

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed Departure from Design Standards Application No. DDS-635 requesting a departure to allow the vehicular access to the loading space to be located within 50 feet of residentially-zoned property 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 5, 2017, the Prince George's County Planning Board finds:

FINDINGS

A. **Location and Field Inspection:** The subject property, 6712 Livingston Road, is a 0.8350-acre through lot located on the east side of Livingston Road 125 feet north of its intersection with Saint Barnabas Road (MD 414). The subject property is zoned Commercial Shopping Center (C-S-C) and is currently undeveloped. The property has frontage on both Livingston and Saint Barnabas Road.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Vacant	Commercial retail
Acreage	0.835	0.835
Parcels	1	1
Square Footage/GFA	0	7545

C. **History:** The subject property was previously the subject of Special Exception application SE-1696 (March 20, 1968), to allow parking on the residential portion of the property, which at the time was zoned C-O and R-55. In 1985, CR-64-1985, a Revisionary Petition related to the adoption of the 1981 *Adopted and Approved Master Plan for Subregion VII, Henson Creek (Planning Areas 76A and 76B) and South Potomac (Planning Area 80)*, was adopted and rezoned the property to Commercial Shopping Center (C-S-C).

D. **Master Plan Recommendation:** The subject property is located within the Established Communities area of the Prince George's County Growth Policy Map in the *Plan Prince George's 2035 Approved General Plan (Plan Prince George's 2035)*. The vision for established communities in Prince George's County is to have context-sensitive infill and low- to medium-density development. This application is consistent with Plan Prince George's 2035. However, the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment (Henson Creek-South Potomac Master Plan and SMA)* recommends a residential,

low-density land use for the property, while also retaining the property in the Commercial Shopping Center (C-S-C) Zone.

- E. **Request:** Section 27-579(b) of the Zoning Ordinance does not allow any portion of an exterior loading space and no vehicular entrances to any loading space within 50 feet of any residential zone. The applicant is requesting a departure of 38.5 feet from Section 27-579(b) to allow access to the loading space to be located within 50 feet of residentially-zoned property. The applicant is also requesting a departure of 17 parking spaces from the Zoning Ordinance requirement of 43 parking spaces. The purpose of the request is to bring the existing conditions of the subject property into conformance with the requirements of the Zoning Ordinance.

- F. **Surrounding Uses:** The property, which is surrounded by commercial and residentially-zoned land, is adjacent to a suburban residential neighborhood that is developed with single-family residential dwellings.

North and West— One-Family Detached Residential (R-55) zoned land, developed with single-family residential dwellings.

South— C-S-C-zoned land, developed with commercial building, previously used for automotive purposes.

East— One-Family Detached Residential (R-80) zoned land developed with single-family residential dwellings.

- G. **Design Requirements:**

1. **Departure from Design Standards from Section 27-579(b):** Section 27-579(b) of the Zoning Ordinance sets forth the following requirements:

- (b) **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 (or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan).**

The subject departure from design standards is a request to allow the vehicular access to the loading space to be located within 50 feet of the residentially-zoned property to the north. The property is unique in that it is small arrow-shaped parcel with public rights-of-way (on two sides) to the east and west, commercial property to the south and to the north by residentially-zoned property, which limits the options for appropriate locations of a loading access drive and space. Additionally, the commercial building south and the surrounding adjacent residential homes have all been in existence since at least

1955. There are no viable alternatives for relocating the loading space and access drive on-site.

2. **Departure from Parking and Loading Standards from Section 27-568: Number of Required Parking and Loading Spaces:** Section 27-568 of the Zoning Ordinance requires one parking space for every 150 square feet of gross floor area (GFA) and one parking space for every 200 square feet of GFA. The proposed GFA is 7,545 square feet and requires 43 parking spaces. A minimum of one loading space is also required. The applicant's parking schedule provides a total of 26 parking spaces, including 18 standard spaces, six compact spaces, two handicapped spaces (including one van-accessible handicapped space). One loading space is required and one is provided. The proposed 26-space parking lot on-site does not provide sufficient parking spaces to meet the Zoning Ordinance requirements, resulting in the departure request for 17 of the 43 required parking spaces. The departure is justified because there is no space on-site to provide additional parking spaces.

