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

MCPB No. 12-47
Preliminary Plan No. 12001030F
Clarksburg Village Phase III (Amendment)
Date of Hearing: April 26, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on July 30, 2001, Clarksburg Village Investments, Inc., ("Applicant"), filed its original application for approval of a preliminary plan of subdivision on 790 acres, that included a maximum of 2,150 lots for a maximum of 2,654 residential dwelling units, 20,000 square feet of office-retail use, and a 5,000 square foot daycare facility on 790.04 acres of land located in the south quadrant of the intersection of Stringtown Road and Piedmont Road, and extending southeast from Stringtown Road to Ridge Road ("Property") in the Clarksburg master plan area ("Master Plan"), and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120010300, Clarksburg Village Phase III, and

WHEREAS, on July 30, 2001, the Planning Board approved the application for Preliminary Plan No. 120010300 for a maximum of 2,654 residential dwelling units, 20,000 square feet of retail, and a 5,000 square foot daycare facility, subject to certain conditions, and

WHEREAS, on January 23, 2003, the Planning Board approved Preliminary Plan No. 12001030A to incorporate the adjacent Nanna Property (Preliminary Plan No. 119930070) into the Clarksburg Village preliminary plan along with its 27 approved residential lots; and

WHEREAS, on June 6, 2005, the Planning Board approved Preliminary Plan No. 12001030B to increase residential development by an additional 64 units, and

Approved as to
Legal Sufficiency:

Christina Sonnet 4/16/12
M-NCPPC Legal Department

8787 Georgia Avenue, Spring, Maryland 20910 Chairman's Office: 301.495.4005 Fax: 301.495.1320

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

WHEREAS, on July 18, 2007, the Planning Board approved Preliminary Plan No. 12001030C to bring the preliminary plan into conformance with a Compliance Program that was established by the Clarksburg Village, Phase I Site Plan, and

WHEREAS, Preliminary Plan No. 12001030D was filed subsequent to Amendment C but was withdrawn; and

WHEREAS, on April 15, 2010, the Planning Board approved Preliminary Plan No. 12001030E to include the addition of approximately 17.4 acres of land to the Property; the transfer of 89,000 square feet of retail use from the adjacent Greenway Village at Clarksburg development (Preliminary Plan No. 12002033A); the addition of 100 multi-family, age-restricted dwelling units; and the modification of several of the previous conditions of approval to reflect subsequent actions by Planning Board as part of site plan reviews, and

WHEREAS, on December 14, 2011, the Applicant filed an application for approval of an amendment to the preliminary plan to modify a previous condition of approval so that it comports with Development Plan Amendment (DPA 11-1), and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12001030F, Clarksburg Village, Phase III ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 13, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 26 2012, the Planning Board held a public hearing on the Application (the "Hearing"), and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 26, 2012, the Planning Board approved the Application to amend certain previous conditions of approval, in accordance with the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12001030F to modify Condition No. 2, as previously approved in Montgomery County Planning Board Resolution, MCPB No. 10-70. All other conditions of MCPB No. 10-70 remain

unchanged and are included below for informational purposes:

- 1) Approval of this Preliminary Plan is limited to a maximum of 2,753 residential dwelling units (including a maximum 100 multi-family, age restricted units), and 109,000 square feet of retail use (including 89,000 square feet of retail use approved under Preliminary Plan 12002033A and being constructed as part of Phase III of the subject Preliminary Plan).
- 2) Consistent with the binding elements of approved DPA 11-1, building permits for the commercial /retail buildings will not proceed until the earlier of the issuance of the building permits for 90,000 square feet of retail within the Clarksburg Town Center or May 1, 2012.
- 3) Conformance to the conditions stated in the Montgomery County Department of Permitting Services (MCDPS) preliminary water quality plan approval letter, dated July 25, 2001; and the final water quality plan approval letters, dated December 15, 2004 (Phase I Site Plan) and September 19 2008 (Phase II Site Plan).
- 4) Applicant must construct Foreman Boulevard to allow for a grade separated crossing for the hiker/biker Greenway Trail. The trail crossing should be constructed to accommodate the trail under Foreman Blvd. without changing the natural location, configuration, or composition of the stream channel, and should be located to minimize flooding of the trail and minimize surface water runoff from the paved trail directly to the stream. Applicant must also provide a safe and adequate at-grade Greenway Trail crossing of Midcount/ Highway/Snowden Farm Parkway that is satisfactory to M-NCPPC and Montgomery County Department of Transportation (MCDOT) staff. Exact configuration of this path shall be determined at site plan.
- 5) The park area designated as a Local Park and located on the north side of Snowden Farm Parkway in the Phase II section of the project will be graded according to the park layout concept plan, surfaced with topsoil, and fine graded, and seeded as appropriate for ball field cover. The park will be dedicated to M-NCPPC at the time of record plat for the portion of the Property that includes the park area. Applicant to provide engineering for the park site that adequately provides for grading, seeding and the needed quantity and quality stormwater management for these facilities. Applicant must provide adequate off site quantity stormwater management for the planned park facilities and shall construct quantity and quality stormwater management to sufficiently accommodate any park facilities constructed by the Applicant. Any park improvements are to be constructed to park standards and specifications.

