

JUL 17 2008



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

MCPB No. 09-15  
Site Plan No. 820070220  
Project Name: Clarksburg Town Center  
Hearing Dates: November 6, 2008 and December 11, 2008

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

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

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

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

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

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

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

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

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

Approved as to  
Legal Sufficiency:

*[Handwritten signature]* 7/16/09

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

3. Retail Center

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

4. Recreation Facilities

- a. The Applicant must meet the square footage requirements for all of the applicable proposed new recreational elements, exclusive of the Sports Court for the Resident's Club, and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The Applicant shall provide the recreation facilities shown on the Overall Recreational Facilities Plan Exhibit dated September 15, 2008 as finalized by the Planning Board at the December 11, 2008 hearing.
- c.

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

5. Parking

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

6. Environmental

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

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

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



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

#### 7. Site Design

- a. In the retail and civic core, revise the site plans to provide all sidewalks and hardscape plazas with brick in a herringbone pattern and "soldier" edging for accenting (in lieu of asphalt) sidewalks and plazas. All brick sidewalks, soldier edging, plazas, curb ramps, and Church stairs and plaza must be of the same color for all enhancements throughout the East and West sides.
- b. Eliminate the angled parking on the private street in the retail core and provide parallel parking.
- c. Private Street #4 shall be revised to become Public Street 'A' with a 60-foot right-way, as approved by the Department of Transportation.
- d. Provide amended soil treatment a minimum of 10 feet back from the curb continuously along the public and private streets for the entire retail core, civic building and town green. The depth of the soil treatment shall be a minimum of 3 feet.
- e. Block H shall be designed and built in accordance with the letter agreement dated April 30, 2008 between the Clarksburg Town Center Advisory Committee and Bozzuto, provided Bozzuto acquires the Block H property.

8. Landscape and Lighting

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

9. Enhancement Planting/Streetscaping and Amenities

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

Office of the General Counsel and transferred to the homeowners association ("HOA") when CTC residents take control of the HOA. The Balance, or any portion thereof, must be used solely for landscape and streetscape enhancements maintenance, except that all reasonable fees charged by the escrow agent will be paid from the Balance. The HOA's expenditure of this Balance is subject to audit by M-NCPPC.

#### 10. MPDUs

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

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

#### 11. Maintenance Responsibility

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

#### 12. Retaining Walls

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

#### 13. Park Development

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

##### Piedmont Woods Recreational Park:

- a. Applicant to dedicate and convey to M-NCPPC in fee simple the approximately 65 acre parcel of land located on the northeast side of Snowden Farm Parkway to be used as a recreational park facility. Land to be conveyed at time of record plat.

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

Multi-age Playground - A multi-age playground within an approximately 10,000 square foot area. Playground equipment to include enough equipment, including challenging equipment, so that the play equipment use zones fill the entire playground boundary. Overlap the play equipment use zones as much as is allowable by ASTM guidelines to maximize the amount of equipment and provide varied play activities for all ages. Play equipment shall be acceptable to Department of Parks staff and certified by the International Play Equipment Manufacturers Association (IPEMA), meet all ASTM requirements for public playgrounds and shall meet M-NCPPC park standards.

Dog Exercise Area - A fenced dog exercise area of approximately the size and configuration shown on the proposed site plan. Fencing around the dog exercise area to include park standard concrete mow strip and to be located entirely outside the utility right of way. No stormwater management facilities to be located within the fenced areas. Include a maintenance vehicle access gate and a drinking water source for dogs within each section of the dog exercise area.

Hard Surface Courts - Two full sized tennis courts and a full sized basketball court approximately as shown on the site plan. Provide fencing at tennis courts and on the backside of the basketball courts (at least 4' high) with park standard concrete mow strips.

Picnic Shelters - Three picnic shelters sufficiently sized to contain at least 3 picnic tables in each shelter. Each shelter to include a grill and at least 3 picnic tables.

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

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

Trails - Hard surface and natural surface trails to connect facilities and provide recreational benefits approximately as set forth on the site plan, to be located and sized as acceptable to M-NCPPC Department of Parks staff.



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

- c. A park permit is required before construction of all park amenities. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.
- d. Applicant to execute a Public Use Easement and Public Improvements Easement for the purpose of access to and maintenance of the Greenway trail. Easements to allow the full right of public trail use and allow M-NCPPC Department of Parks the full right to maintain and make any improvements to the trail. Said easements to be acceptable to M-NCPPC legal staff as well as the Department of Parks staff.
- e. Applicant to address in its initial design the following comments to the satisfaction of M-NCPPC Department of Parks staff prior to the approval of the Certified Site Plan with the final design occurring prior to issuance of park construction permit:
  - i. The style of the picnic shelters and proposed restroom building should fit with the character of the Clarksburg Town Center. Per previous comments, provide shelters and restroom building equal to Classic Recreation Systems, Inc. "Campion" style steel frame shelter with custom ornamentation, cupola, 10:12 pitch metal roof with 2"x6" tongue and groove sub-roof, stone veneer piers and base.
  - ii. The landscape plan must include more trees in clustered, informal groupings, particularly along the main path on Snowden Farm Parkway, along all other walkways, near the picnic shelters, at the edges of the parking lot, within parking lot planting islands, near the basketball court, around the playground, near all seating areas, and on open slopes within the park. Trees should be set back a minimum of 10 feet from paths and 15 feet from structures and fencing. The general quantities and locations of plants shall be determined prior to approval of the certified site plan. The exact

types, sizes, spacing, locations and quantities of plants shall be reviewed and may be adjusted during the park permit approval process.

