




# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the  
Council  
301-952-3600

August 4, 2021

## **MEMORANDUM**

TO: Maurene Epps McNeil, Chief Zoning Hearing Examiner

FROM:  Donna J. Brown, Clerk of the Council

RE: **CSP-10002 and DSP-10011;  
Amendment to Conditions of Approval**

I am transmitting herewith a request to amend conditions of approval imposed in the final decision in the above-referenced case pursuant to Section 27-135(c). The request was submitted by Daniel F. Lynch, Esq., on behalf of the applicant, Queens Chapel Town Center LLC.

Specifically, the applicant requests Conditions 3c of CSP-10003 and Condition 3c of DSP-10011 be deleted in their entirety.

This request should be scheduled for hearing before the Zoning Hearing Examiner. The property may have to be posted; however, the need of a posting fee should be determined.

If you have any questions or need additional information, please feel free to call me.

Attachments

cc: Daniel F. Lynch, Esq., Attorney for the Applicant  
Calvin S. Hawkins II, Chair  
Deni L. Taveras, Vice Chair  
Mel Franklin, Council Member, At-Large  
Raj Kumar, Principal Counsel to the District Council  
Karen T. Zavakos, Zoning and Legislative Counsel  
Stan Brown, People's Zoning Counsel  
James Hunt, Division Chief, M-NCPPC  
Cheryl Summerlin, Supervisor, M-NCPPC



**McNamee Hosea**

Attorneys & Advisors

July 29, 2021



**VIA ELECTRONIC MAIL**

Donna J. Brown  
Clerk  
Prince George's County Council  
County Administration Building  
Upper Marlboro, MD 20772

*Re. CSP-10002 and DSP-10011;  
Amendment to Conditions of Approval*

Dear Madame Clerk:

On behalf of the applicant, Queens Chapel Town Center LLC and pursuant to Section 27-135(c) for the Zoning Ordinance, I am requesting that Conditions 3c of CSP-10003 and Condition 3c of DSP-10011 be deleted in their entirety. In support of this request, that applicant states:

**PROJECT SUMMARY**

The subject property is currently developed with an existing shopping center. It is in close proximity to the West Hyattsville Metro Station. The shopping center is surrounded by other commercial uses in the area. Specifically, the subject property is surrounded by the following uses:

North: Single-family homes located in the R-55 Zone.

South: Hamilton Street, across Hamilton Street is commercially developed property in the M-X-T Zone

East: Queens Chapel Road, across Queens Chapel Road is commercially developed property in the M-X-T Zone

West: WMATA parking in the M-X-T Zone

As noted above, the Preferred Land Use Plan found on page 36 of the TDDP, places the shopping center in the Retail/Commercial category of the Table of Uses. This Table of Uses controls the uses permitted in the West Hyattsville TDOZ and supersedes the underlying Table of Uses listed in the Zoning Ordinance.

### **PREVIOUS APPROVALS**

The existing buildings on-site were mostly built prior to 1965 and have been the subject of various permits over the years. Detailed Site Plan DSP-00040 for Residue Parcel A-13 was approved by the Planning Board on December 21, 2000 (PGCPB Resolution No. 00-230) under the previous 1998 West Hyattsville Approved Transit District Development Plan for the Transit District Overlay Zone, with six conditions. These conditions are no longer outstanding as they were complied with and completed through the certification, permit, and construction processes. That approval was for a eating and drinking establishment with drive-through service. Conceptual Site Plan CSP-10002 and Detailed Site Plan DSP-10011, to allow an amendment to the Table of Uses of the 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone* for the subject property, were approved by the Planning Board on January 27, 2011 subject to three conditions. Subsequently, the Prince George's County District Council reviewed both of these cases on June 13, 2011 and adopted the Planning Board's resolutions, with one modification and three conditions. Condition 3c of those approvals provides:

Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

Finally, DSP-10011/01 was approved by the Planning Board on February 21, 2013 (PGCPB Resolution No. 13-11) for the purpose of amending the mandatory development requirements building mounted signs to be internally illuminated.

The purpose of this request is to delete 3c of CSP-10002 and DSP-10011 cited above. In so doing, the existing permitted use will be subject to the same restrictions and conditions as the other permitted uses in Queens Chapel Town Center.

## **CRITERIA FOR APPROVAL**

The District Council is permitted to amend conditions to a site plan approved in accordance with Section 27-135(c) which provides, in part:

- (c) The District Council may (for good cause) amend any condition imposed or site plan approved (excluding Comprehensive Design Zone Basic Plans or R-P-C Zone Official Plans) upon the request of the applicant without requiring a new application to be filed, if the amendment does not constitute an enlargement or extension.

The Court of Appeals of Maryland, in *Kay Construction Company v. County Council*, 227 Md. 479, 177 A.2d 694 (1962) considered the definition of “good cause” upon appeal of a Council resolution overturning a previous decision upon a reconsideration of that previous decision for “good cause shown.” In *Kay*, the Court held that a change of mind on the basis of the evidence of record is not “good cause.” In arriving at this conclusion the Court referred to a previous decision, *Zoning Appeals Board v. McKinney*, 174 Md. 551, 564, 199 A. 540, 171 A.L.R. 207, 564 (1938), which states that in the absence of a statutory requirement, “It may be conceded without discussion that the Board has the right to correct errors in its decisions caused by fraud, surprise, mistake or inadvertence, which any agency exercising judicial functions must have, to adequately perform its duties.

## **BASIS FOR REQUEST**

Condition 3c of both CSP-10002 and DSP-10011 provide, in part, if the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use. Under the Zoning Ordinance, this limitation is normally associated with nonconforming uses, whereas this use, and eating and drinking establishment with drive-through service, is a permitted use pursuant to the approval of DSP-00040 and pursuant to the 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone* which provide on page 38:

**Legally existing development.** Until a site plan is submitted, all buildings, structures, and uses that were lawful or could be certified as a legal nonconforming use on the date of sectional map amendment (SMA) approval are exempt from the TDDP standards and from site plan review and are not nonconforming. However, if a permit application is submitted and it is determined that the legally existing building, structure, or use has been discontinued for more than 180 days in accordance with Section 27-241(c), it shall comply with all applicable TDDP standards and site plan review.

DSP-10011 was approved by the District Council in 2011 and that DSP reflected the eating and drinking establishment as shown on DSP-00040. Therefore, the use is legal and not nonconforming and it should not be subject to the 180 limit associated with nonconforming uses



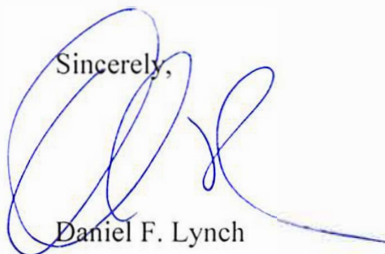
in the West Hyattsville TDOZ.

Furthermore, this condition inhibits the applicant's ability to market the property to potential tenants. This condition places a cloud on their ability to operate an eating and drinking establishment with a drive through from the subject property and to maintain a viable and competitive use into the future. Potential tenants need and assurance that the use will continue into the future and also need the ability to renovate and modernize that use to stay competitive in the market. Any a major modification to the structure associated with the use would most likely require a closure of the business for a period that could exceed the 180 days. If such occurs, a tenant could potentially spend hundreds of thousands of dollars on a renovation or rebuilding only to lose their ability to operate the use.

Finally, this use was developed in conformance with the *1998 West Hyattsville Approved Transit District Development Plan for the Transit District Overlay Zone*. At that time, the use was permitted subject to the approval of a Detailed Site Plan and conformance with the Transit District Development Standards. The improvements on the property are not only designed to accommodate an eating and drinking establishment with drive-through service, but also designed to the meet urban and pedestrian oriented standards contained on the *1998 West Hyattsville Approved Transit District Development Plan for the Transit District Overlay Zone*. When the Planning Board approved DSP-00040 in 2001, it not only found that the proposed development of the property with an eating and drinking establishment with drive-through service was compatible with and complementary to existing and proposed development in the vicinity of the property, but the arrangement and design of buildings when coupled with their proximity to the West Hyattsville subway station, reflects a cohesive development capable of sustaining an independent environment of continuing quality and stability that will encourage an active commercial entity. This finding demonstrates that this use, although no longer a permitted use in the West Hyattsville TDOZ, is compatible with the surrounding area unlike nonconforming uses and therefore the need to phase this use out, through the 180 day limit set forth in condition 3c, is a mistake.

For these reasons, Queens Chapel Town Center LLC respectfully requests that condition 3c to CSP-10002 and DSP-10011 be deleted in their entirety. Thank you in advance for your time and consideration to this matter.

Sincerely,



Daniel F. Lynch



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

September 19, 2011

**RE: DSP 10011-C Queens Chapel Town Center  
(Companion Case: CSP 10002-C)  
Queens Chapel Town Center, LLC, Applicant**

## ***NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of Zoning Ordinance No. 3 - 2011 setting forth the action taken by the District Council in this case on June 13, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on September 19, 2011 this notice and attached Council order were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, reading "Redis C. Floyd", is written over a horizontal line.

Redis C. Floyd  
Clerk of the Council

(10/97)



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

June 15, 2011

## ***DISTRICT COUNCIL PRELIMINARY NOTICE OF CONDITIONAL ZONING APPROVAL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland, requiring notice of decision of the District Council, a copy of Zoning Ordinance No. 3 - 2011 granting preliminary conditional zoning approval of DSP-10011-C Queens Chapel Town Center, is attached.

In compliance with the provisions of Section 27-157(b) of the Zoning Ordinance, the applicant must file a written acceptance or rejection of the land use classification as conditionally approved within ninety (90) days from the date of approval by the District Council. Upon receipt by the Clerk's Office of a written acceptance by the applicant, a final Order will be issued with an effective date for conditional approval shown as the date written acceptance was received by the Clerk's Office.

The failure to accept the conditions in writing within ninety (90) days from the date of approval shall be deemed a rejection. Rejection shall void the Map Amendment and revert the property to its prior zoning classification.

Written approval or rejection of conditions must be received by the Clerk's Office no later than the close of business (5:00 p.m.) on September 12, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on June 15, 2011, this notice and attached Order were mailed, postage prepaid, to the attorney/correspondent and applicant(s). Notice of final approval will be sent to all persons of record.

A handwritten signature in black ink, reading "Redis C. Floyd". The signature is written in a cursive style with a large, stylized "R" and "F".

Redis C. Floyd  
Clerk of the Council

Case No. DSP-10011-C

Applicant: Queens Chapel Town Center, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 3 - 2011

AN ORDINANCE to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, as to a specific Transit District property, and to approve a detailed site plan, with conditions.

WHEREAS, Application No. DSP-10011 was filed for the Queens Chapel Town Center, on property described as approximately 6.05 acres of land in the M-X-T/T-D-O and R-55/T-D-O zones, located in the northwest quadrant of the intersection of Queens Chapel Road and Hamilton Street, Hyattsville; and

WHEREAS, the Technical Staff reviewed the application and filed recommendations with the Planning Board and District Council; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the Planning Board held a public hearing on the application and filed recommendations with the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved, to change the use table for the Approved Transit District Development Plan and approve a Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, with a detailed site plan showing an existing and

developed commercial shopping center on 15 separate parcels, as described in the Planning Board's resolution, PGCPB No. 11-08; and

WHEREAS, to protect adjacent properties and the neighborhood, this rezoning (change of use table) and site plan approval are granted subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the determinations of the Planning Board in its resolution, PGCPB No. 11-08, as its findings of fact and conclusions of law for this case. The District Council concludes, however, that a carpet or floor covering store should not be permitted, as the use is inconsistent with the retail-commercial character of the shopping center on the subject property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended by changing the use table for the M-X-T/T-D-O and R-55/T-D-O zoned property that is the subject of Application No. DSP-10011, to permit the following uses, in addition to those listed in the July 2006 Approved Transit District Development Plan for the West Hyattsville Transit District, for the subdistrict in which the subject property is located:

- (1) Eating or drinking establishment, without drive-through service
- (2) Pizza delivery service
- (3) Clothing, dry goods
- (4) Confectioner
- (5) Florist
- (6) Food or beverage goods preparation on the premises of a food and beverage store
- (7) Sporting goods shop
- (8) Stationery or office supply store
- (9) Video game or tape store

SECTION 2. Approval of the change of uses and conceptual site plan is subject to the following conditions

1. Prior to certification of the plan, the applicant shall:
  - a. Relabel the existing conditions plan as the natural resources inventory (NRI) for the property and submit it for approval.
  - b. Submit a copy of a standard letter of exemption for the property.
  - c. Revise the landscape plan and tree canopy coverage worksheet to show, at a minimum, an additional 8 proposed shade trees, and five proposed evergreen trees in open tree wells and planting areas throughout the site.
  - d. Revise the plan to list the additional permitted uses, use limitations, and note the provisions regarding the existing eating or drinking establishment, with drive-through service, per Condition 3.
2. Prior to issuance of any use and occupancy permits within the entire property, the proposed trees, as shown on the certified detailed site plan (DSP), shall be planted.
3. The following modifications shall be made to the applicant's request and to the Table of Uses for the commercial/retail section of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The modifications to the Table of Uses are applicable only to the subject site, as follows:
  - a. The following uses shall be added as permitted uses (P):
    - (1) Eating or drinking establishment, without drive-through service
    - (2) Pizza delivery service
    - (3) Clothing, dry goods
    - (4) Confectioner
    - (5) Florist
    - (6) Food or beverage goods preparation on the premises of a food and beverage store
    - (7) Sporting goods shop
    - (8) Stationery or office supply store
    - (9) Video game or tape store
  - b. The use table changes hereby approved for Queens Chapel Town Center are subject to the following limitations:
    - (1) Pizza delivery service is permitted if and only if an additional parking space, over and above the required number of parking spaces, is provided



at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.

- (2) A confectioner shall be for retail use only and shall not exceed 3,000 square feet.
  - (3) Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are sold only on the premises and at retail.
  - (4) A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.
  - (5) Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.
- c. Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall become effective initially on the date of its enactment, as conditionally approved, and shall become final and effective when the applicant accepts in writing the conditions in Section 2.

Enacted this 13<sup>th</sup> day of June, 2011, for initial approval, by the following vote:

In Favor: Council Members Campos, Franklin, Harrison, Johnson, Lehman, Olson, Patterson, Toles, and Turner.

Opposed:

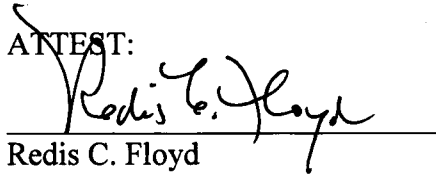
Abstained:

Absent:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By:   
Ingrid M. Turner, Chair

ATTEST:  
  
Redis C. Floyd  
Clerk of the Council

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL APPROVAL

AN ORDER to incorporate the applicant's acceptance of conditions, and to grant final conditional approval of a detailed site plan.

WHEREAS, the District Council in approving DSP-10011-C, to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zone, and to approve a detailed site plan, attached conditions; and

WHEREAS, the District Council, having reviewed the application and the administrative record, deems it appropriate to accept the applicant's consent to the conditions and to approve DSP-10011-C.


NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

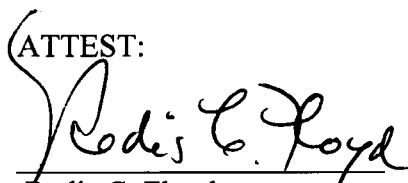
SECTION 1. Final conditional approval of DSP-10011-C is hereby granted. The applicant's written acceptance of the conditions referred to above, at the time of initial conditional approval, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

SECTION 2. Use of the subject property as conditionally reclassified shall be subject to all requirements in the applicable zones and to the requirements in the conditions referred to above. Failure to comply with any stated condition shall constitute a zoning violation and shall be sufficient grounds for the District Council to annul the rezoning approved herein; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; or to take any other action deemed necessary to obtain compliance.

SECTION 3. This Ordinance is effective July 12th, 2011, the date of receipt of the applicant's acceptance of the conditions imposed.

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON REGIONAL  
DISTRICT IN PRINCE GEORGE'S COUNTY,  
MARYLAND

BY:   
Ingrid M. Turner, Chair

ATTEST:  
  
Redis C. Floyd  
Clerk of the Council



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

September 19, 2011

**RE: CSP 10002-C Queens Chapel Town Center  
(Companion Case: DSP 10011-C)  
Queens Chapel Town Center, LLC, Applicant**

## ***NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of Zoning Ordinance No. 2 - 2011 setting forth the action taken by the District Council in this case on June 13, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on September 19, 2011 this notice and attached Council order were mailed, postage prepaid, to all persons of record.

A handwritten signature in dark ink, reading "Redis C. Floyd", is written over a horizontal line.

Redis C. Floyd  
Clerk of the Council

(10/97)



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

June 15, 2011

## ***DISTRICT COUNCIL PRELIMINARY NOTICE OF CONDITIONAL ZONING APPROVAL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland, requiring notice of decision of the District Council, a copy of Zoning Ordinance No. 2 - 2011 granting preliminary conditional zoning approval of CSP-10002-C Queens Chapel Town Center, is attached.

In compliance with the provisions of Section 27-157(b) of the Zoning Ordinance, the applicant must file a written acceptance or rejection of the land use classification as conditionally approved within ninety (90) days from the date of approval by the District Council. Upon receipt by the Clerk's Office of a written acceptance by the applicant, a final Order will be issued with an effective date for conditional approval shown as the date written acceptance was received by the Clerk's Office.

The failure to accept the conditions in writing within ninety (90) days from the date of approval shall be deemed a rejection. Rejection shall void the Map Amendment and revert the property to its prior zoning classification.

Written approval or rejection of conditions must be received by the Clerk's Office no later than the close of business (5:00 p.m.) on September 12, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on June 15, 2011, this notice and attached Order were mailed, postage prepaid, to the attorney/correspondent and applicant(s). Notice of final approval will be sent to all persons of record.

A handwritten signature in cursive script, reading "Redis C. Floyd".

Redis C. Floyd  
Clerk of the Council



Case No. CSP-10002-C

Applicant: Queens Chapel Town Center, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 2 - 2011

AN ORDINANCE to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, as to a specific Transit District property, and to approve a conceptual site plan, with conditions.

WHEREAS, Application No. CSP-10002 was filed for the Queens Chapel Town Center, on property described as approximately 6.05 acres of land in the M-X-T/T-D-O and R-55/T-D-O zones, located in the northwest quadrant of the intersection of Queens Chapel Road and Hamilton Street, Hyattsville; and

WHEREAS, the Technical Staff reviewed the application and filed recommendations with the Planning Board and District Council; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the Planning Board held a public hearing on the application and filed recommendations with the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved, to change the use table for the Approved Transit District Development Plan and approve a Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, with a conceptual site plan showing an existing and

developed commercial shopping center on 15 separate parcels, as described in the Planning Board's resolution, PGCPB No. 11-07; and

WHEREAS, to protect adjacent properties and the neighborhood, this rezoning (change of use table) and site plan approval are granted subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the determinations of the Planning Board in its resolution, PGCPB No. 11-07, as its findings of fact and conclusions of law for this case. The District Council concludes, however, that a carpet or floor covering store should not be permitted, as the use is inconsistent with the retail-commercial character of the shopping center on the subject property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended by changing the use table for the M-X-T/T-D-O and R-55/T-D-O zoned property that is the subject of Application No. CSP-10002, to permit the following uses, in addition to those listed in the July 2006 Approved Transit District Development Plan for the West Hyattsville Transit District, for the subdistrict in which the subject property is located:

- (1) Eating or drinking establishment, without drive-through service
- (2) Pizza delivery service
- (3) Clothing, dry goods
- (4) Confectioner
- (5) Florist
- (6) Food or beverage goods preparation on the premises of a food and beverage store
- (7) Sporting goods shop
- (8) Stationery or office supply store
- (9) Video game or tape store

SECTION 2. Approval of the change of uses and conceptual site plan is subject to the following conditions

1. Prior to certification of the plan, the applicant shall:
  - a. Relabel the existing conditions plan as the natural resources inventory (NRI) for the property and submit it for approval.
  - b. Submit a copy of a standard letter of exemption for the property.
  - c. Revise the plan to list the additional permitted uses, use limitations, and note the provisions regarding the existing eating or drinking establishment, with drive-through service, per Condition 3.
2. Prior to issuance of any use and occupancy permits within the entire property, the proposed trees, as shown on the certified detailed site plan (DSP), shall be planted.
3. The following modifications shall be made to the applicant's request and to the Table of Uses for the commercial/retail section of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The modifications to the Table of Uses are applicable only to the subject site, as follows:
  - a. The following uses shall be added as permitted uses (P):
    - (1) Eating or drinking establishment, without drive-through service
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    - (5) Florist
    - (6) Food or beverage goods preparation on the premises of a food and beverage store
    - (7) Sporting goods shop
    - (8) Stationery or office supply store
    - (9) Video game or tape store
  - b. The use table changes hereby approved for Queens Chapel Town Center are subject to the following limitations:
    - (1) Pizza delivery service is permitted if and only if an additional parking space, over and above the required number of parking spaces, is provided at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.

- (2) A confectioner shall be for retail use only and shall not exceed 3,000 square feet.
  - (3) Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are sold only on the premises and at retail.
  - (4) A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.
  - (5) Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.
- c. Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall become effective initially on the date of its enactment, as conditionally approved, and shall become final and effective when the applicant accepts in writing the conditions in Section 2.

Enacted this 13<sup>th</sup> day of June, 2011, for initial approval, by the following vote:

In Favor: Council Members Campos, Franklin, Harrison, Johnson, Lehman, Olson, Patterson, Toles, and Turner.

Opposed:

Abstained:

Absent:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By: Ingrid M. Turner  
Ingrid M. Turner, Chair

ATTEST:  
Redis C. Floyd  
Redis C. Floyd  
Clerk of the Council

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL APPROVAL

AN ORDER to incorporate the applicant's acceptance of conditions, and to grant final conditional approval of a detailed site plan.

