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April 8, 2022

Donna Brown
Clerk of the Council
Prince George's County Council
County Administration Building
Governor Oden Bowie Drive
Upper Marlboro, MD 20772



*Re. CSP-10002-C/DSP-10011-C
Queens Chapel Town Center*

Dear Ms. Brown:

On behalf of Queens Chapel Town Center, LLC, the applicant in the above referenced matter, I am writing to appeal the determination of the Zoning Hearing Examiner as contained in the decision approving the applicant's request for the Amendment of Conditions contained in CSP-10002-C and DSP-10011-C

On March 25, 2022, the Zoning Hearing Examiner ("ZHE") filed its decision in Case No. CSP-10002-C and DSP-10011-C with the District Council. This decision was based on the application's request to amend Condition 3c of the approved Conceptual Site Plan and Detailed Site Plan for Queens Chapel Town Center.

Queens Chapel Town Center is an existing shopping center located along Hamilton Street in Hyattsville. 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. That approval was for an eating and drinking establishment with drive-through service (KFC). 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.

In 2021, the tenant (KFC) vacated the property and the applicant has had difficulty leasing this space to another user due, in part to Covid, but also due to the last sentence contained in Condition 3c which provides:

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.

This language creates a significant amount of uncertainty in a future tenant's ability to continue to operate an eating and drinking establishment with drive-through service. The applicant requested that the following condition be substituted for Condition 3c:

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. Notwithstanding the above, any future redevelopment of the entire Queens Chapel Town Center Property, as shown on CSP-10002 and DSP-10011, shall not include a quick service restaurant with drive-through.

The applicant believes that this revision will allow the use to continue to operate from the property without inhibiting the ability to redevelop the entire shopping center property and ensure that the future redevelopment will only include transit oriented uses.

In her decision, the ZHE concludes, in part, that the applicant has the ability to lease the property as an eating and drinking establishment with drive through service since there is no evidence in the record that the applicant had any control over the cessation of the operation but concludes that the use cease at some point. The ZHE recommends the following condition:

Within Queens Chapel Town Center, any eating or drinking establishment, with drivethrough 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. Notwithstanding the above, any cessation of the use for a period of time in excess of 180 calendar days that is not caused by

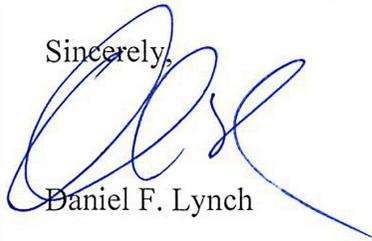
permissible renovations to the use nor required to address Code violations shall constitute abandonment of the use. If the use has temporarily ceased operation due to permissible renovation or to address a Code violation it shall be reestablished within one (1) calendar year from the date upon which the use last ceased.

Future redevelopment of the entire Queens Chapel Town Center Property, as shown on CSP-10002-C and DSP-10011-C, shall not include a quick service restaurant with or without drive-through if the use is not permitted in the zone at the time of redevelopment

Although this condition addresses the concern raised by the applicant with regard to the temporary cessation of operations due to renovations, it shortens the time frame the applicant has to fill the vacant space. That is, the applicant only has 180 days to lease the vacant space to a new user. On the other hand, the applicant's proposed condition provides the flexibility to lease the space and perform renovations while at the same time, it contains language that ensures that the use will cease at some point in the future. Specifically, the use will cease to operate at such time as the entire center is redeveloped since under the new Zoning Ordinance will not be permitted on the property.

For these reasons, the applicant respectfully requests that the Condition 3c of CSP-10002-C and DSP-10001-C be amended in accordance with this request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Lynch', is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

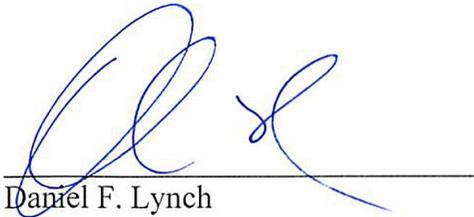
Daniel F. Lynch

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April, 2022, a copy of the foregoing Letter of Appeal was mailed electronically and by first-class, postage pre-paid to:

Stan Derwin Brown, Esquire
Stan Derwin Brown Law Office
1300 Caraway Court, Suite 101
Largo, Maryland 20774
attorney@stanbrownlaw.com

Persons of Record
(Via US Mail only)



Daniel F. Lynch

