



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

MCPB No. 09-15

Site Plan No. 820070220

Project Name: Clarksburg Town Center

Hearing Dates: November 6, 2008 and December 11, 2008

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

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

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

WHEREAS, Applicant's site plan application was designated Site Plan No. 820070220, Clarksburg Town Center (the "Application"); and

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

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

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

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

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

Approved as to  
Legal Sufficiency:

*[Signature]* 7/16/09

8787 Georgia Avenue, N.C. Park and Planning Commission, Department 10 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

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

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

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

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

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application. On November 6, Staff presented testimony concerning the history of the site and the plan violations, the outstanding issues remaining from the violations case, and those associated with the current plan review. Staff also provided an overview of the requirements of the Plan of Compliance and discussed areas where the Application conformed to and deviated from the approved Plan of Compliance. The primary issues that remained unresolved with the proposed Site Plan included: the road connection to MD 355, design of the retail core, the requirement to provide an additional parking deck in Block KK in the retail core, the connection to the church, changes to the Residents' club, and the location of the future library site and related parking, and the enhancement planting identified in the Plan of Compliance. The retail core is located on the west side of the proposed development, and includes all of the site's non-residential uses, including the live/work units, flex space, and future library site, and is bounded by Public House Road to the west and south, Overlook Park Drive to the east, and the live/work units on the north side of Clarksburg Square Road. Each unresolved issue was discussed at the Hearing with a recommendation provided by Staff, all of which required modifications to the Site Plan, while still resulting in substantial conformance with the Plan of Compliance. Staff originally supported a 20 percent waiver of the required parking spaces, recommending a second parking deck to accommodate a minimum of 100 additional parking spaces and the use of 176 on-street parking spaces. Staff also recommended designation of one parking space for each residential unit within the retail core; and

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

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

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

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

WHEREAS, at the December 11 hearing, Staff presented testimony concerning appropriate parking requirements for the residential and non-residential uses and specifically for restaurant uses in the retail core, as well as 100 spaces for the library site. Staff evaluated the same number of residential units and non-residential square footage that the Applicant proposed at the November 6 hearing, but did not include the on-street parking as a means to satisfy the parking requirements and did not

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

recommend a waiver of the parking requirements for the retail core. The Board also heard testimony from the Applicant's consultant, Robert Gibbs, regarding the total parking requirements and the allocation of the spaces for the retail core, and from John Eisen, a retail developer, who discussed the benefits of additional parking and deeper store depths than the Applicant proposed. Representatives of the Applicant testified that the smaller and more varied store depths offer better accommodations for smaller and local retailers, whereas the larger and deeper store depths cater to chain retailers and cost more to lease;

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

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

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

WHEREAS, on December 11, 2008, the Planning Board voted to approve the Application subject to conditions, on motion of Commissioner Robinson; seconded by Commissioner Alfandre; with a vote of 4-0, Commissioners Alfandre, Cryor, Hansen, and Robinson voting in favor, and Commissioner Presley, having recused herself, absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Final Water Quality Plan No. 820070220 as described in the letter dated October 6, 2008, unless amended and approved by DPS and DEP, with the following conditions:

1. Provide easements around all stormwater management structures with clear access from a public right-of-way.
2. A geotechnical report is required to verify recharge feasibility and infiltration rates at any proposed infiltration and recharge structure locations.
3. Planting/Landscaping shall not be shown in areas intended for stormwater management structures on the site plan. Proposed planting/landscaping will be reviewed during the DPS detailed plan review process. Additionally, all non-stormwater management structures, and or auxiliary structures to be constructed, placed, or otherwise located within any stormwater management maintenance easement, must be reviewed and approved by the County Departments of Permitting Services and Environmental Protection prior to construction or placement.
4. A detailed plan review of the stormwater management computations will occur at the time of DPS's detailed plan review.
5. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.

Note that all of the previous conditions and requirements for other portions of Clarksburg Town Center and related development still apply.

BE IT FURTHER RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820070220, Clarksburg Town Center, for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1, 213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction in the number of parking spaces, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties, on approximately 270 gross acres in the RMX-2 and RDT zones, subject to the following conditions:

1. Project Plan Conformance  
The proposed development must comply with the conditions of approval for Project Plan 91994004B included herein.
2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 11995042A.

3. Retail Center

- a. The Applicant shall construct the proposed retail center as shown on the approved plans submitted to the Planning Board, or as amended by the Planning Board during the hearing.
- b. A minimum of one parking space must be dedicated and signed for each live-work, multi-family, and attached unit within the mixed-use core area, which includes Blocks GG, KK, LL, and MM. The dedicated spaces shall be signed and posted to prohibit their use by retail tenants, unless the tenant and owner of the live/work and multi-family units are the same. These dedicated spaces must not be on-street.
- c. In addition to the combined pedestrian and vehicular entrance on Public Road A, the Applicant must provide a second pedestrian entrance to the grocery store from Public Road A, as shown on the most recent plans dated November 26, 2008.
- d. Provide a disclosure statement to future residents/retailers that will be regarding dedicated/reserved parking spaces. A copy of the disclosure statement must be provided to the M-NCPPC prior to the release of the building permits for those uses.
- e. The following minimum retail store depths are required:
  - Block KK: 60 feet (inclusive of a service area of up to 7 feet) except for a small section at the intersection of Public Road 'A' and Private Road #3, where the minimum store depth is 50 feet (inclusive of a service area of up to 7 feet)
  - Block MM: 60 feet (inclusive of a service area of up to 7 feet)
  - Block LL: 60 feet (inclusive of a service area of up to 7 feet) for the areas adjacent to the grocery store and the pharmacy, and 50 feet deep (inclusive of a service area of up to 7 feet) for the area adjacent to the parking structure.
- f. The Applicant must provide Staff a revised plan addressing the parking and depth of stores to be incorporated into the Certified Site Plan.

4. Recreation Facilities

- a. The 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 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.

- d. The Applicant must provide the smaller sport court, referenced as "Plan B" in the November 20, 2008 exhibit provided by the Applicant

5. Parking

- a. The Applicant shall provide a minimum of 1,070 parking spaces in the retail core by providing a multi-level parking structure in Block LL (grocery), surface parking lots and on-street parking spaces within the retail core area, including up to 45 surface parking spaces in the library surface parking lot which shall be constructed by the Applicant.
  - MCDOT and MCFRS shall review the certified site plan for final location of on-street parking spaces within the retail core. If materially fewer than 160 on-street parking spaces are available within the retail core, then the site plan shall be brought back to the Planning Board for consideration of a modification of the parking ratio and extent of the parking waiver.
- b. The Applicant shall provide one dedicated parking space for each live/work, multi-family and in-line (one-family attached) unit within the retail core to be signed and marked for use solely by the resident of the associated dwelling unit.

6. Environmental

The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated October 6, 2008 and the conditions of approval from the Final Water Quality Plan dated October 6, 2008:

- a. Compliance with the conditions of approval of the Final Forest Conservation Plan dated December 27, 2004 and amended July 24, 2006, as amended to reflect the appropriate afforestation/reforestation calculations based on the final approved site plan design.
- b. A five-year maintenance period shall be required for all planted areas credited toward meeting the requirements of the forest conservation plan.
- c. All afforestation plantings on the Piedmont Woods Park are to occur in the first planting season after the issuance of the first sediment control permit by the Montgomery County Department of Permitting Services for any work to be conducted on Piedmont Park.
- d. Reforestation/afforestation plantings other than in Piedmont Woods Park that are located outside the limits of disturbance on the Clarksburg Town Center development must occur in 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.
- e. Applicant must replace all financial security instruments submitted by Terrabrook Clarksburg, L.L.C. with new financial security instruments from

- NNPIL-Clarksburg, L.L.C. The financial security instruments must be based at a rate of \$0.90 per square foot or on a landscape estimate approved by the Planning Department. The new financial security to be reviewed and approved by Environmental Planning staff prior to Certified Site Plan approval.
- f. Applicant must submit a revised final forest conservation plan and obtain approval from Environmental Planning prior to approval of the certified site plan.
  - g. All revised plans must be signed and sealed by a qualified professional.
  - h. Applicant must remove the "Certified Site Plan" stamp from the final forest conservation plan (FFCP).
  - i. Applicant must clearly delineate which trees are being taken for the landscape credit claimed in the FCP Worksheets. Any trees not claimed for landscape credit must not be shown on the FFCP.
  - j. Applicant must remove the designation "Off-Site" planting that is proposed for Piedmont Park since this area has been part of the project since preliminary plan approval.
  - k. Applicant must change all of the 5-ft natural surface trails from the Kings Pond area south through the Greenway and in Piedmont Park to 4-ft trails as per the approved FFCP dated July 24, 2006.
  - l. Applicant must provide a detail of the natural surface trail that matches the detail on the Land Design, Inc. plan.
  - m. There should be no changes in the size of any afforestation or reforestation planting area from what was approved in 2004 and revised in 2006. If changes are necessary, the Applicant must provide a written explanation and justification for the area size changes and compensate for the loss of that planting area.
  - n. The Applicant must provide afforestation plantings, landscape credit plantings and Greenway credit plantings, either on-site or at Piedmont Woods Park that meet the afforestation/reforestation requirements per the approved forest conservation worksheets.
  - o. The Applicant must provide a planting schedule for the Greenway area since the Applicant is requesting reforestation credit in the FFCP. In turn, call this area out on the Certified Site Plan as part of the FFCP.
  - p. Applicant must: combine afforestation areas Q and S on Sheet 8 to one planting area; combine afforestation areas A-1, A-3 and B-1 on Sheet 11; and combine afforestation areas C-1 and K on Sheet 13.
  - q. Applicant must clearly delineate Category I forest conservation easement lines or forest conservation areas as dedicated to the Parks Department, whichever is appropriate, on the final forest conservation plan.
  - r. Applicant must correct the size of afforestation area G. In one location on the submitted plan it is listed as 2.15 acres and in a second it is listed as 1.78 acres.



- s. Applicant must correct the size of afforestation area H. On page 21 it is listed as 0.40 acres in size but in the data table states it is 0.31 acres.
- t. Applicant must include a note on Sheet 21 stating that planting must occur within the sewer line area but not within 5 feet off the pipe centerline.
- u. Applicant must afforest all stream valley buffers (SVB) on Sheet 22 as shown on the approved final forest conservation plan and final water quality plans.
- v. Applicant must correct the spelling of "afforestation" and "area" on Sheet 24.
- w. Applicant must show the SVB on Sheets 33, 34, and 35.
- x. Applicant must clarify why the LOD extends out into afforestation area Z on Sheet 36.
- y. Applicant must clarify why the LOD extends out into afforestation areas Z and HH on Sheet 37.
- z. Applicant must use the correct updated FCP worksheet available on the MNCPPC website at <http://www.mcparkandplanning.org/Environment/forest/index.shtml>.
- aa. Applicant must include the data table as required by Section 109-A (2) of the Forest Conservation Regulations.
- bb. Applicant must replace all Norway maple (*Acer platanoides*) trees requested for landscape credit with native canopy trees.
- cc. Applicant must correct typographic errors in the table for Afforestation Area CC on Sheet 39.
- dd. Applicant must correct all applicable notes throughout the document to identify that all reforestation/afforestation plantings have a 5-year maintenance period from the date the forest conservation inspector inspects the planted materials.

#### 7. Site Design

- a. In the retail and civic core, revise the site plans to provide all sidewalks and hardscape plazas with brick in a herringbone pattern and "soldier" edging for accenting (in lieu of asphalt) sidewalks and plazas. All brick sidewalks, soldier edging, plazas, curb ramps, and Church stairs and plaza must be of the same color for all enhancements throughout the East and West sides.
- b. Eliminate the angled parking on the private street in the retail core and provide parallel parking.
- c. Private Street #4 shall be revised to become Public Street 'A' with a 60-foot right-way, as approved by the Department of Transportation.
- d. 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 3 feet.
- e. Block H shall be designed and built in accordance with the letter agreement dated April 30, 2008 between the Clarksburg Town Center Advisory Committee and Bozzuto, provided Bozzuto acquires the Block H property.

8. Landscape and Lighting

- a. Provide additional landscaping within planting islands in the following alleys in the common areas:  
East Side-Snow Hill, Block F;  
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 Applicant. Existing green areas or panels shall be planted with shade or ornamental/flowering trees, where space permits. The 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. 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.

9. 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 Applicant, and at the 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 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.

10. MPDUs

The proposed development shall comply with the following conditions of approval from the Department of Housing and Community Affairs in their letter dated September 29, 2008:

- a. The Applicant must provide a minimum of 12.5 percent MPDUs (of the total number of units), in accordance with the requirements of Chapter 25A.
- b. The Applicant must comply with all conditions of the DHCA Memorandum dated September 29, 2008, regarding this plan.
- c. The Applicant must enter into an "Agreement to Build" with the Department of Housing and Community Affairs prior to approval of the Certified Site Plan.

11. Maintenance Responsibility

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

12. Retaining Walls

- a. The Applicant shall provide for an independent inspector to monitor the review, installation and maintenance needs of any retaining walls over 5 feet. The inspector shall be chosen by the M-NPPC from at least three qualified professional engineering firms not currently performing work in Clarksburg Town Center.
- b. The retaining walls facing Stringtown Road shall be decorative to include a stone or brick veneer with a suitable continuous decorative cap.

13. Park Development

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

Piedmont Woods Recreational Park:

- a. 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.

- b. Applicant to construct at its expense within the park area the following recreational amenities:

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.

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.

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.

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.

Restroom and Water Fountain – Centrally located restroom facility and frost free water fountain.

Parking Lot - Parking for a minimum of 55 cars approximately as shown on the site plan.

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.

Landscaping, Benches and Signage – Landscaping and signage acceptable to M-NCPPC Department of Parks staff, and adequate benches for needed seating.

- c. A park permit is required before construction of all park amenities. All facilities to be constructed by 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.
- d. 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.
- e. 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 Certified Site Plan with the final design occurring prior to issuance of park construction permit:
  - i. 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.
  - ii. 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.

- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.
- vii. 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.

- viii. Provide a safe pedestrian crossing of Snowden Farm Parkway, in order to provide pedestrian access to the park from the surrounding neighborhood.
- ix. 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.
- x. 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.
- xi. 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.
- xii. 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.
- xiii. 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.

- xiv. 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.
- f. 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.

#### Kings Local Park

Applicant to construct at its expense within the Local Park area the following recreational amenities:

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 King's 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.

Fishing Pier-A minimum 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.

Handicap Accessible, Asphalt Trail-An eight-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.



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.

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.

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.

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.

A park permit is required before construction of all park amenities. All facilities to be constructed by 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.

#### Clarksburg Greenway and Greenway Trail

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.

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.

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.

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.

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 Applicant on certified site plan.

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.

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.

#### 14. Landscape Surety

The Applicant shall provide a surety (letter of credit, performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety shall cover plant material, on-site lighting, recreational facilities, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit within each relevant block of development and shall be tied to the development program.

- b. Provide a cost estimate of the materials and facilities, which will establish the initial bond amount.
- c. Completion of plantings by block, to be followed by inspection and bond reduction. Inspection approval starts the one-year maintenance period and bond release occurs at the expiration of the one-year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the respective parties and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

#### 15. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved by staff prior to the approval of the Certified Site Plan. The development program replaces the approved Site Plan Enforcement agreement, with the exception of the MPDU phasing outlined by DHCA, and institutes timing mechanisms related to building permit release. The development program must include the following items in its phasing schedule:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Local Recreational Facilities
  - i. All remaining Local Recreational Facilities on the East Side of the Greenway must be completed prior to the issuance of the building permit for the 901<sup>st</sup> residential dwelling unit in the project. The remaining local recreation facilities on the East Side, which have not been constructed, include sitting areas and an open play area associated with Basil Square Park, shall be installed within 6 months of the completion of Basil Square Park Road. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
  - ii. The Local Recreational Facilities on the West Side must be completed prior to the issuance of the 12th building permit for the residential dwelling units in Block GG (units 10-25). (This number represents 70 percent of the number of units located in this block). The recreation facilities to be constructed in Block GG on the West Side include the tot lot and sitting areas associated with Harness Point. Landscaping and lighting associated with the Recreational

Facilities shall be installed no later than 6 months after the completion of those facilities.

- c. Community-Wide Recreational Facilities
- i. The improvements to Murphy's Grove Pond must be completed prior to the issuance of the building permit for the 950<sup>th</sup> residential dwelling unit in the project.
  - ii. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
  - iii. The expansion of the existing swimming pool to 56 feet wide and 25 meters long (length added at deep end), slide, and covered deck area, shall be completed prior to the second Memorial Day weekend after approval of the Certified Site Plan.
  - iv. The sport court building, expansion of the Resident's Club fitness room and multi-purpose community room, and the adjacent Sinequa Square and tree bosque open space improvements shall be completed prior to the issuance of the building permit for the 951<sup>st</sup> residential dwelling unit.
  - v. The sport court building shall consist of a facility for typical gym type functions, such as basketball, volleyball, aerobics, Pilates, pre-schooler tumbling, martial arts and yoga, and a multi-purpose room for community activities and shall be in the general configuration shown on the plan attached as Exhibit B. Interior fit out of the sport court building shall be comparable to the interior fit out of the existing community center, with details to be provided prior to approval of the Certified Site Plan.
  - vi. Community-wide facilities on the West Side, including the natural surface connections within the Greenway and necessary bridges or boardwalks, the Town Green and Market shall be completed as follows: 1) the improvements within the Greenway shall be constructed/installed within 6 months of the completion of Overlook Park Drive; and 2) the Town Green and Market shall be completed upon the completion of the Live/Work units adjacent to the Town Green and Market.

