

HOWARD RESEARCH AND DEVELOPMENT, * BEFORE THE
 PETITIONER * PLANNING BOARD OF
 PLANNING BOARD CASE NO. 441 * HOWARD COUNTY,
 MARYLAND

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DECISION AND ORDER

The Planning Board of Howard County, Maryland held a public hearing on December 6, 2018, in accordance with Section 3.516 of the Howard County Code, to consider the petition of the Howard Research and Development Corporation (HRD) to erect temporary wayfinding signage, identity signage, fence scrim, and barricade banners within the Downtown Columbia Crescent Neighborhood during the period of construction and initial leasing of the new development marketed as the Merriweather District. A variance is required due to the quantity of signs proposed, sign size, and the length of time the temporary signage will remain in place. The subject area is located in the 5th Election District at Little Patuxent Parkway, Broken Land Parkway and Merriweather Drive in Columbia, MD. The land is zoned NT and designated as Downtown Mixed-Use Area on the Downtown Columbia Plan – A General Plan Amendment. The temporary signage will be located on properties along Divided Sky Way, Broken Land Parkway, Hickory Ridge Road and Merriweather Drive, as well as internal to the neighborhood.

The Notice of Hearing was published and the subject property was posted in accordance with the Planning Board’s requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case.

Pursuant to the Planning Board’s Rule of Procedure, the reports and official documents pertaining to the petition, including the Howard County Code – Sign Ordinance (Title 3, Subtitle 5), Downtown Columbia Plan Amended, a General Plan Amendment, the Zoning Regulations, Downtown-wide Design Guidelines, The Final Development Plan (FDP-DC-Crescent-1 and 1A), the Crescent Neighborhood Design Guidelines, the Technical Staff Report, and the file for PB-441 were made part of the record.

The Petitioner was represented by Todd Brown, Esq. There was no opposition to the Petition.

After carefully evaluating all testimony and evidence accepted into the record, the Planning Board made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Planning Board has the authority to review and make a decision regarding the proposed sign variance request in accordance with the pertinent criteria set forth, pursuant to Section 3.513(c) of the Howard County Code. Those criteria are as follows:
 - a. The proposed signage is otherwise allowed;
 - b. The proposed signage is appropriate given its location and the anticipated scale and intensity of existing or planned adjacent uses;
 - c. The proposed signage will not adversely affect the use or development of adjacent property, nor result in a dangerous traffic condition;

- d. The proposed signage will not be detrimental to the downtown revitalization; and,
 - e. Extraordinary hardships or practical difficulties may result from strict compliance with this subtitle or that the goals of downtown revitalization will be served to a greater extent by the proposed sign.
2. Section 3.500(e) of the Howard County Code emphasizes that the Downtown Columbia Plan set goals to establish the first urban center that is well planned, economically successful, vibrant and visually attractive. It further states:

“The provisions governing signage in Downtown Columbia are intended to ensure that signs are an integral part of an overall development plan aimed at achieving an aesthetically pleasing and high quality visual environment that reinforces the planned character of each of the neighborhoods, is compatible with the identification and wayfinding for pedestrian and vehicular traffic, and establishes a coordinated and harmonic urban streetscape while, at the same time, provides for a signature environment for each of the six distinct neighborhoods that make up Downtown Columbia. The provisions are also aimed at achieving well-designed, coordinated signage and a process that encourages creativity in the use of signage to enhance the urban experience.”

3. Jill Manion-Farrar presented the Technical Staff Report for the Department of Planning and Zoning, which recommended approval of the sign variance petition. Ms. Manion-Farrar explained the sign variance was needed due to temporary signage being in place longer than the standard temporary sign permitted in Howard County, and that the size and quantity of signs proposed -due to the nature of their proposed purpose – exceed the typical Howard County sign standards. More specifically, Ms. Manion-Farrar described the sign variance request as detailed by the petitioner in their request.

Crescent Area 1, at the storefronts along Divided Sky Lane, would be fitted with retail window barricades that would include leasing information, and restaurant, food and shopping -themed pictures to dress up the plywood barricade. Wayfinding will also be located along Merriweather Drive and Divided Sky Lane. The barricade signage would remain in place until the retail space is leased and tenants provide individual storefront signage. Wayfinding signage will remain in plan until such time any permanent wayfinding signage from approved site development plans can be put in place.

