

APR 19 2012



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

MCPB No. 12-34
Preliminary Plan No. 12011002A
Goddard School - Clarksburg
Date of Hearing: March 8, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on March 3, 2011, the Planning Board approved, subject to certain conditions, an application for a preliminary plan designated as preliminary plan No.120110020, Goddard School – Clarksburg, to consolidate two recorded lots (Lots 9 and 10, Block A, of Musgrove's Addition to Neelsville) into one lot approximately 5.0 acres in size, to construct a 13,000 square foot child daycare center, and a 7,500 square foot annex to house an after-school program, in the R-200 Zone; located on the south side of Frederick Road (MD 355), approximately 1300 feet northwest of the intersection with West Old Baltimore Road, within the Clarksburg Master Plan Area and,

WHEREAS, the Planning Board issued a resolution dated, May 3, 2011 designated as MCPB Resolution No. 11-22, which constitutes the written opinion of the Planning Board on preliminary plan No. 120110020, and

WHEREAS, on October 3, 2011, Clarksburg Development, L.L.C. ("Applicant"), filed an application to amend the conditions of approval for preliminary plan No.120110020, Goddard School – Clarksburg, to allow a 0.046 acre increase in the impervious surface area to accommodate a larger 9,025 square foot Annex Building and a new sidewalk; to amend the preliminary forest conservation plan to allow a shift in the onsite planting areas necessitated by the larger Annex Building and to include offsite construction areas in the forest conservation plan worksheet; and to modify conditions related to the Applicant's required road construction projects to comport with the most current Local Area Transportation Review guidelines, and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 12011002A, Goddard School - Clarksburg ("Preliminary Plan" or "Application"); and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, the Application applies to the same property described in Planning Board Resolution 11-22, Goddard School – Clarksburg, as approximately 5.0 acres in size in the R-200 Zone; located on the south side of Frederick Road (MD 355) approximately 1300 feet northwest of the intersection with West Old Baltimore Road, (“Property” or “Subject Property”), within the Clarksburg Master Plan Area (“Master Plan”); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated February 24, 2012, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions (“Staff Report”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and the staff of other governmental agencies, on March 8, 2012, the Planning Board held a public hearing on the Application (the “Hearing”); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 8, 2011, the Planning Board voted to approve the Application, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss and Wells-Harley voting in favor, with Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of the Montgomery County Code, Chapter 50, the Planning Board approves Preliminary Plan No. 12011002A to amend the previous conditions of approval identified in Planning Board Resolution 11-22, Goddard School – Clarksburg, and to supplant the previous conditions of approval, in their entirety, with the following conditions:

- 1) Development allowed by this preliminary plan is limited to a daycare facility for a maximum of 283 students (163 daycare children and 120 students for the after school program).
- 2) The Applicant must construct, with approval from the Maryland State Highway Administration (“MDSHA”) or is obligated to participate in capacity improvements at the MD 355 intersection with West Old Baltimore Road. Capacity improvements include the construction of a southbound right-turn lane, an eastbound right-turn lane, and a northbound left-turn lane at the intersection of MD 355 and West Old Baltimore Road to satisfy the requirements of Local Area Transportation Review (LATR). The Applicant may arrange for other funding sources, including participation from applicants of other development projects to fulfill this condition in accordance with the LATR and Policy Area Mobility Review guidelines.

- 3) Prior to issuance of the Use and Occupancy Permit, the Applicant must re-stripe the southbound approach of MD 355 at its intersection with Little Seneca Parkway to provide an additional thru lane.
- 4) Prior to issuance of the Use and Occupancy Permit, the Applicant must construct an 8-foot-wide bituminous bike path along the entire property frontage as shown on the Preliminary Plan.
- 5) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan (12011002A) prior to recording of a plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.
- 6) The Applicant must obtain staff approval of the final forest conservation plan in accordance with Forest Conservation Regulations, Section 109-B prior to any land clearing activities.
- 7) Impervious surface is limited to no more than 1.446 acres as shown on the Impervious Area Exhibit Plan dated January 13, 2012.
- 8) The record plat must reflect creation of a Category I conservation easement over all forest conservation buffer areas as shown on the preliminary plan.
- 9) Applicant to record a Category I Forest Conservation Easement(s) over all areas of retained and planted forest prior to any land clearing activities occurring on-site.
- 10) Applicant to install the required reforestation material by the first planting season following the release of the first grading permit.
- 11) Applicant to install the required landscape planting material being used for reforestation credit by first growing season following building completion.
- 12) Applicant to remove all existing structures, fencing, play equipment and debris from the proposed Category I Forest Conservation Easements.
- 13) The Applicant must comply with the conditions of the MCDPS stormwater management concept and final water quality plan approval dated January 20, 2011. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the preliminary plan approval.
- 14) The record plat must provide for dedication along the entire property frontage on Frederick Road (MD 355) of 60 feet from centerline for a total of 120 feet from the opposite right-of-way line as indicated on the preliminary plan.
- 15) The Applicant must comply with the MDSHA letter dated November 23, 2010. These conditions may be amended by MDSHA, as long as the amendments do not conflict with other conditions of the preliminary plan approval.
- 16) The Applicant must satisfy provisions for access and improvements as required by the MDSHA prior to issuance of an access permit.
- 17) The record plat must show other necessary easements.
- 18) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

