

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed Departure from Design Standards Application No. 541 requesting departures from the *Landscape Manual* requirements for bufferyard in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearings on March 11, 2004 the Prince George's County Planning Board finds:

A. Location and Field Inspection: The subject property is located on the north side of Chillum Road approximately 130 feet west of its intersection with Riggs Road. It comprises .13 acre (5566 square feet) of land and is improved with a two-story, single-family detached residential building that is proposed for conversion into a restaurant. The building is currently vacant. The property has 50 feet of frontage on Chillum Road. Vehicular access to the property is from Chillum Road via a 25-foot-wide easement on adjoining property to the south.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	C-S-C	C-S-C
Use(s)	Residential (Vacant)	Restaurant
Acreage	.13	.13
Lots	Lot 3	Lot 3
Square Footage/GFA	1,323	1,323

C. History: The property was originally adopted into the Maryland-Washington Regional District on November 29, 1949. The 1990 sectional map amendment for Planning Areas 65, 66 and 67 rezoned the property from C-1 to C-S-C.

D. Master Plan Recommendation: The 1989 approved master plan for Langley Park-College Park-Greenbelt recommends the property for retail commercial use. The 2002 General Plan places the subject site within the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit supporting, mixed-use, pedestrian-oriented, and medium- to high-density neighborhoods.

E. Request: The applicant is converting an existing single-family dwelling into a restaurant with four parking spaces in the rear yard. With the proposed expansion of the parking lot for the restaurant use, the property is subject to section 4.7 (Buffering Incompatible Uses) of the *Landscape Manual* along the northern, eastern, and southern property line. In December 2000, the Planning Director of The Maryland-National Capital Park and Planning Commission (M-NCPPC) denied Alternative Compliance Application No. 02041 in conjunction with Permit

No. 20166-2002-U. The applicant is requesting a departure from the requirements of Section 4.7 of the *Landscape Manual*.

- F. Surrounding Uses:** The immediate area surrounding the site is generally characterized by a mixture of residential and retail and service-commercial uses in the, R-55, C-S-C, and C-M Zones, with the commercial uses concentrating at and closer to the intersection of Riggs Road and Chillum Road. The property is surrounded with the following uses:

North— Single-family dwelling, in the C-S-C

East— Shopping center in the C-S-C Zone

South— A car wash in the C-S-C Zone

West— Across Chillum Road, a gas station in the C-S-C Zone

- G. Design Requirements:**

1. **Number of Required Parking and Loading Spaces: Section 27-568 of the Zoning Ordinance requires one parking space for every 3 seats for an eating and drinking establishment.**

The site requires four parking spaces for the proposed 12-seat restaurant. The site plan provides for four parking spaces, including one van-accessible space for the physically handicapped. There are no loading spaces required and none are provided.

2. **Landscape Manual Requirements:** The property is subject to the requirements of Section 4.7 of the *Landscape Manual*. The proposed landscape plan fails short of the required minimum building set back and minimum landscape yard. The Planning Director recommended denial of the applicant's proposal for alternative compliance (see attached review comments for AC-02041) and, consequently, the applicant is requesting a departure from these requirements.

3. **Signs:** No freestanding signs are proposed with this application.

4. **Other Issues:**

(1) The Permit Section had voiced concerns (memorandum dated September 4, 2003) regarding the lighting and type of material for the parking lot, a need for clarification on the number of stories and total floor area, and access to the parking area (an easement on adjoining property to the south that is also owned by the applicant). Consequently, the applicant addressed the concerns by revising the plans to include the necessary information. Moreover, by a letter dated November 24, 2003, the applicant has indicated that an easement will be

recorded upon the approval of the requested departures. Prior to the issuance of permit, the applicant must provide documentation showing that the easement is recorded.

- (2) The site and landscape plans shall be revised to change the description of all fences from “board fence” to “board-on-board fence.”
- (3) The site and landscape plans shall be revised to include notes identifying the proposed use and the number of seats in the restaurant.

H. **Required Findings:**

(A) **Section 27-239.01(b)(9) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. The purposes of this Subtitle will be equally well or better served by the applicant’s proposal.

