



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

MCPB No. 22-002  
Preliminary Plan No. 11995042D  
Clarksburg Town Center  
Date of Hearing: January 6, 2022

**JAN 27 2022**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, by a Revised Opinion dated March 26, 1996, the Planning Board approved Preliminary Plan No. 119950420, for 1,300 residential dwelling units, 150,000 square feet of retail uses, and 100,000 square feet of office uses on approximately 267 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Road and Frederick Road (MD 355) ("Overall Property"), in the Clarksburg Policy Area, and 1994 *Clarksburg Master Plan & Hyattstown Special Study Area*, as amended in 2011<sup>1</sup> ("Master Plan") area; and

WHEREAS, on August 14, 2001, the Planning Board approved an amendment to the preliminary plan designated Preliminary Plan No. 11995042R to include a Grading Plan and Borrow Plan (Off-site stockpile) on the Overall Property; and

WHEREAS, on July 16, 2009, the Planning Board approved an amendment to the preliminary plan designated Preliminary Plan No. 11995042A (MCPB No. 08-163) for 194,720 square feet of commercial uses, including up to 69,720 square feet of specialty retail, and 1,213 residential dwelling units, including 12.5 percent moderately priced dwelling units ("MPDUs") on the Overall Property; and

WHEREAS, on September 21, 2015, the Planning Board approved an amendment to the preliminary plan designated Preliminary Plan No. 11995042B (MCPB No. 15-92) to reduce the total number of residential units to 1,120; increase the overall commercial density to 206,185 square feet, including the addition of office and medical uses; revise the design and layout of the Commercial Core; add a new Community Building to the

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<sup>1</sup> In 2014, a Limited Amendment to the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area Master Plan* was adopted as the Ten Mile Creek Area Limited Amendment. The Subject Property was not included within the area that was subject to the 2014 Amendment.

Residents' Club; add a parking area on Sinequa Square; redesign Block H; and revise Kings Pond Local Park and Piedmont Woods Local Park on the Overall Property; and

WHEREAS, on March 30, 2016, the Planning Board approved an amendment to the preliminary designated Preliminary Plan No. 11995042C (MCPB No. 16-036) to replace 11 multi-family units (including 3 MPDUs) with 9 one-family attached units (including 3 MPDUs) and 1 HOA parcel on the Overall Property; and

WHEREAS, on April 21, 2021, CTC Development Inc. ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to convert the originally approved 24 manor home condominium units (including 8 MPDUs within 2 buildings) on Block M, Parcel A and Block S, Parcel C (the "Subject Property") to 12 rear-loaded townhouse dwelling units (including 7 MPDUs) on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 11995042D, Clarksburg Town Center ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 23, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 6, 2022, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 6, 2022, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Rubin, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Patterson, Rubin and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 11995042D to convert the originally approved 24 manor home condominium units (including 8 MPDUs within 2 buildings) on Block M, Parcel A and Block S, Parcel C, to 12 rear-loaded townhouse dwelling units by modifying and adding the following conditions:<sup>2</sup>

**Modified Condition**

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<sup>2</sup> 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.

## **General Approval**

### **Overall Density**

1. This Preliminary Plan is limited to a maximum of 1,106 residential dwelling units including 12.5% MPDUs, 129,545 square feet of retail, 45,280 square feet of medical office, and 31,360 square feet of office on the Overall Property of 270.92 acres.

### **New Conditions**

#### **Outside Agencies**

2. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 5, 2021 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
3. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
4. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated November 4, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its letter dated December 15, 2021, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

#### **Other Approvals**

##### **Concurrent Site Plan Approval**

6. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of Site Plan No.

82007022H. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks and bikepaths are determined through site plan review and approval.

7. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

### **Record Plats**

8. There shall be no clearing or grading of the site, except removing the stockpiles (subject to the necessary permits and inspections), prior to recordation of plat(s).

### **Easements**

9. The record plat must show necessary easements.
10. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

### **Notes and Labels**

11. The record plat must reflect all areas under common ownership.

### **Schools**

12. Prior to issuance of each building permit for a residential dwelling unit on the Subject Property, the Applicant must obtain an assessment from MCDPS for Utilization Premium Payments (UPPs) consistent with the Growth and Infrastructure Policy, as follows:
  - a) no elementary school UPP required;
  - b) no middle school UPP required;
  - c) a Tier 2 high school UPP per market unit.

### **MPDUs**

13. The final number of MPDUs as required by Condition 1 above will be determined at the time of site plan approval.

### **Certified Preliminary Plan**

14. The Applicant must include the stormwater management concept approval and all other applicable approval letters and Preliminary Plan Resolution on the approval or cover sheet(s).
15. The certified Preliminary Plan must contain the following note:  
*Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for the Overall Property, including the Subject Property, remain valid, unchanged and in full force and effect, except as modified herein.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan and any amendments thereto, and all findings not specifically addressed remain in effect.

1. *the layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59;*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50 (the "Subdivision Regulations"). The Application meets all applicable sections. The approved lot sizes, widths, shapes, and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, and for the One-family Attached units selected for the Property.

The lots were reviewed for compliance with the dimensional requirements for the RMX-2 zone as specified in the Zoning Ordinance. The lots as approved will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

*2. the preliminary plan substantially conforms to the master plan;*

The Subject Property is located in the *1994 Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area* and the *2011 Limited Amendment to the Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions*<sup>3</sup>, within the Town Center District as identified in the Master Plan.

