



FREDERICK COUNTY PLANNING COMMISSION
November 18, 2015

TITLE: Popeyes Restaurant

FILE NUMBER: SP-01-03, AP 15524 (APFO 15525, FRO 15526, SWM 15527)

REQUEST: Site Development Plan Approval

The Applicant is requesting site development plan approval for the construction of a 3,400 square foot restaurant with drive-through service on a 1.39-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: 5411 Rotary Avenue at Old National Pike, east of MD 75, Green Valley Road

TAX MAP/PARCEL: Tax Map 79, Parcel 183

COMP. PLAN: General Commercial

ZONING: General Commercial

PLANNING REGION: New Market

WATER/SEWER: W-3/S-3

APPLICANT/REPRESENTATIVES:

APPLICANT: Janjer Enterprises, c/o Jonathan Friedlander

OWNER: New Market Retail Center, LLC

ENGINEER: Lavelle & Associates, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Tim Goodfellow, Principal Planner II

RECOMMENDATION:

Conditional Approval

ATTACHMENTS:

Exhibit 1-Popeyes Site Plan Rendering
Exhibit 2-Popeyes Loading Space and Parking Modification Requests

STAFF REPORT

ISSUE

Development Request

The Applicant is requesting site development plan approval for the construction of a 3,400 square foot fast-food restaurant with drive-through service on a 1.39-acre site. The proposed use is being reviewed as a restaurant under the heading of “*Commercial Business and Personal Services*” per §1-19-5.310 (Use Table) of the Zoning Ordinance and is a principal permitted use in the General Commercial (GC) Zoning District subject to site development plan approval. Refer to site zoning in Graphic #2.

Modification Requests:

