

**BEFORE THE COUNTY COUNCIL FOR PRINCE GEORGE'S
COUNTY, SITTING AS THE DISTRICT COUNCIL**

**APPEAL OF THE DECISION OF
THE PRINCE GEORGE'S
COUNTY PLANNING BOARD**

DSP-19045

RESOLUTION PGCPB NO. 2020-154A

**APPLICANT'S RESPONSE TO
THE PETITION FOR APPEAL**

Applicant, RF Greenbelt RE LLC, by and through its attorney Thomas H. Haller and the law office of Gibbs and Haller, files this response to the Petition filed by the Petitioners appealing the decision of the Prince George's County Planning Board in DSP-19045.

STATEMENT OF FACTS

RF Greenbelt RE, LLC (the "Applicant") filed a Detailed Site Plan ("DSP") referenced as DSP-19045 for approval of a commercial development. This DSP proposes the construction of a food and beverage store in combination with a gas station and a second commercial building for which a tenant has not yet been identified. All of the uses proposed in the DSP are permitted by right in the C-O Zone. The DSP does not request approval of any waivers, departures or variances from any of the applicable requirements of the Prince Georges County Zoning Ordinance. In addition, the property contains no regulated environmental features, including but not limited to streams, steep slopes, wetlands, floodplain or specimen trees. Thus, no waiver of any environmental requirement was requested by the Applicant. The Petitioner identified as "Small Business Owners" in the Petition for Appeal, are competing owners of gas stations within the

Greenbelt Road corridor who are attempting to suppress competition by opposing this application because the proposed food and beverage store includes gas pumps. Thus, the motivation of the Petitioners, and their municipal partner City of Greenbelt, are clear—to prevent the approval of this application solely for the purpose of suppressing competition.

PROPERTY HISTORY

The Subject Property consists of 4.42 acres of land is located within a development known as the Golden Triangle Office Park (the “Golden Triangle”). The Golden Triangle property was once owned by the Federal Government as part of President Franklin Delano Roosevelt’s Resettlement Administration “green belt” town program. In 1961, however, approximately 56 acres of land was conveyed to Milton Selig. With the construction of the Capital Beltway shortly thereafter in the mid-1960’s, this 50+ acre triangular shaped property became surrounded by three major roadways, the Capital Beltway, Greenbelt Road and Kenilworth Avenue.

The subdivision and development of the Golden Triangle dates back to the mid-1970’s beginning with the approval of preliminary plan 4-75259 was approved on February 12, 1976 and resulted in the recordation of a record plat entitled “Lot 7, Greenbelt Triangle” which plat is recorded among the Land Records of Prince George’s Count at Plat Book NLP 94 Plat No. 52. The Subject Property is the residue of Lot 7 remaining after a taking by the State Highway Administration. Although the Subject Property was one of the first properties platted, it is now the last remaining undeveloped property in the Golden Triangle. The reason for this is that the property was conveyed to the Maryland State Highway Administration for the possible construction of a loop ramp from the Capital Beltway to Greenbelt Road in the southeast corner of the Golden Triangle. However, this loop ramp was never constructed and the property was conveyed back to the owner of the Capital Cadillac car dealership which abuts it. For years, the

property was used in conjunction with the car dealership, providing overflow storage of vehicles covering approximately 30% of the property. This can be seen on the 2020 aerial photograph reproduced below (the Subject Property is in the bottom right of the photo):



Later, Detailed Site Plan DSP-05038 was approved for the construction of an additional new car dealership, which was never constructed. In 2018, the Subject Property was sold to the Applicant. As currently configured, the property lies between an operating new car dealership, Capitol Cadillac, and a public utility building owned and operated by PEPCO. As is discussed in greater detail in the exhibits contained in the Planning Board record, the Subject Property was substantially cleared for development by 1980 and all of the other lots in the Golden Triangle were subsequently developed. The Subject Property will be the last parcel developed with uses intended to be complementary and supportive of the existing development.

RESPONSES TO PETITIONERS' ARGUMENT

The Petition for Appeal lists 10 alleged errors committed by the Planning Board in its approval of DSP-19045. As discussed in greater detail below, the Planning Board committed no error and the decision of the Planning Board should be affirmed.

1. The Planning Board failed to give appropriate notice that it approved Resolution No. 2020-154(A) which authorized DSP-19045 for the Greenbelt Royal Farms.

