

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 21-103
Site Plan No. 820190090
Takoma Junction
Date of Hearing: January 27, 2022

MAR 21 2022

RESOLUTION

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

WHEREAS, on February 14, 2019, NDC Takoma Junction LLC (“Applicant”) filed an application for approval of a site plan to construct a 40,762 square foot commercial building for restaurant, retail, and office, a waiver for 15 off-street parking spaces, and a waiver to allow a loading space within a layby along the site frontage on Carroll Avenue on 1.25 acres of land in the NR-0.75 H-50’ and the Takoma Park/East Silver Spring Commercial Revitalization Overlay zones, located on the south side of Carroll Avenue at its intersection with Ethan Allen Avenue in the City of Takoma Park (“Subject Property”), in the Takoma Park Policy Area and 2000 Takoma Park Master Plan (“Master Plan”) area; and

WHEREAS the site plan application for the Subject Property was designated Site Plan No. 820190090, Takoma Junction (“Site Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued memoranda to the Planning Board, dated September 3, 2021 and January 14, 2022, setting forth its analysis and recommendation for denial of the Application (“Staff Report”); and

WHEREAS, on January 27, 2022, the Planning Board held a public hearing on the Application and voted to deny the Application, on motion of Commissioner Rubin, seconded by Commissioner Cichy, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Patterson, Rubin, and Verma voting to deny the Application.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board DENIES Site Plan No. 820190090, including the requested parking/loading waivers.

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Approved as to
Legal Sufficiency: **Emily Vaias**
M-NCPPC Legal Department

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 denial, that:

1. *The development does not satisfy any previous approval that applies to the site.*

The Planning Board recommended denial of the related Mandatory Referral No. 2021-19 and denied the related Preliminary Plan of Subdivision No. 120190150. The Site Plan cannot be approved without an approved subdivision and is also inconsistent with the findings required for approving a Site Plan, specifically Section 59.6.2.4, Parking Requirements and Section 59.6.2.8, Loading Design Standards.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

4. *The development does not satisfy applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- i. *Division 4.6. Employment Zones*

- Development Standards

- The Tract is approximately 1.25 acres or 54,350 gross square feet, zoned NR 0.75 H-50 and within the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone (TPESS). The following Data Table shows the Application does not comply with the development standards of the Zoning Ordinance, specifically those found in Section 59.6 for on-site loading and parking.

Table 1: Project Data Table

Development Standard	Permitted/ Required	Proposed
Tract Area (Square Feet/ Acres) NR 0.75 H-50 and TPESS	n/a	
Total Tract Area		54,350 sf (1.25)
Site Area (Square Feet/ Acres) Prior Dedication Proposed Dedication	n/a	7,475 sf (0.17) 0 sf (0)
Site Area (Tract Area – Dedications)		46,875 (1.08)
Commercial Density (GFA/ FAR)	40,762 sf (0.75)	40,762 sf (0.75)
Building Height	42 feet ¹	33 feet
Public Open Space (min)	10% (4,688 sf)	10% (4,688 sf)
Minimum Setbacks (feet) Front, Carroll Avenue Side, eastern Side, western Rear, NR zone Rear, R60 zone ²	0 0 0 0 30	22 10 28 0 60
Parking, Vehicle (min/max)³ Office, 18,772 sf of Gross Leasable Area Restaurant, 6,555.5 sf of Patron Use Retail, 12,625 sf of Gross Leasable Area	2/4 per 1,000 GLA 3.5/6 per 1,000 GLA 4/12 per 1,000	
Total per Section 59.6	101	78
Total per Parking Study⁴	93	78⁵
Parking Bicycle (short term / long term) Office Restaurant/Retail Total	1/5,000 of GFA 1/10,000 of GFA 7 / 5	8 / 7
Loading Office: 25,001 – 250,000 sf of GFA	1 space	0 ⁶

¹ Per Section 59.4.9.16.C, TPESS Overlay Zone restricts height to 30 feet, however the Planning Board may allow up to 42 feet for commercial development.

² Per Section 59.4.1.8.A.2, Residential Compatibility standards apply to the rear lot line adjacent to the vacant lot zoned R-60, therefore a 30-foot rear setback is required.

³ The Property is considered a Reduced Parking Area as it is zoned NR and within 1 mile of a transit station.

