

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. DDS-678, McDonald's Forest Heights, requesting approval 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 September 9, 2021, the Prince George's County Planning Board finds:

- 1. Request:** The property owner requested a departure from design standards (DDS) from Section 4.7 of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) for an eating and drinking establishment with drive-through service.

Per Table 4.7-1 of the Landscape Manual, an eating and drinking establishment with drive-through service is considered a high-impact use. The community center located adjacent to the southern property line is considered a medium-impact use; therefore, the uses are deemed incompatible, and a Type B bufferyard is required between the incompatible uses.

The property owner requested Alternative Compliance (AC-20004) from Section 4.2 and 4.7 of the Landscape Manual to provide plant units outside the bufferyard. The site plan proposed to install a 6-foot-high, sight-tight fence along the top of the retaining wall, located along the southern end of the parking area that is about 20 feet from the southern property line, in accordance with Section 4.7, and a fence allows a reduction of 50 percent in the landscape yard, plant units, and set back as permitted by the Landscape Manual. On January 11, 2021, the Alternative Compliance Committee recommended disapproval of the Section 4.7 request within AC-20004 since the applicant cannot provide the landscape yard or any plant units, due to the presence of an existing drainage culvert and sewer line. The property owner is applying for a DDS from Section 4.7 of the Landscape Manual, in accordance with Section 27-239.01 of the Prince George's County Zoning Ordinance.

2. **Development Data Summary:** The following chart summarizes the approved development for the subject property.

| | EXISTING | APPROVED |
|------------------|-----------------|-----------------|
| Zone | C-M | C-M |
| Use(s) | Commercial | Commercial |
| Total Acreage | 0.77 | 0.77 |
| Lot | 1 | 1 |
| | | |
| Gross Floor Area | 4,597 sq. ft. | 4,597 sq. ft. |

| | Required | Approved |
|--------------------------|-----------------|------------------------------------|
| Parking | | |
| Number of Parking Spaces | 30 | 30 (including 2 ADA accessible) |

3. **Location:** The property is located southeast of the intersection of MD 210 (Indian Head Highway) and Livingston Road. The property address is 5501 Livingston Road, Oxon Hill, MD 20745. The property is known as Parcel D, recorded in the Prince George’s County Land Records in Plat Book WWW 74-91, in 1970.
4. **Surrounding Uses:** The site is surrounded by commercial and residential uses. The subject lot is bound to the north by an office building in the Commercial Office Zone, to the south by a Community Center in the One-Family Detached Residential Zone, to the east by an auto repair shop in the Commercial Miscellaneous (C-M) Zone, and to the west by Arapahoe Drive and MD 210.
5. **Previous Approvals:** In 1958, the original McDonald’s restaurant was established on the property. At the time, the restaurant was in the General Commercial, Existing Zone, and an eating and drinking establishment was a permitted use. The property was rezoned to C-M in 1984, with the adoption of the Subregion VII Sectional Map Amendment. When fast food restaurants became a defined use in the Zoning Ordinance (Prince George’s County Council Bill CB-102-1986), they also became a special exception use in the C-M Zone. At that time, the McDonald’s restaurant became a legal nonconforming use, as no special exception had been approved for the site. The use was certified as nonconforming on June 12, 1987, per Permit No. 2161-87-U.

In 1988, McDonald’s sought to build a minor addition to the existing building to provide a vestibule around the entrance and a freezer facility. The Prince George’s County Planning Board approved Nonconforming Fast-Food Restaurant NCFFR-1 on February 11, 1988 (PGCPB Resolution No. 88-54) to allow those minor additions.

In 1992, McDonald’s proposed to add a soft play area to the property and consequently, on November 23, 1992, Special Exception SE-4085 was approved by the Zoning Hearing

Examiner (ZHE) and declared final by the Prince George's County District Council, to allow the alteration of the nonconforming use. A Departure from Parking and Loading Standards, DPLS-145, was also approved by the Planning Board on October 15, 1992 (PGCPB Resolution No. 92-279) as a companion to SE-4085 to remove 3 of the 33 parking spaces on-site for construction of the play area.