WHEREAS, the District Council in approving CSP-10002-C, to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zone, and to approve a conceptual site plan, attached conditions; and

WHEREAS, the District Council, having reviewed the application and the administrative record, deems it appropriate to accept the applicant's consent to the conditions and to approve CSP-10002-C.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

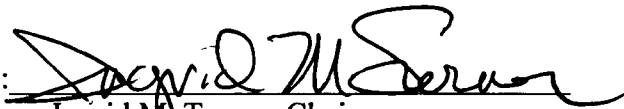
SECTION 1. Final conditional approval of CSP-10002-C is hereby granted. The applicant's written acceptance of the conditions referred to above, at the time of initial conditional approval, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

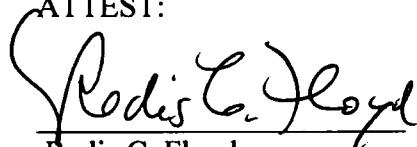
SECTION 2. Use of the subject property as conditionally reclassified shall be subject to all requirements in the applicable zones and to the requirements in the conditions referred to above. Failure to comply with any stated condition shall constitute a zoning violation and shall be sufficient grounds for the District Council to annul the rezoning approved herein; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; or to take any other action deemed necessary to obtain compliance.



SECTION 3. This Ordinance is effective July 12th, 2011, the date of receipt of the applicant's acceptance of the conditions imposed.

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON REGIONAL  
DISTRICT IN PRINCE GEORGE'S COUNTY,  
MARYLAND

BY:   
Ingrid M. Turner, Chair

ATTEST:  
  
Redis C. Floyd  
Clerk of the Council

## **Mark G. L. Ferguson, R.A.**

### **Architect & Planner**

Site Design, Inc./RDA  
9500 Medical Center Drive, Suite 480  
Largo, Maryland 20774  
(301) 952-8200  
mglferguson@engsite.tech

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### **Education:**

Bachelor of Architecture  
University of Maryland, College Park, 1985

### **Licensure:**

Registered Architect  
Maryland Registration #7621, 1987

### **Employment:**

5/05 to Present:	Senior Land Planner RDA Engineering Company, Inc./Site Design, Inc. Upper Marlboro & Largo, Maryland
5/99 to 5/05:	Principal Mark G. L. Ferguson, R.A., Architect & Planner Hyattsville, Maryland
5/89 to 5/99:	Architect/Planner Robertson-Dhalwala Associates, LLC Upper Marlboro, Maryland Prince Frederick, Maryland
9/87 to 5/89	Architect AIP Architects Adelphi, Maryland
6/85 to 9/87	Intern Architect AIP Architects Adelphi, Maryland
2/84 to 6/85	Intern AIP Architects Adelphi, Maryland

## **Professional Experience:**

Mr. Ferguson has broad experience in the fields of architecture, land planning and civil engineering, with projects ranging in scope from small residential additions to community planning. He has provided expert planning testimony before the Circuit Court for Prince George's County, the Prince George's District Council, Planning Board, Zoning Hearing Examiner and Board of Zoning Appeals for numerous planning cases, as well as testimony before similar boards in other Southern Maryland jurisdictions.

Cases on which Mr. Ferguson has provided expert testimony or litigative assistance include:

- Callicott Property  
Upper Marlboro, Maryland  
Expert planning testimony in application A-10054, requesting rezoning from the C-S-C commercial zone to the R-80 residential zone.
- Khan Property  
Brandywine, Maryland  
Expert planning testimony in application A-10049, requesting rezoning from the R-R residential zone to the C-M commercial zone.
- Saint Barnabas Mixed-Use Park  
Temple Hills, Maryland  
Expert planning testimony in application A-10047, requesting rezoning from the C-S-C commercial and I-1 industrial zones to the M-X-T mixed use zone.
- Locust Hill  
Upper Marlboro, Maryland  
Expert planning testimony in application A-9975/01, requesting approval of a new Basic Plan and revision of prior conditions for a planned community in the R-L comprehensive design zone.
- Willowbrook  
Upper Marlboro, Maryland  
Expert planning testimony in application A-9968/01, requesting approval of a new Basic Plan and revision of prior conditions for a planned community in the R-S comprehensive design zone.
- Renard Lakes  
Brandywine, Maryland  
Expert planning testimony in application A-10046, requesting rezoning from the R-S comprehensive design zone to the I-1 industrial zone.
- Moore's Corner  
Brandywine, Maryland  
Expert planning testimony in application A-10044, requesting rezoning from the R-R residential zone to the M-X-T mixed use zone.
- Linda Lane Commercial Park  
Camp Springs, Maryland  
Expert planning testimony in application A-10043, requesting rezoning from the R-80 residential and C-S-C commercial zones to the M-X-T mixed use zone.

- Brandywine-Waldorf Medical Clinic  
Brandywine, Maryland  
Expert planning testimony in application A-10042, requesting rezoning from the C-O commercial zone to the M-X-T mixed use zone.
- Glenn Dale Commons  
Glenn Dale, Maryland  
Expert planning testimony in application A-10038, requesting rezoning from the I-1 industrial zone to the M-X-T mixed use zone.
- American Rescue Workers  
Capitol Heights, Maryland  
Expert planning testimony in application A-10037, requesting rezoning from the R-R residential zone to the I-2 heavy industrial zone.
- Donnell Drive  
Forestville, Maryland  
Expert planning testimony in application A-10036, requesting rezoning from the R-T townhouse zone to the C-M commercial zone.
- Virginia Linen  
Capitol Heights, Maryland  
Expert planning testimony in application A-10033, requesting rezoning from the I-3 planned industrial zone to the I-1 light industrial zone.
- Amber Ridge  
Bowie, Maryland  
Expert planning testimony in application A-10031, requesting rezoning from the C-S-C commercial zone to the M-X-T mixed use zone.
- Oakcrest  
Laurel, Maryland  
Expert planning testimony in application A-10030, requesting rezoning from the R-55 residential zone to the C-S-C commercial zone.
- Fairview Commercial Property  
Lanham, Maryland  
Expert planning testimony in application A-10024, requesting rezoning from the R-80 residential zone to the C-S-C commercial zone.
- King Property  
Largo, Maryland  
Expert planning testimony in application A-10020, requesting rezoning from the I-3 planned industrial zone to the M-X-T mixed use zone.
- Cafritz Tract  
Riverdale Park, Maryland  
Expert planning testimony in application A-10018, requesting rezoning from the R-55 residential zone to the M-U-TC mixed use zone.

- Jemal's Post  
Forestville, Maryland  
Expert planning testimony in application A-10003, requesting rezoning from the I-1 industrial zone to the C-S-C commercial zone.
- Defiance Drive  
Fort Washington, Maryland  
Expert planning testimony in application A-10000, requesting rezoning from the R-E estate zone to the R-R residential zone.
- Sauerwein Property  
Upper Marlboro, Maryland  
Expert planning testimony in application A-9977, requesting approval of rezoning from the R-R residential zone to the R-T (townhouse) residential zone.
- Renard Lakes  
Brandywine, Maryland  
Expert planning testimony in application A-9970, requesting approval of a Basic Plan and rezoning from the I-1 industrial zone to the R-S comprehensive design zone.
- Bevard East  
Piscataway, Maryland  
Expert planning testimony in application A-9967, requesting approval of a Basic Plan and rezoning from the R-E residential zone to the R-L comprehensive design zone.
- Smith Home Farm  
Upper Marlboro, Maryland  
Expert planning testimony in application A-9965 and A-9966, requesting approval of a Basic Plan and rezoning from the R-A residential zone to the R-M and L-A-C comprehensive design zones.
- Boone Property  
Largo, Maryland  
Expert planning testimony in application A-9957, requesting rezoning from the R-E estate zone to the R-R residential zone.
- Edwards Property  
Adelphi, Maryland  
Expert planning testimony in application A-9954, requesting approval of a Basic Plan and rezoning from the R-R residential zone to the L-A-C comprehensive design zone.
- Buck Property  
Upper Marlboro, Maryland  
Expert planning testimony in application A-9952, requesting approval of a Basic Plan and rezoning from the R-A residential zone and the E-I-A comprehensive design zone to the R-S comprehensive design zone.

- Nicowski Property  
Upper Marlboro, Maryland  
Expert planning testimony in application A-9939, requesting rezoning from the C-O commercial zone to the C-S-C commercial zone.
- Parcel B, Largo Town Center  
Largo, Maryland  
Expert planning testimony in application A-9280, requesting an amendment to the Basic Plan for a site in the M-A-C comprehensive design zone.
- State Roads Commission of the State Highway Administration v. Crescent Cities Jaycees  
Expert planning testimony in Case# CAL-94-20084, seeking just compensation for the State's condemnation of property for the expansion of Maryland Route 5.
- Millard Property  
Camp Springs, Maryland  
Expert planning testimony in State Highway Administration Project PG209A31, Item #89084, seeking just compensation for the State's condemnation of property for road improvements to Naylor Road associated with the construction of the Naylor Road Metro Station.
- Brandywine-Waldorf Medical Clinic  
Brandywine, Maryland  
Expert report in State Highway Administration Project PG175A31, Item #106368, seeking just compensation for the State's condemnation of property for road improvements to Branch Avenue associated with the construction of the interchange of Maryland Route 5 with various roads in the vicinity of T.B.
- University Place Center  
Langley Park, Maryland  
Expert report in State Highway Administration Project 10420130, Item #900576, seeking just compensation for the State's condemnation of property for construction of the Purple Line.
- *United States v. Makowsky*, Case #01-2096 D/Bre (D. Tenn)  
Litigative consultation to the U.S. Department of Justice on a case seeking remedies to accessibility barriers at an apartment complex in Shelby County, Tennessee.
- *United States v. Rose, et al.*, Case #02-73518 (E.D. Mich)  
Expert testimony for the U.S. Department of Justice on a case seeking remedies to accessibility barriers at apartment complexes in Van Buren Township, Michigan and in Batavia Ohio.
- *United States v. Rose, et al.*, Case #3:01cv0040AS (N.D. Ind)  
Expert testimony for the U.S. Department of Justice on a case seeking remedies to accessibility barriers at apartment complexes in Elkhart City, Indiana and in Fort Wayne, Indiana.
- *Weatherburn Associates, LLC, et al. v. County Commissioners for Charles County, Maryland*, Case #08-C-16-002422  
Expert report for the defendant in a proceeding seeking compensation for losses arising out of the alleged failure of the defendant to pursue environmental approvals of a certain formerly-planned road improvement in Charles County, Maryland.

- *Varsity Investment Group, LLC, et al. v. Prince George's County, Maryland*, Case #CAL-18-41277  
Expert report for the plaintiff in an proceeding seeking enforcement of a County Council Resolution granting remission of impact fees for the conversion of an office building to multifamily dwellings in Oxon Hill, Maryland.
- *Jackson v. Sumby*, Case #CAE-18-01785  
Expert testimony for the plaintiff in an proceeding alleging adverse possession of a shared driveway between two houses in Capitol Heights, Maryland.
- *Scaggs v. Barrett, et al.*, AAA Case #04-C-10-000151CN  
Expert testimony for the defendant in an arbitration proceeding alleging negligence in the preparation of a feasibility study in connection with a proposed subdivision in Calvert County, Maryland.
- Washington Gas Liquefied Natural Gas Storage Facility  
Hyattsville, Maryland  
*Pro bono* expert planning testimony in application SE-245/06, opposing the approval of a Special Exception to permit a regional liquefied natural gas storage facility in the O-S Zone, adjacent to a planned high-density mixed-use development around the West Hyattsville Metro station.
- 7-Eleven Marlboro Pike  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4822, requesting approval of a Special Exception for the construction of a new gas station and food & beverage store in the C-S-C Zone.
- Enterprise Rent-A-Car  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4819, requesting approval of a Special Exception for a vehicle rental facility in the C-S-C Zone.
- Hunt Real Estate Development  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4815, requesting approval of a Special Exception for the construction of a new gas station and food & beverage store in the C-S-C Zone.
- SMO Gas Station & Car Wash  
Clinton, Maryland  
Expert planning testimony in application SE-4812, requesting approval of a Special Exception for the rebuild of an existing gas station with the addition of a car wash in the C-S-C Zone.
- Uptown Suites  
Lanham, Maryland  
Expert planning testimony in application SE-4794, requesting approval of a Special Exception for a hotel in the I-2 Zone.
- Ernest Maier Concrete Batching Plant  
Bladensburg, Maryland  
Expert planning testimony in application SE-4792, requesting approval of a Special Exception for a concrete batching plant in the I-2 Zone.

- Smith Property Surface Mine  
 Brandywine, Maryland  
 Expert planning testimony in application SE-4517, requesting approval of a Special Exception for an extension in the validity period for an existing surface mine in the O-S Zone.
- Aggregate Industries Sand & Gravel Wet Processing Facility  
 Brandywine, Maryland  
 Expert planning testimony in application SE-4790, requesting approval of a Special Exception for an extension in the validity period for an existing wash plant in the R-A and R-E Zones.
- Traditions at Beechfield  
 Mitchellville, Maryland  
 Expert planning testimony in application SE-4785, requesting approval of a Special Exception for a planned retirement community in the R-E Zone.
- Chuck's Used Auto Parts  
 Marlow Heights, Maryland  
 Expert planning testimony in application SE-4783, requesting approval of a Special Exception for a vehicle salvage yard in the I-1 Zone.
- Dollar General  
 Upper Marlboro, Maryland  
 Expert planning testimony in application SE-4778, requesting approval of a Special Exception for a department or variety store in the I-1 Zone.
- Sunoco Gas Station and Car Wash  
 Camp Springs, Maryland  
 Expert planning testimony in application SE-4778, requesting approval of a Special Exception for a car wash addition to an existing gas station in the C-S-C Zone, including approval of Alternative Compliance for landscape buffers.
- Forestville Auto Service  
 Upper Marlboro, Maryland  
 Expert planning testimony in application SE-4768, requesting approval of a Special Exception for a gas station in the C-S-C Zone.
- Sheriff Road Seventh Day Adventist Church  
 Fairmount Heights, Maryland  
 Expert planning testimony in application SE-4750, requesting approval of a Special Exception for a church on a tract of land of less than one acre in the R-55 Zone.
- E&R Services, Inc.  
 Lanham, Maryland  
 Expert planning testimony in application ROSP-4464/02, requesting approval of an expansion to an existing Special Exception for a contractor's office with outdoor storage in the C-A Zone.



- Word Power Baptist Tabernacle  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4694, requesting approval of a Special Exception for a church on a lot less than one acre in size in the R-18 Zone.
- Hotel at the Cafritz Property at Riverdale Park  
Riverdale Park, Maryland  
Expert planning testimony in application SE-4775, requesting approval of a Special Exception for a hotel in the M-U-TC Zone.
- SMO Gas Station & Car Wash  
Glenn Dale, Maryland  
Expert planning testimony in application SE-4757, requesting approval of a Special Exception for a gas station and a convenience store in the I-1 Zone.
- SMO Gas Station & Car Wash  
Beltsville, Maryland  
Expert planning testimony in application SE-4756, requesting approval of a Special Exception for a gas station in the C-S-C Zone.
- Liberty Motors  
Accokeek, Maryland  
Expert planning testimony in application ROSP-4575/02, requesting modification of two conditions of a Special Exception for a gas station in the C-S-C Zone.
- Rock Hill Sand & Gravel/Anthony George Project  
Brandywine, Maryland  
Expert planning testimony in application SE-4646, requesting approval of a Special Exception for a surface mining operation in the C-S-C Zone.
- SMO Gas Station & Car Wash  
Laurel, Maryland  
Expert planning testimony in application SE-4730, requesting approval of a Special Exception for a gas station and a car wash in the C-S-C Zone.
- Model Prayer Ministries  
Bladensburg, Maryland  
Expert planning testimony in application SE-4723, requesting approval of a Special Exception for a church on a tract of less than one acre in size in the R-55 Zone, including grant of variance.
- Dash-In Food Stores  
Clinton, Maryland  
Expert planning testimony in application SE-4654, requesting approval of a Special Exception for a gas station in the C-S-C Zone, including grant of variance.
- Cabin Branch  
Clarksville, Maryland  
Expert planning testimony for the opposition in Development Plan Amendment SPA 13-02, requesting approval of an outlet mall in the MXPDP Zone.

- In Loving Hands  
 Friendly, Maryland  
 Expert planning testimony in application SE-4704, requesting approval of a Special Exception for a congregate living facility in the R-R Zone.
- A-1 Vehicle Salvage Yard  
 Bladensburg, Maryland  
 Expert planning testimony in application SE-4698, requesting approval of a Special Exception for a vehicle salvage yard in the I-1 Zone.
- Kreative Kids Child Care  
 Beltsville, Maryland  
 Expert planning testimony in application SE-4388/01, requesting revision to a prior approval of a Special Exception for a day care center in the R-R Zone to increase occupancy.
- Little Workers of the Sacred Heart Nursery  
 Riverdale Park, Maryland  
 Expert planning testimony in application SE-3473/01, requesting revision to a prior approval of a Special Exception for a day care center in the R-55 Zone to increase occupancy, including grant of variance.
- Six Flags Amusement Park  
 Mitchellville, Maryland  
 Expert planning testimony in application SE-2635 & SE-3400, requesting approval of modified conditions to allow for extended hours of operation on limited occasions for certain events, additional firework displays, modified noise limitations, and removing a stipulated height limit to allow for approval of new rides by Detailed Site Plan review and approval.
- American Legion Beltway Post #172  
 Glenn Dale, Maryland  
 Expert planning testimony in application SE-4725, requesting approval of a Special Exception for alterations to an existing private club in the R-80 Zone.
- CarMax  
 Brandywine, Maryland  
 Expert planning testimony in application SE-4697, requesting approval of a Special Exception for a used car sales lot in the C-S-C Zone, including testimony to justify construction in a planned transit right-of-way.
- McDonald's  
 Adelphi, Maryland  
 Expert planning testimony in application SE-4686, requesting approval of a Special Exception for alteration of a nonconforming fast food restaurant in the C-S-C Zone.
- Tires R Us  
 Riverdale Park, Maryland  
 Expert planning testimony in application SE-4675, requesting approval of a Special Exception for a tire store with installation facilities in the C-S-C Zone.

- The Tire Depot  
District Heights, Maryland  
Expert planning testimony in application SE-4673, requesting approval of a Special Exception for a tire store with installation facilities in the C-S-C Zone.
- 7-11 Store  
Lanham, Maryland  
Expert planning testimony in application SE-4670, requesting approval of a Special Exception for a food or beverage store in the C-M Zone.
- Beall Funeral Home  
Bowie, Maryland  
Expert planning testimony in application SE-4662, requesting approval of a Special Exception to add a crematorium to an existing funeral home in the R-E Zone.
- Fort Foote Barber & Beauty Shop  
Fort Washington, Maryland  
Expert planning testimony in application SE-4658, requesting approval of a Special Exception for a barber and beauty shop in the R-R Zone.
- Little People's Place Day Care Center  
Upper Marlboro, Maryland  
Expert planning testimony in application SE-4639, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Young World Family Day Care Center  
Cheltenham, Maryland  
Expert planning testimony in application SE-4635, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Star Wash Car Wash  
Laurel, Maryland  
Expert planning testimony in application SE-4630, requesting approval of a Special Exception for a car wash in the C-S-C Zone.
- Jock's Liquors  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4626, requesting approval of a Special Exception for the reconstruction of an existing nonconforming liquor store in the C-O Zone.
- Little People U Day Care Center  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4624, requesting approval of a Special Exception for a day care center in the R-55 Zone.
- Cherry Hill Park  
College Park, Maryland  
Expert planning testimony in application SE-4619, requesting approval of a Special Exception for the expansion of an existing recreational campground in the R-R Zone.

- Safeway Fuel Station  
Brandywine, Maryland  
Expert planning testimony in application SE-4612, requesting approval of a Special Exception for a gas station in the C-S-C Zone.
- Behr Apartments  
College Park, Maryland  
Expert planning testimony in application SE-4611, requesting approval of a Special Exception for an apartment building in the R-55 Zone.
- Barnabas Road Concrete Recycling Facility  
Temple Hills, Maryland  
Expert planning testimony in application SE-4605, requesting approval of a Special Exception for a concrete recycling facility in the I-1 Zone.
- Rose Child Development Center  
Temple Hills, Maryland  
Expert planning testimony in application SE-4601, requesting approval of a Special Exception for the expansion of an existing day care center in the R-80 Zone.
- Shell Oil Station  
Laurel, Maryland  
Expert planning testimony in application SE-4597, requesting approval of a Special Exception for a gas station in the C-S-C Zone, including revisions to a prior Special Exception under ROSP-1673/06.
- Catherine's Christian Learning Center  
Brandywine, Maryland  
Expert planning testimony in application SE-4592, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Panda Restaurant  
Capitol Heights, Maryland  
Expert planning testimony in application SE-4574, requesting approval of a Special Exception for a fast food restaurant in the I-1 Zone.
- Manor Care of Largo  
Upper Marlboro, Maryland  
Expert planning testimony in application SE-4573, requesting approval of a Special Exception for the expansion of an existing nursing home in the R-R Zone.
- Bowie Assisted Living  
Bowie, Maryland  
Expert planning testimony in application SE-4569, requesting approval of a Special Exception to expand an existing congregate living facility in the R-R Zone.
- 7604 South Osborne Road  
Upper Marlboro, Maryland  
Expert planning testimony in application SE-4567, requesting approval of a Special Exception for a day care center in the R-A Zone.

