MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #4
1/18/07

MEMORANDUM

DATE: January 5, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor (301-495-4542)
Development Review Division

REVIEW TYPE: Preliminary Plan and Water Quality Plan Amendment
APPLYING FOR: Amendments to the previous conditions of approval to bring the Preliminary Plan into conformance with the Site Plan Compliance Program

PROJECT NAME: Clarksburg Village
CASE NO. 12001030C
REVIEW BASIS: Pursuant to Chapter 50, the Subdivision Regulations

ZONE: R-200, R-200/TDR-3, R-200/TDR-4, PD-4
LOCATION: On the northeast side of Stringtown Road and extending eastward to Ridge Road (MD 27) along the stream valley of Little Seneca Creek

MASTER PLAN: Clarksburg

APPLICANT: Clarksburg Village, LLC
ENGINEER: Charles P. Johnson and Associates

FILING DATE: October 30, 2006
HEARING DATE: January 18, 2007

Staff Recommendation: Approval of Preliminary Plan No. 12001030C, including a Special Protection Area Water Quality Plan and waivers of §50-26(e)(3) pursuant to §50-38(a) to permit non-standard intersection truncations, and §50-29(a)(2) pursuant to §50-38(a) to permit lots without frontage on a public street, as shown on the preliminary plan; and subject to the following revised conditions of the January 23, 2003 and July 6, 2005 Planning Board Opinions. All other previous conditions of these opinions remain in full force and effect.

1) Revise condition #1 as follows:

Approval under this preliminary plan is limited to a maximum of 2,022 lots for a maximum of 2,654 residential dwelling units, 20,000 square feet office/retail use, and a 5,000 square foot daycare facility.

2) Revise condition #6 as follows:

The applicant shall construct the following roads as standard closed section primary residential streets, unless otherwise approved by MCDPWT:

Street "C" between A-305 and Street ~~"I"~~ "D"
Street "M" between A-305 and Street "E"
Street "E" between A-305 and Street "M"
Street "T" between A-305 and Street "W"
Street "Y" between Streets "T" and "Z"
Street "GG" between its intersections with A-305
~~Street "R" approximately 400' from A-305 (or correspond to first intersection)~~
Street "Z" next to school

3) Revise condition #7 as follows:

The applicant shall construct two roundabouts (or otherwise acceptable alternative approved by MCDPWT) on A-305 as shown on the preliminary plan to define the boundaries of the business district portion of this roadway.

4) Revise condition #12 as follows:

At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative location. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01, or on the amended preliminary plan drawing.

5) Replace existing condition #13 as follows:

~~Compliance with the conditions of approval for the preliminary forest conservation plan dated July 25, 2001. The applicant must meet all conditions prior to MCDPS issuance of sediment and erosion control permits, as appropriate. Conditions include, but are not limited to, the following:~~

~~a) Prior to the submission of the first site plan, submit a plan identifying specific areas proposed for natural regeneration and justifying its use in these specific areas. The plan should include measures to enhance the success of natural regeneration. At this time, areas proposed for natural regeneration must be identified in the field so that M-NCPPC may evaluate these areas as to the feasibility of natural regeneration.~~

~~b) Environmental buffers, forest conservation and planting areas, and any natural regeneration areas to be within park dedication areas or in Category I conservation easements. Conservation easements to be shown on record plats.~~

The Applicant shall comply with the conditions of approval of the final forest conservation plan submitted on December 20, 2006. The applicant shall satisfy all conditions of approval before recording of the record plat(s) or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:

a) Applicant to post a new financial security instrument for the entire forest planting area that includes the additional 2½" caliper trees required as part of the site plan Compliance Program.

b) Applicant shall honor the limits of disturbance as shown on the April 12, 2005 approved final forest conservation plan between lots 106 and lot 128 of Block U.

c) Applicant to provide compensation for the loss of 2.14 acres of forest that is shown on the April 12, 2005 approved plan. Compensation must be in addition to areas previously shown as saved or planted.

6) Revise condition #14 as follows:

Conformance to the conditions stated in the MCDPS preliminary water quality plan approval letter, dated July 25, 2001; and the final water quality plan approval letter for the Phase I site plan, dated December 16, 2004.

7) Replace existing condition #16 as follows:

~~At site plan, provide permanent signage along conservation easement areas to identify environmentally sensitive areas that are to remain protected. Applicant to construct an 8 foot wide paved hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the approximate route as set out in Phase I of the Trail Facility Plan, with the detailed trail location and other design and construction considerations to be worked out by the time of the Infrastructure Plan.~~

Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway, then north to the Greenway Village development to connect with the portion of trail being constructed as part of that project. Greenway Trail

and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant to obtain a park permit. Trails to be clearly marked or constructed prior to beginning construction on homes adjacent to the Greenway parkland.

8) Replace existing condition #17 as follows:

~~Applicant will construct the portions of the hiker/biker trail for Stringtown Road east to Newcut Road and north to the DiMaio Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail.~~

The trail alignment for the portion of the Greenway Trail near the confluence of Little Seneca Creek and Town Center Tributary to be determined at the time of permitting for the construction of Little Seneca Parkway/A-302. The preliminary plan shall be revised to show two alternative routes for the Greenway Trail in this stream confluence area. The preferred route would continue through the Bradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the property owner. The alternative route would circumvent the Bradley property on land already owned by Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway. The exact delineation and details of these two alignments shall be determined as part of the site plan.

9) Revise condition #18 as follows:

Applicant will construct Foreman Boulevard ~~and Midcounty Highway~~ to allow for a grade separated crossing for the hiker/biker Greenway Trail. The trail crossings should be constructed to accommodate the trail under the roads without changing the natural location, configuration, or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly to the stream. Applicant to provide a safe and adequate Greenway Trail crossing of Midcounty Highway/Snowden Farm Parkway (either grade separated or at grade) that is satisfactory to M-NCPPC and DPWT staff. Exact configuration of this path shall be determined at site plan.

10) Replace existing condition #19 as follows:

~~The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed, or clearly delineated and marked, prior to construction of the residences that abut the Greenway.~~

The Applicant shall dedicate to M-NCPPC the property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary. Include in dedication

the land along the Little Seneca tributary north of Snowden Farm Parkway to the northern boundary of the project property where the Baltimore Checkerspot Butterfly is located. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris, and boundaries between parkland and private properties to be clearly staked and signed.

11) Replace existing condition #20 as follows:

~~The park area marked as Jeane Onufry Local Park will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The park area will be dedicated to M-NCPPC.~~

The park area designated as a Local Park and located on the north side of Snowden Farm Parkway in the Phase II section of the project area will be graded according to the park layout concept plan, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. The park will be dedicated to M-NCPPC at time of record plat for the portion of the property that includes the park area. Applicant to provide quantity and quality stormwater management for the park to sufficiently accommodate the planned park facilities. Quality may be provided on site if space permits, but quantity to be provided off the park site. Any park improvements are to be constructed to park standards and specifications. Specific types of recreation facilities and their arrangement on the property must be coordinated with M-NCPPC staff.

12) Replace existing condition #21 as follows:

~~The school/park site off of Midcounty Highway will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The parking and ball field area at the north end of the site will be separately delineated and dedicated to M-NCPPC.~~

The school/park site off of Snowden Farm Parkway in the Phase I section of the project, will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. Recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved site plan Compliance Program. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The entire school/park site to be conveyed to M-NCPPC at time of record plat for the development area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.

13) Revise condition #24 as follows:

Provide a minimum of 600 TDRs pursuant to the objectives of the Clarksburg Master Plan, unless the Planning Board approves a lesser number as part of site plan.

14) Replace existing condition #25 as follows:

~~Final number and location of units to be determined at site plan.~~ 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.

15) Replace existing condition #26 as follows:

~~Final number of MPDUs to be determined at site plan dependent upon Condition #23.~~ Final number of MPDU's/TDR's as per condition #25 above to be determined at the time of site plan.

16) Revise condition #29 as follows:

The ~~validity of the~~ Preliminary Plan will remain valid until July 30, ~~2013~~ 2015 and shall be phased for recordation of lots as follows:

Phase One:	300 lots by July 30, 2004
Phase Two:	1,000 lots by July 30, ~~2007~~ 2009
Phase Three:	1,700 lots be July 30, ~~2010~~ 2012
Phase Four:	All lots by July 30, ~~2013~~ 2015

Prior to the expiration of the validity periods, a final record plat for all the property delineated in each phase must be recorded or a request for an extension must be filed.

17) The following conditions shall be added:

30) The Applicant shall record new record plats to revise the rights-of-way for the following roads to meet MCDPWT Standard No. mc-210.03 (reduced width tertiary) as required by the site plan Compliance Program:
- Bent Arrow Drive (from station 10+52 to 5+90 (approximate))
- British Manor Drive (from station 1+03 to 0+00 (approximate))
- Granite Rock Road (from station 10+15 to 15+07 (approximate))
- Robin Song Drive (from station 5+90 to 8+11 (approximate))

The Applicant shall also record new record plats to modify the square footage of the residential lots abutting these rights-of-way, and show necessary public improvement easements (PIEs).

31) The boundary of the preliminary plan shall be expanded to include Outlot C, Block F and Outlot D, Block E in the adjacent Greenridge Acres Subdivision, which were placed in reservation for the construction of A-305 (Midcounty Highway). The Applicant shall file a record plat that dedicates this land for the right-of-way of A-305.

32) The Applicant shall submit an amendment to the approved Phase I Site Plan that reflects the revised layouts of blocks F, G, H, K, L, P, T, and V, as shown on the amended preliminary plan and discussed in the site plan Compliance Program. Final design of these areas shall be determined by the amended site plan.
33) The boundary of the preliminary plan shall be modified to reflect land swaps between Clarksburg Village and the adjacent Greenway Village Subdivision, as shown on the preliminary plan.
34) The Applicant shall comply with the conditions of the MCDPWT approval letter, dated December 21, 2006, unless otherwise amended by MCDPWT.

I. SITE DESCRIPTION and SURROUNDING AREA:

The subject property consists of approximately 776-acres of land located in the Clarksburg Master Plan area between Stringtown Road and Ridge Road (MD 27) (Attachment A). The property is zoned in several different categories, including R-200, R-200/TDR-3, R-200/TDR-4, and PD-4 (Attachment B). The entire property falls within the Clarksburg Special Protection Area (SPA) for the Little Seneca Creek watershed. The Town Center Tributary of Little Seneca Creek flows along the southern boundary, and the site is bisected by the mainstem and another major tributary stream.

A portion of the property covered by the preliminary plan is constructed, or under construction, pursuant to a previously granted site plan approval for residential uses. Future residential uses, and the commercial office/retail use area, remain undeveloped pending necessary site plan approval(s).

II. PREVIOUS APPROVALS AND NON-COMPLIANCE ACTIONS

A. Preliminary Plan

The subject preliminary plan was originally submitted on November 29, 2000. The plan proposed to create a mixed-use development consisting of residential and commercial office/retail uses. The original application was brought before the Planning Board for a public hearing on July 30, 2001 and was approved for a maximum of 2,563 dwelling units, 20,000 square feet of office/retail use, and a 2,500 square foot daycare facility. The approval was granted subject to conditions as set forth in the opinion of the Board dated September 7, 2001 (Attachment C).

Subsequent to this approval, two amendments to the preliminary plan were filed. The first amendment combined the acreage and conditions of approval of the adjacent Nanna Property (Preliminary Plan No. 1-93007) with Clarksburg Village, and increased the size of the daycare facility pursuant to the amended Board opinion dated January 23, 2003 (Attachment D). The second amendment added an additional 30 acres to the preliminary plan and modified the overall plan layout and unit distribution to reflect the site plan approval that had been granted for part of the site, and a concurrently reviewed site plan

amendment. The revision modified the maximum number of residential dwelling units to 2,564 and maintained all previous Board conditions, as noted in the Board's opinion dated July 6, 2005 (Attachment E).

B. Site Plan

The Planning Board approved the Site and Final Water Quality Plan for Phase One of the development (Plan No. 820030020) on July 31, 2003 for 933 dwelling units (including 471 one-family detached dwelling units, 414 townhouses (inclusive of 44 MPDU townhomes) and 48 multiple family dwelling units in four buildings, which were all MPDU's). The first phase is located in the northern half of the site closest to Stringtown Road and Clarksburg Town Center and includes approximately 334 acres. The site development plan of the signature set was approved on August 9, 2004. The entire signature set package, inclusive of the Site Plan Enforcement Agreement and Development Program, was approved on May 12, 2005.

An amended site plan (Plan No. 82003002A) was approved by the Planning Board on December 23, 2004, to add 30 acres (for a total of 363.87 acres) near Stringtown Road to Phase One and revise the layout in that area. The amendment approved 997 dwelling units in Phase One. This was an increase of 64 dwelling units over the original site plan approval.

C. Non-Compliance Actions

Subsequent to the site plan approvals discussed above, staff discovered certain deficiencies in the approved site plans and potential acts of non-compliance. Public hearings regarding the nature and extent of the alleged acts of non-compliance and deficiencies were held on May 4, May 11, June 29, and July 20, 2006. Both the developer and general public had an opportunity to respond to the information provided in the staff report, and also to provide any additional information that might be relevant to a Planning Board decision. Six alleged "violations" were identified. On October 10, 2006, a public hearing was held to discuss a Compliance Program related to the Board's findings regarding the allegations. These hearings and the items discussed are summarized in the October 10, 2006 staff report (Attachment F).

