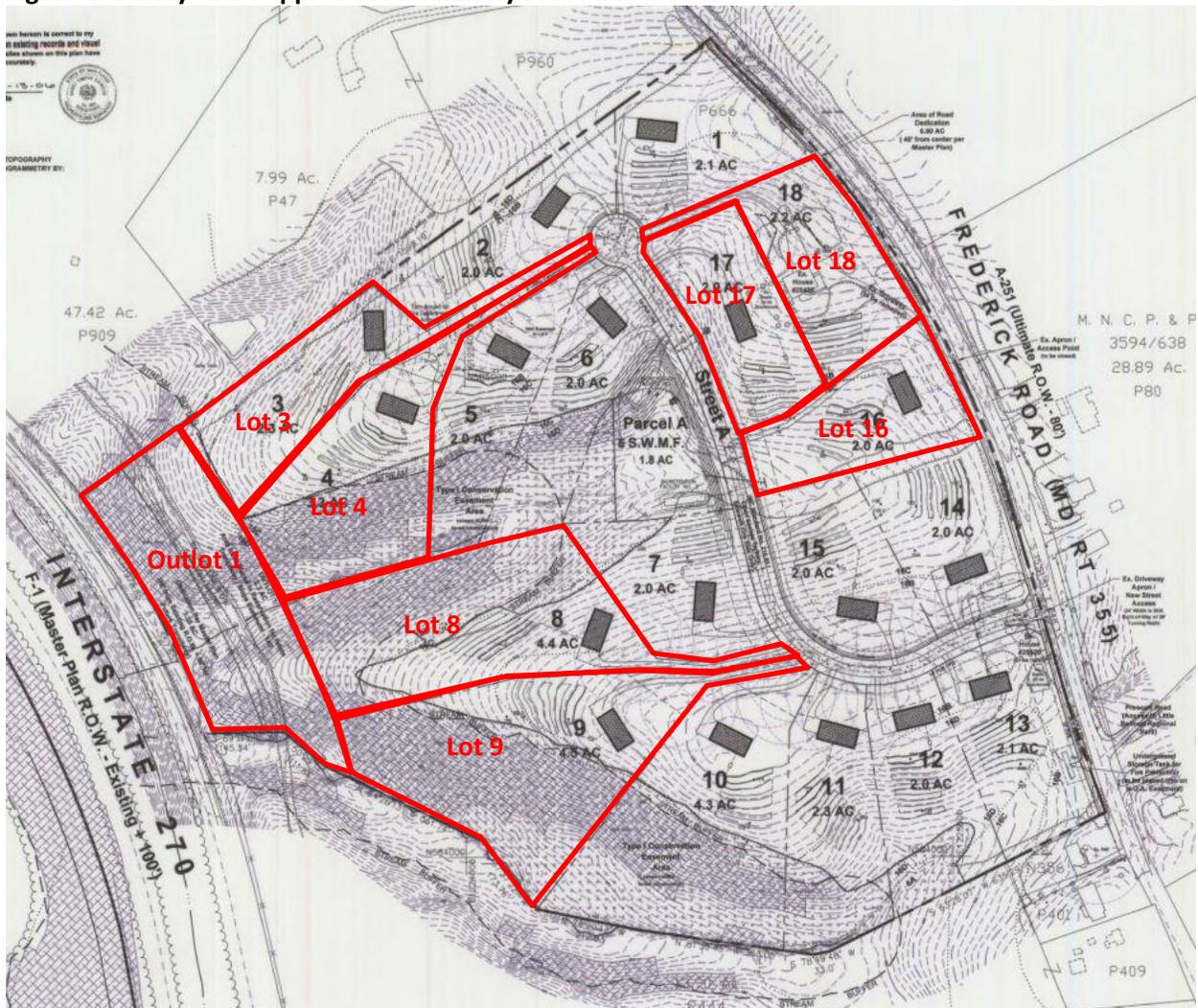
To alter the lot lines and proceed with the development process on the Subject Property, the Applicant has submitted Preliminary Plan Amendment No. 12006074A, Clement East (Lynwood) (“Application”), to make the following amendments to Preliminary Plan No 120060740:

- a) Change the lot layout of Lots 16, 17, & 18.
- b) Change in the lot layout which removes Outlot 1 due to Condition #6 in Resolution 07-138 (Attachment D). This outlot was implemented to accommodate a slope easement necessary for the Corridor Cities Transitway and to be held in reservation for a period of two year from the date of Resolution 07-138 which has expired. The property encompassed in this outlot has been absorbed into Lots 3, 4, 8, 9 as shown on the Amended Preliminary Plan.
- c) Relocating the shared use path into a Public Improvement Easement and widening of the shared use path from 8 feet to 10 feet.

Staff Discussion

The proposed amendment is based on the fact that the Applicant is requesting to change the lot layout of Lots 16, 17, and 18. The original proposal under Preliminary Plan #120060740 (Figure 1) had a lot layout which platted around the existing houses so they could be retained. The proposed changes create a better layout by reorienting these lots towards Lynwood Farm Drive. As a result, the existing house between Lots 17 and 18 will need to be razed prior to recordation of a plat.

Figure 1: Lot layout of approved Preliminary Plan #120060740



The other change in lot layout deals with Outlet 1 shown on the approved Preliminary Plan #120060740. This outlet fronts on I-270 and primarily is covered by a slope easement. The outlet was put into reservation for a period of two years at which time the State of Maryland was to have decided on whether to purchase it for construction easement purposes. The two year reservation period has expired and the State did not purchase the outlet. Rather than leave the outlet without access to a public street, the applicant wishes to “dissolve” the outlet and include it into the adjoining approved lots. (Figure 2)(Lots 3, 4, 8, and 9).

NRI/FSD is 53.55 acres in size containing 14.01 acres of forest and 10.2 acres of SVB, all of which is forested.

The topography of the Property is categorized as gently sloping to steeply sloping westward from Frederick Road (MD 355) towards I-270. This amendment has no impacts on any environmentally sensitive areas and is in compliance with the Environmental Guidelines.

Forest Conservation

The Clement East Property has a previously approved FFCP (120060740) approved on May 26, 2010. This amendment updates the previously approved FFCP with project specific limits of disturbance, grading, and building footprints associated with the revised lot layouts and home construction (Attachment B). Adding the updated information brings the overall FFCP into compliance with Section 22A.00.01.09 of the Montgomery County Code. The revised limits of disturbance and proposed activities impact one variance tree discussed below.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires no impact to trees that: measure 30 inches or greater, DBH ("Protected Tree"); are part of a historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to a Protected Tree, including removal or disturbance within the Protected Tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. In the written request for a variance, an applicant must demonstrate that strict adherence to Section 22A-12(b)(3), i.e. no disturbance to a Protected Tree, would result in an unwarranted hardship as part of the development of a property.

