



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

DEC 23 2014

MCPB No. 14-112  
Site Plan No. 820140160  
Clarksburg Premium Outlets at Cabin Branch  
Date of Hearing: December 4, 2014

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-7.1.2 of the Zoning Ordinance, the Montgomery County Planning Board is authorized to review Site Plan applications; and

WHEREAS, under Section 59-7.7.1.B.1 of the Zoning Ordinance, this Site Plan is being reviewed under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on June 30, 2014, Simon/Clarksburg Development, LLC. ("Applicant"), filed an application for approval of a Site Plan for Phase I of a multi-phased mixed-use development consisting of 450,000 square feet of retail and restaurant uses, parking facilities and public amenities on 84.24 acres of MXPB zoned-land, located at the intersection of I-270 and Clarksburg Road ("Subject Property"), which is a portion of the 535 acre Cabin Branch Development approved under Preliminary Plan Nos. 12003110B<sup>1</sup>, and 12003110C in the Clarksburg Policy Area, Master Plan ("Master Plan") area; and

WHEREAS, the Cabin Branch Development is also subject to that Infrastructure Site Plan and Final Water Quality Plan No. 820050150, as amended ("Infrastructure Site Plan"), which, in accordance with Conditions 1 and 14(c) of Site Plan No. 82005015B, is further amended through approval of this Site Plan; and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820140160 ("Site 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

<sup>1</sup> All prior Preliminary Plan conditions were superseded by Preliminary Plan No. 12003110B.

Planning Board, dated November 21, 2014, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 4, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 4, 2014, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Fani-Gonzalez, with a vote of 5-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820140160 for 450,000 square feet of retail and restaurant uses, parking facilities and public amenities, the Subject Property, which also serves to amend the Infrastructure Site Plan, subject to the following conditions.<sup>2</sup>

### **Conformance with Previous Approvals**

1. Development Plan Conformance

The development must comply with all applicable binding elements, general notes and the development program as shown on the Certified Land Use of the Development Plan (DPA 13-02) approved February 4, 2014.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan Nos. 12003110B (MCPB No. 08-117) and 12003110C (MCPB No. 14-111), unless amended.

3. Infrastructure and Road Only Site Plan

Applicant must comply with the conditions of approval as set forth in the following:

- a. Site Plan No. 820050150, MCPB No. 07-131,
- b. Site Plan No. 82005015A, MCPB No. 08-68,
- c. Site Plan No. 82005015B, MCPB No. 11-124,
- d. Site Plan No. 82005015C (administratively approved November 27, 2012),
- e. Site Plan No. 82005015D, (administratively approved May 2, 2013),
- f. Site Plan No. 82005015E, MCPB No. 14-36, and
- g. Site Plan No. 82005015F, MCPB No. 14-79.

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<sup>2</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.



4. Incorporation of the Water Storage Tank

Upon acceptance of Staff recommendations for the associated Mandatory Referral No. 08001-WSSC-1A, the Applicant will meet their on-site obligations as discussed in Washington Suburban Sanitary Commission ("WSSC") Amended Phase I Letter (dated October 8, 2014), or as amended. As described in the letter, the Applicant must comply with the conditions and service requirements prior to the issuance of the use and occupancy permit for the commercial shopping center.

5. Site Plan Amendments

- a. Minor modifications to public plazas, landscaping, lighting, recreation building footprint, site elements, structures (not considered buildings) and paving materials may be approved by Staff and documented with M-NCPPC and the Montgomery County Department of Permitting Services ("MCDPS") Site Plan Enforcement.
- b. Other modifications to the Site Plan must follow the procedures outlined in Manual of Development Review Procedures approved and adopted December 2007, as may be amended.

## **Environment Planning & Water Quality**

### Forest Conservation Plan

6. The release of 1,261 square feet of conservation easement in planting area K, stage I (Final Forest Conservation Plan "FCP" Sheet 58), and the new Category I conservation easement increasing planting area K by 1,261 square feet (FCP Sheet 46) must be recorded by deed in the land records within ninety (90) days of the mailing of this Planning Board Resolution.
7. The record plat must reflect a Category I conservation easement over all areas of stream buffers, forest save, and forest planting.
8. All off-site reforestation must occur within the Clarksburg Special Protection Area or the Ten Mile Creek Special Protection Area unless otherwise specifically approved by the Planning Board.
9. The implementation of the project's forest conservation mitigation requirements, which includes forest retention, onsite and offsite afforestation, reforestation and landscape credit, may be phased. The phasing of the total forest conservation mitigation must be proportionate to the greater of i) the area proposed for disturbance relative to the total project size, or ii) the amount of density for each stage relative to the total project density. The phasing triggers, forest conservation mitigation type, amount of mitigation, and disturbance areas are to be defined on the FCP and revised as needed with subsequent site plans. Conservation easements may be recorded using a metes and bounds description and sketch if preceding recordation of plats, provided the recording information



for the conservation easement is referenced and the easement line is shown on subsequent record plats.