III. PROPOSED PRELIMINARY PLAN AMENDMENT

The currently proposed preliminary plan amendment application requests Planning Board approval of a revised layout for the preliminary plan (Attachment G), including two waivers from the Subdivision Regulations, Chapter 50 of the Montgomery County Code. The waiver requests involve variation from the lot frontage and roadway design standards of the Chapter. The waivers are needed to permit certain lot and roadway layout changes included in the approved Compliance Program for the site plan.

In addition to amendments of the layout related to the Compliance Program, the application requests revisions to the existing conditions of approval. The revisions update

previous conditions to: reflect items that will be incorporated into the plan in response to the site plan Compliance Program; update roadway construction requirements to reflect actual MCDPWT approvals; reference the latest approvals for the forest conservation and water quality plans; amend requirements for grade-separated Greenway Trail crossings; clarify that TDR and MPDU numbers and phasing will be established by the final site plan approval(s); modify the boundary of the preliminary plan; and revise the preliminary plan validity period and phasing schedule for recordation of plats.

IV. ANALYSIS AND FINDINGS

A. Discussion of Waivers

The Applicant has requested three waivers from the Subdivision Regulations. Each waiver is discussed below along with staff findings and recommendations.

- Waiver of Section 50-26(e)(3) pursuant to Section 50-38(a) to permit less than 25 foot truncation at roadway intersections.

Section 50-26(e)(3) requires corner lots at intersections to be truncated for road dedication purposes by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements. The proposed radius truncations (Attachment G), which permit houses to be located closer to the road right-of-way, facilitate the community's neo-traditional design. Staff supports the proposed waiver based upon our finding that intersection sight distance and sign installation will not be adversely impacted by the design. Montgomery County Department of Public Works and Transportation (DPWT) and Fire and Rescue Service (MCFRS) staff have reviewed the subject intersections, some of which are already constructed, and recommend approval of the plan (Attachment H). Staff recommends approval of the waiver request and believes it is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

- Waiver of Section 50-26(h)(2) to permit use of a reduced-width tertiary street, with a 27'4" right-of-way in the following locations: Bent Arrow Drive (from station 10+52 to 5+90 (approximate)); British Manor Drive (from station 1+03 to 0+00 (approximate)); Granite Rock Road (from station 10+15 to 15+07 (approximate)); and Robin Song Drive (from station 5+90 to 8+11 (approximate)).

The standard right-of-way width of a tertiary street is fifty (50) feet. However, Section 50-26(h)(2) states that the Planning Board, as part of a site plan approval, may approve a lesser width if it can be demonstrated that: (1) this lesser width is environmentally better, or (2) the limits on development at the site would not allow the applicant to achieve MPDUs under Chapter 25A on-site, and this lesser width either (3) improves compatibility with adjoining properties, or (4) allows better use of the parcel under consideration. In no

case shall the right-of-way be less than twenty-seven (27) feet four (4) inches for two-way traffic and twenty-one (21) feet four (4) inches for one-way traffic. In this instance, the use of certain reduced-width tertiary roads is proposed as part of the site plan Compliance Program to increase the size of several existing one-family detached residential lots to the minimum standard of the zone (6,000 square feet in this case).

Staff supports a Planning Board finding for the reduced-width tertiary streets as part of a future site plan amendment, because it will improve compatibility with adjoining properties by bringing non-compliant lots into conformance with the zone. It could also help to facilitate the construction of additional MPDUs within the Phase I site plan area. A final determination regarding these streets will need to be made at site plan.

- Waiver of Section 50-29(a)(2) pursuant to Section 50-38(a) to permit several individually recorded, one-family detached and one-family attached lots, as shown in Preliminary Plan Amendment Exhibit (Attachment G) to have no frontage on a public street.

Section 50-29(a)(2) requires, except as otherwise provided in the zoning ordinance, that every lot shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road. The subject plan includes both existing (recorded, and in some cases built) and proposed (unrecorded, or in some cases recorded but not built) lots without frontage on public streets. Instead, the frontage is either on private streets or on green space.

In the case of one-family attached (townhouse) lots, Section 59-C-1.628(b) of the Zoning Ordinance permits townhouses to front on public streets, private streets or ***a common open space***, when MPDU optional method standards are used. The subject development is using these standards. Where these lots front on private streets, the street will provide access and circulation that will, in staff's opinion, allow them to acquire the status of a public road. Although the townhouses fronting on green space are accessed by private driveways that will not have the status of a public road, fire and rescue access is provided and parking will be available on nearby public roads. For these reasons, a frontage waiver is not needed for townhouses, however, final lot orientation and access should be determined as part of the future site plan(s).

Based on the zoning of the subject property, one-family detached lots with no frontage require a waiver. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements. The waiver request is based on the practical difficulties created by the application of this requirement to the implementation of neo-traditional design principles within Clarksburg Village. Such a design implements the intent and recommendations of the Clarksburg Master Plan by facilitating a community which has a hierarchy of streets, including a series of alleyways, with a mix of housing types and densities, and green areas dispersed throughout. Staff supports the requested waiver of frontage on public streets for the subject development. Staff believes the proposed neo-traditional neighborhood design best

implements the intent of the Clarksburg Master Plan, particularly with regard to integrating green spaces throughout the development. The requested waiver facilitates the replacement of certain roads with green spaces that significantly reduce the amount of paving in the development, increases the areas available for treatment of stormwater runoff, and creates visible open areas and gathering spaces for the community. MCFRS has reviewed the alternative fire access proposed for the lots without public street frontage and determined that all the houses will be adequately served by the proposed driveways. Based on these findings, staff recommends approval of the waiver request and believes it is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

B. Water Quality Plan Review

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS is amending their portion of the water quality plan as individual sediment control plans and stormwater management plans are submitted to them for review and approval prior to any clearing or grading occurring on that phase of the development.

The Planning Board responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied. This discussion follows.

1. Environmental Guidelines

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village identified the environmental buffers. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The Planning Board previously approved encroachments into the environmental buffers for the greenway trail, stormwater management outfalls, and stormwater management facilities.

a) Stormwater Management Encroachments

The preliminary plan of subdivision opinion, mailed on September 7, 2001, includes a condition of approval identifying which stormwater management facilities are allowed within the environmental buffers and how far those facilities may encroach. The applicant has repeated his desire to conform to that preliminary plan condition for all stormwater management facilities. However, there is a new stormwater management facility, not previously shown on any Clarksburg Village plan, that must encroach entirely into the environmental buffer. This facility is located where new and expanded Stringtown Road crosses the town center tributary. The stormwater to be treated at this facility will be

entirely from Stringtown Road, which was not previously accounted for on either the Clarksburg Village or Clarksburg Town Center water quality plans. Environmental Planning supports the encroachment for this facility and adding this facility to the approved facilities in condition 12 of the September 7, 2001, Planning Board opinion for 120010300. All other stormwater management facilities must comply with the condition as previously written and approved by the Planning Board.

b) Sewer Line Encroachment

Since approval of the Final Forest Conservation plan for site plan 820030020 on April 12, 2005, the applicant's engineer has moved a sewer line near lots 106 through 128 of Block U that is accessed from Stringtown Road. On the approved forest conservation plan this sewer line and the limits of disturbance are entirely outside of the environmental buffer. The LOD and sewer line run parallel to the environmental buffer. During the submission of the sediment control plans for this section of the development the applicant moved the LOD and the sewer line into the environmental buffer. Environmental Planning does not support this encroachment and has placed clearing and grading operations in this phase of the development on hold because of the inconsistency in the LODs on the approved forest conservation plan and the rough grading plan approved by MCDPS. The applicant's approved plan shows that all these activities can occur outside the environmental buffer. The applicant's revised plan submitted with this application shows the encroachment, which Environmental Planning does not support. The limits of disturbance in this section of the development must remain consistent with the previously approved plan that shows the sewer line and LOD outside of the environmental buffer. Environmental Planning supports the location of the sewer line as it enters the environmental buffer near the stormwater management facility and connects to the existing sewer main in the environmental buffer, but not where it runs parallel to the stream. Final determination regarding the sewer alignment must be made as part of the site plan.

2. Forest Conservation

The applicant is proposing more than 5,000 square feet of new forest removal and therefore the Planning Board must amend the forest conservation plan. The revised forest conservation plan shows 2.14 acres less forest saved and planted than on the April 12, 2005 approved plan. Some of the forest reduction results from the new stormwater management facility in the environmental buffer, extension of stormwater management discharge outfalls, moving a sanitary sewer from outside the environmental buffer to inside the buffer, and the change of a Category I easement area into a Category II easement. Some of the changes in forest sizes are unexplainable other than the engineer recalculating the areas on their computers. However, as previously stated, Environmental Planning does not support all of the proposed encroachments and reduction in forest on the subject site. The applicant has not indicated how the loss of forest will be

compensated. Environmental Planning requests compensation from encroachment into the conservation easements and from permanent loss of forest previously shown as saved on a 2:1 basis. The plan submitted on December 20, 2006 does not address this issue and must be revised.

3. Site Imperviousness

There is no impervious limitation in the Clarksburg Special Protection Area. Previous Environmental Planning staff reports indicated an imperviousness of 23 percent. The changes to the approved preliminary plan will add impervious surfaces but still keep the overall site consistent with other similarly developed properties within Montgomery County.

C. Parks

The preliminary plan conditions related to the parkland dedication areas are being revised to reflect the updated requirements that have resulted from the subsequent site plan, and site plan Compliance Program.

Greenway Trail

The previously approved preliminary plan required grade-separated crossings for the Greenway Trail and both Foreman Boulevard and Midcounty Highway (previous Condition #18). The applicant is requesting amendment of this condition to leave open the possibility for an at-grade crossing at Midcounty Highway (A-305). The cost and environmental impacts related to the construction of a grade separated crossing in this location may make it infeasible. A final determination regarding this crossing will be made at site plan.

As of now, the Department of Parks has been unable to acquire land for a final section of the greenway trail which crosses the adjacent Bradley Property on the southeastern boundary of the Phase I site plan, and are reluctant to use their condemnation powers to do so. As a result, Parks staff requested that the preliminary plan be revised to include a second possible alignment that would keep the entire greenway trail within the area developed by Elm Street. Environmental Planning staff objects to the proposed alternate alignment because it would remove existing forest, transverse moderately steep slopes, require a new stream crossing, and create an unusual jog to the path that is not necessary and inefficient for the user. The Bradley Property contains a cleared WSSC easement that is the preferred location for the trail. The other sections of the greenway trail are contained within this cleared area. A final determination on the location of this section of the Greenway Trail will be made as part of the site plan approval for the southern half of the property. However, staff would like the Planning Board's thoughts on acquiring the preferred right-of-way through condemnation, if necessary.

D. Transportation

No additional trips beyond those associated with the previous approval of the preliminary plan are being generated as a result of this amendment. The previously required transportation improvements provide sufficient transportation capacity and meet the Adequate Public Facilities test.

E. Boundary Modifications

The applicant is requesting modifications to the boundary of the preliminary plan in order to add land needed for the construction of a portion of Midcounty Highway (A-305), and to include minor changes along the shared boundary with the Greenway Village subdivision to reflect land swaps that are reflected on the last approval for the Greenway Village preliminary plan. The area for Midcounty Highway consists of two outlots that were placed in reservation for the road as part of the approval of the preliminary plan for the adjacent Greenridge Acres subdivision. The outlots are currently owned by the applicant, who will construct the road.

F. Revised Preliminary Plan Validity and Phasing Plan

The current preliminary plan approval is valid until July 30, 2013 with a phasing plan that requires recordation of 300 lots by July 30, 2004, 1,000 lots by July 30, 2007, 1,700 lots by July 30, 2010, and all lots by July 30, 2013. Lot recordation is contingent upon the prior approval of a site plan(s). As of now, one site plan has been approved, and more than 300 lots have been recorded. This meets the requirements for the first phase of the preliminary plan, however, extension of the validity period is needed for the remaining phases. The applicant is requesting a two-year extension of each of the remaining phases of the preliminary plan validity period, due to the length of time involved in the review and approval of the Compliance Program for the first site plan, which has resulted in delay of additional site plan submittals. Staff supports the request to establish a new plan validity period ending on July 30, 2015 with the adjustment to the phasing schedule as noted in the recommended condition above.

G. Citizen Correspondence

This application pre-dated the recent requirement for pre-submission meetings with interested parties, however, the application and the date of the public hearing were noticed. One letter was received prior to this staff report concerning the application. The letter, dated December 4, 2006, is from the adjacent Timber Creek Homeowners Association (Attachment I). They are requesting that the Board consider postponing construction of the master-planned right-of-way for Foreman Boulevard which connects to their community on the south side of the development. At a minimum, they believe that the road should be reclassified as a primary road.

Foreman Boulevard is required to be constructed as part of the Phase I development as two lanes of what could become a larger arterial roadway. Staff does not support delay of

this road connection. The initial construction will only be two lanes, and there is no schedule at this time for additional construction. It is possible that full construction, if it happens, will not occur for some time. In the interim, the road will function like a primary road.

