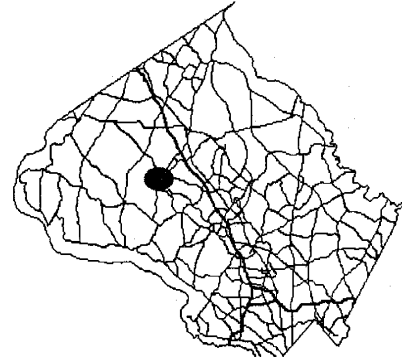


**MEMORANDUM**

DATE: June 16, 2006
 TO: Montgomery County Planning Board
 VIA: Rose Krasnow, Chief *RK*
 Michael Ma, Supervisor *Ma*
 Development Review Division
 FROM: Calvin Nelson, Jr. *CN*
 Community-Based Planning Division
 (301) 495-4619



REVIEW TYPE: **Site Plan Review**
 CASE #: 820050400 (Previously **8-05040**)
 PROJECT NAME: Leaman Farm
 APPLYING FOR: Approval of 69 dwelling units on 29.3 acres
 REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance

ZONE: R-200
 LOCATION: Southwest quadrant of the intersection of Clopper Road (MD 117) and
 Schaeffer Road
 MASTER PLAN: Germantown
 APPLICANT: Elm Street Development
 FILING DATE: June 13, 2005
 HEARING DATE: June 29, 2006

STAFF RECOMMENDATION: Approval of Site Plan 820050400 for 69 dwelling units, including 10 MPDUs, on 29.3 acres. All site development elements as shown on Leaman Farm plans stamped by the M-NCPPC on June 6, 2006 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 120040600 (formerly 1-04060) as listed in the Planning Board opinion dated February 23, 2005 (Appendix A).

2. Landscaping

In addition to the proposed street trees, the Site Plan shall provide landscaping at the terminus of Public Road 'A' at the rear of Lot 17.

3. Lighting

- a. All light fixtures shall be full cut-off fixtures.
- b. Deflectors shall be installed on all fixtures that cause 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 public roads or adjacent to residential properties.

4. Environmental

- a. Impervious surfaces within the proposed development shall not exceed 252,775 square feet.
- b. Applicant shall enter an agreement with M-NCPPC for the purpose of withholding building permits for four (4) one-family detached residential dwelling units to ensure compliance with the impervious limitations. The 4 lots shall be graphically denoted on the certified site plan. A note shall be placed on the record plat restricting issuance of last 4 building permits pending approval from M-NCPPC Environmental Planning staff. Building permits for the 4 lots shall be released one at a time, based upon availability of impervious surfaces.
- c. Applicant shall place impervious coverage limitations and information pertaining to the above agreement on the record plat.
- d. The developer/builder shall submit an impervious surface report to M-NCPPC Environmental Planning staff prior to issuance of building permits for 30th, 55th and 65th dwelling unit. The applicant shall submit an impervious report for each of the remaining building permits after the 65th dwelling unit. The impervious reports shall include: surveyed 'as-builts' drawings which include dimensions and impervious areas for buildings, driveways, sidewalks, leadwalks, porches, patios, chimneys, welled exits, rear exits and any building feature that is two feet or less from the ground. If at any time the impervious area limit is reached before building permits for all approved lots have been issued; the lots for which building permits have not been issued shall be re-recorded as non-impervious Homeowners Association open space parcels prior to issuance of the building permit for the last dwelling unit allowed under the impervious surface limit.

5. Forest Conservation

The applicant shall comply with the following conditions of approval from M-NCPPC-Environmental Planning in the memorandum dated June 14, 2006 (Appendix B).

- a. Applicant shall construct a permanent split rail fence along lot lines that adjoin the forest conservation easement.
- b. The proposed development shall comply with the conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

- c. Record plat of subdivision shall reflect a Category I conservation easement over all areas of stream buffers and forest conservation.
- d. A conservation easement must be placed on the stream buffer on Lot 17A only if the existing farmhouse is removed and a new house constructed. The new house shall be located entirely outside of the buffer and access to the new house to be via the street internal to the subdivision. All impervious surfaces in the stream buffer shall be removed and a forest conservation easement placed over the entire stream buffer prior to issuance of a building permit for a new residence.

6. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated January 3, 2005, where revised and approved by MCDPS.

7. 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 48th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

8. Dwelling Unit, One-Family Attached

To meet the definition of "dwelling unit, one-family attached," the proposed one-family attached units (two over two units) shall meet all the applicable criteria as follows:

- a. The dwelling units are in a single structure consisting entirely of dwelling units.
- b. Each dwelling units is attached to one or more other dwelling units.
- c. Each dwelling unit has at least one direct entrance from the outside.
- d. Each dwelling unit has an abutting ground level outdoor area for the exclusive use of its occupants.

9. 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 the certified site plan. The Development Program shall include a phasing schedule as follows:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Community-wide pedestrian pathways and recreation facilities shall be completed prior to issuance of the 48th building permit.
- c. Landscaping associated with each building shall be completed as construction of each building is completed.
- d. Pedestrian pathways associated with each street shall be completed as construction of each street is completed.
- e. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- e. Provide each section of the development with necessary roads.

