

Appendix A
Revised Conditions of Approval



Revised Conditions

Project Plan Amendment 91994004B, Preliminary Plan 11995042A, Final Water Quality Plan and Site Plan 820070220 Clarksburg Town Center

The Applicant must comply with the following conditions of approval:

STAFF RECOMMENDATION FOR PROJECT PLAN: Approval of Project Plan 91994004B for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1, 213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction in the number of parking spaces, and reconfirmation of a reduction in setbacks from adjoining properties, on approximately 270 acres, with the following conditions:

1. Development Ceiling

The proposed development shall be limited to the following uses:

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

2. Building Height/Mass

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

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

3. Live/Work Units

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

4. Moderately Priced Dwelling Units (MPDUs)

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

5. Civic Space (Library Site)

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

6. Clarksburg Square Road/Route 355 Connection

- a. The Applicant must enter into a Subdivision Roads participation Agreement with MCDOT to provide for the future connection of Clarksburg Square Road to MD 355 in order to align with Redgrave Place and to provide a vehicular connection through the Clarksburg Historic District, when the right-of-way becomes available.
- b. The Applicant must enter into a Subdivision Roads Participation Agreement with MCDOT to relocate the entire Horace Willson house in order to accommodate the vehicular connection when the right-of-way connection becomes available. The Applicant will be required to obtain a Historic Area Work Permit (HAWP) for the infrastructure and relocation of the house.
- c. The Applicant’s total cost to make the Clarksburg Square Road/Route 355 Connection shall not exceed \$500,000.
- d. If the right-of-way for the road connection has not been obtained within one year after the date of this Resolution, the Applicant must place in an escrow account the \$500,000

referred to in “c” above less those costs incurred by the Applicant that have been credited by MCDOT to the road connection project. The Applicant must provide Planning Staff with written confirmation of the establishment of the escrow account.

7. Parking

- a. The Applicant shall provide a minimum of 1,241 parking spaces in the retail core by providing multi-level parking structures in Block KK (presently indicating 156 surface parking spaces); in Block LL (grocery) and in the surface parking lots and on-street within the retail core area (and including 45 spaces in the library surface lot).
- b. The following ratios are provided to account for the uses in the retail core:
 - 180 spaces for 10,000 square feet of restaurant space, which equates to 18 spaces per thousand square feet.
 - 188 spaces for the 47 live/work units, which equates to 2 spaces for the residential portion and 2 spaces for the commercial portion.
 - 592 spaces for the remaining 137,720 square feet of retail space, which equates to 4.3 per 1,000 square feet.
 - 100 spaces for the library site.
 - 147 spaces for the 98 multi-family, which equates to 1.5 spaces per unit.
 - 34 spaces for the 17 liner townhomes, which equates to 2 spaces per unit.
- c. The Applicant shall provide one dedicated parking space for each live/work, multi-family and in-line (one-family attached) unit within the retail core to be signed and marked for use solely by the resident of the space.

8. Staging of Amenity Features

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

9. Maintenance and Management Organization

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

STAFF RECOMMENDATION FOR FINAL WATER QUALITY PLAN: Approval of Final Water Quality Plan for Site Plan 820070220 as described in the letter dated October 6, 2008 [Attachment D], unless amended and approved by DPS and DEP, with the following conditions:

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

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

STAFF RECOMMENDATION AND CONDITIONS FOR PRELIMINARY PLAN:

Approval of the proposed amendment to Preliminary Plan 11995042A, including a waiver of Section 50-29(a)(2) of the Subdivision Regulations pursuant to Section 50-38 to permit lots without frontage on a public street, a waiver of Section 50-26(d) of the Subdivision Regulations pursuant to Section 50-38 to permit streets with less than the minimum permitted centerline radii, a finding pursuant to Section 50-26(c)(3) of the Subdivision Regulations to permit less than 25' corner truncations at certain intersections, and subject to the following conditions:

- 1) Development under this approval is limited to 194,720 gross square feet of commercial development, including 69,720 square feet of specialty retail; and 1, 213 residential dwelling units, including 12.5 percent MPDUs, consisting of 219 one-family detached units, 701 one-family attached units (includes live/work units) and 287 multi-family units.
- 2) The following phasing requirements are conditioned upon issuance of building permits for the subject preliminary plan:
 - a. Construction of (1) Overlook Park Drive from Stringtown Road to Clarksburg Square Drive and (2) Clarksburg Square Drive connection to the residential area north of stream valley must be complete and open to traffic prior to release of 901st residential building permit and prior to issuance of Use & Occupancy permit for any of Clarksburg Town Center retail development.

