



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

July 12, 2022

AGS Borrower Lakeview, LLC  
Attn: Alan C. Grabush, Principal  
7127 Ambassador Road, Suite 100  
Baltimore MD 21244

RE: **SDP-20-042 Lakeview Retail** (BA-781-D)  
Planning Board Meeting

Dear Mr. Grabush:

The Howard County Planning Board, at its regularly scheduled meeting held on July 7, 2022, reconsidered the above referenced Site Development Plan (SDP) for the construction of a 1-story 8,378 SF commercial/retail building on 13.933 ± acres of land (a LOD of 1.26± acres) zoned NT in the 6th Election District in Columbia MD.

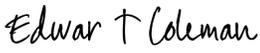
This SDP was originally denied by the Planning Board on January 21, 2021. That denial was reversed by the Board of Appeals (BA Case 781-D) on May 26, 2022 and, as part of that decision, the Board of Appeals instructed that the SDP be remanded to the Planning Board with the specific instruction that the SDP be approved.

Pursuant to the instruction of the Board of Appeals, on July 7, 2022, the Planning Board **approved** SDP-20-042. In addition to the action, Mr. Ed Coleman, Chair of the Planning Board submitted the attached statement into the record.

You may submit the original electronic drawings to the Department of Planning and Zoning for signature approval once all remaining comments have been complied with and applicable developer agreements have been executed and fees have been paid. If you have any questions regarding a specific comment, please contact the review agency prior to submitting the electronic original plan.

If you have any questions, please contact Derrick Jones at (410) 313-2350 or by email at [djones@howardcountymd.gov](mailto:djones@howardcountymd.gov).

Sincerely,

DocuSigned by:  
  
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Ed Coleman, Chairperson  
Howard County Planning Board

Sincerely,

DocuSigned by:  
  
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Amy Gowan, Executive Secretary  
Howard County Planning Board

cc: DPZ Director's Office (Lisa Kenney)  
FSH Associates  
Talkin and Oh Attorney at Law  
Columbia Association – Jessica Bellah  
Chris Alleva  
Brian England  
Joel Hurewitz



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The dispute around SDP-20-042, AGC Borrower Lakeview, LLC revolved around the approval of an SDP when the Planning Board reserved the right to review. HCZR 125.0.D.3 provides that the approval of an FDP may include the requirement of Planning Board approval of a subsequent SDP; The FDP in this case, FDP 125-A, includes the requirement of the SDP approval.

The decision from the Hearing Examiner in BA 20-781D, AGS Borrower Lakeview LLC upheld the Planning Board decision in BA 20-781D:

## *DECISION*

*SDP-20-042 does not provide appropriate landscaping, setbacks, building location, architecture, or orientation to preserve and shield its adjacent neighbors, the townhome community, Lake Elkhorn and Broken Land Parkway. This proposal will be the first incursion of its kind along Broken Land Parkway and will set the standard for future development. The Property can be designed to address all of these concerns which have been suggested at earlier stages of the design process. The Planning Board denied SDP-20-042 for many of these design issues. For these reasons, and other contained herein, SDP-20-042 is Denied.*

Since 20-781D was decided, the Planning Board approved SDP-21-045, FKW Woodmere Retail on April 21, 2022. This plan is adjacent to and part of the same FDP (FDP-125-A). The proposal for SDP-21-045 addressed all of the short comings of the Lakeview proposal with a site context sensitive design that preserves and shield its adjacent neighbors and was approved without controversy.

From BA 20-781D AGS Borrower Lakeview LLC.

*There are no specific criteria for approval of the SDP, the compliance with which will compel the approval of the SDP. Rather the FDP, by requiring the approval of an SDP, gives total discretion over all aspects of the design and landscape. Discretionary review of the SDP is only limited to use; the FDP limits the uses to those permitted uses in 3 specific zones and these uses cannot be expanded or denied. However, an SDP may be denied because of the design or setting or landscaping of a permitted use; it is not the use that is being denied, it is the design of the site plan.*

*[...] the FDP establishes the minimum design requirements, and the SDP is a further refinement of the details of the proposed development which are left to the discretion of the approving body. Meeting the minimum requirements set forth in FDP-125-A does not compel the approval of SDP-20-042. The design flexibility given to a developer through the FDP also empowers the approving authority great discretion in approving final site design and layout, and any alterations thereto, in order to achieve context sensitive quality design. (BA 20-781D)*

In future cases where the Planning Board has reserved the right to review an SDP, the board should look toward the original decision in SDP-20-042 and the subsequent Hearing Examiner case, BA 20-781D in guidance in evaluating the proposal to ensure that it provides a context sensitive, quality design.

DocuSigned by:

*Edward T Coleman*

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Ed Coleman, Chairperson  
Howard County Planning Board