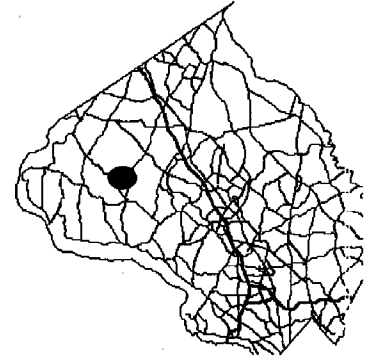
**MEMORANDUM**

DATE: December 28, 2005
 TO: Montgomery County Planning Board
 Rose Krasnow, Chief *RAK*
 VIA: Michael Ma, Supervisor *Ma*
 Development Review Division
 FROM: Robert Kronenberg, RLA *RAK*
 Development Review Division
 (301) 495-2187



REVIEW TYPE: **Site Plan Review**
 CASE #: **81996011D (formerly 8-96011D)**
 PROJECT NAME: Kings Crossing
 APPLYING FOR: Approval of 102 Multi-family Moderately Priced Dwelling Units (MPDUs) on 5.20 acres
 REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance
 ZONE: PD-2
 LOCATION: On Kings Crossing Boulevard, directly north of the intersection with Clear Smoke Road
 MASTER PLAN: Germantown Master Plan
 APPLICANT: J. Kirby Development, LLC
 FILING DATE: November 10, 2004
 HEARING DATE: January 5, 2006

STAFF RECOMMENDATION: Approval of 102 Multi-family Moderately Priced Dwelling Units (MDPUs), on 5.20 acres. All site development elements as shown on Woodside Courts site plans stamped by the M-NCPPC on November 7, 2005, shall be required except as modified by the following conditions:

1. Preliminary Plan Conformance
 The proposed development shall comply with the conditions of approval for Preliminary Plan #119880060 (formerly 1-88006) as listed in the Planning Board opinion dated March 21, 1995 [Appendix A].
2. Site Plan Conformance
 The proposed development shall comply with the conditions of approval for Site Plan #81996011A, B and C (formerly 8-96011A, 8-96011B, and 8-96011C) as listed in the Planning Board opinion dated March 21, 1996 [Appendix B].

3. Site Design
 - a. The Applicant shall remove the 17 parking spaces, drive aisle and sidewalks (shown as optional) between Building No. 2 and the adjacent one-family homes to the north to comply with the impervious restrictions on the site.
 - b. Provide wheel stops for the parking spaces that directly abut a sidewalk.
 - c. Fire Department Access Roads shall be constructed with a minimum radius of 7.6 m (25 feet) at the inside curb line and a minimum radius of 15.2 m (50 feet) at the outside curb line.
4. Landscaping
 - a. Buffer planting on the north and west perimeter shall be planted a minimum of 20 feet from the property line to the center of the tree.
 - b. Provide 2.5-3 inch caliper Red Maple trees within the Kings Crossing Boulevard right-of-way.
 - c. Provide details of the fountain, pavers and seating in front of the entrance to each building.
5. Lighting
 - a. All light fixtures shall be full cut-off fixtures or equipped with refractors, deflectors or shields.
 - b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
 - c. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting adjacent residential properties.
 - d. The height of the light poles shall not exceed 14 feet including the mounting base.
6. Pedestrian Circulation
 - a. Construct an 8-foot-wide bike path on the north side of Kings Crossing Boulevard along the frontage of the property.
 - b. Construct a 5-foot-wide sidewalk connection to the existing asphalt path on the northwest side of the existing parking lot.
7. Recreation Facilities

Provide two seating areas, paved plaza area and fountain at the entrance to each building.
8. Impervious Restrictions

The proposed development shall comply with the following condition of approval from M-NCPPC-Environmental Planning in the memorandum dated December 1, 2005 [Appendix C]:

The development is limited to a maximum impervious coverage of 108,480 square feet on the subject site.
9. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated March 10, 2004 [Appendix C].
10. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 1st building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

11. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development shall provide 102 multi-family MPDUs on-site that would be developed in a garden apartment style, some of which would be targeted for the elderly to the extent feasible under the Moderately Priced Dwelling Units (MPDU) requirements in Chapter 25A of the Montgomery County Zoning Ordinance [Appendix D].
- b. The amended MPDU agreement shall be executed prior to the release of the first building permit.

12. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. The Development Program shall include a phasing schedule as follows:

- a. Streets tree planting, including the street trees along the Kings Crossing Boulevard frontage shall be installed upon completion of the 8-foot-wide bike path.
- b. Community-wide pedestrian pathways and recreation facilities including the 5-foot-wide sidewalk connection to the existing path and the 8-foot-wide bike path shall be completed prior to occupancy of the building.
- c. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- d. The buffer planting on the north and western perimeters shall be installed when the grading for the building and parking is complete and stabilized.
- e. Pedestrian pathways including the internal 5-foot-wide sidewalks and seating areas associated with each building shall be completed as construction of each facility is completed.
- f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- g. Phasing of dedications, stormwater management, sediment/erosion control, recreation, community paths, or other features.