10. The development must comply with the conditions of the approved Final Forest Conservation Plan.

11. Final Water Quality Plan

The Applicant must conform to the conditions as stated in the MCDPS Final Water Quality Plan approval letter dated September 30, 2014 unless otherwise amended provided the amendments do not conflict with other conditions of the Site Plan approval.

12. Stormwater Management

The Planning Board has accepted the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated September 30, 2014, and hereby incorporates them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided the amendments do not conflict with other conditions of the Site Plan approval.

## **Transportation Planning & Circulation**

13. Transportation

- a. The total future development on this Site Plan is limited to 450,000 gross square feet of retail and restaurant uses and public facilities within the MXPB Zone.
- b. The Applicant must undergo further assessment of private drive aisles to determine their adequacy prior to approval for any additional or residential development.
- c. The Certified Site Plan must show the internal circulation as private drive aisles.
  - i. The Applicant must construct a private drive aisle (labeled as Premium Outlets Drive) from the main entrance at Clarksburg Road (MD 121) to the southern end of the site that terminates at the amphitheater as shown on the Site Plan to applicable Montgomery County Department of Transportation (“MCDOT”) Road Code Standard MC-219.01: Commercial/Industrial Dual Road Modified. The typical curb to curb dimensions will consist of travel lanes that will be 12-feet wide varying between 1 and 2 lanes in each direction and the median width will vary from 4-30 feet as indicated on the Site Plan. A shared use path will be accommodated within the 80 foot typical section as indicated on the Site Plan from the private



- drive aisle connecting to Cabin Branch Avenue heading south towards the proposed amphitheater.
- ii. The Applicant must construct a private drive aisle that traverses the back of the Subject Property and connects at Premium Outlets Drive to applicable MCDOT Road Code Standard 214.02: Commercial/Industrial Road Modified and the 30-foot wide drive aisle shall not have travel lanes that exceed 12-feet in width. Additionally, the Applicant must construct all sidewalks, on the Subject Property within the Site Plan, to applicable ADA standards. The striping plan of the drive aisle will be reviewed prior to Certified Site Plan.
  - iii. The Applicant must construct an east-west drive aisle extension from Cabin Branch Avenue to the Premium Outlets Drive (a private drive aisle) for secondary site access to applicable MCDOT Road Code Standard MC-219.0: Commercial/Industrial Dual Road Modified. The typical curb to curb dimensions will consist of two travel lanes that will be 12-feet wide in each direction and the median width will vary from 2-12 feet as indicated on the Site Plan. A shared use path will be accommodated within the 80 foot typical section as indicated on the Site Plan from Cabin Branch Avenue to the private drive aisle that connects with the amphitheater as shown on the Site Plan.
  - iv. Before the release of Site Plan Surety, the Applicant must provide a letter of acceptance from MCDPS Zoning & Site Plan Enforcement Staff indicating that they received certification from a licensed engineer that all internal drive aisles and associated sidewalks and shared use paths have been built to the above structure standards and ADA standards.
- d. The Applicant must install twelve (12) pockets of short term public bicycle parking racks, a minimum of eight (8) ("inverted U" racks or similar) and up to four (4) public art oriented bicycle racks, as indicated on the Site Plan.
  - e. The Applicant must install four (4) bike shower facilities as indicated on the Site Plan.
  - f. The Applicant must install two (2) long term bicycle lockers each with 30 long term, bicycle parking spaces (60 total long-term bicycle parking spaces) as shown on the Site Plan.

#### 14. Pedestrian Circulation

- a. The Applicant must construct an eight-foot shared-use path on the southern/western side of a private drive aisle (Premium Outlets Drive) from the intersection that provides access to Cabin Branch Avenue to the amphitheater at the southern end of the site as shown on the Site Plan.

- b. The Applicant must provide a bicycle connection from the site's main entrance at Clarksburg Road (MD 121) to the shared path that is being constructed on the south/western side of a private drive aisle (Premium Outlets Drive). A bicycle facility (bicycle lanes) along the private drive aisle that traverses the back of the Outlets is proposed, unless the Applicant can demonstrate an alternative way of accommodating a bicycle connection with the purpose of connecting the shared use path that terminates at the main entrance to the site off of Clarksburg Road to the shared use path on Premium Outlets Drive. The bicycle connection will be reviewed prior to Certified Site Plan.

15. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter dated September 22, 2014, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

**Miscellaneous**

16. Public facilities and utilities

The Applicant must construct the public facilities and utilities prior to the issuance of the final use and occupancy permit. The development program must include the following facilities:

- a. 24-inch water line that connects into the water storage tank,
- b. 8-foot hike/biker trail along the southern property edge,
- c. Public plaza areas (e.g. north, east and west plazas),
- d. Amphitheater,
- e. Bicycle facilities along the 8-foot hiker/biker trails and within the shopping area, and
- f. Electric charging stations will be provided within the parking facilities, as noted on the Site Plan.

17. Common Open Space Covenant

The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578.

18. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the hiker/biker pathways, amphitheater, public plaza areas, electric car charging stations, water features, tot lot, public art and the access to the water storage tank.



## Site Plan

### 19. Site Design

- a. The exterior architectural character, proportion, materials, and articulation must be substantially consistent with the schematic elevations as shown on Sheets A-1 to A-43 of the submitted architectural drawings, as determined by Staff.
- b. Permanent signage must have a permit issued by the MCDPS; which may also approve a variance from any provision from Section 59F-1.3 except Division 59F-7 "Prohibited Signs".
- c. A Signage Package that clearly identifies any placement of signage on the building facades, walls and free-standing signs (i.e. way-finding package) as approved by MCDPS must be included in the Certified Site Plan.
- d. The Way-Finding Conceptual Plan may include, but is not limited to internal and external signage, banners, lighting and design elements that efficiently direct patrons through the Subject Property. The Way-Finding Concept Plan must be included in the Certified Site Plan and must be substantially consistent with the signage package approved by MCDPS.
- e. Locate and include traffic signage and stop bars on the Signage Way-finding and Site Plans on the Certified Site Plan.
- f. Provide alternative design solutions for the painted concrete screen walls near the loading dock areas on the Certified Site Plan. The screen walls, fronting the surface parking facilities, must be treated as an extension of the building façades.

### 20. Landscaping

- a. The surface parking facilities that are directly adjacent to the public roadways (e.g. Clarksburg Road), private drive aisles or driveway must be adequately screened from the major views of vehicular traffic flow with a densely planted hedgerow and a decorative screen wall.
- b. Planted buffers along the parking edges must be at least 10 feet wide.
- c. Shade trees along the 8-foot hiker/biker trails must be professionally pruned ("limbed up") so as not to obstruct the views of vehicles, bikers and pedestrians.

### 21. Lighting

- a. Before issuance of the any building permit, the Applicant must provide certification to Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for commercial/retail developments.
- b. All onsite down-light fixtures must be full cut-off fixtures.



- c. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads.
- e. The height of the light poles must not exceed 30 feet including the mounting base.

## 22. Design Guidelines

- a. The Applicant must comply with the revised Cabin Branch Guidelines for the Site Plan Review ("Design Guidelines"), as amended for Destination Retail specifically associated with but not limited to the site design, architectural design, landscape design, streetscape, sidewalks and pathways, internal crosswalks, street trees, lighting and parking.
- b. The Development Program must adequately address phasing of the design features to be approved by the Cabin Branch Design Committee prior to the certification of the Site Plan. Any significant revisions to the Development Program will be submitted with the building permit and reviewed by Staff prior to the issuance of the building permit.
- c. The Applicant must submit an approval letter from the Cabin Branch Design Review Committee stating that the buildings and associated design features within their respective phases are in conformance with the Certified Site Plan and the Design Guidelines.
- d. The Applicant must submit to the Planning Director (or designee) architectural plan construction documents for each individual building permit application that demonstrates conformance with the Design Guidelines and the Development Program.
- e. Submissions will be deemed approved after 10-days, unless Applicant is notified that the submission does not comply.

## 23. Site Plan Surety and Maintenance Agreement

Before issuance of the any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, water features, site furniture, artwork, trash enclosures, retaining walls, fences, railings, private aisles/drives, specialty pavement patterns, pathways and associated improvements within the relevant phase of



development. The surety must be posted before issuance of any building permit within each relevant phase of development and will be tied to the development program.

- c. 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.
- d. The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of each phase.

