

No commercial uses are proposed under this rezoning application.

59-C-7.133. Other uses.

(a) *Noncommercial community recreational facilities which are intended exclusively for the use of the residents of the development and their guests may be permitted.*

Such facilities are indicated in the proposal in the way of common open space and community recreation areas in addition to planned public access easements shown on the proposal. Notable examples include environmental restoration of the Glen, an interpretive trail and link to parks and continued historic tour activity.

59-C-7.14. Density of residential development.

(a) *An application for the planned development zone must specify one of the following density categories and the district council in granting the planned development zone must specify one of the following density categories:*

The proposal is for the Medium High-density category of 15 units to the acre.

(b) *The District Council must determine whether the density category applied for is appropriate, taking into consideration and being guided by the general plan, the area master or sector plan, the capital improvements program, the purposes of the planned development zone, the requirement to provide moderately priced dwelling units in accordance with Chapter 25A of this Code, as amended, and such other information as may be relevant. Where 2 or more parts of the proposed planned development are indicated for different densities on a master plan, a density category may be granted which would produce the same total number of dwelling units as would the several parts if calculated individually at the density indicated for each respective part and then totaled together for the entire planned development.*

The General Plan and Master Plan provides guidance supportive of development that cannot be accommodated by the R-90 zone. When taken with the fact that Multi-Family housing exceeding four stories is a flexible development option that permits the adaptive reuse of historic structures, the proposed density category is clearly appropriate. Further reassurance of the appropriateness is given by a binding element limitation to 280 units.

(c) *The density of development is based on the area shown for residential use on the master plan and must not exceed the density permitted by the density category granted. However, the maximum density prescribed by Subsection (a) may be increased to accommodate the construction of Moderately Priced Dwelling Units as follows:*

The permitted density of 15 dwelling units/acre is not exceeded by the proposal. MPDU bonus provisions are not exercised, although MPDUs are provided in excess of the minimum 12.5% required for such bonuses.

(d) Notwithstanding the density provisions of this zone, the District Council may approve an increase in density for housing for senior adults or persons with disabilities, as defined in

Section 59-A-2.1, within a planned development in accordance with the following requirements:

No senior housing is proposed.

(e) The District Council may approve a density bonus of up to 10% above the maximum density specified in the approved and adopted master plan for the provision of TDRs, if the use of TDRs is recommended for the site.

TDRs are not recommended for this site. TDRs are not a part of this application.

59-C-7.15. Compatibility.

(a) All uses must achieve the purposes set forth in section 59-C-7.11 and be compatible with the other uses proposed for the planned development and with other uses existing or proposed adjacent to or in the vicinity of the area covered by the proposed planned development.

The proposed use will achieve the goals and objectives of the North and West Silver Spring Master Plan by providing development consistent with the criteria articulated for Forest Glen. The proposed use and requested density are compatible with the existing development in the surrounding area. The proposed uses of residential and public recreation are internally compatible.

(b) In order to assist in accomplishing compatibility for sites that are not within, or in close proximity to a central business district or transit station development area, the following requirements apply where a planned development zone adjoins land for which the area master plan recommends a one-family detached zone:

(1) No building other than a one-family detached residence can be constructed within 100 feet of such adjoining land; and

(2) No building can be constructed to a height greater than its distance from such adjoining land.

The Development Plan indicates that buildings other than one-family detached will be within 100 feet of adjoining land recommended for one-family detached zones. These structures also cannot meet the second provision a setback for height. A waiver of these provisions is proposed on the basis that the development is in close proximity to a historic district and reduced setbacks will facilitate its preservation structures in the district. The Planning Board must make this finding at the time of site plan review.

The sale of these town homes will offset the extensive cost of adaptive reuse of the historic structures. This clearly facilitates preservation and supports a waiver by the Planning Board.

(e) Compliance with these requirements does not, by itself, create a presumption of compatibility.

The proposed development follows the North and West Silver Spring Master Plan by providing appropriate residential development with historic preservation as the primary goal

59-C-7.16. Green area.

Green area must be provided in amounts not less than indicated by the following schedule:

The green area requirement for the Medium – High-density category is 50%. The proposed green area comprises over 65 percent of the site.

59-C-7.17. Dedication of land for public use.

