

*index*

APPROVED AND ADOPTED

AMENDMENT TO THE MASTER PLAN FOR THE  
EASTERN MONTGOMERY COUNTY PLANNING AREA:  
CLOVERLY, FAIRLAND, WHITE OAK

July 1990

An amendment to the Master Plan for Eastern Montgomery County Planning Area, Cloverly, Fairland, White Oak, 1981, being also an amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District.

Adopted By:

THE MARYLAND-NATIONAL PARK AND PLANNING COMMISSION  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760  
July 11, 1990

Approved By:

THE MONTGOMERY COUNTY EXECUTIVE  
June 20, 1990

Approved By:

THE MONTGOMERY COUNTY COUNCIL  
June 12, 1990

The following chart shows the new TDR designations for each of the underlying base zones:

<u>Existing Base Zone</u>	<u>Base Zone Density</u>	<u>Existing TDR Designation</u>	<u>Recommended TDR Designation</u>
R-60	5	7, 8, 9	6
R-90	3.6	5, 7	4.6
R-150	2.6	5	3.6
R-200	2	3, 5	3

Every TDR property is still eligible for the 22 percent MPDU bonus over the TDR density.

Reducing the TDR densities in all the receiving areas could affect existing subdivisions built with TDR's, approved but un-built subdivisions, and HOC participation subdivisions. To assure the future integrity of these developments, the Council:

- o considers all approved and recorded plats utilizing TDR's at the time of this Amendment (June 1990) to be held harmless from this action,
- o considers all subdivision with approved HOC participation at the time of this Amendment (June 1990) which has or obtains subdivision approval to be exempt from this action.

## 2. Industrial Parcels

The vacant or redevelopable industrially zoned parcels in Eastern Montgomery County have a greater potential for generating future trips than the residential parcels. Most of these parcels are in the Montgomery Industrial Park/West\*Farm area and are zoned I-1 (light industrial), I-2 (heavy industrial), and I-3 (technology and business park). The property owners of the major undeveloped industrially zoned properties in Eastern Montgomery County have executed trip reduction agreements with the Montgomery County Planning Board, voluntarily agreeing to restrict trips on their property. This precluded the need for any further master plan or zoning action. These agreements are expected to result in a reduction of 10,200 trips on vacant and redevelopable land in the West\*Farm Technology Park and the Montgomery County Industrial Park.

1. Residential Parcels

To reduce traffic in residential zones, the Council agreed to remove the PD recommendations in the 1981 Approved and Adopted Master Plan for all properties not already zoned PD. The Council also decided to reduce the densities recommended for the TDR areas in the 1981 Master Plan to one TDR above the base zone. This action did not remove or reduce the acreage of the receiving areas. This action will have the effect of reducing potential residential trips from 10,653 to 7,300, a reduction of 3,350 trips on residentially zoned land. No changes in zoning are recommended on any of these properties. This action is not intended to affect negotiations for the purchase of any property for public use active at the time of this Amendment.

(a) PD's

The 1981 Approved and Adopted Master Plan recommended approximately 4,857 acres for PD optional development. Since 1981, 159.63 acres of land have been zoned PD by local map amendment. Of these, 78 acres remain vacant at the time of this Amendment. By removing the PD option on all properties except those zoned PD, the County Council's action will affect approximately 4,698 acres.

This action will result in a reduction of over 2,000 trips from vacant properties currently recommended for PD. There is also a possibility of an additional savings of 2,000 trips from the 4,698 acres which are not considered vacant but could, over time, take advantage of the PD recommendation.

(b) TDR's

There are approximately 610 acres of TDR zoned land remaining vacant in the planning areas. The 1981 Master Plan assigned TDR densities to each receiving area; these indicated the number of units per acre for each area which could be allowed with the purchase of TDR's. The zoning ordinance specifies a "base zone density," which is an assumption regarding the number of units which could be built without TDR's. TDR's designated in the 1981 Master Plan would have increased the density by one to four units over the assumed base density. Reducing the TDR densities to one over the base zone will remove over 1,350 trips; 610 TDR's will remain.



MONTGOMERY COUNTY DEPARTMENT OF PARKS AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

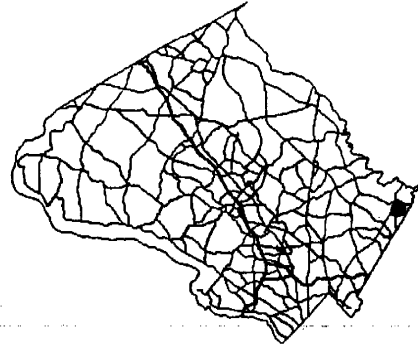
ATTACHMENT 3

*Circles 1-17*

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

**MEMORANDUM**

DATE: February 5, 1999  
TO: Montgomery County Planning Board  
VIA: Joe Davis, Acting Chief  
Development Review Division  
FROM: Michael Ma *MM*  
Planning Department Staff  
(301) 495-1322



PROJECT NAME: **Blackburn Village, Phase II**  
CASE #: **8-86087A**  
APPLYING FOR: Approval of the revised Site Plan which includes 18 detached and 35 attached units for the second phase of the development

REVIEW TYPE: Site Plan Review  
ZONE: R-90 / TDR 4.6  
LOCATION: Located on the east side of Columbia Pike (US Route 29), approximately 2,600 feet south of Sandy Spring Road (MD 198)

MASTER PLAN: Eastern Montgomery County  
REVIEW BASIS: A major amendment to an approved Site Plan must be approved by the Planning Board

APPLICANT: Maryland Development Co.  
FILING DATE: November 12, 1998  
HEARING DATE: February 11, 1999

