

## Item 9 - Correspondence

**From:** [katherine crapo](#)  
**To:** [MCP-Chair](#)  
**Subject:** Clarksburg Town Center/Retail - - LIBRARY  
**Date:** Tuesday, February 27, 2024 1:27:09 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Hello,

My name is Kathy Crapo and I am a home owner in good-standing in Clarksburg Town Center for the past 20 years. I am in 100% support of having the Library on the footprint of the Town Center. This has always been the location for it, has always been in the master plan and I strongly recommend leaving it in Town Center. This is an excellent landmark for people to gather for multiple events -- children's storytime, students to gather in conference rooms to study together, a place for folks to take advantage of computer access or just a place for those that wish to read a book or a newspaper. Having this in Town Center makes it very WALKABLE from all avenues of the community within Town Center. To place it elsewhere takes it out of the realm of walking and takes a core public building out of Town Center; not counting that it would cost more and would put the community on hold regarding completion of Town Center/Retail, which to date has been well overdue already.

PLEASE LET THE MASTER PLAN DEVELOP AS DRAWN UP WITH THE LIBRARY  
IN CLARKSBURG TOWN CENTER>

Regards,  
Kathy Crapo

**From:** [Luis M. Segrera](#)  
**To:** [MCP-Chair](#)  
**Subject:** Clarksburg Town Center - Hearing February 29, 2024  
**Date:** Tuesday, February 27, 2024 11:45:54 AM  
**Attachments:** [Clarksburg - Hearing 2024-02-29.pdf](#)

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Good morning,

Attached to this email you will find written testimony for the hearing planned on February 29, 2024. Details of the hearing are below:

Name of plan: Clarksburg Town Center

Project plan number: 91994004E

Preliminary plan number: 11995042E

Site plan number: 82007022I

Final forest conservation plan number: F20230380

Zoning: RMX-2, RDT zone

Property size: 270.92 acres

Master plan: 1994 Clarksburg Master Plan & Hyattstown Special Study Unit Area 2011 Limited Amendment to Clarksburg Master Plan

Please let me know if the format (PDF) works for you or if a different format is needed.

Thank you,

Luis Segrera  
12857 Clarksburg Square Road  
Clarksburg, MD 20871

Luis Segrera  
12857 Clarksburg Square Road  
Clarksburg, MD 20871

February 26, 2024

**Ref: Hearing February 29, 2024**  
**Clarksburg Town Center**  
Project plan number 91994004E  
Testimony regarding proposed Amendment to reduce the approved commercial density.

**Montgomery County Planning Board**  
**2425 Reddie Drive**  
**Wheaton, MD 20902**

Dear Planning Board Members,

I am writing to express my concerns regarding the proposed construction of an apartment complex in Clarksburg Town Center. As a resident of this neighborhood, I feel compelled to voice my objections to this development project that not only threatens to alter the character and quality of life in our area but also significantly deviates from the original plans set forth by the developer and approved by the planning board.

The initial master plan for Clarksburg promised a vibrant mix of retail and residential spaces, but the current proposal deviates significantly by introducing a high-density apartment complex. Many residents, including myself, purchased our homes based on the original plans as they would enhance the livability and value of our community. However, the proposed switch to include an apartment complex represents a substantial departure from these initial assurances, leaving residents feeling misled and betrayed.

This change raises significant concerns including, but not limited, to the following:

1. **Traffic:** There is already a very precarious traffic situation in our area, particularly having in mind that we are right where I-270 transitions from three lanes to two (having just transitioned from four to three lanes just on exit 16) and Frederick Road is only one lane on each direction. Introducing an apartment complex into this already congested area would exacerbate traffic woes, leading to increased congestion, longer commute times, and heightened safety risks for motorists, pedestrians, and cyclists alike.
2. **Parking:** The plan would intensify the existing issue of limited parking spaces available and overcrowding street parking on our already narrow streets. This will lead to further congestion, increased competition for parking spots, and decreased accessibility for residents. This situation could also create major delays in emergency response.
3. **Infrastructure strain:** The strain on our local infrastructure is already palpable, and the addition of an apartment complex would only serve to exacerbate these existing issues and add strain on our local schools and other public services diminishing the quality of life for current residents and potentially leading to overcrowded classrooms and longer wait times for essential services.

4. **Community spaces:** The introduction of a large apartment complex could alter the fabric of our tight-knit community, potentially leading to conflicts arising from having apartment residents utilizing HOA facilities and spaces. Such conflicts could escalate tensions within the community and disrupt the sense of harmony we strive to maintain.
5. **Needed services:** The original development plans included provisions for medical offices, recognizing the vital role of healthcare services in our growing community. As we pivot away from these initial commitments towards an apartment complex, we risk overlooking the critical need for accessible healthcare facilities. Considering the long-term nature of this project and the evolving post-COVID landscape, it is imperative to revisit these plans to ensure they cater to the immediate and future healthcare needs of our residents, thereby enhancing the overall well-being and sustainability of our community.
6. **Long-term vision:** While the developer justifies the shift towards building an apartment complex by citing reduced office occupancy rates post-COVID, it's crucial to recognize the evolving landscape of work and community life. Emerging trends indicate a resurgence in the need for mixed-use spaces that cater to a blend of remote and in-person work environments. Given the long-term nature of this project, it's imperative to consider these changing dynamics to ensure the development remains relevant and beneficial for the community in the years to come.
7. **Community relations:** There is a long-standing frustration among residents who have waited patiently for many years for the retail area to be developed. Despite the delay, many residents still hold out hope for a vibrant mixed-use development that would enhance the livability and value of our community. However, the proposed construction of an apartment complex, instead of the promised exclusive retail space, represents a betrayal of trust and further delays the fulfillment of the community's aspirations.
8. **Community engagement:** Adding to that frustration is the apparent reluctance of some residents to voice their opposition due to perceived power dynamics with the county and the developer. Many residents feel disempowered, believing that they cannot effectively oppose the developer's plans. This silence should not be mistaken for acceptance; rather, it reflects a sense of resignation borne out of a lack of confidence in the efficacy of their voices against larger interests.

I propose considering alternatives that align more closely with the original vision and choosing developments with a focus on retail and community spaces. Additionally, it is imperative to implement traffic mitigation measures and infrastructure enhancements to alleviate some of the issues already having a negative impact in our community.

I urge the Planning Board to revisit this proposal with these and other considerations in mind.

Thank you for your attention to this matter.

Sincerely,

Luis Segrera  
Clarksburg Town Center resident

**From:** [Kathie Hulley](#)  
**To:** [MCP-Chair](#)  
**Subject:** Fwd: Subject: Project Plan Amendment # 91994004#, Preliminary Plan Amendment #11995042#, Site Plan Amendment #820070221  
**Date:** Monday, February 26, 2024 4:40:07 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Subject: Project Plan Amendment # 91994004#, Preliminary Plan Amendment #11995042#, Site Plan Amendment #820070221I am writing regarding the proposed changes to the Clarksburg Town Center retail area .

I lived at 21809 Diller Lane, Boyds in the Clarksburg Planning area for 43 years.

I have been involved with the Clarksburg Master Plan and the Town Center Plans for over 30 years. I am a former President, Vice-President, Secretary of the Clarksburg Civic Association and it is fair to say that I have spent thousands of hours regarding the vision and development of plans for the town as it grew.

I am dismayed to see the current iteration of plans. They do not conform to the vision, the Master Plan, or the Compliance Plan. Much time was spent resolving the thousands of violations and now that resolution is being almost completely discarded.

The applicant has argued that the Compliance Plan does not apply to this site plan amendment, which is ridiculous. Of course it does: the "stage 3" (retail core) plans were always a central piece of the restitution to the community by the developer for the violations which occurred. The current developer assumed those responsibilities when they bought the distressed CTC plans for a discount. Clarksburg Town Center (CTC) has always included the retail area; in fact the main street, Clarksburg Square Road, is called out in the Clarksburg Master Plan as "Redgrave Place Extended"

100,000 s.f. of retail and possibly no library is no way to make this area the centerpiece of a town of over 40,000 people. Please do the right thing and reject this amendment.

Sincerely  
Kathie Hulley  
4119 Woodspring Lane, York, PA 17402  
301-580-4896

**From:** [lynn fantle](#)  
**To:** [MCP-Chair](#)  
**Subject:** Subject: Project Plan Amendment # 91994004#, Preliminary Plan Amendment #11995042#, Site Plan Amendment #820070221  
**Date:** Monday, February 26, 2024 4:36:04 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

**From:** lynn fantle <lfantle@aol.com>  
**To:** MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>  
**Sent:** Monday, February 26, 2024, 04:25:37 PM EST  
**Subject:** Project Plan Amendment # 91994004#, Preliminary Plan Amendment #11995042#, Site Plan Amendment #820070221

Honorable Chair and members of the Planning Board:

I am writing regarding the proposed Clarksburg Town Center Retail core amendment and the Plans coming before the Board for review on 2/29/2024.

I respectfully request that my testimony be included in the public testimony received.

I have been a resident of Montgomery County for over 29 years and I have been a resident of Clarksburg for 22 years. Our home was one of the first 30 built in Clarksburg Town Center.

I am a former President of the Clarksburg Town Center Advisory Committee; current Planning Chair of the Clarksburg Civic Association; serve on the Board of the Clarksburg Foundation; I served on the MD 355/I-270 Technology Corridor Project Work Program Development Committee for Montgomery Planning; and have participated in committees, meetings, and workgroups to select sites for the Clarksburg Fire Station, elementary school sites and other groups in Clarksburg. I have served on boards and groups throughout the county and in the Upcounty.

I implore you, this Board, to consider the future of Clarksburg. I implore you to consider the past.

In the past, the land which is now Clarksburg Town Center, built at urban densities, was rural farmland. It was not even "suburban," and in order to develop at the urban densities we now experience, many concessions and promises about amenities and recreation and retail space were made by developers -- past and current -- of the area.

The current developer has been present in Clarksburg since the very beginning and neither they nor their attorney can in any reasonable way claim any kind of ignorance of the violations, the Board hearings/findings, the mediation and the resolution -- INCLUDING THE COMPLIANCE PLAN and its elements, which were in lieu of fines and other penalties for violations adjudicated and unadjudicated in Clarksburg Town

Center.

The thousands of violations found in our community have a daily impact on life. They were not "erased" or truly "resolved" by the partial restitution which has been completed.

The remainder of that restitution is what the developer is calling "stage 3" and stating is somehow, inexplicably, "not" subject to the Compliance Plan. This is absurd. Not only is it subject to the required elements of the Compliance Plan -- it WAS the exchange TO the community for the thousands of violations:

the homes too close together  
the streets too narrow  
the lack of proper access by fire and rescue personnel  
the inability to put trees where they should be due to unauthorized changes  
the lack of parking due to changes in streets, alleys, density, unit type and more  
the homes built over ROW easements  
the lack of green space and lack of back yards

I could go on...and on...and on.

Our community lacks recreation -- the Compliance Plan was supposed to restore some of it.

The current developer MOVED our amenities and made them ostensibly part of the retail area -- with our HOA maintaining them, causing residents to now bear the burden/cost of maintaining "public" space.

This isn't a developer with our community's best interests in mind. The developer wants to profit as much as possible.

So, while "apartments" were removed as a member class from our CTC HOA a few years ago, now we face having a separate HOA of "apartments" **in the middle of \*our\* HOA**, next to our HOA amenities, including our splash fountain. Again, we are being asked to maintain something for the profit of the developer, instead of an actual enhancement to our community.

