

Page 1 of 2

Subj: Follow-up
Date: 10/13/2004
To: michael.ma@mncppc-mc.org
CC: Shileykim@aol.com, smithcar@mail.nih.gov, wynn.witthans@mncppc-mc.org

Hello, Michael.

Kim and I wanted to thank you for taking the time to meet with us on Monday. We appreciated your time in discussing our concerns, and your referral to Douglas Johnsen relative to ongoing site plan enforcement issues.

As discussed, we are most concerned with the deviations to Project Plan Guidelines which may be inherent in some of the site plans previously approved. Understanding that due to process gaps, potential oversights, and/or developer/builder submission errors, there could have been some erroneous approvals, we appreciate your willingness to review existing site plans to determine compliance with the Master Plan and Project Plan Guidelines. We will also be further reviewing the issues we discussed relative to placement of significant buildings and other potential deviations to initially proposed site designations for various residential, commercial and amenity locations.

As you suggested, we did get a copy of the Site Plan Enforcement Document from Wynn. Unfortunately, the document in her files was missing one page (Page 4), but she has agreed to get a copy of this for us. We were unable to find a copy of the approved site plan containing the Bozzuto condominium we discussed, and Wynn was only able to advise us that she confirmed with the developer that it was 4 stories (that the supplemental lofts do not count as a story). We appreciate your offer to follow up on the specific height issue relative to the 4-story/45' height limitation clearly designated within the Project Plan Guidelines vs. the Buzzoto condominium height which we are certain exceeds the limitation.

As you directed, we will be in touch with Douglas Johnsen to discuss our concerns and request zoning enforcement assistance. However, we remain concerned that if the zoning enforcement group is enforcing based on approved site plans, site plans which may have deviated from the Project Plan Guidelines, that they may actually be enforcing plans that go against the Master Plan and Project Plan intent. On this issue, we appreciate your further investigation.

Again, thank you so much for your time and attention. We will wait to hear from you regarding the height issue and will keep in touch regarding our progress with the developer.

Kind regards,

Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)

Subj: **Fwd: Follow-up**
Date: 10/13/2004
To: nellie.maskal@mncppc-mc.org
CC: john.carter@mncppc-mc.org, susan.edwards@mncppc-mc.org, smithcar@mail.nih.gov,
Shileykim@aol.com

Hello, Nellie.

Thanks again for taking time to meet with us on Monday, and for your referral to Michael Ma. We spent time with Michael reviewing our concerns and enlisting his help. He has committed to assisting us and, specifically, to looking into the specific height deviation we believe exists with the Bozzuto condominium. For your information, I am forwarding to you the follow-up email as sent to Michael. I meant to add your name to the email directly, but hit "send" too soon. We will copy you, John and Susan on future emails and correspondence so that you can remain aware of our efforts within that department.

We met with Newland last night, along with their architect, David Kitchen of Cooper Carry. We feel that they were sincere in their desire to hear from the residents as to what was expected for the town square look and feel, as well as our issues regarding the "box" retail center and deviations from the Master Plan intent. They have committed to meet with us again on October 26 to present their redesign concepts. However, based on some of their language pertaining to "grading issues," "engineering issues" and "marketing issues" we remain uncertain as to what they will present relative to the grocery store location and surrounding pedestrian accommodation.

Please feel free to call me or Kim or Carol if you would like more detail on our meeting with Newland. We are trying to keep open minds in the process, but are insistent upon holding to the heart and intent of the Master Plan.

Again, thanks so much for meeting with us, and for all the time you have spent on the project in general. We greatly appreciate your efforts and willingness to educate us in the process.

Sincerely,

Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)

Su **FW: Clarksburg Town Center - Tax Burden**
Da 10/13/2004 9:34:57 AM Eastern Daylight Time
Frc smithc@efdb.nci.nih.gov
To shilevk@mail.nih.gov, Synergiesinc@aol.com
CC timdearros@comcast.net, JJackman@wtplaw.com, rdefrehn@nccmp.org, iersub13@yahoo.com,
murfs@comcast.net, nnagda@ENERGENconsulting.com
File **Clarksbu (10032 bytes) DL Time (TCP/IP): < 1 minute**
Sent from the Internet ([Details](#))

Hi All,

Better late than never I suppose. Doug Duncan just responded to my email from July 27th. I spoke with Nancy Hislop yesterday and she and I most likely will talk today as she is very interested in what is happening. She is the Asst. Director of the Upcounty Regional Services Center and reports to Catherine Matthews. I think Duncan is only informed through Matthews who is informed through Nancy Hislop who does the grunt work. She is the one who attends our meetings and the CCA meetings.

If you feel we should respond to this email let's get something together today and get it fired off so Mr. Duncan can respond by Christmas.

Carol

-----Original Message-----

From: Duncan, Douglas [mailto:Douglas.Duncan@montgomerycountymd.gov]
Sent: Tuesday, October 12, 2004 4:13 PM
To: Smith, Carol Leigh (NIH/NCI)
Subject: RE: Clarksburg Town Center - Tax Burden

Dear Ms. Smith:

Thank you for your e-mail regarding the revised plans for the Clarksburg Town Center retail development. I apologize for the delay in responding.

I have been made aware, through Catherine Matthews, Director of the Upcounty Regional Services Center, that your citizens' group has had meetings with both the Maryland-National Capital Park and Planning Commission and Newland Development to air your concerns and to discuss the means by which this situation may be remedied. I also know that Newland is in the process of redesigning the retail parcel to better realize the original vision for that area and is working with your group to come to a mutually satisfactory design.

We do want the Clarksburg Town Center to be a "centerpiece of Montgomery County's last planned development along the I-270 Corridor" and I encourage you to continue communicating with the developer and our upcounty staff. Please be assured that I will continue to follow these developments. If you have further concerns or questions, please contact Ms. Matthews at 240-777-8000.

Thank you for your continuing interest in making sure that Clarksburg is a community where residents are proud to live, work and raise a family.

Su **RE: Clarksburg Town Center - Tax Burden**
Da 10/13/2004 9:43:18 AM Eastern Daylight Time
Frc JJackman@wtplaw.com
To smithc@efdb.nci.nih.gov, shileyk@mail.nih.gov, Synergiesinc@aol.com
CC timdearros@comcast.net, rdefrehn@nccmp.org, jersub13@yahoo.com, murfs@comcast.net,
nnagda@ENERGENconsulting.com

Sent from the Internet (Details)

I have to say - - I am not very impressed by his response. For someone who took almost 3 months to respond, you would think he would have had more to say. He (or someone in his office) has definitely been in contact with Newland as is evidence by his statement that "I also know that Newland is in the process of redesigning the retail parcel to better realize the original vision for that area and is working with your group to come to a mutually satisfactory design".

If we respond, I would state something along the lines of we hope that a mutually satisfactory design is accomplished and that any approved design must strictly comply with the Master Plan.

What do you think>

Su **RE: Clarksburg Town Center - Tax Burden**
Da 10/13/2004 12:26:43 PM Eastern Daylight Time
Frc rdefrehn@nccmp.org
To smithc@efdb.nci.nih.gov, TD100001@ncr.com, JJackman@wtplaw.com, shileyk@mail.nih.gov,
Synergiesinc@aol.com
CC timdearros@comcast.net, jersub13@yahoo.com, murfs@comcast.net,
nnagda@ENERGENconsulting.com

Sent from the Internet (Details)

Good morning, Everyone!

Busy e-mail morning for all, I see!

