

Charles P. Johnson & Associates, Inc.

Planners Engineers Landscape Architects Surveyors



Silver Spring, MD

Frederick, MD

Fairfax, VA

April 4, 2003

Malcolm Shaneman
MNCPPC
8787 Georgia Ave.
Silver Spring, MD

Re: Goodwill Property
1-02038

Dear Malcolm,

On behalf of our client, Elm Street Development, we are requesting a waiver of the single family detached units requirement in an R-60 optional method MPDU zone (59-C-1.62). This letter is an update of the previously submitted letter dated May 10, 2002.

The sites location adjacent to Wisconsin Ave. and office space (Boy Scouts of America) makes it a transition zone to the single family subdivision to the south. The waiver of the 60% maximum number of townhouses provides many benefits to the site. The current plan with 100% townhouses incorporates the following benefits derived from 100% townhouses:

1. A private street is allowed. Townhouses do not require a public right-of-way. While the interior road will have a public access easement, the private road allows the following:
 - Greater planning flexibility in curve radii, section design and intersection flexibility. This allows for more efficient planning and better utilization of the site, thereby promoting more tree save (interior and perimeter) and increased perimeter buffers.
 - Reduced house setbacks. The private road allows design flexibility to create site-specific house setbacks. This additionally leads to more critical massing of open space in the tree save areas and perimeter buffering.
2. Designing the site with 100% townhouses further allows the relocation of spacing between units to perimeter buffering and to create tree save areas not otherwise possible.

②

Quantitatively, these are the benefits of developing the Goodwill Property using 100% townhouses:

	<u>60% TH</u>	<u>100% TH</u>
Perimeter Open Space	<u>.30</u> acres	<u>.95</u> acres
Perimeter Buffers*		
South	30'	45-50'
Southwest Corner	20'	75'
West	15'	40'
Northwest Corner	20'	55'
North	30'	35''
Green Space	2.1 acres(42%)	2.8 acres (57%)

Additionally, the increased perimeter buffers will have the following qualitative benefits:

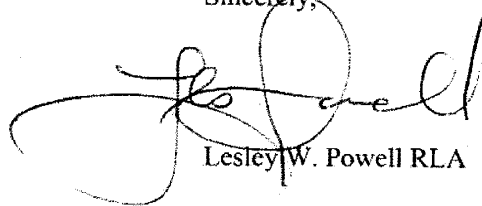
- Elimination of perimeter retaining walls in southwest corner
- Significant reduction in required grading in southwest corner and along west property line
- Increased tree save in northwest corner and more buffer around saved trees along northern property lines.

The inclusion of the central tree save area between units one and three also allows for the addition of a tree save area not otherwise possible.

We feel that the environmental benefit, increase in buffers and the transitional location of the site, justifies our request for 100% townhouses.

Thank you for your consideration in this manner.

Sincerely,



Lesley W. Powell RLA

* Perimeter Buffers are for the north, south and west buffers only.

LWP/grw
N:\0035\WP\MNCPPC MP.doc

Goodwill Property
Preliminary Plan #1-02038 & Site Plan #8-03005
Page 16

<u>DEVELOPMENT STANDARDS</u>	<u>PERMITTED/REQ'D</u>	<u>PROPOSED</u>
Lot Area (ac):	n/a	4.97 acres
Net Density (dwelling/acre): @6.10x 4.97 acres	30	28
Dwelling Units:		
One-family attached (the MPDU units)	P	4
One Family Semi-detached	P	10
Townhouse	P	14
TOTAL		28
Moderately-priced DU's included -	4	4
Setbacks from street	20 ft.	35 feet @ Corsica Dr.
Yard Requirements		
<i>59-C.1.624 For a side or rear yard that abuts a lot that is not developed under the provisions of section 59-C-1.6 (the MPDU development standards), the setback must be at least equal to that required for the abutting lot with no rear yard less than 15 feet</i>		
Front yard	N/a	35 feet @ Corsica Dr.
Side yard	8 feet	40 feet
Rear yard	20 feet	40 feet
Lot area and width (min)		
One Family Semi Detached	3,500 s.f.	3,503 s.f.
Townhouse	1,500 s.f.	2,278 s.f.
One Family Attached	4 units on one lot	4,851 s.f.
<i>(Per 59-C-1.625(a)(4) Where an individual lot for each dwelling unit is deemed to be infeasible because of the manner in which individual units are attached to each other, the Board may approve a site plan depicting more than one dwelling unit on a lot.)</i>		
Staff recommends the Planning Board allow the MPDUs to be on one lot given the unique assemblage of the units.		
Max Building Height	3 stories or 40 feet	
Provided: 31.5 ft. MPDUs and 30.5 ft. Market Rate Units (not including elevation change for front steps)		
Green Space (%): @2,000 s.f. per unit	56,000 sf. or 1.28 ac	112,498 sf or 2.58 acres
Parking		
Total @ 2 per unit	56	48 in garage 17 surface pkg 65 total
MPDU CALCULATIONS:		
MPDUs required (12.5% of 28 units) = 3.5 or 4	4	4



