



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

MCPB No. 21-062
Site Plan No. 82018002D
Montgomery Village Center
Date of Hearing: July 15, 2021

JUL 20 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 June 25, 2018, the Planning Board approved Site Plan No. 820180020, by Resolution MCPB No. 18-038, for a 32-unit multifamily condo building (including two MPDUs) for a total of 35,100 square feet of residential uses, and up to 165,000 square feet of retail/service uses under Optional Method Development on 18.78 acres of land zoned CRT-1.5, C-0.75, R-1.0, H-75, located west of the intersection of Montgomery Village Avenue and Centerway Road in Gaithersburg, MD ("Subject Property"), in the 2016 Montgomery Village Master Plan ("Master Plan") area; and

WHEREAS, on May 21, 2019, the Planning Board approved an amendment to the Site Plan No. 82018002A (MCPB No. 19-048) to modify condition no. 4 to reflect the revised stormwater management concept; reduce building footprint for the main retail building; modify the three retail pad sites; modify the shared-use path to avoid existing street lights; and modify the property lines for the condos on the Subject Property; and

WHEREAS, on November 20, 2020, the Planning Director approved an amendment to the Site Plan No. 82018002B to making modifications to the center retail pad on the Subject Property; and

WHEREAS, the Site Plan Amendment No. 82018002C was submitted but never accepted and later withdrawn by the applicant; and

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Approved as to

Legal Sufficiency: /s/ Delisa Coleman

M-NCPPC Legal Department

WHEREAS, on March 11, 2021, W-ARC MV Owner VII, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan(s) to construct the second phase (Phase 1b), which includes 49 townhouses and 34 two-over-two townhouses units, for a total of 83 residential units; reallocation of MPDUs from the condo units to the townhouses; request for a parking waiver to allow for a reduced amount of retail spaces; revise the Forest Conservation Plan; update of utilities, stormwater, grading and common open space on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82018002D, Montgomery Village Center ("Site Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 1, 2021, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 15, 2021, 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. 82018002D for Phase 1b of Montgomery Village Center by adding and modifying the following conditions:¹

Modified Conditions

Environment

3. Forest Conservation & Tree Save

- a. The Applicant must record a certificate of compliance for the purchase of off-site mitigation credit from an approved forest mitigation bank in the land records prior to any clearing and grading occurring on site.
- b. The Sediment and Erosion Control Plan and Storm Water Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the FFCP.

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.

- c. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Additional tree-save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- d. Prior to Certified Site Plan, the Forest Conservation Plan must be modified if necessary, so that no trees used for credit are within a stormwater management easement or structure.

Open Space, Facilities and Amenities

5. Common Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 10% Public Open Space for Phase 1A, and the Applicant is providing a total of 35,519 square feet of public open space, which equates to approximately 14.7% of the site area for this phase.
- b. Before the issuance of the final use and occupancy certificate for the development, all public open space areas on the Subject Property must be completed.
- c. The Applicant must provide a minimum of 10% Common Open Space for Phase 1B, and the Applicant is providing a total of 22,132 square feet of common open space, which equates to approximately 15.8% of the site area for this phase.

13. Certified Site Plan

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

- a. Include the stormwater management concept approval letter, approval letters from applicable agencies, the Forest Conservation Exemption, development program, and Sketch Plan, Preliminary Plan, and Site Plan resolutions on the approval or cover sheet(s).
- b. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- c. Modified Site Plan data table to reflect development standards approved by the Planning Board.
- d. Ensure consistency of all details and layout between Site and Landscape plans.
- e. The Applicant must provide the final Wayfinding Plan with final design, locations and installation details approved by Planning Staff prior to Certified Site Plan.

- c. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Additional tree-save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- d. Prior to Certified Site Plan, the Forest Conservation Plan must be modified if necessary, so that no trees used for credit are within a stormwater management easement or structure.

Open Space, Facilities and Amenities

5. Common Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 10% Public Open Space for Phase 1A, and the Applicant is providing a total of 35,519 square feet of public open space, which equates to approximately 14.7% of the site area for this phase.
- b. Before the issuance of the final use and occupancy certificate for the development, all public open space areas on the Subject Property must be completed.
- c. The Applicant must provide a minimum of 10% Common Open Space for Phase 1B, and the Applicant is providing a total of 22,132 square feet of common open space, which equates to approximately 15.8% of the site area for this phase.

13. Certified Site Plan

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

- a. Include the stormwater management concept approval letter, approval letters from applicable agencies, the Forest Conservation Exemption, development program, and Sketch Plan, Preliminary Plan, and Site Plan resolutions on the approval or cover sheet(s).
- b. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- c. Modified Site Plan data table to reflect development standards approved by the Planning Board.
- d. Ensure consistency of all details and layout between Site and Landscape plans.
- e. The Applicant must provide the final Wayfinding Plan with final design, locations and installation details approved by Planning Staff prior to Certified Site Plan.

