



Clarksburg Town Center: Preliminary Plan No. 11995042C and Site Plan No. 82007022E

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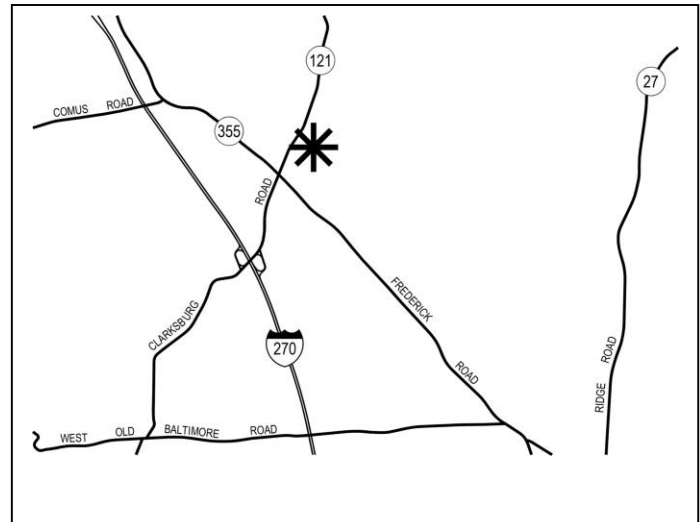
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Staff Report Date: 03-10-16

Description

- Amendments to replace 11 multi-family units (including 3 MPDUs) with 9 one-family attached units (including 3 MPDUs) and 1 HOA parcel; 0.36 acres; RMX-2 zone;
- Located in the northwest quadrant of the intersection of Catawba Hill Road and Sugarloaf Chapel Drive in the 1994 Clarksburg Master Plan & Hyattstown Special Study Area and as amended in 2011 and 2014
- Application Accepted: August 28, 2015
- Applicant: Miller and Smith at Clarksburg, LLC



Summary

Staff recommends approval of Preliminary Plan No. 11995042C and Site Plan No. 82007022E for the Clarksburg Town Center.

- The Applications are reviewed under the Zoning Ordinance in effect prior to October 30, 2014, due to the grandfathering provisions for applications approved before October 30, 2014 in Section 59.7.7.1.B.3.

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SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The subject site (“Property”) is located on the East side of the Clarksburg Town Center development, which is located northeast of Frederick Road (MD 355) between Clarksburg Road and Stringtown Road in the Clarksburg Planning Area. The Property, identified with a star on Figure 1, is bound by Catawba Hill Road to the east and Sugarloaf Chapel Drive to the south. Surrounding the Property to the north and west are approved townhouse units, some of which are built already. Across Catawba Hill Road is the Residents’ Club for the Clarksburg Town Center development and associated amenity areas. Little Bennett Elementary School is located one block to the north beyond Burdette Forest Road. The Property, and surrounding vicinity, is all zoned RMX-2 per the Zoning in effect prior to October 30, 2014.

