

**STATEMENT OF JUSTIFICATION  
CLARKSBURG TOWN CENTER**

**PROJECT PLAN NO. 91994004E  
PRELIMINARY PLAN NO. 11995042E  
SITE PLAN NO. 82007022I  
FOREST CONSERVATION PLAN NO. F20230380**

**October 2023**

These interrelated applications seek amendments to the existing Project Plan, Preliminary Plan of Subdivision and Site Plan for the Clarksburg Town Center. The applications for this Amendment focus specifically on revisions in the Retail Core of the overall Clarksburg Town Center (which is approximately 14.5 acres).

**THE PROPERTY**

The subject site ("Property") is located northeast of Frederick Road (Maryland 355) between Clarksburg Road and Stringtown Road in the Clarksburg Planning Area. The specific sub area that is the subject of these Amendments lies in the approximate 14.5-acre core area of Clarksburg Town Center and is bounded by Clarksburg Square Road, Overlook Park Drive, Public House Drive (extended), and a forest conservation area. It currently is zoned CRT-0.75, C-0.25, R-0.5, H-65T, but the underlying approvals for the Property which are being amended were granted under the RMX-2 zone (Attachment A). (The Property is reflected on Plat No. 25584 recorded on September 27, 2019, Attachment B). Although the entire Clarksburg Town Center approvals cover an area of approximately 270 acres, these Amendments are limited to the final developed but unbuilt 14.5-acre portion of the development in the core area purchased by Third

Try, LC (now known as CTC Development Inc. and CTC Retail, LC, the “current developer”) in 2011. The rest of Clarksburg Town Center is almost entirely built-out. The built portions of the Town Center, including the areas developed by the Applicant (and previous developers) (“Previous Amendment(s)”) are not included in the scope of this Amendments. The submitted plan Amendments graphically outline the scope of this 14.5-acre Amendment for the Applicant, “CTC Retail, LC.”

## PROJECT DESCRIPTION

### A. Background and Previous Approvals

In 1994, the County Council approved the Clarksburg Master Plan and Hyatt Special Study Area. It called for the creation of a town center in Clarksburg which would include the Historic District as a focal point that would be surrounded by a mix of uses including office, residential and retail. That Master Plan envisioned up to 2,600 dwelling units and up to 300,000 sq. ft. of commercial space in the Town Center area.

In December 1994, a Project Plan (919940040) and a Preliminary Plan (119950420) were submitted for review by Piedmont and Clarksburg Associates. Applying the Optional Method of Development under RMX-2 zoning, the Plan envisioned what is now known as a neo--traditional community to be constructed in phases that included residential, office and retail. The Project Plan was approved in June 1995 and the Preliminary Plan in March 1996. Subsequent

Site Plans were approved and many residential units and supporting infrastructure and amenities were built under those approvals.

In 2005, a group of residents known as the Clarksburg Town Center Advisory Committee alleged numerous violations associated with the build-out of their community by the then-developer, NNPII Clarksburg LLC ("Newlands"). As a result, an amended plan for the entire site was approved by the Planning Board on August 16, 2006, and became known as the "Compliance Plan," subject to further development review by MNCPPC Planning Board. In order to implement the Compliance Plan, the Planning Board approved the Project and Preliminary Plans (91994004B and 11995042A), and a new Site Plan (820070220) with respect to the property that is the subject of these amendments. Those approvals authorized a total of 194,720 square feet of commercial use including up to 69,720 sq. ft. of specialty retail and 1,213 dwelling units. In June 2010, the Planning Board approved an amendment to the Project and Site Plans (91994004C and 82007022A) to correct the unit mix and unit count. On July 16, 2013, the Planning Board approved another amendment to the Site Plan having to do with various design features (82007022B).

After these amendments, it became apparent that several aspects of these specific plans, especially elements of the retail core, were financially not viable, and the plan was rejected by retailers and retail developers. The current Applicant worked closely with the community and other stakeholders to draft a plan that was acceptable to the community and stakeholders and financially viable. In July 2015, the Planning Board approved Amendments to the various plans,

submitted by Third Try LC, the successor in interest to the previous developer, Newlands (Project Plan 91994004D, Preliminary Plan No. 11995042B and Site Plan No. 82007022D).