RESPONSE: The Petitioner alleges that it had not yet received a copy of the adopted resolution in the mail as of February 8, 2021 and that a copy of the adopted resolution had not been uploaded on the Planning Board website. The Petitioners, through counsel, participated in all phases of the Planning Board process. The resolution was adopted on January 7, 2021 and a draft of the resolution was posted on the Planning Board website at the time of its adoption. The Petitioners had sufficient notice to file this timely appeal. The current slowness of the U.S. Postal Service does not constitute reversible error when the Petitioners had actual knowledge of the action appealed from and, in fact, timely appealed such action.

2. The Planning Board incorrectly interpreted Section 27-274 by limiting its applicability to only to on-site vehicular and pedestrian circulation.

RESPONSE: The Planning Board did not incorrectly interpret Section 27-274. The section cited by the Petitioners specifically applies to “vehicular and pedestrian circulation “on a site” and requires the location of driveway entrances to the site. The reference to minimizing conflicts with “off-site traffic” deals with providing “a safe transition into the parking lot” and providing “adequate acceleration and deceleration lanes, if necessary.” The clear intent is to ensure driveway entrances are design to allow vehicles to safely access a site. In this case, the Subject Property fronts on two roadways, Greenbelt Road and Capitol Drive. No access is proposed

from Greenbelt Road, an arterial road to which access is generally restricted, to ensure safe ingress and egress to and from the Subject Property. The only access proposed is from Capitol Drive, a service road which parallels Greenbelt Road. The Petitioners are attempting to use this provision to argue that the Planning Board is required to evaluate the adequacy of intersections in the vicinity of the property which customers may use to get to the property but which are unrelated to the entrance into the Subject Property. The Planning Board did not err in any event because it did, in fact, evaluate the safety of access to and from the site and, as discussed in greater detail below, found that if Section 27-274(a)(2)(C) did require it to evaluate off-site traffic, the Board found that the entrance complies with the applicable requirements.

3. The Planning Board did not adequately articulate how the proposed single access driveway for the development from Capitol Drive complied with Section 27-274(a)(2)(C).

RESPONSE: The Planning Board Resolution contains an extensive discussion of conformance with Section 27-274(a)(2)(C). There is no failure to articulate its finding that the proposed driveway provides a safe transition into the parking lot and minimizes conflicts with off-site traffic, and the City of Greenbelt has no basis to object to the design of the entrance since the Applicant redesigned it at the request of City of Greenbelt Staff. As noted in the letter from the attorney for the Applicant to Elizabeth Hewlett dated October 13, 2020, a revised entrance design was forwarded to City Staff on September 15, 2020 to provide for internal separation of traffic rather than two points of ingress with one point of egress. The City Staff supported the revised design and the Applicant proposed a condition to implement this design notwithstanding the fact that the City Council voted to oppose the project. The Planning Board did not err by agreeing to permit a redesign of the entrance requested by the municipality in which the property is located.

4. The record lacked substantial evidence supporting the conclusion that the proposed single access driveway for the development from Capitol Drive complied with Section 27-274(a)(2)(C). The Planning Board made certain incorrect factual findings regarding how it complied with Section 27-274(a)(2)(C).

RESPONSE: The issue raised by the Petitioner regarding access was fully discussed and decided by the Planning Board in two hearing, as described more fully below. The Petitioners disagree with the Planning Board's conclusion, but it is clear that the decision was supported by substantial evidence and cannot now be reversed.

First, the instant DSP application is not subject to a requirement to conduct an adequate public facilities analysis. However, the application is subject to evaluating conformance with any conditions of any prior preliminary plan in order to determine that the trips generated by the proposed development are within any applicable trip cap. In this case, due to the age of the preliminary plan of subdivision, the conditions imposed on the 1976 subdivision were not readily available. As a result, the applicant relied on trip caps established for the entire Golden Triangle to evaluate the proposed development. Such an analysis, dated October 8, 2020, was prepared by the Applicant's transportation planner, Mr. Wes Guckert. This analysis evaluated the overall development in the Golden Triangle, the total development approved by prior subdivisions (although later subdivisions that 4-75259) and demonstrated that the total new trips generated by the proposed development were substantially less than permitted. In addition, although not required, Mr. Guckert utilized the most recent traffic counts collected by the Maryland State Highway Administration and calculated the level of service at the intersection of Walker Drive and MD 193, a signalized intersection. This analysis showed that the intersection operates at Level of Service A. Finally, in response to concerns raised by the City of Greenbelt over the use of the unsignalized intersection of Capitol Drive and MD 193, Mr. Guckert described the options

available to motorists accessing the Subject Property and the lack of accidents associated with left turning vehicles and concluded that access to the property would operate safely based upon available information.