Adding my 2 cents on this last night's meeting, Duncan's reply and this morning's discussions:

I think that yesterday's meeting went about as well as we could have expected. Although Kim Ambrose wasn't entirely successful at restraining her resentment about the process, the others seemed more mellow and fact that they brought their architect in to listen to our concerns appears to be a good start. Whether or not that was simply a smart maneuver to show the county how responsive they are to these "unreasonable" demands of the residents at some future date remains to be seen. We'll all know better when we see what David comes up with by the 26th. If the Giant deal is really a driver, his revised drawings will still include a 63,000 square foot grocery store not considerably different from the original designs. Recalling that everything is a negotiation and Rick's comments that there will be things we don't like and things they don't like, the end result should at very least include some movement to make the Town Center area more pedestrian friendly, and a more inviting retail area. I like the phrase "Come and Stay" and think we should continue to use that as a theme.

With respect to Doug Duncan's reply, I read it as an effort to sidestep the (taxation) issue you raised by a guy who is looking to a run for Governor the next time around, who doesn't really have strong feelings about what happens in Clarksburg as long as he doesn't alienate anyone in the developer community - especially those who may play an important part in financing that future campaign. We should continue to nurture the relationship with John Carter who has a genuine interest in making this project a success and play hardball with Newland with respect to the Master Plan only after (or if) it becomes clear that their best and final offer is not going to be acceptable to those of us who, as Carol said, will be left to live there after the developer is long gone.

Finally, with respect to the article on Newland's intent to proceed despite the opposition from the community, that is what they would expect to do in the face of the "run-of-the-mill" opposition. Given how thorough and extensive your efforts have been at not only researching what they should have done in the first place, but finding the

political pressure points in the approval process, I don't think that even in their most optimistic moments they actually believe that could happen -- explaining my earlier observation about Kim Amborse's frustration at not being able to move along at the pace they wanted. You have all been extremely effective in the work put in to date. The best thing to do now is to keep applying the pressure.

See you on the 26th, if not before.

Best regards,

Randy

Su
Da 10/13/2004 3:04:14 PM Eastern Daylight Time
Fr smithc@efdb.nci.nih.gov
To Synergiesinc@aol.com, shileyk@mail.nih.gov
Sent from the Internet (Details)

How come nobody in that whole room last night could tell us how high a 2 over 2 is???? Sounds like a p.s. to Michael Ma.

Carol Leigh Smith

Su I need to send this before 5:00.
Da 10/13/2004 4:18:26 PM Eastern Daylight Time
Fr smithc@efdb.nci.nih.gov
To Synergiesinc@aol.com, shilevk@mail.nih.gov
Sent from the Internet (Details)

Hi David

It was nice to meet you last evening. Our group was impressed with the questions you asked and your knowledge of new urban design. Bethesda Row is one of our favorite spots to frequent. In fact, many of our group went there last night after our meeting. If we could get the same "come and stay" feel in the Clarksburg Town Center that Bethesda Row has (on a smaller scale) we will be extremely pleased. We are looking forward to getting together again on October 26. In the meanwhile should you have any questions or need any additional information from us we can be reached at the following numbers:

Kim Shiley 301-435-5347 (office) or 301-515-0144 (home)
Amy Presley 301-916-7969 (office) or 301-526-7435 (cell)
Carol Smith 301-435-5215 (office) or 240-472-3742 (cell)

Carol Smith
301-435-5215

Su **Everyone's thoughts on one page.**
Da 10/13/2004 4:43:51 PM Eastern Daylight Time
Frc smithc@efdb.nci.nih.gov
To Synergiesinc@aol.com
CC shileyk@mail.nih.gov
Sent from the Internet ([Details](#))

Amy:

I agree with those thoughts, Jen. Also, I would ask specifically what Doug's office intends to do to ensure compliance with Project Plan Guidelines. I would request that they investigate current processes which enable loopholes and allow for deviations through the site planning process. I would ask whether his office is concerned that the potential exists for Clarksburg to go the way of Germantown if not closely monitored. I would ask what his opinion is relative to Giant becoming a monopoly and whether he has been made aware that the residents don't want 10 Giant Food stores within a 5 mile radius!!! (okay, a bit sarcastic and I wouldn't word any of it the way I just did).

What does everyone else think?

Carol:

Given what was said in the meeting last night shouldn't we say "any approved design must strictly comply with the spirit of the master plan or are we still demanding a return to the master plan. The master plan has serious flaws. If David Kitchen can come up with a more desirable plan I'd rather see that first. thoughts?

Tim:

I concur. Simply adding "spirit of..." is most likely going to work better. All negotiations and efforts with Newland after they deal with us still need County Approval, which is where we have the most power/leverage.

I believe we need to be flexible with Newland, to a degree, but watch everything CAREFULLY.

Randy:

Good morning, Everyone!

Busy e-mail morning for all, I see!

Adding my 2 cents on this last night's meeting, Duncan's reply and this morning's discussions:

I think that yesterday's meeting went about as well as we could have expected. Although Kim Ambrose wasn't entirely successful at restraining her resentment about the process, the others seemed more mellow and fact that they brought their architect in to listen to our concerns appears to be a good start. Whether or not that was simply a smart maneuver to show the county how responsive they are to these "unreasonable" demands of the residents at some future date remains to be seen. We'll all know better when we see what David comes up with by the 26th. If the Giant deal is really a driver, his revised drawings will still include a 63,000 square foot grocery store not considerably different from the original designs. Recalling that everything is a negotiation and Rick's comments that there will be things we don't like and things they don't like, the end result should at very least include some movement to make the Town Center area more pedestrian friendly, and a more inviting retail area. I like the phrase "Come and Stay" and think we should continue to use that as a theme.

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Subj: **Re: FW: Clarksburg Town Center**
Date: 10/15/2004
To: kathie@FentonTitle.com
CC: Shileykim@aol.com, smithcar@mail.nih.gov

Hello, Kathie.

Thank you so much for sending that letter. Kim may have told you about our meeting with Michael Ma on Monday. We are still awaiting a response from him with respect to the actual height of the Bozutto condos and the height listed on the approved site plan (we were unable to obtain a copy of the site plan on Monday). We discussed with him the procedural problem that may exist with the site plan approval group potentially overlooking or not ensuring adherence to the project plan guidelines.

For your information, I have pasted below a copy of the follow-up email we submitted to Michael Ma after our meeting. I would be happy to give you further details if you would like to chat about it or provide your thoughts on next steps with his department.

Thanks again and look forward to speaking with you,
Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)

Subj: **Follow-up**
Date: 10/13/2004 12:51:26 PM Eastern Daylight Time
From: Synergiesinc
To: michael.ma@mncppc-mc.org
CC: [Shileykim](mailto:Shileykim@mail.nih.gov), smithcar@mail.nih.gov, wynn.witthans@mncppc-mc.org

Hello, Michael.

Kim and I wanted to thank you for taking the time to meet with us on Monday. We appreciated your time in discussing our concerns, and your referral to Douglas Johnsen relative to ongoing site plan enforcement issues.

As discussed, we are most concerned with the deviations to Project Plan Guidelines which may be inherent in some of the site plans previously approved. Understanding that due to process gaps, potential oversights, and/or

developer/builder submission errors, there could have been some erroneous approvals, we appreciate your willingness to review existing site plans to determine compliance with the Master Plan and Project Plan Guidelines. We will also be further reviewing the issues we discussed relative to placement of significant buildings and other potential deviations to initially proposed site designations for various residential, commercial and amenity locations.

As you suggested, we did get a copy of the Site Plan Enforcement Document from Wynn. Unfortunately, the document in her files was missing one page (Page 4), but she has agreed to get a copy of this for us. We were unable to find a copy of the approved site plan containing the Bozzuto condominium we discussed, and Wynn was only able to advise us that she confirmed with the developer that it was 4 stories (that the supplemental lofts do not count as a story). We appreciate your offer to follow up on the specific height issue relative to the 4-story/45' height limitation clearly designated within the Project Plan Guidelines vs. the Buzzoto condominium height which we are certain exceeds the limitation.