Unwarranted Hardship

Staff believes an unwarranted hardship would be created if a Variance were not considered. Based on the location of the Protected Tree to the locations of the septic fields and house locations, it would be extremely difficult for the Property to be developed without impacting the CRZ of the Protected Tree. Staff believes for this reason a variance should be considered for this Application.

Variance Request

On October 31, 2014 and revised on February 24, 2015, the Applicant made variance request for the Subject Property and requested impacts to one Protected Tree (Attachment E).

Table 1: Protected Trees Proposed for Impact

Tree Number	Botanical Name	Common Name	Size (DBH)	Condition	% CRZ Impacted	Reason for Impact
ST-11	Quercus coccinea	Scarlet Oak	34"	good	20%	Grading for House

Variance Findings

The Planning Board must make findings that the Application has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings for granting the variance:

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

The use of this site for single family residential uses is permitted in the RE2 zone. The proposed lots and buildings meet these zoning requirements as well. As such, the granting of this variance is not unique to this Applicant and does not provide special privileges or benefits that would not be available to any other applicant.

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

The configuration of the Subject Property, regulatory requirements, and the location of the Protected Trees are not the result of actions by the Applicant.

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 not related in any way to a condition on an adjacent, neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Tree being disturbed is not within a stream buffer, wetland, or a special protection area. The Protected Tree is only being impacted and is a good candidate for survival. No change in function of the is expected from this impact

County Arborist’s Recommendation on the Variance

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 for a recommendation prior to acting on the request. The County Arborist recommended the variance be approved with mitigation pursuant to a letter dated March 3, 2015 (Attachment F).

Mitigation

There is some disturbance within the CRZ of one (1) tree, but it is a candidate for safe retention and will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

Variance Recommendation

Staff recommends that the variance could be granted with mitigation if the Planning Board chooses to approve the overall subdivision. The submitted FFCP meets all applicable requirements of the Chapter 22A of the County Code (Forest Conservation Law).

PUBLIC NOTICE

A notice regarding the amendment was sent to all parties of record by the Applicant. The notice gave interested parties 15 days to review and comment on the Amended Preliminary Plan. Two signs were also posted along the Subject Property frontage with MD 355. Staff has not received any citizen correspondence as of the writing of this staff report.

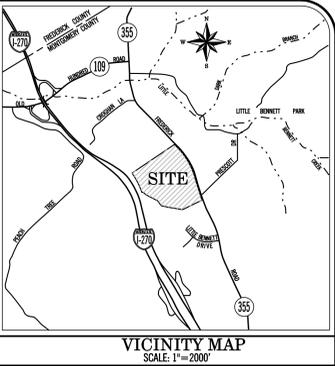
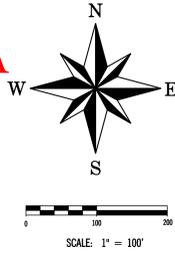
CONCLUSION

The proposed modifications to Preliminary Plan #120060740 will not alter the overall character or impact of the development with respect to the original findings of approval. These modifications do not affect the density of the development with respect to the surrounding developments. Staff recommends approval of Preliminary Plan Amendment 12006074A.

ATTACHMENT

- Attachment A – Clement East (Lynwood), Amended Preliminary Plan #12006074A
- Attachment B – Previously approved Preliminary Plan #120060740
- Attachment C – Amended Final Forest Conservation Plan
- Attachment D – Clement East (Lynwood), #120060740 Planning Board Resolution
- Attachment E – Tree Variance Request by the Applicant
- Attachment F – Tree Variance Approval Letter by the County Arborist

Attachment A



NOTES

- Gross Tract Area: 53.56 Acres
- Zoning: RE-2
- Minimum Lot Area Permitted: 2.0 Ac. (87,120 sq.ft.)
- Number of Lots Proposed: 18
- Area dedicated or reserved for street rights-of-way: 3.68 Ac., as follows:
 - For Route 355 = 0.48 Ac.
 - For I-270 = 1.35 Ac.
 - For Internal street = 1.85 Ac.
- Area of Lots: 45,248 Ac. (Average Lot Area = 2.51 Ac.)
- New Street Shown is an "Open Section Tertiary" (Lynwood Farm Court) with an approved name, approved street grade and alignment.
- Existing sewer and water service categories are S-6 and W-6
- All lots are to be served by private on-site well & septic systems.
- Subject property is located in the Little Bennett Creek Watershed (Class I-P).
- Development Standards for the RE-2 Zone as follows:
 - Minimum Lot Area = 2.0 Ac.
 - Min. Lot Width at Front Building Line = 150 feet
 - Minimum Street Frontage = 25 feet
 - Minimum Building Setbacks:
 - From Street R/W = 50 feet
 - Side Yards = 17 feet minimum, 35 feet total
 - Rear Yard = 35 feet
 - Maximum Building Height = 50 feet
- Subject property is located on Tax Map DX51 & WSSC Grid 235NW15
- Utility Service to be provided by: Verizon, Potomac Edison & Washington Gas (as available)
- Tract boundary indicated is per a boundary survey prepared by Site Solutions, Inc., in January, 2014.
- Topography is per data provided by Maddox Associates (aerial topo).
- Lot delineation and area computations by Site Solutions, Inc.
- Original Preliminary Plan #120060740, prepared by Benning & Assoc., Inc., Certified Preliminary Plan, June 12, 2008.