V. CONCLUSION

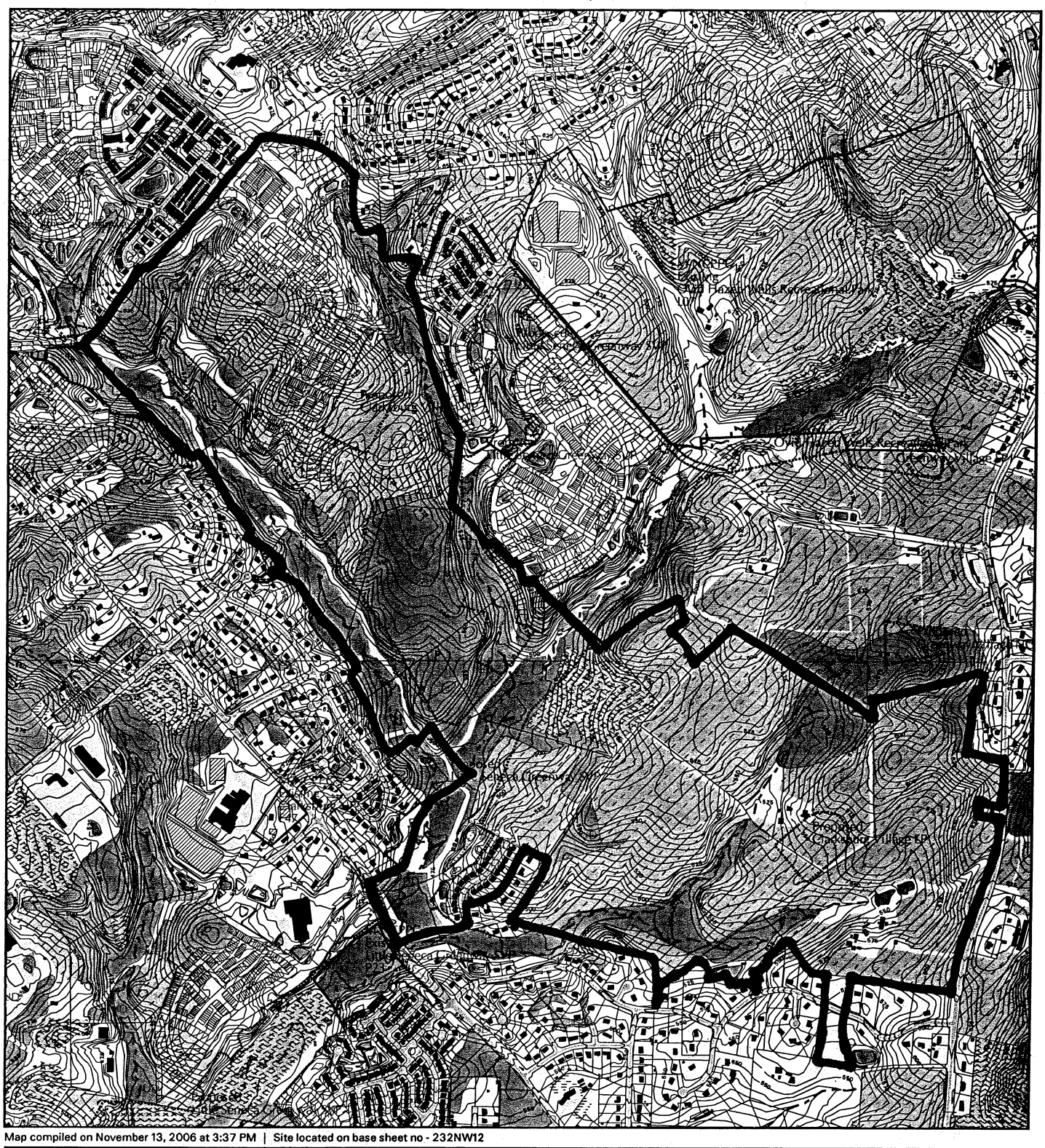
The revised preliminary plan conforms to the Clarksburg Master Plan and meets all necessary requirements of the Subdivision Regulations and Zoning Ordinance. Based on the findings discussed above, staff finds that the proposed revisions are acceptable, and the requested waivers of the Subdivision Regulations are justified for the subject preliminary plan. Therefore, staff recommends approval of the preliminary plan amendment to modify the previous conditions as specified above, and to grant the requested waivers. Staff also recommends approval of the revised water quality plan. All other conditions of approval as contained in the Planning Board opinions dated January 23, 2003 and July 6, 2005 remain in full force and effect.

Attachments:

Attachment A – Site Vicinity Map
Attachment B – Site Zoning Map
Attachment C – Preliminary Plan Opinion dated 9/7/01
Attachment D – Preliminary Plan Opinion dated 1/23/03
Attachment E – Preliminary Plan Opinion dated 7/6/05
Attachment F – Compliance Program Staff Report
Attachment G – Preliminary Plan Amendment Exhibit
Attachment H – Referenced Agency Correspondence
Attachment I – Citizen Correspondence

Attachment A

CLARKSBURG VILLAGE (12001030C)



Map compiled on November 13, 2006 at 3:37 PM | Site located on base sheet no - 232NW12

NOTICE

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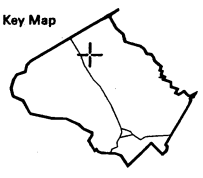
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

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

Key Map



N

Research & Technology Center

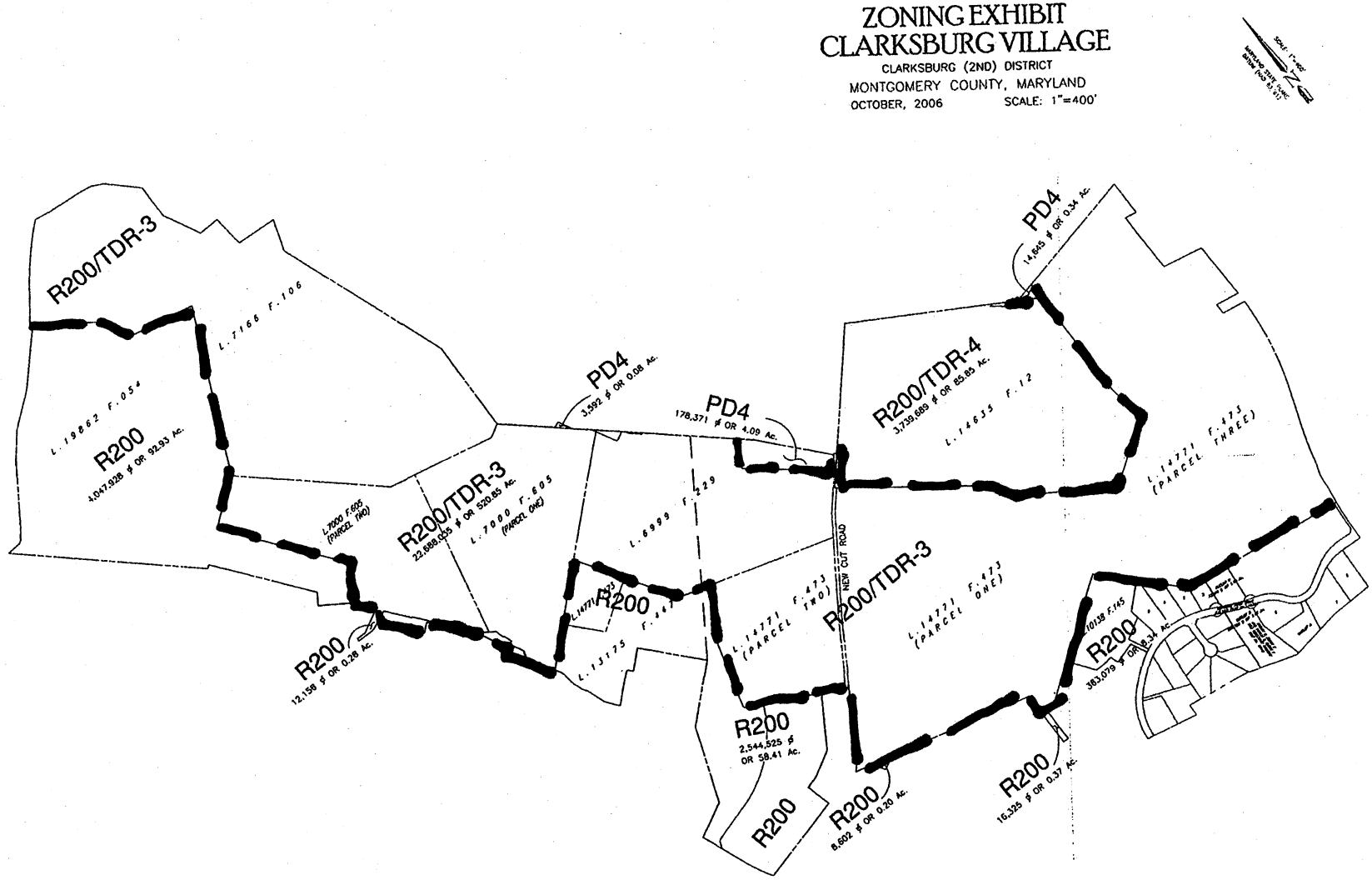
0 1500

1 inch = 1500 feet
1 : 18000

M-NCPPC
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

ZONING EXHIBIT
CLARKSBURG VILLAGE

CLARKSBURG (2ND) DISTRICT
MONTGOMERY COUNTY, MARYLAND
OCTOBER, 2006 SCALE: 1"=400'



CPI Charles P. Johnson & Associates, Inc.

(2)

Attachment B

SEP 07 2001

Date Mailed: September 6, 2001

M-NCPPC

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation
Motion of Comm. Bryant, seconded by Comm. Perdue with a vote of 4-0;
Comms. Bryant, Holmes, Perdue and Wellington voting in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01030
NAME OF PLAN: CLARKSBURG VILLAGE AND SPECIAL PROTECTION AREA WATER QUALITY PLAN

On 11/29/00, CLARKSBURG VILLAGE, LLC submitted an application for the approval of a preliminary plan of subdivision of property in the R-200/TDR-3 and TDR-4, R-200 and PD-4 zones. The application proposed to create 2,563 lots on approximately 700 acres of land. The application was designated Preliminary Plan 1-01030. On 07/30/01, Preliminary Plan 1-01030 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 1-01030 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01030.

Approval of Preliminary Plan and Special Protection Area Water Quality Plan, subject to the following conditions:

(1) Approval under this preliminary plan is limited to a maximum of 2,563 Residential Dwelling Units, 20,000 Square Feet Office/Retail Use and 2,500 Square Feet Daycare Facility

(2) At least sixty (60) days prior to the submission of a complete Site Plan application the applicant shall submit an "Infrastructure Plan" for Planning Board review. The plan shall include the following:
   a. Location and types of stormwater management facilities for quality and quantity controls that comply with the conditions of MCDPS' preliminary water quality plan
   b. Delineate bike and pedestrian access pathways including all at grade and below grade crossings along all road rights of way and at stream crossings
   c. All roadway networks including both private and public connections. Streetscape, lighting, sidewalks and paving materials

d. Delineation of "Greenway" and other open space areas including all environmental buffers
e. School sites and Park areas (adequate to provide for current proposing needs)
f. Recreation guideline concept plan
g. Proposed schedule for clearing and grading of site

(3) To satisfy Policy Area Transportation Review:
a. The applicant shall participate in widening MD 27 to six through travel lanes from Observation Drive in Germantown through the Brink Road intersection, and to four through travel lanes through the A-305 intersection; continue two northbound travel lanes through the Skylark Road intersection, including dedication along the site frontage. This improvement along MD 27 is consistent with the master plan recommendation. If, after master plan dedication along the west side of MD 27, sufficient right-of-way is not available for the proposed widening, the applicant has to either acquire additional right-of-way on the east side of MD 27 or dedicate additional right-of-way and widen MD 27 on their development side
b. The applicant shall dedicate on-site portions and participate in constructing Relocated Newcut Road (A-302) as a two lane divided arterial roadway between MD 27 and the A-305 intersection and as a four lane divided roadway between A-305 and MD 355
a. The applicant shall dedicate and participate in constructing A-305 as a four lane divided arterial roadway between MD 27 and Stringtown Road
b. The applicant shall dedicate and participate in constructing Foreman Boulevard as a two lane arterial roadway from its current terminus at Timber Creek Lane to A-305
c. The applicant shall dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage. This roadway improvement can be implemented by either the Department of Public Works and Transportation's CIP project, as a developer participation project or as the Clarksburg Town Center Development District. .

(4) To satisfy Local Area Transportation Review;
a. The applicant shall participate in constructing a second left-turn lane from northbound MD 355 to westbound MD 27
b. The applicant shall participate in constructing additional turn/approach lanes on MD 27 and Brink Road at the intersection of MD 27/Brink Road
c. The applicant shall participate in providing a separate left-turn lane from southbound MD 355 to eastbound Brink Road and a separate left-turn lane from westbound Brink Road to southbound MD 355.

(5) The applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in David D. Flanagan's letter dated March 14, 2001 and confirmed in our letter dated March 29, 2001.

(6) The applicant shall construct the following roads as standard closed section primary residential streets:
- Street "C" between A-305 and Street 'I'
- Street "M" between A-305 and Street "E"
- Street "E" between A-305 and Street "M"
- Street "T" between A-305 and Street "W"
- Street "Y" between Streets "T" and "Z"
- Street "GG" between its intersections with A-305

- Street "R" – approximately 400' from A-305 (or correspond to first intersection)
- Street "Z" next to School

(7) The applicant shall construct two roundabouts on A-305 as shown on the preliminary plan to define the boundaries of the business district portion of this roadway.

(8) The applicant shall construct A-305 as a business district street between the two roundabouts in accordance with DPWT Standard No. MC-219.03

(9) All roads rights of way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the Clarksburg Master Plan, unless other wise designated on the preliminary plan

(10) All roads shown on the approved preliminary plan shall be constructed by the applicant to the full width mandated by the approved and adopted 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) Additional forest save areas to be created adjacent to the environmental buffer at the northwestern portion of the property. Details to be determined at site plan.

