

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-057
Site Plan No. 82005022F
Chick-fil-A Tech Road
Date of Hearing: May 18, 2023

JUN 06 2023

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, under Section 59-7.7.1.B.3, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on June 2, 2005, the Planning Board approved Site Plan No. 820050220 for up to 44,000 square feet of commercial development within seven freestanding buildings on separate pad sites on 8.54 acres of I-1 and RE-2 zoned-land, within the U.S. 29/Cherry Hill Road Employment Area Overlay Zone, located at the eastern quadrant of the intersection of Tech Road and Prosperity Drive ("Subject Property"), in the 1997 *Fairland Master Plan* area; and

WHEREAS, on August 9, 2005, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82005022A for minor revisions to a bank building footprint, canopy, and landscaping on Pad Site 1; and

WHEREAS, on November 8, 2006, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82005022B (MCPB No. 06-94), to alter the building footprint, paved walkway, pad site landscaping and loading dock/trash area for a freestanding restaurant building on Pad Site 4, T.G.I. Fridays; and

WHEREAS, on November 8, 2006, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82005022C (MCPB No. 06-91), to alter the building footprint from the originally approved site plan, the paved

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

walkway surrounding the building, site landscaping, and addition of loading dock/trash enclosure area on Pad Site 7, IHOP Restaurant; and

WHEREAS, on October 16, 2007, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82005022D (MCPB No. 07-148), to modify building footprint, circulation, paving, and other site details on Pad Site 3, Panera Bread on the Subject Property; and

WHEREAS, on August 25, 2009, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82005022E (MCPB No. 09-83), to modify the building footprint, outdoor patron area and other site details on Pad Site 2, Chick-Fil-A on the Subject Property; and

WHEREAS, on February 16, 2023, Chick-fil-A, Inc. ("Applicant") filed an application for approval of an amendment to the previously approved site plans for a minor building expansion; additional pedestrian access from the back of the building to the front as well as a safe pedestrian connection from the rear drive aisle; relocation of the utility transformer; and dumpster enclosure concrete replacement on Pad Site 2, Chick-Fil-A; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82005022F, Chick-Fil-A Tech Road ("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 May 5, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 18, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Bartley, seconded by Vice Chair Piñero, with a vote of 5-0; Chair Zyontz, Vice Chair Piñero, Commissioners Bartley, Hedrick, and Pedoeem voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82005022F for a minor building expansion; additional pedestrian access from the back of the building to the front as well as a safe pedestrian connection from the rear drive aisle; relocation of the utility transformer; and dumpster enclosure concrete replacement by adding the following condition: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.

1. At the time DPS collects development impact taxes, the Applicant must comply with the White Oak Local Area Transportation Improvement Program (LATIP). The LATIP may be satisfied by either the payment of the required fee according to Chapter 52 and the 2020-2024 Growth and Infrastructure Policy, or construction of an improvement identified in "White Oak Science Gateway LATR/LATIP Cost Estimating Analysis White Paper" dated May 2019, as determined by MCDOT.

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 Site Plan Amendment No. 82005022F, Chick-Fil-A Tech Road, 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 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:

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.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As demonstrated by Table 1, below, the Site Plan Amendment will satisfy the density and green space requirements of the I-1 and US 29/Cherry Hill Employment Overlay Zones from the Zoning Code in effect on October 29, 2014. All other development standards remain unchanged with this Amendment and remain in compliance with the Property's zoning in effect on October 29, 2014.

**Table 1: Data Table for I-1 and US 29/Cherry Hill Employment Overlay Zones
Sections 59-C-5.3 and 59-C-18.13 (Zoning Code in Effect on October 29, 2014)**

Development Standard	Permitted/ Required I-1 Zone	Permitted/ Required Overlay Zone	Previously Approved¹	Approved with 82005022F
Density (max)				
Overall Property	n/a	50,000 ²	31,193 sf ³	31,373 sf
Chick-Fil-A	n/a	n/a	5,150 sf ⁴	5,330 sf
Green Space (min)	10%	35%	36.9%	36.7%
Overall Property		(130,166 sf)	(137,348 sf)	(136,568 sf)

¹ Site Plan No. 820050220, as amended.

² Any square footage devoted to eating and drinking establishment use is in addition to this amount.

³ Site Plan No. 820050220 approved 44,000 sf of commercial uses. Subsequent amendments approved with each pad side reduced the square footage to 31,193 sf.

⁴ Site Plan Amendment No. 82005022E.

The Chick-Fil-A is expanding by 180 square feet. In accordance with the 2020-2024 *Growth and Infrastructure Policy*, a transportation impact study is not required to satisfy the Local Area Transportation Review (LATR) test for this expansion because projects within the White Oak Policy Area are exempt from the LATR but are subject to a Local Area Transportation Improvement Program (LATIP). The LATIP program is designed to cost share currently planned transportation improvements for the area. The Applicant will pay a fee per their assumed impact based on trip generation, to the satisfaction of the Montgomery County Department of Transportation (MCDOT), which operates the LATIP program.

The parking requirement for a restaurant is based on the patron area. Since the Chick-fil-A is increasing the non-patron area of the restaurant, there is no change in the parking requirement.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The expansion of the restaurant will have a negligible impact on the overall site design. The additional sidewalk enhances connectivity for restaurant employees between the front of the restaurant and the kitchen in the rear of the restaurant. The relocated landscaping will provide adequate and attractive buffering between the new sidewalk and the drive aisle.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The changes proposed with this Amendment are within the limit of disturbance of approved Final Forest Conservation Plan No. 820050220. Therefore, the Amendment meets all requirements of Chapter 22A regarding forest conservation.

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-D-3.8; 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 JUN 06 2023 (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 Hedrick, seconded by Commissioner Pedoeem, with a vote of 4-0, Chair Zyontz, and Commissioners Bartley, Hedrick, and Pedoeem voting in favor Commissioner Piñero necessarily absent, at its regular meeting held on Thursday, May 25, 2023, in Wheaton, Maryland and via video conference.

A handwritten signature in dark ink, appearing to read 'Jeffrey Zyontz', is written over a horizontal line.

Jeffrey Zyontz, Chair
Montgomery County Planning Board