- Superior Car Wash  
Bowie, Maryland  
Expert planning testimony in application SE-4565, requesting approval of a Special Exception for a car wash in the C-S-C Zone.
- Kinder Explorers Day Care Center  
Lanham, Maryland  
Expert planning testimony in application SE-4566, requesting approval of a Special Exception for a day care center in the R-R Zone, and subsequently in SE-4681 requesting approval for its expansion.
- Rita's Water Ice  
Clinton, Maryland  
Expert planning testimony in application SE-4535, requesting approval of a Special Exception for a fast-food restaurant in the C-S-C Zone.
- Chen's Apartments  
College Park, Maryland  
Expert planning testimony in application SE-4533, requesting approval of a Special Exception to alter a nonconforming apartment building in the R-55 Zone.
- Future Scholars Learning & Art Center  
Upper Marlboro, Maryland  
Expert planning testimony in application SE-4516, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Renee's Day Care Center  
Upper Marlboro, Maryland  
Expert planning testimony in application SE-4507, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Generations Early Learning Center  
Fort Washington, Maryland  
Expert planning testimony in application SE-4515, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Latchkey Day Care Center  
Oxon Hill, Maryland  
Expert planning testimony in application SE-4496, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Marvil Property  
Adelphi, Maryland  
Expert planning testimony in application SE-4494, requesting approval of a Special Exception for a nursery and garden center with an accessory arborist's operation in the R-R Zone.
- Jericho Senior Living  
Landover, Maryland  
Expert planning testimony in application SE-4483, requesting approval of a Special Exception for the adaptive use of a historic site as apartment dwellings for the elderly in the C-O Zone.

- WaWa  
 Beltsville, Maryland  
 Expert planning testimony in application SE-4477, requesting approval of a Special Exception for a convenience commercial store in the C-M Zone.
- Fun-Damentals Early Learning Center  
 Friendly, Maryland  
 Expert planning testimony in application SE-4476, requesting approval of a Special Exception for a day care center in the R-R Zone.
- Good News Day Care Center  
 Temple Hills, Maryland  
 Expert planning testimony in application SE-4473, requesting approval of a Special Exception for a day care center in the R-80 Zone.
- Wishy Washy Car Wash  
 Accokeek, Maryland  
 Expert planning testimony in application SE-4472, requesting approval of a Special Exception for a car wash in the C-S-C Zone.
- John Vitale & Sons  
 Lanham, Maryland  
 Expert planning testimony in application SE-4464, requesting approval of a Special Exception for a contractor's office in the C-A Zone.
- St. Paul Senior Living  
 Capitol Heights, Maryland  
 Expert planning testimony in application SE-4463, requesting approval of a Special Exception for apartment dwellings for the elderly in the R-R Zone.
- Safeway Gas Station  
 Fort Washington, Maryland  
 Expert planning testimony in application SE-4448, requesting approval of a Special Exception for a gas station in the C-S-C Zone.
- BP Amoco Gas Station  
 Temple Hills, Maryland  
 Expert planning testimony in application SE-4445, requesting approval of a Special Exception for a convenience commercial store in the C-M Zone.
- WaWa  
 Camp Springs, Maryland  
 Expert planning testimony in application SE-4436, requesting approval of a Special Exception for a gas station in the C-S-C Zone.
- Quarles Petroleum  
 Capitol Heights, Maryland  
 Expert planning testimony in application SE-4410, requesting approval of a Special Exception for a gas station in the I-1 Zone.

- Brown Station Early Learning Center  
Upper Marlboro, Maryland  
Expert planning testimony in application SE-4393, requesting approval of a Special Exception for a day care center in the R-R Zone.

As principal of his own architecture and planning firm, Mr. Ferguson was involved with the following diverse residential, commercial and institutional architectural and planning projects:

- Franklin's General Store and Delicatessen  
Hyattsville, Maryland  
Consulting services for the preparation of construction documents and construction contract administration for a 11,000-square foot addition to a historic commercial structure on U.S. Route One. Also, land planning services involving necessary waivers of parking and loading requirements, variances from setbacks and landscaping requirements, and permission to build in planned right-of-way of U.S. Rte One.
- King Farm Village Center  
Rockville, Maryland  
Inspection services for five mixed-use buildings in the village center of the 500-acre New Urbanist development in Rockville, Maryland
- Trinity Church  
Upper Marlboro, Maryland  
Full architectural services for the construction of a portico to the fellowship hall on the site of a National Register-listed historic site
- Publick Playhouse  
Bladensburg, Maryland  
Land planning services for the redevelopment and expansion of an existing community theater building.
- Transnational Law and Business University  
Brandywine, Maryland  
Master planning of a university campus on a 342-acre site
- Balmoral  
Upper Marlboro, Maryland  
Planning of a comprehensively-designed 357 lot residential subdivision immediately to the south of and connected with the 2,400-unit Beech Tree development
- Fred Lynn Middle School  
Woodbridge, Virginia  
Consulting services for the preparation of construction documents for a 131,000-square foot renovation
- Graham Park Middle School  
Dumfries, Virginia  
Consulting services for the preparation of construction documents for a 99,000-square foot renovation and four-classroom addition.

- Elizabeth Graham Elementary School  
Woodbridge, Virginia  
Consulting services for the preparation of construction documents for a classroom addition.
- Dale City Elementary School  
Dale City, Virginia  
Consulting services for the preparation of construction documents for a classroom addition.
- Occoquan Elementary School  
Woodbridge, Virginia  
Consulting services for the preparation of construction documents for a four-classroom addition that tied together three of the four buildings at the oldest school in Prince William County.
- 4912 St. Barnabas Road  
Temple Hills, Maryland  
Consulting services on the design preparation of construction documents and permits processing for a 1,500-square foot tenant fit-out for an attorney's office.
- 6100 Executive Boulevard  
Bethesda, Maryland  
Full architectural services from space planning through construction documents preparation for a 1,500-square foot tenant fit-out for a technology consulting firm.
- Parking Lot Rehabilitation, Bureau of Prisons  
Washington, D.C.  
Consulting services on construction documents preparation for rehabilitation of the parking and service area in the central courtyard of the old Federal Home Loan Bank Board building at 320 First Street, N.W.
- Covenant Creek Subdivision  
Owings, Maryland  
Land planning services for the subdivision of 161 acres crossing the Calvert/Anne Arundel County border into 47 clustered lots, involving the use of Transferable Development Rights and development of public road access across a wetland area into a landlocked tract.
- Welch Property  
Accokeek, Maryland  
Land planning services for the development of a 326-unit planned retirement community on a 41-acre tract.
- Phase II, Boyd & Margaret Shields King Memorial Park  
Prince Frederick, Maryland  
Land planning and engineering services for the design and construction of the second phase of development of a 7.5-acre park adjacent to the Courthouse in the heart of the Prince Frederick Town Center
- White Sands Community Center  
Lusby, Maryland  
Feasibility analysis for conversion of existing stable facility into a community building.



- Good Hope Hills Condemnation  
Temple Hills, Maryland  
Land planning services during condemnation proceedings against a one-acre commercial property.
- Additions and alterations to a private residence  
Washington Grove, Maryland  
Consulting services on the structural design, preparation of construction documents and construction observation for the construction of an award-winning 750-square foot, \$150,000 addition and renovation to a historic structure in a National Register district.
- Additions and alterations to a private residence  
Chevy Chase, Maryland  
Consulting services from schematic design through the construction phases of an award-winning 1,700-square foot, \$1.4 million dollar addition and renovation, which involved the relocation of a public sewer main from beneath the existing building.
- Additions and alterations to a private residence  
Hyattsville, Maryland  
Full architectural services for the construction of a large kitchen and bathroom addition to a Prince George's County listed historic site
- Additions and alterations to a private residence  
Silver Spring, Maryland  
Consulting schematic design services for a 2,000-square foot addition and renovation.
- Private residence  
Avenue, Maryland  
Architectural and planning services for the construction of a private residence on a 24-acre site on St. Clement's Bay
- Private residence  
Avenue, Maryland  
Full architectural services for the design of a private residence on a one-acre site on St. Clement's Bay
- Additions and alterations to a private residence  
University Park, Maryland  
Full architectural services for the construction of a 350-square foot addition.

At RDA his activities are concentrated in the following fields:

- Land use studies, feasibility analyses and detailed project planning for hundreds of various residential, commercial and industrial developments in Prince George's, Calvert, Montgomery, Charles, St Mary's and Anne Arundel Counties. This work requires intimate knowledge of the relevant master and/or comprehensive plans and zoning ordinances and other land development regulations in many jurisdictions.

- Hydrologic and hydraulic analyses of urban watersheds in connection with the development of drainage and stormwater management systems for various residential subdivisions and commercial and industrial projects. Tools used in these analyses included the TR-20, HEC-1 and HEC-2 hydraulic analysis programs, USDA/SCS hydrologic analysis methods, as well as the Maryland State Highway Administration's and other rational hydrologic analysis methods.
- Hydraulic and structural design of storm drainage and stormwater management systems, including wet ponds, dry detention and retention basins, underground detention systems, vegetative and structural infiltration systems, oil/grit separators, and conventional open and enclosed drainage systems. Analysis of theoretical breach events in earthen embankment structures to determine possible effects of downstream flooding caused by dam failures.

Mr. Ferguson served from 1991 to 1996 as the Town Engineer for the Town of Edmonston, Maryland. In this capacity, Mr. Ferguson advised the Town Council on the effects of legislation, assisted in the preparation of ordinances, assisted in the planning process during the development of the Master Plans for Planning Areas 68 and 69, and advised the Town on the selection of project proposals for funding under the Community Development Block Grant program.

During his tenure at AIP Architects, Mr. Ferguson was responsible for the entire scope of the project development process for numerous architectural projects, including:

- Project feasibility and financial analysis
- Project planning and schematic design
- Management and development of construction documentation
- Specifications writing
- Construction contract documents preparation and administration of bidding
- Coordination with regulatory authorities and permit processing
- Construction contract administration and project observation

Some of the projects Mr. Ferguson had intensive involvement with at AIP Architects include:

Office/Commercial Building (54,000 sf)  
1815 University Boulevard, Adelphi, Maryland

Comfort Inn (202 rooms)  
Ocean Highway, Ocean City, Maryland

Commercial Building (22,000 sf)  
7931 Georgia Avenue, Silver Spring, Maryland

Office Commercial Building (58,000 sf)  
4915 St. Elmo Avenue, Bethesda, Maryland

Office/Condominium Park (14,000 sf)  
Old Largo Road, Largo, Maryland

Office Building (18,000 sf)  
801 Wayne Avenue, Silver Spring, Maryland

### **Other Professional Activities:**

Chairman, Hyattsville Community Development Corporation, 2001-2007

Treasurer, Hyattsville Community Development Corporation, 2010-present

This local development corporation was created to undertake the revitalization of commercial areas in the city of Hyattsville, to encourage the arts, and act together with the Gateway CDC in the establishment of the Gateway Arts District. Among many other works, the Hyattsville CDC has sponsored the installation of multiple works of public art, administered the creation of two generations of Hyattsville's Community Sustainability Plans, secured and disseminated market studies for development in the Route One corridor, and managed the renovation of the former Arcade Theater into the City of Hyattsville's Municipal Annex.

Vice Chairman, City of Hyattsville Planning Committee, 2000-2005

This committee advises the Mayor, City Council and City Administrator on both external planning issues which impact the City, as well as redevelopment and revitalization issues within the City.

Member, City of Hyattsville Planning Committee, 1992-2005

Member, Neighborhood Design Center Project Review Committee, 1995-1998

This committee reviews and provides guidance for the work of less-experienced design professionals on their *pro bono* projects for the Neighborhood Design Center.

Member, Prince George's County Zoning Ordinance Review Task Force, 1994-1995

This task force, chaired by former Prince George's County Council chairman William B. Amonett, was formed by order of the Prince George's County Council, and met over a period of four months to review the County's entire Zoning Ordinance and the make recommendations on streamlining the 1200-page ordinance.

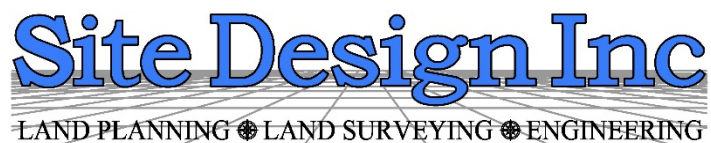
Member, Prince George's County Task Force to study the creation of U-L-I and M-U-TC zones, 1993-1994

This task force, chaired by Prince George's County Council member Stephen J. Del Giudice, was formed by order of the Prince George's County Council, and met over a period of three months to revise the legislation which was proposed to create the innovative U-L-I (Urban Light Industrial) and M-U-TC (Mixed-Use Town Center) zoning district regulations, which were proposed by the American Planning Association-award winning *Adopted Master Plan for Planning Area 68 (Avondale, Brentwood, Colmar Manor, Cottage City, Edmonston, Hyattsville, Mount Rainier, North Brentwood, Riverdale, University Hills)* as a means to encourage redevelopment and revitalization of existing urbanized areas of Prince George's County. The work of this task force led directly to the passage of the legislation.

**LAND PLANNING ANALYSIS**  
**Parcel A-13, Queens Chapel Town Center**

Prepared in connection with a  
request of July 29, 2021 to delete  
Condition 3c of Ordinances 2-2011 & 3-2011

Prepared by:  
Mark G. L. Ferguson, R.A.



December 8, 2021

**LAND PLANNING ANALYSIS**  
**Requested Amendment of CSP-10002 & DSP-10011 Conditions**  
**PARCEL A-13, QUEENS CHAPEL TOWN CENTER**  
**Hyattsville, Maryland**

This report is written to consider the planning matters relevant to a request to delete Condition 3c of Zoning Ordinance 2-2011, which granted approval of CSP-10002, and Condition 3c of Zoning Ordinance 3-2011, which granted approval of DSP-10011.

**DESCRIPTION OF THE REQUEST**

Queens Chapel Town Center, LLC, owner of Parcel A-13, has requested that Condition 3c of the Conceptual Site Plan and Detailed Site Plan approvals be rescinded. That condition states,

*“Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.”*

The applicant’s intent is to retain the ability to re-lease the existing building containing the former KFC eating and drinking establishment with drive-through service (which closed prior to March, 2021) to another similar national credit tenant.

**EXISTING CONDITIONS UNDERLYING THE REQUEST**

The modern development history of the subject property begins in the early 1960’s with the commercial development of what is now known as Queens Chapel Town Center. Circa 2000, a building at the corner of Ager Road and Hamilton Street was demolished, and the construction of a KFC restaurant with drive-through service was approved by DSP-00040. At that time, the June, 1998 *Approved Transit District Development Plan for the West Hyattsville Transit District Overlay Zone* permitted an “Eating and Drinking Establishment” in Subarea 4A of the transit district without any restrictions regarding drive-through service.

In May, 2006, CR-24-2006 approved a new *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*, which permitted (only) “Eating or drinking establishments with live music and patron dancing,” again without restrictions regarding drive-through service. This 2006 Transit District Development Plan is still the applicable plan to the subject property.

The 2006 plan also provided that, “Until a site plan is submitted, all buildings, structures, and uses that were lawful or could be certified as a legal nonconforming use on the date of sectional map amendment (SMA) approval are exempt from the TDDP standards and from site plan review and are not nonconforming.”<sup>1</sup>

In August, 2010, Conceptual Site Plan CSP-10002 and Detailed Site Plan DSP-10011 were accepted by MNCPPC in connection with a request to amend the table of uses applicable to the subject property. The CSP and the DSP did not propose any physical changes to the subject property, only requesting that a series of uses be allowable at the subject property. Ultimately, in June, 2011, the District Council approved Zoning Ordinances 2-2011 (for the CSP) and 3-2011 (for the DSP), in which Condition(s) 3a provided that the following uses were to be permissible at the subject property:

- (1) *Eating or drinking establishment, without drive-through service;*
- (2) *Pizza delivery service;*
- (3) *Carpet or floor covering;*
- (4) *Clothing, dry goods;*
- (5) *Confectioner;*
- (6) *Florist;*
- (7) *Food or beverage goods preparation on the premises of a food and beverage store;*
- (8) *Sporting goods shop;*
- (9) *Stationary or office supply store; and*
- (10) *Video game or tape store.*

Condition(s) 3b included restrictions on the above-enumerated uses, including:

- (1) *Pizza delivery service is permitted provided an additional parking space, over and above the required number of parking spaces, is provided at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.*
- (2) *Carpet or floor covering store shall be showroom and retail only and only in those locations where there is an existing rear loading area or loading dock. No outside storage or display of products shall be permitted.*
- (3) *A confectioner shall be for retail use only and not to exceed 3,000 square feet.*
- (4) *Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are only sold on the premises and at retail.*
- (5) *A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.*
- (6) *Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.*

Finally, Condition(s) 3c, which are the subject of the instant request, addressed the existing KFC restaurant, in lieu of the applicant’s original request to simply permit an “Eating or drinking establishment, with or without drive-through service.”

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<sup>1</sup> M-NCP&PC, *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone* (May, 2006), p. 38.

In its recommendation of approval to the District Council in Resolution PGCPB No. 11-08, the Planning Board included a Finding that, “The existing shopping center development does not necessarily comply with all of the recommendations for the Developed Tier per the General Plan nor the Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone. However, it will remain as an existing use until such time as a redevelopment application is presented and, until then, it would be best if it remains a viable shopping center with legitimate retail uses.”

The KFC restaurant ceased operation sometime prior to March, 2021.

### **CRITERIA FOR APPROVAL**

The criteria for approval of amendment of conditions imposed as part of the approval of a site plan are found in §27-135(c) of the Zoning Ordinance. That Section reads as follows:

- (c) *The District Council may (for good cause) amend any condition imposed or site plan approved (excluding Comprehensive Design Zone Basic Plans or R-P-C Zone Official Plans) upon the request of the applicant without requiring a new application to be filed, if the amendment does not constitute an enlargement or extension.*

### **COMPLIANCE WITH CRITERIA OF SECTION 27-135(c):**

At the outset, it should be stated that it is an open question in this planner’s mind as to whether the decision of KFC, the lessee of the building in question, to cease its operation was beyond the control of the Applicant in this matter, who is the owner of the property. If it is affirmatively determined that the actions of the lessee are beyond the control of the owner, then the owner could retain the right under the provisions of condition(s) 3c to re-lease the property to a similar use as a valid, legal not-non-conforming use. If, however, it is determined that the removal of Condition(s) 3c is necessary to allow the continued occupancy of the former KFC as another eating and drinking establishment with drive-through service, the following discussion is offered.

Personal communications by this planner with Applicant indicated that notwithstanding a proffer of the foregoing interpretation of Condition 3c, the Applicant has found that national credit restaurant tenant are not willing to enter into a lease for the subject property because of uncertainty about the durability of that interpretation.

If a national credit tenant is not willing to lease the subject property, the other available option is a small local business. This planner’s extensive experience with this business sector is that small local businesses are uniformly undercapitalized, and have very limited ability to fund the cost of improvements which would transform the existing structure from looking like a former KFC occupied by a small local business. It is further this planner’s experience that – even independent of the effect of the ongoing COVID pandemic – that there is an increased demand for drive-through service at all levels of the restaurant industry up to and including “fast-casual” service. Restricting the future use of the property from drive-through service will greatly inhibit the ability of the owner to maintain this site as

part of “a viable shopping center with legitimate retail uses” as envisioned in the Planning Board’s recommendation.

It was further indicated to this planner by the Applicant that it is the Applicant’s belief that the feasibility of redevelopment of the subject property for the kind of development envisioned by the *Transit District Development Plan* (TDDP) is still perhaps fifteen to twenty years in the future: The current TDDP provides that buildings fronting Ager and Hamilton Streets be a minimum of three stories in height and a maximum of six stories, which would require a complete redevelopment of the entire Queens Chapel Town Center, beyond the limits of the subject property. The subject property is narrow, with a buildable width of less than 120’, too narrow for the multi-level parking structure which would be required to support the development envisioned by the TDDP.

In summary, this planner believes that the perceived uncertainty of the application of Condition(s) 3c by the national credit restaurant tenants who are most able to maintain a viable use at the subject property, and the infeasibility of a subject-property-specific redevelopment constitute good cause for addressing the content of Condition(s) 3c.

This planner does note, however, that the deletion of Condition(s) 3c could raise an unintended consequence: Because (1) the applicability provision of the 2006 TDDP which preserved the conformity of the existing KFC only lasted until a site plan was filed; and (2) a site plan (CSP-120002 & DSP-10011) was in fact file in 2010, the removal of Condition(s) 3c would make the KFC nonconforming. Since the closure of the KFC in or prior to March, 2021 would (as of this writing) entail a discontinuation of more than 180 days, the ability to reestablish a different eating and drinking establishment with drive-through service may no longer be available.

Accordingly, this planner would instead recommend a modification of Condition(s) 3c to simply delete the final sentence, and instead have it read:

*“Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance.”*

Finally, the modification of Condition 3c would not constitute an enlargement or extension of the existing development.

#### **CONFORMANCE WITH THE PURPOSES OF THE ORDINANCE, THE PURPOSES OF THE M-X-T ZONE, AND THE PURPOSES OF THE T-D-O OVERLAY ZONE**

The Zoning Ordinance has a hierarchy of purposes: relevant here are those for the Ordinance as a whole, for the M-X-T Zone in specific, and for the T-D-O Zone in specific. Each of these series of



purposes is addressed, following. The fifteen purposes of the Zoning Ordinance are laid out in section 27-102(a). The harmony of the subject application with these purposes is as follows:

- (1) *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

The approval of the requested modification would protect and promote the health, safety, morals, comfort, convenience and welfare of the inhabitants of the County because the modification of Condition 3c will allow for the occupancy of the subject property by a new viable tenant, and fulfill the intent of the Planning Board's finding in Resolution PGCPB No. 11-08, that, "...it would be best if [the subject property] remains a viable shopping center with legitimate retail uses."

- (2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

Similarly, in Resolution PGCPB No. 11-08, the Planning Board found that, "The existing shopping center development does not necessarily comply with all of the recommendations for the Developed Tier per the General Plan nor the Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone." But while the Planning Board then and the Applicant now do not see the current configuration and occupancy of the subject property as its desirable ultimate form, both the Applicant and the Planning Board agree that, "...it will remain as an existing use until such time as a redevelopment application is presented and, until then, it would be best if it remains a viable shopping center with legitimate retail uses."

- (3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

The requested modification would not adversely affect the adequacy of public facilities, as it would not entail the creation of any new uses other than one which is similar to what has historically been existing.

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*

The requested modification would not result in any change in the growth and development of the County, as it will only allow for the lease of an existing structure with its historic use. The approval would, however, recognize the need of business for a viable occupant of an existing structure.

- (5) *To provide adequate light, air, and privacy;*

The requested modification would be in harmony with this purpose because the continued occupancy of an existing structure would not affect the provision of adequate light, air or privacy.

- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The requested modification would allow the continued viable occupancy of the subject property by a use similar to its historic use; the approval would not affect the existing relationships between the uses of land and buildings, and will not impose any additional adverse impact on adjoining landowners.

(7) *To protect the County from fire, flood, panic, and other dangers;*

The requested modification will not affect the conformance of the existing development to this purpose of the Zoning Ordinance.

(8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;*

The requested modification of Condition(s) 3c will not affect the conformance of the proposed development to this purpose of the Zoning Ordinance, because the subject property is commercial in nature.

(9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

The requested modification would be in harmony with this purpose because the continued occupancy of the existing structure by a viable tenant will have the greatest likelihood of providing the greatest amount of employment and a protected tax base.

(10) *To prevent the overcrowding of land;*

The requested modification will not affect this purpose of the Zoning Ordinance as no additional development is proposed, only the ability for continued occupancy of the existing structure with a new use similar to its historic use.

(11) *To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;*

The requested modification would not adversely affect the traffic on the streets, as it would not entail the creation of any new uses other than that which has historically been existing.

(12) *To insure the social and economic stability of all parts of the County;*

The requested modification would promote the economic stability of the subject property by allowing for its continued use with a new use similar to its historic use.

(13) *To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;*

The requested modification will not have any effect on undue noise, and air and water pollution, the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and

other similar features. As such, the approval of the requested modification would be in conformance with this purpose of the Zoning Ordinance.

The final two purposes,

- (14) *To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and*
- (15) *To protect and conserve the agricultural industry and natural resources.*

are not directly applicable to the approval of this requested modification.

In addition to the purposes of the Ordinance, purposes of the M-X-T Zone are found in Section 27-542(a) of the Zoning Ordinance; the ten purposes of the M-X-T Zone are:

- (1) *To promote the orderly development and redevelopment of land in the vicinity of major interchanges, major intersections, major transit stops, and designated General Plan Centers so that these areas will enhance the economic status of the County and provide an expanding source of desirable employment and living opportunities for its citizens;*

The requested modification of Condition(s) 3c will not affect the conformance of the proposed development to this purpose of the M-X-T Zone as (1) it will not affect the relationship of the land in question to its site in the vicinity of a major transit stop; and (2) the continued occupancy of the subject property will provide space for desirable employment.

- (2) *To implement recommendations in the approved General Plan, Master Plans, and Sector Plans, by creating compact, mixed-use, walkable communities enhanced by a mix of residential, commercial, recreational, open space, employment, and institutional uses;*

The requested modification will not affect the conformance of the proposed development to this purpose of the M-X-T Zone because it will not affect the historic use mix.

- (3) *To conserve the value of land and buildings by maximizing the public and private development potential inherent in the location of the zone, which might otherwise become scattered throughout and outside the County, to its detriment;*

The location of the subject application will remain in keeping with this purpose of the M-X-T Zone because the requested modification will maximize the viability of the subject property by allowing for its continued occupancy by a new use similar to its historic use.

- (4) *To promote the effective and optimum use of transit and reduce automobile use by locating a mix of residential and non-residential uses in proximity to one another and to transit facilities to facilitate walking, bicycle, and transit use;*

The continued viable occupancy of the subject property by a use similar to its historic use will not in and of itself promote the effective and optimum use of transit, nor will it act to reduce automobile use; indirectly, however, the occupancy of the subject property by a viable use until the time is ripe for its

redevelopment in accordance with the vision of the TDDP is important in maintaining a vibrant level of economic activity in the vicinity of the station, which is in turn very important in making the ultimate redevelopment of the subject property and the surrounding neighborhood economically viable. Thus, by best allowing for a viable interim use, the approval of the requested modification of Condition(s) 3c will ultimately act to promote the redevelopment of the surrounding area, and thus promote the effective and optimum use of transit and reduction in automobile use.

*(5) To facilitate and encourage a twenty-four (24) hour environment to ensure continuing functioning of the project after workday hours through a maximum of activity, and the interaction between the uses and those who live, work in, or visit the area;*

The approval of the requested modification of Condition(2) 3c will be in keeping with this Purpose of the M-X-T Zone because the approval will allow the leasing of the subject property to a national credit tenant who is most likely to provide a maximum of activity at the subject property.

*(6) To encourage an appropriate horizontal and vertical mix of land uses which blend together harmoniously;*

Because the instant request is concerned only with permitting the continuation of a specific land use type in an existing structure, its approval will not alter affect the existing relationships between land uses.

*(7) To create dynamic, functional relationships among individual uses within a distinctive visual character and identity;*

Because the instant request is concerned only with permitting the continuation of a specific land use type in an existing structure, its approval will not alter affect the existing relationships between land uses. To the extent that the approval of this request will allow the leasing of the subject property to a national credit tenant, it will act to make less likely the occupancy of the subject property by an undercapitalized user who is unable to finance physical improvements so that the existing building doesn't look continue to look like a KFC with a different occupant.

*(8) To promote optimum land planning with greater efficiency through the use of economies of scale, savings in energy, innovative stormwater management techniques, and provision of public facilities and infrastructure beyond the scope of single-purpose projects;*

Because the instant request is concerned only with permitting a specific land use in an existing structure, the larger project-wide planning goals of this Purpose are not applicable to this request.

*(9) To permit a flexible response to the market and promote economic vitality and investment; and*

The approval of the requested modification of Condition(s) 3c goes directly to this Purpose of the M-X-T Zone: the approval will specifically and actively enhance the ability of the Applicant to flexibly respond to the market and promote economic vitality and investment.

*(10) To allow freedom of architectural design in order to provide an opportunity and incentive to the developer to achieve excellence in physical, social, and economic planning.*

The freedom of architectural design, as well as opportunities and incentives for planning excellence will not be affected by the requested modification of Condition(s) 3c.

The purposes of the T-D-O Zone are found in Section 27-548.03(a) of the Zoning Ordinance; the twelve purposes of the T-D-O Zone are:

*(1) To enhance the development opportunities in the vicinity of transit stations;*

The requested modification of Condition(s) 3c will enhance the development opportunities in the vicinity of the West Hyattsville Metro station by providing for the best opportunity for the occupancy of the subject property by a viable tenant.

*(2) To promote the use of transit facilities;*

The continued viable occupancy of the subject property by a use similar to its historic use will not in and of itself promote the use of transit facilities; indirectly, however, the occupancy of the subject property by a viable use until the time is ripe for its redevelopment in accordance with the vision of the TDDP is important in maintaining a vibrant level of economic activity in the vicinity of the station, which is in turn very important in making the ultimate redevelopment of the subject property and the surrounding neighborhood economically viable. Thus, by allowing for a viable interim use, the approval of the requested modification of Condition(s) 3c will ultimately act to promote the redevelopment of the surrounding area, and thus promote the use of the nearby transit facility.

*(3) To increase the return on investment in a transit system and improve local tax revenues;*

As with the discussion of purpose (2) of the T-D-O Zone, above, the approval of the requested modification of Condition(s) 3c will ultimately act to promote the redevelopment of the surrounding area, and thus promote the return on investment in the nearby transit system. Even in the short term, however, approval of the requested modification of Condition(s) 3c will act to improve local tax revenues by best providing for a viable interim use.

*(4) To create a process which coordinates public policy decisions, supports regional and local growth and development strategies, and creates conditions which make joint development possible;*

The approval of the requested modification of Condition(s) 3c would be accomplished in accordance with the process provided for in the Zoning Ordinance to implement this purpose of the T-D-O Zone.

*(5) To create a process which overcomes deficiencies in ordinary planning processes and removes obstacles not addressed in those processes;*

The approval of the requested modification of Condition(s) 3c would be accomplished in accordance with the process provided for in the Zoning Ordinance to remove the obstacle in the contents of the existing Condition(s) 3c.

- (6) *To minimize the costs of extending or expanding public services and facilities, by encouraging appropriate development in the vicinity of transit stations;*

The continued viable occupancy of the subject property by a use similar to its historic use will not directly promote appropriate development in the vicinity of the West Hyattsville Metro station; indirectly, however, as with Purpose (2) of the T-D-O Zone discussed above, the occupancy of the subject property by a viable use until the time is ripe for its redevelopment in accordance with the vision of the TDDP is important in maintaining a vibrant level of economic activity in the vicinity of the station, which is in turn critical in bringing about the conditions necessary for the ultimate redevelopment of the subject property into the appropriate development pattern envisioned by the TDDP. Thus, by allowing for a viable interim use, the approval of the requested modification of Condition(s) 3c will ultimately act to promote the redevelopment of the surrounding area, and thus promote appropriate development in the vicinity of the nearby transit facility.

- (7) *To provide mechanisms to assist in financing public and private costs associated with development;*

The approval of the requested modification of Condition(s) 3c would be in keeping with this purpose of the T-D-O Zone because it will enable the lease of the subject property to a tenant with sufficient private capital to finance the occupancy of the subject property until the time is ripe for the ultimate redevelopment of the subject property into the appropriate development pattern envisioned by the TDDP.

- (8) *To provide for convenient and efficient pedestrian and vehicular access to Metro stations;*

The approval of the requested modification will not affect the existing convenient and efficient pedestrian and vehicular access to the West Hyattsville Metro station.

- (9) *To attract an appropriate mix of land uses;*

This Purpose speaks to the essence of the instant request: Until such time as the area is ripe for redevelopment in accordance with the vision of the TDDP, the appropriate mix of land uses in the area would, in this planner's opinion, best include a continuation of the historic land use at the subject property, which is the most likely land use to maintain a vibrant level of activity at the subject property. And, a vibrant level of activity at and around the subject property is the best way to attract a mix of land uses in a redevelopment in keeping with the vision of the TDDP.

- (10) *To encourage uses which complement and enhance the character of the area;*

This Purpose also speaks to the essence of the instant request: Until such time as the area is ripe for redevelopment in accordance with the vision of the TDDP, the use of the subject property which would, in this planner's opinion, best complement the character of the surrounding areas is a continuation of the historic land use at the subject property.

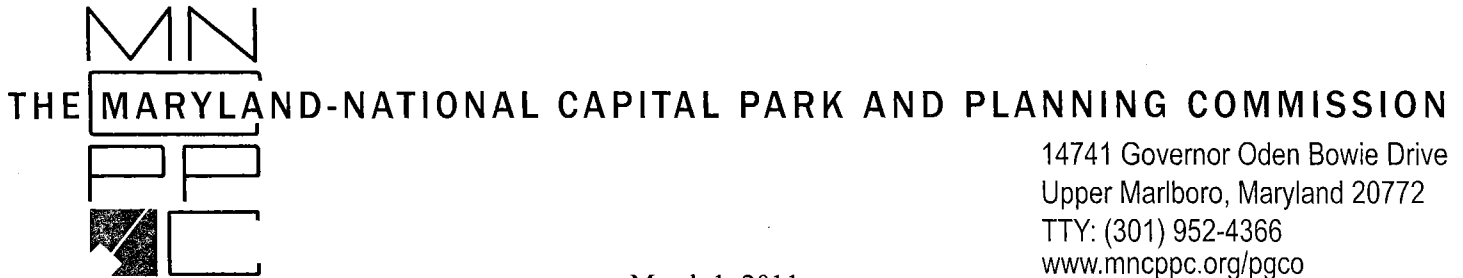
- (11) *To insure that developments within the Transit District possess a desirable urban design relationship with one another, the Metro Station, and adjoining areas; and*
- (12) *To provide flexibility in the design and layout of buildings and structures, and to promote a coordinated and integrated development scheme.*

The continued viable occupancy of the subject property by a use similar to its historic use will not directly insure the desirable urban design relationship of the subject property to its neighbors in the vicinity of the West Hyattsville Metro station and a coordinated and integrated development scheme (beyond its pedestrian-friendly siting in accordance with the provisions of the 1998 TDDP under which it was originally approved); indirectly, however, as with Purpose (2) of the T-D-O Zone discussed above, the occupancy of the subject property by a viable use until the time is ripe for its redevelopment in accordance with the vision of the TDDP is important in maintaining a vibrant level of economic activity in the vicinity of the station, which is in turn critical in bringing about the conditions necessary for the ultimate redevelopment of the subject property into the appropriate, coordinated and integrated urban design envisioned by the TDDP. Thus, by allowing for a viable interim use, the approval of the requested modification of Condition(s) 3c will ultimately act to promote the redevelopment of the surrounding area, and thus promote a desirable urban design in the vicinity of the nearby Metro station and adjoining areas.

## **CONCLUSION**

The provisions of §27-135(c) provide that conditions may be amended for good cause, if the amendment does not constitute an enlargement or extension. Given (1) the resistance of national credit tenants to lease the property with Condition(s) 3c remaining; (2) the likely inability of non-national credit tenants to finance improvements to the existing building which would make it appear as other than a “former KFC;” and (3) the infeasibility of redevelopment of the subject property separately from the remainder of the Queens Chapel Town Center, this planner believes that the facts exist that would support a finding of good cause to amend Condition 3c of both Zoning Ordinance 2-2011 and 3-2011, as discussed above.

Furthermore, no land area is being added to the development in connection with this request, and no intensification of use is proposed. As such, the subject request would not constitute an enlargement or extension.



March 1, 2011

Queens Chapel Town Center, LLC  
8627 16<sup>th</sup> Street  
Silver Spring, Maryland 20910

Re: Notification of Planning Board Action on  
**Detailed Site Plan – DSP-10011**  
**Queens Chapel Town Center**

Dear Applicant:

This is to advise you that on **February 24, 2011** the above-referenced Detailed Site Plan was acted upon by the Prince George's County Planning Board in accordance with the attached Resolution.

District Council review of this case is required by **Section 27-548.09.01**

The applicant or any Person of Record may file a written appeal of the Planning Board's decision with the District Council within 30 days after the date of the final notice **March 1, 2011** of the Planning Board's decision, pursuant to Section 27-280.

(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 301-883-5784.)

Please direct any future communication or inquiries regarding this matter to Ms. Redis C. Floyd, Clerk of the Council, at the above address.

Very truly yours,  
Alan Hirsch, Acting Chief  
Development Review Division

By: Jill Kosach  
Reviewer

c: Redis C. Floyd, Clerk to the County Council  
Persons of Record  
Interested Persons

PGCPB No. **11-08**







# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 11-08

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
TTY: (301) 952-4366  
[www.mncppc.org/pgco](http://www.mncppc.org/pgco)

File No. DSP-10011

## 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 January 27, 2011, regarding Detailed Site Plan DSP-10011 for Queens Chapel Town Center, the Planning Board finds:

1. **Request:** The subject application requests an amendment for the Table of Uses for the West Hyattsville Transit District Development Plan (TDDP), specifically for the shopping center known as Queens Chapel Town Center.
2. **Development Data Summary**

	<b>EXISTING</b>	<b>APPROVED</b>
Zone	M-X-T/R-55/T-D-O	M-X-T/R-55/T-D-O
Use(s)	Shopping Center	Shopping Center
Acreage	6.05	6.05
Parcels	15	15
Building Square Footage/GFA	64,740	64,740

### **On-Site Parking Data**

	<b>Existing</b>
Standard Spaces	229
Parallel Spaces	3
Handicapped Spaces	11 (6 Van Accessible)
<b>Total</b>	<b>243 (11 Handicapped)</b>

3. **Location:** The site is in Planning Area 68 and Council District 2. More specifically, it is located in the northwest corner of the intersection of Hamilton Street and Queens Chapel Road.
4. **Surrounding Uses:** The subject property is bounded to the south by Hamilton Street, and, across the street, by commercially developed property in the M-X-T Zone; to the east by Queens Chapel Road, and, across the road, by commercially developed property in the M-X-T Zone; to the west by Ager Road, and, across the road, by a metro parking lot in the M-X-T Zone; to the northeast by Hamilton Manor Apartments in the R-18 Zone; and to the north, by single-family homes in the R-55 Zone.

5. **Design Features:** The subject parcels are already developed with various commercial buildings that present themselves as a shopping center. This DSP proposes no new physical development on-site, so the following is a description of the existing layout of the property.

The shopping center is comprised of multiple connected and disparate buildings measuring a total of 64,740 square feet divided over 15 parcels, all of which are under the same ownership. The buildings are generally located no more than 14 feet behind the right-of-way line along Hamilton Street and Queens Chapel Road, although one building is set back further, at approximately 48 feet. The on-site parking is generally located behind the buildings, accessed from a public alley that runs along the rear of the property, although there are a few locations in which small parking lots are adjacent to the rights-of-way. Additionally, for most of the site's frontage along Hamilton Street and 31<sup>st</sup> Avenue, either angled or parallel parking spaces are located within the rights-of-way. The site is accessed from multiple driveways off of Ager Road, Queens Chapel Road, Hamilton Street, and 31<sup>st</sup> Avenue.

Starting at the southwest corner of the site is Residue Parcel A-13, which is the subject of a prior approval of Detailed Site Plan DSP-00040, and is developed with a 2,839-square-foot, brick and stucco, fast-food, Kentucky Fried Chicken restaurant. This building sits within 2.5 feet of the right-of-way at the corner of Hamilton Street and Ager Road and the existing drive-through lane runs along the north side of the building, with parking beyond it. Within the eastern portion of this parcel is a one-story, cinder block, 4,523-square-foot building with three tenants, specifically a bakery, furniture store and liquor store. There is parking located between this building and Hamilton Street and within a parking lot that takes up the remainder of the eastern portion of the parcel.

The portion of the site from the eastern property line of Residue Parcel A-13 to 31<sup>st</sup> Avenue is divided into ten parcels of varying size. One large, 22,790-square-foot, brick, stone and cinder-block building sits across all of these parcels, set back approximately ten feet from the Hamilton Street right-of-way, with multiple tenants including a barber, restaurant, dry cleaners and nail salon, among others. Additional parking and loading spaces are then provided behind the buildings along the northern property line, with access via the adjacent alley.

On the eastern side of 31<sup>st</sup> Avenue, is Parcel B-3 which includes a single, 5,971-square-foot, brick and concrete building, located within nine feet of the Hamilton Street right-of-way, with four tenants, specifically a restaurant, dollar store, hair salon and barber. Parking and loading are located at the rear of the building with access from the alley that runs along the northern property line. To the east is Parcel B-2, which has a parking lot along the western edge and a portion of a brick and glass building, with a convenience store tenant, in the southeastern corner, which sits within 12 feet of the Hamilton Street right-of-way. This building extends to the east into the adjacent Residue Parcel B-1 for a total area of 8,584 square feet and includes two more tenants, a pet groomer and a post office. After a small gap, another 13,360-square-foot, brick and glass building runs parallel to and stays within nine feet of the right-of-way line at the corner of Hamilton Street and Queens Chapel Road. This building houses seven tenants including a bank,

bridal store, and restaurants, among others.

Across a 20-foot public alley is Residue Parcel F, which sits along the northern and eastern boundaries of the entire subject property. It has one small, 6,673-square-foot, brick and concrete, three-tenant building in the eastern corner fronting on Queens Chapel Road, sitting within nine feet of the right-of-way. The rest of this parcel is asphalt parking and gravel areas that wrap around the north side of the public alley between the shopping center and the adjacent residential areas.

6. **Previous Approvals:** The existing buildings on-site were mostly built prior to 1965 and have been the subject of various permits over the years. Detailed Site Plan DSP-00040, for Residue Parcel A-13, was approved by the Planning Board on December 21, 2000 (PGCPB Resolution No. 00-230), under the previous June 1998 *West Hyattsville Approved Transit District Development Plan for the Transit District Overlay Zone*, with six conditions. These conditions are no longer outstanding as they were complied with and completed through the certification, permit and construction processes.

#### COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application is for a change in the Table of Uses for the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone* (TDDP). This document supersedes the Table of Uses for permitted uses in the Zoning Ordinance for the M-X-T Zone. Additionally, since the shopping center exists and no new construction is proposed, the site plan design guidelines of the Zoning Ordinance are not applicable.

The applicant has submitted the required application for a detailed site plan pursuant to Section 27-548.09.01(b)(6), Amendment of Approved Transit District Overlay Zone, of the Zoning Ordinance. The Planning Board evaluated the proposed uses and finds that most but not all of them meet the requirements of Section 27-548.09.01, which specifies the required findings for an amendment to the Table of Uses. The Planning Board reviewed the detailed site plan against the criteria for approval in the M-X-T Zone as set forth in Section 27-546(d) of the Zoning Ordinance and offers the following comments:

- (1) **The proposed development is in conformance with the purposes and other provisions of this Division;**

There is no development proposed with this plan, as the proposed changes to the Table of Uses will only allow for a change in the mix of tenants leasing space in the existing buildings on the site. All proposed uses for which approval is recommended would be consistent with the purposes and other provisions of Division 2, Part 10 (Mixed Use Zones) of the Zoning Ordinance.

- (2) **For property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, the proposed development is in**

**conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;**

This does not apply as the site was zoned M-X-T before October 1, 2006.

- (3) The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;**

The existing shopping center was renovated in 2001, 2006 and 2007 to create a unique, urban appearance, which does serve to create a strong street presence that is integrated with the surrounding commercial uses. However, the proposed changes to the Table of Uses will result only in a change in the mix of tenants leasing space in the existing buildings on the site, with no new construction proposed. Therefore, the proposed detailed site plan will have no impact on the existing development's outward orientation, or its physical or visual integration with existing adjacent development.

- (4) The proposed development is compatible with existing and proposed development in the vicinity;**

Proposed changes to the Table of Uses, as limited by the conditions of approval, will not reduce or compromise the compatibility of the existing shopping center with the other existing or proposed developments in the transit district.

- (5) The mix of uses, and arrangement and design of buildings, and other improvements reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;**

The mix of uses will be enhanced by the expansion of permitted uses in the Table of Uses, as limited by the conditions of approval, and better enable the shopping center to sustain an independent environment of continuing quality and stability.

- (6) If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;**

No additional development is proposed at this time; therefore, there is no proposed staging.

