

Prince George's County Departure from Design Standards

Applicant: Fellowship Investment Associates, LLC

Location: The subject property is located on the east side of Old Branch Avenue, west of Branch Avenue, approximately 1,200 feet south of Allentown Road

Request: Departure from the 10-foot landscape strip requirement of Section 4.3 of the *Landscape Manual*

R E S O L U T I O N

WHEREAS, the applicant is requesting a departure from the 10-foot landscape strip requirement of Section 4.3 of the *Landscape Manual*; and

WHEREAS, the advertisement of the public hearing was posted on the property in accordance with the adopted Rules of Procedure of the Prince George's County Planning Board; and

WHEREAS, the Technical Staff Report released March 14, 2001 recommends APPROVAL, with conditions; and

WHEREAS, after consideration of the Technical Staff Report and testimony at its regular meeting on March 22, 2001, the Prince George's County Planning Board agreed with the staff recommendation; and

WHEREAS, the Prince George's County Planning Board decision is based on the findings and conclusions found in the Technical Staff Report and the following DETERMINATIONS:

- A. Location and Field Inspection: The property is located on the east side of Old Branch Avenue and the west side of Branch Avenue, approximately 1,200 feet south of Allentown Road. The site comprises 0.63 acre (27,576 square feet) of land. It is rectangularly shaped and is improved with a small, 9,600-square-foot, one-story shopping center that was constructed in 1972. The current uses on the property consist of a dry cleaner, beauty service, pizza delivery and a proposed church.
- B. History: The property was placed in the C-M Zone with the adoption of the sectional map amendment in 1984. In 1992, the Prince George's County Council approved a validation of permit by Order No. ERR-148. Permit No. 9-72CG was issued in error in 1972 for the six-foot landscape strip and the required building setback along Branch Avenue. However, the site plan did show the required six-foot landscape strip along Old Branch Avenue. Departure from Parking and Loading Standards (DPLS) 120 was approved in 1991 for a waiver of 28 parking spaces and 1 loading space for the Domino's Pizza Carry Out which, at the time, was determined to be a fast-food restaurant. The approved site plan for DPLS-120 also showed the required six-foot landscape strip along Old Branch Avenue. In 1996, the Planning Board approved DPLS-203 to allow a waiver of two loading spaces for the dry cleaner use. The site plan for DPLS-203 did not show the six-foot landscape strip along Old Branch Avenue. Instead, additional parking spaces

were shown in place of the landscape strip.

- C. Master Plan Recommendation: The 1981 Approved Master Plan for Subregion VII recommends Service-Commercial land use for the property.
- D. Request: The applicant is requesting a departure from the *Landscape Manual* requirements of Section 4.3 (a) to validate an existing condition on the subject property that does not provide the 10-foot landscape strip between the right-of-way of Old Branch Avenue and the parking lot. In September 2000, the Planning Director of The Maryland-National Capital Park and Planning Commission (M-NCPPC) denied Alternative Compliance Application No. 00039 in conjunction with Permit No. 8316367-2000U. The applicant is currently proposing to provide 2 landscape islands, each planted with grass and a tree, in lieu of the 10-foot landscape strip. The proposed landscape islands will replace four existing parking spaces that are currently located behind the right-of-way of Old Branch Avenue.
- E. Surrounding Uses: The immediate area surrounding the site is generally characterized by a mixture of residential and commercial uses in the C-M, C-S-C , C-O, R-30 and R-R Zones. The subject property abuts C-M-zoned properties to the north and south occupied with retail and service-commercial uses, including a liquor store and a small restaurant. To the east, the property abuts the Branch Avenue service road that lies approximately six to eight feet below the subject property. A concrete barrier separates the rear (east) of the property from the service road. The nearest residentially zoned (R-30C) property is located approximately 350 feet southwest of the site across Old Branch Avenue.
- F. Design Requirements:
 - 1. Number of Required Parking Spaces: The current uses in the shopping center consist of a dry cleaner, beauty service, pizza delivery and a proposed church. **Section 27-568 of the Zoning Ordinance requires a total of 37 parking spaces for the current uses, including the proposed church use, in the subject shopping center.**

