

The Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

SPECIFIC DESIGN PLAN

SDP-0510

Application	General Data
Project Name: MONTPELIER HILLS Location: WEST OF THE BALTIMORE-WASHINGTON PARKWAY, BOTH NORTH AND SOUTH OF THE INTERSECTION OF MUIRKIRK RD. AND HERMOSA DR. Applicant/Address: BERMAN ENTERPRISES BECO BUILDING WEST 5410 EDSON LANE, SUITE 220 ROCKVILE, MD 20852	Date Accepted: 2/14/2006
	Planning Board Action Limit: N/A
	Plan Acreage: 32.34
	Zone: R-U
	Dwelling Units: 211
	Square Footage: N/A
	Planning Area: 62
	Tier: Developing
	Council District: 01
	Municipality: N/A
	200-Scale Base Map: 215NE08

Purpose of Application	Notice Dates
Application for the review of 211 single-family attached residential units for architecture and infrastructure.	Adjoining Property Owners Previous Parties of Record Registered Associations: 11/17/2005 (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: 5/16/2006

Staff Recommendation		Staff Reviewer: Estes, Edward	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

June 12, 2006

MEMORANDUM

TO: Prince George's County Planning Board

VIA: Steve Adams, Urban Design Supervisor

FROM: Edward Estes, Planner Coordinator

SUBJECT: Specific Design Plan SDP-0510
Montpelier Hills
Type II Tree Conservation Plan (TCPII/35/06)

The Urban Design Review staff has completed its review of the subject application and agency referral comments concerning the plan and recommends APPROVAL with conditions as stated in the recommendation section of this report.

EVALUATION CRITERIA

The specific design plan was reviewed and evaluated for conformance with the following criteria:

1. Conformance with Basic Plan A-9387.
2. The requirements of the Zoning Ordinance for the R-U Zone and comprehensive design plans.
3. Conformance with Comprehensive Design Plan CDP-8508.
4. Conformance with the Council Bill CB-96-2005.
5. The requirements of the *Landscape Manual*.
6. The requirements of Prince George's County Woodland Conservation Ordinance.
7. Referral comments.

FINDINGS

Based upon evaluation and analysis of the subject application, the Urban Design staff recommends the following findings:

1. **Request:** The subject specific design plan is for the approval of 211 single-family attached dwelling units on 32.34 acres in the R-U Zone.

2. **Development Data Summary**

	EXISTING	PROPOSED
Zone(s)	R-U	R-U
Use(s)	Vacant	Single-family attached Townhouse
Acreage	32.34	32.34
Lots	0	211
Parcels	0	9
Square Footage/GFA	N/A	N/A

3. **Location:** The subject site is located in Planning Area 62 of Council District 1. The site is located west of the Baltimore-Washington Parkway, both north and south of Muirkirk Road and Hermosa Drive.
4. **Surroundings and Use:** The property is bounded to the north by developed land in the R-T Zone; to the west by R-T and R-R-zoned property; to the south by developed land in the R-T Zone; and to the east by developed land in the R-T Zone and the Baltimore- Washington Parkway.
5. **Previous Approvals:** On April 12, 1982, the Prince George's County District Council approved Zoning Map Amendment A-9387 and the accompanying basic plan for the subject site, subject to 23 conditions.

On May 19, 1986, the Planning Board adopted Comprehensive Design Plan CDP-8508 (PGCPB Resolution No. 68-168) subject to 18 conditions.

On November 22, 2005, the District Council approved Council Bill CB-96-2005 implementing amendments to Section 27-515(b) of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, concerning Comprehensive Design Zones.

6. **Design Features:** The proposed specific design plan consists of 211 single-family attached townhouses, the construction of a master-planned hiker/biker trail, and private recreational facilities.

The architecture consists of the following single-family attached townhouse models and their corresponding base finished square footage:

Model Description	Square Footage
Carnegie Model w/ front garage	2,339
Carnegie Model w/ rear garage	2,337
Napa Valley	2,408
Sonoma	2,438

Building materials for the architecture include a combination of brick, asphalt shingles and standing-seam metal roofs, and a variety of styles and roof pitches. A landscape entry feature has been provided at the main entrance of the development at Muirkirk Road. In addition, the applicant has proffered improving the architectural design quality of the development by providing exterior brick veneer on all four sides of every townhouse building.

The recreational facilities of the development are a vital component of the success and quality of the project. Berman Enterprise, the Montpelier Hills Homeowners Association, and the Montpelier Hills Recreation Association have joined together in a unified agreement to provide additional recreational amenities creating a greater quality of life in this newly developed community of Montpelier Hills.

CONFORMANCE WITH EVALUATION CRITERIA

7. **Basic Plan:** The proposed specific design plan is in conformance with Basic Plan A-9387 and all applicable conditions of approval.
8. **Zoning Ordinance:** The proposed development is in conformance with the Zoning Ordinance and the requirements of the R-U Zone.
9. **Comprehensive Design Plan:** The Planning Board adopted Comprehensive Design Plan CDP-8508 on May 19, 1986 with 18 conditions. The specific design plan is in general conformance with the CDP. The following conditions warrant discussion:
 13. **Noise attenuation measures shall be incorporated into the central recreational area as illustrated by the cross section submitted by the applicants and be refined at the time of the Specific Design Plan approval.**

Urban Design Comment: Compliance with this requirement has been demonstrated as discussed in Finding 13 below.

14. **Site plans for the central recreational area and for the football/soccer field shall be reviewed by the Department of Parks and Recreation and approved by the Planning Board prior to or concurrent with approval of the first SDP in Stage III.**

Urban Design Comment: Compliance with this requirement has been demonstrated as discussed in Finding 17 below.

15. **The applicant shall demonstrate that the residential units with luxury units at the time of approval of each Specific Design Plan, i.e., that this is indeed a unique development of exceptionally high quality and not just a typical townhouse development with condominium apartments.**

Urban Design Comment: The applicant is providing exterior brick veneer on all four sides of every townhouse building and additional landscaping throughout the project. Interior finish fixtures and equipment have not been included in the review of this specific design plan. In addition, the most visible side elevations of dwelling units on corner lots or other lots whose side or rear elevation is highly visible to public rights-of-way should employ a minimum of three standard architectural features on those elevations, such as windows, doors and fireplace chimneys, and these features shall form a reasonably balanced composition.

