



Preliminary Plan No. 12001030F – Limited Amendment to Clarksburg Village

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John Carter, Chief

Completed: 04/13/12

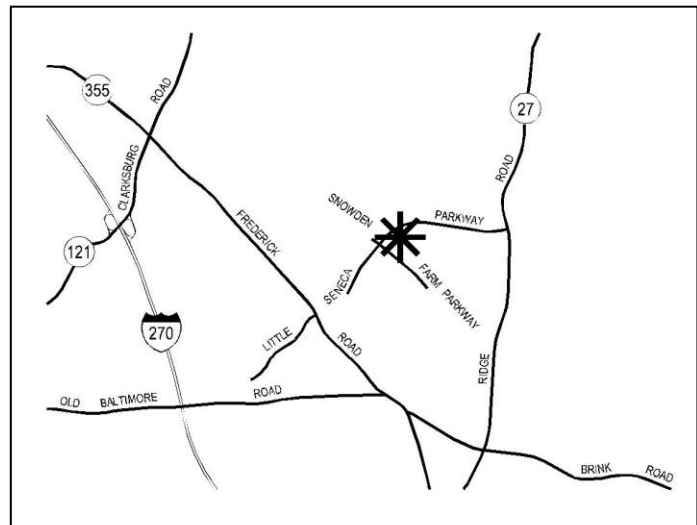
Description

Preliminary Plan No. 12001030F – Limited Amendment to Clarksburg Village Amend the condition related to retail staging in conformance with the approved Clarksburg Mater Plan Amendment and Development Plan Amendment (DPA 11-1), located in the southeast quadrant of the intersection of Little Seneca Parkway and Snowden Farm Parkway, 790.04 acres, R-200 and PD-4 Zone, Clarksburg Master Plan.

Staff Recommendation: Approval of Revised Condition.

Applicant: Clarksburg Village Investments, Inc.

Submission Date: 02/01/12



Summary

Preliminary Plan 12001030F (“Application”) is a request to amend the most current conditions of approval for the Clarksburg Village Preliminary Plan (12001030E) to allow the approved retail/commercial uses to take advantage of and comply with the July 2011, *Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area* which provides an exception to the retail staging provisions for the planning area. The Application is the culmination of the master plan amendment process which was followed by approval of Development Plan Amendment (DPA) 11-1 that specifically created a new binding element to alleviate the Clarksburg Village retail and commercial center from having to await issuance of building permits for 90,000 square feet of retail in the delayed Town Center project.

This staff report recommends a change to only one existing condition and that all other existing conditions are carried forward unchanged, in a new resolution of this Planning Board action.

STAFF RECOMMENDATION: *Revise condition as follows:*

Existing condition No. 2 from Montgomery County Planning Board Resolution 10-70 (Preliminary Plan No. 12001030E) reads as follows

- 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 11990542A).

Replace the condition above with the following:

- 2) Consistent with the binding element of approved DPA 11-1, building permits for the commercial /retail buildings will not proceed until the earlier of either the issuance of building permits for 90,000 square feet of retail within the Clarksburg Town Center, or May 1, 2012.

All other conditions of the approved Resolution 10-70 remain unchanged and in full force and effect, and they will be carried forward with the adoption of the resolution of this Planning Board action.

PROJECT AND AMENDMENT DESCRIPTION

The Application involves the staging of commercial/retail uses in the Clarksburg Village, Phase III, mixed-use center which consists of 17.4 acres within the overall 800 acre Clarksburg Village subdivision. The 17.4 acre site is located in the northeast corner of the intersection of Little Seneca Parkway (A-302) and Snowden Farm Parkway (A-305), (“Subject Property” or “Property”). The approved uses on the Property include mix of commercial/ retail uses totaling 109,000 square feet and a100 unit age-restricted multi-family housing component. A grocery store is anticipated in this location.

