

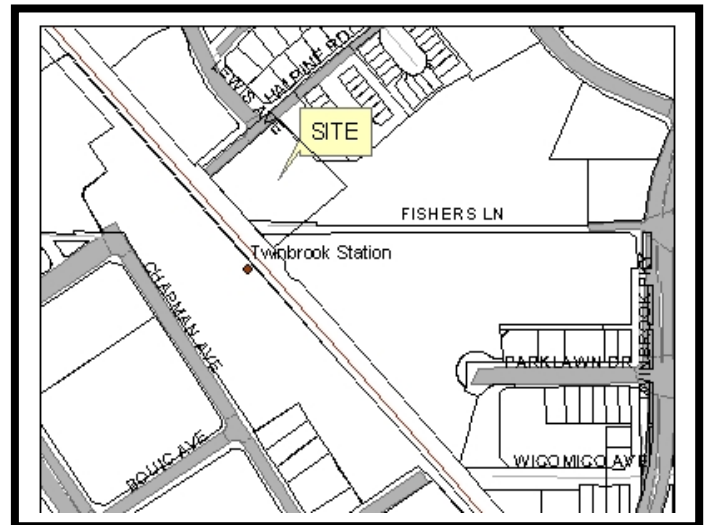
**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

June 22, 2005

SUBJECT: Use Permit USE2005-00686 for
Preliminary Development Plan
PDP2004-00009, Twinbrook Commons

Applicant: Holland and Knight, LLP
Attorneys for:
Twinbrook Commons LLC
Suite 800, 3 Bethesda Metro Center
Bethesda, MD 20814-6301

Owner: Washington Metropolitan Area Transit
Administration (WMATA)
600 5th Street NW
Washington, DC 20001



Date Filed: May 9, 2005

Location: This site is located east of the railroad tracks and south of the intersection of Halpine Road and Lewis Avenue. The site is referred to as the “Suburban Propane” site (Phase 1D).

REQUEST:

- The applicant seeks use permit approval for a portion of the Twinbrook Commons development. This use permit application will consist of the Suburban Propane site, which is proposed to be a 203-space, temporary surface parking lot.

PREVIOUS RELATED ACTIONS:

- Preliminary Plan 1-04054, approved by the Montgomery County Planning Board for the portion of the project within current County jurisdiction, May 6, 2004.
- Site Plan 8-05011, approved by the Montgomery County Planning Board for Phase I development within current County jurisdiction, December 9, 2004
- TXT2004-00213, approved by the Mayor and Council on February 28, 2005, to amend Article XIV, creating a new Section 21-710.28 to provide a for a Preliminary Development Plan Optional Method of Development in the RPC zone Metro Performance District.
- ANX2004-00136, approved by the Mayor and Council on April 4, 2005, for the annexation of 16.95 acres of land, more or less, know as Twinbrook Metro Station site of the WMATA, owners, including 6,336 square feet of property known as Parts of Lots 13 and 14, Block 8, Spring Lake Park Subdivision, and a portion of Ardennes Avenue right of way, Montgomery County Maryland, owners.

- MAP2004-00090, approved by the Mayor and Council on June 6, 2005, to rezone the annexed portion of the site to RPC, to change the zoning on the 1.77 acre Suburban Propane piece to RPC, and re-affirm the RPC zoning of the portion of the project located on the east side of the tracks.
- PDP2004-00009, approved by the Mayor and Council on April 4, 2005 for a Preliminary Development Plan under Optional Method; Twinbrook Commons LLC and Washington Metropolitan Area Transit Authority (WMATA) applicants.

RELEVANT ISSUES

Staff has worked closely with the applicant to assure that the conditions of the approved Preliminary Development Plan (PDP) have been met.

ANALYSIS

Background

On April 4, 2005, the Mayor and Council approved a Preliminary Development Plan, annexation agreement, a Zoning Map change, and a text amendment for the development at Twinbrook Metro Station known as "Twinbrook Commons." Previous to the City of Rockville's approval, the County approved a Preliminary Plan on May 6, 2004 and a site plan on December 9, 2004, since a portion of the development is in the County that would be annexed into the City. The 26-acre site was approved for a mixed-use development to include 1,595 residential units, 325,000 square feet of office use and 220,000 square feet of retail use with 2,409 private parking spaces and 1,151 parking spaces for WMATA commuters. The building heights ranged from a 55 feet to 170 feet for the residential buildings and up to 170 feet for the office buildings.