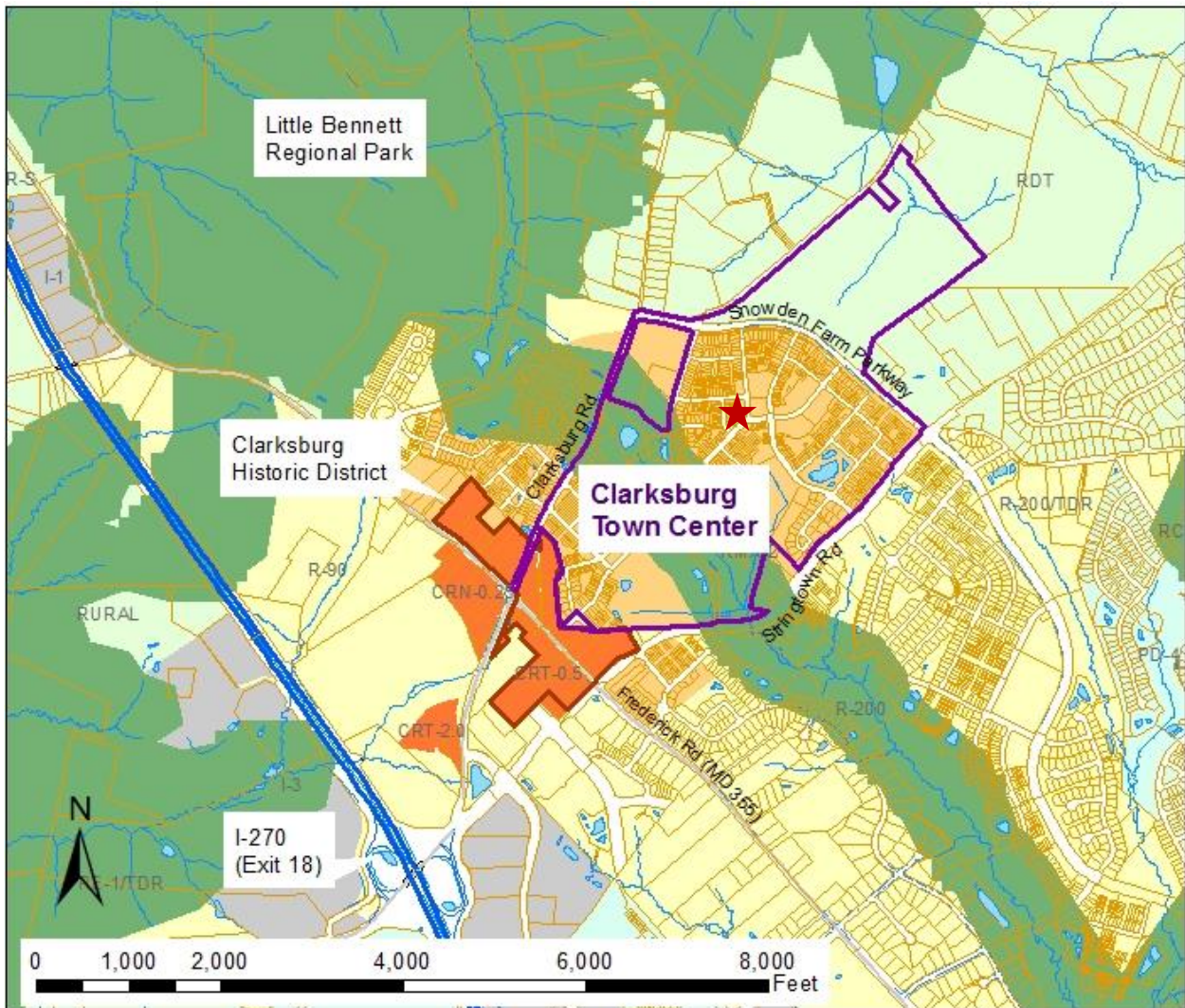


Figure 1 - Vicinity Map with the overall Clarksburg Town Center project outlined and Subject Property highlighted with a star

Site Analysis

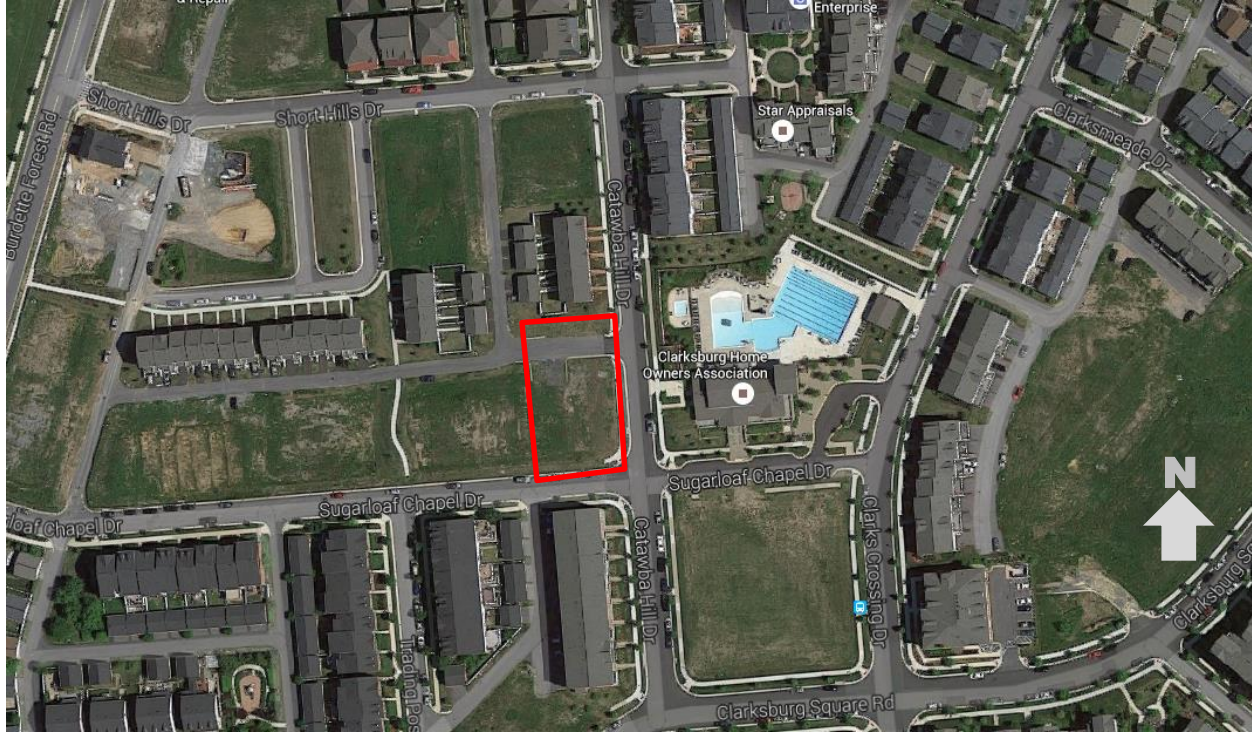


Figure 2 - Aerial Photo of the Subject Property outlined in red

The Amendment is limited to a 0.36-acre site, which is owned and controlled by the Applicant, within the larger Clarksburg Town Center project. Currently, the site is vacant and mostly flat. Figure 2 outlines the limits of the Amendment.

PROJECT DESCRIPTION

Background & Previous Approvals

919940040 & 119950420

In December 1994, both a Project Plan (#919940040) and a Preliminary Plan (#119950420) were submitted for 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 by applying the optional method of development under RMX-2 zoning. 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)

On June 15, 2006, the Planning Board approved the Compliance Plan which is an agreement between Newlands (Developer) and Clarksburg Town Center Advisory Committee (CTCAC) which was captured in large part in an amended site plan for the entire site correcting discrepancies of the approved development standards to existing and proposed structures, and it called for significant improvements to the Town Center.

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]. 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.

91994004D, 11995042B, 82007022D

In September 2015, the Planning Board approved an Amendment to the Clarksburg Town Center Site Plan to reduce the total number of residential units to 1,120; increase overall commercial density to 206,185 SF including the addition of 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 [MCPB Nos. 15-85, 15-86 & 15-92].

Proposal

The subject Preliminary and Site Plan Amendments (collectively or independently referred to as "Application" or "Amendment") to the approved Clarksburg Town Center propose to replace 11 multi-family units (including 3 MPDUs) with 9 one-family attached units (including 3 MPDUs) and 1 HOA parcel (Figures 3 and 4). The proposed units will be 3 stories, 16-foot wide, rear-loaded accessed from a private alley off Sugarloaf Chapel Drive, and fronting on Catawba Hill Road. The Amendment is being reviewed under the Zoning Ordinance in effect prior to October 30, 2014.