⁴ The Applicant provided a Shared Parking Study by the Traffic Group dated 7/16/2020, this study was based on the ULI Shared Parking Mode and concluded that the Site would require a minimum of 93 spaces to meet the projected demand.

⁵ Per Section 59.4.9.16.D.2, the Applicant is seeking a Parking Waiver from the Planning Board for 15 vehicle spaces, see below for analysis.

⁶ Per Section 59.6.2.10, the Applicant requests a waiver to allow a loading space to be adjacent to the street within the public right-of-way, see below for analysis. SHA has not approved the loading space to be in the public right-of-way.

Parking Waiver

The Project provides 78 off-street parking spaces in the underground parking garage, which is fewer than the minimum required by Section 59.6.2.4 of the County's Zoning Ordinance (101 spaces). The Project proposes more than one use on the Site and is therefore eligible to submit a shared parking analysis applying the approved methodology in Section 59.6.2.3 of the Zoning Ordinance¹. The Applicant submitted a Shared Parking Study based on this model which concluded the Project would have a maximum demand of 93 spaces, resulting in the parking waiver request for the remaining 15 spaces.

The TPSS Overlay Zone Section 59.4.9.16.D.2.a. allows the Planning Board to waive these 15 spaces if it finds that doing so will accomplish the goals of the master plan, including revitalization, enhancing the pedestrian environment, and encouraging the use of transit. As discussed in Preliminary Plan Finding 2, the waiver is in conformance with the Master Plan recommendations for the commercial revitalization of the Property. However, while the Planning Board is supportive of reduced parking, the impact of the final location of the layby/loading area and whether or not the parking reduction would increase based upon accommodation of a loading space internally within the Site remains unclear. For this reason, the Planning Board cannot approve the parking waiver at this time.

Waiver for Loading within the Public Right-of-Way

The Applicant is also requesting under Section 59.6.2.10, a waiver of the off-street loading space required for projects generating at least 15,000 square feet of retail use. Based on the square footage proposed in the Application, the Zoning Ordinance requires one designated off-street loading space for on-site deliveries and trash collection.

With a total site area of 46,875 square feet of infill development and the existing topography at the rear of the Property facing Columbia Avenue, the Site is constrained. In an effort to balance the loading needs of the Site and the adjoining TPSS Co-Op, the physical constraints of the Site, and traffic safety within the Site's immediate vicinity, the Applicant proposes a layby on the Carroll Avenue (MD 195) Site frontage to provide a designated area for short-term loading activities separate from the adjacent travelways, to be used by both the tenants of the Site and the TPSS Co-Op.

¹ Urban Land Institute Shared Parking Model 2nd Edition.

The Applicant posits that this design is more desirable and feasible to implement than an additional driveway for a more traditional-style off-street loading space and therefore, the Applicant seeks a waiver from the Loading Location Standards in the Zoning Code, per Section 59.6.2.10. The proposed design requires approximately 6-feet of dedicated right-of-way, which is owned and controlled by MDOT SHA. The layby design and location has been reviewed by SHA, MCDOT, MCDPS, and Planning Staff.

The Applicant has not received written approval from MDOT SHA for the design of the layby, nor has the design or location been supported by the City of Takoma Park. Among the concerns included in correspondence with the Applicant are several safety issues with adjacent roadway users, pedestrians and transit users, and bicyclists. These issues have not been resolved to the satisfaction of MDOT SHA and therefore the requested off-street loading waiver should appropriately be and hereby is denied.

ii. *Division 4.9. Overlay Zones*

The Property is within the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone. The purpose of this zone is to:

Foster economic vitality and attractive community character in areas needing revitalization.

The Project would redevelop an existing surface parking lot with a new multi-use building with underground parking. The building would provide new retail storefronts and office space in a walkable, downtown area of Takoma Park.

Promote an enhanced pedestrian environment and improved circulation system to pedestrians and bicycles as well as motor vehicles.

The Project would provide updated streetscape along the Site's frontage with amenity areas including outdoor dining areas and short-term bicycle parking. However, SHA has not approved the site access nor layby due to particular concerns regarding safety for pedestrian, bicycle, and vehicular circulation. The streetscape would need to be modified from the current proposal with the change to the location and design of the layby.

Substantially conform with the master plan vision for specific existing commercial areas.

