



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 23 2015

MCPB No. 15-79
Preliminary Plan No. 120140060
Clarksburg Square Road Extension
Date of Hearing: July 16, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on November 26, 2013, Third Try L.C. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot, one (1) outlot, and public right-of-way on 0.83 acres of land in the C-1 and R-200 zones, located along MD 355 halfway between Clarksburg Road and Stringtown Road ("Subject Property"), in the Clarksburg Policy Area and covered by the 1994 Clarksburg Master Plan & Hyattstown Special Study Area; 2011 Limited Amendment to the 1994 Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions; and 2014 10 Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area ("Master Plans"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120140060, Clarksburg Square Road Extension ("Preliminary 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 July 2, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 16, 2015, 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, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120140060 to create one lot, one outlot, and public right-of-way on the Subject Property and the associated Preliminary Water Quality Plan, subject to the

Approved as to
Legal Sufficiency:

 7/20/15

8787 Georgia Avenue, Suite 20910, Clarksburg, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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following conditions:¹

1. This Preliminary Plan is limited to one (1) lot for two buildings with up to 4,162 square feet of commercial use and one (1) outlot.
2. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 23, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
4. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its Preliminary/Final Water Quality Plan (P/FWQP) letter dated February 27, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. The Applicant must show on the final record plat the following right-of-way dedication:

Clarksburg Square Road: Full width dedication of 50 feet between the western terminus of the existing segment of Clarksburg Square Road and the intersection of MD 355/ Redgrave Place.

6. Prior to issuance of the first building permit, the Applicant must satisfy the Transportation Policy Area Review ("TPAR") test by making a TPAR Mitigation Payment, pursuant to the 2012-2016 Subdivision Staging Policy, unless determined to be inapplicable by MCDPS based on a review of the existing uses on the Subject Property. The amount of this payment will be equal to 25 percent of the General District Impact Tax. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

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.

7. Westbound left-turn movements, from Clarksburg Square Road to southbound MD 355, will be sign-restricted from 6:30 a.m. to 9:30 a.m. and 4:00 p.m. to 7:00 p.m., Monday through Friday.
8. The Planning Board accepts the recommendations of the Maryland State Highway Administration ("MDSHA") in a letter dated June 18, 2015 and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. Prior to issuance of any Use and Occupancy Certificates for the commercial buildings associated with this Preliminary Plan, Clarksburg Square Road must be constructed and open to traffic.
10. The certified Preliminary Plan must contain the following note:

"Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permits. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

11. Record plat must show all necessary easements.
12. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and 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 Preliminary Plan substantially conforms to the Master Plan.*

Conformance to the 1994 Clarksburg Master Plan & Hyattstown Special Study Area ("1994 Master Plan")

The Application is located on the Subject Property in the Clarksburg Historic District. The 1994 Master Plan envisions the Clarksburg Historic District as the focal point of the greater Clarksburg community. The 1994 Master Plan further envisions a strong interrelationship between the Historic District and new development, such as the Town Center, to help blend the "old" with the "new".

The extension of Clarksburg Square Road, as proposed in this Application, enhances this interrelationship from a transportation and community standpoint. This Application achieves a major objective of the 1994 Master Plan by extending Clarksburg Square Road in the exact 1994 Master Plan alignment to enhance the interconnected street system typically found in older towns.

To achieve the desired scale, character, and location of Clarksburg Square Road, the 1994 Master Plan recommends that it should be "a maximum of two lanes or 24 feet in width." In addition, the road should have no parking lanes within the Historic District with curb radii at the intersection that match the radii on the west side of MD 355. Finally, efforts should be made to design the road and the intersection as a low volume, local road that will not detract from the character of the Historic District.

The road included in this Preliminary Plan meets all of the design guidelines established by the Master Plan. There are no parking lanes until Clarksburg Square Road exits the Historic District and enters the Clarksburg Town Center. The curb radii complement each other and the road is designed to be a low volume two lane local road that will serve both vehicles and pedestrians. The design uses MCDOT Tertiary Residential Street Standard 210.02 within a 50-foot right-of-way. This standard calls for a 26-foot wide pavement section that will match with the portion of Clarksburg Square Road already built within the Town Center.

Conformance to the 2011 Limited Amendment to the 1994 Approved and Adopted Clarksburg Master Plan & Hyattstown Special Study Area to Allow an Exception to the Retail Staging Provisions ("2011 Amendment")

The 2011 Amendment does not contain any recommendations relevant to this Application.

Conformance to the 2014 10 Mile Creek Area Limited Amendment to the Clarksburg Master Plan & Hyattstown Special Study Area ("2014 Amendment")

Approximately 40 percent of the Subject Property lies within the 2014 Amendment area. The 2014 Amendment reinforces many of the recommendations of the 1994 Master Plan, such as encouraging renovations of existing buildings to allow residential and smaller scale commercial uses as well as the relocation of MD 355 to carry vehicle trips away from the Historic District.

The most significant aspect of the 2014 Amendment involves the impervious surface limitations placed on properties located in the Clarksburg East Environmental Overlay Zone. However, properties located in the Clarksburg Historic District within this zone are exempt from the requirements of the 1994 Amendment according to Montgomery County Council Resolution 17-1048.

