



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 15-120

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File No. SP-150006

## RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed Special Permit SP-150006, Davita Health Care – Varnum Street, requesting a special permit for a medical clinic in the Arts Production and Entertainment character area of the 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment* in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on November 19, 2015, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The 2.755-acre parcel is located on the southeast side of Varnum Street at its intersection with Eastern Avenue. The subject site, 2203 Varnum Street, is an internal unit of approximately 7,229 square feet within the Kaywood Gardens Shopping Center. The center consists of eleven individual storefronts, all of which are currently occupied. The applicant proposes to operate a dialysis center. There are no exterior improvements proposed to the subject site. Vehicular access to the shopping center is via a rear parking lot serving the shopping center. A second lot located at Varnum Street and 22<sup>nd</sup> Avenue, owned by the same property owner, is proposed to address additional parking needs for the proposed dialysis center.
- B. **History:** The Kaywood Shopping Center was constructed in the 1940s and opened in approximately 1944 with a variety of retail uses. The 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment* placed the subject property in the Arts Production and Entertainment Character Area in the Gateway Arts District. Through the years, a variety of retail, institutional and entertainment uses have operated in the shopping center. The largest use, being the former Kaywood Theatre, is now a church.
- C. **Master Plan Recommendation:** This property is located in the Existing Communities policy area of the Prince George's County Growth Policy Map in the *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035). The 1994 *Approved Sector Plan and Sectional Map Amendment for Prince George's County Gateway Arts District* (Gateway Arts Sector Plan) retains this property in the C-S-C Zone. The subject site is located in the Arts Production and Entertainment Character Area in the Gateway Arts District per the 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment*. According to the Gateway Arts Sector Plan, on page 13, “[the APE Character Area] supports a mix of arts, entertainment, artist live/work space, artist heavy-production space, small-scale retail and commercial business and entertainment uses. These areas will primarily provide the production facilities for large-scale artist endeavors within the Arts District and a location for noisier entertainment venues.”

Because the Kaywood Shopping Center includes a number of diverse tenants, including a church, retail beauty store, and fast food restaurant, the proposed medical clinic use would not be incompatible within the shopping center or adjacent uses. A medical clinic is permitted in the APE Character Area subject to the approval of a special permit.

- D. **Request:** The applicant is proposing a dialysis center medical clinic in the Arts Production and Entertainment (APE) Character Area in the Gateway Arts District.
- E. **Neighborhood and Surrounding Uses:** The site is surrounded by the following uses:
- |               |   |
|---------------|---|
| <b>North—</b> | Across Varnum Road is a BP Gas Station and an undeveloped parking lot both zoned Commercial Shopping Center (C-S-C) at the intersection of Varnum and 22 <sup>nd</sup> Avenue.                      |
| <b>South—</b> | The Kaywood Garden Apartments zoned Multifamily Medium density Residential (R-18).  |
| <b>West—</b>  | Eastern Avenue and open space located in the District of Columbia.  |
| <b>East—</b>  | An undeveloped lot and the New Horizon Christian Church Outreach Center both in the C-S-C Zone, Russell Avenue and Kaywood Garden Apartments a zoned Multifamily Medium density Residential (R-18). |

This property does not contain nor is it in close proximity to a historic property. Though it is located in the City of Mount Rainier, the site is not in the National Historic District.

- F. **Special Permit Findings:** Section 27-239.02(C) of the Zoning Ordinance states that the Planning Board may grant a special permit other zones, as provided in the use tables, if it finds:
- (i) **The site plan generally conforms with design guidelines in an approved Master Plan or other applicable plan; and**
  - (ii) **The site plan shows that the proposed use will not be incompatible with adjacent properties because of building or site design.**

The 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment* sets forth guidelines for all development in the Arts Production and Entertainment Character Area. The design standards replace requirements that are set forth in the Zoning Ordinance and the 2010 *Prince George's County Landscape Manual*. These standards set requirements for site, building, and public space design, including build-to-lines, fencing, buffers, landscaping, parking, streetscape, building height, massing and openings, signage, lighting, stormwater management, parks, and plazas. Development that increases existing gross floor area (GFA) by 15 percent or 7,500 square feet, whichever is smaller, shall subject the site to full review for compliance with the design standards. Lesser changes to the site, and additions to single-family residential dwellings, shall not subject the entire site to review for compliance, only the portion impacted by the improvement.