Specific types of recreation facilities, if any, and their arrangement on the Property must be coordinated with M-NCPPC staff.

- 6) The Applicant must provide 379 TDRs per the Phase II Site Plan approved February 5, 2009 by the Planning Board. Final number of MPDUs and TDRs as determined by the site plan(s).
- 7) This Preliminary Plan will remain valid until July 30, 2017 and shall be phased for recordation as follows:

Phase One:	300 dwelling units by July 30, 2014
Phase Two:	997 dwelling units by July 30, 2015
Phase Three:	1,700 dwelling units by July 30, 2016
Phase Four:	All dwelling units and the lot(s) for the office/retail use by July 30, 2017.

Prior to the expiration of this validity period, a final record plat for all property included in each phase must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

- 8) No recording of lots prior to site plan approval.
- 9) The Adequate Public Facility (APF) review for the 89,000 square feet of retail use approved under Preliminary Plan 12002033A and being constructed as a part of the subject Preliminary Plan will remain valid until December 7, 2016. The APF review for the 2,753 dwelling units and 20,000 square feet of office/retail use included in the subject Preliminary Plan will remain valid until July 30, 2017.
- 10) The following previous conditions of approval for Preliminary Plan 12001030C, as contained in the Planning Board Resolution dated July 18, 2007, and Preliminary Plan 12001030, as contained in the Planning Board Opinion dated January 23, 2003, remain in full force and effect:
 - a. At least sixty (60) days prior to the submission of a complete Site Plan application the Applicant shall submit an "Infrastructure Plan" for Planning Board review. The plan shall include the following:
 - i. Location and types of stormwater management facilities for quality and quantity controls that comply with the conditions of MCDPS' preliminary water quality plan
 - ii. Delineate bike and pedestrian access pathways including all at grade and below grade crossings along all road rights of way and at stream crossings
 - iii. All roadway networks including both private and public connections. Streetscape, lighting, sidewalks and paving materials

- iv. Delineation of "Greenway" and other open space areas including all environmental buffers
 - v. School sites and Park areas
 - vi. Recreation guidelines concept plan
 - vii. Proposed schedule for clearing and grading of site
- b. To satisfy Policy Area Transportation Review:
- i. The Applicant shall participate in widening MD 27 to six through travel lanes from Observation Drive in Germantown through the A-305 intersection; transitioning to two travel lanes through the Skylark Road intersection, including dedication along the site frontage. This improvement along MD 27 is consistent with the Master Plan recommendation. If, after Master Plan dedication along the west side of MD 27, sufficient right-of-way is not available for the proposed widening, the Applicant has to either acquire additional right-of-way on the east side of MD 27 or dedicate additional right-of-way and widen MD 27 on their development side.
 - ii. The Applicant shall dedicate on-site portions and participate in constructing Relocated Newcut Road (A-302) as a two lane divided arterial roadway between MD 27 and the A-305 intersection and as a four lane divided roadway between A-305 and MD 355.
 - iii. The Applicant shall dedicate and participate in the constructing of A-305 as a four lane divided arterial roadway between MD 27 and Stringtown Road.
 - iv. The Applicant shall dedicate and participate in constructing Foreman Boulevard as a two lane arterial roadway from its current terminus at Timber Creek Lane to A-305.
 - v. The Applicant shall dedicate and participate in widening Stringtown Road as a four lane arterial along their frontage. This roadway improvement can be implemented by either the Department of Public Works and Transportation's CIP project, as a developer participation project or as the Clarksburg Town Center Development District.
- c. To satisfy Local Area Transportation Review:
- i. The Applicant shall participate in constructing a second left-turn lane from northbound MD 355 to westbound MD 27.
 - ii. The Applicant shall participate in constructing additional turn/approach lanes on MD 27 and Brink Road at the intersection of MD 27/Brink Road.
 - iii. The Applicant shall participate in providing a separate left-turn lane from southbound MD 355 to eastbound Brink Road and a separate left-turn lane from westbound Brink Road to southbound MD 355.
- d. The Applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the

phasing of road improvements for Clarksburg/DiMilio development as described in Mr. Rafferty's letter dated August 5, 2002 and confirmed in Transportation Planning Division memorandum dated August 22, 2002.