- vii. The 8-foot-wide bike path connection on the east side of Overlook Park Drive shall be constructed and open to use no later than the completion of Overlook Park Drive.
  
- d. Kings Local Park  
The recreation facilities, landscaping and trails/paths shall be constructed prior to the release of the building permit for the 901<sup>st</sup> residential building unit in the entire development.
  
- e. Piedmont Woods Park  
The recreation facilities, landscaping, roads, and trails/paths shall be constructed prior to the release of the building permit for the 1,101<sup>st</sup> residential dwelling unit in the entire development.
  
- f. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
  
- g. On-site landscaping and lighting associated with the construction of the private roads and common areas shall be installed no later than 6 months after the completion of those roads and common areas, with the exception of the additional landscaping required for the existing areas, which shall be installed within 6 months of the approval of the Certified Site Plan.
  
- h. The grocery store, parking garage, streetscape, and retail stores in Block LL must be permitted by the Department of Permitting Services and under construction prior to the release of the building permit for the 901<sup>st</sup> residential dwelling unit.
  
- i. Provide each section of the development with necessary roads.
  
- j. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

#### 16. Penalties

The Applicant must submit the Certified Site Plan no later than 90 days after the mailing of this resolution, or, if a timely administrative appeal is filed by any party authorized to take an appeal, 90 days after the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods. If the Certified Site Plan is not timely submitted, the Applicant must pay a \$500/day fine for each day the Certified Site Plan is late. If the Planning Board determines that the Certified Site Plan does not conform to all conditions of site

plan approval, the Planning Board may assess the Applicant a fine of up to \$500/day for each day after the later of the Certified Site Plan due date or the submittal date until such time as plans have been submitted that conform to all conditions of approval. The timeframe set forth above may be reasonably extended by action of the Planning Board for any delay caused by events that are beyond the control of the Applicant (such as, by way of example and not limitation, any delay caused by extended reviews by reviewing agencies of plans submitted by the Applicant).

#### 17. Certified Site Plan

Prior to 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 final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Revised parking calculations.
- d. Modify notes to include M-NCPPC Staff approval required for planting plan substitutions.
- e. Ensure consistency of all details and layout between site plan and landscape plan.
- f. Graphically delineate the Limits of Disturbance.
- g. Revised parking exhibit showing the dedicated residential spaces in the retail core and the updated permitted on-street parking spaces as determined by the Fire Marshall and the Montgomery County Department of Permitting Services.
- h. Show the locations of the MPDUs on all Site Plans.
- i. Detail of the amended soil treatment.
- j. Heights of the proposed units in Blocks GG, H, A and R.
- k. Provide the additional landscaping in the common areas as specified in the conditions of approval.
- l. Details of the upgraded mailboxes, notice boards and flagpoles.
- m. Provide internal green area computations for the parking facilities.

- n. Provide details of the signs and locations of signs for the reserved/dedicated parking spaces.
- o. Letter from the Clarksburg United Methodist Church agreeing to details of the pedestrian connection and provision of parking.
- p. Details of the sport court and other facilities to be provided at the time of certified site plan and must include expanded fitness center; expanded Resident's Club/Community Building with upper level catering kitchen, storage room and multi-purpose community room to accommodate movie projection; lower level to include concessions room, and outdoor dining deck near concessions window, shade structure on east side of pool deck and bathrooms.
- q. Provide the exhibits previously provided on the April 2007 submittal on the certified site plan, including but not limited to: the Regulating Plan, Building Footprint Standards, Open Space, Land Use Typologies and Build-To Lines, Frontage Occupancy, Architectural Focus Features, General Development Standards, Building Heights and Massing.

18. Staging (Status Report)

The Applicant shall present in-person updates to the Planning Board every 3 months at a Planning Board roundtable, commencing three months after the date of mailing of this Resolution.

19. 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. 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 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.

20. Town Center Resident Membership in Residential HOA.

All residential units, including townhouse, multi-family, and live/work units, within the retail core, must be members of the residential HOA.

21. 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 901<sup>st</sup> 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.

BE IT FURTHER RESOLVED that all site development elements as shown on the initial Clarksburg Town Center drawings stamped by the M-NCPPC on September 15, 2008, and any additional plans submitted by the Applicant and date stamped by the M-NCPPC, shall be required, except as modified by the above conditions of approval; and

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

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.*



As amended, the subject development is in conformance with Project Plan No. 91994004B as required by the RMX-2 Zone for the optional method of development.

2. *The Site Plan meets all of the requirements of the RDT and RMX-2 zones and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As amended by the conditions of approval, the Site Plan meets all of the requirements of the RDT and RMX-2 Zones as demonstrated in the project Data Table below.

The reduction in setbacks by 50 percent for the commercial and residential properties from the boundary and by 100 percent for the proposed commercial from the street is in conformance with the provisions of the RMX-2 zone of the Montgomery County Zoning Ordinance. The reduction in setbacks was previously approved by the Planning Board with the original approvals.

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

Staff concluded that the proposed parking for the retail core was 184 spaces less than required based upon the non-residential and mixed residential square-footages provided by the Applicant. This amount does not count on-street parking shown by the Applicant on the East Side of the development. Some on-street parking should be credited toward the non-residential component, but not the spaces on the East Side of the Greenway due to distance, practical relationship, and separation of the uses. Only on-street spaces on the West Side that are not dedicated to the Manor Houses (multi-family) should be credited toward the non-residential. The retail component must stand alone and satisfy the applicable parking requirement without counting parking provided outside of the retail core.

Under the conditions of approval, the Applicant must provide a minimum of 1,070 parking spaces in the retail core by providing a multi-level parking structure in Block LL (grocery), and surface parking for both residents and commercial tenants, including 160 on-street parking spaces and up to 45 spaces in the library parking lot. Although this amount is less than recommended by staff and some others who presented testimony to the Board, the Board finds that in light of mixed-use nature of the project, the desire to promote a pedestrian-friendly environment, and based on testimony indicating that retail uses would be

adequately served, the Board concludes that this amount is appropriate, and approves a waiver of the parking requirement to permit a reduction in the required number of parking spaces in the retail core.

**Requirements of the RMX-2 and RDT Zones**

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

**Data Table**

<b>Zoning Ordinance Development Standard</b>	<b>Permitted/Required</b>	<b>Development Standards Approved by the Planning Board and Binding on the Applicant</b>
<b>Gross Site Area (Ac.):</b>		
RDT (59-C-9.23)	25.0	66.0
RMX-2 (59-C-10.1)	Not Specified	204.00
Total Site Area		270.00
<b>Area of Dedication (Ac.):</b>		
Land for Civic Building	Not Specified	+/- 18,000 gross square feet and 4 live/work units and area for parking structure
Public Streets	Not Specified	34.67
Park (Dedicated to M-NCPPC)	Not Specified	95.99
School Site (Dedicated to MCPS)	Not Specified	1.92
School Site (Dedicated to M-NCPPC)	Not Specified	7.24
Total Dedication Provided	Not Specified	140.17
<b>Net Site Area (Ac.):</b>		129.83

<b>Density</b>		
<u>RMX-2 Zone (59-C-10.3.4)</u>		
<b>Commercial</b>		
Max. Commercial Density	0.50 FAR 300,000 sf.	0.16 FAR 194,720 sf.
Retail	150,000 sf Retail Center	194,720 sf Retail Center
Office	Undetermined	0 sf.
<b>Residential (59-C-10.3.7)</b>	7 d.u./acre 1,428 dwelling units	6.90 d.u./ac. based upon 175.80 acres 1,213 dwelling units
<b>Number of Dwelling Units</b>		
<u>RMX-2 Zone (59-C-10.3.7)</u>		
One-family detached	10-20% <sup>4</sup>	219
One-family attached (Live/Work included)	30-50%	656
Multi-family	25-45%	338
Total number of units in the RMX-2 Zone	1,428	1,213
<u>RDT Zone</u>	Not Applicable	0
<b>Building Height (feet)</b>		
<u>RDT Zone (59-C-9.4)</u>	50	50
<u>RMX-2 Zone<sup>5</sup></u>		
One-family detached (Lots 68 and 69, Block A-East Side)	To be determined at Site Plan	35
Accessory Structure	To be determined at	25

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

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

	Site Plan	
One-family attached/Townhouse (Lot 28, Block R-East Side)	To be determined at Site Plan	35
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Lots 15-21, 22-25 Block GG-West Side)	To be determined at Site Plan	38
Accessory Structure	To be determined at Site Plan	25
One-family attached/Townhouse (Block H-East Side)	To be determined at Site Plan	45
Accessory Structure	To be determined at Site Plan	25
New development standards for units/uses within the Retail Core area on the West Side <sup>6</sup>		
One-family attached/Townhouses	To be determined at Site Plan	44 <sup>7</sup>
Accessory Structure	To be determined at Site Plan	25
One-family attached/MPDU Townhouses	To be determined at Site Plan	44
Accessory Structure	To be determined at Site Plan	25
Live/Work Townhomes	To be determined at Site Plan	44 <sup>8</sup>
Liner Townhouses or	To be determined at	44 <sup>9</sup>

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

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

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

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

Duplex Courtyards	Site Plan	
Multi-family over commercial	To be determined at Site Plan	44 <sup>10</sup>
Library	To be determined at Site Plan	45 <sup>11</sup>
Grocery	To be determined at Site Plan	35 <sup>12</sup>
<b>Minimum Building Setbacks (feet)<sup>13</sup></b> (59-C-10.3.8)		
<u>Individual Building Setbacks for units within the RMX-2 Zone</u>		
<b>Commercial Buildings<sup>14</sup></b>		
From One-family residential zoning	100	50 <sup>15</sup>
From Residential zoning other than one-family	50	25 <sup>15</sup>
From any street <sup>16</sup>	25	0 <sup>15</sup>
From abutting commercial or industrial zoning	25	12.5 <sup>15</sup>
<b>Residential Buildings</b>		
From One-family residential zoning	100	50 <sup>15</sup>

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

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

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

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

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

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

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

From Residential zoning other than one-family	30	15 <sup>15</sup>
From any street	30	0 <sup>15</sup>
From abutting commercial or industrial zoning	30	15 <sup>15</sup>
<b>One-family detached</b>		
One-family detached (Lots 68 and 69, Block A-East Side)		
Main Building		
Front	To be determined at Site Plan	10
Rear	To be determined at Site Plan	25
Side	To be determined at Site Plan	3
Accessory Structures		
Side	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
<b>One-family attached/townhouse</b>		
(Lot 28, Block R-East Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
Accessory Structures		
Front	To be determined at Site Plan	60

Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
<b>One-family attached/townhouse</b>		
(Block H-East Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	3
Accessory Structures		
Front	To be determined at Site Plan	40
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
<b>One-family attached/townhouse</b>		
(Lots 15-21, Block GG-West Side)		
Main Building		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	5
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at	16

	Site Plan	
<b>Accessory Structures</b>		
Front	To be determined at Site Plan	60
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
<b>One-family attached/townhouse (MPDUs)</b>		
(Lots 22-25, Block GG-West Side)		
<b>Main Building</b>		
Front (Public Street)	To be determined at Site Plan	10
Front (Private Street)	To be determined at Site Plan	3
Side (Adjacent lot)	To be determined at Site Plan	0
Side (Adjacent Parcel)	To be determined at Site Plan	3
Rear	To be determined at Site Plan	3
<b>Accessory Structures</b>		
Front	To be determined at Site Plan	40
Side (Adjacent lot & Private street)	To be determined at Site Plan	0
Rear	To be determined at Site Plan	0
<b>Moderately Priced Dwelling Units (MPDUs)</b>		
RMX-2 Zone		
Total number of MPDUs	12.5%	12.5% (152)



<b>Green Area (% &amp; Ac.):</b>		
RMX-2 Zone (59-C-10.3.3) <sup>17</sup>		
Commercial portion	15%	50% (89 acres)
Residential portion	50%	49% (13 acres)
<b>Parking Facility Internal Landscaping (%)</b>	5	Not Specified but to be provided with the Certified Site Plan
<b>Parking (Sect. 59-E)</b>		
<u>East Side</u>		
One-family detached (200 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	400
One-family attached (townhouse) (401 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	802
Multi-family (123 d.u.s @ 1.5 spaces/unit)	1.5 spaces/unit	185
2/2-multi-family 54 d.u.s @ 2 spaces/unit	2 spaces/unit	108
<b>Total East Side Parking</b>		<b>1,456</b>
<u>West Side</u>		
One-family detached (19 d.u.s @ 2 spaces/unit including garage)	2 spaces/unit	38
One-family attached (townhouse)	2 spaces/unit	510

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

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

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

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

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

a. Buildings and Structures

The residential buildings and structures are appropriately and efficiently sited. As amended by the conditions of approval, the retail buildings are appropriately designed to accommodate the liner units, multi-family and live-work units around the periphery of the commercial center. The MPDUs are both clustered into the multi-family buildings and integrated into the townhouse sticks. The dumpster areas for the multi-family buildings are located directly adjacent to the units and are enclosed and screened adequately.

Further, the location, phasing, and total number of MPDUs conforms with the Plan of Compliance and Chapter 25A.

The Application proposes an appropriate site for a future civic building (library) by taking advantage of the views and access with a focus on key design elements. Parking for the civic building will need to be evaluated with the design of the building and access to the public and civic space. The proposed changes to the pool complex, including an addition to the existing Residents Club building for community meetings and events and an all-sports court, make better use of the available land and significantly enhance the functionality of this recreational space.

The Board accepted the revised design of the Grand Staircase, which includes a wider base, a consistent brick pattern representative of the retail core paving, and additional seating. The Board also accepted the revised design for the smaller sport court associated with the Resident's Club (Plan 'B'), which allowed for a larger pool deck area.

As conditioned, the parking structure is adequate, conveniently located, and tucked into the shell of the center in a manner that would enhance the pedestrian realm.

The extensive retaining walls on the west side of the retail center restrict further encroachment into the stream buffer and are safe, adequate and efficient.

b. Open Spaces

The plan continues to provide open space and green space throughout the development. The greenway running through the center of the site, as well as the Piedmont Woods Park, provides the majority of the open space on the property. There are also small squares and play areas dispersed throughout the community and green along the perimeter of the property. The open space along with existing and new trees will provide an attractive setting and visual character throughout the neighborhood.

The new "Town Green" and Sinequa Square will provide additional open space for civic and community gatherings and satisfy the program elements associated with the approved Plan of Compliance.

c. Landscaping and Lighting

The proposed landscaping consists of street trees for the public and private road network and around the parking facilities. Foundation planting is provided around the residential units and includes a mix of shade, evergreen, and flowering trees, and shrubs. Supplemental planting is called for along the perimeter and within buffer areas throughout, as well as enhancements to the streetscapes to account for previously built areas that are devoid of planting.

Staff's analysis recommends amended soil panels and street trees, brick sidewalks that are consistent with the base, pattern, and installation method specified in the Bethesda Streetscape Standards, benches, and light fixtures. The special paving in the retail core will be brick sidewalks, which are a more attractive pavement material.

The \$1 million for enhancement planting and streetscaping as conditioned in the Plan of Compliance will provide for additional landscaping throughout the development and further enhancements to the existing and proposed streetscape. The Board understands that this \$1 million in enhancement planting is in addition to the approximately \$1.133 million in substituted plan elements agreed to by the Applicant and CTCAC. The Board set December 31, 2008 as the deadline for the Applicant and CTCAC to provide Staff a list of the landscape designations accepted by both parties with a total cost estimate that does not exceed \$1 million

dollars. All of the enhancement items need to be shown on the Certified Site Plan.

The lighting plan for the subject amendment has been modified with respect to the design changes to the retail center and house sitings.

d. Recreation Facilities

Recreation facilities in CTC have increased through the Project Plan amendment and Site Plan with the addition of the Piedmont Woods Park, and additional amenities associated with Kings Local Park, Sinequa Square and the Residents' Club community building. Existing facilities have been installed on both the east and west sides of the greenway and include a variety of activities, including tot lot and multi-age play areas, open play areas, and community areas. Not all of the recreational facilities were installed in a manner consistent with the originally approved site plans but are being enhanced through this Application.

As amended with the conditions of approval, the recreational facilities and amenities conform to the M-NCPPC Recreation Guidelines and are adequate, safe and efficient.

e. Vehicular and Pedestrian Circulation

The majority of the infrastructure is in place on the East Side of the Greenway; to provide access from the street network directly to the units or to garage structures; however, the connection from the East Side to the West Side has not been constructed but will need to be open to traffic prior to the construction of Overlook Park Drive to Stringtown Road.