The applicant is not proposing new GFA in this instance, nor is the applicant making substantial renovations to the interior and exterior of the building. The applicant is seeking approval for a change in use from retail to a medical clinic for a dialysis center.

- G. **Parking Requirements:** The site is subject to the parking standards contained in the Zoning Ordinance. Parking spaces are available on Varnum Street and via an off-street parking lot at the rear of the shopping center. The construction of the property predates zoning, which allows for the grandfathering of the existing parking, as long as the new use does not exceed more parking than the prior use then the site maintains its grandfathered status. A parking schedule must be provided on a unit-by-unit basis. The parking ratio for the proposed use is one space for every 200 square feet or 37 parking spaces. The parking ratio for the prior use is calculated at a retail rate. The parking schedule should provide a note that the site pre-dates 1949 and is grandfathered per Section 27-582 of the Zoning Ordinance.

The parking lot shown at Varnum Street and 22<sup>nd</sup> Avenue has never been part of the site plan (per approval of previous permits for the subject shopping center) for the subject property, however, it is clear that the parking predated 1970 per aerial photos and has long been used as parking. If the two properties are to be combined for parking purposes Section 27-573 requires a legal arrangement recorded in Land Records for permanent availability. If the parking lot at Varnum Street and 22<sup>nd</sup> Avenue are not to be included as shown on the site plan, then it should be removed and not included in the overall count. If the parking lot at Varnum Street and 22<sup>nd</sup> Avenue is to be included, then the bearings and distances for the property (lot) involved must be noted on the site plan.

- H. **Signage:** Sign area is controlled by the regulations of Sections 27-613(c) and 27-107.01 of the Zoning Ordinance. Per Sections 27-613(c) and 27-107.01 of the Zoning Ordinance, the applicant's proposed sign appears to be well within the maximum allowed sign size (104 square feet) permitted for building-mounted signage. However, the addition of the two vinyl stars above the door exceed the allowable square footage for signage. The applicant will need to seek a departure for the sign or exclude them. The proposed sign also conforms to the definition of sign and on-site sign contained in Section 27-107.01(a) (210) and (212) of the Zoning Ordinance. Therefore, it may be said that the application conforms to this development district standard.

I. **Further Planning Board Findings and Comments from Other Entities:**

1. **Permit Review**—The building dimensions shall be noted on the site plan. The Planning Board received a sign package from the applicant, which shows signage in accordance with the sign design guidelines.
2. **Transportation Planning**—There are no master plan roadways in the immediate vicinity of the site. Varnum Street is shown with a right-of-way width of 60 feet. The shopping center fronts this street. Eastern Avenue is shown with a right-of-way width of 90 feet.



3. **Urban Design**—The subject application does not include any increase in GFA and not involve any exterior improvements. Therefore, the application is exempt from all Development District Overlay Zone standards and DSP review.

The application is not subject to the requirements of the 2010 *Prince George's County Landscape Manual* because the Gateway Arts District Development Plan states "Development District Standards replace all those contained in the Zoning Ordinance and the Landscape Manual except those exclusively noted."

The application proposes to use an existing internal unit of the shopping center building for a medical office and generates no disturbance, the TCC requirements are not triggered in accordance with Section 25-128 (b) of the County Code.

4. **Community Planning**—The proposed use is allowed by special permit. Because there is no gross square footage or exterior improvements being proposed by the applicant for the site, conformance to the development district standards in the Gateway Arts District Sector Plan is not required.

The proposed use within the existing commercial shopping center will not be incompatible with adjacent properties because of the building and site design.

