

Prince George's County Council

*County Administration Bldg
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland
20772-3050*



Zoning Agenda

Monday, April 21, 2014

1:30 PM

Council Hearing Room

Sitting as the District Council

*Mel Franklin, District 9, Chairman
Will A. Campos, District 2, Vice Chair
Derrick Leon Davis, District 6
Andrea C. Harrison, District 5
Mary A. Lehman, District 1
Eric C. Olson, District 3
Obie Patterson, District 8
Karen R. Toles, District 7
Ingrid M. Turner, District 4*

Robert J. Williams, Jr., Council Administrator

RULES OF COURTESY

You are now participating in the process of representative government. We welcome your interest and hope you will attend Prince George's County District Council meetings often. Good government depends on the interest and involvement of you and your fellow citizens.

To insure fair and orderly meetings, the District Council has adopted rules which apply to all members of the Council, administrative staff, news media, citizens and visitors which provide that no one may delay or interrupt the proceedings or refuse to obey the orders of the presiding officer. No posters or placards may be brought into the hearing room, nor any food and drink. Citizens are admitted up to the Fire Safety capacity only.

ORAL ARGUMENT HEARINGS

Testimony at Oral Argument Hearings is limited to thirty (30) minutes for each side, including questions from the Council Members, unless extended by the Chairman of the Council. Persons wishing to give oral argument on a specific case should sign the forms provided in the front of the hearing room. Testimony at Oral Argument Hearings must be based on the record, and no new evidence will be permitted. Only persons of record may testify.

EVIDENTIARY HEARINGS

A verbatim transcript is prepared for all Evidentiary Hearings. Testimony and evidence are presented and exhibits introduced. Transcripts of these hearings along with any exhibits, constitute the record in the case.

ORDER OF PRESENTATION AT HEARINGS

1. Orientation by the Planning Staff or appropriate staff person
2. Testimony from the side requesting the hearing
3. Testimony from the side favoring the decision
4. Comments by the People's Zoning Counsel
5. Five (5) minute rebuttal from the side requesting hearing
6. Five (5) minute rebuttal from the side favoring decision

PARTICIPATION IN ZONING MEETINGS

Meetings of the District Council are formal proceedings, and are recorded on video and audio tapes. If you are eligible to participate, register with the Clerk, and when called by the presiding officer, follow the following steps:

1. Come forward to the speaker's podium and state your name and address for the record.
2. Present comments as succinctly as possible.
3. Confine remarks to information contained in the record, except for Evidentiary Hearings.
4. Observe time limitations as directed by the presiding officer.
5. Give any written statements to the Clerk of the Council

In accordance with ADA Requirements, accommodations for hearing impaired, disabled persons and visually impaired can be provided upon reasonable notice to the Clerk of the Council. Sign language interpreters are available with advance notice by calling 301-952-3600. In the event of inclement weather, please call 301-952-4810 to confirm the status of County Business.

THE USE OF CELLULAR PHONES IN THE HEARING ROOM IS PROHIBITED

1:00 PM AGENDA BRIEFING

1:30 PM CALL TO ORDER

INVOCATION - Pastor William Tucker
Remnant Church of Christ, Temple Hills, Maryland

PLEDGE OF ALLEGIANCE

NEW CASE(S)

[ERR-229](#)

Ying & Gina Yee

Validation of Use and Occupancy Permits Nos. 6353-U & 6354-U

Applicant(s):

Ying & Gina Yee

Location:

Located at 4227 and 4229 Guildord Drive, College Park, Maryland (1.761 Acres; M-U-I Zone).

Request:

Requesting approval for validation of Use and Occupancy Permits 6353-U and 6354-U issued in error on March 11, 1963 for 2 three unit attached apartment buildings in the M-U-I Zone and in the College Park Development District Overlay Zone.

Council District:

3

Appeal by Date:

4/11/2014

Action by Date:

7/10/2014

Municipality:

None

Opposition:

None

History:

03/12/2014

Zoning Hearing Examiner

approval

Backup: Zoning Ordinance No. 3 - 2014.

REFERRED FOR DOCUMENT[CSP-13003](#)**Hyattsville Zip-In****Companion Case(s):** DSP-12062**Applicant(s):** NSR Properties, LLC**Location:** Located at the southwest quadrant of the intersection of East-West Highway (MD 410) and Belcrest Road.**Request:** Requesting approval of a Conceptual Site Plan for revisions to an existing gas station and food and beverage store and amending the Table of Uses of the 1998 Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone, to permit a proposed car wash.**Council District:** 2**Appeal by Date:** 1/27/2014**Action by Date:** 4/25/2014**Comment(s):** District Council review of this case is required by Section 27-548.09.01(b) of the Zoning Ordinance.**Municipality:** Hyattsville**History:**

11/21/2013	M-NCPPC Technical Staff	approval with conditions
12/19/2013	M-NCPPC Planning Board	approval with conditions
12/23/2013	Applicant	appealed

On December 23, 2013, Michele La Rocca, Esquire, filed an appeal to the decision of the Planning Board on behalf of the applicant and requested oral argument.

