



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

MCPB No. 19-074
Site Plan No. 820190070
Avalon Residential
Date of Hearing: June 20, 2019

JUL 24 2019

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, on November 12, 2018, 3 Sons Avalon, LLC (“Applicant”) filed an application for approval of a site plan to construct 16 attached one-family and 34 detached one-family dwelling units, including 16% MPDUs (8 units); located at 22821 Frederick Road on 10.28 acres of TF-5 zoned-land, located approximately 600 feet north of the intersection of Frederick Road (MD 355) and Shawnee Lane; identified as parcels P765, P770, and P801 on Tax Map EW41 (“Subject Property”), in the Clarksburg Policy Area and 1994 *Clarksburg Master Plan & Hyattstown Special Study Area* (“Master Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820190070, Avalon Residential (“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 Planning Board, dated June 7, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 20, 2019, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on June 20, 2019, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy, Dreyfuss, and Patterson voting in favor, with Commissioner Fani-Gonzalez being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820190070 for 16 attached one-family and 34 detached one-family dwelling

Approved as to
Legal Sufficiency

Christa Sont 7/11/19

units, including 16% MPDUs (8 units) the Subject Property, subject to the following conditions:¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of up to 34 one-family detached residential dwelling units and 16 one-family attached residential dwelling units, including a minimum of 16% MPDUs.

2. Height

The development is limited to a maximum height of 40 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Environment

3. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan (FFCP) No. 820190070, approved as part of this Site Plan, including:

- a. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a Category I Conservation Easement over the 1.44 acres of reforestation as specified on the approved FFCP. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Book/Page for the easement must be referenced on the record plat.
- b. Prior to 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 within the Clarksburg Special Protection Area or at a minimum, within the Great Seneca Creek watershed, if possible, to satisfy the reforestation requirement for a total of 2.56 acres of mitigation credit. Offsite requirement may be met by purchasing from a mitigation bank elsewhere in the County if forest is unavailable for purchase within the Great Seneca Creek watershed.
- c. Within the first planting season following the release of the Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for this site, the Applicant must install the plantings shown for the required on-site reforestation of 1.44 acres or as directed by the M-NCPPC Forest Conservation Inspection staff.

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.

- d. Prior to any demolition, clearing, grading or construction on the Subject Property, the Applicant must provide financial surety to the M-NCPPC Planning Department for the 1.44 acres of new forest planting and for the landscape trees credited toward meeting the requirements of the FFCP on the Subject Property.
 - e. Prior to any demolition, clearing, grading or construction on the Subject Property, the Applicant must submit a five-year Maintenance and Management Agreement (MMA) approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas and landscape plantings credited toward meeting the requirements of the FFCP.
 - f. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspector, the Applicant must install the permanent split-rail fencing along the border of the Category I Conservation Easement as shown on the approved FFCP.
 - g. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspector, the Applicant must install permanent Conservation Easement signage along the perimeter of the Category I Conservation Easements as shown on the approved FFCP.
 - h. The limits of disturbance on the Final Sediment Control Plan must be no greater than the final limits of disturbance shown on the approved FFCP.
 - i. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
4. The Applicant must comply with the conditions of approval for the Final Water Quality Plan including:
- a. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its Combined Final Water Quality Plan/Site Development Stormwater Management Plan letter dated November 23, 2018 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 may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan approval.
 - b. Impervious surfaces are limited to no more than 37.34% of the Subject Property within the Clarksburg Special Protection Area as shown on the Impervious Surface Plan dated April 11, 2019 of the approved Final Water Quality Plan.
 - c. Prior to the start of any clearing, grading, or demolition on the Subject Property, the owner of the Subject Property must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 37.34%

Site Plan

11. Site Design

- a. Prior to issuance of the first building permit, the Applicant will submit an administrative site plan amendment for approval of detailed architectural plans.
- b. For the high visibility facades identified in the Certified Site Plan, the site plan amendment will provide at a minimum the following building elements:
 - i. Front facades on Lots 1-6 (Block B) must feature brick, stone, equivalent masonry material, or a combination thereof with textured or fiber cement lap siding.
 - ii. Side facades facing Frederick Road on Lots 1 and 19 (Block A) and Lot 7 (Block B) must feature brick, stone, equivalent masonry material or a combination thereof with textured or fiber cement lap siding and must be substantially similar in style, quality and material as proposed for the front façade, inclusive of windows and a prominent architectural element such as a chimney or bay window or front entrance.
 - iii. Side facades facing a public or private street on Lots 9, 21, 28 and 34 (Block B) must be substantially similar in style, quality and material as proposed for the front façade, inclusive of windows and must feature brick, stone, equivalent masonry material or a combination thereof with textured or fiber cement lap siding.
- c. For all front loaded detached one-family units, the garage door must be recessed in relation to the front entry stoop or front porch facade.

