

Case No. DSP-12019 Dunkin' Donuts, Lanham

Applicant: Dunkin' Donuts - Lanham

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 decision of the Planning Board in PGCPB No. 13-117, to approve with conditions a detailed site plan for a 304-square-foot building addition to an existing eating and drinking establishment with drive-through, and site modifications, located on the south side of Annapolis Road (MD 450), 650 feet northeast of its intersection with Harkins Road, subject property address is 7903 Annapolis Road, is AFFIRMED, subject to the District Council's original jurisdiction pursuant to §27-132(f)(1) and authority to modify the decision of the Planning Board pursuant to 27-290(d) of the Zoning Ordinance.¹

The detailed design of land development significantly affects the health, safety, and welfare of the general public, and because regulation of land development through fixed standards can result in monotonous design and lower quality development, certain types of land development are best regulated by a combination of development standards and a discretionary review of a Detailed Site Plan.

The purposes of the Zoning Ordinance are:

- (1) To protect and promote the health, safety, morals comfort, convenience, and welfare of the present and future inhabitants of the County;
- (2) To implement the General Plan, Area Master Plans, and Functional Master Plans;

¹ The Prince George's County Code, Subtitle 27, Zoning Ordinance, (2011 ed., as amended) will be referred to hereinafter as "§27- ____."

- (3) To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;
- (4) To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;
- (5) To provide adequate light, air, and privacy;
- (6) To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;
- (7) To protect the County from fire, flood, panic, and other dangers;
- (8) To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;
- (9) To encourage economic development activities that provide desirable employment and a broad, protected tax base;
- (10) To prevent the overcrowding of land;
- (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;
- (12) To insure the social and economic stability of all parts of the County;
- (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;
- (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.

See §27-102.

Some general purposes of a detailed site plan are to 1) provide for development in accordance with the principles for the orderly, planned, efficient and economical development contained in the General Plan, Master Plan, or other approved plan, 2) help fulfill the purposes of the zone in which the land is located, and 3) provide for development in accordance with the site design guidelines established in Division 9 (Site Plans) of the Zoning Ordinance.

DSP-12019 is subject to the 2010 *New Carrollton Approved Transit District Development Plan and Adopted Transit District Overlay Zoning Map Amendment* (New Carrollton Plan). PGCPB No. 13-117, 4, Technical Staff Report, September 30, 2013, Community Planning Memo, May 6, 2013. The purpose of the New Carrollton Plan is to ensure

that future development around the New Carrollton Metro Station maximizes transit ridership, revitalizes the area while maintaining its socio-economic diversity, and adopts a sustainable development pattern. The plan set out a development vision for the New Carrollton Transit District that articulates vibrant and diverse neighborhoods, a multimodal transportation system, sustainable and accessible environment infrastructure, and pedestrian-oriented urban design. New Carrollton Plan, 1, PGCPB No. 13-117, 4. With regard to streetscapes, some general intent, standards and guidelines of the New Carrollton Plan are as follows:

Streetscapes –

General Intent

To create consistent and inviting streetscapes along residential, commercial, and mixed-use streets and a distinctive visual character throughout the TDDP area. To create “complete streets” to provide an environment that is easier, safer, and more pleasant for walking, bicycling, and driving.

Standards

1. *Requirement for Complete Green Streets:* Streets shall accommodate all modes of transportation and integrate with an interconnected street and pedestrian network. Streets shall also be designed as green streets that incorporate ESD stormwater management features.
2. *Street Characteristics and Design Criteria:* The following design standards shall be used to ensure that new streets meet the function and demand for the facility type. Because the final design of the roadway can vary from segment to segment (due to adjacent land uses and demands), the system standardizes key characteristics to provide consistency while also allowing flexibility.
3. *Maximum Length of Block Perimeters:* Block perimeters shall not exceed 1,600 feet measured along the public or private street right-of-way.
4. *Maximum Length of Public and Private Streets:* Block lengths for public and private streets shall not exceed 500 feet between through streets, measured along the street right-of-way.