As you directed, we will be in touch with Douglas Johnsen to discuss our concerns and request zoning enforcement assistance. However, we remain concerned that if the zoning enforcement group is enforcing based on approved site plans, site plans which may have deviated from the Project Plan Guidelines, that they may actually be enforcing plans that go against the Master Plan and Project Plan intent. On this issue, we appreciate your further investigation.

Again, thank you so much for your time and attention. We will wait to hear from you regarding the height issue and will keep in touch regarding our progress with the developer.

Kind regards,

Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)

Su **FW: ctc**
Da 10/18/2004 2:35:45 PM Eastern Daylight Time
Frc shileyk@mail.nih.gov
To Synergiesinc@aol.com
Sent from the Internet (Details)

Just passing on; Kathie talked with wynn also; she just doesn't understand why we're making the height an issue.... "it's four stories and that's what was approved"; Kathie said, yes wynn but there's a limitation to the height of those four stories....wynn's comment below about asking developer/builder. We need to get that inspector out there asap!

I talked with Kathie a bit about the most recent comments and she's concerned...said that's what happened in Germantown...people were frustrated and just wanted some sort of retail....forgetting the big picture.

Well, just wanted to pass along

kim

-----Original Message-----

From: Kathie Hulley [mailto:kathie@FentonTitle.com]

Sent: Monday, October 18, 2004 10:12 AM

To: Shiley, Kimberly (NIH/NCI); Krisna_Becker@hgsi.com; Paul (and/or Mary) Majewski

Subject: FW: ctc

From: Witthans, Wynn [mailto:Wynn.Witthans@mncppc-mc.org]

Sent: Monday, October 18, 2004 10:03 AM

To: Kathie Hulley

Subject: ctc

Kathie - I have inquired about the height of the Buzzoto condo buildings from the developer. They have not given me the height of the buildings. When the second phase of the Clarksburg Town Center went to the Planning Board, they were approved for 4 stories, which the buildings are (as measured from the front doors). We are waiting for the builder to give us the actual height of the buildings and then will get back in touch with you further. Thanks for your interest.

Wynn E. Witthans

Su **RE: CTC**
Da 10/19/2004 1:26:34 PM Eastern Daylight Time
Frc shileyk@mail.nih.gov
To JJackman@wtplaw.com, smithc@efdb.nci.nih.gov, jersub13@yahoo.com, rdefrehn@nccmp.org,
timdearros@comcast.net, murfs@comcast.net, nnagda@ENERGENconsulting.com,
synergiesinc@aol.com

Sent from the Internet (Details)

greetings all :)

just want to remind/udpate everyone:

tomorrow, Amy, Carol and I will be having lunch with Nancy Floreen, At-large Councilmember; we met her at the CCA general meeting and she expressed an interest to meet with us; her statement to Newland at that meeting... "this better not be another strip mall" then in the evening, Mike Knapp is having his town hall meeting for all of Clarksburg. We put out a flyer stating 7pm; but it looks like Mr. Knapp won't be there until 8pm; however, we CTCAC could use that hour to talk with the residents of CTC.

Amy has received several phone calls from P&P; action items (ie. height issues) are being addressed. Carol has received emails from Nancy Hislop; it looks like Newland will be meeting with her, folks from the library, traffic and upcounty regional services on the 26th as well; in fact, right before our meeting with them. So, there's still much work to do; so many people have been involved with the making of Clarksburg and Clarksburg Town Center. Countless hours and years have gone into preparing the Master Plan, Project Plan and Preliminary Plan. So many folks from the community, P&P and County Council are counting on us (CTCAC) to push forward and to make the vision a reality.

hope to see you all tomorrow night. we should also try to have a conference call or a quick briefing before the 26th.

kim :)

Su **RE: CTC**
Da 10/20/2004 9:04:56 AM Eastern Daylight Time
Frc smithc@efdb.nci.nih.gov
To nnagda@ENERGENconsulting.com, shileyk@mail.nih.gov, synergiesinc@aol.com

Sent from the Internet (Details)

Hi Niren,

The meeting is tonight at 7:00 at the Firehouse in Hyattsville. Mike Knapp will be there at 8:00 to hold an open forum and answer questions for all Clarksburg residents. We found out yesterday that John Carter and Nellie Maskal intend to come as well as Nancy Hislop from the Upcounty Regional Services Center. We delivered flyers door to door to make sure our community knows about the meeting. At the time we were told Mike Knapp would be there at 7 p.m. It is his meeting and he changed it to 8:00 after the flyers went out. We thought we could use the hour before to update the community about all that has happened since the Sept. 16 community meeting.

Su **RE: Clarksburg**
Da 10/20/2004 9:28:40 AM Eastern Daylight Time
Frc smithc@efdb.nci.nih.gov
To ADitchev@z-techcorp.com
CC Synergiesinc@aol.com, shileyk@mail.nih.gov

Sent from the Internet (Details)

Hi Adrienne,

Thank you for the generous offer. I know how valuable your time is. Kim, Amy and I sometimes think this has become a full-time job for us. We do appreciate your offer and would appreciate it if you could take notes at any of the meetings that the CTCAC or community attends regarding the Clarksburg Town Center. As far as writing up the minutes, we would be happy with a simple bullet style format. If you want to get more detailed that's great but we just want to get the basic facts down. We just found out that John

Follow-Up / Mike Knapp

10/21/2004 3:56:38 PM Eastern Daylight Time

Josh.Bokee@montgomerycountymd.gov

synergiesinc@aol.com

Daniela.Moya@montgomerycountymd.gov

Sent from the Internet (Details)

Amy --

It was nice to see you again last night at the Clarksburg meeting. Mike would like to set up a time to get together with both yourself, Carroll and Kim (and if there is anyone else who you think appropriate, but still keeping it very small) to talk and follow-up on some of the issues that were raised last night (and previously). Perhaps over coffee, lunch, breakfast? Whatever might work best in trying to coordinate multiple schedules.

I have cc'd Daniela Moya, who handles Mike's schedule here in the office. If this is something you and the others are interested in, feel free to contact her at 240-777-7955.

Thanks and if I can be of assistance with anything just let me know.

Joshua L. Bokee
Aide to
Councilmember Mike Knapp
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850
240-777-7947 O
240-777-7989 F

Re: what else ??

10/25/2004

Shileykim

Hi, again, Kim.

Will send this email asap ... as well as a similar one to Douglas Johnsen (MN-CPPC). Doug is aware of these issues (I left several messages for him last week) and requested that I also follow-up in writing.

Was inundated this morning with other work, but will send both emails ASAP.

Thanks,
Amy

Su **RE: Clarksburg Town Center, and all Up-County Residents.**
Da 10/25/2004 10:40:13 AM Eastern Daylight Time
Frc smithc@efdb.nci.nih.gov
To timdearros@comcast.net, shileyk@mail.nih.gov
CC jersub13@yahoo.com, shileyk@mail.nih.gov, JJackman@wtplaw.com, rdefrehn@nccmp.org,
murfs@comcast.net, nnagda@ENERGENconsulting.com, synergiesinc@aol.com
Sent from the Internet (Details)

Hi All

The list was of all the residents who have given us their emails. There were some on the list that have signed in at meetings but didn't give an email address and only a phone number. I got some of the addresses from the tax records and of course they have no emails and there are plenty more to get from the tax records. I only got a few streets. This is an ongoing project and our ultimate goal is to send word of meetings via email. I don't mind the door to door thing but it will be getting a bit nippy out soon.