10. **Council Bill CB-96-2005:** The District Council approved Council Bill CB-96-2005 on November 22, 2005. The specific design plan is in general conformance with the approved Council Bill. Amendments to Section 27-515(b) of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code warrant discussion as follows:

Sec. 27-515. Uses permitted.

(b) TABLE OF USES.

USE	ZONE								
	M-A-C	L-A-C	E-I-A	R-U	R-M	R-S	R-L	V-L	V-M
(7) RESIDENTIAL/LODGING:									
Assisted living facility	P	P	X	P	P	P	P	X	X
Dwelling (any type, except mobile home, multifamily, three-family, two-family, and storefront) ²⁹ , outside a Planned Environmental Preservation Community	P	P	X	P	P	P	P	p ²³	p ²³
Dwelling, multifamily	P	P	X	P	P	P	p ³¹	p ²³	p ²³
Dwelling, three-family and two-family	P	P	X	P	P	P	P	X	X
Dwelling, storefront	X	X	X	X	X	X	X	P	P
Flag lot development ¹⁹	P	P	X	P	P	P	P	p ²¹	p ²¹
Group residential facility for up to 8 mentally handicapped dependent persons	P	P	X	P	P	P	P	P	P
Hotel	P	X	p ¹¹	X	X	X	X	X	X
Mixed Retirement Development	p ²⁸	p ²⁸	X	p ²⁸	p ²⁸	p ²⁸	p ²⁸	X	X
Motel	X	X	p ¹¹	X	X	X	X	X	X

- 29** For Specific Design Plans for which an application is filed after December 30, 1996, the following restrictions shall apply. Townhouses may comprise not more than the following percentages of the total number of dwelling units included in the Comprehensive Design Plan: in the R-L Zone, 20%; R-S, 20%; R-M, 30%; R-U, 30%; L-A-C, 40%; and M-A-C, 30%. Multifamily dwelling units may comprise not more than the following percentages of the total number of dwelling units in the Comprehensive Design Plan: in the R-S Zone, 10%; R-M, 10%; R-U, 30%; L-A-C, 30%; and M-A-C, 40%. These multifamily restrictions do not apply to Transit District Overlay Zones. **In the R-U Zone the applicant may propose all townhouses or all multifamily dwellings provided that this results in a reduction of at least 30% of the total number of dwelling units permitted under an approved Basic Plan. No Basic Plan or Comprehensive Design Plan Amendment is required provided the building design and architecture requirements, as previously approved, are not modified. (emphasis added)**

The bold portion of Footnote 29 above permitting a proposal of all townhouses or all multifamily dwellings is applicable to the subject SDP. The site plan is in conformance with this requirement.

11. **Landscape Manual:** The proposal is subject to the requirements of Section 4.1 (Residential Requirements) and Section 4.6 (Buffering the Rear Yards of Lots from Streets) and Section 4.7 (Buffering Incompatible Uses) of the *Landscape Manual*. The landscape plan generally meets the requirements of the *Landscape Manual*.
12. **Woodland Conservation Ordinance:** The Environmental Planning Section recommends approval of the Type II Tree Conservation Plan (TCPII/35/06) submitted with the specific design plan for conformance with the Woodland Conservation Ordinance. For further information with regard to the Environmental Planning Section's comments, see Finding 13 below.

REFERRAL COMMENTS

13. In a memorandum dated April 3, 2006 (Shirley to Estes), the Environmental Planning Section provided the following comments:

Background

The Environmental Planning Section has reviewed Specific Design Plan SDP-0510 and the Type II Tree Conservation Plan (TCPII/35/06), stamped as received on February 16, 2006. Additional information and revisions are needed. The Environmental Planning Section reserves the right to make additional comments once all required information has been submitted.

The scope of SDP-0510 is for development of 211 single-family attached luxury townhouses in a condominium regime in Parcels A-K. The site was previously reviewed as Zoning Map Amendment A-9387 approved in 1982 and Comprehensive Design Plan CDP-8508, approved in 1986. The Planning Board's approval of CDP-8505 is found in Resolution No. 68-186.

Site Description

The 32.34-acre site is located on the west side of the Baltimore-Washington Parkway at the MD 197 interchange, the west side of Muirkirk Road, the east and west sides of Hermosa Drive and the north and south sides of Apache Tears Circle. South of Muirkirk Road the site is bisected by PEPCO power lines from northwest to southeast. The site is zoned R-U and is within a 79.4-acre area that comprises CDP-8508. Based on 2000 aerial photos the site is approximately 75 percent wooded. A small area of 100-year floodplain is on the site; however, no other regulated features such as streams or wetlands are found at this location. Six soils types are associated with the site and these include: Elkton silt loam, Keyport Silt Loam, Sunnyside fine sandy loam, Sunnyside sandy clay loam, Sunnyside Urban Land Complex and Woodstown sandy loam. The Elkton and Keyport soils have K factors of 0.43. The Elkton and Woodstown are hydric soils. The Elkton soils have development constraints because these are poorly drained soils. Marlboro clays are not in vicinity of the site. The site abuts the Baltimore-Washington Parkway, which is a traffic noise generator. Traffic noise impacts are anticipated. According to the Maryland Department of Natural Resources Natural Heritage Program staff, rare, threatened or endangered species are not known to occur in the project vicinity. No historic or scenic roads are in vicinity of the proposal. The site is divided into two different watersheds. South of Muirkirk Road the site is in the Beaver Dam Creek watershed of the Anacostia River basin and the portion of north of Muirkirk Road drains to the Patuxent River basin.

According to the 2005 approved Countywide Green Infrastructure Plan no features from the Plan are located at the site. The property is in the Developing Tier of the approved General Plan.

Review of Previously Approved Conditions

The following text addresses previously approved environmental conditions related to the subject applications. The text in BOLD is the actual text from the previous cases or plans.