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

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

apply

- d. M-NCPPC and the Applicant will enter into an agreement specifying that an exchange of land, identified as areas “B1” and “B2” on the park/school concept drawing set out on Circle Page 49 of the staff report, will occur prior to the execution of the Site Plan Enforcement Agreement.
- e. Dedication of the approximately 8 acre area, identified as area “A” on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.
- f. The Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.
 - i. In the event that dedication occurs when funds for the proposed school are shown in the CIP, Applicant will complete work on the replacement fields prior to the construction of the proposed school.
 - ii. In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street “F”, as shown on the revised preliminary plan, Applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Applicant will also rough grade and seed the replacement soccer field when construction of Street “F” begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the site plan application.
- g. In accordance with Condition f above, Applicant to enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Parks’ Memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur as specified in Condition f.
- h. Record plats to reflect delineation of conservation easements over the areas of the 100 year floodplain, stream valley buffer, wetland buffer and tree preservation and/or reforestation and greenway dedications.
- i. Final number and location of units to be determined at site plan.
- j. Access and improvements as required to be approved by MCDOT and MDSHA.

14) The following previous condition of approval for Preliminary Plan 11995042R as contained in the Planning Board Opinion dated August 14, 2001, remains in full force and effect:

- a) Stockpiling and borrow of dirt for use in a timely fashion only in connection with this preliminary plan, at designated locations, prior to site plan approval provided:
 - i. M-NCPPC technical staff review and approval of sediment control plans prior to issuance of permits by MCDPS; and
 - ii. Applicant to enter into agreement with the Planning Board in advance of any land disturbance that they will conform with all aspects of stockpile and borrow plans.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan 820070220, Clarksburg Town Center, for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1, 213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction in the number of parking spaces, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties, on approximately 270 acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on September 15, 2008, are required except as modified by the following conditions:

1. Project Plan Conformance

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

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 11995042A, or as amended by the Planning Board during the November 6, 2008 hearing.

3. Retail Center

- a. The Applicant shall construct the proposed retail center as shown on the approved plans submitted to the Planning Board, or as amended by the Planning Board during the hearing.
- b. The cost of the parking structures associated with the retail center shall be incurred by the Applicant.
- c. A minimum of one parking space must be dedicated and signed for all live-work and multi-family units within the mixed-use core area, which includes Blocks KK, LL and MM. The dedicated spaces shall be signed and posted restricting parking to the retail tenants, unless the tenant and owner of the live/work and multi-family units are the same. These dedicated spaces must not include the on-street parking.
- d. In addition to the combined pedestrian and vehicular entrance on Public Road A, the Applicant must provide a second pedestrian entrance to the grocery store from Public Road A, as shown on the most recent plans dated November 26, 2008.

- e. Provide dedicated parking spaces for the one-family attached units, including the MPDUs in Block GG.
- f. Provide a disclosure statement to future residents/retailers that will be provided dedicated/reserved parking spaces. A copy of the disclosure statement must be provided to the M-NCPPC prior to the release of the building permits for those uses.
- g. The depth of the retail stores must be at least 60 feet in depth, exclusive of the leasable area and service area.
- h. The Applicant must provide Staff a revised plan addressing the parking and depth of stores to be incorporated into the Certified Site Plan.

4. Recreation Facilities

- a. The Applicant must meet the square footage requirements for all of the applicable proposed new recreational elements, exclusive of the Sports Court for the Resident's Club, and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The Applicant shall provide the recreation facilities shown on the Overall Recreational Facilities Plan Exhibit dated September 15, 2008 as finalized by the Planning Board at the December 11, 2008 hearing.
- c. The Applicant shall ensure that the Resident's Club/Community Building meets the health and safety requirements of the Health Department and space requirements of the M-NCPPC Recreation Guidelines for adequate deck area. Detailed of the plans for the Community Center must be included on the Certified Site Plan.
- d. The Applicant must provide the smaller sport court, referenced as "Plan B" in the November 20, 2008 exhibit provided by the Applicant

5. Parking

- a. The Applicant shall provide a minimum of 1,241 parking spaces in the retail core by providing multi-level parking structures in Block KK (presently indicating 156 surface parking spaces); in Block LL (grocery) and in the surface parking lots and on-street within the retail core area (and including 45 spaces in the library surface lot).
- b. The following ratios are provided to account for the uses in the retail core:
 - 180 spaces for 10,000 square feet of restaurant space, which equates to 18 spaces per thousand square feet.
 - 188 spaces for the 47 live/work units, which equates to 2 spaces for the residential portion and 2 spaces for the commercial portion.
 - 592 spaces for the remaining 137,720 square feet of retail space, which equates to 4.3 per 1,000 square feet.
 - 100 spaces for the library site.

