

850 Hungerford Drive • Rockville, Maryland • 20850-1747

Telephone (301) 278-3425

May 2, 2002

Mr. Arthur Holmes Jr., Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Holmes:

Re: Clarksburg Town Center – Site Plan 8-02014 Phase 2

This is to comment on the referenced site plan as it concerns the future elementary school that is to be dedicated to the Board of Education.

We appreciate the recent efforts of M-NCPPC staff and the developer to address our concerns of storm water management, forestation and grading. The developer has agreed to enlarge the storm water management facility to serve the school and configure the property lines to separate it from the future school site. Forestation areas are to be provided off site by the developer. The developer has also agreed, and M-NCPPC concurred, that grading near the existing pond will be modified to provide more buildable area on the school site.

However, we are still concerned about the extensive grading that will be required to make the site a buildable one. Our concerns focus on two grading areas, the adjacent ballfields and the school site itself.

Adjacent ballfields

Current plans call for the construction of two ballfields that will be dedicated to the M-NCPPC. Plans call for a ten-foot grade difference between these fields and the school property, necessitating the construction of a retaining wall. Montgomery County Public Schools requests that as a condition of the site plan approval, the applicant be required to re-configure the ballfields, locating them further from the school property line, or if this is not feasible, construct an adequate retaining wall to accommodate the difference in grade.

Grading of school site

In developing Terrabrook, the final grades are such that in order to build the school, including the playgrounds, driveways and parking areas, approximately 20 –23 feet of fill dirt will be required across the bulk of the property. This is an unacceptable additional expense and constitutes a condition of excessive grading. In fact, the Montgomery County Council has in the past directed the Board of Education to ensure that any proposed dedicated school sites are usable and will not require major expense to develop. Since


Department of Facilities Management
7361 Calhoun Place – Suite 400
Rockville, Maryland 20855

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

May 2, 2002

MEMORANDUM

TO: Wynn Witthans
Development Review Division

FROM: Cathy Conlon 
Countywide Planning Division-Environmental Planning

SUBJECT: Clarksburg Town Center, Phase II - Site Plan No. 8-02014

Recommendation

Environmental Planning staff have reviewed the above-referenced plan and required Water Quality Plan. We recommend approval of the Water Quality Plan with the conditions of the MCDPS memo, and approval of the site plan with the following conditions:

1. Development Program to include a phasing schedule as follows:
 - a. Clearing and grading to correspond to the construction phasing, to minimize soil erosion.
 - b. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
 - c. Phasing of site clearing and grading to minimize soil erosion.
 - d. Phasing of stormwater management and forest planting.

2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - a. Undisturbed stream buffers at least 150 to 240 feet wide as shown on the site plan.
 - b. Limits of disturbance.
 - c. Methods and locations of tree protection.
 - d. Forest Conservation areas.

2. **The exact location and orientation of the fields to be coordinated with M-NCPPC staff.**
3. **The softball field to be full sized with foul lines of 290 feet.**
4. **The soccer field to be full adult size with dimensions of 360' by 220'."**

- Applicant to construct paved hiker/biker trails in the following locations:

- a. Along the east side of Overlook Park Drive from Stringtown Road to Clarksburg Road (Route 121). This trail will be aligned to meet the Clarksburg Greenway Trail from the south side of Stringtown Road.
- b. From the Clarksburg Greenway Trail along Overlook Park Drive to the Kings Local Park pond trails (two connections to the pond trail).
- c. Along the south side of Clarksburg Road from the pond area trails to the intersection with Piedmont.
- d. Along the south side of Piedmont from Clarksburg Road to Street "F".
- e. Along the west side of Street "F" from Piedmont to Main Street and continuing along Main Street to the Greenway Trail along Overlook Park Drive.

Trails are to be constructed to park standards. Exact trail alignments and widths to be coordinated with M-NCPPC and DPWT staff, and should be appropriately located and landscaped to maintain a park like setting while also fulfilling the need for safe, off road transportation in the area.

the applicant was not required to complete a final grading study until site plan, this condition was not known at preliminary plan.

As stated in the Montgomery County Code, Section 50-30 (d and e):

"Unless the applicant agrees to pay for additional site preparation costs, a site may be refused as unsuitable because of natural features if site preparation work for the intended public use will require significant excavation of rock, excessive grading or the grading steep slopes, remedial environmental measures or similar work."

"... if the Board finds that the same can be lessened by a rearrangement of lots and streets or other platting devices, the board may require that the subdivision be so rearranged..."

MCPS requests that as a condition of site plan approval, the applicant provide adequate engineered fill for the building and rough grade the remainder of the school site to allow school construction at reasonable cost. Alternatively, if this cannot be done, MCPS will consider another site within the subdivision.

Thank you again for your cooperation and assistance. If you need additional information, please contact me at 301-279-3131 or Mary Pat Wilson, site administration specialist at 301-279-3009.

Sincerely,



Janice Turpin
Real Estate Management Team Leader
Department of Facilities Management

JMT:mpw

Copy to:

Mr. Hawes

Mr. Burke

Mr. Shpur

Mr. Davis

Ms. Witthans

Ms. Schmeleler



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: June 17, 2002
SITE PLAN REVIEW #: 8-02014
PROJECT NAME: Clarksburg Town Center Phase II

Action on Final Water Quality Plan: Approval subject to conditions. Motion was made by Commissioner Bryant and seconded by Commissioner Robinson, with a vote of 4-0, Commissioners Bryant, Robinson, Perdue and Wellington voting for. Commissioner Holmes was necessarily absent.

Action on Site Plan #8-02014: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Robinson, with a vote of 4-0, Commissioners Holmes, Bryant, Robinson, Perdue and Wellington voting for. Commissioner Holmes was necessarily absent.

The date of this written opinion is June 17, 2002, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before July 17, 2002 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed this Site Plan shall remain valid for as long as Preliminary Plan #1-95042 is valid, as provided in Section 59-D-3.8

On May 9, 2002, Site Plan Review #8-02014 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

The Site Plan is consistent with approved Project Plan #9-94004 for the optional method of development;

- 1. The Site Plan meets all of the requirement of the RMX-2 zone, and is consistent with an urban renewal plan approved under Chapter 56;*
- 2. The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*
- 3. Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
- 4. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
- 5. The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection.*

Therefore, the Montgomery County Planning Board **APPROVES** the Final Water Quality Plan for Site Plan # 8-02014 subject to the following conditions:

1. Conformance to the conditions as stated in the May 9, 2002 Department of Permitting Services letter approving the Final Water Quality Plan, attached.