12. Landscaping

- a. The Applicant must install the site elements as shown on the landscape plans submitted to M-NCPPC or Staff approved equivalent.
- b. The Applicant must install the plantings shown on the landscape plans submitted to M-NCPPC. Any variation in plant species or quantity needs approval of M-NCPPC Staff.

13. Lighting

- a. Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all fixtures to prevent excess illumination and glare.
- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.
- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f. The light pole height must not exceed the height shown on the Certified Site Plan.

14. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit or Use and Occupancy certificate, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 [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, indoor and outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private hydrant systems, private roads and on-site sidewalks/bikeways, storm drainage facilities, street trees and street lights associated with private streets. The surety must be posted before issuance of the any building permit 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 a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.
- d. The bond or surety 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 development.

15. 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.

16. 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. All on-site sidewalks must be a minimum of 5 feet wide except for lead-in sidewalks to individual units.
- b. Revise the FFCP to show the removal of the street trees within the public rights-of-way proposed for landscape credit.
- c. Revise the FFCP worksheet removing the 0.80 acres of landscape credit and adding it to the acreage being taken offsite to an approved forest bank.
- d. Identify the high visibility facades on the site and landscape sheets.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Avalon Residential, Site Plan No. 820190070, 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 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 development satisfies any previous approval that applies to the site.*

The Site Plan conforms to Preliminary Plan No. 120180110 (MCPB Resolution No. 18-076), Preliminary Forest Conservation Plan No. 120180110 and LMA No. H-115 (Resolution 18-739) in terms of conditions of approval; density; land use; and layout of lots, outlots, and easements. The Application is generally consistent with the impervious goals set forth in the LMA H-115. The impervious levels increased slightly due to frontage improvements required by the Maryland State Highway Administration in the MD-355 right-of-way during the review of this Site Plan.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Site's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Use Standards

The proposed use of Single-Unit Living and Townhouse Living are identified as a permitted use in TF-5 zone and is subject to the following specific use standards.

Uses allowed in this zone are based on the units per acre and the corresponding zone based on Section 5.2.3.A. The Application consists of 4.78 units per acre and has 50 total dwelling units. For TF zones with less than 12 units per acre and less than 150 total units, the allowed uses are based on the TLD zone. Under the TLD zone, Single-Unit Living and Townhouse Living are permitted use in the TLD zone and by extension permitted uses in the TF-5 zone.

b. Development Standards

The Subject Property includes approximately 10.28 acres zoned TF-5. The Application satisfies the applicable development standards as shown in the following data table:

TABLE 1 - Section 5.2 Zoning Data Table: TF-5

<u>Standard Method</u>	<u>Required by Zoning Ordinance</u>	<u>Approved by Floating Zone H-115</u>	<u>Approved by Application</u>
1. Site			
Dimensions (min)			
Gross Tract Area	N/A	10.28 acres	10.28 acres
Density (max)			
Maximum Allowed Density (R-200)	4.36 DU/Acre or 44.7 DU's	4.87 DU/Acre (with Bonus Density)	4.87 DU/Acre (with Bonus Density)
Master Plan Base Density	4 DU/Acre	4 DU/Acre	4 DU/Acre
Density with MPDU Bonus (22%)	4.88 DU/Acre	4.87 DU/Acre or 50 DUs	4.87 DU/Acre or 50 DUs

TABLE 1 - Section 5.2 Zoning Data Table: TF-5

<u>Standard Method</u>	<u>Required by Zoning Ordinance</u>	<u>Approved by Floating Zone H-115</u>	<u>Approved by Application</u>
MPDUs	12.5%	16%	16% (8 units)
Open Space (min)			
Common Open Space, 1-19 units/acre (59.5.2.5.D)	10% (1.03 acres)	10% (1.03 acres)	25.33% (2.60 acres)
2. Lot (Detached house)			
Dimensions (min)			
Lot Area	Determined at site plan	Determined at site plan	4,500 sq. ft.
Lot width at front building line	Determined at Site Plan	Determined at Site Plan	40 feet
Lot width at front lot line	Determined at Site Plan	Determined at Site Plan	25 feet
Frontage on street or open space	Required	Required	Achieved
Setback from the front lot line	Determined at Site Plan	Determined at Site Plan	10 feet
Min. Side Setback	Determined at Site Plan	Determined at Site Plan	5 feet
Min. Rear Setback	Determined at Site Plan	Determined at Site Plan	7 feet
3. Lot (Townhouse)			
Dimensions (min)			
Lot Area	Determined at site plan	Determined at site plan	1,320 sq. ft.
Lot Area (MPDU)	Determined at site plan	Determined at site plan	1,340 sq. ft.
Lot width at front building line	Determined at Site Plan	Determined at Site Plan	20 feet
Lot width at front lot line	Determined at Site Plan	Determined at Site Plan	20 feet
Frontage on street or open space	Required	Required	Achieved
Setback from front lot line	Determined at Site Plan	Determined at Site Plan	5 feet
Min. Side Setback, end unit	Determined at Site Plan	Determined at Site Plan	5 feet
Min. Rear Setback	Determined at site	Determined	5 feet

