



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 11-09

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File No. DDS-602

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DDS-602, Kinder Explorers Children Learning Center, requesting a waiver of a landscape strip (26 feet long by 10 feet wide) along Annapolis Road (MD 450), pursuant to Section 4.2 of the *Prince George's County Landscape Manual* 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 January 27, 2011, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The property is located on the north side of Annapolis Road (MD 450), approximately 300 feet east of its intersection with Greenwood Lane in Lanham, Maryland. The site is currently improved with a one-story day care center, with an associated parking lot and an outdoor play area in the One-Family Detached Residential (R-80) Zone. The entire front yard has been paved with four existing parking spaces. The entire rear property is fenced with a six-foot-high, board-on-board fence. The site has an existing play equipment area and concrete patio play area in the rear and is shaded with two existing oak trees. The property has 60 linear feet of frontage on Annapolis Road (MD 450) with two driveways, one of which is approximately 19 feet wide and the other is approximately 15 feet wide on each end of its frontage on Annapolis Road.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-80	R-80
Use(s)	Day Care Center	Unchanged
Acreage	0.33	Unchanged
Lots	43 & 43A	Unchanged
Parcels	N/A	N/A
Square Footage/GFA	1,315	2,873
Dwelling Units:	N/A	N/A

C. **History:** The existing building was originally constructed as a single-family dwelling in 1940 and was later converted to day care center. Aerial photos taken in 2006 indicate that the entire front yard of the property was paved for the parking lot use without a legal building permit. Subsequently, in March 2007, a Special Exception (SE-4566) was approved for the subject site for a day care center with an enrollment of 20 children within the existing structure, with three parking spaces. At that time, the site was exempt from the *Prince George's County Landscape Manual* because there was no increase in the gross floor area per Section 27-328.02 of the Zoning Ordinance, which states that any use which does not require construction, enlargement, or an extension of a building is exempt. The 2010 *Approved Glenn Dale-Seabrook-Lanham and Vicinity*

Sector Plan and Sectional Map Amendment (Planning Area 70) retained the R-80 Zone for the subject property.

- D. **Master Plan Recommendation:** The 2010 Glenn Dale-Seabrook-Lanham and Vicinity Sector Plan recommends residential use for the subject property. The application is also consistent with the 2002 *Prince George's County Approved General Plan* Development Pattern policies for the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The 2002 General Plan Development Pattern policies for the Developing Tier do not address a day care facility as proposed by this application.

E. **Request**

DDS-602: The applicant is requesting a departure of the entire 26 feet long by 10 feet wide landscape strip along Annapolis Road (MD 450), as required by the Landscape Manual. However, staff has determined that by rearranging the location of the parking spaces, the site would allow room to create a limited 10-foot-wide by 7.5-foot-long landscape strip along the property frontage without encroaching onto the required driveway width. Therefore, a waiver of 18.5 feet long by 10 feet wide landscaping is the minimum necessary given the circumstances of the site.

- F. **Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries.

North—	Greenwood Lane
East—	Washington Boulevard
South—	Annapolis Road (MD 450)
West—	The intersection of Greenwood

The property is surrounded by the following uses:

North and East—	Existing single-family development in the R-80 Zone
South—	Annapolis Road (MD 450)
West—	An office as an accessory use within a dwelling in the R-80 Zone

The neighborhood is primarily developed with single-family residential detached homes. A single-family home, which has been converted to an office, is adjacent to the property to the west in the R-80 Zone.

G. Specific Special Exception Requirements for a Day Care Center: Section 27-348.01(a) sets forth the following specific requirements.

- (1) The District Council may specify the maximum number of children to be enrolled, which may not be increased by State or local health, education, or fire regulations;**

The applicant proposed to increase the number of children enrolled in the existing day care from 20 to 40 children.

- (2) An ample outdoor play or activity area shall be provided, in accordance with the following:**

- (A) All outdoor play areas shall have at least seventy-five (75) square feet of play space per child for fifty percent (50%) of the licensed capacity or seventy-five (75) square feet per child for the total number of children to use the play area at one (1) time, whichever is greater;**

Based on a proposed enrollment of 40 children, a total of 3,000 square feet is required for the play area to accommodate the full enrollment at one time. An outdoor play area of at least 75 square feet per child for 50 percent of the licensed capacity would equal an area of 1,500 square feet ($40/2 = 20 \times 75 = 1,500$ s/f). The proposed outdoor play area is 4,500 square feet in area. This is more than sufficient per the requirement of 75 square feet of outdoor play area for the total number of children. The play area, as shown, is located in the northern portion of the property and is fully enclosed with a fence to prevent children from accessing the sides of the building.