- (7) The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity with the development;**

The shopping center is located entirely within one-half mile of the West Hyattsville Metro

Station. It is surrounded by sidewalks on the southern, eastern and western edges of the property, along Hamilton Street, Queens Chapel Road, and Ager Road, which provide connections to the pedestrian system within the transit district area. Proposed changes to the Table of Uses, as limited by the conditions of approval, will not reduce or compromise the convenience or design of facilities provided for pedestrians in the development.

- (8) **On the Detailed Site Plan, in areas of development which are to be used for pedestrian activities or as gathering places for people, adequate attention has been paid to human scale, high quality urban design, and other amenities, such as the types and textures of materials, landscaping and screening, street furniture, and lighting (natural and artificial).**

The existing shopping center already provides a moderate level of quality urban design with human-scale buildings located close to a comfortable streetscape space that includes lighting, landscaping and specialty paving. The proposed changes to the Table of Uses, as limited by the conditions of approval, will not reduce or compromise the existing quality of urban design in the shopping center.

- (10) **On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant.**

This requirement does not apply as no new development is proposed that would require additional public facilities.

- (11) **On a property or parcel zoned E-I-A or M-X-T and containing a minimum of two hundred fifty (250) acres, a Mixed-Use Planned Community including a combination of residential, employment, commercial and institutional uses may be approved in accordance with the provisions set forth in this Section and Section 27-548.**

This requirement does not apply as the property contains less than 250 acres.

8. ***The July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone (TDDP):*** The transit district development plan (TDDP) places the Queens Chapel Town Center shopping center in the Retail/Commercial Preferred Land Use category.

The applicability section of the TDDP states that all new development must show compliance with

the TDDP standards in the site plan review process. Since the subject DSP shows no new development, it is not required to meet the standards at this time. However, this should not be taken to validate the existing physical development in any way or to exempt any future development or redevelopment of this property from the TDDP standards.

The applicant contends that the table of uses for this particular subarea is too restrictive and does not allow many uses common to similar shopping centers. The property was retained in the M-X-T Zone at the time of the approval of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The existing shopping center development does not necessarily comply with all of the recommendations for the Developed Tier per the General Plan nor the *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. However, it will remain as an existing use until such time as a redevelopment application is presented and, until then, it would be best if it remains a viable shopping center with legitimate retail uses.

The applicant has requested the following uses be permitted that currently are not permitted by the use table for the sub-district in which the project is located:

- Fast-food restaurant
- Eating or drinking establishment, with or without drive through
- Eating or drinking establishment, attached to or within a group of buildings
- Pizza delivery service
- Carpet or floor covering
- Clothing, dry goods
- Confectioner
- Florist
- Food or beverage goods preparation on the premises of a food and beverage store
- Sporting goods shop
- Stationary or office supply store
- Video game or tape store
- Medical practitioner's Office

Although some of the above uses already operate in the center, they became nonconforming with the adoption of the TDDP. As to conformance with the goals of the West Hyattsville TDDP, the Planning Board found the following (TDDP, page 1):

**The goal of the West Hyattsville TDDP is to provide a clear and predictable path for transit-oriented development (TOD) within the West Hyattsville TDOZ... The 2002 Prince George's County Approved General Plan (page 44) defines TOD as development that actively seeks to increase the transit use and decrease automobile dependency by:**

- **Locating homes, jobs, and shopping closer to transit services;**

The shopping center is located across Ager Road from the West Hyattsville Metro Station. Amending the Table of Uses under the TDDP will offer the residents of the West Hyattsville community more food-related establishments and retail choices. A thriving shopping center will create more job opportunities and will encourage additional commercial and residential development within close proximity to the metro.

- **Locating the mix of critical land uses (living/working/shopping) in closer proximity to one another; and**

This detailed site plan is not proposing any changes to the shopping center; their sole purpose is to amend the Table of Uses contained in the TDDP. As mentioned above, approval of this amendment will allow the shopping center to attract a wider variety of commercial establishments, creating a better mix of shopping choices adjacent to the metro station and residential communities.

- **Establishing land use/transit linkages that make it easier to use transit (rail and bus).**

As mentioned above, the existing shopping center is in close proximity to the West Hyattsville Metro Station, which makes it easily accessible from the trains and buses en route to and from the metro station.

As stated on page 4 of the TDDP:

**The main purpose of this plan is to maximize the public benefits from the West Hyattsville Metro Station. The plan sets out primary goals emphasizing the neighborhood, environment, transportation, and low-impact development (LID):**

- **Promote TOD near the Metro Station and create a sense of place consistent with the neighborhood character areas.**

The existing shopping center includes a post office, a bank, and restaurants. Adding more retail choices and food establishments to the existing shopping center will create a stronger sense of place consistent with the neighborhood character area. Warehouses or manufacturing facilities are generally not transit-oriented development due to their large sizes; therefore, conditions have been included in this approval setting limitations on the carpet or floor covering store, confectioner and food or beverage goods preparation on the premises of a food and beverage store in order to ensure these types of uses are developed as retail-oriented businesses, and not as large-scale manufacturers.

- **Ensure that all new development or redevelopment in the transit district is pedestrian-oriented.**



The applicant is not proposing any new development or redevelopment to the existing shopping center. However, the current development is pedestrian-oriented as, generally, the buildings front on the street with parking in the rear. Additionally, in order to ensure all future tenants within this subject property are pedestrian-oriented, the applicant's request for approval of a fast-food restaurant with a drive through as a permitted use is denied. However, a condition has been included in this approval that allows the existing fast-food restaurant with drive through within the subject property to remain as a valid, legal use. The pizza delivery service was deemed to be acceptable as a permitted use, despite it being generally vehicle-oriented, but a condition setting limitations on the delivery vehicles has been included in this approval, in order to limit impacts on pedestrians.

- **Restore, protect, and enhance the environment by protecting environmentally sensitive areas, minimizing impacts of development, and expanding recreational opportunities and trail and bikeway connections.**

The subject property has no environmentally sensitive areas and proposes no new development. Therefore, this goal does not apply to the subject application.

- **Maximize residential development opportunities within walking distance of the Metro Station.**

The subject properties lie within the retail/commercial land use category of the TDDP; therefore, residential development on this site would not be in conformance with the plan, despite the fact that it is within walking distance of the Metro Station. However, expanding the allowed commercial uses on the property will enhance the viability and attractiveness of the shopping center, which could in turn attract developers to pursue more residential opportunities on adjacent sites. However, in order to ensure the shopping center remains conducive to future adjacent residential development, conditions setting limitations on the type of products sold at any sporting goods shop or video game or tape store have been included in this approval.

In addition to the purposes of the West Hyattsville TDDP mentioned above, the general purposes of the TDOZ are contained in Section 27-548.03 of the Zoning Ordinance. The applicant believes that amending the Table of Uses under the TDDP complies with the purposes as follows:

- (1) **To enhance the development opportunities in the vicinity of transit stations;**

The existing shopping center is located within 1,000 feet of the West Hyattsville Metro Station and the applicant is only amending the Table of Uses at this time, to add more retail choices and food establishments to the existing shopping center. This will create more opportunities for the center, make it more competitive, and in turn spur redevelopment at some future date.

**(2) To promote the use of transit facilities;**

The shopping center is located within 1,000 feet of the West Hyattsville Metro Station. Furthermore, the site is located between major Maryland and Washington, D.C. employment centers which are accessible via the Metro transit system. The applicant believes that broadening the scope of uses allowed in the shopping center at this site, within such a short distance of this Metro station, will promote use of the transit system by its current and future customers.

**(3) To increase the return on investment in a transit system and improve local tax revenues;**

Amending the Table of Uses will increase the choices available for food establishments and retail stores and will draw in new tenants to the shopping center. A successful commercial center will generate greater tax revenues for the County.

**(4) To create a process which coordinates public policy decisions, supports regional and local growth and development strategies, and creates conditions which make joint development possible;**

The site is developed with an existing shopping center. The applicant is not proposing any additional development at this time.

**(5) To create a process which overcomes deficiencies in ordinary planning processes and removes obstacles not addressed in those processes;**

The TDOZ allows flexibility in the development process through the use of amendments to the TDDP. In this case, amending the Table of Uses under the TDDP as part of the detailed site plan process will allow development of this retail-commercial area in a manner that is more conducive to a changing market and to the proposed development of other subareas in the transit district.

**(6) To minimize the costs of extending or expanding public services and facilities, by encouraging appropriate development in the vicinity of transit stations;**

More variety of retail stores and food establishments within close proximity to the West Hyattsville Metro Station will give customers more choices in one location and lessen the commute to other stores located further from the metro station, as the shopping center will be able to meet more of the needs of the customers in one area. It will encourage metro ridership and in turn decrease the use of the surrounding road network.

**(7) To provide mechanisms to assist in financing public and private costs associated with development;**

Public financing is not proposed as part of this application.

**(8) To provide for convenient and efficient pedestrian and vehicular access to Metro stations;**

The shopping center is located within 1,000 feet of the West Hyattsville Metro Station. It is surrounded by sidewalks on the western, southern, and eastern edges of the property alongside Ager Road, Hamilton Street, and Queens Chapel Road, that provide connections to the pedestrian system within the TDOZ and, therefore, convenient access to the metro station.

**(9) To attract an appropriate mix of land uses;**

The applicant is proposing to amend the Table of Uses under the TDDP to grant more opportunities to the customer base of the community. The underlying purpose of this amendment is to broaden the Table of Uses so as to provide a greater mix of uses at the center.

**(10) To encourage uses which complement and enhance the character of the area;**

The vision statement of the TDDP, page 7, encourages high-quality, compact development that will create the economic base of new shops and stores that will enhance the quality of life for everyone in Hyattsville and its immediate neighbors. The existing Table of Uses places the subject property at a competitive disadvantage. It restricts many common yet essential choices for the community, such as eating or drinking establishments, clothing stores, and shoe stores. A broader Table of Uses will attract a more diverse group of retail tenants and enhance the character of the area.

**(11) To insure that developments within the Transit District possess a desirable urban design relationship with one another, the Metro station, and adjoining areas; and**

The applicant is not proposing any new development at this time. Amending the Table of Uses contained in the TDDP will allow a greater mix of uses at the shopping center. Adding more choices to the retail/commercial category under the TDDP will allow the neighboring residential communities to choose from a wider variety of retail establishments from the same shopping center and lessen the commute to other stores outside the neighborhood area. A successful shopping center with a greater mix of uses will also attract customers from adjoining communities.

**(12) To provide flexibility in the design and layout of buildings and structures, and to promote a coordinated and integrated development scheme.**

This requirement does not apply as no new development is proposed with the subject application.

9. ***Prince George's County Landscape Manual:*** The DSP application is not subject to the *Prince George's County Landscape Manual* as there is no proposed increase in gross floor area or impervious surface and there is no change of use from a lower to higher intensity use category. Any future revisions to this plan should be reviewed for conformance to the Landscape Manual if it proposes any new physical improvements.
10. **Woodland and Wildlife Habitat Conservation Ordinance (WCO):** This property is exempt from the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because it contains less than 10,000 square feet of existing woodland. Per Sections 27-273(e) and 27-282(e) of the Zoning Ordinance, an approved natural resources inventory (NRI) and tree conservation plan or letter of exemption are now submittal requirements for a DSP. However, neither an approved NRI nor a standard letter of exemption was included in the submission package and, therefore, both must be submitted prior to certificate approval of the DSP. A tree conservation plan is not required at this time.
11. **Tree Canopy Coverage Ordinance (TCC):** This property is subject to the Prince George's County Tree Canopy Coverage Ordinance because it is a development application that requires a Standard Letter of Exemption. Properties zoned M-X-T are required to provide a minimum ten percent of the gross tract area in tree canopy.

The subject site is 6.05 acres in size and has a minimum tree canopy requirement of 0.605 acres or 26,352 square feet. The site plan is proposing to meet the requirement with a combination of existing and planted trees that would result in a total of 20,650 square feet of tree canopy coverage, which is short of the requirement by 5,702 square feet. The applicant submitted a request for a variance (VTCC) of 5,702 square feet from the requirements of Section 25-128 of the Prince George's County Code. The applicant provided the following summarized justification for the variance request:

"The sole purpose of these applications is to amend the Table of Uses for the West Hyattsville TDDP. No new development is being proposed at this time. Furthermore, the subject property was initially developed in the 1950s. Most of the buildings were built up to the sidewalks located along the south and east sides of the property. Although tree pits were added approximately ten years ago to the sidewalk area, there is no room along the sites frontages to plant additional trees. In addition, the on-site parking associated with the center is located behind the building. This parking lot was developed prior to the enactment of the Landscape Manual and does not contain any interior plantings as would otherwise be required under Section 4.3.c.(2) of the Landscape Manual. In light of this, the existing parking lot does not contain any opportunities to provide additional tree canopy coverage. For these reasons, the applicant requests a 2.2% (5,072 square feet) variance to Section 25-128 of the Prince George's County Code."

In order to approve a variance to the tree canopy coverage requirements, Section 25-119(d)(1) dictates the following required findings:

**(A) Special conditions peculiar to the property have caused the unwarranted hardship;**

The subject property does have special conditions as it was mostly built out in the 1950's, prior to any landscaping or woodland conservation requirements. It would be an unwarranted hardship to have to remove existing buildings or parking in order to create planting areas to meet the full tree canopy coverage requirement on-site, especially when the subject applications do not involve any new development.

However, during a site visit on November 3, 2010, staff noted multiple additional locations on-site where trees could be planted without requiring removal of any existing paving or buildings. These include empty tree wells along Hamilton Street and 31<sup>st</sup> Avenue, open areas along the northern and northeastern property lines, where there are already existing trees, and between the building and the property line along the far eastern part of the property within Parcel F. The Planning Board found that a total of approximately 8 shade trees, and five evergreen trees can be added, within these areas, for an additional 2,250 square feet of tree canopy coverage, on top of what is already shown on the submitted site plans. Additionally, there is an existing elm tree on Parcel B-2 and an existing black cherry and mulberry tree along the northeastern property line of Residue Parcel F that are being credited towards the tree canopy coverage requirement. These three trees are either dead, diseased or dying based on a visual evaluation during the site visit. The canopy area for these trees, a total of 1,150 square feet, should be removed from the total tree canopy coverage provided on-site as they do not provide adequate coverage in their current conditions.

With the subtraction of these three trees and the addition of the 13 others in the suggested areas, the new total tree canopy coverage provided for the subject properties would be 21,750 square feet or 8.25 percent. Therefore, the variance amount required would be reduced to 1.75 percent, or 4,602 square feet, which represents a sufficient allowance given the specific conditions on the property as it is currently developed. Conditions have been included in this approval that require the site plan be revised to show the additional proposed trees and the revised tree canopy coverage worksheet to reflect the additional trees. Given the unusual nature of the subject application which will not lead to subsequent building or grading permits, a condition requiring the planting of all proposed trees prior to the issuance of any use and occupancy permits has also been included.

**(B) Enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;**

If the tree canopy coverage requirement was fully enforced, the applicant would have to demolish parking areas or buildings, despite the fact that these applications do not involve any new development, thereby, in all likelihood, denying them the right to continue operation of one or more of the businesses in the existing viable shopping center development.

**(C) Granting the variance will not confer on the applicant a special privilege that would be**

**denied to other applicants;**

A variance from the tree canopy coverage requirement on this site is appropriate given its specific condition as an older, existing development adjacent to a metro station, and the fact that the subject applications are simply for an amendment to the allowed Table of Uses and propose no new development. If, at some point in the future, an application is filed for the subject properties that involves any development or redevelopment, the tree canopy coverage requirements should be reevaluated at that time for that specific case. Therefore, granting this variance would not confer a special privilege on this applicant that would be denied to other similar applications.

**(D) The request is not based on conditions or circumstances which are the result of actions by the applicant;**

The request is not based on conditions which are the result of actions by the applicant as the existing development was built in the 1950's, prior to there being any landscaping or woodland preservation requirements.

**(E) The request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and**

The request for the tree canopy coverage variance does not have anything to do with conditions on neighboring properties.

**(F) Granting of the variance will not adversely affect water quality.**

Granting of the variance to the tree canopy coverage requirements will not adversely affect water quality in the area as the variance is necessary to validate existing conditions.

12. **Further Planning Board Findings and Comments from Other Entities:** The subject applications were referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Community Planning North**—This application is not consistent with the 2002 General Plan Development Pattern policies for the Developed Tier and this application does not conform with the commercial/retail land use recommendations of the 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*.

More particularly, the purpose of the application is to amend the table of uses within the 2006 *West Hyattsville Approved Transit District Development Plan*. The West Hyattsville TDDP promotes moderate- to higher-density, pedestrian friendly development within a half mile vicinity of the metro station. The subject property is located in the Main Street Commercial/Retail District. It is part of the Hamilton Square neighborhood, which is

envisioned to be the most active of the three neighborhoods due to its central location and diverse development mix.

The applicant's requested amendments to the use table and findings are as follows:

(1) Fast-food restaurant

Fast-food restaurants may be permitted without a drive through. This use would be considered an "Eating or drinking establishment, excluding drive-through service."

(2) Eating or drinking establishment with and without drive through (existing)

Eating or drinking establishment without drive through may be permitted.

(3) Eating or drinking establishment, attached to or within a group of buildings

Eating or drinking establishment, without drive through, attached to or within a group of buildings may be permitted.

(4) Pizza delivery service

On page 44 of TDDP, under section (3) Miscellaneous, "Other uses of appropriate size, which can be justified as similar to one of the uses listed in this section." Pizza delivery service is similar to an eating and drinking establishment; however, no delivery service is permitted (or recommended) per the TDDP. A delivery service is auto oriented and the intent of the main street retail/commercial district is to provide for a more pedestrian friendly environment.

(5) Building Supply store

A building supply store is not permitted or recommended. A hardware store is permitted per the TDDP page 43.

The applicant has since removed this requested use.

(6) Carpet and Floor Covering

A carpet and floor covering store is not permitted or recommended.

(7) Clothing, dry goods

Variety or dry goods store is permitted per TDDP, page 43. Clothing is not permitted nor recommended.

(8) Confectioner

A confectioner is not permitted or intended for retail/commercial use.

(9) Florist

The use is permitted per page 42 "Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed."

(10) Food or beverage goods preparation on the premises of a food and beverage store

On page 44 of TDDP, under section (3) Miscellaneous, "Other uses of appropriate size, which can be justified as similar to one of the uses listed in this section." An eating or drinking establishment without a drive through and food and beverage stores are permitted per the TDDP.

(11) Sporting good shop

This use is permitted per page 42 "Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed."

(12) Stationary or office supply store

This use is permitted per page 42 "Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed."

(13) Video game or tape store

This use is permitted per page 42 "Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed."

(14) Private School

School, private or public, all types are permitted through Special Permit in the retail/commercial land use per the TDDP, page 44.

The applicant has since removed this requested use.

(15) Medical practitioner's office

A medical practitioner's office is not consistent with a retail/commercial atmosphere and is not recommended. This type of use was intended for the mixed-use office/residential land use categories.



The Planning Board found that an office use was not intended for the retail/commercial land use area within the TDDP and, the medical practitioner's office use was eliminated from the final recommended list of permitted uses.

- b. **Transportation Planning**—From a transportation standpoint, the uses being requested are similar to uses that already exist on the site. No new construction is proposed at this time. Ager Road and Queens Chapel Road are master plan arterials and Hamilton Street is a master plan collector. It is noted that the master plan would have an impact of 40 feet along the Queens Chapel frontage, and that the existing buildings are within the planned right-of-way. Given that no construction is proposed, this issue is not enforceable at this time.
- c. **Permit Review**—Permit Review comments are either not applicable at this time, have been addressed through revisions to the plans, or are addressed through conditions of approval of this detailed site plan.
- d. **Environmental Planning**—A review of the available information indicates that streams, wetlands, 100-year floodplain and severe slopes are not found to occur on the subject property. Transportation-related noise impacts from Ager Road, a designated arterial roadway, are not an issue because no residential or residential-type uses are proposed with this application. The soil found to occur according to the *Prince George's County Soil Survey* is in the Elsinboro-Urban Land complex series. Elsinboro soils have no limitation with respect to development. According to available information, Marlboro clay is not found to occur on this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads adjacent to this property. This property is located in the Northwest Branch watershed of the Anacostia River basin, in the Developed Tier as reflected in the adopted General Plan. The West Hyattsville TDDP does not contain any environmental design standards specific to the subject site.
- e. **Potomac Electric Power Company (PEPCO)**—PEPCO did not offer comments on the subject application.
- f. **City of Hyattsville**—In a letter dated October 12, 2010, the City of Hyattsville stated the the City is not supportive of many of the applicant's requested uses, as they are inconsistent with the intent of transit-oriented design. Due to the number of requested amendments to the Table of Uses, it is the City's position that the applicant's request for changes should be made through an application to revise the zoning of the TDDP, so that the requested amendments can be reviewed in a comprehensive manner.

The Planning Board found that the applicant is able to request a change to the list of allowed uses in a T-D-O Zone per Section 27-548.09.01 of the Zoning Ordinance, which puts no limitation on how extensive the requested change can be. This DSP has been filed

in accordance with this section.

- g. **Town of Brentwood**—The Town of Brentwood did not offer comments on the subject application.
- h. **Town of North Brentwood**—The Town of North Brentwood did not offer comments on the subject application.
- i. **City of Mount Rainier**—The City of Mount Rainier did not offer comments on the subject application.

13. **Required Finding for Detailed Site Plan**

As required by Section 27-285(b) of the Zoning Ordinance, the detailed site plan will, if approved in accordance with proposed conditions and limitations on proposed uses, represent a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

Additionally, per Section 27-285(b)(4) of the Zoning Ordinance, which became effective on September 1, 2010, a required finding for approval of a detailed site plan is as follows:

**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.**

There are no regulated environmental features found on the subject property; therefore, no preservation or restoration is necessary.

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 the Detailed Site Plan DSP-10011 and further approved Variance Application No. VTC-10011 subject to the following conditions:

- 1. Prior to certification of the plan, the applicant shall:
  - a. The existing conditions plan shall be relabeled as the natural resources inventory (NRI) for the property and be submitted for approval.
  - b. Submit a copy of a standard letter of exemption for the property.
  - c. Revise the landscape plan and tree canopy coverage worksheet to show, at minimum, an

additional 8 proposed shade trees, and five proposed evergreen trees in open tree wells and planting areas throughout the site.

