



JUL 23 2015

MCPB No. 15-81
 Site Plan Amendment No. 82007022C
 Clarksburg Town Center
 Date of Hearing: July 16, 2015

RESOLUTION

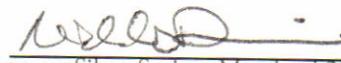
WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review site plan applications; and

WHEREAS, on July 9, 2009, the Planning Board, by Resolution MCPB No. 09-15, approved Site Plan No. 820070220, for approval of a site for 265,660 square feet of commercial development, including 210,480 square feet of retail and 55,180 square feet of office, 1,240 residential dwelling units, including 155 MPDUs, and reconfirmation of the previously approved reduction in setbacks from adjacent residentially-zoned properties on 270 acres of RMX-2 and RDT zoned land, located at the south east quadrant of the intersection of Clarksburg Road and Snowden Farm Parkway, in the Clarksburg Policy Area, 1994 Clarksburg Master Plan & Hyattstown Special Study Area, ("Master Plan") area; and

WHEREAS, on May 27, 2010, the Planning Board approved Site Plan Amendment 82007022A (MCPB No. 10-59) to correct and clarify the unit mix and unit count, correct the data table, and remove a trash can; and

WHEREAS, on July 11, 2013, the Planning Board approved Site Plan Amendment 82007022B (MCPB No. 13-125) to reinstate accessory structure setbacks for lots 10-14, Block GG; 9-14, 16, 19 & 20, Block K; 15-17, 26-34, 38 & 52-54, Block N; and confirm that based on the existing approved lot standards shown in the "Interim Amendment" (Sheet I-6) either single-family detached houses with garages or the previously show "Courtyard" houses with attached garage can be built on lots 1-3, 35-27 & 55, Block N; and

WHEREAS, on November 26, 2013, Third Try L.C. ("Applicant"), filed an application for approval of an amendment to the previously approved site plans to construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on Parcel A, Block HH ("Subject Property") in support of Site Plan #820140050; and

Approved as to
 Legal Sufficiency:  7/9/15
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WHEREAS, Applicant's application to amend the site plan was designated Site Plan Amendment No. 82007022C, Clarksburg Town Center ("Site Plan," "Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 2, 2015, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 16, 2015, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Clarksburg Town Center Site Plan Amendment No. 82007022C for construction of a driveway approach onto Clarksridge Road, approximately 3.5 parking spaces, landscaping, lighting, and stormwater management facilities on the Subject Property in support of Site Plan #820140050, approved with this Amendment, by adding the following conditions:¹

1. Project Plan Conformance

The Applicant must comply with the conditions of approval for Project Plan No. 91994004C as listed in MCPB Resolution No. 10-58 dated June 15, 2010 including any subsequent amendments.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 11995042A as listed in MCPB Resolution No. 08-163 dated December 11, 2008, including any subsequent amendments.

3. Forest Conservation & Tree Save

The Applicant must comply with the conditions of the approved Final Forest Conservation Plan and/or Tree Save Plan dated November 16, 2010.

a) The development must comply with the conditions of the approved Final Forest Conservation Plan (FCP) #820070220.

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.

4. Water Quality

The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") Preliminary/Final Water Quality Plan approval letter dated February 27, 2014.

5. Landscaping

- a) Before issuance of any Use and Occupancy Certificate, all on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and pedestrian system and picnic/seating areas must be installed.
- b) The Applicant must install the landscaping no later than the next growing season after completion of site work.

6. Lighting

- a) Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for commercial development.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on proposed fixtures causing potential glare or excess illumination.
- d) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The light pole height must not exceed 12 feet as illustrated on the Certified Site Plan.

7. Site Plan Surety and Maintenance Agreement

Before issuance of 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 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, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads, paths 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 CSP sheets depicting the limits of each phase.

8. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

9. Certified Site Plan

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

- a) Include the final forest conservation approval letter, Preliminary/Final Water Quality Plan approval letter, development program, Amendment resolution, and Site Plan #820140050 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) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.

