County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 12, 2012

Lori R. Greenlief
McGuire Woods LLP
1750 Tysons Boulevard, Suite 1800
Tysons Corner, VA 22102

Re: Special Exception Application SE 2010-DR-019

Dear Ms. Greenlief:

At a regular meeting of the Board of Supervisors held on September 11, 2012, the Board approved Special Exception Application SE 2010-DR-019 in the name of Sivnam Partnership. The subject property is located at 12218 Leesburg Pike on approximately 42,535 square feet of land, zoned C-8 in the Dranesville District [Tax Map 6-1 ((1)) 18]. The Board's action permits a fast food restaurant, pursuant to Sections 4-804 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.

3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Special Exception Plat, Popeyes Restaurant," prepared by AMA Engineers, LLC dated October 10, 2010, as revised June 2, 2012, consisting of 11 sheets, and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

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Fairfax, Virginia 22035
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4. A copy of this Special Exception and the Non-Residential Use Permit (Non-RUP) shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

5. The applicant shall provide a conservation easement or some other means to provide water quality controls. The applicant shall provide at least 27.2% total phosphorus removal for the site (exceeding the required 10% phosphorus removal rate). Moreover, the applicant shall meet the storm water detention requirements by decreasing the impervious surface by at least 481 square feet and shall demonstrate adequate outfall. An approved Water Quality Impact Assessment (WQIA) shall be required prior to site plan approval.

6. Customer seating shall not exceed 18 seats, including counter seats.

7. Exterior building and parking lot lighting shall comply with Par. 9 of Art. 14 of the Zoning Ordinance.

8. There shall be only one window associated with the drive-through operation and it shall be located on the west side of the building. Speakers associated with the drive-through operation shall be directed away from the northern property line.

9. Hours of operation shall be limited to the following:
   7:00 a.m.-11:00 p.m., daily, with the restaurant open to the public from 11:00 a.m.-10:00 p.m. and the drive-through open from 11:00 a.m.-11:00 p.m.

10. All signage on the property shall conform to Article 12 of the Zoning Ordinance. The following types of signs shall be prohibited: inflatable signs, such as balloons; pennants; signs powered by any mechanical means; ground waver (sail banner) signs and pole signs. The freestanding sign shall be a monument sign consistent with Attachment 1. The background of the monument sign shall be of a neutral or earth tone color, preferably matching the color of the restaurant.

11. In order to minimize headlight glare from the subject property onto the Holly Knolls Subdivision, the applicant shall erect a solid (i.e. board on board) fence, not more than four feet high, with plantings to soften the impact of the fence such as shrubs and vines, where appropriate as determined by UFMD and shall be of a neutral, natural or earth tone color. The fence shall be installed along the eastern corner of the edge of pavement where headlight glare could impact the Holly Knolls Subdivision. The fence and fence location shall be consistent with Attachment 2.

12. To prevent trash and waste from emigrating into the nearby Resource Protection Area, the applicant shall police outside grounds and drive areas vigilantly and pick up and dispose of litter and refuse collecting on the site.

13. The angled parking space farthest from the restaurant and closest to Route 7

(Leesburg Pike) shall be designated as employee only.

14. The Applicant shall incorporate into the design and implement the green building technology and strategies listed below.

    Prior to final construction bond release, the Applicant's professional engineer or licensed architect, shall submit a certification statement and supporting documentation as detailed below, confirming that the green building elements listed below have been incorporated into the design and/or construction of the building.

    Green building elements for inclusion in the project:

    A. The Applicant's professional engineer or licensed architect shall incorporate the following sustainable design elements and innovative technologies into the redevelopment of the building. At the time of site plan submission, the applicant will provide documentation to the Environment and Development Review Branch of DPZ demonstrating compliance with the commitment to engage such a professional.

    B. The Applicant shall provide bicycle racks for six bicycles within 200 feet of the restaurant's entrance. The Applicant shall provide proof of installation and plan location. Additionally, the Applicant shall provide a changing facility for employees. The Applicant shall provide proof of installation and plan location.

    C. The building's location shall be within existing impervious areas on the site, as shown on the plans.

    D. The Applicant shall exclusively use native and non-invasive species for landscape and other plantings on the site. The Applicant shall provide planting lists showing species and location of plantings, for review and approval by UFM.