- d. Revise the plan to list the additional permitted uses, use limitations, and note the provisions regarding the existing eating or drinking establishment, with drive-through service, per Condition 3.
2. Prior to issuance of any use and occupancy permits within the entire property, the proposed trees, as shown on the certified DSP, shall be planted.
  3. The following modifications shall be made to the applicant's request and to the Table of Uses for the commercial/retail section of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone. The modifications to the Table of Uses are **only applicable to the subject site, as follows:**
    - a. The following uses shall be added as permitted uses (P):
      - (1) Eating or drinking establishment, without drive-through service
      - (2) Pizza delivery service
      - (3) Carpet or floor covering
      - (4) Clothing, dry goods
      - (5) Confectioner
      - (6) Florist
      - (7) Food or beverage goods preparation on the premises of a food and beverage store
      - (8) Sporting goods shop
      - (9) Stationary or office supply store
      - (10) Video game or tape store

- b. The use table changes hereby approved for Queens Chapel Town Center are subject to the following limitations:
- (1) Pizza delivery service is permitted provided an additional parking space, over and above the required number of parking spaces, is provided at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.
  - (2) Carpet or floor covering store shall be showroom and retail only and only in those locations where there is an existing rear loading area or loading dock. No outside storage or display of products shall be permitted.
  - (3) A confectioner shall be for retail use only and not to exceed 3,000 square feet.
  - (4) Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are only sold on the premises and at retail.
  - (5) A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.
  - (6) Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.
- c. Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

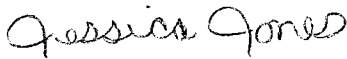
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

\* \* \* \* \*

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 Cavitt, seconded by Commissioner Vaughns, with Commissioners Cavitt, Vaughns and Parker voting in favor of the motion, and with Commissioners Clark and Squire absent at its regular meeting held on Thursday, January 27, 2011, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 24<sup>th</sup> day of February 2011.

Patricia Colihan Barney  
Executive Director

  
By Jessica Jones  
Acting Planning Board Administrator

PCB:JJ:JK:arj

APPROVED AS TO LEGAL SUFFICIENCY.

  
M-NPPC Legal Department

Date 2/1/11

# DETAILED SITE PLAN

## FOR

M-NCPPC APPROVALS

## INDEX OF DRAWINGS



SCALE: 1" = 100'

COVER SHEET

DETAILED SITE PLAN

PARCELS A-7 THRU A-12 AND THE RESIDUE OF A-13, SECTION ONE,  
PARCELS A-1, A-2, A-4 AND A-5,  
RESIDUE OF PARCEL F, SECTION THREE  
AND  
PARCELS B-2, B-3 AND THE RESIDUE OF B-1


QUEENS CHAPEL MANOR

HYATTSVILLE DISTRICT NO. 16  
PRINCE GEORGE'S COUNTY, MARYLAND

**OWNER/ APPLICANT**  
Queens Chapel Town Center LLC  
8621 16th Street  
Silver Spring, MD 20906-2261  
attn: Michael Holmes  
Phone: (301) 566-6665

See Sheet DSP-1 for General Notes.

SHEET 001  
 JUDGE: CDJ CASE NUMBER: 2009008 ADV. HAP. IN LOCATION: HAB 88

 STATE OF MARYLAND DEPARTMENT OF THE ATTORNEY GENERAL OFFICE OF THE ATTORNEY GENERAL 100 N. E. STREET BALTIMORE, MD 21202	DATE	DESCRIPTION	BY	DATE	TIME
	REVISIONS				
4-14-11				JAN. 1, 2011	6:00 PM

1000 MONTGOMERY BLVD. SUITE 200  
 WASHINGTON, DC 20005-4000  
 TEL: 202-462-6000  
 FAX: 202-462-6001  
 WWW.BENBYTHASSOCIATES.COM  
 CONFIDENTIAL AND NOT FOR PUBLICATION  
 (If made public, please use: )

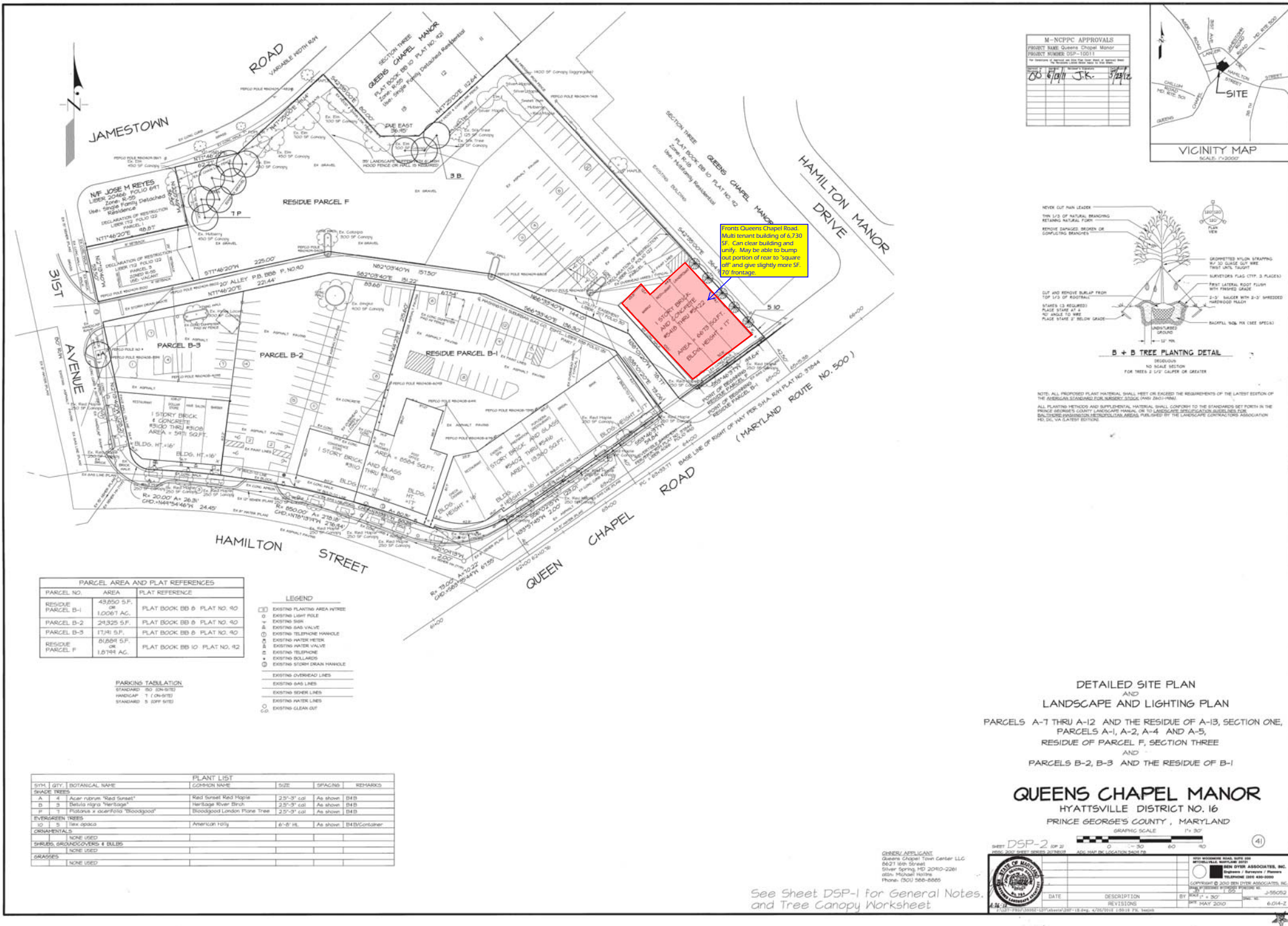
BEN BYTH ASSOCIATES, INC.  
 Attorneys / Surveys / Planners  
 TELEPHONE (202) 462-6000













March 1, 2011

Queens Chapel Town Center, LLC  
8627 16<sup>th</sup> Street  
Silver Spring, Maryland 20910

Re: Notification of Planning Board Action on  
**Conceptual Site Plan CSP-10002**  
Queens Chapel Town Center

Dear Applicant:

This is to advise you that on **February 24, 2011** the above-referenced Conceptual Site Plan was acted upon by the Prince George's County Planning Board in accordance with the attached Resolution.

District Council review of this case is required by **Section 27-548.09.01**

The applicant or any Person of Record may file a written appeal of the Planning Board's decision with the District Council within 30 days after the date of the final notice **March 1, 2011** of the Planning Board's decision, pursuant to Section 27-280.

Please direct any future communication or inquiries regarding this matter to Ms. Redis C. Floyd, Clerk of the County Council, at the above address.

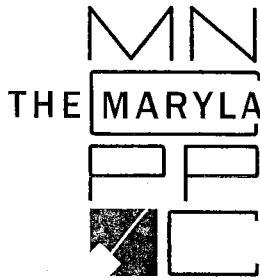
Very truly yours,  
Alan Hirsch, Acting Chief  
Development Review Division

By: *Jill Masack*  
Reviewer

c: Redis C. Floyd, Clerk to the County Council  
Persons of Record  
Interested Persons

PGCPB No. 11-07





# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 11-07

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
TTY: (301) 952-4366  
[www.mncppc.org/pgco](http://www.mncppc.org/pgco)  
File No. CSP-10002

## RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Conceptual 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 January 27, 2011, regarding Conceptual Site Plan CSP-10002 for Queens Chapel Town Center, the Planning Board finds:

1. **Request:** The subject application requests an amendment for the Table of Uses for the West Hyattsville Transit District Development Plan (TDDP), specifically for the shopping center known as Queens Chapel Town Center.

2. **Development Data Summary**

	EXISTING	APPROVED
Zone	M-X-T/R-55/T-D-O	M-X-T/R-55/T-D-O
Use(s)	Shopping Center	Shopping Center
Acreage	6.05	6.05
Parcels	15	15
Building Square Footage/GFA	64,740	64,740

### **On-Site Parking Data**

	Existing
Standard Spaces	229
Parallel Spaces	3
Handicapped Spaces	11 (6 Van Accessible)
<b>Total</b>	<b>243 (11 Handicapped)</b>

3. **Location:** The site is in Planning Area 68 and Council District 2. More specifically, it is located in the northwest corner of the intersection of Hamilton Street and Queens Chapel Road.
4. **Surrounding Uses:** The subject property is bounded to the south by Hamilton Street, and, across the street, by commercially developed property in the M-X-T Zone; to the east by Queens Chapel Road, and, across the road, by commercially developed property in the M-X-T Zone; to the west by Ager Road, and, across the road, by a metro parking lot in the M-X-T Zone; to the northeast by

Hamilton Manor Apartments in the R-18 Zone; and to the north, by single-family homes in the R-55 Zone.

5. **Design Features:** The subject parcels are already developed with various commercial buildings that present themselves as a shopping center. This CSP proposes no new physical development on-site, so the following is a description of the existing layout of the property.

The shopping center is comprised of multiple connected and disparate buildings measuring a total of 64,740 square feet divided over 15 parcels, all of which are under the same ownership. The buildings are generally located no more than 14 feet behind the right-of-way line along Hamilton Street and Queens Chapel Road, although one building is set back further, at approximately 48 feet. The on-site parking is generally located behind the buildings, accessed from a public alley that runs along the rear of the property, although there are a few locations in which small parking lots are adjacent to the rights-of-way. Additionally, for most of the site's frontage along Hamilton Street and 31<sup>st</sup> Avenue, either angled or parallel parking spaces are located within the rights-of-way. The site is accessed from multiple driveways off of Ager Road, Queens Chapel Road, Hamilton Street, and 31<sup>st</sup> Avenue.

Starting at the southwest corner of the site is Residue Parcel A-13, which is the subject of a prior approval of Detailed Site Plan DSP-00040, and is developed with a 2,839-square-foot, brick and stucco, fast-food, Kentucky Fried Chicken restaurant. This building sits within 2.5 feet of the right-of-way at the corner of Hamilton Street and Ager Road and the existing drive-through lane runs along the north side of the building, with parking beyond it. Within the eastern portion of this parcel is a one-story, cinder block, 4,523-square-foot building with three tenants, specifically a bakery, furniture store and liquor store. There is parking located between this building and Hamilton Street and within a parking lot that takes up the remainder of the eastern portion of the parcel.

The portion of the site from the eastern property line of Residue Parcel A-13 to 31<sup>st</sup> Avenue is divided into ten parcels of varying size. One large, 22,790-square-foot, brick, stone and cinder-block building sits across all of these parcels, set back approximately ten feet from the Hamilton Street right-of-way, with multiple tenants including a barber, restaurant, dry cleaners and nail salon, among others. Additional parking and loading spaces are then provided behind the buildings along the northern property line, with access via the adjacent alley.

On the eastern side of 31<sup>st</sup> Avenue, is Parcel B-3 which includes a single, 5,971-square-foot, brick and concrete building, located within nine feet of the Hamilton Street right-of-way, with four tenants, specifically a restaurant, dollar store, hair salon and barber. Parking and loading are located at the rear of the building with access from the alley that runs along the northern property line. To the east is Parcel B-2, which has a parking lot along the western edge and a portion of a brick and glass building, with a convenience store tenant, in the southeastern corner, which sits within 12 feet of the Hamilton Street right-of-way. This building extends to the east into the adjacent Residue Parcel B-1 for a total area of 8,584 square feet and includes two more tenants, a pet groomer and a post office. After a small gap, another 13,360-square-foot, brick and glass

building runs parallel to and stays within nine feet of the right-of-way line at the corner of Hamilton Street and Queens Chapel Road. This building houses seven tenants including a bank, bridal store, and restaurants, among others.

Across a 20-foot public alley is Residue Parcel F, which sits along the northern and eastern boundaries of the entire subject property. It has one small, 6,673-square-foot, brick and concrete, three-tenant building in the eastern corner fronting on Queens Chapel Road, sitting within nine feet of the right-of-way. The rest of this parcel is asphalt parking and gravel areas that wrap around the north side of the public alley between the shopping center and the adjacent residential areas.

6. **Previous Approvals:** The existing buildings on-site were mostly built prior to 1965 and have been the subject of various permits over the years. Detailed Site Plan DSP-00040, for Residue Parcel A-13, was approved by the Planning Board on December 21, 2000 (PGCPB Resolution No. 00-230), under the previous June 1998 *West Hyattsville Approved Transit District Development Plan for the Transit District Overlay Zone*, with six conditions. These conditions are no longer outstanding as they were complied with and completed through the certification, permit and construction processes.

#### COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application is for a change in the Table of Uses for the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone (TDDP)*. This document supersedes the Table of Uses for permitted uses in the Zoning Ordinance for the M-X-T Zone. Additionally, since the shopping center exists and no new construction is proposed, the site plan design guidelines of the Zoning Ordinance are not applicable.

The applicant has submitted the required application for a conceptual site plan pursuant to Section 27-548.09.01(b)(6), Amendment of Approved Transit District Overlay Zone, of the Zoning Ordinance. The Planning Board evaluated the proposed uses and finds that most but not all of them meet the requirements of Section 27-548.09.01, which specifies the required findings for an amendment to the Table of Uses. The Planning Board reviewed the conceptual site plan against the criteria for approval in the M-X-T Zone as set forth in Section 27-546(d) of the Zoning Ordinance and offers the following comments:

**(1) The proposed development is in conformance with the purposes and other provisions of this Division;**

There is no development proposed with this plan, as the proposed changes to the Table of Uses will only allow for a change in the mix of tenants leasing space in the existing buildings on the site. All proposed uses for which approval is recommended would be consistent with the purposes and other provisions of Division 2, Part 10 (Mixed Use Zones) of the Zoning Ordinance.

- (2) **For property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, the proposed development is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;**

This does not apply as the site was zoned M-X-T before October 1, 2006.

- (3) **The proposed development has an outward orientation which either is physically and visually integrated with existing adjacent development or catalyzes adjacent community improvement and rejuvenation;**

The existing shopping center was renovated in 2001, 2006 and 2007 to create a unique, urban appearance, which does serve to create a strong street presence that is integrated with the surrounding commercial uses. However, the proposed changes to the Table of Uses will result only in a change in the mix of tenants leasing space in the existing buildings on the site, with no new construction proposed. Therefore, the proposed conceptual site plan will have no impact on the existing development's outward orientation, or its physical or visual integration with existing adjacent development.

- (4) **The proposed development is compatible with existing and proposed development in the vicinity;**

Proposed changes to the Table of Uses, as limited by the conditions of approval, will not reduce or compromise the compatibility of the existing shopping center with the other existing or proposed developments in the transit district.

- (5) **The mix of uses, and arrangement and design of buildings, and other improvements reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability;**

The mix of uses will be enhanced by the expansion of permitted uses in the Table of Uses, as limited by the conditions of approval, and better enable the shopping center to sustain an independent environment of continuing quality and stability.

- (6) **If the development is staged, each building phase is designed as a self-sufficient entity, while allowing for effective integration of subsequent phases;**

No additional development is proposed at this time; therefore, there is no proposed staging.

- (7) **The pedestrian system is convenient and is comprehensively designed to encourage pedestrian activity with the development;**

The shopping center is located entirely within one-half mile of the West Hyattsville Metro Station. It is surrounded by sidewalks on the southern, eastern and western edges of the property, along Hamilton Street, Queens Chapel Road, and Ager Road, which provide connections to the pedestrian system within the transit district area. Proposed changes to the Table of Uses, as limited by the conditions of approval, will not reduce or compromise the convenience or design of facilities provided for pedestrians in the development.

- (9) **On a Conceptual Site Plan for property placed in the M-X-T Zone by a Sectional Map Amendment, transportation facilities that are existing; that are under construction; or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, or the current State Consolidated Transportation Program, will be provided by the applicant, or are incorporated in an approved public facilities financing and implementation program, will be adequate to carry anticipated traffic for the proposed development. The finding by the Council of adequate transportation facilities at the time of Conceptual Site Plan approval shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.**

The conceptual site plan does not propose any new development on the subject property and therefore, presents no new transportation demands or requirements.

- (11) **On a property or parcel zoned E-I-A or M-X-T and containing a minimum of two hundred fifty (250) acres, a Mixed-Use Planned Community including a combination of residential, employment, commercial and institutional uses may be approved in accordance with the provisions set forth in this Section and Section 27-548.**

This requirement does not apply as the property contains less than 250 acres.

8. ***The July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone (TDDP):*** The transit district development plan (TDDP) places the Queens Chapel Town Center shopping center in the Retail/Commercial Preferred Land Use category.

The applicability section of the TDDP states that all new development must show compliance with the TDDP standards in the site plan review process. Since the subject CSP shows no new development, it is not required to meet the standards at this time. However, this should not be taken to validate the existing physical development in any way or to exempt any future development or redevelopment of this property from the TDDP standards.

The applicant contends that the table of uses for this particular subarea is too restrictive and does not allow many uses common to similar shopping centers. The property was retained in the M-X-T



Zone at the time of the approval of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The existing shopping center development does not necessarily comply with all of the recommendations for the Developed Tier per the General Plan nor the *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. However, it will remain as an existing use until such time as a redevelopment application is presented and, until then, it would be best if it remains a viable shopping center with legitimate retail uses.

The applicant has requested the following uses be permitted that currently are not permitted by the use table for the sub-district in which the project is located:

- Fast-food restaurant
- Eating or drinking establishment, with or without drive through
- Eating or drinking establishment, attached to or within a group of buildings
- Pizza delivery service
- Carpet or floor covering
- Clothing, dry goods
- Confectioner
- Florist
- Food or beverage goods preparation on the premises of a food and beverage store
- Sporting goods shop
- Stationary or office supply store
- Video game or tape store
- Medical practitioner's Office

Although some of the above uses already operate in the center, they became nonconforming with the adoption of the TDDP. As to conformance with the goals of the West Hyattsville TDDP, the Planning Board found the following (TDDP, page 1):

**The goal of the West Hyattsville TDDP is to provide a clear and predictable path for transit-oriented development (TOD) within the West Hyattsville TDOZ...The 2002 Prince George's County Approved General Plan (page 44) defines TOD as development that actively seeks to increase the transit use and decrease automobile dependency by:**

- **Locating homes, jobs, and shopping closer to transit services;**

The shopping center is located across Ager Road from the West Hyattsville Metro Station. Amending the Table of Uses under the TDDP will offer the residents of the West Hyattsville community more food-related establishments and retail choices. A thriving shopping center will create more job opportunities and will encourage additional commercial and residential development within close proximity to the metro.

- **Locating the mix of critical land uses (living/working/shopping) in closer proximity to one another; and**

This conceptual site plan is not proposing any changes to the shopping center; their sole purpose is to amend the Table of Uses contained in the TDDP. As mentioned above, approval of this amendment will allow the shopping center to attract a wider variety of commercial establishments, creating a better mix of shopping choices adjacent to the metro station and residential communities.

- **Establishing land use/transit linkages that make it easier to use transit (rail and bus).**

As mentioned above, the existing shopping center is in close proximity to the West Hyattsville Metro Station, which makes it easily accessible from the trains and buses en route to and from the metro station.

As stated on page 4 of the TDDP:

**The main purpose of this plan is to maximize the public benefits from the West Hyattsville Metro Station. The plan sets out primary goals emphasizing the neighborhood, environment, transportation, and low-impact development (LID):**

- **Promote TOD near the Metro Station and create a sense of place consistent with the neighborhood character areas.**

The existing shopping center includes a post office, a bank, and restaurants. Adding more retail choices and food establishments to the existing shopping center will create a stronger sense of place consistent with the neighborhood character area. Warehouses or manufacturing facilities are generally not transit-oriented development due to their large sizes; therefore, conditions have been included in this approval setting limitations on the carpet or floor covering store, confectioner and food or beverage goods preparation on the premises of a food and beverage store in order to ensure these types of uses are developed as retail-oriented businesses, and not as large-scale manufacturers.