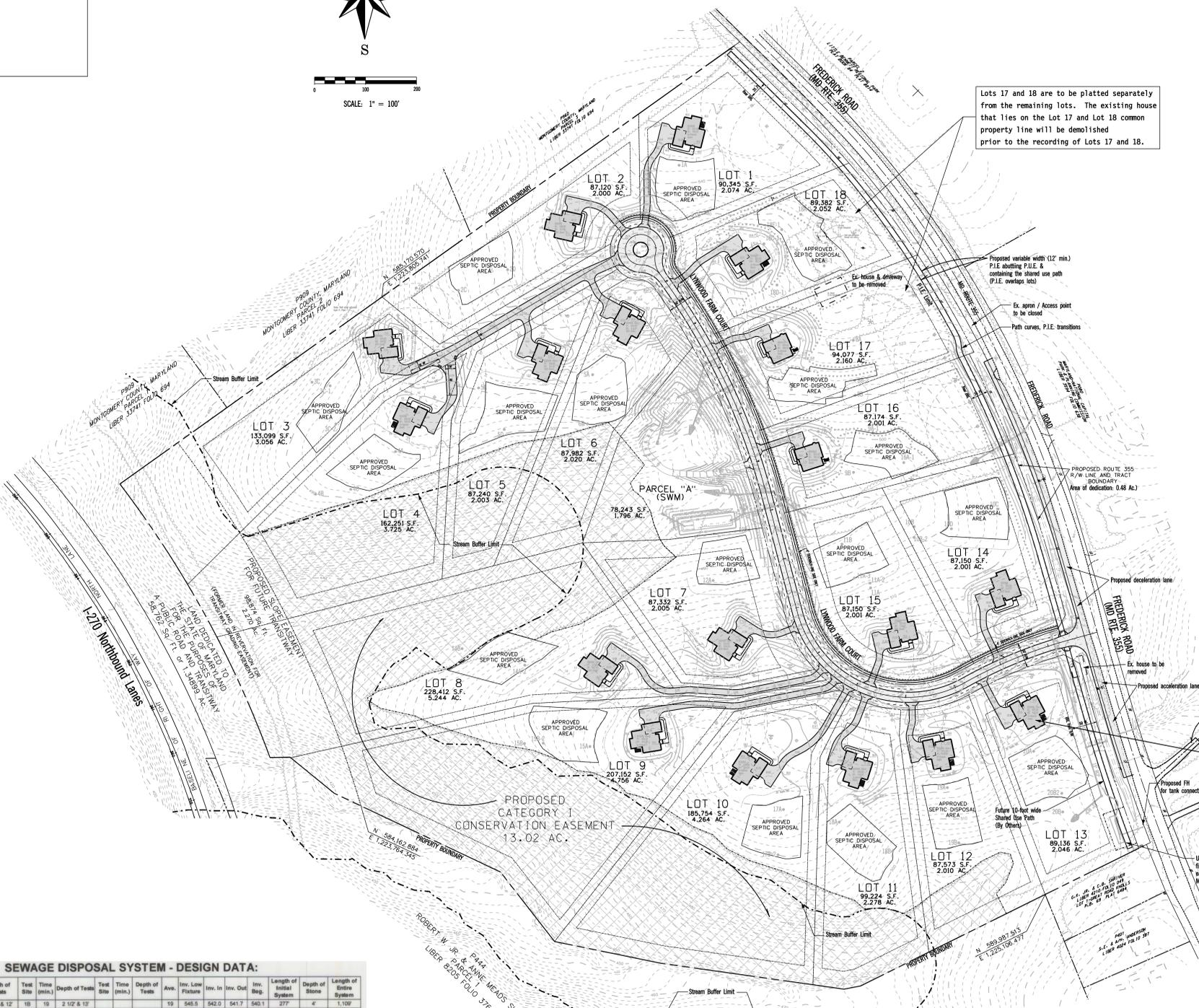
SUBJECT OF THIS AMENDMENT:

Reorientation of Lots 16, 17 and 18 to front on the internal street (Lynwood Farm Court). Delete Outlot 1 (retain reservation for slope easement) and add area back into Lots 3, 4, 8 and 9.

NOTE:

LYNWOOD FARM COURT
Road section is not part of this amendment. Road section to remain per 120060740 approval.

Lots 17 and 18 are to be platted separately from the remaining lots. The existing house that lies on the Lot 17 and Lot 18 common property line will be demolished prior to the recording of Lots 17 and 18.



SEWAGE DISPOSAL SYSTEM - DESIGN DATA:

LOT	# Bed-rooms	Test Site	Time (min.)	Depth of Tests	Test Site	Time (min.)	Depth of Tests	Ave. Invs.	Low Invs.	Inv. 10	Inv. Out	Inv. Beg.	Length of Initial System	Depth of System	Length of Entire System		
1	6	1A	18	3' 1/2" & 12"	1B	19	2' 1/2" & 13"	19	545.5	542.0	541.7	540.1	277	4'	1,109'		
2	6	2D	15	4' & 12"	2C	18	9' & 10"	15	527.7	523.8	523.5	519.0	217	4' 3/4"	1,012'		
3	4	3C-2	17	2' 1/2" & 11 1/2"	3C-1	20	2' 1/2" & 10 1/2"	21	469.5	464.4	464.5	458.0	250	4'	1,060'		
4	4	4A	15	4' 1/2" & 11 1/2"	4C	19	4' 1/2" & 12"	17	505.3	501.8	501.6	495.3	289	3' 1/2" 1/2"	1,000'		
5	4	5A	25	4' & 12"	5D	27	3' & 10 1/2"	20	513.1	509.6	509.3	507.4	287	4' 1/2" 1/2"	1,212'		
6	5	6A	15	2' 1/2" & 11 1/2"	6B	23	2' 1/2" & 12 1/2"	19	515.8	512.3	512.0	511.9	239	4'	1,000'		
7	4	7A	17	2' 1/2" & 12"	7B	20	9' & 13"	21	467.5	463.5	463.5	461.5	250	4'	1,060'		
8	4	16A-2	18	4' & 10 1/2"	16B	19	3' 1/2" & 10"	18	503.7	499.8	499.6	491.0	323	2' 1/2" 1/2" 1/2"	1,100'		
9	6	15A	11	3' 1/2" & 10 1/2"	15B-2	17	2' 1/2" & 11 1/2"	14	517.4	513.8	513.5	510.7	289	3' 1/4"	1,012'		
10	6	17A	14	2' 1/2" & 10"	17B-2	11	2' 1/2" & 11"	13	532.7	528.7	528.4	527.4	249	3' 1/2" 1/4"	1,000'		
11	6	16A	11	2' 1/2" & 12"	16B	17	9' & 12"	14	537.1	533.8	533.5	521.4	217	4' 3/4"	1,012'		
12	6	19A	17	2' 1/2" & 12"	19B	21	2' 1/2" & 13"	19	504.5	500.8	500.5	519.4	277	4'	1,109'		
13	6	20A	12	2' 1/2" & 13"	20B-2	21	2' 1/2" & 13 1/2"	17	523.5	519.8	519.5	518.9	277	4'	1,109'		
14	4	10C	23	0' & 12"	10D	24	4' & 11 1/2"	24	512.3	508.9	508.9	504.8	333	3' 1/2" 1/2"	1,238'		
16	6	11A-3	22	2' 1/2" & 11 1/2"	11B	4	3' & 12"	13	513.3	509.9	509.5	499.3	217	4'	1,000'		
18	5	9A-1	18	2' 1/2" & 11 1/2"	9B	18	5' 1/2" & 13"	18	507.8	503.8	503.5	501.9	239	4' 1/2" 1/2"	1,028'		
17	5	7A	21	2' 1/2" & 10 1/2"	7B-2	17	3' 1/2" & 11"	19	518.8	513.8	513.5	510.6	239	4' 1/2" 1/2"	1,028'		
18*	4	18A-1	30	3' & 13' & 9"	18B-1	20	7' & 2" & 11' & 10"	18C-1	21	4' & 11' & 5' & 1/2"	24	530.8	525.8	525.3	297	2' 1/4"	1,000'