Initially, the Planning Board hearing on the DSP was scheduled for October 15, 2020. However, staff requested a continuance of the hearing to address new information. The new information was that the conditions of approval from the preliminary plan of subdivision were located in another file, and the DSP had not been evaluated for conformance with these conditions. As a result the hearing was rescheduled for October 29, 2020. Prior to that hearing, Staff prepared a supplemental Staff Report evaluating the application for conformance with those conditions. The Applicant also submitted a supplemental statement of justification addressing the conditions. In addition, the Applicant requested that Mr. Guckert prepare an additional transportation analysis dated October 26, 2020. The transportation analysis included new traffic counts taken in October 2020 as well as a gap analysis to determine whether the intersection of Capitol Drive and MD 193 could safely accommodate ingress and egress from the proposed development. The new counts allowed Mr. Guckert to confirm that the intersection of Walker Drive and MD 193 continues to operate as Level of Service A and that sufficient gaps exist along MD 193 to accommodate site generated traffic.

At the hearing on October 29, 2020, the Petitioners objected to the supplemental Staff Report and the supplemental information submitted by the Applicant because this information was submitted less than two weeks prior to the hearing. The Petitioner requested a continuance, which the Planning Board denied. During the hearing, Mr. Guckert and Mr. Green testified regarding the transportation concerns of the Petitioners, as did Mr. Tom Masog with the Transportation Planning Division. Based upon the testimony presented the Planning Board

voted to approve the DSP. Subsequently, on November 18, 2020, the Applicant requested that the Planning Board reconsider the DSP on the basis that the Petitioner's request for continuance was consistent with Section 27-125.05 of the Zoning Ordinance and that the Petitioner should have been granted at least a one week continuance to respond to the new information. The Planning Board voted to reconsider the case and a second hearing was conducted on December 17, 2020 to allow the Petitioner to respond to the supplemental information provided by Staff and the Applicant. The Planning Board got the opportunity to hear again from Mr. Green regarding his critique of the transportation analysis prepared by Mr. Guckert. Mr. Green expressed the same concern as in the prior hearing about whether the trip counts were accurate, and further questioned whether the gap analysis was properly conducted. It should be noted that Mr. Green did not present a written analysis and did not do any traffic counts—he simply questioned the reports prepared by Mr. Guckert.

At the conclusion of the second hearing, the Planning Board voted to approve the DSP and found, as discussed extensively in Finding 12(c) of the Resolution, that the access satisfied the requirements of Sections 27-274(a)(2)(C)(i) and (ii), assuming that this section required the Planning Board to evaluate off-site traffic. Based upon the totality of the evidence, the extensive discussion of these issues over two Planning Board hearings, and the recommendation of Staff, the decision of the Planning Board to approve the DSP and find the access adequate cannot not be overturned.

In exercising its review of the Planning Board decision in an appellate capacity, the District Council is subject to the same constraints as a court. “The court reviews the Council’s decision to determine whether it is supported by ‘substantial evidence.’” Layton v. Howard County Bd. Of Appeals, 399 Md. 36, 48 (2007). “For purposes of judicial review, substantial

evidence means more than a ‘scintilla of evidence’ such that a reasonable person could come to more than one conclusion.” Realty Improvement Ass’n v. Sycamore Realty Co., Inc., 105 Md. App. 701, 714 (1995). “In such a situation, the issue to be considered is ‘fairly debatable’ and the reviewing court may not substitute its judgment for that of the agency.” Id.

“For its conclusion to be fairly debatable, the administrative agency... must have ‘substantial evidence’ on the record supporting its decision.” Layton, 399 Md. At 48. “On appellate administrative review, the court will not substitute its judgment for that of the fact finder, even if the court while exercising its independent judgment on the same record might have reached a different result.” Id. Finally, “the reviewing court must allow the agency to apply its ‘expertise,’ with which the court should not interfere.” Bullock v. Pelham Woods Apts., 283 MD. 505, 513 (1978). “As to subject matter within the expertise of the agency, judicial deference to agency finding is required. Board of Physician Quality Assurance v. Banks, 354 Md. At 59, 68-69 (1999). With the above judicial guidance, it is clear that the Planning Board had before it substantial evidence to support its decision, and that decision cannot not be second guessed.