The 2000 *Takoma Park Master Plan* makes recommendations for the Takoma Junction district specifically and for the Plan Area overall, to which the application substantially conforms.

Takoma Junction

The Plan identifies the Takoma Junction district as a commercial center and an extension of Old Town Takoma Park and recommends the district and the Property – the only undeveloped site in the Junction – for commercial revitalization. The Plan vision for Takoma Junction recommends maintaining the “low scale, small town, historic character of the area.” The purpose of the public-private partnership between the City of Takoma Park and the Applicant is precisely this type of commercial revitalization. The development consists of a single, low-scale, two-story commercial building. The Applicant has worked extensively with the Historic Preservation Commission to ensure that the scale, massing, and articulation of the building are consistent with the historic character of the area and would continue to do so in greater detail during the Historic Area Work Permit process.

Commercial Centers

Looking at the Commercial Centers more broadly, the Plan makes recommendations to sustain, revitalize, and improve viable commercial centers to better serve the needs of local and area residents and people passing through the area without negatively impacting the surrounding neighborhoods. This Project would create a low-scale, small-town development that would revitalize a priority development site in this commercial center and further expand the restaurant and retail opportunities available to residents and visitors, as well as create places where local small businesses can find storefront opportunities right-sized for them.

The Master Plan illustrates that to achieve the vision of the Plan each commercial center should be:

- **Safe:** designed for visibility, good lighting, and a general feeling of security.
- **Successful:** economically viable, clear market orientation and good land use mix.
- **Community-serving:** meets retail and service needs of area residents; often provides an outdoor space for public use and gatherings.

- Attractive: well-maintained, nice-looking buildings and facades, nice landscaping, and undergrounding of utilities.
- Convenient: good pedestrian, transit, and auto access; adequate parking.

This development would contribute to Takoma Junction meeting each of these criteria. It would install new streetlights along the Carroll Avenue frontage and provide “eyes on the street” year-round with restaurant and shop fronts to extend street life at night along the Avenue where it now stops at the Co-Op. The Applicant has developed the project to be economically viable, with a good land use mix for the Junction district. As described above, the development would provide new opportunities both for local retail and restaurant businesses and consumers and would provide space on this small site for public use. However, the proposal for the layby is not supported by the City of Takoma Park or the Maryland State Highway Administration, which could impact the safety and success of the development. This clearly conflicts with the vision of the plan for the commercial center.

Circulation

The Master Plan supports accommodation of local and regional traffic, while enhancing pedestrian and bicycle access to shops, transit, schools, and other community facilities by improving pedestrian safety and providing wide, tree-lined sidewalks throughout the area. The Project would provide updated streetscape along the Site's frontage with amenity areas including outdoor dining areas and short-term bicycle parking. However, as described in several findings, there are outstanding concerns regarding safety for pedestrian, bicycle, and vehicular circulation, based on the proposed layby design within the public right-of-way.

The Master Plan acknowledges that traffic congestion is the result of development and economic growth throughout the region and supports alternatives to auto travel such as an improved pedestrian environment, completion of bicycle routes, and expansion of transit services. Anticipated traffic growth would result in some congested intersections within Takoma Park during peak periods of travel. Widening of roads in this area is not recommended due to the impact on neighborhoods along the roadways, but minor improvements to serve existing intersections are supported. To address congestion at intersections near the Site, the Applicant has worked with SHA to adjust traffic signal timing to improve traffic flow through the district.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2018 *Master Plan of Highways and Transitways* and the 2018 *Bicycle Master Plan* recommends the following Sector Plan facilities along the Property frontage:

1. Carroll Avenue MD 195, along the northern site frontage, as an Arterial with a minimum right-of-way width of 50 feet. Conventional on-street bicycle lanes are recommended on either side of the roadway and the Applicant would construct a 6-foot striped bikeway along the Site frontage. The Applicant has demonstrated that no additional right-of-way is needed to achieve the master-planned width.
2. Columbia Avenue is considered a Secondary Residential street with a minimum right-of-way of 40 feet. The street is located within the City of Takoma Park, which has determined that no additional right-of-way must be dedicated as part of the Project.

