



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 18-098
Preliminary Plan No. 120180120
Cabin John Village
Date of Hearing: October 4, 2018

NOV 05 2018

RESOLUTION

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

WHEREAS, on February 20, 2018, Cabin John (EDENS), LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create fifty-nine (59) lots for 59 townhouses and two (2) platted parcels for 300,000 square feet of retail/office uses, one parcel for forest conservation/stormwater management, and three (3) parcels for private streets lots on 25.32 acres of land in the CRT-0.75, C-0.5, R-0.25, H-35 and R-90 zone, located on the northeast corner of Seven Locks Road and Tuckerman Lane ("Property" or "Subject Property"), in the Potomac Policy Area and *2002 Potomac Subregion Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120180120, Cabin John Village ("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 September 21, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 4, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 4, 2018, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Fani-Gonzalez, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Patterson voting in favor, and Commissioner Dreyfuss absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910
M-NCPPC Legal Department
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Preliminary Plan No. 120180120, subject to the following conditions:¹

1. This Application is limited to fifty-nine (59) lots for attached single family houses (townhouses) including a minimum of 12.5% MPDUs, two (2) lots for up to 300,000 square feet of commercial/retail uses, one (1) parcel for stormwater management/forest conservation, and three (3) parcels for private roads.
2. The Applicant must comply with the following conditions of approval for the Preliminary Forest Conservation Plan No. 120180120, approved as part of this Preliminary Plan:
 - a. Prior to Certification of the Preliminary Plan, the Applicant must revise the Preliminary Forest Conservation Plan to correct the forest retention and Category I Conservation Easement acreage labels so that they are consistent.
 - b. Prior to Certification of the Site Plan, the Applicant must obtain M-NCPPC approval of a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan.
 - c. The Final Forest Conservation Plan associated with the Site Plan No. 820190020 must include a report from an International Society of Arboriculture (ISA) certified arborist and Maryland Licensed Tree Expert (LTE) with a minimum of 10 years of experience. The report must include an evaluation and recommendations for tree protection measures including necessary methods and details to appropriately protect the trees along the proposed limits of disturbance and edge of the forest retention area in the northeastern corner of the Property. The report will also address invasive species management and provide any necessary recommendations. The purpose of the evaluation is to minimize the stress to the trees along the proposed forest edge during and after construction, and to maintain and enhance the forest that will now include a natural surface path system connecting to the adjacent Cabin John Regional Park.
 - d. For five years after the start of forest clearing in the northeastern corner of the Subject Property, the Applicant must maintain the new forest edge in direct consultation with the M-NCPPC forest conservation inspector. This will include necessary pruning, removal of dead, dying or hazardous limbs and trees, removal of invasive species per the *Best Management Practices for Control of Non-Native Invasives* (Department of Parks, Montgomery County, January 2015), and replanting of a maximum of thirty (30), 3-inch caliper native trees under the direction of the M-NCPPC forest conservation inspector to maintain a healthy, intact, and

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.

continuous forest edge. The M-NCPPC forest conservation inspector has the authority to allow smaller caliper trees to be planted if appropriate to protect the root zones of surrounding trees.

- e. The Applicant must locate the proposed natural surface trail to minimize impacts to trees and their roots, in direct consultation with the M-NCPPC forest conservation inspector.
 - f. Prior to record plat, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting, and stream valley buffers, as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded among the Montgomery County Land Records by deed prior to the start of any demolition, clearing or grading on the Subject Property. The Liber Folio of the Category I Conservation Easement must be referenced on the record plat(s).
 - g. Prior to any clearing, grading, or demolition on the Subject Property, the Applicant must provide financial surety to guarantee the forest planting on the Subject Property, as specified on the approved Final Forest Conservation Plan, in a form acceptable to the M-NCPPC Office of the General Counsel.
 - h. Prior to any clearing, grading or demolition on the Subject Property, the Applicant must submit a Maintenance and Management Agreement to Staff for the required forest planting on the Subject Property as shown on the approved Final Forest Conservation Plan. The Agreement must be in a form approved by the M-NCPPC Office of the General Counsel.
 - i. The Final Sediment and Erosion Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
 - j. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the approved Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
 - k. The Applicant must install permanent conservation easement signage along the perimeter of the Category I Conservation Easement. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction, or at the discretion of the M-NCPPC forest conservation inspector. The M-NCPPC forest conservation inspector is authorized to determine the timing of sign installation.
3. Prior to the submittal of a site plan application for Phase III, as shown on the phasing plan in this Preliminary Plan, the Applicant must submit an amendment to the *Cabin John Shopping Center Phase I Transportation Noise Analysis* report dated April 27, 2018 to include an analysis and

recommendations for the proposed residential homes in the northwest portion of the Property, utilizing the *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development*.

