



Item # 13
MCPB 7/22/04

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



MEMORANDUM

DATE: July 16, 2004
TO: Montgomery County Planning Board
VIA: Rick Hawthorne, Chief
Michael Ma, Supervisor *Ma*
Development Review Division
FROM: Robert A. Kronenberg, RLA *RAK*
Planning Department Staff
(301) 495-2187

REVIEW TYPE: Site Plan Review
APPLYING FOR: Approval of 122 one-family attached dwelling units, including 52 TDRs and 16 MPDUs and waiver to minimum lot size, on 10.88 acres
PROJECT NAME: Eton Square
CASE #: 8-04033
REVIEW BASIS: Sec. 59-D-3, M. C. Zoning Ordinance
ZONE: R-60/TDR-12
LOCATION: Southwest intersection of Frederick Road (MD 355) and Oxbridge Road
MASTER PLAN: Germantown
APPLICANT: Porten Companies, Inc.
FILING DATE: May 24, 2004
HEARING DATE: July 22, 2004

STAFF RECOMMENDATION FOR SITE PLAN: Approval of 122 one-family attached dwellings including 52 TDRs and 16 MPDUs and waiver to minimum lot size, on 10.88 acres with the following conditions:

1. Preliminary Plan
Applicant shall comply with the conditions of approval for the Preliminary Plan (1-04029) opinion dated May 6, 2004 [Appendix B].

2. Moderately Priced Dwelling Units (MPDUs)
Applicant to provide (16) sixteen (12.5% of the total number of proposed units) Moderately Priced Dwelling Units (MPDUs) on the site. The MPDU unit shall be constructed to a minimum width of 16 (sixteen) feet.
3. Transferable Density Rights (TDRs)
Prior to recording of plats, the applicant shall provide verification of the availability of the required 52 transferable development rights (TDRs) for the proposed development.
4. Stormwater Management
Applicant shall conform to the conditions of the Montgomery County Department of Permitting Services stormwater management concept approval dated February 20, 2004 [Appendix A].
5. Forest Conservation
Compliance with the conditions of approval from M-NCPPC-environmental Planning Division dated July 12, 2004 for the final forest conservation plan [Appendix A]. The applicant shall satisfy all conditions of approval prior to DPS issuance of sediment and erosion control permit.
6. Noise Attenuation
Prior to issuance of any building permits, the applicant shall comply with the following conditions to attenuate noise from MD 355:
 - a. Certification from an engineering firm that specializes in acoustical analysis, that the building shell of impacted buildings is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The builder commits to construct the units in accordance with the acoustical specifications identified in the March 8, 2004 noise analysis. Any changes that may affect acoustical performance shall be approved by the acoustical engineer in advance of installation.
 - b. For all residential dwelling units to be constructed within the 60 dBA Ldn unmitigated noise contour, the applicant/developer/builder shall disclose in writing to all prospective purchasers that are located within an area that will be impacted by future highway noise. Such notification will be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including the Illustrative Site Plan(s) on display within any sales related office(s), as well as in Homeowner Association Documents, and by inclusion on all subdivision and site plans, and with all Deeds of Conveyance. Notification to be provided to M-NCPPC staff prior to release of building permits.
 - c. Applicant shall construct a masonry wall as part of the noise attenuation wall, or equivalent as approved by M-NCPPC staff, to a maximum height of 42", directly west of the 8-foot-wide trail on MD 355.
 - d. Applicant to conduct an outdoor-to-indoor analysis for lots 29, 35, 36, 41, 42 and 49 (end units) after construction and shall present verification of noise levels to M-NCPPC staff prior to occupancy.
7. Transportation Planning
 - a. Applicant shall comply with the MD-State Highway Administration (SHA) letter dated November 6, 2004 [Appendix A] and roadway widening concept plan from Loiderman & Associates dated June 17, 2004 to SHA with respect to the proposed widening on the west side of MD 355. Applicant shall provide a third southbound

- lane on the west side of MD 355 along the property frontage, in accordance with the Preliminary Plan opinion 1-04029.
- b. Applicant shall comply with the conditions from M-NCPPC-Transportation Planning memorandum dated July 8, 2004 [Appendix A]:

8. Signature Set

Prior to signature set approval of the site/landscape plans the following revisions shall be made and/or information provided, subject to staff review and approval:

- a. Show all easements, Limits of Disturbance, Rights-of-Way, Forest Conservation Areas and Stormwater Management Parcels, Home Owners Association Parcels, development inspection schedule, opinion, numbers and dates of approval on the drawing;
- b. Lighting Plan to provide the following:
- 1) All light fixtures shall be full cut-off fixtures;
 - 2) Deflectors to be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties;
 - 3) Illumination levels not to exceed 0.5 footcandles (fc) at any property line abutting county roads;
- c. Landscape Plan to provide the following:
- 1) Provide evergreen shrubs or ornamental grasses in the islands adjacent to the garage units;
 - 2) Tot lot area between units 29 and 36 to be fenced/gated to the adjacent retaining wall and access to MD 355. Details of the fence and landscaping provided to be reviewed and approved at signature set of site plans.
 - 3) Recreation equipment for the tot lot areas to be manufactured by Kompan. Substitutions to the approved equipment to be reviewed and approved by M-NCPPC staff.

2. Site Plan Enforcement Agreement

Submit a Site Plan Enforcement Agreement, Development Review Program and Homeowner Association Documents for review and approval prior to approval of the signature set as follows:

- a. Development Program to include a phasing schedule as follows:
1. Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 2. Coordination of each section of the development and roads;
 3. Phasing of dedications, stormwater management, sediment and erosion control, forest conservation or other features;
 4. Streets tree planting must progress, as street construction is completed, but no later than six months after completion of the buildings adjacent to those streets.
 5. Community-wide pedestrian pathways and recreation facilities, including the 8-foot-wide hike/bike trail and tot-lot between units 29 and 36 shall be completed prior to release of the 86th building permit.
- b. No clearing or grading prior to M-NCPPC approval of signature set of plans.

Summary of Issues:

During the course of Site Plan review and discussion, staff and the applicant reviewed the building location, access to and from the site, internal and perimeter screening, lighting distribution, noise mitigation along MD 355 as well as preservation of the forested stream buffer. Noise mitigation and attenuation was also reviewed in detail to mitigate noise levels above 60 dBA Ldn for outdoor and common open space levels and interior building levels of 45 dBA Ldn. The plan depicts a berm that parallels MD 355 and connecting masonry walls to provide the required attenuation.

Vehicular and pedestrian access was reviewed for internal circulation associated with the development as well as access to the existing public roads. An 8-foot asphalt bike path is proposed along the frontage of the property within the right-of-way for MD 355. The bike path will connect with the planned bikeway to the north and south of the property.

Landscape and lighting was reviewed for conformance to the zoning requirements and buffer requirements for residential units to common open spaces and recreational areas. Street trees have been incorporated on the public streets in conformance with county standards and shade trees have been proposed throughout the internal driveways. Buffer planting has also been proposed around the perimeter of the site as well as screening of site elements from the public roads.

Staff also reviewed the waiver request to the minimum lot size for the market rate units and MPDUs. The applicant agreed to revise the plans to incorporate 16-foot-wide MPDU units after discussions with M-NCPPC staff, the Housing Opportunities Commission and the Department of Housing and Community Affairs.

OUTSTANDING ISSUES PERTINENT TO SITE PLAN REVIEW:

Development Issues

Waiver to the minimum lot size

The applicant is requesting a waiver [See Appendix C] to Section 59-C-1.625(3) of the Montgomery County Zoning Ordinance regarding minimum lot size. The required minimum lot size is 1,500 square feet and the proposed development is requesting the Planning Board to permit a lot size of 1,080 square feet for the market rate units (18' x 60') and 960 square feet for the Moderately Priced Dwelling Units (16' x 60'). The applicant originally proposed 14-foot-wide MPDUs, creating a lot size of 840 square feet. After discussions with the Housing Opportunities Commission (HOC) and the Department of Housing and Community Affairs (DHCA) [See attached letters in Appendix C], the applicant agreed to expand the unit size to 16 feet, increasing the lot size but still requiring the waiver.

At the Preliminary Plan hearing on May 6, 2004, the Planning Board deferred the discussion of the waiver to the lot size until Site Plan. According to the footnote for this section of the zoning ordinance, the following factors must be taken into consideration for the Planning Board to permit a reduction of the minimum lot size: 1) the size of the unit; 2) the number of units in a group; 3) the proximity of the several groups of units to each other or an area of significant size at one location that will be maintained as common open space or public park land; 4) topography or other natural features of the site; 5) other factors as the Planning Board deems appropriate and specifies in its approval.

