THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2022-102 File No. 5-22045

RESOLUTION

WHEREAS, Mept Penn Mar LLC c/o Bentallgreenoak US LP is the owner of a 10.86-acre parcel of land known as Parcel 7, said property being in the 6th Election District of Prince George's County, Maryland, and being zoned Commercial, General and Office (CGO) and Military Installation Overlay (MIO); and

WHEREAS, on March 10, 2022, Raising Cane's Restaurants, L.L.C. filed an application for approval of a Final Plat of Subdivision for one parcel; and

WHEREAS, a Final Plat of Subdivision dated September 14, 2022, also known as Final Plat 5-22045 for Penn-Mar Shopping Center, Parcel 8, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on September 22, 2022; and

WHEREAS, new Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Section 24-1703 of the Subdivision Regulations, subdivision applications submitted before April 1, 2022, but still pending final action as of that date, must be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the submission and acceptance of the application; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application; and

WHEREAS, on September 22, 2022, the Prince George's County Planning Board approved the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Final Plat of Subdivision 5-22045 with the following conditions:

1. Total development within the subject property shall be limited to uses that would generate no more than 133 AM and 455 PM peak-hour trips for the entire parcel. Any development generating an impact greater than that identified herein above shall require a new PPS, with a new determination of the adequacy of transportation facilities.

2. Prior to approval of the building permit for the subject property, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that the site shall be served with standard sidewalk facilities that shall provide safe pedestrian connection to the proposed building and other land uses on-site. The specific design and profiles of said facilities shall be evaluated at time of building permit.

3. Any residential development of the subject property shall require the approval of a new preliminary plan of subdivision, prior to approval of any building permits.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.

2. **Background**—The subject property is currently known as Parcel 7 of the Penn-Mar Shopping Center, recorded among the Prince George's County Land Records in Plat Book REP 213 page 68, as a result of a lot line adjustment to an earlier plat of the property, which was approved on August 5, 1959, and recorded in Plat Book WWW 35 page 78, with the subject property being Parcel 2 on said plat. The property is located on the east side of Donnell Drive, approximately 870 feet north of its intersection with MD 4 (Pennsylvania Avenue). Parcel 7 is 10.86 acres in area and is within the Commercial, General and Office (CGO) and Military Installation Overlay (MIO) Zones; however, this application was submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1703 of the Subdivision Regulations, and was therefore evaluated according to the standards of the prior Commercial Shopping Center (C-S-C) Zone. This Final Plat of Subdivision, 5-22045, was filed in accordance with Section 24-111(c) of the prior Subdivision Regulations, to resubdivide the property, in order to construct additional development.

   Section 24-111(c) requires a final plat of subdivision approved prior to October 27, 1970 to be resubdivided, prior to issuance of a building permit, unless meeting one of the exemption criteria outlined in Section 24-111(c)(1)–(4). The proposed development does not meet any of the exemptions and, therefore, is required to be resubdivided. It is noted that the subject property is part of a larger shopping center site, to which development has been gradually added and now exceeds 5,000 square feet of development constructed after the exemption allowances provided in this Section. Further, Section 24-111(c) provides that a final plat submitted for resubdivision without modifications shall be approved by the Prince George's County Planning Board if it is found that adequate public facilities exist or are programmed for the area within which the subdivision is located, as defined in Divisions 3 and 4 of Subtitle 24.

   The applicant has submitted this final plat application, in accordance with the requirements of Section 24-111(c), and a traffic impact analysis with the final plat that explains the conceptual development proposal of constructing a 3,422-square-foot fast food restaurant with drive-through establishment. Adequate public facilities were found to exist based on the findings and conditions set forth below.

3. **Setting**—The property is located on Tax Map 81 in Grid E-4 in Planning Area 75A. To the north and south, the subject property is bound by properties in the CGO Zone, as part of the same shopping center; to the west by the Donnell Drive right-of-way; and to the east by CGO and Residential, Single-Family-65-zoned properties, developed with commercial and residential uses, respectively.

4. **Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	EXISTING	APPROVED
Zone(s)	CGO	CGO
Use(s)	Shopping Center	Shopping Center (adding an eating and drinking establishment with drive-through service)
Acreage	10.86	10.86
Lots	0	0
Parcels	1	1
Variance	No	No
Variation	No	No

5. **Transportation (pedestrian, bicycle, and vehicular)—**The subject plat was reviewed for conformance with the transportation adequacy requirements contained in Division 4 of the Subdivision Regulations, as required in accordance with Section 24-122.01(a). Transportation-related findings related to adequacy are made with this application, along with any determinations related to dedication, access, and general subdivision layout. Access is proposed by means of an existing public collector roadway.

Master Plan Right-of-Way
The site is adjacent to Donnell Drive (a collector) right-of-way, identified in the 2009*Approved Countywide Master Plan of Transportation* (MPOT). Adequate right-of-way has been dedicated, and no additional dedication is required from this plat.

Pedestrian and Bike Facilities Review
The MPOT includes the following goal and policies regarding sidewalk and bikeway construction and the accommodation of pedestrians and bicyclists (MPOT, pages 7 and 8):

> **GOAL: Provide a continuous network of sidewalks, bikeways and trails that provide opportunities for residents to make some trips by walking or bicycling, particularly to mass transit, schools, employment centers, and other activity centers.**
>
> **POLICY 2: Provide adequate pedestrian and bicycle linkages to schools, parks, recreation areas and employment centers.**

POLICY 3: **Develop bicycle-friendly roadways in conformance with the latest standards and guidelines, including the 1999 AASHTO *Guide for the Development of Bicycle Facilities.***

POLICY 4: **Identify sidewalk retrofit opportunities for small area plans within the Developed and Developing Tiers in order to provide safe routes to school, pedestrian access to mass transit and more walkable communities.**

POLICY 5: **Plan new development to help achieve the goals of this master plan**

The subject property is located in the Pennsylvania Avenue Corridor and is, therefore, subject to Section 24-124.01 of the Subdivision Regulations and the "Transportation Review Guidelines, Part 2."

