





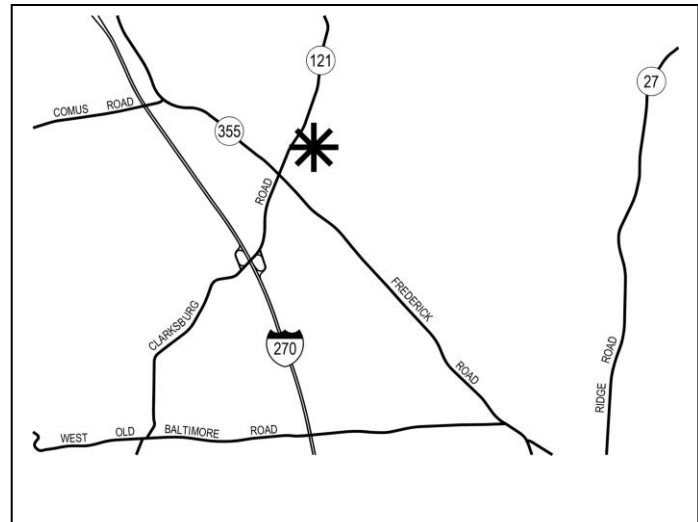
Clarksburg Town Center: Project Plan No. 91994004D, Preliminary Plan No. 11995042B, and Site Plan No. 82007022D

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Staff Report Date: 7-09-15

Description

- Amendments to reduce the residential units by 86; increase overall commercial density by 11,465 SF; add office and medical uses; revise the design and layout of the Commercial Core; add a new Community Building to the Residents’ Club; add a parking area on Sinequa Square; redesign Block H; revise Kings Pond Local Park and Piedmont Woods Local Park; 270.92 acres; RMX-2 and RDT zones
- Located in the northeast quadrant of Stringtown Rd and Frederick Rd (MD 355) in the 1994 Clarksburg Master Plan & Hyattstown Special Study Area and as amended in 2011 and 2014
- Application Accepted: August 28, 2014
- Applicant: Third Try LC



Summary

Staff recommends approval of Project Plan No. 91994004D, Preliminary Plan No. 11995042B, and Site Plan No. 82007022D for the Clarksburg Town Center.

- In 2008, the Planning Board approved Project and Preliminary Plan Amendments and a new Site Plan for the entire Clarksburg Town Center. These plan approvals incorporated a Compliance Plan, as modified by the Planning Board, which called for significant improvements to the Town Center in-lieu-of pending or existing fines imposed as penalties for the many violations.
- Staff concludes that the Amendments substantially conform to the Compliance Plan. Specific departures from the Compliance Plan are in the public interest.
- Conditions of the previous APF approval required improvements to public transportation infrastructure within and around the subject Site, which are now being implemented through a roadway improvement package agreement, described in the Memoranda of Understanding dated June 25, 2015, between the Applicant and the Montgomery County Department of Transportation. Funding for the roadway improvement package has been secured.
- The Applications are reviewed under the Zoning Ordinance in effect prior to October 30, 2014, except for the parking requirements which are met pursuant to Section 7.7.1.B.3.b of the current Zoning Ordinance.
- **Staff does not support** the 40-foot wide cross section for General Store Drive that consists of two 8-foot wide on-street parking lanes and two 12-foot wide travel lanes.
- Community correspondence received to date supports these Applications (Appendix I).

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SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The subject site ("Property") is located northeast of Frederick Road (MD 355) between Clarksburg Road and Stringtown Road in the Clarksburg Planning Area. Snowden Farm Parkway crosses through the northern portion of the Property and will ultimately connect MD 355 to Ridge Road (MD 27). Adjacent to the Property and along MD 355 is the Clarksburg Historic District with properties zoned CRT (formerly R-200, C-1 and RMX-2). RDT zoned properties are located to the north and east of Snowden Farm Parkway. The Property is split zoned RDT, to the northeast of Snowden Farm Parkway, and RMX-2, to the southwest of the same road.

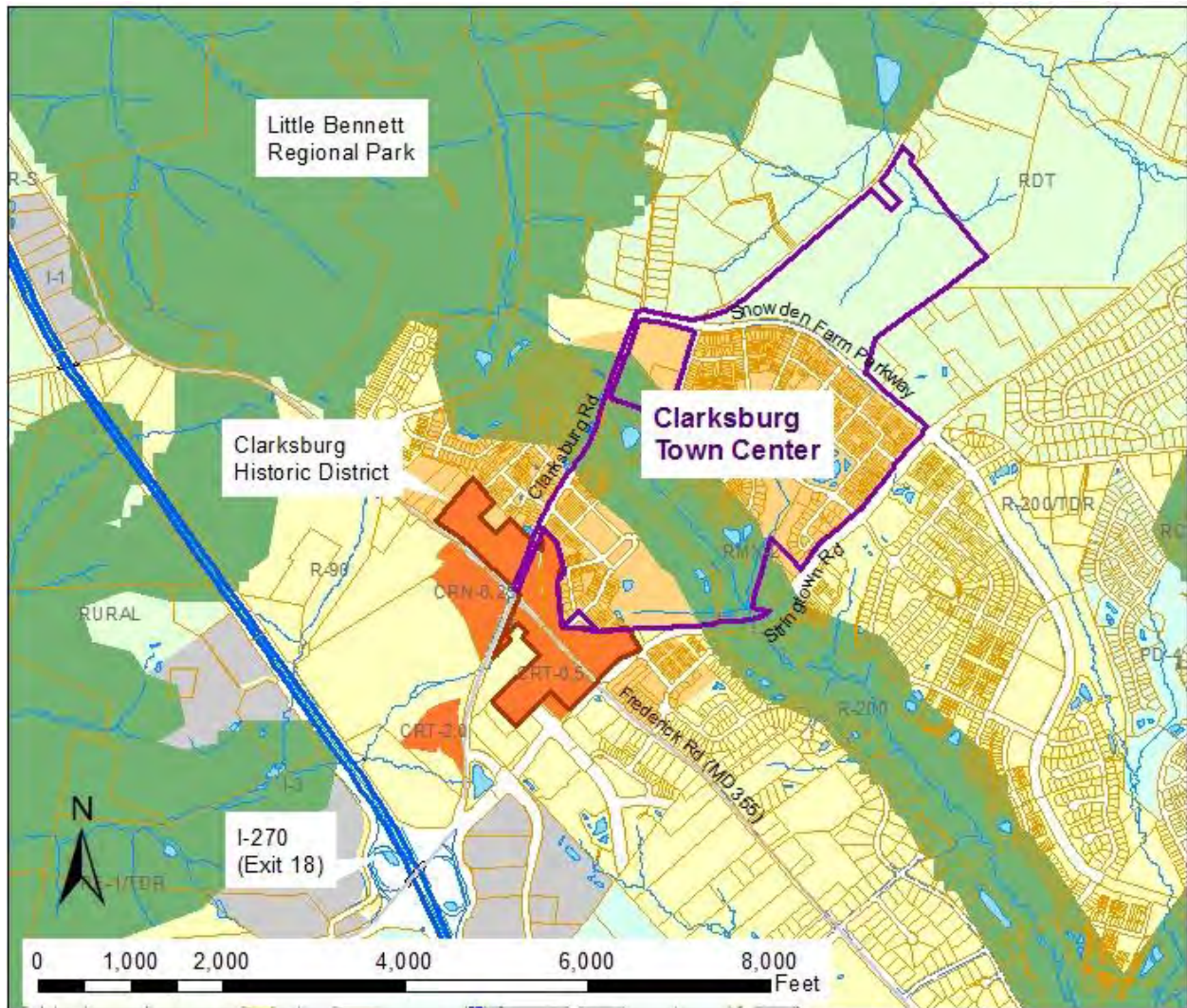


Figure 1 - Vicinity Map

The surrounding land uses consist of one-family residential dwellings on the west side of Clarksburg Road within the neighboring developments of Parkside (82003000), Clarksburg Ridge (820020310), and Catawba Manor (819980290). Further west and adjacent to Little Bennett Regional Park is the Woodcrest (82005009A) development, which traverses the remainder of the western leg of Snowden Farm Parkway. Additional one-family residences pepper the road frontage along MD 355, Stringtown Road and Clarksburg Road. The proposed Piedmont Woods Park will make up a majority of the road frontage along the north side of Snowden Farm Parkway while Cedarbrook Church maintains the remainder of the frontage at the intersection of Snowden Farm Parkway and Stringtown Road.

The larger communities of Clarksburg Village and Aurora Hills, zoned R-200 and PD-4, respectively, encompass a major portion of the area spanning from Stringtown Road east and north to Ridge Road (MD 27).

Site Analysis

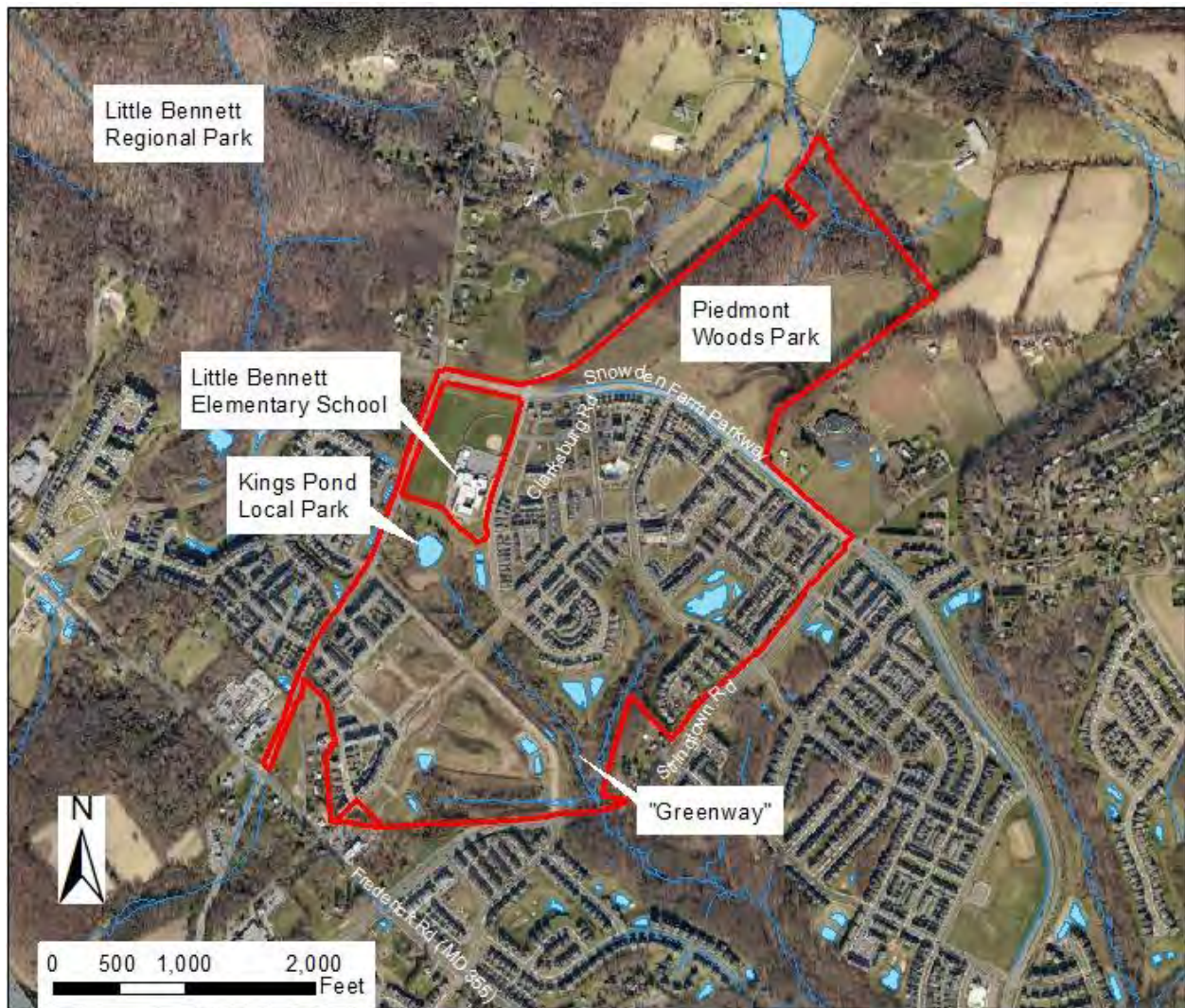


Figure 2 - Aerial Photo of the Clarksburg Town Center outlined in red

The Clarksburg Town Center is an approximately 270-acre development traversed by a portion of the Little Seneca greenway and associated environmental features, referred to as the “Greenway.” The Greenway separates the east side (“East Side”) of the Town Center from the west side (“West Side”). The East Side is comprised of rolling topography from Snowden Farm Parkway to Stringtown Road. This portion of the Property contains primarily residential uses; and Little Bennett Elementary School at the intersection of Snowden Farm Parkway and Clarksburg Road. The majority of the infrastructure within the East Side of the 270-acre site is nearly complete, with the exception of the area crossing the Greenway to the West Side. The West Side has a more gradual slope, trending from the highest elevation along Clarksburg Road, downslope toward Stringtown Road. The West Side contains a number of one-family detached and attached units.

Although the entire Clarksburg Town Center covers an area of approximately 270 acres, the Amendment is limited to the unbuilt portions of the development in both the East and West Sides including the area south of Ebenezer Chapel Drive and east of Public House Road, the Greenway, Piedmont Woods Park (66-acres east of Snowden Farm Parkway), Block H and Block J where the Residents’ Club and swimming pool are located, and surrounding roads (Stringtown Road, Snowden Farm Parkway, and Clarksburg Road). Built portions of the Town Center are not included in the Amendment because they are not owned or controlled by the Applicant and certain amenities not yet completed in these areas are not included in the Amendment. The Amendment does not include the Miller and Smith lots nor does it include the manor homes currently owned by Bozzutto. Figure 3 highlights in red the limits of the Amendment.



Figure 3 - Exhibit highlighting in red the limits of the Amendment

PROJECT DESCRIPTION

Background & Previous Approvals

Master Plan

In 1994, the County Council approved the *Clarksburg Master Plan and Hyattstown Special Study Area*. It called for the creation of a Town Center in Clarksburg, which would include the Historic District as a focal point that would be surrounded by a mix of uses, including office, residential, and retail. 90,000 square feet of retail was supposed to be built before retail could be built elsewhere in Clarksburg.

In 2011, the County Council approved a Limited Amendment to the Clarksburg Master Plan that eliminated this requirement so that a grocery store (and potential ancillary uses) could be constructed outside of the Clarksburg Town Center. By revising the retail staging provisions, the 2011 Master Plan allowed the commercial and retail center including a grocery store in Clarksburg Village to proceed ahead of the Town Center.

919940040 & 119950420

In December 1994, both a Project Plan (#919940040) and a Preliminary Plan (#119950420) were submitted for review by Piedmont and Clarksburg Associates. Applying the optional method of development under RMX-2 zoning, the plan envisioned what is now known as a neo-traditional community to be constructed in phases with a maximum of 1,300 residential units, 100,000 square feet of office, and 150,000 square feet of retail. The Project Plan was approved in June of 1995 and the Preliminary Plan was approved in March of 1996.

819980010, 820020140, 820040340

In 1998, Phase I Site Plan (#819980010), primarily covering the East Side of the Town Center, was approved for 768 dwelling units including 96 MPDUs. The Phase II Site Plan (#820020140) for 487 dwelling units including 46 MPDUs was approved in 2002. By June 2006, approximately 725 units of the approved 1,300 dwelling units had been built or were under construction in Phases I and II of the project. A Phase III Site Plan (#820040340) that included the retail portion was submitted but never approved.

Compliance Plan (also referred to as the Plan of Compliance or Compliance Program)

In 2005, a group of residents known as the Clarksburg Town Center Advisory Committee (CTCAC) alleged numerous violations associated with the build out of their community by the Developer, NNPII Clarksburg LLC (Newlands). The Planning Board held several hearings and scheduled others on many of the violations, but the CTCAC and Newlands agreed to go to mediation before a final determination had been made with respect to all of the allegations or the total amount of fines that should be assessed. The mediation resulted in an agreement between Newlands and CTCAC which was captured in large part in an amended site plan for the entire site which became known as the Compliance Plan, which was approved by the Planning Board on June 15, 2006. In addition to correcting discrepancies of the approved development standards to existing and proposed structures, the Compliance Plan called for significant improvements to the Town Center. These improvements were accepted by Newlands and CTCAC in lieu-of-fines that had been or were about to be imposed as penalties for the many violations.

The Compliance Plan consisted of three Stages. Stages I and II allowed the construction of small portions of the development to move forward once they received Board approval. Stage III called for

amendments to the Project Plan and Preliminary Plan and a new site plan for the entire Clarksburg Town Center project (including changes to the previously approved Phase I and Phase II Site Plans and the retail component) that would incorporate the specific elements set forth in the Compliance Program. These improvements, which were estimated to be worth at least \$14.4 million, included items such as two structured parking garages containing 840 spaces in the retail area, an expanded and enhanced community pool facility, a grand staircase to connect the town center to Clarksburg United Methodist Church, and one million dollars to be credited to the HOA towards landscape improvements.

After approval of the Compliance Plan, the Applicant was able to proceed with the construction of certain residential units as allowed in Stage I of that Plan. Stage II of the Compliance Plan, which was approved in 2007, permitted construction to move forward on an additional 118 units, including 48 Moderately Priced Dwelling Units (MPDUs). To satisfy the requirements for Stage III of the Compliance Plan, the Applicant submitted amended Project and Preliminary Plans (91994004B, 11995042A) and a new Site Plan (820070220) covering the entire town center development in 2007 that would incorporate the improvements set forth in the Compliance Plan.

91994004B, 11995042A, 820070220

In July 2009, the Planning Board approved all three applications encompassing the following: 1) a total of 194,720 square feet of commercial uses, including up to 69,720 square feet of specialty retail; 2) 1,213 residential dwelling units, including 12.5% MPDUs; 3) a waiver to permit a reduction in the number of parking spaces; and 4) a reconfirmation of the reduction in setbacks from adjacent residentially-zone properties [MCPB Nos. 08-163, 09-15, 09-16] (Appendix A). Although many elements of the Compliance Plan were incorporated into the approval of these plans, the Board did not require all elements of the Compliance Plan, such as certain parking structures in the retail core.

91994004C & 82007022A

In June 2010, the Planning Board approved an Amendment to Project and Site Plans for Clarksburg Town Center (91994004C & 82007022A) to correct the unit mix and unit count from 1,213 residential dwelling units and 701 one-family attached units to 1,206 and 700, respectively [MCPB Nos. 10-58, 10-59].

82007022B

On July 16, 2013, the Planning Board approved an Amendment to the Clarksburg Town Center Site Plan to reinstate accessory structure setbacks on certain lots, and confirm that based on the existing approved lot standards, either single-family detached houses with garages or the previously shown "Courtyard" houses could be built on certain lots [MCPB No. 13-125].

82007022C (combined with 120140060 & 820140050 and Mandatory Referral 2015008)

In September 2013, Third Try LC, the successor in interest to Newlands, in partnership with Montgomery County submitted an application for the extension of Clarksburg Square Road to the west through the Clarksburg Historic District, opposite to Redgrave Place, and the relocation of the historic Horace Willson House, as recommended in the Master Plan.

Status of the Improvements

The Clarksburg Town Center has developed to date with approximately 840 residential dwelling units, including 100 MPDUs, with the majority of the units located on the East Side. The Little Bennett Elementary School at the intersection of Snowden Farm Parkway and Clarksburg Road has been open

since August 2006. Most of the infrastructure is in place and completed on the East Side, in accordance with the certified site plan.

In 2014, Montgomery County in coordination with Newlands completed a number of improvements that were part of the certified site plan. These included streetscaping enhancements with brick pavers and brick edging on major roads, landscaping and lane improvements to the Club house pool, and completion of Murphy's Grove Pond.

Proposal

The subject Project, Preliminary and Site Plan Amendments (collectively or independently referred to as "Application" or "Amendment") to the approved Clarksburg Town Center, propose the following modifications:

- 1) Reduce the total number of residential units by 86, from 1,206 to 1,120;
- 2) Increase commercial square footage by 11,465 SF, which includes the addition of office and medical uses to 76,640 SF to a total of 206,185 SF;
- 3) Revise the design and layout of the Commercial Core;
- 4) Redesign Block H;
- 5) Add a Community Building to the Residents' Club;
- 6) Add a parking area on Sinequa Square; and
- 7) Revise Kings Pond Local Park and Piedmont Woods Local Park



Figure 4: Illustrative Plan with proposed modifications numbered

Although the Amendments eliminate some key elements of the previously approved plan, including structured parking for the commercial buildings and for the Civic Building/Library¹, live work units and the multi-family units that had been planned in the retail core area, The Amendments substantially conform to the Compliance Plan. Many of the proposed features in this Application have been modified to facilitate the new design and account for the improvements currently being completed by Newlands. For example, Piedmont Woods Park has been modified to incorporate new amenities and activities, and the Bosque and linear park near the Library pad site and previous live-work units have been re-designed to incorporate different uses and program. A table comparing the proposed Amendment to the approved plans is included in Appendix J.

As a result of these modifications, there will continue to be a mixed-use development with a commercial core on the West Side of the Greenway. The commercial core (“Commercial Core”) is defined by a mix of uses including office and medical, civic, retail, restaurants, and a grocery store located north of Stringtown Road, along both sides of Clarksburg Square Road, west of the Greenway and east of Block GG (Figure 5). The buildings are oriented towards General Store Drive² and Clarksburg Square Road with parking in the rear. One of the main amenities is a plaza with splash fountain and seating. Areas for restaurant outdoor seating are also included.

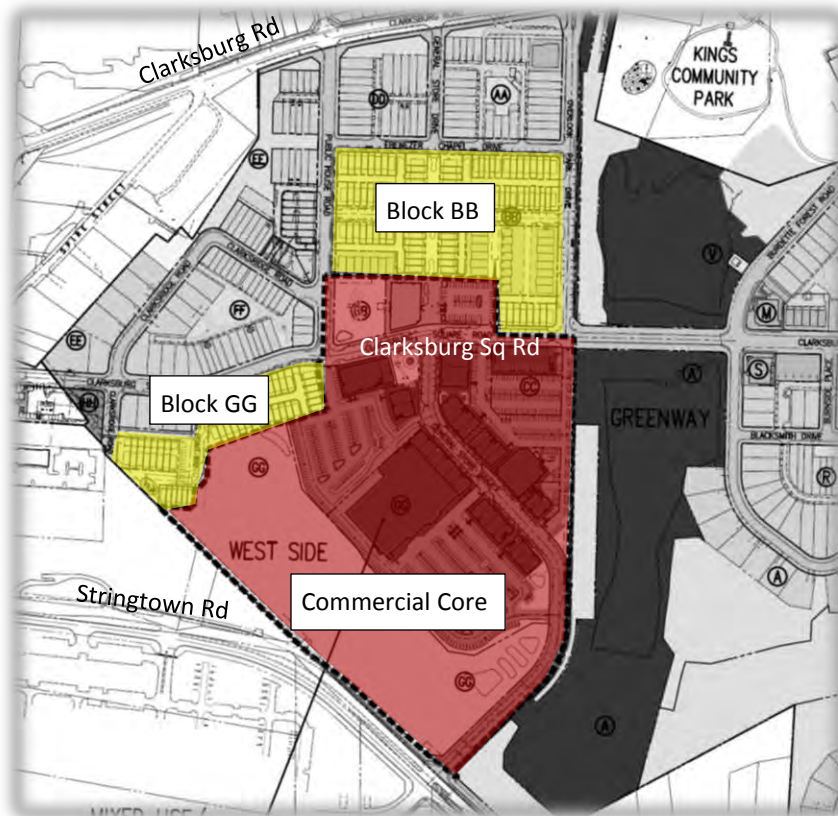


Figure 5: West Side with Commercial Core and surrounding residential areas (Block BB and GG)

¹ The proposed office building does include an alternative for a parking deck.

² At the time of certified Preliminary Plan, General Store Drive must be renamed pursuant to the Addressing and Street Naming Guidelines and Procedures. Unless otherwise noted, for the purposes of this Staff Report, General Store Drive refers to the proposed private road.

Immediately to the north, across from Clarksburg Square Road, is the location for a Civic Building, parking for the Civic Building and a Town Green. The Town Green includes a stage with amphitheater seating and is envisioned to host community wide events. The Civic Building pad site and parking lot with a total of 1.1 acres will be dedicated to Montgomery County. Although in the same general location, this modifies and replaces the previously approved layout for the Civic Building pad site and associated structured parking, the civic plaza, Bosque and Town Green.

The residential areas surrounding the civic uses and to the west of the Commercial Core will also be completed as part of this Amendment. Unit types include townhouses and 2-over-2s. The Amendment creates a pedestrian-only mews through the residential area that follows the alignment of approved General Store Drive. This amenity, with seating in addition to paths, will be lined with rear-loaded units. The residential area to the west of the Commercial Core (Block GG) will provide a tot lot with various play equipment.

East of the Greenway, the Amendment proposes to complete the residential units in Block H. The layout includes a large open lawn area surrounded by rear-loaded townhouses (Figure 6).

Also on the East Side, the Residents' Club will be improved with a new Community Building to host large community events indoors. The Community Building will have access from the street and the swimming pool area. In addition, the Amendment will also create a new parking area on Sinequa Square to serve the Residents' Club and new Community Building. Sinequa Square will include additional landscaping and seating areas.

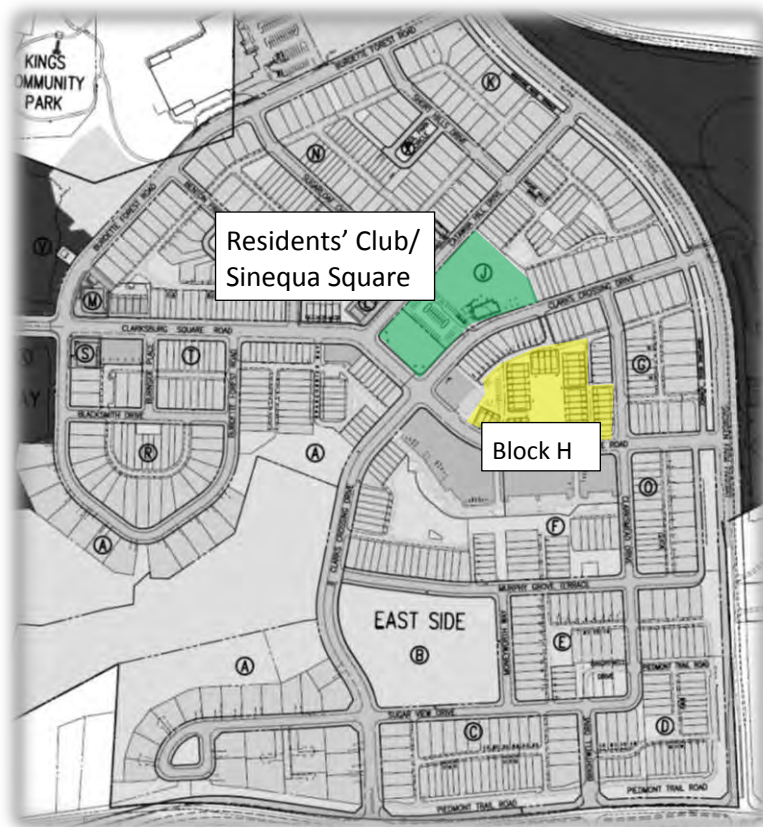


Figure 6: East Side highlighting Block H, Residents' Club and Sinequa Square

With respect to community wide amenities, the Amendment continues to support improvements to Piedmont Woods Local Park, Kings Pond Local Park, and the Greenway and provide for dedication to M-NCPPC. The revised layout for Piedmont Woods Local Park includes a basketball court, 2 tennis courts, a multi-age playground, dog park, picnic shelters and hiking trails, all served by a 48-space parking lot and portable restrooms (Figure 7). Kings Pond Local Park includes a pond with fishing pier, a tot lot, several picnic areas with picnic shelters, and a hiking trail served by an existing parking area (Figure 8). The Greenway will include several areas of reforestation, SWM parcels, and hiking trails. A shared use path will continue to run on the western side of the Greenway connecting Clarksburg Road to Stringtown Road.



Figure 7: Revised layout for Piedmont Woods Local Park

This Amendment proposes improvements to several major roads including Stringtown Road, Clarksburg Road, and the intersections of Clarksburg Road with Snowden Farm Parkway and Frederick Road (MD 355).

The Amendment is being reviewed under the Zoning Ordinance in effect prior to October 30, 2014.



Figure 8: Revised layout for Kings Pond Local Park

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Notice of the subject Amendment was sent to all parties of record on September 8, 2014. The Applicant has used a variety of techniques, ranging from formal presentations to casual one-on-one “office hours,” to reach out to the community.

The Applicant has presented the Amendment to the following groups on the following dates:

Community and other stakeholders	June 20, 2012 July 24, 2012 September 24, 2012 December 5, 2012 April 16, 2013 March 18, 2014 June 30, 2014 July 7, 2015
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Clarksburg Town Center Annual HOA meeting	2012, 2013 and 2014
Clarksburg Chamber of Commerce	May 6, 2015

“Office hours” were held at the Residents’ Club for five weeks in September/October 2014 and for four weeks in May 2015, at which time anyone was welcome to drop by to see the plan drawings, ask questions or discuss concerns.

In addition to in person interactions, the Applicant has also made paper plans available to the community at the HOA management office in the Town Center since the first submittal and updated with revised plans in the Spring 2015. Presentation materials have been uploaded on the HOA website after each meeting and a Youtube video was created to help visualize the proposed project. The video can be found by searching “Clarksburg Town Center.”

The Applicant worked closely with: 1) the Clarksburg United Methodist Church on the proposed modifications for the pedestrian connection from Clarksridge Road to the Church; 2) Clarksburg Historical Society on the proposed modifications to the Clark Family Memorial; and 3) Clarksburg Town Center Pool and Rec Committee on the additions to the Residents’ Club, including the New Community Building and parking in Sinequa Square (Appendix I).

The Parks Department held a community meeting on May 28, 2014, to obtain community input on Kings Pond Local and Piedmont Woods Local Parks, specifically seeking feedback on what activities and amenities the public aspired for in these parks. In addition, they also compiled feedback via an online survey and online comment tool. These outreach efforts helped guide Staff review and recommendations to the Planning Board.

Staff has received correspondence in support of the Amendments, urging Staff and other agencies involved to expedite approval. There is an overall sense of eagerness to have the Clarksburg Town Center completed (Appendix I).

SECTION 2: PROJECT PLAN AMENDMENT

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Project Plan No. 91994004D, Clarksburg Town Center. All site development elements shown at the end of Review Cycle no. 2 as submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.³

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan No. 91994004C as listed in MCPB Resolution No. 10-58 dated June 15, 2010, except as modified by this Application, and as shown on the Certified Project Plan.

2. Development Ceiling

The development is limited to a maximum of 206,185 SF of commercial uses, including office and retail uses, and a maximum of 1,120 dwelling units (including 12.5% MPDUs), on 270.92 acres.

3. Housing

The development must provide a minimum of 12.5 percent of the units as MPDUs onsite, consistent with the requirements of Chapter 25A.

4. Building Height/Mass

The height of the buildings for the uses listed shall not exceed the maximum permitted height as follows:

One-family attached	45 feet
Multi-family (2 over 2s)	55 feet
Retail/Commercial	40 feet
Office	70 feet
Mixed-use: Office/Retail	60 feet
Grocery	70 feet
Civic Building	60 feet
HOA Community Building	40 feet

5. Civic Parcel (Parcel K)

a) The Applicant must dedicate the 1.1-acre Parcel K, Block BB, to Montgomery County for use as a Civic Building. In the event Montgomery County has either not entered into an agreement with the Applicant or appropriated funds for the design and construction of the Civic Building by the time that dedication is required, the Applicant may forego dedication and build the Civic Building and lease the building for uses that serve the community, such as a civic building, event center, recreation center, or other such use, as contemplated by Civic and Institutional Uses as defined in the Zoning Ordinance (excluding Ambulance, Rescue Squad, and Hospital), giving a right of first refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose.

³ For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

6. Public facilities and amenities

a) The Applicant must provide at a minimum the following public facilities and amenities:

Location	Public facilities and amenities
West Side	(1) tot lot Town Green including: - Amphitheater & stage - Open play area II Plaza with splash fountain 1.1-acre civic parcel Picnic/sitting Bike system Pedestrian system
East Side	(1) Open play area I (1) Open play area II Picnic/sitting (1) Indoor community room Bike system Pedestrian system
Piedmont Woods Local Park	(1) multi-age playground (1) basketball (2) tennis courts (1) dog park Picnic/sitting Bike system Pedestrian system Nature trails Nature area
Greenway	Picnic/sitting Bike system Nature area
Kings Pond Local Park	(1) multi-age playground (1) Fishing Pier Picnic/sitting Bike system Pedestrian system

b) The final design and details of the public facilities and amenities will be determined during site plan approval. The Planning Board may approve other facilities that are equal to or better than these at the time of site plan approval.

7. Maintenance and Management Organization

The Applicant shall form a retail maintenance organization, separate from the residential Homeowner's Association to provide for maintenance and operations of the retail core area, non-standard elements in the street right-of-way and on the private streets and amenities.

Project Plans have a standard of review that includes a Basis for Consideration and Findings. The Basis for Consideration is listed below for reference and their discussion is incorporated within the Findings Section.

BASIS FOR CONSIDERATION

Section 59-D-2.43, Basis for Consideration, states: In reaching its determination on the application for the optional method of development and in making the required findings, the Planning Board must consider:

- (a) *The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures.*
- (b) *Whether the open spaces, including developed open space, are sized and located to provide convenient areas for recreation, relaxation and social activities for the residents and patrons of the development. Open spaces should be planned, designed and situated to provide sufficient physical and aesthetic open areas among and between individual structures and groups of structures. The proposed setbacks, yards and related walkways must be wide enough and located to provide adequate light, air, pedestrian circulation and necessary vehicular access.*
- (c) *Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.*
- (d) *Whether the proposed development contributed to the overall pedestrian circulation system. Pedestrian walkways must:*
 - (1) *be located, designed and sized to conveniently handle pedestrian traffic efficiently and without congestion;*
 - (2) *be separated from vehicular roadways and designed to be safe, pleasing, and efficient for movement of pedestrians; and*
 - (3) *contribute to a network of efficient, convenient and adequate pedestrian linkages in the area of the development, including linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.*
- (e) *The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.*
- (f) *The adequacy of provisions for the construction of moderately priced dwelling units in accordance with Chapter 25A of this Code if applicable.*
- (g) *The staging program and schedule of development.*
- (h) *The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A.*
- (i) *The adequacy of water resource protection measures proposed to meet any requirements under Chapter 19.*

- (j) *Payment of a fee acceptable to the Planning Board may satisfy all or some of the requirements for any public use space, or public facilities and amenities under the requirements established elsewhere in this Section.*

FINDINGS

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board in concert with the basis for consideration.

The following findings support this Amendment:

- a) *The application would comply with all of the intents and requirements of the zone.*

The Property is split zoned RMX-2 and RDT per the Zoning Map in effect prior to October 30, 2014, when the Amendment was submitted. Section 59-C-10.1 of the former Montgomery County Zoning Ordinance establishes the RMX-2 Zone, which is identified as Residential-Mixed Use Development, Specialty Center. Division 59-C-10 does not include a purpose and intent section for the RMX (Residential Mixed-Use) Zones, and the term ‘specialty center’ is not defined in the Zoning Ordinance.

Therefore, Staff relies on the term ‘Residential-Mixed Use Development’ to help support its recommendation that the Application meets the general intent of the zone. Section 59-C-10.3.1 adds further guidance with the language:

“This optional method of development accommodates mixed use development comprised of planned retail centers and residential uses, at appropriate locations in the County. This method of development is a means to encourage development in accordance with the recommendations and guidelines of approved and adopted master plans.” and

“Approval of this optional method of development is dependent upon the provision of certain public facilities and amenities by the developer. The requirement for public facilities and amenities is essential to support the mixture of uses at the increased densities of development allowed in this zone”

Thus, for optional method projects, the RMX-2 zone emphasizes the importance of: 1) providing a mix of uses; 2) complying with applicable master plan recommendations; 3) providing public facilities and amenities sufficient to accommodate the mix of uses and added densities available; and 4) complying with applicable development standards. The Project Plan Amendment complies with these requirements.

This Amendment continues to use the optional method of development and is in conformance with the 1994 Clarksburg Master Plan and Hyattstown Special Study Area. It provides a mixed-use development with a total of 1,120 dwelling units (including 12.5% MPDUs) and a total of 206,185 SF of commercial uses including both office and retail space, on the 270.92-acre site. The development complies with the intent and recommendations of the Master Plan by providing a pedestrian-friendly and walkable Town Center through increased mixed-use density, trail connections to the larger Greenway network, reduced parking, on-street parking, and a variety of open spaces.

Public facilities and amenities which support the increased density achieved through the optional method are provided throughout the community. The largest and most significant are the Greenway, including Kings Pond Local Park, and the 66-acre Piedmont Woods Local Park improved with a number of recreational facilities. In the Commercial Core, there is proposed dedication of a 1.10-acre site to Montgomery County for a future Civic Building and associated parking area. In addition, a Town Green with an amphitheater (Figure 9) and a plaza with a splash fountain are also provided. In the residential area, east of the Greenway, the Amendment will improve the Residents' Club with a new community building and an area of surface parking.



Figure 9 – Illustrative rendering of the Town Green with amphitheater and stage

The Property is zoned RMX-2 and RDT, which are governed by the development standards in Sections 59-C-10.3 and 59-C-9 of the Montgomery County Zoning Ordinance, respectively. The Application meets the applicable requirements of the RMX-2 zone, under the optional method of development, as demonstrated in the Project Data Table (Appendix H). The Amendment also complies with the development standards of the RDT Zone, separate and aside from the provisions for the optional method of development. The RDT Zone encompasses the proposed Piedmont Woods Park on the northeast side of Snowden Farm Parkway.

The Amendment meets the density requirements of the zones and recommendations in the Master Plan. The residential density of 6.27 du/ac is below the maximum density of 7 du/ac recommended by the Master Plan (p.43). The commercial density at 0.18 FAR is well below the maximum 0.5 FAR allowed and the gross leasable floor area is well below the maximum 600,000 SF allowed by the RMX-2 Zone.

The Applicant is requesting reconfirmation of the reduction of the minimum setback requirements of Section 59-C-7.15(b) of the Zoning Ordinance to allow two townhouse units to be located less than 30 feet away from an abutting commercial or industrial zoning, such as the CRT Zone in the

Clarksburg Historic District. The Zoning Ordinance allows the Planning Board to reduce this setback by no more than 50% “upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property.” The 50% setback reduction will not adversely affect the adjacent property or the proposed residential units. The orientation of the units and the landscaping provided improve compatibility between the two zones. In addition, uses in the CRN Zone are oriented towards MD 355 and away from the new residential units. A reduction of the minimum setback requirements has been applied to other portions of the development that have been built; therefore, the setback reduction is consistent with prior Planning Board determinations.

The Amendment meets parking requirements pursuant to Section 7.7.1.B.3.b of the Zoning Ordinance in effect after October 30, 2014, which allows grandfathered plans to reduce the parking requirements of a previously approved plan in a manner that satisfies the parking requirements of the current Zoning Ordinance. The parking waiver requested by the Applicant for the commercial core is not necessary given the provisions above, which decreased the parking requirements from 876 to 586 spaces for the commercial core. The residential parking requirements are met through private garage spaces, on-lot pad sites and surface parking facilities.

b) The application would be consistent with the applicable sector plan or urban renewal plan.

The Amendment is consistent with the *1994 Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* and the *2011 Limited Amendment to Allow an Exception to the Retail Staging Provisions* (collectively referred to as “Master Plan”⁴), as discussed more fully in the Preliminary Plan section of the Staff Report. The Amendment provides a mixed-use community with office, retail, restaurant, and civic uses in addition to a variety of housing types including one-family detached, one-family attached, and multi-family units, which create a lively and diverse place. The clustering of non-residential uses on the West Side combined with significant open spaces, such as the Town Green, the plaza with splash fountain and the Greenway beyond, create a strong central focus and identity for the Town Center (Figure 10). The Town Center continues to be a pedestrian oriented neighborhood by providing a well-connected street system, orienting buildings towards the streets, and providing a variety of open spaces.

c) Because of its location, size, intensity, design, operational characteristics and staging the application would be compatible with, and not detrimental to, existing or potential development in the general neighborhood.

The location, size and intensity of the proposed Amendment are compatible with the existing and potential development in the general neighborhood. The Amendment reduces the total number of residential units by 86 (from 1,206 to 1,120) and increases commercial density by 11,465 SF, which includes the addition of office and medical uses to a total of 206,185 SF. The location, size and intensity of the development continue to be compatible with the Clarksburg Historic District to the west, the Highlands at Clarksburg and Clarksburg Village developments to the south, and Clarksburg Ridge and Catawba Manor developments to the north.

⁴ *The Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area* does not include the Subject Property.

The design elements utilized are compatible with existing development by having street oriented development with minimal setbacks, parking and servicing in rear, and residential units rear loaded from alleys. In addition, material selection for architecture and streetscape is also compatible with existing materials. Elements of the previously approved Design Guidelines were incorporated in the site plan, including architectural elevations of all the commercial buildings.

The operational characteristics are compatible with, if not improved, for existing and future developments by completing the internal road network including the road connection between the East and West Sides of the Greenway (aka the Land Bridge), and providing access from Stringtown Road via General Store Drive (private). The Amendment also provides a shared use path along the west side of the Greenway which accommodates pedestrian and bicycle circulation from Clarksburg Road to Stringtown Road for the greater community. Connectivity of the internal street network creates a consistent development pattern and furthers compatibility.

The staging of the development provides amenities and the necessary infrastructure in pace with the construction of the residential units and commercial buildings. The staging is compatible with, and not detrimental to, existing or potential development in the general neighborhood.



Figure 10 – Illustrative rendering of the plaza with splash fountain

- d) *The application would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The Amendment will not overburden existing public facilities and services nor those programmed for availability concurrently with each stage of construction. The proposed staging program provides a timely provision of services and infrastructure. Since the development has a valid Adequate Public

Facilities (APF) approval for transportation facilities, water and sewer, etc., and the amended development density is within the limits previously approved, the Amendment satisfies the LATR/PATR requirements of the APF review that were in place at the time of Preliminary Plan 11995042A approval. The Property is not located within a transportation management district.

Conditions of the previous APF approval required improvements to public transportation infrastructure within and around the Subject Site, which are now being implemented through a roadway improvement package agreement, described in the Memoranda of Understanding dated June 25, 2015, between the Applicant and the MCDOT (Appendix C). Funding for the roadway improvement package has been secured (Appendix D).

Public facilities and services continue to be available and will be adequate to serve the proposed development. The development is served by public water and sewer systems. The Amendment has been reviewed and approved by the MCFRS, who have determined that the project will have appropriate access for fire and rescue vehicles (Appendix B). Other public facilities and services, such as, police stations, firehouses, and health services are operating according to the Growth Policy resolution in effect when the APF approval was granted and will be adequate to serve the development. No additional residential units are proposed with this Amendment; therefore, the development is not subject to a School Facility Payment review.

(e) The application would be more efficient and desirable than could be accomplished by the use of the standard method of development.

The Amendment continues to apply the optional method of development, which is more efficient and desirable than the standard method. The optional method allows for greater densities in exchange for greater public amenities and facilities. The Amendment maintains roughly the same density of commercial and residential uses as previously approved. The commercial density has increased to 0.18 FAR (from 0.16 FAR), while residential density has decreased to 6.27 du/ac (from 6.86 du/ac). As discussed above, the Amendment continues providing an extensive number of public amenities and facilities. It includes two Local Parks, a Greenway, Town Green, public plaza, location for a Civic Building with parking, and a new community building next to the Residents' Club with an additional parking area.

The standard method for the RMX-2 zone must comply with the standards and requirements of the R-200 zone. The standard method would yield lower density, require greater setbacks, larger lots, no public amenities or open space, and a one-family housing type, all in contrast with the recommendations of the Master Plan. The average density for R-200 is no more than 2.44 du/ac, which is much lower than the density of 5-7 du/ac recommended in the Master Plan and envisioned for the Town Center.

Overall, the public facilities and amenities provided will support the mix of uses and densities proposed. The use of the optional method of development in the RMX-2 zone is necessary to achieve the vision and recommendations in the Master Plan. Therefore, the optional method of development is much more desirable and efficient for this particular site.

(f) The application would include moderately priced dwelling units in accordance with Chapter 25A, if the requirements of that chapter apply.

The Amendment provides 24 MPDUs, which combined with the 116 approved MPDUs (by others), yields a total of 140 MPDUs, or 12.5% of the total of 1,120 dwelling units for the overall Clarksburg Town Center project, consistent with the requirements of Chapter 25A, and as approved by DHCA (Appendix B). The 24 MPDUs provided are located on the West Side and consist of rear-loaded townhouse and 2-over-2 units.

(g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, under 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Planning Board may approve the project plan only if:

The development does not propose any transfers of public open space or development density from one lot to another.

(h) Any applicable requirements for forest conservation under Chapter 22A.

As conditioned and fully discussed in the Site Plan Section of the Staff Report, the Amendment is in compliance with the Montgomery County Environmental Guidelines, and the Forest Conservation Law (Chapter 22A). Amended FCP 82007022D was submitted on June 4, 2015 (Appendix E). As part of the FCP, the Applicant will be retaining 41.39 acres of the original 48.49 acres of existing onsite forest, including 25.97 acres of forest within the environmental buffer. Approximately 2.42 acres of onsite forest within the environmental buffer has been cleared under the original FCP approval to accommodate project elements such as road crossings, utilities, and stormwater management measures. The Applicant proposes to meet the 22.58 acre forest conservation planting requirement onsite through forest and landscape plantings.

The Applicant has agreed not to modify the Category I conservation easement with a viewshed management plan for the forest conservation planting areas within the environmental buffer located between Stringtown Road and the proposed retail center in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

(i) Any applicable requirements for water quality resources protection under Chapter 19.

As conditioned and fully discussed in the Site Plan Section of the Staff Report, the Amendment meets all applicable requirements for water quality resources protection under Chapter 19. In a letter dated June 23, 2015, MCDPS has conditionally approved their portion of the SPA Final Water Quality Plan including site performance goals, stormwater management, sediment and erosion control and BMP and stream monitoring. The Planning Board's responsibilities include forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces. Consistent with SPA requirements outlined in the Environmental Guidelines, areas of the environmental buffer currently lacking forest will be reforested, forest planting will be expedited, and a five-year maintenance program for newly planted forest will be required. The development results in approximately 12.19 acres of environmental buffer disturbance; however, this is a net reduction of 1.53 acres from the 13.72 acres of buffer disturbance on the previously approved Site Plan. Mitigation for the buffer disturbance will be provided onsite. The Clarksburg SPA does not

have a specific numerical limit on impervious surfaces and the Applicant has demonstrated efforts to reduce imperviousness, including a net reduction of 1.53 from the previously approved Site Plan.

- (j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable Master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

This finding is not applicable to this Application.

SECTION 3: PRELIMINARY PLAN AMENDMENT

RECOMMENDATION AND CONDITIONS

The Preliminary Plan meets all requirements established in Chapter 50 of the County Code, the Subdivision Regulations, and it is in substantial conformance with the recommendations of the 1994 Clarksburg Master Plan & Hyattstown Special Study Area, as amended in 2011 and 2014. Staff recommends approval of Preliminary Plan No. 11995042B, subject to the following conditions:

1. The Applicant must comply with conditions of approval for Preliminary Plan No. 11995042A, as listed in MCPB Resolution No. 08-163 (Appendix A), except as modified by this Application, and as shown on the Certified Preliminary Plan.
2. This Preliminary Plan is limited to a maximum of 1,120 residential dwelling units including 12.5% MPDUs, 129,545 square feet of retail, 45,280 square feet of medical office, and 31,360 square feet of office.
3. Final number of MPDUs to be determined at the time of site plan.
4. The Applicant must participate with the Montgomery County Department of Transportation, in accordance with the Memoranda of Understanding dated June 25, 2015 (Appendix C), to improve Stringtown Road and Clarksburg Road including its intersections with MD 355 and Snowden Farm Parkway.
5. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 25, 2015 (Appendix B), and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
7. The Applicant must dedicate and show on the record plat(s) the following dedications and rights-of-way:
 - East Side
 - Clarksmeade Drive – 25 feet from centerline of pavement
 - Clarks Crossing Drive – 25 feet from centerline of pavement
 - Clarksburg Square Road – 30 feet from centerline of pavement
 - Catawba Hill Drive – 25 feet from centerline of pavement
 - West Side (Public)
 - Clarksburg Square Road – 30 feet from centerline of pavement
 - Ebenezer Chapel Road – 25 feet from centerline of pavement
 - Public House Road – 30 feet from centerline of pavement
 - Overlook Park Drive – 53 feet total width
 - West Side (Private)
 - General Store Drive – within a 60 foot wide right-of-way/parcel
 - Martz Street – within a 48 foot wide right-of-way/parcel
8. The Applicant must dedicate all road rights-of-way not referenced above to the full width mandated by the Clarksburg Master Plan or as otherwise designated on the Preliminary Plan.
9. The Applicant must construct all road improvements within the rights-of-way shown on the

approved Preliminary Plan to the full width mandated by the master plan and/or 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.

10. The Applicant must construct the private internal street(s) to applicable Montgomery County structural standards and must construct all corresponding sidewalks, both on and off the Subject Property, to applicable ADA standards.
11. The Certified Preliminary Plan and record plats must note and delineate the limits of the following rights-of-way abandonments:
 - Council Resolution No. 16-1487, "AB722, Portion of Clarksridge Road"
 - Council Resolution No. 16-1488, "AB720, Portions of Overlook Park Drive"
 - Council Resolution No. 16-1489, "AB721, Portion of Clarksburg Square Road"
12. The Applicant must design and construct General Store Drive pursuant to MCDOT Road Code Standard 2005.02 Modified: Two Lane Business District Street.
13. Prior to record plat approval, rename General Store Drive in accordance with the Addressing and Street Naming Guidelines and Procedures and assign it as a private street pursuant to the guidelines established in 50-26 (e).
14. Prior to approval of the first record plat for private streets on the West Side, the Applicant must provide for review and approval by Staff, a public use and access easement to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following for all private streets:
 - a) Each private street must be located within its own parcel, separate from the proposed development, and must be shown on the record plat.
 - b) Entitlement for open and unobstructed public use of the easement for all customary vehicular, pedestrian and bicycle, and loading access. The easement granted to the public must be volumetric, in order to accommodate uses below and above the street easement area and must accommodate public utility easements;
 - c) Obligation for the Applicant to construct the streets pursuant to comparable MCDOT structural construction standards, at the Applicant's expense;
 - d) Obligation to install traffic control devices within the private street easement area, based on prevailing standards, at the County's request, and at the Applicant's expense;
 - e) Obligation for the Applicant to maintain and repair the streets in acceptable conditions for all access and loading purposes, at its expense;
 - f) Obligation for the Applicant to keep the streets free of snow, litter and other obstructions and hazards at all reasonable times, at the Applicant's expense;
 - g) Entitlement for the Applicant or its designee to close private streets for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public. Closure for recreational purposes, i.e., Block Parties, Parades, Races, etc., must follow MCDOT protocol to include, but not be limited to:
 - i. Signage notifying public of road closures, lane restrictions, or parking restrictions to be in place at least one week prior to closure at locations in accordance with adopted MCDOT standards.
 - ii. Maintain vehicular and pedestrian access to properties abutting closure if possible, and open to emergency vehicle passage at all times.
 - iii. Traffic control devices to be placed in accordance with adopted MCDOT standards.
 - iv. Written notice in accordance with adopted MCDOT standards.