Figure 3 - Rendering of proposed 9 one-family attached units

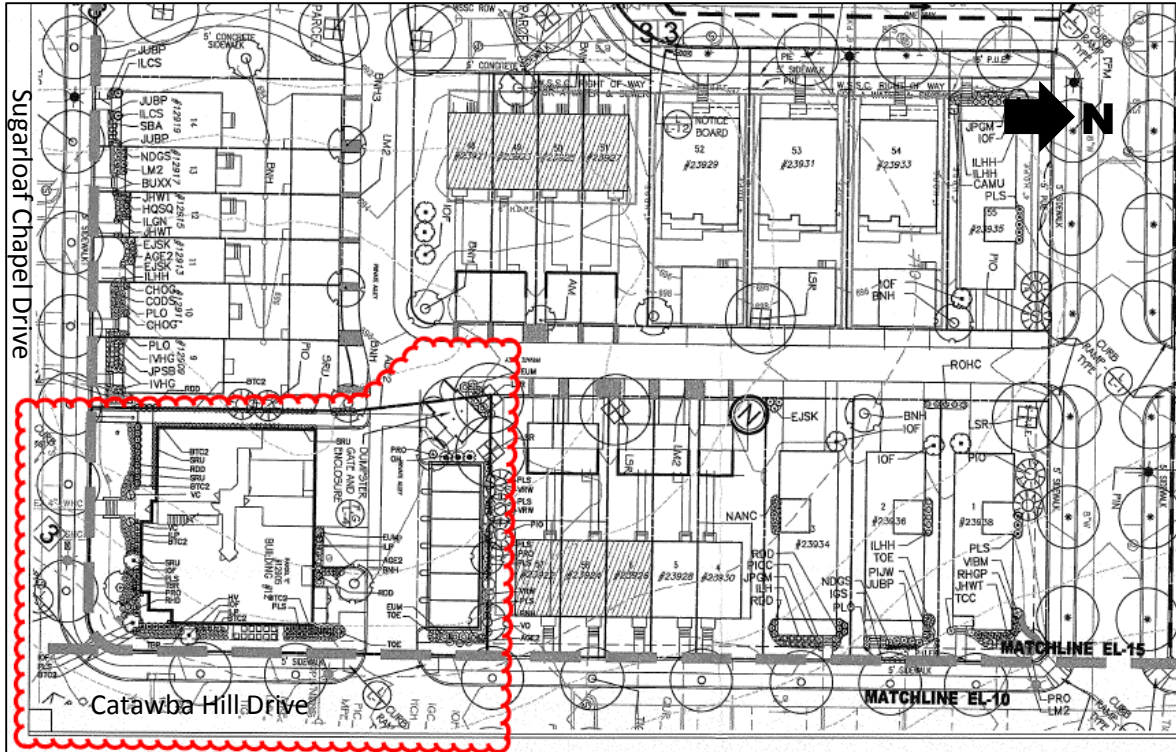


Figure 4 - Approved manor house with 11 multi-family units

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 1, 2015. As of the date of this Staff Report, Staff has not received correspondence on the Amendments.

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. 11995042C, subject to the conditions below. All other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

1. This Preliminary Plan is limited to a maximum of 1,118 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.
2. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 10, 2016 for the Subject Application, 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. This letter does not supersede all previous MCDOT letters referenced in other approvals and covering other areas.
3. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
4. Prior to recordation of any plat, Site Plan No. 82007022E must be certified by Staff.

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”¹). The Property is located within the Town Center District identified on Page 42 of the Master Plan.

The modifications proposed by this Amendment have a very negligible impact on the Master Plan conformance findings of previous approvals. The Amendment still meets the eight policy objectives of the Master Plan for the Town Center (pages 15-30). In terms of land use objectives (page 44), the Amendment substantially conforms to the recommendations in the Master Plan for housing mix. Although the ratio of multi-family units has decreased slightly from 21.1 to 20.1 percent and one-family attached units has increased slightly from 59.3 to 60.3 percent, the resulting mix of residential and non-residential uses will still enable the creation of a lively and diverse place as envisioned by the Master

¹ *The Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area* does not include the Subject Property.

Plan. The housing mix provided is not appreciably different than the current approved plans and maintains the general goals of the Master Plan while responding to market demand.

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

Housing Mix	Master Plan (p.44)	Approved with 11995042B	Proposed
Multi-family	25 to 45%	21.1%	20.1%
Attached	30 to 50%	59.3%	60.3%
Detached	10 to 20%	19.6%	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).

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

As a result of several APF validity extensions granted by the County Council, the subject Preliminary Plan has an APF approval through March 26, 2022. The modifications 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 11995042B.

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

Access to the Subject Property is provided off Sugarloaf Chapel Drive via a one-way private alley, which connects to the alleyway system internal to Block N. In coordination with MCDOT, the alley will be used as a right-in only off Sugarloaf Chapel Drive and the curb in front of Lot 9 on Sugarloaf Chapel Drive will be modified to provide one-way channelization. Pedestrian access is provided off Catawba Hill Drive to the front of the lots and via the private alley to the rear of the lots.

As previously approved, access to the Subject Property was provided off Catawba Hill Drive via a private alley. The proposed modification will enable creating a continuous building façade along Catawba Hill Drive, which abuts the Resident’s Club and associated amenity areas, while maintaining safe, adequate and efficient vehicular access and circulation to the new townhouse units.

Local Area Transportation Review (LATR)

The overall Clarksburg Town Center site, which this application is part of, has a valid APF approval for transportation facilities. The transportation impact of the revised development program does not exceed the impacts of the previously approved development.

Policy Area Review

Modifications proposed by the Subject Application do not impact Policy Area Review findings as approved by the Planning Board most recently with Amendment No. 11995042B.

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

The Amendment does not contemplate any modifications to the approved Final Forest Conservation Plan.

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

The Amendment does not contemplate any modifications to the approved SPA Final Water Quality 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 are 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 82007022E. 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 conditions below.² All other Site Plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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. 11995042C, or as amended.
3. Fire and Rescue
The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its correspondence dated December 29, 2015, 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. This letter does not supersede all previous MCFRS letters referenced in other approvals and covering other areas.