- f. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

10. Moderately Priced Dwelling Unit (MPDUs)

The proposed development shall provide ten MPDUs on site.

11. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of signature set of plans.

13. Certified Site Plan

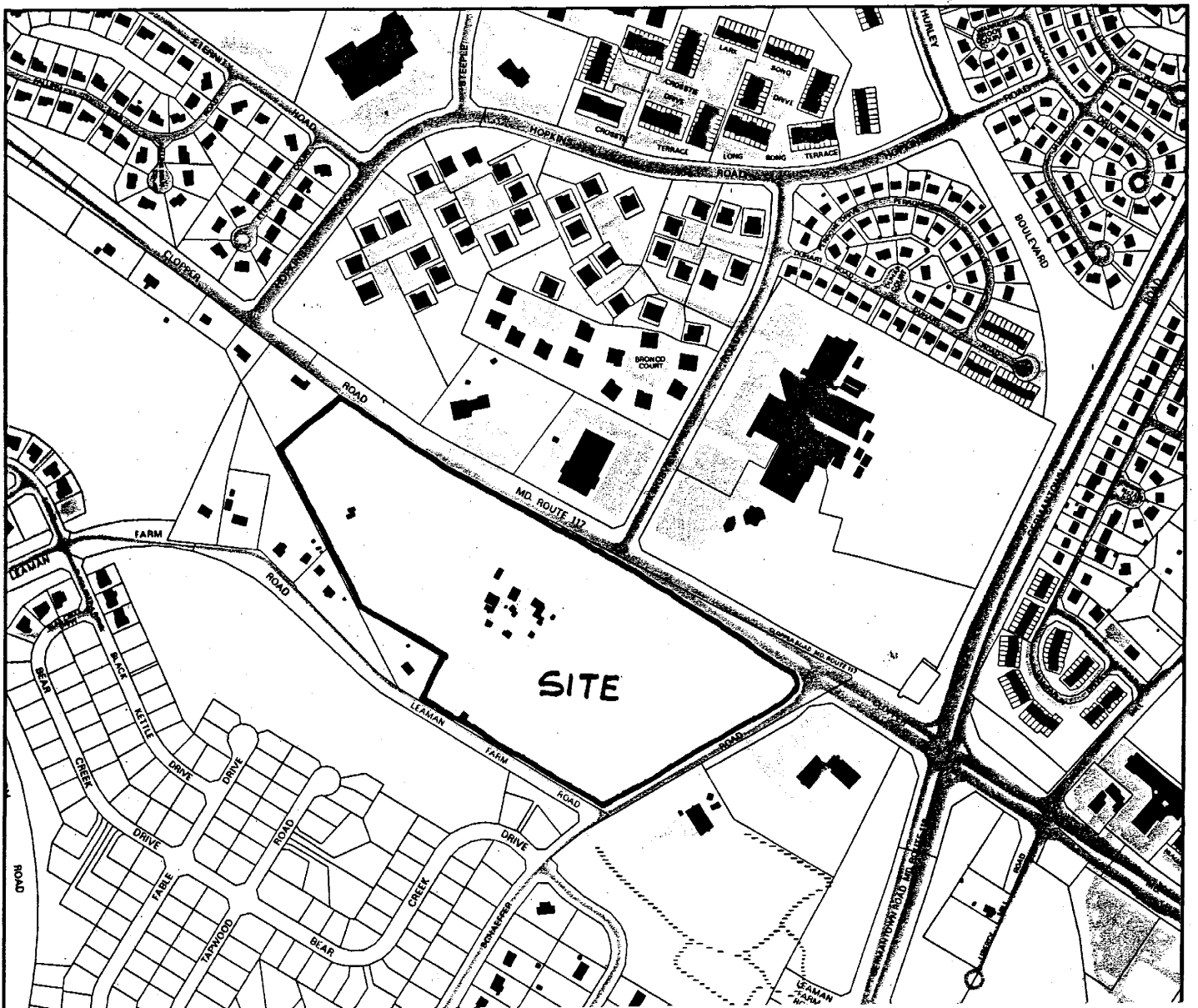
Prior to Certified Site Plan approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Undisturbed stream buffers.
- c. Limits of disturbance.
- d. Methods and locations of tree protection.
- e. Forest Conservation easement areas.
- f. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- g. Location of outfalls away from tree preservation areas.
- h. Revised development standards table including MPDU calculation.
- i. Details for the proposed one-family attached units (two over two), to demonstrate that each dwelling unit has an abutting ground level outdoor area for exclusive use of these dwelling units.
- j. Building restriction lines (BRL) for all the units.

PROJECT DESCRIPTION: Site Vicinity

The subject property is located in the southwest quadrant of the intersection of Clopper Road (MD 117) and Schaeffer Road in Germantown. The Germantown Master Plan shows the subject site as being in the Kingsview Village Analysis Area.