Since the current developer acquired the referenced portion of Clarksburg Town Center and obtained the 2015 Amendment approvals, it has worked diligently to implement the approved Town Center plans from 2015. This includes construction of the following significant facilities:

- Stringtown Road widening from St. Clair Road past Snowden Farm Parkway (2017)
- Clarksburg United Methodist Church Pedestrian Connection (2017)
- Land Bridge connecting the east side and west side of Town Center (2017)
- Block H residential unit construction (2017)
- Clark Family Memorial (2017)
- Greenway Trail Construction 2017-2019
- Residence Club Addition and Sinequa Square (2018)
- Clarksburg Square Road connection to MD-355 (2019)
- Outdoor Amphitheater (2019)
- Library parcel preparation and parking lot construction (2019) and conveyance (2022)
- Kings Local Park improvements and dedication (2019)
- Westside Residential and infrastructure improvements (2021)
- Piedmont Woods improvements and dedication (2022)

Throughout this buildout process, the current developer has worked closely with Clarksburg residents and other stakeholders.

After a long campaign to attract a grocery anchor for the core, the Applicant has found a grocer and is finally in a position to attract additional tenants and multifamily residents sufficient to support development of this final phase of Clarksburg Town Center. To do so, it requires the limited Amendments now being sought. The subject Amendments to the Project Plan, Preliminary Plan and Site Plan propose the complete buildout of the Clarksburg Town Center Retail Core: the construction of 190 multifamily units in two buildings along the southern side of Clarksburg Square Road, and approximately 106,000 sq. ft. of retail/commercial space, including a grocery store of approximately 55,000 sq. ft and proposed potential future development to accommodate a small number of gas pumps.

#### B. The Proposal

These Amendments, similar to the previously approved amendments, propose an integrated mix of residential and commercial buildings with a street front orientation in order to create a functional, attractive "town center" for Clarksburg Town Center. Most significantly and similar to the previously approved amendment, the proposal includes a grocery store of approximately 55,000 sq. ft. to not only align with the 1994 Master Plan, but also in response to the long-standing interest of residents of Clarksburg for such a use.

Since the Town Center mixed-use core was initially conceived in the 1994 Clarksburg Master Plan, retail demand, design and even the identity of retailers have changed considerably. Due to on-line shopping and delivery for anything for which a consumer would desire, including groceries and restaurant meal delivery, brick-and-mortar retailers no longer require physical

retail locations. This trend started prior to the previous amendment and was materially accelerated and exacerbated by the pandemic. Moreover, due to similar changes, office users require less space as employees work from home. At the same time, the build-out of Clarksburg itself has occurred at a much slower pace than envisioned nearly 30 years ago. In addition, uses in other areas of Clarksburg and Germantown did not proceed as projected during the Master Plan process 30 years ago. First, the County approved a 123,00 square foot Wegman's Grocery Store in Germantown, which was not anticipated in the 1994 Master Plan. It is well documented that the influence and "pull" of a Wegman's is significantly greater than a regular grocery store. To that end, the opening of Wegman's in Germantown adversely impacted demand for grocery stores in Clarksburg. Moreover, Cabin Branch, originally anticipated in the Master Plan to be 2.4 million square feet of office and employment space (with some retail space) was subsequently approved for and built-out as a 450,000 square foot retail center. This retail, located in an outlet mall, may not be entirely neighborhood serving, but the inclusion of specific retailers, such as restaurants and coffee shops at Cabin Branch also impacts the ability to also attract these uses in the retail core of Town Center. The combination of these factors has created inherent challenges to bringing a grocery store and other retail to Clarksburg Town Center.

Regardless, the Applicant has put forth a thoughtful and viable plan in the Amendment. In addition to the grocery store, there will be commercial and retail space fronting on the retail street, with street front parallel parking in front, and additional surface parking behind the buildings (and below one of the multi-family buildings). The other component of the plan, as called for previously, will be multifamily buildings along Clarksburg Square Road which

includes 190 new dwelling units and 23 new MPDU's. The addition of this multifamily housing will both help to address a housing demand in the up-county area for such units, while, at the same time, providing the additional customer base necessary to make the retail successful.

With this Amendment, there has been significant effort to activate the intersection of Clarksburg Square Road and St. Clair Road. To that end, the Applicant proposes ground floor retail and other active uses in one of the multi-family buildings at this intersection and an extension of the splash fountain park along St. Clair Road to the intersection (which is adjacent to the other multifamily building). The addition of this active space, coupled with the already built amphitheater area and dedicated Montgomery County civic parcel will work cohesively to generate pedestrian activity and the opportunity to gather at this community location, and as envisioned in the Master Plan.

