



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

FEB 04 2021

MCPB No. 21-011
Preliminary Plan No. 120200230
Snowdens Manor
Date of Hearing: January 28, 2021

RESOLUTION

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

WHEREAS, on April 10, 2020, Shahzad Haider ("Applicant") filed an application for approval of a preliminary plan for a property that would create one lot (Parcel 870 and Parcel 859, Tax Map JS62) for a 5,000 square foot restaurant use and associated outdoor seating area in the Neighborhood Retail (NR-0.75) H-45 Zone, located approximately 800-feet north of the intersection of New Hampshire Avenue and Briggs Chaney Road ("Subject Property" or "Property"), in the Cloverly Policy Area and 1997 *Cloverly Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120200230, Snowdens Manor ("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 15, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 28, 2021, 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 Preliminary Plan No. 120200230 to create one lot on the Subject Property, subject to

the following conditions:¹

- 1) This approval is limited to one (1) lot for a 5,000 square foot restaurant use and associated outdoor seating area.
- 2) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated April 7, 2020 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.
- 3) The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated December 22, 2020, 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 MCDPS may amend if the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated July 31, 2020, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by the Maryland State Highway Administration (“SHA”).
- 6) The Applicant must dedicate and show on the record plat(s) a minimum right-of-way of one hundred (100) feet, as measured from the opposite right-of-way line along the Subject Property frontage.
- 7) Prior to the issuance of a use and occupancy permit for the proposed building, the Applicant must construct a 10-foot-wide shared use path along the

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.

property frontage on New Hampshire Avenue as shown on the Certified Preliminary Plan.

- 8) The Applicant must provide a minimum of four (4) short-term bike parking spaces located near the main entrance of the establishment, as shown on the Certified Preliminary Plan.
- 9) Prior to record plat, the Applicant must record in the Land Records of Montgomery County a covenant to provide a reciprocal access easement between the Subject Property and Parcel 915 and Parcel 816. The covenant must be approved by the Commission's Office of the General Counsel prior to recordation. The recordation references for the covenant shall be noted on the record plat.
- 10) The Applicant must provide two (2) access easements on the northeast and southwest portions of the Property as shown on the Certified Preliminary Plan to allow for future vehicular inter-parcel connectivity consistent with the 1997 *Cloverly Master Plan*.
- 11) The record plat must show all necessary easements.
- 12) The Applicant must provide a primary entrance along New Hampshire Avenue as shown on the Certified Preliminary Plan.
- 13) The Applicant must provide landscaping along New Hampshire Avenue as shown on the Certified Preliminary Plan, or as modified and approved by M-NCPPC Staff.
- 14) Prior to the issuance of a building permit, a landscape and lighting plan consistent with the Parking Lot Landscaping and Outdoor Lighting requirements under Chapter 59 under Sect. 6.2.9 must be submitted to and approved by M-NCPPC Staff.
- 15) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- 16) The Applicant must install the five 2-inch caliper mitigation trees as shown on the approved Tree Save Plan, Plan No. 42019018E, as directed by M-NCPPC Forest Conservation Inspection Staff.

- 17) The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Tree Save Plan, Plan No. 42019018E.
- 18) 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.
- 19) Before approval of the Certified Preliminary Plan, the following revisions must be made and/or information provided subject to Staff review and approval:
 - a. The Applicant must include the stormwater management concept approval letter and other applicable agency approval letters, development program, and Preliminary Plan resolution on the approval or cover sheet(s).
 - b. 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 approval of a building permit. 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."
 - c. Ensure consistency between the data table in the Staff Report and the Preliminary Plan.

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 of Land Article of the County code. The lot size, width, shape, and orientation are appropriate for the location and for the restaurant use and associated outdoor seating area. The lot was also reviewed for compliance with the Montgomery

County Code, Chapter 59 and the Application meets the dimensional requirements for the NR Zone as specified in the Zoning Ordinance. A summary of this review is included in Table 1 below. The Preliminary Plan has been reviewed by other applicable county agencies, all of which have recommended approval.

Table 1 – Development Standards in the Neighborhood Retail Zone

Development Standards – NR Zone	Required by the Zone	Approved by the Planning Board
Tract Area	n/a	28,262 square feet
Net Tract Area	n/a	27,364 square feet
Lot Area	n/a	24,749 square feet
Residual Parcel 859	n/a	2,262 square feet
Residual Parcel 870	n/a	353 square feet
Dedication Area	n/a	-898 square feet
Amenity Open Space (minimum)	10 percent	10 percent
Density: FAR (maximum)	0.75 FAR	0.20 FAR
Setbacks for Principal Building (minimum)		
Front	0 feet	0 feet
Side	0 feet	0 feet
Rear	See Sect. 4.1.8A ²	52.5 feet
Setbacks for Accessory Structure (minimum)		
Front	0 feet	0 feet
Side	0 feet	0 feet
Rear	Equal to principal building setback	52.5 feet
Principal Building Height (maximum)	45 feet	45 feet
Accessory Structure Height (maximum)	25 feet	25 feet

² The Property abuts residential zoned property in the rear and therefore requires a 52.5-foot setback.

