Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

March 25, 2024

MCPB No. 24-025 Project Plan Amendment No. 91994004E Clarksburg Town Center Date of Hearing: February 29, 2024

RESOLUTION

WHEREAS, under Section 59-D-2 of the Zoning Ordinance in effect on October 29, 2014, the Montgomery County Planning Board is authorized to review project plan applications; and

WHEREAS, under Section 59-7.7.1.B.3 of the current Zoning Ordinance, the Planning Board reviewed this application under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on June 12, 1995, the Planning Board, by Resolution dated June 12, 1995, approved Project Plan No. 91994004E for the Clarksburg Town Center limited to 1,300 dwelling units (including 12.5 percent MPDUs), 150,000 square feet of retail space, and 100,000 square feet of office space on 270.16 acres of RMX-2 and RDT zoned land, located at the northeast quadrant of Stringtown Road and Frederick Road (MD 355) ("Overall Property"), in the Clarksburg Policy Area and the 1994 Clarksburg Master Plan ("Master Plan") area; and

WHEREAS, on May 17, 2005, Project Plan Amendment No. 91994004A was submitted but never completed; and

WHEREAS, on July 16, 2009, the Planning Board approved an amendment to the previously approved project plan, designated Project Plan No. 91994004B (Resolution MCPB No. 09-16), to allow 194,720 square feet of commercial space, including up to 69,720 square feet of retail space; with 1,213 residential dwelling units (including 12.5% MPDUs); and

WHEREAS, on June 15, 2010, the Planning Board approved an amendment to the previously approved project plan, designated Project Plan No. 91994004C (Resolution MCPB No. 10-58) to correct the unit count from 1,213 to 1,206 residential dwelling units (including 12.5% MPDUs) on the Overall Property; and

WHEREAS, on August 28, 2014, the Planning Board approved an amendment to the previously approved project plan, designated Project Plan No. 91994004D (Resolution MCPB

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

No. 15-85) to reduce the number of dwelling units from 1,206 to 1,120, increase the commercial square footage to 206,185, revise the commercial core layout, redesign Block H, add a community building to the resident's club, add parking to Sinequa Square, revise Kings Local Park and Piedmont Woods Local Park; and

WHEREAS, on June 28, 2023, Elm Street Development ("Applicant") filed an application for approval of an amendment to the previously approved project plan(s) to reduce commercial space from 206,185 to 106,920 square feet, replace approved office buildings with 189 multi-family units (including 12.5% MPDUs), reconfigure the commercial core, update amenities, and make parcel revisions on the Overall Property; and

WHEREAS, Applicant's application to amend the project plan was designated Project Plan No. 91994004E, Clarksburg Town Center ("Project 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 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 Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Project Plan No. 91994004E to reduce commercial space from 206,185 to 106,920 square feet, replace approved office buildings with 189 multi-family units (including 12.5% MPDUs), reconfigure the commercial core, update amenities, and make parcel revisions on the Overall Property, subject to the following conditions:¹

The following conditions supersede and replace in their entirety all previous conditions:

1. Overall Property Density. The Project Plan Amendment is limited to a maximum of 106,920 square feet of commercial development, 1,295 total dwelling units, consisting of 219 single-family detached, 686 single-family attached, and 390 multi-family units on 270.92 acres.^{2,3}

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.

² If there is no adverse impact on the Project Plan and the APF findings, and it is approved by Staff, the commercial square footage may change to any allowed commercial use, including but not limited to office or medical office.

³ 390 multi-family units include 189 new multi-family units proposed with this amendment.