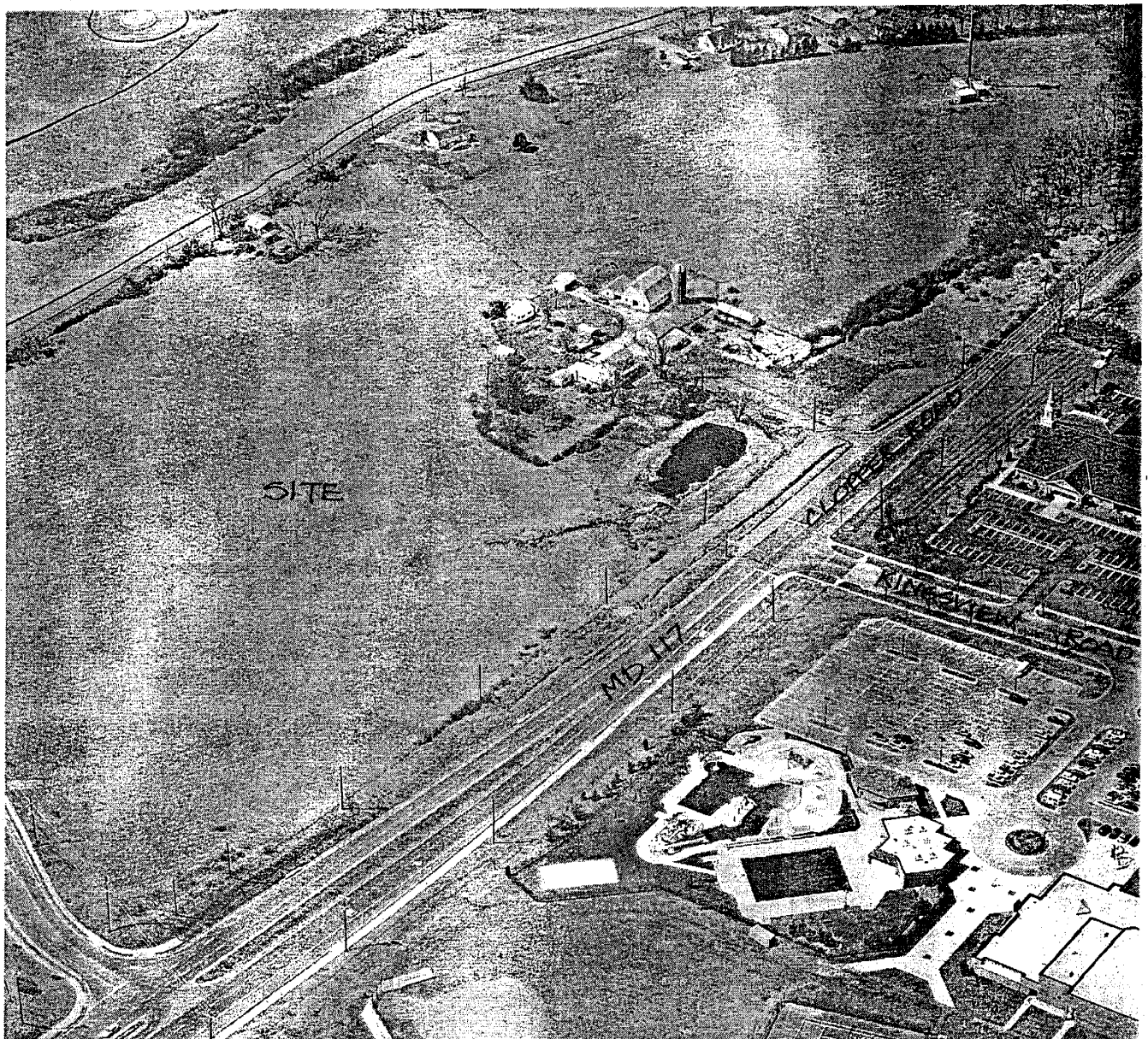
Across Clopper Road to the north are the Germantown Community Center and Kingsview Middle School in the R-200 zone, the Church of Jesus Christ of Latter Day Saints in the RT-8 Zone, and the Messiah Lutheran Church in the R-60 Zone. Across Schaeffer Road to the east are the Trinity United Methodist Church and Bright Eyes Day Care located in the R-200 Zone, and the Phillips Farm located in the R-200 Zone. To the south across Leaman Farm Road is the newly developed Estates at Woodcliffe Park, a single-family detached development in the R-200 Zone. Adjacent to the site to the west on Leaman Farm Road is a single family detached home in the R-200 Zone and several other vacated house sites that are now designated as a tree preservation area.



