

**MEMORANDUM**

DATE: September 21, 2005

TO: Karen A. Orlansky, Director
Office of Legislative Oversight
Montgomery County Council

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Michael Ma, Development Review Division *Ma*

SUBJECT: Implementation status of Clarksburg Town Center approval
conditions

In response to your information request dated August 24, 2005, I am sending you an implementation status report for the following applications for Clarksburg Town Center:

1. Project Plan 9-94004.
2. Preliminary Plan 1-95042.
3. Site Plan 8-98001.
4. Site Plan 8-02014.

We do not have the status information for all the conditions at this time. An updated report for these applications will be submitted to you when the information is available to us.

Please let me know if you have any questions. I can be reached at 301-495-4523.

Implementation Status

for

Project Plan 9-94004 Approval Conditions

September 21, 2005

CONDITIONS

The Planning Board approves Project Plan No. 9-94004 subject to the following conditions:

1. Development Ceiling

The project plan for the Clarksburg Town Center is limited to 1300 dwelling units, 150,000 square feet of retail space, and 100,000 square feet of office space to be constructed in three basic phases as shown in the project plan. The following is the staging plan for traffic improvements:

- a. Stage 1 - 950 Units
- b. Stage 2 - 155 Units
- c. Stage 3 - 195 Units
 - 90,000 Square Feet of Retail
- d. Stage 4 - 60,000 Square Feet of Retail
 - 75,000 Square Feet of Office
- e. Stage 5 - 25,000 Square Feet of Office

The public building areas (i.e., elementary school, park buildings, and library) are not included in the calculations.

As of September 1, 2005, according to the developer's attorney Todd Brown (letter to Berlage dated September 7, 2005), a building permit had been issued for 753 residential units within the Clarksburg Town Center. The site plan application for the proposed retail/office component of the development is still pending.

2. Transportation Improvements

The following road improvements, at each stage of development, are needed to provide enough capacity to serve the proposed development:

- a. Stage 1 - Reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.

The improvement has been completed.

- b. Stage 2 - Construct an eastbound left turn lane along MD 121 at MD 355.
 - Construct a westbound left turn lane along MD 121 at MD 355.

The improvements have not been constructed.

- c. Stage 4 - Construct a northbound right turn lane along MD 355 at Stringtown Road.

The right turn lane will be constructed by the DPW&T's Stringtown Road CIP project. The applicant is required to share the cost.

- d. Stage 5 - Restripe eastbound Comus Road to provide exclusive left turn lane at MD 355.

Completed.

- e. A-260 (Stringtown Road) must be dedicated to a right-of-way of 120 feet. At the preliminary plan, if determined that the property is not part of a participation agreement with MCDOT and other property owners, the safety improvements described in paragraph 4., will be made to Stringtown Road.

A right-of-way of 120 feet is provided for Stringtown Road.

- f. Participate in the Gateway I-270 Office Park road improvements as described below unless determined as not appropriate at the preliminary plan. At such time as the developer of the Gateway 270 Office Park commences construction of its required improvements between I-270 northbound off-ramp and the entrance to Gateway 270 Office Park (Transportation Planning Division memorandum dated September 25, 1989, Paragraph 1.b. and 2.), the applicant shall participate in such improvements provided:
 - 1. Applicant has not completed its Stage 3 traffic improvements for the project.
 - 2. Gateway I-270 preliminary plan has not expired.
 - 3. Applicant's participation shall be limited to its pro rata share of traffic through this link in relation to the traffic to be generated by Gateway I-270 Office Park approvals plus any other approved development projects that place traffic through this link.

The applicant has not participated in the Gateway 270 Office Park road improvements.

3. Dedication and Construction of A-305 (Mid-County Highway)

A-305 (Mid-County Highway) must be dedicated to a right-of-way of 80 feet and constructed as a two lane, open section arterial to replace Piedmont Road unless the scope of improvements are reduced at preliminary plan. Along that portion of A-305 near Stringtown Road, the required dedication shall be 40 feet from the current center line of Piedmont Road (along Hennigan, Purdum et al) which will allow for construction of A-305 to Stringtown Road at its current location. If the right-of-way is not available at the time of record plat for that portion of the property along this section, the applicant shall dedicate the full 80 feet along this portion of A-305. Construction will not be necessary until construction of single family detached units within the existing right-of-way for Piedmont Road has started.

Construction of A-305 has been completed.

4. **Dedication and Construction of A-260 (Stringtown Road)**

If a participation agreement is determined necessary at preliminary plan, but does not occur before the necessary access points to the commercial area or part of the residential area from A-260 are needed, then the following improvements to existing Stringtown Road must be completed to increase safety as required by MCDOT. For safety purposes, the improvements at public streets A and H include 250-300 feet of bypass travel lanes at each access point. The right-of-way for A-260 (Stringtown Road) will be located outside of the Historic District with a transition to the center line of the existing roadway north of the crossing of Little Seneca Creek.

Construction of A-206 has not been completed. A section of the road near MD 355 is currently under construction.

5. **Environmental Improvements Before Approval of the Preliminary Plan**

Submit for review before the Planning Board hearing on the preliminary plan the following:

- a. Concept plan for the proposed SWM facilities and roads near or in stream buffer, and associated grading, with indication of where tree planting is permitted.

As part of the preliminary plan submission the preliminary plan and forest conservation plans show the proposed SWM facility locations, roads, grading and tree planting areas. However, only DPS can approve plantings with stormwater management parcels. This approve comes much later in the development process.

- b. A staging plan for SWM with the extent of each proposed phase of development and the order in which they will be built. This shall be submitted as part of the first site plan, and should cover the entire site.

A staging plan for SWM was submitted with the first site plan.