2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

Access, Parking, and Public Transportation

Following right-of-way dedication for Clarksburg Square Road, relocation of the Horace Wilson House, and construction of Clarksburg Square Road, vehicular access to the Subject Property from MD 355 will be eliminated. Access to the repurposed structures will be provided from one commercial driveway on Clarksburg Square Road and one commercial driveway on Clarksridge Road. Future pedestrian access to the Subject Property will be facilitated via a new five foot wide sidewalk along the site's MD 355 and Clarksburg Square Road frontages. Pedestrian access will be further improved by relocating the existing northbound MD 355 bus stop to within 50 feet of the MD 355/ Clarksburg Square Road intersection. The immediate area is served by Montgomery County Ride-On transit Route 75 to Germantown Transit Center.

In order to provide for safe turning movements onto Frederick Road (MD 355) from the newly constructed Clarksburg Square Road during the morning and evening peak periods, westbound left-hand turning movements, from Clarksburg Square Road to southbound MD 355, will be sign-restricted from 6:30 a.m. to 9:30 a.m. and 4:00 p.m. to 7:00 p.m., Monday through Friday.

LATR/TPAR Review

The proposed conversion of the historic Horace Wilson House to a retail use, measuring 2,652 square feet, will generate five peak-hour trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and nineteen peak-hour trips during the weekday evening (4:00 p.m. to 7:00 p.m.) peak periods. Since the proposed development was estimated to generate less than 30 peak-hour trips during the

typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods, a traffic statement (dated October 18, 2013) was submitted for the subject application per the *LATR/TPAR Guidelines*. Trip generation shows that the proposed development will generate a total of 4 new vehicular trips in the morning hour and 18 new vehicular trips in the evening peak hour after existing vehicular trips associated with the dwelling unit are applied. Because the additional trips created by the Horace Wilson house do not exceed the 30 trip threshold, the Application is exempt from the requirements of LATR.

According to the 2012-2016 Subdivision Staging Policy (SSP), the Clarksburg Policy Area is adequate under the roadway test and inadequate under the transit test. As a result, the applicant is required to pay 25% of the general district impact tax to satisfy the Transportation Policy Area Review (TPAR) test, unless such payment is determined to be inapplicable by MCDPS based on a review of the existing uses on the Subject Property. As conditioned, the proposed development satisfies Adequate Public Facility (APF) requirements and does not necessitate further transportation analysis.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The Subject Property are located in the W-1/S-1 water and sewer service categories. The Application was also reviewed by the Montgomery County Fire Marshal's office, and was approved on March 25, 2014. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the SSP currently in effect. The Application is does not generate any school aged children and is therefore not subject to a School Facilities Payment.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code Chapter 50, the Subdivision Regulations and meets all applicable sections. Additionally, the size, width, shape and orientation of the approved lots are appropriate for the location of the subdivision and for the intended use given the recommendations of the Master Plan.

The lots were reviewed for compliance with the dimensional requirements for the C-1 and R-200 zones as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width,

and open space, and future dwellings can meet setbacks required in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Subject Property was granted an exemption from submitting a forest conservation plan (42015229E) per Section 22A-5(s)(2) of the Forest Conservation Law.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management," Section 19-20 through 19-35.*

The required stormwater management goals will be met through the use of Environmental Site Design practices, including micro-bioretenion, pervious pavement, and a flow through structural filter. This finding is based in part upon the MCDPS's February 7, 2014 approval of a Special Protection Area Water Quality Plan that addresses site performance goals, stormwater management, sediment and erosion control and monitoring of Best Management Practices.

6. *The Application satisfies all applicable requirements of Chapter 19, Article V – Water Quality Review in Special Protection Areas.*

The Preliminary Water Quality Plan approved with this Application covers the Subject Property and the 0.21 acres of adjoining land reviewed under Site Plan Amendment No. 82007022C, which was approved alongside this Application.

There are no streams, 100-year floodplains, wetlands, or environmental buffers on or affecting the Subject Property and the adjoining lot. As described above, the Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and Site Plan Amendment 82007022C is in compliance an approved forest conservation plan.

The Application and Site Plan Amendment 82007022C also satisfy all of the applicable requirements of site imperviousness limitations by demonstrating efforts to avoid and minimize impervious surfaces to the greatest extent possible while meeting required zoning and design standards. The Clarksburg and Ten Mile Creek SPAs do not have numerically defined impervious surface limits, and the Subject Property and adjoining lot are located outside of any overlay zones with specific impervious surface limitations; however, impervious surface levels must be minimized to the greatest extent possible. There are currently 0.55 acres of existing impervious surfaces on the Subject Property and the adjoining

lot (53 percent). The Application proposes 0.65 acres of impervious surfaces on the Subject Property and the adjoining lot (63 percent), a net increase of 0.1 acres or 1 percent. This increase is the minimal necessary to account for the extension of Clarksburg Square Road as envisioned in the Master Plans, the provision of sidewalks and right-of-way improvements required by the Maryland State Highway Administration, and necessary expansions of drive aisles and paving associated with the gas station use.

The Montgomery County Department of Permitting Services has reviewed and conditionally approved the elements of the Preliminary Water Quality Plan under its purview for the Subject Property and the adjoining 0.21 acre lot in its letter dated February 7, 2014. These elements include site performance goals, stormwater management, sediment and erosion control, and monitoring of Best Management Practices.


BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 85 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; 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 23 2015 (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 Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, with Commissioner Presley abstaining, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, July 16, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board