Thanks again Tim. Great work.
Carol

Su **RE: meeting with Newland 26 October**
Da 10/25/2004 2:31:31 PM Eastern Daylight Time
Frc smithc@efdb.nci.nih.gov
To Synergiesinc@aol.com, shileyk@mail.nih.gov, JJackman@wtplaw.com, jersub13@yahoo.com,
rdefrehn@nccmp.org, timdearros@comcast.net, murfs@comcast.net,
nnagda@ENERGENconsulting.com
Sent from the Internet (Details)

Don't expect me to keep quiet about those damn 2 over 2's. I want to know the height. They have stalled long enough. Don't tell me nobody knows how tall they are. B.S.

-----Original Message-----

From: Synergiesinc@aol.com [mailto:Synergiesinc@aol.com]
Sent: Monday, October 25, 2004 12:56 PM
To: Shiley, Kimberly (NIH/NCI); JJackman@wtplaw.com; Smith, Carol Leigh (NIH/NCI); jersub13@yahoo.com; rdefrehn@nccmp.org; timdearros@comcast.net; murfs@comcast.net; nnagda@ENERGENconsulting.com
Subject: Re: meeting with Newland 26 October

Hello, Kim and all.

Of course, I will be going to the Newland meeting tomorrow at 4pm. Also, Kim, I agree with EVERY point you made relative to the grocery store sq. footage and other points regarding the Master Plan/Project Plan.

In my opinion, we should view the new design(s) they present, reserve any "final" response until we are able to share the drawings with our entire CTCAC/CTC residents, but continue to reinforce our points regarding scale and Master Plan/Project Plan Guidelines.

Do we need a conference call, or are we all pretty much in agreement as to how to handle the meeting tomorrow?

Thoughts?

Amy

Meeting Tomorrow

10/25/2004

kambrose@newlandcommunities.com

Shileykim@aol.com, smithcar@mail.nih.gov, nellie.maskal@mncppc-mc.org,
john.carter@mncppc-mc.org, michael.ma@mncppc-mc.org, [wynn.witthe
mc.org](mailto:wynn.witthe
mc.org), douglas.johnsen@mncppc-mc.org

Hello, Kim.

Wanted to confirm with you our meeting tomorrow at your office at 4:00pm. We are looking forward to reviewing the new conceptual plans that David Kitchens has designed for the Retail and Town Square area.

On a separate note, we would like to get copies from you of the architectural elevations and site plans for the Bozutto condos (existing) and the 2over2's (under construction). We would specifically like verification of the heights for these buildings (not in "stories" but in "ft."), as well as heights of structures planned for Section 3. Your assistance in making these available to us at the meeting would be greatly appreciated.

Thanks and look forward to seeing you tomorrow,

Amy Presley

CTCAC Meeting

Friday, October 29, 2004, 7 pm

1. Welcome and purpose/objectives for this meeting
2. Update from Parks and Planning and meeting with Mike Knapp
3. Observations from the meeting with Newland held on Oct 26th (not including the discussion on the specific options, which is Item 4 below). Building height issue and the response we gave them.
4. Description and discussion of two options presented by David Kitchens, an architect for Newland. Parameters given to us: about 60k sq ft grocery store, up to 90k sq ft of other retail space, and up to 100k sq ft of office space. Prepare/summarize our response for handing over to Newland on Monday.
5. Preparation of a list of bullets encompassing all issues of concern to us (requested by Newland)
6. Other issues
 - a. Need and siting of Clarksburg fire station
 - b. Use of public-use space (civic building) in the town center area—Library?
7. New business
8. Adjourn

Retail Center

10/31/2004

kambrose@newlandcommunities.com

kambrose@newlandcommunities.com, Shileykim@aol.com, smithcar@timdearros@comcast.net; rdefrehn@nccmp.org; jjackman@wtplaw.com; nnagda@energenconsulting.com; murfs@comcast.net

Hello, Kim.

Wanted to give you an update on the CTCAC review process relative to the Town Square retail options Newland presented last week. We are meeting with our CTCAC during the week, but will not be able to respond with our comments by tomorrow. We will do our best to respond promptly -- hopefully by end of week.

In the interim, we are also preparing our full "list of issues" as requested by Rick. As you know, we have not yet received information on and are still very concerned with the height of existing Bozzuto condos, as well as heights planned for the 2over2's and additional condos. There are other issues, as discussed at our August 26 meeting, but we will include those in our list. We will send the list to you as soon as possible. (It would be helpful if you could provide Rick's email address.)

Please feel free to call me, Kim or Carol if you have questions.

Thanks,
Amy Presley

Meeting Follow-up

11/8/2004

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Hello, Wynn.

First, I would like to apologize for my absence at the meeting on Friday. I had an emergency on a client project and was not able to break away.

Kim and Carol gave me the update regarding the meeting and, specifically, the discussions relative to the height violations. I must tell you that I was disturbed to hear that you would attempt to position the buildings in question as acceptable based on a "four story" height limitation, when the Project Plan Guidelines specifically define the height limitation as 45' for residential. We certainly expected that M-NCPPC would not only be aware of the guidelines, but would diligently ensure adherence to such.

I am in agreement with Kim, Carol and the other CTCAC representatives on all points they discussed with you regarding the violation of the height restrictions. The CTCAC unanimously agrees that buildings exceeding the height restrictions in the project plan guidelines must be altered to comply.

We must also have assurance from M-NCPPC that existing approved site plans that are in violation of Project Plan guidelines (conditions and findings) will also be addressed with the Board and appropriately rectified with the developer. Further we would expect that more stringent attention will be given to future site plan reviews to ensure adherence to all Project Plan conditions and findings. The CTCAC representatives present at the meeting were pleased to hear your assurances on these issues. Please advise us of your action plan for handling the existing site plan violations.

We appreciated the discussion of the general design of the retail center. The experience and insights of the M-NCPPC staff on this is very valuable to us. Regarding the library issue, which was also discussed, we share your desire for further exploring the use of public-use space. There may well be an alternative for the library site (such as within the retail center area, perhaps in lieu of the bank?) that could eliminate the current parking concerns. We are happy to explore that further.

We remain quite concerned regarding the retail center area and, especially, the supplemental excavation currently planned by Newland. We appreciate your ongoing assistance in addressing this issue and ensuring that we don't wind up with artificially steep grading.

Overall, the CTCAC greatly appreciates the assistance received to date from all departments within M-NCPPC. We understand the difficulty associated with multiple reviews and approvals of site plans for a development as significant as Clarksburg Town Center. We will continue to be involved in the active support of the Master Plan concept as we all strive to make the vision a reality.

Sincerely,

Amy Presley,
on behalf of CTCAC

November 8, 2004

Dear Kim:

We are pleased that David Kitchens is working with Newland Communities to offer design possibilities that may bring a resolution to our ongoing concerns. We appreciate that you have shared two of the potential design options with us. The entire CTCAC met on Friday, October 29, 2004 and the consensus is that neither option is satisfactory. Our concern continues to be that the dialogue with you and the designs you have presented to date continue to feature the "big box grocery store" strip shopping center format and the insertion of large residential buildings into the retail/office space. The same concerns that the residents found objectionable when originally presented to them last summer.

We are confident that Mr. Kitchens is capable of designing a retail center that meets the Master Plan objectives and the Project Plan conditions and findings. However, the pre-existing agreements with Regency Centers and their proposed tenants, presumably based on assumptions that a run-of-the-mill strip mall design would be acceptable, has limited both his ability to find a creative solution and the possibilities and options to be considered. We continue to be optimistic that an alternative design for a commercially viable retail center which integrates the urban design objectives described in the Master Plan and a small-town atmosphere can be found. We have included specific suggestions to accomplish that objective.

However, before we offer comments and suggestions on the two design options, we would like to reiterate below the height issues. We await your response and require detailed clarification on the height issues from you.