- 147 spaces for the 98 multi-family, which equates to 1.5 spaces per unit.
 - 34 spaces for the 17 liner townhomes, which equates to 2 spaces per unit.
- c. The Applicant shall provide one dedicated parking space for each live/work, multi-family and in-line (one-family attached) unit within the retail core to be signed and marked for use solely by the resident of the space.

6. Environmental

The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated October 6, 2008 and the conditions of approval from the Final Water Quality Plan dated October 8, 2006:

- a. Compliance with the conditions of approval of the Final Forest Conservation Plan dated December 27, 2004 and amended July 24, 2006, as amended to reflect the appropriate afforestation/reforestation calculations based on the final approved site plan design.
- b. A five-year maintenance period shall be required for all planted areas credited toward meeting the requirements of the forest conservation plan.
- c. All afforestation plantings on the Piedmont Woods Park are to begin in the first planting season after the issuance of the first sediment control permit by the Montgomery County Department of Permitting Services for any work to be conducted on Piedmont Park.
- d. Reforestation/afforestation plantings other than in Piedmont Woods Park that are located outside the limits of disturbance on the Clarksburg Town Center development must occur in the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
- e. Applicant must replace all financial security instruments submitted by Terrabrook Clarksburg, L.L.C. with new financial security instruments from Newland Communities, L.L.C... The financial security instruments must be based at a rate of \$0.90 per square foot or on a landscape estimate approved by the Planning Department. The new financial security to be reviewed and approved by Environmental Planning staff prior to Certified Site Plan approval.
- f. Applicant must submit a revised final forest conservation plan and obtain approval from Environmental Planning prior to approval of the certified site plan.
- g. All revised plans must be sealed and signed by a qualified professional.
- h. Applicant must remove the "Certified Site Plan" stamp from the final forest conservation plan (FFCP).
- i. Applicant must clearly delineate which trees are being taken for the landscape credit claimed in the FCP Worksheets. Any trees not claimed for landscape credit must not be shown on the FFCP.
- j. Applicant must remove the designation "Off-Site" planting that is proposed for Piedmont Park since this area has been part of the project since preliminary plan approval.

- k. Applicant must change all of the 5-ft natural surface trails from the Kings Pond area south through the Greenway and in the Piedmont Park to 4-ft trails as per the approved FFCP dated July 24, 2006.
- l. Applicant must provide a detail of the natural surface trail that matches the detail on the Land Design, Inc. plan.
- m. There should be no changes in the size of any afforestation or reforestation planting area from what was approved in 2004 and revised in 2006. If changes are necessary, the applicant must provide a written explanation and justification for the area size changes and compensate for the loss of that planting area.
- n. The Applicant must provide afforestation plantings, landscape credit plantings and Greenway credit plantings, either on-site or at Piedmont Woods Park totaling the afforestation/reforestation requirements per the approved forest conservation worksheets.
- o. The applicant must provide a planting schedule for the Greenway area since the applicant is requesting reforestation credit in the FFCP. In turn, call this area out on the Certified Site Plan as part of the FFCP.
- p. Applicant must: combine afforestation areas Q and S on Sheet 8 to one planting area; combine afforestation areas A-1, A-3 and B-1 on Sheet 11; and combine afforestation areas C-1 and K on Sheet 13.
- q. Applicant must clearly delineate Category I forest conservation easement lines or forest conservation areas as dedicated to the Parks Department, whichever is appropriate on the final forest conservation plan.
- r. Applicant must correct the size of afforestation area G. In one location on the submitted plan it is listed as 2.15 acres and in a second it is listed as 1.78 acres.
- s. Applicant must correct the size of afforestation area H. On page 21 it is listed as 0.40 acres in size but in the data table states it is 0.31 acres.
- t. Applicant must include a note on Sheet 21 stating that planting must occur within the sewer line area but not within 5 feet off the pipe centerline.
- u. Applicant must afforest all stream valley buffers (SVB) on Sheet 22 as shown on the approved final forest conservation plan and final water quality plans.
- v. Applicant must correct the spelling of "afforestation" and "area" on Sheet 24.
- w. Applicant must show the SVB on Sheets 33, 34, and 35.
- x. Applicant must clarify why the LOD extends out into afforestation area Z on Sheet 36.
- y. Applicant must clarify why the LOD extends out into afforestation areas Z and HH on Sheet 37.
- z. Applicant must use the correct updated FCP worksheet available on the MNCPPC website at <http://www.mcparkandplanning.org/Environment/forest/index.shtm>.
- aa. Applicant must include the data table as required by Section 109-A(2) of the Forest Conservation Regulations.
- bb. Applicant must replace all Norway Maple (*Acer platanoides*) trees requested for landscape credit with native canopy trees.
- cc. Applicant must correct typographic errors in the table for Afforestation Area CC on Sheet 39.
- dd. Applicant must correct all applicable notes throughout the document to identify that all reforestation/afforestation plantings have a 5-year maintenance period from the date the forest conservation inspector inspects the planted materials...