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

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Town Center drawings stamped by the M-NCPPC on January 14, 2015, shall be required, except as modified by the above conditions of approval; and

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

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

2. *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 Amendment conforms with Project Plan 91994004C.

3. *The site plan meets all of the requirements of the zone in which it is located.*

The following data table demonstrates the Amendment's compliance with all development standards of the applicable zoning.

Development Standard	Permitted/Required	Approved
Site Area (acres)		
Gross Tract Area (GTA) RMX-2 Zone Parcel A, Block HH	n/a	<u>0.21 acres</u> 0.21 acres
Road Dedication	n/a	n/a
Net Area	n/a	0.21
Density (SF)		
▪ Ex. Commercial Building area	n/a	n/a
▪ Ex. historic house area (convert to commercial use)	n/a	n/a
▪ Total Ex. and proposed Commercial Building Area	n/a	n/a
Min. Building Setbacks (feet)		
Street ROW (59-C-4.343(a)(1))	10	n/a
Side (59-C-4.343(b)(3))	10	n/a
Rear (59-C-4.343(b)(2))	0	n/a
Max. Lot Coverage (acres)		
	n/a	n/a
Max. Building Height (feet)		
(59-C-4.342)	n/a	n/a
Min. Green Area		
(% of GTA) (59-C-4.344)	15% (0.03 acres)	67% (0.14 acres)
Vehicle Parking Spaces (59-E)		
Total parking	0	3.5 (in conjunction with Site Plan #820140050)
Min. Parking Setbacks (feet)		
Street ROW (59-E-2.71)	10	14

Bicycle Parking Spaces (59-E)		
	n/a	n/a

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

No buildings will be located on the Subject Property—this Amendment includes a parking area with approximately 3.5 spaces to function in conjunction with Site Plan No 820140050, approved alongside this Amendment.

The location of open space is adequate, safe, and efficient when combined with Site Plan #820140050. The Amendment shows open space on the periphery of the parking area, which provides adequate setbacks from adjacent uses and allows room for efficient landscape screening and stormwater management facilities.

The landscaping and lighting is adequate, safe, and efficient. A hierarchy of plant material including shade trees, ornamental trees and shrubs adequately provides shade, interest and screening for the parking areas. Street trees line both sides of Clarksburg Square Road. Interior lighting will create enough visibility to provide safety in the parking area but not so much as to cause glare on the adjacent roads or properties.

No recreation facilities are required for this Amendment.

The pedestrian and vehicular circulation systems are adequate, safe, and efficient when viewed alongside Site Plan #820140050. Sidewalks are provided along Clarksburg Square Road and MD355, which adequately and efficiently integrates this project into the surrounding area. This Amendment enables a major vehicular connection between the future Clarksburg Town Center and MD355 at the Historic District. This connection recommended in the Master Plan creates adequate capacity in the area for future development and efficient vehicular circulation. Within the overall site, vehicular circulation is limited to the parking area with two access points, one off Clarksburg Square Road and the other off Clarksridge Road immediately to the east of the Subject Property. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation.

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

There are no structures located within the Subject Property. The approved parking lot, driveway approach, and stormwater management features which support Site Plan #820140050 are compatible with other uses, site plans, and with existing and proposed adjacent development.

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.*

The Subject Property is in compliance with the approved Forest Conservation Plan for the Clarksburg Town Center (820070220). Under the FCP, all existing vegetation on the Subject Property is approved to be cleared, as indicated by the Limits of Disturbance (LOD) at the edges of the Subject Property. The Application demonstrates that the proposed construction for Clarksburg Square Road extension will not alter this approved LOD. A variance for tree removal is not required because all vegetation was approved to be removed prior to the enactment of the tree variance provision.

The Subject Property is subject to the SPA Preliminary/Final Water Quality Plan conditionally approved by a MCDPS letter dated February 27, 2014, and as approved by the Planning Board with Preliminary Plan No. 120140060 and Site Plan No. 820140050.

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 23 2019 (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 Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, with Commissioner Presley abstaining, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, July 16, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board