13. Clearing and Grading

Clearing and grading is permitted prior to M-NCPPC approval of signature set of plans.

14. Signature Set

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

- a. Development program, inspection schedule, revised site plan enforcement agreement and Site Plan Opinion.
- b. Limits of disturbance.
- c. Details of the benches, paving and fountain at the entrance to each apartment building.
- d. All other items for site design, landscaping, lighting, pedestrian circulation, recreation facilities and impervious restrictions in the conditions of approval above.

SITE PLAN REVIEW ISSUES

I. Moderately Priced Dwelling Units for Seniors

The applicant has entered into an amended agreement with the Department of Housing and Community Affairs (DHCA) that allows for a six-step marketing process including advertising to potential buyers who are 55 years or older, at the median income level permitted by the County. The agreement waives the first time buyer restriction for prospective purchasers. All of the units will remain moderately priced and in the MPDU program.

The previous approvals for the site include a Schematic Development Plan [G-651], Preliminary Plan [#1-88006] and subsequent site plans [8-96011A-C]. The Schematic Development Plan provides language that states: "the multi-family units would be developed in a garden apartment style, some of which would be targeted for the elderly to the extent feasible under the Moderately Priced Dwelling Units (MPDU) requirements". The site plan discusses the design of the MPDUs/garden apartments with a reference to elderly apartments that reinforces the argument for senior MPDUs.

DHCA and the Applicant have amended the current MPDU agreement to establish a new price per unit at \$155,000 and a 6-step marketing program as follows:

- Step 1- Waive the first time buyer restriction.
- Step 2- Market units to buyers who are 55 years and older and include advertising in the marketing program.
- Step 3- Twelve months prior to the builder finishing the first building, the Applicant will offer condos to those 55 and older with incomes 70 percent of the median income. If all units are not sold within 90 days then proceed to Step 4.
- Step 4- Offer remaining condos to those 55 and older with incomes of 80 percent of median income, and if all units are not sold within 90 days then proceed to Step 5.
- Step 5- Offer remaining condos to the full MPDU list without age restriction, and if all units are not sold within 90 days then proceed to Step 6.
- Step 6- Offer the balance of the units to those 55 and older without regard for income.

Applicant's Proposal (or Position)

The Applicant is committed to providing "for sale" MPDUs that are marketed toward the senior community and to the 6-step marketing program that initiates a time period for the marketing based upon median income levels. The Applicant has agreed to the marketing program and has provided the community examples of recent senior housing projects that would be representative of the product proposed on this site.

Community Position

Two separate groups represent the Woodcliffe Community; both of which have expressed support for senior MPDUs with concerns over the resale of the units, the monitoring of the marketing program, parking and architecture of the building. The first group is the Woodcliffe Homeowners' Association ("HOA") and the second group ("Property owners") is approximately 30 property owners within the community, represented by their attorney. Each community group prefers MPDUs that are marketed and sold specifically to seniors; which was not part of previous

submittals. In fact, the previous submittal was rental units and did not include the marketing program initiated by the Applicant and DHCA.

The community has expressed concern over the resale of the units to seniors and wanted a covenant placed upon the buildings and property that limits the units to only seniors and not to the general pool of prospective MPDU buyers. The Property owners have also requested [Appendix D] that DHCA and the Applicant extend the marketing period from 90 to 150 days in order to fully exhaust the list of prospective buyers.

The community has seen examples of the products currently constructed by the Applicant and is supportive of the architectural style and materials associated with those projects.

Department of Housing and Community Affairs Position

The MPDU agreement was amended to allow for a six-step marketing program that targets “for sale” units for the senior community in-lieu-of requiring that the units be sold only to seniors 55 and older. DHCA has also waived the first time buyer restriction to buyers who are 55 years and older. The agreement and marketing approach will apply to the resale of units within the MPDU program.

Staff Analysis/Position

The marketing program is a coordinated achievement on behalf of DHCA and the Applicant to provide “for sale” MPDUs to seniors. Staff supports the efforts made by both entities to provide MPDU housing for seniors at this location. The infrastructure and amenities are in place for seniors as contemplated in the overall phasing of the development.

Staff is also supportive of the marketing program and the interactive approach the Applicant has taken to involve the community for the development. The Applicant has involved the community to provide examples of the product type being proposed for this site, which is an important step in compatibility of the uses.