- c. A preliminary forest conservation plan addressing priority for planting in the Little Seneca watershed. As site plans for each portion of the site that abut afforestation areas are submitted, detailed afforestation plans for that section will be provided. Within each area of development, planting shall occur as early as practicable given land development activity constraints in accordance with logical staging concepts. Forestation requirements will be satisfied first in Little Seneca basin on-site, then in the Little Bennett basin on-site, then in stream buffer areas in Little Seneca off-site if the land is made available, and if a good faith effort to arrange such land availability fails, then elsewhere on the site.

A preliminary forest conservation plan was submitted with the preliminary plan of subdivision. Final forest conservation plan has been approved for the entire site. Planting has not occurred but is and was staff's intent to tie the planting/ reforestation to the approval of the site plan for the commercial area.

- d. Applicant shall meet all requirements for preliminary water quality plan submission and approval, per Chapter 19, Article V - "Water Quality Review in Special Protection Areas" (proposed monitoring plan may be submitted as part of the review of the site plan). Location of units, roads, and other layout concerns will be subject to the final water quality regulations.

Applicant has submitted a final water quality plan, which was approved. As new site plans come in the final water quality plan is revised to reflect changes between the approved preliminary plan and the site plan, and to reflect changes in DPS requirements.

6. Environmental Improvements

- a. Minimize disturbance in the stream buffer except for road crossings, unavoidable utilities, SWM locations adjoining the town center retail area and greenway road, soft surface pathways, and memorial elements.

Encroachment into the stream buffers have been minimized and continue to be minimized as new site plans are submitted.

- b. As part of the preliminary plan, provide an area within the applicant's stormwater management facilities for stormwater management for the school site .

Done as part of previously site plan approvals and for the mandatory referral for the school.

7. Park/School

The proposed layout of the park/school site is generally acceptable. At the preliminary plan, the final concept plan and related terms and conditions will be finalized in coordination with the Parks Department and Montgomery County Public Schools.

The Park/School concept plans for park and school facilities are completed and were coordinated between Developer, M-NCPCC and MCPS staff. School is under construction. Park replacement fields and some trail sections are under construction and scheduled for completion in 2006.

8. Historic Preservation

Incorporate the following items into the project plan before review of the site plan for this area:

- a. Minimize the width of both the right-of-way and paving (50 feet of ROW and 24-26 feet of paving, subject to approval by MCDOT) for Redgrave Place (Main Street) located within the Historic District.

The road has not been constructed.

- b. Provide access easements, if applicable, to future public sewer at the intersections of A-260 (Stringtown Road) and Redgrave Place (Main Street) with MD 355 (Old Frederick Road).

The applicant does not own the properties at the intersections.

- c. Provide a small open space along the northern edge of the greenway next to Redgrave Place (Main Street) with an interpretive memorial element for the family of John Clark that incorporates the existing grave markers.

A memorial and an interpretive "history" wall with grave marker inlays are proposed in an open space parcel (Parcel C of Block EE) on Clarksridge Road. The memorial and associated landscaping have not been completed. Parcel C is about 1,150 feet from the greenway and 350 feet from Main Street.

- d. If the ROW is available, construct Main Street to MD 355 within the Historic District prior to completion of Stage 3. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the applicant and property owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.

The ROW is not currently available.

9. Compatibility with Existing Church and Adjacent Residences Within the Historic District

Increase the setback of the proposed public street located next to the church within the Historic District to 30 feet and provide screening for the existing cemetery. Relocate the tot lot away from the existing church, and maintain the area as open space to provide a potential linkage to the church. The size of lots and setbacks of the proposed development must match, approximately, the development standards in the

R-200 Zone for building setbacks and width of lots along the southeastern boundary of the site within the Historic District. Revise the landscape plan to increase visibility to the church. Provide an easement for a pedestrian connection to the church for the proposed, adjacent street.

According to the approved site plan 8-98001C, the distance between the proposed public street (Clarksridge Road) paving and the property line varies from 21 feet to 60 feet, and the distance between the street paving and the church building is approximately 55 feet. The area is planned as open space (Parcel C of block EE) with landscaping, benches, a memorial for Clarke family, and pathways.

The development standards in the R-200 zone are 100 feet for the lot width (at front building line), 40 feet for setback from street, 12/25 feet for side yards, and 30 feet for rear yards. Lots 32 through 35

and Lot 37 of block EE are located along the Historic District boundary. According to the approved site plan 8-98001C, Lots 32-35 have a lot width of 70 feet and the following BRLs (building restriction lines which define the building setback): 10 feet from street, 3 feet side yard and 50 feet rear yard. Lot 37 has a lot width approximately 130 feet and the following BRLs: 10 feet from street, 50 feet from Historic District, 3 feet side yard, and 25 feet rear yard.

10. **Revise the Layout of Streets**

Incorporate the following items into the site plans for each stage of development:

- a. Improvements to the Town Square - Increase the size of the Town Square by utilizing a loop concept as shown on the revised drawing to reduce conflicts with east/west traffic and to improve pedestrian access.
- b. Relocate A-260 (Stringtown Road) in accordance with the revised alignment diagram to reduce the impact on adjacent residences. Reduce the number of access streets to A-260 from the area of the existing single family detached units (5) on the north side of Stringtown Road to meet the design standards for arterial roads.
- c. Eliminate the access to the proposed elementary school from MD 121 and provide access from the Greenway Road.
- d. Revise the access to A-305 (Mid-County Highway) to allow a direct connection from Burnt Hill Road to the Greenway Road, and improve the access to the single family detached units by utilizing private drives adjacent to A-305.

The present street system shown in the project plan requires waivers of existing standards. The applicant and staff have met with MCDOT to discuss the waivers. All waivers must receive final approval from MCDOT before approval of the site plan.

These items were incorporated into the approved site plans.

11. **Staging of Amenities**

All amenities shown within each stage of development must be completed within that stage of development. The concept design for the greenway, the school/park, and other large play fields, must be completed before approval of the first site plan.

