



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

MAY 20 2013

MCPB No. 13-71
Site Plan No. 820130090
West Chevy Chase Heights
Date of Hearing: May 9, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on January 22, 2013, by Resolution No. 17-654, the Montgomery County District Council approved Local Map Amendment G-913 ("LMA") to reclassify the 8,550 square foot property known as 4705 West Virginia Avenue, located 194 feet east of the intersection with Wisconsin Avenue ("Subject Property") from the R-60 zone to the C-T zone; in the R-60 zone within the 1994 Bethesda CBD Sector Plan ("Sector Plan") area; and

WHEREAS, the Schematic Development Plan approved with the LMA ("SDP") was subject to five binding elements and approval of a site plan; and

WHEREAS, on January 22, 2013, Montgomery Avenue, LLC ("Applicant") filed an application for an existing 4,062 square foot building for commercial uses including office and showroom (miscellaneous) space on the Subject Property; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820130090, West Chevy Chase Heights ("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 April 26, 2013 setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 9, 2013 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board 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 as certified below.

Approved as to
Legal Sufficiency

[Signature] 5/7/13
8787 Georgia Avenue, Silver Spring, Maryland 20910 / Phone: 301.495.4605 Fax: 301.495.1320
M-NCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820130090 for a 4,062-square foot building for commercial use on the Subject Property, subject to the following conditions:¹

1. Development Ceiling

Approval is limited to an existing building containing a maximum of 4,062 square feet of commercial uses.

2. Fire and Rescue

Prior to certified Site Plan, the Applicant must obtain traffic orders prohibiting on-street parking along the West Virginia Avenue Subject Property frontage of the Subject Property and submit all required documents for Montgomery County Fire and Rescue Service ("MCFRS") approval.

3. Transportation

The Applicant must provide the following pedestrian and bicycle improvements:

- a. A five-foot wide concrete sidewalk with a variable-width grass buffer along the West Virginia Avenue Subject Property frontage of the Subject Property.
- b. Handicapped accessible pedestrian ramp from the handicap parking space to the front door of the building, as shown on the Site Plan.
- c. One inverted-U bicycle rack near the front entrances to accommodate short term bicycle parking. The bicycle rack must be mounted on a concrete slab or other fixed-in-place hard surface.
- d. The Applicant must enter into a transportation mitigation agreement with the Montgomery County Department of Transportation ("MCDOT").

4. Schematic Development Plan Conformance

The development must comply with the binding elements for the SDP approved with LMA G-913 by the Montgomery County District Council per Resolution No. 17-654, on January 22, 2013.

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.

5. Validity

The Adequate Public Facilities ("APF") review for the Site Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

6. Landscaping

- a. The Applicant must provide all landscape structures, including walls, fences, railings, paving, etc. per the Landscaping and Lighting Plan stamped received by The M-NCPPC on April 8, 2013.
- b. The Applicant must provide all trees, shrubs and groundcovers in accordance with the Landscaping and Lighting Plan stamped received by The M-NCPPC on April 8, 2013.
- c. The Applicant must construct the streetscape improvements consistent with the 1994 Bethesda CBD Sector Plan, Section 6.3H Transition Areas identified on page 200 of the Sector Plan.

7. Lighting

- a. The Applicant must provide the lighting distribution and photometric plan with summary report and tabulations that conform to the Illuminating Engineering Society of North America standards for residential/commercial development. The Applicant must provide all on-site down light fixtures as full cut-off fixtures.
- b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.

8. Maintenance

Maintenance of all on-site amenities is the responsibility of the Applicant and subsequent owner(s). This includes maintenance of paving, plantings, lighting, fencing, and bicycle racks.

9. Development Program

The Applicant must construct the development in accordance with a development program that must be reviewed and approved by Staff prior to the approval of the certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed prior to release of any use-and-occupancy permit for the building. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to bicycle racks, sidewalks, and fencing must be installed prior to release of any use-and-occupancy permit.
- c. The development program must provide phasing for installation of on-site landscaping and lighting.

10. 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. Include the forest conservation plan exemption letter, stormwater management concept exemption, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b. Ensure consistency of all details and layout between Site Plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on West Chevy Chase Heights drawings stamped by The M-NCPPC on April 8, 2013, shall be required, except as modified by the above conditions of approval; and

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 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 Site Plan, as conditioned conforms to each of the binding elements of the SDP approved with LMA G-913, which are as follows:

1. Development and use shall be limited to 4,275 square feet floor area of development, with associated signage, parking, landscaping, lighting and infrastructure improvements.
2. The following height limitation shall apply to the development: up to 24 feet for the building.
3. The following minimum building setbacks shall apply:
 - a. From West Virginia Avenue: 10 feet
 - b. From all other lot lines: 15 feet
4. The following green area shall apply: minimum 10%
5. The property, including open space, will be subject to site plan review. General building, open space, parking locations, landscaping/lighting, and number of parking spaces to be determined at site plan. The parking layout is for illustrative purposes only and will be revised at site plan to improve residential scale, buffering, and compatibility.

The use and building style conform to the SDP and the approved landscaping along the eastern property line and parking areas has been designed to achieve appropriate buffering and satisfactory compatibility.

