



The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

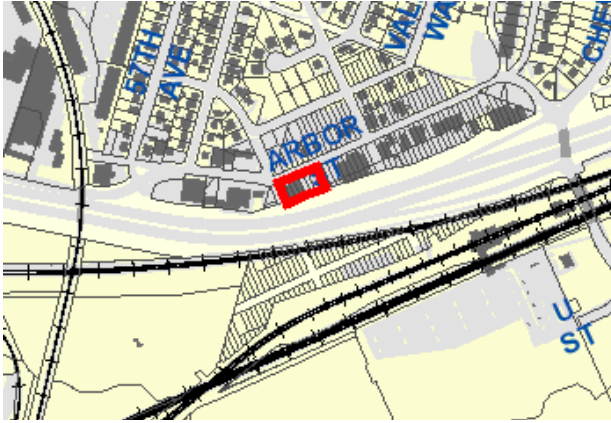
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Detailed Site Plan

5801 Arbor Street Property

DSP-21032

REQUEST	STAFF RECOMMENDATION
<p>This case was continued from the Planning Board hearing date of April 27, 2023 to June 29, 2023.</p> <p>To approve a change in the list of allowed uses to permit wholesaling, distribution, and related storage of food and beverage materials (products) used and produced on the premises in the M-U-I/D-D-O Zones.</p>	<ul style="list-style-type: none">• DISAPPROVAL

Location: On the south side of Arbor Street, approximately 250 feet west of its intersection with 59th Avenue.			
Gross Acreage:	0.46		
Zone:	LTO-C		
Zone Prior:	M-U-I/D-D-O		
Reviewed per prior Zoning Ordinance:	Section 27-1903(c)		
Dwelling Units:	N/A		
Gross Floor Area:	9,053 sq. ft.		
Planning Area:	69		
Council District:	05		
Municipality:	N/A		
Applicant/Address: Nabely Family Trust 17707 Central Avenue Upper Marlboro, MD 20774		Planning Board Date:	6/29/2023
Staff Reviewer: Dominique Lockhart Phone Number: 301-952-3411 Email: Dominique.Lockhart@ppd.mncppc.org		Planning Board Action Limit:	Waived Indefinitely
		Staff Report Date:	6/14/2023
		Date Accepted:	09/29/2022
		Informational Mailing:	11/23/2021
		Acceptance Mailing:	09/14/2022
		Sign Posting Deadline:	03/28/2023

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at http://www.mncppcapps.org/planning/Person_of_Record/. Please call 301-952-3530 for additional information.

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Detailed Site Plan DSP-21032
 5801 Arbor Street Property

The Urban Design staff has completed its review of the subject application and appropriate referrals. The following evaluation and findings lead to a recommendation of DISAPPROVAL.

EVALUATION

This property is located within the Local Transit-Oriented-Core (LTO-C) Zone. However, this application is being reviewed and evaluated in accordance with the prior Prince George's County Zoning Ordinance, pursuant to Section 27-1903(c) of the current Zoning Ordinance. This request to change the list of allowed uses and accompanying detailed site plan (DSP) were reviewed and evaluated for conformance with the following criteria:

- a. The requirements of the 2018 *Approved Greater Cheverly Sector Plan*;
- b. The requirements of the prior Prince George's County Zoning Ordinance in the Mixed Use-Infill (M-U-I) Zone and the Development District Overlay (D-D-O) Zone;
- c. The requirements of the 2010 *Prince George's County Landscape Manual*;
- d. The requirements of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance;
- e. The requirements of the Prince George's County Tree Canopy Coverage Ordinance; and
- f. Referrals.

FINDINGS

Based upon the evaluation and analysis of the subject application, the Urban Design staff recommends the following findings:

1. **Request:** The site is currently operating as a wholesaling and distribution warehouse, and a contractor's office with outdoor storage. Per the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), there are no prior permits issued that allow these uses.

