

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

October 18, 2024

MCPB No. 24-094
Site Plan No. 82014016C
Chick-fil-A Clarksburg
Date of Hearing: September 26, 2024

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, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on December 14, 2014, the Planning Board, by Resolution MCPB No. 14-112, approved Site Plan No. 820140160 for 450,000 square feet of retail and restaurant uses, parking facilities and public amenities on 84.24 acres of MXPDP zoned-land, located south of the intersection of I-270 and Clarksburg Road, Lot Nos. 1, 2, and 4, and Parcels A and B, Block AN recorded by Plat No. 25001, (“Subject Property”), in the Clarksburg Policy Area and 1994 Clarksburg Master Plan and Hyattstown Special Study Area (“Master Plan”) area; and

WHEREAS, on April 25, 2016, the Planning Director approved administrative Site Plan No. 82014016A, for minor modifications related to site grading, stormwater management facilities, crosswalks, surface parking facilities, a dumpster location, and the landscape plan on the Subject Property; and

WHEREAS, on June 14, 2018, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82014016B, MCPB No. 18-046, to remove the median in the main loop access drive, improve the promenade hardscape, update the landscape plan and site furnishing, make minor revisions to the site details and retaining walls, and revise the approved playground equipment to match the as-built conditions on the Subject Property; and

2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605
www.montgomeryplanningboard.org | mcp-chair@mncppc.org

Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

WHEREAS, on May 15, 2024, Chick-fil-A, Inc. (“Applicant”) filed an application for approval of an amendment to the previously approved site plan(s) for a 6,360 square foot restaurant with an accessory Drive-Thru on the Subject Property; and

WHEREAS, Applicant’s application to amend the site plan was designated Site Plan No. 82014016C, Chick-fil-A Clarksburg, (“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 September 13, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 26, 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 Linden, 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 Site Plan No. 82014016C for a 6,360 square foot restaurant with an accessory Drive-Thru on the Subject Property by modifying and adding the following conditions:¹

Revised Conditions

13. Transportation

- c. The Certified Site Plan must show the internal circulation as private drive aisles.
 - i. The Applicant must construct a private drive aisle from the main entrance at Clarksburg Road (MD 121) to the southern end of the site that terminates at the amphitheater as shown on the Certified Site Plan. This drive aisle will consist of travel lanes that will be at least 12-feet wide and will vary between 1 and 2 lanes in each direction, unless the typical road section, including travel lane and/or median widths, are modified to accommodate bicycle and/or pedestrian infrastructure. Sections of this drive aisle will contain a raised median or striped pavement as indicated on the Certified Site Plan. A shared use path will be accommodated within Gosnell Farm Drive as indicated on the Certified Site Plan from the private drive aisle (known as Wellspring Avenue) connecting to Cabin Branch Avenue to the proposed amphitheater.

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.

New Conditions

1. Pad Site (Site Plan Amendment No. 820140160C)

- a. The Site Plan Amendment is limited to a maximum of 6,350 square feet of total development with an accessory commercial use Drive-Thru facility² on the Property that is subject to Site Plan Amendment No. 820140160C.
- b. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by M-NCPPC Staff.
- c. The Applicant must provide a minimum total Green Area of at least 1.38 acres on the Property that is subject to Site Plan Amendment No. 820140160C.
- d. Transportation. Before release of the final Use and Occupancy permit, the Applicant must provide the following master planned pedestrian and bicycle facilities on Gosnell Farm Drive, the exact location, design and construction of which must comply with applicable standards of the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, as follows:
 - i. Along the Property frontage that is subject to Site Plan Amendment No. 820140160C, on Gosnell Farm Drive: eight (8) foot-wide sidepath with a 2.5-foot-wide street buffer from traffic on the north side of Gosnell Farm Road.
 - ii. Beyond the Property frontage that is subject to Site Plan Amendment No. 820140160C, on Gosnell Farm Drive to Wellspring Avenue: eight (8) foot-wide two-way separated bike lane on the southwest side of Gosnell Farm Drive with a 2.5-foot-wide striped buffer with flex delineator posts, connecting to the proposed eight (8) foot-wide sidepath along Gosnell Farm Drive (Site frontage) to the stop sign at the southwest corner of the intersection of Wellspring Avenue.
 - iii. The Applicant must provide eight (8) bicycle parking spaces in four (4) bicycle racks on the Property that is subject to Site Plan Amendment No. 820140160C.
- e. Impervious surfaces are limited to no more than 56 percent of the Property that is subject to Site Plan Amendment No. 820140160C, within the Clarksburg Special Protection Area

