



Plaza Del Mercado Limited Site Plan Amendment 82006004A

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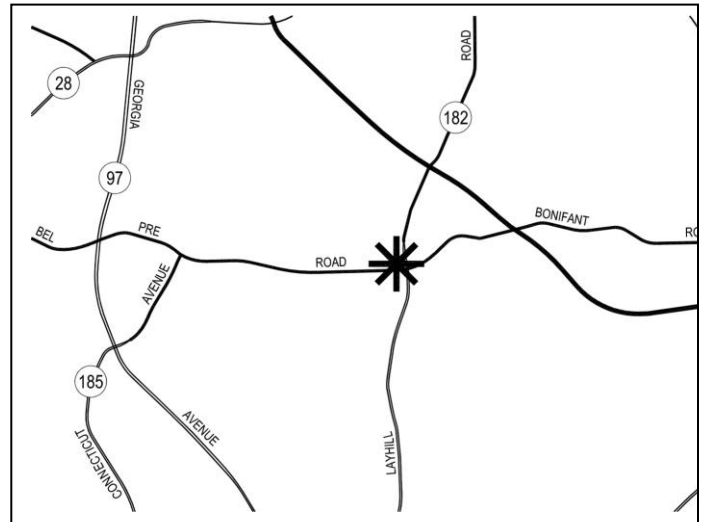
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Staff Report Date: 9/11/15

Description

- Request to amend a previous approval for 130,236 square feet for a grocery store and other retail to the proposed 113,962 total square feet for a new 37,000-square-foot health club, a new 18,294-square-foot grocery store, and existing automobile filling station and retail uses; improve internal site circulation, and add landscaping;
- Located in the northwest quadrant of the intersection of Layhill Road and Bel Pre Road, within the 1994 Aspen Hill Master Plan;
- 9.76 acres in the NR 0.75 H-45 Zone;
- Applicant: FLV Plaza Del Mercado, LP;
- Submitted date: 9/19/14.



Summary

- Staff recommends approval with conditions and retention of three previously approved landscape waivers.
- Staff reviewed this Amendment under the C-1 provisions of the Zoning Ordinance in effect on October 29, 2014 pursuant to the grandfather provisions of Section 7.7.1.B.1 of the current Zoning Ordinance, except for parking requirements.

Staff Recommendation and Conditions

Staff recommends approval of Site Plan 82006004A for a reduction in the total square footage of the existing shopping center from 130,236 square feet of gross floor area to 113,962 square feet of gross floor area to accommodate a new grocery store with 18,294 square feet of gross floor area and a health club with 37,000 square feet of gross floor area in the NR-0.75 H-45 Zone. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions, which supersede all conditions approved with Site Plan No. 820060040:

Environment

1. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its letter dated March 24, 2015, and hereby 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 Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Stormwater Management easements and facilities.

Facilities and Amenities

2. Facilities and Amenities

- a. The development must meet applicable accessibility standards under the Americans with Disabilities Act.
- b. The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to sidewalks, landscaping, and benches.

Transportation and Circulation

3. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Service (MCFRS) Fire Code Enforcement Section in its letter dated April 21, 2015 and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

4. Inter-parcel Connection

The applicant must provide an easement for an inter-parcel vehicular and pedestrian connection to be located along the east property line, to the northeast of the existing automobile filling station, approximately 170 feet north of Bel Pre Road. The easement area shall be approximately 25 feet wide to permit two-way vehicular access and a sidewalk. The applicant must provide necessary site improvements and modifications within the inter-parcel easement area to complete a vehicular and pedestrian connection across the east property line when the adjoining property to the east redevelops, provides a similar inter-parcel access easement, and constructs the improvements on the adjoining property necessary to complete this connection. The number of parking spaces provided on Site Plan 82006004A may be reduced by the Planning Board to accommodate this connection.

Site Plan

5. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet SD-1 of the submitted architectural drawings, as determined by M-NCPPC Staff.

6. Building Height

The maximum height for the new grocery store and health club is 45 feet, as measured from the average elevation of finished grade to the highest point of a flat roof, and as illustrated on the Certified Site Plan and allowed under Section 59-C-4.342(c)(1) of the Zoning Ordinance in effect prior to October 30, 2014.

7. Landscaping

- a. Prior to issuance of any use-and-occupancy permit, all on-site amenities including sidewalks, bicycle spaces, landscaping, benches, and trash receptacles must be installed.
- b. Street tree planting may wait until the next planting season.

8. Lighting

- a. Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for commercial development.
- b. All onsite down-lights must have partial or full cut-off fixtures.
- c. Deflectors must be installed on all fixtures causing potential glare or excess illumination.
- d. Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting residential properties.
- e. The light pole height for the proposed lights must not exceed 14 feet including the mounting base.
- f. No lighting shall be installed on any building rooftop.

9. Site Plan Surety and Maintenance Agreement

Prior to issuance of the first building permit, 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-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon M-NCPPC Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, trash enclosures.
- 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 inspection and potential reduction of the surety.

10. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan.

11. 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) Modify data table to reflect development standards approved by the Planning Board.
- b) Ensure consistency of all details and layout between Site and Landscape plans.
- c) Include the easement area for a future inter-parcel connection along the east property line as required by condition no. 4

Project Description

Vicinity

The Subject Site is located in the northwest quadrant of the Layhill Road and Bel Pre Road intersection, and is surrounded by multifamily and commercial uses. North and west of the Subject Site is an R-30 multifamily community; further north is the Argyle Country Club; to the east is a similar C-1 shopping center development; and to the south across Bel Pre Road are a PD-7 townhouse development and Argyle Middle School.



Figure 1: Vicinity Map

Site Description

The Subject Site is 9.76 acres known as Lots 2 and 4 of the Tremoulis Property Layhill. It is zoned NR-0.75 H-45 (previously zoned C-1). It currently contains an 89,379-square-foot shopping center with a vacant 1,927-square-foot automobile filling station on a separate pad site along Bel Pre Road. The Subject Site is partially enclosed with fencing along its east, west, and south sides.



Figure 2: Site Map

Previous Approvals

On March 28, 2006, the Planning Board approved Site Plan No. 820060040 for 130,236 square feet of retail for lots 2, 3, 4 to allow the Giant supermarket to expand. After the approval Giant vacated the property before doing the expansion.

On July 31, 2012, the Planning Board approved Site Plan No. 820120060, which is a separate site plan for a McDonald's restaurant along the Subject Site's Bel Pre Road frontage (Lot 3). This Site Plan for Lot 3 is not part of this Site Plan Amendment.

Existing Landscaping and Setback Waivers

There are previously approved landscaping and setback waivers on the Subject Site (figure 3). The first waiver is along Bel Pre Road where the existing landscape strip width is less than the 10 feet required by the Zoning Ordinance (Section 59-E-2.71).

The second waiver is along the northeast corner of the Site where the Site is not providing the trees and berms required in Section 59-E-2.72. The third waiver is on the northwestern side of the Subject Site where the parking setback is two feet less than the ten feet required in Section 59-E-2.81. This location also includes a waiver from 59-E-2.9 where the number of evergreen hedges is less than the required amount because the existing trees provide adequate screening.