PARKING SCHEDULE				
UNIT	USE	G.F. AREA	PARKING REQUIREMENTS	SPACE REQUIRED
2	DRY CLEANING PLANT	2,400	2,400 @ 1/500	5
3	BEAUTY SERVICE	1,100	1,100 @ 1/150	8
4	DOMINOS	2,000	2,000 @ 1/500	4
TOTAL				17
20% REDUCTION FOR MIXED USE				3.4
TOTAL				13.6
1	CHURCH	4,100	92 SEATS @ 1/4	23

The site plan provides for 40 parking spaces, including 2 parking spaces for the physically handicapped. The Permit Review Section has offered the following comments:

- \$ The 20 percent reduction on the parking schedule is not correct. Twenty percent of 17 is 3.4. This number must be left a decimal, or rounded down to 3. The total number of required parking spaces will then be 37.
- \$ The parking spaces for the physically handicapped should be dimensioned on the site plan.
- \$ The parking schedule should indicate both the types and sizes of the parking spaces provided, and that the total number of parking spaces provided is 40.
- \$ The site plan should indicate that DPLS-120 waived the required loading space for Domino=s Pizza.

All ramps/drop curbs or other means of accessible entrance for the physically handicapped should be indicated on the site plan.

A note should be added to the site plan that ERR-148 validated building permit 9-72CG, as the six-foot setback and landscaped strip were not provided along Branch Avenue (Route #5).

In response to the Permit Section=s comments, the applicant has amended the site plan and addressed many of the above concerns; however, the plan needs to be further revised

to correct some omissions and inaccurate information. The parking schedule needs to be amended to reflect consistency with the parking schedule table shown above. Moreover, accurate information needs to be provided on the site plan regarding the previously approved departures.

2. Number of Required Loading Spaces: **Section 27-582 of the Zoning Ordinance requires one loading space (per store) for retail sales and services comprising over 2,000 square feet of gross floor area (GFA). Section 27-582 also requires 1 loading space for every 10,000 to 100,000 square feet of gross floor area (G.F.A) for churches.**

Two loading spaces are required for the current uses in the shopping center, one each for the dry cleaning plant and the pizza delivery. With regard to the proposed church use, no loading space is required since the use occupies a gross floor area of less than 10,000 square feet. The site has no existing loading space. The applicant is not required to provide loading spaces at this time since the two previously approved departures waived a total of three required loading spaces.

In 1991, a waiver of one loading space for the Domino=s Pizza Carry Out was approved by DPLS-120. In addition, in 1996, a waiver of two loading spaces for a dry cleaner and a paint store use were approved by DPLS-203. The applicant needs to add notes to the site plan indicating the number of loading spaces waived by the two departures.

3. Landscape Manual: At the time the shopping center was constructed in 1972, a six-foot grass landscape strip was required along Branch Avenue (at the rear of the property) as well as Old Branch Avenue (front of the property). Council Order ERR-148 validated Building Permit 9-72CG because the six-foot landscape strip and the required building setback were not provided along Branch Avenue. However, the site plan did show the required six-foot landscape strip along Old Branch Avenue. DPLS-120 was approved for Domino=s Pizza to waive 28 parking spaces and 1 loading space. The site plan that was approved for DPLS-120 also showed the required six-foot landscape strip along Old Branch Avenue. On December 19, 1996, DPLS-203 was approved to waive two loading spaces. The site plan that was used for this departure did not show the six-foot landscape strip along Old Branch Avenue that was required at the time the building was constructed. Additional parking spaces were shown in place of the landscape strip.

