

This interpretation regarding SUP's for the Catoctin Corner development supersedes the interpretation by the Zoning Administrator in an email dated 7-31-2015

The email regarding a SUP scenario for Catoctin Corner dated Friday July 31, 2015 after additional review is no longer valid and is to be replaced by a review that utilizes a more detailed set of requirements to determine whether a potential scenario can be utilized.

Catoctin Corner Special Use Permit Concept Plan Potential Changes *date: September 10, 2008*

The comments below are based on a draft SUP Permit Plan submitted by Bowman Consulting and received by the Zoning Administrator July 8, 2015. The draft concept plan is not a complete document and any interpretation by the Zoning Administrator is subject to change if new information becomes available. The Zoning Administrator is not able to issue a final determination until a complete concept plan has been submitted along with the appropriate fees. The responses to the requested changes below are based on a scenario submitted by the applicant and are designed to provide guidance on how to proceed. The scenario is not based on a final complete plan submittal it is rather a proposal, a what-if supposition and is therefore an interpretation and not an appealable determination based on facts.¹

Approved SUPs are required to be in substantial conformance with the approved SUP plan. Changes to approved SUPs must still be found to be in substantial conformance with the plan otherwise a new SUP will be required.

Definition of Substantial Conformity

Substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data; but, conforms to/with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

Review of Requested Changes

SUP 2. Drive through 12,900 square foot pharmacy.

Requested Change. Change from a Pharmacy drive through to an 1,800 sf fast food drive through.

¹ A (zoning) decision, and in particular, a determination, must be based upon a set of existing facts, rather than upon a recitation of non-existent facts, hypotheticals, proposals, ideas, concepts, or "what-if" suppositions. See Lynch v. Spotsylvania County Board of Zoning Appeals, 42 Va. Cir. 164 (1997).

1. Does the change conform to/with the general nature of the development?
 - a. *Yes. The nature of the development is commercial which includes retail, restaurants and other commercial services (hair salons, etc.)*
 - b. *The all day trips for a 12,000sf pharmacy are 1,162 and for an 1,800sf fast food use the trips would be 1,191. Not a significant difference.*
2. Does the change conform to/with the specific uses of the development?
 - a. *Yes. The proffers provide a list of uses allowed and place a limit on the commercial development on the site. Fast food restaurant is an allowed use on this site and does not exceed the commercial development square footage, limited by the proffers.²*
3. Does the change conform to/with the general lay out?
 - a. *The general layout of the concept plan approved a drive through in the western area of the site. The ordinance definition of drive through does not differentiate between different types of uses. The types of drive through come under one definition, "Drive Through".*
4. Is there a specific layout required by the conditions for the SUP approval?
 - a. *Yes. The SUP must be located in the SUP09-02 Area of the permit Plat.*
 - b. *The drive through is still located in the appropriate area.*
5. Is the placement of the SUP arbitrary or are there detailed requirements as to where it must be located?
 - a. *Placement appears to be arbitrary. There are no specific requirements detailed by the SUP.*
6. Is there a stated reason the specific use cannot be replaced with another approved use?
 - a. *No.*

SUP 3. 7,000 square foot restaurant (exceeds 4,000 sq ft).

Requested Change. Use deleted.

1. Does the change conform to/with the general nature of the development?
 - a. *Yes.*
2. Does the change conform to/with the specific uses of the development?

² Proffers limit development to 50,000 square feet of commercial development.

- a. Yes.
3. Does the change conform to/with the general lay out?
 - a. N/A
4. Is there a specific layout required by the conditions for the SUP approval?
 - a. N/A
5. Is the placement of the SUP arbitrary or are there detailed requirements for where it was located?
 - a. N/A
6. Is there a stated reason the specific use cannot be replaced with another approved use.
 - a. No, as long as the new use is permitted by right.

SUP 4. Drive through for bank.

Requested Change. Change from a drive through for a bank to a medical office building with no drive through.

1. Does the change conform to/with the general nature of the development?
 - a. Yes. *The nature of the development is commercial which includes retail and restaurants and other commercial services (hair salons, medical offices, etc.)*
2. Does the change conform to/with the specific uses of the development?
 - a. Yes. *The proffers provide a list of uses allowed and place a limit on the commercial development on the site. Offices are an allowed use on this site and fall within the size limitations.*
3. Does the change conform to/with the general lay out?
 - a. *The general layout of the concept plan envisioned an office building in this area.*
4. Is there a specific layout required by the conditions for the SUP approval?
 - a. *N/A Drive through has been eliminated.*
5. Is the placement of the SUP arbitrary or are there detailed requirements for where it was located?
 - a. *N/A SUP has been eliminated from this area.*
6. Is there a stated reason that the bank use can't be replaced with another approved use?
 - a. No.

SUP 5. Automobile service station with 1,500 sq ft retail store in a building with other retail uses.

