

Mount Airy Board of Appeals

May 9, 2018

Staff Report

Special Exception Request – Mixed Use Development in CC District Recommendation to Board of Appeals

CASE MA-A-18-01

Applicant: GT Property LLC
11175 Stratfield Court
Marriottsville, Maryland 21104

Location: North Main Street (MD 808) and Candice Drive

Zoning: CC District (Community Commercial)

**Property
Acreage
Subject of
Special Exception:** 12.67 Acres

Background:

The subject property is a 12.67 acre parcel of commercially zoned land situated along the west side of North Main Street from the northern Town boundary at Candice Drive. The parcel has held a commercial zoning classification within the town since annexed into the municipal boundary in 1995. The site is surrounded by a 6.35 acre parcel of residentially zoned land (annexed to complement the 12.67 acre parcel) and is also surrounded by three residential subdivisions known as Christy Acres, Sterling Glen, and Summit Ridge. The Brown Property, a 1.08 acre parcel of land also zoned Community Commercial, lies adjacent to the subject parcel directly to the east. Residentially zoned parcels of land are situated to the south and southeast of the subject parcel with two of the parcels approved to operate as church facilities.

While the code provisions require authorization from the Board of Appeals to develop land in the CC District with a mix of residential and commercial components, the manner in which the lands are developed with respect to overall site configuration, lot layout, road access, open space, pedestrian connectivity, and traffic impact mitigation are implemented by the Planning Commission through the general development review processes and supplemental regulations as governed by Town Code Section 98-61. The Board of Appeals may however attach specific conditions relating to site development to a special exception authorization to ensure that public interest is secured.

Request for Special Exception:

The applicant has submitted a petition for special exception to establish Greentree Village, a Mixed Use Development in a CC District as permitted under Zoning Code, §§ 112-39C.(12), 112-39.1 and 112-62(F) (29).

Pursuant to Town Code Section 112-62(E), a special exception may be granted when the Board of Appeals find from a preponderance of the evidence produced at the hearing that both the General and Specific Standards can be met. Town Code Section 112-62(B) requires that all special exception requests be referred to the Town Planning Commission for recommendation.

Case MA-A-18-01 was presented to the Planning Commission at their March 26, 2018 meeting whereby several residents from surrounding residential communities provided comment on the special exception petition, the proposed conceptual layout, and potential development impacts. A summarization of those comments is provided as an attachment to this staff report.

The Planning Commission provided a favorable recommendation of the special exception petition was forwarded to the Board of Appeals subject to the following conditions:

1. The authorization of the MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.
2. The authorization of the MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-.1 and Section 98.61.
3. Associated traffic improvements will be required as determined by the Town in order to mitigate projected traffic impacts and to address expected congestion generated by the proposed development as to all surrounding neighborhoods and any other conceivable areas.

Specific Standards – 112-62 (F)(29)

Mixed Use Development in a CC District (MXU-CC) is a permitted special exception use subject to the following:

- A. *MXU-CC shall facilitate the integrated and orderly development of commercial, office, and residential uses on vacant tracts of Community Commercial (CC) zoned land in locations where high quality mixed use development can occur in harmony with surrounding land uses.*

As previously noted, the subject property represents 12.67 acres of vacant land zoned Community Commercial (CC) meeting the zoning requirements of this statute. Ordinance 2017-7 as enacted allows the consideration of Mixed Use Development in the CC District. A reference to the general physical boundary of the focus area for mixed-use development scenarios was included among the introductory statements of the ordinance. Specifically, the boundary referenced tracts of commercial land along the MD 27 Corridor from the intersection at Twin Arch and Park Avenue northbound to the northern Town boundary at MD 27 and MD 808. The subject property falls within the physical boundary described and therefore meets this standard.

According to the project narrative furnished by the applicant, the project “provides an opportunity to develop the northern gateway of the Town in a more attractive manner than would be possible through the strict application of conventional commercial zoning requirements that currently exist on the property.” In addition, the proposed project is described to provide an opportunity to transition from commercial to the surrounding residential, commercial, and institutional uses. Staff concurs that a quality mixed-use project may yield a more compatible development scenario that is sensitive to the surrounding residential land uses than a typical commercial shopping center would offer. Moreover, the mix of uses and site design sensitive to the surrounding land uses will facilitate the integrated and orderly development of commercial, office, and residential uses

In order to provide a basic overview of the development vision for the property, the applicant submitted a conceptual mixed-use site development layout as an exhibit to the special exception application. The layout reflects a predominantly residential community very similar to the development plan approved for the establishment of the Greentree Village senior housing community in that 112 townhouses and a two story commercial building continued to be proposed. The applicant describes the planned commercial uses as “retail, office, and eateries”. Drive through service is also notated on the plan. The proposed architectural style of the development will be carefully evaluated during the development review plan phase. The applicant’s narrative did however note that the residential elements of the project will incorporate traditional neighborhood design principles as well as traditional architectural principles. The mixed-use development process requires a “pattern book” outlining in detail the architectural and design details that will be implemented with the development to ensure that the project represents a high quality mixed use development. The dwelling type, proposed density, and overall site configuration will come under the scrutiny of the Planning Commission during the site development process to ensure harmony with the surrounding land uses.