- e. The Applicant shall construct the following roads as standard closed section primary residential streets, unless otherwise approved by MCDPWT:

Street "C" between A-305 and Street "D"
Street "M" between A-305 and Street "E"
Street "E" between A-305 and Street "M"
Street "T" between A-305 and Street "Y"
Street "Y" between Streets "T" and "Z"
Street "GG" between its intersections with A-305
Street "Z" next to school

- f. The Applicant shall construct two roundabouts (or otherwise acceptable alternative approved by MCDPWT) on A-305 as shown on the Preliminary Plan to define the boundaries of the business district portion of this roadway.
- g. The Applicant shall construct A-305 as a business district street between the two roundabouts in accordance with DPWT Standard No. MC-219.03.
- h. All road rights of way shown on the approved Preliminary Plan shall be dedicated by the Applicant, to the full width mandated by the Clarksburg Master Plan, unless otherwise designated on the Preliminary Plan.
- i. All roads shown on the approved Preliminary Plan shall be constructed by the Applicant to the full width mandated by the approved and adopted Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan "To be Constructed by ____" are excluded from this condition.
- j. Additional forest save areas to be created adjacent to the environmental buffer at the northwestern portion of the Property. This will require reconfiguration of the layout for that portion of the Property at site plan.
- k. At site plan, the following stormwater management facilities to be reconfigured to maintain at least half of the environmental buffer widths as undisturbed areas: Ponds B, C, L, N and V. Reconfigure Pond Q and adjacent sewer line to maintain most of the environmental buffer as undisturbed area. Eliminate, if possible, or minimize the footprint of Pond J by providing stormwater management quantity and quality controls at alternative location. For remaining stormwater management facilities, any environmental buffer encroachments to be no more than that shown on the concept study, dated 4/12/01, or on the amended Preliminary Plan drawing.
- l. The Applicant shall comply with the conditions of approval of the final forest conservation plan submitted on December 20, 2006. The Applicant

shall satisfy all conditions of approval before recording of the record plat(s) or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:

- i. Applicant to post a new financial security instrument for the entire forest planting area that includes the additional 2-2½" caliper trees required as part of the site plan Compliance Program.
 - ii. Applicant shall honor the limits of disturbance as shown on the April 12, 2005 approved final forest conservation plan between lots 106 and lot 128 of Block U.
 - iii. Applicant to provide compensation for the loss of 2.14 acres of forest that is shown on the April 12, 2005 approved plan. Compensation must be in addition to areas previously shown as saved or planted.
- m. Measures to mitigate traffic noise impacts on residential uses to be shown at site plan. Mitigation measures to be shown along Ridge Road. Mitigation measures may also be needed along Stringtown Road, A-302, and A-305.
- n. Applicant to construct an 8-foot wide asphalt hiker/biker trail, with 10-foot wide cleared width boardwalks and bridges, within the Clarksburg Greenway from Stringtown Road to Newcut Road/Little Seneca Parkway, then north to the Greenway Village development to connect with the portion of trail being constructed as part of that project. Greenway Trail and community access trails to include necessary bridges and boardwalk and be constructed to park standards and specifications. Prior to construction, Applicant must obtain a park permit. Trails to be clearly marked or constructed prior to beginning construction on homes adjacent to the Greenway parkland.
- o. The trail alignment for the portion of the Greenway Trail near the confluence of Little Seneca Creek and Town Center Tributary to be determined at the time of permitting for the construction of Little Seneca Parkway/A-302. The Preliminary Plan shall be revised to show two alternative routes for the Greenway Trail in this stream confluence area. The preferred route would continue through the Eradley Property and would be constructed by Applicant if M-NCPPC can secure, at a reasonable cost, the acquisition of land or easement from the property owner. The alternative route would circumvent the Bradley property on land already owned by Applicant and be constructed if the acquisition of the land or easement cannot be reasonably accomplished by the time permits are needed for construction of Little Seneca Parkway. The exact delineation and details of these two alignments shall be determined as part of the site plan.
- p. The Applicant shall dedicate to M-NCPPC the property within the delineated Clarksburg Greenway along Little Seneca Creek and Little

Seneca Tributary. Include in dedication the land along the Little Seneca tributary north of Snowden Farm Parkway to the northern boundary of the project Property where the Baltimore Checkerspot Butterfly is located. Land to be conveyed at time of record plat for the lots adjacent to the dedicated property. Dedicated parkland to be conveyed free of trash and unnatural debris, and boundaries between parkland and private properties to be clearly staked and signed.