In accordance with Section 24-124.01(b), the development is less than 5,000 square feet, and therefore, is exempt from preparing a Bicycle and Pedestrian Impact Statement to demonstrate adequacy for off-site bicycle and pedestrian facilities. However, pursuant to Section 24-124.01(c), the applicant shall construct adequate on-site pedestrian and bicycle facilities throughout the subdivision. As a condition of approval, the applicant shall provide a continuous network of on-site pedestrian facilities to connect to the proposed building and other land uses on-site. The specific design and profiles of said facilities shall be evaluated at time of future building permits.

Vehicular Transportation Review
The subject property is located within Transportation Service Area (TSA) 1, as defined in the 2014 *Plan Prince George's 2035 Approved General Plan*. As such, the subject property is evaluated according to the following standards:

Links and Signalized Intersections: Level of Service (LOS) E, with signalized intersections operating at a critical lane volume of 1,600 or better.

Unsignalized Intersections: The procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted.

For two-way stop-controlled intersections, a three-part process is employed: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed.

For all-way stop-controlled intersections a two-part process is employed: (a) vehicle delay is computed in all movements using the Highway Capacity Manual (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed.

Analysis of Traffic Impacts
This application is a plat of resubdivision for a plan that proposes commercial use. The trip generation is estimated using trip rates and requirements in the Institute of Transportation Engineers, Trip Generation Manual, 11th Edition. The table below summarizes trip generation in each peak-hour that will be used in reviewing traffic for the site:

Trip Generation Summary: 5-20089: Kenilworth Interchange Industrial Park								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Tot	In	Out	Tot
Fast Food Rest. w/Drive-Through (ITE-934)	3,416	sq. ft.	78	74	152	59	54	113
Pass-by Trips (49% AM & 50% PM)			-38	-36	-74	-30	-27	-57
Recommended Trip Cap for Use			**40**	**38**	**78**	**29**	**27**	**56**

It is noted that the 3,416-square-foot restaurant shares the parcel with 147,339 square feet of retail space. The total of 150,755 square feet generates 222 AM trips (138 in and 84 out) and 758 PM trips (364 in and 394 out). When the 40 percent pass-by rate is applied, that would result in a trip cap of 133 AM and 455 PM trips for all uses within the entire parcel.

The traffic generated by the proposed final plat would impact the following intersections in the transportation system:

- Donnell Drive and Marlboro Pike (signalized)
- Donnell Drive and Penn Mar Shopping Center Driveway (signalized)
- Donnell Drive and MD 4 (signalized)

The following tables represent results of the analyses of the critical intersections under existing, background and total traffic conditions:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Donnell Drive and Marlboro Pike	663	995	A	A
Donnell Drive and Penn Mar Shopping Center Driveway	322	769	A	A
Donnell Drive and MD 4	1101	1348	B	D

The study intersections are not programmed for any lane configuration changes within the next six years in the current Maryland Department of Transportation “Consolidated Transportation Program” or Prince George's County “Capital Improvement Program.” Approved but unbuilt developments have been identified within the study area, background traffic has been developed. A 1 percent annual growth rate, for a period of six years, has been assumed.

BACKGROUND TRAFFIC CONDITIONS				
Intersection	**Critical Lane Volume (AM & PM)**		**Level of Service (LOS, AM & PM)**	
Donnell Drive and Marlboro Pike	676	1014	A	B
Donnell Drive and Penn Mar Shopping Center Driveway	328	784	A	A
Donnell Drive and MD 4	1122	1375	B	D

The critical intersection identified above, when analyzed with the total future traffic as developed using the "Transportation Review Guidelines, Part 1," including the site trip generation, as described above, operates as follows:

TOTAL TRAFFIC CONDITIONS				
Intersection	**Critical Lane Volume (AM & PM)**		**Level of Service (LOS, AM & PM)**	
Donnell Drive and Marlboro Pike	681	1019	A	B
Donnell Drive and Penn Mar Shopping Center Driveway	359	806	A	A
Donnell Drive and MD 4	1137	1383	B	D

Based on the preceding findings, adequate transportation facilities will exist to serve the proposed subdivision, as required in accordance with Section 24-124.

6. **Public Facilities—**In accordance with Division 3 of the Subdivision Regulations, water and sewerage, police, and fire and rescue facilities are found to be adequate to serve the subject site, as outlined in a memorandum from the Special Projects Section, dated March 9, 2022 (Perry to Vatandoost), incorporated by reference herein. The proposed development is exempt from a review of school facilities because it is a nonresidential use.

7. **Referral and Comments from other Entities—**The final plat was referred to the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), the Prince George's County Fire Department, and the Maryland State Highway Administration (SHA). The Fire Department and SHA had no objections to the subject application.

   In a memorandum from DPIE dated April 8, 2022 (Giles to Vatandoost), DPIE provided comments referencing the associated plans and studies, which are applicable to the project and other requirements that will be applied at the time of permitting, but which do not affect the adequacy determinations made with this final plat of resubdivision.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Bailey, seconded by Commissioner Doerner, with Commissioners Bailey, Doerner, Geraldo, and Shapiro voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, September 22, 2022, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 29th day of September 2022.

Peter A. Shapiro
Chairman

By Jessica Jones
Planning Board Administrator

PAS:JJ:MV:jah

APPROVED AS TO LEGAL SUFFICIENCY

David S. Warner
M-NCPPC Legal Department
Date: September 26, 2022