Density & Housing

4. Density
The development is limited to a maximum of 206,185 SF of commercial uses (including office and retail), and a maximum of 1,118 dwelling units (including 12.5% MPDUs), on 270.92 acres.
5. Moderately Priced Dwelling Units (MPDUs)
 - a) The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its correspondence dated October 7, 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.
 - b) The development must provide 12.5 percent MPDUs on-site as shown on the certified site plan and consistent with the requirements of Chapter 25A and the Master Plan.
 - c) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the DHCA must be executed.

² 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.

Site Plan

6. Architectural Design/Compatibility

- a) 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.
- b) The Applicant must enhance high visibility end unit facades (Lots 78 and 86) 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. The details of the architectural treatments must be shown on the Certified Site Plan.

7. Site Plan Surety and Maintenance Agreement

Before issuance of the 1st building permit, 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, site furniture, mailbox pad sites, 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 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.

8. 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.

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 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.

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 Subject Property is zoned RMX-2 per the Zoning Map in effect prior to October 30, 2014. The Amendment was reviewed under the Zoning Ordinance in effect prior to October 30, 2014, which is allowed under the grandfathering provisions for applications approved before October 30, 2014 in Section 59.7.7.1.B.3. As demonstrated in the Data Table below, the Amendment meets the general requirements and development standards of the RMX-2 zone, under the optional method of development.

The Amendment slightly modifies the housing mix for the overall project. As a result, the ratio of multi-family units continues to be below the Master Plan recommended ratio, and the ratio of one-family attached units continues to be above the recommended ratio. As previously approved, the Planning Board found that the project substantially conformed to the Master Plan by providing a mix of residential and non-residential uses that enabled the creation of a lively and diverse place as envisioned by the Master Plan although the housing mix provided was slightly outside the ratios recommended. Because the new housing mix provided is not significantly different from the current approved plans and maintains the general goals of the Master Plan while responding to market demand, Staff finds that the Amendment substantially conformed to the Master Plan. Lastly, DHCA strongly supports replacing the approved multi-family units with one-family attached.

The Data Table below lists only those development standards that are being modified by the Subject Amendment. All other development standards remain in full force and effect as approved.

Data Table for the RMX-2 Zone, Optional Method of Development

Development Standard	Zoning Ordinance Permitted/Required	Previously Approved with Site Plan 82007022D	Proposed for Approval with 82007022E
Density & Land Use			
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	150 min.	1,120	1,118

Max. Residential Density (du/acre) [59-C-10.3.7]	7 d.u./acre ³ (1,428 d.u.)	6.27 ⁴	6.26
Unit Mix ⁵			
One-family detached	10-20%	219 (19.6%)	219 (19.6%)
One-family attached	30-50%	665 (59.3%)	674 (60.3%)
Multi-family	25-45%	236 (21.1%)	225 (20.1%)
MPDUs [Chapter 25A]	12.5%	12.5%	12.5% (140 MPDUs)
Min. Individual Lot Setbacks			
One-family attached (Block N) Lots 78-86			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front/Side)			5
Sideyard (Interior Unit)			0
Sideyard (End Unit)			3
Rearyard			5
Accessory Structure Setbacks			
Frontyard			50
Sideyard (End Unit/Street)			3
Sideyard (Interior Unit)			0
Rearyard			0
Max. Building Height (ft)			
Residential	To be determined at Site Plan		
One-family attached Lots 78-86, Block N			40
Accessory structures			25
Vehicle Parking Spaces [Section 7.7.1.B.3.b]			
East Side Residential			
One-family attached (9 units)	18 (2 spaces/unit)	n/a	18

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. The Amendment replaces 11 multi-family dwelling units (including 3 MPDUs) with 9 one-family attached dwellings units (including 3 MPDUs). The attached units are adequately oriented towards Catawba Hill Road, which abuts the Residents' Club, and rear loaded from a private alley off Sugarloaf Chapel Drive. This orientation combined with minimum or no setbacks from the road is consistent with other built units on Catawba Hill Road, which will allow for a seamless continuation of the streetscape treatment and pedestrian experience.

³ Max residential density established by the 1994 Clarksburg Master Plan, p.43.

⁴ 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.

⁵ Mix of units allocated by the 1994 Clarksburg Master Plan, p.44.

b) Open Spaces

The Amendment does not contemplate any modifications to the approved open space network.

c) Landscaping and Lighting

The landscaping is adequate, safe, and efficient. The Amendment makes revisions to the landscape in Lot N in order to accommodate the new unit types and layout revisions. The landscape plan includes street trees, which will replace existing street trees as necessary if disturbed during construction. It includes ornamental trees in front yards and in between rear driveways, which adequately scale down the buildings while providing shade and aesthetic value. Evergreen trees at the entrance to the alleyway efficiently screen a portion of the alleyway and narrow its perceived width.

The Amendment does not contemplate any modifications to the approved lighting.

d) Recreation Facilities

The Amendment does not contemplate any modifications to the approved recreation facilities. The change in unit type from multi-family to one-family detached units combined with a decrease in the overall number of units has decreased the recreation demand points for the project. As a result, the approved recreation facilities continue to be adequate, safe, and efficient at meeting the recreation demand for the total of 1,118 units.

e) Pedestrian and Vehicular circulation systems

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. The Amendment continues the existing sidewalk along Catawba Hill Road and wraps it around the corner to Sugarloaf Chapel Drive. The 5-foot accessible sidewalk adequately and safely accommodates pedestrian circulation within the site and to the front of the units. Vehicular circulation is accommodated via a new one-way private alley that is accessed off Sugarloaf Chapel Drive and connects to the alley system in Block N. In coordination with MCDOT, the alley will be used as a right-in only off Sugarloaf Chapel Drive and the curb in front of Lot 9 on Sugarloaf Chapel Drive will be modified to provide one-way channelization. The new alley provides adequate and safe access to the rear of each unit while improving connectivity in Block N.