- v. Coordination with affected civic associations, homeowners associations and businesses to be notified in writing two weeks prior to event.
 - vi. Dimensions of signage in accordance with adopted MCDOT standards
15. The following prior conditions of approval for road dedications as set forth in the Planning Board Opinion dated March 26, 1996 in Preliminary Plan 119950420 remain in full force and effect:
 - a) Dedication of the following roads as shown on the plan must be provided as follows:
 - i. Clarksburg Road for ultimate 80' right-of-way.
 - ii. Snowden Farm Parkway (formerly Piedmont Road; A-305) for ultimate 80' right-of-way.
 - iii. Stringtown Road (A-260) for ultimate 120' right-of-way.
 16. The Applicant must dedicate to M-NCPPC the approximately 66-acre portion of the Subject Property identified as Parcel 200, Tax Map EW42 for use as a local park per the Clarksburg Master Plan. The land must be dedicated to the M-NCPPC in a form of deed approved by the Office of General Counsel, which Liber and Folio must be noted on the record plat. At the time of conveyance, the property must be free of any trash and unnatural debris. In the event the Applicant is to complete improvements on the property to be dedicated, the Applicant must enter into a Recreational Facilities Agreement (RFA) or a Park Permit with the Department of Parks. Both the deed and the RFA/Park Permit must be in a form approved by the Department of Parks and the Office of General Counsel.
 17. The Applicant must dedicate to M-NCPPC the following properties shown on the Preliminary Plan:
 - Parcel A, Block V at approximately 0.09 acres
 - Parcel C, Block V at approximately 0.30 acres
 - Parcel D, Block V at approximately 4.79 acres
 - Parcel Q, Block A at approximately 11.05 acres

The properties are for use as the Greenway and a shared use path connecting Clarksburg Road to Stringtown Road per the Clarksburg Master Plan. The land must be dedicated to the M-NCPPC in a form of deed approved by the Office of General Counsel, which Liber and Folio must be noted on the record plat. At the time of conveyance, the property must be free of any trash and unnatural debris. In the event the Applicant is to complete improvements on the property to be dedicated, the Applicant must enter into a Recreational Facilities Agreement (RFA) or a Park Permit with the Department of Parks. Both the deed and the RFA/Park Permit must be in a form approved by the Department of Parks and the Office of General Counsel.
 18. Parcel K, Block BB as shown on the Preliminary Plan must be made available for dedication to Montgomery County in accordance with development program triggers in the certified site plan.
 19. The record plat must show necessary easements.
 20. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
 21. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant's recorded HOA Documents incorporate the Covenant by reference.
 22. Prior to recordation of any plat, Site Plan No. 82007022D must be certified by MNCPPC Staff.
 23. No clearing or grading of the site, or recording of plats prior to certified site plan approval.
 24. 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.
 25. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

26. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of that site plan.
27. The Adequate Public Facility ("APF") review for this Preliminary Plan will remain valid under the approval of Preliminary Plan No. 11995042A and as extended by County Council action until March 26, 2022.

ANAYSIS AND FINDINGS

1. *The Preliminary Plan Amendment substantially conforms to the Clarksburg Master Plan.*

The Amendment is consistent with and is in substantial conformance to the *1994 Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* and the *2011 Limited Amendment to the Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions* (collectively referred to as "Master Plan"⁵). The Property is located within the Town Center District identified on Page 42 of the Master Plan. The Master Plan outlines ten policies that were intended to transform Clarksburg into a transit and pedestrian-oriented town surrounded by open space. In addition, the Master Plan provides eight policy objectives that offered guidance on the shaping of the Town Center, which are outlined in Chapter Two of the Master Plan (Pages 15-30). The following is a summation of how the Application meets the policy objectives of the Master Plan:

Policy 1: Create a Town Scale of Development

The Amendment provides opportunities to reinforce the Master Plan's vision by proposing a transit- and pedestrian-oriented community located in a natural setting with the Town Center as the focus of community life. It also conforms to the Master Plan's vision by proposing a traditional neighborhood designed with street facing residential units.

Policy 2: Natural Environment

The Amendment retains a forested buffer along all streams and continues the Greenway concept initiated by prior Planning Board approvals. Existing mature trees will be preserved and augmented, and a "no net loss" of wetlands policy has been established. "Environmental concerns are the single most important reason why Clarksburg is proposed as a town rather than a larger corridor city" (Page 18). The

⁵ *The Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area* does not include the Subject Property.

Amendment generally follows the Master Plan guidance for a modest amount of development intended to serve neighborhood needs rather than regional needs. Furthermore, while the Clarksburg Special Protection Area does not have an impervious cap, the Amendment seeks to minimize imperviousness with narrower streets and increased green space.

Policy 3: Greenway Network

The Amendment provides a shared use path for pedestrians and bicycles within the Master Plan Greenway that will connect to major parklands surrounding Clarksburg. The Amendment completes the northernmost leg of the Greenway trail from Clarksburg Road to Stringtown Road.

Policy 4: Transit System

The Amendment reinforces pedestrian and vehicular access between the Clarksburg Town Center, Clarksburg Historic District, and the Town Center Transit Station as recommended in the Master Plan on Page 50 (Figure 11). The extension of Clarksburg Square Road further enhances the community's connection to transit opportunities.

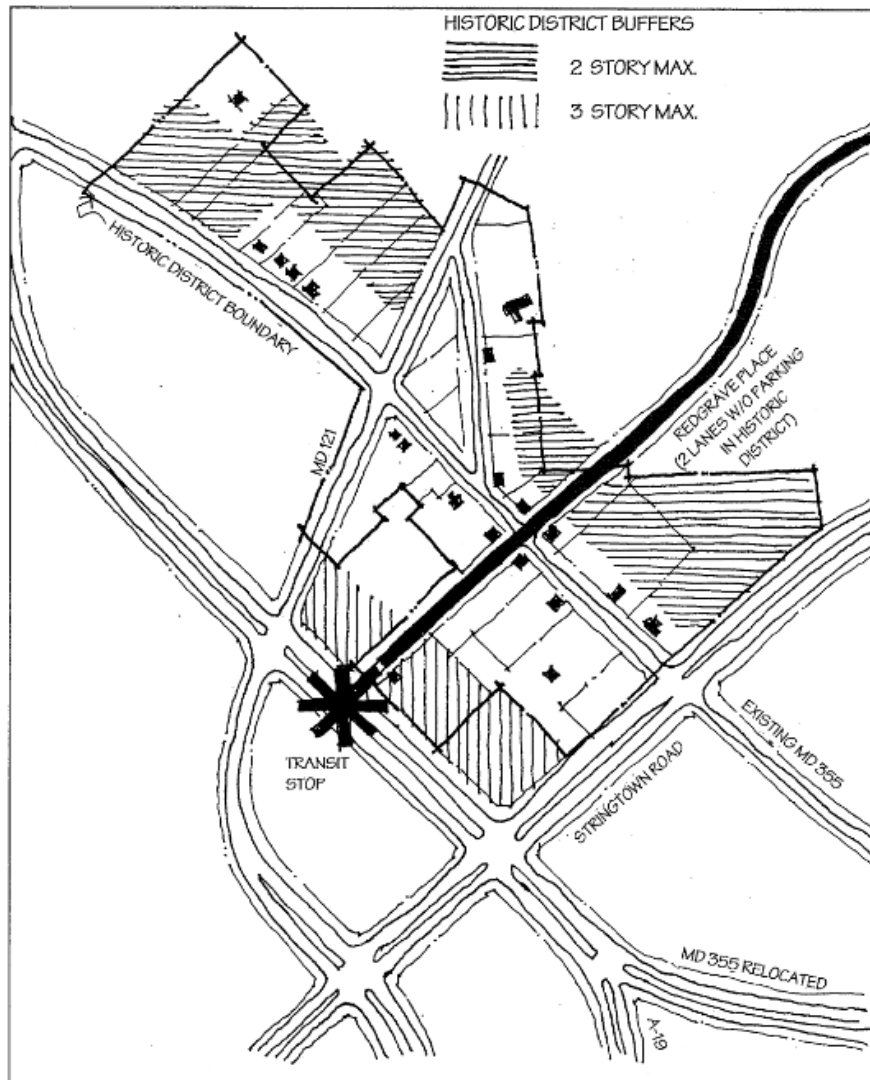


Figure 11 – Clarksburg Historic District Buffers (source: 1994 Master Plan, p.50)

Policy 5: Hierarchy of Roads and Streets

The Amendment includes an extensive network of interconnected public streets, private streets, and alleyways to provide local access within neighborhoods along a traditional pedestrian oriented street grid network. The road layout offers an appropriate transitional mix of roads designed for a variety of functions and levels of service.

Policy 6: Town Center

The Amendment establishes a strong identity for the new mixed-use core with a traditional town character as recommended in the Master Plan. The neo-traditional layout of the community compliments the character of the Historic District. The Amendment combines civic uses, such as space for a new civic building, a Town Green, a memorial to the Clark family, a redesigned Sinequa Square Park, and the creation of Piedmont Woods Park as an active amenity for all local residents.

Policy 7: Transit- and Pedestrian-Oriented Neighborhoods

The Amendment includes a mix of retail, residential, office, and civic uses all clustered within the mixed-use core. The proximity and density of the various uses encourages pedestrian travel and increases the potential for nearby employment as recommended in the Master Plan. Mixing retail, office and residential uses in the central core means that residents will have easy access to goods and services and furthers the Master Plan goal that discourages the separation of uses. In addition, the amended site plan proposes a pedestrian mews providing a north-south pedestrian only corridor linking residents to the retail/office core while providing a viewshed into the core of Town Center. In addition to creating a pedestrian connection, the Mews creates a gathering place to foster community interaction.

Streets are interconnected to create a network of sidewalks that will allow pedestrian movement from the developed residential portions of the Town Center to the new retail core, to the Clarksburg Historic District and to the Clarksburg United Methodist Church. Also, a diverse mix of housing, both market rate and MPDUs, is being provided to foster a strong sense of community for a variety of incomes and households. Finally, a pedestrian friendly environment is achieved by creating human scale streetscapes. To provide a pedestrian-oriented community, buildings are clustered with their facades pushed toward the street.

Policy 8: Employment

The Amendment incorporates additional retail within an interconnected five-block area as envisioned in the Master Plan. This Amendment includes 76,640 square feet of office use, which was not part of the previous approval. The addition of office use broadens the employment base as a part of the neighborhood development envisioned by the Master Plan.

Master Plan Land Use Plan

The Amendment meets the land use objectives of the Master Plan as follows:

- Create a Town Center which will be a strong central focus for the entire Study Area.
The Amendment establishes a strong identity with a traditional town character as called for in the Master Plan by including the reserved site for a civic building and Town Green to serve as the central gathering area. Because the focus of the Town Center is neighborhood based rather than regional, it is geared to serve local residents and foster community building. In addition to the civic building site reserved within the Town Center, the amphitheater, pedestrian mews, Town Green as well as passive

and active open space, all located in a walkable street grid, lays the groundwork for Town Center to be the central focus of civic and neighborhood services for the people that live there. This achieves the over-arching goals of the Master Plan.

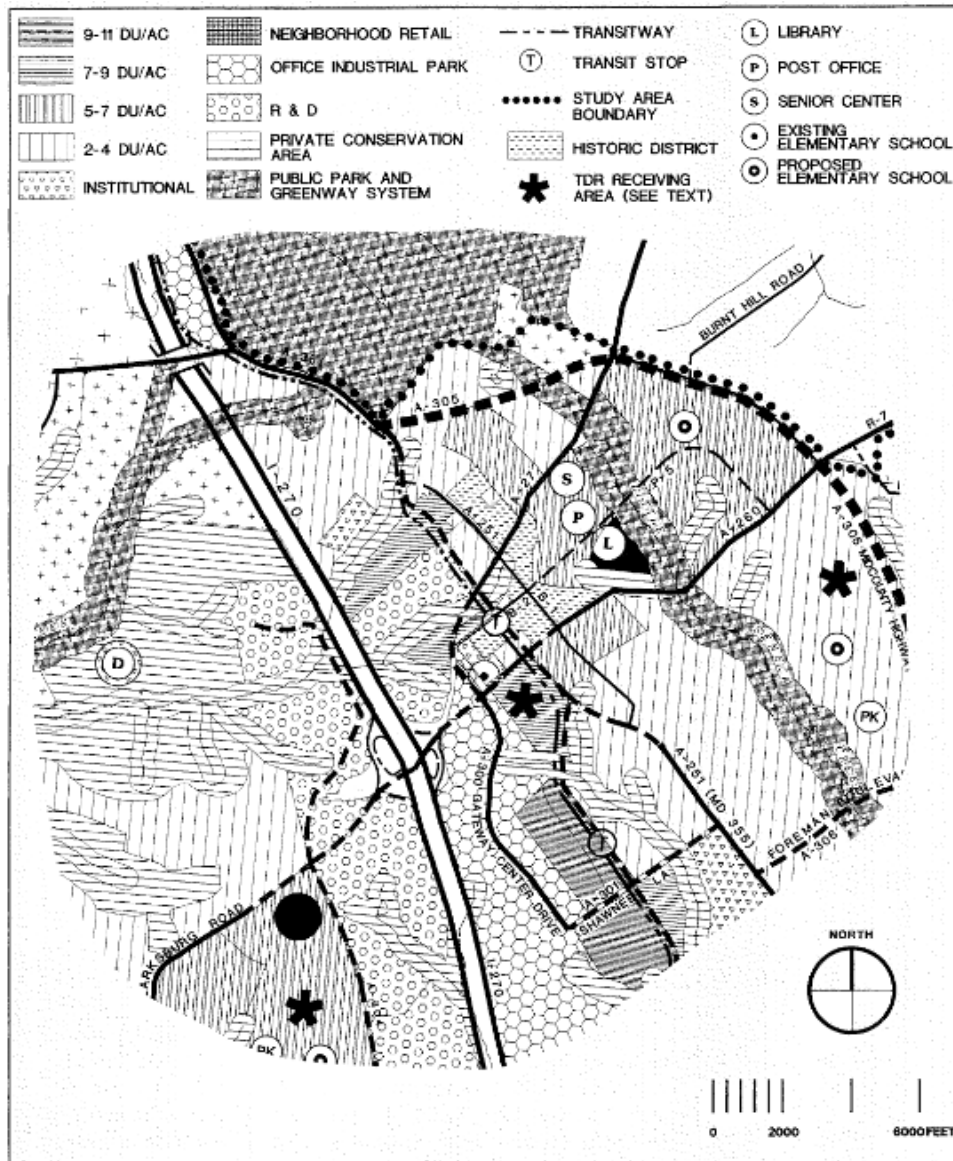


Figure 12 – Town Center District Land Use Plan (source: 1994 Master Plan, p.43)

- Encourage a mixed-use development pattern in the Town Center to help create a lively and diverse place.

The Amendment substantially conforms to the guidelines in the Master Plan for the recommended mix of residential units and commercial use. Although the mix of housing is slightly outside of the recommended mix of housing in the Master Plan, the Amendment brings the residential/commercial mix more in line with the Master Plan recommendations than that which had been previously approved. (see Table 1 below).

Table 1: Comparison of proposed housing mix with approved and recommended housing mix

Housing Mix	Master Plan (p.44)	Approved with 11995042A	Proposed
Multi-family	25 to 45%	24%	21.1%
Attached	30 to 50%	58%	59.3%
Detached	10 to 20%	18%	19.6%

*Please note: these percentages are based on the entire Town Center housing mix (both built houses outside the scope of this Application and remaining homes to be constructed as part of this Application).

The Amendment provides slightly more one-family attached and detached units and less multi-family housing than what was previously approved. However, it is a housing mix that is not appreciably different than the current plans and maintains the general goals of the Master Plan while responding to market demand.

The Master Plan states in terms of commercial uses:

“A retail designation is proposed east of the Historic District as part of a large-scale mixed-use neighborhood (see Figure 19, Page 43). By incorporating the retail center proposed into a larger planned development, there will be a greater opportunity to assure a strong integration of the retail center to adjoining residential and public uses and to assure a compatible relationship to the Historic District.”

The Master Plan proposes approximately up to 300,000 square feet of commercial square footage (Page 46). This amount of square footage envisions a mix of retail and office uses. The Amendment better achieves this goal by decreasing the amount of retail space while adding 76,640 square feet of office which was not part of the previously approved site plan. In doing so, it provides a better mix of services necessary to make a walkable Town Center successful (Figure 13).



Figure 13 – Streetscape elevation facing Clarksburg Square Road including office buildings, retail and restaurants

- Assure that future development around the Historic District complements the District’s scale and character.

The Amendment supports the Master Plan alignment for Clarksburg Square Road (aka Redgrave Road Extended) to MD 355 and the relocation of the historic Horace Wilson House, which is specifically being reviewed under a separate application⁶. The Amendment provides a pedestrian connection from the Town Center to Clarksburg United Methodist Church.

⁶ Site Plan No. 82007022C (combined with 120140060 & 820140050 and Mandatory Referral 2015008)

- Provide a Variety of Open Space Features

The Amendment includes an improved design for the Greenway network with sidewalks, bikeways, and increased landscaping. It includes improved recreational facilities for the 66-acre Piedmont Woods Park, such as a dog park and hiking trails. It also provides enhanced open space features for the Kings Pond Local Park, John Clark Family Memorial, and Sinequa Square.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The initial Adequate Public Facilities Review (APF) review was performed at the time of Preliminary Plan 119950420. The APF validity was subsequently extended through Preliminary Plan Amendment 11995042A (Planning Board Resolution 08-163) for a six-year period ending March 26, 2014. During the extended APF validity period, the County Council granted a series of APF validity extensions to all approved but unbuilt projects due to a generally poor economic climate at the time. As a result of these extensions, the subject Preliminary Plan has an APF approval through March 26, 2020. At the time the Amendment was evaluated by Staff, the County Council approved SRA 15-01, "Adequate Public Facilities – Preliminary Subdivision Plans – Validity Period," which extends the APF validity by an additional two-year period to March 26, 2022. Evaluation of the Amendment is limited to a determination that the amended development density is within the limits previously approved through Preliminary Plan 11995042A. The development associated with the Amendment will not have an adverse impact beyond the previously approved development because the amended development density is within the limits previously approved through Preliminary Plan 11995042A.

Site Access, Vehicular/Pedestrian Circulation and Rights-of-way

The Clarksburg Town Center Site, including the incomplete "West Side" town center, "Greenway," "East Side" residential development, and "Piedmont Woods Park," is currently accessed via Snowden Farm Parkway (A-305), Stringtown Road (A-260), and Clarksburg Road (A-27). Future access to the site will be enhanced through the widening of Stringtown Road, improvements along Clarksburg Road, and modification of the Clarksburg Road/ Snowden Farm Parkway intersection. Internal circulation within the East Side of the site is currently accommodated by a public east-west roadway, Clarksburg Square Road (P-5), which is proposed to be extended into the West Side through this Application. A related development application (120140060/820140050/MR2015008) will extend Clarksburg Square Road to Frederick Road (MD 355). Loading for each commercial building on the West Side will occur via the proposed internal street network/ surface parking lots and will not require queuing on adjacent public roadways.

The Amendment will enhance future north-south connectivity by completing a new private road connection, currently labelled as "General Store Drive" on the application drawings. Staff recommends that this private street be designated by a name other than "General Store Drive" because a street known by that name already exists within the Property and the new private street is not proposed to connect to the existing General Store Drive. To avoid confusion for emergency responders, this street name is unacceptable. Section 50-26 (e) of the Montgomery County Code grants the Planning Board the authority to approve street names, provided the proposed name is not already in use elsewhere in the County.

General Store Drive has a similar alignment with that of the formerly approved "General Store Drive," located between Stringtown Road and Clarksburg Square Road. The street will be located within a discrete parcel (private right-of-way) measuring approximately 60-feet wide and within a public access easement coterminous with the parcel. The roadway will be designed to comply with the Montgomery

County Business District Standard 2005.02 (modified to accommodate parking on both sides). Although standards set forth in Chapter 49, the Urban Road Code, do not apply to private streets, Staff recommends that the design of General Store Drive comply with those criteria because the street will effectively serve as an urban business district street. In keeping with that criteria, the roadway should be comprised of two eight-foot wide on-street parking lanes and two eleven-foot wide travel lanes. The road design, as shown on the Preliminary Plan and as proposed by Applicant, depicts twelve-foot wide travel lanes to accommodate larger service vehicles and eight-foot wide parking lanes. Staff recommends that the travel lanes be narrowed to eleven-feet wide to encourage slower travel speed and increase pedestrian safety. As conditioned, the road section with eleven-foot wide lanes should be shown on the Certified Preliminary Plan and Site Plan.

Future transportation improvements to Clarksburg Road and Stringtown Road associated with this Application will be implemented through a roadway improvement package agreement, described in the Memoranda of Understanding June 25, 2015, between the Applicant and the Montgomery County Department of Transportation (Appendix C). Terms of the improvement package are described in detail under the "Adequate Public Facilities" section, within this report. Funding for the roadway improvement package has been secured (Appendix D).

Master Plan Roadways and Pedestrian/Bikeway Facilities

A summary of the recommendations included in the Clarksburg Master Plan, *2005 Countywide Bikeways Functional Master Plan*, and *2013 Countywide Transit Corridors Functional Master Plan* include:

1. Clarksburg Square Road (P-5): a Primary Roadway located near the middle of the site, connecting Frederick Road (MD 355) and Snowden Farm Parkway (A-305); a minimum master planned right-of-way of 70-feet.
2. Stringtown Road (A-260): an Arterial Roadway with dual bicycle facilities (DB-18) between I-270 and Snowden Farm Parkway (A-305); a minimum master planned right-of-way of 120-feet.
3. Snowden Farm Parkway (A-305): an Arterial Roadway with a shared use path (SP-70) between Stringtown Road and Clarksburg Road (A-27); a minimum master planned right-of-way of 80-feet.
4. Clarksburg Road (A-27): an Arterial Roadway with bicycle lanes (LB-3) between Stringtown Road (A-260) and the northern master plan boundary; a minimum master planned right-of-way of 80-feet.
5. Frederick Road (B-1/ MD 355): an Arterial Roadway with a shared use path (SP-72) between Shawnee Lane and Clarksburg Road; a minimum master planned right-of-way of 50 feet. Frederick Road is also designated as the "MD 355 North Corridor," with a future Bus Rapid Transit station at the intersection of MD 355/ Clarksburg Square Road.

Clarksburg Square Road is identified as Redgrave Place in the 1994 Clarksburg Master Plan. This road is recommended to be a Business District Street within a 70-foot wide right-of-way, with 2 travel lanes through the West Side of the Clarksburg Town Center. The Preliminary Plan is showing a 60-foot wide right-of-way for the section of Clarksburg Square Road through the Commercial Core of the Town Center. The 60-foot wide right-of-way matches the existing right-of-way that has been platted and constructed in the far western section of the Town Center immediately adjacent to the Historic District. Once Clarksburg Square Road enters the Historic District, it transitions to a 50-foot wide right-of-way in order to minimize impacts to the historic character and resources in the Historic District.

Within the Commercial Core, Clarksburg Square Road is proposed as a Business District Street with two 11-foot wide travel lanes and where appropriate, 8-foot wide, on-street parking spaces on each side of the road. A tree panel, approximately 5-feet wide, separates the 5-foot wide sidewalk from the curb. Chokers, located at all intersection, minimize the pedestrian crossing distance in this high pedestrian area. The chokers, in combination with the on-street parking, will help delineate and separate the pedestrian realm from the vehicular realm, slow traffic, and generally improve public safety. The narrower right-of-way enhances the pedestrian scale and provides a more intimate relationship between the residential and civic uses on the north side of the road with the commercial, employment and services on the south side of the road.

The narrower right-of-way proposed by the Preliminary Plan serves the same basic function as the 70-foot wide right-of-way that the Master Plan recommends, however, the narrower right-of-way allows additional benefits that greatly improve the integration of the varied uses along this section of road. Subsequent to adoption of the 1994 Master Plan, design principles, road standards, and planning practices have evolved to create more compact and vibrant urban centers which advocate for narrower rights-of-way and tighter confronting building orientations. For these reasons, the 70-foot wide right-of-way is no longer appropriate at this location and the 60-foot wide right-of-way can be used to achieve superior results.

Local Area Transportation Review (LATR)

Since the Site has a valid APF approval for transportation facilities, the previously approved development could be constructed on the site without additional review by the Planning Board. The Application is under review at this time, however, because the Applicant is seeking a change to the previously approved development program. Staff's review is limited to a determination that the transportation impact of the revised development program does not exceed the impacts of the previously approved development.

The Applicant submitted a traffic statement (dated June 9 2014, updated April 15, 2015) for the Amendment that compares the transportation impact of the previous approval against that of the development proposed under this Application. That traffic statement, summarized in Table 2: Trip Generation below, shows that the development will generate 1,061 trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and 2,104 trips during the typical weekday evening (4:00 p.m. – 7:00 p.m.) peak periods. This trip generation is within the previously approved APF and represents a reduction of 8 morning peak-hour trips and 298 evening peak-hour trips when compared to the most current Amendment.

Table 2: Trip Generation
Clarksburg Town Center

Proposed Development Program						
Land Use	AM Peak Hour Trips			PM Peak Hour Trips		
	In	Out	Total	In	Out	Total
219 Single Family Detached	40	121	161	129	72	201
655 Townhomes	59	288	347	237	117	354
236 Multifamily Dwelling Units	19	78	97	74	38	112
Total Residential	118	487	605	440	227	667
129,545 SF Retail	158	145	303	629	581	1210
45,280 SF Medical Office	85	23	108	45	117	162
31,360 SF Office	39	6	45	11	54	65
Total Commercial	282	174	456	685	752	1437
Total Proposed	400	661	1061	1125	979	2104
Previously Approved Development Program (11995042A)						
Land Use	AM Peak Hour Trips			PM Peak Hour Trips		
	In	Out	Total	In	Out	Total
219 Single Family Detached	40	121	161	129	72	201
700 Townhomes	62	304	366	249	122	371
287 Multifamily Dwelling Units	24	94	118	90	46	136
Total Residential	126	519	645	468	240	708
194,720 SF Retail	220	204	424	881	813	1694
Total Previously Approved	346	723	1069	1349	1053	2402
Difference (Additional Trips)						
Land Use	AM Peak Hour Trips			PM Peak Hour Trips		
	In	Out	Total	In	Out	Total
0 Single Family Detached	0	0	0	0	0	0
- 45 Townhomes	-3	-16	-19	-12	-5	-17
- 51 Multifamily Dwelling Units	-5	-16	-21	-16	-8	-24
Total Residential	-8	-32	-40	-28	-13	-41
Total Commercial	62	-30	32	-196	-61	-257
Total Difference	54	-62	-8	-224	-74	-298

Source: Kimley Horn Traffic Statement, dated April 15, 2015.

Policy Area Review

At the time the Clarksburg Town Center received its APF approval, the policy area review consisted of the "Policy Area Transportation Review" (PATR), which required that the Applicant make transportation improvements rather than mitigate transportation impacts through financial contributions. Since this Preliminary Plan Amendment represents a modification to the previously granted APF approval, the Application is not subject to the current "Transportation Policy Area Review" (TPAR) and is therefore not required to mitigate its transportation impact through a TPAR payment.

Conditions of the previous APF approval required improvements to public transportation infrastructure within and around the Property, which are now being implemented through the partnership as described in the Memoranda of Understanding (Appendix C). As previously discussed, those improvements will improve access to the Property by widening Stringtown Road to its master planned width of 4 lanes, implementing frontage improvements along Clarksburg Road, and improving sight distance at the Clarksburg Road/ Snowden Farm Parkway intersection. These improvements will be made in partnership with MCDOT and will satisfy the previous conditions of approval for the Clarksburg Town Center.

As a result of the internal road network shown on the Amendment and the Applicant's partnership with MCDOT to participate in public roadway improvements, this Amendment maintains the intent of the previous approval and will result in a safe, adequate, and efficient transportation network.

Other Public Facilities

Public facilities and services continue to be available and will be adequate to serve the proposed development. The Property is served by adequate public water and sewer systems. The Amendment has been reviewed and approved by the Montgomery County Fire and Rescue Service, who have determined that the Property will have appropriate access for fire and rescue vehicles [Appendix B]. Other public facilities and services, such as, police stations, firehouses, and health services are operating according to the Growth Policy resolution in effect when the APF approval was granted and will be adequate to serve the development. No additional residential units are proposed with this Amendment; therefore, the development is not subject to a School Facility Payment review.

3. *Practical difficulties exist which prevent the development from complying with Section 50-29(a)(2) requirements for lot frontage on a public street, therefore the Board may grant a waiver under Section 50-38(a) of the Subdivision Regulations.*

Section 50-29(a)(2) of the Subdivision Regulations requires that all lots abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. There are several one-family attached lots that do not have frontage on either a public or private street (Figure 14). Instead, the frontage is either on private driveways or on green space. Since these driveways and green spaces are the only frontage provided for the lots, it is staff's opinion that a waiver of Section 50-29(a)(2) is needed to permit the proposed configuration.

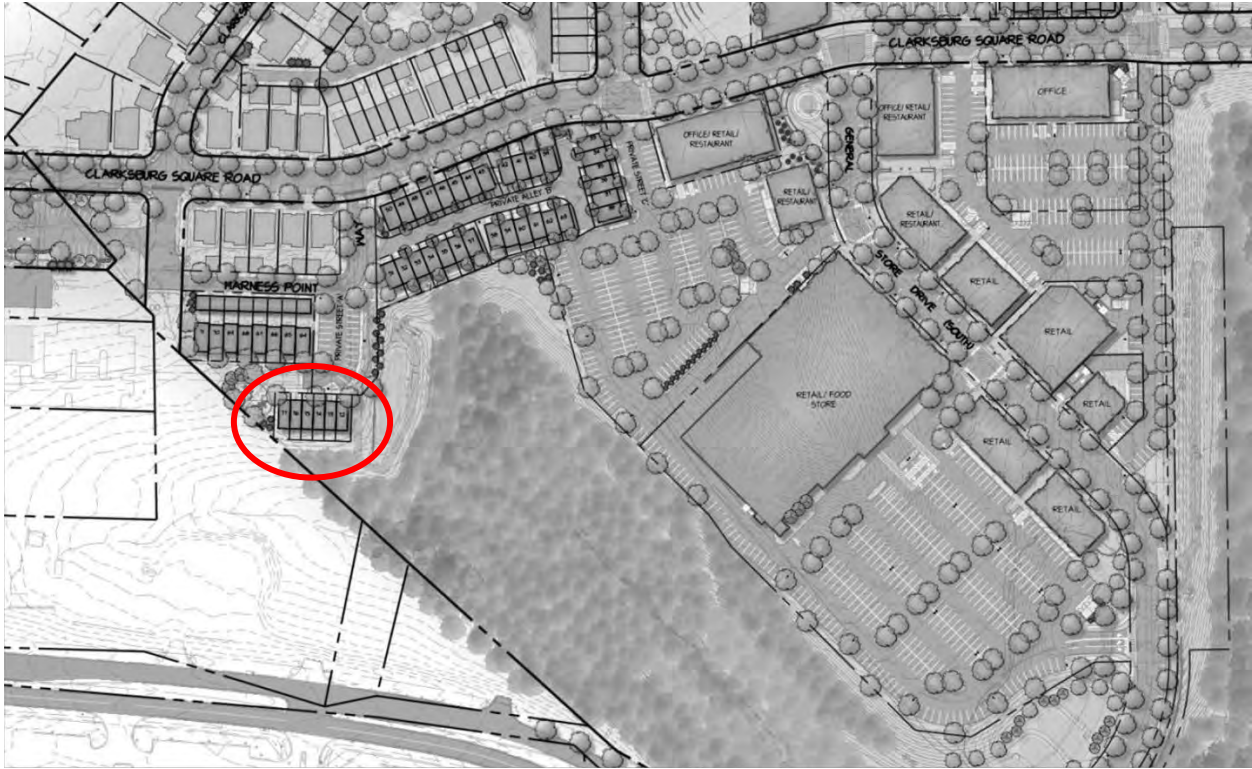


Figure 14 – Proposed lots in Block GG with no frontage on either a public or private street.

Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements from being achieved, and that the waiver 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; 3) not adverse to the public interest.

Waivers of lot frontage are justified based on the practical difficulties associated with implementing neo-traditional design principles within Clarksburg Town Center if lot frontage is always required. Such a design implements the intent and recommendations of the Clarksburg Master Plan by facilitating a community which has a hierarchy of streets, including a series of alleyways, with a mix of housing types and densities, and green areas dispersed throughout. The proposed neo-traditional neighborhood design best implements the intent of the Clarksburg Master Plan, particularly with regard to integrating green spaces throughout the development. The waiver facilitates the replacement of certain roads with green spaces that reduce the amount of paving in the development, increase the areas available for treatment of stormwater runoff, and create visible open areas and gathering spaces for the community. All houses will be adequately served and accessed by proposed private driveways. It is not adverse to the public interest because it maintains safe vehicular and pedestrian circulation while providing additional amenities.

4. *Minimum 25' truncations must be provided for the intersection of the following public roads: Ebenezer Chapel Drive and Overlook Park Drive, Overlook Park Drive and Clarksburg Square Road, Clarksburg Square Road and Public House Road, and Public House Road and Ebenezer Chapel Drive.*

Section 50-26(e)(3) requires corner lots at intersection to be truncated for road dedication purposes by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant, however, the Planning Board may specify a greater or lesser cut-off if it is needed for safe sight distance or traffic channelization. This Amendment supports the Master Plan goal by providing a safe, friendly, transit-oriented community by reducing corner truncations to the minimum necessary while still providing safe sight distance and turning movements for vehicles. Thus, the above-mentioned intersections are more highly travelled, and must meet the minimum standards, however, other less travelled road intersections have reduced truncations or none at all. Those non-standard intersections proposed in the Amendment match those that have already been platted and constructed. They tend to be on narrower roads that are more pedestrian friendly and that have slower traffic speeds. In all cases, the MCFRS has found all intersections, regardless of truncation, to be adequate for emergency apparatus access.

Non-standard corner truncations were included in all prior approvals for the Clarksburg Town Center. Staff supports the additional non-standard truncations at the locations shown on the submitted Preliminary Plan.

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

As conditioned and fully discussed in the Site Plan Section of the Staff Report, the Amendment is in compliance with the Montgomery County Environmental Guidelines, the Forest Conservation Law (Chapter 22A). Amended FCP 82007022D was submitted on June 4, 2015 (Appendix E). As part of the FCP, the Applicant will be retaining 41.39 acres of the original 48.49 acres of existing onsite forest, including 25.97 acres of forest within the environmental buffer. Approximately 2.42 acres of onsite forest within the environmental buffer has been cleared under the original FCP approval for project elements including road crossings, utilities, and stormwater management features. The Applicant proposes to meet the 22.58 acre forest conservation planting requirement onsite through forest and landscape plantings.

The Applicant has agreed not to modify the Category I conservation easement with a viewshed management plan for the forest conservation planting areas within the environmental buffer located between Stringtown Road and the proposed retail center in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

6. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.

As conditioned and fully discussed in the Site Plan Section of the Staff Report, the Amendment meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. In a letter dated June 23, 2015, MCDPS has conditionally approved their portion of the SPA Final Water Quality Plan including site performance goals, stormwater management, sediment and erosion control and BMP and stream monitoring. The Planning Board's responsibilities include forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces. Per SPA requirements outlined in the Environmental Guidelines, areas of the

environmental buffer currently lacking forest will be reforested, forest planting will be expedited, and a five-year maintenance program for newly planted forest will be required. The development results in approximately 12.19 acres of environmental buffer disturbance; however, this is a net reduction of 1.53 acres from the 13.72 acres of buffer disturbance on the previously approved Site Plan. Mitigation for the buffer disturbance will be provided onsite. The Clarksburg SPA does not have a specific numerical limit on impervious surfaces and the Applicant has demonstrated efforts to reduce imperviousness, including a net reduction of 1.53 from the previously approved Site Plan.

Compliance with the Subdivision Regulations

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all other applicable sections. The size, width, shape and orientation of the lots continue to be appropriate for the location of the subdivision, given the recommendations of the Master Plan. The lot pattern is comparable to that approved and built as part of the Town Center. The size, shape, width and orientation of lots on the Amendment is appropriate and will provide a seamless continuation of the existing development.

SECTION 4: SITE PLAN AMENDMENT

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan 82007022D. All site development elements shown at the end of Review Cycle no. 2 as submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.⁷

Conformance with Previous Approvals & Agreements

1. Project Plan Conformance
The development must comply with the conditions of approval for Project Plan No. 91994004D, or as amended.
2. Preliminary Plan Conformance
The development must comply with the conditions of approval for Preliminary Plan No. 11995042B, or as amended.
3. Site Plan Conformance
The development must comply with the conditions of approval for Site Plan No. 82007022C, unless modified by this approval and as shown on the Certified Site Plan.

Environment

4. Forest Conservation & Tree Save
The Applicant must comply with the conditions of the approved Final Forest Conservation Plan No. 82007022D dated June 4, 2015.
 - a. The Applicant must submit and obtain Staff approval of a revised Final Forest Conservation Plan as described below.
 - i. All areas of forest retention and planting that are protected in a Category I conservation easement or through dedication to the M-NCPPC Parks Department must be clearly delineated on the Forest Conservation Plan.
 - ii. The conservation easements and dedication areas must not allow for the implementation of a “viewshed management plan”. The conservation easements and dedication areas will be subject to the standard maintenance and management agreement for conservation easements in Special Protection Areas. All references to the “viewshed management plan” must be removed from the Final Forest Conservation Plan.
 - iii. All landscape plantings receiving forest conservation credit must be outside of any public road right-of-way, and any other easements, including stormwater management easements and utility easements.
 - b. The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers that will not be dedicated to the M-NCPPC Department of Parks as specified on the approved Forest Conservation Plan.

⁷ For the purposes of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.

- c. The Applicant must install permanent Category I conservation easement signage along the perimeter of the conservation easements.
 - d. The Applicant must install permanent M-NCPPC Parks Department property line posts along the perimeter of the park dedication areas.
 - e. The Applicant is responsible for approximately 18.81 acres of forest conservation planting requirements that have not already been completed or bonded by the previous land owner.
 - f. The Applicant must provide financial surety to the M-NCPPC Planning Department for the 18.81 acres of new forest planting prior to the start of any demolition, clearing, or grading on the Property.
 - g. The Applicant must submit a five year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
 - h. Reforestation/afforestation plantings that are located outside the limits of disturbance on the Clarksburg Town Center development must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
 - i. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
 - j. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - k. The Applicant must provide an invasive species management program utilizing M-NCPPC's *Best Management Practices For Control of Non-Native Invasives* document as guidance for M-NCPPC Staff's review and approval prior to the start of any demolition, clearing or grading on the Property.
5. Water Quality
The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) Final Water Quality Plan approval letter dated June 23, 2015. (Appendix B)

Public Use Space, Facilities, Amenities and Parks

6. Public Use Space, Facilities, and Amenities
 - a) Applicant must convey the Clark Family Memorial to the Clarksburg Town Center HOA.
 - b) Adjust the fence location within the Clark Family Memorial per correspondence from the Clarksburg Historical Society dated June 23, 2015 (Appendix I).

7. Piedmont Woods Local Park

- a) A Park Development Permit will be required for any improvements made to Park property or dedications for parkland. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet or exceed Parks design standards and specifications. Minor changes may be made to the location of facilities and to specific details during the Park Development Permit process, at the direction of the Park Development Division, without requiring an amendment to the site plan. Prior to approval, the Park Development Permit Set will also need to include sediment control/stormwater management drawings and calculations, utility drawings, tree protection measures, specification and all other information necessary to construct the Application.
- b) Plant species selections listed in the site plan set are considered preliminary, subject to the review and approval of the Park Development Division as part of the Park Development Permit process. Applicant will review and revise plant species based on direction from M-NCPPC Department of Parks staff.
- c) Prior to the issuance of the 1,051st building permit, the construction of Piedmont Woods Local Park must be installed per the approved Park Permit plans.
- d) All plant material installed within the Property shall be warranted by the Applicant for two years from the date of substantial completion.
- e) The heavily re-graded areas north of the proposed parking lot and northeast of the proposed dog park shall be stabilized, seeded and maintained per M-NCPPC Department of Parks approved specification for meadow establishment.

8. King's Local Park

- a) Prior to release of the 1001st Building Permit, all required improvements to King's Local Park shall be installed per the approved Park Permit plans.
- b) A Park Permit shall be obtained by the Applicant for any improvements made to Park Property or dedications for parkland. The permit application shall be filed immediately following approval of the certified site plans to avoid a delay in the issuance of residential building permits. All facilities to be constructed by the Applicant must be acceptable to M-NCPPC Department of Parks staff and meet or exceed Parks design standards and specifications. Minor changes may be made to the location of facilities and to specific details during the park permit process, at the direction of Park Development Division, without requiring a revision to the site plan. The Park Permit set will also include sediment control/stormwater management drawings and calculations as required by DPS, utility plans, an NRI/FSD and Forest Conservation Plan or exemption, and any permit, approval, and information (including specifications) necessary to construct the project.

9. Common Open Space Covenant

The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (Covenant).

10. Recreation Facilities

The Applicant must provide at a minimum the following recreation facilities onsite as shown on the Certified Site Plan:

Location	Public facilities and amenities
West Side	(1) tot lot Town Green including:

	<ul style="list-style-type: none"> - Amphitheater & stage - Open play area II Plaza with splash fountain 1.1-acre civic parcel Picnic/sitting Bike system Pedestrian system
East Side	(1) Open play area I (1) Open play area II Picnic/sitting (1) Indoor community room Bike system Pedestrian system
Piedmont Woods Local Park	(1) multi-age playground (1) basketball (2) tennis courts (1) dog park Picnic/sitting Bike system Pedestrian system Nature trails Nature area
Greenway	Picnic/sitting Bike system Nature area
Kings Pond Local Park	(1) multi-age playground (1) Fishing Pier Picnic/sitting Bike system Pedestrian system

11. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities within areas that they own including, but not limited to the Town Green, plaza with splash fountain. The residential HOA will be responsible for maintaining the new Community Building and Sinequa Square.

12. Civic Parcel and Town Green

a. Prior to the release of the 88th building permit in Block BB:

i. Parcel K, Block BB (“Civic Parcel”)

- o The Applicant must complete improvements, which includes grading per the finished floor grades and seeding, per “Interim Conditions” shown on the western portion of the Civic Parcel (intended as the ultimate location of the Civic Building) as shown on the certified Site Plan.
- o The Applicant must complete construction of paths and seating areas on the center portion of the Civic Parcel as shown on Sheet WS04 of the Site Plan.

- The Applicant must complete construction of the parking lot serving the Civic Parcel, the screening wall adjacent to the parking and parallel to Clarksburg Square Road, and landscaping and lighting to serve the parking lot, all as shown on the certified Site Plan.
 - ii. Parcel L, Block BB (“Town Green”)

The Applicant must complete construction of the amphitheater and stage, install the amphitheater seat walls and landscaping, and sod/seed the area, all as shown on Parcel L, Block BB of the certified Site Plan.
- b. Prior to the release of the 1,051 residential building permit, the Applicant must dedicate the entire Civic Parcel to Montgomery County. In the event Montgomery County has not either entered into an agreement with the Applicant or appropriated funds for the design and construction of the Civic Building by the time that dedication is required, the Applicant may build the Civic Building and lease the Building for uses that serve the community, such as a civic building, event center, recreation center, as contemplated by Civic and Institutional Uses as defined in the Zoning Ordinance (excluding Ambulance, Rescue squad, and Hospital), first giving a right of refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose. If at the end of any County or civic lease, no civic purpose is found, Applicant can lease the space to tenants that provide services to the Clarksburg community.

Transportation & Circulation

13. Transportation

- a) The Applicant must show on the Certified Site Plan a 38-foot wide cross section, as measured from face-of-curb to face-of-curb, for General Store Drive that consists of two eight-foot wide on-street parking lanes and two eleven-foot wide travel lanes. The private street must be built to the structural and design standards of MC-2005.01, which may be modified to permit decorative paving material.
- b) Provide wheel stops in surface parking areas abutting sidewalks.

14. Pedestrian & Bicycle Circulation

- a) The Applicant must ensure short term public bicycle parking is installed along the retail frontages and near public use space, as shown on the Certified Site Plan.
- b) Show 8-foot shared use path along Stringtown Road consistent with approved Stringtown Road engineering drawings approved in February 2013 (SC/SWM permit no. 242670).
- c) Provide an ADA-accessible path connection from Snowden Farm Parkway to the internal sidewalk system on Murphy’s Grove Terrace.
- d) The Applicant must provide a brick paving sidewalk on Clarks Crossing Drive from its intersection with Clarksburg Square Road until the end of the existing brick paving along the side of the proposed Community Building and Sinequa Square.

15. Right-of-Way Permitting

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Right-of-Way Section in its letter dated June 19, 2015 [Appendix B], and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

- a) All existing brick sidewalks are subject to maintenance and liability covenants.

- b) Private streets to be built to tertiary roadway structural standards.
- c) All pavement/parking markings are subject to MCDOT review and approval at the time of permit.

16. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter dated June 24, 2015 [Appendix B], and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Density & Housing

17. Density

The development is limited to a maximum of 206,185 SF of commercial uses (including office and retail), and a maximum of 1,120 dwelling units (including 12.5% MPDUs), on 270.92 acres.

18. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated June 1, 2015, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a) The development must provide 12.5 percent MPDUs on-site as shown on the certified site plan consistent with the requirements of Chapter 25A and the applicable Master Plan.
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) must be executed.

Site Plan

19. Architectural Design/Compatibility

- a) The Applicant must retain a third party Registered Architect, as the Town Architect, to administer the release of building permits in accordance with the approved architectural drawings and specifications included in the Certified Site Plan. The Town Architect must certify that any proposed construction complies with the Certified Site Plan, and the certification must accompany each building permit application. The MCDPS must not issue a building permit unless accompanied by the Town Architect's certification.
- b) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet SD1 through SD5 of the submitted architectural drawings, as determined by M-NCPPC Staff.
- c) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.
- d) Enhance high visibility side facades by providing at least two architectural treatments from the following list: box or bay window, minimum of two windows, shutters, fireplace, brick water table, trim and headers on exposed side consistent with front elevation. Locations for high visibility side facades include: Lots 1, 14, 35, 42, 57, 58, 72, 80, 81, 88 (Block BB); Lots

33, 38, 50 (Block GG), Lots 31, 32, 55 (Block H). The details of the architectural treatments must be shown on the Certified Site Plan.

20. Landscaping

- a) Revise note on Landscape Set to the following language “Any on-lot landscaping and alley landscaping previously shown for existing houses and not installed, is not the responsibility of the Applicant.”
- b) Provide typical foundation plantings for residential units on the certified site plan.

21. Lighting

- a) Before issuance of the any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for residential and commercial development.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on all proposed fixtures causing potential glare or excess illumination.
- d) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The light pole height must not exceed 12 feet including the mounting base on private streets and 30 feet in private parking areas; except the light fixtures in the parking areas for the Civic Building and for the commercial area adjacent to units 33-38 and 58-63 in Block GG must be replaced with light fixtures with a maximum light pole height of 12 feet consistent with the fixture on private streets.
- f) On top of the optional parking structure, the light pole height must not exceed 12 feet above the top of the parapet wall including the mounting base.

22. Site Plan Surety and Maintenance Agreement

Before issuance of the 1st building permit for any Block or Phase, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board for that Block or Phase. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and alleys, curbs and gutters along all private roads and alleys, paths and associated improvements within the relevant phase of development. The surety must be posted before issuance of the any building permit within each relevant Block or Phase of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each Block or Phase of development will be followed by inspection and potential reduction of the surety.
- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each Block or Phase.

23. Certified Site Plan

Before 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 letter, stormwater management concept approval letter, development program, and Resolution on the approval or cover sheet(s).
- b) Add a note stating that “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
- c) Modify data table to reflect development standards approved by the Planning Board.
- d) Address Eplans markups including minor clarifications and corrections to the plan drawings.

24. Development Program

The Applicant must construct the development in accordance with a development program table below.

Development Program Table	
Deadline	Task
Before Certified Site Plan approval	Include the Amended Final Forest Conservation Plan approval, stormwater management concept approval, development program, and Planning Board Resolution on the approval or cover sheet.
	Provide phasing or sequence for the various stages of construction of the approved development, which includes building of roads, townhouse units, the installation of on-site landscaping, lighting, and amenities and phasing of applicable stormwater management, sediment and erosion control, and afforestation.
	Provide architectural treatment for high visibility side facades
Before sediment control plan approval	Demolition of existing structures, and clearing and grading
Before sediment control permit issuance	Financial surety to M-NCPPC for the required 18.81 acres of forest planting.
	Five year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel
Before issuance of first residential building permit	Execute an MPDU Agreement-to-Build between the Applicant and DHCA (Condition #XX)
	Certification from a qualified professional that the lighting plans conform to the IESNA standards (Condition #20.a)
Before issuance of first [above grade] building permit	Site Plan Surety and Maintenance Agreement (Condition #21)
Prior to the issuance of 30 th residential building permit in Block GG	Harness Point tot lot including lighting and landscaping in Block GG to be completed (the 30 th building permit represents the 70 th percentile of all building permits assigned to Third Try LC in Block GG).
Prior to the issuance of 26 th residential building permit in Block H	Grading, seeding, seating areas, lighting and landscaping must be installed in Block H (the 26 th building permit represents the 75 th percentile of all remaining building permits to be issued in Block H).