² The square footage may be changed to other non-residential uses if there is no adverse impact to the Site Plan or APF findings, and the change in use is approved by Staff.

as shown on the Impervious Surface Plan, dated July 12, 2024, and included as part of the approved Final Water Quality Plan.

- f. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its Final Water Quality Plan approval letter dated April 9, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.
- g. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated June 20, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- h. The Planning Board has reviewed and accepts the recommendations of MCDPS, Fire Department Access and Water Supply Section in its letter dated August 13, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.
- i. Site Plan Surety and Maintenance Agreement
Before issuance of any building permit, sediment control permit, or Use and Occupancy Certificate (excluding core and shell), whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by 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 previous Zoning Ordinance of the Montgomery County Zoning Ordinance, with the following provisions:
 - i. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - ii. The cost estimate must include applicable Site Plan elements only for facilities located on the Subject Property (not in the public right-of-way), including, but not limited to, plant material, on-site lighting, site furniture, trash enclosures,

retaining walls, fences, railings, private 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.

- iii. 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.

j. Lighting

- i. Before certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
 - ii. All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
 - iii. Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
 - iv. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
 - v. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
 - vi. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.
- k. Before approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- i. Include the stormwater management concept approval letter, approved Fire Department Access Plan, development program, and Site Plan resolution on the approval or cover sheet(s).
- ii. Address architectural comments from the Town Architect in a letter dated February 19, 2024.
- iii. Add the following notes:
 1. *“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.”*
 2. *“The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”*

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. 82014016C, 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 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 (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 as revised by previous amendments, and all findings not specifically addressed remain in effect.

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The Cabin Branch property was first approved under Development Plan Amendment DPA No. 13-02 on February 4, 2014 (Council Resolution No. 17-1002). The Amendment does not affect any non-illustrative elements of the approved DPA. The Amendment and plan conform to the binding elements of Development Plan No. DPA 13-02, including density and street character. The Amendment modifies Site Plan No. 820140160, as amended, without changing the approved density, which is under the cap established by the DPA.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

Pursuant to Sec. 59.7.7.1.B.3 (Exemptions), the Applicant elected to amend the Site Plan using the MXPDP development standards, which were effective on October 29, 2014. The development satisfies all applicable development standards for the MXPDP zone as shown in the Data Table, which lists only development standards applicable to the Amendment. All other development standards remain in full force and effect as previously approved. The Property is not located within an urban renewal area.

Data Table

Development Standard	Permitted/ Required	Approved by Site Plan No. 820140160³	Approved Site Plan Amendment No. 82014016C
Gross Tract Area	n/a	84.24	No change
Floor Area Ratio, maximum	0.30	0.012	No change
Gross Commercial/Retail, maximum	484,000 SF	450,000 SF	No change
Building Height	n/a	70 feet	No change
Setback from residential zones other than one-family detached units, minimum	100 feet	100 feet	No change
Front Setback, minimum	10 feet	10 feet	No change
Rear Setback, minimum	0 feet	0 feet	No change
Side Street Setback, minimum	10 feet	10 feet	No change
Interior Lot Setback, minimum	3 feet	3 feet	No change
Alley Setback, minimum	3 feet	3 feet	No change
Right-of-Way Truncation Setback, minimum	0 feet	0 feet	No change
Green Area Commercial Uses, Cabin Branch property, minimum ⁴	40% (85.48 acres)	68% (144.70 acres)	68% (144.91 acres)
Green Area, Subject Property	n/a ⁴	n/a	43% (1.38 acres)
Parking Lot Landscaping, Subject Property, minimum	5% (1,211 SF)	n/a	7.14% (1,736 SF)
Parking Lot Tree Canopy, Subject Property, minimum coverage	25% (6,058 SF)	n/a	28% (6,905)
Parking Spaces, minimum ⁵ ; (25 spaces/1,000 SF of patron use area)	88 spaces for 3,500 SF patron space	170 spaces for 6,500 SF patron space	90 spaces for 3,500 SF patron space
Drive-Thru queuing spaces, minimum ⁶	5 spaces per lane	n/a	43 spaces Left lane: 22 Right lane: 21
Bicycle Parking, minimum	111 spaces Overall property 8 spaces, Subject Property	218 spaces Overall Property	8 spaces, Subject Property

