

## **E. Conclusion**

Staff reviewed the Preliminary Plan for compliance with Chapter 50, the Montgomery County Subdivision Regulations. Staff found that, with its recommended conditions, the Preliminary Plan complies with all applicable sections of the Regulations and is in substantial conformance to the Master Plan. The lots as proposed conform to the PD-15 standards and adequately address the development issues accounted for with this application.

## **VI. PLANNING BOARD HEARING<sup>2</sup>**

### **A. Introduction**

On April 7, 2005, the Preliminary Plan was brought before the Planning Board for a public hearing in accordance with the requirements of Art. 28, Md. Ann. Code ("Regional District Act"), Chapters 50 ("Subdivision Regulations") and 59 ("Zoning Ordinance") of the Montgomery County Code, and the Planning Board's Rules of Procedure. At the public hearing, the Planning Board heard testimony regarding the Preliminary Plan from Staff and representatives of the Applicant in support of the Preliminary Plan and from representatives of several of the community groups in the vicinity of the Property, including Save Our Seminary, the Seminary Advisory Board, Preservation Montgomery, Linden Civic Association, Forest Glen Park Homeowners Associations, individual property owners in the neighborhood and interested citizens. Before and during the hearing, the Planning Board received evidence submitted in the record on the Preliminary Plan, including, without limitation, a Staff Report and analysis of the Preliminary Plan, a vicinity map, plan drawings, plans for Linden Lane, a PowerPoint presentation prepared by the Applicant, a traffic study submitted by the traffic expert retained by the Applicant, various renderings and elevations, various other exhibits, and correspondence from the Applicant in support of the Preliminary Plan and information on the requested waivers.

In its report and through testimony at the public hearing, Staff described the Property, the proposal, and the surrounding neighborhood. Staff recommended approval of the Preliminary Plan, with conditions. Staff described the conditions of approval and certain revisions to those conditions.

The Applicant was represented by legal counsel and submitted a list of suggested revisions to Staff's revised conditions of approval. The Applicant confirmed that, with these additional revisions, it was in agreement with Staff's recommended conditions of approval.

---

<sup>2</sup> Both the Preliminary Plan and Site Plan hearings were held concurrently. As such, the summary of what took place at the Planning Board hearing includes both Preliminary Plan and Site Plan issues.

The main issue raised at the hearing related to the appropriate right-of-way and width of paving for the section of Linden Lane fronting the Property. Other issues raised by certain speakers included traffic, inadequate off-site sidewalks, pedestrian safety and a lack of recreation facilities in the community. All of these issues were addressed by Staff, the Applicant and the Board.

#### **B. Right-of-way and Paving of Linden Lane**

There was a significant amount of testimony offered on the treatment of Linden Lane. Some speakers expressed the desire for a narrow right-of-way, and pavement on Linden Lane to preserve existing character, and provide a traffic-calming effect, among other issues.

Staff testified to its recommendation that the Applicant provide two ten-foot wide travel lanes, one eight-foot parking lane along the northern curbside, two five-foot planting strips, two five-foot sidewalks, and two two-foot maintenance strips beyond the sidewalks within a 52-foot wide right-of-way. This cross section will be provided between Stephen Sitter Lane and the private driveway near the Japanese Pagoda where the historic buildings constrain the right-of-way at Lots 57 (Japanese Pagoda) and 58 (Swiss Chalet), Staff recommended a 21-foot wide total paving section and extending the right-of-way to maintain two-feet behind the curb and gutter. Staff further recommended a 26-foot wide right-of-way from the centerline and a total pavement width of 26-feet where other historic features such as walls constrain lot size, and the road's sharp curve on a down slope exists at this location. This is necessary for safety reasons and will still provide a consistency with the nearby reduced right-of-way width on Linden Lane between Woodstock Avenue and Stephen Sitter Lane.

