



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

MCPB No. 19-014
 Preliminary Plan No. 120180260
 New Hampshire Ave. Restaurant Redevelopment
 Date of Hearing: February 7, 2019

APR 16 2019

RESOLUTION

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

WHEREAS, on August 6, 2018, Potomac Foods Real Estate, LLC¹ (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 0.77 acres of land (part of Parcel A, Block C (2.745 acres) identified on record plat No. 2886) in the NR (Neighborhood Retail) zone, located on the southwest corner of New Hampshire Ave. and Cloverly Street, (“Subject Property”), in the Cloverly Policy Area and 1996 *Cloverly Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120180260, New Hampshire Ave. Restaurant Redevelopment (“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 January 25, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 7, 2019, 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 February 7, 2019, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Patterson, with a vote of 3-0; Commissioners Anderson, Fani-Gonzalez, and Patterson voting in favor with Commissioner Dreyfuss abstaining and Commissioner Cichy absent.

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

¹ The site plan Application listed Potomac Foods Group as the Applicant/Developer. Potomac Foods Real Estate, LLC is the correct legal title. Potomac Foods Real Estate, LLC is leasing the property from the owned, Safeway Inc.

Approved as to
 Legal Sufficiency *Christina Sout* 3/26/19
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Preliminary Plan No. 120180260 to create one lot on the Subject Property, subject to the following conditions:²

General Approval

1. This Preliminary Plan is limited to one lot for 2,890 square feet of commercial uses with one drive-thru lane.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.

Outside Agencies

3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated January 2, 2019 and 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 MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
5. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated December 7, 2018 and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. The Planning Board accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated December 17, 2018 and incorporates them as conditions of approval. The Applicant must

² 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.

comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

Concurrent Site Plan Approval

8. Before submitting a record plat application or clearing or grading the Subject Property, the Applicant must receive Staff certification of Site Plan Amendment No. 81999004B and Site Plan No. 820180090. The number and location of site elements including but not limited to buildings, on-site parking, site circulation, sidewalks and bike facilities is determined through site plan review and approval.
9. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

Transportation

Existing Frontage Improvements

10. The Applicant must provide the following dedication and show the dedication on the record plat(s) for the following existing roads:
 - a. All land necessary to accommodate one-hundred twenty (120) feet from the opposite right-of-way line along the Subject Property frontage for New Hampshire Avenue.
11. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDSHA to construct a ten-foot wide sidepath with a minimum five-foot wide tree panel along the property frontage on New Hampshire Avenue.
12. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to construct a six-foot wide sidewalk along the property frontage on Cloverly Street.
13. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDOT to construct Cloverly Street to create a continuous curb line between the Subject Property and 721 Cloverly Street (Cloverly Parcel "D," Book 25331 Page 00113) as shown on the Certified Preliminary Plan.

Record Plats

14. There shall be no clearing or grading of the site prior to recordation of plat(s).

Easements

15. The record plat must show necessary easements.

Certified Preliminary Plan

16. The Applicant must include the stormwater management concept approval letter, other applicable agency letters, and Preliminary Plan Resolution on the approval or cover sheet(s).

17. The certified Preliminary Plan must contain the following note:

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

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.*

- a. *The block design is appropriate for the development or use contemplated*

The Preliminary Plan creates a single lot and will be incorporated into existing Block C, which is consistent with previous approvals.

- b. *The lot design is appropriate for the development or use contemplated*

The Preliminary Plan creates a single lot from part of a previously platted parcel (Parcel A). The proposed lot is the last remaining piece of Parcel A that has not been resubdivided. As proposed, the lot is appropriate to accommodate the proposed restaurant, drive-thru and meet the development standards of the NR zone.

c. *The Preliminary Plan provides for required public sites and adequate open areas*

As discussed below, amenity open space will be provided on the Subject Property to meet the requirements for a general building type constructed under the standard method of development in the NR zone. The Applicant is also dedicating a total of 562 square feet/0.013 acres of land along the Property's frontage to achieve the full master planned right-of-way width recommended for MD-650.

d. *The Lot(s) and Use comply with the basic requirements of Chapter 59*

The lot was reviewed for compliance with the dimensional requirements for the NR zone as specified in the Zoning Ordinance. The lot will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

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

The Preliminary Plan substantially conforms to the recommendations within the Master Plan.

a. Land Use

The Master Plan recommends redevelopment of the Cloverly commercial area in general, and specifically the redevelopment of the commercial properties along Cloverly Street and Briggs Chaney Road, placing emphasis on strengthening the retail vitality of the area and encouraging its use as a public gathering place. The Master Plan provided two possible development scenarios, non-assemblage and assemblage (p22). Because the property in the Cloverly Commercial Area was owned by multiple entities, making assemblage unlikely, the Master Plan recommended a Main Street design concept to help guide redevelopment along Cloverly Street.

