



JUL 13 2009

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

MCPB No. 09-72
Site Plan No. 82005008B
Project Name: Wendy's Colesville
Date of Hearing: June 18, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on April 8, 2009, DavCo Restaurants, Inc. ("Applicant"), filed an application for approval of a site plan for a 2,552 square-foot restaurant with a drive-through service window on 0.54 gross acres of C-1-zoned land ("Site Plan" or "Plan"), located in the northeast quadrant of the intersection of Randolph Road and Vital Way ("Property" or "Subject Property"); and

WHEREAS, the Property was previously approved for the creation of one lot for up to 10,192 square feet of office/retail uses as Site Plan No. 820050080; and

WHEREAS, Site Plan Amendment 82005008A retained the uses but made minor changes to the plan that were never implemented; and

WHEREAS, a site plan amendment is required to incorporate the change in use; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 82005008B, Wendy's Colesville (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 2, 2009, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on June 18, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 18, 2009 the Planning Board approved the Application subject to conditions on the motion of Commissioner Robinson and seconded by Commissioner Hanson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 82005008B for a 2,552 square-foot restaurant with a drive-through service window, on 0.54 gross acres in the C-1 zone, subject to the following conditions:

1. Preliminary Plan Conformance
The proposed development must comply with the conditions of the approved Resolution for preliminary plan 12002056A.
2. Drive-Through Aisle Safety
 - a. The Applicant must modify the crosswalk from the parking area to the sidewalk entrance to create a raised crosswalk, flush with the sidewalks on either side of the drive-through aisle.
 - b. The Applicant must provide a convex mirror on the northern corner of the building to warn drive-through customers of pedestrians leaving the restaurant and using the crosswalk to the parking area.
3. Lighting
The Applicant must ensure that each of the following conditions is met:
 - a. Lighting distribution must conform to IESNA standards for commercial development.
 - b. Deflectors must be installed on all fixtures causing potential glare or excess illumination on the perimeter fixtures abutting adjacent properties.
 - c. Illumination levels for on-site lighting fixtures must not exceed 0.5 footcandles (fc) at any property line abutting county roads.
4. Development Program
The Applicant must construct the proposed development in accordance with a Development Program, which must be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program must include a phasing schedule with the following elements:
 - a. Streetscape improvements, limited to sidewalks, trees, and other amenities, within the right-of-way must be completed within six months of the issuance of any use and occupancy permits.

- b. All on-site landscaping, lighting, benches, and tables must be installed within six months of the issuance of any use and occupancy permits.
- c. Phasing of pre-construction meetings, dedications, sediment/erosion control, stormwater management, and other features.

5. Certified Site Plan

Prior to Certified Site Plan approval the following revisions must be included and/or information provided, subject to staff review and approval:

- a. Minor corrections and clarifications to site details and labeling.
- b. Development Program, Inspection Schedule, Forest Conservation Exemption Letter, and Site Plan Resolution.

BE IT FURTHER RESOLVED that all site development elements as shown on the Wendy's Colesville drawings stamped by the M-NCPPC on May 22, 2009, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, 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 proposed development was not subject to a development plan, diagrammatic plan, schematic development plan, or a project 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 Site Plan meets all of the requirements of the Convenience Commercial (C-1) zone as demonstrated by the following Data Table. In particular, the proposed development meets the requirements for height at 30 feet maximum and provides more than double the 10 percent green area required, which is consistent with the approved special exception for a restaurant with a drive-through facility.

Development Standard	Permitted/ Required	Approved and Binding on the Applicant
Max. Building Height (feet)	30	30
Max. Floor Area (square feet)	n/a	2,552
Setbacks (feet)		
Right-of-Way	0	10
Adjoining Lot	0	10
Green Area (% of net lot)	10	24
Parking Area Landscaping (% of area)	5	6
Parking Spaces	25	25
Handicapped Parking Spaces	1	2
Bicycle Parking Facilities	0	4

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

a. Locations of buildings and structures

The proposed building provides a better street-wall than now exists along Vital Way, which is more in keeping with the vision of the master plan. This will set a precedent for redevelopment of other properties along Vital Way: limited curb cuts, direct pedestrian access from the sidewalk and parking and drive aisles to the side and behind the building. The location of the drive-through service window behind the building and use of structures to screen operational facilities maintains a more pedestrian-oriented atmosphere along Vital Way. The design and layout of the building is compatible with the surrounding buildings in terms of massing, detailing, and height. Both the use and the location of the building and structures provide an adequate, safe, and efficient layout on the subject site.

b. Open Spaces

The plan includes 24 percent on-site green area including sidewalks, sitting areas, bio-filtration areas, and landscaped areas. Benches and bicycle facilities are also provided along the Vital Way frontage. This green area is more than adequate for such a site and serves several complementary purposes to create a safe and efficient open space for public use with environmental benefits.

c. Landscaping and Lighting

The planned landscaping on the site consists of foundation plantings along the foundation of the building and street trees along both Vital Way and Randolph Road. The bio-filtration areas are heavily planted with colorful ground covers, perennials, and shrubs. Interior trees will shade the parking areas and sidewalks and decrease the heat-island created by asphalt. Evergreens are used effectively to screen parking and operational facilities such as the trash collection area.

The lighting plan consists primarily of pole-mounted fixtures within the site to provide adequate lighting for evening use. Other lighting is building-mounted to provide safe pedestrian ingress and egress.

d. Recreation Facilities

There are no required recreation facilities for commercial properties.

e. Pedestrian and Vehicular Circulation Systems

The streetscapes along Vital Way and Randolph Road will be improved; the Vital Way frontage substantially so. These sidewalks will integrate the development into the existing commercial uses and provide safe and efficient pedestrian access to the neighborhood circulation system. The pedestrian environment, as a whole, is greatly improved by the sidewalk, street trees, and parallel parking and is adequate, safe, and efficient.

This project will provide only one means of vehicular ingress and egress, which minimizes pedestrian conflicts. The driveway itself is raised with an apron keeping the sidewalk flush across the entrance/exit to ensure that the priority is focused on pedestrians. The parking and internal circulation for the drive-through are adequately, safely, and efficiently designed.

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

The building is compatible with the other existing and proposed commercial buildings adjacent to the site and across Vital Way regarding massing, scale, detailing, and layout.

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 subject site plan is exempt from the requirements of the forest conservation law.

The storm water management concept as planned consists of onsite water quality control and onsite recharge via construction of three bio-filters with additional storage beneath the under-drain pipes and installation of one infiltration trench. Additional water quality control for approximately 250 linear feet of roadway improvements will be via installation of three proprietary filtration inlets. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

6. *The Site Plan is consistent with the criteria and guidelines relating to the property, if any, as shown in the area master or sector plan.*

There are no specific criteria or guidelines relating to the subject property in the applicable Master Plan. The proposed site plan is, however, consistent with the general objectives of the White Oak Master Plan for the Colesville Commercial Center Area. Objectives such as a more pedestrian-oriented streetscape, provision of buildings near the sidewalk, and parking and drive aisles relegated to the side and rear of properties are all met by this development.

BE IT FURTHER RESOLVED, that this resolution constitutes the written opinion of the Board and 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 the date of this resolution is JUL 13 2009 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative

agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Robinson seconded by Commissioner Cryor, with Chairman Hanson, Vice Chair Robinson, and Commissioners Cryor and Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, July 9, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board