

November 24, 2020

Mar Chek, Inc.
c/o Keith Martin
7810 Clark Road, Suite T 1
Jessup, MD 20794



Re: Notification of Planning Board Action on
Detailed Site Plan DSP-20006
Checkers Laurel

Dear Applicant:

This is to advise you that, on **November 19, 2020**, the above-referenced Detailed Site Plan was acted upon by the Prince George's County Planning Board in accordance with the attached Resolution.

Pursuant to Section 27-290, the Planning Board's decision will become final 30 calendar days after the date of this final notice of the Planning Board's decision, unless:

1. Within the 30 days, a written appeal has been filed with the District Council by the applicant or by an aggrieved person that appeared at the hearing before the Planning Board in person, by an attorney, or in writing and the review is expressly authorized in accordance with Section 25-212 of the Land Use Article of the Annotated Code of Maryland; or
2. Within the 30 days (or other period specified by Section 27-291), the District Council decides, on its own motion, to review the action of the Planning Board.

(You should be aware that you will have to reactivate any permits pending the outcome of this case. If the approved plans differ from the ones originally submitted with your permit, you are required to amend the permit by submitting copies of the approved plans. For information regarding reactivating permits, you should call the County's Permit Office at 301-636-2050.)

Please direct any future communication or inquiries regarding this matter to Ms. Donna J. Brown, Acting Clerk of the County Council, at 301-952-3600.

Sincerely,
James R. Hunt, Chief
Development Review Division

By: *Jill Kosack for AB*
Reviewer

Attachment: PGCPB Resolution No. **2020-152**

cc: Donna J. Brown, Clerk of the County Council
Persons of Record

RESOLUTION

WHEREAS, the Prince George’s County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George’s County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on October 29, 2020, regarding Detailed Site Plan DSP-20006 for Checkers Laurel, the Planning Board finds:

1. **Request:** The subject detailed site plan (DSP) requests approval for the development of a 1,170-square-foot eating and drinking establishment with drive-through service, specifically a Checkers.
2. **Development Data Summary:**

| | EXISTING | APPROVED |
|-------------------------------------|-----------------|--|
| Zone | C-S-C/R-55 | C-S-C/R-55 |
| Use(s) | Vacant | Eating and drinking establishment with drive-through service |
| Gross Acreage | 0.84 | 0.84 |
| C-S-C Zone | 0.67 | 0.67 |
| R-55 Zone | 0.17 | 0.17 |
| Total Gross Floor Area (GFA) | 0 sq. ft. | 1,170 sq. ft. |

OTHER DEVELOPMENT DATA

Parking Spaces

| | Required | Provided |
|--|-----------------|-----------------|
| 24 outdoor seats @ 1 space/ 3 seats* | 8 | 12 |
| +1 seat of 50 sq. ft. of GFA (excluding any area used exclusively for storage or patron seating, and any exterior patron service area) | 4 | |
| Handicap-Accessible** | 2 | 2 |
| Total Parking** | 12 | 12 |

Note: *As discussed in Finding 6, outdoor seating for 24 patrons is provided.

**Total required and provided parking includes accessible and van-accessible spaces.

Loading Spaces

In accordance with Section 27-582(a) of the Prince George's County Zoning Ordinance, as the proposed development includes less than 2,000 square feet of gross floor area, no loading spaces are required.

3. **Location:** The subject property is located on the east side of US 1 (Baltimore Avenue), approximately 400 feet north of its intersection with Mulberry Street. Further, the property is located within Council District 01, and Planning Area 62.
4. **Surrounding Uses:** The subject property is bounded to the north by a medical urgent care facility, approved by DSP-14016, in the Commercial Shopping Center (C-S-C) Zone, and a single-family dwelling in the Light Industrial Zone; to the east by vacant land in the One-Family Detached Residential (R-55) Zone and the right-of-way of Magnolia Street; to the south by a single eating and drinking establishment in the C-S-C and R-55 Zones; and to the west by the right-of-way of Baltimore Avenue, with commercial development within the City of Laurel beyond.
5. **Previous Approvals:** The site is the subject of a previous Zoning Map Amendment A-9908-C, which was approved by the District Council on February 6, 1996, and an approved Stormwater Management (SWM) Concept Plan 15567-2019-00.

The property, Lot 23, is the subject of a record plat at Plat Book SJH243, Plat No. 3, and shares a 22-foot-wide private access easement with the lot to the north, Lot 22, containing the urgent care facility. Per Section 24-111(c)(4) of the Prince George's County Subdivision Regulations, the development of less than 5,000 square feet of gross floor area does not require a preliminary plan of subdivision.