TABLE 1 - Section 5.2 Zoning Data Table: TF-5

<u>Standard Method</u>	<u>Required by Zoning Ordinance</u>	<u>Approved by Floating Zone H-115</u>	<u>Approved by Application</u>
	plan	at Site Plan	
Accessory Structure Setbacks (min)			
Front setback	Determined at site plan	Determined at Site Plan	None proposed
Side street setback	Determined at site plan	Determined at Site Plan	None proposed
Side or rear setback	Determined at site plan	Determined at Site Plan	None proposed
Side or rear setback, abutting property not included in application	Determined at site plan	Determined at Site Plan	None proposed
Rear setback alley	Determined at site plan	Determined at Site Plan	None proposed
Height			
Principal Building	Established by Floating Zone Plan	40 ft.	40 ft.
Accessory structure	Must satisfy Section 4.1.8.B	None proposed	None proposed
Section 6.2 Parking			
Detached house	2 sp./unit	68 spaces	68 spaces
Attached house	2 sp./unit	16 spaces	16 spaces
Attached house (MPDU)	1 sp./unit	8 spaces	16 spaces
Visitor Parking	N/A	N/A	8 spaces
Bicycle Parking	N/A	N/A	N/A

c. General Requirements

i. Site Access

The access to the development as proposed is adequate for 34 one-family detached residential dwelling units and 16 attached one-family dwelling units. Vehicle, bicycle and pedestrian access to the Subject Property is provided at two locations along Frederick Road (MD 355). The primary access is in the southeast corner of the Property along Frederick Road (MD 355). This access point is unsignalized and allows in ingress and egress from the Property

with all turning movements allowed. The second access point, in the northwest corner of the Property, is designed as a right in/right out only due to sight distances issues created by a hill directly to the northwest of the access point. As a result, a left turning out of the Subject Property to go south on Frederick Road (MD 355) will be prohibited.

Pedestrian only access points occur at the same vehicular access point discussed above via a sidewalk at each access point. The Application provides an additional pedestrian access point between the two vehicular access points. This access point connects to a sidewalk running along Frederick Road and proceeds through a Common Open Space area which leads into the centralized open space.

A future access point has been reserved in the northwest corner of the Property to be utilized when the adjacent property is developed. This reserved access will aggregate access points into Frederick Road (MD 355) and better address the sight distance constraints present in this general location.

ii. *Parking, Queuing, and Loading*

The Site Plan provides adequate parking to serve the development. Vehicle Parking in the TF-5 zone requires a minimum of 2 spaces per dwelling unit for a detached one-family house and attached one-family townhouse. Each attached one-family MPDU dwelling one requires a minimum of 1 parking space (Table 1). The Site Plan provides 68 parking space for 34 one-family detached dwelling units. The market rate one-family attached townhouses also provide the required 2 parking spaces per dwelling unit. While each one-family attached MDPU townhouse units requires 1 parking space per unit, the Site Plan provide 16 parking spaces to allow for 2 parking spaces per unit to match the other housing types included in the Application. The parking spaces are provided within the garage of each unit while a driveway provides visitor parking when necessary. Eight additional visitor parking (4 spaces at two separate locations) spaces are available in parallel parking located in the right-of-way to be constructed as part of this Application.

The Site Plan contains no commercial square footage. As such, no bicycle parking, drive-thru queuing, or loading spaces are provided with the Application.

iii. *Open Space and Recreation*

The Site Plan meets the requirements of Division 6.3, Open Space and Recreation. The Site Plan provides for more than the required amount of Common Open Space consisting of three different areas. Common Open Space is the type of open space required when constructing one-family attached and detached dwelling unit in the TF-5 zone with a total density of the Property of less than 12 units per acre and less than 150 total units according to Section 59.5.2.3.A of the Zoning Ordinance. Section 59.5.2.3.A refers land use standards to be regulated based on the TLD zone. Therefore, open space requirements in terms of type is governed by the requirements of the TLD zone. Under section 59.6.3.2, the TLD zone requires Common Open Space for one-family detached and attached dwelling units. Common Open Space is intended for recreational use by residents and visitors and should be located in a centralized location bordered by buildings or roads or located to take advantage of existing natural features. The Applicant must provide a minimum of 10% of the Subject Property as Common Open Space, and at least 50% of the total Common Open Space should be in one contiguous space.