### **Gas Pumps & The Grocery Store**

Finding a grocery store for this sub-par retail location has been a challenge. In 2022, the Applicant has signed a letter of intent and currently is negotiating a lease with a grocer. As with all new suburban grocery stores, and a contributing factor to the future success of the Clarksburg Town Center grocery store is the provision for a limited number of gas pumps located in grocery parking area (away from the residential units and St. Clair Road). Many grocery stores offer a small number of gas dispensers as a service to their clientele and operate the gas pumps as a department in the grocery store (similar to the pharmacy, floral department, etc).

Initially, three gas pumps (with one dispenser on each side of each pump) were included in the Amended Applications. The grocer has indicated that these pumps are extremely important to their success in Clarksburg Town Center. However, due to the language of the grandfathering provision of the zoning ordinance, these pumps will be removed from this Amended Application package. To that end, the Amended Plans, as submitted, show a blank area for the pumps with a “Future Development” label. When the Applicant obtains alternative governmental approvals for the gas pumps, they will return to the development review process with another plan amendment to add these pumps in the approximate location shown as “Future Development” on the plans.

### **Zoning Ordinance**

This application is being submitted under Sub Section 7.7.1.B.3 of the Zoning Ordinance which allows an applicant to amend any previously approved plan under the zoning standards as they existed on October 29, 2014. In this situation, which means the RMX-2 zone that calls for a Project Plan Amendment and Site Plan, as well as any potential amendment to the underlying Preliminary Plan of Subdivision, is necessary to incorporate the current changes. To that end, this Application covers all three amendments.

### **PROJECT PLAN AMENDMENT**

#### **A. Basis for Consideration**

Section 59-D-2.43, Basis for Consideration, states:



In reaching its determination on the application for the optional method of development and in making the required findings, the Planning Board must consider:

- (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures.
- (b) Whether the open spaces, including developed open space, are sized and located to provide convenient areas for recreation, relaxation and social activities for the residents and patrons of the development. Open spaces should be planned, designed and situated to provide sufficient physical and aesthetic open areas among and between individual structures and groups of structures. The proposed setbacks, yards and related walkways must be wide enough and located to provide adequate light, air, pedestrian circulation and necessary vehicular access.
- (c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.
- (d) Whether the proposed development contributed to the overall pedestrian circulation system. Pedestrian walkways must:
  - (1) be located, designed and sized to conveniently handle pedestrian traffic efficiently and without congestion.
  - (2) be separated from vehicular roadways and designed to be safe, pleasing, and efficient for movement of pedestrians; and

- (3) contribute to a network of efficient, convenient and adequate pedestrian linkages in the area of the development, including linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.
- (e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.
- (f) The adequacy of provisions for the construction of moderately priced dwelling units in accordance with Chapter 25A of this Code if applicable.
- (g) The staging program and schedule of development.
- (h) The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A.
- (i) The adequacy of water resource protection measures proposed to meet any requirements under Chapter 19.
- (j) Payment of a fee acceptable to the Planning Board may satisfy all or some of the requirements for any public use space, or public facilities and amenities under the requirements established elsewhere in this Section.

B. Analysis

Section 59–D–2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board in concert with the basis for consideration.

The following findings support this Amendment.

- (a) *The application would comply with all of the intents and requirements of the zone.*

The property was zoned RMX-2 per the Zoning Map in effect prior to October 30, 2014. Section 59-C-10.1 of the former Montgomery County Zoning Ordinance establishes the RMX-2 zone, which is identified as Residential-Mixed-Use Development, Specialty Center. Division 59-C-10 does not include a purpose and intent section for the RMX zones and the term "specialty center" is not defined in the Zoning Ordinance. Applicant relies on the term "residential-mixed-use development" to support its recommendation that the application meets the intent of the zone. Section 59-C-10.3.1 adds further guidance with the language:

This optional method of development accommodates mixed use development comprised of planned retail centers and residential uses, at appropriate locations in the County. This method of development is a means to encourage development in accordance with the recommendations and guidelines of approved and adopted master plans.

Approval of this Optional Method of Development is dependent upon the provision of certain public facilities and amenities by the developer. The requirement for public facilities and amenities is essential to support the mixture of uses at the increased densities of development allowed in this zone.

The Project Plan Amendment complies with these requirements. It continues to use the Optional Method of Development as did the prior approvals and is in conformance with the 1994

Clarksburg Master Plan. It provides a mixed-use development with 1,296 single-family, townhome and multi-family units (including 12.5%, or 162, MPDUs) and a total of approximately 106,000 square feet of commercial uses. The development complies with the intent and recommendations of the Master Plan by providing a pedestrian-friendly and walkable Town Center through increased mix of uses, pedestrian connections, on-street parking, and a variety of recreational facilities and open spaces. Most of this infrastructure and amenities (as well as homes) were built previously. This Amendment continues the vision of the previous Amendment by completing the amenities envisioned in the Retail Core, including the connectivity, seating areas, splash fountain park, and streetscape which will be complimented by the ground activated retail and other uses.

