

## CLARKSBURG TOWN CENTER

PROJECT PLAN AMENDMENT NO. 91994004E, PRELIMINARY PLAN AMENDMENT NO. 11995042E, SITE PLAN AMENDMENT NO. 82007022I, FOREST CONSERVATION PLAN AMENDMENT NO. F20230380



Amendments to reduce the approved commercial density from 206,185 SF to 106,920 SF, replace the approved office buildings with 189 multi-family housing units (including 12.5% MPDUs), reconfigure retail buildings and parking areas, update amenities, and to make parcel revisions.

Nos. 91994004E,  
11995042E, 82007022I,  
F20230380

Completed: 02-16-2024

MCPB  
02-29-2024

Montgomery County  
Planning Board  
2425 Reedie Drive, Floor 14  
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### LOCATION/ADDRESS

Along Saint Clair Road between Clarksburg Square Road and Stringtown Road, Clarksburg

### MASTER PLAN

1994 Clarksburg Master Plan & Hyattstown Special Study Area, 2011 Limited Amendment to the Clarksburg Master Plan

### ZONE

CRT 0.75, C-0.25, R-0.5, H-65T, AR (existing zone); RMX-2, RDT (prior zone)

### PROPERTY SIZE

204.92 acres (Project and Preliminary Plan)  
26.3 acres (Site Plan Amendment)

### APPLICANT

Elm Street Development

### ACCEPTANCE DATE

June 28, 2023

### REVIEW BASIS

Chapters 19, 22A, 50, 59

## Summary:

- Staff recommends approval with conditions of Project Plan Amendment No. 91994004E, Preliminary Plan Amendment No. 119995042E, Site Plan Amendment No. 82007022I, and Final Forest Conservation Plan Amendment No. F20230380, and Revised Final SPA Water Quality Plan.
- Proposal to reduce the approved commercial density from 206,185 SF to 106,920 SF, replace the approved office buildings with 189 multi-family housing units with 12.5% MPDUs, reconfigure retail buildings and parking areas, update amenities, and to reconfigure eight (8) parcels into seven (7) parcels.
- Staff have received comments in opposition and in support of the Application. Issues raised include traffic congestion, parking, building heights, opposition to apartments, opposition to eliminating office buildings, and conformance with the Compliance Program. Comment in support of the Application urged to complete the retail core soon.

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## EXECUTIVE SUMMARY

In 1994, the County Council approved the 1994 *Clarksburg Master Plan and Hyatt Special Study Area* (“Master Plan”). The Master Plan called for the creation of a town center alongside the Clarksburg Historic District, surrounded by residential, office, and retail uses. The plan envisioned up to 2,600 residences and 300,000 sq. ft. of commercial space.

In 1995, the Planning Board approved Project Plan No. 919940040 and Preliminary Plan No. 119950420. The approvals envisioned a neo-traditional community with 1,300 residences, 100,000 square feet of office, and 150,000 square feet of retail.

In 2005, a group of residents known as the Clarksburg Town Center Advisory Committee (CTCAC) alleged numerous violations associated with the as-built conditions, against the previous developer, NNPII Clarksburg, LLC (Newlands). To resolve the dispute, CTCAC and Newlands agreed to mediation. The mediation resulted in a Compliance Program which was approved by Planning Board resolution in June 2006.

The Compliance Program consisted of three stages. Stage I permitted the developer to proceed with the construction of certain residential units without further review by the Planning Board. Stage II required an interim review of certain residential units before construction. Stages I and II are completed.

To satisfy the requirements for Stage III, in 2008 the Planning Board approved Project and Preliminary Plan amendments along with new Site Plan No. 820070220. These approvals incorporated the necessary infrastructure and significant amenity improvements set forth in the Compliance Program.

In July 2013, the Planning Board approved Site Plan Amendment No. 82007022D to reduce residential units, increase commercial space, revise the commercial, along with park and amenity revisions. Although most Compliance Program elements were incorporated, the Board did not require all prior elements, such as parking structures in the retail core. The Board found that the amendment served the public interest by “providing significant community amenities and facilities that are comparable to the previously approved plans while responding to the aspirations and needs of today’s community.” Subsequently over the following years, the Applicant complied with the amendments and Compliance Program by substantially completing the required infrastructure and amenities.

In June 2023, the Applicant filed the subject Applications to complete the commercial core. After more than a decade, the Applicant has secured a major grocery store anchor. With this anchor’s commitment, the Applicant is in a position to attract additional commercial tenants and new residents to complete the final phase of the Clarksburg Town Center.



## SECTION 1: RECOMMENDATIONS AND CONDITIONS

### PROJECT PLAN AMENDMENT 91994004E

Staff recommends approval of Project Plan Amendment No. 82007022I to amend the maximum residential density from 1,106 dwelling units to 1,295 dwelling units (including a minimum of 12.5 percent MPDUs), the maximum commercial density from 206,185 square feet to 106,920 square feet, changes to the mix of uses, minor revisions to the site layout, and to reconfigure eight (8) parcels into seven (7) parcels on 270.92 acres (Overall Property).

The Subject Property consists of approximately 26.3 acres of undeveloped land in the commercial core of the Clarksburg Town Center (“Subject Property”).

The following site development elements shown on the latest electronic version of Project Plan No. 91994004E, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the conditions below.

The following Conditions supersede and replace all previous conditions:

All other elements of the Project Plan are illustrative and subject to refinement at the time of Site Plan.

This approval is subject to the following conditions:

1. Overall Property Density. The Project Plan Amendment is limited to a maximum of 106,920 square feet of commercial development, 1,295 total dwelling units, consisting of 219 single-family detached, 686 single-family attached, and 390 multi-family units on 270.92 acres.<sup>1,2</sup>
2. On the Subject Property, provide a plaza with a splash fountain, allowing public access, as shown on the approved site plan.
3. Applicant shall meet all requirements for water quality plan submission and approval, per Chapter 19, Article V - "Water Quality Review in Special Protection Areas" (proposed monitoring plan may be submitted as part of the review of the site plan). Location of units, roads, and other layout concerns will be subject to the final water quality regulations.

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<sup>1</sup> If there is no adverse impact on the Project Plan and the APF findings, and it is approved by Staff, the commercial square footage may change to any allowed commercial use, including office or medical office.

<sup>2</sup> 390 multi-family units include 189 new multi-family units proposed with this amendment.

4. Minimize disturbance in the stream buffer except for road crossings, unavoidable utilities, SWM locations adjoining the town center retail area and greenway road, soft surface pathways, and memorial elements.
5. Maintenance and Management Organization. A retail maintenance organization shall be formed 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.

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**PRIOR CONDITIONS: SATISFIED OR REQUIRED BY PRIOR APPLICANTS**

Prior conditions are for Project Plan Nos. 91994040, 9199404A, 9199404B, 9199404C, 9199404D; and are provided here for reference and are not required of the current Applicant.

6. The following road improvements, at each stage of development, are needed to provide enough capacity to serve the proposed development:
  - a. Stage 1 - Reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.
  - b. Stage 2 - Construct an eastbound left turn lane along MD 121 at MD 355. Construct a westbound left turn lane along MD 121 at MD 355.
  - c. Stage 4 - Construct a northbound right turn lane along MD 355 at Stringtown Road.
  - d. Stage 5 - Restripe eastbound Comus Road to provide exclusive left turn lane at MD 355.
  - e. A-260 (Stringtown Road) must be dedicated to a right-of-way of 120 feet. At the preliminary plan, if determined that the property is not part of a participation agreement with MCDOT and other property owners, the safety improvements described in paragraph 4., will be made to Stringtown Road.
7. A-305 (Mid-County Highway) pursuant to Preliminary Plan No. 119950420, as may be amended.
8. Dedication and Construction of A-260 (Stringtown Road) pursuant to Preliminary Plan No. 119950420, as may be amended.
9. Clarksburg Square Road/Route 355 Connection pursuant to Preliminary Plan No. 119950420, as may be amended.
10. Additional Access to A-260 (Stringtown Road) and A-27 (Clarksburg Road) pursuant to Preliminary Plan No. 119950420, as amended.

Provide for an additional connection from Redgrave Place (Main Street) to the boundary of the historic district to permit a future connection to A-260 (Stringtown Road). Connect the private

street that leads to the Town Square to A-27 (Clarksburg Road) with approval from the Planning Board and MCDOT provided this private street remains private.

11. Revise the Layout of Streets. Incorporate the following items into the site plans for each stage of development:

- a. Improvements to the Town Square - Increase the size of the Town Square by utilizing a loop concept as shown on the revised drawing to reduce conflicts with east/west traffic and to improve pedestrian access.
- b. Relocate A-260 (Stringtown Road) in accordance with the revised alignment diagram to reduce the impact on adjacent residences. Reduce the number of access streets to A-260 from the area of the existing single family detached units (5) on the north side of Stringtown Road to meet the design standards for arterial roads.
- c. Eliminate the access to the proposed elementary school from MD 121 and provide access from the Greenway Road.
- d. Revise the access to A-305 (Mid-County- Highway) to allow a direct connection from Burnt Hill Road to the Greenway Road, and improve the access to the single family detached units by utilizing private drives adjacent to A-305.
- e. The present street system shown in the project plan requires waivers of existing standards. The Prior Applicant and staff have met with MCDOT to discuss the waivers. All waivers must receive final approval from MCDOT before approval of the site plan.

12. Environmental Improvements

- a. Minimize disturbance in the stream buffer except for road crossings, unavoidable utilities, SWM locations adjoining the town center retail area and greenway road, soft surface pathways, and memorial elements.
- b. As part of the preliminary plan, provide an area within the Prior Applicant's stormwater management facilities for stormwater management for the school site.

13. Park/School

The proposed layout of the park/school site is generally acceptable. At the preliminary plan, the final concept plan and related terms and conditions will be finalized in coordination with the Parks Department and Montgomery County Public Schools.

14. Historic Preservation

Incorporate the following items into the project plan before review of the site plan for this area:

- a. Minimize the width of both the right-of-way and paving (50 feet of ROW and 24 to 26 feet of paving, subject to approval by MCDOT) for Redgrave Place (Main Street) located within the Historic District.
- b. Provide access easements, if applicable, to future public sewer at the intersections of A-260 (Stringtown Road) and Redgrave Place (Main Street) with MD 355 (Old Frederick Road).
- c. Provide a small open space along the northern edge of the greenway next to Redgrave Place (Main Street) with an interpretive memorial element for the family of John Clark that incorporates the existing grave markers.
- d. If the ROW is available, construct Main Street to MD 355 within the Historic District prior to completion of Stage 3. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the Prior Applicant and property owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.

15. Compatibility with Existing Church and Adjacent Residences Within the Historic District

Increase the setback of the proposed public street located next to the church within the Historic District to 30 feet and provide screening for the existing cemetery. Relocate the tot lot away from the existing church, and maintain the area as open space to provide a potential linkage to the church. The size of lots and setbacks of the proposed development must match, approximately, the development standards in the R-200 Zone for building setbacks and width of lots along the southeastern boundary of the site within the Historic District. Revise the landscape plan to increase visibility to the church. Provide an easement for a pedestrian connection to the church for the proposed, adjacent street.

16. Staging of Amenities

- a. All amenities shown within each stage of development must be completed within that stage of development. The concept design for the greenway, the school/park, and other large play fields, must be completed before approval of the first site plan.
- b. Construction of the amenities within the greenway must be finalized before the completion of Stage 3.
- c. The proposed project shall be developed in accordance with the phasing plan outlined in the Site Plan section under Development Program-Phasing.
- d. A detailed development program shall be developed with the Site Plan to include installation of landscaping, lighting, recreation facilities and amenities.

## 17. Landscaping

The following items must be incorporated into the site plans:

- a. Street trees, high quality streetlights, sidewalk paving types, and street furniture as part of the design for the streetscape of roads, town square, and the neighborhood squares.
- b. Increased landscaping in the commercial parking area.
- c. Landscaping for the buffer areas adjacent to all arterial roads.
- d. Screening for the existing homes within the Historic District.
- e. Landscaping for all stormwater management areas.

## 18. Maintenance

- a. Maintenance of the private recreation areas, stormwater management facilities, applicable open spaces, and other amenities on private land must be maintained by an appropriate homeowner's association. Before approval of the first building permit, submit a maintenance document that establishes an overall organization that establishes responsibility for maintenance of these facilities.
- b. Maintenance and Management Organization. A retail maintenance organization shall be formed 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.

## 19. Civic Parcel (Parcel K)

The Prior Applicant must dedicate the 1.1-acre Parcel K, Block BB, to Montgomery County for use as a Civic Building. In the event Montgomery County has either not entered into an agreement with the Prior Applicant or appropriated funds for the design and construction of the Civic Building by the time that dedication is required, the Prior Applicant may forego dedication and build the Civic Building and lease the building for uses that serve the community, such as a civic building, event center, recreation center, or other such use, as contemplated by Civic and Institutional Uses as defined in the Zoning Ordinance (excluding Ambulance, Rescue Squad, and Hospital), giving a right of first refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose. If at the end of any County or civic lease, no civic purpose is found, Prior Applicant can lease the space to tenants that provide services to the Clarksburg community.

Public Amenities. The Prior Applicant must provide at a minimum the following public facilities and amenities. The final design and details of the public facilities and amenities will

be determined during site plan approval. The Planning Board may approve other facilities that are equal to or better than these at the time of site plan approval.

*Table 1 - Public Amenities of Project Plan No. 91994004D*

<b>Location</b>	<b>Public facilities and amenities</b>
West Side	(1) Tot lot Town Green including: Amphitheater & stage, Open play area 1.1-acre civic parcel Picnic/sitting Bike system, Pedestrian system Splash fountain
East Side	(1) Open play area I (1) Open play area II Picnic/sitting (1) Indoor community room Bike system, Pedestrian system
Piedmont Woods Local Park	(1) multi-age playground (1) basketball (2) tennis courts (1) dog park Picnic/sitting Bike system, Pedestrian system, Nature trails, Nature area
Greenway	Picnic/sitting, Bike system, Nature area
Kings Pond Local Park	(1) multi-age playground (1) Fishing Pier Picnic/sitting Bike system, Pedestrian system



## PRELIMINARY PLAN AMENDMENT 11995042E

Staff recommends approval with conditions of Preliminary Plan Amendment No. 11995042E to amend the total maximum residential density from 1,106 dwelling units to 1,295 dwelling units (including a minimum of 12.5 percent MPDUs), the maximum commercial density from 206,185 square feet to 106,920 square feet, changes to the mix of uses, minor revisions to the site layout, and to reconfigure eight (8) parcels into seven (7) parcels on 270.92 acres (Overall Property).

The Subject Property consists of approximately 26.3 acres of undeveloped land in the commercial core of the Clarksburg Town Center (“Subject Property”).

All site development elements shown on the latest electronic version of the Preliminary Plan Amendment No. 11995042E as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.

The following conditions supersede all previous conditions:

### GENERAL APPROVAL

1. This Preliminary Plan Amendment is limited to lots and parcels for 219 detached houses, 686 townhouses, 390 multi-family dwelling units<sup>3</sup>, a minimum of 12.5% Moderately Priced Dwelling Units (MPDU), 106,920 square feet of commercial uses<sup>4</sup>, changes to the mix of uses, minor revisions to the site layout and stormwater management on the Overall Property. This Preliminary Plan Amendment also includes the reconfiguration of eight (8) parcels into seven (7) parcels on the Subject Property.

### ADEQUATE PUBLIC FACILITIES

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan is extended and will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

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<sup>3</sup> 390 multi-family units includes 189 new multi-family units proposed on the Subject Property.

<sup>4</sup> If there is no adverse impact on the Site Plan and the APF findings, and it is approved by Staff, the commercial square footage may change to other allowed commercial uses, including office or medical office.

## PLAN VALIDITY PERIOD

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period; a final record plat for all modified property lines delineated on the approved Preliminary Plan for proposed Parcel P, Parcel Q, Parcel R, Parcel S, and Parcel U of Block GG; and Parcel G and Parcel H of Block CC must be recorded in the Montgomery County Land Records or a request for an extension filed.

## OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 16, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

### Right-of-Way Permitting

- a. All existing brick sidewalks are subject to maintenance and liability covenants.
  - b. Private streets to be built to tertiary roadway structural standards.
  - c. All pavement/parking markings are subject to MCDOT review and approval at the time of permit.
5. Before recording a plat for Parcel P, Parcel Q, Parcel R, Parcel S, and Parcel U of Block GG; and Parcel G and Parcel H of Block CC; on the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
  6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section in its stormwater management concept letter dated January 17, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
  7. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated January 17, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its December 19, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

#### FUTURE SITE PLAN APPROVAL REQUIRED

9. On the Subject Property, provide a plaza with a splash fountain, allowing public access, as shown on the site plan.
10. Before clearing or grading or recording a plat, Staff certification of a Planning Board-approved site plan must be approved. The number and location of site elements, including but not limited to buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined through site plan review and approval.
11. If an approved site plan or site plan amendment substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, a Preliminary Plan amendment must be approved before certification of the site plan or site plan amendment.

#### TRANSPORTATION

##### Frontage Improvements

12. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
  - a. All land necessary to accommodate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage of Clarksburg Square Road, for a total right-of-way width of seventy (70) feet.
  - b. All land necessary to accommodate thirty (30) feet from the existing pavement centerline along the Subject Property frontage of Saint Clair Road, for a total right-of-way width of sixty (60) feet.

##### Private Road

13. The Applicant must provide and maintain Private Road (Saint Clair Road) on the Subject Property), including any sidewalks, bikeways, storm drainage facilities, street trees, streetlights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the “Private Road”), subject to the following conditions:
  - a. The record plat must show the Private Road in a separate parcel.

- b. The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions in the Montgomery County Code § 50-4.3.E et seq regarding private roads. The Covenant includes, but is not limited to the following requirements/conditions:
  - i) The Applicant, at its expense, shall design, construct and maintain the Private Road.
  - ii) The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Road and all improvements located within the Private Road, in good condition and repair for safe use and operation of the Private Road. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every two (2) years (or every five (5) years in the event there are no below-ground parking structures in the Private Road). The reserves must be adequate to cover the costs of needed repairs.
  - iii) The Applicant must post and retain signage to notify the public that the Private Road is not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Road.
- c. Before issuance of the first building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Preliminary Plan or a subsequent Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

## SCHOOLS

14. Before issuance of each building permit for a residential dwelling unit on the Subject Property, the Applicant must obtain an assessment from Montgomery County Department of Permitting Services (MCDPS) for Utilization Premium Payments (UPPs) consistent with the 2020-2024 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 is required.