Greenway, school/park, and large play field concept designs are completed. School, replacement park ballfields and portions of greenway trail are under construction. Construction by MCPS of school/park fields is scheduled to begin in 2006.

Construction of the amenities within the greenway must be finalized before the completion of Stage 3.

Construction of Hard Surface Greenway Trail is scheduled to begin in 2006. Alignment of natural surface trail will be done in Fall 2005.

12. Landscaping

The following items must be incorporated into the site plans:

- a. Street trees, high quality street lights, sidewalk paving types, and street furniture as part of the design for the streetscape of roads, the Town Square, and the neighborhood squares.
- b. Increased landscaping in the commercial parking area.
- c. Landscaping for the buffer areas adjacent to all arterial roads.
- d. Screening for the existing homes within the Historic District.
- e. Landscaping for all stormwater management areas.

Items a., c. and d. were incorporated into the approved site plans. Item b. is to be addressed by the pending site plan application for the commercial area. Item e. is subject to DPS's review and approval.

13. Maintenance

Maintenance of the private recreation areas, stormwater management facilities, applicable open spaces, and other amenities on private land must be maintained by an appropriate homeowners association. Before approval of the first building permit, submit a maintenance document that establishes an overall organization that establishes responsibility for maintenance of these facilities.

TODD BROWN

14. Additional Access to A-260 (Stringtown Road) and A-27 (Clarksburg Road)

Provide for an additional connection from Redgrave Place (Main Street) to the boundary of the historic district to permit a future connection to A-260 (Stringtown Road). Connect the private street that leads to the Town Square to A-27 (Clarksburg Road) with approval from the Planning Board and MCDOT provided this private street remains private.

As shown on the approved site plan 8-98001C, a street connection will be provided between Clarksburg Square Road (Main Street) and the boundary of the historic district to allow a future connection to Stringtown Road.

Implementation Status

for

Preliminary Plan 1-95042 Approval Conditions

September 21, 2005

1. Agreement with Planning Board to limit development to a maximum of 1300 dwelling units, 150,000 square feet of retail uses and 100,000 square feet of commercial office uses, subject to the following requirements:
 - (a) Agreement with the Planning Board to provide the necessary roadway improvements as identified in the phasing section of the revised Transportation Planning Division Memorandum dated 09/26/95.

APFO Agreement dated March 8, 1999.

- (b) The recordation of the subdivision plats for the Clarksburg Town Center project shall be phased over a nine year period. Plats may be recorded in three separate phases with each phase being completed within a thirty-six month period. Applicant to record plats for at least 200 residential units during Phase 1. Applicant must submit a plat recordation schedule for Phases 2 and 3 for Planning Board approval as part of the Phase 1 site plan review.

***200 units were platted prior to March 26, 1999 to meet Phase 1 plat requirements.
Approximately 569 units were recorded by March 26, 2002 to meet Phase II plat requirements.
Remaining residential (up to 531 units), retail and office parcels were to be recorded by March 26, 2005 to meet Phase III plat requirements. A preliminary plan extension was filed on March 24, 2005 for the remaining residential units (approximately 180 units) and the retail and office parcels. An interim extension was granted until October 26, 2005.***

2. Compliance with Environmental Planning Division approval regarding the requirements of the forest conservation legislation. Applicant must meet all conditions prior to recording of plat or MCDP issuance of sediment and erosion control permit, as appropriate.

Final forest conservation plan was approved. Conservation easements are shown on plat. Limits of disturbance were staked and fenced.

3. The commercial area's stormwater management forebay, sand filter #6 and associated grading that cannot be forested must be located outside of the required stream buffer. The SWM facilities should be designed to promote aesthetics and effectiveness.

Final design is to be reviewed with the pending Phase III site plan.

4. Agricultural areas within the environmental buffer will be taken out of production and stabilized with a suitable grass cover no later than Spring, 1996.

All agricultural uses within the stream buffers have ceased. Buffer areas have been stabilized and will be reforested as adjacent development is completed.

5. Dedication of the following roads as shown on plan must be provided as follows:
 - (a) Clarksburg Road (MD RT 121) for ultimate 80' right-of-way.
 - (b) Piedmont Road (Master Plan A-305) for ultimate 80' right-of-way.
 - (c) Stringtown Road (Master Plan A-260) for ultimate 120' right-of-way.

All roads have been dedicated.

6. Dedication of the proposed park/school, as shown on the Applicant's revised preliminary plan drawing, is to be made to M-NCPPC. In order to facilitate the implementation of the combined park/school facilities, the following provisions apply:
 - (a) M-NCPPC and the Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing set out on Circle Page 49 of the staff report, will occur prior to the execution of the Site Plan Enforcement Agreement.

Land exchange agreement between Board of Ed, MNCPPC and applicant dated June 16, 2004.

- (b) Dedication of the approximately 8 acre area, identified as area "A" on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.

Deed to Board of Ed recorded on July 16, 2004; deeds to MNCPPC recorded July 16, 2004

- (c) The Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.
 - (i) In the event that dedication occurs when funds for the proposed school are shown in the CIP, Applicant will complete work on the replacement fields prior to the construction of the proposed school.

- (iii) In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F", as shown on the revised preliminary plan, Applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the site plan application.

Field grading, sod and seeding completed. Backstops, fencing and appurtenances, as appropriate, to be installed by September 30, 2005.

7. In accordance with Condition #6 above, Applicant to enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Parks' Memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur as specified in Condition #6.

Construction and grading easement with the Board of Ed and MNCPPC dated June 28, 2004.

8. Record plats to reflect delineation of conservation easements over the areas of the 100 year floodplain, stream valley buffer, wetland buffer and tree preservation and/or reforestation and greenway dedications.

Information was shown on record plats.