#### 24. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Lighting and sidewalks must be installed within six months after construction of the drive aisles. Plantings within the parking facilities may wait until the next growing season.
- a. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of any building occupancy permit.
- b. Public facilities including but not limited to the plaza area, bike facilities, electric car charging stations, tot lot, amphitheater and the 8-foot hiker/biker trail will be included in the development program and constructed prior to the issuance of the final use and occupancy permits.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the FCP, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. Landscaping associated with each parking lot and building must be completed as construction of each facility is completed.
- f. Pedestrian pathways and seating areas associated with each facility must be completed as construction of each facility is completed.
- g. Provide each section of the development with necessary roads.
- h. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.



25. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and information provided subject to Staff review and approval:

- a) Include the final forest conservation approval letter, stormwater management concept approval letter, development program, Fire & Rescue approval letter and Site Plan resolution on the approval or cover sheet(s).
- b) 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."
- c) Modify data table to reflect development standards approved by the Planning Board.
- d) Ensure consistency of all details and layout between Site and Landscape Plans.

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Premium Outlets at Cabin Branch drawings stamped by the M-NCPPC on October 1, 2014, shall be 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 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 Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan conforms to the Development Plan Amendment (DPA-13-02) and the binding elements of that approval. The DPA limits the maximum density of the different uses by area. The North District (Area A and B) consists of retail, office, public use and residential uses. The Applicant will construct Phase I of the Areas A and B as approved and with the intent of creating a vibrant and active commercial shopping center in close proximity of the I-270 interchange.

The activation of the streetscape along Clarksburg Road with the permitted uses stimulates economic development within the North District and becomes a destination that draws regional and local traffic to the Cabin Branch Neighborhood. The retail and employment uses will serve the immediate needs of the existing residents, while creating a strong platform for the construction of office and residential uses in the near future.



2. *The Site Plan meets all of the requirements of the zone in which it is located.*

Commercial and retail uses as approved are allowed in the MXPB Zone. This Site Plan fulfills the purposes of the zone by providing multi-use centers located outside the central business districts and transit stations development areas. This zone is intended to provide a more flexible approach to the comprehensive design and development of multi-use centers than the procedures and regulations applicable under various conventional zoning categories and other planned development zones. This zone is utilized to implement existing public plans and pertinent county policies in a manner and to a degree more closely compatible with said County plans and policies than may be possible under other zoning categories. The specific purposes of the MXPB Zone have been adequately addressed in this Application.

- a) *To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master or sector plans can serve as the basis for evaluating an individual multi-use center development proposal.*

Working with the Clarksburg Town Architect and associated Design Review Committee, the Design Guideline provisions have been modified in order to better conform to destination retail requirements. The Planning Board approved the revised Design Guidelines, finding that the revisions adequately address the needs of retail tenants and pedestrians, and are compatible with the surrounding uses. The destination retail component is a necessary enhancement to the Design Guidelines and the revisions are considered modest changes that will not adversely impact the overall design character of the Cabin Branch Neighborhood.

- b) *To encourage orderly, staged development of large-scale, comprehensively planned, multi-use centers by providing procedures for the submission of a concept for an entire site and subsequent development plans for each stage of development, as identified on the concept plan.*

The Applicant has given adequate consideration to future development phases, specifically regarding the construct of additional employment uses (e.g. office and retail uses). Given the necessary parking requirements for the permitted uses, the second phase of development will look for opportunities to convert surface parking into structured parking facilities. The Applicant will need to maintain adequate parking spaces throughout the development process. Therefore, the future building footprints are contingent on the total number of buildable parking spaces. The office/retail buildings typically prefer clear visibility from major roadways (e.g. Clarksburg Road and



I-270), while residential units should be located within walking distance to other residential uses and public amenities.

- c) *To provide, where appropriate, higher density residential uses integrated into the overall multi-use center.*

This Application is for Phase I only. Other future phases will introduce other employment uses (office/retail) and residential uses that are compatible with existing and surrounding uses. Until such time, the Winchester Phases I and II (toward the south) provide residential uses within in close proximity of the development.

- d) *To ensure internal compatibility of residential and nonresidential uses by providing a suitable residential environment that is enhanced by the commercial, recreational, employment and institutional amenities within commercial and industrial components of the multi-use center.*

The North District of the overall Cabin Branch Development primarily consists of a hotel, banks, and other commercial/retail uses (e.g. the outlet shopping center, restaurants, car wash, etc.). The Gosnell Property (Site Plan No. 820060240) and the retail shopping center are compatible uses that provide connections to the surrounding neighboring properties (i.e. residential uses). The streetscape along Clarksburg Road will be activated with pedestrians and building frontage in close proximity of major intersections and roundabouts; thereby slowing down vehicular traffic. The Clarksburg community has long awaited the opportunity for local retail and will further benefit from enhancements to the public facilities and amenities that will be developed concurrently with this application.