4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated September 21, 2018, except Condition No. 11 (Bikeshare), Condition No. 12 (TMAg), Condition No. 13 (Real Time Transit Information) and hereby incorporates the remaining conditions as part of the Preliminary Plan approval. The Applicant must comply with each of the remaining 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.
5. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated July 23, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated June 21, 2018, and hereby incorporates them as conditions of the Preliminary Plan approval. 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.
7. The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. Up to 7 feet from the existing property line on Tuckerman Lane where the Applicant and opposite property owners have already dedicated the Master Plan required dedication of 80 feet east of Angus Place and 100 feet west of Angus Place. Final dedication will be determined in coordination with MCDOT and Planning Staff prior to record plat. In addition, where needed at the intersection of Tuckerman Lane and the access drive on Tuckerman Lane (at Angus Drive), any additional right-of-way dedication needed to accommodate the sidepath and sidewalk frontage upgrades required of this project should be dedicated in a Public Improvement Easement (PIE) to be shown on the Certified Preliminary Plan.

- b. Up to 11 feet from the existing property line on Seven Locks Road where the Applicant and opposite property owners have already dedicated the Master Plan required dedication of 80 feet. Final dedication will be determined in coordination with the Montgomery Department of Permitting Services and M-NCPPC Staff prior to the record plat. This additional dedication is to accommodate the necessary right-of-way requirements for the Seven Locks Bikeway & Safety Improvements project (CIP 501303).
8. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
9. The Applicant must construct the following frontage improvements along Tuckerman Lane:
 - a. A 5.5-foot-wide westbound bike lane between Seven Locks Road and the entrance to the Cabin John Regional Park Picnic Area parking lot on the north side of Tuckerman Lane, approximately 450 feet east of the southeast corner of the Subject Property.
 - b. A 10-foot wide sidepath with 2-foot wide buffer between the curb and the sidepath between Seven Locks Road and Angus Place.
 - c. A 5-foot wide sidewalk with minimum 5-foot wide tree panel, except where there are utility poles, between Angus Place and the entrance to the Cabin John Regional Park Picnic Area parking lot on the north side of Tuckerman Lane, approximately 450 feet east of the southeast corner of the Subject Property.
 - d. Prior to certification of Site Plan No. 820190020, the Applicant must finalize the design for the currently proposed sidewalk/path at Angus Place to bring bikes and pedestrians closer to the intersection.
10. The Applicant must include a structured parking facility in the construction of Building C-1 and/or C-2, as shown on the Preliminary Plan.
11. If the Applicant encounters a funerary object or human remains at any time prior to issuance of the Use and Occupancy Certificate of any commercial or residential structure, the Applicant must immediately contact law enforcement to determine whether the remains are associated with a crime scene and contact the Historic Preservation Section of the Montgomery County Planning Department.
12. Record plat must show all necessary easements, including a public access easement on Lot 41 where the sidewalk overlaps the lot boundary.
13. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.

14. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant's recorded HOA Documents incorporate the Covenant by reference.
15. Applicant must replace the existing one westbound (outbound) lane on Coddle Harbor Lane at Seven Locks Road with two westbound lanes (one left lane and one right turn lane) to mitigate for the intersection congestion delay which exceeds the Potomac Policy Area standard.
16. The Applicant must provide private road(s) on Coddle Harbor Lane and Private Road "A", including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:
 - a. The record plat must show the Private Road in a separate parcel(s). The record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road.
 - b. The Private Road must be referenced on the plat and subject to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq.
 - c. Prior to issuance of building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications as shown on the Preliminary Plan or as required by the Montgomery County Road Code, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal subject to any approved modifications. Coddle Harbor Lane must be built to the structural standards of a Primary Residential Street (MC-2003.11) and Private Road 'A' must be built or upgraded to the structural standards of a Tertiary Residential Street (MC-2001.02) according to Montgomery County Design Standards.

17. The Applicant must provide Private Alleys 'A' through 'D', including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems, and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated area (collectively, the "Private Alleys"), subject to the following conditions:
 - a. The Private Alleys must be shown on their own parcels on the record plat and built to the structural standards of a public tertiary road standard (MC-2001.01) or residential alley (MC-200.01) as required by the Montgomery County Road Code, with the exception of Private Alley 'A' which must be built to the structural standards of a commercial alley (MC-201.01). Prior to issuance of building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Alleys have been designed and the applicable permits will provide for construction in accordance with the structural standards noted above and the cross-section specifications included on the plans.
 - b. The record plat must reflect common ingress/egress and utility easements over all alleys.
18. Prior to approval of Site Plan No. 820190020, the Applicant must demonstrate acceptable traffic mitigation alternatives as required by the Master Plan. These traffic mitigation alternatives must be addressed through an agreement between the Applicant and appropriate agencies as determined by Staff.
19. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for one hundred and twenty (120) months from the date of mailing of the Planning Board resolution.
20. The Preliminary Plan Validity will remain valid for up to 108 months (9 years) from the date of mailing of the Resolution. The Applicant must record plats for at least 48 residential lots, three private road parcels, one stormwater management parcel, and one commercial lot in the first 36 months (3 years) from the date of the Resolution, an additional one commercial lot within the 72 months (6 years) from the date of the Resolution, and must complete record plats for 11 residential lots and rerecord one commercial lot within 108 months (9 years) from the date of the Resolution.
21. Prior to recordation of any plat, Site Plan No. 820190020 must be certified by M-NCPPC Staff.
22. The final number of MPDU's to be determined at site plan.