Sector-Planned Transportation Demand Management

The 2016-2020 *Subdivision Staging Policy*² encourages a Non-Auto Driver Mode Share (NADMS) of 48 percent, averaged between employees and residents of the Silver Spring/Takoma Park Transportation Policy Area. As a development with more than 40,000 square feet of proposed density, the Project is required to coordinate with and gain approval from MCDOT on a Level 1 Basic Transportation Demand Management (TDM) Plan to help achieve this goal. If the Project had been approved, the Applicant would be required to coordinate with DOT during the building permit process.

Provide for the combination of residential with commercial uses.

While the Project does not propose any residential use(s), it would complement and provide neighborhood commercial storefronts for the surrounding existing residential neighborhoods of Takoma Park, particularly those neighborhoods within walking distance.

iii. *Division 6.1. Site Access*

Pedestrian access to the Site will be from the established sidewalk network along Carroll Avenue. Bicyclists will access the Site from the master-planned on-street bike lanes on Carroll Avenue. The Applicant's proposal would accommodate the master-planned bike lanes on the south side of Carroll Avenue along the Site frontage. A total of 8 short-term bicycle parking spaces are proposed on Carroll Avenue. The Proposal includes 7 long-term bicycle

² At the time the Application was filed, the 2016-2020 *Subdivision Staging policy* was in effect. The 2020-2024 *Growth and Infrastructure Policy* does not apply to projects filed before January 1, 2021.

parking spaces for the office use in the below-grade parking facility, accessible from the east side elevator bays.

Vehicular access is proposed from a driveway off Carroll Avenue at the western property line, which would operate right-in, right-out only. As of August 19, 2021, MDOT SHA has not approved the proposed vehicular site access due to concerns regarding the Site Distance analysis. Therefore, the Project is not in compliance with Section 59.6.1 of the Zoning Ordinance.

iv. Division 6.2. Parking, Queuing, and Loading

As described under Division 6.1 Site Access, the driveway access from Carroll Avenue leads to a below-grade parking facility for the proposed building. The sight-distance analysis for the vehicular access point has not been approved by MDOT SHA. For this reason, the Project is not in compliance with Section 59.6.2 of the Zoning Ordinance.

As discussed in Finding 4.i above, the Applicant requests a parking waiver for 15 parking spaces and a waiver of the on-site loading requirement to instead load via a layby located along the Carroll Avenue frontage, partially within the public right-of-way. The Planning Board hereby denies both waiver requests, therefore the Application is not in conformance with Division 6.2 of the Zoning Ordinance for Parking Requirements or Loading Design Standards.

v. Division 6.3. Open Space and Recreation

The Project is required to provide 10% of the Site Area as amenity open space, which totals approximately 4,688 square feet. Amenity open space must include 10% permeable area as well as 10% tree canopy coverage, among other criteria listed in Section 59.6.3.7. The Applicant proposes to achieve this predominantly within the Site frontage between the building façade and Carroll Avenue roadway through significant pedestrian improvements with new seating and planting areas adjacent to the Carroll Avenue sidewalk. As a purely commercial development, the Project is not required to provide recreation facilities.

vi. Division 6.4. General Landscaping and Outdoor Lighting

The Project proposes landscaping and lighting, as well as other site amenities, to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by tenants and visitors. The Project proposes to transform existing streetscape along Carroll Avenue with new street trees, improved, wider sidewalks, street lighting, and street furniture. The on-site

lighting would limit the necessary light levels to streets and sidewalks and residential neighborhoods adjacent to the rear of the Property.

As shown in the Development Standards table and discussed above, the Site Plan does not meet all general requirements and development standards of Division 4.6 and Section 4.9.16 of the Zoning Ordinance and the general development requirements of Article 59-6 of the Zoning Ordinance.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

The Application was conditionally approved by the City of Takoma Park Department of Public Works. If the Planning Board had approved the application, the Applicant would continue to work with the City during building permit review to finalize the stormwater approval.

b. Chapter 22A, Forest Conservation

This Application is subject to Chapter 22A Forest Conservation Law and has submitted a Forest Conservation Plan along with the Preliminary and Site Plan Applications. The Forest Conservation Plan shows that within the 1.17-acre site area, including offsite LOD, there is 0.32-acres of existing forest, and 0.20-acres of forest proposed to be cleared. The Forest Conservation Worksheet included in the Plan shows a calculated Reforestation Requirement of 0.14-acres, which the Applicant proposes to meet through off-site Category 1 Forest Conservation Easement provided at a 2x ratio (for a total of 0.28-acres) on the adjacent Lot 39 property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. However, with no approved Preliminary or Site Plan, the Applicant has failed to demonstrate that enforcement of the variance provision would result in an unwarranted hardship. With no approvals on which to act, there can be no unwarranted hardship due to any failure to grant a requested variance.