Before issuance of the 88th building permit in Block BB	Complete construction of all improvements in the Civic Parcel (Parcel K, Block BB) (Condition #12)
	Complete construction of Town Green (Parcel L, Block BB) (Condition #12)
Prior to the issuance of 901st residential building permit	Clarksburg Square Road land bridge improvements must be bonded.
Prior to the issuance of 951st residential building permit	Resident's Club/Sinequa Square: <ul style="list-style-type: none"> ▪ The Residents Club building addition must be completed and UNO obtained. ▪ Raised pool deck that connects the new Residents Club building to the shade structure on the pool deck must be completed. ▪ Residents Club/pool parking, trees and lighting must be installed. ▪ Fine grading, sodding, benches, paths and landscaping for Sinequa Square must be installed. ▪ Private area lighting - Sinequa Square and parking area on Sugarloaf Chapel must be installed.
	Clark Family Memorial: <ul style="list-style-type: none"> ▪ Clearing, grading, sod, fence, benches, plaque, and, if appropriate, treated headstones must be installed.
	Roads: <ul style="list-style-type: none"> ▪ Clarksburg Square Road land bridge improvements, including the brick piers and fencing, must be installed and the road open to traffic. ▪ Stringtown Road must be bonded or included in CIP.
Prior to the issuance of 975th residential building permit	Overlook Park Drive from Clarksburg Square Road to Public House Road must be installed and the road open to traffic.
Prior to the issuance of the 1,001st residential building permit	Construction of King's Local Park substantially complete; all amenities to be installed, including the multi-age play area, trails, picnic tables, grills, porta john enclosures, and fishing pier.
	Trail connection to Clarksburg United Methodist Church and associated landscaping must be installed per agreement with the Church.
Prior to the issuance of the 1,051st residential building permit	Construction of Piedmont Woods Local Park substantially complete; all amenities to be installed, including the trails, picnic shelters, basketball court, tennis courts, multi-age play areas, water fountain, porta john enclosure, dog park, landscaping and park signage.
	Dedicate the entire Civic Parcel (Parcel K, Block BB) to Montgomery County provided that Montgomery County has either entered into an agreement with the Applicant or appropriated funds for the design and construction of the Civic Building. (Condition #12)
Prior to: 1. The issuance of 1,051st residential building permit, and	Roads: <ul style="list-style-type: none"> ▪ General Store Drive from Stringtown Road to Clarksburg Square Road must be constructed.

2. The issuance of first UNO for the Retail/ commercial area	<ul style="list-style-type: none"> ▪ Stringtown Road must be open to traffic.
Within nine months after base and binder paving of Clarksburg Square Rd	The remaining streetscape and special sidewalk treatment for Clarksburg Square Rd not required of or installed by the previous developer must be completed.
Within nine months of completing General Store Drive from Stringtown Road to Overlook Park Drive	The Greenway Trail adjacent to that section of General Store Drive must be installed.
Within nine months of completing Overlook Park Drive from General Store Drive to Clarksburg Square Road	The Greenway Trail adjacent to that section of Overlook Park Drive must be installed.
Within nine months of completing Overlook Park Drive from Clarksburg Square Road to Clarksburg Road	The Greenway Trail adjacent to that section of Overlook Park Drive must be installed.
Before issuance of the first use and occupancy certificate	Certification from a licensed civil engineer that all private streets and sidewalks have been built to the specified standards.
	Street lamps and sidewalks adjacent to each building must be installed before release of any residential/commercial development use and occupancy certificate for the respective building. Street tree planting may wait until the next planting season.
	On-site amenities including, but not limited to, sidewalks, site furniture, benches, trash receptacles, bicycle facilities, lighting and landscaping associated with that building.
Before issuance of the final occupancy certificate for the final unit in each stick adjacent to the Mews in Block BB	Residential Mews in Block BB: Mews, pedestrian pathways, sidewalks, landscaping and lighting adjacent to each stick of townhomes or 2/2 unit will be installed
Prior to the issuance of the UNO for 100,000th SF (approximately 50th percentile) of commercial space	Splash fountain must be installed and UNO for fountain issued.

FINDINGS

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.*

Neither a development plan, diagrammatic plan nor schematic development plans were required for the subject site. The Site Plan Amendment is consistent with the concurrent Project Plan Amendment No. 91994004D for the Clarksburg Town Center in terms of land uses and maximum densities, design layout, development standards, and conditions of approval.

Compliance Plan

The Site Plan Amendment substantially conforms to the requirements of the Compliance Plan, as modified by the Planning Board with approved Site Plan No. 820070220, which called for significant

improvements to the Town Center in-lieu-of pending or existing fines imposed as penalties for the many violations. The key elements of the Compliance Plan, such as the completion of the roads and the commercial center, the dedication of land for the Civic Building, the improvements to Piedmont Woods Park, the new connections to the church, and the additional parking and Community Building at the Residents' Club are all being provided. The Amendment serves the public interest because it completes the unbuilt portions of the Clarksburg Town Center community and improves several major roadways surrounding the project.

Since 2009, when Site Plan No. 820070220 including components of the Compliance Plan was approved, the circumstances surrounding this project have evolved. Factors include: 1) Newlands and the County have reached an agreement under which Newlands, who was responsible for many of the violations, has been finishing many of the items called for in the Compliance Plan, and the County will complete certain other improvements for which public funding has been secured; 2) Third Try has taken over the project and will complete the unbuilt portions of the community as previously approved or as amended by these applications; and 3) the community has undergone a natural changeover with new residents bringing new aspirations to the mix, which led to a number of outreach efforts by the Applicant and M-NCPPC.

Collectively, these evolving circumstances prompted modifications to the layout, design elements and even some facilities. For example, recreation facilities included within Kings Pond Local and Piedmont Woods Local Parks are a direct response to community feedback compiled via an online survey and online comment tool combined with a community meeting held by the Parks Department. Other modifications are the result of close coordination with specific interest and user groups. For example, the Applicant worked closely with 1) the Clarksburg United Methodist Church on the ADA-accessible pathway connecting Clarksridge Road to the Church, which replaces the grand staircase previously approved; 2) the Clarksburg Historical Society on the modifications to the design and location of the Clark Family Memorial, and 3) Clarksburg Town Center Pool and Rec Committee on the additions to the Residents' Club, including the New Community Building and parking in Sinequa Square.

Overall, the Amendment meets the intent and spirit of the approved plans by providing significant community amenities and facilities that are comparable to the approved plans while responding to the aspirations and needs of today's community.

- 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 Property is split-zoned RMX-2 and RDT per the Zoning Map in effect prior to October 30, 2014, when the Amendment was submitted. The Application meets the general requirements and development standards of the RMX-2 zone, under the optional method of development, and RDT zone, as demonstrated in the Data Table (Appendix H). The Amendment also complies with the development standards of the RDT Zone, separate and aside from the provisions for the optional method of development. The RDT Zone encompasses the proposed Piedmont Woods Park on the northeast side of Snowden Farm Parkway.

This Amendment meets the density requirements of the zones and recommendations in the Master Plan. The residential density at 6.27 du/ac is below the maximum density of 7 du/ac recommended by the Master Plan (p.55). The commercial density at 0.18 FAR is well below the maximum 0.5 FAR allowed

and the gross leasable floor area is well below the maximum 600,000 SF allowed by the RMX-2 Zone. The Clarksburg Town Center includes a total of 1,120 units, including 12.5% MPDUs, consisting of one-family detached, one-family attached and multi-family units, in addition to 206,185 square feet of commercial uses, including both office and retail, and civic uses.

The Applicant is requesting reconfirmation of the reduction of the minimum setback requirements of Section 59-C-7.15(b) of the Zoning Ordinance to allow two townhouse units to be located less than 30 feet away from an abutting commercial or industrial zoning, such as the CRN Zone in the Clarksburg Historic District. The Zoning Ordinance allows the Planning Board to reduce this setback by no more than 50% “upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property.” The 50% setback reduction will not adversely affect the adjacent property or the proposed residential units. The orientation of the units and landscaping provided improves compatibility between the two zones. In addition, uses in the CRN Zone are oriented towards MD 355 and away from the new residential units. A reduction of the minimum setback requirements has been applied to other portions of the development that have been built; therefore, the setback reduction is consistent with prior Planning Board determinations.

The Amendment meets parking requirements pursuant to Section 7.7.1.B.3.b of the Zoning Ordinance in effect after October 30, 2014, which allows grandfathered plans to reduce the parking requirements of a previously approved plan in a manner that satisfies the parking requirements of the current Zoning Ordinance. The parking waiver requested by the Applicant for the commercial core is not necessary given the provisions above, which decreased the parking requirements from 876 to 586 spaces for the commercial core. The residential parking requirements are met through private garage spaces, on-lot pad sites and surface parking facilities.



Figure 15 – Streetscape elevation facing north on General Store Drive

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

a) Locations of buildings and structures

The locations of buildings and structures are adequate, safe, and efficient. On the west side of the Greenway, the Commercial Core consists of several non-residential buildings fronting on General Store Drive (private) and Clarksburg Square Road. These buildings are adequately located with minimum front setbacks from the roads and served with surface parking areas in the rear. Locating retail buildings closely together, orienting them towards General Store Drive, and allowing for restaurant outdoor seating areas reinforces the retail and pedestrian character of this road (Figure 15). The grocery store, which fronts a large area of surface parking, is lined with retail buildings on the side that fronts on General Store Drive. This will efficiently activate the side façade of the grocery store, while meeting their strict orientation requirements. Office buildings are adequately located along Clarksburg Square Road and they efficiently complement the mix of uses provided. The office building closest to the Greenway is

shown with an optional slip deck, which will accommodate additional parking should an additional story of office space be constructed.

The pad site for the future civic building is efficiently located at the terminus of General Store Drive, where it meets Clarksburg Square Road, which maximizes visibility and presence at the center of the community. A parking area easily accessed off Clarksburg Square Road will serve the future building. Both the building pad site and the constructed parking area will be dedicated to Montgomery County. As conditioned, in the event that Montgomery County has not either entered into an agreement with the Applicant or appropriated funds for the design and construction of the Civic Building prior to the time established for the dedication, the Applicant may build the Civic Building and lease the Building for uses that serve the community, first giving a right of refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose. This timing mechanism with alternatives will add certain accountability to the process and hopefully avoid having an empty pad site when the remainder of the Town Center is complete.

The residential areas surrounding the Commercial Core consist mostly of one-family attached units and some multi-family (2-over-2) units with MPDUs included in the two unit types. Several residential units front onto public roads, such as Clarksburg Square Road, Overlook Park Drive and Ebenezer Chapel Drive, which adequately frame these roads and help activate them. Other residential units front onto private streets, such as Martz Street located internally within the larger Block, and serve similar purposes as those fronting public roads. Still other residential units front onto open spaces or mews, such as the Town Green or the mews that follows the alignment of General Store Drive, and they benefit from having an amenity at their doorstep. Locating residential units in proximity to commercial and civic uses promotes walkability. The MPDUs provided by this Amendment are both clustered into the multi-family buildings and integrated into the townhouse sticks.

On the east side of the Greenway, Block H includes 35 one-family attached units rear-loaded from an internal alley system. The majority of the units are oriented towards an internal green space, and some towards Clarksburg Square Road and Clarksmeade Drive, which is consistent with the orientation of existing units.



Figure 16 – South elevation of existing Residents' Club and new Community Building

Adjacent to the existing Residents' Club, the Amendment provides a new Community Building (Figure 16) that includes a large multi-purpose room, with the approximate capacity of 80-100 people, envisioned to accommodate large community events, such as, annual HOA meetings, exercise classes, and movie nights. Locating the new building in proximity to the existing Residents' Club and the swimming pool maximizes the synergy between the buildings and expands the recreational uses provided. The new building will have direct access to/from the street and the pool area. The Amendment efficiently addresses parking needs of the Resident's Club/swimming pool by providing a

new parking area on Sinequa Square across from the Resident's Club. The location of the parking provides safe access to the buildings while allowing for through movement of cars.

The use of retaining walls on the west side of the retail center limits the amount of encroachment into the stream buffer and other environmentally sensitive areas. By revising the grading in Kings Pond Local Park, retaining walls were no longer necessary and were eliminated.

b) Open Spaces

The open spaces provided are adequate, safe, and efficient. The Amendment provides a diverse range of open spaces, which enrich the recreational opportunities for the residents and visitors of this community, while providing relief from the density proposed. Integral to the design and layout of this community is the location of existing natural features and environmentally sensitive areas. The dominant open space feature is the Greenway, which is a large area of contiguous open space, protecting environmentally sensitive areas, that traverses this development generally in the north-south direction. The northern terminus of the Greenway includes Kings Pond Local Park with several recreational facilities described more fully below. North of the land bridge, the Greenway includes the John Clark Family Memorial, which is being re-designed in coordination with the Clarksburg Historical Society.

Piedmont Woods Park, with 66 acres, is another significant area of open space to be dedicated to M-NCPPC. This large park has areas of active recreation, forest, and open meadow.

On the West Side of the Greenway, the Town Green, located adjacent to the future Civic Building, takes prominence at the corner of Clarksburg Square Road and Public House Road. It is efficiently designed to take advantage of the drop in elevation and provide amphitheater type of seating with a stage area in the center for events and performances. The Town Green will be owned and maintained by the commercial HOA.

Across from the Civic Building on the opposite side of Clarksburg Square Road, a hardscaped plaza with a splash fountain and seating provide a key amenity and activation for the surrounding retail, restaurant and office uses. The character and materials of the plaza complement the surrounding architectural and streetscape treatment. Given its location and curvature of General Store Drive (private), the plaza effectively functions as a focal point for the Commercial Core.

Another important open space on the West Side is the pedestrian mews, which follow the alignment of General Store Drive. The Amendment converts a portion of the approved General Store Drive into a pedestrian only mews with residential units fronting onto it. This creates an adequate and safe amenity for the residents while promoting efficient pedestrian circulation through the residential areas.

On the East Side of the Greenway, the Amendment continues to provide Sinequa Square as open space although the size is reduced to accommodate much needed parking for the Resident's Club. Sinequa Square will include seating areas and additional landscaping. On Block H, the layout provides a centrally located green space with seating.

The diversity of open spaces provided is adequately dispersed throughout the community, which provides safe and convenient access to all.

c) Landscaping and Lighting

The landscaping with an emphasis on native species is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides canopy coverage and shade for parking areas, roads, and open spaces. It defines open spaces and amenity areas by creating an edge or boundary, and adding interest. For instance, the tot lot in Block GG (Harness Point Way) has plant material efficiently delineating the perimeter of the play area which helps creating a safe environment for children. Smaller plant material, such as herbaceous plants, evergreen and deciduous shrubs, and ornamental trees, emphasize the entrance to the development at Stringtown Road and General Store Drive and add interest as provided at the new Community Building.

The landscaping provides screening and buffering within the project, as well as, between the project and adjacent roads and property. Areas of surface parking in Sinequa Square, civic parcel, Commercial Core (next to Greenway), Block GG (Harness Point Way), and Piedmont Woods Park are adequately screened and buffered through the use of perimeter landscaping. Larger evergreen shrubs and trees contribute to an adequate visual separation between the loading areas on the northern façade of the grocery store and the parking areas. In Piedmont Woods Park, landscaping with mainly evergreen trees is used to adequately buffer areas of active recreation from Snowden Farm Parkway.

The \$1 million improvement package approved by the Planning Board with Site Plan No. 820070220 included planting enhancements, which have been partly completed. The larger caliper trees have been planted along Clarksburg Square Road and Overlook Park Drive. However, on-lot landscaping and alley screening have not been installed, some of which, is at the request of current homeowners. In an effort to show existing conditions in the built areas outside the limits of the Amendment, the plan drawings propose to remove planting enhancements that have not been installed. All streetscape enhancements on the East Side have been completed. On the West Side, the Amendment incorporates some of the enhancements. The \$1 million obligation either has been or will be fulfilled as part of this Application.

As conditioned, the lighting provided is adequate, safe, and efficient. The lighting consists of pole mounted light fixtures with a maximum pole height of 12 feet on private streets and 30 feet in private parking areas. In order to improve compatibility between residential units adjacent to private parking areas, Staff recommends lowering the height of the light poles closest to those units to 20 feet. This condition applies to light fixtures in the parking areas for the Civic Building and for the commercial area adjacent to units 33-38 and 58-63 in Block GG. As conditioned, the lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The lighting recommended by Staff is adequate, safe and efficient.

d) Recreation Facilities

The recreation facilities provided are adequate, safe, and efficient. The Amendment provides significant amenities and recreation facilities not only for the residents but the greater community. Piedmont Woods Local Park, Kings Pond Local Park, and the Greenway will be improved and dedicated to the M-NCPPC as parkland. The revised layout for Piedmont Woods Local Park includes a basketball court, 2 tennis courts, a multi-age playground, dog park, picnic shelters and hiking trails, all served by a 48-space parking lot and portable restrooms. Kings Pond Local Park includes a pond with fishing pier, a tot lot, several picnic areas with picnic shelters, and a hiking trail served by an existing parking area. The Greenway, which functions as a large 'nature area', includes a shared use path along the western side connecting Clarksburg Road to Stringtown Road.

On the West Side, new recreation facilities and amenities include a tot lot at Harness Point in Block GG, a Town Green with an open play area, amphitheater and stage, and a plaza with a splash fountain. Several sitting areas, a pedestrian and bicycle systems are also included. On the East Side, recreation opportunities are augmented with the new Community Building next to the Residents' Club and swimming pool. In addition, open play areas with seating are still provided in Sinequa Square and Block H. Other facilities previously approved, including tot lots and multi-age play areas, open play areas and picnic/sitting areas, have been installed on both the east and west sides of the Greenway.

Demand		D1	D2	D3	D4	D5
	Number of Units	Tots	Children	Teens	Adults	Seniors
Housing Type		0 to 4	5 to 11	12 to 17	18 to 64	65+
SFD I (20,000+)	0	0.00	0.00	0.00	0.00	0.00
SFD II (7,000-19,999)	0	0.00	0.00	0.00	0.00	0.00
SFD III (<7,000)	219	30.66	41.61	50.37	278.13	28.47
TH	665	113.05	146.30	119.70	857.85	46.55
Garden (4 or less)	236	25.96	33.04	28.32	278.48	37.76
Hi-Rise (5 or more)	0	0.00	0.00	0.00	0.00	0.00
TOTALS	1120	169.7	221.0	198.4	1414.5	112.8

On-Site Supply		D1	D2	D3	D4	D5
	Quantity Provided	Tots	Children	Teens	Adults	Seniors
Recreation Facility		0 to 4	5 to 11	12 to 17	18 to 64	65+
Tot Lot	5	45.00	10.00	0.00	20.00	5.00
Multi-Age Playground	4	36.00	44.00	12.00	28.00	4.00
Picnic/Sitting	100	100.00	100.00	150.00	500.00	200.00
Open Play Area I	1	6.00	9.00	12.00	30.00	2.00
Open Play Area II	4	12.00	16.00	16.00	40.00	4.00
Basketball Court	1	3.00	10.00	15.00	10.00	2.50
Tennis	2	0.00	3.00	21.00	48.00	2.00
Soccer - Regulation	1	2.00	15.00	20.00	40.00	2.00
Softball - Junior	1	2.00	15.00	15.00	30.00	2.00
Bike System	1	8.48	22.10	29.76	212.17	11.28
Pedestrian System	1	16.97	44.19	39.68	636.51	50.75
Nature Trails	1	8.48	22.10	29.76	212.17	16.92
Natural Areas	1	0.00	11.05	19.84	141.45	5.64
Swimming Pool	1	9.33	45.29	40.67	353.62	16.92
Wading Pool	1	25.45	11.05	0.00	70.72	5.64
Indoor Community Space	1	16.97	33.14	59.52	424.34	45.11
total:		291.68	410.91	480.22	2796.97	375.75

Adequacy of Facilities		D1	D2	D3	D4	D5
Total Supply		291.68	410.91	480.22	2796.97	375.75
90% Demand		152.71	198.86	178.56	1273.02	101.51
Adequate?		yes	yes	yes	yes	yes

As shown on the Recreation Facilities Tables above, the Amendment meets all the recreation requirements on-site through these facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. The facilities adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation for the various age groups.

e) Pedestrian and Vehicular circulation systems

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. The Amendment completes the internal street network and provides important connections to the external road network. In addition, and in cooperation with Montgomery County, it contributes to major improvements on the surrounding roads including Stringtown Road, Clarksburg Road and its intersections with Frederick Road (MD 355) and Snowden Farm Parkway (Appendix C).

Internal to the site, all transportation infrastructure is in place on the East Side of the Greenway. On the West Side, the Amendment provides important connections, through the construction of new internal roadways that complete the existing street grid and enhance accessibility. Specifically, these connections include Clarksburg Square Road (P-5), from the Greenway to the existing western terminus near the historic Horace Willson House, and General Store Drive, from Stringtown Road to Clarksburg Square Road. If Preliminary Plan No. 120140060 and Site Plans No. 820140050 & 82007022C (combined with Mandatory Referral 2015008) are approved, Clarksburg Square Road will be extended to the west through the historic district to Frederick Road (MD 355).

To the south of Clarksburg Square Road, the Commercial Core will have direct access from Stringtown Road via General Store Drive, which links to parking drive aisles in the rear of the commercial buildings. Although previously approved as a public street, General Store Drive is now shown as a private street to allow more flexibility in design features and in closing it for special events. Staff supports the private street designation with the condition that travel lane widths be decreased from 12 to 11 feet. Rather than having a 40-foot cross section, Staff recommends a 38-foot cross section consistent with the new Urban Road Code in Chapter 49 of the County Code.

Similarly, Overlook Park Drive, formerly approved as a public street connecting Clarksburg Road to General Store Drive (past Clarksburg Square Road), and now terminates as a public road at Clarksburg Square Road. The extension south of Clarksburg Square Road to General Store Drive is shown as a private drive aisle. For the same reasons, this modification allows more flexibility in the design to accommodate circulation, parking, and truck movements. The extension of Overlook Park Drive maintains adequate and efficient vehicular through movement between Clarksburg Square Road and General Store Drive, which is necessary as a bypass for General Store Drive in the event of closure for special events. Design features, such as on-street parallel parking and short intersection spacing between the parking drive aisles, effectively function as traffic calming in this bypass.

Pedestrian circulation adequately and efficiently integrates the Amendment areas into the surrounding already built portions of the community and the area beyond. Consistent with previous approvals,

pedestrian circulation is provided within the public right-of-way through 5-foot wide sidewalks. On private streets, pedestrian circulation is assured through the provision of a public access easement contiguous with the private right-of-way. Special sidewalk treatment is provided on key connector roads to enhance the pedestrian realm and to provide consistency of existing treatments. The streetscape improvements, including brick sidewalks and brick edging, required by the previous approvals has been installed in the built portions of the community.

The pedestrian connection from Clarksridge Road to Clarksburg United Methodist Church is being revised to a 5-foot ADA-accessible path in lieu of the grand staircase previously proffered by the Compliance Plan. The revised connection continues to meet the purpose and intent of the Master Plan by allowing pedestrian connectivity and access. The Church supports this revision [Appendix I].

The Amendment continues providing an 8-foot shared use path on the east side of Overlook Park Drive extending from Clarksburg Road to Stringtown Road along the western edge of the greenway. The approved 4-foot wide natural surface trail system within the Greenway is being eliminated, including the culvert crossings at Clarksburg Square Road, due to safety concerns.

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

The Clarksburg Town Center includes a mix of residential, office, retail and civic uses, which are compatible with the adjacent and confronting residential uses as well as pending development. In addition, the mix of residential and non-residential uses is also compatible with the Clarksburg Historic District to the west, which also includes a mix of uses. The development pattern establishes a hierarchy of density and heights consistent with the Master Plan vision and as shown on the Project Plan. Higher density uses and heights are located internally near and within the future commercial center, and lower heights are located towards the periphery.

Several design elements also further compatibility between new and existing development. Street oriented development with minimal setbacks, parking and servicing in rear, and residential units rear loaded from alleys are consistent with the existing development pattern. Material selection for architecture and streetscape is also compatible with existing materials. Elements of the previously approved Design Guidelines were incorporated in the site plan set, including architectural elevations of all the commercial buildings.

The reduction in the minimum building setbacks for the residential and commercial adequately responds to the type of development associated within the Town Center, and properly respects the site boundaries and adjacent land and property.

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

As conditioned, the Site Plan Amendment meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable laws. A Final Forest Conservation Plan 820070220 was approved on November 24, 2010. As required by Section 22A-4 of the Montgomery County Code, the Application includes an amendment to the Forest Conservation Plan (FCP).

Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #419941620 for this property was originally approved in April 1994 with a subsequent approval in August 1995. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. The Property includes several streams, associated wetlands, 100-year floodplain, and environmental buffers within the Little Seneca Creek and Little Bennett Creek watersheds. The Property contained approximately 48.5 acres of forest, slopes greater than 25 percent and highly erodible soils.

Final Forest Conservation Plan

An amended FCP for the Application with a net tract area of 264.51 acres was submitted with the Amendments to the Preliminary Plan and Site Plan on June 4, 2015 (Appendix E). The FCP requires two forest conservation worksheets because the zoning on the Property results in two different land use categories, with differing afforestation and conservation thresholds. 1) Approximately 206.66 acres, including 22.62 acres of forest is covered under one worksheet. This acreage includes the residential/commercial portions of the Application, the adjacent Little Bennett Elementary School (Mandatory Referral No. 04309-MCPS-1 covered the school project but the forest conservation was covered under the FCP for the Clarksburg Town Center), and 1.74 acres of offsite disturbance for King's Pond Local Park (1.70 acres), Clarksburg Road (0.03 acres), and Clarksburg United Methodist Church (0.01 acres). 2) The remaining 57.85 acres encompassing Piedmont Woods Park, and including 25.87 acres of forest, is covered under the second forest conservation worksheet. Approximately 8.15 acres of land for the easement associated with the existing Allegheny Power overhead electric lines was deducted from the 66-acre Piedmont Woods Park tract, resulting in a 57.85 net tract area for this portion of the Application. In total, the net tract area for the project for forest conservation purposes is 264.51 acres.

The Application required 6.84 acres of forest clearing within the mixed use development portion of the development and 0.26 acres of forest clearing on Piedmont Woods Park, within the public utility easement along Burnt Hill Road. All of the forest clearing within the mixed use development portion of the development has been completed.

The FCP results in a 22.58 acre forest planting requirement that will be met by a combination of onsite reforestation (19.74 acres) and onsite landscape credits (2.84 acres). Per the previous FCP 820070220, the Applicant proposes to plant an additional 1.68 acres of forest as mitigation for stream valley buffer encroachments. In conformance with the SPA requirements, an additional 1.38 acres of forest planting within the environmental buffer is required. This results in 22.80 acres of onsite forest planting and 2.84 acres of forest conservation credit through onsite landscape plantings. Approximately 6.83 acres of the forest planting requirement has been bonded, planted and the required Maintenance and Management Agreement has been recorded in the land records by the previous landowner. Since the previous landowner has demonstrated responsibility for fulfilling the forest conservation obligations for this 6.83 acre portion of the planting requirement, this portion of the forest planting requirement is not the responsibility of the Applicant and has been deducted from their total forest planting requirement as described in condition of approval no. 4(e). The Applicant is responsible for 18.81 acres of forest conservation planting of which 15.97 acres will be in the form of forest planting and 2.84 acres will be in the form of individual landscape trees.

All of the retained and planted forest that is included in the forest conservation worksheet calculations

will be protected in a Category I conservation easement or through dedication to the M-NCPPC Parks Department. As illustrated on the Final FCP, the Applicant had proposed a permanent maintenance and management agreement/viewshed management plan for a 3.1 acre portion of the forest plantings, including two proposed wetland creation areas, located within the environmental buffer between Stringtown Road and the proposed retail center. Throughout the review process, the Applicant expressed concerns about maintaining visibility of the grocery store and retail center from Stringtown Road in order to facilitate the success of the retail center. Staff remained adamant that we did not support the proposed viewshed management plan as it was not in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan, and addressed this issue in condition of approval no. 4(a)(ii). Subsequent to the submission of the Final FCP, the Applicant has agreed to revise their plans and is no longer proposing to modify the Category I conservation easement with a viewshed management plan. Instead, the Applicant is proposing to revise their plans to include a specific planting plan for afforestation planting areas K-2, K-3, GG, HH, WC2 and WC3. The planting plan would specify that the initial plantings would allow for the understory species to be planted along the higher elevations of the slopes and the overstory species to be planted at the lower elevations within the stream buffer. After the initial plantings have been accepted by the M-NCPPC inspector, the areas would be allowed to naturalize and only be subject to the requirements of our standard Category I conservation easement and Maintenance and Management Plan. The species, quantities, and spacing of the planted trees would not be altered for these areas. Staff supports this proposal which will allow for this area to develop into a sustainable functioning mature forest in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

The Application is not subject to Section 22A-12(b) of the Montgomery County Forest Conservation Law because this provision was not in effect at the time of the original FCP plan approval and there are no existing trees subject to this provision that will be affected by the proposed limits of disturbance.

Review for Conformance to the Special Protection Area Requirements

The majority of this project is located within the Clarksburg SPA and is therefore required to obtain approval of a water quality plan under Section 19-62 of the Montgomery County Code. This section of the code states:

“(b) Privately owned property. Except as otherwise expressly provided in the Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:

- (1) who is required by law to obtain approval of a development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan; or
- (2) who is seeking approval of an amendment to an approved development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan.”

As part of the requirements of the SPA law, a Water Quality Plan should be reviewed in conjunction with a Preliminary Plan and Site Plan. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of a Water Quality Plan. MCDPS has reviewed and conditionally approved

the elements of the water quality plan under its purview. The Planning Board must determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

MCDPS Special Protection Area Review Elements

In a letter dated June 23, 2015, MCDPS has conditionally approved the elements of the SPA Final Water Quality Plan under its purview including 1) site performance goals, 2) stormwater management facilities, 3) sediment and erosion control measures and 4) Best Management Practices (BMP) monitoring (Appendix B). A synopsis is provided below.

1) *Site Performance Goals*

As part of the water quality plan, the following performance goals were established for the site:

- a. Protect the streams and aquatic habitat,
- b. Maintain the natural on-site stream channels,
- c. Minimize storm flow run off increases,
- d. Minimize increases to ambient water temperatures,
- e. Minimize sediment loading,
- f. Maintain stream base flows,
- g. Protect springs, seeps, and wetlands,
- h. Minimize nutrient loading,
- i. Control insecticides, pesticides, and toxic substances.

2) *Stormwater Management*

Stormwater management will be provided via a combination of micro-bioretenion, pervious pavement, dry wells and structural filters.

3) *Sediment and Erosion Control*

Sediment and erosion control measures will be reviewed by MCDPS during the detailed sediment control/stormwater management plan stage.

4) *BMP Monitoring*

Required stream and BMP monitoring will be performed by the Montgomery County Department of Environmental Protection with the Applicant(s) required to pay a fee for this monitoring.

Planning Board Special Protection Area Review Elements

Following is an analysis of the Planning Board's responsibilities in the review of a Preliminary/Final Water Quality Plan. Staff recommends approval of the elements of the SPA Water Quality Plan under its purview.

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. Amended FCP 82007022D was submitted on June 4, 2015 (Appendix E). As part of the FCP, the Applicant will be retaining 41.39 acres of the 48.49 acres of the originally existing onsite forest, including 25.97 acres of forest within the environmental buffer. Approximately 2.42 acres of onsite forest within

the environmental buffer has been cleared under the original FCP approval. The Applicant proposes to meet the 22.58 acre forest conservation planting requirement onsite through forest and landscape plantings. The forest conservation requirements are described in more detail in the Forest Conservation Plan section of this report. Per SPA requirements outlined in the *Environmental Guidelines*, areas of the environmental buffer currently lacking forest will be reforested, forest planting will occur during the first planting season after issuance of grading permits when possible, and a five-year maintenance program to better ensure forest survival, with emphasis on controlling invasive species is required. The retained and planted forest onsite will be protected through either a Category I conservation easement or dedication to the M-NCPPC Parks Department.

Environmental Buffer Protection

The project will impact Little Seneca Creek and its associated environmental buffer. Approximately 12.19 acres of environmental buffer will be disturbed as part of this Application. The approved Site Plan 82007022B included approximately 13.72 acres of environmental buffer disturbance and this amended Application proposes approximately 12.19 acres of disturbance for a net reduction of 1.53 acres as shown on the Stream Valley Buffer Disturbance Exhibit (Appendix F). There are temporary encroachments into the buffers that are necessary to accommodate grading for stormwater management facilities, parking lots, roads, and wetland creation areas, and permanent encroachments necessary to accommodate road crossings (General Store Drive, Clarksburg Square Road, and Clarks Crossing Drive), utilities, pathways, and Murphy's Grove Pond. The impacts to the stream and environmental buffer are the minimum necessary to allow the construction of this project to be completed. The impacts have been minimized to the greatest extent possible while maintaining accepted design standards. The disturbance to the environmental buffer has been decreased from the previously approved plan and the mitigation previously proposed has remained unchanged. The plan continues to propose 1.68 acres of additional forest planting to mitigate for the stream buffer encroachments.

Impervious Surfaces

The Clarksburg SPA does not have a specific numerical limit on impervious surfaces; however, a main goal for development in all SPAs is to reduce or minimize the amount of impervious surfaces. The Application will reduce the amount of impervious surfaces proposed over the amended portion of the project within the Little Seneca Creek watershed by approximately 1.53 acres from that which was approved previously. This results in a total imperviousness of approximately 34.4% for the project. The amended plans propose a redesign of the unbuilt portions of the Property which allowed for some reduction in impervious surfaces including the following:

1. overall residential density was reduced by 86 dwelling units;
2. multi-story office buildings were introduced, reducing the overall commercial building coverage;
3. mixed-use parking areas were provided, reducing the total parking demand within the retail core area;
4. a three (3) block section of General Store Drive north of Clarksburg Square Road was converted to pedestrian open space;
5. proposed road improvements and paving on Snowden Farm Parkway were reduced; and
6. parking lot paving and pathway areas on Piedmont Woods Park and King's Pond Local Park were reduced and condensed.

As conditioned, the proposed Application is in compliance with the Montgomery County Environmental Guidelines, the Forest Conservation Law, and the Special Protection Area Law.

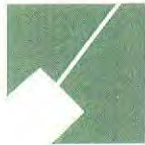
APPENDICES

- A. Relevant Resolutions
- B. Agency Letters
- C. Memoranda of Understanding between the Applicant and MCDOT
- D. Approved CIP for County funded roadway improvements
- E. Final Forest Conservation Plan
- F. Stream Valley Buffer Disturbance Exhibit
- G. Impervious Area Exhibit
- H. Project Data Table
- I. Community Correspondence
- J. Comparison of Approved Plans and Proposed Plan Amendments (June 2015)

Appendix A

Relevant Resolutions

JUL 16 2008



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

MCPB No. 09-16
Project Plan Amendment No. 91994004B
Project Name: Clarksburg Town Center
Hearing Dates: November 6, 2008 and December 11, 2008

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on April 25, 2007, NNPII Clarksburg, LLC ("Applicant"), filed an application for approval of a site plan for 265,660 square feet of commercial development, including 210,480 square feet of retail and 55,180 square feet of office, 1,240 residential dwelling units, including 155 MPDUs,² and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties ("Site Plan" or "Plan") on 270 acres of RMX-2 and RDT-zoned land, located at the southeast quadrant of the intersection with Clarksburg Road and Snowden Farm Parkway in the Clarksburg Master Plan area ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan Amendment No. 91994004B NNPII Clarksburg, LLC ("Application"); and


WHEREAS, the Planning Board previously approved Project and Preliminary Plans for the entirety of, and Site Plans for portions of, Clarksburg Town Center; and

WHEREAS, the Planning Board and its staff identified certain violations of the approved Site Plans, and conducted investigations and hearings concerning those violations; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

² The application was resubmitted on May 19, 2008 to revise the development program to include 194, 720 square feet of commercial, which included up to 69,720 square feet of specialty retail, 1,213 residential dwelling units, including 152 MPDUs and a parking waiver to permit the reduction of the maximum number of required parking spaces.

Approved as to
Legal Sufficiency:

 7/16/09
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

WHEREAS, prior to completion of the violation hearings, the Applicant, in collaboration with the Clarksburg Town Center Advisory Committee ("CTCAC"), proposed a Plan of Compliance to resolve outstanding violation issues; and

WHEREAS, by resolution dated August 17, 2006 the Planning Board approved the proposed Plan of Compliance subject to further detailed review when project, preliminary, and site plan amendments were proposed for certain portions of the site, and when a site plan was proposed for the retail portion of the Town Center; and

WHEREAS, in addition to the standards applicable to any other Project Plan amendment, the Application is subject to the terms of the Plan of Compliance; and

WHEREAS, Planning Board staff ("Staff") issued an initial memorandum to the Planning Board, dated October 22, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions, followed by a second memorandum to the Planning Board dated December 8, 2008, setting forth a revised 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 staffs of other governmental agencies, on November 6, 2008 the Planning Board held a public hearing on the Application that resulted in a continuation of deliberations to December 11, 2008 (collectively, "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application. On November 6, Staff presented testimony concerning the history of the site and the plan violations, and the outstanding issues remaining from the violations case and those associated with the current plan review. Staff also provided an overview of the requirements of the Plan of Compliance and discussed areas where the Application conformed to and deviated from the approved Plan of Compliance. The primary issues that remained unresolved with the proposed Project Plan included: the road connection to MD 355, design of the retail core, the requirement to provide an additional parking deck in Block KK in the retail core, and the location of the future library site and related parking. The retail core is located on the west side of the proposed development, and includes all of the site's non-residential uses, including the live/work units, flex space, and future library site, and is bounded by Public House Road to the west and south, Overlook Park Drive to the east, and the live/work units on the north side of Clarksburg Square Road. Each unresolved issue was discussed at the Hearing with a recommendation provided by Staff, all of which required modifications to the Project Plan and subsequent Site Plan, while still resulting in substantial conformance with the Plan of Compliance. Staff originally supported a 20 percent waiver of the required parking spaces, recommending a second parking deck to accommodate a minimum of 100 additional parking spaces

and the use of 176 on-street parking spaces. Staff also recommended designation of one parking space for each residential unit within the retail core; and

WHEREAS, the Applicant and its representatives provided testimony regarding the adequacy of parking in the retail core based on counting on-street parking and referencing Smart Growth policies³ for walkable communities and studies that call for reducing the parking requirement to between 2.2 and 4.0 spaces per 1,000 retail square feet. The Applicant argued that the Master Plan specifically called for creating a walkable community and that the Plan of Compliance permitted on-street parking to fulfill that goal. The Applicant testified that numerous requests for proposals for development of the retail component of the Town Center were sent to prospective retail developers, and that the second parking deck called for in the Plan of Compliance and recommended by Staff was not feasible from either an economic or practical perspective, even though both the Applicant and the CTCAC agreed to it, and the Board approved it, in the Plan of Compliance; and

WHEREAS, CTCAC provided testimony regarding the history of the Plan of Compliance in relation to parking issues, design guidelines, and certain design elements, including paving, landscaping, and improvements to the Resident's Club; and

WHEREAS, the Board heard testimony from Kathie Hulley and John Cook, representing the Clarksburg Civic Association, and from Patrick Darby, representing the Clarksburg Chamber of Commerce, regarding the adequacy of parking, maintenance issues related to the retail center, the community center at Sinequa Square, and the road improvements necessary for the remainder of the Town Center. The Board also heard testimony from Town Center residents regarding Clarksburg's need for a retail center and other improvements being recommended by Staff, including an addition to the Resident's Club, additional landscaping, and a future road connection to MD 355; and

WHEREAS, at the November 6 hearing, the Board requested that the parties provide further written analysis and comment regarding parking requirements, the design of the Grand Staircase; the designation of enhancement planting to satisfy the \$1 million dollars required by the Plan of Compliance; the design of the retail space and store depths, environmental buffers and planting requirements, and the design of the sport court and community building; and

WHEREAS, at the December 11 hearing, Staff presented testimony concerning appropriate parking requirements for the residential and non-residential uses and specifically for restaurant uses in the retail core, as well as 100 spaces for the library

³ Urban Land Institute's SmartCode (Ver. 9.2)

site. Staff evaluated the same number of residential units and non-residential square footage that the Applicant proposed at the November 6 hearing, but did not include the on-street parking as a means to satisfy the parking requirements and did not recommend a waiver of the parking requirements for the retail core. The Board also heard testimony from the Applicant's consultant, Robert Gibbs, regarding the total parking requirements and the allocation of the spaces for the retail core, and from John Eisen, a retail developer, who discussed the benefits of additional parking and deeper store depths than the Applicant proposed. Representatives of the Applicant testified that the smaller and more varied store depths offer better accommodations for smaller and local retailers, whereas the larger and deeper store depths cater to chain retailers and cost more to lease;

WHEREAS, the Applicant proposed to add additional parking spaces within Block LL (grocery) in the below-grade parking structure instead of a second multi-level garage in Block KK. The Board discussed that the addition of these parking spaces, which would result in approximately 1,070 parking spaces in the retail core, including approximately 45 surface parking spaces dedicated to the future library site, would substantially conform to the Plan of Compliance, and that a waiver of approximately 18 percent of the zoning ordinance parking requirements would be justified.

WHEREAS, at the December 11 hearing the Board also considered Staff's recommendation for the outstanding items that remained from the November 6, 2008 hearing including the vehicular connection to MD 355, improvements to the Resident's Club, and designation of the \$1 million specifically allocated by the Plan of Compliance for enhancement planting.

WHEREAS, the Board considered testimony concerning the minimum acceptable store depths. Staff recommended a minimum of 60 feet, exclusive of the service area, for all of the stores in Block KK, except for a small section at the intersection of Public Road 'A' and Private Road #3, and for all of the stores in Block MM. The Applicant proposed 60-foot store depths in Block LL, inclusive of a 7-foot-wide service alley directly adjacent to the grocery store and fronting onto Public Road 'A'; 50-foot deep stores, inclusive of a 7-foot-wide service alley abutting the garage and fronting the remainder of Public Road 'A'; and the Pharmacy at the intersection of Public Road 'A' and Private Road #2 was able to provide a minimum 60-foot store depth, exclusive of any service areas. A concept plan of the retail center dated November 19, 2008, indicating the store depths that the Applicant proposed and the Board approves by this Resolution, was submitted into the record during the hearing and is Attachment A to this Resolution.

WHEREAS, on December 11, 2008, the Planning Board voted to approve the Application subject to conditions, on motion of Commissioner Robinson; seconded by Commissioner Alfandre; with a vote of 4-0, Commissioners Alfandre, Cryor, Hansen,

and Robinson voting in favor, and Commissioner Presley, having previously recused herself, absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan Amendment No. 91994004B for a maximum of 1,213 residential units, and 194,720 gross square feet of commercial development, to be constructed in phases, on 270-acre gross acres in the RMX-2 and RDT zone, subject to the following conditions:

1. Development Ceiling

The proposed development shall be limited to the following uses:

- a. Development under this approval is limited to 194,720 gross square feet of commercial development, including 69,720 square feet of specialty retail; 1,213 residential dwelling units, including 12.5 percent MPDUs, consisting of 219 one-family detached units, 701 one-family attached units (includes live/work units) and 287 multi-family units.

2. Building Height/Mass

The height of the proposed buildings for the uses described shall not exceed the maximum permitted height as follows:

One-family detached	45 feet
One-family attached	44 feet
Liner Townhouses/Duplex Courtyards	44 feet (Architectural focus feature permitted to 55 feet)
Multi-family	55 feet (Architectural focus feature permitted to 55 feet)
2 over 2 Multi-family	55 feet
Live/Work Units	44 feet (Architectural focus feature permitted to 50 feet)
Retail/Commercial	44 feet (Architectural elements permitted to 55 feet) with a ground floor minimum of 14 feet
Grocery	35 feet (Architectural focus features permitted to 55 feet)
Civic Building	45-65 feet
Parking Structure	Minimum 2-level

3. Live/Work Units

Live/Work units will be recorded as fee-simple. The first story must be built to commercial standards. Although the first floor may be used as residential space by the fee simple owner, it may not be leased as a second residential unit.

4. Moderately Priced Dwelling Units (MPDUs)

The Applicant must provide 12.5 percent MPDUs on-site, consistent with the requirements of Chapter 25A.

5. Civic Space (Library Site)

- a. The Applicant must comply with the letter dated October 7, 2008 from Montgomery County Department of General Services. Access to the library parking parcel ("Public Parking Parcel 'C' ") shall be substantially as shown on the "Block 'CC' Public Street" plan attached as Exhibit "A". Final square footage/acreage to be dedicated must be determined by Certified Site Plan and shown on the record plat.
- b. Dedicate the area originally associated with the library site, plus the area of the adjacent 5 live/work units (one of the five units will be relocated to the adjacent stick of live/work units) and the area shown as "future parking structure by others". This concept, which was provided by the Applicant would satisfy many of the concerns voiced by the Department of General Services and should be implemented, although a study of the entire block for building layout, orientation, parking, access, design, function and operations is still needed. A shareholders group consisting of MCPL, representatives of M-NCPPC, the Applicant and community members should be organized by the Department of Libraries to determine the best way to address the location, operational needs and design of the future library site.

6. Clarksburg Square Road/Route 355 Connection

- a. The Applicant must enter into a Subdivision Roads participation Agreement with MCDOT to provide for the future connection of Clarksburg Square Road to MD 355 in order to align with Redgrave Place and to provide a vehicular connection through the Clarksburg Historic District, when the right-of-way becomes available.
- b. The Applicant must enter into a Subdivision Roads Participation Agreement with MCDOT to relocate the entire Horace Willson house in order to accommodate the vehicular connection when the right-of-way connection becomes available. An Historic Area Work Permit will be required for the infrastructure and relocation of the house.
- c. The Applicant's total cost to make the Clarksburg Square Road/Route 355 Connection shall not exceed \$500,000.
- d. If the right-of-way for the road connection has not been obtained within one year after the date of this Resolution, the Applicant must place in an escrow account the \$500,000 referred to in "c" above less those costs incurred by the Applicant that have been credited by MCDOT to the road connection project. The Applicant must provide Planning Staff with written confirmation of the establishment of the escrow account.

7. Parking

- a. The Applicant shall provide a minimum of 1,070 parking spaces in the retail core by providing a multi-level parking structure in Block LL (grocery), surface parking lots and on-street parking spaces within the retail core area, including

up to 45 surface parking spaces in the library surface parking lot which shall be constructed by the Applicant.

- MCDOT and MCFRS shall review the certified site plan for final location of on-street parking spaces within the retail core. If materially fewer than 160 on-street parking spaces are available within the retail core, then the site plan shall be brought back to the Planning Board for consideration of a modification of the parking ratio and extent of parking waiver.
- b. The Applicant shall provide one dedicated parking space for each live/work, multi-family and in-line (one-family attached) unit within the retail core to be signed and marked for use solely by the resident of the space.

8. Staging of Amenity Features

- a. The proposed project shall be developed in accordance with the phasing plan outlined in the Site Plan section under Development Program-Phasing.
- b. A detailed development program shall be developed with the Site Plan to include installation of landscaping, lighting, recreation facilities and amenities.

9. Maintenance and Management Organization

The Applicant shall form a retail maintenance organization, separate from the residential Homeowner's Association to provide for maintenance and operations of the retail core area, non-standard elements in the street right-of-way and on the private streets and amenities.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified by herein), and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

Requirements of the RMX-2 and RTD zones

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the development standards proposed for approval. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the RMX-2 and RDT zones. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

DATA TABLE

Project Data Table for the RDT & RMX-2/TDR Zones
 Clarksburg Town Center

Zoning Ordinance Development Standard	Permitted/Required	Development Standards Approved by the Planning Board and Binding on the Applicant
Gross Site Area (Ac.):		
RDT (59-C-9.23)	25.0	66.0
RMX-2 (59-C-10.1)	Not Specified	204.00
Total Site Area		270.00
Area of Dedication (Ac.):		
Land for Civic Building	Not Specified	+/- 18,000 gross square feet and 4 live/work units and area for parking structure
Public Streets	Not Specified	34.67
Park (Dedicated to M-NCPPC)	Not Specified	95.99
School Site (Dedicated to MCPS)	Not Specified	1.92
School Site (Dedicated to M-NCPPC)	Not Specified	7.24
Total Dedication Provided	Not Specified	140.17
Net Site Area (Ac.):		129.83
Density		
RMX-2 Zone (59-C-10.3.4)		
Commercial		
Max. Commercial Density	0.50 FAR 300,000 sf.	0.16 FAR 194,720 sf.
Retail	150,000 sf Retail Center	194,720 sf Retail Center
Office	Undetermined	0 sf.
Residential (59-C-10.3.7)	7 d.u./acre 1,428 dwelling units	6.90 d.u./ac. based upon 175.80 acres 1,213 dwelling units
Number of Dwelling Units		
RMX-2 Zone (59-C-10.3.7)		

One-family detached	10-20% ⁴	219
One-family attached (Live/Work included)	30-50%	656
Multi-family	25-45%	338
Total number of units in the RMX-2 Zone	1,428	1,213
<u>RDT Zone</u>	Not Applicable	0
Building Height (feet)		
<u>RDT Zone (59-C-9.4)</u>	50	50
<u>RMX-2 Zone⁵</u>		
One-family detached (Lots 68 and 69, Block A- East Side)	To be determined at Site Plan	35
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Lot 28, Block R-East Side)	To be determined at Site Plan	35
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Lots 15-21, 22-25 Block GG- West Side)	To be determined at Site Plan	38
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Block H-East Side)	To be determined at Site Plan	45
Accessory Structure	To be determined at Site Plan	25

⁴ Mix of units allocated by Clarksburg Master Plan.

⁵ Building height for the Stage II lots/units, including the Exhibit R units, Block GG, Block N, Block L, and Manor House Buildings 7, 9, 10, 11 and 12 were established with the review of site plan amendments 81998011I and 82002014D and as shown on Sheets I-5 and I-6. Building heights were established for the main building and accessory structures.

New development standards for units/uses within the Retail Core area on the West Side ⁶		
One-family attached/Townhouses	To be determined at Site Plan	44 ⁷
Accessory Structure	To be determined at Site Plan	25
One-family attached/MPDU Townhouses	To be determined at Site Plan	44
Accessory Structure	To be determined at Site Plan	25
Live/Work Townhomes	To be determined at Site Plan	44 ⁸
Liner Townhouses or Duplex Courtyards	To be determined at Site Plan	44 ⁹
Multi-family over commercial	To be determined at Site Plan	44 ¹⁰
Library	To be determined at Site Plan	45 ¹¹
Grocery	To be determined at Site Plan	35 ¹²
Minimum Building Setbacks (feet)¹³ (59-C-10.3.8)		
<u>Individual Building</u>		

⁶ Development Standards including height and setbacks are identified on Sheets A902 (Building Setbacks) and A903 (Building Heights) of the Index Plans.

⁷ Units in Block BB/Private Road #1 shown as maximum height of 38 feet.

⁸ Live/Work units permitted for a maximum height of 44 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

⁹ Liner Townhouse or Duplex Courtyard units permitted for a maximum height of 44 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

¹⁰ Multi-family units permitted for a maximum height of 44 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

¹¹ Library permitted for a maximum height of 45 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 65 feet.

¹² Grocery permitted for a maximum height of 35 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

¹³ Minimum setbacks for all of the uses are identified in the Index Plans (I-3 – I-7) for Grandfathered lots, remaining lots on the East Side and one-family attached lots in the GG Block on the West Side. Sheets A902 identifies the specific setbacks for all of the uses that have not been approved and built on the West Side, including the commercial, multi-family, live/work and one-family attached uses within the retail core and the attached uses outside the retail core.

<u>Setbacks for units within the RMX-2 Zone</u>		
Commercial Buildings¹⁴		
From One-family residential zoning	100	50 ¹⁵
From Residential zoning other than one-family	50	25 ¹⁵
From any street ¹⁶	25	0 ¹⁵
From abutting commercial or industrial zoning	25	12.5 ¹⁵
Residential Buildings		
From One-family residential zoning	100	50 ¹⁵
From Residential zoning other than one-family	30	15 ¹⁵
From any street	30	0 ¹⁵
From abutting commercial or industrial zoning	30	15 ¹⁵
One-family detached		
One-family detached (Lots 68 and 69, Block A-East Side)		
Main Building		
Front	To be determined at Site Plan	10
Rear	To be determined at Site Plan	25
Side	To be determined at Site Plan	3
Accessory Structures		
Side	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0

¹⁴ The Planning Board approved a 50% reduction in the setbacks with the Project Plan 919940040 and reconfirmed with subsequent approvals, consistent with 59-C-10.38 of the Montgomery County Zoning Ordinance.