The Amendment meets the density requirements of the RMX zone and recommendations of the Master Plan. The residential density is below the maximum density of 7 dwelling units per acre recommended by the Master Plan (page 43) and the commercial density of approximately 106,000 square feet, is within the maximum 0.5 FAR allowed.

The Amendment meets the parking requirements 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. A parking waiver for the commercial core is not necessary given the provisions above, which decreased the parking requirements for the

commercial core. The residential parking requirements (the maximum amount allowed) are met through private garage spaces, and surface parking facilities.

*(b) The application would be consistent with the applicable master plan.*

The Amendment is consistent with the 1994 Approved and Adopted Clarksburg Master Plan and the 2011 Limited Amendment (collectively referred to as "Master Plan"), as discussed more fully in the Preliminary Plan section of this Statement. The Amendment continues to provide a mixed-use community with commercial, retail, restaurant and civic uses in addition to multifamily housing (with ground floor retail and other activated space), which will create a lively and diverse place. The clustering of the residential and commercial uses along a pedestrian scale "main street" creates a strong central focus and identity for the Town Center. It will be a pedestrian oriented neighborhood by providing a well-connected street system, buildings oriented towards the street and public open space.

*(c) Because of its location, size, intensity, design, operational characteristics and staging, the application will be compatible with and not detrimental to existing or potential development in the general neighborhood.*

The location, size and intensity of the development in the proposed Amendments is compatible with the existing and potential development in the general neighborhood. Each conforms with prior visions for this area. The design elements utilized are

compatible with existing development by having street-oriented development with minimal and appropriate setbacks massing and heights, parking and servicing in the rear, and residential units constructed in a town center format.

The operational characteristics are compatible with, if not improved by, the existing and future development by completing the internal road network and providing pedestrian and bicycle circulation improvements.

*(d) The application would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The Amendment will not overburden existing public facilities and services nor those programmed for construction. Since the development has a valid Adequate Public Facilities (APF) approval for transportation facilities, water and sewer, etc. and the overall amended development density conforms with limits previously approved, the Amendment satisfies the requirements for APF review that were in place at the time of Preliminary Plan approval (as well as current requirements). The property is not located within the transportation management district.

Public facilities and services continue to be available and will be adequate to serve the proposed development. The development is served by public water and sewer systems. Other public facilities and services, such as police stations, firehouses and health services are operating according to the growth policy resolution in effect when the APF approval was granted and will be adequate to serve the development.

The proposed Amendment will not overburden other community serving facilities, as it proposes to build the previously approved splash fountain and extending this activated space by creating a newly proposed play area and seating area adjacent to the splash fountain, a plaza and seating area between buildings seven and eight, and other streetscape elements along St. Clair Road. Finally, the Amendment proposed facilities, such as a pool and exercise room, for the multi-family residents so as not to crowd existing community facilities in Clarksburg Town Center.

*(e) The application would be more efficient and desirable than could be accomplished by the use of the standard method of development.*

The Amendment continues to apply the Optional Method of development, which is more efficient and desirable than the standard method. The optional method allows for greater densities in exchange for greater public amenities and facilities, most of which have been built. The Amendment fits within the overall density of commercial and residential uses previously approved.

- (f) *The application would include moderately priced dwelling units in accordance with Chapter 25A, if the requirements of that chapter apply.*

The Amendment will enable construction of up to 23 additional MPDUs, assuming a total of 190 additional dwelling units, consistent with the requirements of Chapter 25A. At final buildout, the Clarksburg Town Center community will consist of 1,296 total units, including 162 MPDUs (12.5%).

- (g) *When a Project Plan includes more than one lot under common ownership or is a single lot containing two or more CBD zones and is shown to transfer public open space or development density....*

The development does not propose any transfers of public open space or development density from one lot to another.

- (h) *Any applicable requirements for forest conservation under Chapter 22A.*

Forest conservation requirements for Clarksburg Town Center, for the subject area, are included in this Amendment and this development conforms to Chapter 22A.

- (i) *Any applicable requirements for water quality resources protection under Chapter 19.*



The Amendment meets all applicable requirements for water quality resource protection under Chapter 19.