- (B) All outdoor play areas shall be located at least twenty-five (25) feet from any dwelling on an adjoining lot, and shall be enclosed by a substantial wall or fence at least four (4) feet in height;**

The play area is located approximately 80 feet away from the nearest dwelling on an adjoining lot, and it will be enclosed by a four-foot-high vinyl fence with one gate for ingress/egress. This play area is located within the dwelling unit's backyard, which is completely enclosed with a six-foot-high, board-on-board, wooden fence along the property edges.

- (C) A greater set back from adjacent properties or uses or a higher fence may be required by the District Council if it determines that it is needed to protect the health and safety of the children utilizing the play area;**

The proposed outdoor play area is shown as an area approximately 80 feet away from the closest residence that adjoins the subject property to the west. The homes on other adjoining properties are located 90 to 175 feet from the proposed play area. The outdoor play area is completely enclosed with an existing six-foot-high, sight-tight fence along the property edges. Both the setback and the height of the fence are sufficient to protect the health and safety of the children using the play area. Additionally, the District Council has determined through its original approval of the special exception that this property is not a threat to public health, safety, and welfare as it exists today. The extension of the day care center will not cause an impact to the children any differently than already experienced.

- (D) Any off-premises outdoor play or activity area shall be located in proximity to the day care center, and shall be safely accessible without crossing (at grade) any hazardous area, such as a street or driveway;**

No off-premises outdoor play area is proposed. The outdoor play area is located on the premises and the main access will be via stairs leading down from two doors on the rear of the proposed building addition. The Planning Board requires that the plan be revised to show one of the entrances of the newly constructed building to the outdoor play area as accessible via a handicapped-accessible ramp instead of stairs. In order to make this ramp safe and universally accessible, it is required to comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). The ramp at the rear entrance of the building shall comply with ADAAG for Buildings and Facilities, Section 405. The Planning Board additionally stated that the location of the door on the side of the building as shown on the plan does not correspond to where it is shown on the architectural elevations; the Planning Board recommends that the plans be revised to match, as necessary.

- (E) The play area shall contain sufficient shade during the warmer months to afford protection from the sun;**

The site has large, existing oak trees on both the eastern and western side of the existing play equipment area. This will be sufficient to provide ample shade for the children during warmer months. However, the plan does not show the existing or proposed topography, and therefore, it is not clear if these trees will be able to be saved with the grading needed for the building expansion. The Planning Board recommends that the applicant be required to provide information on these issues and, if the trees cannot be saved due to construction activities, the applicant should include a color detail for a shade structure, with materials identified, on the plans prior to certification.

- (F) Sufficient lighting shall be provided on the play area if it is used before or after daylight hours to insure safe operation of the area; and**

The site plan indicates that the hours of operation for the play area are from 8:00 a.m. to 6:00 p.m. At certain times of the year it is dark during these hours. Therefore, staff

recommends that Note 10 on the site plan be revised to allow the outdoor play area to be limited to 8:00 a.m. to dark (daylight hours only). With regard to sufficient lighting for the parking lot, the photograph provided by the applicant confirms that the applicant is providing building-mounted lighting to illuminate the parking area in front of the building. These lights have been in existence from the start of the existing day care center.

(G) Outdoor play shall be limited to the hours between 7 A.M. and 9 P.M.;

As noted in Finding (F) above, the Planning Board is recommending that Note 10 on the site plan specify that the play area be used during daylight hours.

- H. **Parking Regulations:** Section 27-568 (Schedule of Parking Spaces) of the Zoning Ordinance requires one parking space for every eight children. The proposed day care center will have a maximum enrollment of 40 children. A total of five parking spaces are required ($40/8 = 5$). Exactly five parking spaces, including one van-accessible space for the physically handicapped, are provided.
- I. **Prince George's County Landscape Manual Requirements:** The site is subject to Section 4.3(a), Parking Lot Landscape Strip, along Annapolis Road (MD 450); and Section 4.3(b), Parking Lot Perimeter Strip, along the western property line per the *Prince George's County Landscape Manual* because it necessitates an increase in the number of parking or loading spaces beyond the number currently existing. The project is also subject to the requirements of Section 4.7, Buffering Incompatible Uses, of the Landscape Manual because it involves an increase in gross floor area of more than ten percent.