¹⁵ The application reduces the minimum setbacks for commercial and residential one-family zoning by 50% consistent with Section 59-C-10.3.8 and establishes that no minimum setback from any street right-of-way is required, all other development standards and building setbacks shall be established at the time of final site plan.

¹⁶ No minimum setback required if in accordance with the Master Plan.

One-family attached/townhouse		
(Lot 28, Block R-East Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
Accessory Structures		
Front	To be determined at Site Plan	60
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
One-family attached/townhouse		
(Block H-East Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	3
Accessory Structures		
Front	To be determined at Site Plan	40
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0

One-family attached/townhouse		
(Lots 15-21, Block GG-West Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	5
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	16
Accessory Structures		
Front	To be determined at Site Plan	60
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
One-family attached/townhouse (MPDUs)		
(Lots 22-25, Block GG-West Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	3
Accessory Structures		

Front	To be determined at Site Plan	40
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
Moderately Priced Dwelling Units (MPDUs)		
RMX-2 Zone		
Total number of MPDUs	12.5%	12.5% (152)
Green Area (% & Ac.):		
RMX-2 Zone (59-C-10.3.3) ¹⁷		
Commercial portion	15%	50% (89 acres)
Residential portion	50%	49% (13 acres)
Parking Facility Internal Landscaping (%)	5	Not Specified but to be provided with the Certified Site Plan
Parking (Sect. 59-E)		
East Side		
One-family detached (200 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	400
One-family attached (townhouse) (401 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	802
Multi-family (123 d.u.s @ 1.5 spaces/unit)	1.5 spaces/unit	185
2/2-multi-family 54 d.u.s @ 2 spaces/unit	2 spaces/unit	108
Total East Side Parking		1,456

¹⁷ Green Area based upon 204.0 acres (176.4 acres-Residential/27.6 acres-Commercial). Piedmont Park is in the RDT Zone and not part of the calculations for Green Area.

<u>West Side</u>		
One-family detached (19 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	38
One-family attached (townhouse) (255 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	510
Multi-family ¹⁸ (110 d.u.s @ 1.5 spaces/unit)	1.5 spaces/unit	185
Live/Work 51 d.u.s @ 2 spaces/unit	2 spaces/unit	108
Retail (139,700 sf @ 5 sp./1000 sf)	5 sp./1,000 sf.	695
Live/Work Retail (48,000 sf @ 5 sp./1000 sf)	5 sp./1,000 sf.	240
First Floor Flex (7,720 sf @ 5 sp./1000 sf)	5 sp./1,000 sf.	39
Total West Side Parking		1,789
Total Parking Required for Overall Development		3,284
Total Parking Provided		3,672
Min. Unit Type Distribution (%)¹⁹		
One-Family Detached	10-20	18 (219 DUs)
One-Family Attached Townhouse & Live/Work included	30-50	54 (656 DUs)
Multi-Family	25-45	28 (338 DUs)

FINDINGS for Project Plan Review:

¹⁸ Total number of dwelling units includes 12 previously approved Manor Homes with an 18 space parking requirement, 11 of which were approved for on-street spaces.

¹⁹ The discussion section for Master Plan conformance (page 35 of this report) identifying the mix of units.

Under Section 59-D-2.42 of the Zoning Ordinance, the Planning Board may approve a Project Plan if it finds:

- (a) ***It would comply with all of the intents and requirements of the zone.***

Under the RMX-2 zone, the optional method of development is available to

[a]ccommodate[] mixed use development comprised of planned retail centers and residential uses, at appropriate locations in the County. This method of development is a means to encourage development in accordance with the recommendations and guidelines of approved master plans.

Approval of this optional method of development is dependent upon the provision of certain public facilities and amenities by the developer. The requirement for public facilities and amenities is essential to support the mixture of uses at the increased densities of development allowed in this zone.

Thus, for optional method projects, the RMX-2 zone emphasizes the importance of (1) providing a mix of uses; (2) complying with applicable master plan recommendations; (3) complying with applicable development standards; and (4) providing public facilities and amenities sufficient to accommodate the mix of uses and added densities available. The Application complies with these requirements.

As conditioned, the Project Plan amendment continues to use the optional method of development and is in conformance with the Clarksburg Master Plan and Hyattstown Special Study Area ("Master Plan"). The development complies with the intent and requirements of the Master Plan by providing a pedestrian-friendly and walkable Town Center through increased mixed-use density, trail connections to the larger Greenway network, reduced parking, and on-street parking. The existing and proposed development includes residential and commercial retail uses permitted in the RMX-2 Zone. The Application also complies with the development standards of the RDT Zone, which apply to the proposed Piedmont Woods Park on the northeast side of Snowden Farm Parkway.

The Project Plan provides an acceptable residential and non-residential density that is below both the total FAR approved and the previously approved residential density of 1,300 dwelling units.

The parking requirements for the existing residential uses are met through garages, on-lot pad sites, surface parking facilities and on-street parking on public roads for some of the Manor Homes (multi-family uses).

Parking for the new development on the West Side, which includes the retail, commercial, and residential uses surrounding the retail core, must satisfy parking requirements of the Zoning Ordinance without taking credit for on-street parking spaces on the East Side of the Greenway. On-street parking for the multi-family units was previously approved through amendments to the site plan. The retail component must stand alone and satisfy the applicable parking requirement without counting parking provided outside of the retail core.

Staff's analysis concluded that the parking required for the retail core is insufficient by a minimum of 184 spaces based upon the non-residential and mixed residential square-footages provided by the Applicant. This amount does not count on-street parking shown by the Applicant on the East Side of the development. Some on-street parking should be credited toward the non-residential component, but not the spaces on the East Side of the Greenway due to distance, practical relationship, and separation of the uses. Only on-street spaces on the West Side that are not dedicated to the Manor Houses (multi-family) should be credited toward the non-residential.

Under the conditions of approval, the Applicant must provide a minimum of 1,070 parking spaces in the retail core by providing a multi-level parking structure in Block LL (grocery), surface parking for the residents and tenants, including 160 on-street parking spaces and up to 45 spaces in the library parking lot. The Board approves a waiver of the parking requirement to permit a reduction in the required number of parking spaces in the retail core.

(b) The application would be consistent with the applicable sector plan or urban renewal plan.

As discussed above, the development is consistent with the recommendations of the Master Plan, including a pedestrian-friendly and walkable Town Center through increased mixed-use density, trail connections to the larger Greenway network, and on-street, surface, and structured parking accessible to multiple uses.

(c) Because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.

The height and massing of the existing and proposed structures and uses are similar to other existing and proposed uses, and therefore are compatible. The location of the structures is also comparable to the location of existing structures within the development and in surrounding communities.

Further, by locating higher density uses and taller buildings within the future commercial center and retail core, the project is in scale with the general development pattern envisioned by the Master Plan.

As clarified in the Application, the building heights promote the size, intensity and design envisioned in the Master Plan and the Plan of Compliance.

- (d) ***The application would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.***

The Application does not overburden public services or facilities and, as amended, is staged, to accommodate construction of the facilities.

Public facilities and services continue to be available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Growth Policy resolution in effect when the APFO approval was granted and will be adequate to serve the development.

As amended by the conditions of approval, the phasing of road improvements, as recommended by Transportation Planning will facilitate completion of certain road segments that would be open to traffic prior to the release of a specific number of building permits. The phasing of the roads is further described in the Preliminary Plan findings and conditions of approval.

- (e) ***The application would be more efficient and desirable than could be accomplished by the use of the standard method of development.***

The optional method of development permits a more efficient and desirable product than would be achieved under the standard method of development. This Project Plan continues to use the optional method of development and is in conformance with the goals and objectives of the Clarksburg Master Plan. The

proposed development provides less than the maximum gross floor area for commercial development or number of residential dwelling units; however, the total development is substantially more than permitted under the standard method of development.

- (f) ***The application would include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.***

The Applicant is providing 152 MPDUs, or 12.5% of the proposed residential dwelling units within the development, in accordance with the provisions of Chapter 25A.

- (g) ***Any applicable requirements for forest conservation under Chapter 22A.***

The natural resources for the subject properties are characterized in Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) plans 419941620 and 419952500. Staff approved the first NRI/FSD in April 1994 and the second in August 1995. The Planning Board approved a preliminary plan of subdivision and a preliminary forest conservation plan, 119950420, on March 26, 1996. The Phase I site plan, 819980010, was approved by the Planning Board on March 3, 1998. The Phase II site plan 820020140 was approved by the Planning Board on June 17, 2002. The Final Forest Conservation Plan ("FFCP") for the residential and commercial areas only was approved by Environmental Planning staff on June 30, 1999 with amendments to the FFCP approved on August 16, 2002, August 27, 2002, September 9, 2002, December 27, 2004 and July 24, 2006.

The Applicant will need to identify where an additional 0.40 acres of forest will be planted in the revised FFCP in order to satisfy the forest conservation requirements. With that condition, the requirements will be satisfied through on-site planting of 8.91 acres of plantings on the residential/commercial section of Clarksburg Town Center, 13.39 acres of plantings at Piedmont Park and 2.56 acres of landscape credit of reforestation and afforestation areas as well as through street tree credits. The planting is in addition to the existing forest being preserved on site.

As amended, this Application satisfies the forest conservation requirements through on-site tree preservation and reforestation in accordance with Chapter 22A.

- (h) ***Any applicable requirements for water quality resources protection under Chapter 19.***

The Applicant has been granted approval from the Montgomery County Department of Permitting Services for Final Water Quality by letter dated October 6, 2008. The letter provides a reconfirmation of water quality and environmental protection for the Clarksburg Town Center, which is located within the Clarksburg Special Protection Area.

A Stormwater Management Concept Plan was approved on July 30, 2008 for the area comprised of Piedmont Woods Park, approximately 66 acres of RDT-zoned land outside the Special Protection Area.

FINDINGS for Plan of Compliance Review:

In reviewing the Application, the Planning Board considered whether it met the requirements of the Plan of Compliance. The Plan of Compliance was approved by the Board in June 2006 as an alternative to assessing fines for certain site plan violations that had been found or alleged in Clarksburg Town Center. Specifically, the Board found that "subject to its completion according to its terms and in accordance with this Resolution, the Compliance Program constitutes a lawful and appropriate alternative to imposing fines or monetary penalties...." The Board decided to make this trade-off because "it provides substantial enhancements to community amenities and facilities" for CTC and Montgomery County as a whole. In approving the proposed Plan of Compliance, the Board "order[ed] the Respondents to comply strictly with each of the elements, terms and conditions of the Compliance Program..." but also "recognize[d] that the Compliance Program is conceptual in nature, and that additional review of more detailed plans may involve modifications." Thus, the Board considered whether the Application substantially conformed to the Plan of Compliance. Where the Application departed from the Plan of Compliance, the Planning Board considered whether such departures were consistent with the public interest.

As anticipated in the Resolution approving the Plan of Compliance, there have been changes to certain elements of the Plan of Compliance. However, as amended by the conditions of approval, the Application substantially conforms to the requirements of the Plan of Compliance, and its approval is in the public interest because it will provide substantial enhancements to amenities and facilities for the Town Center and surrounding communities. The Application fulfills the requirements of the Plan of Compliance and serves the best interest of the public by providing substantial community enhancements over and above those required for the originally approved project plan, including a mixed-use center containing residential and non-residential uses, vehicular and pedestrian infrastructure, a new local park with recreation facilities to serve the public, landscape enhancements within the site, and improvements to the existing Sinequa Square and community center. Although the Application provides for one parking structure instead of two, the amount of parking has been determined to be

sufficient to serve the proposed development, and is designed in a manner that will enhance the pedestrian realm.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan Amendment No. 91994004B, Clarksburg Town Center stamped received by M-NCPPC on November 6, 2008 are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

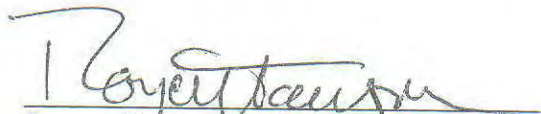
BE IT FURTHER RESOLVED that the date of this Resolution is JUL 16 2009 (which is the date that this Resolution is mailed to all parties of record); and

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

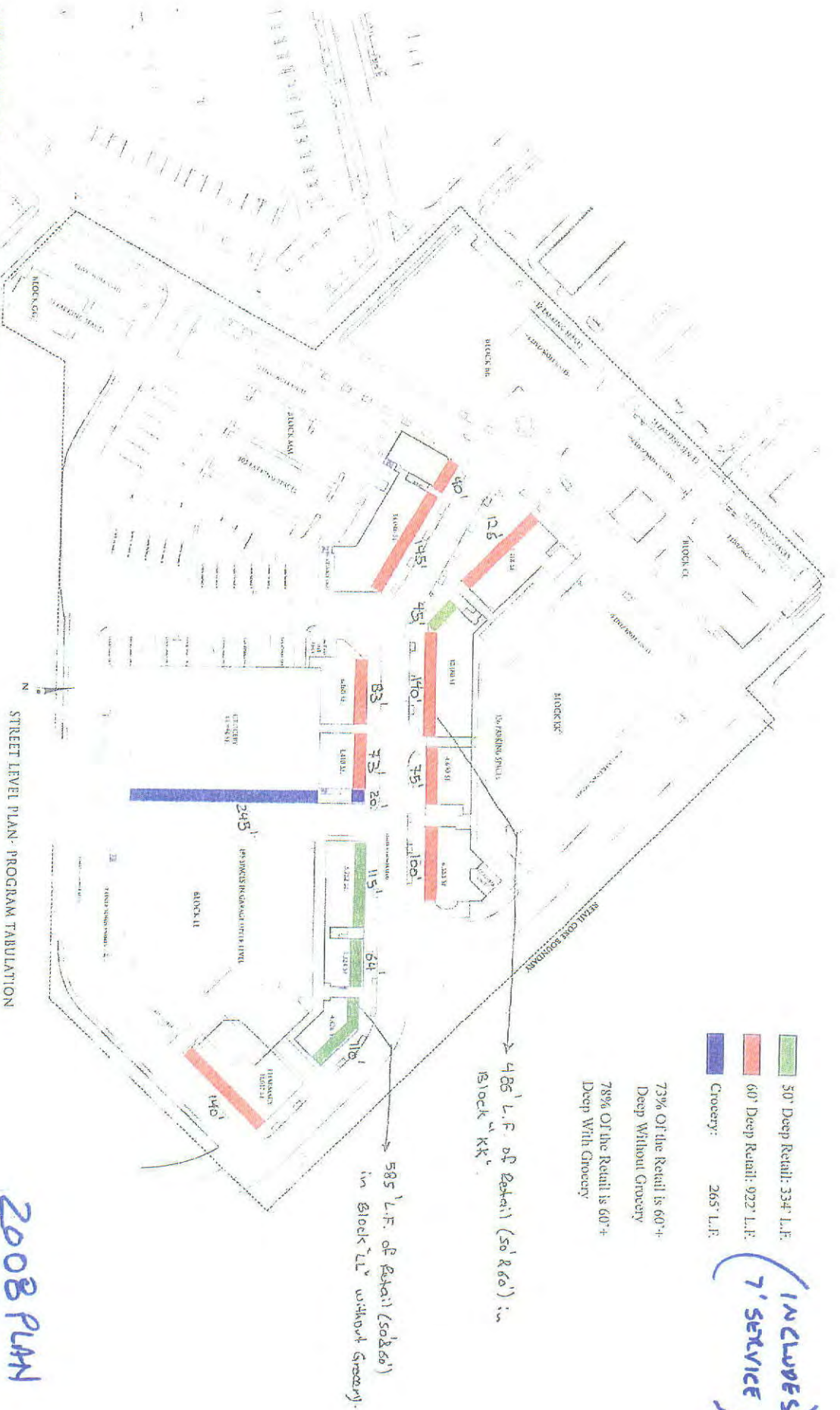
This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, Alfandre, and Cryor voting in favor of the motion, and with Commissioner Presley recused, at its regular meeting held on Thursday, July 16, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

TORTI GALLAS AND PARTNERS, INC.
2008 PLAN

CLARKSBURG TOWN CENTER- WEST SIDE RETAIL CORE



- 50' Deep Retail: 334' L.F.
- 60' Deep Retail: 922' L.F.
- Grocery: 265' L.F.

73% Of the Retail is 60'+
Deep Without Grocery

78% Of the Retail is 60'+
Deep With Grocery

485' L.F. of Retail (50' & 60') in Block 'KK'

585' L.F. of Retail (50' & 60') in Block 'LL' without Grocery.

(INCLUDES
7' SERVICE)

2008 PLAN

NOVEMBER 09TH, 2008

EXHIBIT "A"

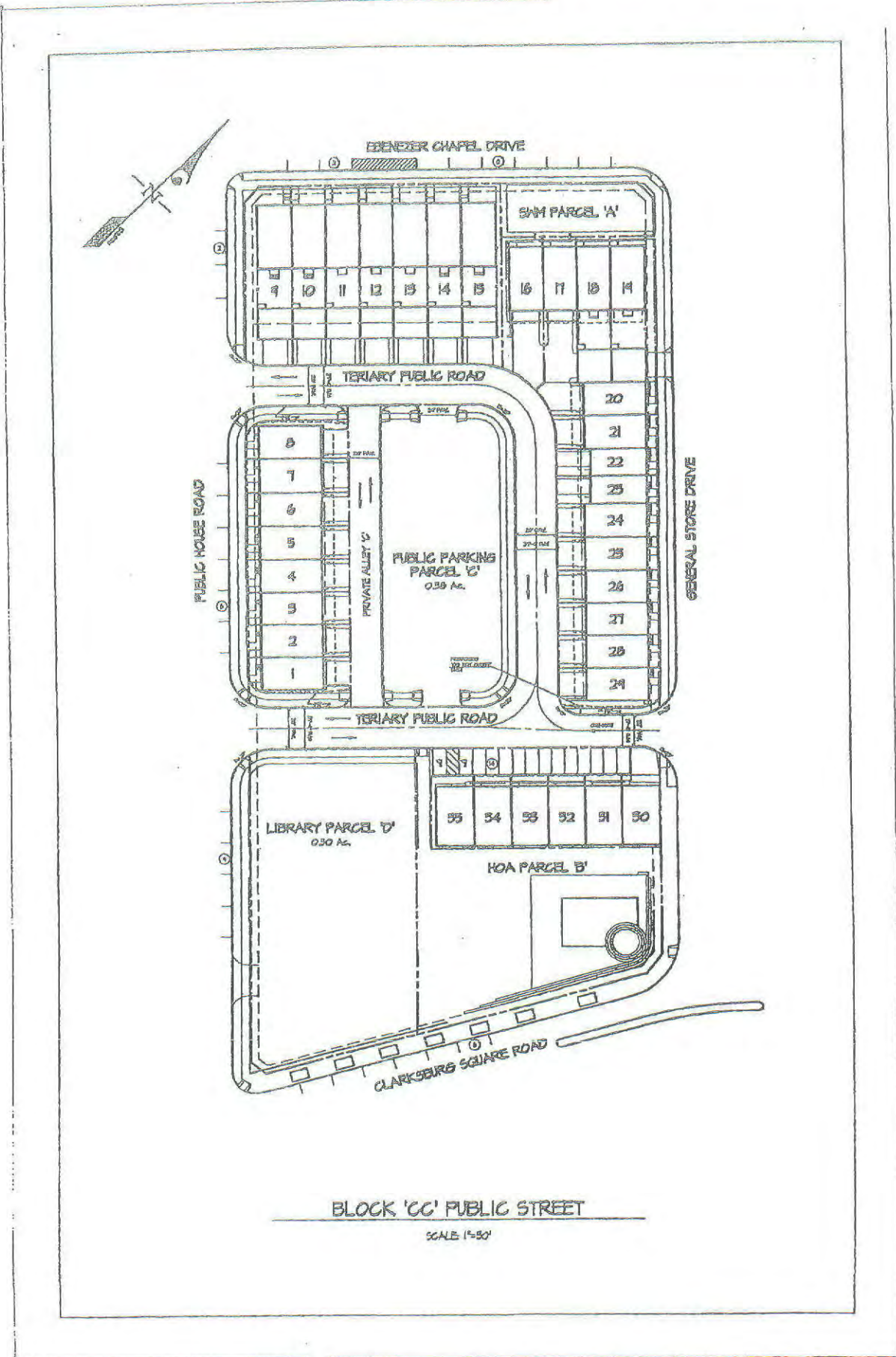


Exhibit A



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

MCPB No. 08-163
Preliminary Plan No. 11995042A
Clarksburg Town Center
Dates of Hearing: November 6, 2008 and December 11, 2008

RESOLUTION¹

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 April 25, 2007, Newland Communities LLC ("Applicant"), filed an application for approval of an amendment to a preliminary plan of subdivision of property that included a maximum of 1,300 dwelling units, 150,000 square feet of retail uses and 100,000 square feet of commercial office on 267.5 acres of land located at the southeast quadrant of the intersection of Clarksburg Road and Snowden Farm Parkway ("Property" or "Subject Property"), in the Clarksburg Master Plan and Hyattstown Special Study ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 11995042A, Clarksburg Town Center ("Preliminary Plan," "Preliminary Plan Amendment," or "Application"); and

WHEREAS, the Application included requests for a change in the approved mix of uses, abandonment of certain previously dedicated public roads, and modification of the phasing schedule for certain required roadway improvements; and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 22, 2008, 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 staffs of other governmental agencies, on November 6, 2008, the Planning Board held a public hearing on the Application ("Hearing"); and

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

AS TO LEGAL SUBJECT MATTER
[Signature] 7/16/09
LEGISLATIVE LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, after a lengthy discussion of the case the Planning Board requested additional information and recessed the hearing so that Staff and the Applicant could respond; and

WHEREAS, on December 11, 2008, the Planning Board continued the Hearing and approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Alfandre, with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor, and Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 11995042A on 267.5 acres of land located ("Property" or "Subject Property"), including a waiver of Section 50-29(a)(2) of the Subdivision Regulations pursuant to Section 50-38 to permit lots without frontage on a public street, a waiver of Section 50-26(d) of the Subdivision Regulations pursuant to Section 50-38 to permit streets with less than the minimum permitted centerline radii, a finding pursuant to Section 50-26(c)(3) of the Subdivision Regulations to permit less than 25' corner truncations at certain intersections, and subject to the following conditions:

- 1) Development under this approval is limited to 194,720 gross square feet of commercial development, including 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 12.5 percent MPDUs, consisting of 219 one-family detached units, 701 one-family attached units (includes live/work units) and 287 multi-family units.
- 2) The following phasing requirements are conditioned upon issuance of building permits for the subject Preliminary Plan:
 - a. Construction of (1) Public Road A from Stringtown Road to Overlook Park Drive, (2) Overlook Park Drive from Public Road A to Clarksburg Square Road, and (3) Clarksburg Square Road connection from Overlook Park Drive to Burdette Forest Drive in the residential area to the north must be complete and these road segments must be open to traffic prior to release of 901st residential building permit and prior to issuance of Use & Occupancy permit for any of Clarksburg Town Center retail development.
 - b. Construction of Stringtown Road from Public Road A to Snowden Farm Parkway must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
 - c. Reconstruction of Clarksburg Road from Overlook Park Drive to Snowden Farm Parkway must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.

- d. Construction of Snowden Farm Parkway for a length of approximately 400 feet east of Clarksburg Road to complete the gap that currently exists at this location must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
 - e. Reconstruction of Clarksburg Road from Overlook Park Drive to Spire Street must be complete and this road segment must be open to traffic prior to release of Use & Occupancy permit for any of the Clarksburg Town Center retail development.
 - f. Reconstruction of Clarksburg Road from MD 355 to Spire Street must be complete in participation with MCDOT.
 - g. Construction of eastbound and westbound left-turn lanes along Clarksburg Road at MD 355 must be complete and these road segments must be open to traffic prior to release of 1,101st building permit.
- 3) Prior to recordation of any plat containing property that is subject to the road abandonment petition, the Applicant must submit a copy of the County Council Resolution confirming the necessary abandonment of portions of the previously dedicated rights-of-way for Overlook Park Drive, Clarksburg Square Road, and Clarksridge Road.
 - 4) Prior to certification of the site plan, the Applicant must submit traffic signal warrant analyses for projected traffic volumes at the intersections of Overlook Park Drive with Clarksburg Road, and Public Road "A" with Stringtown Road for M-NCPPC and MCDOT approval. If a traffic signal is warranted at either location, the Applicant must bear the costs of design and construction of the traffic signal(s).
 - 5) Compliance with Environmental Planning Division conditions of approval regarding the requirements of the forest conservation law. Except for plats to be recorded pursuant to the Interim Site Plan approvals (Site Plan Nos. 82002014D and 81998001), which may be recorded at any time, Applicant must meet all conditions prior to recording of any remaining plats or MCDEP issuance of sediment and erosion control permit, as appropriate.
 - 6) The Applicant must comply with the conditions of the MCDPS stormwater management and final water quality plan approval dated October 6, 2008.
 - 7) The Applicant must comply with the conditions of the MCDOT approval letter dated October 6, 2008, unless otherwise amended by MCDOT.

- 8) The Preliminary Plan must be in conformance with the requirements of Project Plan 91994004B and is expressly tied to and dependent upon the continued validity of Project Plan. Each term, condition, and requirement set forth in the Preliminary Plan and Project Plan are determined by the Planning Board to be essential components of the approved plans and are, therefore, not automatically severable. Should any term, condition, or requirement associated with the approved plans be invalidated, then the entirety of the approved plan must be remanded to the Planning Board for further consideration. At that time, the Board shall determine if all applicable requirements under State and County law will be met in the absence of such term, condition and requirement, and if some alternative, lawful conditions or plan revisions related to the severed term, condition, or requirement are then required.
- 9) This Preliminary Plan will remain valid until March 26, 2011, and 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 Montgomery County Land Records or a request for an extension must be filed.
- 10) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid until March 26, 2014.
- 11) The Applicant must dedicate the land parcels to Montgomery County for a library or other civic building site and related parking as shown on the "Block 'CC' Public Street Plan" attached as Exhibit A. The square footage for the land dedication shall be verified by Staff prior to approval of the Certified Site Plan.
- 12) Record Plat and Certified Site Plan must reflect a public ingress/egress easement over Parcel F, Block EE to provide access from Clarksridge Road to Clarksburg United Methodist Church. This parcel may be conveyed by the Applicant to the Church or to the Homeowner's Association.
- 13) The following prior conditions of approval for Preliminary Plan 119950420, contained in the Planning Board Opinion dated March 26, 1996, remain in full force and effect:
 - a. Agricultural areas within the environmental buffer will be taken out of production and stabilized with a suitable grass cover no later than Spring, 1996.
 - b. Dedication of the following roads as shown on plan must be provided as follows:
 - i. Clarksburg Road (MD RT 121) for ultimate 80' right-of-way.
 - ii. Piedmont Road (Master Plan A-305) for ultimate 80' right-of-way.
 - iii. Stringtown Road (Master Plan A-260) for ultimate 120' right-of-way.

- c. Dedication of the proposed park/school, as shown on the Applicant's revised preliminary plan drawing, is to be made to M-NCPPC. In order to facilitate the implementation of the combined park/school facilities, the following provisions apply.
- d. M-NCPPC and the Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing set out on Circle Page 49 of the staff report, will occur prior to the execution of the Site Plan Enforcement Agreement.
- e. Dedication of the approximately 8 acre area, identified as area "A" on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.
- f. The Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.
 - i. In the event that dedication occurs when funds for the proposed school are shown in the CIP, Applicant will complete work on the replacement fields prior to the construction of the proposed school.
 - ii. In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F", as shown on the revised preliminary plan, Applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the site plan application.
- g. In accordance with Condition f above, Applicant to enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Parks' Memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur as specified in Condition f.

- h. Record plats to reflect delineation of conservation easements over the areas of the 100 year floodplain, stream valley buffer, wetland buffer and tree preservation and/or reforestation and greenway dedications.
 - i. Final number and location of units to be determined at site plan.
 - j. Access and improvements as required to be approved by MCDOT and MDSHA.
- 14) The following prior condition of approval for Preliminary Plan 11995042R as contained in the Planning Board Opinion dated August 14, 2001, remains in full force and effect:
- a) Stockpiling and borrow of dirt for use in a timely fashion only in connection with this preliminary plan, at designated locations, prior to site plan approval provided:
 - i. M-NCPPC technical staff review and approval of sediment control plans prior to issuance of permits by MCDPS; and
 - ii. Applicant to enter into agreement with the Planning Board in advance of any land disturbance that they will conform with all aspects of stockpile and borrow plans.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, 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 Amended Preliminary Plan substantially conforms to the Clarksburg Master Plan.*

The Planning Board finds that the Amended Preliminary Plan continues to substantially conform to the recommendations of the Master Plan by creating a transit- and pedestrian-oriented community with a Town Center as the focus of community life. The Application includes an interconnected network of public and private streets that provide both local access within neighborhoods, and connections to nearby commuter roadways and the proposed Clarksburg Town Center Transit Station.

The Application conforms to the Master Plan's vision for a mix of uses. The revised plan now includes live/work units along with single-family attached and detached residential dwellings, multi-family residential dwellings, and a Town Center with a retail core and a civic plaza and building. The Master Plan greenway with its natural surface trail system and recreational bikeway that links

to major surrounding parks is preserved, along with the elementary school site that has already been dedicated and built, and a new public park that will be dedicated to M-NCPPC on the north side of Piedmont Road.

The Application also addresses goals for protection of natural features and water quality. The plan retains and enhances a forested buffer along all streams, and a "no net loss" of wetlands policy has been established. A variety of green spaces and landscaping are also incorporated into the development. Stormwater management is provided to mitigate the impacts of the development on water quality by a network of facilities that are included in the Final Water Quality Plan.

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

An extension of the APF validity period for the Preliminary Plan was granted on March 20, 2008. The APF determination remains valid until March 26, 2014. Prior to this date, the Applicant must obtain building permits for the entire development or request an additional extension.

Roads and Transportation Facilities

No additional trips beyond those associated with the previous approval of the Preliminary Plan are being generated as a result of this Amendment. The previously required transportation improvements for surrounding roads and intersections provide sufficient transportation capacity and meet the applicable APF test. Several of these improvements have been constructed and the recommended modifications to the previous conditions of approval incorporate a more specific phasing schedule for the completion of the remaining improvements to ensure that the roads are open to traffic in a timely manner and critical connections are made as development is occurring.

The revised internal road network includes realignment of portions of Overlook Park Drive, Clarksburg Square Road, and Clarksridge Road. Portions of the previously dedicated road rights-of-way for Overlook Park Drive and Clarksburg Square Road on the southwest side of the greenway are proposed for abandonment. In addition, some of the previously approved public roads that were never dedicated have been redesigned as private streets. The County Council must grant the abandonments, but the Planning Board recommends approval of the Amended Preliminary Plan conditioned upon the Council taking this action prior to the certification of the site plan. The Board finds that the newly designed road network and associated sidewalks and bikeways will continue to provide safe and adequate access and circulation for vehicles and pedestrians.

Other Public Facilities and Services

The Planning Board finds that public facilities and services continue to be available and will be adequate to serve the proposed development. The Property is served by public water and sewer systems. The amended plan has been reviewed and conditionally approved by the Montgomery County Fire and Rescue Service, who have determined that the Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Growth Policy resolution in effect when the APF approval was granted and will be adequate to serve the development.

3. *Practical difficulties exist which prevent the development from complying with Section 50-29(a)(2) requirements for lot frontage on a public street.*

Section 50-29(a)(2) requires, except as otherwise provided in the zoning ordinance, that every lot shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road. The Application includes several lots without frontage on public streets. Some of these lots will have frontage on private streets. For these lots, a finding needs to be made that they abut at least one street that can otherwise attain the status of a public road. The Planning Board finds that the proposed private streets meet the minimum standards necessary to make this finding because they will be fully accessible to the public; accessible to fire and rescue vehicles, as needed; and they are designed to minimum public road standards, except for right-of-way and pavement widths.

There are several other lots that do not have frontage on either a public or private street. Instead, the frontage is either on private driveways or on green space. Since these driveways and green spaces are the only frontage provided for the lots, a waiver of Section 50-29(a)(2) is needed to permit the proposed configuration. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements. The Board finds that waivers of lot frontage are justified based on the practical difficulties associated with implementing neo-traditional design principles within Clarksburg Town Center if lot frontage is always required. Such a design implements the intent and recommendations of the Clarksburg Master Plan by facilitating a community that has a hierarchy of streets, including a series of alleyways, with a mix of housing types and densities, and green areas dispersed throughout. The Board finds that the proposed neo-traditional neighborhood design best implements the intent of the Master Plan, particularly with regard to integrating green spaces throughout the development. The waiver facilitates the replacement of certain roads with green spaces that reduce the

amount of paving in the development, increase the areas available for treatment of stormwater runoff, and create visible open areas and gathering spaces for the community.

The Planning Board finds that all houses will be adequately served and accessed by proposed private driveways. Therefore, the Planning Board grants a waiver of Section 50-29(a)(2), pursuant to Section 50-38(a) and finds that the waiver is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.

4. *Practical difficulties exist which prevent the Applicant from complying with the minimum centerline radii requirements for Sugar View Drive, Clarksmeade Drive, Trading Post Drive, Benton Park Circle, and Basil Park Circle.*

Section 50-26(d) of the Subdivision Regulations requires that the horizontal alignment of roadways be designed so that all curves have specific minimum centerline radii. For tertiary streets, the minimum centerline radii are 100 feet. Several tertiary streets on the Amended Preliminary Plan (specifically, Sugar View Drive, Clarksmeade Drive, Trading Post Drive, Benton Park Circle, Basil Park Circle, and Clarksridge Road) are designed with curves that have less than 100-foot centerline radii. These roads were approved as part of the original site plan, but no specific findings concerning the reduced centerline radii were made. All of the roads have been recorded, and all are constructed except for a small section of Clarksridge Road.

Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements. The Board finds that the waivers of the minimum centerline radii requirements for the above-referenced roads are justified based on the practical difficulties associated with creating a neighborhood that is urban in character and pedestrian-oriented. The design of the subject roads reduces vehicle speeds and makes the roads safer for pedestrians. It also permits open spaces to be incorporated, which promotes a pedestrian friendly environment.

5. *Minimum 25' corner truncations must be provided for the northeastern side of the intersection of Clarksburg Square Road and Overlook Park Drive, and for public street intersections with Clarksburg Road and Stringtown Road as shown on the Preliminary Plan, but are not needed for other internal public roads.*

Section 50-26(e)(3) requires corner lots at intersections to be truncated for road dedication purposes by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant, however, the Planning Board may specify a greater or lesser cut-off if it is needed for safe sight distance

or traffic channelization. The Preliminary Plan supports the Master Plan goal of providing a pedestrian-friendly, transit-oriented community by reducing corner truncations to the minimum necessary to provide safe site distance and turning movements for vehicles. Thus, the intersections with Clarksburg Road and Stringtown Road have truncations that meet the minimum standard, but most of the internal street intersections have reduced truncations, or none at all. These non-standard intersections, many of which are already constructed, are narrower and more pedestrian friendly because they shorten road crossing distance and slow down traffic.

The non-standard corner truncations were included in the previously approved preliminary and site plans, and the Planning Board supports the additional instances that are included as part of the Amended Preliminary Plan.

6. *The previous waiver granted by the Planning Board to permit less than 600' between road intersections on Clarksburg Road still applies.*

Section 50-26(c)(2) of the Subdivision Regulations (Section 50-26(e)(2) when the original preliminary plan was approved) states that proposed intersections with an arterial or major highway must be spaced no closer together than 600 feet. As part of the approval of the original preliminary plan, the Board granted a waiver of this section to permit certain road intersections to be closer together. The waiver (granted pursuant to Section 50-38 of the Subdivision Regulations) was necessary to provide a stronger grid system for the town center with more interconnections between the east and west sides of Clarksburg Road. The roadways involved have already been dedicated pursuant to the original plan.

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

The current revision to the Final Forest Conservation Plan revises the previously approved plans and incorporates proposed Piedmont Park. The Application will meet forest conservation requirements by retaining 39.65 acres of existing forest, planting 22.7 acres, and using 2.56 acres of landscape credit. In order to accomplish this, the Applicant will need to identify an additional 0.40-acre planting area in a revised final forest conservation plan to be submitted with the certified site plan.

8. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The Final Water Quality Plan for the amended plans was approved by MCDPS Stormwater Management Section on October 6, 2008. The stormwater management concept includes a variety of interconnected stormwater

management facilities, including bioretention areas, infiltration trenches, dry ponds, and a wet pond, which will provide both water quantity and quality control.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

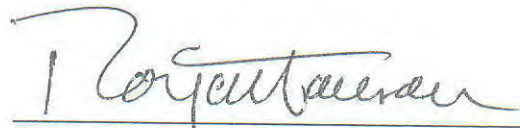
BE IT FURTHER RESOLVED, that the date of this Resolution is JUL 16 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, Alfandre, and Cryor voting in favor of the motion, and with Commissioner Presley recused, at its regular meeting held on Thursday, July 16, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board



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

MCPB No. 09-15
Site Plan No. 820070220
Project Name: Clarksburg Town Center
Hearing Dates: November 6, 2008 and December 11, 2008

RESOLUTION¹

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 25, 2007, NNPII Clarksburg, LLC ("Applicant"), filed an application for approval of a site plan for 265,660 square feet of commercial development, including 210,480 square feet of retail and 55,180 square feet of office, 1,240 residential dwelling units, including 155 MPDUs,² and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties ("Site Plan" or "Plan") on 270 acres of RMX-2 and RDT-zoned land, located at the southeast quadrant of the intersection with Clarksburg Road and Snowden Farm Parkway in the Clarksburg Master Plan area ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820070220, Clarksburg Town Center (the "Application"); and

WHEREAS, the Planning Board previously approved Project and Preliminary Plans for the entirety of, and Site Plans for portions of, Clarksburg Town Center; and

WHEREAS, the Planning Board and its staff identified certain violations of the approved Site Plans, and conducted investigations and hearings concerning those violations; and

WHEREAS, prior to completion of the violation hearings, the Applicant, in collaboration with the Clarksburg Town Center Advisory Committee ("CTCAC"), proposed a Plan of Compliance to resolve outstanding violation issues; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

² The application was resubmitted on May 19, 2008 to revise the development program to include 194, 720 square feet of commercial, which included up to 69,720 square feet of specialty retail, 1,213 residential dwelling units, including 152 MPDUs and a parking waiver to permit the reduction of the maximum number of required parking spaces.

Approved as to
Legal Sufficiency:

[Handwritten signature] 7/16/09

8787 Georgia Avenue, N.C. Planning Commission, Legal Department 910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

WHEREAS, by resolution dated August 17, 2006, the Planning Board approved the proposed Plan of Compliance subject to further detailed review when project, preliminary, and site plan amendments were proposed for certain portions of the site, and when a site plan was proposed for the retail portion of the Town Center; and

WHEREAS, in addition to the standards applicable to any other Site Plan amendment, the Application is subject to the terms of the Plan of Compliance; and

WHEREAS, Planning Board staff ("Staff") issued an initial memorandum to the Planning Board, dated October 22, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions, followed by a second memorandum to the Planning Board dated December 8, 2008, setting forth a revised 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 staffs of other governmental agencies, on November 6, 2008 the Planning Board held an initial public hearing on the Application that resulted in a continuation of the deliberation to December 11, 2008 (collectively, "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application. On November 6, Staff presented testimony concerning the history of the site and the plan violations, the outstanding issues remaining from the violations case, and those associated with the current plan review. Staff also provided an overview of the requirements of the Plan of Compliance and discussed areas where the Application conformed to and deviated from the approved Plan of Compliance. The primary issues that remained unresolved with the proposed Site Plan included: the road connection to MD 355, design of the retail core, the requirement to provide an additional parking deck in Block KK in the retail core, the connection to the church, changes to the Residents' club, and the location of the future library site and related parking, and the enhancement planting identified in the Plan of Compliance. The retail core is located on the west side of the proposed development, and includes all of the site's non-residential uses, including the live/work units, flex space, and future library site, and is bounded by Public House Road to the west and south, Overlook Park Drive to the east, and the live/work units on the north side of Clarksburg Square Road. Each unresolved issue was discussed at the Hearing with a recommendation provided by Staff, all of which required modifications to the Site Plan, while still resulting in substantial conformance with the Plan of Compliance. Staff originally supported a 20 percent waiver of the required parking spaces, recommending a second parking deck to accommodate a minimum of 100 additional parking spaces and the use of 176 on-street parking spaces. Staff also recommended designation of one parking space for each residential unit within the retail core; and

WHEREAS, the Applicant and its representatives provided testimony regarding the adequacy of parking in the retail core based on counting on-street parking and referencing Smart Growth policies³ for walkable communities and studies that call for reducing the parking requirement to between 2.2 and 4.0 spaces per 1,000 retail square feet. The Applicant argued that the Master Plan specifically called for creating a walkable community and that the Plan of Compliance permitted on-street parking to fulfill that goal. The Applicant testified that numerous requests for proposals for development of the retail component of the Town Center were sent to prospective retail developers, and that the second parking deck called for in the Plan of Compliance and recommended by Staff was not feasible from either an economic or practical perspective, even though both the Applicant and CTCAC had agreed to it, and the Board approved it, in the Plan of Compliance; and

WHEREAS, CTCAC provided testimony regarding the history of the Plan of Compliance in relation to parking issues, design guidelines, and certain design elements, including paving, landscaping, and improvements to the Resident's Club; and

WHEREAS, the Board heard testimony from Kathie Hulley and John Cook, representing the Clarksburg Civic Association, and from Patrick Darby, representing the Clarksburg Chamber of Commerce, regarding the adequacy of parking, maintenance issues related to the retail center, the community center at Sinequa Square, and the road improvements necessary for the remainder of the Town Center. The Board also heard testimony from Town Center residents regarding Clarksburg's need for a retail center and other improvements being recommended by Staff, including an addition to the Resident's Club, additional landscaping, and a future road connection to MD 355; and

WHEREAS, at the November 6 hearing, the Board requested that the parties provide further written analysis and comment regarding parking requirements, the design of the Grand Staircase; the designation of enhancement planting to satisfy the \$1 million dollars required by the Plan of Compliance; the design of the retail space and store depths, environmental buffers and planting requirements, and the design of the sport court and community building; and

WHEREAS, at the December 11 hearing, Staff presented testimony concerning appropriate parking requirements for the residential and non-residential uses and specifically for restaurant uses in the retail core, as well as 100 spaces for the library site. Staff evaluated the same number of residential units and non-residential square footage that the Applicant proposed at the November 6 hearing, but did not include the on-street parking as a means to satisfy the parking requirements and did not

³ Urban Land Institute's SmartCode (Ver. 9.2)

recommend a waiver of the parking requirements for the retail core. The Board also heard testimony from the Applicant's consultant, Robert Gibbs, regarding the total parking requirements and the allocation of the spaces for the retail core, and from John Eisen, a retail developer, who discussed the benefits of additional parking and deeper store depths than the Applicant proposed. Representatives of the Applicant testified that the smaller and more varied store depths offer better accommodations for smaller and local retailers, whereas the larger and deeper store depths cater to chain retailers and cost more to lease;

WHEREAS, the Applicant proposed to add parking spaces within Block LL (grocery) in the below-grade parking structure instead of a second multi-level garage in Block KK. The Board discussed that the addition of these parking spaces, which would result in 1,070 parking spaces in the retail core, including approximately 45 surface parking spaces dedicated to the future library site, would substantially conform to the Plan of Compliance, and that a waiver of approximately 18 percent of the zoning ordinance parking requirements would be justified.

WHEREAS, at the December 11 hearing the Board also considered Staff's recommendation for the outstanding items that remained from the November 6, 2008 hearing including the vehicular connection to MD 355, improvements to the Resident's Club, and designation of the \$1 million specifically allocated by the Plan of Compliance for enhancement planting.

WHEREAS, the Board considered testimony concerning the minimum acceptable store depths, which Staff recommended as a minimum of 60 feet, exclusive of the service area. The Applicant proposed the following store depths in the retail core: 60-foot store depths in Block LL, inclusive of a 7-foot-wide service alley directly adjacent to the grocery store and fronting onto Public Road 'A'; and 50-foot deep stores, inclusive of a 7-foot-wide service alley abutting the garage and fronting the remainder of Public Road 'A'; and the Pharmacy at the intersection of Public Road 'A' and Private Road #2 was able to provide a minimum 60-foot store depth, exclusive of any service areas; Block KK will provide a minimum 60-foot deep stores, inclusive of the service area, except for a small section at the intersection of Public Road 'A' and Private Road #3; and Block MM will provide a minimum of 60-foot deep stores, inclusive of a service area. A concept plan of the retail center, dated November 19, 2008, indicating the store depths that the Applicant proposed and the Board approves by this Resolution, was submitted into the record during the hearing and is Attachment A to this Resolution.

WHEREAS, on December 11, 2008, the Planning Board voted to approve the Application subject to conditions, on motion of Commissioner Robinson; seconded by Commissioner Alfandre; with a vote of 4-0, Commissioners Alfandre, Cryor, Hansen, and Robinson voting in favor, and Commissioner Presley, having recused herself, 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 No. 820070220 as described in the letter dated October 6, 2008, unless amended and approved by DPS and DEP, with the following conditions:

1. Provide easements around all stormwater management structures with clear access from a public right-of-way.
2. A geotechnical report is required to verify recharge feasibility and infiltration rates at any proposed infiltration and recharge structure locations.
3. Planting/Landscaping shall not be shown in areas intended for stormwater management structures on the site plan. Proposed planting/landscaping will be reviewed during the DPS detailed plan review process. Additionally, all non-stormwater management structures, and or auxiliary structures to be constructed, placed, or otherwise located within any stormwater management maintenance easement, must be reviewed and approved by the County Departments of Permitting Services and Environmental Protection prior to construction or placement.
4. A detailed plan review of the stormwater management computations will occur at the time of DPS's detailed plan review.
5. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.

Note that all of the previous conditions and requirements for other portions of Clarksburg Town Center and related development still apply.

BE IT FURTHER RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820070220, Clarksburg Town Center, for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1, 213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction in the number of parking spaces, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties, on approximately 270 gross acres in the RMX-2 and RDT zones, subject to the following conditions:

1. Project Plan Conformance
The proposed development must comply with the conditions of approval for Project Plan 91994004B included herein.
2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 11995042A.

3. Retail Center

- a. The Applicant shall construct the proposed retail center as shown on the approved plans submitted to the Planning Board, or as amended by the Planning Board during the hearing.
- b. A minimum of one parking space must be dedicated and signed for each live-work, multi-family, and attached unit within the mixed-use core area, which includes Blocks GG, KK, LL, and MM. The dedicated spaces shall be signed and posted to prohibit their use by retail tenants, unless the tenant and owner of the live/work and multi-family units are the same. These dedicated spaces must not be on-street.
- c. In addition to the combined pedestrian and vehicular entrance on Public Road A, the Applicant must provide a second pedestrian entrance to the grocery store from Public Road A, as shown on the most recent plans dated November 26, 2008.
- d. Provide a disclosure statement to future residents/retailers that will be regarding dedicated/reserved parking spaces. A copy of the disclosure statement must be provided to the M-NCPPC prior to the release of the building permits for those uses.
- e. The following minimum retail store depths are required:
 - Block KK: 60 feet (inclusive of a service area of up to 7 feet) except for a small section at the intersection of Public Road 'A' and Private Road #3, where the minimum store depth is 50 feet (inclusive of a service area of up to 7 feet)
 - Block MM: 60 feet (inclusive of a service area of up to 7 feet)
 - Block LL: 60 feet (inclusive of a service area of up to 7 feet) for the areas adjacent to the grocery store and the pharmacy, and 50 feet deep (inclusive of a service area of up to 7 feet) for the area adjacent to the parking structure.
- f. The Applicant must provide Staff a revised plan addressing the parking and depth of stores to be incorporated into the Certified Site Plan.

4. Recreation Facilities

- a. The Applicant must meet the square footage requirements for all of the applicable proposed new recreational elements, exclusive of the Sports Court for the Resident's Club, and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The Applicant shall provide the recreation facilities shown on the Overall Recreational Facilities Plan Exhibit dated September 15, 2008 as finalized by the Planning Board at the December 11, 2008 hearing.
- c.

- d. The Applicant must provide the smaller sport court, referenced as "Plan B" in the November 20, 2008 exhibit provided by the Applicant

5. Parking

- a. The Applicant shall provide a minimum of 1,070 parking spaces in the retail core by providing a multi-level parking structure in Block LL (grocery), surface parking lots and on-street parking spaces within the retail core area, including up to 45 surface parking spaces in the library surface parking lot which shall be constructed by the Applicant.
 - MCDOT and MCFRS shall review the certified site plan for final location of on-street parking spaces within the retail core. If materially fewer than 160 on-street parking spaces are available within the retail core, then the site plan shall be brought back to the Planning Board for consideration of a modification of the parking ratio and extent of the parking waiver.
- b. The Applicant shall provide one dedicated parking space for each live/work, multi-family and in-line (one-family attached) unit within the retail core to be signed and marked for use solely by the resident of the associated dwelling unit.

6. Environmental

The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated October 6, 2008 and the conditions of approval from the Final Water Quality Plan dated October 6, 2008:

- a. Compliance with the conditions of approval of the Final Forest Conservation Plan dated December 27, 2004 and amended July 24, 2006, as amended to reflect the appropriate afforestation/reforestation calculations based on the final approved site plan design.
- b. A five-year maintenance period shall be required for all planted areas credited toward meeting the requirements of the forest conservation plan.
- c. All afforestation plantings on the Piedmont Woods Park are to occur in the first planting season after the issuance of the first sediment control permit by the Montgomery County Department of Permitting Services for any work to be conducted on Piedmont Park.
- d. Reforestation/afforestation plantings other than in Piedmont Woods Park that are located outside the limits of disturbance on the Clarksburg Town Center development must occur in the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
- e. Applicant must replace all financial security instruments submitted by Terrabrook Clarksburg, L.L.C. with new financial security instruments from

- NNPIL-Clarksburg, L.L.C. The financial security instruments must be based at a rate of \$0.90 per square foot or on a landscape estimate approved by the Planning Department. The new financial security to be reviewed and approved by Environmental Planning staff prior to Certified Site Plan approval.
- f. Applicant must submit a revised final forest conservation plan and obtain approval from Environmental Planning prior to approval of the certified site plan.
 - g. All revised plans must be signed and sealed by a qualified professional.
 - h. Applicant must remove the "Certified Site Plan" stamp from the final forest conservation plan (FFCP).
 - i. Applicant must clearly delineate which trees are being taken for the landscape credit claimed in the FCP Worksheets. Any trees not claimed for landscape credit must not be shown on the FFCP.
 - j. Applicant must remove the designation "Off-Site" planting that is proposed for Piedmont Park since this area has been part of the project since preliminary plan approval.
 - k. Applicant must change all of the 5-ft natural surface trails from the Kings Pond area south through the Greenway and in Piedmont Park to 4-ft trails as per the approved FFCP dated July 24, 2006.
 - l. Applicant must provide a detail of the natural surface trail that matches the detail on the Land Design, Inc. plan.
 - m. There should be no changes in the size of any afforestation or reforestation planting area from what was approved in 2004 and revised in 2006. If changes are necessary, the Applicant must provide a written explanation and justification for the area size changes and compensate for the loss of that planting area.
 - n. The Applicant must provide afforestation plantings, landscape credit plantings and Greenway credit plantings, either on-site or at Piedmont Woods Park that meet the afforestation/reforestation requirements per the approved forest conservation worksheets.
 - o. The Applicant must provide a planting schedule for the Greenway area since the Applicant is requesting reforestation credit in the FFCP. In turn, call this area out on the Certified Site Plan as part of the FFCP.
 - p. Applicant must: combine afforestation areas Q and S on Sheet 8 to one planting area; combine afforestation areas A-1, A-3 and B-1 on Sheet 11; and combine afforestation areas C-1 and K on Sheet 13.
 - q. Applicant must clearly delineate Category I forest conservation easement lines or forest conservation areas as dedicated to the Parks Department, whichever is appropriate, on the final forest conservation plan.
 - r. Applicant must correct the size of afforestation area G. In one location on the submitted plan it is listed as 2.15 acres and in a second it is listed as 1.78 acres.

