

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

March 25, 2024

MCPB No. 24-026

Preliminary Plan Amendment No. 11995042E

Clarksburg Town Center

Date of Hearing: February 29, 2024

RESOLUTION

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

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

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

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

WHEREAS, on September 21, 2015, the Planning Board approved an amendment to the preliminary plan designated Preliminary Plan No. 11995042B (MCPB No. 15-92) to reduce the total number of residential units to 1,120; increase the overall commercial density to 206,185 square feet, including the addition of office and medical uses; revise the design and layout of the commercial core; add a new community building to the resident's club; add a parking area on Sinequa Square; redesign Block H; and revise Kings Pond Local Park and Piedmont Woods Local Park on the Overall Property; and

WHEREAS, on March 30, 2016, the Planning Board approved an amendment to the preliminary plan designated Preliminary Plan No. 11995042C (MCPB No. 16-036) to replace 11

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

multi-family units (including 3 MPDUs) with nine (9) one-family attached units, including three (3) MPDUs, and one (1) HOA parcel on the Overall Property; and

WHEREAS, on January 6, 2022, the Planning Board approved an amendment to preliminary plan designated Preliminary Plan No. 11995042D (MCPB No. 22-002) to convert 24 manor home condominium units (including 8 MPDUs within 2 buildings), on Block M, Parcel A and Block S, Parcel C, to 12 rear-loaded townhouse dwelling units (including 7 MPDUs) on the Overall Property; and

WHEREAS, on June 28, 2023, Elm Street Development (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to reduce commercial space from 206,185 to 106,920 square feet, replace approved office buildings with 189 multi-family units (including 12.5% MPDUs), reconfigure the commercial core, update amenities, and make parcel revisions on the Overall Property; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11995042E, Clarksburg Town Center (“Preliminary Plan,” “Amendment,” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated February 16, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 29, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11995042E to reduce commercial space from 206,185 to 106,920 square feet, replace approved office buildings with 189 multi-family units (including 12.5% MPDUs), reconfigure the commercial core, update amenities, and make parcel revisions on the Subject Property with the following conditions:¹

The following conditions supersede and replace in their entirety all previous conditions:

General Approval

1. This Preliminary Plan Amendment is limited to lots and parcels for 219 detached houses, 686 townhouses, 390 multi-family dwelling units², a minimum of 12.5% Moderately

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

² 390 multi-family units on the Overall Property includes 189 new multi-family units proposed on the Subject Property.

Priced Dwelling Units (MPDU), 106,920 square feet of commercial uses³, changes to the mix of uses, minor revisions to the site layout and stormwater management, and the reconfiguration of eight (8) parcels into seven (7) parcels on the Overall Property. .

Adequate Public Facilities

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan is extended and will remain valid until March 26, 2029 (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

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

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 27, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

Right-of-Way Permitting

- a. All existing brick sidewalks are subject to maintenance and liability covenants.
 - b. Private streets to be built to tertiary roadway structural standards.
 - c. All pavement/parking markings are subject to MCDOT review and approval at the time of permit.
5. Before recording a plat for Parcel P, Parcel Q, Parcel R, Parcel S, and Parcel U of Block GG; and Parcel G and Parcel H of Block CC on the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
 6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section in its stormwater management concept letter dated January 17, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the

³ If there is no adverse impact on the Preliminary Plan or Site Plan and the APF findings, and it is approved by Staff, the commercial square footage may change to other allowed commercial uses, including office or medical office.

recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

7. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated January 17, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its December 19, 2023 letter, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Future Site Plan Approval Required

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

Frontage Improvements

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

Private Road

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

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

Schools

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

- a. No elementary school UPP required;
- b. No middle school UPP required; and
- c. A Tier 2 high school is required.

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

Record Plats

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

Notes and Labels

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

MPDUs

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

Certified Preliminary Plan

21. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s) or site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

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

Prior Conditions: Satisfied or required of Prior applicants

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

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

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

26. Parcel K, Block BB as shown on the Preliminary Plan Amendment No. 11995042B must be made available for dedication to Montgomery County in accordance with development program triggers in the certified site plan.
27. Dedication of the proposed park/school, as shown on the Prior Applicant's revised preliminary plan drawing approved with Preliminary Plan No. 119950420, is to be made

to M-NCPPC. In order to facilitate the implementation of the combined park/school facilities, the following provisions apply:

- a. M-NCPPC and the Prior Applicant will enter into an agreement specifying that an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing (Sheet 2 of 3 of Preliminary Plan No. 119950420) set out on Circle Page 49 of the staff report submitted to the Board for its September 28, 1995 public hearing, will occur prior to the execution of the Site Plan Enforcement Agreement.
 - b. Dedication of the approximately eight (8) acre area, identified as area "A" (Sheet 2 of 3 of Preliminary Plan No. 119950420) on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for construction of the future elementary school are added to the County CIP, whichever occurs first.
 - c. The Prior Applicant will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately eight (8) acres of dedicated land at a time which ensures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields.
 - d. In the event that dedication occurs when funds for the proposed school are shown in the CIP, Prior Applicant will complete work on the replacement fields prior to the construction of the proposed school.
 - e. In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F," (Burdett Forest Road) as shown on the revised preliminary plan, Prior Applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then Prior Applicant will also rough grade and seed the replacement soccer field when construction of Street "F" (Burdett Forest Road) begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the site plan application.
28. In accordance with Condition #No. 27 above and Preliminary Plan No. 119950420, Prior Applicant must enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Parks' Memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur as specified in Condition No. 27 above.
29. Construction Overlook Park Drive from St. Clair Road to Clarksburg Square Road must be complete and this road segments must be open to traffic prior to issuance of Use & Occupancy permit for any of Clarksburg Town Center retail development.