1. Loading Space and Parking Modification

BACKGROUND

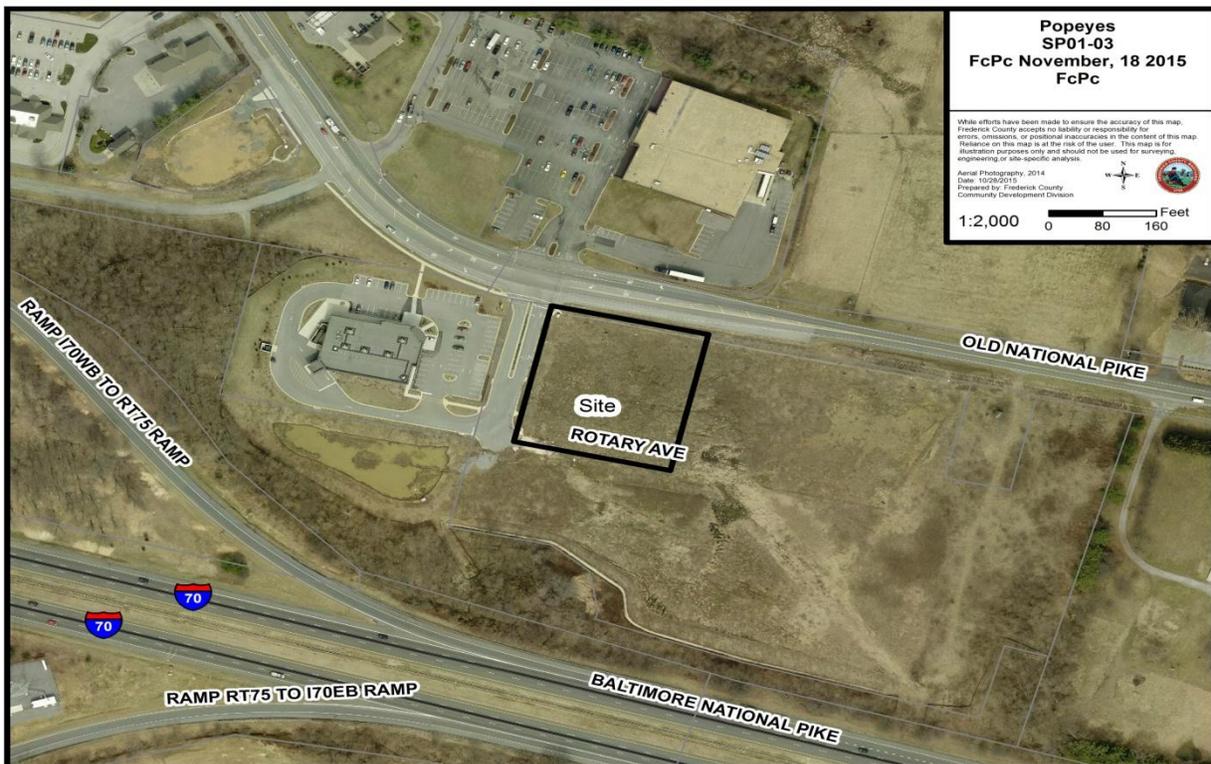
Development History

This site is located within the New Market Retail Center, a 6-lot commercial subdivision on Old National Pike first approved in 2007, with a recent preliminary plan revision made in August 2015. Of the 6 lots approved in the New Market Retail Center, only two (2) have been recorded. Lot 1 contains a CVS drug store, and the Popeyes restaurant is proposed for Lot 2. The remaining undeveloped land within the Retail Center comprises 9.5 acres.

