



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

MCPB No. 18-077
Site Plan No. 820180150
4900 Nicholson Court
Date of Hearing: July 19, 2018

JUL 25 2018

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 March 5, 2018, 4900 MD LLC ("Applicant") filed an application for approval of a site plan for a 134,922 square-foot self-storage facility on approximately 3 acres of IL-1.0, H-50 zoned-land, located at 4900 Nicholson Court on Parcel G (N871) and Parcel P818 ("Subject Property"), in the White Flint Policy Area and the 2010 White Flint Sector Plan and the 2018 White Flint 2 Sector Plan areas; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820180150, 4900 Nicholson Court ("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 July 6, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 19, 2018, 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. 820180150 for a 134,922 square-foot self-storage facility on the Subject Property, subject to the following conditions:¹

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.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

Density

1. Maximum Density

The Site Plan is limited to 134,922 square feet of self-storage use allowed under the development standards of the zone.

Environment

2. Forest Conservation

a. The Sediment and Erosion Control Plan and Storm Water Management Plan must be consistent with the limits of disturbance and associated tree/forest preservation measures of the Final Forest Conservation Plan (FFCP).

b. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP Amendment. Additional tree save measures not specified on the FFCP Amendment may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

3. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its stormwater management concept letter dated May 9, 2018 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval.

Open Space, Facilities and Amenities

4. Amenity Open Space, Facilities and Amenities

a. The Applicant must provide a minimum of 13,288 square feet of amenity space (10% of the site area) on-site.

b. Before the issuance of final Use and Occupancy Certificates for the industrial development, all amenity space areas on the Subject Property must be completed.

5. Maintenance of Amenities

The Applicant is responsible for maintaining all amenities on the Subject Property, including, but not limited to private pedestrian pathways and landscaping.

Transportation and Circulation

6. Pedestrian and Bicycle Circulation

- a. The Applicant must provide a five-foot-wide sidewalk between the existing sidewalk on Nicholson Court and the proposed building entrance.
- b. Prior to release of Building Permit, the Applicant must record in the Land Records of Montgomery County a covenant, in a form approved by the M-NCPPC Office of General Counsel, to provide an easement on Parcel P818 for the creation of part of a future bicycle / pedestrian trail connecting Nicholson Court and Wyaconda Road via a crossing over the CSX railroad tracks (the "Trail"). At a minimum, the covenant must address the following:
 - i. The easement must be provided upon the satisfaction of the following conditions:
 1. the pending Bicycle Master Plan is approved and adopted and recommends implementation of the Trail; and
 2. the Trail is included in a Montgomery County Capital Improvements Program, and the County has executed a contract for preliminary design of the Trail.
 - ii. The easement must grant to the County or otherwise provide for:
 1. access for preliminary surveying and geotechnical analysis;
 2. the right for temporary grading, construction, and installation of the Trail improvements;
 3. County responsibility for operation, maintenance, repair and replacement of the Trail improvements;
 4. authorization for use of Parcel P818 by the public for ingress and egress on, over, and across the Trail; and
 5. County liability for the Trail.
 - iii. This condition will become void if the approved and adopted Bicycle Master Plan: (a) does not recommend the Trail or (b) recommends that the Trail be built in a location that does not include Parcel P818.
- c. Prior to issuance of the final Use and Occupancy Certificate, the applicant must resubmit a revised Certified Site Plan for recertification upon recordation of the covenant in the Land Records, to include the Liber and Folio reference on Parcel P818.

Site Plan

7. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets P200-P204 of the submitted architectural drawings, as determined by Staff.

8. Building Height

The building is limited to a maximum height of 50 feet as measured from the building height measurement point illustrated on the Certified Site Plan.

9. Landscaping

- a. Prior to issuance of the final Use and Occupancy Certificate, all on-site amenities shown on the Certified Site Plan including, but not limited to sidewalks, pedestrian pathways, seating and fencing must be installed.
- b. The applicant must install landscaping no later than the next growing season after completion of site work.

10. Lighting

- a. Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all fixtures to prevent excess illumination and glare.
- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.

11. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy 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 plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks.

12. 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.

13. 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 stormwater management concept approval letter, development program, and Site Plan resolution (and other applicable resolutions) 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 clearing and grading."
- 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 Department of Permitting Services."
- 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. Revise the Site Plan to reference the covenant for the pedestrian and bicycle connection.

14. Storm Drain Analysis

The applicant must submit a storm drain analysis to the Department of Permitting Services Right-of-Way Permitting Section at the time of Right-of-Way Permit to assess whether improvements are needed for the connection to the public storm drain system. Any required improvements are subject to review and approval by the Department of Permitting Services Right-of-Way Section and must be included in the Right-of-Way Permit or as otherwise required by the Department of Permitting Services.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 4900 Nicholson Court, 820180150, 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.*

All previous conditions of the Preliminary Plan have been met, and the approved Site Plan continues to meet the conditions of approval. As the approved self-storage facility generates fewer trips than the automotive (taxi) operation, an amendment to the Preliminary Plan is not necessary.