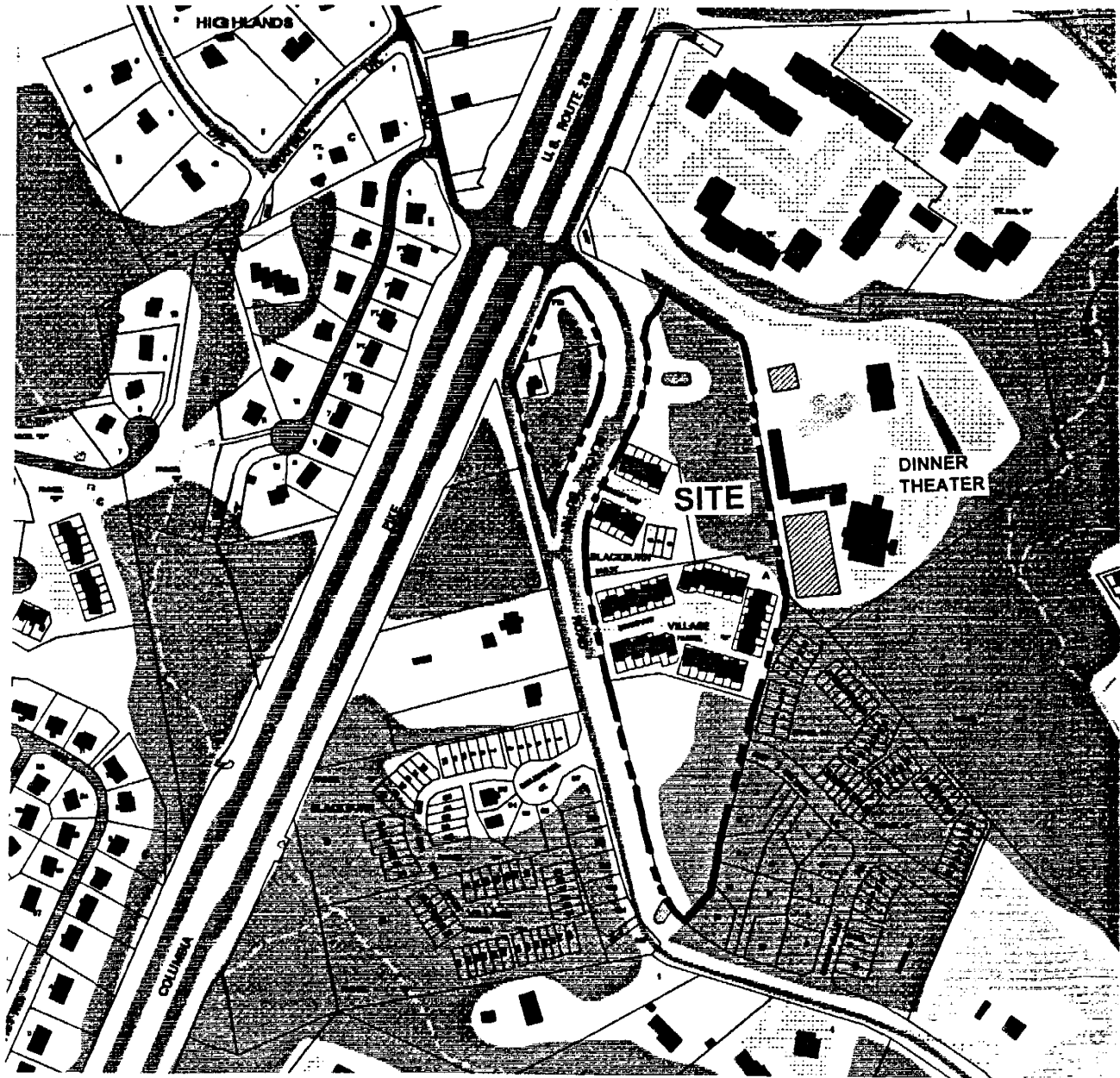
**STAFF RECOMMENDATION:** Approval of 53 dwelling units including 18 detached and 35 attached units with the following conditions:

1. Standard Conditions dated October 10, 1995, Appendix A
2. The plan shall be amended to incorporate the following revisions:
  - a. The sidewalk along the west side of Blackburn Road shall be extended to the existing

- bus stop on Route 29 near Blackburn Road. The existing bus stop may be relocated to a location approximately 50 feet from Blackburn Road.
- b. The sidewalk on Cotton Tree Lane shall be connected with the existing sidewalk in the subdivision to the east.
  - c. All the sidewalks and pathways shall be five feet wide.
  - d. Additional recreation facilities in accordance with Recreation Guidelines.
  - e. Details of the proposed recreation facilities, fence, and retaining walls.
  - f. The recreation facility requirement calculations on the drawings.
  - g. A minimum 25 feet rear yard for the proposed detached units of which 20 feet shall be usable area without steep slopes. The rear yards of Lots 85 through 89 of Block C shall be regraded and retaining walls may be needed in these yards to provide usable areas.
  - h. Landscaping in the median on Blackburn Road near Route 29.
  - i. Additional landscaping between the dwelling units and Route 29 to provide effective screening and buffer.
  - j. Landscaping between the property line and attached units 55 through 67.
  - k. Screen the stormwater management facilities and the rear of the townhouses from the street.
  - l. Two additional street trees on Cotton Tree Lane.
  - m. Additional shade trees at the proposed play area and in front of non-garage attached units.
  - n. Additional street trees between Lot 1 of Block D and Route 29.
  - o. Landscaping between the internal road and attached units 82 through 84.
  - p. A wider open space window between townhouse lots 54 and 55.
  - q. Minimum tree sizes: 2-1/2" - 3" caliper for shade trees, 1-1/2" - 1-3/4" caliper for ornamental trees and 6-8' in height for evergreen trees.

**PROJECT DESCRIPTION: Surrounding Vicinity**

The site is located on the east side of Columbia Pike (US Route 29), approximately 2,600 feet south of Sandy Spring Road (MD 198). It is bisected by Blackburn Road. Property adjoining the site to the northeast is zoned R-90/TDR, and is currently developed as a country club and a dinner theater. Property to the southeast is an existing subdivision of townhouses and detached houses which is also zoned R-90/TDR. Properties to the west across Blackburn Road are detached homes. Behind the detached homes to the southwest is a townhouse development.

