



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

MCPB No. 20-058  
Site Plan No. 81979030A  
11140 New Hampshire Avenue  
Date of Hearing: July 2, 2020

**JUL 09 2020**

**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 23, 2020, Guardian Realty Management, Inc. ("Applicant") filed an application for approval of a site plan for the conversion of an existing vacant drive-thru bank to a Dunkin Donuts/Baskin Robbins with a drive-thru on 4.2 acres of CRT-1.5, C-1.5, R-.25 H-60 zoned-land, located on New Hampshire Avenue 3,000 feet south of the intersection of New Hampshire Avenue and Columbia Pike ("Subject Property"), in the Fairland/White Oak Policy Area and 2014 White Oak Science Gateway Master Plan ("Master Plan") area; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 81979030A, 11140 New Hampshire Avenue ("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 Planning Board, dated June 22, 2020, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 2, 2020, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

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Approved as to <sup>8787 Georgia Avenue, Silver Spring, Maryland 20910</sup> Legal Sufficiency:  Phone: 301.495.4605 Fax: 301.495.1320  
www.montgomerycountypc.org E-Mail: mcp-chair@mncppc.org  
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 81979030A for conversion of an existing vacant drive-thru bank to a Dunkin Donuts/Baskin Robbins by adding the following conditions:<sup>1</sup>

1. Density

The Site Plan Amendment is limited to a 2,102-square-foot restaurant with one drive-thru window, which is in addition to the 15,000 square feet of commercial and 54,052 square feet of office that currently exist on the Subject Property.

2. Height

The development is limited to a maximum height of 17 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

**Site Plan**

3. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A-6 and A-7 of the submitted architectural drawings, as determined by M-NCPPC Staff.

**Open Space**

4. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 1,030 square feet of public open space, which satisfies the minimum 945 square feet of public open space required.
- b. Before the issuance of final use and occupancy certificates for the retail development, all public use space areas on the Subject Property must be completed.

**Transportation and Circulation/Adequate Public Facility (APF) Review**

5. Pedestrian and Bicycle Circulation

- a) The Applicant must provide one (1) short-term bicycle parking space.
- b) The short-term space must be an inverted-U rack (or approved equal) installed in a location convenient to the main entrance. The specific location of the short-term bicycle rack must be identified on the Certified Site Plan.

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<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.

6. Validity

The Adequate Public Facility Review (APF) will remain valid for sixty (60) months from the date of mailing of the Planning Board Resolution for the Site Plan.

7. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, 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, private sidewalks, and associated improvements of development, including but not limited to sidewalks and street trees. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- 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 a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

8. Development Program

The Applicant must construct the development in accordance with the development program table, subject to review and approval by Staff before Certified Site Plan.

9. 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 development program, and Site Plan resolution on the approval or cover sheet(s).
- b) 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."
- c) Modify data table to reflect development standards approved by the Planning Board.

- d) Ensure consistency of all details and layout between Site and Landscape plans.
- e) Show on the certified site plan one bicycle parking space in the form of an inverted U-rack.
- f) Add a note to the Site Plan stating that “An on-site pre-construction meeting is required to be set up with the Department of Permitting Services (DPS), Zoning & Site Plan Enforcement Division before any building construction activity occurs on-site. The owner or his designee, who has signature authority, and general contractor must attend the pre-construction meeting with the DPS Site Plan Enforcement inspector. A copy of the Certified Site Plan is required to be on-site at all times.”
- g) Show on the Certified Site Plan a “Do Not Enter” sign at the egress point to the southeast of the building.
- h) Modify the location of the order point to be further south on 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 11140 New Hampshire Avenue, 81979030A, 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 set forth in the Staff Report, which the Planning 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. *When reviewing an application, the approval findings apply only to the site covered by the application.*
2. *To approve a site plan, the Planning Board must find that the proposed development:*
  - a. *satisfies any previous approval that applies to the site;*

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.