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

a. Development Standards

The Subject Property includes approximately 3 acres of land zoned IL-1.0, H-50. The Application satisfies the applicable development standards as shown in the following data table:

Data Table

TABLE 1 - 4900 Nicholson Court Data Table			
		Required/Allowed	Approved
Gross Tract Area			3.10 AC (134,922 SF)
	Previous Dedication		0.05 AC (2,041 SF)
	Parcel P818		0.08 AC (3,488 SF)
	Parcel G (N871)		2.97 AC (129,393 SF)
Zoning		IL-1.0, H-50	IL-1.0, H-50
Density and Height (Section 4.8.2)			
	Total Density (max.)	1.0 FAR (134,922 SF)	1.0 FAR (134,922 SF)
	Height (max.)	50 FT	50 FT
Development Standards (Section 4.8.3)			
Amenity Open Space (% of Site Area)		10 percent	10.5 percent

		(13,288.10 SF)	(13,893 SF)
	Permeable Area (% of Open Space)	10 percent (1,329 SF)	90 percent (12,834 SF)
	Tree Canopy (% of Open Space)	10 percent (1,329 SF)	32 percent (4,448 SF)
Principal Building Setbacks			
	Front	10 FT	110 FT
	Side (Abutting Residential)	30 FT	60 FT
	Side (Abutting Industrial)	0	31 FT
	Rear	0	69 FT
Parking and Loading Spaces, Minimum (Section 6.2.3)			
Vehicular			
	1 space / 10,000 SF	12	12
	3 spaces / 1,000 SF of office space gross floor area for units with driveway access	4	4
	1 space / employee	2	2
Bicycle			
		0	0

b. General Requirements

i. *Site Access*

The Applicant will retain the existing vehicular entrance from Nicholson Court for vehicles to enter and exit the Subject Property. The Applicant will also install a five-foot-wide sidewalk to provide a pedestrian connection between Nicholson Court and the primary entrance to the self-storage facility.

ii. *Parking, Queuing, and Loading*

The Site Plan provides adequate parking, queuing and loading. The Application includes one-way vehicular circulation to access the parking and loading. The one-way drive aisle provides access to 18 parking spaces, consistent with the requirements of Section 6.2.4. This includes eight perpendicular parking spaces on the western portion of the site, adjacent to the site entrance, and ten parking spaces on the eastern portion of the site, including eight perpendicular and two parallel spaces. Two loading spaces, consistent with the requirements of Section 6.2.8, are included within a covered portion of the drive aisle. The loading spaces are concealed by the proposed building on both the north and the south.

Pursuant to Section 59-6.2.4.B, parking for self-storage facilities is calculated based on the following metrics: 10,000 square feet of gross floor area for storage units without driveway access; 1,000 square feet of office space gross floor area for storage units with driveway access; and one space per employee. Approximately 15,500 square feet of the self-storage facility has direct driveway access, while the remaining square footage of self-storage use (118,222 square feet) does not have direct driveway access. Therefore, the Site Plan utilizes each of the above referenced metrics to calculate the required parking, as shown in Table 2.

Table 2: Parking Tabulations

	Metric	Square Feet	Required	Proposed
Self-Storage (No Driveway Access)	1/10,000 SF GFA	118,222 SF	12	12
Self-Storage (with Driveway Access)	3/1,000 SF Office GFA	1,200 SF	4	4
Employee	1 / Employee		2	2
Total			18	18

The Site Plan also complies with section 59.6.2.9.C: *Parking Lot Requirements for 10 or More Spaces*, which requires landscaped areas, tree canopy and perimeter screening for the surface parking area. The surface parking area is approximately 11,332 square feet, and 567 square feet of landscaped area is required. The Applicant will provide 590 square feet of landscaped area within landscaped islands which are a minimum of 100 contiguous square feet. A minimum tree canopy of 25 percent (2,833 square feet) is also required, and the Application includes 41 percent tree canopy (4,625 square feet).

Finally, the Site Plan complies with the perimeter screening requirements required to provide a buffer between the industrial use and the residential detached properties to the south. The existing forested area within the existing Forest Conservation Easement is approximately 56 feet in width and includes a robust tree canopy. The Applicant will also install a 6-foot board on board fence between the southern portion of the building and the Forest Conservation Easement.

iii. *Amenity Open Space*

Amenity open space, calculated on the area of the site, is required for development in the industrial zone. As the Application includes a general building type on a tract greater than 10,000 square feet, the Applicant is required to provide 10 percent Amenity Open Space on site. The Site Plan includes 10.5 percent open space, or 13,893 SF, located on the western portion of the site, adjacent to Nicholson Court. The Applicant will include landscaping, seating and sidewalks within the amenity open space for the enjoyment of patrons and employees.

iv. *General Landscaping and Outdoor Lighting*

The landscaping and building mounted lighting, as shown on the Site Plan, comply with the standards of Division 6.4.

As shown in the Development Standards table, the Site Plan meets the general requirements and development standards of Section 4.8 of the Zoning Ordinance and the general development requirements of Article 59-6 of the Zoning Ordinance.