In conclusion, the Applicant would note the overwhelming evidence that existed before the Planning Board in this instance. The Subject Property was the last undeveloped site in a major development which had not been constructed to its full capacity. The only signalized intersection serving the larger development operates at Level of Service A based upon October 2020 traffic counts, which is consistent with past traffic counts taken pre-COVID by SHA. The intersection of Capitol Drive and MD 193 is seldom used and there have been no accidents involving left turning vehicles from Capitol Drive onto MD 193 for the past three years. Based upon an October 2020 gap analysis, adequate gaps in traffic will allow vehicles to safely exit the site should they desire to turn left onto MD 193, and the gap analysis did not assume any of the

site generated trips would utilize the intersection of Walker Drive and MD 193. The gap analysis counted all trips estimated to be generated by the proposed uses, not just “new” trips, which were utilized in the adequacy analysis. In addition, a condition was adopted (Condition 4) that requires the Applicant to install a sign at the site exit directing traffic to east bound MD 193 to utilize the lighted intersection of Walker Drive and MD 193. Based upon operating at Level of Service A, any traffic queuing at this intersection would be able to clear to allow vehicles to safely access eastbound MD 193. All of this evidence, combined with the Staff’s concurrence that the site access satisfies the requirements of Section 2-274(a)(2)(C)(i) and (ii) support the decision of the Planning Board in this instance and cannot be overturned on appeal.

5. The Planning Board erred legally when it ruled "master plan conformance is not a required finding for approval of a DSP."

6. The Planning Board did not adequately articulate how the Greenbelt Royal Farms complied with the Sector Plan’s Coal of protecting and promoting existing businesses.

7. The record lacks substantial evidence that the proposed Greenbelt Royal Farms complies with the Sector Plan. The Planning Board made certain incorrect factual findings regarding the DSP’s alleged conformance with the Sector Plan. Small Business Owners proffer correct factual findings based on the testimony of Ruth Grover.

RESPONSE: Each of the above arguments are addressed herein. First, the Petitioners allege that the Planning Board erred when it referenced the referral from the Community Planning Division which “which notes that pursuant to Part 3, Division 9, Subdivision 3, of the Zoning Ordinance, master plan conformance is not a required finding for approval of a DSP”. Petitioners cite Section 27-102(a) and Section 27-446(a)(6) of the Zoning Ordinance, which reference the General Purposes of the Zoning Ordinance (Section 27-102) and the General

Purposes of Commercial Zones (Section 27-446(a)(6)). As noted in the Resolution, conformance with these specific subsections is not a required finding for approval of a Detailed Site Plan. The required findings which the Planning Board must make when approving a detailed site plan are contained in Section 27-285(b) of the Zoning Ordinance. This section states as follows:

(b) Required findings.

- (1) The Planning Board may approve a Detailed Site Plan if it finds that the plan represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use. If it cannot make these findings, the Planning Board may disapprove the Plan.
- (2) The Planning Board shall also find that the Detailed Site Plan is in general conformance with the approved Conceptual Site Plan (if one was required).
- (3) The Planning Board may approve a Detailed Site Plan for Infrastructure if it finds that the plan satisfies the site design guidelines as contained in Section 27-274, prevents offsite property damage, and prevents environmental degradation to safeguard the public's health, safety, welfare, and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge.
- (4) The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).

Of the required findings set forth above, only subsections (1) and (4) are applicable in this case because the Subject Property is not subject to a conceptual site plan and this is not a detailed site plan for infrastructure. As the only statutory required findings, the statement in the Resolution that “Master Plan conformance is not a required finding for approval of a DSP” is a factually and legally correct statement—there is no requirement in Section 27-285(b) that the Planning Board find that that the Detailed Site Plan conform to the requirements of the Master Plan.