7. Site Design

- a. Revise the site plans to provide brick pavers within all sections of the retail core in lieu-of asphalt.
- b. Eliminate the angled parking on the private street in the retail core and provide parallel parking.
- c. Private Street #4 shall be revised to become Public Street 'A' with a 60-foot right-way, as approved by the Department of Transportation.
- d. Provide amended soil treatment a minimum of 10 feet back from the curb continuously along the public and private streets for the entire retail core, civic building and town green. The depth of the soil treatment shall be a minimum of 3 feet.

8. Landscape and Lighting

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

9. Enhancement Planting/Streetscaping and Amenities

Consistent with the provisions of the approved Plan of Compliance, the community has identified additional enhancements and amenities to be provided by the Applicant, and at the Applicant's expense. The cost of the amenities shall be applied against the landscape enhancement fund established by the Compliance Program. The list shall be provided on the certified site plan.

10. MPDUs

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

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

11. Maintenance Responsibility

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

12. Retaining Walls

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

13. Park Development

The Applicant shall comply with the memorandum dated October 20, 2008 from Park Planning and Stewardship as outlined in the following conditions:

Piedmont Woods Recreational Park:

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

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

Manufacturers Association (IPEMA), meet all ASTM requirements for public playgrounds and shall meet M-NCPPC park standards.

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

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

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

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

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

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

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

- c. A park permit is required before construction of all park amenities. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.
- d. Applicant to execute a Public Use Easement and Public Improvements Easement (PIE) for the purpose of access to and maintenance of the trail. Easements to allow the full right of public trail use and allow M-NCPPC- Department of Parks the full right to maintain and make any improvements to the trail. Said easements to be acceptable to M-NCPPC legal staff as well as the Department of Parks staff.

- e. Applicant to address in its initial design the following comments to the satisfaction of M-NCPPC Department of Parks staff prior to the approval of the Certified Site Plan with the final design occurring prior to issuance of park construction permit:
- i. The style of the picnic shelters and proposed restroom building should fit with the character of the Clarksburg Town Center. The proposed structures are constructed of heavy timber, laminated wood, have a rustic appearance and are inappropriate in character for use in this park. Per previous comments, provide shelters and restroom building equal to Classic Recreation Systems, Inc. "Campion" style steel frame shelter with custom ornamentation, cupola, 10:12 pitch metal roof with 2"x6" tongue and groove sub-roof, stone veneer piers and base.
 - ii. The landscape plan does not include enough trees. There should be many more trees in clustered, informal groupings, particularly along the main path on Snowden Farm Parkway, along all other walkways, near the picnic shelters, at the edges of the parking lot, within parking lot planting islands, near the basketball court, around the playground, near all seating areas, and on open slopes within the park. Trees should be set back a minimum of 10 feet from paths and 15 feet from structures and fencing. The general quantities and locations of plants shall be determined prior to approval of the certified site plan. The exact types, sizes, spacing, locations and quantities of plants shall be reviewed and may be adjusted during the park permit approval process.
 - iii. Provide additional paths or relocate paths at the tennis courts to meet ADA guidelines for accessible sports facilities. The guidelines require an accessible route to be connected to each court. The paving around the restrooms and tennis courts could be simplified.
 - iv. The minimum paved path width shall be five feet to meet ADA requirements. The minimum paved path width for multi-use trails and paths that require maintenance vehicle access is eight feet wide. The path from the parking lot to the dog park shall be ten feet wide and fully paved with ample vehicle turn-around room, as the dog park requires frequent maintenance access. The path around the playground area with its connections to the parking lot shall be widened to 8 feet to allow vehicle access to replenish playground surfacing. The paths around the edges of the parking lot may be narrowed in width if necessary to balance the amount of impervious surface in the park. The approximate alignments of trails and paths in the park shall be shown on the certified site plan

however they may be adjusted some during the park permit review process.