*(j) Any public use space or public facility or amenities to be provided off-site....*

This finding is not applicable to this Application.

### **PRELIMINARY PLAN AMENDMENT**

#### **A. Analysis**

*1. The Preliminary Plan Amendment substantially conforms to the Clarksburg Master Plan.*

The Amendment is consistent with and is in substantial conformance to the 1994 Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area and the 2011 Limited Amendment to the Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions (collectively referred to as "Master Plan"<sup>1</sup>). The Property is located within the Town Center District identified on Page 42 of the Master Plan. The Master Plan outlines ten policies that were intended to transform Clarksburg into a transit and pedestrian-oriented town surrounded by open space. In addition, the Master Plan provides eight policy objectives that offered guidance on the shaping of the Town Center, which are outlined in Chapter Two of the Master Plan (Pages 15-30). The following is a summation of how the Application meets the policy objectives of the Master Plan:

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<sup>1</sup> The Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area does not include the Subject Property.

*Policy 1: Create a Town Scale of Development*

The Amendment provides opportunities to reinforce the Master Plan's vision by proposing a transit-and pedestrian-oriented Retail Core located in a natural setting with the Town Center as the focus of community life. It also conforms to the Master Plan's vision by completing a traditional neighborhood designed with street facing residential units and commercial space and parking behind buildings (and beneath building nine).

*Policy 2: Natural Environment*

The Amendment retains a forested buffer along all streams and continues the Greenway concept initiated by prior Planning Board approvals. Existing mature trees have been preserved and augmented, and a "no net loss" of wetlands policy has been established. "Environmental concerns are the single most important reason why Clarksburg is proposed as a town rather than a larger corridor city" (Page 18). The Amendment follows the Master Plan guidance for a modest amount of development intended to serve neighborhood needs rather than regional needs.

*Policy 3: Greenway Network*

The Greenway Network is out-of-scope for this Amendment. However, the Amendment fully respects the Greenway network by preserving the entire previous dedication for the Greenway to the Parks Department and keeping the Greenway Trail segments that were approved in the Previous Amendment, built after that Amendment, and run through the community.

*Policy 4: Transit System*

The Amendment reinforces pedestrian and vehicular access between the Clarksburg Town Center, Clarksburg Historic District, and the Town Center Transit Station as recommended in the Master Plan on Page 50 (Figure 11). The connection of Clarksburg Square Road to the Historic District and St. Clair Road to Stringtown Road, and Overlook Park Drive to Clarksburg Road further enhances the community's connections, including pedestrian and bicycle connectivity to other parts of Clarksburg and the County.

*Policy 5: Hierarchy of Roads and Streets*

The Amendment includes interconnected streets, sidewalks and pedestrian/bikeways to provide and connect to local access within the neighborhood.

*Policy 6: Town Center*

The Amendment brings forward the long-desired mixed-use center recommended in the Master Plan. The plan thoughtfully integrates ground floor retail and active uses, as well as outside amenities (such as the splash fountain play area) with the existing outdoor amphitheater and Montgomery County civic parcel to reinforce the Town Center's identity.

*Policy 7: Transit- and Pedestrian-Oriented Neighborhoods*

The Amendment includes a mix of commercial and residential uses within the mixed-use core. The proximity and density of the uses encourages pedestrian travel and increases the potential for nearby employment as recommended in the Master Plan. Mixing commercial and residential

uses in the central core means that residents will have easy access to goods and services and opportunities to interact and furthers the Master Plan goal that discourages the separation of uses.

The streets are interconnected to create a network of sidewalks that will allow pedestrian movement from the developed residential portions of the Town Center to the new core. The Greenway Trail segment runs immediately adjacent to the area of this Amendment, further encouraging pedestrian and bicycle travel along the Greenway to the core area included in this Amendment. It adds to the mix of housing envisioned in the Master Plan, both market rate and MPDUs, to foster a strong sense of community for a variety of incomes and households. Finally, a pedestrian friendly environment is achieved by creating human scale streetscapes. To provide a pedestrian-oriented community, buildings are clustered with their facades pushed toward the street and parking behind the buildings, specifically Clarksburg Square Road and St. Claire Road, just as proposed in the previously Approved Amendment

*Policy 8: Employment*

The Amendment incorporates additional commercial/retail within an interconnected area as envisioned in the Master Plan.

The Amendment also meets the land use objectives of the Master Plan as follows:

- Create a Town Center which will be a strong central focus for the entire Study Area.

The Amendment continues to establish a strong identity with a traditional town character as called for in the Master Plan. Because the focus of the Town Center is neighborhood based rather than regional, it is geared to serve local residents and foster community building through the use of density, massing, uses and layout.