PROJECT DESCRIPTION: Site Description

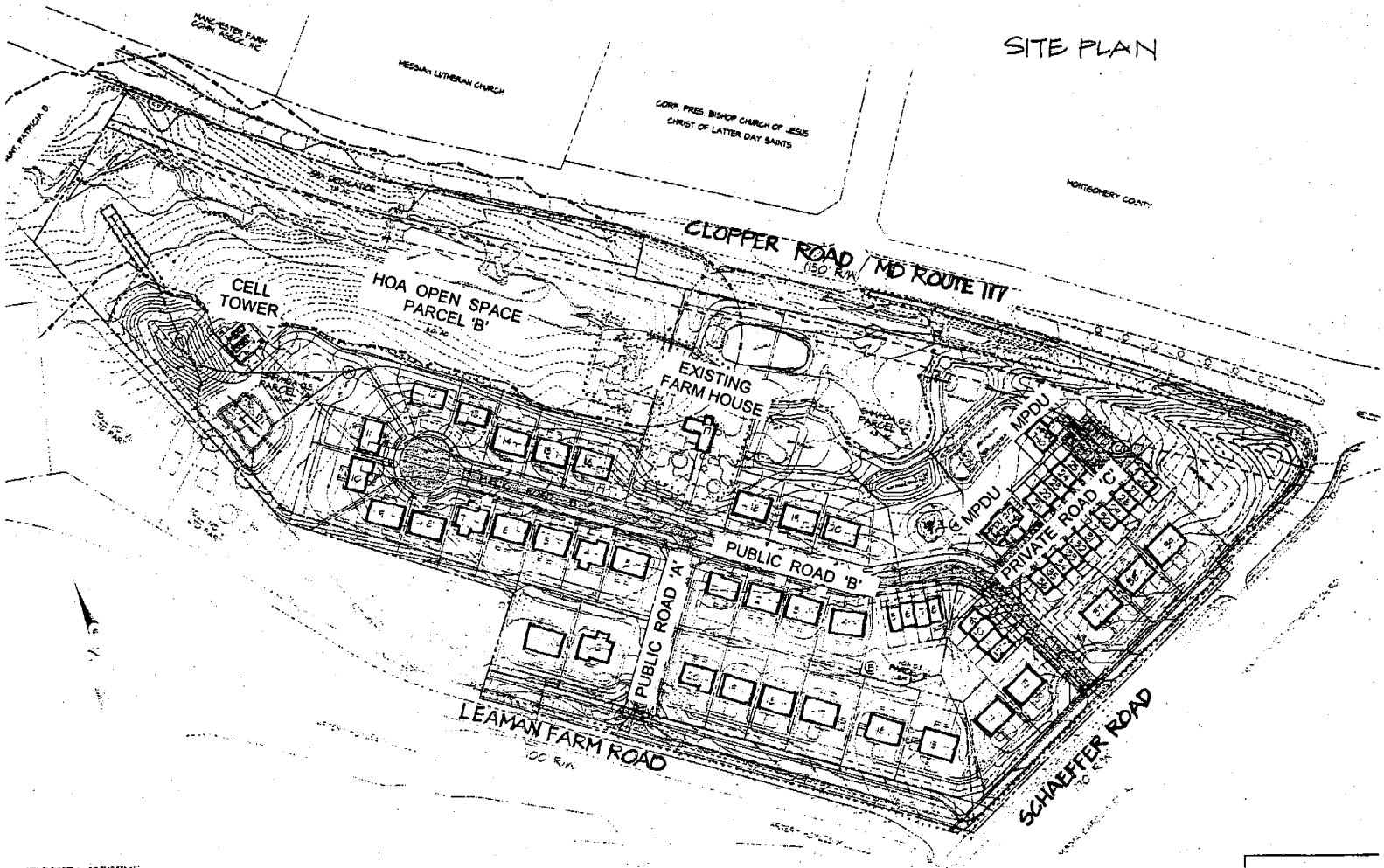
The 29.3-acre property is zoned R-200. Existing improvements on the property include a farmhouse centrally located on the site with driveway access to Clopper Road. There are also barns and other outbuildings, a silo, a pond, and a cellular telecommunications tower located at the northwest corner of the property.

The site includes stream buffers and wetlands and lies within the KI-2 analysis area identified in the Germantown Master Plan. The site drains to Little Seneca Creek, a Use III-P (natural trout waters) watershed in this section, via a tributary stream flowing along the northeastern property boundary. The current land cover includes agricultural field and forest. The site contains 2.2 acres of forest and numerous specimen-size and significant trees within the environmental buffer area that is located along Clopper Road.



PROJECT DESCRIPTION: Proposal

This application proposes to create a residential community with 69 dwelling units, including 10 Moderately Priced Dwelling Units (MPDU's). The development will consist of 34 single family detached houses with 2-car garages, 24 townhouses with 2-car garages and 10 single family attached houses (two-over-two) with bay parking. The existing farm house on the site, and some of the outbuildings will remain. Two entrances are proposed for the site, one off of Leaman Farm Road, the other off of Schaeffer Road. The existing entrance off of Clopper Road will be used exclusively for the existing farm house. If the farm house is later removed and replaced with another single family detached house, access to the lot will come by an internal street, no access will be permitted from Clopper Road. Most of the townhouses and all of the single family attached houses (MPDUs) are located off a private street on the eastern side of the site. During the preliminary plan process it was determined that only single-family detached homes would face onto Leaman Farm Road and Schaeffer Road. The site plan preserves the stream valley and environmentally sensitive areas. A permanent split-rail fence will extend along the stream valley buffer from the existing farm house lot to the western boundary of the westernmost stormwater management facility. Access to the cellular telecommunications tower on the western part of the site will be provided by a driveway located off the end of the cul-de-sac. Sidewalks will be provided along one side of the private and public roads, and a pathway will extend to the tot lot.