Comprehensive Design Plan CDP-8505 from Planning Board Resolution No. 68-168

9. **All residences located in proximity to Baltimore-Washington Parkway shall incorporate acoustical design techniques in their design and construction.**
13. **Noise attenuation measures shall be incorporated into the central recreational area as illustrated by the cross section submitted by applicants and refined at the time of Specific Design Plan approval.**

The current SDP and TCPII do not show the location of the 65-dBA Ldn unmitigated and mitigated noise contours to address either of these two conditions. The source of the unmitigated noise contours can be from a certified professional in acoustical analysis (a Phase I noise study) or from the Environmental Planning Section's noise model. In addition, there is no information on either plan to address the acoustical design techniques or any mitigation measures for the residences in proximity to the Parkway in Condition 9. No information has been submitted to address Condition 13; a copy of the "cross-section submitted by applicants" needs to be provided.

Required Information: Revise the SDP and TCPII to locate the 65-dBA Ldn unmitigated and mitigated noise contours on the plans, including documentation as to the source of the noise contours in a Phase I Noise Study prepared by a certified professional in acoustical analysis or the use of the Environmental Planning Noise Model. The mitigated noise contours must be based on a Phase II Noise Study that must be submitted and reviewed. The Phase II Noise Study recommendations shall be reflected on the plans.

Recommended Future Condition: Prior to the issuance of the first building permit, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures within prescribed noise contours have been designed to reduce interior noise levels to 45 dBA Ldn or less and the central recreational area has been mitigated to acceptable exterior noise levels of 65-dBA Ldn or less.

Environmental Review

As revisions are made to the plans submitted, the revision boxes on each plan sheet shall be used to describe what revisions were made, when and by whom.

1. A Forest Stand Delineation (FSD) was prepared in September 2005 for 27.08 acres of the Montpelier Hills property that is wooded (less the portion of the site bisected by the PEPCO power lines calculated in the site's overall acreage because this area is not wooded). Six forest stands were identified and are referred to as forest stands FS1-FS6. Five specimen

trees were located, all of which range in good to fair condition. All six forest stands have retention ratings of medium to low based on the overall health of the stands, forest structure, and the lack of significant environmental features such as a stream, 100-year floodplain, wetlands and steep slopes.

One revision to the FSD plan is necessary to meet the requirements of the Woodland Conservation Technical Manual. Remove the FSD signature approval block because M-NCPPC Environmental Planning staff did not sign it. After this revision has been made, have the qualified professional who prepared the plan sign and date it.

Required Revisions: Revise the FSD plan as follows:

- a. Remove the FSD signature approval block.
 - b. After this revision has been made, have the qualified professional who prepared the plan sign and date it.
2. The site is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet, and there are more than 10,000 square feet of existing woodland on-site. TCPII/35/06 has been found to generally address the requirements of the Prince George's County Woodland Conservation Ordinance; however, revisions are necessary.

This 32.34-acre site in the R-U Zone has a woodland conservation threshold of 6.44 acres or 15 percent. The site has 22.34 acres of existing woodland, 0.01 acres of which is within the floodplain. The proposed plan shows 18.26 acres of woodland to be cleared, including 0.02 acres of off-site impacts. The total amount of woodland conservation required is 12.80 acres and this is proposed to be met with 3.30 acres of on-site preservation and 9.50 acres in off-site mitigation on another property.

TCPII/35/06 is recommended for approval subject to revisions. Add a symbol to the legend for the 100-year floodplain feature on Sheet 7. Revise the legend to remove reference to the proposed tree line symbol in it and on the plan. State below the Specimen Tree Table how these trees were located (field located). Relabel the Specimen Tree Table to replace the word "Significant" with the word "Specimen."

Three proposed Tree Preservation Areas (TPA) intended to count toward the site's woodland conservation requirement need revisions. In two instances, two portions of two TPA cannot be shown as counted. Tree Preservation Area 4 on Sheet 5 abuts Parcel A-1, which is identified as undeveloped and owned by Montpelier Hills. According to the pgatlas.com web site, the Department of Parks and Recreation owns Parcel A-1 and no tree conservation plans are associated with it. Label Parcel A-1 as being owned by the Department of Parks and Recreation. Proposed TPA 10 on Sheet 8 (the northern part of it) is not a minimum of 35 feet wide and cannot be shown as counting toward the site's requirement. This TPA abuts a developed section of Montpelier Hills, identified as Parcel 1 that has a small area of woodland; however, Parcel 1 does not have a tree conservation plan associated with it. The northern portion of proposed TPA 10 should be shown as "Woodland Preserved, Not Counted." The worksheet should be adjusted accordingly in relation to this area. Proposed TPA 11 on Sheet 8 abuts the Baltimore-Washington Parkway and also is not 35 feet wide. However, because TPA 11 abuts the parkway that is federal

park property, it can be counted toward the site's woodland requirement. This preservation area should also be shown as "Woodland Preserved, Not Counted." Three proposed TPAs 3 located in Parcel A and TPA5 and 6 located in Parcel K are shown as owned by the Montpelier Hills Homeowners Association. In order for a parcel to have a TPA on it, when the developer does not own the parcel, written permission from the property owner acknowledging the woodland conservation areas shown on a TCP must be submitted.

Several proposed TPAs do not have adequate protective signage along the edges and in some instances, along a road and in relation to other developed parcels. Provide the required signage in TPA 1 along Muirkirk Road; in TPA 2 and 3 in relation to the abutting developed parcels; in TPA 4 in relation to Parcel A-1; in TPA 6 along the outer edge of Parcel K; in TPA 8 along the outer edge of Hermosa Drive; and, in TPA 10 in the southern portion at the outer edge. Remove tree preservation sign symbols on the plan in several areas that are shown but are not in relation to proposed TPAs. First, on Sheet 3 in Parcel A behind the proposed multipurpose court; on Sheet 5 where woodland is not part of a proposed TPA; and, on Sheet 7 in relation to the outer edge of Parcel 1. Sheet 8 has a reforestation sign detail. This type of woodland treatment is not proposed at the site therefore; either remove this detail from the plan or cross it out.

After these revisions have been made to the plan, have the qualified professional who prepared the plan sign and date it.