The apartments are not an enhancement, because they:

- 1) violate the height standard in our community and
- 2) take away retail space which is not only required by the Compliance Plan but is also for the future of our town of 40,000.
- 3) do not add significantly to the community in any meaningful way, will burden our roads, sidewalks and parks maintained by our HOA --and we will not be able to use the apartment amenities at all.
- 4) we already have very dense multi-family areas in the retail and on the East side of CTC providing affordable housing

Respectfully, the apartments will only profit the developer.

I ask that the Board carefully consider the amount and nature of the amenities and future which is being removed from the our community over and on top of the amenities and promised enhancements which were either changed or removed by this and other developers.

It is not an improvement to the community to remove so much retail space. It is not an enhancement to possibly lose the library and instead gain additional multi-family in the library space.

The community has lost millions of dollars in promised enhancements and amenities already. We stand to lose more from our future and only gain traffic and congestion and an incredibly unbalanced retail core.

We are often compared to Olney, so consider:

Would Olney be the same if it only had 200,000 s.f. of community retail? If more than half of its retail were non-existent? If it were all housing? If there were NO possibility of adding more retail in the center of Olney, where there is shopping, restaurants, and amenities galore?

The Clarksburg Outlets are not community retail and should not be considered in "retail" space if they are mentioned; they are yet another "change" which removed white collar employment from our community. They are not an enhancement for everyday residents in the same way an active local retail core with shops, restaurants and services would be.

This is our last chance to develop that next to the historic, 1753 Historic District and core of Clarksburg. The heart of it all. That is what Clarksburg Town Center is supposed to be, an extension of the town. The retail area was deliberately positioned where it is for just that reason, off of 355, between 121 and Stringtown Road, just off 270. It's where the town center should be, the retail core.

Please don't remove the future and major elements of our Compliance Plan --the restitution to the homeowners and residents of the community -- just because a developer asks for more housing. Just don't. Look instead to the vision, the historic vision and the reason the retail core is where it is.

Listening to residents, there is a very large sense of betrayal by the county and by the Board due to past decisions.

We were all -- including residents 30+ years ago -- sold a WALKABLE, transit-oriented community.

There is no transit.

There is no meaningful employment.

Our schools are overburdened.

We have no Rec Center, no Library, no major amenities.

Our community is lacking in multiple promised non-retail amenities, including



recreation.

The nature of our amenities has been consistently downgraded from promised.

The retail core was intended to be the highlight of the Clarksburg area, from the very beginning.

What is proposed does not meet the Compliance Plan elements, it does not meet the Master Plan vision and it doesn't meet what the residents were promised. It's not enough.

It is not an enhancement nor an improvement, except for the developer's pocketbook.

There are simple changes which could be made and which would come much closer to "enhancing" our community:

Enforce height standards

Enforce the elements of the Compliance Plan, at least for retail square footage

Remove the separate HOA for the apartments

Remove one of the apartment buildings and if necessary, dedicate to the Library for its space

These are just ideas. But every one of them would go much further toward restitution to the community than just lining the developer's pocketbook.

Of course the current developer is liable for the Compliance Plan -- the development was bought at a significant discount due to that very fact. Please don't punish the residents AGAIN by eliminating retail space and adding residential density.

We wouldn't have the density we do already have if prior developers hadn't promised and been obligated to provide significantly higher levels of amenities and enhancements in exchange for that density. CTC isn't any different now -- and Clarksburg isn't Olney or Germantown or Gaithersburg -- we are limited in our road network, our transit, our recreation, and our retail. We must go elsewhere for almost all of it.

Please don't create a situation that eliminates our future as well.

Sincerely,

Lynn Fantle

301-515-7471

12711 Clarks Crossing Dr.

Clarksburg, MD 20871

**From:** [bfantle@aol.com](mailto:bfantle@aol.com)  
**To:** [MCP-Chair](#)  
**Cc:** [Kronenberg, Robert](#); [Butler, Patrick](#); [Pereira, Sandra](#)  
**Subject:** Clarksburg Town Center - 2/29 Public Hearing  
**Date:** Monday, February 26, 2024 4:46:34 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Re: Project Plan Amendment 91994004, Preliminary Plan Amendment 11995042, Site Plan Amendment 820070221

Mr. Chairman and Commissioners,

I would like to respectfully request that my testimony be included in the public record.

I have lived in Clarksburg Town Center for two decades. I am the current president of the Clarksburg Civic Association and I served on the Clarksburg Infrastructure Working Group.

I am writing in regards to the proposed site plan amendment. I urge the board to reject the plans as proposed. I have the following concerns:

- 1) The site plan is under a compliance program that has a monetary value. Have the proposed plans met that value? As, I hope, you are aware, the compliance plan was put in place in lieu of fines for potential violations on previous site plans.
- 2) The Town Center is supposed to be a TOWN CENTER for ALL of Clarksburg. One hundred and six thousand square feet of retail is not appropriate for a town of 40,000 people.
- 3) These plans are not an improvement. There is not even a pad site or space large enough on the proposed plans for a restaurant the size of Clarks Lodge in Clarksburg Village(roughly 6000 sqft).
- 4) Removing one apartment building and leaving the space empty for future development would be a good compromise. Urbana and Kentlands have left space available for future development and market changes.
- 5) Since more people are now teleworking, each teleworker is a potential customer during the day.
- 6) The proposed apartments will have a separate HOA from the main CTC HOA. Given they will most likely use some of the amenities such as the amphitheater, the existing CTC HOA will be paying for them to use CTC amenities.
- 7) This is not a regular site plan. The community has been waiting for over a decade for the completion and resolution of the violations. Approving something for “approvals sake” is not proper planning.
- 8) Does this plan really meet the vision of the master plan? The proposed retail in Town Center(106,000 sqft) is actually smaller than what exists in the Clarksburg Village Retail Center(109,000 sqft)

Regards,  
Barry Fantle  
12711 Clarks Crossing Dr  
Clarksburg,MD 20871

301-834-2654

[Sent from the all new AOL app for iOS](#)

**From:** [Adrienne Elefantis](#)  
**To:** [MCP-Chair](#)  
**Subject:** follow-up re: Clarksburg Town Center plan amendment on 2/29  
**Date:** Tuesday, February 27, 2024 3:12:48 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Dear Planning Board,

This email is a follow-up to my letter on Feb. 23 (below) supporting the Clarksburg Town Center plan amendments.

Today I'd like to add some words of support for the Clarksburg library. The project plan you're about to vote on shows a future library site next to the retail core. The County Council is now reviewing a \$6.8 million budget request from the County Executive to evaluate an alternative library site outside CTC. This is an unanticipated and unwelcome change from long-established plans to place a library within CTC.

The current project plans you're now reviewing, just like the 2015 plans, show Town Center as having a 1.1-acre site for a future library. Third Try deeded that lot to the County in 2022. Over the 20 years I've been following CTC development, there was never any sign this lot would become anything other than a library.

So it was extremely concerning to learn that, separate and parallel to the Planning Board, other agencies in the County are now looking to repurpose that lot for housing or something else.

Now, I do understand some part of why this came about. The County is obligated to review this parcel of land for housing use, per Bill 33-22, as follows:

*"According to the Montgomery County Planning Department's 2015 White Paper, co-location refers to 'the locating of two or more organizations of public interest sharing some significant aspect of a physical space on a regular basis.' As the housing crisis mounts, jurisdictions locally and throughout the country are increasingly considering co-location of housing units with public facilities, such as schools and libraries.*

*Under current law, during transmission of the Capital Improvements Program (CIP) budget, the County's Office of Management and Budget (OMB) is required to provide the County Council an affordable housing assessment for each applicable capital project that is in facility planning. The purpose of Bill 33-22 is to require the County Executive to submit an affordable housing feasibility study to the Council for certain capital projects, in addition to the affordable housing assessment already required. Capital projects requiring an affordable housing feasibility study would include libraries, recreation centers, police stations, fire stations, and other general services buildings.*

*Bill 33-22 would require the Executive to submit the affordable housing feasibility study prior to facility planning, development of the program requirements, site selection or land acquisition of any capital project. This is intended to make affordable housing co-location more feasible through requiring planning for co-location earlier in the capital project*

*development process."*

Separate from Bill 33-22, I've also heard it said that there's another rationale to move the library: it could enable the County could build a larger library.

In my view, we stand to lose more than we gain by moving the library out of Town Center. Here are my main concerns:

1. Every version of the Clarksburg Town Center planning documents, going back to the 1994 Clarksburg Master Plan, show either a "civic use building" or "library" or "regional center." The Clarksburg Master Plan states (Policy #6) that the Town Center should "provide a concentration of civic uses (library, post office, elementary school, etc.) to help define the Town Center as the focal point of public activities." The square footage of that designated civic space has actually increased in each iteration of the project plans, from 1/4 acre in 1995, to 0.89 acres in 2009, to the current 1.1 acre lot. County library representatives were involved in discussions with the developer in choosing that site and did not previously say 1.1 acres would be too small. In other words the library is an integral and long-envisioned part of Town Center, even at its current size.
2. By removing the library, many unknowns are introduced. How will the lot be used instead? Will it be for affordable housing? That seems most likely. If not affordable housing (which already exists to some degree within CTC), what other type of facility would the community get? What kind of planning process will be required? How long will it take? In the meantime, will the CTC HOA be on the hook to maintain the County lot, mowing the grass and ensuring the parking lot doesn't become overgrown with weeds?
3. Some residents have suggested the County could deed the land back to the HOA if it is not used for a library. This idea seems fanciful. The Clarksburg HOA is not prepared to take on the financial burden of land development.
4. The alternate site being looked at on Route 355 is not necessarily better than the CTC lot. A 20,000 square foot library within CTC would be well used, certainly. But there has been no analysis to suggest it would be somehow over capacity. While the Germantown public library is bigger, that is considered a regional library -- larger than average at 44,000 square feet. The 1.1-acre lot in CTC also has the advantage of being nestled in a pedestrian friendly, neighborhood-focused town center, in conformity with the Clarksburg Master Plan. Siting the library on Route 355 theoretically may provide better visibility for passing drivers, and perhaps could offer more square footage. However, it would no longer be as walkable. The library would now be further away from all the supporting amenities in CTC, such as Kings Local Park, the retail center, the amphitheater, and green space. When my children were young, I used to take my kids to the Germantown library and combine the library visit with walking around the adjacent park. I don't know that library patrons coming to a building on Route 355 would even be aware that Kings Local Park is close by. In contrast, someone coming into Town Center to patronize a library there would be likelier to take time to enjoy the amenities that already exist in Town Center.
5. The time for the library is NOW. We can't afford complications that could add more delays and uncertainties. I moved to CTC in 2004 before I even had children, and now my kids are 14 and 15 years old. It's not too late for them to use a library if it's built within the next 2-3 years. But soon they'll be off to college. Families measure their lives in spans of 5, 7, 10 years. Not

25-30 years. Whatever we can get SOONEST is probably best for most Clarksburg residents, especially those with young children.

I am actively lobbying the County Council to bring these issues to their attention before they vote on the library next month. However, I wanted to make sure you are aware of how important this issue is to CTC residents. If there is anything you can do to help KEEP the library in CTC, just as depicted in your project plans, that would be greatly appreciated.

Thank you for hearing me out today, and for your continued work in bringing CTC to fruition.