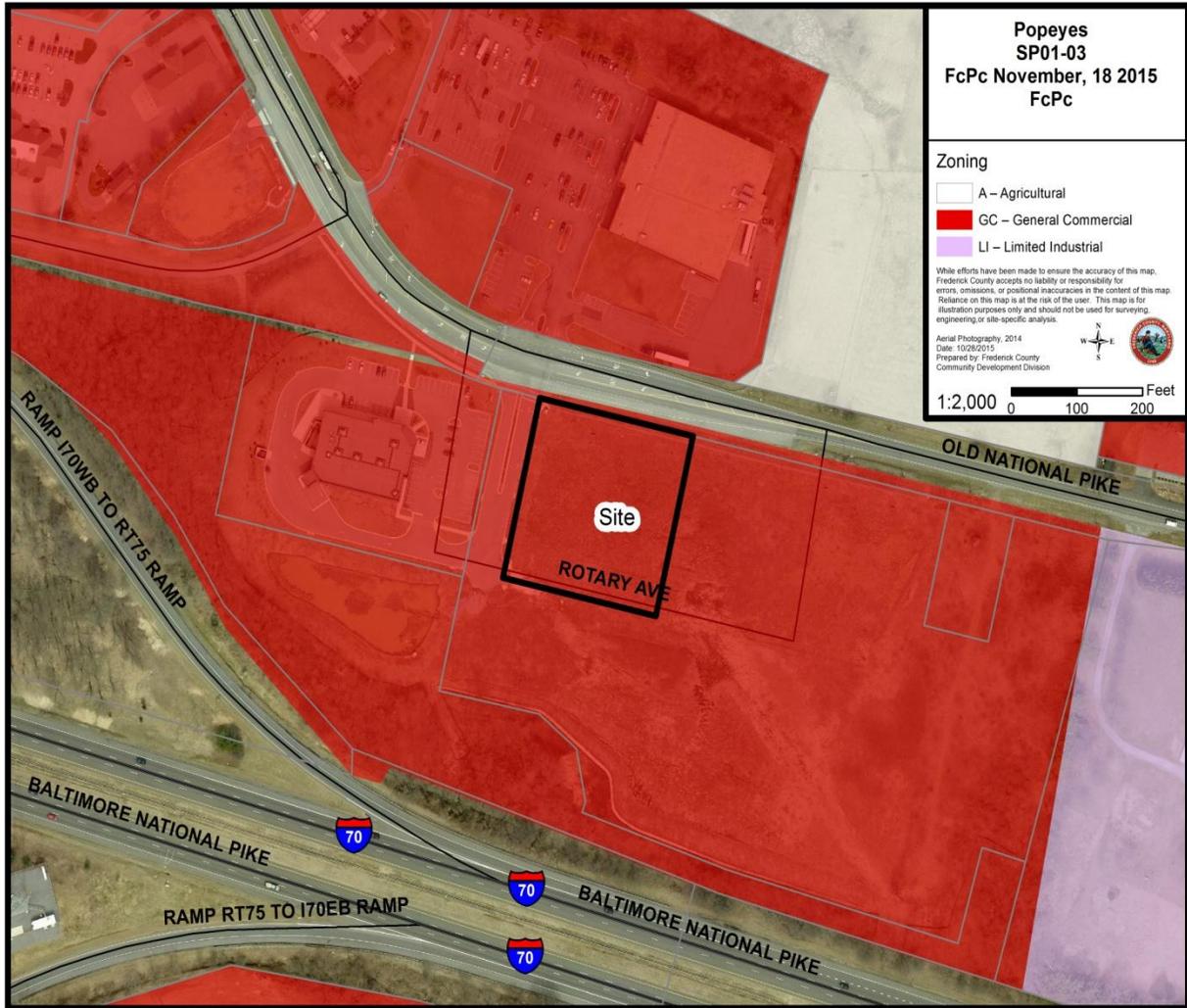
Existing Site Characteristics

The site and all surrounding parcels to the north, south and west are zoned General Commercial with parcels to the east zoned Limited Industrial. The site is a vacant, flat, graded lot on the eastern edge of the moderately-intensive commercial development node at the crossroads of MD 75, Green Valley Road and Old National Pike within the New Market Community Growth Area. See Graphic #1.

Graphic #1: Site Aerial



Graphic #2 Site Zoning



ANALYSIS

Summary of Development Standards Findings and Conclusions

The primary issues associated with this development were design compatibility with the existing commercial development surrounding the site, providing for pedestrian connections to, from and within the site, as well as maintaining vehicle maneuverability. Popeye's Restaurants have unique design and branding templates which do not directly replicate the existing brick construction of the existing commercial buildings surrounding the site. Staff is limited by the text within the zoning ordinance, however at the request of staff, the Applicant provided additional façade treatments on the rear of the building, as well as a partial stone building exterior.

Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

Site Development §1-19-3.300.4 (A): Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.

Findings/Conclusions

1. **Dimensional Requirements/Bulk Standards §1-19-6.100:** The proposed Site Development Plan adheres to the lot dimensions required for a commercial use in the General Commercial Zoning District.

The following dimensional requirements are shown for the Popeyes on Lot 2 of the New Market Retail Center. The design of the adjacent pandhandle lots within the New Market Retail Center resulted in the following established setbacks.

	<u>Required</u>	<u>Provided or Proposed</u>
Minimum Lot Area	12,000 SF	60,940 SF (1.399 ac.)
Minimum Lot Width	100'	239'
Front Yard	25'	59' & 98' (2 front yards)
Side Yard	8'	120' & 79' (2 side yards)
Rear Yard	25'	N/A
Max Building Height	60'	19.5'

2. **Signage §1-19-6.300:** The Applicant is permitted to have 114 square feet of total signage based on the length of the facade facing the street and the length of the façade of the primary public entrance. In this instance, Rotary Avenue to the west and Old National Pike were utilized to determine building frontage for signage allowance calculations. The signage calculation is listed in Note #11 on Sheet 1 of the site plan. The Applicant proposes 110 square feet of signage that includes three (3) building mounted signs and one (1) free standing, 15.5-ft. tall pole sign, which is less than the 25-ft. maximum height for a sign as described in Section 1-19-6.320 of the Zoning Ordinance. The total proposed amount of signage meets the requirements of the zoning ordinance.

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3. **Landscaping §1-19-6.400:** The Applicant has provided a landscaping plan on Sheet 2 of the site plan. Staff requested that the Applicant provide screening to soften the existing traffic control box at the entrance in the northwest corner of the site. The Applicant complied by providing eight (8), 1 to 2-ft. tall blue junipers, shown around the control box. The Zoning Ordinance requires a total of 7 street trees adjacent to the existing public right-of-way along Old National Pike. In addition, the Applicant proposes 8 street trees adjacent to the existing and proposed Rotary Avenue private drive. A total of 9 trees as well as shrubbery are provided as required at the end of each parking bay. The proposed landscaping meets the requirements listed in §1-19-6.400 of the Zoning Ordinance.
4. **Screening §1-19-6.400:** The plan proposes a mixture of species to act as screening for the parking area and drive aisle adjacent to Rotary Avenue and Old National Pike. The proposed landscaping plan meets the screening requirements listed in the Zoning Ordinance.
5. **Lighting §1-19-6.500:** The Applicant has proposed a lighting plan, which is shown on Sheets 3 and 4 of the site plan. The Applicant is proposing eight (8) 18-ft. tall light poles, and 15 building mounting lights to be installed at 12' and 15' above grade. The proposed lighting meets the maximum height of 18' for commercial uses. The Zoning Ordinance also requires that lighting shall be installed and designed to be fully shielded and directed downward to prevent glare and light trespass. The Applicant shall revise Note 10 to include this statement. The lighting plan adheres to the requirements in §1-19-6.500 of the Zoning Ordinance.

