



TUESDAY, OCTOBER 13, 2015
CITY OF COLLEGE PARK
COUNCIL CHAMBERS

7:30 P.M.
MAYOR AND COUNCIL MEETING
AGENDA

MEDITATION

PLEDGE OF ALLEGIANCE: Councilmember Brennan

ROLL CALL

MINUTES: Special Session on September 15, 2015; Regular Meeting on September 22, 2015; Special Session after Regular Meeting on September 22, 2015.

ANNOUNCEMENTS

ACKNOWLEDGMENT OF DIGNITARIES

ACKNOWLEDGMENT OF NEWLY APPOINTED BOARD AND COMMITTEE MEMBERS

AWARDS

PROCLAMATIONS

AMENDMENTS TO THE AGENDA

CITY MANAGER'S REPORT: Scott Somers

STUDENT LIAISON'S REPORT: Cole Holocker

COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS

PRESENTATIONS

CONSENT AGENDA

- 15-R-19 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Appeal Number CEO-2015-01, 5007 Quebec Street, College Park, Maryland, And Granting Approval Of Variances From The Following Requirements: Prince George's County Zoning Ordinance, Section 27-420(A), City Code §87-23 B.C., And F. To Permit The Reconstruction Of A 6-Foot High, Board-On-Board Fence Within The Front Yard CPV-2015-05, 4903 Laguna Road
- Motion By:
To: Approve
Second:
Aye: ___ Nay: ___
Other: _____

15-R-20 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Variance Application Number CPV-2015-05, 4903 Laguna Road, College Park, Maryland, Recommending Approval Of A Variance From Section 27-120.01(C) Of The Prince George’s County Zoning Ordinance, “Front Yards Of Dwellings,” To Construct A Driveway Addition In The Front Yard, 13 Feet In Width By 26.04 Feet In Length

ACTION ITEMS

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|----------|--|---|
| 15-G-108 | Approval of a letter to the Berwyn District Civic Association in response to their August 20, 2015 letter donating the Berwyn Sign to the City | Motion By: Brennan
To:
Second:
Aye: __ Nay: __
Other: _____ |
| 15-G-109 | Approval of an easement between the City of College Park and the property owner of 4801 Berwyn Road for the Berwyn Sign | Motion By: Brennan
To:
Second:
Aye: __ Nay: __
Other: _____ |
| 15-G-110 | Approval of a City position for the Board of License Commissioners Show-Cause Hearing for the July 31 incident at Backyard Sports Grill | Motion By: Day
To:
Second:
Aye: __ Nay: __
Other: _____ |
| 15-G-111 | Approval of a letter to the Secretary of the Maryland Department of Transportation with City comments on the MDOT Draft 2016 – 2021 Consolidated Transportation Plan | Motion By: Kabir
To:
Second:
Aye: __ Nay: __
Other: _____ |
| 15-G-112 | Appointments to Boards and Committees | Motion By:
To:
Second:
Aye: __ Nay: __
Other: _____ |

COUNCIL COMMENTS

COMMENTS FROM THE AUDIENCE

ADJOURN

INFORMATION/STATUS REPORTS (For Council Review)

This agenda is subject to change. For the most current information, please contact the City Clerk. In accordance with the Americans with Disabilities Act, if you need special assistance, please contact the City Clerk’s Office and describe the assistance that is necessary. City Clerk’s Office: 240-487-3501

MINUTES

MINUTES
Special Session of the College Park City Council
Tuesday, September 15, 2015
Council Chambers
10:18 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stulich, Day and Hew.

ABSENT: Councilmember Mitchell

ALSO PRESENT: Bill Gardiner, Acting City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Bob Ryan, Director of Public Services; Jeannie Ripley, Code Enforcement Manager; Cole Holocker, Student Liaison; Adler Pruitt, Deputy Student Liaison.

During a regularly scheduled Worksession of the College Park City Council, a motion was made by Councilmember Brennan and seconded by Councilmember Dennis to enter into a Special Session to consider the application by Town Hall Liquors for a Special Sunday Off-Sale Permit. The possibility of this Special Session was listed on the Worksession Agenda. With a vote of 7 – 0 – 0, the Council entered into a Special Session at 10:18 p.m.

ACTION ITEMS

15-G-106 Approval of a City position on the application by Town Hall Liquors for a Special Sunday Off-Sale Permit and to authorize the City Attorney to prepare a PUA.

A motion was made by Councilmember Brennan and seconded by Councilmember Dennis to authorize the City attorney to prepare a Property Use Agreement (PUA) reflecting the City's position (support for improvements to the exterior including façade, signage, improved fencing and lighting in the rear, and interior flooring) in return for a position of no opposition on their application for a Special Sunday Off-Sale Permit, and authorize the City Manager to sign the PUA, and staff to testify the City's position at the BOLC hearing.

Councilmember Brennan stated that the City Council needs to act on this in Special Session tonight because the BOLC hearing is September 22. He said that all of the critique the Council gave tonight is with good intention and they look forward to the business continuing to thrive in the City. Mr. Higgins said the business has been offered for sale so they don't know what the future will bring.

There were no comments from the audience or from the Council.

Mr. Ryan said that the applicant's attorney, Linda Carter was not able to attend tonight due to a family emergency.

The motion passed 7 – 0 – 0.

ADJOURN:

A motion was made by Councilmember Brennan and seconded by Councilmember Dennis to adjourn from the Special Session, and with a vote of 7 – 0 – 0, Mayor Fellows adjourned at 10:20 p.m.

Janeen S. Miller, CMC
City Clerk

Date
Approved

MINUTES
Regular Meeting of the College Park City Council
Tuesday, September 22, 2015
Council Chambers
7:30 p.m. – 8:21 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Day, Hew and Mitchell.

ABSENT: Councilmember Stullich

ALSO PRESENT: Bill Gardiner, Acting City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Terry Schum, Director of Planning; Bob Ryan, Director of Public Services; Bob Stumpff, Director of Public Works; Randall Toussaint, Economic Development Coordinator; Cole Holocker, Student Liaison; Adler Pruitt, Deputy Student Liaison.