- s. Applicant must correct the size of afforestation area H. On page 21 it is listed as 0.40 acres in size but in the data table states it is 0.31 acres.
- t. Applicant must include a note on Sheet 21 stating that planting must occur within the sewer line area but not within 5 feet off the pipe centerline.
- u. Applicant must afforest all stream valley buffers (SVB) on Sheet 22 as shown on the approved final forest conservation plan and final water quality plans.
- v. Applicant must correct the spelling of "afforestation" and "area" on Sheet 24.
- w. Applicant must show the SVB on Sheets 33, 34, and 35.
- x. Applicant must clarify why the LOD extends out into afforestation area Z on Sheet 36.
- y. Applicant must clarify why the LOD extends out into afforestation areas Z and HH on Sheet 37.
- z. Applicant must use the correct updated FCP worksheet available on the MNCPPC website at <http://www.mcparkandplanning.org/Environment/forest/index.shtml>.
- aa. Applicant must include the data table as required by Section 109-A (2) of the Forest Conservation Regulations.
- bb. Applicant must replace all Norway maple (*Acer platanoides*) trees requested for landscape credit with native canopy trees.
- cc. Applicant must correct typographic errors in the table for Afforestation Area CC on Sheet 39.
- dd. Applicant must correct all applicable notes throughout the document to identify that all reforestation/afforestation plantings have a 5-year maintenance period from the date the forest conservation inspector inspects the planted materials.

7. Site Design

- a. In the retail and civic core, revise the site plans to provide all sidewalks and hardscape plazas with brick in a herringbone pattern and "soldier" edging for accenting (in lieu of asphalt) sidewalks and plazas. All brick sidewalks, soldier edging, plazas, curb ramps, and Church stairs and plaza must be of the same color for all enhancements throughout the East and West sides.
- b. Eliminate the angled parking on the private street in the retail core and provide parallel parking.
- c. Private Street #4 shall be revised to become Public Street 'A' with a 60-foot right-way, as approved by the Department of Transportation.
- d. Provide amended soil treatment a minimum of 10 feet back from the curb continuously along the public and private streets for the entire retail core, civic building and town green. The depth of the soil treatment shall be a minimum of 3 feet.
- e. Block H shall be designed and built in accordance with the letter agreement dated April 30, 2008 between the Clarksburg Town Center Advisory Committee and Bozzuto, provided Bozzuto acquires the Block H property.

8. Landscape and Lighting

- a. Provide additional landscaping within planting islands in the following alleys in the common areas:
East Side-Snow Hill, Block F;
West Side-Dowden Mews, Block EE; Clarksridge Hideaway, Block FF
At a minimum, the landscaping shall include ornamental/flowering trees, evergreen shrubs and grasses or groundcover in the islands to be installed by the Applicant. Existing green areas or panels shall be planted with shade or ornamental/flowering trees, where space permits. The Applicant shall provide, in writing, a letter to the affected homeowners of the additional landscaping to be installed no later than 15 days prior to installation of the landscaping. A copy of the letter shall be provided to the M-NCPPC.
- b. Eliminate the shrubs on the edge of the porous pavement in Basil Park Square Circle and group similar shrubs around the proposed ornamental/flowering trees on the east side of the park. Remove the elliptical area on the east side of the park.
- c. Revise the concrete wall in Sinequa Square with a stone wall similar in material to the material used on the Resident's Club/Community Center. The wall should be extended along with the grading to frame the view from Clarksburg Square Road. The proposed street trees shall be aligned to promote this visual viewshed.
- d. Provide additional flowering/ornamental and shade trees to serve as the focal feature to enhance the view from Clarksburg Square Road.
- e. Expand the base of the Grand Staircase to include a seating area with additional planting.

9. Enhancement Planting/Streetscaping and Amenities

Consistent with the provisions of the approved Compliance Program, the community has identified additional landscape enhancements to be provided by the Applicant, and at the Applicant's expense. The costs of the enhancements shall be applied against the \$1 million landscape enhancement fund established by the Plan of Compliance. The Applicant and CTCAC must agree upon a list of enhancements and provide it to Site Plan review staff no later than December 31, 2008. The list of enhancements shall not include any items that were required as a result of prior site plan approvals. In the event a list is not timely submitted, or if the list is incomplete, meaning either that there is not complete agreement as to all of the enhancements or the total cost of the enhancements is less than \$1 million, Site Plan staff shall decide the list of enhancements to be required. The list of enhancements approved by Site Plan staff must be reflected on the certified site plan, and shall not include any improvements required by a prior site plan approval. In the event the cost of providing the enhancements approved by the Site Plan staff is less than \$1 million, the balance shall be placed in escrow with an independent escrow agent approved by the M-NCPPC's

Office of the General Counsel and transferred to the homeowners association ("HOA") when CTC residents take control of the HOA. The Balance, or any portion thereof, must be used solely for landscape and streetscape enhancements maintenance, except that all reasonable fees charged by the escrow agent will be paid from the Balance. The HOA's expenditure of this Balance is subject to audit by M-NCPPC.

10. MPDUs

The proposed development shall comply with the following conditions of approval from the Department of Housing and Community Affairs in their letter dated September 29, 2008:

- a. The Applicant must provide a minimum of 12.5 percent MPDUs (of the total number of units), in accordance with the requirements of Chapter 25A.
- b. The Applicant must comply with all conditions of the DHCA Memorandum dated September 29, 2008, regarding this plan.
- c. The Applicant must enter into an "Agreement to Build" with the Department of Housing and Community Affairs prior to approval of the Certified Site Plan.

11. Maintenance Responsibility

The Retail Core maintenance organization shall be responsible for the future maintenance associated with the improvements to the Retail Center, including, but not limited to non-standard elements within the right-of-way, benches, lighting, landscaping, retaining walls, brick sidewalks, and parking areas.

12. Retaining Walls

- a. The Applicant shall provide for an independent inspector to monitor the review, installation and maintenance needs of any retaining walls over 5 feet. The inspector shall be chosen by the M-NPPC from at least three qualified professional engineering firms not currently performing work in Clarksburg Town Center.
- b. The retaining walls facing Stringtown Road shall be decorative to include a stone or brick veneer with a suitable continuous decorative cap.

13. Park Development

The Applicant shall comply with the memorandum dated October 13, 2008 from Park Planning and Stewardship as outlined in the following conditions:

Piedmont Woods Recreational Park:

- a. Applicant to dedicate and convey to M-NCPPC in fee simple the approximately 65 acre parcel of land located on the northeast side of Snowden Farm Parkway to be used as a recreational park facility. Land to be conveyed at time of record plat.

- b. Applicant to construct at its expense within the park area the following recreational amenities:

Multi-age Playground - A multi-age playground within an approximately 10,000 square foot area. Playground equipment to include enough equipment, including challenging equipment, so that the play equipment use zones fill the entire playground boundary. Overlap the play equipment use zones as much as is allowable by ASTM guidelines to maximize the amount of equipment and provide varied play activities for all ages. Play equipment shall be acceptable to Department of Parks staff and certified by the International Play Equipment Manufacturers Association (IPEMA), meet all ASTM requirements for public playgrounds and shall meet M-NCPPC park standards.

Dog Exercise Area - A fenced dog exercise area of approximately the size and configuration shown on the proposed site plan. Fencing around the dog exercise area to include park standard concrete mow strip and to be located entirely outside the utility right of way. No stormwater management facilities to be located within the fenced areas. Include a maintenance vehicle access gate and a drinking water source for dogs within each section of the dog exercise area.

Hard Surface Courts - Two full sized tennis courts and a full sized basketball court approximately as shown on the site plan. Provide fencing at tennis courts and on the backside of the basketball courts (at least 4' high) with park standard concrete mow strips.

Picnic Shelters - Three picnic shelters sufficiently sized to contain at least 3 picnic tables in each shelter. Each shelter to include a grill and at least 3 picnic tables.

Restroom and Water Fountain – Centrally located restroom facility and frost free water fountain.

Parking Lot - Parking for a minimum of 55 cars approximately as shown on the site plan.

Trails - Hard surface and natural surface trails to connect facilities and provide recreational benefits approximately as set forth on the site plan, to be located and sized as acceptable to M-NCPPC Department of Parks staff.

Landscaping, Benches and Signage – Landscaping and signage acceptable to M-NCPPC Department of Parks staff, and adequate benches for needed seating.

- c. A park permit is required before construction of all park amenities. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.
- d. Applicant to execute a Public Use Easement and Public Improvements Easement for the purpose of access to and maintenance of the Greenway trail. Easements to allow the full right of public trail use and allow M-NCPPC Department of Parks the full right to maintain and make any improvements to the trail. Said easements to be acceptable to M-NCPPC legal staff as well as the Department of Parks staff.
- e. Applicant to address in its initial design the following comments to the satisfaction of M-NCPPC Department of Parks staff prior to the approval of the Certified Site Plan with the final design occurring prior to issuance of park construction permit:
 - i. The style of the picnic shelters and proposed restroom building should fit with the character of the Clarksburg Town Center. Per previous comments, provide shelters and restroom building equal to Classic Recreation Systems, Inc. "Campion" style steel frame shelter with custom ornamentation, cupola, 10:12 pitch metal roof with 2"x6" tongue and groove sub-roof, stone veneer piers and base.
 - ii. The landscape plan must include more trees in clustered, informal groupings, particularly along the main path on Snowden Farm Parkway, along all other walkways, near the picnic shelters, at the edges of the parking lot, within parking lot planting islands, near the basketball court, around the playground, near all seating areas, and on open slopes within the park. Trees should be set back a minimum of 10 feet from paths and 15 feet from structures and fencing. The general quantities and locations of plants shall be determined prior to approval of the certified site plan. The exact

types, sizes, spacing, locations and quantities of plants shall be reviewed and may be adjusted during the park permit approval process.

- iii. Provide additional paths or relocate paths at the tennis courts to meet ADA guidelines for accessible sports facilities. The guidelines require an accessible route to lead to each court. The paving around the restrooms and tennis courts should be simplified.
- iv. The minimum paved path width shall be five feet to meet ADA requirements. The minimum paved path width for multi-use trails and paths that require maintenance vehicle access is eight feet wide. The path from the parking lot to the dog park shall be ten feet wide and fully paved with ample vehicle turn-around room, as the dog park requires frequent maintenance access. The path around the playground area with its connections to the parking lot shall be widened to 8 feet to allow replenishment of playground surfacing. The paths around the edges of the parking lot may be narrowed in width if necessary to balance the amount of impervious surface in the park. The approximate alignments of trails and paths in the park shall be shown on the certified site plan, however they may be adjusted during the park permit review process.
- v. Provide additional elements from the park program of requirements, including the following: a kiosk near the park entrance or restroom building (equal to Classic Recreation Systems, Inc. "Campion" style), a shade structure with seating in the dog park that could be shared by both areas, four nature interpretation signs with durable colored graphics along the natural surface trails, wild bird boxes in natural areas, and three seating areas with benches along the natural surface trail including a story-telling circle.
- vi. Remove the bio-retention area from the interior of the dog park so that plantings are not trampled. Relocate the area outside of the fence.
- vii. If possible, reduce the number of bio-retention areas in the park, as these beds have high maintenance requirements and herbicides are not allowed to be used in these areas.

- viii. Provide a safe pedestrian crossing of Snowden Farm Parkway, in order to provide pedestrian access to the park from the surrounding neighborhood.
- ix. The park entrance pier and sign are too small to be effective. Provide a larger entrance sign for the park constructed of masonry and wood, designed to fit with the character of the Clarksburg Town Center as well as provide identity for the park.
- x. Provide additional seating in the park, including at least one additional bench on each side of the dog park, at least 3 additional benches or a seat wall in or near the playground area, at least 3 additional benches along the trail on Snowden Farm Parkway, and benches along the natural surface trail system as described previously. The two benches in the lawn area adjacent to the playground should be moved onto the playground. Provide occasional groupings of two benches, rather than just single benches near the playground. The exact locations and selection of bench type shall be reviewed and approved prior to park permit, however there will likely be two types: a decorative type within the park, and a simpler version in the playground mulch areas and along natural surface trails.
- xi. Provide a hose bib on the exterior of the restroom and quick coupler connections on each side of the dog park for watering and maintenance.
- xii. The general quality of the park and all elements within the park (such as site furnishings, structures, pedestrian paving, fencing, walls and landscaping) shall be equal to or better than those provided at Arora Hills Local Park and Dowden's Ordinary Historic Park, which are other developer-built parks in Clarksburg.
- xiii. Department of Parks staff would prefer to have no lighting in the park, since the park is closed at dark. However, parking lot lighting was indicated as a requirement in the plan of compliance. If lighting is provided within the park, all park facilities should be lighted, including the courts, dog park and restroom so that the park may be used after dark. Lighting the parking lot on its own could

encourage illicit use of the park at night. Any decision regarding lighting should be reviewed and confirmed that it would be acceptable to the community.

- xiv. The lighting footcandle levels in the parking lot were reduced to 0.5 footcandles. If lighting is to be provided within the park, confirm that the lighting levels are appropriate, based on applicable standards (IESNA) and confirm that Park Police concurs with these recommendations. If Park Police recommends higher levels of lighting, additional fixtures may be required.
- f. Applicant to address the comments in the memorandum dated October 13, 2008 to the satisfaction of M-NCPPC Department of Park staff at the time of park permitting.

Kings Local Park

Applicant to construct at its expense within the Local Park area the following recreational amenities:

Playground/Seating Area-A playground and seating area comparable to similar facilities in Aurora Hills Local Park (as shown on construction documents dated May 2007). The required facilities in King's Local Park shall be comparable in size and design quality, including, but not limited to the quantity and quality of play equipment, surfacing, colored concrete edging and site furnishings. The facilities shall be shown on the certified site plan. Complete construction details and specifications shall be included and approved as part of the Park Permit for construction.

Fishing Pier-A minimum 8 foot wide, handicap accessible pier terminating in a 12' x 24' fishing pier platform shall be provided. The structure shall be constructed of recycled, engineered marine plastic such as Trelleborg or equal quality, and to include railings if determined by M-NCPPC Department of Park staff to be needed.

Handicap Accessible, Asphalt Trail-An eight-foot-wide, handicap accessible asphalt trail shall be provided from the corner of Overlook Park Drive and Clarksburg Road to the pond area and shall access the picnic shelters and playground area. The approximate alignment of the trail shall be shown on the certified site plan and may be adjusted during the park permit process.

Site Furnishings- Approximately 6 benches and a bike rack capable of holding 6 bikes shall be provided. Location and type shall be approved at the time of park permit.

Landscaping-A landscape plan shall be approved as part of the certified site plan. The exact species, size and number of plants may be adjusted during the park permit approval process.

Park entrance signage- Two (2) wood and stone park entrance signs shall be provided near (1) the parking area, and (2) at the corner of Clarksburg Road and Overlook Park Drive. Concept drawings shall be approved and included with the certified site plan. Construction details shall be approved as part of the park permit.

Retaining Walls-Any needed retaining walls on park property shall be constructed of concrete block, similar to the existing walls at the corner of the school. Location, design, and height of the walls shall be shown on the certified site plan and may be modified at the time of park permit. Construction details and specifications shall be provided with the park permit.

A park permit is required before construction of all park amenities. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.

Clarksburg Greenway and Greenway Trail

Applicant to dedicate and convey to M-NCPPC, in fee simple, the land east of Overlook Park Drive along the stream valley from Stringtown Road to Clarksburg Road, approximately as set forth in the site plan. Land to be conveyed shall not include any stormwater control facilities or stormwater access roads and shall be conveyed free of trash and unnatural debris. Final detailed park property boundaries to be finalized and clearly set forth on the certified site plan. Land to be conveyed at time of record plat.

Applicant to construct, at its expense, an 8'-wide, hard surface trail along the southwest side of the Overlook Park Drive alignment, within publicly owned or controlled land. Trail to be constructed to park standards and specifications and construction to be coordinated with M-NCPPC Department of Parks and Montgomery County Department of Transportation staff.

Applicant to provide a 4'-wide, natural surface trail system within the dedicated Clarksburg Greenway from Kings Local Park lake area to Stringtown Road. Trail to include a safe road crossing at Clarksburg Square Road, and a safe, adequate and well lighted alignment under Clarksburg Square Road. Alignment to be substantially as set forth on the site plan with final details of the alignment and construction details to be set forth on the certified site plan.

All trails to include bridges and boardwalk where determined by M-NCPPC Department of Parks staff to be needed. An adequate number of benches to be located along trails.

Provide a safe hard surface trail crossing of Stringtown Road and natural surface trail crossing of Clarksburg Square Road. Provide details of Greenway Trail connection to Clarksburg Village section of trail, including crossing of Stringtown Road and crossing of road bridge. Details to be provided by Applicant on certified site plan.

All plantings and landscaping in the Clarksburg Greenway, Kings Local Park, and Piedmont Woods Recreational Park to be approved by M-NCPPC Department of Parks staff. All plantings and landscaping to be consistent with the guidance set forth in the letters from Holly Thomas to Doug Powell dated June 20, 2008 and June 23, 2008 with the Standards and Specifications set forth in "Planting Requirements for Land-Disturbing Activities and Related Mitigation on M-NCPPC Montgomery County Parkland," Revised January, 2008.

All hard surface and natural surface trail alignments and construction details for trails, bridges, boardwalk, and other trail amenities to be specified on the certified site plan and be acceptable to M-NCPPC Department of Parks staff. Minor adjustments or modifications to the trail alignments and construction and amenities details may be made at time of park permitting without the need to amend the site plan.

14. Landscape Surety

The Applicant shall provide a surety (letter of credit, 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 shall cover plant material, on-site lighting, recreational facilities, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit within each relevant block of development and shall 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 block, to be followed by inspection and bond reduction. Inspection approval starts the one-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 by staff prior to the approval of the Certified Site Plan. The development program replaces the approved Site Plan Enforcement agreement, with the exception of the MPDU phasing outlined by DHCA, and institutes timing mechanisms related to building permit release. The development program must include the following items in its phasing schedule:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Local Recreational Facilities
 - i. All remaining Local Recreational Facilities on the East Side of the Greenway must be completed prior to the issuance of the building permit for the 901st residential dwelling unit in the project. The remaining local recreation facilities on the East Side, which have not been constructed, include sitting areas and an open play area associated with Basil Square Park, shall be installed within 6 months of the completion of Basil Square Park Road. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
 - ii. The Local Recreational Facilities on the West Side must be completed prior to the issuance of the 12th building permit for the residential dwelling units in Block GG (units 10-25). (This number represents 70 percent of the number of units located in this block). The recreation facilities to be constructed in Block GG on the West Side include the tot lot and sitting areas associated with Harness Point. Landscaping and lighting associated with the Recreational

Facilities shall be installed no later than 6 months after the completion of those facilities.

- c. Community-Wide Recreational Facilities
- i. The improvements to Murphy's Grove Pond must be completed prior to the issuance of the building permit for the 950th residential dwelling unit in the project.
 - ii. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
 - iii. The expansion of the existing swimming pool to 56 feet wide and 25 meters long (length added at deep end), slide, and covered deck area, shall be completed prior to the second Memorial Day weekend after approval of the Certified Site Plan.
 - iv. The sport court building, expansion of the Resident's Club fitness room and multi-purpose community room, and the adjacent Sinequa Square and tree bosque open space improvements shall be completed prior to the issuance of the building permit for the 951st residential dwelling unit.
 - v. The sport court building shall consist of a facility for typical gym type functions, such as basketball, volleyball, aerobics, Pilates, pre-schooler tumbling, martial arts and yoga, and a multi-purpose room for community activities and shall be in the general configuration shown on the plan attached as Exhibit B. Interior fit out of the sport court building shall be comparable to the interior fit out of the existing community center, with details to be provided prior to approval of the Certified Site Plan.
 - vi. Community-wide facilities on the West Side, including the natural surface connections within the Greenway and necessary bridges or boardwalks, the Town Green and Market shall be completed as follows: 1) the improvements within the Greenway shall be constructed/installed within 6 months of the completion of Overlook Park Drive; and 2) the Town Green and Market shall be completed upon the completion of the Live/Work units adjacent to the Town Green and Market.

- vii. The 8-foot-wide bike path connection on the east side of Overlook Park Drive shall be constructed and open to use no later than the completion of Overlook Park Drive.

- d. Kings Local Park
The recreation facilities, landscaping and trails/paths shall be constructed prior to the release of the building permit for the 901st residential building unit in the entire development.

- e. Piedmont Woods Park
The recreation facilities, landscaping, roads, and trails/paths shall be constructed prior to the release of the building permit for the 1,101st residential dwelling unit in the entire development.

- f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.

- g. On-site landscaping and lighting associated with the construction of the private roads and common areas shall be installed no later than 6 months after the completion of those roads and common areas, with the exception of the additional landscaping required for the existing areas, which shall be installed within 6 months of the approval of the Certified Site Plan.

- h. The grocery store, parking garage, streetscape, and retail stores in Block LL must be permitted by the Department of Permitting Services and under construction prior to the release of the building permit for the 901st residential dwelling unit.

- i. Provide each section of the development with necessary roads.

- j. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

16. Penalties

The Applicant must submit the Certified Site Plan no later than 90 days after the mailing of this resolution, or, if a timely administrative appeal is filed by any party authorized to take an appeal, 90 days after the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods. If the Certified Site Plan is not timely submitted, the Applicant must pay a \$500/day fine for each day the Certified Site Plan is late. If the Planning Board determines that the Certified Site Plan does not conform to all conditions of site

plan approval, the Planning Board may assess the Applicant a fine of up to \$500/day for each day after the later of the Certified Site Plan due date or the submittal date until such time as plans have been submitted that conform to all conditions of approval. The timeframe set forth above may be reasonably extended by action of the Planning Board for any delay caused by events that are beyond the control of the Applicant (such as, by way of example and not limitation, any delay caused by extended reviews by reviewing agencies of plans submitted by the Applicant).

17. 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. Revised parking calculations.
- d. Modify notes to include M-NCPPC Staff approval required for planting plan substitutions.
- e. Ensure consistency of all details and layout between site plan and landscape plan.
- f. Graphically delineate the Limits of Disturbance.
- g. Revised parking exhibit showing the dedicated residential spaces in the retail core and the updated permitted on-street parking spaces as determined by the Fire Marshall and the Montgomery County Department of Permitting Services.
- h. Show the locations of the MPDUs on all Site Plans.
- i. Detail of the amended soil treatment.
- j. Heights of the proposed units in Blocks GG, H, A and R.
- k. Provide the additional landscaping in the common areas as specified in the conditions of approval.
- l. Details of the upgraded mailboxes, notice boards and flagpoles.
- m. Provide internal green area computations for the parking facilities.

- n. Provide details of the signs and locations of signs for the reserved/dedicated parking spaces.
- o. Letter from the Clarksburg United Methodist Church agreeing to details of the pedestrian connection and provision of parking.
- p. Details of the sport court and other facilities to be provided at the time of certified site plan and must include expanded fitness center; expanded Resident's Club/Community Building with upper level catering kitchen, storage room and multi-purpose community room to accommodate movie projection; lower level to include concessions room, and outdoor dining deck near concessions window, shade structure on east side of pool deck and bathrooms.
- q. Provide the exhibits previously provided on the April 2007 submittal on the certified site plan, including but not limited to: the Regulating Plan, Building Footprint Standards, Open Space, Land Use Typologies and Build-To Lines, Frontage Occupancy, Architectural Focus Features, General Development Standards, Building Heights and Massing.

18. Staging (Status Report)

The Applicant shall present in-person updates to the Planning Board every 3 months at a Planning Board roundtable, commencing three months after the date of mailing of this Resolution.

19. Architectural guidelines

- a. The Town Architect shall be required to administer the West Side Architectural Guidelines for the Town Center. The Town Architect must certify that any proposed construction complies with the West Side Architectural Guidelines, and the certification must accompany each building permit application. The Department of Permitting Services must not issue a building permit unless the Town Architect has certified that the construction will comply with the West Side Architectural Guidelines.
- b. The Architectural Guidelines West Side Design Code must be submitted for staff review and approval prior to certified site plan. Any changes to the Staff approved Architectural Guidelines must be approved by the Planning Director. If the proposed change is denied, the Applicant may appeal the Planning Director's decision to the Planning Board.
- c. The retail maintenance organization and homeowners association Declaration of Covenants must require the Town Architect to be hired and to review each building permit application for compliance with the Architectural Guidelines.

20. Town Center Resident Membership in Residential HOA.

All residential units, including townhouse, multi-family, and live/work units, within the retail core, must be members of the residential HOA.

21. HOA Governing Documents.

- a. The governing documents of the residential HOA must be submitted to the M-NCPPC's Office of the General Counsel for approval prior to issuance of the 901st residential building permit. The Office of the General Counsel's review of the documents will be limited to assuring that residential units within Clarksburg Town Center are included within the residential HOA, and that the residential unit owners are not responsible for any costs associated with maintenance, capital improvements, or other operating expenses of the retail core.
- b. The governing documents of any merchants association established to govern the retail core and/or any documents establishing responsibility for common area maintenance within the retail core must be submitted to M-NCPPC's Office of the General Counsel for approval prior to issuance of the first Use and Occupancy Permit for the retail core. The Office of the General Counsel's review of the documents will be limited to assuring that responsibility for maintenance, capital improvements, or other operating expenses of the retail core are not the responsibility of the residential unit owners.

BE IT FURTHER RESOLVED that all site development elements as shown on the initial Clarksburg Town Center drawings stamped by the M-NCPPC on September 15, 2008, and any additional plans submitted by the Applicant and date stamped by the M-NCPPC, 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, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), 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.*

As amended, the subject development is in conformance with Project Plan No. 91994004B as required by the RMX-2 Zone for the optional method of development.

2. *The Site Plan meets all of the requirements of the RDT and RMX-2 zones and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As amended by the conditions of approval, the Site Plan meets all of the requirements of the RDT and RMX-2 Zones as demonstrated in the project Data Table below.

The reduction in setbacks by 50 percent for the commercial and residential properties from the boundary and by 100 percent for the proposed commercial from the street is in conformance with the provisions of the RMX-2 zone of the Montgomery County Zoning Ordinance. The reduction in setbacks was previously approved by the Planning Board with the original approvals.

The parking requirements for the existing residential uses are met through garages, on-lot pad sites, surface parking facilities, and on-street parking on public roads for some of the Manor Homes (multi-family uses).

Staff concluded that the proposed parking for the retail core was 184 spaces less than required based upon the non-residential and mixed residential square-footages provided by the Applicant. This amount does not count on-street parking shown by the Applicant on the East Side of the development. Some on-street parking should be credited toward the non-residential component, but not the spaces on the East Side of the Greenway due to distance, practical relationship, and separation of the uses. Only on-street spaces on the West Side that are not dedicated to the Manor Houses (multi-family) should be credited toward the non-residential. The retail component must stand alone and satisfy the applicable parking requirement without counting parking provided outside of the retail core.

Under the conditions of approval, the Applicant must provide a minimum of 1,070 parking spaces in the retail core by providing a multi-level parking structure in Block LL (grocery), and surface parking for both residents and commercial tenants, including 160 on-street parking spaces and up to 45 spaces in the library parking lot. Although this amount is less than recommended by staff and some others who presented testimony to the Board, the Board finds that in light of mixed-use nature of the project, the desire to promote a pedestrian-friendly environment, and based on testimony indicating that retail uses would be

adequately served, the Board concludes that this amount is appropriate, and approves a waiver of the parking requirement to permit a reduction in the required number of parking spaces in the retail core.

Requirements of the RMX-2 and RDT Zones

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the RMX-2 and RDT Zones. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Zoning Ordinance Development Standard	Permitted/Required	Development Standards Approved by the Planning Board and Binding on the Applicant
Gross Site Area (Ac.):		
RDT (59-C-9.23)	25.0	66.0
RMX-2 (59-C-10.1)	Not Specified	204.00
Total Site Area		270.00
Area of Dedication (Ac.):		
Land for Civic Building	Not Specified	+/- 18,000 gross square feet and 4 live/work units and area for parking structure
Public Streets	Not Specified	34.67
Park (Dedicated to M-NCPPC)	Not Specified	95.99
School Site (Dedicated to MCPS)	Not Specified	1.92
School Site (Dedicated to M-NCPPC)	Not Specified	7.24
Total Dedication Provided	Not Specified	140.17
Net Site Area (Ac.):		129.83

Density		
<u>RMX-2 Zone (59-C-10.3.4)</u>		
Commercial		
Max. Commercial Density	0.50 FAR 300,000 sf.	0.16 FAR 194,720 sf.
Retail	150,000 sf Retail Center	194,720 sf Retail Center
Office	Undetermined	0 sf.
Residential (59-C-10.3.7)	7 d.u./acre 1,428 dwelling units	6.90 d.u./ac. based upon 175.80 acres 1,213 dwelling units
Number of Dwelling Units		
<u>RMX-2 Zone (59-C-10.3.7)</u>		
One-family detached	10-20% ⁴	219
One-family attached (Live/Work included)	30-50%	656
Multi-family	25-45%	338
Total number of units in the RMX-2 Zone	1,428	1,213
<u>RDT Zone</u>	Not Applicable	0
Building Height (feet)		
<u>RDT Zone (59-C-9.4)</u>	50	50
<u>RMX-2 Zone⁵</u>		
One-family detached (Lots 68 and 69, Block A-East Side)	To be determined at Site Plan	35
Accessory Structure	To be determined at	25

⁴ Mix of units allocated by Clarksburg Master Plan.

⁵ Building height for the Stage II lots/units, including the Exhibit R units, Block GG, Block N, Block L, and Manor House Buildings 7, 9, 10, 11 and 12 were established with the review of site plan amendments 81998011I and 82002014D and as shown on Sheets I-5 and I-6. Building heights were established for the main building and accessory structures.

	Site Plan	
One-family attached/Townhouse (Lot 28, Block R-East Side)	To be determined at Site Plan	35
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Lots 15-21, 22-25 Block GG-West Side)	To be determined at Site Plan	38
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Block H-East Side)	To be determined at Site Plan	45
Accessory Structure	To be determined at Site Plan	25
New development standards for units/uses within the Retail Core area on the West Side ⁶		
One-family attached/Townhouses	To be determined at Site Plan	44 ⁷
Accessory Structure	To be determined at Site Plan	25
One-family attached/MPDU Townhouses	To be determined at Site Plan	44
Accessory Structure	To be determined at Site Plan	25
Live/Work Townhomes	To be determined at Site Plan	44 ⁸
Liner Townhouses or	To be determined at	44 ⁹

⁶ Development Standards including height and setbacks are identified on Sheets A902 (Building Setbacks) and A903 (Building Heights) of the Index Plans.

⁷ Units in Block BB/Private Road #1 shown as maximum height of 38 feet.

⁸ Live/Work units permitted for a maximum height of 44 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

⁹ Liner Townhouse or Duplex Courtyard units permitted for a maximum height of 44 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

Duplex Courtyards	Site Plan	
Multi-family over commercial	To be determined at Site Plan	44 ¹⁰
Library	To be determined at Site Plan	45 ¹¹
Grocery	To be determined at Site Plan	35 ¹²
Minimum Building Setbacks (feet)¹³ (59-C-10.3.8)		
<u>Individual Building Setbacks for units within the RMX-2 Zone</u>		
Commercial Buildings¹⁴		
From One-family residential zoning	100	50 ¹⁵
From Residential zoning other than one-family	50	25 ¹⁵
From any street ¹⁶	25	0 ¹⁵
From abutting commercial or industrial zoning	25	12.5 ¹⁵
Residential Buildings		
From One-family residential zoning	100	50 ¹⁵

¹⁰ Multi-family units permitted for a maximum height of 44 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

¹¹ Library permitted for a maximum height of 45 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 65 feet.

¹² Grocery permitted for a maximum height of 35 feet; however, the end unit areas specified as Architectural Focus Features permitted to a maximum allowable height of 55 feet.

¹³ Minimum setbacks for all of the uses are identified in the Index Plans (I-3 – I-7) for Grandfathered lots, remaining lots on the East Side and one-family attached lots in the GG Block on the West Side. Sheets A902 identifies the specific setbacks for all of the uses that have not been approved and built on the West Side, including the commercial, multi-family, live/work and one-family attached uses within the retail core and the attached uses outside the retail core.

¹⁴ The Planning Board approved a 50% reduction in the setbacks with the Project Plan 919940040 and reconfirmed with subsequent approvals, consistent with 59-C-10.38 of the Montgomery County Zoning Ordinance.

¹⁵ The application reduces the minimum setbacks for commercial and residential one-family zoning by 50% consistent with Section 59-C-10.3.8 and establishes that no minimum setback from any street right-of-way is required, all other development standards and building setbacks shall be established at the time of final site plan.

¹⁶ No minimum setback required if in accordance with the Master Plan.

From Residential zoning other than one-family	30	15 ¹⁵
From any street	30	0 ¹⁵
From abutting commercial or industrial zoning	30	15 ¹⁵
One-family detached		
One-family detached (Lots 68 and 69, Block A-East Side)		
Main Building		
Front	To be determined at Site Plan	10
Rear	To be determined at Site Plan	25
Side	To be determined at Site Plan	3
Accessory Structures		
Side	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
One-family attached/townhouse		
(Lot 28, Block R-East Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
Accessory Structures		
Front	To be determined at Site Plan	60

Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
One-family attached/townhouse		
(Block H-East Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	3
Accessory Structures		
Front	To be determined at Site Plan	40
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
One-family attached/townhouse		
(Lots 15-21, Block GG-West Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	5
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at	16

	Site Plan	
Accessory Structures		
Front	To be determined at Site Plan	60
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
One-family attached/townhouse (MPDUs)		
(Lots 22-25, Block GG-West Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	3
Accessory Structures		
Front	To be determined at Site Plan	40
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
Moderately Priced Dwelling Units (MPDUs)		
RMX-2 Zone		
Total number of MPDUs	12.5%	12.5% (152)

Green Area (% & Ac.):		
RMX-2 Zone (59-C-10.3.3) ¹⁷		
Commercial portion	15%	50% (89 acres)
Residential portion	50%	49% (13 acres)
Parking Facility Internal Landscaping (%)	5	Not Specified but to be provided with the Certified Site Plan
Parking (Sect. 59-E)		
<u>East Side</u>		
One-family detached (200 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	400
One-family attached (townhouse) (401 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	802
Multi-family (123 d.u.s @ 1.5 spaces/unit)	1.5 spaces/unit	185
2/2-multi-family 54 d.u.s @ 2 spaces/unit	2 spaces/unit	108
Total East Side Parking		1,456
<u>West Side</u>		
One-family detached (19 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	38
One-family attached (townhouse)	2 spaces/unit	510

¹⁷ Green Area based upon 204.0 acres (176.4 acres-Residential/27.6 acres-Commercial). Piedmont Park is in the RDT Zone and not part of the calculations for Green Area.

(255 d.u.s @ 2 spaces/unit including garage)		
Multi-family ¹⁸ (110 d.u.s @ 1.5 spaces/unit)	1.5 spaces/unit	185
Live/Work 51 d.u.s @ 2 spaces/unit	2 spaces/unit	108
Retail (139,700 sf @ 5 sp./1000 sf)	5 sp./1,000 sf.	695
Live/Work Retail (48,000 sf @ 5 sp./1000 sf)	5 sp./1,000 sf.	240
First Floor Flex (7,720 sf @ 5 sp./1000 sf)	5 sp./1,000 sf.	39
Total West Side Parking		1,789
Total Parking Required for Overall Development		3,284
Total Parking Provided		3,672
Min. Unit Type Distribution (%)¹⁹		
One-Family Detached	10-20	18 (219 DUs)
One-Family Attached Townhouse & Live/Work included	30-50	54 (656 DUs)
Multi-Family	25-45	28 (338 DUs)

¹⁸ Total number of dwelling units includes 12 previously approved Manor Homes with an 18 space parking requirement, 11 of which were approved for on-street spaces.

¹⁹ The discussion section for Master Plan conformance (page 35 of this report) identifying the mix of units.

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

a. Buildings and Structures

The residential buildings and structures are appropriately and efficiently sited. As amended by the conditions of approval, the retail buildings are appropriately designed to accommodate the liner units, multi-family and live-work units around the periphery of the commercial center. The MPDUs are both clustered into the multi-family buildings and integrated into the townhouse sticks. The dumpster areas for the multi-family buildings are located directly adjacent to the units and are enclosed and screened adequately.

Further, the location, phasing, and total number of MPDUs conforms with the Plan of Compliance and Chapter 25A.

The Application proposes an appropriate site for a future civic building (library) by taking advantage of the views and access with a focus on key design elements. Parking for the civic building will need to be evaluated with the design of the building and access to the public and civic space. The proposed changes to the pool complex, including an addition to the existing Residents Club building for community meetings and events and an all-sports court, make better use of the available land and significantly enhance the functionality of this recreational space.

The Board accepted the revised design of the Grand Staircase, which includes a wider base, a consistent brick pattern representative of the retail core paving, and additional seating. The Board also accepted the revised design for the smaller sport court associated with the Resident's Club (Plan 'B'), which allowed for a larger pool deck area.

As conditioned, the parking structure is adequate, conveniently located, and tucked into the shell of the center in a manner that would enhance the pedestrian realm.

The extensive retaining walls on the west side of the retail center restrict further encroachment into the stream buffer and are safe, adequate and efficient.

b. Open Spaces

The plan continues to provide open space and green space throughout the development. The greenway running through the center of the site, as well as the Piedmont Woods Park, provides the majority of the open space on the property. There are also small squares and play areas dispersed throughout the community and green along the perimeter of the property. The open space along with existing and new trees will provide an attractive setting and visual character throughout the neighborhood.

The new "Town Green" and Sinequa Square will provide additional open space for civic and community gatherings and satisfy the program elements associated with the approved Plan of Compliance.

c. Landscaping and Lighting

The proposed landscaping consists of street trees for the public and private road network and around the parking facilities. Foundation planting is provided around the residential units and includes a mix of shade, evergreen, and flowering trees, and shrubs. Supplemental planting is called for along the perimeter and within buffer areas throughout, as well as enhancements to the streetscapes to account for previously built areas that are devoid of planting.

Staff's analysis recommends amended soil panels and street trees, brick sidewalks that are consistent with the base, pattern, and installation method specified in the Bethesda Streetscape Standards, benches, and light fixtures. The special paving in the retail core will be brick sidewalks, which are a more attractive pavement material.

The \$1 million for enhancement planting and streetscaping as conditioned in the Plan of Compliance will provide for additional landscaping throughout the development and further enhancements to the existing and proposed streetscape. The Board understands that this \$1 million in enhancement planting is in addition to the approximately \$1.133 million in substituted plan elements agreed to by the Applicant and CTCAC. The Board set December 31, 2008 as the deadline for the Applicant and CTCAC to provide Staff a list of the landscape designations accepted by both parties with a total cost estimate that does not exceed \$1 million

dollars. All of the enhancement items need to be shown on the Certified Site Plan.

The lighting plan for the subject amendment has been modified with respect to the design changes to the retail center and house sitings.

d. Recreation Facilities

Recreation facilities in CTC have increased through the Project Plan amendment and Site Plan with the addition of the Piedmont Woods Park, and additional amenities associated with Kings Local Park, Sinequa Square and the Residents' Club community building. Existing facilities have been installed on both the east and west sides of the greenway and include a variety of activities, including tot lot and multi-age play areas, open play areas, and community areas. Not all of the recreational facilities were installed in a manner consistent with the originally approved site plans but are being enhanced through this Application.

As amended with the conditions of approval, the recreational facilities and amenities conform to the M-NCPPC Recreation Guidelines and are adequate, safe and efficient.

e. Vehicular and Pedestrian Circulation

The majority of the infrastructure is in place on the East Side of the Greenway; to provide access from the street network directly to the units or to garage structures; however, the connection from the East Side to the West Side has not been constructed but will need to be open to traffic prior to the construction of Overlook Park Drive to Stringtown Road.

Currently, three vehicular access points (Public House Road, General Store Drive and Overlook Park Drive) exist from Clarksburg Road to the "West Side" of the Town Center," and align with the developments on the west side of Clarksburg Road. No additional access is proposed to Clarksburg Road; however, a future road connection to MD 355 and Stringtown Road is proposed with the current application. Public House Road is complete and connects with Clarksburg Square Road, of which only a portion is complete, but will eventually be the primary east-west connector from MD 355 to Snowden Farm Parkway. Overlook Park Drive is constructed to the intersection with Ebenezer Square Drive.

Access to the "East Side" consists of two existing public roads from Stringtown Road (Clarks Crossing Drive and Brightwell Drive) and four

points from Snowden Farm Parkway, including Clarks Crossing Drive, Burdette Forest Road, which provides frontage to the school, Murphy Grove Terrace and Catawba Hill Drive.

Future access to Piedmont Woods Park will align with Clarksburg Square Road on the east side of Snowden Farm Parkway. This access will not be permitted until the Applicant satisfies DOT and DPS requirements that pedestrian access across Snowden Farm Parkway is safe, adequate and efficient.

The future vehicular connection to MD 355 is supported by this application and County agencies with stipulations for the required right-of-way and relocation of the historic Horace Willson house by the Applicant.

The Fire Marshal of Montgomery County has reviewed existing and proposed road connections and finds that, as amended, the Application provides safe, adequate and efficient access to the structures.

Pedestrian circulation is provided within the public right-of-way through five-foot-wide internal sidewalks to facilitate pedestrian circulation throughout the development. Five-foot-wide internal sidewalks are also provided in front of each unit type to facilitate pedestrian circulation throughout the development. Additionally, striped crosswalks in the private alleys have been provided from the Manor House buildings to the dumpster enclosures.

Pedestrian circulation will be enhanced to signify the entrance to the Grocery from the public road through the use of special paving, lighting, awnings and landscaping. The conditions of approval require a secondary entrance to the Grocery from the main street to better improve the pedestrian activity and visibility from the street.

The eight-foot-wide bike trail (asphalt) is located on the east side of Overlook Park Drive and is an integral part of the Greenway trail system, linking Clarksburg Road to Stringtown Road and beyond. In order to maintain the green strip for planting, protect the environmental buffers and provide for the necessary stormwater management facilities, the path has been relocated outside of the PUE and the right-of-way while respecting the other site elements.

Staff's analysis supports the MCDOT's approved right-of-way and typical cross section for Overlook Park Drive as shown on the Site Plan and finds

that the roadway and associated bike trail will continue to be safe and adequate.

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

The structures and uses are compatible with other existing uses and site plans in the adjacent development with respect to having similar heights and massing. The location of the structures is also comparable to the location of existing structures within the development and surrounding communities.

The proposed uses are in scale with the overall development pattern envisioned with the original Project Plan and approved Site Plans. Higher density uses and heights are located internally near and within the future commercial center.

The reduction in the setbacks for the residential and commercial adequately responds to the type of development associated within the town center and properly respects the site boundaries and adjacent land and property.

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 FFCP for the residential and commercial areas only was approved by Environmental Planning staff on June 30, 1999 with amendments to the FFCP approved on August 16, 2002, August 27, 2002, September 9, 2002, December 27, 2004 and July 24, 2006. The Applicant must identify where an additional 0.40 acres of forest will be planted in the revised final forest conservation plan, in order to satisfy the Forest Conservation requirements. As conditioned, the requirements will be satisfied through on-site planting of 8.91 acres of plantings on the residential/commercial section of Clarksburg Town Center, 13.39 acres of plantings in Piedmont Park and 2.56 acres of landscape credit of reforestation and afforestation areas as well as through street tree credits. The planting is in addition to the existing forest being preserved on site.

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of the water quality plan. DPS conditionally approved the elements of the final water quality plan under their purview on July 1, 2008. The Planning Board is responsible for determining if the forest conservation requirements,

environmental guidelines for special protection areas, and site imperviousness requirements have been satisfied.

The proposed stormwater management concept and final water quality plan consist of on-site channel protection measures via thirteen extended detention dry ponds. These structures will provide channel protection measures via existing stormwater management ponds; on-site water quality control via sand filters, Stormfilters, biofiltration, and infiltration trenches; and on-site recharge via recharge trenches and additional storage below the surface sand filters. Stormwater management in the RDT zone area, outside the Special Protection Area, consists of on-site water quality control and on-site recharge via the use of biofiltration and non-structural measures. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

FINDINGS for Plan of Compliance Review:

In reviewing the Application, the Planning Board considered whether it met the requirements of the Plan of Compliance. The Plan of Compliance was approved by the Board in June 2006 as an alternative to assessing fines for certain site plan violations that had been found or alleged in Clarksburg Town Center. Specifically, the Board found that "subject to its completion according to its terms and in accordance with this Resolution, the Compliance Program constitutes a lawful and appropriate alternative to imposing fines or monetary penalties...." The Board decided to make this trade-off because "it provides substantial enhancements to community amenities and facilities" for CTC and Montgomery County as a whole. In approving the proposed Plan of Compliance, the Board "order[ed] the Respondents to comply strictly with each of the elements, terms and conditions of the Compliance Program..." but also "recognize[d] that the Compliance Program is conceptual in nature, and that additional review of more detailed plans may involve modifications." Thus, the Board considered whether the Application substantially conformed to the Plan of Compliance. Where the Application departed from the Plan of Compliance, the Planning Board considered whether such departures were consistent with the public interest.

As anticipated in the Resolution approving the Plan of Compliance, there have been changes to certain elements of the Plan of Compliance. However, as amended by the conditions of approval, the Application substantially conforms to the requirements of the Plan of Compliance, and its approval is in the public interest because it will provide substantial enhancements to amenities and facilities for the Town Center and surrounding communities. The Application fulfills the requirements of the Plan of Compliance and serves the best interest of the public by providing substantial community enhancements over and above those required for the originally approved site plan, including a mixed-use center containing residential and non-residential uses,

vehicular and pedestrian infrastructure, a new local park with recreation facilities to serve the public, landscape enhancements within the site, and improvements to the existing Sinequa Square and community center. Although the Application provides for one parking structure instead of two, the amount of parking has been determined to be sufficient to serve the proposed development, and is designed in a manner that will enhance the pedestrian realm.

BE IT FURTHER RESOLVED, that this resolution 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 JUL 16 2009 (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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, and Cryor voting in favor of the motion, with Commissioner Presley recused and Commissioner Alfandre absent, at its regular meeting held on Thursday, July 9, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

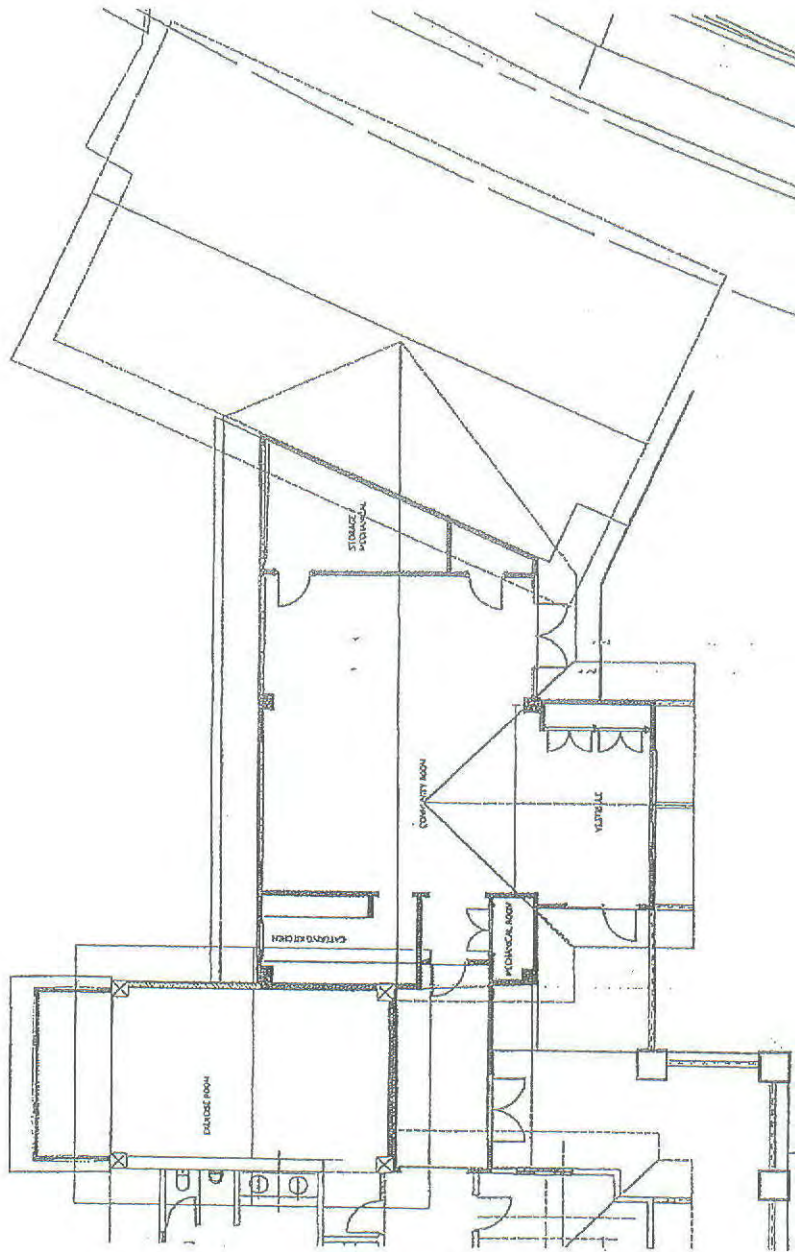


TORTI GALLAS AND PARTNERS, INC.

CLARKSBURG TOWN CENTER- WEST SIDE RETAIL CORE

STREET LEVEL PLAN - PROGRAM TABULATION

2008 PLAN



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 WITHOUT WRITTEN PERMISSION OF O'NEIL & MARION ARCHITECTS P.A.

