



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

PGCPB No. 2020-44

File No. CSP-19009

RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Conceptual Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on March 26, 2020, regarding Conceptual Site Plan CSP-19009 for 5600 Ager Road, the Planning Board finds:

1. **Request:** The subject application is a property owner's request to change the list of allowed uses for the subject property, in accordance with Section 27-548.09.01(b) of the Zoning Ordinance. The companion case, DSP-19053 (PGCPB Resolution No. 2020-45), was approved by the Planning Board on the same day for the same request.

2. **Development Data Summary**

	EXISTING	APPROVED
Zone	M-X-T/T-D-O	M-X-T /T-D-O
Use(s)	Commercial	Commercial
Acreage	0.32	0.32
Parcels	1	1
Building Square Footage/GFA	1,134	1,134

3. **Location:** The site is in Planning Area 68 and Council District 2. More specifically, it is located in the northwest quadrant of the intersection of Ager Road and Jamestown Road.
4. **Surrounding Uses:** The subject property is bounded to the north by vacant land in the Mixed Use-Transportation Oriented (M-X-T) and Transit District Overlay (T-D-O) Zones, which was part of the infrastructure Detailed Site Plan, DSP-16029, for Riverfront at West Hyattsville Metro. To the east of the site is the right-of-way for Ager Road, an arterial roadway. Beyond Ager Road are commercially developed properties in the Townhouse (R-T) Zone. To the south is the bus entrance for the West Hyattsville Metro Station. The West Hyattsville Metro Station is located approximately 900 feet southwest of the subject site.
5. **Previous Approvals:** The existing building on-site was built in approximately 1956 and used as an automobile filling station and repair shop for many years. In 1998, the gas station use was discontinued, and the storage tanks were removed. In 2000, a permit (S157-98-CU) was issued for a grocery store use, which remained active into 2010. Upon cessation of the grocery store use, the site remained unused for approximately 16 months. In 2006, the *Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone* (West Hyattsville TDDP) was adopted, and the property was placed in the Townhouse Preferred Land Use Plan Category, which prohibited most commercial

uses. In 2011–2012, three permit applications were filed that sought to utilize the site for commercial operations, including a consignment shop, hair salon, and food and beverage store. These applications were denied and in 2012 a request for a Certification of Nonconforming Use (CNU-28266-2012) was disapproved due to the cessation of operations at the site for greater than 180 days. The site has not been regularly utilized since the cessation of the grocery store in 2010.

6. **Design Features:** The subject site is developed with an existing 1,134-square-foot building and paved parking area. This conceptual site plan (CSP) requests only a change in the list of allowed uses for the subject property, with no physical changes proposed at this time. The following is a description of the existing layout of the property.

The subject site is approximately 0.32 acre, rectangular in shape, relatively flat, mostly paved, and free of any trees, landscaping, or significant vegetation. Existing development on the subject site is limited to a one-story, rectangular commercial building totaling 1,134 square feet. The building is located adjacent to the western property boundary. Two curb cuts provide access from Ager Road. Sections of metal guardrail are located along parts of the northern and western property lines. Multiple donation drop-off bins are in the paved area of the site, adjacent to Ager Road.

As defined by the West Hyattsville TDDP, the site is located in the Hamilton Square neighborhood and is in the Townhouses 2-4 Stories Preferred Land Use Category. The TDOZ use table for this category includes a single permitted retail/ commercial use, specifically for seasonal decorations display and sales as a temporary use, in accordance with Sections 27-260 and 27-261 of the Zoning Ordinance. The subject CSP proposes to permit nine additional retail/commercial uses on the subject site, as follows:

- Eating or Drinking Establishment—such as a casual, fast-casual, or quick-service restaurant or coffee shop.
- Food or Beverage Store—such as a routine convenience store.
- Food or Beverage Goods Preparation on the Premises of a Food and Beverage Store—such as a bakery, sandwich shop, pizza shop or similar, preparing and selling food.
- Barber, Hair Salon, or Beauty Shop—such as a routine convenience service.
- Hardware Store, Clothing, or Dry Goods Retail—such as a household supplies and apparel store.
- Banks, Savings and Loan Associations, or Other Savings and Lending Institution—such as a bank branch.
- Medical or Professional Office—such as a doctor, dentist, orthodontist, physical therapist, accountant, tax prep, attorney, insurance office or similar professional services.