Condition No. 2, within MCPB Resolution10-70 (See Attachment) for the most recent Clarksburg Village preliminary plan amendment (12001030E), was to provide conformance with the1994 Clarksburg Master Plan (“Master Plan”) and DPA 05-1. The Master Plan included staging and timing provisions requiring 90,000 square feet of retail uses in the approved Town Center to precede retail development in the Newcut Road (including Clarksburg Village) and the Cabin Branch Village Centers. To conform to the Master Plan, DPA 05-1 included the following binding element:

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 11990542A).

Because the Town Center had experienced significant delays and since the need for community-serving commercial uses have been well established, Clarksburg Village Investments, Inc., (“Applicant”) filed a development plan amendment request on July 19, 2010, (DPA 11-1) to modify the binding elements that precluded moving forward with building permits for retail construction.

The DPA 11-1 petition was reviewed by the Planning Board on November 18, 2010 and the Planning Board by Resolution recommended that an amendment be prepared to modify the retail staging provisions of the 1994 Clarksburg Master Plan to allow neighborhood supporting commercial/ retail in Clarksburg to move forward.

On February 15, 2011 the County Council requested the Planning Board to prepare an amendment to the 1994 Clarksburg Master Plan to include considerations to allow commercial/ retail to move forward. The *“Approved and Adopted Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions”* was prepared and reviewed by the Planning Board and County Council with the required Public Hearing notices. The amended master plan was approved and adopted by the full Commission on July 20, 2011.

Text modifications to the retail staging and timing provisions of the 1994 Clarksburg Master Plan and the resulting Amended Plan and approval of DPA 11-1 allow the commercial/retail areas of both the Cabin Branch and Clarksburg Village Centers to move forward independent of development in the Town Center.

Clarksburg Village Center and Master Plan Amendment Timeline

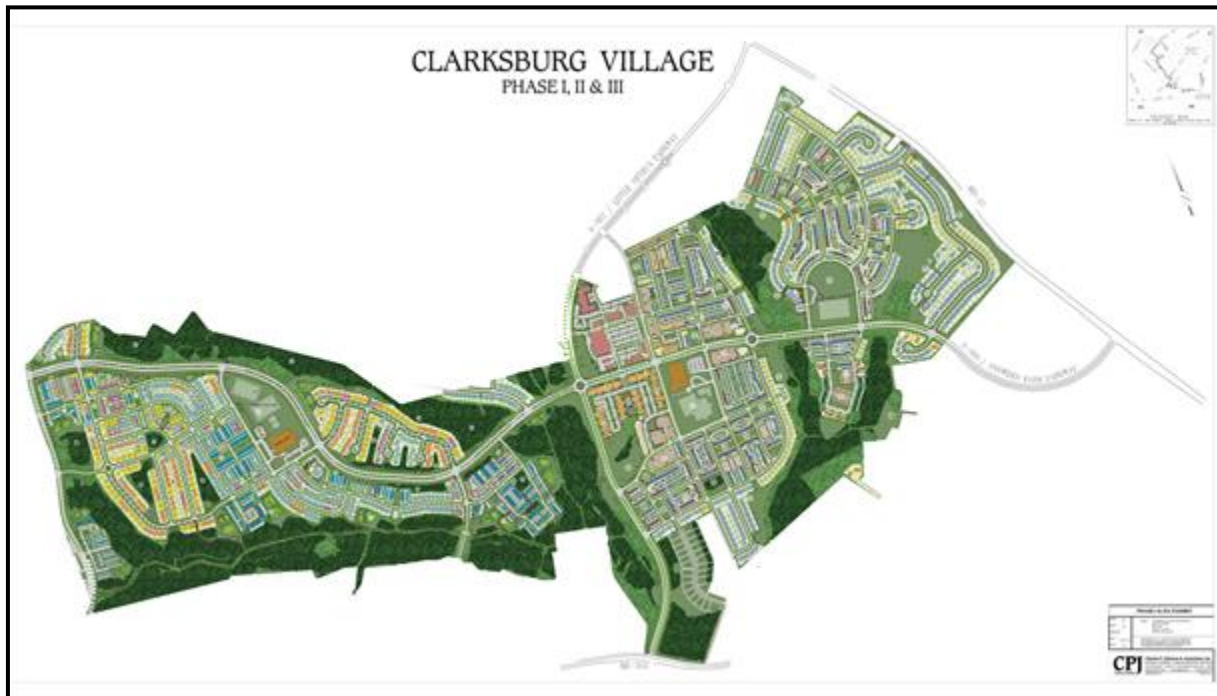
- Preliminary Plan 12001030E with DPA 05-1 April 15, 2010
- DPA 11-1 filed by Applicant July 19, 2010
- Planning Board Review of DPA 11-1 November 18, 2010
- Hearing Examiner’s Initial Report DPA 11-1 January 31, 2011
- Limited Master Plan Amendment – Expedited Review
 - Council requests Limited Master Plan Amendment February 15, 2011
 - Completed Staff Draft March 31, 2011
 - Planning Board Public Hearing and Action May 5, 2011
 - Final Work Session, and transmit to the County Executive and County Council
- County Council Public Hearing (30 days) and Approval with Final County Council Action June 28, 2011
- Commission Approval and Adoption July 20, 2011
- Hearing Examiner’s Final Approval Report DPA 11-1 November 9, 2011
- Planning Board Review of Preliminary Plan Amendment April 26, 2012