Therefore, the Montgomery County Planning Board **APPROVES** Site Plan #8-02014, which consists of 487 dwelling units (153 SFD, 202 TH's and 132 multifamily units) inclusive of 46 MPDU's on 77.61 acres subject to the following conditions:

1. Standard Conditions dated October 10, 1995, Appendix A
2. Park and School Site
 - A. Per the MCPS Memo of May 2, 2002, attached, the applicant shall provide adequate engineered fill and retaining walls if necessary, for the site and will rough grade the remainder of the school site to allow for school construction at a reasonable cost. Storm water management facilities shall accommodate the MCPS site and shall be located off the MCPS /park site. The forest conservation plan for the MCPS school site is provided for elsewhere within the Clarksburg subdivision.

Within 90 days after the date of the planning board's opinion, the applicant shall provide MCPS with a proposed grading plan for the school site to allow for school construction. Where appropriate, the grading plan may incorporate changes in elevation to accommodate a two-story walkout school building.

MCPS shall have 90 days to review the proposed grading plan and provide comments to the applicant. The final grading plan shall be reviewed by planning board staff and approved prior to completion of the signature set. The signature

set may include 2 phases – one phase will include the entirety of the Park/School Site and the adjacent road and the confronting units. The second phase shall include the remainder of the units in Phase II. The Applicant, MCPS and Planning Board staff shall work to resolve any remaining site grading issues. The matter can be brought back to the Planning Board for discussion if there are any unresolved issues.

- (a) Alternatively, if this cannot be done, MCPS will consider another site within the subdivision pending revision of the applicable Preliminary and Project Plans. (Memo attached)
- (b) M-NCPPC Parks Department shall review and approve all final path locations in the site. Any path that may serve, as a substitute for a public sidewalk shall be reviewed by DPWT.

B. Regarding the ball fields, the plan shall be consistent with condition # 6 of Preliminary Plan 1- 95042 as follows:

Dedication of the proposed park/school, as shown on the Applicant's revised preliminary plan drawing, is to be made to M-NCPPC. In order to facilitate the implementation of the combined park/school facilities, the following provisions apply:

- (a) M-NCPPC and the Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing set out on Circle Page 49 of the Preliminary Plan staff report, attached, will occur prior to the execution of the Site Plan Enforcement Agreement.
- (b) Dedication of the approximately 8 acre area, identified as area "A" on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.
- (c) The Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.
 - (i) In the event that dedication occurs when funds for the proposed school are shown in the CIP, Applicant will complete work on the replacement fields prior to the construction of the proposed school.

- (ii) In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F", as shown on the revised preliminary plan, Applicant will commence work on replacement of the baseball field. In addition, if at Site Plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at Site Plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the Site Plan application.
- (d) Applicant shall acknowledge that there is sufficient earth material on site to construct both fields and agrees to construct the two fields upon commencement of construction of Street "F" referenced in the Preliminary Plan approval, or prior to construction of the proposed elementary school, whichever occurs first.
- (i) The exact location and orientation of the fields to be coordinated with M-NCPPC staff.
 - (ii) The softball field to be full sized with foul lines of 290'.
 - (iii) The soccer field to be full adult size with dimensions of 360' by 220'.
- (e) Final details regarding the Park/School site shall be reviewed by staff and shall reflect the direction of the approved Preliminary Plan # 1-95042 and shall include input from the Parks Department, MCPS and the Applicant for the final design of the ball field and path layout, the metes and bounds survey of dedication prior to recordation, grading, access, storm water management facilities and any other issues as required.
- (f) There shall be no disturbance (or activity to cause them to be unusable) of the existing fields within Kings Local Park until the new fields are constructed. (Note: The applicant acknowledges there is sufficient earthwork to build both ball fields and will do so.)

- (g) Applicant to construct paved hiker/biker trails in the following locations:
- i. Along the east side of Overlook Park Drive from Stringtown Road to Clarksburg Road (Route 121). Per Phase I approval. This trail will be aligned to meet the Clarksburg Greenway Trail from the south side of Stringtown Road.
 - ii. From the Clarksburg Greenway Trail along Overlook Park Drive to the Kings Local Park pond trails (two connections to the pond trail) -per Phase I approval.
 - iii. Along the south side of Clarksburg Road from the pond area trails to the intersection with Piedmont – per Phase I approval.
 - iv. Along the south side of Piedmont from Clarksburg Road to Street “F”- per phase one approval.
 - v. Along the west side of Street “F” from Piedmont to Main Street and continuing along Main Street to the Greenway Trail along Overlook Park Drive – within the right-of way per DPWT standards.
 - vi. Trails are to be constructed to park standards when outside of right-of-way. Exact trail alignments to be coordinated with M-NCPPC and DPWT staff, and should be appropriately located and landscaped to maintain a park like setting while also fulfilling the need for safe, off road transportation in the area.

3. Piedmont Road

- A. The applicant shall pursue the abandonment of the prescriptive right-of-way of Piedmont Road and Burnt Hill Road with Montgomery County prior to recordation of plats for these areas.
- B. The applicant shall not record plats for the units located within the existing prescriptive right-of-way until the county council grants approval of the abandonment request.
- D. The Piedmont Road Abandonment Exhibit, identifying the affected lots, is attached.

4. MPDU's

In order to maintain an equitable balance of MPDU's, all units within Blocks EE and GG of Phase I Site Plan 8-98014 as shown in MPDU exhibit dated May 2, 2002 (attached) will not be constructed until the Planning Board approves a revision of those blocks (proposed to be resubmitted for approval).

5. Waivers Requested And Previously Approved:

- A. Waiver of lots fronting on a public right-of-way Section 50-29-(A)(2) –(Staff recommends approval due to interconnecting grid of streets and it's limited use).
- B. Waiver of closed section streets has been approved with the Project Plan.

6. Environment

- A. Record plats to reflect delineation of a Category I Conservation easement that includes the stream/wetland buffers and forest conservation areas, as shown on the site plan, that are not part of the park dedication area.
- B. Final erosion and sediment control plans shall be submitted to Environmental Planning staff for review and comment prior to approval by MCDPS.
- C. The Final Forest Conservation Plan must be approved and bonded prior to issuance of the sediment and erosion control permit.
- D. The outfall from Pond #3, and any other stormwater management facility or storm drain outfalls which extend into the environmental buffer, shall be field located by applicant's representative, MCDPS, and MNCPPC Environmental Planning staff prior to approval of the stormwater management/sediment-control permits by MCDPS.
- E. MNCPPC Environmental Planning staff shall review and approve detailed design plans for any wetland mitigation sites within the environmental buffers prior to issuance of sediment control permits or authorization to clear and grade any of these facilities.

7. Lighting And Landscape Plan

Street trees species and spacing to reflect the draft Clarksburg Streetscape Study and the proposed lighting plan.