The Applicant, in its rebuttal testimony, reiterated its treatment of Linden Lane and requested that the Planning Board reduce the dedication requirement recommended by Staff from 26 feet to 20 feet in width from the centerline of Linden Lane, between the existing private bridge and the proposed lot line between Lots 58 and 59. After carefully considering this testimony, the Planning Board agreed that the dedication requirement for this particular location should be reduced as requested by the Applicant. The Board found that, based on testimony by Staff, the width of the actual paving would not be reduced. However, the Board found that it would be preserving the historic character of the site by requiring less dedication since less dedication would make it more likely that Linden Lane would not be widened in the future. Moreover, the Board found that a narrower road not only preserves the historic nature of the site, but also facilitated traffic calming.

In addition, the Applicant requested a change to Staff's condition No. 13(j) of the Preliminary Plan regarding the right-of-way and paving of Linden Lane between Stephen Sitter Lane and the eastern property line near Smith Drive to more accurately reflect the agreement between the Applicant and DPWT regarding the width of paving.

The Planning Board found that the revision requested is technical in substance and agreed to the revision.

Community members also suggested that, as part of the Project, traffic calming measures should be incorporated to address excessive speed on Linden Lane and pedestrian safety. Individuals also expressed frustration with excessive cut through traffic. The Applicant, in its explanation of the Project, reiterated that what was proposed to calm traffic is a narrow lane width between Stephen Sitter Lane and Woodstock Avenue, coupled with the existing speed hump and proposed raised crosswalk near Street B. Staff noted and the Planning Board agreed that the Project does not trigger any congestion threshold criteria that would require traffic mitigation measures off-site. Therefore, requests for a reduction in cut-through traffic, traffic-calming measures, and sidewalks outside the limits of the Project must follow the procedures as outlined by DPWT.<sup>3</sup>

### **C. Traffic Signal**

Transportation Planning Staff recommended that the Applicant participate in funding the installation of a traffic signal at this location. The Applicant's contribution, according to Staff was justified because it mitigates their trips at this location, and potentially enhances safety and convenience for the residents of the development, and the neighboring communities. The Applicant, in its rebuttal, and certain citizen and community testimony, all objected to Staff's recommended condition regarding the pro rata contribution for a traffic signal, arguing that it was not this Applicant's responsibility to resolve a problem that has existed long before this application. After careful review of the evidence presented in the record, the Planning Board found that the need for this traffic signal was not created by the Applicant's development proposal and concluded it would not require the Applicant to contribute to a traffic signal for the intersection, and consequently deleted proposed Condition No. 16 of the Preliminary Plan.

### **D. On-Site Sidewalks**

There were two issues raised related to on-site sidewalks. The first issue related to Staff's proposed condition No. 15 of the Preliminary Plan requiring an 8' off-road, shared use bikeway parallel to Linden Lane between the existing private bridge and the private driveway near the Japanese Pagoda. The Applicant argued that it should only be 5' wide since the sidewalk on either side of the proposed 8' bikeway was only 5' wide. The Applicant further argued that 5' was in keeping with the historic character of the site and noted that the 5' width had been approved by MHT as further support that it

---

<sup>3</sup> Other concerns expressed by speakers related requests for the County to link the metro station and Montgomery Hills shopping area. There also was a request to establish bus routes from the Subject Property and surrounding communities to the Forest Glen Metro Station. Again, Staff reiterated and the Planning Board agreed that these concerns must be addressed by County agencies and are not issues related to review of this application.

was in keeping with the historical nature of the site. The Planning Board found that the 5' width was appropriate for historical preservation purposes.

The second issue involved the narrow right-of-way at the west end of the site, which leaves no room for sidewalks until a point farther north, near the bridge where Linden Lane crosses over the Beltway. Both Staff and the Applicant agreed that pedestrian access must be provided from the fully developed portion of the road to the sidewalk that goes over the bridge. This will be achieved by extending the sidewalk into the Subject Property, north of the Pagoda, and connecting it back to Linden Lane further north.