Parking and Loading Standard	Section 27-568 of the Zoning Ordinance requires one parking space for every 150 square feet of gross floor area (GFA)
Existing Parking	26
Required Parking	43
Departure Requested	-17
Total Proposed Parking	26

3. **Prince George's County Landscape Manual:** The site is not exempt from the 2010 *Prince George's County Landscape Manual*.
4. **Signs:** No freestanding signs are proposed for the subject use. Any sign that will be placed on the property must meet all area, height, and setback requirements.

H. **Further Planning Board Findings and Comments from Other Entities:**

1. **Community Planning**—The proposed development is adjacent to an established residential neighborhood. Developing Tier Policy 1, page 22, of the master plan states, "Preserve and enhance existing suburban residential neighborhoods." The first strategy to implement this policy states, "Ensure that the design of new development in suburban residential areas maintains or enhances the character of the existing community." Consideration should be given to the design of the building, screening, lighting and operation to ensure compatibility to the adjacent residential neighborhood. The placement of the building on the southern portion of the property, adjacent to the commercial property, demonstrates that the applicant is sensitive to maintaining the character of the existing neighborhood. However, lighting and screening of the site should be reviewed

prior to certification of the site plan to ensure that any fencing, building, lighting, and security are compatible with the adjacent residential area.

2. **Urban Design**—The application is subject to the 2010 *Prince George's Landscape Manual*, specifically Section 4.2, Requirements for Landscape Strips Along Streets, along Livingston Road and Saint Barnabas Road (MD 414); Section 4.3, Parking Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses along the southern and eastern property lines; and Section 4.9, Sustainable Landscaping Requirements.

An Alternative Compliance Pre-application (ACP-16011) from Section 4.3(c)(2), Parking Lot Interior Planting Areas to reduce the amount of interior landscaped area required, and Section 4.7, Buffering Incompatible Uses, along the eastern and southern property lines, to reduce the buffer required for the proposed retail use from adjacent residentially-zoned property to the east and an existing car wash to the south, was reviewed by the Alternative Compliance Committee on September 7, 2016. The applicant filed an application for Alternative Compliance, in accordance with the comments dated September 28, 2016 for the ACP, which was approved.

Tree Canopy Coverage: Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage (TCC) on projects that require a grading permit for disturbing more than 5,000 square feet of a site. Properties that are zoned C-S-C are required to provide a minimum of ten percent of the gross tract area in TCC. A TCC schedule should be provided indicating conformance with the above requirement.

3. **Transportation Planning**—The irregularly shaped parcel borders two master plan collector roadways. Two-way access will be provided from both roadways. Under Section 27-568 of the Zoning Ordinance, the retail use requires 43 parking spaces and one loading space. The applicant is proposing 26 parking spaces and one loading space.

Parking studies cited by the applicant suggest that a typical store of 9,100 square feet, a standard footprint, only requires 30 parking spaces, including during the holiday season. The proposed smaller prototype store of 7,545 square feet would only need 25 parking spaces based on previous studies by the company, which included transactions per hour. Utilizing parking data from the Institute of Traffic Engineers, the applicant's traffic consultant suggests that 22 parking spaces would meet the parking needs for a store of this size.

The Department of Permitting, Inspections and Enforcement (DPIE) does not support the departure because the proposed departure may adversely affect the operation of Livingston Road or Saint Barnabas Road. No on-street parking is available or allowed on Livingston Road or Saint Barnabas Road. DPIE can install signage indicating such along the impacted roadways. The location of the proposed building on the site and two commercial

entrances eliminates areas for additional parking. Two entrances will improve circulation and access on-site although it restricts parking. The applicant cites the need to protect buffer areas which prevents additional parking.

Based on the evidence supplied by the applicant that 26 spaces will handle the parking demands of the proposed use, the request is not opposed. In addition, it is expected that most of the patrons will be short term, resulting in a high turnover rate of parking. The proposed space is smaller than the typical store and is anticipated to generate less traffic.

4. **Subdivision**—The subject property is currently known as Parcel A, Block A recorded in 1968 in Plat Book WWW 68-29. The property is located on Tax Map 105 in Grid C-1, is zoned Commercial Shopping Center (C-S-C) and is 36,374 square feet. The parcel is currently undeveloped and is located north of the intersection of Livingston Road and Saint Barnabas Road.

