



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

MCPB No. 20-091
Site Plan No. 82017013B
Bloom Montgomery Village
Date of Hearing: October 1, 2020

OCT 08 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 October 17, 2018, the Planning Board, by Resolution MCPB No. 17-111, approved Site Plan No. 820170130, for 494 dwelling units including 68 MPDUs on 147 acres of CRN-0.5 C-0 R-0.5 H 65 or TLD zoned-land, located at the intersection of Montgomery Village Avenue and Stewartown Road ("Subject Property"), in the *2016 Montgomery Village Master Plan* area; and

WHEREAS, on November 8, 2019, the Planning Board approved an amendment to the Site Plan No. 820170130A (MCPB No. 19-122) to make changes to the previously approved site plan to the infrastructure and stormwater management modifications, identify the conservation easement areas to meet Phase 1 afforestation requirements, make minor architecture and landscape revisions, and increase the percentage of MPDUs provided to 25% on the Subject Property; and

WHEREAS, on May 21, 2020, USL2MR Montgomery Village Business Trust LLC, c/o Monument Realty ("Applicant") filed an application for approval of an amendment to the previously approved site plan(s) to make minor revisions to the Montgomery Village Foundation Park; reallocation of units and MPDUs throughout the project; remove a duplex and replace with standard units; removal of units within dam breach limits; and provide Forest Conservation plan revisions, update of utilities, stormwater and grading on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82017013B, Bloom Montgomery Village ("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 August 31, 2020, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 1, 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. 820170130B for minor revisions to the Montgomery Village Foundation Park; reallocation of units and MPDUs throughout the project; remove a duplex and replace with standard units; removal of units within dam breach limits; and provide Forest Conservation plan revisions, update of utilities, stormwater and grading by *adding and modifying* the following conditions:¹

6. RIGHT-OF-WAY

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services-Right-of-Way (MCDPS-ROW) in its letter dated ~~September 5, 2017~~ August 11, 2020, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

7. RECREATION FACILITIES

- d. Prior to issuance of the building permit for the 150th residential unit, all amenities for the Montgomery Village Foundation Park must be completed ~~except for the community garden~~. This includes, but is not limited to, the dog park, tot lots, play area, and trail system.
- g. Prior to issuance of the 54th residential building permit in Area 2, the community garden in the Montgomery Village Foundation Park must be completed.

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.

8. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its amended letter dated ~~September 29, 2017~~ **June 17, 2020**, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

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:

- g. ~~Correct the Mitigation/Afforestation Table percentages to agree with the minimum required afforestation percentages in Planning Board Resolution No. MCPB 17-111.~~
- h. ~~Make certain that the acreages stated agree with the minimum afforestation percentages.~~
- i. ~~Change the last column to show total planting area provided in Amendment A and Amendment concurrently.~~
- j. ~~Add a note to the FFCP explaining the division of Development Area 6 into two phases, A and B, and noting the percentage of the developable area represented by each phase. Since Development Area VI B is stated to be 27 percent of the total of Development Area VI, Development Area VI A should be 73 percent of the total.~~
- k. ~~Provide updated architecture elevations for Area 6 front load units elevations.~~
- l. ~~Provide safe and adequate sight distance for the revised parcel E access point on sheet 25.~~
- m. ~~Ensure all handicap ramps have receiving ramps and are aligned with them.~~
- n. ~~Provide an updated lighting detail sheet.~~

18. ~~The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Right of Way in its letter dated August 11, 2020, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.~~

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 820170130B and Bloom Montgomery Village, submitted via

ePlans to the M-NCPPC as of the date of the Staff Report August 31, 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 as revised by previous amendments, and all findings not specifically addressed remain in effect.*
 - a. *Satisfies any previous approval that applies to the site;*
The Site Plan Amendment conforms to all binding elements of the previously approved Preliminary Plan 120170150, Site Plan 820170130 and 82017013A.
 - d. *Satisfies applicable use standards, development standards, and general requirements under this Chapter;*
The Site Plan Amendment includes reconfiguration of number of units to the entire project. These changes are shown in the tables below:

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ERN ZONE (Area I) Standard Method