- 2. Provide a plaza with a splash fountain, allowing public access, as shown on the approved site plan.
- 3. Applicant shall meet all requirements for water quality plan submission and approval, per Chapter 19, Article V "Water Quality Review in Special Protection Areas" (proposed monitoring plan may be submitted as part of the review of the site plan). Location of units, roads, and other layout concerns will be subject to the final water quality regulations.
- 4. Minimize disturbance in the stream buffer except for road crossings, unavoidable utilities, SWM locations adjoining the town center retail area and greenway road, soft surface pathways, and memorial elements.
- 5. Maintenance and Management Organization. A retail maintenance organization shall be formed separate from the residential Homeowner's Association to provide for maintenance and operations of the retail core area, non-standard elements in the street right-of-way and on the private streets and amenities.

Prior Conditions: Satisfied or required by Prior Applicants

Prior conditions are for Project Plan Nos. 91994040, 9199404A, 9199404B, 9199404C, 9199404D; and are provided here for reference and are not required of the current Applicant.

- 6. The following road improvements, at each stage of development, are needed to provide enough capacity to serve the proposed development:
 - a. Stage 1 Reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.
 - b. Stage 2 Construct an eastbound left turn lane along MD 121 at MD 355. Construct a westbound left turn lane along MD 121 at MD 355.
 - c. Stage 4 Construct a northbound right turn lane along MD 355 at Stringtown Road.
 - d. Stage 5 Restripe eastbound Comus Road to provide exclusive left turn lane at MD 355.
 - e. A-260 (Stringtown Road) must be dedicated to a right-of-way of 120 feet. At the preliminary plan, if determined that the property is not part of a participation agreement with MCDOT and other property owners, the safety improvements described in Condition No. 8., will be made to Stringtown Road.
- 7. A-305 (Mid-County Highway) pursuant to Preliminary Plan No. 119950420, as may be amended.
- 8. Dedication and Construction of A-260 (Stringtown Road) pursuant to Preliminary Plan No. 119950420, as may be amended.
- 9. Clarksburg Square Road/Route 355 Connection pursuant to Preliminary Plan No. 119950420, as may be amended.

- 10. Additional Access to A-260 (Stringtown Road) and A-27 (Clarksburg Road) pursuant to Preliminary Plan No. 119950420, as amended.
 - Provide for an additional connection from Redgrave Place (Main Street) to the boundary of the historic district to permit a future connection to A-260 (Stringtown Road). Connect the private street that leads to the Town Square to A-27 (Clarksburg Road) with approval from the Planning Board and MCDOT provided this private street remains private.
- 11. Revise the Layout of Streets. Incorporate the following items into the site plans for each stage of development:
 - a. Improvements to the Town Square Increase the size of the Town Square by utilizing a loop concept as shown on the revised drawing to reduce conflicts with east/west traffic and to improve pedestrian access.
 - b. Relocate A-260 (Stringtown Road) in accordance with the revised alignment diagram to reduce the impact on adjacent residences. Reduce the number of access streets to A-260 from the area of the existing single family detached units (5) on the north side of Stringtown Road to meet the design standards for arterial roads.
 - c. Eliminate the access to the proposed elementary school from MD 121 and provide access from the Greenway Road.
 - d. Revise the access to A-305 (Mid-County- Highway) to allow a direct connection from Burnt Hill Road to the Greenway Road and improve the access to the single family detached units by utilizing private drives adjacent to A-305.
 - e. The present street system shown in the project plan requires waivers of existing standards. The Prior Applicant and staff have met with MCDOT to discuss the waivers. All waivers must receive final approval from MCDOT before approval of the site plan.

12. Environmental Improvements

- a. Minimize disturbance in the stream buffer except for road crossings, unavoidable utilities, SWM locations adjoining the town center retail area and greenway road, soft surface pathways, and memorial elements.
- b. As part of the preliminary plan, provide an area within the Prior Applicant's stormwater management facilities for stormwater management for the school site.

13. Park/School

The proposed layout of the park/school site is generally acceptable. At the preliminary plan, the final concept plan and related terms and conditions will be finalized in coordination with the Parks Department and Montgomery County Public Schools.

