

Case No.: DSP-11017  
Hyattsville Subway Sandwich Shop  
(Amendment of Conditions)

Applicants: Punam Singh/  
Jagjot Singh Khandpur, Esq.

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

FINAL DECISION — APPROVAL OF AMENDMENT OF CONDITIONS

IT IS ORDERED, after review of the administrative record, that the recommendation of the Zoning Hearing Examiner, to grant Applicant's request to amend Condition 1. k. of the District Council's 2013 Final Decision in Detailed Site Plan 11017 (DSP-11017), for the Hyattsville Subway Sandwich Shop, located on the western side of Baltimore Avenue (US 1), approximately 790 feet south of its intersection with Farragut Street in Hyattsville, Maryland, in Councilmanic District 2, is hereby APPROVED.

As the basis for this action, the District Council, adopts and incorporates by reference, except as otherwise stated herein, the findings and conclusions in the Zoning Hearing Examiner's decision on remand issued August 23, 2018.

Applicant requested approval of a Detailed Site Plan for a 1,400-square-foot Subway Sandwich Shop, on property described as approximately 6,367 square feet of land in the Gateway Arts District Development District Overlay Zone ("DDOZ") and the M-U-I (Mixed Use-Infill) Zone, on the western side of Baltimore Avenue (US 1), approximately 790 feet south of its intersection with Farragut Street in Hyattsville, Maryland.

In November 2012, the Planning Board approved DSP-11017, subject to conditions. The Board's approval was subject to certain deviations from development district standards and 2

conditions specific to revisions of plans: Condition 1. a.-t., and Condition 2. PGCPB Resolution No. 12-98.

In February 2013, the District Council approved DSP-11017, subject to conditions in PGCPB Resolution No. 12-98. Notice of Final Decision, 2/13/2013. Subsequently, Applicant requested amendment of certain conditions of approval. Applicant's Request to Amend Conditions, 6/7/2017.

Applicant requests to amend Condition 1. k. from:

The dumpster detail shall be revised to indicate face brick to match the color of the brick to be utilized on the first story of the building as the external sheathing architectural material.

to:

A wooden fence enclosure for the dumpster to the rear of the site.  
Id.

The Examiner held hearings on Applicant's request to amend conditions. (8/14/2017, Tr.), (7/25/2018, Tr.). After the first hearing in August 2017, the Examiner recommended approval of a revised Condition 1. k. Examiner's Decision, 10/5/2017. Before the District Council held oral argument on the Examiner's first recommendation, Applicant requested a remand to the Examiner to present, among other things, evidence of a revised Detailed Site Plan. The District Council granted Applicant's request. Notice of Decision, Order of Remand, 3/28/2018. The Examiner held a second hearing in July 2018.

In support of the request to amend conditions, Applicant's testimony was as follows:

...So, we are requesting ... to amend this condition so we can build a wooden dumpster enclosure, and the reasons for my request are the main building which this dumpster will service [is] only 1,400 square feet in dimension, and the enclosure as it is in the plans today is about 10 feet wide, eight feet deep, and seven feet high, and its

walls will be about a foot thick. We feel that ... if we are asked to build this enclosure as it is it would compete with the main building for attention, and I believe ... that's not the intention of the Council that the dumpster should be somewhat camouflaged....

\*\*\*

...The actual dumpster container that is sitting there right now is only four feet deep, six feet wide, and five and a half feet high, that's the actual metal container that's there in which the garbage is disposed. So, to build such a big structure really serves no purpose, in fact it is counterproductive.

\*\*\*

**...If we are allowed to build a smaller wooden enclosure we will get one additional parking space ... and I'm sure that will benefit the ... customers, and public in general...**And then, of course, the cost of building a brick and mortar dumpster enclosure is much more than a wooden dumpster enclosure. (Emphasis added) (8/14/2017, Tr., pp 4-6).

On remand, the Examiner recommended approval of a revised Condition 1. k. Examiner's Decision, 8/23/2018. Pursuant to Note 20 of Applicant's revised Detailed Site Plan, the Examiner recommended that Condition 1. k. be revised as follows:

20. Dumpster enclosure to be made of wood, large enough to enclose existing ballard and concrete dumpster pad, and should follow manufacturer's specifications. Wood fencing shall be opaque and constructed of vertically – run slats that are not less than three (3) inches and not more than six (6) inches in width. Dumpster enclosure gates should be durable, decay-resistant exterior-grade treated lumber and should incorporate cross bracing.

The Examiner also made a recommendation to delete Condition 1. s. (5) because that condition was incorporated in revised Condition 1. k.

Pursuant to Applicant's request to amend conditions and evidence presented, the District Council will grant the amendment of conditions in accordance with the Examiner's recommendation. Based on Applicant's evidence in support of amendment of Condition 1. k., the

District Council will also amend Condition 1. d. (1): The 8 parking spaces previously approved will be increased to 9 parking spaces. (8/14/2017, Tr., pp 4-6).