APPENDIX A: STANDARD CONDITIONS OF APPROVAL DATED 10-10-95:

1. 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) Streets tree planting must progress, as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
 - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion.
 - 6) Coordination of each section of the development and roads.
 - 7) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
 - b. Site Plan Enforcement Agreement to reference applicable road construction phasing and park/school agreements.
2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - a. Undisturbed stream buffers at least 150 to 240 feet wide as shown on the site plan.
 - b. Limits of disturbance.
 - c. Methods and locations of tree protection.
 - d. Forest Conservation areas.
 - e. Location of stormwater facility and storm drain outfalls away from forest preservation or other environmentally sensitive areas.
 - f. Conditions of DPS Final Water Quality and Stormwater Management Concept approval letter dated May 9, 2002 and DPS memo of May 2, 2002.
 - g. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - h. The development program inspection schedule.
 - i. Category I conservation easement and park dedication boundary.

- j. Streets trees, as shown, all public streets.
 - k. Centralized, screened trash areas for all multi-family and one-family attached units except townhouses.
 - l. Details for and location of noise fencing to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor back yard area of homes with side yards facing A-305.
3. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
4. No clearing or grading prior to M-NCPPC approval of signature set of plans except to allow rough grading as previously approved with the Preliminary Plan.

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SITE PLAN ENFORCEMENT AGREEMENT

This Agreement by and between Terrabrook Clarksburg, L.L.C. ("Applicant"), and the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ("Planning Board"), is effective the date signed by the Planning Board.

WHEREAS, § 59-D-3.3 of the Montgomery County Code ("Code") requires the Applicant, as part of the site plan review process, to enter into a formal agreement with the Planning Board; and

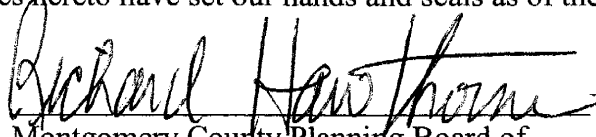
WHEREAS, the Code requires the Applicant to agree to execute all features of the approved site plan noted in § 59-D-3.23 in accordance with the development program required by § 59-D-3.23(m).

NOW THEREFORE, in consideration of the mutual promises and stipulations set forth herein and pursuant to the requirements of § 59-D-3.3 of the Code, the parties hereto agree as follows:

1. The Applicant agrees to comply with all of the conditions set forth in the Planning Board's Opinion and to execute all of the features of approved Site Plan No. 8-02014 ("Site Plan") (Exhibit "A"), including all features noted in § 59-D-3.23, in accordance with the approved Development Program required by § 59-D-3.23(m), attached and incorporated herein by reference.

2. This Agreement is binding on the Applicant, its successors and assigns, and on the land and improvements in perpetuity or until released in writing by the Planning Board.

IN WITNESS WHEREOF, the parties hereto have set our hands and seals as of the date and year set forth below.



Richard Hawthorne
Montgomery County Planning Board of
The Maryland-National Capital Park and
Planning Commission

10/14/04

Date

APPROVED AS TO LEGAL SUFFICIENCY

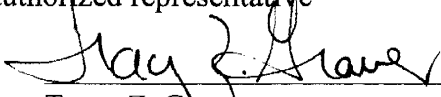
TAB

M-NCPPC LEGAL DEPARTMENT

DATE 10/14/04

TERRABROOK CLARKSBURG, L.L.C.,
a Delaware limited liability company

By: WESTERRA MANAGEMENT, L.L.C.,
a Delaware limited liability company,
its authorized representative

By: 

Tracy Z. Graves
Assistant Vice President

EXHIBIT B

**RESIDENTIAL
DEVELOPMENT PROGRAM – SITE PLAN NO. 8-02014**

The Project will be developed in 1 phase as set forth in this Development Phasing Plan.

| Phase | Units/ Lots in Phase | ID Common Areas in Phase | Local Recreational Facility in Phase * | Community Wide Recreational Facilities * | Plat Recordatio n Due Date for Phase | Begin Construction of Units (estimated) | Turnover Common Area/ Community Wide Facilities to HOA (estimated) |
|-------|--|---|--|--|---|--|---|
| 1 | 487 (including 46 MPDUs to be constructed along with, or preceding market rate units, and the last building built must not contain only MPDUs) | Parcel H, Block A; Parcels A, B, C, Block J; Parcels A, D, Block M; Parcel A, Block N; Parcel B, Block R; Parcels A, C, Block V; Parcel A, Block W; Parcel A, Block X | Nature trail, lawn seating, arbors, tot lot, pathway, park/school site | Community Center w/mtg. rooms, exercise room, pool; playgrounds; neighborhood parks and trails | 3/26/05 | 10/01/03 | 06/01/05 |

* See Site Plan for details.

1. (a) Applicant will complete the following site plan elements prior to occupancy of units constructed in that phase or section, as applicable:

- (1) Paving of roads (excluding final topping)
- (2) Parking areas
- (3) Sidewalks (on-site)
- (4) Lighting (street and parking lot)
- (5) Grading
- (6) Landscaping (adjacent to building(s))
- (7) Foundation landscaping (single-family dwellings)
- (8) Pathways (only when located between two residential units)
- (9) Fences or noise berms

(b) Applicant will complete the following site plan elements prior to 70% occupancy of approved units in that constructed phase or section, as applicable.

- (1) Sidewalks (off-site)
- (2) Pedestrian pathways and bikeways
- (3) Parking lot and perimeter landscaping
- (4) Recreation facilities
- (5) Landscaping

- (6) Final topping of roads and parking lots in areas with completed residential units
- (c) Street tree planting must progress as street construction is completed, but no later than (6) months after completion of the units adjacent to those streets.
- (d) Other stipulations as required by the PLANNING BOARD and detailed in Exhibit B-1, attached and incorporated herein. If no other stipulations are required, Exhibit B-1 to be attached stating "None."
- (e) Applicant shall send written notice to MNCPPC's Inspection Unit to initiate scheduling of site inspections at the following milestones:
 - (1) Applicant shall conduct a preconstruction meeting with MNCPPC staff and MCDPS sediment control staff prior to clearing and grading.
 - (2) At 70% occupancy.
 - (3) At 100% completion.

2. (a) Local Recreational Facilities

The Local Recreational Facilities, including all required improvements and associated Common Area for each Phase, shall be conveyed to the Association by the earlier of:

- (1) the date that applicants have closed on title to seventy percent (70%) of lots or units planned with such Phase; or
- (2) 36 months from the date of receipt of the initial building permit for a lot or unit in that Phase.

(b) Community-Wide Recreational Facilities

- (1) All Community-Wide Recreational Facilities and related Common Areas must be completed and conveyed to the Association as established in the above Phasing Plan. If Phases are delayed, all uncompleted Community-Wide Facilities must be completed and turned over no later than the earlier of the receipt of a building permit for the 341st unit within the area covered by Site Plan 8-02014 or by January 1, 2007 ("Community-Wide Facilities Completion Date"). All unconveyed Common Areas (whether or not associated with local or Community-Wide Recreational Facilities) also must be transferred to the Association by the Community-Wide Facilities Completion Date.