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

The 9 one-family attached dwellings units (including 3 MPDUs) are compatible with the surrounding existing development in terms of unit type, massing, and orientation. The unit type in the immediate vicinity of the new units, including Block N and Block L, is predominantly one-family attached with some two-over-two's. Both existing and proposed units are consistently oriented towards the street and rear-loaded from alleys.

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.*

The Amendment does not contemplate any modifications to the approved Final Forest Conservation Plan and SPA Final Water Quality Plan.

APPENDICES

- A. Relevant Resolutions
- B. Agency Letters



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

SEP 21 2015

MCPB No. 15-92
Preliminary Plan No. 11995042B
Clarksburg Town Center
Date of Hearing: July 23, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on March 26, 1996, the Planning Board approved Preliminary Plan No. 119950420, for 1,300 residential dwelling units, 150,000 square feet of retail uses, and 100,000 square feet of office uses; on approximately 267 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Rd and Frederick Rd (MD 355) ("Subject Property"), in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area, as amended in 2011¹ ("Master Plan") area; and

WHEREAS, on August 14, 2001, the Planning Board approved Preliminary Plan No. 11995042R to include a Grading Plan and Borrow Plan (Off-site stockpile); and

WHEREAS, on July 16, 2009, the Planning Board, by Resolution MCPB No. 08-163, approved Preliminary Plan No. 11995042A, for 194,720 square feet of commercial uses, including up to 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 12.5 percent moderately priced dwelling units ("MPDUs"); and

WHEREAS, on August 28, 2014, Third Try LC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan including the following modifications:

- 1) Reduce the total number of residential units by 86, from 1,206 to 1,120; and
- 2) Increase commercial square footage by 11,465 square feet, which includes the addition of office and medical uses yielding a total of 206,185 square feet; and

¹ In 2014, a Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area Master Plan was adopted as the Ten Mile Creek Area Limited Amendment. The Subject Property was not included within the area that was subject to the Amendment.

Approved as to
Legal Sufficiency

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

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 9, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 23, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 23, 2015 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 3-0; Commissioners Anderson, Dreyfuss and Fani-Gonzalez voting in favor. Commissioner Wells-Harley was absent from the hearing, and Presley was recused from participating.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Preliminary Plan No. 11995042B for 206,185 square feet of commercial uses, which includes up to 129,545 square feet of retail and 76,640 square feet of office; and up to 1,120 residential dwelling units, including 12.5 percent MPDUs, subject to the following conditions:²

1. The Applicant must comply with conditions of approval for Preliminary Plan No. 119950420 (MCPB Resolution No.), as amended by Preliminary Plan No. 11995042A (MCPB Resolution No. 08-163), 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 Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 25, 2015, 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.

² For the purpose 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.

5. The Applicant must participate with the MCDOT, in accordance with the Memoranda of Understanding dated June 25, 2015, to improve Stringtown Road and Clarksburg Road including its intersections with MD 355 and Snowden Farm Parkway.
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. 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).

13. 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

14. 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.
15. 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.
16. 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 acresThe 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.
17. 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.
18. The record plat must show necessary easements.
19. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
20. 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.
21. Prior to recordation of any plat, Site Plan No. 82007022D must be certified by MNCPPC Staff.
22. No clearing or grading of the site, or recording of plats prior to certified site plan approval.

23. 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.

24. 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.

25. 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.

26. 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.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. The Preliminary Plan substantially conforms to the Master Plan.

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. 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.

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

As a result of a series of Adequate Public Facilities ("APF") validity extensions granted by the County Council, the Preliminary Plan has a valid APF approval

through March 26, 2022. The Planning Board finds that 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 is currently accommodated by a public east-west roadway, Clarksburg Square Road (P-5), which will be extended into the West Side through this Application. Related development applications (Preliminary Plan No.120140060 (MCPB No. 15-79)/Site Plan No. 820140050 (MCPB No. 15-80)/MR2015008), all approved by the Planning Board on July 23, 2015, will extend Clarksburg Square Road to Frederick Road (MD 355) through the Clarksburg Historic District. 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. To avoid confusion for emergency responders, this private street will be designated by a name other than “General Store Drive” because a street known by that name already exists within the Subject Property and the new private street will not connect to the existing General Store Drive.

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. As discussed at the hearing, the Planning Board accepted the road design, as shown on the Preliminary Plan, depicting twelve-foot wide travel lanes to accommodate larger service vehicles and eight-foot wide parking lanes.

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 dated June 25, 2015, between the Applicant and the MCDOT. Funding for the

roadway improvement package has been secured through County Council appropriation.

Clarksburg Square Road is identified as Redgrave Place in the 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 shows 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 depicted 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-foot wide, separates the 5-foot wide sidewalk from the curb. Chokers, located at all intersections, 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 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 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 Subject Property has a valid APF approval for transportation facilities. The Planning Board finds that the transportation impact of the revised development program does not exceed the impacts of the previously approved development, and therefore, the APF remains valid without revision.

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 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 Subject Property, which are now being implemented through the partnership as described in the Memoranda of Understanding. As previously discussed, those improvements will improve access to the Subject 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 development. The Subject 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 ("MCFRS"), 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. No additional residential units are proposed with this Amendment; therefore, the development is not subject to a School Facility Payment review.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

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 are appropriate and will provide a seamless continuation of the existing development.

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

As conditioned and fully discussed at the hearing on this Application and included in the Planning Board Resolution MCPB No. 15-86 approving Site Plan No. 82007022D, which was adopted at the same time as this Resolution, 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. 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 meets the 22.58 acre forest conservation planting requirement onsite through forest and landscape plantings.

The Applicant has withdrawn its request 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 future retail center so that the project meets the goals and the requirements outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

5. All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.

As conditioned and fully discussed at the hearing on this Application and included in the Planning Board Resolution MCPB No. 15-86 approving Site Plan No. 82007022D, which was adopted at the same time as this Resolution, 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, the Montgomery County Department of Permitting Services 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.