14. Historic Preservation

Incorporate the following items into the project plan before review of the site plan for this area:

- a. Minimize the width of both the right-of-way and paving (50 feet of ROW and 24 to 26 feet of paving, subject to approval by MCDOT) for Redgrave Place (Main Street) located within the Historic District.
- b. Provide access easements, if applicable, to future public sewer at the intersections of A-260 (Stringtown Road) and Redgrave Place (Main Street) with MD 355 (Old Frederick Road).
- c. Provide a small open space along the northern edge of the greenway next to Redgrave Place (Main Street) with an interpretive memorial element for the family of John Clark that incorporates the existing grave markers.
- d. If the ROW is available, construct Main Street to MD 355 within the Historic District prior to completion of Stage 3. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the Prior Applicant and property owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.
- 15. Compatibility with Existing Church and Adjacent Residences Within the Historic District Increase the setback of the proposed public street located next to the church within the Historic District to 30 feet and provide screening for the existing cemetery. Relocate the tot lot away from the existing church and maintain the area as open space to provide a potential linkage to the church. The size of lots and setbacks of the proposed development must match, approximately, the development standards in the R-200 Zone for building setbacks and width of lots along the southeastern boundary of the site within the Historic District. Revise the landscape plan to increase visibility to the church. Provide an easement for a pedestrian connection to the church for the proposed adjacent street.

16. Staging of Amenities

- a. All amenities shown within each stage of development must be completed within that stage of development. The concept design for the greenway, the school/park, and other large play fields, must be completed before approval of the first site plan.
- b. Construction of the amenities within the greenway must be finalized before the completion of Stage 3.
- c. The proposed project shall be developed in accordance with the phasing plan outlined in the Site Plan section under Development Program-Phasing.
- d. A detailed development program shall be developed with the Site Plan to include installation of landscaping, lighting, recreation facilities and amenities.

17. Landscaping

The following items must be incorporated into the site plans:

- a. Street trees, high quality streetlights, sidewalk paving types, and street furniture as part of the design for the streetscape of roads, town square, and the neighborhood squares.
- b. Increased landscaping in the commercial parking area.
- c. Landscaping for the buffer areas adjacent to all arterial roads.
- d. Screening for the existing homes within the Historic District.
- e. Landscaping for all stormwater management areas.

18. Maintenance

- a. Maintenance of the private recreation areas, stormwater management facilities, applicable open spaces, and other amenities on private land must be maintained by an appropriate homeowner's association. Before approval of the first building permit, submit a maintenance document that establishes an overall organization that establishes responsibility for maintenance of these facilities.
- b. Maintenance and Management Organization. A retail maintenance organization shall be formed separate from the residential Homeowner's Association to provide for maintenance and operations of the retail core area, non-standard elements in the street right-of-way and on the private streets and amenities.

19. Civic Parcel (Parcel K)

The Prior Applicant must dedicate the 1.1-acre Parcel K, Block BB, to Montgomery County for use as a Civic Building. In the event Montgomery County has either not entered into an agreement with the Prior Applicant or appropriated funds for the design and construction of the Civic Building by the time that dedication is required, the Prior Applicant may forego dedication and build the Civic Building and lease the building for uses that serve the community, such as a civic building, event center, recreation center, or other such use, as contemplated by Civic and Institutional Uses as defined in the Zoning Ordinance (excluding Ambulance, Rescue Squad, and Hospital), giving a right of first refusal to Montgomery County, followed by other organizations and institutions that can meet the civic purpose. If at the end of any County or civic lease, no civic purpose is found, Prior Applicant can lease the space to tenants that provide services to the Clarksburg community.

Public Amenities. The Prior Applicant must provide at a minimum the following public facilities and amenities. The final design and details of the public facilities and amenities will be determined during site plan approval. The Planning Board may approve other facilities that are equal to or better than these at the time of site plan approval.