Clarksburg Village Phase III Mixed Use Center

With the exception of the timing of the commercial/retail uses, the approved preliminary and site plans for Clarksburg Village and the implementation of the Phase III Village Center project will not be affected by the this Application.

The Phase III Village Center will include 109,000 square feet of commercial/ retail uses including a grocery store of approximately 54,000 square feet and several other supporting uses likely including a restaurant, shops, and supporting retail ranging in size from approximately 1,000 square feet to 15,000 square feet. Also included are 100 age-restricted multi-family units.

The Clarksburg Village mixed use center received site plan approval in 2010. The development program for master planned roadways surrounding the site was addressed in 2002 conditions of approval of the original preliminary plan (120010300) that established the phasing of roadway improvements prior to the issuance of specified numbers of building permits. A provision of this prior agreement, related to the sequence of roadway improvements, will allow flexibility to best meet both timing and traffic circulation conditions. These provisions, together with all of the approval requirements, will provide both master plan compliance and adequacy of the roadway facilities when the development is constructed.



CLARKSBURG VILLAGE PHASE 3
RETAIL & ELDERLY HOUSING
APRIL 2010



ANALYSIS and FINDINGS

- *The Preliminary Plan remains in substantial conformance with the 1994 Clarksburg Master Plan and is in substantial conformance with the Limited Amendment to the Clarksburg Master Plan to Allow an Exception to the Retail Staging Provision.*

The Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area, July 2011, amended the retail staging provisions to allow retail uses in the Newcut Road/Clarksburg Village Center to proceed before development or establishment of 90,000 square feet of retail uses in the Clarksburg Town Center. The Application only affects the retail staging and timing of the preliminary plan and allows the Clarksburg Village retail/commercial component to take advantage of the amendments to the Master Plan retail staging policies.

- *This Amendment is in conformance with the Binding Elements of approved DPA11-1 for retail staging:*
 - **Binding Element No.1: This property will be developed with 109,000 square feet maximum of commercial/retail uses and 100 age restricted residential units.**

The existing conditions of approval limit the Clarksburg Village plan to 109,000 square feet maximum of commercial/retail use and 100 age-restricted multi-family residential units. All of the existing conditions, not recommended for change by this staff report, will be carried forward unchanged to the resolution for this Planning Board action.

- **Binding Element No. 2: Building permits for the commercial/retail buildings will not proceed until the earlier of either the issuance of building permits for 90,000 square of retail within the Clarksburg Town Center, or May 1, 2012.**

The applicant cannot proceed before May 1, 2012 as required in the revised condition No. 2.

- *Public facilities will continue to be adequate to support and service the area of the approved subdivision.*

This Application results in no additional development and therefore, no impact to any of the public facilities which have been approved by prior Adequate Public Facilities reviews for Clarksburg Village and Greenway Village. The construction of Little Seneca Parkway (A-302) from Snowden Farm Parkway (A-305) to MD 355 will provide additional road capacity that will allow all commercial and retail uses in Clarksburg Village to proceed. The staging mechanism that requires the

developer to participate in, and have this road under construction prior to issuance of any retail building permit is referenced in existing Condition 10(b)(ii) and Condition 10(d) and will be carried forward, unchanged, to the resolution for this Planning Board action.