Crescent Area 2, which is currently undeveloped with no approved plans in place, would receive only temporary wayfinding signage near the intersections of Hickory Ridge Road and Broken Land Parkway and Hickory Ridge Road and Merriweather Drive. This wayfinding signage, which will be repeated throughout Merriweather Drive as visitors proceed through the neighborhood, is necessary to provide directions for visitors of the areas under construction as well as patrons of Merriweather-Symphony Woods and Merriweather Post Pavilion to proceed to parking areas. The wayfinding signage will remain in place until the construction is completed to the extent that signage as approved on the previously approved site development plans that provide the permanent wayfinding signage details and locations.

Crescent Area 3, which is the largest area in the neighborhood and the focus of most of the current and remaining future construction activity, will have temporary wayfinding, leasing and Downtown promotional materials, which will exist as the barricade signage as described for Crescent Area 1, and as fence scrim attached to the chain link fencing surrounding active construction zones, which would screen the construction activity from pedestrian and vehicular traffic. Scrim will be removed

at the conclusion of construction for each block, barricade signage will be removed as tenant spaces are leased, and wayfinding signage will remain in place until such time permanent wayfinding can be installed.

The technical staff report found that the petitioner's application met all applicable criteria for approval, including for the proposed modifications from the Downtown Columbia Plan exhibits. Further, the staff report found that the proposed temporary signage met the goals of enhancing the urban experience while construction was under way. DPZ recommended approval of the sign variance of the petition with the condition that a permit is issued for each temporary sign and that all temporary signage must be removed following construction and leasing and replaced with permanent signage.

4. At the conclusion of the presentation, Planning Board Chairperson Phil Engelke questioned staff why the sign variance was presented through a quasi-judicial hearing. Staff responded that all variances are presented through a quasi-judicial process.
5. Ahead of calling expert witnesses for the Petitioner, Mr. Brown provided a background history for why Council placed sign variances within Downtown under Planning Board jurisdiction, which is because the Board is more familiar within the plans in Downtown Columbia, and that Planning Board is in the position to decide if the variances better further the goals of Downtown Columbia. Mr. Brown also introduced clarification to the petitioner's request. The clarification furthers the approval of the temporary signage to include the fence scrim and barricade fencing in the remaining development blocks in the Crescent Area 3 section not yet under development. The last clarification was to provide the option of either color or black and white signage. Mr. Brown added the following exhibits into the record:
 - a. Applicant Exhibit #1 – Statement of Clarification of Petitioner's request; and
 - b. In addition, a copy of petitioner's complete presentation was later incorporated into the record as Applicant Exhibit #2.

Planning Board Counsel David Moore determined that the clarification of the request is appropriate and does not change or expand the actual proposed variance. The variance request and the overall location of the future construction areas within the same district is found to be within the scope of the notification of the hearing.

6. Ms. Ruth Hoang, Vice President of Development, Howard Research and Development (HRD), 10480 Little Patuxent Parkway, Suite 400, Columbia, testified as the petitioner for the proposed sign variance. Ms. Hoang updated the Planning Board to the current construction status in the Crescent Neighborhood, and impressed on the Board the importance of the signage variance in the marketing and leasing of commercial and ultimately residential components of the neighborhood. Ms. Hoang address the importance of wayfinding to guide and orient visitors to the site and inform what is coming, while improving the visual experience of the areas under construction. Ms. Hoang provided a rough timeline for the construction and the open-ended nature of initial leasing of the storefront retail.

In response to a question from Planning Board Member Kevin McAliley, Ms. Hoang referred to a map of the proposed fence scrim locations that would be presented by the next witness.

7. Jamie Pett, Principal, JP2 Architects, testified on behalf of the petitioner regarding the proposed sign variance, and specifically detailed the design and location of the temporary signage. Mr. Pett impressed the importance of the proposed signage since the existing temporary signage ordinances were not designed for a large, multi-phased, multi-blocked construction project. Mr. Pett described the informational purpose but also amenitized feel of the proposed signage. Mr. Pett presented the proposed type faces on a black and white format, as well as an optional accent color. Mr. Pett informed the board of the location of each proposed sign type.

