



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

JUL 31 2012

MCPB No. 12-91  
Site Plan No. 820120060  
Bel Pre McDonald's  
Date of Hearing: July 26, 2012

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-1-3, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review site plan applications; and

WHEREAS, on February 13, 2012, McDonald's LLC ("Applicant"), filed an application for approval of a site plan for the replacement of an existing drive-thru restaurant with a new 3,911 square foot single-story drive-thru facility on 0.60 acres of C-1 zoned-land, located at the north side of Bel Pre Road approximately within 600 feet west of the intersection between Bel Pre Road and Layhill Road ("Subject Property" or "Property"), in the 1994 Approved and Adopted Aspen Hill Master Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120060, Bel Pre McDonald's ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 11, 2012, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 26, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to  
Legal Sufficiency:

*Christina Sout* 7/13/12

8787 Georgia Avenue, N.M.C.P.C. Legal Department Chairman's Office: 301.495.4615 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820120060 for the replacement of an existing drive-thru restaurant with a new 3,911 square foot single-story drive-thru facility on the Subject Property, subject to the following conditions:<sup>1</sup>

**Conformance with Previous Approvals**

1. Special Exception Conformance

The development must comply with the conditions of approval of Special Exceptions S-707, S-786, S786-A, and S786-B dated November 21, 1979, August 19, 1981, February 2, 1987, and April 27, 2012 respectively.

**Environment**

2. Stormwater Management

The development is subject to Stormwater Management Concept approval recommendations dated May 18, 2011, which are hereby incorporated as conditions of the Site Plan. The Applicant must comply with each recommendation, unless otherwise amended by the Montgomery County Department of Permitting Services provided that the amendments do not conflict with other conditions of the Site Plan approval.

**Site Plan**

3. Building

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet C-410, C-411, and C-412 of the submitted architectural drawings dated April 13, 2012, as determined by M-NCPPC Staff.

4. Surety

Prior to issuance of first building permit within each relevant phase of development, Applicant must provide 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. Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers within the relevant phase of development.
- c. Prior to issuance of the first building permit, Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d. Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

#### 5. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Clearing and grading may occur prior to certified site plan
- b. On-site amenities including, but not limited to, lighting, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of any building occupancy permit.
- c. Landscaping must be completed within six months of the release of the building occupancy permit or, at the latest, the next growing season.
- d. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features, as applicable.

#### 6. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the final forest conservation approval or exemption letter, stormwater management concept approval, development program, inspection schedule, and Site Plan Resolution.
- b. Ensure consistency of all details and layout between Site Plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on Bel Pre McDonald's drawings stamped by the M-NCPPC on April 13, 2012, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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 project is not part of a development or diagrammatic plan, nor is it part of an approved project plan for the optional method of development.

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 provides a low-intensity commercial use that meets the purpose of the C-1 zone. The Site Plan meets or exceeds all development standards as shown on the data table below. The Subject Property is not subject to an urban renewal plan approved pursuant to Chapter 56.

#### **Requirements of the C-1 Zone**

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the C-1 Zone.

**Data Table**

Zoning Section	Development Standard	Required	Approved by the Planning Board and Binding on the Applicant
59-C-4.342	Building Height	30 ft maximum (measured from average elevation of finished grade surface)	± 1' 5"
59-C-4.343	Setbacks	10 ft minimum from any street R.O.W. line established on a master plan	± 0 ft
59-C-3.444	Green Area	10%	± 4.3%
59-E-3.7	Parking	25 spaces / 1000 sf indoor patron area (29 spaces)	48 spaces (13 on-site, 35 at shopping center)

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

The project will improve the adequacy, safety, and efficiency of the functions associated with the existing use. The Site Plan will improve on-site circulation by reconfiguring the existing drive-through lane to establish a contained, one-way drive-through aisle separated from adjacent parking areas and by providing drive-through lane access from parking areas west of the restaurant via a new west-to-east vehicular lane along the south façade of the building. Patron area will be reduced and no new vehicular trips will be added, so the restaurant will not have an adverse effect on existing traffic conditions. Safe crossing areas will be provided from building entrances to existing sidewalks and adjacent parking areas, therefore the restaurant will not interfere with pedestrian activity. Additional landscaping will be provided as part of the circulation improvements.

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

The restaurant will be compatible with surrounding commercial and retail uses concentrated in the northwestern quadrant of the Bel Pre Road / Layhill Road intersection. The proposed restaurant structure will be in character with the architecture of other retail buildings in the area, and because the restaurant will replace an existing restaurant on the Property with a new building similar in size and at the same approximate location, scale and bulk will continue to be compatible with other existing retail structures along this portion of Bel Pre Road.

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.*

This Property is subject to Chapter 22A, the Montgomery County Forest Conservation Law, but is exempt from the requirements of submitting a Forest Conservation Plan per the approved NRI/FSD 42011199E because the tract of land is less than 1.5 acres in size, with no existing forest or specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet.

The Department of Permitting Services approved a Stormwater Management Concept Plan on May 18, 2011.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 31 2012 (which is the date that this Resolution is mailed to all parties of record); and

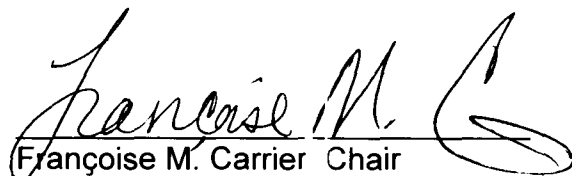
BE IT FURTHER RESOLVED, that any party authorized by law to take an

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 Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 26, 2012, in Silver Spring, Maryland.

  
Françoise M. Carrier Chair  
Montgomery County Planning Board