Sincerely,  
Adrienne Elefantis

On Friday, February 23, 2024 at 12:26:28 PM EST, Adrienne Elefantis <syberiane@yahoo.com> wrote:

Dear Planning Board members,

My husband and I are writing to express our unequivocal support for the Clarksburg Town Center (CTC) plan amendment you are reviewing on February 29. Please vote to approve this plan so that my family and neighbors can escape this dreaded state of limbo we've been stuck in and finally see our neighborhood completed after 20 years.

Please know this request is coming from two individuals who have spent the past two decades in Clarksburg and almost 50 years in Montgomery County, who know this development's complicated history, and who are committed only to the best interests of Clarksburg Town Center homeowners and residents.

My husband and I bought our townhouse in 2004 and spent the past 16 years raising two children here. My husband testified before the planning board in 2015 to support earlier plan amendments. I've been actively engaged in community advocacy through my position on the Clarksburg HOA Board of Directors and Grounds Committee. Being on the Board I believe I have a good grasp of what the community wants, based on comments we hear at annual meetings. Everyone's number one wish here is simply to see our neighborhood finished.

We truly value the hard work you do every day for the betterment of our County. Our region would not be as beautiful and well preserved if not for your diligence and thoughtful approach to development. However, the County works in a time scale that is extremely slow compared with how most people live their lives -- and that's in the BEST of cases. CTC has been the WORST of cases, stuck in a glacial cycle of amendment, review, amendment, review for years. This prolonged uncertainty has actually harmed my family's quality of life. When you have young children who from diapers to kindergarten in 5 years, and from kindergarten to high school in 9 years, 20 years is an entire lifetime lived. Our children weren't even born when we moved to Clarksburg and now our eldest is starting to look at colleges.

We've had to watch from the sidelines as Clarksburg got five new public schools, more new planned communities, outlets, gas stations and restaurants, a drug store. Meanwhile, we still have a pile of dirt where a town center should be. Families like mine are losing out on the kind of cohesive neighborhood experience we were promised, during important years we will never get back.

It is time to close the books on CTC and let the developer "get it done." We like the specifics of the plan presented by Third Try and believe they are putting forth a good faith effort to create the best possible version of Town Center given current market conditions. Please give this plan amendment your vote of approval. We are counting on you and thank you so much for your support.

Sincerely,  
Adrienne and Demetrios (Jim) Elefantis  
23800 Branchbrier Way  
Clarksburg MD 20871

**From:** [Amy Presley](#)  
**To:** [MCP-Chair](#)  
**Subject:** Fwd: Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221  
**Date:** Tuesday, February 27, 2024 2:33:43 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

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Attachments available until Mar 28, 2024

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Honorable Chair,

Please find my revised submission in PDF format, including the Board Resolution referred to as an "Attachment" within the Testimony I sent yesterday. I inadvertently neglected to include the attachment. My apologies for any inconvenience.

Sincerely,  
Amy

[Amy Presley, REALTOR®](#)  
301-526-7435  
[www.TrustedEstatePartners.com](http://www.TrustedEstatePartners.com)

[Click to Download](#)

Testimony Before the Board-Amy Presley-2-25-2024.pdf  
14.1 MB

Begin forwarded message:

**From:** Amy Presley <[Amy@trustedestatepartners.com](mailto:Amy@trustedestatepartners.com)>  
**Subject:** Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221  
**Date:** February 26, 2024 at 10:56:45 AM EST  
**To:** MCP-Chair <[MCP-Chair@mncppc-mc.org](mailto:MCP-Chair@mncppc-mc.org)>

Honorable Chair,



Please find attached my testimony relative to the Plans coming before the Board for review on 2/29/2024.

I respectfully request that my testimony be included in the public testimony received.

Sincerely,  
Amy

[Amy Presley, REALTOR®](#)  
[301-526-7435](#)  
[www.TrustedEstatePartners.com](#)

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Testimony Before the Board-Amy Presley-2-25-2024.docx

8.3 MB

Amy Presley (Commissioner Emeritus, and Former CTCAC Co-Chair)  
23506 Sugar View Drive  
Clarksburg, MD 20871

February 25, 2024

The Honorable Artie Harris, Chairman  
Montgomery County Planning Board  
2425 Reedie Drive  
Wheaton, MD 20902

Re: Clarksburg Town Center (Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221)

Dear Chairman Harris, and Honorable Commissioners of the Board,

I am writing to you as a 22-year resident of the Clarksburg Town Center, a past Co-Chair of the Clarksburg Town Center Advisory Committee (CTCAC), and a Commissioner Emeritus (having served 8 consecutive years on the Planning Board and, most recently, as a temporary Commissioner filling in until the currently seated Board members could be officially appointed by the County Council). So, while I am not an attorney, I have a thorough and accurate understanding of the history and details of this case.

I bring extensive knowledge to the table regarding:

- the discovery and scope of the violations within the Town Center community;
- the initial violation hearings and proposed fines (in excess of \$2M even prior to completion of hearings);
- the Stop Work Order enacted by the County Council in response to the scope of violations uncovered and exposure of the failed oversight and enforcement by regulatory agencies;
- the reason that we (CTCAC) were urged by both the Planning Board and County Council at the time to enter into Mediation/Arbitration (a process which was structured by the Council and the Board because the County was not equipped to continue to deal publicly with the breadth of issues - i.e., no procedures in place to continue to conduct hearings on violations of the magnitude exposed);
- the Mediation/Arbitration proceedings and Settlement Agreement (which took the better of one year to Settle);
- the resultant Compliance Program as submitted to the Planning Board;
- the Planning Board's adoption of the Compliance Program and its import (legal sufficiency to remediate violations);
- the Planning Board's actions taken from 2005 to date;
- and the relevance of the past and present to your decision on the plans coming before you now.

Prior to presenting the main concerns that I hold relative to the proposed plan revisions, I must first refute the erroneous points made by Mr. Robert Harris, Counsel for the Applicant. Six minutes of oral presentation before the Board during live testimony will be insufficient to do so, and would take away from my presentation of community concerns and expectations. Therefore, I have embedded Mr. Harris' letter together with my counterpoints below:



7600 Wisconsin Avenue, Suite 700 • Bethesda, MD 20814 • [lerchearly.com](http://lerchearly.com)

**Robert R. Harris**  
Attorney  
301-841-3826  
[rrharris@lerchearly.com](mailto:rrharris@lerchearly.com)

February 22, 2024

The Honorable Artie Harris  
Chairman  
Montgomery County Planning Board  
2425 Reddie Drive  
Wheaton, MD 20902

Re: Clarksburg Town Center (Project Plan Amendment No. 91994004E, Preliminary Plan Amendment No. 11995042E, and Site Plan Amendment No. 820070221)

Dear Chairman Harris:

I am writing to you as counsel for the applicant in these proceedings, in response to information recently submitted for the record. More specifically, I want to comment on and support Staff's conclusions in their Staff Report (dated 2/16/24) with respect to approvability of these applications under an earlier approval regarding the subject property referred to as the "Plan of Compliance" or "Compliance Program". In short, for the reasons discussed below, I agree that the Plan of Compliance allows the Planning Board to approve these applications.

By way of background, back in 2006, after residents alleged violations of previously approved Clarksburg development, the earlier developers and the community entered a "Settlement Agreement" dated April 6, 2006 intended to address the alleged development violations. The Planning Board was not a party to the Agreement. Therefore, the parties to that Agreement sought Planning Board approval of a Plan of Compliance to guide future actions by the Board, and the parties signed a Release with respect to alleged violations. The terms and conditions of the resulting

It is technically true that the Planning Board was not a "Party" to the Settlement Agreement. Nevertheless, the reality is that the Planning Board, together with the County Council, directed CTCAC, the Developer, and Builders to enter into Mediation/Arbitration and to present the resultant Settlement to the Staff to be turned into a Compliance Program. The alternative, should an Agreement not be reached, was to continue to continue with violation hearings and imposed fines and penalties.

After nearly one year, the parties were able to enter into a Settlement Agreement that was submitted to the Staff, reviewed by the Staff and turned into the Compliance Program. The Compliance Program was presented to the Board and Approved on June 16, 2006.

Mr. Harris states:

construction or amenity features and other factors where the resulting development did not conform with the underlying approvals. By Resolution No. 06 – 20, dated August 17, 2006, the Montgomery County Planning Board approved the Plan of Compliance. In that Resolution, the Planning Board noted, however, that "the compliance program is conceptual in nature, and that additional review of more detailed plans may involve modifications." It further stated that "the Board expressly reserves all lawful discretion to consider, approve, approve subject to conditions or disapprove any such future application according to the law and merits presented at the time." Subsequent to the Plan of

Unfortunately, much was omitted in Mr. Harris' recent letter relative to the "conceptual nature" of the Compliance Program and the Board's modification rights, but the details can be found in the actual Resolution No. 06-20. I was unable to locate the Resolution in the Planning Board's online records (which means that the general public does not have access either), but thankfully I had kept a copy of it in my CTCAC files. The complete copy of the Resolution is attached for this Board's review, but I will augment Mr. Harris' incomplete observations with the following excerpts below:

**§2. PURPOSE AND NATURE OF RESOLUTION: APPROVAL OF COMPLIANCE PROGRAM**

The purpose of this Resolution is to memorialize the decision of the Montgomery County Planning Board (the "Board") to approve a certain Plan of Compliance (the "Compliance Program") in the matters heard upon and including those elements, terms and conditions as set forth herein. This Resolution is adopted pursuant to the authority of the Board to enforce the elements, terms and conditions of its previous actions in this matter, in accordance with the enabling provisions of Article 28 of the Annotated Code of Maryland at Section 7-116(h) and the implementing provisions of Section 59-D-3.6 of the Montgomery County Zoning Ordinance.

The terms and conditions of the Compliance Program approved by this Resolution are intended by the Board as remedial measures that shall be legally required in order to address certain violations (such violations both found or known to be alleged as of the effective date of this Resolution) (collectively, the "Violations") with respect to the Project Plan, various site plans and certain amendments thereto, whether or not those site plans and amendments were approved under lawful authority to do so.

**FINDING 4.3:** In accordance with the recommendations of staff, the Board finds 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 in accordance with Section 59-D-3.6 (a)(4) of the Montgomery County Zoning Ordinance. The Board is persuaded that implementation of the Compliance Program will remediate and resolve all Violations.

**FINDING 4.4:** In accordance with the recommendations of staff, the Board finds that the modifications to the street network approved by the Fire Marshal of Montgomery County for purposes of public safety are in the public interest and are, therefore, incorporated into the approved Compliance Program.

In accordance with Findings 4.2, 4.3 and 4.4, the Board hereby orders the Respondents to comply strictly with each of the elements, terms and conditions of the Compliance Program and expressed otherwise under this Resolution. The Board further instructs the Planning Staff to undertake all reasonable measures to detect and report to the Board the Respondents' compliance and non-compliance as the applicable case may be.

The Board clearly found that that "subject to its completion according to its terms and conditions in accordance with this Resolution" the "Compliance Program constitutes a lawful and appropriate alternative to imposing fines or monetary penalties" and, further, that "implementation of the Compliance Program will remediate and resolve all Violations." In accordance with that Finding, the Board then "orders the Respondents to comply strictly with each of the elements, terms and conditions" of the Compliance Program.

As Mr. Harris states, the Plans for the Compliance Program were indeed “conceptual in nature.” I am not in disagreement with this statement. However, the specific “elements” of the Compliance Program were not only **not conceptual**, but they were actually required by the Board as sufficient to remediate violations and penalties, as confirmed in the Resolution by way of the Board incorporating the Staff Report and Circle Pages 17-91 (which collectively itemize each of the proffered and accepted “elements” together with a financial analysis of items noted by the Staff and approved by the Board as sufficient to remedy violations).