The Site Plan identifies 25.33% (2.06 acres) of the total Subject Property as Common Open Space, which is located into three areas. The Common Open Space area at the rear of the Subject Property is approximately 83,159 sq. ft. or 1.90 acres. This area is covered with a Category I Forest Conservation easement and features a natural surface trail which wraps around the Property from one side to the other. The second area of Common Open Space is located in the middle of the Property and consists of 15,814 square feet. This open space is designed in such a way that the townhouses surrounding it front onto the open space. The open space itself features a pergola, benches, stone steps across the two water features, terraces, and landscaping. The third area of Common Area Space is located adjacent to MD-355 (or Frederick Road) and consists of 4,788 square feet. This Common Area Space consists of a concrete path which links pedestrians on the sidewalk in the MD-355 right-of-way to the Property, benches, stormwater features, and landscaping. This area of Common Open Space is proposed to be 35 feet in width which does not meet the minimum required width of 50 feet. As such, it requires an exception from the Planning Board.

Common Open Space Width Exception under Section 6.3.5.B.2

The minimum width for any Common Open Space is 50 feet according to Section 6.3.5.B.2. The proposed common open space adjacent to the Frederick Road (MD 355) is 35 feet in width and, thus, does not meet the minimum standard. However, Section 6.3.5.B.2 of the Zoning Ordinance allows the Planning Board to grant an exception for a trail easement, a mid-block crossing, or a linear park, by finding that its purpose meets the intent of Division 6.3. This proposed Common Open Space area qualifies for this exception because it provides a mid-block crossing that links the public right-of-way to the central Common Open Space in the middle of the Property. The Planning Board grants this exception based on the intent of Common Open Space and the connectivity that this Common Open Space provides.

In order to meet the definition of "Common Open Space" under Section 6.3.5(A)(2), the Applicant must provide access to the common open space to give the residents recreation opportunities. As such, the Application utilizes a natural surface system starting at the northeast corner of the Property which loops around to connect to the central Common Area Space in the middle of the Property.

The central Common Open Space features multiple connections to the natural trail system, pergola, seating, steps and terracing, and landscaping. The remaining area of Common Open Space which provides a mid-block from MD-355 using a concrete path with benches, stormwater management, and landscaping.

The Montgomery County Zoning Ordinance requires the development of property with more than 19 residential units to meet the Montgomery County Recreation Guidelines of 2017. The Site Plan is proposing 50 total units. Therefore, it is subject to the guidelines.

As shown in the Application, the Site Plan provides adequate and efficient recreation amenities at all six age levels. The Applicant's proposal consists of installing pedestrian connection/trail system, open grass lawn areas, picnic/seating areas, landscaping elements for toddlers and children, as well as stairs, steps, and railings. The Application achieves the maximum offsite points (35% max) due to Wilson Wims Elementary School and the Greenway Trail near

Clarksburg Village provide multiple types of sporting courts, natural areas, trail systems, and natural areas within the capture area based on the Recreation Guidelines.

iv. *General Landscaping and Outdoor Lighting*

The Site Plan meets the standards for the provision of landscaping and outdoor lighting as required by Division 6.4. The landscaping serves multiple purposes including providing tree canopy coverage within a new residential development and creating visual interest and enjoyment within the open spaces without negatively blocking sight lines or hindering their use. Much of the tree canopy on the Property is in the form of street trees along all the public streets, which are ultimately under the purview of MCDOT. The open spaces include additional plantings as a means of further enhancing tree cover throughout the Common Open Space in a park type setting while still leaving some lawn areas in part or full sun.

The mid-block crossing benefits from additional landscape design to better accomplish amenity and recreation goals. Measures include locating individual plant species to create maximum visual display and effect while interspersing 3-inch caliper trees to enhance the space.

Lastly, the landscape provides canopy coverage and shade for roads, and open spaces. It defines open spaces and amenity areas by creating an edge or boundary and adding interest.