#### **E. Vehicular Access, Circulation, and Parking**

As part of the hearing, there was testimony offered on roadway design, sidewalks and right-of-way widths, all of which reflect the goals of balancing historic preservation while providing safe vehicular and pedestrian passage within and through the Subject Property. The reduced pavement widths, coupled with the proposed raised crosswalk on Linden Lane at Street B, and the reconstruction of the existing speed hump, provide traffic-calming effects on Linden Avenue within the limits of the Property. The Applicant argued that it needs DPWT's approval to provide a raised crosswalk as required by Condition No. 13(h) of the Preliminary Plan. The Planning Board agreed to modify Condition No. 13(h) to begin with "Subject to DPWT approval, . . . ."

The Preliminary Plan provides 579 parking spaces if the optional parking deck is constructed; otherwise 528 spaces will be provided. The required parking spaces for the Project are 504. The final number of parking spaces will be determined at the time of site plan review for Phase 2. On-street parking will be accommodated along one side of Linden Lane between Woodstock Avenue and Stephen Sitter Lane.

Transportation Planning Staff concluded that the access, circulation, and parking spaces provided for the Project are adequate, safe, and will operate efficiently.

#### **F. Environmental**

Staff identified several areas where a stream valley buffer may have an encroachment but thereafter suggested that Staff and the Applicant had worked very hard to minimize any encroachment and impact on the environment. Staff noted that full restoration of the buffer to natural conditions would be contrary to the historic restoration for these nationally recognized historic landmarks.

One speaker at the hearing questioned whether the Applicant was meeting all of the requirements of the Forest Conservation laws since certain trees were being removed to accommodate the Project. The Applicant, in its rebuttal, as well as Staff in their testimony, reiterated that all Forest Conservation laws were being followed with the retention of 8.70 acres of the 11.7 acres of existing forest on the Property. The entirety

of the Glen will be placed in a forest conservation easement and protected for its historic value, visual contributions and environmental benefits. Protection of the large and specimen trees on the property is integral to the requirements of the Forest Conservation Plan. Mitigation for the existing and proposed encroachment within the stream valley buffer is being addressed through an enhancement package.

#### **G. Stormwater Management**

As part of the Applicant's direct testimony and also on rebuttal, the Applicant discussed stormwater management for the Property. Because of the age of the development, the Subject Property does not currently have storm water controls. The Applicant's engineer testified that the proposed stormwater management system will maintain natural drainage patterns while adding quality control and channel protection (quantity control) measures. The Applicant submitted a storm water concept plan to the Department of Permitting Services ("DPS") in November 2004, and that plan has been approved. The Applicant's civil engineer also testified that, while impervious surface may increase somewhat with the adaptive reuse of the Property, with modern storm water management controls, the net effect will be to improve the quality of run-off, decrease its quantity and make some stream channel improvements.

#### **H. Off-Site Sidewalks and Recreational Amenities**

There were several speakers from the surrounding neighborhood who testified to the lack of sidewalks in their neighborhood as well as the lack of recreational amenities. Staff testified that the on-site amenities included the trail connections, new trailhead and open spaces that were designed to accommodate and serve not only the new residents but the existing residents as well. The Planning Board found that the on-site recreational amenities met the requirements for development of the site and that any off-site sidewalks and/or recreational amenities would need to be addressed through the County's CIP program.

#### **I. On-Site Recreational Facilities**

At the public hearing, the Planning Board heard testimony from certain individuals concerned about the lack of community-wide recreation facilities. The Applicant testified that recreational facilities on the Property consist of a variety of outdoor activities such as open lawn areas, nature trails and pathways, including the interpretive trail and picnic and seating areas. The interpretive trail provides access from the Glen at the northern boundary to the entrance of the Rock Creek trail. Interpretive signs will be placed along the hard surface trail to include history of the site and specific architectural and scenic amenities within the Seminary property. Indoor activity areas include a fitness facility and exercise room as well as a community room located within the existing Ballroom. The community room is scheduled for use as a neighborhood community facility. Staff confirmed that the Project satisfied the County's Recreation Guidelines.

