



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

MCPB No. 16-106
 Preliminary Plan No. 120160160
 Dowden's Station
 Date of Hearing: September 22, 2016

OCT 20 2016

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on October 20, 2015, by Resolution No. 18-299, the Montgomery County Council, sitting as the District Council approved a Development Plan with Local Map Amendment G-957, that rezoned the Subject Property (as hereinafter defined) to the PD-4 zone; and

WHEREAS, on December 23, 2015, Clarksburg Mews LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create 105 lots on 24.37 acres of land in the PD-4 zone, located at approximately 1/3 of a mile from the intersection of Stringtown Road and Frederick Road ("Subject Property"), in the Clarksburg Policy Area and 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120160160, Dowden's Station ("Preliminary Plan" 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 September 9, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 22, 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, on September 22, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Wells-Harley, seconded by Commissioner Fani-Gonzalez, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Wells Harley voting in favor. Commissioner Dreyfuss was absent from the hearing.

Approved as to
 Legal Sufficiency:

Amogh 10/5/16

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120160160 to create 105 lots on the Subject Property, subject to the following conditions:¹

1. This Preliminary Plan is limited to one hundred and five (105) lots for 21 detached single-family residential units and 84 townhouse units to include a minimum of 13.3% Moderately Priced Dwelling Units ("MPDUs").
2. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 11, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT and Maryland State Highway Administration ("MDSHA").
4. The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services ("MCFRS") approval dated May 12, 2016 and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the approval. These recommendations may be amended by MCFRS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. The Planning Board accepts the recommendations of MDSHA in a letter dated May 24, 2016 and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the approval. These recommendations may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Applicant must dedicate and show on the record plat the rights-of-way for roads *a* through *c* as designated below. The Applicant must dedicate and show on the record plat as well as construct the rights-of-way for roads *d* through *k* as designated below to the design standards specified and as shown on the Certified Site Plan:

¹ 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.

Public Streets/Roads²

- a. Frederick Road (A-251): Dedicate 60 feet from its centerline.
- b. Observation Drive (A-19): Dedicate the recommended 150-foot right-of-way that is within the Subject Property totaling approximately 74,564 square feet or 1.71 acres+ \- as shown on the Certified Preliminary Plan.
- c. Roberts Tavern Drive (A-251): Dedicate the recommended 120-foot right-of-way that is within the property totaling approximately 75,359 square feet or 1.73 acres+ \- as shown on the Certified Preliminary Plan.
- d. Public Street B: Dedicate a minimum of 60 feet of right-of-way without parallel parking and construct to MCDOT Road Code Standard MC-2002.01: Secondary Residential Street as shown on the Certified Preliminary Plan.
- e. Public Street B: Dedicate a minimum of 60 feet of right-of-way with parallel parking and construct to MCDOT Road Code Standard MC-2002.02: Secondary Residential Street Parking on One Side as shown on the Certified Preliminary Plan.
- f. Public Street C: Dedicate a minimum of 60 feet of right-of-way from the intersection with Public Street B to MD 355 and construct to MCDOT Road Code Standard MC-2002.01: Secondary Residential Street Modified as shown on the Certified Preliminary Plan.
- g. Public Street D: Dedicate a minimum of 29 feet, 4 inches of right-of-way in front of Lots 90-93 And construct to MCDOT Road Code Standard MC-210.03: Tertiary Residential Street Modified with Parking as shown on the Certified Preliminary Plan.
- h. Public Street D: Dedicate a minimum of 21 feet, 4 inches of right-of-way between Lots 89 and 90 and between Lot 93 and the southeast property boundary and construct to MCDOT Road Code Standard MC-210.03: Tertiary Residential Street Modified as shown on the Certified Preliminary Plan.

Private Streets/Roads

- i. Private Street A: Construct with a minimum width of 50 feet from Public Street B to Private Street B to MCDOT Road Code Standard MC-210.03: Modified Tertiary Residential Street as shown on the Certified Preliminary Plan and per the modified typical section specified by the subsequent Site Plan.
- j. Private Street B: Construct with a minimum width of 60 feet from Public Street B to its terminus to MCDOT Road Code Standard MC-210.03: Modified Tertiary Residential Street as shown on the Certified

² For the purposes of this Resolution, the terms "Streets" and "Roads" are interchangeable.

Preliminary Plan and per the modified typical section specified by the subsequent Site Plan.