- v. Provide additional missing elements from the park program of requirements, including the following: a kiosk near the park entrance or restroom building (equal to Classic Recreation Systems, Inc. "Campion" style), a shade structure with seating in the dog park that could be shared by both areas, four nature interpretation signs with durable colored graphics along the natural surface trails, wild bird boxes in natural areas, and three seating areas with benches along the natural surface trail including a story-telling circle.
- vi. Remove the bio-retention area from the interior of the dog park, so that plantings are not trampled. Relocate the area outside of the fence.
- vii. If possible, reduce the number of bio-retention areas in the park, as these beds have high maintenance requirements and herbicides are not allowed to be used in these areas.
- viii. Provide a safe pedestrian crossing of Snowden Farm Parkway, in order to provide pedestrian access to the park from the surrounding neighborhood.
- ix. The park entrance pier and sign are too small to be effective. Provide a larger entrance sign for the park constructed of masonry and wood, designed to fit with the character of the Clarksburg Town Center as well as provide identity for the park.
- x. The plan does not provide enough seating in the park. Provide at least one additional bench on each side of the dog park, at least 3 additional benches or a seat wall in or near the playground area, at least 3 additional benches along the trail on Snowden Farm Parkway, and benches along the natural surface trail system as described previously. The two benches in the lawn area adjacent to the playground should be moved into the playground surfacing for ease of maintenance/mowing. Provide occasional groupings of two benches, rather than just single benches near the playground. The exact locations and selection of bench type shall be reviewed and approved prior to park permit, however there will likely be two types: a decorative type within the park, and a simpler version in the playground mulch areas and along natural surface trails. The catalog cut included in the drawings is an example of a simple bench, rather than a decorative bench.
- xi. Provide a hose bib on the exterior of the restroom and quick coupler connections on each side of the dog park for watering and maintenance.

- xii. The general quality of the park and all elements within the park (such as site furnishings, structures, pedestrian paving, fencing, walls and landscaping) shall be equal to or better than those provided at Arora Hills Local Park and Dowden's Ordinary Historic Park, which are other developer-built parks in Clarksburg.
 - xiii. Department of Parks staff would prefer to have no lighting in the park, since the park is closed at dark. However, parking lot lighting was indicated as a requirement in the plan of compliance. If lighting is provided within the park, all park facilities should be lighted, including the courts, dog park and restroom so that the park may be used after dark. Lighting the parking lot on its own could encourage illicit use of the park at night. Any decision regarding lighting should be reviewed and confirmed that it would be acceptable to the community.
 - xiv. The lighting footcandle levels in the parking lot were reduced to 0.5 footcandles. If lighting is to be provided within the park, confirm that the lighting levels are appropriate, based on applicable standards (IESNA) and confirm that Park Police concurs with these recommendations. If Park Police recommends higher levels of lighting, additional fixtures may be required.
- f. Applicant to address the comments in the memorandum dated October 20, 2008 to the satisfaction of M-NCPPC Department of Park staff at the time of park permitting.

Kings Local Park

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

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

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

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

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

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

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

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

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

Clarksburg Greenway and Greenway Trail

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

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

Applicant to construct a 5' wide, natural surface trail system within the dedicated Clarksburg Greenway from Kings Local Park lake area to Stringtown Road. Trail to include a safe road crossing at Clarksburg Square Road, and a safe, adequate and well lighted alignment under Clarksburg Square Road. Alignment to be substantially as set forth on the site plan with final details of the alignment and construction details to be set forth on the certified site plan.

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

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

All plantings and landscaping in the Clarksburg Greenway, Kings Local Park and Piedmont Woods Recreational Park to be approved by M-NCPPC Department of Parks staff. All plantings and landscaping to be consistent with the guidance set forth in the letters dated 6/20/08 and 6/23/08 to Doug Powell from Holly Thomas, County-wide Horticulturist and with the Standards and Specifications set forth in the document titled "Planting Requirements for Land-Disturbing Activities and Related Mitigation on M-NCPPC Montgomery County Parkland Revised January, 2008.

