



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

MCPB No. 15-159  
Site Plan No. 820150150  
Taco Bell Takoma Park  
Date of Hearing: January 7, 2016

JAN 11 2016

**RESOLUTION**

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on August 28, 2015, RJP Consulting, LLC and MUY Brands, LLC ("Applicant") filed an application for approval of a site plan for a 2,063-square-foot restaurant with drive-thru on 0.56 acres of CR2.5: C 2.0, R 1.5, H 100 zoned-land, located in the northeast quadrant of the intersection of New Hampshire Avenue and Holton Lane ("Subject Property"), in the Silver Spring/Takoma Park Policy Area and *Takoma Langley Crossroads Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820150150, Taco Bell Takoma Park ("Site Plan" or "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 December 24, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 7, 2016, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820150150 for a 2,063-square-foot restaurant with drive-thru on the Subject Property, subject to the following conditions:<sup>1</sup>

<sup>1</sup> 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.

Approved as to  
Legal Sufficiency:

8/78/

M-NCPPC Legal Department

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### **Public Use Space, Facilities and Amenities**

1. Public Open Space, Facilities, and Amenities
  - a. The Applicant must provide a minimum of 2,500 square feet of public open space (10% of net lot area) on-site.
  - b. Before the issuance of the final use and occupancy certificate, all public open space areas must be completed.
2. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to pedestrian pathways, landscaping, hardscape, and public open space.

### **Transportation & Circulation**

3. Pedestrian & Bicycle Circulation

The Applicant must provide two bicycle parking spaces for short-term use (one inverted "U" rack or approved alternative) as shown on the Certified Site Plan.
4. Transportation Policy Area Review

The Applicant must make a Transportation Policy Area Review ("TPAR") mitigation Payment, equal to 25 percent of the General District Transportation Impact Tax, as required by the 2012-2016 Subdivision Staging Policy within the Silver Spring/Takoma Park Policy Area. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
5. Parking

The Applicant must make 14 of the parking spaces available to the general public, rather than reserved solely for the use of restaurant patrons, as required by Section 6.2.3.H.2 of the Zoning Ordinance.

### **Agency Approvals**

6. Stormwater Management

The Planning Board accepts the recommendations of the City of Takoma Park in its stormwater management concept letter dated May 12, 2015, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City of Takoma Park provided that the amendments do not conflict with other conditions of the Site Plan approval.

7. Right-of-Way Permitting

The Planning Board accepts the right-of-way permitting recommendations of the City of Takoma Park in its letter dated October 28, 2015, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City of Takoma Park provided that the amendments do not conflict with other conditions of the Site Plan approval.

**Site Plan**

8. Building Height

The development is limited to the maximum height of 23 feet, as measured from the building height measuring point shown on the Certified Site Plan.

9. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the latest approved architectural drawings included in the Certified Site Plan, as determined by Staff.

10. Landscaping

- a. Before issuance of the final use and occupancy certificate for this Site Plan, all on-site amenities including, but not limited to, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and public open space amenities must be installed.
- b. The Applicant must install the landscaping no later than the next growing season after completion of the site work.
- c. The Applicant must retain the existing street trees along the property frontage on Holton Lane, as shown on the landscape plan.
- d. Before certification of the Site Plan, the Applicant, in consultation with a qualified tree care professional, must revise the notes on the landscape plan regarding the street trees to appropriately protect the subject trees. The notes may be further revised by the City of Takoma Park.

11. Lighting

- a. Before issuance of any above-grade building permit, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the Illuminating Engineering Society of North America (IESNA) recommendations in effect on the date of this resolution for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations in effect on the date of this resolution.
- b. Deflectors must be installed on all up-lighting fixtures to prevent excess illumination and glare.