**J. Waivers**

**i. Building Setback and Height Waiver**

The Applicant requested a waiver of the setback and height requirements pursuant to Section 59-C-7.15(b)(1), providing that "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. A waiver may be granted by the Planning Board, pursuant to subsection (d), if, "the site is within close proximity to a historic district and the Planning Board finds that reduced setbacks or increased building height will facilitate the preservation, reuse, or redevelopment of a designated historic district and the immediately adjoining property will not be adversely affected by the waiver." Specific setback and height requirements will be established by the Planning Board at Site Plan approval.

The Applicant's attorney stated in a letter dated November 18, 2004, and Staff agreed, that the Project satisfies the waiver requirement. The waiver is essential for the development of new units on the Property south of Linden Lane that adjoins M-NCPPC parkland and federal government property, as well as the Property north of Linden Lane along Smith Road that adjoins federal government property. The waiver also is necessary to redevelop certain units within the historic structures on the Property north of Linden Lane. According to the Applicant, the new development unquestionably facilitates the preservation, reuse or redevelopment of a designated historic district. The County Council made this similar finding as part of the rezoning approval and recommended that this waiver be granted.

The Applicant's attorney also stated, and Staff agreed, that the development resulting from the waiver will be compatible with the immediately adjoining property and the surrounding neighborhood. The property that is adjacent to the area that involves the waiver request is either federally owned land or parkland. As such, granting a waiver does not adversely affect immediately adjoining property or compromise the compatibility with the surrounding neighborhood.

The Planning Board finds that the reduced setbacks and increased building height will facilitate the preservation, reuse, and redevelopment of a designated historic district and the immediately adjoining property will not be adversely affected by the waiver. As such, the Board grants this waiver request.

**ii. Right-of-Way Width Waiver**

The Applicant requested a waiver pursuant to §50-38 of the Subdivision Regulations to permit a right-of-way width along Linden Lane, which, at certain points, is less than required per §50-26(a). The Applicant's attorney stated in a letter dated November 18, 2004, and Staff agreed, that the waiver is necessary to maintain the

historic character of the area, to protect and preserve specimen trees and other natural features, and to preserve existing historic structures. The Applicant, Staff, certain members of the community and the Board spent a significant amount of time discussing the vision for Linden Lane, appropriate rights-of-way, sidewalks, planting strips and the width of paving. The Applicant presented plans for the entire section of Linden Lane that fronts the site (on both side of Linden Lane), including paving width, inclusion of sidewalks and planting strips on both sides of Linden Lane, and parking on the north side of Linden Lane, and specifically explained that the Applicant, the Montgomery County Department of Public Works and Transportation ("MCDPWT") and Transportation Planning Staff had agreed on a varied road section for Linden Lane that would require the waiver. Furthermore, DPWT indicated in its correspondence to the Planning Board that it would look to the Planning Board to set the right-of-way for Linden Lane.

The Planning Board finds that this development presents a unique circumstance given the scale of the historical preservation proposed on the site, that the waiver is the minimum necessary to provide relief from the section, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest. As such, the Board grants the waiver.

iii. Waiver to Permit a Building Crossing a Lot Line

Section 50-20(b) of the Subdivision Regulations states that, "A building permit may not be approved for the construction of a dwelling or other structure, except those strictly for agricultural use, which is located on more than one (1) lot, which crosses a lot line, which is located on the unplatted remainder of a resubdivided lot, or which is located on an outlot...". The Applicant requested a waiver of this provision, pursuant to Section 50-38 of the Subdivision Regulations to permit lot lines to be created through an existing historic structure.

The Applicant's attorney, in letters dated March 24, 2005 and April 5, 2005, and in his rebuttal statement at the public hearing, stated that this waiver is necessary for the adaptive reuse of the Property since the Main Building will be developed as both condominium and rental units, which, for this Project, requires separate ownership of the underlying property for each use

Staff indicated this type of justification does not constitute "practical difficulties or unusual circumstances" that would support a waiver. Staff also indicated it is not good planning practice to create lot lines through existing buildings. In this case, Staff concluded that the Applicant's concerns could be addressed by creating mortgage or lease lines through the Section 50-35A(a)(4) minor subdivision provisions. The Applicant disagreed with Staff as is reflected in its rebuttal testimony.