Height Issues

In our meeting of August 26, 2004, the issue of the height of the existing condominiums with reference to the 45' height restriction in the approved Project Plan was raised, as was the height of the proposed two over two townhouse condominiums. Over the last two months, while we have repeatedly asked, we have not received specific answers or architectural drawings that clarify the height issues. We know that such information should be readily available with your architectural and engineering staff and/or subcontractors.

The simple fact that our request has not been met leads us to conclude that there could be a problem. With respect to our serious concern with the height issues we want to stress again that the limits on heights, as approved in the project plan and pursuant to Chapter 59 of the Montgomery County code Project Plan must be met. Should these specified limits be exceeded in the construction to date that would

constitute a violation which (i) would require remedial action with reference to the offending existing structures and (ii) assurances from you and your subcontractors that such limits will be abided by in all current and future development in the Clarksburg Town Center.

Comments on Design Options

The general concept of a 60 ft. wide walkway, which could be made into an attractive, inviting area for pedestrians and for outdoor café seating, is appealing. However, as explained to us at the last meeting with you on October 26, 2004, the 60 ft. walkway located below the C-shape building, which is an extension of General Store Drive from the west, has an extreme grade. If we correctly recall, it was said that the drop was approximately 20 ft. over a linear length of about 150 to 200 feet of walkway. We are unanimous that we do not want such an extreme and artificial grade created. The topography of the area shows a drop of about 5 ft. over a similar length span.

We oppose the mix of uses presented in the C-shape building. Pursuant to Article 59-D.2.12 of the Montgomery County Code, the Project Plan specifies the locations and uses of buildings and structures. This area is designated as Retail/Office space only. Based on your proposal the C-shape building with its proposed mix of uses could be six stories from the parking lot view. Not only is this use not permitted, but this again goes back to the probability that this violates the height restrictions.

We do not believe a bank is necessary as it would only serve the population that belongs to that particular bank. A better use of the building would be for a stand-alone restaurant, other retail or relocated civic space/library. It is a generally accepted practice to establish bank services within a grocery store.

We are pleased with the orientation of buildings to streets on Clarksburg Square Road as this fosters the creation of a transit-and pedestrian-oriented neighborhood called for in the Master Plan.

The presentation of building pictures, two of which displayed curved corners, presents an architectural interest that is welcomed, as it appears to invite pedestrians from the town center into the retail area creating the "come and stay" atmosphere mentioned in our meetings with you.

The expanded street-oriented retail areas in Option 3 we view as a positive and the road to the retail from Clarksburg Square Road provides a more direct access for pedestrians, bicyclists and vehicles; these interconnected secondary streets are found in many older neighborhoods (also in keeping with the Master Plan).

The size and placement of the grocery store presents problems in both Options 1 and 3. Although Option 1 does not back to Stringtown Road and allows a more pedestrian friendly flow of truck traffic to and from the grocery store, it does however, break up the flow of strolling pedestrians along the area of the smaller shops. As discussed in the meeting with you, the retailer at the far end of the grocery store would not get much traffic and would be isolated from the other shops that face the open entrance area to the retail center from the town center. Likewise, Option 3 places the grocery store in a location that compromises the safety of pedestrians with no alternative exit for the delivery trucks except to pass in front of the grocery store.

We propose that the grocery's square footage be reduced in order to assure that the size and scale of the retail center are compatible with the Master Plans vision of the Town Center and to assure a compatible relationship to the Historic District.

With respect to the location of the grocery store, we are proposing that you consider locating this building so that it backs up to the retail stores that are street-oriented to Overlook Park Road or to the retail/office stores that are street-oriented to Clarksburg Square Road. A service road could run behind the row of retail shops and the grocer. This would serve to eliminate delivery traffic and would hide the back of the grocery store while placing street-oriented retail in a highly visible entrance to the retail center. Additional street-oriented retail could be added on either end of the grocer.

Another consideration might be to remove the free standing bank and move the grocery store closer to Overlook Park Drive allowing more space at the southwest side for trucks to turn around. This would eliminate the problem of trucks passing in front of the store in a pedestrian zone.

We propose locating the library above the grocery or other retail spaces, or where proposed bank is located as a trade for retail space in town square.

We also would like to remind you of the commitment we have to ensure the retail side is compatible and cohesive with the residential side. We propose that all buildings as well as all street corners have similar shape and/or continuity of design and height along Clarksburg Square Road as well as along Ebenezer Chapel Drive.

Also in reference to a recent letter sent to CTC residents by Property Management People, Inc., we believe that a meeting with residents in November

would be premature since there has not been a design presented that considers the recommendations and concerns of the community. To hold a meeting prematurely may possibly present the same confrontational atmosphere as the meeting of July 27, 2004 which would jeopardize the current constructive dialogue.

It is our hope that there can be more designs than option 1 (which resembles the Project Plan) and option 3 (which resembles your previous plan). We are committed to realizing a retail center that benefits the Clarksburg residents and surrounding communities, is consistent with the spirit of the Master Plan, the conditions and findings of the Project Plan and that is profitable to both the developer and retailers.

Sincerely,

The Clarksburg Town Center Advisory Committee (CTCAC)

Subj: **Fwd: Meeting Follow-up**

Date: 11/16/2004

To: wynn.witthans@mncppc-mc.org

CC: john.carter@mncppc-mc.org, nellie.maskal@mncppc-mc.org, michael.ma@mncppc-mc.org,
susan.edwards@mncppc-mc.org, smithc@efdb.nci.nih.gov, sendtriciamessages@msn.com,
shileyk@mail.nih.gov, nnagde@ENERGENconsulting.com, iersub13@yahoo.com, rdefrehn@nccmp.org,
timdearros@comcast.net, Lfantle, cariandieff@comcast.net, murfs@comcast.net, JJackman@wtplaw.com,
synergiesinc@aol.com

Hello, Wynn.

We haven't heard back from your office yet regarding the action plan for height violations discussed at the meeting with the CTCAC and your team on November 5th. We would like to know specifically what actions the M-NCPPC is planning to take. We would also like to know whether the CTCAC should write to Derrick Berlage and the Planning Board to request action on this violation. Please include that information in your update to us. We would appreciate a response prior to the end of this week.

Thank you for your assistance with this matter.

Sincerely,
Amy Presley, on behalf of CTCAC

CLARKSBURG TOWN CENTER ADVISORY COMMITTEE
Clarksburg, MD 20871

December 5, 2004

The Honorable Derick Berlage Chairman
Montgomery County Planning Board 8787 Georgia
Avenue Silver Spring, Maryland 20910

Dear Mr. Berlage:

It is with great interest in upholding the vision and intent of the Clarksburg Town Center Master Plan that we are writing to you. As you may recall, per the letter you received from our group in August, 2004, the CTCAC (Clarksburg Town Center Advisory Committee) was formed in response to the Town Center residents' discovery of deviations by the developer (Newland Communities) to the Master Plan concept and Project Plan Guidelines. The residents elected the CTCAC to represent them in taking action with MNCPPC and the developer to ensure adherence to the vision and intent of the Master Plan.

Since the CTCAC was elected in July, 2004, we have become very active in researching not only the intent of the Master Plan and approved Project Plan, but also the detailed parameters within the Conditions and Findings, as well as the processes within MNCPPC for site plan submission and approval. As part of our process, we have researched and read every document available on file with MNCPPC relative to Clarksburg Town Center. In doing so, we have made ourselves aware of all requirements under the "Optional Method" of development for the RMX2 zoning and the related requirements for complete compliance with the Conditions and Findings of the approved Project Plan #9-94004.

The CTCAC and residents are in full agreement with the Land Use Objectives of the Plan, especially with regard to creating a pedestrian-friendly town center area to serve as the central focus for the entire study area. The CTCAC finds that in order to uphold these objectives, it is imperative for the developer to adhere completely to the Project Plan Guidelines/Conditions and Findings.