Mr. Pett described the material of each fence type. The temporary wayfinding signs would be painted wood fences, with printed vinyl faces which would be 10' signs, affixed 2' above the ground. The barricade and leasing signs requested for Area 1 and Area 3 would be printed graphics that would be adhered to the plywood barricades that are protecting the storefronts ahead of the tenant fit-out. The advertising would be limited to leasing opportunities or to inform visitors of a future tenant. There will also be a couple free standing leasing opportunity signs made of wood with a laminated graphic, along with free-standing identity signs announcing locations of new buildings, also of the same wood and vinyl laminate construction, and same dimensions as the wayfinding signage. The 5'x10' fence scrim will be printed vinyl (color and black and white) that are grommeted on the edge and clipped to the chain link fencing.

In response to Planning Board Member Ed Coleman's question to define "end of construction", Mr. Pett testified that each sign type would have a different timeline. The fence scrim would only be in place during construction and removed as soon as building construction is substantially complete and the site is safe. The plywood barricades would then be in place for at least several months after the construction is complete, until each retail space is leased and the tenants receive their fit-out permit. The wayfinding signage will be replaced with permanent signage once the construction in the location of the permanent wayfinding signing proposed on the applicable site development plan is substantially completed.

In response to a question from Planning Board Member Kevin McAliley, Mr. Pett testified that none of the proposed temporary signage is expected to be in place for a decade, and that temporary signage will be replaced with permanent signage as soon as possible.

In response to a question from Mr. McAliley, Planning Board Counsel David Moore informed the Board that they could not be granted editing rights to any sign content should there be a complaint. Mr. Pett further testified that the Howard Research and Development marketing department is sensitive to not include objectionable material.

In response to a question from Planning Board Chair Phil Engelke, Mr. Pett testified that the entire signage package is non-illuminated and that this is a daytime package.

Mr. Engelke also questioned the Mr. Pett regarding the need for maintenance of the signage if they deteriorated while they were in place, to which Mr. Pett affirmed.

Planning Board Counsel David Moore questioned the witness whether there is a self-executing or self-limiting standard to apply to the definition of "temporary" for the signage since the construction period could continue for multiple years. Mr. Brown, testified on behalf of Mr. Pett that the temporary nature of the signage would be "self-executing." Fence scrim would come down ahead of the building

being occupied. Barricade fencing would come down as retail spaces are leased, and free-standing leasing signage will be removed after initial leasing is concluded.

Mr. Coleman questioned what the reasonable useful life of the materials of the signage, to which Mr. Engelke responded typically 18 months to 3 years, with any necessary maintenance. Mr. Coleman then questioned the petitioner if the approval of the sign variance should be limited to the lifespan of the sign materials, with the understanding the petitions could request the extension of the placement of the temporary signs. Mr. Brown testified on behalf of the petitioner that leaving a self-executing removal of signage would be a better alternative because it is not in the interest of HRD to allow the fencing to fall into disrepair or the signs would be removed and leaving blank storefronts. Mr. Engelke concluded that a condition to maintain signage package should be included.

Mr. Moore asked Mr. Brown whether this variance should be a long-term temporary sign or a short-term permanent signage, to which Mr. Brown replied there is no good fit in the sign code for this sign program. Mr. Brown also further testified that County staff will be in regularly visiting the site while it is under construction and can alert the Department of Planning and Zoning if a violation for disrepair needs to be investigated.

In response to a question from Mr. Coleman, Mr. Brown testified that the sign variance criteria in the ordinance will ensure that there will not be a precedent set that will allow signage types not appropriate for other neighborhoods.