Section 24-111(c) of the Subdivision Regulations requires a final plat of subdivision approved prior to October 27, 1970 to be re-subdivided prior to the issuance of a building permit unless it meets one of the exemption criteria outlined in Section 24-111(c)(1)–(4). The subject parcel does not meet any of the exemptions and, therefore, is required to be re-subdivided.

A final plat was heard by the Prince George's County Planning Board on October 27, 2016 for the re-subdivision of Parcel A, Block A, to determine adequate public facilities for the development as proposed with this application. Staff recommended approval of the final plat subject to a trip cap for the proposed development. The proposed final plat was required to be recorded prior to issuance of building permits. The final plat was recorded on October 27, 2016.

Failure of the site plan and record plat to match (including bearings, distances and lot sizes) will result in permits being placed on hold until the plans are corrected. There are no other subdivision issues.

I. Required Findings:

1. **Section 27-587**—of the Zoning Ordinance authorizes the Planning Board to grant departures from design standards under procedures and requirements contained in Part 3, Division 5, of the Zoning Ordinance.
2. **Section 27-239.01(b)(7)(A)**—of the Zoning Ordinance provides that, in order for the Planning Board to grant a departure from design standards, it shall make the following findings:
 - (i) **The purposes of this Subtitle will be equally well or better served by the applicant's proposal.**

These purposes are equally well served by the application. A single-loading space is required by the Zoning Ordinance and one is provided. The loading space is located on the southern portion of the property that abuts commercially zoned land. The location of the loading space does not detract from the residential character of the neighborhood. The applicant's proposal maintains the residential nature of the area. The site was designed to locate the proposed building at least 70 feet from the residentially zoned properties. The through driveway is within 50 feet of the adjacent residentially zoned land. There is an odd angle with the adjacent residential property where the driveway is 11.5 feet from the adjoining property and the landscape buffer does not conform with the Landscape Manual requirement. A six-foot-high sight-tight fence is provided along the entire property line abutting residential zoned properties and a substantial landscaped buffer. Fencing along the property lines will ensure that the site will maintain compatibility with adjacent residential land uses.

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

The departure of 38.5 feet is the minimum necessary. The site is designed to provide the maximum distance between the building, drive aisle, loading space and the residentially zoned properties. The request allows for the parking lot to be used to its maximum potential. There are no additional impacts on the surrounding residential uses.

- (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 departure is necessary in order to alleviate circumstances that are unique to the site because the property is zoned C-S-C and residentially-zoned developed land abuts the property to the north. The property is unique in that it is a through lot that borders two master plan collector roadways which are gateways to residential communities. The applicant has sought to design the site in a manner that is respectful of the adjoining residential properties. This departure is necessary to provide the required loading space, which is necessary for the proposed use and location.

- (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 of the surrounding neighborhood. The subject property is an infill commercial site. The applicant has proposed setbacks, buffering and landscaping to meet or exceed the requirements, as well as a sight-tight fence along the entire perimeter of the site. The inclusion of these design features will ensure the proposed development will not infringe upon residential areas.

3. Section 27-588(b)(8)—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 Part (Section 27-550) will be served by the applicant's request;

The purposes of Section 27-550 are as follows:

Purposes of Section 27-550

- (1) To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;
- (2) To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;
- (3) To protect the residential character of residential areas; and
- (4) To provide parking and loading areas which are convenient and increase the amenities in the Regional District.

The purposes of the parking and loading regulations will be served by the applicant's request. The purposes seek to ensure sufficient parking and loading areas to serve the needs of the established use and to aid in relieving traffic congestion on the streets by reducing the use of public streets for parking and loading. The provision of on-site parking spaces at the subject location protects the residential character of properties to the north of the subject site. The subject property is surrounded by fully developed land. There is no room for expansion. The twenty-six parking spaces provided are a convenient amenity to those patrons using the proposed services offered, which benefits the Regional District. Additionally, the subject property is in an area that is served by public transportation. Thus, nearby properties are not likely to be affected by the proposed departure.

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

The departure of 17 spaces is the minimum necessary. Approval of this departure request allows the parking lot to be utilized to its maximum potential.