The applicant pursued use and occupancy permits to validate the existing uses through Permit 1670-2018 for the wholesaling and distribution warehouse use and Permit 7827-2020 for the contractor's office with outdoor storage use. These permits were not approved, and are currently on hold, due to noncompliance with the applicable Development District Overlay (D-D-O) Zone standards, as the uses are not permitted under applicable zoning.

This DSP is a request to validate the existing "wholesaling or distribution of materials used or produced on the premises," pursuant to Section 27-548.26(b)(1)(B) of the prior Prince George's County Zoning Ordinance, that allows the Prince George's County District Council to approve a change in the list of allowed uses in the D-D-O Zone, as modified by the zone's development district standards. When making such a request, an applicant is required to submit either a DSP, or a conceptual site plan (CSP). The Prince George's County Planning Board is required to make a recommendation to the District Council on the request to change the list of allowed uses and make a final decision on whether the DSP meets the required findings for approval.

The property is subject to the table of uses for the Mixed Use-Infill (M-U-I)/D-D-O Zones, within the 2005 *Tuxedo Road/Arbor Street/Cheverly Metro Area Approved Sector Plan and Sectional Map Amendment* (Cheverly Sector Plan and SMA). The initial request filed with the acceptance package of the subject application was to permit the uses of wholesaling, distribution, and related storage of materials (products) used and produced on the premises (Wholesaling and Distribution Warehouse), and a contractor's office as a permanent use with outdoor storage (Contractor's Office with Outdoor Storage), at the subject property. The Cheverly Sector Plan and SMA does not permit the uses for the M-U-I/D-D-O Zones.

On May 18, 2023, the applicant submitted revised materials removing the request to amend the Table of Uses for the M-U-I/D-D-O Zones to allow a "contractor's office with outdoor storage." The applicant proposes to remove the existing contractor's office with outdoor storage use from the property.

In addition, the other requested use to allow "wholesaling or distribution of materials used or produced on the premises" has been slightly altered to narrow the use to "wholesaling or distribution of food or beverage materials only." The revised use is still not permitted within the M-U-I/D-D-O Zones, and, as such, an application to change the use is still required for approval of the use on the subject property.

Per Section 27-546.17 of the prior Zoning Ordinance, all uses permitted by-right or by special exception in the Commercial Shopping Center (C-S-C) Zone, as provided in Section 27-461(b), are permitted by-right in the M-U-I Zone. Per Section 27-461(b), the use of wholesaling and distribution of food and beverage materials is not a permitted use.

2. Development Data Summary:

	EXISTING	PROPOSED
Zone	LTO-C (Prior M-U-I/D-D-O)	LTO-C (Prior M-U-I/D-D-O)
Total Site Area	0.46	0.46
Use(s)	Wholesale or distribution and Contractor's Office*	Wholesale or distribution
Total Building Gross Floor Area (GFA)	9,053 sq. ft	9,053 sq. ft

Parking and Loading Data:

Parking Requirements	REQUIRED	PROVIDED
3 spaces for first 1,500 sq. ft. GFA	3	3
1 space for each additional 1,500 sq. ft. GFA	5	6
Total Parking Spaces	8	9

Other Development Data:

Loading Spaces	REQUIREMENT	REQUIRED	PROVIDED
Wholesale or warehouse	1 per 1,500–10,000 sq. ft GFA	1	0
Total Loading Spaces		1	0**

Notes: *The existing uses, as a wholesaling and distribution warehouse and a contractor's office with outdoor storage, are operating without approval or authorization. The contractor's office with outdoor storage use is to be removed.

**The Cheverly Sector Plan and SMA does not contain specific requirements for the number of loading spaces; therefore, Section 27-582(a) of the prior Zoning Ordinance serves as the requirement.

- 3. Location:** This property is located on the south side of Arbor Street, approximately 250 feet west of its intersection with 59th Avenue in Council District 5, and Planning Area 69. More specifically, the site address is 5801 Arbor Road, located less than a 0.5 mile south of the corporate limits for the Town of Cheverly. The property is shown as Lots 1–8, Block 6, of the Tuxedo Subdivision shown in Plat Book A, Plat No. 71, as filed among the land records of Prince George's County.