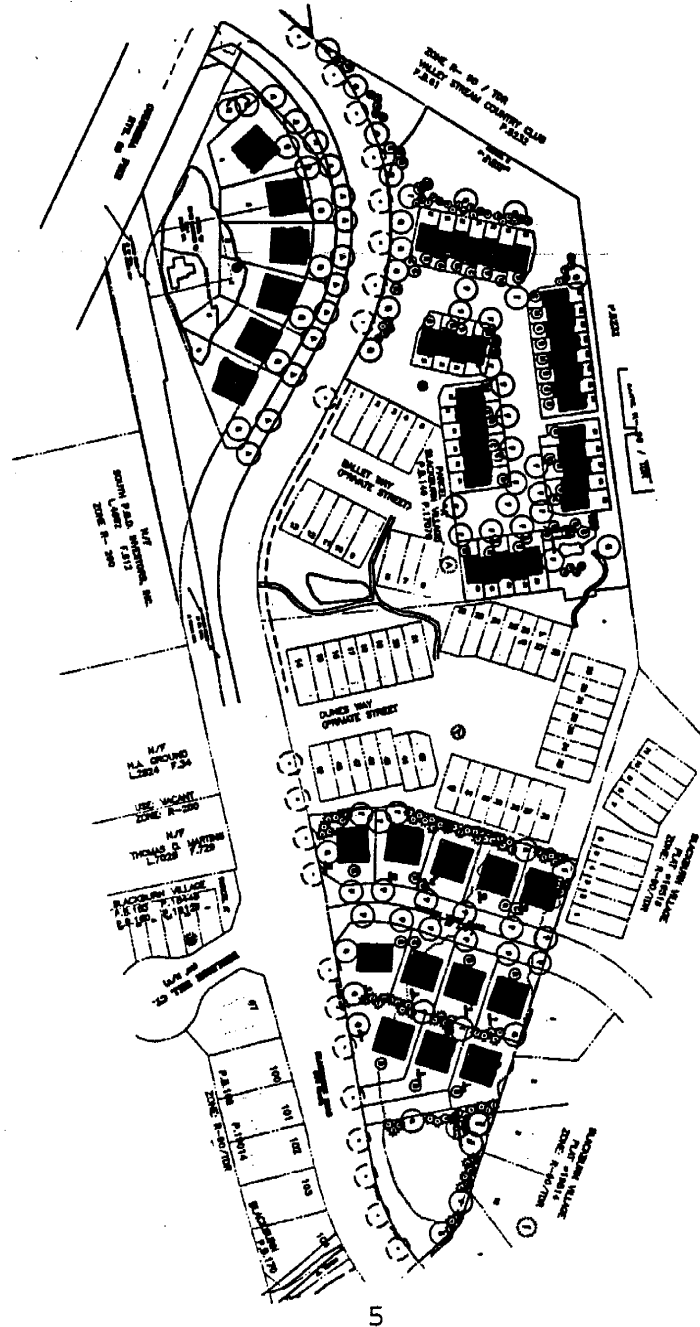






## PROJECT DESCRIPTION: Proposal

The proposed development consists of 102 dwelling units including 18 single-family detached units and 84 townhouses. The plan includes 16 MPDU's and requires 26 TDR's. The first phase of the development, which includes 49 townhouses, has been completed and occupied. A play lot will be provided near the east property line between two phases. It will be connected with dwelling units by sidewalks and pathways. In addition, one tot lot, two picnic/sitting areas and a pedestrian system are proposed. Two detention ponds with sand filters will be constructed at the north and south ends of the site to handle stormwater management of the development.





## PROJECT DESCRIPTION: Prior Approvals

### Preliminary Plan

On July 18, 1985, the Planning Board approved the preliminary plan of subdivision for the proposed development, Preliminary Plan 1-83140, with six conditions. A copy of the Planning Board opinion for Preliminary Plan 1-83140 is attached (Appendix B).

The approved Preliminary Plan was subsequently amended by the applicant. The amended Plan was approved by the Planning Board on February 26, 1998. The approval was pursuant to the FY98 Annual Growth Policy Alternative Review Procedures for Expedited Development Approval ("Pay-and-Go"), and approval of the waiver of sidewalk on one side (south side) of the proposed extension of Cotton Tree Lane (abandonment of a portion of Blackburn Road to be reviewed and determined at Site Plan), subject to the following conditions:

- (1) *Prior to recording of plat(s), applicant to enter into an Adequate Public Facilities agreement with the Planning Board to limit development to a maximum of 103 units and to pay to the Montgomery County Department of Finance the balance of the expedited development approval excise tax for 38 units (18 single-family detached and 20 single-family attached), prior to receipt of building permits, as provided by County law*
- (2) *Compliance with the conditions of approval of the preliminary forest conservation plan contained in the environmental planning division staff memorandum dated 11-12-98. The applicant must meet all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit, or issuance of building permit, as appropriate*
- (3) *If abandonment is approved at site plan, then prior to recording of plat(s), Planning Board approval of abandonment resolution for the portion of Blackburn Road shown on plan. Resolution to reference the additional area of dedication for the future interchange project by MDSHA. At record plat, verify abandonment of MDSHA right-of-way along US29 proposed to be added to subject property*
- (4) *Conditions of MCDPS stormwater management approval date 8-21-97*
- (5) *Provide a minimum of 16 MPDU's and 27 TDR's*
- (6) *Prior to recording of plat(s), submit revised site plan for Planning Board approval*
- (7) *Necessary easements*
- (8) *During site plan review, submit overall parking facilities plan to address the adequacy and location of visitor and over-flow parking*
- (9) *Final number and location of units to be determined at site plan*
- (10) *In accordance with the provisions of the expedited development approval excise tax (EDAET) of the FY98 AGP, this preliminary plan will remain valid until April 4, 2000 (25 months from the date of mailing of the original opinion, which was March 4, 1998). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded. Building permits for all 38 EDAET lots must be approved by April 4, 2002.*

## Site Plan

Site Plan 8-86087 for Blackburn Village was approved by the Planning Board on December 10, 1987 with conditions. A copy of the Planning Board opinion for the Site Plan is attached (Appendix C).

The subject site plan amendment is to revised the approved Site Plan and incorporates the following changes:

- a. Add two on-site stormwater management ponds.
  - b. Reduce the number of dwelling units from 117 to 102 in order to accommodate the proposed stormwater management facilities and other modifications to the Plan.
  - c. Increase the number of detached units from 16 to 18.
  - d. Remove the existing detached house near Route 29.
  - e. Propose detached dwelling units in the western portion of the site which is situated between Blackburn Road and Route 29.
  - f. Provide a play lot near the east property line between the two development phases and two sitting areas.
- 

### **ANALYSIS: Conformance to Master Plan**

The subject property is located in the Eastern Montgomery County Master Plan area. The Master Plan does not have specific recommendations for this property. It, however, does encourage single family detached units in this general area. The revised Site Plan increases the number of detached units from 16, as shown on the previously approved Site Plan, to 18. The detached units will be located along Blackburn Road or be adjacent to the existing detached homes on Cotton Tree Lane.