Development Standard	Permitted/Required			Previously Approved 820170130			Proposed 82017013A			Proposed 82017013B		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Site												
Units				n/a	n/a	111	n/a	n/a	111	n/a	n/a	111
MPDUs				n/a	n/a	14	n/a	n/a	28	n/a	n/a	28
Common open space (min)	n/a	n/a	10%	n/a	n/a	>10%	n/a	n/a	>10%	n/a	n/a	>10%
Lot and Density	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Lot area (min)	1000 sf	500 sf	800 sf	n/a	n/a	800 sf	n/a	n/a	800 sf	n/a	n/a	800 sf
Lot width (at front bldg line, min)	25'	12.5'	12'	n/a	n/a	12'	n/a	n/a	12'	n/a	n/a	12'
Lot width (at front lot line, min)	10'	10'	n/a	n/a	n/a	10'	n/a	n/a	10'	n/a	n/a	10'
Lot Coverage (max)		90%	90%	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Density Max	0.5 FAR			0.23 FAR			0.23 FAR			0.23 FAR		
Placement	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Front (min)		5'			5'			5'			5'	
Side street (min)		5'			5'			5'			5'	
Side abutting res zones (min)	6'	6'	4'		10'			10'			10'	
Side end unit (min)	n/a	n/a	2'		4'			4'			4'	
Side b/w lot and site boundary (min)	n/a	n/a	4'		4'			4'			4'	
Rear (min)	15'	15'	10'		15'			15'			15'	
Rear alley (min)	n/a	n/a	5'		n/a			n/a			n/a	
Front setback (max)	n/a	n/a	15'	n/a	n/a	15'	n/a	n/a	15'	n/a	n/a	15'
Building in front street BTA (min)	n/a	n/a	70%	n/a	n/a	70%	n/a	n/a	70%	n/a	n/a	70%
Height	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
		65'			45'			45'			45'	

TLD ZONE (Areas II-VI) Optional Method

Development Standard	Permitted/Required			Previously Approved 820170130			Proposed 82017013A			Proposed 82017013B		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Site												
Density (units/acre of usable area)		9.76			3.21			3.21			3.21	
Units				26	2	355	26	2	349	26	2	349
MPDUs						54			89			89
Open Space (min)												
Common Open Space (% of usable area)		20%			>20%			>20%			>20%	
Site Coverage (max)	n/a	n/a	40%	n/a	n/a	<40%	n/a	n/a	<40%	n/a	n/a	<40%
Lot and Density	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Lot area (min)	3000 sf	1500 sf	800 sf	3000 sf	1700 sf	1000 sf	3000 sf	1700 sf	1000 sf	3000 sf	1700 sf	1000 sf
Lot width (at front bldg line, min)	Determined at site plan			40'	22'	16'	40'	22'	16'	40'	22'	16'
Lot width (at front lot line, min)	15'	15'	14'	15'	15'	16'	15'	15'	16'	15'	15'	16'
Placement	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Front from public street (min)	10'	n/a	n/a	15'	n/a	n/a	15'	n/a	n/a	15'	n/a	n/a
Front from private street (min)	4'	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Side street (min)	10'	10'	5'	n/a	10'	5'	n/a	10'	5'	n/a	10'	5'
Side or rear (min)	Determined at site plan			4'	n/a	n/a	4'	n/a	n/a	4'	n/a	n/a
Side or rear abutting property not included in application (min)	Equal to detached building type setback			10' side / 20' rear			10' side / 20' rear			10' side / 20' rear		
Rear alley (min)	4'	n/a	n/a	15'	n/a	n/a	15'	n/a	n/a	15'	n/a	n/a
Height	40'	n/a	n/a	35'	40'	40'	35'	40'	40'	35'	40'	40'

e. satisfies the applicable requirements of Chapter 22A:

This application includes amendments to FFCP 820170130, which established forest conservation mitigation requirements for the entire Bloom MV development, including specific planting requirements associated with development of each of the six phases of the Site Plan, and Amendment 82017013A, which makes minor adjustments to the planting areas, and specifically identifies the planting areas that will be used to meet the planting requirements for Areas 4 and 5 of the development. This application, FFCP 82017013B, makes additional adjustments to planting areas, and identifies the planting areas to satisfy the forest conservation mitigation requirements for development of Area 1, Area 3, and a portion of Area 6.

