

Resolution No.: 20-941
Introduced: September 30, 2025
Adopted: October 14, 2025

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: District Council

SUBJECT: DEVELOPMENT PLAN APPLICATION (DPA) 25-01, FOR DEVELOPMENT PLAN AMENDMENT of the development plan approved by the Council in LMA G-806 on September 9, 2003, and amended on February 4, 2014, in DPA 13-02; Jody S. Kline, Esquire, Attorney for the Applicant, Willow Manner at Clarksburg, LLLP; OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 02-03849015.

Opinion

The application for Development Plan Amendment (DPA) No. 25-01 was filed on February 18, 2025 by Willow Manner at Clarksburg, LLLP.¹ The Applicant seeks to amend the development plan previously approved by the Council on September 9, 2003, in Local Map Amendment (LMA) G-806 and amended on February 4, 2014, in DPA 13-02. This matter must be decided under the 2004 Zoning Ordinance (*i.e.*, the one in effect on October 29, 2014) because it is grandfathered under the terms of Section 59.7.7.1.B.1. of the current Zoning Ordinance.

The current location of the property in question is the northern quadrant of the intersection of Clarksburg Road (Rt. 12) at Gosnell Farm Drive, Tax Account No. 02-0384915 also known as 22705 Gosnell Farm Drive, Boyds, Maryland. The parcel is located in the “Cabin Branch” property which contains 535 acres and lies to the west side of Interstate 207 between Old Clarksburg Road and West Old Baltimore Road. Exhibit 27, p. 6. The property seeking the change is in the MXPD zone within “Study Area A.” Exhibit 8, p. 1. The MXPD-zoned area is substantially developed. *Id.* The section of land within Study Area A for which a use change is proposed contains 2.1829 acres. *Id.* Study Area A is located in the northernmost area of the

¹ SMTM Cabin Branch East, LLC is the owner of the parcel that is the subject of this DPA Application and has authorized Willow Manner at Clarksburg, LLLP to proceed on its behalf. *See* Exhibit 2 - Authorization. Willow Creek Manner at Clarksburg, LLLP was created by Kirby Development, LLC to manage the entitlements, construction, and operation of an “affordable, age restricted multi-family rental project.” *See* Exhibit 21 – Amended Statement of Justification.

Development Plan Area and is currently developed with commercial uses including the Clarksburg Premium Outlets, several surface parking lots, and a CVS Pharmacy. Exhibit 27, p. 7.

The current Development Plan Amendment (Exhibit 23) seeks modification of Binding Element 8 to increase the density from 500 to 650, adding up to 150 additional units of “affordable, age-restricted, multi-family”. Exhibit 27, p. 9. Binding Element #8 as previously approved provides:

8. Service/Public Uses. Service/Public uses may include up to 500 units for independent living for Senior Adults or persons with disabilities, assisted living, life care or continuing care.

The Planning Staff of the Maryland-National Capital Park and Planning Commission (hereinafter, “Planning Staff” or “Staff”) describes the subject property as follows (Exhibit 27, pp. 6-7):

[T]he area within Cabin Branch that was previously rezoned MXPDP is substantially developed and establishes the boundary of the subject Development Plan Amendment (Figure 4). The original Development Plan was divided into five study areas: A, B, C, D, and E. The Subject Development Plan Amendment pertains to Areas A, B, C, and D, which are collectively outlined in Figure 4. The Applicant is requesting a modest change to the density mix of Study Area A within the larger Development Plan Amendment Area (Figure 5). Study Area A is located in the northmost area of the Development Plan Area, bounded by I-270 to the east, Old Clarksburg Road to the north, and Gosnell Farm Drive to the west. Study Area A is developed with commercial development including the Clarksburg Premium Outlets, several surface parking lots, and a CVS Pharmacy with a drive-thru.

