

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-068
Site Plan No. 81990069C
Montgomery Industrial Park Lot 32
Date of Hearing: June 23, 2022

CORRECTED 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 February 14, 1991, the Planning Board approved Site Plan No. 819900690 for 18,475 square feet of automobile sales and service use on 4.35 acres of I-1 zoned-land, located at the southeast quadrant of the intersection of Prosperity Drive and Prosperity Terrace, identified as Lot 32 on Plat No. 16248 (“Subject Property”), in the Fairland/White Oak Policy Area and White Oak Science Gateway Master Plan (“Master Plan”) area; and

WHEREAS, on December 4, 2008, the Planning Director administratively approved an amendment to the previously approved site plan, designated Site Plan No. 81990069A, to extend and enclose existing canopies at the west and east of the main building on the Subject Property; and

WHEREAS, on July 29, ~~2010~~ **2022**, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 81990069B (MCPB No. 10-107), to delete 11 service parking spaces, modify building interiors, and expand the south service drive canopy on the Subject Property; and

WHEREAS, on March 10, 2022, Eastern Diversified Properties, Inc. (“Applicant”) filed an application for approval of an amendment to the previously approved site plan to expand the existing car dealership by 5,525 square feet, modify building façade, parking configuration, stormwater management, and landscaping, and create a new inter-lot connection between Lot 32 and Lot 33 on the Subject Property; and

WHEREAS, Applicant’s application to amend the site plan was designated Site Plan No. 81990069C, Montgomery Industrial Park (“Site Plan,” “Amendment,” or “Application”); and

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

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 9, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 23, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Patterson, Rubin and Verma voting in favor; and

WHEREAS, there was no resolution approved memorializing the June 23, 2022 vote; and

WHEREAS, Staff issued a supplemental memorandum to the Planning Board, dated June 23, 2022, requesting that the Board re-open the public record for the limited purpose of admitting correspondence into the record, which had been inadvertently omitted, and considering the testimony contained therein ("Supplemental Staff Report"); and

WHEREAS, on July 7, 2022, the Planning Board voted to re-open the public record and schedule a new Public Hearing during the month of July 2022, on the motion of Commissioner Rubin, seconded by Commissioner Cichy, with a vote of 4-0; Chair Anderson, Commissioners Cichy, Rubin and Verma voting in favor with Commissioner Patterson being absent; and

WHEREAS, Staff issued an updated memorandum to the Planning Board, dated July 18, 2022, including analysis and review of the omitted correspondence, and setting forth its continued recommendation of approval of the Application, subject to certain conditions ("Updated Staff Report"); and

WHEREAS, on July 28, 2022, the Planning Board held another public hearing on the Application and voted to approve the Application subject to conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 81990069C for expansion of the existing car dealership by 5,525 square feet, modifying the site design details, and creating a new inter-lot connection between Lot 32 and Lot 33 on the Subject Property, by adding and modifying 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.

Revised Conditions

4. Indicate on the certified site plan where the code-required ~~78~~ 50 parking spaces are located and provide clear signage restricting their use to employees and customers and preventing their use for storage of inventory and trade-ins.
5. Development will not exceed ~~48,478~~ 21,000 square feet of buildable gross floor area, to be used exclusively for auto sales/service facility.

New Conditions

11. Landscaping

Prior to issuance of Use and Occupancy permit, the Applicant must bring the property into compliance with the approved Certified Landscape and Lighting plans, including planting of all landscape trees on the property.

12. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its stormwater management concept letter dated June 2, 2022 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 the Site Plan Amendment approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

13. Right of Way

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated March 10, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

14. 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 4, 2022 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 Site Plan approval.

15. 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. Fire and Rescue Access plan should be included in the Certified Site Plan.
- 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. Prior to the approval of the Certified Site Plan, the Applicant must provide updated landscaping drawings to show shade trees along the north-south green strip between the two surface parking lots, at the property line between Lots 32 and 33. Final planting locations may be modified to avoid utility conflicts.

16. Prior to issuance of building permit, the Applicant must pay the applicable White Oak Local Area Transportation Improvement Program (LATIP) mitigation payment.

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 Montgomery Industrial Park, Site Plan No. 81990069C, 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 of its Staff as presented at the hearing and/or as set forth in the Staff Report, Supplemental Staff Report, and Updated 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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.

d. Satisfies applicable use standards, development standards, and general requirements under this chapter;

The proposed automobile sales and services uses are allowed in the CR zone. As part of this Amendment, the Applicant proposes an increase in floor area by 5,525 square feet for the building on Lot 32. The changes made by the Site Plan Amendment meet all the requirements of the zone as shown by the data table below, except for proposed waivers to the Zoning Code's Build-to Area and Blank Wall requirements.

