



MCPB No. 17-080
Administrative Subdivision No. 620170050
Cabin John Shopping Center
Date of Hearing: September 14, 2017

SEP 19 2017

RESOLUTION

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

WHEREAS, on May 22, 2017, Cabin John (Edens), LLC (“Applicant”) filed an application for approval of an administrative subdivision plan of property that would create one lot on 13.10 acres of land in the CRT zone, located in the northeast corner of the intersection of Tuckerman Lane and Seven Locks Road (“Subject Property”), in the *2002 Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620170050, Cabin John Shopping Center (“Administrative Subdivision Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Department staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated September 1, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 14, 2017, 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, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620170050 to create one lot on the Subject Property, subject to the following conditions:¹

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.

Approved as to
Legal Sufficiency: 

1. The approval is limited to one lot, approximately 13.10 acres in size, to allow for an additional 9,999 square feet of retail uses for a total of 149,900 square feet of non-residential uses (131,298 square feet of retail uses and 18,602 square feet of office uses).
 2. Approval of the Final Forest Conservation Plan, subject to the following conditions:
 - a. The Sediment and Erosion Control Plan and Storm Water Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the Final Forest Conservation Plan (FFCP).
 - b. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Additional tree-save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
 - c. Prior to submission of the Certified Plan set:
 - i. Change the Forest Conservation Worksheet to reflect 0.04 acres in the "Other deductions" category, and specify that this is to subtract existing utility and road easements that contain forest.
 - ii. Change the plan title to read "Preliminary/Final Forest Conservation Plan."
 3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated August 10, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDOT may amend if the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.
 4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
 5. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) - Fire Department Access and Water Supply Section (MCFRS) in its letter dated July 13, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCFRS may amend if the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.
 6. The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its stormwater management concept letter dated June 22, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS – Water Resources Section may amend if the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.
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7. The record plat must show necessary easements.
8. The Applicant must provide ADA-compliant sidewalk connections from Seven Locks Road.
9. The Applicant must provide two inverted-U bike racks, or equivalent as approved by the Staff, one in front of each pad site.
10. If at any time prior to issuance of the use and occupancy permit, the Applicant encounters a funerary object or human remains, the Applicant must immediately contact the Historic Preservation Section of the Montgomery County Planning Department.
11. The Certified Administrative Subdivision Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Administrative Subdivision Plan are illustrative. The final locations of buildings, structures and hardscapes will be determined at the time of issuance of the building permits. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
12. The Adequate Public Facility (APF) review for the Administrative Subdivision Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

The Administrative Subdivision Plan meets the requirements of Chapter 50, Section 6.1.D for the consolidation of existing lots or parts of lots in a nonresidential zone, because:

1. *The lots or parts of lots are created by the same subdivision, and any applicable conditions of the original approval, including limits on density, remain in effect.*

The two parts of lots were created by the same subdivision, and all conditions of the original approval currently remain in effect. This approval and the conditions listed in the staff report will supersede any previous conditions of approval, which allow for an additional 9,999 square feet of retail uses for a total of 149,900 square feet of non-residential uses.

2. *Any required road dedications and public utility easements along the frontage of the proposed lots are shown on the record plat, and the applicant must provide any required improvements;*

No road dedications are required for the consolidation of the two parts of lots. The applicant will provide necessary easements at the time of record plat.

3. *Where new development is proposed, the requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat;*

The 9,999 square feet of additional retail uses satisfy the adequate public facilities requirements as outlined above in the Public Facilities section of this report.

4. *Forest conservation, stormwater management, and environmental protection requirements, if applicable, are satisfied before approval of the plat; and*

The administrative subdivision plan meets all applicable requirements of Chapter 22A, the Forest Conservation Law. The MCDPS Water Resources Section issued a letter accepting the stormwater management concept for the site on June 22, 2017. The stormwater management concept proposes to meet required stormwater management goals through the use of permeable pavement, micro-bioretenion facilities, and a structural pipe system.

Environmental Guidelines

Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for this site was approved on June 23, 2017. The site contains 0.45 acres of stream buffer and 0.03 acres of forest. It contains no wetlands or buffers, steep slopes, 100-year floodplains, or known habitats of rare, threatened, and endangered species. This plan is in compliance with the Environmental Guidelines.

