



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

Staff Report: Project Plan Amendment 91994004C and Site Plan Amendment 82007022A, Clarksburg Town Center

CONSENT ITEM #: _____

MCPB HEARING

DATE: May 27, 2010

REPORT DATE: May 17, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Development Review Division

FROM: Robert Kronenberg, Supervisor *RAK*
Development Review Division
301.495.2187
Robert.Kronenberg@mncppc-mc.org



APPLICATION

DESCRIPTION: Located southeast of the intersection with Snowden Farm Parkway and Clarksburg Road; 270.00 acres within the Clarksburg Master Plan. This amendment proposes to: 1) correct and clarify the unit mix and unit count and correct the data table for the Project and Site Plans; 2) modify conditions 1(a) and 6(d) of the Project Plan; and 3) removal of or relocation of a trash can shown on the approved Site Plan.

APPLICANT: NNPII Clarksburg LLC

FILING DATE: Project Plan April 7, 2010
Site Plan April 7, 2010

RECOMMENDATION: Approval of the project plan and site plan amendments and adoption of the draft resolutions.

EXECUTIVE SUMMARY: The purpose of these amendments is to revise the data table to eliminate inconsistencies for the unit mix and unit count, specifically regarding the classification of the live/work units and one-family attached units. The overall unit count also decreases by 7 one-family attached units based upon previous conditions of approval. Staff also requests a modification to condition No. 6(d) for payment method of the Clarksburg Square Road connection from escrow to funds directly to Montgomery County. There are no changes to the detail plan sheets, layout or design.

SITE DESCRIPTION

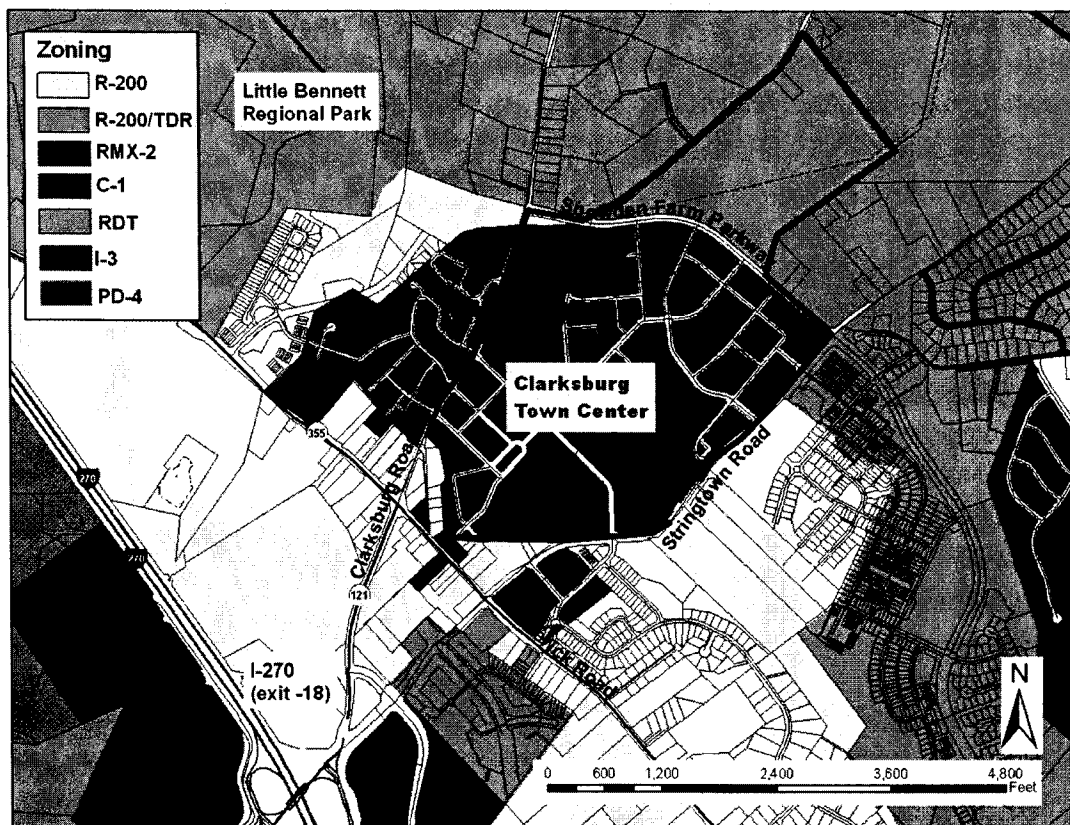
Vicinity

SITE DESCRIPTION

The subject property is bounded by Snowden Farm Parkway (formerly Piedmont Road) to the north, Clarksburg Road (121) to the west and Stringtown Road to the south and east. Frederick Road (MD 355) is located toward the southwest, incorporating the historic district of Clarksburg. The town of Clarksburg and properties along MD 355 consist of R-200, C-1 and RMX-2 zoned properties. RDT zoned properties are located to the north and east of Snowden Farm Parkway.