Mayor Fellows opened the Regular Meeting at 7:30 p.m. Councilmember Wojahn led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Brennan and seconded by Councilmember Day to adopt the transcript in lieu of minutes of the August 11, 2015 Oral Argument in Case CPD-2014-01 re: 4618 College Avenue; the minutes of the Special Session on September 1, 2015, the Public Hearing on Ordinance 15-O-04 held on September 8, 2015 and the Regular Meeting on September 8, 2015. Mayor Fellows noted a correction needed on the transcript to correct the spelling of the name “Schnabel”. The motion passed 7 – 0 – 0.

Announcements:

Councilmember Mitchell discussed her participation in the Lakeland Community Heritage Project weekend events.

Councilmember Day attended the press event for the new coffee/wine bar that is opening at the location where the College Park Auto Parts store is located on Route 1. He said it will be a great gateway establishment and should open by next August.

Councilmember Dennis was on the planning committee for the Lakeland Community Heritage Project events and thanked the volunteers who helped.

Councilmember Brennan reported on the successful “Third Thirsty Thursdays” event for the Neighborhood Quality of Life Committee promoting homeownership in the City. He also announced that he recently graduated from the Academy for Excellence in Local Governance.

Councilmember Wojahn discussed his participation in the Lakeland Community Heritage Project weekend, and the upcoming College Park Day event.

Councilmember Kabir said the Lions Club is hosting a blood drive on Monday, September 28 at the College Park United Methodist Church.

Councilmember Hew said there is a dance at the Aviation Museum on Saturday after College Park Day.

Amendments to the Agenda: Councilmember Day said we will be removing item 15-G-103 from the agenda.

City Manager's Report: Acting City Manager Bill Gardiner discussed College Park Day and said the list of candidates in the November 3 City election is posted on the website. Terry Schum introduced the new Economic Development Coordinator, Randall Toussaint.

Student Liaison's Report: Mr. Holocker reported on the implementation of alcohol sales at the stadium. The revenue from increased sales has funded alternative events on campus on Thursday, Friday and Saturday nights.

Comments From The Audience on Non-Agenda Items:

James Mulholland, 7411 Columbia Avenue, with Phi Kappa Psi: He discussed the community outreach that his fraternity is involved in. They helped a great number of people last year and hope to partner with the IFC and PHA.

CONSENT AGENDA: A motion was made by Councilmember Dennis and seconded by Councilmember Day to adopt the Consent Agenda, which consists of the following item:

15-G-102 Award of contract for two replacement trash trucks from Heil Environment in an amount not to exceed \$551,768 to be funded from Master Lease #3 effective January 2016, subject to contract review and approval by the City Attorney.

The motion passed 7 – 0 – 0.

ACTION ITEMS:

15-R-18 Adoption of 15-R-18, a Resolution of the Mayor and Council in Case CPD-2014-01 re: 4618 College Avenue

A motion was made by Councilmember Day and seconded by Councilmember Mitchell to adopt Resolution 15-R-18, A Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Departure Number CPD-2014-01, 4618 College Avenue, College Park, Maryland, Recommending, With Conditions, A Departure Of 11.4 -Feet From The Required 22-Foot Driveway Width.

Ms. Ferguson confirmed that we have received a copy of the recorded joint driveway agreement amendment, and that the applicant has met all of the conditions.

There were no comments from the audience or the Council.

The motion passed 7 – 0 – 0.

15-G-104 Approval of an Agreement with Election Systems & Software, LLC (ES&S) for Electronic Voting Machines and associated costs in the November 3 elections

A motion was made by Councilmember Dennis and seconded by Councilmember Day that the City Council approve an Agreement with Election Systems & Software, LLC of Omaha, Nebraska for one-time rental of equipment, sale of services and license of software, for electronic voting machines for use in the November 3, 2015 City elections, in an amount not to exceed \$15,000, subject to approval of the Agreement by the City Attorney. The City Manager is authorized to sign the approved Agreement.

Councilmember Dennis said that City elections will be held on November 3. For the first time in many years, every district and the Mayoral race will be contested. Because of the number of names that will appear on the ballot, and the highly likely increase in voter turnout due to the number of candidates, the Board of Election Supervisors has recommended that we use electronic voting machines for this election. The paper ballot/hand count method that has been used in previous elections is time-consuming and subject to human error on election night, at the end of a long day at the polls. The Board of Elections has not faced this situation in many years, thus their request to use electronic machines for this election. The system that we will use involves a paper ballot that is scanned into an optical reader. This is the same company that the state of Maryland will use for the 2016 elections. The Board of Election Supervisors will receive training on the equipment prior to the election, and a technician from ES&S will be available on Election Day for any needed support.

Comments from the audience:

Jack Robson, Chief, Board of Election Supervisors: Mr. Robson said this is the first time in over 20 years that we have had competition for Mayor and all City districts, so they expect more voters. It would be a long night if they have to hand count the ballots.

Councilmember Kabir requested that we post information about the new voting method on the website.

Councilmember Wojahn asked about accommodations for visually impaired voters. Mr. Robson said that although he hasn't had any complaints, he would investigate the cost of such equipment.

Councilmember Dennis urged us to make all possible efforts to get information out about the new voting method.

The motion passed 7 – 0 – 0.

15-G-105 Appointments to Boards and Committees

A motion was made by Councilmember Hew and seconded by Councilmember Mitchell to appoint Drew Hogg as the Graduate Student Government representative to the Neighborhood Quality of Life Committee. The motion passed 7 – 0 – 0.

COUNCIL COMMENTS:

Councilmember Wojahn thanked everyone who attended last night's Live Smart Eat Local event.

Mayor Fellows said this is the first time in a while that he has not filed to run for office but he is pleased with the number of people who are running.

COMMENTS FROM THE AUDIENCE: None.