**A. Staff Recommendations.** As set forth in the staff report issued by memorandum dated June 1, 2006, executed by John Carter and Rose Krasnow (the “Staff Report”), and as presented during the Board’s hearing on June 15, 2006, the Compliance Program consists of and expressly incorporates by reference each of the elements, terms, and conditions as contained in the following documents:

1. The following Exhibits:
  - a) Applicant’s Exhibit 1 — Units/Lots to be released at the time of Plan of Compliance approval (“Attachment 1” hereto)
  - b) Applicant’s Exhibit 2 — Plan of Compliance Parking Exhibit (“Attachment 2” hereto)
  - c) Staff’s Exhibit 1 – Units/Lots to be released at time of Plan of Compliance (blue-lined) (“Attachment 3” hereto)
2. The staff report, without attachments, dated June 1, 2006 (pages 1-16) (“Staff Report”) and circle pages 17-91 attached to the Staff Report, but excluding Section “S” on circle pages 29-30 titled “Outcome/Effect of Plan of Compliance” (collectively, “Attachment 4” hereto);

Prior to a more detailed examination of the specific items as approved by the Board, and the actions taken by the Board from that time through present, I will first complete my response to Mr. Harris’ statements relative to his Client’s responsibility - or rather lack thereof - to be held accountable to comply with the Plan of Compliance.

The applicant in this proceeding was not a party to either the Settlement Agreement or the Plan of Compliance, nor was the area of the Clarksburg Town Center development that is the subject of the currently pending applications, the subject of any alleged violations. In fact, there was no

development at all on this portion of the property at that time so there could not have been any violations.

As Mr. Harris is well aware, the Applicant is a “successor and assign” to the Project and is responsible for fulfilling the remaining requirements as would be any other successor to other approved Preliminary, Project, and/or Site Plans as is required by law. Indeed, the Applicant (Mr. Flanagan/at the time “Third Try LLC”) publicly announced to the Clarksburg Town Center Community relative to his succession of Newland that he understood the difficult requirements that had been imposed on the project and still remained to be fulfilled, and that is why he “bought it for \$1.00.” When Mr. Flanagan purchased the project, he had access to the Board’s Resolution adopting the Compliance Program and also requiring future successors to comply:

future application according to the law and merits presented at the time. Further, the Board expressly retains jurisdiction to consider and act upon any violation in the future that is unrelated to the Violations resolved according to the terms of this Resolution, alleged on the basis of this Resolution, or any act or omission by the Respondents (their successors or assigns) that accrues after the effective date hereof.

Mr. Harris states that “there was no development at all on this portion of the property at that time, so there could not have been any violations”. . . That statement is nonsensical. The very “portion” he refers to is “Stage III” of the Compliance Program. Stage III items proffered by the Applicant at the time, detailed and cost-itemized in the Staff Report and further supported by Circle Page 17, approved by the Board with specific items noted as Required Elements (Per the Board’s Resolution), represent **the most critical portion** of the Compliance Program. In fact, the Retail Core of the Town Center is the very issue that sent residents down the path of “violation” hunting back in 2005, when Newland had presented a “strip-mall” type of plan they intended to build rather than the promised Town Center Retail (which I and many other residents were promised when we moved into the development in 2002 - 22 years ago).

The Clarksburg Town Center retail area and design was the crux of the Community’s issues then and remains so today -- after many failed promises and a failure by Staff (post 2008) and successive Board members to enforce what was won and owed to the Community through the Settlement Agreement underlying the Compliance Program. But, prior to outlining all that the Community has lost from 2008 to the present, I must first address Mr. Harris’ claim regarding the Board’s right to review and modify or approve plan submissions post-approval of the Compliance Program.

I do not dispute, especially having served as a Commissioner, the Board’s legal right relative to review and approval of plans in general, nor do I dispute that right specific to the Compliance Program. But, most critically, the Staff at the time of the submission of the Compliance Program was informed as to the CTCAC’s and the Community’s concern that over time the Compliance Program could be eroded if the Staff did not include specific language requiring the proffered elements accepted by the Board to actually be provided. It was understood at the time that this language should not limit minor revisions and plan alterations, but would secure the specific elements as approved. In response, the Staff did include protective language and the Board also included protective language limiting itself to the scope of potential future reviews and any modifications to the Compliance Program.

#### §5. PLANNING BOARD AUTHORITY EXPRESSLY RESERVED

Except as expressly provided in this Resolution, nothing provided in this Resolution is intended, nor shall it be construed, to cede, relinquish or otherwise impair the discretion, authority or jurisdiction of the Board to consider any future applications, plans or approvals pertaining to the project according to the terms of this Resolution, law and merits applicable. Without limiting the generality of the foregoing, it is understood that the Respondents shall be required in the future to obtain Board approval for one or more amendments to the Project Plan, Preliminary Plan, and Site Plans relating to the project.

What was “expressly provided in this Resolution” was that the Elements as outlined in the Staff Report and Circle Page 17 were indeed **requirements**. They had nothing to do with “conceptual plans” which were to be later detailed, they were the specific proffered elements to be included in those future plans. The Staff intentionally outlined not only the specific elements, but also the associated project costs/monetary benefit to the Community, which was their rationale for accounting them as sufficient to remedy violations found to date and otherwise scheduled for future hearing and imposition of additional fines and penalties.

The Planning Board recognizes that the Compliance Program is conceptual in nature, and that additional review of more detailed plans may involve modifications. Except as otherwise required by or relating to physical project conditions unforeseen by the Board, or applicable law (including the requirements of the Montgomery County Zoning Ordinance, Subdivision Regulations, or other legal requirements applicable to any future Board action pertaining to the project), the Planning Board intends to require only such modifications that are reasonably consistent with the Compliance Program. Subject only to such unforeseen project conditions, applicable law and regulations, express terms of this Resolution and the Compliance Program, the Board expressly reserves all lawful discretion to consider, approve, approve subject to conditions or disapprove any such future application according to the law and merits presented at the time. Further, the

Board expressly retains jurisdiction to consider and act upon any violation in the future that is unrelated to the Violations resolved according to the terms of this Resolution, alleged on the basis of this Resolution, or any act or omission by the Respondents (their successors or assigns) that accrues after the effective date hereof.

**CONCLUSION**

The Planning Board accordingly approves this Resolution according to elements, terms, and conditions stated above.

It is critical to note the Board intended “to require only such modifications that are reasonably consistent with the Compliance Program.” Their approval of the Compliance Program, as stated in the Resolution, was “according to the **elements**, terms, and conditions stated above.” In short, the design of plans could change, the Planning Board could make modifications “consistent with the Compliance Program,” but nowhere was there any indication that major modifications could be made that would reduce or remove the physical elements that were required to be provided. Nowhere was there any leeway provided to arbitrarily and capriciously reduce the proffered and accepted “elements,” or to grossly discount the monetary value of the underlying Settlement award to the Community as reinforced by the adopted Compliance Plan.

Before summarizing what I request of the Board (and my understanding from multiple discussion with members of the Community expressing that they desire, but don’t have sufficient supporting information or historical data to request), it is critical to provide an accounting of the Settlement benefits/Compliance Program requirements of which the Community has been deprived to date.

Following is the Staff calculation of the cost/financial benefit to the Community of specific elements as contained within the Board approved Compliance Program, and adopted as required Elements (Page 14 of the Staff Report to the Board):

Table: Cost of Enhancements

• Additional landscaping	\$1,000,000
• Improvements to Redgrave Place/Clarksburg Square Road	\$500,000
• Additional landscaping for Street "O"	\$50,000
• Two parking garages for the retail core (840 spaces X \$10,000 additional cost per space)	\$8,400,000
• Indoor lap pool	\$2,000,000
• 1,200-square foot civic building	\$180,000
• 800-square foot building for community uses	\$120,000
• Market building	\$240,000
• Civic plaza	\$2,200,000
<b>Total</b>	<b>\$14,690,000</b>

Of the preceding calculated benefits, to date the Planning Board has removed in excess of \$12 Million Dollars of these “required” elements. Removals have included the Parking Garages, Indoor Lap Pool, and Market Building or Civic Plaza. These removals do not take into account the additional revised plans of the past and currently proposed, or the revised locations of other elements/amenities that were to be provided. At this point, I am only addressing the monetary value of elements eliminated from those **required** under the Compliance Program. And, please remember, these elements constituted appropriate remediation for all violations and eliminated further hearings and proposed fines.

While one could argue that the Planning Board was within its legal right to amend the plans, even to remove the requirement for parking structures due to an evaluation that they are not practical in today’s market, there is no support for eliminating the equivalent monetary compensation that was due to the Community per the Settlement Agreement and resultant Compliance Program. In fact, the Staff and Board were required in accordance with the Compliance Plan and as outlined within the Resolution to ensure that all required elements were provided. I posit that if the Planning Board had reallocated even the financial equivalent of the parking garages (\$8.4M) to another purpose - such as requiring the Applicant to offer that amount over some period of time for free or reduced rent to a potential grocer - the Community would not still be waiting for a grocery store . . . or be held hostage to accept whatever plan revisions the Applicant presents in the hope of getting completed some or any development in the still vacant Town Center Retail Core.

As to the specifics of the Retail Core, the overall square footage of commercial and retail space has been arbitrarily reduced by almost half of what was initially proffered and incorporated into the Compliance Program. At the same time, apartment buildings with some heights of 70’ (exceeding heights as approved in the Compliance Program) are now being proposed - and supported by Staff, even though Staff were instructed in the Compliance Program to “undertake all reasonable measures to detect and report to the Board the Respondents’ compliance and non-compliance as the applicable case may be.”

In accordance with Findings 4.2, 4.3 and 4.4, the Board hereby orders the Respondents to comply strictly with each of the elements, terms and conditions of the Compliance Program and expressed otherwise under this Resolution. The Board further instructs the Planning Staff to undertake all reasonable measures to detect and report to the Board the Respondents’ compliance and non-compliance as the applicable case may be.

Why then is there no comparison in the current Staff Report showing an accurate table of elements and standards of the Compliance Program as compared to the Plan revisions now submitted to the Planning Board? Minimally, it would highlight the actual square footage reduction in proposed retail/commercial square footage versus what was approved in the Compliance Program. Instead, what the Board has before it is a regurgitation of prior approvals as if they are no longer pertinent to what is being presented by the current Applicant.



It is fair to say that the Staff and Planning Board have helped to ensure fulfillment of many of the Compliance Program elements to date. The current Developer, regardless of its name, as led by Mr. Flanagan, has completed in a respectable way the required elements of Stage I and II of the Compliance Program. The Community is grateful for those elements that have come to fruition - including the Dog Park, renovated Pool area, and many more aesthetic features.

Unfortunately, the Staff and Planning Board have failed their responsibility to enforce the required elements of Stage III of the Compliance Program - arguably the most critical implementation of the Program as “fulfillment” and “remediation” of violations and penalties that would otherwise have been imposed. As a direct result, the Community has been defrauded of the specific elements (most desired and long awaited) and associated monetary benefit that were due to them in this most critical Stage of the Compliance Program - The Clarksburg Town Center Retail Core.

The good news is that it is still not too late to act in the Community’s true best interest to ensure that the final Stage of the Compliance Program is fulfilled in accordance with all of the “required elements” of the Program for that Stage. This would include reinstating the full retail/commercial square footage as “required” by the approved Compliance Program. This would ensure that the retail/commercial space would support now and long-term a true Town Center rather than a strip-center retail capacity.