3. *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 Montgomery County Department of Permitting Services on May 9, 2018. The plan will meet stormwater management requirements with five microbioretention facilities.

b. Chapter 22A, Forest Conservation

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law. As conditioned, the plan meets the requirements. There are minor modifications to the previously approved Limits of Disturbance, and the amended Final Forest Conservation Plan

documents those changes. In addition, although work in the parking lot along the southeastern boundary of the site does not encroach on the existing easement, the Critical Root Zone (CRZ) of one specimen black walnut tree (*Juglans nigra*) extends beyond the easement into the construction zone. This will result in a new impact to 14.21 percent of the CRZ of the specimen tree. The Applicant has submitted a Forest Conservation Variance to permit this impact.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to one Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The delineated CRZ of the tree extends under the existing parking lot, but, in reality, very little actual root growth is likely to be beneath the pavement, because roots grow where they have access to soil, nutrients, air, and water, and these resources are largely inaccessible under pavement. The Limits of Disturbance that theoretically impact the CRZ are therefore not actually likely to do significant damage to the root system of the tree. Not permitting impacts to the CRZ would require leaving the old pavement in place and would require reconfiguration of the lanes accessing the storage units, as well as a reconfiguration of the layout of the units themselves, possibly leading to fewer units constructed. This would be an unwarranted hardship given that the actual root system of the tree is unlikely to sustain significant damage, and the tree will be saved.

The Board makes the following findings necessary to grant the Variance:

- 1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Subject Property is already developed, and redevelopment is confined to the existing development envelope. The site constraints are numerous and substantial. The impacts to the tree subject to the variance requirement cannot be avoided. Therefore, the Planning Board finds that this variance is not a special privilege that would be denied to other applicants.

- 2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant, but on engineering and site constraints.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is not a result of land or building use on a neighboring property.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The impacted tree is being retained and will continue to perform its water quality functions as before; therefore, the project will not violate State water quality standards or cause a measurable degradation in water quality.

No mitigation is required for Protected Trees impacted but retained.

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

The Site Plan provides safe, well-integrated parking and circulation patterns, building massing, open space and site amenities. The Site Plan includes one vehicular entrance with a one-way circulation pattern to access the parking and loading.

The building integrates variation in materials and colors to reduce the perceived mass and introduces a transition in height from north to south, with the southern portion of the building only one-story in height.

The Site Plan approval includes 10.5 percent open space, or 13,893 SF, located on the western portion of the site, adjacent to Nicholson Court. The Applicant will include landscaping, seating and sidewalks within the amenity open space for the enjoyment of patrons and employees.

5. *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 approved and adopted 2010 *White Flint Sector Plan* area and the approved and adopted 2018 *White Flint 2 Sector Plan* area. The Subject Property is within the White Flint Mall District (Nicholson Court block) in the 2010 Sector Plan and within the Parklawn South area (Nicholson Court area) in the 2018 Sector Plan.

The 2010 Sector Plan confirmed the industrial zone, then the Low-Intensity, Light Industrial (I-4), for the Subject Property to permit the White Flint 2 Sector Plan to evaluate both sides of the CSX tracks.

The overall White Flint Mall District height and density map, in the 2010 Sector Plan, illustrates a buffer zone to the existing White Flint Park residential neighborhood for Nicholson Court properties. The 2010 Plan also recommended a MARC station at Nicholson Court, and the 2018 Sector Plan supports a pedestrian-bike crossing of the CSX tracks.

The 2014 District Map Amendment changed the I-4 zone to the Light Industrial (I-1 1.0 H-50) zone and the 2018 *White Flint 2 Sector Plan* confirmed the Light Industrial (I-1 1.0 H-50) zone for the Subject Property. The 2018 Sector Plan states that “industrial zoned properties provide several functions: basic needs for county residents and public agencies; opportunities for different forms of employment including vocational and entry-level jobs; and space for small businesses, entrepreneurs, and artisans.” The 2018 Sector Plan makes specific recommendations for industrial properties in the Parklawn South District. It recommends that property owners of retained industrial uses should “make industrial land uses more sustainable” through county environmental initiatives.”

As approved, the Site Plan is consistent with the recommendations in the 2010 *White Flint Sector Plan* and the 2018 *White Flint 2 Sector Plan*. The forest

conservation easement area implements the buffer area recommended in both Sector Plans and contributes to preserving and enhancing natural resources, as well as making industrial uses more sustainable.

6. *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.*

All previous conditions of the Preliminary Plan and the adequate public facilities test have been met, and the approved Site Plan continues to meet the conditions of approval. As the approved self-storage facility generates fewer trips than the automotive (taxi) operation, an amendment to the Preliminary Plan and a new adequate public facilities test are not required.

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

The approved self-storage facility is compatible with the existing adjacent industrial development and a significant buffer is provided to achieve greater compatibility between the continued industrial use and the existing residential detached community. As the 2018 *White Flint 2 Sector Plan* confirms the industrial zoning for the Nicholson Court area, the use is compatible with the future development envisioned.

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 JUL 25 2018 (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 Cichy, seconded by Commissioner Fani-González, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, July 19, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board