9. No clearing, grading, or recording of plats prior to site plan approval.

Rough grading prior to site plan approval was approved by letter of 9/23/02 from Joe Davis. Plat recordation occurred after Planning Board approval of site plans, but in some instances, prior to the signature set being complete. Several plats which reflect site plan amendments for which there are no signature plans, were recorded.

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

Ongoing

11. Access and improvements as required to be approved by MCDOT and MDSHA.

MCDPWT and MDSHA have approved access and improvements as required. Ongoing.

12. Conditions of MCDP stormwater management approval dated 07/28/95.

The project is in compliance with the stormwater management requirements as approved, or as subsequently revised by MCDPS during final design.

13. Final number of MPDU's to be determined at site plan dependent on condition #10 above.

Ongoing.

14. Preliminary Plan 1-95042 is expressly tied to and interdependent upon the continued validity of Project Plan No. 9-94004. Each term, condition, and requirement set forth in the Preliminary Plan and Project Plan are determined by the Planning Board to be essential components of the approved plans and are, therefore, not automatically severable. Should any term, condition, or requirement associated with the approved plans be invalidated, then the entirety of the approved plan must be remanded to the Planning Board for further consideration. At that time, the Board shall determine if all applicable requirements under State and County law will be met in the absence of such term, condition and requirement, and if some alternative, lawful conditions or plan revisions related to the severed term, condition, or requirement are then required.

Project plan amendment pending.

15. Other necessary easements.

Have been provided, as applicable.

16. The following phasing requirements are conditioned upon issuance of building permits for the subject preliminary plan:
 - (a) The first 44 dwelling units without any off-site road improvements.

No action required.

- (b) After the 44th building permit, the developer must start reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.

Project was started within the phasing requirements and has been completed.

(c) After the 400th building permit, the developer has two options:

- 1) Construction of A-260 from MD 355 to the southern access road of the commercial site (commercial access road between A-260 and P-5) and construction of P-5 across the stream valley into the residential area north of stream valley.

Two lanes of A-260 to P-5 were constructed by adjacent Clarksburg Heights developer and are open to traffic. Remaining two lanes of A-260 to P-5 to be constructed by Newland and are scheduled to be open by 12/31/05. P-5 across the stream valley to A-260 to be completed by Newland and be open by 12/31/05.

- 2) Construction of A-260 from MD 355 to the northern access road of the residential development and construction of a northbound right-turn lane along MD 355 at A-260 should be included in this phase.

Newland is participating in the northbound right-turn lane along MD 355 at A-260. Completion date unspecified.

(d) After the 800th building permit, the developer must start construction of remaining section of A-260 to A-305, and intersection improvements at MD 355 and MD 121 to construct eastbound & westbound left-turn lanes along MD 121.

Have not reached 800th building permit as of the date of this report.

Engineering drawings for the remaining section of A-260 to A-305 have been submitted to MCDPS by Newland. Permit issuance is anticipated by January 2006. Newland hopes to have two lanes open to traffic by January 2007 and all four lanes open by January 2008 contingent upon the roadway being closed for 7 months to install the culvert crossing.

Construction of eastbound left along MD 121 has been completed. Engineering drawings for westbound left along MD 121 was submitted for review in July 2005. Permit issuance is anticipated by January 2006. Construction is to be completed by June 1, 2006.

(e) Construction of A-305 from A-260 to MD 121 must begin when the developer starts building any of the residential units on blocks 11, 12, 13, and the northern half of block 10.

Road opened to traffic in July 2005.

17. This preliminary plan will remain valid until March 26, 2005. (9 years and 1 month from the date of mailing which is February 26, 1996). The recordation of plats shall occur in accordance with the phasing identified in Condition 1(b) of this opinion, and as further stipulated in the Planning Board's approval of the phase 1 site plan review. Prior to the expiration of the validity period for each phase, a final record plat for all property delineated in a particular phase must be recorded or a request for an extension must be filed. The first phase of the preliminary plan must be recorded by March 26, 1999 or a request for an extension must be filed.

Request for extension of the validity period made on March 24, 2005 after recordation of 940 of the 1,300 approved lots. Interim extension granted until October 26, 2005.

Implementation Status
for
Site Plan 8-98001 Approval Conditions

September 21, 2005

1. Standard Conditions of Approval dated January 16, 1998 (Appendix A).

Environment

2. All agricultural areas within the environmental buffer which have not yet been taken out of production and stabilized with a suitable grass cover will be converted accordingly prior to any authorization to clear and grade for development on the property.

Done.

3. Record plats to reflect delineation of a Category I Conservation easement which includes areas affected by this site plan to show a 100 year floodplain, stream/wetland buffer and forest conservation areas that are not part of the park dedication area.

All stream buffers and forest conservation areas outside of Park dedication areas in Category I forest conservation easements are shown on record plats, except for areas in which necessary utilities, stream crossings, or other encroachments were allowed by the Planning Board.

4. Submit final design plans for the stream valley crossings at Main Street to Environmental Planning Division staff for review and comment prior to approval by MCDPS/MCDPWT. Plans must demonstrate adherence to the current MCDPS/MCDPWT Guidelines for Environmentally Sensitive Stream Crossings.

Final design plans were submitted by the applicant and reviewed by Environmental Planning staff as required.

5. Proposed natural surface trail within the Greenway Park to be field located by applicant's representative and M-NCPFC Environmental Planning and Park staff per Development Program within the Site Plan Enforcement Agreement. The stream crossing under Main Street shall be evaluated for adequacy of providing equestrian crossing. The bike path along Greenway Road shall be reviewed by staff to evaluate the consideration of expanding the path to 10 feet in width, pending the adequacy of SPA review by the MCDPS and MCPD staff.

Issues related to the natural surface trail alignment within the Greenway to be resolved in the fall of 2005. The hard surface Greenway Trail has been aligned and will be a minimum of eight feet wide.