- c. Pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

12. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.k.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount;
- b. The cost estimate must include applicable Site Plan elements including, but not limited to, entrance signage features, plant materials, on-site lighting, exterior site furniture, railings, curbs, gutters, sidewalks and associated improvements; and
- c. The bond or surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

13. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

14. Certified Site Plan

Before 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 exemption, stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before any land disturbance."
- c. Add a note stating that "Minor modifications to the limits of disturbance shown on the Site Plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the City of Takoma Park and/or the State Highway Administration."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.
- f. Show on the Site Plan a building height measuring location for the building.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Taco Bell Takoma Park, 820150150, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are 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 development satisfies any previous approval that applies to the site.*

This finding is not applicable as there were no previous approvals that apply to the site.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This finding is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This finding is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Use Standards

Section 59-3.5.14.E specifies the following standards for approval of a drive-thru as a limited use:

- A Drive-Thru, including the queuing area, must be located a minimum of 100 feet from any property that is vacant or improved with a residential use in the Agricultural, Rural Residential, or Residential Detached zones.

There are no properties in the agricultural, rural residential, or residential detached zones within 100 feet of the drive-thru.

- For a Restaurant with a Drive-Thru, access to the site from a street with a residential classification is prohibited.

Access to the site is from Holton Lane, which is classified as a business district road, and New Hampshire Avenue, which is a major highway.

- A drive-thru service window, drive aisle, or queuing area located between the street and the front main wall of the main building is prohibited.

The drive-thru service windows are located in the interior of the Subject Property, between the northern side wall of the building and the parking lot. No service window, drive aisle, or queuing area will be located between the building and the street.

- A drive-thru service window, drive aisle, or stacking area may be located between the street and the side wall of the main building on a corner lot if permanently screened from any street by a minimum 3 foot high wall or fence.

The drive-thru service windows are located in the interior of the Subject Property, between the northern side wall of the building and the parking lot. No service window, drive aisle, or queuing area will be located between the building and the street.

- Site plan approval is required under Section 7.3.4.

Approval of the Application by the Planning Board satisfies this requirement.

b. Development Standards

The Subject Property includes approximately 0.56 acres zoned CR 2.5, C 2.0, R 1.5, H100. The Application satisfies the applicable development standards as shown in the following data table:

Table 1-Site Plan Project Data Table – Standard Method			
Section	Development Standard	Permitted/ Required	Approved in Site Plan
59 – 4	Gross Tract Area (sf)	n/a	24,591
4.5.3.C.2	Density CRT2.5, C2.0, R1.5, H100 Commercial FAR/GFA Residential FAR/GFA TOTAL FAR/GFA	  1.0/24,591 1.0/24,591 1.0/24,591	  0.08/2,063 0/0 0.08/2,063
4.5.3.C.4	Building Height (feet) CRT2.5, C2.0, R1.5, H100	70	23
4.5.3.C.3	Minimum Setback From New Hampshire Ave R.O.W. From Holton Lane R.O.W. Side Rear	0' 0' 0' 0'	25' 15.5' 88' 8.5'
4.5.3.C.3	Build to Area From New Hampshire Ave R.O.W.  From Holton Lane R.O.W.	70% of façade within 30' max 35% of façade within 20' max	70% of façade within 27' 35% of façade within 15.5'
4.5.3.C.1	Open Space Public Open Space (%/sq. ft.)	10/2,459	10/2,500
4.5.3.C.5	Transparency, for Walls Facing a Street Ground Story, Front Ground Story, Side	40% 25%	40% 36%
6.2	Parking spaces, minimum- maximum	4-11	25 <sup>2</sup>

c. General Requirements

i. *Site Access*

Access will be provided directly to the Subject Property via a driveway from Holton Lane and through the parking lot for the

<sup>2</sup> Per Section 6.2.3.H.2, the maximum number of spaces may be exceeded if the spaces provided in excess of the maximum are made available to the public and not reserved for the restaurant.

adjacent Aldi supermarket via a driveway from New Hampshire Avenue. These driveways will provide adequate site access.

ii. *Parking, Queuing, and Loading*

Adequate off-street parking will be provided in 27 on-site parking spaces. Although the Vehicle Parking Space table in Section 6.2.4.B of the Zoning Ordinance indicates that the maximum number of parking spaces for the restaurant is 11, the maximum may be exceeded because the spaces provided in excess of the maximum will be made available to the public and not reserved for the restaurant, as specified in Section 6.2.3.H.2.

