



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

MCPB
11/18/10
Item #

MEMORANDUM – Development Plan Amendment

DATE: November 8, 2010

TO: Montgomery County Planning Board

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

FROM: Carlton W. Gilbert, Planner Coordinator *CWG*
(301) 495-4576

SUBJECT: **Development Plan Amendment No. 11-1:** Clarksburg Village Center, LLC, applicant, - request to add a binding element and to revise a previous binding element associated with the staging element of the Clarksburg Town Center.

Master Plan: Clarksburg Master Plan

STAFF RECOMMENDATIONS: Planning Department staff recommend the following:

1. Denial of DPA 11-1 as the amendment is inconsistent with the Clarksburg Master Plan.
2. That the Planning Board recommend that the Hearing Examiner hold a public hearing regarding the application because there is a significant amount of public interest.
3. That if the County Council agrees in principle that DPA 11-1 is a good idea but cannot make the finding that the application is in conformance with the Clarksburg Master Plan, then the County Council should direct the Planning Board to prepare a limited master plan amendment for the sole purpose of amending the staging plan in the Clarksburg Master Plan, to accommodate a different sequencing of commercial development.
4. Planning staff note that should the County Council approve DPA 11-1 with or without a Master Plan amendment, there are conditions of prior approvals for preliminary plans and site plans that may need to be amended.

SITE DESCRIPTION

The subject site is located on a block defined by Little Seneca Parkway, Snowden Farm Parkway, Newcut Road, and Arora Hills Drive. The 17.4 acre site takes up the entirety of the block except for a section in the eastern corner that is approved for a mixture of two-over-two and townhouse units. Numerous types of residential buildings, including detached, townhouse, and multi-family buildings, confront the site to the east, south, and west. A protected stream valley park confronts the site across Little Seneca Parkway to the north. Nearby pending or recently approved site plan applications include 82002036B, Greenway Village Phases 1 & 2 to the north; 82003002A, Clarksburg Village Phase 1 to the west; 82004022A, Greenway Village Phases 3, 4, & 5 to the north and east, and Clarksburg Village Phase 2 to the south and east.

BACKGROUND

Greenway Village (LMA G-735) and Clarksburg Village (LMA G-784) and their accompanying development plans were approved by the District Council beginning in 2001. At that time, Clarksburg Village was approved for 2,653 dwelling units and 20,000 square feet of retail space, while Greenway Village, which was immediately adjacent to Clarksburg Village to the east, was approved for 1,330 dwelling units and a commercial center containing 89,000 square feet of retail uses. Clarksburg Village later purchased the retail portion of Greenway Village, and both developers amended their respective development plans to show that Greenway Village would have no retail, while Clarksburg Village would have 109,000 square feet of retail. Clarksburg Village then received approval in April of 2008 (DPA 05-1) to construct an age-restricted, multi-family apartment building with 100 dwelling units on the same site as the retail. In April of 2010, a limited amendment to the Preliminary Plan (1200103E) and a new site plan for Clarksburg Village, Phase III were approved to incorporate these changes (See attached Resolutions)

PROPOSAL

The applicant is seeking two changes to DPA 05-1. First, the applicant proposes to add a new binding element to the development plan with respect to the maximum total retail development (109,000 square feet). The added binding element would better reflect the transfer of commercial densities and further clarify that the Village Center (Phase III), including both the commercial/retail and the age-restricted housing, is being developed as part of Clarksburg Village under a single plan and unified ownership. As stated above, an amendment to the preliminary plan was already approved in April to reflect the transfer of densities between Arora Hills and Clarksburg Village.

The applicant also seeks to change the timing spelled out in a binding element in Development Plan 05-1 which currently reads as follows:

“No building permits shall be issued for retail/commercial uses until 90,000 square feet of retail uses within the Clarksburg Town Center have been established”.

The applicant proposes to amend this requirement by substituting the following:

“The subject commercial/retail development will not proceed until the earlier of the issuance of building permits for 90,000 square feet of retail space within (The) Clarksburg Town Center, or May 1, 2012.”

Analysis

Clarksburg Village is an approved site plan which meets the Master Plan goals of a neighborhood retail center, with a mix of accessible uses at a pedestrian scale to meet the needs of residents of the Newcut neighborhood. It is comprised of 109,000 square feet of retail uses, including a 54,000-square foot grocery store, seven (7) other retail uses including a gas station, and other commercial, restaurant and community oriented service uses, with sizes ranging from 4,000 to 15,000 square feet.

The Clarksburg Master Plan makes clear the importance of a neighborhood retail core to serve the Newcut Community including Clarksburg Village and Arora Hills. The integration of uses has been recognized as an important component of a complete community. However, the Clarksburg Master Plan also clearly prioritizes the Town Center as the first retail center to be established in the planning area, and contains several specific and consistent provisions pertaining to the timing of retail development for the planned implementation of Clarksburg. These are spelled out below:

The “Land Use Plan” section of the Master Plan states that *“development is channeled to the Town Center, designated transit stops, and two neighborhood centers.”* (MP, Pg. 37.)

The first “Land Use Plan Recommendation” and primary Plan Objective is to *“Create a Town Center which will be a strong central focus for the entire Study Area.”* (MP, Pg. 42.)

“This Plan recognizes that retail uses are critical to the validity of the Town Center. A grocery store is particularly important since this type of use can serve as a magnet for other commercial operations (dry cleaners and banks for example).” (MP, Pg. 46.)

Staging *“Principle #4: Development of a Strong Community Identity” - “The Town Center: Encourage the early development of the Town Center to create a strong sense of community identity and to provide a model for later development in other areas.”* (MP, Pg. 189.)

“This Plan recognizes that retail uses are critical to the validity of a community and can play a significant role in reinforcing the Town Center as a central focus for the entire

Clarksburg area. Once a sufficient critical mass of housing units are in place to support a retail center (retailers indicate that approximately 3,500 to 4,000 dwelling units are needed to support a retail development that includes a grocery store), this Plan recommends that early retail development priority be given to the Town Center. Retail development in the Newcut Road and Cabin Branch neighborhoods should follow the development of approximately 90,000 square feet of retail uses in the Town Center.” (MP, Pg. 190.)

“Retail/commercial development in the Newcut Road and Cabin Branch Neighborhoods will be deferred, however, until 90,000 square feet of retail uses have been established in Clarksburg’s Town Center.” (MP, Pg. 196.) Similarly worded statements are also included under “Implementing Mechanisms”.

The applicant believes that these references to timing are not absolute and that other recommendations in the Clarksburg Master Plan support proceeding with development of the Clarksburg Village neighborhood retail center in the near term. The applicant further states that development of the Clarksburg Village/Arora Hills neighborhood center will not be to the exclusion of the town center core. According to the applicant, the project is a neighborhood center primarily geared to Clarksburg Village/Arora Hills residents and others in close proximity who would be able to walk to the site to access convenient services for their daily needs. By contrast, the applicant believes that the Town Center retail is envisioned as a larger scale, sub-regional core designed to serve all of Clarksburg and beyond. The applicant suggests that the Master Plan probably should have realized that larger, sub-regional retail facilities require a larger number of supporting households to be economically viable than do smaller, neighborhood convenience centers. Therefore, the applicant argues that the Clarksburg Village retail uses should be permitted to proceed.

Although staff fully recognizes the current need and demand for community and neighborhood serving retail in Clarksburg, the applicant’s proposed amendment to the timing condition is contrary to these Master Plan recommendations. Moreover, the Board, in its Preliminary Plan Hearing held in April, 2010, clearly shared staff’s concern about the timing of retail development in Clarksburg. As a result of their deliberation, a condition was added to the Preliminary Plan that stated:

“Consistent with the binding elements of approved DPA 05-1, building permits must not be issued for the Phase III retail/commercial uses approved with this plan until building permits have been issued for at least 90,000 square feet of the 194,720 square feet of the retail use approved for the Clarksburg Town Center plan.”

In other words, if the DPA is approved by the Council, the applicant could still not go forward unless a Preliminary Plan amendment is approved. Since preliminary plans require master plan conformity, the Board would have to find either that the amendment is in conformity with the Master Plan or that the Master Plan would have to be amended before the applicant could proceed with the retail portion of his plan.

If the County Council decides in favor of a Development Plan Amendment, the Council should require an amendment to the Clarksburg Master Plan.

59-D-1.6 – Approval by District Council

59-D-1.61 – Findings

Before approving an application for classification in any of these zones, the District Council must consider whether the application, including the development plan, fulfills the purposes and requirements in Article 59-C for the zone. In so doing, the District Council must make specific findings, in addition to any other findings which may be necessary and appropriate to evaluate the proposed reclassification.

The District Council approved Local Map Amendment No. G-784 & G-735 and the accompanying development plan for the PD zoned portion of the property in 2001. At that time, the District Council had to make certain findings that the Development Plan satisfied the criteria for approval. These findings have been made under the original development plan approval and were reconfirmed when the age restricted housing DPA was approved. The present DPA does not propose any change to the use or density already approved. No change is being proposed that would affect any of the standards or regulations of the PD zone. Therefore, staff finds that the proposed amendment that is the subject of the current DPA is consistent with and remains in compliance with the findings required to be made at the time of the original development plan approval except with respect to timing.