ADJOURN: A motion was made by Councilmember Brennan and seconded by Councilmember Dennis to adjourn from the Regular Meeting. Mayor Fellows stated that the Council would now be meeting in a Worksession. With a vote of 7 – 0 – 0, Mayor Fellows adjourned the Regular Meeting at 8:21 p.m.

Janeen S. Miller, CMC
City Clerk

Date
Approved

MINUTES
Special Session of the College Park City Council
Following the Regular Council Meeting
Tuesday, September 22, 2015
Council Chambers
10:25 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stullich, Day, Hew and Mitchell.

ABSENT: None.

ALSO PRESENT: Bill Gardiner, Acting City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Terry Schum, Director of Planning; Bob Ryan, Director of Public Services; Randall Toussaint, Economic Development Coordinator; Cole Holocker, Student Liaison; Adler Pruitt, Deputy Student Liaison.

During a Special Worksession of the College Park City Council following the Regular Meeting on September 22, a motion was made by Councilmember Brennan and seconded by Councilmember Day to enter into a Special Session to consider two applications for City Revitalization Tax Credits submitted by David Hillman for 1) The Hotel at UMCP and 2) 8321 College Park Hotel, LLC. The possibility of this Special Session was listed on the Worksession Agenda. With a vote of 8 – 0 – 0, the Council entered into a Special Session at 10:25 p.m.

[Council discussed each Tax Credit application and various conditions prior to entering into the Special Session. Ms. Schum explained that new Revitalization Tax Credit guidelines that go into effect on September 29 remove the waiver provision that allows a project to apply for a tax credit after the DSP has been approved. These tax credit applications are being brought to Council tonight because each would require a waiver of the requirement that they be filed prior to DSP approval. After September 29, that waiver provision is no longer in effect so these projects would not be eligible. If Council wishes to grant the tax credit, they need to do so prior to September 29.]

ACTION ITEMS

15-R-21 Resolution Of The Mayor And Council Of The City Of College Park To Grant A Waiver Pursuant To §175-13 Of The City Code, Upon Finding That The Purposes Of The Law Will Be Equally Well Served By Doing So, To The Hotel At UMCP, LLC, And To Approve A Revitalization Tax Credit For The Real Property Located At 7777 Baltimore Avenue, College Park, For A Period Of Five Years Beginning In The First Fiscal Year After Completion

A motion was made by Councilmember Stulich and seconded by Councilmember Day to authorize the City Attorney to prepare a Resolution approving a tax credit for The Hotel at UMCP, based on the following conditions:

- 1. Grant a waiver under 175-13 of the City Code**
- 2. Approve tax credit based on the increased assessment of City tax for 5 years based on the standard schedule**
- 3. Approval is conditioned on:**
 - a. Applicant's compliance with Agreement dated March 24, 2015**
 - b. Receipt of all required building permits**
 - c. The revised City Code provisions for 175-10, 175-11 and 175-12 will apply**
 - d. Agreement of Applicant not to contest taxability of the Property**

This is subject to the City Attorney preparing a Resolution that gives effect to the Council's intent. The Mayor is authorized to sign the Resolution

Councilmember Stulich said she has not always been a fan of retroactive tax credits but this is a very special project that will revitalize our main street and stimulate redevelopment in our downtown. They made design changes to protect our airport which she believes enhanced the project.

There were no comments from the audience.

Councilmember Day said this is a game changer, and thanked the applicant for meeting the City's requirements to change the project at the last minute.

Councilmember Hew appreciates the caliber of the project and thinks it will be a catalyst for other development.

Councilmember Stulich also lauded the locally owned businesses that will be included in the retail and said many College Park residents are excited about the project.

The motion passed 8 – 0 – 0.

15-R-22 Resolution Of The Mayor And Council Of The City Of College Park To Grant A Waiver Pursuant To §175-13 Of The City Code, Upon Finding That The Purposes Of The Law Will Be Equally Well Served By Doing So, To 8321 College Park Hotel, LLC, And To Approve A Revitalization Tax Credit For The Real Property Located At 8319 Baltimore Avenue, College Park, For A Period Of Five Years Beginning In The First Fiscal Year After Completion

Ms. Schum said Mr. Hillman recently purchased the former Koons Ford property. The DSP for this project (which is the hotel/CVS/parking garage at the Koons Ford site) was previously approved when it came to Council by Keane Enterprises. At that time it was combined with the residential portion at 4700 Berwyn House Road. The projects have now been severed and the housing piece is owned by Wood Partners, and the hotel/CVS/garage piece has been purchased by Mr. Hillman. At the time of DSP we received a tax credit application from Keane Enterprises for the entire College Park Place project but staff found that it did not meet the eligibility requirements. The tax credit application before you tonight is just for the hotel piece of the project.

A motion was made by Councilmember Dennis and seconded by Councilmember Brennan to approve the Revitalization Tax Credit for 8321 College Park Hotel located at 8319 Baltimore Avenue (the former Koons site) subject to the conditions previously cited, to be provided in a Resolution to be prepared by the City Attorney, and authorization for the Mayor to sign the Resolution.

Councilmember Dennis said the Koons property has been vacant for as long as he has been on Council. His neighborhood was glad when the former project came along. But now that Mr. Hillman has purchased the property the project is expected to be even better.

Councilmember Brennan added that this project will serve to promote the type of development we want to see in the City and along the corridor. The long-term impact to the City exceeds the short term credit that we are providing over the five year period. We look forward to enjoying the new amenities the project will bring to the neighborhood.

Councilmember Day reminded everyone that when The Hotel at UMCP came before the Council Mr. Hillman said that there would be a need for additional hotel rooms to support the conference center. He thanked Mr. Hillman for backing that up by stepping in and buying the second hotel; this raises the bar and puts the pressure on other hotels to do the right thing.

The motion passed 8 – 0 – 0.