3. General Provisions

- (a) Before conveyance to the Association, all lot owners shall have the right to access and make use of all Common Areas, except those areas as may reasonably and necessarily be restricted by Applicant for temporary safety reasons.
- (b) Applicant must construct all Recreational Facilities and convey such facilities and related Common Areas within the time frames contemplated in the Phasing Schedule and in these binding elements. Applicant must arrange for inspections by staff to ensure that all facilities are timely, correctly and completely constructed.
- (c) All local Community-Wide Recreational Facilities shall be designed and constructed in accordance with Parks Department standards, criteria, and MNCPPC's adopted Recreational Facilities Guidelines.
- (d) Applicant shall warrant to the Association that all facilities have been constructed in a good and workmanlike manner and are fit for each of their intended purposes.
- (e) Unless the Planning Board has agreed to modify the Phasing Schedule, the Applicant's failure to timely complete and turn over facilities and Common Areas shall operate to preclude Applicant from receiving any additional building permits for that particular phase and all remaining phases until such time as the default is cured.
- (f) The Applicant may seek an amendment to any regulatory approval for the purpose of modifying the location and amount of real property comprising the common area and for the purpose of modifying the improvements to be constructed on such common area, including, but not limited to, the right not to construct such improvements, which amendment shall be reviewed by the Planning Board in accordance with applicable law. Such amendment shall be effective only if approved by the Planning Board.

4. Applicant has entered into a Land Exchange Agreement, dated June 16, 2004 ("Land Exchange Agreement"), and Construction and Grading Easement Agreement, dated June 28, 2004 ("Easement Agreement"), with Montgomery County Public Schools and MNCPPC concerning the park/school site, per Conditions 6 and 7 of Preliminary Plan No. 1-95042, repeated herein verbatim. To the extent the following conditions of preliminary plan approval conflict with any provisions in the Land Exchange Agreement or Easement Agreement, the provisions of the Land Exchange and Easement Agreements control:

- "6. *Dedication of the proposed park/school, as shown on the Applicant's revised preliminary plan drawing, is to be made to M-NCPPC. In order to facilitate the implementation of the*

combined park/school facilities, the following provisions apply:

- (a) M-NCPPC and the Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing set out on Circle Page 49 of the staff report, will occur prior to the execution of the Site Plan Enforcement Agreement.*
- (b) Dedication of the approximately 8 acre area, identified as Area "A" on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school area added to the County CIP, whichever occurs first.*
- (c) The Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.*
 - (i) In the event that dedication occurs when funds for the proposed school are shown in the CIP, Applicant will complete work on the replacement fields prior to the construction of the proposed school.*
 - (ii) In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F", as shown on the revised preliminary plan, Applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the site plan application.*

7. *In accordance with Condition #6 above, Applicant to enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Parks' Memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur as specified in Condition #6.*"

5. Applicant shall comply with the terms of the Adequate Public Facilities Agreement for Clarksburg Town Center dated March 8, 1999, including the phasing requirements set forth in Condition No. 16 of Preliminary Plan No. 1-95042 as follows:

"16. The following phasing requirements are conditioned upon issuance of building permits for the subject preliminary plan:

(a) The first 44 dwelling units without any off-site road improvements.

(b) After the 44th building permit, the developer must start reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.

(c) After the 400th building permit, the developer has two options:

1) Construction of A-260 from MD 355 to the southern access road of the commercial site (commercial access road between A-260 and P-5) and construction of P-5 across the stream valley into the residential area north of stream valley.

2) Construction of A-260 from MD 355 to the northern access road of the residential development and construction of a northbound right-turn lane along MD 355 at A-260 should be included in this phase.

(d) After the 800th building permit, the developer must start construction of remaining section of A260 to A-305 and intersection improvements at MD 355 and MD 121 to construct eastbound and westbound left-turn lanes along MD 121.

(e) Construction of A-305 from A-260 to MD 121 must begin when the developer starts building any of the residential units on blocks 11, 12, 13, and the northern half of block 10,"

Exhibit B-1

ATTACHED SITE PLAN OPINION

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Witthans, Wynn

From: Gee, Richard [Richard.Gee@montgomerycountymd.gov]
Sent: Thursday, January 27, 2005 8:34 AM
To: Witthans, Wynn
Cc: jstrullic@cpja.com; Jeff Seidleck
Subject: RE: CTC Manor Homes

Wynn,

Based on the information submitted to me by CPJA, Inc., the proposed site plan revision for the Manor Home units should not adversely impact the water quality features of this drainage area. The revision has a relatively similar impervious area to the original design of water quality structure #10. All future impervious increases should be forwarded to this office for review. Thank you again, Richard

Richard I. Gee, CPESC, CPSWQ
Senior Permitting Specialist
Montgomery County
Department of Permitting Services
255 Rockville Pike
Rockville, Maryland 20850
richard.gee@montgomerycountymd.gov
Desk 240-777-6333
Fax 240-777-6339

-----Original Message-----

From: Witthans, Wynn [mailto:Wynn.Witthans@mncppc-mc.org]
Sent: Tuesday, January 25, 2005 3:14 PM
To: Gee, Richard
Subject: CTC Manor Homes

Reminder!!!!!! Can you give me call by Thursday the 27th letting me know what is further required from your office to allow the Planning Board to review the Manor Home amendment? Thnaks Richard, Wynn

- b. All light fixtures shall be full cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.

3. Forest Conservation

The applicant shall comply with the earlier conditions of approval from M-NCPPC-Environmental Planning in the memorandum.

4. Stormwater Management

The proposed development conforms to the earlier approvals for the Stormwater Management Concept approval and the Final Water Quality Approvals for Site Plans 8-98001G and 8-02014B.

SITE PLAN REVIEW ISSUES

I. Plan Review Comments

Staff has commented on the Manor Home applications to improve pedestrian circulation, foundation landscaping and screening adjacent to each unit.

Applicant's Proposal

The applicant has amended the plans to satisfy staff comments.

Community Position

Staff has received no direct comments from citizens regarding this proposal. The applicant has met with the citizens and they report the citizens were interested in architectural finishes and extra off street parking for the building in Phase I.

Staff Analysis/Position

The applicant has amended the plans to conform to staff comments regarding landscaping and screening and lighting. Staff has not received any revisions regarding parking amendments to date. The Planning Board does not typically review architectural finishes; again staff has not received any amendments to review.

II. Citizen concerns about Building Height for other buildings in Phase I and II.

Some of the new residents of Clarksburg Town Center have expressed concerns about the height of the four-story Bozzuto multifamily buildings (one built and occupied and one unbuilt) and the Craftstar four-story multifamily buildings (2 over 2) (unbuilt). These buildings, however, are not included within the scope of this application. The residents believe the height of those specific buildings, as designed and constructed (as applicable), do not comply with prior approvals and have requested that the Board take certain action pursuant to its authority under the Zoning Ordinance. Staff will soon schedule an item before the Board, pursuant to Zoning Ordinance Section 59-D-3.6 (Failure to comply), in order to obtain a Planning Board determination on the question of compliance.