Montgomery County may modify the per unit UPP rates prior to payment of any required UPPs. The Applicant must pay the above UPPs to the Montgomery County Department of Finance based on the rates in effect at the time of payment.

## RECORD PLATS

15. The record plat must show necessary easements.
16. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
17. The record plat must reflect all areas under homeowners' association ownership and specifically identify stormwater management parcels.

## Notes and Labels

18. The record plat must reflect all areas under common ownership.
19. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").

## DEVELOPMENTS WITH MPDUS

20. The final number of MPDUs, as required by Condition No. 1 above, will be determined at the time of site plan approval.

## CERTIFIED PRELIMINARY PLAN

21. 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 issuance of building permit(s) or 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.*

22. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes: Show resolutions and approval letters on the certified set.

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#### PRIOR CONDITIONS: SATISFIED OR REQUIRED OF PRIOR APPLICANTS

Prior conditions are for Preliminary Plan Nos. 119950420, 11995042A, 11995042B, 11995042C, 11995042D, 1199504R; and are provided here for reference and are not required of the current Applicant.

23. Before any work, activity, encroachment, or entry on parkland or future parkland, the Prior Applicant must obtain a Park Construction Permit from MNCPPC Parks Department.
24. The Prior Applicant must dedicate to M-NCPPC the approximately 66-acre portion of the Overall Property identified as Parcel 200, Tax Map EW42 for use as a local park per the Clarksburg Master Plan. The land must be dedicated to the M-NCPPC in a form of deed approved by the Office of General Counsel, which Liber and Folio must be noted on the record plat. At the time of conveyance, the property must be free of any trash and unnatural debris. In the event the Prior Applicant is to complete improvements on the property to be dedicated, the Prior Applicant must enter into a Recreational Facilities Agreement (RFA) or a Park Permit with the Department of Parks. Both the deed and the RFA/Park Permit must be in a form approved by the Department of Parks and the Office of General Counsel.
25. The Prior Applicant must dedicate to M-NCPPC the following properties shown on Preliminary Plan No. 11995042B:
  - a. Parcel A, Block V at approximately 0.09 acres
  - b. Parcel C, Block V at approximately 0.30 acres
  - c. Parcel D, Block V at approximately 4.79 acres
  - d. Parcel Q, Block A at approximately 11.05 acres

The properties are for use as the Greenway and a shared use path connecting Clarksburg Road to Stringtown Road per the Clarksburg Master Plan. The land must be dedicated to the M-NCPPC in a form of deed approved by the Office of General Counsel, which Liber and Folio must be noted on the record plat. At the time of conveyance, the property must be free of any trash and unnatural debris. In the event the Prior Applicant is to complete improvements on the property to be dedicated, the Prior Applicant must enter into a Recreational Facilities



Agreement (RFA) or a Park Permit with the Department of Parks. Both the deed and the RFA/Park Permit must be in a form approved by the Department of Parks and the Office of General Counsel.

26. Parcel K, Block BB as shown on the Preliminary Plan Amendment No. 11995042B must be made available for dedication to Montgomery County in accordance with development program triggers in the certified site plan.
27. Dedication of the proposed park/school, as shown on the Prior Applicant's revised preliminary plan drawing approved with Preliminary Plan No. 119950420, is to be made to M-NCPPC. In order to facilitate the implementation of the combined park/school facilities, the following provisions apply:
  - a. M-NCPPC and the Prior Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing (Sheet 2 of 3 of Preliminary Plan No. 119950420) set out on Circle Page 49 of the staff report dated \_\_\_\_, will occur prior to the execution of the Site Plan Enforcement Agreement.
  - b. Dedication of the approximately eight (8) acre area, identified as area "A" (Sheet 2 of 3 of Preliminary Plan No. 119950420) on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.
  - c. The Prior Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately eight (8) acres of dedicated land at a time which ensures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.
  - d. In the event that dedication occurs when funds for the proposed school are shown in the CIP, Prior Applicant will complete work on the replacement fields prior to the construction of the proposed school.
  - e. In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F," (Burdett Forest Road) as shown on the revised preliminary plan, Prior Applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Prior Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" (Burdett Forest Road) begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for

the park/school site to be submitted for technical staff approval as part of the site plan application.

28. In accordance with Condition #No. 27 above and Preliminary Plan No. 119950420, Prior Applicant must enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Parks' Memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur as specified in Condition No. 27 above.
29. Construction Overlook Park Drive from St. Clair Road to Clarksburg Square Road must be complete and this road segments must be open to traffic prior to issuance of Use & Occupancy permit for any of Clarksburg Town Center retail development.
30. Dedication of the following roads as shown on plan must be provided as follows:
  - a. Clarksburg Road (MD RT 121) for ultimate 80' right-of- way.
  - b. Piedmont Road (Master Plan A-305) for ultimate 80' right-of-way.
  - c. Stringtown Road (Master Plan A-260) for ultimate 120' right-of-way.
31. The Prior Applicant must dedicate and show on the record plat(s) the following dedications and rights-of-way:
  - a. East Side
    - i. Clarksmeade Drive - 25 feet from centerline of pavement
    - ii. Clarks Crossing Drive - 25 feet from centerline of pavement
    - iii. Clarksburg Square Road - 30 feet from centerline of pavement
    - iv. Catawba Hill Drive - 25 feet from centerline of pavement
  - b. West Side (Public)
    - i. Clarksburg Square Road - 30 feet from centerline of pavement
    - ii. Ebenezer Chapel Road - 25 feet from centerline of pavement
    - iii. Public House Road - 30 feet from centerline of pavement
    - iv. Overlook Park Drive - 53 feet total width
  - c. West Side (Private)
    - i. General Store Drive Road (St. Clair Road) - within a 60-foot-wide right-of-way/parcel
    - ii. Martz Street - within a 48-foot-wide right-of-way/parcel

32. The Prior Applicant must dedicate all road rights-of-way not referenced above to the full width mandated by the Clarksburg Master Plan or as shown on the preliminary plan as may be amended.
33. All road improvements must be constructed within the rights-of-way shown on the preliminary plan as may be amended to the full width mandated by the master plan and/or 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.
34. Prior to recordation of any plat containing property that is subject to the road abandonment petition, the Prior Applicant must submit a copy of the County Council Resolution confirming the necessary abandonment of portions of the previously dedicated rights-of-way for Overlook Park Drive, Clarksburg Square Road, and Clarksridge Road.
35. Prior to approval of the first record plat for private streets on the West Side, the Prior Applicant must provide for review and approval by Staff, a public use and access easement to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following for all private streets:
  - a. Each private street must be located within its own parcel, separate from the proposed development, and must be shown on the record plat.
  - b. Entitlement for open and unobstructed public use of the easement for all customary vehicular, pedestrian and bicycle, and loading access. The easement granted to the public must be volumetric, in order to accommodate uses below and above the street easement area and must accommodate public utility easements.
  - c. Obligation for the Prior Applicant to construct the streets pursuant to comparable MCDOT structural construction standards, at the Prior Applicant's expense.
  - d. Obligation to install traffic control devices within the private street easement area, based on prevailing standards, at the County's request, and at the Prior Applicant's expense.
  - e. Obligation for the Prior Applicant to maintain and repair the streets in acceptable conditions for all access and loading purposes, at its expense.
  - f. Obligation for the Prior Applicant to keep the streets free of snow, litter and other obstructions and hazards at all reasonable times, at the Prior Applicant's expense.
  - g. Entitlement for the Prior Applicant or its designee to close private streets for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public. Closure for recreational purposes, i.e., Block Parties, Parades, Races, etc., must follow MCDOT protocol to include, but not be limited to:

- i. Signage notifying public of road closures, lane restrictions, or parking restrictions to be in place at least one week prior to closure at locations in accordance with adopted MCDOT standards.
  - ii. Maintain vehicular and pedestrian access to properties abutting closure if possible, and open to emergency vehicle passage at all times.
  - iii. Traffic control devices to be placed in accordance with adopted MCDOT standards.
  - iv. Written notice in accordance with adopted MCDOT standards.
  - v. Coordination with affected civic associations, homeowner's associations and businesses to be notified in writing two weeks prior to event.
  - vi. Dimensions of signage in accordance with adopted MCDOT standards.
36. The following phasing requirements are conditioned upon issuance of building permits for Preliminary Plan No. 119950420.
- a. The first 44 dwelling units without any off-site road improvements.
  - b. After the 44th building permit, the developer must start reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.
  - c. After the 400th building permit, the developer has two options:
    - i. Construction of A-260 from MD 355 to the southern access road of the commercial site (commercial access road between A-260 and P-5) and construction of P-5 across the stream valley into the residential area north of stream valley.
    - ii. Construction of A-260 from MD 355 to the northern access road of the residential development and construction of a northbound right-turn lane along MD 355 at A-260 should be included in this phase.
  - d. After the 800th building permit, the developer must start construction of remaining section of A-260 to A- 305, and intersection improvements at MD 355 and MD 121 to construct eastbound & westbound left-turn lanes along MD 121.
  - e. Construction of A-305 from A-260 to MD 121 must begin when the developer starts building any of the residential units on blocks 11, 12, 13, and the northern half of block 10.
37. The following phasing requirements are conditioned upon issuance of building permits for Preliminary Plan No. 11995042A.

- a. Construction of (1) Public Road A from Stringtown Road to Overlook Park Drive, (2) Overlook Park Drive from Public Road A to Clarksburg Square Road, and (3) Clarksburg Square Road connection from Overlook Park Drive to Burdette Forest Drive in the residential area to the north must be complete and these road segments must be open to traffic prior to release of 901st residential building permit and prior to issuance of Use & Occupancy permit for any of Clarksburg Town Center retail development.
  - b. Construction of Stringtown Road from Public Road A to Snowden Farm Parkway must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
  - c. Reconstruction of Clarksburg Road from Overlook Park Drive to Snowden Farm Parkway must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
  - d. Construction of Snowden Farm Parkway for a length of approximately 400 feet east of Clarksburg Road to complete the gap that currently exists at this location must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
  - e. Reconstruction of Clarksburg Road from Overlook Park Drive to Spire Street must be complete and this road segment must be open to traffic prior to release of Use & Occupancy permit for any of the Clarksburg Town Center retail development.
  - f. Reconstruction of Clarksburg Road from MD 355 to Spire Street must be complete in participation with MCDOT.
  - g. Construction of eastbound and westbound left-turn lanes along Clarksburg Road at MD 355 must be complete and these road segments must be open to traffic prior to release of 1,101st building permit.
38. Certified Preliminary Plan No. 11995042B and record plats must note and delineate the limits of the following rights-of-way abandonments:
- a. Council Resolution No. 16-1487, "AB722, Portion of Clarksridge Road"
  - b. Council Resolution No. 16-1488, "AB720, Portions of Overlook Park Drive"

Council Resolution No. 16-1489, "AB721, Portion of Clarksburg Square Road"

## SITE PLAN AMENDMENT 82007022I

Staff recommends approval of Site Plan Amendment No. 82007022I to amend the maximum residential density from 1,106 dwelling units to 1,295 dwelling units (including a minimum of 12.5 percent MPDUs), the maximum commercial density from 206,185 square feet to 106,920 square feet, changes to the mix of uses, minor revisions to the site layout, and to reconfigure eight (8) parcels into seven (7) parcels on 270.92 acres (Overall Property). All site development elements shown on the latest electronic version of the Site Plan, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.<sup>5</sup>

The Subject Property consists of approximately 26.3 acres of undeveloped land in the commercial core of the Clarksburg Town Center (“Subject Property”).

The following Conditions supersede and replace all previous conditions:

### DENSITY, HEIGHT & HOUSING

#### 1. Density

Overall Property Density. The Site Plan Amendment is limited to a maximum of 106,920 square feet of commercial development, 1,295 total dwelling units, consisting of 219 single-family detached, 686 single-family attached, and 390 multi-family units on 270.92 acres.<sup>6,7</sup>

Included in the Overall Project Density, the Subject Property is limited to 106,920 square feet of commercial development, including two drive-thru facilities, and 189 multi-family units on 26.3 acres.

#### 2. Height

The development on the Subject Property is limited to a maximum height as measured from the building height measuring point, as illustrated on the Certified Site Plan, and as follows:

- a. Building 1: 65 feet
- b. Building 3: 35 feet
- c. Building 4: 70 feet
- d. Building 5: 35 feet

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<sup>5</sup> For the purposes 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.

<sup>6</sup> If there is no adverse impact on the Site Plan and the APF findings, and it is approved by Staff, the commercial square footage may change to other allowed commercial uses, including office or medical office.

<sup>7</sup> 390 multi-family units include 189 new multi-family units proposed with this amendment.



- e. Building 6: 35 feet
  - f. Building 7: 35 feet
  - g. Building 8: 35 feet
  - h. Building 9: 65 feet
3. Moderately Priced Dwelling Units (MPDUs)
- a) 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 19, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
  - b) The development must provide 12.5 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
  - c) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be revised and executed.

#### TRANSPORTATION AND CIRCULATION

4. Pedestrian and Bicycle Circulation
- a) The Applicant must provide a minimum of 94 long-term and 12 short-term bicycle parking spaces.
  - b) The Applicant must ensure short term public bicycle parking is installed along the retail frontages and near public use space, as shown on the Certified Site Plan.
  - c) The long-term spaces must be in a secured, well-lit bicycle room on the ground floor of Building No. 1, and a bicycle room in the parking garage or in a bicycle room on the first floor of Building No. 9. Short-term spaces must be inverted-U racks (or approved equal) installed along Saint Clair Road or in a location convenient to the main entrance of buildings (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
  - d) The Applicant must provide a total of three (3) bicycle repair stations, one station for each multi-family buildings and one near the Greenway Trail at Overlook Park Drive and St. Clair Road.
  - e) Provide amended soil treatment in the planting beds on St. Clair Road from Overlook Park Drive to Clarksburg Square Road. The details of the amended soil treatment to be included in the Certified Site Plan.
  - f) Provide wheel stops in surface parking areas abutting sidewalks.

g) All brick sidewalks in the public right-of-way are subject to maintenance and liability covenants.

5. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated January 17, 2024, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

## SITE PLAN

6. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by M-NCPPC Staff.
- b) Prior to the issuance of a residential Use and Occupancy certificate for Building No. 1, the Applicant must record a covenant allowing reasonable public access to the plaza and splash fountain.

7. Lighting

- a) Before certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the Overall Property line, and at Parcel Q where it abuts Parcel H Block GG; excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

8. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit or Use and Occupancy Certificate, whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements only for facilities located on the Subject Property (not in the public right-of-way), including, but not limited to the splash fountain and plaza, parking lot landscaping and trees, other required landscaping, lighting, retaining walls, street furniture, and private storm drainage facilities. The surety must be posted before issuance of any building permit of development.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

9. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved before the approval of the Certified Site Plan.

10. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add the following notes:
  - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
  - ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."

- iii. “The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant and/or their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”
- c) Include approved Fire and Rescue Access Plan.
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) The Applicant must make final architectural revisions to address Staff’s comments as provided in the latest electronic version of the architectural elevations in ePlans.

#### OTHER CONDITIONS

##### 11. Maintenance Responsibility

The Applicant or future maintenance organization shall be responsible for the future maintenance associated with the improvements to the Subject Property, including, but not limited to non-standard elements within the right-of-way, benches, lighting, landscaping, retaining walls, brick sidewalks, and parking areas.

##### 12. Architectural Design/Compatibility

The Town Architect must administer the release of building permits in accordance with the approved architectural drawings and specifications included in the prior Certified Site Plan. The Town Architect must certify that any proposed construction complies with the Certified Site Plan, and the certification must accompany each building permit application. The MCDPS must not issue a building permit unless accompanied by the Town Architect's certification.

##### 13. HOA Governing Documents.

The governing documents of any merchants association established to govern the retail core on the Subject Property and/or any documents establishing responsibility for common area maintenance within the retail core must be submitted to M-NCPPC's Office of the General Counsel for approval prior to issuance of the first Use and Occupancy Permit for the retail core. The Office of the General Counsel's review of the documents will be limited to assuring

that responsibility for maintenance, capital improvements, or other operating expenses of the retail core are not the responsibility of the residential unit owners.

**PRIOR CONDITIONS: SATISFIED OR REQUIRED OF PRIOR APPLICANTS**

Prior conditions are for Site Plan Nos. 820070220, 82007022A, 82007022B, 82007022C, 82007022D, 82007022E, 82007022F, 82007022G, and 82007022H; and are provided here for reference and are not required of the current Applicant.

**14. Recreation Facilities**

- a) The Prior Applicant must meet the square footage requirements for all of the applicable proposed new recreational elements, exclusive of the Sports Court for the Resident's Club, and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) The Prior Applicant shall provide the recreation facilities shown on the Overall Recreational Facilities Plan Exhibit dated September 15, 2008, as finalized by the Planning Board at the December 11, 2008, hearing.
- c) The Prior Applicant must provide the smaller sport court, referenced as "Plan B" in the November 20, 2008, exhibit provided by the Prior Applicant.
- d) The Prior Applicant must provide at a minimum the following recreational facilities onsite as shown on the prior Certified Site Plan:

*Table 2 - Prior Recreation Facilities*

<b>Location</b>	<b>Public facilities and amenities</b>
West Side	(1) tot lot Town Green including: - Amphitheater & stage - Open play area 1.1-acre civic parcel - Picnic/sitting Bike system/Pedestrian system
East Side	(1) Open play area I (1) Open play area II Picnic/sitting (1) Indoor community room Bike system

Location	Public facilities and amenities
	Pedestrian system
Piedmont Woods Local Park	(1) multi-age playground (1) basketball (2) tennis courts (1) dog park Picnic/sitting
	Bike system Pedestrian system Nature trails Nature area
Greenway	Picnic/sitting Bike system Nature area
Kings Local Park	(1) multi-age playground (1) Fishing Pier Picnic/sitting Bike system Pedestrian system

15. Right-of-Way Permitting

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Right-of-Way Section in its letter dated June 19, 2015, and hereby incorporates them as conditions of approval. The Prior Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

- a) All existing brick sidewalks are subject to maintenance and liability covenants.
- b) Private streets to be built to tertiary roadway structural standards.
- c) All pavement/parking markings are subject to MCDOT review and approval at the time of permit.

16. Transportation

- d) Private Street #4 shall be revised to become Public Street 'A' with a 60-foot right-way, as approved by the Department of Transportation.
- e) Provide amended soil treatment a minimum of 10 feet back from the curb continuously along the public and private streets for the entire retail core, civic building and town green. The depth of the soil treatment shall be a minimum of three (3) feet.