Change. NO CHANGE requested.

SUP 6. Restaurant over 4,000 located in building with others retail uses.

Requested Change. Large restaurant moved north west from original position but still within the 09-06 original area on the plan.

1. Does the change conform to/with the general nature of the development?
 - a. *Yes. The nature of the development is commercial which includes retail and restaurants and other commercial services (hair salons, etc.)*
2. Does the change conform to/with the specific uses of the development?
 - a. *Yes. The proffers provide a list of uses allowed and place a limit on the commercial development on the site. Restaurants are an allowed use on this site.*
3. Does the change conform to/with the general lay out?
 - a. *The general layout of the concept plan delineates an area in which the SUP and its associated parking should be located. The restaurant remains in the aforementioned area.*
4. Is there a specific layout required by the conditions for the SUP approval?
 - a. *No. The only limitation is that the restaurant "...shall be developed in substantial conformance ... as to each respective Special Use Permit Area as shown on the Plat."*
5. Is the placement of the SUP arbitrary or are there detailed requirements for where it was located?
 - a. *Yes there is a location requirement. It shall be located in the SUP09-06 Area as shown on the Plat.*
 - b. *The placement of the restaurant is within the SUP Area for SUP 6*
6. Is there a reason the specific use can't be replaced with another approved use?
 - a. *N/A. Replacement not being requested.*

SUP 7. Drive through for 3,700 sq ft restaurant.

Requested Change. Drive through moved from one area of the plan to another area of the plan.

1. Does the change conform to/with the general nature of the development?
 - a. *Yes. The nature of the development is commercial which includes retail and restaurants and other commercial services (hair salons, etc.)*
2. Does the change conform to/with the specific uses of the development?
 - a. *Yes. The proffers provide a list of uses allowed and place a limit on the commercial development on the site. Restaurants are an allowed use on this site.*
3. Does the change conform to/with the general lay out?
 - a. *The general layout of the concept plan delineates an area in which the SUP should be located. The restaurant remains in the aforementioned area.*
4. Is there a specific layout required by the conditions for the SUP approval?
 - a. *Yes. This particular drive through needs to remain in the north eastern corner of the site as delineated on the special use permit plat*
5. Is the placement of the SUP arbitrary or are there detailed requirements for where it was located?
 - a. *The restaurant placement is limited to the SUP09-07 area of the site permit plat.*
7. Is there a stated reason the specific use can't be replaced with another approved use?
 - a. *N/A. Replacement not being requested.*

Conclusions.³

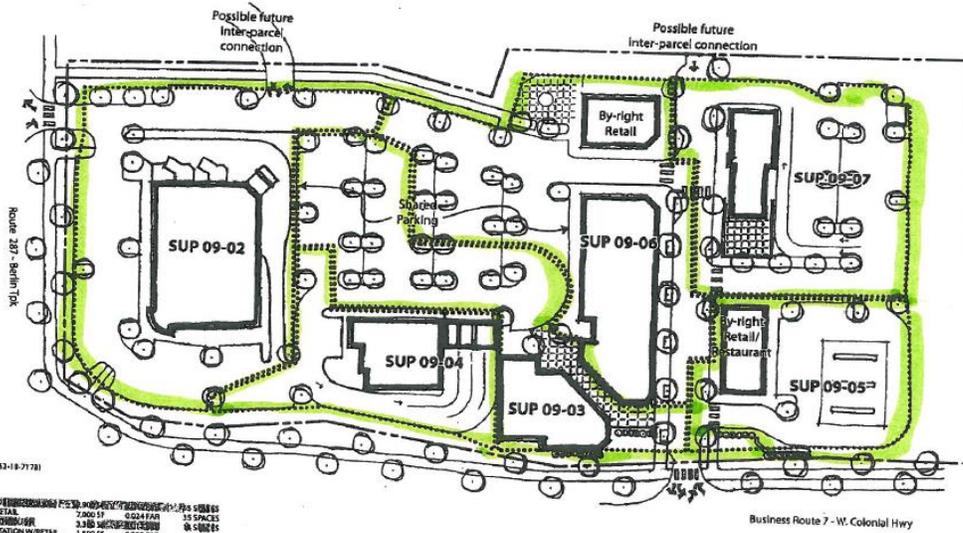
Approved SUPs 2 (Drive through 12,900 square foot pharmacy), 4 (Drive through bank), and 6 (Restaurant over 4,000sf) appear to be in substantial conformance with the SUP Plat.

Approved SUP 3 (7,000 sf restaurant) has been deleted.

Approved SUP 5 (Gas station) has not changed and is ok as presented unless there are additional changes.

Approved SUP 7 (Drive through fast food restaurant) is not in substantial conformance and will require an amended SUP if it is to move to another area on the site

³ SUP 1 is part of another project and is not part of this development.