September 8, 2005

Mr. Derick Berlage
Chairman
Maryland National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Goodwill Property (Bethesda Crest)
Site Plan No. 8-03005

Dear Chairman Berlage,

For the past few months, we have been working with your Staff to address questions the community has raised regarding building height and setbacks for this project. In doing so, we have discovered several conflicting provisions between (1) the Site Plan presented to and approved by the Planning Board, (2) the Project Data Table in the Opinion and (3) the Signature Set Site Plan. This letter is to inform you and your staff of the status of our review and the measures we are taking to address the discrepancies we have found. While we are working to resolve the issues, the builder (Craftmark Homes) has agreed to its homebuyers' requests that they be allowed to move into their new homes. Therefore, we are anxious to resolve these issues as soon as possible.

Background

After receiving inquiries from the community, Mr. Michael Ma called me to discuss whether the units under construction were in conformance with allowed building heights. We asked Craftmark Homes to provide the building height information for not only the units under construction, but all the homes to be built in the community. This information was presented to Mr. Ma and Ms. Rose Krasnow at a meeting on June 2, 2005. At the time of this meeting units #3-13 were under construction (see attached sketch).

Building Height

The issue of building height is complicated by the fact that the Zoning Ordinance allows a 40' height for all of the units based on our rear yard setbacks, but we agreed to limit heights for the perimeter units to 35' (units #3-9, 10, 18, 19-24 and Parcel E). Moreover, at the time of Site

Plan review, in order to demonstrate our ability to meet those height limits, we provided for informational purposes a projected height measurement for all perimeter units showing the MPDU's would be 31.5' tall from the first floor and the market units would be 30.5' tall from the first floor. This point of measurement was used because we did not know the actual site grade at that time but were able to confirm the unit heights from the first floor. This allowed for a difference of 3.5' and 4.5' respectively for site grading while still meeting our commitment to the applicable maximum height. Unfortunately, in attempting to reflect these calculations, the Project Data Table in the Opinion referenced only 40' as the permitted height (without identifying our agreement to 35' for the perimeter units) and explained that the 30.5' and 31.5' height calculations were in addition to the front steps. This information was never intended to set an additional restrictive height criteria.

At the June 2, 2005 meeting with your Staff, Craftmark Homes representatives presented information on the units under construction indicating that all of the perimeter homes were in conformance with both the Zoning Ordinance (40') and the agreed upon height restriction of 35' for units #3-9, 10, 18, 19-24 and Parcel E. All other units conformed to the applicable Zoning Ordinance height of 40' (units #1, 2, 11-13, and 14-17).

Craftmark Homes also presented information on the unbuilt units and agreed to modifications of five un-built units (unit #20 and the MPDUs) that would clear up any possible confusion over the building height of these units. Craftmark had already been aware that the MPDU buildings may have ended up being over the 35' height limit due to architectural improvements that were under consideration. Craftmark was evaluating methods to reduce the height of the units to meet the 35' requirements. Subsequent to this meeting, we were told verbally by Mr. Ma and Ms. Krasnow that, based on the information that was presented and the discussed modifications to the above five units, we would not be in violation of the project's allowed building heights for any of the units in the community.

Rear Yard Setbacks

Mr. Ma also raised a question regarding a discrepancy in the rear setbacks of units #3-9 between the Site Plan Signature Set and the Project Data Table included in the Planning Board Opinion. The Signature Set shows the rear setback (from the northern property line) of units #3-9 ranging from 33.5' to 40' and the Project Data Table in the Planning Board Opinion showed only the 40' setback (for perspective, the required rear yard setback in the R-60 zone is 20'). We conveyed to Mr. Ma in the meeting that we were unaware of this discrepancy, but that the Signature Set was consistent with the plan that was shown and approved at the Planning Board.