The lighting on the Site Plan is primarily made up of street lighting which is under the final review of MCDOT. As in most residential developments, there is little use for supplemental lighting. The only supplemental lighting is one private light pole located at the mid-point of Road "B" (private). Under Section 59.6.4.4.D, on-site illumination located in the right-of-way is exempt from the 0.5 footcandle requirement.

v. *Screening*

The Site Plan includes detached one-family and attached one-family dwelling units in the TF-5 Zone. While screening is required when townhouse building types abut residential detached buildings, the townhouses are located on the interior of the loop

road in the middle of the Application. One-family detached dwelling units are located on the on the outer edge of the Application which is the housing type which abuts the surrounding properties. According to Section 59.6.5.2.C.2, when detached one-family residential abut other one-family detached residential, no screening is required.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

The entirety of this Application is located within the Clarksburg Special Protection Area (SPA) and is therefore required to obtain approval of a water quality plan under Section 19-62 of the Montgomery County Code. This section of the code states:

“(b) Privately owned property. Except as otherwise expressly provided in the Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:

- (1) who is required by law to obtain approval of a development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan; or
- (2) who is seeking approval of an amendment to an approved development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan.”

As part of the requirements of the SPA law, a Water Quality Plan should be reviewed in conjunction with a Preliminary Plan and Site Plan. Under Section 19-65 of the Montgomery County Code, the Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of a Water Quality Plan. MCDPS has reviewed and conditionally approved the elements of the Final Water Quality Plan under its purview. The Planning Board must determine if SPA forest conservation and planting requirements, environmental buffer protection, and limits on impervious surfaces have been satisfied. Sec. 19-65(a)(2)(A) of the Montgomery County Code states that:

“In acting on a preliminary or final water quality plan, the Planning Board has lead agency responsibility for:

- (i) Conformity with all policies in the Planning Board’s Environmental Guidelines which apply to special protection areas;
- (ii) Conformity with any policy or requirement for special protection areas, including limits on impervious area, in a land use plan, watershed plan, or the Comprehensive Water Supply and Sewer System Plan; and
- (iii) Any other element of the plan in which the Planning Board has lead agency design, review, and approval responsibility.”

A Preliminary Water Quality Plan was approved by Planning Board Resolution dated September 25, 2018 during the review and approval of the Preliminary Plan of Subdivision, Plan No. 120180110. The Final Water Quality Plan was submitted as part of this current Application and will protect the areas of planted forest in a Category I Conservation Easement.

MCDPS Special Protection Area Review Elements

In a letter dated November 23, 2018, MCDPS has found the Final Water Quality Plan and stormwater management concept for the Site Plan to be acceptable for their portion of the Final Water Quality Plan under its purview including 1) stormwater management facilities and 2) sediment and erosion control measures. No specific performance goals were established for this Property. The Application will meet stormwater management goals through the use of dry wells, micro-biofiltration facilities, and bio swales.

Planning Board Special Protection Area Review Elements

Following is an analysis of the Planning Board’s responsibilities in the review of the Final Water Quality Plan. Staff recommends approval of the elements of the SPA Water Quality under its purview.

1) Priority Forest Conservation Areas

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The FFCP was submitted with this Application. The forest conservation requirements are described in more detail in the Forest Conservation Plan section of this report. Per SPA requirements outlined in the Environmental Guidelines, forest plantings will occur during the first planting season after issuance of sediment and erosion control permits when possible, and a five-year

maintenance program to better ensure forest survival. The planted forest on-site will be protected through a Category I Conservation Easement.

2) SPA Environmental Buffer Protection

There are no streams, wetland, floodplains or other environmentally sensitive areas on or near the Subject Property. The FFCP meets the requirements of the Environmental Guidelines for sensitive area protection.

3) 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 surface. In this case, the Planning Board Condition of Approval Number 2 for the Preliminary Plan states:

“The Applicant must obtain Planning Board approval of a Final Water Quality Plan in substantial conformance with the Preliminary Water Quality Plan and the binding elements of County Council Resolution No. 18-739.”

Both the Council Resolution and the Planning Board have stressed an impervious goal of 35% for this Application. The Planning Board had previously approved an impervious level of 36.1% for the Preliminary Plan. 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 Impervious Surface Exhibit submitted with the Site Plan and the Final Water Quality Plan proposes 3.92 acres (170,817 sq. ft.) of impervious surfaces over the net tract area of 10.52 acres (457,427 sq. ft.) resulting in an impervious surface calculation of 37.34% percent (Table 2).

The increase in the impervious level from 36.1% to 37.34% is due in large part to the roadway improvement requirements by the Maryland State Highway Administration (SHA) for Frederick Road (MD 355). At the time of Site Plan review, SHA required that the Applicant provide expanded roadway shoulder work and acceleration/deceleration lanes for the main access point to the proposed subdivision in addition to what was shown on the Preliminary Plan. At the time of the Preliminary Plan the new impervious surface proposed for MD 355 was approximately 2,665.0 square feet. At the time of Site Plan review this had increased to 6,105.2 square feet resulting in a 130.7% increase in new impervious surface for MD 355.