The Applicant seeks modification of Binding Element 8 to increase the allotted density for senior housing to 650 units, adding an additional 150 units to the previously approved 500. Exhibit 21. The property owner has determined the original hotel plan for this location within Study Area A is no longer a realistic use for the property and seeks to convert the hotel site to an affordable age restricted senior residential facility or another category of “service/public use” housing. *Id.* The original DPA called for a 76,800 square-foot hotel with 129 units. The current DPA proposes a 100,225 square-foot senior residential facility with up to 150 units. *Id.*

The Applicant’s proposal does not exceed the density of the plan and will not change the amount of Transferrable Development Rights (TDRs) under the plan. *Id.* The other senior housing projects approved in “Cabin Branch” have exhausted the capacity for senior housing across the entire project. *Id.* Nothing in the entire record for this project sought to limit or identified a justification for limiting the senior housing component to 500 units. *Id.* Further, in the early 2000s during planning phase of Cabin Branch it was determined that because senior housing had little to no impact on schools or traffic it could be placed anywhere in the planned area. *Id.* Adding more senior housing is not contrary to any planning principles inherent in the design of the overall community. *Id.* The Applicant notes that a May 2018 study found the County has a shortfall of

senior living opportunities and that additional senior housing units in Cabin Branch will “allow the community to evolve as a mixed-use community” to accommodate a range of residents. *Id.*

Both Staff and the Montgomery County Planning Board recommended approval of DPA 25-01 and that the amendment be placed on the District Council agenda without the necessity of a public hearing by the Hearing Examiner. Exhibits 27 and 28. Staff reports that previously approved preliminary and site plan applications have satisfied dedications related to parkland, forest conservation easements, and public open space implemented over the last 20 years, and that development of the proposed senior living facility will be evaluated under subsequent preliminary and site plan applications to set compliance with all zoning requirements. Exhibit 27, p. 15. Staff report that “the subject application is generally consistent with the recommendations” of the *Clarksburg Master Plan* and *Thrive Montgomery 2050*. *Id.* at 12. Staff also determined that DPA 25-01 satisfies the purposes of the MXPDP zone because senior living units were a use explicitly envisioned for this area within the original development and an increase in that number of units will “continue to ensure internal compatibility of residential and nonresidential uses, envisioned for the multi-use center.” *Id.* at 13. Additionally, Staff note the DPA plan boundary is substantially built and the increase in units will contribute to the orderly and staged development plan, will not preclude higher density residential uses to be integrated, and that placing the new senior housing facility near retail contributes to the “envisioned multi-use center”. *Id.* at 14. Further, Staff note that the “internal roadway and sidewalk networks have largely been constructed” and that the estimated peak hour vehicle trips are 29 in the morning and 38 in the evening. *Id.* at 20.

The Planning Board unanimously recommended approval of DPA 25-01. Finding that DPA 25-01 is:

- consistent with the purpose of the MXPDP Zone,
- meets all applicable standards of the MXPDP Zone per the 2004 Zoning Ordinance; and
- in substantial conformance with *Clarksburg Master Plan and Hyattstown Special Study* area and *Thrive Montgomery 2050*.

There has been no opposition to DPA 25-01, and no request has been made for an OZAH hearing. Therefore, under the provisions of 2004 Zoning Ordinance §59-D-1.74(c)(3), “the office of zoning and administrative hearings [OZAH] must forward the Planning Board’s report and recommendation directly to the Council,” without a hearing by OZAH.

Staff forwarded a transcript of the proceeding before the Planning Board (Exhibit 29). Staff received no correspondence from the public on this Application. Exhibit 27, p. 10. The Applicant properly posted the property and sent written notice of the Application per 59-D-1.74. Exhibits 30 and 31. With the record complete, the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner.

Based on the record developed by the Staff and the Planning Board, the District Council makes the following findings, as required by 2004 Zoning Ordinance §59-D-1.61:

- a. **The proposed DPA is consistent with both the *Clarksburg Master Plan* and *Thrive Montgomery 2050*.** The 1994 *Clarksburg Master Plan* (Master Plan)

designates the subject property as part of a mixed-use community with employment, retail, residential, and public uses. The Master Plan states that “attached and multi-family units are also proposed to help provide a variety of housing choices for people of different lifestyles and incomes”. See Master Plan, p. 67. The Application proposes an increase to the permitted number of senior living units (“Service/Public”), a use contemplated to occur in Study Area A. The Master Plan envisions the “employment frontage to foster an integrated plan which could include residential units”, also aims to provide a “strong interrelationship . . . among residential, employment, retail, and public facility uses” *Id. Thrive Montgomery 2050* (Thrive) focused on improving housing opportunities specifically encouraging production of more housing to better match supply with demand and plan for a wide range of housing types and sizes to meet diverse needs. See Thrive, p. 132. The Application is substantially consistent with the use and densities recommended as part of the Master Plan and Thrive. The additional senior living units in addition to what was already envisioned will further diversify the housing choices in Study Area A of the Development Plan and will provide for an integrated mix of uses, as envisioned by the Master Plan. The Application has also been developed in accordance with County development policies and as proposed does not exceed the approved number of units or square footage for any use type.

b. This DPA Application continues to be consistent with the purposes, standards and regulations set forth in Article 59-C-7.5 Mixed Use Planned Development – MXPD Zone.

- i. *To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master or sector plans can serve as the basis for evaluating an individual multi-use center development proposal.* Study Area A was identified for “predominately employment” including retail, entertainment and senior facilities. As found in previous approvals for this Project, senior living use was explicitly envisioned for the area. The Project will continue to ensure internal compatibility of residential and nonresidential uses, envisioned for the multi-use center.
- ii. *To encourage orderly, staged development of large-scale comprehensively planned, multi-use centers by providing procedures for the submission of a concept plan for an entire site and subsequent development plans for each stage of development, as identified on the concept plan.* The DPA plan boundary is substantially built. The Applicant seeks a modest change to the comprehensive plan for the DPA. Additionally subsequent preliminary and site plans will require approval prior to construction of the proposed facility further aiding to the orderly and staged development process.
- iii. *To provide, where appropriate, higher density residential uses integrated into the overall multi-use center.* Additional senior living units with the DPA boundary and Study Area A will not preclude higher density residential uses to be integrated into the overall multi-use center.

- iv. *To ensure internal compatibility of residential and nonresidential uses by providing a suitable residential environment that is enhanced by the commercial, recreational, employment and institutional amenities within commercial and industrial components of the multi-use center.* Senior living facilities were identified as an approved use and locating this new facility near existing retail facilities contributes to the envisioned multi-use center.
- v. *To assure compatibility of the proposed land uses with surrounding uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories.* The applicant seeks a density increase to add an additional 150 senior housing units. Building design and layout will be reviewed and evaluated during future preliminary and site plan stages to further ensure compatibility. Additionally, the design of the future facility must demonstrate compliance with the Cabin Branch Design Guidelines.
- vi. *To encourage and provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial/industrial concentration so as to function for the general benefit of the community and public at large as places for relaxation, recreation, and social activity. It is also intended that open space and amenities be located so as to achieve the physical and aesthetic integration of the uses and activities within each development.* Over the past 20 years, the prior approved Preliminary and Site Plan associated with the original and amended DPA for Cabin Branch required dedications to parkland, forest conservation easements, and other public open space dedications. The footprint, siting, and orientation of the proposed senior living facility must also satisfy this criteria and be evaluated under the subsequent Preliminary and Site Plan applications.
- vii. *To encourage and provide for the development of comprehensive non-vehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and industrial areas and public facilities.* Most of the infrastructure plan for this site has been constructed. Circulation networks for any future development must be evaluated under subsequent preliminary and site plan applications.
- viii. *To encourage and provide for efficient use of energy resources through shared facilities or other economies of scale or technology, including innovative fuels and district heating, etc.* Opportunities for shared facilities and other energy resources must be evaluated at the time of preliminary and site plan.
- ix. *To preserve and take the greatest possible aesthetic advantage of existing trees and to minimize the amount of grading necessary for construction of a development.* The DPA is consistent with FCP Plan

No. 1200311100. No original trees exist to preserve. The forest preservation requirements attributable to Development Plan are satisfied across the Overall Site. Any subsequent site plan application will include a landscape plan where existing and proposed tree canopy will be evaluated.