Following the meeting, we located the rendered exhibit which was used at the Planning Board hearing, thus showing the plan actually approved by the Planning Board. The rendering

Mr. Derick Berlage
September 8, 2005
Page Three

showed house locations adjacent to the northern property line the same as the Signature Set. Upon further investigation by us, after the Planning Board approval and execution of the Signature Set, two units (units #5 and #6) had been moved by Craftmark Homes towards the rear property line approximately .8' and 1.1', respectively, when it was discovered that the front stoop on those units would have been over the front property line. This left them 34.56' and 35.15' setback from the rear property line. While these changes were made after Planning Board approval, these units were still further away from the property line than the unit with the smallest setback of 33.5'.

Additionally, subsequent to the signing of the Signature Set Site Plan, a third unit was determined by Craftmark Homes to have a construction challenge. Due to the roof architecture on units #8 and #9, both units having the same face front (in line) caused a water drainage problem on the roof that may have caused future leakage problems for the home purchasers of these units. To rectify this problem Craftmark Homes shifted unit #8 approximately 1.5' towards the northern property line. This slight shift staggered the front faces to allow for the water to drain adequately. This resulted in a shift of the rear setback for unit #8 to 39.4'. Other than the minor location change to units #5, #6 and #8, we feel that Craftmark Homes has constructed units in conformance with what was seen and approved by the Planning Board.

A review of the Planning Board Opinion on the Site Plan Signature Set revealed the Data Table mentioned above. The Planning Board Opinion also included testimony from the hearing discussing setbacks "as much as 40 feet", indicating that some setbacks were less on the plan. The closest setbacks are along the northern property line, all other setbacks are more than 40'. If all the setbacks were supposed to be at least 40', we believe the language would have been different. There was also discussion about building setbacks being approximately equal to the height of the perimeter homes, again indicating setbacks consistent with what was shown on the Site Plan.

In summary, we believe that the homes under construction (and to be constructed) on the property are in conformance with what was approved at the Planning Board hearing.

Proposed Resolution

Following our review of the Site Plan and the Opinion, in our subsequent discussion with Mr. Ma, he conveyed to us that the decision was made that we would need to return to the Planning Board for a Site Plan hearing to clarify the discrepancy between the two documents. We requested a clarification on what the necessary process would be. We told him that we would like to address this issue as quickly as possible, out of deference to Craftmark Homes' customers, as the first units were scheduled to be settled three months later in September. We requested a Planning Board hearing before the August recess. In late June, Mr. Ma informed us

Mr. Derick Berlage
September 8, 2005
Page Four

that we would need to submit a formal Site Plan Amendment in order to clarify the setback issue, and to possibly provide more exact information on the building heights.

We complied with Mr. Ma's request and filed the requested Site Plan Amendment on July 15, 2005, again requesting that the hearing occur prior to the summer recess so that Craftmark Homes' customers would not have this issue delay settlements. Due to the significant issues being dealt with by the Planning Board in late July, this public hearing did not occur. We were informed by Staff that they would try to schedule this item on the first agenda after the recess.

Unfortunately, at this time, the decision has been made to delay the discussion of our Site Plan Amendment at the Planning Board until Park and Planning has completed its review of all Site Plans approved in the last three years. While we certainly understand Park and Planning's need to conduct this review, the delay of our Site Plan Amendment review has put us, our builder and, most importantly, their customers in a very tenuous position, as many have scheduled their lives around moving into their new homes in late September.

Summary

We believe that the unit locations are consistent with what was reviewed and approved at the Planning Board Site Plan hearing. Other than the three units which were moved less than 1.5' (and are no closer than the closest 33.5') to avoid homeowner problems, the units have been constructed to match the Signature Set Site Plan. We have cooperated fully with inquiries and direction from planning staff. We had hoped to have this discrepancy heard and resolved as soon as possible so as to not impact Craftmark Homes' customers. Unfortunately that will not be the case. Yet the customers still need some certainty of what to expect so they can plan their moves and coordinate all the other related issues (i.e. sales of their homes to buyers, moves of school children, etc) associated with moving into a new home. Therefore, given the timing uncertainty of our hearing and the needs of Craftmark Homes' customers, we are planning to have them occupy their homes on schedule, while providing them full information (including a copy of this letter) on the issues which will be discussed in the future at the Planning Board. While we are not presupposing the resolution of this setback discrepancy, we feel that there is a preponderance of evidence to show that the houses are setback in accordance with the distances shown on the northern side that were approved, and that the Data Table lacked the necessary amount of information. However, we recognize that the ultimate decision will reside with the Planning Board at some point in the future. This will be conveyed to Craftmark Homes' customers.