Only a six-foot grass strip with no plant units was required at the time of construction. **Per Section 1.1(b) of the Prince George=s County *Landscape Manual*, existing conditions on developed sites not in conformance with the requirements that were in effect at the time of construction or otherwise considered unlawful prior January 1, 1990, are subject to the requirements of the *Landscape Manual*.**

The subject property does not meet the requirements of the *Landscape Manual*. On September 14, 2000, the Planning Director denied Alternative Compliance Application No. 00039 along Old Branch Avenue pursuant to Section 4.3(a) of the *Landscape*

Manual. Consequently, the applicant filed DDS-520 (the subject application).

4. Signs: The site plan shows the existing sign located 10 feet behind the street line near the northwestern access driveway of the shopping center. No change is proposed to the existing sign.
 1. Other: The site plan, which is drawn at 1" = 20' scale, shows a 1"= 30' scale reference in one of the engineer=s information boxes. Although the scale is accurately shown on a couple of other places, the one inaccurate reference needs to be corrected to avoid potential confusion.
- G. Commercial Zone Requirements: With the previously approved DPLS-120 and DPLS-203, the property conforms to all other requirements of the C-M Zone.
- H. Departure From Design Standards: Required Findings:
- (A) Section 27-239.01(b)(9)(A) 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. It is important to note that these departures are being requested in order to validate an existing situation. This shopping center was constructed in 1972. At the time of construction, the property was subject to a six-foot grass strip (no plant units) requirement. Although various site plans were approved through the years with and without the six-foot grass strip, no grass strip

was ever provided on the property. The area designated for the six-foot grass strip was constructed and has been utilized as a paved parking area since the development of the property as a small shopping center.

Since this situation has existed for nearly 30 years, there is no way to bring about compliance with current Zoning Ordinance standards other than requiring the applicant to reconstruct the parking area and eliminate 14 parking spaces along the western property boundary. Given all of the above, the applicant's proposal to provide two landscape islands with grass and two trees 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 departure is the minimum necessary without requiring the reconstruction of existing improvements and the deletion of existing parking spaces. In addition, the applicant's proposal will provide landscaped enhancements along the frontage of Old Branch Avenue.

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 proposed use will not intensify or exasperate existing traffic, parking, noise, or aesthetic conditions in the area. As noted, through the years various site plans were approved with and without the six-foot grass strip along the property's frontage on Old Branch Avenue. The fact remains that no landscape strip of any size has ever been provided at this location. The area designated for the 6-foot grass strip was

constructed and has been utilized as a paved parking area since the development of the property nearly 30 years ago. An attempt to meet current or previous landscape strip requirements would result in the elimination of 14 existing parking spaces, creating new inconsistencies with current zoning regulations. Therefore, the requested departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location.

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

The departure, with the proposed planting of two new trees along the property=s frontage on Old Branch Avenue, 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 10-foot landscape strip, as required by Section 4.3 (a) of the *Landscape Manual*, along the western property boundary is not a practical option and would result in a loss of needed parking spaces, necessitating an even greater departure from parking and loading standards. There is no feasible proposal for alternative compliance, as defined in the *Landscape Manual*, which would exhibit equal or better design characteristics. The adjoining properties to the north and south of the subject site have neither

the previously required six-foot grass strip nor the 10-foot landscape strip currently required by the *Landscape Manual*. As noted, with the requested departure the applicant is proposing to plant three new trees along the property=s frontage on Old Branch Avenue. The proposed trees will help to enhance the aesthetic appearance of the property and the immediate neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that Departure from Design Standards 520e is hereby APPROVED, subject to the condition that prior to the issuance of permits, the site plan shall be revised to reflect the following:

1. Revise the parking schedule in accordance with the one on page 3 of this resolution.
2. The site plan should indicate that DPLS-120 waived the one required loading space for Domino=s Pizza and that DPLS-203 waived the two required loading spaces for a dry cleaner and a paint store.
1. The reference to Scale: 1" = 30' shall be changed to Scale: 1" = 20'.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with the District Council of Prince George=s County within thirty (30) days following 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 Lowe, seconded by Commissioner Brown, with Commissioners Lowe, Brown, and Hewlett voting in favor of the motion, and with Commissioner Eley absent at its regular meeting held on Thursday, March 22, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12th day of April 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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