**ANALYSIS: Conformance to Development Standards**

**PROJECT DATA TABLE**

<u>Development Standard</u>	<u>Permitted/ Required</u>	<u>Proposed</u>
Tract Area (ac.):		16.19
Dwelling Units:		
One-family detached		
Phase I		0
<b>Phase II</b>		<b>18</b>
One-family attached		
Phase I		49
<b>Phase II</b>		<b>35</b>
<b>TOTAL</b>	<b>109</b>	<b>102</b>
Moderately-priced DUs included	13	16
Transferable development rights	27	26
Lot Area (sq. ft.)		
Detached Unit	5,000	6,000
Attached Unit	1,500	1,500
Lot Width (ft.)		
Detached Unit	25	25
Attached Unit	—	20
Green Space (%):	40	74.6
Building Height (ft.):	40	35
Setbacks (ft.):		
from street	25	25
side yard	7	7
rear yard	25	7
Parking:		
Total for attached units	168	191

### TDR CALCULATIONS

Total number of dwelling units ( for both Phase I and II )	102
Base density for 16.19 acres (for both Phase I and II )	58
Number of MPDUs provided	16
Non-density bonus units ( 102 ÷ 1.22 )	84
Number of TDRs ( 84 - 58 )	26 *

#### Unit Summary

Base Density	58
Number of TDRs	26
Number of MPDUs	16
Bonus Market-Rate Units	<u>2</u>
	102

\* more than 2/3 of maximum permitted ( 22 )

### MPDU CALCULATIONS

MPDUs required	16 ( 102 units x 0.15 ) ( 15% in order to obtain 22% bonus)
----------------	--

## RECREATION CALCULATIONS

	<u>tots</u>	<u>children</u>	<u>teens</u>	<u>adults</u>	<u>seniors</u>	TOTAL
<b>Demand Points</b>						
for 84 TH units	14.28	18.48	15.12	108.36	7.56	163.80
12 Detached II	1.56	2.88	3.00	12.72	1.32	21.48
6 Detached III	<u>0.84</u>	<u>1.14</u>	<u>1.38</u>	<u>7.62</u>	<u>0.78</u>	<u>11.76</u>
<b>Total Demand</b>	<b>16.68</b>	<b>22.50</b>	<b>19.50</b>	<b>128.70</b>	<b>9.66</b>	<b>197.04</b>
<b>Supply Points</b>						
<u>On-Site Facilities:</u>						
Tot Lot (1)	9.0	2.0	0.0	4.0	1.0	16.0
Play Area (1)	0.0	9.0	3.0	4.0	1.0	17.0
Picnic/Sitting (2)	2.0	2.0	3.0	10.0	4.0	21.0
<del>Pedestrian System</del>	<del>1.67</del>	<del>4.50</del>	<del>3.90</del>	<del>57.92</del>	<del>4.35</del>	<del>72.33</del>
<b>On-Site Total</b>	<b>12.67</b>	<b>17.50</b>	<b>9.90</b>	<b>75.92</b>	<b>10.35</b>	<b>126.33</b>
<u>Off-Site Facilities:</u>						
Natural Area @ Fairland Park	0.0	1.13	1.95	12.87	0.48	16.43
Credit (Max.35%)	0	5	10	10	5	8
<b>Total Supply Point</b>	<b>12.67</b>	<b>18.63</b>	<b>11.85</b>	<b>88.79</b>	<b>10.83</b>	<b>142.76</b>

**FINDINGS for Site Plan Review:**

1. The site plan is consistent with an approved development plan or a project plan for the optional method of development, if required.
2. The site plan meets all of the requirements of the R-90/TDR zone in which it is located. See Project Data Table above.
3. 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.

a. Location of Buildings

The location and orientation of the proposed dwelling units are designed to match the patterns established by the existing homes along Blackburn Road as well as the townhouses in the first phase of the development. There will be six detached units located between Route 29 and Blackburn Road. A portion of the existing trees along the Route 29 frontage will be saved. Supplemental plant materials must be provided to effectively screen the houses from the road and to alleviate the noise impact on the houses.

In order to obtain a density bonus, the Plan proposes 16 MPDUs, or 15 percent of the total number of the units, instead of the minimum 12.5 percent. The MPDUs will be attached units. They will not be all at one location and will be distributed in three groups which conforms with the approved guidelines for MPDUs.

b. Open Spaces

There are approximately 11 acres of open space provided throughout the proposed development. The open space will be located within the townhouse portion of the development as homeowners association open space and on individual lots as private yards.

The stormwater management concept for the proposed development was approved with conditions by the Montgomery County Department of Permitting Services (DPS) on August 21, 1997. The stormwater management concept consists of (1) on-site water quantity control via construction of two detention pond and (2) on-site water quality control via sand filters located within the ponds.

c. Landscaping and Lighting

Landscaping on the site consists of a mix of shade, ornamental and evergreen trees and shrubs. In addition to street trees, plant materials will be provided along the

driveways and open space within the townhouse portion of the site as well as between the units and stormwater management facilities. Additional landscaping is needed between the proposed houses and Route 29 and along the east property line. The Plan also shows lighting within the townhouse parking areas.

d. Recreation

The Plan proposes one tot lot, one play area, two picnic/sitting areas and a pedestrian system as required recreation facilities. As shown in the recreation calculations table above, the Plan does not provide adequate facilities as required by the Recreation Guidelines. The Plan must be revised to show additional facilities to satisfy the requirement.

e. Vehicular and Pedestrian Circulation

The street connections to the site are in accordance with the approved Preliminary Plan. The development will be served by Blackburn Road and the extended Cotton Tree Lane. Vehicular access to the townhouse units will be via a loop driveway off Blackburn Road. The Plan proposes a sidewalk along both sides of the streets and pathways between the units and recreation facilities to facilitate pedestrian circulation.

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The site is surrounded by existing residential developments to the west and southeast, and by a country club/dinner theater to the northeast. The proposed development, which includes detached houses, townhouses and recreation facilities, will be compatible with the surrounding developments in terms of land use, dwelling types and development character. The activity associated with the proposed subdivision will not cause any negative effect on adjacent uses.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

Forest Conservation requirements have been met by planting of 0.82 acres of landscape credit on-site. An additional 3.38 acres of forest will be planted off-site.