- Pet Grooming Shop—such as pet food, pet supplies and pet grooming, with no pet boarding.
- Non-Automobile Repair Shop—such as watch repair, electronics and computer repair, appliance repair.

The applicant's statement of justification did not initially request a food or beverage store, just food or beverage preparation on the premises of a food or beverage store. In order to have the latter, the former needs to be permitted and is currently not for this property. Therefore, the Planning Board has included the addition of a food or beverage store as a permitted use for the subject property since it is in keeping with the example uses listed by the applicant.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The subject CSP application proposes a change in the allowed uses for the subject site only from the West Hyattsville TDDP. This document supersedes the Table of Uses for permitted uses in the Zoning Ordinance for the M-X-T Zone. In addition, since the building exists and no new construction is proposed, the site plan design guidelines of the Zoning Ordinance are not applicable at this time.

The applicant has submitted the required applications for CSP and DSP pursuant to Section 27-548.09.01(b)(6), Amendment of Approved Transit District Overlay Zone. The Planning Board has evaluated the proposed uses and finds that all of them meet the requirements of Section 27-548.09.01, which specifies the required findings for an amendment to the list of allowed uses. The Planning Board has reviewed the CSP against the criteria for approval in the M-X-T Zone, as set forth in Section 27-546(d) of the Zoning Ordinance and determined the following:

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

There is no development proposed with these plans, as the proposed changes to the permitted uses will only allow for additional commercial and retail uses on the subject site only. All proposed uses are found to be consistent with the purposes and other provisions of Division 2, Part 10 (Mixed Use Zones), of the Zoning Ordinance.

- (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 or include a major employment use or center which is consistent with the economic development strategies of the Sector Plan or General Plan;**

This does not apply, as the site was zoned M-X-T before October 1, 2006.

- (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 existing site has not changed significantly since it was converted from a gas station use in 1998. Several minor renovations were completed in the 2000s, but building and site conditions were not substantially modified. The proposed changes to the list of allowed uses will result only in a change of commercial and retail uses allowed on the site, with no new construction proposed. Therefore, the proposed CSP will have no impact on the existing development's outward orientation, or its physical or visual integration with existing adjacent development.

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

Proposed changes to the list of allowed uses, as limited by the conditions of approval, will be compatible and complimentary to existing and proposed development in the vicinity. Mixed-use developments are proposed to abut the subject site and the West Hyattsville Metro station. The expanded potential uses of the subject site will allow for a greater mix of small-scale commercial options to serve the neighborhood and transit users of the Metro station.

- (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 will be enhanced by the expansion of permitted uses, as limited by the conditions of approval, and better enable the creation of an independent environment of continuing quality and stability on-site and in the surrounding neighborhood. The single existing retail/commercial use permitted on-site is a hinderance to satisfying this M-X-T Zone requirement.

- (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 site development activity is proposed, and as such this requirement is not applicable at this time. Future development of the site to accommodate a new use will need to demonstrate conformance with all applicable M-X-T and T-D-O standards.

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

The subject site is served by public sidewalks along its frontage of Ager Road and the Metro station bus entrance. Proposed changes to the list of allowed uses, as limited by the conditions of approval, will not reduce or compromise the convenience or design of facilities provided for pedestrians in the development.

- (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).**

This requirement does not apply as the subject application is not a DSP.

- (9) **On a Conceptual Site Plan for property placed in the M-X-T Zone by a Sectional Map Amendment, transportation facilities that are existing; that are under construction; or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, or the current State Consolidated Transportation Program, will be provided by the applicant, or are incorporated in an approved public facilities financing and implementation program, will be adequate to carry anticipated traffic for the proposed development. The finding by the Council of adequate transportation facilities at the time of Conceptual Site Plan approval shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.**

The CSP does not propose any new development on the subject property and therefore, presents no new transportation demands or requirements.