ADJOURN:

A motion was made by Councilmember Dennis and seconded by Councilmember Stulich to adjourn from the Special Session, and with a vote of 8 – 0 – 0, Mayor Fellows adjourned at 10:40 p.m.

Janeen S. Miller, CMC
City Clerk

Date
Approved

15-R-19

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND ADOPTING THE RECOMMENDATIONS OF THE ADVISORY PLANNING COMMISSION REGARDING APPEAL NUMBER CEO-2015-01, 5007 QUEBEC STREET, COLLEGE PARK, MARYLAND, AND GRANTING APPROVAL OF VARIANCES FROM THE FOLLOWING REQUIREMENTS: PRINCE GEORGE'S COUNTY ZONING ORDINANCE, SECTION 27-420(A), CITY CODE §87-23 B.C., AND F. TO PERMIT THE RECONSTRUCTION OF A 6-FOOT HIGH, BOARD-ON-BOARD FENCE WITHIN THE FRONT YARD

- WHEREAS,** the City of College Park, Maryland (hereinafter, the "City") has, pursuant to §190-1 *et seq.*, and in accordance with Section 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by the Ordinance to grant an application for a waiver or variance for lot size, setback, and similar requirements where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** the City is authorized by the Ordinance to grant a variance whereby reason of an extraordinary situation or condition, the strict application of the Fence Ordinance would result in peculiar and unusual practical difficulty to or an exceptional or undue hardship upon the owner of the property; and a variance can be granted without substantial impairment of the intent, purpose and integrity of the Fence Ordinance; and where, if applicable, the variance is consistent with the Design Guidelines adopted for the Historic District; the variance will not adversely affect the public health, safety, welfare, or comfort; the fence for which a variance is requested incorporates openness and visibility as much as is practicable, provided that the fence may not be constructed of chain link unless the material is consistent with the surrounding neighborhood; and the fence construction, including setbacks, is characteristic of and consistent with the surrounding neighborhood; in neighborhoods where chain link is a characteristic material, alternate materials incorporating openness and visibility, may be permitted; and
- WHEREAS,** the City has adopted Section 87-23 "Fences" (hereinafter, the "Fence Ordinance"), and established certain restrictions on the construction and reconstruction of fences on residential properties, including a prohibition on front yard fences and side yard fences where the side lot line is a continuation of the front yard line of the adjacent lot; and

WHEREAS, Section 27-420(a) restricts fences in the front or side yard to four feet for corner lots of one acre or less; and

WHEREAS, the Advisory Planning Commission (hereinafter "APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and other requirements from which a variance may be granted by the Prince George's County Board of Appeals, including variances from Section 27-442(c) of the Prince George's County Zoning Ordinance, and to make recommendations to the Mayor and Council in connection therewith; and

WHEREAS, on August 14, 2015, Victoria-Maria MacDonald (hereinafter, the "Applicant"), submitted an appeal from City Code, §87-23, which restricts fences from being constructed in the front yard and from the Prince George's County Zoning Ordinance, Section 27-420(a), to permit the reconstruction of a 6-foot high board-on-board fence within the front yard at the premises known as 5007 Quebec Street, College Park, Maryland (the "Property");

WHEREAS, on September 3, 2015, the APC conducted a hearing on the merits of the application, at which time the APC heard testimony and accepted evidence, including the staff report and Exhibits 1 – 11 with respect to whether the subject application meets the standards for granting a variance set forth in the Ordinance.

WHEREAS, based upon the evidence and testimony presented, the APC voted 5-0-0 to recommend that the variance be granted; and

WHEREAS, the Mayor and Council are authorized by §190-6 to accept or deny the recommendation of the APC with respect to variance requests; and

WHEREAS, the Mayor and Council have reviewed the recommendation of the APC as to the Application and in particular have reviewed the APC's findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed; and

WHEREAS, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC as to the Application as follows:

Section 1. Findings of Fact

- 1.1 The property is a triangular-shaped, corner through lot with street frontage on three sides, although, one street (Pontiac Street) has not been improved. It has one side yard and no rear yard.
- 1.2 The property contains 9,000 square feet and is improved with a 2-story, single-family frame house that was built in 1903 and a shed.

- 1.3 The northern property line along Quebec Street measures ± 113 feet, the eastern property along Patuxent Avenue measures ± 131.5 feet; the southern property line along Pontiac Street (unimproved) measures ± 15 feet; and the western property line measures 150 feet.
- 1.4 The house faces Quebec Street.
- 1.5 There are existing fences as follows: A 5-foot high wood picket fence along Patuxent Avenue, a 4-foot high wood picket fence along the Pontiac right-of-way and a 4-foot high chain link fence along the western property line.
- 1.6 The surrounding neighborhood is single-family residential with some fences.
- 1.7 According to the Prince George’s County Code, all yards abutting streets are to be considered “front yards” (Section 27-107.01 (a) (261)) and an unimproved right-of-way is also to be considered a street (Section 27-107.01 (a) (225)). According to Section 27-107.01 (a) (263) for a through lot “any yard that does not abut a street is a side yard.” According to the City Code, a through corner lot shall have one apparent front yard with the other 2 yards abutting streets being side street yards. In order to obtain permits, the County Code definition needs to be used.
- 1.8 The property owner has a large, 70-pound German Sheppard K9 protection rescue dog that easily jumps over the existing 5-foot high fence.

Section 2 Conclusions of Law

The Mayor and Council make the following conclusions of law with regard to CEO-2015-01 for a variance to replace a worn 5-foot high wood picket fence with a board-on-board 6-foot high fence (the top foot would be lattice) and replace a 4-foot high chain link fence with a 42-inch high wood picket fence in the front yard of a corner through lot.

- 2.1 There is an extraordinary situation or condition that would support the request for a variance.

The lot is an unusual shape (generally triangular) and has an extraordinary condition in that it is a corner through-lot fronting on three rights-of-way. Based on the County definition, this lot has three front yards, one side yard and no rear yard which is unusual.