- f) The Prior Applicant must show on the Certified Site Plan a 40-foot-wide cross section, as measured from face-of-curb to face-of-curb, for General Store Drive (St. Clare Road) that consists of two eight-foot wide on-street parking lanes and two 12-foot-wide travel lanes. The private street must be built to the structural and design standards of MC-2005.02, which may be modified to permit decorative paving material, except as provided above.
- g) Provide wheel stops in surface parking areas abutting sidewalks.
- h) The Applicant must show on the Certified Site Plan a 40-foot-wide cross section, as measured from face-of-curb to face-of-curb, for St. Clair Drive that consists of two eight-foot wide on-street parking lanes and two 12-foot-wide travel lanes. The private street must be built to the structural and design standards of MC-2005.02, which may be modified to permit decorative paving material.

#### 17. Pedestrian & Bicycle Circulation

- a) The Prior Applicant must ensure short term public bicycle parking is installed along the retail frontages and near public use space, as shown on the Certified Site Plan.
- b) Show 8-foot shared use path along Stringtown Road consistent with approved Stringtown Road engineering drawings approved in February 2013 (SC/SWM permit no. 242670).
- c) Provide an ADA-accessible path connection from Snowden Farm Parkway to the internal sidewalk system on Murphy's Grove Terrace.
- d) The Prior Applicant must provide a brick paving sidewalk on Clarks Crossing Drive from its intersection with Clarksburg Square Road until the end of the existing brick paving along the side of the proposed Community Building and Sinequa Square.
- e) The Prior Applicant must construct a 4-foot-wide natural surface trail within the Greenway. The general alignment of the trail will be coordinated with M-NCPPC Parks Staff subject to field adjustments.

#### 18. Public Use Space, Facilities, and Amenities

- a) Prior Applicant must convey the Clark Family Memorial to the Clarksburg Town Center HOA.
- b) Prior Applicant must adjust the fence location within the Clark Family Memorial per correspondence from the Clarksburg Historical Society dated June 23, 2015.

#### 19. Common Open Space Covenant

The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578.

## 20. Landscape and Lighting

The Prior Applicant must provide the following:

- a) Prior Applicant shall provide additional landscaping within planting islands in the following alleys in the common areas:
  - i. East Side-Snow Hill, Block F;
  - ii. West Side-Dowden Mews, Block EE; Clarksridge Hideaway, Block FF at a minimum, the landscaping shall include ornamental/flowering trees, evergreen shrubs and grasses or groundcover in the islands to be installed by the Prior Applicant. Existing green areas or panels shall be planted with shade or ornamental/flowering trees, where space permits. The Prior Applicant shall provide, in writing, a letter to the affected homeowners of the additional landscaping to be installed no later than 15 days prior to installation of the landscaping. A copy of the letter shall be provided to the M-NCPPC.
- b) Prior Applicant shall eliminate the shrubs on the edge of the porous pavement in Basil Park Square Circle and group similar shrubs around the proposed ornamental/flowering trees on the east side of the park. Remove the elliptical area on the east side of the park.
- c) Revise the concrete wall in Sinequa Square with a stone wall similar in material to the material used on the Resident's Club/Community Center. The wall should be extended along with the grading to frame the view from Clarksburg Square Road. The proposed street trees shall be aligned to promote this visual viewshed.
- d) Provide additional flowering/ornamental and shade trees to serve as the focal feature to enhance the view from Clarksburg Square Road.
- e) Expand the base of the Grand Staircase to include a seating area with additional planting.

## 21. Enhancement Planting/Streetscaping and Amenities

Consistent with the provisions of the approved Compliance Program, the community has identified additional landscape enhancements to be provided by the Prior Applicant, and at the Prior Applicant's expense. The costs of the enhancements shall be applied against the \$1 million landscape enhancement fund established by the Plan of Compliance. The Prior Applicant and CTCAC must agree upon a list of enhancements and provide it to Site Plan review staff no later than December 31, 2008. The list of enhancements shall not include any items that were required as a result of prior site plan approvals. In the event a list is not timely submitted, or if the list is incomplete, meaning either that there is not complete agreement as to all of the enhancements or the total cost of the enhancements is less than \$1 million, Site

Plan staff shall decide the list of enhancements to be required. The list of enhancements approved by Site Plan staff must be reflected on the certified site plan, and shall not include any improvements required by a prior site plan approval. In the event the cost of providing the enhancements approved by the Site Plan staff is less than \$1 million, the balance shall be placed in escrow with an independent escrow agent approved by the M-NCPPC's Office of the General Counsel and transferred to the homeowners association ("HOA") when CTC residents take control of the HOA. The balance, or any portion thereof, must be used solely for landscape and streetscape enhancements maintenance, except that all reasonable fees charged by the escrow agent will be paid from the Balance. The HOA's expenditure of this balance is subject to audit by M-NCPPC.

## 22. Retaining Walls

- a) The Prior Applicant shall provide for an independent inspector to monitor the review, installation and maintenance needs of any retaining walls over five (5) feet.
- b) The retaining walls facing Stringtown Road shall be decorative to include a stone or brick veneer with a suitable continuous decorative cap.

## 23. Park Development

The Prior Applicant shall comply with the memorandum dated October 13, 2008, from Park Planning and Stewardship as outlined in the following conditions:

- a) Piedmont Woods Recreational Park:
  - i. Prior Applicant to dedicate and convey to M-NCPPC in fee simple the approximately 65-acre parcel of land located on the northeast side of Snowden Farm Parkway to be used as a recreational park facility. Land to be conveyed at time of record plat.
  - ii. Prior Applicant to construct at its expense within the park area the following recreational amenities:
    1. Multi-age Playground - A multi-age playground within an approximately 10,000 square foot area. Playground equipment to include enough equipment, including challenging equipment, so that the play equipment use zones fill the entire playground boundary. Overlap the play equipment use zones as much as is allowable by ASTM guidelines to maximize the amount of equipment and provide varied play activities for all ages. Play equipment shall be acceptable to Department of Parks staff and certified by the International Play Equipment Manufacturers Association (IPEMA), meet all ASTM requirements for public playgrounds and shall meet M-NCPPC park standards.

2. Dog Exercise Area - A fenced dog exercise area of approximately the size and configuration shown on the proposed site plan. Fencing around the dog exercise area to include park standard concrete mow strip and to be located entirely outside the utility right of way. No stormwater management facilities to be located within the fenced areas. Include a maintenance vehicle access gate and a drinking water source for dogs within each section of the dog exercise area.
  3. Hard Surface Courts - Two full sized tennis courts and a full-sized basketball court approximately as shown on the site plan. Provide fencing at tennis courts and on the backside of the basketball courts (at least 4' high) with park standard concrete mow strips.
  4. Picnic Shelters - Three picnic shelters sufficiently sized to contain at least 3 picnic tables in each shelter. Each shelter to include a grill and at least 3 picnic tables.
  5. Restroom and Water Fountain - Centrally located restroom facility and frost-free water fountain.
  6. Parking Lot - Parking for a minimum of 55 cars approximately as shown on the site plan.
  7. Trails - Hard surface and natural surface trails to connect facilities and provide recreational benefits approximately as set forth on the site plan, to be located and sized as acceptable to M-NCPPC Department of Parks staff.
  8. Landscaping, Benches and Signage Landscaping and signage acceptable to M-NCPPC Department of Parks staff, and adequate benches for needed seating.
- iii. A park permit is required before construction of all park amenities. All facilities to be constructed by Prior Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.
  - iv. Prior Applicant to execute a Public Use Easement and Public Improvements Easement for the purpose of access to and maintenance of the Greenway trail. Easements to allow the full right of public trail use and allow M- NCPPC Department of Parks the full right to maintain and make any improvements to the trail. Said easements to be acceptable to M-NCPPC legal staff as well as the Department of Parks staff.
  - v. Prior Applicant to address in its initial design the following comments to the

satisfaction of M-NCPPC Department of Parks staff prior to the approval of the prior Certified Site Plan with the final design occurring prior to issuance of park construction permit:

1. The style of the picnic shelters and proposed restroom building should fit with the character of the Clarksburg Town Center. Per previous comments, provide shelters and restroom building equal to Classic Recreation Systems, Inc. "Campion" style steel frame shelter with custom ornamentation, cupola, 10:12 pitch metal roof with 2"x6" tongue and groove sub-roof, stone veneer piers and base.
2. The landscape plan must include more trees in clustered, informal groupings, particularly along the main path on Snowden Farm Parkway, along all other walkways, near the picnic shelters, at the edges of the parking lot, within parking lot planting islands, near the basketball court, around the playground, near all seating areas, and on open slopes within the park. Trees should be set back a minimum of 10 feet from paths and 15 feet from structures and fencing. The general quantities and locations of plants shall be determined prior to approval of the certified site plan. The exact types, sizes, spacing, locations and quantities of plants shall be reviewed and may be adjusted during the park permit approval process.
3. Provide additional paths or relocate paths at the tennis courts to meet ADA guidelines for accessible sports facilities. The guidelines require an accessible route to lead to each court. The paving around the restrooms and tennis courts should be simplified.
4. The minimum paved path width shall be five feet to meet ADA requirements. The minimum paved path width for multi-use trails and paths that require maintenance vehicle access is eight feet wide. The path from the parking lot to the dog park shall be ten feet wide and fully paved with ample vehicle turn-around room, as the dog park requires frequent maintenance access. The path around the playground area with its connections to the parking lot shall be widened to 8 feet to allow replenishment of playground surfacing. The paths around the edges of the parking lot may be narrowed in width if necessary to balance the amount of impervious surface in the park. The approximate alignments of trails and paths in the park shall be shown on the certified site plan, however they may be adjusted during the park permit review process.
5. Provide additional elements from the park program of requirements,

including the following: a kiosk near the park entrance or restroom building (equal to Classic Recreation Systems, Inc. "Campion" style), a shade structure with seating in the dog park that could be shared by both areas, four nature interpretation signs with durable colored graphics along the natural surface trails, wild bird boxes in natural areas, and three seating areas with benches along the natural surface trail including a story-telling circle.

6. Remove the bio-retention area from the interior of the dog park so that plantings are not trampled. Relocate the area outside of the fence.
7. If possible, reduce the number of bio-retention areas in the park, as these beds have high maintenance requirements and herbicides are not allowed to be used in these areas.
8. Provide a safe pedestrian crossing of Snowden Farm Parkway, in order to provide pedestrian access to the park from the surrounding neighborhood.
9. The park entrance pier and sign are too small to be effective. Provide a larger entrance sign for the park constructed of masonry and wood, designed to fit with the character of the Clarksburg Town Center as well as provide identity for the park.
10. Provide additional seating in the park, including at least one additional bench on each side of the dog park, at least 3 additional benches or a seat wall in or near the playground area, at least 3 additional benches along the trail on Snowden Farm Parkway, and benches along the natural surface trail system as described previously. The two benches in the lawn area adjacent to the playground should be moved onto the playground. Provide occasional groupings of two benches, rather than just single benches near the playground. The exact locations and selection of bench type shall be reviewed and approved prior to park permit, however there will likely be two types: a decorative type within the park, and a simpler version in the playground mulch areas and along natural surface trails.
11. Provide a hose bib on the exterior of the restroom and quick coupler connections on each side of the dog park for watering and maintenance.
12. The general quality of the park and all elements within the park (such as site furnishings, structures, pedestrian paving, fencing, walls and landscaping) shall be equal to or better than those provided at Arora

Hills Local Park and Dowden's Ordinary Historic Park, which are other developer-built parks in Clarksburg.

13. Department of Parks staff would prefer to have no lighting in the park, since the park is closed at dark. However, parking lot lighting was indicated as a requirement in the plan of compliance. If lighting is provided within the park, all park facilities should be lighted, including the courts, dog park and restroom so that the park may be used after dark. Lighting the parking lot on its own could encourage illicit use of the park at night. Any decision regarding lighting should be reviewed and confirmed that it would be acceptable to the community.
  14. The lighting footcandle levels in the parking lot were reduced to 0.5 footcandles. If lighting is to be provided within the park, confirm that the lighting levels are appropriate, based on applicable standards (IESNA) and confirm that Park Police concurs with these recommendations. If Park Police recommends higher levels of lighting, additional fixtures may be required.
- vi. Prior Applicant to address the comments in the memorandum dated October 13, 2008, to the satisfaction of M-NCPPC Department of Park staff at the time of park permitting.
  - vii. A Park Development Permit will be required for any improvements made to Park property or dedications for parkland. All facilities to be constructed by Prior Applicant must be acceptable to M-NCPPC Department of Parks staff and meet or exceed Parks design standards and specifications. Minor changes may be made to the location of facilities and to specific details during the Park Development Permit process, at the direction of the Park Development Division, without requiring an amendment to the site plan. Prior to approval, the Park Development Permit Set will also need to include sediment control/stormwater management drawings and calculations, utility drawings, tree protection measures, specification and all other information necessary to construct the Application.
  - viii. Plant species selections listed in the site plan set are considered preliminary, subject to the review and approval of the Park Development Division as part of the Park Development Permit process. Prior Applicant will review, and revise plant species based on direction from M-NCPPC Department of Parks staff.
  - ix. Prior to the issuance of the 1,051st building permit, the construction of Piedmont Woods Local Park must be installed per the approved Park Permit plans.
  - x. All plant material installed within the Piedmont Woods Local Park shall be

warranted by the Prior Applicant for two years from the date of substantial completion.

- xi. The heavily re-graded areas north of the proposed parking lot and northeast of the proposed dog park shall be stabilized, seeded and maintained per M-NCPPC Department of Parks approved specification for meadow establishment.

b) Kings Local Park

- i. Prior to release of the 1001st Building Permit, all required improvements to Kings Local Park shall be installed per the approved Park Permit plans.
- ii. A park permit is required before construction of all park amenities. All facilities to be constructed by Prior Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.
- iii. Prior Applicant to construct at its expense within the Local Park area the following recreational amenities:
- iv. Playground/Seating Area-A playground and seating area comparable to similar facilities in Aurora Hills Local Park (as shown on construction documents dated May 2007). The required facilities in Kings Local Park shall be comparable in size and design quality, including, but not limited to the quantity and quality of play equipment, surfacing, colored concrete edging and site furnishings. The facilities shall be shown on the certified site plan. Complete construction details and specifications shall be included and approved as part of the Park Permit for construction.
- v. Fishing Pier-A minimum eight (8) foot-wide, handicap accessible pier terminating in a 12' x 24' fishing pier platform shall be provided. The structure shall be constructed of recycled, engineered marine plastic such as Trelleborg or equal quality, and to include railings if determined by M-NCPPC Department of Park staff to be needed.
- vi. Handicap Accessible, Asphalt Trail - An eight (8) foot-wide, handicap accessible asphalt trail shall be provided from the corner of Overlook Park Drive and Clarksburg Road to the pond area and shall access the picnic shelters and playground area. The approximate alignment of the trail shall be shown on the certified site plan and may be adjusted during the park permit process.
- vii. Site Furnishings- Approximately 6 benches and a bike rack capable of holding 6 bikes shall be provided. Location and type shall be approved at



- the time of park permit.
- viii. Landscaping-A landscape plan shall be approved as part of the certified site plan. The exact species, size and number of plants may be adjusted during the park permit approval process.
  - ix. Park entrance signage- Two (2) wood and stone park entrance signs shall be provided near (1) the parking area, and (2) at the corner of Clarksburg Road and Overlook Park Drive. Concept drawings shall be approved and included with the certified site plan. Construction details shall be approved as part of the park permit.
  - x. Retaining Walls-Any needed retaining walls on park property shall be constructed of concrete block, similar to the existing walls at the corner of the school. Location, design, and height of the walls shall be shown on the certified site plan and may be modified at the time of park permit. Construction details and specifications shall be provided with the park permit.
- c) Clarksburg Greenway and Greenway Trail
- i. Prior Applicant to dedicate and convey to M-NCPPC, in fee simple, the land east of Overlook Park Drive along the stream valley from Stringtown Road to Clarksburg Road, approximately as set forth in the site plan. Land to be conveyed shall not include any stormwater control facilities or stormwater access roads and shall be conveyed free of trash and unnatural debris. Final detailed park property boundaries to be finalized and clearly set forth on the certified site plan. Land to be conveyed at time of record plat.
  - ii. Prior Applicant to construct, at its expense, an 8'-wide, hard surface trail along the southwest side of the Overlook Park Drive alignment, within publicly owned or controlled land. Trail to be constructed to park standards and specifications and construction to be coordinated with M-NCPPC Department of Parks and Montgomery County Department of Transportation staff.
  - iii. Prior Applicant to provide a 4'-wide, natural surface trail system within the dedicated Clarksburg Greenway from Kings Local Park lake area to Stringtown Road. Trail to include a safe road crossing at Clarksburg Square Road, and a safe, adequate and well lighted alignment under Clarksburg Square Road. Alignment to be substantially as set forth on the site plan with final details of the alignment and construction details to be set forth on the certified site plan.
  - iv. All trails to include bridges and boardwalk, where determined by M-NCPPC Department of Parks staff to be needed. An adequate number of benches to

- be located along trails.
- v. Provide a safe hard surface trail crossing of Stringtown Road and natural surface trail crossing of Clarksburg Square Road. Provide details of Greenway Trail connection to Clarksburg Village section of trail, including crossing of Stringtown Road and crossing of road bridge. Details to be provided by Prior Applicant on certified site plan.
- vi. All plantings and landscaping in the Clarksburg Greenway, Kings Local Park, and Piedmont Woods Recreational Park to be approved by M-NCPPC Department of Parks staff. All plantings and landscaping to be consistent with the guidance set forth in the letters from Holly Thomas to Doug Powell dated June 20, 2008, and June 23, 2008, with the Standards and Specifications set forth in "Planting Requirements for Land-Disturbing Activities and Related Mitigation on M-NCPPC Montgomery County Parkland," Revised January 2008.
- vii. All hard surface and natural surface trail alignments and construction details for trails, bridges, boardwalk, and other trail amenities to be specified on the certified site plan and be acceptable to M-NCPPC Department of Parks staff. Minor adjustments or modifications to the trail alignments and construction and amenities details may be made at time of park permitting without the need to amend the site plan.

#### 24. Architectural Guidelines

- a) The Town Architect shall be required to administer the West Side Architectural Guidelines for the Town Center. The Town Architect must certify that any proposed construction complies with the West Side Architectural Guidelines, and the certification must accompany each building permit application. The Department of Permitting Services must not issue a building permit unless the Town Architect has certified that the construction will comply with the West Side Architectural Guidelines.
- b) Pursuant to the approved Architectural Guidelines, dated February 10, 2010, the Architectural Guidelines West Side Design Code must be submitted for staff review and approval prior to certified site plan. Any changes to the Staff approved Architectural Guidelines must be approved by the Planning Director. If the proposed change is denied, the Prior Applicant may appeal the Planning Director's decision to the Planning Board.
- c) The retail maintenance organization and homeowners association Declaration of Covenants must require the Town Architect to be hired and to review each building permit application for compliance with the Architectural Guidelines.