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. These Adequate Public Facilities validity periods are subject to any applicable validity extensions approved by the County Council.

- *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The Application does not change the configuration of the approved lots for Clarksburg Village. All previous findings for appropriate lot configuration and location remain valid.

- *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Application has no effect upon applicable requirements or approved plans as related to the Forest Conservation Law. All previous findings for compliance with Chapter 22A of the Montgomery County Code remain valid.

- *The Application will continue to meet all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan that has been approved for the development of this Property meets MCDPS' standards and is being constructed in accordance with all approved stormwater management plans.*

The Amendment has no effect upon applicable requirements or approved plans related to stormwater management.

- *Prior approvals of amendments to the original Clarksburg Village preliminary plan included waivers granted by the Planning Board for the following:*
 - 1) to permit certain lots without frontage on a public street.
 - 2) to permit dedication of less than 25 feet for certain corner truncations.
 - 3) to allow the use of reduced width tertiary streets.

These waivers will still apply to this development.

COMMUNITY OUTREACH and SUPPORT

The Property was appropriately signed and notices were issued in accordance with adopted procedures. As previously demonstrated with vocal and active participation, emails, a signed petition, and public testimony during the various phases of the project, the Clarksburg Village Phase III Mixed Use Center is long awaited, widely supported, and eagerly anticipated by residents of the Clarksburg community.