With the guidance provided in the Master Plan, some of the main street design elements such as on-street parking, street trees and special lighting have already been achieved as individual properties with frontage on Cloverly Street have incrementally redeveloped.

“Encourage street-oriented development along Cloverly Street to provide a walkable, pedestrian-friendly commercial area that encourages social

gathering. Street oriented development is achieved by locating buildings close to the street with on-street parking. Sidewalks area to be enhanced with tightly space street trees, seating areas, special paving and lighting, visible and safe connections to the proposed park at the eastern end of Cloverly Street” (page 24).

The development will further improve Cloverly Street, and provide elements that haven't yet been implemented, such as providing street-oriented development and outdoor seating with specialty paving which will help active the street. The Applicant is also proposing to realign the curb, recapturing additional space to provide a sidewalk and an adequate tree panel.

“Improve vehicular access and circulation in the Cloverly Commercial Area by providing interconnected parking lots and coordinated driveways between independently owned properties” (page 26).

Access to and from Cloverly Street will be consolidated. The primary inter-parcel connection through the Subject Property will be reconfigured, but function the same way it does today, providing the only vehicular connection between businesses on Cloverly Street and the Safeway drive aisle. In general, the development will provide much needed revitalization and activation to an underutilized property. As conditioned, the frontage improvements will achieve many of the goals envisioned for the Cloverly Commercial Area in the Master Plan.

b. Environment

The Master Plan does not include any site specific environmental recommendations that are applicable to the Preliminary Plan Application.

c. Transportation

Master Planned Improvements

New Hampshire Avenue (MD-650) is a Master Planned Major Highway with a minimum 120-foot right-of-way. In front of the Subject Property, New Hampshire Avenue has four through lanes and two-way center turn lane. The Preliminary Plan is providing the necessary dedication to provide a minimum of 120 feet from the opposite right-of-way line across New Hampshire Avenue, an average dedication of approximately 2 feet. Cloverly Street is a two-lane Business District Street with parking on one side with a minimum right-of-way of 70 feet. Sufficient right-of-way has already been dedicated on Cloverly Street.

In the 2018 *Bicycle Master Plan*, New Hampshire Avenue is designated to have a sidepath on both the east and west sides of the street. The Applicant is proposing

to construct a 10-foot wide sidepath along the frontage of the Subject Property on New Hampshire Avenue to comply with this requirement.

Cloverly Street Upgrades

As part of the necessary frontage improvements, the Applicant is reconstructing Cloverly Street to be a width consistent with the remainder of the street and to comply with the appropriate MCDOT Business District street section. The Applicant is moving the existing curb line closer to the street centerline, making a consistent curb line with the properties to the southwest along the same side of the street and creating a Business District street with parking on one-side. Moving the curb will allow the Applicant to install a 10-foot wide tree panel with street trees, a 6-foot wide sidewalk, and a minimum two-foot wide maintenance strip. This improvement will greatly enhance the aesthetics of this street.

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

e. Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

i. *Existing Facilities*

As discussing the Master Plan findings, the Subject Property is accessible from MD-650 and Cloverly Street. A master planned sidepath will be constructed as part of the development and a new sidewalk will be installed along the frontage of Cloverly Street. With the proposed improvements, access to the Subject Property will be adequate to serve the proposed lot.

ii. *Proposed public transportation infrastructure*

Transportation access is adequate to serve the proposed development. The Subject Property has frontage on New Hampshire Avenue and Cloverly Street. Access to the site will be provided via an existing access point on Cloverly Street as well as from one existing and one shifted access point to the main shopping center site drive aisle, which itself accesses New Hampshire Avenue. Two additional existing access points on Cloverly Street will be closed as part of this application.

Metro Bus Route Z2 serves the Subject Property with a bus stop in front of the Property on New Hampshire Avenue, for north and south bound travel to Olney and Silver Spring. The bus stop and lead-in sidewalk will be relocated

with the construction of the sidepath proposed with this project as detailed on the Certified Site Plan.

