

JUL 16 2009

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

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

**RESOLUTION<sup>1</sup>**

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

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

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

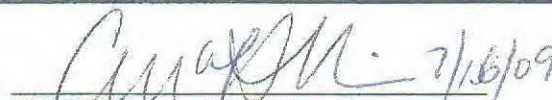
WHEREAS, the Planning Board previously approved Project and Preliminary Plans for the entirety of, and Site Plans for portions of, Clarksburg Town Center; and

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

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

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

Approved as to  
Legal Sufficiency:

  
M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

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

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

WHEREAS, Planning Board staff ("Staff") issued an initial memorandum to the Planning Board, dated October 22, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions, followed by a second memorandum to the Planning Board dated December 8, 2008, setting forth a revised recommendation for approval of the Application, subject to certain conditions, ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on November 6, 2008 the Planning Board held a public hearing on the Application that resulted in a continuation of deliberations to December 11, 2008 (collectively, "Hearing"); and

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



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

WHEREAS, the Applicant and its representatives provided testimony regarding the adequacy of parking in the retail core based on counting on-street parking and referencing Smart Growth policies<sup>3</sup> for walkable communities and studies that call for reducing the parking requirement to between 2.2 and 4.0 spaces per 1,000 retail square feet. The Applicant argued that the Master Plan specifically called for creating a walkable community and that the Plan of Compliance permitted on-street parking to fulfill that goal. The Applicant testified that numerous requests for proposals for development of the retail component of the Town Center were sent to prospective retail developers, and that the second parking deck called for in the Plan of Compliance and recommended by Staff was not feasible from either an economic or practical perspective, even though both the Applicant and the CTCAC agreed to it, and the Board approved it, in the Plan of Compliance; and

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

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

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

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

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<sup>3</sup> Urban Land Institute's SmartCode (Ver. 9.2)



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

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

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

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

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



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

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

### **1. Development Ceiling**

The proposed development shall be limited to the following uses:

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

### **2. Building Height/Mass**

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

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

### **3. Live/Work Units**

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

### **4. Moderately Priced Dwelling Units (MPDUs)**

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



**5. Civic Space (Library Site)**

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

**6. Clarksburg Square Road/Route 355 Connection**

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

**7. Parking**

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



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

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

#### **8. Staging of Amenity Features**

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

#### **9. Maintenance and Management Organization**

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

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

#### **Requirements of the RMX-2 and RTD zones**

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

**DATA TABLE**

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

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



|                                                                                |                                  |       |
|--------------------------------------------------------------------------------|----------------------------------|-------|
| One-family detached                                                            | 10-20% <sup>4</sup>              | 219   |
| One-family attached<br>(Live/Work included)                                    | 30-50%                           | 656   |
| Multi-family                                                                   | 25-45%                           | 338   |
| Total number of units in the<br>RMX-2 Zone                                     | 1,428                            | 1,213 |
|                                                                                |                                  |       |
| <u>RDT Zone</u>                                                                | Not Applicable                   | 0     |
|                                                                                |                                  |       |
| <b>Building Height (feet)</b>                                                  |                                  |       |
| <u>RDT Zone (59-C-9.4)</u>                                                     | 50                               | 50    |
|                                                                                |                                  |       |
| <u>RMX-2 Zone<sup>5</sup></u>                                                  |                                  |       |
| One-family detached<br>(Lots 68 and 69, Block A-<br>East Side)                 | To be determined at Site<br>Plan | 35    |
| Accessory Structure                                                            | To be determined at Site<br>Plan | 25    |
| One-family<br>attached/Townhouse (Lot<br>28, Block R-East Side)                | To be determined at Site<br>Plan | 35    |
| Accessory Structure                                                            | To be determined at Site<br>Plan | 25    |
| One-family<br>attached/Townhouse (Lots<br>15-21, 22-25 Block GG-<br>West Side) | To be determined at Site<br>Plan | 38    |
| Accessory Structure                                                            | To be determined at Site<br>Plan | 25    |
|                                                                                |                                  |       |
| One-family<br>attached/Townhouse (Block<br>H-East Side)                        | To be determined at Site<br>Plan | 45    |
| Accessory Structure                                                            | To be determined at Site<br>Plan | 25    |

<sup>4</sup> Mix of units allocated by Clarksburg Master Plan.

