



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

MAR 23 2015

MCPB No. 15-29
Site Plan No. 81987058B
CVS Germantown
Date of Hearing: March 19, 2015

RESOLUTION

WHEREAS, under Montgomery County Zoning Ordinance Section 59-7.1.2, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1 of the Zoning Ordinance, this site plan is being reviewed under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, by Opinion dated February 1, 1988, the Planning Board approved Site Plan No. 8-87058 for a 28,924 square-foot shopping center on 2.71 acres of C-3 zoned-land, located at the eastern quadrant of the intersection of Wisteria Drive and Germantown Road (MD 118); and

WHEREAS, on December 6, 2005, the Montgomery County Planning Department approved an amendment to Site Plan No. 8-87058, designated Site Plan 8-87058A, to permit the conversion of an existing bank drive-thru to a Rita's Italian Ice restaurant; and

WHEREAS, on October 13, 2014, JC Bar Associates ("Applicant") filed an application for approval of an amendment to the previously approved site plans to demolish two buildings and construct a 13,225 square-foot Drug Store on 3.94 gross acres of CR-2.0, C-1.0, R-1.5, H-100 zoned land, previously zoned TMX-2, located at eastern quadrant of intersection of Wisteria Drive and Germantown Road (MD118), Parcel "C" on Plat 13683 ("Subject Property"), in the 2009 Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan Amendment No. 81987058B, CVS Germantown ("Site Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the

Planning Board, dated March 6, 2015, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 19, 2015, 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.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Site Plan No. 81987058B to construct a 13,225 square for Drug Store on the Subject Property, subject to the following conditions:¹

1. Site Plan Conformance

The Applicant must comply with conditions of approval for Site Plan No. 8-87058 and Site Plan No. 8-87058A, except as modified by this Amendment.

2. Stormwater Management

The Applicant must comply with the conditions of the Stormwater Management Concept submitted to the Montgomery County Department of Permitting Services (MCDPS) for review on June 11, 2014 and approved on July 22, 2014.

3. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, the sidewalk and steps leading from the shared use path to the Subject Property.

4. Vehicular and Pedestrian Circulation

Prior to the issuance of a Use and Occupancy Certificate, the Applicant must:

- a. Construct a 10-foot shared use path on the south side of MD 118 along their entire frontage as shown on the Site Plan.

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

- b. Construct a 10-foot shared use path on the east side of Wisteria Drive along their frontage from Walter Johnson Road to MD 118 with appropriate ADA ramps.
- c. Construct 6-foot wide pedestrian path from MD 118 to the Subject Property and connect with the internal sidewalk network as shown on the Site Plan.
- d. Provide and install a bicycle parking rack ("inverted U" rack or similar for five bicycles) in the location specified in the Site Plan.

5. Site Design

The exterior character, proportion, materials, and articulation must be substantially similar to the illustrative elevation shown on the Certified Site Plan.

6. Landscaping

Prior to approval of the Certified Site Plan, the Applicant must revise the plan to reflect a potted container(s) with suitable plant material to be located on either side of the main entrance to the building, subject to Staff review and approval.

7. On-site lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for commercial development.
- b. All on-site down-light fixtures must be 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 county roads.
- e. The height of the light poles must not exceed 28 feet including the mounting base.

8. Surety and Maintenance Agreement

Prior to issuance of first building permit, the Applicant must provide a performance bond 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. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.

- b. The amount of the bond or surety will include all applicable materials and facilities, including, but not limited to plant material, a bicycle rack and on-site lighting, within the Subject Property.
- c. The Applicant must enter into a Site Plan Surety and 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 estimates.
- d. The bond/surety shall be tied to the development program, and completion of plantings and development will be followed by inspection and reduction of the surety.

9. 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. The development program must include the following items in its phasing schedule:

- a. On-site amenities including, but not limited to, sidewalks, trash receptacles, and bicycle facilities must be installed prior to release of any Use and Occupancy permit.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan. The development program must provide phasing for installation of on-site landscaping and lighting.
- c. The development program must provide phasing of stormwater management, sediment and erosion control, and other features.

10. 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 forest conservation exemption approval letter, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Modify data table to reflect development standards enumerated in the Staff Report.
- c. Ensure consistency off all details and layout between Site and Landscape plans.

- d. Show a potted container(s) with suitable plant material to be located on either side of the main entrance to the building.
- e. Include the final lighting plan.
- f. Include the approved Fire and Rescue plan.

11. Adequate Public Facilities Review

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

BE IT FURTHER RESOLVED, that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED, that all site development elements as shown on the latest electronic version as of March 6, 2015, submitted via ePlans to the M-NCPPC, 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 presented at the hearing and set forth in the Staff Report, which the Planning 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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*
2. *The Site Plan 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 Site Plan is not subject to a development plan, diagrammatic plan, schematic development plan, or project plan.