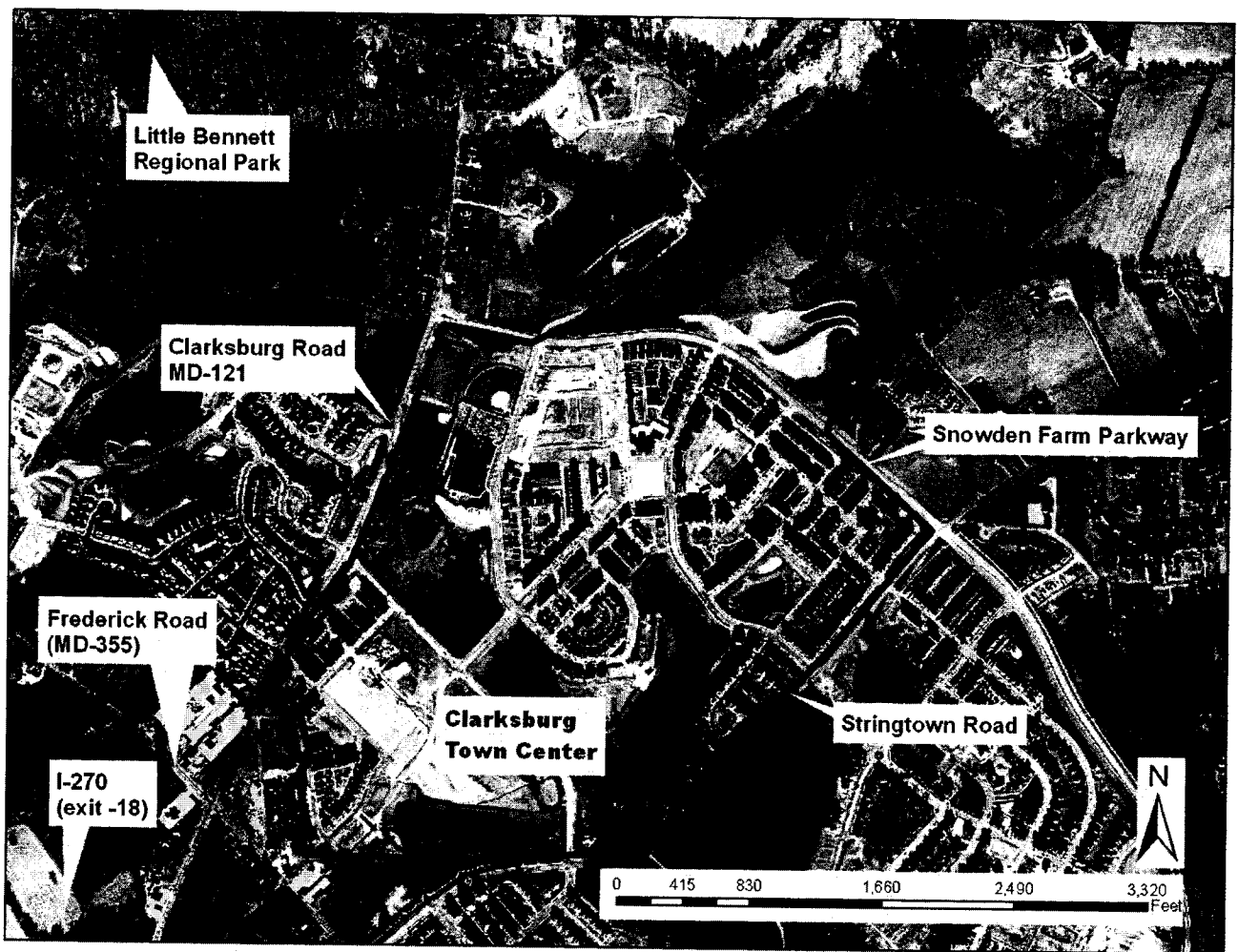
The surrounding land uses consist of one-family residential dwellings on the west side of Clarksburg Road within the neighboring developments. Additional one-family residences pepper the road frontage along MD 355, Stringtown Road and Clarksburg Road. Cedarbrook Church is near the intersection of Snowden Farm Parkway and Stringtown Road.