(12) At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N, and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative locations. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01

(13) Compliance with the conditions of approval for the preliminary forest conservation plan dated July 25, 2001. The applicant must meet all conditions prior to MCDPS issuance of sediment and erosion control permits, as appropriate. Conditions include, but are not limited to, the following:

a. Prior to the submission of the first site plan, submit a plan identifying specific areas proposed for natural regeneration and justifying its use in these specific areas. The plan should include measures to enhance the success of natural regeneration. At this time, areas proposed for natural regeneration must be identified in the field so that M-NCPPC may evaluate these areas as to the feasibility of natural regeneration

b. Environmental buffers, forest conservation and planting areas, and any natural regeneration areas to be within park dedication areas or in Category I conservation easements. Conservation easements to be shown on record plats

(14) Conformance to the conditions as stated in DPS preliminary water quality plan approval letter, dated 7-25-01

(15) Measures to mitigate traffic noise impacts on residential uses to be shown at site plan. Mitigation measures to be shown along Ridge Road. Mitigation measures may also be needed along Stringtown Rd., A-302, and A-305

(16) At site plan, provide permanent signage along conservation easement areas to make identify environmentally sensitive areas that are to remain protected Applicant to construct an 8 foot wide paved hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the approximate route as set out in Phase I of the Trail Facility Plan, with the detailed trail location and other design and construction considerations to be worked out by the time of the Infrastructure Plan

(17) Applicant will construct the portions of the hiker/biker trail from Stringtown Road east to Newcut Road and north to the DiMaio Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail

(18) Applicant will construct Foreman Boulevard and Midcounty Highway to allow for grade separated crossing for the hiker/biker Greenway Trail. The trail crossings should be constructed to accommodate the trail under the roads without changing the natural location, configuration or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream

(19) The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed or clearly delineated and marked prior to construction of the residences that abut the Greenway

(20) The park area marked as Jeane Onufry Local Park will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The park area will be dedicated to M-NCPPC

(21) The school/park site off of Midcounty Highway will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The parking and ball field area at the north end of the site will be separately delineated and dedicated to M-NCPPC

(22) Phasing of the dedication of the school/parks sites shall be incorporated as part of the phasing schedule included with site plan approval

(23) At site plan address specifically the following:
   a. Dwelling unit type and layout within the mixed use center
   b. Coordinate with adjoining property owner to achieve a well integrated and designed commercial center that locates parking to the rear and provides special treatment for paving, seating, landscaping, lighting ant other pedestrian amenities
   c. Provide adequate "windows" into open space areas
   d. Dwelling unit orientation along all road rights of way

(24) Provide a minimum of 600 TDR's pursuant to the objectives of the Clarksburg Master Plan based on current dwelling unit approval

(25) Final number and location of units including number of TDR's to be determined at site plan

(26) Final number of MPDU's to be determined at site plan dependent on Condition #23

(27) No clearing, grading, unless designated on "Infrastructure Plan" and recording of lots prior to site plan approval

(28) The validity of the Preliminary Plan will remain valid until July 30, 2013 and shall be phased for recordation of lots as follows:

Phase One:	300 lots by July 30, 2004
Phase Two:	1,000 lots by July 30, 2007
Phase Three:	1,700 Lots by July 30, 2010
Phase Four:	All lots by July 30, 2012

Prior to the expiration of the validity periods, a final record plat for all the property delineated in each phase must be recorded or a request for an extension must be filed

Attachment D

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date M. .led: January 23, 2003

Action: Approved Staff Recommendation

Motion of Comm. Bryant, seconded by Comm. Wellington with a vote of 4-0;

Comms. Bryant, Perdue, Robinson and Wellington voting in favor

Comm. Berlage temporarily absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01030
NAME OF PLAN: CLARKSBURG VILLAGE

On 11/29/00, CLARKSBURG VILLAGE, L.L.C. submitted an application for an amendment of two a preliminary plans of subdivision (1-01030 Clarksburg Village and 1-93007 Nanna Property) of property in the R-200/TDR3 and 4, R-200 and P-D 4 zones. The application proposed to create 2,590 lots, 20,000 Square Feet Retail/Office and 5,000 Square Feet Day Care Facility on 741.4 acres of land. The applications were redesignated Preliminary Plan 1-01030. On 01/09/03, Preliminary Plan 1-01030, Clarksburg Village 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 1-01030 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01030.

Approval to Revise the Previous Conditions of Approval to Combine Preliminary Plan No. 1-01030 – Clarksburg Village with 1-93007 – Nanna Property

(1) Approval under this preliminary plan is limited to a maximum of 2,590 Residential Dwelling Units, 20,000 Square Feet Office/Retail Use and 5,000 Square Feet Daycare Facility

(2) At least sixty (60) days prior to the submission of a complete Site Plan application the applicant shall submit an "Infrastructure Plan" for Planning Board review. The plan shall include the following:
   a) Location and types of stormwater management facilities for quality and quantity controls that comply with the conditions of MCDPS' preliminary water quality plan
   b) Delineate bike and pedestrian access pathways including all at grade and below grade crossings along all road rights of way and at stream crossings
   c) All roadway networks including both private and public connections. Streetscape, lighting, sidewalks and paving materials
   d) Delineation of "Greenway" and other open space areas including all environmental buffers
   e) School sites and Park areas
   f) Recreation guideline concept plan
   g) Proposed schedule for clearing and grading of site

(3) To satisfy Policy Area Transportation Review:

a) The applicant shall participate in widening MD 27 to six through travel lanes from Observation Drive in Germantown through the A-305 intersection; transitioning to two travel lanes through the Skylark Road intersection, including dedication along the site frontage. This improvement along MD 27 is consistent with the master plan recommendation. If, after master plan dedication along the west side of MD 27, sufficient right-of-way is not available for the proposed widening, the applicant has to either acquire additional right-of-way on the east side of MD 27 or dedicate additional right-of-way and widen MD 27 on their development side

b) The applicant shall dedicate on-site portions and participate in constructing Relocated Newcut Road (A-302) as a two lane divided arterial roadway between MD 27 and the A-305 intersection and as a four lane divided roadway between A-305 and MD 355

c) The applicant shall dedicate and participate in constructing A-305 as a four lane divided arterial roadway between MD 27 and Stringtown Road

d) The applicant shall dedicate and participate in constructing Foreman Boulevard as a two lane arterial roadway from its current terminus at Timber Creek Lane to A-305

e) The applicant shall dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage. This roadway improvement can be implemented by either the Department of Public Works and Transportation's CIP project, as a developer participation project or as the Clarksburg Town Center Development District.

(4) To satisfy Local Area Transportation Review;

a) The applicant shall participate in constructing a second left-turn lane from northbound MD 355 to westbound MD 27

b) The applicant shall participate in constructing additional turn/approach lanes on MD 27 and Brink Road at the intersection of MD 27/Brink Road

c) The applicant shall participate in providing a separate left-turn lane from southbound MD 355 to eastbound Brink Road and a separate left-turn lane from westbound Brink Road to southbound MD 355.

(5) The applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in Mr. Rafferty's letter dated August 5, 2002 and confirmed in Transportation Planning Division memorandum dated August 22, 2002

(6) The applicant shall construct the following roads as standard closed section primary residential streets:

- Street "C" between A-305 and Street "I'
- Street "M" between A-305 and Street "E"
- Street "E" between A-305 and Street "M"
- Street "T" between A-305 and Street "W"
- Street "Y" between Streets "T" and "Z"
- Street "GG" between its intersections with A-305
- Street "R" – approximately 400' from A-305 (or correspond to first intersection)
- Street "Z" next to School

(7) The applicant shall construct two roundabouts on A-305 as shown on the preliminary plan to define the boundaries of the business district portion of this roadway.

(8) The applicant shall construct A-305 as a business district street between the two roundabouts in accordance with DPWT Standard No. MC-219.03

(9) All roads rights of way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the Clarksburg Master Plan, unless other wise designated on the preliminary plan

(10) All roads shown on the approved preliminary plan shall be constructed by the applicant to the full width mandated by the approved and adopted 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) Additional forest save areas to be created adjacent to the environmental buffer at the northwestern portion of the property. This will require reconfiguration of the layout for that portion of the property at site plan

(12) At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N, and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative locations. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01

(13) Compliance with the conditions of approval for the preliminary forest conservation plan dated July 25, 2001. The applicant must meet all conditions prior to MCDPS issuance of sediment and erosion control permits, as appropriate. Conditions include, but are not limited to, the following:

a) Prior to the submission of the first site plan, submit a plan identifying specific areas proposed for natural regeneration and justifying its use in these specific areas. The plan should include measures to enhance the success of natural regeneration. At this time, areas proposed for natural regeneration must be identified in the field so that M-NCPPC may evaluate these areas as to the feasibility of natural regeneration

b) Environmental buffers, forest conservation and planting areas, and any natural regeneration areas to be within park dedication areas or in Category I conservation easements. Conservation easements to be shown on record plats

(14) Conformance to the conditions as stated in DPS preliminary water quality plan approval letter, dated 7-25-01.

(15) Measures to mitigate traffic noise impacts on residential uses to be shown at site plan. Mitigation measures to be shown along Ridge Road. Mitigation measures may also be needed along Stringtown Rd., A-302, and A-305

(16) At site plan, provide permanent signage along conservation easement areas to make identify environmentally sensitive areas that are to remain protected Applicant to construct an 8 foot wide paved hiker/biker trail in the Clarksburg Greenway on the property applicant currently owns. The alignment will follow the approximate route as set out in Phase I of the Trail Facility Plan, with the detailed trail location and other design and construction considerations to be worked out by the time of the Infrastructure Plan

(17) Applicant will construct the portions of the hiker/biker trail from Stringtown Road east to Newcut Road and north to the DiMaio Property that are not on applicant's property, provided that M-NCPPC acquires the ownership or easement rights across the needed

property along the trail alignment and funds the proportionate cost to Applicant for construction of these additional sections of trail

(18) Applicant will construct Foreman Boulevard and Midcounty Highway to allow for grade separated crossing for the hiker/biker Greenway Trail. The trail crossings should be constructed to accommodate the trail under the roads without changing the natural location, configuration or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream

(19) The property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary will be dedicated to M-NCPPC and the hiker/biker trail constructed or clearly delineated and marked prior to construction of the residences that abut the Greenway

(20) The park area marked as Jeane Onufry Local Park will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The park area will be dedicated to M-NCPPC

(21) The school/park site off of Midcounty Highway will be graded, surfaced with topsoil, fine graded to a maximum of +/- 6" over 100', and seeded as appropriate for ball field cover. Grading plans will be submitted to park staff for review and approval. The parking and ball field area at the north end of the site will be separately delineated and dedicated to M-NCPPC

(22) Phasing of the dedication of the school/parks sites shall be incorporated as part of the phasing schedule included with site plan approval

(23) At site plan address specifically the following:
a) Dwelling unit type and layout within the mixed use center
b) Coordinate with adjoining property owner to achieve a well integrated and designed commercial center that locates parking to the rear and provides special treatment for paving, seating, landscaping, lighting ant other pedestrian amenities
c) Provide adequate "windows" into open space areas
d) Dwelling unit orientation along all road rights of way

(24) Provide a minimum of 600 TDR's pursuant to the objectives of the Clarksburg Master Plan

(25) Final number and location of units to be determined at site plan

(26) Final number of MPDU's to be determined at site plan dependent on Condition #23

(27) No clearing, grading, unless designated on "Infrastructure Plan" and recording of lots prior to site plan approval

(28) All prior applicable conditions of Preliminary Plan No. 1-93007, Nanna Property remain in full force and effect

(29) The validity of the Preliminary Plan will remain valid until July 30, 2013 and shall be phased for recordation of lots as follows:

Phase One:	300 lots by July 30, 2004
Phase Two:	1,000 lots by July 30, 2007
Phase Three:	1,700 Lots by July 30, 2010
Phase Four:	All lots by July 30 2013

Prior to the expiration of the validity periods, a final record plat for all the property delineated in each phase must be recorded or a request for an extension must be filed

M-NCPPC

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: JUL - 6 2005
Action: Approved Staff Recommendation
Motion of Commissioner Bryant, seconded by Commissioner Robinson, 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 1-01030B
NAME OF PLAN: Clarksburg Village

The date of this written opinion is JUL - 6 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).

INTRODUCTION

On 2/13/04, the applicant, Elm Street Development ("Applicant") submitted an application for the approval of a second amendment to a previously approved and amended preliminary plan of subdivision of property in the R-200/TDR-4, R-200/TDR-3, R-200, PD-4 zone. The instant application for amendment sought the Board's approval to create an additional 64 lots (for a development total of 2,654) on 689.5 acres of land located at southwest quadrant of the intersection of Stringtown Road and Peidmont Road, in the Clarksburg master plan area. The application was designated Preliminary Plan 1-01030B.[1] On 12/23/04, Preliminary Plan 1-01030B was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the

[1] The application was incorrectly noticed as Preliminary Plan No. 1-01030A, which is the plan number for the first amendment.

Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. A corporate officer of the Applicant appeared in person and testified that the Applicant agreed with the Staff recommendation and the recommended condition of approval.

At the hearing, Staff advised the Board that it had received a letter from an adjacent homeowners association ("HOA") expressing a concern with the alignment of A-305, an arterial road that traverses the subject property. Staff stated that the HOA wanted the record to reflect that they do have an issue with the alignment. Staff testified that the alignment in question is not before the Board as a part of the instant application but that Staff would consider the concerns of the HOA at such time as it reviews the site plan for the relevant phase of the Clarksburg Village development.