COMMUNITY CONCERNS

Although staff has only received limited input directly from residents concerning this request, the developers of Clarksburg Village are convinced that a large and growing number of residents in all of Clarksburg are tired of waiting for retail services to come to Clarksburg and are angry about having to drive miles away to meet their daily needs and that this project should be allowed to proceed irrespective of the timing of the larger retail core in the Town Center. An online petition titled “Bring Retail to Clarksburg” apparently garnered more than 350 supporters in only a few days. The applicant’s attorney, in a letter dated November 4, 2010, submitted some of the comments that were part of that petition.

CONCLUSION

As stated earlier, staff concludes that the proposed amendment does not comply with the Master Plan with respect to the **timing** of retail development in Clarksburg. However, the Clarksburg Master Plan calls for commercial uses in both the Clarksburg Town Center and Clarksburg Village. In the sixteen years since the adoption of the master plan, the Town Center commercial uses have not been provided. Further, the

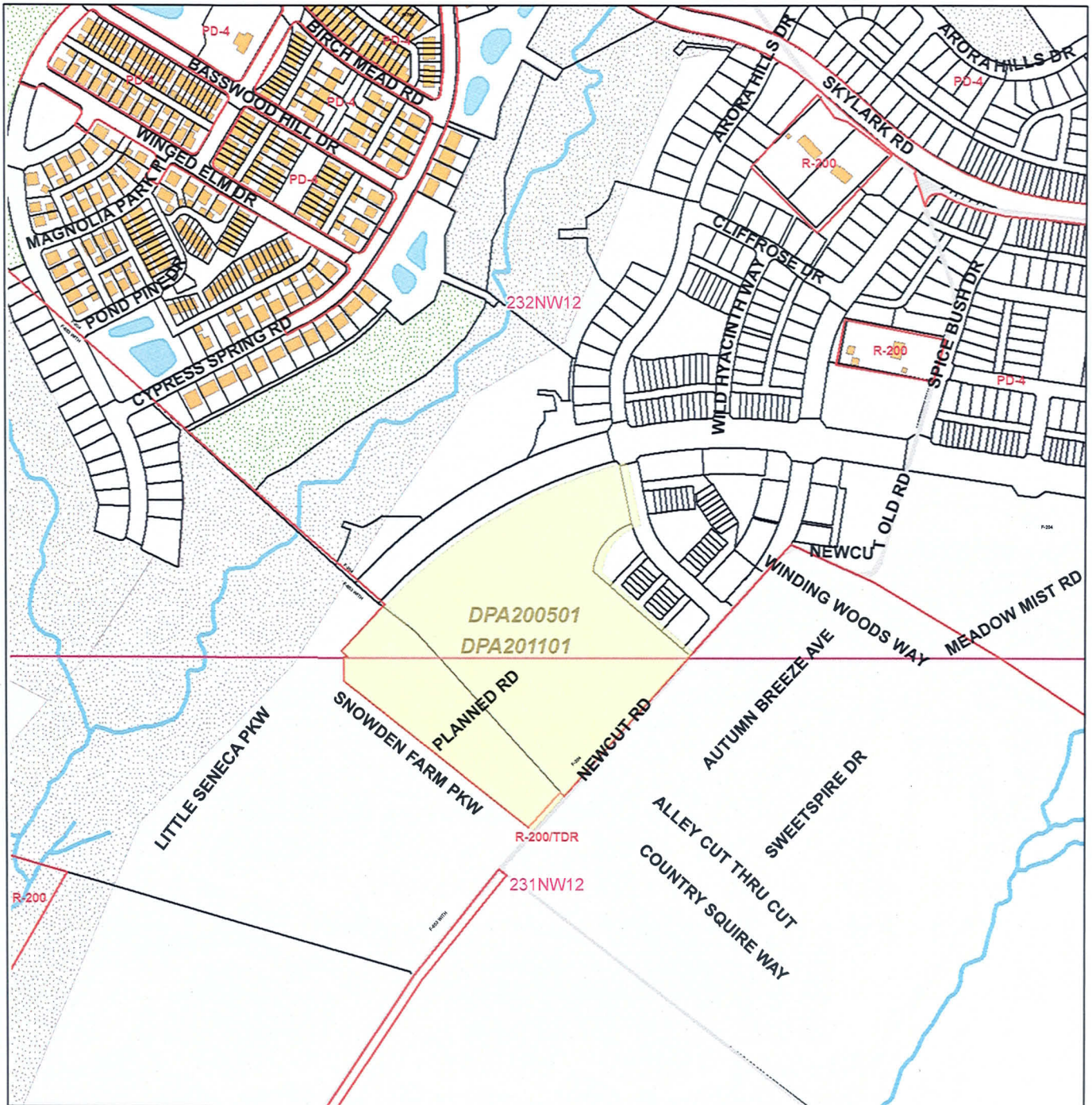
repeal of the development district for the Town Center raises the issue of possible further delays in the delivery of the Town Center.

Because the commercial component of the "Village" is currently dependent upon the creation of the Town Center, further delay in providing the residents of Clarksburg with commercial uses is a possibility. The vision of the Master Plan appears to contradict the market conditions that have both evolved and currently exist. A master plan amendment would consider the sequencing of the delivery of the commercial uses.

LIST OF ATTACHMENTS

1. Location Map
2. Phasing & Neighborhood Map,
3. Phase III Clarksburg Village Illustrative Plan
4. Vision Division Memo
5. Preliminary Plan Resolution
6. Site Plan Resolution
7. Letter in Support of DPA-11-1
8. Excerpts from “Bring Retail to Clarksburg” Petition
9. Applicant Letter to Chair of the Planning Board

General Location Map



LEGEND

- DPA Request
- Zone Boundary
- Parcel
- Lake and Pond
- Stream and River

NOTICE:

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

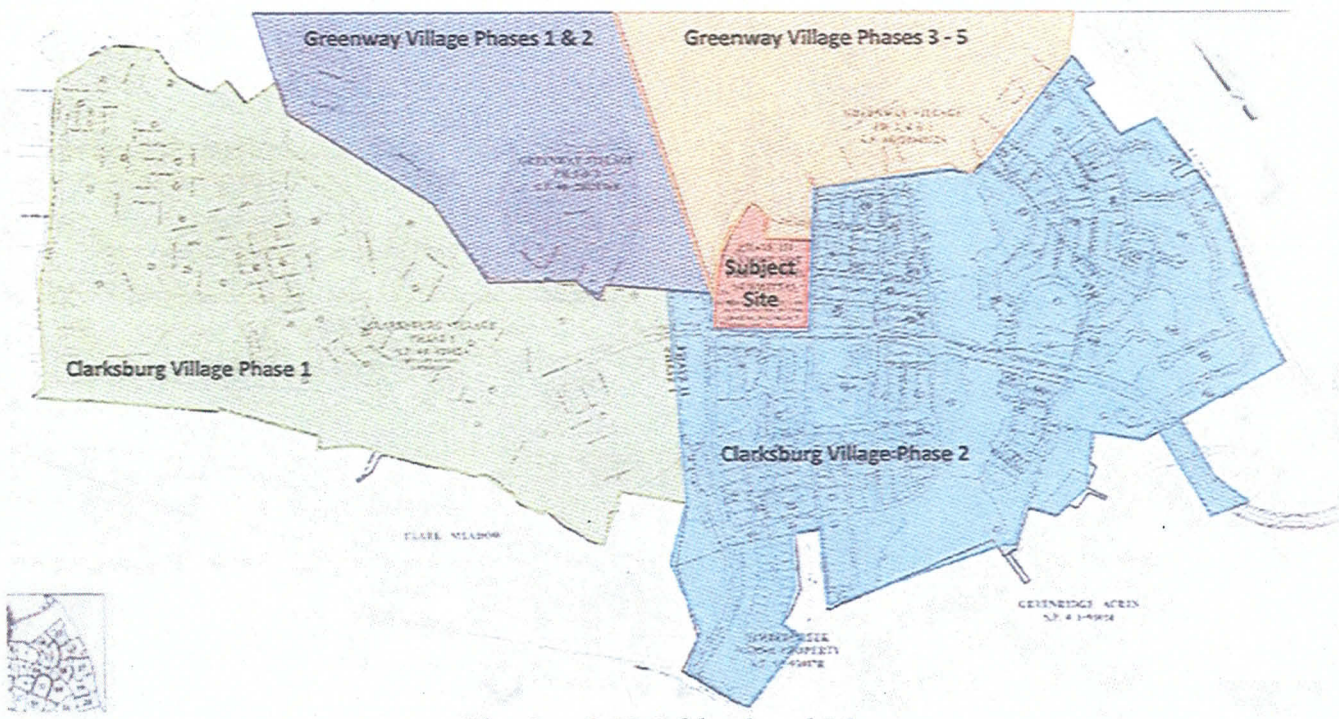
This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area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

