

Proposed Gas Station Conditional Use -  
Clarksburg Town Center  
Zoning and Administrative Hearing: January 23, 2025

**NOT NEEDED/NOT WANTED**

Testimony by:  
Amy Presley, CTC Resident  
Former CTCAC President  
Former M-NCPPC Commissioner (8 Years)

## Excerpt from Montgomery County Code

### Section 7.3.1 Conditional Use

[https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md\\_zone2014/0-0-0-5402](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-5402)

#### E. Necessary Findings

1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:
  - a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;
  - b. satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets the intent of the general requirements under Article [59-6](#);
  - c. substantially conforms with the recommendations of the applicable master plan;

The proposed Conditional use does not satisfy prior approvals and does not substantially conform with the recommendations of the Master Plan. Equally significantly, it is in violation of the Compliance Program (outlining the character and necessary elements/approvals for the Retail Core; Elements which serve as remediation of otherwise enforceable violations and penalties). The Compliance Program, apparently not reviewed by Planning Staff in this instance (and several reviews after the departure of Rose Krasnow as Chief of the Review Division) is still a legally valid and enforceable Agreement adopted by the Board and, according to (former) Judge Barbara Kerr Howe, still legally enforceable. Should the Hearing Examiner approve this use, Appeal will be filed, in part, based on the failure of this use to conform to the Compliance Program and the Master Plan.

*Supporting Data/Documentation follows. See Appendix for Compliance Program history and associated Planning Board documents.*



### COMPLIANCE PROGRAM SITE PLAN/2008 APPROVED SITE PLAN- CTC RETAIL CORE

In lieu of additional fines/penalties, Developer agreed to mediation. This shows the Settlement Agreement plan as proffered to create a “walkable” Town Center Retail core supporting the “small town” feel as envisioned in the Master Plan and providing “community activating” spaces and features including a Market Building, a “splash fountain” and Public Library to be located within the core (space dedicated by Developer). “Live/Work” units were included to be reflective of “small town” retail. Plan was designed to “hide” parking from view, protect pedestrians, and encourage gathering within the area. The “approach” and “viewshed” from Stringtown Road were specifically designed to “hide parking” and to present an appealing entrance on a pedestrian scale.





### Compliance Program Site Plan

In lieu of additional fines/penalties developer agreed to mediation. This shows the Settlement Agreement plan as proffered to create a walkable town center retail area creating “small town” feel, with “community activating” spaces and features including a Market Building, a “splash fountain,” and Library to be located within the core (space dedicated by developer). “Live/Work” units were included to be reflective of small town retail. Plan was designed to “hide” parking from view, protect pedestrians, and to encourage gathering within the area. Two parking structures (value of 13M+) were included. All items were approved by the Planning Board within the “Compliance Program” and deemed to be mandatory in order to satisfy violations.



### Revised Site Plan 2015

By this time, retail square footage reduced; “commercial” (office) space increased. “Live/Work” units removed in favor of office space. Layout and access roads changed. Market Building removed. Library location removed. Parking structures removed (with no compensation for \$ value) and “field” parking increased. Additional residential (previously not located in the retail core) was proposed.



### Revised Site Plan 2023

Retail square footage further reduced; Layout changed again, and two large apartment buildings added. (Town splash fountain moved to front of the apartments - removed from retail core). Buildings planned for separate HOA regime (no control by CTC HOA). Size/nature/layout of the retail core severely altered from Compliance Plan and changed the intended look, feel, and functionality of the retail core.



Represents proposed Gas Station overlayed on existing Approved Plan. The use is unnecessary, and the siting of the proposed station would be detrimental to the use and enjoyment of the retail core by the residents. Protect what is left of the plan that was legally obligated to be provided.

## CLARKSBURG MASTER PLAN - EXCERPTS

### *Proposed Concept Plan for Clarksburg*

The proposed concept plan for Clarksburg features a Town Center (which includes the Clarksburg Historic District); a regional transitway; two new neighborhoods, one east of I-270 and one west of I-270; the continuation of the residential character along MD 355, a greenway network, and employment along the I-270 Corridor.

This Plan continues the town scale of development proposed in the 1968 Clarksburg Master Plan but favors a greater emphasis on farmland and open space preservation and introduces the concept of transit-oriented neighborhoods.

#### **This Plan:**

- Provides a concentration of civic uses (library, post office, elementary school, etc.) to help define the Town Center as the focal point of public activities.
- Provides a street system which facilitates pedestrian as well as automobile movement.
- Retains the existing character of MD 355 as a “Main Street” for local traffic rather than a major highway for regional traffic.
- Proposes a transit stop in the Town Center.
- Proposes a buffer concept around the historic district to protect its character.
- Proposes a mix of housing types throughout the Town Center.
- Proposes a pattern of development similar to traditional “town squares.”
- Designates an area visible from I-270 for high-technology employment uses.