Such land as may be required for public streets, parks, schools and other public uses must be dedicated in accordance with the requirements of the county subdivision regulations, being chapter 50 of this Code, as amended, and the adopted general plan and such adopted master plans and other plans as may be applicable. The lands to be dedicated must be so identified upon development plans and site plans required under the provisions of article 59-D.

Such features are clearly shown on the land use plan and are indicated for dedication. Dedication must occur under applicable subdivision regulations, which will be applied at preliminary plan of subdivision.

59-C-7.18. Parking facilities.

Off-street parking must be provided in accordance with the requirements of article 59-E.

The required two parking spaces per unit are well exceeded by the proposal. 535 spaces are proposed. Parking tabulations on the development plan are accurate and indicate a need for 503 parking spaces. The Development Plan indicates an optional parking deck to replace surface parking in the northwest end of the historic building complex. This parking deck would be refined at site plan.

59-C-7.19. Procedure for application and approval.

- (a) *Application and development plan approval must be in accordance with the provisions of division 59-D-1.*

The information required by 59-D-1 has been submitted. Pre-submission coordination was significant.

- (b) *Site plans must be submitted and approved in accordance with the provisions of division 59-D-3.*

If the zoning application is approved, site plans will be required.

C. Master Plan Recommendation

Based on the following analysis of the August 2000 Approved and Adopted North and West Silver Spring Master Plan, staff recommends approval of the proposed zoning case, on the basis that it is substantially consistent with the goals and objectives in the Plan.

As noted in the background on page 6, the plan establishes six specific criteria for development of the site. Staff has considered the minor master plan recommendation and believes it should be considered guidance. Staff notes that as a floating zone, PD can be requested whether or not the relevant master plan specifically recommends the zone. Staff concludes that the proposed development and the process are consistent with the intent of the master plan.

D. Transportation

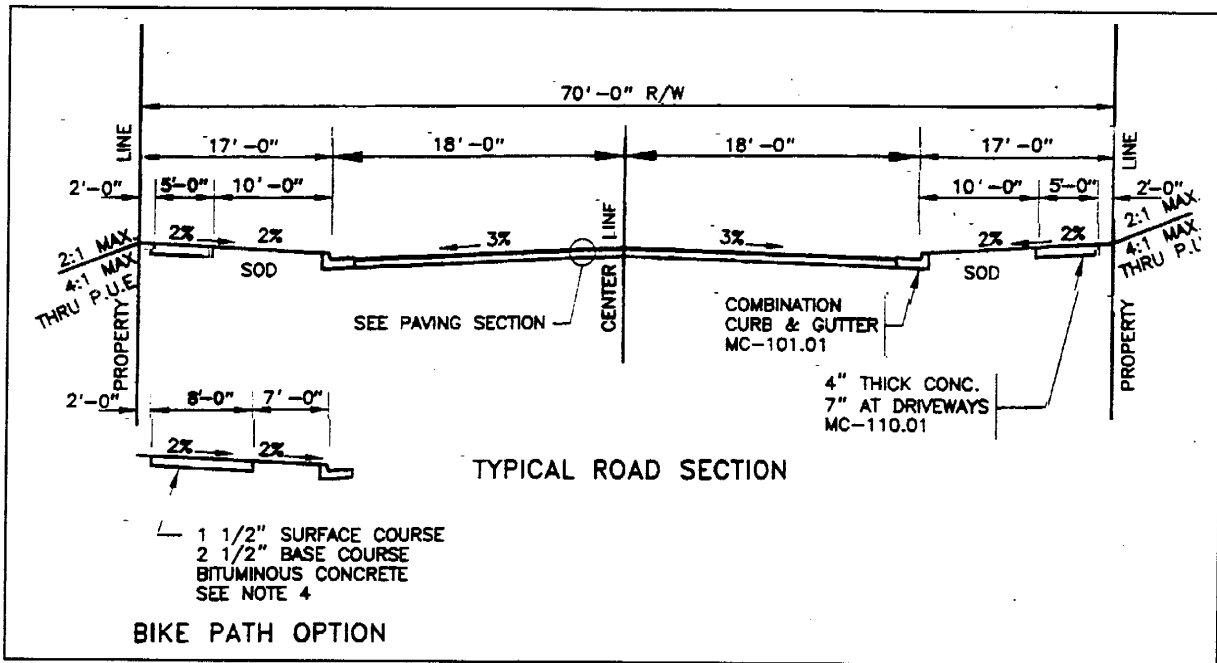
Transportation Planning has prepared an Adequate Public Facilities review of the subject Local Map Amendment application to provide for a total of 280 dwelling units as limited by the binding elements. As noted in the attached memorandum found on page A-13, staff supports approval of this application for Local Map Amendment. Requirements enumerated in the memorandum are recommended for approval of the subsequent Preliminary Plan application.