1 inch = 500 feet

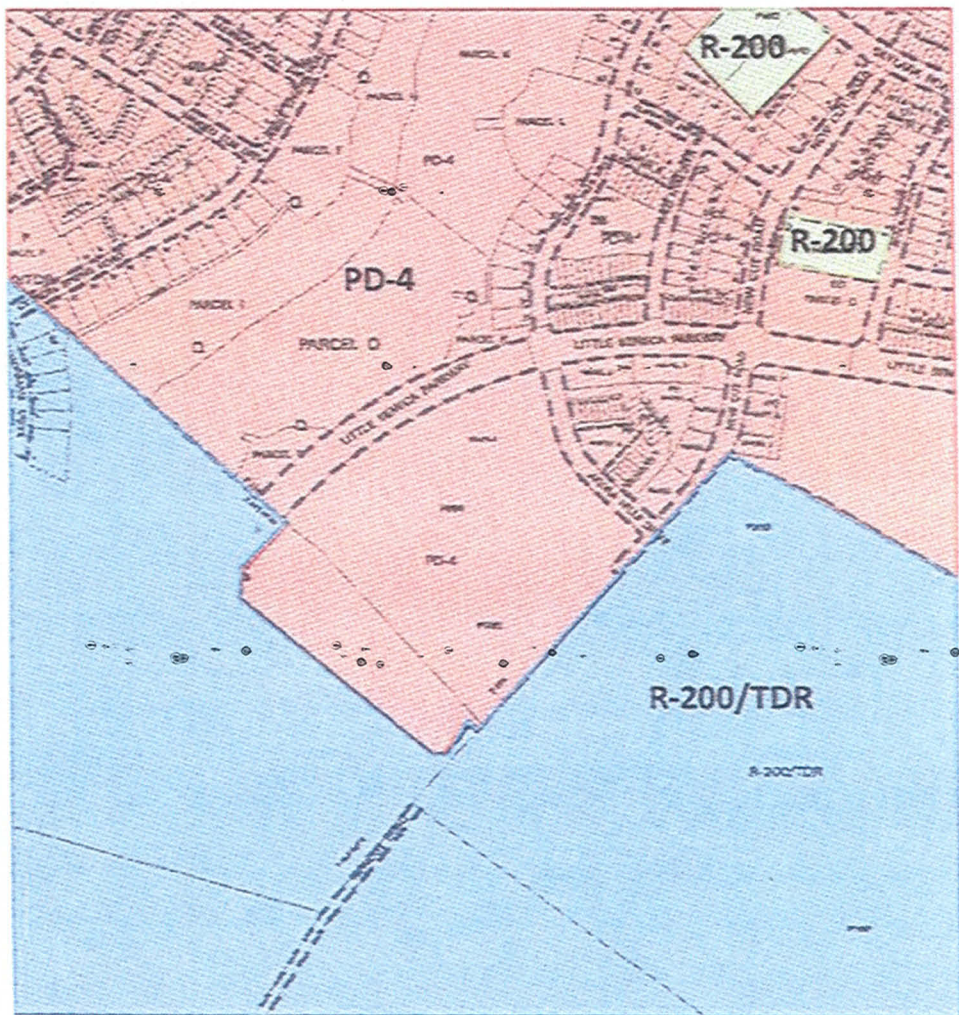
Address: NE corner of Snowden Farm Pkwy & Newcut Rd

Key Map
NTS





Phasing & Neighborhood Map



Zoning Map




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


November 5, 2010

MEMORANDUM

TO: Carlton Gilbert, Planner Coordinator
Development Review Division

VIA: Glenn Kreger, Acting Chief 
Vision/Community-Based Planning Division

Callum Murray, Team Leader
Vision/Community-Based Planning Division

FROM: Ronald Cashion, RA, Planner Coordinator, Urban Designer 
Vision/Community-Based Planning Division

SUBJECT: Development Plan Amendment (DPA) 11-1 - Clarksburg Village

RECOMMENDATION: The Vision/Community-Based Planning staff recommends denial of the Development Plan Amendment.

BACKGROUND

This application is for a limited Amendment to a Development Plan for Clarksburg Village approved by the District Council in 2001. The Planning Board has previously approved preliminary and site plans for the entire Clarksburg Village project and for the mixed-use core that is the subject of the Amendment. Most recently, the Planning Board approved revisions to the Preliminary Plan and Site Plan by Resolution dated August 16, 2010.

The main issue addressed in the Application concerns the timing for construction of the neighborhood retail component of Clarksburg Village/Arora Hills vis-à-vis establishment of 90,000 square feet of retail in Clarksburg's Town Center. The 1994 Clarksburg Master Plan contains a staging element stipulating that the Clarksburg Town Center proceed ahead of other development in Clarksburg, including Clarksburg Village. The April 2010 Site Plan approval for Clarksburg Village includes the following condition:

"Consistent with the binding elements of approved DPA 05-1, building permits must not be issued for the Phase III retail/commercial uses approved with this plan until building permits have been issued for at least 90,000 square feet of the 194,720 square feet of the retail use approved for the Clarksburg Town Center plan." (Emphasis attached.)

Local Map Amendment G-735 (April 2001) and Development Plan Amendment 04-3 (December 2004) both state the following:

“No building permits shall be issued for retail/commercial uses until 90,000 square feet of retail uses within the Clarksburg Town Center have been established”.

The Applicant proposes to amend this condition by substituting the following:

“The subject commercial/retail development will not proceed until the earlier of the issuance of building permits for 90,000 square feet of retail space within (The) Clarksburg Town Center, or May 1, 2012.” (Underline added.)

CLARKSBURG VILLAGE

The Applicant has worked diligently with the community on alternative plans and programs for Clarksburg Village. The approved site plan is in conformance with the Clarksburg Master Plan and is comprised of 109,000 square feet of retail uses, including a 54,000-square foot grocery store, seven (7) other retail uses including a gas station, and other commercial, restaurant and community oriented service uses, with sizes ranging from 4,000 to 15,000 square feet.

Clarksburg Village is an approved site plan which meets the Master Plan goals of a neighborhood retail center, with a mix of accessible uses at a pedestrian scale to meet the needs of residents of the Newcut neighborhood. It is unable to proceed because of a well intentioned policy established by the Planning Board and County Council 16 years ago to encourage retail in Clarksburg Town Center. The primary issue is as follows: how much of a grace period should the Clarksburg Town Center receive to obtain building permits for 90,000 square feet of retail before the situation becomes inequitable, depriving residents in the vicinity of Clarksburg Village of retail services that they wish and expect, and frustrating the other Master Plan objective of establishing mixed-use neighborhoods?

The Master Plan establishes priority for the Town Center with respect to the timing of development, but also supports construction of the Clarksburg Village neighborhood retail area. The Applicant for the latter argues that the Clarksburg Town Center has had 16 years to proceed and proposes that the Town Center receive an additional 18-month grace period (until May 2012) to obtain building permits for 90,000 square feet of retail. Thereafter, regardless of the Town Center status, the Applicant argues that the Clarksburg Village retail uses should be permitted to proceed.

MASTER PLAN RECOMMENDATIONS

The Clarksburg Master Plan establishes priority for the Town Center as the first retail center to be established in the planning area, and contains several specific and consistent provisions pertaining to the timing of retail development for the planned implementation of Clarksburg.

The "Land Use Plan" section of the Master Plan states that *"development is channeled to the Town Center, designated transit stops, and two neighborhood centers."* (MP, Pg. 37.)

The first "Land Use Plan Recommendation" and primary Plan Objective is to *"Create a Town Center which will be a strong central focus for the entire Study Area."* (MP, Pg. 42.)

"This Plan recognizes that retail uses are critical to the validity of the Town Center. A grocery store is particularly important since this type of use can serve as a magnet for other commercial operations (dry cleaners and banks for example)." (MP, Pg. 46.)

Staging *"Principle #4: Development of a Strong Community Identity" - "The Town Center: Encourage the early development of the Town Center to create a strong sense of community identity and to provide a model for later development in other areas."* (MP, Pg. 189.)

"This Plan recognizes that retail uses are critical to the validity of a community and can play a significant role in reinforcing the Town Center as a central focus for the entire Clarksburg area. Once a sufficient critical mass of housing units are in place to support a retail center (retailers indicate that approximately 3,500 to 4,000 dwelling units are needed to support a retail development that includes a grocery store), this Plan recommends that early retail development priority be given to the Town Center. Retail development in the Newcut Road and Cabin Branch neighborhoods should follow the development of approximately 90,000 square feet of retail uses in the Town Center." (MP, Pg. 190.)

"Retail/commercial development in the Newcut Road and Cabin Branch Neighborhoods will be deferred, however, until 90,000 square feet of retail uses have been established in Clarksburg's Town Center." (MP, Pg. 196.) Similarly worded statements are also included under "Implementing Mechanisms".

The Applicant's proposed amendment to the timing condition is contrary to these Master Plan recommendations. While sympathetic to the applicant and the Clarksburg residents' understandable impatience that retail uses are long overdue, staff recommends adherence to the Master Plan. If the County Council decides in favor of a Development Plan Amendment, it should be preceded by an amendment to the Clarksburg Master Plan.