Notes:
 1. Length of entire system for lot 2 is based upon 4' of stone for initial and first reserve system and 3' of stone for remainder of reserve area.
 2. Length of entire system for lots 4 and 14 is based upon 3' of stone for initial and first reserve system and 3' 1/2" of stone for remainder of reserve area.
 3. Length of entire system for lots 5, 16, and 17 is based upon 4' of stone for initial and first reserve system and 3' 1/2" of stone for remainder of reserve area.
 4. Length of entire system for lot 8 is based upon 2' 1/2" of stone for initial and first reserve system and 3' 1/2" of stone for remainder of reserve area.
 5. Length of entire system for lot 9 is based upon 3' of stone for initial and first reserve system and 4' of stone for remainder of reserve area.
 6. Length of entire system for lot 10 is based upon 3' 1/2" of stone for initial and first reserve system and 4' of stone for remainder of reserve area.
 7. Length of entire system for lot 18 is based upon 2' of stone for initial and first reserve system and 4' of stone for remainder of reserve area.

* New perc tests for revised Lot 18 completed in January, 2014. Approved fields for old Lots 16 and 17 are used for amended Lots 16 and 17. Approved field for old Lot 18 is not to be used and is replaced by new tested field for amended Lot 18.

SSI SITE SOLUTIONS, INC.
 20410 Observation Drive Suite 205
 Germantown, Maryland 20876-4000
 (301) 640-7890 Fax (301) 640-7891
 Planning Landscape Architecture
 Engineering Surveying

NO	REVISION	DATE
2	Remove Outlots 1 & 2, add area into Lots 3, 4, 8 & 9	6/4/15
1	Revise per 1/8/2015 Changemark Notes	2/4/15

OWNER: Winchester Homes, Inc.
 6905 Rockledge Drive
 Suite 800
 Bethesda, Md. 20817
 301-803-4800
 Attn: Michael Lemon

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. 19156, Expiration 06-02-2017.

12006074A
AMENDED PRELIMINARY PLAN
LYNWOOD (CLEMENT EAST PROPERTY)
 (CLEMENT EAST PROPERTY)
 LOTS 1-18, PARCEL A, OUTLOT A
 CLARKSBURG ELECTION DISTRICT #2
 MONTGOMERY COUNTY, MARYLAND

DESIGN	SCALE
DWR	1" = 100'
JSL	1 of 1
CHECKED	SHEET
6/4/2015	1892
PLOT DATE	PROJ. No. E-

AMENDED PRELIMINARY PLAN
LYNWOOD
SITE SOLUTIONS, INC.

03/06
11/06
03/07/07 (Lot 7 Septic)
05/16/07 (Water Storage Tank)
Rev. 06/14/07



date: Rev. 7/28/06
scale: 1" = 100'

Brenning & Associates, Inc.
Landscape Architects
1833 Shady Grove
Gaithersburg, MD 20877
(301) 948-0240



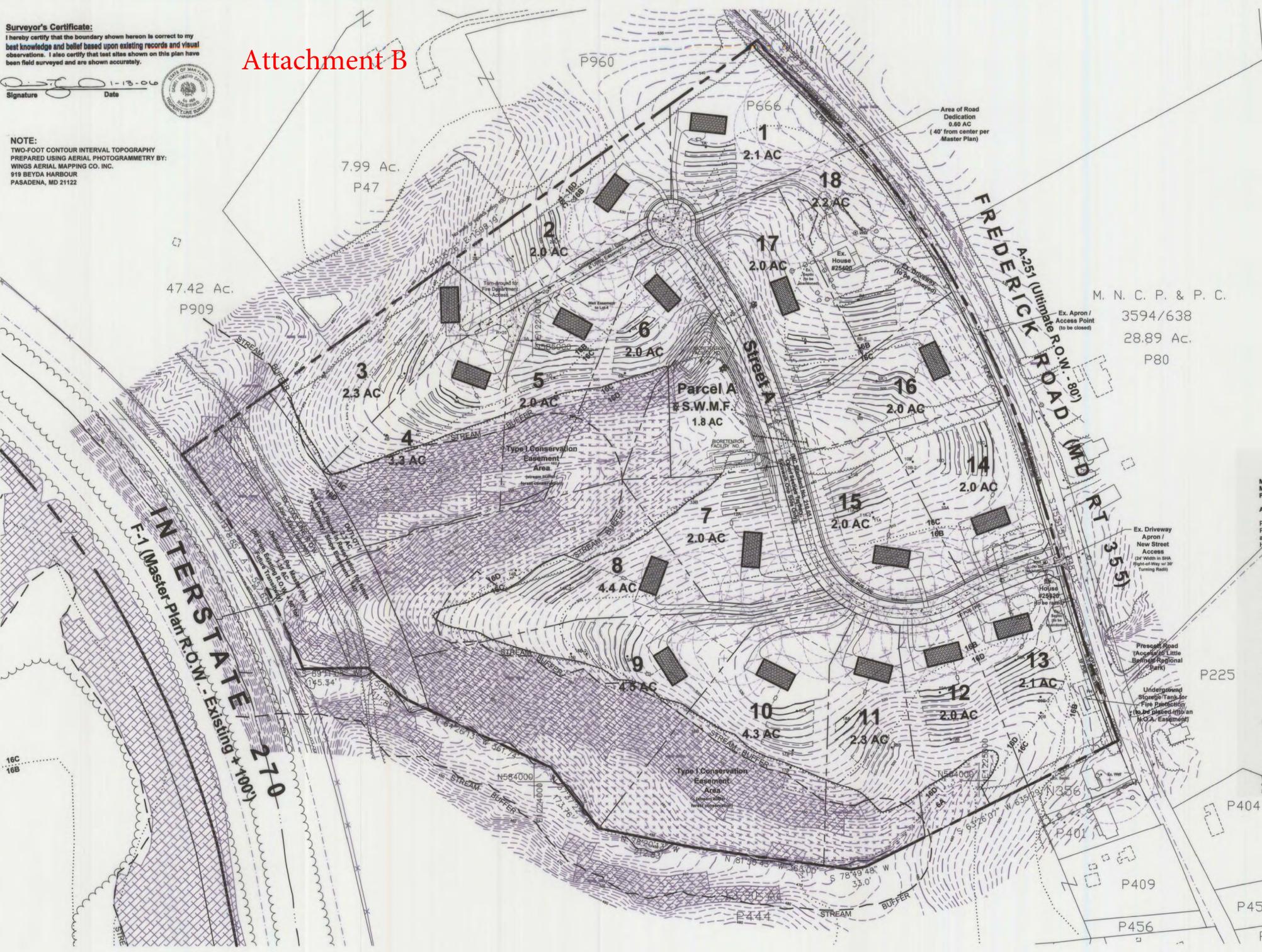
PRELIMINARY PLAN
CLEMENT EAST PROPERTY
 Montgomery County, Maryland

