



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

MCPB No. 17-046
Site Plan No. 820120160
6413 Orchard Avenue
Date of Hearing: June 1, 2017

JUN 13 2017

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, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on August 17, 2012, Scott Siegal, Orchard Road Parcel B, LLC, ("Applicant") filed an application for approval of a site plan for 3,978 square feet of wholly enclosed warehouse uses, and a waiver for building setbacks allowed under Sections 59-C-18.213(a)(3), on 0.21 acres of CRT-2.25 C-1.5 R-0.75 H-50 and Takoma Park/East Silver Spring Commercial Revitalization Overlay ("CRO") zoned-land, located on Orchard Avenue approximately 165 feet west of the intersection with Sligo Mill Road in the City of Takoma Park ("Subject Property"), in the *Takoma Park Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120160, 6413 Orchard Avenue ("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 May 18, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 1, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 1, 2017, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Fani-Gonzalez,

Approved as to

Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910

MNCPPC Legal Department

www.montgomeryplanningboard.org

Phone: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chair@mncppc-mc.org

seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Dreyfuss, Gonzalez, and Wells-Harley voting in favor with Commissioner Cichy absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820120160 for 3,978 square feet of wholly enclosed warehouse uses and a reduction in building setbacks allowed under Sections 59-C-18.213(a)(3) for the Subject Property. All site development elements shown on the Site Plans stamped "Received" by the M-NCPPC on November 14, 2016 and building elevation received on May 1, 2017 are required except as modified by the following conditions:¹

Conformance with Previous Approvals & Agreements

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120110280.

Transportation & Circulation

2. Transportation

- a. The Applicant must limit future development on the site to a 3,978 square foot warehouse.
- b. The Applicant must provide and install a sidewalk on the north side of Orchard Avenue from Sligo Mill Road to the existing driveway at 6411 Orchard Avenue. The exact location, design and construction of which must comply with requirements set forth by the City of Takoma Park Department of public works.

3. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

¹ For the purposes 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.

Site Plan

4. Site Design

- a. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown in the Certified Site Plan set.
- b. The maximum building height is 30 feet, as measured from the building height measuring point on the Certified Site Plan.
- c. The Applicant must provide a minimum of 22.6 percent of the lot as Green Area.

5. Lighting

- a. Before issuance of the any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for commercial development.
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors must be installed on all fixtures causing potential glare or excess illumination.
- d. Illumination levels must not exceed 0.5 footcandles (fc) at any Property line abutting City roads and residential properties.

6. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit for new construction, 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 as required by Section 59-D-3.5(d) 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 plant material, on-site lighting, paving, outdoor furniture, outdoor recreational facilities, and other improvements associated with the public open space.
- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
- d. The bond or surety must be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of development.

7. 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.

8. 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. The final design and location of the sidewalk referenced in condition 2.b must be shown on the Site Plans.
- b. Include the final forest conservation exemption approval letter, stormwater management concept approval letter, development program, and the Preliminary Plan and Site Plan resolutions on the approval or cover sheet(s).
- c. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- d. 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."
- e. Modify data table to reflect development standards approved by the Planning Board.
- f. Ensure consistency of all details and layout between Site and Landscape plans.
- g. Revise landscape and lighting plans to address the following:
 - i. Increase the size of the plantings beds to appropriately accommodate and sustain the proposed shade trees.
 - ii. Revise the planting plan to reflect the Park plantings.
 - iii. Coordinate with Planning Staff on necessary refinements to the planting specifications.
 - iv. No site lighting shall be installed along the western side of the warehouse building.

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 finding does not apply as there is no development plan, diagrammatic plan, or project plan applicable to the site.

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

The use is allowed in the C-2 and the CRO Zones and the Site Plan fulfills the purposes of the zones by providing a general commercial use for various types of retail, trades serving a regional or local area with a commercially zoned site.

Requirements of the C-2 and CRO Zones

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the C-2 and CRO Zones with the exception of the rear building setback, as discussed below.

Data Table

Development Standard	Permitted/Required	Approved
Lot Size	N/A	9,034 sf
Building Height (feet)	30'	30'
Building Setbacks (feet)		
Front	10'	10'
Rear	20'*	10'**
Side	0'	0'
Green Area (% of lot)	10%	22.6%
Floor Area Ratio (FAR)	1.5	0.44
Building Area (square feet)	13,551 sf	3,978 sf
Parking Spaces	6	6

* 20' setback required based on reflecting the adjoining residential zone setback requirements.

** Approved setback reduction.

Building setback

Section 59-C-18.213(a)(3) allows the Planning Board to reduce building setbacks to accomplish master plan objectives. The approved setback reduction lowers the required rear building setback from 20 feet to 10 feet.

The Subject Property is located within an area defined by the 2000 *Takoma Park Master Plan* as the Maryland Gateway at Eastern and New Hampshire Avenues. The area was identified as appropriate for less-intensive commercial activity with recommendations to provide for residential transitions and preservation of existing open space.

Given the shape of the Subject Property and its relatively narrow width, a 20' rear setback would overly restrict the usable portion of the Subject Property. The restricted size and width of the site would not otherwise accommodate the desired building program. The reduced BRL will allow greater flexibility in accommodating the warehouse use.

The adjacent property located on the southern property line at 6411 Orchard Avenue maintains a rear BRL of 10'. Therefore a 10' rear setback for the proposed building on the Subject Property would be compatible. Furthermore, the adjacent Conservation Parkland along with the approved landscaping will appropriately buffer the adjacent townhouses from the proposed use, even with a reduced setback. The fact that the adjacent parkland serves to buffer the adjacent townhouses from the approved use further highlights the importance of appropriately addressing the existing parkland encroachments, which is a condition of approval of Preliminary Plan No. 120110280.

Accordingly, the Planning Board finds that the reduced setback from 20 feet to 10 feet will allow the Site Plan to accomplish master plan objectives.

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.

The buildings and structures of the development are located off the public alley and are screened by the Conservation Park, which is appropriate for the character envisioned by the Master Plan. As conditioned, these locations provide easy access to the building from adjoining sidewalks and parking. The locations of the buildings and structures will be adequate and efficient, while meeting the aesthetic concerns of the area, and do not pose any safety concerns on the Subject Property.

The vehicular circulation and pedestrian system will be adequate to accommodate the approved use, particularly after the required improvements are made to the public alley and its intersection with Orchard Avenue. The conditioned sidewalk extension will enhance the pedestrian connectivity to New Hampshire Avenue and associated mass transit by connecting to a master planned sidewalk.

The open space that is provided allows for some plantings of canopy trees that will shade the parking, and traditional foundation planting areas are provided for the building. The open space is also used for stormwater management. Site lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. There are no recreation facilities required for this Site Plan. As conditioned, the open spaces, landscaping, and site details adequately and efficiently address the needs of the use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

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

The approved commercial building is compatible with the adjacent and confronting commercial and residential uses. The Site Plan will continue smaller-scale commercial uses in this area of Takoma Park. The building is in scale with the nearby residential and commercial uses. Conditions regarding the adjacent parkland will further reinforce this relationship.

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.*

This Site Plan is subject to Montgomery County Code Chapter 22A, the Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(1) because the proposed activity occurs on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed of 10,000 square feet. The forest conservation exemption, application 42014025E, was confirmed on September 9, 2013.

The City of Takoma Park approved the stormwater management concept on March 1, 2012, for on-site water quality control via porous concrete pavement, a grass swale and the installation of Filtterra structures.

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 JUN 13 2017 (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 Fani-González, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, June 8, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board