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 at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing, including the Staff Report dated December 17, 2004; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

PROJECT DESCRIPTION

This amendment includes the addition of approximately 30 acres of land to the area of approved preliminary plan. The 30-acre tract is located along Stringtown Road in Clarksburg between the previously approved Clarksburg Village and Clarksburg Highlands preliminary and site plans. The site is completely forested except for a strip of forest cleared for the construction of a WSSC sewer line to service the Clarksburg Town Center development. The property is zoned R-200. The proposed development of the site includes single-family detached units, townhouses and associated infrastructure. The entire site is within the Clarksburg Special Protection Area.

The site is located within the Little Seneca Creek watershed. Water flows to the Town Center tributary, a first order tributary, and then directly to the Little Seneca Creek. The streams are designated as Use IV-P. The natural resource inventory for the 30-acre tract delineates the onsite environmental buffers, forests, steep and moderately steep slopes.

STAFF ANALYSIS AND FINDINGS FOR THE PRELIMINARY PLAN AMENDMENT

Staff's review of Preliminary Plan #1-01030B, Clarksburg Village, indicated that the subject plan conforms to the recommendations of the Clarksburg Master Plan. The application proposed to add acreage to the overall site and construct 64 additional one-family attached residential dwelling units.

TRANSPORTATION

Staff determined that no additional transportation improvement conditions were needed for the proposed 64-townhouse addition to the approved Clarksburg Village development. The previously required transportation improvements provide sufficient transportation capacity to accommodate the proposed addition and no other transportation issues have been identified regarding the proposed amendment. Staff concluded that the subject preliminary plan satisfies the Adequate Public Facilities test.

ENVIRONMENTAL

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of the water quality plan. DPS has reviewed and conditionally approved the elements of the water quality plan under their purview. The Planning Board responsibility is to determine if the site imperviousness, environmental guidelines for special protection areas, and forest conservation requirements have been satisfied.

Forest Conservation

The applicant proposed to amend the previously approved preliminary plan by adding an additional 30 acres of land to the Clarksburg Village property. The final forest conservation for Clarksburg Village will also be amended with this approval.

The undeveloped 30-acre tract includes 27.5 acres of forest. The applicant proposed removal of 7.5 acres of forest from the tract and the retention of the remainder of the forest onsite. The total planting requirements for the Clarksburg Village final forest conservation plan will be modified and the forest planting amount will also changed. The applicant proposed to meet the forest conservation requirements for the entire Clarksburg Village development through a combination of forest retention, onsite forest planting of unforested portions of stream valley buffers, planting of upland areas, landscape credit. A five-year maintenance period is required for all forest plantings per the environmental guidelines.

Site Imperviousness

There are no impervious limitations within the Clarksburg SPA. The impervious amount proposed for the additional 30-acre tract is less than 10 percent. Environmental Planning and the applicant worked together to reduce the amount of forest loss, and impervious surfaces, to better protect the environment for this addition to the previously approved plan.

Environmental Guidelines

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village site identified the environmental buffers, steep and moderately steep slopes, soil types, and priority forests. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The applicant will place forest conservation easements on the environmental buffers and all forests preserved outside of the environmental buffers.

Site Performance Goals

As part of the final water quality plan, several site performance goals were established for the project:

1. Protect the streams and aquatic habitat.
2. Maintain the nature on-site stream channels.
3. Maintain stream base flows.
4. Identify and protect stream banks prone to erosion and slumping.
5. Minimize storm flow runoff increases.
6. Minimize increases in ambient water temperatures.
7. Minimize sediment loading.
8. Minimize pollutant loadings (nutrient and toxic substances).
9. Protect springs, seeps, and wetlands.

Stormwater Management

To help meet these performance goals, the stormwater management plan requires water quality control and quantity control to be provided through a system of linked best management practices (BMPs). Dry ponds, vegetated swales, dry swales, bioretention structures, sand filters, and infiltration/recharge structures will be used for stormwater management.

STAFF RECOMMENDATION

Staff concluded that Preliminary Plan #1-01030B, Clarksburg Village, conforms to the Clarksburg Master Plan and meets all necessary requirements of the Subdivision Regulations. As such, Staff recommended approval of the amendment to the preliminary plan subject to specified conditions.

FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies[2]; 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:

a) The Preliminary Plan No. 1-01030B substantially conforms to the Clarksburg 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. This finding is subject to the applicable condition(s) of approval.

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.

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.

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[2] 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.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-01030B in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-01030B, subject to the following conditions:

1. Approval under this preliminary plan is limited to a maximum of 2,654 residential dwelling units, 20,000 square feet office/retail use, and 5,000 square foot daycare facility. All previous conditions of approval of the Planning Board opinion dated January 23, 2003, for Preliminary Plan No. 1-01030 remain in full force and effect.

APPROVED AS TO LEGAL SUFFICIENCY
M-NCPPC LEGAL DEPARTMENT
DATE 6/21/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD VOTE ADOPTING OPINON

At its regular meeting, held on Thursday, June 23, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, 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 Clarksburg Village, Preliminary Plan No. 1-01030B.

Certification As To Vote of Adoption
Technical Writer

M-NCPPC

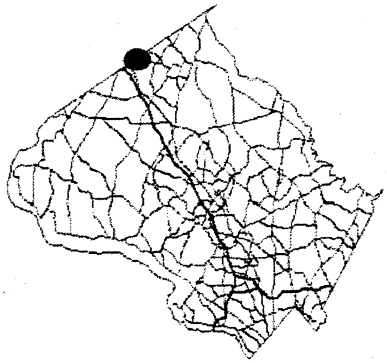
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Item #
MCPB 10/05/06

MEMORANDUM



DATE: September 25, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief RK
Development Review Division
FROM: Michael Ma MA
Planning Department Staff
(301) 495-4523

REVIEW TYPE: **Compliance Program**
PROJECT NAME: **Clarksburg Village**
CASE #: **820030020 (formerly 8-03002) and 82003002A (formerly 8-03002A)**

APPLYING FOR: Approval of the Compliance Program to correct non-compliance with the approved site plan and the Zoning Ordinance
REVIEW BASIS: Section D-3.6.of the Zoning Ordinance (Failure to comply)
ZONE: R-200/R-200-TDR 3
LOCATION: Southwest Quadrant of the Intersection of Stringtown Road and Piedmont Road
MASTER PLAN: Clarksburg Master Plan
RESPONDENT: Elm Street Development
HEARING DATE: October 5, 2006

SUMMARY

On June 29, 2006, the Planning Board held a public hearing on Clarksburg Village, conducted a preliminary vote on alleged acts of non-compliance, rejected the respondent's proffer, and directed staff to determine an appropriate Compliance Program and/or fines. The purpose of this report is to present staff recommendations on the Compliance Program for the Clarksburg Village development to the Planning Board for approval.

Non-Compliance Items and Corrective Actions

The following table summarizes the six non-compliance items found by the Planning Board and the corrective actions required by the subject Compliance Program:

	Non-compliance Items	Corrective Actions through Site Plan Amendment
1	Discrepancy between Planning Board opinion and Signature Set of Site Plan 8-03002 in the numbers of one-family detached units and townhouses.	Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
2	Multiple-family units in the R-200/MPDU Zone.	Eliminate the proposed 48 multiple-family units in four buildings in Block T.
3	Lot size for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 6,000 square feet for one-family detached units.	Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one- family detached units with a lot area no less than 6,000 square feet (through combining lots and reducing street rights-of-way) except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units.
4	Building setbacks for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 25 feet setback from street for one-family detached units.	Provide a minimum building setback of 25 feet from street for all one-family detached units in the R-200 zone through combining lots and reducing street rights-of-way. Zoning Text amendment 06-12 modified the setback requirements (Section C-1.623 of the Zoning Ordinance) for corner lots in the R-200 zone under MPDU option.
5	The Right-of-way for Foreman Boulevard is less than that shown on the approved Preliminary Plan.	Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.
6	Lack of Complete Development Standards in the R-200/TDR3 zone.	Establish complete development standards for the entire development (Attachment A)

Design Improvements and Additional Amenities

In addition to the corrective actions, the Compliance Program requires the respondent to (1) improve the design of the approved site plan in Blocks P, U, and T, (2) provide additional amenities, such as park facilities, larger plant materials, additional trees in forestation areas, and picnic shelters, and (3) make a $50,000 contribution to the Clarksburg Village Homeowners Association (HOA) fund.

The Revised Plan

The respondent has revised the site plan for certain areas within the development in accordance with the Compliance Program to meet the Zoning Ordinance requirements and to improve the design of the development (Attachment B). To increase the lot size and building setback for those non-compliant lots to meet the Zoning Ordinance requirements of one-family detached units in the R-200/MPDU zone, the respondent proposes to eliminate four dwelling units and use the lot areas to make up the differences. In addition, to solve the lot size and setback problems associated with certain built and occupied homes, the revised plan proposes to reduce the rights-of-way of certain portions of four public streets to gain additional lot areas and building setbacks for those homes. Four of the non-compliant lots, which were going to be attached with a trellis, will be built with attached garages.

A major component of the Compliance Program is to require design improvements to certain areas of the development. The revised plan proposes a better integration of various dwelling types in Blocks P, U, and T. It substantially modifies the design of the entire Block T by eliminating 4 multiple-family building (total 48 units), adding 21 detached homes and other dwelling types. The revised layout of Block T provides a better green space network throughout the block, which connects the units with the surrounding greenway open space, and reduces the density by approximately 40 units. Some of the reduced units in Block T will be relocated to Blocks P and U to provide a better mix of detached units and townhouses. The net density reduction for the entire development would be 31 units.

Fines

In the staff report prepared for the June 29, 2006, non-compliance hearing for Clarksburg Village, staff recommended a total fine of $1,192,500 for all six non-compliance items. Staff, however, also recommended that certain areas of Clarksburg Village, which have already been approved, could be significantly enhanced and the costs inherent in such a redesign, including the possible loss of some units, might be viewed as an acceptable alternative to the assessment of some or all of the proposed fines. Staff considers the design improvements identified in the Compliance Program significant but still recommends a fine of $100,000.

Future Action

If the Planning Board approves the Compliance Program, the respondent will finalize the amended Site Plan 82003002B in accordance with the Compliance Program and resubmit it to the Planning Board for review and approval. Certain details and elements of the Compliance Program, such as the development standards for individual units, final numbers and types of various dwelling units, and the design of the added amenities, may be modified during the review process. The Planning Board's approval of amended Site Plan 82003002B will also set the final timing requirement for all the amenities which will be provided by the respondent for the entire Clarksburg Village development.

STAFF RECOMMENDATION: Approval of the following Compliance Program for Clarksburg Village to permit the respondent to take corrective action to comply with the approved plans and the Zoning Ordinance requirements, and to allow the respondent to propose modifications to the

approved site plan:

1. **Corrective Action**
   The respondent shall provide the following site plan modifications through Site Plan Amendment 82003002B to meet the Zoning Ordinance requirements and to be in conformance with the approved Preliminary Plan 12001030A:

   a. Revise the Site Development Data Table under General Notes to reflect the numbers and types of the proposed dwelling units based on the amended site plan.
   b. Eliminate the proposed 48 multiple-family units in four buildings in Block T.
   c. Convert all one-family attached/semi-detached units in Blocks G, H, K and L to one- family detached units with a lot area of no less than 6,000 square feet, except for Lots 21 and 22 of Block G and Lots 11 and 12 of Block K, which will be built as attached units with attached garages.
   d. Provide a minimum building setback of 25 feet from street for all the one-family detached units in the R-200 zone, except for corner lots, in accordance with Section C-1.623 of the Zoning Ordinance.
   e. Modify the right-of-way from 50 feet (Department of Public Works and Transportation Design Standards mc-210.02) to 27 feet and 4 inches (mc-210.03) on Granite Rock Road (from station 10+15 to 15+07), British Manor Drive (from station 1+03 to 0+00), Bent Arrow Drive (from station 10+52 to 5+90), and Robin Song Drive (from station 5+90 to 8+11). This right-of-way modification resolves the 25-foot minimum building set back issue on eight existing homes (Lots 12, 13, 23, and 26 of Block G, Lot 10 of Block H, Lots 10 and 13 of Block K, and Lot 10 of Block L), and the 6,000-square-foot minimum lot size issue for one existing home on Lot 12 of Block G.
   f. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet.

2. **Provision of Complete Development Standards for the R-200/TDR 3 zone portion.**
   The development standards as shown on Attachment A shall be established through Site Plan Amendment 82003002B for the proposed development. These standards may be modified in accordance with the Planning Board's review of Site Plan Amendment 82003002B.

3. **Design Improvements**
   The respondent shall modify the design of Blocks P, U, and T as shown on Attachment B to provide the following design features:
   a. Integration of various dwelling types.
   b. Reduction of the density in Block T by approximately 40 dwelling units.
   c. A north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail.
   d. A major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space.
   e. A trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail.

f. Replacement of the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community.

All of the design changes shall be incorporated into Site Plan Amendment 82003002B and approved by the Planning Board prior to issuance of any building permit.