2. The Site Plan meets all of the requirements of the zone in which it is located:

The Site Plan includes a low-intensity commercial use that meets the purpose of the C-T zone. As shown on the data table, regarding density, height, green area, and parking, the development exceeds minimum requirements and is less than any allowed maximum restrictions. Regarding setbacks, the proposed structure and parking areas meet or exceed the minimum setbacks of the C-T Zone.

Data Table for the C-T Zone

Development Standard	Permitted/Required	Approved and Binding on the Applicant	Applicable Zoning Provision
Maximum Lot Coverage	30 percent	31.9 percent ¹	§59-C-4.303(a)
Maximum Building Height	24 ft	23 ft	§59-C-4.303(a)

Development Standard	Permitted/Required	Approved and Binding on the Applicant	Applicable Zoning Provision
Maximum Floor Area	0.5 FAR	0.475 FAR	§59-C-4.304
Building Setback from Street Right-of-Way	10 ft	25.1 ft	§59-C-4.305(a)
Building Setback for Building w/ Windows (west side)	15 ft	15.2 ft	§59-C-4.305(b)(1)
Building Setback from Adjoining Residential Zone (east side)	15 ft	17.7 ft	§59-C-4.305(b)(2)
Minimum Green Area	10 percent	45.55 percent	§59-C-4.306
Parking	11 spaces ²	4 spaces	§59-C-4.307(b) and §59-E-3.7

¹ The building was legally constructed under the R-60 zoning standards which allow up to 35% lot coverage, therefore, the building is allowed to remain in this condition pursuant to Section 59-C-4.308(a). No additional building coverage is permitted with this application.

² Because this project is within a Parking Lot District ("PLD"), the Applicant can satisfy parking requirements through payment of a PLD tax. The parking spaces are calculated to determine the total yield required. The Application will provide up to 4 spaces on-site, with the remainder to be satisfied through the PLD tax.

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

a. Buildings and Structures

The building is adequately situated on Lot 26 with direct pedestrian access to the building from West Virginia Avenue and the parking areas, similar in layout to a detached house with driveways to the side, ensuring safe and efficient use by employees and patrons.

b. Open Spaces

Green area generally serves as a "front yard", creating a layout similar to a detached house, and as buffer areas along the side of the building. This arrangement of yard area and planting buffers is an adequate, safe, and efficient use of the space around the building and parking footprints.

c. *Landscaping and Lighting*

Landscaping and lighting are used in several ways. Landscaping is provided along the street to provide comfort for pedestrians; along the eastern edge of the Subject Property to provide a buffer between C-T zoned property and R-60 zoned property; and along the front of the building and parking areas to achieve a more residential appearance. Lighting is used to illuminate building entrances and pedestrian areas. The landscape and lighting plan is an adequate, safe, and efficient use of plant material and lighting fixtures to respond to the context.

d. *Recreation Facilities*

No recreation facilities are required for this commercial development.

e. *Vehicular and Pedestrian Circulation*

Vehicular circulation is limited to two access points for two parking pads. The Planning Board recognizes that the building was constructed in accordance with the R-60 zoning standards where two parking areas were permitted at the time. Due to the commercial nature of the development approved with this Site Plan, four on-site parking spaces are appropriate for a structure of approximately 4,000 square feet.

Pedestrian circulation allows for comfortable and safe access on a concrete sidewalk from each edge of the Site, along the West Virginia Avenue frontage. One bicycle rack is adjacent to the western parking pad area near the front entrance in a safe, well-lit area for employees and patrons. The pedestrian and vehicular circulation systems are adequate, safe, and efficient, and the direct connections to the larger network are obvious and direct.

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

The area to the east of the Subject Property is residential in character, made up of a mix of older one-family homes as well as more recently redeveloped lots containing single-family homes in the R-60 zone. A commercial property zoned C-T is directly north of the site. The parking lots on the west and south of the Subject Property are zoned CBD-1, and further west across Wisconsin Avenue is the Bethesda Central Business District. The low-intensity commercial use is compatible and appropriate as a transition between the confronting and adjacent commercial uses and the residential neighborhood to the East. The height and density of the structure, built under R-60 zoning requirements is residential in scale. Additional screening and landscaping added at the edge of the parking pad areas provides greater compatibility with the surrounding area.

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 Subject Property is subject to Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirements of a Forest Conservation Plan because the tract area is less than 40,000 square feet in size, and no new development is proposed. There is neither existing forest nor tree save concerns associated with this Application.

The Montgomery County Department of Permitting Services issued comments to the Applicant on February 21, 2013, and concluded that a stormwater management concept is not required, since neither new development nor redevelopment of the site is proposed.

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

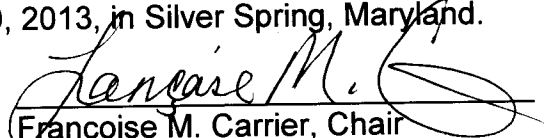
BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 20 2013 (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 Presley, seconded by Commissioner Anderson, with Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion, and Chair Carrier temporarily absent, at its regular meeting held on Thursday, May 9, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board