Table 1 - Public Amenities of Project Plan No. 91994004D

Location	Public facilities and amenities		
West Side	(1) Tot lot		
	Town Green including: Amphitheater & stage,		
	Open play area		
	1.1-acre civic parcel		
	Picnic/sitting		
	Bike system, Pedestrian system		
East Side	(1) Open play area I (1) Open play area II		
	Picnic/sitting		
	(1) Indoor community room		
	Bike system, Pedestrian system		
Piedmont Woods Local Park	(1) multi-age playground		
	(1) basketball		
	(2) tennis courts		
	(1) dog park		
	Picnic/sitting		
	Bike system, Pedestrian system,		
	Nature trails, Nature area		
Greenway	Picnic/sitting, Bike system, Nature area		
Kings Pond Local Park	(1) multi-age playground		
	(1) Fishing Pier		
	Picnic/sitting		
	Bike system, Pedestrian system		

BE IT FURTHER RESOLVED that all elements shown on the latest electronic version of Project Plan No. 91994004E, 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 given full consideration to the recommendations of its Staff as presented at the hearing and/or set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, the Montgomery County Planning Board FINDS, with the conditions of approval, that this Amendment does not alter the intent, objectives, or requirements in the originally approved project plan, and that all findings remain in effect; and

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved project plan, as revised by previous amendments, and all findings not specifically addressed remain in effect.

1. The application would comply with all of the intents and requirements of the zone.

The Application complies with all intents and requirements of the zone. Pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Application is being amended under the Residential Mixed-Use (RMX-2) development standards of the 2004 Zoning Ordinance. The Application complies with all applicable development requirements of the RMX-2 zone.

The Application complies with the intent of the mixed-use zone by providing a pedestrian-friendly and walkable town center through mixed-use density, on-street parking, and an activated public plaza with a splash fountain. The larger footprint grocery store building is situated behind street-facing commercial uses, which works to foster a walkable scale town center.

2. The application would be consistent with the applicable sector plan or urban renewal plan.

The Application is consistent with the 1994 Clarksburg Master Plan and Hyattstown Special Study Area ("Master Plan"). The modifications are consistent with and do not change the Master Plan conformance findings of previous approvals. The Application meets the eight policy objectives of the Master Plan for the Town Center (p. 15-30). In terms of land use objectives (p. 44), the Application conforms to the recommended Master Plan mix of housing unit types as shown below:

Housing Type	Master Plan Recommendation	Approved by Site Plan No. 82007022D	Approved by this Project Plan Amendment
Multi-Family	25 to 45%	18.1%	30.1%
Attached	30 to 50%	60.3%	52.9%
Detached	10 to 20%	19.6%	16.9%

Table 2 - Master Plan mix of housing types

3. Because of its location, size, intensity, design, operational characteristics and staging the application would be compatible with, and not detrimental to, existing or potential development in the general neighborhood.

The location, size, intensity, design, operational characteristics and staging are compatible with and not detrimental to existing and potential development in the general neighborhood. The Application increases the total number of residential units from 1,106 to 1,295 and reduces commercial density from 206,185 square feet to 106,920 square feet. The proposed number of dwelling units remains below the originally approved and tested plan of 1,300 dwelling units. This includes an approximately 55,000-square foot grocery store. The location, size and intensity of the development continue to be compatible with the Clarksburg Historic District to the west, the Highlands at Clarksburg and Clarksburg Village developments to the south, and Clarksburg Ridge and Catawba Manor developments to the north.

The design elements utilized are compatible with existing development by providing similar street-oriented development with minimal setbacks, parking and servicing in rear, and new residential units located in mixed-use buildings. In addition, material selection for architecture and streetscape is also compatible with the surrounding community. Elements of the previously approved Design Guidelines were incorporated in the site plan, including architectural elevations of both commercial, mixed-use, and residential buildings.

The design and operation of the proposed drive-thru facilities are compatible with the commercial area. The queuing area is adequate, access is via St. Clair Road, service windows are located behind the main buildings, and drive aisles provides adequate stacking.