- **Ensure that all new development or redevelopment in the transit district is pedestrian-oriented.**

The applicant is not proposing any new development or redevelopment to the existing shopping center. However, the current development is pedestrian-oriented as, generally, the buildings front on the street with parking in the rear. Additionally, in order to ensure all future tenants within this subject property are pedestrian-oriented, the applicant's request for approval of a fast-food restaurant with a drive through as a permitted use is denied. However, a condition has been included in this approval that allows the existing fast-food restaurant with drive through within the subject property to remain as a valid,

legal use. The pizza delivery service was deemed to be acceptable as a permitted use, despite it being generally vehicle-oriented, but a condition setting limitations on the delivery vehicles has been included in this approval, in order to limit impacts on pedestrians.

- **Restore, protect, and enhance the environment by protecting environmentally sensitive areas, minimizing impacts of development, and expanding recreational opportunities and trail and bikeway connections.**

The subject property has no environmentally sensitive areas and proposes no new development. Therefore, this goal does not apply to the subject application.

- **Maximize residential development opportunities within walking distance of the Metro Station.**

The subject properties lie within the retail/commercial land use category of the TDDP; therefore, residential development on this site would not be in conformance with the plan, despite the fact that it is within walking distance of the Metro Station. However, expanding the allowed commercial uses on the property will enhance the viability and attractiveness of the shopping center, which could in turn attract developers to pursue more residential opportunities on adjacent sites. However, in order to ensure the shopping center remains conducive to future adjacent residential development, conditions setting limitations on the type of products sold at any sporting goods shop or video game or tape store have been included in this approval.

In addition to the purposes of the West Hyattsville TDDP mentioned above, the general purposes of the TDOZ are contained in Section 27-548.03 of the Zoning Ordinance. The applicant believes that amending the Table of Uses under the TDDP complies with the purposes as follows:

- (1) **To enhance the development opportunities in the vicinity of transit stations;**

The existing shopping center is located within 1,000 feet of the West Hyattsville Metro Station and the applicant is only amending the Table of Uses at this time, to add more retail choices and food establishments to the existing shopping center. This will create more opportunities for the center, make it more competitive, and in turn spur redevelopment at some future date.

- (2) **To promote the use of transit facilities;**

The shopping center is located within 1,000 feet of the West Hyattsville Metro Station. Furthermore, the site is located between major Maryland and Washington, D.C. employment centers which are accessible via the Metro transit system. The applicant believes that broadening the scope of uses allowed in the shopping center at this site,

within such a short distance of this Metro station, will promote use of the transit system by its current and future customers.

- (3) To increase the return on investment in a transit system and improve local tax revenues;**

Amending the Table of Uses will increase the choices available for food establishments and retail stores and will draw in new tenants to the shopping center. A successful commercial center will generate greater tax revenues for the County.

- (4) To create a process which coordinates public policy decisions, supports regional and local growth and development strategies, and creates conditions which make joint development possible;**

The site is developed with an existing shopping center. The applicant is not proposing any additional development at this time.

- (5) To create a process which overcomes deficiencies in ordinary planning processes and removes obstacles not addressed in those processes;**

The TDOZ allows flexibility in the development process through the use of amendments to the TDDP. In this case, amending the Table of Uses under the TDDP as part of the conceptual site plan process will allow development of this retail-commercial area in a manner that is more conducive to a changing market and to the proposed development of other subareas in the transit district.

- (6) To minimize the costs of extending or expanding public services and facilities, by encouraging appropriate development in the vicinity of transit stations;**

More variety of retail stores and food establishments within close proximity to the West Hyattsville Metro Station will give customers more choices in one location and lessen the commute to other stores located further from the metro station, as the shopping center will be able to meet more of the needs of the customers in one area. It will encourage metro ridership and in turn decrease the use of the surrounding road network.

- (7) To provide mechanisms to assist in financing public and private costs associated with development;**

Public financing is not proposed as part of this application.

- (8) To provide for convenient and efficient pedestrian and vehicular access to Metro stations;**

The shopping center is located within 1,000 feet of the West Hyattsville Metro Station. It is surrounded by sidewalks on the western, southern, and eastern edges of the property alongside Ager Road, Hamilton Street, and Queens Chapel Road, that provide connections to the pedestrian system within the TDOZ and, therefore, convenient access to the metro station.

**(9) To attract an appropriate mix of land uses;**

The applicant is proposing to amend the Table of Uses under the TDDP to grant more opportunities to the customer base of the community. The underlying purpose of this amendment is to broaden the Table of Uses so as to provide a greater mix of uses at the center.

**(10) To encourage uses which complement and enhance the character of the area;**

The vision statement of the TDDP, page 7, encourages high-quality, compact development that will create the economic base of new shops and stores that will enhance the quality of life for everyone in Hyattsville and its immediate neighbors. The existing Table of Uses places the subject property at a competitive disadvantage. It restricts many common yet essential choices for the community, such as eating or drinking establishments, clothing stores, and shoe stores. A broader Table of Uses will attract a more diverse group of retail tenants and enhance the character of the area.

**(11) To insure that developments within the Transit District possess a desirable urban design relationship with one another, the Metro station, and adjoining areas; and**

The applicant is not proposing any new development at this time. Amending the Table of Uses contained in the TDDP will allow a greater mix of uses at the shopping center. Adding more choices to the retail/commercial category under the TDDP will allow the neighboring residential communities to choose from a wider variety of retail establishments from the same shopping center and lessen the commute to other stores outside the neighborhood area. A successful shopping center with a greater mix of uses will also attract customers from adjoining communities.

**(12) To provide flexibility in the design and layout of buildings and structures, and to promote a coordinated and integrated development scheme.**

This requirement does not apply as no new development is proposed with the subject application.

9. ***Prince George's County Landscape Manual:*** The CSP application is not subject to the *Prince George's County Landscape Manual* as there is no proposed increase in gross floor area or impervious surface and there is no change of use from a lower to higher intensity use category.

Any future revisions to this plan should be reviewed for conformance to the Landscape Manual if it proposes any new physical improvements.

10. **Woodland and Wildlife Habitat Conservation Ordinance (WCO):** This property is exempt from the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because it contains less than 10,000 square feet of existing woodland. Per Sections 27-273(e) and 27-282(e) of the Zoning Ordinance, an approved natural resources inventory (NRI) and tree conservation plan or letter of exemption are now submittal requirements for a CSP. However, neither an approved NRI nor a standard letter of exemption was included in the submission package and, therefore, both must be submitted prior to certificate approval of the CSP. A tree conservation plan is not required at this time.

11. **Further Planning Board Findings and Comments from Other Entities:** The subject applications were referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Community Planning North**—This application is not consistent with the 2002 General Plan Development Pattern policies for the Developed Tier and this application does not conform with the commercial/retail land use recommendations of the 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*.

More particularly, the purpose of the application is to amend the table of uses within the 2006 *West Hyattsville Approved Transit District Development Plan*. The West Hyattsville TDDP promotes moderate- to higher-density, pedestrian friendly development within a half mile vicinity of the metro station. The subject property is located in the Main Street Commercial/Retail District. It is part of the Hamilton Square neighborhood, which is envisioned to be the most active of the three neighborhoods due to its central location and diverse development mix.

The applicant's requested amendments to the use table and findings are as follows:

- (1) Fast-food restaurant

Fast-food restaurants may be permitted without a drive through. This use would be considered an "Eating or drinking establishment, excluding drive-through service."

- (2) Eating or drinking establishment with and without drive through (existing)

Eating or drinking establishment without drive through may be permitted.

- (3) Eating or drinking establishment, attached to or within a group of buildings

Eating or drinking establishment, without drive through, attached to or within a group of buildings may be permitted.

(4) Pizza delivery service

On page 44 of TDDP, under section (3) Miscellaneous, "Other uses of appropriate size, which can be justified as similar to one of the uses listed in this section." Pizza delivery service is similar to an eating and drinking establishment; however, no delivery service is permitted (or recommended) per the TDDP. A delivery service is auto oriented and the intent of the main street retail/commercial district is to provide for a more pedestrian friendly environment.

(5) Building Supply store

A building supply store is not permitted or recommended. A hardware store is permitted per the TDDP page 43.

The applicant has since removed this requested use.

(6) Carpet and Floor Covering

A carpet and floor covering store is not permitted or recommended.

(7) Clothing, dry goods

Variety or dry goods store is permitted per TDDP, page 43. Clothing is not permitted nor recommended.

(8) Confectioner

A confectioner is not permitted or intended for retail/commercial use.

(9) Florist

The use is permitted per page 42 "Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed."

(10) Food or beverage goods preparation on the premises of a food and beverage store

On page 44 of TDDP, under section (3) Miscellaneous, "Other uses of appropriate size, which can be justified as similar to one of the uses listed in this section." An eating or drinking establishment without a drive through and food and beverage stores are permitted per the TDDP.

(11) Sporting good shop

This use is permitted per page 42 “Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed.”

(12) Stationary or office supply store

This use is permitted per page 42 “Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed.”

(13) Video game or tape store

This use is permitted per page 42 “Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed.”

(14) Private School

School, private or public, all types are permitted through Special Permit in the retail/commercial land use per the TDDP, page 44.

The applicant has since removed this requested use.

(15) Medical practitioner’s office

A medical practitioner’s office is not consistent with a retail/commercial atmosphere and is not recommended. This type of use was intended for the mixed-use office/residential land use categories.

The Planning Board found that an office use was not intended for the retail/commercial land use area within the TDDP and, the medical practitioner’s office use was eliminated from the final recommended list of permitted uses.

- b. **Transportation Planning**—From a transportation standpoint, the uses being requested are similar to uses that already exist on the site. No new construction is proposed at this time. Ager Road and Queens Chapel Road are master plan arterials and Hamilton Street is a master plan collector. It is noted that the master plan would have an impact of 40 feet along the Queens Chapel frontage, and that the existing buildings are within the planned right-of-way. Given that no construction is proposed, this issue is not enforceable at this time.
- c. **Permit Review**—Permit Review comments are either not applicable at this time, have been addressed through revisions to the plans, or are addressed through conditions of approval of this conceptual site plan.



- d. **Environmental Planning**—A review of the available information indicates that streams, wetlands, 100-year floodplain and severe slopes are not found to occur on the subject property. Transportation-related noise impacts from Ager Road, a designated arterial roadway, are not an issue because no residential or residential-type uses are proposed with this application. The soil found to occur according to the *Prince George's County Soil Survey* is in the Elsinboro-Urban Land complex series. Elsinboro soils have no limitation with respect to development. According to available information, Marlboro clay is not found to occur on this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads adjacent to this property. This property is located in the Northwest Branch watershed of the Anacostia River basin, in the Developed Tier as reflected in the adopted General Plan. The West Hyattsville TDDP does not contain any environmental design standards specific to the subject site.
- e. **Potomac Electric Power Company (PEPCO)**—PEPCO did not offer comments on the subject application.
- f. **City of Hyattsville**—In a letter dated October 12, 2010, the City of Hyattsville stated the the City is not supportive of many of the applicant's requested uses, as they are inconsistent with the intent of transit-oriented design. Due to the number of requested amendments to the Table of Uses, it is the City's position that the applicant's request for changes should be made through an application to revise the zoning of the TDDP, so that the requested amendments can be reviewed in a comprehensive manner.

The Planning Board found that the applicant is able to request a change to the list of allowed uses in a T-D-O Zone per Section 27-548.09.01 of the Zoning Ordinance, which puts no limitation on how extensive the requested change can be. This CSP has been filed in accordance with this section.
- g. **Town of Brentwood**—The Town of Brentwood did not offer comments on the subject application.
- h. **Town of North Brentwood**—The Town of North Brentwood did not offer comments on the subject application.
- i. **City of Mount Rainier**—The City of Mount Rainier did not offer comments on the subject application.

12. **Required Finding for Conceptual Site Plan**

As required by Section 27-276(b)(2) of the Zoning Ordinance, the conceptual site plan will, if approved in accordance with proposed conditions and limitations on proposed uses, represent a

most 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.

Additionally, per Section 27-276(b)(4) of the Zoning Ordinance, which became effective on September 1, 2010, a required finding for approval of a conceptual site plan is as follows:

**The plan shall demonstrate the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.**

There are no regulated environmental features found on the subject property; therefore, no preservation or restoration is necessary.

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 the Conceptual Site Plan CSP-10002, subject to the following conditions:

1. Prior to certification of the plan, the applicant shall:
  - a. The existing conditions plan shall be relabeled as the natural resources inventory (NRI) for the property and be submitted for approval.
  - b. Submit a copy of a standard letter of exemption for the property.
  - c. Revise the plan to list the additional permitted uses, use limitations, and note the provisions regarding the existing eating or drinking establishment, with drive-through service, per Condition 3.
2. Prior to issuance of any use and occupancy permits within the entire property, the proposed trees, as shown on the certified detailed site plan (DSP), shall be planted.
3. The following modifications shall be made to the applicant's request and to the Table of Uses for the commercial/retail section of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The modifications to the Table of Uses are **only applicable to the subject site, as follows:**
  - a. The following uses shall be added as permitted uses (P):
    - (1) Eating or drinking establishment, without drive-through service
    - (2) Pizza delivery service
    - (3) Carpet or floor covering
    - (4) Clothing, dry goods
    - (5) Confectioner

- (6) Florist
- (7) Food or beverage goods preparation on the premises of a food and beverage store
- (8) Sporting goods shop
- (9) Stationary or office supply store
- (10) Video game or tape store

b. The use table changes hereby approved for Queens Chapel Town Center are subject to the following limitations:

- (1) Pizza delivery service is permitted provided an additional parking space, over and above the required number of parking spaces, is provided at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.
- (2) Carpet or floor covering store shall be showroom and retail only and only in those locations where there is an existing rear loading area or loading dock. No outside storage or display of products shall be permitted.
- (3) A confectioner shall be for retail use only and not to exceed 3,000 square feet.
- (4) Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are only sold on the premises and at retail.
- (5) A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.
- (6) Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.

c. Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

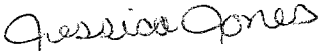
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

\* \* \* \* \*

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 Vaughns, seconded by Commissioner Cavitt, with Commissioners Vaughns, Cavitt and Parker voting in favor of the motion, and with Commissioners Clark and Squire absent at its regular meeting held on Thursday, January 27, 2011, in Upper Marlboro, Maryland.

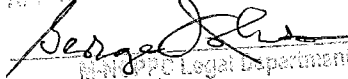
Adopted by the Prince George's County Planning Board this 24<sup>th</sup> day of February 2011.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Acting Planning Board Administrator

PCB:JJ:JK:arj

APPROVED AS TO LEGAL SUFFICIENCY.

  
George Jones  
Legal Department

Date 1/31/11





**McNamee Hosea**  
Attorneys & Advisors

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Direct Dial: Extension 250

December 8, 2021

**VIA ELECTRONIC MAIL**

Maurene E. McNeil  
Zoning Hearing Examiner  
Office of the Zoning Hearing Examiner  
Prince George's County Council  
County Administration Building  
Upper Marlboro, MD 20772

***Re. CSP-10002 and DSP-10011;  
Amendment to Conditions of Approval***

Dear Madame Hearing Examiner:

On behalf of the applicant, Queens Chapel Town Center LLC and pursuant and in support of its request to amend the conditions associated with CSP-10002 and DSP-10011, transmitted herewith please find the following documents:

- DSP-10011
- Planning Board Resolution approving CSP-10002
- Planning Board Resolution approving DSP-10011
- District Council Ordinance approving CSP-10002 with conditions
- District Council Ordinance approving DSP-10011 with conditions
- Business Entity Affidavit for Queens Chapel Town Center LLC
- Land Planning Analysis prepared by Mark Ferguson
- Resume of Mark Ferguson

In addition, the applicant as this time would like to formally revise the request in part. After additional consideration of approved *2006 Transit District Development Plan for West Hyattsville* and the nonconforming use provision contained therein, the applicant would like retain a portion of condition 3c of CSP-10002 and DSP-10011 and be amended to state:

**Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use.**

The applicant believes that this revision will allow the use to continue to operate from the

Maurene E. McNeil  
December 8, 2021  
Page 2

property without the challenges normally associated with a nonconforming use.

Thank you for your time and consideration to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to be 'D. Lynch', written over the word 'Sincerely,'.

Daniel F. Lynch

Enclosures  
Cc. Stan Brown



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

June 15, 2011

## ***DISTRICT COUNCIL PRELIMINARY NOTICE OF CONDITIONAL ZONING APPROVAL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland, requiring notice of decision of the District Council, a copy of Zoning Ordinance No. 3 – 2011 granting preliminary conditional zoning approval of DSP-10011-C Queens Chapel Town Center, is attached.

In compliance with the provisions of Section 27-157(b) of the Zoning Ordinance, the applicant must file a written acceptance or rejection of the land use classification as conditionally approved within ninety (90) days from the date of approval by the District Council. Upon receipt by the Clerk's Office of a written acceptance by the applicant, a final Order will be issued with an effective date for conditional approval shown as the date written acceptance was received by the Clerk's Office.

The failure to accept the conditions in writing within ninety (90) days from the date of approval shall be deemed a rejection. Rejection shall void the Map Amendment and revert the property to its prior zoning classification.

Written approval or rejection of conditions must be received by the Clerk's Office no later than the close of business (5:00 p.m.) on September 12, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on June 15, 2011, this notice and attached Order were mailed, postage prepaid, to the attorney/correspondent and applicant(s). Notice of final approval will be sent to all persons of record.

A handwritten signature in black ink, appearing to read "Redis C. Floyd", is written over a horizontal line.

Redis C. Floyd  
Clerk of the Council



Case No. DSP-10011-C

Applicant: Queens Chapel Town Center, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 3 - 2011

AN ORDINANCE to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, as to a specific Transit District property, and to approve a detailed site plan, with conditions.

WHEREAS, Application No. DSP-10011 was filed for the Queens Chapel Town Center, on property described as approximately 6.05 acres of land in the M-X-T/T-D-O and R-55/T-D-O zones, located in the northwest quadrant of the intersection of Queens Chapel Road and Hamilton Street, Hyattsville; and

WHEREAS, the Technical Staff reviewed the application and filed recommendations with the Planning Board and District Council; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the Planning Board held a public hearing on the application and filed recommendations with the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved, to change the use table for the Approved Transit District Development Plan and approve a Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, with a detailed site plan showing an existing and

developed commercial shopping center on 15 separate parcels, as described in the Planning Board's resolution, PGCPB No. 11-08; and

WHEREAS, to protect adjacent properties and the neighborhood, this rezoning (change of use table) and site plan approval are granted subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the determinations of the Planning Board in its resolution, PGCPB No. 11-08, as its findings of fact and conclusions of law for this case. The District Council concludes, however, that a carpet or floor covering store should not be permitted, as the use is inconsistent with the retail-commercial character of the shopping center on the subject property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended by changing the use table for the M-X-T/T-D-O and R-55/T-D-O zoned property that is the subject of Application No. DSP-10011, to permit the following uses, in addition to those listed in the July 2006 Approved Transit District Development Plan for the West Hyattsville Transit District, for the subdistrict in which the subject property is located:

- (1) Eating or drinking establishment, without drive-through service
- (2) Pizza delivery service
- (3) Clothing, dry goods
- (4) Confectioner
- (5) Florist
- (6) Food or beverage goods preparation on the premises of a food and beverage store
- (7) Sporting goods shop
- (8) Stationery or office supply store
- (9) Video game or tape store

SECTION 2. Approval of the change of uses and conceptual site plan is subject to the following conditions

1. Prior to certification of the plan, the applicant shall:
  - a. Relabel the existing conditions plan as the natural resources inventory (NRI) for the property and submit it for approval.
  - b. Submit a copy of a standard letter of exemption for the property.
  - c. Revise the landscape plan and tree canopy coverage worksheet to show, at a minimum, an additional 8 proposed shade trees, and five proposed evergreen trees in open tree wells and planting areas throughout the site.
  - d. Revise the plan to list the additional permitted uses, use limitations, and note the provisions regarding the existing eating or drinking establishment, with drive-through service, per Condition 3.
2. Prior to issuance of any use and occupancy permits within the entire property, the proposed trees, as shown on the certified detailed site plan (DSP), shall be planted.
3. The following modifications shall be made to the applicant's request and to the Table of Uses for the commercial/retail section of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The modifications to the Table of Uses are applicable only to the subject site, as follows:
  - a. The following uses shall be added as permitted uses (P):
    - (1) Eating or drinking establishment, without drive-through service
    - (2) Pizza delivery service
    - (3) Clothing, dry goods
    - (4) Confectioner
    - (5) Florist
    - (6) Food or beverage goods preparation on the premises of a food and beverage store
    - (7) Sporting goods shop
    - (8) Stationery or office supply store
    - (9) Video game or tape store
  - b. The use table changes hereby approved for Queens Chapel Town Center are subject to the following limitations:
    - (1) Pizza delivery service is permitted if and only if an additional parking space, over and above the required number of parking spaces, is provided

at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.

- (2) A confectioner shall be for retail use only and shall not exceed 3,000 square feet.
  - (3) Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are sold only on the premises and at retail.
  - (4) A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.
  - (5) Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.
- c. Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall become effective initially on the date of its enactment, as conditionally approved, and shall become final and effective when the applicant accepts in writing the conditions in Section 2.

Enacted this 13<sup>th</sup> day of June, 2011, for initial approval, by the following vote:

In Favor: Council Members Campos, Franklin, Harrison, Johnson, Lehman, Olson, Patterson, Toles, and Turner.

Opposed:

Abstained:

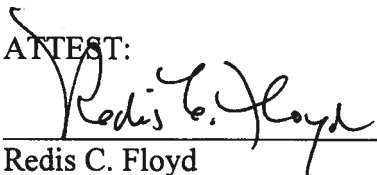
Absent:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By:   
Ingrid M. Turner, Chair

ATTEST:

  
Redis C. Floyd  
Clerk of the Council



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

September 19, 2011

**RE: DSP 10011-C Queens Chapel Town Center  
(Companion Case: CSP 10002-C)  
Queens Chapel Town Center, LLC, Applicant**

## ***NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of Zoning Ordinance No. 3 - 2011 setting forth the action taken by the District Council in this case on June 13, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on September 19, 2011 this notice and attached Council order were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, reading "Redis C. Floyd", is written over a horizontal line.