- f. The architectural articulation of the three pad sites along Montgomery Village Avenue shall show activation to the street using fenestration and signage.
- g. The final location of the bikeshare station must be shown on the Certified Preliminary Plan and Certified Site Plan, and easements for public access must be provided if located on private property.
- h. The location for long-term bike parking for the condo building must be shown and is subject to review and approval by M-NCPPC staff.
- i. Shutters on all elevations must have the correct width for the windows they are attached to such that both shutters would cover the entire window if closed.
- j. In order to reduce the perceived height of the buildings, all false dormers must be eliminated from the roof line of townhomes if they are not providing any light and air into the units.

New Conditions

14. Density

The Site Plan is limited to a maximum of 49 townhouses and 34 two-over-two condos for a total of 83 units for Phase 1B on the Subject Property.

15. Height

The development is limited to a maximum height of 75 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

16. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its amended letter dated January 18, 2018, 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.

17. Covenant

The record plat must reference the Common Open Space Covenant recorded at Book 28045 Page 578 (Covenant).

18. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A1 to A3 of the submitted architectural drawings, as determined by M-NCPPC Staff.

The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

19. 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.

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 Montgomery Village Center No. 82018002D, 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 Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan **as revised by previous amendments**, and all findings not specifically addressed remain in effect.*
2. satisfies applicable use standards, development standards, and general requirements under this Chapter;
 - i. *Division 4.5 Commercial/Residential Zones and Division 4.4 Residential Zones*

Development Standards

The Site covers approximately 18.78 acres Zoned CRT 1.5, C-0.75, R-1.0, H-75 and Montgomery Village Overlay zones. The data table below shows the Application's conformance to the development standards of Section 59-4.5.4.

Table 2: Site Plan Amendment Data Table

| | | | | | | |
|--|---|--|--|-----------|--|--|
| CROSS TRACT AREA | 18.784 AC. OR 818,252 SF | | | | | |
| AREA INDICATED TO PUBLIC USE | 0 AC | | | | | |
| AREA PREVIOUSLY INDICATED TO PUBLIC USE | 0 AC | | | | | |
| TOTAL NET AREA OF PRELIMINARY PLAN | 13.00 AC. OR 568,384 SF | | | | | |
| NET SITE AREA (PHASE 1A) | 5.53 AC. OR 240,980 SF | | | | | |
| NET SITE AREA (PHASE 1B) | 3.22 AC. OR 140,120 SF | | | | | |
| NET SITE AREA (PHASE 2) | 4.25 AC. OR 185,381 SF | | | | | |
| CRT 1.5, C-0.75, R-1.0, H-75 | ZONING ORDINANCE DEVELOPMENT STANDARDS (REQUIRED) | | | | | |
| DEVELOPMENT STANDARDS | 2OVER2 | | | TOWNHOUSE | | |
| CRT 1.5, C-0.75, R-1.0, H-75 (OPTIONAL METHOD) | 2OVER2 | | | TOWNHOUSE | | |
| DENSITY FAR (MAX) | 1.0 | | | 1.0 | | |
| UNITS | 12.5% OR 11**** | | | 34 | | |
| UNITS (MIN) | | | | 5 | | |
| UNITS TOTAL | | | | 39 | | |
| LOT AREA (MIN) | N/A | | | 800 SF | | |
| LOT WIDTH AT FRONT BUILDING LINE (MIN) | 25 | | | 12 | | |
| LOT WIDTH AT FRONT LOT LINE (MIN) | 10 | | | N/A | | |
| LOT COVERAGE (MAX) | 90% | | | 38.15% | | |
| BUILDING HEIGHT | CR 1.5, C-0.75, R-1.0, H-75 (OPTIONAL METHOD) | | | 50' | | |
| PRINCIPAL BUILDING (MAX) | 75' | | | 43' | | |
| ACCESSORY STRUCTURE (MAX) | 25' | | | 25' | | |
| MASSING | N/A | | | 12' | | |
| UNITS PERMITTED IN ONE ROW | N/A | | | 12' | | |
| BUILDING SETBACKS (FT) | 5' | | | 5' | | |
| FRONT SETBACK (MIN) | 5' | | | 5' | | |
| SIDE STREET SETBACK (MIN) | 5' | | | 5' | | |
| SIDE SETBACK ABUTTING RESIDENTIAL ZONES (MIN) | 8' | | | 4' | | |
| SIDE SETBACK ABUTTING ALL OTHER ZONES (MIN) | 4' | | | N/A | | |
| SIDE SETBACK END UNIT (MIN) | N/A | | | 2' | | |
| SIDE SETBACK BETWEEN LOT AND SITE BOUNDARY | N/A | | | 4' | | |
| REAR SETBACK ABUTTING ALL ZONES (MIN) | 15' | | | 10' | | |
| REAR SETBACK ALLEY (MIN) | 4' | | | 4' | | |
| REAR SETBACK BETWEEN LOT AND SITE BOUNDARY | N/A | | | 5' | | |
| MIN - 10' AREA MAX SETBACK & MIN X OF BLD FACADE | N/A | | | 15' | | |
| FRONT SETBACK (MAX) | N/A | | | 70% | | |
| BUILDING IN FRONT STREET RYA (MIN) | N/A | | | N/A | | |
| SIDE STREET SETBACK (MAX) | N/A | | | N/A | | |
| BUILDING IN SIDE STREET RYA (MIN) | N/A | | | N/A | | |
| OPEN SPACE | PHASE 1A (MIN) | | | 100% | | |
| PHASE 1B (MIN) | 100% | | | 14.74% | | |
| PHASE 2 (MIN) | 100% | | | 15.80% | | |
| PUBLIC BENEFIT PURPOSE | PUBLIC BENEFIT PURPOSES (MIN) | | | 50 | | |
| NUMBER OF BENEFIT CATEGORIES (MIN) | 5 | | | 5 | | |
| PARKING SETBACKS FOR SURFACE PARKING LOTS | FRONT SETBACK (MIN) | | | N/A | | |
| SIDE STREET SETBACK (MIN) | N/A | | | N/A | | |
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Section 59- 4.9.10.C. Development Standards (Montgomery Village Overlay Zone)