5. *Permissible Deviations from Strict Compliance with Block Dimension Standards:* The standards for block perimeters and lengths shall be modified to the minimum extent necessary based on findings that strict compliance with the standards is not reasonably practical or appropriate due to:
 - a. Topographic constraints
 - b. Existing development on abutting property which precludes the logical connection of streets or accessways
 - c. Railroads
 - d. Traffic safety concerns
 - e. Functional and operational needs to create a large building
 - f. Protection of significant natural resources
6. *Undergrounding of Public Utilities on New Development Sites:* All utility lines on new development sites shall be underground where feasible, but utility vault access lids may be located in the sidewalk area.
7. *Street Connectivity Requirement:* Connections shall be provided between new streets in the TDDP area and existing local and minor collector streets.
8. *Streetscapes as ESD Stormwater Management Amenities:* All streetscapes shall incorporate ESD stormwater management features in accordance with county and state requirements as well as known best practices.
9. *Streetscape Elements as Part of Site Plan Submissions:* Streetscape elements of street trees, street furniture, landscaping and planters, decorative paving, sculpture/artwork, and bus shelters shall be provided on the streetscape plan. All streetscape elements shall include information of location, spacing, quantity, construction details, and method of illumination and shall be required for all streets in accordance with the New Carrollton TDDP streetscape sections and public realm elements.
10. *Advertisements and Signage in Public Spaces:* Advertisements and signage shall be prohibited on all streetscape elements with the exception of bus shelter advertisements approved by the appropriate public transit authority (WMATA or TheBus). The posting of transit service-related information within the

public right-of-way shall be subject to the approval of MDOT, DPW&T and the City of New Carrollton.

11. *Permitted Streetscape Elements*: Permitted streetscape elements shall include:

- a. Street trees (located in tree grates along urban streets and planting beds along residential streets)
- b. Street furniture (benches, trash receptacles, lighting, and bus shelters; prior approval from DPW&T, WMATA, SHA, and/or the applicable municipal public works agency shall be required)
- c. Landscaping and planters
- d. Decorative paving
- e. Sculpture/artwork (prior approval from DPW&T, WMATA, SHA, and/or the applicable municipal public works agency shall be required)

12. *Consistency of Design Elements*: Streetscape elements such as paving, street furniture, and street trees shall be consistent within a development project and shall be consistent along the street wall. Samples of proposed paving materials should be submitted with the detailed site plan for review and approval by M-NCPPC staff, DPW&T, and, where applicable, municipal public works officials.

13. *Streetlights*: Streetlights shall be installed on both sides of streets along the street tree alignment line and, unless otherwise designated in the TDDP, at no more than 60-foot intervals measured parallel to the street. At the time of development, the developer shall be responsible only for the installation of streetlights on the side of the street that is being developed.

Guidelines

Public alleys or major off-street bike/pedestrian pathways, designed as provided in this chapter, may be used to meet the block length or perimeter standards of this section.

See New Carrollton Plan, 150-152.

Street Type Specifications –

Intent

To ensure that all street types are designed as attractive, pedestrian- and bicycle-friendly public spaces that conform to the concept of “complete streets.”

Standards

1. **Permitted Street Types:** All new streets built within the TDOZ area shall conform to one of the following types: arterials (example: Annapolis Road), collectors (examples: Ellin Road, Garden City Drive), local streets, and alleys.
2. **Use of Street Design to Slow Down or “Calm” Vehicular Traffic:** Streets shall be designed to encourage or force drivers to travel at lower speeds and drive less aggressively through the use of such traffic-calming devices as raised crosswalks, speed tables or humps, on-street parking, curb bumpouts at intersections and in the middle of blocks exceeding 250 feet in length, and landscaped medians with pedestrian crossing refuges.
3. *Primacy of Pedestrian Scale in Street Design:* All streetscape elements, including but not limited to signage, lighting, and street furniture, shall be designed to pedestrian scale. Highway-scale directional signs and streetlights shall be restricted to gateway areas where access ramps to John Hanson Highway and the Capital Beltway are located. Highway-scale directional signs placed at selected locations as required by the State Highway Administration (SHA) to meet established highway safety standards shall be exempt from this requirement.
4. *Interconnected Street Network:* New local streets shall be designed as an interconnected street grid so that traffic capacity can be diffused and maintained across numerous streets.

Guidelines

1. In pedestrian-oriented areas, nonvehicular traffic should be provided with every practical advantage over vehicular traffic so long as public safety is not adversely affected.
2. Vehicular travel lanes should not exceed 11 feet in width. Wider lanes encourage traffic to move at higher speeds that

endanger the safety of pedestrians, waiting transit riders, and bicyclists.

3. Ellin Road, 85th Avenue, and other TDOZ streets that have been, or might be, proposed as possible routes for the future Purple Line and its proposed extensions should be designed to accommodate this transit facility as part of a safe, pedestrian-friendly street environment.

See New Carrollton Plan, 152-153.

Pedestrian/Bike Accessways Within Public Street Right-of-Way –

Intent

To provide clearly delineated, attractive, and safe pathways for pedestrians and bicyclists within the public street rights-of-way.