4. **Surrounding Uses:** This property is surrounded by light industrial/commercial uses in the LTO-C Zone to the west, east, and north across Arbor Street. US 50 (John Hanson Highway) is located to the south, with the Cheverly Metro Station in the LTO-C Zone, beyond.
5. **Previous Approvals:** Permit 906-1975-U was issued on June 4, 1975, and allowed the retail sale of truck parts, but specifically stated that no warehousing or service use was permitted. At the time of permit approval, the site was located in the General Commercial, Existing (C-2) Zone, which also did not allow a storage warehouse use.

Permit 1881-1988-U was approved on February 14, 1989, and allowed the site to be used for auto repair services.

In 2005, the Cheverly Sector Plan and SMA rezoned the subject property from the Miscellaneous Commercial (C-M) Zone to the M-U-I Zone and superimposed a D-D-O Zone.

DSP-05103 was approved by the Planning Board on July 20, 2006 (Resolution No. 06-177), to allow for an automotive storage yard for cars waiting to be repaired, on a 0.42-acre site in the C-M Zone. At the time of this application, the site was exempt from the Cheverly Sector Plan and SMA D-D-O Zone requirements, because no new construction was proposed on-site.

The site is currently operating as a wholesaling and distribution warehouse, and a contractor's office with outdoor storage.

Per DPIE, there are no prior permits issued that allow the use of a wholesaling and distribution warehouse and a contractor's office with outdoor storage.

The applicant has pursued use and occupancy permits to validate the existing uses through Permit 1670-2018 for the wholesaling and distribution warehouse use and Permit 7827-2020 for the contractor's office with outdoor storage use. These permits were not approved and are currently on hold due to noncompliance with the applicable D-D-O Zone standards, as the uses are not permitted.

The revised request removes the contractor's office with outdoor storage use and narrows the scope of the wholesaling and distribution use to food or beverage materials only.

COMPLIANCE WITH EVALUATION CRITERIA

6. **2018 Approved Greater Cheverly Sector Plan and the Development District Overlay (D-D-O) Zone:** This property is located within the Cheverly Metro Local Transit Center boundary of the Greater Cheverly Sector Plan, and Section 3 (Land Use Element) provides policies and strategies that apply to this area, including the following:

Policy LU 2—Define the Local Transit Center (LTC) boundary to focus redevelopment at the Cheverly Metro Station and along the MD 459 (Arbor Street and Tuxedo Road) corridor east of the CSX Railroad tracks, and to limit development in the floodplain. (Page 43)

Strategies

LU 2.1—Promote redevelopment from east of the CSX railroad tracks along MD 459 (Tuxedo Road and Arbor Street) to Cheverly Avenue to allow a mix of residential, retail and office uses. (Page 43)

LU 2.2—Facilitate parcel assembly from east of the CSX Railroad tracks along MD 459 (Tuxedo Road and Arbor Street) to encourage redevelopment in the Local Transit Center and implement the vision of a walkable main street. (Page 43)

The 2018 *Approved Greater Cheverly Sector Plan* replaced the 2005 Cheverly Sector Plan and SMA. However, the D-D-O Zone containing design standards and a table of uses to facilitate implementation of land use and community character recommendations still remains applicable.

The subject application proposes to amend the table of uses within the D-D-O Zone, in accordance with Section 27-548.26(b)(5). New development is not being proposed with this application. Staff find that the proposed amendment will allow the wholesaling and distribution of food and beverage materials to continue as a principal use on the property. The contractor's office with outdoor storage use is to be removed. The requested principal use is not consistent with the policies and strategies of the Greater Cheverly Sector Plan that seek to achieve a mix of residential, retail, and office uses for the purpose of implementing the plan's vision of a walkable main street in the plan area.