Development Standards – NR Zone	Required by the Zone	Approved by the Planning Board
Vehicle Parking	Minimum: 20 Maximum: 60	21
Bicycle Parking	1 short term	4 short term

Amenity Open Space

Amenity open space is provided north, east, and south of the building where sidewalks are provided. The proposal includes 10.4 percent amenity open space and therefore, the Application provides adequate amenity open space.

Compatibility Requirements and Landscaping Requirements, Sect. 4.1.8 & Sect. 6.2.9

Pursuant to the Zoning Ordinance under Sect. 4.1.8.1 additional setback requirements are applicable since the NR-zoned Property is identified as an employment zone that *i. abuts a property in an Agricultural, Rural Residential, Residential Detached or Residential Townhouse zone that is vacant or improved with an agricultural or residential use; and ii. proposes development of an apartment, multi-unit, or general building type.* Therefore a 52.5-foot setback is required for the primary building and associated accessory structures since the Subject Property abuts an RE-2 zoned property. The primary building and any future accessory structures will be located 52.5-feet from the rear which conforms to the compatibility requirements. The Application must also meet height compatibility requirements under Sect. 4.1.8.A.1.a.ii which requires that the building must be 45 feet or less. The building is 30-feet in height and therefore, conforms to the height requirement.

The Application must also demonstrate that adequate parking lot landscaping is provided under Sect. 6.2.9. As conditioned in the Preliminary Plan, the Application meets the parking lot landscaping requirements.

2. The preliminary plan substantially conforms to the master plan;

The Preliminary Plan substantially conforms to the 1997 *Cloverly Master Plan* ("Master Plan"). The Subject Property is in the Cloverly Commercial Area of the Plan.

The Cloverly Commercial Area at the intersection of New Hampshire Avenue and Briggs Chaney Road is the primary retail area and center of Cloverly. On

page 22 of the Master Plan, and within the text on the Cloverly Commercial area, the Plan provides the following general guidance – in considering redevelopment proposals, the Planning Board should carefully weigh the significant benefit to the Cloverly community of an expanded commercial area against the environmental constraints of the Property.

There are no site-specific recommendations for the Subject Property. However, there are general Commercial Area recommendations. As recommended in the Master Plan, the Application provides street-oriented development along New Hampshire Avenue to encourage a walkable, pedestrian-friendly commercial area that promotes social gathering. Street oriented development is also achieved by locating the building close to the street where the primary entrance is located along New Hampshire Avenue. Sidewalks are also enhanced with tightly spaced street trees, seating areas, and lighting. The current design provides a ten-foot shared use path. Therefore, the Application is consistent with the Master Plan.

The Master Plan emphasizes interconnectivity between parcels as they redevelop to keep as much traffic off New Hampshire Avenue in this area. The current design provides access easements that will allow a future inter-parcel connection between the Subject Property and the properties to the north and south of the Subject Property. This will allow for interconnected parking lots and shared access between independently owned properties, which will ultimately reduce traffic on New Hampshire Avenue.

The Subject Property is located outside of any Special Protection Area, the Primary Management Area (“PMA”) for either the Patuxent or Hawlings Rivers or an overlay zone that limits imperviousness. However, the Subject Property is located within the Bryants Nursery Run subwatershed which is one of the headwater sources for the larger Northwest Branch watershed. The Master Plan recommends to *“Protect headwater streams in the Northwest Branch by assuring that ultimate subwatershed imperviousness remains within the 10 to 15 percent range....”* (p. 88). The Bryants Nursery Run subwatershed currently has an imperviousness level of approximately 11.69 percent, which includes the impervious surfaces by the approved RCCG Jesus House Application (120160040), Mar Thoma (120200080) and Hill Farm (620200100) developments. This Application proposes approximately 17,114 square feet of impervious surfaces for the construction of the building, sidewalks, access drive and parking lot, resulting in 61.0 percent impervious cover on the lot. Although this amount of impervious surface is moderately high for an individual project site, this higher level of imperviousness is caused by the small size of the Subject Property

and the development requirements placed on the Applicant for this project. Although the Subject Property's impervious level is moderately high, this will have little impact on the overall imperviousness within the Bryants Nursery Run subwatershed. This Application will result in a total of approximately 11.72 percent imperviousness in the Bryants Nursery Run subwatershed. Therefore, the development on the Subject Property is consistent with the Master Plan recommendation to maintain impervious surface levels between 10-15 percent for the subwatershed.

Overall, the Preliminary Plan conforms to the Master Plan in that it consists of a restaurant use with frontage improvements along New Hampshire Avenue on the Property which is consistent with the Plan's vision in the Cloverly Commercial Area.

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

Transportation access is adequate to serve the development. The Application was also reviewed by the Montgomery County Department of Transportation who reviewed the Application and recommended approval on July 31, 2020. The Subject Property will provide adequate frontage along a public road — New Hampshire Avenue.