Applicant Position

The applicant contends that the request for the minimum lot size is justified for many reasons including the use of the TDR (Transferable Density Rights) program, preservation of environmental and natural areas on the site, increased amounts of open space on the property and the provision of affordable housing. The site is not maximizing its potential in terms of density and use of the TDR program due to site constraints such as the master-planned roadway in the center of the site, dedication of roadway along MD 355 and grading concerns on the site. The site is proposing to provide 61.5% of green space within the property boundaries, approximately 10% more than that required by the zoning ordinance. In addition, a creative solution for MPDUs has been proposed that can be effectively implemented into the mix of market rate units on a site that has been targeted for a higher density.

Staff Position

Staff believes that the waiver to the minimum lot size meets the intent of the zoning ordinance and supports the reduction in lot size as presented by the applicant. Initially, the applicant proposed 14-foot-wide Moderately Priced Dwelling Units interspersed among the 18-foot-wide market-rate units. At the Development Review Committee meeting in June, staff requested that the applicant meet with both Housing and Opportunities Commission (HOC) and the Department of Housing and Community Affairs (DHCA) for their input on the size of the MPDU unit and integration into the mix of market rate units. The applicant has since revised the plans to include 16-foot-wide MPDUs, as a result of staff's concerns and those raised by HOC.

Staff is not opposed to the smaller size unit, however, if a larger MPDU can be constructed without losing the proposed density on the site, then the applicant should aspire to provide the larger unit. Regardless of the size of the MPDU unit, the applicant is still in a waiver situation for the minimum lot size. Although, staff does not typically comment on the size of a proposed unit, the unit directly affects the minimum lot size.

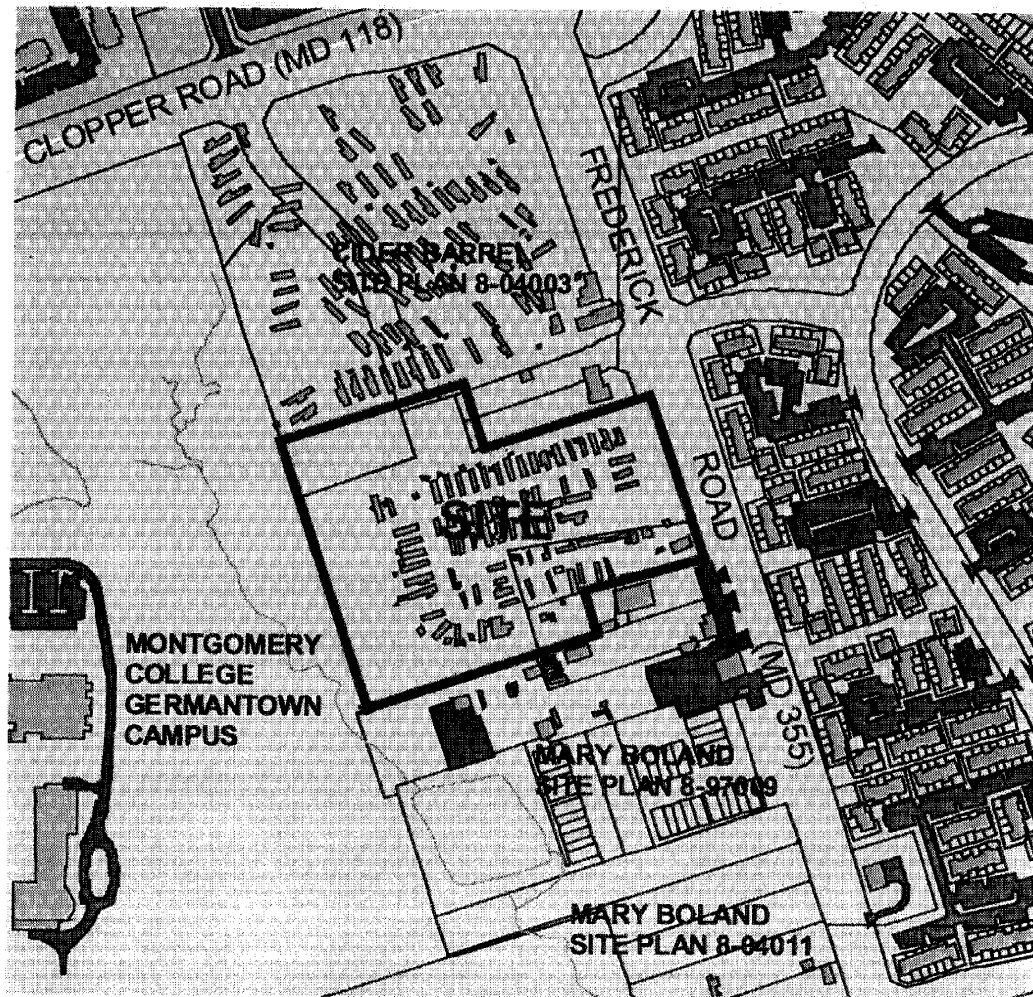
The application meets the intent of the five factors associated with the footnote in the ordinance to the minimum lot size. The size of the units is consistent with other townhouse subdivisions that construct the smaller market-rate units. The grouping and number of units in a block vary from four to seven and is a reasonable mix for a project. The units are compiled into development pod areas that are located around central green areas for their front yards. As noted in the previous discussions, the applicant is providing 10 percent more green space that required by the zoning ordinance. The natural features and other factors on the site, including the stream valley buffer, consistent building line on MD 355 and the construction of two 70-foot-wide, master-planned roadways directly impacts the site, resulting in the waiver request.