The larger communities of Clarksburg Village and Aurora Hills, zoned R-200 and PD-2, respectively, engulf a major portion of the property from Stringtown Road east and north to MD 27.



Site Analysis

The Town Center is an approximate 270-acre development split by a stream valley buffer now called the "Greenway." The East Side of the Greenway is comprised of rolling topography from Snowden Farm Parkway to the greenway and Stringtown Road. This portion of the site consists primarily of residential uses; however, the elementary school is located in the northwest quadrant at the intersection of Snowden Farm Parkway and Clarksburg Road. The West Side has a more gradual slope from Clarksburg Road toward Stringtown Road. The West Side contains a number of one-family detached and attached units and is proposed to house the retail center, future civic building and additional housing. The Town Center is zoned RMX-2 and Piedmont Woods Park, which is part of the site, on the opposite side of Snowden Farm Parkway is zoned RDT.



PROJECT DESCRIPTION

Background and Previous Approvals

Master Plan

The Clarksburg Master Plan and Hyattstown Special Study Area (“Master Plan”) was approved by the County Council in June of 1994. It called for the creation of a Town Center in Clarksburg, which would include the Historic District as a focal point and would be surrounded by a mix of uses, including office, residential, and retail.

Project and Preliminary Plans

In December of 1994, both a Project Plan (#919940040) and a Preliminary Plan (#119950420) were submitted for review by Piedmont and Clarksburg Associates. Using the optional method of development under RMX-2 zoning, the plan envisioned what is now known as a neo-traditional community and called for the construction of a maximum of 1300 residential units, 100,000 square feet of office, and 150,000 square feet of retail, to be constructed in phases. The Project Plan was approved in June of 1995 and the Preliminary Plan was approved in March of 1996.

Site Plans

The first site plan for Phase I (#819980010) was approved in 1998 and covers the area primarily on the East side of the Town Center. The Phase II Site Plan (#820020140) was approved in 2002. By June of 2006, approximately 725 units of the approved 1,300 dwelling units had been built or were under construction in Phase I and II of the project. A Site Plan covering the Phase III (#820040340) retail portion was submitted but never approved.

Violations

On April 14, 2005, in response to a request from the Clarksburg Town Center Advisory Committee (“CTCAC”), the Planning Board held a hearing to consider alleged height violations at Clarksburg Town Center. At the conclusion of the hearing, the Board voted 4 -1 to approve a motion that no violation had occurred. On July 7, 2005, the Board held another hearing to reconsider its earlier decision with respect to height violations and to consider whether or not violations had also occurred with respect to front setbacks at Clarksburg Town Center. With respect to both height and setback, the Board voted 5 – 0 that violations had occurred. The Board then held a hearing on the same day to determine Sanctions and/or Plan of Compliance. The Board members unanimously agreed that units that were either under contract and under construction, or under contract but construction had not yet begun as of July 7, 2005 would be grandfathered. However, the remainder of the Sanctions/Plan of Compliance hearing was postponed to provide an opportunity for staff to correctly determine the number of units in violation. When the number of alleged violations continued to be uncovered, the Developer (Newlands) and the CTCAC agreed to enter mediation in an attempt to reach an agreed upon Plan of Compliance and set of improvements for the site.

Combined Project, Preliminary & Site Plans

In December of 2008, The Town Center plans for the Project Plan (91994004B), Preliminary Plan (11995042A) and a new site plan (820070220) covering the entire development were approved by the Planning Board for a mix of residential uses and retail space, as well as amenities for the site. The Certified Site Plan was completed and approved on February 4, 2010.

AMENDMENT DESCRIPTION

Proposal

The Applicant submitted applications to amend the Project Plan and Site Plan to clarify inconsistencies regarding the classification of the live/work units as multi-family versus one-family attached units and to correct the overall unit counts reflected in the resolutions adopted July 16, 2009. The reduction in total number of units equates to 7 one-family attached units, as a result of the modifications to the future library site and circulation surrounding the surface parking lot associated with the library. These inconsistencies were brought to the Board's attention during the roundtable discussion and status report that related to the final certification of the site plan.

The Project Plan resolution (Condition No. 1) and the data table for both the Project and Site Plans correctly classify the live/work units as one-family attached; however, the data table (on page 9 of the Project Plan and page 27 of the Site Plan) incorrectly includes the live/work units in the multi-family unit total. The 51 live/work units were included in the 338 multi-family unit totals.