Recommended Condition: Prior to certificate approval of SDP-0510 revise TCP11/35/06 as follows:

- a. Add a symbol to the legend for the 100-year floodplain feature shown on Sheet 7.
- b. Revise the legend and the plan to remove reference to the "proposed tree line" symbol.
- c. State below the Specimen Tree Table how these trees were located (field located).
- d. Relabel the Specimen Tree Table to replace the word "Significant" with the word "Specimen."
- e. Label the parcel abutting proposed Tree Preservation Area 4 on Sheet 5 as owned by the Department of Parks and Recreation.
- f. Show the northern portion of Tree Preservation Area 10 on Sheet 8 that is not 35 feet wide as "Woodland Preserved, Not Counted" and adjust the worksheet accordingly.
- g. Submit written permission from the property owner of Parcels A and K, acknowledging proposed Tree Preservation Areas 3, 5 and 6.
- h. Provide adequate protective signage along the edges in TPA 1 along Muirkirk Road; in TPA 2 and 3 in relation to the abutting developed parcels; in TPA 4 in relation to Parcel A-1; in TPA 6 along the outer edge of Parcel K; in TPA 8 along the outer edge of Hermosa Drive; and, in TPA 10 in the southern portion at the outer edge.

- i. Remove tree preservation sign symbols on Sheet 3 in Parcel A behind the proposed multipurpose court; on Sheet 5 where woodland is not part of a proposed TPA; and, on Sheet 7 in relation to the outer edge of Parcel 1.
 - j. On Sheet 8 remove or cross out the reforestation sign detail.
 - k. After these revisions have been made to the plan, have the qualified professional who prepared the plan sign and date it.
3. A copy of the Stormwater Management Concept Approval Letter from the Department of Environmental Resources (DER) has been submitted. This letter is for Case 43393-2005-00, issued on February 10, 2006, and is valid for three years from the date of issuance. The primary method of control is with an underground storage facility to be privately maintained. A copy of the approved Concept Plan was not included in the submittal. Because the TCPII has 3.30 acres of proposed on-site woodland preservation toward meeting the site's woodland conservation requirement, the approved Concept Plan must be reviewed in relation to the TCPII to ensure there are no conflicts with proposed woodland conservation areas and proposed stormdrain easements. If conflicts are found, the Technical Stormwater Management Plan will have to be designed to eliminate these conflicts.

Required Information: Submit a copy of the approved Stormwater Management Concept Plan for review in relation to the TCPII, to ensure the former plan does not have conflicts with woodland conservation areas on the latter plan.

14. In a memorandum dated March 17, 2006 (Masog to Estes), the Transportation Planning Section offered the following comments:

The Transportation Planning Section has reviewed the application referenced above. The subject property consists of approximately 32.34 acres of land in the R-U Zone. The property is located on both sides of Muirkirk Road in the vicinity of its intersection with Hermosa Drive. The applicant proposes a residential development of 211 townhouse residences that is part of a larger area covered by a Basic Plan, Comprehensive Design Plan, and preliminary plan.

Review Comments

Prior applications A-9387, CDP-8508, and 4-86052 contain a number of transportation-related conditions (4-86052 only references the CDP conditions, and contains no additional transportation-related conditions). The status of the transportation-related conditions is summarized below:

A-9387:

Condition 3: This condition requires that the northbound exit ramp from the Baltimore-Washington Parkway be reconfigured, and that an additional lane on MD 197 be constructed, prior to occupancy within the site. The above improvements were constructed several years ago. OK.

CDP-8508:

Condition 16: This condition requires that new Muirkirk Road be constructed across the subject property prior to occupancy of any units. Furthermore, the condition requires that the process for closure of the existing connection to the Baltimore-Washington Parkway ramp be initiated at the

same time. New Muirkirk Road was constructed at the time that the initial residences were built on this site, and the connecting ramp from Muirkirk Road to the southbound Baltimore-Washington Parkway has been closed, with the southbound ramp relocated, for several years. OK.

Condition 17: This condition requires improvements at the MD 197/Muirkirk Road intersection. The improvements were constructed at the time that the initial residences were built on this site. OK.

Condition 18: This condition requires further improvements along MD 197 in the vicinity of the the Mallard Drive intersection prior to Phase III should funds for ultimate improvements to the Baltimore-Washington Parkway/MD 197 interchange not be appropriated. Funding was appropriated by the federal government, and the interchange was rebuilt between 1998 and 2003, and is complete and open to traffic at this time. Therefore, the improvements required under this condition are no longer applicable. OK.

This site has been partially developed with 365 townhouses. Another 42 townhouse lots are platted and owned by Prince George's County. Given that the Basic Plan established a limit of 1,000 residences total on the overall site and the CDP conformed to that plan, it would appear that the overall site could currently contain 593 multifamily residences on the remaining parcels that are proposed for development under this plan. This development would generate 593 AM and 682 PM peak-hour trips.

The current proposal would replace the multifamily component with 211 townhouses. The overall trip generation of the site (ALL platted townhouse lots plus the proposed 211 townhouses) would be 433 AM and 495 PM peak-hour trips. Under this proposal, the overall site would have a significantly lower peak-hour trip generation than has been assumed in past traffic studies.

Access and circulation is acceptable. Muirkirk Road is a master plan collector facility, and adequate right-of-way in accordance with master plan recommendations has already been dedicated. The plan shows two private street access points onto Muirkirk Road. These are both acceptable. The applicant must note that all proposed driveways are onto public streets and must be permitted with the county Department of Public Works and Transportation.

The subject property is required to make roadway improvements in the area pursuant to a finding of adequate public facilities made in 1986 for Preliminary Plan of Subdivision 4-86052. These findings were supported by a traffic study submitted in 1985. The site has been partially developed, and the remaining development within Montpelier Hills has been assumed as background for all succeeding traffic studies in the area. In consideration of these facts, the transportation staff can make a finding that the subject property is in general conformance with the approved preliminary, Comprehensive Design, and Basic Plans from the standpoint of transportation. The Transportation Planning Section also finds that the subject application will be served by adequate transportation facilities within a reasonable period of time.

1. In a memorandum (Harrell to Estes), the Public Facilities Planning Section offered the following comments:

The Historic Preservation and Public Facilities Planning Section has reviewed this specific design plan. In accordance with the provisions of Section 27.528 (a)(2) of the Zoning Ordinance which specifically states:

That the development will be adequately served within a reasonable period of time

with existing or programmed public facilities either shown in the appropriate Capital Improvement Program or provided as part of the private development.