Preliminary/Final Forest Conservation Plan

The 0.03 acres of forest on site will be retained, and added to an existing Category I Forest Conservation Easement. The land use, zoning, and net tract area yield an afforestation requirement of 1.93 acres of forest planting. The applicant proposes to fulfill the planting requirement by securing off-site forest planting credits of 1.93 acres of forest planted, or 3.86 acres of existing forest protected.

Forest Conservation Variance

Section 22A-12(b)(3) of County code identifies certain trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's Critical Root Zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County code. The code requires no impact to trees that: measure 30 inches or greater, dbh; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request

A variance request was submitted on June 27, 2017, because the plan would create an impact to the CRZ of one tree that is considered high priority for retention under Section 22A-12(b) of the County code. This tree is proposed to be saved.

Denial of the variance would prohibit the Applicant from constructing a needed stormwater facility which is required under the approved stormwater concept plan. Provision of stormwater management is a requirement for the approval of the construction. Because the project cannot be approved without meeting the stormwater management requirements, denial of the variance would constitute a hardship to the Applicant.

Section 22A-21 of the County Code sets forth the findings that must be made by the Planning Board, as appropriate, in order for a variance to be granted.

- *The variance will not confer on the applicant a special privilege that would be denied to other applicants.*

Impacts to the specimen tree are minimal, and development is consistent with the zoning. The impacts to the tree subject to the variance requirement cannot be avoided for any development on this site due to stormwater management requirements. Therefore, granting of this variance is not a special privilege that would be denied to other applicants.

- *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant, but on environmental, engineering and site constraints.

- *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The variance is not a result of land or building use on a neighboring property.

- *Will not violate State water quality standards or cause measurable degradation in water quality.*

The tree impacted will be saved, and will continue to provide water quality functions as before. Therefore, the project will not violate State water quality standards or cause a measurable degradation in water quality.

5. *Located in a special protection area, and all applicable special protection area requirements and guidelines are satisfied before the Board approves the plat.*

The Subject Property is not located within a special protection area.

The Administrative Subdivision Plan meets the technical review requirements of Chapter 50, Section 4.3.

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.*

As described in the staff report, the approved lot meets all the applicable technical aspects under Section 4.3 for this administrative subdivision, including relation to master plan, block design, lot design, adequate open spaces, roads, water supply and sewerage disposal facilities, stormwater management, public utilities, adequate public facilities, and environment.

2. *The Administrative Subdivision Plan substantially conforms to the Master Plan.*

The consolidation of lots and the proposed retail development of up to 9,999 square feet on the Subject Property complies with the 2002 Potomac Subregion Master Plan's recommendations. The Master Plan limits commercial development to a total of 300,000 square feet of gross floor area at the Subject Property. The Subject Property is currently improved with 139,901 square feet of commercial uses; thus, the addition of up to 9,999 square feet is well under 300,000 square feet of commercial uses. Also, each proposed pad site will include less than 8,000 square feet of nonresidential uses, which is in conformance with the Master Plan's recommendations for a mixed-use village center with neighborhood serving uses.

BE IT FURTHER RESOLVED that this Administrative Subdivision Plan will remain valid for thirty-six (36) months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Administrative Subdivision Plan must be recorded among the Montgomery County Land Records, or a request for an extension must be filed; and

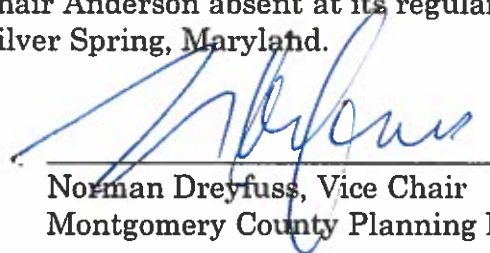
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 19 2017 (which is the date that this Resolution is mailed to all parties of record); and

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 (Maryland Rule 7-203).

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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 Commissioner Cichy, with Vice Chair Dreyfuss and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Chair Anderson absent at its regular meeting held on Thursday, September 14, 2017, in Silver Spring, Maryland.



Norman Dreyfuss, Vice Chair
Montgomery County Planning Board