7. **Prince George's County Zoning Ordinance:** The subject site plan has been reviewed for conformance with the requirements of the M-U-I and D-D-O Zones. Uses in the M-U-I Zone are governed by Section 27-546.17(a), which states:

(a) **All uses permitted by right or by Special Exception in the C-S-C Zone, as provided in Section 27-461(b), are permitted by right in the M-U-I Zone, except as follows:**

- (1) **For the uses in Section 27-461(b)(3), Miscellaneous, and 27-461(b)(6) Residential/Lodging, the uses allowed are those permitted in Section 27-441(b)(4), Miscellaneous, and (7), Residential/Lodging, for the R-18 Zone, except that hotel and motel uses are permitted as in the C-S-C Zone.**

The C-S-C Zone does not permit wholesaling or distribution uses of any kind, with one specific exception (by footnote) for the adaptive use of a furniture warehouse store. Section 27-461(a)(7) of the prior Zoning Ordinance provides that all uses not listed are prohibited.

Uses in the D-D-O Zone are governed by Section 27-548.22 which provides that "uses allowed on property in a Development District Overlay Zone shall be the same as those allowed in the underlying zone in which the property is classified, except as modified by Development District Standards approved by the District Council." The development district standards as adopted by the 2005 Cheverly Sector Plan and SMA also prohibit the use.

Although wholesaling or distribution of food or beverage materials only is a prohibited use in the M-U-I and D-D-O Zones, pursuant to Section 27-548.26(b), the applicant can request that the District Council change the list of allowed uses for the subject property, to allow a desired use. In doing so, the District Council must find that the proposed development conforms with the purposes and recommendations for the development district, as stated in the master plan, master plan amendment, or sector plan; meets applicable site plan requirements; and does not otherwise substantially impair the implementation of any comprehensive plan, applicable to the subject development proposal.

Staff oppose the applicant's request to allow a wholesaling and distribution warehouse, as it is not consistent with the permitted uses of the C-S-C Zone nor the intent of the D-D-O Zone, and will substantially impair implementation of the Cheverly Sector Plan and SMA by eliminating the opportunity to develop the subject property as recommended by the sector plan.

Two objectives of the Cheverly Sector Plan and SMA are to bring industrial areas into code compliance, remove noxious uses, and transform Arbor Street into a main street with retail, accompanied and supported by residential and small office uses (Page 56). More specifically, Subareas A and B which contain the subject property, were placed under the D-D-O Zone to ensure that the redevelopment of land in these subareas met the land uses and/or urban design goals contained in the Cheverly Sector Plan and SMA. The D-D-O Zone's development district standards, guidelines, and uses are intended to achieve goals that "provide a pedestrian-oriented, human-scale environment that will enliven the sector area, provide a community-oriented town center, and offer flexible, easy-to-accommodate opportunities for future economic growth and development." (Page 83).

In addition, staff believe disapproval of the proposed use is appropriate when the applicant is currently operating that same use without a permit. Per DPIE, no prior permits have been issued that allow the use of a storage warehouse. Permit 906-1975-U was issued on June 4, 1975, and allowed the retail sale of truck parts, but specifically stated that no warehousing or service was permitted. When this permit was approved, the site was located in the C-2 Zone, which did not allow a storage warehouse use. Permit 1881-1988-U was approved on February 14, 1989, and allowed the site to be used for auto repair services. The subject property was changed from the C-2 Zone to the C-M Zone, which also does not allow a storage warehouse use.

The District Council, the Planning Board, and the community invested a significant amount of time creating the D-D-O Zone for the Cheverly Sector Plan and SMA. To ignore the strategies and permitted uses, fails to adhere to the community's wishes and the land use vision for the area.

The planning processes, which lead to approval of all sector plans, involve public processes and substantial resources. The public process is to guarantee that the clear vision and reasonable expectations are considered and, most importantly, an implementable plan is approved. The Cheverly Sector Plan and SMA provides decision-makers with clear and concise direction regarding desired uses and building standards necessary to implement the plan's vision.

