



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

MCPB No. 09-73
Preliminary Plan No. 12002056A
Wendy's Colesville
Date of Hearing: June 18, 2009

20 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on June 18, 2009, DavCo Restaurants, Inc. ("Applicant"), filed an application for approval of a preliminary plan of subdivision amendment on a 0.54-acre recorded lot located in the northeast quadrant of the intersection of Randolph Road and Vital Way within the White Oak Master Plan area ("Property" or "Subject Property"), in the White Oak master plan area ("Master Plan"); and

WHEREAS, the Property was previously approved for the creation of one lot for up to 10,192 square feet of office/retail uses as Preliminary Plan No. 120010560; and

WHEREAS, a preliminary plan amendment is required to incorporate the change in use; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12002056A, Wendy's Colesville ("Preliminary Plan Amendment" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 2, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on June 18, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
 Legal Sufficiency:

[Handwritten Signature] 7/1/09

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WHEREAS, on June 18, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Hanson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson and Robinson voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12002056A on a 0.54-acre recorded lot located in the northeast quadrant of the intersection of Randolph Road and Vital Way ("Property" or "Subject Property"), in the White Oak master plan area ("Master Plan"), subject to the following conditions:

1. Approval under this preliminary plan amendment is limited to 1 lot for a drive-through restaurant not to exceed 2,552 square-feet that will not open for business prior to 10:00 a.m. (per condition of the approved special exception) unless a modified Adequate Public Facilities (APF) test is submitted and approved.
2. The Applicant must comply with the conditions of the Board of Appeals Opinion for Case S-2736 adopted May 20, 2009, effective May 29, 2009.
3. Prior to issuance of building permit, the Applicant must record a deed referencing the 5-foot public improvement easement along the Vital Way property frontage as shown on the preliminary plan amendment application.
4. The Applicant must remove approximately 140 linear feet of existing sidewalk along the Randolph Road property frontage and provide in its place a new 8-foot wide tree panel and 6-foot wide sidewalk.
5. The Applicant must fully reconstruct approximately 300 linear feet of Vital Way to the south of Randolph Road along the property frontage per the White Oak Master Plan recommendations on pages 30-33 and 48-50, and Montgomery County Department of Transportation (MCDOT) roadway standard MC-214.03 as amended by MCDOT for this plan (Commercial/Industrial Road; on a 70-foot right-of-way) , with approval from DOT and the Montgomery County Department of Permitting Services (MCDPS) and with consent from adjoining and confronting property owners. The Applicant must implement this improvement to mitigate twenty new weekday peak-hour vehicle trips and satisfy the Policy Area Mobility Review (PAMR) portion of the Adequate Public Facilities test.
6. Final design drawings for Vital Way road improvements and other installations must be submitted to all relevant permitting agencies prior to the release of a building permit for the proposed development. All Vital Way road improvements

other than streetscape improvements such as sidewalks, street trees, and other amenities, must be open to traffic or available to the public prior to the issuance of the use and occupancy permit for the restaurant. If for any unforeseeable reason the Vital Way improvements described above are not feasible, the Applicant may substitute these with Policy Area Mobility Review mitigation measures that are of equivalent or greater mitigation value, subject to Transportation Planning and MCDOT staff approval.

7. The applicant must comply with the conditions of the MCDPS stormwater management approval dated December 1, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
8. The applicant must comply with the conditions of the MCDOT letter dated June 3, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
9. The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat.
10. No clearing, grading or recordation of plat prior to Certified Site Plan approval.
11. Final location of buildings, sidewalks, and amenities to be determined at Site Plan.
12. The Adequate Public Facilities (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
13. All other applicable conditions of the resolution dated April 7, 2003 for Preliminary Plan No. 120020560 remain in full force and effect.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff 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 Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Application substantially conforms to the master plan.*

The Planning Board finds the proposed preliminary plan amendment substantially conforms with the recommendations of the White Oak Master Plan.

The site is identified as part of the Colesville Commercial Center shown in Figure 17 on page 31 in the Master Plan. The Plan recommends that properties along Vital Way in the Colesville Commercial Center "develop or redevelop in a manner that provides a more unified 'main street' form of development" (page 32). The Plan also recommends that vehicular and pedestrian access be improved between the Colesville Shopping Center and the commercial properties along Vital Way. This proposed preliminary plan amendment locates the building close to Vital Way with parking to the side and rear as shown on Figure 18 on page 33. This and the streetscape treatment and parallel parking along Vital Way will contribute to an active, pedestrian-friendly street atmosphere.