After due consideration of all of the evidence of record, both written and at the hearing, the Planning Board determined that the waiver was justified and thus granted

the waiver request. The Board specifically found that the development presents a unique circumstance given the scale of the historic preservation proposed on the site, which has required the developer to obtain concurrent approvals from different agencies including MHT and the Historic Preservation Commission ("HPC"). Moreover, the Planning Board found that the preservation of the historic structures prohibited the developer from tearing down the Main Building and constructing two separate buildings on two separate lots. Furthermore, the Board found that preserving the historic structures complied with the Master Plan recommendations and that this Project provided significant affordable housing with the split ownership arrangement. Finally, the Board noted that the Subject Property was burdened with an MHT easement that required access throughout the Main Building that, again, limited the developer's ability to create separate lots. As such, the Board approved the waiver request finding that the circumstances were unique, that the waiver is the minimum necessary to provide relief from the section, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest.

### VIII. FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies<sup>4</sup>; the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, that with the conditions of approval, Preliminary Plan No. 1-05054 is in accordance with the Subdivision Regulations and the Zoning Ordinance of the Montgomery County Code, the provisions of Maryland Code Ann., Art. 28, the Regional District Act and the Master Plan as follows:

a) **Preliminary Plan No. 1-05054 substantially conforms to the North and West Silver Spring Master Plan.** Section 50-35(l) of the Subdivision Regulations requires a preliminary plan to substantially comply with the applicable Master Plan. As discussed above, the Project is subject to the North and West Silver Spring Master Plan. The Board, after reviewing the Master Plan and carefully evaluating the testimony and evidence of record, finds that the Project implements the major principles and recommendations of the Master Plan, including maintaining and restoring the district's historic integrity, limiting impacts on environmentally sensitive areas, providing for conservation easements, allowing access to buildings with public or quasi-public use like the Ballroom, minimizing traffic impact on surrounding neighborhoods, minimizing noise, light and environmental on the surrounding residential neighborhoods and providing trail connections.

---

<sup>4</sup> The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.



b) **Public facilities will be adequate to support and service the area of the proposed subdivision.** Section 50-35(k) of the Subdivision Regulations directs the Planning Board to approve preliminary plans of subdivision only after finding that the public facilities will be adequate to serve the subdivision. The record contains uncontested evidence that the Project does satisfy the Adequate Public Facilities Ordinance (the "APFO"). Specifically, Staff found and the Planning Board also finds that the Preliminary Plan, with conditions, satisfies the LATR.

The Planning Board hereby expressly adopts the transportation analysis set forth above in Section V. Staff Recommendation and incorporates its findings related to transportation issues contained above in Section VI. Planning Board Hearing including its findings related to approval of the waiver of right-of-way width along Linden Lane. In addition, the Board finds that pedestrian access and connectivity will be greatly enhanced by the Project. Sidewalks are provided along Linden Lane and in certain locations within the Subject Property. Trails also are located within the site on both sides of Linden Lane, with access to County parkland known as SVU 2. The Subject Property is within walking distance of the Forest Glen Metro Station and the new sidewalks within the Property will make pedestrian movement significantly safer than exists today.

The Planning Board also finds that, based on testimony and evidence in the record, that the proposed street access to the Project is adequate. The record, including the Staff Report, shows that access will provide for safe and efficient movements of vehicular traffic.

Further, while the Board acknowledges the concerns of nearby residents over traffic and transportation issues, the Board finds that these concerns are regional in nature and are not the result of this proposal.

Finally, the record contains conclusive evidence that the Property is serviced by adequate water and sewer services and that school capacity is adequate for the proposed development.

c) **The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.** The record of the Preliminary Plan application demonstrates that the lot size, width, shape, depth and orientation of the lots are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan and for the proposed uses. In particular, the lots, as proposed, further the historic preservation and adaptive reuse of the historic structures on the Subject Property. In addition, the Planning Board grants the waiver requested by the Applicant to allow building across lot lines and hereby expressly incorporates its findings regarding the waiver as set forth above in Section VI. Planning Board Hearing.

d) **The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.** A Category I forest

conservation easement will be placed over the Glen and a Category II forest conservation easement will be placed over the lots containing specimen trees around the historic structures.