It should be noted that this special exception plan will be heard by the Planning Board after the adoption date, December 13, 2010, of County Council Bill CB-65-2010, the 2010 Comprehensive Update to the *Prince George's County Landscape Manual*. Therefore, this plan will have to adhere to the 2010 revised Landscape Manual requirements. Based on the 2010 Landscape Manual, the plan should be revised, as necessary, to reflect the appropriate labels and schedules required by the manual. Per the 2010 Landscape Manual, the project is subject to Section 4.2, Requirements for Landscape Strips along Streets; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements because it involves an increase in the building's gross floor area of more than ten percent. The following comments are offered regarding conformance of the submitted plans to these requirements:

1. **Section 4.2 (previously Section 4.3.a.)**—The site has 60 linear feet of frontage on Annapolis Road (MD 450) which includes two existing driveway entrances, one which is approximately 19 feet wide and one which is approximately 15 feet wide. Therefore, the site would require a 4 to 15-foot-wide landscape strip, depending upon the chosen option available for use in the Landscape Manual, for the remainder of the width of the frontage (excluding driveway openings) which is approximately 26-foot long. The site plan does not reflect a landscape strip along the road frontage due to the existing layout with a 22-

foot drive aisle, 19-foot parking spaces, and 4-foot-wide sidewalks filling the space between the right-of-way and the existing building, which is set back 45 feet from the right-of-way line. The applicant applied for alternative compliance from this requirement, but because there is no feasible proposal for an equal to or better design due to the existing site conditions, the application was denied by the Planning Director. Therefore, the applicant applied for a Departure from Design Standards (DDS-602), which is discussed below, from the requirements of Section 4.2 of the Landscape Manual, as is the standard procedure.

2. **Section 4.4**—This section requires the screening of all dumpsters, trash pads, and mechanical equipment from parking areas and entrance drives within a commercial development. The submitted site plan does not indicate the location of these facilities, if any are proposed, nor how they will be screened. Staff recommends that if facilities like this are proposed, they be shown on the plan and screened as required by this section, using a non-wood, non-white, low-sheen, durable material for any proposed fencing.
3. **Section 4.7**—A Type “B” bufferyard, including a 30-foot building setback and a 20-foot-wide landscape yard is provided as required along the northern property line where the day care center is adjacent to single-family detached dwellings. Along the eastern property line, where the day care center is also adjacent to a single-family detached dwelling, an alternative compliance application is necessary as neither the 30-foot building setback nor the 20-foot-wide landscape yard is being provided for the full length of the property line as required. The properties to the west of the subject site (Lots 42 and 42-A) are labeled as a single-family dwelling with office. Since the type of office is unspecified, it is unclear whether or not it fits exactly into the low-use impact category as defined in Section 4.7., which specifies “Offices: accountants, architects, clergymen, engineers, lawyers, medical practitioners and similar recognized and learned profession (as an accessory in a dwelling).” However, the existing development and use on the adjacent lot, in its current state, has the same presence and impact as a low-impact category use. Therefore, the Planning Board recommends that it is treated as a low-impact use, making the two uses compatible and not requiring a 4.7 bufferyard along the western property line.

The applicant requested alternative compliance from Section 4.7, Buffering Incompatible Uses, along the eastern property line where the day care center is adjacent to a single-family detached dwelling. The existing structure is set back 13.9 feet from the property site. The proposed one-story addition is set back 21.7 feet and does not meet the required 30-foot building setback. The applicant proposes an additional 12 planting units from the required amount. Considering that the lot is only 60 feet wide, the Planning Board feels that the reduced bufferyard is justified and that the additional planting units and fencing proposed is equally effective with Section 4.7 of the *Prince George's County Landscape Manual*. Consequently, on January 27, 2011, the Planning Board recommended approval of the alternative compliance pursuant to Section 4.7 of the *Prince George's County Landscape Manual* along the eastern property line.

4. **Section 4.9**—This new section has various requirements regarding the use of native plant species, the exclusion of invasive plant species, and the removal of existing invasive plant species from the site. The proposed planting schedule includes one type of evergreen tree and one type of shade tree, both of which are native species. The shade tree, however, is specified to be planted at too small of a size, six to eight feet. The Landscape Manual requires that the proposed shade trees be planted at 12 to 14 feet in height, or two and a half to three-inch caliper. Additionally, to fulfill the requirements of this section, certain notes and tables are required to be added to the planting schedule and the plan to demonstrate compliance. The Planning Board recommends that the plan should be revised, as necessary, to reflect the appropriate notes and schedules as required by Section 4.9.
- J. **Sign Regulations:** No freestanding signs are proposed with this application. Any sign that will be placed on the property must meet all area, height, and setback requirements.
- K. **Zone Standards:** The proposed use complies with the standards of the R-80 Zone.
- L. **Further Planning Board Findings and Comments from Other Entities:**
 1. **Permit Review**—Permit Review had concerns regarding landscaping along east and west property line, along Annapolis Road (MD 450) frontage and adequate lighting in the parking lot if the parking lot to be used at night. The landscape issues had been addressed at the time of the Alternative Compliance review per the new Landscape Manual as mentioned in Section I of this report along east and west property line. However, a companion departure from Design Standard has been filed along with the subject special Exception to address landscaping along Annapolis Road frontage. Furthermore, as mentioned in section (G)(2)(F) above, the photograph provided by the applicant confirms that the applicant is providing building mounted lighting to illuminate the parking area in the front of the building.
 2. **State Highway Administration (SHA)**—The State Highway Administration stated that the site will not require any modification to the existing driveway. The existing driveway width is sufficient to meet SHA's current standards.
- M. **Required Findings:** Section 27-239.01(b)(7) of the Zoning Ordinance provides that:
 - (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 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 residents and workers

in Prince George's County. In this instance, the facts establish that granting the requested departure will not jeopardize these purposes.