Acting in the Community’s true best interest would also include revisiting the currently proposed Apartment Buildings (one of which exceeds the existing height limitation, but both of which take up space that was otherwise dedicated to retail/commercial use and/or parking surface). As pertains to the Apartment Buildings, the current Plan submission includes a pool dedicated solely to the apartments. This pool takes up space that would otherwise be dedicated to Community use, such as additional retail/commercial use and/or parking for the retail/commercial use. Also, the splash pool (a feature of the Compliance Program approved to be within the Town Center Retail Core) is shown as relocated from the Town Center Retail Core to an area abutting one of the apartment buildings. This splash pool was a key element of the approved Compliance Program, initially designated to be in front of the Library, and was meant to be a focal point within the Retail Core to activate the retail area.

The Applicant could argue that many of the elements I mentioned above have been eliminated or repositioned through past Site Plan revisions and approvals. This is not truly the case. The Applicant is submitting a request for amendment to prior Plan approvals, and thereby subjects itself to the Planning Board’s current review. And, as Mr. Harris mentions in his letter to the Board, the Planning Board has a legal right to make modifications as it sees fit. In this case, the Planning Board has the legal right to review the Plan in its entirety and require whatever alterations it deems necessary - including changes to revert to originally required retail square footage and the other revisions as suggested above.

Also, this is **The Last Chance** the Community has (precluding submission by me/CTCAC of the Settlement Agreement to the Circuit Court for Motion to Enforce) for Stage III of the Compliance Program to be implemented as approved and required.

Please consider these requests soberly before arriving at your decision to approve or disapprove, with recommendations for revisions, the Plan coming before you.

In conclusion, I will also advise that the former counsel to CTCAC (Dave Brown of Knopf and Brown) has reviewed my letter in detail and agreed with my foregoing statements and their legal accuracy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy Presley", written over a horizontal line.

Amy Presley  
Former CTCAC Co-Chair

cc: The Honorable Mitra Pedoeem, The Honorable James Hedrick, The Honorable Shawn Bartley, The Honorable Josh Linden, Mr. Phillip Estes, Ms. Sandra Pereira, Mr. Patrick Butler, Mr. Robert Kronenberg, Ms. Emily Vaias

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

Date of Mailing: **AUG 17 2006**

MCPB No. 06-20

**RESOLUTION OF  
MONTGOMERY COUNTY PLANNING BOARD**

**PROJECT:** Compliance Program: Clarksburg Town Center

**PROJECT PLAN NO:** 9-94004

**SITE PLAN NO:** 8-98001; 8-02014

**DATE OF HEARING:** June 15, 2006

**RESPONDENTS:** Newland Communities, LLC and NNPII-Clarksburg, LLC  
Bozzuto Homes, Inc., BA Clarksburg, LLC and  
BA Clarksburg Two, LLC  
Craftstar Homes, Inc. and its LLC affiliates  
Miller and Smith at Clarksburg, LLC  
NVR, Inc., t/a NV Homes  
PCI Clarksburg LLC

**COMPLAINANT:** Clarksburg Town Center Advisory Committee

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**RESOLUTION OF THE PLANNING BOARD: APPROVAL OF THE STAFF RECOMMENDATIONS WITH MODIFICATIONS.** A motion to approve with certain modifications was made by Commissioner Robinson, seconded by Commissioner Wellington, and carried by unanimous vote (4-0) in the affirmative; Chairman Berlage and Commissioners Perdue, Robinson, and Wellington voting in the affirmative, with Commissioner Bryant being absent for the vote.

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**§1. EFFECTIVE DATE**

The effective date of this written resolution (the "Resolution") is the date this document is mailed to all parties of record. Any party entitled by law to make an administrative appeal must initiate the appeal within thirty days of the date of this Resolution according to the procedural rules for judicial review of administrative decisions under applicable law and the Maryland Rules of Court.

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## §2. PURPOSE AND NATURE OF RESOLUTION: APPROVAL OF COMPLIANCE PROGRAM

The purpose of this Resolution is to memorialize the decision of the Montgomery County Planning Board (the "Board") to approve a certain Plan of Compliance (the "Compliance Program") in the matters heard upon and including those elements, terms and conditions as set forth herein. This Resolution is adopted pursuant to the authority of the Board to enforce the elements, terms and conditions of its previous actions in this matter, in accordance with the enabling provisions of Article 28 of the Annotated Code of Maryland at Section 7-116(h) and the implementing provisions of Section 59-D-3.6 of the Montgomery County Zoning Ordinance.

The terms and conditions of the Compliance Program approved by this Resolution are intended by the Board as remedial measures that shall be legally required in order to address certain violations (such violations both found or known to be alleged as of the effective date of this Resolution) (collectively, the "Violations") with respect to the Project Plan, various site plans and certain amendments thereto, whether or not those site plans and amendments were approved under lawful authority to do so.

The elements, terms and conditions of the Compliance Program approved under this Resolution are the result of a voluntary mediation and negotiation process undertaken by and on behalf of the Complainant and Respondents; and, as expressed in this Resolution, such elements, terms and conditions of the Compliance Program shall be deemed and constitute the knowing and voluntary proffer of the Respondents tendered for the purpose of settling and disposing of the Violations in accordance with the lawful authority of the Board.

The Respondents have acknowledged that the Compliance Program set forth in this Resolution shall be given effect in lieu of any proposed amendment previously filed but approval of which remains pending as of the effective date hereof (collectively, the "Pending Amendments"). The Pending Amendments are enumerated as follows:

- That certain proposed amendment to the subject Project Plan filed on May 9, 2005;
- That certain proposed amendment pertaining to Section 1A4 of Site Plan No. 8-98001 filed on June 22, 2004; and
- That certain proposed site plan pertaining to the retail area shown on Site Plan No. 8-04034 filed on June 3, 2004.

Because said pending amendments are inconsistent with certain elements, terms, conditions of the Compliance Program, the Respondents have voluntarily agreed to withdraw each and every of the Pending Amendments and, upon issuance of this Resolution, such withdrawal of those Pending Amendments by Respondents shall be

deemed approved by the Board. Hereafter, the Board shall deem the Pending Amendments withdrawn, a legal nullity and of no further force or effect with respect to the project.

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### §3. COMPOSITION (ELEMENTS, TERMS AND CONDITIONS) OF THE COMPLIANCE PROGRAM

For the purpose of this Resolution, the Compliance Program consists of the Staff Recommendations, Board Modifications, Certain Deadlines, and Certain Waivers described in this section.

**A. Staff Recommendations.** As set forth in the staff report issued by memorandum dated June 1, 2006, executed by John Carter and Rose Krasnow (the "Staff Report"), and as presented during the Board's hearing on June 15, 2006, the Compliance Program consists of and expressly incorporates by reference each of the elements, terms, and conditions as contained in the following documents:

1. The following Exhibits:

- a) Applicant's Exhibit 1 — Units/Lots to be released at the time of Plan of Compliance approval ("Attachment 1" hereto)
- b) Applicant's Exhibit 2 — Plan of Compliance Parking Exhibit ("Attachment 2" hereto)
- c) Staff's Exhibit 1 — Units/Lots to be released at time of Plan of Compliance (bluelined) ("Attachment 3" hereto)

2. The staff report, without attachments, dated June 1, 2006 (pages 1-16) ("Staff Report") and circle pages 17-91 attached to the Staff Report, but excluding Section "S" on circle pages 29-30 titled "Outcome/Effect of Plan of Compliance" (collectively, "Attachment 4" hereto);

3. Staff's handout at the June 15, 2006 hearing ("Attachment 5" hereto) which consists of a one-page addition of paragraph 4 ("Status of the Plan of Compliance") to the Staff Report ("June 15, 2006 Errata");

4. First Stage Development Standards Clarksburg Town Center ("Attachment 6" hereto), consisting of Table 1: Manor House Building 7 and 9 (Multi-Family Units), and Table 2: Proposed Development Standards from Exhibit R of the Plan of Compliance, June 30, 2006.

**B. Board Modifications.** The Compliance Program also includes and expressly incorporates by reference each of the following elements, terms, and conditions:

1. **Future Review Process.** - The Compliance Program proposes certain amendments to the approved Project Plan and the certified Site Plans as

indicated in the "Description of Major Elements Making Up the Plan of Compliance," and the "Plan of Compliance Design Concepts" (see attached Staff Report). The future approvals include the interim review of Site Plan amendments for Sections 2D, and GG and for Manor House Buildings 10, 11 and 12, to be followed by the review of the overall modified Project Plan, Preliminary Plan, the existing Site Plans, and a new Site Plan for the retail core, as described in the phasing discussion below.

2. **Phasing and Next Steps** – As a condition of the Compliance Program, the Board approved the following phasing of development:

- a. **First Stage: Begin Construction - Construction** - At the current time, stop work orders imposed voluntarily, by or on behalf of the Planning Board are in place in certain designated areas of the community. The Planning Board declares that said stop work orders shall be dissolved, and does hereby dissolve those orders, so as to authorize Respondents to proceed with the first stage of the development with respect to the 78 Units/Lots enumerated on "Attachment 6" hereto; provided, that Respondents shall proceed and construct each and every such Unit/Lot in strict compliance with any building permit or other governmental approval for their construction as may be issued and applicable thereto. Construction of Stringtown Road between MD 355 and Overlook Park Drive, and Clarksburg Road between MD 355 and Spire Street can also continue in this First Stage.
- b. **Second Stage: Approval of a Revised Site Plan for Section 2D and GG** - The Respondents must apply for an amendment to the October 14, 2004 Certified Phase II Site Plan for the remaining portions of Sections 2D and GG, as well as the Site Plan for Manor House Buildings 10, 11 and 12. Construction of these units will only proceed if and when the Planning Board approves these Site Plans amendments. It is understood that the Respondents may apply for these amendments before any other amendment applications to the Project Plan, Preliminary Plan, or Site Plans for the entire development are submitted for approval.
- c. **Third Stage: Approval of a Revised Project Plan, Preliminary Plan and Site Plans** - The approved overall Project Plan, Preliminary Plan, and Site Plans will need to be revised, and a new site plan for the retail core will need to be approved before the remaining development in the Clarksburg Town Center will be able to proceed. This step is intended to incorporate all of the elements of the Compliance Program into an amended overall Project Plan, Preliminary Plan, and the newly approved or amended Site Plans. A new phasing plan for the entire development will also be included as part of this third stage review.

**C. Certain Deadlines.** The Project Plan, Preliminary Plan, Site Plan amendments and new Site Plan to be submitted for approval must reflect the elements of this Compliance Program and must be submitted before October 26, 2006. These plans must also include an amended Phasing Plan for the entire development, including all facilities and amenities. The entire project must be completed by June 15, 2010 unless the Planning Board approves an extension.

**D. Certain Waivers.** By their attendance and respective proffers expressed in connection with the several Planning Board proceedings convened to consider the matters addressed in this Resolution, and as subsequently confirmed by the written and oral binding representations of their respective legal counsels, Respondents and Complainant consented and conceded to the jurisdiction of the Board for the purpose of the taking of this action. Respondents and Complainant further voluntarily consented and agreed to the various elements, terms and conditions expressed herein for purposes of the Compliance Program, and knowingly waived any and all right to appeal or contest the action taken by the Board hereunder, and thereby agreed to be estopped from contesting any portion of the Compliance Program, or asserting any compensable damage or cost by way of any cause of action against the Board related in any way to the matters resolved herein. It is expressly understood, however, that the aforesaid waiver does not apply to, or in any way impair, waive or otherwise affect (i) any parties' right to defend an appeal of this action filed by persons other than Respondents or Complainant; (ii) any parties' appeal rights and/or cause(s) of action that might accrue with respect to any future action taken by the Board, other governmental agency or individual including, without limitation, any action concerning subsequent Project Plan, Preliminary Plan and/or Site Plan applications, including any amendment(s) thereto, and further including any subsequent permitting and development processes related thereto, which are intended to implement the Compliance Program. The waivers expressed under this Section 3(d) are considered by the Planning Board to be a material predicate and inducement for the issuance of this Resolution.