The purposes of the Zoning Ordinance are set forth in Section 27-102. They are varied in nature, but in general are to protect the health, safety and welfare of the residents and workers in Prince George’s County. In this instance, the facts establish that granting the requested departures will in no way jeopardize these purposes.

The subject property is located in an older area inside the Beltway that was developed before most of current zoning and development standards came into effect. The existing structure on the property was constructed as a single-family dwelling in 1941 and is currently vacant. There is no existing landscaping on the site. The proposed redevelopment of the subject property will create an environment and related amenities that will enhance and revitalize the immediate neighborhood

The 1989 approved master plan for Langley Park-College Park-Greenbelt recommends the property for retail-commercial use. As such, the proposed departure will ensure the subject property remains consistent with the master plan. The property is surrounded by commercially zoned properties developed with commercial uses that are more intense (integrated shopping center, car wash and gas station) than the proposed 12-seat restaurant use. The one exception is the adjoining commercially zoned property that is currently being used as a dwelling. The owner of that property has submitted a letter to the record of this application expressing full support to the proposed use of the subject restaurant and the requested departure for reduction in the required landscape bufferyard. The site and landscape plans provide for an eight-foot-high, board-on-board fence along the northern property line.

The existing condition of the subject property, as well as the adjacent properties to the east and south is characterized by very little or no landscaping. The proposed landscape plan

represents a substantial improvement to the property and the immediate area in terms of design and environmental quality. As such, it enhances the visual quality of the site and projects an aesthetically pleasing appearance. An attempt to achieve full compliance with the *Landscape Manual* would be virtually impractical. Given all of the above, the applicant's proposed landscape plan will serve the purposes of the Subtitle equally well or better.

2. The departure is the minimum necessary, given the specific circumstances of the request.

The requested departures are the minimum necessary. Strict compliance with the *Landscape Manual* would cause substantial damage to the existing building and the proposed parking spaces, thus altering the established pattern of development and creating new inconsistencies with current zoning regulations.

3. The departure is necessary in order to alleviate circumstances that are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.

The property was developed prior to 1949 and is located in an older, developed portion of the county. The existing structure was constructed in 1941 as a single-family dwelling. The departure is necessary to alleviate circumstances that are commonly found in older areas initially developed with residential dwellings and later converted to commercial uses. The existing improvements on the property are consistent with the property's original zoning of R-R, which dates back to the 1949 comprehensive zoning. Compliance with current standards of the C-S-C Zone cannot be attained without substantial damage to the existing improvements.

4. The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.

The departure will not impair the visual, functional or environmental quality or integrity of the site or the surrounding area. The departure, with the proposed planting (although within substantially reduced landscape yard), and the proposed six- and eight-foot-high board-on-board fences, will, in fact, add to the visual, functional and environmental quality or integrity of the site and the surrounding neighborhood. Granting the departure will have no discernible negative impact upon the site or the surrounding neighborhood.

- (B) For a departure from a standard contained in the *Landscape Manual*, the Planning Board shall find, in addition to the requirements in paragraph (A) above, that there is no feasible proposal for alternative compliance, as defined in the *Landscape Manual*, which would exhibit equal or better design characteristics.**

Installation of the 30- and 20-foot-wide landscaped bufferyard as required by Section 4.7 of the *Landscape Manual*, along the northern, southern and eastern property boundaries, is not practical. These requirements cannot be provided without causing a substantial damage to the existing building and a loss of needed parking spaces. There is no feasible proposal for alterative compliance, as defined in the *Landscape Manual*, which would exhibit equal or better design characteristics.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED DDS-541 subject to the following conditions:

1. Prior to the issuance of permit, the applicant shall provide documentation showing that the easement for access to the parking area is recorded.
2. The site and landscape plan shall be revised to change the description of all fences from "board fence" to "board-on-board fence."
3. The site and landscape plan shall be revised to include notes identifying the proposed restaurant use and the number of seats in the restaurant.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Harley, with Commissioners Eley, Harley, Squire and Hewlett voting in favor of the motion, and with Commissioner Vaughns opposing the motion at its regular meeting held on Thursday, March 11, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of April 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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