³ Site Plan No. 820140160 approved the development standards for the Overall Property and Subject Property. Administrative Site Plan Amendment Nos. 82014016A and 82014016B did not amend any development standard.

⁴ Green Area requirement is applicable to the overall Cabin Branch property.

⁵ Subject Property (pad site) was approved for 6,500 SF of patron use space under Site Plan No. 820140160. The patron use space is reduced to 3,500 SF.

Limited Use Drive-Thru Facility

Pursuant to Sec. 59.3.5.14.E (Use and Use Standards Table) a Drive-Thru facility is allowed in the CRT zone if it satisfies the use standards under Sec. 59.3.5.14.E.2 (Limited Use Drive-Thru) and a Site Plan application is approved.

1. Limited Use Drive-Thru Use Standards. Where a Drive-Thru is allowed as a limited use, it must satisfy the following standards:

a. A Drive-Thru, including the queuing area, must be located a minimum of 100 feet from any property that is vacant or improved with a residential use in the Agricultural, Rural Residential, or Residential Detached zones.

The Subject Property is not located within 100 feet of property in Agricultural, Rural Residential, or Residential Detached zones.

b. For a Restaurant with a Drive-Thru, access to the site from a street with a residential classification is prohibited.

Access to the Subject Property is not provided from a street with a residential classification. Access is provided from Gosnell Farm Drive which is a private roadway. Private roadways do not have a county roadway classification. However, for analysis purposes, the Town Center Roadway classification was used because this private road is used to service the shopping center.

c. A drive-thru service window, drive aisle, or queuing area located between the street and the front main wall of the main building is prohibited.

The drive-thru service window, drive aisle, and queuing area are located at the rear of the building and are not located between the street and the front main wall of the main building.

d. A drive-thru service window, drive aisle, or stacking area may be located between the street and the side wall of the main building on a corner lot if permanently screened from any street by a minimum 3-foot-high wall or fence.

⁶ Pursuant to Sec. 59.6.2.7.A.1, a restaurant drive-thru facility must have a minimum of five (5) queuing spaces for each drive-thru lane.

This standard is not applicable because the drive-thru service window, drive aisle, and stacking area are located at the rear of the building

- 3. The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

Locations of Buildings and Structures

The location of buildings and structures are adequate, safe, and efficient. The location of the building and structures adequately satisfy all applicable development standards of the MXPB zone⁷. The restaurant is situated at the corner of Clarksburg Road and Gosnell Farm Road. Landscaping and outdoor patron seating areas between the building and Gosnell Farm Road. The pedestrian entrance is located off of Gosnell Farm Drive near both outdoor patron seating areas. The building orientation towards the road and minimal setback combined with site design helps to activate the street and reinforces the retail and pedestrian character that is sought for this area. The on-site parking and the Drive-Thru facility are located behind the building and are accessed from Gosnell Farm Drive. There are no alterations to the stone retaining wall along Clarksburg Road. Both the parking area and Drive-Thru facility are adequately screened from off-site view by elevation, earth berms, landscaping, and trees.

Open Space

The location of open space is adequate, safe, and efficient. The Amendment increases the minimum Green Area, which includes 43 percent Green Area on the Subject Property. The overall (161.20 to 161.41 acres) and commercial (144.70 to 144.91 acres) Green Area remains in substantial conformance with the prior Site Plan approval. The approved residential Green Area for the Cabin Branch property remains unchanged.