- (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.**

This requirement does not apply as the subject application is not a 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 and is not proposed as a Mixed-Use Planned Community.

8. **2006 Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment for the West Hyattsville Transit District Overlay Zone:** The Transit District Development Plan (West Hyattsville TDDP) places 5600 Ager Road within the Hamilton Square neighborhood, in the Townhouse: 2-4 Stories Preferred Land Use Category.

The applicability section of the West Hyattsville TDDP states that all new development must show compliance with the West Hyattsville TDDP standards in the site plan review process. Since the subject CSP shows no new development, they are not required to meet development standards at this time. However, this should not be taken to validate the existing physical development in any way or to exempt any future development or redevelopment of this property from the need to show conformance with the TDDP standards.

The applicant contends that the Table of Uses for this Preferred Land Use Category is too restrictive, does not allow many uses common to similar, small commercial properties, and does not allow for retail or commercial uses that are complimentary to the vision of the West Hyattsville TDDP on this site, which is directly adjacent to the West Hyattsville Metro Station. The property was retained in the M-X-T Zone at the time of the approval of the West Hyattsville TDDP. The subject site was developed approximately 50 years prior to adoption of the West Hyattsville TDDP, and has been vacant for approximately ten years. Increasing the types of permitted retail and commercial uses for this property would provide needed opportunities to activate the site in a manner consistent with the vision of the West Hyattsville TDDP.

The applicant has requested the following nine retail/commercial uses be added to the list of allowed uses for the subject property only:

- Eating or Drinking Establishment—such as a casual, fast-casual, or quick-service restaurant or coffee shop.
- Food or Beverage Store—such as a routine convenience store.
- Food or Beverage Goods Preparation on the Premises of a Food and Beverage Store—such as a bakery, sandwich shop, pizza shop or similar, preparing and selling food.
- Barber, Hair Salon, or Beauty Shop—such as a routine convenience service.
- Hardware Store, Clothing, or Dry Goods Retail—such as a household supplies and apparel store.
- Banks, Savings and Loan Associations, or Other Savings and Lending Institution—such as a bank branch.
- Medical or Professional Office—such as a doctor, dentist, orthodontist, physical therapist, accountant, tax prep, attorney, insurance office, or similar professional services.

- Pet Grooming Shop—such as pet food, pet supplies and pet grooming, with no pet boarding.
- Non-Automobile Repair Shop—such as watch repair, electronics and computer repair, appliance repair.

Prior long-time uses of the property consisted of a gas station, which operated for approximately 50 years, and a grocery store, which operated for approximately 10 years. The grocery store use ceased around 2010, and property has not been utilized since that time. The adoption of the West Hyattsville TDDP in 2006 made nearly all commercial and retail uses of the property nonconforming. As provided by the Table of Uses Permitted, the only permitted retail and commercial use of the subject property, within the Townhouse: 2-4 Stories Preferred Land Use Category, is seasonal decorations display and sales as a temporary use, in accordance with Sections 27-260 and 27-261.

In accordance with Section 27-548.09.01(b)(5), in approving the subject applications, the Prince George's District Council shall find that the proposed development conforms with the purposes and recommendations for the Transit Development District, as stated in the Transit District Development Plan, and meets applicable site plan requirements. The Planning Board supports the addition of the nine retail/commercial uses proposed by the applicant, with conditions, for the subject site only and offers the following discussion as to conformance with the goals of the West Hyattsville TDDP (page 1):

The goal of the West Hyattsville TDDP is to provide a clear and predictable path for transit-oriented development (TOD) within the West Hyattsville TDOZ...The 2002 Prince George's County Approved General Plan (page 44) defines TOD as development that actively seeks to increase the transit use and decrease automobile dependency by:

- **Locating homes, jobs, and shopping closer to transit services;**

The subject site is located directly adjacent to the West Hyattsville Metro Station. Providing for new retail/commercial uses would create shopping and job opportunities directly adjacent to the West Hyattsville Metro Station.