- e) **The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.** This finding is based on the determination by the Montgomery County Department of Permitting Services ("DPS") that the Stormwater Management Concept Plan meets DPS' standards. The record includes uncontested evidence that the stormwater management concept and other related matters for the Property are acceptable, as approved by the Montgomery County Department of Permitting Services by letter dated January 27, 2005.
- f) **The Preliminary Plan meets all applicable provisions of the Zoning Ordinance.** The Preliminary Plan meets all development standards for the PD-15 zone. The Planning Board finds that the reduced setbacks and increased building height, requested by the Applicant pursuant to Section 59-C-7.15(b)(1) of the Zoning Ordinance, will facilitate the preservation, reuse, and redevelopment of a designated historic district and the immediately adjoining property will not be adversely affected by the Board's granting of the requested reduced setbacks and increased building height.
- g) **The public hearing on the Preliminary Plan was procedurally proper in all respects, including required notice under the Planning Board's Rules of Procedure.** This finding is uncontested.
- h) The Planning Board approves the waivers discussed in Section VI.J, above and incorporates by reference the findings contained therein.

#### **IX. PLANNING BOARD ACTION<sup>5</sup>**

Having considered all of the evidence presented, including the comments of the outside reviewing agencies, and all of the testimony taken, the Planning Board finds the Preliminary Plan to be in accordance with the provisions of the Subdivision Regulations, Zoning Ordinance and the provisions of Article 28 of the Maryland Code Annotated; and, the Board further finds that the Preliminary Plan is in substantial conformance with the applicable recommendations of the Master Plan. Therefore, the Planning Board **APPROVES** Preliminary Plan No. 1-05054, including a waiver pursuant to §59-C-7.15(d)(2) of the Zoning Ordinance to permit construction within 100 feet of land that is

---

<sup>5</sup> While not necessarily a subject of the Preliminary Plan, the Planning Board also entertained a request by the Applicant to waive the Planning Board's policy of not permitting street names to be named after individuals. In this case, the Applicant requested that the names Ament and Cassidy be approved as streets (named after the founder and successor of the National Park Seminary). Staff indicated that they did not object to this request. The Planning Board informed the Applicant that the street names would be acceptable unless the names were already used for existing streets.

recommended in the Master Plan as a one-family detached zone, and building height greater than its distance from such adjoining land; a waiver of §50-26(a) of the Subdivision Regulations pursuant to §50-38 to permit a reduced right-of-way width for Linden Lane; and a waiver of §50-20(b) of the Subdivision Regulations pursuant to §50-38 to permit buildings crossing lot lines, subject to the following conditions:

1. Approval under this preliminary plan is limited to 280 residential dwelling units, including a minimum of 56 Moderately Priced Dwelling Units (MPDUs), and consisting of: thirteen (13) one-family detached dwelling units; ninety-eight (98) one-family attached dwelling units; and 169 multi-family dwelling units.
2. Compliance with the specifications and requirements of the approved development plan for Zoning Application No. G-828, County Resolution No. 15-923.
3. No clearing, grading or recording of plats prior to signature set approval, except as may be permitted by conditions of the Site Plan.
4. Final approval of the number and location of dwelling units and sidewalks will be determined at site plan.
5. Compliance with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
6. Compensation for environmental buffer impacts shall be implemented in the form of several enhancements to the remaining buffer areas. These enhancements shall include, but are not limited to, the following measures:
  - a. Enhancements to the forest structure, and a plan for invasives control management and supplemental plantings as necessary for the Glen.
  - b. Remedial measures for buffer and stream stabilization, including sensitive removal of man-made debris, stabilization of eroded slopes, and stream channel stabilization in selected location(s) as approved by M-NCPPC technical staff.
  - c. Afforestation to the area within the buffer currently in lawn at the southeast corner of the site adjoining the phase II entrance drive.
7. Applicant to dedicate to M-NCPPC the land identified as Parcel B to be added to current adjacent parkland. Land to be conveyed at time of record plat, to be free of trash and unnatural debris and not to include any stormwater management facilities. Boundaries to be adequately staked and signed as acceptable to M-NCPPC staff to delineate parkland from private property.

