

**Appendix C**  
**Parking Analysis from CTCAC**

**Kronenberg, Robert**

---

**From:** lynn fantle [lfantle@aol.com]  
**Sent:** Friday, November 21, 2008 12:35 PM  
**To:** Hanson, Royce; Kronenberg, Robert; Krasnow, Rose  
**Cc:** David W. Brown; Kim Shiley  
**Subject:** Correction to CTCAC\_CTC\_Statement Analysis

Chairman Hanson:

It has come to our attention that there is a typo on page 8 of our Statement as submitted yesterday. This sentence, in the second paragraph:

*This means that without modification of the plans to provide additional parking, a 39% waiver would be necessary on top of already-blended, reduced and shared parking ratios under County Code or locally-acceptable and customary blended rates.*

should be corrected to read "...a 29% waiver would be necessary..."

We apologize for the error.

Thank you,

Lynn Fantle  
President  
Clarksburg Town Center Advisory Committee, Inc.

=

## **Kronenberg, Robert**

---

**From:** lynn fantle [Lfantle@aol.com]  
**Sent:** Thursday, November 20, 2008 6:01 PM  
**To:** Hanson, Royce  
**Cc:** Krasnow, Rose; Kronenberg, Robert  
**Subject:** CTCAC Statement and Parking Analysis of Clarksburg Town Center  
**Attachments:** Attachment A\_CTCAC\_Parking\_Analysis\_11\_20\_2008.pdf;  
CTCAC\_CTC\_Statement\_Analysis\_11\_20\_2008.pdf

Dear Chairman Hanson, Rose, and Robert:

Attached please find the additional information regarding parking ratios and analysis of parking in Clarksburg Town Center as requested by you on November 6, 2008. CTCAC stands ready to assist the Board and Staff in any way possible regarding this analysis and our statement. Please feel free to contact us with any questions.

Sincerely,  
Lynn Fantle  
President  
Clarksburg Town Center Advisory Committee, Inc.

301-515-7471

**STATEMENT OF THE  
CLARKSBURG TOWN CENTER ADVISORY COMMITTEE, INC.  
ON PENDING ISSUES RELATING TO THE  
COMPLIANCE PROGRAM SUBMISSION  
FOR THE  
CLARKSBURG TOWN CENTER  
November 20, 2008**

The Clarksburg Town Center Advisory Committee, Inc. ("CTCAC") submits these comments on issues left unresolved by the Board at its Compliance Program hearing of November 6, 2008 ("Hearing") on the submission by NNP II – Clarksburg, LLC ("Newland") of amended plans to fulfill its obligations under the Compliance Program issued by the Board in its Resolution of August 17, 2006.

**Conformity to the Compliance Program**

The Hearing reinforced CTCAC's deep concern, expressed in testimony at the Hearing, that the Staff Report and commentary was not focused on the principal issue before the Board: whether the amended plans conform to the Compliance Program. Rather, most of the Report was devoted to the important and necessary, but nevertheless subsidiary, details of whether the Plans meet the criteria for general approval as project, preliminary and site plans. At the outset of the Hearing the Chairman made clear that the Board did not intend to review Newland's plans on a clean slate, but rather would do so mindful that they were in submitted in response to and under the provisions of a Compliance Program. Unfortunately, however, when the Board discussed staff recommendations during the last five hours of the Hearing, from about 7:00 pm until midnight, the focus was exclusively on recommend conditions tied to plan approvals, not the fundamental issue of conformity to the Compliance Program. CTCAC trusts that in focusing on these details, the Board was postponing, not abandoning, its obligation to assess the entirety of the Newland submission against the requirements set out in the Compliance Program, and that this important, but as yet undone, task is one the Board has always intended to undertake once issues surrounding the content of particular conditions of plan approval are resolved. More simply put, it is not enough for the Board to be satisfied with a set of plan approval conditions; it must also be satisfied that, in their totality, the conditioned plans conform to the Compliance Program in total value proffered to the community.