- 2.2 The denial of the variance would result in a peculiar and unusual practical difficulty to, or exceptional or undue hardship to the property owner.

Denial of the variance will result in an undue hardship by denying the owner the use of a functional back yard. Due to the uniqueness of the lot being a corner through-lot (having three frontages), the applicant does not have a legal back yard. Rather, the proposed fence will serve to help create a back yard for the property owner.

- 2.3 Granting the variance will impair the intent, purpose or integrity of the Fence Ordinance.

Granting the variance will not impair the intent, purpose or integrity of the Fence Ordinance because the applicant has demonstrated an extraordinary condition, a lot with no legal back yard. It is not the intent of the Fence Ordinance to prohibit a property owner from enjoying a back yard. Further, no new fence is proposed in the apparent front yard, and replacement of existing fences is permitted.

- 2.4 The variance is consistent with the design guidelines adopted for the historic district, if applicable.

Not applicable, the property is not located in an historic district.

- 2.5 The variance will adversely affect the public health, safety, welfare or comfort.

Granting the variance will not adversely affect the public health, safety, welfare or comfort. The fence is proposed along Patuxent Avenue and the Pontiac right-of-way which was never improved and is used as a park. Site distance for visibility and safety purposes will not be adversely affected.

- 2.6 The fence for which an appeal is requested incorporates openness and visibility as much as is practicable, provided however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood.

One fence is proposed to be board-on-board with the top foot being lattice. The other fence is proposed to be a picket fence. Both these fences will incorporate sufficient openness and visibility and are consistent with the surrounding neighborhood.

- 2.7 The proposed construction, including setbacks, is characteristic of and consistent with the surrounding neighborhood. In neighborhoods where chain link is a characteristic material, alternate materials incorporating openness and visibility, may be permitted.

The portion of the fence that is located in back of the house and presents as a back yard fence is characteristic of and consistent with the surrounding neighborhood. The proposed replacement picket fence is also characteristic of and consistent with the surrounding neighborhood.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park, Maryland that the findings of fact and conclusions of law of the APC are hereby adopted and a the requested variances for CEO-2015-01 to permit fencing as shown on the submitted site plan with the condition that the replacement fence along Patuxent Avenue be at least as far from the existing curb as the current fence are hereby Granted.

ADOPTED, by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 13th day of October 2015.

CITY OF COLLEGE PARK,
MARYLAND

Janeen S. Miller, CMC
City Clerk

Andrew M. Fellows, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Suellen M. Ferguson
City Attorney

15-R-20

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND ADOPTING THE RECOMMENDATIONS OF THE ADVISORY PLANNING COMMISSION REGARDING VARIANCE APPLICATION NUMBER CPV-2015-05, 4903 LAGUNA ROAD, COLLEGE PARK, MARYLAND, RECOMMENDING APPROVAL OF A VARIANCE FROM SECTION 27-120.01(C) OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, "FRONT YARDS OF DWELLINGS," TO CONSTRUCT A DRIVEWAY ADDITION IN THE FRONT YARD, 13 FEET IN WIDTH BY 26.04 FEET IN LENGTH

- WHEREAS,** the City of College Park, Maryland (hereinafter, the "City") has, pursuant to §190-1 *et seq.*, and in accordance with Section 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by the Ordinance to grant an application for a waiver or variance for lot size, setback, and similar requirements where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** Section 27-422 (c), Table II, of the Prince George's County Zoning Ordinance prescribes a maximum lot coverage of 30% in the R-55 zoning district; and
- WHEREAS,** the Advisory Planning Commission (hereinafter "APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and other requirements from which a variance may be granted by the Prince George's County Board of Appeals, including variances from Section 27-442(c) of the Prince George's County Zoning Ordinance, and to make recommendations to the Mayor and Council in connection therewith; and
- WHEREAS,** Section 27-120.01 (c) of the Zoning Ordinance stipulates that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling, except a townhouse or multifamily dwelling, in the area between the front street line and the sides of the dwelling; and
- WHEREAS,** on July 23, 2015, Georgia Romas (hereinafter, the "Applicant"), submitted an application for a variance from Prince George's County Zoning Ordinance, Section 27-120.01(c), to permit construction of a driveway addition not to exceed 13 feet in width (3-feet for the original driveway and 10-feet for the

expansion) and 26.04 feet in length or 338.52 square feet of parking area in the front of the dwelling at the premises known as 4903 Laguna Road, College Park, Maryland (the “Property”);

WHEREAS, on September 3, 2015, the APC conducted a hearing on the merits of the application, at which time the APC heard testimony and accepted evidence, including the staff report and Exhibits 1 – 14 with respect to whether the subject application meets the standards for granting a variance set forth in the Ordinance.

WHEREAS, based upon the evidence and testimony presented, the APC voted 5-0-0 to recommend that the variance be granted; and

WHEREAS, the Mayor and Council are authorized by §190-6 to accept or deny the recommendation of the APC with respect to variance requests; and

WHEREAS, the Mayor and Council have reviewed the recommendation of the APC as to the Application and in particular have reviewed the APC’s findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed; and

WHEREAS, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC as to the Application as follows:

Section 1. Findings of Fact

- 1.1 The property, zoned R-55, is located at 4903 Laguna Road in the Hollywood subdivision.
- 1.2 The original driveway is 10-feet in width and 26.04 feet in length and encroaches into the front yard by 3-feet. A small triangular portion of the driveway expansion encroaches on the City right-of-way.
- 1.3 The property is improved with a two-story, brick-frame house which was constructed in 1964.
- 1.4 The property is rectangular in shape.
- 1.5 The property has an area of 7,050 square feet with a width of 60 feet and a length of 117.5 feet.
- 1.6 The lot coverage with the proposed driveway expansion will not exceed 23%, which is below the maximum permitted lot coverage of 30%.
- 1.7 The immediate neighborhood is zoned R-55, single-family residential.
- 1.8 There is no residential permit parking in this neighborhood.
- 1.9 Many homes in the nearby vicinity have driveways that are partially in the front yard.