6. Final erosion and sediment control plans shall be submitted to Environmental Planning Division staff for review and comment prior to approval by MCDPS.

Done.

7. The applicant shall implement a program of daily inspections, maintenance and repairs as necessary, and detailed daily documentation of inspection and maintenance activities for all sediment and erosion control measures required and constructed on the site. Such a program shall be carried out under the direction of MCDPS and the applicant shall pay the associated reasonable costs. The applicant shall continue to meet with and cooperate with MCDPS. Documentation of inspection, maintenance, and repair activities shall be available for DPS review and use.

According to DPS staff, a program of daily inspection, maintenance and repairs has not been implemented.

8. The Forest Conservation Plan shall be approved and bonded prior to issuance of the erosion and sediment control permit.

Final forest conservation plan was approved and bonded prior to any clearing or grading on the site.

9. All stormwater management outfalls which extend into the environmental buffer shall be field located by applicant's representative, MCDPS, and M-NCPPC Environmental staff prior to approval of the stormwater management/sediment control permits by MCDPS.

Done.

10. M-NCPPC Environmental Planning Division staff shall review and approve detailed design plans for any wetland mitigation sites within the environmental buffers prior to issuance of sediment control permits or authorization to clear and grade any of these areas.

Applicant decided not to pursue wetland mitigation and therefore no plans were submitted for review. Sites previously identified as potential wetland mitigation sites are now shown as reforested.

11. Reduce the amount of impervious surfaces within the development by deleting the on-street parking and reducing road pavement on: 1) the stream valley side of the Greenway Road in the immediate vicinity of Main Street; 2) the stream valley side of Street "C" from Street "D" to the bikepath crossing; and 3) on Street "D" west of its intersection with Street "C" pending MCDPW&T and MCDPS approval.

Done.

12. Revise Sheet L-9 of the landscape plans to increase the evergreen tree planting along Stringtown Road in order to provide more year-round visual screening of outdoor rear yard areas from Stringtown Road for noise mitigation purposes.

Done.

13. Revise the signature set of site and landscape plans to show 6 foot fences for visual screening of the rear yards of Lots 23 and 33, Block K and Lot 51, Block L from Stringtown Road for noise mitigation purposes.

Done.

14. Signature set of the landscape plans to include planting for all stormwater management facilities and to be reviewed and approved by M-NCPPC staff in coordination with MCDPS.

All landscape plans within stormwater management facilities are now reviewed and approved by DPS.

15. No clearing or grading prior to Planning Department approval of the signature set of site plans.

According to M-NCPPC inspection record, the site was graded after approval of the signature set of site plans.

Transportation

16. Show conformance to all waivers to be approved by DPW&T and DPS per memos dated January 14 and 15, 1998, respectively, included in the Appendix and as they may be amended.

To be determined by DPW&T and DPS.

17. Show conformance to cross section and other recommendations per DPW&T, DPS memos dated January 14 and January 15, 1998, respectively, included in the Appendix and as they may be amended.

To be determined by DPW&T and DPS.

18. Conformance to M.CPD Transportation Planning memo dated January 20, 1998 included in the Appendix.

- a. ***Reconstruction of the southbound right turn lane along MD 355 at MD 121 has been completed.***
- b. ***Construction of northern half of A-260 from MD 355 to Greenway Road is under construction.***
- c. ***Construction of the northbound right turn lane along MD 355 at Stringtown Road will be constructed by the DPWT's Stringtown Road CIP project and the applicant is required to share the cost.***
- d. ***Construction of Greenway Road between Main Street (P-5) and Clarksburg Road (A-27) is partially completed and the remaining section is under construction.***
- e. ***Reconstruction of the southern half of Clarksburg Road along the property frontage has not been constructed.***
- f. ***Reconstruction of the northern half of Stringtown Road from Greenway Road to Midcounty Arterial has not been constructed.***

19. APF agreement to be executed prior to the first record plat to reflect all road improvement conditions of the Preliminary Plan Approval ie dedication, and construction of required improvements pertaining to the construction of Stringtown Road (A-260), Clarksburg Road (A-121) and Mid-County Arterial (A305). If acquisition of right-of-way becomes necessary for any of the road improvements, the applicant is required to provide, pursuant to Site Plan conditions 17 and 18, and the County exercises Eminent Domain to acquire these right-of-way, the applicant will be responsible to reimburse the County for these reasonable costs.

APF agreement was executed on March 8, 1999.

20. Dedication and construction of "O Street extended to occur prior to the recordation of the last lot in the entire project or when the dedication of "O" Street by the adjacent property owners is made in conjunction with future development proposals.

The design of O Street was modified by a subsequent site plan amendment, and the modified street has been dedicated and constructed.

21. Turn around at the end of Main Street by the Historic district until the connection to MD 355 is established.

Done.

22. The applicant shall provide signs for the Class III bike path along Main Street.

The required signs have not been provided.

Park/School

23. If applicable, per MC Public Schools memo of December 31, 1997, in the Appendix, the applicant shall conduct a testing program, the final report signed and sealed by a registered professional engineer, authenticating the adequacy of the deposited soils to support typical building foundation loads.

A soils testing report was submitted to MC Public Schools for their review.

24. The Greenway path to include sufficient space to provide for a lighting, stabilized path and adequate headroom for pedestrian crossing under the Main Street Crossing;

All issues related to the natural surface trail, including road crossings, will be resolved in the fall of 2005.

25. The parks/school dedications schedule to conform to Preliminary Plan # 1-95042 Conditions 6 and 7, see Appendix.

Dedications and land exchanges related to the Kings Local Park parkland and school site have been completed.

26. All sales contracts, advertising and other information shall include notification that there is an active park in the area and that traffic calming measures will be installed with final paving.

