



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

AUG 17 2020

MCPB No. 20-084
Site Plan No. 82018007A
Kaiser Permanente Aspen Hill
Date of Hearing: July 30, 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 July 12, 2018, the Planning Board, by Resolution MCPB No. 18-068, approved Site Plan No. 820180070, to replace an existing vacant office building with a 95,000 square foot auto dealership building on 10.05 acres of CRT-1.5, C-0.5, R-1.0, H-60 zoned-land, located at the intersection of Aspen Hill Road and Connecticut Avenue ("Subject Property"), in the *Aspen Hill Policy Area and Aspen Hill Minor Master Plan Amendment* ("Master Plan") area; and

WHEREAS, on February 26, 2020, Kaiser Permanente ("Applicant") filed an application for approval of an amendment to the previously approved site plan to replace the previously approved, but unbuilt, auto dealership with 180,000 square feet of medical facility development, to be developed over 2 phases on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82018007A, Kaiser Permanente Aspen Hill ("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 July 20, 2020, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 30, 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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82018007A for 180,000 square feet of medical facility development, to be developed over 2 phases by replacing the previous conditions with the following:¹

Density, Height & Housing

1. Density
The Site Plan is limited to a maximum of 130,000 square feet of medical office use for Phase 1, and an additional 50,000 square feet for Phase 2 for total maximum density of 180,000 square feet of development on the Subject Property.
2. Height
The development is limited to a maximum height of 60 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Open Space, Facilities and Amenities

3. Public Open Space, Facilities, and Amenities
 - a. The Applicant must provide a minimum of ten percent (10%) of public open space on-site for Phases 1 and 2.
 - b. Prior to issuance of the Final Use and Occupancy Certificate for Phase 1, the Applicant must construct the streetscape improvements along the Property's frontage on Aspen Hill Road and Connecticut Avenue.
 - c. Prior to issuance of the Final Use and Occupancy Certificate for Phase 1, all public open space and onsite amenities associated with Phase 1 on the Subject Property must be completed. Prior to issuance of the Final Use and Occupancy Certificate for Phase 2, all public open space and onsite amenities associated with Phase 2 on the Subject Property must be completed.
 - d. All parking spaces above the 4.0 ratio parking for medical uses must be made available to the public for parking.
 - e. Landscape buffer along the western boundary must provide fencing between existing lots 57- 60 on Landgreen Street.

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.

Site Plan

4. Site Design
The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A301-A305 of the submitted architectural drawings, as determined by M-NCPPC Staff.
5. 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 or BUG-equivalent 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.
 - e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
 - f. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

Environment

6. Forest Conservation & Tree Save
The development must comply with the Final Forest Conservation Plan.
7. The Limits of Disturbance (LOD) on the Final Forest Conservation Plan must be consistent with the LOD on the Sediment and Erosion Control Plan.
8. There shall be only environmental remediation, clearing, grading, or demolition for the removal of the existing Vitro/BAE Building on the Property prior to receiving approval of the Final Sediment and Erosion Control Plan.

Transportation & Circulation

9. Transportation

Prior to any building permit for Phase 2 the Applicant must construct and install the traffic signal at the intersection of Connecticut Avenue and the shared driveway with Home Depot, subject to SHA review and approval.

10. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 32 long-term and 9 short-term bicycle parking spaces. The long-term spaces must be secured, bicycle lockers, as shown on the Site Plan, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance and protected from the weather. The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
- b. Prior to issuance of the first Use and Occupancy Permit, the Applicant must construct a 10-foot-wide sidepath along the north side of Aspen Hill Road and the west side Connecticut Avenue. The sidepath must extend offsite and connect at the intersection of Aspen Hill Road and Connecticut Avenue, within the public right-of-way, and maintain the 10-foot-width, to the extent possible.

11. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated May 16, 2020, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

12. 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 on-site Site Plan elements, including, but not limited to plant material, lighting, outdoor recreational facilities, site furniture, fences, railings, private utilities, paths, sidewalks,

sidepaths, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of the 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 for each phase of development 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.

