



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

MCPB No. 16-119  
Site Plan No. 82007014A  
Cabin Branch Toll Brothers Phase I  
Date of Hearing: November 3, 2016

NOV - 9 2016

**RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, the Cabin Branch development ("Cabin Branch") is a 535-acre triangular tract of land, bordered by 1-270 to the east, MD 121 to the west and West Old Baltimore Road to the south; and

WHEREAS, on September 9, 2013, by Resolution No. 15-326, the Montgomery County District Council approved Local Map Amendment G-806 ("LMA") to reclassify the eastern half (approximately 283.5 acres) of the Cabin Branch tract to the MXPB zone leaving the remaining western half (approximately 257 acres) in the RMX-TDR zone; and

WHEREAS, the Development Plan approved with the LMA ("Development Plan") included binding elements, a Land Use Plan and other graphical exhibits that applied to the entire Cabin Branch; and

WHEREAS, on June 22, 2004, the Planning Board approved with conditions Preliminary Plan No. 12003110A (including a Preliminary Forest Conservation Plan and a Preliminary Water Quality Plan) for a maximum of 1,600 residential dwelling units, 500 elderly housing units, and 1,538,000 square feet of commercial space, on the 535-acre Cabin Branch tract, to be developed in phases through individual site plans; and

WHEREAS, on September 19, 2007, by MCPB Resolution No. 07-131, the Planning Board approved with conditions Site Plan No. 820050150 for an Infrastructure and Roads Only Site Plan, including the Final Water Quality and Final Forest Conservation Plan ("Infrastructure Site Plan") to accommodate the previously approved

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Approved as to  
Legal Sufficiency:

1,600 residential dwelling units, 500 senior units (including 236 moderately priced dwelling units (“MPDUs”), using 635 transferable development rights (“TDRs”), and 1,538,000 square feet of retail and employment, on the Cabin Branch tract; and

WHEREAS, on June 9, 2008, by MCPB Resolution No 08-68, the Planning Board approved with conditions Site Plan No. 82005015A amending the Forest Conservation Plan as approved with the Infrastructure Site Plan for the design and cross section of West Old Baltimore Road; and

WHEREAS, on October 6, 2008, by MCPB Resolution No. 08-117, the Planning Board approved with conditions Preliminary Plan No. 12003110B (including amendments to the Forest Conservation Plan and Water Quality Plan) to allow an additional 266 residential dwelling units and an additional 882,000 square feet of commercial space for a total of 1,886 residential dwelling units, 500 dwelling units for senior housing, and 2,420,000 square feet of commercial space on the Cabin Branch tract; and

WHEREAS, on March 17, 2012, by MCPB Resolution No. 11-124, the Planning Board approved with conditions Site Plan No. 82005015B to revise the Forest Conservation phasing as approved with the Infrastructure Site Plan so that it would be better coordinated with the construction phasing; and

WHEREAS, on November 27, 2012, the Planning Director administratively approved Site Plan No. 82005015C to make minor modifications to the Forest Conservation Plan as approved with the Infrastructure Site Plan to reflect the relocation of a water line on the Cabin branch tract; and

WHEREAS, on May 2, 2013, the Planning Board, by Resolution MCPB No. 13-55, approved Site Plan No. 820070140 for 436 residential dwelling units (240 single-family detached units, 68 single-family attached units, and 128 multi-family units), of which 62 are MPDUs, using 161 TDRs on an 80.73 acre portion of the Cabin Branch, zoned MXPB and RMX-1/TDR-3 located in the southwest quadrant of the intersection of Clarksburg Road and Interstate 270 (“Subject Property”), in the Clarksburg Policy Area, Clarksburg Master Plan (“Master Plan”) area; and

WHEREAS, on March 5, 2014, Toll MD X Limited Partnership (“Applicant”) filed an application for approval of an amendment to the previously approved site plan(s) to review the site design for the Dovekie Lawn and Seneca Ellipse, adjustments to the lot lines, relocation of an MPDUs, and minor improvements to the site grading around the residential units on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82007014A, Cabin Branch Toll Brothers Phase I ("Site Plan," "Amendment," or "Application"); 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 October 21, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 3, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82007014A for the site design for Dovekie Lawn and Seneca Ellipse, adjustments to the lot lines, relocation of an MPDU, and minor improvements to the site grading around the residential units by modifying the following conditions:<sup>1</sup>

## **Density & Housing**

### **13. Moderately Priced Dwelling Units (MPDUs)**

- c) The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated May 6, 2014, 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.

## **Development Program**

### **17. Surety**

- f) Prior to issuance of any building permit or Sediment Control Permit for the relevant phase of development for the Dovekie Lawn or Seneca Ellipse, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with

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<sup>1</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.

Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- i.* A cost estimate of the materials and facilities reviewed as part of this Site Plan Amendment, which, upon Staff approval, will establish the surety amount.
- ii.* 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, paths and any other associated improvements associated with the Dovekie Lawn and Seneca Ellipse. The surety must be posted before issuance of the any building permit within each relevant phase of development.
- iii.* The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by inspection and potential reduction of the surety.
- iv.* 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/phase.

### **Certified Site Plan: General Requirements**

21. The Applicant must make the following revisions and/or provide the following information to Staff for review and approval prior to approval of the certified Site Plan:

- g)* Before approval of the Certified Site Plan for Site Plan Amendment No. 82007014A, the following revisions must be made and/or information provided subject to Staff review and approval:
  - i.* Include the development program, and Site Plan resolution on the approval or cover sheet(s).
  - ii.* Add a note to the Site Plan stating that “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
  - iii.* 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.”
  - iv.* Ensure consistency of all details and layout between Site and Landscape plans.

### **Landscape and Lighting Design**

**24. Landscaping**

- c) The Applicant must install landscaping in the quantities, locations and species types as shown on the Landscape Plan sheets of the certified Site Plan for the Seneca Ellipse and Dovekie Lawn.

**26. Lighting**

- g) Prior to issuance of any building permit for an above-grade structures/feature the Seneca Ellipse and Dovekie Lawn, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of the Cabin Branch Toll Brothers Phase I Site Plan No. 82007014A, submitted via ePlans to the M-NCPPC as of the date of the Staff Report October 27, 2016, are 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 set forth in the Staff Report, which the Planning 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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan*
2. *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 Planning Board finds that the location of the buildings and structures are consistent with the intent of the previous approval. The change in location of

the MPDU unit from lot 81 to lot 1 does not involve any physical changes to the location or exterior design of the approved structures.

*b. Open Spaces*

The location of open spaces and the facilities within them are safe, adequate and efficient as found by the original Site Plan approval. The location and space allocated for open spaces has not changed, however the design and programming for the Seneca Ellipse and the Dovekie Lawn has been updated. The new design of these spaces creates distinct settings for community gathering in centralized and well active spaces and the placement of the improvements within these open spaces is appropriate given the scale of the space and the surrounding dwellings. The addition of new walkways, benches and play equipment engage the spaces and satisfy the need for recreational facilities. The Planning Board finds the updated design of the Dovekie Lawn and Seneca Ellipse satisfies the requirements of condition 9b and 9c.

*c. Landscaping and Lighting is adequate, safe and efficient*

Landscaping and lighting for the Dovekie Lawn and Seneca Ellipse is safe, adequate and efficient. The Dovekie Lawn is primarily a lawn area, separated into a larger and smaller space by a geometric pedestrian pathway lined with recreation equipment and trees. The trees along this walkway are an appropriate scale to define the path, help divide the lawn into different green rooms while not totally shading out or overpowering the lawn space. There are medium-sized deciduous trees proposed around the periphery of the Dovekie Lawn to provide some shade to the sidewalks without shading out the primary lawn area. The landscaping in the Seneca Ellipse similarly defines the perimeter of the space, and provides shade to the walkways while keeping the primary play areas open and free of obstruction. The terrain around the Ellipse is steep, resulting in numerous terraces located on the north and south side of the space to help take up the grade. Shrubs and perennials are proposed on these terraces to soften the effect and to provide additional visual interest. Lighting for the original Site Plan, including all amenity spaces is to be reviewed through a separate submission per condition 26 and is not reviewed as part of this Amendment.

*d. Recreation Facilities are adequate, safe and efficient*

The recreation amenities in the Dovekie Lawn and Seneca Ellipse are adequate, safe and efficient. This Amendment contains no change to the

recreation calculations or type of activities that were previously approved, as the equipment types and locations were specified by conditions 9b and 9c and were included in the original recreation calculations. The amenities as located in the open spaces provide attractive and safe play areas that are well-proportioned and well-programmed to the density levels of the blocks in which they are contained. For example, The Seneca Ellipse, which serves the higher density of multi-family units that include MPDUs, has both open play areas and two multi-age play equipment areas to engage people of all ages. The Dovekie Lawn also provides play equipment and an open play area, however the provided play equipment is more suitable to younger children and the design of the space makes for smaller green rooms.

- e. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.*

The structures and uses are compatible with other uses and other Site Plans, and with the existing and proposed adjacent development. The location of structures did not change as a result of this Amendment, therefore the previous finding remains valid. The location of one MPDU is changing between unit 81 and unit 1 identified on the Site Plan. This portion of the Site Plan is comprised of multiple sticks of two-over-two dwellings, where most of the ground floor units are MPDUs and the upper floor units are market rate housing. This Application shifts a currently approved MPDU from one ground floor end-unit into a ground floor end-unit of a neighboring stick of houses. The MPDU has nearly identical access to transportation and site amenities and DHCA has approved this request.

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 NOV - 9 2016 (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).

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**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 Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, November 3, 2016, in Silver Spring, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board