6. 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 grants 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. 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 configuration shown.

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 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 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 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 with the purposes and objectives of the General Plan, and is not adverse to the public interest because it maintains safe vehicular and pedestrian circulation while providing additional amenities.

- 7. The Planning Board reaffirms that non-standard truncations at the locations shown on the Preliminary Plan are appropriate. 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. The Amendment supports the Master Plan goal of 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 shown 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. The Planning Board supports the additional non-standard truncations at the locations shown on the Preliminary Plan.

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

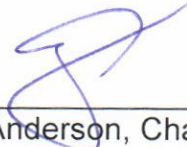
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 21 2015 (which is the date that this Resolution is mailed to all parties of record); and

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 Fani-González, seconded by Commissioner Presley, with Chair Anderson and Commissioner Fani-González voting in favor, Commissioner Presley abstaining, and Vice Chair Wells-Harley and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, September 3, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

SEP 21 2015

MCPB No. 15-86
Site Plan No. 82007022D
Clarksburg Town Center
Date of Hearing: July 23, 2015

RESOLUTION

WHEREAS, under Section 7.1.2 of the Montgomery County Code the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on July 16, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220, for 194,720 square feet of commercial uses, which includes up to 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 152 moderately priced dwelling units ("MPDUs"); on approximately 270 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Rd and Frederick Rd (MD 355) ("Subject Property"), in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area and as amended in 2011¹ ("Master Plan") area; and

WHEREAS, on June 15, 2010, the Planning Board approved an amendment to the Site Plan No. 820070220, designated as Site Plan Amendment 82007022A (MCPB No. 10-59) to correct the unit count from 1,213 to 1,206 residential dwelling units including 151 MPDUs on the Property; and

WHEREAS, on July 11, 2013, the Planning Board approved an amendment to the Site Plan No. 82007022A, designated as Site Plan Amendment 82007022B (MCPB No. 13-125) 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 on the Subject Property; and

¹ In 2014, a Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area Master Plan was adopted as the Ten Mile Creek Area Limited Amendment. The Subject Property was not included within the area that was subject to the Amendment.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
M-NCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, on July 23, 2015, the Planning Board approved an amendment to the Site Plan No. 82007022B, designated as Site Plan Amendment 82007022C (MCPB No. 15-81) for construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on Parcel A, Block HH in support of Site Plan #820140050 on the Property; and

WHEREAS, on August 28, 2014, Third Try LC ("Applicant") filed an application for approval of an amendment to the previously approved site plans including 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 square feet, which includes the addition of office and medical uses yielding a total of 206,185 square feet;
- 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;
- 7) Revise Kings Pond Local Park and Piedmont Woods Local Park; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 82007022D, Clarksburg Town Center ("Site Plan," "Amendment" or "Application"); and

WHEREAS, in accordance with Section 59-7.7.1.B.1 of the Montgomery County Code, this Application is being reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 9, 2015, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 23, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 23, 2015 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 3-0; Commissioners Anderson, Dreyfuss and Fani-Gonzalez voting in favor. Commissioner Wells-Harley was absent from the hearing, and Presley was recused from participating.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82007022D for 206,185 square feet of commercial, which includes up to 129,545 square feet of retail and 76,640 square feet of office; and 1,120 residential

dwelling units, including 140 MPDUs; with reconfirmation of the previously approved reduction in setbacks from adjacent commercially-zone properties, subject to the following conditions:²

Conformance with Previous Approvals & Agreements

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan No. 91994004D (MCPB No. 15-95).

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 11995042B (MCPB No. 15-92).

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,

² For the purpose 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.

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. 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 Subject 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 Subject 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 Staff's review and approval prior to the start of any demolition, clearing or grading on the Subject 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.

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.

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 Subject 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. Kings Pond Local Park

- a) Prior to release of the 1001st Building Permit, all required improvements to Kings Pond 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.

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: - 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")

- 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.
- 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 40-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 12-foot wide travel lanes. The private street must be built to the structural and design standards of MC-2005.02, which may be modified to permit decorative paving material, except as provided above.
- 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.
- e) The Applicant must construct a 4-foot wide natural surface trail within the Greenway. Prior to Certified Site Plan, the general alignment of the trail will be coordinated with M-NCPPC Parks Staff subject to field adjustments.

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, 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, 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 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 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 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 #18)
	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 88 th residential 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 901 st	Clarksburg Square Road land bridge improvements

residential building permit	must be bonded.
Prior to the issuance of 951st residential building permit	<p>Resident’s Club/Sinequa Square:</p> <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. <p>Clark Family Memorial:</p> <ul style="list-style-type: none"> ▪ Clearing, grading, sod, fence, benches, plaque, and, if appropriate, treated headstones must be installed. <p>Roads:</p> <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	Clarksburg Square Road from Overlook Park Drive to Public House Road must be installed and the road open to traffic.
Prior to the issuance of the 1,001st residential building permit	<p>Construction of Kings Pond 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.</p> <p>Trail connection to Clarksburg United Methodist Church and associated landscaping must be installed per agreement with the Church.</p>
Prior to the issuance of the 1,051st residential building permit	<p>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.</p> <p>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</p>

	construction of the Civic Building. (Condition #12)
Prior to: 1. The issuance of 1,051st residential building permit, and 2. The issuance of first UNO for the Retail/ commercial area	Roads: <ul style="list-style-type: none"> ▪ General Store Drive from Stringtown Road to Clarksburg Square Road must be constructed. ▪ 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.
Prior to release of the Performance Bond or Surety for each Block or Phase	Certification from a licensed civil engineer that all private streets and sidewalks within the respective Phase or Block have been built to the specified standards.
Before issuance of the final use and occupancy certificate or prior to release of the Performance Bond or Surety for each Block or Phase	Street lamps and sidewalks adjacent to each building must be installed. 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 must be installed.
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 excluding stormwater management facilities.
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.