The originally approved site plan, 819790300, includes the existing drive-thru

bank site. This proposal does not substantially change the existing structure; therefore, it is in compliance with the previous approval.

The Subject Property is also subject to approved preliminary plan 119792200, which approved 69,790 square feet of office and retail development. The proposed amendment does not affect any conditions of approval of the preliminary plan, which were limited to roadway dedication, slope and drainage easements, and approval of a detailed site plan.

- b. *satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;*

Not applicable.

- c. *satisfies under Section 7.7.1.B.5 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;*

Not applicable.

- d. *satisfies applicable use standards, development standards, and general requirements under this Chapter;*

The project does not involve any change to square footage and does not include any substantial changes to the existing structure. The existing building conforms to the development standards and general requirements of the Zoning Ordinance.

<b>Development Standards</b>	<b>Required</b>	<b>Provided</b>
Max. Building Height	60-feet	30-feet
Public Open Space (min.)	0%	10% (1,030 square feet) <sup>2</sup>
<b>Lot &amp; Density</b>		
Lot Area	N/A	9,450
Lot width at front building line	N/A	330
Lot width at front lot line	N/A	330
<b>Density (max.)</b>		
Density, FAR	<1.0	0.22 <sup>3</sup>
Building Area (square feet)		2,102 square feet
<b>Placement – Principal Building</b>		

<sup>2</sup> The total public open space provided consists of 2,570 sq. ft. on-site and 2,500 sq. ft. off-site

<sup>3</sup> As calculated for the Subject Property

<b>Development Standards</b>	<b>Required</b>	<b>Provided</b>
<b>Setbacks (min.)</b>		
Front setback	0 feet	60 feet
Side street setback	0 feet	N/A
Rear setback, Alley	4 feet	N/A
<b>Build-to Area, max. setback and min % of building façade</b>		
Front Setback	20 feet	60 feet, modification requested
Building in front of street BTA	70%	100%, modification requested
Side Street Setback	20 feet	modification requested
Building in Side Street BTA	35%	modification requested
<b>Building Orientation</b>		
Entrance Facing Street or Open Space	Required	modification requested
Entrance Spacing (max.)	100 feet	N/A
<b>Transparency, for Walls Facing a Street or Open Space</b>		
Ground story, front (min.)	40%	East Elevation: 55%
Blank Wall, front (max.)	35 feet	East Elevation: 18 feet
Ground Story, north side, (min.)	25%	North Elevation: 67%
Blank Wall, north side (max.)	35 feet	North Elevation: 17 feet
Ground Story, side/rear (min.)	35 feet	West Elevation: N/A South Elevation: N/A
Blank Wall, side/rear (max.)	35 feet	West Elevation: N/A South Elevation: N/A
<b>Parking Lot Area Canopy Coverage</b>	25%	No changes proposed to landscape and lighting

<b>Parking Compliance under the CRT Zone, Zoning Code Section 59.6.2.4.B</b>			
Existing and Proposed Uses and Square Footage	Minimum Parking Permitted	Maximum Parking Permitted	Parking Proposed
Office: 9,320 sf	2/1,000 sf GFA = 20 spaces	3/1,000 sf GFA = 30 spaces	All on-site parking is shared
Medical Office: 39,266 sf	1/1,000 sf GFA = 40 spaces	4/1,000 sf GFA = 160 spaces	

Retail: 30,430 sf	3.5/1,000 sf GFA = 109 spaces	6/1,000 sf GFA = 186 spaces	
Restaurant: 2,102 sf	4/1,000 sf for patron use = 8 spaces	12/1,000 sf for patron use = 24 spaces	
	Total: 177 spaces	Total: 400 spaces	Total: 292 spaces

Per Section 59.4.5.3.C.3., the Applicant is requesting modification of the build-to-area requirements. Footnote b. generally states that the Planning Board may modify the build-to-area requirements during Site Plan review, if the Planning Board finds that the plan deviates from the build-to-area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use, and if the proposed design elements engage the surrounding publicly accessible spaces such as streets, sidewalks and parks. The Planning Board supports this finding, given that the existing bank and drive-thru are being converted to a Dunkin Donuts, the proposed improvements to the marking and circulation, and the right out only from the drive-thru and onto New Hampshire Avenue, help satisfy the intent of the standard by discouraging thru movement of vehicles between the building and the sidewalk on New Hampshire Avenue and promote connectivity with the sidewalk and New Hampshire Avenue, in addition to providing connectivity to the additional public open space that will be provided along the front of the existing building.