- e) *To assure compatibility of the proposed land uses with surrounding uses by incorporating higher standards of land planning and site design than could not be accomplished under conventional zoning categories.*

The existing grades and the environmentally sensitive features surrounding the Subject Property provide a unique opportunity to create a more sustainable retail center. The existing topography drops approximately 100 feet from MD 121 to the low point in the stream valley buffer on the southern portion of the Subject Property. This topography allows the shopping center to be tiered as the grades drop. The building footprints and parking facilities were designed to work with the natural grades which require less land disturbance and be more compact than the typical construction for retail shopping centers. The middle-tier building(s) are 2-stories with retail frontages on two different elevations.



- f) *To encourage and provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial/industrial concentration so as to function for the general benefit of the community and public at large as places for relaxation, recreation, and social activity. It also intended that open space and amenities be located so as to achieve the physical and aesthetic integration of the uses and activities within each development. In addition, structured parking within mixed-use planned developments is encouraged to help achieve the open space and amenities objectives of the zone. Where surface parking is necessary, the purposes of this zone may be achieved by the provision of additional landscaping.*

Some of the public, open and green space areas are located along the perimeter of the Subject Property. Four Public plaza areas, an 8-foot hiker/biker trail (bike racks included) and amphitheater are all available to the public and linked to the surrounding uses. These public amenities are accessible via the internal sidewalks and pathways. The amphitheater is located in the lower right corner (toward the southeast), accessible via the surface parking facility and adequately buffered from I-270.

Structured parking facilities are anticipated with the future construction of office and residential phases. The surface parking facilities are heavily planted to exceed the internal landscape requirement by 18 percent (5% required, 23% approved).

- g) *To encourage and provide for the development of comprehensive non-vehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas open spaces, recreational areas, commercial and industrial area and public facilities.*

An 8-foot hiker biker trail and 5-foot sidewalks will be constructed throughout the Subject Property. These circulation systems provide walkable connections to the surrounding uses. The hiker/biker trail is primarily located along the internal drive aisles and stream valley buffer. The majority of the trail is separated from the 5-foot pedestrian sidewalk; while the sidewalks and pathways generally circulate through the center and the surface parking facilities to provide a direct connection to the shopping center and amphitheater.

- h) *To encourage and provide for efficient use of energy resources through shared facilities or other economies of scale or technology, including innovative fuels and district heating.*



The retail shopping center is designed to exceed the Green Building environmental requirements and intends to be LEED Certified. Twenty-four (24) electric car charging stations will be phased into the surface parking facilities; four (4) stations will be constructed initially and twenty (20) will be added as needed. Solar panels will be installed on the structural canopies between the retail buildings and the energy generated from the solar panels feeds directly into the food court.

The buildings and public spaces are designed to maximize solar exposure and reduce overall energy consumption by decreasing energy dependency during peak hours of the day.

- i) *To preserve and take the greatest possible aesthetic advantage of existing trees and to minimize the amount of grading necessary for construction of the development.*

The natural topography and existing environmental features (i.e. the stream valley buffer) provide an opportunity to terrace the construction of the retail buildings and parking facilities. The overall layout embraces the southern perimeter of the Subject Property and frames major views towards the forested edges. The planted edges will be increased around the stream valley buffer, amphitheater and the storm water management facilities.

The Site Plan meets all of the development standards of the MXPD Zone. Regarding the parking requirements, the Planning Board approved a slight reduction (2.8%) as permitted by Section 7.7 (b)(1) of the Zoning Ordinance effective October 30, 2014. This Application was accepted by Staff on June 30, 2014 and was considered in progress before the October 30, 2014 deadline. Therefore, the Applicant may choose to have the parking calculations be reviewed with the new parking provisions. The circulation systems (e.g. sidewalks, hiker/biker trails and pathways) are in close proximity to local residential and retail uses, which enables walkable linkages to the Subject Property and have the potential to reduce overall dependency on vehicles.

#### **Requirements of the MXPD Zone**

The Application meets all of the applicable requirements of the MXPD Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.