Surveyor's Certificate:
I hereby certify that the boundary shown hereon is correct to my best knowledge and belief based upon existing records and visual observations. I also certify that test sites shown on this plan have been field surveyed and are shown accurately.

Signature: _____ Date: _____

Attachment B

NOTE:
TWO-FOOT CONTOUR INTERVAL TOPOGRAPHY
PREPARED USING AERIAL PHOTOGRAMMETRY BY:
WINGS AERIAL MAPPING CO., INC.
919 BEYDA HARBOUR
PASADENA, MD 21122



- NOTES:**
- AREA OF PROPERTY - 53.55 acres
 - EXISTING ZONING: RE-2
 - MINIMUM LOT SIZE PERMITTED: 2.0 AC
 - NO. OF LOTS SHOWN - 18
 - AREA DEDICATED OR RESERVED FOR STREETS - 6.07 AC
 - for Frederick Road - 0.80 ac
 - for I-270 - 1.35 ac
 - for future I-270 transitway / slope easement - 2.3 ac
 - for internal street - 1.82 ac
 - AREA IN LOTS - 48.75 AC (average lot size - 2.7 ac)
 - NEW STREET IS SHOWN AS AN "OPEN-SECTION TERTIARY"
 - EXISTING SEWER & WATER SERVICE CATEGORIES: S-6, W-6
 - SITE TO BE SERVED BY ON-SITE WELLS AND SEPTIC SYSTEMS
 - LOCATED IN *LITTLE BENNETT CREEK WATERSHED*, (CLASS IP)
 - DEVELOPMENT STANDARDS FOR RE-2 ZONE:
 - Minimum Lot Size - 2.0 ac
 - Lot Width @ Building Line - 150'
 - Minimum Street Frontage - 25'
 - Setbacks:
 - Frontyard - 50'
 - Sideyards - 17', 35' total
 - Rearyard - 35'
 - Maximum Building Height - 50'
 - PROPERTY LOCATED ON TAX MAP DX51 / WSSC GRID SHEET 235NW15
 - UTILITY SERVICE TO BE PROVIDED BY: Verizon, Potomac Edison, Washington Gas (as available)

M. N. C. P. & P. C.
3594/638
28.89 AC.
P80

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MCPB No. 07-138
Preliminary Plan No. 120060740

At its meeting of 07/05/07 and by Planning Board Resolution dated 12/28/07

Pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060740 to create 18 lots on 53.55 acres of land located on the east side of Frederick Road (MD 355), approximately 1,500 feet north of Little Bennett Drive ("Property" or "Subject Property"), in the Clarkburg Master Plan & Hyattstown Special Study Area master plan area ("Master Plan"), subject to the following conditions:

- Approval under this Preliminary Plan application is limited to eighteen (18) lots for eighteen (18) one-family detached residential dwelling units.
- 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 Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- The Applicant must install a split rail, or other appropriate fence as approved by Environmental Planning staff, along conservation easements on any lot on which a dwelling is constructed within 35 feet of the easement boundary.
- Record plat to reflect a Category I easement over all areas of stream valley buffer and forest conservation. The Applicant must dedicate all road rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan unless otherwise designated on the Preliminary Plan.
- The Applicant must place the slope easement area adjoining to the I-270/Corridor City Transitway (CCT) right-of-way dedication, as shown on the Preliminary Plan, in reservation for a minimum of two years from the date of the Planning Board resolution.
- The Applicant must construct an 8 foot wide, shared use path along the MD 355 frontage of the property as shown on the Preliminary Plan.
- Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- Record plat to reflect all Homeowners Association ownership areas and specifically identify stormwater management parcels.
- The Applicant must comply with conditions of MCDPS (Well and Septic) septic approval dated November 9, 2006.
- The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 15, 2007.
- The Applicant must comply with conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) approval dated April 18, 2006, unless otherwise amended.
- Access and improvements as required to be approved by MCDPWT prior to recording of plat(s) and the State Highway Administration (SHA) prior to issuance of access permits.
- The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- Other necessary easements must be reflected on the record plat.

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

CERTIFIED PRELIMINARY PLAN
The foregoing conditions, and this plan drawing, accurately reflect the Planning Board's approval of this preliminary plan.
NAME: Cap. J. Cle DATE: 6-12-08

PREPARED FOR:
Estate of Stephanie J. Clement
c/o Lewis R. Schumann, Personal Rep.
Miller, Miller & Canby, Chtrd.
200-B Monroe Street
Rockville, MD 20850
301-762-5212

VICINITY MAP
1" = 2000'

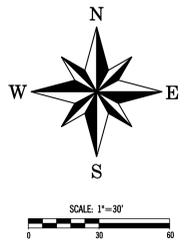


SEWAGE DISPOSAL SYSTEM - DESIGN DATA:

LOT	# Beds	Test Site	Time (min.)	Depth of Test (ft.)	Test Site	Time (min.)	Depth of Test (ft.)	Ave. Invt. Low	Invt. In	Invt. Out	Invt. Base	Length of Initial System	Depth of Stone	Length of Entire System	
1	0	1A	18	3 1/2 x 12	18	18	2 1/2 x 12	10	545.5	542.0	541.7	540.1	277	4	1,102
2	0	2D	18	4 x 12	20	15	3 x 10	15	527.7	523.8	523.5	519.0	217	473	1,012
3	4	3C-2	17	2 1/2 x 11 1/2	30-1	25	2 1/2 x 10 1/2	21	499.8	494.8	494.5	494.0	250	4	1,000
4	4	4A	15	4 1/2 x 11 1/2	4C	19	4 1/2 x 12	17	505.3	501.8	501.5	496.3	209	373 1/2	1,000
5	4	5A	25	4 x 12	6D	27	2 x 10 1/2	26	513.1	509.6	509.3	507.4	287	472 1/2	1,212
6	5	6A	15	2 1/2 x 11 1/2	6B	23	2 1/2 x 12 1/2	19	515.8	512.3	512.0	511.9	298	4	1,000
7	4	7A	17	2 1/2 x 12	7B	25	9 x 13	21	497.5	493.8	493.5	491.5	250	4	1,000
8	4	8A-2	16	4 x 10 1/2	14B	15	2 1/2 x 10	16	503.7	499.8	499.5	491.0	323	2 1/2 x 1/2	1,109
9	0	9A	11	2 1/2 x 10 1/2	10B-2	17	2 1/2 x 11 1/2	14	517.4	513.8	513.5	510.7	289	374	1,012
10	0	10A	14	2 1/2 x 10	10B-2	11	2 1/2 x 11	13	532.2	528.7	528.4	527.4	348	3 1/2 x 1/4	1,000
11	0	11A	11	2 1/2 x 12	11B	17	9 x 12	14	527.1	523.8	523.5	521.4	217	473	1,012
12	0	12A	17	2 1/2 x 12	12B	21	2 1/2 x 13	16	534.5	530.8	530.5	516.4	277	4	1,109
13	0	13A	21	2 1/2 x 12	13B-2	21	2 1/2 x 13 1/2	17	523.5	519.8	519.5	518.9	277	4	1,109
14	4	14C	23	9 x 12	10D	24	4 x 11 1/2	24	512.8	508.8	508.5	504.8	333	373 1/2	1,238
15	0	15A-3	22	2 1/2 x 11 1/2	11B	4	3 x 12	13	513.3	509.8	509.5	499.3	217	4	1,000
16	5	16A-1	18	2 1/2 x 11 1/2	16B	18	5 1/2 x 13	16	507.6	503.8	503.5	501.9	238	473 1/2	1,028
17	5	17A	21	2 1/2 x 10 1/2	7B-2	17	3 1/2 x 11	19	518.8	515.3	515.0	510.8	298	473 1/2	1,028
18	4	18A	18	4 1/2 x 10 1/2	8B-2	14	3 1/2 x 12	15	530.8	526.8	526.5	520.3	316	294	1,000

SEPTIC NOTES:

- Length of entire system for lot 2 is based upon 4' of stone for initial and first reserve system and 3' of stone for remainder of reserve area.
- Length of entire system for lots 4 and 14 is based upon 3' of stone for initial and first reserve system and 3 1/2' of stone for remainder of reserve area.
- Length of entire system for lots 5, 10, and 17 is based upon 4' of stone for initial and first reserve system and 3 1/2' of stone for remainder of reserve area.
- Length of entire system for lot 8 is based upon 2 1/2' of stone for initial and first reserve system and 3 1/2' of stone for remainder of reserve area.
- Length of entire system for lot 9 is based upon 2' of stone for initial and first reserve system and 4' of stone for remainder of reserve area.
- Length of entire system for lot 10 is based upon 2 1/2' of stone for initial and first reserve system and 4' of stone for remainder of reserve area.
- Length of entire system for lot 18 is based upon 2' of stone for initial and first reserve system and 4' of stone for remainder of reserve area.



DEVELOPER'S CERTIFICATE	
The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 12086071A including financial bonding, forest planting, maintenance, and all other applicable agreements.	
Developer's Name	Winchester Homes, Inc. Printed Company Name
Contact Person or Owner	Michael P. Lemon Printed Name
Address:	6905 Rockledge Drive / Suite 800, Bethesda, Md. 20817
Phone and Email:	(301)803-4800 michael.lemon@winhomes.com
Signature:	

SIGNIFICANT TREE CHART (For 7 Trees on Lots 16, 17 & 18)

Tree Number	Botanical Name	Common Name	D.B.H.	CRZ Area	% CRZ Saved	Save / Remove	Comments
*ST-11	Quercus coccinea	Scarlet Oak	34"	8,171 s.f.	80	Save	CRZ impacted by LOD of house
ST-12	Pinus strobus	White Pine	26"	4,778 s.f.	100	Save	
ST-13	Quercus coccinea	Scarlet Oak	25"	4,418 s.f.	100	Save	
ST-14	Acer rubrum	Red Maple	25"	4,418 s.f.	100	Save	
ST-15	Acer rubrum	Red Maple	26"	4,778 s.f.	100	Save	
ST-19	Platanus occidentalis	Sycamore	25"	4,418 s.f.	78	Save	
ST-20	Platanus occidentalis	Sycamore	24"	4,072 s.f.	0	Remove	Within graded area for master planned bikeway

* = Specimen Tree subject to variance

LEGEND

*	Significant / Specimen Tree Label
X	Specimen Tree To Be Removed
X	Significant Tree To Be Removed
(Dashed Circle)	Significant / Specimen Tree Critical Root Zone
(Dotted Line)	Limit of Disturbance (L.O.D.)

Signature & Seal of Qualified Preparer

Donald W. Rohrbaugh, II Md. R.L.A. #491
Date



SSI SITE SOLUTIONS, INC.
20410 Observation Drive Suite 205
Germantown, Maryland 20876-4000
(301) 640-7890 Fax (301) 640-7891
Planning Landscape Architecture
Engineering Surveying

NO	REVISION	DATE
1	Revise per E-Plans comments	2/4/15

OWNER: Winchester Homes, Inc.
6905 Rockledge Drive
Suite 800
Bethesda, Md. 20817
301-803-4800
Attn: Michael Lemon

Amended Final Forest Conservation Plan - Lots 16, 17 & 18
LYNWOOD (CLEMENT EAST PROPERTY)
(CLEMENT EAST PROPERTY)
LOTS 1-18, PARCEL A, OUTLOT A
CLARKSBURG ELECTION DISTRICT #2
MONTGOMERY COUNTY, MARYLAND

DWR	SCALE	1" = 30'
DESIGN		
JSL		
CHECKED	SHEET	5 of 5
PLOT DATE	PROJ. No.	1892 E-

SITE SOLUTIONS, INC. LYNWOOD



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

COPY

February 4, 2008

Parties of Record
Preliminary Plan No. 120060740
Clement East Property

To whom it may concern:

Attached please find a copy of the Planning Board Resolution for the above-referenced preliminary plan. You previously received a copy that did not contain the Planning Board Chairman's signature certifying that the resolution had been adopted by the Planning Board. Although the Board did in fact adopt the resolution prior to the first mailing, the certification and signature were mistakenly not added to the document.