The Nazario Family, LLC is the property owner of the subject site for DSP-20006. The Circuit Court for Prince George's County, in Case No. CAE 16-10213, granted Nazario Family, LLC's motion for summary judgment in its favor, quieting title to the unclaimed portion of the right-of-way adjoining the property owned by the Nuzback Kathryn A. Revocable Trust, and concluding that Nazario Family, LLC acquired that portion of the right-of-way through adverse possession. The Court of Special Appeals, in Case No. 1323, September Term, 2017, affirmed the circuit court's judgment. The area shown for Lot 23 on the DSP includes this additional property area.

6. **Design Features:** The subject 0.84-acre lot was developed with an eating and drinking establishment (Bay and Surf Restaurant), which was razed in approximately 2013. The existing site is vacant and primarily covered with pavement and turf. The lot is an unusual shape, with a larger rectangular area fronting on Baltimore Avenue and extending eastward to Magnolia Street,

and a smaller rectangular section, which contains the R-55-zoned portion, on the east side of the site that extends northward from its frontage on Magnolia Street.

The subject DSP proposes the development of a Checkers eating and drinking establishment, with drive-through service, in the C-S-C-zoned western portion of the site and an associated SWM facility in the eastern, R-55-zoned section of the property. Access to the site will be provided by an existing 22-foot-wide, private driveway, shared with the abutting urgent care facility to the north, from Baltimore Avenue. The Checkers building will be 1,170 square feet in gross floor area and a single story in elevation. Two outdoor eating areas are shown, one directly east of the building, and a second to the north. The DSP shows seating for a total of 32 patrons (8 tables with 4 seats each), but the parking schedule only provides parking spaces for 24 seats.

This discrepancy was discussed with the applicant's representative who confirmed plans should include 24 seats. A condition has been included herein for this to be corrected. Twelve parking spaces are provided in two bays, one along the shared driveway closest to the restaurant and a second, smaller parking area located slightly further to the east. Parking calculations require minor corrections, for which a condition has been included herein. Two drive-through service lanes are provided flanking the northern and southern facades of the restaurant. A two-lane entrance to the drive-through is located northeast of the building, and a single, combined egress point to its northwest. Site circulation for vehicles and pedestrians is acceptable. Bicycle racks and a trash enclosure are provided, and the photometric plan shows that adequate lighting is provided for all active areas of the site, with off-site impacts minimized.

Architecture

The 1,170-square-foot Checkers restaurant is proposed to be approximately 15 feet in height, 55 feet in length, and 19 feet wide. The building will front on Baltimore Avenue. Facades of the building will be faced with a combination of fiber cement panels and exterior insulation and finish system (EIFS) in red, white, and gray, with black and white checkerboard patterned accent walls. All patron service will be exterior to the building through the two drive-throughs on the northern and southern elevations and the walk-up windows on the western façade. Two outdoor dining spaces are provided. There is no indoor dining area, but exterior-accessed restrooms are included. Fenestration is limited to patron service windows, which is typical of the Checkers brand. While more fenestration is usually required for restaurants providing indoor dining space, this design places dining areas and patron services exterior to the building. As such, the limited fenestration provided in this case is acceptable.

Signage

The DSP includes a single freestanding monument sign along Baltimore Avenue, three building-mounted signs on the west, north and south elevations, and multiple small directional signs. Building mounted signs are each approximately 29 square feet in area and share the same red oval design. The Planning Board finds that the building mounted signage conforms with the requirements of Section 27-613 of the Zoning Ordinance. The freestanding monument sign does not conform with the requirements of Section 27-614 of the Zoning Ordinance, as the sign area shown is in excess of the acceptable limit and it is located too close to Baltimore Avenue. A condition has been included herein for the freestanding monument sign location and size to be adjusted to conform with the requirements of Section 27-614.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The DSP application has been reviewed for compliance with the requirements of the C-S-C and R-55 Zones of the Zoning Ordinance:
 - a. The DSP locates the entire proposed commercial use in the C-S-C-zoned portion of the site. Development in the R-55-zoned area is limited to the installation of a SWM system. No buildings or structures are proposed within the R-55 Zone. In accordance with the commercial use table in Section 27-461(b) of the Zoning Ordinance, an eating or drinking establishment with drive-through service is a permitted use in the C-S-C Zone, subject to Footnote 24, which requires DSP approval, in accordance with Part 3, Division 9 of the Zoning Ordinance.
 - b. The DSP is in conformance with the C-S-C Zone development regulations contained in Section 27-462 of the Zoning Ordinance, including all setback requirements.
 - c. The DSP is in conformance with the applicable site design guidelines contained in Section 27-274 of the Zoning Ordinance, as cross-referenced in Section 27-283 of the Zoning Ordinance. For example, the subject development provides pedestrian access to the site from the public right-of-way, and the architecture proposed for the buildings employ a variety of architectural features and designs, such as projections, colors, and materials.