*Project Data Table for the MXPDP Zone*

<b>Development Standard</b>	<b>Permitted/Required</b>	<b>Approved Site Plan No. 820140160</b>
<b>MXPDP Lot Tract Area</b>		
Gross Tract Area	283.50 acres	84.24 acres
Dedication - Public Roads (acres)	N/A	6.45 acres
Dedication – HOA (acres)	N/A	22.37 acres
WSSC Water Tower (Lot 2)	N/A	1.61 acres
<b>Net Area (acres)</b>	<b>N/A</b>	<b>53.81 acres</b>
<b>Max. Floor Area Ratio (FAR)</b>	<b>0.30 FAR</b>	<b>0.012 FAR</b>
<b>Max. Gross Commercial/Retail</b>	<b>484,000 sf.</b>	<b>450,000 sf.</b>
<b>Max. Building Height (feet)</b>	<b>N/A</b>	<b>70 feet</b>
<b>Min. Building Setbacks (feet)</b>		
From Residential Zones, other than one-family detached buildings	100 feet	100 feet (plus)
Front	10-feet	10 feet
Rear	0 feet	0 feet
Side (Street Side)	10 feet	10 feet
Side (Interior Lot)	3 feet	3 feet
Side (Alley)	3 feet	3 feet
R/W Truncation	0 feet	0 feet
<b>Min. Green Area for MXPDP zone</b>		
Residential Uses	50% (34.90 acres)	23% (16.50 acres) <sup>1</sup>
Commercial Uses	40% (85.48 acres)	68% (144.70 acres)
<b>Min. Internal Landscaping within Surface Parking Facilities (%)</b>	<b>5% (51,422 sf.)<sup>3</sup></b>	<b>23 % (236,966 sf.)</b>
<b>Tree Canopy (%)</b>	<b>25%</b>	<b>50%<sup>4</sup></b>
<b>Min. Parking Spaces<sup>5</sup></b>		

<sup>1</sup> The residential green space calculations reflect approved and proposed Site Plans. This figure is an estimation of green area within each plan thus far. As final designs are completed, this table is subject to change and will be updated with more precise calculations for the overall MXPDP Zone. This table does not reflect the future construction of residential uses for this development.

<sup>2</sup> Total parking area is 23.61 acres.

<sup>4</sup> The percentage is based of the total acreage.

<sup>5</sup> Per the requirements of the Zoning Ordinance effective October 30, 2014, Section 7.7.1 Exemptions B (1).



Commercial/ Retail Uses	2,185 spaces	2,123 spaces <sup>6</sup>
Restaurant Uses	162 spaces	170 spaces
<b>Total</b>	<b>2,347 spaces</b>	<b>2,293 spaces</b>
Handicap Parking	46 spaces	+ 48 spaces
Electric Charging Stations	N/A	24 spaces <sup>7</sup>
Bicycle Spaces	115 spaces	218 spaces
Motorcycle Spaces	10 spaces	10 spaces

3. *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 buildings and structures on the Subject Property will be located south of Clarksburg Road (directly adjacent to the street edge) and west of I-270. The main entrance of the development is clearly visible from the street edge, and major views toward the Subject Property from I-270 will outwardly project a sense of place to potential visitors. At this location, the permitted uses are appropriate for the character envisioned by the Master Plan and compatible with the surrounding uses. These locations provide access to the buildings from adjoining sidewalks and parking facilities, while also creating adequate distance between neighboring residential properties. The building frontages provide a strong retail presence in conjunction with the Gosnell Property. The streetscape and slows vehicular traffic entering the traffic circle. The buildings and structures do not pose any safety concerns for the development. The Planning Board finds the locations of the buildings and structures to be adequate and efficient.

b. Open Spaces

The open space and forested buffers are primarily located along the edges of the Subject Property, between the residential uses (toward the west and south) and I-270 (toward the east). The stream valley buffer is located at the center of the Property and serves as an important organizational feature. The forested edges and natural landscape provide a screen for the parking facilities. Open space areas include, but are not are not limited to, the stream valley buffer, the tot lot

<sup>6</sup> Per the Zoning Ordinance effective October 30, 2014, Sections, 6.8.1 Alternative Compliance and 6.2.3G (2a) Calculations of Required Parking, the Applicant is approved for a parking reduction of approximately 62 spaces (2.8%) due to site constraints and existing steep grades.

<sup>7</sup> The electric car charging stations will be phased over time, as deemed necessary with future development phases. Four (4) stations will be constructed in Phase 1, and twenty (20) stations are planned for the future.



and the public plazas. The open spaces adequately and efficiently address the needs of the retail tenants and consumers; while also providing a safe and comfortable environment for pedestrians.

c. Landscaping and Lighting

Foundation plantings are located near the building edges and are integrated into the design of internal pathways throughout the shopping center. The foundation plantings, building's facades, pavement patterns and public artworks enrich the pedestrian environment and encourage a colorful pattern that supports the way-finding system. Shade trees and lighting are provided along the drive aisles and within the parking facilities further enhance the pedestrian environment. Interior lighting will create enough visibility to provide safety, but not so much as to cause glare on the adjacent roads or neighboring properties. The landscaping, lighting and site details adequately and efficiently address the needs of the retail tenants and consumers; while also providing a safe and comfortable environment for pedestrians.