Vehicular access to the Property is accommodated through a new entryway from New Hampshire Avenue. Two access easements will be provided for future connections to adjoining parcels on the north and south property lines. Adequate parking will also be provided along the side and rear of the building to serve the restaurant and associated seating area. The Applicant will provide four short-term bicycle parking spaces where one is required.

Per the 2018 *Master Plan of Highways and Transitways*, New Hampshire Avenue requires a 100-foot right-of-way. To accommodate the master planned right-of-way, the Applicant is dedicating 898 square feet on New Hampshire Avenue. Also, the 2018 *Bicycle Master Plan* requires a 10-foot-wide shared use path to be built along the frontage of New Hampshire Avenue, in which the Applicant proposes to construct. Pedestrian access will be provided via an existing sidewalk that connects to the path on New Hampshire Avenue. Frontage improvements will include an ADA sidewalk running from the side path directly to the main building entrance, then continuing in a loop formation around the building to provide efficient pedestrian circulation.

Local Area Transportation Review

The Application is for a 5,000 square foot Quality Restaurant (ITE code 931). According to the Institute of Transportation Engineer's (ITE) 10th Edition Trip Generation Manual and adjusted for the Cloverly Policy Area, the Application will result in four (4) AM and fifty (50) PM peak-hour person trips. The Applicant is not required to submit a traffic study to satisfy the LATR test because the land use generates fewer than 50 peak-hour net new person trips within the weekday morning and evening peak periods after the application of a 15 percent pass-by credit for this Application resulting in 42 total peak hour person trips.

Table 2: Site Vehicle Trip Generation

Use	Development	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Existing (Credit) Single Family (ITE 210)	1 D.U.	0	1	1	1	0	1
Application: Quality Restaurant (ITE 931)	5,000 sq. ft.	2	2	4	26	13	39
Net New Vehicle Trips		(2)	(1)	(3)	(25)	(13)	(38)
Total Peak Hour Person Trips				(4)			(50)
PM Pass-by Credits (Credit)	15%			(0)			(8)
Total Peak Hour Person Trips (w/ 15% PM Pass-by Credit)				4			42

Source: Traffic statement, Lawrence Green, PE, PTOE., dated November 16, 2020. Sums may not add due to rounding; all numbers rounded to the nearest whole number for presentation.

Circulation and Connectivity

Vehicular access will be provided from New Hampshire Avenue via a full movement 24-foot driveway. The 1997 *Cloverly Master Plan* recommends providing future connections to adjoining parcels to increase connectivity and

unified commercial development as well as decreasing the need for additional New Hampshire Avenue access points.

As conditioned, two access easements will be provided for future connections to adjoining parcels on the north and south property lines. The easement area is temporarily used for parking until there is an adjoining development. Upon development of the adjacent parcels, connections will be made within the easement area and affected parking will be removed to accommodate the connection. These parking spaces determined to be removed have not been included in the minimum required parking calculations. The Application will meet all parking minimums even after removal of these parking spaces. Therefore, the circulation pattern is safe and adequate for the restaurant and associated seating area.

Other Public Facilities and Services

Due to the non-residential use, the Preliminary Plan is not subject to the Annual School Test. The Preliminary Plan has also been reviewed by the Fire Department Access and Water Supply Section that has determined that the Application provides adequate access for fire and emergency vehicles. Other public services such as police and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. Other facilities and services including well and septic/water and sewer, utilities, police, fire, health are found to be adequate.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied;

Environmental Guidelines

The Property contains no streams, wetlands, floodplains, or other environmentally sensitive areas. The Property is not in a Special Protection Area or in the Primary Management Area of the Patuxent or Hawlings Rivers. The submitted Preliminary Plan is in conformance with the Montgomery County Planning Department's Environmental Guidelines.

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County code. Forest Conservation Exemption No. 42019018E from Article II of Chapter 22A of the Montgomery County Code (Forest Conservation Law) under 22A-5(s)(1) was granted on September 13, 2018. This forest conservation exemption covers an activity conducted on a tract of land less than one acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or an existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. The Application shows the removal of a 36-inch diameter breast-height (DBH) Silver Maple (*Acer saccharinum*) which qualifies as a specimen tree. Since a specimen tree is shown

to be removed, Section 22A-6(b) requires the approval of a Tree Save Plan which was approved on September 13, 2019 as part of the Forest Conservation Exemption review. The Tree Save Plan shows the required mitigation planting of five 2-inch caliper White Oaks (*Quercus alba*) for the removal of the 36-inch DBH Silver Maple.

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

Stormwater Management

The Application includes Environmental Site Design (ESD) measures including two landscape infiltration facilities to meet all stormwater management requirements of Chapter 19. The stormwater concept plan was reviewed and approved by the Department of Permitting Services Water Resources Section. The Subject Property is not located in a Special Protection Area and therefore, does not require a water quality plan.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.*

There is no record or other evidence to suggest that a burial site is located within the boundary of the Subject Property. Therefore, this finding does not apply.

7. *Any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.*

There are no other applicable provisions specific to the Property and necessary for approval of the subdivision is satisfied.

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 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 **FEB 04 2021** (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 Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor, at its regular meeting held on Thursday, January 28, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board