3. *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 Subject Property is presently zoned CR-2.0, C-1.0, R-1.5, H-100 and was formerly zoned TMX-2. Since the Application was filed before October 30, 2014, it is reviewed under the provisions of the TMX-2 Zone.

In accordance with the provisions in the TMX-2 Zone, the Applicant sought approval of the Amendment under the development standards of the C-3 Zone. Section 59-C-14.26(c) of the Zoning Ordinance states, in relevant part, that “[a] preliminary or site plan approved before adoption of the applicable Sectional Map Amendment may, at the option of the applicant, be amended after the adoption of the applicable Sectional Map Amendment under the standards of the previous zone or under the TMX zone standards. However, any enlargement of a proposed building that is more than 10 percent of the approved gross floor area or 7,500 square feet of construction, whichever is less, must comply with the standards of the TMX Zone”.

Site Plan 8-870580 was approved for a retail center in the C-3 Zone on February 1, 1988, before adoption of the applicable SMA (G-887), which rezoned the Subject Property to the TMX-2 Zone on May 18, 2010. The Amendment also reduces the existing gross floor area on the Subject Property by approximately 8,643 square feet. Therefore, development may proceed under the standards of the C-3 Zone.

The project meets all of the development standards in C-3 Zone as shown in the following table:

Development Standard	Permitted/Required	Approved
Building Height (feet)	42	22
Setbacks		
Building Setbacks (feet) (59-C-4.362)	10' minimum from R.O.W. Established in the Sector Plan	10' minimum from: MD 118/Wisteria Drive Walter Johnson Road
Parking Setbacks (feet) (59-E-2.71) Street Right-of-Way	10	10
Green Area (% of lot) (59-C-4.363)	10	22.6
Parking Facility Internal Landscaping (%) (59-E-2.73)	5	8.3
Parking Spaces (59-C-4.365), (59-E-	Minimum spaces for CVS:	Total parking spaces

2.3) and (59-E-3.7)	5 spaces for each 1,000 gross leasable square feet = 67 spaces Minimum spaces for entire shopping center property = 107 spaces Bicycles = 6 spaces	provided for CVS = 67 spaces Total parking spaces for Entire shopping center property = 116 spaces Bicycles = 9 spaces
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The Application includes a main building with frontage on MD 118. In accordance with 59-C-4.365, all parking will be located to the side or rear of the main building. A driveway without parking areas will be located in front of the main building, consistent with 59-C-4.365(c).

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

Locations of Buildings and Structures

The 13,225 square-foot CVS is rectangular in design and has a smaller footprint than existing L-shaped building which will be demolished. The CVS will be sited in the same general location as the building it replaces, and will have a single-lane pharmacy drive-thru that extends counter-clockwise around to the rear of the building. The locations of buildings and structures will be adequate, safe, and efficient.

Open Space

Development standards for the C-3 Zone require 10 percent green space on the Property and 5 percent of the parking facility to be landscaped. The Amendment includes 22.6 percent green space and 8.3 percent internal landscaping for the parking facility. Open space on the Subject Property will be adequate, safe, and efficient.

Landscaping and Lighting

The mature street trees along MD 118 east of the pedestrian access will be retained. Street trees and other landscaping will be provided along the edges of the parking lot at the corner of MD 118 and Wisteria Drive. The two on-site stormwater management facilities will also be substantially landscaped with trees, shrubs and grasses. Potted containers with plant material will also be located at the main entrance to the building.

Lighting of the Subject Property consists of freestanding pole lights with full cutoffs. Most of the pole lights will be about 17 feet in height, with several having a height of

28 feet. Wall mounted lighting will be located around the building's perimeter. The on-site lighting is safe and efficient and the illumination levels do not exceed 0.5 footcandles (fc) at any property line. The Site Plan shows that a pylon-type sign will be located on the corner of MD 118 and Wisteria Drive. The CVS Pharmacy sign is 28 feet in height and includes an electronic message board and a tenant panel for four additional uses located within Germantown Center.

Landscaping and lighting will be adequate, safe, and efficient.

Recreation Facilities

The Application does not include recreational facilities.