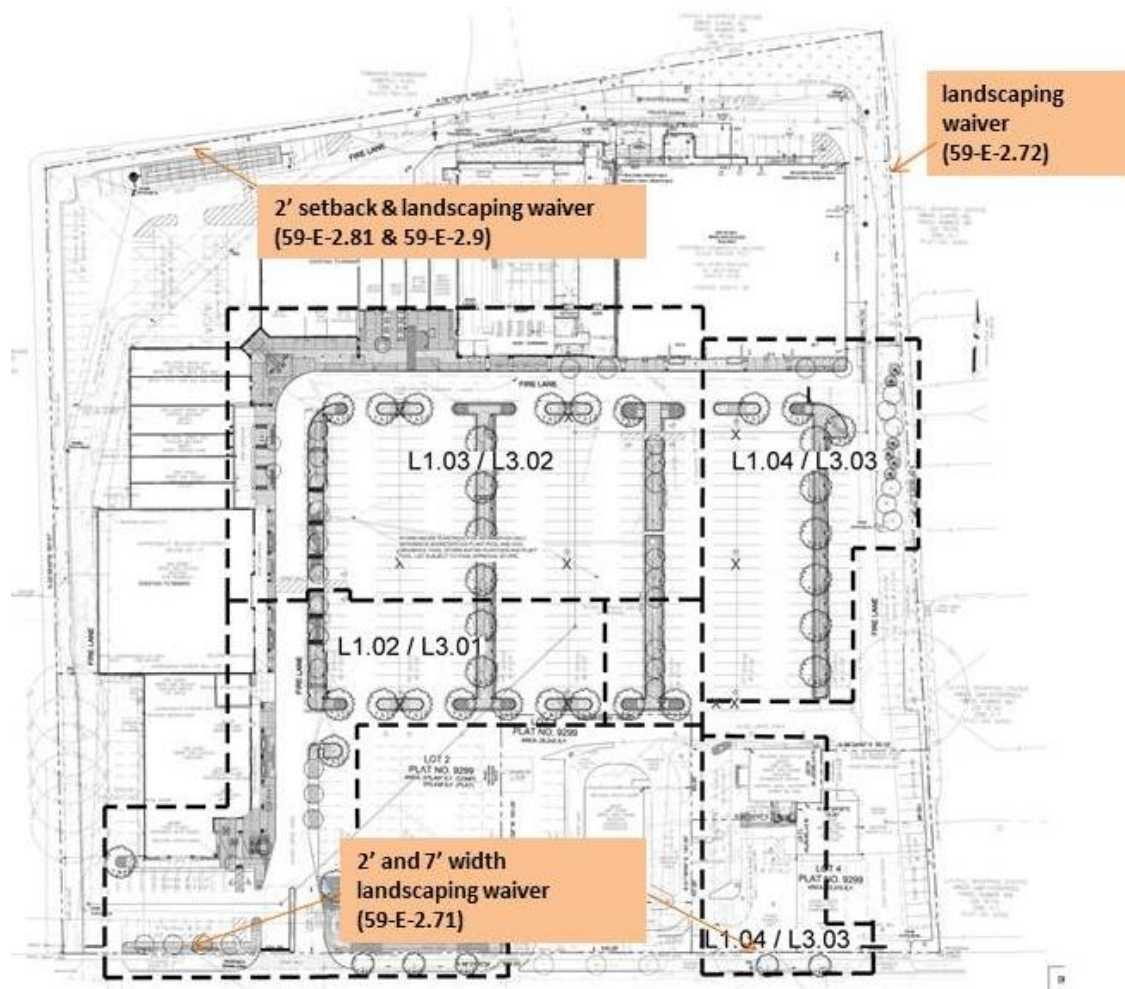


Figure 3: Existing Landscape Waivers

No significant land use changes have occurred on the adjoining properties since the waivers were approved in the original site plan. Therefore, Staff recommends that the waivers be permitted to continue.

Proposal

This Site Plan Amendment will remove a 35,000-square-foot portion of the existing shopping center that contains retail and a vacant one-story grocery store and replace it with a new 18,294-square-foot grocery store and a new 37,000-square-foot health club building. It will reduce the building footprint approved in the original Site Plan. The new development, along with the remaining existing development, will result in 113,962 square feet on the Subject Site, which is less than the 126,683 (total approved development without the 3,553 McDonald's building) for the Subject Site in the original site plan. This Site Plan Amendment will make architectural façade, sidewalk, and landscape improvements. It will also improve the parking lot areas by adding landscape parking lot islands, and other landscaping.

This Site Plan Amendment also proposes removing two traffic mitigation conditions related to the approved but never built development in the original Site Plan. Since this Site Plan Amendment will reduce the total floor area on the Subject Site compared to what was approved per the original site plan, (Site Plan No. 820060040), two of the conditions of approval for the original Site Plan are no longer needed because the proposed project will generate fewer than 30 peak hour trips. The two conditions are:

***1b.** Satisfy Local Area Transportation Review by adding a separate right-turn lane with a taper on the eastbound approach of Bel Pre Road at the intersection of Layhill Road in accordance with the Montgomery County Department of Permitting Services (DPS) requirements. Relocate the median along Bel Pre Road with a pedestrian refuge across the intersection's crosswalk. Along Bel Pre Road maintain the sidewalk on the north side of the road, and locate the Class I bike path (not less <than> seven feet wide) immediately adjacent to the curb on the south side of the road. Modify the handicapped ramps, crosswalks, traffic signal installation and operation at this intersection as necessary and required by DPS. All improvements shall be complete and open to traffic prior to issuance of any use and occupancy permit for the renovated and expanded areas.*

***1c.** Enter into a Traffic Mitigation Agreement (TMAG), signed and executed by the Planning Board and the Montgomery County Department of Public Works and Transportation (DPWT) prior to approval of the signature set to effectively promote alternative modes of transportation to driving alone and parking within the shopping center. The TMAG shall include installation of a real-time transit sign at a location visible to employees and customers in the shopping center.*



Figure 4: Site Plan

Analysis

Master Plan Analysis

The Subject Site is within the 1994 *Aspen Hill Master Plan* area. The Master Plan identifies it as "Significant Parcel No. 26" (pg. 80) in the Land Use section and recommends it for redevelopment. These recommendations include connecting Plaza Del Mercado with adjoining residences near the rear of the Site by providing adjoining residents with rear access to the stores through a portion of the existing fence (Pg. 57, Figure 19).

The Master Plan also recommends considering the pedestrian shopping convenience as redevelopment occurs by providing well-lit and well-marked pedestrian circulation between the Subject Site and the transit, residences, and stores.

The proposed Site Plan Amendment includes a gate in the rear of the Subject Site to provide a pedestrian entrance for the neighboring residential community. The Site will have adequate lighting and the enhanced landscaping and seating areas to improve the pedestrian experience on the Subject Site.

The Master Plan also recommends locating new structures near Bel Pre and Layhill Roads to frame the road corridor, conceal parking, and animate the street. The Master Plan envisioned these changes occurring in a large scale redevelopment of the Site. The proposed Site Plan Amendment is a limited amendment and most of the existing development will remain so the proposal is not in conflict with this recommendation.