4. Additional Amenities

The respondent shall provide the following amenities, in addition to those required by the approved site plan, for the proposed development:

a. Park facilities to be located on the proposed Park/School site:
   (i) Two rectangular athletic fields with dimensions of 180 feet by 300 feet plus a 20-foot-wide flat sideline area along all sides of the fields.
   (ii) A paved parking area for 57 cars to be located off Blue Sky Drive as shown on the approved site plan.
   (iii) One picnic shelter constructed on a concrete slab and including picnic tables, to be located on Blue Sky Drive adjacent to the athletic fields and parking lot.
   (iv) Adequate stormwater management for the facilities.
   (v) The remaining site where the school and its facilities are to be located to be fine graded and seeded to adequately accommodate various athletic practice fields.
   (vi) Paved trails between facilities, landscaping, water fountain and adequate park signage.
b. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The design of these facilities shall be incorporated into Site Plan Amendment 82003002B.
c. The park facilities to be provided on the Park/School site shall be completed and accepted by M-NCPPC within 9 months after approval of plats and plans for Stringtown Road improvements or the issuance of the building permit for the 600th dwelling units for the proposed development, whichever comes first.
d. Additional landscaping:
   (i) Increase the size of all unplanted street trees from 2 ½ - 3" to 3 - 3 ½" caliper.
   (ii) Add 300 trees in reforestation area, which are 2 - 2 ½" caliper in size.
   (iii) Increase landscaping around the proposed pool facility by 25 percent.
e. Two picnic shelters near the proposed Greenway trail.
f. A $50,000 contribution to the Clarksburg Village Homeowers Association prior to October 31, 2006, to be used at the discretion of homeowners, not the developer.

5. Fines

The respondent shall make payment of $100,000 to M-NCPPC prior to October 31, 2006.

6. Process of Record Plats

The Planning Board staff may process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of

Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

BACKGROUND

Overview

Clarksburg Village is a 771-acre, large-scale development that was proposed for a mix of uses in three different phases. The Planning Board's Preliminary Plan opinion, which was amended twice, ultimately approved 2,654 dwelling units, 20,000 square feet of office/retail, and 5,000 square feet of daycare. The plan also called for two school sites, parks, greenways, trails, and recreational facilities. The subject Compliance Program is for the first phase of the development.

Site Vicinity/Description

Clarksburg Village is located in Clarksburg, Maryland. It is bounded to the north by Stringtown Road, which separates it from Clarksburg Town Center. The eastern portion of the site is bounded by a stream, beyond which is Greenway Village (a.k.a. Arora Hills). The Clarksburg Greenway bounds the western edge of the site, beyond which is Frederick Road (MD 355). The southern boundary of Clarksburg Village is Ridge Road.

The first phase is the northern half of the site closest to Stringtown Road and Clarksburg Town Center. The second phase is to the south. The third phase is the village center, which consists of several blocks of primarily commercial development next to Greenway Village/Arora Hills, along Newcut Road.

Phase One Site Plan Approval 8-03002

The Planning Board approved the Site and Water Quality Plan 8-03002 for Phase One of the development on July 31, 2003 for 933 dwelling units on 333.87 acres. The site development plan of the signature set was approved on August 9, 2004. The entire signature set package, inclusive of the Site Plan Enforcement Agreement and Development Program, was approved on May 12, 2005.

The Planning Board opinion for Site Plan 8-03002 approved 933 dwelling units, including 471 one-family detached dwelling units, 414 Townhouses, inclusive of 44 MPDU Townhomes, and 48 multiple family dwelling units in four buildings, which were all MPDU's.1

Amended Phase One Site Plan 8-03002A

An amended site plan 8-03002A was approved by the Planning Board on December 23, 2004, to add 30 acres (for a total of 363.87 acres) near Stringtown Road to Phase One and revise the layout in that area. The amendment approved 997 dwelling units in Phase One. This is an increase of 64 dwelling units over the original site plan approval.

1 The remaining MPDUs required for Phase One are to be provided "off-site" in Phase Two. Building permits for 231 market rate units in Phase One were to be withheld until the building permits were issued for the required MPDUs off-site in Phase Two.

Development Status

Phase I of Clarksburg Village is currently under construction. According to the most recent information provided by the developer, dated September 22, 2006, 245 dwelling units have been built and 59 units are under construction (see Attachment B). The following table shows the breakdown of the units.

	Number of Units Completed	Number of Units Under Construction	Total
One-family Detached	164	22	186
Townhouse	57	17	74
Two-over-two	24	20	44
Total	245	59	304

Within the developed areas, the following recreations facilities have been completed: 2 open play areas (type 2), 1 tot lot, 1 multi-age play area, 1 picnic area, 11 seating areas, and one gazebo.

The site for the proposed pool and pool house/community room has been graded. The respondent will start the construction of the pool facilities upon obtaining permits from the Department of Permitting Service. M-NCPPC staff has signed off on the permit application for the pool facilities. The pool will be open in 2007 according to the respondent's plan.

NON-COMPLIANCE HEARINGS

May 4, 2006- Initial Public Hearing

An initial public hearing regarding the nature and extent of the alleged acts of non-compliance and deficiencies discovered by staff was held on May 4, 2006. Both the developer and general public had an opportunity to respond to the information provided in the staff report, and also to provide any additional information that might be relevant to a Planning Board decision. Six alleged "violations" were identified.

The Planning Board requested a continuation of the Public Hearing to May 11, 2006, to accommodate the developer's request for resumption by M-NCPPC of the review of building permits for 83 lots.

May 11, 2006 – Continuation of May 4, 2006 hearing

On May 11, 2006, the Planning Board issued a Corrective Order for 83 lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The developer entered into "stipulations of fact" as part of the Corrective Order. The stipulations identify certain matters of fact that are not contested by the developer – and therefore deemed resolved for the purpose of the Planning Board's decision on the merits – as opposed to any other facts relating to the project that remain open to dispute.

June 29, 2006 – Continuation of May 11, 2006 hearing

On June 29, 2006, the Planning Board conducted a preliminary vote on alleged acts of non-compliance and found non-compliance for all the items identified in the staff report. The Planning Board also rejected the respondent's proffer and directed staff to determined an appropriate Compliance Program and/or fines.

July 20, 2006 – Continuation of June 29, 2006 hearing
On July 20, 2006, the Planning Board reviewed the respondent's request to issue a Corrective Order for 100 lots to establish development standards on those lots and thereby allow M-NCPPC to resume the review of these building permits. The Planning Board deferred action to July 27 on the staff recommendation of approval of an amendment to the corrective order of May 11, 2006, to establish development standards for 65 additional units, including 47 one-family detached units and 18 townhouses, and the proposed pool facility on Parcel A of Block P.

July 27, 2006 – Continuation of July 20, 2006 hearing
On July 27, 2006, the Planning Board approved staff recommendation for approval of development standards for 65 identified dwelling units, including 47 one-family detached units and 18 townhouses, and the proposed pool/club facility on Parcel A of Block P, contingent on Department staff receiving written assurances from the respondent from the builders concerning content and timing of disclosure documents. The Planning Board also delegated to staff the decision of whether to accept the adequacy of the disclosure statements and the revised layout for the proposed pool and pool house.

PROCEDURAL POSTURE

Staff recommendation on the Compliance Program for the subject development is based on Section 59-D-3.6 of the Zoning Ordinance, which provides that if the Planning Board finds that "any term, condition, or restriction in a certified site plan is not being complied with," the Board may take the following actions:

1) impose a civil fine or penalty authorized by Section 50-41;
2) suspend or revoke the site plan;
3) approve a compliance program which would permit the developer to take corrective action to comply with the certified site plan;
4) allow the developer to propose modifications to the certified site plan, or
5) take any combination of these actions.

NON-COMPLIANCE ITEMS

On June 29, 2006, the Planning Board found the following non-compliance items identified in the staff report dated June 19, 2006 (Attachment C):

1. Discrepancy between Planning Board opinion and Signature Set of Site Plan 8-03002 in the numbers of one-family detached units and townhouses.
2. Multiple-family units in the R-200/MPDU Zone.
3. Lot size for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 6,000 square feet for one-family detached units.

4. Building setbacks for lots in the R-200/MPDU Zone, which are not qualified as attached units and do not have the min. 25 feet setback from street for one-family detached units.
5. The Right-of-way for Foreman Boulevard is less than that shown on the approved Preliminary Plan.
6. Lack of Complete Development Standards in the R-200/TDR3 zone.

RESPONDENT'S PROFFER / STAFF COMMENTS

The respondent submitted a revised proffer (Attachment D), which includes 21 items, to address the non-compliance issues for the development.

Changes to the Approved Plans to Meet the Lot area and Building Setback Requirements
The proffer proposes the following changes to the approved site plans (see Attachment B- modified lots are outlined in red) to correct lot size and building setback problems for certain lots in Blocks G, H, and K through combining lots and reducing the width of the right-of-way for portions of four public roads:

Block G
1. Six one-family attached units were replaced with five one-family detached units, all lots will have a minimum 6000 square feet. Houses were shifted back to meet the 25-foot front building restriction line. (The location of these units is indicated on the Development Status and Proposed Changes Exhibit -Attachment B as 1A.)
2. Two one-family attached units were replaced with two one-family detached units. The rear lot line was shifted to achieve 25 feet front building restriction line. (Location 1B)
3. Four one-family attached units and one one-family detached unit have been replaced with four one-family detached units. (Location 1C)
4. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location 1D)
5. Building attachments were modified on lots 21 and 22 to have attached garages. Lot 23, which was a one-family attached unit, is now a one-family detached unit. Lot 21, which was a one-family detached unit, is now a one-family attached unit. (Location 1E)
6. Two one-family attached units were replaced with two one-family detached units. (Location 1F)

Block H
1. Five one-family attached units were replaced with four one-family detached units. Houses were shifted back to meet the 25-foot front building restriction line. (Location 2A)
2. Propose a reduced width tertiary road to increase the lot area and setback. (Location 2B)

Block K
1. Four one-family attached units were replaced with two one-family attached units and two one-family detached units. The building attachment was modified on lots 11 and 12 to have attached garages. (Location 3A)
2. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location

3B)

Block L

1. Two one-family attached units were replaced with two one-family detached units. Lots 11- 14 (new lot numbers 31-34) have been adjusted so that lot 11 (new lot number 31) has more than 6000 s.f. (Location 4A)
2. A reduced width tertiary road has been proposed to increase the lot area and setback. (Location 4B)

- Staff Comment

The approved site plan shows a number of one-family attached units in the R-200/MPDU zoned portion of the development with an unidentified attachment feature between units. The respondent proposed a "trellis" as the connecting element between units, which is not acceptable to the staff and the Department of Permitting Services in accordance with the Zoning Ordinance. Without a qualified attachment feature, such as a common wall or attached garages, these units would be considered as detached units and must have a minimum building setback of 25 feet from street and a minimum lot area of 6,000 square feet.

The approved site plan can be modified to meet the lot size and setback requirements through combining lots for unbuilt units, but there are eight houses which have been built and do not meet the lot size and/or setback requirements. Deleting and combining undeveloped lots would not address all the problems for these eight units. Staff has considered other options, such as a zoning map amendment or zoning text amendment, to solve the problems for the units which are currently occupied by individual homeowners. Staff agrees with the respondent that the most practical way to solve the problems, in addition to combining lots, is to reduce the width of the right-of-way for portions of four public streets on which these lots have a frontage. The right-of-way reduction will not change the design of the road, i.e. the pavement width and the sidewalk location, but will help these lots gain additional areas for lot size and setback. However, it requires the Planning Board's approval of a waiver to the subdivision regulations.

Design Improvements to Blocks P, T, and U and Increase of Foreman Boulevard Right-of-Way
The proffer proposes the changes to the approved site plans (see Attachment B- modified lots are outlined in red) to improve the design of the following areas:

Block P

1. Ten one-family detached units were replaced with twenty town houses. (Location 5A)
2. Four front-loaded-garage lots were revised to six alley-loaded-garage lots. Increase the right-of-way for Foreman Boulevard from 70 to 80 feet. (Location 5B)

Block U

Two front-loaded-garage lots were revised to three alley-loaded-garage lots. (Location 6)

Block T

Complete redesign of the layout of Block T to incorporate various dwelling types and provide a better open space/pedestrian system throughout the block. The following table shows a comparison of the approved development program with the revised plan for Block T.

	Approved	Revised	Changes
One-family Detached Units	0	21	+ 21
Townhouses	171	99	- 72
One-family Attached Units	0	58	+58
Multiple-family Units	48	0	- 48
Total	219	178	- 41

- Staff Comment

Staff has been working with the respondent to identify areas of the development for improvement and to revise the plan for the identified areas. The goal is to achieve a better integration of various dwelling types and to improve the pedestrian/open space system for these areas. Block T, as shown on the approved site plan, has a high concentration of townhouses and four multiple-family buildings with 90-degree parking arrangement along the internal driveway.

The revised plan moved some townhouses from Block T to Block P and added detached units to Block T. It created a north-south pedestrian spine through Block T to facilitate pedestrian movement between Block T and the proposed Greenway Trail and a major east-west open space spine in the southern portion of Block T to provide visual and physical connections between Block T and surrounding greenway open space. It also proposes a trail connection, if permitted by the Department of Permitting Services, through the proposed stormwater management facilities in the southwestern portion of Block T to provide an additional pedestrian link between Block T and the proposed Greenway Trail. The plan replaced the double-loaded, 90-degree parking arrangement along the internal street in Block T with single-loaded or parallel parking spaces to mitigate the visual impact of parking spaces on the overall design of the community. Overall, the proposed plan improves the design quality of the development, especially in Block T. The revised plan also proposes more MPDUs to be provided in the first phase of the development, an increase from 108 to 118 units.