#### 25. Architectural Design/Compatibility

- a) The Prior Applicant must retain a third-party Registered Architect, as the Town Architect, to administer the release of building permits in accordance with the approved architectural drawings and specifications included in the prior Certified Site Plan. The Town Architect must certify that any proposed construction complies with the Certified Site Plan, and the certification must accompany each building permit application. The MCDPS must not issue a building permit unless accompanied by the Town Architect's certification.
- b) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet SD1 through SD5 of the submitted architectural drawings, as determined by Staff.
- c) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.
- d) Enhance high visibility side facades by providing at least two architectural treatments from the following list: box or bay window, minimum of two windows, shutters, fireplace, brick water table, trim and headers on exposed side consistent with front elevation. Locations for high visibility side facades include: Lots 1, 14, 35, 42, 57, 58, 72, 80, 81, 88 (Block BB); Lots 33, 38, 50 (Block GG), Lots 31, 32, 55 (Block H). The details of the architectural treatments must be shown on the Certified Site Plan.

26. HOA Governing Documents.

- a) The governing documents of the residential HOA must be submitted to the M-NCPPC's Office of the General Counsel for approval prior to issuance of the 901st residential building permit. The Office of the General Counsel's review of the documents will be limited to assuring that residential units within Clarksburg Town Center are included within the residential HOA, and that the residential unit owners are not responsible for any costs associated with maintenance, capital improvements, or other operating expenses of the retail core.
- b) The governing documents of any merchants association established to govern the retail core and/or any documents establishing responsibility for common area maintenance within the retail core must be submitted to M-NCPPC's Office of the General Counsel for approval prior to issuance of the first Use and Occupancy Permit for the retail core. The Office of the General Counsel's review of the documents will be limited to assuring that responsibility for maintenance, capital improvements, or other operating expenses of the retail core are not the responsibility of the residential unit owners.

27. MPDU Unit Architecture

The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

28. Maintenance of Public Amenities

The Prior Applicant is responsible for maintaining all publicly accessible amenities within areas that they own including, but not limited to the Town Green. The residential HOA will be responsible for maintaining the new Community Building and Sinequa Square.

Pursuant to Site Plan No. 82007022B approval, accessory structure setbacks are shown below and either single-family detached houses with garages or the previously shown "Courtyard" houses with attached garages can be according to the following table:

*Table 3 - Site Plan No. 82007022B*

<b>Zoning Ordinance Development Standard</b>	<b>Site Plan 820070220/A</b>	<b>Approved by Site Plan No. 82007022B</b>
Residential Accessory Structure Setbacks/Standards		
Setback (Inside Lot)		
-From Front Street Line	Not provided for all lots	60 feet
-From Side/Rear Lot Line	Not provided for all lots	0 feet
-From Alley Line	Not provided for all lots	0 feet
Setback (Corner Lot)		
-From Side Street (where abutting lots front)	Not provided for all lots	10 feet
-From Side Street (where abutting lots do not front)	Not provided for all lots	10 feet
-From Rear Lot Line	Not provided for all lots	0 feet
Maximum Height of Accessory Structure	Not provided for all lots	27 feet

g)

29. Prior to issuance of any building permit in Block GG, the Prior Applicant must re-record plat(s) for Lots 33-53 in Block GG.

30. Prior Development Program

The Prior Applicant must construct the development in accordance with a development program table below.

*Table 4 - Prior Development Program Table*

<b>Deadline</b>	<b>Task</b>
Before Certified Site Plan approval	Include the Amended Final Forest Conservation Plan approval, stormwater management concept approval, development program, and Planning Board Resolution on the approval or cover sheet.
	Provide phasing or sequence for the various stages of construction of the approved development, which includes building of roads, townhouse units, the installation of on-site landscaping, lighting, and amenities and phasing of applicable stormwater management, sediment and erosion control, and afforestation.
	Provide architectural treatment for high visibility side facades
Before sediment control plan approval	Demolition of existing structures, and clearing and grading
Before sediment control permit issuance	Financial surety to M-NCPPC for the required 18.81 acres of forest planting.
	Five-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel
Before issuance of first residential building permit	Execute an MPDU Agreement-to-Build between the Prior Applicant and DHCA (Condition #18)
	Certification from a qualified professional that the lighting plans conform to the IESNA standards (Condition #20.a)
Before issuance of first [above grade] building permit	Site Plan Surety and Maintenance Agreement (Condition #21)
Prior to the issuance of 30 <sup>th</sup> residential building permit in Block GG	Harness Point tot lot including lighting and landscaping in Block GG to be completed (the 30 <sup>th</sup> building permit represents the 70 <sup>th</sup> percentile of all building permits assigned to Third Try LC in Block GG).
Prior to the issuance of 26 <sup>th</sup> residential building permit in	Grading, seeding, seating areas, lighting and landscaping must be installed in Block H (the 26 <sup>th</sup> building permit represents the 75 <sup>th</sup> percentile of all

Deadline	Task
Block H	remaining building permits to be issued in Block H).
Before issuance of the 88th residential building permit in Block BB	Complete construction of all improvements in the Civic Parcel (Parcel K, Block BB) (Condition #12)
	Complete construction of Town Green (Parcel L, Block BB) (Condition #12)
Prior to the issuance of 901st residential building permit	Clarksburg Square Road land bridge improvements must be bonded.
Prior to the issuance of 951 <sup>st</sup> residential building permit	<p>Resident's Club/Sinequa Square:</p> <ul style="list-style-type: none"> <li>■ The Residents Club building addition must be completed, and U&amp;O obtained.</li> <li>■ Raised pool deck that connects the new Residents Club building to the shade structure on the pool deck must be completed.</li> <li>■ Residents Club/pool parking, trees and lighting must be installed.</li> <li>■ Fine grading, sodding, benches, paths and landscaping for Sinequa Square must be installed.</li> <li>■ Private area lighting - Sinequa Square and parking area on Sugarloaf Chapel must be installed.</li> </ul>
	<p>Clark Family Memorial:</p> <ul style="list-style-type: none"> <li>■ Clearing, grading, sod, fence, benches, plaque, and, if appropriate, treated headstones must be installed.</li> </ul>
	<p>Roads:</p> <ul style="list-style-type: none"> <li>■ Clarksburg Square Road land bridge improvements, including the brick piers and fencing, must be installed and the road open to traffic.</li> <li>■ Stringtown Road must be bonded or included in CIP.</li> </ul>
Prior to the issuance of 975th residential building permit	Clarksburg Square Road from Overlook Park Drive to Public House Road must be installed and the road open to traffic.
Prior to the issuance of the 1,001 <sup>st</sup> residential building permit	Construction of Kings Local Park substantially complete; all amenities to be installed, including the multi-age play area, trails, picnic tables, grills, porta john enclosures, and fishing pier.
	Trail connection to Clarksburg United Methodist Church and associated landscaping must be installed per agreement with the Church.

<b>Deadline</b>	<b>Task</b>
Prior to the issuance of the 1,051 <sup>st</sup> residential building permit	<p>Construction of Piedmont Woods Local Park substantially complete; all amenities to be installed, including the trails, picnic shelters, basketball court, tennis courts, multi-age play areas, water fountain, porta john enclosure, dog park, landscaping and park signage.</p> <p>Dedicate the entire Civic Parcel (Parcel K, Block BB) to Montgomery County provided that Montgomery County has either entered into an agreement with the Prior Applicant or appropriated funds for the design and construction of the Civic Building. (Condition #12)</p>
<p>Prior to:</p> <ol style="list-style-type: none"> <li>1. The issuance of 1,051<sup>st</sup> residential building permit, and</li> <li>2. The issuance of first U&amp;O for the Retail/commercial area</li> </ol>	<p>Roads:</p> <ul style="list-style-type: none"> <li>• General Store Drive (St. Clare Road) from Stringtown Road to Clarksburg Square Road must be constructed.</li> <li>• Stringtown Road must be open to traffic.</li> </ul>
Within nine months after base and binder paving of Clarksburg Square Rd	The remaining streetscape and special sidewalk treatment for Clarksburg Square Rd not required of or installed by the previous developer must be completed.
Within nine months of completing General Store Drive from Stringtown Road to Overlook Park Drive	The Greenway Trail adjacent to that section of General Store Drive must be installed.
Within nine months of completing Overlook Park Drive from General Store Drive to Clarksburg Square Road	The Greenway Trail adjacent to that section of Overlook Park Drive must be installed.
Within nine months of completing Overlook Park Drive from Clarksburg Square Road to Clarksburg Road	The Greenway Trail adjacent to that section of Overlook Park Drive must be installed.
Prior to release of the Performance Bond or Surety for each Block or	Certification from a licensed civil engineer that all private streets and sidewalks within the respective Phase or Block have been built to the specified standards.

Deadline	Task
Phase	
Before issuance of the final use and occupancy certificate or prior to release of the Performance Bond or Surety for each Block or Phase	<p>Streetlamps and sidewalks adjacent to each building must be installed. Street tree planting may wait until the next planting season.</p> <p>On-site amenities including, but not limited to, sidewalks, site furniture, benches, trash receptacles, bicycle facilities, lighting and landscaping associated with that building must be installed.</p>
Before issuance of the final occupancy certificate for the final unit in each stick adjacent to the Mews in Block BB	Residential Mews in Block BB: Mews, pedestrian pathways, sidewalks, landscaping and lighting adjacent to each stick of townhomes or 2/2 unit will be installed excluding stormwater management facilities.



## FOREST CONSERVATION PLAN AMENDMENT F20230380

Staff recommends approval with conditions of the Final Forest Conservation Plan No. F20230380. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions:<sup>8</sup>

The following Conditions supersede all previous Final Forest Conservation Plan Conditions of Approval for the Clarksburg Town Center:

### ENVIRONMENT

#### 1. Forest Conservation

- a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
- d. The conservation easements and Park dedication areas must not allow for the implementation of a "viewshed management plan". The conservation easements and dedication areas will be subject to the standard maintenance and management agreement for conservation easements in Special Protection Areas.
- e. All landscape plantings receiving forest conservation credit must be outside of any public road right-of-way, and any other easements including, but not limited to, stormwater management easements and utility easements.
- f. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers that will not be dedicated to the M-NCPPC Department of Parks as specified on the approved Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel

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<sup>8</sup> For the purposes 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.

and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the applicable record plats.

- g. The Applicant must install permanent Category I conservation easement signage along the perimeter of the conservation easements as shown on the FCP or as directed by the M-NCPPC Inspection Staff.
- h. The Applicant must install permanent M-NCPPC Parks Department property line posts along the perimeter of the park dedication areas as directed by the M-NCPPC Parks Department representative.
- i. The Applicant is responsible for approximately 18.81 acres of forest conservation planting requirements that have not already been completed or bonded by the previous landowner.
- j. The Applicant must provide financial surety to the M-NCPPC Planning Department for the 18.81 acres of new forest planting prior to the start of any demolition, clearing, or grading on the Subject Property.
- k. Reforestation/afforestation plantings that are located outside the limits of disturbance on the Clarksburg Town Center development must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
- l. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development application, the Applicant must Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the on-site streams and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
- m. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development application, the Applicant must provide an invasive species management program utilizing M-NCPPC's Best Management Practices for Control of Non-Native Invasives document as guidance for Staff's review and approval.

## 2. Water Quality Plan

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its Revised Final Water Quality

Plan letter dated January 17, 2024, and hereby incorporates them as conditions of the Preliminary Plan and Site Plan Amendment approvals. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary and Site Plan approvals.

## SECTION 2: SITE DESCRIPTION

### VICINITY

The Overall Property, known as the Clarksburg Town Center, is located northeast of Frederick Road (MD 355) between Clarksburg Road and Stringtown Road, in the Clarksburg Planning Area, the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* (“Master Plan”) and the 2011 *Limited Amendment to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area* (“2011 Limited Amendment”), and zoned Commercial Residential Town-CRT 0.75, C-0.25, R-0.5, H-65T and Agriculture Reserve-AR (“Overall Property”) (Figure 1).

Snowden Farm Parkway crosses through the northern portion of the Overall Property with Piedmont Woods Local Park forming the northern most point of the development. Adjacent to the Overall Property and along MD 355 is the Clarksburg Historic District with properties zoned Commercial Residential Town (CRT). Agriculture zoned properties are located to the north and northeast of Snowden Farm Parkway. To the east, properties are zoned Residential 200.

Surrounding the Overall Property to the north, south, and east are existing single family attached townhouse dwelling units and single family detached dwelling units. To the west, off Burdette Forest Road, is Kings Local Park. To the north, also off Burdette Forest Road, is Little Bennett Elementary School. A portion of Little Seneca Greenway Stream Valley Park runs along Overlook Drive, north of the proposed commercial core area.

## PROPERTY DESCRIPTION

The Project Plan and Preliminary Plan Amendment Areas consist of 270.92 acres, which comprise the larger area known as the Clarksburg Town Center (“Overall Property”) (Figure 2).

The Subject Property consists of 26.3 acres of undeveloped land in the commercial core of the Clarksburg Town Center (“Subject Property”), which is being amended as part of the current Applications. (Figure 3)

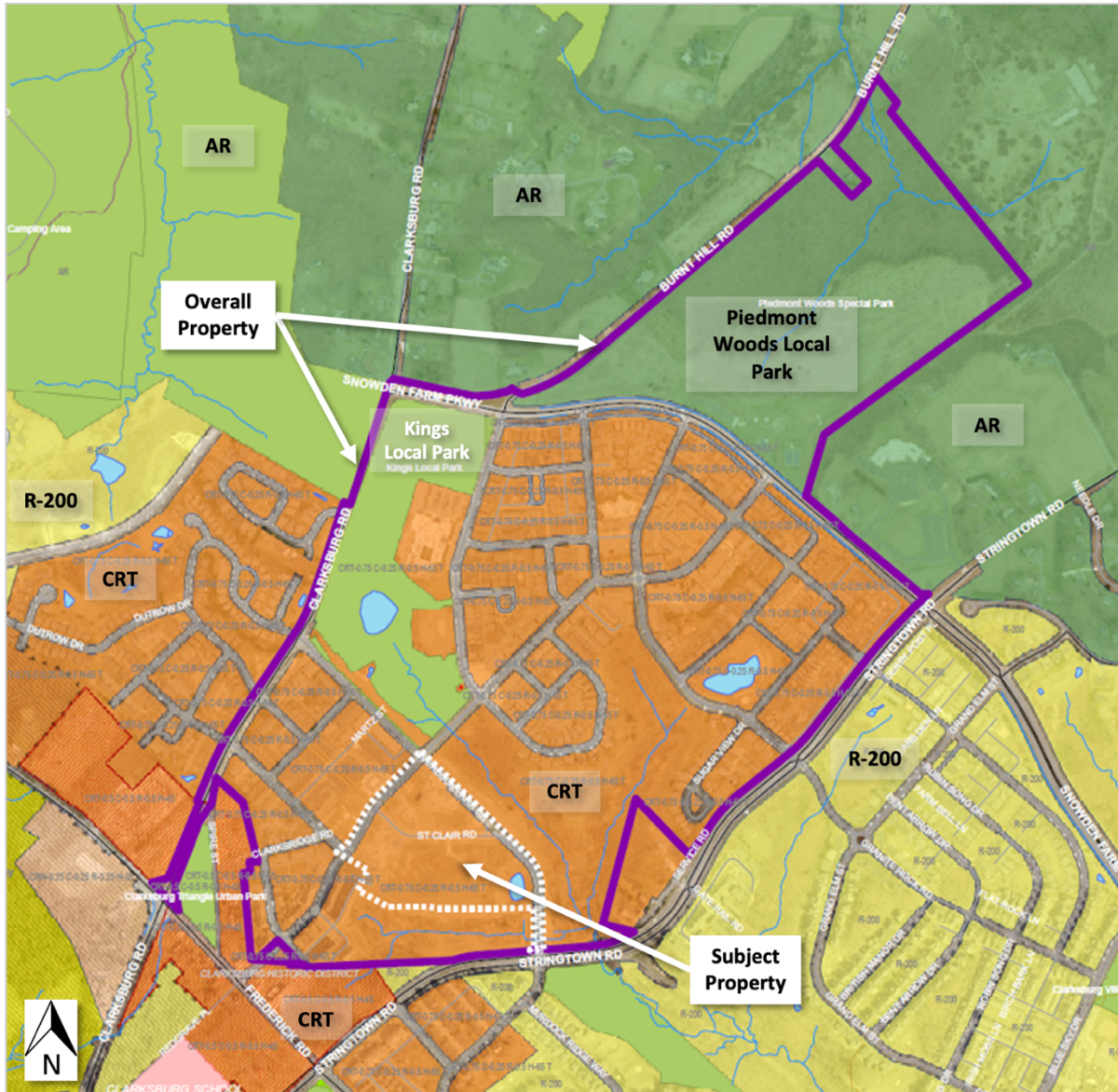


Figure 1 - Vicinity map with Overall Property (purple boundary) and Subject Property (white dashed-line boundary)



