



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

MCPB No. 18-069
Site Plan No. 82016006A
Dowden's Station
Date of Hearing: July 12, 2018

JUL 31 2018

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, including the zoning then in effect; and

WHEREAS, on October 20, 2016, the Planning Board, by Resolution MCPB No. 16-107, approved Site Plan No. 820160060 for 105 residential units (21 one-family units and 84 townhouses), including 14 moderately priced dwelling units ("MPDUs"), associated on-site parking space, recreation facilities, and landscaping on 24.37 gross acres in the PD-3 zone, located approximately 1/3 mile from the intersection of Stringtown Road and Frederick Road ("Subject Property"), in the Clarksburg Policy Area and *1994 Clarksburg Master Plan and Hyattstown Special Study Area* ("Master Plan") area; and

WHEREAS, on October 3, 2017, Clarksburg Mews, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to increase the amount of MPDUs from 13.3% (14 MPDU units) to 25% (27 MPDU units), realign the public street entering the subdivision from MD355, make minor revisions to open space and minor adjustments to the Final Forest Conservation Plan on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82016006A, Dowden's Station ("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

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

Planning Board, dated June 29, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 12, 2018, 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 July 12, 2018 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Cichy, seconded by Commissioner Anderson, with a vote of 2-0-1; Commissioners Anderson and Cichy voting in favor, Commissioner Patterson opposed, and Commissioners Dreyfuss and Fani-Gonzalez being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82016006A to increase the amount of MPDUs from 13.3% (14 MPDU units) to 25% (27 MPDU units), realign the public street entering the subdivision from MD355, minor revisions to open space and minor adjustments to the Final Forest Conservation Plan by modifying the following conditions:¹

Final Forest Conservation Plan

11a. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record an M-NCPPC-approved Certificate of Compliance in an M-NCPPC-approved off-site forest bank to satisfy the amended Final Forest Conservation Plan requirement of 0.21 acres to be purchased in an off-site forest bank.

Moderately Priced Dwelling Units (MPDUs)

20. The Planning Board accepts the recommendations of the Department of Housing and Community Affairs (DHCA) in its letters dated March 31, 2017 and December 21, 2017, 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.

- a) The development must provide a minimum of 25 % MPDUs on-site consistent with the requirements of Chapter 25A and the applicable Master Plan.
- b) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and DHCA must be executed.

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.

24. Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval in order to:

- a) Ensure that each graphic scale on every sheet is correct.
- b) Relocate subdivision monument signs outside the County right-of-way to a location to be agreed upon by Staff.
- c) Label the County/Maryland State Highway Administration maintenance line.
- d) Include the street names with the alphabetical street-naming convention shown on the Certified Preliminary Plan #120160160 in parenthesis in addition to the new street names.

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 Dowden's Station No. 82016006A, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, 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 Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS; that:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.*

The increase to 25% MPDUs does not affect this finding.

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 Site Plan Amendment continues to meet all of the requirements of the Planned Development (PD-4) Zone and satisfies the purposes of the Zone as established by the Zoning Ordinance in effect prior to October 30, 2014, when this Application was accepted. Section 59-C-7.1 indicates that the purpose of this zone is to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by the master plans. This zone is intended to provide a means of regulating development, which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations permitted by right under the conventional zone categories. This zone also intends that the zoning category be utilized to implement the general plan, area master plans and other pertinent County policies in a manner and to a degree

more closely compatible with County plans and policies than may be possible under other zoning categories.

Consistent with the District Council findings for G-957, the Site Plan satisfies the purpose of the PD-4 Zone. As demonstrated in Table 1 below, the project meets all of the applicable requirements and development standards of the Zone.

Table 1: Data Table for the PD-4 Zone

Development Standard	Zoning Ordinance Permitted/Required	Site Plan No. 820160060	Site Plan No. 82016006A
Site Area (ac.)			
Min. Gross Tract Area [59-C-7.12]	Accommodates 50 or more dwelling units.	24.37	24.37
Road Dedication Observation Drive	n/a	2.59	2.59
Intersection of Robert's Tavern Drive & MD 355	n/a	1.97	1.97
Min. Net Tract Area	n/a	19.81	19.81
Max. Density w/MPDU Bonus	118 units (4.84 d.u./ac.)	105 units (4.31 d.u./ac.)	105 units (4.31 d.u./ac.)
Total Units	² 50 or more units	105 units	105 units
PD-4 Detached	10 units	21 units	21 units
PD-4 Attached	40 units	84 units	84 units
Residential Density (du/acre) [59-C-7.44-a]	4.0	³ 4.31	⁴ 4.31
Min. MPDUs [Chapter 25A] [59-C-7.44-b3]	12.5% (12 MPDUs)	13.3% (14 MPDUs)	25% (27 MPDUs)
Min. Building Setbacks (ft.) [59-C-7.45]			
Attached dwelling units from adjoining properties	100 ft.	100 ft.	100 ft.
Attached dwelling units front setback BRL	N/A	5 ft.	5 ft.
Single-family dwelling units front setback BRL	N/A	15 ft.	15 ft.
Attached dwelling units side	N/A	6 ft.	6 ft.