Staff anticipates no testimony on the building height issue with this Manor Home amendment.

PROJECT DESCRIPTION: Site Vicinity

The proposed lots are within Clarksburg Town Center, a subdivision with a potential of 1,300 units as approved in Preliminary Plan # 1-95042. CTC is located east of MD Route 355 and south of Clarksburg Road, and east of the Clarksburg Road intersection with I-270. Clarksburg Road, Snowden Mill Parkway (A-305), Stringtown Road and the historic district that encompasses MD Route 355, just beyond the site to the east, define the boundaries of the site.

The headwaters of the Little Seneca Stream Valley create the basis of the open spaces preserved internally. The M-NCPPC Greenway Trail will bisect the project and will connect to Little Bennett Park to the north and to Clarksburg Village and M-NCPPC Ovid Hazen Wells Park further to the southeast.

PROJECT DESCRIPTION: Site Description

The proposed units are within the neo-traditional grid of Clarksburg Town Center and sites are either defined by the adjacent buildings, streets and rough graded lots or are not yet developed and are still in mass graded condition. The subject properties front the following streets: Catawba Hill Drive, Clarksburg Square Road, Clarksburg Square Road, and Clarksburg Road.

CLARKSBURG, TOWN CENTER (8-02014B) P 8-98001G



Map compiled on October 07, 2004 at 10:16 AM | Site located on base sheet no - 233NW13

NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



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Research & Technology Center



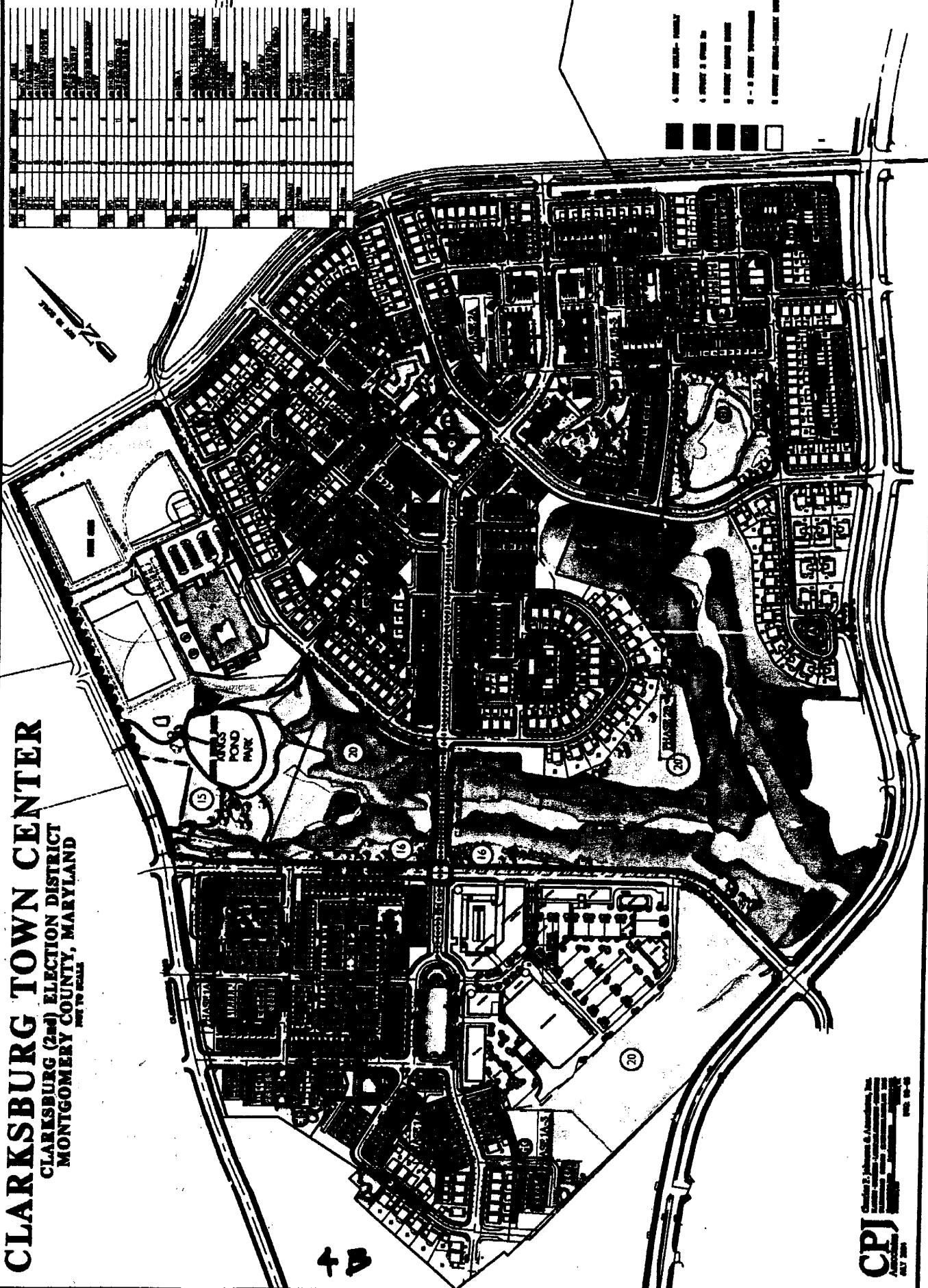
1 inch = 800 feet
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