- Encourage a mixed-use development pattern in the Town Center to help create a lively and diverse place.

The Amendment substantially conforms to the guidelines in the Master Plan for the recommended mix of residential units and commercial use.

The Amendment provides for approximately 190 new multi-family homes, for a total of 1,296 homes in the Clarksburg Town Center community, consistent with allowable Master Plan recommendations and zoning density.

The Master Plan states in terms of commercial uses:

"A retail designation is proposed east of the Historic District as part of a large-scale mixed-use neighborhood (see Figure 19, Page 43). By incorporating the retail center proposed into a larger planned development, there will be a greater opportunity to assure a strong integration of the retail center to adjoining residential and public uses and to assure a compatible relationship to the Historic District."

The Master Plan allowed up to 300,000 square feet of commercial square footage with up to 153,000 sq. ft. of neighborhood retail. (Page 46). The Amendment falls within that amount.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The initial Adequate Public Facilities Review (APF) review was performed at the time of Preliminary Plan 119950420. The APF validity was subsequently extended through Preliminary Plan Amendment 11995042A (Planning Board Resolution 08-163) for a six-year period ending March 26, 2014. During the extended APF validity period, the County Council granted a series of APF validity extensions to all approved but unbuilt projects due to a generally poor economic climate at the time. As a result of these extensions, the subject Preliminary Plan has an APF approval through March 26, 2024. Applicant requests that the validity period be extended for the additional multi-family and commercial development proposed here, until March 26, 2029, in order to enable Applicant to complete the development. The development associated with the Amendment will not have an adverse impact beyond the previously approved development because the amended development density is within the overall limits previously approved through Preliminary Plan 11995042A.

#### Site Access, Vehicular/Pedestrian Circulation and Rights-of-way

The Amendment will enhance future connectivity by emphasizing the connection of Clarksburg Square Road to St. Clair Road and to the remainder of the public road network. The relocation of driveways away from this centralized area and the provision of

infrastructure for delivery vehicles in the back of the commercial further optimizes the pedestrian experience in the community.

#### Local Area Transportation Review (LATR)

This trip generation is within the previously approved APF as reviewed in the Traffic Statement.

#### Policy Area Review

At the time the Clarksburg Town Center received its APF approval, the policy area review consisted of the "Policy Area Transportation Review" (PATR), which required that the Applicant make transportation improvements rather than mitigate transportation impacts through financial contributions. Since this Preliminary Plan Amendment represents a modification to the previously granted APF approval, the Application is not subject to the current transportation requirements under the 2020-2024 Growth and Infrastructure Policy.

#### Other Public Facilities

Public facilities and services continue to be available and will be adequate to serve the proposed development. The Property is served by adequate public water and sewer systems.

- 3. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Applicant is Amending Forest Conservation Plan 82007022G, under plan the new number F20230380, per the changes to the Retail Core area to update the Landscape Credit. This Amendment is in compliance with the Montgomery County Environmental Guidelines, the Forest Conservation Law (Chapter 22A).

The Applicant has agreed not to modify the Category 1 conservation easement with a viewshed management plan for the forest conservation planting areas within the environmental buffer located between Stringtown Road and the proposed retail center in accordance with the goals outlined in the SPA law, Environmental Guidelines, Forest Conservation Law, and Clarksburg Master Plan.

*4. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The proposed plan Amendment does not materially impact stormwater management that was previously proposed and approved by Montgomery County DPS. (Aside from the scope of this Amendment, the previously approved SWM is built). This Amendment proposes updates to the stormwater management plan updates stormwater management facilities so that they are located and sized appropriately for the proposed layout changes in this Amendment. The Amendment will continue to meet all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site through an amended water quality plan, and SC/SWM plan.



### **Compliance with the Subdivision Regulations**

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all other applicable sections. The size, width, shape and orientation of the lots continue to be appropriate for the location of the subdivision, given the recommendations of the Master Plan. The size, shape, width and orientation of lots on the Amendment is appropriate and will provide a seamless continuation of the existing development and what was proposed previously.

### **SITE PLAN AMENDMENT**

#### A. Analysis

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 an element of the project plan.*

Neither a development plan, diagrammatic plan nor schematic development plans were required for the subject site. The Site Plan Amendment is consistent with the current Project Plan for the Clarksburg Town Center in terms of land uses and maximum densities, design layout, development standards, and conditions of approval.