d. Recreation Facilities

Recreational facilities are not required for this Site Plan application, but a tot lot, an amphitheater, seating areas, a hiker/biker trail and bicycle facilities are provided.

e. Vehicular and Pedestrian Circulations Systems

The 30-foot internal road network was designed to bring vehicular traffic from the traffic circle into the Subject Property; while providing adequate stacking distance off of the main roadway. The driveway (i.e. Premium Outlets Drive) has been designed as a private street. The internal roadway loops the entirety of the Subject Property and connects into a secondary access point off of Cabin Branch Avenue. A shared use path will run along the south side until it reaches the amphitheater (at the southern terminus).

Parking facilities are provided on surface lots (during phase one), and are accessed off of Premium Outlets Drive. The internal loop continues throughout the Subject Property and connects into the backside of the retail buildings (directly adjacent to I-270). The surface parking facilities along the backside of the buildings will be primarily used by employees. In future development phases, it is anticipated that surface parking facilities will be converted into structured parking and new buildings will be constructed on surface lots.



While RideOn services are not currently available to the Subject Property, Phase I of this development anticipates the need for public transit facilities by providing parking spaces for bus/shuttle services and three (3) different drop-off areas in close proximity to the public amenities.

Bicycle and pedestrian connectivity between Clarksburg Road (the first roundabout), Cabin Branch Avenue (second roundabout) and the southernmost portion of the Property provide another sustainable circulation system for local residents and visitors. An 8-foot hiker/biker trail and pedestrian pathways are separate from vehicular systems, and integrated along the perimeter of the stream valley buffer and Premium Outlets Drive. Pedestrian sidewalks are oriented parallel to the parking stalls and provide an efficient connection to the open space areas, public facilities and commercial/retail spaces.

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

The Master Plan envisions the establishment of highly desirable employment areas, without limiting specific employment uses. Office developments are considered more successful when the placemaking characteristics include venues for retail, public art and culture, aesthetic appeal, recreational opportunities and connections to housing resources. With that in mind, the development is compatible with other uses and Site Plans (existing and proposed) adjacent to this development. It has been designed with a strong emphasis on four planning principles: 1) Neighborhood Location and Placemaking, 2) Linkage and Pedestrian Orientation, 3) Compatibility and Energy Conservation, and 4) Environmental Protection and Conservation.

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.*

#### **MCDPS Special Protection Area Review Elements**

MCDPS has reviewed and approved the elements of the SPA Final Water Quality Plan ("FWQP") under its purview in a letter dated September 30, 2014.

The Planning Board responsibility is to determine if environmental buffer protection, special protection area ("SPA") forest conservation and planting requirements have been satisfied.

#### **Planning Board SPA Review Elements**

In acting on a preliminary or final water quality plan the Planning Board is responsible to review:

- (i) Compliance with the Environmental Guidelines;



- (ii) Impervious Surfaces;
- (iii) Forest Conservation;

#### Environmental Guidelines

The Subject Property is located within the Clarksburg SPA and the Little Seneca Creek watershed, a Use Class IV-P watershed. The Countywide Stream Protection Strategy rates streams in this watershed as good overall quality. There are streams, floodplains, wetlands, and environmental buffers on site.

The overall project is in compliance with the Environmental Guidelines and the previously approved FFCP with two exceptions. There are two areas of minor grading (a 0.1 acre (Area A) and 0.2 acre (Area B)) that are comprised of 3:1 grading tie-outs in an unforested and tilled area of the stream valley buffer. The grading is a result of the enhanced green space corridors and environmental site design features near these two locations. Avoiding these grading tie-outs would result in less internal green space in the surface parking area. The grading tie-outs do not impact forested areas and will be reforested and placed in a Category 1 conservation easement.

The Planning Board finds that the temporary impacts to unforested stream valley buffer combined with the additional internal open space provided by the minor encroachments provides for a better overall condition.

#### Imperviousness

The Subject Property is located within a section of the Clarksburg SPA with no impervious surface cap or limit. However, a main goal of all SPA's is to reduce the overall impervious footprint of new development within SPA boundaries. As part of the original Preliminary Water Quality Plan, and the revised Preliminary Water Quality Plan for the Cabin Branch Development, a goal of less than 45% imperviousness was established.

This Site Plan indicates an impervious level of approximately 42.7% with approximately 35.99 acres of impervious surface and is therefore consistent with the approved and Revised Preliminary Water Quality Plan. The Cabin Branch Development is on course to remain below an aggregate level of 45% imperviousness for the entire 535-acre development.