23. Final approval of the size and location of building and open space amenities will be determined at site plan.

24. The Certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan set 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 approval of a Site Plan. 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.”

25. Certified Preliminary Plan

Prior to approval of the Certified Preliminary Plan, the following revisions must be made and/or information provided subject to M-NCPPC Staff review and approval:

- a. Applicant must remove reference to ‘Alley E’ on sheets 003 and 004.
- b. Applicant must note on sheet 004 which pavement section applies to which cross section.

26. Prior to approval of any site plan for Phase 2, as shown on the Phasing Plan in the Certified Preliminary Plan, the Applicant will prepare and submit a signal warrant analysis for the Coddle Harbor Lane and Seven Locks Road intersection for MCDOT/Traffic Engineering and Staff review and approval to determine if the Applicant must construct a signalized intersection.

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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The proposed lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision, taking into account the

recommendations of the Master Plan, and for the building type (townhouses and commercial retail) contemplated for the Property.

The lots intended for townhouses provide an orientation allowing the rear of each lot to face the rear of another lot. This allows for each lot to be rear loaded with a garage space. Conversely, the lot orientation of the townhouses allows the front yard of each lot to face the front of another lot. As a result, the front of each townhouse lot looks at either a central muse, common open space, or forest area on adjacent property.

The Applicant will reconstruct Coddle Harbor Lane to modified Primary Residential Street standards as a private street, as this road is currently not designated public or private. The Applicant will also create private streets to connect from Coddle Harbor Lane back to the townhouse units. Alleys and private streets will be placed in their own parcels adjacent to the townhouse development to provide access to the townhouses and another alley will provide access to the alleys serving the 48 townhouses in the eastern corner of the site, while also serving the back of the retail (behind the existing Giant). For the alley that serves both townhouses and retail, the Applicant will build the alley to commercial alley standards as it will serve as the loading and access for trucks serving the commercial development. The remainder of the Property will consist of the existing commercial driveways that currently serve the shopping center.

As described in the Staff Report, the two parcels are of appropriate size, shape and orientation to provide a floor area ratio in compliance with the CRT zone and accommodate the required parking within the minimum and maximum range outlined in the Zoning Ordinance. The final number and design of parking spaces will be determined through future site plan approvals.

The lots were reviewed for compliance with the dimensional requirements for the CRT-0.75, C-0.5, R-0.25, H-35 and R-90 zones as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area and frontage and can accommodate the residential and commercial (both existing and proposed) buildings, which can reasonably meet the width and setbacks requirements in that zone.

2. The Preliminary Plan substantially conforms to the Master Plan.

The Preliminary Plan substantially conforms with the recommendations of the 2002 Potomac Subregion Master Plan. The Master Plan identifies the Subject Property and makes specific recommendations. However, the Master Plan envisioned the Subject Property be completely razed to achieve the Master Plan vision. The Application proposes to retain all but 18,255 square feet of the

existing buildings and substantially conforms to the Master by adapting the Subject Property and its existing buildings to meet the Master Plan vision.

At the time the Master Plan was approved, optional method development in the RMX zones was identified as an appropriate tool for mixed use development. The optional method specification was intended to be used to facilitate the total number of units (135) proposed in the Master Plan and the mix (75 units of elderly housing and 60 units of townhouses and housing over retail). The Master Plan's guidelines also specified building heights, townhouse location along Coddle Harbor Lane, removal of the gas station, and provision of structured parking. The Master Plan's assumption was that subsequent site plan review would offer the opportunity to achieve development that followed its recommendations.

Establishment of the CR family of zones in the 2014 Zoning Ordinance and the rezoning of the Subject Property allowed mixed use development while providing more defined development standards. Site plan review for a broader array of development projects provides the opportunity for detailed review of standard method as well as optional method projects. Since the Master Plan's mixed-use development goals can be achieved in standard method projects under the Subject Property's current zoning, the Master Plan's requirement for optional method development when housing is proposed can be considered obsolete.