When considering the proposed conceptual layout, the existing commercial zoning of the subject parcel, plausible “by-right” commercial development scenarios, zoning of adjacent land areas, and the mixture of existing residential and non-residential land uses in existence today, a mixed-use development on the subject property can more likely than not occur in harmony with the surrounding land uses.

Based on the above analysis, staff finds that the MXU-CC use as proposed can meet this standard. This finding is predicated upon strict adherence to the adopted code provisions governing specific MXU-CC development policies and processes set forth in Sections 98-61 and 112-39.1. These processes include the requirement for public hearing on the proposed plan, and all other development review processes as provided for in the town code.

B. Minimum Tract Size: The vacant tract must be a minimum of 10 acres in order to be considered for MXU-CC.

The subject site is 12.67 acres and therefore meets this standard.

C. Minimum Use Percentage Guidelines. A MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.

An authorization of the special exception request from the Board of Appeals will include the aforementioned condition.

D. A MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-.1 and Section 98.61.

An authorization of the special exception request from the Board of Appeals will include the aforementioned condition.

General Standards Review:

In addition to specific standards for Mixed Use Developments in CC Districts, the following general standards must also be met as determined by the Planning Commission and Board of Appeals.

1. A special exception may be granted when the Board of Appeals finds from a preponderance of evidence produced at the hearing that:
 - A. *The proposed use, including its nature, intensity, and location, is in harmony with the intent of the Town Master Plan and the orderly and appropriate development of the district.*

The 2013 Comprehensive Master Plan sets forth a goal to provide more opportunity, capability, and balance for near term development and redevelopment efforts. The master plan supports the introduction and utilization of new zoning districts, along with the utilization of existing zoning classifications in more flexible fashion in order to implement this goal. Mixed Use Development, a recently adopted special exception use in the CC District, supports an integrative approach to the Town's infill development efforts as also guided by the comprehensive plan. Mixed-Use Development in the CC District is aimed at providing a more attractive residential and non-residential environment than would be possible through the strict application of conventional zoning district requirements. The MXU-CC development also encourages the harmonious and coordinated development and a mixture of uses that take into account the compatibility with surrounding land uses. A strong emphasis is also placed on excellent design and architecture in order to protect the character of surrounding neighborhoods. Additionally, the supplemental requirements (§98-61) adopted relating to the special exception use require a very specific development process designed to ensure that the *nature and intensity* of the proposed use will result in the orderly and appropriate development of the commercial district to ensure the stated goals and objectives with respect to the special exception use will be met. As noted above, the *location* of the subject parcel has already been deemed consistent with the intent of the adopted ordinance governing mixed-use developments in the CC District.

Staff finds that, in general, the nature and location of the proposed use are in harmony with the intent of the Town Master Plan and finds that the proper code provisions are in place for the strategic evaluation to determine the appropriate intensity of the development with surrounding land uses.

- B. That adequate water supply, sewerage disposal, storm drainage and fire and police protection are or can be provided for the use.*

Certification of the Adequate Public Facilities Ordinance (APFO) occurs at such time as the concept plan is submitted pursuant to Chapter 25-5. Below is an overview of the general availability of public facilities noted above:

Water Supply and Sewerage Disposal: The project will be required to connect to the Town's public water and sanitary sewer system. Related infrastructure will be extended by the developer. The proposed future development will undergo APFO Certification for water and sewerage disposal and will also be subject to the Town's water allocation process. The current pipeline allocation for Greentree Village approved in 2010 is 21,250 gpd as listed in the 2005 Consent Agreement and 2007 Consent Order with the Maryland Department of the Environment (MDE). Well #9, which was provided with the annexation of 88 acres of parkland approximately 26 years ago, was brought online into the Town's water system in late 2004 with a total appropriation of 79,000 gpd with a portion of the water supply to be allocated to the Greentree Property for future development. The actual water and sewer allocation for the project will be determined by the Planning Commission and will be factored, in part, by the lot yield and commercial square footage approved during the development review process.