Staff is in support of the proposed waiver to the minimum lot size in the R-60/TDR-12 Zone.

PROJECT DESCRIPTION: Surrounding Vicinity

The property is located at the southwest intersection of MD Route 355 and Oxbridge Drive in Germantown, Maryland. Access into the property will be from Oxbridge Drive from MD 355 and Cider Barrel Drive from MD Route 118 currently under construction as part of the Cider Barrel Development. The existing intersection of the two major roads is signalized. The property directly to the north (8-04003) has been approved for 4-story garden apartments and is currently under construction.

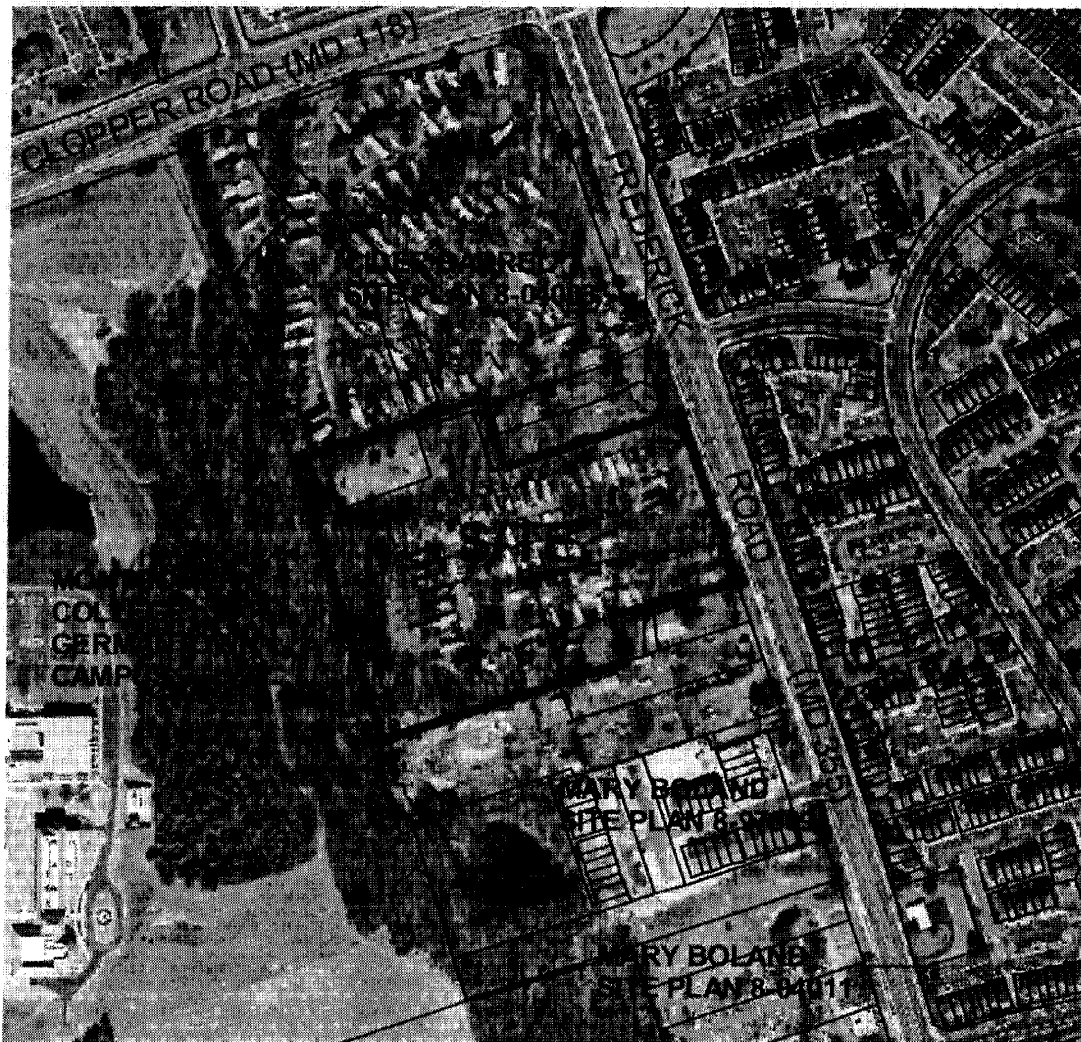
The property to the west is owned by Montgomery College-Germantown Campus [Plat book 521, Page 29], and zoned R-60. The property to the south consists of three parcels zoned C-4 that separate the two townhouse subdivisions beyond their property boundaries. The properties to the south of the commercial parcels are zoned R-60/TDR 12. The property directly to the east of the site across MD Route 355 is the Brandermill subdivision containing numerous townhomes. Zoning for this site is RT-12.5. Portions of Cider Barrel Drive, which is an internal connection from Md 118 and MD 355, have been construction while the remaining segments will be constructed under the recently approved subdivisions to the north and south of the property.