8. The Board is persuaded that the evidence, based on the testimony provided by the petitioner's witnesses as outlined in Findings of Fact 5-7, and the information in the Department of Planning and Zoning's Technical Staff Report, convincingly demonstrate the proposed signage variance request, including the clarification request presented to the Board as Applicant Exhibit #1, meets the requirements established in the criteria set forth in Section 3.513(c) of the Howard County Code and summarized in the Department of Planning and Zoning's Technical Staff Report, in particular:
 - a. The Board was persuaded that the proposed signage is otherwise allowed or not explicitly prohibited in Section 3.500 of the Howard County Code or for Downtown Columbia within the sign ordinance, within the Downtown-wide Design Guidelines or within the Crescent Neighborhood Design Guidelines as described by staff in Findings of Fact #3.
 - b. The Board was persuaded that the proposed signage is appropriate given its location and the anticipated scale and intensity of existing or planned adjacent uses as described by staff in Findings of Fact #3 and by the testimony of Ms. Hoang and Mr. Pett as outlined in Findings of Fact #6 and #7.
 - c. The Board was persuaded that the proposed signage will not adversely affect the use or development of adjacent property, nor result in a dangerous traffic condition, as described by staff in Findings of Fact #3 and by the testimony of Ms. Hoang and Mr. Pett as outlined in Findings of Fact #6 and #7.
 - d. The Board was persuaded that the proposed signage will not be detrimental to the downtown revitalization as described by staff in Findings of Fact #3 and by the testimony of Ms. Hoang and Mr. Pett as outlined in Findings of Fact #6 and #7.
 - e. Board was persuaded that extraordinary hardships or practical difficulties may result from strict compliance with this subtitle or that the goals of downtown revitalization will be served to a greater extent by the proposed sign as described by the testimony of Ms. Hoang and Mr. Pett

as outlined in Findings of Fact #6 and #7.

CONCLUSIONS OF LAW

1. The Petitioner, as one seeking the Planning Board's approval of the proposed variance for a temporary sign package for the Downtown Columbia Crescent Neighborhood, has the burden of demonstrating that criteria of subsections 1 through 5 of Section 3.513(c) of the Howard County Code has been met, in order for the Board to approve the above-mentioned variance.
2. The signage proposed and general locations are described within Findings of Fact #3 as wayfinding signage, identity signage, leasing signage fence scrim and barricade signage. The design and materials of the proposed signage is described in Findings of Fact #7. Signage locations can be found on the location maps within Applicant Exhibit #2, and as expanded by the clarification in Applicant Exhibit #1. Each sign is designed to be temporary until they are replaced by permanent wayfinding or tenant signage at the conclusion of construction and leasing. Free-standing leasing signs may remain until the conclusion of initial leasing of the neighborhood area.
3. There is sufficient evidence in the record, as identified in the Board's Findings of Fact above, for the Board to conclude that the Petitioner has met its burden of demonstrating that it has satisfied the above-cited criteria for approval.
4. For the reasons stated in the above Findings of Fact, the Board concludes that the Petitioner has conclusively established through the evidence in the record that the following criteria for approval have been met by its proposal:

For the foregoing reasons, the petition of the Howard Research and Development Corporation to approve the Downtown Columbia-Crescent Neighborhood Temporary Sign Variance, including the clarification of the signage variance request incorporated into the record as Applicant Exhibit #1, on this ____ day of _____, 2019, APPROVED by the Planning Board of Howard County, Maryland, subject to the following condition:

1. A permit must be issued for each temporary sign to be erected,
2. All signage is removed at the completion of construction and, as appropriate, leasing, and replaced with permanent signage in accordance with the Crescent Neighborhood Design Guidelines.
3. All temporary signage program must be maintained while in place

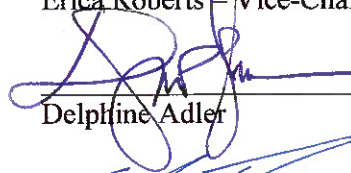
HOWARD COUNTY PLANNING BOARD



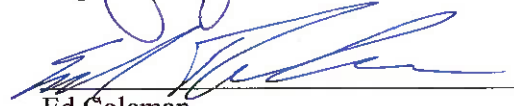
Phillip Engelke – Chairperson



Erica Roberts – Vice-Chairperson



Delphine Adler




Ed Coleman



Kevin McAiley

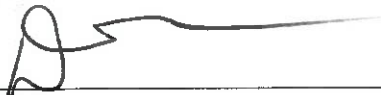
PB Case No. 441

ATTEST:



Valdis Lazdins
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:
HOWARD COUNTY OFFICE OF LAW
Gary W. Kuc, County Solicitor



David Moore
Principal Attorney, Office of Law

List of Petitioner's Exhibits

1. Applicant Exhibit #1 – Statement of Clarification of Petitioner's request
2. In addition, a copy of petitioner's complete presentation was later incorporated into the record as Applicant Exhibit #2.