The specific design plan is for the construction of 211 single-family attached residences on the 32-acre site.

Fire and Rescue

The Prince George's County Planning Department has determined that this plan is within the required 7-minute response time for the first due fire station Company 10 Laurel, using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire/EMS Department.

The required fire and rescue facilities have been determined to be adequate and will not place an unreasonable burden upon the public facilities

Police Facilities

The Prince George's County Planning Department has determined that this detailed site plan is located in District VI, Beltsville. The standard for emergency calls response is 10 minutes and 25 minutes for nonemergency calls. The test is based on a rolling average for the preceding 12 months. The detailed site plan application was accepted for processing by the Planning Department on February 14, 2006.

	Date	Emergency Calls	Nonemergency
Acceptance Date	01/05/05-1/14/06	9.00	17.00

The police response time requirements were met.

16. In a memorandum dated March 14, 2006 (Benfield to Estes), the Archeology Consultant offered the following comments:

Phase I archeological survey is not recommended by the Planning Department on the above-referenced property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of finding archeological sites that would be considered significant is low.

Section 106 review may require archeological survey for state or federal agencies, however. Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when federal monies, federal properties, or federal permits are required for a project.

17. In a memorandum dated May 8, 2006 (Asan to Estes), the Department of Parks and Recreation offered the following comments:

The Department of Parks and Recreation (DPR) staff has reviewed the submitted Specific Design Plans SDP-0510 for conformance with conditions of CDP-8508, Preliminary Plan 4-86052 and the Recreational Facilities Agreement (RFA) recorded Liber 6604, Folio 82. The applicant also met with DPR staff and discussed the following: (1) reduction of the amount of parkland to be dedicated; (2)

installation of underground SWM on dedicated parkland (3) grading on dedicated parkland; and (4) installation of landscaping on dedicated parkland to address buffer yard requirements of the Landscape Manual, Section 4.7.

The applicant has submitted a sketch plan showing the above-mentioned changes.

FINDINGS

Staff finds that the following conditions, previous approvals and agreements are applicable to the above application:

Recreational Facilities Agreement (RFA) recorded in Liber 6604, Folio 82 states:

Berman Enterprises Limited Partnership shall bond and construct upon the subject property being subdivided in accordance with the approved Comprehensive Design Plan CDP-8508, the following recreational facilities, approved by the Prince Georges County Planning Board for Stage 3 through Stage 6 of the staging plan for Montpelier Hills to wit:

- a. One 25x12 meter swimming pool, or a pool of equal area with varying shape**
- b. Four tennis courts**
- c. Two basketball courts**
- d. One community center**
- e. One football-soccer field located on the adjacent dedicated Commission property**
- f. 7100 linear feet of fitness trail including four fitness stations and five sitting areas**
- g. Two picnic tables**
- h. One open play area**
- i. One pre-teen area**
- j. One tot-lot**

Comment: The subject RFA had been established for the public and private recreational facilities. DPR staff focused the review on the public recreational facilities. DPR staff believes that the private recreational facilities package listed in this agreement should be reviewed by the Urban Design Section staff in context with the proposed changes in number and type of residential dwelling units.

The Recreational Facilities Agreement (RFA) recorded in Liber 6604, Folio 82, Paragraph 4.b states:

Prior to issuance of and occupancy permits for multi-family dwelling units beyond seventy-five percent (75%) of those within the high-rise and mid-rise phases (757 multi-family dwelling units) of the project, Berman Enterprises Limited Partnership shall dedicate to the Commission for park purposes Parcel A-1 and Parcel "A" as shown on plats of subdivision entitled "Plat 9, Montpelier Hills" and "Plat 12 Montpelier Hills", respectively.

Comments: The applicant has dedicated Parcel A-1, but Parcel "A" (2.5 acres) has not been dedicated to the Commission. The applicant proposes to construct 211 townhouses/condominiums instead of high-rise or mid-rise units. DPR staff believes that the timing for conveyance of the remaining parkland should be amended because the applicant is not planning to construct high-rise or mid-rise dwelling units. DPR has not been able to complete the design and construction of the park and use the parkland to full capacity because of the pending parkland dedication area (Parcel A) has not taken place. According to current practice, the parkland dedication occurs at the time of final plat of subdivision. The subject development will not require a plat of subdivision; therefore, DPR staff recommends that parkland should be conveyed to M-NCPPC prior to application for any grading permits.

The applicant proposes to reduce the size of park Parcel "A" (2.5 acres) by 3,050 square feet in order to accommodate building setbacks and a landscaping buffer for the buildings located close to the park property line. The park property line has been moved approximately 16 feet into the park parcel, which will reduce the parkland dedication area by 3,050 square feet. DPR staff believes that reduction of the size of the park parcel may be in the public interest if mitigation is provided.

Conditions for parkland dedication adopted as part of approved 4-86052 state:

The subdivider, his successors and /or assigns shall not disturb in any way the land due in mandatory dedication without the expressed written consent of the Department of Parks and Recreation of the M-NCPPC. If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by M-NCPPC development approval process.

Comments: The applicant proposes installation of underground Stormwater Management (SWM) Facilities on property to be dedicated to MNCPPC (Parcel "A"). The SWM Facility will encumber one acre of the parkland and limit the future development of the park. DPR staff has two concerns with this proposal: one, the maintenance of the underground utilities; second, impact on future development and use of the park.

DPR staff is concerned about the long-term maintenance of the SWM Facility to be located on public parkland. DPR staff only recommends agreement to the location of the underground SWM on dedicated parkland if the SWM facility will be maintained by Department of Public Works and Transportation (DPW&T). Therefore, DPR staff recommends to the Planning Board that the applicant, M-NCPPC and DPW&T enter into a construction and maintenance agreement for the underground SWM facility on dedicated parkland.

DPR staff developed a concept plan for the development of the Muirkirk Neighborhood Park in order to evaluate the likely impact of the SWM facility on future development of the park (see park development concept plan on the attached Exhibit "A").

DPR staff believes that the SWM facility may be acceptable on dedicated parkland, if the applicant mitigates its impact. We recommend that the applicant be required to construct an open play field in addition to the previously required soccer field and provide all necessary grading and drainage for both the soccer and open play fields in conjunction with the construction of the underground SWM Facility.