There is a current need and demand for community and neighborhood serving retail in the Clarksburg planning area. Residents often drive to Germantown for their daily retail needs. It is worth noting that most of the Germantown neighborhood retail centers, together with the Milestone "Power Center" were in place prior to the creation of the Germantown Town Center. The Applicant has argued that the Clarksburg Village local neighborhood retail center will not be directly competitive with a larger scale sub-regional Town Center development serving the entire Clarksburg planning area and beyond. While there may be merit to these arguments, they do not justify being selective in which Master Plan recommendations to follow and which to ignore.

CONCLUSION

Several recommendations in the Clarksburg Master Plan specify 90,000 square feet of retail uses in the Town Center to precede retail development in both the Clarksburg Village-Newcut Road and the Cabin Branch neighborhood centers. Staff fully recognizes the current need and demand for community and neighborhood serving retail in Clarksburg. However, the Master Plan places special emphasis upon the Town Center as a retail priority and the proposed DPA is in conflict with this objective. Vision/Community-Based Planning staff therefore recommends denial of the DPA.

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

MCPB No. 10-70
 Preliminary Plan No. 12001030E
 Clarksburg Village
 Date of Hearing: April 15, 2010

JUL 27 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on July 30, 2001, Clarksburg Village Investments, Inc. ("Applicant"), filed its original application for approval of a preliminary plan of subdivision of property that included a maximum of 2,150 lots for a maximum of 2,654 residential dwelling units, 20,000 square feet of office/retail use and a 5,000 square foot daycare facility on 790.04 acres of land located in the south quadrant of the intersection of Stringtown Road and Piedmont Road, and extending southeast from Stringtown Road to Ridge Road (MD 27) ("Property" or "Subject Property"), in the Clarksburg master plan area ("Master Plan"); and

WHEREAS, on January 23, 2003, the Planning Board approved Amendment A to the preliminary plan which incorporated the acreage of the adjacent Nanna Property (Preliminary Plan 119930070) into Clarksburg Village along with its 27 approved residential lots; and

WHEREAS, on June 6, 2005, the Planning Board approved Amendment B to the preliminary plan which increased the total residential development by another 64 units; and

WHEREAS, on July 18, 2007 the Planning Board approved Amendment C to the preliminary plan which brought it into conformance with a Compliance Program that had been established for the Phase I site plan; and

WHEREAS, another amendment was filed subsequent to Amendment C but was withdrawn; and

WHEREAS, on November 17, 2009, Applicant, filed an application for approval of an amendment to a preliminary plan of subdivision of property that included the addition of approximately 17 acres of land to the Property, transfer of 89,000 square feet of retail

APPROVED AS TO LEGAL SUFFICIENCY
[Signature] 7/8/10
 M-NCPPC LEGAL DEPARTMENT

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

use from the adjacent Greenway Village at Clarksburg development (Preliminary Plan 12002033A), addition of 100 multi-family, age-restricted dwelling units, and modification of several of the previous conditions of approval to reflect later actions taken by the Planning Board as part of site plan reviews; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12001030E, Clarksburg Village ("Preliminary Plan", "Preliminary Plan Amendment" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, posted on April 5, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on April 15, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 15, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley, with a vote of 3-1, Commissioners Alfandre, Hanson, and Wells-Harley voting in favor and Commissioner Dreyfuss voting against with Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED, THAT, pursuant to the relevant provisions of Montgomery County Code, Chapter 50, the Planning Board approved Preliminary Plan No. 12001030E on 790.04 acres of land located in the south quadrant of the intersection of Stringtown Road and Piedmont Road, and extending southeast from Stringtown Road to Ridge Road (MD 27) ("Property" or "Subject Property"), in the Clarksburg master plan area ("Master Plan"), including the previously granted waivers of §50-26(e)(3) pursuant to §50-38(a) to permit non-standard intersection truncations, and §50-29(a)(2) pursuant to §50-38(a) to permit lots without frontage on a public street, as shown on the Preliminary Plan, and subject to the following conditions:

- 1) Approval of this Preliminary Plan is limited to a maximum of 2,753 residential dwelling units (including a maximum 100 multi-family, age restricted units), and 109,000 square feet of retail use (including 89,000 square feet of retail use approved under Preliminary Plan 12002033A and being constructed as part of Phase III of the subject Preliminary Plan).
- 2) Consistent with the binding elements of approved DPA 05-1, building permits must not be issued for the Phase III retail/commercial uses approved with this

plan until building permits have been issued for at least 90,000 square feet of the 194,720 square feet of the retail use approved for the Clarksburg Town Center plan (Preliminary Plan 11995042A).

- 3) Conformance to the conditions stated in the Montgomery County Department of Permitting Services (MCDPS) preliminary water quality plan approval letter, dated July 25, 2001; and the final water quality plan approval letters, dated December 15, 2004 (Phase I Site Plan) and September 19, 2008 (Phase II Site Plan).
- 4) Applicant must construct Foreman Boulevard to allow for a grade separated crossing for the hiker/biker Greenway Trail. The trail crossing should be constructed to accommodate the trail under Foreman Blvd. without changing the natural location, configuration, or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly to the stream. Applicant must also provide a safe and adequate at-grade Greenway Trail crossing of Midcounty Highway/Snowden Farm Parkway that is satisfactory to M-NCPPC and Montgomery County Department of Transportation (MCDOT) staff. Exact configuration of this path shall be determined at site plan.
- 5) The park area designated as a Local Park and located on the north side of Snowden Farm Parkway in the Phase II section of the project will be graded according to the park layout concept plan, surfaced with topsoil, and fine graded, and seeded as appropriate for ball field cover. The park will be dedicated to M-NCPPC at the time of record plat for the portion of the Property that includes the park area. Applicant to provide engineering for the park site that adequately provides for grading, seeding and the needed quantity and quality stormwater management for these facilities. Applicant must provide adequate off site quantity stormwater management for the planned park facilities and shall construct quantity and quality stormwater management to sufficiently accommodate any park facilities constructed by the Applicant. Any park improvements are to be constructed to park standards and specifications. Specific types of recreation facilities, if any, and their arrangement on the Property must be coordinated with M-NCPPC staff.
- 6) The Applicant must provide 379 TDRs per the Phase II Site Plan approved February 5, 2009 by the Planning Board. Final number of MPDUs and TDRs as determined by the site plan(s).
- 7) This Preliminary Plan will remain valid until July 30, 2017 and shall be phased for recordation as follows:
 - Phase One: 300 dwelling units by July 30, 2004
 - Phase Two: 997 dwelling units by July 30, 2011

Phase Three: 1,700 dwelling units by July 30, 2014

Phase Four: All dwelling units and the lot(s) for the office/retail use by July 30, 2017

Prior to the expiration of this validity period, a final record plat for all property included in each phase must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

- 8) No recording of lots prior to site plan approval.
- 9) The Adequate Public Facility (APF) review for the 89,000 square feet of retail use approved under Preliminary Plan 12002033A and being constructed as a part of the subject Preliminary Plan will remain valid until December 7, 2016. The APF review for the 2,753 dwelling units and 20,000 square feet of office/retail use included in the subject Preliminary Plan will remain valid until July 30, 2017.
- 10) The following previous conditions of approval for Preliminary Plan 12001030C, as contained in the Planning Board Resolution dated July 18, 2007, and Preliminary Plan 12001030, as contained in the Planning Board Opinion dated January 23, 2003, remain in full force and effect:
 - a. At least sixty (60) days prior to the submission of a complete Site Plan application the Applicant shall submit an "Infrastructure Plan" for Planning Board review. The plan shall include the following:
 - i. Location and types of stormwater management facilities for quality and quantity controls that comply with the conditions of MCDPS' preliminary water quality plan
 - ii. Delineate bike and pedestrian access pathways including all at grade and below grade crossings along all road rights of way and at stream crossings
 - iii. All roadway networks including both private and public connections. Streetscape, lighting, sidewalks and paving materials
 - iv. Delineation of "Greenway" and other open space areas including all environmental buffers
 - v. School sites and Park areas
 - vi. Recreation guidelines concept plan
 - vii. Proposed schedule for clearing and grading of site
 - b. To satisfy Policy Area Transportation Review:
 - i. The Applicant shall participate in widening MD 27 to six through travel lanes from Observation Drive in Germantown through the A-305 intersection; transitioning to two travel lanes through the Skylark Road intersection, including dedication along the site frontage. This improvement along MD 27 is consistent with the Master Plan recommendation. If, after Master Plan dedication along the west side of MD 27, sufficient right-of-way is not available for the proposed widening, the Applicant has to either acquire