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Town Center drawings at the end of Review Cycle no. 2 as submitted via ePlans to the M-NCPPC, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the 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.*

Neither a development plan, diagrammatic plan nor schematic development plans were required for the Subject Property. 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 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. Where the Amendment departs from the Plan of Compliance, the Planning Board considered whether such departures were consistent with the public interest. The Planning Board finds that 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, which included components of the Compliance Plan, was approved, the circumstances surrounding this the Clarksburg Town Center development have evolved. Factors include: 1)

Newlands, the applicant who was responsible for many of the violations, and the County have reached an agreement under which Newlands 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, the current Applicant, has taken over the project and will complete the unbuilt portions of the community as previously approved or as amended by this Application; 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 Staff.

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 Plan of Compliance by providing significant community amenities and facilities that are comparable to the previously 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.*

The Subject Property is split-zoned RMX-2 and RDT per the Zoning Map in effect on to October 29, 2014. 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 below. 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 Planning Board approves the reduction of the minimum setback requirements of Section 59-C-7.15(b) of the Zoning Ordinance to allow two townhouse units in Block GG 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 new 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 as of 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. Therefore, the parking waiver requested by the Applicant for the commercial core to decrease the parking from 876 to 586 spaces is not necessary. The residential parking requirements are met through private garage spaces, on-lot pad sites and surface parking facilities.

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the of the RMX-2 zone, under the optional method of development, and RDT zone.

Data Table

Development Standard	Zoning Ordinance Permitted/ Required	Previously Approved with Site Plan 82007022C	Approved & Binding on Applicant
Site Area (acres)			
Gross Tract Area (GTA)	n/a	<u>270.0</u>	<u>270.92</u>
Area in RMX-2 Residential Commercial		204.0	204.92 (178.63) (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		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 ³ (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	194,720	129,545
Office	n/a	0	76,640
Residential D.U.s [59-C-10.3.6] (> 30 acres site area)	150 min.	1,206	1,120
Max. Residential Density (du/acre) [59-C-10.3.7]	7 d.u./acre ⁴ (1,428 d.u.)	6.86	6.3 ⁵
Unit Mix ⁶			
One-family detached	10-20%	219 (18%)	219 (19.6%)
One-family attached	30-50%	700 (58%)	665 (59.3%)

³ Calculated by dividing total gross floor area by 26.29 acres, which is the area covered by commercial uses in the RMX-2 Zone.

⁴ Max residential density established by the 1994 Clarksburg Master Plan, p.43.

⁵ 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.

⁶ Mix of units allocated by the 1994 Clarksburg Master Plan, p.44.

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 ⁷			
- 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

⁷ 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
Civic Building/Library/Stage (Block BB) Bldg 13 & 14			
Main Structure Setbacks			
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
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]⁸			
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]⁹			
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
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	<u>Min 596/ Max 1,248</u>		<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

⁸ 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.

⁹ 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.

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 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. The grocery store, which fronts a large area of surface parking, is lined with retail buildings on the side that faces 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, giving a right of first 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 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.

Adjacent to the existing Residents' Club, the Amendment provides a new Community Building 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 was 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 offers 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 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 the height of the light poles closest to those units will be lowered to 12 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 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, and the addition of a natural surface trail in the Greenway increases recreational opportunities.

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.

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) Vehicular and Pedestrian Circulation

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.

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. Clarksburg Square Road will be extended to the west through the historic district to Frederick Road (MD 355) in accordance with the recent Planning Board approvals of Preliminary Plan No. 120140060 and Site Plans No. 820140050 & 82007022C (combined with Mandatory Referral 2015008).

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. The Planning Board approved the private street designation with a 40-foot wide cross section, which consists of two 12-foot wide travel lanes, and two 8-foot wide on-street parking lanes.

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.

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. As conditioned, the approved 4-foot wide natural surface trail system within the Greenway is being restored to the plans, excluding the culvert crossings at Clarksburg Square Road.

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 law.*

A. Forest Conservation

The Board finds that as conditioned, the Amendment meets all applicable requirements of the Forest Conservation Law. Final Forest Conservation Plan No. 820070220 was approved on November 24, 2010. An amended Forest Conservation Plan ("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. The FCP requires two forest conservation worksheets because the zoning on the Subject Property results in two different land use categories, with differing afforestation and conservation thresholds. 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). 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 onsite by a combination of reforestation and landscape credits. Per the previous FCP approval, the Applicant will plant an additional 1.68 acres of forest as mitigation for stream valley buffer encroachments. In conformance with the SPA requirements, the Applicant will plant an additional 1.38 acres of forest within the environmental buffer. 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 was 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 either 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 retail center. The Applicant will revise their FCP to include a specific planting plan for afforestation planting areas K-2, K-3, GG, HH, WC2 and WC3. The planting plan will specify that the initial plantings will 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. This planting plan uses the natural grades to provide better visibility to the retail center from Stringtown Road. The Board supported 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.

B. Special Protection Area Final Water Quality Plan

The Board finds that as conditioned, the Amendment meets all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas (“SPAs”). The majority of the Subject Property is located within the Clarksburg SPA and is required to obtain approval of a water quality plan under Section 19-62 of the Montgomery County Code.

As part of the requirements of the SPA law, a Water Quality Plan must be reviewed in conjunction with a preliminary plan and site plan. The Final Water Quality Plan was submitted as part of the Site Plan. Under Section 19-65 of the Montgomery County Code, MCDPS and the Planning Board have different responsibilities in the review of a Water Quality Plan. By letter dated June 23, 2015, MCDPS conditionally approved the elements of the Water Quality Plan under its purview which include site performance goals, stormwater management, sediment and erosion control, and monitoring of Best Management Practices. The Planning Board’s responsibility is to determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

1) Priority Forest Conservation Areas

The Planning Board determined that the Application complies with the SPA forest conservation and planting requirements. 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. Per SPA requirements outlined in the Environmental Guidelines, areas of the environmental buffer currently lacking forest will be reforested, planting will occur during the first planting season after issuance of grading permits when possible, and all of the forest plantings will be subject to a five year maintenance program to better ensure forest survival. The retained and planted forest on-site will be protected through either a Category I Conservation Easement or dedication to the M-NCPPC Parks Department.