Condition 14 of the CDP-8508 states:

Site plan for the central recreational area and for the football –soccer field shall be reviewed by the Department of Parks and Recreation and approved by the Planning Board prior to or concurrent with approval of the first SDP in Stage III.

Comment: The applicant shows location of the SWM facility on dedicated parkland and the grading on dedicated parkland needed to accommodate the construction of the residential dwelling units, but there is no site plan submitted for the football-soccer field on parkland. The subject SDP plans should be revised to include proposed grading for installation of the football-soccer field, open play field and SWM Facility on parkland. The football-soccer field and open play field should be designed and constructed in accordance with the *Park and Recreation Facilities Guidelines*.

CONCLUSION

In summary, DPR staff believes that the revision to the park parcel boundaries, grading and landscaping on dedicated parkland, installation of the underground SWM facility on dedicated parkland are acceptable if the recommended conditions below are adopted by the Planning Board. The Recreational Facilities Agreement (RFA), recorded in Liber 6604, Folio 82, should then be rescinded and two separate private and public RFAs should be established and recorded.

Urban Design Comments: The Department of Parks and Recreation staff conditions have been incorporated into the recommendation section of this staff report.

18. In a memorandum dated March 1, 2006 (Buxbaum to Estes), the Community Planning Division offered the following comments:

- a. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier.
- b. The proposed plan conforms to the land use recommendations of the 1990 *Subregion 1 Master Plan* for residential development.

PLANNING ISSUES

In approving the Comprehensive Design Zone (CDZ/R-U) for this property on April 12, 1982, the District Council placed a condition that would require at least 500 luxury high-rise condominiums to be included in this development. However, on November 22, 2005, the District Council adopted a Council Bill (CB-96-2005) that would allow the applicant to propose all townhouses provided that this results in a reduction of at least 30 percent of the total number of dwelling units permitted under the previously approved Basic Plan. It appears that this application conforms to this requirement.

19. In a memorandum (Berger to Estes) dated February 17, 2006, the Historic Preservation Planning

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Section stated that the proposed project would have no effect on historic resources.

20. In a memorandum (Chaney to Estes) dated March 7, 2006, the Permit Review Section offered numerous comments. Those comments have either been addressed by revisions to the plans or in recommended conditions below.
21. In a memorandum dated March 14, 2006 (Thompson to Estes), the Subdivision Section offered the following comments:

The property is the subject of Record Plats NLP132@8, NLP132@10, NLP 132@12, NLP 132@13, NLP 132@14, NLP 132@16, NLP132@23, recorded April 13, 1987, and is known as Montpelier Hills.

The Specific Design Plan as submitted, is in conformance with the approved Record Plats. The applicant must correctly label the bearings and distances for Parcel "E" (sheet 2), Parcel "B-2" (sheets 3 and 4), Parcel "L" and Parcel "K-3" (sheets 7 and 8).

Record Plats 132@8, 10, 12-14, 16 and 23 all contain the same five notes; the following apply to the review of the SDP that were not already addressed above:

- | | |
|--------------|--|
| Plat Note 1: | This plat is subject to a Declaration of covenants, conditions and restrictions, recorded in Liber 6604 at Folio 90. |
| Plat Note 2: | Development and use of the Lot shown heron must be in accordance with the Comprehensive Design Plan approved by the Planning Board May 19, 1986, No. CDP 8508 and a Specific Design Plan approved by the Prince George's County Planning Board on March 5, 1987, No. SDP-8705. |
| Plat Note 3: | Subject to a Recreational Facility Agreement dated April 3, 1987, and recorded in Liber 6604 Folio 82. |
| Plat Note 4: | Approval of this plat is based upon a reasonable expectation that a public water and sewer service will be available when needed and is conditioned on fulfilling all the Washington Sanitary Suburban Commission Authorization 87-7143 commitments. Building permits may not be issued until planned water and sewer facilities are completed and adequate to serve the proposed development. |
| Plat Note 5: | Acreage within dedicated R-O-W along frontage of lot(s) included in calculation of permitted density in accordance with Prince George's County Code 27-107.1 (iii) and CDP-8508 approvals. See letter to The Maryland National Capital Park and Planning Commission dated October 28, 1986, for further clarification. |

There are no other subdivision issues at this time.

22. In a memorandum dated June 6, 2006 (Shaffer to Estes), the trails planner of the Transportation Planning Section offered the following comments:

The Adopted and Approved Subregion I Master Plan identifies one master plan trails issue that impacts the subject application. The plan recommends a master plan trail along the western edge of the subject site north of Muirkirk Road. This trail is proposed adjacent to or within M-NCPPC parkland and will connect existing and developing residential communities. This trail has been partially developed through the adjacent Montpelier Hills subdivision (approved SDP-8718) as a four-foot wide, asphalt fitness trail within HOA land. The trails proposed on the subject application will connect into this fitness trail and utilize an existing portion of the asphalt path at one location (see SDP and aerial photo). However, staff recommends that the new trail construction be a minimum of six-feet wide for accessibility concerns. A four-foot width generally prohibits two pedestrians from walking side by side, and does not allow two wheel chairs to pass by each other on the path.

The applicant is proposing an extensive network of internal paths. These paths include a trail along the southern perimeter of the townhouses south of Muirkirk Road, and the north-south trail north of Muirkirk Road. The trail north of Muirkirk Road will connect to the existing fitness trail on the adjacent site. These trails will accommodate the trail connection proposed in the master plan and link the adjoining townhouse communities. In total, over 3,300 linear feet of internal paths are proposed on the subject site.

The adjacent communities both to the north and south of Muirkirk Road include standard sidewalks along both sides of all internal roads (see aerial photos). Due to this, and the density of existing and proposed development in the vicinity, staff recommends standard sidewalks along both sides of the internal roads within the subject application. This is consistent with the existing road network on adjacent properties.

It should also be noted that Muirkirk Road includes an existing sidewalk along the subject site's entire frontage. Planning studies for the Subregion I Master Plan update indicate that Muirkirk Road may be suitable as a master plan bikeway. The existing sidewalk will accommodate pedestrians, and striping for bike lanes can be considered at the time of road resurfacing/improvement. Sidewalks also exist along both sides of Hermosa Drive.