Pedestrian facilities within the area consist of sidewalks on both sides of New Hampshire Avenue and Cloverly Street. Although there are limited bike facilities within the area of the Application, a sidepath exists for approximately 2,400 feet on the north side of Briggs Chaney Road, south of the Subject Property.

New Hampshire Avenue's roadway infrastructure is not centered within the right-of-way; therefore, the Applicant proposes to record a variable width Public Improvement Easement (PIE) along the frontage of New Hampshire Avenue to ensure public access to the full width of the sidepath. The PIE width varies due to a jog in the path to avoid a utility pole but is proposed to be a minimum of four feet wide. Additionally, minimum 10-foot wide Public Utility Easements are proposed along the frontage of both New Hampshire Avenue and Cloverly Street.

The Applicant will upgrade the sidewalk along New Hampshire Avenue to a 10-foot wide sidepath with a minimum five-foot wide grass panel in line with the 2018 *Bicycle Master Plan*. The 6-foot-wide sidewalk will be constructed on Cloverly Street which provides ample room between the curb and sidewalk to accommodate a green panel and street trees, as envisioned by the Master Plan.

f. Local Area Transportation Review (LATR)

The Preliminary Plan was reviewed using the 2016-2020 Subdivision Staging Policy and associated 2017 Local Area Transportation Review Guidelines. The proposed fast-food restaurant with drive-thru replaces an existing drive in bank, therefore the trips generated by the existing bank are subtracted from the trips generated by the proposed development. After subtracting the existing bank trips, the project would generate 65-person trips during the AM weekday peak period and 35-person trips during the PM weekday peak period based on the *ITE Trip Generation Manual*, 10th Edition, adjusted for the Cloverly policy area. Because the project is anticipated to generate 50 or more-person trips during a weekday peak hour, a transportation 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.

The transportation study was finalized on October 17, 2018 and studied four local intersections, including two signalized intersections at New Hampshire Avenue and Briggs Chaney Road and Norbeck/Spencerville Road (MD 198) and New Hampshire Avenue. The remaining two intersections studied were

unsignalized intersections on New Hampshire Avenue (MD 650) at the entrance to the Safeway shopping center to the south of the Subject Property and at Cloverly Street. All study area intersections were located within the Cloverly Policy Area, which has a Critical Lane Volume (CLV) standard of 1450. The transportation study examined 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 subject Application to the background traffic. None of the critical intersections would have a CLV standard that exceeds the policy area standard under the future traffic condition. Therefore, since the CLV analysis was within acceptable levels, no infrastructure improvements are required to satisfy the LATR guidelines.

g. Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed restaurant.

The Washington Suburban Sanitary Commission has reviewed the Application and identified an 8-inch gravity sewer main and a 10- inch water main adjacent to the Property that are available to serve the restaurant. The existing water and sewer lines that serve the abandoned building are being abandoned and new service lines will be installed to serve the restaurant. The use of water and sewer is consistent the Property's W-1 and S-1 service category.

The Application has been reviewed by the MCDPS Fire Department Access and Water Supply Section who determined that the Property has adequate access for fire and rescue vehicles by transmittal dated December 17, 2018.

Electric and telecommunications services as available and adequate to serve the proposed lot. A continuous 10-foot-wide public utility easement has been provided along the Property frontage of Cloverly Street. Where the sidepath is being constructed parallel to MD-650 (within the ROW and PIE), the PUE has been expanded 10 feet behind the sidepath to provide the required 10 feet of space.

Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the 2016-2020 Subdivision Staging Policy Resolution.

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

Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

On October 30, 2018, a Forest Conservation Plan Exemption 42019037E under Chapter 22A-5(s)(2) was granted for the Application. The Subject Property is located within the Northwest Branch watershed, classified by the State of Maryland as Use IV waters. The Property is not located within a Special Protection Area or the Patuxent River Primary Management Area. The Property does not contain any forest, streams, wetlands, 100-floodplain, stream buffer, or trees greater than 24 inches in diameter at breast height.

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

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on December 7, 2018. The Application will meet stormwater management goals using pervious pavement and micro-bioretenention.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 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 Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be; 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 ~~APR 16 2019~~ (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 Commissioner Patterson, with Chair Anderson and Commissioners Cichy and Patterson voting in favor, and Vice Chair Dreyfuss and Commissioner Fani-González absent at its regular meeting held on Thursday, April 4, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board