- additional right-of-way on the east side of MD 27 or dedicate additional right-of-way and widen MD 27 on their development side.
- ii. The Applicant shall dedicate on-site portions and participate in constructing Relocated Newcut Road (A-302) as a two lane divided arterial roadway between MD 27 and the A-305 intersection and as a four lane divided roadway between A-305 and MD 355.
 - iii. The Applicant shall dedicate and participate in the constructing of A-305 as a four lane divided arterial roadway between MD 27 and Stringtown Road.
 - iv. The Applicant shall dedicate and participate in constructing Foreman Boulevard as a two lane arterial roadway from its current terminus at Timber Creek Lane to A-305.
 - v. The Applicant shall dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage. This roadway improvement can be implemented by either the Department of Public Works and Transportation's CIP project, as a developer participation project or as the Clarksburg Town Center Development District.
- c. To satisfy Local Area Transportation Review:
- i. The Applicant shall participate in constructing a second left-turn lane from northbound MD 355 to westbound MD 27.
 - ii. The Applicant shall participate in constructing additional turn/approach lanes on MD 27 and Brink Road at the intersection of MD 27/Brink Road.
 - iii. The Applicant shall participate in providing a separate left-turn lane from southbound MD 355 to eastbound Brink Road and a separate left-turn lane from westbound Brink Road to southbound MD 355.
- d. The Applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements for Clarksburg/DiMaio development as described in Mr. Rafferty's letter dated August 5, 2002 and confirmed in Transportation Planning Division memorandum dated August 22, 2002.
- e. The Applicant shall construct the following roads as standard closed section primary residential streets, unless otherwise approved by MCDPWT:
- Street "C" between A-305 and Street "D"
 - Street "M" between A-305 and Street "E"
 - Street "E" between A-305 and Street "M"
 - Street "T" between A-305 and Street "Y"
 - Street "Y" between Streets "T" and "Z"
 - Street "GG" between its intersections with A-305
 - Street "Z" next to school
- f. The Applicant shall construct two roundabouts (or otherwise acceptable alternative approved by MCDPWT) on A-305 as shown on the Preliminary

Plan to define the boundaries of the business district portion of this roadway.

- g. The Applicant shall construct A-305 as a business district street between the two roundabouts in accordance with DPWT Standard No. MC-219.03.
- h. All road rights of way shown on the approved Preliminary Plan shall be dedicated by the Applicant, to the full width mandated by the Clarksburg Master Plan, unless otherwise designated on the Preliminary Plan.
- i. All roads shown on the approved Preliminary Plan shall be constructed by the Applicant to the full width mandated by the approved and adopted Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan "To be Constructed by ____" are excluded from this condition.
- j. Additional forest save areas to be created adjacent to the environmental buffer at the northwestern portion of the Property. This will require reconfiguration of the layout for that portion of the Property at site plan.
- k. At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative location. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01, or on the amended Preliminary Plan drawing.
- l. The Applicant shall comply with the conditions of approval of the final forest conservation plan submitted on December 20, 2006. The Applicant shall satisfy all conditions of approval before recording of the record plat(s) or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:
 - i. Applicant to post a new financial security instrument for the entire forest planting area that includes the additional 2-2½" caliper trees required as part of the site plan Compliance Program.
 - ii. Applicant shall honor the limits of disturbance as shown on the April 12, 2005 approved final forest conservation plan between lots 106 and lot 128 of Block U.
 - iii. Applicant to provide compensation for the loss of 2.14 acres of forest that is shown on the April 12, 2005 approved plan. Compensation must be in addition to areas previously shown as saved or planted.
- m. Measures to mitigate traffic noise impacts on residential uses to be shown at site plan. Mitigation measures to be shown along Ridge Road.

Mitigation measures may also be needed along Stringtown Road, A-302, and A-305.

- n. Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway, then north to the Greenway Village development to connect with the portion of trail being constructed as part of that project. Greenway Trail and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant to obtain a park permit. Trails to be clearly marked or constructed prior to beginning construction on homes adjacent to the Greenway parkland.
- o. The trail alignment for the portion of the Greenway Trail near the confluence of Little Seneca Creek and Town Center Tributary to be determined at the time of permitting for the construction of Little Seneca Parkway/A-302. The Preliminary Plan shall be revised to show two alternative routes for the Greenway Trail in this stream confluence area. The preferred route would continue through the Bradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the property owner. The alternative route would circumvent the Bradley property on land already owned by Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway. The exact delineation and details of these two alignments shall be determined as part of the site plan.
- p. The Applicant shall dedicate to M-NCPPC the property within the delineated Clarksburg Greenway along Little Seneca Creek and Little Seneca Tributary. Include in dedication the land along the Little Seneca tributary north of Snowden Farm Parkway to the northern boundary of the project Property where the Baltimore Checkerspot Butterfly is located. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris, and boundaries between parkland and private properties to be clearly staked and signed.
- q. The school/park site off of Snowden Farm Parkway in the Phase I section of the project, will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. Recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved site plan Compliance Program. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The entire school/park site to be conveyed

to M-NCPPC at time of record plat for the development area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.

- r. Phasing of the dedication of the school/parks sites shall be incorporated as part of the phasing schedule included in the site plan approval.
- s. At site plan address specifically the following:
 - i. Dwelling unit type and layout within the mixed use center
 - ii. Coordinate with adjoining property owner to achieve a well integrated and designed commercial center that locates parking to the rear and provides special treatment for paving, seating, landscaping, lighting and other pedestrian amenities
 - iii. Provide adequate "windows" into open space areas
 - iv. Dwelling unit orientation along all road rights of way
- t. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- u. All prior applicable conditions of Preliminary Plan No. 1-93007, Nanna Property remain in full force and effect.
- v. The Applicant shall record new record plats to revise the rights-of-way for the following roads to meet MCDPWT Standard No. mc-210.03 (reduced width tertiary) as required by the site plan Compliance Program:
 - Bent Arrow Drive (from station 10+52 to 5+90 (approximate))
 - British Manor Drive (from station 1+03 to 0+00 (approximate))
 - Granite Rock Road (from station 10+15 to 15+07 (approximate))
 - Robin Song Drive (from station 5+90 to 8+11 (approximate))The Applicant shall also record new record plats to modify the square footage of the residential lots abutting these rights-of-way, where necessary, and to show necessary public improvement easements (PIEs).
- w. The boundary of the Preliminary "lan shall be expanded to include Outlot C, Block F and Outlot D, Block E in the adjacent Greenridge Acres Subdivision, which were placed in reservation for the construction of A-305 (Midcounty Highway). The Applicant shall file a record plat that dedicates a portion of this land for the right-of-way of A-305.
- x. The Applicant shall submit an amendment to the approved Phase I Site Plan that reflects the revised layouts of blocks F, G, H, K, L, P, T, and V, as shown on the amended Preliminary Plan and discussed in the site plan Compliance Program. Final design of these areas shall be determined by the amended site plan.
- y. The boundary of the Preliminary Plan shall be modified to reflect land swaps between Clarksburg Village and the adjacent Greenway Village Subdivision, as shown on the Preliminary Plan.

- z. The Applicant shall comply with the conditions of the MCDPWT approval letter, dated December 21, 2006, unless otherwise amended by MCDPWT.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan continues to substantially conform to the Clarksburg Master Plan.*

The mix of retail and age restricted residential uses that are included in this limited amendment were found to be in substantial conformance with the 1994 Clarksburg Master Plan as part of the previous reviews for Clarksburg Village (Preliminary Plan 120010300), Greenway Village at Clarksburg (Preliminary Plan 120002033A), and Development Plan Amendment DPA 05-1. Those findings continue to apply. The Subject Property is located in the Newcut Road Neighborhood defined in the Master Plan. The Master Plan recommended development in the Newcut Road Neighborhood as a mixed-use neighborhood with a transit-oriented land use pattern and interconnected streets, and strong pedestrian and bicycle linkages to schools, parks and the Clarksburg greenway network. The Plan also recommended a diversity of housing types that are dispersed within the neighborhood. The Planning Board finds that the Preliminary Plan Amendment is in substantial conformance with the recommendations of the Clarksburg Master Plan because it proposes neighborhood-serving retail and age restricted housing uses that will be near shopping, bus routes and a public trail system.

The Master Plan also makes recommendations for the adjacent Town Center analysis area that affect this application. The master plan "recognizes that retail uses are critical to the validity of the Town Center" and contribute to "reinforcing the Town Center as a central focus for the entire Clarksburg area." The Plan also "recommends that early retail development priority be given to the Town Center." Specifically, the Plan states, "[r]etail development in the Newcut Road and Cabin Branch neighborhoods should follow the development of approximately 90,000 square feet of retail uses in the Town Center. (MP, Pg., 190)." This recommendation was incorporated into the approval of the Development Plan Amendment (DAP) for the Subject Property by the inclusion of a binding element that requires the development of at least 90,000 square feet of retail uses in the Town Center prior to any retail construction on this Property. Staff's recommended conditions of approval included a similar condition with the added provision that if the Applicant were to seek and be

granted an amendment to the DPA that modified this requirement, retail construction on the Subject Property could begin without further amendment of the Preliminary Plan.

At the Hearing, the Planning Board discussed the language of Staff's recommended condition after a concern was raised that it delegated the Board's authority to make its required finding that the Plan substantially conforms to the Master Plan to the County Council. There was also concern that, with the language proposed, the Plan would not be in substantial conformance with the Master Plan. The Applicant's representative argued that it was appropriate for the Board to leave open the opportunity for the Council to waive the retail phasing requirement since it was a requirement of the DPA, not of the original Preliminary Plan. The Applicant's representative further argued that the Master Plan states, although no specific citation was given, that the retail phasing should be applied at the time of development and project plans.