- iii. Provide additional paths or relocate paths at the tennis courts to meet ADA guidelines for accessible sports facilities. The guidelines require an accessible route to lead to each court. The paving around the restrooms and tennis courts should be simplified.
- iv. The minimum paved path width shall be five feet to meet ADA requirements. The minimum paved path width for multi-use trails and paths that require maintenance vehicle access is eight feet wide. The path from the parking lot to the dog park shall be ten feet wide and fully paved with ample vehicle turn-around room, as the dog park requires frequent maintenance access. The path around the playground area with its connections to the parking lot shall be widened to 8 feet to allow replenishment of playground surfacing. The paths around the edges of the parking lot may be narrowed in width if necessary to balance the amount of impervious surface in the park. The approximate alignments of trails and paths in the park shall be shown on the certified site plan, however they may be adjusted during the park permit review process.
- v. Provide additional elements from the park program of requirements, including the following: a kiosk near the park entrance or restroom building (equal to Classic Recreation Systems, Inc. "Campion" style), a shade structure with seating in the dog park that could be shared by both areas, four nature interpretation signs with durable colored graphics along the natural surface trails, wild bird boxes in natural areas, and three seating areas with benches along the natural surface trail including a story-telling circle.
- vi. Remove the bio-retention area from the interior of the dog park so that plantings are not trampled. Relocate the area outside of the fence.
- vii. If possible, reduce the number of bio-retention areas in the park, as these beds have high maintenance requirements and herbicides are not allowed to be used in these areas.

- viii. Provide a safe pedestrian crossing of Snowden Farm Parkway, in order to provide pedestrian access to the park from the surrounding neighborhood.
- ix. The park entrance pier and sign are too small to be effective. Provide a larger entrance sign for the park constructed of masonry and wood, designed to fit with the character of the Clarksburg Town Center as well as provide identity for the park.
- x. Provide additional seating in the park, including at least one additional bench on each side of the dog park, at least 3 additional benches or a seat wall in or near the playground area, at least 3 additional benches along the trail on Snowden Farm Parkway, and benches along the natural surface trail system as described previously. The two benches in the lawn area adjacent to the playground should be moved onto the playground. Provide occasional groupings of two benches, rather than just single benches near the playground. The exact locations and selection of bench type shall be reviewed and approved prior to park permit, however there will likely be two types: a decorative type within the park, and a simpler version in the playground mulch areas and along natural surface trails.
- xi. Provide a hose bib on the exterior of the restroom and quick coupler connections on each side of the dog park for watering and maintenance.
- xii. The general quality of the park and all elements within the park (such as site furnishings, structures, pedestrian paving, fencing, walls and landscaping) shall be equal to or better than those provided at Arora Hills Local Park and Dowden's Ordinary Historic Park, which are other developer-built parks in Clarksburg.
- xiii. Department of Parks staff would prefer to have no lighting in the park, since the park is closed at dark. However, parking lot lighting was indicated as a requirement in the plan of compliance. If lighting is provided within the park, all park facilities should be lighted, including the courts, dog park and restroom so that the park may be used after dark. Lighting the parking lot on its own could

encourage illicit use of the park at night. Any decision regarding lighting should be reviewed and confirmed that it would be acceptable to the community.

- xiv. The lighting footcandle levels in the parking lot were reduced to 0.5 footcandles. If lighting is to be provided within the park, confirm that the lighting levels are appropriate, based on applicable standards (IESNA) and confirm that Park Police concurs with these recommendations. If Park Police recommends higher levels of lighting, additional fixtures may be required.
- f. Applicant to address the comments in the memorandum dated October 13, 2008 to the satisfaction of M-NCPPC Department of Park staff at the time of park permitting.

#### Kings Local Park

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

Playground/Seating Area-A playground and seating area comparable to similar facilities in Aurora Hills Local Park (as shown on construction documents dated May 2007). The required facilities in King's Local Park shall be comparable in size and design quality, including, but not limited to the quantity and quality of play equipment, surfacing, colored concrete edging and site furnishings. The facilities shall be shown on the certified site plan. Complete construction details and specifications shall be included and approved as part of the Park Permit for construction.

Fishing Pier-A minimum 8 foot wide, handicap accessible pier terminating in a 12' x 24' fishing pier platform shall be provided. The structure shall be constructed of recycled, engineered marine plastic such as Trelleborg or equal quality, and to include railings if determined by M-NCPPC Department of Park staff to be needed.

Handicap Accessible, Asphalt Trail-An eight-foot-wide, handicap accessible asphalt trail shall be provided from the corner of Overlook Park Drive and Clarksburg Road to the pond area and shall access the picnic shelters and playground area. The approximate alignment of the trail shall be shown on the certified site plan and may be adjusted during the park permit process.