McDonald's then sought to enclose the play area, and on October 12, 1995, the Planning Board approved DPLS-204 (PGCPB Resolution No. 95-321) for the purpose of waiving 10 parking spaces required to enclose the play area on-site, leaving the parking requirement at 30 parking spaces that remained on-site. A special exception to alter the nonconforming use (SE-4196) was approved by the ZHE and declared final by the District Council on March 27, 1997, for the play area enclosure.

In 2010, CB-19-2010 amended the table of uses to permit eating and drinking establishments with drive-through service to be permitted in the C-M Zone, subject to detailed site plan approval.

A Revision of Site Plan (ROSP-4196-01) application was received on October 30, 2020, for the reconstruction of the McDonald's with drive-through. An Alternative Compliance (AC-20004) application was received on November 10, 2021, in relation to the ROSP request. The AC was for alternative consideration to the site requirements of Sections 4.2 and 4.7 of the Landscape Manual. Only Section 4.2 was approved for alternative compliance, thus requiring this DDS request for Section 4.7.

On January 12, 2021, a waiver to Section 27-302 of the Zoning Ordinance was received from the applicant, in order to temporarily pause review of ROSP-4196-01 until an issue was resolved with the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) regarding the Site Development Concept Plan approval. The case was heard on July 1, 2021, by the Planning Board, which approved the transmittal of the recommendation of denial to the ZHE. The ZHE has not taken action on the ROSP at the time of writing this report.

6. **Design Features:** The requested Departure from Design Standards (DDS) is related to the property owner's request for a major Revision of a Special Exception Site Plan (ROSP-4196-01) to reconstruct an eating and drinking establishment with drive-through service. The site plan revision is requesting to raze an existing McDonald's restaurant and rebuild a new McDonald's restaurant with dual drive-through service, including reconstruction of parking and pavement areas and the on-site dumpster pad and enclosure. The proposed site plan includes 30 parking spaces and 2 handicap-accessible parking spaces. As previously discussed, this DDS was requested after the disapproval of the alternative compliance for the Section 4.7 request that was part of AC-20004.

The site plan includes a 22-foot-wide, dual drive-through aisle in the rear of the property and a 12-foot-wide, single drive-through aisle in the east side of the building. The property has a 25-foot-wide, one-way access point on Livingston Road, and a 32-foot-wide, one-way exit driveway on Livingston Road. The internal driveway width ranges from 14 to 22 feet and provides circulation around the building. The site plan includes two bicycle racks near the front entrance of the building. A sidewalk is included in the landscaped area in the front of the property, which connects to the adjoining properties and provides access to the building. There is a 3-foot-high concrete block screening wall located in the landscape area in the front of building along Livingston Road, and a 6-foot-high retaining wall with a fence on top, in the rear of the property.

7. **Prince George's County Zoning Ordinance Requirements:** The criteria for approval of a DDS is set forth in Section 27-239.01(7) and the analysis for Section 27-239.01(7) is as follows:

(A) In order for the Planning Board to grant the departure, it shall make the following findings:

(i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;

The purpose of buffering is to separate and reduce conflicts between incompatible uses. The applicant provides the full distance of the bufferyard, but given the existing drainage culvert and sewerage line, the applicant has moved the plant units to the other parts of the property. The property owner requested to install a dual drive-through aisle in the rear of the property. A 6-foot-high, sight-tight fence on top of the retaining wall will be provided to adequately screen the southern property line. Staff finds that the request for a DDS for Section 4.7 of the Landscape Manual will serve the purposes of this subtitle.

(ii) The departure is the minimum necessary, given the specific circumstances of the request.

Per Section 4.7 of the Landscape Manual, the minimum necessary landscaping is a 6-foot-high, sight-tight fence with 50 percent of the plant units and planting area required in a 20-foot-wide Type B bufferyard along the southern property line. A 20-foot-wide concrete drainage swale exists along the southern property line that prevents any planting to be placed in the required bufferyard. The applicant proposed a 6-foot-high, sight-tight fence on top of the swale. Staff finds that the inclusion of this 6-foot, sight-tight fence and the full width of the bufferyard is the minimum necessary, given the circumstances.

(iii) 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;

In 1958, the original McDonald’s restaurant was established on the property; therefore, the finding does not apply. The applicant proposed to raze the existing building and construct a new building on the site. Both the concrete drainage swale on the southern property line and the circumstances for the need for a departure will remain.

