



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

MCPB No. 11-67
Site Plan No. 81999001F
Project Name: Germantown Town Center – Panera Bread
Hearing Date: June 2, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board (“Planning Board”) is required to review amendments to approved site plans; and

WHEREAS, on November 12, 1998, the Planning Board approved Site Plan No. 819990010 for 181,900 gross square feet of commercial/retail use, and 98,559 gross square feet of hotel use on 24.74 acres of land zoned TS;

WHEREAS, on April 10, 2003, the Planning Director administratively approved Site Plan Amendment No. 81999001A, for the Fairfield Inn within Phases E/F. The hotel is 10,763 square feet and has 87-rooms;

WHEREAS, on December 12, 2004, the Planning Director administratively approved Site Plan Amendment No. 81999001B, for the Bailey’s Pub and Grill (currently owned and operated by Green Turtle) within Phase D, Parcel D;

WHEREAS, on December 1, 2005, the Planning Director administratively approved Site Plan Amendment No. 81999001C, for an IHOP restaurant within Phase E/F;

WHEREAS, on September 21, 2006, the Planning Board approved Site Plan Amendments No. 81999001D and 81999001E, for a Commerce Bank consisting of a 1-story building approximately 5,100 square feet (currently TD Bank) within Phase D, Parcel D;

WHEREAS, on January 21, 2011, L2M, Inc. (“Applicant”), filed a site plan amendment application designated Site Plan No. 81999001F, Germantown Town Center – Panera Bread (the “Amendment”) for approval of the Panera Bread (5,097 square feet) within Phase D Parcel D; and

Approved as to
Legal Sufficiency:

Christina Sonnet 7/27/11

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman’s Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, following review and analysis of the Amendment by Planning Department staff (“Staff”) and the other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated May 23, 2011, setting forth its analysis and recommendation for approval of the Amendment (“Staff Report”); and

WHEREAS, on June 2, 2011, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the “Hearing”) where the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

WHEREAS, on June 2, 2011, the Planning Board approved the Amendment subject to the revised conditions on the motion of Commissioner Dreyfuss, seconded by Commissioner Presley, with a vote of 3-0, Commissioners Carrier, Dreyfuss and Presley voting in favor. Commissioners Alfandre and Wells-Harley were absent the day of the hearing.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff recommendation and analysis set forth in the Revised Staff Report and hereby approves Site Plan No. 81999001F; and

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment, subject to the following revised conditions:

1. Site Plan Conformance

The development must comply with the conditions of approval for Site Plan No. 819990010 as listed in the Planning Board Resolution dated March 15, 1999, unless otherwise amended.

2. Site Plan

- a. Add site details/site elevations regarding the loading/dumpster areas. The details shall clearly label the proposed setbacks from pedestrian pathways, adjacent uses and parking facilities. Provide further details regarding the dumpster enclosures.
- b. Add site details regarding the seating areas (i.e. chairs, tables, trash cans, etc.). Seating areas shall be closely aligned with the building façade as to not fully block pedestrians from using the adjacent sidewalk.
- c. Any changes to increase the number and/or location of the transit facility parking spaces will be addressed during the review of the certified site plan.

3. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Provide a signed traffic statement and/or certified verification to MCDPS and M-NCPPC for the total number of existing parking spaces to meet the minimum requirement of 599 total parking spaces (including 175 Park & Ride spaces and 22 handicap spaces) for Parcel D prior to the issuance of any building permits.
- b. Modify data tables and parking calculations to reflect the development and mixed use standards enumerated in the Staff Report.
- c. Ensure consistency of the proposed building location and parking layout between all sheets of the site plan set. The revised plans must be consistent with the requirements of the previous approvals regarding the building footprints and maximum densities permitted on the original certified site plan.
- d. Reserved parking spaces are prohibited from being included in the shared parking calculations (Section 59 E-3.1b2).

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The Amendment is in conformance with the Development Plan's Interim Development Phasing and Illustrative Land Use Plan for Parcel D with respect to the binding elements discussed within the Development Plan. The sequencing and dedications were approved with the certification of the original site plan. The Amendment conforms to the binding elements for the following reasons;

- a) Dedication of land to public use: A 50 foot transit easement has been dedicated and as conditioned, the 175 commuter parking spaces will be constructed. Century Boulevard has been built to accommodate the future transit. Adequate access to Metro facilities has been provided along Aircraft Drive.
- b) Development of the arterial road system: The sections of Century Boulevard and Crystal Rock Drive and Aircraft Drive are fully constructed.

- c) Development of pedestrian and bicycle circulation systems: The pedestrian and bicycle circulation systems, adjoining the property, are fully constructed.
 - d) Development of community facilities and open space: There are no community facilities proposed nor required for this project; however, the Village Green space has been dedicated and is currently maintained by the developer. The open space is located in close proximity to the proposed building within the 50 foot transit easement.
 - e) Development of regional stormwater management facilities: There are no regional stormwater management facilities proposed nor is one required for this project.
2. *The site plan meets all of the requirements of the zone in which it is located and, where applicable, conforms to an urban renewal plan approved under Chapter 56.*

It is the purpose of the TS zone to encourage and facilitate desirable development of this kind, it is further the purpose to eliminate some of the specific restrictions, as in other zoning categories, the height, bulk and arrangement of the buildings and the location of the various land uses; to provide for more flexibility in development; and to require that all development be in accordance with a plan meeting the requirements of this zone, and the development plan provisions of Division 59 D-1. It is the intent of this zone to achieve flexibility of design, integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the standards permitted by right and required in conventional zoning categories.