- 1.10 On November 13, 2014, the applicant’s contractor applied for and was granted a driveway expansion permit (along with other improvements such as replacing a sidewalk) from Prince George’s County.
- 1.11 On December 11, 2014, Prince George’s County Department of Permitting, Inspections and Enforcement-Inspections Division issued an “OK to Pour” Order and the applicant’s contractor poured a new driveway including the expansion.
- 1.12 On May 12, 2015, the City of College Park Department of Public Services issued a violation notice notifying the applicant that their driveway was constructed without a city permit.
- 1.13 On May 18, 2015, the applicant applied for a City of College Park building permit.
- 1.14 On July 6, 2015, the Maryland-National Capital Park and Planning Commission (M-NCPPC) Permit Review Section wrote a memorandum to the Department of Permitting, Inspection and Enforcement (DPIE) stating that Permit No. 42186-2014-RGW was issued in error.
- 1.15 On July 13, 2015, DPIE wrote a letter to the petitioner stating that the driveway extension was approved and issued in error. An application for “Request for Validation of Permit Issued in Error” was attached (see Exhibit 7) as a possible remedy.

Section 2 Conclusions of Law

The Mayor and Council make the following conclusions of law with regard to CPV-2015-05 for a Variance from Section 27-120.01 (c) of the Prince George’s County Zoning Ordinance, “Front Yards of Dwellings,” to expand a driveway in the front yard to a width of 13-feet and a length of 26.04 feet.

- 2.1 The property has an extraordinary situation. Due to the narrowness of the property and size and orientation of the existing house, the side yards are not wide enough to accommodate a standard driveway without encroaching in front of the house.
- 2.2 The applicant applied for and was approved for a County permit. In reliance upon this approval, the applicant poured the driveway. It was later determined the County issued the permit in error. The strict application of the County Zoning Ordinance will result in an undue hardship upon the property owner by requiring removal of the driveway expansion.
- 2.3 Granting the variances requested will not impair the intent and purpose of the applicable County General Plan or County Master Plan, because the proposed driveway size and location is not out of character with the neighborhood and the maximum permitted lot coverage will not be exceeded.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park, Maryland that the findings of fact and conclusions of law of the APC are hereby adopted and a variance from Section 27-120.01(c) to allow construction of a driveway in the front yard consistent with the as-built site plan submitted in the APC hearing is hereby Granted.

ADOPTED, by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 13th day of October 2015.

CITY OF COLLEGE PARK,
MARYLAND

Janeen S. Miller, CMC
City Clerk

Andrew M. Fellows, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Suellen M. Ferguson
City Attorney

15-G-108

MOTION:

I move to approve acceptance by the City of a donation of a mosaic sign from the Berwyn District Civic Association (“BDCA”), and to authorize that the sign be installed and maintained by the City under certain conditions. The conditions are included in the attached letter to BDCA, which is hereby approved.

DISCUSSION:

The BDCA commissioned a mosaic sign that it wishes to place at the entrance to the Berwyn Neighborhood and seeks to donate this sign to the City for installation and maintenance. The letter from the BDCA requesting that the City accept the sign and arrange for installation was considered at the Worksession on October 6. The preferred placement for the sign is at the corner of 48th Avenue and Berwyn Road, on private property located at 4801 Berwyn Road, which is owned by Andrea M. Carpentieri. The BDCA indicates that the owner is willing to authorize the City to place and maintain the sign on her property. The Mayor and Council have agreed to accept the donation, and to install and maintain the sign, on certain conditions, which are included in the letter to BDCA.

October 13, 2015

Timothy Triplett
Corresponding Secretary
Berwyn District Civic Association
P.O. Box 535
College Park, MD 20740

Re: Request for installation and maintenance of mosaic sign

Dear Mr. Triplett:

The Mayor and Council reviewed the request from the Berwyn District Civic Association (“BDCA”), included in your letter of August 20, 2015, at its Worksession on October 6, 2015. The BDCA proposes to donate a mosaic sign that it commissioned from a local artist to the City. In return, the BDCA has requested that the City install the sign on the private property owned by Andrea Carpentieri, located at the corner of 48th Avenue and Berwyn Road, and that the City maintain the sign. The Mayor and Council determined at its Regular Meeting on October 13, 2015 to agree to install and maintain the sign, subject to certain conditions.

The conditions adopted by the Mayor and Council are as follows:

1. That the owner, Andrea Carpentieri, enter into an easement with the City, allowing the City, at no cost, to enter onto her property to install and maintain the sign at a specified location. The City will abide by the terms of the easement.
2. The City agrees to install and maintain the sign, and to repair the pole if necessary, but not to repair or replace the mosaic portion of the sign if it is damaged or destroyed. If the mosaic portion of the sign is damaged or destroyed, the sign will be removed by the City.
3. The City retains the right to relocate the sign if necessary for the public interest to a location agreeable to the BDCA. Except in situations involving immediate public health and safety, the City will provide the BDCA thirty (30) days’ notice of a proposed sign relocation and in any event will give as much notice as possible.
4. The sign will be installed at the location in a manner that is compliant with City sign requirements and applicable law, which includes without limitation that the sign must be at least seven feet high to avoid impacting sight lines.

If this proposal is acceptable to the BDCA, please indicate that acceptance below.

Very truly yours,

Andrew M. Fellows
Mayor

SEEN AND AGREED:

Kevin Young
President, Berwyn District Civic Association

cc: Kevin Young
Sandy Tyler
Harry Pitt
Bob Stumpff, Director, Public Works Department

15-G-109

(The back-up material for this item will be provided in the red folders on Tuesday)

15-G-110

MOTION:

I move that the Council adopt a letter to the Board of License Commissioners for Prince George’s County (“BOLC”), in substantially the form attached, to present the City’s position with respect to the Show Cause Hearing to be held by the Board on the issues of whether Backyard Sports Grill has complied with security plan and use of promoter restrictions. The letter supports strict enforcement of the Security Plan, and requests that the BOLC require two off-duty certified police officers with jurisdiction to be present on site during any entertainment event, emphasize that the use of promoters is prohibited, impose a fine, and take any other action designed to ensure that lapses in security do not recur. City staff is authorized to appear at the show cause hearing to present the City’s position.