Other recommendations in the Master Plan—for store types and sizes, structured parking, detailed height requirements, and limits to housing types—should also be viewed as guidance, rather than strict requirements, particularly in light of the subsequent change in the Property's zoning. The Master Plan's intent is that housing be provided as part of any redevelopment of the Subject Property, enabling creation of a mixed-use village center, and the Application substantially conforms to that goal. The Application also addresses the more specific recommendations. For example, to maximize compatibility with the existing Inverness Knolls community, residential uses along Coddle Harbor Lane remain an important component of appropriate development of the Subject Property.

Setbacks

The Master Plan set out the original Cabin John Village setbacks because the recommended RMX zone deferred to applicable master plans for densities and development standards. The pre-rewrite ordinance included a provision in that zone requiring substantial compliance with the Master Plan as a condition of approving a site plan for the Subject Property. The Master Plan recommended a setback of 100 feet along the northeastern property line but provided an acceptable alternative setback for optional method projects (which the Master Plan assumed would be any new project that included housing). An optional

method project could propose a 50-foot setback along the zoning boundary (RMX to R-90 at the time the Master Plan was approved), to achieve “a more compatible site layout that accommodates a significant residential component.” (p 49)

The comprehensive revision of the Zoning Ordinance replaced the RMX Zone on the Subject Property with the CRT Zone, which provides specific setbacks for standard method projects and defers optional method setback determinations to the site plan process. The applicable standard method setback for townhouses in the CRT Zone is 10 feet, considerably less than the 100-foot recommendation in the Master Plan or the 50-foot optional method alternative. The Master Plan’s intent for this part of the Subject Property is to provide separation between any new mixed-use development and the existing Inverness Knolls community. More broadly, the Master Plan intends to create a mixed-use center with a neighborhood focus—a “walkable village center compatible with adjacent neighborhoods”—from the existing entirely non-residential strip shopping center.

The 10-foot setback permitted under the CRT Zone in standard method development would not achieve either objective; it is insufficient to achieve clear natural separation from Inverness Knolls, which in turn would fail to achieve compatibility with the adjacent neighborhood. While the 37-foot setback included in the Application is less than the 50-foot optional method setback set out in the Master Plan recommendations, when combined with existing open space on the R-90 side of the zoning boundary, it complies with the Master Plan’s intent for this portion of Cabin John Village.

Traffic Mitigation

The Master Plan includes the following recommendation for the Subject Property: “a bus shelter and shuttle service to Metro or acceptable traffic mitigation alternatives must be provided with any increase in density.” As conditioned, prior to approval of Site Plan No. 820190020, the Applicant must demonstrate acceptable traffic mitigation alternatives as required by the Master Plan. These traffic mitigation alternatives must be addressed through an agreement between the Applicant and appropriate agencies as determined by Staff.

- 3. Public facilities will be adequate to support and service the area of the subdivision.*

Roads and Other Transportation Facilities

Transportation access is adequate to serve the development proposed by this Preliminary Plan. The Subject Property has frontage on two public roads (Seven Locks Road and Tuckerman Lane), and the Application includes a network of

private streets, alleys, and commercial driveways to serve the interior of the project.

Master Planned Improvements

Seven Locks Road is a Master Planned Arterial Road (A-79) with two lanes, except at intersections where localized improvements are allowed. It is master planned with a minimum 80-foot right-of-way. In both the 2005 Countywide Bikeways Functional Master Plan and the Draft 2018 Bicycle Master Plan, Seven Locks Road is designated to have a sidepath on the west side and signed shared roadway (2005) or bikeable shoulders (2018). The minimum required right-of-way already exists on Seven Locks Road. However, the MCDOT Seven Locks Bikeway & Safety Improvements Project (P501303) will implement an 8-foot wide shared use path on the west side of Seven Locks Road and bikeable shoulders (5-foot bike lanes) per the Master Plan and require up to 11 feet of additional right-of-way along the Subject Property that is conditioned. This MCDOT project has started design, land acquisition will start in fiscal year (FY) 2019, and according to the County's website will be completed by FY 25. Sidewalks already exist along the Property frontage along Seven Locks Road.

Tuckerman Lane is a Master Planned Arterial Road (A-71) with two lanes, except at intersections where localized improvements are allowed. It is master planned with a minimum 80-foot right-of-way. The 2005 Countywide Bikeways Functional Master Plan recommends bike lanes and the Draft 2018 Bicycle Master Plan recommends one-way separated bike lanes on both sides. However, there is an ongoing MCDOT capital improvement project to design bicycle and pedestrian improvements on Tuckerman Lane. The Tuckerman Lane facilities proposed by the Draft 2018 Bicycle Master Plan include conventional bike lanes (approximately 5-foot wide bike lanes with no buffer) and a shared use path which would run on the north side of Tuckerman Lane from Seven Locks Road to Angus Place then switch to the south side of the road. The Applicant will dedicate the additional right-of-way necessary to implement the ultimate bicycle and pedestrian improvements on Tuckerman Lane as outlined in the Staff Report. Additional right-of-way may be required at the entrance drive of the project and Tuckerman Lane (at Angus Place) to avoid recently implemented signal and utility poles. In this area, additional right-of-way will be acquired in the form of a Public Improvement Easement (PIE) and will be determined prior to approval of the certified preliminary plan. The Applicant will construct these improvements east of Angus Place while working around the constraints of existing utility poles, but given excessive grading and physical constraints, the Applicant will construct an interim solution west of Angus Place. The interim solution west of Angus Place includes a 5.5-foot bike lane, 2-foot grass panel, 10-foot sidepath, and a retaining wall where needed.

