

Case No. DSP-12062 Hyattsville Zip-In

Applicant: NSR Properties, LLC

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

ORDER AFFIRMING PLANNING BOARD DECISION,  
WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the recommendation of the Planning Board in PGCPB Resolution No. 13-144, to disapprove the requested change to the use table and the minimum height of the building, disapprove amendments to P66 and P69, and further approve Detailed Site Plan 12062 and further approve Alternative Compliance No. AC-13018 subject to conditions, on a site in the Mixed Use-Transportation Oriented (M-X-T) and Transit District Overlay (T-D-O) Zones, located in the southwestern corner of the intersection of East-West Highway (MD 410) and Belcrest Road in the City of Hyattsville, in Planning Area 68 and Council District 2, is:

AFFIRMED, subject to the District Council's original jurisdiction pursuant to Section 27-132(f)(1) of the Zoning Ordinance and its authority to modify the recommendation of the Planning Board pursuant to Section 27-290(d) of the Zoning Ordinance.<sup>1</sup>

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<sup>1</sup> District Council review of this case is also required by Section 27.548.09.01(b)(5) of the Zoning Ordinance, which provides that the District Council *may* approve, approve with conditions, or disapprove any amendment requested by a property owner under this Section. In approving an application and site plan, the District Council shall find that the proposed development *conforms to the purposes and recommendations for the Transit Development District, as stated in the Transit Development District Plan*, and meets applicable site plan requirements. (Emphasis added.)

See Section 27-108.01. Interpretations and rules of construction.

(a)(19) The words "shall," "must," "may only" or "may not" are always mandatory and not discretionary. The word "may" is permissive. The Prince George's County Code, Subtitle 27, Zoning Ordinance, (2011 ed., as amended) will be referred to hereinafter as "§27- \_\_\_."

See also §27-141 (...The Council may take judicial notice of any evidence contained in the record of any earlier phase of the approval process relating to all or a portion of the same property, including the approval of a

Procedural History

After this application and companion case was accepted on June 2, 2013, by the Development Review Section of the Planning Board, Technical Staff of the Planning Board, on November 21, 2013, conditionally recommended approval of DSP-12062<sup>2</sup> to the Planning Board. *See* Technical Staff Report, November 21, 2013.

On December 5, 2013, the Planning Board considered evidence at a public hearing regarding DSP-12062, CSP-13003, and AC-13018. *See* (12/5/2013 Tr.)<sup>3</sup>

On December 19, 2013, the Planning Board adopted Resolution 13-144, which conditionally approved DSP-12062 and AC-13018. The Planning Board recommends to the District Council DISAPPROVAL of the requested change to the use table and the minimum height of the building and DISAPPROVAL of amendments to P66 and P69.<sup>4</sup> The Planning Board however, recommends APPROVAL of DSP-12062 and AC-13018. *See* PGCPB 13-144, at 30.

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preliminary plat of subdivision.). *See also* RULES OF PROCEDURE FOR THE PRINCE GEORGE’S COUNTY DISTRICT COUNCIL (Adopted by CR-5-1993 and Amended by CR-2-1994, CR-2-1995 and CR-74-1995).

Rule 6: Oral Argument and Evidentiary Hearings:

(f) The District Council may take administrative notice of facts of general knowledge, technical or scientific facts, laws, ordinances and regulations. It shall give effect to the rules of privileges recognized by law. The District Council may exclude incompetent, irrelevant, immaterial or unduly repetitious evidence.

<sup>2</sup> DSP-12062 is a companion case to CSP-13003, which will be addressed separately.

<sup>3</sup> This matter, along with CSP-13003, was originally scheduled for November 5, 2013, but was continued by the Planning Board to allow additional time to process Alternative Compliance No. AC-13018. *See* (11/7/2013 Tr.)

<sup>4</sup> P66 relates to the minimum building height for uses other than residential shall be 4 stories.

P69 relates to build-to-lines shall be 20 feet from face of curb along Belcrest Road. A build-to-line up to 40 feet from face of curb along Belcrest Road may be permitted, provided the space between the building and the streetscape is designed for the pedestrian experience, for example, plaza, fountain, focal point, sitting area and landscaped area. *See* 1998 *Approved Transit District Development Plan for the Prince George’s Plaza Transit District Overlay Zone*, at 15.

On December 23, 2013, Michele La Rocca, Esquire, on behalf of the Applicant, appealed Planning Board's recommendations in CSP-13003 and DSP-12062 to the District Council and requested oral argument. *See* Notice of Appeal, December 23, 2013.

