

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

March 25, 2024

MCPB No.24-028

Forest Conservation Plan Amendment No. F20230380

Clarksburg Town Center

Date of Hearing: February 29, 2024

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on June 28, 2023, CTC Retail L.C. (“Applicant”) filed an application for approval of a forest conservation plan on approximately 204.92 acres of land located along Saint Clair Road between Clarksburg Square Road and Stringtown Road, Clarksburg (“Subject Property”) in the Clarksburg Town Center Policy Area and 1994 Clarksburg Master Plan and Hyattstown Special Study Area, Limited Amendment to the Clarksburg Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Final Forest Conservation Plan Amendment No. F20230380, Clarksburg Town Center (“FFCP”, “Final Forest Conservation 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 February 16, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 29, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Pedoem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan Amendment No. F20230380 on the Subject Property, subject to the following

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Approved as to

Legal Sufficiency: /s/ Allison Myers

M-NCPPC Legal Department

conditions, which supersede all previous Final Forest Conservation Plan conditions of approval for the Clarksburg Town Center:¹

Environment

1. Forest Conservation

- a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
- d. The conservation easements and Park dedication areas must not allow for the implementation of a "viewshed management plan". The conservation easements and dedication areas will be subject to the standard maintenance and management agreement for conservation easements in Special Protection Areas.
- e. All landscape plantings receiving forest conservation credit must be outside of any public road right-of-way, and any other easements including, but not limited to, stormwater management easements and utility easements.
- f. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers that will not be dedicated to the M-NCPPC Department of Parks as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the applicable record plats.
- g. The Applicant must install permanent Category I conservation easement signage along the perimeter of the conservation easements as shown on the FFCP or as directed by the M-NCPPC Inspection Staff.
- h. The Applicant must install permanent M-NCPPC Parks Department property line posts along the perimeter of the park dedication areas as directed by the M-NCPPC Parks Department representative.
- i. The Applicant is responsible for approximately 18.81 acres of forest conservation planting requirements that have not already been completed or bonded by the previous landowner.

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

- j. The Applicant must provide financial surety to the M-NCPPC Planning Department for the 18.81 acres of new forest planting prior to the start of any demolition, clearing, or grading on the Subject Property.
- k. Reforestation/afforestation plantings that are located outside the limits of disturbance on the Clarksburg Town Center development must occur within the first planting season following approval of the Certified Site Plan. Plantings within areas of future disturbance must occur in the first planting season following the stabilization of the applicable disturbed area.
- l. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development application, the Applicant must Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the on-site streams and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
- m. Prior to the start of any demolition, clearing, grading, or construction, whichever comes first, for this development application, the Applicant must provide an invasive species management program utilizing M-NCPPC's *Best Management Practices for Control of Non-Native invasives* document as guidance for Staff's review and approval.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or 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 Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and ensures the protection of environmentally sensitive features.*

A. Forest Conservation

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

The Forest Conservation Plan was submitted for concurrent review with the Site Plan Amendment No. 82007022I for revisions to the Clarksburg Town Center Commercial area. The Application satisfies the applicable requirements of the Forest Conservation Law, Chapter 22A of the Montgomery County Code, and

complies with the Montgomery County Planning Department's approved *Environmental Guidelines*. This FFCP was submitted to address the requirements under Sec. 22A.00.01.09.B of the Forest Conservation Regulations to update the site layout for the commercial core including retail and multi-family buildings, parking areas, stormwater management facilities, landscaping, hardscape and the revised lotting configuration within the approved limits of disturbance. No new forest conservation requirements were generated and no modifications to the existing Category I Conservation Easements were proposed with this Application.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is

March 25, 2024

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0, Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, March 21, 2024, in Wheaton, Maryland and via video conference.



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