Site Furnishings- Approximately 6 benches and a bike rack capable of holding 6 bikes shall be provided. Location and type shall be approved at the time of park permit.

Landscaping-A landscape plan shall be approved as part of the certified site plan. The exact species, size and number of plants may be adjusted during the park permit approval process.

Park entrance signage- Two (2) wood and stone park entrance signs shall be provided near (1) the parking area, and (2) at the corner of Clarksburg Road and Overlook Park Drive. Concept drawings shall be approved and included with the certified site plan. Construction details shall be approved as part of the park permit.

Retaining Walls-Any needed retaining walls on park property shall be constructed of concrete block, similar to the existing walls at the corner of the school. Location, design, and height of the walls shall be shown on the certified site plan and may be modified at the time of park permit. Construction details and specifications shall be provided with the park permit.

A park permit is required before construction of all park amenities. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet the Parks Design Standards and Specifications. Minor changes may be made to location and construction details of amenities in the park during the park permit process without the need to amend the site plan.

#### Clarksburg Greenway and Greenway Trail

Applicant to dedicate and convey to M-NCPPC, in fee simple, the land east of Overlook Park Drive along the stream valley from Stringtown Road to Clarksburg Road, approximately as set forth in the site plan. Land to be conveyed shall not include any stormwater control facilities or stormwater access roads and shall be conveyed free of trash and unnatural debris. Final detailed park property boundaries to be finalized and clearly set forth on the certified site plan. Land to be conveyed at time of record plat.

Applicant to construct, at its expense, an 8'-wide, hard surface trail along the southwest side of the Overlook Park Drive alignment, within publicly owned or controlled land. Trail to be constructed to park standards and specifications and construction to be coordinated with M-NCPPC Department of Parks and Montgomery County Department of Transportation staff.

Applicant to provide a 4'-wide, natural surface trail system within the dedicated Clarksburg Greenway from Kings Local Park lake area to Stringtown Road. Trail to include a safe road crossing at Clarksburg Square Road, and a safe, adequate and well lighted alignment under Clarksburg Square Road. Alignment to be substantially as set forth on the site plan with final details of the alignment and construction details to be set forth on the certified site plan.

All trails to include bridges and boardwalk where determined by M-NCPPC Department of Parks staff to be needed. An adequate number of benches to be located along trails.

Provide a safe hard surface trail crossing of Stringtown Road and natural surface trail crossing of Clarksburg Square Road. Provide details of Greenway Trail connection to Clarksburg Village section of trail, including crossing of Stringtown Road and crossing of road bridge. Details to be provided by Applicant on certified site plan.

All plantings and landscaping in the Clarksburg Greenway, Kings Local Park, and Piedmont Woods Recreational Park to be approved by M-NCPPC Department of Parks staff. All plantings and landscaping to be consistent with the guidance set forth in the letters from Holly Thomas to Doug Powell dated June 20, 2008 and June 23, 2008 with the Standards and Specifications set forth in "Planting Requirements for Land-Disturbing Activities and Related Mitigation on M-NCPPC Montgomery County Parkland," Revised January, 2008.

All hard surface and natural surface trail alignments and construction details for trails, bridges, boardwalk, and other trail amenities to be specified on the certified site plan and be acceptable to M-NCPPC Department of Parks staff. Minor adjustments or modifications to the trail alignments and construction and amenities details may be made at time of park permitting without the need to amend the site plan.

#### 14. Landscape Surety

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

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

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

#### 15. Development Program

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

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

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

c. Community-Wide Recreational Facilities

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



- vii. The 8-foot-wide bike path connection on the east side of Overlook Park Drive shall be constructed and open to use no later than the completion of Overlook Park Drive.
  
- d. Kings Local Park  

The recreation facilities, landscaping and trails/paths shall be constructed prior to the release of the building permit for the 901<sup>st</sup> residential building unit in the entire development.
  
- e. Piedmont Woods Park  

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

#### 16. Penalties

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

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

#### 17. Certified Site Plan

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

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

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

**18. Staging (Status Report)**

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

**19. Architectural guidelines**

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

20. Town Center Resident Membership in Residential HOA.

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

21. HOA Governing Documents.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

**Data Table**

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

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

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

<sup>5</sup> Building height for the Stage II lots/units, including the Exhibit R units, Block GG, Block N, Block L, and Manor House Buildings 7, 9, 10, 11 and 12 were established with the review of site plan amendments 819980111 and 82002014D and as shown on Sheets I-5 and I-6. Building heights were established for the main building and accessory structures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

a. Buildings and Structures

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

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

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

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

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



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

b. Open Spaces

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

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

c. Landscaping and Lighting

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

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

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

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

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

d. Recreation Facilities

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

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

e. Vehicular and Pedestrian Circulation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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



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

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

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

 BE IT FURTHER RESOLVED, that the date of this resolution is \_\_\_\_\_ (which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

CERTIFICATION

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

  
Royce Hanson, Chairman  
Montgomery County Planning Board