8. **Basic Plan A-9908-C:** The District Council approved A-9908-C on February 6, 1996, to rezone a portion of the subject site from R-55 to C-S-C, subject to three conditions as follows:
 1. **The applicant shall obtain detailed site plan approval in accordance with Part 3, Division 9 of the Zoning Ordinance in order to address the following:**
 - a. **Use and/or redevelopment of the site shall be strictly oriented to U.S. Route 1.**
 - b. **No access to the site shall be provided from improved Magnolia Street (east of the barrier).**
 - c. **Screening and buffering shall be provided for Lot 11, Block 3 and for Lots 14 through 17, Block 4 in accordance with the provisions of the Landscape Manual; a portion of Lots 8 and 9 on the subject site shall also be used for landscaping and screening.**
 - d. **The landscape plan shall also show the preservation of the large tree shown on Lot 10 of the applicant's survey of January 1994, if feasible.**

The DSP shows the Checkers building oriented toward Baltimore Avenue, with no access provided to Magnolia Street. Appropriate screening is provided in accordance with the Landscape Manual. Preservation of the large tree referenced by Condition 1.d. was determined to not be feasible, however, the applicant plans to preserve several other large existing trees in the same vicinity of the site, as well as add new trees.

2. **Prior to the issuance of building permits, a Technical Stormwater Management Plan shall be approved by the Department of Environmental Resources Watershed Protection Branch for any improvement which increases impervious surfaces.**
3. **A soils report shall be submitted to the Natural Resources Division prior to building permit issuance addressing drainage and stability with regard to footing design.**

The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) issued SWM Concept Approval Plan 15567-2019-00 in December 2019 for the proposed Checkers development. In addition, the applicant has indicated that a soils report shall be submitted prior to the issuance of building permits.

9. **2010 Prince George's County Landscape Manual:** Development proposed by this DSP is subject to Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7 Buffering Incompatible Uses and Section 4.9, Sustainable Landscaping Requirements. The Planning Board finds that the proposal conforms with the applicable requirements of the Landscape Manual, as shown on the plans, with one minor correction required. A minor correction to the landscape schedule for Section 4.2, Landscape Strips Along Streets is needed and conditioned herein.
10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** This proposed project is not subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the property is less than 40,000 square feet in size, and it contains less than 10,000 square feet of existing woodland. A Standard Letter of Exemption, S-167-2019, was approved on November 13, 2019, and is valid through November 13, 2021. A Natural Resources Inventory Equivalency Letter was approved on November 14, 2019 and is valid through November 14, 2024. It noted that the subject property contained no regulated environmental features and that no on-site regulated environmental features would be impacted by the project.
11. **Prince George's County Tree Canopy Coverage Ordinance:** Section 25-128, Tree Canopy Coverage Requirements, requires properties in the C-S-C Zone to provide a minimum tree canopy coverage (TCC) of 10 percent. The 0.84-acre subject site is required to provide 0.08 acre (3,659 square feet) in TCC. Through the subject DSP, the applicant has shown that approximately 0.19 acre (8,411 square feet) of TCC will be provided in proposed plantings, satisfying this requirement.

