



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

SEP 21 2015

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

**RESOLUTION**

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

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

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

WHEREAS, on July 11, 2013, the Planning Board approved an amendment to the Site Plan No. 82007022A, designated as Site Plan Amendment 82007022B (MCPB No. 13-125) to reinstate accessory structure setbacks on certain lots, and confirm that based on the existing approved lot standards, either single-family detached houses with garages or the previously shown "Courtyard" houses could be built on certain lots on the Subject Property; and

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

Approved as to  
Legal Sufficiency:

*[Signature]* 8/27/15



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

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

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

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

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

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

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

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

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

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

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

1. Project Plan Conformance

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

2. Preliminary Plan Conformance

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

3. Site Plan Conformance

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

### **Environment**

4. Forest Conservation & Tree Save

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

- a. The Applicant must submit and obtain Staff approval of a revised Final Forest Conservation Plan as described below.
  - i. All areas of forest retention and planting that are protected in a Category I conservation easement or through dedication to the M-NCPPC Parks Department must be clearly delineated on the Forest Conservation Plan.
  - ii. The conservation easements and dedication areas must not allow for the implementation of a "viewshed management plan". The conservation easements and dedication areas will be subject to the standard maintenance and management agreement for conservation easements in Special Protection Areas. All references to the "viewshed management plan" must be removed from the Final Forest Conservation Plan.
  - iii. All landscape plantings receiving forest conservation credit must be outside of any public road right-of-way, and any other easements,

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



including stormwater management easements and utility easements.

- b. The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers that will not be dedicated to the M-NCPPC Department of Parks as specified on the approved Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
- c. The Applicant must install permanent Category I conservation easement signage along the perimeter of the conservation easements.
- d. The Applicant must install permanent M-NCPPC Parks Department property line posts along the perimeter of the park dedication areas.
- e. The Applicant is responsible for approximately 18.81 acres of forest conservation planting requirements that have not already been completed or bonded by the previous land owner.
- f. The Applicant must provide financial surety to the M-NCPPC Planning Department for the 18.81 acres of new forest planting prior to the start of any demolition, clearing, or grading on the Subject Property.
- g. The Applicant must submit a five year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Subject Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
- h. Reforestation/afforestation plantings that are located outside the limits of disturbance on the Clarksburg Town Center development must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
- i. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
- j. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- k. The Applicant must provide an invasive species management program utilizing M-NCPPC's *Best Management Practices for Control of Non-Native Invasives* document as guidance for Staff's review and approval prior to the start of any demolition, clearing or grading on the Subject Property.



5. Water Quality

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

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

6. Public Use Space, Facilities, and Amenities

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

7. Piedmont Woods Local Park

- a) A Park Development Permit will be required for any improvements made to Park property or dedications for parkland. All facilities to be constructed by Applicant must be acceptable to M-NCPPC Department of Parks staff and meet or exceed Parks design standards and specifications. Minor changes may be made to the location of facilities and to specific details during the Park Development Permit process, at the direction of the Park Development Division, without requiring an amendment to the site plan. Prior to approval, the Park Development Permit Set will also need to include sediment control/stormwater management drawings and calculations, utility drawings, tree protection measures, specification and all other information necessary to construct the Application.
- b) Plant species selections listed in the site plan set are considered preliminary, subject to the review and approval of the Park Development Division as part of the Park Development Permit process. Applicant will review and revise plant species based on direction from M-NCPPC Department of Parks staff.
- c) Prior to the issuance of the 1,051st building permit, the construction of Piedmont Woods Local Park must be installed per the approved Park Permit plans.
- d) All plant material installed within the Subject Property shall be warranted by the Applicant for two years from the date of substantial completion.
- e) The heavily re-graded areas north of the proposed parking lot and northeast of the proposed dog park shall be stabilized, seeded and maintained per M-NCPPC Department of Parks approved specification for meadow establishment.