DISCUSSION:

On July 31, 2015, an incident occurred adjacent to the Backyard Sports Grill that involved an assault and the gathering of a large crowd in the early morning hours. As part of its investigation of this incident, Prince George’s County police officers determined that an off-duty police officer with jurisdiction was not working security at Backyard Sports grill, as required by the BOLC approved security plan, and that a promoter was involved in the entertainment. This was a violation of BOLC rules and also the Property Use Agreement between the City and Backyard Sports Grill. The Mayor and City Council met with the owner of Backyard Sports Grill to notify him of the concerns that are expressed in the attached letter and to emphasize the importance of complying with BOLC requirements and the Property Use Agreement. The BOLC has scheduled a show cause hearing concerning this incident, based on a request from the Prince George’s County Police, who were called to the scene and are also tracking the promotion of events at the premises on social media. The Mayor and Council will continue to monitor this establishment and to support the BOLC and the police in their efforts to protect the public health and safety.

September 13, 2014

Charles W. Caldwell, III, Chairman
Board of License Commissioners of Prince George's County
9200 Basil Court
Suite 420
Largo, Maryland 20774

Re: Show Cause Hearing – Backyard Sports Grill

Dear Chairman Caldwell:

A show cause hearing has been set before the Board of License Commissioners (“Board”) for October 14, 2015, with respect to non-compliance with the security plan and use of promoters at DKL Investments, Inc., t/a Backyard Sports Grill, located at 7313 A and B Baltimore Avenue, College Park, Maryland 20740. We understand that these issues are related to an incident that occurred on July 31, 2015, which led to a discovery by Prince George's County Police that security personnel required by the Security Plan applicable to the Property were not present, and that a promoter was involved in the entertainment.

The City appeared at the original Board hearing to consider granting a liquor license to this establishment, which occupies a corner property that had been the scene of security issues for the prior license holder. After discussion, the Mayor and Council eventually voted not to oppose the application on condition that the owners to sign a Property Use Agreement (“Agreement”). This Agreement, which was made a part of the Board's record, specifically requires compliance, at minimum, with any security plan adopted as part of an entertainment license and prohibits the use of promoters for entertainment. These provisions were central to the City's support of the liquor license for this Property.

The Mayor and Council reviewed the facts surrounding the incident on July 31 at a Worksession on September 15, 2015. Cpl. Cicale of the Prince George's County Police presented information about a violent altercation between individuals leaving the Backyard Sports Grill. It was determined that an off-duty Prince George's County Police officer, required as part of the security plan, was not present. Dr. Dana Lee, a holder of this liquor license, acknowledged to the Mayor and Council that the use of promoters was prohibited and agreed to no longer use one. Councilmembers stated that the disregard of the security plan and PUA were causing great concern on the part

of the City, which wants to avoid any repetition of the violence that plagued this corner under the prior licensee.

The Mayor and Council now understand that Prince George's County Police have amended the security plan to require two off-duty police officers to be present when entertainment is planned. We fully support this requirement as necessary to the health and safety of the public.

As a result of the show cause, the Board may fine the licensee, continue or revoke the Special Entertainment Permit and/or the liquor license, and/or take any other appropriate actions. The Mayor and Council voted on October 13, 2015, to support the Board's strict enforcement of the security plan, including the requirement of two off-duty certified police officers with jurisdiction to be present on site during any entertainment event, to emphasize that the use of promoters is prohibited, to impose a fine, and to take any other action designed to ensure that lapses in security such as the one involved here do not recur. Any other incidents involving use of promoters or other violations of the security plan should result in loss of the Special Entertainment Permit and/or loss of the liquor license.

Thank you for your consideration of our request.

Sincerely,

Andrew M. Fellows
Mayor

cc: College Park City Council
Prince George's County Police Department

15-G-111

MOTION:

I move that a letter (attached) be sent to the Secretary of the Maryland Department of Transportation with the City's comments on the Draft 2016-2021 Consolidated Transportation Plan.

DISCUSSION:

- The Consolidated Transportation Plan or CTP is the State's six-year capital investment program for transportation.
- Projects of interest to the City include the reconstruction of Route 1 between College Avenue and MD 193, a new interchange from the capital beltway to serve Greenbelt Station and a new project that will improve safety at the I-495 and Route 1 interchange.
- The annual fall CTP meeting for public officials in Prince George's County will be held on October 22, 2015 at 2:00 pm at the County Administration Building.

October 13, 2015

Pete K. Rahn, Secretary
Maryland Department of Transportation (MDOT)
7201 Corporate Center Drive, POB 548
Hanover, Maryland 21076

Re: Draft Consolidated Transportation Program (CTP) 2016-2021

Dear Secretary Rahn:

The College Park City Council supports the vision and goals of the Maryland Transportation Plan and your goal for the agency to deliver projects “better, faster and cheaper.” As a state-designated sustainable community and priority funding area, the City looks forward to continuing to work with MDOT to achieve our shared goals.

The City has reviewed the Draft CTP and offers the following comments:

US 1, Baltimore Avenue from College Avenue to MD193

The City is very pleased that this project has been moved to the construction program with the recent announcement of \$33.4 million in construction funding. In practice, design and engineering will continue through 2018 and several critical design decisions are still pending. Chief among these are the amount of right-of-way to be taken and the locations for the aerial relocation of utilities since the undergrounding of utilities is not being pursued at this time. More specifically, the City is concerned about the lack of a consistent and adequate buffer between the curb and the sidewalk where utility poles, street lights, ornamental trees and street furniture would be placed. If these elements are not placed within this buffer zone, it is unclear how new development will meet the urban streetscape standards in the US 1 Sector Plan. An illustrative diagram is attached to help visualize this issue. The Route 1 corridor is a redevelopment area and many existing land uses are subject to change in the near future. It is important going forward to have a clear understanding of these issues and how they will be addressed in the final design. City staff would like to work more closely and actively with SHA’s staff and consultants in order to refine the design and keep this project on schedule.