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 stormwater management concept approval letter, development program, and Site Plan and Preliminary Plan 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 the 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. Circulation plans for the truck loading must show access from Connecticut Avenue.
- g. Aspen Hill Road entrance must be designed as a "right in and out" channelized access, to be confirmed by MCDOT and Planning Staff.
- h. Architectural windows on all elevations (per sheets A0303.1 and A0304.1) must be consistent.
- i. The PIE must include all sidepaths, traffic signal boxes and bus stop shelters along Connecticut Avenue and final locations will be confirmed by MCDOT, SHA, and DPS.
- j. The long-term spaces must be in secured bike lockers, as shown on the Site Plan, and the short-term spaces must be inverted-U racks, or approved equal rack, installed in a location convenient to the main entrance, and must be

- protected from the weather. The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan
- k. Revise the variance request to remove tree #12 and add tree #1 to the requested list.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Kaiser Permanente Aspen Hill 82018007A, 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. 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.*

Site Plan No. 82018007A Findings

Per Section 7.3.4 of the Zoning Ordinance,

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;

Per the conditions of approval, the Applicant must satisfy and comply with all aspects of the concurrent approval for the Preliminary Plan No 1202000130. All conditions of prior approved Site Plan No. 820180070 are no longer valid and are superseded by the conditions established in this Staff Report.

- 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;

This section is 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;

This section is not applicable.

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

Build-to-Area (BTA) Waiver

The Site Plan Application includes two waiver requests to modify or exceed the Zoning Ordinance requirements, Chapter 59, including the Build-to-Area front setback from Connecticut Avenue along the eastern boundary of the Property (Section 59-4.5.3.C.3.b) and screening requirement along the northern boundary adjacent to the Home Depot property that is zoned R-90 (Section 59-6.2.9.C.3.b.)

Per 59-4.5.3.C.3.b. the Build-to Area requirements may be modified by the Planning Board during site plan review under Section 7.3.4. In approving a site plan submitted under this subsection, the Planning Board must find that the plan: (1) 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 (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.

The Applicant is requesting relief from the 20-foot maximum required setback to 35 feet and the Building in front street BTA of 70% to zero (0)%. This is due to “the physical constraints of the site”, which has a significant grade difference from the Property along Connecticut Avenue (see figures 19-21); and the angled frontage that makes the modular construction design inefficient, if required to align the building frontage with Connecticut Avenue. To create the Medical Center, the building front print must be placed at right angles. Also, to achieve a slope that complies with ADA requirements, ramped approaches from the pedestrian level along Connecticut Avenue will require a substantial setback. In addition, the eastern boundary of the Property along Connecticut Avenue must accommodate the Master Plan 10’ sidepath and 6’ greenspace buffer. The Planning Board supports the relief to the BTA due to site constraints.

Perimeter Planting Waiver

Per Section 59-6.2.9.C.3, where the Property abuts residentially zoned land that is improved with an institutional or commercial use, a perimeter planting area meet the following:

- i. be a minimum of 6 feet wide;*
- ii. contain a hedge or low wall a minimum of 3 feet high; and*
- iii. have a canopy tree planted every 30 feet on center; unless*
- iv. the property abuts another parking lot, in which case a perimeter planting area is not required*

On the northern side the abutting residential property is used by Home Depot for a stormwater management pond and the parking is farther away. Therefore, although there is really no residential use on this residentially zoned land, the Applicant is providing a (14-foot) landscape strip, the Thrive Path, canopy trees, and plantings along this Property line. If required to provide the 3-foot hedge or wall it would adversely impact the trees and exercise elements planned for this area. The Board supports the request of relief to the "Perimeter Planting".

The Application includes two waivers to modify or exceed the Zoning Ordinance, Chapter 59, including the Build-to-Area front setback from Connecticut Avenue along the eastern boundary of the Property (Section 59-4.5.3.C.3.b) and the screening requirement along the northern boundary adjacent to the Home Depot property that is zoned R-90 (Sections 59-6.2.9.C.3.b.). The Planning Board approves both waivers as justified based upon the analysis contained herein.

Division 4.5 Commercial/Residential Zones and Division 4.4 Residential Zones

Development Standards

The Site is approximately 180,000 square feet zoned CRT-1.5, C-0.5, R-1.0, H-60. The data table below shows the Application's conformance to the development standards of Section 59-4.5.4.