Currently, three vehicular access points (Public House Road, General Store Drive and Overlook Park Drive) exist from Clarksburg Road to the "West Side" of the Town Center," and align with the developments on the west side of Clarksburg Road. No additional access is proposed to Clarksburg Road; however, a future road connection to MD 355 and Stringtown Road is proposed with the current application. Public House Road is complete and connects with Clarksburg Square Road, of which only a portion is complete, but will eventually be the primary east-west connector from MD 355 to Snowden Farm Parkway. Overlook Park Drive is constructed to the intersection with Ebenezer Square Drive.

Access to the "East Side" consists of two existing public roads from Stringtown Road (Clarks Crossing Drive and Brightwell Drive) and four

points from Snowden Farm Parkway, including Clarks Crossing Drive, Burdette Forest Road, which provides frontage to the school, Murphy Grove Terrace and Catawba Hill Drive.

Future access to Piedmont Woods Park will align with Clarksburg Square Road on the east side of Snowden Farm Parkway. This access will not be permitted until the Applicant satisfies DOT and DPS requirements that pedestrian access across Snowden Farm Parkway is safe, adequate and efficient.

The future vehicular connection to MD 355 is supported by this application and County agencies with stipulations for the required right-of-way and relocation of the historic Horace Willson house by the Applicant.

The Fire Marshal of Montgomery County has reviewed existing and proposed road connections and finds that, as amended, the Application provides safe, adequate and efficient access to the structures.

Pedestrian circulation is provided within the public right-of-way through five-foot-wide internal sidewalks to facilitate pedestrian circulation throughout the development. Five-foot-wide internal sidewalks are also provided in front of each unit type to facilitate pedestrian circulation throughout the development. Additionally, striped crosswalks in the private alleys have been provided from the Manor House buildings to the dumpster enclosures.

Pedestrian circulation will be enhanced to signify the entrance to the Grocery from the public road through the use of special paving, lighting, awnings and landscaping. The conditions of approval require a secondary entrance to the Grocery from the main street to better improve the pedestrian activity and visibility from the street.

The eight-foot-wide bike trail (asphalt) is located on the east side of Overlook Park Drive and is an integral part of the Greenway trail system, linking Clarksburg Road to Stringtown Road and beyond. In order to maintain the green strip for planting, protect the environmental buffers and provide for the necessary stormwater management facilities, the path has been relocated outside of the PUE and the right-of-way while respecting the other site elements.

Staff's analysis supports the MCDOT's approved right-of-way and typical cross section for Overlook Park Drive as shown on the Site Plan and finds

that the roadway and associated bike trail will continue to be safe and adequate.

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

The structures and uses are compatible with other existing uses and site plans in the adjacent development with respect to having similar heights and massing. The location of the structures is also comparable to the location of existing structures within the development and surrounding communities.

The proposed uses are in scale with the overall development pattern envisioned with the original Project Plan and approved Site Plans. Higher density uses and heights are located internally near and within the future commercial center.

The reduction in the setbacks for the residential and commercial adequately responds to the type of development associated within the town center and properly respects the site boundaries and adjacent land and property.

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 FFCP for the residential and commercial areas only was approved by Environmental Planning staff on June 30, 1999 with amendments to the FFCP approved on August 16, 2002, August 27, 2002, September 9, 2002, December 27, 2004 and July 24, 2006. The Applicant must identify where an additional 0.40 acres of forest will be planted in the revised final forest conservation plan, in order to satisfy the Forest Conservation requirements. As conditioned, the requirements will be satisfied through on-site planting of 8.91 acres of plantings on the residential/commercial section of Clarksburg Town Center, 13.39 acres of plantings in Piedmont Park and 2.56 acres of landscape credit of reforestation and afforestation areas as well as through street tree credits. The planting is in addition to the existing forest being preserved on site.

Water quality plans are required as part of the Special Protection Area regulations. Under the SPA law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of the water quality plan. DPS conditionally approved the elements of the final water quality plan under their purview on July 1, 2008. The Planning Board is responsible for determining if the forest conservation requirements,

environmental guidelines for special protection areas, and site imperviousness requirements have been satisfied.

The proposed stormwater management concept and final water quality plan consist of on-site channel protection measures via thirteen extended detention dry ponds. These structures will provide channel protection measures via existing stormwater management ponds; on-site water quality control via sand filters, Stormfilters, biofiltration, and infiltration trenches; and on-site recharge via recharge trenches and additional storage below the surface sand filters. Stormwater management in the RDT zone area, outside the Special Protection Area, consists of on-site water quality control and on-site recharge via the use of biofiltration and non-structural measures. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

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

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

As anticipated in the Resolution approving the Plan of Compliance, there have been changes to certain elements of the Plan of Compliance. However, as amended by the conditions of approval, the Application substantially conforms to the requirements of the Plan of Compliance, and its approval is in the public interest because it will provide substantial enhancements to amenities and facilities for the Town Center and surrounding communities. The Application fulfills the requirements of the Plan of Compliance and serves the best interest of the public by providing substantial community enhancements over and above those required for the originally approved site plan, including a mixed-use center containing residential and non-residential uses,



vehicular and pedestrian infrastructure, a new local park with recreation facilities to serve the public, landscape enhancements within the site, and improvements to the existing Sinequa Square and community center. Although the Application provides for one parking structure instead of two, the amount of parking has been determined to be sufficient to serve the proposed development, and is designed in a manner that will enhance the pedestrian realm.

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

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

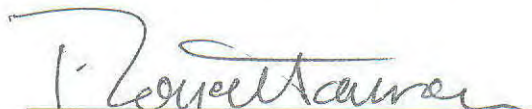
~~BE IT~~ FURTHER RESOLVED, that the date of this resolution is JUL 16 2009 (which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, and Cryor voting in favor of the motion, with Commissioner Presley recused and Commissioner Alfandre absent, at its regular meeting held on Thursday, July 9, 2009, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Royce Hanson, Chairman  
Montgomery County Planning Board



JUN 15 2010

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

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

**RESOLUTION**

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

WHEREAS, on December, 2008 (Resolution dated July 16, 2009), Site Plan No. 820070220, Clarksburg Town Center was approved for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 152 MPDUs, and a waiver to permit a reduction in the parking spaces, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially zoned properties, on approximately 270 gross acres in the RMX-2 and RDT zones;

WHEREAS, on May 27, 2010, the Planning Board held a hearing on Site Plan 82007022A for the correction and clarification of the unit mix and unit count, corrections to the data table

WHEREAS, on May 27, 2010, the Planning Board approved Site Plan Amendment No. 82007022A approved modifications to the original site plan in accordance with the original Site Plan and Plan of Compliance, which was approved July 27, 2006; and

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

1. To correct and clarify the unit mix and unit count in the approval and data table to indicate the following modifications. The data table only includes the modified sections as a result of the inconsistencies:

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

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Clarksburg, MD 20841 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

		Applicant
<b>Area of Dedication (ac.):</b>		
Public Streets	34.67	42.73
Park (dedicated to M-NCPPC)	95.99	80.14
Total Dedication provided:	140.17	132.42 <sup>1</sup>
<b>Net Site Area (ac.):</b>	129.83	137.08
<b>Density:</b>		
Residential	6.90 d.u./ac. based upon 175.00 acres 1,213 dwelling units	6.86 d.u./ac. based upon 175.73 acres 1,206 dwelling units
<b>Number of Dwelling Units:</b>		
RMX-2 Zone (59-C-10.3.7)		
One-family detached	219	219
One-family attached (live/work units included)	656	700
Multi-family	338	287
Total number of units in the RMX-2 Zone	1,213	1,206
<b>Green Area (%):<sup>2</sup></b>		
Commercial portion	50%	47.2%
Residential portion	49%	52.1%
<b>Parking (Section 59-E)</b>		
Total East Side Parking	1,456	1,495
West Side		
One-family attached (townhouse)	510 (255 d.u.'s @ 2 spaces/unit including garage)	504 (252 d.u.'s @ 2 spaces/unit including garage)
Multi-family	185 (110 du's @ 1.5	165 (110 du's @ 1.5

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

<sup>2</sup> The Green Area was modified as a result of the dedications.

	spaces/unit	spaces/unit
Live/Work	100 51 du's @ 2 spaces/unit	94 47 du's @ 2 spaces/unit
Retail <sup>3</sup>	695 139,700 sf @ 5 sp./1000 sf	746 149,180 sf @ 5 sp/1000 sf
Live/Work Retail	240 48,000 @ 5 sp/1000 sf	228 45,540 @ 5 sp/1000 sf
Total West Side Parking	1,789	1,775
Total Parking for Overall Development	3,284	3,270
Total Parking Provided	3,672	3,757
Min. Unit Type Distribution (%):		
One-family detached	18% (10-20 % Master Plan conformance)	18
One-family attached townhouses & Live/Work included	54% (30-50% Master Plan conformance)	58%
Multi-family	28% (25-45% Master Plan conformance)	24%

- a. Revise the approved resolution to replace 1,213 residential dwelling units and 152 MPDUs with 1,206 and 151, respectively;

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

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

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

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts

<sup>3</sup> The commercial square footage is reallocated but remains at 194,720 sf.

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

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

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

BE IT FURTHER RESOLVED, that the date of this written resolution is JUN 15 2010 (which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by Dreyfuss, with Commissioners Hanson, Wells-Harley, and Dreyfuss voting in favor of the motion, and with Commissioners Alfandre and Presley absent, at its regular meeting held on Thursday, May 27, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board



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

MCPB No. 13-125  
Site Plan No. 82007022B  
Clarksburg Town Center  
Date of Hearing: July 11, 2013

**JUL 16 2013**

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3 the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, by Resolution dated July 16, 2009 the Planning Board approved Site Plan No. 820070220 for 194,720 square feet of commercial development, including up to 69,720 square feet of specialty retail, and 1,213 residential dwelling units, including 152 MPDUs and a waiver to permit a reduction in the required number of parking spaces, and reconfirmed the previously approved reduction in setbacks from adjacent residentially zoned properties, on approximately 270 gross acres of RMX-2 and RDT-zoned land located at the northeast quadrant of the intersections with Stringtown Road and Frederick Road (MD 355) and bounded by Clarksburg Road to the north and Snowden Farm Parkway to the east ("Subject Property"), in the Clarksburg Policy Area, Clarksburg Master Plan ("Master Plan") area; and

WHEREAS, on May 27, 2010, the Planning Board approved Site Plan No. 82007022A (MCPB No. 10-59) to correct and clarify the unit mix and unit count, correct the data table, and remove a trash can; and

WHEREAS, on April 4, 2013, Miller and Smith and NNPII Clarksburg LLC (collectively, "Applicant") filed an application for approval of an amendment to the previously approved site plan to reinstate accessory structure setbacks for lots 10-14, Block GG; 9-14, 16, 19 & 20, Block K; 15-17, 26-34, 38 & 52-54, Block N; and confirm that based on the existing approved lot standards shown on the "Interim Amendment" (Sheet I-6) either single-family detached houses with garages or the previously shown "Courtyard" houses with attached garages can be built on lots 1-3, 35-37 & 55, Block N; and

WHEREAS, the April 4, 2013 application was designated Site Plan No. 82007022B, Clarksburg Town Center ("Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated June 28, 2013 setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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Approved as to  
Legal Sufficiency

Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, on July 11, 2013, the Planning Board considered the Application on its consent agenda; and voted to approve the Application by the vote certified below;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Site Plan No. 82007022B to reinstate accessory structure setbacks for lots 10-14, Block GG; 9-14, 16, 19 & 20, Block K; 15-17, 26-34, 38 & 52-54, Block N; and confirm that based on the existing approved lot standards shown on the "Interim Amendment" (Sheet I-6), either single-family detached houses with garages or the previously shown "Courtyard" houses with attached garages can be built on lots 1-3, 35-37 & 55 Block N on the Property by adding/modifying the following table:

<b>Zoning Ordinance Development Standard</b>	<b>Site Plan 820070220/A</b>	<b>Proposed Development Standard</b>
<b>Residential Accessory Structure Setbacks/Standards</b>		
<b>Setback (Inside Lot)</b>		
-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
<b>Setback (Corner Lot)</b>		
-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

BE IT FURTHER RESOLVED, that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Town Center drawings stamped by the M-NCPPC on March 22, 2013, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the hearing and set forth in

the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that this Amendment does not alter the intent, objectives, or requirements in the originally approved project and preliminary plan, and all findings not specifically addressed remain in effect; and

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

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

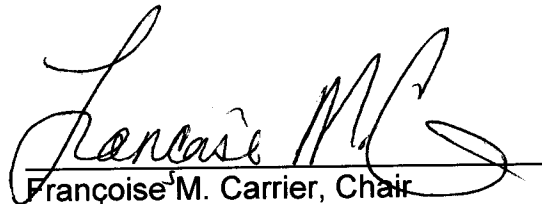
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 16 2013 (which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Anderson voting in favor, Commissioner Presley abstaining, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, July 11, 2013, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board





**JUL 23 2015**

MCPB No. 15-81  
 Site Plan Amendment No. 82007022C  
 Clarksburg Town Center  
 Date of Hearing: July 16, 2015

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review site plan applications; and

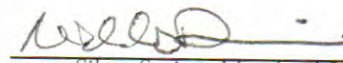
WHEREAS, on July 9, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220, for approval of a site for 265,660 square feet of commercial development, including 210,480 square feet of retail and 55,180 square feet of office, 1,240 residential dwelling units, including 155 MPDUs, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties on 270 acres of RMX-2 and RDT zoned land, located at the south east quadrant of the intersection of Clarksburg Road and Snowden Farm Parkway, in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area, ("Master Plan") area; and

WHEREAS, on May 27, 2010, the Planning Board approved Site Plan Amendment 82007022A (MCPB No. 10-59) to correct and clarify the unit mix and unit count, correct the data table, and remove a trash can; and

WHEREAS, on July 11, 2013, the Planning Board approved Site Plan Amendment 82007022B (MCPB No. 13-125) to reinstate accessory structure setbacks for lots 10-14, Block GG; 9-14, 16, 19 & 20, Block K; 15-17, 26-34, 38 & 52-54, Block N; and confirm that based on the existing approved lot standards shown in the "Interim Amendment" (Sheet I-6) either single-family detached houses with garages or the previously show "Courtyard" houses with attached garage can be built on lots 1-3, 35-27 & 55, Block N; and

WHEREAS, on November 26, 2013, Third Try L.C. ("Applicant"), filed an application for approval of an amendment to the previously approved site plans to construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on Parcel A, Block HH ("Subject Property") in support of Site Plan #820140050; and

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Approved as to  
 Legal Sufficiency:  7/9/15  
 8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320  
 www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, Applicant's application to amend the site plan was designated Site Plan Amendment No. 82007022C, Clarksburg Town Center ("Site Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 2, 2015, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 16, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Clarksburg Town Center Site Plan Amendment No. 82007022C for construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on the Subject Property in support of Site Plan #820140050, approved with this Amendment, by adding the following conditions:<sup>1</sup>

1. Project Plan Conformance

The Applicant must comply with the conditions of approval for Project Plan No. 91994004C as listed in MCPB Resolution No. 10-58 dated June 15, 2010 including any subsequent amendments.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 11995042A as listed in MCPB Resolution No. 08-163 dated December 11, 2008, including any subsequent amendments.

3. Forest Conservation & Tree Save

The Applicant must comply with the conditions of the approved Final Forest Conservation Plan and/or Tree Save Plan dated November 16, 2010.

a) The development must comply with the conditions of the approved Final Forest Conservation Plan (FCP) #820070220.

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

4. Water Quality

The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") Preliminary/Final Water Quality Plan approval letter dated February 27, 2014.

5. Landscaping

- a) Before issuance of any Use and Occupancy Certificate, all on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and pedestrian system and picnic/seating areas must be installed.
- b) The Applicant must install the landscaping no later than the next growing season after completion of site work.

6. Lighting

- a) Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for commercial development.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on proposed fixtures causing potential glare or excess illumination.
- d) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The light pole height must not exceed 12 feet as illustrated on the Certified Site Plan.

7. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board. The Agreement must include a performance bond(s) or other form of surety 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, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads, paths and associated improvements within the relevant phase of development. The surety must be posted before issuance of any building permit within each relevant phase of development and will be tied to the development program.
- 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 inspection and potential reduction of the surety.

- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each phase.

8. Development Program

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

9. 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 final forest conservation approval letter, Preliminary/Final Water Quality Plan approval letter, development program, Amendment resolution, and Site Plan #820140050 resolution on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "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."
- 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.

BE IT FURTHER RESOLVED, that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Town Center drawings stamped by the M-NCPPC on January 14, 2015, shall be required, except as modified by the above conditions of approval; and

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

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*

2. *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.*

The Amendment conforms with Project Plan 91994004C.

3. *The site plan meets all of the requirements of the zone in which it is located.*

The following data table demonstrates the Amendment's compliance with all development standards of the applicable zoning.