² In accordance with Section 59-C-7.122 (a), no land may be classified in the planned development zone unless the district council finds that the proposed development contains sufficient gross area to construct 50 or more units under the density category.

³ In accordance with Section 59-C-7.14 (c), the maximum density may be exceeded to accommodate more MPDUs.

⁴ In accordance with Section 59-C-7.14 (c), the maximum density may be exceeded to accommodate more MPDUs.

setback BRL			
Single-family dwelling units side setback BRL	N/A	6 ft.	6 ft.
Attached dwelling units rear setback BRL	N/A	5 ft.	5 ft.
Single-family dwelling units rear setback BRL	N/A	20 ft.	20 ft.
Development Standards (continued)	Zoning Ordinance Permitted/ Required	Site Plan No. 820160060	Site Plan No. 82016006A
Lot 94	50 ft.	⁵ 27 ft.	⁶ 27 ft.
Lot 104	50 ft.	12 ft.	12 ft.
Lot 105	50 ft.	32 ft.	32 ft.

Min. Green Area (ac.) [59-C-7.462]			
	40% (9.75 ac.)	⁷ 45% (10.97 ac.)	⁸ 45% (10.97 ac.)
Max. Building Height (ft.) [59-C-7.47]			
Attached Units	N/A	50 ft.	50 ft.
Single-family Units	N/A	50 ft.	50 ft.
Min. Vehicle Parking Spaces (59-E)			
Residential (105 units)	210 spaces (2 spaces/ du.)	253 spaces (2.25 spaces/ du.)	253 spaces (2.25 spaces/ du.)
Off-Street Parking	N/A	210 spaces	210 spaces
On- Street Parking	N/A	42 spaces	42 spaces
Handicap Spaces	N/A	1 space	1 space

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems remain adequate, safe, and efficient.

⁵ In accordance with Section 59-C-7.15, the Applicant was granted a compatibility waiver (Appendix 1b) for Lots 94, 104 and 105 in Site Plan #820160060.

⁶ In accordance with Section 59-C-7.15, the Applicant was granted a compatibility waiver (Appendix 1b) for Lots 94, 104 and 105 in Site Plan #820160060.

⁷ The amount of green area has been increased, per the Development Plan approval.

⁸ The amount of green area has been increased, per the Development Plan approval.

Open Space

None of the modifications to the open spaces on the Site Plan Amendment change the validity of the finding. In many ways, this Site Plan Amendment is a refinement that more efficiently utilizes available space, provides a more cohesive open space concept, and reduces impervious surface. As such, this Site Plan Amendment improves upon the original approval.

Building Massing

While the change from 14 to 27 MPDUs will have some effect on building massing due to the narrower width of an MDPU unit, this modification has minimal impact on the building mass findings made for Site Plan #820160060 and does not change the finding. The largest change in terms of massing is in the length of each section, or stick, of townhouses. For sticks of townhouses which had MPDUs in the originally-approved plan the difference in length is approximately 5 feet shorter. For townhouses sticks with no previous MPDUs, the length is shortened by approximately 15 feet.

Circulation Pattern

The only modification to the circulation pattern pertains to the realignment of Dowden's Station Way and its intersection with MD355. When the Applicant was completing final engineering for the originally approved access location, it became apparent that the original access point would require additional grading and right-of-way on adjacent properties not owned by the Applicant to make the sight distance functional. Subsequent meetings with the Maryland State Highway Administration (MDSHA) confirmed the inadequacy of the original access point to MD355.