On January 24, 2014, the Clerk of the Council, pursuant to §27-125.04, and §27-290, sent notice of scheduled oral argument on February 24, 2014, to all persons of record. *See* District Council Notice of Mandatory Review, January 24, 2014.

On February 24, 2014, the District Council held oral arguments pursuant to §27-132, §27-290, 27.548.09.01(b), and the District Council Rules of Procedure. Mr. Jim Chandler, on behalf of the City of Hyattsville, spoke in opposition. Suellen Ferguson and the Mayor of the Town of University Park also spoke in opposition.<sup>5</sup> At the conclusion of oral argument, this matter was referred to staff for preparation of an order to adopt the recommendations of the Planning Board in PGCPB Resolution No. 13-143 (CSP-13003) and PGCPB Resolution No. 13-144 (DSP-12062 and AC-13018).

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<sup>5</sup> The Town of University Park indicated that, at their meeting on December 2, 2013, the Common Council voted unanimously strongly to support the City of Hyattsville recommendations and to oppose the revision of plans and amendment to the Table of Uses that would enable the construction of a drive-through automatic carwash. They found such a usage is inconsistent with the June 1998 Prince George's Plaza Transit District Development Plan of which the property is a part, and would significantly erode the pedestrian- and transit-oriented character required for the Transit District Overlay Zone at this critical intersection.

The Council supports the remaining conditions of approval to bring the property into conformance with current standards, such as landscaping and green space requirements, storm drain stenciling, appropriate lighting, screening of the loading space and the requirement that the applicant provide evidence of compliance with applicable laws and regulations regarding the removal of any hazardous waste or contaminants associated with the gas station.

However, the Council continues to be disappointed in the fact that this property has not redeveloped in the way envisioned in the TDDP. As a matter of policy, the Town strongly contends that low yield projects of this nature should not be encouraged. Instead, landowners and developers should be encouraged to put forth projects that enhance the evolution of the Prince George's Plaza area as a pedestrian friendly and transit oriented site. *See* Letter from Town of University Park, December 4, 2013.

## Appeal

The District Council will restate the appellate issues noted by the Applicant and respond accordingly.

### Notice of Appeal

On behalf of the owner and applicant in the two, above-referenced cases, I hereby appeal the December 19, 2013 decision of the Prince George's County Planning and request oral argument before the Prince George's County Council sitting as the District Council.

The reason for the appeal is to request the deletion of condition 1(a) in both Planning Board Resolutions which requires the removal of the proposed car wash building and use from the plan, as well as the revision of any associated plan notes, prior to certification of both the conceptual and detailed site plans.

The basis for this request is that the Table of uses of the 1998 Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone should be amended to allow for the addition of a fully automated car wash as the gas station located in the southwest quadrant of the intersection of East West Highway (MD 410) and Belcrest Road, which has existed since 1961, with amendment of mandatory development standard P66 (minimum building height for uses other than residential shall be 4 stories) and P69 (build to lines shall be 20 feet from face of curb along Belcrest Road).

The applicant contends that the amendments requests meet the statutory requirements for these amendments as detailed in the revised Statement of Justification which is part of the record for both the conceptual and detailed site plan.

Additionally, the amendments should be approved as the M-NCPPC and Planning Board found that:

- (1) The addition of a car was to the gas station would enhance the existing development on the property
- (2) Upgrading the property by adding a car wash will enhance the safety of pedestrians and motorists on or near the property
- (3) Improve local tax revenue
- (4) Does not require the expansion of existing public services or facilities

- (5) Allows the needs of the customers of the gas station to be fulfilled
- (6) Makes a more intensive use of the site prior to its possible, future redevelopment
- (7) Complements the existing gas station and enhances the character of the area by adding landscaping, updating the existing food and beverage store and making the site cohesive and visually attractive and
- (8) Will promote a more coordinated and integrated development scheme on the site

Therefore, the applicant respectfully requests that the District Council delete condition 1(a) in both CSP-13003 and DSP-12062 and approve the amendment of mandatory development standards P66 and P69 to allow for the addition of a fully automated car wash and improvements to the existing gas station.

*See* Notice of Appeal, December 23, 2013.

#### Findings and Conclusions

For the reasons stated below, we deny the applicant's request to delete condition 1(a) in both CSP-13003 and DSP-12062 and approve amendment of mandatory development standards P66 and P69.

The subject application requests revision of an existing gas station and food and beverage store and amendment of the Table of Uses of the 1998 *Approved Transit District Development Plan for the Prince George's Plaza Transit District Overlay Zone* (Prince George's Plaza TDDP), to permit a proposed 1,192-square-foot, drive-through, automatic car wash on a site in the Mixed Use-Transportation Oriented (M-X-T) and Transit District Overlay (T-D-O) Zones. *See* Technical Staff Report and Back-up Materials.