Pedestrian and Vehicular Circulation

Pedestrian safety and access is enhanced by several improvements, including upgrading the existing five-foot sidewalks on Germantown Road and Wisteria Drive to ten-foot shared use paths along the frontages of the roadways. The lead-in sidewalk on Wisteria Drive will be moved south and located at the main vehicular access point that is still on Wisteria Drive. The access will be ADA compliant from Wisteria Drive to the entrance of the building. A new secondary pedestrian access from Germantown Road will be provided via stairs for easier and faster access to Germantown Road and the bus shelter. Both pedestrian crossings are clearly marked with striped pavement leading to the building. Pedestrian access from Walter Johnson Road will stay as it is currently designed as no improvements are proposed along Walter Johnson Road. A minimum eight-foot wide sidewalk frames the west and south building faces, which acts as a buffer from the parking lot. Additionally, vehicle curb stops installed on the abutting parking spaces and bollards located at the building entrance ensure a safe pedestrian environment. A bike rack is provided at the northwest corner of the building where bicycles can safely be stored without blocking pedestrian traffic on the sidewalk. The design provides easy access to the building from the adjoining shared-use paths, sidewalks, and parking lot.

The vehicular circulation design efficiently directs traffic into and through the Subject Property with minimal impacts to pedestrian circulation. The Subject Property will be accessible to vehicles from Wisteria Drive and Walter Johnson Road. All driveway accesses are full movement; however, the main vehicular access will remain on Wisteria Drive. With upgrades to the pedestrian path on Wisteria Drive, and the change in land use minimizing the PM vehicle trips, vehicle and pedestrian conflicts should be minimized. All access points feature stop controls, creating a safer vehicular and pedestrian environment.

Pedestrian and vehicular circulation will be adequate, safe, and efficient.

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

The Amendment is compatible with the two on-site site buildings and uses, the adjacent and confronting uses as well as pending development plans in regards to: building materials and height; screened parking areas from adjacent streets; building setback from MD 118; and signage.

6. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Forest Conservation

The project is exempt from submission of a forest conservation plan. A forest conservation exemption (#42015113E) was granted under the provisions of Section 22A-5(t) as "a modification to an existing non-residential developed property". The exemption was confirmed on January 29, 2015. The Application is in compliance with Chapter 22A.

Stormwater Management

In accordance with Chapter 19, a stormwater management concept plan was submitted to the MCDPS Stormwater Management Section who approved the concept for the project in a letter dated July 22, 2014. The approved concept proposes to meet required stormwater management goals using on-site micro biofilters

7. *The Site Plan meets all provisions established under Section 50-35(k) of the Subdivision Regulations (Adequate Public Facilities)*

Public facilities will be adequate to support and service the area, as described below:

Roads and Public Transportation Facilities

The Subject Property is located at the southeast corner of Germantown Road (MD 118) and Wisteria Drive. Walter Johnson Road traverses the south side of the site and terminates in a dead end approximately 200 feet east of the Subject Property. The main vehicular access to the Subject Property is currently located on Wisteria Drive about 150 feet south of the Germantown Road and Wisteria Drive intersection. There are two secondary vehicular access points from Walter Johnson Road. All vehicular site accesses are full movement.

The Applicant will construct a 10-foot shared use path along eastbound Germantown Road along the frontage of their property and a 10-foot shared use path along northbound Wisteria Drive along their property frontage. Both of these shared-use paths are shown in the Sector Plan.

The Subject Property is adequately served by Montgomery County Ride-On bus routes on Germantown Road and Wisteria Drive. Ride-On route 61, which runs along Germantown Road, connects the Germantown Transit Center to the Shady Grove Metrorail Station. There are two bus stops adjacent to the Subject Property. One is located on northbound Wisteria Drive and is just south of the main entrance to the site. The other is located on eastbound Germantown Road and is a bus shelter. The bus shelter stop will be moved further back from the road in order to accommodate the 10-foot shared use path. Direct access from the bus shelter to the site is provided via the new pedestrian connection from the shared-use path on Germantown Road or from the shared-use path along Wisteria Drive, which is ADA accessible.

LATR/TPAR

The Subject Property is replacing 21,868 square feet of existing retail space with a 13,225 square foot pharmacy. As conditioned, the proposed 13,225 square foot pharmacy with one drive-through does not trigger LATR as the change in use will only generate 6 new peak-hour trips during weekday morning peak period and a decrease of 29 peak-hour trips during weekday evening peak period. The threshold for an LATR review, according to the *LATR & TPAR Guidelines*, is 30 net new additional trips.

The Subject Property is located in the Germantown Town Center Policy Area. According to the 2012-2016 Subdivision Staging Policy (SSP), the Germantown Town Center is adequate under the roadway test but inadequate under the transit test. The Montgomery County Department of Permitting Services (DPS) assesses the transportation impact tax based on square footage increase. Even though the change in use will generate six additional trips in the AM peak hour, the Applicant is reducing the square footage of the building; therefore, no TPAR payment is required.

Other Public Facilities and Services

All other public facilities, including water, sewer, police, fire, and health clinics are operating at an adequate capacity according to the adopted FY 2015 Subdivision Staging Policy.

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 MAR 23 2015 (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 Commissioner Dreyfuss, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor of the motion at its regular meeting held on Thursday, March 19, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board