The Planning Board finds that the recommendation for staging of commercial retail development within Clarksburg is contained within the Staging Recommendations of Chapter Nine of the Master Plan – Implementation Strategies (MP, Pg., 190). The Board finds that the prioritization of retail uses in Town Center, as recommended by the Master Plan, remains a critical part of ensuring that the Town Center becomes the central focus area that is envisioned. The Board further finds that although retail construction has been delayed within Town Center, the delay does not constitute an event that renders the Master Plan recommendations no longer appropriate. As such, the Board finds that construction of the retail uses included in this Application should not begin until 90,000 square feet of retail is constructed in the Town Center and is restricting this Application accordingly. The Board also finds that another preliminary plan amendment will be needed to revisit this issue, even if the County Council removes its requirement as part of a future action on another DPA. With these findings, and amended language in the condition for retail phasing, the Planning Board finds that the Application substantially conforms with the recommendations of the Clarksburg Master Plan.

- 2. Public facilities will be adequate to support and service the area of the proposed amendment to the subdivision, and the Planning Board's previous findings concerning the adequacy of public facilities for the remainder of the subdivision still apply.*

Public facilities are available and remain adequate to serve the proposed development. The retail uses included in this application were approved as part of the original preliminary plans for Clarksburg Village and Greenway Village at Clarksburg. The previously required transportation improvements provide sufficient transportation capacity to accommodate the use and no other

transportation issues have been identified regarding the proposed amendment. The Staff analysis of the proposed age restricted housing was conducted at the time of the Development Plan Amendment (DPA-05-01) and concluded that the comprehensive roadway improvements that were conditioned of approval for Clarksburg Village and Greenway Village preliminary plans will also adequately address the transportation requirements for this use. The previously approved Adequate Public Facilities reviews for the Clarksburg Village and Greenway Village plans remain valid until July 30, 2017 and December 7, 2016, respectively. Prior to these dates, the Applicant must obtain building permits for the entire development or request an extension.

As set forth in the Planning Board's opinions and resolutions for the previous approvals, the following findings still also apply:

3. *The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.*
4. *Previous waiver granted by the Planning Board to permit lots without frontage on a public street still applies.*
5. *Previous findings by the Planning Board to permit dedication of less than 25' corner truncations, and the use of reduced tertiary streets still apply.*
6. *The Application continues to satisfy all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*
7. *The Application continues to meet all applicable stormwater management and water quality plan requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the previous determination by the Montgomery County Department of Permitting Services ("MCDPS") and the Planning Board that the Stormwater Management Concept and Water Quality Plan meet MCDPS's standards.*

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

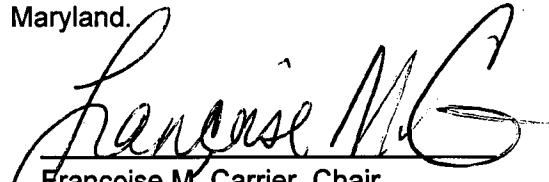
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is 11/17/2011 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with Commissioners Alfandre, Dreyfuss, and Wells-Harley voting in favor of the motion, and with Chair Carrier abstaining and Commissioner Presley absent, at its regular meeting held on Thursday, July 15, 2010, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

MCPB No. 10-77
Site Plan No. 820100040
Project Name: Clarksburg Village Phase 3
Date of Hearing: April 15, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on April 15, 2010, Clarksburg Village Center, LLC ("Applicant"), filed an application for approval of a final water quality plan and site plan for development of 100 age-restricted multi-family dwelling units, including 13 MPDUs, and 109,000 gross square feet of retail ("Site Plan" or "Plan") on 17.40 acres located on Newcut Road approximately 4,000 feet north of Frederick Road in the PD-4 zone ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820100040, Clarksburg Village Phase 3 (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 5, 2010, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on April 15, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 15, 2010, the Planning Board approved the Final Water Quality Application subject to conditions on the motion of Commissioner Wells-Harley and seconded by Commissioner Alfandre; with a vote of 4-0, Commissioners Alfandre, Dreyfuss, Hanson, and Wells-Harley voting in favor, Commissioner Presley being absent; and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, on April 15, 2010, the Planning Board approved the Site Plan Application subject to conditions on the motion of Commissioner Alfandre and seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Dreyfus, Hanson, and Wells-Harley voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Final Water Quality Plan and Site Plan No. 820100040 for 100 age-restricted multi-family dwelling units, including 13 MPDUs, and 109,000 gross square feet of retail in the PD-4 zone on 17.40 acres; located on Newcut Road approximately 4,000 feet north of Frederick Road, subject to the following conditions:

Conformance with Previous Approvals

1. Development Plan Conformance

The proposed development must comply with the binding elements of the local area map amendments G-735 and G-784 and development plan amendments 04-3 and 05-1.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 12001030E, as amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, Local Area Transportation Review, and Department of Transportation conditions.

Environment

3. Forest Conservation

The proposed development must comply with the conditions of the approved final forest conservation plan received by M-NCPPC on March 31, 2010. The Applicant must satisfy all conditions prior to the recording of a plat(s) or to the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

4. Final Water Quality Plan

The proposed development is subject to the conditions as stated in the Department of Permitting Services letter dated December 22, 2009 approving the elements of the special protection area water quality plan under its purview.

Parks, Open Space, & Recreation

5. Recreation Facilities

- a. The Applicant must meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The Applicant must provide the following recreation facilities on site: an outdoor seating area, pedestrian connections to the adjacent sidewalk and trail system, and an indoor community space within the multi-family building.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, plantings, plazas, sidewalks, and seating areas.

Transportation & Circulation

7. Bike Lockers

Provide two inverted-U bike racks, or equivalent, proximate to the primary entrance (or midpoints of the building façade if there are multiple entrances) of each of the 9 proposed buildings. Capacity for 36 bicycles must be provided in total.

8. Pedestrian Circulation

- a. Provide a mid-block pedestrian connection across Snowden Farm Parkway at the intersection with the interior street as approved by DOT and DPS.
- b. Provide striped crosswalks from any handicapped parking spaces to accessible ramps wherever those parking spaces are separated from the building entrance by a drive aisle or street.
- c. On-site paving scoring and coloration may change due to commercial tenant requirements but may not be built of any material not shown on the certified site plan.

Density & Housing

9. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide a minimum of 12.5% on-site in accordance with Chapter 25A of the Montgomery County Code. The Applicant is not receiving any density bonus for providing these MPDUs.
- b. The Applicant must obtain an agreement to build pertaining to the construction and staging of MPDUs from the Department of Housing and

Community Affairs (DHCA) prior to the issuance of any residential building permits.

- c. The final unit distribution and bed-rooms per unit for the MPDUs within the multi-family building must be approved by DHCA. Any resulting changes to the parking requirements must be accounted for on site.

10. Occupancy Provisions

The age-restricted housing must comply with the federal definition of "age restricted" housing and will be stipulated in the agreement to build approved and enforced by DHCA.

Site Plan

11. Architecture

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on sheets A-18 and A-19 of the submitted architectural drawings, as determined by M-NCPPC Development Review and Urban Design staff.

12. Landscaping

- a. Substitutions for particular varieties of plant material may be made per approval of M-NCPPC Development Review staff.
- b. All plantings, lighting, and amenities within stormwater management easements and Montgomery County rights-of-way are subject to final approval by the relevant permitting agency with the exception of the specified plant sizes shown on the applicable certified site plan(s). Changes to the landscaping and lighting within these areas will not require a site plan amendment.

13. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential and commercial development, as applicable.
- b. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- c. Illumination levels from on-site fixtures may not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- d. The height of the light poles shall not exceed 32 feet including the mounting base.

14. Landscape Surety

The Applicant must provide a surety (performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety must include plant material, on-site lighting, recreational facilities, and site furniture within the relevant area of development. Surety to be posted prior to issuance of first building permit and will be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which will establish the initial bond amount.
- c. Completion of plantings by area to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the respective parties and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

15. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities, must be installed prior to release of each building occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. Community-wide pedestrian pathways and recreation facilities, including perimeter sidewalks and crosswalks, must be completed prior to issuance of any commercial building permit.
- f. Landscaping associated with each parking lot and building must be completed as construction of each facility is completed.
- g. The development program must provide phasing of the indoor community space, dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

16. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading."
- c. Modify data table to reflect development standards enumerated in the staff report.
- d. Ensure consistency off all details and layout between site plan and landscape plan.
- e. Make minor corrections to layout and details as required by staff.
- f. Building envelopes for all of the buildings.

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Village Phase 3 drawings stamped by the M-NCPPC on March 26, 2010, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the staff report, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The site plan conforms to all binding elements of the development plan amendment (DPA) 05-1:

1. The age-restricted housing is limited to a maximum of 100 dwelling units.
2. The number of parking spaces provided for the age-restricted housing units meets the requirements of the zoning code.
3. The age-restricted housing must be built in a single phase according to the development program.
4. The building height of the age-restricted housing will be 4 to 5 stories with a maximum height of 55 feet above the finished grade of Arora Hills Drive.