#### Final Forest Conservation Plan

The entire 535-acre Cabin Branch Development has a Final Forest Conservation Plan ("FCP") which was approved with the Infrastructure Site Plan. The FCP was designed to allow for the grading and installation of roads, utilities, and public amenities such as school and park sites. The intent of having one FCP



was to ensure that as this multi-phased project developed, portions would not be left uncovered by an individual FCP and the whole project would remain in compliance with the Montgomery County Forest Conservation Law. Consistent with conditions 1 and 14(c) of the Infrastructure Site Plan (82005015B), the FCP for the overall Cabin Branch Development and the Infrastructure Site Plan are being amended through this Site Plan.

The FCP includes seven worksheets separated by zones or land uses: MXPB-Employment, RMX-1/TDR, MXPB-Residential, Water Tower Storage Facility, Linthicum West, "offsite Area A", and West Old Baltimore Road- MDR Category (Limited to Culvert #2 improvements). Each individual site plan application is submitted with final grading and design, the FCP and the worksheets associated with that particular site plan will be updated to reflect final design and grading details. The FCP indicates that the individual applicants for each site plan area must meet the forest conservation worksheet requirements through a combination of on-site forest retention, on-site planting of unforested stream buffers, landscape credit, and off-site planting within the Clarksburg SPA.

Under the M-NCPPC implementation of the SPA regulations, the Environmental Guidelines require accelerated reforestation of the SPA stream buffers and that any unforested portions of the stream buffer be afforested above and beyond the standard forest conservation requirements. Since the Cabin Branch Development includes land both in and out of the SPA and the tributaries drain to a common water body, Planning Board is treating the planting requirements as if the entire development is located within the Clarksburg SPA. Conditions 1 and 14 of the Infrastructure Site Plan (82005015B) require the Applicant to plant the stream buffers in accordance with the FCP including the Planting Phasing Plan and provide a five-year maintenance period for all planting areas credited toward meeting the FCP worksheet requirements.

#### Clarksburg Premium Outlets at Cabin Branch

To reflect the new design for the retail shopping center, this Site Plan will require revisions to 21 sheets (1-11, 13-16, 46, 57, 58, 62, 63, and 63A) of the approved FFCP.

The revision to the FFCP not only update the plans to show the new layout and design of the retail shopping center portion of the Cabin Branch Neighborhood, but also updates the plans to show additional areas of forest retention and planting that became available based on the final design.

The final design of the retail shopping center portion of the Cabin Branch Neighborhood FFCP managed to retain an additional 0.30 acres of existing forest and provided an additional 1.02 acres of onsite afforestation.



Additional Forest Conservation Issues

This FFCP amendment includes a resolution for the reconciliation of a pending forest conservation easement violation related to the adjacent Kenney residence, located at 13621 West Old Baltimore Road.

On Nov. 28, 2014, Cabin Branch Management, LLC received a Notice of Violation related to an encroachment by the Kenney residence consisting of a concrete driveway extending from the Kenney residence onto part of the Cabin Branch property in an area encumbered by a Category 1 conservation easement. The encroachment was installed after the survey of the phase 3 Category 1 conservation easement.

Upon receipt of the Notice of Violation, Cabin Branch Management, LLC notified the owners of the Kenney residence to cease mowing activity.

Cabin Branch Management, LLC agreed to have a split rail fence installed along the effected property boundaries between the Kenney residence and the Cabin Branch property, to stop any further encroachment, and to clarify the limits of the conservation easement. Cabin Branch Management, LLC further agreed that the next FFCP amendment for Cabin Branch would include revisions to remove the easement and associated planting within the encroachment area and replace the removed easement and planting area elsewhere on the Cabin Branch property. The future record plat that covers this area will also reflect the revised easement delineation, consistent with and as permitted by section 17 of the Cabin Branch Category 1 easement agreement.

The FFCP amendment shows the release of 1,261 sf. of conservation easement where the encroachment occurs, (planting area K, stage I) and expansion of planting area K by 1,261 sf. Appropriate documentation will be submitted, processed and recorded concurrent with an additional Category 1 easement for the replacement area.

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 DEC 23 2014 (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 Dreyfuss, seconded by Commissioner Fani-Gonzalez, with Vice Commissioner Wells-Harley, voting in favor, and Chair Anderson and Commissioner Presley absent, at its regular meeting held on Thursday, December 18, 2014, in Silver Spring, Maryland.



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Casey Anderson, Chairman  
Montgomery County Planning Board