Inter-parcel Connection with Layhill Shopping Center

The Master Plan recommends working with the adjacent Layhill Shopping Center to provide a pedestrian and vehicular connection between the two centers. "Plaza Del Mercado is encouraged to work with the adjacent Layhill Shopping Center to provide a vehicular connection between the two. This would facilitate the movement of traffic between the centers and reduce the amount of traffic on Bel Pre and Layhill Roads," (p. 80). The Applicant has approached the owner of the Layhill Shopping Center about completing the connection between the two properties but the Layhill owner is not supportive. In an effort to facilitate a connection in the future, condition 1e on the original site plan requires that two connection easements be provided along the eastern property line shared with Layhill Shopping Center. The first is shown on the original site plan and located near the automobile filling station (see figure 5). The second is not on the plan but was required to serve as an alternative connection option. Neither of these required easements is shown on the proposed Site Plan Amendment.

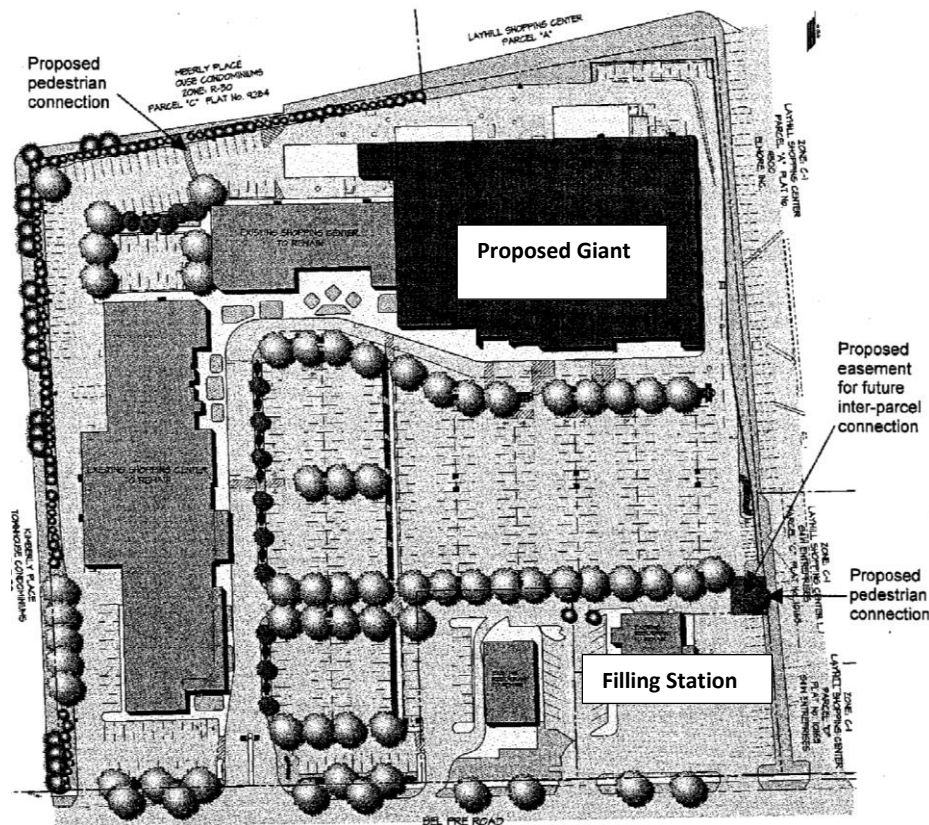


Figure 5: Original Site Plan (820060040)

The original condition stated:

Original Site Plan 820060040 Condition 1e

Provide for a future inter-parcel access by granting an easement adjacent to the eastern property line. In addition to the connector easement area located to the northeast of the existing automobile filling station, approximately 170 feet north of Bel Pre Road, an alternative connector easement area located to the east of the proposed grocery store and health club shall be provided. The applicant shall provide necessary site improvements and modifications within one of these two inter-parcel easement areas to complete a vehicular and pedestrian connection across the east property line when the adjoining property owner to the east agrees to provide an inter-parcel connector.

Staff recommends that this condition be modified so that only one of the two easements is required on the eastern property line border.

Modified Condition 1e (condition 4 in this Amendment)

The applicant must provide an easement for an inter-parcel vehicular and pedestrian connection to be located to the northeast of the existing automobile filling station, approximately 170 feet north of Bel Pre Road, as shown on Site Plan 82006004A. The easement area shall be approximately 25 feet in width to permit two way vehicular access and a sidewalk. The applicant must provide necessary site improvements and modifications within the inter-parcel easement area shown on Site Plan 82006004A to complete a vehicular and pedestrian connection across the east property line when the adjoining property to the east redevelops, provides a similar inter-parcel access easement and constructs the improvements on the adjoining property necessary to complete this inter-parcel connection. The number of parking spaces provided on Site Plan 82006004A may be reduced by the Planning Board to accommodate this connection.

Staff recommends that the previously approved inter-parcel connection condition be maintained but modified to only require the easement for a future connection, at a location near the automobile filling station, where the grading will be minimal.

Environment

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #42015013E) on August 8, 2014. There are no forests, streams, wetlands, floodplains, or environmental buffers on the Subject Site, which is located in the Northwest Branch watershed. The proposed project is in compliance with the Environmental Guidelines.

Forest Conservation

The proposed Site Plan Amendment is exempt from Article II of the Montgomery County Code, Chapter 22A (Forest Conservation Law) per Section 22A-5(t) since it is a modification to an existing developed property and meets the following requirements:

1. the modification does not remove more than 5,000 square feet of forest;
2. does not affect any forest in a stream buffer, or is located on a property in a special protection area requiring a Water Quality Plan; and
3. the modification does not require approval of a new subdivision plan.

Transportation

Site Location and Vehicular Access

Vehicular access to the Subject Site is provided by four full-access driveways and one right-turn-only exit off of Bel Pre Road. There are no existing vehicular inter-parcel connections between Plaza Del Mercado and any of the neighboring properties.

Master Plan Roadway and Bikeway

According to the 1994 *Aspen Hill Master Plan* and *Master Plan of Highways*, Bel Pre Road is designated as a five-lane arterial (A-40) with a recommended right-of-way of 80 feet. The 2005 *Countywide Bikeways Functional Master Plan* recommends a shared use path (SP-30) along this segment of Bel Pre Road (Georgia Avenue to Layhill Road). There is currently a sidewalk along the north side and a shared use path along the south side of Bel Pre Road in the vicinity of the Subject Site.

Public Transit Service

Transit service is available as follows:

1. Ride-On routes 49 and 51 operate along the Bel Pre Road.
2. Ride-On routes 26, 39, 49, and 51 operate along nearby Layhill Road, approximately 500 feet to the east.

Pedestrian Circulation

The proposed Site Plan Amendment will provide a new pedestrian connection in the northwest corner of the Subject Site (through the existing fence) to Innsbruck Lane and the residential neighborhood to the north.

Recommended Bicycle Facilities

The proposed Site Plan Amendment will provide 16 bicycle parking spaces along the sidewalk next to the existing retail buildings and the new health club.