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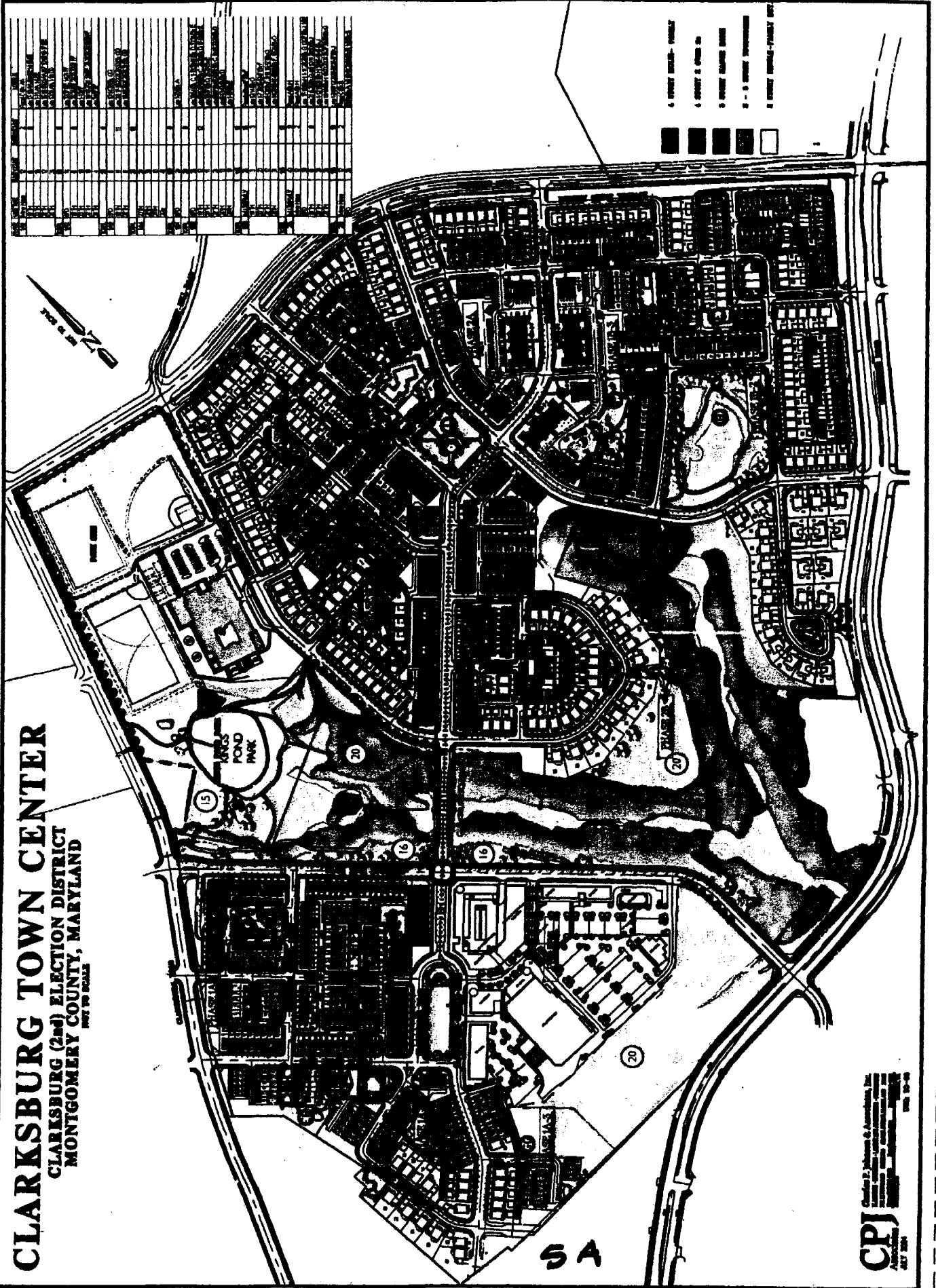
CLARKSBURG TOWN CENTER
 CLARKSBURG (2nd) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND
NOT TO SCALE



4B

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 CONSULTING PLANNERS & ARCHITECTS, INC.
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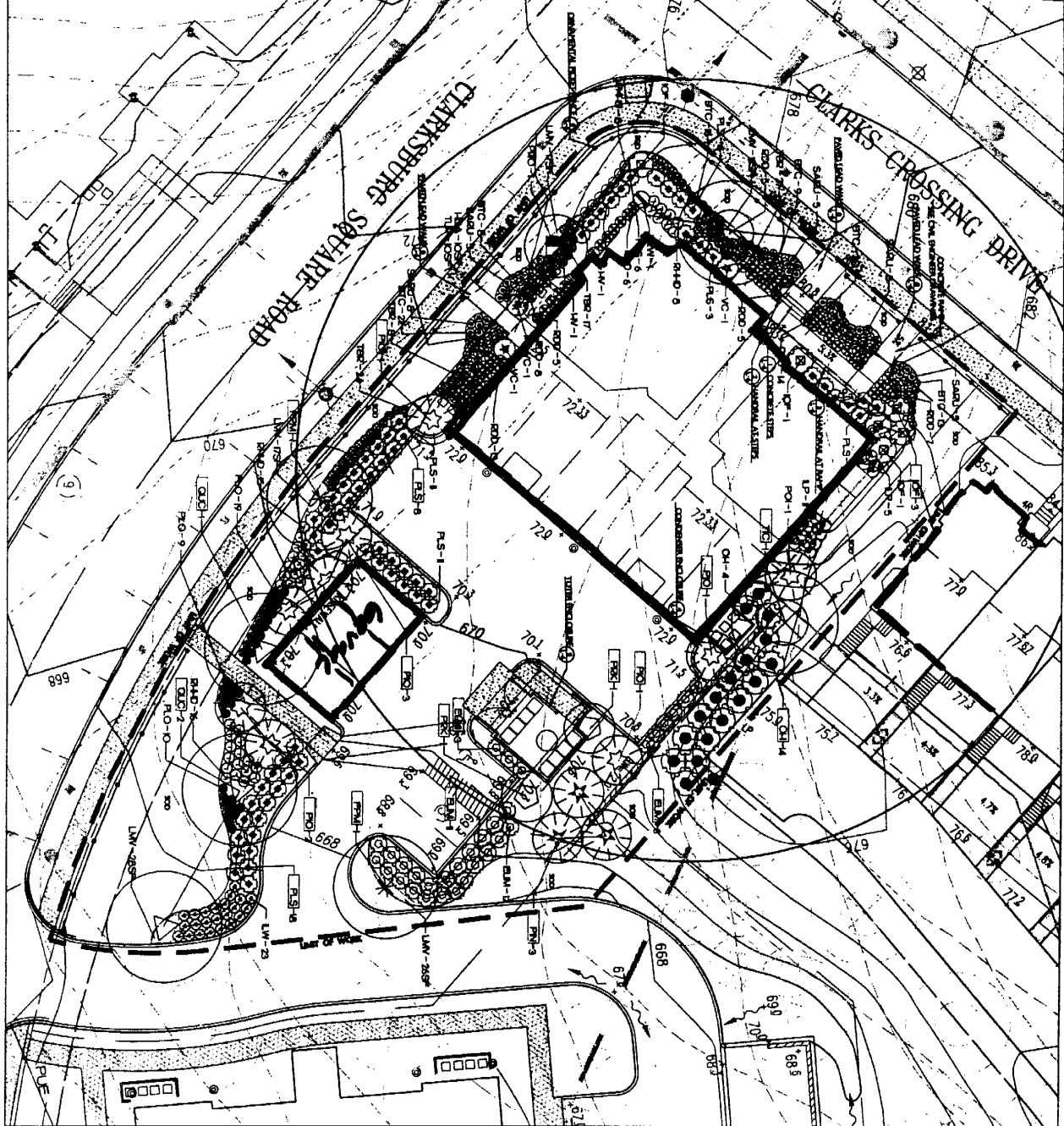
CLARKSBURG TOWN CENTER
 CLARKSBURG (2nd) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND
NOT TO SCALE



SA

BUILDING #7 - LANDSCAPE PLAN

NOTE: PROVIDE HANDRAILS ON ALL STAIRS AND RAMPS EXCEEDING 5% SLOPE.



