

R E S O L U T I O N

WHEREAS, the Prince George=s County Planning Board has reviewed DDS-564 requesting a departure from design standards in accordance with Subtitle 27 of the Prince George=s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on May 3, 2007, the Prince George's County Planning Board finds:

**A. Location and Field Inspection:** The subject property is located on the east side of US 301, also known as Crain Highway, north of its intersection with Osborne Road and south of Croom Road. The site is a large, rectangular-shaped area, improved with a gas station and food and beverage store. Access to the property is proposed via two driveways from Crain Highway at both ends of the site; a right-in only driveway and a right-in, right-out driveway. Two vacant structures on the site (a single-family dwelling and a plumbing and heating use) will be removed.

**B. Development Data Summary:**

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone(s)	C-S-C	C-S-C
Use(s)	Gas Station, Food and Beverage Store	Gas Station, Car Wash, Fast-Food Restaurant
Acreage	2.98	2.98
Lots		
Parcels	3	3
Square Footage/GFA	1,011	5,524

**C. History:** The subject property was retained in the C-S-C Zone during the 1994 Sectional Map Amendment for the Subregion VI Study Area. The existing gas station is a certified non-conforming use (NCU 8596-86-U-01), approved in 1987. Because an expansion of the existing use is proposed, a special exception is required. The proposed special exception site is part of a larger subdivision comprising three parcels under common ownership; Parcels 47, 53, and 64. The special exception is located on Parcel 53, Parcel 64, and part of Parcel 47.

**D. Master Plan Recommendation:** The 1993 Subregion VI Study Area Master Plan Map recommends low-suburban residential land use for the Marlton area of Planning Area 82A. However, the master plan text (page 143) recognizes that many older commercial uses along major corridors are appropriate and, thus, recommends the following action for the subject property:

Retain ongoing commercial uses (and vacant sites where appropriate) in the existing commercial zones, where permanent commercial usage is suitable at a given location.

The General Plan places this property in the Developing Tier. The vision of the Developing Tier is to maintain a pattern of low- to moderate density suburban residential communities, district commercial centers, and employment areas that are increasingly transit serviceable.

- E. Request:** The applicant proposes to raze the existing convenience store, vacant plumbing and heating supply building, and vacant single-family dwelling located behind the existing gas station and construct a new gas station, fast-food restaurant, and car wash. The proposal includes a one-story, 4,224-square-foot fast-food restaurant, eight multi-product fuel dispensers (MPDs) with 16 fueling positions covered by a canopy, and a 1,300-square-foot car wash.

The original proposal included a fast-food restaurant which did not meet a 200-foot setback from the property line. At the May 3, 2007 public hearing, the applicant withdrew the proposal for a fast-food restaurant. The proposed development will instead include a convenience store which is permitted by right in the C-S-C Zone. The proposed development is therefore, no longer subject to the 200-foot setback requirement.

A departure from Section 27-579(b) that pertains to the location of an access drive to a loading space is required. This section provides that:

**“No portion of an exterior loading space, and no vehicular entrances to any loading space (including driveways and doorways), shall be located within fifty (50) feet of any Residential Zone.”**

The access drive is approximately 29 feet from the eastern property line and R-R-zoned property. The applicant has requested a departure of 21 feet.

- F.** The property is surrounded by the following uses:

Northwest (Across Crain Highway): C-S-C-zoned property (Osborne Shopping Center)

Northeast: At the intersection of Crain Highway and Croom Road are batting cages, a miniature golf course and a residential use. The site is currently the subject of a pending rezoning (A-9974) from R-R to C-S-C for a Rite Aid.

South: R-R (undeveloped) and further south R-E-zoned properties with single-family detached residential uses.

The neighborhood can be generally characterized as low-density residential with a smattering of commercial uses oriented toward the Crain Highway and Croom Road intersection.

- G. Requirements for a Car Wash:** A car wash is permitted in the C-S-C Zone by a special exception, **Section 27-461(b)(1)(B)(iii)** of the Zoning Ordinance. There are no specific special exception requirements for a car wash. Sufficient queuing space is provided in addition to a by-pass aisle, so cars will not be prevented from exiting the site if they are not waiting for a car wash. The Planning Board finds the car wash meets the criteria of 27-317 as discussed below.
- H. Parking Regulations:** The site plan correctly notes that a total of 41 parking spaces are required for the proposed convenience store, fast-food restaurant, gas station, and car wash. The applicant is providing two handicap spaces and one loading space.