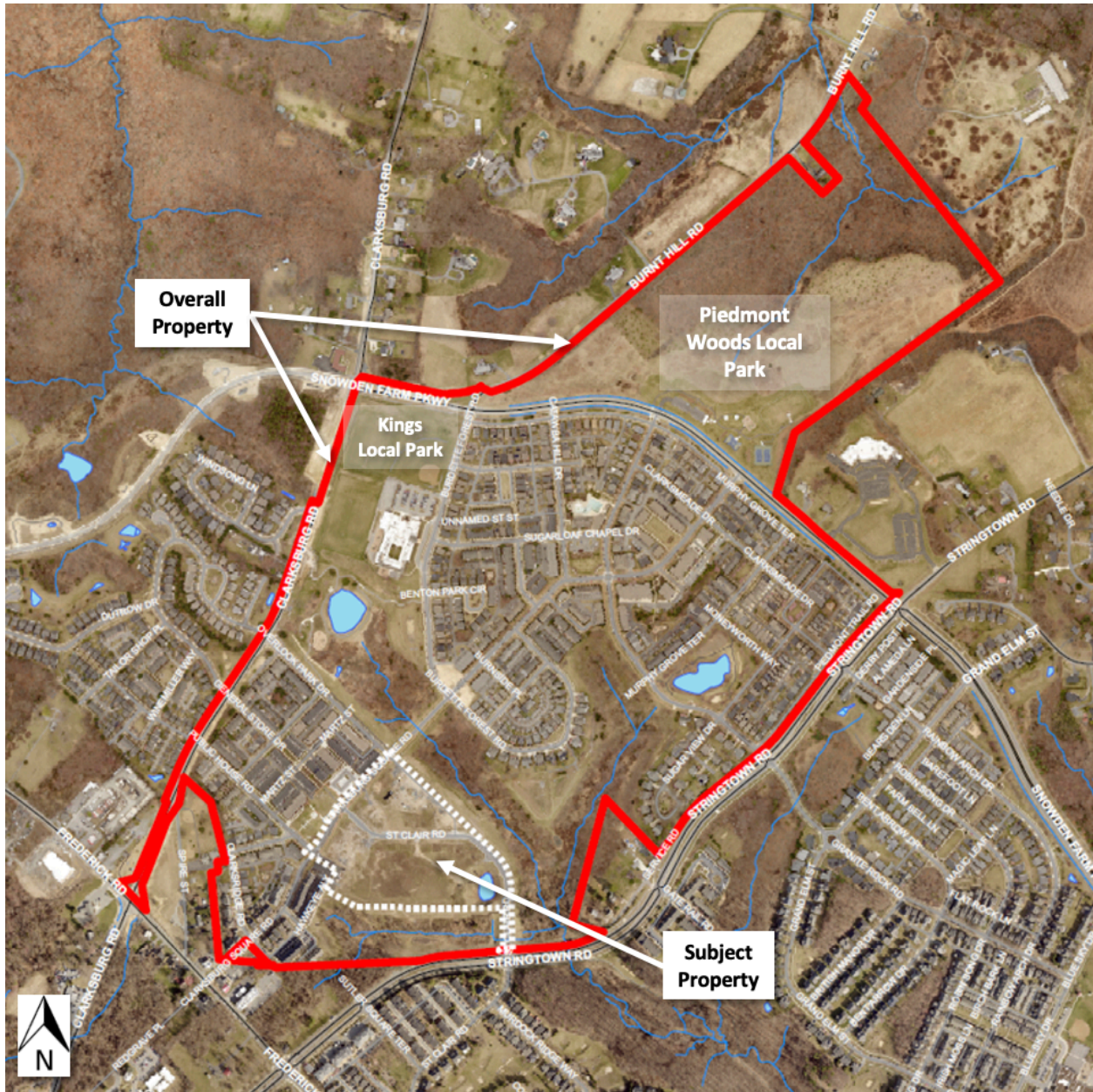
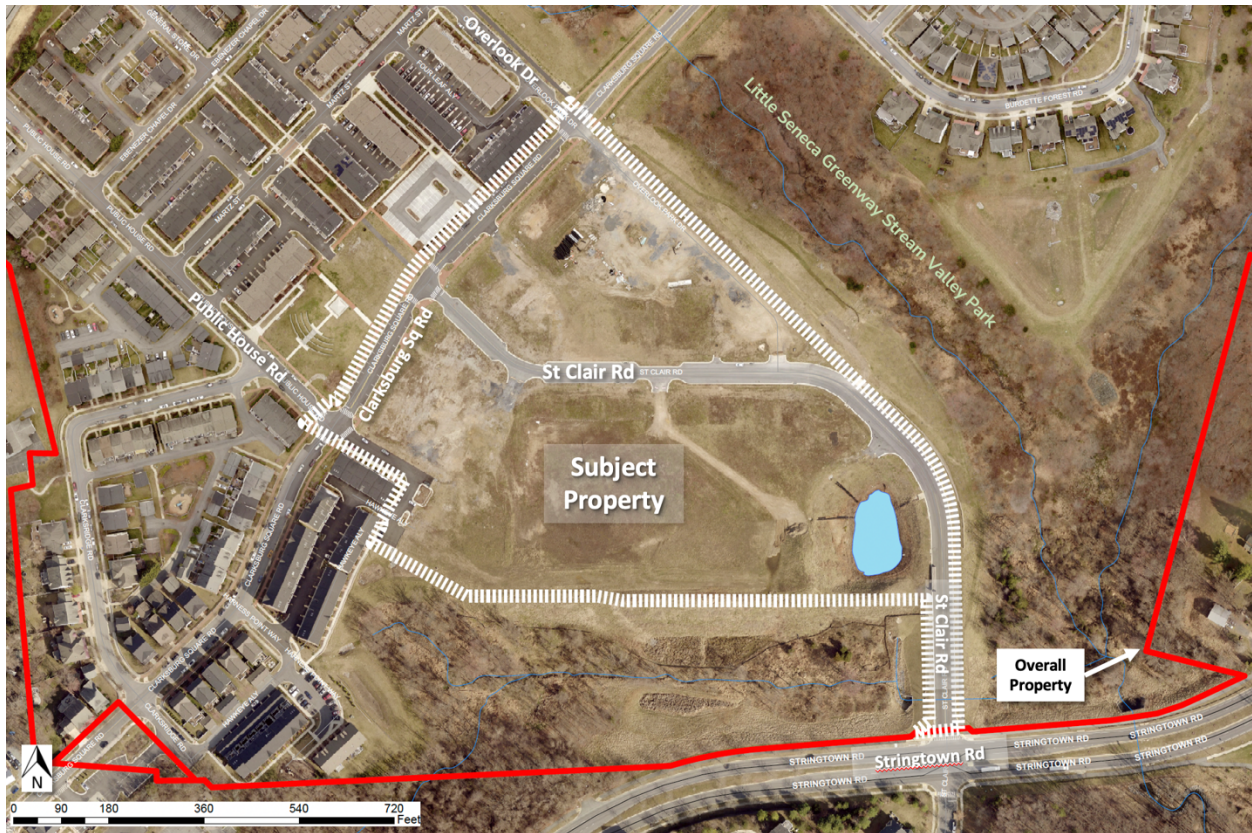


Figure 2 - Aerial map of Clarksburg Town Center with Overall Property and Subject Property





*Figure 3 - Subject Property of Site Plan Amendment*

The Subject Property is currently zoned CRT 0.75, C-0.25, R-0.5, H-65T. However, pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Applicant has elected to amend the Applications under the RMX-2 development standards of the 2004 Zoning Ordinance.

Within the Overall Property there are several streams, associated wetlands, 100-year floodplain, environmental buffers within the Little Seneca Creek watershed, a Use Class IV-P watershed. The Overall Property contains approximately 48.5 acres of forest, slopes greater than 25 percent, and highly erodible soils.

Within the Overall Property, the Clark Family Cemetery is located near the southwest quadrant of Burdette Forest Road and Clarksburg Square Road in Kings Local Park, the Clarksburg United Methodist Church Cemetery is located at 23419 Spire Street, and a portion of the Clarksburg Historic District is located in the southernmost portion of the Overall Property. No other historic resources, cemeteries, burial grounds, or archeological sites are known to exist on the Overall Property or in the Subject Property.

## SECTION 3: PROJECT DESCRIPTION

### PREVIOUS APPROVALS

#### MASTER PLAN

In 1994, the County Council approved the *Clarksburg Master Plan & Hyattstown Special Study Area*. It called for the creation of a Town Center in Clarksburg, which would include as a focal point the Clarksburg Historic District surrounded by a mix of land uses, including office, residential, and retail. Approximately 90,000 square feet of retail was to be built in the Town Center before additional retail uses could be established elsewhere in Clarksburg.

In 2011, the County Council approved a limited amendment to the Master Plan that eliminated the 90,000 square foot staging requirement so that a grocery store (and potential ancillary uses) could be constructed outside of the Clarksburg Town Center. By revising the retail staging provisions, the 2011 Limited Amendment allowed the commercial and retail center, including a grocery store in Clarksburg Village to proceed ahead of the Town Center.

#### SUBDIVISION AND REGULATORY APPROVALS

##### [Project Plan No. 919940040, Preliminary Plan No.119950420](#)

On May 11, 1995, the Planning Board approved Project Plan No. 919940040 and on September 28, 1995, approved Preliminary Plan No. 119950420. Utilizing the optional method of development under RMX-2 zoning, the plan approvals envisioned a neo-traditional community, constructed in phases with a maximum of 1,300 residential units, 100,000 square feet of office, and 150,000 square feet of retail.

##### [Site Plan No. 819980010, Site Plan No. 820020140, Site Plan No. 820040340](#)

In 1998, Phase I Site Plan (819980010), primarily covering the East Side of the Town Center, was approved for 768 dwelling units including 96 MPDUs. The Phase II Site Plan (820020140) for 487 dwelling units including 46 MPDUs was approved in 2002. By June 2006, approximately 725 units of the approved 1,300 dwelling units had been built or were under construction in Phases I and II of the project. A Phase III Site Plan (820040340) that included the retail portion was submitted but never approved.



[Compliance Program: Project Plan No. 919940040, Site Plan No. 819980010, Site Plan No. 820020140](#)

In 2005, a group of residents known as the Clarksburg Town Center Advisory Committee (CTCAC) alleged numerous violations associated with the build-out of the community by the Developer, NNPII Clarksburg LLC (Newlands). The Planning Board held several hearings and scheduled others on many of the violations, but the CTCAC and Newlands agreed to go to mediation before a final determination had been made with respect to the allegations or any fines that may have been assessed.

The mediation resulted in an agreement between Newlands and CTCAC which was captured in large part in an amended site plan for the entire site which became known as the Compliance Program. On June 15, 2015, the Planning Board approved Project Plan No. 919940040, Site Plan No. 819980010, Site Plan No. 820020140, which collectively comprised of the Compliance Program (MCPB Resolution No. 06-20).

In addition to correcting discrepancies of the approved development standards to existing and proposed structures, the Compliance Program called for significant improvements to the Town Center. These improvements were accepted by Newlands and CTCAC in lieu-of-fines that had been or were about to be imposed as penalties for the many violations.

The Compliance Program consisted of three Stages. Stages I and II allowed the construction of small portions of the development to move forward once they received Board approval. Stage III called for amendments to the Project Plan and Preliminary Plan and a new site plan for the entire Clarksburg Town Center project (including changes to the previously approved Phase I and Phase II Site Plans and the retail component) that would incorporate the specific elements set forth in the Compliance Program.

After approval of the Compliance Program, the Applicant was able to proceed with the construction of certain residential units as allowed in Stage I of that Plan. Stage II of the Compliance Program, which was approved in 2007, permitted construction to move forward on an additional 118 units, including 48 Moderately Priced Dwelling Units (MPDUs). Stages I and II have been completed.

[Project Plan No. 91994004B, Preliminary Plan No. 11995042A, Site Plan No. 820070220](#)

In July 2009, the Planning Board approved Project Plan No. 91994004B, Preliminary Plan No. 11995042A, and Site Plan No. 820070220, encompassing the following: 1) a total of 194,720 square feet of commercial uses, including up to 69,720 square feet of specialty retail; 2) 1,213 residential dwelling units, including 12.5% MPDUs; 3) a waiver to permit a reduction in the number of parking spaces; and 4) a reconfirmation of the reduction in setbacks from adjacent residentially-zoned properties. The purpose of Site Plan No. 820070220 was to fulfill the requirements for State III of the Compliance Program. Although many elements of the Compliance Program were incorporated into the approval of

these plans, the Board did not require all elements, such as certain parking structures in the retail core. (MCPB Resolution Nos. 08-163, 09-15, 09-16)

#### [Project Plan No. 91994004C, Site Plan No. 82007022A](#)

In June 2010, the Planning Board approved an Amendment to the Project and Site Plans for Clarksburg Town Center (91994004C & 82007022A) to revise the unit mix and unit count from 1,213 residential dwelling units and 701 one-family attached units to 1,206 and 700, respectively. (MCPB 10-58, 10-59)

#### [Site Plan No. 82007022B](#)

On July 16, 2013, the Planning Board approved an Amendment to the Clarksburg Town Center Site Plan to reinstate accessory structure setbacks on certain lots, and confirm that based on the existing approved lot standards, either single-family detached houses with garages or the previously shown “Courtyard” houses could be built on certain lots. (MCPB 13-125)

#### [Site Plan No. 82007022C, Preliminary Plan No. 120140060, Site Plan No. 820140050](#)

On July 16, 2015, the Planning Board approved an Amendment to the Clarksburg Town Center Site Plan for the construction of a driveway approach onto Clarksridge Road, modifications to parking spaces, landscaping, lighting, and stormwater management facilities. (MCPB No. 15-81)

On July 16, 2015, the Planning Board approved Site Plan No. 820140050 to allow the relocation of the Horace Wilson House, gasoline pumps, and parking lot while retaining the structure for the Clarksburg Grocery. Also on July 16, 2015, the Planning Board approved Preliminary Plan No. 120140060 to create one lot and one outlot, and to require the full width dedication for the extension of Clarksburg Square Road through the Clarksburg Historic District to MD 355/Redgrave Place. (MCPB Nos. 15-79, 15-80)

#### [Project Plan No. 91994004D, Preliminary Plan No. 11995042B, Site Plan No. 82007022D](#)

On, July 23, 2015, the Planning Board approved amendments to the Clarksburg Town Center Project Plan, Preliminary Plan, and Site Plan to reduce the number of residential units by 86; increase overall commercial density by 11,465 square feet; add office and medical uses; revise the design and layout of the commercial core; add a new community building to the residents’ club; add a parking area on Sinequa Square; redesign Block H; revise Kings Pond Local Park and Piedmont Woods Local Park. (MCPB 15-85, 15-92, 15-86)

#### [Site Plan No. 82007022E](#)

On March 24, 2016, the Planning Board approved a Site Plan Amendment to replace 11 multi-family units (including three MPDUs) with nine single-family attached units (including three MPDUs) and one HOA parcel on approximately 0.36 acres. (MCPB 16-034)

### Site Plan No. 82007022F

On May 23, 2019, the Planning Board approved amendments to change 36-foot-deep townhouse units to 40-foot-deep townhouse units, adjustments to site elements, including walkways, retaining walls, sidewalks, and landscaping on approximately 1.22 acres. (MCPB No. 19-054)

### Preliminary Plan No. 11995042C, Site Plan No. 82007022G

On March 24, 2016, the Planning Board approved a preliminary plan amendment to replace 11 approved and unbuilt multi-family units with nine (9) one-family attached units, including three (3) MPDUs. (MCPB No. 16-036)

On December 15, 2020, the Planning Director approved a site plan amendment to rename General Store Drive to Saint Clair Road, add a handicapped accessible sidewalk and viewing area at the stage and amphitheater, adjustments to street trees, and other minor modifications.

### Preliminary Plan No. 11995042D, Site Plan No. 82007022H

On January 6, 2022, the Planning Board approved an amendment to convert 24 manor home condominium units (including eight MPDUs within two buildings) to 12 rear-loaded townhouse dwelling units (including seven MPDUs). (MCPB 22-002, 22-003)

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## PROPOSAL

On June 28, 2023, the Applicant filed Project Plan Amendment No. 91994004E, Preliminary Plan Amendment No. 11995042E, Site Plan Amendment No. 82007022I, and Forest Conservation Plan No. F20230380 (“Application” or “Project”).

With more than 1,000 homes, community amenities, a school, parks, trails, and roadways built, this Application would complete the final component of the overall Clarksburg Town Center project: the commercial core (Figure 4, Figure 5).

On the Subject Property, the Application proposes to reduce the approved commercial square footage from 129,545 square feet to 106,920 square feet, replace the approved office buildings with 189 multi-family housing units (including 12.5% MPDUs); build a plaza and splash fountain; reconfigure retail buildings, parking areas, stormwater management facilities, landscaping, retaining walls, trash enclosures; and reconfigure eight (8) parcels into seven (7) parcels.

Proposed for the commercial spaces are a major grocery store anchor with retail, restaurant, and service establishments along a main street (St. Clair Road). One drive-thru facility is proposed to serve the grocery store. A second drive-thru facility is proposed to serve a commercial tenant on the north

side of St. Clair Road. The Applicant has indicated there is no present market demand for new office space in Clarksburg, and therefore, the Amendment replaces the approved office uses with multi-family uses.

Two new multi-family buildings with a total of 189 multi-family units are provided. Both multi-family buildings include ground floor units with direct access to the sidewalk on Clarksburg Square Road. One of which is mixed-use with commercial spaces located on the ground floor and direct access points to St. Clair Road. Directly in front of the residential building, a publicly accessible plaza with splash fountain is provided at the corner of St. Clair and Clarksburg Square Roads. The Applicant will also complete the sidewalks, lighting and streetscaping along St. Clair Road, as well as provide street trees. Vehicular parking is provided behind buildings in landscaped parking lots with trees evenly distributed throughout. Bicycle parking is provided along St. Clair Road, as well as inside the residential buildings.





Figure 4 - Rendering of proposed Site Plan Amendment.