This revised copy of the resolution is complete and contains the certification of its adoption. This addition does not change anything else about the resolution, including its original mailing date or the associated appeal period.

We apologize for any confusion.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Conlon", with a horizontal line extending to the right.

Catherine Conlon
Subdivision Supervisor
Development Review Division



DEC 28 2007

MCPB No. 07-138
Preliminary Plan No. 120060740
Clement East Property
Date of Hearing: July 5, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on January 17, 2006, the Estates of Stephanie J. Clement ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 18 lots on 53.55 acres of land located on the east side of Frederick Road (MD 355), approximately 1,600 feet north of Little Bennett Drive ("Property" or "Subject Property"), in the Clarksburg Master Plan & Hyattstown Special Study Area master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120060740, Clement East Property ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated June 25, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on July 5, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

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

Approved as to
Legal Sufficiency:

WHEREAS, on July 5, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Bryant, Cryor, Hanson, Lynch, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120060740 to create 18 lots on 53.55 acres of land located on the east side of Frederick Road (MD 355), approximately 1,600 feet north of Little Bennett Drive ("Property" or "Subject Property"), in the Clarksburg Master Plan & Hyattstown Special Study Area master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to eighteen (18) lots for eighteen (18) one-family detached residential 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 Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The Applicant must install a split rail, or other appropriate fence as approved by Environmental Planning staff, along conservation easements on any lot on which a dwelling is constructed within 35 feet of the easement boundary.
- 4) Record plat to reflect a Category I easement over all areas of stream valley buffer and forest conservation.
- 5) The Applicant must dedicate all road rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan unless otherwise designated on the Preliminary Plan.
- 6) The Applicant must place the slope easement area adjoining to the I-270/Corridor City Transitway (CCT) right-of-way dedication, as shown on the Preliminary Plan, in reservation for a minimum of two years from the date of the Planning Board resolution.
- 7) The Applicant must construct an 8 foot wide, shared use path along the MD 355 frontage of the property as shown on the Preliminary Plan.
- 8) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 9) Record plat to reflect all Homeowners Association ownership areas and specifically identify stormwater management parcels.
- 10) The Applicant must comply with conditions of MCDPS (Well and Septic) septic approval dated November 9, 2006.
- 11) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 15, 2007.

- 12) The Applicant must comply with conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) approval dated April 18, 2006, unless otherwise amended.
- 13) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s) and the State Highway Administration (SHA) prior to issuance of access permits.
- 14) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 15) Other necessary easements must be reflected on the record plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. The Preliminary Plan substantially conforms to the master plan.

The subject property is located in the transition area between Hyattstown and Clarksburg. The Master Plan recommends a "land use pattern which provides a significant amount of open space" to create a "strong rural transition" between the two areas:

"The density recommended for the transition area is one unit per two acres. The intent of the density is to maintain a rural character while allowing property owners some flexibility in locating smaller lots (two acres) on better soils. It is anticipated that poor soils for septic systems will preclude an overall density of one dwelling unit per two acres."

The proposed subdivision includes lots ranging in size between 2.0 and 4.4 acres, with the majority of the lots being 2 acres in size. Approximately 28 percent of the lot area will be permanently protected open spaces that include stream valley buffer, steep slopes and forest. The Planning Board finds that the subdivision creates a lower-density residential development with a significant amount of open space that provides the transition envisioned in the Clarksburg Master Plan and Hyattstown Special Study Area.

2. Public facilities will be adequate to support and service the area of the proposed subdivision.

Roads and Public Transportation Facilities

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours, and therefore, the Application is not subject to Local Area Transportation Review. The plan includes construction of a new internal public street with sidewalk on one side, and construction of the master plan-recommended shared use bike path along the MD 355 frontage. The Maryland State Highway Administration (SHA) reviewed the proposed plan based on the projected trip distribution entering and exiting of the 18-residential lot development, and the 40 MPH posted speed limit along MD 355. SHA will require that a 250-foot partial deceleration lane (150' lane, plus a 100' full width taper) and 250-foot partial acceleration lane (100' lane, plus a 150' full width taper) be built for the development at the MD 355 entrance. In addition, a bypass lane will be required along MD 355 due to the number of lots being served by the access point.

The Subject Property has approximately 450 linear feet of frontage along the Interstate 270 right-of-way for which additional dedication is needed for road widening and the eventual construction of the Corridor Cities Transitway (CCT). In addition, the current design plans for the CCT anticipate the need for a grading easement adjoining the dedication area. The proposed Application reflects dedication of an additional 100 feet of right-of-way along I-270, and creation of an outlot that provides an additional 140-foot wide area to be placed in reservation for the slope easement. The plan complies with the recommendations of the Master Plan, and the CCT design plans, for right-of-way and easements.

The Planning Board finds that the proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements. The Planning Board also finds that sidewalks are not necessary for both sides of the proposed internal roadway because the street will be safe for use by pedestrians in this rural subdivision.

Other public facilities and services

The Planning Board finds that other private and public facilities and services are available and will be adequate to serve the proposed units. The Property is served by private septic and wells that have been approved by the Department of Permitting Services, Well and Septic Section. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within acceptable county standards and will be adequate to serve the Property. Electrical and telecommunications services are also available to serve the Property.

- 3. An over-length cul-de-sac is suitable for the proposed subdivision by reason of property topography and large lot size.*

The proposed internal tertiary road will end in a cul-de-sac and be approximately 1,500 feet in length. Pursuant to section 50-26 of the Subdivision Regulations, a cul-de-sac longer than 500 feet is not permitted "unless, by reason of property shape, size, topography, large lot size or improved street alignment, the Board may find a greater length to be justified". The Planning Board finds that the proposed over-length cul-de-sac is justified because of onsite and offsite topography that prevents adequate site distance from being achieved, and because of the large lot size within the development that extends the length of the road. The possibility of creating a looped road with two connections to MD 355 to avoid the proposed over length cul-de-sac was explored, but such a design was ultimately rejected by SHA because of safety concerns. Specifically, SHA cited: 1) lack of available sight distance at the existing vertical crest of MD 355 too close to an existing horizontal curve; 2) steep existing grades on MD 355; and, 3) SHA access management guidelines that discourage the second access point. The Planning Board finds, based on SHA analysis, that a second access point from the Property to MD 355 is not acceptable. The Board also finds that continuing the proposed road to property north of the Subject Property is not desirable since that property has been acquired as parkland.