Condition

1. The Applicant shall revise Note 10 to include the following text: Lighting shall be designed and installed to be fully shielded. Lighting shall be directed downward to prevent glare and light trespass onto adjacent properties, roadways, and the nighttime sky.

Transportation and Parking §1-19-3.300.4 (B): *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

Findings/Conclusions

1. **Access/Circulation:** The site has frontage on Old National Pike, but access is denied. Access is made via a private, monumented roadway, Rotary Avenue, which adjoins the site on two (2) sides. An access easement for Lot 2 to utilize Rotary Avenue was recorded in 2010 at Liber 7675, Folio 340. Two (2) 16-ft. travel lanes, with center monumentation, border the site on the south and act as the direct two-way access to and from the site. A one-way egress point from the site to Rotary Avenue is located on the west side of the property. This 'right-out only' onto Rotary Avenue has appropriate signage and roadway geometry to prevent contrary movements or turning.

Full circular vehicular movement on the site is shown with 24-ft. travel lanes around the building, with 2 options for egress, as described above. A 12-car queue for the drive-through window is shown adjacent to the building. Staff has worked with the Applicant to minimize conflict points between vehicle traffic to from and within the site as well as pedestrian traffic.

2. **Connectivity §1-19-6.220 (F):** Rotary Avenue will eventually be extended eastward beyond lot 2 to provide access for the future lots in the New Market Retail Center. This future extension of Rotary Avenue will provide a secondary connection to Old National Pike, approximately 65 feet east of the existing Rotary Drive/Old National Pike intersection. The future extension of Rotary Avenue beyond Lot 2, to Old National Pike, will be made as the remaining lots are developed. The Applicant has provided adequate turn-around space at the (temporary) terminus of Rotary Avenue, south of the development site.
3. **Public Transit:** There is currently no public transit service to this area.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** Section 1-19-6.200 requires fast food restaurants to provide one (1) parking space for every 75 square feet of floor area devoted to customer service, but excluding food preparation and storage areas. The Applicant states that 1,403 square feet of the building will be dedicated to customer service, which requires 19 parking spaces. Forty-one (41) parking spaces are provided, including two (2) ADA accessible spaces with signage. The Applicant seeks a modification to allow the 22 spaces over the target provided in the Zoning Ordinance. Staff has no objection to the requested modification.

The Applicant is required to provide 1 small (50' x 12') loading space in accordance with Section 1-19-6.210 of the Zoning Ordinance, but is seeking a modification from the Planning Commission to waive this requirement.

Condition

1. **Loading Space Modification (§ 1-19-6.210)**
The Applicant is requesting a modification to waive the requirement to supply 1 small loading space based on the statement (Exhibit 2) that deliveries to the restaurant will occur between the hours of 1am and 6am, after normal business hours and therefore a separate on-site loading space is not needed.
2. **Parking Modification (§ 1-19-6.220A)**
The Applicant is requesting a modification to allow 41 parking spaces where 19 are required.
5. **Bicycle Parking §1-19-6.220 (H):** The Applicant is required to provide 2 bike racks. They are provided in the northwest corner of the site, near the intersection of Rotary Avenue and Old National Pike, and at the southern portion of the site. A note has been added to the plan to require that the bicycle parking meet the standards of the Frederick County Bicycle Design Guide.
6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** Existing sidewalks are present along the site's frontage on Old National Pike and on Rotary Avenue. New sidewalk ramps will be installed on Rotary Avenue where the "right-out" lane is proposed. The Applicant is providing a new 5-ft. sidewalk along the southern portion of Rotary Avenue, to connect with the existing sidewalk. Within the site, striped and painted pedestrian crossings are shown to provide a safe and direct connection between the parking bays and the building.