- I. Zone Standards:** The proposed use meets all bulk and height standards for the C-S-C Zone. The proposal does not meet all setback requirements as the fast-food restaurant structure is located within the required 200-foot setback from the property line. At the May 3, 2007 public hearing, the applicant withdrew the proposal for a fast-food restaurant. The proposed development is therefore, no longer subject to the 200-foot setback requirement. In addition, the applicant specifically requests a departure from Section 27-579(b) that pertains to the location of an access drive to a required loading space.

**Section 27-579(b) Location: “No portion of an exterior loading space, and no vehicular entrances to any loading space (including driveways and doorways), shall be located within fifty (50) feet of any Residential Zone.”**

The access drive is approximately 29 feet from the eastern property line and R-R-zoned property. The applicant has requested a departure from design standards for the reduced setback.

- J. Section 27-587:** This section authorizes the Planning Board to grant departures from parking and loading design standards, under procedures and requirements in Part 3, Division 5, of the Zoning Ordinance.

**Section 27-239.01(b)(8)(A) of the Zoning Ordinance provides that in order for the Planning Board to grant a departure from [parking and loading] design standards, 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 Parking Regulations will be equally served by the applicant’s proposal. The purposes of parking and loading design standards are contained in Section 27-550. The purposes pertain to the following:

- Providing sufficient loading areas to serve the loading needs of all persons associated with the building and uses.
- Relieving traffic congestion on streets by reducing the use of streets for loading.
- Protecting the residential character of residential areas.
- Providing loading facilities that are convenient and increase the amenities in the Regional District.

The Planning Board finds that these purposes are served by the application in that one loading space is provided as required. This space will remove such use from public streets while remaining conveniently located for the applicant’s use. In addition, the location of the proposed loading space will not detract from the residential character of the adjacent property as the loading space and access driveway are directly adjacent to a proposed stormwater management

facility. In addition, the applicant is providing landscape plantings in accordance with *Landscape Manual* requirements (planting 159 trees and shrubs to the existing 603 existing trees along the property line, which will maintain compatibility with adjacent residential land uses.

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

A departure of 21 feet is the minimum necessary given the specific circumstances of the request. The Board believes the 24-foot-wide access driveway will safely accommodate the internal mix of pedestrian and vehicular traffic. This driveway will be setback 21 feet from property in the R-R Zone which is owned by the applicant. The Board notes that floodplain and sensitive environmental features further restrict any development potential on this residential land.

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

The departure is necessary in order to alleviate circumstances that are unique to the site and prevalent in areas of the county developed prior to November 29, 1949. The Planning Board concurs with the applicant that the narrowness of the subject site renders development of the site in literal compliance with the requirements difficult if not impossible. The applicant states: "The applicants, in their desire to provide a safe and open feel to the front of the site, had no choice but to put the bypass lane, which leads to the loading space and the car wash, behind the C-store. This also allows for the staking (*sic*) of cars for the car wash behind the facility, which enables the parking and fueling area to remain clear for pedestrian and vehicular traffic." To meet the minimum residential zone setback requirement, the entire proposal would have to be shifted over 22 feet closer toward Crain Highway, which for safety reasons, as well as practical and aesthetic reasons, is not feasible. The Board finds that this condition is specific to this site though it is prevalent in the immediate area where development predated zoning.

**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 of the surrounding neighborhood. The applicant contends that the proposed design will result in a more effective buffer as well as improve the aesthetic appeal along this portion of the US 301 corridor. The undeveloped residentially zoned property to the south and east will be utilized for woodland conservation and landscaping and buffering has been provided as required. The Planning Board finds that the redevelopment of the property with a new structure with extensive landscaping should enhance the visual, functional and environmental quality of the site and surrounding neighborhood. Thus, the Board finds that the request conforms to the purposes of required parking design standards contained in Section 27-550.

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 recommends APPROVAL of the above-noted application.

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.

\* \* \* \* \*

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 Clark, with Commissioners Eley, Clark, Vaughns, Squire and Parker voting in favor of the motion, at its regular meeting held on Thursday, May 3, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 31st day of May 2007.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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