- 19) Prior to the issuance of any building permit one of the following must occur:
- a) The required intersection improvement(s) at West Old Baltimore and MD 355 must be permitted and bonded, under Construction, or under contract for construction.
 - b) A Road Club or other mechanism, in accordance with the LATR Guidelines, must be approved by the Montgomery County Planning Board.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and set forth in the Staff Report, which the Board hereby adopts and incorporates by reference and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The modifications proposed by this Application do not result in a change to the approved uses on the Property as a child daycare center and after school program, nor do the modifications constitute a significant intensification of the uses on the Property. The adjacent road, right-of-way dedication remains unchanged from the existing approval and is in accordance with the Clarksburg Master Plan. The Planning Board considered the findings made for master plan conformance contained in Resolution 11-22, which was attached to the Staff Report, and finds that the development on this Property, as modified by this Application, will continue to substantially conform to the 1994 Clarksburg Master Plan.

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

The Planning Board finds that the findings for adequacy of public facilities made under Resolution 11-22 continue to be valid and will be adequate to support the development of this Property, as modified under this Application. Most significantly, the conditions herein correctly reflect the applicability of the current Local Area Transportation Review guidelines to development on the Property.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application proposes no change to the approved lot's size, shape, width or orientation. The lot continues to be appropriate for its location and the findings under Resolution 11-22 remain valid.

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

The Planning Board considered the amended Preliminary Forest Conservation Plan (PFCP) identified as 120011002A. Based on the review contained in the Staff Report and the presentation by Staff at the Hearing, the Board was satisfied that the modifications to the planting areas proposed by the Application resulted in additional forest planting that were of equal or better value than that shown on the previously approved PFCP. The Board accepted a revised PFCP worksheet to reflect the additional planting areas and a larger tract area that included the disturbance for an offsite sidewalk and street frontage improvements. The Board finds that with the conditions outlined herein, PFCP No. 12011002A satisfies all requirements of Chapter 22A.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan approval meets MCDPS standards.*

The MCDPS Stormwater Management Section approved the preliminary/final water quality plan for the project on January 20, 2011. The stormwater management concept consists of on-site water quality control and onsite recharge via a combination of biofilter flow diffusers, turf filters, porous pavement, and bioswales. Each turf filter will be designed with an infiltration reservoir below the organic and sand filter that will be sized for full treatment thereby providing redundancy for water quality.

In correspondence dated January 13, 2012, and included in the Staff Report, MCDPS confirmed that the increase in impervious surface area from 1.4 acres to 1.446 acres on the Property would require an amendment to the preliminary/final water quality plan.

6. *The preliminary/final water quality plan is approved by the Planning Board.*

The Property is located in the Clarksburg Special Protection Area. Under the provision of the Special Protection Area (SPA) law, 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 preliminary/final water quality plan under its purview. As part of the Planning Board's review, there must be a

determination that an application has met any established site imperviousness minimization goals. There is no overlay zone or master plan recommendation that sets an impervious cap for developments in this portion of the Clarksburg Special Protection Area. However, Section 19-63(a)(4) of the County SPA Law requires all development to minimize impervious areas. In their review of preliminary plan 120110020, the Planning Board approved a preliminary/final water quality plan with conditions. Condition No.8 within Resolution 11-22 for that preliminary plan, established a maximum imperviousness for the Property at 1.4 acres over the 4.539 acre lot. The building and pavement coverage was illustrated on an *Impervious Area Exhibit* dated December 17, 2010; this exhibit was referenced in Condition No.8 of that approval.

The Planning Board considered the Applicant's request to allow an increase of the impervious surfaces to allow an additional segment of sidewalk and a larger Annex Building to be constructed. The Board considered the discussion in the Staff Report and that provided by the Applicant at the Hearing. The Board was satisfied that the need for the larger gymnasium within the Annex Building and the additional sidewalk, required by Fires and Rescue Service, was justified and that the additional impervious area of 0.04 acres would not require an amendment to the preliminary/final water quality plan. A revised *Impervious Area Exhibit*, dated January 13, 2012 was accepted by the Planning Board and showed 1.446 acres of imperviousness over the 4.539 acre lot. The Board finds that with the conditions as contained herein, the Application continues to minimize imperviousness to the extent possible while maintaining the programmatic functions of the approved uses on the Property and that the approval of the preliminary/final water quality plan remains valid.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is APR 19 2012 (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 Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, April 12, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board