Local Area Transportation Review (LATR)

The proposed Site Plan Amendment reduces the overall size of the approved development by 12,721 square feet. Therefore, it will result in reduced trips during both weekday morning (6:30 to 9:30 AM) and evening (4:00 to 7:00 PM) peak hours.

The trip generation analysis utilized the 'General Retail with Major Food Chain Store' trip rates for the retail/grocery component and the 'General Office' trip rates for the relatively small office component as provided in the 2013 LATR & TPAR Guidelines. For the new health club use, the peak hour trip rates for the category 'Health Club' from the Institute of Transportation Engineers, Trip Generation Manual, 9th Edition were used. A pass-by rate of 34% was assumed for the retail/grocery uses during the weekday evening peak hour only, while a pass-by rate of 33% was assumed for the health club during both weekday morning and evening peak hours.

Transportation Policy Area Review (TPAR)

A TPAR payment is not required for this Site Plan Amendment because the Site Plan Amendment does not increase the overall building square footage (it reduces it by 12,721 sq. ft.; the transportation impact tax is based on increased square footage).

Community Concerns

Staff received a phone call from a representative of the Strathmore Community Civic Association on July 2, 2014, and later followed up with him on June 23, 2015. He would like a pedestrian and vehicular connection between the Site and the adjoining Layhill Shopping Center to the east, but is aware that the owner of the Layhill Shopping Center does not want this connection. Staff advised him that the connection cannot be made until the Layhill Shopping Center is redeveloped. He is supportive of the project because it includes a grocery store but he is skeptical about having a health club because there are other health clubs in the area. He also advised Staff that generally the community is supportive of having a grocery store on the Subject Site but some people prefer a higher quality grocery store.

Findings

A Site Plan filed “before October 30, 2014 must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014.” Since this application was accepted on September 19, 2014 it is being reviewed under the provisions of Section 59-D-3 of the previous Zoning Ordinance. However, pursuant to Section 7.7.1.B.3.b of the New Zoning Ordinance, the Site Plan’s parking requirement is being reviewed under the new Zoning Ordinance.

Section 59-D-3.4. (c) of the previous Zoning Ordinance states that the Planning Board, in reaching its decision, must require that:

- (1) The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;*

The Subject Site does not have a development plan or a diagrammatic plan.

- (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.*

The proposed commercial uses are allowed in the C-1 Zone. The Site Plan Amendment meets all the requirements of the C-1 Zone as shown by the data table below and the parking requirements under Section 6.2.3 and 6.2.4 under the new Zoning Ordinance. The Site is not located in an Urban Renewal area.

Previous Zoning Ordinance:

Development Standards	Required	Provided in Amendment
Maximum amount of health club use Permitted in C-1 Zone	40% of gross floor area of retail center	32.7% of retail
Maximum Building Height (feet) (59-C-4.342)	45	45
Minimum set back from lot lines (59-C-4.343)		
From Street right of way (feet)	10	38
From Side Property Line Adjacent to Residential uses (feet)	10	32
From Rear Property Line Adjacent to Residential uses (feet)	10	40
Minimum Green Area (59-C-4.344)	10%	16.4%
Minimum width of Landscape strip area adjacent to a street right-of-way (59-E-2.71)	10 feet width with one shade or ornamental tree every 40 feet along lot frontage, 3-foot evergreen hedge, a wall or fence or other screening method	Varies between 3 and 8 feet, Shade trees provided every 40-feet ¹
Minimum width of Perimeter Landscape area adjoining property other than a street right-of-way (59-E-2.72)	4-foot wide landscape strip with one shade tree every 40 feet and berm if space permits	4-foot wide landscape strip; no trees provided along northeastern property line ¹
Minimum setback for parking facilities within or adjoining residential zones (59-E-2.81)(59-C-2.413 R-30 setbacks) (59-E-2.9 screening requirements)	10-foot setback, wall, fence, or 3-foot evergreen hedge	8-foot setback along northern property line, evergreen trees ¹
Internal Landscaping (59-E-2.73)	5%	8.5% (16,720 sq. ft.)
Minimum size of planting islands within internal landscape area (59-E-2.74)	Planting islands at heads of parking spaces 8 feet and provide shade trees	8-feet minimum width and includes shade trees

¹The Applicant is requesting to maintain the three existing landscaping waivers on the Site pursuant to Section 59-E-4.5 as described below.

New Zoning Ordinance: Parking Requirements

Development Standards	Required	Provided in Amendment
Minimum Off-Street Parking (Section 6.2.4.A)		
Restaurant	28 (4 sp /1000 Gross Patron sq. ft.)	28 spaces
Office	22 (2.25 sp/1000 sq. ft.)	22 spaces
Retail	276 (5 sp/1000 sq. ft.)	276 spaces
Health Club	93 (2.5 sp/1000 sq. ft.)	93 spaces
Service Station	5 (2.5 sp/1000 sq. ft.)	5 spaces
Total Off-Street Parking	424 spaces	554 spaces ²
Minimum Bicycle Spaces (Section 6.2.4.C)	15	16
Minimum Motorcycle Parking (Section 6.2.3.C)	10 spaces (2% of automobile spaces. 10 Max)	10 spaces

² 19 spaces being shared with lot 3 McDonalds, per 820120060, are not included here.

(3) *The locations of building and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;*

Building and Structures

The location of the new buildings will be adequate, safe, and efficient. The building is for a health club and a grocery store. It will be placed within the existing building’s footprint of the vacant grocery store, thereby maintaining the bulk and scale of the existing building. The land uses are similar to the existing uses on the Subject Site and similar to the uses on the neighboring sites.

Public Open Space & Landscaping

The location of the landscaping is adequate, safe and efficient. Over eight percent of the Site will be landscaped which is more than the five percent required by the previous Zoning Ordinance. And, over 16 percent of the Site will remain green area, which is more than the 10 percent required by the Zoning Ordinance. Benches, tables, and seating will be located along the shopping center’s sidewalk.

Recreation Facilities

There are no recreation facilities included since the proposed Site Plan Amendment does not include residential uses.

Vehicular and Pedestrian Circulation

Pedestrian and vehicular circulation are adequate, safe, and efficient. Vehicular access is provided by four full-access driveways and one right-turn-only exit. Pedestrian access will be improved with a new pedestrian connection in the northwest corner of the Site (through the existing fence) to Innsbruck Lane and the residential neighborhood to the north. There will also be an improved sidewalk with green panel along Bel Pre Road. The existing sidewalks along the shopping center buildings will continue to aid pedestrian circulation.

(4) The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resources protection, and any other applicable law.

The Site Plan Amendment is exempt from the Montgomery County Forest Conservation Law, as discussed in the Environment Section. It is in compliance with the County's Stormwater Management Requirements and the Environmental Guidelines.

Conclusion

Staff recommends approval of Site Plan Amendment 82015007A with conditions. The location of the buildings, vehicular and pedestrian circulation, open space, landscaping and lighting are adequate, safe, and efficient. The proposed development, with the conditions of approval stated in the beginning of this report, is compatible with the neighboring commercial and multifamily residential development in the area. As discussed earlier, this Site Plan Amendment is in compliance with Chapter 19, water resources requirements and exempt from Chapter 22A, forest conservation requirements.