## APPENDIX

- A. Standard conditions dated October 10, 1995
- B. Planning Board opinion for Preliminary Plan 1-83140
- C. Planning Board opinion for Site Plan 8-86087



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

1. Submit a Site Plan Enforcement Agreement, Development Program, and Homeowners 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) Street tree plantings shall 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 shall 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 sitting 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, or other features.
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. Limits of disturbance.
  - b. Methods and location of tree protection.
  - c. The development program inspection schedule.
  - d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
  - e. Conditions of DPS Stormwater Management Concept approval letter dated 8/21/1997.
  - f. Details for and location of noise fencing to attenuate projected levels to no more than 60 dBA Ldn for the outdoor back yard area of home (lot 1, block D) along Route 29 if determined necessary by staff after examination of noise cross-section prior to building permit.
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.

## MONTGOMERY COUNTY PLANNING BOARD

## OPINION

Preliminary Plan 1-83140  
NAME OF PLAN: BARMAN PROPOERTY

On 09-12-83, BLACKBURN/29 LTD. PARTNSHP, submitted an application for the approval of a preliminary plan of subdivision of property in the R90 zone. The application proposed to create 134 lots on 16.07 ACRES of land. The application was designated Preliminary Plan 1-83140. On 07-18-85, Preliminary Plan 1-83140 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-83140 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-83140, subject to the following conditions:

1. No more than 49 lots to be recorded until Planning Board finds that public facilities are adequate for remainder. Any APF related improvements associated with remaining lots to be based on total of 134. Issue of timing & responsibility for accel/decel lanes on Rt. 29 to be addressed when remainder of plan is considered
2. Dedication for Monumental entrance, Blackburn Rd. (30' off center line), relocation of Blackburn Road, and new primary street per 6/20/85 Transportation Division memo
3. Preparation of plans for intersection relocation and construction of portion on applicant's property to extent possible
4. Conditions of DEP stormwater management approval
5. No clearing, grading or recording of lots prior to site plan approval by Montgomery County Planning Board
6. Number and location of units to be determined at site plan



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD  
 OPINION

Site Plan Review #8-86087  
 Project: Blackburn Village

Date Mailed: December 16, 1987

Action: (Motion was made by Commissioner Floreen, seconded by Commissioner Hewitt, with a vote of 3-0, Commissioners Keeney, Floreen, and Hewitt voting for and no Commissioner voting against. Commissioner Henry was absent and Commissioner Christeller was temporarily absent.)

On October 9, 1986, Macris, Hendricks & Witmer submitted an application for the approval of a site plan for property in the R-90/TDR-7 zone. The application was designated Site Plan Review #8-86087.

On December 10, 1987, Site Plan Review #8-86087 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented by the staff and on the staff report with modifications to the conditions hereby adopted by the Montgomery County Planning Board, which is attached hereto and made a part hereof, the Montgomery County Planning Board finds:

1. the Site Plan meets all of the requirements of the zone in which it is located;

the locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient; and

3. each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development;

and approves Site Plan Review #8-86087 subject to the following conditions, to be addressed prior to release of building permits:

Staff will review each revised submittal and may approve each revision when they satisfy the following conditions:

1. The applicant shall submit a Site Plan Enforcement Agreement, Development Program, and Homeowners Association Documents for staff's review and approval when acceptable. The Site Plan Enforcement Agreement shall include an agreement that the Applicant will not apply for more than the 49 building permits until the Preliminary Plan is updated to approve the release of additional building permits.

2. The grading for this site plan should be refined to allow for a maximum of tree preservation, particularly along the eastern boundary and between townhouse groups 6-13 and 14-21. Retaining walls must be used in order to save a maximum of trees between the two townhouse groups.
3. The following facilities should be included for community recreation: several benches or a gazebo, multi-age play equipment (which is of high quality and visually attractive and compatible with the adjoining residences), and light fixtures. The paths should be relocated to preserve the maximum number of trees. Open space easements are needed along the length of the mid-block path.
4. The applicant shall submit: a detailed stream channel protection plan for the off-site "Silverwood" tributary of Little Paint Branch and a safe conveyance and outfall plan for stormwater runoff for M-NCPPC's Environmental Planning staff's review and comment; a berm should be added behind all units which have back yards which adjoin US Route 29; the builder will provide a written statement that the interior of all units are within the 45 Dba, Ldn noise levels. Detail of the noise attenuation fence behind the townhouses parallel to US Route 29 shall be shown on a drawing and shall meet with Environmental Planning staff's criteria for noise attenuation.
5. Additional street trees are needed along the entire length of Blackburn Road, additional shrub masses are needed along the entrance from US Route 29 to provide more effective screening for the unit back yards, and the berm between the townhouses and US Route 29 must be landscaped as well. Tree preservation for the site must include: staff-approved tree preservation limits clearly shown on all drawings to be used in the field; staff-approved sturdy tree preservation fences shall be located in the field with signs attached indicating tree preservation efforts prior to the start of grading; an agreement shall be made by the applicant to not begin grading or will not pick up building permits until M-NCPPC staff has approved fence locations in the field; and the landscape plan will include recommendations for the replacement of plant materials removed from the site in error or the landscape plan will show the plant materials to be added if the preserved plants fail to achieve the intent of screening, shade or ornamental use. The tree preservation phasing must be included in the Site Plan Enforcement Agreement.
6. All townhouse courts' sidewalks must connect to Blackburn Road. Blackburn Road shall include sidewalks on two sides of the street for the length of the developed areas. Blackburn Lane shall include a sidewalk on one side of the street.
7. The former roadway should be completely removed between the entry road and the actual driveway to the existing house.
8. Units 99 and 100 shall be resited to face each other.

With this Site Plan approval, the Planning Board approves a waiver of the 100-foot setback for 31 townhouses and the height and setback of three detached houses. Additionally, the Planning Board approves an environmental waiver for the minimum percentage of detached homes (to allow 13.6% instead of 15% detached homes).

MONTGOMERY COUNTY CODE  
ZONING ORDINANCE  
Chapter 59

ATTACHMENT 4  
Circle 1

Division 59-C-1

**59-C-1.33. Transferable development rights zones.**

- (a) **Location.** No land shall be classified in any of the transferable development rights zones unless recommended on an approved and adopted master plan or sector plan.