The applicant did not submit documentation to obtain a reduction in the required parking spaces as allowed in the M-X-T Zone per §27-574 of the Zoning Ordinance. Therefore, the required number of parking spaces is calculated per §27-568 requirements. *Id.*

The site is in Planning Area 68 and Council District 2. More specifically, it is located in the southwestern corner of the intersection of East-West Highway (MD 410) and Belcrest Road in the City of Hyattsville. The subject property is bounded to the west and south by the Belcrest Center mixed-use development, which includes retail and residential uses, along with the Prince George's Plaza Metro Station and associated parking structure; to the north by the public right-of-way of East-West Highway (MD 410), with the Prince George's Plaza shopping center in the C-S-C (Commercial Shopping Center) Zone beyond; and to the east by the right-of-way of Belcrest Road, with commercial development in the C-S-C Zone beyond. *Id.*

Prior approvals include Special Exception SE-691 which was originally approved for a gas station on the subject property in 1961. The existing buildings on-site were built in conformance with that approval. This SE was revised in 1979 for a kiosk on-site. Subsequently, Special Exception SE-3885 was approved for the subject property in 1989 for the purpose of adding a freestanding automatic car wash on-site and revising the gas station layout. This SE was never developed as approved. The 1992 Prince George's Plaza TDDP implemented a T-D-O Zone on the subject property, but retained the existing underlying C-S-C Zone. At that time, per §27-548.09 of the Zoning Ordinance, SE-3885 became null and void with respect to future development. The existing gas station was certified as a nonconforming use through NCGS 14, approved by the District Council on June 13, 1995. The 1998 Prince George's Plaza TDDP rezoned the subject property from the C-S-C Zone to the M-X-T Zone, but retained the T-D-O Zone. Subsequently, the variety store, food and beverage store, and fast-food use on-site were

permitted as a nonconforming use by Permit 1438-99-CU/01. A separate permit, 8749-99-CG, approved the addition of a drive-up automated teller machine (ATM) on the south side of the building in 2000. Both nonconforming uses have been maintained on-site since, with the most recent use permits being issued in 2010. The subject application does not clearly reflect the existing ATM and proposes a loading space immediately adjacent to the use and in the middle of the proposed drive-up lane for its use. Therefore, a condition has been included in this approval requiring clarification on the plan and possible redesign to accommodate this use. *Id.*

In conformance with the various previous approvals, the subject corner parcel is developed with an existing four-pump, multi-product dispenser, gas station, with red metal canopy, located in the northwestern corner of the site within ten feet of the right-of-way of East-West Highway (MD 410), between two existing, two-way, approximately 30-foot-wide driveway entrances. The existing, roughly oval-shaped, one-story, 15-foot-high, 2,983-square-foot food and beverage store is located in the middle of the site. Two approximately 30-foot-wide two-way entrances from Belcrest Road are located along the southeastern edge of the site. The majority of the rest of the site is fully paved with drive aisles and parking spaces, except for a landscaped area located in the northeastern corner of the site, closest to the intersection of MD 410 and Belcrest Road. *Id.*

The subject DSP proposes the same site improvements including a reduction in size and redesign of the food and beverage store building, the addition of the freestanding automatic car wash building, and a reconfiguration of the parking areas. The food and beverage store is to be reduced from 2,983 square feet to 2,257 square feet by the removal of the northern part of the oval shape, which is to be replaced with three proposed standard parking spaces. The new front, or northern, façade will include an all-glass aluminum-framed storefront with entrance doors and

a standing-seam-metal-roofed arched canopy with metal columns. Exterior insulation finishing system (EIFS) in horizontal stripes of two different tan colors will complete the design of the northern elevation. The other elevations of the food and beverage store, which are finished in a tan EIFS with minimal fenestration, are to remain unchanged with the subject application. *Id.*

The proposed freestanding, rectangular, one-story, 15.5-foot-high, automatic car wash consists of a 936-square-foot, single, drive-through wash lane structure, with an adjacent, attached, 256-square-foot, 12-foot-high mechanical room. This is located to the south of the food and beverage store, within 12 feet of the southern property line and 42 feet of the Belcrest Road right-of-way. The building is oriented in an east-west fashion, with the arched entrance door located along the western elevation, facing the adjacent site, and the exit door facing east toward the Belcrest Road right-of-way. The majority of the existing pavement located to the south of the car wash building, including the southernmost driveway entrance off of Belcrest Road, is to be removed and replaced with landscaping. The parking spaces and drive aisles around the food and beverage store are proposed to be reconfigured to create a one-way 18-foot-wide drive around the building to access the proposed 14 angled parking spaces. Curbing will separate the parking spaces from a new 14-foot-wide drive lane along the western edge of the existing paved area to access the car wash entrance, with stacking room for approximately eight cars. The car wash building will be finished in a horizontally-striped EIFS, in two different shades of tan, to complement the food and beverage store. Aluminum-framed storefront glass windows will be provided along the northern elevation and a white EIFS cornice will provide some emphasis to the flat roofline. Other site improvements include a new dumpster pad and enclosure located adjacent to the southwestern corner of the food and beverage store, a loading space to be located adjacent to the southern façade of the food and beverage store, relocation of the existing air