Conformance with the Master Plan is further not a requirement in that the sections cited are purpose clauses, they are not regulatory in nature. A purpose clause cannot override the clear

provisions of a statute. (See Clarke v. County Commissioners for Carroll County, 270 Md. 343, 349 (1973)) As noted above, Section 27-285 of the Zoning Ordinance does not make the Sector Plan or Master plan a regulatory document. In the case of County. Council of Prince George's County. v. Zimmer Dev. Co., 444 Md. 490, 120 A.3d 677 (2015), the Court of Appeals stated that “[P]roposals for land use contained in a plan constitute a non-binding advisory recommendation, unless a relevant ordinance or regulation, or specific zoning, subdivision, or other land use approval, make compliance with the plan recommendations mandatory.” (Citations omitted). *Id.* at 522. In this case, PGCC § 27-285(b) sets forth the required findings that must be made by the Planning Board when it approves a detailed site plan and strict conformance with the Master Plan is not required for any DSP. There is no legal basis for the Master Plan to be considered a “regulatory document” such that non-compliance could justify disapproval of the DSP.

In addition to the above, notwithstanding the comment that conformance with the master plan is not a required finding for approval of a DSP, the Planning Board considered the Petitioners arguments regarding Master Plan conformance and found that the DSP does conform with the goals or objectives of the Golden Triangle in the Approved Greenbelt Metro Area and MD 193 Corridor Sector Plan and Sectional Map Amendment (See Resolution Finding 12(a), pp 10-11). The Petitioner’s state that the Planning Board did not “adequately articulate” how the proposed Royal Farms Store complies “with the Sector Plan’s goal of protecting and promoting existing businesses.” However, this is not a goal of the Sector Plan. As quoted from the Master Plan, one of the “Goals” of the Economic Development Vision set forth in the Master Plan is to “Promote and strengthen the existing office and retail market.” The Petitioners self-servingly read this as “protecting and promoting existing businesses.” However, the Planning Board is not

entitled to deny a site plan for a use permitted in the underlying zone to restrict competition or protect an existing business, and the goal of the Sector Plan cannot be read to require the Planning Board to do this. It is well settled law in the State of Maryland that “It is not a proper function of a zoning ordinance to restrict competition or to protect an enterprise which may have been encouraged by a prior zoning classification.” Kreatchman v. Ramsburg, 224 Md. 209, 167 A.2d 345 (1961). The Planning Board stated that “the economic impact on other businesses are not issues that the Planning Board is allowed to consider when evaluating a DSP.” (Resolution, Finding 12(l), p. 15). There is no more articulation required than provided by the Planning Board in its Resolution.

Petitioners further state that the “District Council should find that the DSP does not conform to the Sector Plan.” They cite vague strategies from the Sector Plan that a witness, Ruth Grover, referenced in her testimony and suggest that the District Council should come to a different conclusion regarding conformance with the Sector Plan than the Planning Board. In essence, they are asking the District Council to substitute its judgment for that of the Planning Board. In this instance, the District Council is exercising appellate jurisdiction over the Planning Board. In the case of County. Council of Prince George's County. v. FCW Justice, Inc., 238 Md. App. 641, 193 A.3d 241 (2018), the Court of Special Appeals address a disagreement over conformance with the recommendations of a Master Plan in a Detailed Site Plan. In that instance, where the Planning Board found conformance, the Court held:

Because the District Council exercised appellate jurisdiction over the Planning Board's decision, its proper role was to decide whether the Board's approval was supported by substantial evidence on the issues properly before the Board, and not to substitute its own judgment for the Planning Board's. Tochterman v. Baltimore County, 163 Md. App. 385, 406-07, 880 A. 2d 1118 (2005) (“The court cannot substitute its judgment for that of the agency, but instead must exercise a 'restrained and disciplined judicial judgment so as not

to interfere with the agency's factual conclusions.'" (quoting Stover v. Prince George's County, 132 MD. App. 373, 381, 752 A.2d 686 (2000) (emphasis removed)).

In this case, the Planning Board considered the arguments of the Petitioners and found that "the DSP does conform with the goals or objectives of the Golden Triangle in the Approved Greenbelt Metro Area and MD 193 Corridor Sector Plan and Sectional Map Amendment". The District Council cannot now substitute its judgment for that of the Planning Board. There was no legal error committed by the Planning Board which could justify the reversal of the Planning Board 's approval.

8. The Planning Board failed to adequately articulate how the proposed Greenbelt Royal Farms complied with the architectural conditions set forth in Section 27-358(a)(10) and PPS 4-75259.