30. Dedication of the following roads as shown on plan must be provided as follows:
 - a. Clarksburg Road (MD RT 121) for ultimate 80' right-of- way.
 - b. Piedmont Road (Master Plan A-305) for ultimate 80' right-of-way.
 - c. Stringtown Road (Master Plan A-260) for ultimate 120' right-of-way.
31. The Prior Applicant must dedicate and show on the record plat(s) the following dedications and rights-of-way:
 - a. East Side
 - i. Clarksmeade Drive - 25 feet from centerline of pavement
 - ii. Clarks Crossing Drive - 25 feet from centerline of pavement
 - iii. Clarksburg Square Road - 30 feet from centerline of pavement
 - iv. Catawba Hill Drive - 25 feet from centerline of pavement
 - b. West Side (Public)
 - i. Clarksburg Square Road - 30 feet from centerline of pavement
 - ii. Ebenezer Chapel Road - 25 feet from centerline of pavement
 - iii. Public House Road - 30 feet from centerline of pavement
 - iv. Overlook Park Drive - 53 feet total width
 - c. West Side (Private)
 - i. Martz Street - within a 48-foot-wide right-of-way/parcel
32. The Prior Applicant must dedicate all road rights-of-way not referenced above to the full width mandated by the Clarksburg Master Plan or as shown on the preliminary plan as may be amended.
33. All road improvements must be constructed within the rights-of-way shown on the preliminary plan as may be amended to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
34. Prior to recordation of any plat containing property that is subject to the road abandonment petition, the Prior Applicant must submit a copy of the County Council Resolution confirming the necessary abandonment of portions of the previously dedicated rights-of-way for Overlook Park Drive, Clarksburg Square Road, and Clarksridge Road.
35. Prior to approval of the first record plat for private streets on the West Side, the Prior Applicant must provide for review and approval by Staff, a public use and access

easement to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following for all private streets:

- a. Each private street must be located within its own parcel, separate from the proposed development, and must be shown on the record plat.
 - b. Entitlement for open and unobstructed public use of the easement for all customary vehicular, pedestrian and bicycle, and loading access. The easement granted to the public must be volumetric, in order to accommodate uses below and above the street easement area and must accommodate public utility easements.
 - c. Obligation for the Prior Applicant to construct the streets pursuant to comparable MCDOT structural construction standards, at the Prior Applicant's expense.
 - d. Obligation to install traffic control devices within the private street easement area, based on prevailing standards, at the County's request, and at the Prior Applicant's expense.
 - e. Obligation for the Prior Applicant to maintain and repair the streets in acceptable conditions for all access and loading purposes, at its expense.
 - f. Obligation for the Prior Applicant to keep the streets free of snow, litter and other obstructions and hazards at all reasonable times, at the Prior Applicant's expense.
 - g. Entitlement for the Prior Applicant or its designee to close private streets for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public. Closure for recreational purposes, i.e., Block Parties, Parades, Races, etc., must follow MCDOT protocol to include, but not be limited to:
 - i. Signage notifying public of road closures, lane restrictions, or parking restrictions to be in place at least one week prior to closure at locations in accordance with adopted MCDOT standards.
 - ii. Maintain vehicular and pedestrian access to properties abutting closure if possible, and open to emergency vehicle passage at all times.
 - iii. Traffic control devices to be placed in accordance with adopted MCDOT standards.
 - iv. Written notice in accordance with adopted MCDOT standards.
 - v. Coordination with affected civic associations, homeowner's associations and businesses to be notified in writing two weeks prior to event.
 - vi. Dimensions of signage in accordance with adopted MCDOT standards.
36. The following phasing requirements are conditioned upon issuance of building permits for Preliminary Plan No. 119950420.
- a. The first 44 dwelling units without any off-site road improvements.