pump, and replacement of the single vacuum stations with twin vacuums. All existing site lighting is to remain, and no new lighting is proposed. There is an existing, freestanding, 25-foot-high, red and white pole sign located in the northwestern corner of the property that was built per approved permits and is to remain unchanged with the subject application. *Id.*

Our review of the subject application for compliance with the requirements of the M-X-T and T-D-O Zones of the Zoning Ordinance consisted of, but was not limited to, Slide 2 of 22 (General Location Map), Slide 3 of 22 (Site Vicinity Map), Zoning Map (Slide 4 of 22), Slide 5 of 22 (Overlay Map), Slide 6 of 22 (Aerial Map), Slide 7 of 22 (Site Map), Slide 8 of 22 (Master Plan Right-of-Way Map), Slide 9 of 22 (Bird's-Eye View Looking South), Slide 10 of 22 (Bird's-Eye View Looking North), Slide 11 of 22 (Existing East-West HWY Frontage), Slide 12 of 22 (Existing Gas Station and Canopy), Slide 13 of 22 (Existing North Elevation of Food & Beverage Store), Slide 14 of 22 (Existing East Elevation of Food & Beverage Store), Slide 15 of 22 (Existing Southern Elevation of Food & Beverage Store), Slide 16 of 22 (Existing Western Edge of the Site), Slide 17 of 22 (Existing Northern Entrance Off of Belcrest Road), Slide 18 of 22 (Existing Southern Entrance Off of Belcrest Road), Slide 19 of 22 (Site Rendering), Slide 20 of 22 (Enlarged Site Rendering), Slide 21 of 22 (Food and Beverage Store Architecture), Slide 22 of 22 (Proposed Car Wash), and the transcript of the evidentiary hearing before the Planning Board. *See* (12/5/2013 Tr.)

The subject application is in conformance with the requirements of §27-547(d), which reads as follows:

- d. At least two (2) of the following three (3) categories shall be included on the Conceptual Site Plan and ultimately present in every development in the M-X-T Zone. In a Transit District Overlay Zone, a Conceptual Site Plan may include only one of the following categories, provided that, in conjunction with an existing use on abutting property in the M-X-T Zone, the requirement for

two (2) out of three (3) categories is fulfilled. The Site Plan shall show the location of the existing use and the way that it will be integrated in terms of access and design with the proposed development. The amount of square footage devoted to each use shall be in sufficient quantity to serve the purposes of the zone:

- (1) Retail businesses;
- (2) Office, research, or industrial uses;
- (3) Dwellings, hotel, or motel.

The subject development includes only one type of use, specifically retail commercial; however, the abutting property to the south and west includes office, residential, and retail uses. Therefore, the subject application is in conformance with the requirements of this section.

The DSP is consistent with §27-548, Regulations.

(1) The subject application proposes 3,444 square feet of gross floor area on a 37,516-square-foot property, which equates to a floor area ratio (FAR) of 0.09. This is in conformance with the maximum of 0.40 FAR allowed by §27-548(a) without the use of the optional method of development. A condition has been included in this approval that the proposed FAR be noted on the plan.

(2) Developments in the M-X-T Zone are required to have vehicular access to a public street in accordance with §27-548(g) as follows:

- g. Each lot shall have frontage on, and direct vehicular access to, a public street, except lots for which private streets or other access rights-of-way have been authorized pursuant to Subtitle 24 of this Code.

The subject site has frontage on and direct vehicular access to both East-West Highway (MD 410) and Belcrest Road, which are dedicated public streets. §27-546, Site Plans, has additional requirements for approval of a DSP in the M-X-T Zone as follows:

(d) In addition to the findings required for the Planning Board to approve either the Conceptual or Detailed Site Plan (Part 3, Division 9), the Planning Board shall also find that:

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

- (a) The purposes of the M-X-T Zone as stated in §27-542 are as follows:

(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 subject application proposes the development of a new commercial use on an existing developed site, which is adjacent to a major transit stop.