In addition to the frontage improvements on Tuckerman Lane, the Applicant must construct bicycle and pedestrian improvements off-site to connect the project to the Cabin John Picnic Area parking lot to the east, including a westbound 5-foot bike lane, 5-foot buffer, and 5-foot sidewalk from the southeast corner of the Subject Property to the vehicular entrance of the Cabin John Picnic Area parking lot approximately 450 feet to the east.

Transit

Two Ride-On bus routes serve the Subject Property: Routes 47 and 37. Ride-On Route 47 serves the bus stop near the Seven Locks Road access drive aisle to the project. Route 47 runs between Bethesda and Rockville Metro stations, providing service every 25-30 minutes on weekdays and weekends. Ride-On Route 37 serves the bus stop near the Tuckerman Lane access drive aisle (at Angus Place) and runs between the Potomac Community Center and the Grosvenor Metro Station, with certain trips extending to the Wheaton Metro Station. Route 37 runs on weekdays only approximately every 30 minutes and only during peak morning and evening periods.

Private Roads

Coddle Harbor Lane and a private street (Private Road 'A') that will connect off Coddle Harbor Lane to serve the 48 townhomes in the back part of the Subject Property will be built as private roads. As conditioned, the private roads will be constructed or reconstructed to the proper structural depth with subgrade and will function properly for safe vehicular and pedestrian traffic and emergency access. In addition, the Application includes four private alleys serving townhouse Lots 1 through 48 that will also be constructed to the appropriate standards.

Signal Warrant Analysis

The Potomac Subregion Master Plan also includes a recommendation to explore with MCDOT whether a traffic signal is warranted at the intersection of Seven Locks Road and Coddle Harbor Lane "to enhance vehicular and pedestrian safety and accommodate the traffic volume." Therefore, the Applicant completed a signal warrant analysis. The Planning Board defers to MCDOT with regard to operational improvements such as traffic signals. MCDOT, in its letter dated September 21, 2018, concurred with the Applicant's traffic consultant that a traffic signal was not warranted at the intersection of Coddle Harbor Lane and Seven Locks Road.

However, based on testimony received at the October 4th hearing, the Planning Board has conditioned this approval on the Applicant preparing and submitting a second signal warrant analysis for the Coddle Harbor Lane and Seven Locks Road intersection prior to approval of any site plan for Phase 2 of the proposed development.

Local Area Transportation Review (LATR)

The Preliminary Plan was reviewed using the 2016-2020 Subdivision Staging Policy and associated 2017 Local Area Transportation Review (LATR) Guidelines. The project will generate 74-person trips during the AM weekday peak hour and 294-person trips during the PM weekday peak period based on the *ITE Trip Generation Manual*, 10th Edition and adjusted for the Potomac policy area. Because the project generates 50 or more-person trips during a peak hour, a full traffic study was required to satisfy the LATR Guidelines. The project would not generate enough transit, bicycle, or pedestrian person trips to require additional analysis for any of those transportation modes. Because the project will generate 49 AM and 202 PM peak hour auto driver trips (excluding pass-by trips), only one tier of intersections was analyzed in the traffic study.

The traffic study was completed on July 24, 2018 and studied two local intersections in addition to the three access points of the project. All study area intersections were located within the Potomac policy area, where the Critical Lane Volume (CLV) standard for intersections is 1450. The traffic study looked at existing conditions, background conditions which include approved but unbuilt projects that may send trips through the study area intersections, and total future traffic which adds the projected impact of the Application to the background traffic. The traffic study also analyzed the study area intersections both with and without the planned MCDOT improvements associated with the Seven Locks Bikeway & Safety Improvements Project. This project includes the addition of northbound and eastbound auxiliary lanes, as well as on-road bike lanes, at the intersection of Seven Locks Road and Tuckerman Lane, in addition to minor changes to lane use at other study intersections. This project is funded for design in FY 18, but construction funding is programmed beyond the six-year horizon of the Capital Improvements Program (CIP). Given that construction funding is not allocated within the six-year CIP, the project improvements were not considered in the analysis by the Planning Board.