We have determined multiple areas in which Newland has departed from the intent and vision of the Master Plan and, more seriously, violated the Project Plan Conditions and Findings. The most pressing issue is Newland's violation of the height restrictions. The approved Project Plan restricts building heights to 4 stories/45' for residential and 4 stories/50' for commercial. The Master Plan and Project Plan clearly state the necessity for ensuring compatibility of scale with the historic district. As confirmed to us by John Carter and Nellie Maskall of Community Based Planning, and Michael Ma of Development Review, this was a driver for the height limitation of 45' for residential structures.

CTC residents are gravely disturbed that buildings already constructed in Phase 1-B3 of the CTC development (Bozutto condominiums) measure 57', as recently confirmed to CTCAC by MNCPPC Development Review. Newland also confirmed a height in excess of 45', but stated that the building was 53'4". In either case, the structures are not compatible in scale with the historic district. This is a serious violation which requires immediate attention.

In addition to the buildings already constructed in Phase 1-B3, there are also buildings currently under construction within Phase 2B (Craftstar 2/2 Condominiums – Parcels B & N) which also violate the height restrictions, with planned heights of 51'7". Further, there are several other site plans previously approved for

Phase 2C which include additional Craftstar 2/2 Condominiums with planned heights exceeding the 45' maximum allowable according to the Project Plan Guidelines. Apparently, the site plans for these structures were erroneously approved, and/or the developer did not specify heights on the site plan (beyond "4 stories") and has violated the height restriction without MNCPPC's awareness. The CTC residents are seeking immediate action by MNCPPC to correct this situation before new buildings are constructed.

Ensuring compatibility with the historic nature of Clarksburg, especially in terms of scale as described with the Master and Project Plan, is essential to creating the type of community that was presented to the residents by the developer and builders when we purchased our properties in Clarksburg Town Center. We appreciate the assistance that we have received from MNCPPC to date in this regard. We have scheduled a meeting with Community Based Planning and Development Review for December 13th to discuss the specifics relative to the height violations described. However, the CTCAC respectfully requests a meeting with you to discuss our overall concerns.

We would appreciate it if a meeting could be scheduled with you prior to December 17th. We will contact Joyce Coleman to arrange the meeting at your convenience.

Sincerely,

Subj: **Follow up**
Date: 12/10/2004
To: catherine.matthews@montgomerycountymd.gov

Hello, Catherine.

Just wanted to let you know what a pleasure it was meeting you at the transportation planning meeting on Wednesday. It was wonderful to hear your views regarding Clarksburg Town Center and to know of your support of our efforts to uphold the Master Plan and Project Plan vision and intent. We have so appreciated Nancy Hislop, her views and her willingness to work with us, and it is nice to know that you are equally supportive.

As you mentioned, it will be critical for us to have significant representation at the Board hearing. We are confident that our CTCAC and residents can show up en masse! We take the building of our Town Center very seriously and are willing to do whatever necessary to ensure compliance with the Master Plan vision. As you know, it is the last chance along the 270 corridor to get this right!!

Thanks so much for your input on the retail center issues. We meet with John Carter and Rose Krasnow(sp?) on Monday to discuss that as well as the height violations. We will give you/Nancy an update after our meeting.

Again, it was a pleasure meeting you.

Sincerely,
Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)

Follow-up

12/14/2004

john.carter@mncppc-mc.org

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smithcar@mail.nih.gov, Shileykim@aol.com

Hello, John, Rose, Michale, Wynn, and Susan.

First, I want to thank you for meeting with us yesterday. Kim, Carol, Niren and I greatly appreciate your time and assistance in our attempts to ensure that Clarksburg Town Center is developed according to the vision and intent of the Master Plan, and in compliance with the Project Plan guidelines. On behalf of our entire CTCAC, we thank you for your efforts to date.

As we mentioned, we have the utmost respect for the work that was done by Community Based Planning, together with the Clarksburg Civic Association, the Historical Society, and all other contributors, to develop the Master Plan vision and the subsequent Project Plan guidelines to uphold that vision throughout the development process.

With regard to the height violation evident in the existing Bozutto condominium, and height violations of additional residences planned but not yet built, we are gravely concerned. As discussed yesterday, violations must be called out by MNCPPC as violations. Otherwise, the entire validity of the Project Plan process is nullified. It is not appropriate to enable developers to arbitrarily deviate from Project Plan conditions and findings...especially in an RMX2 project under "optional method of development" where such conditions and findings are "expressly tied to" and "not automatically severable" from the Project Plan, without remanding the entire Project Plan back to the Board for consideration. There is a proper process for the Board to review and address such developer desires in a hearing *prior* to the construction of structures which clearly violate terms and conditions of the Project Plan.

We do not believe that the height violation issue(s) can be properly addressed during the January hearing for supplemental amendments desired by the developer. As stated yesterday, we would expect MNCPPC to issue a violation to the developer and establish a Board hearing specifically on this issue.

As stated by Michael Ma, and confirmed by Wynn Witthans, the site plan(s) for the Bozutto condominiums as well as the 2/2's, did not contain specific height measurements - they merely stated "four stories." Therefore, we do not believe that MNCPPC is responsible for the violations. With a designation of "four stories" it would be expected that the site plan would be approved under the current Project Plan. The oneness is upon the developer to ensure that builders of those "four stories" comply with the heights specified in the Project Plan. The developer is clearly accountable and responsible for compliance with all conditions and findings of the Project Plan. It is evident that the developer was aware of the 45' height limitation for residential structures, and, under the "Site Plan Enforcement Agreement," takes full responsibility for development in accordance with that limitation.

We cannot sit idly by while developers change Project Plans at whim, according to market drivers. We appreciate your help in ensuring the sanctity of the Master Plan/Project Plan process.

We will await your response regarding issuance of a violation notice to the developer. Again, thank you for your time and assistance.

Sincerely,
Amy Presley (on behalf of the CTCAC)

Subj: **Fwd: Follow-up**
Date: 12/21/2004
To: rose.krasnow@mncppc-mc.org
C: john.carter@mncppc-mc.org, michael.ma@mncppc-mc.org, wynn.withans@mncppc-mc.org,
susan.edwards@mncppc-mc.org, councilmember.knapp@montgomerycountymd.gov,
catherine.matthews@montgomerycountymd.gov, nancy.hislop@montgomerycountymd.gov,
derick.berlage@mncppc-mc.org, joyce.coleman@mncppc-mc.org, nnagda@ENERGENconsulting.com,
smithcar@mail.nih.gov, [Shileykim](#)

Hello Rose and all.

We have not yet heard back from you regarding the height violation issues and are wondering whether MNCPPC intends to issue a violation notice to Newland. The CTCAC would greatly appreciate a written response before the end of this week.

Thank you for your assistance in this matter.

Regards,
Amy Presley
on behalf of the CTCAC

Subj: **December 8th Meeting - Follow-up**
Date: 12/23/2004
To: kambrose@newlandcommunities.com
CC: smithc@efdb.nci.nih.gov, davidkitchens@coopercarry.com, trodriguez@parkerrodriguez.com,
rcroteau@newlandcommunities.com, shileyk@mail.nih.gov, nnagde@ENERGENconsulting.com,
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Councilmember.Knapp@MontgomeryCountyMD.gov, Councilmember.Knapp@MontgomeryCountyMD.gov,
catherine.mathews@montgomerycountymd.gov, nancy.hislop@montgomerycountymd.gov,
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File: **C:\Documents and Settings\Presley\My Documents\CTCAC\Newland\NewlandResponse12-21-04[1][1].doc** (65024 bytes) DL Time (TCP/IP): < 1 minute

Hello, Kim.