The proposed development complies with the standards of the Montgomery Village Overlay Zone by providing the Common and Public Open Space within a separate parcel with a protective easement or covenant in the land records.

ii. Division 6.1. Site Access

As conditioned, the Project provides safe, adequate, and efficient circulation, parking, and loading for cars, trucks, pedestrians, and bicyclists and integrates the project into the surrounding area.

iii. Division 6.2 Parking, Queuing, and Loading

The Project's surface parking spaces will continue to be separated by internal private roads. Access to parking is provided from multiple points internally, and the primary loading space (existing) is provided on the north side of the existing retail building. Parking, queuing, and loading will be provided in an adequate, safe, and efficient manner.

Parking Waiver

The Applicant requests a parking waiver in accordance with Section 59.6.2.10 of the Zoning Ordinance ("Parking Waiver") to provide fewer than the minimum number of vehicle parking spaces for the retail use required by Section 59.6.2.4.B, ("Vehicle Parking Spaces").

Although the total number of vehicle parking spaces for the proposed residential uses exceeds the minimum parking requirement by 99 spaces, the commercial component of the development has a deficit of 48 vehicle parking space (see table below). This shortfall is the result of a combination of factors, including removal of surface lot parking spaces in favor of new residential construction, new internal street connections, and the provision of new open space.

Table 1: Vehicle Parking Waiver

| Section 59.6.2.4 | Development Standard | Permitted/ Required | | | Proposed | | | |
|------------------|--|---------------------|-----------|--------|----------|-----------|--------|-----------|
| | Residential spaces 1 per dwelling unit (min) | 2over2 | Townhouse | condos | 2over2 | Townhouse | condos | Total |
| | | 34 | 49 | 32 | 68 | 104 | 42 | 214 |
| | Retail (all surface parking lots) | 537 (min) | | | Retail | | | 489 (-48) |

The parking waiver allows a reduction in the amount of retail parking, but the proposed parking will satisfy Section 6.2.1 because there are several design features of

Montgomery Village Center that complicate the ability to provide the amount of parking required under the Zoning Ordinance.

The existing buildings that will be retained in their current locations, albeit enhanced in their appearance, makes it difficult to provide additional parking to serve the non-residential uses. It is challenging to provide more parking at Montgomery Village Center to serve retail uses because of the configuration of the existing buildings that will continue in operation.

The project establishes new thru block connections that were added as part of Phase 1A (Centerway Road extended through to connect to Watkins Mill Road and, separately, to Stedwick Road). However those travel lanes usurp land that could otherwise be devoted to parking spaces, as does the public open space in the center of the Center. Both of the design element required elements removed parking space area.

The deciding body may waive any requirement of Division 6.2, except the required parking in a Parking Lot District under Section 6.2.3.H.1, if the alternative design satisfies Section 6.2.1. The Application, as shown, continues to provide adequate parking to allow the safe and efficient circulation for vehicles, bicycles and pedestrians. The Planning Board supports the requested parking waiver as it furthers the vision of the Master Plan by concentrating additional density within sustainable activity centers, which foster gathering spaces and mixtures of land uses.

iv. Division 6.3 Open Space and Recreation

The Project will provide the required Common Open space. Phase 1B includes 15.74% percent of Common Open Space for the area, which meets the minimum 10% requirement. The development will provide adequate, safe, and efficient open space for Phase 1B. Phase 1B does not affect the prior approved open space for Phased 1A.