Storm Drainage: Stormwater Management is not a component of the Town's APFO review but will be part of the development review processes for the project. During the review process for Greentree Village Senior Housing Community, the applicant entered into an agreement with the County to expand stormwater management facilities to accommodate other drainage in the vicinity. Carroll County Bureau of Resource Management will evaluate the concept and final site plans to ensure compliance with any previous stormwater management approvals.

Fire and Emergency Services: The concept layout was provided to the Mount Airy Volunteer Company to determine availability of services. Fire and Rescue services are deemed adequate at this time based on the information provided on the layout. A note was provided to advise that an aerial ladder truck may be needed depending on the building heights. A more in depth plan review will take place during the concept and final site plan phase of the project should the special exception be authorized.

Police Protection: Police protection is a component of the APFO review process during the development review phase. The Town transitioned to its own police force on October 1, 2017. The Mount Airy Police Department is currently budgeted to support a 10 person police force.

- C. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature, and height of buildings, walls and fences.*

The applicant of a special exception bears the burden of proving by a preponderance of evidence that the proposed use will not discourage use of adjacent land and

buildings. The applicant will have the opportunity to address the Board of Appeals to offer sufficient evidence that the use of adjacent lands will not be discouraged. Given the unique development review process required in conjunction with MXU-CC developments, staff anticipates that a successful site design can be achieved with input from the public to ensure compliance with this standard.

- D. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets.*

The concept layout is proposing the site be served by a total of two access points. A primary access point situated off of North Main Street (MD 808) that provides a direct access to the planned commercial center will also serve as a connection to the planned residential community. An entrance is also proposed off of Candice Drive intended to serve as a secondary access to the residential component of the proposed project. Both Candice Drive and North Main Street are classified as collector roads rather than local residential streets.

Adequate Public Facilities Certification for Roads and Traffic Control Devices will first be tested during the concept plan development review phase. Based upon the findings in the MD 27 Corridor Study, the Town is aware of the current level of service failures that occur at the intersection of the MD 27 and MD 808 during peak trip hours. Staff anticipates that regardless of the manner that the Greentree Property is developed, traffic generation as a result will add to the existing congestion at this intersection. A traffic study will be required at the concept plan stage of the development review phase in order to determine the level of impact that the proposed project will have on existing and planned intersections. Staff anticipates that associated improvements will be required in order to mitigate the traffic impact to address congestion.

As reflected in the special exception application, a previous petition of appeal involving this property was made to the Board of Appeals in 2001. Case No. MA-A-01-08 authorized a special exception use to establish age-restricted housing in October 2002 with conditions. One such condition was that the extension of Scotch Heather Avenue from the Summit Ridge Development would not be constructed. In response to staff's recommendation that this condition be carried forward to the present petition of appeal, several members of the community and the Planning Commission expressed their desire to revisit this condition in order to facilitate a future vehicular connection between Summit Ridge and the Greentree property. Staff has confirmed that this condition was attached to the prior special exception because it was also made a condition to an annexation that included the 6.35 acre parcel adjacent to the 12.67 acre parcel under consideration for MXU-CC special exception as set forth in Annexation Resolution No. 32. After consulting with the Town Attorney, Staff believes that neither the Board of Appeals nor the Planning Commission has the authority to remove this condition from the Annexation Resolution.

E. That the specific standards (112-62 F) set forth for each particular use for which a special exception may be granted have been met except in the case of nonconforming structures where the Board determines that no adverse impact will result.

The specific standards have, or can be, met with the appropriate development of the site and review of all applicable site development standards during the concept and final site plan review stages and subsequent approval by the Planning Commission.

2. The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Board of Appeals.

Staff Recommendation:

Staff finds that both the General and Specific Standards have, or can be met, with the appropriate development of the site and all applicable site development standards during the concept and final site plan review stages. This finding is based upon the evidence provided by the applicant in their justification statement as to the merits of the development, the proposed concept plan layout, and also in consideration of the requirements set forth by the development review processes and adequate public facilities ordinance. Staff therefore recommends that the Board of Appeals authorize the special exception subject to the following conditions:

- 1) The authorization of the MXU-CC special exception shall be conditioned upon the minimum use percentage guidelines set forth in Section 112-39.1D and as determined by the Planning Commission pursuant thereto.
- 2) The authorization of the MXU-CC special exception shall be conditioned on the requirements and process set forth in Section 112-39-.1 and Section 98.61.
- 3) Associated traffic improvements will be required as determined by the Town in order to mitigate projected traffic impacts and to address expected congestion generated by the proposed development as to all surrounding neighborhoods and any other conceivable area.
- 4) The extension of Scotch Heather Avenue from the Summit Ridge Development, north to this project is not constructed.