5. The age-restricted housing must provide architectural design features presenting a compatible residential appearance on all sides as conditioned by the site plan approval.
 6. All 12.5% MPDUs must be provided on site.
2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The proposed uses, age-restricted, multi-family residential units and commercial retail, are allowed in the PD-4 Zone if they are shown on an approved development plan; these uses were approved by DPA 05-1.

The site plan fulfills the purposes of the PD zones as detailed in the following outline.

- The 1994 Clarksburg Master Plan recommends that the subject site be rezoned to the PD-3 to PD-5 zones to help fulfill a vision of the "Newcut Road Neighborhood". This recommendation, in turn, fulfills the wedges and corridors concept of the General Plan by locating higher density in self-sustainable core areas, especially those with eventual links to transit corridors such as the Corridor Cities Transitway. The zoning and unit mix utilizes the PD-4 zone standards to implement both the Sector Plan and the General Plan.
- The site design facilitates social interaction by locating multi-family and commercial uses at a central location with pedestrian connections and amenities provided throughout the site and by providing front doors directly on community sidewalks. The tight-knit nature of a development with this level of density will further create a sense of community. Because of the character of the site, which transitions from a variety of residential building types to retail services within a relatively small area, this community will have a distinct character and identity.
- There will be a minimum of two different unit types within the multi-family building. Because these are age-restricted units, a greater diversity of residential opportunities is provided within the neighborhood.
- Open space is provided over the minimum of 40% of the total site, which permits both active and passive recreation and a variety of spaces for social interaction. There are numerous open spaces, natural areas, trails, and recreation facilities within walking distance of the site.
- Pedestrian circulation is provided throughout, connecting all of the open spaces and seating areas within the site. Further, these internal paths connect to the public sidewalks and provide access to off-site sidewalks that lead to neighborhood parks, trails, schools, and neighborhoods. Each of the buildings has direct access to this pedestrian circulation system.

- This site is part of a larger 1,060 acre tract that fulfills the purpose of the large-scale nature of planned developments.
- This site provides safe and convenient access to internal sidewalks, parking, and amenities as well as connections to adjacent and nearby amenities.
- This application establishes the comprehensive and systematic development of the county that was envisioned by the master plan; accomplishes the purposes of the zone, as outlined above; and, as conditioned by preliminary plan amendment 12001030E, is in substantial compliance with the Master Plan through the provision of additional unit types and commercial services, compatible building styles, and pedestrian-oriented sidewalk networks.
- The uses proposed are compatible with other uses in the vicinity as detailed in the finding for compatibility.

Project Data Table for the PD-4 Zone

Development Standard	Permitted/Required by DPA 05-1	Proposed for Approval
Density		
Age-Restricted Residential Units	100	100
Commercial (square feet)	109,000	109,000
Building Height (feet)¹		
Multi-Family	55	55
Commercial	Not specified	49
Building Setbacks (feet)²		
Public Right-of-Way	Not specified	10
From any Adjacent Residential Lot	Not specified	50
Parking Setbacks (feet)		
Public Right-of-Way	10	15
From any Adjacent Residential Lot	6	15
Green Area (% of gross tract zoned PD-4)		
	40	40
Parking Facility Internal Landscaping (%)		
	5	5
Parking Spaces		
	683	696

¹ As determined by building height measurement points delineated on the certified site plan for each building.

² Final location of buildings may shift up to minimum setback within the building envelope established on the certified site plan.

As the project data table indicates, the site plan meets all of the development standards of the approved development plan amendment and the zone. With respect to building height, setbacks, and density the proposed development meets the maximum and minimum standards allowed. With respect to minimum gross tract area, green space, units per acre, and mix of unit types, the subject site plan meets the standards of the zone in conjunction with site plans 82003002A and 820050410.

- 3. The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The buildings and structures of the proposed development are located primarily around the perimeter of the site establishing relationships to the adjoining streets and residential buildings. This is appropriate for the neighborhood character envisioned by the Master Plan. These locations provide easy access to the building from adjoining sidewalks and parking. The locations of the buildings and structures are adequate and efficient, while meeting the aesthetic concerns of the area, and do not pose any safety concerns on the site.

The open space that is provided is primarily through the use of a sidewalk network connecting the buildings and the adjacent sidewalks. It serves to promote walking between areas and buildings by patrons and nearby residents. A prominent open space is provided for the community at the corner of Newcut Road and Snowden Farm Parkway.

Landscaping provides a screen for the parking where it fronts on external roads or residences and the larger open space is used primarily for stormwater management. Street trees and lighting are provided along the external and internal streets to enhance the pedestrian environment. Interior lighting will create enough visibility to provide safety in the parking areas but not so much as to cause glare on the adjacent roads or properties. The recreation facilities required are provided in or around the multi-family units and additional benches and bicycle facilities are provided throughout the site. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed uses and the recommendations of the Master Plan, while providing a safe and comfortable environment.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety is enhanced by several improvements including crosswalks and signalization. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. This balance of pedestrian and vehicular circulation

needs meets the recommendations of the Master Plan and is an efficient and adequate means to provide a safe atmosphere for pedestrians, cyclists, and vehicles.

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

The proposed multi-family building is compatible with the adjacent and confronting uses as well as approved but unbuilt development. The height is similar in scale to the nearest uses with the 5 story façade facing only a wide parkway and park beyond. The architectural details provided on the building further reduce the sense of scale by breaking up the massing of the building's face. The use is well-integrated into the surrounding mix of residential uses.

The proposed commercial buildings are laid out with the smaller footprints along the perimeter of the site and the largest building set internally. This helps create more a more balanced sense of scale between the residential and commercial buildings. The heights and articulation of rooftops help ensure compatibility with the rooflines that will sit across Snowden Farm Parkway and Newcut Road. Breaks in the streetwall and open space along the road frontages further enhance this sense of complementary scale and rhythm.

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

The proposed development will provide 6.79 acres of reforestation within the Clarksburg Village, Phase 2 development area. All of the planting requirements will be met through a combination of landscape credit and onsite planting.

Stormwater quality control is provided via a treatment train consisting of micro bioretention structures, surface sand filters, structural filters and hydrodynamic pretreatment structures. These features will ensure the goals of the final water quality plan are met for this special protection area.

BE IT FURTHER RESOLVED, that this resolution constitutes the written opinion of the Planning Board in this matter and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

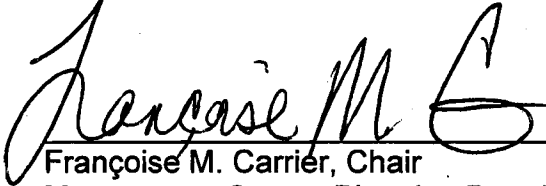
BE IT FURTHER RESOLVED, that the date of this resolution is AUG 16 2010 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Commissioner Wells-Harley, with Chair Carrier and Commissioners Wells-Harley, Alfandre, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, July 29, 2010, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

MCP-CTRACK

From: sarwar98@yahoo.com
Sent: Wednesday, November 03, 2010 10:41 AM
To: MCP-Chair
Subject: Clarksburg Villege Aurora Hills Retail

RECEIVED
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NOV 03 2010

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

Mr. Francoise Carrier:
M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910

Dear Mr. Carrier:

I am writing to you to support re-zoning the Clarksburg Village / Aurora Hills Retail Center in Clarksburg MD. We moved to Clarksburg in 2007 expecting the services such as wider roads, a library, a fire station and most of all, local shopping would follow soon, nothing has happened.

Since we have moved, we have been reading the travails of the retail center in Clarksburg Town Center in the Gazette. There is no light at the end of the tunnel and it seems that we will be relegated to driving to Germantown or Damascus for groceries etc.

I am asking the Planning Board and yourself to consider the inconvenience residents of Clarksburg experience on a daily bases. Since the Clarksburg Plan was conceived years ago, the situation has changed and it is your responsibility to put the convenience of the residents above the existing regulations. Please re-zone the Clarksburg / Aurora Hills Retail to allow it to be built as soon as possible.

Respectfully
Sarwar Faraz
11932 Kigger Jack Lane
Clarksburg, MD 20871

**Clarksburg Village
Excerpted Comments from "Bring Retail to Clarksburg" Petition
November 4, 2010**

1. Help complete the community.

"The plan designed by our committee is pragmatic, and the hard working people of this community deserve your attention to this matter."

"The establishment of the retail section is vital to completing our neighborhood feel and will continue to attract residents to our community."

"Our families are young and we want to make our community vibrant with character and amenities."

"Clarksburg Village is a community in bloom. Despite economic downturns, we are still a growing community, and we are residents with vested interest in the community's success and prosperity. I believe this includes retail availability in the immediate vicinity."

"..also believe adding retail will add a larger "sense of community" and would be a overall improvement to community appeal and amenities."

2. Clarksburg Town Center has had time to materialize their retail and they've been unsuccessful in this effort. It is time to let the free market take over.