### Compliance Plan

A Compliance Plan, approved in 2006, addressed specific alleged violations of previous developers, it provided flexibility for future development plan approvals. Specifically, the Compliance Plan Resolution noted "nothing provided in this Resolution is intended, nor shall it be construed, to cede, relinquish or otherwise impair the discretion, authority or jurisdiction of the Board to consider any future applications, plans or approvals pertaining to the project according to the terms of the Resolution, law and merits applicable." (Page 6). It noted further that "the Compliance Program is conceptual in nature and that additional review of more detailed plans may involve modifications." (Page 7). Finally, the Resolution stated, "the Board expressly reserves all lawful discretion to consider, approve, approve subject to conditions or disapprove any such future applications according to the law and merits presented at the time." (Page 7). To that end, the Planning Board approved several amendments to the Clarksburg Town Center project, preliminary and site plan subsequent to the 2006 Compliance Plan.

As with the previous amendments, the proposed Site Plan 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 that serve the public interest to finally, after more than 25 years, complete Clarksburg Town Center. It proposes doing so by providing a thoughtful and financially viable plan (with additional community amenities) that acknowledges significant societal and local changes in the 14 years since the Plan of Compliance.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Property is zoned RMX-2 per the Zoning Map in effect prior to October 30, 2014. The Application meets the general requirements and development standard of the RMX-2 zone, under the Optional Method of development, as demonstrated in the Data Table.

The Amendment meets the density requirements of the zone and recommendations in the Master Plan. The residential density is below the maximum density recommended by the Master Plan (p. 55). The commercial density is below the maximum 0.5 FAR allowed and the gross leasable floor area is below the maximum 600,000 SF allowed by the RMX-2 Zone.

The Amendment meets parking requirements 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 location of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a) Locations of buildings and structures

The locations of buildings and structures are adequate, safe, and efficient. The Commercial Core consists of several residential buildings fronting on Clarksburg Square Road and St. Clair Road, with a focus on activating the intersection of these two streets. These buildings

are adequately located with minimum front setbacks from the roads and served with surface parking areas in the rear and parking access away from the main pedestrian areas. Locating commercial buildings closely together, orienting them towards the street, and allowing for restaurant outdoor seating areas reinforces the retail and pedestrian character of this road (Figure 15). The grocery store, which adjoins a surface parking lot lined with retail/commercial buildings on the side that fronts the street. This will efficiently activate the street side while providing the building area and parking required for a grocery store.

b) Open Spaces

The Previous Amendment approval found the “diversity” open spaces, “adequately dispersed throughout the community” to be “safe, adequate, and efficient” and this Amendment does not materially alter the previous approvals except to provide some additional open space for the proposed multi-family residential units. This variety of spaces, including two dedicated public parks, an outdoor amphitheater, indoor community room, and more can be used by residents and visitors (as appropriate). This Amendment offers activated ground level space, including retail, along St. Clair Road in the mixed-use building nine and continues to propose the previously approved splash fountain at the corner of St. Clair Road and Clarksburg Square Road, which will be expanded into a play area and gathering sport with additional amenities that will be built with the rest of this Amendment. The splash fountain, across the street from the built outdoor amphitheater and deeded Montgomery Civic Library Building parcel, will further enliven this key area of Clarksburg Town Center community. The Amendment, once built, will provide ample seating, outdoor eating areas, and other public spaces along St. Clair Road, in alignment with the previously approved Amendment.

c) Landscaping and Lighting

This Amendment, like the Previous Amendment, emphasizes native plant species, and is “adequate, safe and efficient.” It provides coverage of parking areas and along the streetscape, further enhancing what landscaping that is already installed. Landscaping in this Amendment is also used to integrate the new areas of the core into the community, while screening and buffering key areas of the site. This Amendment also proposes lighting that is safe, adequate and efficient, just as the previous approval. Pole sizes consist of taller poles (30’) in the parking areas and shorter poles (12’) along the street space.

d) Recreation Facilities

The Applicant has spent millions of dollars building recreational facilities approved in the Previous Amendment, including Kings Local Park, Piedmont Woods, the Residents Club Addition, Sinequa Square, the outdoor amphitheater, the Greenway trail, mews, and play areas that were approved in the previous Amendment. This Amendment provides for the completion of those few recreational facilities that were included in the core, including the splash fountain and seating areas. The proposed multi-family units will have their own outdoor swimming pool and exercise and fitness area so as not to burden existing recreation facilities.

e) Pedestrian and Vehicular circulation systems

This Amendment does not materially alter the proposed pedestrian and vehicular circulation systems within the community, which, per the previous Amendment approval, were

“safe, adequate, and efficient.” St. Clair Road and Clarksburg Square Road, the two roads within

the scope of this Amendment, have not changed alignment. Moreover, this Amendment has improved pedestrian infrastructure by moving driveway access away from pedestrian routes and setting up delivery infrastructure in the backs of the commercial area, even adding an alleyway behind building three. Access to parking areas behind commercial and multi-family buildings has also not changed. Previously proposed connections to existing pedestrian and vehicular infrastructure within the community (and beyond) have not changed with this Amendment, and appropriate tie-ins are proposed.