Standards

1. Requirement for Pedestrian-Scaled Amenities: Within 600 feet of station entrances, pedestrian-scaled amenities shall be required every 100 square feet of the sidewalk area, including but not limited to:
 - a. Street furniture
 - b. Plantings
 - c. Distinctive paving
 - d. Ornamental lighting
 - e. Drinking fountains
 - f. Sculptures
2. Clearly Marked Pedestrian Crossings: Public street, driveway, loading area, and surface parking lot crossings shall be clearly marked with textured accent paving or painted stripes.
3. Articulation of Sidewalk Cross Section: The different zones (curb, furnishings, through, frontage) of a sidewalk shall be articulated using special paving or concrete scoring.
4. *Sidewalks*: All sidewalks designated in the TDDP shall be constructed according to the streetscape requirements listed in this section and shall meet the sidewalk width(s) delineated in the TDDP streetscape sections. Sidewalks not designated in the TDDP shall be at least five feet wide and shall meet county specifications.

5. *Permitted Materials:* Brick, precast pavers, concrete, tinted and stamped asphalt, Belgium block, or granite pavers are permitted materials. Samples of proposed paving materials shall be submitted with the detailed site plan for review and approval by M-NCPPC staff.
6. *Sidewalk Requirements:* Sidewalks are required for all street frontages along which occupied structures (commercial, residential, or mixed-use) occur.
7. *Coordination of Proposed Bikeway Facilities in Public Street Rights-of-Way with Appropriate Public Works Agencies:*

Proposed new bikeway facilities within the public right-of-way of state maintained roads shall conform to State Highway Administration (SHA)-approved standards and guidelines, and their design, approval, and construction shall be coordinated with SHA. Similar coordination with the appropriate public works agency or agencies shall be required for proposed bikeway facilities within other public street rights-of-way. Appendix D: Bike Facility Definitions may be referenced for further guidance in the design of these facilities.

Guidelines

1. Sidewalks adjacent to undeveloped parcels may be temporary.
2. Wherever possible, wide sidewalks should be used in higher-density commercial and mixed-use areas to allow for amenities such as café seating, comfortable pedestrian pathways, street trees, and street furniture.
3. Private sidewalks and walkways should be provided to connect street sidewalks to primary commercial and residential building entries, public transportation, public open spaces, and parking areas by the most direct route practicable. On-site pedestrian walks should not substitute for required public sidewalks.
4. Adjoining developments should minimize auto/pedestrian conflicts and maximize convenient access between buildings.

See New Carrollton Plan, 153-154.

With this statutory framework in mind, we are also mindful of the zoning laws in Maryland. The Court of Appeals of Maryland recently held that when statutes link planning and

zoning, Master Plans are elevated to the level of true regulatory devices. *HNS Dev., LLC v. People's Counsel for Balt. County*, 425 Md. 436, 42 A.3d 12 (2012), affirming *HNS Development, LLC v. People's Counsel for Baltimore County, et al.*, 200 Md. App. 1, 24 A.3d 167 (2011), citing *Mayor & City Council of Rockville v. Rylyns Enters., Inc.*, 372 Md. 514, 814 A.2d 469, (2002). The Court also held that plans that did not conform to the Master Plan must be rejected, and nonconformance may serve as an independent basis of denial. *Id.*, citing *Maryland-National Capital Park & Planning Commission v. Greater Baden-Aquasco Citizens Association*, 412 Md. 73, 985 A.2d 1160 (2009), *Coffey v. Maryland-National Capital Park & Planning Commission*, 293 Md. 24, 441 A.2d 1041 (1982).

We have reviewed the Site Vicinity Map (Slide 3 of 19), Overlay Map (Slide 5 of 19), TDOZ Neighborhoods (Slide 6 of 19), Aerial Map (Slide 7 of 19), Site Map (Slide 8 of 19), Master Plan Right-of-Way Map (Slide 9 of 19), Bird's Eye View with Approximate Site Boundary Outlined (Slides 10 and 11 of 19), Rendered Landscape Plan (Slide 12 of 19), Existing Building (Slide 13 of 19), North Elevation (Slide 14 of 19), South Elevation (Slide 15 of 19), East Elevation (Slide 16 of 19), West Elevation (Slide 17 of 19), and Signage (Slide 18 and 19 of 19). We have also reviewed May 6, 2013, Memorandum from Community Planning Division, which found that this application is not *strictly* in conformance with the mixed-use recommendations of the New Carrollton Plan.