**59-C-1.331. Methods of Development.** The following 2 methods of development are possible in each of the TDR zones:

- (a) **Standard method of development.** Development under the standard method for TDR zones must comply with the requirements for development and density limitations contained in the corresponding zones as identified in section 59-C-1.332. In addition, standard method development may be approved under either the cluster development procedures of section 59-C-1.5 or the procedures for development including moderately priced dwelling units, as contained in section 59-C-1.6, if the property satisfies the minimum requirements for these development options.
- (b) **Optional method of development.** Under the optional method of development for the TDR zones, greater densities may be permitted up to the maximum density established in the development standards of section 59-C-1.332 of the zone, but development must also conform to the special regulations for optional method developments using transferable development rights as contained in section 59-C-1.39. The special regulations require compliance with the density, numerical limitations, and other guidelines contained in the applicable master plan approved by the district council.

Code 1

**MEMO**



*Joe Davis*

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

June 4, 1990

10:00 AM  
JUN 4 1990  
MAIL ROOM

To: Joe Davis, Malcolm Shaneman, Development Review  
John Carter, Urban Design

From: Piers Weiss, CPS

Re: Trip Reduction Amendment for Eastern Montgomery County

The following pending preliminary plans using TDRs which already have HOC approval have been exempted from the Council's action on the trip reduction amendment for Eastern Montgomery County. This means that they retain all the approved TDRs.

- 1 - 88118
- 1 - 88145
- 1 - 88123

The following approved preliminary plans which have pending site plans are also exempt:

- 1 - 88139
- 1 - 88148

The following pending preliminary plans were not exempted and now have a new TDR designation:

- 1 - 88140 R90/TDR 4.6
- 1 - 87160 R90/TDR 4.6
- 1 - 88021 R90/TDR 4.6

4



Circles 1-6

MEMORANDUM

TO : Montgomery County Planning Board

FROM: Denis D. Canavan

SUBJECT: TDR Data for Fairland Master Plan Area

Based on a recent County Council request to provide statistical data for the Fairland Master Plan on Monday December 9, 1996, I have attached the tabular summary of TDR data for the Fairland Plan. The Council will also like the county-wide data in summary form for the other 12 master plan areas, in order to compare the capacity of TDR receiving areas. Those figures will be provided, as well as the TDR data from the sending area. A brief analysis of the data reveals the following:

**Sending Area:**

The Rural Density Transfer Zone, the sending area, had a theoretical capacity of 19,297 TDRs based on ratio of 1 TDR per 5 acres. In reality, not all TDRs will transfer because this number is reduced by the number of TDRs attributed to:

- Lands in public ownership;
- Land in State Agricultural District Easements;
- Land in Md. Environmental Trust Easements;
- Land in County Agricultural Easement Program;
- Cumulative acreage of parcels less than 10 acres;
- Number of dwelling units on parcels larger than 10 acres.

This number is again reduced by 20% based on the reading of over 400 recorded easements for land in the RDT Zone, where the vast majority of property owners are retaining a minimum 20% of their TDRs to allow residential development of their farmland in accordance with the RDT Zone standards. Hence, the theoretical number of 19,297 TDRs is reduced to **10,257 TDRs in the sending area** that would possibly transfer to the receiving areas. This number is likely to decrease over time as more changes occur in the RDT Zone as listed above. To date, the recorded easements have severed approximately 4300 TDRs from land in the RDT Zone. An estimated 5,359 TDRs have been approved for use in the receiving areas leaving an estimated **4,898 TDRs** that could still be transferred from the Sending Area.

**Receiving Areas.**

In the 13 area Master Plans with receiving areas, the zoned land had a estimated capacity to receive 13,530 TDRs. This capacity has been subsequently reduced through development activity attributed to:

- Residential subdivisions using TDRs; (estimated 5,359 TDRs)
- Residential subdivisions not using their full complement of TDRs;

Residential subdivisions not using any TDRs  
Development of land for use other than residential, ie. Special Exceptions  
Land for future road improvements, ie. ICC right-of-way;  
Land rezoned from a TDR zone to an alternative zone.

Based on the above development activity the anticipated receiving capacity has been reduced to 6,456 TDRs. The development activity includes the use of an estimated 5,359 TDRs on approved subdivision plans in receiving areas.

#### **Observations of the above data and other statistical information**

- With the studied facts of the Sending Area and the assumption that land owners will continue to retain some of their TDRs, 42% of the anticipated TDRs that would transfer have been severed from the Sending Area. Of the estimated 10,257 TDRs, 4300 TDRs have been severed by easement leaving an estimated 6,957 TDRs that could transfer.

---

- The Sending Area could still transfer approximately **4,900 TDRs**
- With the studied facts of the Receiving Areas, the development activity occurring has reduced the available TDR capacity from 13,540 to 6,456 TDRs, which leaves 48% of the zoned TDR capacity remaining to receive additional TDRs.
- The Receiving Areas have a current capacity to receive an additional **6,456 TDRs**
- Of the 5,359 TDRs shown on subdivision plans, an estimated 4300 TDRs have been recorded on subdivisions record plats. Additional TDRs shown on approved subdivision plans will proceed to record plat.
- An average of 330 TDRs per year are used for residential units in receiving areas compared to an average of 6400 dwelling units constructed per year county-wide over the last 13 years.

REVISED (3/04/96)

## HISTORICAL REVIEW OF TDR CAPACITY IN FAIRLAND 1981 - PRESENT

### 1981 - Approved and Adopted Master Plan

The 1981 Approved and Adopted Master Plan contained recommendations for a total capacity of 3,532 TDRs. (1986 TDR Update)

### 1987 - Sectional Map Amendment (G-563)

In 1987, a Sectional Map Amendment was prepared to zone the receiving areas designated in the 1981 Plan in order to comply with a Maryland Court of Appeals ruling. At that time, some properties designated in the Plan as receiving areas had developed without TDRs and were therefore excluded from the rezoning. The rezoning involved approximately 1,033 acres with a total capacity of 3,244 TDRs (288 fewer than recommended in the 1981 Plan). (June 11, 1987 Memo to County Council regarding Map Amendment, G-563)

### 1990 - Trip Reduction Amendment

The 1990 Amendment attempted to balance potential residential and non-residential development with transportation capacity. The Amendment removed TDR capacity and all recommendations for PD zones. The Amendment reduced the capacity of TDRs on the 1,033 acres to 1,859. At the time of the Amendment, the total number of TDRs actually used was 827 with 164 TDRs pending or awaiting recordation, 367 were precluded or lost by development not utilizing TDRs. The remaining unused capacity was 501.

The 1992 TDR Update calculated the total capacity of TDRs on the 1,033 acres at 1,714 with 850 TDRs recorded, 74 pending, and 291 lost to development. The total remaining unused capacity was still 501.