Attachments:

1. 820060040 Site Plan Opinion
2. Forest Conservation Exemption Letter
3. Agency Letters

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date of Mailing: MAR 28 2006

MONTGOMERY COUNTY PLANNING BOARD
OPINION

Site Plan No.: 820060040
Project: PLAZA DEL MERCADO
Date of Hearing: December 1, 2005

*Action: **APPROVAL SUBJECT TO CONDITIONS.** Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Robinson; with a vote of 4-1, Commissioners Bryant, Robinson, Perdue and Wellington, voting in favor and Commissioner Berlage, voting in opposition.*

The date of this written opinion is MAR 28 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State). This site plan shall remain valid as provided in Section 59-D-3.8.

I. INTRODUCTION

On July 14, 2005, the applicant, Federal Realty Investment Trust ("Applicant"), filed an application with the Planning Board for review of a proposed expansion of the existing shopping center located at 2211 Bel Pre Road and a request for waiver of the required number of parking spaces and parking lot landscape requirements. The application was captioned Site Plan Review #820060040 (formerly #8-06004) ("Application" or "Site Plan"). On December 1, 2005, Site Plan Review #820060040 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

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II. BACKGROUND

There is no record of a prior Preliminary Plan for the subject property. It consists of three recorded lots, Lots 2, 3, and 4, recorded at Plat Book 87, Plat No. 9299 in 1969.

III. THE SUBJECT PROPERTY

The subject 9.76-acre property consists of an existing shopping center located at 2211 Bel Pre Road, on the north side of Bell Pre Road approximately 1,000 feet west of its intersection with Layhill Road ("Subject Property"). The Subject Property is bounded by Layhill Shopping Center, zoned C-1, to the northeast and east, Kimberly Place townhouse development, zoned R-30, to the northwest and west, and Bel Pre Road on the south.

The Subject Property is currently developed with a Giant Food Store, retail and office uses, two restaurants, and an automobile filling station. The existing Giant Food Store and other retail uses are located in the northern portion of the Subject Property; the retail/office building is located in the western portion of the Subject Property; and the two restaurants and the automobile filling station are located in the southeast corner of the Subject Property.

Access to the Subject Property is from Bel Pre Road. Most of the existing parking is in the central portion of the Subject Property, although there is some existing parking along the north, south, east and west property lines. A 30-foot-wide water and sewer easement runs from the northwestern quadrant to the southwestern portion of the Subject Property. A 20-foot-wide storm drain right-of-way is located along the south and west sides of the existing Giant Food Store building. An existing pylon sign is located in the landscaped area on the east side of the entrance to the Subject Property. An existing pedestrian connection links the Subject Property to the Layhill Shopping Center to the east, although currently, a fence prohibits pedestrian movement between the properties.

IV. PROPOSED DEVELOPMENT

The Application proposes to expand the existing shopping center from 100,363 square feet gross floor area to a total of 130,236 square feet of gross floor area in order to accommodate a new Giant Food store. The retail uses on the western portion of the site will remain. The existing Giant building will be demolished and replaced with a new store consisting of a total of

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64,175 square feet. The proposed store will consist of 54,175 square feet of retail space and 10,000 square feet of office space at the mezzanine level. The Application proposes to locate two loading and receiving areas on the northern and western sides of the proposed building; compactor pads on the rear (north) of the proposed building and a retaining wall along the northeastern and eastern property lines.

The Application also proposed a concrete sidewalk connection between the sidewalk in front of the Giant store to the adjacent Kimberly Place townhouse property on the northwest side of the Subject Property. The existing pedestrian connection between the Subject Property and the adjacent Layhill Shopping Center to the east will be removed, and a new location is proposed for this pedestrian connection. The Application proposes to provide an easement for a future inter-parcel connection for vehicular and pedestrian access to the adjacent Layhill Shopping Center. The existing parking lot will be restriped. The existing retail/office building, restaurants and automobile service station will remain.

IV. DISCUSSION

A. Conformance to Master Plan

The Subject Property is included in the 1994 Aspen Hill Master Plan ("Master Plan"), where it is identified as Significant Parcel # 26 in the Land Use Chapter.¹ The Master Plan also includes an illustrative concept plan for redevelopment of the Subject Property, which shows improved landscaping with shade trees in the parking lot, a vehicular connection to the adjoining Layhill Shopping Center, pedestrian connections to the adjoining townhouse community in the rear of the shopping center, and improved pedestrian access from Bel Pre Road.² In particular, the Master Plan recommends 1) clear, well-lit and well-marked pedestrian circulation, and 2) a vehicular connection to the adjoining Layhill Shopping Center.

B. Inter-parcel Connection

The Master Plan recommends that vehicular and pedestrian connections be provided between the Subject Property and the adjoining Layhill Shopping Center.³ Such connections would reduce the need for vehicular traffic to travel onto Layhill and Bel Pre

¹ Aspen Hill Master Plan, p. 80 (1994).

² Aspen Hill Master Plan, p. 57 (1994).

³ Identified as Parcel #10, Aspen Hill Master Plan (1994).

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Roads in order to go from one shopping center to the other. Since the adjoining Layhill Shopping Center is not subject to a site plan review at this time, this Application includes a condition that the Subject Property will provide and contract for its portion of a vehicular and pedestrian connection between the two shopping centers at the time when the adjoining Layhill Shopping Center is required to provide such an improvement.

Two proposed connector easements on the Subject Property will facilitate the provision of future vehicular and pedestrian connection between the two shopping centers: first, a proposed connector easement area located to the northeast of the existing automobile filling station, approximately 170 feet north of Bel Pre Road; and second, an alternative connector easement area located to the east of the proposed Giant Food store. The Applicant should provide necessary site improvements and modifications within one of these two inter-parcel easement areas to complete a vehicular and pedestrian connection across the east property line when the owner of Layhill Shopping Center agrees to provide an inter-parcel connector.

The Master Plan also recommends provision of pedestrian paths between the Subject Property and the adjoining residential townhouse neighborhood to the north and northwest. The new access points should preferably be aligned with the existing paths in the townhouse development for a more direct line of travel.

C. Parking Waiver Request

The Applicant requested a waiver from the requirements of the following sections of Article 59-E of the Zoning Ordinance, Off-Street Parking and Loading:

The Applicant requested a waiver of Section 59-E-3.7, which requires a total of 688 parking spaces for the shopping center with the proposed changes. The waiver request sought a 20% reduction in the number of required parking spaces. The shopping center currently has 607 parking spaces. Construction of the expanded Giant Food store and provision of required parking lot landscape islands will reduce the total number of parking spaces to 549, which represents a 9.5% reduction from existing parking and 20% less than the required parking.

The Applicant conducted a parking survey during the weekend peak hours and found that the demand for parking was about 20% less than the required number of parking spaces. To ensure that the shopping center will have adequate parking spaces, Transportation Planning staff recommended that the Applicant be required to enter into a

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Traffic Mitigation Agreement ("TMAG") with the Planning Board and the Montgomery County Department of Public Works and Transportation to effectively promote alternative modes of transportation to driving alone and parking within the shopping center. The TMAG will require the Applicant to install a real-time transit sign at a location visible to employees and customers in the shopping center.