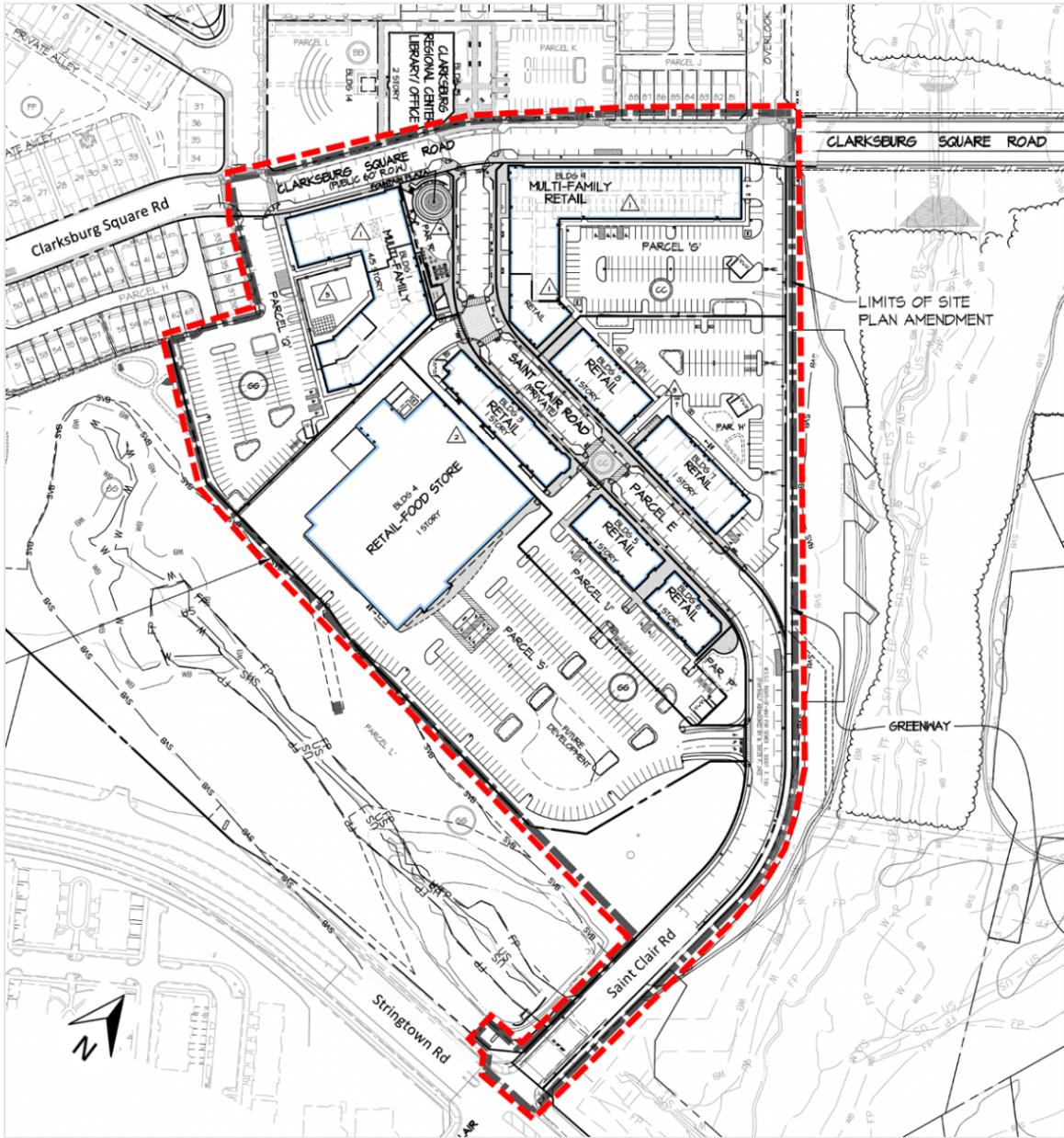


Figure 5 - Proposed Site Plan Amendment.



Figure 6 - Renderings of the approved 2015 Site Plan Amendment (82007022D) (left) and proposed site plan amendment (right). The dotted white boundary identifies the location of prior office space (left) and the proposed residential units (right). Other buildings, uses and layout in the proposed amendment are substantially similar to the 2015 amendment.



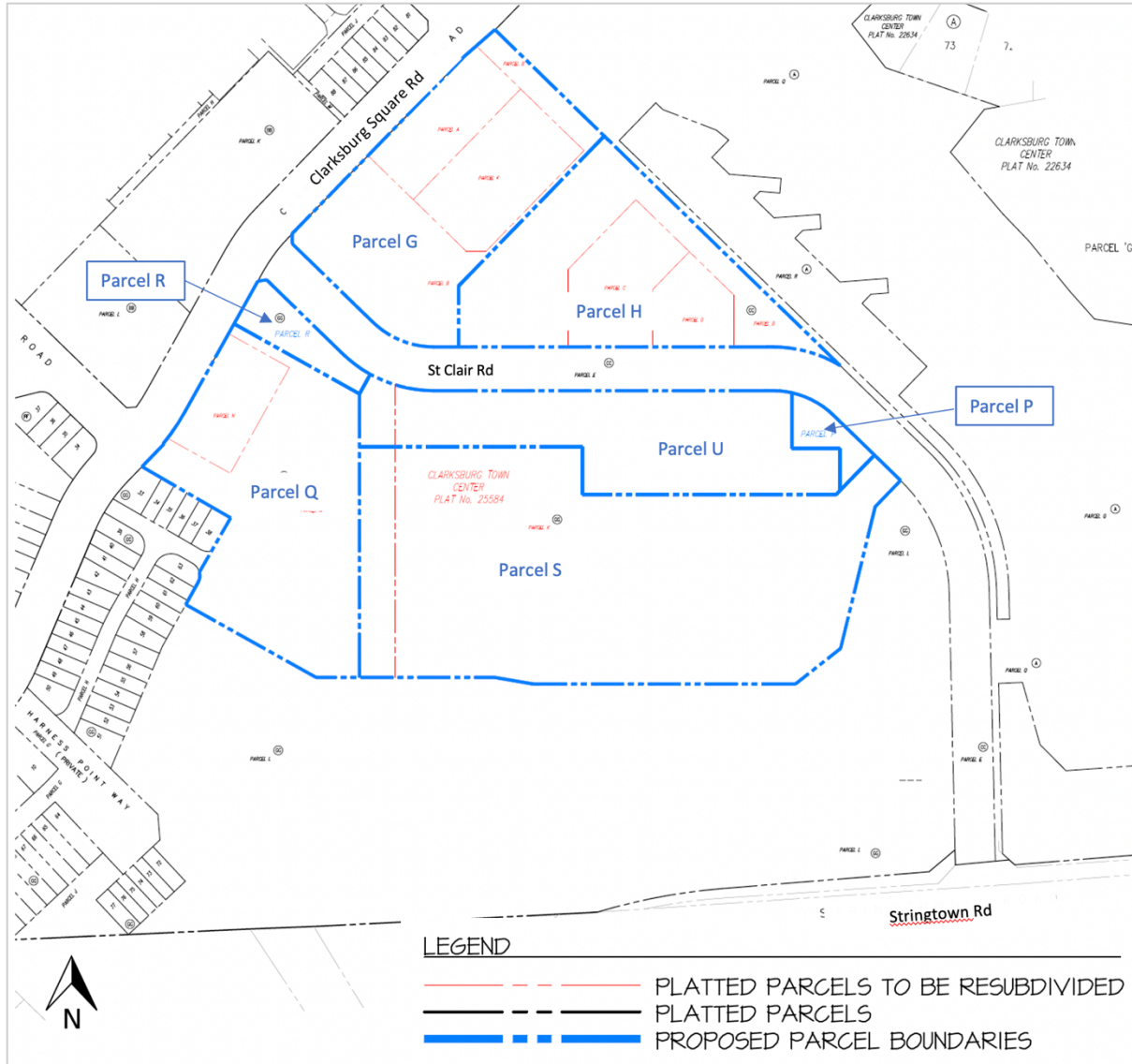


Figure 7 - Lotting diagram showing proposed reconfiguration of eight (8) parcels to seven (7) parcels.



## SECTION 4: COMMUNITY OUTREACH

The Applicant has satisfied all submittal, notice of application, and sign posting requirements.

Because this is an amendment application, the Applicant was not required to hold a pre-submittal public meeting. However, the Applicant conducted a community meeting on December 19, 2022, which had 61 attendees. Participants asked general questions regarding the parking, building heights, construction period to which the Applicant responded. Several participants expressed eagerness and urgency to have their community completed given the amount of time that has lapsed since initial construction. The Applicant re-assured the community that their intent is to build the remainder of the community in one phase after this approval. On January 25, 2024, the Applicant held a second community meeting to discuss the project and review renderings with 28 persons present. Questions or issues raised at the meeting included: parking, traffic, use of HOA amenities, building heights, and construction of the public library. Additionally, staff has received five pieces of correspondence (Attachment D), which are summarized in Table 1 (below).

*Table 5 - Community Comments and Staff Responses*

Comment	Staff Response
Clarksburg HOA raised concerns over Bill 33-22 (Affordable Housing Feasibility Study) and potential consequences for the new library; the HOA fully supports building the public library on designated property on Clarksburg Square Road	The public library project is outside the scope of these Applications, and it is being coordinated by Montgomery County Department of General Services.
Traffic congestion	An Adequate Public Facilities review was conducted as part of the associated Preliminary Plan 119950420, and subsequently extended. The APF concludes there are adequate public facilities and infrastructure. The Application will not have an adverse impact beyond the previous approvals because the proposals with this Application are within the limits of the APF. As discussed in detail in this report, the Application will reduce expected vehicle trips from previous approval because there will be no office uses and less commercial space. In general, residential uses have a lesser impact on traffic than commercial uses, and locating higher density housing next

Comment	Staff Response
	to retail and commercial uses actually reduces vehicular trips.
Parking	The proposed parking on the Subject Property meets the required minimum number of parking spaces, parking lot landscaping, and tree canopy coverage.
Building heights	The proposed building heights are generally consistent with the existing approved building heights. Building heights currently approved along Clarksburg Square Road range from 40 to 70 feet. Proposed building heights along Clarksburg Square Road are 65 feet maximum.
Opposed to siting a residential building next to the splash fountain because it's not conducive to community use	As conditioned, the proposed splash fountain will be available for public use. While not directly adjacent to a commercial use, commercial uses are proposed within close proximity, including in the mixed-use building directly across St. Clair Rd.
Opposed to eliminating office buildings from the plan	Despite the 1994 Master Plan vision for office development in the commercial core, none has been developed. Several factors, including lower demand, technology, and the pandemic help to explain why. Since 1994, technology has significantly reduced the need for office space, open-format offices, and fewer private offices contribute to lower demand. Work-from-home rates increased dramatically during the pandemic and are unlikely to return to pre-pandemic levels, further affecting office space needs. With formerly strong office markets near Metro stations experiencing high vacancy rates, it will continue to be difficult to attract new office development to Clarksburg.
The number of multi-family buildings and units should be reduced	Montgomery County has a significant shortage of housing and needs to add thousands of units to meet demand. County-wide projections indicate that the county needs 60,000 new housing units by 2040 to keep up with growth. Locating multi-family units within the commercial core is an ideal location because the additional population will help to support nearby commercial uses, facilitating a synergistic mixed-use center. Further, placing higher density housing

Comment	Staff Response
	in the center reduces vehicular trips and encourages walking and bicycling to the proposed grocery store and other uses.
The proposed amendments are not in conformance with the Compliance Program	The key elements have been completed including roads, land for the library, amphitheater, two local parks, connection to the church, landscaping, sidewalks, and resident club/community building. Staff believes the proposed amendments continue to serve the public interest because they are in substantial conformance with the Compliance Program, as amended by subsequent plan amendments. The proposed Applications will complete the unbuilt commercial core, bring much-needed retail and services to the community, provide a plaza and splash fountain, all while responding to a notably changed retail sector and post-pandemic office market.
The Compliance Program cannot be modified without changes to the underlying settlement agreement	By resolution dated August 17, 2006 (MCPB No. 06-20), the Planning Board approved the Compliance Program subject to further detailed review and a new site plan approval. Provided in the Compliance Program resolution, the Planning Board authority was expressly reserved to consider, approve, approve subject to conditions or disapprove any future application based upon the law and merits presented at the time. As such, in approving Site Plan applications and subsequent amendments, the Planning Board has resolved that such amendments are in substantial conformance with the Compliance Program.

## SECTION 5: PROJECT PLAN 91994004E FINDINGS AND ANALYSIS

All findings of approval of Project Plan No. 91994004E, as amended, remain in full force and effect except as modified by the findings below.

Section 59-D-2.43, Basis for Consideration, states: In reaching its determination on the application for the optional method of development and in making the required findings, the Planning Board must consider:

- a. The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures.
- b. Whether the open spaces proposed, including developed open space, are sized and located to provide convenient areas for recreation, relaxation and social activities for the residents and patrons of the development. Open spaces should be planned, designed, and situated to provide sufficient physical and aesthetic open areas among and between individual structures and groups of structures. The proposed setbacks, yards, and related walkways must be wide enough and located to provide adequate light, air, pedestrian circulation and necessary vehicular access.
- c. Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.
- d. Whether the proposed development contributes to the overall pedestrian circulation system. Pedestrian walkways must:
  1. Be located, designed and sized to conveniently handle pedestrian traffic efficiently and without congestion;
  2. Be separated from vehicular roadways and designed to be safe, pleasing, and efficient for movement of pedestrians; and
  3. Contribute to a network of efficient, convenient, and adequate pedestrian linkages in the area of the development, including linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.
- e. The adequacy of landscaping, screening, parking and loading areas, service areas, and lighting in relation to the type of use and neighborhood.
- f. The adequacy of the provisions for the construction of moderately priced dwelling units in accordance with this Code if applicable.
- g. The staging program and schedule of development.
- h. The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A.

- i. The adequacy of water resources protection measures proposed to meet any requirements under Chapter 19.
- j. Payment of a fee acceptable to the Planning Board may satisfy all or some of the requirements for any public use space, or public facilities and amenities under the requirements established elsewhere in this Section.

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board in concert with the basis for consideration.

The following findings support this Application:

**1. *The application would comply with all of the intents and requirements of the zone.***

The Application complies with all intents and requirements of the zone. Pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Applicant has elected to amend the Applications under the Residential Mixed-Use (RMX-2) development standards of the 2004 Zoning Ordinance. As shown under the Site Plan findings, the Application complies with all applicable development requirements of the RMX-2 zone.

The development complies with the intent of the mixed-use zone by providing a pedestrian-friendly and walkable town center through mixed-use density, on-street parking, and an activated public plaza with a splash fountain. The larger footprint grocery store building is situated behind street-facing commercial uses, which works to foster a walkable scale town center. The clustering of these uses is intended to create a strong central focus and identity for the Clarksburg Town Center community.

**2. *The application would be consistent with the applicable sector plan or urban renewal plan.***

The Application is consistent with the 1994 Clarksburg Master Plan & Hyattstown Special Study Area (“Master Plan”), as discussed more fully in the Preliminary Plan section of this Staff Report. The modifications proposed by this Application are consistent with and do not change the Master Plan conformance findings of previous approvals. The Application still meets the eight policy objectives of the Master Plan for the Town Center (p. 15-30). In terms of land use objectives (p. 44), the Application substantially conforms to the recommendations in the Master Plan for housing mix. Table 6 displays the Master Plan recommended, approved and proposed housing type mixes. The proposal conforms to the recommended mix with the multi-family housing type increased to 30.1 percent and the detached housing type decreased to 16.9 percent – all within the recommended ranges. The attached housing type (townhome) decreased from 60.3 to 52.9 percent, which is slightly above the recommended range of 30 to 50 percent. Nevertheless, the proposed mix of housing types brings the proposal closer to the Master Plan recommendation.

Table 6 - Master Plan recommended mix of housing types

Housing Type	Recommended Mix	Currently Approved Mix	Proposed Mix
Multi-Family	25 to 45%	18.1%	30.1%
Attached	30 to 50%	60.3%	52.9%
Detached	10 to 20%	19.6%	16.9%

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

The location, size, intensity, design, operational characteristics and staging are compatible with and not detrimental to existing and potential development in the general neighborhood. The Application increases the total number of residential units from 1,106 to 1,295 and reduces commercial density from 206,185 square feet to 106,920 square feet. Notably, the proposed number of dwelling units remains below the originally approved and tested plan of 1,300 dwelling units. This includes an approximately 55,000 square feet grocery store. The location, size and intensity of the development continue to be compatible with the Clarksburg Historic District to the west, the Highlands at Clarksburg and Clarksburg Village developments to the south, and Clarksburg Ridge and Catawba Manor developments to the north.

The design elements utilized are compatible with existing development by providing similar street-oriented development with minimal setbacks, parking and servicing in rear, and new residential units located in mixed-use buildings. In addition, material selection for architecture and streetscape is also compatible with the surrounding community. Elements of the previously approved Design Guidelines were incorporated in the site plan, including architectural elevations of both commercial, mixed-use, and residential buildings.

As discussed in detail in the Site Plan findings section of this report, the design and operation of the proposed drive-thru facilities are compatible with the commercial area. The queuing area is adequate, access is via St. Clair Road, service windows are located behind the main buildings, and drive aisles provides adequate stacking.

The operational characteristics are compatible with existing and future developments because the Subject Property was planned as the location of the Town Center commercial core, and it is supported by the Master Plan. All necessary transportation networks are in place to accommodate the Application. This Application represents the last portion of Clarksburg Town Center community, and it will be built in one phase.

**4. 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, is subject to a traffic mitigation agreement that meets the requirements of that article.**

The Application will not overburden existing public facilities and services nor those programmed for availability concurrently with construction. The single-phase staging program provides a timely provision of services and infrastructure. The Application satisfies the LATR/PATR requirements of the Adequate Public Facilities (APF) review that were in place at the time of Preliminary Plan 11995042A approval. The Application density conforms with the previously approved limits. The Subject Property is not located within a transportation management district. Other public facilities and services are available and adequate to serve the development. The Subject Property is in the W-1 and S-1 water and sewer service categories, respectively, and will connect to public water and sewer lines.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on January 17, 2024 (Attachment C). The Fire Department Access Plan indicates that access is adequate utilizing public road infrastructure.

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards in effect at the time that the APF was granted.

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

The Application continues to apply the optional method of development, which is more efficient and desirable than the standard method. The optional method allows for greater densities in exchange for greater public amenities and facilities. The Application will change the overall residential and commercial density. The residential density has increased from 6.19 to 6.32 dwelling units per acre. The commercial density has decreased from 0.18 to 0.01 floor-area-ratio (FAR). The Application continues to provide an extensive number of existing public amenities. These public amenity facilities include two Local Parks, a Greenway, Town Green, public plaza, location for a Civic Building with parking, and a new community building next to the Residents' Club with an additional parking area.

If the standard method of development were used for the RMX-2 zone, the development must comply with the standards and requirements of the R-200 zone. As such, the standard method would yield lower density, require greater setbacks, larger lots, no public amenities or open space, and a one-family housing type—all of which contradict the recommendations of the Master Plan. The average density for R-200 is no more than 2.44 dwelling units per acre, which is far lower than the density of

five (5) to seven (7) dwelling units per acre, as recommended in the Master Plan and envisioned for the Town Center.

Overall, the public facilities and amenities provided support the mix of uses and densities proposed. The use of the optional method of development in the RMX-2 zone is necessary to achieve the vision and recommendations in the Master Plan. Therefore, the optional method of development is efficient and desirable.

**6. *The application would include moderately priced dwelling units (MPDU) under Chapter 25A, if the requirements of that chapter apply.***

The Application provides 12.5 percent of the total 189 multi-family units as MPDUs, which equals an additional 23 MPDU units. The overall Town Center development includes a total of 162 MPDUs, inclusive of the 23 units proposed, as required by Chapter 25A and as approved by DHCA (Attachment C).

**7. *When a project plan includes more than one lot under common ownership, or is a single lot contained two or more CBD zones, and would transfer public open space or development density from one lot to another, or transfer densities within a lot with two or more CBD zones, under 59-C-6.2351 or 59-C-6.2352, the Planning Board may approve the project plan only if: When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, under 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Planning Board may approve the project plan only if:***

The development does not propose any transfers of public open space or development density from one lot to another.