8. Applicant to construct an 8' wide, paved trail through Parcel B to connect with the existing hard surface trail that accesses the Rock Creek Stream Valley Park trail system. Trail to be field located as acceptable to M-NCPPC staff and to be constructed to park standards and specifications, except that M-NCPPC staff shall have the flexibility to reduce the width of the trail at certain locations in order to address environmental concerns.
9. Applicant to establish a public use loop trail system within the property and provide for public access and use of the trails during daylight hours by establishing Public Use Trail Easements throughout the applicable areas of open space (particularly within "The Glen"). Include adequate public access between Parcel B and the on site trail system, including public access from Parcel B to Linden Lane. Areas and trails available for public use to be adequately signed as acceptable to M-NCPPC staff.
10. The term "denied access" is to be placed on the final record plat along the property that abuts I-495.
11. Record right of way abandonment simultaneously with the recordation of plat for this preliminary plan, if it is approved by the County Council.
12. Provide the following improvements and/or dedication for Linden Lane:
  - a. Dedicate a 35-foot right-of-way from the centerline of Linden Lane, on the east side between Newcastle Avenue and the existing private bridge. Widen the existing pavement to 26 feet, install curb and gutter, and build a five-foot sidewalk (at face of curb) on the east side of the street. Preserve existing guardrail along east side only.
  - b. Repair existing private bridge and execute a related Maintenance and Liability Covenant, as required by Montgomery County Department of Public Works and Transportation ("DPWT").
  - c. Dedicate a 20-foot wide right-of-way from the centerline of Linden Lane, between the existing private bridge and the proposed lot line between Lots 59 (new lot) and lot 58 (Swiss Chalet); widen existing pavement to a 26-foot total width and install curb and gutter on the east side only.
  - d. Widen existing pavement to a 20-foot total width; install curb and gutter, and dedicate additional right-of-way, where possible, as necessary to have a two-foot width behind the curb, along frontage of Lots 58 (Swiss Chalet), and 57 (Japanese Pagoda), on east side only.
  - e. Mill and overlay Linden Lane between Capital Beltway and Woodstock Avenue, and reconstruct existing speed hump, as required by Montgomery County Department of Permitting Services ("DPS").
  - f. Dedicate 52 feet of full width right-of-way (26-foot wide from the centerline) on Linden Lane between the Japanese Pagoda (Lot 57) and Woodstock Avenue. In this section, provide pavement widening on the east side of