TODD BROWN

27. All construction within M-NCPPC property to meet with Parks Department specifications and approval prior to release of construction permits for the park.

All construction within parkland by the Developer is proceeding with Parks Department approval and according to park standards and specifications.

Historic Preservation

28. The right-of-way for Stringtown Road should be no closer to the historic Day House than 15 feet from the porch column, subject to MCDPW&T and MCDPS approval of cross section.

CPJ will submit a drawing of the roadway to staff to verify the setback.

29. Lighting at all road intersections within the Historic District, and especially at Stringtown Road and Frederick Road, should be designed to have a minimal impact on the Historic District. The lighting within the Historic District - both fixtures and intensity - should be compatible with the historic and residential character of the area, as allowed by the utility companies and MCDPW&T and MCDPS.

The lighting design has not been reviewed by M-NCPPC Historic Preservation staff.

30. Per the Project Plan approval, when the ROW is made available, construct Main Street to MD 355 within the Historic District prior to completion of the project. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the applicant and owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.

The right-of-way is not available.

31. A detailed design for the public space/interpretative area which will include the Clark Family Cemetery headstones must be submitted for staff review and approval prior to release of signature set. Protection of the headstones from weather deterioration should be a high priority and should be specifically addressed in the detailed design submission. It would also be desirable for the marker to be located in a more central area and better integrated into the public open space than is being provided.

The design for the public space was reviewed by M-NCPPC Historic Preservation staff.

32. The lot lines shall be adjusted so to include Outlot "A" to single family home area directly adjacent to the Historic District, to fulfill the Project Plan condition to approximate R-200 zone lot width standards.

Outlot "A" was incorporated into single family home area on the approved site plan 8-98001. The approved plan shows five lots along O Street (Lots 20 through 24) and two lots on Main Street (Lots 18 and 19). The width of the five lots on O Street is approximately 68, 90, 67, 87, and 120 feet. The width of the lots on Main Street is approximately 78 and 120 feet. The minimum lot width (at front building line) in the R-200 zone is 100 feet.

The layout of the seven lots in this area was amended later. The approved site plan amendment 8-98001C shows six lots (Lots 32 through 37) and an open space parcel (Parcel C) on O Street (now Clarksridge Road) instead of seven lots (Lots 18 through 24) as shown on the original site plan 8-98001. The lot width, as shown on the approved site plan 8-98001C, is approximately 70 feet for Lots 32-35, 60 feet for Lot 36, 130 feet for Lot 37.

Site Planning, Landscaping and Lighting

33. Detailed landscaping plans for this site plan to be approved by staff prior to the signature set and should reflect the design concepts, the sizes and planting conditions established in the submittal and to consider the climate suitability and their potential to be deer proof.

Done.

34. Final Lighting plans for the internal streets to be comparable to the "Hagerstown" light fixture shall be configured so as to reduce the glare into the night sky by utilizing appropriate waning, shields or other techniques that are in conformance with utility company and MCDPS and MCDPW&T requirements.

Done.

35. Landscaping Plan to show interim landscaping for the Town Square prior to the construction of adjoining units, for staff review and approval.

Done.

36. The MPDU townhouses in the Town Square District must include recreation areas near by; the site plan and record plats must identify all MPDU locations.

The approved site plan 8-98001 includes recreation areas near MPDU townhouses and identify all MPDU locations. Record plats do not identify all MPDU locations.

37. Landscape plans to include: a partial evergreen screen along Stringtown Road; detailed plans for greenway to include planting on steep slopes; additional planting within the SWM facilities; and a sidewalk connection from the street sidewalk to the property line from Street "O" to the adjoining church.

Done.

38. The applicant may propose compatible changes to the units proposed, as market conditions may change, provided the fundamental findings of the Planning Board remain intact and in order to meet the Project Plan and Site Plan findings. Consideration shall be given to building type and location, open space, recreation and pedestrian and vehicular circulation, adequacy of parking etc. for staff review and approval.

A number of amendments to the approved site plan 8-98001, which modified unit types, site layout, building location, landscaping, and other site features, were proposed by the applicant and approved by M-NCPPC staff.

Community Planning

39. The applicant shall work with the County executive staff to identify a suitable civic building to be located on the town square within the area to be dedicated for that use.

A public library has been considered for this location.

Project Administration

40. The Site Plan Enforcement Agreement to include the following: plat schedule as submitted to staff; complete language of condition 6 and 7 from Preliminary Plan #1-95042 regarding the ball field dedication and construction schedule; reference to the " agreement for Exchange of Land" to include timing triggers of dedication for MCPD Legal's review and comment; reference to the validity period; maintenance for all private recreational area, SWM, open spaces; etc ; and that the level of maintenance for entire project to be of equal quality and not solely dependent upon contributions of an individual area.
41. The Home Owners Association documents or equivalent to include provision for: complete public use and access to private streets for vehicular and pedestrian use; that they shall be permanently open for public use ; that the parking spaces may be assigned to individual units; that maintenance of streetscape items within the public right-of-way ie brick walks, trees, lights, etc. be assumed by the HOA.
42. The Development Program shall include: staging of amenities to occur with site plan construction and to include MCPD review and approval of path location within the Greenway park prior to construction.

Done.

43. No construction of units adjoining Midcounty Arterial in Block M , per Preliminary Plan #1-95042 Condition 16e, until the Mid-County Arterial is built.

The approved site plan 8-98001 shows seven lots adjoining Midcounty Arterial in Block M. The layout of the lots in this area was subsequently revised. The approved site plan 8-02014 shows eight lots (in now Block O) adjacent to Midcounty Arterial. A building permit was issued for these units in June 2003. The road opened to traffic in July 2005.

44. The Planning Board recommends that the vertical alignment and grading of the landscape strip and bikeway along the northern R.O.W. of Stringtown Road to be designed such that retaining walls are not required in the vicinity of the historic house, subject to the review and approval of MCDPS and MCDPW&T.