In the hearing, Newland sought, in various ways, to be relieved of the obligation to conform to the Compliance Program. Several of these have already been addressed and resolved in the Board's consideration of conditions, with some changes rejected and some accepted. As part of its effort to minimize adequacy-of-parking concerns, Newland wanted to reduce the retail development ceiling by 14,000 square feet by precluding the grocery store mezzanine, based on preliminary grocer feedback. The Board has approved a condition that maintains this option for the future. Conversely, the Board has seemingly authorized a reduction in the number of live/work units specified in the Compliance Program by four, and thus a corresponding reduction in the number of potential shops in the Town Center, in order to facilitate an expanded and altered configuration for the Clarksburg Library. In other ways, a few other Compliance Program departures have also been addressed and resolved by conditions, but as detailed below, fundamental questions remain unresolved and must be evaluated in the overarching context of the need to ensure conformity to the Compliance Program.

## **The Economics and Interdependent Elements of the Compliance Program**

A second overarching point bears special emphasis. As CTCAC has made clear to the Board in recent prior Testimony, the Settlement Agreement reached between CTCAC and Newland and the builders ultimately was the result of an economic calculation of how much Newland, with undisclosed contributions from the builders, could reasonably be expected to spend on amenities and other features to ameliorate site plan violations. In seeking and agreeing to the best deal for the community that was possible under the economic constraints and circumstances presented during mediation, CTCAC had to relinquish some amenities the community at-large felt were important to completing the Town Center project as planned, as well as some amenities that had been agreed to during prior Board approval processes but not provided on the ground in the built environment. A month later, when the negotiated Plan of Compliance was submitted to the Board, Planning Staff evaluated it in economic terms, asking the following question: was the public interest served with the bargain struck between CTCAC and Newland and the builders, both quantitatively and qualitatively? Staff performed a quantitative analysis, resulting in the "Economics of the Plan of Compliance," that assessed the value of the enhancements against current and future fines for site plan violations and recommended approval of the Plan of Compliance. Staff Report at 13-15 (June 1, 2006).

With this recommendation, Staff, in service to the Board's duty to represent the public interest, and CTCAC, as a representative of the community, concurrently concluded that the bargain struck with Newland and the builders was in the public interest in terms of the economic *quid pro quo* that it reflected. This Board, in making Findings 4.2 and 4.3 in its Resolution approving the Compliance Program, expressly agreed. Thus, if the Board now allows Newland to make material changes in what is required by the Compliance Program, it must re-evaluate the impact on the public interest of any reduction in the economic burden placed on Newland and the builders. Newland has protested the need for this, claiming that that the Compliance Program was never intended to be "punitive" in nature. It appears that Newland would like the Board to believe that the only question for the Board is whether Newland is able to justify being relieved of an obligation in the Compliance Program, such as the obligation to pay for structured parking in Block KK, without regard to the reallocation of the cost savings entailed. Newland wants to travel a one-way street: adjust its obligations, but without any concurrent adjustment to its commitments proffered to the community as a part of the Compliance Program.

This argument fundamentally misses the basic point of what the Board did in 2006: the Board took action to approve a carefully crafted agreement, with a large number of interdependent parts in response to the submission of the Compliance Program by all parties at the direction of the Board. Considered in its entirety, the interrelated parts of the Plan constitute the "best deal" CTCAC, on behalf of the community, armed with the best consultant advice available, was able to make with Newland and the Builders in April 2006. If any aspect of that deal is later abrogated by the Board because the Board is persuaded by Newland or CTCAC that it is no longer suitable, the impact of the change must be evaluated across the entirety of the Compliance Program.

The importance and interrelated nature of elements and details in the creation of a successful mixed-use, pedestrian-friendly Town Center cannot be overstated. Items such as architectural detailing, building materials, build-to lines, and articulated facades are not merely "window dressing" to be discarded without regard for the effect this will have on placemaking. These are the items that will create a memorable, human-scale place by their inclusion or a bland, forgettable place by their deletion. In a mixed-use project, all elements are naturally

correlated and tied inextricably to one another; it is the very nature of "mixed-use." Failure to consider this inherent relationship between the parts neglects and may negate the intent and opportunity of "mixed-use" development in favor of an "easy" solution, one which may in fact result in newly problematic issues and be not "easy" at all.