The applicant has proposed at least three phases for this development. Since each use permit will have multiple buildings, the applicant has labeled different buildings by block. This use permit approval is for a portion of Phase 1 in the Twinbrook Commons development.

Property Description and Proposal

This is a use permit for a temporary surface parking lot in Phase 1D of the Twinbrook Commons development. The site is currently vacant and the applicant proposes to construct a 203-space, temporary surface parking lot for commuters using the Twinbrook Metro Station. In addition, the applicant proposes a pedestrian walkway on the northeast side that will connect Halpine Road to the existing commuter parking lot and to the entrance of Metro rail. Automobiles will enter this parking lot through the existing WMATA surface lot. Throughout the construction of this development, the applicant is required to maintain 1,151 commuter parking spaces. Providing this temporary parking lot at this location will help meet that requirement. Since this site will be one of the last phases built, the applicant anticipates that it could remain a parking lot for up to nine years. The applicant is required to meet the WMATA parking standards and has received their approval.

	Approved in PDP	Proposed in this Use Permit	Additional amount to be built
WMATA parking spaces	1,151	203	1,151*
Private Parking spaces	2,409	0	2,409
Office (square footage)	325,000	0	325,000
Retail (square footage)	220,000	0	220,000
Residential (units)	1,595	0	1,595

* Applicant must maintain 1,151 parking spaces throughout construction.

TRANSPORTATION

Traffic

The applicant was required to submit a traffic study in conformance with the City's Comprehensive Transportation Review methodology with their PDP application and provide mitigation of traffic impacts. In order to mitigate the impacts identified in the Transportation report, the applicant must (1) pay the required Montgomery County Development Impact Tax; (2) enter into a trip Reduction Agreement with the City of Rockville, which includes an annual Transportation Demand Management fee; (3) construct off-site roadways and multi-modal improvements as outlined in the PDP; and (4) construct a transit resource center.

Parking

Staff has required the applicant to have to each phase stand on its own including providing parking for development. This is a use permit is for a surface level parking lot with 203 spaces, on the east side of the Metro Station.

Pedestrian Access and Bicycle Paths

Pedestrian and bike access will be provided from Halpine Road and through the interior of the site. The applicant will continue to provide 24-hour access to the WMATA parking lots during and after construction of this development. In addition, the applicant is required per the PDP to provide off-site pedestrian mitigation including crosswalks and countdown signals at various locations (as shown in Attachment #2).

For the overall project, the applicant is also required to maintain the sidewalks, Village Green, stormwater management facilities within the street right of way, other open spaces and those improvements to the dedicated streets that are above the City of Rockville standard improvements through a Twinbrook Commons Management Group (TCMG). All non-residential and residential property owners are required to participate in the TCMG.

Transit

The site is located on the east side of the Twinbrook Metro Station. The applicant will be providing commuter parking to include a surface lot and parking garage. The applicant has agreed per the PDP,

to maintain the existing 1,151 parking spaces for commuters during and after construction of the development.

Per the PDP, a temporary transit resource center shall be provided in connection with the first three use permits for the development and shall remain operational until the permanent transit resource center is constructed. The timing, location and design of the temporary center shall be approved by Department of Public Works prior to the issuance of the first use permit. The permanent transit resource center will contain 2,000 square feet and be located in a highly visible location on the east side of the Metro Station.

WATER AND SANITARY SEWER

There is no proposed water and sanitary sewer service for this site. In future phases of the development, this site will be served by the City of Rockville.

STORMWATER MANAGEMENT

Stormwater management for the project phase will be provided per the Stormwater Management Concept approval letter dated June 8, 2005 (Attachment #1), as may be amended by the Department of Public Works.

An interim stormwater management pond built in Phase 1A (USE2005-00684) and an onsite underground filtering device will provide quality and quantity treatment for this site.

LANDSCAPING

The applicant is required to submit a landscape plan for the temporary surface parking lot. The applicant has shown on the plan that they will plant two trees on each parking island and sod covering the rest of it. They also propose to have trees at the corners of the parking lot and a fence adjacent to Halpine Road. This landscape plan for this development is under review per the requirements of condition number two (2) noted below.

