



Item #9

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

M E M O R A N D U M

**DATE:** May 03, 2002  
**TO:** Montgomery County Planning Board  
**FROM:** A. Malcolm Shaneman  
Development Review Division  
(301) 495-4587  
**SUBJECT:** Informational Maps for Subdivision Items on the  
Planning Board's Agenda for May 09, 2002.

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Attached are copies of plan drawings for Items #09, #10, #11. These subdivision items are scheduled for Planning Board consideration on May 09, 2002. The items are further identified as follows:

Agenda Item #09 - Preliminary Plan 1-99100E  
Cloverly Commercial

Agenda Item #10 - Preliminary Plan 1-01089  
Dufief Mill Road, Parcel 293

Agenda Item #11 - Preliminary Plan 1-02087  
Kensington Park

Attachment



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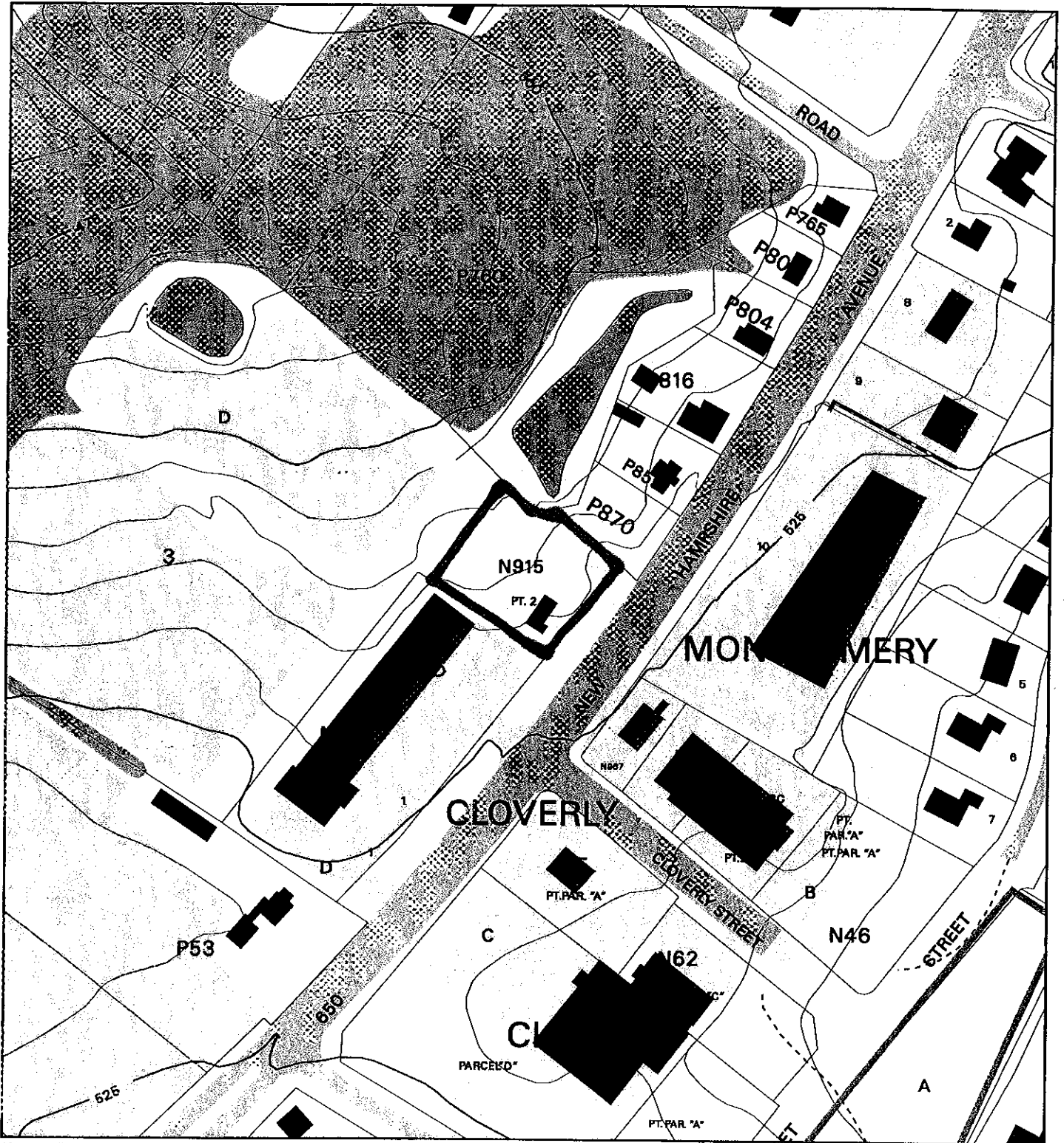
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VICINITY MAP FOR  
**CLOVERLY COMMERCIAL (1-99100E)**