The Clarksburg Town Center Compliance Plan contained multiple, interrelated elements which were agreed to after days of discussions by the parties to the mediation and their consultants; these discussions also necessitated much analysis and consideration of alternatives before agreement was reached. The inclusion of a particular element or item by necessity meant the exclusion of other, important items. The Compliance Plan was the result of an extended series of adjustments to the balance of elements with the intent to create the best, most pedestrian-friendly, viable Town Center possible for Clarksburg.

In January, 2006, various configurations were attempted for the land available for the retail core. What ultimately became obvious was that there is simply not enough land to surface park all of the desired development without significant impact to the shape and nature of the place, to the detriment of the pedestrian-friendly nature and quality of place. Starting from the desired element (amount of retail and residential units) and then working from the inside out, the blocks were built and then detailed, a finely tuned jigsaw puzzle, which resulted ultimately in the Compliance Plan as it was approved by the Planning Board in 2006. Alteration of the Plan must be carefully evaluated by the Board and Staff with a particular eye toward achievement, or lack thereof, of the proffered goals and "total picture" of the project as planned.

This evaluation is critical, without particular regard for blame or punishment, in order to preserve the public interest as reflected in the Board's Resolution approving the Compliance Program. If elements are deemed necessary or appropriate to delete, the next appropriate step is substitution of other, value-equivalent but next-best measures in order to ameliorate site plan violations. These measures could naturally comprise items such as those CTCAC was forced to leave on the mediation table in order to achieve parking structures – and thus parking numbers – in the Compliance Plan as presented to and approved by the Board. The focus should be to preserve the integrity of the Compliance Program, not to punish.

This point is most forcefully illustrated by reviewing the economics of a current proposal under consideration by the Board to grant Newland's request to be relieved of the obligation to construct a parking structure in Block KK. By anyone's reckoning, the savings to Newland would amount to at least several million dollars, with the concurrent loss to the community: a significant reduction in the amount of parking and reduced store depths in order to add surface parking spaces in compensation for the loss of a second deck of parking. . If this proposal is accepted by the Board, the question becomes how to compensate for these changes so as to restore the public interest in a fair and equitable Compliance Program, using whatever "next-best" amenities further the development of the agreed-upon vision of Clarksburg Town Center.

When Newland first proposed doing away with structured parking in Block KK earlier this year, CTCAC responded to Newland that if reconfigured parking was adequate and maintained proper retail store depth and sidewalk width, then its first choice among additional, compensating amenities would be the installation of brick sidewalks, to include replacing existing concrete sidewalks, throughout the entire Town Center project. This would have a tremendous unifying effect on the community at a fraction of the cost of a parking garage. Indeed, with guidance and encouragement from both DPZ and Torti/Gallas, and knowledge of

original but now-missing detailing for the community, this specific goal was high on CTCAC's list in the 2006 mediation leading to the Plan of Compliance to begin with. It was lost during the limited resources negotiations and due to the higher priority all consultants attached to the parking structures at that time, based upon the functional priority and central nature of the garages to the overall design of the retail center. Today, if there is elimination of a garage, brick sidewalks deserve reconsideration as a compensatory element for the community (provided, of course, that the Board is satisfied that the depth of stores and amount of parking provided without a second garage will be desirable for the Town Center). Supplementary to this idea, the Board might consider having Newland provide the HOA with a \$500,000 budget, in addition to any other financial obligations, for furniture, fixtures and equipment for the enhanced pool and rec complex (expand existing Residents' Center, add concessions area, and add ½ court sports court as depicted on plans of 3-19-08). Staff has articulated additional suggestions to enhance the ability of the HOA to deal with future expenses. The point is not to try to precisely calibrate dollar equivalency in matters of *quid pro quo*, but rather to achieve some reasonable comparability in general that will preserve the public interest in a Board-altered Compliance Program.