DSP-11017, as amended, is subject to the following conditions:

- **Site Design Standard 5**—To allow the proposed building to be built out to 62.8 instead of 80 percent of the site frontage.
- **Access and Circulation Standard 6**—To allow access to parking and the rear of the lot or parcel to be located on an arterial street and not on a side street or alley, and to measure more than 18 feet.
- **Parking and Loading Standard 7**—To allow the minimum number of off-street surface parking spaces to be five instead of the eight that would be required by the schedule contained in Section 27–568(a) of the Zoning Ordinance. PGCPB No. 12-98, pp. 16-17.
  1. Prior to signature approval of this detailed site plan, the following revisions shall be made to the plans and additional specified documentation submitted:
    - a. Add the deed reference “Liber 32700 at Folio 237” to the plan notes.
    - b. Add the underlying property information to the plan drawing.
    - c. Add the material label of “stucco” to the yellow-colored portions of the front façade elevation drawing, if it is to remain an architectural material for the project.
    - d. Revise the parking schedule as follows:
      - (1) To reflect that the total number of parking spaces required shall be nine (9). Parking spaces shall be for the 18 seats provided, and for the 80 square feet of gross floor area (excluding any area used exclusively for storage or patron seating, and any exterior patron service area).
    - e. The proposed outdoor lighting shall be evaluated for full cut-[o]ff optics fixtures to ensure that off-site light intrusion into adjacent and environmentally-sensitive areas designated by the 2005 Approved Countywide Green Infrastructure Plan is minimized, and so that sky glow does not increase as a result of this development.

- f. A minimum of five bicycle parking spaces shall be provided at a location convenient to the building entrance. The location and number of spaces (bicycle racks) shall be approved by the Urban Design Section and trails coordinator.
- g. The streetscape and sidewalk treatment along the subject site's frontage of Baltimore Avenue (US 1) shall be consistent in form and materials to the existing improvements immediately to the north of the subject site along the EYA development's frontage of US 1.
- h. The surface material for the sidewalk shall be continued across the site's ingress/egress point along Baltimore Avenue (US 1), or a high-visibility crosswalk shall be provided at this location.
- i. The applicant shall revise the landscape plan for the project to make it congruent to the detailed site plan for the case in all respects except that the landscape plan will provide landscaping in addition to all other information on the detailed site plan. Both plans shall be clearly legible. The Urban Design Section, as designee of the Planning Board, shall ensure that the plans are consistent with each other and both are clearly legible.
- j. The handicapped parking space shall be dimensioned as 16 feet by 19 feet.
- k. The dumpster enclosure to be made of wood, large enough to enclose existing ballard and concrete dumpster pad, and should follow manufacturer's specifications. Wood fencing shall be opaque and constructed of vertically – run slats that are not less than three (3) inches and not more than six (6) inches in width. Dumpster enclosure gates should be durable, decay-resistant exterior-grade treated lumber and should incorporate cross bracing.
- l. General Note 4 on the detailed site plan shall be corrected to indicate that the proposed building height is 20 feet, 1 inch as indicated within the building footprint and by the submitted building elevations.
- m. General Note 6 on the detailed site plan shall be revised to indicate the square footage of the landscaped area on the site as green area, not "0 square feet" as is currently indicated.
- n. General Note 7 shall be revised to reflect the actual lot coverage of the site, not 6.367 or 100 percent.

- o. The limits of disturbance shall be indicated on the detailed site and landscape plans and General Note 8 shall be corrected if and as necessary if the disturbed area varies from the 4,750 square feet currently indicated in General Note 8 on both the detailed site and landscape plans.
- p. General Note 11 on the detailed site and landscape plans shall be revised to read:  
  

“Property dimensions depicted hereon compiled and computed from land records data.”
- q. The statement that “This site is not subject to any previous approvals” shall be removed from the detailed site plan as the site is subject to approval of a plat recorded in plat book A-18.
- r. General Note 12 of the detailed site and landscape plans that refer to “this survey” shall be removed as the subject documents are not surveys.
- s. The applicant shall revise the architecture for the project as follows:
  - (1) Storefront glass shall comprise a minimum of 6 percent of the front façade.
  - (2) The front elevation shall be revised to provide brick as per the applicant’s exhibit, except to provide brick below and on the sides of the front windows. Both side and rear elevations shall be revised to provide brick instead of EIFS on all surfaces up to the line labeled “Roof Elevation.” All brick shall be of one color, and all of the pilasters shown on the applicant’s exhibit shall be retained as visual accents by protruding from the surrounding brick surfaces no less than one inch. The side elevation labeled as #2 on the applicant’s exhibit shall be revised to reduce the height of the window and awning to be consistent with the height of the window and awning on the rear façade. All windows and doors shall have green canvas canopies. Final design of the façades shall be approved by the Planning Board or its designee.
  - (3) The stucco “crown” shall be embellished to add dentil molding.
  - (4) The internally-lit sign shall be replaced with a wooden painted sign, lit by a gooseneck spotlight.

(5) DELETED.

(6) The window proposed on the north side of the proposed structure shall indicate that the window is non-operable.

t. The applicant shall add a general note to the plans stating that: "The applicant intends to conform to construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediments Control."

2. The maximum number of seats in the Subway Sandwich Shop shall be no more than 18.

3. The revised Detailed Site Plan, including the final design of the architectural improvements to the proposed building, shall be submitted to the Planning Board or its designee for review and approval.

ORDERED this 25<sup>th</sup> day of February, 2019, by the following vote:

In Favor: Council Members Anderson-Walker, Davis, Dernoga, Franklin, Glaros, Hawkins, Ivey, Streeter, Taveras, and Turner.

Opposed:

Abstained:

Absent: Council Member Harrison.

Vote: 10-0

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: \_\_\_\_\_  
Todd M. Turner, Chair

ATTEST:

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