**8. *Any applicable requirements for forest conservation under Chapter 22A.***

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan Amendment F20230380.

**9. *Any applicable requirements for water quality resource protection under Chapter 19.***

The Application received an approved Revised Final Water Quality Plan/Site Development Management Plan from the Montgomery County Department of Permitting Services, Water Resources



Section on January 17, 2024 (Attachment C). The Application will meet stormwater management goals through Environmental Site Design (ESD) and existing structural elements.

***10. When the Planning Board allows any public use space, or public facilities and amenities to be provided off-site, the Planning Board must find that the space or improvement:***

This finding is not applicable to this Application.

## SECTION 6: PRELIMINARY PLAN 11995042E FINDINGS AND ANALYSIS

Preliminary Plan Amendment 11995042E proposes to reduce the approved commercial square footage from 129,545 square feet to 106,920 square feet; replace the approved office buildings with 189 multi-family housing units (including 12.5% MPDUs); build a plaza and splash fountain; reconfigure retail buildings, parking areas, stormwater management facilities, landscaping, retaining walls, trash enclosures; and reconfigure eight (8) parcels into seven (7) parcels.

Unless specifically set forth herein, this Application 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 proposed parcel 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 commercial uses and residential buildings contemplated for the Subject Property.

On the Subject Property, the Applicant proposes to reconfigure eight (8) parcels to seven (7) parcels due to adjustments in the location of buildings, circulation, parking, and expected ownership. There are no changes to lots or parcels outside of the Subject Property. The parcels were reviewed for compliance with the requirements for the RMX-2 zone as specified in the Zoning Ordinance. The parcels as proposed will meet applicable dimensional requirements for area, frontage, width, and setbacks in the zone.

As discussed in detail in the Site Plan findings section of this report, the design and operation of the proposed drive-thru facilities are compatible with the commercial area. The queuing area is adequate, access is via St. Clair Road, service windows are located behind the main buildings, and drive aisles provides adequate stacking.

A summary conformance with applicable provisions of Chapter 50 and 59 is included in Table 9. The Application has been reviewed by other applicable county and state agencies, all of whom have recommended approval of the plan.

## **2. The Preliminary Plan substantially conforms to the Master Plan.**

The Application is consistent with and is in substantial conformance with the recommendations adopted in the Master Plan (both the 1994 *Clarksburg Master Plan* and the 2011 *Limited Amendment*). The Application is the fifth amendment of the project and preliminary plans and the ninth site plan amendment. Each of the prior plans has been reviewed for and has been found to meet master plan conformance. The modifications proposed by this Amendment are consistent with the master plan conformance findings of previous approvals. The Application meets the following applicable Master Plan policy objectives:

### **CREATE A TOWN SCALE OF DEVELOPMENT**

The 2011 Limited Amendment reinforces the main idea for the Town Center from the 1994 Master Plan: that it be a mixed-use, walkable area with “retail and employment use at a pedestrian scale and oriented to the needs of residents” (1994 Master Plan, page 28). As mentioned on page 11 of the 2011 Limited Amendment, “[t]he majority of residents strongly believe that neighborhood-serving retail uses in Clarksburg are long overdue.” Today there are even more residents in the Town Center and surrounding neighborhoods that could benefit from additional retail uses, especially if such uses are located within walking distance or a much shorter drive for Town Center residents.

In the Master Plan, the Town Center is envisioned as the focal point of public activities with a street system that facilitates pedestrian and automobile movement. The 1994 Master Plan “[p]roposes a pattern of development similar to traditional ‘town squares’” (p. 26) and “[d]iscourages separation of uses” (p. 28). The 1994 Master Plan encourages interconnected streets that provide “more direct access for pedestrians, bicyclists, and vehicles to all areas of the neighborhood, including transit stations, retail stores, civic space, and residences” (p. 28). The 1994 Master Plan encourages a mix of housing types in each neighborhood and recommends that buildings be clustered along streets” (p. 28).

The Application reinforces the Master Plan’s vision as a transit- and pedestrian-oriented community with the Town Center as the focus of community life. It also conforms to the Master Plan’s vision of a traditional neighborhood design with street facing residential units in mixed-use buildings.

### **NATURAL ENVIRONMENT**

The Application protects the natural environment through Environmental Site Design (ESD) and existing structural elements. Existing mature trees will be preserved and augmented with additional street trees and tree canopy coverage provided in parking lots. The Application follows the Master Plan guidance for a modest amount of mixed-use development intended to serve neighborhood needs rather than regional needs.

## TOWN CENTER

The Application establishes a strong identity for the new mixed-use core with a traditional town character as recommended in the Master Plan. The neo-traditional layout of the community complements the character of the Historic District in the scale of the development, the layout of the residential uses surrounding a mixed-use commercial core, all interconnected by streets, sidewalks, and trails. The Application provides commercial uses and additional residential units, and a central plaza with a splash fountain as an active amenity for all local residents, which creates the urban town center the Master Plan envisions.

## TRANSIT- AND PEDESTRIAN-ORIENTED NEIGHBORHOODS

The Application includes a mix of retail and residential uses clustered within the mixed-use core. Mixing retail and residential uses in the central core means that residents will have easy access to goods and services and furthers the Master Plan goal that discourages the separation of uses. A pedestrian friendly environment is reinforced by creating human scale streetscapes with buildings placed close to the public realm, with ample sidewalks and shade trees.

## EMPLOYMENT

The Application incorporates retail uses and a grocery store within an interconnected five-block area as envisioned in the Master Plan. As envisioned by the Master Plan, the creation of 106,920 square feet of commercial space will increase employment opportunities for the broader community.

### **3. Public facilities will be adequate to support and service the area of the subdivision.**

The Applicant requested to extend the validity period for the determination of adequate public facilities (APF). The current APF is valid until March 26, 2024. The Applicant requests to extend the validity period for five years until March 26, 2029. The Amendment does not propose any additional development above the amount approved in the original preliminary plan, as amended. There are no additional public improvements necessary beyond those required for the original preliminary plan, as amended. As discussed below, the Amendment does not require a new traffic study, and with a condition for payment Utilization Premium Payment (UPP) payment for schools, the Amendment is safe, efficient, and adequate.

## ROADS AND OTHER TRANSPORTATION FACILITIES

### **i. Existing Facilities:**

Existing bicycle facilities in the Town Center include a 10-foot sidepath along Overlook Park Drive, defining the northeastern boundary of the Site. The sidepath provides an important southward connection to the Clarksburg Greenway Trail, which begins at Subject Property’s southern boundary on Stringtown Road. Additionally, a 6-foot sidewalk exists along the Subject Property’s frontage on Clarksburg Square Road. At present, there are no public transit routes serving Clarksburg Square Road, Saint Clair Road, in proximity of the Subject Property. The closest bus routes operate on Stringtown Road to the south and Clarksburg Road to the north. This Application does not propose any new public transit infrastructure.

ii. **Planned Facilities:**

The existing sidepath on Overlook Park Drive is derived from the 2018 *Bicycle Master Plan and* represents the only planned and built bicycle facility. Saint Clair Road, which runs north-south through the Subject Property, does not contain any master-planned bicycle facilities, although the road will be completed with adequate pedestrian facilities to serve the new uses. Serving the commercial core, bicycle racks are proposed along the length of Saint Clair Road.

a) **Local Area Transportation Review (LATR)**

The previous approval for the site consisted of 129,545 square feet of retail uses and 76,640 square feet of office space. The site plan amendment includes the elimination of the office space and a reduction of the retail space to 106,920 square feet. Additionally, the changes in use include 189 new multifamily dwelling units. With the reduction and change in use, the Subject Property is poised to generate a net decrease of 74 person trips in the morning peak hour and a net decrease of 159 person trips during the evening peak hour. The 2020-2024 *Growth and Infrastructure Policy* (“GIP”) requires a Transportation Exemption Study (“TES”) for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. Therefore, the LATR review is satisfied with the Applicant’s transportation exemption statement.

## SCHOOLS

The fiscal year 2024 Annual School Test, approved by the Planning Board on June 22, 2023, and effective July 1, 2023, is applicable to the Application. This Applicant proposes 90 multi-family high-rise units and 100 multi-family low-rise units.

The project is served by Little Bennett Elementary School, Rocky Hill Middle School and Clarksburg High School. Based on the fiscal year 2024 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 7, below:

*Table 7 Applicable FY2024 School Adequacy*

School	Projected School Totals, 2027				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/Deficit		Tier 1	Tier 2	Tier 3
Little Bennett ES	620	568	91.6%	+52	No UPP	137	176	269
Rocky Hill MS	1,012	1,035	102.3%	-23	No UPP	103	180	332
Clarksburg HS	2,034	2,612	128.4%	-578	Tier 2 UPP	-	-	134

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 fiscal year 2024 Annual School Test, Little Bennett Elementary School and Rocky Hill Middle School do not require any UPP; however, Clarksburg High School requires a Tier 2 UPP as identified in Table 7. If the project is estimated to generate more students than the identified adequacy ceilings, then additional UPPs or partial payments at multiple tiers are required.

To calculate the number of students generated by the proposed amendment, 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 a net increase of 89 multi-family high-rise and 100 multi-family low-rise units (all of which are not age-restricted), the Project is estimated to generate 18 elementary school students, nine middle school students and 12 high school students (Table 8). As a condition of approval, a Tier 2 high school UPP payment will be required.

*Table 8 - 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	0.102	0.000	0.154	0.000
SF Attached	0	0.218	0.000	0.119	0.000	0.167	0.000
MF Low-rise	100	0.116	11.600	0.061	6.100	0.081	8.100
MF High-rise	89	0.073	6.497	0.042	3.738	0.053	4.717
TOTALS	189	-	18	-	9	-	12

## OTHER PUBLIC FACILITIES AND SERVICES

Other public facilities and services are available and adequate to serve the proposed lots. The Subject Property is in the W-1 and S-1 water and sewer service categories, respectively, and will connect to public water and sewer lines. The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on January 17, 2024 (Attachment C). The Fire Department Access Plan indicates that access is adequate utilizing public road infrastructure. 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 2020-2024 GIP in effect at the time that the Application was accepted.

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

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan Amendment F20230380.

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

The Application received an approved Revised Final Water Quality Plan/Site Development Management Plan from the Montgomery County Department of Permitting Services, Water Resources Section on January 17, 2024 (Attachment C). The Application will meet stormwater management goals through Environmental Site Design (ESD) and existing structural elements.

**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 located within the subdivision boundary is approved under Subsection 50-4.3.M.**

There is no evidence, actual notice, or constructive notice of a burial site on the Subject Property. The Subject Property is not included in the Montgomery County Cemetery Inventory.

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

There are no other applicable provisions specific to the Application that are necessary for approval of this Application.

## SECTION 7: SITE PLAN 82007022I FINDINGS AND ANALYSIS

Pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Applicant has elected to amend the Applications under the RMX-2 development standards of the 2004 Zoning Ordinance, which allows a modification to any previously approved plan to be reviewed under the development standards of the property's zoning on October 29, 2014. The proposed Application does not alter the intent of previous findings except as modified below.

- 1. The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;***

No development plan, diagrammatic plan, or schematic development plan were required for the Site. The Application is consistent with Project Plan Amendment No. 91994004E for the Clarksburg Town Center, including land uses and maximum densities, design layout, development standards, and conditions of approval.

The Site Plan Amendment substantially conforms to the requirements of the Compliance Program, as modified by the Planning Board, which called for significant improvements to the Town Center in-lieu-of pending or existing fines imposed as penalties for violations. All elements of the Compliance Program have been completed, including roads and sidewalks, land dedication for the library building, library parking lot, amphitheater, Harness Point tot lot, Sinequa Square, Clark Family Memorial, Kings Pond Local Park, Piedmont Woods Local Park, Greenway, residential mews, stairway connection to the Methodist Church, Resident's Club building and parking. The Application serves the public interest because it completes the unbuilt portions of the Clarksburg Town Center core, including a long-anticipated grocery store, commercial spaces for shops, restaurants, services, and additional residential density to support the commercial core. Attachment E shows the completed, pending and proposed items associated with the Compliance Program.

- 2. The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;***

Pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Applicant has elected to amend the Site Plan using the RMX-2 development standards, which were effective on October 29, 2014. The proposed development satisfies all applicable development standards for the RMX-2 zone. A summary of this review is included in Table 9. Table 9 lists only the applicable development standards required by the Application. All other development standards remain in full force and effect as previously approved.



The Application proposes retail and service establishment uses with drive-thrus (previously approved) in addition to a new multi-family apartment building and a new mixed-use residential/commercial building. Multi-family residential, mixed-use residential/commercial, and retail/service establishment uses are permitted in the RMX-2 zone. Drive-thru facilities are permitted as a limited use. As discussed below, in this section, the proposed drive-thru facilities meet all the limited use standards in Section 59-3.5.14.E.2.a (Use Standards).

As shown in Table 9 and pursuant to Sec. 7.7.1.B.3.b, the previously approved parking requirements are amended in a manner that satisfies Sec. 6.2.3 and Sec. 6.2.4.

The Application has been reviewed by other applicable county and state agencies, all of whom have recommended approval.

*Table 9 RMX-2 zone, Optional Method, Section 59-C-10.3.1*

RMX-2 Zone	Allowed/Required by Zone or Master Plan	Approved by Site Plan No. 82007022H	Proposed Application 82007022I
Gross Area	N/A	270.92 acres	No change
Net Area	N/A	141.43 acres	No change
Maximum Residential Density	7 dwelling units/acre (1,428 dwelling units)	6.19 dwelling units/acre (1,106 dwelling units)	6.32 dwelling units/acre (1,295 dwelling units)
Single-family detached	10-20%	218 units (19.6%)	219 units (17%)
Single-family attached	30-50%	686 (60.3%)	686 (53.3%)
Multi-family Units	25-45%	201 (18.1%)	390 (29.5%)
MPDUs	12.5% minimum	12.5% (139 units)	12.5% (162 units)
Maximum Commercial Density	0.5 FAR (300,000 SF)	0.18 FAR (206,185 SF)	0.01 FAR (106,920 SF)
Maximum Total FAR	1.25 FAR (2,986,085 sq. ft.)	0.97 FAR (2,326,279 sq. ft.)	0.97 FAR (2,326,279 sq. ft.)
Minimum Number of Dwelling Units	150 minimum units for sites over 30 acres	1,106 dwelling units	1,295 dwelling units
Green Space (59-C-10.3.3)			
Residential	50% of 178.63 acres	93.22 acres (53.2%)	No change
Commercial	15% of 26.29 acres	12.61 acres (47.96%)	No change
Minimum Lot Area	N/A	N/A	N/A

RMX-2 Zone	Allowed/Required by Zone or Master Plan	Approved by Site Plan No. 82007022H	Proposed Application 82007022I
Minimum Building Setbacks <sup>9</sup>	-	-	-
From one-family residential zoning	Commercial: 100 ft. Residential: 100 ft.	Commercial: 100 ft. Residential: 100 ft.	No change
From residential zoning other than one-family	Commercial: 50 ft. Residential: 30 ft.	Commercial: 50 ft. Residential: 15 ft.	No change
From any street <sup>10</sup>	Commercial: 25 ft. Residential: 30 ft.	Commercial: 0 ft. Residential: 0 ft.	No change
From any abutting commercial or industrial zone	Commercial: 25 ft. Residential: 30 ft.	Commercial: 25 ft. Residential: 15 ft.	No change
Max. Building Height	Determined at Site Plan	Retail/Comm.: 40 ft. Office: 70 ft. Mixed-use, Office/Retail: 60 ft. Grocery: 70 feet	Building 1: 65 feet Building 3: 35 feet Building 4: 70 feet Building 5: 35 feet Building 6: 35 feet Building 7: 35 feet Building 8: 35 feet Building 9: 65 feet
West Side, Mixed Use Commercial Parking <sup>11</sup>	-	-	720 total spaces
Retail (78,700 SF)	3.5 spaces/1,000SF min. to 12 spaces/1,000 SF max.	558 spaces	276 to 473 spaces
Restaurant (20,000 SF)	4 spaces/1,000SF min. to 6 spaces/1,000 SF max.	88 spaces	80 to 240 spaces
Apartment, 1 bedroom (83 units)	1 space min. to 1.25 spaces max.	N/A	83 to 104 spaces

<sup>9</sup> Pursuant to Sec. 59-C-10.3.8, Site Plan No. 82007022H reduced the minimum setbacks for commercial and residential buildings from other than one-family residential zoning and commercial zoning by up to 50% and established no minimum setback from any street right-of-way; all other development standards and building setbacks established at final site plan.

<sup>10</sup> In accordance with the Master Plan, no minimum setback is required.

<sup>11</sup> Pursuant to Sec. 7.7.1.B.3.b, the previously approved parking requirements are amended in a manner that satisfies Sec. 6.2.3 and Sec. 6.2.4.

RMX-2 Zone	Allowed/Required by Zone or Master Plan	Approved by Site Plan No. 82007022H	Proposed Application 82007022I
Apartment, 2 bedrooms (84 units)	1 space min. to 1.5 spaces max.	N/A	84 to 126 spaces
Apartment, 3 bedrooms (12 units)	1 space min. to 2 spaces max.	N/A	12 to 245 spaces
Total Apartment Spaces	179 to 254 spaces	N/A	254 spaces
Motorcycle Parking	2% of total, up to 10 spaces max.	N/A	10 spaces
Bicycle Parking, Retail	Short-term: 1 sp./10,000 SF; Long-term: 15% SF	N/A	9 spaces, total 7 spaces, short-term 2 spaces, long-term
Bicycle Parking, Restaurant	Short-term: 1 sp./10,000 SF; Long-term: 15% SF	N/A	2 spaces, total 1 space, short-term 1 space, long-term
Bicycle Parking, Multi-Family (189 units)	0.5 space/dwelling unit; 95% of spaces long-term; 100 sp. max.	N/A	95 spaces, total 4 spaces, short-term 91 spaces, long-term
Car Share Spaces	1 sp. for 50-149 spaces; 1 sp. per 100 spaces above 149; maximum of 5 required	N/A	7 spaces
Electric Vehicle Parking	1 space/100 parking spaces	N/A	8 spaces
Handicapped Parking	2% of total parking; 1 van space per 4 HC spaces		22 spaces 9 van accessible spaces
Site Plan Required	Yes	Yes	Yes

**LIMITED USE DRIVE-THRU FACILITY**

Two previously approved drive-thru facilities meet the standards for a Limited Use Drive-Thru facility. Pursuant to the previous Site Plan Amendment No. 82007022D, two drive-thru facilities were approved to serve the grocery store and another commercial tenant. Pursuant to Sec. 59.7.7.1.B. (Exemptions), the drive-thru facilities are reviewed under the development standards and procedures

(prior site plan findings of approval) of the property's zoning on October 29, 2014. Uses are subject to review under the current zone (CRT) and the 2014 Zoning Ordinance. Therefore, pursuant to Section 59.3.1. (Use Table) and Section 59-3.5.14.E.2.a (Use Standards), Limited Use Drive-Thru facilities are allowed in the CRT zone if it meets the following standards:

- a) *A Drive-Thru, including the queuing area, must be located a minimum of 100 feet from any property that is vacant or improved with a residential use in the Agricultural, Rural Residential, or Residential Detached zones.*

For both drive thru facilities, there is no vacant property or land improved with a residential use in the Agricultural, Rural Residential, or Residential Detached zones within 100 feet of the proposed drive-thru facilities, including the queuing areas.