Two of the five studied intersections in the future condition would have CLV values under the CLV threshold of 1350 and, therefore are considered adequate based on the LATR Guidelines. Three of the five studied intersections in the future traffic condition would have a CLV standard that exceeds 1350, the LATR threshold at which additional Highway Capacity Manual (HCM) delay-based level of service analysis is required. These three intersections (Seven Locks Road and Coddle Harbor, Site Access, and Tuckerman Lane) were evaluated using the HCM methodology and evaluated against the Potomac policy area HCM average vehicle delay standard of 55 seconds. Two of these three intersections were found to have average delays that did not meet or exceed 55 seconds and, therefore are considered adequate. The intersection of Coddle Harbor Lane and Seven Locks Road did exceed the 55 second average delay threshold in the PM peak hour

without the MCDOT intersection improvements (66.5 seconds) and, therefore, would require mitigation. The Applicant will mitigate the delay at this intersection by providing separate left and right turn lanes for the westbound Coddle Harbor Lane approach. This improvement would cause the intersection to operate better than the 55 second delay threshold, thereby meeting the requirements of the LATR Guidelines.

Preliminary Plan Validity and Adequate Public Facilities Validity Extension

Preliminary Plan Validity

Under Section 50.4.2.G.2.b, multi-phase projects are subject to the following standards:

- i. *An approved preliminary plan for a multi-phase project remains valid for the period of time allowed in the phased schedule approved by the Board*

The Applicant provided the following phasing schedule:

Preliminary Plan Validation Phasing

| Phase | Benchmark | Duration |
|--------------|--|---|
| Phase I | Recording of plats for 48 residential lots, three private road parcels, one stormwater management parcel, and rerecording of plat for one commercial lot | 36 months |
| Phase II | Rerecord one commercial lot | 36 months (72 months cumulative) |
| Phase III | Recording plats for 11 residential lots and recording of one commercial lot | 36 months (108 months (9 years) cumulative) |

- ii. *The applicant must propose a phasing schedule and the duration of the validity period for each phase as part of an application for preliminary plan approval or amendment. The Board must assign each phase a validity period after considering the size, type, and location of the project.*

The Planning Board approves a validity period of 36 months for each phase, as shown above.

- iii. *The time allocated to any phase must be 60 months or less after the initiation date for that particular phase for any preliminary plan approved after March 31, 2009, but before April 1, 2017, and 36 months after the initiation date for that particular phase for any preliminary phase for any preliminary plan approved after March 31, 2017.*

This Application is being approved after March 31, 2017. As such, each preliminary plan phase conforms with the 36-month requirement for each phase.

- iv. *The cumulative validity of all phases must be shorter than or equal to the APFO validity period which begins on the initiation date of the first preliminary plan approval, including any extension granted under Section 4.3.J.7.*

The approved APFO validity period is 10 years. The approved preliminary plan validity period is 9 years. This allows the Applicant to obtain the final building permits in the final year of the project. The Application meets this finding.

Adequate Public Facilities Validity

The Applicant has requested an extended validity of the Adequate Public Facilities finding for 10 years (121 months) instead of the typical 5 years (61 months).

Under Section 50.4.3.J.5.iv, an Adequate Public Facilities finding shall be “for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board when it approved the plan, for any plan approved after July 31, 2007, and before April 1, 2009, or after March 31, 2017.” As such, the Applicant’s request is for the maximum allowable time period under the Subdivision Regulations.

The Subdivision Regulation continues under Section 50.4.3.5.b:

“If an applicant requests a longer validity period than the minimum specified in 5.a, the applicant must submit a development schedule or phasing plan for completion of the project in the Board for its approval.

- i. *At a minimum, the proposed development schedule or phasing plan must show the minimum percentage of the project that the applicant expects to complete in the first 5 or 7 years, where is the applicable minimum, after the preliminary plan is approved.*

The phasing plan indicates that the Phase I will take approximately 5 years to complete. This includes the 48 townhouse units and 45,000 square feet of commercial square footage. This phase is the most intensive phase of the three comprising over 50% of the overall project.