Table 2: Impervious Surfaces Calculations

Net Tract Area:	457,427 sq. ft.
Impervious Surfaces: Net Tract Total	170,817 sq. ft.
% Impervious Area: Net Tract	37.34%

b. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by Chapter 22A, an FFCP was submitted with the Application. The total net tract area for forest conservation purposes is 11.59 acres which includes the Subject Property of 10.28 acres, plus off-site work of 0.76 acres for the sewer line installation and a right-of-way deduction of 0.55 acres. The Property is zoned TF-5 and is classified as High Density Residential as specified in the Trees Technical Manual and Division 5.2 of the Zoning Ordinance. The Subject Property contains 2.00 acres of forest. The Applicant will remove 2.00 acres of forest and retain 0.00 acres of forest. This results in a total reforestation requirement of 3.20 acres. The Applicant will meet this requirement by reforesting 1.44 acres on-site, placing that reforestation in a Category I Conservation Easement and taking the balance of 2.56 acres to an M-NCPPC approved off-site forest bank.

Forest Conservation Variance

As required under Section 22A-12(b)(3) of the Forest Conservation Law, a variance must be approved by the Planning Board if trees 30" DBH or greater are impacted. The Applicant will impact one tree which is 30" diameter breast height (DBH) or greater. As required under Section 22A-

21 the Applicant has previously sought and was granted approval of a variance on September 25, 2018 as part of the Preliminary Forest Conservation Plan approval.

c. 1983 Noise Guidelines

Section 2.1 of the Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" (Noise Guidelines) dated 1983 require that a noise analysis be done when a proposed residential structure lies within 300-feet of an arterial road with an average daily traffic (ADT) of 5,000 to 20,000. Most of the development at Avalon Residential is within 300 feet of MD 355, which is classified as an arterial street with an ADT of 18,148 per an October 2011 MD SHA traffic study. Sixteen of the townhomes and 19 of the one-family homes within the 300-foot zone will be impacted by traffic noise levels above 55 dBA L_{dn} .

The 1983 Noise Guidelines recommend that 55 dBA L_{dn} is an appropriate exterior guideline noise level for this development given the location in Montgomery County. The Noise Guidelines recognize that the recommended exterior noise levels shown on Map 2-1 "*should be used for general reference purposes only*" and that noise levels for specific areas in subsequent sector and master plans may differ from Map 2-1 "*due to updated, more detailed traffic information for existing and future conditions*". The Noise Guidelines note that "*specific recommendations found in subsequent master or sector plans supersede Map 2-1 and could be used to determine specific guidelines for noise levels in specific areas of the County*". The Master Plan, dated June 1994, recommended that the zoning for this area, referred to as the Transit Corridor District in the Masterplan, be revised to 2-4 Dwelling Units per Acre. This area was subsequently rezoned to R-200 to comply with the Master Plan recommendations.

As conditioned, to modify the recommended noise guideline for this Application from 55 dBA L_{dn} to 60 dBA L_{dn} . The Noise Guidelines had envisioned this area of Montgomery County to be remain rural in nature with residential zoning of 5 acres or more per dwelling unit and that background noise is low enough to allow maintenance of the 55 dBA L_{dn} level. However, since 1983 the Clarksburg area has increased in both the number and density of residential units. The current overall zoning for this area is R-200, in accordance with the Master Plan, which is almost a ten-fold increase in density over what the 1983 Noise Guidelines recommended. This has resulted in an increase in traffic along Frederick

Road to the point of making the 55 dBA L_{dn} no longer an appropriate standard for this Application.

A Traffic Noise Analysis for MD-355 was prepared for this Application by Phoenix Noise and Vibrations, LLC with noise measurements taken on October 9-10, 2018. The analysis indicates the vehicular traffic on MD Route 355 contributes to the noise impact on the residential development. The Noise Guidelines stipulate a day-night average of 55 dBA L_{dn} maximum noise level for backyards and outdoor recreation areas and a day-night average of 45 dBA L_{dn} for indoor areas.