Staff has considered the right-of-way dedication needs at various relevant segments of Linden Lane. An off-road shared use bike path is recommended for a section of Linden Lane that cannot accommodate sidewalks without encroachment on the Pagoda structure. Bike path upgrades are also recommended onsite connecting Rock Creek trail access to Linden Lane. The traffic study concludes that traffic signal at the intersection of Linden Lane and Brookville Road is warranted for existing volumes. Staff anticipates that at some point in the future this signal will be installed either through a public project or by a private developer. The applicant is asked to provide their share towards this signal by making a contribution pro-rated by the traffic volume that will be produced by this development.

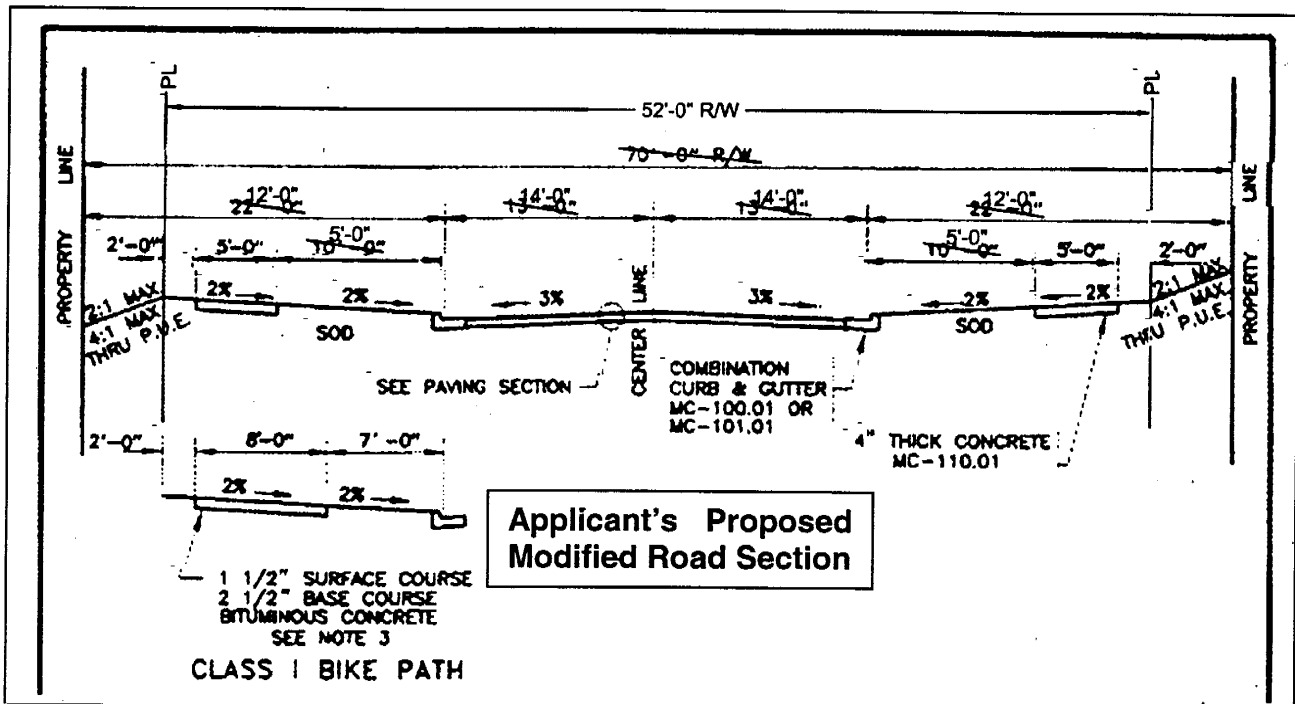
Transportation staff's analysis elaborates on the discussion regarding appropriate right-of-way for Linden Lane. The historic site places constraints on provision of a typical section. Neighborhood groups seek to keep right-of-way and particularly pavement narrow to provide traffic calming. DPW&T staff and M-NCPPC staff are attempting to balance these objectives with the public purpose of a road design that will be safe to use, reasonable to maintain, and calm traffic. Vehicular and pedestrian safety considerations suggest various design alternatives which under discussion and will be resolved in the subsequent reviews. The Green Tape process has facilitated a helpful discussion of this issue earlier than it would have occurred in a standard review. On the following page depictions of typical and proposed sections