(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;

This application is *not consistent* with the 2002 *Prince George's County Approved General Plan* (General Plan) for the Developed Tier and designated centers (Prince George's Plaza). (Emphasis added.) The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The vision for centers is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. The existing gas station and food and beverage store, while not transit-oriented, are permitted nonconforming uses. The proposed car wash does not fit within the recommendations for a compact, mixed-use, transit-oriented development.

(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 existing site is fully developed, which allows for few options for expansion without redevelopment of the existing use. By adding a new use to the site, as proposed with this application, the potential of the development is enhanced, but it is far from maximized as is demonstrated by the low proposed FAR compared to what is allowed.

(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;

Neither the existing gas station nor the proposed car wash promotes the optimum use of transit or reduces automobile use as both uses are auto-oriented.

(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 existing and proposed uses on the subject property do not encourage a 24-hour environment as they are pass-by service uses, as opposed to destinations after workday hours. However, as an existing nonconforming use, the gas station is entitled to remain on the site.

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

The existing and proposed uses on the subject property do not blend harmoniously with the existing mixed-use development to the south and west. However, as an existing nonconforming use, the gas station is entitled to remain on the site.

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

The proposed car wash use would, if it were approved, maintain the visual character of the existing nonconforming gas station use, while creating a functional relationship.

(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;

The proposed development would, if the car wash were approved, promote optimum land planning by consolidating a new auto-oriented use on an existing auto-oriented use site at an existing major intersection.

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

The subject application incorporates a flexible response to the market by allowing the applicant to update an existing nonconforming use regardless of whether or not the proposed car wash is approved, to allow for continued progress and to maintain the economic vitality of the existing gas station.

- (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 subject application will have a consistent level of architectural design; however, the developer is not using the opportunity to achieve excellence in physical planning as it is adding to an existing auto-oriented use immediately adjacent to an existing major transit stop.

- (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 requirement does not apply to the subject application as this property was placed in the M-X-T Zone through the TDDP, which was originally approved in 1998.

- (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 proposed car wash, if it were approved, would be visually integrated with the existing nonconforming food and beverage store on the subject property, but it is not physically or visually integrated with the existing adjacent mixed-use, Metro station development.

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

The proposed car wash, if it were approved, would be compatible with the existing nonconforming gas station use on-site, but is not compatible with the adjacent mixed-use transit-oriented development.

- (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 and arrangement of buildings reflect a cohesive design, and the proposed site improvements will improve the quality of the environment.

- (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 staging is proposed with the subject application.

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

The subject application does not propose a pedestrian system within the development as it is an auto-oriented use. There are sidewalks adjacent to the property within the public rights-of-way.

- (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 subject application does not propose any areas to be used for pedestrian activities.<sup>6</sup>

- (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.

The existing gas station and food and beverage store on-site are permitted non-conforming uses that have been in operation for more than six years. The only change proposed to these two uses is a decrease in the square footage of the food and beverage store, which will not increase their demand on public facilities. The proposed car wash use is deemed an accessory use on the subject property and would, if constructed, result in a minimal or *de minimus* impact to the surrounding transportation network. Therefore, there is no finding of adequacy needed for the subject DSP.

- (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.

The subject DSP application for a property within the T-D-O Zone is subject to the required findings in §27-548.08(c)(1) as follows:

- (A) The Transit District Site Plan is in strict conformance with any mandatory requirements of the Transit District Development Plan;

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<sup>6</sup> Subsection (9) is not applicable to this application.

The subject application is not in strict conformance with the requirements of the TDDP as discussed further below.

- (B) The Transit District Site Plan is consistent with, and reflects the guidelines and criteria for development contained in, the Transit District Development Plan;

The subject application is not consistent with the guidelines and criteria for development contained in the TDDP as discussed further below.

- (C) The Transit District Site Plan meets all of the requirements of the Transit District Overlay Zone, and applicable regulations of the underlying zones;

The subject application does not meet the requirements of the T-D-O Zone, nor the underlying M-X-T Zone as discussed further below.

- (D) The location, size, and design of buildings, signs, other structures, open spaces, landscaping, pedestrian and vehicular circulation systems, and parking and loading areas maximize safety and efficiency, and are adequate to meet the purposes of the Transit District Overlay Zone;

The design of the improvements on the property is not adequate to meet the purposes of the T-D-O Zone as discussed further below.

- (E) Each structure and use, in the manner proposed, is compatible with other structures and uses in the Transit District, and with existing and proposed adjacent development.

The only structure and use proposed with the subject application is the drive-through automatic car wash. This use and structure is compatible with the existing gas station and food and beverage store on the subject property, but these are both nonconforming uses within the T-D-O Zone. It is not compatible with the existing adjacent development to the south and west, the mixed-use transit-oriented Belcrest Center development, along with the Prince George's Plaza Metro Station and parking garage.