*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, commercial and retail 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 the current community, 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 below

building nine), and residential units fronting on streets are consistent with the existing development pattern. Elements of the previously approved Design Guidelines were incorporated in the site plan set, as well.

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

The current Site Plan Amendment meets all applicable requirements of Chapter 22A regarding forest conservation, and Chapter 19 regarding water resource protection, and any other applicable laws.

#### Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #419941620 for this property was originally approved in April 1994 with a subsequent approval in August 1995, and additional subsequent approvals were also obtained, as needed. The NRI/FSD identifies the environmental constraints and forest resources on the subject property.

#### **FINAL FOREST CONSERVATION PLAN AMENDMENT**

The Forest Conservation Plan Amendment conforms to all applicable requirements of Chapter 22A regarding forest conservation. The Plan is being Amended per the changes to the Retail Core to update the Landscape Credit.

### **Review for Conformance to the Special Protection Area Requirements**

The majority of this project is located within the Clarksburg SPA and is therefore required to obtain approval of a water quality plan Amendment under Section 19-62 of the Montgomery County Code. This section of the code states:

"(b) Privately owned property. Except as otherwise expressly provided in the Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:

- (1) who is required by law to obtain approval of a development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan; or
- (2) who is seeking approval of an Amendment to an approved development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan."

As part of the requirements of the SPA law, a Water Quality Plan was reviewed in conjunction with a Preliminary Plan and Site Plan. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of a Water Quality Plan. MCDPS has reviewed and



conditionally approved the elements of the water quality plan under its purview. The Planning Board must determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied.

#### MCPS Special Protection Area Review Elements

In a letter dated June 23, 2015, MCDPS approved the elements of the SPA Final Water Quality Plan under its purview including 1) site performance goals, 2) stormwater management facilities, 3) sediment and erosion control measures and 4) Best Management Practices (BMP) monitoring (Appendix B). A synopsis is provided below. This Amendment modifies that approval to accommodate minor changes to that previous approval.

##### 1) Site Performance Goals

As part of the water quality plan, the following performance goals were established for the site:

- a. Protect the streams and aquatic habitat,
- b. Maintain the natural on-site stream channels,
- c. Minimize storm flow run off increases,
- d. Minimize increases to ambient water temperatures,
- e. Minimize sediment loading,
- f. Maintain stream base flows,

- g. Protect springs, seeps, and wetlands,
- h. Minimize nutrient loading,
- i. Control insecticides, pesticides, and toxic substances.

## 2) Stormwater Management

Stormwater management will be provided via a combination of previously built sand filters and retention facilities, micro-bioretenion, pervious pavement, dry wells and structural filters, and CMPs, as implemented in other areas of the site.

## 3) Sediment and Erosion Control

Sediment and erosion control measures will be reviewed by MCDPS during the detailed sediment control/stormwater management plan stage.

## 4) BMP Monitoring

Required stream and BMP monitoring has been performed by the Montgomery County Department of Environmental Protection as the Applicant paid a fee for this monitoring with the previous approvals. This Amendment does not alter the previous approval.

### Planning Board Special Protection Area Review Elements

This Amendment will include an Amendment to the final water quality plan, if required.

Following is an analysis of the Planning Board's responsibilities in the review of a Preliminary/Final Water Quality Plan.

#### *Forest Conservation*

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The current Application for F20230380 is limited to updating the Landscape Credit within the revised Retail Core area. Amended FCP 82007022D was approved on July 23, 2015. Much of the reforestation required in the 2015 Amendment was completed, bonded, and released after the five-year maintenance period was up and final inspection was performed by MNCPPC.

#### *Environmental Buffer Protection*

The scope of this project will not impact Little Seneca Creek and its associated environmental buffer. Previous approvals impacted the buffer and were addressed accordingly.

#### *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 Application does not materially change the approved impervious surfaces proposed over the amended portion of the project that which was approved previously. This results in a total imperviousness of approximately 34% for the project.