### **Outstanding Issues**

From CTCAC's perspective, the Board has yet to come to grips with two interrelated issues, the proper resolution of which are absolutely critical to the success of the retail core for Town Center: the depth of the retail stores along the main north-south commercial street and the issue of parking adequacy. Both considerations are explicitly addressed in the Compliance Program. The Board has asked CTCAC for a supplemental submission on parking adequacy, but the interrelated nature of store depth and parking configuration/adequacy makes it impossible to meaningfully address one without also addressing the other. We start with store depth, since this vital point got less attention in the Hearing than did retail core parking numbers and, as detailed below, parking adequacy cannot be properly assessed without first addressing store depth.

#### **1. Retail Store Depth**

Paragraph B.7. of the Detailed Plan of Compliance, worked out between Newland and CTCAC in the month following execution of the Settlement Agreement on April 6, 2006, expressly states as to the Retail Center (Blocks 1-5) as follows: "The depth of the retail uses along General Store Drive shall be 60 feet." This requirement is part of the Compliance Program, found at page circle 24 thereof. At the time this was agreed to, it was thought that General Store Drive would be extended under that name through the retail core, so the retail area referred to is comprised of all of the stores on either side of the generally north/south street traversing Blocks 3, 4 and 5 (now denominated Blocks KK, MM and LL, respectively).

CTCAC's insistence on a 60-foot depth was grounded in advice from its consultant, DPZ, that this was the depth needed to attract quality retail for a destination Town Center and provide for the greatest future flexibility to attract tenants, as opposed to limiting the center to only those uses that might comprise neighborhood convenience retail. This advice is also consistent with recent discussions members of CTCAC and CCA have had with StreetSense, of Bethesda, Md. Shallower depths would preclude uses needing 60', whereas uses that could get by with less depth would not be precluded by the provision of deeper stores. Additionally, due to the greater inherent flexibility, deeper storefronts allow for a greater

number of shops than do wide, shallow spaces, although they may be composed of similar amounts of retail square footage. In effect, shallower shops which will need to be wider due to lack of depth will necessarily dictate that fewer storefronts are available in the Town Center. To this end, DPZ advised that the conventional method for assessing retail store depth was exclusive of any necessary service alleys. That is, the front-to-back, wall-to-wall store measurement needed to be 60'. Shared areas for trash collection and loading docks were never intended to be used in the calculation of retail provided to the community of Clarksburg.

The plans proffered by Newland as in conformity with the Compliance Program do not have the 60' retail store depth required under ¶ B.7. of the Detailed Plan of Compliance. They fail this test even if one were to consider the service areas behind the stores as part of the 60' requirement. The Staff Report is silent on this major deficiency, despite the explicit Compliance Program requirement. Hence, the Staff Report also fails to discuss the significance of this deficiency in relation to either plan approvals or the more important point of Compliance Program conformity.

In its November 6<sup>th</sup> Testimony (at 19), CTCAC has already noted the physical interrelationship of this requirement and the parking requirements. If the 60' requirement is maintained in conjunction with the currently proposed surface parking lots, it will reduce the amount of interior block space available for surface parking. Parking space and store space cannot physically coexist in the same place. But there is an added, equally important dimension to the store depth/parking interrelationship. The issue of parking adequacy will never materialize in fact, if the retail tenants the parking is intended to serve or the shoppers drawn to the center do not exist. Based on all the study CTCAC has put into this issue over the past four years, and all the advice CTCAC has obtained from consultants and those experienced in such matters, CTCAC is convinced that the retail store depths proposed by Newland in the currently-proffered plans will not attract actual and viable retail uses, or at least not the kind of retail uses that the Master Plan has always intended for Town Center. In that event, the issue of parking adequacy may well be moot.

Should the Board require Newland to comply with ¶ B.7. of the Detailed Plan of Compliance, and lengthen the depth of noncompliant retail stores, restoring the intent and flexibility envisioned in the Compliance Plan, it will be necessary to reassess parking adequacy in terms of redrawn blocks. There are two ways in which the redrawn blocks are likely to enhance whatever concern the Board has about parking adequacy. First, as explained above, more space for retail on the ground floor of a block means less horizontal space for parking. Second, more space for retail and/or additional residential units on a block are likely to translate to a higher parking space requirement, given that the number of required spaces is always directly proportional to retail square footage and the number of residential units.