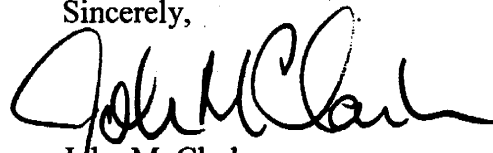
In closing, we believe the clarification of the setback issue should go back to the intent and substance of the Site Plan hearing in front of the Planning Board. For example, even though the Planning Board Opinion Data Table does not reflect our Agreement to build the perimeter units at a height of 35' (the Data Table shows 40'), we are honoring our commitment to do so

Mr. Derick Berlage
September 8, 2005
Page Five

and the intent of what was approved. Similarly, we believe that the Planning Board should honor the setbacks which were shown on the Planning Board Approved Site Plan and the Signature Set, which are consistent with what Craftmark Homes has built in the community, even though the Planning Board Opinion Data Table shows a differing number.

Thank you for your understanding. As we have for the past 25 years, we remain fully committed to creating desirable communities in the County which are in compliance with all regulations. Please contact me at 703-734-9730 if you would like to discuss this matter further.

Sincerely,



John M. Clarke
Vice President

Cc: Mr. Charlie Loehr
[REDACTED]
Mr. Michael Ma
Montgomery County Council
County Executive Doug Duncan
Mr. Allan Myers, Maplewood Citizens Association
Mr. Mark Gent, Craftmark Homes

JMC:slb



Charles P. Johnson & Associates, Inc.

Planners Engineers Landscape Architects Surveyors Environmental Services

1751 Elton Road • Silver Spring, MD 20903 • 301-434-7000 • Fax: 301-434-9394

July 29, 2005

HILBERG, ROBERT H & B S
5003 ACACIA AVE
BETHESDA, MD 20814

Lot/Block: 8 / C

Re: Notice of Amended Site Plan Application to Adjacent Property Owners

SITE PLAN #: 8-03005A
NAME OF PLAN: Goodwill Property
CURRENT ZONING: R-60 with MPDU's
NO. PROPOSED LOTS: 28
GEOGRAPHICAL LOCATION: On Wisconsin Ave., 400 ft. north of Cedar Lane
NATURE OF AMENDMENT: Clarification of typographical errors in planning board opinion

Dear Property Owner,

The above-referenced Amended Site Plan Application has been filed with the Montgomery County Planning Board and is being reviewed by the Planning Board Staff under the provisions of Chapter 59 of the Montgomery County Code.

A copy of the proposed site plan is enclosed. Please submit any written comments you may have to:

Subdivision Office, Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20907

Please include *Site Plan # 8-03005A* with any written comments you may wish to make. Comments must be received within 30 days of receipt of this notice so they may be taken into consideration for the eventual presentation to the Planning Board. You will receive written notification from the Planning Board Staff of the Planning Board hearing approximately 10 days prior to the hearing.

If you have any further questions, please contact the Development Review Office at the Maryland-National Capital Park and Planning Commission at 301-495-4595.

Yours truly,

Les Powell, RLA

August 8, 2005

Ms. Rose Krasnow
Director, Subdivision Office, Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RECEIVED
1388
AUG 15 2005

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Ms. Krasnow:

We are writing in reference to the attached July 29, 2005 letter which we received from the CPJ Associates regarding the Goodwill Property subdivision in Bethesda (site plan # 8-03005). This letter states that there were typographical errors in the Planning Board's opinion for the Goodwill Property subdivision and refers to site plan # 8-03005A. The letter states that CPJ Associates is requesting written comments from us be returned to you within thirty days and that we will be notified of a subsequent Planning Board hearing.

Our question to you is – comments on what? There is no indication in this letter from CPJ Associates as to what the specific typographical errors were in the Planning Board's opinion. Although CPJ enclosed a map of the site, there are no notations on the map to indicate what parts of the subdivision would be affected by the typographical errors.

Further, we want to point out to you that in May of 2004, we received a site plan map from WSSC on which we noticed a listing of dates for miscellaneous modifications. We referred this matter to our Maplewood Citizens Association and on June 6, 2004 the president sent a letter (copy attached) to John Carter to request specifics about what those modifications were. After he did not hear from Mr. Carter, the president of our citizens association telephoned him and was referred to Wynn Withans. He was told by Ms. Withans that the changes were minor – mostly involving sewer and water lines. We are requesting, again, that someone from your staff indicate to us – in writing – what modifications have been made.