The CTCAC met on December 13th to review the new retail site concept as presented by Newland on December 8th. All were pleased with the direction Newland is taking relative to the overall design, yet we still have some outstanding concerns.

Understanding your desire to move quickly towards a site plan hearing, we did not want to wait until after the holidays to submit our comments to you. The attached letter outlines our comments regarding the new concept. We will await your response as to a follow-up meeting or other appropriate next steps.

In the interim, we wish you a Merry Christmas/Happy Holidays.

Sincerely,

Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)

CLARKSBURG TOWN CENTER ADVISORY COMMITTEE

Kim Shiley, CTCAC Co-Chair
Carol Smith, CTCAC Co-Chair
Amy Presley, CTCAC Spokesperson

December 21, 2004

Ms. Kim Ambrose
Vice President, Operations
Newland Communities
8201 Greensboro Drive
Suite 817
McLean, Virginia 22102

Dear Kim:

First, we want to thank you and your team for meeting with us on December 8th to present the revised concepts for the CTC Town Square and retail area. The design presented addressed several of our concerns relative to pedestrian-orientation, the potential grading issues with the previous plan, and the placement of the library relative to use of the Town Square green space. We found the new design to be visually attractive and we are appreciative of the beautiful work done by Trini and David. However, we feel strongly that appropriate form *and* function are critical to the success of the Town Square/Retail area and fulfillment of the Master Plan/Project Plan intent.

We presented and discussed the design with the CTCAC on December 14th and are in full agreement regarding our assessment of the new design. We find the following to be the positive aspects of the design:

- **Overall Design**
 - o The new design is visually interesting and, dependent upon proper execution of architectural detail, will create a pleasant and inviting Town Square and pedestrian-oriented Retail area
 - o The new design provides for safe pedestrian traffic and gathering areas.
- **Library**
 - o The new location establishes the library as a "significant" building, as appropriate according to the Master Plan/Project plan.
 - o The planned architecture, with two stories and open loft "reading room," will provide visual interest and increased functionality.
 - o The library will serve as a linkage to the Town Square green space and enable better usage of the Town Square area.
- **Grocery Store**
 - o The new location of the grocery store provides for decreased visibility of the truck loading area and addresses pedestrian safety relative to truck deliveries, by avoiding residential and pedestrian pathways.

Regarding functionality, specifically with respect to the Master Plan/Project Plan vision and guidelines for the Town Square retail area, there are several issues of great concern still outstanding with the new design. We find the following issues to be of most significant concern:

- **Reduction of Retail/Office Space**
 - o The reduction of retail and office space in the new design to 116,500 sq. ft. of retail and 6,000 sq. ft. of office space is unacceptable, as it will not adequately provide for the mix of uses envisioned in the Master Plan/Project Plan as necessary to "create a lively and diverse place" (p. 44) and "create a Town Center which will be a strong central focus for the entire study area" (p. 42).
 - *Note: The Master Plan/Project Plan allowed for and encouraged a total of 250,000 square feet of retail and office space (150,000 sq. ft. retail; 100,000 sq. ft. office). These guidelines were established under the special RMX2 zoning with the intent of creating a self-sustaining, pedestrian-oriented Town Center that would serve the community and study area long term.*

- The new design includes two pad sites (adjacent to the retail area and parallel with Overlook Park Drive) that neither foster pedestrian access as well as they could, nor provide for the optimum sq. ft. retail and office space allowable under the Project Plan to serve the community. While pad sites are lucrative for the retail developer (in that the retailer, vs. the developer, is responsible for construction of the building), they do not best serve the community. These pad sites and the available space would better serve the community if connected to the building on Overlook Park Drive and Clarksburg Town Square Drive and if designed as two stories to maximize square footage.
 - *Note: The pad sites could become one contiguous retail area and could have a second floor added. If the sites were joined to the other building on Overlook Park Drive, also built with two stories instead of one, it would encourage pedestrian traffic on the Overlook Park side and allow for potential back-to-back retailers to fill the space, as well as providing for supplemental office space above.*
- The new design also includes a freestanding pad site (between the bank and grocery store) that Newland presented to us as a restaurant for gathering and dining (“with great views of the park area, etc.). However, only a total of 5,000 sq. ft. is planned for this site. This footprint will not accommodate anything larger in scale than a “Panera.” It does not provide for a larger restaurant that would accommodate the community with a “dining” establishment vs. an upscale fast-food establishment. We suggest increasing the size of this building to a minimum of 9,000 sq. ft.
 - *Note: The types of retail planned will have a dramatic impact on the community and the success of the pedestrian-orientated Town Center goal of the Master Plan. If there are no spaces that will accommodate the mix of retail/dining establishments to support a pedestrian and destination draw, this will impact negatively on the community long term.*

- Grocery Store

- The grocery store in the new design has a footprint of 63,000 sq. ft. This accounts for more than half of the total retail area planned, leaving a balance of only 53,500 sq. ft. for other retail establishments. We find, and are supported by county officials, that the planned grocery store is too large for the scale of the community and should be reduced to allow for other retail and/or entertainment space (as encouraged by the Master Plan to create a unique and lively focus).
 - *Notes:*
 1. *The footprint of the grocery store (Giant) at Kentlands is 60,854 sq. ft. We do not need a grocer of that size to support this area. If so, then we also need retail proportionate to that of the Kentlands.*
 2. *If the grocery store is intended as the sole anchor to achieve a destination center draw, competition with the Cabin Branch and Clarksburg Village retail areas and grocer (to be built soon after Clarksburg Town Center) should be considered. Thought and commitment must be given to creating a unique draw to the Town Square/Retail center – such as the addition of entertainment space (movie cinema cafes/theater, etc.) -- not merely a large grocery store. Again, “create a Town Center which will be a strong, central focus for the entire study area”.*

- Mix of Retail/Office Space

- As noted, we find an appropriate mix of retail and office space to be critical to supporting the Master Plan/Project Plan vision for Clarksburg Town Center. Based

on the plan presented we do not see an appropriate allocation of retail/office space to accommodate the mix of uses envisioned. We would like assurance from Newland that an adequate mix of retail establishments (including dining, entertainment and other strategically selected retailers/boutiques) will be planned for and included in the Town Center retail area..

- *Notes:*
 1. *We believe that the reduction of retail space, increase of grocery store space, and insistence on pad site locations/sizes is being driven by Newland’s contract with the retail developer (Regency) vs. the intent to develop the type of Town Center envisioned for the community in accordance with the Master Plan/Project Plan.*
 2. *We would like written assurances from Newland that the retail developer ultimately contracted will have the sensitivity necessary to develop the retail area in accordance with the Master Plan/Project Plan vision, vs. merely from a “cookie-cutter”/“strip center”/profit only motive.*

- **Planned Residential**
 - o The addition of residential units within the retail area of the Town Square is not in accordance with the Master Plan/Project Plan and reduces the amount of office/retail space available.
We suggest eliminating the residential units and/or reducing the residential units to provide for office space (2nd floor) above retail (1st floor) along Clarksburg Square Drive and General Store Drive.
- **West Side/Residential Site Plan**
 - o On initial review of the West Side residential site plan shown to CTCAC at the December 8th meeting, we believe that the revisions to the plan are positive. However, we are still concerned with the cohesiveness of the West Side of the Town Square area with the Retail side. Therefore, we cannot give our full support of it until we can view the site plan in conjunction with the revised Retail area site plan.

Adherence to the Master Plan and Project Plan Guidelines, especially with respect to the intended functionality of the Town Square area, is of vital importance to us as a community. We appreciate the progress Newland has made to date towards fulfilling the Master Plan/Project Plan vision. However, as a community, we cannot support the most recent design presented to us without first having our remaining concerns addressed. We believe that another meeting with you, followed by some appropriate revisions to the plan presented, would bring us nearer to that point of support of the conceptual design.