The noise analysis identifies both ground level impacts and upper level impacts. The ground level impacts effect the outdoor areas of Block A, Lots 1 and 19; Block B, Lots 1-8; and Parcel F. Since the noise in the outdoor space for these units may not be fully mitigated, the Planning Board recommends that the sales contracts for these units and other documents disclose to the potential buyers that these units' outdoor spaces are impacted by noise. The upper level noise impacts effect Block A, Lots 1, 2, 18 & 19; and Block B, Lots 1-9, 17 & 21. The homes in this development have yet to be designed. After the houses have been designed for the impacted lots, a noise impact analysis for each residence will need to be performed and mitigation requirements will need to be provided for each of those homes in order to achieve interior noise levels that will not exceed 45 dBA L_{dn} . Since the units on these lots are located within the noise impacted area identified on the 2018 noise analysis, the Planning Board recommends that an engineer that specializes in acoustical treatments certify that the building shell for these units is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA L_{dn} and that the applicant/developer/builder certify that they will construct the noise impacted units in accordance with the recommendations of an engineer that specializes in acoustical treatments.

- 6. The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

Parking and circulation

The Site Plan provides for safe and well-integrated parking and circulation patterns on the Subject Property. The Subject Property will have two points of access connecting to MD-355 (Frederick Road). Each dwelling unit has internal garage parking to provide the parking required under the Zoning Ordinance. The one-family detached dwelling unit also include driveway pad spaces to enhance parking availability. The Application provides four visitor parking spaces along

the public street on both side sides of the loop road. This allows the visitor parking spaces, eight in total, to be evenly distributed across the Property.

The Application has adequate internal circulation for both vehicles and pedestrians. Both access points are connected by a public loop road. Rear loaded garages for each dwelling unit are accessible via private alley which connect at multiple points to the new public street. The Site Plan provides sidewalks on one side of the new public street. The private alley which connects to the public street on both sides also includes a sidewalk on one side to improve circulation between the Common Open Space. The Subject Property will also be accessible to pedestrian via a sidewalk along MD-355 to be constructed as part of this Application.

The internal circulation is enhanced by the natural surface trails. This trail is publicly accessible from the right-of-way of Road 'A'. This trail loops around the northern side of the Property and connects to Road 'A' again on the other side of the Property. Pedestrians can access the centralized Common Open Space via another natural surface trail on the other side of Road 'A'. Both side of this Common Open Space include short natural surface trails which connect to the longer trail on the north side of the Property. This design creates a complete east/west loop inside the Property boundaries. The Application also includes a pedestrian only connection from the sidewalk on MD-355 between Lot 4 and Lot 5. This provides a north/south connection to the central Common Open Space and, ultimately, the natural surface trail system inside the Property.

Building Massing

The Site Plan proposes safe and integrated building massing, open space locations and site amenities. The design of the Site Plan establishes distinct sections of higher density townhouses in the center of the Property while lower densities of detached one-family residential are located on the outer ring. This arrangement allows the massing on the buildings on the outside ring to more closely match the massing of building on adjacent properties while the townhouses massing is designed to integrate with the one-family detached units in the outer ring across the street. The massing of the one-family attached dwelling units is designed to help frame the public realm with the front face of the dwelling units facing of the open space the dwelling units front on while rear loaded garages via alley access provides parking.

The larger residential lots on the periphery of the development are located to be better integrated with existing development. The one-family detached dwellings front on the streets and include garages to the front of the house with the driveways facing the street. Driveways taking access to the street is typical of lower density one-family detached development throughout the County and it

efficiently utilizes the transportation infrastructure, minimizes impervious surfaces and delineates a boundary between developed and green area.

Open Spaces and Amenities

The open spaces on the Subject Property are made up of entirely Common Open Space. The Site Plan identifies three areas of Common Open Space; (1) the northern and northeast open space at the edge of the Property, (2) the centralized open space in the middle of the Property, and (3) the mid-block crossing adjacent to MD-355.

The first Common Open Space area on the north and northeast portion of the Subject Property is designed to remain natural with natural surface trails through the Category I Forest Conservation easement.

The second Common Open Space area is the centralized open space in the middle of the Property. This space integrates a pergola, stone steps, retaining walls, terracing, and seating.

These elements combine to create a gathering space for residents while the one-family attached dwelling units which front onto the open space provides activation and a unifying transition between public and private space.

The final open space provides a mid-block connection from the MD-355 right-of-way to the centralized open space discuss above. This open space features bench, stormwater management, and landscaping. Given the proximity to MD-355, this space is not designed to be a long term gathering area, it is more of a transitional space to link together other Common Open Spaces.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Hearing Examiner, as well as the Planning Board, found that LMA H-115 substantially conformed with the 1994 *Clarksburg Master Plan and Hyattstown Special Study Area* ("Master Plan"). The proposed Site Plan does not include any substantial changes to the lot configuration that was included in the Floating Zone Plan (FZP) approved with the limited map amendment, and so remains in substantial conformance with the approved Preliminary Plan, LMA, and Master Plan.