Further, our citizens' association president contacted Michael Ma – in your office – early in July to discuss whether the constructed buildings on this site are in compliance with the requirements for height and setback. Mr. Ma said he would come out to the site and discuss this concern but has not yet done so. We look forward to hearing from you and would appreciate a timely response so that we can respond with written comments as requested in the letter.

Sincerely,

Robert Hilberg, Barbara Hilberg
Robert and Barbara Hilberg
5003 Acacia Avenue

Emanuel Jimenez
Emanuel Jimenez
2006 Acacia Avenue

Cc: Mr. Derek Berlage
Mr. Tom Perez



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

MEMORANDUM

October 28, 2005

TO: Rose Krasnow
Development Review
Maryland-National Park and Planning Commission

FROM: Reginald Jetter, Division Chief
Casework Management
Department of Permitting Services

SUBJECT: Inspection Results Inconsistent with Site Plans – Revision 4

The applicant the Goodwill Property (site plan 8-03005) submitted the required information for the wall checks for the following properties. Permitting Services Inspector, Pete Hrycak has measured the building height and the height of the front steps. Please review the information below and let us know if the measurements are consistent with the controlling documents for the site plan. The addresses in red/bold mark the building that Pete measured again on 10/27/05.

Address	Field Measured Height	Setbacks				Steps
		Front	Side	Rear		
5001 Cedar Croft Lane	34.2'	6	5	34	5.3'	
5003 Cedar Croft Lane	33.8'	7		34	3.7'	
5005 Cedar Croft Lane	32.2'*	5		35	1.9'	
5007 Cedar Croft Lane	33.4'*	5		35	1.8'	
5009 Cedar Croft Lane	32'	4	16	35	1.2'	
5010 Cedar Croft Lane	35.3'	12 & 4		16	6.7'	
5012 Cedar Croft Lane	34.8'	12		16	4.0'	
5013 Cedar Croft Lane	33.4'	10	17	39	2.6'	
5014 cedar Croft Lane	34.1'	12		16	3.9'	
5015 Cedar Croft Lane	30.9'	9 & 33		40	2.8'	
		49.5' Corsica side				
5016 Cedar Croft Lane	34.3'	12	7	16	3.9'	
5001 Cedar Croft Drive	31.9'	No wallcheck received			none	
5003 Cedar Croft Drive	34.9'	No wallcheck received			3.9'	
5005 Cedar Croft Drive	34.3'	No wallcheck received			1.8'	
5007 Cedar Croft Drive	33.4'	No wallcheck received			2.1'	
5009 Cedar Croft Drive	33.8'	No wallcheck received			2.5'	

* Pete was unable to get an exact measurement because the laser could not reach the top of the building due to some obstruction. Therefore this measurement is an estimate.





DEPARTMENT OF PERMITTING SERVICES

MEMORANDUM

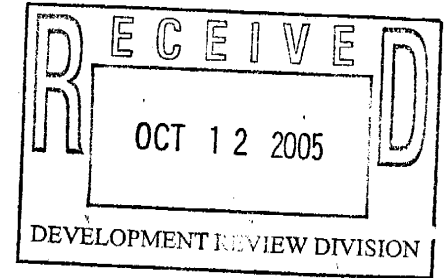
Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

October 10, 2005

TO: Rose Krasnow
Development Review
Maryland-National Park and Planning Commission

FROM: Reginald Jetter, Division Chief
Casework Management
Department of Permitting Services



SUBJECT: Inspection Results Inconsistent with Site Plans - Revision 3

The applicant the Goodwill Property (site plan 8-03005) submitted the required information for the wall checks for the following properties. Permitting Services Inspector, Pete Hrycak has measured the building height and the height of the front steps. Please review the information below and let us know if the measurements are consistent with the controlling documents for the site plan. I understand you have height measurements from the applicant that differ slightly from the measurements below. Please forward those measurements to us and we will visit the site to measure those buildings once more.

Table with columns: Address, Field Measured Height, and Setbacks (Front, Side, Rear, Steps). Rows list properties on Cedar Croft Lane and Cedar Croft Drive with their respective measurements and setback data.