The Board grants the proposed waiver from the Build-to Area front setback requirement from Prosperity Terrace to the north on Lot 32, as allowed 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.

According to CR Standard Method Development Standards, buildings are required to have 70% of the building façade in front of a maximum setback of 20 feet. On Lot 32, the existing building is set back 60 feet. The Subject Application proposes additions to the existing building, thus the waiver needed is for the existing condition. To meet the Build-to Area requirements a total reorientation of the building would be required, which is not proposed as part of this Amendment. The continued land use as Automobile Sales and Services is by definition an auto-oriented use, with people almost always driving to the location. However, the Property does provide sidewalks along the Site frontage, and pedestrian and landscape improvements are proposed as part of the Subject Application. The Applicant will replace the existing sidewalks and provide more trees along the Property frontage as part of the Subject Application. Also proposed is an inter-lot connection between Lots 32 and 33, which will allow cars to circulate more effectively without entering onto Prosperity Drive, Prosperity Terrace, or Whitethorn Court. The Site 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, incorporates design elements that engage the

surrounding publicly accessible sidewalk. In this case, the proposed building addition is associated with an existing building that will remain in the future condition. That existing building was constructed prior to any build-to requirements and relocation of the existing building and associated addition is not feasible as part of the subject amendment.

According to CR Standard Method Development Standards, buildings are required to have 70% of the building façade in front of a maximum setback of 20 feet. On Lot 32, the existing building is set back 60 feet, and on Lot 33 the existing building is set back 120 feet. The Subject Applications propose additions to the existing buildings, thus the waiver needed is for the existing condition. To meet the Build-to Area requirements a total reorientation of the buildings would be required, which is not proposed as part of this Amendment. The continued land use as Automobile Sales and Services is by definition an auto-oriented use, with people almost always driving to the location. However, the Property does provide sidewalks along both frontages, and pedestrian and landscape improvements are proposed as part of the Subject Application. The Applicant will replace the existing sidewalks and provide more trees along the Property frontage as part of the Subject Application. Also proposed is an inter-lot connection between Lots 32 and 33, which will allow cars to circulate more effectively without entering onto Prosperity Drive, Prosperity Terrace, or Whitehorn Court.

The Board grants the proposed waiver from the Building Transparency requirement that the building must have a maximum of 35 feet of blank wall, as allowed per 59-4.5.3.C.5.a:

Building Orientation and Transparency requirements may be modified by the Planning Board in a site plan 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 Building Orientation and Transparency 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.

According to the CR Standard Method Development Standards, buildings are required to have a maximum of 35 feet of blank wall. The existing building includes large portions of blank wall that exceed 35 feet. However, the nature of the Automobile Sales and Services use necessitates these blank walls, and also provides high levels of transparency for other parts of the façade. The blank walls present on the building are less than 6 feet tall, and are on the second floor

of the building, therefore minimizing the damaging effect that blank walls can have on the streetscape and pedestrian environment. Additionally, this existing condition is not significantly affected by the additions proposed as part of this Amendment. Thus, the deviation from the transparency requirement is the minimum needed to accommodate the existing building. Proposed as part of the Subject Application are also improvements to sidewalks and landscape trees that will improve the pedestrian experience. Circulation between two adjacent properties will also be improved with the addition of an inter-lot connection between Lots 32 and 33. These design elements help to engage and improve the surrounding public spaces.

Table 1: Site Plan No. 81990069C (Lot 32) Data Table

Standard (CR-.75, C-.75, R-.25, H-75')	Required	Previously Approved	Approved with Amendment
Lot Area (min)	n/a	189,486 sf	189,486 sf
Density (max)	.75 FAR	18,475 sf (.0975 FAR)	24,000 sf (.127 FAR)
Coverage (max)	n/a	n/a	
Front Setback	0'	52 feet	52 feet
Side Street Setback	0'	n/a (no side street for this site)	n/a (no side street for this site)
Side Setback	0'	58 feet	58 feet
Rear Setback, abutting all other zones	0'	192 feet	192 feet
Height	75 feet	24 feet	24 feet
Build-to Area (Waiver Requested)	70% of building façade in front of maximum setback of 20 feet	Building set back 60 feet	Building set back 60 feet
Transparency (Waiver Requested)	Maximum blank wall of 35 feet	100 feet	100 feet
Parking			
Minimum	1 space per 1,000 sf of GFA	N/A	24
Maximum	2.5 spaces per 1,000 sf of GFA	93	60
Vehicle Parking Spaces Provided		93 spaces	50 spaces
Vehicle Spaces Used as Vehicle Storage		230 spaces	236 spaces