LEGEND

- ★ LANDSCAPE ACCENT
- LIGHT POLE
- AIR CONDITIONER

SCALE: 1" = 10'



M.N.C.P.C. APPROVALS

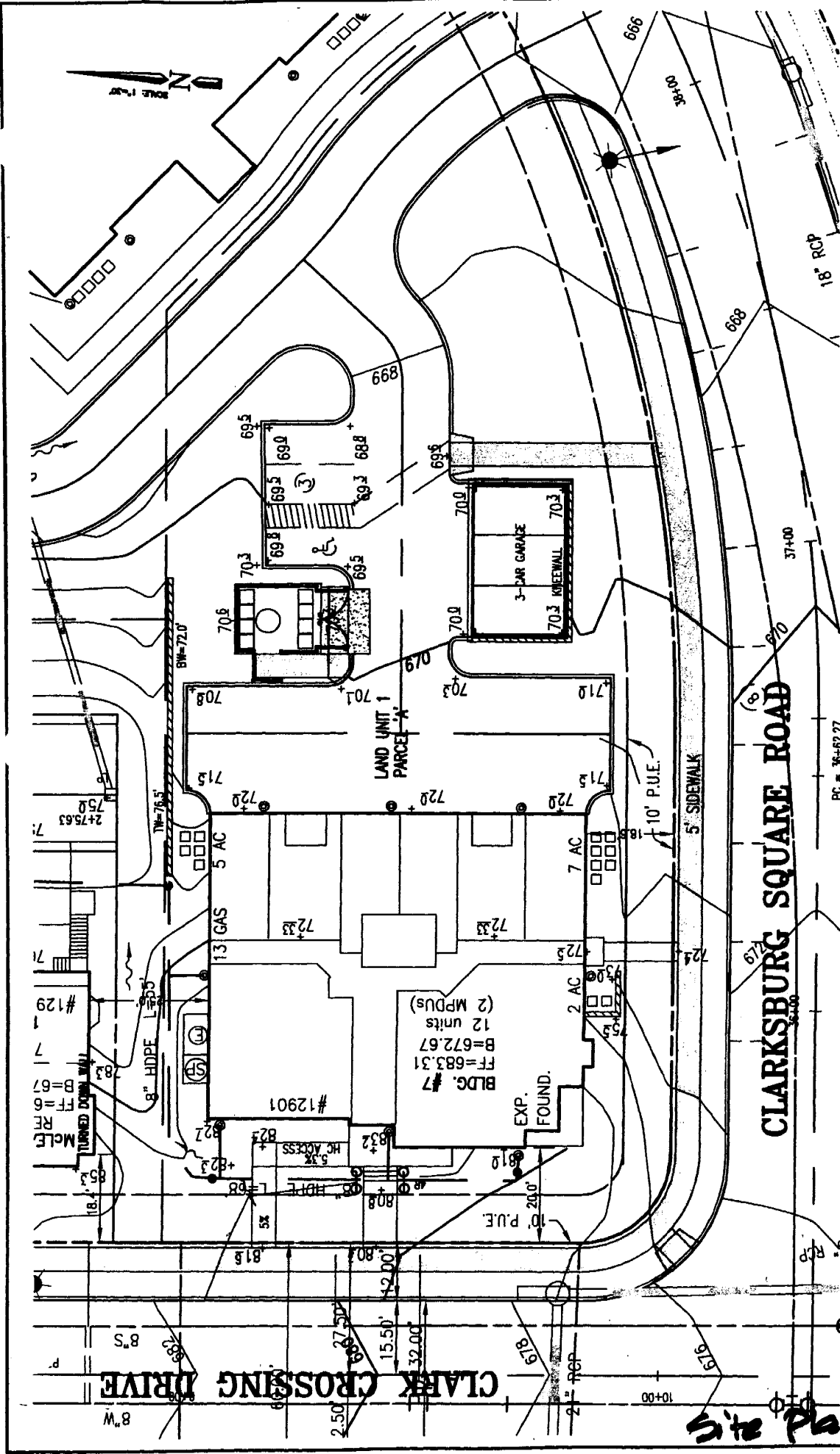
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Landscape Plan 7 5B

THE BOZZUTO DEVELOPMENT COMPANY
 PHASE I & II
 CLARKSBURG TOWN CENTER
 CLARKSBURG MULTIFAMILY MANOR HOUSES
 CLARKSBURG (2ND) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND

LandDesign .
 6414 Power Street, Suite 400 Alexandria, VA 22314
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CPI ASSOCIATES
 Charles F. Johnson & Associates, Inc.
 11000 Lee Highway, Suite 1000 Fairfax, VA 22030
 V: 703.261.1100 F: 703.261.1101
 www.cpiassociates.com



MANOR HOUSE - BLDG. #7
 CLARKSBURG TOWN CENTER

CLARKSBURG (2nd) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND
 DATE: AUG.04'
 BY: mes
 SCALE: 1"=30'

Charles P. Johnson & Associates, Inc.
 PLANNERS - ENGINEERS - LANDSCAPE ARCHITECTS - SURVEYORS
 175 BELTON ROAD SUITE 300 SILVER SPRING, MARYLAND 20903
 Phone: (301) 64-7000 E-mail: cpj@cpja.com Fax: (301) 64-5994
 FREDERICK, MD FAIRFAX, VA