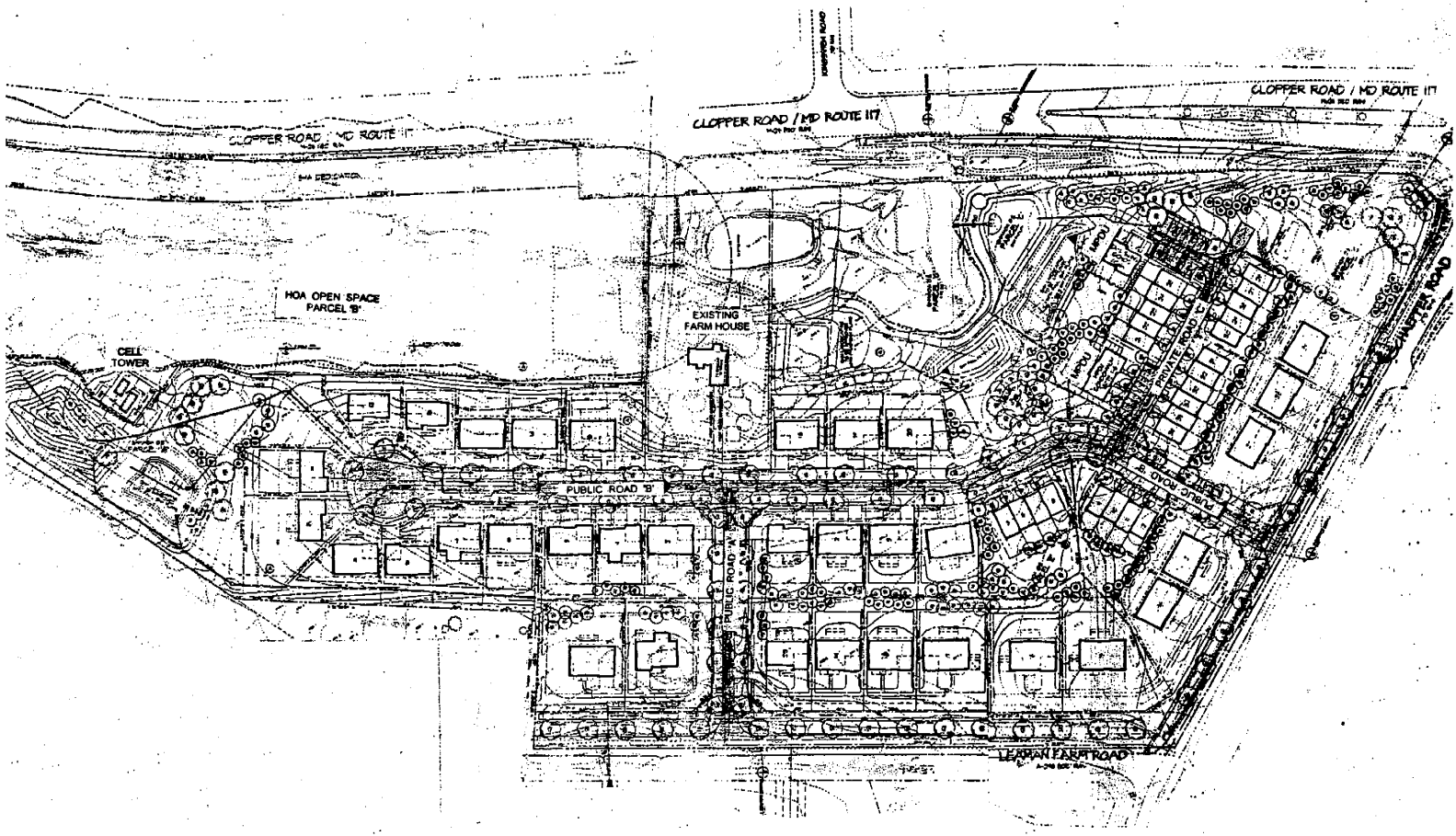


SITE PLAN

WE HEREBY TO CERTIFY THAT THE INFORMATION ON THIS SITE DEVELOPMENT APPLICATION IS TRUE AND CORRECT AND THAT WE HAVE REVIEWED THE APPLICATION AND THE PLAN WITH THE APPLICANT BEFORE THE BOARD AND THE APPLICANT'S ATTORNEY.

A variety of shade, evergreen, and ornamental trees are to be provided around the recreation area and along a section of Clopper and Shaeffer Road. Street trees will be provided in the public street right-of way, and ornamental trees will line the private street.