- e. Satisfies the applicable requirements of:
 - i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and
 - ii. Chapter 22A, Forest Conservation

The Site Plan has received an approved Forest Conservation Exemption designated 42022131E for Lot 32. The Subject Amendment meets all requirements of Chapter 22A. The Subject Amendment received a Stormwater Management concept approval for Lot 32 on June 2, 2022.

- f. Provides safe, well integrated parking, circulation patterns, building massing and, where required, open space and amenities;*
 - i. Parking and Circulation Patterns*
 - ii. Buildings and Structures*
 - iii. Open Spaces*
 - iv. Landscaping and Lighting*
 - v. Pedestrian and Vehicular Circulation Systems*

The proposed Amendment will improve the landscaping and circulation systems on the Property. New landscaping in the form of trees along the frontage of the Property, as well as along the property line between Lot 32 and Lot 33, will be added as part of this Amendment. Circulation within the two lots will be improved with the addition of an inter-lot connection being added between the two properties, allowing vehicular traffic to travel between the two lots without exiting on to Prosperity Terrace. Proposed as part of this Amendment are also landscape and sidewalk revisions to improve the pedestrian experience. All other building and structure locations, open spaces, recreation facilities, landscaping, lighting, and circulation systems remain adequate, safe, and efficient.

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

The Subject Property is within the boundaries of the 2014 White Oak Science Gateway Master Plan, in the Life Sciences/FDA Village Center. Although the Master Plan provides no specific guidance for the Subject Property, it recommends that over the long term this cluster should transition from light industrial uses to a mix of commercial uses with mixed uses at key locations. To promote that transition, the Property was rezoned to the CR zone, with density mixes that prioritize commercial uses. Retaining and improving existing uses is consistent with the near-term goals of the plan.

The Subject Application conforms to the goals and recommendations of the 2014 *White Oak Science Gateway Master Plan*.

- h. Will be served by adequate public 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 services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

Adequate Public Facilities are available to serve the Subject Property. The proposed development will be served by public water and sewer systems. Fire and Rescue has reviewed the application and has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Growth and Infrastructure Policy and will continue to be sufficient following the construction of the project. Electric, gas and telecommunications services will also be available and adequate.

Local Area Transportation Review

The development of Lot 33 was previously approved with Phases 1A and 1B, prior to the eventual construction of a Phase 2. In total, 24,405 square feet of occupiable space was approved pursuant to the original Site Plan application number 819940260, with 16,150 square feet associated with Phase 1A and 2,505 square feet associated with Phase 1B. Phase 2, which includes the remaining 5,750 square feet under the original approval, has yet to be built. As part of an accompanying Site Plan Amendment application (Site Plan No. 81994026C), the Applicant proposes to retain the remaining and unbuilt 5,750 square feet, in addition to a proposed building increase of 3,320 square feet on Lot 33.

Meanwhile, as part of this Application, the Applicant also proposes to construct a 5,525-square foot expansion to the existing 18,475-square foot structure on Lot 32. While the two lots were previously reviewed under separate approvals due to formerly being owned by individual parties, they presently fall under the same review of Adequate Public Facilities (APF) due to their current status under the same ownership.

When considered together, the proposed expansion on Lots 32 and 33 generate an estimated 24 net new morning peak hour person trips and 22 net new evening peak hour person trips. This impact to the transportation network is less than 50 peak hour person trips, therefore the traffic analysis for the Subject Application is

satisfied through a traffic statement. No further transportation analysis is required.

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

Not applicable, the Subject Property is zoned CR.

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

The continued use of Lot 32 as an Automobile Services and Sales establishment continues to be compatible with other uses in the area, which is dominated by commercial development. This commercial development includes other Automobile Services and Sales uses, as well as other heavy commercial and office uses that are served by large surface parking lots.

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 **remains August 11, 2022, which is the date that the original resolution was mailed to all parties of record** is _____ (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 the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 4-0-1, Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Rubin voting in favor, Commissioner Patterson abstaining, at the regular meeting held on Thursday, September 8, 2022, in Wheaton, Maryland and via video conference..



Casey Anderson, Chair
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