The subject application includes a proposed one-story automatic car wash and a change in the Table of Uses for the 1998 Prince George's Plaza TDDP.<sup>7</sup> This document supersedes the Table of Uses for permitted uses in the Zoning Ordinance for the M-X-T Zone.

The Zoning Ordinance, in §27-548.09.01(b)(1), Amendment of the Approved Transit District Overlay Zone, states the following:

(b) Property Owner.

(1) A property owner may ask the District Council, but not the Planning Board, to change the boundaries of the T-D-O Zone, a property's underlying zone, the list of the allowed uses, building height restrictions or parking standards in the Transit District Development Plan. The Planning Board may amend the parking provisions concerning the dimensions, layout, or the design of parking spaces or parking lots.

The section above allows the owner of a property to request an amendment of the list of allowed uses. The owner's representative has filed a request to amend the table of uses to allow a freestanding car wash on the subject site only. Additionally, under this section, the owner's representative has submitted a request to change the building height restrictions to allow the proposed car wash to be one-story, when the TDDP requires a minimum building height of four stories for nonresidential uses.

Additionally, §27-548.09.01(b)(5) states the following:

(5) The District Council may approve, approve with conditions, or disapprove any amendment requested by a property owner under this Section. In approving an application and site plan, the District Council shall find that the proposed development conforms to the purposes and recommendations for the Transit Development District, as stated in the Transit Development District Plan, and meets applicable site plan requirements.

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<sup>7</sup> A car wash is not a use listed in the Subarea 5 section of the use table and uses not listed in the use table are prohibited. *See* Prince George's Plaza TDDP, at 129. *See also* Community Planning Memo, July 25, 2013.

Our review of this application is mandatory because the applicant is asking for an amendment to the use table and the building height restrictions, which is only allowed if granted by the District Council. In regard to both, the Planning Board provides a recommendation to the District Council.

The purposes of the T-D-O Zone and the Prince George's Plaza TDDP contained in §27-548.03 of the Zoning Ordinance and on page 9 of the TDDP are as follows:

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

The applicant states that they surveyed the site's users to inquire how to better serve their needs and received requests for an automatic car wash. Adding the car wash to the use would enhance the existing development on the subject property; however, it would not enhance the development opportunities in the vicinity of the existing transit station as the existing and proposed uses are auto-oriented and thus contrary to transit-oriented development.

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

The applicant contends that the improvements proposed with the subject application will upgrade the property and make it safer. That may be true; however, the addition of the auto-oriented car wash will not promote the use of the adjacent transit facility.

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

The applicant contends that the addition of the one-story car wash will improve local tax revenue, which is true. However, the addition of a one-story auto-oriented use adjacent to an existing transit station will not increase the return on the investment made to build that transit system.

- (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;

We find, based on our review of the record and applicable sections of the zoning ordinance, that the subject application, which essentially expands a nonconforming use by adding a new nonconforming accessory use to the property, does not support regional and local growth strategies for intensive development adjacent to existing transit stations.

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

The T-D-O Zone allows for flexibility in development within the framework of the purposes of the zone. The subject application aims to take advantage of one of the flexibilities to add a prohibited use, but it fails to fully meet the purposes of the T-D-O Zone or the underlying M-X-T Zone.

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

The subject application does not require the expansion of existing public services or facilities. It also does not provide optimum development of the subject property to take full advantage of the surrounding existing public facilities, such as the adjacent transit station.

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

Due to the minor nature of the proposed improvements, there will be no public costs associated with this development. All costs will be borne by the applicant.

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

The subject application does not propose any new access to the adjacent Metro station as the proposed development is auto-oriented. The existing sidewalks within the adjacent rights-of-way will be maintained.

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

The applicant contends that a mix of a car wash, food and beverage store, and gasoline station on the site is appropriate as it allows the needs of the customers to be fulfilled and makes a more intensive use of the site prior to its possible future redevelopment. This may be accurate when one takes a narrow view of only the subject property. When one considers the overall T-D-O Zone area, the addition of an auto-oriented use is not appropriate.

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

The applicant contends that the proposed car wash complements the existing gas station on-site and enhances the character of the area by adding landscaping, updating the existing food and beverage store, and making the site cohesive and visually attractive. Again, this is correct when one takes a narrow view of only the subject property, but when one considers the overall T-D-O Zone area, the addition of an auto-oriented use will not complement or enhance the character of the transit district.

