
MEMORANDUM TO: Mayor and City Council

VIA: Tony Tomasello, City Manger

FROM: Jasmine Forbes, Planner

DATE: August 5, 2019

SUBJECT: Final Staff Analysis
SP-8136-2019: 102/104 South Frederick Avenue

**APPLICANT/
OWNER/DEVELOPER/ATTORNEY:**
Luis Ulpiano Esquire, LLC.
11740 Lake Potomac Drive
Potomac, Maryland, 20854

ARCHITECT:
Marty Bates and Ben Bates
Bates Architects, PC
121 North Court Street
Frederick, Maryland, 21701

ENGINEER:
Brian Donnelly, RLA
Macris, Hendricks & Glascock, PA
9220 Wightman Road
Montgomery Village, Maryland, 20886

TAX MAP REFERENCE:
Lot P65- ID# 09-00841296
Lot P66- ID# 09-00841308

REQUEST:

Application SP-8136-2019¹ has been filed requesting concept site plan approval for a new two-story, 5,600 square foot office building. The subject properties are zoned CD (Corridor Development).

LOCATION:

The subject properties consist of 12,238 square feet and are situated at the corner of South Frederick Avenue and Cedar Avenue. The properties are located within the Observatory Heights subdivision.

¹ Exhibit 1



Location Map

BACKGROUND

The Applicant, Luis Ulpiano, submitted Concept Site Plan application SP-8136-2019 for the construction of a new two-story, 5,600 square foot office building. A public hearing for was held on June 17, 2019. During the course of the hearing, the Applicant responded to comments about the building's conceptual architecture, the setback waiver request, and any potential impacts with the future 355 Bus Rapid Transit (BRT) plans.

The Mayor and City Council announced, by motion, the closing of their record on July 12, 2019 with anticipated policy discussion and final action August 5, 2019. There was no testimony from the public during the course of the public hearing, and at the time of the Council's record closing, no further testimony from the public was received into the record.

In response to the comments received during the public hearing, the Applicant has submitted response letters, which are labeled Exhibits 41-44 in the packet. Information presented during the June 17, 2019 meeting, including zoning and site plan history, public facilities, and the application reviewed can be found in the Preliminary Background Report².

SCHEMATIC DEVELOPMENT PLAN PROPOSAL

As mentioned above, the Applicant proposes a new two-story, 5,600 square foot, office building. The office building is proposed to be sited along South Frederick Avenue. A 17-space parking lot to facilitate the office use is located behind the building and is accessible from Cedar Avenue.

Staff is requesting the Applicant to provide an access easement along the rear of the property to promote connectivity with any future redevelopment of the adjacent property. The proposed easement is consistent with the requirements of the CD zone, pursuant to § 24-160G.4(e)(4), which states:

“When feasible, interior access drives with allowance for interconnection between abutting properties and/or shared access to the nearest roadway shall be provided. This should be provided in the rear of properties by alleyways or parking lot connections in order to avoid extensive service drives that make pedestrian access to buildings more difficult.”

Staff will continue to work the Applicant on the final language of the easement, therefore a recommended condition of approval has been included.

As presented during the public hearing, the Applicant is requesting a waiver from the setback requirements. Pursuant to § 24-160G.5 of the City Code, the City Council may by resolution waive setback requirements in the CD zone. Pursuant to § 24-160G.4(c)(2) of the City Code, if a proposed building is abutting a lot or parcel

² Exhibit #37

containing an existing building with windows facing the proposed building, the setback must be at least fifteen (15) feet. The Applicant is requesting a five (5) foot setback waiver from the property located at 106 South Frederick Avenue.

In response to comments raised during the course of the public hearing, the Applicant has reached out to the neighboring property owner of 106 North Frederick Avenue to discuss the proposed office building and requested setback waiver³. Additionally, the Applicant has reached out to the property owner of 5 Cedar Avenue about the project. Staff notes, postcards were sent to the property owners at both 106 North Frederick Avenue and 5 Cedar Avenue notifying them of the public hearing⁴.

Lastly, the proposed plans have been sent to Montgomery County Department of Transportation (MCDOT) for review. At this time, a route has not been selected for the 355 BRT project, but an alternative limit of disturbance boundary was identified to have an impact on the property. MCDOT reviewed the plans and found that the proposed building will not encroach into the concept limit of disturbance of the future 355 BRT project⁵.

Staff Comments

Staff supports the Applicant's outreach to the adjoining property owners, and is supportive of the proposed site plan for the office building. Staff is of the opinion the proposed plan will enhance a vacant property to facilitate a new business in the City, which will contribute to the City's overall economic health. The pedestrian experience along the corridor will be enhanced by placing the building closer to Frederick Avenue and placing the parking behind the building so it is not visible from the street. The existing sidewalk widths will be expanded and landscaping will be provided to further enhance the streetscape along Frederick Avenue.