LANDSCAPE PLAN



PROJECT DESCRIPTION: Prior Approvals

Preliminary Plan

Preliminary Plan 1-04060 was approved by the Planning Board on January 13, 2005 for 69 dwelling units in the R-200 Zone (MPDU/Optional Method)

ANALYSIS: Conformance to Development Standards
 PROJECT DATA TABLE (R-200 Zone, MPDU Optional Method)

Development Standard	Permitted/Required	Proposed For Approval
Min. Tract Area (ac.):	--	29.3
Max. Density Allowed:		
(with 15% MPDUs & density bonus - 29.3 ac. x 2.44 du/ac.)	71	69
MPDU's	10	10
Type of Dwelling Units (du)		
Detached unit (existing)		1
Detached unit		34
Attached unit		24
Two over Two (MPDU)	10	10
Min. Building Setbacks (detached) from public street (ft.)		
Main	25	25
Accessory	25	25
Min. Building Setbacks (attached) from private street (ft.)	—	15
Yard Requirements (ft.) equal to abutting lot or		
SFD side yard minimum	0	4 ¹
SFD rear yard minimum	0	20 ²
SFA & TH side yard minimum (end unit)	0	4
SFA & TH rear yard minimum	0	10
Accessory side yard minimum	0	5
Accessory rear yard minimum	0	5
Min. Lot Area (sf)		
One-family detached dwelling unit	6,000	6,000
Townhouse	1,500	1,500
Min. lot width		
One-family detached dwelling unit- street line	25	25
Max. Building Height (ft.) – (SFD, SFA, TH)	40	40
Max. Building Height (stories)- (SFD, SFA, TH)	3	3
Max. Building Height (accessory building)(stories/ft.)	2/25	2/25
Green Area (sf per unit)		
Townhouse or single family attached @ 2,000/unit		
2,000 sf/unit x 34 units = 68,000 sf =	1.56 ac.	12.74 (HOA parcels)
Max. Impervious Area (sf) (20%)	252,775 ³	252,775
Parking Spaces		
Detached, Semi-detached (2 per dwelling)		
2 spaces x 59 units =	118	118 garage + 118 driveway
2 spaces x 10 single family attached (MPDUs)	20	24 surface spaces (260 total spaces)

¹ 12 feet side yard abutting tract boundary – Lots 1 and 10 Block A

² 30 feet rear yard abutting tract boundary – Lots 6,7,8, and 9, Block A

³ The impervious total does not include the existing imperviousness in the prescriptive right-of-way, but shall include any new imperviousness associated with other improvements within the right-of-way.

MPDU CALCULATIONS

Gross tract area: 29.3 ac.
 Base density: 29.3 ac. x 2 = 58 du
 Proposed number of units: 69
 Density bonus requested: 69 – 58 = 11 or 19% of the base density
 Required % of MPDU for 19% density bonus: 14.3% of base density
 Required # of MPDU for 19% density bonus: 69 x 14.3 = 10

RECREATION CALCULATIONS

Housing Type:

1	SFD I, Lots 20,000+sf
34	SFD II, Lots 7,000 – 19,999 sf
24	Townhouses
10	SFA (2-over2) (MPDUs)
<hr/>	
69	DU's Total

	Tots	Children	Teens	Adults	Seniors
Demand Points					
Demand per 100 du					
SFD I	10.0	20.0	22.0	85.0	8.0
SFD II	13.0	24.0	25.0	106.0	11.0
TH	17.0	22.0	18.0	129.0	7.0

Demand for Leaman Farm Property
 Required

SFD I (0.01)	0.10	0.20	0.22	0.85	0.08
SFD II (0.34)	4.42	8.16	8.50	38.04	3.74
TH (0.34)	5.78	7.48	6.12	43.86	2.38
Total	10.30	15.84	14.84	82.75	6.20

Supply for Leaman Farm Property
 Provided

*Off-Site Credit (35%)	3.60	5.54	5.19	28.96	2.17
Natural Areas	0.00	0.79	1.48	8.28	0.31
(3) Sitting Areas	3.00	3.00	4.50	15.00	6.00
(2) Open Play Area II	6.00	8.00	8.00	20.00	2.00
(1) Tot Lot	9.00	2.00	0.00	4.00	1.00
TOTAL	21.60	19.33	19.17	76.24	11.48
PERCENTAGE	210%	122%	129%	92%	185%

*Off-site credit includes Germantown Pool and Recreation Center located directly across Clopper Road
 Note: Recreation Guidelines provide for communities, which include more than 25 dwelling units.

DIVERSITY OF LOT SIZES

<u>LOT SIZE</u>	<u>NO. OF LOTS</u>
7,000-8,499 sf.	5
8,500-9,499 sf.	11
9,500-10,999 sf.	6
11,000-13,999 sf.	5
14,000-16,999 sf.	4
17,000-19,999 sf.	3
20,000-24,999 sf.	0
25,000+ sf	1

ANALYSIS:

Conformance to Master Plan

The 1989 Germantown Master Plan designates this property for residential development within the KI-2 analysis area. The master plan identifies special environmental treatment for land area covered by KI-2 in order to protect stream quality. The special environmental protection measures set forth in the master plan include an impervious cap of 20 percent. The property represents nearly the last uncommitted parcel within KI-2.