<b>Development Standard</b>	<b>Permitted/Required</b>	<b>Approved</b>
<b>Site Area (acres)</b>		
Gross Tract Area (GTA) RMX-2 Zone Parcel A, Block HH	n/a	<u>0.21 acres</u> 0.21 acres
Road Dedication	n/a	n/a
Net Area	n/a	0.21
<b>Density (SF)</b>		
▪ Ex. Commercial Building area	n/a	n/a
▪ Ex. historic house area (convert to commercial use)	n/a	n/a
▪ Total Ex. and proposed Commercial Building Area	n/a	n/a
<b>Min. Building Setbacks (feet)</b>		
Street ROW (59-C-4.343(a)(1))	10	n/a
Side (59-C-4.343(b)(3))	10	n/a
Rear (59-C-4.343(b)(2))	0	n/a
<b>Max. Lot Coverage (acres)</b>		
	n/a	n/a
<b>Max. Building Height (feet)</b>		
(59-C-4.342)	n/a	n/a
<b>Min. Green Area</b>		
(% of GTA) (59-C-4.344)	15% (0.03 acres)	67% (0.14 acres)
<b>Vehicle Parking Spaces (59-E)</b>		
Total parking	0	3.5 (in conjunction with Site Plan #820140050)
<b>Min. Parking Setbacks (feet)</b>		
Street ROW (59-E-2.71)	10	14

Bicycle Parking Spaces (59-E)		
	n/a	n/a

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

No buildings will be located on the Subject Property—this Amendment includes a parking area with approximately 3.5 spaces to function in conjunction with Site Plan No 820140050, approved alongside this Amendment.

The location of open space is adequate, safe, and efficient when combined with Site Plan #820140050. The Amendment shows open space on the periphery of the parking area, which provides adequate setbacks from adjacent uses and allows room for efficient landscape screening and stormwater management facilities.

The landscaping and lighting is adequate, safe, and efficient. A hierarchy of plant material including shade trees, ornamental trees and shrubs adequately provides shade, interest and screening for the parking areas. Street trees line both sides of Clarksburg Square Road. Interior lighting will create enough visibility to provide safety in the parking area but not so much as to cause glare on the adjacent roads or properties.

No recreation facilities are required for this Amendment.

The pedestrian and vehicular circulation systems are adequate, safe, and efficient when viewed alongside Site Plan #820140050. Sidewalks are provided along Clarksburg Square Road and MD355, which adequately and efficiently integrates this project into the surrounding area. This Amendment enables a major vehicular connection between the future Clarksburg Town Center and MD355 at the Historic District. This connection recommended in the Master Plan creates adequate capacity in the area for future development and efficient vehicular circulation. Within the overall site, vehicular circulation is limited to the parking area with two access points, one off Clarksburg Square Road and the other off Clarksridge Road immediately to the east of the Subject Property. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation.

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

There are no structures located within the Subject Property. The approved parking lot, driveway approach, and stormwater management features which support Site Plan #820140050 are compatible with other uses, site plans, and with existing and proposed adjacent development.

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 Subject Property is in compliance with the approved Forest Conservation Plan for the Clarksburg Town Center (820070220). Under the FCP, all existing vegetation on the Subject Property is approved to be cleared, as indicated by the Limits of Disturbance (LOD) at the edges of the Subject Property. The Application demonstrates that the proposed construction for Clarksburg Square Road extension will not alter this approved LOD. A variance for tree removal is not required because all vegetation was approved to be removed prior to the enactment of the tree variance provision.

The Subject Property is subject to the SPA Preliminary/Final Water Quality Plan conditionally approved by a MCDPS letter dated February 27, 2014, and as approved by the Planning Board with Preliminary Plan No. 120140060 and Site Plan No. 820140050.

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

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

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 23 2019 (which is the date that this resolution is mailed to all parties of record); and


BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, with Commissioner Presley abstaining, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, July 16, 2015, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board





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

MCPB No. 15-86  
Site Plan No. 82007022D  
Clarksburg Town Center  
Date of Hearing: July 23, 2015

SEP 21 2015

**RESOLUTION**

WHEREAS, under Section 7.1.2 of the Montgomery County Code the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on July 16, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220, for 194,720 square feet of commercial uses, which includes up to 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 152 moderately priced dwelling units ("MPDUs"); on approximately 270 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Rd and Frederick Rd (MD 355) ("Subject Property"), in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area and as amended in 2011<sup>1</sup> ("Master Plan") area; and

WHEREAS, on June 15, 2010, the Planning Board approved an amendment to the Site Plan No. 820070220, designated as Site Plan Amendment 82007022A (MCPB No. 10-59) to correct the unit count from 1,213 to 1,206 residential dwelling units including 151 MPDUs on the Property; and

WHEREAS, on July 11, 2013, the Planning Board approved an amendment to the Site Plan No. 82007022A, designated as Site Plan Amendment 82007022B (MCPB No. 13-125) 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 on the Subject Property; and

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

Approved as to  
Legal Sufficiency:

*[Signature]* 8/27/15

WHEREAS, on July 23, 2015, the Planning Board approved an amendment to the Site Plan No. 82007022B, designated as Site Plan Amendment 82007022C (MCPB No. 15-81) for construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on Parcel A, Block HH in support of Site Plan #820140050 on the Property; and

WHEREAS, on August 28, 2014, Third Try LC ("Applicant") filed an application for approval of an amendment to the previously approved site plans including the following modifications:

- 1) Reduce the total number of residential units by 86, from 1,206 to 1,120;
- 2) Increase commercial square footage by 11,465 square feet, which includes the addition of office and medical uses yielding a total of 206,185 square feet;
- 3) Revise the design and layout of the Commercial Core;
- 4) Redesign Block H;
- 5) Add a Community Building to the Residents' Club;
- 6) Add a parking area on Sinequa Square;
- 7) Revise Kings Pond Local Park and Piedmont Woods Local Park; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 82007022D, Clarksburg Town Center ("Site Plan," "Amendment" or "Application"); and

WHEREAS, in accordance with Section 59-7.7.1.B.1 of the Montgomery County Code, this Application is being reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 9, 2015, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 23, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 23, 2015 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 3-0; Commissioners Anderson, Dreyfuss and Fani-Gonzalez voting in favor. Commissioner Wells-Harley was absent from the hearing, and Presley was recused from participating.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82007022D for 206,185 square feet of commercial, which includes up to 129,545 square feet of retail and 76,640 square feet of office; and 1,120 residential

dwelling units, including 140 MPDUs; with reconfirmation of the previously approved reduction in setbacks from adjacent commercially-zone properties, subject to the following conditions:<sup>2</sup>

### **Conformance with Previous Approvals & Agreements**

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan No. 91994004D (MCPB No. 15-95).

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 11995042B (MCPB No. 15-92).

3. Site Plan Conformance

The development must comply with the conditions of approval for Site Plan No. 82007022C, unless modified by this approval, and as shown on the Certified Site Plan.

### **Environment**

4. Forest Conservation & Tree Save

The Applicant must comply with the conditions of the approved Final Forest Conservation Plan No. 82007022D dated June 4, 2015.

- a. The Applicant must submit and obtain Staff approval of a revised Final Forest Conservation Plan as described below.
  - i. All areas of forest retention and planting that are protected in a Category I conservation easement or through dedication to the M-NCPPC Parks Department must be clearly delineated on the Forest Conservation Plan.
  - ii. The conservation easements and 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. All references to the "viewshed management plan" must be removed from the Final Forest Conservation Plan.
  - iii. All landscape plantings receiving forest conservation credit must be outside of any public road right-of-way, and any other easements,

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<sup>2</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

including stormwater management easements and utility easements.

- b. 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 approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
- c. The Applicant must install permanent Category I conservation easement signage along the perimeter of the conservation easements.
- d. The Applicant must install permanent M-NCPPC Parks Department property line posts along the perimeter of the park dedication areas.
- e. 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 land owner.
- f. 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.
- g. The Applicant must submit a five year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Subject Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
- h. 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.
- i. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
- j. 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 inspector at the pre-construction meeting.
- k. 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 prior to the start of any demolition, clearing or grading on the Subject Property.

5. Water Quality

The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") Final Water Quality Plan approval letter dated June 23, 2015.

**Public Use Space, Facilities, Amenities and Parks**

6. Public Use Space, Facilities, and Amenities

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

7. Piedmont Woods Local Park

- a) A Park Development Permit will be required for any improvements made to Park property or dedications for parkland. All facilities to be constructed by 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.
- b) 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. Applicant will review and revise plant species based on direction from M-NCPPC Department of Parks staff.
- c) 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.
- d) All plant material installed within the Subject Property shall be warranted by the Applicant for two years from the date of substantial completion.
- e) 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.

8. Kings Pond Local Park

- a) Prior to release of the 1001st Building Permit, all required improvements to Kings Pond Local Park shall be installed per the approved Park Permit plans.

b) A Park Permit shall be obtained by the Applicant for any improvements made to Park Property or dedications for parkland. The permit application shall be filed immediately following approval of the certified site plans to avoid a delay in the issuance of residential building permits. All facilities to be constructed by the 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 permit process, at the direction of Park Development Division, without requiring a revision to the site plan. The Park Permit set will also include sediment control/stormwater management drawings and calculations as required by DPS, utility plans, an NRI/FSD and Forest Conservation Plan or exemption, and any permit, approval, and information (including specifications) necessary to construct the project.

9. Common Open Space Covenant

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

10. Recreation Facilities

The Applicant must provide at a minimum the following recreation facilities onsite as shown on the Certified Site Plan:

<b>Location</b>	<b>Public facilities and amenities</b>
West Side	(1) tot lot Town Green including: - Amphitheater & stage - Open play area II Plaza with splash fountain 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 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

11. Maintenance of Public Amenities

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

12. Civic Parcel and Town Green

a. Prior to the release of the 88<sup>th</sup> building permit in Block BB:

i. Parcel K, Block BB ("Civic Parcel")

- The Applicant must complete improvements, which includes grading per the finished floor grades and seeding, per "Interim Conditions" shown on the western portion of the Civic Parcel (intended as the ultimate location of the Civic Building) as shown on the Certified Site Plan.
- The Applicant must complete construction of paths and seating areas on the center portion of the Civic Parcel as shown on Sheet WS04 of the Site Plan.
- The Applicant must complete construction of the parking lot serving the Civic Parcel, the screening wall adjacent to the parking and parallel to Clarksburg Square Road, and landscaping and lighting to serve the parking lot, all as shown on the Certified Site Plan.

ii. Parcel L, Block BB ("Town Green")

The Applicant must complete construction of the amphitheater and stage, install the amphitheater seat walls and landscaping, and sod/seed the area, all as shown on Parcel L, Block BB of the certified Site Plan.

b. Prior to the release of the 1,051 residential building permit, the Applicant must dedicate the entire Civic Parcel to Montgomery County. In the event Montgomery County has not either entered into an agreement with the Applicant or appropriated funds for the design and construction of the Civic

Building by the time that dedication is required, the Applicant may build the Civic Building and lease the Building for uses that serve the community, such as a civic building, event center, recreation center, as contemplated by Civic and Institutional Uses as defined in the Zoning Ordinance (excluding Ambulance, Rescue squad, and Hospital), first giving a right of 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, Applicant can lease the space to tenants that provide services to the Clarksburg community.

## **Transportation & Circulation**

### **13. Transportation**

- a) 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 General Store 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, except as provided above.
- b) Provide wheel stops in surface parking areas abutting sidewalks.

### **14. Pedestrian & Bicycle Circulation**

- a) 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.
- 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 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 Applicant must construct a 4-foot wide natural surface trail within the Greenway. Prior to Certified Site Plan, the general alignment of the trail will be coordinated with M-NCPPC Parks Staff subject to field adjustments.

### **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 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. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services ("MCFRS") Fire Code Enforcement Section in its letter dated June 24, 2015, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

**Density & Housing**

17. Density

The development is limited to a maximum of 206,185 SF of commercial uses (including office and retail), and a maximum of 1,120 dwelling units (including 12.5% MPDUs), on 270.92 acres.

18. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Department of Housing and Community Affairs ("DHCA") in its letter dated June 1, 2015, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a) The development must provide 12.5 percent MPDUs on-site as shown on the Certified Site Plan consistent with the requirements of Chapter 25A and the applicable Master Plan.
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and DHCA must be executed.

**Site Plan**

19. Architectural Design/Compatibility

- a) The 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 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.

## 20. Landscaping

- a) Revise note on Landscape Set to the following language "Any on-lot landscaping and alley landscaping previously shown for existing houses and not installed, is not the responsibility of the Applicant."
- b) Provide typical foundation plantings for residential units on the certified site plan.

## 21. Lighting

- a) Before issuance of the any building permit, the Applicant must provide certification to Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for residential and commercial development.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on all proposed fixtures causing potential glare or excess illumination.
- d) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The light pole height must not exceed 12 feet including the mounting base on private streets and 30 feet in private parking areas; except the light fixtures in the parking areas for the Civic Building and for the commercial area adjacent to units 33-38 and 58-63 in Block GG must be replaced with light fixtures with a maximum light pole height of 12 feet consistent with the fixture on private streets.
- f) On top of the optional parking structure, the light pole height must not exceed 12 feet above the top of the parapet wall including the mounting base.

## 22. Site Plan Surety and Maintenance Agreement

Before issuance of the 1<sup>st</sup> building permit for any Block or Phase, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board for that Block or Phase. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) 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, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and alleys, curbs and gutters along all private roads and alleys, paths and associated improvements within the relevant phase of development. The surety must be posted before issuance of the any building permit within each relevant Block or Phase of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each Block or Phase of development will be followed by inspection and potential reduction of the surety.
- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each Block or Phase.

## 23. 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 final forest conservation approval letter, stormwater management concept approval letter, development program, and Resolution on the approval or cover sheet(s).
- b) Add a note stating that "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."
- c) Modify data table to reflect development standards approved by the Planning Board.
- d) Address Eplans markups including minor clarifications and corrections to the plan drawings.

## 24. Development Program

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

<b>Development Program Table</b>	
<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 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 <b>30<sup>th</sup></b> residential building permit in Block GG	<b>Harness Point tot lot</b> 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 <b>26<sup>th</sup></b> residential building permit in Block H	Grading, seeding, seating areas, lighting and landscaping must be installed in <b>Block H</b> (the 26 <sup>th</sup> building permit represents the 75 <sup>th</sup> percentile of all remaining building permits to be issued in Block H).
Before issuance of the <b>88<sup>th</sup></b> 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 <b>901<sup>st</sup></b>	Clarksburg Square Road land bridge improvements

residential building permit	must be bonded.
Prior to the issuance of <b>951<sup>st</sup></b> residential building permit	<p><b>Resident’s Club/Sinequa Square:</b></p> <ul style="list-style-type: none"> <li>▪ The Residents Club building addition must be completed and UNO 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><b>Clark Family Memorial:</b></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><b>Roads:</b></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 <b>975<sup>th</sup></b> 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 <b>1,001<sup>st</sup></b> residential building permit	<p>Construction of <b>Kings Pond Local Park</b> substantially complete; all amenities to be installed, including the multi-age play area, trails, picnic tables, grills, porta john enclosures, and fishing pier.</p> <p>Trail connection to Clarksburg United Methodist <b>Church</b> and associated landscaping must be installed per agreement with the Church.</p>
Prior to the issuance of the <b>1,051<sup>st</sup></b> residential building permit	<p>Construction of <b>Piedmont Woods Local Park</b> 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 Applicant or appropriated funds for the design and</p>

	construction of the Civic Building. (Condition #12)
Prior to: 1. The issuance of <b>1,051st</b> residential building permit, and 2. The issuance of first UNO for the Retail/ commercial area	<b>Roads:</b> <ul style="list-style-type: none"> <li>▪ General Store Drive 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 Phase	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.
Before issuance of the final use and occupancy certificate or prior to release of the Performance Bond or Surety for each Block or Phase	Street lamps and sidewalks adjacent to each building must be installed. Street tree planting may wait until the next planting season.
	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.
Before issuance of the final occupancy certificate for the final unit in each stick adjacent to the Mews in Block BB	<b>Residential Mews in Block BB:</b> Mews, pedestrian pathways, sidewalks, landscaping and lighting adjacent to each stick of townhomes or 2/2 unit will be installed excluding stormwater management facilities.
Prior to the issuance of the UNO for 100,000th SF (approximately 50th percentile) of commercial space	Splash fountain must be installed and UNO for fountain issued.

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Town Center drawings at the end of Review Cycle no. 2 as submitted via ePlans to the M-NCPPC, shall be required, except as modified by the above conditions of approval; and

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

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.*

Neither a development plan, diagrammatic plan nor schematic development plans were required for the Subject Property. The Site Plan Amendment is consistent with the concurrent Project Plan Amendment No. 91994004D for the Clarksburg Town Center in terms of land uses and maximum densities, design layout, development standards, and conditions of approval.

#### Compliance Plan

The Amendment substantially conforms to the requirements of the Compliance Plan, as modified by the Planning Board with approved Site Plan No. 820070220, which called for significant improvements to the Town Center in-lieu-of pending or existing fines imposed as penalties for the many violations. The key elements of the Compliance Plan, such as the completion of the roads and the commercial center, the dedication of land for the Civic Building, the improvements to Piedmont Woods Park, the new connections to the church, and the additional parking and Community Building at the Residents' Club are all being provided. Where the Amendment departs from the Plan of Compliance, the Planning Board considered whether such departures were consistent with the public interest. The Planning Board finds that the Amendment serves the public interest because it completes the unbuilt portions of the Clarksburg Town Center community and improves several major roadways surrounding the project.