REVISED (3/04/96)

HISTORICAL REVIEW OF TDR CAPACITY IN FAIRLAND 1981 - PRESENT

1995 - Public Hearing Draft Fairland Master Plan

This plan proposes to reduce the Master Plan TDR capacity to 1,345

Total existing TDR capacity 1,714

Total TDRs removed by the Plan - 452  
(rezoning from TDR areas)

Total TDRs added by the Plan + 83  
(rezoning to TDR areas)

---

Total Master Plan TDR capacity = 1,345

Estimated unused TDR capacity = 130 TDRs\*

\*1,345 - 850 - 74 - 291 = 130 unused remaining TDR capacity  
(Master Plan capacity - TDRs used - non-TDR development)

169

45

# EASTERN MONTGOMERY COUNTY

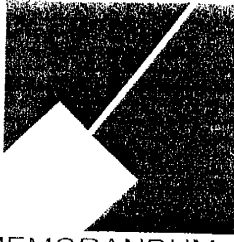
Planning Area Number	Acres	TDR Capacity	Preliminary Subdivision Plans	Acres	TDR Capacity of Preliminary Plan	TDR's Shown	TDR's on Approved Preliminary Plan	TDR's Recorded	TDR's on Pending Preliminary Plan	Diminished Master Plan Capacity (TDR's Not Used)	Acres Remaining	TDR's Remaining
1	65.63	74	188339	6.20	15	0	0	0	0	15		
			196040	20.60	0	0	0	n/a	n/a	20		
		Subtotal		26.80	15	0	0	0	0	35	38.83	39
2	423.40	830	183203	111.8	335	335	335	335	0	0		
			185018	16.05	48	32	32	32	0	16		
			183043	74.15	222	222	222	222	0	0		
			187276	2.05	6	4	4	1	0	5		
			190173	1.96	2	0	0	0	0	2		
			186072	1.03	1	0	0	0	0	1		
		Subtotal		207.04	614	593	593	590	0	24	216.36	216
3	146.77	328	193013	2.00	2	0	0	0	0	2		
			195025	5.04	5	0	0	0	0	5		
			183140	16.04	55	54	41	17	24	14		
			188119	10.00	34	34	34	25	0	9		
			185148	4.85	13	13	13	10	0	3		
			185139	6.00	21	21	21	13	0	8		
			184232	3.56	9	8	8	8	0	1		
			182063	40.07	130	92	92	92	0	38		
			188153	1.23	1	1	1	1	0	0		
			189232	0.93	1	0	0	0	0	1		
		Subtotal		89.72	271	223	210	166	24	81	57.05	48
4 & 5	22.50	35	182095	20.82	35	35	35	35	0	0		
		Subtotal		20.82	35	35	35	35	0	0	1.68	0
6	155.11	171	184188	3.97	11	10	10	10	0	1		
			185047	5.02	15	0	0	0	15	0		
			188223	2.00	2	0	0	0	0	2		
			190096	19.58	19	0	0	0	19	0		
			188242	1.50	1	0	0	0	0	1		
			576-88	23.30	23	0	0	0	0	23		
			188231	14.00	14	0	0	0	14	0		
		Subtotal		69.37	85	10	10	10	48	27	85.74	86

(4)

Planning Area Number	Acreage	TDR Capacity	Preliminary Subdivision Plans	Acreage	Diminished							Acreage Remaining	TDR's Remaining	
					TDR Capacity of Preliminary Plan	TDR's Shown	TDR's on Approved Preliminary Plan	TDR's Recorded	TDR's on Pending Preliminary Plan	Master Plan Capacity (TDR's Not Used)				
7	52.60	87	184028	16.80	51	51	50	50	0	1				
			548-89	14.00	14	0	0	0	0	14				
		Subtotal		30.80	65	51	50	50	0	15		21.80	22	
8	30.10	52	187124	8.97	31	0	0	0	0	31				
			183171	see below	7	7	7	2	0	0				
			183123r	see below				2	0	0				
			584-07	3.60				2						
			584-08	5.16				2						
			584-09	2.65				3						
		Subtotal		20.38	38	7	7	7	0	31		9.72	14	
9	86.15	86	185021	59.06	59	0	0	0	0	59				
		Subtotal		59.06	59	0	0	0	0	59		27.09	27	
10	15.72	16	184129	15.72	16	13	13	13	0	3				
		Subtotal		15.72	16	13	13	13	0	3		0	0	
11	22.88	23	192061	13.31	0	0	0	0	0	13				
			183119	9.24	10	0	0	0	0	10				
		Subtotal		22.55	10	0	0	0	0	23		0.33	0	
12	18.80	19	184033	18.80	19	19	13	11	0	8				
		Subtotal		18.80	19	19	13	11	0	8		0	0	
13	25.93	26		0	0	0	0	0	0	0		25.93	26	
		Subtotal		0	0	0	0	0	0	0		25.93	26	
TOTAL	1,065.59	1,747		581.06	1,227	951	931	882	0	306		484.53	559	

SMD:h:Vairland.wk4: 12/19/96

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8737 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

May 24, 2006

## MEMORANDUM

TO: Cathy Conlon, Development Review

FROM: Piera Weiss, Community-Based Planning- Eastern County Team

RE: Burn Brae Preliminary Plan 7-20060480

I received the May 22, 2006 letter from the applicant, after I had already completed and distributed my staff report on May 16, 2006.

The applicant is now arguing that the 1981 Plan should be used to establish the TDR densities for the subject property, and that the 1990 amendment reducing those densities is no longer valid because the reasons for that amendment no longer pertain, i.e. "substantial changes have occurred so as to negate the traffic concerns that would have arisen had the 1981 Master Plan land use proceeded."

The 1981 Plan was based on the concept of transit serviceability and recommended a transit system the length of US 29. The densities were recommended to support that transit system. The 1997 Plan concluded that the entire concept of transit serviceability was not viable and recommended road improvements to better balance future land use and transportation capacity. The Plan recommended grade separated interchanges for all east-west crossings of US 29, the ICC and associated interchanges, and improvements to MD 198 in order to manage the projected growth of the 1997 Plan. The 1997 Plan reduced the densities and rezoned a number of properties to better balance transportation capacity. The 1997 Plan amends the 1981 Plan, as amended, and, therefore, as staff has already argued, the densities set in the 1990 amendment have been used since 1998.