Adequate Public Facilities Phasing

| Phase | Benchmark | Duration |
|--------------|------------------|-----------------|
|--------------|------------------|-----------------|

| | | |
|-----------|--|--|
| Phase I | Building permits for 48 residential units and up to 45,000 sq. ft. (net increase of approx. 29,000 square feet) of commercial uses | 60 months |
| Phase II | Building permits for 32,000 sq. ft. of new commercial uses and structured parking facility | 48 months (108 months cumulative) |
| Phase III | Building permits for 11 residential units and 3,000 sq. ft. of new commercial uses (345 sq. ft. of net new commercial uses) | 12 months (120 months (10 years) cumulative) |

- ii. *To allow a validity period longer than the specified minimum, the Board must find that the size or complexity of the subdivision warrant the extended validity period and would not be adverse to the public interest. The Board must condition a validity period longer than the specified minimum on adherence to the proposed development schedule or phasing plan and may impose other improvements or mitigation conditions if those conditions are needed to assure adequate levels of transportation or school service during the validity period.*

Upon reviewing the Applicant's request for 10 years of APF validity, the Planning Board approves the increased validity period as requested. The Board finds that the size and complexity of this project warrants the extended validity period due to the amount of new residential and commercial square footage to be built while keeping the shopping center open for existing tenants, retrofitting new open spaces into an existing shopping center, implementing construction around long-term leases of existing tenants, and responding to market forces during the life span of the project. This increase in APF validity is not adverse to the public interest. In fact, by increasing the APF validity period, it gives the Applicant more flexibility to reduce disruption and improve the public experience during implementation.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The Subject Property is in the W-1 and S-1 water and sewer service categories, respectively, and will utilize public water and sewer.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on July 23, 2018. 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 Subdivision Staging Policy in effect at that time that the Application was submitted.

Applicable School Test

Preliminary Plan #120180120 for Cabin John Village is scheduled for Planning Board review after June 30, 2018, therefore the applicable annual school test is the FY19 Annual School Test, approved by the Planning Board on June 21, 2018 and effective July 1, 2018.

Calculation of Student Generation

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable regional student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The Subject Property is located in the southwest region of the County.

Per Unit Student Generation Rates – Southwest Region

| | Elementary School | Middle School | High School |
|----------------------------|--------------------------|----------------------|--------------------|
| SF Detached | 0.193 | 0.111 | 0.147 |
| SF Attached | 0.191 | 0.094 | 0.124 |
| MF Low- to Mid-Rise | 0.146 | 0.063 | 0.083 |
| MF High-Rise | 0.055 | 0.022 | 0.031 |

With a net of 59 single family attached units, the proposed project is estimated to generate the following number of students:

Student Generation Rate

| Type of Unit | Net Number of Units | ES Generation Rates | ES Students Generated | MS Generation Rates | MS Students Generated | HS Generation Rates | HS Students Generated |
|---------------------|----------------------------|----------------------------|------------------------------|----------------------------|------------------------------|----------------------------|------------------------------|
| SF Attached | 59 | 0.191 | 11.269 | 0.094 | 5.546 | 0.124 | 7.316 |
| TOTAL | 59 | | 11 | | 5 | | 7 |

This project is estimated to generate 11 new elementary school students, 5 new middle school students, and 7 new high school students.

Cluster Adequacy Test

The project is located in the Winston Churchill High School Cluster. The student enrollment and capacity projections from the FY19 Annual School Test for the Churchill Cluster are noted in Table 6:

Cluster Adequacy Test

| School Level | Projected Cluster Totals, September 2023 | | | Moratorium Enrollment Threshold | Projected Enrollment + Application Impact |
|--------------|--|------------------|---------------|---------------------------------|---|
| | Enrollment | Program Capacity | % Utilization | | |
| Elementary | 2,396 | 2,849 | 84.1% | 3,419 | 2,407 |
| Middle | 1,358 | 1,794 | 75.7% | 2,153 | 1,363 |
| High | 2,031 | 1,986 | 102.3% | 2,384 | 2,038 |

The Moratorium Enrollment Threshold identified in Table 6 is the enrollment at which the 120% utilization threshold is exceeded, resulting in a cluster-wide residential development moratorium. As indicated in the last column, the projected enrollment plus the estimated impact of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

Individual School Adequacy Test

The applicable elementary school and middle school serving this project's property are Beverly Farms ES and Herbert Hoover MS, respectively. Based on the FY19 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 7:

Individual School Adequacy

| School | Projected School Totals, September 2023 | | | | Moratorium Enrollment Thresholds | | Projected Enrollment + Application Impact |
|-------------------|---|------------------|---------------|--------------|----------------------------------|--------------|---|
| | Enrollment | Program Capacity | % Utilization | Seat Deficit | 120% Utilization | Seat Deficit | |
| Beverly Farms ES | 518 | 690 | 75.1% | +172 | 829 | 800 | 529 |
| Herbert Hoover MS | 760 | 1,139 | 66.7% | +379 | 1,367 | 1,319 | 765 |

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school's projected enrollment exceeds *both* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the table above are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As indicated in the last column, the projected

enrollment plus the estimated impact of this Application falls below both applicable moratorium thresholds for both Beverly Farms ES and Herbert Hoover MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

Analysis Conclusion

Based on the school cluster and individual school capacity analysis performed, using the FY2019 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this application.