The total number of units equals 1,206 dwelling units and is comprised of 219 one-family detached, 700 one-family attached (including 47 live/work units) and 287 multi-family units.

The inconsistencies were a result of changes to the unit types during the review of the project prior to the Board's approval of the plans regarding the parking numbers and distribution.

The Preliminary Plan approved by the Board (Resolution No. 08-163) does not need to be amended since the unit counts are the maximum limits.

The Applicant requests the following modifications to the **Project Plan** Amendment:

1. Revise Condition 1a to replace 1,213 residential dwelling units and 701 one-family attached units with 1,206 and 700, respectively;
2. Revise the Project Plan data table to reflect the following:

Zoning Ordinance Development Standard	Original Approval with Site Plan 820070220	Development Standards Approved by the Planning Board and Binding on the Applicant

Area of Dedication (ac.):		
Public Streets	34.67	42.73
Park (dedicated to M-NCPPC)	95.99	80.14
Total Dedication provided:	140.17	132.42 ¹
Net Site Area (ac.):	129.83	137.08
Density:		
Residential	6.90 d.u./ac. based upon 175.00 acres 1,213 dwelling units	6.86 d.u./ac. based upon 175.73 acres 1,206 dwelling units
Number of Dwelling Units:		
RMX-2 Zone (59-C-10.3.7)		
One-family detached	219	219
One-family attached (live/work units)	656	700
Multi-family	338	287
Total number of units in the RMX-2 Zone	1,213	1,206
Green Area (%):²		
Commercial portion	50%	47.2%

¹ Total dedication includes 1.92 acres for School site for MCPS and 7.24 acres of school site for M-NCPPC.

² The Green Area was modified as a result of the dedications.

Residential portion	49%	52.1%
Parking (Section 59-E)		
Total East Side Parking	1,456	1,495
<u>West Side</u>		
One-family attached (townhouse)	510 (255 d.u.'s @ 2 spaces/unit including garage)	504 (252 d.u.'s @ 2 spaces/unit including garage)
Multi-family	185 (110 du's @ 1.5 spaces/unit)	165 (110 du's @ 1.5 spaces/unit)
Live/Work	100 51 du's @ 2 spaces/unit	94 47 du's @ 2 spaces/unit
Retail ³	695 139,700 sf @ 5 sp./1000 sf	746 149,180 sf @ 5 sp/1000 sf
Live/Work Retail	240 48,000 @ 5 sp/1000 sf	228 45,450 @ 5 sp/1000 sf
Total West Side Parking	1,789	1,775
Total Parking for Overall Development	3,284	3,270
Total Parking Provided	3,672	3,757
Min. Unit Type Distribution (%):		

³ The commercial square footage is reallocated but remains at 194,720 sf.

One-family detached	18% (10-20 % Master Plan conformance)	18
One-family attached townhouses & Live/Work included	54% (30-50% Master Plan conformance)	58%
Multi-family	28% (25-45% Master Plan conformance)	24%

After discussions with the County and Applicant, Staff is also requesting a modification to Condition 6 (d) as follows:

Original Condition:

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.

Revised Condition:

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, or submit to the County a check in the amount of, 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.

The Applicant requests the following modifications to the **Site Plan** Amendment:

1. Revise the approved resolution to replace 1,213 residential dwelling units and 152 MPDUs with 1,206 and 151, respectively;
2. Revise the Site Plan data table to be consistent with the revised data table for the Project Plan as shown above. The data table only includes the modified sections as a result of the inconsistencies.

The homeowner’s association also requests the elimination of a trash can on Public House Road directly in front of 23622 Public House Road.

RECOMMENDATIONS

Project Plan Conformance to Conditions of Approval

The proposed development must comply with the conditions of approval for Project Plan 91994004B as enumerated in the Planning Board Resolution No. 09-16 dated July 16, 2009 except as modified herein.

Site Plan Conformance to Conditions of Approval

The proposed development must comply with the conditions of approval for Site Plan 820070220 as enumerated in the Planning Board Resolution No. 09-15 dated July 16, 2009 except as modified herein.

PUBLIC NOTICE

A notice regarding the subject amendment was sent to all parties of record by the Applicant on March 18, 2010. The notice gave interested parties 15 days to review and comment on the amended site plan per Montgomery County Zoning Ordinance Section 59-D-3.7. Staff discussed the merits of the amendment with various individuals and civic groups; however, received no opposition to the proposed amendment.