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



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

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

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

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

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

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

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

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

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



|                                                         |                               |                    |
|---------------------------------------------------------|-------------------------------|--------------------|
| <u>Setbacks for units within the RMX-2 Zone</u>         |                               |                    |
| <b>Commercial Buildings<sup>14</sup></b>                |                               |                    |
| From One-family residential zoning                      | 100                           | 50 <sup>15</sup>   |
| From Residential zoning other than one-family           | 50                            | 25 <sup>15</sup>   |
| From any street <sup>16</sup>                           | 25                            | 0 <sup>15</sup>    |
| From abutting commercial or industrial zoning           | 25                            | 12.5 <sup>15</sup> |
| <b>Residential Buildings</b>                            |                               |                    |
| From One-family residential zoning                      | 100                           | 50 <sup>15</sup>   |
| From Residential zoning other than one-family           | 30                            | 15 <sup>15</sup>   |
| From any street                                         | 30                            | 0 <sup>15</sup>    |
| From abutting commercial or industrial zoning           | 30                            | 15 <sup>15</sup>   |
| <b>One-family detached</b>                              |                               |                    |
| One-family detached (Lots 68 and 69, Block A-East Side) |                               |                    |
| <b>Main Building</b>                                    |                               |                    |
| Front                                                   | To be determined at Site Plan | 10                 |
| Rear                                                    | To be determined at Site Plan | 25                 |
| Side                                                    | To be determined at Site Plan | 3                  |
| <b>Accessory Structures</b>                             |                               |                    |
| Side                                                    | To be determined at Site Plan | 0                  |
| Rear                                                    | To be determined at Site Plan | 0                  |

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

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

<sup>16</sup> No minimum setback required if in accordance with the Master Plan.



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



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



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

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

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

### FINDINGS for Project Plan Review:

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

#### **FINDINGS for Plan of Compliance Review:**

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

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



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

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

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

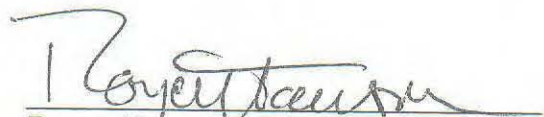
BE IT FURTHER RESOLVED that the date of this Resolution is JUL 16 2009 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