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

A. Forest Conservation

As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. As required by the County Forest Conservation Law (Chapter 22A of the County Code), a Preliminary Forest Conservation Plan ("FCP") for the project was submitted with the Preliminary Plan. The net tract area for forest conservation is 12.84 acres, which excludes 13.10 acres previously covered under the approved Forest Conservation Plan for Parcel 'D' as part of Administrative Subdivision Plan 62017050, and 0.07 of land located within existing storm drain, slope and stormwater management easements. Approximately 0.69 acres that will be disturbed to construct required off-site improvements along Tuckerman Lane is included in the net tract area. After deducting the forest located on the 13.17 acres of land deducted from the net tract area, the FCP includes 1.70 acres of existing forest located within and adjacent to the stream valley buffers. The Application proposes to retain 1.21 acres and remove 0.49 acres of forest. The retained forest will be protected in a Category I conservation easement but will allow for a natural surface trail within the easement that connects to the trail system on the adjacent Cabin John Regional Park. The proposed forest clearing generates a reforestation requirement of 0.98 acres, and there is an additional afforestation requirement of 0.23 acres, for a total of 1.21 acres of forest mitigation planting required. The Applicant will meet the planting requirement through a combination of forest planting on the Property and at an off-site location to be determined at time of Final Forest Conservation review.

The Applicant has proposed to remove portions of the existing stormwater management easement and convert these areas to Category I conservation easement, and to consolidate the location of the proposed stormwater management pond ingress/egress easement with the proposed

storm drain outfall to the pond. These efforts have increased the amount of existing forest that will be protected in a Category I conservation easement.

Approximately 0.44 acres of the proposed 0.49 acres of forest clearing is along the edge of the existing forest in the northeastern corner of the Property. This forest is contiguous with the forest on the adjacent Cabin John Regional Park. Given the various constraints on the Property, including preserving much of the existing development and buildings, and the limited area available for residential development, it was determined that there was not a layout that allowed the preservation of the forest and the Applicant's desired number of residential units. The forest is proposed to be cleared for the construction of a private road with parallel parking spaces designed to serve visitors to the park and the proposed residences, and a storm drain system, including stormwater management facilities. The road is the minimum width necessary to meet fire access requirements.

To address concerns raised by Staff regarding the removal of the existing forest edge, the Applicant is required to conduct further evaluation of proposed tree protection measures to minimize the stress to the trees during and after construction and to maintain and enhance the forest that will now include a natural surface path system connecting to the Cabin John Regional Park. This new forest edge will be located along a private road, parallel parking spaces, and a newly defined access point to a trail system that connects to the adjacent park. Additional measures may include pruning, removal of dead, dying or hazardous limbs and trees, and replanting of native trees if necessary to maintain a healthy, intact and continuous forest edge. These proposed requirements will be incorporated into the Final Forest Conservation Plan. The remaining 0.05 acres of forest clearing is located off-site, along Tuckerman Lane. This clearing is a result of improvements within the right-of-way of Tuckerman Lane.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to ten Protected Trees as identified in the Staff Report. In accordance with Section 22A-

21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Protected Trees are located adjacent to existing development on the Property and an existing stormwater management pond. To redevelop the Property, improvements to the existing infrastructure, including roads, drive aisles, and a stormwater management pond, are required. As described in the Staff Report, these existing conditions are such that any application to redevelop this Property for the recommended use and density would result in the need for a tree variance. If the variance were not considered, the development anticipated on this Property would not occur.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Property. Protected Trees are located in the developable area of the Property, including adjacent to Tuckerman Lane, and along the existing access to the Property from Coddle Harbor Lane. In order to utilize this existing access, improvements are required to meet the requirements for a private road and to provide stormwater management resulting in impacts to Protected Trees. Additional impacts to Protected Trees will occur due to requirements to construct a path along Tuckerman Lane. The requested impacts to Protected Trees are due to required road improvements and storm drain connections that would be necessary under any application for development of the Property, and disturbance within the anticipated developable area of the site. Any redevelopment considered for this Property would be faced with the same considerations. Granting a variance to allow land disturbance within the developable portion of the Property is not unique to this Applicant.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The need for the variance is not based on conditions or circumstances that are the result of actions by the Applicant. The variance is based

upon existing Property conditions, including the location of the Protected Trees within the developable area.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for a variance is a result of the existing conditions and the proposed design and layout of the Property, and not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. None of the Protected Trees are proposed to be removed, adequate tree protection measures are proposed during construction and the severed roots will be allowed to regenerate and continue to function as they do today.

No mitigation is required for trees affected but not removed.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Preliminary Plan received an approved water quality inventory from the Montgomery County Department of Permitting Services, Water Resources Section on June 21, 2018. The Application will meet stormwater management goals with microbioretention and structural methods.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 05 2018 (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 Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioner Cichy voting in favor, and Commissioners Fani-González and Patterson absent at its regular meeting held on Thursday, October 25, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board