DRAFT CONCEPT

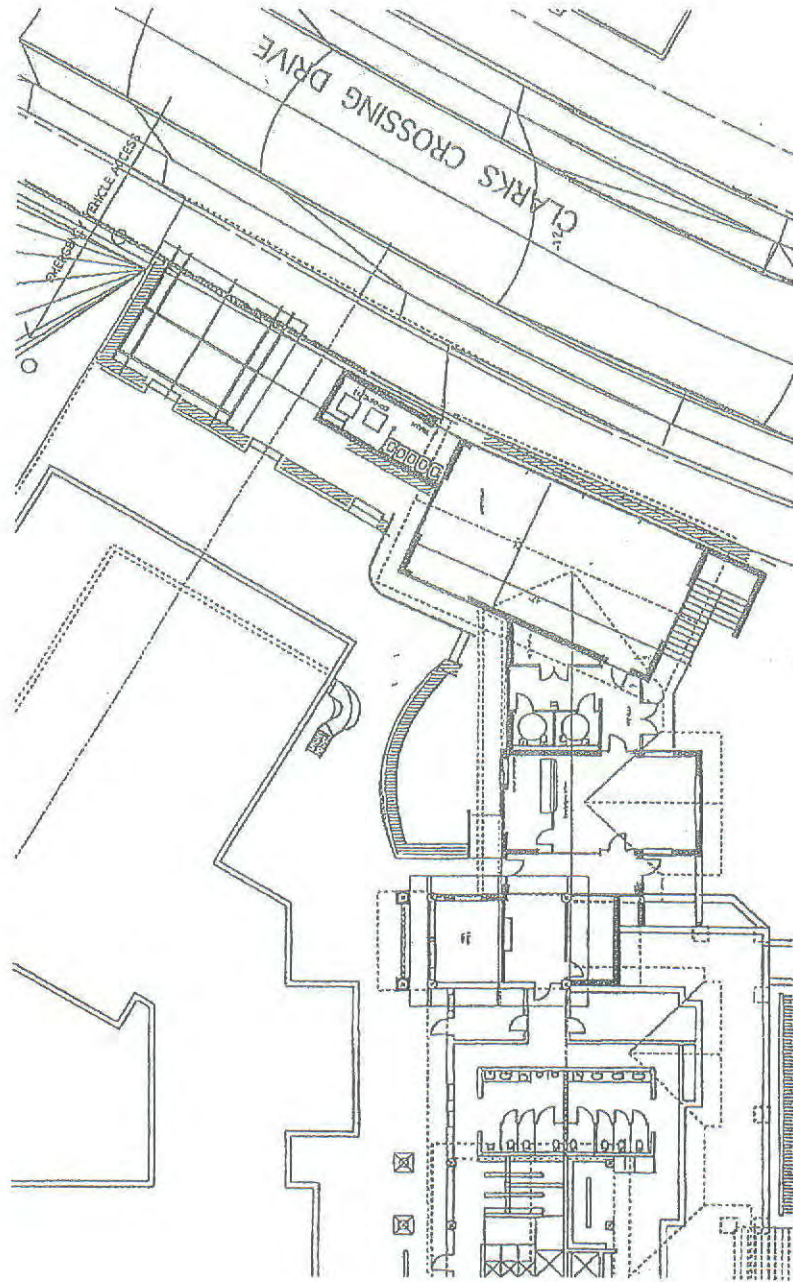
Clarksburg Community Center

Program Discovery and Definition

March 19, 2008 Revised November 20, 2008 to include required fire egress stair

PLAN "B"

ATTACHMENT 3



Clarksburg Community Center

Program Discovery and Definition

March 19, 2008 Revised November 20, 2008 to include required fire egress stair

PLAN "B"

DRAFT CONCEPT

O'Neil & Marion Architects P.A.

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Appendix B

Agency Letters



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdich
Acting Director

June 25, 2015

Mr. Richard Weaver, Supervisor
Area Three Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Preliminary Plan No. 11995042B
Clarksburg Town Center

Rich:
Dear Mr. Weaver:

We have completed our review of the updated preliminary plan dated April 10, 2015. An earlier version of this plan was reviewed by the Development Review Committee at its September 8, 2014 meeting. We appreciate the cooperation and additional information provided by your office, as well as the applicant and their consultant, to address our previous comments on this plan. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

Note: all previous comments in our prior review letters for this project remain applicable unless modified below.

Design Exception Requests

1. Design Exception Request: "Driveway spacing with less than 100 ft tangent":

MCDOT has a policy of requiring a minimum of one hundred (100) feet of tangent separation between the curb returns/limits of proposed entrances to multi-family residential and commercial sites from the curb returns/limits of existing intersections and entrances adjacent and opposite the proposed driveway. We also apply this policy (at a minimum to street spacing along lower classification County streets). In our comments at the DRC meeting, we noted the need to provide such tangents for the proposed entrances along several streets – including Clarksburg Square Road, Ebenezer Chapel Drive, and Overlook Park Drive.

Office of the Director

101 Monroe Street, 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX
www.montgomerycountymd.gov/dot

The applicant's traffic engineer submitted a vehicle queueing analysis dated April 13, 2015 to address "relevant driveways along Ebenezer Chapel Drive, Public House Road, Clarksburg Square Road, and Overlook Park Drive." The consultant's rationale for supporting the proposed design is due, in part, to the neo-traditional nature of this development. The consultant also noted that adjustments were made to the project design to reduce the number of closely spaced streets and driveways. While the report indicated "... given the nature of new-traditional developments, all of the locations with close spacing could not be eliminated" it concluded that vehicle queues at the studied locations [are expected] to be negligible and "... these streets and associated driveways will operate in a safe and efficient manner."

On June 23, 2015, we received a separate email from Mr. Robert Kronenberg, M-NCPPC Area 1 Chief, which conveyed the Planning Commission's perspective on the entrance spacing issue and then-pending DOT recommendation for a pattern of one-way alleys. That message indicated that that Planning staff believes shorter blocks to be "safe, adequate and efficient at this location of the Town Center, and to be compatible with the existing pattern of development on the East side, while meeting Master Plan goals and objectives."

RESPONSE: We accept the conclusions in the consultant's study and Planning staff's recommendations for the currently proposed entrance spacing and directional operations. This response is for this specific amended plan; it should not be considered to set a precedent for neo-traditional development situations. MCDOT reserves the right to independently implement traffic restrictions if we determine such changes are necessary to address multi-modal traffic safety and/or operations at locations within the County rights-of-way.

2. Design Exception: "Reducing curb return radii from 30 ft to 15 ft":

COMMENT: The plan does not dimension the radius of proposed curb returns. We suspect that some of these radii are less than the standard thirty (30) foot return. Although the applicant did not submit an official design exemption request for reduced curb radii, under Montgomery County Council Bill 33-13, the radius at the intersection of two urban roads must not exceed fifteen (15) feet except where:

- (1) "There is only one receiving lane"
- (2) A curb extension is located; or
- (3) For a road improvement required as a result of approving a subdivision or site plan, the Executive or the Executive's designee concludes that that applying this standard at a specific site would significantly impair public safety."

RESPONSE: We believe this detail should be addressed between the applicants and the Department of Permitting Services prior to approval of the Certified Site Plan.

Preliminary Plan: Significant Plan Review Comments

1. The plan proposes repurposing General Store Drive to be a private street between Stringtown Road and Clarksburg Square Road. In general, private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. We will defer to the Planning Board for the decision on this request.
2. The composition, typical section, horizontal alignment, vertical profile, parking, sidewalks and bicycle facilities, lighting, streetscaping amenities, drainage, maintenance and liability, etc. of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan. MCDOT will not participate in traffic or parking enforcement on the private streets.
3. The applicants and the County are in the process of executing two Memoranda of Understanding related to completing the outstanding improvements along Clarksburg Road, Snowden Farm Parkway, and Stringtown Road site frontages. Proposed provisions in these memoranda include:

Clarksburg Road:

- (a) The Project Scope ("Scope") includes the design, land acquisition, utility relocation and construction of all improvements for Clarksburg Road from MD-355 to Snowden Farm Parkway (including any reconstruction improvements along the frontage of Clarksburg Town Center). The Scope also includes the design and construction of certain intersection improvements at the intersection of Clarksburg Road and MD-355 (including, but not limited to, the eastbound and westbound left-turn lanes along Clarksburg Road at the MD-355 intersection). The Scope also includes the design and construction of certain intersection improvements to the intersection of Clarksburg Road with Snowden Farm Parkway (including, but not limited to, the reconstruction of 400 feet of Snowden Farm Parkway east of Clarksburg Road to complete the gap that currently exists at Snowden Farm Parkway).
- (b) Specific improvements include, but are not limited to, the following: design, right-of-way and easement acquisition, permits, bonds, surveys, geotechnical observations, road widening and reconfiguration, sidewalks, bike paths, storm drain, storm water management, signage, striping, forest conservation (including purchasing off-site credits), landscaping, wetland delineation and mitigation, etc.
- (c) The County shall be responsible for managing all design and construction identified in the Scope.
- (d) The applicants shall be responsible for the payment of Project Costs up to Three Million Two Hundred Thousand and 00/100s Dollars (\$3,200,000.00) (the "Developer's Contribution"). The County shall be responsible for the payment of all Project Costs in excess of Three Million Two Hundred and 00/100s Dollars (\$3,200,000.00).
- (e) The Memorandum of Understanding also contains provisions related to Performance of Work, acquisition of rights-of-way and easements, permits, and bonds, timing of payments, impact tax credits, defaults, etc.

Stringtown Road

- (a) The Project includes the design, land acquisition, utility relocation and construction of a 3,200 foot section of Stringtown Road from Overlook Park Drive to Snowden Farm Parkway in accordance with the "Plans" (as hereinafter defined). The Project includes the following elements:
- 1) construction of 1,200 feet of the four lane divided roadway (from Overlook Park Drive to future Gate Rail Road), together with an 8 foot wide bikeway along the north side of the road and on the south side of the road an 8 foot wide bikeway transitioning to a 5 foot wide sidewalk;
 - 2) from future Gate Rail Road to Snowden Farm Parkway, the Project will construct 2,000 feet of the two westbound lanes of the road and an 8 foot wide bikeway along the north side;
 - 3) other improvements for the Project include street lighting, stormwater management, construction of box culverts, stream restoration, landscaping and reforestation.
- (b) Prior to the Effective Date, the County completed 100% of the design plans and specifications for the Project (the "Plans") and obtained all necessary permits to commence construction. Third Try shall be responsible for constructing or causing the construction of the Project in accordance with the Plans.
- (c) The County will ensure that all permits are renewed and current prior to the execution of this Agreement. The County shall be responsible for acquiring the necessary right-of-way and easements for the Project.
- (d) The applicants shall be responsible for the payment of Project Costs up to Four Million and 00/100s Dollars (\$4,000,000.00)(the "Developer's Contribution"). The County shall be responsible for reimbursing the applicants for Project Costs (as defined in the document) that exceed the Developer's Contribution.
- (e) The Memorandum of Understanding also contains provisions related to Performance of Work, permits, and bonds, timing of payments, impact tax credits, defaults, etc.

General

The applicants will need to grant necessary rights-of-way and (slope and drainage) easements to implement the improvements along their site frontages, per the approved construction plans, on the record plats or under separate agreement with the County.

4. The Certified Preliminary Plan should note and delineate the limits of the following rights-of-way abandonments, which were approved and adopted by the County Council on September 28, 2010:
 - Council Resolution No. 16-1487, "AB722, Portion of Clarksridge Road"
 - Council Resolution No. 16-1488, "AB720, Portions of Overlook Park Drive"
 - Council Resolution No. 16-1489, "AB721, Portion of Clarksburg Square Road"

Please note that, in accordance with Section 49-65(d) of the Montgomery County Code, these abandonment approvals will be automatically revoked by operation of law if each condition in a County Council Resolution has not been completed within five (5) years of the Council approval of that Resolution and if the Council has not extended that deadline.

5. The applicant previously submitted Traffic Signal Warrant Analyses for the following intersections:
 - Clarksburg Square Road at Overlook Park Drive
 - Clarksburg Square Road at Public House Road
 - Clarksburg Square Road at General Store Drive

The studies indicate that signals are not warranted at these intersections at the present time; MCDOT agrees with these findings. Our records indicate we received from the applicants' traffic consultant submitted analyses for each above listed intersections on June 15, 2015 to address whether all-way stop controls are appropriate at these locations. These studies have been forwarded for review by our Division of Traffic Engineering and Operations; final decisions will be made at or before the permit stage with the Signs and Markings Plan.

6. Our records indicate we received an amended Traffic Signal Warrant Study for the intersection of Stringtown Road with General Store Drive/St. Clair Road on June 4, 2015. This study was prepared in response to our May 7, 2010 letter on the earlier Traffic Signal Warrant Study for that location. This study has been forwarded for review by our Division of Traffic Engineering and Operations; final decisions will be made at or before the permit stage. If the traffic signal is found to be warranted, it should be constructed in conjunction with the improvements on Stringtown Road at the applicants' expense.
7. The sight distance certifications have been reviewed and accepted by MCDOT. Approved copies are attached to this letter.


Preliminary Plan: Standard Plan Review Comments

8. Bumpouts/chokers to be installed in the County rights-of-way are to be designed and built in accordance with the guidelines on the Department of Permitting Services' website (or modified under right-of-way construction plan approved by DPS Right-of-Way Plan Review Section).
9. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
10. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

Mr. Richard Weaver
Preliminary Plan No. 11995042B
June 25, 2015
Page 6

11. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

Thank you for the opportunity to review the design exception requests. If you have any questions or comments regarding this letter, please contact Mr. William Whelan, our Development Review Engineer for this project, at william.whelan@montgomerycountymd.gov or (240) 777-2190.

Sincerely,

Gregory M. Leck, Manager
Development Review
Office of Transportation Policy

Attachments (6)

M:\Correspondence\FY15\Traffic\Active\11995042B Clarksburg Town Center - 061815 2nd DRAFT of MCDOT plan review ltr.doc

cc: Kathryn Kubit Third Try, LLC
David Flanagan Third Try, LLC
Kevin Foster Gutschick, Little & Weber, P.A.
Tim Longfellow Gutschick, Little & Weber, P.A.
Edward Papazian Kimley Horn & Associates
Marc Bonner Landdesign
Robert Harris Lerch Early & Brewer
Robert Kronenberg M-NCPPC Area 1
Sandra Pereira M-NCPPC Area 1
Matthew Folden M-NCPPC Area 1
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Atiq Panjshiri MCDPS RWPR
Sam Farhadi MCDPS RWPR
Marie LaBaw MCFRS
Eric Willis MCOCA
Bruce Johnston MCDOT DTE
Ken Kendall MCDOT DTE
Yasamin Esmaili MCDOT DTE
Michael Cassedy MCDOT DTE
Fred Lees MCDOT DTEO
Khursheed Bilgrami MCDOT DTE
Mark Terry MCDOT DTEO
Gary Erenrich MCDOT DO
Deepak Somarajan MCDOT DO
William Whelan MCDOT DO



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: CLARKSBURG TOWN CENTER Preliminary Plan Number: 1-1995042B

Street Name: STRINGTOWN ROAD Master Plan Road Classification: MAJOR ARTERIAL

Posted Speed Limit: 40 mph

Street/Driveway #1 GEN STORE DRIVE Street/Driveway #2 (_____)

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right <u>500'</u>	<u>YES</u>	Right _____	_____
Left <u>500'</u>	<u>YES</u>	Left _____	_____

Comments: BASED ON PLANS
FROM CIP PROJECT
NO. 2000717

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature] Date: 4-28-2015
 Signature Date
39914
 PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 05/14/15



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: CLARKSBURG TOWN CENTER Preliminary Plan Number: 1-1995042 B

Street Name: CLARKSBURG SQUARE ROAD Master Plan Road Classification: SECONDARY RESIDENTIAL

Posted Speed Limit: TBD - 25 mph *(RESUMED)

Street/Driveway #1 <u>(PRIVATE ENTRANCE - BETWEEN OFFICE BLDGS)</u>	Street/Driveway #2 (_____)
Sight Distance (feet)	Sight Distance (feet)
Right <u>250'</u> OK? <u>YES</u>	Right _____ OK? _____
Left <u>157'</u> OK? <u>YES*</u>	Left _____ OK? _____

Comments: THERE IS A 3-WAY STOP TO THE LEFT WHICH WILL HAVE VEHICLES MOVING VERY SLOW. THIS WILL ALLOW FOR ADEQUATE TURNING MOVEMENTS.

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*	Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)
Tertiary - 25 mph	150'	
Secondary - 30	200'	
Business - 30	200'	
Primary - 35	250'	
Arterial - 40	325'	
(45)	400'	
Major - 50	475'	
(55)	550'	

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature] 05/28/15
 Signature Date
29914

PLS/P.E. MD Reg. No.

Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 05/14/15



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: CLARKSBURG TOWN CENTER Preliminary Plan Number: 1-1995042B

Street Name: CLARKSBURG SQUARE ROAD Master Plan Road Classification: SECONDARY RESIDENTIAL

Posted Speed Limit: TBD - 25 mph *ASSUMED

Street/Driveway #1 (HARNES POINT WAY) Street/Driveway #2 (PUBLIC HOUSE ROAD)

Sight Distance (feet) OK?
 Right 250'+ YES
 Left 250'+ YES

Sight Distance (feet) OK?
 Right _____
 Left 155' YES*

Comments: EX. INTERSECTION - PREVIOUSLY APPROVED.

Comments: * PROPOSED 4-WAY STOP INTERSECTION WILL ALLOW FOR ALL TURNING MOVEMENTS.

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

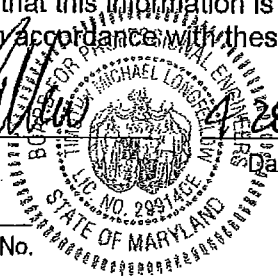
Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature: [Handwritten Signature] Date: 4-28-2015
 PLS/P.E. MD Reg. No. 29914



Montgomery County Review:

Approved

Disapproved:

By: [Handwritten Signature]

Date: 05/14/15



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: CLARKSBURG TOWN CENTER Preliminary Plan Number: 1-1 P15042B

Street Name: CLARKSBURG SQUARE ROAD Master Plan Road Classification: SECONDARY RESIDENTIAL

Posted Speed Limit: TBD - 25 mph (ASSUMED)

Street/Driveway #1 (GEN STORE DRIVE) Street/Driveway #2 (OVERLOOK PARK DRIVE)

Sight Distance (feet)
 Right 200' OK? YES
 Left 202' YES

Sight Distance (feet)
 Right 205' OK? YES
 Left 250' + YES

Comments: THREE WAY STOP INTERSECTION.

Comments: _____

GUIDELINES

Classification or Posted Speed
 (use higher value)

Required
 Sight Distance
 in Each Direction*

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

Tertiary	-	25 mph
Secondary	-	30
Business	-	30
Primary	-	35
Arterial	-	40
		(45)
Major	-	50
		(55)

150'
200'
200'
250'
325'
400'
475'
550'

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature] 4-28-2015
 Signature Date

PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 05/19/15



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name CLARKEBURGTOWN CENTER Preliminary Plan Number: 1-1995042B

Street Name: OVERLOOK PARK DRIVE Master Plan Road Classification: SECONDARY RESIDENTIAL

Posted Speed Limit: TBD - 25 mph *(ASSUMED)

Street/Driveway #1 (Ebenezer Chapel Dr) Street/Driveway #2 (_____)

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right <u>250' ±</u>	<u>YES</u>	Right _____	_____
Left <u>210' ±</u>	<u>YES</u>	Left _____	_____

Comments: _____

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

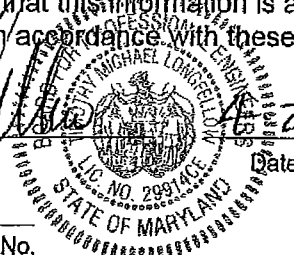
Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature]
 Signature _____ Date 08-28-2015
29914
 PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: W. H. C. [Signature]

Date: 08/19/15



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: CLARKSBURG TOWN CENTER Preliminary Plan Number: 1-1995042B

Street Name: CLARKSBURG SQUARE ROAD Master Plan Road Classification: SECONDARY/RESIDENTIAL

Posted Speed Limit: TBD - 25 mph (ASSUMED)

Street/Driveway #1 <u>PRIVATE DW ACROSS FROM PUBLIC HOUSE ROAD.</u>	Street/Driveway #2 (_____)
Sight Distance (feet)	Sight Distance (feet)
Right <u>250'</u> OK? <u>YES</u>	Right _____ OK? _____
Left <u>130'</u> <u>YES</u>	Left _____ _____

Comments: PROPOSED 4-WAY STOP INTERSECTION WILL ALLOW ADEQUATE LEFT TURN MOVEMENTS FROM THE DRIVEWAY

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

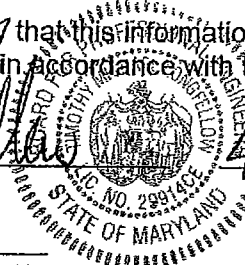
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*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature] 4/28/15
 Signature Date
29914
 PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 05/14/15

82007022D Clarksburg Town Center

Contact: Sam Farhadi at 240 777-6333

Site plans/ landscape plans files uploaded on/ dated “**06/16/15**” meet our DRC comments.
We recommend the followings to be the conditions of certified site plan:

1. All existing brick sidewalks are subject to maintenance and liability covenants.
2. Private streets to be built to tertiary roadway structural standards.
3. All pavement/parking markings are subject to MCDOT review and approval at the time of permit.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

June 23, 2015

Mr. Tim Longfellow, P.E.
Gutschick, Little and Weber
3909 National Drive, Suite 240
Burtonsville, Maryland 20886

Re: **Final Water Quality Plan and Stormwater Management Concept** Request for Clarksburg Town Center (West Side, Piedmont Woods Park, East Side Block "H" and Resident's Club
SM File #: 204464
Tract Size/Zone: 118+ acres/RMX-2/RDT/Park
Total Concept Area: 118+ acres
Watershed: Little Seneca Creek/Clarksburg Special Protection Area

Dear Mr. Longfellow:

Based on a review by the Department of Permitting Services Review Staff, the Final Water Quality Plan (FWQP) and Stormwater Management Concept for the above mentioned site is **acceptable**. The Plans proposes to meet required stormwater management goals via a combination of micro-bioretenion, pervious pavement, dry wells and structural filters to provide ESD to the MEP for the proposed development. This approval is for the elements of the Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream buffer encroachments.

The following **conditions** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. Provide safe non-erosive outfalls for all stormwater management and storm drain outfalls. Flow velocities are not to exceed three feet per second at the end of the rip-rap section.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping shown on the approved Landscape Plan as part of the future approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

This list may not be all-inclusive and may change based on available information at the time.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

Mr. Tim Longfellow, P.E.
June 23, 2015
Page 2 of 2

The performance goals for the Water Quality Plan that were established at the pre-application meeting still apply. They are as follows:

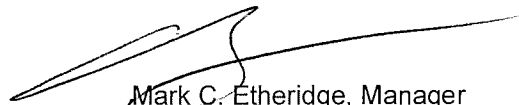
1. Protect the streams and aquatic habitat.
2. Maintain the natural on-site stream channels.
3. Minimize storm flow run off increases.
4. Minimize increases to ambient water temperatures.
5. Minimize sediment loading.
6. Maintain stream base flows.
7. Protect springs, seeps, and wetlands.
8. Minimize nutrient loading.
9. Control insecticides, pesticides and toxic substances.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**. A stream monitoring fee for the site area and a BMP monitoring fee for the disturbed area is required for the areas of the site located in the Special Protection Area.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Leo Galanko at 240-777-6242.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: lmg

cc: C. Conlon
S. Pereira
J. St. John
L. Galanko
SM File # 204464

ESD Acres: 105.5 acres

STRUCTURAL Acres: 12.5 acres

WAIVED Acres:



FIRE MARSHAL COMMENTS

DATE: 24-Jun-15
TO: Kevin Foster
Gutschick Little & Weber, PA
FROM: Marie LaBaw
RE: Clarksburg Town Center - Site Plan Amendment 82007022D
82007022D

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **22-Jun-15** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Clarence J. Snuggs
Director

June 1, 2015

Ms. Sandra Pereira
Area 3 Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Clarksburg Town Center
Preliminary Plan Amendment No. 11995042B
Site Plan Amendment No. 82007022D

Dear Ms. Pereira:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the applicant's responses to DHCA's comments on the above-referenced revised Preliminary Plan and Site Plan Amendments and finds them responsive to DHCA's Development Review Committee (DRC) comments.

Please note that an MPDU Agreement that is in compliance with Chapter 25A must be executed between the applicant and DHCA prior to the release of any residential building permits.

Sincerely,

A handwritten signature in black ink that reads "Lisa S. Schwartz".

Lisa S. Schwartz
Senior Planning Specialist

cc: Kathryn L. Kubit, Third Try, LC
Clarence J. Snuggs, Director, DHCA
Jay Greene, Division Chief, DHCA
Stephanie Killian, Manager, Affordable Housing Programs, DHCA

S:\Files\FY2014\Housing\MPDULisa Schwartz\DHCA\Letter6_1_15-11995042B-82007022D.doc

Division of Housing			
Affordable Housing Program FAX 240-777-3709	Multifamily Housing Programs FAX 240-777-3691	Landlord-Tenant Affairs FAX 240-777-3691	Licensing & Registration Unit 240-777-3666 FAX 240-777-3699

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-0311 • www.montgomerycountymd.gov/dhca

Appendix C

Memoranda of Understanding
between the Applicant and MCDOT

ROAD CONSTRUCTION PARTICIPATION AGREEMENT

THIS AGREEMENT is made this 25TH day of JUNE, 2015 (the "Effective Date"), by and between Third Try, L.C., a Maryland limited liability company ("Third Try"), and **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic and a political subdivision of the State of Maryland (the "County").

RECITALS:

A. Third Try is the owner of certain property located in Clarksburg, Maryland upon which it is developing the Clarksburg Town Center. The Montgomery County Planning Board has approved a preliminary plan (11995042A) and a site plan (82007022B) for the development of the Clarksburg Town Center.

B. Third Try LC has submitted a preliminary plan amendment (11995042B) and site plan amendment (82007022D) for Clarksburg Town Center.

C. In furtherance of the anticipated development of the Clarksburg Town Center, the County has programmed a Capital Improvement Project (CIP) to design and construct certain improvements to Stringtown Road (the "Project"). The Project is included in the FY 15-20 Capital Improvements Program as project number 501208.

D. The County has completed the design and permitting stages of the Project.

E. Third Try and the County have agreed that the most efficient and expeditious manner of completing the construction of the Project is for Third Try to construct the Project with both parties contributing to the overall cost of the Project in accordance with this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals, each of which is incorporated into and made a part of this Agreement, and the mutual covenants of the Parties set forth below, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

ARTICLE 1: Description of the Work; Responsibilities of the Parties

1.1 Scope of Work

The Project includes the design, land acquisition, utility relocation and construction of a 3,200 foot section of Stringtown Road from Overlook Park Drive to Snowden Farm Parkway in accordance with the "Plans" (as hereinafter defined). The Project includes the following elements: 1) construction of 1,200 feet of the four lane divided roadway (from Overlook Park Drive to future Gate Rail Road), together with an 8 foot wide bikeway along the north side of the road and on the south side of the road an 8 foot wide bikeway transitioning to a 5 foot wide sidewalk; 2) from future Gate rail Road to Snowden Farm Parkway, the Project will construct 2,000 feet of the two

westbound lanes of the road and an 8 foot wide bikeway along the north side; 3) other improvements for the Project include street lighting, stormwater management, construction of box culverts, stream restoration, landscaping and reforestation.

1.2 Responsibilities of the Parties:

- A. Prior to the Effective Date, the County completed 100% of the design plans and specifications for the Project (the “Plans”) and obtained all necessary permits to commence construction. Third Try shall be responsible for constructing or causing the construction of the Project in accordance with the Plans and Specifications.
- B. The County will ensure that all permits are renewed and current prior to the execution of this Agreement.
- C. The County will perform only construction inspection, material source approvals, field and laboratory testing and approval at the County’s expense.
- D. Third Try will assign a Project Manager to coordinate review and approval of all submittals and shop drawings, and to provide responses to Requests for Information (RFI) and other inquiries regarding (without limitation) contract interpretation.
- E. Third Try shall be responsible for the payment of Project Costs up to Four Million and 00/100s Dollars (\$4,000,000.00)(the “Developer’s Contribution”)
- F. The County shall be responsible for reimbursing Third Try for Project Costs (as further defined herein) that exceed the Developer’s Contribution.
- G. The County shall be responsible for acquiring the necessary right-of-way and easements for the Project.
- H. To the extent the Project requires the release or extinguishment of all or parts of existing easements, the County shall be responsible for releasing or extinguishing any such easements.

ARTICLE 2: Performance of the Work

2.1 Bidding; Construction Contract

(a) Within 15 days of the Effective Date, the County will provide the Plans to Third Try for preparation of the bid package. Third Try will assemble the Invitation for Bids (IFB) package based on and/or incorporating, either directly or by reference the following:

1. Maryland State Highway Administration (SHA) Standard Specifications for Construction and Materials, published 2008.
2. Montgomery County Procurement Regulations
3. Montgomery County General Conditions of Contract Between County and Contractor
4. Montgomery County DOT standard and boiler plate provisions (Bid requirements, Notice to Bidders, Award Submissions, etc.)
5. Insurance requirements
6. Provisions for Liquidated Damages
7. Montgomery County/ State of Maryland Prevailing Wage Requirements

(b) When the bid package is prepared, Third Try shall submit the bid package to the Montgomery County Department of Transportation (MCDOT) for its review and approval. Upon such approval from MCDOT and at such time as Third Try is ready to commence construction of the Project, it will advertise for bids pursuant to commonly used means. The bid process will be a competitive solicitation, open to all qualifying and competent bidders. The bids will be opened at a location that is reasonably accessible and open to the public.

(c) Upon receipt of qualifying bids, Third Try will conduct a bid analysis to determine the responsiveness of the lowest bidder. Upon review and concurrence by the County, Third Try will award the project to the lowest responsible and responsive bidder.

(d) Upon the bid being awarded, Third Try shall enter into a contract with the winning bidder for construction of the Project. The bidder awarded the contract is referred to in this Agreement as the "General Contractor."

2.2 Commencement and Completion

(a) Third Try shall commence construction of the Project within thirty (30) days after entering into the Construction Contract, but no later than March 1, 2016, which is the date of expiration of the current construction permit held by the County (the "**Outside Commencement Date**"), provided that (i) all Permits required for the

construction of the Project from the County or other governmental authorities, whether under this Agreement or by law or regulation, have been issued (the “Approvals and Permits”), and (ii) the County has acquired all third party easements and rights-of-way required for the Project.

(b) After commencing construction of the Project, Third Try shall cause the work to be diligently prosecuted so that the Project is substantially completed and open for public travel within twenty (20) months after the commencement of the work (the “Outside Completion Date”), subject only to delay caused force majeure, as defined in section 6.6 herein.

(c) In the event that the General Contractor defaults under the construction contract, Third Try may terminate the construction contract (as provided for in the contract) and discharge the General Contractor. In that event, Third Try shall promptly secure a substitute contractor in accordance with the terms and conditions of the construction contract and Montgomery County Procurement Regulations and enter into a new construction contract to complete the Project. The Outside Completion Date may be extended for the period of delay caused by the General Contractor’s default; however, in such case, Third Try may only obtain time delays as agreed to by the County, but may not receive any monetary compensation for delays outside of the contemplation of control of the Parties.

2.3 Construction Procedures.

(a) All work performed by Third Try and its contractors under this Agreement must be performed in a good and workmanlike manner using good construction practices that are in substantial conformance with the Plans and Specifications and in compliance with all applicable laws and regulatory requirements of the federal, state, and County governments. The County expressly reserves its governmental authority to stop work and/or issue citations based on its inspections of the work.

(b) Third Try and the General Contractor must attend a pre-construction meeting with the County.

(c) As set forth in Article 3 herein (Payment of Project Costs), Third Try shall initially bear all construction costs up to the Developer’s Contribution. The County shall bear all construction costs exceeding the Developer’s Contribution, as well as certain non-construction costs, including utility relocation costs and property acquisition costs incurred in the Project.

(d) When the Project is completed, Third Try will convey to the County its interest in all property included within the Project area. The Project infrastructure will be owned and maintained by the County as a public road.

(e) All disputes and claims by the General Contractor for any time extension and/or extra compensation shall be disposed of by Third Try in accordance with the County's Procurement Regulations as well as the General and Technical Terms and Conditions of the Construction Contract. Failure to do so will result in the County having the option not to participate in the cost of any work or delays caused by contract modification, to the extent such work was started prior to approval of the contract modification.

2.4 Rights-of-Way and Easements.

Within six (6) months of the Effective Date, the County will have acquired all necessary right-of-way and easements to build the project per the approved plans.

2.5 Permits.

The County has obtained all necessary permits required for the Project. The County will transfer the permits it is holding to Third Try when the plans are provided to Third Try. After that point, Third Try will be responsible for complying with the permits and renewing them as may be required.

2.6 Bonds.

Prior to the commencement of construction of the Project, Third Try or the General Contractor must furnish performance bonds or other surety as customarily required by the County's Department of Permitting Services for Projects of this type.

2.7 APF Obligations.

It is the intention of the parties that at the completion of construction of the project per 2.2 (b), Third Try will have met all of its APF obligations regarding Stringtown Road as conditioned in Preliminary Plan 11995042 and all subsequent amendments.

2.8 The parties agree and acknowledge that it is a condition precedent to Third Try performing under this Agreement that the Montgomery County Planning Board has approved preliminary plan amendment 11995042B and site plan amendment 82007022D for 1,120 residential units and up to 207,0000 s.f of commercial uses and that Montgomery County Council has passed legislation amending County Code Section 52-55 (Impact Tax Credits) so as to increase the validity period of impact tax credits from six (6) years to twelve (12) years. If these amendments are not approved or the legislation is not passed, this Agreement is void and the parties shall have no further obligations to each other regarding the Project.

ARTICLE 3: Payment of Project Costs

3.1 Project Costs is defined as all costs incurred in the design and construction of the Project. The County shall be responsible for paying those Project Costs incurred in 1) the design and permitting phase of the Project; 2) utility relocation; 3) property acquisition; and 4) inspection costs and fees (the "County Costs"). Third Try shall be responsible for all construction costs incurred up to the limit of the Developer's Contribution (the "Developer Costs"). Developer Costs do not include costs for the construction of the eastern two lanes of Stringtown Road from Rainbow Arch to Snowden Farm Parkway, which are to be built and paid for by Clarksburg Village. Construction costs shall include, but are not limited to, surveys, bonding, clearing, grading, installing sediment controls, installing the box culverts, installing new wet and dry utilities, installing storm drain and storm water management facilities serving the road, putting in sidewalks and bike paths, paving, landscaping, managing the relocation of existing utilities on the County's behalf, streetlights, signs, traffic control during construction, and any other construction activity to complete Stringtown Road. Construction costs shall not include any soft costs incurred by Third Try in managing the project, including, but not limited to legal fees, and any interest and/or fees associated with the non-payment or late payment by Third try to any of its contractors.

3.2 Periodically, but no more frequently than once per month Third Try shall submit a written statement to the MCDOT setting forth in reasonable detail the construction costs incurred and paid by Third Try through the date of that statement. Each statement shall be accompanied by invoices, payment receipts or other reasonable evidence for the work referred to in the statement and will be subject to the approval of MCDOT.

3.2 At such point as when the 80% of the Developer's Contribution has been paid, Third Try shall so notify the County and provide an estimate to the County of the date when it expects that the Developer's Contribution will be exhausted.

3.3 Upon the Developer's Contribution being spent, Third Try shall continue to pay the construction costs as they are incurred, but the County shall re-imburse Third Try for such costs. Third Try shall continue to follow the procedure set for in 3.2 above, i.e. Third Try shall submit a written statement to MCDOT of the costs incurred along with reasonable documentation therefore. Upon receipt of each statement, the MCDOT shall promptly review each statement and make payment to Third Try for such costs incurred within thirty (30) days of receipt of the each statement. If MCDOT disputes all or any portion of any invoice/ request for reimbursement, MCDOT must notify Third Try within 15 days of its receipt of any invoice/ request for reimbursement of the costs that it disputes. The County may reasonably withhold from payment only those costs associated with a particular invoice that it disputes. Third Try shall then have 15 days within which to respond to MCDOT's disputed costs and, if necessary, resubmit the subject invoice/ request for reimbursement.

3.4 Impact Tax Credits. By entering into this Agreement and pursuant to Section 52-55 of the Montgomery County Code, Third Try will be entitled to dollar-for-dollar impact tax credits for all amounts paid by Third Try in connection with the construction of the Project (the "Credits"). The Credits will comply with all rights and

requirements of Impact Tax Credits under applicable law or regulation. If requested by Third Try, the Montgomery County Department of Transportation (“MCDOT”) will execute and deliver a separate impact tax credit agreement, certification and/or other such documents as Third Try may reasonably require to confirm the amount, effectiveness, and validity period of the Credits, in accordance with existing law and regulations.

ARTICLE 4: Information

4.1 Progress Reports. Following commencement of construction of the Project, Third Try shall meet with the County on a monthly basis for the purpose of reviewing the progress of the Project or shall provide to the County written progress reports reasonably describing the work performed since the last report and setting forth the estimated percentage of completion of the Project. Meetings shall be held at a place and time mutually selected by the Parties. For informational purposes only (and not for approval), Third Try shall furnish to the County copies of the notice to proceed given by Third Try to the General Contractor and the Construction Contract. Prior to commencement of construction, Third Try shall keep the County informed of the status of the Plans and other material matters concerning the Project.

ARTICLE 5: Default

5.1 Failure to Commence or Complete Work.

(a) If, for reasons other than Force Majeure as defined in §6.6 below, Third Try is in breach of any of the terms of this Agreement, the County may give written notice to Third Try that they are in default of this Agreement. Third Try shall be deemed to have defaulted if, after commencement of construction, they cease to perform the work for more than forty-five (45) consecutive days without the written consent of the County or for reasons other than Force Majeure. If Third Try does not cure a default by recommencing construction within thirty (30) days of the notice of default, then:

(i) The County may complete construction of the Project and shall have all of the rights of Third Try relating to such construction. Upon the completion of the Project, the County shall conduct a final accounting of the Project Costs. If the Developer Costs did not exceed the Developer’s Contribution, the County shall so notify Third Try and Third Try shall make prompt payment of the remaining balance to the County. If the Developer Costs exceed the Developer’s Contribution, the County shall promptly pay to Third Try any remaining unreimbursed actual Developer Costs incurred up to the date of default, and in conformance with the approved CIP. The County must not be deemed to have assumed any liability of Third Try.

(b) Nothing contained in this section shall be construed to prohibit the County from enforcing any legal rights it may have with respect to a developer’s failure to complete the Project, or any portion thereof, including without limitation the authority

of the County or any other governmental agency to call any bonds posted by Third Try or the General Contractor in connection therewith.

ARTICLE 6: General

6.1 Insurance. Third Try shall cause all contractors participating in the construction of the Project to carry commercial general liability, automobile liability and workers compensation insurance, in accordance with standard procedures established by the Department of Permitting Services and comply with the minimum limits of insurance and other provisions as set forth on **Exhibit A**, attached hereto and incorporated herein.

6.2 Maryland Law. This Agreement shall be governed by the laws of the State of Maryland, without regard to principles of conflicts of laws.

6.3 Amendments. Amendments, modifications, supplements or changes to this Agreement must be in a writing signed by the Parties.

6.4 Severability. Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from the Agreement and shall not affect the validity of the remainder of this Agreement.

6.5 Headings. Headings are intended only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Agreement.

6.6 Force Majeure. Despite any other provision of this Agreement, the obligations of the Parties under this Agreement shall be extended for a period of time equal to any period of prevention, delay, stoppage or unavailability of labor or materials due to strikes; riots; insurrection; war; invasion; acts of terrorism; homeland security emergencies; fire, flood, or other casualty; natural disasters; severely and unusually adverse weather conditions; defaults of the Contractor, defaults of the County, or other causes beyond the reasonable control of either Party ("Force Majeure").

6.7 Assignment. Third Try may not assign this Agreement without the written consent of the County, which consent may not be unreasonably withheld, conditioned or delayed so long as any proposed assignee demonstrates the financial capability to substantially complete the Project in accordance with this Agreement.

6.8 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed duly given if (a) personally delivered (provided a signed written receipt is obtained), (b) sent by reputable commercial courier (provided a signed written receipt is obtained), (c) sent by certified mail, return receipt requested, first class, postage prepaid, or (d) transmitted by telecopier or electronic mail (provided evidence of transmission is obtained and the original of the notice is, on the same day,

sent to the addressee by one of the foregoing methods of delivery). Notices shall be addressed as follows:

If to Third Try:

c/o Elm Street Development
1355 Beverly Road, Suite 240
McLean, VA 22101
Attn: David D. Flanagan
email: dflanagan@elmstreetdev.com
fax: 703-734-0322

With a copy to:

If to the County:

Department of Transportation
Montgomery County, Maryland
101 Monroe Street, 10th Floor
Rockville, Maryland 20850
Attn: Bruce E. Johnston
Division Chief, Division of Transportation Engineering
(240) 777-7185
(240) 777-7179fax

With a copy that does not constitute notice to:

Office of the Montgomery County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney
(240) 777-6700
(240) 777-6706 (fax)

Each party shall be responsible for notifying the other party of any change of address and telecopier number.

6.9 Relationship of the Parties. This Agreement does not create any partnership, joint venture or other similar relationship between the parties, but is merely a means to perform certain improvements benefiting the parties to this Agreement.

6.10 Entire Agreement. This Agreement contains the entire agreement among the parties regarding the Project.

6.11 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their successors and assigns.

6.12 Authority. Third Try represents and warrants to the County that it has full power and authority to enter into and carry out this Agreement, without the need for obtaining any further approvals or consents (except for the governmental approvals contemplated by this Agreement).

6.13 No Waiver of Rights. Except where time periods are expressly provided in this Agreement for the exercise of rights or remedies, no failure or delay by Third Try or the County in exercising any of their rights or remedies under this Agreement shall result in any waiver of those rights or remedies with respect to any then existing or subsequently occurring breach or default by the other party.

6.14 Limitation on Liability. Any obligation or liability of the County arising in any way from this Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Maryland Local Government Tort Claims Act, as amended from time to time. Any indemnification given by the County in this Agreement is not intended to create any rights or causes of action in any third parties or to increase the County's liability above the caps provided in Maryland law.

6.15 No Waiver of Governmental Authority. Nothing in this Agreement may be interpreted to be a waiver of the County's governmental authority or as a waiver of the requirement for the Developers to comply with all County laws, regulations, policies or standard procedures, including, all permitting processes required under County law. This Agreement is not intended as an approval of any plans or permit applications.

Signature Pages Follow

Third Try, L.L.C. Signature Page
to Road Participation Agreement
Stringtown Road

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed, sealed, and delivered by their duly authorized representatives the day and year first above written.

WITNESS:

Third Try, L.L.C.

Kurt Klein

By:

Name: David D. Flanagan

Title: Manager

STATE OF Virginia

COUNTY OF Fairfax

I HEREBY CERTIFY that on this 19 day of June 2015, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David D. Flanagan, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself to be the managing member/authorized person (choose one) of Third Try, L.L.C. and acknowledged that, being so authorized to do, executed the foregoing Road Participation Agreement on behalf of the said corporation for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: January 31, 2017

[NOTARIAL SEAL]

Nadia R. Fernandez
Notary Public



Montgomery County Signature Page
to Road Participation Agreement
Stringtown Road

**MONTGOMERY COUNTY,
MARYLAND,**
a political subdivision of the State of
Maryland

By: Ramona Bell-Pearson
Name: Ramona Bell-Pearson
Title: Assistant Chief Administrative
Officer

Date: 6/25/15

RECOMMENDED:

By: [Signature]
Name: Al R. Roshdich
Title: Acting Director, Department of
Transportation

Date: 6-24-15

**APPROVED AS TO FORM AND
LEGALITY:**

OFFICE OF THE COUNTY ATTORNEY

By: [Signature]

Name: Eric Willis
Title: Associate County Attorney

Date: 6/23/15

Acknowledgements of Montgomery County Follow

Acknowledgements of Montgomery County
Road Participation Agreement
Stringtown Road

STATE OF Maryland

COUNTY OF Montgomery

I HEREBY CERTIFY that on this 25th day of June 2015, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Ramona Bell-Pearson, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself to be the Assistant Chief Administrative Officer of the Montgomery County, Maryland, and that in his capacity as Assistant Chief Administrative Officer, being so authorized to do, executed the foregoing Road Participation Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


My Commission Expires: 4/30/2017

Julie L. White
Notary Public

[NOTARIAL SEAL]

ATTORNEY'S CERTIFICATION

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.



Name: Eric Willis

Exhibit A
(Mandatory Minimum Insurance Requirements)

MANDATORY MINIMUM INSURANCE REQUIREMENTS

Third Try, LLC

Road Construction – Stringtown Road in Preparation for the Development of Clarksburg Town Center Design, Land Acquisition, Utility Relocation and Road Construction (3,200 ft) from Overlook Park Drive to Snowden Farm Parkway

Prior to the execution of the Construction Contract, Third Try, LLC or their contractor must obtain, at their own cost and expense, the *minimum* following insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/contractor shall provide a copy of the insurance policies and additional insured endorsements. The minimum limits of coverage listed below shall not be construed as a limitation of any potential liability on the part of the proposed awardee/contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of proposed awardee/contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary. Subject to applicable law, the insurance companies providing insurance coverage, as referenced in this agreement, may not limit coverage to their insured, or the County as an additional insured, to stated minimum amount(s) of insurance referenced in this contract/agreement.

Commercial General Liability

A minimum limit of liability of ***five million dollars (\$5,000,000)***, combined single limit, for bodily injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors
- Products and Completed Operations

Automobile Liability Coverage

A minimum limit of liability of ***two million dollars (\$2,000,000)***, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles

Worker's Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$1,000,000 each accident***
- Bodily Injury by Disease - \$1,000,000 policy limits***
- Bodily Injury by Disease - \$1,000,000 each employee***

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees, must be included as an additional insured on Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods and services provided under this contract. The Additional Insured endorsements shall have no added exclusions or limitations of coverage to limits of liability contractually required; or percentage of negligence attributed to the named insured. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to Customer and failure to request evidence of this insurance shall in no way be construed as a waiver of Contractor's obligation to provide the insurance coverage specified.

Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County in accordance with the policy provisions.

Certificate Holder

Montgomery County Maryland
DOT/ Transportation Engineering / Tim Cupples
100 Edison Park Drive, 4th floor
Gaithersburg, Maryland 20878

ROAD CONSTRUCTION PARTICIPATION AGREEMENT

THIS AGREEMENT is made this 25TH day of JUNE, 2015 (the "Effective Date"), by and between Third Try, L.C., a Maryland limited liability company ("Third Try"), and **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic and a political subdivision of the State of Maryland (the "County").

RECITALS:

A. Third Try is the owner of certain property located in Clarksburg, Maryland upon which it is developing the Clarksburg Town Center. The Montgomery County Planning Board has approved a preliminary plan (11995042A) and a site plan (82007022B) for the development of the Clarksburg Town Center.

B. Third Try submitted a preliminary plan amendment (11995042B) and site plan amendment (82007022D) for Clarksburg Town Center to the Planning Board ("Amendments"). It is anticipated that both Amendments will be reviewed and voted on by the Planning Board in 2015.

C. In furtherance of the anticipated development of the Clarksburg Town Center, the County has programmed a Capital Improvement Project (CIP) to design and construct certain improvements to Clarksburg Road (the "Project"). The Project is included in the FY 15-20 Capital Improvements Program as project number 508000.

D. Third Try and the County have agreed that the most efficient and expeditious manner of completing the construction of the Project is for the County to construct the Project with both parties contributing to the overall cost of the Project in accordance with this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals, each of which is incorporated into and made a part of this Agreement, and the mutual covenants of the Parties set forth below, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

ARTICLE 1: Description of the Work; Responsibilities of the Parties

1.1 Scope of Work

(a) The Project Scope ("Scope") includes the design, land acquisition, utility relocation and construction of all improvements for Clarksburg Road from MD-355 to Snowden Farm Parkway (including any reconstruction improvements along the frontage of Clarksburg Town Center). The Scope also includes the design and construction of certain intersection improvements at the intersection of Clarksburg Road and MD-355 (including, but not limited to, the eastbound and westbound left-turn lanes along Clarksburg Road at the MD-355 intersection). The Scope also includes the design

and construction of certain intersection improvements to the intersection of Clarksburg Road with Snowden Farm Parkway (including, but not limited to, the reconstruction of 400 feet of Snowden Farm Parkway east of Clarksburg Road to complete the gap that currently exists at Snowden Farm Parkway).

(b) Specific improvements include, but are not limited to, the following: design, right-of-way and easement acquisition, permits, bonds, surveys, geotechnical observations, road widening and reconfiguration, sidewalks, bike paths, storm drain, storm water management, signage, striping, forest conservation (including purchasing off-site credits), landscaping, wetland delineation and mitigation, etc.

1.2 Responsibilities of the Parties:

(a) The County shall be responsible for managing all design and construction of the Project identified in the Scope outlined Section 1.1 of this Agreement.

(b) Third Try shall be responsible for the payment of Project Costs up to Three Million Two Hundred Thousand and 00/100s Dollars (\$3,200,000.00) (the "Developer's Contribution"). The timing of Third Try's payments is outlined in Article 3 of this Agreement.

(c) The County shall be responsible for the payment of all Project Costs in excess of Three Million Two Hundred and 00/100s Dollars (\$3,200,000.00).

ARTICLE 2: Performance of the Work

2.1 Commencement and Completion

(a) The County shall have acquired all necessary right-of-way, obtained necessary approvals and permits, and commenced construction of the Project within two (2) years of the Effective Date but not later than December 31, 2017 (the "Outside Date"). If the County determines that they will not commence construction of the Project by the Outside Date, the county must send written communication to Third Try of the delay and of the anticipated date of commencement.

(b) After commencing construction of the Project, the County shall cause the work to be diligently prosecuted so that the Project is substantially completed and open for public travel within twenty-four (24) months after the commencement of the work (the "Outside Completion Date"), subject only to delay caused force majeure, as defined in section 6.5 herein.

2.4 Rights-of-Way and Easements.

The County is responsible for obtaining all rights-of-way and easements necessary for the construction of the project.

2.5 Permits.

The County is responsible for obtaining all necessary permits required for the Project.

2.6 Bonds.

The County is responsible for obtaining from its contractor(s) all necessary bonds required for the Project.

2.7 APF Obligations.

It is the intention of the parties that by contributing to the cost of the Project as outlined in Article 3.2 Third Try will have satisfied its obligations to construct road improvements identified in the conditions of approval for Preliminary Plan 11995042 (and subsequent amendments) as well as any frontage improvements identified in Site Plan 820070200 Site Plans 8-98001, and Site Plans 8-02014 (and subsequent amendments of these site plans).

2.8 The parties agree and acknowledge that it is a condition precedent to Third Try performing under this Agreement that the Montgomery County Planning Board has approved preliminary plan amendment 11995042B and site plan amendment 82007022D for 1,120 residential units and up to 207,0000 s.f of commercial uses, and that the Montgomery County Council has passed legislation amending County Code section 52-55 (Impact Tax Credits) so as to increase the validity period for tax impact credits from six (6) years to twelve (12) years. If these amendments are not approved or this legislation is not passed, this Agreement is void and the parties shall have no further obligations to each other regarding the Project.