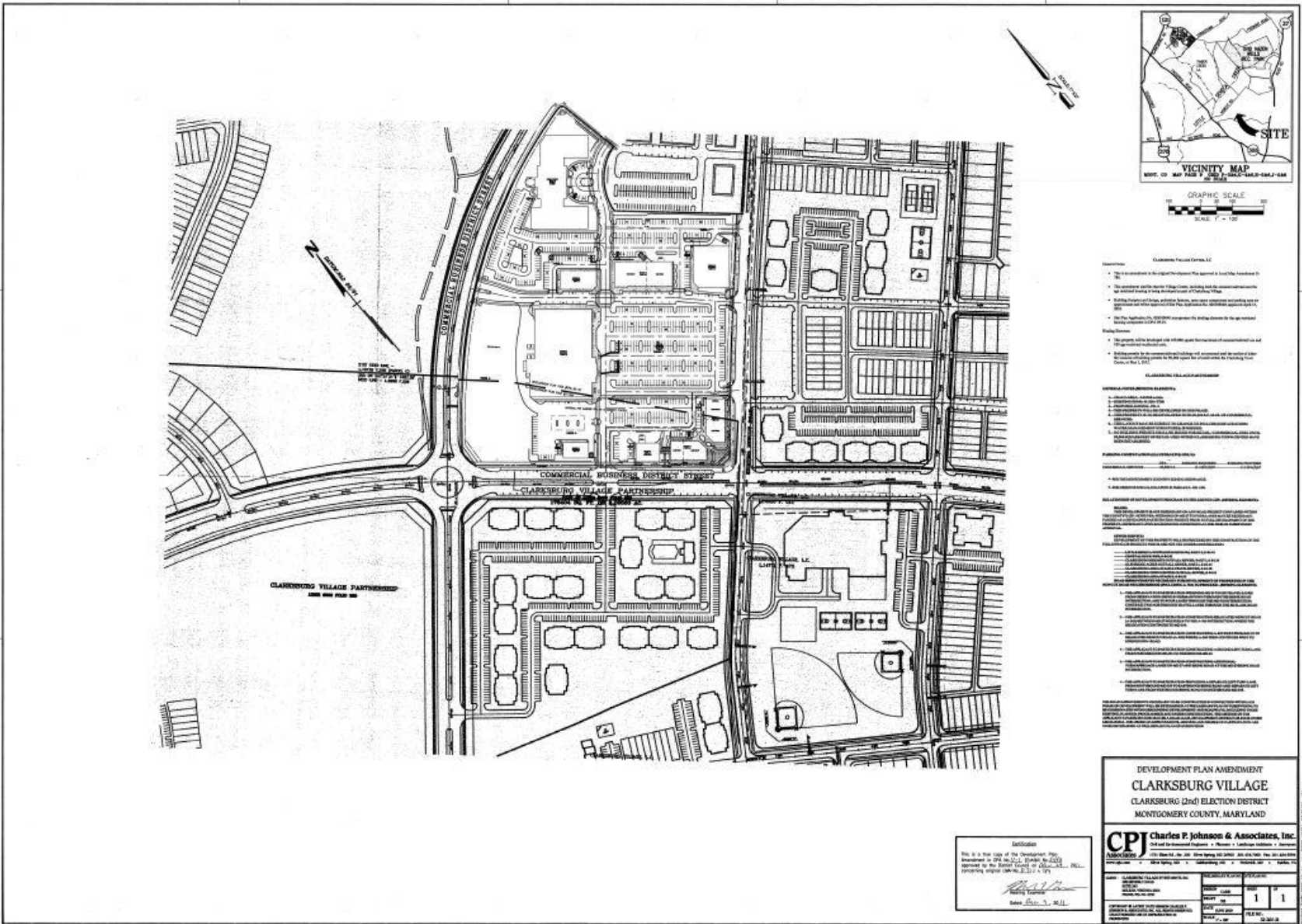
CONCLUSION

This Application to amend the Preliminary Plan for Clarksburg Village follows and fully complies with the July 2011 *“Approved and Adopted Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions”*. It is consistent with all of the provisions and recommendations for land use, transportation and the environment in the Master Plan. The Application is also consistent with the Montgomery County Hearing Examiner’s Report for approval of DPA 11-1 and the Binding Elements shown on that plan drawing. The Application will allow commercial/ retail development, including a much needed grocery store in Clarksburg Village Phase III to proceed without restriction to timing. Staff recommends that the Planning Board approve the revision to the condition that will allow this to occur.

Attachments:

- Development Plan Amendment (DPA 11-1)
- July 27, 2010, MCPB Resolution No. 10-70

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- ASSUMPTIONS**
- The development is designed to be completed in two phases.
 - The proposed development is designed to be completed in two phases.
 - The proposed development is designed to be completed in two phases.
 - The proposed development is designed to be completed in two phases.

- GENERAL NOTES**
1. The proposed development is designed to be completed in two phases.
 2. The proposed development is designed to be completed in two phases.
 3. The proposed development is designed to be completed in two phases.
 4. The proposed development is designed to be completed in two phases.

- PROPOSED DEVELOPMENT**
- 1. The proposed development is designed to be completed in two phases.
 - 2. The proposed development is designed to be completed in two phases.

- EXISTING DEVELOPMENT**
- 1. The proposed development is designed to be completed in two phases.
 - 2. The proposed development is designed to be completed in two phases.

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This is a true copy of the Development Plan...
 Date: 11/11/11

DEVELOPMENT PLAN AMENDMENT
CLARKSBURG VILLAGE
 CLARKSBURG (2nd) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND

CPJ Charles F. Johnson & Associates, Inc.
 1111 Rockville Pike, Suite 300, Rockville, MD 20850
 Phone: 301-761-1111

NO.	DESCRIPTION	DATE	BY
1	PREPARED	11/11/11	CPJ
2	REVISION		



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

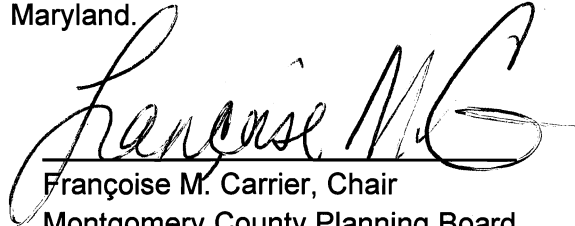
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is 11/17/16 (which is the date that this Resolution is mailed to all parties of record); and

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