Public Utilities §1-19-3.300.4 (C): *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

Findings/Conclusions

1. **Public Water and Sewer:** The site is to be served by public water and sewer and is classified W-3, S-3 on the Water and Sewerage Plan. Public water and sewer lines are present within Old National Pike and will be extended to serve the subject property. Water for this site is sourced from the Potomac River via the New Design Road Water Treatment Plant. Sewage treatment for this property is made at the Ballenger Creek Wastewater Treatment Plant.

Natural features §1-19-3.300.4 (D): *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

Findings/Conclusions

1. **Topography:** The site is flat and graded.
2. **Vegetation:** The site has been previously graded and contains tall weeds and very early successional vegetation.
3. **Sensitive Resources:** The site does not contain wetlands, FEMA floodplain, flooding or wet soils.
4. **Natural Hazards:** There are no natural hazards located on this site.

Common Areas §1-19-3.300.4 (E): *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

Findings/Conclusions

1. **Proposed Common Area:** The site will be a place of business, there are no common areas proposed for public use.

Other Applicable Regulations

Moderately Priced Dwelling Units – Chapter 1-6A: The proposed use is non-residential; therefore, MPDUs are not required.

Stormwater Management – Chapter 1-15.2: Stormwater management for this site was approved in 2009 as part of the original Preliminary Plan for the New Market Retail Center. A regional pond facility was designed and sized to accommodate build-out of all 6 lots in the project.

APFO – Chapter 1-20:

1. **Schools.** Schools are not impacted because the development of the property is a non-residential use.
2. **Water/Sewer.** While the public sewer and water facilities are currently adequate to serve the project, the Applicant recognizes that capacity is not guaranteed until purchased. Building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable County regulations.

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3. **Roads.** An APFO LOU (AP 8692) was approved in May of 2009 for development in the New Market Retail Center. A total of four (4) escrow accounts for specific transportation improvements associated with development in the New Market Retail Center were identified and contributions to them were required prior to the recordation of Lot 1. These contributions have been made and the LOU has therefore been satisfied.

Forest Resource – Chapter 1-21: The FRO requirements for this site were addressed and mitigated through AP 8693 as part of the 2009 approval of the New Market Retail Preliminary Plan.

Historic Preservation – Chapter 1-23: There are no historic resources on this property.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
<i>Development Review Engineering (DRE):</i>	Approved
<i>Development Review Planning:</i>	Approved
<i>State Highway Administration (SHA):</i>	Approved
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Conditional Approval. Water meter sizing to be finalized at the Improvement Plan (IP) phase of the project.
<i>Health Dept.</i>	Approved
<i>Office of Life Safety</i>	Approved
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	N/A

RECOMMENDATION

Staff has no objection to conditional approval of the site plan for the construction of a 3,400 square foot restaurant on a 1.39-acre site. If the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval and is therefore valid until November 18, 2018.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. Loading Space Modification (§1-19-6.210): Planning Commission approval to waive the required loading space as described in the attached exhibit, which states that deliveries to the restaurant will be made between the hours of 1 a.m. and 6 a.m., outside of normal business hours and therefore a designation loading space on-site is not necessary.
2. Parking Modification (§ 1-19-6.220A): Planning Commission approval of a modification to allow 41 parking spaces where 19 are required
3. Prior to signature approval, Note No. 10 shall be revised to include the following text: “Lighting shall be designed and installed to be fully shielded. Lighting shall be directed downward to prevent glare and light trespass onto adjacent properties, roadways, and the nighttime sky.”

PLANNING COMMISSION ACTION
MOTION TO APPROVE

I move that the Planning Commission **APPROVE** Site Plan SP-01-03 AP 15524 **with conditions and modifications** as listed in the staff report for the proposed construction of a 3,400 square foot restaurant on a 1.39-acre site, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit #1 Popeye's Restaurant Site Plan Rendering