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

This departure will not impair the visual, functional, or environmental quality or integrity of the site. The site plan includes a 6-foot-high, sight-tight fence along the top of the retaining wall, located along the parking area, which is about 20 feet from the southern property line. Therefore, a 50 percent reduction in the landscape yard, plant units, and setback is permitted by the Landscape Manual. The required and provided landscape requirements are as follows:

REQUIRED: Section 4.7, Buffering Incompatible Uses, along the southern property line, adjacent to existing Community Center

| | |
|--------------------------------|--|
| Length of bufferyard | 140 feet |
| Minimum building setback | 30 feet |
| Landscape yard width | 20 feet (10 feet with 50 percent landscape yard reduction) |
| Fence or wall | Yes |
| Percent with existing trees | 1 |
| Plant units (80 per 100 l. f.) | 112 |

PROVIDED: Section 4.7, Buffering Incompatible Uses, along the southern property line, adjacent to existing Community Center

| | |
|--------------------------------|----------|
| Length of bufferyard | 140 feet |
| Minimum building setback | 80 feet |
| Landscape yard width | 0 feet |
| Fence or wall | Yes |
| Percent with existing trees | 1 |
| Plant units (80 per 100 l. f.) | 0 |

The 6-foot-high, sight-tight fence on top of the retaining wall along the southern portions of the property serves as buffer from the community center. This buffer is a measure to sustain the commercial appearance and integrity of the property and the surrounding neighborhood, while also maintaining the functionality of

the eating establishment with drive-through service. The applicant is not able to plant within the concrete drainage swale and requiring plantings on the site would overly restrict the ability to develop the site.

- (B) For a departure from a standard contained in the Landscape Manual, the Planning Board shall find, in addition to the requirements in paragraph (7)(A), above, that there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.**

The statement of justification indicated that, since the building is set back 93.7 feet from the rear property line and due to the location of an existing drainage swale in the landscape yard area, the property owner is unable to install any landscape material in the area. The installation of a 6-foot-high, sight-tight fence along the top of the retaining wall is adequate screening for the neighboring incompatible use to the south of the property. The applicant's inability to provide any landscaping, due to the location of the existing drainage swale in the landscape area, makes it impossible to provide alternative compliance, as defined in the Landscape Manual.

8. **2010 Prince George's County Landscape Manual:** In accordance with Section 27-450, Landscaping, screening, and buffering, of the Zoning Ordinance, this development is subject to the Landscape Manual. Specifically, Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscape Requirements, apply to this site. Conformance with the applicable landscaping requirements will be reviewed at time of permit.
9. **Tree Canopy Coverage Ordinance:** Subtitle 25, Division 3, of the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on developments that request more than 5,000 square feet of disturbance. The property is zoned C-M and is required to provide a minimum of 10 percent of the gross tract area to be covered by tree canopy. The property is 0.77 acre in size and results in a TCC requirement of 0.08 acre (3,354 square feet). Therefore, the total TCC included on the property, 3,625 square feet, exceeds the requirement for TCC.
10. **Referrals:** The relevant comments submitted for this case were included in this resolution and the following referral memorandums were received, and are incorporated by reference herein:
 - Environmental Planning Section, dated June 25, 2021 (Schneider to Spradley)
 - Prince George's County Department of Permitting, Inspections and Enforcement, dated June 29, 2021 (Giles to Spradley)
 - Community Planning Section, dated March 1, 2021 (Garnaas-Holmes to Braden)
 - Historic Preservation Section, dated June 24, 2021 (Stabler and Smith to Spradley)

- Urban Design Section, dated March 2, 2021 (Bishop to Braden)
- Transportation Planning Section, dated June 23, 2021 (Howerton to Spradley)

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 the above-noted application without condition.


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 Bailey, seconded by Commissioner Geraldo, with Commissioners Bailey, Geraldo, Doerner and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, September 9, 2021, in Upper Marlboro, Maryland.

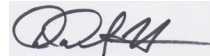
Adopted by the Prince George's County Planning Board this 30th day of September 2021.

Elizabeth M. Hewlett
Chairman

By 
Jessica Jones
Planning Board Administrator

EMH:JJ:TS:nz

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: September 13, 2021