According to the engineer (CPJ), who worked on the road design of this section of Stringtown Road, no retaining walls are proposed in the vicinity of the historic house.

APPENDIX A:

STANDARD CONDITIONS OF APPROVAL DATED 1/16/98:

1. Submit a Site Plan Enforcement Agreement, Development Program, and Homeowners Association Documents for review and approval prior to approval of the signature set as follows and as stated above in other conditions:
 - a. Development Program to include a phasing schedule as follows:
 - 1) Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
 - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 - 6) Coordination of each section of the development and roads;
 - 7) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
 - 8) Phasing of site clearing and grading to minimize soil erosion;
 - 9) Phasing of stormwater management and forest construction.

2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include, in addition to other requirements, for staff review prior to approval by MCDPS:
 - a. Undisturbed stream buffers at least 120 to 150 feet feet wide as shown on the site plan;
 - b. Limit of disturbance;
 - c. Methods and location of tree protection;
 - d. Forest Conservation areas;
 - e. Conditions of MCDPS Water Quality/Stormwater Management Concept approval letter dated January 15, 1998;
 - f. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
 - g. The development program inspection schedule.
 - h. Category I conservation easement and park dedication boundary
 - i. Street trees along all public and private streets inclusive of the arterial streets surrounding the project;
 - j. Centralized, screened trash areas for all multi-family and one-family attached units except townhouses.
 - k. Details for and location of noise fencing to attenuate current noise levels to no more than 45 dBA Ldn for the outdoor back yard area of homes at Stringtown Road and Midcounty Arterial.
 - l. Certification from a professional acoustical engineer that the building shell will attenuate current noise levels to an interior level not to exceed 45 dBA Ldn.
3. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and MCDEP issuance of sediment and erosion control permit.

Done.

4. No clearing or grading prior to Planning Department approval of signature set of plans.

According to M-NCPPC inspection record, the site was graded after approval of the signature set of site plans.

Implementation Status
for
Site Plan 8-02014 Approval Conditions

September 21, 2005

1. Standard Conditions dated October 10, 1995. Appendix A
2. Park and School Site

A. Per the MCPS Memo of May 2, 2002, attached, the applicant shall provide adequate engineered fill and retaining walls if necessary, for the site and will rough grade the remainder of the school site to allow for school construction at a reasonable cost. Storm water management facilities shall accommodate the MCPS site and shall be located off the MCPS park site. The forest conservation plan for the MCPS school site is provided for elsewhere within the Clarksburg subdivision.

Within 90 days after the date of the planning board's opinion, the applicant shall provide MCPS with a proposed grading plan for the school site to allow for school construction. Where appropriate, the grading plan may incorporate changes in elevation to accommodate a two-story walkout school building.

MCPS shall have 90 days to review the proposed grading plan and provide comments to the applicant. The final grading plan shall be reviewed by planning board staff and approved prior to completion of the signature set. The signature

set may include 2 phases - one phase will include the entirety of the Park School Site and the adjacent road and the confronting units. The second phase shall include the remainder of the units in Phase II. The Applicant, MCPS and Planning Board staff shall work to resolve any remaining site grading issues. The matter can be brought back to the Planning Board for discussion if there are any unresolved issues.

- (a) Alternatively, if this cannot be done, MCPS will consider another site within the subdivision pending revision of the applicable Preliminary and Project Plans. (Memo attached)
- (b) M-NCPPC Parks Department shall review and approve all final path locations in the site. Any path that may serve, as a substitute for a public sidewalk shall be reviewed by DPWT.

The proposed school is currently under construction. Path locations for paths connecting the school facilities to parkland were approved.

- B. Regarding the ball fields, the plan shall be consistent with condition # 6 of Preliminary Plan 1- 95042 as follows:

Dedication of the proposed park school, as shown on the Applicant's revised preliminary plan drawing, is to be made to M-NCPPC. In order to facilitate the implementation of the combined park school facilities, the following provisions apply:

(a) M-NCPPC and the Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park school concept drawing set out on Circle Page 49 of the Preliminary Plan staff report, attached, will occur prior to the execution of the Site Plan Enforcement Agreement.

(b) Dedication of the approximately 8 acre area, identified as area "A" on the same park school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.

(c) The Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.

(i) In the event that dedication occurs when funds for the proposed school are shown in the CIP, Applicant will complete work on the replacement fields prior to the construction of the proposed school.

All park and school dedications and land exchanges related to Kings Local Park and the school site have been completed. Replacement athletic fields are under construction and scheduled for completion in 2006.

(ii) In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F", as shown on the revised preliminary plan, Applicant will commence work on replacement of the baseball field. In addition, if at Site Plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at Site Plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the Site Plan application.

Both replacement baseball field and soccer field are under construction. Construction on the park/school field scheduled to begin in 2006.

- (d) Applicant shall acknowledge that there is sufficient earth material on site to construct both fields and agrees to construct the two fields upon commencement of construction of Street "F" referenced in the Preliminary Plan approval, or prior to construction of the proposed elementary school, whichever occurs first.
- (i) The exact location and orientation of the fields to be coordinated with M-NCPPC staff.
 - (ii) The softball field to be full sized with foul lines of 290'.
 - (iii) The soccer field to be full adult size with dimensions of 360' by 220'.

The field locations were coordinated with M-NCPPC staff. The fields are currently under construction. Field dimensions needed to be slightly reduced due to site conditions.

- (e) Final details regarding the Park/School site shall be reviewed by staff and shall reflect the direction of the approved Preliminary Plan # 1-95042 and shall include input from the Parks Department, MCPS and the Applicant for the final design of the ball field and path layout, the metes and bounds survey of dedication prior to recordation, grading, access, storm water management facilities and any other issues as required.