The applicant is not proposing to expand the gross square footage of the property or make any exterior improvements to the building. Therefore, conformance to the development district standards within the Gateway Arts District Sector Plan is not required.

Because the Kaywood Shopping Center includes a number of diverse tenants, including a church, retail beauty store, and fast food restaurant, the proposed medical clinic use would not be incompatible within the shopping center or adjacent uses. A medical clinic is allowable with a special permit only in the APE Character Area. The proposed use would help provide needed healthcare services to residents in adjacent residential properties and complement the existing small-scale retail within the shopping center.

5. **Prince George's County Health Department**—The Health Department supports this proposal as it improves access to health care services in the local community. Health Department permit records indicate that there are greater than ten existing carryout/convenience store food facilities and two markets/grocery stores within one-half mile radius of this location. The shopping center owner should be encouraged to designate retail space for a tenant that would provide access to healthy food choices in the area.
6. **Prince George's County Department of Permitting, Inspections and Enforcement (DPPE)**—The site does not front any County-maintained roadway. Coordination with the City of Mount Rainier is necessary. The site has an approved Stormwater Management Concept Plan No. 36664-2015 dated September 10, 2015. The site plan submitted with the special permit shows proposed improvements along Varnum Street and also a

proposed commercial entrance on 22<sup>nd</sup> Avenue which is a County-maintained roadway. These improvements were not shown on the approved concept plan. A revised concept plan is to be submitted that shows these improvements and provides Stormwater management and drainage.

7. **City of Mount Rainier, Maryland**—The applicant's representative presented the proposal to The City of Mount Rainier Mayor and Council on Tuesday, November 4, 2015. The Council opted to make a recommendation regarding the application at their November 17, 2015 Work Session.

Per an e-mail from Veronica Owens, Assistant City Manager of Mount Rainier, The Mount Rainier Council expressed concerns about the following:

- a. **Signage:** The City of Mount Rainier Council would like the applicant to add "Health Care" to the signage, so that it is understood that the facility is a medical clinic and in addition, that the applicant remove "Hyattsville" from all signage.
- b. **Business Ownership:** The City of Mount Rainier Council expressed concerns regarding future ownership, such that, should the business change ownership the new business owner would need to reapply for a Special Permit.
- c. **Parking:** The City of Mount Rainier Council expressed concern regarding adequate parking and the condition of the parking lot at the corner of Varnum Street and 22<sup>nd</sup> Avenue.

With respect to concern (b), the special permit requirement is entirely dependent upon the use, not the user. If a new use is proposed in the future, the zoning analysis will be solely based upon the use, and whether that use is a permitted by right, or by special permit, and cannot be based upon who the user happens to be. As a result, changes in ownership cannot trigger a special permit zoning process, only changes in use may do so. Concerns (a) and (c) have been addressed through conditions/considerations included herein.

A letter dated November 17, 2015 was submitted to the Planning Board supporting the proposed use

8. **Other Municipalities**—No other municipalities returned comment on the subject application.



## CONCLUSION

The Planning Board may grant a special permit if it finds that the site plan is in conformance with the approved development plan and its guidelines and specific criteria for the specific use. The Planning Board found this to be the case.

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 above-noted application, subject to the following conditions:

1. Prior to certification the site plan shall be revised to include:
  - a. Bearings and distances for the all properties associated with the special permit application (shopping center and parking lot located at Varnum Street and 22<sup>nd</sup> Avenue).
  - b. The parking lot on the west side of Varnum Street shall be removed from the site plan.
  - c. The building dimensions for the subject site.
  - d. A parking schedule must be provided on a unit by unit basis.
  - e. A legal arrangement shall be recorded in Prince George's County Land Records for the joint use of the parking lot located at Varnum Street and 22<sup>nd</sup> Avenue and included in the general notes on the site plan.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the Circuit Court for Prince George's County, Maryland within thirty (30) days of 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 Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Bailey, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, November 19, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of December, 2015.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:IRT:rpg

APPROVED AS TO LEGAL SUFFICIENCY  
  
M-NCPPC Legal Department  
Date 11/23/15