- 4. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The Planning Board finds that size, width, shape and orientation of the proposed lots are appropriate for the location of the subdivision. The proposed lots will have frontage on a new public street that the Planning Board finds will provide adequate access and circulation. The lots were reviewed for compliance with the dimensional requirements specified in the Zoning Ordinance for the RE-2 zone. The lots as proposed will meet all applicable dimensional requirements for area, frontage, width, and setbacks in that zone.

- 5. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Planning Board finds that the Application satisfies the requirements of Chapter 22A of the Montgomery County Code. There are 17.66 acres of existing forest on this portion of the property, including 3.65-acres that lie within the dedication/reservation area along I-270. For forest conservation purposes, the dedication/reservation area is excluded from the net tract area and the forest conservation law applies to the remaining tract and the associated 14.01-acres of

forest. The preliminary forest conservation plan indicates the removal of 0.9 acres of forest and the preservation of 13.03 acres of forest. All retained forest will be protected in a Category I forest conservation easement. There are no planting requirements associated with the Application. All non-forested environmental/stream buffers will also be included within the Category I forest conservation easement.

6. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

MCDPS approved a stormwater management concept for the subject property on March 15, 2007. The concept consists of onsite water quality control and onsite recharge via use of bio filters and other non-structural measures. Channel protection volume storage is not required because the one-year post development peak discharge will be less than or equal to 2.0 cubic feet per second.

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

DEC 23 BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (which is the date that this Resolution is mailed to all parties of record); and

STATEMENT OF WINCHESTER HOMES, INC.
FOR A VARIANCE IN ACCORDANCE WITH SECTION 22A-21
OF THE MONTGOMERY COUNTY CODE

CLEMENT EAST (LYNWOOD)

#12006074A

October 31, 2014

Revised February 24, 2015

I. BACKGROUND INFORMATION.

The Applicant for a variance pursuant to the provisions of Section 22A-21 of the Montgomery County Code is Winchester Homes, Inc., contract purchaser of the subject property. The current application is for an amendment to the approved Preliminary Plan of Subdivision (#120060740). The applicant proposes to subdivide the property in the RE-2 zone into 18 recorded lots. The property consists of 53.56 acres and is located along the west side of Maryland Route 355, 1,600 feet north of Little Bennett Drive, just south of Hyattstown.

II. APPLICANT'S PROPOSAL.

Attached is a copy of the proposed amended Preliminary Plan of Subdivision (see e-file) and amended forest conservation plan. This amendment proposes to re-orient Lots 17 and 18 and relocate the proposed house location on Lot 16. The original Final Forest Conservation Plan for the subject property was prepared and approved prior to the implementation of Sec. 22A-21 of the county code. That original FCP proposed removal of two specimen trees from the 53.56 acre property. No additional specimen trees will be removed with this variance.

III. EXPLANATION FOR NEED TO IMPACT ONE TREE THAT IS IDENTIFIED IN STATE LAW FOR PROTECTION.

Attached to this variance application is a copy of the Final Forest Conservation Plan (FFCP) (see e-file), on which the one protected specimen tree proposed to be impacted has been identified.

The impacted tree is as follows:

Tree #11 Scarlet Oak 34" DBH To Be Retained

This tree will not be removed even though it is located within the proposed septic reserve area of Lot 18. However, this tree's CRZ is impacted by the limit of disturbance of the adjacent proposed house. However, 80% of this tree's L.O.D. will be preserved.

IV. SATISFACTION OF THE CRITERIA LISTED IN SECTION 22A-21(b) OF THE MONTGOMERY COUNTY CODE.

Section 22A-21(b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

“(1) describe the special conditions peculiar to the property which caused the unwarranted hardship.”

- A. The proposed lot requires a septic field. The area available on the lot is very restricted in its configuration.
- B. The proposed well sites (3) must be located uphill from the septic field and must not be closer to the septic field than 100 feet.
- C. The proposed septic field, the initial field and the reserve field, is located in the only available area on the lot.
- D. Facilitating the proposed house and septic field leaves a very defined area for the potential house location.
- E. Grading for the proposed house is necessary to direct water away from the house as the house will be located downhill from Tree #11. However every effort has been made to minimize the necessary grading disturbance.

“(2) Describe how enforcement of these rules will deprive the owner of rights commonly enjoyed by others in similar areas.”

There is no alternative location on the lot for placement of the septic field and the lot cannot be subdivided without a suitable septic field design that percs in accordance with county regulations. Tree #11 happens to be within the septic reserve area for Lot 18. Prior to implementation of Sec. 22A-21, many lots were approved in northern Montgomery County with delineated septic fields that impacted specimen trees. This house must be located downhill from the septic field and Tree #11 so that it “fronts” on the proposed internal street. Denying this variance request would be unfair to the owner / applicant in this similar circumstance. Additionally, this tree is not proposed for removal.

“(3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance.”

There are currently no stormwater quantity or quality provisions on the property. In conjunction with the proposed development of the subject property, the Applicant has prepared stormwater management facility design plans that when implemented will improve water quality measures on the subject property and in the surrounding area.

The Applicant confirms that the impact on the one affected tree will cause no degradation in water quality associated with the proposed 18-lot subdivision as a result of the granting of the requested variance.

“(4) Provide any other information appropriate to support the request.”

The information set forth above, the Applicant believes, is adequate to justify the requested variance to disturb the CRZ the one protected tree on the subject property.

Furthermore, the Applicant’s request for a variance complies with the “minimum criteria” of Section 22A-21(d) for the following reasons:

1. This Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available to any other applicant.
2. The configuration of the subject property, regulatory requirements, and the location of the protected tree are not the result of actions by the Applicant, since any subdivision of eighteen two-acre lots on a tract similar to the subject property could encounter the same constraints.
3. The requested variance is not related in any way to a condition on an adjacent, neighboring property, and
4. Impact caused by disturbance of the CRZ of the one affected tree will not violate State water quality standards or cause measurable degradation in water quality (which is being improved by the Applicant’s overall proposal).

Site Solutions, Inc.
October 31, 2014
Revised February 2, 2015
Revised February 24, 2015



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Lisa Feldt
Director

March 3, 2015

Casey Anderson, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Clement East (Lynwood), ePlan 12006074A, application to amend preliminary plan accepted on 11/20/2014

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law 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.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the



variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

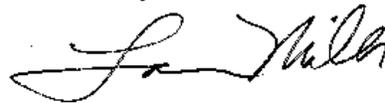
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that minor revisions to the impacts to trees subject to variance provisions are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

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

Sincerely,



Laura Miller
County Arborist

cc: Josh Penn, Planner Coordinator