In an effort to assure the validity of approved plans, to maximize opportunities to implement the plan, and to maintain the community's trust in the planning processes, staff cannot support uses that are contrary to the plan's vision. The applicant's request, to add the wholesaling and distribution warehouse of food and beverage materials as a permitted use on the property, eliminates the opportunity to attract mixed-use residential development to the subject property, as recommended by the Greater Cheverly Sector Plan, and reinforced by the Cheverly Sector Plan and SMA, which reclassified the subject property from the C-M Zone to the M-U-I Zone and imposed the D-D-O Zone. In addition, the District Council did not approve zoning for the subject site that would allow the proposed use; therefore, there is no presumption that the subject site could be used, as desired.

Therefore, staff find that the Planning Board should recommend to the District Council that the wholesaling, distribution, and related storage of food and beverage materials (products) used and produced on the premises use be disapproved.

8. **2010 Prince George's County Landscape Manual:** The application is exempt from the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual), per Section 1.1(d), because the change in use will not result in a change from a lower-intensity to a higher-intensity use category, as defined in the Landscape Manual. Any future development applications for this site may be subject to the requirements of the Landscape Manual.
9. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The site is exempt from the requirements of the Woodland and Wildlife Habitat Conservation Ordinance, as stated in a letter of exemption issued by the Environmental Planning Section on October 10, 2013. The reason given for issuing the letter of exemption was because the property contains less than 10,000 square feet of woodland and has no previous tree conservation plan approvals.
10. **Prince George's County Tree Canopy Coverage Ordinance:** This project is not subject to the requirements of the Tree Canopy Coverage Ordinance because the disturbance on the site will not exceed 5,000 square feet.
11. **Referral Comments:** This application was referred to the concerned agencies and divisions. The referral comments are summarized as follows, and are incorporated herein by reference:
 - a. **Community Planning**—In a memorandum dated June 7, 2023 (Selvakumar to Lockhart), the Community Planning Division offered an evaluation of the application's conformance with the D-D-O Zone, which has been incorporated into Findings 7 and 8 above.
 - b. **Transportation Planning**—In a memorandum dated November 9, 2022 (Yang to Burke), the Transportation Planning Section provided comments and found that the existing access connections, site circulation, and the number of on-site parking spaces are sufficient and meet the zoning requirements.

- c. **Subdivision Review**—In a memorandum dated November 4, 2022 (Gupta to Burke), the Subdivision Review Section provided comments and found that there is no preliminary plan of subdivision (PPS) associated with the subject property. The project is exempt from the requirement of a new PPS and new final plat, pursuant to Section 24-111(c)(3) of the prior Subdivision Regulations, because the final plat predates October 27, 1970, the development was in existence prior to January 1, 1990, and no new development is now proposed. A PPS may be required if new development is proposed in the future.
 - d. **Prince George's County Department of Permitting, Inspections, and Enforcement Review**—In a memorandum dated December 1, 2022 (Giles to Burke), the DPIE Site/Road Plan Review Division provided comments and stated no objection to the proposed DSP. In addition, the applicant will be required to provide documentation of previously issued permits for all built structures and site work in future development stages.
- 12. The subject DSP does not propose any new development on the property. Because staff is recommending the Planning Board oppose the use request, it follows that, pursuant to Section 27-285(b)(1) of the prior Zoning Ordinance, the DSP does not represent a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development, for its intended use.
 - 13. Section 27-285(b)(4) of the prior Zoning Ordinance requires that regulated environmental features be preserved and/or restored in a natural state, to the fullest extent possible. This application is to allow a use and will not impact the conditions of the site.
 - 14. As of the writing of this technical staff report, staff has not received any community feedback or input regarding the subject application.

RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Urban Design staff recommends that the Planning Board adopt the findings of this report and recommend to the Prince George's County District Council DISAPPROVAL of the applicant's request to permit wholesaling, distribution, and related storage of food and beverage materials (products) used and produced on the premises, and DISAPPROVE applicant's request for approval of the detailed site plan.