- b) *For a Restaurant with a Drive-Thru, access to the site from a street with a residential classification is prohibited.*

Access to both drive-thru sites are from St. Clair Road, a private commercial road

- c) *A drive-thru service window, drive aisle, or queuing area located between the street and the front main wall of the main building is prohibited.*

For both drive-thru facilities, the service window, drive aisle, and queuing area are not located between the street and the front main wall of the main building. The drive-thru service window, drive aisle, and queuing areas are located to the side and rear of the buildings.

- d) *A drive-thru service window, drive aisle, or stacking area may be located between the street and the side wall of the main building on a corner lot if permanently screened from any street by a minimum 3-foot-high wall or fence.*

Not applicable. The buildings with the drive-thru facilities are not located on a corner lot.

**3. The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;**

#### LOCATIONS OF BUILDINGS AND STRUCTURES

The locations of buildings and structures are adequate, safe, and efficient. The total of 189 multi-family units are located in two buildings, one of which is a mixed-use building (Building 9) which is situated at the northeast corner of Clarksburg Square Road and Saint Clair Road. Building entrances are located along Saint Clair Road, which activates the street and reinforces the retail and pedestrian character that is sought for this area. Further, the main residential entrance and lobby are

prominently located at the corner of Saint Clair Road and Clarksburg Square Road, further activating a primary gateway to the commercial core. Parking for Building 9 is provided in a partially underground parking structure.

Building 1, which is situated at the southwest corner of Clarksburg Square Road and Saint Clair Road, with a public plaza and splash fountain, will contain only residential units. Located opposite of Building 9, Building 1 is oriented toward the sidewalk, plaza and roadway, thereby reinforcing the vision of a town-center character. Both multi-family buildings include ground floor residential units with direct access to the sidewalk on Clarksburg Square Road.



*Figure 8 - Rendering of proposed multi-family Building No. 1 with plaza and splash fountain; this building faces St. Clair Road with Clarksburg Square Road on the right*





Figure 9 - Rendering of proposed Building No. 1 along St. Clair Road, view toward Clarksburg Square Road



Figure 10 - Rendering of Building No. 9 along St. Clair Road, with commercial space in the ground floor







Figure 14 - Rendering of Building No. 5, north elevation



Figure 15 - Rendering of Building No. 6, north elevation



Figure 16 - Rendering of Building No. 7, south elevation



Figure 17 - Rendering of Building No. 8, south elevation

As shown on the architectural renderings above, the smaller scale commercial buildings (Buildings 3, 5, 6, 7, and 8) are lined along Saint Clair Road with entrances oriented toward Saint Clair Road. The larger footprint Building 4 (a proposed grocery store), and surface parking lot located behind Building 3, which fronts Saint Clair Road. This configuration adequately screens the parking lot and larger-scaled building from the pedestrian-oriented buildings along Saint Clair Road.

Parking for Building 1 and for the commercial buildings along Saint Clair Road is located in the rear, behind buildings. Parking for Building 9 is located in an underground parking structure. Additionally, the Application includes two drive-thru facilities serving Building 4 and Building 7. As shown on the



Site Plan, both drive-thru lanes are located behind each respective building. The location of all proposed buildings and parking lots are consistent with the Master Plan visions and will allow for a seamless continuation of the streetscape treatment and pedestrian experience.

### OPEN SPACES

The Application does not propose modifications to the approved open space network which remains adequate, safe, and efficient.

### LANDSCAPING AND LIGHTING

As shown on the Landscape and Lighting Plan, the proposed landscaping is adequate, safe, and efficient. Modifications are proposed for the Subject Property to account for minor adjustments to the layout, stormwater management facilities, parking, and retaining walls. The proposed landscaping includes street trees, parking lot trees, parking lot screening, ornamental trees, shrubs, perennials, grasses, and groundcover.

### RECREATION FACILITIES

As shown on the Applicant's Demand, Supply and Adequacy report, prepared to demonstrate compliance with the Recreation Guidelines, the Site Plan demonstrates adequacy and provides both on-site and off-site recreational facilities for all age groups.

As shown in Table 10, with the completion of the plaza, splash fountain, and additional seating in the commercial core the required recreational facilities for the Overall and Subject Property will be completed with this Application. For the Subject Property, the Applicant will provide the following additional private recreation facilities for the multi-family units: indoor fitness room, outdoor swimming pool, and resident lounge.

*Table 10 - Status of Recreational Facilities required by Site Plan No. 82007022D*

Location	Required by Site Plan No. 82007022D	Status
West Side	(1) Tot lot Town Green including: - Amphitheater & stage - Open play area II Plaza with splash fountain 1.1-acre civic parcel Picnic/seating Bike system Pedestrian system	Plaza, splash fountain and additional seating to be completed with this Application  All other elements are completed

Location	Required by Site Plan No. 82007022D	Status
East Side	(1) Open play area I (1) Open play area II Picnic/seating (1) Indoor community room Bike system Pedestrian system	Completed
Piedmont Woods Local Park	(1) Multi-age playground (1) Basketball (2) Tennis courts (1) Dog park Picnic/seating Bike system Pedestrian system Nature trails Nature area	Completed
Greenway (Little Seneca Greenway Stream Valley Park)	Picnic/seating Bike system Nature area	Completed
Kings Pond Local Park	(1) Multi-age playground (1) Fishing Pier Picnic/seating Bike system Pedestrian system	Completed

#### PEDESTRIAN AND VEHICULAR CIRCULATION SYSTEMS

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. Clarksburg Square Road has existing sidewalks that will service the development. The existing 5-foot accessible sidewalk adequately and safely accommodates pedestrian circulation within the site and to the fronts of the units. Sidewalks along Saint Clair Road will be completed with this Project.

**4. Each structure and use are compatible with other uses and other site plans, and with existing and proposed adjacent development; and**

The Application provides a mix of residential and retail/service, which are compatible with the adjacent and confronting residential uses as well. There are no known adjacent or confronting proposed development projects. In addition, the mix of residential and non-residential uses is also compatible with the Clarksburg Historic District to the west, which also includes a mix of land uses. The development pattern establishes a hierarchy of density and heights consistent with the Master Plan vision and as shown on the Project Plan. Higher density uses and heights are located internally near and within the future commercial center, and lower heights are located towards the periphery.

As shown on the architectural and site plan renderings in this report, several design elements also further compatibility between new and existing development. Street oriented development with minimal setbacks, parking and servicing in rear, and residential units rear loaded from alleys are consistent with the existing development pattern. Material selection for architecture and streetscape is also compatible with existing materials. Elements of the previously approved Design Guidelines were incorporated in the site plan set, including architectural elevations of all the commercial buildings.

***5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.***

The Site Plan Amendment meets all applicable requirements of Chapter 22A regarding forest conservation as described in the Final Forest Conservation Plan Amendment No. F20230380 findings section of this report, Chapter 19 regarding water resource protection, and any other applicable laws.

## SECTION 8: FOREST CONSERVATION PLAN F20230380 FINDINGS AND ANALYSIS

A Final Forest Conservation Plan 820070220 was approved on November 24, 2010, with subsequent amendments. As required by Section 22A-4 of the Montgomery County Code, the Application includes an amendment to the Final Forest Conservation Plan (FFCP). A Final Forest Conservation Plan Amendment No. F20230380 (“FFCP”) was submitted for review to show the most recent revisions to the Subject Property with Site Plan Amendment No. 82007022I.

### NATURAL RESOURCE INVENTORY/FOREST STAND DELINEATION

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #419941620 for this property was originally approved in April 1994 with a subsequent approval in August 1995. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. The overall Clarksburg Town Center development includes several streams, associated wetlands, 100-year floodplain, and environmental buffers within the Little Seneca Creek watershed, a Use Class IV-P watershed. The Overall Property contains approximately 48.5 acres of forest, slopes greater than 25 percent and highly erodible soils.

### FOREST CONSERVATION PLAN AMENDMENT

The original Final Forest Conservation Plan No. 819980010 was approved on March 3, 1998. A new Final Forest Conservation Plan No. 820070220 was approved on February 1, 2010, as part of the Compliance Program for the Clarksburg Town Center development. This FFCP has gone through one major amendment since its approval with Site Plan Amendment No. 82007022D.

On June 28, 2023, CTC Retail, LC (“Applicant”) submitted FFCP Amendment No. F20230380 for concurrent review with the Site Plan Amendment No. 82007022I for revisions to the Clarksburg Town Center Commercial area. The Application satisfies the applicable requirements of the Forest Conservation Law, Chapter 22A of the Montgomery County Code, and complies with the Montgomery County Planning Department’s approved *Environmental Guidelines*. This FFCP was submitted to address the requirements under Sec. 22A.00.01.09.B of the Forest Conservation Regulations to update the site layout for the commercial core including retail and multi-family buildings, parking areas, stormwater management facilities, landscaping, hardscape and the revised lotting configuration within the approved LOD.

The FFCP does not alter any of the recorded Forest Conservation Easements on the Subject Property or any of the reforestation requirements previously approved with the FFCP Amendment No. 82007022D. The Applicant is continuing to retain 41.32 acres of forest for the overall Clarksburg Town Center development and providing a total of 25.64 acres of reforestation.

In compliance with the previously approved FFCP No. 82007022D, there was 22.80 acres of onsite forest planting and 2.84 acres of forest conservation credit through onsite landscape plantings. Approximately 6.83 acres of the forest planting requirement has been bonded, planted and the required Maintenance and Management Agreement has been recorded in the land records by the previous landowner. Since the landowner previous to the Applicant had demonstrated responsibility for fulfilling the forest conservation obligations for this 6.83-acre portion of the planting requirement, this portion of the forest planting requirement is not the responsibility of the Applicant and has been deducted from their total forest planting requirement as described in conditions of approval no. 1(i and j). The Applicant is responsible for 18.81 acres of forest conservation planting of which 15.97 acres will be in the form of forest planting and 2.84 acres will be in the form of individual landscape trees, consistent with the previous approval.

In addition, the Applicant is still proposing to include a specific planting plan for afforestation planting areas K-2, K-3, GG, HH, WC2 and WC3 in the stream buffer between Stringtown Road and the commercial development of Clarksburg Town Center. The planting plan would specify that the initial plantings would allow for the understory species to be planted along the higher elevations of the slopes and the overstory species to be planted at the lower elevations within the stream buffer. After the initial plantings have been accepted by the M-NCPPC inspector, the areas would be allowed to naturalize and only be subject to the requirements of our standard Category I conservation easement and Maintenance and Management Plan. The species, quantities, and spacing of the planted trees would not be altered for these areas. This proposal will allow for this area to develop into a sustainable functioning mature forest in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

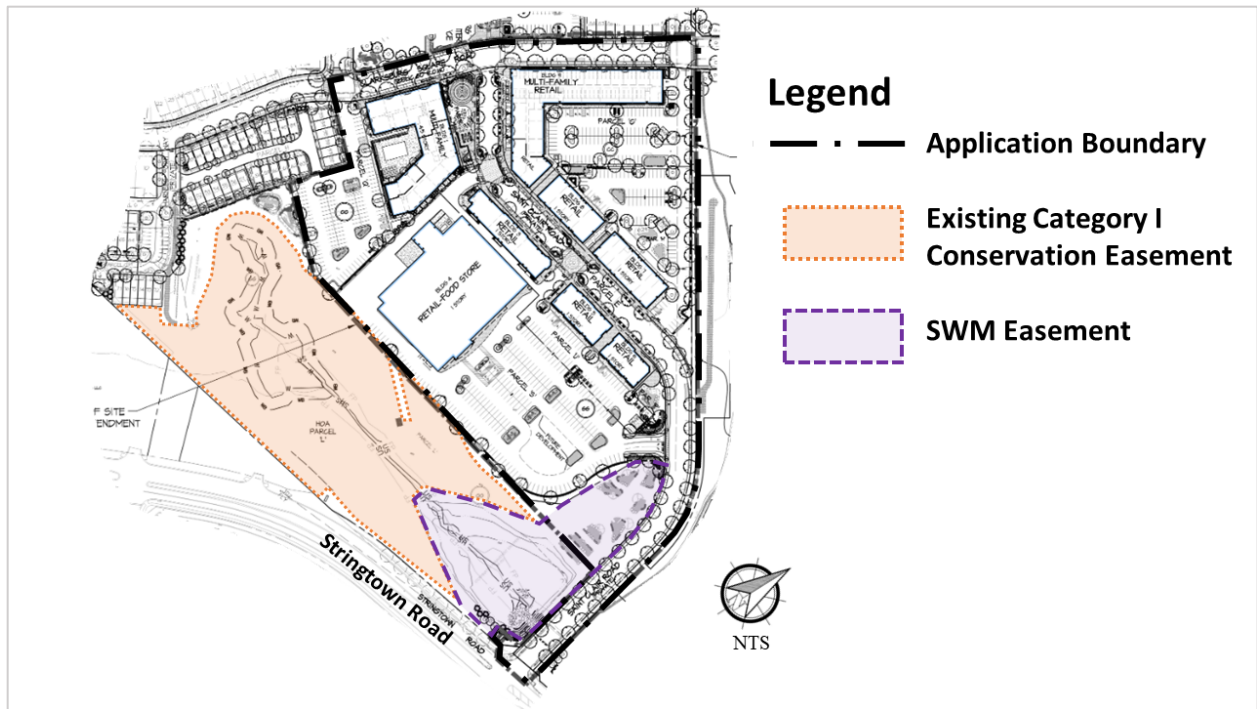


Figure 18 - Existing Forest Conservation Easement

### SPECIAL PROTECTION AREA WATER QUALITY PLAN

The Application meets all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas and the Environmental Guidelines, as discussed below.

This Subject Property is located within the Clarksburg Special Protection Area (“SPA”), but outside of the Clarksburg East Environmental Overlay Zone, on privately owned property where land disturbance is proposed; as such it is required to obtain approval of a Water Quality Plan under section 19-62(b) of the Montgomery County Code.

A Revised Final SPA Water Quality Plan was submitted for review in conjunction with this Application. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (“MCDPS”), the Montgomery County Department of Environmental Protection (“MCDEP”), and the Planning Board have different responsibilities in the review of a Water Quality Plan. MCDPS and MCDEP review the Application for site performance goals, stormwater management, sediment and erosion control, and monitoring of streams and Best Management Practice performance. The Planning Board’s responsibility is to determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

### *MCDPS and MCDEP Special Protection Area Review Elements*

In a letter dated January 17, 2024, MCDPS found acceptable the elements of the SPA Water Quality Plan under their purview. As part of the Revised Final Water Quality Plan, the following performance goals were established for the Subject Property:

1. Protect the streams and aquatic habitat.
2. Maintain the natural on-site stream channels.
3. Minimize storm flow run off increases.
4. Minimize increases to ambient water temperatures.
5. Minimize sediment loading.
6. Maintain stream base flows.
7. Protect springs, seeps and wetlands.
8. Minimize nutrient loading.
9. Control insecticides, pesticides and toxic substances.

Per the MCDPS Revised Final Water Quality Plan acceptance letter, the required goals will be met via bio-swales, micro bioretention, and dry wells. Sediment and erosion control measures will be reviewed by MCDPS during the detailed sediment control/stormwater management plan stage. The Applicant will pay a stream monitoring fee to MCDPS due at time of detailed sediment control plan submittal and a SPA Best Management Practices monitoring fee to MCDPS due at time of as-built submittal.

### Planning Board Special Protection Area Review Elements

Following is an analysis of the Planning Board's responsibilities in the review of the Preliminary/Final Water Quality Plan. Staff recommends Planning Board approval of the elements of the SPA Water Quality Plan under its purview.

#### 1) Priority Forest Conservation Areas

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The FFCP was submitted with this Application (Attachment C). As part of the FFCP, the Applicant will be retaining 41.32 acres of existing forest, including all of the forest within the environmental buffers site wide. The Application meets the 25.02 acres forest planting requirement on-site. The forest conservation requirements are described in more detail in the Forest Conservation findings section of this report. Per SPA requirements outlined in the Environmental Guidelines, areas of the environmental buffer currently lacking forest will be reforested, forest plantings will occur during the first planting season after issuance of grading permits when possible, and a five-year maintenance program to better ensure forest survival, with



emphasis on controlling invasive species is required. The retained and planted forest on-site will be protected through a Category I Conservation Easement.

## 2) Environmental Buffer Protection

No additional stream buffer impacts are proposed with this Application that were approved with the Water Quality Plan for the Final Forest Conservation Plan Amendment No. 82007022D. All environmental buffers are being protected with Category I Conservation Easements. The plan provides 1.68 acres of additional forest planting to mitigate stream buffer encroachments approved under Final Forest Conservation Plan Amendment No. 82007022D.

## 3) Impervious Surfaces

The Clarksburg SPA does not have a specific numerical limit on impervious surfaces; however, a main goal for development in all SPAs is to reduce or minimize the amount of impervious surfaces. This Application does not alter the amount of impervious surfaces previously approved under FFCP Amendment No. 82007022D which resulted in a total imperviousness of approximately 34.4% for the entire Clarksburg Town Center development project.

The Application meets all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas and the Planning Board approved Environmental Guidelines, Section V.

## SECTION 9: CONCLUSION

As conditioned, the Project Plan Amendment, Preliminary Plan Amendment, Site Plan Amendment, and Forest Conservation Plan applications each satisfy the applicable findings under the County Code and substantially conform to the recommendations of the Master Plan. Therefore, Staff recommends approval with conditions.

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### ATTACHMENTS

*Attachment A: Project Plan, Preliminary Plan, Site Plan, Forest Conservation Plan*

*Attachment B: Prior Approvals*

*Attachment C: Agency Letters*

*Attachment D: Community Correspondence*

*Attachment E: Comparison Chart*

*Attachment F: Draft Proposed Conditions for Resolution*