## **2. Structured Parking**

Much of Newland's presentation at the November 6<sup>th</sup> hearing was devoted to justification of non-compliance with a key element of the Compliance Program: Newland has proposed replacing the structured parking in Block 3 (KK) with a surface parking lot. At the November 6 Hearing, Newland protested that structured parking in Block KK was not to be viewed as an-amenity-in-lieu-of-fines leading to the proffer and Board acceptance of the mediated Plan of Compliance. But the Compliance Program Staff Report clearly evaluated the cost of structured parking in relation to fines, and concluded that structured parking was a "significant improvement to the ... project." Staff Report 4 (June 1, 2006) (Appendix C to



current Staff Report). And the current Staff Report likewise reflects Staff's belief that structured parking was always considered an amenity in lieu of fines. Staff Report 19.

CTCAC's November 6<sup>th</sup> Testimony (at 3-11) traced the evolution of the structured parking requirement from the outset of mediation in early 2006 to Staff's assessment of the Newland surface parking proposal for Block KK, explaining why structured parking became an important consideration in CTCAC's agreement to the Plan of Compliance agreed to in the 2006 mediation. Due to the constraints of both site and budget, much time was spent in discussion of the parking garages during mediation. After multiple presentations from Robert Charles Lesser and Company, two garages were agreed upon by all parties, with the possible provision of a third (in Block MM), and the future possibility of a Library garage to provide dedicated parking for the County Library. The garages were intended to function in multiple ways: to provide dedicated, sheltered (and thus more desirable) parking for the residential units in the retail core area; to provide parking for the retail shoppers; and to provide parking for the Live/Work units which would line them. The shape and nature that the garages would take was so integral to the vision of the Town Center that they were deemed an item worth the exchange of other, valuable items elsewhere in the Clarksburg Town Center community. These were not ordinary parking lots, the Town Center was intended to be first pedestrian-friendly, and second to facilitate auto traffic. To that end, the garages were designed to be "green" with planting and trees, to be entered on the top level with sky above (much like a surface lot.) Most importantly, however, the garages were the only viable way to provide the proper number of parking spaces required to create a vibrant, desirable, walkable and liveable place within the land available.

As reflected in its Testimony at the Hearing, CTCAC's position was, and remains, that argumentation and evidence about the need for structured parking in Block KK, when considered in the context of traditional plan review is one question, but when the issue is whether such evidence can justify departure from conforming to an explicit term of a Compliance Program "is a question of a wholly different order." Testimony at 10. In this particular case, the Board's resolution of that "different order" question should be cognizant of the decision of Arbitrator Howe when Newland sought in arbitration to remove structured parking from Block KK on the grounds that it was unacceptable to the market of prospective developers. Arbitrator Howe ruled that under the Newland/CTCAC Settlement Agreement, there was no term allowing Newland to adjust its commitments according to its post-agreement perception of market realities. *Id.* at 15-16. There is equally no provision for this particular type of modification in the Board's Compliance Program Resolution. A significant factor in Newland's claimed "market rejection" is Newland's RFP solicitation of developer interest in construction of the retail core. The RFP stated that the retail developer would construct and operate off-street parking, Testimony 9, instead of reflecting in fact what Staff and CTCAC understood Newland's commitment to be: "responsible for the construction of the two garages as part of the amenities being provided in lieu of fines." Staff Report 19. Developer interest might well have been different if the construction of the parking structures were subsidized or carried by Newland instead of being passed on to a new buyer of the property. This factor would certainly alter the economics of the center for any retail developer, while concurrently maximizing the available store depth and available parking spaces for both residential units and retail space.

Given these considerations, the Board, in assessing Compliance Program conformity, could elect to dispense entirely with evaluation of claims by Newland that the retail core is "overparked" and that a parking structure in Block KK is unnecessary. Nevertheless, if the Board does elect to entertain such claims, there are additional facts and factors CTCAC believes the Board must consider, the first and foremost being that the Board could decide it will not consider quantitative claims of parking adequacy at all, until such claims are presented

in the context of plans that show proposed non-structured parking after correction of the retail store depth to provide the 60' depth required by the Compliance Program (and inclusive of the required amount of retail square footage).