The total forest conservation mitigation requirements for the Bloom MV development total 26.12 acres. Development Area 1 is supposed to provide 22.5% of the total mitigation requirement, or 5.88 acres. Development Area 3 must provide 10% of the total mitigation requirement, or 2.61 acres. Development Area 6 is supposed to provide 25.5% of the total mitigation requirement, or 6.66 acres. The Applicant has divided Development Area 6 into two phases: Area 6B is to be developed under this Site Plan Amendment and constitutes 27% of the developable area in Development Area 6. Therefore, the portion of the mitigation requirement that must be provided in this development application is 27% of 6.66 acres, or 1.80 acres. The total forest mitigation planting that must be provided for the three areas is 10.29 acres.

FFCP amendment 82017013B proposes to fulfill the forest conservation requirement for Areas 1, 3, and 6B by planting the following planting areas:

<u>Planting Area</u>	<u>Acres</u>
1B	1.367
1C	0.899
2B	0.793
6B	4.491
6C	1.718
6D	0.216
6E	0.449
6F	0.904
6J	0.269

Total 11.11 Acres

The planting requirements for Site Plan Amendment 82017013A previously provided 10.521 acres of the total mitigation requirement of 26.12 acres. With the 11.11 acres of afforestation provided by this Amendment, the Applicant will have provided a total of 21.631 acres of the total requirement of 26.12 acres. This will leave a forest conservation mitigation requirement of 4.489 acres to be fulfilled by subsequent phases of the overall development as shown on the final forest conservation plan.

As shown in the list of planting areas, the required afforestation for Development Areas 1, 3, and 6 development will occur in Planting Areas 1, 2, and 6. While Area 2 is not being developed at this time, it was a priority of the Forest Conservation Plan to get the stream buffers afforested as early as possible in the development process in order to improve the water quality in the Cabin Branch stream.

There are some technical corrections that will be made prior to Certified Site Plan to ensure consistency of the mitigation and planting requirements in tables in the Site Plan Amendment. Additional notes will be added to the plan to make certain this information is clearly depicted. These corrections are included in the conditions of approval.

The Site Plan Amendment must continue to comply with all prior requirements of FFCP 820170130 not modified by this Amendment. This includes meeting the minimum afforestation requirements for each Area as they come in for Site Plan approval. The minimum afforestation requirements for each Area, as specified in the Resolution for the original Site Plan approval (MCPB No. 17-111) are:

<u>Area</u>	<u>% of Total Afforestation Requirement</u>
Area 1	22.5%
Area 2	21.5%
Area 3	10.0%
Area 4	19.0%
Area 5	17.0%
Area 6	25.5%

While the total of the above minimum afforestation requirement percentages exceed 100 percent, once the total requirement of 26.12 acres is reached, the mitigation requirement will be fulfilled, and no additional mitigation will be required.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request - The Applicant submitted a variance request in a letter dated June 19, 2020, amending the original variance request approved with Preliminary Plan 120170150. The Applicant proposes to increase the previously approved Critical Root Zone impacts to three (3) trees that are 30 inches or greater DBH, that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Trees to be removed:

Tree Number	Species	DBH Inches	Status
979	White oak (<i>Quercus alba</i>)	33"	To be saved. CRZ impact increasing from 6.94% to 10.08%.
980	White oak (<i>Quercus alba</i>)	33"	To be saved. CRZ impact increasing from 17.82% to 21.33%.
981	White oak (<i>Quercus alba</i>)	33"	To be saved. CRZ impact increasing from 22.44% to 27.38%.

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, site conditions were discovered that require

minor grading changes to accommodate the proposed development and infrastructure. The additional CRZ impacts are minor and should not affect the ability to save the trees. Denying the variance would require significant changes to the site layout, even though no additional trees are being removed. Therefore, the Applicant has a sufficient unwarranted hardship to justify a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, for a variance to be granted. The following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings - The following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance of the three trees is due to the location of the trees and necessary grading changes. The Applicant proposes to continue to save the trees. Therefore, granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The three trees being disturbed will be retained and will continue to provide water quality benefits as before. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

No mitigation is required for trees that are impacted but retained.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on July 1, 2020. A response has not been received.

Variance Recommendation – The Planning Board approves the variance request.

Therefore, the Site Plan Amendment continues to be in compliance with Chapter 22A, Forest Conservation, and in conformance with the *Environmental Guidelines*.

All Other Findings

All other findings remain in full force and effect.

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 OCT 08 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 Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, October 1, 2020, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board