CPJ
 Associates

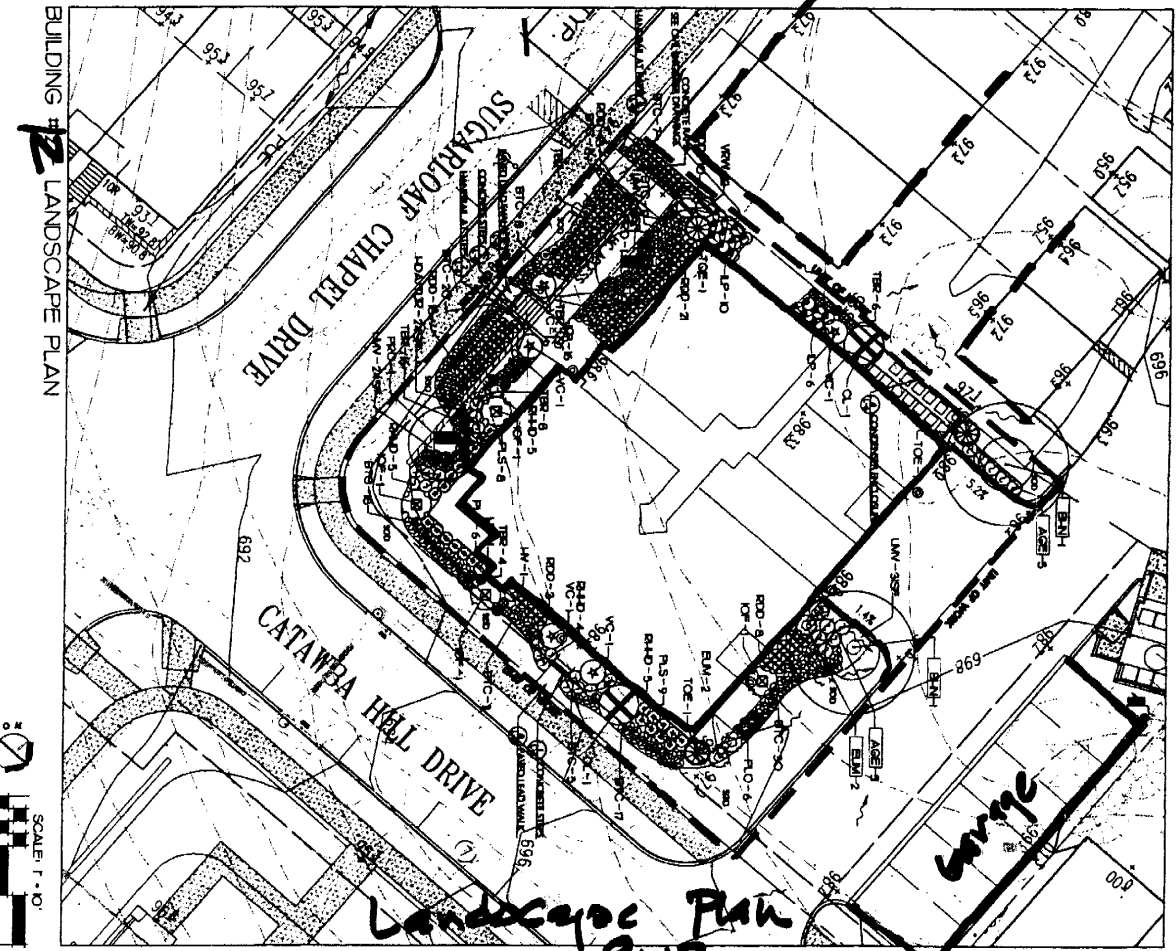
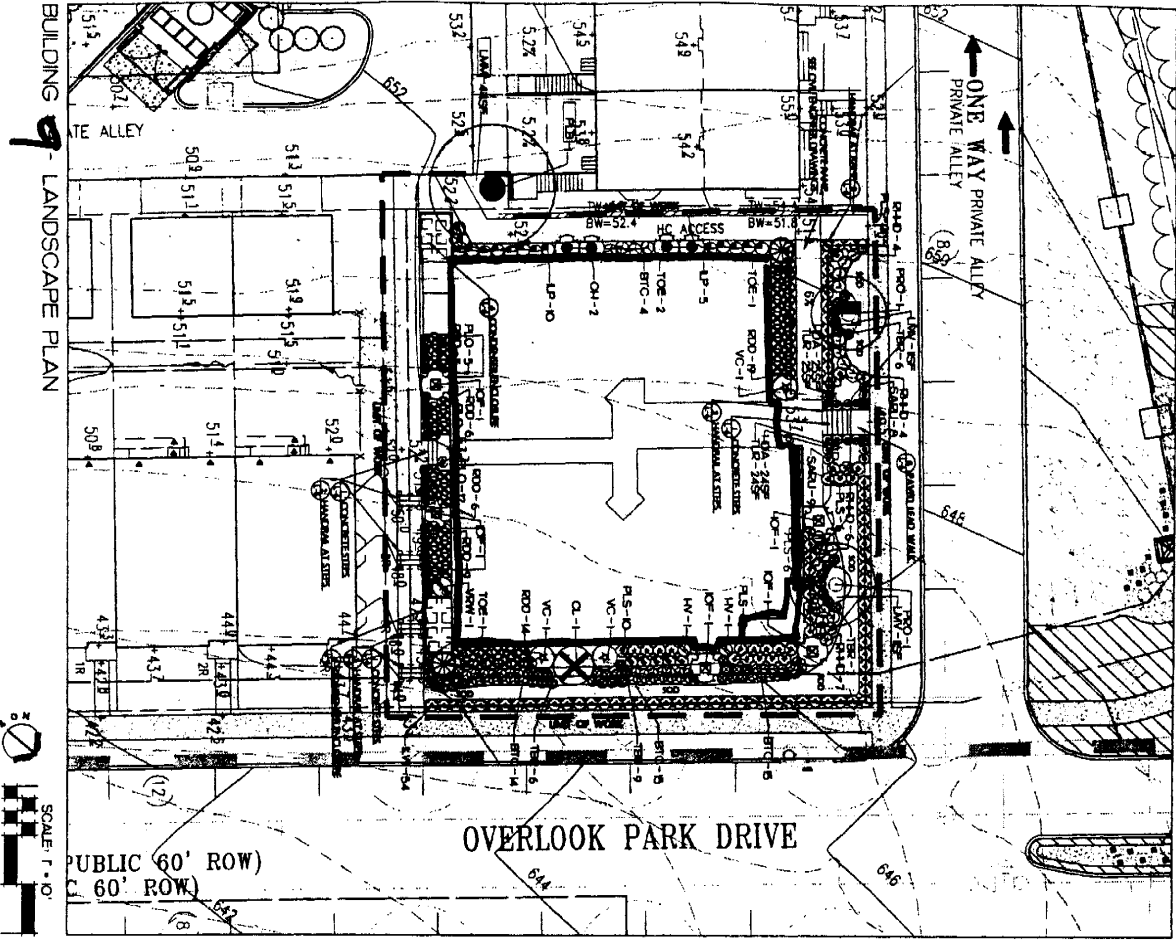
Site Plan 7

50

LEGEND

| | |
|---|-------------------|
| + | EXISTING ACCESS |
| + | PROPOSED ACCESS |
| + | EXISTING DRIVE |
| + | PROPOSED DRIVE |
| + | EXISTING SIDEWALK |
| + | PROPOSED SIDEWALK |
| + | EXISTING CURB |
| + | PROPOSED CURB |
| + | EXISTING ASPHALT |
| + | PROPOSED ASPHALT |
| + | EXISTING CONCRETE |
| + | PROPOSED CONCRETE |

NOTE:
PROVIDE HANDRAILS ON ALL STAIRS AND RAMPS
EXCEEDING 5% SLOPE



Landscape Plan 9, 12



REVISIONS

| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |

THE BOZZUTO DEVELOPMENT COMPANY
1400 Golden Triangle Plaza, Suite 200, Bethesda, Maryland 20814
Phone 301.229.2200 Fax 301.229.2202

PHASE I & II
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