    E. Tree preservation along the northeastern property line as shown on the plan shall be provided.

    F. The Applicant shall install motion sensor faucets and flush valves and ultralow-flow plumbing fixtures that have a maximum water usage as listed below. The Applicant shall provide manufacturers' product data:

    Water Closet (gallons per flush, gpf) 1.28
    Urinal (gpf) 0.5
    Lavatory faucets (gpm*) 1.5
    Kitchen and janitor sink faucets 2.20
    Metering faucets 0.25
    *When measured at a flowing water pressure of 60 pounds per square inch (psi).

G. The final area of impervious surface shall be reduced during the redevelopment of the Special Exception area by a minimum of 1%.

H. The Applicant shall use building materials that have been produced or manufactured within 500 miles of the project site. The Applicant shall provide proof of installation and invoice receipts, with manufacturer's data showing the production or manufacturing location.

I. The Applicant shall provide an area for the separation, collection and storage of glass, paper, metal, plastic and cardboard generated by both customers and employees. There shall be a dedicated area on the Property for the storage of the materials to be recycled. The Applicant shall provide proof of installation, installation locations and a copy of the Applicant's recycling hauling contract.

J. The Applicant shall reuse walls, floors, roof portions, and/or interior nonstructural elements. The Applicant shall provide constructions drawings and an itemized list of the reuse.

K. The Applicant shall install only LED or fluorescent lamps in all interior building lighting fixtures. The Applicant shall provide a maximum lighting power allowance of 1.25 watts/square foot. The Applicant shall provide energy usage calculations and manufacturers' product data.

15. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 1/2 -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the Special Exception Plat and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0506 and 12-0508. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

Tree Preservation Walk-Through. The Applicant shall retain the services of a

Certified Arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's Certified Arborist or Registered Consulting Arborist shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the Special Exception Plat, subject to allowances specified in these development conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the Special Exception Plat, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that

the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these development conditions. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a certified arborist.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

Demolition of Existing Structures. The demolition of the curb, gutter and asphalt adjacent to limits of clearing and grading, adjacent to tree preservation areas shown on the Special Exception Plat shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by the UFMD, DPWES.

Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as required by the development conditions and as approved by the UFMD. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation development conditions, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD: DPWES.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. If the project is phased, development of the initial phase shall be considered

to establish the use for the entire development as shown herein. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

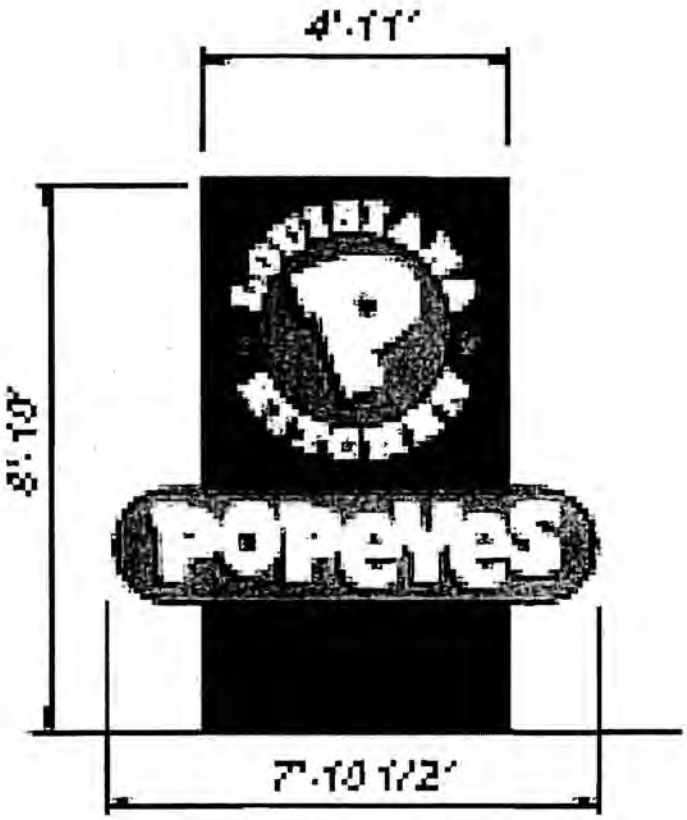
The Board also:

- Waived the trail requirement along the north side of Route 7 in favor of existing conditions.
- Modified the transitional screening requirement along the northeastern property line in favor of that depicted on the SE plat.
- Waived the barrier requirement along the northeastern property line in favor of that depicted on the SE plat.