Additional Amenities

The proffer proposes a number of amenities to be provided by the respondent in addition to the facilities already required by the approved site plan:

1. Increase the caliper of all unplanted street trees in Phase 1 from 2 ½ - 3" to 3 - 3 ½".
2. Add 100 trees in reforestation area which are a minimum 2" caliper in size.
3. Increase landscaping around pool facility by 25%.
4. Add an office in the clubhouse for the use of the HOA's management staff.
5. Make a $ 50,000 contribution to the HOA to be used at the time and discretion of homeowners, not the developer. Add two covered picnic shelters each having 2 picnic tables.
6. Re-plan the "P", "U", and "T" blocks as shown on the attached exhibit. Eliminate approximately

26 units from these blocks combined. Add additional product types into these blocks.

- Staff Comment

Staff recommends additional park facilities, including a paved parking lot and a picnic shelter, to be provided by the respondent. In addition, 300 additional trees, not 100, should be provided in the reforestation area. The final design of the facilities will be review in detail at the time of site plan amendment review.

Fines

The respondent also agrees to make a payment of $ 100,000 to MNCP&P to cover the cost of the violation review and corrections. The respondent requests that this payment shall also serve as the review fee for the necessary Preliminary plan revisions.

- Staff Comment

In the staff report prepared for the June 29, 2006, non-compliance hearing for Clarksburg Village, staff recommended a total fine of $1,192,500 for all six non-compliance items. Staff, however, also recommended that certain areas of Clarksburg Village, which have already been approved, could be significantly enhanced and the costs inherent in such a redesign, including the possible loss of some units, might be viewed as an acceptable alternative to the assessment of some or all of the proposed fines. Staff considers the design improvements and the reduction of development density (31 units) identified in the Compliance Program significant and recommends a fine of $100,000.

Process of Record Plats

As part of the proffer, the respondent requests M-NCPPC staff process the following record plat applications for lots which are not affected by any corrections due to site plan non-compliance prior to the approval of Site Plan Amendment 82003002B by the Planning Board: 2-06120, 2-06126, 2-06128, 2-05007, 2-05008, 2-05025, 2-05026, 2-05029, 2-06127, 2-06118, 2-06119, and 2-06156.

- Staff Comment

Staff agrees that, if the Planning Board approves the Compliance Program, the record plat applications for lots which are not affected by any corrections due to site plan non-compliance can be processed prior to the approval of Site Plan Amendment 82003002B by the Planning Board.

CONCLUSION

Staff recommends approval of the Compliance Program as listed in the STAFF RECOMMENDATION section above. The combination of a corrected site plan, design

improvements, additional amenities, and fines adequately addresses the non-compliance items found by the Planning Board for Clarksburg Village. If the Planning Board approves the Compliance Program, the respondent will finalize the amended Site Plan 82003002B in accordance with the Compliance Program and resubmit it to the Planning Board for review and approval.

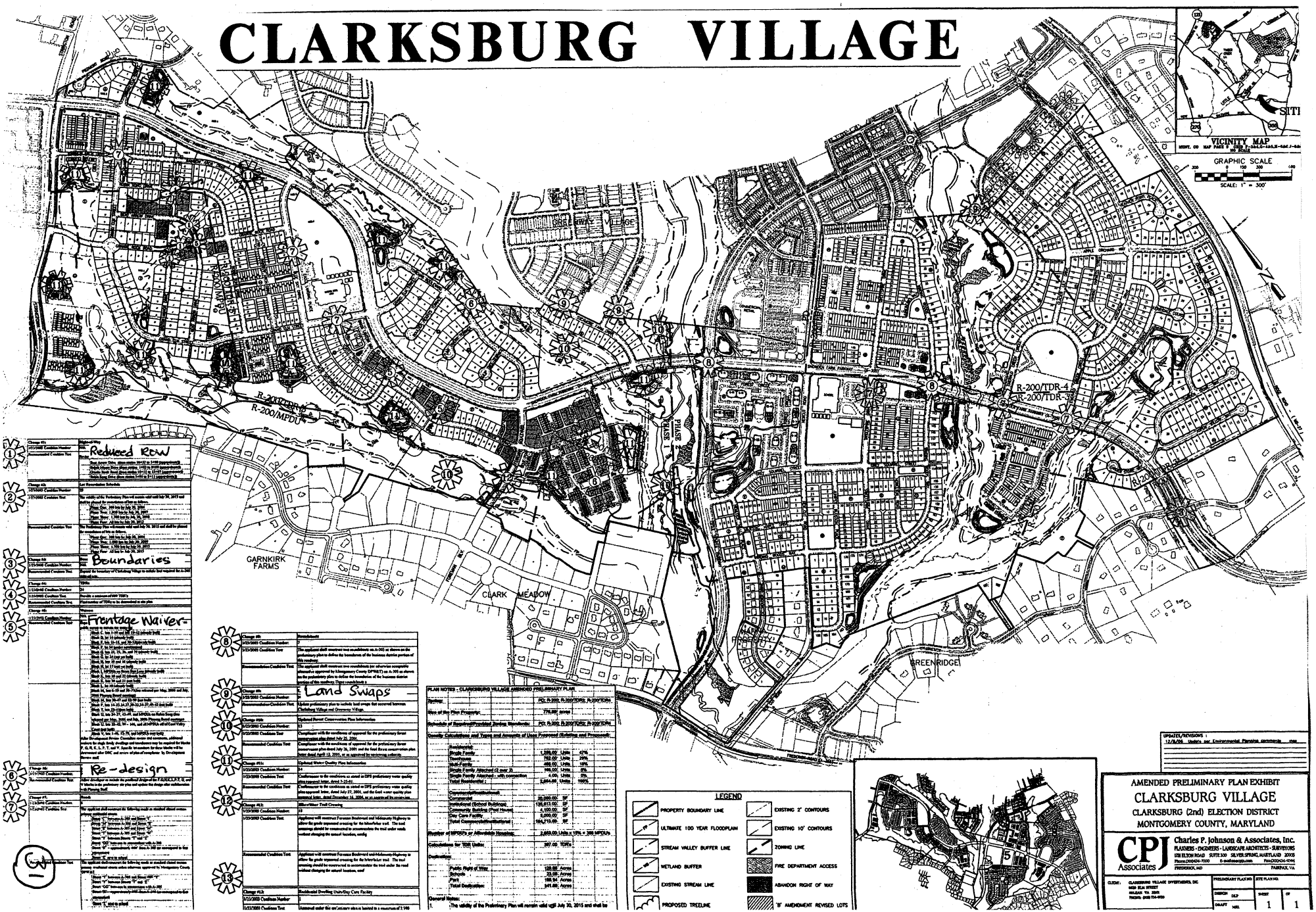
Certain details and elements of the Compliance Program, such as the development standards for individual units, final numbers and types of various dwelling units, and the design of the added amenities, may be modified during the review process. The Planning Board's approval of amended Site Plan 82003002B will also set the final timing requirement for all the amenities which will be provided by the respondent for the entire Clarksburg Village development.

ATTACHMENT

A. Development Standards
B. Revised Plans
C. June 19, 2006 staff report
D. Respondent's Proffer

Not included

CLARKSBURG VILLAGE



1	Change #3	Reduced ROW
2	Change #4	
3	Change #5	Boundaries
4	Change #6	
5	Change #7	Frontage Waiver
6	Change #8	Re-design
7	Change #9	
8	Change #9b	Amendment
9	Change #10	Land Swaps
10	Change #10b	
11	Change #11	
12	Change #12	
13	Change #13	

LEGEND

- PROPERTY BOUNDARY LINE
- ULTIMATE 100 YEAR FLOODPLAIN
- STREAM VALLEY BUFFER LINE
- WETLAND BUFFER
- EXISTING STREAM LINE
- PROPOSED TREELINE
- EXISTING 2' CONTOURS
- EXISTING 10' CONTOURS
- ZONING LINE
- FIRE DEPARTMENT ACCESS
- ABANDON RIGHT OF WAY
- 'B' AMENDMENT REVISED LOTS

UPDATES/REVISIONS :
12/8/06 Update per Environmental Planning comments now

AMENDED PRELIMINARY PLAN EXHIBIT
CLARKSBURG VILLAGE
CLARKSBURG (2nd) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

CPJ Associates
Charles P. Johnson & Associates, Inc.
PLANNERS · ENGINEERS · LANDSCAPE ARCHITECTS · SURVEYORS
8230 ELTON ROAD SUITE 300 SILVER SPRING, MARYLAND 20910
Phone (301)434-7000 E-mail cpj@cpja.com Fax (301)434-9596
FREDERICK, MD FAIRFAX, VA

CLIENT: CLARKSBURG VILLAGE INVESTMENTS, INC.
8403 ELM STREET
MCLEAN VA 22101
PHONE (703) 734-9100

PRELIMINARY PLAN NO. SITE PLAN NO.
DESIGN DCP SHEET 1 OF 1
DRAFT MDL

Attachment G

Attachment H

Agency Correspondence

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Department of Planning, Montgomery County, Maryland
8787Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Cathy Conlon, Supervisor

FROM: Mark Pfefferle, Planning Coordinator MP
Countywide Planning-Environmental Planning

DATE: December 22, 2006

SUBJECT: Preliminary Plan of Subdivision 120011030C
Water Quality Plan Amendment
Clarksburg Village

RECOMMENDATION

Environmental Planning staff recommends approval of the amended preliminary plan of subdivision for Clarksburg Village subject to the following conditions:

Forest Conservation

1. The applicant shall comply with the conditions of approval of the final forest conservation plan submitted on December 20, 2006. The applicant shall satisfy all conditions of approval before recording of the record plat(s) or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:
    a. Applicant to post a new financial security instrument for the entire forest planting areas that includes the additional 2 ½ caliper trees required as part of previous violation hearings.
    b. Applicant shall honor the limits of disturbance as shown on the April 12, 2005 approved final forest conservation plan between lots 106 and lot 128 of Block U.
    c. Applicant to provide compensation for the loss of 2.14 acres of forest that is shown on the April 12, 2005 approved plan. Compensation must be in addition to areas previously shown as saved or planted.

Stormwater Management

1. Condition 12 of the September 7, 2001 Planning Board Opinion for preliminary plan 1-01030 shall be revised to include the entire stormwater management facility, located nearest the town center tributary and Stringtown Road. The remainder of the condition to remain the same.

BACKGROUND

This amendment includes the revisions to previously approved preliminary plan of subdivision plan number 120010300. Stringtown Road, the Town Center tributary, Ridge Road and A-305 in Clarksburg bound the subject site. The entire site is within the Clarksburg Special Protection Area and within the Little Seneca Creek watershed. Water flows to the town center tributary, a first order tributary, and then directly to the Little Seneca Creek. The streams are designated as Use IV-P.

Environmental Planning approved the final forest conservation plan, which primarily addresses site plan 820030020 and conceptual for the remainder of the site, on April 12, 2005.

WATER QUALITY PLAN REVIEW

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS is amending their portion of the water quality plan as individual sediment control plans and stormwater management plans are submitted to them for review and approval prior to any clearing or grading occurring on that phase of the development.

The Planning Board responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied. This discussion follows.

ENVIRONMENTAL GUIDELINES

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. For instance, the goal of protecting seeps, springs, and wetlands is better achieved with naturalized buffers surrounding these areas. The natural resource inventory for the Clarksburg Village identified the environmental buffers. Environmental buffers include wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The Planning Board previously approved encroachments into the environmental buffers for the greenway trail, stormwater management outfalls, and stormwater management facilities.

Stormwater Management Encroachments

The preliminary plan of subdivision opinion, mailed on September 7, 2001, includes a condition of approval identifying which stormwater management facilities are allowed within the environmental buffers and how far those facilities may encroach. The applicant has repeated his desire to conform to that preliminary plan condition for all stormwater management facilities. However, there is a new stormwater management facility, not previously shown on any Clarksburg Village plan that must encroach entirely into the environmental buffer. This facility is located where new and expanded Stringtown Road crosses the town center tributary. The stormwater to be treated at this facility will be entirely from Stringtown Road, which was not

previously accounted for on either the Clarksburg Village or Clarksburg Town Center water quality plans. Environmental Planning supports the encroachment for this facility and adding this facility to the approved facilities in condition 12 of the September 7, 2001, Planning Board opinion for 120010300. All other stormwater management facilities must comply with the condition as previously written and approved by the Planning Board.

Sewer Line Encroachment

Since approval of the Final Forest Conservation plan for site plan 820030020 on April 12, 2005, the applicant's engineer has moved a sewer line near lots 106 through 128 of Block U that is accessed from Stringtown Road. On the approved forest conservation plan this sewer line and the limits of disturbance are entirely outside of the environmental buffer. The LOD and sewer line run parallel to the environmental buffer. During the submission of the sediment control plans for this section of the development the applicant moved the LOD and the sewer line into the environmental buffer. Environmental Planning does not support this encroachment and has stalled clearing and grading operations in this phase of the development because of the inconsistency in the LODs on the approved forest conservation plan and the rough grading plan approved by MCDPS. The applicant's approved plan shows that all these activities can occur outside the environmental buffer. The applicant's revised plan submitted with this application shows the encroachment, which Environmental Planning does not support. The limits of disturbance in this section of the development must remain consistent with the previously approved plan that shows the sewer line and LOD outside of the environmental buffer. Environmental Planning is okay with the location of the sewer line as it enters the environmental buffer near the stormwater management facility and connects to the existing sewer main in the environmental buffer, but not the when it run parallel to the stream.