The Site Plan Amendment moves the access further south. This allows the intersection to be placed in the low point between the two hills. The relocation of the intersection requires Dowden Station Way to curve, as opposed to the straight road in the original approval. This modification is encompassed within the previously-approved Master Plan right-of-way, Robert's Tavern Road. As such, no preliminary plan amendment is necessary to accommodate the revised road curvature. MDSHA provided reassurance that the angle of Dowden's Station Way at MD355 as measured by MDSHA was within the established Access Guideline. Furthermore, this new alignment in no way limits the County from constructing the ultimate cross-section of Robert's Tavern Road as envisioned by the *1994 Clarksburg Master Plan & Hyattstown Special Study Area*.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The increase to 25% MPDUs does not affect this finding. Each structure and use continues to be compatible with other uses and existing and proposed adjacent developments.

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

Water Quality Review in Special Protection Areas

Under Chapter 19, Section 19-65, the Planning Board has the responsibility in the review of the Final Water Quality Plan (FWQP) to ensure conformity of the FWQP with (1) all policies under Chapter 22A, (2) all policies under the Board's Environmental Guidelines and (3) all policies or requirements for Special Protection Areas. The Application proposes no changes to priority forest conservation areas or SPA environmental buffers. The Application does propose a slight decrease in the amount of impervious surface associated with this project.

a. Priority Forest Conservation Areas

The Application continues to meet the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. An Amended Final Forest Conservation Plan (FFCP) was submitted with this Application. The Amended FFCP does not change any of the priority forest conservation areas that were approved as part of the original FFCP, Plan No. 820160060.

b. SPA Environmental Buffer Protection

The Application does not change the SPA Environmental Buffers that were approved as part of the original FFCP, Plan No. 820160060.

c. 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. In this case, the Planning Board Condition of Approval Number 2 of the Preliminary Water Quality Plan required that the Applicant limit impervious surfaces to an overall target of 30%. The Board understood that this target may need to be reevaluated at the time of Site Plan and Final Water Quality Plan review due to additional requirements that may be deemed essential for the Site Plan. The target of 30% impervious surface limit was used to allow flexibility for future adjustments that might be necessary due to specific design requirements or other county regulations at the Site Plan review stage.

The previously approved Site Plan and the Impervious Surface Exhibit submitted with the Final Water Quality Plan contained 7.20 acres of impervious

surface over the gross tract area, under which 24.45 acres which resulted in an impervious surface calculation of 29.46 percent.

Table 2: Previously Approved Impervious Surfaces Calculations

	Impervious Surface for Site Plan #820160060	Impervious Surfaces for Site Plan Amendment #82016006A
Tract Area: Gross Tract	1,065,042 sq. ft. (24.45 acres)	1,068,527 sq. ft. (24.53 acres)
Impervious Surfaces: Tract Total	263,793 sq. ft. (6.05 acres)	261,283 sq. ft. (6.00 acres)
Future Allowance	<u>50,000 sq. ft.</u>	
Net Impervious Surface	313,793 sq. ft. (7.20 acres)	<u>50,000 sq. ft.</u> 311,283 sq. ft. (7.15 acres)
% Impervious Area: Net Tract	29.46%	29.13%

The Site Plan and FFCP Amendment propose 7.15 acres of impervious surface over the gross tract area of 24.53 acres, which results in an impervious surface calculation of 29.13 percent (Table 2).

Forest Conservation

Final Forest Conservation Plan

A FFCP was approved by the Planning Board on September 22, 2016 as part of the development application case for Dowden's Station, Preliminary Plan No. 120160160 and Site Plan No. 820160060. The Final Forest Conservation and Final Water Quality Plans were approved as part of that application.

Amended Final Forest Conservation Plan

An amendment to the approved FFCP was submitted as part of this application in order to revise the internal site layout and final grading of the amended Site Plan.

This Property is zoned PD-4, which is assigned a Land Use Category of Mixed-Use Development in the Land Use Table of the Trees Technical Manual. This gives the Subject Property an afforestation requirement of 15% of the net tract and a conservation threshold of 20%.

The Amended FFCP shows a revised Net Tract Area of 22.96 acres, which is an increase of 0.95 acres over the approved FFCP. This increase is due to a revision in the off-site limits of disturbance because of the revised alignment of Dowden's Station Way at Frederick Road, and the decrease in right-of-way dedication due to this realignment. In addition, due to the realignment of Dowden's Station Way, the amount of forest clearing has increased from 13.88 acres to 14.61 acres. This results in a Total Reforestation/Afforestation requirement of 0.21 acres. The applicant proposes to meet this requirement by purchasing the appropriate credits in an M-NCPPC-approved off-site forest bank. All retained forest and environmental buffer areas will be protected by Category I Conservation Easements.

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 JUL 31 2018 (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 Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, July 26, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board