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#### **§4. FORMAL DISPOSITION OF THE VIOLATIONS AND RELATED FINDINGS**

**FINDING 4.1:** The Board finds that the public interest will be served by "grandfathering" (holding harmless) all dwelling units that are already constructed, under contract by, and/or occupied by innocent third-party purchasers, as of June 15, 2006 (the "Grandfathered Units"); provided, however, that the Grandfathered Units do not include any unit for which a contract was entered into after November 23, 2005, the date by which all stop work orders had been issued. The Board finds that the purpose and scope of such grandfathering by the Board is to remediate and resolve all findings of Violations as to the Grandfathered Units.

In accordance with Finding 4.1, the Board hereby orders that each of the Grandfathered Units that was the subject of any Violation shall be, and hereby is, deemed to be constructed and occupied in compliance with the County Zoning Ordinance notwithstanding such Violation, provided that nothing under this order or Resolution shall be construed to cure any violation of the Zoning Ordinance that either (a) is not grounded within the lawful jurisdiction of the Planning Board or (b) is not directly related to the Violations that fall within the scope of this Resolution.

**FINDING 4.2:** In accordance with the recommendations of staff, the Board finds that the public interest will be served by completion of the Compliance Program according to its terms because it provides substantial enhancements to community amenities and facilities planned for the area designated as the Clarksburg Town Center project and Montgomery County as a whole.

**FINDING 4.3:** In accordance with the recommendations of staff, the Board finds 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 in accordance with Section 59-D-3.6 (a)(4) of the Montgomery County Zoning Ordinance. The Board is persuaded that implementation of the Compliance Program will remediate and resolve all Violations.

**FINDING 4.4:** In accordance with the recommendations of staff, the Board finds that the modifications to the street network approved by the Fire Marshal of Montgomery County for purposes of public safety are in the public interest and are, therefore, incorporated into the approved Compliance Program.

In accordance with Findings 4.2, 4.3 and 4.4, the Board hereby orders the Respondents to comply strictly with each of the elements, terms and conditions of the Compliance Program and expressed otherwise under this Resolution. The Board further instructs the Planning Staff to undertake all reasonable measures to detect and report to the Board the Respondents' compliance and non-compliance as the applicable case may be.

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#### **§5. PLANNING BOARD AUTHORITY EXPRESSLY RESERVED**

Except as expressly provided in this Resolution, nothing provided in this Resolution is intended, nor shall it be construed, to cede, relinquish or otherwise impair the discretion, authority or jurisdiction of the Board to consider any future applications, plans or approvals pertaining to the project according to the terms of this Resolution, law and merits applicable. Without limiting the generality of the foregoing, it is understood that the Respondents shall be required in the future to obtain Board approval for one or more amendments to the Project Plan, Preliminary Plan, and Site Plans relating to the project.



The Planning Board recognizes that the Compliance Program is conceptual in nature, and that additional review of more detailed plans may involve modifications. Except as otherwise required by or relating to physical project conditions unforeseen by the Board, or applicable law (including the requirements of the Montgomery County Zoning Ordinance, Subdivision Regulations, or other legal requirements applicable to any future Board action pertaining to the project), the Planning Board intends to require only such modifications that are reasonably consistent with the Compliance Program. Subject only to such unforeseen project conditions, applicable law and regulations, express terms of this Resolution and the Compliance Program, the Board expressly reserves all lawful discretion to consider, approve, approve subject to conditions or disapprove any such future application according to the law and merits presented at the time. Further, the Board expressly retains jurisdiction to consider and act upon any violation in the future that is unrelated to the Violations resolved according to the terms of this Resolution, alleged on the basis of this Resolution, or any act or omission by the Respondents (their successors or assigns) that accrues after the effective date hereof.

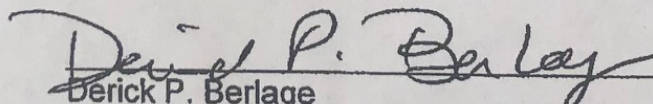
### CONCLUSION

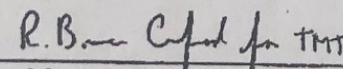
The Planning Board accordingly approves this Resolution according to elements, terms, and conditions stated above.

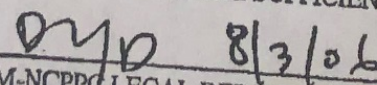
\* \* \* \* \*

At its regular meeting, held on Thursday, August 3, 2006, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, with Motion by Commissioner Robinson, seconded by Commissioner Perdue, by vote of 4 to 1, with Commissioners Berlage, Robinson, Perdue and Bryant voting in favor and Commissioner Wellington opposed, ADOPTED the above Resolution which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for this Resolution.

Adopted by the Planning Board this 3<sup>rd</sup> day of August 2006.

  
Derick P. Berlage  
Chair, Montgomery County Planning Board

  
Trudye M. Johnson, Executive Director

APPROVED AS TO LEGAL SUFFICIENCY  
  
M-NCPPG LEGAL DEPARTMENT

**From:** [Amy Presley](#)  
**To:** [MCP-Chair](#)  
**Subject:** RE: Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221  
**Date:** Tuesday, February 27, 2024 7:22:33 PM  
**Attachments:** [Supplemental Testimony to the Board-Amy Presley-2-27-2024.docx](#)

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Honorable Chair,

Please accept this Supplemental Testimony and ensure that it is distributed appropriately.

Sincerely,  
Amy Presley

Amy Presley, REALTOR®  
301-526-7435  
[www.TrustedEstatePartners.com](http://www.TrustedEstatePartners.com)

Amy Presley (Commissioner Emeritus, and Former CTCAC Co-Chair)  
23506 Sugar View Drive  
Clarksburg, MD 20871

February 27, 2024

The Honorable Artie Harris, Chairman  
Montgomery County Planning Board  
2425 Reddie Drive  
Wheaton, MD 20902

Re: Clarksburg Town Center (Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221)

Dear Chairman Harris, and Honorable Commissioners of the Board,

I am writing to you today to supplement the testimony, dated 2/25/2024, previously submitted by me to the Board. With this letter, I would like to call attention to the departure by Staff over time from ensuring strict compliance with the Compliance Program (as initially directed by the Board at the time of approval of the Compliance Program). As the Board stated back then, and instructed the Staff, the elements and conditions of the Compliance Program were to be strictly enforced, as these elements constituted sufficient legal remedy to the violations heard and otherwise to have been heard in the alternative of a program of compliance. One of the key Findings of the Board at the time confirmed exactly that:

**FINDING 4.3:** In accordance with the recommendations of staff, the Board finds 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 in accordance with Section 59-D-3.6 (a)(4) of the Montgomery County Zoning Ordinance. The Board is persuaded that implementation of the Compliance Program will remediate and resolve all Violations.

In accordance with Findings 4.2, 4.3 and 4.4, the Board hereby orders the Respondents to comply strictly with each of the elements, terms and conditions of the Compliance Program and expressed otherwise under this Resolution. The Board further instructs the Planning Staff to undertake all reasonable measures to detect and report to the Board the Respondents' compliance and non-compliance as the applicable case may be.

Based on the above, if the Board approves the modifications to the Stage III of the Compliance Program (the Retail Core) as now presented by the Applicant (specifically in view of the reduction of retail square footage, elimination of significant elements, and addition of other non-Compliance Program elements), the Project itself would no longer be in "compliance" with the approved Program and would therefore be in a state of violation. I can confidently assert this because only "implementation of the Compliance Program" with "each of the elements..." constituted a "lawful and appropriate alternative to imposing fines or monetary penalties in accordance with Section 59-D-3.6 (a)(4) of the Montgomery County Zoning Ordinance."

I am not suggesting at this point that the Board reach back to other erroneously approved Plans that were not technically in compliance with the Compliance Program and attempt to bring them into Compliance. Those plans have been reviewed, approved, and implemented and the elements lost could not easily be recaptured. At the time many of these other plans were submitted and approved, I was a Commissioner on the Board (June 2008-July 2016) as was strictly prohibited from participating in any of the hearings, commenting on any of the plans, or speaking with Staff or Board members about the plans. I honored that commitment to my position, recusing myself from all Clarksburg Town Center hearings. Instead, I had to sit in painful silence as I watched hard-won benefits for the Community cast aside without any reallocation of the monetary value associated with items that were eliminated from the Compliance Program.

This process of erosion of the elements of the Compliance Program happened without Board members being advised by the Staff - or reminded by Staff at the time - of what changes were actually allowed. However, under the leadership of Rose Krasnow (and with the participation of Robert Kronenberg), there once was a clear understanding by Staff and also presented to the Board. As was made plain in the Executive Summary on Page 2 of the October 22, 2008 Staff Report:

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

Also, within the same Staff Report at Page 2, the scope of what was allowable relative to changes:

*“When the Compliance Plan was approved, it was understood that it was conceptual in nature, but only to the degree that the plans still had to be reviewed by all appropriate agencies to ensure compliance with applicable laws and regulations”.*

Further, on the same Staff Report at Page 2, the Staff confirmed their known responsibility as to evaluation of the plans being submitted for compliance with the Compliance Program:

*“Staff recognized that the new plans had to be evaluated not only for compliance with the code but also for conformance to the previously approved Compliance Program, which was particularly important since that program had been offered to resolve the many violations.*

I question the Board as to how it can depart from requiring the specific elements that serve as legal sufficiency to remediate violations. This is most critical to weigh carefully for Stage III - the Town Center Retail Core - as it represents the heart of the Community, what they were promised as satisfaction of violations, and what they have long awaited.

Please consider the legal underpinning of the Compliance Program as you review the latest submission. Do not allow further erosion of elements long-promised to the Community and critical the success of the Clarksburg Town Center.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy Presley", written over a horizontal line.

Amy Presley  
Former CTCAC Co-Chair

cc: The Honorable Mitra Pedoeem, The Honorable James Hedrick, The Honorable Shawn Bartley, The Honorable Josh Linden, Mr. Phillip Estes, Ms. Sandra Pereira, Mr. Patrick Butler, Mr. Robert Kronenberg, Ms. Emily Vaias

**From:** [Dawn Huntley-mucci](#)  
**To:** [MCP-Chair](#)  
**Subject:** 2/29/24 Hearing Clarksburg Town Center Plan Amendments  
**Date:** Tuesday, February 27, 2024 5:03:00 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

RE: Montgomery County Planning Board Hearing. February 29, 2024  
Clarksburg Town Center  
Project Plan  
Preliminary Plan  
Site Plan  
Final Forest Conservation Plan

As a resident/condo owner at Clarksburg Town Center I do not want any apartments to be built in the development. The developer is totally changing the plans that were promised to everyone who bought homes over the last two decades in Clarksburg Town Center.

We were told the developer was going to build mixed use commercial space with retail and medical/professional office space. While I can appreciate the developer's claims that the commercial office real estate market has changed, meaning it's no longer profitable for them to build any commercial office space; it is a horrible idea to think that switching the plan to build apartments would in any way enhance the quality of life here. Quite the opposite, it would totally degrade our quality of life.