Table 1- Project Data Table			
Section 59	Development Standard	Permitted/ Required	Proposed
	Tract Area (sf)		437,112 sq. ft.
	Previous Dedication		837 sq. ft.
	Gross Tract Area		437,949 sq. ft.

Zone	CRT-1.5, C-0.5, R-1.0, H-60		
4.5.4.B.2.b	Density		
	FAR (Total)		
	Commercial	C-0.5	C-0.3
	Residential	R-1.0	R-0
	Phase 1 Gross Floor Area	656,924 sq. ft.	130,000 sq. ft.
	Phase 2 Gross Floor Area	656,924 sq. ft.	50,000 sq. ft.
	Total Gross Floor Area	656,924 sq. ft.	180,000 sq. ft.
4.5.4.B.2.b	Building Height (feet)	60	60
4.5.4.B.3	Minimum Setback (feet)	20	35
4.5.4.B.1	Minimum Public/Common Open Use Space (%)	10%	n/a
	Phase 1 Square Footage		63,144 sq. ft.
	Phase 1 Percentage		14%
	Phase 2 Square Footage		44,148 sq. ft.
	Phase 2 Percentage		10%
6.2.4.	Minimum Parking Spaces		
	Phase 1 Parking Spaces	516	542
	Phase 2 Parking Spaces	720	846

Division 6.4 General Landscaping and Outdoor Lighting

All other elements of the Project, unless previously stated, provide adequate landscaping and lighting, as well as other site amenities, to ensure that these facilities will be safe, adequate, and efficient for adjacent residents and visitors. The Project will include streetscaping improvements, with a side path, street trees, open space with amenities, and lighting.

As shown in the Development Standards table and findings above, the proposed Site Plan meets all the general requirements and development standards of Divisions 59-4.4 and 59-4.5 of the Zoning Ordinance, and the general development requirements of Article 59-6 of the Zoning Ordinance, except for Section 59-4.5.3.C.3.b and Sections 59-6.2.9.C.3.b.

- e. satisfies the applicable requirements of:
 - i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

As stated in Preliminary Finding no. 5, this project meets the requirements of Chapter 19.

ii. Chapter 22A, Forest Conservation.

As stated in Preliminary Finding no. 4, this project meets the requirements of Chapter 22A, Forest Conservation.

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

Parking and Circulation

The proposed parking is behind the building along Connecticut Avenue to allow for a safe and attractive pedestrian streetscape. Internal circulation is provided by two-way circulation drive aisles.

Building Massing

The proposed building has been pulled up to Connecticut Avenue to the extent possible due to the grade constraint. This will establish a building presence along the streetscape and enhance the pedestrian environment. The 60-foot building is consistent with other commercial buildings in the area.

Open Spaces and Site Amenities

As stated, the Open Space will be reduced from 63,144 square feet to 44,148 square feet between Phase 1 and Phase 2 but will maintain the 10% minimum requirement per Chapter 59. The Amenities provided on the Site Plan are community-scale spaces that are designed as an amenity to the surrounding residential neighborhood. The Application will provide a community garden, walking trail, area for a local farmer's market, and useable open space at the main entrance. These spaces will significantly improve the streetscape and pedestrian experience on the Property.

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

As stated in the approval of associated Preliminary Plan No. 120200130, this project meets the requirements for the *2015 Aspen Hill Minor Master Plan Amendment*.

- 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;

As described in the Preliminary Plan section of the Staff Report, the Project will be served by adequate public services and facilities.

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

Not applicable as the Property is not located in a Rural Residential or Residential Zone.

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

The Property is compatible with existing adjacent developments. The Project adheres to the height and density of the Property's zone and with the recommendations contained in the Master Plan. The Subject Property abuts a property zoned R-90 and meets the standards of the Zone, except for Sections 59-6.2.9.C.3.b and 59-6.2.1, for which waivers have been requested and granted by the Planning Board. The Project will contribute to the medical services available in the Aspen Hill community and surrounding area. The building's architecture and design provide an appropriate scale that complements the existing and permitted density/heights of the surrounding properties.

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

AUG 17 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).

* * * * *

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 Vice Chair Fani-González, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, July 30, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board