- b. After the 44th building permit, the developer must start reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.
 - c. After the 400th building permit, the developer has two options:
 - i. Construction of A-260 from MD 355 to the southern access road of the commercial site (commercial access road between A-260 and P-5) and construction of P-5 across the stream valley into the residential area north of stream valley.
 - ii. Construction of A-260 from MD 355 to the northern access road of the residential development and construction of a northbound right-turn lane along MD 355 at A-260 should be included in this phase.
 - d. After the 800th building permit, the developer must start construction of remaining section of A-260 to A- 305, and intersection improvements at MD 355 and MD 121 to construct eastbound & westbound left-turn lanes along MD 121.
 - e. Construction of A-305 from A-260 to MD 121 must begin when the developer starts building any of the residential units on blocks 11, 12, 13, and the northern half of block 10.
37. The following phasing requirements are conditioned upon issuance of building permits for Preliminary Plan No. 11995042A.
- a. Construction of (1) Public Road A from Stringtown Road to Overlook Park Drive, (2) Overlook Park Drive from Public Road A to Clarksburg Square Road, and (3) Clarksburg Square Road connection from Overlook Park Drive to Burdette Forest Drive in the residential area to the north must be complete and these road segments must be open to traffic prior to release of 901st residential building permit and prior to issuance of Use & Occupancy permit for any of Clarksburg Town Center retail development.
 - b. Construction of Stringtown Road from Public Road A to Snowden Farm Parkway must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
 - c. Reconstruction of Clarksburg Road from Overlook Park Drive to Snowden Farm Parkway must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
 - d. Construction of Snowden Farm Parkway for a length of approximately 400 feet east of Clarksburg Road to complete the gap that currently exists at this location must be complete and this road segment must be open to traffic prior to release of 1,101st residential building permit.
 - e. Reconstruction of Clarksburg Road from Overlook Park Drive to Spire Street must be complete and this road segment must be open to traffic prior to release of

Use & Occupancy permit for any of the Clarksburg Town Center retail development.

- f. Reconstruction of Clarksburg Road from MD 355 to Spire Street must be complete in participation with MCDOT.
 - g. Construction of eastbound and westbound left-turn lanes along Clarksburg Road at MD 355 must be complete and these road segments must be open to traffic prior to release of 1,101st building permit.
38. Certified Preliminary Plan No. 11995042B and record plats must note and delineate the limits of the following rights-of-way abandonments:
- a. Council Resolution No. 16-1487, "AB722, Portion of Clarksridge Road"
 - b. Council Resolution No. 16-1488, "AB720, Portions of Overlook Park Drive"
 - c. Council Resolution No. 16-1489, "AB721, Portion of Clarksburg Square Road"

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

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

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

This Application was reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed parcel sizes, widths, shapes, and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, and for the commercial uses and residential buildings contemplated for the Subject Property.

On the Subject Property, the Applicant proposed to reconfigure eight (8) parcels to seven (7) parcels due to adjustments in the location of buildings, circulation, parking, and expected ownership. The parcels were reviewed for compliance with the requirements for the RMX-2 zone as specified in the Zoning Ordinance. The parcels as proposed will meet applicable dimensional requirements for area, frontage, width, and setbacks in the zone.

The design and operation of the proposed drive-thru facilities are compatible with the commercial area. The queuing area is adequate, access is via St. Clair Road, service windows are located behind the main buildings, and drive aisles provide adequate stacking.

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

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

The Application is consistent with and is in substantial conformance with the recommendations adopted in the Master Plan (both the 1994 *Clarksburg Master Plan* and the 2011 *Limited Amendment*). The modifications proposed by this Amendment are consistent with the master plan conformance findings of previous approvals. The Application meets the following applicable Master Plan policy objectives:

Create a Town Scale of Development

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

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

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

Natural Environment

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

Town Center

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

Transit- and Pedestrian-Oriented Neighborhoods

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

Employment

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

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

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

Roads and other Transportation Facilities

a. Existing Facilities:

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

b. Planned Facilities:

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

i. Local Area Transportation Review (LATR)

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

Schools

The fiscal year 2024 Annual School Test, approved by the Planning Board on June 22, 2023, and effective July 1, 2023, is applicable to the Application. The Applicant proposed 89 multi-family high-rise units and 100 multi-family low-rise units (the “Project”).

The Project is served by Little Bennett Elementary School, Rocky Hill Middle School and Clarksburg High School. Based on the fiscal year 2024 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 1, below:

Table 1 Applicable FY2024 School Adequacy

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

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test.

Under the fiscal year 2024 Annual School Test, Little Bennett Elementary School and Rocky Hill Middle School do not require any UPP; however, Clarksburg High School requires a Tier 2 UPP as identified in Table 1 above. If the project is estimated to generate more students than the identified adequacy ceilings, then additional UPPs or partial payments at multiple tiers are required. As a condition of approval, a Tier 2 high school UPP payment is required.

Table 2 - Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.185	0.000	0.102	0.000	0.154	0.000
SF Attached	0	0.218	0.000	0.119	0.000	0.167	0.000
MF Low-rise	100	0.116	11.600	0.061	6.100	0.081	8.100
MF High-rise	89	0.073	6.497	0.042	3.738	0.053	4.717
TOTALS	189	-	18	-	9	-	12

Other Public Facilities and Services

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

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

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines. Additional discussion and findings for Forest Conservation Plan Amendment F20230380 are contained in the approval resolution associated with the Forest Conservation Plan Amendment F20230380, approved concurrently with this approval, and incorporated herein.

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

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

6. ***Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.***

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

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

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

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

March 25, 2024

(which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0, Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, March 21, 2024, in Wheaton, Maryland and via video conference.



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