The existing building was a former one-story, single-family dwelling and was later converted to a day care center in 2007. There is no existing landscaping on the site along the Annapolis Road (MD 450) frontage because the existing pavement is located within the entire required landscape strip. Under Section 4.2 of the *Prince George's County Landscape Manual*, the site requires a 26-foot long by 10-foot-wide landscape strip along the Annapolis Road frontage, excluding the existing driveway openings. In order to provide the full 10-foot wide by 26-foot long landscape strip, it will require the property owner to lose three of the five essential parking spaces. Loss of these parking spaces will severely impact the operational safety of the facility and may even result in traffic backup on Annapolis Road, as some parents may be required to park and unload as the children are dropped off. To minimize the loss of any parking space and the removal of the existing paving, the Planning Board finds the current site condition to be acceptable to serve the applicant's proposal.

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

The departure will merely validate a situation that existed on the property for over three years. The requested departure is the minimum necessary without causing any major reconstruction to the existing building and loss of parking spaces. Under Section 4.2 of the *Landscape Manual*, the site requires a 26-foot long by 10-foot-wide landscape strip along the Annapolis Road (MD 450) frontage, excluding the existing driveway openings. Although the Planning Board notes that a rearrangement of the location of the existing parking spaces would allow room to create minimum 10-foot-wide by 7.5 feet long landscape strip along the property frontage without encroaching into the required driveway width as shown on Staff Exhibit A. In doing that, it would reduce the departure from the landscape strip requirement to 18.5 feet long, which is the minimum necessary given the specific circumstances of the site. The Planning Board supports full departure due to the limited area of the site.

(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;

The requested departure is necessary without causing substantial damage to the existing building that has existed on the property for over 70 years. It is also necessary to alleviate circumstances that are commonly found in areas initially developed with residential uses and later converted to commercial use. As mentioned above, the applicant is only providing a minimum 10-foot-wide by 7.5-foot long landscape strip from the required 10-foot-wide by 26-foot long landscape strip along Annapolis Road. For the remaining 18.5 feet in length, no landscaping strip can be provided as it would encroach onto the 22-

foot-wide drive aisle required behind all 90 degree parking spaces. However, the Planning Board is supportive of granting a full departure from design standards as it is necessary to alleviate circumstances that are unique to this site and is in agreement with the applicant that the proposed planting strip will have minimal impact on the site and its surrounding use.

(iv) 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 proposed expansion is in the back of the existing building which will not be visible from Annapolis Road (MD 450) and is adequately screened from the adjoining properties with six-foot-high, board-on-board fence from all sides. From a functional perspective, the site will not be affected in any way. Therefore, the departure will not impair the visual, functional, or environmental quality or integrity of the site or of 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 (9) (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.

The applicant requested alternative compliance from Section 4.2, Requirements for Landscape Strips along Streets, of the 2010 Landscape Manual along Annapolis Road (MD 450), where existing pavement for a drive aisle is located within the entire required ten-foot-wide landscape strip. The site requires a 26-foot-long landscape strip along the road frontage, which is the property width, excluding the existing driveway openings. Section 27-560(a) of the Zoning Ordinance requires a 22-foot-wide driveway behind all 90 degree parking spaces and the proposed development requires five parking spaces, which at a minimum, including the use of one compact space, would require a pavement width of 52.5 feet. The Planning Board notes that a rearrangement of the parking spaces would allow room to create a limited-sized, 10-foot-wide landscape strip, approximately 7.5 feet long, along the property's frontage without encroaching onto the required driveway width. The Planning Board is supportive of granting a departure from design standards as it is necessary to alleviate circumstances that are unique to this site.

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.

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 Cavitt, seconded by Commissioner Vaughns, with Commissioners Cavitt, Vaughns and Parker voting in favor of the motion, and with Commissioners Clark and Squire absent at its regular meeting held on Thursday, January 27, 2011, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 24th day of February 2011.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Acting Planning Board Administrator

PCB:JJ:TA:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCP&C Legal Department

Date 2/7/11