



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

MCPB No. 19-016
 Site Plan No. 81999004B
 Safeway at Cloverly
 Date of Hearing: February 7, 2019

APR 16 2019

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 October 29, 1998, the Planning Board, by Opinion mailed on February 19, 1999, approved Site Plan No. 819990040, for a 45,000 square feet grocery store and 225 parking spaces on 3.68 acres of C-1 zoned-land, consisting of Parcel D, Block C (Record Plat 21236), located in the northeast quadrant of the intersection of New Hampshire Avenue and Briggs Chaney Road. ("Subject Property"), in the Cloverly Policy Area and 1996 *Cloverly Master Plan* ("Master Plan") area; and

WHEREAS, on March 25, 2002, the Planning Director approved an administrative amendment to the Site Plan No. 81999004A to make minor clarifications regarding the Road Improvement Plan for Gallaudet Avenue on the Subject Property; and

WHEREAS, on March 7, 2018, CF Albert PropCo, LLC ¹("Applicant") filed an application for approval of an amendment to the previously approved site plan to remove condition number 2 requiring a joint parking easement for 41 parking spaces on Parcel N-5² (Part of Parcel A) and request a parking waiver of 47 parking spaces on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 81999004B, Cloverly at Safeway ("Site Plan," "Amendment," 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

¹ The Application was made by CF Albert PropCo, LLC, successor-in interest to NAI Saturn Eastern LLC, which is the successor-in interest to Safeway Inc. Prior to submitting the application, CF Albert PropCo, LLC sold the property to BMTJ Washington LLC.

² Parcel N-5 is also referred to as Lot N5 on Site Plan No.819990040

Approved as to
 Legal Sufficiency

Christina Sout 3/26/19

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

Planning Board, dated January 25, 2019, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 7, 2019, 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, on February 7, 2019 the Planning Board voted to approve the Application subject to certain conditions, on the motion of Commissioner Fani-Gonzalez, seconded by Commissioner Patterson, with a vote of 3-0; Commissioners Anderson, Fani-Gonzalez, and Patterson, voting in favor with Commissioner Dreyfuss abstaining and Commissioner Cichy absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No.81999004B for the removal of the condition requiring an off-site shared parking agreement and approves a parking waiver of 47 parking spaces by adding/modifying the following conditions:³

1. The development must comply with the conditions of approval for Site Plan No. 819990040 as listed in the MCPB Opinion mailed on February 19, 1999, except for condition 2.
2. The Applicant shall not restrict parking lot use to grocery store customers only and the Applicant must remove all existing signs that restrict parking lot use to grocery store customers only.
3. The Applicant and all parties of interest must sign the Certified Site Plan.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Safeway at Cloverly, Site Plan No. 81999004B, submitted via ePlans to the M-NCPPC as of the date of the Staff Report January 25, 2019, are required, except as modified by the above conditions of approval; and

³ 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.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and 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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan and all findings not specifically addressed remain in effect.*
2. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

Division 6 – General Development Standards

i. Division 6.2. Parking, Queuing, and Loading

After reviewing the Site Plan Amendment No. 81999004B, the Planning Board approved the request to 1) remove condition No. 2 (below) which required a shared parking easement and 2) waive 47⁴ of the 225 parking spaces approved as part of Site Plan No. 819990040.

Condition 2) Site Plan Enforcement Agreement to reference the joint parking easement located on Parcel N-5.

The Planning Board previously approved Site Plan No. 819990040, for a 45,000 square foot grocery store (Safeway) on 3.68 acres of C-1 zoned-land. The Safeway generated a minimum parking requirement of 225 spaces or 5 spaces per 1,000 square feet of gross floor area.

Only 184 parking spaces could be accommodated on the Safeway Property (Parcel C), and per condition no. 2 the remaining 41 parking spaces were provided in a parking easement on the adjoining property (Parcel N5), formerly a bank which was in common ownership.

The amendment removes the required easement, including the 41 parking spaces on Parcel N5 and 6 of the 184 spaces (per the Certified Site Plan) in the existing Safeway parking lot which are currently occupied by shopping cart corrals. Per Section 6.2.2.B, eliminating 47 parking spaces required a parking

⁴ Site Plan No.819990040 was approved under the “Old Code” when the property was zoned C-1. Site Plan Amendment No 81999004B was processed under the “New Code” which requires the same number of parking spaces.

waiver under Section 6.2.10 because the reduction in parking is below the minimum required for the grocery store. All elements in the existing Site Plan Enforcement Agreement except as amended as part of this proposal will remain in full force and effect.

Section 6.2.10. Parking Waiver

The deciding body may waive any requirement of Division 6.2, if the alternative design satisfies Section 6.2.1. Any request for a waiver of the vehicle parking space requirement under Section 6.2.4.B requires application notice under Section 7.5.2.D.

Section 6.2.1 states “the intent of the vehicles and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner”.

The parking waiver is for 47 vehicle parking spaces required for the retail/service establishment (grocery store) under Section 6.2.4.B. The Site Plan Amendment (i.e. parking waiver) is a limited major amendment, which under Section 7.5.2.D only required signage and noticing which the Applicant has satisfied.

Based on the statement of justification and supporting documentation provided by the Applicant, Safeway, Inc., no physical changes are being made to the Safeway site that would alter the existing pedestrian and vehicular circulation patterns. Safeway’s representative stated the 178 parking spaces currently available will be adequate to support the grocery store and that because of parking configuration, few if any Safeway patrons park in the spaces on the existing bank property simply because it is inconvenient given its relation to the grocery store entrance versus the expansive parking lot directly in front of the store (to the west).

However, during the hearing, the Planning Board heard testimony from the public stating that existing patrons, while few, do utilize the parking spaces on Parcel N-5. In consideration of the public testimony, the Planning Board added Condition 2 of this resolution and similarly conditioned the companion Site Plan No. 820180090 which covered Parcel N5.

To support the request to reduce parking, on March 13, 2018, the Applicant submitted a comprehensive parking demand study produced by Wells + Associates.

That analysis demonstrates parking demand for the Safeway grocery store and supports the requested parking waiver. In support of this finding, The Wells + Associates parking study includes parking data, collected on-site over a weeks' time, identifies the peak parking demand and compares the parking demand with Safeway's standard parking rates to determine what the actual parking needs are to provide the necessary parking needed to support the grocery store.

The parking demand study used the parking data collected to determine peak utilization of the existing parking lots and identify the recommended design hour parking supply of 102 space or 2.27 spaces per 1,000 square feet of building area. When compared to the proposed (existing) 178 parking spaces or 3.96 spaces per 1,000 square feet of building area, it is clear that the 225 spaces require by the Code is excessive for this particular location. Further, the study estimated that on the two highest parking demand days of the year, two days before Christmas and the day before Thanksgiving, that over 30 parking spaces are predicted to be available.

Based on the parking demand study, the amendment and parking waiver will not be detrimental to the vitality of the existing business, nor will it negatively affect the on-site parking layout, safety or efficiency of the Safeway property or the abutting existing and proposed developments. The Site Plan will continue to provide adequate parking to serve the existing 45,000 grocery store with the 178 parking spaces on-site.

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 ~~APR 16 2019~~ (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 Patterson, with Chair Anderson and Commissioners Cichy and Patterson voting in favor, and Vice Chair Dreyfuss and Commissioner Fani-González absent at its regular meeting held on Thursday, April 4, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board