Pedestrian and Vehicular Circulation Systems

Pedestrian and vehicular circulation is adequate, safe, and efficient. Vehicular access to the Subject Property is provided through Gosnell Farm Drive. Existing travel lanes on Clarksburg Road will remain unchanged. The four travel lanes on Gosnell Farm Drive along the Subject Property frontage will remain unchanged. Gosnell Farm Drive to the south beyond the Site frontage towards Wellspring Avenue will be reduced to two travel lanes and each travel lane will be narrowed to 11 feet to accommodate an interim two-way bicycle lane.

The existing eight (8) foot-wide sidepath along Clarksburg Road and Gosnell Farm Drive will be extended along the entirety of the Subject Property frontage on Gosnell Farm Drive with a 2.5-foot-wide street buffer to accommodate both pedestrians and bicyclists.

⁷ Pursuant to 59-7.7.B.3.b (Exemptions), the Amendment is reviewed under the zoning in effect October 14, 2004.

The new eight (8) foot-wide sidepath along Gosnell Farm Drive will transition into an interim eight (8) foot-wide two-way separated bike lane buffered by a 2.5-foot-wide striped buffer with flex delineator posts on Gosnell Farm Drive to the intersection with Wellspring Avenue.

The Planning Board discussed that when the undeveloped property adjacent to the southwest of the Subject Property is developed, permanent pedestrian and bicycle facilities will presumably be installed pursuant to the 2018 Bicycle Master Plan, the 2024 Complete Streets Design Guide, as amended, or other applicable standards.

4. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The Amendment is compatible with other uses and other site plans, and with existing and adjacent development. The Subject Property is surrounded by commercial uses and commercial structures. Across Gosnell Farm Road is the Clarksburg Premium Outlets shopping center and expansive surface parking facilities. Across Clarksburg Road is a drug store, gas station, and convenience store. Adjacent to the southwest is undeveloped land. The commercial structure is compatible with adjacent development because the structure is designed in a similar massing and height of surrounding development and is architecturally compatible. Additionally, the Amendment is compatible with the expected development of the adjacent vacant land, which is similarly zoned for mixed-use density and height. The vacant property has the area, length and width suitable for a range of compatible mixed-uses. The Applicant has provided building articulation on all facades, with a focus on street-facing facades. Finish materials include stone and brick veneers, anodized metal, and siding which are similarly compatible with surrounding commercial development.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Chapter 22A, Forest Conservation

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

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code ("FCL"). The Cabin Branch property has an overall Final Forest Conservation Plan No. 820050150, as amended, which was renumbered to F20240030 with the most recent amendment. This Amendment amends that overall Final Forest Conservation plan and is in compliance with Montgomery County Environmental

Guidelines and Chapter 22A, Montgomery County Forest Conservation Law as conditioned in the Staff Report.

The Applicant submitted a Final Forest Conservation Plan Amendment No. F2023003A (“FFCP”) for concurrent review with the Site Plan Amendment No. 82014006C. The FFCP amends the overall FFCP for the Cabin Branch property by revising Sheet Nos. 1, 2C, 2E, 3, 6, 9, 10, and 11 of that overall FFCP. The FFCP is revised to show the construction of the Subject Property as required under Sec. 22A.00.01.09 of the Forest Conservation Regulations. The Amendment conforms to the requirements established by the original overall FFCP and does not alter the requirements established by the overall FFCP worksheets

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on April 9, 2024. The plan will meet stormwater management requirements through the use of micro-bioretenion and bio-swale facilities.

The overall impervious level for the Cabin Branch property, including the Amendment, is approximately 44.63 percent and continues to meet the targeted goal of less than 45 percent of the Clarksburg Special Protection Area (SPA) Water Quality Plan.

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

October 18, 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 motion of Commissioner Hedrick, seconded by Commissioner Bartley, with a vote of **3-0**; Chair Harris, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Vice Chair Pedoeem and Commissioner Linden being necessarily absent, at its regular meeting held on Thursday, October 17, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board