



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

FEB 16 2021

MCPB No. 21-009
Site Plan No. 82019006A
Poplar Grove – Phase 1
Date of Hearing: January 21, 2021

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 24, 2019, the Planning Board, by Resolution MCPB No. 19-110, approved Site Plan No. 820190060, for up to 460,000 square feet of residential density for 176 townhouse dwellings including 22 MPDUs on 11.4 acres of CR-2.0, C-1.75, R-1.0, H-145T and Germantown Transit Mixed Use Overlay Zone zoned-land, located on the east side of Century Boulevard between Father Hurley Boulevard and the future Dorsey Mill Road (“Subject Property”), in the Germantown West Policy Area and the 2009 Germantown Employment Area Sector Plan (“Sector Plan”) area; and

WHEREAS, on November 3, 2020, Symmetry at Cloverleaf, LLC (“Applicant”) filed an application for approval of an amendment to the previously approved site plan(s) to amend condition 15 to clarify that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed without amending the Site Plan or entering into a Site Plan Surety and Maintenance Agreement for the Certified Site Plan elements on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82019006A, Poplar Grove – Phase 1 (“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 January 8, 2021, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on January 21, 2021, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 21, 2021, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Cichy, seconded by Commissioner Fani-Gonzalez, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82019006A to clarify that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed without amending the Site Plan or entering into a Site Plan Surety and Maintenance Agreement for the Certified Site Plan elements by modifying the following conditions:¹

15. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, or sediment control permit (except as stated below), 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, outdoor recreational facilities, site furniture, focal elements, mailbox pad sites, trash receptacles, retaining walls, fences, railings, provide roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of 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.

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. The Applicant can submit separate cost estimates, site plan surety and maintenance agreements and financial securities for each development phase that cover onsite landscaping, onsite private roads/streets and alleys and infrastructure associated with the private roads/streets and alleys, and other amenities and features including the Phase I improvements to Waters Memorial Park.
- e. Notwithstanding the foregoing, the Applicant may be issued a building permit or sediment control permit relating to any rough grading, sediment & erosion control, stockpiling, re-grading relating to stockpiling, interim uses or any reasonable use relating to same without amending the Site Plan or entering into a Site Plan Surety and Maintenance Agreement with the Planning Board for the Certified Site Plan elements. The stockpiling must not be left on-site for a period of time longer than five years from the date the sediment control permit is issued for the rough grading, sediment & erosion control, and stockpiling, unless approved by Planning Staff. It shall be at the discretion of Planning Staff, if any issue arises under this condition, to exempt any particular permit relating to this section 15e.

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 Site Plan No. 82019006A, Poplar Grove – Phase 1 Limited Major Site Plan Amendment, 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 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:

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.

2. *To approve a site plan, the Planning Board must find that the proposed development:*

- a. satisfies any previous approval that applies to the site;*

The Site Plan Amendment satisfies the requirements of Preliminary Plan Amendment No. 12019004A, which was approved concurrently.

e. satisfies the applicable requirements of:

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

As discussed in the approved Preliminary Plan Amendment No. 12019004A findings, the Site Plan Amendment continues to meet the stormwater management requirements of Chapter 19 of the County Code. The Amendment simply clarifies that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed without site plan approval and without entering into a Site Plan Surety and Maintenance Agreement for the Certified Site Plan elements.

h. 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. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;

As discussed in the approved Preliminary Plan Amendment No. 12019004A, the Site Plan Amendment continues under the valid Adequate Public Facilities (APF) approval of Preliminary Plan 120190040, as approved by Corrected Resolution MCPB No. 19-109, dated Dec. 19, 2019. As part of this Application, Preliminary Plan No. 12019004A amends the phasing schedule to reflect the validity extension afforded by the July 28, 2020 SRA, as applied to each phase of development. Adequate public services will remain adequate.

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 FEB 16 2021 (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).

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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, February 4, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board