According to the use table in Section 59.3.1.6 a restaurant is a permitted use in the CRT zone, and a drive-thru is a limited use given certain conditions. Per Section 59.3.5.14.E2.a., the conditions of the limited use are:

*i. A Drive-Thru, including the queueing 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.*

The only adjoining property within 100 feet of the proposed drive-thru and queueing area is an R-60 zoned property that is developed with a PEPCO substation in a residential-style building.

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

The site is accessed from New Hampshire Avenue, which is not a residentially classified street.

*iii. 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 window and queueing area are located on the west and south sides of the building, which is not between the building and New Hampshire Avenue. The drive-thru stacking lane wraps around the south and west sides of the building and is not in the area between the building and New Hampshire Avenue to the east.

There is an existing drive aisle (to remain) that runs between the building and New Hampshire Avenue, which was approved as part of the original site plan in 1979 and has been in use since the construction of the shopping center. Due to the existing configuration of the building and the larger shopping center, this drive aisle functions as a part of the larger circulation network of the shopping center and serves as an exit only to south bound New Hampshire Avenue.

*iv. 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.*

Not applicable.

*v. Site plan approval is required under Section 7.3.4.*

The present Application fulfills this requirement.

*vi. A conditional use application for a Drive-Thru may be filed with the Hearing Examiner if the limited use standards under Section 3.5.14.E.2.a.i through Section 3.5.14.E.2.a.iv cannot be met.*

Not applicable.

*e. satisfies the applicable requirements of:*

- i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and*

The proposed improvements to the existing bank building are limited to a change of signage and the addition of an exterior door at the rear of the building that will serve as access to the new kitchen. These improvements



involve less than 5,000 square feet of disturbance; therefore, the project does not require any permits under Chapter 19.

*ii. Chapter 22A, Forest Conservation*

Environmental Guidelines

The site contains no streams or their buffers, wetlands or wetland buffers, steep slopes, 100-year floodplains, or known occurrences of rare, threatened or endangered species. There are no forests or specimen trees on the property.

Forest Conservation

The project is exempt from submitting a forest conservation plan as a modification to an existing developed property. An Exemption (No. 42020127E) was approved on March 12, 2020.

The Plan as submitted is in conformance with the Environmental Guidelines and complies with Chapter 22A, the Forest Conservation Law.

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

The project's improvements to the parking lot surrounding the proposed Dunkin Donuts increase the safety of the parking lot. The extension of the drive-thru queueing area will result in the elimination of five parking spaces, bringing the total for the site to 292 spaces, which remains above the 257 parking spaces originally approved. Two handicapped parking spaces will be relocated from their location along New Hampshire Avenue to the north side of the building, directly outside of the building entrance to improve access directly to the building.

This Dunkin Donuts pad site shares a parking lot with a variety of uses, including an Office Depot and a medical office, each to the west of the pad site. These uses have ample parking provided at their rear, to the west of the office building and strip mall. The parking lot is accessed via a turn in from New Hampshire Avenue to the north of the site. To the south of the project site, there is a right-turn, exit only onto New Hampshire Avenue. As part of this application, this egress point will be made to be more clearly an exit-only access.

Also proposed is a new pedestrian connection between the building and the sidewalk that runs along the western side of New Hampshire Avenue. This will provide safe access to the building for pedestrians from New Hampshire Avenue,

and help improve the pedestrian experience in an otherwise auto-oriented shopping center.