STAFF RECOMMENDATION

Project Plan Amendment

The amendment was submitted to clarify inconsistencies regarding the classification of the live/work units as multi-family versus one-family attached units and to correct the overall unit counts reflected in the resolutions adopted July 16, 2009. The inconsistencies were noted during the adoption of the resolution and during the roundtable discussion and status report that related to the final certification of the site plan. The reduction in total number of units equates to 7 one-family attached units, as a result of the modifications to the future library site and circulation surrounding the surface parking lot associated with the library.

The modification to condition number 1 reflects the accurate unit count and unit mix. The modification to condition 6 is based upon discussions with the County and the Applicant regarding the payment of a direct fee by the Applicant to the County for the extension of Clarksburg Square Road versus money placed in an escrow account. Staff supports the direct payment to expedite the construction of the road extension.

The changes to the data table reflect the actual unit count and mix, as well as the final numbers for acreage and square footage as they relate to road and park dedications.

The proposed modifications to the site plan will not alter the overall character or impact of the development with respect to the original findings of approval. Further, these modifications will not affect the compatibility of the development with respect to the surrounding neighborhood. Staff recommends approval of Project Plan Amendment 91994004C.

Site Plan Amendment

Similar to the Project Plan, the amendment corrects the inconsistencies for the unit counts and mix of units, and updates the data table consistent with the final numbers. The data table provided in the staff report indicates only the fields that have changed. In addition to the corrections, Staff was approached by the homeowner's association requesting removal or relocation based upon excessive use, maintenance and appearance. Staff supports the removal or relocation of an existing trash receptacle in front of 23622 Public House Road on the West Side.

The proposed modifications to the site plan will not alter the overall character or impact of the development with respect to the original findings of approval. Further, these modifications will not affect the compatibility of the development with respect to the surrounding neighborhood. Staff recommends approval of Site Plan Amendment 82007022A.

APPENDICES

- A. Letter of Explanation from Applicant (dated February 24, 2010).
- B. Draft Planning Board Resolution for Project Plan Amendment.
- C. Draft Planning Board Resolution for Site Plan Amendment.

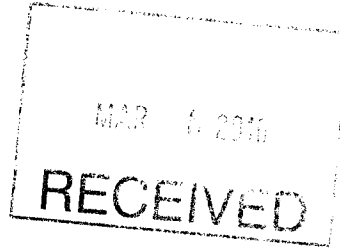
APPENDIX A
Correspondence from the Applicant

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

March 4, 2010

Stephen Z. Kaufman
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Todd D. Brown
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tbrown@linowes-law.com

Hon. Royce Hanson, Chair
and Members of the Montgomery
County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910



Re: Clarksburg Town Center – Request for Consent Agenda Amendment for the correction of the approved unit count and unit type classifications

Dear Dr. Hanson and Members of the Planning Board:

On behalf of the Applicant, NNPII-Clarksburg, LLC, this letter requests a Consent Agenda Amendment to Approved Project Plan 91994004B and Approved Site Plan 820070020 to eliminate inconsistencies regarding the classification of the live/work units as multifamily or single family attached units and to correct the overall unit counts reflected in the Project Plan and Site Plan Resolutions adopted July 16, 2009. The total number of units involved in this request is 7 units. A detailed description of this request is enclosed as Attachment 1.

Enclosed with this request are application materials identified by Staff as required, along with the appropriate filing fee as determined by Staff. Please place this request on the next available Board agenda. If additional information is needed, please contact us.

Thank you for your consideration.

Very truly yours,

LINOWES AND BLOCHER LLP

Stephen Z. Kaufman

Todd D. Brown

Enclosures

Hon. Royce Hanson, Chair
and Members of the Montgomery
County Planning Board
March 4, 2010
Page 2

cc: Ms. Rose Krasnow
Mr. Robert Kronenberg
Mr. Douglas Delano
Mr. Robert Ditthardt

Clarksburg Town Center

Request for Consent Agenda Amendment for the Correction of the Approved Unit Count and Unit Type Classification Contained in the Certified Site Plan Project Plan No. 91994004B; Site Plan No. 820070220

NNPII-Clarksburg, LLC requests a Consent Agenda Amendment to the approved Project Plan No. 91994004B and Site Plan No. 820070220 pursuant to Section 8.D of the Planning Board's Manual of Development Review Procedures, Administrative Standards (September 2007). The purpose of this request is solely to eliminate any inconsistencies regarding the classification of the live-work units as one-family attached unit types and to correct the number of one-family attached and multi-family dwelling units approved by the Planning Board by Resolution No. 09-16 and Resolution No. 09-15 adopted on July 16, 2009. Approval of this request will ensure the Board's Project Plan and Site Plan approvals are consistent with the unit type classification and number of dwelling units contained within the recently approved Certified Site Plan.