2) SPA Environmental Buffer Protection

The Planning Board determined that impacts caused by the disturbance to the environmental buffer are the minimum necessary to allow the construction of this project to be completed and the impacts have been minimized to the greatest extent possible while maintaining accepted design standards. The Application includes approximately 12.19 acres of disturbance to the environmental buffer. The approved Site Plan 82007022B included approximately 13.72 acres of environmental buffer disturbance and this Application results in a net reduction of 1.53 acres. 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 disturbance to the environmental buffer has been decreased from the previously approved plan and the mitigation previously proposed has remained unchanged. The Amendment will provide 1.68 acres of additional forest planting to mitigate for the stream buffer encroachments. Long term protection to the environmental buffer and forest will be provided through either a Category I conservation easement or dedication to the M-NCPPC Parks Department.

3) 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 Planning Board found that impervious surfaces have been minimized with this Application through a redesign of the unbuilt portions of the Subject Property. The Application will reduce the amount of impervious surfaces within the Little Seneca Creek watershed by approximately 1.53 acres from that which was approved previously. The result is a total imperviousness of approximately 34.4% for the Subject Property.

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 this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 21 2015 (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 Fani-González, seconded by Commissioner Presley, with Chair Anderson and Commissioner Fani-González voting in favor, Commissioner Presley abstaining, and Vice Chair Wells-Harley and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, September 3, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdieh
Director

March 4, 2016

Ms. Sandra Pereira, Planner Coordinator
Area Three Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Preliminary Plan No. 11995042C
Clarksburg Town Center
Design Exception Request

Sandra
Dear Ms. Pereira:

We have completed our review of the design exception submitted by Mr. Tim Longfellow of Gutschick, Little & Weber, P.A. on February 9, 2016. 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 Request

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

Located one block west of the Rockville Metro Station

Ms. Sandra Pereira
Preliminary Plan No. 11995042C
March 4, 2016
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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 neo-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. The modification consists of a channelized entrance to provide a right-in only turn from Sugarloaf Chapel Drive to the alley behind Lots 78-86 on Catawba Hill Drive while precluding a left turn into the alley. Signage will also be installed by the applicant indicating left turns into the alley are prohibited. 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.

Thank you for the opportunity to review the design exception request. 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) 777-2173.

Sincerely,



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

Ms. Sandra Pereira
Preliminary Plan No. 11995042C
March 4, 2016
Page 3

M:\Correspondence\FY16\Traffic\Active\11995042C Clarksburg Towncenter – Design Exception Letter.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.
Robert Harris Lerch Early & Brewer
Robert Kronenberg 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
Fred Lees MCDOT DTEO
Mark Terry MCDOT DTEO
Gary Erenrich MCDOT DO
William Whelan MCDOT DO

Pereira, Sandra

From: Schwartz, Lisa <Lisa.Schwartz@montgomerycountymd.gov>
Sent: Wednesday, October 07, 2015 4:48 PM
To: kfoster
Cc: Pereira, Sandra
Subject: Clarksburg Town Center - Site Plan Amendment No. 82007022E and Preliminary Plan Amendment No. 11995042C

Kevin,

DHCA strongly supports Miller and Smith's proposed amendments to the preliminary and site plans for Clarksburg Town Center to replace the previously approved 11 unit condominium building (including 3 MPDUs) on Parcel A in Block N with 9 fee-simple, single-family attached townhouses (including 3 MPDUs). I have completed the DHCA review in eplans for the site plan amendment (I did not receive an eplans review request for the preliminary plan amendment).

Sandra – will this be going to DRC? Do you need a letter from DHCA?

Lisa

Lisa S. Schwartz
Senior Planning Specialist
Montgomery County Department of Housing and Community Affairs
100 Maryland Ave., 4th Floor
Rockville, MD 20850
(240) 777-3786 - office (240) 777-3709 - fax
lisa.schwartz@montgomerycountymd.gov
www.montgomerycountymd.gov/mpdu

Pereira, Sandra

From: LaBaw, Marie <Marie.LaBaw@montgomerycountymd.gov>
Sent: Tuesday, December 29, 2015 12:27 PM
To: Pereira, Sandra
Subject: Fw: Re: Clarksburg Town Center, 11995042C, Miller & Smith
Attachments: 07-BSITE-E-82007022E-015.pdf

Hey Sandra, I don't have any comments on the attached plan. The units are single family with fronts doors close to the road. Do you need something official from me?

S Marie LaBaw, PhD, PE
Office of the Fire Marshal
Montgomery County Fire and Rescue Services
100 Edison Park Dr, 2nd Floor
Gaithersburg, MD 20878
(240) 773-8917 Office (240) 777-2465 FAX
e-mail address: Marie.LaBaw@montgomerycountymd.gov

From: Keith Bennett <kbennett@glwpa.com>
Sent: Monday, December 28, 2015 9:30 AM
To: Kevin Foster
Cc: LaBaw, Marie
Subject: Re: Re: Clarksburg Town Center, 11995042C, Miller & Smith

Marie,

Please see attached.

Thanks,
Keith Bennett

On Sun, Dec 27, 2015 at 7:36 PM, Kevin Foster <kfoster@glwpa.com> wrote:

Keith, can you email Marie a pdf of the Block "N" site plan. Thanks
Kevin

----- Forwarded message -----

From: "LaBaw, Marie" <Marie.LaBaw@montgomerycountymd.gov>
Date: Dec 27, 2015 7:12 PM
Subject: Re: Clarksburg Town Center, 11995042C, Miller & Smith
To: "Kevin Foster" <kfoster@glwpa.com>
Cc:

I may not have made any comments. Can you send me a PDF?

Sent from my Verizon Wireless 4G LTE DROID