- **Locating the mix of critical land uses (living/working/shopping) in closer proximity to one another; and**

Allowing additional commercial uses on the subject site will allow for a wider variety of land uses to activate the site, creating a better mix of shopping and basic service choices adjacent to the Metro station and residential communities.

- **Establishing land use/transit linkages that make it easier to use transit (rail and bus).**

As previously noted, the existing site is located directly adjacent to the West Hyattsville Metro Station, which makes it easily accessible from trains and bus routes. The existing, vacant site can be considered an undesirable condition that, when activated with a small-scale commercial or retail operation, would make for a more comfortable pedestrian linkage between existing neighborhoods, the Metro station, and associated bus stops.

As stated on page 4 of the West Hyattsville TDDP:

The main purpose of this plan is to maximize the public benefits from the West Hyattsville Metro Station. The plan sets out primary goals emphasizing the neighborhood, environment, transportation, and low-impact development (LID):

- **Promote TOD near the Metro Station and create a sense of place consistent with the neighborhood character areas.**

The existing site is underutilized and activating the property with a new commercial or retail use will create a stronger sense of place consistent with the neighborhood character area and vision of the West Hyattsville TDDP. Additional retail/commercial uses proposed for the site would provide greater opportunity for site activation with a use to serve transit users and the local community. Conditions have been included herein setting limitations on the proposed uses to ensure those adopted are consistent with the vision and goals of the West Hyattsville TDDP.

- **Ensure that all new development or redevelopment in the transit district is pedestrian-oriented.**

The applicant is not proposing any new development or redevelopment to the existing site. However, the existing development is small-scale, includes sidewalks along the western and southern frontages, and is walkable to the West Hyattsville Metro Station. The proposed additional uses for the site would allow for the sale of goods and services, catering to transit users and the local community within walking distance of the Metro station.

- **Restore, protect, and enhance the environment by protecting environmentally sensitive areas, minimizing impacts of development, and expanding recreational opportunities and trail and bikeway connections.**

There are no known environmentally sensitive areas on or directly adjacent to the site, and no new physical development proposed. Therefore, this goal does not apply to the subject CSP.

- **Maximize residential development opportunities within walking distance of the Metro Station.**

The subject site lies within the Townhouses 2-4 Stories Preferred Land Use Category within the TDDP. The small size of the site limits opportunities for residential development, in accordance with the guidelines of the West Hyattsville TDDP. Providing for small-scale retail or commercial use of the property without major physical modifications would provide existing and future residents with a new opportunity for shopping within walking distance of the Metro station.

9. **2010 Prince George's County Landscape Manual:** The CSP is not subject to the *Prince George's County Landscape Manual* (Landscape Manual), as the application proposes no increase in gross floor area or impervious surface, and there is no change of use from a lower to higher impact use category. The prior grocery store use and the uses proposed to be permitted on the site are all medium impact as provided by the Landscape Manual. Future proposals to amend allowed uses or alter existing site conditions will need to demonstrate conformance to the applicable requirements of the Landscape Manual at that time.
10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** This property is exempt from the Woodland and Wildlife Habitat Conservation Ordinance because it contains less than 10,000 square feet of existing woodland. Per Sections 27-273(e) and 27-282(e) of the Zoning Ordinance, an approved natural resources inventory, and tree conservation plan or letter of exemption are submittal requirements for a CSP. As part of the CSP application, the applicant submitted applications for a Woodland Conservation Letter of Exemption, and for a natural resources inventory equivalency letter. Approved exemption and equivalency letters must be submitted prior to certificate approval of the CSP, as conditioned herein.
11. **Prince George's County Tree Canopy Coverage Ordinance:** This property is not subject to the Tree Canopy Coverage Ordinance at this time because no building, grading, or other development activity is proposed. At such time that disturbance or gross floor area more than 5,000 square feet is proposed, conformance with the Tree Canopy Coverage Ordinance will be reevaluated. The tree canopy coverage schedule should be removed from the plan, as conditioned herein.
12. **Further Planning Board Findings and Comments from Other Entities:** The subject applications were referred to the concerned agencies and divisions. The referral comments are summarized as follows:
 - a. **Permit Review**—Permit-related revisions have been incorporated into the plan set.
 - b. **Community Planning**—The Planning Board reviewed a memorandum dated February 25, 2020 (Mierow to Bossi), incorporated herein by reference, which supports a change to the list of allowed uses, as requested by the property owner.