Since 2009, when Site Plan No. 820070220, which included components of the Compliance Plan, was approved, the circumstances surrounding this the Clarksburg Town Center development have evolved. Factors include: 1)

Newlands, the applicant who was responsible for many of the violations, and the County have reached an agreement under which Newlands has been finishing many of the items called for in the Compliance Plan, and the County will complete certain other improvements for which public funding has been secured; 2) Third Try, the current Applicant, has taken over the project and will complete the unbuilt portions of the community as previously approved or as amended by this Application; and 3) the community has undergone a natural changeover with new residents bringing new aspirations to the mix, which led to a number of outreach efforts by the Applicant and Staff.

Collectively, these evolving circumstances prompted modifications to the layout, design elements and even some facilities. For example, recreation facilities included within Kings Pond Local and Piedmont Woods Local Parks are a direct response to community feedback compiled via an online survey and online comment tool combined with a community meeting held by the Parks Department. Other modifications are the result of close coordination with specific interest and user groups. For example, the Applicant worked closely with 1) the Clarksburg United Methodist Church on the ADA-accessible pathway connecting Clarksridge Road to the Church, which replaces the grand staircase previously approved; 2) the Clarksburg Historical Society on the modifications to the design and location of the Clark Family Memorial, and 3) Clarksburg Town Center Pool and Rec Committee on the additions to the Residents' Club, including the New Community Building and parking in Sinequa Square.

Overall, the Amendment meets the intent and spirit of the Plan of Compliance 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.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Subject Property is split-zoned RMX-2 and RDT per the Zoning Map in effect on to October 29, 2014. The Application meets the general requirements and development standards of the RMX-2 zone, under the optional method of development, and RDT zone, as demonstrated in the Data Table below. The Amendment also complies with the development standards of the RDT Zone, separate and aside from the provisions for the optional method of development. The RDT Zone encompasses the proposed Piedmont Woods Park on the northeast side of Snowden Farm Parkway.

This Amendment meets the density requirements of the zones and recommendations in the Master Plan. The residential density at 6.27 du/ac is below the maximum density of 7 du/ac recommended by the Master Plan (p.55).



The commercial density at 0.18 FAR is well below the maximum 0.5 FAR allowed and the gross leasable floor area is well below the maximum 600,000 SF allowed by the RMX-2 Zone. The Clarksburg Town Center includes a total of 1,120 units, including 12.5% MPDUs, consisting of one-family detached, one-family attached and multi-family units, in addition to 206,185 square feet of commercial uses, including both office and retail, and civic uses.

The Planning Board approves the reduction of the minimum setback requirements of Section 59-C-7.15(b) of the Zoning Ordinance to allow two townhouse units in Block GG to be located less than 30 feet away from an abutting commercial or industrial zoning, such as the CRN Zone in the Clarksburg Historic District. The Zoning Ordinance allows the Planning Board to reduce this setback by no more than 50% "upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property." The 50% setback reduction will not adversely affect the adjacent property or the new residential units. The orientation of the units and landscaping provided improves compatibility between the two zones. In addition, uses in the CRN Zone are oriented towards MD 355 and away from the new residential units. A reduction of the minimum setback requirements has been applied to other portions of the development that have been built; therefore, the setback reduction is consistent with prior Planning Board determinations.

The Amendment meets parking requirements pursuant to Section 7.7.1.B.3.b of the Zoning Ordinance in effect as of October 30, 2014, which allows grandfathered plans to reduce the parking requirements of a previously approved plan in a manner that satisfies the parking requirements of the current Zoning Ordinance. Therefore, the parking waiver requested by the Applicant for the commercial core to decrease the parking from 876 to 586 spaces is not necessary. The residential parking requirements are met through private garage spaces, on-lot pad sites and surface parking facilities.

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the of the RMX-2 zone, under the optional method of development, and RDT zone.

**Data Table**

<b>Development Standard</b>	<b>Zoning Ordinance Permitted/ Required</b>	<b>Previously Approved with Site Plan 82007022C</b>	<b>Approved &amp; Binding on Applicant</b>
<b>Site Area (acres)</b>			
Gross Tract Area (GTA)	n/a	<u>270.0</u>	<u>270.92</u>
Area in RMX-2		204.0	204.92
Residential			(178.63)
Commercial			(26.29)
Area in RDT		66.0	66.0
Land to be Dedicated for public use	n/a	<u>132.92</u>	<u>130.45</u>
Land for Civic Building		0.89	1.10
School Land to MCPS		1.92	1.92
School Land to MNCPPC		7.24	7.24
Park Land to MNCPPC		80.14	83.02
ROW for Public Streets		42.73	37.17
Net Area	n/a	137.08	140.47
<b>Density &amp; Land Use</b>			
Max. Commercial (FAR) [59-C-10.3.4]	0.5 (300,000 SF)	0.16 (194,720 SF)	0.18 <sup>3</sup> (206,185 SF)
Max. gross leasable (non-residential) floor area (SF) [59-C-10.3.5]	600,000	194,720	206,185
Commercial Land Use (SF)			
Retail	150,000	194,720	129,545
Office	n/a	0	76,640
Residential D.U.s [59-C-10.3.6] (> 30 acres site area)	150 min.	1,206	1,120
Max. Residential Density (du/acre) [59-C-10.3.7]	7 d.u./acre <sup>4</sup> (1,428 d.u.)	6.86	6.3 <sup>5</sup>
Unit Mix <sup>6</sup>			
One-family detached	10-20%	219 (18%)	219 (19.6%)
One-family attached	30-50%	700 (58%)	665 (59.3%)

<sup>3</sup> Calculated by dividing total gross floor area by 26.29 acres, which is the area covered by commercial uses in the RMX-2 Zone.

<sup>4</sup> Max residential density established by the 1994 Clarksburg Master Plan, p.43.

<sup>5</sup> Calculated by dividing the total number of units by 178.63 acres, which is the area covered by residential uses in the RMX-2 Zone.

<sup>6</sup> Mix of units allocated by the 1994 Clarksburg Master Plan, p.44.

Multi-family	25-45%	287 (24%)	236 (21.1%)
MPDUs [Chapter 25A]	12.5%	12.5%	12.5% (140 MPDUs)
<b>Min. Building Setbacks (ft)</b> [59-C-10.3.8]			
From one-family residential zoning <sup>7</sup>			
- Residential buildings	100	50	50
- Commercial buildings	100	50	50
From residential zoning other than one-family <sup>5</sup>			
- Residential buildings	30	15	15
- Commercial buildings	50	25	25
From Any Street <sup>5</sup>			
- Residential buildings	0	0	0
- Commercial buildings	0	0	0
From abutting commercial or industrial zoning (CRN Zone) <sup>5</sup>			
- Residential buildings	30	15	15
- Commercial buildings	25	12.5	12.5
<b>Min. Individual Lot Setbacks</b>			
One-family attached (Block BB) Lots 1-88			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front/Side)			5
Private Street (Front)			5
Private Street/Alley (Side)			3
Sideyard (Interior Unit)			0
Sideyard (End Unit)			3
Rearyard			5
Accessory Structure Setbacks			
Frontyard			50
Sideyard (Adjacent lot)			0
Sideyard (Street/Alley)			0
Rearyard			0
Multi-Family Attached (Block BB) Parcel H, Bldg A-D			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front/Side)			5

<sup>7</sup> The Planning Board may reduce the minimum setbacks, no greater than 50%, upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property.

Private Street (Front/Side)			5
Sideyard (Adjacent lot/Parcel)			5
Rearyard			5
Accessory Structure Setbacks			
Frontyard			40
Sideyard (Adjacent lot)			0
Sideyard (Private Street)			0
Rearyard			0
<b>Civic Building/Library/Stage (Block BB) Bldg 13 &amp; 14</b>			
Main Structure Setbacks			
Public Street (Front/Side)			5
Private Street (Front/Side)			5
Sideyard (Adjacent lot/Parcel)			5
Rearyard			5
Accessory Structure Setbacks			
Frontyard			40
Sideyard (Adjacent lot)			0
Sideyard (Private Street)			0
Rearyard			0
<b>One-family attached (Block GG) Lots 22-24, 33-34</b>			
Main Structure Setbacks	To be determined at Site Plan		
Public Street (Front)		10	5
Private Street (Front/Side)		5	5
Frontyard		n/a	5
Sideyard (Interior Unit)		0	0
Sideyard (End Unit)		3	3
Rearyard		16	5
Accessory Structure Setbacks			
Frontyard		60	50
Sideyard (End Unit/Street)		0	0
Sideyard (Interior Unit)		0	0
Rearyard		0	0
<b>One-family attached (Block H) Lots 25-60</b>			
Main Structure Setbacks	To be determined at Site Plan		
Public Street (Front/Side)		10	5
Frontyard		3	5
Sideyard (Interior Unit)		0	0
Sideyard (End Unit)		3	3
Rearyard		3	5
Accessory Structure Setbacks			

Frontyard		40	40
Sideyard (End Unit/Street)		0	0
Sideyard (Interior Unit)		0	0
Rearyard		0	0
<b>HOA Community Building (Block J) Parcel H, Bldg 15</b>			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front)			5
Public Street (Side)			5
Frontyard			5
Sideyard			5
Rearyard			5
Accessory Structure Setbacks			
Public Street			5
Frontyard			5
Sideyard			0
Rearyard			0
<b>Max. Building Height (ft)</b>			
Residential	To be determined at Site Plan		
One-family attached			
Lots 1-88, Block BB			40
Lots 81-88, Block BB			45
Lots 33-38, Block GG			45
Lots 39-77, Block GG			40
Lots 25-60, Block H			40
Multi-family			55
Accessory structures			25
Commercial	To be determined at Site Plan		
Building 1			60
Building 2			35
Building 3			35
Building 4			70
Building 5			35
Building 6			35
Building 7			35
Building 8			40
Building 9			35
Building 10			35
Building 11			40
Building 12			70
Building 13			55
Building 14			30
Building 15			40

<b>Min. Green Area or outside amenity area [59-C-10.3.3]<sup>8</sup></b>			
Residential (178.63 acres)	50%	52.1%	51.8% (91.83 ac.)
Commercial (26.29 acres)	15%	47.2%	51.6% (13.81 ac.)
<b>Vehicle Parking Spaces [Section 7.7.1.B.3.b]<sup>9</sup></b>			
<b>East Side Residential</b>			
One-family attached (36 units)	72 (2 spaces/unit)		72
Visitor spaces (Block H)	n/a		13
Residents Club	n/a		54
Subtotal	72	n/a	139
<b>West Side Residential</b>			
One-family attached (133 units)	266 (2 spaces/unit)		266
Multi-family 2-over-2 (58 units)	116 (2 spaces/unit)		116
Visitor spaces	n/a		
Block GG			10
On-street private			30
On-street public			72
Subtotal	382	n/a	494
<b>West Side Mixed-Use Commercial</b>			
Retail (111,545 SF GLA)	Min 390/ Max 669		
Restaurant (22,000 SF)	Min 88/ Max 264		
Office – General (31,360 SF)	Min 63/ Max 94		
Office – Medical (45,280 SF)	Min 45/ Max 181		
Civic (20,000 SF)	Min 0.5/ Max 2		
Subtotal	Min 596/ Max 1,248		886
Total spaces	Min 1,050	n/a	1,519
<b>Bicycle Parking (number of racks)</b>			
King's Pond Park			5
Piedmont Woods Park			8
Resident's Club			4
Regional Center/Library			9
Retail Core Area			28
Total	5%/sp provided	n/a	54
<b>Motorcycle Parking</b>			
Number of spaces	18 (2%/sp provided)	n/a	20

<sup>8</sup> Green Area is calculated based on 204.92 acres in the RMX-2 Zone. Piedmont Woods Park is in the RDT Zone and not part of the calculations for Green Area.

<sup>9</sup> Parking calculated pursuant to Section 7.7.1.B.3.b of the Zoning Ordinance in effect after October 30, 2014, which allows grandfathered plans to reduce the parking requirements of a previously approved plan in a manner that satisfies the parking requirements of the current Zoning Ordinance.

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

- a) Buildings and Structures

The locations of buildings and structures are adequate, safe, and efficient. On the west side of the Greenway, the Commercial Core consists of several non-residential buildings fronting on General Store Drive (private) and Clarksburg Square Road. These buildings are adequately located with minimum front setbacks from the roads and served with surface parking areas in the rear. Locating retail buildings closely together, orienting them towards General Store Drive and allowing for restaurant outdoor seating areas reinforces the retail and pedestrian character of this road. The grocery store, which fronts a large area of surface parking, is lined with retail buildings on the side that faces on General Store Drive. This will efficiently activate the side façade of the grocery store, while meeting their strict orientation requirements. Office buildings are adequately located along Clarksburg Square Road and they efficiently complement the mix of uses provided. The office building closest to the Greenway is shown with an optional slip deck, which will accommodate additional parking should an additional story of office space be constructed.

The pad site for the future civic building is efficiently located at the terminus of General Store Drive, where it meets Clarksburg Square Road, which maximizes visibility and presence at the center of the community. A parking area easily accessed off Clarksburg Square Road will serve the future building. Both the building pad site and the constructed parking area will be dedicated to Montgomery County. As conditioned, in the event that Montgomery County has not either entered into an agreement with the Applicant or appropriated funds for the design and construction of the Civic Building prior to the time established for the dedication, the Applicant may build the Civic Building and lease the Building for uses that serve the community, giving a right of first refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose. This timing mechanism with alternatives will add certain accountability to the process and avoid having an empty pad site when the remainder of the Town Center is complete.

The residential areas surrounding the Commercial Core consist mostly of one-family attached units and some multi-family (2-over-2) units with MPDUs included in the two unit types. Several residential units front onto public roads, such as Clarksburg Square Road, Overlook Park Drive and Ebenezer Chapel Drive, which adequately frame these roads and help activate them. Other residential

units front onto private streets, such as Martz Street located internally within the larger Block, and serve similar purposes as those fronting public roads. Still other residential units front onto open spaces or mews, such as the Town Green or the mews that follows the alignment of General Store Drive, and they benefit from having an amenity at their doorstep. Locating residential units in proximity to commercial and civic uses promotes walkability. The MPDUs provided by this Amendment are both clustered into the multi-family buildings and integrated into the townhouse sticks.

On the east side of the Greenway, Block H includes 35 one-family attached units rear-loaded from an internal alley system. The majority of the units are oriented towards an internal green space, and some towards Clarksburg Square Road and Clarksmeade Drive, which is consistent with the orientation of existing units.

Adjacent to the existing Residents' Club, the Amendment provides a new Community Building that includes a large multi-purpose room, with the approximate capacity of 80-100 people, envisioned to accommodate large community events, such as, annual HOA meetings, exercise classes, and movie nights. Locating the new building in proximity to the existing Residents' Club and the swimming pool maximizes the synergy between the buildings and expands the recreational uses provided. The new building will have direct access to/from the street and the pool area. The Amendment efficiently addresses parking needs of the Resident's Club/swimming pool by providing a new parking area on Sinequa Square across from the Resident's Club. The location of the parking provides safe access to the buildings while allowing for through movement of cars.

The use of retaining walls on the west side of the retail center limits the amount of encroachment into the stream buffer and other environmentally sensitive areas. By revising the grading in Kings Pond Local Park, retaining walls were no longer necessary and were eliminated.

b) Open Spaces

The open spaces provided are adequate, safe, and efficient. The Amendment provides a diverse range of open spaces, which enrich the recreational opportunities for the residents and visitors of this community, while providing relief from the density proposed. Integral to the design and layout of this community is the location of existing natural features and environmentally sensitive areas. The dominant open space feature is the Greenway, which is a large area of contiguous open space, protecting environmentally sensitive areas, that traverses this development generally in the north-south direction. The northern terminus of the Greenway includes Kings Pond Local Park with several



recreational facilities described more fully below. North of the land bridge, the Greenway includes the John Clark Family Memorial, which was re-designed in coordination with the Clarksburg Historical Society.

Piedmont Woods Park, with 66 acres, is another significant area of open space to be dedicated to M-NCPPC. This large park offers areas of active recreation, forest, and open meadow.

On the West Side of the Greenway, the Town Green, located adjacent to the future Civic Building, takes prominence at the corner of Clarksburg Square Road and Public House Road. It is efficiently designed to take advantage of the drop in elevation and provide amphitheater type of seating with a stage area in the center for events and performances. The Town Green will be owned and maintained by the commercial HOA.

Across from the Civic Building on the opposite side of Clarksburg Square Road, a hardscaped plaza with a splash fountain and seating provide a key amenity and activation for the surrounding retail, restaurant and office uses. The character and materials of the plaza complement the surrounding architectural and streetscape treatment. Given its location and curvature of General Store Drive (private), the plaza effectively functions as a focal point for the Commercial Core.