6. *The development does not provide safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

As proposed, the Project includes several pedestrian access points to the building along the Carroll Avenue frontage. The Project proposes enhancing the public

streetscape along the Carroll Avenue frontage through new planting and landscaping as well as outdoor seating and short-term bicycle parking. The Project does not provide adequate, safe, and efficient parking and circulation patterns. As proposed, the driveway from Carroll Avenue provides vehicular access to the underground parking garage and a designated space for loading activity is provided along the Carroll Avenue frontage. MDOT SHA has not approved the sight-distance analysis for either the access to the parking garage or the layby. Without approval from MDOT SHA on the modifications within the State right-of-way, the required finding cannot be made.

The Project is located within the City of Takoma Park's Historic District. As such, the Applicant participated in three Preliminary Consultations with the Historic Preservation Commission (HPC). At its October 23, 2019 meeting, the HPC determined it had given enough direction to the Applicant and had come to a consensus about the massing, height, and volume of the proposed building such that the Applicant should proceed with other required reviews. Had the Planning Board approved the applications, the HPC would have continued its review of the project, including architectural details of the building elevations, as well as the rear façade and other issues, during review of the Historic Area Work Permit (HAWP).

This design focuses on blending into the existing context and incorporates comments provided during the HPC Preliminary Consultations. The one large building has been broken down through massing, material changes, and articulation of storefronts, to feel like multiple buildings adjacent to each other, similar to the existing rhythm of Carroll Avenue's established main street.

The Applicant proposes to provide an art exhibit area along the Carroll Street facade, which is intended to be a living façade that may change as time goes by. An alternative location has also been proposed on the side of the building facing west.

The rear of the building, which would also be the roof of the parking garage below, would allow for private outdoor areas for the retail tenants and green roof. The second story roof would also be utilized for green roof, totaling approximately 9,655 square feet. The garage level would include screening to minimize the impact of headlights on the homes across Columbia Avenue. The Applicant proposes to avoid blank walls on the eastern, western, and rear facades through masonry detailing and varying colors. However, the City of Takoma Park recommended in Resolution 2021-19 more design improvements to the rear façade in order to have a minimal impact on the residential neighborhood.

As discussed above, façade design and details would be further addressed by the HPC during the HAWP process if the Planning Board had approved the project.

- 7. The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The 2000 *Takoma Park Master Plan* makes recommendations for the Takoma Junction district specifically and for the Plan Area overall, to which the application substantially conforms, as discussed in Findings under 4.ii above..

- 8. The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

The associated Preliminary Plan, Application No. 120190150 found that the development would be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. While the public facilities have been deemed adequate on the basis of capacity, the proposed access off Carroll Avenue and layby within the public right-of-way have not demonstrated safe and efficient circulation patterns.

- 9. On a property in a Rural Residential or Residential Zone, the development is compatible with the character of the residential neighborhood.*

The Subject Property is not located in a Rural Residential or Residential zone.

- 10. The development is compatible with existing and approved or pending adjacent development.*

The Project includes a mix of commercial uses that are appropriate for this area of Takoma Park, which is a neighborhood center comprised of several one and two-story neighborhood serving business as well as a recently constructed Takoma Park Volunteer Fire Department building. The Property abuts residential zoned properties to the rear along Columbia Avenue; however, the Site has been designed to focus development to the Carroll Avenue frontage. While the development may be visible from Columbia Avenue, the Project maintains the existing slope and forested areas, and proposes mitigation plantings to further screen the proposed development from the adjacent residential neighborhood. However, the City of Takoma Park recommended in Resolution 2021-19 more

design improvements to the rear façade in order to have a minimal impact on the residential neighborhood.

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 Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 21 2022 (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 (Maryland Rule 7-203).

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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 Rubin, seconded by Vice Chair Verma, with Chair Anderson and Vice Chair Verma, and Commissioners Cichy and Rubin voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, March 17, 2022, in Wheaton, Maryland.



Casey Anderson, Chair
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