I-95/I-495, Capital Beltway

The City supports the full interchange to make the proposed transit-oriented development at this location more feasible particularly for the FBI Headquarters Consolidation and Relocation. The City also concurs with the recommendation to eliminate proposed beltway lane widening from Route 1 to the new interchange.

I-495 at US1 Interchange

The City is very interested in this new project that will provide safety improvements for the area. It will also directly impact a local street and local residents. The City would like to learn more about the genesis of this project and to be actively involved in the project design as it moves forward. City staff will be contacting the Project Manager in the near future to arrange a presentation of the project a City Council Worksession.

I-95/I-495, Capital Beltway Widening and Managed Lanes

The City does not support the widening of the Capital Beltway and would like to see this project dropped from the CTP. It is preferable to focus on more limited operational improvements in specific locations.

Purple Line

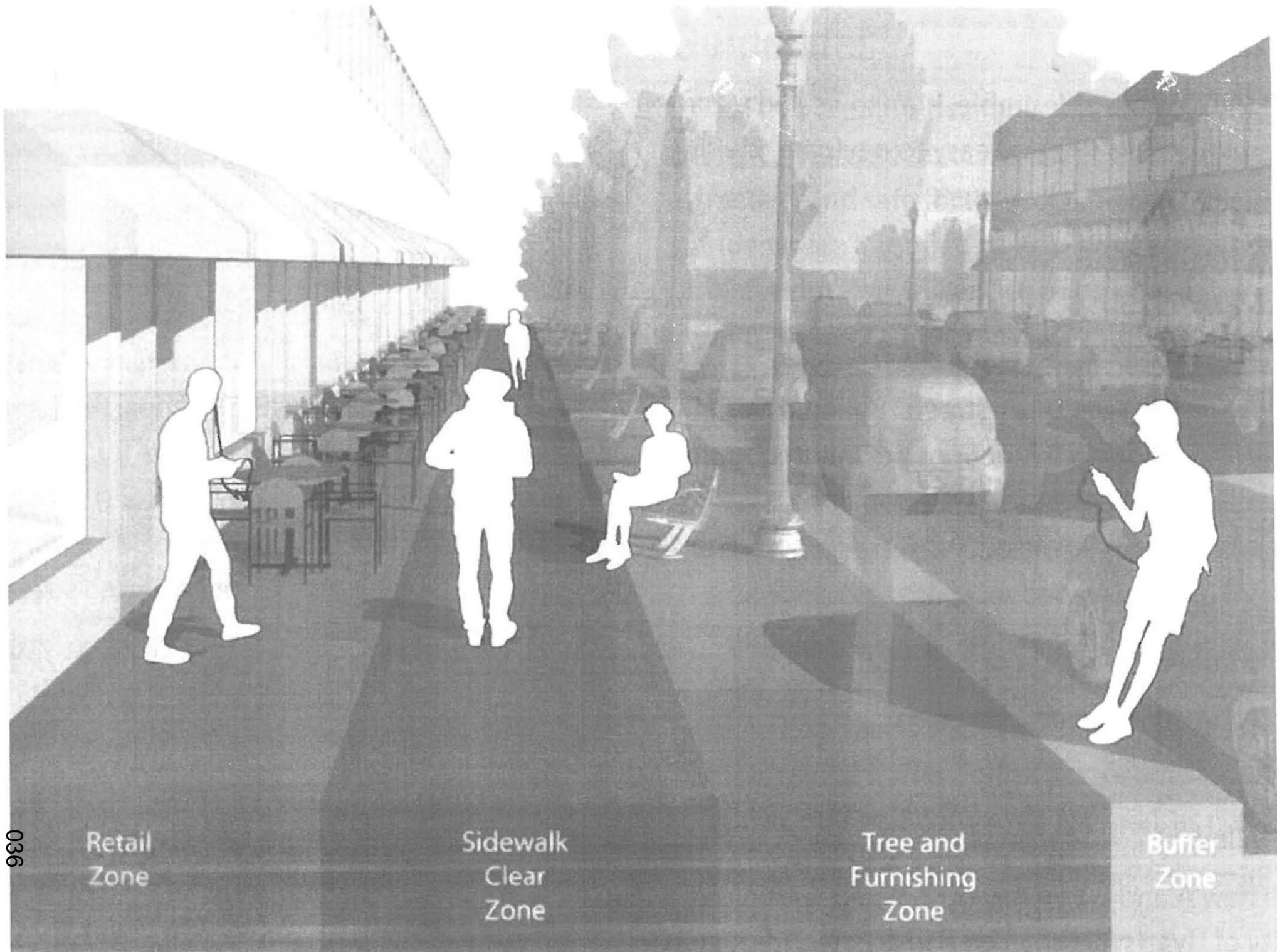
The City looks forward to the selection of a concessionaire this year under the P3 program and to working with the consultant team on final alignment and station design issues.

Thank you once again for the opportunity to provide input on the 2016-2021 Draft CTP.

Sincerely,

Andrew Fellows
Mayor

cc: State Senator James Rosapepe and 21st District Delegates
Prince George's County Councilmember Dannielle Glaros
Prince George's County Councilmember Mary Lehman
UMD Vice President for Administrative Affairs Carlo Colella
Victor Weissberg, Prince George's County Department of Public Works and Transportation



Retail
Zone

Sidewalk
Clear
Zone

Tree and
Furnishing
Zone

Buffer
Zone

15-G-112

Councilmember Wojahn

- Reappoint Sarah Araghi to the Recreation Board

Councilmember Day

- Reappoint Aaron Springer to the Neighborhood Quality of Life Committee