are highlighted for informational purposes. Discussion continues and a section will be finalized in the preliminary plan of subdivision review.

The typical road section for a residential primary road anticipates 36' of pavement. An additional 34 feet is needed for offsets, green space and sidewalks.



The constraints of the site and development scheme have caused the applicant to request a waiver of this section from the Department of Permitting Services. Technical staff has been involved in this discussion. The applicant proposes reducing the right-of-way from 70' to 52' as shown below. This is accomplished by removing parking from one side of the street and making some other adjustments to area the needed for offsets, green space and sidewalks. At the writing of this report, County staff has indicated support for a 52' section. While the final resolution of this matter will occur in the subsequent review, a shared objective is to make sure vehicular travel lanes and sidewalks are the same in the modified section as they are in a typical section.



E. Development Plan

Section 59-C-7.19 requires that application and development plan approval must be in accordance with the provisions of Division 59-D-1.

Sec. 59-D-1.3. Contents of development plan.

The development plan must clearly indicate how the proposed development meets the standards and purposes of the applicable zone. The development plan must include the following, in addition to any other information, which the applicant considers necessary to support the application:

- (a) *A natural resources inventory prepared in accordance with a technical manual adopted by the Planning Board and ...*

An approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) has been submitted with the Development Plan. The NRI/FSD is dated April 2004 and revised August 28, 2004, and was approved according to the technical manual adopted by the Planning Board.

- (b) *A map showing the relationship of the site to the surrounding area and the use of adjacent land.*

A surrounding area map is present in the submission.

- (c) *Except for the town sector zone, a land use plan showing:*

- (1) *The general locations of the points of access to the site.*
- (2) *The locations and uses of all buildings and structures.*
- (3) *A preliminary classification of dwelling units by type and by number of bedrooms.*
- (4) *The location of parking areas, with calculations of the number of parking spaces.*
- (5) *The location of land to be dedicated to public use.*
- (6) *The location of the land which is intended for common or quasi-public use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned and maintained in perpetuity for the indicated purposes.*

The Development Plan submitted provides all relevant information enumerated above.

- (7) *The preliminary forest conservation plan prepared in accordance with Chapter 22A.*

A preliminary forest conservation plan prepared in accordance with Chapter 22A has been submitted.

- (d) *Except for the town sector zone, a development program stating the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems and community recreational facilities are to be developed. For the town sector zone, a development program*

stating the sequence of the following in relation to the development of the residential and commercial areas specified in subsection 59-D-1.3(f), below:

- (1) Dedication of land to public use.
- (2) Development of the arterial road system.
- (3) Development of pedestrian and bicycle circulation systems.
- (4) Development of community facilities and open space.
- (5) Development of regional stormwater management facilities.

A development program statement addressing these requirements is present in the submission.

- (e) The relationship, if any of the development program to the county's capital improvements program.

Not dependent upon any proposed or programmed capital improvements.

- (h) In the zones indicated by "X" below, the following shall also be shown:
Note: only relevant portion of table is shown

	P-D
(5) An economic analysis supporting the inclusion of any proposed local commercial facilities as permitted in accordance with sections 59-C-7.132(a) and 59-C-7.33(c)(1).	X
(6) The density category applied for, as required in subsection 59-C-7.14(a).	X

No commercial uses are proposed.

The proposed density category is medium-high, PD-15.

- (i) If a property proposed for development lies within a special protection area, the applicant must submit water quality inventories and plans and secure required approvals in accordance with Article V of Chapter 19. The development plan should demonstrate how any water quality protection facilities proposed in the preliminary water quality plan can be accommodated on the property as part of the project.