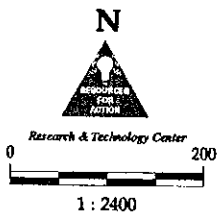


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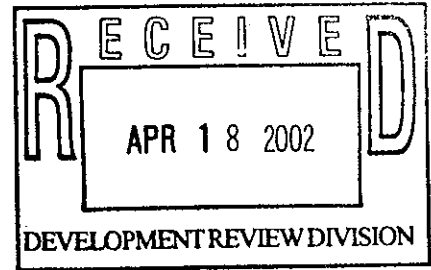
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# 9  
5-9-02

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April 11, 2002



Arthur Holmes, Jr. Chairman  
Montgomery County Planning Board  
M-NCPPC  
8787 Georgia Avenue  
Silver Spring, MD. 20910

Re: Preliminary Plan of Subdivision 1-99100  
Cloverly Commercial

Dear Chairman Holmes:

The owners of the above cited property, DV, LLC hereby request that the Planning Board permit the further extension of the Preliminary Plan of Subdivision. The Board approved a six-month extension on October 1, 2001 that will expire on May 4, 2002. Since last October Site Solutions, Inc. (consultants to the owners) have been pursuing another method to provide stormwater management for the subject property. We have submitted a new Stormwater Management Concept Plan to MCDPS, which is pending approval. The revised plan required additional Geotechnical analysis, including soil borings. All of this additional work has required more time than anticipated which resulted in this request.

You may recall the Board's discussion on this item on October 1, 2001. Unfortunately, the applicant did not participate in that discussion because somehow both the applicant and we, his consultant, did not receive notice of the Board's scheduled discussion. (I usually check the agenda on the Internet, but apparently I neglected to do so that particular week) Nevertheless, we have reviewed the audio tape of that meeting which revealed that the Board did not receive the full story at that time.

The issue that has delayed the implementation of the approved Preliminary Plan relates to stormwater management. The original approval was based on the sharing of a common stormwater management facility, to be located on the contiguous Se Me Hahn Presbyterian Church property. This made good sense to share the cost and to limit the proliferation of individual systems for environmental purposes. In

Arthur Holmes, Jr. Chairman  
April 11, 2002  
Page Two

addition, the access to the Church is to be via an ingress-egress easement across the subject property. In a classic case of compromise, everyone got something they needed.

Unfortunately, the devil is in the details. The applicant and the church could not come to terms of agreement regarding timing. Although I have not been directly involved with the negotiations, I understand that while the participants did agree in principal, they could not come to terms as to how to ensure completion in a timely manner. The church was to construct the SWM facility and my client, the applicant, was to reimburse the church for their fair share of the cost. However, my client wanted the right, should the church not complete the facility, to complete the construction, using the church's contractor if necessary, so that they could proceed if the church could not perform. The church, however, would not agree to this provision. And communications fell apart.

At that point, the applicant retained SSI to devise an on-site SWM alternative. Enclosed is a copy of the new SWM Concept Plan submitted to the Montgomery County DPS for construction of an underground retention facility. Their initial review comments required the submission of soil borings information and analysis. That work has been completed and submitted along with responses to their other review comments. The SWM Concept plan should be approved shortly. As you can surmise from the enclosed plan, this is going to be an expensive construction project. Clearly, it would have been in my client's best financial interest to participate with the Church to provide a combined, above ground SWM facility.

However, so much animosity and distrust has built up over the past few years that I'm afraid that it may be irreconcilable. That is unfortunate, because both parties will suffer. Both properties will have to construct and maintain their own SWM facilities, with no benefit of joint participation.

Nevertheless, because of these machinations, we request an extension of Preliminary Plan 1-99100. Had we been in attendance at the October 1, 2001 hearing, we would have explained that 6-months is not enough time to complete both Site Plan Review and Record Plat completion. Just the

Arthur Holmes, Jr., Chairman  
April 11, 2002  
Page Three

review period for Record Plat is 14 weeks, or 3.5 months, at best. Site Plan Review is typically a 3 to 4 month process. Therefore, 6 months is not adequate to complete the requirements.

The applicant is willing to release the Church from all obligations and limitations resulting from the proposed participation of the subject property in their SWM pond. Likewise, the applicant reaffirms its intention to provide the ingress-egress easement (and access to utilities) across their property, to the benefit of the church. The intention of all of this is to allow the two properties to proceed independently of one another.

The requested one year extension will allow the applicant to receive final SWM Concept Plan approval, prepare the necessary Site Plan Review submission and appear before the Planning Board for approval, and then submit a Record Plat for review and approval. Meanwhile, the church can proceed with its own construction at its own pace. We think that this is the only way the two parties can proceed.

Thank you for your consideration of this request. We look forward to presenting our case before the Planning Board. We will make sure that we carefully review the Board's agendas to make sure that we do not miss it this time.

Very truly yours,  
Site Solutions, Inc by



Alfred Blumberg, AICP  
Principal

cc: Dariush Vedadi  
Kenneth Techler, Esq.  
Malcolm Shaneman ✓