CTCAC has conducted an analysis of the proposed plans for the retail area on the West side, exclusive of existing residential areas. The parking ratios are a blend of the County Code for all residential units and commonly-accepted local ratios for mixed-use shared parking. There is little point to arguing the finer details of a transit-based parking waiver as Clarksburg is not currently the recipient of any significant amount of public transit infrastructure and is not expected to receive such for decades to come. Similarly inappropriate are cutting-edge "Smart Growth" minimal parking standards; these are based on the assumption of the availability and provision of public transit. These are not the reality for Clarksburg.

Any parking calculations that are applied to plans for the Town Center must take current reality into account and provide adequate parking for the current conditions on the ground in Clarksburg. To that end, it must be acknowledged that the Town Center will not, even in the best scenario, be the only center local shoppers patronize; shoppers and residents will rely upon their cars to get to and from the center and to and from external jobs and activities (necessitating reliable, dedicated and available parking for residents of the Town Center), even while preferring a pedestrian-friendly environment once they have arrived at the retail area, and even if they choose to walk within the Town Center the majority of the time. There is simply no reason to expect that the majority of customers will walk to the Town Center the majority of the time. It should further be obvious that homeowners within the retail area will require residential parking at rates that are similar to the rates at which other local (non-Clarksburg) residents park near their own homes located many miles from any public transit. Similarly, it is unrealistic to expect restaurant or retail tenants or even residential developers to be attracted to a project that is hugely deficient in provision of parking. Without adequate parking, the project will die. This is the reality in Clarksburg.

Customers of the Town Center will likely come from throughout Clarksburg, Boyds, Damascus, Hyattstown, and surrounding areas. Even if those customers wanted to walk or take public transit to the center, in most cases, it simply is not possible. There is no public transit, and there are often no sidewalks or any safe passage for those who would prefer to walk or even bicycle. Until such time as transit arrives, the use of transit-based or transit-reliant parking calculations is at best laughably naïve, and at worst a nightmare in the making, for Clarksburg and its future retailers. The Town Center is just that – a Center for the Town, not a neighborhood convenience strip center for the Town Center project – and it must be possible for both the local residents and those who will come from other neighborhoods to peacefully coexist within the limited parking confines of the Center. This peaceful coexistence will not be a reality if the Center is grossly under-parked, and even worse, the very real possibility exists that after one or two trips, shoppers from external neighborhoods will pass by the Town Center if it is too difficult to find a parking space within the retail core blocks.

CTCAC has performed an analysis of likely uses within the retail core, inclusive of the County Library, proposed residential units, various types of retail as well as the grocery store. CTCAC allocated retail and restaurant space at the likely proportion proposed by the Robert Charles Lesser Company, hired by Newland Communities on two separate occasions to verify the viability of the Town Center. We believe that the analysis accounts realistically for the desired and probable tenants, the residential units, the retail spaces, and yet still allows for a realistic blended shared parking ratio that will result in the best outcome for both the retail developer and the residents of Town Center: a viable, walkable place that draws not only

neighborhood residents to shop, dine, and linger, but also residents of Upper Montgomery County, while providing enough available, well-located parking and a vibrant streetscape that is not dominated by the automobile. This will allow for the vision of the Clarksburg Master plan to finally be realized--the creation of a pedestrian-oriented place that is vibrant enough to rejuvenate and invigorate the greater community of Clarksburg as well as be a major focal Town Center for the areas defined by the Clarksburg Planning Area (Clarksburg, Hyattstown and Boyds) in the Master Plan.