D. Landscape Waiver

The Applicant requested a waiver of Section 59-E-2.71, which requires a 10-foot-wide landscape strip adjacent to a street right-of-way, with shade or ornamental trees planted every 40 feet along the lot frontage and a three-foot-high evergreen hedge, fence or other method to reduce the visual impact of the parking facility. The Applicant has requested the waiver of the required width for the landscape strip along Bel Pre Road due to existing conditions.

As indicated in the Project Data Table, the Application requests a 6-foot waiver along the Lot 4 frontage, where the existing four-foot-wide landscape buffer in front of the existing filling station will remain, as no changes are proposed to the existing curb line. A significant amount of landscaping is being added to the west and north of this area to screen the parking lot from the street. Therefore, the landscape waiver in this area will not impact the overall screening of the parking lot. The Application requests a 3-foot waiver to the west of the main driveway entrance.

The Applicant requested a waiver of Section 59-E-2.72, which requires a four-foot-wide landscape strip planted with shade trees every 40 feet along Layhill Shopping Center to the east and north of the Subject Property. The Applicant has provided a four-foot-wide landscape strip but has not been able to provide shade trees or landscape berms due to the steep grades along this property. The proposed retaining wall and the existing steep slopes will provide screening for the Subject Property.

The Applicant also requested a waiver of Section 59-E-2.81, which requires a 10-foot-wide landscape strip based on the adjacent R-30 Zone setback, and of Section 59-E-2.9, which requires a minimum three-foot-high evergreen hedge, fence or wall. The Applicant has provided a ten-foot-wide landscape strip and evergreen trees along most of the property line to the west and north. In areas with existing trees, an evergreen hedge has not been provided because the existing trees provide adequate screening. An eight-foot-wide landscape strip is provided in the northwest corner due to the existing curb line. The Applicant is not proposing any changes to the curb in this area. A significant amount of

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landscaping is being added along the west and north property lines to screen the parking lot from the adjacent residential property. Therefore, the landscape waiver in this area will not impact the overall screening of the parking lot.

The proposed improvements to the parking lot will include more green space, shade trees, planting islands, lighting, pedestrian designated walkways and adequate screening for the parking lot. The proposed number of parking spaces will be adequate to serve the peak hour demands of the shopping center. Therefore, the proposal, the parking waiver request and the landscape waiver requests will accomplish the objectives of Section 59-E-4.2 to protect the health, safety and welfare of those who use adjacent land and public roads, safety of pedestrians and motorists, safe circulation and adequate lighting.

E. Conformance with Zoning Standards

The Application conforms with the standards of the Zoning Ordinance, as indicated below in the Project Data Table, below.

PROJECT DATA TABLE (C-1 Zone)

Development Standard	Permitted/Required	Proposed/Approved
Max. Lot Area	15 acres	9.76 acres
Max. Building Height	45 feet	30 feet
Min. Setback		
From street right-of-way established on a Master Plan	10 feet	54.5 feet
From the center line of the street (if there is no master plan showing the right-of-way)	60 feet	NA
From any other lot line adjacent to residential	10 feet	Side –32 feet Rear – 39 feet
From any other lot line adjacent		

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to non residential	None	25 feet
Min. Green Area	10% of the lot	12.3%
Total Parking ¹	688	549
Retail	447	
Office	7	
Restaurant	223	
Auto filling station	11	
Bicycles ²	20	
Motorcycle ²	10	
Landscaping for Parking Facilities		
Adjacent to street right-of-way	10-foot-wide landscape strip planted with shade or ornamental trees planted every 40 feet along the lot frontage; 3-foot-high evergreen hedge, fence or other method	4 feet wide- Lot 4 frontage. 7 feet wide- west of the main driveway entrance. 10 feet wide- east of the main driveway and Lot 3 frontage. Shade trees provided every 40 feet along the Lot 2 frontage and three-foot-high evergreen hedge.
Adjacent to property other than a street right-of-way	4-foot-wide landscape strip planted with shade trees every 40 feet; landscape berms if adequate space available	4-foot-wide landscape strip; no trees provided along east property line and northeast property line adjacent to Layhill Shopping Center.
Adjacent to residential zone or institutional property	10-foot-wide landscape strip based on adjacent R-30 Zone setback; Three-foot-high wall, fence or evergreen hedge	10-foot-wide landscape strip along the western property line; 8-foot-wide landscape strip along the northern property line adjacent to Kimberly Place; evergreen trees provided in areas without existing trees

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Interior Landscaping

5% of parking lot

8.8% of parking lot

¹ Section 59-E-3.7 Parking Requirements

Five parking spaces for 1,000 square feet of gross leasable area of retail; for 89,325 square feet = 447 parking spaces

Three parking spaces for 1,000 square feet of office area; for 21,541 square feet = 7 parking spaces

25 parking spaces for 1,000 square feet of gross area for patron use; 60% of restaurant area assumed to be patron area; Patron area = 60% of 14,809 square feet = 8,886 square feet; for 8,886 square feet of patron area = 223 parking spaces

One parking space for each employee and 2 parking spaces per bay for the automobile filling station; for five employees and three bays = 11 parking spaces

² Section 59-E-2.3 Bicycle and Motorcycle Parking Requirements

One bicycle space for 20 automobile parking spaces = for 549 parking spaces = 28 bicycle spaces; a maximum of 20 bicycle spaces required

Two percent of the total number of automobile parking spaces = for 549 parking spaces = 11 motorcycle spaces; a maximum of 10 motorcycle spaces are required

V. SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval of the proposed Site Plan in accordance with the analysis and recommendation set forth in its memorandum dated November 22, 2005 ("Staff Report"). The Applicant appeared at the hearing represented by legal counsel, who testified that the Applicant concurred with Staff's recommendations as conditioned.

Two speakers testified in opposition to the proposed Site Plan. The first speaker, a resident of a neighboring community, asked the Board to require a road connection between the two shopping centers and to ensure better circulation within the center itself. The second speaker, a representative of the Layhill Citizens Alliance, also asked the Board to condition the approval of this Application on further requirements involving traffic circulation within the Subject Property and between the Subject Property and the adjacent Layhill Shopping Center. The speaker stated that without further conditions, he believed the Application would not meet the Code's requirement that the proposed vehicular and pedestrian circulation be safe, adequate, and efficient. He testified that the Aspen Hill Master Plan addressed the problems of vehicular and pedestrian circulation, both internal

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and external, associated with the Subject Property and the adjoining Layhill Shopping Center. Additional concerns addressed by the speaker included the provision of a bus shelter or other alternate means of transportation to the Subject Property and the potential taking of a piece of land at the southwest corner of Bel Pre Road and Layhill Road to provide for a turn lane. The speaker testified that this land had been obtained for a mini-park through past negotiations with the SHA. He testified that insufficient attention had been given to these considerations while the Application was in the planning process.