The operational characteristics are compatible with existing and future developments because the Overall Property was planned with a Town Center commercial core, and it is supported by the Master Plan. All necessary transportation networks are in place to accommodate the Application. This Application represents the last portion of Clarksburg Town Center community, and it will be built in one phase.

4. The application would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, is subject to a traffic mitigation agreement that meets the requirements of that article.

The Application will not overburden existing public facilities and services nor those programmed for availability concurrently with construction. The single-phase staging program provides a timely provision of services and infrastructure. The Application satisfies the LATR/PATR requirements of the Adequate Public Facilities (APF) review that were in place at the time of Preliminary Plan 11995042A approval. The Application density conforms with the previously approved limits. The Overall Property is not located within a transportation management district. Other public facilities and services are available and adequate to serve the development. The Overall Property is in the W-1 and S-1 water and sewer service categories, respectively, and will connect to public water and sewer lines.

The Application was reviewed by MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on January 17, 2024. The Fire Department Access Plan indicates that access is adequate utilizing public road infrastructure.

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards in effect at the time that the APF was granted.

5. The application would be more efficient and desirable than could be accomplished by the use of the standard method of development.

For this Application, the optional method of development is more efficient and desirable than the standard method. The optional method allows for greater densities in exchange for greater public amenities and facilities. The residential density increased from 6.19 to 6.32 dwelling units per acre. The commercial density decreased from 0.18 to 0.01 floor-area-ratio (FAR). The Application continues to provide an extensive number of existing public amenities. These public amenity facilities include two local parks, a greenway, public plaza, location for a civic building with parking, and a new community building next to the resident's club with an additional parking area.

Overall, the public facilities and amenities provided support the mix of uses and densities proposed. The use of the optional method of development in the RMX-2 zone is necessary to achieve the vision and recommendations in the Master Plan. Therefore, the optional method of development is efficient and desirable.

6. The application would include moderately priced dwelling units (MPDU) under Chapter 25A if the requirements of that chapter apply.

The Application provides 12.5 percent of the total 189 multi-family units as MPDUs, which equals an additional 23 MPDU units. The overall development includes a total of 162 MPDUs, inclusive of the 23 units proposed, as required by Chapter 25A and as approved by DHCA.

7. When a project plan includes more than one lot under common ownership, or is a single lot contained two or more CBD zones, and would transfer public open space or development density from one lot to another, or transfer densities within a lot with two or more CBD zones, under 59-C-6.2351 or 59-C-6.2352, the Planning Board may approve the project plan only if: When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, under 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Planning Board may approve the project plan only if:

The project will result in an overall land use configuration that is significantly superior in meeting the goals of the Master Plan and the zone than what could be achieved without the proposed transfer using the optional method of development. Without the transfer of public open space and density, the amenities and facilities provided would not be possible under the standard method of development. The greenway, open spaces, parks, recreational amenities, and landscaping provide a comprehensive system of community amenities, which are in addition to the minimum standards.

8. Any applicable requirements for forest conservation under Chapter 22A.

The Application satisfies all of applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines. Additional discussion and findings for Forest Conservation Plan Amendment F20230380 are contained in the approval resolution associated with the Forest Conservation Amendment F20230380, approved concurrently with this approval, and incorporated herein.

9. Any applicable requirements for water quality resource protection under Chapter 19.

The Application received an approved Revised Final Water Quality Plan/Site Development Management Plan from the Montgomery County Department of Permitting Services, Water Resources Section on January 17, 2024. The Application will meet stormwater management goals through Environmental Site Design (ESD) and existing structural elements.

10. When the Planning Board allows any public use space, or public facilities and amenities to be provided off-site, the Planning Board must find that the space or improvement:

This finding is not applicable to 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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board and that 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.

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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 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.

Artie L. Harris, Chair

Montgomery County Planning Board

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