- 12. Further Planning Board Findings and Comments from Other Entities:** The subject 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**—The Planning Board adopts, herein by reference, a memorandum dated September 21, 2020 (Tariq to Bossi), which noted that pursuant to Section 27-290.01(b)(5) of the Zoning Ordinance, this DSP is compatible with the future land use, which is mixed use commercial delineated in the 2010 *Approved Master Plan and Sectional Map Amendment for Subregion 1 (Planning Areas 60, 61, 62, and 64)*. However, master plan conformance is not required by Part 3, Division 9 of the Zoning Ordinance.
 - b. **Trails**—The Planning Board adopts, herein by reference, a memorandum dated September 18, 2020 (Ryan to Bossi), which noted that the pedestrian and bicyclist circulation on the site is safe, efficient, and convenient, pursuant to Sections 27-283 and 27-274(a)(2) of the Zoning Ordinance, and the relevant design guidelines for transportation. The DSP is deemed acceptable from the standpoint of pedestrian and bicycle transportation.
 - c. **Transportation Planning**—The Planning Board adopts, herein by reference, a memorandum dated September 25, 2020, (Masog to Bossi), which noted the DSP for the proposed use in the C-S-C Zone has no specific transportation-related requirements and there are no traffic-related adequacy findings required. Access and circulation were found to be acceptable.
 - d. **Permits**—The Planning Board adopts, herein by reference, a memorandum dated September 9, 2020 (Bartlett to Bossi), that identified minor corrections needed to the landscape plan, parking schedule and patron seating numbers. Painted directional arrows should be added to the entrance, exit and movement areas for the drive-through service areas. Exiting the drive-throughs is designed to be one way and pavement markings should reflect this. A condition has been included herein for the corrections to be made and pavement markings to be added to the plans.
 - e. **Environmental Planning**—The Planning Board adopts, herein by reference, a memorandum dated September 10, 2020 (Juba to Bossi), which indicated that no additional environmental review issues were identified for the subject site.
 - f. **Historic Preservation**—The Planning Board adopts, herein by reference, a memorandum dated August 18, 2020 (Stabler and Smith to Bossi), which noted that the subject property does not contain and is not adjacent to any Prince George’s County historic sites or resources, and that the probability of archeological sites within the subject property is low. This proposal will not impact any historic sites, historic resources or known archeological sites.

- g. **Prince George’s County Fire Department**—The Fire Department did not offer comments on the subject application.
 - h. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE)**—DPIE did not offer comments on the subject application.
 - i. **Prince George’s County Police Department**—The Police Department did not offer comments on the subject application.
 - j. **Prince George’s County Health Department**—The Planning Board adopts, herein by reference, a memorandum dated September 3, 2020 (Adepoju to Bossi), which provided standard comments including the use of construction time noise and dust controls, as well as need for permitting of the food service facility.
 - k. **Maryland State Highway Association (SHA)**—The Planning Board adopts, herein by reference, an email dated September 3, 2020 (Woodroffe to Bossi), which noted that work proposed within the Baltimore Avenue right-of-way would require permitting through SHA’s District 3 Utility Office.
 - l. **Washington Suburban Sanitary Commission (WSSC)**—A WSSC did not offer comments on the subject application.
13. As required by Section 27-285(b) of the Zoning Ordinance, the DSP, if revised as conditioned, represents 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 cost and without detracting substantially from the utility of the proposed development for its intended use.
14. Section 27-285(b)(4) of the Zoning Ordinance provides the following required finding for approval of a DSP:
- (4) The plan shall demonstrate the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).**

No regulated environmental features such as streams, wetlands, 100-year floodplain, associated buffers, and primary management areas are located on-site.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George’s County Code, the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Detailed Site Plan DSP-20006 for the above described land, subject to the following condition:

- 1. Prior to certification, the detailed site plan (DSP) shall be revised, or additional information shall be provided, as follows:

- a. Revise the DSP and landscape plan to show outdoor seating for 24 patrons only.
- b. Correct the parking schedule to show 12 spaces required.
- c. Revise the DSP to relocate the freestanding monument sign to a location at least 10 feet from the street line and correct the signage area calculations and design of the freestanding monument sign to conform with the requirements of Section 27-614 of the Prince George's County Zoning Ordinance.
- d. Add the site's linear feet of frontage in the landscape schedule for Section 4.2, Landscape Strips Along Streets.
- e. Add clear directional arrows to pavement at the entrance and exit of the drive-through lanes.

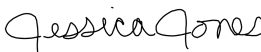
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Doerner, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, October 29, 2020, in Upper Marlboro, Maryland.

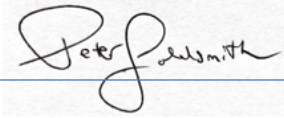
Adopted by the Prince George's County Planning Board this 19th day of November 2020.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

PGCPB No. 2020-152
File No. DSP-20006
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APPROVED AS TO LEGAL SUFFICIENCY

A handwritten signature in black ink, appearing to read "Peter J. Smith", is written over a light gray rectangular background. A horizontal blue line is drawn across the signature.

M-NCPPC Legal Department
Date: November 12, 2020