The CTCAC would be available to meet during the second week in January to review these concerns in detail and discuss appropriate revisions to the plan. Please contact us to let us know a convenient time to get together with your team.

Sincerely,

Kim Shiley, CTCAC
Carol Smith, CTCAC
Amy Presley, CTCAC
on behalf of CTCAC and Residents

Cc: Wynn Withans, MNCPPC
Michael Ma, MNCPPC
Rose Krasnow, MNCPPC
Sue Edwards, MNCPPC
John Carter, MNCPPC
Todd Brown, Linowes & Blocher
Rick Croteau, Newland Communities

RE: Follow-up

12/23/2004 6:28:11 PM Eastern Standard Time

Rose.Krasnow@mncppc-mc.org

Synergiesinc@aol.com

Sent from the Internet ([Details](#))

Amy,

I am well aware that you had hoped to receive a response from me by the end of this week, and I apologize that I am not meeting that deadline. I should have a response to you either Monday or Tuesday.

Let me wish you the happiest of holidays.

Rose Krasnow

-----Original Message-----

From: Synergiesinc@aol.com [mailto:Synergiesinc@aol.com]

Sent: Tuesday, December 21, 2004 11:18 AM

To: Krasnow, Rose

Cc: Carter, John; Ma, Michael; Witthans, Wynn; susan.edwards@mncppc-mc.org;
councilmember.knapp@montgomerycountymd.gov;

catherine.matthews@montgomerycountymd.gov; nancy.hislop@montgomerycountymd.gov;

Berlage, Derick; Coleman, Joyce; nnagda@ENERGENconsulting.com; smithcar@mail.nih.gov;

Shileykim@aol.com

Subject: Fwd: Follow-up

Hello Rose and all.

We have not yet heard back from you regarding the height violation issues and are wondering whether MNCPPC intends to issue a violation notice to Newland. The CTCAC would greatly appreciate a written response before the end of this week.

Thank you for your assistance in this matter.

Regards,

Amy Presley

on behalf of the CTCAC

(Dated December 30, 2004)

Ms. Amy Presley
(On behalf of CTCAC)

Subject: Building Heights in Clarksburg Town Center
Phase I Site Plan #8-98001 and Phase II Site Plan #8-02014

Dear Ms. Presley,

Thank you for your continued interest in the regulatory plan approvals for the Clarksburg Town Center.

At the December 13, 2004 meeting between M-NCPPC Staff and representatives of CTCAC, you and the other CTCAC members present expressed your collective view that the developer of the Clarksburg Town Center knowingly submitted a site plan that deviated from the project plan conditions and findings, specifically with respect to the heights of certain buildings. You also stated your opinion that, pursuant to the optional method of development in the RMX-2 zone, under which Clarksburg Town Center was approved, the site plan conditions and findings are tied to and are not severable from the Project Plan. In light of this, you have requested that the Commission issue a notice of violation.

Following a review of all the pertinent documents and careful consideration of your concerns and your position respecting this matter, Commission Staff has concluded that: the Planning Board made the required finding that Site Plan No. 8-98001 ("Site Plan") is consistent with Project Plan No. 9-94004 ("Project Plan"); (2) that finding was properly made; and (3) the buildings in question comply with all conditions and development standards attached to the Site Plan. Having so concluded, Commission Staff finds no basis upon which to cite the developer or builder with a violation and is disinclined to do so.

As you know, the approval of the Project Plan was subject to a number of conditions; however, the height of the buildings was not included as a condition of approval. Rather, the reference to a proposed height of forty-five feet was included parenthetically within the "Proposed" column of a table entitled "Data Summary: Clarksburg Town Center." That table was included in the Project Plan opinion to demonstrate conformance of the project with the requirements and intent of the RMX-2 Zone. As you know, that table listed "four stories" under the "Required" column, which limitation is drawn from the Clarksburg Master Plan ("Master Plan") Land Use Plan recommendations for the Town Center District.¹ Notably, the Master Plan language does not set a numerical cap on the maximum height of apartment buildings, stating in relevant part only that "[a]ll apartment buildings in the future Town Center will be four stories or less . . ." Clarksburg Master Plan p. 44 (emphasis added). Therefore, the proposed "four-story" limitation was deemed to conform to the applicable requirements of the RMX-2 Zone, irrespective of any specific numerical limitation. In the Site Plan staff report, the proposed height limitation for residential buildings was similarly set at four stories, however, no specific numerical limitation was recommended. It was, and continues to be, Commission Staff's view that no specific numerical limitation is necessary in order to conform with the requirements of the zoning ordinance and the master plan; and, moreover, that a delineation of four proposed stories, with no specific numerical limitation, is consistent with the Project Plan approval. On Staff's recommendation, the Board determined that the Site Plan was consistent with the Project Plan, which determination necessarily includes a finding that the proposed height limitation of four stories in the Site Plan is consistent with that proposed in the Project Plan.

The Site Plan constitutes a detailed review of the proposed project and assigns the final site plan data limits, with which limits the buildings must conform, in order to comply with conditions of the building permit. With

¹ The Zoning Ordinance permits higher density residential uses under the optional method in the RMX Zones, provided that they are in accordance with, among other things, the limitations contained in the applicable master plan.

respect to their height, the buildings in question comply with the Zoning Ordinance/Master Plan and Site Plan development standards; and, therefore, in Commission Staff's view, the height of the buildings do not violate the condition of the building permit that the buildings comply with zoning regulations.² At the December 13 meeting, there appeared to be consensus among Commission Staff and attending CTCAC members that the site plan does not specify a height limitation—it only specifies that the buildings will be four stories—and, further, that the buildings in question are four-story buildings. As such, it is not disputed that the buildings in question (including the other multi-story buildings proposed but not yet built, as well as the “two-story over two-story” (2/2) buildings) are in conformance with the Planning Board's approval of the Site Plan.

We appreciate your interest in the Clarksburg Town Center community and recognize that you have a strong vision of what that community should look like. These four-story buildings are, apparently, taller than what you had anticipated and may, therefore, intrude on that vision. However, for the reasons stated above, we have concluded that there exists no basis upon which the Commission can cite the builder or developer for a violation of the regulatory approvals; and, furthermore, any question concerning a potential violation of a condition of the permit is outside of the Commission's authority.

As you know, site plan proposals for the amendment of Phase I (8-98001E) residential and Phase III (8-04034) retail are still pending. The proposals consist of an amendment for a new site plan for the commercial area; and, additionally, an amendment to both Phase I and II residential site plans, in order to modify the “Manor Homes” from 9 units to 12 units. We encourage you to make your views known to Commission Staff and the Planning Board as we proceed with the review and consideration of these amendments.

Please contact me if I can be of any further assistance. My Staff will inform you of our future Planning Board dates and will be available to meet with you on the projects currently under review.

Sincerely,

Rose G. Krasnow
Development Review Chief
Maryland National Capital
Park & Planning Commission
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Silver Spring, MD 20910
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² It is, of course, outside of the scope of the Commission's authority to make a determination as to compliance with a building permit. Such a determination is properly made by the Montgomery County Department of Permitting Services.

Subj: **Meeting Confirmation**
Date: 1/6/2005
To: dorothy.krass@mncppc-mc.org
CC: smithcar@mail.nih.gov, Shileykim@aol.com
BCC: Councilmember.Knapp@MontgomeryCountyMD.gov

Hello, Dorothy.

Thank you for your assistance in scheduling the meeting for us with Mr. Berlage. I just wanted to confirm to you that we will arrive at his office on Monday, Jan. 10, at 4:00pm.

Regards,
Amy Presley
301-916-7969 (office)
301-526-7435 (mobile)