



JUL 23 2015

MCPB No. 15-80
Site Plan No. 820140050
Clarksburg Square Road Extension
Date of Hearing: July 16, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on November 26, 2013, Third Try L.C. ("Applicant") filed an application for approval of a site plan to relocate the existing Horace Wilson House, gasoline pumps, and a parking lot while retaining the structure for the Clarksburg Grocery, resulting in two commercial structures totaling 4,162 sq. feet on 0.83 acres of C-1 and R-200 zoned-land, 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

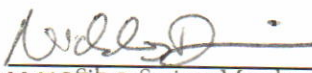
WHEREAS, Applicant's site plan application was designated Site Plan No. 820140050, Clarksburg Square Road Extension ("Site Plan" or "Application"); and

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 of 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 Site Plan No. 820140050 for redevelopment of the Subject Property by relocating the

Approved as to
Legal Sufficiency:  7/19/15
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M-NCPPC Legal Department
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Horace Wilson House, gasoline pumps, and a parking lot while retaining the structure for the Clarksburg Grocery, resulting in two commercial structures totaling 4,162 sq. feet,, in addition to the associated Final Water Quality Plan, subject to the following conditions:¹

1. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 120140060.

2. Water Quality

a) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") Preliminary/Final Water Quality Plan approval letter dated February 27, 2014.

3. Transportation

a) Prior to issuance of any Use and Occupancy Certificate, the Applicant must provide pedestrian sidewalks at a minimum of 5-feet wide along all streets proposed within the Subject Project. The sidewalks must be ADA compliant and free and clear of all obstructions.

b) The Applicant must relocate the existing bus stops on MD355 as shown on the Certified Site Plan.

c) Prior to issuance of any Use and Occupancy Certificate, the Applicant must provide short-term public bicycle parking along the Clarksburg Square Road frontage, as shown on the Site Plan, for 8 bicycles.

4. Public Use Space, Facilities, and Amenities

a) Before the issuance of any Use and Occupancy Certificate for the commercial development, all public use space areas on the Subject Property must be completed.

b) If the Clarksburg Grocery is to remain open during construction, the minimum amount of on-site parking including handicapped accessible parking shall be 11 parking spaces and one (1) handicapped parking space shall be maintained on the Subject Property at all times during construction.

c) The Applicant must construct an off-site sidewalk, as shown on Site Plan No. 820140050, in the right-of-way in front of Parcel 177 to connect to the existing sidewalk in front of the Bennigan's site prior to the issuance of any Use and Occupancy Certificate on the Subject Property.

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.

5. Landscaping

- a) Before issuance of any Use and Occupancy Certificate, all on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and pedestrian system and picnic/seating areas must be installed.
- b) The Applicant must install the landscaping no later than the next growing season after completion of site work.

6. Lighting

- a) Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for commercial development.
- b) All onsite down-lights must have full cut-off fixtures.
- c) Deflectors will be installed on proposed fixtures causing potential glare or excess illumination.
- d) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The light pole height must not exceed 12 feet as illustrated on the Certified Site Plan.

7. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board. The Agreement must include a performance bond(s) or other form of surety with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads, paths and associated improvements within the relevant phase of development. The surety must be posted before issuance of any building permit within each relevant phase of development and will be tied to the development program.
- c) 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 inspection and potential reduction of the surety.
- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each phase.

8. 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.

9. 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 Preliminary/Final Water Quality Plan approval letter, development program, Site Plan resolution, and resolution for Site Plan Amendment #82007022C on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) 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."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED, that all site development elements as shown on Clarksburg Square Road Extension drawings stamped by the M-NCPPC on June 17, 2014, shall be 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 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 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.*

There are no non-illustrative elements of a development plan, diagrammatic plan, binding elements of a schematic development plan, or project plan associated with this Application.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

Within the Clarksburg Historic District, the Subject Property is split-zoned C-1/R-200. The commercial uses, including a food and beverage store within the historic building, are permitted in the C-1 Zone, and off-street parking in connection with commercial uses is permitted in the R-200 Zone. The Site Plan meets all the conditions in Section 59-A-6.22 "Parking in conjunction with historic districts."

As shown in the data table below, the Board approves a reduction of the setback requirement from the Clarksburg Square Road ROW, as permitted in Section 59-A-6.23 "Lot Width and setbacks" and in accordance with the Historic Area Work Permit approval process. The setback reduction serves to maintain the historic development and building patterns evident in the surrounding historic district. The C-1 Zone has a green area requirement of 10 percent, which the Site Plan exceeds by providing 50 percent or 0.33 acres of green area.

Requirements of the C-1 and R-200 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the C-1 and R-200 Zone.