* Pete was unable to get an exact measurement because the laser could not reach the top of the building due to some obstruction. Therefore this measurement is an estimate.





DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

MEMORANDUM

September 30, 2005

TO: Rose Krasnow
Development Review
Maryland-National Park and Planning Commission

FROM: Susan Scala-Demby
Permitting Services Manager, Zoning
Department of Permitting Services
Ronald J. Far

SUBJECT: Inspection Results Inconsistent with Site Plans – Revision 2

After reviewing the wall check, Pete Hrycak, Permitting Services Inspector, has found the following property to be inconsistent with the site plan 8-03005 for development of the Goodwill property. The setbacks are inconsistent with the Planning Board Opinion. I have also added the heights of these structures as requested by Michael Ma.

Address	Field Measured Height	Setbacks				Steps
		Front	Side	Rear		
5001 Cedar Croft Lane	34.2'	6	5	N/D	5.3'	
5003 Cedar Croft Lane	33.8'	7	N/D	N/D	3.7'	
5005 Cedar Croft Lane	32.2'*	N/D		N/D	1.9'	
5007 Cedar Croft Lane	33.4'*	5		N/D	1.8'	
5009 Cedar Croft Lane	31.6'	N/D	15	N/D	1.2'	
5010 Cedar Croft Lane	35.7'	12	N/D	N/D	6.7'	
5012 Cedar Croft Lane	34.8'	12		N/D	4.0'	
5013 Cedar Croft Lane	33.4'	N/D	17	N/D	2.6'	
5014 cedar Croft Lane	33.6'	12		N/D	3.9'	
5015 Cedar Croft Lane	30.9'	9 & 33		N/D	2.8'	
		49.5' Corsica side				
5016 Cedar Croft Lane	34.3'	12	5	N/D	3.9'	
5001 Cedar Croft Drive	31.9'	No wallcheck received			none	
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5005 Cedar Croft Drive	34.6'	No wallcheck received			1.8'	
5007 Cedar Croft Drive	33.4'	No wallcheck received			2.1'	
5009 Cedar Croft Drive	33.8'	No wallcheck received			2.5'	



Inspection Results Inconsistent with Site Plans – Revision 2

September 30, 2005

Page 2

* Pete was unable to get an exact measurement because the laser could not reach the top of the building due to some obstruction. Therefore this measurement is an estimate.

ND means the wall check did not have the required information. The applicant has been asked to provide all new wall checks with all setback information.



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

MEMORANDUM

September 21, 2005

TO: Rose Krasnow
Development Review
Maryland-National Park and Planning Commission

FROM: Susan Scala-Demby *Reginald J. For*
Permitting Services Manager, Zoning
Department of Permitting Services

SUBJECT: Inspection Results Inconsistent with Site Plans - Revised

After reviewing the wall check, Pete Hrycak, Permitting Services Inspector, has found the following property to be inconsistent with the site plan 8-03005 for development of the Goodwill property. The setbacks are inconsistent with the Planning Board Opinion. I have also added the heights of these structures as requested by Michael Ma.

Address	Field Measured Height	Setbacks		
		Front	Side	Rear
5001 Cedar Croft Lane	34.2'	6	5	N/D
5003 Cedar Croft Lane	32.6'*	7	N/D	N/D
5005 Cedar Croft Lane	32'*	N/D	N/D	N/D
5007 Cedar Croft Lane	31.9'*	5	N/D	N/D
5009 Cedar Croft Lane	31.6'	N/D	15	N/D
5010 Cedar Croft Lane	34.8'	12	N/D	N/D
5012 Cedar Croft Lane	34.8'	12	N/D	N/D
5013 Cedar Croft Lane	33'	N/D	17	N/D
5014 cedar Croft Lane	34.2'	12	N/D	N/D
5015 Cedar Croft Lane	30.9'	9	N/D	N/D
		49.5' Corsica side		
5016 Cedar Croft Lane	34.3'	12	5	N/D
5001 Cedar Croft Drive	32.2'	No wallcheck received		
5003 Cedar Croft Drive	33.5'*	No wallcheck received		
5005 Cedar Croft Drive	33.1'	No wallcheck received		
5007 Cedar Croft Drive	32'	No wallcheck received		
5009 Cedar Croft Drive	32'	No wallcheck received		

* Pete was unable to get an exact measurement because the laser could not reach the top of the building due to some obstruction. Therefore this measurement is an estimate.





DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

MEMORANDUM

September 20, 2005

TO: Rose Krasnow
Development Review
Maryland-National Park and Planning Commission

FROM: Susan Scala-Demby
Permitting Services Manager, Zoning
Department of Permitting Services

SUBJECT: Inspection Results Inconsistent with Site Plans

After reviewing the wall check, Pete Hrycak, Permitting Services Inspector, has found the following property to be inconsistent with the site plan 8-03005 for development of the Goodwill property. The setbacks are inconsistent with the Planning Board Opinion. I have also added the heights of these structures as requested by Michael Ma.

Table with 5 columns: Address, Field Measured Height, Front, Side, Rear. Lists property addresses and their corresponding setbacks.





Maryland-National Park & Planning Commissic..
DEVELOPMENT REVIEW DIVISION
8787 Georgia Avenue
Silver Spring, Maryland 20910



STOP WORK ORDER

**UNA ORDEN DE PARRAR EL TRABAJO SE HA FIJADO EN ESTA PROPREDAD.
Usted debe parar todo el trabajo inmediatamente!**

THIS IS AN OFFICAL NOTICE. REMOVAL, OBSTRUCTION OR ALTERNATION IS PROHIBITED BY LAW!

Plan No.: 820030050 (Formerly 8-03005) Goodwill Property

Name and Address of Owner: Elm Street Development, Inc.
6820 Elm Street, Suite 200
Mc Lean, Virginia 22101

Nature of Violation: Non-conformance to approved site plan development standards for setbacks.

Place & Time Violation Occurred: Bethesda Crest, Ongoing

Action to be Discontinued: All construction including clearing, grading and excavating

Action Not Discontinued: The Owner must submit a Plan of Compliance to the Montgomery County Planning Board for review and approval, and subsequently complete all corrective action in any approved Plan of Compliance, before any work may resume on site.

Action to be Taken: Submit Plan of Compliance and obtain approval

Planning Board Hearing Date to Review Order or Plan of Compliance:

number 10, 2005

Certification of Information

I hereby certify that the contents of the foregoing paper are true

to the best of my knowledge, information and belief.

Marco Fuster
Inspector
301-495-4521

IMPORTANT NOTICE

Written permission is required to resume work. Call 301-495-4521 (Marco Fuster) to schedule a re-inspection.

If you wish to contest/dispute this *STOP WORK ORDER*, contact M-NCPPC Office of General Counsel at 301-495-4646 to schedule an appointment.

Posted: 10/26/05 4:55 p.m.
(Date/Time)

**Maplewood Citizens Association
Post Office 2483
Kensington, Maryland 20891-2483**

September 16, 2005

Mr. Derick Berlage, Chairman
Maryland National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

**In re: Goodwill Property (Bethesda Crest)
Site Plan No. 8-03005**

Dear Chairman Berlage:

I am responding to statements made by Mr. John Clarke, Vice President, Elm Street Development ("the developer") in a September 8, 2005m letter to you. In this letter, the developer indicates that despite some acknowledged discrepancies between the signature set site plan and the current Bethesda Crest construction, it intends to allow its customers to go to settlement on their new homes at the end of September. The Maplewood Citizens Association ("MCA") believes that this should not be allowed to occur until the Planning Board and the Montgomery County Office of Legislative Oversight have been completed their review of both the developer's acknowledged discrepancies as well as other potential violations which are detailed below. Furthermore, MCA requests that continued construction at the site be stopped until these reviews have been completed.

Acknowledged Site Plan Discrepancies

Building Height

The developer now admits that the height of the constructed townhouses exceeds the height shown on the signature set. It claims that the reason for the discrepancy is that the height provided on the signature set was based on a measurement from the first floor because the grading for the development had not been established. If the developer is allowed to make this claim, then no site plan could ever accurately reflect the height of the structures shown in it. Fortunately, the Montgomery County Zoning Ordinance establishes a method for determining building height - a method, admittedly, not utilized by the developer for construction at The Bethesda Crest. Section 59-A-2.1 of the Ordinance, requires that, for structures less than 35' from the road, measurements of height are to be taken from the center of the road in front of the structure. From personal observation, in clearing the land for The Bethesda Crest, the developer first installed the utilities, then graded the property and laid out and paved the road now known as Cedar Croft Lane prior to any excavation and construction of the townhouses. Since all of the townhouse have less than a 35' setback from the road, the developer clearly had a point of reference from which to measure the height of the structures.

