



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

SEP 28 2010

MCPB No. 10-81
Preliminary Plan No. 120090340
B. F. Gilberts Subdivision of Takoma Park
Date of Hearing: June 10, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on July 2, 2009, Gateway Properties, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 15,647 square feet of land in the C-1 and Takoma Park East Silver Spring Commercial Revitalization Overlay zones, located in the southwest quadrant of the intersection of Piney Branch Road (MD 320) and Flower Avenue (MD 787) ("Property" or "Subject Property"), in the Takoma Park Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090340, B. F. Gilberts Subdivision of Takoma Park ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 28, 2010, setting forth its analysis, 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 staff of other governmental agencies, on June 10, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on June 10, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Alfandre, Dreyfuss, Hanson, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120090340 to create one lot on 15,647 square feet of land in the C-1 and Takoma Park East Silver Spring Commercial Revitalization Overlay zones, located in the southwest quadrant of the intersection of Piney Branch Road (MD 320) and Flower Avenue (MD 787) ("Property" or "Subject Property"), in the Takoma Park Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for up to 3,562 square feet of retail and/or office use and up to 1,568 square feet of restaurant use.
- 2) The Applicant must satisfy Montgomery County Department of Permitting Services (MCDPS) requirements prior to recordation of the plat to ensure the construction of a five-foot-wide sidewalk along the Property frontages on Pine Branch Road and Flower Avenue, unless construction is waived by MCDPS.
- 3) The Applicant must comply with the conditions of the City of Takoma Park stormwater management approval dated June 17, 2009. These conditions may be amended by the City of Takoma Park, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated September 18, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated March 4, 2010. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
- 7) The record plat must show necessary easements.
- 8) The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building

height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

- 9) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

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 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 Preliminary Plan substantially conforms to the Master Plan.*

The Takoma Park Master Plan identifies this site as part of the Flower Village commercial center. The Master Plan recommends revitalizing the commercial centers in Takoma Park. It envisions Flower Village becoming "...a major neighborhood center and community focal point for both Takoma Park and East Silver Spring." In order to achieve this vision, the Master Plan recommends the C-1 base zone and the Takoma Park/East Silver Spring commercial revitalization overlay zone. The overlay zone encourages commercial development that is compatible with the existing scale of Flower Avenue. It also encourages pedestrian accessibility improvements. The proposed development will provide pedestrian improvements by closing the two driveway openings that are closest to the intersection of Piney Branch Road and Flower Avenue and replacing them with new sidewalks. These improvements are in substantial conformance with the Master Plan's recommendations. The Preliminary Plan is further in substantial conformance with the Master Plan in that it will contain additional and revitalized commercial space that is consistent with the scale of adjacent commercial properties in keeping with the Master Plan's vision and recommendations for the area. Although the Master Plan's vision for a community focal point may ultimately be better met by new buildings that create a more desirable public realm than the existing buildings located behind surface parking, reuse of the existing buildings is seen by the Planning Board as an important interim step. Because the Preliminary Plan does not propose construction of new buildings, and the project is being carried out by a small business owner, this incremental step is the most that can be expected at this time. The Planning Board finds that the Preliminary Plan is in substantial conformance with the Master Plan.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Roads and Transportation Facilities

The site is currently served by two existing driveways from Piney Branch Road and two from Flower Avenue. One of the driveways from each of these streets – those that are closest to the intersection – will be closed. Access to the site will be provided by the two remaining driveways, one from each street. Pedestrian access will be provided by existing and proposed sidewalks along the Piney Branch Road and Flower Avenue frontages of the site. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Local Area Transportation Review

Based on trip generation rates included in the Local Area Transportation Review (LATR)/Policy Area Mobility Review (PAMR) Guidelines, the proposed addition of 1,000 square-feet of retail space on the Subject Property was estimated to generate 2 peak-hour trips during the weekday morning peak period and 7 peak-hour trips during weekday evening peak period.

A traffic study is not required for the Application because the proposed additional development will not generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. Therefore, the Preliminary Plan satisfies the LATR requirements of the adequate public facilities (APF) test.

Policy Area Mobility Review

To satisfy the PAMR requirements of the APF test, a development located within the Silver Spring/Takoma Park Policy Area is required to mitigate 10 percent of new peak-hour trips generated by the development.

The site trip generation shows that the retail addition proposed on the site will generate two peak-hour trips during the weekday morning peak period and seven peak-hour trips during the weekday evening peak period. After discounting for pass-by trips generated by the site (at a rate of 40 percent for evening peak-hour only), the proposed retail addition is estimated to generate 4 new evening peak-hour trips. The 10% PAMR requirement thus results in a requirement to mitigate 0.4 or 0 (zero) peak-hour trips. Therefore, the Preliminary Plan has no PAMR mitigation requirement, and the Application satisfies the PAMR requirements of the APF test.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. Electrical, gas, and telecommunications services are also available to serve the Property.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the C-1 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Preliminary Plan is exempt from forest conservation requirements.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The City of Takoma Park Department of Public Works approved the stormwater management concept on June 17, 2009. The stormwater management concept includes water quality control for the building addition via a Filterra structure.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

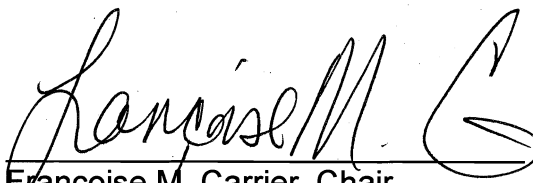
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 28 2010 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Vice Chair Wells-Harley, with Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Chair Carrier abstaining, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board