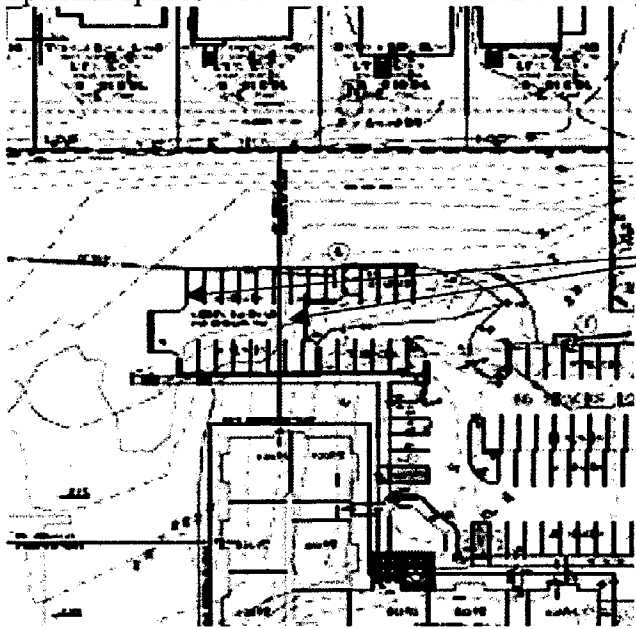
II. Impervious Limitations

The Woodcliffe Community is located within the KI-2 Analysis Area identified in the Germantown Master Plan. This analysis area is subject to special environmental protection measures due to the sensitivity and high quality conditions of the portion of the Little Seneca Creek stream system to which it drains, including impervious restrictions. The special environmental protection measures recommended by the master plan include a site imperviousness cap of 20%, performance monitoring, stringent best management practices, and protection and enhancement of stream buffer areas. During the course of the initial site plan review and subsequent amendments, the impervious cap was increased to 20.4 percent.

Construction of the overall development is nearly complete, with exception of the subject 5.20-acre site. Staff has reviewed the as-builts in accordance with the conditions of the site plan for monitoring of impervious surfaces. The Applicant had 103,280 square feet allotted toward the

garden apartments in the original site plan approval, based upon the 20.4 percent cap. Staff's review of the as-builts indicates the Applicant has a surplus of 5,200 square feet remaining to contribute toward the proposed development. This proposal would need 111,505 square feet of impervious coverage to construct the garden apartments and ancillary parking, which equates to an increase of 8,225 square feet of additional impervious. The difference between the permitted impervious amount, including the surplus, and the proposal is 3,025 square feet.

The Applicant is requesting a waiver to the 20.4 percent cap in order to accommodate 17 additional parking spaces and associated sidewalks and drive aisle behind Building No. 2. The waiver would increase the cap for this site by two-tenths of a percent and one-tenth overall. The Applicant has shown the additional 17 spaces as optional in order to illustrate the construction of the spaces if the Planning Board approves the waiver. If the waiver were not approved, the optional spaces would be removed from the site plan application.



Area designated as
"Additional" or
"Optional" Parking
Spaces

Applicant's Proposal (or Position)

The waiver requested by the Applicant is needed to accommodate 17 additional parking spaces in the rear of Building No. 2. The additional spaces are needed to provide adequate parking for senior residents that equate to a 2:1 ratio of cars to units. The additional 3,025 square feet of impervious is only a tenth of a percent increase in the overall subdivision and two-tenths of an increase on the subject site. The Applicant believes the increase does not result in a detrimental impact to the watershed and Little Seneca Creek, and sees the parking spaces as a necessary component to the senior residents. The Applicant also believes that the marketing plan for the senior MPDUs will be more enticing if each unit is provided with two dedicated parking spaces.

Community Position

The Woodcliffe community has expressed an opinion to staff and the Applicant in support of additional parking spaces for the future residents. The concern from the community is that there is a potential for owners of the building to park on the streets and in the spaces reserved for the nearby clubhouse/pool, some of which will be allocated for the future residents of Building No. 1. The community is also concerned that residents may have extended families with additional vehicles that may overburden the limited amount of parking spaces on the property. The

community has also expressed concerns over the lack of mass transit services for this site, forcing the future residents to rely solely on the use of vehicles.

Staff Analysis/Position

Staff has consistently recommended that sites within sensitive areas that limit the amount of impervious should maintain the minimum amount of paved surface on the property. Staff is not in support of additional impervious on this site, because there is still a potential for homeowners to increase the width of their driveways once the subdivision is fully developed. If homeowners choose to increase the width of their driveway it could add an additional 100 square feet of impervious coverage to each lot, creating a greater environmental impact to the watershed and Little Seneca Creek. Staff also believes that the parking proposed for the two buildings is adequate for the future residents. The parking requirement for a market-rate two-bedroom unit is 1.5 spaces per unit, resulting in only 153 spaces. A 50 percent reduction is permitted for MPDUs, which would result in 77 fewer spaces on the site. Staff is not recommending that the applicant take advantage of a reduction in the number of parking spaces; however, it should be pointed out that with or without the reduction, the site is over parked. Increasing the number of spaces and impervious coverage would only exacerbate the impact to the environmentally sensitive areas within the watershed.

Staff is opposed to the additional parking spaces proposed with this application and the increased amount of impervious on the site.