The Board questioned Staff and the Applicant regarding pedestrian circulation to, from, and within the site. The Board questioned which property owner had erected a fence placed on a pedestrian path that previously connected the Subject Property with the Layhill Shopping Center. Staff testified that the owner of the Layhill Shopping Center had erected the fence. The Applicant testified that it had communicated with the owner of the Layhill Shopping Center, who indicated that the fence had been erected in response to prior tort liability arising from the path on which the fence was located and that the Layhill Shopping Center was not interested in removing the fence at this time.

Additionally, the Applicant testified that it had discussed potential pedestrian connections with neighbors in the Kimberly Place Condominiums, who informed Applicant of their preference for maintaining the current location of the connection in order to discourage commercial users from entering their neighborhood. Applicant testified that the proposed location would enhance the safety of the pedestrian connection over the location currently in use.

The Board questioned Staff and the Applicant regarding vehicular connection between the Subject Property and the Layhill Shopping Center. Staff and the Applicant testified that due to the fact that only one of the two properties was currently before the Board, the Applicant had agreed to two easements for a potential future connection between the properties. Staff testified that it had proposed the future connection location based on grade difference and visibility concerns, which might render preferable a variance from the Master Plan's proposed location for the connection.

The Board questioned Staff and the Applicant regarding the number of access points to the Subject Property. Staff indicated that a reduction in the number of access points had not been proposed during the review of the Application. The Applicant testified that the access points served the three lots that together comprise the Subject Property, indicating that the access points allowed full circulation to all site uses. Staff indicated that reduction in access points were not considered a crucial issue either by Development

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Review or the County. The Board asked Applicant for additional detail regarding access points to the Subject Property. The Applicant's civil engineer explained the access points for ingress/egress and truck circulation, providing additional detail on site plan drawings. The Board indicated that the access issues involved were a result of historical design and previously approved uses.

The Chairman asked Staff why Montgomery County Fire & Rescue Services ("Fire & Rescue") had submitted no comments on the Application. Absent these comments, the Chairman indicated that he would vote against the Application. Other Commissioner Robinson testified that he would approve the plan provided Fire & Rescue did not make a negative recommendation on the Application. The Board discussed with counsel an appropriate condition for ensuring Fire & Rescue had submitted approval of the Application. The Board agreed to a condition of approval requiring Staff to obtain comments from Fire & Rescue prior to signature set approval and to submit those comments to the Board for review.⁴

The Chairman questioned Staff regarding the checklist item involving civic association consultation. Staff testified that it had received no comments from civic associations regarding this Application. The Chair indicated that the Board intended to establish an expectation that Applicants consult with the community and create a written record of their community communications, allowing the Board to assess whether outreach occurred.

VI. FINDINGS

Based on all of the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.

An approved development plan or a project plan is not required for the subject development.

2. The Site Plan meets all of the requirements of the zone in which it is located.

⁴ Fire & Rescue provided written approval of the Site Plan in a memorandum dated January 17, 2006, Attachment One hereto.

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The Site Plan meets all of the requirements of the C-1 Zone as demonstrated in the Project Data Table in the Staff Report.

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

The proposal is for an expansion of the existing Giant Food Store. The other existing buildings will not be altered. The overall design of the proposed Giant Food Store expansion will be compatible with the overall design of the existing buildings.
 - b. **Open Spaces**

The C-1 Zone requires 10% of lot area as green area. The proposed plan provides a total of 12.3 % of the lot area as green area. The green area includes the internal landscaped islands in the parking lot and the landscape strips along the property lines.
 - c. **Landscaping and Lighting**

The proposed landscaping on the site consists of a mix of shade and evergreen trees and an evergreen hedge in the landscaped strips along the property lines. The internal landscaped islands in the parking lot consist of shade trees and shrubs. The proposed landscaping is adequate to screen the existing buildings and parking lot from Bel Pre Road and the adjacent properties.

The proposed lighting plan shows pole mounted outdoor lighting fixtures throughout the parking lot and the landscape strips along the property lines. The lighting poles are a maximum of 20 feet in height. The applicant will install deflectors on the perimeter lighting fixtures to minimize potential glare or excessive illumination on adjacent residential properties.
 - d. **Recreation**

This section is not applicable to this proposal because the Subject Property is a commercial zoned property with retail uses.

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- e. Vehicular and Pedestrian Circulation
Vehicular access to the Subject Property is from three locations along Bel Pre Road. Landscaped islands throughout the parking lot help define the parking areas and the driveways.

There is an existing public sidewalk along the Bel Pre Road frontage. A five-foot-wide concrete sidewalk is proposed between Bel Pre Road and the northern wing of the retail building. A concrete walk and a fence opening will be provided near the northern property line to provide pedestrian access from the adjacent Kimberly Place townhouse development to the stores. Bike racks will be provided near the entrance of the building.

A provision has been made for a future pedestrian and vehicular connection to the adjacent Layhill Shopping Center. The applicant is required to provide necessary site improvements and modifications within one of the two inter-parcel easement areas to complete a vehicular and pedestrian connection across the east property line when the adjoining property owner to the east agrees to provide an inter-parcel connector.

The proposed vehicular and pedestrian circulation is safe, adequate and efficient.

- f. Parking and Landscaping Waivers

The Board approves the waiver of MONTGOMERY COUNTY CODE § 59-E-2.71, § 59-E-2.72, and 59-E-2.81 pursuant to § 59-E-4.5, allowing for reduction in the required landscaping. The Board finds that the Application meets the objectives of § 59-E-4.2. In so finding, the Board adopts and incorporates Staff's analysis and recommendations by reference.

The Board approves the waiver of MONTGOMERY COUNTY CODE § 59-E-3.7 pursuant to § 59-E-4.5, allowing for a 20% reduction in the required number of parking spaces. The Board finds that the Application meets the objectives of § 59-E-4.2. In so finding, the Board adopts and incorporates Staff's analysis and recommendations by reference.

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

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The proposal does not alter the existing retail uses on the Subject Property. The Giant Food Store expansion and the proposed parking improvements will improve the overall appearance of the shopping center. The proposed parking improvements will provide adequate parking and safe and efficient vehicular and pedestrian circulation. The proposed landscaping will adequately screen the parking lot from the adjacent properties and Bel Pre Road. The proposed lighting will ensure that the parking areas and the pedestrian circulation areas are well lit.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The site is exempt from forest conservation requirements according to NRI/FSD #4-05320E (Modification of Existing Developed Property) approved on June 17, 2005. Therefore, there are no forest conservation requirements for this application.