02/24/2014 Sitting as the District Council hearing held; case taken under advisement

Chairman Franklin announced that the Oral Argument Hearings for CSP-13003 Hyattsville Zip-In and DSP-12062 Hyattsville Zip-In would be held in tandem. Jill Kosack, M-NCPPC planning staff, provided an overview of the Conceptual Site Plan and Detailed Site Plan applications. Michele LaRocca, Esq. and Said Chaudhry spoke in support. Jim Chandler spoke in opposition on behalf of the City of Hyattsville. Suellen Ferguson, Esq., and The Honorable John Rogard Tabori spoke in opposition on behalf of the Town of University Park. Stan Brown, People's Zoning Counsel, provided an overview of the case and spoke to the legalities of the argument presented.

03/24/2014 Sitting as the District Council referred for document

Council referred item to staff for preparation of an approving document, with conditions (Vote: 8-0; Absent: Council Member Olson).

04/14/2014 Sitting as the District Council deferred

Council deferred this item to April 21, 2014.

Attachment(s):

CSP-13003 & DSP-12062 Appeal Letter
[CSP-13003 Planning Board Resolution 13-143](#)
CSP-13003_PORL
[CSP-13003 Technical Staff Report](#)

Backup: Order of Approval, with Conditions.

[DSP-12062](#)**Hyattsville Zip-In**

Companion Case(s): CSP-13003

Applicant(s): NSR Properties, LLC

Location: Located at the southwest quadrant of the intersection of East-West Highway (MD 410) and Belcrest Road.

Request: Requesting approval of a Conceptual Site Plan for revisions to an existing gas station and food and beverage store and amending the Table of Uses of the 1998 Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone, to permit a proposed car wash.

Council District: 2

Appeal by Date: 1/27/2014

Action by Date: 4/25/2014

Comment(s): District Council review of this case is required by Section 27-548.09.01(b) of the Zoning Ordinance.

Municipality: City of Hyattsville

History:

11/21/2013	M-NCPPC Technical Staff	approval with conditions
12/19/2013	M-NCPPC Planning Board	approval with conditions
12/23/2013	Applicant	appealed
	<i>On December 23, 2013, Michele La Rocca, Esquire, filed an appeal to the decision of the Planning Board on behalf of the applicant and requested oral argument.</i>	
02/24/2014	Sitting as the District Council	hearing held; case taken under advisement

Chairman Franklin announced that the Oral Argument Hearings for CSP-13003 Hyattsville Zip-In and DSP-12062 Hyattsville Zip-In would be held in tandem. Jill Kosack, M-NCPPC planning staff, provided an overview of the Conceptual Site Plan and Detailed Site Plan applications. Michele LaRocca, Esq. and Said Chaudhry spoke in support. Jim Chandler spoke in opposition on behalf of the City of Hyattsville. Suellen Ferguson, Esq., and The Honorable John Rogard Tabori spoke in opposition on behalf of the Town of University Park. Stan Brown, People's Zoning Counsel, provided an overview of the case and spoke to the legalities of the argument presented.

03/24/2014 Sitting as the District Council referred for document
Council referred item to staff for preparation of an approving document, with conditions (Vote: 8-0; Absent: Council Member Olson).

04/14/2014 Sitting as the District Council deferred
Council deferred this item to April 21, 2014.

Attachment(s): CSP-13003&DSP-12062 Appeal Letter
[DSP-12062 Planning Board Resolution 13-144](#)
 DSP-12062_PORL
[DSP-12062 Technical Staff Report](#)

Backup: Order of Approval, with Conditions.

[DSP-99044-07](#)

Prince George's Plaza, Parcel A-1 Chick-fil-A

Applicant(s): Chick-fil-A

Location: Located at the northeastern quadrant of the intersection of East-West Highway (MD 410) and Belcrest Road.

Request: Requesting approval of a Detailed Site Plan amending the Table of Uses of the 1998 Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone to permit a freestanding eating and drinking establishment with drive-through.

Council District: 2

Appeal by Date: 12/25/2013

Action by Date: 6/13/2014

Comment(s): District Council Review of this case is required by Section 27-548.09.01(b) of the Zoning Ordinance.

Municipality: City of Hyattsville

History:

10/16/2013 M-NCPPC Technical Staff approval with conditions

11/21/2013 M-NCPPC Planning Board approval with conditions

12/23/2013 Applicant appealed

Daniel F. Lynch, Esquire, attorney for the applicant, filed an appeal to the decision of the Planning Board and requested oral argument.

02/24/2014 Sitting as the District Council deferred

Chairman Franklin announced that the Oral Argument Hearing for this Detailed Site Plan would be deferred until March 17, 2014 at 1:30 p.m.