Staff is concerned about the segment of trail proposed on Sheet 5 that is off the subject property and on the adjacent Parcel A-1. The applicant should provide staff with confirmation that the trail location is acceptable to the adjacent property owner and/or homeowners association. If all the subject property and adjoining sites are to be incorporated into one HOA, this should be confirmed for the record.

RECOMMENDATION:

In conformance with the Adopted and Approved Subregion I Master Plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:

- a. All internal, HOA trails shall be a minimum of six-feet wide and asphalt.
 - b. Provide standard sidewalks along both sides of all internal roads, consistent with adjacent developments.
23. The Department of Public Works and Transportation (DPW&T) (Abraham to Estes, May 30, 2006) has provided a standard memorandum regarding street trees, lighting, sidewalks, embankments, storm drainage system, and soil investigation. The requirements of the DPW&T will be enforced at time of permit.

24. The Department of Environmental Resources (Rea to Estes, March 14, 2006) has stated that the site plan for Montpelier Hills SDP-0510 is consistent with approved stormwater concept plan 43393-2005.
25. The State Highway Administration (SHA) (Foster to Estes, February 28, 2006), has stated that SHA has no objection to Specific Design Plan SDP-0515 approval.
26. The Washington Suburban Sanitary Commission (WSSC) (Thacker to Estes, February 23, 2006) has stated that water and sewer connections may be required and existing WSSC facilities are located on the site. Additional comments have either been addressed by revisions to the plans or in recommended conditions below.
27. **Conformance of the Proposed Specific Design Plan with the findings for approval of a Specific Design Plan (Section 27-528, Planning Board Action).**

The plan conforms to the approved Comprehensive Design Plan and the applicable standards of the Landscape Manual, and for Specific Design Plans for which an application is filed after December 30, 1996, with the exception of the V-L and V-M Zones, the applicable design guidelines for townhouses set forth in Section 27-274(a)(1)(B) and (a)(11), and the applicable regulations for townhouses set forth in Section 27-433(d) and, as it applies to property in the L-A-C Zone, if any portion lies within one-half (1/2) mile of an existing or Washington Metropolitan Area Transit Authority Metrorail station, the regulations set forth in Section 27-480(d) and (e);

The applicant has demonstrated in plan and elevation compliance with the design guidelines in regard to the site layout, landscape treatment and architectural design of exterior townhouse building facades. The site layout of recreational facilities in relationship to the townhouse buildings is also in conformance with the standards outlined in the design guidelines.

As stated in Findings 9 and 11, the proposed specific design plan will be in conformance with the approved comprehensive design plan and the applicable standards of the *Landscape Manual* when the conditions in the recommendation section are met.

The development will be adequately served within a reasonable period of time with existing or programmed facilities either shown in the appropriate Capital Improvement Program or provided as part of the private development.

As explained in Findings 14 and 15 above, this required finding has been met.

Adequate provision has been made for draining surface water so that there are no adverse effects on either the subject property or adjacent properties.

Compliance with this requirement has been demonstrated as discussed in Finding 24 above, where it is demonstrated that a stormwater management concept plan has been approved by the Department of Environmental Resources.

The Plan is in conformance with an approved Tree Conservation Plan.

Compliance with this requirement has been demonstrated as discussed in Finding 13 above, where approval of the Tree Conservation Plan is recommended by the Environmental Planning Section.

RECOMMENDATION

Based on the foregoing evaluation and analysis, the Urban Design Review staff recommends that the Planning Board adopt the findings of this report and APPROVE Specific Design Plan SDP-0505 and TCPII/35/06 with the following conditions:

1. Prior to certificate approval of SDP-0510, revise TCPII/35/06 as follows:
 - a. Add a symbol to the legend for the 100-year floodplain feature shown on Sheet 7.
 - b. Revise the legend and the plan to remove reference to the proposed tree line symbol.
 - c. State below the Specimen Tree Table how these trees were located (field located).
 - d. Relabel the Specimen Tree Table to replace the word “Significant” with the word “Specimen.”
 - e. Label the parcel abutting proposed Tree Preservation Area 4 on Sheet 5 as owned by the Department of Parks and Recreation.
 - f. Show the northern portion of Tree Preservation Area 10 on Sheet 8 that is not 35 feet wide as “Woodland Preserved, Not Counted” and adjust the worksheet accordingly.
 - g. Submit written permission from the property owner of Parcels A and K, acknowledging proposed Tree Preservation Areas 3, 5 and 6.
 - h. Provide adequate protective signage along the edges in TPA 1 along Muirkirk Road; in TPA 2 and 3 in relation to the abutting developed parcels; in TPA 4 in relation to Parcel A-1; in TPA 6 along the outer edge of Parcel K; in TPA 8 along the outer edge of Hermosa Drive; and, in TPA 10 in the southern portion at the outer edge.
 - i. Remove tree preservation sign symbols on Sheet 3 in Parcel A behind the proposed multipurpose court; on Sheet 5 where woodland is not part of a proposed TPA; and, on Sheet 7 in relation to the outer edge of Parcel 1.
 - j. On Sheet 8 remove or cross out the reforestation sign detail.
 - k. After these revisions have been made to the plan, have the qualified professional who prepared the plan sign and date it.
2. Prior to the issuance of the first building permit, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures within prescribed noise contours have been designed to reduce interior noise levels to 45 dBA Ldn or less and the central recreational area has been mitigated to acceptable exterior noise levels of 65 dBA Ldn or less

