



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

MCPB No. 20-079
Site Plan No. 82018022A Fairchild
Date of Hearing: July 30, 2020

AUG 17 2020

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 January 8, 2019, the Planning Board, by Resolution MCPB No. 18-136, approved Site Plan No. 820180220, for one new multi-family residential building 201,720 square feet in size with 212 multi-family dwelling units, and to retain 20,933 square feet of existing commercial restaurant uses in three one-story buildings on the Subject Property on 5.49 acres of CR 2.0, C-1.5 R-1.5 H-145T, AND Germantown Transit Mixed Use Overlay zoned-land, located on the south side of Century Boulevard, approximately 150 feet east of the intersection with Aircraft Drive ("Subject Property"), in the Germantown Town Center Policy Area and the 2009 Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, on April 14, 2020 GTTCE Owner, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to extend the validity period for the finding for Adequate Public Facilities by two years for the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 820180220, Fairchild ("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 17, 2020, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 30, 2020, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82018022A to extend the validity period for the finding for Adequate Public Facilities by two years by modifying the following condition:¹

14. Validity

The Adequate Public Facility Review (APF) will remain valid until April 27, 2022.

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Fairchild 82018022A submitted via ePlans to the M-NCPPC as of the date of the Staff Report July 17, 2020, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the 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, and all findings not specifically addressed remain in effect.*

Chapter 22A, Forest Conservation.

The Site Plan Amendment meets the requirements of Chapter 22A. The land that in part includes the Fairchild Property had previously satisfied Chapter 22A, Forest Conservation Law as part of the review and approval of the GTTCE Site Plan 819990010; however, the subsequent rezoning of the Property to the CR zone negated all previous forest conservation approvals. On May 1, 2018, a Forest Conservation Plan Exemption No. 4018017E was granted under Chapter 22A-5(t) for the Fairchild Property (Attachment E), located on Parcel V, Block UVW. The Fairchild Property is located within the Little Seneca Creek watershed, classified by the State of Maryland as Use I-P waters. The Fairchild Property is not located within a Special Protection Area or the Patuxent River Primary Management Area, and does not contain any forest, streams, wetlands,

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.

100-floodplain, stream buffer, or trees greater than 24 inches in diameter at breast height. Staff finds that the Application is in compliance with the Environmental Guidelines and all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Adequate Public Facilities Validity – Section 50.4.3.J

This Application meets all required findings specified under Ch.59.7.3.4.E for Site Plan. Ch.59.7.3.4.E.H requires that the Site Plan “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”. In turn, the findings necessary to determine adequate public facilities are to be found under Ch.50.4.3.J, specifically for this Application, the findings required for an extension under Ch.50.4.3.J.7. This Site Plan Amendment requires a waiver from the findings under 50.4.3.J.7.d.i. This requirement is addressed in the concurrent application for Subdivision Regulation Waiver No. SRW202101. The Board has considered the following findings to extend the validity period for Adequate Public Facilities:

a. Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.

i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.

The Applicant submitted an application for extension on April 14, 2020, which is prior to the expiration date of April 27, 2020. This finding is met.

ii. The applicant must submit a new development schedule or phasing plan for completion of the project for approval.

The Site Plan approval allows only a single building to be constructed in one phase; construction is planned to occur imminently and will be completed within the two-year window as requested.

iii. For each extension of an adequate public facilities determination:

(a) the applicant must not propose any additional development above the amount approved in the original determination;

The Applicant does not propose any development beyond that approved in the original determination.

(b) The Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;

No additional public improvements are being required.

(c) The Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest.

While additional development has occurred within the project vicinity, notably Top Golf adjacent to the Subject Property, all nearby intersections within the project vicinity remain comfortably within acceptable CLV levels. A new traffic study does not appear warranted Site Plan Amendment would not be adverse to the public interest.

(d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot.

This finding is not applicable as the APF determination had been severed from the APF of a larger subdivision project and reapplied to the Subject Property as part of Site Plan 820180220 approval; the larger subdivision is no longer relevant for APF purposes.

b. The Board may approve an amendment to the new development schedule approved under paragraph 7.a.ii if the applicant shows that financing has been secured for either:

This finding and all sub-findings are not applicable as there is no development schedule.

c. Exclusively residential subdivisions.

This Site Plan is a mixed-used plan; this finding and all sub-findings are not applicable.

d. Nonresidential or mixed-use subdivisions.

This section, in particular subsection (i), could not be strictly met and required a waiver from the Board, which is addressed in Subdivision Regulation Waiver No.

SRW202101. This waiver was approved by the Planning Board, with additional discussion and findings made as part of that approval.

e. The Board may extend a determination of adequate public facilities once for up to 12 more years beyond the otherwise applicable validity period

The application requests only a 2-year extension. This section and sub sections is not applicable.

f. The validity period of a finding of adequate public facilities is not automatically extended under any circumstance

The application requests a 2-year extension; the request was made in a timely manner.

g. If a new adequate public facilities determination is required under this Subsection, the procedures in Chapter 8, Section 8-32 apply.

A new adequate public facilities determination is not required as part of this Application.

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 AUG 17 2020 (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 Vice Chair Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, July 30, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board