02/24/2014	Sitting as the District Council	deferred
	<i>Vice-Chair Campos reiterated that the Oral Argument Hearing for this Detailed Site Plan would be deferred until March 17, 2014 at 1:30 p.m.</i>	
03/17/2014	Sitting as the District Council	rescheduled
	<i>Due to inclement weather conditions, Prince George's County Government was closed and this item was rescheduled.</i>	
04/14/2014	Sitting as the District Council	referred for document
	<i>Prior to Oral Argument, and following brief discussion, Council referred item to staff for preparation of an Order of Remand to allow additional Persons of Record to sign up and to address the drive-through component of the proposal (Vote: 9-0).</i>	
	<i>Stan Brown, People's Zoning Counsel, indicated that a procedural issue regarding this case should be addressed prior to Oral Argument. Dan Lynch, on behalf of the applicant, requested the case be remanded to the Planning Board for inclusion of additional individuals as persons of record. Stan Brown, People's Zoning Counsel, delineated an additional condition of remand. Mr. Lynch requested that the Council condition the remand to require that the case be returned within ninety days. Vice-Chair Campos provided clarifying remarks.</i>	

Attachment(s):[DSP-99077-07 Planning Board Resolution 13-127](#)

DSP-99044-07_PORL

[DSP-99044-07 Technical Staff Report](#)*Backup: Order of Remand to the Planning Board.*

ITEM(S) FOR DISCUSSION[SE-4605](#)**Barnabas Road Concrete Recycling Facility (Remand)****Applicant(s):**

Barnabas Road Associates, LLC

Location:

Located at the Terminus of Clifton Road, approximately 1,150 feet south of its intersection with St. Barnabas Road (4.38 acres; I-1 Zone).

Request:

Requesting approval of a Special Exception for a Concrete Recycling Facility.

Council District:

8

Action by Date:

4/21/2014

Municipality:

N/A

Opposition:

Gordon's Corners Citizens Association et al.

History:

10/29/2010

Applicant

appealed

On October 29, 2010, the Applicant filed a Petition for a Writ of Mandamus in the Circuit Court requesting that the Court order the District Council to make a final decision on this application. On April 5, 2011, the Court was notified that the Applicant was withdrawing their Petition for Writ of Mandamus pursuant to an agreement between the parties that the District Council would render a final decision on this Application by adopting an Order either approving or denying the Application.

04/11/2011

Sitting as the District Council

referred for document

On April 11, 2011, Council reconsidered previous action and subsequently referred item to staff for the preparation of an Order of Denial (Vote: 9-0).

05/09/2011	Sitting as the District Council	disapproval
	<i>On May 9, 2011, Council adopted an Order of Denial (Vote: 9-0).</i>	
	<i>On June 3, 2011, the Applicant appealed to the Circuit Court for Prince George's County in Civil Action Number 11-13616. In June 2012, the Circuit Court reversed the District Council's decision. In July 2013, the District Council appealed the case to the Court of Special Appeals of Maryland. The Court of Special Appeals of Maryland instructed the Circuit Court to vacate the ruling of the District Council and remand the case to the District Council for a new decision applying the correct legal standard for a special exception and to limit its decision based solely on the administrative record.</i>	
	<i>The Circuit Court has complied with Court of Special Appeals Mandate and this matter is before us for a new decision no later than March 2014.</i>	
02/10/2014	Sitting as the District Council	deferred
	<i>Council deferred this item to March 17, 2014.</i>	
03/17/2014	Sitting as the District Council	rescheduled
	<i>Due to inclement weather conditions, Prince George's County Government was closed and this item was rescheduled.</i>	
03/18/2014	Sitting as the District Council	deferred
	<i>Council deferred this item to March 24, 2014.</i>	
03/24/2014	Sitting as the District Council	deferred
	<i>Rajesh Kumar, Principal Counsel to the District Council, announced that the parties of the case have agreed to extend the District Council's decision period until April 21, 2014. Council deferred this case to April 21, 2014.</i>	

PENDING FINALITY

The following decisions will become final unless the District Council elects, BY MAJORITY VOTE, to make the final decision or an appeal is filed.

PLANNING BOARD**DSP-13012****Conifer Village at Oakcrest****Applicant(s):**

Conifer Realty LLC

Location:

Located at the northwestern quadrant of the intersection of Brooks Drive and Ridley Street (4.343 Acres; R-10 Zone).

Request:

Requesting approval of a Detailed Site Plan for construction of 120 senior, age-restricted units of multifamily housing in a single building.

Council District:

7

Appeal by Date:

5/1/2014

Review by Date:

5/1/2014

History:

02/27/2014	M-NCPPC Technical Staff	approval with conditions
03/27/2014	M-NCPPC Planning Board	approval with conditions
04/11/2014	Person of Record	waived right to appeal
	<i>All Persons of Record waived their right to appeal this case.</i>	
04/14/2014	Sitting as the District Council	deferred

Attachment(s):

[DSP-13012 Planning Board Resolution 14-17](#)
[DSP-13012_PORL](#)
[DSP-13012 Technical Staff Report](#)

RECESS

RECONVENE

7:00 PM PUBLIC HEARING - (COUNCIL HEARING ROOM)

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
PROPOSED FISCAL YEAR 2014-2015 OPERATING AND CAPITAL BUDGETS
AND THE M-NCPPC CAPITAL IMPROVEMENT PROGRAM
FOR FISCAL YEARS 2015-2020

(SEE SEPARATE AGENDA)

ADJOURN