- Linden Lane only given historic constraints, 14 feet from centerline and a minimum of 22 feet from the historic retaining wall on the west side of Linden Lane. Curb, gutter and sidewalk to be constructed on the east side only.
- g. Dedicate 52 feet of full width right-of-way (26-feet wide from the centerline) on Linden Lane between Woodstock Avenue and Stephen Sitter Lane. In this section, provide 28 feet of pavement that includes two ten-foot travel lanes and eight-foot parallel parking along one side of the street. The remaining right-of-way will provide for five-foot planting strips, five-foot wide concrete sidewalks, and two-foot wide strips behind the sidewalks, on both sides of the street.
  - h. Subject to DPWT approval, provide a raised crosswalk along Linden Lane at Street B, and execute a Maintenance and Liability Covenant, as required by DPS. If DPWT will not approve a raised crosswalk, at a minimum provide a crosswalk consisting of a special synthetic asphalt paving (stamped and colored).
  - i. Dedicate a 35-foot right-of-way from the centerline of the road, on north side of Linden Lane between Stephen Sitter Lane and the eastern property line near Smith Drive. In this section, provide a standard, 70-foot right-of-way, primary residential roadway, final paving as determined by DPS and DPWT with curb and gutter. Final paving width as determined by DPS and DPWT shall be, at a minimum, as shown on the preliminary plan. The remaining right-of-way will provide for five-foot wide planting strips, five-foot wide concrete sidewalks, and two-foot wide strips behind the sidewalks on the north side only.
13. Dedicate additional right-of-way as necessary to provide for a two-foot wide maintenance strip behind the curb or sidewalk on Woodstock Avenue and Woodstock Court, along Lots 40, 41, 42, and 43. Install curb and gutter and sidewalks along Woodstock Avenue and Woodstock Court as required by DPWT. Truncate right-of-way line at Lot 41 to provide a two-foot wide strip behind sidewalk.
  14. Provide a five-foot sidewalk for public use, generally parallel to Linden Lane between the existing private bridge and private driveway, near the Japanese Pagoda (Lot 57).
  15. Design private streets to the tertiary residential street standards, where possible.
  16. Compliance with the conditions in DPWT's letter dated March 18, 2005, and DPS's letter dated March 25, 2005, unless otherwise amended.
  17. Record plat to reflect a Category I conservation easement over all remaining areas of environmental buffer and forest conservation, and a blanket Category II conservation easement tied to the approved tree protection plan for specific trees being preserved outside the buffers (e.g., the Three Sisters Oaks). Amendment to allow preservation of historic elements of the site may be proposed, and must be resolved prior to record plat approval.
  18. Record plat to reflect common ingress/egress and utility easements over all shared driveways.

19. Record Plat shall reflect all areas under Homeowners Association ownership and all stormwater management parcels.
20. Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
21. Compliance with the conditions of the MCDPS stormwater management approval dated January 24, 2005.
22. Certification from an acoustical engineer that the building shell for residential dwelling units to be constructed within the unmitigated 65 dBA Ldn noise contour, is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn, with a goal of 40 dBA Ldn for all bedrooms, if possible.
23. Subject to the requirements of the Maryland Historic Trust and the National Park Service, Applicant shall comply with all recommendations from the acoustical engineer to ensure that constructed units achieve acceptable interior noise level as specified in Condition 22, above. Any changes in materials and construction that may affect acoustical performance of the structures shall be approved by an acoustical engineer prior to their implementation.
24. Prior to recordation of the property, the Applicant and Staff shall make a final determination of the location and configuration of lots on the property. Pursuant to the waiver of Section 50-20(b) of the Subdivision Regulations hereby granted by the Board, certain structures located on the historic property north of Linden Lane shall be permitted to cross lot lines and be located on more than one lot. These lots shall be reflected on the Record Plat.
25. This preliminary plan will remain valid for seventy-three (73) months from the date of the Planning Board Opinion. Record plats shall be recorded in two phases:
  - Phase I (expires 37 months from the date of mailing of the Planning Board opinion) – 257 dwelling units;
  - Phase II (expires 73 months from the date of mailing of the Planning Board Opinion – 23 dwelling units)
26. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for ninety-seven (97) months from the date of mailing of the Planning Board opinion.
27. Other necessary easements.

*Prior to the expiration of the validity period as defined in Condition 25, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.*

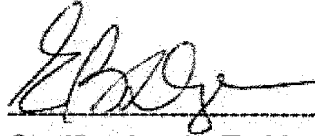
\* \* \* \* \*

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

*ADINE HASEL*  
Approved for legal sufficiency  
M-NCPPC Office of General Counsel

**CERTIFICATION OF BOARD VOTE ADOPTING OPINION**

At its regular meeting, held on Thursday July 28, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of Commissioner Perdue, seconded by Commissioner Wellington, with Chairman Bertage, Vice Chair Perdue, and Commissioners Robinson and Wellington voting in favor of the motion, ADOPTED the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for National Park Seminary, Preliminary Plan No. 1-05054. Commissioner Bryant abstained.



\_\_\_\_\_  
Certification As To Vote of Adoption  
Technical Writer