The 2009 Master Plan, Transportation Element classifies Frederick Avenue as a Major Arterial with a minimum right-of-way (ROW) of 120 feet. The concept plan proposes to provide five (5) feet of dedication along South Frederick Avenue which will meet the minimum 120-foot ROW outlined in the Master Plan and to help to accommodate the future 355 BRT project. The office building will not encroach into the concept limit of disturbance of the future 355 BRT project.

Lastly, Staff is supportive of the five (5) feet setback waiver request. There is approximately thirty (30) feet between the new office building and the adjacent building. The plan will also incorporate shrubs and other plantings, which will create a landscape buffer between the two properties. Staff is of the opinion that granting the setback waiver requesting will not detrimentally impact light and air to the adjacent building.

³ Exhibit #44

⁴ Exhibit #27

⁵ Exhibit #24

Architecture

As part of the Concept Site Plan application, the Applicant has provided conceptual architectural elevations for the new building⁶. The building will be two-stories and designed in a Federal style, which includes brick veneer, a soldier course trim band and a cornice on all sides of the building. The building will also contain a metal screen wall on the roof of the building to screen the mechanical equipment. The east (front) elevation will incorporate one Palladian style metal clad wood window, eight (8) six-over-six double hung windows with wood shutters and precast keystone lintel; four (4) columns; metal railing and wood-glass front door. The south (right side) elevation will incorporate five (5) six-over-six double hung metal clad wood windows with precast keystone header and a door. The north (left side) elevation will incorporate six (6) six-over-six double hung windows with precast keystone lintel. The west (rear) elevation will incorporate four (4) six-over-six double hung windows with wood shutters and precast keystone lintel, three (3) six-over-six double hung windows with precast keystone lintel and a door. As stated in the Architects response letter, a proposed Federal style building was selected because it would meet the client's needs and will be compatible with the surrounding buildings⁷. The owner requested that the new building to contain elements and materials similar to the surrounding buildings.

Staff Comments

Staff is supportive of the proposed conceptual architecture and is of the opinion that the proposed building and materials will be compatible and harmonious with the surrounding buildings along the Frederick Avenue corridor. The development will create an attractive streetscape and provide the Applicant an opportunity to enhance the pedestrian experience in the front of the building by expanding the existing sidewalk to eight (8) feet and providing landscaping. The building will be thirty-two (32) feet in height, which will not exceed the maximum height of forty-five (45) feet for the Fairgrounds Commercial District. The building will also be setback approximately forty-nine (49) feet from the closest adjacent residential house, and thus will not be a detriment to the adjacent residential neighborhood. Overall, it is Staff's opinion the proposed architecture will not adversely affect the character of the surrounding neighborhood.

STORMWATER MANAGEMENT & SEDIMENT EROSION CONTROL

The Applicant submitted preliminary stormwater management and sediment and erosion control applications. The plans have been reviewed and approved by the Department of Public Works⁸.

⁶ Exhibit #33

⁷ Exhibit #41

⁸ Exhibit #45

STAFF FINDINGS, ANALYSIS AND RECOMMENDATION

FINDINGS:

Approval of SP-8136-2019, by the City Council is dependent upon the findings required under § 24-160G.7(b) of the City Code. The following outlines the required findings and justifications for a City Council approval of application SP-8136-2019.

- (1) The plan is substantially in accord with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the city council for applicable corridor area:

The proposed plan will meet the development standards of the CD zone by placing the new building close to North Frederick Avenue and providing a parking lot behind the building which is accessible from Cedar Avenue. The plan will also widen the existing sidewalks and provide pedestrian connectivity by means of two (2) lead walks from the front entrance of the building to South Frederick Avenue. The office building will be thirty-two (32) feet in height which will not exceed the forty-five (45 height) height limit outlined in the Frederick Avenue Master Plan for the Fairgrounds Commercial district.

- (2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone:

- a) Application SP-8136-2019 will improve the property as an office use, which is consistent with the properties 2009 Master Plan land use designation. The application is also dedicating five (5) feet right-of-way along South Frederick Avenue to meet the 120-foot minimum right-of-way recommendation of 2009 Master Plan, Transportation Element.
- b) Application SP-8136-2019 will provide a 5,600 square foot, two-story, office building which is compatible with surrounding commercial and residential uses, similarly found along the Frederick Avenue corridor.
- c) Application SP-8136-2019 will create a more attractive and cohesive development by locating the building close to South Frederick Avenue and placing the parking lot behind the building. This layout of the building provides the Applicant the opportunity to create an attractive streetscape and enhance the pedestrian experience along South Frederick Avenue.
- d) Application SP-8136-2019 will redevelop a vacant property along the Frederick Avenue corridor with a new office building.
- e) Application SP-8136-2019 proposes a Federalist style building, which will contain materials that are compatible with those used in surrounding buildings.

- f) Application SP-8136-2019 will be developed in an appropriate scale of development by providing a building that is thirty-two (32) feet in height which does not exceed the maximum forty-five (45) feet for the Fairgrounds Commercial District.