The property does not lie within a special protection area.

Development Standards for PD-15 Zone		
Standard	Permitted/Required	Proposed
Minimum tract area	13.3 acres (sufficient for 200 dwelling units at 15 du/a)	31.79 acres. Note the original submission listed 31.99 acres. Reduction was required by Army for force protection rules at Stephen Sitter Gate.

Maximum density/ total yield	15 units to the acre + 12.5 MPDU. 31.74	8.8 du/a
Minimum (Maximum) percentage of units	SFD no min or max, 10% min for SFA and TH. MF 25 % min and 75% max. No more than 30% over 4 stories.	SFD 5% TH 35% (no SFA) MF under 4 story 49% MF over 4 story 11%
Minimum setback -From any detached dwelling lot or land classified in a one-family, detached, residential zone.	100 Feet	Waiver recommended based upon historic district.
Maximum Building Height	No higher than distance from adjoining one-family detached residential zone.	Waiver recommended based upon historic district.
Minimum Green Area	50%	65% entire site
Minimum Parking	2 spaces per TH or SFD (111*2=222), MF 1.25 space per 1BR (43*1.25=54) 1.5 space per 2 BR (88*1.5=132) 2 space per 3 BR (38*2=76) Group Home 0.5 space per client and 0.5 space per employee in largest shift (32*0.5 + 6*0.5=19) Total - 503	535 spaces provided.

F. Environmental

Environmental Planning staff, having considered the PD zone purpose clause and the specific requirements for the Development plan, recommends approval of this application. In the attached memorandum (Attachment 8 on page A-20), staff enumerates specific impacts that shall be addressed in the review of the preliminary plan of subdivision and site plan review. At the time of site plan review, the applicant is required to submit a Final Forest Conservation Plan including a detailed Tree Save Plan, which will be evaluated to determine compliance with Forest Conservation Law.

Staff finds that environmental impacts occur in three places on the Development Plan. Adjusting parking lot layouts; shifting, removing, or re-mixing units; and using innovative stormwater management techniques will help remove these impacts from sensitive areas. Staff provides specific guidance in the attached memo to allow the applicant to prepare for preliminary plan of subdivision and site plan review.

Staff notes that the Department of Permitting Services (DPS) must approve a Stormwater Management Concept Plan. Staff suggests innovative techniques can help prevent the need for installing stormwater management structures in high priority forest while still meeting Department of Permitting Service requirements.

Environmental staff will continue to work with the applicant in subsequent reviews to ensure that all engineering options are considered to avoid encroachment into priority environmental features.

G. Legacy Open Space

The National Park Seminary is identified in Appendix D of the *Legacy Open Space Functional Master Plan* as a potential Urban Open Space site (Class III). The Glen part of the site was initially nominated as a potential urban park and staff have reviewed the entire site for Legacy Open Space issues. The National Park Seminary clearly meets the Legacy Open Space criteria for being a “best of the best” heritage site within Montgomery County. However, after full consideration of the redevelopment and preservation package currently under review, there does not appear to be a beneficial role for the Legacy Open Space program to play. The substantial historic restoration and new construction will have close scrutiny from federal, state and county historic preservation agencies. Additionally, a permanent preservation easement has been placed over the historic buildings and site by the state due to the transfer of the property out of federal ownership. We anticipate that the Glen itself also will be protected through conservation easements as part of the redevelopment package. As such, staff plans to recommend that the site not be added to the Legacy Open Space program. A formal recommendation will be presented to the Planning Board at time of Preliminary Plan for review and approval.

H. Preliminary Plan of Subdivision and Site Plan Issues

Section 59-C-7.19 requires that Site Plans must be submitted and approved in accordance with the provisions of division 59-D-3. If the County Council approves the subject rezoning, this project will require approval of a preliminary plan and site plan by the Planning Board. The applicant has expressed their intention to have their site plans processed concurrent with the preliminary plans of subdivision. The site plans must be consistent with the Development Plan covering the instant zoning applications. Dwelling units may be adjusted during the review of the preliminary and site plans to meet environmental and other requirements. In this report, Technical staff has provided indications of matters to be addressed at the time of subdivision and site plan review.