Live-Work Unit Type Classification

As discussed before the Planning Board at the January 14, 2010 quarterly update on the status of the Clarksburg Town Center project, a minor discrepancy exists among the Project Plan and Site Plan Resolutions, the Data Tables included within the Resolutions, and the actual Certified Site plan drawings concerning the classification of the live-work units as either one-family attached or multi-family. In this regard, Project Plan Resolution Condition 1 and Data Table, at page 9, and the Site Plan Data Table, at page 27, correctly *classify* the live-work units as one-family attached. However, the Data Tables incorrectly include the live-work unit *count* in the multi-family unit total.^[1] This request corrects the Data Tables to include the live-work units in the one-family attached total unit count.

Unit Counts

This Consent Agenda Amendment also requests the approval of 1,206 total residential dwelling units (as opposed to 1,213 total units previously approved) comprising 219 single family detached units, 700 one-family attached units (including 47 live-work units) and 287 multi-family units, as described below.

^[1] The 51 live-work units shown on the 9/15/08 plans, conditionally approved by the Planning Board at the November 6, 2008 and December 11, 2008 hearings, were incorrectly included in the 338 multi-family unit counts.

An adjustment to the unit count was required to provide a larger library site in accordance with the Board’s decision. In this regard, Project Plan Condition 5.b. eliminated four (4) live-work units from the 9/15/08 plans conditionally approved by the Planning Board at the November 6, 2008 and December 11, 2008 hearings. Thus, the total number of live-work units has been reduced from 51 units to 47 units (*i.e.*, 51 - 4 units), and the total number of units was accordingly reduced from 1,213 units to 1,209 units (*i.e.*, 1,213 - 4 units).

Additionally, in order to access the library parking parcel from public streets,^[2] Project Plan Condition 5.a. and Preliminary Plan Condition 11 eliminated two (2) Block CC one-family attached units along Public House Road that were shown on the 9/15/08 plans. This further reduced the total number of units from 1,209 units to 1,207 units (*i.e.*, 1,209 - 2 units).

And finally, an additional “Liner” townhouse unit was incorrectly included in the one-family attached unit count. In this regard, Figure 2.1-Land Use Typologies on Sheet A901 correctly identified a multi-family unit (at street level to meet fair housing requirements) next to the Block LL Liner TH Lot 14. However, Sheet WS 8 incorrectly showed this unit as Liner TH Lot 15. This single unit was included in both the multi-family unit total and the one-family attached unit total. Correcting this oversight will eliminate a single one-family attached unit, thus reducing the total unit count from 1,207 units to the 1,206 units requested.

In summary, the correct unit count and unit type classification is therefore accounted for as follows:

	SFD	TH	MF	Total
Data Table ^[3]	219	656	338	1,213
Adjustments:				
Live-work classification adjustment		51	(51)	-
Library site adjustment		(4)		(4)
Library parking site access adjustment		(2)		(2)
Block LL MF “fair housing” correction		(1)		(1)
Total Units ^[4]	219	700	287	1,206 ^[5]

^[2] Exhibit A was provided to Staff during an October 24, 2008 meeting with the reviewing departments of Montgomery County addressing comment 18 of the MCDOT approval letter, dated October 6, 2008.

^[3] Project Plan Resolution at page 9 and Site Plan Resolution at page 27.

^[4] There is no need to amend Preliminary Plan Resolution No. 08-163 since these unit counts fall within the limits established by Condition 1 of that approval.

^[5] This is the total unit count provided in the Certified Site Plan submitted on January 29, 2010.

In conclusion, the Applicant requests amended Project Plan Resolution No. 09-16 and Site Plan Resolution No. 09-15 be issued with this unit count and unit type distribution stated in the text and Data Tables accordingly:

Project Plan Condition 1.a., p. 5:	Replace “1,213” residential dwelling units and “701” one-family attached units with “1,206” and “700”, respectively.
Project Plan Data Table:	See attached red-line.
Site Plan final RESOLVED clause, p. 5:	Replace “1,213” residential dwelling units and “152” MPDUs with “1,206” and “151”, respectively.
Site Plan Data Table:	See attached red-line.

Thank you for your consideration.