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

14. Landscape Surety

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

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

15. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved by staff prior to the approval of the Certified Site Plan. The development program replaces the approved Site Plan Enforcement agreement, with the exception of the MPDU phasing outlined by DHCA, and institutes timing mechanisms related to building permit release. The development program must include the following items in its phasing schedule:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Local Recreational Facilities
 - i. All remaining Local Recreational Facilities on the East Side of the Greenway must be completed prior to the issuance of the building permit for the 901st residential dwelling unit in the project. The remaining local recreation facilities on the East Side, which have not been constructed, include sitting areas and an open play area associated with Basil Square Park, which shall be installed within 6 months of the completion of Basil Square Park Road. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
 - ii. The Local Recreational Facilities on the West Side must be completed prior to the issuance of the following building permits for the units in the respective blocks. (This number represents 70 percent of the number of units located in each block). The recreation facilities to be constructed on the West Side include the tot lot and sitting areas associated with Harness Point. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
- c. Community-Wide Recreational Facilities
 - i. The improvements to Murphy's Grove Pond must be completed prior to the issuance of the building permit for the 950th residential dwelling unit in the project.
 - ii. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
 - iii. The expansion of the existing swimming pool shall be completed prior to the second Memorial Day weekend after approval of the Certified Site Plan.

- iv. The sport court building, expansion of the Resident's Club fitness room, and the adjacent Sinequa Square and tree bosque open space improvements shall be completed prior to the issuance of the building permit for the 1,000 residential dwelling unit.
- v. The sport court building shall consist of a facility for typical gym type functions, such as basketball, volleyball, aerobics, Pilates, pre-schooler tumbling, martial arts and yoga, and a multi-purpose room for community activities and shall be in the general configuration shown on the plan attached as Exhibit B. Interior fit out of the sport court building shall be comparable to the interior fit out of the existing community center, with details to be provided prior to approval of the Certified Site Plan.
- vi. Community-wide facilities on the West Side include the natural surface connections within the Greenway and necessary bridges or boardwalks, Town Green and Market shall be completed as follows: 1) the improvements within the Greenway shall be constructed/installed within 6 months of the completion of Overlook Park Drive; and 2) the Town Green and Market shall be completed upon the completion of the Live/Work units adjacent to the Town Green and Market. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
- vii. The 8-foot-wide bike path connection on the east side of Overlook Park Drive shall be constructed in conjunction with the road connection.

d. Kings Local Park

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

e. Piedmont Woods Park

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

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

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

- h. The grocery store, parking garage, streetscape, retail stores in Block LL must be under construction prior to the release of the building permit for the 901st residential dwelling unit ~~the entire development~~.
- i. Provide each section of the development with necessary roads.
- j. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

16. Penalties

The Applicant must submit the Certified Site Plan no later than 90 days after the issuance of mailing of the resolution, or, if a timely administrative appeal is filed by any party authorized to take an appeal, 90 days after the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods. If the Certified Site Plan is not timely submitted, the Applicant must pay a \$500/day fine for each day the Certified Site Plan is late. If the Planning Board determines that the Certified Site Plan does not conform to all conditions of site plan approval, the Planning Board may assess the Applicant a fine of up to \$500/day for each day after the later of the Certified Site Plan due date or the submittal date until such time as plans have been submitted that conform to all conditions of approval. The timeframe set forth above may be reasonably extended by action of the Planning Board for any delay caused by events that are beyond the control of the Applicant (such as, by way of example and limitation, any delay caused by extended reviews by reviewing agencies of plans submitted by the Applicant).

17. Certified Site Plan

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

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c. Revised parking calculations.
- d. Modify notes to include M-NCPPC Staff approval required for planting plan substitutions.
- e. Ensure consistency off all details and layout between site plan and landscape plan.
- f. Graphically delineate the Limits of Disturbance.

- g. Revised parking exhibit showing the dedicated residential spaces in the retail core and the updated permitted on-street parking spaces as determined by the Fire Marshall and the Montgomery County Department of Permitting Services.
- h. Show the locations of the MPDUs on all Site Plans.
- i. Detail of the amended soil treatment.
- j. Heights of the proposed units in Blocks GG, H, A and R.
- k. Provide the additional landscaping in the common areas as specified in the conditions of approval.
- l. Details of the upgraded mailboxes, notice boards and flagpoles.
- m. Provide internal green area computations for the parking facilities.
- n. Provide details of the signs and locations of signs for the reserved/dedicated parking spaces.
- o. Letter from the Clarksburg United Methodist Church agreeing to details of the pedestrian connection and provision of parking.

18. Staging (Status Report)

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