ARTICLE 3: Payment of Project Costs

3.1 Project Costs.

Project Costs is defined as all costs incurred in the design and construction of the Project, including the acquisition of all easements and rights-of-way. The County shall be responsible for paying all Project Costs.

3.2 Third Try Payments of Project Costs.

Third Try shall make two payments (“Project payments”) to the County to cover Third Try’s portion of Project Costs as follows: one payment of one million six hundred thousand dollars (\$1,600,000) shall be received by the County not later than December 31, 2017 and one payment of one million six hundred thousand (\$1,600,000) shall be received by the County not later than December 31, 2018. If the County delays commencement of the project beyond the Outside Date, Third Try can delay payment(s) to the County by the same duration as the delay of the project. Any delay in payments caused by the County shall not impact Third Try’s APF approvals or validity periods.

3.3 All transportation impact taxes paid to the County by any Clarksburg Town Center commercial or residential builder (“Builders”) on or after April 1, 2015 shall be credited against Third Try’s Project Payments. The first payment of one million six hundred thousand dollars (\$1,600,000.00) shall be reduced, dollar-for-dollar, by any transportation impact tax paid by the Builders to the County between April 1, 2015 and December 31, 2017. Third Try’s second payment of one million six hundred thousand dollars (\$1,600,000.00) shall be reduced, dollar-for-dollar for any transportation impact tax paid by the Builders to the County between January 1, 2018 and the time of the second payment.

3.4 Impact Tax Credits. The Montgomery County Department of Transportation (“MCDOT”) has determined that the work to be performed using the Project payments is eligible for transportation impact tax credits and that by entering into this Agreement and making the Project payments as scheduled, Third Try, pursuant to Section 52-55 of the Montgomery County Code, will be entitled to dollar-for-dollar transportation impact tax credits for all amounts paid by Third Try in connection with the construction of the Project (the “Credits”). The Credits will comply with all rights and requirements of Impact Tax Credits under applicable law or regulation. If requested by Third Try, MCDOT will execute and deliver a separate impact tax credit agreement, certification and/or other such documents as Third Try may reasonably require to confirm the amount, effectiveness, and validity period of the Credits, in accordance with existing law and regulations.

3.5 Failure to Pay. If Third Try fails to make the Project payments as scheduled, and such failure continues for a period of thirty (30) beyond the payment due dates, the County may elect to 1) stop work on the Project until payment is received, or 2) terminate this Agreement. Upon termination of the Agreement, the County may elect to continue with the Project, without contribution from Third Try, in which case, Third Try shall not be eligible to receive impact tax credits in connection with the Project. Notwithstanding the above, upon termination of this Agreement, the County reserves the right to pursue any legal or equitable remedies resulting from Third Try’s breach of this Agreement.

ARTICLE 5: Default

5.1 Failure to Commence or Complete Work.

(a) If, for reasons other than Force Majeure as defined in §6.5 below, the County fails to commence construction of the Project by the Outside Date, Third Try may give written notice to the County that they are in default of this Agreement. If the County does not cure the default by recommencing construction within thirty (30) days of the notice of default, then Third Try can withhold payment(s) identified in section 3.2 until the County cures the default. If Third Try elects to withhold payment(s) due to County default, Clarksburg Town Center will not be in violation of its APF approvals or validity period timeframes.

ARTICLE 6: General

6.1 Maryland Law. This Agreement shall be governed by the laws of the State of Maryland, without regard to principles of conflicts of laws.

6.2 Amendments. Amendments, modifications, supplements or changes to this Agreement must be in a writing signed by the Parties.

6.3 Severability. Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from the Agreement and shall not affect the validity of the remainder of this Agreement.

6.4 Headings. Headings are intended only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Agreement.

6.5 Force Majeure. Despite any other provision of this Agreement, the obligations of the Parties under this Agreement shall be extended for a period of time equal to any period of prevention, delay, stoppage or unavailability of labor or materials due to strikes; riots; insurrection; war; invasion; acts of terrorism; homeland security emergencies; fire, flood, or other casualty; natural disasters; severely and unusually adverse weather conditions; defaults of the Contractor, defaults of the County, or other causes beyond the reasonable control of either Party (“Force Majeure”).

6.6 Assignment. Third Try may not assign this Agreement without the written consent of the County, which consent may not be unreasonably withheld, conditioned or delayed so long as any proposed assignee demonstrates the financial capability to substantially complete the Project in accordance with this Agreement.

6.7 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed duly given if (a) personally delivered (provided a signed written receipt is obtained), (b) sent by reputable commercial courier (provided a signed written receipt is obtained), (c) sent by certified mail, return receipt requested, first class, postage prepaid, or (d) transmitted by telecopier or electronic mail (provided

evidence of transmission is obtained and the original of the notice is, on the same day, sent to the addressee by one of the foregoing methods of delivery). Notices shall be addressed as follows:

If to Third Try:

c/o Elm Street Development
1355 Beverly Road, Suite 240
McLean, VA 22101
Attn: David D. Flanagan
email: dflanagan@elmstreetdev.com
fax: 703-734-0322

With a copy to:

If to the County:

Department of Transportation
Montgomery County, Maryland
101 Monroe Street, 10th Floor
Rockville, Maryland 20850
Attn: Bruce E. Johnston
Division Chief, Division of Transportation Engineering
(240) 777-7185
(240) 777-7179fax

With a copy that does not constitute notice to:

Office of the Montgomery County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney
(240) 777-6700
(240) 777-6706 (fax)

Each party shall be responsible for notifying the other party of any change of address and telecopier number.

6.8 Relationship of the Parties. This Agreement does not create any partnership, joint venture or other similar relationship between the parties, but is merely a means to perform certain improvements benefiting the parties to this Agreement.

6.9 Entire Agreement. This Agreement contains the entire agreement among the parties regarding the Project.

6.10 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their successors and assigns.

6.11 Authority. Third Try represents and warrants to the County that it has full power and authority to enter into and carry out this Agreement, without the need for obtaining any further approvals or consents (except for the governmental approvals contemplated by this Agreement).

6.12 No Waiver of Rights. Except where time periods are expressly provided in this Agreement for the exercise of rights or remedies, no failure or delay by Third Try or the County in exercising any of their rights or remedies under this Agreement shall result in any waiver of those rights or remedies with respect to any then existing or subsequently occurring breach or default by the other party.

6.13 Limitation on Liability. Any obligation or liability of the County arising in any way from this Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Maryland Local Government Tort Claims Act, as amended from time to time. Any indemnification given by the County in this Agreement is not intended to create any rights or causes of action in any third parties or to increase the County's liability above the caps provided in Maryland law.

6.14 No Waiver of Governmental Authority. Nothing in this Agreement may be interpreted to be a waiver of the County's governmental authority or as a waiver of the requirement for the Developers to comply with all County laws, regulations, policies or standard procedures, including, all permitting processes required under County law. This Agreement is not intended as an approval of any plans or permit applications.

Signature Pages Follow

Third Try, L.L.C. Signature Page
to Road Participation Agreement
Clarksburg Road

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed, sealed, and delivered by their duly authorized representatives the day and year first above written.

WITNESS:

Third Try, L.L.C.

Kate West

By: [Signature]
Name: David D. Flanagan
Title: Manager

STATE OF Virginia
COUNTY OF Fairfax

I HEREBY CERTIFY that on this 19th day of June 2015, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David D. Flanagan, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself to be the managing member/authorized person (choose one) of Third Try, L.L.C. and acknowledged that, being so authorized to do, executed the foregoing Road Participation Agreement on behalf of the said corporation for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: January 31, 2017


[Signature]
Notary Public

[NOTARIAL SEAL]



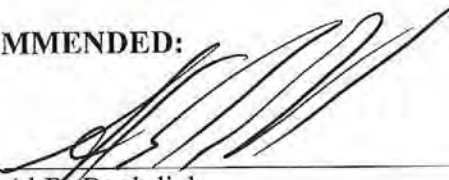
Montgomery County Signature Page
to Road Participation Agreement
Clarksburg Road

**MONTGOMERY COUNTY,
MARYLAND,**
a political subdivision of the State of
Maryland

By: 
Name: Ramona Bell-Pearson
Title: Assistant Chief Administrative
Officer

Date: 6/25/15

RECOMMENDED:

By: 
Name: Al K. Roshdich
Title: Acting Director, Department of
Transportation

Date: 6-24-15

**APPROVED AS TO FORM AND
LEGALITY:**

OFFICE OF THE COUNTY ATTORNEY

By: 

Name: Eric Willis
Title: Associate County Attorney

Date: 6/23/15

Acknowledgements of Montgomery County Follow

Acknowledgements of Montgomery County
Road Participation Agreement
Clarksburg Road

STATE OF Maryland

COUNTY OF Montgomery

I HEREBY CERTIFY that on this 25th day of June 2015, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Ramona Bell-Pearson, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself to be the Assistant Chief Administrative Officer of the Montgomery County, Maryland, and that in his capacity as Assistant Chief Administrative Officer, being so authorized to do, executed the foregoing Road Participation Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


My Commission Expires: 4/30/2017

Julie L. White
Notary Public

[NOTARIAL SEAL]

ATTORNEY'S CERTIFICATION

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.



Name: 6/23/15

Appendix D

Approved CIP for
County funded roadway improvements

#1 - County Government CIP amendments and Capital Budget: this resolution requires 6 affirmative votes.

Resolution No.:	<u>18-141</u>
Introduced:	<u>May 21, 2015</u>
Adopted:	<u>May 21, 2015</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Amendments to the Approved FY 2015-2020 Capital Improvements Program, and Approval of and Appropriation for the FY 2016 Capital Budget of the Montgomery County Government

Background

1. Section 302 of the County Charter requires the County Executive to send to the County Council by January 15 in each even-numbered calendar year a 6-year Capital Improvements Program (CIP), which the Executive did on January 15, 2014 for the 6-year period FY 2015-2020. Section 302 requires the affirmative vote of at least 5 Councilmembers to approve or modify the Executive's Recommended CIP. On May 22, 2014, the Council approved a CIP for FY 2015-2020 in Resolution 17-1102. After the Council approves a CIP, Section 302 permits the Council to amend it at any time with the affirmative vote of at least 6 Councilmembers.
2. Section 303 of the Charter requires the Executive to send to the Council by January 15 in each year a Recommended Capital Budget, which the Executive did on January 15, 2015 for FY 2016. The Executive also sent recommended amendments to the Approved CIP for FY 2015-2020.
3. On March 16 and April 20, 2015 the Executive sent to the Council additional recommended amendments to the Approved CIP for FY 2015-2020 and associated FY 2016 Capital Budget recommendations for County Government projects. Councilmembers proposed CIP amendments and associated capital budget amendments for County Government projects as well.
4. As required by Section 304 of the Charter, the Council held a public hearing on February 24, April 14, 15, and 16, and May 12, 2015 on the FY 2016 Recommended Capital Budget and on amendments requested to the Approved CIP for FY 2015-2020.

Action

The County Council for Montgomery County, Maryland approves the following resolution for the Montgomery County Government:

1. For FY 2016, the Council approves the Capital Budget and appropriates the amounts by project, which are shown in Part I. The expenditure of funds for each item in the Capital Budget must comply with all restrictions and requirements in the project description form for that item, as the form is contained in the Approved CIP as amended by this resolution, and as the CIP is amended by the Council under Charter Section 302 after this resolution is adopted.
2. The Council reappropriates the appropriations made in prior years for all capital projects:
 - a) except as specifically reflected elsewhere in this resolution;
 - b) in the amounts and for the purposes specified in the approved CIP for FY 2015-2020; and
 - c) to the extent that those appropriations are not expended or encumbered.

3. The County appropriation for Acquisition: Non-Local Parks and Legacy Open Space includes:

P998798	<u>Acquisition Non-Local Parks</u> – County Current Revenue General	\$135,000
P018710	<u>Legacy Open Space</u> – County Current Revenue General	\$250,000
P018710	<u>Legacy Open Space</u> – County G.O. Bonds	\$2,500,000

The County will contribute the following amounts for non-local park projects:

County G.O. Bonds	\$4,018,000
(\$100,000 of G.O. Bonds appropriation is for Personnel Costs)	
County Current Revenue-General	\$2,413,000

4. The Council approves those projects shown in Part II as amendments to the Approved FY 2015-2020 CIP.
5. The Council approves the close out of the projects in Part III.
6. The Council approves the partial close out of the projects in Part IV.
7. For FY 2016, when the County Government decides that it will apply for a grant or respond to a granting agency on how it would spend a formula-awarded grant, the Chief Administrative Officer or his designee must notify the Council Administrator in writing of the name and purpose of the grant, the amount being requested or the formula-driven award amount, the name of the agency the application is directed to, the term of the grant, and the name of the department or departments that seek to receive the grant award. This requirement applies when any of the following conditions are met:
 - the application is for a new grant of more than \$200,000 or formula-driven award of more than \$200,000 for a new program; or,
 - the grant or award would require the appropriation of new tax-supported funds in the current or any future fiscal year; or,

- the grant application or proposal to spend formula-driven funds will create a new position in County Government.

Upon request, the Chief Administrative Officer or his designee must send a copy of the grant application or description of the proposed use of a formula-driven award to the Council Administrator within 3 working days after submitting it to the funding agency.

8. In FY 2016 this resolution appropriates \$17 million to the Affordable Housing Acquisition and Preservation project (P760100). In addition, the Council appropriates any loan repayments associated with the Affordable Housing Acquisition and Preservation project that are received in FY2015 to this CIP project to be used for affordable housing. The Council also approves amending the FY2016 expenditure and funding schedule to reflect the additional appropriated loan repayments.
9. If a sign recognizing the contribution of any Federal, State, or local government or agency is displayed at any project for which funds are appropriated in this resolution, as a condition of spending those funds each sign must also expressly recognize the contribution of the County and the County's taxpayers.
10. As authorized by County Code Section 27-62A(f), the Office of Management and Budget need not analyze the feasibility of providing child care facilities in the following capital projects:

Indoor Air Quality Improvement -- Brookeville Buildings D&E
 MCPS Bus Depot and Maintenance Relocation
 Poolesville Depot Improvements
 Seven Locks Signal Shop Building C
 Damascus Depot Improvements
 Multi-Use Central Warehouse (Supply and Evidence Facility)
 Special Operation and Traffic Division Equipment and Vehicle Storage
 Criminal Justice Complex
 Department of Corrections and Rehabilitation Staff Training
 Laytonsville Fire Station
 Emergency Operations Center Relocation
 Avery Road Treatment Center
 Council Office Building Renovations
 1301 Piccard Drive
 Noyes Library
 Public Safety Communications Center
 Seneca Valley High School Wellness Center
 White Flint Fire Station

11. As authorized by County Code Section 25B-7(e), the Office of Management and Budget need not analyze the feasibility of including a significant amount of affordable housing in the following capital projects

Indoor Air Quality Improvement -- Brookeville Buildings D&E
 MCPS Bus Depot and Maintenance Relocation

Poolesville Depot Improvements
Seven Locks Signal Shop Building C
Damascus Depot Improvements
Multi-Use Central Warehouse (Supply and Evidence Facility)
Special Operation and Traffic Division Equipment and Vehicle Storage
Criminal Justice Complex
Department of Corrections and Rehabilitation Staff Training
Emergency Operations Center Relocation
Council Office Building Renovations
1301 Piccard Drive
Noyes Library
Public Safety Communications Center
Seneca Valley High School Wellness Center

This is a correct copy of Council action.

A handwritten signature in cursive script that reads "Linda M. Lauer". The signature is written in black ink and is positioned above a horizontal line.

Linda M. Lauer, Clerk of the Council

PART I: FY 2016 CAPITAL BUDGET FOR MONTGOMERY COUNTY GOVERNMENT

The appropriation for FY 2016 in this Part are made to implement the projects in the Capital Improvements Program for FY 2015 - 2020.

Project Name(Project Number)	FY 16 Appropriation	Cumulative Appropriation	Total Appropriation
Council Office Building Renovations (P010100)	28,495,000	7,421,000	35,916,000
Technology Modernization – MCG (P150701)	500,000	133,909,000	134,409,000
Public Safety System Modernization (P340901)	2,025,000	104,608,000	106,633,000
EOB HVAC Renovation (P361103)	-2,000,000	2,000,000	0
Americans with Disabilities Act (ADA): Compliance (P361107)	4,500,000	15,500,000	20,000,000
Energy Systems Modernization (P361302)	10,300,000	30,300,000	40,600,000
Facilities Site Selection: MCG (P500152)	25,000	344,000	369,000
Environmental Compliance: MCG (P500918)	1,397,000	9,248,000	10,645,000
Energy Conservation: MCG (P507834)	150,000	560,000	710,000
Roof Replacement: MCG (P508331)	2,240,000	9,441,000	11,681,000
Asbestos Abatement: MCG (P508728)	100,000	334,000	434,000
Facility Planning: MCG (P508768)	260,000	8,715,000	8,975,000
HVAC/Elec Replacement: MCG (P508941)	1,150,000	4,031,000	5,181,000
Planned Lifecycle Asset Replacement: MCG (P509514)	750,000	4,837,000	5,587,000
Resurfacing Parking Lots: MCG (P509914)	650,000	6,905,000	7,555,000
Elevator Modernization (P509923)	1,000,000	10,654,000	11,654,000
Life Safety Systems: MCG (P509970)	625,000	6,063,000	6,688,000
Building Envelope Repair (P361501)	1,000,000	1,165,000	2,165,000
Fibernet (P509651)	3,329,000	49,667,000	52,996,000
Wheaton Redevelopment Program (P150401)	500,000	136,690,000	137,190,000
Long Branch Town Center Redevelopment (P150700)	200,000	100,000	300,000
White Flint Redevelopment Program (P151200)	670,000	2,573,000	3,243,000
Universities at Shady Grove Expansion (P151201)	10,000,000	5,000,000	15,000,000
Fire Stations: Life Safety Systems (P450302)	480,000	2,528,000	3,008,000
Female Facility Upgrade (P450305)	400,000	2,112,000	2,512,000
Kensington (Aspen Hill) FS 25 Addition (P450903)	791,000	1,166,000	1,957,000
Resurfacing: Fire Stations (P458429)	300,000	878,000	1,178,000
Roof Replacement: Fire Stations (P458629)	352,000	1,567,000	1,919,000
HVAC/Elec Replacement: Fire Stns (P458756)	1,150,000	3,246,000	4,396,000
White Flint Fire Station #23 (P451502)	2,863,000	4,806,000	7,669,000
Apparatus Replacement Program (P451504)	9,778,000	14,044,000	23,822,000

PART I: FY 2016 CAPITAL BUDGET FOR MONTGOMERY COUNTY GOVERNMENT

The appropriation for FY 2016 in this Part are made to implement the projects in the Capital Improvements Program for FY 2015 - 2020.

Project Name(Project Number)	FY 16 Appropriation	Cumulative Appropriation	Total Appropriation
2nd District Police Station (P471200)	-619,000	7,490,000	6,871,000
Pre-Release Center Dietary Facilities Improvements(P420900)	860,000	173,000	1,033,000
Bethesda CBD Streetscape (P500102)	404,000	1,098,000	1,502,000
Montrose Parkway East (P500717)	1,643,000	19,176,000	20,819,000
State Transportation Participation (P500722)	-420,000	81,377,000	80,957,000
Snouffer School Road (P501109)	15,843,000	4,703,000	20,546,000
White Flint District East: Transportation (P501204)	-5,102,000	7,090,000	1,988,000
Stringtown Road (P501208)	7,495,000	505,000	8,000,000
Seminary Road Intersection Improvement (P501307)	466,000	0	466,000
Clarksburg Transportation Connections (P501315)	2,600,000	0	2,600,000
Public Facilities Roads (P507310)	100,000	2,482,000	2,582,000
Subdivision Roads Participation (P508000)	3,200,000	5,626,000	8,826,000
Facility Planning-Transportation (P509337)	1,725,000	45,634,000	47,359,000
Ripley Street (P501403)	-577,000	777,000	200,000
Bridge Design (P509132)	599,000	13,779,000	14,378,000
Pennyfield Lock Road Bridge (P501624)	1,110,000	0	1,110,000
Metropolitan Branch Trail (P501110)	1,149,000	4,366,000	5,515,000
Frederick Road Bike Path (P501118)	421,000	1,797,000	2,218,000
Flower Avenue Sidewalk (P501206)	200,000	0	200,000
Needwood Road Bikepath (P501304)	1,005,000	2,634,000	3,639,000
Sidewalk Program – Minor Projects (P506747)	2,366,000	6,074,000	8,440,000
Bikeway Program – Minor Projects (P507596)	500,000	1,564,000	2,064,000
ADA Compliance: Transportation (P509325)	1,495,000	3,244,000	4,739,000
Silver Spring Green Trail (P509975)	172,000	1,454,000	1,626,000
Capital Crescent Trail (P501316)	1,386,000	4,668,000	6,054,000
Transportation Improvements For Schools (P509036)	56,000	690,000	746,000
Bicycle-Pedestrian Priority Area Improvements (P501532)	1,000,000	375,000	1,375,000
Pedestrian Safety Program (P500333)	1,500,000	11,390,000	12,890,000
Streetlight Enhancements-CBD/Town Center (P500512)	250,000	2,680,000	2,930,000
Traffic Signal System Modernization (P500704)	1,400,000	33,897,000	35,297,000
White Flint Traffic Analysis and Mitigation (P501202)	18,000	1,345,000	1,363,000

PART I: FY 2016 CAPITAL BUDGET FOR MONTGOMERY COUNTY GOVERNMENT

The appropriation for FY 2016 in this Part are made to implement the projects in the Capital Improvements Program for FY 2015 - 2020.

Project Name(Project Number)	FY 16 Appropriation	Cumulative Appropriation	Total Appropriation
Intersection and Spot Improvements (P507017)	1,482,000	2,939,000	4,421,000
Streetlighting (P507055)	955,000	2,147,000	3,102,000
Traffic Signals (P507154)	4,835,000	11,245,000	16,080,000
Guardrail Projects (P508113)	315,000	648,000	963,000
Advanced Transportation Management System (P509399)	2,008,000	49,193,000	51,201,000
Neighborhood Traffic Calming (P509523)	310,000	684,000	994,000
Bethesda Lot 31 Parking Garage (P500932)	-4,000,000	60,507,000	56,507,000
Silver Spring Lot 3 Parking Garage (P501111)	50,000	190,000	240,000
Facility Planning Parking: Wheaton PLD (P501312)	45,000	135,000	180,000
Facility Planning Parking: Bethesda PLD (P501313)	90,000	270,000	360,000
Facility Planning Parking: Silver Spring PLD (P501314)	90,000	270,000	360,000
Pkg Sil Spg Fac Renovations (P508250)	555,000	8,609,000	9,164,000
Pkg Beth Fac Renovations (P508255)	500,000	2,307,000	2,807,000
Pkg Wheaton Fac Renovations (P509709)	112,000	302,000	414,000
Rapid Transit System (P501318)	2,000,000	1,125,000	3,125,000
MCPS & M-NCPPC Maintenance Facilities Relocation (P361109)	64,475,000	4,564,000	69,039,000
Transit Park and Ride Lot Renovations (P500534)	98,000	1,589,000	1,687,000
Montgomery Mall Transit Center (P500714)	1,311,000	31,000	1,342,000
Ride On Bus Fleet (P500821)	13,350,000	111,210,000	124,560,000
Bus Stop Improvements (P507658)	651,000	2,020,000	2,671,000
Resurfacing: Residential/Rural Roads (P500511)	10,000,000	79,164,000	89,164,000
Street Tree Preservation (P500700)	3,000,000	15,900,000	18,900,000
Resurfacing Park Roads and Bridge Improvements (P500720)	600,000	5,160,000	5,760,000
Residential and Rural Road Rehabilitation (P500914)	8,600,000	35,297,000	43,897,000
Permanent Patching: Residential/Rural Roads (P501106)	5,900,000	21,392,000	27,292,000
Sidewalk & Curb Replacement (P508182)	8,200,000	13,916,000	22,116,000
Resurfacing: Primary/Arterial (P508527)	8,474,000	23,694,000	32,168,000
Progress Place Relocation and Personal Living Quarters (P601401)	142,000	285,000	427,000
North Potomac Community Recreation Center (P720102)	100,000	37,362,000	37,462,000
Cost Sharing: MCG (P720601)	2,515,000	20,197,000	22,712,000

PART I: FY 2016 CAPITAL BUDGET FOR MONTGOMERY COUNTY GOVERNMENT

The appropriation for FY 2016 in this Part are made to implement the projects in the Capital Improvements Program for FY 2015 - 2020.

Project Name(Project Number)	FY 16 Appropriation	Cumulative Appropriation	Total Appropriation
Good Hope Neighborhood Recreation Center (P720918)	8,055,000	1,272,000	9,327,000
Public Arts Trust (P729658)	140,000	374,000	514,000
Western County Outdoor Pool Renovation and Modernization (P721501)	3,443,000	393,000	3,836,000
Wheaton Library and Community Recreation Center (P361202)	18,127,000	57,655,000	75,782,000
Library Refurbishment Level of Effort (P711502)	1,870,000	1,387,000	3,257,000
21st Century Library Enhancements Level Of Effort (P711503)	500,000	500,000	1,000,000
Facility Planning: Storm Drains (P508180)	250,000	4,954,000	5,204,000
Outfall Repairs (P509948)	426,000	5,783,000	6,209,000
Storm Drain Culvert Replacement (P501470)	2,800,000	2,700,000	5,500,000
SM Facility Major Structural Repair (P800700)	4,927,000	16,561,000	21,488,000
SM Retrofit - Government Facilities (P800900)	4,040,000	15,608,000	19,648,000
SM Retrofit - Roads (P801300)	18,465,000	35,365,000	53,830,000
SM Retrofit - Schools (P801301)	3,949,000	9,441,000	13,390,000
Misc Stream Valley Improvements (P807359)	3,653,000	13,895,000	17,548,000
SM Retrofit: Countywide (P808726)	21,777,000	49,805,000	71,582,000
Facility Planning: SM (P809319)	1,129,000	12,012,000	13,141,000
Watershed Restoration - Interagency (P809342)	353,000	6,038,000	6,391,000
Ag Land Pres Easements (P788911)	873,000	7,466,000	8,339,000
Facility Planning: HCD (P769375)	125,000	3,545,000	3,670,000
Colesville/New Hampshire Avenue Community Revitalization (P761501)	500,000	200,000	700,000
*Affordable Housing Acquisition and Preservation (P760100)	17,000,000	128,151,000	145,151,000
Total – Montgomery County Government	375,390,000	1,731,957,000	2,107,347,000

*In addition to the appropriation shown for this project, any actual revolving loan repayments received from the prior year are appropriated.

Clarksburg Transportation Connections (P501315)

Category Transportation
 Sub Category Roads
 Administering Agency Transportation (AAGE30)
 Planning Area Clarksburg

Date Last Modified 11/17/14
 Required Adequate Public Facility No
 Relocation Impact None
 Status Ongoing

	Total	Thru FY14	Rem FY14	Total 6 Years	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	Beyond 6 Yrs
EXPENDITURE SCHEDULE (\$000s)											
Planning, Design and Supervision	0	0	0	0	0	0	0	0	0	0	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	10,600	0	0	10,600	0	2,600	2,000	2,000	2,000	2,000	0
Total	10,600	0	0	10,600	0	2,600	2,000	2,000	2,000	2,000	0

	Total	Thru FY14	Rem FY14	Total 6 Years	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	Beyond 6 Yrs
FUNDING SCHEDULE (\$000s)											
G.O. Bonds	7,753	0	0	7,753	0	20	1,733	2,000	2,000	2,000	0
Impact Tax	2,247	0	0	2,247	0	1,980	267	0	0	0	0
Intergovernmental	600	0	0	600	0	600	0	0	0	0	0
Total	10,600	0	0	10,600	0	2,600	2,000	2,000	2,000	2,000	0

APPROPRIATION AND EXPENDITURE DATA (000s)

Appropriation Request	FY 16	2,600
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		0
Expenditure / Encumbrances		0
Unencumbered Balance		0

Date First Appropriation	FY 16
First Cost Estimate	
Current Scope	FY 16 10,600
Last FY's Cost Estimate	10,000

Description

This project provides for the County contribution to the design, partial land acquisition, and construction of the 2,400-foot long section of Snowden Farm Parkway from 300 feet north of Morning Star Drive to Ridge Road (MD 27); the 3,400-foot section of Little Seneca Parkway from Snowden Farm Parkway to Frederick Road (MD 355); and the intersection of Brink Road at MD 355. Both Parkways will include: four-lane divided roadways, an eight-foot bikeway along the north/west sides, and a five-foot sidewalk along the south/east sides within 120 foot right-of-ways. The Brink Road Intersection will include improvements to the intersection as required by the Montgomery County Planning Board's opinion in the approval of the Clarksburg Village and Greenway Village Subdivisions. The project will also include street lighting, stormwater management, landscaping and reforestation. Appropriate auxiliary lanes and traffic signals will also be provided.

Location

Clarksburg

Cost Change

Cost increase of \$600,000 due to the addition of a water main at the intersection of MD355 and Brink Road.

Justification

These roads will provide congestion relief to the Clarksburg area by providing direct tie-ins to MD 355 and MD 27 and improved access to I-270. The water main will provide benefits to the development of the Clarksburg area west of I-270.

Other

This project will be constructed by the developers. The County's contribution will allow these roadways to be built along with the other portions of the roadways to provide completed connections to State roadways.

Fiscal Note

The funding schedule reflects the addition of \$2.247 million in impact taxes and offsetting decrease in GO bonds in the FY15-20 period. A Memorandum of Agreement will be created among the County and Developer(s) outlining the shared fiscal responsibility for the design, right-of-way acquisition, construction and maintenance of this project. The County will assume ownership and maintenance of the roadways. The adjacent developers will dedicate their properties to the County for the roadways and other private properties will be acquired through the County's land acquisition process. The addition of the water main will be 100% funded by WSSC Intergovernmental contributions under a separate Memorandum of Understanding.

Disclosures

A pedestrian impact analysis will be performed during design or is in progress.

Coordination

Department of Transportation, Department of Finance, Upcounty Regional Services Center, Offices of the County Executive, Developers, Clarksburg Historic District, Department of Permitting Services, Maryland State Highway Administration, WSSC.

Stringtown Road (P501208)

Category Transportation
Sub Category Roads
Administering Agency Transportation (AAGE30)
Planning Area Clarksburg

Date Last Modified 11/17/14
Required Adequate Public Facility Yes
Relocation Impact None
Status Under Construction

	Total	Thru FY14	Rem FY14	Total 6 Years	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	Beyond 6 Yrs
EXPENDITURE SCHEDULE (\$000s)											
Planning, Design and Supervision	999	489	8	502	0	167	335	0	0	0	0
Land	62	4	0	58	0	58	0	0	0	0	0
Site Improvements and Utilities	643	0	0	643	0	0	643	0	0	0	0
Construction	6,296	4	0	6,292	0	2,292	4,000	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
Total	8,000	497	8	7,495	0	2,517	4,978	0	0	0	0

FUNDING SCHEDULE (\$000s)											
Contributions	4,000	0	0	4,000	0	1,000	3,000	0	0	0	0
G.O. Bonds	4,000	497	8	3,495	0	1,517	1,978	0	0	0	0
Total	8,000	497	8	7,495	0	2,517	4,978	0	0	0	0

APPROPRIATION AND EXPENDITURE DATA (000s)

Appropriation Request	FY 16	7,495
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		505
Expenditure / Encumbrances		497
Unencumbered Balance		8

Date First Appropriation	FY 11
First Cost Estimate	
Current Scope	FY 16
Last FY's Cost Estimate	505

Description

This project provides funding to participate with a developer to design, acquire land, relocate utilities, and construct the 3,200-foot section of Stringtown Road from Overlook Park Drive to Snowden Farm Parkway. This project will construct 1,200' of the four lane divided roadway (from Overlook Park Drive to future Gate Rail Road), an 8-foot wide bikeway along the north side and on the south side an 8-foot bikeway transitioning to a 5-foot sidewalk. From future Gate Rail Road to Snowden Farm Parkway construct 2,000' of the two westbound lanes an 8-foot wide bikeway along the north side. The project will also include street lighting, stormwater management, landscaping and reforestation.

Estimated Schedule

Construction to begin in Spring of 2016 and be completed in Summer of 2017.

Cost Change

Cost increase reflects the addition of construction to the scope of this project.

Justification

This project ultimately will provide sufficient capacity to handle circulation near the Clarksburg Town Center and adjacent residential neighborhoods, and to eliminate substandard segments of Stringtown Road. The addition of a hiker-biker path and sidewalk along the road will improve pedestrian and bike circulation in the vicinity.

Other

The County will enter into a Road Participation Agreement with the new Developer of the Clarksburg Town Center to construct this project.

Fiscal Note

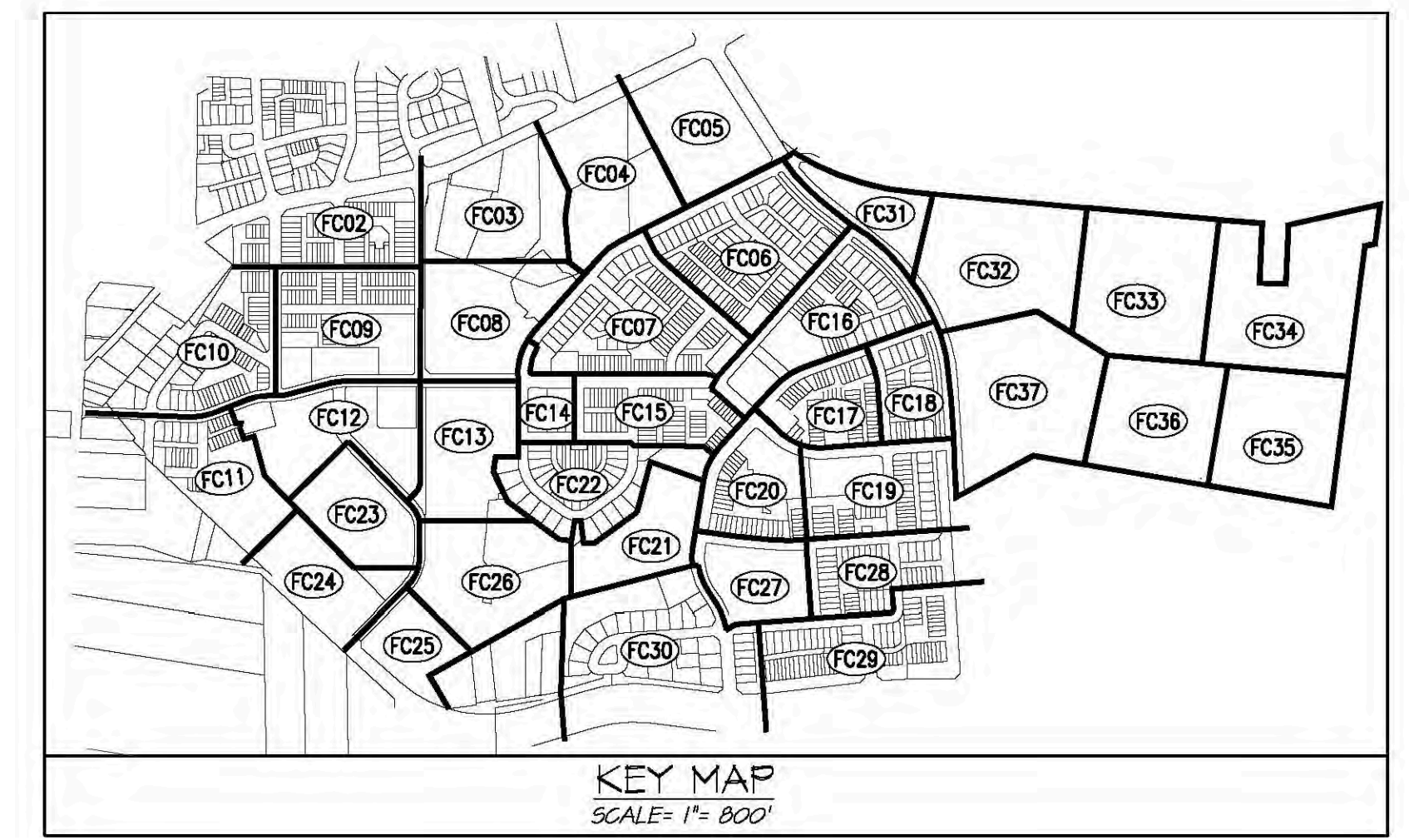
The total cost of this project is \$8.0M, of which \$4.0M will be contributed by the developer. The developer will construct this project in accordance with the Road Participation Agreement and will seek impact tax credits in the future. In FY14, \$55,000 was transferred to this project from Father Hurley Blvd. Extended (CIP #500516).

Coordination

Maryland National Capital Park and Planning Commission
Developer

Appendix E

Final Forest Conservation Plan



NON-CREDIT AFFORESTATION AA 0.15 ACRES
 NON-CREDIT AFFORESTATION BB 0.10 ACRES
 NON-CREDIT AFFORESTATION CC 0.12 ACRES
 NON-CREDIT AFFORESTATION DD 0.14 ACRES

NON-CREDIT AFFORESTATION FF* 0.10 ACRES
 NON-CREDIT AFFORESTATION GG* 0.17 ACRES
 NON-CREDIT AFFORESTATION HH* 0.35 ACRES

AFFORESTATION (NON-PLANT TREE SAVE) AREA B 0.15 ACRES
 AFFORESTATION AREA K-1 1.32 ACRES
 AFFORESTATION AREA K-2* 1.35 ACRES
 AFFORESTATION AREA K-3* 0.85 ACRES

AFFORESTATION (NON-PLANT TREE SAVE) AREA C 0.14 ACRES

AFFORESTATION (WETLAND CREATION) AREA 3 0.13 ACRES
 AFFORESTATION (WETLAND CREATION) AREA 2 0.25 ACRES
 AFFORESTATION AREA P-4 0.14 ACRES
 NON-CREDIT AFFORESTATION II 0.03 ACRES

WSSC AFFORESTATION AREA P-7 0.19 ACRES
 WSSC AFFORESTATION AREA P-6 0.20 ACRES

AFFORESTATION AREA P-5 0.02 ACRES
 FOREST RETENTION AREA 3 7.76 ACRES

AFFORESTATION AREA Q-1 0.46 ACRES
 WSSC AFFORESTATION AREA P-8 0.37 ACRES

AFFORESTATION AREA P-3 0.04 ACRES
 AFFORESTATION AREA P-1 1.74 ACRES

AFFORESTATION AREA P-2 2.25 ACRES
 FOREST RETENTION AREA 4 0.53 ACRES

AFFORESTATION AREA P-4 0.14 ACRES
 AFFORESTATION AREA P-2 2.25 ACRES

AFFORESTATION AREA P-3 0.04 ACRES
 AFFORESTATION AREA P-1 1.74 ACRES

AFFORESTATION AREA P-2 2.25 ACRES
 FOREST RETENTION AREA 4 0.53 ACRES

AFFORESTATION AREA P-4 0.14 ACRES
 AFFORESTATION AREA P-2 2.25 ACRES

AFFORESTATION AREA P-3 0.04 ACRES
 AFFORESTATION AREA P-1 1.74 ACRES

AFFORESTATION AREA P-2 2.25 ACRES
 FOREST RETENTION AREA 4 0.53 ACRES

AFFORESTATION AREA P-4 0.14 ACRES
 AFFORESTATION AREA P-2 2.25 ACRES

AFFORESTATION AREA P-3 0.04 ACRES
 AFFORESTATION AREA P-1 1.74 ACRES

AFFORESTATION AREA P-2 2.25 ACRES
 FOREST RETENTION AREA 4 0.53 ACRES

AFFORESTATION AREA P-4 0.14 ACRES
 AFFORESTATION AREA P-2 2.25 ACRES

LEGEND

- AFFORESTATION AREA
- AFFORESTATION AREA (PORTION IS WEGG EASEMENT)
- AFFORESTATION AREA (NON-CREDIT) (2:1 SLOPES WITHIN THE STREAM VALLEY BUFFER)
- AFFORESTATION (NON-PLANT TREE SAVE AREA)
- FOREST RETENTION AREA
- WETLAND AREA
- STREAM VALLEY BUFFER
- LANDSCAPE CREDIT TREES
- CATEGORY I FCE VIEWSHED MANAGEMENT PLAN AREA IV TREE HEIGHT LIMIT*

*NOTE: TREES PLANTED IN AFFORESTATION PLANTING AREAS K-2, K-3, GG, HH, KC2 & KC3 SHALL BE SUBJECT TO ADDITIONAL MAINTENANCE AND MANAGEMENT AGREEMENT CONDITIONS (VIEWSHED MANAGEMENT PLAN) THAT ALLOW THE APPLICANT TO LIMIT THE TOTAL HEIGHT OF ANY TREES IN THOSE AREAS SO THAT CLEAR VISIBILITY FROM STRINGTOWN ROAD TO THE GROCERY STORE CAN BE MAINTAINED. NO TREE REMOVAL SHALL BE ALLOWED, ONLY TREE HEIGHT REDUCTION/TRIMMING, UNLESS APPROVED BY M-NCPPC INSPECTOR. A MINIMUM TREE HEIGHT OF 20' AND A MAXIMUM TREE HEIGHT OF 60' MAY BE ALLOWED DEPENDING ON LOCATION WITHIN THE PLANTING AREA AND VIEWSHED. ALL TREE WORK SHALL BE PERFORMED BY A LICENSED ARBORIST AND A M-NCPPC INSPECTOR MUST BE NOTIFIED PRIOR TO ANY WORK WITHIN THE FOREST CONSERVATION EASEMENT AREA.

DEVELOPERS CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 82007022D including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: Third Try, L.C. Printed Company Name
 Contact Person or Owner: Kathryn L. Kubit Printed Name
 Address: 1355 Beverly Road, Suite 240
 McLean, Virginia 22101
 Phone and Email: 703-734-9730
 Signature: _____
 Name/Title: _____

GLW Gutschick Little & Weber, PA
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
 3909 NATIONAL DRIVE - SUITE 250 - BURTOWNSVILLE OFFICE PARK
 BURTOWNSVILLE, MARYLAND 20866
 TEL: 301-421-4024 FAX: 301-421-4188
 BALD: 410-880-1800 DC/VA: 301-889-2624

DATE	REVISION	BY	APPR.
6/04/2015	REVISED PER MNCPPC COMMENTS		
4/10/2015	REVISED PER MNCPPC COMMENTS		

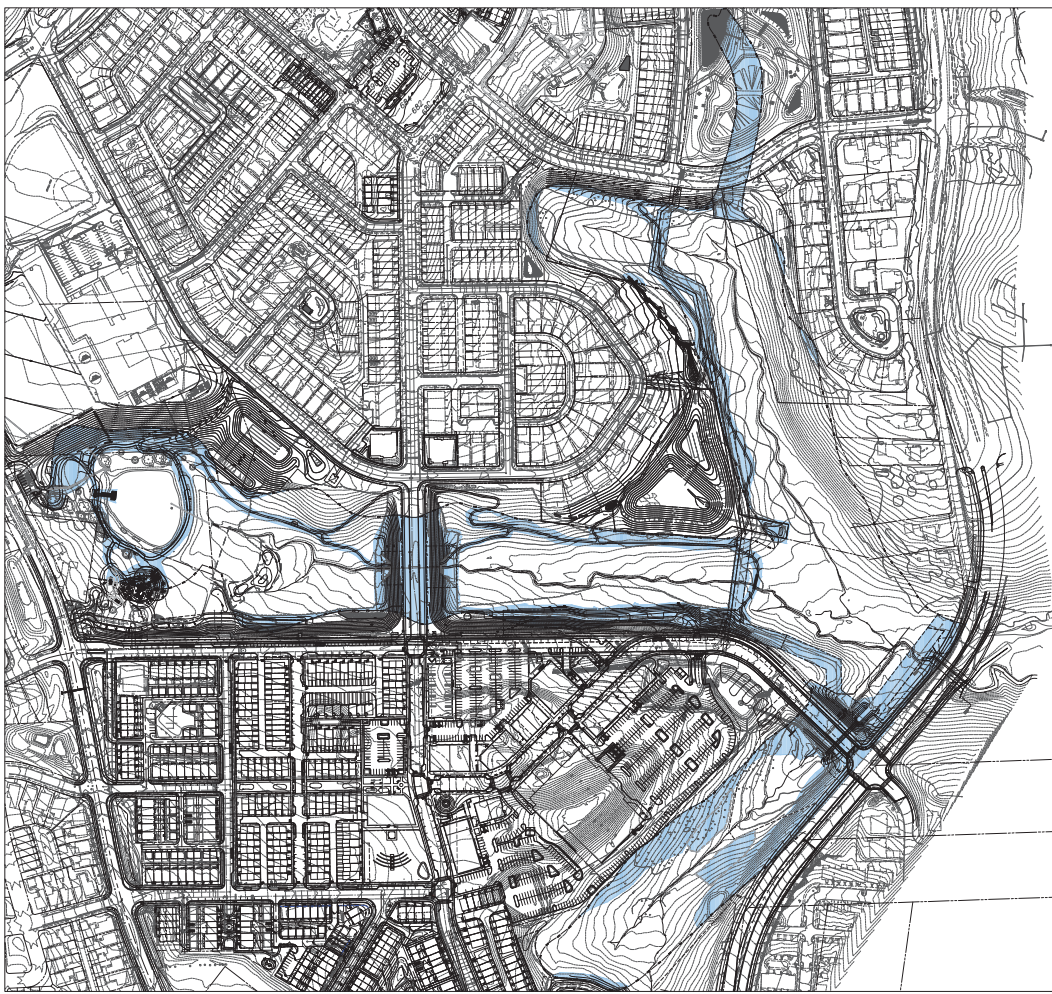
PREPARED FOR:
 THIRD TRY L.C.
 c/o ELM STREET DEVELOPMENT
 1355 BEVERLY ROAD, SUITE 240
 MCLEAN, VIRGINIA 22101
 ATTN: KATHRYN L. KUBIT
 703-734-9730

SCALE	ZONING
1"=200'	RMX-2
DATE	TAX MAP - GRID
JUNE, 2014	EW-42

OVERALL PLAN
 CLARKSBURG TOWN CENTER
 FINAL FOREST CONSERVATION PLAN
 CLARKSBURG ELECTION DISTRICT No. 02
 MONTGOMERY COUNTY, MARYLAND

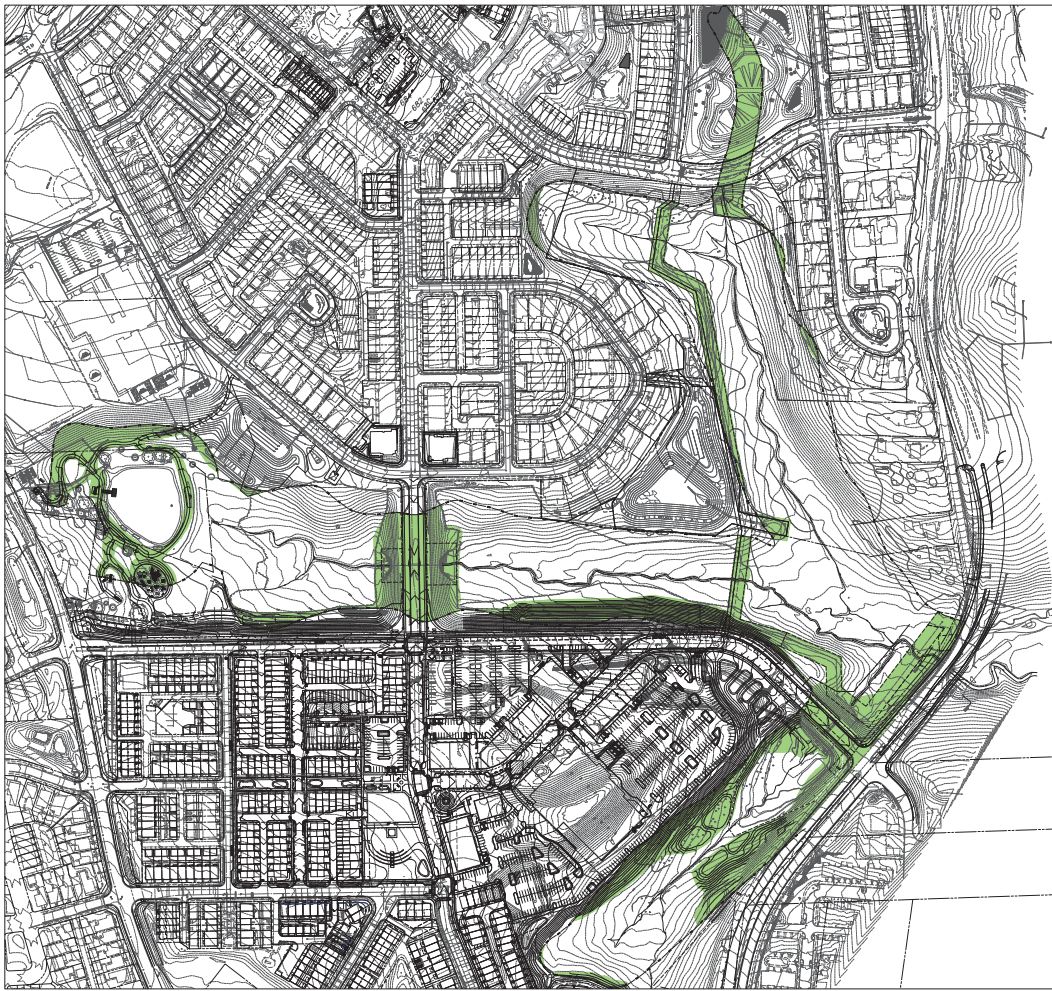
Appendix F

Stream Valley Buffer Disturbance Exhibit



SITE PLAN 82007022

13.72 AC SVB disturbance



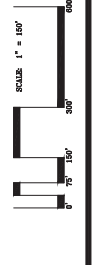
SITE PLAN AMENDMENT 82007022D

12.19 AC SVB disturbance



GLW
GUMBER LITTLE & WEBER, PA.
 CIVIL ENGINEERS, LAND SURVEYORS, AND PLANNERS, LANDSCAPE ARCHITECTS
 1000 W. MARKET STREET, SUITE 200, HARRISBURG, PA 17102
 TEL: 717-651-1000 FAX: 717-651-1001
 WWW.GLWPA.COM

NO.	DATE	BY	CHK.	APP.	DESCRIPTION

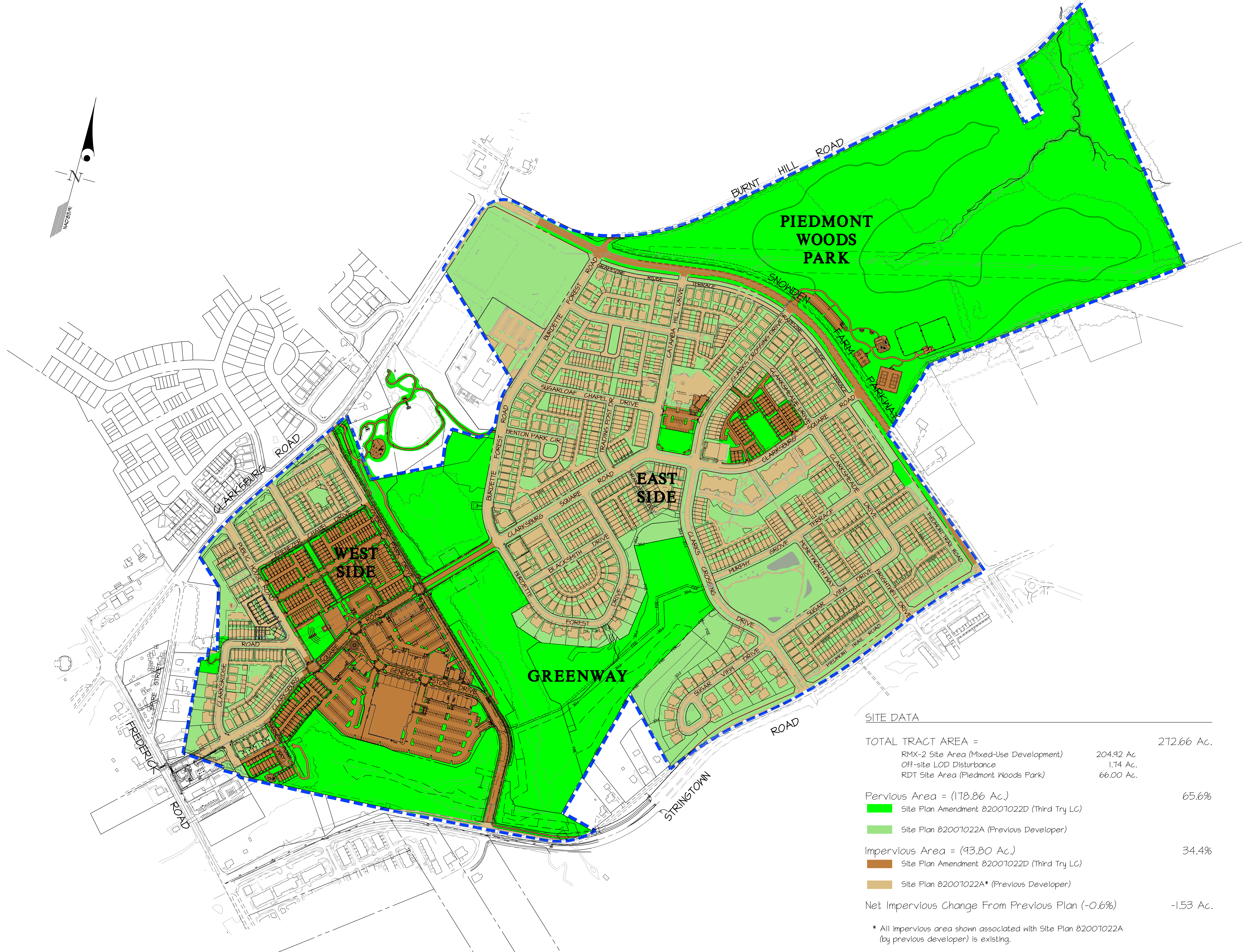
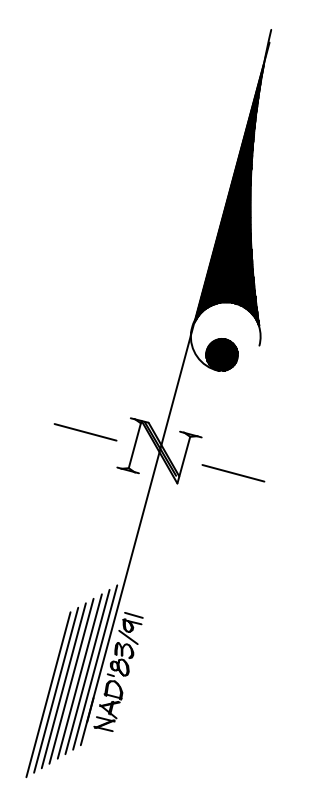


PREPARED FOR:
 FRED STEIN
 678 ELM STREET DEVELOPMENT
 US&A, VIRGINIA, LLC
 ATTENTION: J. GIBBITT
 703-774-1734

SCALE: 1" = 150'
 DATE: JUNE, 2014
 DRAWING NO.: EW-42

Appendix G

Impervious Area Exhibit



SITE DATA

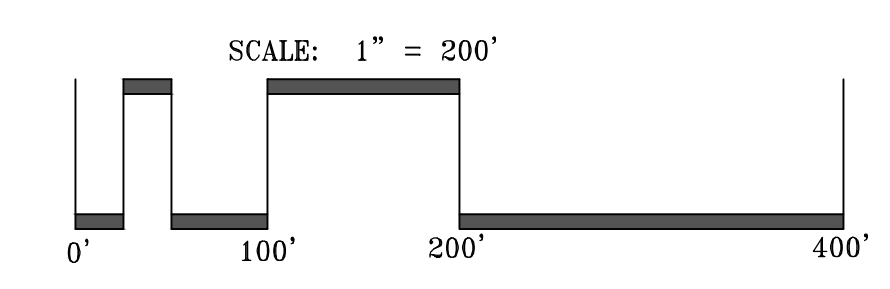
TOTAL TRACT AREA =		272.66 Ac.
RMX-2 Site Area (Mixed-Use Development)	204.92 Ac	
Off-site LOD Disturbance	1.74 Ac.	
RDT Site Area (Piedmont Woods Park)	66.00 Ac.	
Pervious Area = (178.86 Ac.)		65.6%
■ Site Plan Amendment 82007022D (Third Try LC)		
■ Site Plan 82007022A (Previous Developer)		
Impervious Area = (93.80 Ac.)		34.4%
■ Site Plan Amendment 82007022D (Third Try LC)		
■ Site Plan 82007022A* (Previous Developer)		
Net Impervious Change From Previous Plan (-0.6%)		-1.53 Ac.