Forest/Tree Preservation

A Forest Conservation Plan (FCP) is required to be submitted for this site by the City Forester demonstrating that a minimum of 85 percent of the tree preservation and planting requirements of the FCP shall be met on site. Staff has added a condition (Condition #21) to reflect this.

Equipment Screening

All of the electrical transformers for this site will be provided underground. All transformers or telecommunications equipment is required by the City of Rockville to be placed underground or within buildings. Any equipment that the applicant proposes to place above ground must be approved in accordance with the submission and approval of a waiver of the city's underground utility requirements. This waiver must be approved by the City of Rockville Planning Commission. No waivers are requested for this application.

PUBLICILY ACCESSIBLE ART IN PRIVATE DEVELOPMENT

For the overall project, the applicant has agreed and staff has added a condition to comply with the Publicly Accessible Art in Private Development requirement. Under this requirement, the applicant is required to expend approximately \$477,241.25 to provide for publicly accessible art. In order to satisfy this expenditure requirement, Twinbrook Commons LLC, proposes a performance space for the Musical Theater Center, a qualifying Eligible Arts Organization. The space is to be located in a portion of Building G2 as identified on the Twinbrook Commons PDP. The space will include a ground floor lobby, which will provide a street level presence to the remaining space to be located below. As proposed, the provision of art space will involve rent subsidies and build-out equal to or greater than the entire art subsidy figure. This use is conditional upon execution of a lease agreement with the Musical Theater Center and if negotiations with them fail, the applicant will put a more traditional arts program into place.

CONCLUSION AND RECOMMENDATION

The Planning Commission is required to find that a use permit is generally consistent with the Preliminary Development Plan. If determined to be a substantial deviation from the Preliminary Development Plan, the application would require an amendment of the approved Twinbrook Preliminary Development Plan by the Mayor and Council. Staff considers this application to be consistent with the approved Twinbrook Preliminary Development Plan, and recommends approval subject to the conditions listed below.

STAFF RECOMMENDATION

Approval is recommended for the Suburban Propane site, subject to the following conditions:

1. Submission, for approval by the Chief of Planning, of eleven (11) copies of the site plan, revised according to Planning Commission Exhibit A.
2. Submission for the approval of the Chief of Planning, of eleven (11) copies of a Landscape Plan that is revised according to Planning Commission Exhibit B.
3. Applicant shall comply with all conditions detailed in the stormwater management concept approval letter dated June 8, 2005, as may be amended by the Department of Public Works.
4. Submit detailed engineering plans for approval by Department of Public Works for sediment control and stormwater management and public improvements.
5. All the internal and external traffic control devices (i.e., signs, signals, markings, and devices placed on, over or adjacent to a roadway or pathway to regulate, warn, or guide pedestrians and/or vehicular traffic) must comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD); which is currently the Millennium Edition. A signing and pavement-marking plan must be submitted to the Department of Public Works and approved by the Chief of Traffic and Transportation before the issuance of a Public Works Permit.
6. Post bonds and obtain permits from Department of Public Works.
7. All curb ramps must be aligned with crosswalks per Department of Public Works direction.
8. Sidewalks, open areas, stormwater management facilities in the streets and certain street maintenance responsibilities will be subject to a Declaration of Reciprocal Easements and Covenants ("Declaration") or similar document. Said Declaration will also provide the City and the public with unobstructed public access across the public open space and sidewalks. The Applicant and the City will enter into the Declaration prior to the issuance of the first

occupancy permit. Applicant shall minimize the placement of stormwater management facilities in the street rights-of-way.

9. The PDP requires the “Applicant establish and fund a Twinbrook Commons Management Group ("TCMG") or other comparable entity responsible for the maintenance and operations of the sidewalks, Village Green, stormwater management facilities within the street right-of-way, other open spaces, and those improvements to the dedicated streets that are above and beyond the City's standard improvements. The TCMG's responsibilities shall include, but are not necessarily limited to: snow removal and cleaning of sidewalks; all components associated with landscaping, including but not limited to planting, irrigation and maintenance; sidewalk repair and maintenance; repair and maintenance of special surface treatment within the dedicated streets; coordination with City of community activities and events within the development; and promotion of Twinbrook Community. All non-residential and residential property owners, including condominium owners, will be required to participate in the TCMG.”
10. Applicant must grant to the City such easements across the Property as may be necessary to allow for the installation and maintenance of various City-owned improvements, including, but not limited to street lights, street signage, storm drains, parking meters, and traffic signals.
11. Applicant must provide the Department of Public Works with cost estimates of the Off-site Transportation Improvements prior to construction of each improvement and with invoices within 60 days of the completion of each improvement per PDP resolution.
12. The applicant is required to provide for art in the Twinbrook Commons development in accordance with the Publicly Accessible Art in Private Development ordinance (adopted February 2004). The required expenditure for the entire project calculated in accordance with current rates is \$477,241.25 and calculated as follows:

Residential units*	
First 100 units x \$485.10 per d.u. =	\$48,510
Next 100 units x \$363.86 per d.u. =	\$36,386
For units in excess of 200 (1,155 units) x \$242.55 =	\$280,145.25
Total	\$365,145.25
Commercial	
First 100,000 square feet x \$.32 =	\$32,000
Second 100,000 square feet x \$.25 =	\$25,000
Additional 345,000 square feet x \$.16 =	\$55,200
Total	\$112,200
Total Commercial and Residential	\$477,241.25

*The remaining 240 units are MPDUs and do not pay a fee.

Applicant is considering satisfying its art requirement by providing infrastructure and/or art space to the Musical Theatre Center. Because this will not be implemented until later stages of the project development, Applicant is required to post bond(s) or other acceptable forms of security to guarantee satisfaction of the art requirement. Prior to the issuance of a building permit for each non-garage structure, Applicant shall post a bond in the amount of its art obligation attributable to that structure calculated in accordance with the contribution rate in effect at the time of building permit approval. This means that the art obligation for each successive building permit will be recalculated in accordance with the contribution rates in effect at that time. Applicant shall also enter into a recordable agreement with the City setting

forth the terms and conditions governing the bond and satisfaction of the art requirement, including, but not limited to, the establishment of a date by which the art requirement must be implemented, and such other terms and conditions acceptable to the City Attorney's office. With the approval of City staff, the Applicant can elect at any time to "front load" its art obligation by bonding the remaining amount of its art obligation under USE2005-00684 and USE2005-00685 or for the entire project, said bond amount to be calculated in accordance with the contribution rates in effect at the time such bond is posted.

13. Provide stormwater management for Phase 1D in Phase 1A. Stormwater management permits for Phase 1A must be issued within one year of permit issuance for the temporary parking lot in Phase 1D. Otherwise, applicant shall provide stormwater management for Phase 1D via stormwater management alternative of monetary contribution.
14. Applicant must comply with all WMATA parking standards per PDP.
15. Upgrade lighting along pedestrian access from Halpine Road to Metro entrance per Department of Public Works approval.
16. Applicant shall construct stamped crosswalks at Ardennes Avenue/Halpine Road. (Item #1 on Off-Site Mitigation table [Attachment #2]). Permits for work must be issued prior to issuance of any permits for Phase 1D per PDP, and construction completed before use of new parking area.
17. Applicant shall construct sidewalk on south side of Brooke Drive between Lewis Avenue and Rockland Avenue per Department of Public Works requirements prior to completion of Phase 1D per PDP, and construction completed before use of new parking area.
18. Prior to the issuance of any permits for phase ID, Applicant must comply with any environmental conditions required by MDE.
19. Provide written confirmation of approval from CSX prior to issuance of any permits for Phase 1D.
20. Show lighting on landscaping plan.
21. Overall FCP for entire project must be approved prior to permit release. Square footage to be included in overall FCP for afforestation calculations.

NOTIFICATION

Postcard notices were sent to approximately 1300 residences and businesses.

APPROVAL LIMITATIONS

Section 25-193(d) of the Zoning Ordinance requires that **construction or operation must commence within two (2) years of the date of this decision or application approval shall expire.** If the applicant can show just cause, a maximum of two (2) time extensions may be granted by the Planning Commission, each not to exceed one year. However, time extensions are not automatically approved, and sufficient detail and justification will be required in order for the Planning Commission to consider granting an extension.

Attachments:

1. Concept Stormwater Management Plan
2. Off-site mitigation
3. Phasing Plan
4. Composite plan

5. Site plan
6. Landscape Plan
7. Approved PDP2004-00009 Concept plan
8. Approved PDP2004-00009 Resolution text