8. Kings Pond Local Park

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

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

9. Common Open Space Covenant

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

10. Recreation Facilities

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

Location	Public facilities and amenities
West Side	(1) tot lot Town Green including: - Amphitheater & stage - Open play area II Plaza with splash fountain 1.1-acre civic parcel Picnic/sitting Bike system Pedestrian system
East Side	(1) Open play area I (1) Open play area II Picnic/sitting (1) Indoor community room Bike system Pedestrian system
Piedmont Woods Local Park	(1) multi-age playground (1) basketball (2) tennis courts (1) dog park Picnic/sitting



	Bike system Pedestrian system Nature trails Nature area
Greenway	Picnic/sitting Bike system Nature area
Kings Pond Local Park	(1) multi-age playground (1) Fishing Pier Picnic/sitting Bike system Pedestrian system

11. Maintenance of Public Amenities

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

12. Civic Parcel and Town Green

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

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

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

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

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

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

Building by the time that dedication is required, the Applicant may build the Civic Building and lease the Building for uses that serve the community, such as a civic building, event center, recreation center, as contemplated by Civic and Institutional Uses as defined in the Zoning Ordinance (excluding Ambulance, Rescue squad, and Hospital), first giving a right of refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose. If at the end of any County or civic lease, no civic purpose is found, Applicant can lease the space to tenants that provide services to the Clarksburg community.

## **Transportation & Circulation**

### **13. Transportation**

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

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

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

### **15. Right-of-Way Permitting**

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Right-of-Way Section in its letter dated June 19, 2015, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the



letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

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

16. Fire and Rescue

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

**Density & Housing**

17. Density

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

18. Moderately Priced Dwelling Units (MPDUs)

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

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

**Site Plan**

19. Architectural Design/Compatibility

- a) The Applicant must retain a third party Registered Architect, as the Town Architect, to administer the release of building permits in accordance with the approved architectural drawings and specifications included in the Certified Site Plan. The Town Architect must certify that any proposed construction complies with the Certified Site Plan, and the certification must accompany

each building permit application. The MCDPS must not issue a building permit unless accompanied by the Town Architect's certification.

- b) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet SD1 through SD5 of the submitted architectural drawings, as determined by Staff.
- c) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.
- d) Enhance high visibility side facades by providing at least two architectural treatments from the following list: box or bay window, minimum of two windows, shutters, fireplace, brick water table, trim and headers on exposed side consistent with front elevation. Locations for high visibility side facades include: Lots 1, 14, 35, 42, 57, 58, 72, 80, 81, 88 (Block BB); Lots 33, 38, 50 (Block GG), Lots 31, 32, 55 (Block H). The details of the architectural treatments must be shown on the Certified Site Plan.

#### 20. Landscaping

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

#### 21. Lighting

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



## 22. Site Plan Surety and Maintenance Agreement

Before issuance of the 1<sup>st</sup> building permit for any Block or Phase, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board for that Block or Phase. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and alleys, curbs and gutters along all private roads and alleys, paths and associated improvements within the relevant phase of development. The surety must be posted before issuance of the any building permit within each relevant Block or Phase of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each Block or Phase of development will be followed by inspection and potential reduction of the surety.
- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each Block or Phase.

## 23. Certified Site Plan

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

- a) Include the final forest conservation approval letter, stormwater management concept approval letter, development program, and Resolution on the approval or cover sheet(s).
- b) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- c) Modify data table to reflect development standards approved by the Planning Board.
- d) Address Eplans markups including minor clarifications and corrections to the plan drawings.

## 24. Development Program

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



<b>Development Program Table</b>	
<b>Deadline</b>	<b>Task</b>
Before Certified Site Plan approval	Include the Amended Final Forest Conservation Plan approval, stormwater management concept approval, development program, and Planning Board Resolution on the approval or cover sheet.
	Provide phasing or sequence for the various stages of construction of the approved development, which includes building of roads, townhouse units, the installation of on-site landscaping, lighting, and amenities and phasing of applicable stormwater management, sediment and erosion control, and afforestation.
	Provide architectural treatment for high visibility side facades
Before sediment control plan approval	Demolition of existing structures, and clearing and grading
Before sediment control permit issuance	Financial surety to M-NCPPC for the required 18.81 acres of forest planting.
	Five year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel
Before issuance of first residential building permit	Execute an MPDU Agreement-to-Build between the Applicant and DHCA (Condition #18)
	Certification from a qualified professional that the lighting plans conform to the IESNA standards (Condition #20.a)
Before issuance of first [above grade] building permit	Site Plan Surety and Maintenance Agreement (Condition #21)
Prior to the issuance of <b>30<sup>th</sup></b> residential building permit in Block GG	<b>Harness Point tot lot</b> including lighting and landscaping in Block GG to be completed (the 30 <sup>th</sup> building permit represents the 70 <sup>th</sup> percentile of all building permits assigned to Third Try LC in Block GG).
Prior to the issuance of <b>26<sup>th</sup></b> residential building permit in Block H	Grading, seeding, seating areas, lighting and landscaping must be installed in <b>Block H</b> (the 26 <sup>th</sup> building permit represents the 75 <sup>th</sup> percentile of all remaining building permits to be issued in Block H).
Before issuance of the <b>88<sup>th</sup></b> residential building permit in Block BB	Complete construction of all improvements in the Civic Parcel (Parcel K, Block BB) (Condition #12)
	Complete construction of Town Green (Parcel L, Block BB) (Condition #12)
Prior to the issuance of <b>901<sup>st</sup></b>	Clarksburg Square Road land bridge improvements