- (iii) **The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;**

The departure is necessary to alleviate the special circumstances related to building use and the physical limitations of the subject property. A departure from parking and loading standards, generally, is a means to provide relief from the strict application of the Zoning Ordinance when a property has unique characteristics that make compliance with the standard impractical at that particular location. The property is sited in a fully-developed area and has no room for expansion. In addition, the applicant supplied evidence analyzed by Transportation staff, which supports the applicant's assertion that 26 spaces are sufficient to handle the parking demands of the proposed use.

- (iv) **All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and**

All methods of calculation have not been fully applied to this application. The current site plan shows 26 parking spaces.

- (v) **Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.**

The applicant submits that the parking and loading needs of the residential areas will not be infringed upon if this request is granted. Residential streets will not be impacted, because there is access to public transportation, the area is pedestrian friendly, and there are sufficient parking spaces to accommodate the use. There will be no spillover into residential streets.

- (B) **In making its findings, the Planning Board shall give consideration to the following:**

- (i) **The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within five hundred (500) feet of the subject property;**

The area within 500 feet of the subject property is characterized by commercial and residential uses. The adjoining and nearby commercial uses have their own off-street parking and loading facilities, as do the adjacent residential uses. There is no indication of a shortage in parking and loading spaces within the general vicinity of this facility.

- (ii) **The recommendations of an Area Master Plan, or County or local revitalization plan, regarding the subject property and its general vicinity;**

The Henson Creek-South Potomac Master Plan and SMA retained the subject property in the Commercial Shopping Center (C-S-C) Zone. Consideration of the building design is recommended to ensure compatibility of the proposed building to the adjacent residential properties.

- (iii) **The recommendations of a municipality (within which the property lies) regarding the departure; and**

There are no comments or recommendations submitted by a municipality.

- (iv) **Public parking facilities which are proposed in the County's Capital Improvement Program within the general vicinity of the property.**

There are no public parking facilities proposed for this area.

- (C) **In making its findings, the Planning Board may give consideration to the following:**

- (i) **Public transportation available in the area;**

Public transportation is available, there is a metro bus stop within 400 feet of the subject property on Saint Barnabas Road.

- (ii) **Any alternative design solutions to off-street facilities which might yield additional spaces;**

There are no viable design solutions to off-street facilities for the required parking spaces or loading space that would not negatively impact parking. There is insufficient land area on site to provide additional parking.

- (iii) **The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within five hundred (500) feet of the subject property;**

The parking and loading demands will be unchanged regardless of the hours of operation. There will be no disruption to traffic flow or parking conditions on the surrounding streets resulting from the proposed uses. The proposal has no effect on the nature and hours of operation of other commercial/retail uses within 500 feet of the subject property if the departure is granted.

- (iv) **In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.**

The subject property is in the C-S-C Zone; therefore, the above section is not applicable.

CONCLUSION

The requested departures are necessary to bring the existing conditions of the subject property into conformance with the requirements of the Zoning Ordinance. The applicant has satisfied the requirements pertinent to obtaining the requested departure from the requirement that access drives to a loading space shall be a minimum of 50 feet from adjoining residentially-zoned land. The applicant has proposed site design and landscaping to ensure compatibility with the residential properties impacted by the proposed development. The request for a departure from the parking and loading standards meets the requirements of the Prince George's County Zoning Ordinance and will not adversely affect the subject property or the surrounding neighborhood.

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 Alternative Compliance AC-16020, and further APPROVED the above-noted application, subject to the following conditions:

1. Prior to certification of the site plan the applicant shall:
 - a. Provide the dimension from the loading space access to the residentially-zoned property to the east.
 - b. Provide a tree canopy coverage schedule in accordance with Subtitle 25, Division 3.
 - c. Provide screening (fence detail) and lighting plans to review compatibility with residential development.

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 Washington, seconded by Commissioner Doerner, with Commissioners Washington, Doerner, Geraldo, and Hewlett voting in favor of the motion, and with Commissioner Bailey opposing the motion at its regular meeting held on Thursday, January 5, 2017, in Upper Marlboro, Maryland.

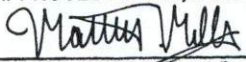
Adopted by the Prince George's County Planning Board this 26th day of January 2017.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

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APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department
Date 1/12/17