The drive-thru has an entrance to the northwest of the site, and bends around the southwest corner of the building to meet where the existing bank drive-thru exists along the southern wall of the building. At the end of the drive-thru, at the southeast corner of the building, is a stop line. If turning right out of the drive thru, there is another stop line that ensures that drive-thru patrons safely turn left to merge safely into the parking lot traffic before moving to the right-only exit onto New Hampshire Avenue. The design of this drive-thru increases the safety of the vehicular circulation by more clearly separating the drive-thru stacking area from the parking lot drive aisles. The drive aisle to the south of the building will be improved with striping indicating that the drive aisle is one-way. Cars will be forced to move slowly and deliberately through the drive-thru, to not conflict with the vehicular circulation of the parking lot.

- g. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

This area is identified in the 2014 *White Oak Science Gateway Master Plan* as an area of “transitional development.” It envisions the commercial areas near the intersection of Lockwood Drive and New Hampshire Avenue to be redeveloped over time as a pedestrian-friendly, mixed-use area. By converting a vacant building to community-serving retail with improved pedestrian access, the proposed amendment substantially conforms with the recommendations of the Master Plan that the private sector should be encouraged to redevelop, redesign and invest in older commercial centers while preserving community-serving retail and creating a more walkable community. Furthermore, the repurposing of the existing, vacant retail building does not preclude a larger redevelopment of the shopping center in the future. Thus, the proposed Site Plan is in substantial conformance with the Master Plan.

- h. 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. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

The proposed Property is subject to the White Oak Local Area Transportation Improvement Program (LATIP), which proscribes trip generation rates by land use and square footage. Both the bank and the proposed use are classified as "Retail" under the LATIP, which generates three trips per 1,000 square feet; this equates to six trips based on the site's existing square footage. As the use is not changed under this proposed development, there is no net change in the number of trips generated, based on the LATIP methodology.<sup>4</sup> Additionally, police, fire protection, water, sanitary sewer, public roads and storm drainage remain adequate. Thus, all public facilities are adequate to serve the proposed development.

- i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and*

Not applicable, the Subject Property is zoned CRT-1.5, C-1.5, R-0.25, H-60.

- j. on a property in all other zones, is compatible with existing and approved or pending adjacent development.*

The Property is compatible with existing and approved or pending adjacent development. The proposed restaurant with a drive-thru function is converted from a former bank and drive-thru and does not constitute a substantial change to the existing compatibility of the project within the shopping center.

- 3. To approve a site plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.*

The applicant has submitted a Statement of Need outlining the need for a restaurant at the subject location. According to the Statement of Need there is a need for a Dunkin Donuts/Baskin Robbins at this location for the following reasons:

- The proposed location is underserved relative to nearby market clusters.
- Demographics of the area, with 94,000 customers within 7 minutes and a median household income of \$70,000.
- The closest Dunkin Donuts is 3.1 miles away.

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<sup>4</sup> 2017 Local Area Transportation Review Guidelines. Appendix 4: [https://montgomeryplanning.org/wp-content/uploads/2017/12/LATR-Guidelines-Production-Final\\_122017-PRODUCTION-WEB.pdf](https://montgomeryplanning.org/wp-content/uploads/2017/12/LATR-Guidelines-Production-Final_122017-PRODUCTION-WEB.pdf)

- The number of competitors in the area and sales volume of those stores demonstrates the ability to support a Dunkin Donuts/Baskin Robbins.
  - White Oak is underserved by Dunkin Donuts/Baskin Robbins and is seen as a “donut hole” in market penetration that needs to be filled.
  - The Dunkin Donuts/Baskin Robbins compliments and would be an added amenity to the existing Medical Office Building and Retail.
4. *For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.*

Not applicable, the Subject Property is not zoned C-1 or C-2.

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 July 2, 2020 (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 Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Verma voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, July 2, 2020, in Silver Spring, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board