PROJECT DESCRIPTION: Site Description

The site contains the remains, including the pad sites and building sites, of an existing mobile home park at the southwest intersection of MD 355 and Oxbridge Drive. The properties to the north and south were also part of an expanded mobile home park known as Montgomery Mobile Village. The site is forested on the western boundary and contains numerous specimen trees situated throughout the former mobile home park. A stream valley buffer is located within the forested area, although the perennial stream is located on the Montgomery Community College campus. The original Cider Barrel, a designated historic site (# 99/33), is located across Oxbridge Drive as part of the Cider Barrel development (8-04003) at the northeastern intersection of MD 355.

The site has a prominent knoll at the northeastern boundary of the property, with the predominant slope falling northeast to northwest. The elevation change drops by approximately 70 feet, with the most dramatic elevation change at the western boundary within the stream valley buffer. An existing sanitary sewer line is located within the stream valley buffer at the southwest corner connecting to a larger main running through the college campus.



PROJECT DESCRIPTION: Proposal

The applicant, Porten Companies, Inc. proposes to construct 122 one-family attached dwelling units, of which 16 will be MPDUs and 52 will be TDRs. The site contains 10.88 acres and is zoned R-60/TDR-12. The MPDU units will be dispersed throughout the property to create a greater mix of unit styles and widths.

The plan proposes two primary access points to the site: one from Oxbridge Drive and one from Cider Barrel Drive, currently under construction. Both access points will be full turning movements into and out of the site, with the exception of left turning vehicles into the site from west bound traffic on MD 118. The applicant is required to provide road and lane improvements along the south side of MD 118 and west side of MD Route 355, adjacent to the property boundary. Part of the road improvements will include modifying the existing median on MD Route 118 to preclude left turning vehicles into Cider Barrel Drive.

Vehicular access on the property will consist of construction of the applicant's segment of Cider Barrel Drive and the connection to Oxbridge Drive. Cider Barrel Drive is a master planned 70-foot right-of-way, primary road running north and south on the property. The alignment is consistent with the 1989 Germantown Master Plan, which will connect with MD 355 through the adjacent properties and subdivisions to the north and south. Oxbridge Drive is also a primary residential 70-foot right-of-way connecting MD 355 to Cider Barrel Drive. The applicant will be required to complete the intersection improvements at Oxbridge Drive and Cider Barrel Drive. The internal private drive on the east side of Cider Barrel Drive is a loop road with private alleys providing access and parking for the townhouse units. Visitor parking is interspersed throughout the property and the public roads will accommodate parallel parking. The access on the west side of Cider Barrel Drive consists of two private entrances, one of which parallels the public road and provides access and parking for the remaining units. The private drives are 20 feet wide throughout the site.