Redis C. Floyd  
Clerk of the Council

(10/97)



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

June 15, 2011

## ***DISTRICT COUNCIL PRELIMINARY NOTICE OF CONDITIONAL ZONING APPROVAL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland, requiring notice of decision of the District Council, a copy of Zoning Ordinance No. 2 - 2011 granting preliminary conditional zoning approval of CSP-10002-C Queens Chapel Town Center, is attached.

In compliance with the provisions of Section 27-157(b) of the Zoning Ordinance, the applicant must file a written acceptance or rejection of the land use classification as conditionally approved within ninety (90) days from the date of approval by the District Council. Upon receipt by the Clerk's Office of a written acceptance by the applicant, a final Order will be issued with an effective date for conditional approval shown as the date written acceptance was received by the Clerk's Office.

The failure to accept the conditions in writing within ninety (90) days from the date of approval shall be deemed a rejection. Rejection shall void the Map Amendment and revert the property to its prior zoning classification.

Written approval or rejection of conditions must be received by the Clerk's Office no later than the close of business (5:00 p.m.) on September 12, 2011.

## ***CERTIFICATE OF SERVICE***

This is to certify that on June 15, 2011, this notice and attached Order were mailed, postage prepaid, to the attorney/correspondent and applicant(s). Notice of final approval will be sent to all persons of record.

A handwritten signature in black ink, reading "Redis C. Floyd".

Redis C. Floyd  
Clerk of the Council

Case No. CSP-10002-C

Applicant: Queens Chapel Town Center, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 2 - 2011

AN ORDINANCE to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, as to a specific Transit District property, and to approve a conceptual site plan, with conditions.

WHEREAS, Application No. CSP-10002 was filed for the Queens Chapel Town Center, on property described as approximately 6.05 acres of land in the M-X-T/T-D-O and R-55/T-D-O zones, located in the northwest quadrant of the intersection of Queens Chapel Road and Hamilton Street, Hyattsville; and

WHEREAS, the Technical Staff reviewed the application and filed recommendations with the Planning Board and District Council; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the Planning Board held a public hearing on the application and filed recommendations with the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved, to change the use table for the Approved Transit District Development Plan and approve a Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone, with a conceptual site plan showing an existing and



developed commercial shopping center on 15 separate parcels, as described in the Planning Board's resolution, PGCPB No. 11-08; and

WHEREAS, to protect adjacent properties and the neighborhood, this rezoning (change of use table) and site plan approval are granted subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the determinations of the Planning Board in its resolution, PGCPB No. 11-08, as its findings of fact and conclusions of law for this case. The District Council concludes, however, that a carpet or floor covering store should not be permitted, as the use is inconsistent with the retail-commercial character of the shopping center on the subject property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended by changing the use table for the M-X-T/T-D-O and R-55/T-D-O zoned property that is the subject of Application No. DSP-10011, to permit the following uses, in addition to those listed in the July 2006 Approved Transit District Development Plan for the West Hyattsville Transit District, for the subdistrict in which the subject property is located:

- (1) Eating or drinking establishment, without drive-through service
- (2) Pizza delivery service
- (3) Clothing, dry goods
- (4) Confectioner
- (5) Florist
- (6) Food or beverage goods preparation on the premises of a food and beverage store
- (7) Sporting goods shop
- (8) Stationery or office supply store
- (9) Video game or tape store

SECTION 2. Approval of the change of uses and conceptual site plan is subject to the following conditions

1. Prior to certification of the plan, the applicant shall:
  - a. Relabel the existing conditions plan as the natural resources inventory (NRI) for the property and submit it for approval.
  - b. Submit a copy of a standard letter of exemption for the property.
  - c. Revise the plan to list the additional permitted uses, use limitations, and note the provisions regarding the existing eating or drinking establishment, with drive-through service, per Condition 3.
2. Prior to issuance of any use and occupancy permits within the entire property, the proposed trees, as shown on the certified detailed site plan (DSP), shall be planted.
3. The following modifications shall be made to the applicant's request and to the Table of Uses for the commercial/retail section of the July 2006 *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone*. The modifications to the Table of Uses are applicable only to the subject site, as follows:
  - a. The following uses shall be added as permitted uses (P):
    - (1) Eating or drinking establishment, without drive-through service
    - (2) Pizza delivery service
    - (3) Clothing, dry goods
    - (4) Confectioner
    - (5) Florist
    - (6) Food or beverage goods preparation on the premises of a food and beverage store
    - (7) Sporting goods shop
    - (8) Stationery or office supply store
    - (9) Video game or tape store
  - b. The use table changes hereby approved for Queens Chapel Town Center are subject to the following limitations:
    - (1) Pizza delivery service is permitted if and only if an additional parking space, over and above the required number of parking spaces, is provided at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.

at the rear of the building for each vehicle to be used for delivery. No more than six vehicles shall be permitted for the delivery service.

- (2) A confectioner shall be for retail use only and shall not exceed 3,000 square feet.
  - (3) Food or beverage goods preparation on the premises of a food and beverage store is permitted provided the goods are sold only on the premises and at retail.
  - (4) A sporting goods shop shall be permitted provided that there is no outside storage or display of products and the sale of firearms and ammunition is prohibited.
  - (5) Video game or tape store uses shall not include adult, X-rated, nude or semi-nude venues of any type, including, but not limited to, film, digital, hologram and similar technology, and live performance.
- c. Within Queens Chapel Town Center, any eating or drinking establishment, with drive-through service, operating pursuant to an approved detailed site plan as of the effective date of County Council Resolution CR-24-2006, shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such eating or drinking establishments, with drive-through service, and their underlying detailed site plans may be modified pursuant to the existing provisions relating to revisions or amendments to detailed site plans generally as they exist in the Zoning Ordinance. If the use is discontinued for a period of 180 or more consecutive calendar days, unless the conditions of non-operation were beyond the control of the owner or holder of the use and occupancy permit, then the use shall no longer be considered a legal use.

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall become effective initially on the date of its enactment, as conditionally approved, and shall become final and effective when the applicant accepts in writing the conditions in Section 2.

Enacted this 13<sup>th</sup> day of June, 2011, for initial approval, by the following vote:

In Favor: Council Members Campos, Franklin, Harrison, Johnson, Lehman, Olson, Patterson, Toles, and Turner.

Opposed:

Abstained:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By: Ingrid M. Turner  
Ingrid M. Turner, Chair

ATTEST:

Redis C. Floyd  
Redis C. Floyd  
Clerk of the Council

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL APPROVAL

AN ORDER to incorporate the applicant's acceptance of conditions, and to grant final conditional approval of a detailed site plan.

WHEREAS, the District Council in approving CSP-10002-C, to amend the use table of the July 2006 Approved Transit District Development Plan and Transit District Overlay Zone, and to approve a conceptual site plan, attached conditions; and

WHEREAS, the District Council, having reviewed the application and the administrative record, deems it appropriate to accept the applicant's consent to the conditions and to approve CSP-10002-C.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. Final conditional approval of CSP-10002-C is hereby granted. The applicant's written acceptance of the conditions referred to above, at the time of initial conditional approval, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

SECTION 2. Use of the subject property as conditionally reclassified shall be subject to all requirements in the applicable zones and to the requirements in the conditions referred to above. Failure to comply with any stated condition shall constitute a zoning violation and shall be sufficient grounds for the District Council to annul the rezoning approved herein; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; or to take any other action deemed necessary to obtain compliance.

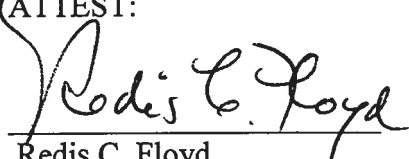
SECTION 3. This Ordinance is effective July 12th, 2011, the date of receipt of the applicant's acceptance of the conditions imposed.

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON REGIONAL  
DISTRICT IN PRINCE GEORGE'S COUNTY,  
MARYLAND

BY:

  
Ingrid M. Turner, Chair

ATTEST:

  
Redis C. Floyd  
Clerk of the Council

STATE ETHICS COMMISSION  
45 CALVERT STREET, 3<sup>RD</sup> FLOOR  
ANNAPOLIS, MD 21401  
410-260-7770  
1-877-669-6085

This Form Is To Be Filed With:  
CLERK OF THE COUNTY COUNCIL  
COUNTY ADMINISTRATION BUILDING  
ROOM 2198  
UPPER MARLBORO, MD 20772  
301-952-3600

## **Business Entity<sup>1</sup> Affidavit** (Form PG 2)

### **General Information**

The Prince George's County land use ethics law (General Provisions Article, §§ 5-833 to 5-839, Annotated Code of Maryland) ("Public Ethics Law") requires this affidavit to be filed where a business entity is deemed to be an applicant in an application filed with the District Council. This can occur, for example, when a business entity is a title owner or contract purchaser of land that is the subject of an application, a trustee having an interest in the land (except those described in a mortgage or deed of trust), or the holder of 5 percent or more interest in an entity having an interest in the land (provided that it has substantive involvement in the disposition of the land, or substantive activities pertaining specifically to land development in Prince George's County). Applicant can also include a business entity in which a 5 percent or greater interest is held by another applicant.

In completing this form, you should also review §§ 5-833 to 5-839 of the Public Ethics Law. These provisions include the affidavit requirement, define applicants and agents, set out District Council member disqualification requirements, and specify ex parte disclosure procedures. Please note that there may be situations where there is more than one applicant involved, requiring one or more submissions of this form (or Form PG 1 Individual Applicant Affidavit). You may direct questions about the affidavit or other requirements of the Law to the State Ethics Commission office by phone, at 410-260-7770, or in writing, at the above address. Copies of the Public Ethics Law may be obtained at the Commission's website <http://ethics.maryland.gov/public-ethics-law/>. Additionally, there is a Special Ethics Law Memo on the Prince George's County land use ethics law at <http://ethics.maryland.gov/download/local-gov/local-gov-forms/PG%20County%20Zoning%20Memo.pdf>, that contains additional filing information, including timing requirements.

If the applicant business entity is a corporation listed on a national stock exchange or regulated by the Securities Exchange Commission, then its officers, its directors, or its shareholders having a 5 percent or greater interest in the corporation are required to file an affidavit **only if** these persons have made a payment or have solicited a payment as outlined in the Public Ethics Law **and** if the corporation itself completes Part B of the affidavit. If required to file, these persons will file the Individual Applicant Affidavit, Form PG 1.

### **Filing Deadline**

You must file a signed original of this affidavit with the Clerk of the County Council no later than 30 days prior to the District Council's consideration of the application. You must file a supplemental affidavit as expeditiously as possible whenever a payment/contribution is made after the original affidavit was filed and prior to Council's consideration. Please note that under § 5-835(a) of the Public Ethics Law, payments/contributions during the pendency of an application are generally prohibited.

## **PART A. Business Entity Applicant**

### **Identifying Information**

Name of Applicant Queens Chapel Town Center, LLC Case No. (where applicable) \_\_\_\_\_  
8555 16th Street, #400  
Address of Applicant Silver Spring, MD 20910  
Identity of the Property/ Queens Chapel Town Center  
3110 Hamilton Street  
Subject of Application Hyattsville, MD 20782 Type of Application Amendment to Conditions for  
CSP-10002-C and DSP-10011-C  
(see § 5-833(d))

<sup>1</sup>Section 5-833 of the Public Ethics Law defines a business entity as a corporation, a general partnership, a joint venture, a limited liability company, a limited partnership or a sole proprietorship.



Applicant Payment/Contribution to Member Information (check or complete applicable blanks)

1. Was a payment/contribution made by the applicant to a treasurer or a continuing committee, either directly or through a political action committee (PAC), during the 36 months before the application was filed or during the pendency of the application? \_\_\_\_\_ Yes ☒ No

If the answer to #1 above is yes, list below the name of the member or members and the date or dates of the payment/contribution:

<u>Name of Member</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____

If the payment/contribution was through a PAC, identify the PAC and the date of the transfer to the treasurer or continuing committee:

_____	_____
_____	_____

Solicitation and other Payment/Contribution Information

2. Did the applicant solicit a person or business entity to make a payment/contribution to a member during the 36 months before the application filing or during the pendency of the application?  
\_\_\_\_\_ Yes ☒ No

If the answer to #2 above is yes, and a contribution was made, list below the name of the member or members, the date or dates of the payment/contribution, and the name of the contributor:

<u>Name of Member</u>	<u>Date</u>	<u>Name of Contributor</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**PART B. Directors, Officers and Stockholders (see § 5-838(b)) (For Corporations Only)**

**\*Note: For a corporation's application to be processed, this section must be completed in full (place a check at the beginning of each question to indicate the action has been completed).**

1. \_\_\_\_\_ All directors, officers, and stockholders with a 5 percent or greater interest have been notified of the disclosure requirement as provided in the Law and are identified as follows (list name and title – if the corporation has no directors, officers or stockholders with a 5 percent or greater interest, so state):  
\_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_ Affidavits (Form PG 1 Individual Applicant Affidavit) from those individuals identified in question #1 above, who have made or solicited contributions and are therefore required to disclose, are either attached or on file with the Clerk of the County Council **OR** there are no individuals required to file affidavits.

I hereby make oath or affirmation that the contents of this affidavit are true and correct to the best of my knowledge, information and belief.

Signature (original to be filed with the Clerk)

Printed Name of Signer

Title of Signer (Authorized to sign for the business entity)

Date



## NOTICE OF VIRTUAL HEARING

**Application Number:** CSP-10002-02/ DSP-10011-02

**Applicant(s) Name:** Queens Chapel Town Center, LLC.

**Date and time of scheduled Zoning Hearing Examiner meeting:** December 15, 2021(Continued) at 9:30 A.M.

**Description of Request:** CSP-10002-C-02 /DSP-10011-C-02 - Application of Queens Chapel Town Center, LLC (Applicant), for a request to delete Condition 3c of Conceptual Site Plan ("CSP") 10002-C-01 and Condition 3c of Detailed Site Plan ("DSP") 10011-C-01 to allow the existing eating or drinking establishment to be subject to the same restrictions and conditions as other permitted uses in the Queens Chapel Town Center. The subject property is approximately 6.05-acres of land in the West Hyattsville Transit District Overlay ("TDO") Zone and zoned M-X-T (Mixed-Use Transportation Oriented)/T-D-O and R-55 (One-Family Detached Residential)/T-D-O, located in the northwest quadrant of the intersection of Queens Chapel Road and Hamilton Street and identified as 3110 Hamilton Street, Hyattsville, Maryland 20782.

\* \* \* \* \*

**Attention:** Due to the current state of the novel coronavirus (COVID-19) pandemic, and the implications of the Council's Emergency Resolutions including, CR-35-2020, the Zoning Hearing Examiners Office is operating under emergency procedures. As authorized by CB-33-2020, all or a portion of the hearing will be conducted virtually and in accordance with District Council Rules of Procedure.

**Requests to become Persons of Record should be submitted electronically by email to: [ZHE@co.pg.md.us](mailto:ZHE@co.pg.md.us) no later than 5:00 p.m. on December 18, 2021.** Persons of Record will receive an email with information to join the virtual meeting platform. **Once you have received your Notice of Hearing, please provide an email address to [ZHE@co.pg.md.us](mailto:ZHE@co.pg.md.us)**

**If you have not viewed the documents you can find them at <https://pgccouncil.us/LZIS>. Once there select "Guide", then "ZHE", then the application name and hearing date, then "meeting details" and finally "attachments".**

Upon notification of an evidentiary hearing before the Zoning Hearing Examiner, any interested party shall submit documents for the record in person, by email, by other electronic portals, or in the County provided drop box. **A copy of all large Site Plans or other documents must be submitted in person or the County provided drop box.** All documents for the record shall be submitted no later than five (5) business days before the scheduled evidentiary hearing. With permission from the Zoning Hearing Examiner, a party may submit supplemental documents for the record. Any interested party may contact The Office of the Zoning Hearing Examiner to receive a paper copy of a document if the document is not accessible online

The Zoning Hearing Examiner shall not be responsible for resolving any technical difficulties incurred by any person participating in a virtual/remote hearing.

This notice is for informational purposes only. Per CB-1-2004 you have received this Notice of Public Hearing because you signed up to become a Person of Record. If you have any questions, please contact the Zoning Hearing Examiner at email [ZHE@co.pg.md.us](mailto:ZHE@co.pg.md.us). or call (301) 952-3644.

**DATE MAILED BY US POSTAL SERVICE/EMAILED: November 12, 2021** to Persons of Record  
(List attached to original in file)

## SIGN POSTING INFORMATION

Application Number: CSP-10002-02/ DSP-10011-02

Applicant(s) Name: Queens Chapel Town Center,LLC.

Date sign(s) were transmitted to applicant or applicant's agent: November 15, 2021

Number of signs transmitted: Four (4)

Person to whom signs were transmitted: Bryan Spell (Print)

[Signature] (Signature)

Capacity in which that person was acting: Agent (owner, applicant, agent)

Date of scheduled Zoning Hearing Examiner meeting: December 15, 2021

Last date sign(s) can be posted: November 15, 2021

## SIGN POSTING AND INSPECTION AFFIDAVIT

I, Bryan Spell, hereby certify that the subject property was posted with  
(print or type name)

Four (4)  
specify number)

sign(s) on November 15, 2021  
(date)

I further certify that the signs were inspected no later than the 15th day of posting and were maintained in a reasonable manner.

Signature: \_\_\_\_\_

Application Numbers: CSP-10002-02/ DSP-10011-02 Name: Queens Chapel Town Center, LLC.

Date: \_\_\_\_\_

Posted: November 15, 2021 Inspected:

Address: \_\_\_\_\_

6411 Ivy Lane, Suite 200, Greenbelt,  
MD 20770

Telephone: \_\_\_\_\_

(301) 441-2420

Capacity in which you are acting: \_\_\_\_\_

Agent

(Owner, Applicant, Agent)

**NOTE:** Attach legible photograph(s) showing sign(s) in place. Return this affidavit and photographs to the Zoning Hearing Examiner no later than 15 days prior to the scheduled Zoning Hearing Examiner meeting (see attached map for posting locations).

\*

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\*

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The affidavit must be received no later than 15 days prior to the Zoning Hearing Examiner hearing. Failure to deliver the affidavit may result in rescheduling your hearing date or a recommendation for denial of the application.



Queens Chapel Town Center  
DSP-10011-02

ZHE Sign Posting Pictures

Close Up















ZONING HEARING EXAMINER  
**HEARING**

FOR INFORMATION

**301-952-3644**

APPLICATION# CSP-10002-C-02/DSP-10011-C-02  
CSP-10002-C-02/DSP-10011-C-02

For more info, please call (301) 952-3644

or Email ZHE@CO.PE.MD.US

DATE: 12-15-2021 TIME: 9:30 A.M.

**VIRTUAL HEARING**

COUNTY ADMINISTRATION BUILDING  
UPPER MARLBORO, MD  
www.princegeorgescountymd.gov





**ZONING HEARING EXAMINER**  
**HEARING**

**FOR INFORMATION**

**301-952-3644**

**APPLICATION#** CSP-10002-C-02/DSP-10011-C-02  
CSP-10002-C-02/DSP-10011-C-02

For more info Please call (301) 952-3644  
or Email: ZHEE@CO.PE.MD.US

**DATE:** 12-15-2021

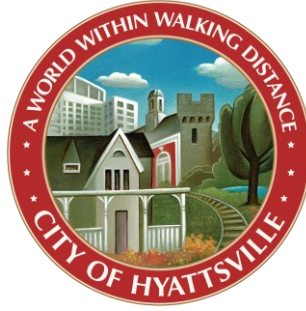
**TIME:** 9:30 A.M.

**VIRTUAL HEARING**

**COUNTY ADMINISTRATION BUILDING  
UPPER MARLBORO, MD  
[www.princegeorgescountymd.gov](http://www.princegeorgescountymd.gov)**



Kevin Ward  
Mayor



Tracey E. Douglas  
City Administrator

December 8, 2021

Ms. Maurene Epps McNeil  
Zoning Hearing Examiner  
Prince George's County Office of Zoning Hearing Examiner  
14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772

RE: Former Kentucky Fried Chicken at Queens Chapel Town Center – Amendment to Conditions of Approval for CSP-10002 and DSP-10011

Dear Ms. Epps McNeil:

On Monday, December 8, 2021, the Hyattsville City Council reviewed the applicant's requested amendment to the condition of approval for CSP-10002 and DSP-10011. The subject property is the former Kentucky Fried Chicken at 5401 Ager Road within Queens Chapel Town Center, Hyattsville.

The Hyattsville City Council voted in opposition to the applicant's request to eliminate Condition 3c of Planning Board Resolutions N. 11-07 and No. 11-08. The Subject Property is less than 0.25 miles from the West Hyattsville Metro Station and a continuation of the drive-through use is in direct contradiction to the vision and guidelines of the West Hyattsville Transit District Development Plan.

In its most recent vote to oppose the applicant's request, the City Council reaffirmed its May 16, 2011 vote in opposition DSP-10011 and CSP-10002, a prior request for amendment to the Table of Uses in the West Hyattsville Transit District Development Plan (TDDP). In its letter of opposition, the City stated that the proposed uses contradicted the intent of the main street commercial districts which should provide for a more pedestrian and non-motorized vehicle-oriented environment. The City also requested the District Council consider specifically prohibiting the pre-existing non-compliant use of drive-thru establishments when a property becomes vacant and/or transfers ownership.

Kevin Ward  
Mayor



Tracey E. Douglas  
City Administrator

The City Council, nor the community it is elected to represent, support the applicant's request, due in part because land-use policies explicitly do not support restaurant with drive-through uses because as an auto-centric use, it undermines, and in no way furthers the goal of, both the current and new West Hyattsville Transit District Development Plan.

We thank the Zoning Hearing Examiner in advance for consideration of these comments and look forward to your decision.

Sincerely,

A handwritten signature in black ink, appearing to read "KW", with a stylized flourish at the end.

Kevin Ward  
Mayor

cc: City Council  
Dan Lynch, Attorney for Applicant  
Harvey Maisel, Applicant