I. Parks

No new parkland dedications are proposed. M-NCPPC Park Development staff was involved in an evaluation of an option to swap land that was ultimately rejected due to encumbrances on the property. Park staff will also be involved in evaluation of the proposed trail access change at the time of site plan.

COMMUNITY CONCERNS

Staff has spoken with homeowners and civic associations in the area. The applicant held many sessions with various civic groups and several groups have formed a Seminary Advisory Board. Relevant letters are attached to this report. Members of the community have also coordinated with the Office of the People's Counsel to better understand the zoning process. Generally the position of many in the community is supportive of this proposal because it is a residential use and because of the reputation of the developer in dealing with historic structures. Nonetheless the complexities of this project and the prospect of change have brought concerns to the surface, many of which are beyond the scope of the rezoning.

The main concerns in the neighborhoods are cut-through traffic, excessive speed and unsafe driving practices, and threats to pedestrian safety. While the residents expect new development to exacerbate this problem they also see project as a unique opportunity to focus attention on this problem. A letter to the County Executive details this position.

One concern that directly relates to the project is the discussion regarding the width of Linden Lane. While the developer and technical staff are fairly close to agreeing to a right-of-way section⁹, many citizens would prefer and even narrower facility. The Linden Lane Civic Association position argues for a maximum pavement width of twenty feet. Staff believes that Linden Lane should have at least one side of parking to relieve parking pressures, for public access, and most importantly to calm traffic. This is a specific difference of opinion that can be discussed further during site plan review. Community members, staff and the applicant share in an overall goal to improve pedestrian accessibility and calm traffic.

Finally, many in the neighborhood are preservationists who are very committed to the reuse of the site.

CONCLUSION

With respect to the subject application, staff finds that the purpose clause and the requirements of the Planned Development Zone to provide a broad range of housing types, to minimize the amount of grading necessary for construction through flexibility of standards, and to provide a pedestrian network that links existing and proposed communities to public facilities, have been met. Staff believes that the requested PD-15 zone implements the August 2000 Approved and Adopted North and West Silver Spring Master Plan. Staff also recommends approval of the Development Plan and Binding Elements that accompany this application, which limit the development to a maximum of 280 residential units.

⁹ As of the writing of this report, there is agreement on 52' of right-of-way. Specifics will be resolved in subsequent review.

This project is unique for Montgomery County. The flexibility of the PD zone is used to advance public purposes of historic preservation and provision of moderately priced housing units at a level higher than the minimum yet without taking density bonuses. By leveraging preservation and housing tax credits as well as new residential development on surplussed public land, at a scale and density that is appropriate for the neighborhood, the applicant has accomplished a remarkable development scheme.

District Council Findings

59-D-1.61. Findings.

Before approving an application for classification in any of these zones, the district council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In so doing, the district council must make the following specific findings, in addition to any other findings, which may be necessary and appropriate to the evaluation of the proposed reclassification:

- (a) *That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.*

As discussed in the master plan analysis on pages 6 and 17, the requested PD-15 zone is in substantial compliance with the use and density indicated by the master plan and poses no conflict with the general plan, CIP or other applicable plans.

- (b) *That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.*

As discussed in analysis of the appropriateness of the PD zone found on pages 10 through 12, the proposed development is compliant with the purposes, standard and regulations of the zone and meets such standards.

- (c) *That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.*

The transportation review summarized on page 17 and found in Attachment 7 (page A13) finds that circulation systems and points of access are adequate safe and efficient.

- (d) *That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.*

The environmental review summarized on page 22 and found in Attachment 8 (page A-20) finds that the zoning application and development plan meet this objective. Specific issues for review at site plan are identified.

- (e) *That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.*

A property management entity will manage such facilities like the Glen and the Ballroom in accordance with the preservation easement held by MHT. This easement has adequate control to ensure maintenance will be adequate. Specific analysis of HOA documents and other easements will occur in subsequent review.

Attachments

1. Surrounding Area Map.....	A-1
2. Development Plan.....	A-2
3. Circulation Plan.....	A-3
4. Community Planning Referral.....	A-4
5. Urban Design and Site Plan Comments.....	A-6
6. Transportation Referral.....	A-13
7. Environmental Referral.....	A-20
8. Schools Referral.....	A-24
9. Letter from HPC.....	A-25
10. Citizen Letters.....	A-26