Future uses of the site should activate the pedestrian realm, minimize the number of curb cuts, and avoid drive-through service.

- c. **Prince George's County Police Department**—In a memorandum dated February 3, 2020 (Contic to Planner Coordinator), the Police Department noted they have no comments on the CSP application.
- d. **City of Hyattsville**—In a letter dated March 2, 2020 (Hollingsworth to Hewlett), incorporated herein by reference, the City of Hyattsville indicated the City Council voted in support of the applicant's request to allow for the following uses to be permitted at 5600 Ager Road:
 - (1) Eating or drinking establishment (without drive-through service)
 - (2) Food or beverage goods preparation on the premises of a food and beverage store
 - (3) Barber/hair salon and beauty shop
 - (4) Hardware store
 - (5) Offices
 - (6) Pet grooming shop

The City further requested the following uses be approved by the Planning Board subject to Special Permit only:

- (a) Banks, savings and loan association, or other savings and lending institution
- (b) Non-Automobile Repair shop

Subject to these conditions, the City believes the applicant's request is in conformance with the vision and land-use goals of the West Hyattsville TDDP.

However, there is no requirement for special permit uses in the TDOZ; so the Planning Board considers these as permitted uses, subject to limitations, as conditioned herein to ensure such uses are transit-supportive and conform with the West Hyattsville TDDP land-use goals.

- 13. As required by Section 27-276(b)(1) of the Zoning Ordinance, the CSP will, if approved in accordance with proposed conditions and limitations on proposed uses, represent a most reasonable alternative for satisfying the site design guidelines without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.

In addition, per Section 27-276(b)(4), which became effective on September 1, 2010, a required finding for approval of a conceptual site plan is as follows:

The plan shall demonstrate the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).

There are no regulated environmental features found on the subject property; therefore, no preservation or restoration is necessary.

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 Conceptual Site Plan CSP-19009 for the above described land, subject to the following condition:

1. Prior to certification of the plan, the applicant shall:
 - a. Submit a copy of an approved natural resources inventory equivalency letter.
 - b. Submit a copy of an approved Woodland Conservation Letter of Exemption.
 - c. Remove the tree canopy coverage schedule from the plan and provide a note regarding the applicable exemption.
 - d. The following permitted uses for the subject property, 5600 Ager Road, shall be listed on the plan:
 - (1) Eating or drinking establishment (without drive-through service)
 - (2) Food or beverage store
 - (3) Food or beverage goods preparation on the premises of a food and beverage store
 - (4) Barber, hair salon, or beauty shop
 - (5) Hardware store, clothing, or dry goods retail
 - (6) Banks, savings and loan associations, or other savings and lending institution
 - (7) Medical or professional offices
 - (8) Pet grooming shop
 - (9) Repair shop (non-automotive) for small items (such as bicycles, watches, electronics, clothing, and shoes)

The uses hereby approved for 5600 Ager Road are subject to the following limitations:

- (1) No automobile dependent uses are permitted.
- (2) No drive-through services are permitted.
- (3) No check-cashing businesses are permitted.

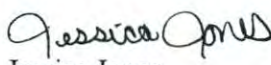
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

* * * * *

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 Geraldo, with Commissioners Washington, Geraldo, Bailey, Doerner and Hewlett voting in favor of the motion at its regular meeting held on Thursday, March 26, 2020, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of April 2020.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

EMH:JJ:AB:nz

APPROVED AS TO LEGAL SUFFICIENCY

David S. Warner /s/
M-NCPPC Legal Department

Date: March 31, 2020