FOREST CONSERVATION

The applicant is proposing more than 5,000 square feet of new forest removal and therefore the Planning Board must amend the forest conservation plan. The revised forest conservation plan shows 2.14 acres of less forest saved and planted than on the April 12, 2005 approved plan. Some of forest reduction results from the new stormwater management facility in the environmental buffer, extension of stormwater management discharge outfalls, moving a sanitary sewer from outside the environmental buffer to inside the buffer, and the change of a Category I easement area into a Category II easement. Some of the changes in forest sizes are unexplainable other than the engineer recalculating the areas on their computers. However, as previously stated, Environmental Planning does not support all of the proposed encroachments and reduction in forest on the subject site. The applicant has not indicated how the loss of forest will be compensated. Environmental Planning requests compensation from encroachment into the conservation easements and from permanent loss of forest previously shown as saved on a 2:1 basis. The plan submitted on December 20, 2006 does not address this issue.

SITE IMPERVIOUSNESS

There is no impervious limitation in the Clarksburg Special Protection Area. Previous Environmental Planning staff reports indicated an imperviousness of 23 percent. The changes to

the approved preliminary plan will add impervious surfaces but still keep the overall site consistent with other similarly developed properties within Montgomery County.

GREENWAY TRAIL

The Department of Parks has been unable to acquire a section of the greenway trail that is not owned by Elm Street Development. As a result, the Parks Department requested a new alignment that would keep the entire greenway trail within the area developed by Elm Street. Environmental Planning objects to this alignment. The Parks Department's proposed alignment will remove existing forest, transverse moderately steep slopes, require a new stream crossing, and create an unusual jog to the path that is not necessary and inefficient for the user. The section of land in which the Parks Department has been unable to acquire includes a cleared WSSC easement. The other sections of the greenway trail are contained within this cleared area. If the Parks Department is unable to acquire access to the missing property either through the acquisition of the land or an easement they should use their condemnation powers. The existing sewer line clearing is the straightest and most efficient means for a trail user to get from point "A" to point "B" within Clarksburg. Because of the existing clearing mountain bikers, runners, walkers, and other trails users will continue to use this cleared area because it is the path of least resistance and quicker when compared to the Parks Department alternative. Environmental Planning would like the Parks Department to re-open the discussions with the property owner on acquiring the property, or an easement, to complete the trail as shown on all trail maps. If the Parks Department cannot acquire access for the trail they should use their condemnation powers to acquire access. The trail should not be constructed in an already existing forest when there is clearly a better alternative available.

CONCLUSION

Environmental Planning recommends the Planning Board approve the amended Preliminary Plan of Subdivision the M-NCPPC's review authority for water quality plans.

MEMORANDUM 12/27/06

TO: **Cathy Conlon, Subdivision Supervisor, Development Review Division**
Richard Weaver, Subdivision Review, Development Review Division
Robert Kronenberg, Site Plan Review, Development Review Division

FROM: **Doug Powell, Plan Review Coordinator, Park Planning and Resource Analysis**

RE: **Planning Board Conditions for 1-2001030C, Clarksburg Village**

Park Planning and Resource Analysis Unit has reviewed the above referenced Preliminary Plan and requests the following Conditions for approval of the project:

- Dedicate to M-NCPPC the property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary. Include in dedication, the land along the Little Seneca tributary north of Snowden Farm Parkway to the northern boundary of the project property where the Baltimore Checkerspot Butterfly is located. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris and boundaries between parkland and private properties to be clearly staked and signed.

- Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway, then north to the Greenway Village development to connect with the portion of trail being constructed as part of that project. Exact trail alignment to be agreed on by applicant and M-NCPPC staff prior to approval of the site plans that contains the applicable portion of the trail. Greenway Trail and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant to obtain a park permit. Trails to be clearly marked or constructed prior to beginning construction on homes adjacent to the Greenway parkland. Greenway Trail should be shown with two alternative routes at the southeastern side of Phase I. The preferred route would continue through the Bradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the

property owner. The alternative route would circumvent the Bradley property on land already owned by Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway and the adjacent portion of the Greenway Trail.

- Applicant to provide a safe and adequate Greenway Trail crossing of Snowden Farm Parkway (whether grade separated or at grade) that is satisfactory to M-NCPPC staff. Applicant to work with staff from M-NCPPC and DPWT to determine the safest and best option for this crossing.

- Construct Foreman Boulevard to allow for a grade separated crossing for the hiker/biker Greenway Trail. Construct trail crossing to accommodate the trail under the road without changing the natural location, configuration or composition of the stream channel, and locate trail to minimize flooding of the trail and minimize surface water runoff from the paved trail directly into the stream. Trail crossing to meet the following guidelines unless otherwise agreed to by M-NCPPC staff and Applicant. Trail/road crossing details to be submitted to M-NCPPC staff for approval.

a. Minimum clearance of 12 feet to accommodate rescue and maintenance vehicles.
b. Tread or path width of 10 feet in constricted area under the road; 12 inch to 24 inch cleared area on either side of path.
c. Locate above floodplain and use construction practices to best help convey water from the trail.
d. Minimize length of tunnel and maximize light in the tunnel with wing walls, 45 degrees off centerline of trail.
e. Provide at least a 2-½ foot head wall over the entrance to the tunnel.
f. Provide lighting where the trail length under the road exceeds 50 feet and follow guidelines in the latest AASHTO "Guide for the Development of Bicycle Facilities".
g. Minimize riprap requirement to stabilize stream banks outside the tunnel.
h. Use materials that deter graffiti and facilitate easy maintenance and cleaning.

- The park area designated as a Local Park and located on the north side of Snowden Farm Parkway in the Phase II section of the project area, will be graded according to the park layout concept plan, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. The park will be dedicated to M-NCPPC at time of record plat for the portion of the property that includes the park area. Applicant to provide quantity and quality stormwater management for the park to sufficiently accommodate the planned park facilities. Quality may be provided on

site if space permits, but quantity to be provided off the park site. Any park improvements are to be constructed to park standards and specifications. Specific types of recreation facilities and their arrangement on the property must be coordinated with M-NCPPC staff.

- The school/park site off of Snowden Farm Parkway in the Phase I section of the project, will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. Recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved Compliance Agreement. The entire school/park site to be conveyed to M-NCPPC at time of record plat for the area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA State Highway Administration
Driven to Excel
Maryland Department of Transportation

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

November 17, 2006

Ms. Catherine Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Montgomery County
Clarksburg Village
File #: 1-2007030C (1-20010300) gsc
MD 27 – Clarksburg Village

Dear Ms. Conlon:

The State Highway Administration (SHA) appreciates the opportunity to review the recommended changes to the preliminary plan application for the Clarksburg Village development. SHA has reviewed the list of recommendations for the preliminary plan and at this time, has no objections to them since they do not directly impact nearby State routes or State right-of-way by way of new or additional off-site improvements.

If you have any questions or require additional information, please contact Raymond Burns at 410-545-5592 or by using our toll free number in Maryland only at 1-800-876-4742.

Very truly yours,

for Steven D. Foster, Chief
Engineering Access Permits Division

SDF/rbb/jab

cc: Mr. David Flanagan / Clarksburg Village Investments Inc. / 6820 Elm Street, McLean, VA 22101
Mr. Les Powell / Charles P. Johnson and Associates / 1751 Elton Road, Suite 300, Silver Spring, MD 20903
Mr. Richard Weaver / M-NCPPC
Mr. Shahriar Etemadi / M-NCPPC
Mr. Sam Farhadi / Montgomery County DPW&T
Mr. Jeff Wentz *sent via e-mail*
Ms. Kate Mazzara *sent via e-mail*

FIRE MARSHAL COMMENTS

DATE: 12/7/2006

TO: PLANNING BOARD, MONTGOMERY COUNTY

FROM: TYLER MOSMAN 240-876-1896

RE: **CLARKSBURG VILLAGE PRELIMINARY PLAN 1-2001030C**

PLAN APPROVED provided the following conditions are met:

1. Preliminary Plan approved. Final approval subject to final site plan details.

---

1. Review based only upon information contained on the plan submitted **12-7-06**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.

2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Cc: MC Department of Permitting Services
Design Professional

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

December 21, 2006

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE Preliminary Plan No. 1-2001030C
Clarksburg Village

Dear Ms. Conlon:

We have completed our review of the proposed amended preliminary plan October 24, 2006 and the applicant's October 26, 2006 list of changes to the previous approval conditions. This package was reviewed by the Development Review Community at its meeting on November 20, 2006. We recommend approval of the plan subject to the following comments:

1. Previous DPWT review comments and recommendations remain applicable unless modified below.

2. Requested Change # 1 - We conditionally support the applicant's request to modify the rights-of-way for various sections of Bent Arrow Drive, British Manor Drive, Granite Rock Road, and Robin Song Drive. The applicant will need to pursue Council approval to abandon the selected sections of those rights-of-way. As proposed, the applicant will grant replacement Public Improvements Easements over the abandoned rights-of-way.

3. Requested Change #7 – We did not receive a legend from the applicant to equate the original (lettered) street identifications with the current street names to comment on the proposed amended text.

4. Requested Change #8 – We do not object to the proposed text revisions. Nevertheless, we are unclear about any alternative traffic controls (to the approved roundabouts) under consideration by the applicant. Prior to approving an alternative traffic control for either intersection, we will need the applicant's traffic consultant to submit the appropriate studies/analyses to warrant the proposed modification.

5. Requested Change #18 – DPWT does not support deleting the grade separated crossing of the hiker/biker trail under Snowden Farm Parkway. We believe the crossing should be constructed and maintained per the previous agreements between the applicant, this Department, and the M-NCPPC Parks Department.

6. We understand the applicant is considering a request to install a traffic signal at the intersection of Newcut Road and Snowden Farm Parkway. The applicant's traffic consultant will need to submit a traffic signal warrant analysis study for DPWT approval before the intersection plans are approved by DPS.

7. The terminus of Newcut Road south/west of Houser Drive needs to be addressed. We favor allowing the roadway to terminate in an "L" shaped design at that intersection – with construction of a hiker/biker connection out to MD 355.

8. DPWT recommends implementation of the extension of Foreman Boulevard per the adopted Master Plan and subsequent preliminary plan approvals.

Thank you for the opportunity to review this plan. If you have any questions regarding this letter, please contact me at greg.leck@montgomerycountymd.gov or call me at 240-777-2197.

Sincerely,

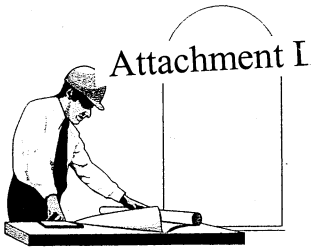
Gregory M. Leck, Manager
Development Review Group
Traffic Engineering and Operations Section

M:\subdivision\gml\docs\PP\1-2001030C

cc: David Flanagan; Clarksburg Village Investments
Kate Kubit; Elm Street Development
David O'Bryan; Charles P. Johnson Associates
Lesley Powell; Charles P. Johnson Associates
Martin Meadows; Timber Creek HOA
Jennifer Russel; Clarksburg Ombudsman
Shahriar Etemadi; M-NCPPC TPD
Joseph Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Edgar Gonzalez; DPWT DO
Robert Simpson; DPWT DO
Emil Wolanin; DPWT TEOS
Sam Farhadi; DPWT TEOS

Timber Creek

Homeowners Association
P.O. Box 1500
Clarksburg, Maryland 20871-1500
Board or Directors



Date: 4 December 2006

Ms. Cathy Conlon
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: **Clarksburg Village** – Preliminary Plan Review – 12/21/2006 Scheduled Meeting
Discussion Item: **Continuation of Foreman Boulevard**

Dear Ms. Conlin:

With the planned widening of Route 27, the extension of the divided Little Seneca Parkway (A302), and the connection of the newly widened Stringtown Road to I270, substantial lateral connectivity will be provided for traffic between Rt. 355 and the Clarksburg Village area. Consequently, our community respectfully requests that your offices consider postponing the planned **Continuation of Foreman Boulevard** until it is determined whether such continuation is actually needed. Certainly the *Right of Way* for Foreman Blvd to cross through the Greenway can be retained, while the actual extension of Foreman Blvd be postponed, pending further traffic studies conducted AFTER the effects of the completion of the previously mentioned road projects are evaluated. An extension of Foreman Boulevard may in fact not be needed at this time for traffic flow reasons.

Please note however, that our community endorses the extension of the Pedestrian and Bike Pathway - that currently runs along Foreman Blvd - to cross through the Greenway at the east end of Foreman Blvd, so that connectivity exists for students that wish to walk to the new Clarksburg High School.

IN ESSENCE, we feel that the extension of Foreman Boulevard would seriously disrupt the safety of our community. Residents of Foreman Boulevard have seen their share "of close calls" in terms of traffic and pedestrian accidents, as vehicles already tend to severely exceed the posted speed limit on this narrow "small neighborhood type" roadway. And the substantial increase in traffic flow that would accompany the extension of Foreman Boulevard can only result in negative safety consequences **as Foreman Boulevard is not designed to be an *Arterial Roadway,*** but rather a ***Primary Roadway,*** along with the appropriate roadway speed controls. We request consideration for such designation for Foreman Blvd: ***Primary Roadway.***

Your consideration and review of this matter greatly is appreciated.

Sincerely,

TCHOA Board Members: **Martin Meadows** **Terry Shaw** **Bob Stilwell**

cc: Sarah Navid, Dept. of Permitting Svcs., 255 Rockville Pike, Rockville, MD 20850
Greg Leck, DPW&T, Div. Of Ops, 101 Orchard Ridge Dr., 2nd Fl., Gaithersburg, MD 20875