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

Roads and Transportation Facilities

Vital Way is a 600-foot long, two lane business street within the southwest quadrant of Randolph Road and New Hampshire Avenue (MD 650). It connects Randolph Road with New Hampshire Avenue. At both ends, Vital Way is restricted to right-turns in/right-turns out only. Development along Vital Way is entirely commercial. Parking is permitted along both sides of the road. A four-foot wide sidewalk exists along the east side of Vital Way for three-quarters of its length from New Hampshire Avenue. The roadway also functions as a defacto "right-turn lane" for eastbound Randolph Road to southbound New Hampshire Avenue traffic.

Local Area Transportation and Policy Area Mobility Review

The proposed use is required to satisfy both Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) tests as part of the Adequate Public Facilities Ordinance (APFO) review since the proposed Wendy's is estimated to generate 30 or more peak-hour trips during the typical weekday evening (4:00 p.m. – 7:00 p.m.) peak period.

To satisfy the LATR component of the APF test, the consultant for the Applicant submitted a traffic study dated December 9, 2008, which examined traffic-related impacts of the subject development on nearby intersections. Peak-hour trip generation estimates for the proposed drive-through restaurant included in the traffic study were based on trip generation rates for a Fast Food Restaurant with Drive-Through Window (Land Use Code 934, trips per 1,000 square-feet) contained in the Institute of Transportation Engineers *Trip Generation*.

The proposed 2,552 square-foot drive-through restaurant will not open prior to 10:00 a.m., will not serve breakfast, and therefore will not generate any traffic during the 6:30 a.m. to 9:30 a.m. morning peak period. The restaurant was

estimated to generate approximately 88 total trips during the weekday evening peak-hour period. During this peak-hour, approximately half the peak-hour trips (44 trips) were considered "new" and the other half were considered "pass-by". "Pass-by" trips represent site-generated trips that are already on adjacent roadways. CLV values for intersections included in the study are either below the Fairland/White Oak Policy Area congestion standard (1,475 CLV) or maintain the CLV determined under background traffic conditions. As such, the Planning Board finds the Application satisfies the LATR requirements of the APF test.

To satisfy the PAMR component of the APF test, a development within the Fairland/White Oak Policy Area is required to mitigate 45% of "new" peak-hour trips generated by the use. Based on a total of 44 "new" peak-hour trips that will be generated by the proposed Wendy's, the mitigation requirement for the proposed use will be 20 peak-hour trips (44 "new" peak-hour trips x 0.45 = 20 peak-hour trips). As PAMR mitigation, the Applicant will provide full reconstruction of approximately 300 linear feet of Vital Way to the south of Randolph Road along the site frontage per the White Oak Master Plan recommendations and DOT roadway standard MC-214.03 (see Attachment No. 3 – Special Exception Site Plan for Wendy's Colesville). The Planning Board finds the proposed preliminary plan amendment satisfies the PAMR requirements of the APF test.

Other Public Facilities

Other public facilities and services are available and will be adequate to serve the proposed use. Schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. Water and sewer connections are available to serve the project. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has adequate access for fire and rescue vehicles.

- 3. The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.*

The lot was reviewed for compliance with the dimensional requirements for the C-1 zone as specified in Chapter 59, the Montgomery County Zoning Ordinance, and found to comply with all applicable provisions. The lot as proposed will meet all the dimensional requirements including, but not limited to, area, frontage, width, height, and setbacks in the C-1 zone and complies with Chapter 50, the Montgomery County Subdivision Regulations.

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

According to the approved Natural Resources Inventory/Forest Stand Delineation Plan, there are no forest stands, floodplains, or specimen trees located on the site. The Planning Board finds the project is exempt from the requirements of the Montgomery County Forest Conservation Law under the small property category (Section 22A-5s).

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the revised stormwater management concept for the project on December 1, 2008 which includes the use of biofilters with added storage beneath the underdrain pipes and the use of an infiltration trench to provide water quality controls and onsite groundwater recharge. In addition, proprietary filtration inlets will provide water quality controls for 250 linear feet of roadway improvements.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) 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 among the Land Records of Montgomery County, Maryland 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 JUL 20 2009 (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 Vice Chair Robinson seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Cryor and Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, July 9, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board