VII. PLANNING BOARD ACTION AND CONDITIONS

The Montgomery County Planning Board APPROVES Site Plan Review #8-06004 for the expansion of the existing shopping center from 100,363 square feet gross floor area to a total of 130,236 square feet of gross floor area to accommodate a new Giant Food store; Approves a parking waiver of 139 parking Spaces (20% reduction); and APPROVES a waiver from the landscape requirements of Section 59-E-2.71 (landscaping strip adjacent to street right-of-way), Section 59-E-2.72 (perimeter landscape area adjoining property other than a street right-of-way), and Section 59-E-2.81 (setback). All site development elements as shown on Plaza Del Mercado site plans stamped by the M-NCPPC on October 28, 2005, shall be required except as modified by the following conditions:

1. Transportation
 - a. Limit the site plan amendment to an expansion of 29,873 square feet for a maximum of 130,236 square feet of general retail uses for the entire shopping center that includes a supermarket.
 - b. Satisfy Local Area Transportation Review by adding a separate right-turn lane with a taper on the eastbound approach of Bel Pre Road at the intersection of Layhill Road in accordance with the Montgomery County

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Department of Permitting Services (DPS) requirements. Relocate the median along Bel Pre Road with a pedestrian refuge across the intersection's crosswalk. Along Bel Pre Road maintain the sidewalk on the north side of the road, and locate the Class I bike path (not less than seven feet wide) immediately adjacent to the curb on the south side of the road. Modify the handicapped ramps, crosswalks, traffic signal installation and operation at this intersection as necessary and required by DPS. All improvements shall be complete and open to traffic prior to issuance of any use and occupancy permit for the renovated and expanded areas.

- c. Enter into a Traffic Mitigation Agreement (TMAG), signed and executed by the Planning Board and the Montgomery County Department of Public Works and Transportation (DPWT) prior to approval of the signature set to effectively promote alternative modes of transportation to driving alone and parking within the shopping center. The TMAG shall include installation of a real-time transit sign at a location visible to employees and customers in the shopping center.
- d. Provide 20 inverted-U bike racks (holding two bikes each) along the front of the stores.
- e. Provide for a future inter-parcel access by granting an easement adjacent to the eastern property line. In addition to the proposed connector easement area located to the northeast of the existing automobile filling station, approximately 170 feet north of Bel Pre Road, an alternative connector easement area located to the east of the proposed Giant Food store shall be provided. The applicant shall provide necessary site improvements and modifications within one of these two inter-parcel easement areas to complete a vehicular and pedestrian connection across the east property line when the adjoining property owner to the east agrees to provide an inter-parcel connector.

2. Inter-Parcel Connections

To facilitate pedestrian circulation between the subject shopping center and adjoining Kimberly Place townhouse development to the north and northwest, the applicant shall provide a fence opening or a gate at the proposed pedestrian connection, which is shown on the site plan as a five-foot-wide concrete sidewalk near the northern property line.

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3. Lighting

- a. All light fixtures shall be full cut-off fixtures.
- b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.
- c. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.

4. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 5, 2005.

5. Development Program

Applicant shall construct the proposed development in accordance with a Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. The Development Program shall include a phasing schedule as follows:

- a. Street trees, landscaping, and lighting associated with the parking lot and building shall be completed prior to issuance of any use and occupancy permit for the renovated and expanded areas.
- b. Pedestrian pathways shall be completed prior to issuance of any use and occupancy permit for the renovated and expanded areas.
- c. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- d. Phasing of stormwater management, sediment/erosion control, pathway, trip mitigation or other features.

6. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of signature set of plans.

7. Signature Set

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Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Limits of disturbance.
- c. Methods and locations of tree protection, if applicable.
- d. A note stating that prior to clearing and grading the applicant must complete a pre-construction meeting with the M-NCPPC staff.
- e. Location and details of the required bike racks.

8. Comments by Fire and Rescue Staff

The proposed development shall be reviewed and approved by the Fire Code Enforcement Section of DPS prior to approval of signature set of site plan. A copy of the approval letter by DPS shall be attached to the draft opinion submitted for adoption by the Planning Board.

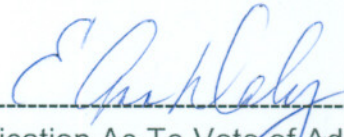
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING
PAGE]

MK 3.20.04

Approved for legal sufficiency
M-NCPPC Office of General Counsel

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, March 23, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Site Plan No. 820060040, Plaza del Mercado.**



Certification As To Vote of Adoption
E. Ann Daly, Technical Writer



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

August 8, 2014

Mr. Nick Over, Development Manager
Federal Realty
1626 East Jefferson Street
Rockville, MD. 20852

Re: Forest Conservation Exemption 42015013E; Plaza Del Mercado

Based on the review by staff of the Montgomery County Planning Department, the Forest Conservation Exemption Request submitted on August 7, 2014 for the plan identified above, is confirmed. The project site is exempt from Article II of the Montgomery County Code, Chapter 22A (Forest Conservation Law), Section 22A-5(t) because the site is a modification to an existing developed property: (1) the modification will not remove more than 5,000 square feet of forest, (2) does not affect any forest in a stream buffer or located on property in a special protection area which must submit a water quality plan and (3) the modification does not require approval of a new subdivision plan.

An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The property owner should contact this inspector before construction to verify the limits of disturbance. The project manager, private arborist, construction superintendent, forest conservation inspector, and the Department of Permitting Services (DPS) sediment control inspector should attend this pre-construction meeting.

If you have any questions regarding these actions, please feel free to contact by email at david.wigglesworth@montgomeryplanning.org or at (301) 495-4581.

Sincerely,

A handwritten signature in blue ink that reads "David Wigglesworth".

David Wigglesworth
Sr. Planner
Development Applications & Regulatory Coordination

CC: Kevin Mack (Dewberry)
42015013E



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

March 24, 2015

Ms. Joanne Cheek
Dewberry Consultant, LLC
203 Perry Parkway, Suite 1
Gaithersburg, Maryland 20877

Re: Stormwater Management **CONCEPT** Request
for Plaza Del Mercado
Preliminary Plan #: N/A
SM File #: 265756
Tract Size/Zone: 9.76 Ac./ C-1
Total Concept Area: 1.95 Ac.
Lots/Block: 2, 3 and 4
Parcel(s): N/A
Watershed: Northwest Branch

Dear Ms. Cheek:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via 5 micro-bioretenion facilities, 2 bio-swales and a structural sandfilter.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

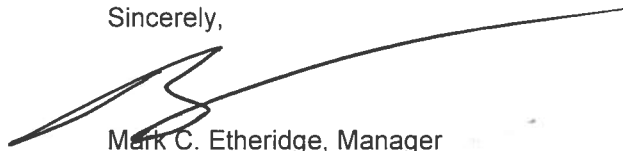
This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way

Ms. Joanne Cheok
March 24, 2015
Page 2 of 2

unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mike Geier at 240-777-6342.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: me CN265756 Plaza Del Mercado.mjg

cc: C. Conlon
SM File # 265756

ESD Acres:	1.7
STRUCTURAL Acres:	.7
WAIVED Acres:	0

DPS-ROW CONDITIONS OF APPROVAL

August 14, 2015

82004006A Plaza Del Mercado

Contact: Sam Farhadi at 240 777-6333

Site Plan file “**07-BSITE-82006004A-001.pdf V7**” uploaded on/ dated “**8/13/2015**”
meets our DRC comments.



FIRE MARSHAL COMMENTS

DATE: 21-Apr-15
TO: Kevin Mack - kmack@dewberry.com
Dewberry
FROM: Marie LaBaw
RE: Plaza del Mercado
82006004A

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **21-Apr-15** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** See Statement of Performance Based Design *****