TABULATIONS

LCM 36 PARCEL 18A2 (PK 453-18-2178)
TOTAL ACRES: 6.53

PROPOSED S.U.P. USES:

S.U.P. USE	AREA (SQ. FT.)	AREA (G24 FAR)	SPACES
SUP 09-02 RESTAURANT / RETAIL	7,000 SF	G24 FAR	35 SPACES
SUP 09-03 AUTO SERVICE STATION / RETAIL	3,300 SF	G24 FAR	8 SPACES
SUP 09-04 RESTAURANT / DRIVE THROUGH	1,900 SF	G24 FAR	8 SPACES
SUP 09-05 RESTAURANT / DRIVE THROUGH	3,700 SF	G24 FAR	22 SPACES
SUP 09-06 RETAIL	8,500 SF	G24 FAR	43 SPACES
SUP 09-07 RESTAURANT / DRIVE THROUGH	4,500 SF	G24 FAR	24 SPACES
TOTAL SITE:	40,900 SF	6,173 FAR	247 SPACES

Date: August 3, 2010
Scale: not to scale

Bowman CONSULTING

ORIGINAL SUP PLAN

Catoctin Corner
EXHIBIT A- SPECIAL USE PERMIT PLAT

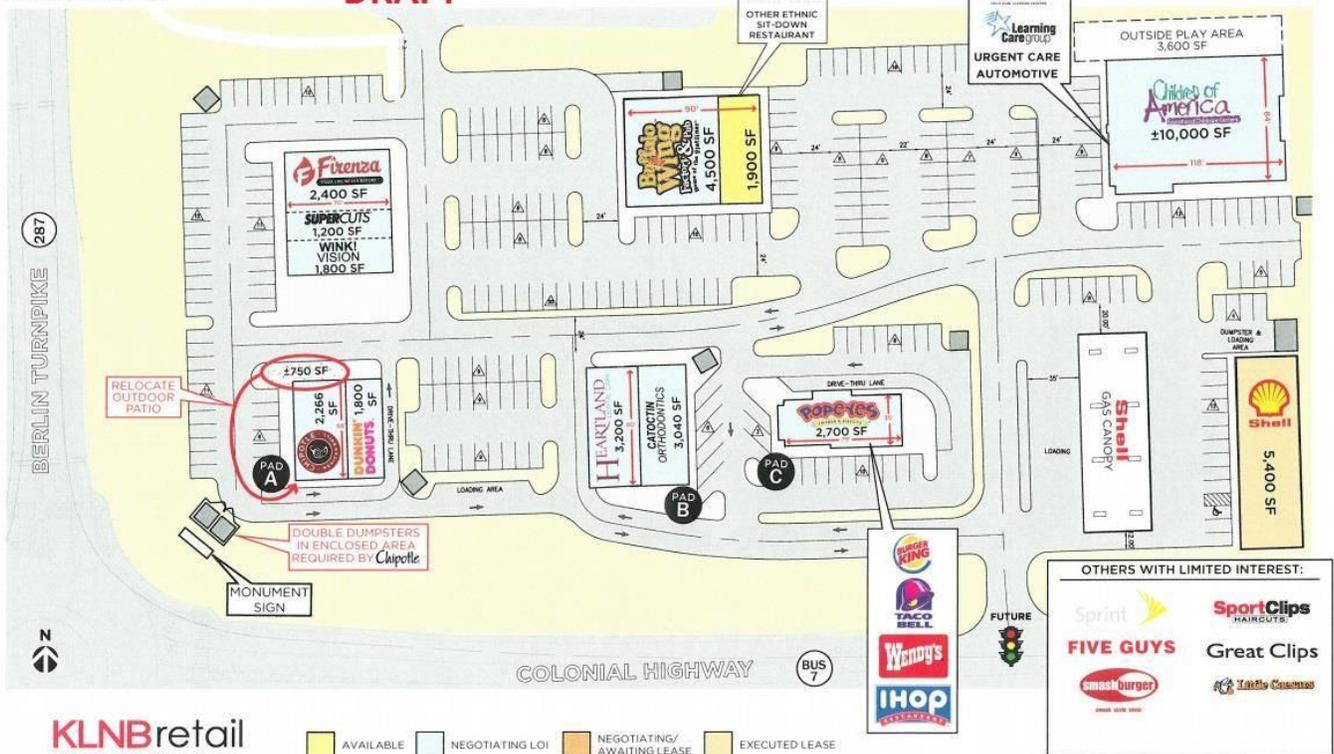
CATOCTIN CORNER

BERLIN TURNPIKE (ROUTE 287) & MAIN STREET (ROUTE 7 BUSINESS)
PURCELLVILLE, VA 20132, LOUDOUN COUNTY

MERCHANDISING PLAN
AUGUST 27, 2015

DRAFT

DRAFT
Pending Lease Negotiations
DRAFT



KLNBretail
Commercial Real Estate Services