- k. All Private Alleys Construct with a minimum width of 24 feet to MCDOT Road Code Standard MC-200.01: Residential Alley Modified as shown on the Certified Preliminary Plan and per the modified typical section specified by the subsequent Site Plan.
7. The Applicant must provide all Private Streets/Roads, subject to the following conditions:
- a. The Private Roads must be shown on a separate lot if there are no structures above or below the Private Roads, or clearly delineated with metes and bounds description on the record plat within the proposed lot and subject to the approved restrictive covenant ("Covenant"), to be recorded in the Montgomery County Land Records with the Liber and Folio referenced on the record plat.
 - b. All Private Roads includes any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Roads"), all of which must be included in a long-term maintenance plan along with the Private Roads
 - c. The Covenant must be approved by the M-NCPPC Office of General Counsel and must include at a minimum:
 - i. That Applicant is fully responsible for the design, construction, operation maintenance and repair of the Private Roads, including other necessary improvements as shown within the delineated area in accordance with the criteria set forth in the Preliminary Plan and any subsequent Site Plan;
 - ii. Utilities may be located within the Private Road Easement as private connections;
 - iii. Applicant is responsible for the design, construction, operation, maintenance and repair of the private fire hydrants and the water system that serves any private fire hydrants serving the Project ("Private Hydrant System"). The Applicant must cause the Private Hydrant System to be maintained in good operating condition at all times and Applicant must have the Private Hydrant System inspection and testing as required by the Montgomery County Fire Marshall, overseen by a professional engineer, who must provide certified reports evidencing that the water and private hydrant system is properly designed and constructed and in good operating condition. These certified reports must be provided annually to MCDPS. A description of repairs or maintenance that were performed to keep the Private Hydrant System in good operating condition must be noted on the certified report.

- iv. That the Private Roads must remain open, except during construction, for pedestrians and both motorized and non-motorized vehicles at all times as part of the project common area, except for temporary closures as permitted by MCDPS and approved by the Montgomery County Fire Marshall;
 - v. That Applicant must properly maintain all of the improvements within the Private Roads area in good condition and repair in accordance with applicable laws and regulations at all times. At a minimum, Applicant is obligated to remove snow and ice, and provide routine and extraordinary repairs, maintenance and replacement to keep the Private Roads open and in good repair for safe use; and
 - vi. That any subsequent amendment is subject to approval by the M-NCPPC Office of General Counsel.
- d. Prior to recordation of the plat, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Roads have been designed in accordance with the paving detail and cross-section specifications as shown on the Preliminary Plan, and further certifying that the road has been designed in accordance with sound engineering principles for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access, and parking ("Certified Design").
- e. The Private Roads must meet all necessary requirements for emergency access, egress and apparatus as determined by the Montgomery County Fire Marshal.
8. The Applicant must make a Transportation Policy Area Review ("TPAR") Mitigation Payment for Transit, equal to 25% of the applicable transportation impact tax to the Montgomery County Department of Permitting Services ("MCPDS"). The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
9. Prior to submission of the Certified Preliminary Plan, the Applicant must submit and receive approval of a design exception package from MCDOT for all public streets which deviate from a Montgomery County Road Code Standard.
10. The Applicant must provide street cross-sections for all roads, both public and private, and include the modifications approved by MCDOT in a design exception package on the Certified Preliminary Plan.

11. The Applicant must construct the public water and sewer crossing over the stream valley, on behalf of the Washington Suburban Sanitary Commission, as shown on the Certified Preliminary Plan.
12. Prior to Certified Preliminary Plan, the Applicant must revise the Preliminary Plan to increase the 8-foot wide pedestrian path along the utility/pedestrian bridge crossing the stream valley to a 10-foot wide pedestrian path.
13. No clearing or grading of the site, or recording of plats prior to certified site plan approval.
14. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at site plan.
15. The certified Preliminary Plan must contain the following note:
"Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
16. Record plat must show all necessary easements.
17. 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.

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

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

A finding of conformance with the 1994 *Clarksburg Master Plan and Hyattstown Special Study Area* ("Master Plan") was determined by the Planning Board during

Zoning Case G-957. As the development remains relatively unchanged from the Development Plan, the findings for Master Plan conformance remain valid for the Application.

The Master Plan recommends the Property for development at two to four dwelling units per acre as part of the Transit Corridor District ("District"), which encompasses 990 acres of land and is traversed by the future Corridor Cities Transitway ("CCT"). Maintaining the residential character along MD 355 while addressing the need for increased traffic capacity, is a significant planning challenge in this District.

The Master Plan recommends the following land use objectives for the Transit Corridor District:

- Continue the present residential character along MD 355;
- Balance the need for increased carrying capacity along portions of MD 355 with the desire to retain residential character along MD 355;
- Continue the present employment uses along I-270;
- Provide housing at designated areas along the transit-way near significant employment uses;
- Allow small amounts of office and retail uses at transit stop areas as part of a mixed-use development pattern;
- Establish strong pedestrian and bicycle linkages to the greenway;
- Improve east-west roadway connections;
- Provide an open space system that includes small civic spaces at the transit stops.