Data Table

Development Standard	Zoning Ordinance Permitted/Required	Approved
Site Area (acres)		
Gross Tract Area (GTA)	n/a	<u>0.83 acres</u>
C-1 Zone Parcel 203		0.01 acres
C-1 Zone Parcel 176		0.65 acres
R-200 Zone Parcel 176		0.17 acres
Road Dedication	n/a	0.19
Net Area	n/a	0.64
Density (SF)		
▪ Ex. Commercial Building area	n/a	1,510
▪ Ex. historic house area (convert to commercial use)	n/a	<u>2,652</u>
▪ Total Ex. and proposed Commercial Building Area	n/a	4,162
Min. Building Setbacks (feet)		

Street ROW (59-C-4.343(a)(1))	10	3*
Side (59-C-4.343(b)(3))	10	12
Rear (59-C-4.343(b)(2))	0	90
Max. Lot Coverage (acres)		
	0.23 (35%)	0.07 (11%)
Max. Building Height (feet)		
(59-C-4.342)	30	30
Min. Green Area		
(% of GTA) (59-C-4.344)	10% (0.07 acres)	50% (0.33 acres)
Vehicle Parking Spaces (59-E)		
Clarksburg Market		
▪ Retail use (1,510 SF)	8 (at 5 sp/1,000 SF)	8
▪ Outdoor seating (240 SF)	4 (at 15 sp/1,000SF)	4
Historic House		
▪ Retail use (2,652 SF)	14 (at 5 sp/1,000 SF)	14
Total parking	26	22.5 (+ 3.5 spaces from Site Plan Amendment 82007022C)
Min. Parking Setbacks (feet)		
Street ROW (59-E-2.71)	10	14
Side yard adjacent to R-200 (59-E-2.81(a))	12	15
Side yard adjacent to C-1 (59-E-2.72)	4	12
Bicycle Parking Spaces (59-E)		
	n/a	8

* Per Section 59-A-6.23, the Planning Board may reduce the setback requirements for a main building for the purpose of maintaining the historic development and building patterns throughout the historic district.

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

a. Buildings and Structures

The location of buildings and structures is adequate, safe, and efficient. The Site Plan proposes to relocate the historic Horace Wilson House to the south by approximately 63 feet while maintaining the same front setback from the road. This relocation enables the extension of Clarksburg Square Road to Frederick Road (MD 355) as recommended in the Master Plan. The proposed location for the historic house is adequate by maintaining existing setbacks in the historic district, and safe and efficient by enabling the creation of a T-intersection between the two roads. The

parking area with 26 spaces is located in the rear of the site, which adequately limits visibility and efficiently maintains the historic character of the Historic District. The fuel and pump stations are located within the parking area also to the rear of the building. The proposed location allows for safe circulation within the parking areas.

b. Landscaping and Lighting, Open Spaces, and Recreation Facilities

The location of open space is adequate, safe, and efficient when combined with Clarksburg Town Center Site Plan Amendment #82007022C, approved alongside this Application. The Site Plan shows open space on the periphery of the parking area, which provides adequate setbacks from adjacent uses and allows room for efficient landscape screening and stormwater management facilities. The Site Plan also shows an area of open space, referred to as Outlot A, Block EE, on the northeast quadrant of Clarksburg Square Road and MD 355 which is part of the Subject Property.

The landscaping and lighting is adequate, safe, and efficient with combined with the Clarksburg Town Center Site Plan Amendment #82007022C. A hierarchy of plant material including shade trees, ornamental trees and shrubs adequately provides shade, interest and screening for the parking areas. Street trees line both sides of Clarksburg Square Road and the Subject Property's frontage along MD 355. Foundation plantings in the front of the historic house provide interest and scale. Interior lighting will create enough visibility to provide safety in the parking area but not so much as to cause glare on the adjacent roads or properties.

There are no recreation facilities required for this Site Plan, but picnic tables and bicycle facilities are provided between the historic houses and the parking area. The picnic tables will be moved closer to the existing Clarksburg Market building to efficiently serve as outdoor seating for that use.

c. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are adequate, safe, and efficient when combined with the Clarksridge Road driveway approach and associated sidewalks in Clarksburg Town Center Site Plan Amendment #82007022C. Sidewalks are provided along Clarksburg Square Road and MD 355, which adequately and efficiently integrates this project into the surrounding area. The sidewalks have different treatments

including 1) concrete with brick edging, 2) solid brick pavers using soldier course and herringbone patterns and 3) concrete only, which reinforces the organic character of the Historic District and the pedestrian orientation in the area. Internal sidewalks connect the parking areas to the building access points. This Site Plan enables a major vehicular connection between the future Clarksburg Town Center and MD 355 at the Historic District. This connection recommended in the Master Plan creates adequate capacity in the area for future development and efficient vehicular circulation. Within the Subject Property, vehicular circulation is limited to the parking area with two access points, one off Clarksburg Square Road and the other off Clarksridge Road immediately to the east of the Subject Property. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation.

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

The relocated historic house with associated retail use, the new parking area and the extension of Clarksburg Square Road to Frederick Road (MD355) are compatible with other uses and other site plans and with existing and proposed adjacent development. Because this site is located in the Clarksburg Historic District, it requires that compatibility be further established with the historic character of the area. The relocation of the historic building by approximately 63 feet to the south, while maintaining the existing front building setbacks and locating the parking in the rear, is compatible with existing development, historic character of the area, and the master-planned extension of Clarksburg Square Road. In addition, the Site Plan is compatible with existing development and historic character of the area by showing various sidewalk treatments within a small area, and selecting site furnishings, including light fixtures and bicycle racks, with a historic character.

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.*

A. Forest Conservation

The Application complies with the requirements of the Forest Conservation Law. A Forest Conservation Plan Exemption (42015229E) was confirmed under Section 22A-5(s)(2) of the Forest Conservation Law.

B. Special Protection Area Final Water Quality Plan

The Application satisfies all applicable requirements of Chapter 19, Article V – Water Quality Review in Special Protection Areas. The Final 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 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 Final 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 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-D-3.8; 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