Another important open space on the West Side is the pedestrian mews, which follow the alignment of General Store Drive. The Amendment converts a portion of the approved General Store Drive into a pedestrian only mews with residential units fronting onto it. This creates an adequate and safe amenity for the residents while promoting efficient pedestrian circulation through the residential areas.

On the East Side of the Greenway, the Amendment continues to provide Sinequa Square as open space although the size is reduced to accommodate much needed parking for the Resident's Club. Sinequa Square will include seating areas and additional landscaping. On Block H, the layout provides a centrally located green space with seating.

The diversity of open spaces provided is adequately dispersed throughout the community, which provides safe and convenient access to all.

c) Landscaping and Lighting

The landscaping with an emphasis on native species is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides canopy coverage and shade for parking areas, roads, and open spaces. It defines open

spaces and amenity areas by creating an edge or boundary, and adding interest. For instance, the tot lot in Block GG (Harness Point Way) has plant material efficiently delineating the perimeter of the play area which helps creating a safe environment for children. Smaller plant material, such as herbaceous plants, evergreen and deciduous shrubs, and ornamental trees, emphasize the entrance to the development at Stringtown Road and General Store Drive and add interest as provided at the new Community Building.

The landscaping provides screening and buffering within the project, as well as, between the project and adjacent roads and property. Areas of surface parking in Sinequa Square, civic parcel, Commercial Core (next to Greenway), Block GG (Harness Point Way), and Piedmont Woods Park are adequately screened and buffered through the use of perimeter landscaping. Larger evergreen shrubs and trees contribute to an adequate visual separation between the loading areas on the northern façade of the grocery store and the parking areas. In Piedmont Woods Park, landscaping with mainly evergreen trees is used to adequately buffer areas of active recreation from Snowden Farm Parkway.

The \$1 million improvement package approved by the Planning Board with Site Plan No. 820070220 included planting enhancements, which have been partly completed. The larger caliper trees have been planted along Clarksburg Square Road and Overlook Park Drive. However, on-lot landscaping and alley screening have not been installed, some of which, is at the request of current homeowners. In an effort to show existing conditions in the built areas outside the limits of the Amendment, the plan drawings remove planting enhancements that have not been installed. All streetscape enhancements on the East Side have been completed. On the West Side, the Amendment incorporates some of the enhancements. The \$1 million obligation either has been or will be fulfilled as part of this Application.

As conditioned, the lighting provided is adequate, safe, and efficient. The lighting consists of pole mounted light fixtures with a maximum pole height of 12 feet on private streets and 30 feet in private parking areas. In order to improve compatibility between residential units adjacent to private parking areas the height of the light poles closest to those units will be lowered to 12 feet. This condition applies to light fixtures in the parking areas for the Civic Building and for the commercial area adjacent to units 33-38 and 58-63 in Block GG. As conditioned, the lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The lighting is adequate, safe and efficient.

d) Recreation Facilities

The recreation facilities provided are adequate, safe, and efficient. The Amendment provides significant amenities and recreation facilities not only for the residents but the greater community. Piedmont Woods Local Park, Kings Pond Local Park, and the Greenway will be improved and dedicated to the M-NCPPC as parkland. The revised layout for Piedmont Woods Local Park includes a basketball court, 2 tennis courts, a multi-age playground, dog park, picnic shelters and hiking trails, all served by a 48-space parking lot and portable restrooms. Kings Pond Local Park includes a pond with fishing pier, a tot lot, several picnic areas with picnic shelters, and a hiking trail served by an existing parking area. The Greenway, which functions as a large 'nature area', includes a shared use path along the western side connecting Clarksburg Road to Stringtown Road, and the addition of a natural surface trail in the Greenway increases recreational opportunities.

On the West Side, new recreation facilities and amenities include a tot lot at Harness Point in Block GG, a Town Green with an open play area, amphitheater and stage, and a plaza with a splash fountain. Several sitting areas, a pedestrian and bicycle systems are also included. On the East Side, recreation opportunities are augmented with the new Community Building next to the Residents' Club and swimming pool. In addition, open play areas with seating are still provided in Sinequa Square and Block H. Other facilities previously approved, including tot lots and multi-age play areas, open play areas and picnic/sitting areas, have been installed on both the east and west sides of the Greenway.

The Amendment meets all the recreation requirements on-site through these facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. The facilities adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation for the various age groups.

e) Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. The Amendment completes the internal street network and provides important connections to the external road network. In addition, and in cooperation with Montgomery County, it contributes to major improvements on the surrounding roads including Stringtown Road, Clarksburg Road and its intersections with Frederick Road (MD 355) and Snowden Farm Parkway.

Internal to the site, all transportation infrastructure is in place on the East Side of the Greenway. On the West Side, the Amendment provides important connections, through the construction of new internal roadways that complete the existing street grid and enhance accessibility. Specifically, these connections

include Clarksburg Square Road (P-5), from the Greenway to the existing western terminus near the historic Horace Willson House, and General Store Drive, from Stringtown Road to Clarksburg Square Road. Clarksburg Square Road will be extended to the west through the historic district to Frederick Road (MD 355) in accordance with the recent Planning Board approvals of Preliminary Plan No. 120140060 and Site Plans No. 820140050 & 82007022C (combined with Mandatory Referral 2015008).

To the south of Clarksburg Square Road, the Commercial Core will have direct access from Stringtown Road via General Store Drive, which links to parking drive aisles in the rear of the commercial buildings. Although previously approved as a public street, General Store Drive is now shown as a private street to allow more flexibility in design features and in closing it for special events. The Planning Board approved the private street designation with a 40-foot wide cross section, which consists of two 12-foot wide travel lanes, and two 8-foot wide on-street parking lanes.

Similarly, Overlook Park Drive, formerly approved as a public street connecting Clarksburg Road to General Store Drive (past Clarksburg Square Road), and now terminates as a public road at Clarksburg Square Road. The extension south of Clarksburg Square Road to General Store Drive is shown as a private drive aisle. For the same reasons, this modification allows more flexibility in the design to accommodate circulation, parking, and truck movements. The extension of Overlook Park Drive maintains adequate and efficient vehicular through movement between Clarksburg Square Road and General Store Drive, which is necessary as a bypass for General Store Drive in the event of closure for special events. Design features, such as on-street parallel parking and short intersection spacing between the parking drive aisles, effectively function as traffic calming in this bypass.

Pedestrian circulation adequately and efficiently integrates the Amendment areas into the surrounding already built portions of the community and the area beyond. Consistent with previous approvals, pedestrian circulation is provided within the public right-of-way through 5-foot wide sidewalks. On private streets, pedestrian circulation is assured through the provision of a public access easement contiguous with the private right-of-way. Special sidewalk treatment is provided on key connector roads to enhance the pedestrian realm and to provide consistency of existing treatments. The streetscape improvements, including brick sidewalks and brick edging, required by the previous approvals has been installed in the built portions of the community.

The pedestrian connection from Clarksridge Road to Clarksburg United Methodist Church is being revised to a 5-foot ADA-accessible path in lieu of the

grand staircase previously proffered by the Compliance Plan. The revised connection continues to meet the purpose and intent of the Master Plan by allowing pedestrian connectivity and access. The Church supports this revision.

The Amendment continues providing an 8-foot shared use path on the east side of Overlook Park Drive extending from Clarksburg Road to Stringtown Road along the western edge of the greenway. As conditioned, the approved 4-foot wide natural surface trail system within the Greenway is being restored to the plans, excluding the culvert crossings at Clarksburg Square Road.

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

The Clarksburg Town Center includes a mix of residential, office, retail and civic uses, which are compatible with the adjacent and confronting residential uses as well as pending development. 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 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.

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.

The reduction in the minimum building setbacks for the residential and commercial adequately responds to the type of development associated within the Town Center, and properly respects the site boundaries and adjacent land and property.

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.*

A. Forest Conservation

The Board finds that as conditioned, the Amendment meets all applicable requirements of the Forest Conservation Law. Final Forest Conservation Plan No. 820070220 was approved on November 24, 2010. An amended Forest Conservation Plan ("FCP") for the Application with a net tract area of 264.51 acres was submitted with the Amendments to the Preliminary Plan and Site Plan on June 4, 2015. The FCP requires two forest conservation worksheets because the zoning on the Subject Property results in two different land use categories, with differing afforestation and conservation thresholds. Approximately 206.66 acres, including 22.62 acres of forest is covered under one worksheet. This acreage includes the residential/commercial portions of the Application, the adjacent Little Bennett Elementary School (Mandatory Referral No. 04309-MCPS-1 covered the school project but the forest conservation was covered under the FCP for the Clarksburg Town Center), and 1.74 acres of offsite disturbance for King's Pond Local Park (1.70 acres), Clarksburg Road (0.03 acres), and Clarksburg United Methodist Church (0.01 acres). The remaining 57.85 acres encompassing Piedmont Woods Park, and including 25.87 acres of forest, is covered under the second forest conservation worksheet. Approximately 8.15 acres of land for the easement associated with the existing Allegheny Power overhead electric lines was deducted from the 66-acre Piedmont Woods Park tract, resulting in a 57.85 net tract area for this portion of the Application. In total, the net tract area for the project for forest conservation purposes is 264.51 acres.

The Application required 6.84 acres of forest clearing within the mixed use development portion of the development and 0.26 acres of forest clearing on Piedmont Woods Park, within the public utility easement along Burnt Hill Road. All of the forest clearing within the mixed use development portion of the development has been completed.

The FCP results in a 22.58 acre forest planting requirement that will be met onsite by a combination of reforestation and landscape credits. Per the previous FCP approval, the Applicant will plant an additional 1.68 acres of forest as mitigation for stream valley buffer encroachments. In conformance with the SPA requirements, the Applicant will plant an additional 1.38 acres of forest within the environmental buffer. This results in 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 previous landowner has 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 was deducted from their total forest planting requirement as described in condition of approval no. 4(e). 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.

All of the retained and planted forest that is included in the forest conservation worksheet calculations will either be protected in a Category I conservation easement or through dedication to the M-NCPPC Parks Department. As illustrated on the Final FCP, the Applicant had proposed a permanent maintenance and management agreement/viewshed management plan for a 3.1 acre portion of the forest plantings, including two proposed wetland creation areas, located within the environmental buffer between Stringtown Road and the retail center. The Applicant will revise their FCP to include a specific planting plan for afforestation planting areas K-2, K-3, GG, HH, WC2 and WC3. The planting plan will specify that the initial plantings will 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. This planting plan uses the natural grades to provide better visibility to the retail center from Stringtown Road. The Board supported this proposal which 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.

The Application is not subject to Section 22A-12(b) of the Montgomery County Forest Conservation Law because this provision was not in effect at the time of the original FCP plan approval and there are no existing trees subject to this provision that will be affected by the proposed limits of disturbance.

#### B. Special Protection Area Final Water Quality Plan

The Board finds that as conditioned, the Amendment meets all applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas (“SPAs”). The majority of the Subject Property is located within the Clarksburg SPA and is required to obtain approval of a water quality plan under Section 19-62 of the Montgomery County Code.

As part of the requirements of the SPA law, a Water Quality Plan must be reviewed in conjunction with a preliminary plan and site plan. The Final Water Quality Plan was submitted as part of the Site Plan. Under Section 19-65 of the Montgomery County Code, MCDPS and the Planning Board have different responsibilities in the review of a Water Quality Plan. By letter dated June 23, 2015, MCDPS conditionally approved the elements of the Water Quality Plan under its purview which include site performance goals, stormwater management, sediment and erosion control, and monitoring of Best Management Practices. 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.

1) Priority Forest Conservation Areas

The Planning Board determined that the Application complies with the SPA forest conservation and planting requirements. As part of the FCP, the Applicant will be retaining 41.39 acres of the 48.49 acres of the originally existing onsite forest, including 25.97 acres of forest within the environmental buffer. Approximately 2.42 acres of onsite forest within the environmental buffer has been cleared under the original FCP approval. Per SPA requirements outlined in the Environmental Guidelines, areas of the environmental buffer currently lacking forest will be reforested, planting will occur during the first planting season after issuance of grading permits when possible, and all of the forest plantings will be subject to a five year maintenance program to better ensure forest survival. The retained and planted forest on-site will be protected through either a Category I Conservation Easement or dedication to the M-NCPPC Parks Department.

2) SPA Environmental Buffer Protection

The Planning Board determined that impacts caused by the disturbance to the environmental buffer are the minimum necessary to allow the construction of this project to be completed and the impacts have been minimized to the greatest extent possible while maintaining accepted design standards. The Application includes approximately 12.19 acres of disturbance to the environmental buffer. The approved Site Plan 82007022B included approximately 13.72 acres of environmental buffer disturbance and this Application results in a net reduction of 1.53 acres. There are temporary encroachments into the buffers that are necessary to accommodate grading for stormwater management facilities, parking lots, roads, and wetland creation areas, and permanent encroachments necessary to accommodate road crossings (General Store Drive, Clarksburg Square Road, and Clarks Crossing Drive), utilities, pathways, and Murphy's Grove Pond. The disturbance to the environmental buffer has been decreased from the previously approved plan and the mitigation previously proposed has remained unchanged. The Amendment will provide 1.68 acres of additional forest planting to mitigate for the stream buffer encroachments. Long term protection to the environmental buffer and forest will be provided through either a Category I conservation easement or dedication to the M-NCPPC Parks Department.

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. The Planning Board found that impervious surfaces have been minimized with this Application through a redesign of the unbuilt portions of the Subject Property. The Application will reduce the amount of impervious surfaces within the Little Seneca Creek watershed by approximately 1.53 acres from that which was approved previously. The result is a total imperviousness of approximately 34.4% for the Subject Property.

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

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

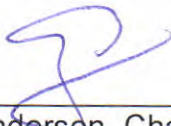
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 21 2015 (which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Presley, with Chair Anderson and Commissioner Fani-González voting in favor, Commissioner Presley abstaining, and Vice Chair Wells-Harley and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, September 3, 2015, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER  
MCDPS-WATER RES. PLAN REVIEW  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MS. LISA SCHWARTZ  
DHCA  
100 MARYLAND AENUE  
4<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850

MS. SUSAN SCALA-DEMBY  
MCDPS-ZONING  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. CHRISTOPHER ANDERSON  
MPDU MANAGER, DHCA  
100 MAYLAND AVENUE  
4<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850

FRANK WATKINS  
BIGNELL, WATKINS, HASSER  
8500 LESSBRUG PIKE, #503  
VIENNA, VA 22182

ROBERT HARRIS  
3 BETHESDA METRO CENTER  
SUITE 460  
BETHESDA, MD 20814-5367

ARNOLD SCHOTTLAND  
23606 OVERLOOK PARK DRIVE  
CLARKSBURG, MD 20871

JIM ELEFANTIS  
23800 BRANCH BRIER WAY  
CLARKSBURG, MD 20871

GREG OSSONT  
DEPARTMENT OF GENERAL SERVICES  
101 MONROE STREET  
9<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850

EDWARD PAPAIZIAN  
KIMLEY HORN & ASSOCIATES  
13221 WOODLAND PARK ROAD  
SUITE 400  
HERNDON, VA 20171

MR. GREG LECK  
MCDOT  
100 EDISON PARK DRIVE  
4<sup>TH</sup> FLOOR  
GAITHERSBURG, MD 20878

MR. ATIQ PANJSHIRI  
MCDPS-RIGHT-OF-WAY  
PERMITTING  
355 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MS. CHRISTINA CONTRERAS  
MCDPS-LAND DEVELOPMENT  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. ALAN SOUKUP  
MCDDEP-WATER RESOURCE  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

TIM LONGFELLOW  
GUTSCHICK, LITTLE & WEBER  
3909 NATIONAL DRIVE  
SUITE 250  
BURTONSVILLE, MD 20866

KATE KUBIT  
ELM STREET DEVELOPMENT  
1355 BEVERLY ROAD  
SUITE 250  
MCLEAN, VA 22101

MARY ANN JASPER  
12873 MURPHY GROVE TERRACE  
CLARKSBURG, MD 20871

JEAN HULSE-HAYMAN  
12600 PIEDMONT ROAD  
CLARKSBURG, MD 20871

BILL MANION  
O'NEIL & MANION ARCHITECTS P.A.  
6931 ARLINGTON ROAD  
SUITE 306  
BETHESDA, MD 20814

MR. RICHARD BRUSH, MANAGER  
MCDPS-SEDIMENT/STORMWATER  
INSPECTION & ENFORCEMENT  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. ESHAN MOTAZEDI  
MCDPS-SITE PLAN ENFORCEMENT  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. GENE VON GUNTEN  
MCDPS-WELL & SEPTIC  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