## CLARKSBURG MASTER PLAN - EXCERPTS

### *Policy 6 Town Center*

This Plan proposes a transit-oriented, multi-use Town Center which is compatible with the scale and character of the Clarksburg Historic District.

Clarksburg is one of the County's oldest and most significant early communities. It is designated as a historic district on the Master Plan for Historic Preservation for many reasons, one of which is that it retains a large degree of its early 19th-early 20th century character.

This Plan continues the historic function of Clarksburg as a center of community life (see Figure 12). It will be part of an expanded Town Center (635 acres) which will include a variety of uses (a school, civic uses, park, retail centers) and a mix of housing types. Assuring compatibility of future development with the historic district has been a guiding principle of the planning process.

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- d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;
- e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;

The proposed Conditional use is NOT harmonious with the existing or planned surrounding neighborhood and will indeed alter the character in a manner inconsistent with the Master Plan, Compliance Program, and even the most recent (March 2024) Approved Site Plan. Specifically, the intended “small town” configuration, with a “Town Square” feel with “gathering spaces,” street fronting retail, and a pedestrian scale would be marred by a set of gas pumps. These pumps - notwithstanding the fumes or any other inherent issues - would be a prominent feature upon entering the Town Center retail area from Stringtown Road.

Addition of the gas station/pump facility takes up additional real property that was otherwise planned for and approved for the Town Center as area for gathering and for public enjoyment, or at worst additional needed parking. Many elements have been eroded from the Compliance Program and various Site Plans over time; However, there is no justification for further reduction of space or addition of uses that conflict with the Master Planned vision for a pedestrian friendly Town Center.

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f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an . . .

(Section "f." N/A - not contesting)

g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or
- iii. the health, safety, or welfare of neighboring residents, visitors, or employees.

The proposed Conditional use **will cause undue harm** as it will further restrict the use of the area, will not facilitate "peaceful enjoyment," and will harm the economic value of confronting properties and the general neighborhood. Many families who bought into the Master Plan vision, and the site plans, and later Compliance Program vision for a small town retail center designed to be a pedestrian friendly Town Square-type retail with gathering space are being cheated out of that benefit. The addition of yet another conflicting element, with its associated noise, odors, and other inherent-adverse conditions relative to a gas station will only further harm the Town Center.

Note: 1) The Conditional Use would damage the economic potential of the Clarksburg Store/related Gas Station which is in the Historic District (a key focus of the development of Clarksburg Master Plan). The Clarksburg Store **IS** - despite the Developer's "Needs Analysis" neighborhood - an abutting property that **IS** a critical part of the Town Center Neighborhood as noted in the Master Plan.

2) I bought into the Clarksburg Town Center vision, literally, in 2002. I have been a resident since that time and sincerely implore you not to allow further degradation of the plan.



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2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone **must be compatible with the character of the residential neighborhood.**
3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, **is not sufficient to require conditional use approval.**
4. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.

*The proposed Conditional use is absolutely NOT compatible with the character of the residential neighborhood - and, even if you could "Find" that it is, that is "not sufficient to require Conditional Use approval."*

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5. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:

- a. Filling Station;
- b. Light Vehicle Sales and Rental (Outdoor);
- c. Swimming Pool (Community); and
- d. the following Recreation and Entertainment Facility use: swimming pool, commercial.

There is absolutely NO NEED for another gas station within the Clarksburg Town Center.

- 1) The “Needs Analysis” submitted by the Developer spuriously eliminates the Clarksburg Store gas station and the Historic District from its defined “neighborhood.” As stated within the Clarksburg Master Plan at Page 6:

“The proposed concept for Clarksburg features a Town Center (which includes the Clarksburg Historic District.)”

- 2) The “Needs Analysis” submitted by the Developer does not reflect all of the gas stations available to Town Center. First and foremost, the Clarksburg Market gas station is less than 1 mile away. Further, there are 3 additional gas stations within a 1-2 mile radius. And, finally, there are at least 4-6 more within a 3-5 mile radius. I am a frequent user of the Clarksburg Market station for two predominant reasons:

- 1) It is convenient (whether I am headed out (towards 270, or North or South on 355) or returning to my home, I can easily access this station.
- 2) The Market is part of the Historic District and I support local, independent retailers.

# APPENDIX

- 1A** CTC Compliance Program - Staff Report to Planning Board, June 1, 2006 - Approval Recommendation
- 1B** Compliance Program Design Concepts (April 2006 - Incorporated into Staff Report, June1, 2006)
- 1C** Planning Board Resolution Adopting Compliance Program, June 15, 2006
- 2** Submission of Revised Site Plans for Plan of Compliance - Staff Report, November 30, 2007 (Rose Krasnow, Chief)
- 3** First Amendment to Compliance Program Plans - Staff Report to the Board, November 6, 2008
- 4** “Corrections to Compliance Program Site Plans and Minor Changes” - Staff Report, May 17, 2010