residential building permit	must be bonded.
Prior to the issuance of <b>951<sup>st</sup></b> residential building permit	<p><b>Resident's Club/Sinequa Square:</b></p> <ul style="list-style-type: none"> <li>▪ The Residents Club building addition must be completed and UNO obtained.</li> <li>▪ Raised pool deck that connects the new Residents Club building to the shade structure on the pool deck must be completed.</li> <li>▪ Residents Club/pool parking, trees and lighting must be installed.</li> <li>▪ Fine grading, sodding, benches, paths and landscaping for Sinequa Square must be installed.</li> <li>▪ Private area lighting - Sinequa Square and parking area on Sugarloaf Chapel must be installed.</li> </ul> <p><b>Clark Family Memorial:</b></p> <ul style="list-style-type: none"> <li>▪ Clearing, grading, sod, fence, benches, plaque, and, if appropriate, treated headstones must be installed.</li> </ul> <p><b>Roads:</b></p> <ul style="list-style-type: none"> <li>▪ Clarksburg Square Road land bridge improvements, including the brick piers and fencing, must be installed and the road open to traffic.</li> <li>▪ Stringtown Road must be bonded or included in CIP.</li> </ul>
Prior to the issuance of <b>975th</b> residential building permit	Clarksburg Square Road from Overlook Park Drive to Public House Road must be installed and the road open to traffic.
Prior to the issuance of the <b>1,001<sup>st</sup></b> residential building permit	<p>Construction of <b>Kings Pond Local Park</b> substantially complete; all amenities to be installed, including the multi-age play area, trails, picnic tables, grills, porta john enclosures, and fishing pier.</p> <p>Trail connection to Clarksburg United Methodist <b>Church</b> and associated landscaping must be installed per agreement with the Church.</p>
Prior to the issuance of the <b>1,051<sup>st</sup></b> residential building permit	<p>Construction of <b>Piedmont Woods Local Park</b> substantially complete; all amenities to be installed, including the trails, picnic shelters, basketball court, tennis courts, multi-age play areas, water fountain, porta john enclosure, dog park, landscaping and park signage.</p> <p>Dedicate the entire Civic Parcel (Parcel K, Block BB) to Montgomery County provided that Montgomery County has either entered into an agreement with the Applicant or appropriated funds for the design and</p>



	construction of the Civic Building. (Condition #12)
Prior to: 1. The issuance of <b>1,051st</b> residential building permit, and 2. The issuance of first UNO for the Retail/ commercial area	<b>Roads:</b> <ul style="list-style-type: none"> <li>▪ General Store Drive from Stringtown Road to Clarksburg Square Road must be constructed.</li> <li>▪ Stringtown Road must be open to traffic.</li> </ul>
Within nine months after base and binder paving of Clarksburg Square Rd	The remaining streetscape and special sidewalk treatment for Clarksburg Square Rd not required of or installed by the previous developer must be completed.
Within nine months of completing General Store Drive from Stringtown Road to Overlook Park Drive	The Greenway Trail adjacent to that section of General Store Drive must be installed.
Within nine months of completing Overlook Park Drive from General Store Drive to Clarksburg Square Road	The Greenway Trail adjacent to that section of Overlook Park Drive must be installed.
Within nine months of completing Overlook Park Drive from Clarksburg Square Road to Clarksburg Road	The Greenway Trail adjacent to that section of Overlook Park Drive must be installed.
Prior to release of the Performance Bond or Surety for each Block or Phase	Certification from a licensed civil engineer that all private streets and sidewalks within the respective Phase or Block have been built to the specified standards.
Before issuance of the final use and occupancy certificate or prior to release of the Performance Bond or Surety for each Block or Phase	Street lamps and sidewalks adjacent to each building must be installed. Street tree planting may wait until the next planting season.
	On-site amenities including, but not limited to, sidewalks, site furniture, benches, trash receptacles, bicycle facilities, lighting and landscaping associated with that building must be installed.
Before issuance of the final occupancy certificate for the final unit in each stick adjacent to the Mews in Block BB	<b>Residential Mews in Block BB:</b> Mews, pedestrian pathways, sidewalks, landscaping and lighting adjacent to each stick of townhomes or 2/2 unit will be installed excluding stormwater management facilities.
Prior to the issuance of the UNO for 100,000th SF (approximately 50th percentile) of commercial space	Splash fountain must be installed and UNO for fountain issued.