As to the issue of more housing, staff appreciates the applicant's interest in providing affordable housing to meet the anticipated housing challenge facing the county in the eastern county. Staff notes that a equally important concept of the 1997 Plan was better balancing future affordable and market rate housing. The master plan area has a concentration of affordable housing including MDPUs and subsidized housing built in the 1970s and 1980s. These units are still in existence and in fact a number of the units are adjacent to the subject property, Country Club Apartments and Blackburn Village. The master plan recommended a balance between housing options, transportation and future growth and the subject site should be developed in concert with those recommendations.



**Crampton, Pamela**

**From:** Rochester, Stuart, CIV, OSD-ODA&M [Stuart.Rochester@osd.mil]  
**Sent:** Wednesday, March 22, 2006 7:03 PM  
**To:** Crampton, Pamela  
**Cc:** Conlon, Catherine; KimberlyCampbell AnthonyBrown  
**Subject:** RE: 720060480 Burnbrey Property

Ms. Crampton: **The Fairland Master Plan Committee was stunned to find the developer of the Burn Brae property (Pre-Preliminary Plan 720060480) applying for 120 units when by our calculations the Master Plan calls for fewer than 50 units maximum on that parcel.** We have no doubt the applicant is trying to exploit the TDR designation to maximize the number of units but the 1980s Trip Reduction Amendment reduced the TDR capacity, and the 1997 Master Plan in fact eliminated many of the TDRs as inappropriate in the Blackburn area because of its own inherent environmental constraints, traffic congestion, and other issues. By our estimate, the developer is only permitted 4.2 units per acre absent any language in the Master plan to the contrary, which would allow some 46 units. Further, a key thrust of the Fairland Master Plan was to encourage more single-family detached, and especially on the east side of US 29, where the housing envelope is grossly unbalanced. The peculiar "over/under" arrangement proposed by the developer, while helping to maximize his yield, fundamentally undermines this key goal of the master plan. You should know that this master plan committee has supported several rezonings just in the past year that permitted what we believed were justifiable incremental increases in townhouse density where appropriate on Greencastle Road, Briggs Chaney, and, most recently, Old Columbia Pike. So we have a long documented record of being fair to developers. This proposal is so inflated as not to be taken seriously. The DRC needs to give the propertyowner and/or developer a reality check at your upcoming meeting, i.e., to go back to the drawing board with a serious proposal that reflects both the well-known constraints of this site and the dictates of the Master Plan. Please keep us apprised of any key meeting or hearing dates and feel free to contact me if Development Review wants or requires additional information. Thank you for this early opportunity to comment on the plan for the Burn Brae site.

Stuart Rochester  
 Chair, Fairland Master Plan CAC

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

**From:** Crampton, Pamela [mailto:pamela.crampton@mncppc-mc.org]  
**Sent:** Wednesday, March 22, 2006 4:52 PM  
**To:** Rochester, Stuart, CIV, OSD-ODA&M  
**Subject:** 720060480 Burnbrey Property

This e-mail is being sent, per our conversation today, regarding the above referenced pre-preliminary application. Please respond to this e-mail with any questions, comments or concerns you may have that are related to the proposed plan. Your responding e-mail will be forwarded to the file and included when the review process begins.

Thank you for your interest.

*Pamela Crampton  
 Development Review Division  
 Maryland-National Capital Park & Planning Commission  
 301.495.4586*

## FAIRLAND MASTER PLAN CITIZENS ADVISORY COMMITTEE

May 16, 2006

Chairman Derick Berlage  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring MD 20910

**RE: Pre-Preliminary Plan 720060480 (Burn Brae)**

Dear Chairman Berlage and Commissioners:

The Fairland Master Plan Citizens Advisory Committee strongly opposes the proposal by the developer of the Burn Brae property as grossly excessive for a neighborhood with well-known environmental constraints, narrow streets, already tightly clustered lots, and restricted outlet to US 29. Moreover, the plan to build "over/under" units is in direct conflict with a major thrust and important priority of the Fairland Master Plan to improve the single-family housing balance on the east side of the planning area.

Initially highballing the number of units at an impossibly high figure of 120 and then proposing to lower the number to 85, still well in excess of the number deemed appropriate by staff and the CAC, the applicant has essentially disregarded master plan guidelines that call for future development in this area to limit low-end housing and reduce density where environmental obstacles discourage full buildout. The plan seeks instead to exploit the TDR provision to maximize the development envelope on a site already seriously impacted by surrounding high density, traffic congestion, and overcrowded schools. **This small, packed-in community has taken more than its share of TDRs, MPDUs, and bonus densities over the years to further Countywide objectives.** The 1990 Trip Reduction Amendment reduced TDR capacity in the Blackburn area in acknowledgment of infrastructure deficits; the 1997 Master Plan eliminated many TDRs there altogether because of limited connectivity, an overconcentration of high-density housing, and significant environmental issues.

The peculiar "over/under" arrangement the applicant proposes is a contrivance to inflate yield while fundamentally undermining the housing goal in the Fairland plan. Families would have to share already small yards and limited outdoor space. Not only is the master plan goal of more single-family detached for the Blackburn area not being met, but the shared lots do not even comply with the zoning ordinance definition for single-family *attached*, which requires that a one-family attached dwelling have an abutting ground-level area for the exclusive use of its occupants. The notion that the "over/under" concept is somehow a "conforming" or "transitional" use because of proximity to the Burn Brae apartments belies the fact that there is scarcely a square foot of open space in the entire Blackburn community. What "transition" exists between the few single-family homes and the masses of townhouses that envelop them? To cite a conformity or

transition principle here in order to rationalize higher densities when no such rationale applied to protect the larger lots adds insult to injury.

We support staff's density calculations of 4.6 units per acre as fair, appropriate, and realistic given the inherent limitations of the site, the master plan precedent established by the 1998 decision on the Barman tract, and if the stated goals of the master plan mean anything at all. *You should know that the master plan committee has supported several rezonings just in the past year that permitted increases in townhouse density where we believed justifiable—on Greencastle Road, Briggs Chaney, and, most recently, Old Columbia Pike. So we have a long documented record of being fair to developers. In this instance the Board needs to give the developer a reality check to go back to the drawing board with a serious proposal that reflects the manifest constraints of the site, the concerns of the community, and the dictates of the Master Plan.*

Sincerely,



Stuart Rochester  
Chairman, Fairland Master Plan CAC

cc. Cathy Conlon  
Piera Weiss