3. Revise the FSD plan as follows:
 - a. Remove the FSD signature approval block.
 - b. After this revision has been made, have the qualified professional who prepared the plan sign and date it.
4. All internal, HOA trails shall be a minimum of six-feet wide and asphalt.
5. Provide standard sidewalks along both sides of all internal roads, consistent with adjacent developments.
6. Prior to signature approval of the specific design plan, the following revisions shall be made to the plans:
 - a. Provide entry feature monumental signs at all entries leading into the development.
 - b. Provide replacement entry feature signs at the locations of the existing Montpelier Hills Community entry signs. Replace existing signs with the identical entry feature monumental sign as the new development
 - c. Provide landscaping at each new development and replacement monumental entry signs that include groundcover, perennials and shrubs.
 - d. Provide additional landscaping where townhouse buildings are adjacent to one another, have corner side yards and are adjacent to all common areas. The additional landscaping including trees, shrubs and groundcover shall occupy approximately 50 percent of the applicable yard areas, the boundaries of which shall be shown on the plans prior to certification.
 - e. Provide additional landscaping at exposed building foundations using a mixture of medium to large shrubs.
 - f. Provide additional perennials close to townhouse entries and driveways.
 - g. No two adjacent garage doors shall be identical. Provide elevations of four or more optional garage door designs on the townhouses' architectural elevations.
 - h. Provide the base square footage of each model on the template sheet.
 - i. The roof pitch for all of the units shall be no less than 7:12.
 - j. Provide color sample and manufacturer's cut sheet of stamped asphalt walkways.
 - k. Provide photographs, manufacturers cut sheets or samples for the following materials:
Sample Board information for all builders:

- (1) Entry door

- (2) Garage doors
- (3) Paint and stain color chips
- (4) Townhouse numbers
- (5) Exterior surface mounted light fixtures

- l. Provide concrete aprons and driveways up to the garages of townhouse units 16, 17, 18, 19 and 20.
- m. The most visible side elevations of dwelling units on corner lots or other lots whose side or rear elevation is highly visible to public rights-of-way shall employ a minimum of three standard architectural features on those elevations, such as windows, doors and fireplace chimneys, and these features shall form a reasonably balanced composition.

7. Prior to signature approval, the SDP shall be revised as follows:

- a. Provide the height and number of stories for each house type on the template sheet.
- b. Provide the dimensions of all the options for each house type on the template sheet.
- c. Provide all bearings and distances on the site plan to match the record plats.
- d. Provide the percentage of lot coverage on the site plans.
- e. Provide all the setbacks and distances from the dwellings to the property lines.
- f. Demonstrate the 25-foot setback from the floodplain on the site plan.
- g. The plans show multiple proposed retaining walls. Provide the height including any safety fences required and details of the retaining walls on the site plans.

8. Prior to issuance of building permits:

- a. All building setbacks, front, sides and rear shall be shown on the site plan.
- b. The actual percentage of lot coverage, per lot, shall be provided on the site plan.
- c. Proposed house types and elevations shall be identified on the lot.

9. Prior to signature approval of SDP-0510, Department of Parks and Recreation (DPR) shall review and approve the revised park boundaries. The applicant shall dedicate to the Commission approximately 2.43 acres of parkland as shown on attached Exhibit "B". The parkland shall be conveyed to the Commission prior to application for any grading permits.

10. Land to be dedicated shall be subject to conditions 1 through 9 of Exhibit "C."

11. Prior to signature approval, the applicant shall submit to DPR staff for their review and approval the site and landscaping plan for all improvements on dedicated parkland. The recreational facilities shall be constructed in accordance to *Park and Recreation Facilities Guidelines*.
12. Prior to application for any grading permits, the applicant shall submit to DPR, for review and approval, the SWM Plan. The proposed SWM facilities on dedicated parkland shall be designed to minimize any adverse impact on future park facilities. The SWM facilities shall be constructed to accommodate the stormwater from the football-soccer field and open play field on the park parcel.
13. Prior to application for grading permits, the applicant, his heirs, successors and/or assignees shall rescind the Recreational Facilities Agreement (RFA) recorded in the land records of the Prince George's County Land Record in Liber 6604, Folio 82. The applicant shall enter into separate private and public RFAs for the construction of recreational facilities on public parkland and on HOA land.
14. The applicant shall submit three original executed RFAs to the Department of Parks and Recreation (DPR) for their review and approval three weeks prior to the submission of the grading permit. Upon approval by DPR, the RFA shall be recorded among the land records of Prince George's County.
15. Submission to the DPR of a performance bond, a letter of credit or other suitable financial guarantee, for the construction of the recreational facilities and SWM Facilities on parkland, in an amount to be determined by the DPR, within at least two weeks prior to applying for building permits.
16. Prior to conveyance of Parcel "A" to M-NCPPC, which includes a stormwater management facility, the applicant shall enter into joint MultiUse Stormwater Management System Maintenance Agreement between the applicant, the Prince George's County Department of Public Works and Transportation and M-NCPPC, Department of Parks and Recreation for the construction, operation and maintenance of the planned SWM facilities on parkland.
17. Prior to certificate approval of the SDP:
 - a. The Plan shall be revised to show additional landscaping, to be planted on HOA property in the area behind Courts 1 and 6 so as to create a better visual barrier between the existing and new townhouses. The landscaping shall consist of evergreens at least 6-8 feet tall (at the time of planting) among the existing trees on HOA property. If no easements or permission from the HOA is granted, the landscaping need not be provided.
 - b. Parcel K, approximately 2.20 acres, shall be included on the Plan and the recreational amenities contained in Exhibit A shall be constructed thereon, and written permission from the owner of Parcel K to include it in the application shall be provided.
18. The recorded Recreational Facilities Agreement (RFA) shall be revised and amended as follows:
 - a. Parcel A, comprising 2.42 acres shall be constructed with a soccer field, which field may contain underground storage for stormwater management associated with the development. The Parcel shall be conveyed to M-NCPPC prior to issuance of any grading permit.
 - b. The obligation for any amenities not yet constructed is extinguished and the amenities to be

constructed shall be those contained in Exhibit A. The amenities shall be constructed proportionate with the construction of the 211 residential units in accordance with a schedule approved by the Planning Board or designee. Upon request of the applicant and the Montpelier Hills Recreation Association, Inc (MHRAI), a request to modify the amenities or the timing of construction may be submitted to the Planning Board. The obligation to construct the amenities requires the grant of appropriate easements or permission by the MHRAI.

- c. At the time of building permit application, the applicant shall provide a receipt from the MHRAI evidencing deposit with the MHRAI the amount of \$2192.00 for each dwelling building permit it is seeking. This amount may be modified by the MHRB if the applicant proposes and the MHRAI accepts a lump sum payment proffer from the applicant at any time prior to the issuance of the 211th building permit for dwelling.

- 19. Fifty percent of the applicant's total off-site mitigation shall be provided by payment of a fee-in-lieu.