- (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 proposed development does not possess a desirable urban design relationship with the Metro station or the adjoining property. In fact, this property is almost completely contrary in use and design to the adjacent mixed-use transit-oriented development. However, as an existing nonconforming use, the gas station is entitled to remain on the site.

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

The applicant contends that allowing flexibility to provide the proposed car wash will promote a more coordinated and integrated development scheme on the site. Again, this is only true in a limited view of the subject property in isolation as opposed to the overall T-D-O Zone area.

In addition to the general purposes of the T-D-O Zone contained in the Zoning Ordinance, the purpose of Subarea 5 states:

To promote transit ridership by taking advantage of the transit-oriented development potential of the Metro site.

*See Prince George's Plaza TDDP, at 107.*

The proposed one-story car wash use will not promote transit ridership or take advantage of the transit-oriented development potential of the adjacent Metro site as it is purely auto-oriented and is approximately one-fourth of the development that could be allowed on the subject property. We also concur with Technical Staff that an amendment to the development plan to allow the proposed car wash would be detrimental to the transit district goals and the desired development pattern. *See Community Planning Memo, July 25, 2013.*

The applicant has submitted the required application for a DSP pursuant to §27-548.09.01(b)(6), Amendment of Approved Transit District Overlay Zone, of the Zoning Ordinance. We concur with the Planning Board that the proposed use and building height changes do not meet the requirements of §27-548.09.01, which specifies the required findings for an amendment to the Table of Uses and building height restrictions. Therefore, the Planning Board found, and we concur, removal of the proposed car wash building and use from the plans. *See Community Planning Memo, July 25, 2013. See also Slides 2-22.*

The subject property is defined as Subarea 5 in Prince George's Plaza TDDP. This makes it subject to all of the district-wide mandatory development requirements and site design guidelines, along with subarea-specific mandatory development requirements and site design guidelines. *See* Prince George's Plaza TDDP, at 107. §27-548.08(c)(1) of the Zoning Ordinance requires that the Planning Board and the District Council find that the site plan is in strict conformance with any mandatory development requirements and is consistent with the guidelines and criteria for development in the Prince George's Plaza TDDP. The Prince George's Plaza TDDP, at 20, provides a list of the types of development that are exempt from T-D-O Zone standards including legally existing nonconforming uses, exterior renovations that do not increase the gross floor area of the building by greater than ten percent, and the alteration of legally existing parking for the purposes of restriping, resurfacing, and/or landscaping. Therefore, the alterations to the food and beverage store and the changes to the parking lot are exempt from the TDDP standards and only the proposed car wash and associated improvements are subject to the TDDP standards. The applicant has requested amendments to two of the applicable mandatory development requirements as follows:

P66 The minimum building height for uses other than residential shall be 4 stories.

The applicant contends that the proposed car wash cannot be constructed to be a minimum of four stories high. However, the Planning Board found, and we concur, that the car wash use cannot be approved as an amendment to the table of uses and recommend its removal from the site plan. This would then remove the requirement for an amendment to this mandatory development requirement. *See* (12/5/2013 Tr.)

P69 Build-to-lines shall be 20 feet from face of curb along Belcrest Road. A build-to-line up to 40 feet from face of curb along Belcrest Road may be permitted, provided the space between the building and the streetscape is designed

for the pedestrian experience, for example, plaza, fountain, focal point, sitting area and landscaped area.

The submitted site plan shows the proposed car wash building to be located 42 feet from the right-of-way of Belcrest Road, which will locate it in excess of 40 feet from the face of curb. The applicant contends that this area between the car wash and right-of-way will not be appropriate for a pedestrian experience. This contention highlights the fact that the proposed car wash use is not appropriate for the subject site and the Planning Board found to condition its removal from the site plan. This would then remove the requirement for an amendment to this mandatory development requirement.

Because we concur with the recommendations of the Planning Board, the following additional findings warrant our consideration at this time:

- S14 Building materials shall be high quality, enduring and distinctive. Exterior building materials, such as pre-cast concrete, brick, tile and stone, are encouraged.

We concur with the Planning Board that the proposed EIFS building material for the car wash building is not of a high quality. However, since the Planning Board found, and we concur, to disapprove and remove the building from the plans, this requirement is not an issue.

- G10 Building rooflines should be designed as one of the major architectural interest and contribute to the overall identity of the area.
- G11 Primary entrances should be designed as one of the major architectural features so they are clearly identifiable and offer a sense of arrival.