The Applicant has demonstrated that by providing the Common Open Spaces, sidewalks, picnic and seating areas, and landscaping/lawn areas, the development satisfies the Recreational Guidelines.

Table 3: Recreational Facilities Adequacy (Scenario 17788)

Results: Demand, Supply & Adequacy

| Age Group | Total Demand Points | Offsite Supply Points | Onsite Supply Points | Total Supply Points | Adequacy |
|--------------|---------------------|-----------------------|----------------------|---------------------|----------|
| Tots | 12.30 | 4.31 | 11 | 15.31 | Adequate |
| Children | 18.60 | 6.51 | 16 | 22.51 | Adequate |
| Teens | 13.96 | 4.89 | 23 | 27.89 | Adequate |
| Young Adults | 50.11 | 17.54 | 34 | 51.54 | Adequate |
| Adults | 52.09 | 18.23 | 29 | 47.23 | Adequate |
| Seniors | 8.11 | 2.84 | 18 | 20.84 | Adequate |

v. *Division 6.4 General Landscaping and Outdoor Lighting*

The project provides adequate landscaping and lighting, as well as other site amenities, to ensure that these facilities will be safe, adequate, and efficient for residents and visitors. The Project will continue to include streetscaping along many new and existing streets, with widened sidewalks, street trees, shared-use paths, and lighting.

As shown in the Development Standards table and findings above, the proposed Site Plan Amendment meets all the general requirements and development standards of Divisions 59-4.4 and 59-4.5 of the Zoning Ordinance, and the general development requirements of Article 59-6 of the Zoning Ordinance, when considering the Parking Waiver requested pursuant to Section 59.6.2.10.

e. satisfies the applicable requirements of:

ii. Chapter 22A, Forest Conservation.

This Amendment amends the Final Forest Conservation Plan as it relates to the changes for Phase 1B by reducing the amount of on-site tree canopy retention. The Application continues to satisfy the conditions of the original variance approval and as a result, the original variance approval remains valid.

Environmental Guidelines

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) was approved for this site on Sept 1, 2018 (NRI/FSD No. 420170040). The property contains no streams or stream buffers, wetlands or wetland buffers, hydraulically adjacent steep slopes, 100-year floodplains, known occurrences of Rare, Threatened or Endangered species, or

forest. The site is within the Great Seneca Creek watershed, which is a Maryland State Use Class I-P stream. This plan is in compliance with the *Environmental Guidelines*.

Final Forest Conservation Plan

A Final Forest Conservation Plan was approved with the original Site Plan approval (No. 820180020). The Net Tract Area used in the Forest Conservation calculations is 18.37 acres. Consistent with the Preliminary Forest Conservation Plan (No. 120180010), the afforestation requirement is 2.76 acres. The original FFCP approved a combination of on-site tree canopy retention, on-site forest canopy planting, and the purchase of off-site forest bank credits to reach the total afforestation requirement of 2.76 acres. This FFCP amendment reduces the amount of on-site tree canopy retention from 0.52 acres to 0.45 acres and increases the on-site landscape tree planting for afforestation credit to 1.55 acres. The off-site forest banking mitigation remains at 0.77 acres of forest planted (or 1.54 acres of existing forest protected). The total afforestation mitigation credit being provided is 2.77 acres.

A variance was approved with the Preliminary Forest Conservation Plan (No. 120180010) allowing the removal of three specimen trees totaling 64 inches diameter. The original FFCP required additional tree planting to replace the lost water quality benefits of the variance trees removed, based on a formula of one inch (caliper) of new trees planted for each four inches diameter removed, using planting stock of no less than 3 inches caliper. This resulted in a variance tree mitigation requirement to plant at least 23.5 caliper inches of new trees to replace the specimen trees being removed. FFCP 820180020 showed the locations of eight willow oak (*Quercus phellos*) trees, each at least three inches caliper, planted in mitigation for the specimen trees removed, for a total of 24 caliper inches of replacement trees. Four of those mitigation trees are being disturbed by changes in the site layout associated with this Site Plan Amendment. To compensate, this FFCP amendment shows the locations of four new willow oak trees that will restore the total mitigation provided for variance tree removal to 24 inches. The original variance approval also permitted disturbance to the Critical Root Zone (CRZ) of two additional trees that are to be disturbed but retained. The variance allowed up to two percent disturbance to the CRZ of specimen tree B, and up to four percent disturbance to the CRZ of specimen tree E. The amended FFCP does not increase either of those amounts. Therefore, the original variance approval remains valid for this amendment.

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 20 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).

* * * * *

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 Patterson, seconded by Vice Chair Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Patterson voting in favor of the motion, and Commissioner Verma absent at its regular meeting held on Thursday, July 15, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board