Clarksburg Town Center is already a very densely populated area. The roads are not adequate to accommodate the additional traffic created by 189 multi-family housing units. Not to mention the damage to air quality from vehicle exhaust. I highly doubt the already short staffed, local schools are prepared to accommodate the additional students who would be living in the apartments. Not sure but do we even have adequate emergency services for this rapidly growing area?

The land where the proposed apartments would be built on is situated within yards of conservation land. On any given scheduled recycling or trash day, some of it inevitably blows into the woods and then into the stream as well. Squeezing in 182 additional housing units would only further contribute to polluting the conservation area.

Cramming in 182 housing units would permanently alter the nature of the neighborhood and most likely result in plummeting property values for all current homeowners. Most of the residents here carry heavy mortgages and have worked hard to be able to afford to purchase a home. They plan to raise families here. This is not what anyone signed up for when we bought homes in Clarksburg Town Center.

Although perhaps not as extremely profitable as building an enormous apartment complex, the developer has other options. Townhouses could be built in the same location and work well given it's directly across the street from already existing townhomes. Alternatively a limited number of condominiums could also be built.

Another possibility would be for the county to offer a tax incentive for the developer to "gift" the land to the county. The land could be open park space for the current residents and it would be a huge win for the conservation land and all of its wildlife inhabitants. Not to mention preserving the quality of our drinking water. Currently there is an abundance of wildlife living in the conservation area including numerous varieties of birds, hawks, and owls as well as foxes, and other woodland creatures.

Building 182 apartments at Clarksburg Town Center will ruin the quality of life here. Please do not allow the developer to do this.

Thank you for your time and consideration,

Dawn Huntley-Mucci  
23510 Overlook Park Drive, Unit A  
Clarksburg, MD 20871

**From:** [Kathie Hulley](#)  
**To:** [MCP-Chair](#)  
**Subject:** Fwd: Subject: Project Plan Amendment # 91994004#, Preliminary Plan Amendment #11995042#, Site Plan Amendment #820070221  
**Date:** Monday, February 26, 2024 4:40:07 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Subject: Project Plan Amendment # 91994004#, Preliminary Plan Amendment #11995042#, Site Plan Amendment #820070221I am writing regarding the proposed changes to the Clarksburg Town Center retail area .

I lived at 21809 Diller Lane, Boyds in the Clarksburg Planning area for 43 years.

I have been involved with the Clarksburg Master Plan and the Town Center Plans for over 30 years. I am a former President, Vice-President, Secretary of the Clarksburg Civic Association and it is fair to say that I have spent thousands of hours regarding the vision and development of plans for the town as it grew.

I am dismayed to see the current iteration of plans. They do not conform to the vision, the Master Plan, or the Compliance Plan. Much time was spent resolving the thousands of violations and now that resolution is being almost completely discarded.

The applicant has argued that the Compliance Plan does not apply to this site plan amendment, which is ridiculous. Of course it does: the "stage 3" (retail core) plans were always a central piece of the restitution to the community by the developer for the violations which occurred. The current developer assumed those responsibilities when they bought the distressed CTC plans for a discount. Clarksburg Town Center (CTC) has always included the retail area; in fact the main street, Clarksburg Square Road, is called out in the Clarksburg Master Plan as "Redgrave Place Extended"

100,000 s.f. of retail and possibly no library is no way to make this area the centerpiece of a town of over 40,000 people. Please do the right thing and reject this amendment.

Sincerely  
Kathie Hulley  
4119 Woodspring Lane, York, PA 17402  
301-580-4896



**From:** [Estes, Phillip](#)  
**To:** [MCP-Chair](#)  
**Subject:** FW: Clarksburg Town Center Hearing  
**Date:** Monday, February 26, 2024 9:26:50 AM

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Forwarding along this comment letter.

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**From:** Steve Feather <sfeather59@gmail.com>  
**Sent:** Monday, February 26, 2024 7:34 AM  
**To:** Estes, Phillip <Phillip.Estes@montgomeryplanning.org>  
**Subject:** Fwd: Clarksburg Town Center Hearing

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Dear Phillip,,

I've attached three pics. The 2nd one I took just prior to my wife and I moving into our new Townhouse in March 2021. We really like this community a lot. It's quiet, the people are very nice, and the HOA staff takes a lot of pride in keeping the landscaping neat, & clean. We have enjoyed certain amenities like the pool, and concerts at the Amphitheatre.

This Thursday, February 29th there is a hearing to discuss the most recent revised development plan submitted by Elm St. Development. Some residents have been waiting for the Grocery/Retail construction to start for 20 years. Like us, they were sold on purchasing a home by their Realtor, and Homebuilder's representative based on the Town Center being completed for convenience, entertainment, and aesthetics. The other two pics unfortunately show the current conditions on the proposed parcel of land where construction of the Town Center needs to get started this year. Seeing the infrastructure materials, and other debris from our front windows, and while taking a walk is a site for sore eyes. I ask you....if you purchased an expensive home, and had to look at this would it make you completely satisfied? Please support, and pass this project to come to fruition so that our neighbors, and ourselves can truly feel like we purchased our homes for what was advertised.

Sincerely,

Steve Feather







**From:** [Domenic Cicalese](#)  
**To:** [MCP-Chair](#)  
**Subject:** CTC Retail Core Amendment Plan No. 82007022I 2-29-24  
**Date:** Sunday, February 25, 2024 3:40:28 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

To the Montgomery County Planning Board,

This email is being provided as support for the latest Clarksburg Town Center plan amendment that is being reviewed and voted on 2-29-24. My wife and I have been residents of Clarksburg Town Center since 2007. We bought in Clarksburg Town Center to raise our family and partake of the numerous amenities promised many times over by developers, citizen advisory committees, county planners, and local politicians.

In our opinion, the latest plan serves the community very well, with a grocery store, a smaller retail footprint, and needed (added) residential density required to support the incoming town center businesses. The area has been impacted by a changing business dynamic. This proposed version of the planned town center meets our current and future needs of what we as residents require for our town center. We look forward to shopping, dine, work, relax, and enjoy. Over the years, similar plans have been proposed, voted on, and put into some semblance of action. However, the one common thread is they all had to adapt and be flexible, especially since the retail / office environments of today are still evolving. What was desired or envisioned under prior economic and social conditions still had to have flexibility in order to continue to be relevant . We believe the latest version understands what was proposed previously, and this concept will allow the CTC retail core to be relevant today and relevant in the future. That is why it has our support.

Regards  
Domenic & Cynthia Cicalese  
23830 Burdette Forest Rd  
Clarksburg, MD 20871.

**From:** [marlin75@icloud.com](mailto:marlin75@icloud.com)  
**To:** [MCP-Chair](#)  
**Subject:** Clarksburg Current Retail Amendment  
**Date:** Saturday, February 24, 2024 9:54:05 AM  
**Attachments:** [Clarksburg Town Center- Support Statement PDF.pdf](#)

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Hi,

I've attached our letter below which is for our full support of the current retail amendment for Clarksburg.

If you require any additional information or clarification, please contact us at 240.383.0402,

Thank you,

Mark & Linda Lieberman  
23402 Clarksridge Rd.  
Clarksburg, MD 20871

2/23/24

Montgomery County Planning Board  
Montgomery County, MD

Dear Montgomery County Planning Board,

We are writing this letter in regards to the Clarksburg current retail amendment.

We are twenty year residents of the Clarksburg Town Center. We were attracted to Clarksburg as it was being built as a “walking community” and our house was well within walking distance to the proposed site for the Retail Core. That Retail Core was supposed to have been completed over fifteen years ago, yet is hasn’t even been started. This is very disappointing.

We have participated in all of the Clarksburg Town Center plan re-design efforts that started in 2012. We fully support the amendment for the current plan. Given the extensive amount of time that the community has been patiently waiting for the Retail Core, we would like to see it completed as soon as possible.

Additionally, we also support that the library remain in the Clarksburg Town Center. This is a critical component of our “walking community design” and will greatly assist in keeping the Retail Core vibrant and successful.

Should you have any questions for us or need any clarification, we can be reached at 240.383.0402.

Thank you,

Mark & Linda Lieberman  
23402 Clarksridge Rd.  
Clarksburg, MD 29871



**WATERSHED ENVIRONMENTAL, LLC**  
Natural Resource Consulting • Wetlands • Forests • Streams

January 12, 2024

Mr. Martin T. Mankowski  
Pre-Development Manager  
JLB Partners LP  
8120 Woodmont Avenue  
Suite 850  
Bethesda, Maryland 20814

***RE: Forest Glen Medical Center Response***

Dear Mr. Mankowski:

Per your request, we are writing responses to comments made by members of the Friends of Sligo Creek regarding the approved NRI/FSD and proposed FCP for the above referenced project. Watershed performed a field visit concurrently with Ms. Amy Lindsey, the staff reviewer, on January 4, 2024 at the project site. We reviewed the below comments and other concerns from the Friends of Sligo Creek. The below responses to those comments were verified to be accurate in the field with Ms. Lindsey. Two minor changes will be made to the significant/specimen tree table. Significant tree ST-1 will be changed from *Ulmus rubra* to *Ulmus spp.* The note referring to the presence of Poison Ivy vines will be removed from specimen tree ST-7.

Below are the comments from the Friends of Sligo Creek and Watershed's responses are provided in italics.

**Comments and responses:**

We noticed several mistakes in the developer's plan (to cut down the entire 58,000 sq. ft. woodland of about 60 trees) and request for a variance (to remove, in particular, 18 of the the significant trees of at least 24" DBH ). The errors listed below cast doubt on the veracity of their plan. Regarding the "Significant & Tree Table," in particular:

*Please note that the approved NRI/FSD shows 0.43 acres of area that meets the technical definition of forest, not the above referenced 1.33 acres of woodland.*

It incorrectly states that the 33" DBH Tulip-tree (#7) has "many P. Ivy vines" when it actually has none at all. (See photos attached.) Poison Ivy vines would not be a concern, anyway, since they are (a) native, (b) do not threaten tree health, and (c) constitute an important food source for birds.



**Mr. Martin Mankowski**  
**Forest Glen Medical Center**  
**January 12, 2024**  
**Page 2 of 3**

*The assessment of the presence of Poison Ivy vines was made during the initial field work in February 2022. The January 4, 2024, field visit found that there are no poison ivy vines currently present on tree ST-7. At the time the NRI/FSD was conducted, the tree was assessed to be in good condition, the presence or absence of poison ivy vines was not a factor in the assessment of the condition of the tree. The note indicating the presence of Poison Ivy vines on tree ST-7 will be removed from the Significant/Specimen Tree table on the FCP.*

It lists only Poison Ivy among the vines on the trees, making no mention of the most rampant vine in this woodland: Winter Creeper (*Euonymus fortunei*). This non-native invasive species is the major threat to the trees and should be cut, but the developer's failure to correctly ID the vine is worrisome.

*The above comment is inaccurate. It is clearly stated in the second to last sentence of the forest stand description: "Non-native invasive vines climb the majority of trees within the forest stand as well as significant and specimen trees on the northern portion of the property and were identified as English Ivy (*Hetera helix*) and Climbing Euonymus (*Euonymus fortunei*)."*

It omits a very large Black Walnut tree which, even if the DBH is slightly less than 24", nevertheless towers over the woodland (See photos attached.) Needless to say, walnuts are a valuable food source for wildlife.