The Master Plan does not make specific recommendations for the Subject Property, but as noted below, makes general land use and zoning recommendations for the area in which the Property is located.

The Master Plan places the Property in the Transit Corridor District. The first of the relevant plan objectives for the Transit Corridor District is to “continue the present residential character along MD 355.”

The Site Plan meets the objective of continuing the residential character along MD 355 that was present in 1994 when the Master Plan was approved. As stated in the Master Plan, the Transit Corridor District “includes properties fronting MD 355 which have developed over many decades in accord with traditional patterns found elsewhere in the ‘Up-County’: single-family detached lots fronting the road. The most significant planning challenge here is to maintain and continue this residential character while addressing the need for increased traffic capacity along MD 355” (p. 54).

When the Floating Zone Plan was approved, the Applicant had shown four of the single-family detached units along Frederick Road with their sides oriented toward the road but with architectural treatments to make it appear that their front doors were facing Frederick Road to continue the present residential character along the road. As stated in the Zoning Hearing Examiner’s report on H-115:

[The Floating Zone Plan] maintains the existing character of the area by having single-family detached homes face Md. Rte. 355. Staff concluded that the detached homes are “reasonably well spaced and set back from the road a distance similar to other houses in the corridor.” The higher density townhomes are located in the interior of the site. Mr. Ager [David Ager, a witness called by Mr. Soltesz] agreed, testifying that the frontage of single-family detached homes both complied with the Master Plan and made the development more compatible with the existing neighborhood.

Similarly, the District Council found the development meets the master plan objective in its resolution (18-739):

It maintains the existing character of the area by having single-family detached homes face, or appear to face, Frederick Road.

The District Council also addressed Necessary Finding 7.2.1.E.2.d., namely:

Be compatible with existing and approved adjacent development.

The District Council found that:

The character of the surrounding area is residential, consisting mostly of single-family detached homes. The proposed development is compatible with the surrounding area because single-family detached homes are located on the perimeter of the site, which is a binding element of the FZP. Homes located along Frederick Road will either front the road or will be made to appear as if they front the road.

The Site Plan has reconfigured units along Frederick Road so that only three houses now have their sides oriented towards the road (Lots 1, 7, and 19). As conditioned, these lots will receive enhanced architectural features in order to increase compatibility and heighten design along the MD-355 corridor.

Other relevant Master Plan objectives identified by the District Council is the recommended residential density of between 2 and 4 units per acre, the implementation of a “greenway” (a series of bike and pedestrian connections throughout the area), and the diversification of housing types through a recommended mix of 5-20% multifamily, 30-40% attached houses, and 50-60% detached houses.

In addition to maintaining the residential character along MD 355 as discussed above, the District Council found that the proposed development meets the other Master Plan objectives as follows:

- *The proposed base density of 4.0 dwelling units per acre is within the range recommended by the Master Plan. The Plan instructs that bonus density for MPDUs should be added to the base density, as it is in this case.*
- *While there are presently no direct connections to the Frederick Road bike pathway, the Applicant will provide a sidewalk along Frederick Road to support a future connection.*
- *The proposed development implements the housing mix that the Master Plan recommends for the MD 355 District. There are no other townhomes within the District except for those in the recently approved Dowden’s Station development. [This plan] will add an additional 16 townhomes.*

The Site Plan substantially conforms to the recommendations within the Master Plan.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

As discussed in Preliminary Plan No. 120180110 findings, the Site Plan will be served by adequate public facilities (APF), including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. The APF approved as part of Preliminary Plan No. 120180110 remains valid.

9. *The development is compatible with the character of the residential neighborhood.*

Not applicable, the Subject Property is located in a Floating zone.

10. *The development is compatible with existing and approved or pending adjacent development.*

Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development. Several measures improve the compatibility between this development and the surrounding existing development. First, the dwelling type selected for the outer ring of the Application is all one-family detached units which matches the building types and general density of existing, approved, and pending adjacent development. The denser one-family attached dwelling units are located in the middle of the Property. These dwelling types are consistent with the dwelling type in the surrounding communities, which is also mainly one-family detached and attached.

Second, the building height is capped at 40 feet for all units, which is compatible with the range of building heights allowed in the adjacent R-200 zone to the north, east and southwest. The R-200 zone allows a building height between 35 feet and 50 feet depending on the lot size.

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 § 59-7.3.4.H; 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 24 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 Cichy, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Cichy and Paterson voting in favor of the motion, and Vice Chair Dreyfuss and Commissioner Fani-González absent, at its regular meeting held on Thursday, July 18, 2019, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board