APPENDIX B
Draft Project Plan Amendment Resolution



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

MCPB No. 10-58
 Project Plan No. 91994004C
 Project Name: Clarksburg Town Center
 Hearing Date: May 27, 2010

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved Project plans; and

WHEREAS, on July 16, 2009, the Planning Board approved Project Plan No. 91994004B, Clarksburg Town Center, for a maximum of 1,213 residential units and 194,720 gross square feet of commercial development, to be constructed in phases, on 270 gross acres in the RMX-2 and RDT zones;

WHEREAS, on April 7, 2010, NNPII Clarksburg LLC ("Applicant"), filed a project plan amendment application designated Project Plan Amendment No. 91994004C for approval of the following modifications:

1. To correct and clarify the unit mix and unit count in the approval and data table to indicate the following modifications.
 - a. Revise Condition 1a to replace 1,213 residential dwelling units and 701 one-family attached units with 1,206 and 700, respectively;
 - b. Revise Condition 6(d) to allow for the County to accept a different payment method other than an escrow;
 - c. Revise the Project Plan data table to reflect the following (The data table only includes the modified sections as a result of the inconsistencies):

Zoning Ordinance Development Standard	Original Approval with Site Plan 820070220	Development Standards Approved by the Planning Board and Binding on the Applicant
Area of Dedication (ac.):		
Public Streets	34.67	42.73
Park (dedicated to M-NCPPC)	95.99	80.14

Approved as to
 Legal Sufficiency:

8787 Georgia Avenue, N. Montgomery County Planning Board, Department 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

Total Dedication provided:	140.17	132.42 ¹
Net Site Area (ac.):	129.83	137.08
Density:		
Residential	6.90 d.u./ac. based upon 175.80 acres 1,213 dwelling units	6.86 d.u./ac. based upon 175.73 acres 1,206 dwelling units
Number of Dwelling Units:		
RMX-2 Zone (59-C-10.3.7)		
One-family detached	219	219
One-family attached (live/work units)	656	700
Multi-family	338	287
Total number of units in the RMX-2 Zone	1,213	1,206
Green Area (%):²		
Commercial portion	50%	47.2%
Residential portion	49%	52.1%
Parking (Section 59-E)		
Total East Side Parking	1,456	1,495
<u>West Side</u>		
One-family attached (townhouse)	510 (255 d.u.'s @ 2 spaces/unit including garage)	504 (252 d.u.'s @ 2 spaces/unit including garage)
Multi-family	185 (110 du's @ 1.5 spaces/unit)	165 (110 du's @ 1.5 spaces/unit)
Live/Work	100 51 du's @ 2 spaces/unit	94 47 du's @ 2 spaces/unit
Retail ³	695 139,700 sf @ 5 sp./1000 sf	746 149,180 sf @ 5 sp/1000 sf

¹ Total dedication includes 1.92 acres for School site for MCPS and 7.24 acres of school site for M-NCPPC.

² The Green Area was modified as a result of the dedications.

³ The commercial square footage is reallocated but remains at 194,720 sf.

Live/Work Retail	240 48,000 @ 5 sp/1000 sf	228 45,450 @ 5 sp/1000 sf
Total West Side Parking	1,789	1,775
Total Parking for Overall Development	3,284	3,270
Total Parking Provided	3,672	3,757
Min. Unit Type Distribution (%):		
One-family detached	18% (10-20 % Master Plan conformance)	18
One-family attached townhouses & Live/Work included	54% (30-50% Master Plan conformance)	58%
Multi-family	28% (25-45% Master Plan conformance)	24%

Staff also requests the removal or relocation of a trash can on Public House Road directly in front of 23622 Public House Road at the request of the property owner and homeowner's association.

WHEREAS, following review and analysis of the Amendment by Planning Board Staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated May 14, 2010 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on May 27, 2010, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves the Project Plan No. 91994004C Clarksburg Town Center for a maximum of 1,206 residential units and 194,720 gross square feet of commercial development, to be constructed in phases, on 270 gross acres in the RMX-2 and RDT zones. The modifications to the data table are consistent with the actions by the Board. The conditions shall be revised as follows:

Condition 1(a):

"Development under this approval is limited to 194,720 gross square feet of commercial development, including 69,720 square feet of specialty retail; 1,206 residential units, including 12.5 percent MPDUs, consisting of 219 one-family detached units, 700 one-family attached units (includes live/work units) and 287 multi-family units."