The drive-thru lane will provide seven queuing spaces. The queuing area will not interfere with public streets or sidewalks.

iii. *Open Space and Recreation*

The Application has a 10 percent public open space requirement, which yields a requirement of 2,459 square feet of public open space. The Application provides 2,500 square feet of public open space.

iv. *General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other site amenities, are provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by patrons. The Application provides landscaping between the building and the New Hampshire Avenue frontage.

As shown in the Development Standards table, the Application plan meets all of the general requirements and development standards of Section 4.5 of the Zoning Ordinance and the general development requirements of Article 59-6 of the Zoning Ordinance.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the City of Takoma Park on May 12, 2015. The stormwater concept will meet stormwater management requirements for environmental site design to the maximum extent

practicable through the use of micro bio-retention facilities and underground storage.

b. Chapter 22A, Forest Conservation

An exemption from submitting a forest conservation plan (Exemption 42015222E) was confirmed for the Subject Property on June 24, 2015, as a modification to an existing non-residential developed property under section 22A-5(t) of the Montgomery County Forest Conservation Law. The Application meets the particular requirements of the exemption per the following:

- (1) no more than 5,000 square feet of forest is ever cleared at one time or cumulatively after an exemption is issued;
- (2) the modification does not result in the cutting, clearing, or grading of any forest in a stream buffer or located on property in a special protection area which must submit a water quality plan;
- (3) the modification does not require approval of a preliminary plan of subdivision; and
- (4) the modification does not increase the developed area by more than 50% and the existing development is maintained;

Existing street trees along Holton Lane, which are up to approximately 8" caliper, cannot readily be replaced due to the narrowness of the planting bed. Care should be taken to appropriately protect these trees. Therefore, conditions of approval are recommended regarding their protection.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

Parking will be provided on-site, to the north of the building and drive-thru aisle. The parking will be not be placed between the building and either New Hampshire Avenue or Holton Lane. The parking lot aisles and drive-thru area will provide safe and well integrated circulation patterns, with traffic control signs and lane markings. Pedestrian access to the building will be provide from the sidewalks on New Hampshire Avenue and Holton Lane, as well as via marked pedestrian crossings from the parking lot. The building will be placed as close as possible to the intersection of New Hampshire Avenue and Holton Lane in order to create a presence on the street, while being set back far enough to accommodate future widening of the New Hampshire Avenue right-of-way. Ten percent of the Subject Property will be provided as public open space, which will be located along the building's frontage on New Hampshire Avenue and Holton Lane. The public open

space will be improved with landscaping and an outdoor dining area, which will enliven this corner of the intersection of New Hampshire Avenue and Holton Lane.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Subject Property is located within the 2012 *Takoma Langley Crossroads Sector Plan* area, in the Crossroads District. The Sector Plan's vision is to create a transit-oriented, pedestrian-friendly community that reduces automobile dependency. The Sector Plan envisions redevelopment of existing shopping centers with mixed-use, multi-story buildings connected by a network of new streets. Sector Plan recommendations specific to the Subject Property include the following for New Hampshire Avenue: a 150-foot-wide right-of-way, a 15-foot-wide public improvement easement, and a low-speed access lane separated by a median from the main travel lanes.

However, the Sector Plan recognizes that redevelopment will not take place quickly, but rather that it will happen incrementally. Page 16 of the Sector Plan acknowledges that significant redevelopment of the Crossroad District is unlikely to occur until financing is secured for the construction of planned transit facilities, such as the Purple Line. It also acknowledges that major improvements to the right-of-way for New Hampshire Avenue are not likely to occur until significant redevelopment of the major shopping centers happens. On page 19, the Sector Plan specifically recommends allowing interim development that does not compromise the Sector Plan's ultimate objectives and recommendations if it provides for growth opportunities for existing businesses and uses. The restaurant was previously existing at the intersection of New Hampshire Avenue and University Boulevard, but was removed to make way for construction of the transit center.