Staff worked closely with the developer to create a residential identity along the frontage of Schaeffer Road that will be consistent with the existing Kingsview Knolls neighborhood and new construction in Kings Crossing and Woodcliffe Park subdivisions. The essential element of this image is single-family detached units that face Schaeffer Road and, for the most part, receive access from Schaeffer Road

Local Area Transportation Review

Three local intersections were identified as critical intersections for analysis to determine whether they meet the applicable congestion standard of 1,450 Critical Lane Volume (CLV) for the Germantown West Policy Area. The Proposed development's trips were added to the existing and the background traffic (trips generated from approved but unbuilt developments) to determine the total future traffic. The total future traffic was assigned to the critical intersections to determine the total future CLV's. All intersections analyzed (MD 117 / MD 118, MD 117 / Schaeffer Road, and MD 117 / Hopkins road) are currently operating at acceptable CLVs during both the morning and evening peak hours and these acceptable traffic conditions are projected to be maintained under the background and total development conditions.

Staff concludes that the subject plan will provide safe and adequate access for vehicles and pedestrians, and satisfies the APF requirements since all nearby intersections are anticipated to operate within the acceptable congestion standard under the LATR.

Noise Analysis

One condition of approval of the preliminary plan of subdivision was for the Applicant to prepare and submit a noise analysis for vehicle traffic on Clopper and Schaeffer Roads. The Applicant prepared and submitted a noise analysis to Environmental Planning for review. The noise analysis indicates that no residential units are located within either the 60 or 65 dBA Ldn noise contours. Therefore, no special noise conditions are required for this site plan.

FINDINGS: For Site Plan Review

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;*

An approved development plan, diagrammatic plan, schematic development plan, or a project plan is not required for the subject development.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;*

The Site Plan meets all of the requirements of the R-200 Zone, MPDU Optional Method as demonstrated in the project Data Table above. An urban renewal plan is not applicable for the subject development.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

- a. Buildings

Single-family detached houses front onto Schaeffer Road and Leaman Farm Road as desired. The single family attached houses (two-over-two units) have an adequate front yard area which will be for the exclusive use of the upper dwelling units. The MPDUs are sited in two locations on the site, separated by market-rate units.

The proposed buildings are located in a manner that is adequate, safe and efficient with the surrounding development.

- b. Open Spaces

Open space on the site includes a 6.01-acre parcel within the stream valley buffer on the northwest section of the site, and two stormwater management facility areas comprising 1.9 acres and 4.37 acres. A split-rail fence will be provided to protect the area within the stream valley buffer. Imperviousness on the site is limited to 20%.

- c. Landscaping and Lighting

The proposed landscaping on the site consists of street trees in the public right-of-way and ornamental trees along the proposed private street. A variety of shade

and ornamental trees are proposed for the recreational areas and in the rear yards between units.

The lighting plan consists of 14 residential, colonial post top light fixtures within the proposed public road right-of-way and on several townhouse lots. The proposed lighting is consistent with Montgomery County standards.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. The proposed recreation facilities include a tot lot located near the townhouse units, three sitting areas, and two open play areas. The Germantown Community Center, a multi-purpose recreational facility for all ages, is located directly across from the site on Kingsview Road.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient.

Access points to the site are to be provided from Schaeffer Road and Leaman Farm Road. A short distance from these two access points are driveways which serve the single-family houses facing Schaeffer and Leaman Farm Roads. A bikeway will be provided along Leaman Farm Road and also along a section of Clopper Road to the Kingsview Road intersection. The existing section of sidewalk along Schaeffer Road will be extended southward to Leaman Farm Road. Internal sidewalks will be provided along one side of the streets, and a pathway will lead to the tot lot.

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

The proposed development is compatible with other uses and existing and proposed adjacent development.

The proposed residential units are located in a manner that protects the stream valley buffer area and provides attractive views by having the single-family houses face, rather than back onto, Schaeffer Road and Leaman Farm Road.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

There is 2.2-acres of existing forest on the subject site, but only 1.88-acres of existing forest outside of the area dedicated to the State Highway Administration. The development is proposing to utilize an optional method of development and therefore

must comply with Section 22A-12(f) of the Montgomery County Code. The subject plan is proposing the removal of less than 0.05 acres of forest, for the construction of a necessary stormwater outfall, and to plant 2.45-acres of forest. This planting will not result in the entire reforestation of the stream buffer but it is sufficient to meet the minimum requirements of the forest conservation law.

The Department of Permitting Services approved the stormwater management concept on July 15, 2005.