"Listen to the wishes of this community of citizens in Montgomery County. We entrust you to make decisions that work for us, regardless of any political or legal issues you may face in changing the existing plan--that has produced nothing for the residents of Clarksburg. We are ready to move ahead; please support the plan for Clarksburg Village's retail space."

"To have Clarksburg Village residents, and the community at large, penalized due to legal issues and red-tape in the Town Center is ridiculous and incredibly frustrating."

"Why should Clarksburg residents pay the price for mistakes made by planners and developers?! Clarksburg Village is ready to build our retail, let them build for us! Why stick to a restriction that is completely irrelevant now?"

3. Traffic/Travel time:

“My family and I have lived in Arora Hills for four years now and are still waiting on a commercial retail center in Clarksburg. We moved here in hopes of being a part of a more affordable community where we can live, shop and dine without having to drive 20 to 25 minutes to do so. However, we often grocery shop at the Harris Teeter in Darnestown, almost 25 minutes away because of the need for a good store that is not overpopulated....my family and I are in full support of moving forward on this center ASAP.”

“The traffic on 355 and 27 is increasingly congested and the single Giant grocery at that intersection is horribly crowded and traffic is a nightmare. There are also extremely limited restaurant options nearby; residents are sure to frequent new places in Clarksburg Village. To have Clarksburg Village

“Clarksburg Retail is an important project for us as currently we need to go to Germantown for every little need and traffic on 27 some time makes our 10 minutes trip to 30 minutes.”

4. Build the walkable community envisioned by the planners, the developer, and the residents that purchased homes here.

“What a shame!! The other day, I was in the Kentlands with my children and they asked why the coffee shop was so crowded! I said, "because people can WALK to it!" Unfortunately, many of us in Clarksburg will never have that opportunity with our kids while they are young...”

5. Save the environment:

“In the age of "green" I think all Clarksburg residents should be provided the opportunity to do our part by saving gas and air pollution. A retail space in Clarksburg, with all the nice bike paths already built, means that many of us will be able to bike to the retail centers. Surely, the Planning Board can back that idea!!”

“In a time when all citizens are taking a closer look at their impact on the environment, why would you force such a large community to drive to another town instead of building a retail center that many people in the community could get to by walking or riding their bicycle?”

6. Convenience

“As owners in Clarksburg we deserve our own retail convenience. With 2 small children in the house, having to pack up and drive to either Germantown or Urbana is too much hassle...bring retail to Clarksburg!”

“We have two 85 year olds living in the house and so close is important.”

“Even to get the basic necessity such milk or bread, we need to drive for 10 minutes which can be really inconvenient at times.”

“I have elderly neighbors who have to come to me for help getting supplies at night as they are not comfortable driving 12 or 14 miles at night.”

“Living in the community with two small children, the resources included in this plan are a necessity, especially in emergency situations.”

“I am very interested in having a pharmacy and other retail close by, especially for the fact that when my children are sick it would be a much better option to have a place to get medicine in those times that they need it quick and not have to drive to Damascus or Germantown to get it.”

7. The Master Plan is antiquated; why should residents pay for this mistake?

“The constraint made 16 years ago doesn't fit the current development of town of Clarksburg, and it should be changed.”

“The 1994 restrictions are outdated and there is no logic in holding off or prohibiting the start of the Clarksburg Village/Arora Hills retail until 89,000 square feet of retail in Town Center is established.”

“If we wait for town center, who knows how long we will wait.”

8. We live in a free market economy

“It's stupid that we have to petition the government for services that every other community in the free world takes for granted.”

“The Clarksburg Village/Arora Hills Retail should be allowed to proceed with the 1994 restriction lifted. Plans are made to be adjusted based on current conditions.”

Just as an airplane makes numerous small course corrections to reach a goal 3000 miles away, we ask that the Planning Board make a "course correction" to the Master Plan to allow the New Cut Retail to proceed ahead of the Town Center Retail."

"We are tax payers in a new community which lack basic needs such as retail shopping within walking distance, since public transportation is very limited in the area."

9. Support the creation of jobs.

"Support the creation of new jobs and help the environment by allowing the Clarksburg Village/Arora Hills Retail to move forward now!"

"Completion of the Retail Site will bring jobs, revenue, and increased quality of life to upcounty residents - Clarksburg in particular."

10. Increase property values.

"Please help improve our community with retail areas that will help increase local business opportunities, increase property values and overall community morale for our area. Thank you."

Holland & Knight

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Holland & Knight LLP | www.hklaw.com

Robert Roland Harris
(301) 215-6607
robert.harris@hklaw.com

November 4, 2010

VIA E-MAIL AND FIRST CLASS MAIL

Francoise Carrier, Esq.
Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Clarksburg Village Center, LLC (Development Plan No. 11-1)

Dear Chair Carrier and Members of the Planning Board:

We represent Clarksburg Village Center, LLC, the Applicant in this proceeding. The purpose of this letter is to provide additional information in connection with your consideration of this Development Plan Amendment, scheduled for November 18, 2010. The subject of the Application is the construction of 89,000 square feet of neighborhood retail space, designed primarily to serve the Newcut Road Neighborhood of Clarksburg, including Clarksburg Village and Arora Hills. Significantly, the County already has issued all of the necessary land use approvals (Development Plan, Preliminary Plan and Site Plan). The only issue here is whether the project should be delayed even further while continuing to await construction of the Town Center retail district some time in the future. This Application requests authority to proceed with this project by May, 2012.

The issue you must consider is the extent to which the recommendation included in the 1994 Clarksburg Master Plan, proposing deferral of other retail in Clarksburg until the Town Center retail proceeds, should continue to prevent the Newcut Road Neighborhood retail from proceeding now, more than 16 years later. We believe the original expectations have proven to be incorrect, circumstances have changed after nearly two decades, and the time has come for this project to proceed. Whatever goal the addition of that timing guideline in the Clarksburg Master Plan had many years ago when it was added to the Plan, has been supplanted by other, over-riding circumstances, the most significant of which is the complete absence of a grocery store and neighborhood retail services within the entire Clarksburg community, now comprised of nearly 5,000 households and growing.

The Applicant intends to present evidence at the hearing demonstrating why the time has come to allow this neighborhood retail to proceed. Among the points we intend to make and hope that you will consider are the following:

- Master Plan provisions are guidelines, not a straight jacket; with the growing passage of time after adoption of the Master Plan, those guidelines become even more flexible.
- Now, more than 16 years after the Clarksburg Master Plan was written, the expectations with respect to the timing of the Town Center retail district have proven to be incorrect and the continuing absence of retail services is adversely impacting both the residents of the Newcut Road Neighborhood and the overall community.
- Most people in Montgomery County have at least one, and probably two or more grocery/neighborhood retail choices within 3 miles of their home; Clarksburg residents have none.
- The Town Center retail district differs from the Newcut Road community retail. It will be larger, will provide space for higher end retail, will use structured parking to support its density and mix of uses, and is intended to serve the entire subregion, not just the local neighborhood.
- Such town center retail districts with structured parking typically occur at or near the end of build-out of a community, being preceded by smaller scale, local retail services.
- History now has proven that more substantial retail in the Town Center, with structured parking and other amenities, is not financially feasible at this time whereas there is incredible demand for smaller scale, neighborhood retail services.
- A central goal of the Master Plan is the creation of multiple neighborhoods, each with a mix of uses, including multiple neighborhood retail centers to serve each local community, something that is completely lacking in the Newcut Road Neighborhood.
- A rapidly growing number of residents in the Newcut Road Neighborhood are questioning why their retail cannot proceed and why they have to continue driving, year after year, so far for their daily needs.
- The Clarksburg Master Plan presents opportunities for multiple types of retail services at various locations, including both this neighborhood center and the larger, Town Center retail district. Nearly every community in Montgomery County has not one, but two or more grocery stores and retail centers. Historically, Safeway and Giant both have co-located in the same community and now Harris Teeter, Whole Foods, Trader Joe's, Balducci's and others are adding to the mix. Virtually any community larger than a small rural hamlet can support more than one center.

Francoise Carrier, Esq.

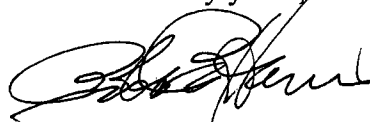
November 4, 2010

Page 3

- The on-line petition at "Bring Retail to Clarksburg" (www.petitions.com/petitions/clarksburg) established only three weeks ago already has more than 350 entries from residents pleading for this project to proceed, and is adding voices to this cause at the rate of more than 80 per day (a sample of some of those comments is attached to this letter).
- Clarksburg Village Center, LLC is ready, willing and able to proceed upon the County's approval.

On behalf of the many residents who support this effort, particularly the Clarksburg Village and Arora Hills residents who bought their homes with the understanding that they would have a neighborhood retail center at this location, we ask that you support this Development Plan Amendment.

Cordially yours,



Robert R. Harris

cc: Dave Flanagan
Kate Kubit
Les Powell
Carlton Gilbert
Ron Cashion
Robert Kronenberg
Rose Krasnow

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