Based on similar local projects and the County Code, CTCAC proposes the following ratios for parking the Town Center: a blended overall retail ratio of 5 spaces per 1000 s.f. of retail space; restaurant parking at 12.5 spaces per 1000 s.f.; Live/Work units parked at 5 per unit; the library parked at 2.5 spaces per 1000 s.f. per County Code; and residential units parked to County Code (2 per SFA; 1.5 per Multi-Family unit). When these ratios are applied to the square footage to be provided, this results in a net of 1307 parking spaces required for the retail blocks, inclusive of the Library, retail, residential and Live/Work units. The current plans propose that Newland will provide 930 spaces, or 71% of the parking that is required/necessary to meet Code or similar, local and successful mixed-use ratios. This means that without modification of the plans to provide additional parking, a 39% waiver would be necessary on top of already-blended, reduced and shared parking ratios under County Code or locally-acceptable and customary blended rates. The details of how CTCAC arrived at these numbers is reflected in Attachment A. CTCAC will be happy to answer any questions the Board may have about this table. The importance of viewing the parking within its local context and with an eye toward the on-the-ground reality of Clarksburg cannot be overstated; it is this calculation that will likely make or break the Town Center and shape it for many years to come.

In conclusion, CTCAC wishes to reiterate a the point made in its November 6<sup>th</sup> Testimony (at 22) that it is not providing the Board this additional input as part of a "bottom line" recommendation on the plans before the Board. The Board can make up its own mind on the issue of conformity to the Compliance Program, an issue uniquely within the ambit of its enforcement powers, and its judgment in the exercise of those powers. As with this Testimony, CTCAC stands ready to provide whatever assistance to the Board that in can in reaching that judgment.

## Kronenberg, Robert

---

**From:** lynn fantle [lfantle@aol.com]  
**Sent:** Thursday, November 20, 2008 6:29 PM  
**To:** Hanson, Royce  
**Cc:** Krasnow, Rose; Kronenberg, Robert; Kim Shiley; David W. Brown  
**Subject:** Re: Pool and Recreation Complex in Clarksburg Town Center

Chairman Hanson:

Attached for your review is an email string between our attorney, David Brown and Newland representatives regarding your direction for us to meet with their consultant, Sarah O'Neill-Manion, to review and resolve plans for the Pool and Recreation Complex at Clarksburg Town Center due to conflicts between the County Code and the plans most recently submitted by Newland Communities for this area. CTCAC continues to support the basic design of the March 19 plans because they appear to be the most functional for the community and most equivalent in utility for the community to the previously proffered Indoor Pool complex. Please request copies of these plans from your Staff for review by Commissioners and Staff and consideration for this area. CTCAC respectfully requests that you consider these plans for approval in exchange for the currently proffered May 20, 2008 plans or the plans shown in the November 6 hearing.

Sincerely,  
Lynn Fantle  
President  
Clarksburg Town Center Advisory, Inc.

Begin forwarded message:

X-Spam-Flag: NO  
X-Envelope-From: [rditthardt@newlandcommunities.com](mailto:rditthardt@newlandcommunities.com)  
Subject: Re: Pool and Rec Complex  
Date: Fri, 14 Nov 2008 07:34:57 -0500  
X-MS-Has-Attach:  
X-MS-TNEF-Correlator:  
Thread-Topic: Pool and Rec Complex  
Thread-Index: AclF4jKg8UD+OEsOTbaXdoWGw42YogAczPQj  
From: "Robert Dithardt" <[rditthardt@newlandcommunities.com](mailto:rditthardt@newlandcommunities.com)>  
To: <[brown@knopf-brown.com](mailto:brown@knopf-brown.com)>  
Cc: <[skaufman@linowes-law.com](mailto:skaufman@linowes-law.com)>, <[lfantle@aol.com](mailto:lfantle@aol.com)>, <[shileykim@aol.com](mailto:shileykim@aol.com)>, <[bigschott@yahoo.com](mailto:bigschott@yahoo.com)>, "Doug Delano" <[ddelano@newlandcommunities.com](mailto:ddelano@newlandcommunities.com)>, <[rose.krasnow@mncppc-mc.org](mailto:rose.krasnow@mncppc-mc.org)>, <[robert.kronenberg@mncppc-mc.org](mailto:robert.kronenberg@mncppc-mc.org)>, <[kurt.fischer@dlapiper.com](mailto:kurt.fischer@dlapiper.com)>  
X-MMR: 0  
X-Antivirus: Scanned by F-Prot Antivirus (<http://www.f-prot.com>)