The Application is consistent with and is in substantial conformance with the recommendations adopted in the Master Plan. The modifications approved by this Amendment do not have an impact on the Master Plan conformance findings of previous approvals. The Amendment still meets the eight policy objectives of the Master Plan for the Town Center. In terms of land use objectives, the Amendment substantially conforms to the recommendations in the Master Plan for housing mix.

*3. public facilities will be adequate to support and service the area of the subdivision;*

Roads and Transportation Facilities

Access is adequate to serve the approved development. The Subject Property fronts the eastern side of Burdett Forest Road, a secondary street with a 60 ft. right-of-way ("ROW"), immediately above and below Clarksburg Square Road, a primary residential street with a 70 ft. ROW. Vehicular access to the approved dwellings will be provided via three shared driveways to Burdette Forest Road serving the rear garages of all dwellings. Existing sidewalks on both roads will accommodate pedestrian access to all units. There are no existing or planned bicycle improvements along the frontage, and no improvements are required. The Amendment does not exceed the APF development standards as approved by the Preliminary Plan and no additional LATR review is required.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the approved lots. The Subject Property is located within the W-1 and S-1 water and sewer categories which permit use of public water and sewer connections. The Application has been reviewed by the Washington Suburban Sanitary Commission who have determined that the existing mains are adequately sized and can be extended as approved.

The Preliminary Plan has been evaluated by M-NCPPC Staff and the Montgomery County Department of Transportation, who support the transportation elements

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<sup>3</sup> The Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area does not include the Subject Property.



of the Preliminary Plan as indicated in their letter dated November 5, 2021. The approved access to the Subject Property and the individual lots, as shown on the Preliminary Plan, is adequate to serve the development.

The Application has been reviewed by the MCDPS Fire Department Access and Water Supply Section, who determined that the Subject Property has adequate access for fire and rescue vehicles as indicated by their approval dated November 4, 2021.

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the *Growth and Infrastructure Policy* currently in effect.

#### School Adequacy Test

The Application is served by Little Bennett ES, Rocky Hill MS, and Clarksburg HS. Based on the FY2022 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

**Table 1 - Applicable FY2022 School Adequacy**

School	Projected School Totals, 2025				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus / Deficit		Tier 1	Tier 2	Tier 3
Little Bennett ES	634	661	104.3%	-27	No UPP	58	100	195
Rocky Hill MS	1,020	1,048	102.7%	-28	No UPP	98	176	329
Clarksburg HS	2,034	2,468	121.3%	-434	<b>Tier 2 UPP</b>			278

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (“UPP”) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. Under the FY22 Annual School Test, Little Bennett ES and Rocky Hill MS do not require any UPP. However, development approved within the Clarksburg HS service area for this Application is subject to a Tier 2 UPP as identified in Table 1. If the amendment is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

#### Calculation of Student Enrollment Impacts

To calculate the number of students generated by the approved plan, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit. With 12 single-family attached units that are not age-restricted replacing 24 previously approved multi-family

low-rise units, the Application is estimated to generate the following number of students based on the Subject Property's location within a Turnover Impact Area:

**Table 2 – Estimated Student Enrollment Impacts**

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.185	0.000	0.108	0.000	0.154	0.000
SF Attached	12	0.225	2.700	0.123	1.476	0.159	1.908
MF Low-rise	-24	0.107	-2.568	0.058	-1.392	0.070	-1.680
MF High-rise	0	0.051	0.000	0.024	0.000	0.030	0.000
<b>TOTALS</b>	<b>-12</b>		<b>0.132</b>		<b>0.084</b>		<b>0.228</b>

As shown in Table 2, on average, this Application is estimated to generate a net of less than 1 elementary school student, less than 1 middle school student, and less than 1 high school student. The estimated number of students generated does not exceed the adequacy ceilings identified for each school in Table 1. Therefore, no additional UPPs beyond those identified by the annual school adequacy test above are required and neither are partial payments across multiple UPP tiers.

Therefore, as conditioned, prior to issuance of each building permit for the 12 single-family attached units included in this Amendment, the Applicant must obtain an assessment from MCDPS for UPPs consistent with the *Growth and Infrastructure Policy*, as follows:

- a. no elementary school UPP required;
- b. no middle school UPP required; and
- c. a Tier 2 high school UPP per market rate unit.

4. *all Forest Conservation Law, Chapter 22A requirements are satisfied;*

#### Environmental Guidelines

The approved Amendment includes two parcels: Parcel A and Parcel C. Both of these parcels were included in the previous Preliminary Plan and Site Plan approvals, including the accompanying Site Plan Amendment No. 82007022H. The prior Preliminary Plan included a Preliminary Forest Conservation Plan and a Preliminary Water Quality Plan. The previous Site Plan included an approved Final Forest Conservation Plan and a Final Water Quality Plan.

#### Forest Conservation



The Amendment does not contemplate any modifications to the approved Final Forest Conservation Plan 82007022D.

5. *all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied;*

The Final Water Quality Plan, which was approved by the prior site plan, is being amended by the accompanying Site Plan Amendment No. 82007022H.

6. *any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and location within the subdivision boundary is approved under Subsection other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.*

This finding is not applicable.

7. *any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.*

This finding is not applicable.


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 27 2022 (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).

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#### 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 Cichy, seconded by Commissioner Rubin, with Chair Anderson and Commissioners Cichy, Verma, and Rubin voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, January 13, 2022, in Wheaton, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board