Condition 6(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, or submit to the County a check in the amount of, 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.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written resolution is _____ (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

written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 _____, seconded by Commissioner _____, with Commissioners _____ (list) voting in favor of the motion, with Commissioner(s) _____ (list) dissenting, Commissioner(s) _____ (list) abstaining, Commissioner(s) _____ (list) being absent or being temporarily absent, at its regular meeting held on Thursday, _____, 200.., in Silver Spring, Maryland.

APPENDIX C
Draft Site Plan Amendment Resolution



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

MCPB No. 10-59
 Site Plan No. 82007022A
 Project Name: Clarksburg Town Center
 Hearing Date: March 27, 2010

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on July 16, 2009, the Planning Board approved Site Plan No. 820070220, Clarksburg Town Center was approved for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction in the parking spaces, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially zoned properties, on approximately 270 gross acres in the RMX-2 and RDT zones; and

WHEREAS, on April 7, 2010, NNPII Clarksburg LLC ("Applicant"), filed a site plan amendment application designated Site Plan Amendment No. 82007022A for approval of the following modifications:

1. Revise the approved resolution to replace 1,213 residential dwelling units and 152 MPDUs with 1,206 and 151, respectively, and to correct and clarify the unit mix and unit count in the approval and data table. The data table only includes the sections modified as a result of the inconsistencies:

Zoning Ordinance Development Standard	Original Approval with Site Plan 820070220	Development Standards Approved by the Planning Board and Binding on the Applicant
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Public Streets	34.67	42.73
Park (dedicated to M-NCPPC)	95.99	80.14

Approved as to
 Legal Sufficiency:

8787 Georgia Avenue, NCSPPC Legal Department 30110 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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Net Site Area (ac.):	129.83	137.08
Density:		
Residential	6.90 d.u./ac. based upon 175.00 acres 1,213 dwelling units	6.86 d.u./ac. based upon 175.73 acres 1,206 dwelling units
Number of Dwelling Units:		
RMX-2 Zone (59-C-10.3.7)		
One-family detached	219	219
One-family attached (live/work units)	656	700
Multi-family	338	287
Total number of units in the RMX-2 Zone	1,213	1,206
Green Area (%):²		
Commercial portion	50%	47.2%
Residential portion	49%	52.1%
Parking (Section 59-E)		
Total East Side Parking	1,456	1,495
West Side		
One-family attached (townhouse)	510 (255 d.u.'s @ 2 spaces/unit including garage)	504 (252 d.u.'s @ 2 spaces/unit including garage)
Multi-family	185 (110 du's @ 1.5 spaces/unit)	165 (110 du's @ 1.5 spaces/unit)
Live/Work	100 51 du's @ 2 spaces/unit	94 47 du's @ 2 spaces/unit
Retail ³	695 139,700 sf @ 5 sp./1000 sf	746 149,180 sf @ 5 sp./1000 sf

¹ Total dedication includes 1.92 acres for School site for MCPS and 7.24 acres of school site for M-NCPPC.

² The Green Area was modified as a result of the dedications.

³ The commercial square footage is reallocated but remains at 194,720 sf.

Live/Work Retail	240 48,000 @ 5 sp/1000 sf	228 45,450 @ 5 sp/1000 sf
Total West Side Parking	1,789	1,775
Total Parking for Overall Development	3,284	3,270
Total Parking Provided	3,672	3,757
Min. Unit Type Distribution (%):		
One-family detached	18% (10-20 % Master Plan conformance)	18
One-family attached townhouses & Live/Work included	54% (30-50% Master Plan conformance)	58%
Multi-family	28% (25-45% Master Plan conformance)	24%

Staff also requests the removal of or relocation of a trash can on Public House Road directly in front of 23622 Public House Road at the request of the property owner and homeowner's association.

WHEREAS, following review and analysis of the Amendment by Planning Board Staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated May 14, 2010 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on May 27, 2010, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves the Site Plan No. 82007022A Clarksburg Town Center for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1,206 residential dwelling units, including 151 MPDUs, and a waiver to permit a reduction in the parking spaces, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially zoned properties, on approximately 270 gross acres in the RMX-2 and RDT zones. The modifications to the data table are consistent with the actions by the Board. The recommendation includes the removal of a trash can on Public House Road; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written resolution is _____ (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 written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 _____, seconded by Commissioner _____, with Commissioners _____ (list) voting in favor of the motion, with Commissioner(s) _____ (list) dissenting, Commissioner(s) _____ (list) abstaining, Commissioner(s) _____ (list) being absent or being temporarily absent, at its regular meeting held on Thursday, _____, 200..., in Silver Spring, Maryland.

[RAK]