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

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

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

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

#### Compliance Plan

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

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



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

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

Overall, the Amendment meets the intent and spirit of the Plan of Compliance by providing significant community amenities and facilities that are comparable to the previously approved plans while responding to the aspirations and needs of today's community.

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

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

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



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

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

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

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



**Data Table**

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

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

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

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

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



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

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

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



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

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

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

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



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

a) Buildings and Structures

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

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

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



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

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

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

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

b) Open Spaces

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



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

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

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

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

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

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

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

c) Landscaping and Lighting

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



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

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

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

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

d) Recreation Facilities



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

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

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

e) Vehicular and Pedestrian Circulation

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

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



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

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

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

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

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



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

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

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

The Clarksburg Town Center includes a mix of residential, office, retail and civic uses, which are compatible with the adjacent and confronting residential uses as well as pending development. In addition, the mix of residential and non-residential uses is also compatible with the Clarksburg Historic District to the west, which also includes a mix of uses. The development pattern establishes a hierarchy of density and heights consistent with the Master Plan vision and as shown on the Project Plan. Higher density uses and heights are located internally near and within the future commercial center, and lower heights are located towards the periphery.

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

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

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

A. Forest Conservation



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

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

The FCP results in a 22.58 acre forest planting requirement that will be met onsite by a combination of reforestation and landscape credits. Per the previous FCP approval, the Applicant will plant an additional 1.68 acres of forest as mitigation for stream valley buffer encroachments. In conformance with the SPA requirements, the Applicant will plant an additional 1.38 acres of forest within the environmental buffer. This results in 22.80 acres of onsite forest planting and 2.84 acres of forest conservation credit through onsite landscape plantings. Approximately 6.83 acres of the forest planting requirement has been bonded, planted, and the required Maintenance and Management Agreement has been recorded in the land records by the previous landowner. Since the previous landowner has demonstrated responsibility for fulfilling the forest conservation obligations for this 6.83 acre portion of the planting requirement, this portion of the forest planting requirement is not the responsibility of the Applicant and was deducted from their total forest planting requirement as described in condition of approval no. 4(e). The Applicant is responsible for 18.81 acres of forest conservation planting of which 15.97 acres will



be in the form of forest planting and 2.84 acres will be in the form of individual landscape trees.

All of the retained and planted forest that is included in the forest conservation worksheet calculations will either be protected in a Category I conservation easement or through dedication to the M-NCPPC Parks Department. As illustrated on the Final FCP, the Applicant had proposed a permanent maintenance and management agreement/viewshed management plan for a 3.1 acre portion of the forest plantings, including two proposed wetland creation areas, located within the environmental buffer between Stringtown Road and the retail center. The Applicant will revise their FCP to include a specific planting plan for afforestation planting areas K-2, K-3, GG, HH, WC2 and WC3. The planting plan will specify that the initial plantings will allow for the understory species to be planted along the higher elevations of the slopes and the overstory species to be planted at the lower elevations within the stream buffer. This planting plan uses the natural grades to provide better visibility to the retail center from Stringtown Road. The Board supported this proposal which will allow for this area to develop into a sustainable functioning mature forest in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

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

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

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

As part of the requirements of the SPA law, a Water Quality Plan must be reviewed in conjunction with a preliminary plan and site plan. The Final Water Quality Plan was submitted as part of the Site Plan. Under Section 19-65 of the Montgomery County Code, MCDPS and the Planning Board have different responsibilities in the review of a Water Quality Plan. By letter dated June 23, 2015, MCDPS conditionally approved the elements of the Water Quality Plan under its purview which include site performance goals, stormwater management, sediment and erosion control, and monitoring of Best Management Practices. The Planning Board’s responsibility is to determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.



1) Priority Forest Conservation Areas

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

2) SPA Environmental Buffer Protection

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

3) Impervious Surfaces

The Clarksburg SPA does not have a specific numerical limit on impervious surfaces; however, a main goal for development in all SPAs is to reduce or



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

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

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

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

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

\* \* \* \* \*

**CERTIFICATION**

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

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



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