The Application locates housing near the CCT, fronts single-family detached units to MD 355, and provides enough density to support transit. The development utilizes pedestrian access to the planned CCT station at the intersection of Shawnee Lane and the future Observation Drive. The interconnected street system is essential to achieve a walkable and transit serviceable community that can be logically connected to adjacent properties.

The Application provides a pedestrian connection and bike path system through the environmental buffer to Observation Drive which will ultimately provide safe and efficient pedestrian and bicycle access to the future CCT station. This pedestrian and bike path will be co-located on top of the concrete lined earth filled utility bridge.

Environment

The Master Plan strongly encourages stream buffers in the watershed to remain forested for water quality purposes as well as environmental reasons. The Master

Plan mandates a minimum 125-foot wide stream buffer, in excess of the standard 100-foot minimum width dictated by the Environmental Guidelines.

The Board found that the Application substantially complies with the environmental recommendations of the Master Plan, as it substantially achieves or exceeds the minimum 125-foot buffer mandated by the Master Plan.

Transportation

The Planning Board found that the internal street network provides adequate vehicular and pedestrian access through the site including the addition of a natural surface trail through a portion of the stream valley buffer to connect the townhouse section for the project on the west to the one family detached section on the east required as part of the concurrent site plan approval.

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

The Planning Board considered Staff's analysis of the submitted traffic study and finds that with the addition of the 60 peak-hour morning trips 93 peak-hour evening trips, generated by the 140-unit development, Critical Lane Volumes (CLV) at the studied intersections will remain within acceptable levels as specified by the Local Area Transportation Review guidelines.

Transportation Policy Area Review

The Planning Board determined that the Applicant must make a TPAR mitigation payment equal to 25 percent of the General District Transportation Impact Tax, pursuant to the 2012-2016 Subdivision Staging Policy. The timing and amount of the payment will be in accordance with that set in Chapter 52 of the Montgomery County Code.

Sewer and Water Facilities

The Property is located in the W-1/S-3 water and sewer service categories. The Applicant will extend public water and sewer infrastructure to serve all the lots in the subdivision. The Planning Board determined that water and sewer service will be adequate to serve the development.

Other Public Facilities and Services

The Application was reviewed by the Montgomery County Fire Marshal's office, and was approved on May 12, 2016. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the FY 2016 SSP. The Application is located in the Clarksburg School cluster, which is not subject to a School Facilities Payment. The Planning Board determined that all other public facilities were adequate to serve the development.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Planning Board found that the Application meets all applicable sections of the Subdivision Regulations. The proposed lot sizes, widths, shapes and orientations for the townhouse and detached one-family units are appropriate for the location of the subdivision taking into account the design recommendations included in the Master Plan and the binding elements of zoning case G-957. The lots will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

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

A Preliminary Forest Conservation Plan was approved by Planning Board during the review of zoning case G-957. The Final Forest Conservation Plan (FFCP) was submitted as part of this Application and is consistent with the previously approval Preliminary Forest Conservation Plan. The Application complies with Chapter 22A of the Montgomery County Code.

- 5. All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

A Preliminary Water Quality Plan was approved by the Planning Board Resolution during the review of zoning application G-957. The Final Water Quality Plan is consistent with the previously approved Preliminary Water Quality Plan. The Applicant has demonstrated efforts to minimize impervious surfaces. In a letter dated June 23, 2016, MCDPS conditionally approved their portion of the SPA Water Quality Plan including site performance goals, stormwater management, sediment and erosion control and BMP and stream monitoring. The approved stormwater management concept plan proposes combination of micro-bioretenion cells and planter box micro-bioretenion to meet requirements. The Application complies with Chapter 19 of the Montgomery County Code.

- 6. The Planning Board has the authority to review and provide a waiver from any applicable design standard to promote context sensitive design under Chapter 49-32 (a).*

The Planning Board approved the following design modifications on the condition that the Applicant receive approval of a design exception package from MCDOT:

- a) Public Street B: The street paving will be offset in the right-of-way in order to take up some of the cross sloping grade along the street. In addition, the sidewalk is proposed on only one side the street because the street is single loaded (houses on only one side). Furthermore, the offset cross section does not allow for a sidewalk to fit within the right-of-way on the other side of the street.
- b) Public Street C: This street is modified to have a sidewalk on only one side of the street because the street is single loaded with houses. It should be noted that Street C is the interim connection to Frederick Road/MD 355 and will be abandoned in the future.
- c) Public Street D: Proposes a reduced centerline turning radii (40 feet) in the area of Lot 90 and 93 shown on the Certified Preliminary Plan.

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)), 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 in 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 Board in this matter, and the date of this Resolution is OCT 20 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).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner 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, October 13, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board