- q. The school/park site off of Snowden Farm Parkway in the Phase I section of the project, will be graded, surfaced with topsoil, fine graded and seeded as appropriate for ball field cover. Recreation and parking facilities will be constructed thereon by Applicant in accordance with the Planning Board approved site plan Compliance Program. All athletic fields and practice field areas shall include adequate topsoil and seeding or sodding per park ballfield standards and specifications. Athletic fields, the parking lot, and picnic shelters shall be graded and constructed to park standards and specifications. The entire school/park site to be conveyed to M-NCPPC at time of record plat for the development area that includes the school/park site. If the school is constructed, M-NCPPC to convey the needed portion of the site to the County/Board of Education for such use. If the school is not constructed, the entire school/park site will be owned and managed by M-NCPPC for use as parkland.
- r. Phasing of the dedication of the school/parks sites shall be incorporated as part of the phasing schedule included in the site plan approval.
- s. At site plan address specifically the following:
 - i. Dwelling unit type and layout within the mixed use center
 - ii. Coordinate with adjoining property owner to achieve a well-integrated and designed commercial center that locates parking to the rear and provides special treatment for paving, seating, landscaping, lighting and other pedestrian amenities
 - iii. Provide adequate "windows" into open space areas
 - iv. Dwelling unit orientation along all road rights of way
- t. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at site plan.
- u. All prior applicable conditions of Preliminary Plan No. 1-93007, Nanna Property remain in full force and effect.
- v. The Applicant shall record new record plats to revise the rights-of-way for the following roads to meet MCDPWT Standard No. mc-210.03 (reduced width tertiary) as required by the site plan Compliance Program:
 - Bent Arrow Drive (from station 10+52 to 5+90 (approximate))
 - British Manor Drive (from station 1+03 to 0+00 (approximate))
 - Granite Rock Road (from station 10+15 to 15+07 (approximate))
 - Robin Song Drive (from station 5+90 to 8+11 (approximate))

- The Applicant shall also record new record plats to modify the square footage of the residential lots abutting these rights-of-way, where necessary, and to show necessary public improvement easements (PIEs).
- w. The boundary of the Preliminary Plan shall be expanded to include Outlot C, Block F and Outlot D, Block E in the adjacent Greenridge Acres Subdivision, which were placed in reservation for the construction of A-305 (Midcounty Highway). The Applicant shall file a record plat that dedicates a portion of this land for the right-of-way of A-305.
 - x. The Applicant shall submit an amendment to the approved Phase I Site Plan that reflects the revised layouts of blocks F, G, H, K, L, P, T, and V, as shown on the amended Preliminary Plan and discussed in the site plan Compliance Program. Final design of these areas shall be determined by the amended site plan.
 - y. The boundary of the Preliminary Plan shall be modified to reflect land swaps between Clarksburg Village and the adjacent Greenway Village Subdivision, as shown on the Preliminary Plan.
 - z. The Applicant shall comply with the conditions of the MCDPWT approval letter, dated December 21, 2006, unless otherwise amended by MCDPWT.

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that all previous findings including approved Adequate Public Facilities validity periods, remain in full force and effect except as modified herein.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the Hearing for the subject Application and as set forth in the Staff Report, which the Board hereby incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan continues to substantially conform to the Master Plan.*

The Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area, July 2011, amends the retail staging provisions to allow retail uses in the designated Cabin Branch Village Center and the Newcut Road/Clarksburg Village Center to proceed before development or establishment of 90,000 square feet of retail uses in the Clarksburg Town Center. DPA 11-1, approved after the adoption of the July 2011 Master Plan Amendment, includes a

modified binding element specific to the 17.4 acres of retail within Clarksburg Village that establishes a new staging mechanism that allows building permits to be issued for the Clarksburg Village retail as early as May 1, 2012, pending satisfaction of all other applicable conditions. This Application remains in substantial conformance with the Clarksburg Master Plan.

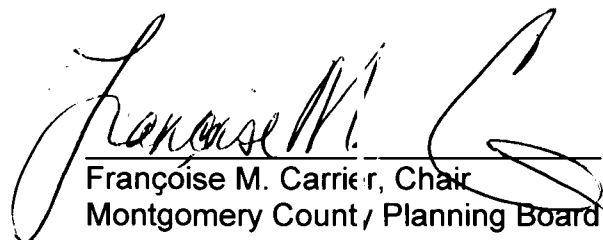
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 17 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Dreyfuss voting in favor of the motion, with Commissioner Presley recused, and with Commissioner Anderson absent, at its regular meeting held on Thursday, April 26, 2012 in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board