RESPONSE: The Petitioners disagree with the finding of the Planning Board that the proposed architecture satisfies the statutory requirement of Section 27-358(a)(10) that the proposed buildings "demonstrate compatibility with existing and proposed surrounding development". The Staff Report included an extensive discussion of the architecture not cited by Petitioners and included images of the architecture. The record also included colored renderings of all proposed buildings, which included proposed materials. In its Resolution, the Planning Board adopted the description of the architecture, referencing the food and beverage store's gable-covered main entrance, decorative cupola and other architectural features that add visual interest to the design. The finding also noted that the proposed gas canopy compliments the building façade design. The second commercial building was also described, referencing the ample fenestration and building materials. As the Planning Board finding reflects, the proposed architecture described in the Resolution is compatible with these existing uses. As further reflected in the record, as the last property in the Golden Triangle to develop, there is no remaining "proposed" development.

Petitioner further alleges that the Planning Board failed to articulate how the proposed Royal Farms store complies with the conditions of PPS 4-75259. Petitioner cites the preamble to the list of four conditions adopted by the Planning Board and treats that preamble as a separate condition. As the Planning Board correctly notes, however, the preamble is just that, a preamble. It is a description of what compliance with the four conditions of approval is intended to achieve. The Planning Board specifically addresses this preamble in its findings and the items in the record it relied upon to conclude that that the proposed architecture is harmonious with the existing commercial, office and hotel buildings. As with the findings of conformance to the Sector Plan, the District Council does not have the authority in its appellate review of the DSP to substitute its judgment for that of the Planning Board, as the Petitioners are asking it to do. Clearly, there is no error of law, as the requirements of both the statute and the conditions of PPS 4-75259 were clearly and comprehensively addressed.

9. The record lacks substantial evidence that the proposed Greenbelt Royal Farms complies with the architectural conditions set forth in Section 27-358(a)(10) and PPS 4-75259.

RESPONSE: To the extent applicable, the Applicant incorporates its response to argument 8 herein. The only additional argument made by Petitioners is that the architecture and the lighting of the proposed Greenbelt Royal Farms will be similar to other new Royal Farms stores in Prince George's County. The Petitioners reference a nighttime photograph showing a bright streetlight in the public right of way in an attempt to convey a negative image of an overly lit development which they suggest is representative of the proposed store. The Applicant objects to this unfounded representation. This Applicant has no control over street lighting. Further, it is noted that Condition 6, requested by the City of Greenbelt and proffered to the Planning Board by the Applicant, requires that all "Lighting on the site shall be certified by the International Dark Sky

Association.” As stated above, there is no error on the part of the Planning Board regarding its findings related to architectural compatibility.

10. The Resolution failed to comply with Condition 3 of PPS 4-75259.

RESPONSE: Condition 3 of PPS-4-75259 simply states that the Planning Board shall consult with the City of Greenbelt in its review of site plans. The Petitioners baldly allege, based on the testimony of Ruth Grover, that “this condition requires more deference to the City of Greenbelt’s recommendation.” There is no basis for such an allegation. As set forth in the Supplemental Statement of Justification submitted by the Applicant, the City of Greenbelt was closely consulted by both the Applicant and the Staff of the M-NCPPC in its review of the Detailed Site Plan. In addition to numerous conversations with City Staff, the Applicant met with the City of Greenbelt Advisory Planning Board on August 19, 2020, September 2, 2020 and September 16, 2020. The Applicant met with the City’s Green Aces Committee on August 25, 2020. Finally, the Applicant has appeared before the City Council at worksessions or hearings on March 7, 2018, August 1, 2018, September 2, 2018 and October 5, 2020. The Planning Board referred the DSP to the City of Greenbelt to solicit its comments and continued the initial Planning Board hearing (with the consent of the Applicant) at the request of the City of Greenbelt to allow its City Council ample time to take a position on the Detailed Site Plan. The Applicant further proffered to include several of the City’s condition in the approval. The Planning Board cannot be found to have not given sufficient deference to the City when there is no basis to deny an application. Petitioner is further incorrect that there is no trigger for conformance with these conditions. In order to certify the DSP, these conditions must be incorporated into the plans and conformance with these conditions will be enforced during the construction of the project. Thus, this condition has been satisfied and no error was committed by the Planning Board.

CONCLUSION

Based on the foregoing, the Applicant respectfully requests that the District Council affirm the decision of the Planning Board in DSP-19045

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'T. Haller', enclosed in a thin black rectangular border.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11 day of March, 2021, a copy of the foregoing

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