Layout of park facilities including path locations has been completed.

- (f) There shall be no disturbance (or activity to cause them to be unusable) of the existing fields within Kings Local Park until the new fields are constructed. (Note. The applicant acknowledges there is sufficient earthwork to build both ball fields and will do so.)

The existing fields within Kings Local Park were removed for school construction. The new fields are under construction.

(g) Applicant to construct paved hiker/biker trails in the following locations:

- i. Along the east side of Overlook Park Drive from Stringtown Road to Clarksburg Road (Route 121). Per Phase I approval. This trail will be aligned to meet the Clarksburg Greenway Trail from the south side of Stringtown Road.
- ii. From the Clarksburg Greenway Trail along Overlook Park Drive to the Kings Local Park pond trails (two connections to the pond trail) -per Phase I approval.
- iii. Along the south side of Clarksburg Road from the pond area trails to the intersection with Piedmont – per Phase I approval.
- iv. Along the south side of Piedmont from Clarksburg Road to Street "F" - per phase one approval.
- v. Along the west side of Street "F" from Piedmont to Main Street and continuing along Main Street to the Greenway Trail along Overlook Park Drive – within the right-of-way per DPWT standards.
- vi. Trails are to be constructed to park standards when outside of right-of-way. Exact trail alignments to be coordinated with M-NCPPC and DPWT staff, and should be appropriately located and landscaped to maintain a park like setting while also fulfilling the need for safe, off road transportation in the area.

Location of hard surface trails has been established and some grading for trails has begun.

3. Piedmont Road

- A. The applicant shall pursue the abandonment of the prescriptive right-of-way of Piedmont Road and Burnt Hill Road with Montgomery County prior to recordation of plats for these areas.
- B. The applicant shall not record plats for the units located within the existing prescriptive right-of-way until the county council grants approval of the abandonment request.
- D. The Piedmont Road Abandonment Exhibit, identifying the affected lots, is attached.

The abandonment of the prescriptive right-of-way of Piedmont Road (AB-657) and Burnt Hill Road (AB-656) was granted by the County Council in November 2002.

4. MPDU's

In order to maintain an equitable balance of MPDU's, all units within Blocks EE and GG of Phase I Site Plan 8-98014 as shown in MPDU exhibit dated May 2, 2002 (attached) will not be constructed until the Planning Board approves a revision of those blocks (proposed to be resubmitted for approval).

The units within Blocks EE and GG of Phase I have not been constructed. A site plan amendment application for these two blocks is pending.

5. Waivers Requested And Previously Approved.

- A. Waiver of lots fronting on a public right-of-way Section 50-29-(A)(2) - (Staff recommends approval due to interconnecting grid of streets and it's limited use).
- B. Waiver of closed section streets has been approved with the Project Plan.

6. Environment

- A. Record plats to reflect delineation of a Category I Conservation easement that includes the stream/wetland buffers and forest conservation areas, as shown on the site plan, that are not part of the park dedication area.

Record plats delineate category I forest conservation easements.

- B. Final erosion and sediment control plans shall be submitted to Environmental Planning staff for review and comment prior to approval by MCDPS.

Final erosion and sediment control plans were submitted to Environmental Planning for comment prior to DPS approval.

- C. The Final Forest Conservation Plan must be approved and bonded prior to issuance of the sediment and erosion control permit.

Final forest conservation plan was approved and bonded prior to any clearing or grading.

- D. The outfall from Pond #3, and any other stormwater management facility or storm drain outfalls which extend into the environmental buffer, shall be field located by applicant's representative, MCDPS, and MNCPPC Environmental Planning staff prior to approval of the stormwater management/sediment control permits by MCDPS.

Pond # 3 and associated outfalls have been constructed. DPS staff could not recall if the facilities were field located prior to permit approval.

- E. MNCPPC Environmental Planning staff shall review and approve detailed design plans for any wetland mitigation sites within the environmental buffers prior to issuance of sediment control permits or authorization to clear and grade any of these facilities.

Applicant decided not to pursue wetland mitigation on the property. Therefore there was no need to prepare a wetland mitigation planting plan or submit plans to Environmental Planning for review.

7. Lighting And Landscape Plan

Street trees species and spacing to reflect the draft Clarksburg Streetscape Study and the proposed lighting plan.

Done.

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

1. Submit a Site Plan Enforcement Agreement, Development Review Program and Homeowner Association Documents for review and approval prior to approval of the signature set as follows.
 - a. Development Program to include a phasing schedule as follows:
 - 1) Streets tree planting must progress, as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
 - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion.
 - 6) Coordination of each section of the development and roads.
 - 7) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - a. Undisturbed stream buffers at least 150 to 240 feet wide as shown on the site plan.
 - b. Limits of disturbance.
 - c. Methods and locations of tree protection.
 - d. Forest Conservation areas.
 - e. Location of stormwater facility and storm drain outfalls away from forest preservation or other environmentally sensitive areas.
 - f. Conditions of DPS Final Water Quality and Stormwater Management Concept approval letter dated May 9, 2002 and DPS memo of May 2, 2002.
 - g. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - h. The development program inspection schedule.
 - i. Category I conservation easement and park dedication boundary.
 - j. Streets trees, as shown, all public streets.
 - k. Centralized, screened trash areas for all multi-family and one-family attached units except townhouses.
 - l. Details for and location of noise fencing to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor back yard area of homes with side yards facing A-305.
3. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.

Done.

4. No clearing or grading prior to M-NCPPC approval of signature set of plans except to allow rough grading as previously approved with the Preliminary Plan.

The signature set of site plan 8-02014 was approved on October 14, 2004. Per Preliminary Plan opinion dated August 14, 2001, the Preliminary Plan was amended to include a grading and borrow plan, which provides that the grading could occur prior to site plan approval. The site was rough graded prior to October 2004.