The proposed use is allowed in the TS zone and the Amendment fulfills the purposes of the zone by providing adequate access to transit and mixed use commercial retail uses.

As the project data table indicates below, the Amendment meets all of the development standards of the zone. With respect to building height, setbacks, and density the proposed development is under all the maximum standards allowed. The green space area substantially exceeds the 10% requirement because Building 3D (per the original site plan) was never constructed on Parcel D Phase D.

Project Data Table for the TS Zone

Development Standard	Permitted/Required	Approved by the Planning Board and Binding on the Applicant
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Building Height (feet)	N/A	28 feet
Building Setbacks (feet)		
Front (Century Boulevard)	N/A	80.26 feet
Side (Crystal Rock Drive)	N/A	328.09 feet
Site (Aircraft Drive)	N/A	135.88 feet
Rear (Germantown Road)	N/A	511.53 feet
Min. Green Area (% of lot)	10% (37,026 sf.)	22% (82,272 sf.)
Max. Floor Area Ratio (FAR)	0.5	0.14
Max. Building Area (square feet)	5,100	5,097
Parcel D Min. Shared Parking Spaces	599 spaces	599 spaces

- The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The location of the proposed building is directly adjacent to a public plaza and the Village Green space, which is appropriate for the character envisioned by the Master Plan and Development Plan. This Amendment proposes to construct a building that will reduce the original building square footage specified for Building 2D of Phase D Parcel D by 3 square feet. The original site plan specified a 1-story building with a 2-story appearance at a maximum of 5,100 square feet. The proposed building has been slightly shifted 2 feet east of the 50 foot Transit Easement for a maximum of 5,097 square feet. The main access point and the outdoor seating area front onto Century Boulevard. The location of the building is adequate, safe, and efficient.

The revised building footprint will not change the existing pedestrian and vehicular circulation systems. The patron areas for the proposed building will consist of indoor space (approximately 2,450 square feet) and outdoor seating (approximately 800 square feet) in close proximity to the existing public plaza and Village Green space area. Wheel-stops will be added to the 3 parking spaces directly abutting the 5-foot pedestrian sidewalk and the proposed building. A handicap space will be relocated in close proximity to the entrance of the building. Easy access is provided to the Metro facilities (bus stops) along Century Boulevard, the commercial/ retail uses, the adjoining sidewalks and the surface parking facilities. The loading/ dumpster location is compatible with the

existing conditions of the neighboring property (currently occupied by Green Turtle). Furthermore, these modifications do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed building is compatible with the adjacent and similar uses in the vicinity, and fulfills the vision of the Development Plan and approved certified site plans. The structure itself is in scale with the nearby buildings and is located such that it will not adversely impact existing or proposed adjacent uses.

The Amendment will not modify the existing lighting and landscape plans aside from the minor enhancements within the existing parking facilities that will be made per the conditions of approval. The internal surface parking facilities are shared per the requirements of the Declaration of Restrictions Covenants and Easements. The on-street parking facilities have been removed from the site plan, due to comments from Fire and Rescue Services. However, the on-street parking spaces are not included in the overall shared parking agreement. The existing parking facilities meet the requirements of the zone, specifically noted in section 59 E-3.1 related to mixed use off-street parking.

In accordance with the current Mixed Uses standards for the shared parking agreement; the Park and Ride facilities would be categorized under the “All Other Uses” and specifically defined as bus depot and other passenger terminal facilities. A maximum number of 100 spaces are required to be provided at all times. During the peak hours of the day there should be approximately 73 spaces remaining for non-commuter usage.

Parcel D Shared Parking Requirements (section 59E-3.1 Mixed Uses)

Land Use	Total No. of Spaces	Day 6am-6pm	Evening 6pm-12am	WKD Days 6am-6pm	WKD Nights 6pm-12am	Nights 12am-6am
Restaurant	368	50% (184)	100% (368)	100% (368)	100% (368)	10% (37)
Mixed Use Retail	55	60% (33)	90% (50)	100% (55)	70% (40)	5% (3)
Office (Banks)	26	100% (26)	10% (3)	10% (3)	65% (1)	5% (1)

Park & Ride	175	¹ 100 % (175)	² 100	100	100	100
Totals	624 spaces	418 spaces	521 spaces	526 spaces	509 spaces	141 spaces
No. Parking Spaces	599 spaces	599 spaces	599 spaces	599 spaces	599 spaces	599 spaces

The Amendment does not alter the overall design character of the Development Plan in relation to the original approval. The site remains compatible with existing and proposed development directly adjacent to the site.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Amendment does not propose any amendment to the approved forest conservation plans and/or the related stormwater management facilities.

BE IT FURTHER RESOLVED that all site development elements as shown on Germantown Town Center – Panera Bread drawings stamped by the M-NCPPC on March 28, 2011, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

AUG 11 9 2011 BE IT FURTHER RESOLVED, that the date of this written Resolution is _____ (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

¹ Per the conditions of the Park and Ride Lot Memorandum of Understanding and Declaration of Easement, the Park & Ride facilities are only available from 6am to 11am during the weekday. However; the applicant has over estimated the timeframe to account for the patrons that commute to work.

² The current Montgomery County Zoning Ordinance specifies 100 spaces for railroad stations, bus depots or other passenger terminal facilities (page 59 E-29). The Park & Ride spaces would qualify as All Other Uses in the Mixed Uses shared parking agreement (page 59 E-11).

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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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 Dreyfuss, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, July 28, 2011, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board