KATE KUBIT  
THIRD TRY, LC  
1355 BEVERLY ROAD  
SUITE 240  
MCLEAN, VA 22101

KEVIN FOSTER  
GUTSCHICK, LITTLE & WEBER  
3909 NATIONAL DRIVE  
SUITE 250  
BURTONSVILLE, MD 20866

DAVID FLANAGAN  
ELM STREET DEVELOPMENT  
1355 BEVERLY ROAD  
SUITE 250  
MCLEAN, VA 22101

JAMES PECK  
23835 BURDETTE FOREST ROAD  
CLARKSBURG, MD 20871

DAVID BROWN  
401 E. JEFFERSON STREET  
ROCKVILLE, MD 20850

MARCI BONNER  
LANDDESIGN  
200 SOUTH PEYTON STTEET  
ALEXANDRIA, VA 22314



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAR 30 2016

MCPB No. 16-034  
Site Plan No. 82007022E  
Clarksburg Town Center  
Date of Hearing: March 24, 2016

## RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on July 16, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220 for 194,720 square feet of commercial uses, which includes up to 69,720 square feet of specialty retail; 1,213 residential dwelling units, including 152 MPDUs; a waiver to permit a reduction in the number of parking spaces; and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zone properties, on approximately 270 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Rd and Frederick Rd (MD 355), in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area and as amended in 2011 ("Master Plan") area; and

WHEREAS, on June 15, 2010, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan Amendment 82007022A (MCPB No. 10-59), to correct the unit count from 1,213 to 1,206 residential dwelling units including 151 MPDUs; and

WHEREAS, on July 11, 2013, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan Amendment 82007022B (MCPB No. 13-125), 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; and

WHEREAS, on July 23, 2015, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan Amendment 82007022C (MCPB No. 15-81), for construction of a driveway approach onto Clarksridge Road,

Approved as to  
Legal Sufficiency

 3/17/16

6787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320

M-NCPPC Legal Department  
www.montgomerycountyparkingboard.org E-Mail: mcp-chair@mncppc-mc.org

approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on Parcel A, Block HH in support of Site Plan #820140050; and

WHEREAS, on September 21 2015, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan Amendment 82007022D (MCPB No. 15-86), to reduce the total number of residential units to 1,120; increase overall commercial density to 206,185 SF including the addition of 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; and

WHEREAS, on August 28, 2015, Miller and Smith at Clarksburg, LLC, ("Applicant") filed an application for approval of an amendment to the previously approved site plan to replace 11 multi-family units (including 3 MPDUs) with 9 one-family attached units (including 3 MPDUs) and 1 HOA parcel on approximately 0.36 acres in the RMX-2 zone, located on Block N in the northwest quadrant of the intersection of Catawba Hill Road and Sugarloaf Chapel Drive ("Subject Property") within the Clarksburg Town Center development; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82007022E, Clarksburg Town Center ("Site Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 10, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 24, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82007022E for 9 one-family attached units (including 3 MPDUs) with the following conditions:<sup>1</sup>

---

<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

1. Project Plan Conformance  
The development must comply with the conditions of approval for Project Plan No. 91994004D, or as amended.
2. Preliminary Plan Conformance  
The development must comply with the conditions of approval for Preliminary Plan No. 11995042C, or as amended.
3. Fire and Rescue  
The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its correspondence dated December 29, 2015, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval. This letter does not supersede all previous MCFRS letters referenced in other approvals and covering other areas.
4. Density  
The development is limited to a maximum of 206,185 SF of commercial uses (including office and retail), and a maximum of 1,118 dwelling units (including 12.5% MPDUs), on 270.92 acres.
5. Moderately Priced Dwelling Units (MPDUs)
  - a) The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its correspondence dated October 7, 2015, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
  - b) The development must provide 12.5 percent MPDUs on-site as shown on the certified site plan and consistent with the requirements of Chapter 25A and the Master Plan.
  - c) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the DHCA must be executed.
6. Architectural Design/Compatibility
  - a) 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.
  - b) The Applicant must enhance high visibility end unit facades (Lots 78 and 86) 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. The details of the architectural treatments must be shown on the Certified Site Plan.

7. Site Plan Surety and Maintenance Agreement

Before issuance of the 1<sup>st</sup> building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board for that Block or Phase. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) 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, including, but not limited to plant material, on-site lighting, site furniture, mailbox pad sites, fences, railings, private roads and alleys, curbs and gutters along all private roads and alleys, paths and associated improvements within the relevant phase of development. The surety must be posted before issuance of any building permit within each relevant Block or Phase of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each Block or Phase of development will be followed by inspection and potential reduction of the surety.
- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each Block or Phase.

8. 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 final forest conservation approval letter, stormwater management concept approval letter, development program, and Resolution on the approval or cover sheet(s).
- b) Add a note stating that "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."
- c) Modify data table to reflect development standards approved by the Planning Board.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect, except as modified by the conditions above; and

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of the Clarksburg Town Center No. 82007022E, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

- 1. Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*
- 2. 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.*

The Site plan is not subject to a development plan, diagrammatic plan, or schematic development plan. The Site Plan Amendment is consistent with Project Plan Amendment No. 91994004D for the Clarksburg Town Center in terms of land uses and maximum densities, design layout, development standards, and conditions of approval.

- 3. 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.*

The Subject Property is zoned RMX-2 per the Zoning Map in effect prior to October 30, 2014, applicable in this case under the grandfathering provision in Section 59.7.7.1.B.3 of the current Zoning Ordinance. As demonstrated in the Data Table below, the Amendment meets the general requirements and development standards of the RMX-2 zone, under the optional method of development.

The Amendment slightly modifies the housing mix for the overall project. As a result, the ratio of multi-family units continues to be below the Master Plan recommended ratio, and the ratio of one-family attached units continues to be above the recommended ratio. As previously approved, the Planning Board found that the project substantially conformed to the Master Plan by providing a mix of residential and non-residential uses that enables the creation of a lively and diverse place as

envisioned by the Master Plan, despite the fact that the housing mix provided was slightly outside the ratios recommended. Because the new housing mix provided is not significantly different from the current approved plans and maintains the general goals of the Master Plan while responding to market demand, the Planning Board finds that the Amendment substantially conformed to the Master Plan. Lastly, DHCA strongly supports replacing the approved multi-family units with one-family attached.

The Data Table below lists only those development standards that are being modified by this Amendment. All other development standards remain in full force and effect as previously approved.

Data Table

Development Standard	Zoning Ordinance Permitted/ Required	Previously Approved with Site Plan 82007022D	Approved with this Amendment (82007022E)
<b>Density &amp; Land Use</b>			
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	150 min.	1,120	1,118
Max. Residential Density (du/acre) [59-C-10.3.7]	7 d.u./acre <sup>2</sup> (1,428 d.u.)	6.27 <sup>3</sup>	6.26
Unit Mix <sup>4</sup>			
One-family detached	10-20%	219 (19.6%)	219 (19.6%)
One-family attached	30-50%	665 (59.3%)	674 (60.3%)
Multi-family	25-45%	236 (21.1%)	225 (20.1%)
MPDUs [Chapter 25A]	12.5%	12.5%	12.5% (140 MPDUs)
<b>Min. Individual Lot Setbacks</b>			
One-family attached (Block N) Lots 78-86			
Main Structure Setbacks	To be determined at Site Plan	n/a	
Public Street (Front/Side)			5
Sideyard (Interior Unit)			0
Sideyard (End Unit)			3
Rearyard			5
Accessory Structure Setbacks			

<sup>2</sup> Max residential density established by the 1994 Clarksburg Master Plan, p.43.

<sup>3</sup> Calculated by dividing the total number of units by 178.63 acres, which is the area covered by residential uses in the RMX-2 Zone.

<sup>4</sup> Mix of units allocated by the 1994 Clarksburg Master Plan, p.44.



Frontyard			50
Sideyard (End Unit/Street)			3
Sideyard (Interior Unit)			0
Rearyard			0
<b>Max. Building Height (ft)</b>			
Residential	To be determined at Site Plan		
One-family attached Lots 78-86, Block N			40
Accessory structures			25
<b>Vehicle Parking Spaces [Section 7.7.1.B.3.b]</b>			
East Side Residential			
One-family attached (9 units)	18 (2 spaces/unit)	n/a	18

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

a) Locations of buildings and structures

The locations of buildings and structures are adequate, safe, and efficient. The Amendment replaces 11 multi-family dwelling units (including 3 MPDUs) with 9 one-family attached dwellings units (including 3 MPDUs). The attached units are adequately oriented towards Catawba Hill Road, which abuts the Residents' Club, and rear loaded from a private alley off Sugarloaf Chapel Drive. This orientation combined with minimum or no setbacks from the road is consistent with other built units on Catawba Hill Road, which will allow for a seamless continuation of the streetscape treatment and pedestrian experience.

b) Open Spaces

The Amendment does not contemplate any modifications to the approved open space network.

c) Landscaping and Lighting

The landscaping is adequate, safe, and efficient. The Amendment makes revisions to the landscape in Lot N in order to accommodate the new unit types and layout revisions. The landscape plan includes street trees, which will replace existing street trees as necessary if they are disturbed during construction. It includes ornamental trees in front yards and in between rear driveways, which adequately scale down the buildings while providing shade and aesthetic value. Evergreen trees at the entrance to the alleyway efficiently screen a portion of the alleyway and narrow its perceived width.

The Amendment does not contemplate any modifications to the approved lighting.

d) Recreation Facilities

The Amendment does not contemplate any modifications to the approved recreation facilities. The change in unit type from multi-family to one-family detached units combined with a decrease in the overall number of units has decreased the recreation demand points for the project. As a result, the approved recreation facilities continue to be adequate, safe, and efficient at meeting the recreation demand for the total of 1,118 units.

e) Pedestrian and Vehicular circulation systems

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. The Amendment continues the existing sidewalk along Catawba Hill Road and wraps it around the corner to Sugarloaf Chapel Drive. The 5-foot accessible sidewalk adequately and safely accommodates pedestrian circulation within the site and to the front of the units. Vehicular circulation is accommodated via a new one-way private alley that is accessed off Sugarloaf Chapel Drive and connects to the alley system in Block N. In coordination with MCDOT, the alley will be used as a right-in only off Sugarloaf Chapel Drive and the curb in front of Lot 9 on Sugarloaf Chapel Drive will be modified to provide one-way channelization. The new alley provides adequate and safe access to the rear of each unit while improving connectivity in Block N.

5. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The 9 one-family attached dwellings units (including 3 MPDUs) are compatible with the surrounding existing development in terms of unit type, massing, and orientation. The unit type in the immediate vicinity of the new units, including Block N and Block L, is predominantly one-family attached with some two-over-two's. Both existing and proposed units are consistently oriented towards the street and rear-loaded from alleys.

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

The Amendment does not contemplate any modifications to the approved Final Forest Conservation Plan and SPA Final Water Quality Plan.

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

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

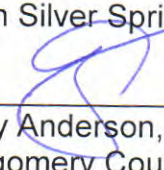
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 30 2016 (which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Presley and Fani-González voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, March 24, 2016, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board



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

MCPB No. 19-054  
Site Plan No. 82007022F  
Clarksburg Town Center  
Date of Hearing: May 23, 2019

**MAY 30 2019**

**RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on July 16, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220, for 194,720 square feet of commercial, which includes up to 69,720 square feet of specialty retail; and 1,213 residential dwelling units, including 152 MPDUs; and a waiver to permit a reduction in the number of parking spaces; and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties, on approximately 270 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Road and Frederick Road (MD 355), in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area ("Master Plan"); and

WHEREAS, on June 15, 2010, the Planning Board approved an amendment to the previously approved site plan, designated as Site Plan Amendment No. 82007022A (MCPB No. 10-59) to correct the unit count from 1,213 to 1,206 residential dwelling units including 151 MPDUs on the Property; and

WHEREAS, on July 11, 2013, the Planning Board approved an amendment to the previously approved site plan, designated as Site Plan Amendment No. 82007022B (MCPB No. 13-125) 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 on the property; and

WHEREAS, on July 23, 2015, the Planning Board approved an amendment to the previously approved site plan, designated as Site Plan Amendment No. 82007022C (MCPB No. 15-81) for construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management

Approved as to  
Legal Sufficiency

*Christina Sout* 5/13/19

MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4603 Fax: 301.495.1320

facilities on Parcel A, Block HH in support of Site Plan No. 820140050 on the Property;  
and

WHEREAS, on September 21 2015, the Planning Board approved an amendment to the previously approved site plan, designated as Site Plan Amendment No. 82007022D (MCPB No. 15-86) to reduce the total number of residential units to 1,120; increase overall commercial density to 206,185 SF including the addition of 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; and

WHEREAS, on March 24, 2016, the Planning Board approved an amendment to the previously approved site plan, designated as Site Plan Amendment No. 82007022E (MCPB No. 16-034) to replace 11 multi-family units (including 3 MPDUs) with 9 one-family attached units (including 3 MPDUs) and 1 HOA parcel on approximately 0.36 acres in the RMX-2 zone, located on Block N in the northwest quadrant of the intersection of Catawba Hill Road and Sugarloaf Chapel Drive within the Clarksburg Town Center development; and

WHEREAS, on March 14, 2019, CTC Development ("Applicant") filed an application for approval of an amendment to the previously approved site plan(s) to change 36'-0" deep townhouse units to 40'-0" units, adjustments to site elements, including lead walkways, retaining walls, sidewalks, and landscaping on approximately 1.22 acres, located northeast of Frederick Road (MD 355) between Clarksburg Road and Stringtown Road on the Subject Property within the Clarksburg Town Center development; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82007022F, Clarksburg Town Center ("Site Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 9, 2019, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 23, 2019, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82007022F to change from the previously approved 36'-0" deep townhouse units to 40'-0" units, adjustments to site elements, including lead walkways, retaining walls, sidewalks, and landscaping by adding the following conditions:<sup>1</sup>

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

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan No. 82007022F, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

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

1. *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.*

The Subject Property is approximately 1.22 acres and is zoned CRT 0.75, C-0.25, R-0.5, H-65T, but reviewed under the RMX-2 zone. The above changes have not resulted in a change to the minimum or maximum setback, coverages, or development standards. While the particular lots have been adjusted to accommodate a different unit type, the previously approved development standards, including minimum lot size, remain the same and in full effect. The setbacks and parking counts for the Amendment continue to fall within the range allotted by the previous site plan.

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

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

#### Location of Buildings and Structures

##### Buildings and Structures

The location of all buildings remains adequate, safe, and efficient. Each of the townhouse buildings will increase by an additional 4'-0" of depth, from the previously approved 36-foot deep units to 40-foot deep units. Lots 33-50 and Lots 58-63, within Block GG, will include minor lot line adjustments and Lots 51-57, within Block GG, will include adjustments to minor site elements. The increase to the building footprint requires minor modifications to grading, specifically to the southeast of Lots 51-57 and Lots 58-63, which pushes the sidewalk and retaining wall to the southeast by about three feet. The horizontal length of the retaining wall will remain the same. While the height will increase by a maximum of 2'-0", the overall height will be no greater than 6'-0". The walkways to the front of each townhouse will be reconfigured to connect to the sidewalks. These changes do not impact the overall quality of the project or the intent of the original approval.

#### Location of Open Spaces, Landscaping, and Lighting

##### Landscaping and Lighting

The location and quantity of landscaping proposed by the Amendment is safe, adequate and efficient. The changes made to landscaping are minimal and are in response to the change in unit type which added 4'-0" to the rear of all townhouses, resulting in 40'-0" deep units. The type and quantity of plant material is substantially similar, and it maintains the intent of providing shade, screening, and foundation plantings.

3. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The thirty townhouse units are compatible with the surrounding existing development in terms of unit type, massing, and orientation. The new townhouse unit type matches closely with what was previously approved and is within the character of the existing development. Additionally, the same 40-foot deep townhouse units were also approved in Block BB. Both

existing and proposed units are consistently oriented towards the street and rear-loaded from alleys.

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

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~MAY 30 2019~~ (which is the date that this Resolution is mailed to all parties of record); and

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

\* \* \* \* \*

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, May 23, 2019, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board





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

**Memorandum**

**TO:** Gwen Wright, Planning Director

**VIA:** Carrie Sanders, Interim Chief  
Sandra Pereira, Supervisor  
Upcounty Planning

**FROM:** Jeffrey Server, Planner Coordinator  
Upcounty Planning

**RE:** Clarksburg Town Center  
MINOR SITE PLAN AMENDMENT #82007022G

**DATE:** November 30, 2020

Section 59.7.7.1.B.3 of the Zoning Code addresses Amendments for Plans approved or pending before October 30, 2014. Section 7.7.1.B.3.a states that until October 30, 2039, an Applicant may apply to amend any previously approved application under the development standards and procedures of the property's zoning on October 29, 2014, subject to certain limitations.

Section 7.7.1.B.3.b of the Zoning Ordinance, however, allows Applicants to apply to amend a site plan approved before October 30, 2014, to take advantage of the parking requirements contained in Sections 6.2.3 and Section 6.2.4 of the Zoning Ordinance that went into effect on October 30, 2014.

Under Section 59.7.3.4.J.2, the Planning Director may approve in writing certain applications for an amendment to a Certified Site Plan. Such amendments, which are considered minor in nature and do not alter the intent and objectives of the plan, specifically include an amendment "to reduce the approved parking to satisfy Article 59-6."

Neither a Pre-Application meeting with the community/public/parties of record nor a Pre-Submittal meeting with the Intake Regulatory Coordination (IRC) Division is required. However, submittal of the application to IRC is required. In addition, applicants must provide public notice under Division 7.5.