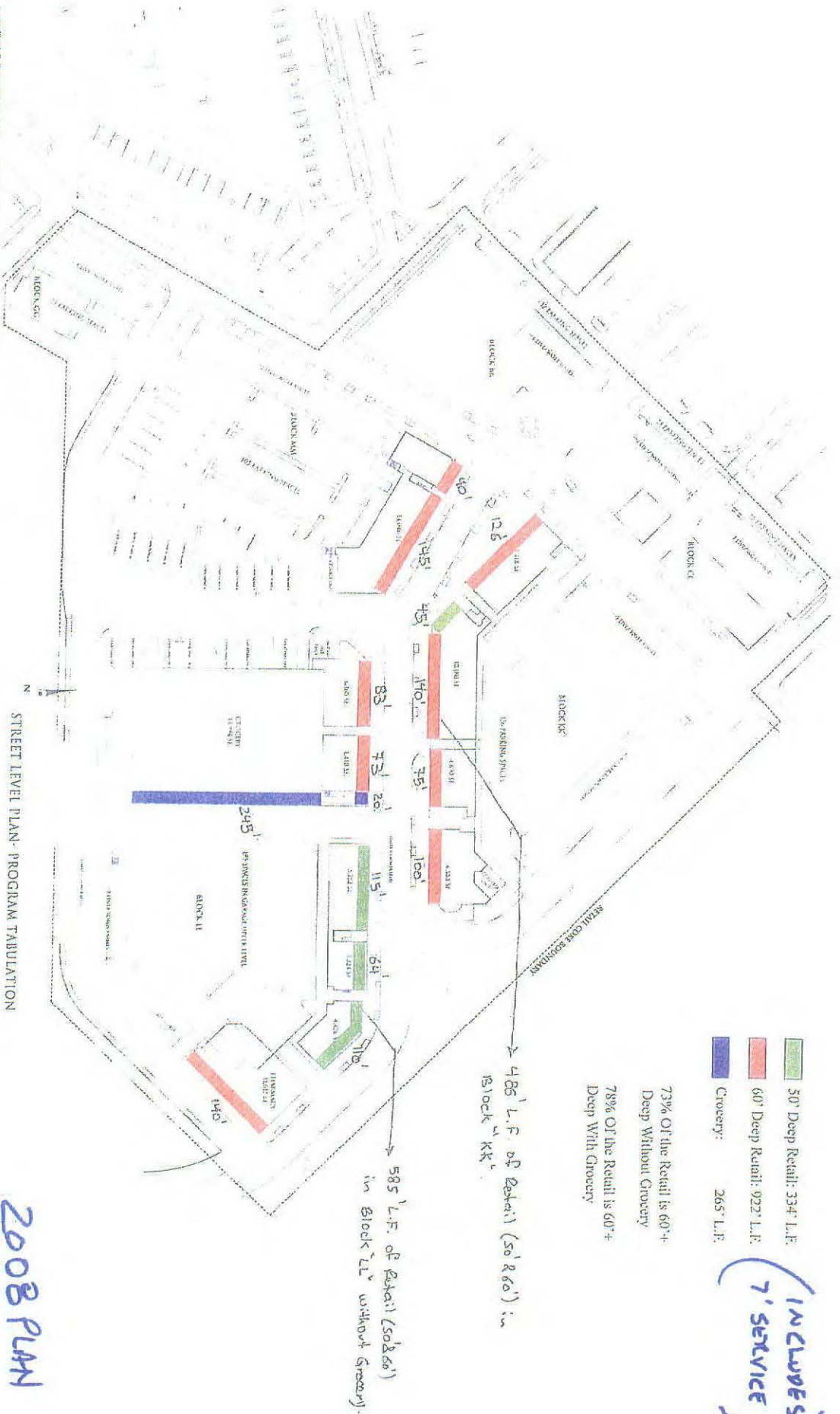
#### CERTIFICATION

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

  
Royce Hanson, Chairman  
Montgomery County Planning Board



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1400 Spring Street, 4th Floor, Silver Spring, Maryland 20910-5584, USA



CLARKSBURG TOWN CENTER- WEST SIDE RETAIL CORE  
NOVEMBER 9TH, 2008

# EXHIBIT "A"

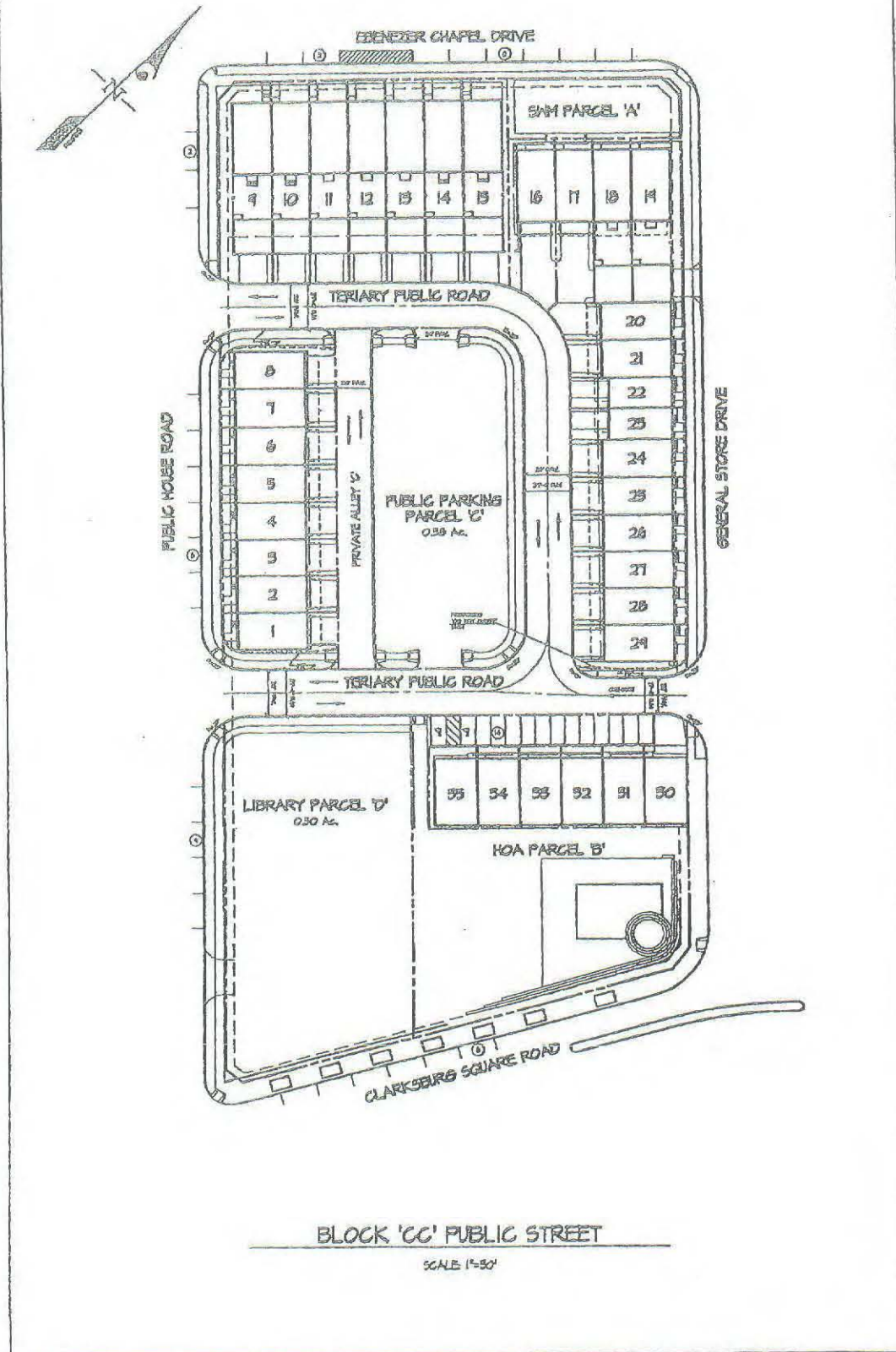


Exhibit A