Sincerely,

Catherine A. Chianese
Clerk to the Board of Supervisors

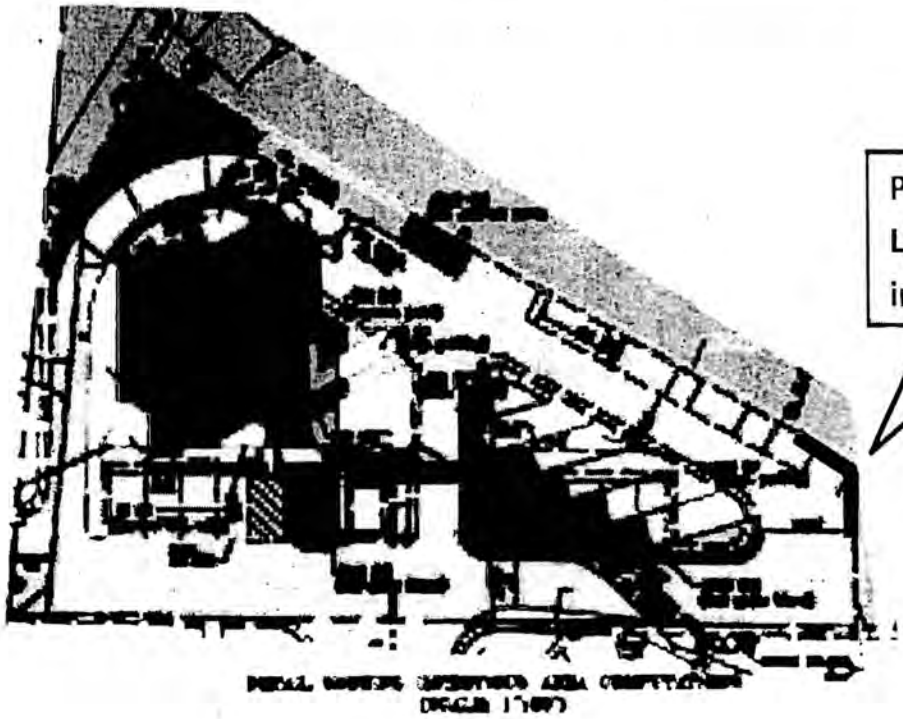
Cc: Chairman Sharon Bulova
Supervisor John Foust, Dranesville District
Tim Shirocky, Acting Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation Planning Division
Donald Stephens, Transportation Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



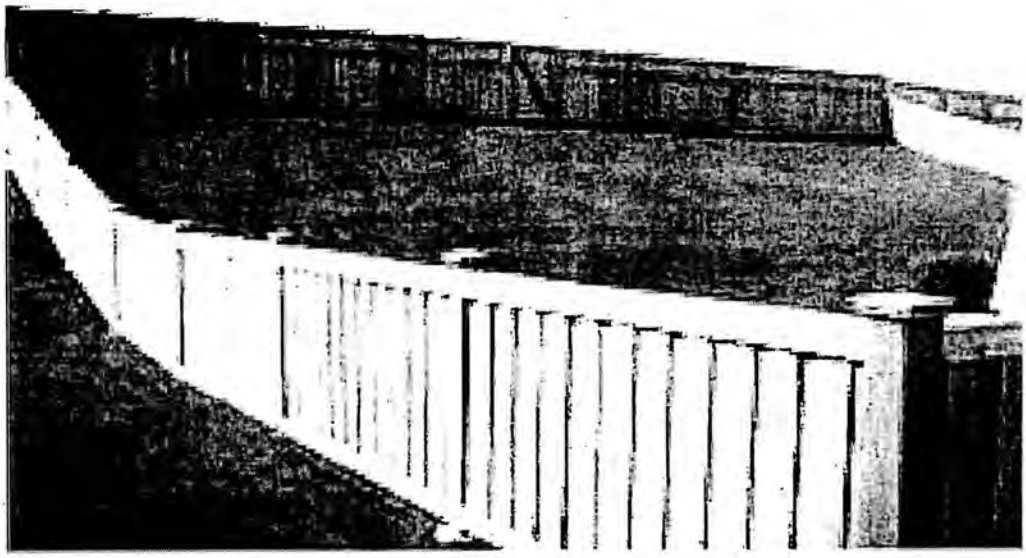
M-30 Monument Sign

The proposed sign shall conform with Article 12 of the Zoning Ordinance and shall be a monument style of sign. The background of the sign shall be a neutral color, preferably matching the color of the restaurant.

Proposed Fence Location and Proposed Fence.



Proposed Fence Location (indicated in bold lines).



Proposed solid fence not to exceed four feet in height and being of a neutral, natural or earth tone color.