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements in said master plan for the area under consideration:

The Properties were included in the 1997 Master Plan, under Neighborhood Two, Study Area 3, Map Designation 8. The 1997 Master Plan recommended that the properties adopt the residential-office land use designation and the zoning to remain R-B (Residential Buffer). The 1997 Master Plan designated the land use for the Properties as a residential-office mix. The subject properties were not included in the 2003 or 2009 Master Plans as specific map designations. The 2003 and 2009 Master Plans designated the land use for the subject properties as residential-office. The proposed office use is in accordance with the land use designation as outline in the 1997, 2003 and 2009 Master Plans.

The 2009 Master Plan, Transportation Element classifies Frederick Avenue as a Major Arterial with a minimum right-of-way (ROW) of 120 feet. The concept plan proposes to provide five (5) feet of dedication along South Frederick Avenue which will help meet the 120-foot ROW and to accommodate the future BRT project.

The plan is also in conformance with the 2001 Frederick Avenue Corridor Land Use Plan. The Properties are situated within the Fairgrounds Commercial District. The maximum building height permitted in the Fairgrounds Commercial District is four-stories and cannot exceed forty-five (45) feet in height. The proposed office building will be two-stories with an overall height not exceeding thirty-two (32) feet.

(4) The plan will be internally and externally compatible and harmonious with existing and planned uses in the CD zoned area and adjacent areas:

The application is compatible and harmonious with the adjacent area. The office building will be located on a major corridor with existing commercial, office and residential uses. The building will be designed in the Federal style, which will contain materials that are compatible to the surrounding buildings. The building will also be setback forty-six (46) feet from the closest residential building to the south and five (5) feet from the existing commercial building to the east, and thus will not be a detriment to the health, safety or general welfare.

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan:

This application complies with the City's adequate public facilities requirements, as follows:

1. **Traffic Impacts-** Based on the amount of traffic that will be generated by the proposed use, the Applicant has obtained a determination from City Staff that the standards are not applicable to the application's proposed development. The proposed office will not generate an additional thirty (30) weekday peak hour trips that would require a traffic impact study.
2. **Adequacy of School Capacity-** The adequacy of school capacity is not applicable for this application because the project is for an office building. Therefore, the proposed development is exempt from the school test of the Adequate Public Facilities.
3. **Water and Sewer Services and Public Utilities-** The Properties are currently served by Category W-1 and S-1 of Washington Suburban Sanitary Commission (WSSC) services. As such, water and sewer services are adequately provided to the properties.
4. **Fire and Emergency Services-** The Properties are located within a ten-minute (10-minute) response time of Station 8 (Gaithersburg), Station 28 (Gaithersburg) and Station 32 (Travilah).

(6) The development staging or phasing program, if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development:

The construction of the new office building and parking lot will be completed in one phase. Therefore, no staging or phasing is required for implementation of the plan.

(7) That the plan, if approved, would be in the public interest:

The plan will enhance a vacant property to facilitate a new business in the City, which will contribute to the City's overall economic health. The pedestrian experience along the corridor will be enhanced by placing the building closer to Frederick Avenue and placing the parking behind the building so it is not visible from the street. The existing sidewalk widths will be expanded and landscaping will be provided to further enhance the streetscape along Frederick Avenue.

(8) The existing buildings with historic significance are considered for preservation and retention pursuant to the city's historic preservation ordinance.

The HDC at their June 27, 2018 meeting reviewed the demolition permit for the previous building. During the review of the demolition permit, the HDC found that the building did not have historic significance, and therefore approved issuance of the demolition permit without delay.

STAFF RECOMMENDATION

Staff is supportive of the submitted Concept Plan, SP-8136-2019. The plan meets and accomplishes the purposes, objectives and minimal standards and requirements of the CD Zone. The plan will further enhance the pedestrian experience on the property by expanding sidewalks and providing landscape along the corridor. Staff is also supportive of the five (5) foot side setback waiver request. There will be approximately thirty (30) feet between the new office building and the adjacent building, which Staff is of the opinion is adequate distance. The plans will incorporate shrubs and other plantings, which will create landscape buffer between the two properties. Staff is of the opinion that the proposed office building will not detrimentally impact the light and air to adjacent buildings. Overall, the proposed plan will not adversely affect the character of the surrounding neighborhood.

Staff recommends THAT THE CITY COUNCIL, BASED ON THE EVIDENCE AND TESTIMONY SUBMITTED TO THE RECORD AND THE FINDINGS IN THE FINAL STAFF ANALYSIS, APPROVE SP-8136-2019, FINDING IT IN CONFORMANCE WITH § 24-160G.7(B) OF THE CITY'S ZONING ORDINANCE, WITH ONE (1) CONDITION.

1. Applicant to work with City planning staff to finalize and record an access easement, permitting adequate access to the adjacent property, prior to issuance of a site development permit.

Staff recommends THAT THE COUNCIL, BASED ON THE EVIDENCE AND TESTIMONY SUBMITTED TO THE RECORD AND THE FINDINGS IN THE FINAL STAFF ANALYSIS, APPROVED THE FIVE (5) SIDE SETBACK, FINDING IT CONFORMANCE WITH § 24-160G.5(B) OF THE CITY'S ZONING ORDINANCE.