- c. The DPA Application continues to be consistent with Section 59-C-7.52 of the Zoning Ordinance regarding permitted residential uses.** All types of residential uses are permitted including accessory uses, housing, and related facilities for senior adults or person with disabilities and life care facilities. Senior housing units were envisioned within the original Cabin Branch area and the 150 additional uses are consistent with the Master Plan. Senior housing at 0-100 units was recommended within Study Area A. The additional 50 units sought is a modest increase from what was originally proposed in this area. This increase does not exceed the 40% limit as Study Area A is substantially developed with retail uses. The addition of a senior housing facility in an area developed with a single commercial use is compatible and is an intended feature of the overall Cabin Branch site development.
- d. The DPA Application continues to be consistent with Section 59-C-7.53 of the Zoning Ordinance regarding density of residential development within the MXPDP Zone.** The proposed senior housing facility as proposed by this DPA amendment will deliver residential units well below per acre rate. The proposed density is still consistent with the DPA's limitation for Study Area A, even with the 50 additional unit increase. This increase will result in diversity of housing units per County housing policies.
- e. The DPA Application continues to be consistent with Section 59-C-7.55 of the Zoning Ordinance regarding compatibility standards of the MXPDP Zone.** The proposed increase in senior living units will not be located within 100 feet of any single-family detached residence. No single-family detached houses are planned in Study Area A.
- f. The DPA Application continues to be consistent with Section 59-C-7.56 of the Zoning Ordinance regarding minimum green area and amenity requirements in the MXPDP Zone.** The proposed amendment to the development plan will not adversely affect the amount of green space within the overall site and will not reduce the level of green space to an overall amount of less than 50%.
- g. The DPA Application continues to be consistent with Section 59-C-7.57 of the Zoning Ordinance regarding public facilities and utilities in the MXPDP Zone.** All public facilities including schools, roads, water, sewer and stormwater management have been addressed in the existing infrastructure of the overall site and are not prejudiced by DPA approval. Additionally, all utilities lines on site have been and will continue to be placed underground

- h. The DPA Application continues to be consistent with Section 59-C-7.58 of the Zoning Ordinance regarding parking facilities in the MXPD Zone.** All off-street parking and all off-street surface parking areas must be provided, planned, sized, and landscaped pursuant to the code requirements and determined at the time of site plan review. The requirement that all internal vehicular and pedestrian circulation systems and points of external access are safe and adequate and efficient has for the most part been previously evaluated and largely constructed. Any additional internal vehicular and pedestrian system requirements for the construction of the senior housing facility must be reviewed, evaluated and refined as part of the future preliminary and site plan applications. Further as proposed in the DPA the senior housing facility will generate less than 50 person trips each morning and each evening. A local area transportation review study may be required at the time of preliminary and/or site plan.
- i.** To demonstrate compliance with Chapters 22A and 19 of the County Code, the Applicant may be required to submit a Final Forest Conservation Plan Amendment, a Preliminary Plan, Site Plan, and/or Water Quality Plan. Any public or quasi-public areas proposed with the future development will be evaluated at site plan review.

Based on the foregoing analysis and after a thorough review of the entire record, the District Council concludes that the proposed Development Plan Amendment will meet the standards set forth in the applicable 2004 Zoning Ordinance, and that it will be consistent with a coordinated and systematic development of the regional district, as required by the Maryland Land Use Article, Code Ann. § 21-101(a)(4)(i) (2012).

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

DPA 25-01, which requests an amendment to the Development Plan previously approved by the District Council on September 9, 2003, in Local Map Amendment (LMA) G-806, and amended on February 4, 2014, in DPA 13-02, is hereby approved, thereby amending Binding Element No. 8 from the Development Plan to read as follows:

8. Service/Public Uses. Service/Public uses may include up to 650 units for independent living for Senior Adults or person with disabilities, assisted living, life care or continuing care.

Further, this approval is subject to the specifications and requirements of the Development Plan Amendment, Exhibit 23, provided that the Applicant submits to the Hearing Examiner for certification, a reproducible original and three copies of the

Development Plan Amendment approved by the District Council, within 10 days of approval, in accordance with §59-D-1.64 of the 2004 Zoning Ordinance.

This is a correct copy of Council action.



Sara R. Tenenbaum
Clerk of the Council