APPENDIX

- A. Planning Board opinion for Preliminary Plan 1-04060
- B. Environmental Planning Division memo dated 6/14/06
- C. Development Review Division memo dated 2/10/06
- D. Memorandums from agencies



CHECKLIST Site Plan / Project Plan Review

Plan # 820050400 Name: Leaman Farm

Zone: R-200 Tract Area: 29.3 ac. Proposed Use: Residential

Number of Units: 69 Square Footage: _____

Development Method: MPDU optional Other: _____

Referral Comments:

M-NCPPC

	Staff	Date
Transportation	<u>K.K.</u>	<u>7/18/05</u>
Environmental	<u>M.P.</u>	<u>6/14/06</u>
Community Planning	<u>S.E.</u>	<u>7/18/05</u>
Historic Planning	<u>N/A</u>	_____
Park Planning	_____	_____
Research/Housing	_____	_____

Other Agencies

	Staff	Date
SHA	<u>S.E.</u>	<u>7/15/05</u>
DPS (SWM)	<u>D.K.</u>	<u>7/15/05</u>
DPS (Traffic)	<u>S.N.</u>	<u>7/18/05</u>
Public School	<u>M.P.W.</u>	<u>6/14/06 e-mail</u>
Utility	<u>W3se</u>	<u>7/15/05</u>
Fire & Rescue	<u>S.W.</u>	<u>7/24/05 e-mail</u>
DPW & T	_____	<u>7/18/05</u>

Development Standards / Requirements

- Zoning Requirements
- Development Data Table
- Recreation Calculation
- MPDU Calculation
- TDR Calculation
- Timing/Phasing Conditions
single phase
- Building Restriction Lines
- Building Height
- Master Plan Conformance

Prior Approvals

- Development Plan
- Record Plat
- Preliminary Plan
opinion
2/23/05
- Prior Site Plan Approvals

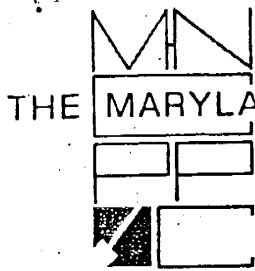
Community Input

- Civic Association _____
- Individuals _____

Supervisor Review

Chief Review

Ma 6/16/06
RJK 6/16/06



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

RECEIVED

FEB 24 2005

GUTSONOK, LITTLE & WEBER, P.A.

Date Mailed: FEB 23 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Perdue,
with a vote of 5-0;

Chairman Berlage and Commissioners
Perdue, Bryant, Wellington, and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-04060
NAME OF PLAN: Leaman Farm

The date of this written opinion is FEB 23 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

On 2/06/04, Elm Street Development submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 zone. The application proposed to create 69 lots on 29.3 acres of land located at the northwest corner of Leaman Farm Road and Schaeffer Road, in the Germantown master plan area. The application was designated Preliminary Plan 1-04060. On 1/13/05, Preliminary Plan 1-04060 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.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application;

all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

The applicant testified at the public hearing, was in agreement with the staff recommendation and concurred with all of the conditions as proposed by staff. Nobody presented written evidence or testimony at the public hearing in opposition to the plan, and the record of this application does not contain any contested issues.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies¹; 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:

- a) Preliminary Plan No. 1-04060 substantially conforms to the Germantown master plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- 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 ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

¹ 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.

- f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-04060 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-04060, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 69 dwelling units.
- 2) No clearing, grading, or recording of plats prior to site plan approval.
- 3) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 4) Total impervious surfaces associated with development of the preliminary plan shall not exceed 20 percent of the tract area.
- 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) Applicant to construct a permanent split rail fence at the rear of proposed lots, 14 through 20 to protect the afforestation area.
- 7) Applicant to prepare and submit a noise analysis, as part of the site plan submission, indicating the location of existing 60 and 65 Ldn dBA noise contours, 20-year future noise contours, and methods to minimize exterior and interior noise levels if the noise analysis determines a need for mitigation.
- 8) Compliance with the conditions of the MCDPS stormwater management approval dated January 3, 2005.
- 9) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Germantown Master Plan unless otherwise designated on the preliminary plan.
- 10) The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 11) Applicant shall construct an eight-foot bike path along Clopper Road (MD 117) and Leaman Farm Road, and a five-foot sidewalk along Schaeffer Road, as shown on the preliminary plan.
- 12) Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation.
- 13) 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.

- 14) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 15) Record Plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 16) Compliance with conditions of MCDPWT letter dated, November 16, 2004 unless otherwise amended.
- 17) Access and improvements, as required, to be approved by MCDPWT prior to recordation of plat(s).
- 18) Access and improvements, as required, to be approved by MDSHA prior to issuance of access permits.
- 19) The term "denied access" is to be placed on the final record plat along the property that abuts MD 117. Access to existing lot 21 shall remain as it currently exists until such time as lot 21 is redeveloped. All new access shall be via the new internal public road.
- 20) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, 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.

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[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY
Dyp 2/11/05
M-NCPPC LEGAL DEPARTMENT

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on **Thursday February 17, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of **Commissioner Wellington, seconded by Commissioner Bryant, with Chairman Berlage, Vice Chair Perdue, and Commissioners Bryant, Wellington, and Robinson** 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 **Preliminary Plan 1-04060, Leaman Farm.**



Certification As To Vote of Adoption
M. Clara Moise, Technical Writer