Based on our analysis of the evidence in the record and our detailed review of the New Carrollton Plan, we conclude that several additional conditions are necessary for this detailed site plan to conform to the development standards of the New Carrollton Plan. Our findings are based on our interpretation of the design standards of the New Carrollton Plan, which are reflected in conditions below. *See Lussier v. Md. Racing Comm'n*, 343 Md. 681, 696-97, 684 A.2d 804

(1996), *McCullough v. Wittner*, 314 Md. 602, 612, 552 A.2d 881 (1989) (An agency's interpretation of the statute that it administers will be given considerable weight).

Affirmance of the Planning Board's decision is subject to the following conditions:

A. APPROVAL of the alternative development district standards for:

1. **Annapolis Road Neighborhood Standard 1:** To permit a one-story building.
2. **Annapolis Road Neighborhood Standard 2:** To permit a build-to line approximately 14 feet from the property line.
3. **Annapolis Road Neighborhood Standard 3:** To permit a building coverage of approximately 13 percent of the lot and 54 percent of the street frontage.
4. **Annapolis Road Neighborhood Standard 5:** To permit existing surface parking lots along the side of the building.
5. **Building Form and Scale, Building Façade Treatments Standard 3:** To permit less than 70 percent store front glass.
6. **Building Form and Scale, Signage, Standard 9:** To permit building-mounted signage with interior lighting to the extent this amendment is necessary.

B. APPROVAL of Detailed Site Plan DSP-12019, Dunkin' Donuts, Lanham, with the following conditions:

1. Prior to certificate of approval of the detailed site plan (DSP), the following revisions shall be made, or information shall be provided:
 - a. The revisions to the westernmost access shall be defined by additional curbing and excess asphalt shall be removed and replaced with green area, subject to modification by the State Highway Administration (SHA). Parking spaces shall be reduced from 15 total parking spaces to 13 total parking spaces.
 - b. Restriped parking spaces shall demonstrate adequate back-up distance on the subject property without movement into the right-of-way.

- c. The setback of the proposed building addition to the right-of-way shall be reflected on the plan.
- d. The architectural elevations shall be revised to indicate the use of natural brick veneers in the desired colors instead of painted brick.
- e. The architectural elevations shall be revised to indicate decorative brick detailing along the top of all sides of the building for visual interest. This shall be accomplished by changing the pattern of the brick, or modifying the projection of one or two rows of brick, and not by introducing new high-contrast brick colors. The final treatment shall be approved by the Urban Design Section as designee of the Planning Board.
- f. A note shall be placed on the DSP indicating that all proposed brick veneers shall be genuine brick.
- g. The canopy graphics area shall be reduced and the total building-mounted sign area shall not exceed 94 feet.
- h. The existing freestanding pylon sign and existing Dunkin' Donuts drive-through sign along the site's frontage shall be indicated to be removed.
- i. Indicate the project's floor area ratio in a plan note.
- j. The DSP shall be modified to include an outdoor seating area. This area shall be provided along the front of the building or at another location deemed appropriate by the Urban Design Section as designee of the Planning Board. Details of coordinated outdoor furniture, such as a bench, seat wall, or table, and a trash receptacle shall be provided for this space.
- k. Plan notes referencing a concrete masonry wall shall be removed.
- l. Proposed full cut-off light fixtures shall be positioned as to not direct glare onto adjacent properties. A note to this effect shall be placed on the DSP.
- m. A detail of an attractive masonry dumpster enclosure shall be provided. The design of the dumpster enclosure shall be coordinated with the building and include brick, or brick

veneer. The final design shall be approved by the Urban Design Section as designee of the Planning Board.

- n. To create consistent and inviting streetscapes along residential, commercial, and mixed-use streets and a distinctive visual character throughout the TDDP area and to create “complete streets” to provide an environment that is easier, safer, and more pleasant for walking, bicycling, and driving, the DSP streetscape shall be modified. The sidewalk across the property’s frontage on Annapolis Road shall be rebuilt to include a grass buffer of at least a minimum of 4 feet between the sidewalk and the road, subject to SHA approval. The sidewalk shall connect with existing sidewalk on either side of the property.
 - o. The two access points between Annapolis Road and the property shall have stamped concrete or embedded thermoplast walkways across the driveway.
 - p. Additional green space shall be provided rather than marked pavement in the rear corners of the property and where the parking spaces were eliminated subject to approval by MNCPPC staff.
2. The following notes shall be placed on the plan:
- a. During the demolition/construction phases of the project, the project shall conform to construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control;
 - b. During the demolition/construction phases of the project, the project shall conform to construction activity noise control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.

Ordered this 24th day of March, 2014, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, 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: _____
Mel Franklin, Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council