On April 21, 2020, CTC Development, Inc. ("Applicant") filed a site plan amendment application designated Site Plan No. 82007022G ("Amendment") for approval of the following modifications:

1. Renaming General Store Drive to Saint Clair Road.

2. Addition of a handicap access sidewalk/viewing area at the stage and amphitheater, including revised construction details.
3. Adjustments to the street tree locations, spacing, and species due to MCDOT and MCDPS final site plan revisions.
4. Adjustments to the cemetery location and associated Forest Conservation revisions.
5. Modifications to the St. Clair Road retaining wall, sewer alignment, and easements.
6. Reconfiguration of stormwater management facilities on Blocks BB, CC, and GG:
  - a) Retaining walls were added and modified within Block BB and the retail parking lots.
  - b) Stormwater management facility design along Martz Street, St. Clair Road, retail parking lot islands, and in front of the Block GG townhouses.
  - c) Modifications were made to parking spaces due to the stormwater management changes. Two parking spaces were added along Martz Street without any net change in the retail parking lots.
  - d) Associated adjustments to landscaping due to the stormwater management changes listed above.
7. Revisions to the Block CC retail streetscape:
  - a) Retaining walls were added and modified within Block BB and the retail parking lots.
  - b) Retaining and seat walls around the fountain were revised due to detailed site grading.
  - c) Several tree pits were lengthened to provide landscape areas along Saint Clair Road to allow for additional changes in site grading.
  - d) Associated adjustments to landscaping due to the revisions to the Block CC retail streetscape listed above.
  - e) Relocated several trash receptacles due to alterations made to the tree pits.
8. Revisions to the Civic Building parking lot:
  - a) Removal of two stormwater management facilities.
  - b) Addition of pervious paving to parking spaces.
9. Several sections of the sidewalks within Block BB and the Greenway Trail, located north of Clarksburg Square Road, were converted to pervious paving per the MCDPS stormwater management plan approval.

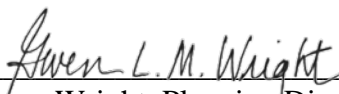
10. Addition of Parcel AA, Parcel DD, and Parcel M to Martz Street, the north private alley, and pedestrian access to the condominium parcel at the request of M-NCPPC during the record plat approval process.
11. Adjustments to PUE's and addition of a PIE along Public House Road within Block BB.
12. Additional notes added to the plans referencing park permit numbers for King's Local Park and Piedmont Woods Park, along with a note referencing final approved park permit plans.
13. Relocation of a light pole from the mews within Lot 48 to the other side of the sidewalk in front of Lot 46.
14. Modified fire access at the following locations:
  - a) In front of Condominium Building A, Block BB, adjacent to the amphitheater to conceal Grasscrete with 3" of soil and grass. Additionally, a 5'-0" wide sidewalk was added to serve as a dual-purpose pedestrian route and fire access surface.
  - b) Between Condominium Building B, Block BB, to change apron material to concrete and conceal the Grasscrete with 3" of soil and grass.

A notice of the subject Site Plan Amendment was sent to all required parties by the Applicant on April 24, 2020. The notice gave the interested parties 15 days to review and comment on the contents of the Amendment. Staff received correspondence from three property owners with concerns on the proposed fencing surrounding the mews area. The Applicant addressed the concerns by removing the proposed fencing around the mews.

The proposed Amendment is consistent with the provisions of Section 59.7.3.4.J.2 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The Amendment does not alter the intent, objectives, or requirements of the Planning Board in approving the site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59.7.3.4.H. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:

  
\_\_\_\_\_  
Gwen Wright, Planning Director

December 15, 2020  
\_\_\_\_\_  
Date Approved



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

MCPB No. 22-003  
Site Plan No. 82007022H  
Clarksburg Town Center  
Date of Hearing: January 6, 2022

**MAR 03 2022**

**CORRECTED RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, pursuant to Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and/ standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on July 16, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220 for 194,720 square feet of commercial uses, which includes up to 69,720 square feet of specialty retail; 1,213 residential dwelling units, including 152 MPDUs; a waiver to permit a reduction in the number of parking spaces; and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties, on approximately 270 acres in the RMX-2 and RDT zones, located at the northeast quadrant of Stringtown Road and Frederick Road (MD 355) ("Overall Property"), in the Clarksburg Policy Area, 1994 *Clarksburg Master Plan & Hyattstown Special Study Area*, and as amended in 2011 ("Master Plan") area; and

WHEREAS, on June 15, 2020, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82007022A (MCPB No. 10-59), to correct the unit count from 1,213 to 1,206 residential dwelling units, including 151 MPDUs; and

WHEREAS, on July 11, 2013, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82007022B (MCPB No. 13-125), 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; and

2425 Reedie Drive, 14<sup>th</sup> Floor, Wheaton, Maryland 20902 Phone: 301.495.4605 Fax: 301.495.1320  
[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) E-Mail: [mcp-chair@mncppc.org](mailto:mcp-chair@mncppc.org)

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Approved as to  
Legal Sufficiency: Emily Vaias  
M-NCPPC Legal Department

WHEREAS, on July 23, 2015, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82007022C (MCPB No. 15-81), for construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on Parcel A, Block HH in support of Site Plan No. 820140050; and

WHEREAS, on September 21, 2015, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82007022D (MCPB No. 15-86), to reduce the total number of residential units to 1,120; increase overall commercial density to 206,185 square feet, including the addition of office and medical uses; revise the design and layout of the Commercial Core; add a new Community Building to the Residents' Club; add a parking area on Sinequa Square; redesign Block H; and revise Kings Pond Local Park and Piedmont Woods Local Park; and

WHEREAS, on March 24, 2016, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82007022E (MCPB No. 16-034), to replace 11 multi-family units (including 3 MPDUs) with 9 one-family attached units (including 3 MPDUs) and 1 HOA parcel on approximately 0.36 acres in the RMX-2 zone, located on Block N in the northwest quadrant of the intersection of Catawba Hill Road and Sugarloaf Chapel Drive within the Clarksburg Town Center development; and

WHEREAS, on December 15, 2020, the Planning Director approved an amendment to the previously approved site plan, designated Site Plan No. 82007022G, to rename General Store Drive to Saint Clair Road; addition of a handicap accessible sidewalk and viewing area at the stage and amphitheater; adjustments to street tree locations, spacing, and species; adjustments to the cemetery location and associated Forest Conservation revisions; modifications to the St. Clair Road retaining wall, sewer alignment, and easements; reconfiguration of stormwater management facilities on Blocks BB, CC, and GG; revisions to the Block CC retail streetscape; revisions to the Civic Building parking lot; conversion of sections of sidewalk within Block BB and the Greenway Trail to pervious paving; addition of Parcel AA, DD, and M to Martz Street, the north private alley, and pedestrian access to the condominium parcel; adjustments to PUE's and the addition of a PIE along Public House Road within Block BB; additional notes and references added to the plans referencing park permit numbers and final approved park permit plans; relocation of a light pole from Lot 48 to Lot 46; and modified fire access at Condominium Building A and Condominium Building B; and

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

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82007022H, Clarksburg Town Center ("Site Plan," "Amendment," or "Application"); and

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82007022H to convert the originally approved 24 manor home condominium units (including 8 MPDUs within 2 buildings) on Block M, Parcel A and Block S, Parcel C to 12 rear-loaded townhouse dwelling units (including 7 MPDUs) on the Subject Property by adding the following conditions which apply only to the Subject Property:<sup>1</sup>

**Density, Height & Housing**

1. Density

The Site Plan is limited to up to 12 townhouse dwelling units, including 12.5% MPDUs, on the Subject Property of 0.56 acres.

2. Height

The development is limited to a maximum height of 45 feet, as measured from the building height measuring points, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (MCDHCA) in its letter dated December 15, 2021 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- b) The development must provide a minimum of 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) on the Subject Property, the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

## **Environment**

### **4. Water Quality**

The development must comply with the conditions of the MCDPS/Final Water Quality Plan approval letter dated June 29, 2021 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS if the amendment does not conflict with any other conditions of the Site Plan approval.

## **Transportation & Circulation**

### **5. Transportation**

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated June 24, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW 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) 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.

### **7. Lighting**

- a) Prior to 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 lot line, 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

Prior to issuance of any above grade building permit (excluding retaining walls), the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the 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-D-3.5(d) 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, including, but not limited to plant material, on-site lighting, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private utilities, associated improvements of development, including bikeways, storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- 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 prior to 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, other agency approval letters, including Fire Access Plan, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "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."
- 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.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for the Overall Property, except for those modified by this Amendment for the Subject Property, remain valid, unchanged, and in full force and effect.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan Amendment No. 82007022H, Clarksburg Town Center, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

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

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.*

Neither a development plan, diagrammatic plan, nor schematic development plan were required for the subject site. The Site Plan Amendment is consistent with Project Plan Amendment No. 91994004D for the Clarksburg Town Center in terms

of land uses and maximum densities, design layout, development standards, and conditions of approval.

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.*

The Subject Property is zoned RMX-2 per the Zoning Map in effect prior to October 30, 2014. The Amendment was reviewed under the Zoning Ordinance in effect prior to October 30, 2014, which is allowed under the grandfathering provisions for applications approved before October 30, 2014 in Section 59.7.7.1.B.3. The approved Amendment converts the originally approved 24 manor home condominium units, including 8 MDPU's within two buildings, to 12 rear-loaded townhouse dwelling units, including 7 MPDU's. This change in unit type is supported by DHCA due to the high demand for townhouse MPDU units. As demonstrated in Table 1 below, the Amendment meets the general requirements and development standards of the RMX-2 zone, under the optional method of development. Table 1 below lists those development standards related to the Overall Property and the specific standards for the Subject Property that are being modified by the Subject Amendment. All other development standards remain in full force and effect as approved.

**Table 1, Data Table for the RMX-2 Zone, Optional Method of Development**

<b>Development Standard</b>	<b>Zoning Ordinance Permitted / Required</b>	<b>Previously Approved with Site Plan 82007022E</b>	<b>Approved for 82007022H</b>
<b>Density &amp; Land Use Overall Property</b>			
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	150 min.	1,118	1,106
Max. Residential Density (d.u. / acre) [59-C-10.3.7]	7 d.u./acre <sup>2</sup> (1,428 d.u.)	6.26 <sup>3</sup>	6.19
<b>Unit Mix<sup>4</sup></b>			
One-family detached	10 - 20%	219 (19.6%)	219 ( <del>19.6%</del> ) (19.8%)
One-family attached	30 - 50%	674 (60.3%)	686 ( <del>60.3%</del> ) <sup>5</sup>

<sup>2</sup> Max residential density established by the 1994 Clarksburg Master Plan, p.43.

<sup>3</sup> Calculated by dividing the total number of units by 178.63 acres, which is the area covered by residential uses in the RMX-2 Zone.

<sup>4</sup> Mix of units allocated by the 1994 Clarksburg Master Plan, p.44.

<sup>5</sup> The approved conversion of the 24 manor houses to 12 townhouses increases the cumulative total of one-family attached by 12 units to 686 dwelling units and reduces the cumulative total of multi-family units by 24 units to 201 dwelling units.

Multi-family	25 - 45%	225 (20.1%)	(62.0%) 201 ( <del>20.1%</del> ) <sup>6</sup> (18.2%) <sup>5</sup>
MPDUs [Chapter 25A]	12.5%	12.5% (140 MPDUs)	12.5% (139 MPDUs) <sup>6</sup>
<b>Min. Individual Lot Setbacks for Subject Property</b>			
One-family attached (Block M) Lots 71 - 78			
Main Structure Setbacks Public Street (Front) Public Street (Front / Side) Side yard (Interior Unit) Side yard (End Unit) Rear yard	To be Determined at Site Plan	N/A	5 feet 5 feet 0 feet 5 feet 5 feet
One-family attached (Block S) Lots 6 - 9			
Main Structure Setbacks Public Street (Front) Public Street (Front/Side) Side yard (Interior Unit) Side yard (End Unit) Rear yard	To be Determined at Site Plan	N/A	10 feet 5 feet 0 feet 5 feet 5 feet
<b>Max. Building Height for Subject Property</b>			
Residential One-family attached Block M, Lots 71 - 78 Block S, Lots 6 - 9	To be Determined at Site Plan	N/A	45 feet 45 feet
<b>Vehicle Parking Spaces [Section 7.7.1.B.3.b] for Subject Property</b>			
East Side Residential			
One-family attached (12 units)	24 (2 spaces/unit)	N/A	24 spaces

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

<sup>6</sup> This Application proposes to provide the minimum 12.5% MPDUs which reduces the previously approved number of MPDUs from 8 units to 7 units, resulting in a cumulative total of 139 MPDUs.

#### Locations of Buildings and Structures

The locations of buildings and structures are adequate, safe, and efficient. The Amendment replaces 24 multi-family dwelling units (including 8 MPDUs) with 12 one-family attached dwellings units (including 7 MPDUs). The attached units are adequately oriented towards Clarksburg Square Road and Burdette Forest Road, and rear loaded from private alleys off Burdette Forest Road. This orientation combined with minimum or no setbacks from the road is consistent with other built units on Clarksburg Square Road, which will allow for a seamless continuation of the streetscape treatment and pedestrian experience.

#### Open Spaces

The Amendment does not contemplate any modifications to the approved open space network.

#### Landscaping and Lighting

The landscaping is adequate, safe, and efficient. The Amendment is not making any revisions to any existing landscaping. The landscape plan includes street trees, which will replace existing street trees as necessary, if disturbed during construction. It includes ornamental trees in front yards and in between rear driveways, which adequately scale down the buildings while providing shade and aesthetic value. Evergreen trees at the entrances to the alleyway efficiently screen a portion of the alleyway and narrow its perceived width.

#### Recreation Facilities

The Amendment does not contemplate any modifications to the approved recreation facilities. The change in unit type from multi-family to one-family attached units, combined with a decrease in the overall number of units, has decreased the recreation demand points for the Overall Property and project. As a result, the approved recreation facilities continue to be adequate, safe, and efficient at meeting the recreation demand for the total of 1,106 units within the Clarksburg Town Center on the Overall Property.

#### Pedestrian and Vehicular circulation systems

The pedestrian and vehicular circulation systems are adequate, safe, and efficient. Both Clarksburg Square Road and Burdette Forest Road have existing sidewalks that will service the new one-family attached dwelling units. The existing 5-foot accessible sidewalk adequately and safely accommodates pedestrian circulation within the site and to the fronts of the units. Vehicular circulation is accommodated via two new driveways that are accessed off Burdette Forest Road. The new driveway, located on Block M, connects with the existing alley system also located within Block M. The new driveway, located on Block S, does not connect to any existing alley systems due to a retaining wall that is necessary to address substantial grade change between parcels. The new driveways provide

adequate and safe access to the rears of each unit while improving connectivity within Block M.

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

The 12 one-family attached dwellings units (including 7 MPDUs) are compatible with the surrounding existing development in terms of unit type, massing, and orientation. The unit type in the immediate vicinity of the new units, including Block M and Block S, is predominantly one-family attached with some one-family detached. Both existing and approved units are consistently oriented towards the street and rear-loaded from alleys.

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

#### Environmental Guidelines

The proposed Amendment includes two parcels: Parcel A and Parcel C. Both of these parcels were included in the previous Preliminary Plan and Site Plan approvals. The Preliminary Plan included a Preliminary Forest Conservation Plan and a Preliminary Water Quality Plan. The Site Plan included a Final Forest Conservation Plan and a Final Water Quality Plan.

#### Forest Conservation

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

#### Stormwater Management

The Final Water Quality Plan has been amended with this Application. The Montgomery County Department of Permitting Services has approved their portion of the Final Water Quality Plan by amending the previous Combined Preliminary / Final Water Quality Plan approval in a letter dated June 29, 2021. The revised Final Water Quality Plan meets the required stormwater management goals via a reduction in impervious surfaces, micro bioretention, and existing structural measures including a surface sand filter and extended detention dry pond that were previously designed to include this area.

The elements of the Final Water Quality Plan under the M-NCPPC's Planning Board's purview include forest conservation, environmental guidelines, and impervious surface limits. The Amendment does not propose any modifications that alter the previous findings related to forest conservation and the environmental guidelines. The Amendment is in compliance with the

Montgomery County Environmental Guidelines and the Forest Conservation Law, Chapter 22A. The Clarksburg SPA does not include a numerical limit on impervious surfaces; however, impervious surfaces should be minimized as much as possible. The Applicant provided a revised Impervious Surface exhibit that demonstrates that the proposed modifications result in a decrease in the impervious area on Parcel A and Parcel C, for a net reduction of 550 square feet, or 0.013 acres from the previously approved Site Plan.

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

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

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution remains January 27, 2022 which was the date that the original resolution was mailed to all parties of record; and

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Verma, seconded by Commissioner Rubin, with Chair Anderson, Vice Chair Verma, and Commissioners Cichy, Patterson, and Rubin voting in favor of the motion at its regular meeting held on Thursday, March 3, 2022, in Wheaton, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board