These drawings were provided to your client on april 11 and we have not received any review response. This matter will be referred to our attorneys.  
Bob

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

From: David W. Brown <[brown@knopf-brown.com](mailto:brown@knopf-brown.com)>  
To: Robert Ditthardt  
Cc: [skaufman@linowes-law.com](mailto:skaufman@linowes-law.com) <[skaufman@linowes-law.com](mailto:skaufman@linowes-law.com)>; [lfantle@aol.com](mailto:lfantle@aol.com) <[lfantle@aol.com](mailto:lfantle@aol.com)>; [shileykim@aol.com](mailto:shileykim@aol.com) <[shileykim@aol.com](mailto:shileykim@aol.com)>; [bigschott@yahoo.com](mailto:bigschott@yahoo.com) <[bigschott@yahoo.com](mailto:bigschott@yahoo.com)>; Doug Delano; [rose.krasnow@mncppc-mc.org](mailto:rose.krasnow@mncppc-mc.org) <[rose.krasnow@mncppc-mc.org](mailto:rose.krasnow@mncppc-mc.org)>; [robert.kronenberg@mncppc-mc.org](mailto:robert.kronenberg@mncppc-mc.org) <[robert.kronenberg@mncppc-mc.org](mailto:robert.kronenberg@mncppc-mc.org)>  
Sent: Thu Nov 13 14:49:33 2008  
Subject: RE: Pool and Rec Complex

Bob,

Unfortunately your email is not responsive to my request and it misdescribes the task placed before us by the Board last Thursday. The issue is not relief from recreation guidelines; the Board expects us to work out the details of the sport court plan in a collaborative fashion, with particular attention to resolving code issues in a way that maximizes the value and utility of what is to be constructed. There are pool deck requirements that may conflict with sport court standards, and to resolve these conflicts requires meaningful back and forth discussion with Sarah and other interested parties at the table, which is something much different from Newland's being "willing to consider any comments." There is plenty of time for a meeting before next Thursday, and if there is insufficient time to draw up fully engineered plans as a product of agreement reached at the meeting, there is ample time to present the plan in concept form, much like what has been presented so far. In fact, one version or the other of the sport court plan already drawn up is likely to prove to be a ready template from which any necessary changes can be made in plenty of time for submission by next Thursday. CTCAC asks for your immediate cooperation.  
Dave Brown

At 04:17 PM 11/13/2008, Robert Ditthardt wrote:

>David,  
>Thanks for running this by me. As you know, the Board has given us  
>until next Thursday to provide them with what relief, if any, from the  
>recreation guidelines the sport-court plan will require to be  
>implemented. We're willing to consider any comments your client or  
>other residents have regarding the plan and ask that they submit them to  
>me in writing because of the shortness of time available for a meeting  
>under the timeframe established by the Board.  
>Regards,  
>Bob

>

>

>

>-----Original Message-----

>From: David W. Brown [<mailto:brown@knopf-brown.com> ]  
>Sent: Wednesday, November 12, 2008 4:40 PM  
>To: Robert Ditthardt  
>Cc: [skaufman@linowes-law.com](mailto:skaufman@linowes-law.com); [lfantle@aol.com](mailto:lfantle@aol.com); [shileykim@aol.com](mailto:shileykim@aol.com);  
>[bigschott@yahoo.com](mailto:bigschott@yahoo.com)  
>Subject: Pool and Rec Complex

>

>Bob,

> Sometime last Thursday, CTCAC officers spoke briefly to Sarah  
>O'Niell-Manion regarding getting together to discuss the latest sport

>court plan. Sarah said that any such meeting would have to be set up  
>through you. CTCAC would like to meet with Sarah and Newland, but also  
>include the HOA Pool and Rec Committee, in the hope of coming to  
>closure on the design to the satisfaction of all. The focus would be on  
>the relative strengths and weaknesses of Sarah's original and revised  
>plans, with particular attention to possibly conflicting code  
>requirements, as alluded to by Sarah.  
> Although I am sending this email, it would not be my intention or  
>expectation that any attorneys would be involved in this meeting.  
>Please let me know what can be arranged.  
>Thanks,  
>Dave Brown

=