The revised entrance design, including the roofline, for the food and beverage store is interesting and identifiable; however, the same cannot be said of the roofline for the car wash building. For example, the architecture of the existing food and beverage store and the proposed car wash are not compatible. The existing food and beverage store has a slightly sloped roof and

is constructed of EFIS exterior. A new cured metal seam roof will mark the new entrances of the store. The car wash, which will be visible from Belcrest Road, is proposed to be 15 feet-6 inches in height, will have a higher pitched roof and will be constructed of clear and bronze polycarbonate panels and clear glass panels. *See* Community Planning Memo, July 25, 2013. *See* also Slides 2-22.

In this case, for the reasons stated above, we shall follow the recommendation of the Planning Board in PGCPB Resolution No. 13-144, to disapprove the requested change to the use table and the minimum height of the building, disapprove amendments to P66 and P69, and further approve Detailed Site Plan 12062 and further approve Alternative Compliance No. AC-13018.

Affirmance of DSP-12062 is subject to the following conditions:

1. Prior to certification of the detailed site plan (DSP), the applicant shall:
  - a. Remove the proposed car wash building and use from the plan and revise any plan notes as necessary.
  - b. Remove the tree canopy coverage (TCC) schedule from the DSP and provide a note regarding TCC applicability.
  - c. Revise the site plan to note the date the original building was constructed on-site and the cumulative total of gross floor area of development after 1991.
  - d. Revise the DSP to remove the plat label “WWW 06@ PN:66.”
  - e. Add a note to the site plan to indicate that all proposed exterior light fixtures will be shielded and fixed in the full cut-off position and that footcandle levels throughout the proposed area of improvement will be minimized to the maximum extent practicable.
  - f. Revise the site plan to correctly show the location of the unmitigated 65 dBA Ldn noise contour at 168 feet from the centerline of East-West Highway (MD 410).
  - g. Revise the landscape plan to include the following note below the tree canopy coverage schedule: “The ten percent afforestation requirement is met with on-site tree canopy coverage.”

- h. Revise the site plan to include notes and a detail regarding the stenciling of stormdrain inlets with “Do Not Dump–Chesapeake Bay Drainage.” A copy of the sediment and erosion control plan containing notes and details regarding the same stenciling shall be submitted.
- i. Submit a revised landscape plan showing the locations of the proposed trash receptacles in accordance with Standard S31. Provide a symbol in the legend.
- j. Revise the site and landscape plans to provide a legend for all symbols used on the plan including, but not limited to, the hatching and shading shown on both plans.
- k. Provide an exhibit that identifies the areas of the site being used to meet the 15 percent green space requirement.
- l. Revise the plan to show a limit of disturbance and clarify the applicability of Section 4.3 of the 2010 *Prince George’s County Landscape Manual*, and show the requirements being met as necessary.
- m. Correct the number of shade trees in the Section 4.9 schedule.
- n. Revise the site plan to show the loading space being screened from Belcrest Road in conformance with the requirements of Section 4.4 of the 2010 *Prince George’s County Landscape Manual*, or move it to a location where screening can be provided as required.
- o. Note the proposed floor area ratio (FAR) on the site plan.
- p. Revise the site plan to indicate the status of the existing automated teller machine (ATM) use and, if it is to remain, show adequate access to it.
- q. The plans shall be revised to provide a minimum four-foot-wide landscape strip, planted with a mix of a minimum of 30 shrubs and perennial grasses, with species that provide for year-round seasonal interest, and a four-foot-high masonry wall for approximately 52 feet along East-West Highway (MD 410) either within the subject site, or within the Maryland State Highway Administration (SHA) right-of-way. If the applicant is unsuccessful in obtaining approval from either the Washington Suburban Sanitary Commission (WSSC) or SHA to place the wall and planting within either of their rights-of-way, the applicant shall obtain a departure prior to issuance of a building permit.
- r. Work with the Urban Design Section, as designee of the Planning Board, to identify the optimal location for the loading space.

- s. Locate a crosswalk to traverse the southwest corner of the site from the food and beverage store to the stairwell on the adjacent property, if it is determined by the Urban Design Section as designee of the Planning Board, that this connection will remain open and is safe and desirable for pedestrians.
  - t. Redesign the style and color of the proposed awning on the front of the food and beverage store to be similar to existing architecture on adjacent sites, including Belcrest Center and the pedestrian bridge over East-West Highway. Consider updating the gas station canopy to complement the proposed redesigned awning.
2. Prior to the issuance of any grading permit, any soils with residual petroleum contamination that will be disturbed must be handled in a manner that comports with all Federal, State and local regulations.

Ordered this 21<sup>st</sup> day of April, 2014, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Lehman, Olson, Patterson, and Toles.

Opposed:

Abstained:

Absent: Council Members Harrison and Turner.

Vote: 7-0

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: \_\_\_\_\_  
Mel Franklin, Chairman

ATTEST:

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