Pedestrian access consists of 5-foot wide sidewalks along both sides of Cider Barrel Drive and Oxbridge Drive. The sidewalks will be separated by a planted ten-foot green strip from the curb line. The applicant is also proposing to extend the 8-foot-wide sidewalk/bike path along the property frontage on 355 in conjunction with the road and lane improvements requested by the county and state. A lead-in 5-foot sidewalk is also proposed from the bike path into the site near the eastern terminus of private road "A". Internally, 4-foot wide sidewalks are proposed adjacent to the parking areas with lead-in sidewalks to all of the units. In addition, an internal pedestrian system is proposed to incorporate pedestrian activity between the units and link the clusters of units in a neighborhood pattern.

Landscape and lighting for the site consists of street trees on the public roads spaced at 50-feet in accordance with county standards. The interior parking islands will contain shade trees and the parking areas adjacent to the garage units will contain evergreen shrubs. The streetscape on Cider Barrel Drive and Oxbridge Drive will be continued for their constructed portion of the road, consistent with the approved plans for the respective subdivisions to the north and south. The majority of the street trees within the right-of-way for Oxbridge Drive, with the exception of the intersection with Cider Barrel Drive, will be installed by the Cider Barrel development (8-04033) to the north. The eight-foot hike-bike trail will consist of a double row of shade trees

along the eastern property line adjacent to MD 355, consistent with the species and spacing of the other development projects to the north and south of the subject property. The stormwater management facilities have been screened from view of the public and private road network. The screening associated with the recreational amenities on site contains a mix of shade trees, ornamental trees and shrubs for visual enhancement of the users.

Proposed street lighting for public roads conforms to the Montgomery County guidelines for public roads for type of fixture, spacing, size and height. Proposed lighting for the private roads and alleys conform to the standards as set forth in the INESA guidelines for residential development.

Recreational amenities are accessible to the public and users of the development. Recreational facilities have been located throughout the site and consist of a tot lot, picnic/sitting areas and a trail network. The tot lot equipment has been separated into two community areas and is intended to be functional as well as a visual feature. The applicant has proposed elements by Kompan, a manufacturer that sets out to create unique play areas that are playful, functional and artistic in the materials, colors and shapes. The larger play area is located at the terminus of Private Street "A" providing a central area for the entire community. The smaller area is visually centered from the adjacent pool in the Cider Barrel development. The play areas consist of a play structure, play pods, hammock swing, rockers and seating for users of the area. The surface material for the play area will consist of micro-engineered wood chips to accommodate accessible users.

The open space areas include seating for each development pod site. A picnic area is located at the southwestern boundary as an entrance the pedestrian trail that is located at the edge of the stream buffer and forested area. The internal path system links the amenities and provides for efficient pedestrian circulation within the site and to the major roadways. The 8-foot-wide Greenway Trail will be extended along MD 355 in association with the road improvements. Off-site credit has been taken for existing facilities in the nearby schools and park properties, permitted by the recreational guidelines.

The applicant is proposing to recess the units along MD 355 and provide a 42" masonry wall on top of the retaining wall to attenuate noise along MD 355. The apartment units will also provide noise mitigation to buildings and common open space interior to the site. The noise analysis indicates that good design and quality materials will reduce the interior noise level to 45 dBA Ldn.

A waiver request of the minimum lot size of 1,500 square feet is being requested with this application. Staff supports the waiver request due to lot size and site constraints associated with this development.

Forest Conservation requirements are being satisfied through on-site retention of the forested area and reforestation adjacent to the existing forest on the western boundary. Approximately 26 of the 94 specimen trees are being retained in the proposed development, with the majority of the preserved trees within or near the stream valley buffer. The majority of the forested area is being protected with an additional 0.18 acres of reforestation provided on site.

The open space requirement is 2,000 square feet per unit, which equals 51 percent of the total site area. Open space and green area requirements are being met on the site with approximately 61.5 percent of site dedicated to green area. The proposed green areas consist of forest conservation areas, stormwater management, landscaped islands and open green areas within the site. A stormwater management concept was approved by the Montgomery County Department of Permitting Services on February 20, 2004.