* All Impervious area shown associated with Site Plan 82007022A (by previous developer) is existing.

CLARKSBURG TOWN CENTER

IMPERVIOUS AREA EXHIBIT

SITE PLAN AMENDMENT No. 82007022D



Appendix H

Project Data Table

Data Table for the RDT & RMX-2/TDR Zones, Optional Method of Development

Development Standard	Zoning Ordinance Permitted/Required	Previously Approved with Site Plan 82007022C	Proposed for Approval with 91994004D and 82007022D
Site Area (acres)			
Gross Tract Area (GTA)	n/a	<u>270.0</u>	<u>270.92</u>
Area in RMX-2		204.0	204.92
Residential			(178.63)
Commercial			(26.29)
Area in RDT		66.0	66.0
Land to be Dedicated for public use	n/a	<u>132.92</u>	<u>130.45</u>
Land for Civic Building/Library		0.89	1.10
School Land to MCPS		1.92	1.92
School Land to MNCPPC		7.24	7.24
Park Land to MNCPPC		80.14	83.02
ROW for Public Streets		42.73	37.17
Net Area	n/a	137.08	140.47
Density & Land Use			
Max. Commercial (FAR) [59-C-10.3.4]	0.5 (300,000 SF)	0.16 (194,720 SF)	0.18 ¹ (206,185 SF)
Max. gross leasable (non-residential) floor area (SF) [59-C-10.3.5]	600,000	194,720	206,185
Commercial Land Use (SF)			
Retail	150,000 Retail Center	194,720	129,545
Office	n/a	0	76,640
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	150 min.	1,206	1,120
Max. Residential Density (du/acre) [59-C-10.3.7]	7 d.u./acre ² (1,428 d.u.)	6.86	6.3 ³
Unit Mix ⁴			
One-family detached	10-20%	219 (18%)	219 (19.6%)
One-family attached	30-50%	700 (58%)	665 (59.3%)
Multi-family	25-45%	287 (24%)	236 (21.1%)
MPDUs [Chapter 25A]	12.5%	12.5%	12.5% (140 MPDUs)
Min. Building Setbacks (ft) [59-C-10.3.8]			
From one-family residential zoning ⁵			

¹ Calculated by dividing total gross floor area by 26.29 acres, which is the area covered by commercial uses in the RMX-2 Zone.

² Max residential density established by the 1994 Clarksburg Master Plan, p.43.

³ Calculated by dividing the total number of units by 178.63 acres, which is the area covered by residential uses in the RMX-2 Zone.

⁴ Mix of units allocated by the 1994 Clarksburg Master Plan, p.44.

- Residential buildings	100	50	50
- Commercial buildings	100	50	50
From residential zoning other than one-family ⁵			
- Residential buildings	30	15	15
- Commercial buildings	50	25	25
From Any Street ⁵			
- Residential buildings	0	0	0
- Commercial buildings	0	0	0
From abutting commercial or industrial zoning (CRN Zone) ⁵			
- Residential buildings	30	15	15
- Commercial buildings	25	12.5	12.5
Min. Individual Lot Setbacks			
One-family attached (Block BB) Lots 1-88			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front/Side)			5
Private Street (Front)			5
Private Street/Alley (Side)			3
Sideyard (Interior Unit)			0
Sideyard (End Unit)			3
Rearyard			5
Accessory Structure Setbacks			
Frontyard			50
Sideyard (Adjacent lot)			0
Sideyard (Street/Alley)	0		
Rearyard	0		
Multi-Family Attached (Block BB) Parcel H, Bldg A-D			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front/Side)			5
Private Street (Front/Side)			5
Sideyard (Adjacent lot/Parcel)			5
Rearyard			5
Accessory Structure Setbacks			
Frontyard			40
Sideyard (Adjacent lot)	0		
Sideyard (Private Street)	0		
Rearyard	0		
Civic Building/Library/Stage (Block BB) Bldg 13 & 14			
Main Structure Setbacks			
Public Street (Front/Side)			5

⁵ The Planning Board may reduce the minimum setbacks, no greater than 50%, upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property.

Private Street (Front/Side)			5
Sideyard (Adjacent lot/Parcel)			5
Rearyard			5
Accessory Structure Setbacks			
Frontyard			40
Sideyard (Adjacent lot)			0
Sideyard (Private Street)			0
Rearyard			0
One-family attached (Block GG) Lots 22-24, 33-34			
Main Structure Setbacks	To be determined at Site Plan		
Public Street (Front)		10	5
Private Street (Front/Side)		5	5
Frontyard		n/a	5
Sideyard (Interior Unit)		0	0
Sideyard (End Unit)		3	3
Rearyard		16	5
Accessory Structure Setbacks			
Frontyard		60	50
Sideyard (End Unit/Street)		0	0
Sideyard (Interior Unit)		0	0
Rearyard		0	0
One-family attached (Block H) Lots 25-60			
Main Structure Setbacks	To be determined at Site Plan		
Public Street (Front/Side)		10	5
Frontyard		3	5
Sideyard (Interior Unit)		0	0
Sideyard (End Unit)		3	3
Rearyard		3	5
Accessory Structure Setbacks			
Frontyard		40	40
Sideyard (End Unit/Street)		0	0
Sideyard (Interior Unit)		0	0
Rearyard		0	0
HOA Community Building (Block J) Parcel H, Bldg 15			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front)			5
Public Street (Side)			5
Frontyard			5
Sideyard			5
Rearyard			5
Accessory Structure Setbacks			
Public Street			5
Frontyard			5
Sideyard			0

Rearyard			0
Max. Building Height (ft)			
Residential	To be determined at Site Plan		
One-family attached			
Lots 1-88, Block BB			40
Lots 81-88, Block BB			45
Lots 33-38, Block GG			45
Lots 39-77, Block GG			40
Lots 25-60, Block H			40
Multi-family			55
Accessory structures			25
Commercial	To be determined at Site Plan		
Building 1			60
Building 2			35
Building 3			35
Building 4			70
Building 5			35
Building 6			35
Building 7			35
Building 8			40
Building 9			35
Building 10			35
Building 11			40
Building 12			70
Building 13			55
Building 14			30
Building 15			40
Min. Green Area or outside amenity area [59-C-10.3.3] ⁶			
Residential (178.63 acres)	50%	52.1%	51.8% (91.83 ac.)
Commercial (26.29 acres)	15%	47.2%	51.6% (13.81 ac.)
Vehicle Parking Spaces [Section 7.7.1.B.3.b] ⁷			
East Side Residential			
One-family attached (36 units)	72 (2 spaces/unit)		72
Visitor spaces (Block H)	n/a		13
Residents Club	<u>n/a</u>		<u>54</u>
Subtotal	72	n/a	139
West Side Residential			
One-family attached (133 units)	266 (2 spaces/unit)		266
Multi-family 2-over-2 (58 units)	116 (2 spaces/unit)		116
Visitor spaces	n/a		
Block GG			10
On-street private			30

⁶ Green Area is calculated based on 204.92 acres in the RMX-2 Zone. Piedmont Woods Park is in the RDT Zone and not part of the calculations for Green Area.

⁷ Parking calculated pursuant to Section 7.7.1.B.3.b of the Zoning Ordinance in effect after October 30, 2014, which allows grandfathered plans to reduce the parking requirements of a previously approved plan in a manner that satisfies the parking requirements of the current Zoning Ordinance.

On-street public			<u>72</u>
Subtotal	<u>382</u>	n/a	<u>494</u>
West Side Mixed-Use Commercial			
Retail (111,545 SF GLA)	Min 390/ Max 669		
Restaurant (22,000 SF)	Min 88/ Max 264		
Office – General (31,360 SF)	Min 63/ Max 94		
Office – Medical (45,280 SF)	Min 45/ Max 181		
Civic (20,000 SF)	<u>Min 0.5/ Max 2</u>		
Subtotal	Min 596/ Max 1,248		<u>886</u>
Total spaces	Min 1,050	n/a	1,519
Bicycle Parking (number of racks)			
King's Pond Park			5
Piedmont Woods Park			8
Resident's Club			4
Regional Center/Library			9
Retail Core Area			28
Total	5%/sp provided	n/a	54
Motorcycle Parking			
Number of spaces	18 (2%/sp provided)	n/a	20

Appendix I

Community Correspondence

From: [D'Attilio, Deborah H](#)
To: [Pereira, Sandra](#)
Cc: kkubit@elmstreetdev.com
Subject: CTC Pool and Recreation support
Date: Monday, June 15, 2015 8:19:25 AM

Hi Sandra,

I am the head of the Clarksburg Town Center Pool and Recreation committee. I have lived in the Town Center for 10 years and served as the head of this committee for more than 6 years. I am writing this email to confirm that the P&R committee worked with Third Try to design the addition to the residents club, the parking and landscaping changes to Sinequa Square. This design of the residence club addition is a compromise to the original plans in an effort to get our community completed. Though we were torn about minimizing the Sinequa Square area, we were in 100% agreement that we need a parking lot to support the pool. The plans seemed to accomplish both things, maintaining some green space while giving us more parking. We worked with the designers to come up with a residence club based on the current use of the community and what we anticipate is our future needs. We are excited about its completion.

In addition I would like to state that I and the committee are most interested in having the TC completed as soon as possible. We are tired of living in a half completed neighborhood.

I personally would like for the county to approve the plans so that we can complete our neighborhood as soon as possible.

Deborah



Deborah D'Attilio, PHR, SHRM-CP
Group Human Resource Manager

301-212-6492 office
866-902-5667 fax
Deborah.Dattilio@ehi.com
#DCRecruitERAC

Washington DC Group
2273 Research Blvd #600
Rockville, MD 20850

enterpriseholdings.com
[FACEBOOK](#) * [TWITTER](#) * [LINKEDIN](#) * [VETERANS HIRING](#)

CONFIDENTIALITY NOTICE: This e-mail and any files transmitted with it are intended solely for the use

From: [Garrett Grim](#)
To: [Pereira, Sandra](#)
Cc: [Kate Kubit](#)
Subject: Clarksburg Town Center Planning Board
Date: Monday, June 15, 2015 9:13:02 PM

My name is Garrett Grim. Until my recent relocation I was a long time resident and property owner in Clarksburg Town Center and was actively engaged in many of the Clarksburg Town Center planning groups and in the Civic Association. Throughout 2011-2013 I was a member of the Architecture Review Board as Elm Street Development presented their unfolding plan for CTC.

I am also a member of Clarksburg United Methodist Church and represented the church in the Architecture Review Board.

I strongly support Elm Street Development's overall plan to finish Clarksburg Town Center. Also I concur with and support those plan details applicable to Clarksburg United Methodist Church.

Garrett Grim

From: [Jean Hulse-Hayman](#)
To: [Pereira, Sandra](#)
Subject: Clark Family Memorial Cemetery in Clarksburg, MD
Date: Wednesday, June 17, 2015 5:19:32 PM

Hello Ms. Pereira,

My name is Jean Hulse-Hayman and I have been a member of the Clarksburg Historical Society, Inc. since 2002. I have lived in Clarksburg since 1983. I am the committee chairperson of the John Clark Cemetery Memorial. The Clarksburg Historical Society members are unanimous in supporting the return of the existing gravestones to as close to their original location as possible. Early this spring, I met with Mary Elizabeth Fleming, a direct-line descendant of John Clark. She is fully in favor of returning the gravestones to as close to their original location as possible. I have been working with Margaret Williams, who walked past the cemetery as a child, Norman Mease, who was the Civic Association President at the time the stones were removed from the area, and with Third Try to attempt to determine the original location of the cemetery. At this point, we have a site that is likely the original location or very close to it. I have visited the Waters Cemetery in Germantown and other old family cemeteries in Clarksburg (Purdum Cemetery). We would like to model the Clark Cemetery after these cemeteries of the same time period. From the inscription on Mrs. Ann Clark's gravestone, it is clear what the Clark family wanted for this cemetery:

"Sacred forever may this place be made,
My Father and Mother's humble shaid,
Unmov'd and undisturb'd till time shall end,
The turf that's round them may God defend."

If you would like to speak to me personally, I can be reached at 301-972-3571.

Have a good evening,
Jean Hulse-Hayman



From: [Jean Hulse-Hayman](#)
To: [Kate Kubit](#)
Subject: Re: Clark Family Memorial Cemetery
Date: Tuesday, June 23, 2015 3:35:55 PM

Hello Ms. Kubit,

After visiting several family cemeteries in upper Montgomery County with members of the Clarksburg Historic Society, the society members determined that a 20 x 20 area for the Clark Family Memorial Cemetery will not be adequate. Using the Waters Cemetery in Germantown as an example since it is in an area of houses just as the Clark Family Cemetery will be, we will need at least 6 feet from the fence to the gravestones. Using the Purdum Family Cemetery for spacing, we determined that an adult grave is 7 feet long. Adult gravestones are between 20 - 24 inches wide and there is a space of 42 inches between the gravestones. Infant gravestones are 15 inches wide.

We would like to place John Clark, his wife and his two infant grandchildren in one row. This means the width of this memorial cemetery will need to be 12 feet (distance from fence on both sides) + 15 inches (infant) + 42 inches + 20 inches (John) + 42 inches + 20 inches (Ann) + 42 inches + 15 inches (infant). This is a total of 28.3 feet wide.

For the length of the cemetery, we would like to have the Clark family members in one row and then the two unrelated people in a second row. This means the length would need to be 12 feet (distance from fence on both ends) + 7 feet (adult) + 3 feet (distance between rows) + 7 feet (adult). This is a total of 29 feet long.

I hope my explanation is clear. If not, I can be reached at 301-972-3571.
Thank you,
Jean Hulse-Hayman
Clarksburg Historical Society
Member since 2002

On Tue, Jun 23, 2015 at 12:08 PM, Kate Kubit <kkubit@elmstreetdev.com> wrote:

Hi Jean,

When you get a minute, would you please email me your reasoning for enlarging the Clark Family Memorial. The reviewer at MNCPPC has asked that we forward this to Parks since what the request will lessen our dedication to Parks and increase our conveyance to the homeowner's association.

Once I get your email, I will forward to MNCPPC.

Please let me know if you have questions.

Thanks,

Kate

Kathryn L. Kubit

Vice President, Elm Street Development

1355 Beverly Road, Suite 240

McLean, Virginia 22101

Direct: [703.734.5220](tel:703.734.5220)

Office: [703.734.9730](tel:703.734.9730)

Email: kkubit@elmstreetdev.com

From: Pereira, Sandra
To: ["marina.arul"](mailto:marina.arul)
Subject: RE: Clarksburg Towncenter
Date: Thursday, May 07, 2015 6:25:00 PM
Attachments: [Clarksburg Town Center overall_07-SITE-I-82007022D-007.pdf](#)

Dear Marina,

Thank you for reaching out to us. We share your eagerness to see the Clarksburg Town Center completed. This project has a long history, but we are optimistic that real progress is underway. About two weeks ago, we received revised drawings for the Clarksburg Town Center which enabled us to schedule the project for a Public Hearing with the Montgomery County Planning Board on July 23. Once the Applicant receives their approval, our understanding is that they intend to start construction right away; first with the residential, roads, parks/amenities, and then the commercial core.

In your voicemail, you asked about what is going to be in the Town Center. The current proposal shows about 206,000 square feet of mixed use/commercial uses. This includes a grocery store, restaurants, office, and other commercial buildings. It also shows 1.1 acres of land to be dedicated for a Regional Center or Library adjacent to large green space that includes a stage and amphitheater for outdoor events. The commercial core has several areas of outdoor seating for restaurants and a plaza with a splash fountain.

In addition to the commercial core, the project will complete the remaining residential units (about 280), Kings Local Park, Piedmont Woods Local Park, and add a Community Building to the Resident's Club and a parking area on Sinequa Square (to serve the Resident's Club).

Please see attached Land Use exhibit for an overview of the entire 270-acre project.

Please feel free to contact me with any questions or concerns.

Sincerely,
Sandra

Sandra Pereira, RLA

Area 3 Coordinator

M-NCPPC Montgomery County Planning Department
8787 Georgia Avenue, Silver Spring, MD 20910
phone (301) 495-2186 :: **fax** (301) 495-1306
sandra.pereira@montgomeryplanning.org

From: marina arul [mailto:marinaarul@gmail.com]
Sent: Wednesday, May 06, 2015 9:19 AM
To: Pereira, Sandra
Subject: Clarksburg Towncenter

Good Mrning Sandra,

I left a message this morning(5/6). We are tired citizens waiting and waiting to know what is going to happen after all these years of discussions and halting the development at Clarksburg Towncenter. Fred was kind enough to send some info, I do not understand one thing and asked me to contact you.

Please, please let us know our future. We are ready to move out if nothing is happening around here. We bought our home in 2005, 10 years went by hearing all the nonsense, time to know the timeline. That is our question. Timeline for Clarksburg Towncenter. Thanks.

Marina

MCP-CTRACK

RECEIVED
0299
MAY 04 2015

From: Jeanie Dodge <dodgeramlam@yahoo.com>
Sent: Friday, May 01, 2015 8:04 PM
To: MCP-Chair
Subject: Clarksburg Towne Center

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

To Whom it Concerns...

The residents of CTC were sent an email asking for opinions on Revised Clarksburg Towne Center plans by Third Try, Inc.

PLEASE do NOT approve construction of a playground on the Kings Park area...this community has enough playgrounds including plenty of play areas on the elementary school property overlooking the park. A playground would RUIN the beauty of the park...

There is already a big playground at the corner of Stringtown and 355 that we have never seen anyone even use.

My home has a wonderful view of the Kings Park and I paid a large premium for the "view" when I purchased this house and the last thing I want to look at everyday is a playground...we already have to listen to kids screaming on the school playground during the day, there is absolutely no reason to build another playground just yards away from the school playgrounds!

Thank You for your consideration of my opinion.

Jeanie Lamborghini
23913 Burdette Forest Road
Clarksburg, MD 20871

From: [Komes, Linda](#)
To: dodgeramlam@yahoo.com
Cc: [Pereira, Sandra](#); [McManus, Patricia](#)
Subject: Clarksburg Town Center-Kings Park Playground
Date: Tuesday, May 05, 2015 5:31:22 PM

Ms. Dodge,

Thank you for your interest in King's Local Park. Your email was referred to me because I am the Landscape Architect/Project Manager for the new amenities in the park, including the playground. As a "Local" Park, the facilities within the park are intended to serve residents of the larger Clarksburg community. You probably didn't know that up until sometime before 2007, King's Local Park had always included a playground. Around that time the old playground equipment was removed in anticipation of a new playground being provided as part of the Clarksburg Town Center amenity package. People have been waiting for the new playground and the other promised amenities to be built in the park for a long time. In fact, many residents purchased their homes years ago with the expectation that there would soon be a new playground in King's Local Park.

While there is a playground at the nearby elementary school, school playgrounds serve a different purpose and are generally not accessible by the general public while school is in session. Additionally school playgrounds do not include the same type of play equipment as public parks, such as swings and other types of climbing and spinning equipment. The new playground is attractively designed to fit within the context of the existing park and includes nature-inspired play equipment designed for children 2-12 years of age. It will include landscape planting, benches for seating and will meet accessibility requirements.

I understand that you currently enjoy a wonderful view of the park. I sincerely hope that you will find that the new playground and amenities in the park do not detract from your wonderful view or your enjoyment of the park. Instead I hope you will be drawn into the park to enjoy the trails, picnic facilities, seating areas, and the fishing pier with your neighbors in the Clarksburg community.

Please feel free to contact me if you have any questions.

Linda

Linda Komes

Landscape Architect/Project Manager Park Development Division

The Maryland-National Capital Park and Planning Commission

9500 Brunett Avenue Silver Spring, MD 20901

301 650 2860

MCP-CTRACK

RECEIVED

MAY 01 2015

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

0295

From: D'Attilio, Deborah H <Deborah.H.D'Attilio@ehi.com>
Sent: Friday, May 01, 2015 11:00 AM
To: MCP-Chair
Subject: Clarksburg Town Center Plan Amendments

Hello,

This email is in support of getting Clarksburg Town Center completed as soon as possible!! The constant delays, posturing, and negotiations have negatively affected our quality of life and our home values. I purchased my home 10 years ago, was promised a completed neighborhood, which still has not come to fruition. Please put yourself in our shoes. We are just home owners who want to have completed amenities, a place to shop and congregate. What we have is a pile of dirt, empty lots, and children just hanging around on street corners because they have nowhere to go. Please stop the delays. Please approve the new plan amendments and help us get our community completed!

Address: 23522 Sugar View DR, Clarksburg, MD 20871

Thank you,
Deborah
(AKA a very frustrated resident in Clarksburg)

Deborah D'Attilio, PHR, SHRM-CP
Group Human Resource Manager

301-212-6492 office
866-902-5667 fax
Deborah.Dattilio@ehi.com
#DCRecruitERAC

Washington DC Group
2273 Research Blvd #600
Rockville, MD 20850

enterpriseholdings.com
FACEBOOK * TWITTER * LINKEDIN * VETERANS HIRING

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MCP-CTRACK

From: Chris Kelly <chriskelly100@yahoo.com>
Sent: Friday, May 01, 2015 12:17 PM
To: MCP-Chair
Subject: Clarksburg Town Center

Planning Board:

I am writing to extend my support for the Clarksburg Town Center proposed improvements. My family has lived in the Town Center for over 12 years, and it is wonderful that positive changes/improvements are on the horizon. As one of the first buyers (all the way back in 2002) much was promised, that unfortunately has not been delivered. My family and I welcome the proposed improvements!

Best personal regards,
Chris and Heather Kelly
12889 Murphy Grove Terrace
Clarksburg, MD 20871

MCP-CTRACK

From: wdbsr2@verizon.net
Sent: Friday, May 01, 2015 1:36 PM
To: MCP-Chair
Subject: Clarksburg Town Center Plan

Please approve the Town Center Plan. I have lived at 12705 Murphy Grove Ter. in the town center for 10 1/2 years and would greatly like to live in a finished community.

Sincerely,

William D. Buckley
12705 Murphy Grove Ter.
Clarksburg MD 20871
301-916-9134 home
301-922-1765 cell
301-948-3333 work

RECEIVED
0296
MAY 01 2015

MCP-CTRACK

From: Shaneea Peek <shaneeadavis@gmail.com>
Sent: Friday, May 01, 2015 3:04 PM
To: MCP-Chair
Subject: Clarksburg Town Center Plan - Support

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

Shaneea Peek
23624 Overlook Park Drive Clarksburg, MD 20871

I'm writing in support of the Clarksburg Town Center plan amendments. Looking forward to finally seeing some progressions in the neighborhoods.

Shaneea Peek

MCP-CTRACK

RECEIVED
0297

MAY 01 2015

From: Lisa Sabelhaus <lisa@sabelhausteam.com>
Sent: Friday, May 01, 2015 4:24 PM
To: MCP-Chair
Cc: Joe Sabelhaus
Subject: I support the Town Center plans!

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

Hello,
My husband, Joe, and I support the plans for Clarksburg Town Center. Please approval the plan so our neighbor can finally be finished.
Thank you!

Lisa and Joe Sabelhaus
Owners of:
13001 Clarksburg Square Road
Clarksburg, MD 20871

MCP-CTRACK

From: Mary Ann Jasper <maryanntjasper@gmail.com>
Sent: Sunday, May 03, 2015 8:05 PM
To: MCP-Chair
Subject: Clarksburg Town Center

To Members of the Planning Board:

I am writing to ask your full support of the Clarksburg Town Center plan amendments proposed by Third Try. I have attended their meetings and participated in their planning process. I fully support the current plan and have confidence that Third Try has the best intentions for our community and will see these plans through.

I have been a resident of Clarksburg Town Center for over 11 years. We have waited so long for our neighborhood to be completed and for the promised amenities such as the business district, and safe, upgraded roads. At times it has been so discouraging, and, seemed like it would never happen. Third Try has given us an opportunity to finally realize what our community has envisioned for so long. Please do everything you can to ensure these plans will go forward and our neighborhood will be completed.

Thank you,

Mary Ann Jasper
12873 Murphy Grove Terrace
Clarksburg, MD 20171

MCP-CTRACK

RECEIVED

MAY 04 2015

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

0304

From: Lana Diggs <lane.diggs@gmail.com>
Sent: Monday, May 04, 2015 10:52 AM
To: MCP-Chair
Subject: Support of the Clarksburg Town Center plan amendments

Dear Planning Board Chair,

My name is Svetlana Diggs and I live at 12712 Piedmont Trail Road, Clarksburg MD in Clarksburg Town Center. I am in favor and support the Clarksburg Town Center plan amendments.

Thank you,
Svetlana Diggs

MCP-CTRACK

RECEIVED
0322

MAY 06 2015

From: Ji Whan Kim <kimjw2@gmail.com>
Sent: Tuesday, May 05, 2015 10:14 PM
To: MCP-Chair
Subject: Clarksburg Town Center

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

MCP Chair:

I am writing to you to show my maximum support of the Clarksburg Town Center plan amendments. It is very much crucial that the amended plans be approved by the Planning Board in a timely manner. I thank you for any support and help you can provide in speedy approval of the plans.

Sincerely,

Ji W. Kim
13101 Clarksburg Sq Rd.
Clarksburg, MD 20871

Appendix J

Comparison of Approved Plans and Proposed Plan Amendments (June 2015)

Appendix J - Comparison of Approved Plans and Proposed Plan Amendments for the Clarksburg Town Center prepared by the Applicant (June 2015)

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
1.	Development Maximums	<ul style="list-style-type: none"> • 1,206 Units • 194,720 s.f. commercial 	<ul style="list-style-type: none"> • 1,120 Units • 206,185 s.f. of commercial (maximum) 	<ul style="list-style-type: none"> • Construction of 30,000 s.f. optional office space will be based on future market demand.
2.	Roads – Stringtown (A-260) Phasing Restrictions	<ul style="list-style-type: none"> • After the 400th building permit, build Stringtown as follows: <ul style="list-style-type: none"> ○ From MD 355 to General Store Drive (Road K/Greenway Road). Also, construct P-5 (Clarksburg Square Road) across the stream valley (completed). ○ From MD 355 to Clarks crossing Drive (Street "C"). • After the 800th building permit, start construction of Stringtown from General Store Drive to Snowden Farm Parkway. • Modified with 2008 Amendment: Timing changes to condition – road must be constructed and open to traffic prior to the release of the 1,101st building permit. 	<ul style="list-style-type: none"> • After the 400th building permit, build Stringtown as follows: <ul style="list-style-type: none"> ○ From MD 355 to General Store Drive (Road K/Greenway Road) (completed). • In June, 2015, Third Try LC and Montgomery County signed a Memorandum of Understanding (MOU) to complete construction of four lanes of Stringtown Road from St. Clair Road (Overlook Park Drive) to Gate Rail Road and two lanes from Gate Rail Road to Snowden Farm Parkway. • Third Try LC will manage the construction of the remaining unbuilt portion of Stringtown Road. • Third Try to manage the construction of and pay for \$4M of the road. • Barring no unforeseen issues, construction on Stringtown Road to commence not later than March 1, 	<ul style="list-style-type: none"> • Construction of Stringtown Road per this MOU addresses Clarksburg Town Center's APF obligations for Stringtown Road.

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
			<p>2016 and should be complete within 20 months.</p> <ul style="list-style-type: none"> The County has acquired all permits for construction of the road. County to acquire necessary property, pay for movement of existing utilities, and pay for costs over \$4M. 	
3.	Roads – Clarksburg (A-27)	<ul style="list-style-type: none"> Reconstruct Clarksburg Road from Overlook Park Drive to Snowden Farm Parkway prior to issuing the 1,101st building permit. Reconstruct Clarksburg Square Road from Overlook Park Drive to Spire Street prior to the release of the UNO for the retail center. Reconstruct Clarksburg Road from MD-355 to Spire Street (project share with MCDOT). 	<p>A MOU between Montgomery County and Third Try to build Clarksburg Road improvements was executed in June, 2015. Pertinent details of this MOU are as follows:</p> <ul style="list-style-type: none"> Third Try will contribute \$3.2 million dollars toward the design and construction of Clarksburg Road, including the intersection of Clarksburg Road and Snowden Farm Parkway (including the 400' gap of unfinished Snowden Farm Parkway), Clarksburg Road and MD-355, and frontage improvements of Clarksburg Road along Clarksburg Town Center. Montgomery County to manage the design and construction of all Clarksburg Road improvements, including the acquisition of necessary right-of-way and Clarksburg Town Center frontage improvements. Montgomery County to pay all costs in excess of \$3.2 million. Construction to commence no later 	<ul style="list-style-type: none"> Payment by Third Try as outlined in the Clarksburg Road MOU addresses Clarksburg Town Center's APF obligations for Clarksburg Road.

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
			than December 31, 2017 and should be finished within 24 months.	
4.	Roads – Turn Lanes	<ul style="list-style-type: none"> • Southbound right turn lane along MD 355 at Clarksburg Road (complete). • Northbound right-turn lane along MD 355 at Stringtown Road (complete). • Eastbound turn lane along Clarksburg Road to MD 355. • Westbound turn lane along Clarksburg Road to MD 355. 	<ul style="list-style-type: none"> • Southbound right turn lane along MD 355 at Clarksburg Road (complete). • Northbound right-turn lane along MD 355 at Stringtown Road (complete). • Eastbound turn lanes along Clarksburg Road to MD 355 is included in the Clarksburg Road MOU, signed June, 2015. • Westbound turn lanes along Clarksburg Road to MD 355 is included in the Clarksburg Road MOU, signed June, 2015. 	<ul style="list-style-type: none"> • Payment by Third Try as outlined in the Clarksburg Road MOU addresses Clarksburg Town Center's APF obligations for the Eastbound turn lanes. • Payment by Third Try as outlined in the Clarksburg Road MOU addresses Clarksburg Town Center's APF obligations for the Westbound turn lanes.
5.	Roads – Connection to MD355	<ul style="list-style-type: none"> • Applicant to enter into a Subdivision Road Participation Agreement with MCDOT to: <ul style="list-style-type: none"> ○ Provide for future connection of Clarksburg Square Road to M-355 in order to align with Redgrave Place. ○ Relocate entire Horace Wilson House in order to accommodate vehicular connection. • Applicant's cost shall not exceed \$500,000. • If right-of-way has not been obtained within one year of the date 	<ul style="list-style-type: none"> • To-date, applicant has entered into a Subdivision Road Participation Agreement with MCDOT to: <ul style="list-style-type: none"> ○ Provide for future connection of Clarksburg Square Road to M-355 in order to align with Redgrave Place. ○ Relocate entire Horace Wilson House in order to accommodate vehicular connection. • \$500,000 escrowed; Agreement for right-of-way has been signed. 	<ul style="list-style-type: none"> • No change to original conditions. • Note that design work has started, including plans to move the entire Horace Wilson House. • This design work has been initiated under a separate preliminary/site plan/site plan amendment/mandatory referral process, currently scheduled to be heard by the Planning Board on 7/16. • Plans for the work will need MNCPPC, DPS HPC, MDE, and DPS design approvals.

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
		of the Project Plan Resolution, then the \$500,000 must be escrowed (completed).		<ul style="list-style-type: none"> Once approvals are obtained, Third Try has met all of its APF obligations for this work.
6.	Roads – Snowden Farm Parkway (A-305)	<ul style="list-style-type: none"> Construct A-305 from Stringtown Road to Clarksburg Road (complete except last 400’). Add islands and cross walks to parts of A-305 that have been completed. 	<ul style="list-style-type: none"> The 400’ gap of unimproved Snowden Farm Parkway as is included in the Clarksburg Road MOU, signed June, 2015. Not included in amended plans. 	<ul style="list-style-type: none"> Payment by Third Try as outlined in the Clarksburg Road MOU meets Clarksburg Town Center’s APF obligations for the unimproved 400’ gap of Snowden Farm Parkway. In addition to the MOU, the County has collected the cash amount identified in the bond acquired by Newlands for this work.
7.	Parks – Kings Local Park	<ul style="list-style-type: none"> Grading, seeding and preparing replacement athletic fields for use during school/park construction (completed) Picnic areas with grills (completed) Gazebo (completed) Picnic tables (completed) Playground and seating area “similar to Arora Hills” Site furnishings including approximately six benches and a bike rack Landscaping Retaining walls 	<ul style="list-style-type: none"> Grading, seeding and preparing replacement athletic fields for use during school/park construction (completed) Picnic areas with grills (completed) Gazebo (completed) Picnic tables (completed) Playground as shown on proposed amendment (also approved, with comments, by the Parks Department) Site furnishings including benches and bike racks Revised landscaping Reconfiguration of grading and landscaping to improve visibility of and pedestrian access to Kings Local Park from the West Side. Paths to the pond and around the 	<p>Third Try drafted and submitted Kings Local Park Plans as part of the 2015 Site Plan Amendment. These plans have been reviewed by the Parks Department. Comments received from the Parks review have been included (or will be included in the permit set) accordingly on the plans. The Park will include everything listed in the adjacent column.</p> <ul style="list-style-type: none"> Retaining walls (no longer necessary with revised grading).

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
		<ul style="list-style-type: none"> • Paths to the pond and around the pond from the parking area and picnic shelters • Sitting areas • Fishing Pier • Porta John enclosures • Two wood and stone entry signs 	<p>pond from the parking area and picnic shelters</p> <ul style="list-style-type: none"> • Sitting areas • Fishing Pier • Porta John enclosure • Park Entry Sign (similar to Clarksburg Village Local Park or Ovid Hazel Wells Park) (Completed) 	
8.	Parks – Piedmont Woods	<p>“New” Piedmont Woods Park identified. Requirements for this park include the following:</p> <ul style="list-style-type: none"> • 66 Acre dedication to Montgomery County • 10,000 s.f. multi-age playground • Dog exercise area (includes fencing/mowstrip/maintenance vehicle gate/drinking water source/shade structure for dogs) • Three picnic shelters with three picnic tables in each shelter • Restrooms with water fountains • Large entry sign made of masonry and wood • Basketball Court • Tennis Courts • Approximately 55 space parking lot 	<p>Piedmont Woods Park to be included in the amended plans. Requirements for this park include the following:</p> <ul style="list-style-type: none"> • 66 Acre dedication to Montgomery County • Multi-age playground • Dog park with fencing • Two picnic shelters with one grill and two tables in it • Port John enclosures (2), water source for dog park/water fountain • Large entry sign comparable to Clarksburg Village Local Park or Ovid Hazel Wells Park • Basketball Court • Two tennis court • Approximately 45 space parking lot 	<p>Third Try drafted and submitted Piedmont Woods Plans as part of the 2015 Site Plan Amendment. These plans have been reviewed by the Parks Department. Comments received from the Parks review have been included (or will be included in the permit set) accordingly on the plans. The Park will include everything listed in the adjacent column.</p>

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
		<ul style="list-style-type: none"> • Benches and trails • Landscaping • Special signage along trails • A kiosk and wild bird boxes 	<ul style="list-style-type: none"> • Revised trails and benches • Revised landscaping 	
9.	Parks – Trails and Greenway	<ul style="list-style-type: none"> • Construct 8' wide hiker biker trails as along the south side of Clarksburg Road. • Construct 8' wide hard surface trail along Overlook Park Drive. • Construct 4' wide natural surface trail system within the Greenway from Kings Local to Stringtown in the Greenway, including a crossing at Clarksburg Road and a lighted crossing under Clarksburg Square Road. • Construct Trails to MNCPPC and DPWT standards. • Dedicate and convey land east of Overlook Park Drive to MNCPPC. • Locate benches along trail, as appropriate. • Include landscaping in greenway per conditions and site plan. 	<ul style="list-style-type: none"> • Construct 8' wide hard surface trail along Overlook Park Drive. • Construct Trails to MNCPPC and DPWT standards. • Dedicate and convey land east of Overlook Park Drive to MNCPPC, except the Clark Family Memorial, which will be conveyed to the Town Center Homeowner's Association. • Locate benches along trail, as appropriate. • Include landscaping in greenway similar to landscaping planted in Clarksburg Village parcels that are dedicated to Parks. 	<ul style="list-style-type: none"> • The 8' wide hiker biker trail along the south side of Clarksburg Road to be referenced in the MOU. All Clarksburg Road Improvements are included in the Clarksburg Road MOU and will be addressed by Montgomery County during the design of Clarksburg Road. • The 4' side natural surface trail system within the Greenway will be eliminated including the crossings at Clarksburg Square Road.

	<u>Item</u>	<u>Previous Requirements approved with</u> 91994004C, 11995042A, 82007022B	<u>2015 Plan Amendments</u> (91994004D, 11995042B, 82007022D)	<u>Applicant's Comments</u>
10.	Civic Space (Library)	<ul style="list-style-type: none"> • Provide parcel for library • Build 45 space surface parking; plans allow 88 spaces of structured parking. 	<ul style="list-style-type: none"> • Provide parcel for civic/office use. • Provide parking with approximately 55 parking spaces and appropriate SWM. 	<ul style="list-style-type: none"> • The 1.1-acre Parcel to be dedicated to the County for the building and parking lot when requested by the County.
11.	Clarksburg United Methodist Church (CUMC)	<ul style="list-style-type: none"> • Provide landscaping that does not reduce visibility to church. • Provide an easement for a pedestrian connection to the church. • Construct Grand Staircase with brick pavers, specific paving at landings, landscaping, benches, and brick piers. 	<ul style="list-style-type: none"> • Provide appropriate landscaping at path entrances from Clarksridge Road, from CUMC and along trail. • Deed parcel that contains trail to CUMC. • Provide hard surface ADA-accessible path connection from Clarksridge Road to church. 	<ul style="list-style-type: none"> • The Grand Staircase will be eliminated and the parcel redesigned, per agreement with CUMC and emails of support emails dated June, 2015.
12.	Murphy's Grove Pond Improvements	<p>2008 Site Plan Amendment requires:</p> <ul style="list-style-type: none"> • Brick paved sidewalks surrounding pond. • Additional landscaping • Tree caliper increase • Pump for pond • Fishing pier and wooden platform • Picnic areas • Game tables • Wetlands/meadow areas 	No Murphy's Grove improvements by Third Try, LC will be included with the 2015 amendments.	Newland to address Murphy's Grove Pond improvements.
13.	Sinequa Square/Resident's Club	<ul style="list-style-type: none"> • Pool expansion (completed) • Residents club updates including addition with sports court, multi-purpose room, fire pit, full-service kitchen, snack bar, and additional storage, etc. 	<ul style="list-style-type: none"> • Pool expansion (completed) • Additional building adjacent to residents club updates to include a large multi-purpose room, catering kitchen with access to raised pool deck and to the community room, 	<ul style="list-style-type: none"> • The Residents Club building design and updates to Sinequa Square was developed in collaboration with the CTC Pool and Rec Committee, who supports the proposed changes on

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		<ul style="list-style-type: none"> Enhancements of Sugarloaf Chapel Drive adjacent to the resident's club gravel/asphalt mix and additional parking Sinequa Square Improvements including amphitheater, seating walls, pavilion, etc. 	<p>additional storage, wi-fi, etc.</p> <ul style="list-style-type: none"> Additional parking area adjacent to Resident's club with at least 30 spaces. Asphalt/gravel mix to be removed from the plans. Sinequa Square improvements include sidewalks, benches, trees and landscaping. <p>Also included in 2015 amendment:</p> <ul style="list-style-type: none"> Pool deck updates to include raised deck area to serve food. Phasing to limit/eliminate any encroachments on the pool deck and to not impact swim season will be adhered to as much as possible. 	<p>the Amendment.</p> <ul style="list-style-type: none"> The 2015 amendment also removes any pool deck encroachments due to increase in building size (the 2008 amendment shows these pool deck encroachments). This amendment also removes the fire pit. There will be an outdoor amphitheater located in the retail core area next to the civic building, complete with stage. This amphitheater will be constructed on land to be owned by the retail center.
14.	Block H	<ul style="list-style-type: none"> Block H unit mix of 33 townhomes and 2/2s to be built. Block H Triangle Park and open play area enhancements (benches, game tables, tree caliper increase, increased landscaping, special pavers, checkerboard paving, and stone dust path). 	<ul style="list-style-type: none"> Block H will have 35 townhomes remaining to be built. Mews with landscaping, paths and benches for seating areas in Block H will be included in the amendment. 	<ul style="list-style-type: none"> Game tables, special pavers, stone dust path, checkerboard paving and tree caliper increase to be deleted and replaced with different amenities in the current proposal.

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15.	Miscellaneous on-site improvements – Built areas on East Side and West Side	<ul style="list-style-type: none"> • Special soil treatment • Tree caliper increase for the remaining trees to be planted. • Local notice boards • Street lights with banners on Clarksburg Square Road • Decorative street sign posts throughout the community • Decorative mailboxes • Game tables in various locations throughout the site • Alley screening and wooden fencing 	Built areas of Clarksburg Town Center will not be included in the 2015 amendments. These remaining enhancements will not be the responsibility of Third Try, LC.	<ul style="list-style-type: none"> • Some of these improvements have been partially or fully installed by Newland, including some of the local notice boards and mailboxes, some of the game tables, and some of the landscaping.
16.	Miscellaneous on-site improvements – Unbuilt Areas	<ul style="list-style-type: none"> • Decorative mailboxes • Alley screening and wooden fencing • Decorative street sign posts throughout the community • Day Dream Avenue special pavers • Local notice boards • Street lights with banners on Clarksburg Square Road • Game tables in various locations • Special soil treatment • Tree caliper increase for the remaining trees to be planted 	<ul style="list-style-type: none"> • Mailboxes, alley screening, and sign posts will be installed if required to match existing community. • Day Dream Avenue will now be a grass mews with pedestrian sidewalk connecting to the Town Center. 	<ul style="list-style-type: none"> • Completing improvements in unbuilt areas of Clarksburg Town Center will be the responsibility of Third Try, LC, per the submitted site plan. • The following items will not be included in the submitted amendments: local notice boards, banners on streetlights, game tables, special soil treatment, tree caliper increase
17.	Land Bridge	Custom metal railing at Clarksburg Square Road Land Bridge with seating area.	Railing and landscaping at land bridge, as shown on the revised site plan, will be included in the plan.	
18.	Murphy's Terrace Stairs	Murphy Grove Terrace stairs and guard rail.	Additional landscaping and trees in landscaping area adjacent to Murphy's Terrace. Provide pedestrian connection.	Stairs are Still required to overcome the grade difference.

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19.	Miscellaneous on-site requirements – recreational facilities	<ul style="list-style-type: none"> • Basil Square(completed) • Sinequa overlook swing set (completed) • Hidden Meadow motion equipment (completed) • Brightwell square (completed) • Snow Hill tot lot, additional surfacing, and fencing • Ebenezer Park • Ashford Square • Harness Point tot lot 	<ul style="list-style-type: none"> • Basil Square (completed) • Sinequa overlook swing set (completed) • Hidden Meadow motion equipment (completed) • Brightwell square (completed) • Ashford Square (completed) • Harness Point tot lot will be included in the site plan amendment 	<ul style="list-style-type: none"> • Updates to built areas in the community will not be included in the 2015 amendment as they are not the responsibility to Third Try, LC.
20.	Retail Core Additions	<p>Included in 2008 amendment:</p> <ul style="list-style-type: none"> • Parking garage • Live/work units • Tree caliper increase • Town Bosque • Market Square • Library Plaza • Retaining wall • Brick paver sidewalks • Granite curbs • Brick handicapped ramps • Fountain made of granite and bluestone and stone veneer • Metal benches • Entry Piers 	<p>Additions to be included on 2015 amended plans:</p> <ul style="list-style-type: none"> • Surface parking behind buildings/walls/landscaping. • Redesigned Civic Plaza • Sidewalks of varying materials, including brick pavers • Standard curbs • Handicapped ramps of suitable materials • Plaza with Splash fountain • Benches and trash receptacles to complement existing street scape and buildings • Entry piers to match existing piers • Signs for retail core 	<p>The 2015 amendments will not include:</p> <ul style="list-style-type: none"> • Parking garage • Live/work units • Tree caliper increase • Tree bosque • Market square • Retaining wall no longer needed

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			<p>Also included in this amendment:</p> <ul style="list-style-type: none"> • Outdoor amphitheater with seating walls and green lawn • Stage for performances 	
21.	John Clark Memorial	<ul style="list-style-type: none"> • Located limestone obelisk memorial made of granite with limestone seat wall, special paving, and special landscaping located at the General Store Dive/Overlook Park Drive. 	<ul style="list-style-type: none"> • Memorial to be located near last known location of John Clark Family Cemetery. • Memorial may include existing headstones of Clark Family, pending agreement with Clarksburg Historical Society and MNCPPC. 	Obelisk will be eliminated and location of the Clark memorial will be moved.
22.	Stream valley buffer adjacent to Stringtown Road and Retail Core	<ul style="list-style-type: none"> • Type I Forest Conservation Easement 	<p>Conservation will be changed to a Type I Forest Conservation with the Maintenance and Management Agreement to allow for the strategic trimming of trees after they reach 20' tall (as measured on the side of the grocery store) to provide crucial visibility Clarksburg Town Center retail core from Stringtown Road. Upkeep of this area will be necessary and can be performed by coordinating with and approval of the forest conservation inspector.</p>	<p>Visibility is absolutely essential to viability of retail centers. Future retailers will require visibility from Stringtown before they will locate in Clarksburg Town Center.</p>
23.	Brick Pavers	<ul style="list-style-type: none"> • Soldier course edging/brick band at Clarksridge Road, Clarks crossing Drive, Burdette Forest Road, Overlook Park Drive • Brick pavers for Clarks crossing Drive, Clarksburg Square Road, and around Murphy Grove Pond, Sinequa Square 		<ul style="list-style-type: none"> • Brick edging/brick band has been installed by Newland.