The restaurant with drive-thru does not fully implement the vision of the Sector Plan. This type of development, a single-story, single-use building with a drive-thru, does not advance the Sector Plan's vision of mixed-use redevelopment. Because the Subject Property is an existing platted lot, a preliminary plan of subdivision is not required, and there is no opportunity to require right-of-way dedication along the Subject Property's frontage. Further, the access lane adjacent to New Hampshire Avenue is not being provided.

The restaurant with drive-thru is an interim use, and approval of the Application will not compromise future realization of the Sector Plan's recommendations. The building and site design will not hinder the eventual development of the Subject Property and the surrounding area as a new mixed-use neighborhood because the

small building does not represent such a significant investment in the Subject Property that would prevent it from being removed whenever a more significant project is proposed for the site. In addition, the building is sufficiently set back from New Hampshire Avenue to allow for the future right-of-way dedication called for in the Sector Plan.

The Application does meet other recommendations of the Sector Plan. For example, the landscape area between the building and the New Hampshire Avenue sidewalk is consistent with the recommendation on page 24 to provide landscape panels along New Hampshire Avenue. The placement of the parking spaces on the north side of the building, on the far side of the building from Holton Lane, is consistent with the recommendation on page 30 that surface parking be placed behind or to the side of development (instead of between buildings and the street).

Based on the interim nature of the use and building, the Application substantially conforms with the Sector Plan.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

A traffic study, dated June 19, 2015, was submitted for the Application per the *Local Area Transportation Review ("LATR")/Transportation Policy Area Review ("TPAR") Guidelines* because the development is estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. A trip generation summary for the development, provided in the Staff Report, shows that the development will generate 48 new morning peak hour trips and 33 new evening peak hour trips. The Staff Report shows that trips generated by the development will marginally increase traffic at the studied intersections, but will remain within the Policy Area congestion threshold of 1,600 CLV.

As a development within the Silver Spring/Takoma Park Transportation Policy Area, the Application is considered to be inadequate under the TPAR transit test and adequate under the TPAR roadway test. As a result, the Applicant must make a payment equal to 25% of the general district development impact tax to satisfy the 2012-2016 Subdivision Staging Policy. The development satisfies the LATR and TPAR requirements of the APF review and will provide safe, adequate, and efficient vehicular and pedestrian access.

Public facilities and services are available and will be adequate to serve the development. The Subject Property is proposed to be served by public water and

public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services, are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

9. *The development is compatible with existing and approved or pending adjacent development.*

The development is compatible with and will complement the existing uses in the adjacent development. The Crossroads District is predominately developed with low-density commercial and service uses. The Applicant will improve the Subject Property with a building, streetscape, and stormwater management improvements and will add a use that will activate an underutilized surface parking lot. The introduction of the restaurant will activate this street corner. Additionally, the building location preserves the option to widen New Hampshire Avenue per the Sector Plan.

10. *There is a need for the approved use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the approved location will not result in a multiplicity or saturation of similar uses in the same general neighborhood.*

Economic, Sector Plan, and traffic analyses do not indicate a saturation of similar uses in the existing population concentration where the Subject Property is located.

The Applicant submitted a needs study, dated October 15, 2015, which presents market information that demonstrates that there is presently an insufficient number of quick service restaurants in the market area to satisfy the current market demand. The study concludes that there is an unmet demand of \$5.5 million annually for this type of establishment in the market area, with no oversaturation of quick service restaurants with drive-thrus.

As discussed in finding 7 above, as an interim use, the Application is in substantial compliance with the Sector Plan. The interim restaurant use and building will not preclude eventual realization of the Sector Plan's vision for future development and will not lead to an oversaturation of such uses.

As discussed in finding 8 above, the use will only marginally increase traffic at the studied intersections, and will not increase it above the congestion threshold for

the Silver Spring/Takoma Park Transportation Policy Area. The restaurant with drive-thru will not lead to an oversaturation of such uses.

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 § 59-7.3.4.H; and

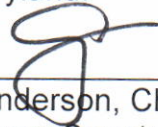
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 11 2016 (which is the date that this resolution is mailed to all parties of record); and

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).

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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 Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor, and Commissioner Fani-González opposed, at its regular meeting held on Thursday, January 7, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board