MCA also disputes the 35' height claimed by the developer for townhouse unit #9. MCA asked one of its residents, who is a Civil Engineer, to measure the height of this unit.

Measurements were made from the middle of Corsica Drive, the County road on which this unit fronts. The measurements revealed to structure to be 39' 6" in average height. He also found that this unit's front yard setback was only 33' and not the required 35'.

Rear Yard Setbacks

The developer claims that the signature page, which it developed and submitted to the Planning Staff, is in error with respect to the rear yard setbacks for units on the North side of the development. The developer states that in testimony given at the hearing held on the Preliminary and Site Plans, it was stated that set backs would be "as much as 40 feet." The developer has provided this to you out of context. Given that the front yard setback for unit #9 shown on the approved site plan as 35', the statement is correct - only it was not made at the hearing specifically about rear yard setbacks which are shown on the signature page as 40'. Measurements made by MCA residents concur with the developer that the actual, constructed, rear yard setbacks for units #3 and #4 is actually 34'. Furthermore, MCA measurements of the front yard setback for unit #9 is 33' and not the 35' shown on the approved site plan.

Other Potential Violations

Tree-Save

As a condition of its right to construct 100% attached structures, the developer was required to do a significant tree-save. The trees to be saved are shown on the Forestation Plan as well as the approved site plan. They include 14 trees, two of which are "specimen" trees, in the Northwest quadrant of the property. However, examination of the site reveals only one specimen tree and about 5 other, smaller trees. The rest were removed by the developer in mid-March 2003, prior to final approval of the site plan in April 2003. I have date-stamped photographs of the site clearing operation. Moreover, in a telephone conversation with me, the developer stated that he had removed several trees shown on the site plan because they were diseased and in danger of falling on the proposed structures. If this were true, why were they included in the project Forestation Plan?

Moderately Priced Dwelling Units

Pursuant to the approved site plan the developer is required to provide four Moderately Priced Dwelling Units ("MPDU") at The Bethesda Crest. Section 25-A5(i) of the Zoning Ordinance requires that MPDUs be constructed before or along with the market-rate units; no or few market-rate units are constructed before the MPDUs; and that the pace of MPDUs must reasonably coincide with the market-rate units. This has not been the sequence at The Bethesda Crest. From personal observation, the foundations for the first market-rate units were laid excavated during the winter of 2004. The first structures appeared above ground in the early spring of 2005. As of this date, 16 of the proposed 24 market-rate units are above ground and in various stages of completion. Work on them has progressed at a breakneck speed - in the evenings until dark, on weekends, and even on Labor Day. Yet, the foundations for the MPDUs have yet to be excavated.

Tertiary Road Width

County standards require that tertiary roads, even those constructed on private property, be 20.5' for one-way streets and 23.5' for two-way traffic. Cedar Croft Lane is to be a two-way tertiary road located on the development. However, our measurement

reveals that parts of it are only 18' wide. Where it widens to 25' 7" is done to accommodate parallel parking. These parking spaces are not permitted by regulation to be included in the road width.

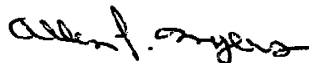
The Developers Revised Site Plan

The developer states that to rectify some the above inconsistencies, it submitted a revised site plan on July 15, 2005, to the Planning Staff. Copies of this plan were submitted, without explanation of the changes, to some residents whose homes are adjacent to The Bethesda Crest. MCA has never officially been provided with a copy of this proposed site plan, the submission of which is equivalent to the old adage of "attempting to lock the barn door after the horse got out." The developer is now seeking approval of what has been illegally constructed. This site plan should not be considered by the Planning Board until after the Office of Legislative Oversight completes its investigation.

Conclusion

Mr. Berlage, MCA greatly appreciates your desire, expressed in our recent phone conversation, to work with the Association to resolve the issues presented by The Bethesda Crest development. I look forward to an ongoing dialogue between the Planning Board, the Planning Staff, and MCA. MCA requests that this letter be made a part of the record in the proceeding regarding Site Plan No. 8-03005. If you have any questions of me regarding the statements I have made, please feel free to contact me phone at (202) 418-2774 (office) or (301) 530-4441 or via e-mail at almyers@starpower.net.

Sincerely,



Allen L. Myers
President

cc: Mr. John Clarke
Ms. Rose Krasnow
Council President Tom Perez
Council Member Denis
Council Member Praisner
Office of Legislative Oversight
Office of The Inspector General
Department of Permitting Services