*The forest technical manual does not require the individual identification, assessment, or tagging of trees less than 24" DBH within a forest stand. The walnut does not meet the criteria for a significant tree.*

It makes no mention of the Japanese Pagoda Trees (*Styphnolobium japonicum*), which constitute about a third of the trees on the site. They seem to have been misidentified as Black Locust (which makes up another third of the trees, along with Box Elder). The reason may be that none of the Pagoda Trees reach 24" DBH.

*During the January 4, 2024, field visit with Ms. Amy Lindsey, no Japanese Pagoda trees that were 24" DBH or greater that were found, nor was a predominance of Pagoda Trees observed within the forest stand on the project area as noted in the above comment. The presence of Japanese Pagoda would not change the acreage of forest on the project site and would likely reduce the forest stand priority for retention. The Japanese Pagoda, a non-native species, would likely reduce the quality and habitat value of the forest stand.*

**Mr. Martin Mankowski**  
**Forest Glen Medical Center**  
**January 12, 2024**  
**Page 3 of 3**

It justifies removal of four significant trees by virtue of being "mostly dead", failing to recognize the value of dying trees and dead snags for wildlife, such as nesting woodpeckers and other cavity nesting birds and mammals.

*The Natural Resource Inventory/Forest Stand Delineation is a document of fact noting existing site conditions. Standing dead trees factor positively into the forest structure analysis. However, the health of trees are a serious consideration in their removal as it relates to forest conservation planning for any project.*

This NRI/FSD was conducted and prepared in accordance with the Montgomery County Trees Technical Manual and the State of Maryland Forest Conservation Technical Manual and was approved on April 24, 2023.

Should you have any questions, please feel free to contact me at 410-459-9522 or [sean@wtshed.com](mailto:sean@wtshed.com).

Sincerely,

A handwritten signature in blue ink that reads "Sean McDonough". The signature is fluid and cursive, with the first name "Sean" and last name "McDonough" clearly legible.

Sean McDonough  
Environmental Scientist

**From:** [Amy Presley](#)  
**To:** [MCP-Chair](#)  
**Subject:** Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221  
**Date:** Wednesday, February 28, 2024 12:59:41 PM  
**Attachments:** [Amy Presley-Supplement 2 to Testimony-2-28-2024.pdf](#)

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Honorable Chair,

Please see attached addition to my prior submissions for testimony to the Board. I apologize for the late submission, but this information was just discovered by me and it is pertinent to this case.

Kind regards,  
Amy

Amy Presley, REALTOR®  
301-526-7435  
[www.TrustedEstatePartners.com](http://www.TrustedEstatePartners.com)

Amy Presley (Commissioner Emeritus, and Former CTCAC Co-Chair)  
23506 Sugar View Drive  
Clarksburg, MD 20871

February 28, 2024

The Honorable Artie Harris, Chairman  
Montgomery County Planning Board  
2425 Reedie Drive  
Wheaton, MD 20902

Re: Clarksburg Town Center (Project Plan Amendment #91994004#, Preliminary Plan Amendment #11995042#, and Site Plan Amendment #820070221)

Dear Chairman Harris, and Honorable Commissioners of the Board,

I am writing once more to further supplement my existing testimony to you. With this letter, I submit for your review the attachment - a Press Release from the Planning Board in 2009.

Thank you in advance for taking the time to read it, as it corroborates my prior testimony and makes plain the position that the Staff and the Board held with respect to changes to the Compliance Program. Of specific note and most pertinent to the plans as currently submitted by the Applicant:

*“According to planners reviewing the certified site plan submission, among its many problems was that it did not include or account for the correct amount of retail square footage, changed paving materials along the length of the main road, altered site details and specified that Montgomery County, rather than Newland, construct an up to 45-space library parking lot.”*

Staff at the time of that critical review understood, as should Staff today, that a departure from the “correct amount” of retail square footage was not acceptable and must be denied. The same holds true today. The proposed reduction of retail square footage should not be approved. In fact, the Board should enforce the Compliance Program requirements for the full amount of Retail Square Footage as required.

Sincerely,

Amy Presley  
Former CTCAC Co-Chair

cc: The Honorable Mitra Pedoeem, The Honorable James Hedrick, The Honorable Shawn Bartley, The Honorable Josh Linden, Mr. Phillip Estes, Ms. Sandra Pereira, Mr. Patrick Butler, Mr. Robert Kronenberg, Ms. Emily Vaias



# Montgomery County Planners Reviewing Clarksburg Town Center Document Identify Deviations from Planning Board Approval

December 10, 2009

## Planning

**SILVER SPRING** – After reviewing a 220-plus page certified site plan and project plan submitted by Newland Communities, the developer of the Clarksburg Town Center, planners have found numerous inconsistencies with the plans approved by the Planning Board.

The discrepancies were detailed in a lengthy letter from staff. In an unusual move, Planning Director Rollin Stanley also sent a letter expressing dismay over the submittal and reminding the developer that the Planning Board could assess a \$500-a-day fine if it finds Newland to be out of compliance with the site plan. The planners sent their responses to Newland yesterday.

Newland is scheduled to appear before the Planning Board on January 14 as part of a regular series of updates on the Clarksburg Town Center project. Planners asked Newland in their December 8 correspondence to submit corrected plans in early January in preparation for the January 14 meeting.

The Town Center project has been delayed for years to reconcile building violations and allow for mediation between

the developer and Clarksburg residents. The Town Center plans were approved for close to 200,000 square feet of retail and 1,213 homes on 270 acres at Clarksburg Road and Snowden Farm Parkway. Although the first plan approvals go back as far as 1995, the project was virtually halted when residents uncovered numerous discrepancies between the approved plans and what had been constructed.

Newland submitted a certified site plan on October 12 to reflect the Board's site plan approval last fall. Typically, Board approvals include conditions that must be shown in a certified site plan. After certified site plan approval, developers can request building permits and begin construction.

According to planners reviewing the certified site plan submission, among its many problems was that it did not include or account for the correct amount of retail square footage, changed paving materials along the length of the main road, altered site details and specified that Montgomery County, rather than Newland, construct an up to 45-space library parking lot.

Planners in Development Review, Environmental Planning, the Department of Parks and the County Department of Permitting Services contributed to the 32-page December 8 response.

# # #

**From:** [Pereira, Sandra](#)  
**To:** [Coello, Catherine](#); [Branda, Ilana](#)  
**Cc:** [Butler, Patrick](#); [Estes, Phillip](#); [Brown, Brett](#)  
**Subject:** FW: revised DOT approval letter for Item #9 Clarksburg Town Center  
**Date:** Wednesday, February 28, 2024 4:05:29 PM  
**Attachments:** [11995042E Clarksburg Town Center-DOT Review Letter REVISED 022724.pdf](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Hi Catherine and Ilana,

We received the attached revised DOT approval letter for [Item #9](#) Clarksburg Town Center tomorrow at the PB. Can we please get this letter on the record for this Item?

Thanks,  
Sandra



**Sandra Pereira, RLA**

**Regulatory Supervisor, Upcounty Planning Division**

Montgomery County Planning Department  
2425 Reedy Drive, Wheaton, MD 20902  
[sandra.pereira@montgomeryplanning.org](mailto:sandra.pereira@montgomeryplanning.org)  
direct: 301-495-2186 | main: 301-495-4645





DEPARTMENT OF TRANSPORTATION

Marc Elrich  
County Executive

Christopher Conklin  
Director

February 27, 2024

Mr. Phillip Estes, Planner III  
Upcounty Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
2425 Reedie Drive  
Wheaton, MD 20902

RE: Preliminary Plan No. 11995042E  
Clarksburg Town Center  
**REVISED LETTER**

Dear Mr. Estes:

This letter replaces MCDOT's Preliminary Plan letter dated February 16, 2024.

We have completed our review of the amended preliminary plan uploaded to eplans on November 7, 2023. A previous version of the plan was reviewed by the Development Review Committee (DRC) at its meeting on July 18, 2023. We recommend approval of the plans subject to the following comments:

Significant Plan Review Comments

1. The following condition was included in the June 25, 2015, MCDOT review letter for Preliminary Plan No. 11995042B:

*6. Our records indicate we received an amended Traffic Signal Warrant Study for the intersection of Stringtown Road with General Store Drive/St. Clair Road on June 4, 2015. This study was prepared in response to our May 7, 2010, letter on the earlier Traffic Signal Warrant Study for that location. This study has been forwarded for review by our Division of Traffic Engineering and Operations; final decisions will be made at or before the permit stage. If the traffic signal is found to be warranted, it should be constructed in conjunction with the improvements on Stringtown Road at the applicants' expense.*

MCDOT-DTEO has reviewed the Traffic Signal Warrant Analysis (TSWA) and determined that the signal is warranted; however, since the size of the development has changed, the applicant must submit a revised TSWA prior to Certified Site Plan. If the revised TSWA indicates that the signal is warranted, then the applicant will be responsible for the installation of a traffic signal at this intersection prior to Use & Occupancy and shall contact Mr. Kamal Hamud of our Transportation

**Office of the Director**

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101 Monroe Street 10<sup>th</sup> Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX  
www.montgomerycountymd.gov

*Located one block west of the Rockville Metro Station*



Systems Engineering Team at (240) 777-2190 or at [kamal.hamud@montgomerycountymd.gov](mailto:kamal.hamud@montgomerycountymd.gov) for proper executing procedures. All costs associated with such improvements shall be the responsibility of the applicant.

2. The applicant entered into a Road Construction Participation Agreement, dated June 25, 2015, which included payment of up to Three Million Two Hundred Thousand and 00/100s Dollars (\$3,200,000.00) for improvements along the project's Clarksburg Road frontage from Frederick Road (MD 355) to Snowden Farm Parkway. The County shall invoice the applicant for the outstanding balance, to be paid prior to issuance of the first building permit. Please contact Mr. Eric Willis, MCDOT Engineering Services Manager, at 240-777-7255 or [eric.willis@montgomerycountymd.gov](mailto:eric.willis@montgomerycountymd.gov) for proper executing procedures.

#### Standard Plan Review Comments

3. All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Montgomery County Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. This letter and all other correspondence from this department should be included in the package.
4. In all underground utility installations, install identification tape or other "toning" device approximately two feet above the utility.
5. If the proposed development will alter any existing streetlights, replacement of signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
6. Erosion and sediment control measures as required by Montgomery County Code 19-10(02) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by MCDPS.
7. Posting of a ROW permit bond is a prerequisite to MCDPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - a. Traffic signal at the intersection of Stringtown Road with General Store Drive/St. Clair Road.
  - b. Permanent monuments and property line markers, as required by Section 50-4.3(G) of the Subdivision Regulations.

Mr. Phillip Estes  
Preliminary Plan No. 11995042E  
February 27, 2024  
Page 3

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at [william.whelan@montgomerycountymd.gov](mailto:william.whelan@montgomerycountymd.gov) or (240) 777-2173.

Sincerely,

*William Whelan*

William Whelan  
Development Review Team  
Office of Transportation Policy

[SharePoint/transportation/directors office/development review/WhelanW/11995042E Clarksburg Town Center-DOT Review Letter Revised 022724.docx](#)

cc: Correspondence folder FY 2024

cc-e:	Keith Bennett	GLW
	Tim Longfellow	GLW
	Sandra Pereira	MNCP&PC
	Mark Terry	MCDOT DTEO
	Kutty Menon	MCDOT DTEO
	Kamal Hamud	MCDOT DTEO
	Eric Willis	MCDOT DTE
	Sam Farhadi	MCDPS RWPR