



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 13-28

File No. DPLS-381

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DPLS-381, Chick-Fil-A (Bowie) requesting a waiver of five parking spaces from the required 56 parking spaces 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 March 21, 2013, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property, Lot 10, is located on the east side of Robert Crain Highway (US 301), approximately 300 feet south of its intersection with Ballpark Road, in Planning Area 74B. The property is developed with a 4,211-square-foot building, drive-through, and 48 parking spaces (existing conditions as of the writing of this report). There is a sign located on the property.

- B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-M	C-M
Use(s)	Fast-Food restaurant	Fast-Food restaurant
Acreage	1.04	1.04
Square Footage/GFA	4,211	4,561 (550 New)

- C. **History:** The subject site was placed in the Rural Residential (R-R) Zone during the 1991 Bowie-Collington-Mitchellville Sectional Map Amendment. It was rezoned in 1994 as part of a 31-acre parcel rezoned from the R-R Zone to the C-M (Miscellaneous Commercial) Zone via Zoning Map Amendment A-9897. The 2006 *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, 74B* (Bowie and Vicinity Master Plan and SMA) retained the property in the C-M Zone. Special Exception SE-4368 was approved July 28, 2000 by the District Council; subsequently, Detailed Site Plan SP-00019 was approved on July 7, 2000.
- D. **Master Plan and General Plan Recommendations:** The application conforms with the commercial development land use recommendations of the Bowie and Vicinity Master Plan and SMA. This application is consistent with the 2002 *Prince George's County Approved General Plan* Development Pattern policies for the Developing Tier and does not violate the General Plan's growth goals for the year 2025 based upon a review of Prince George's County's current General Plan Growth Policy Update.
- E. **Request:** The applicant is requesting a minor revision to the approved special exception for Chick-Fil-A (SE-4368), ROSP-4368-01, for the addition of 550 square feet to the existing south end of

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the building and modification of the drive-through aisle from a single lane to a double lane. The additional square footage is for storage to accommodate the dual drive-through, no additional customer seating is proposed. The site plan change constitutes a 13.1 percent increase in gross floor area to the building. The applicant is also requesting a departure, DPLS-381, of five parking spaces from the required 56 parking spaces.

- F. **Neighborhood and Surrounding Uses:** The neighborhood boundaries as defined in A-9897 and SE-4368 are north of the subject property is John Hanson Highway (US 50); east is the Patuxent River; south is Central Avenue (MD 214); and west is US 301. The eastern portion of this neighborhood remains rural-residential in character; the western portion has significant development. This includes multifamily residential development just south of US 50, the Prince George's Stadium, a BJ's Wholesale Club, a Home Depot store, and a Mobil gas station. The properties immediately surrounding the subject site are:

North— A Mobil gas station and Home Depot zoned C-M

East— BJ's Wholesale Club zoned C-M and the Prince George's Stadium

South— Rip's Restaurant, a motel, and other commercial development zoned C-M

West— Across US 301, the Bowie Gateway Shopping Center zoned C-M

- G. **Signage:** No signage is proposed at this time. Any future signage proposed on this property will require approval of a revised special exception site plan prior to approval of a sign permit. The (proposed) site plan identifies the location of a freestanding sign in conformance with the required setbacks for such signs.

- H. **Landscape Manual Requirements:** The proposed landscape plan was reviewed by Urban Design staff for conformance to the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The subject application is subject to Sections 1.7, 4.2, 4.7, and 4.9 of the Landscape Manual. The revision application is subject to Section 1.7, which states that permits for sites that were previously subject to the Landscape Manual shall include a valid Certificate of Landscape Maintenance demonstrating that the previously required landscaping has been maintained in a healthy condition. This should be conditioned to be provided at the time of permit application. The proposal is subject to Section 4.2, Requirements for Landscaped Strips along Streets, because it involves an increase of more than ten percent of the gross floor area of the building. The requirements of this section were met with the original special exception approval, and the current proposed improvements do not affect the required landscape strip or plant material. The site is subject to the requirements of Section 4.7, as a high-intensity use, because it involves an increase of more than ten percent of the gross floor area of the building. The requirements of this section were met with the original special exception approval, and the current proposed improvements do not affect the required buffer yards or plant material. The site would be subject to the requirements of Section 4.9, however, no new landscaping is proposed that would need to conform to this section.

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The submitted revision to a special exception is not subject to the requirements of Section 4.3, 4.4, and 4.5 of the Landscape Manual because it does not involve an increase in impervious area for parking areas; does not indicate any new trash facilities, mechanical equipment, or loading spaces; and does not indicate any proposed stormwater management facilities that would require landscaping under these sections.

The application is subject to the requirements of the Tree Canopy Coverage Ordinance because it will require a grading permit for more than 1,500 square feet of disturbance. The special exception area of 1.04 acres is zoned C-M and is required to provide ten percent tree canopy coverage (TCC), or 4,530 square feet. A TCC worksheet has not been provided on the plan. Prior to approval, the applicant should either provide evidence that the area of site disturbance on the grading permit needed for the proposed improvements is less than 1,500 square feet, provide a TCC worksheet showing the full requirement being satisfied on-site, or obtain approval of a TCC requirement waiver.

- I. **Zone Standards:** The proposed site plan is in conformance with the requirements of the C-M Zone.
- J. **Specific Special Exception Requirements:** Section 27-350, Drive-in or fast-food restaurant, of the Zoning Ordinance states:

(a) **A drive-in or fast-food restaurant may be permitted, subject to the following:**

- (1) **All proposed buildings, structures, and outdoor facilities (including vehicle parking) shall be located at least two hundred (200) feet from the nearest property line of any land in 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 District Council may reduce this setback requirement when it determines that the landscaping, screening, and buffering requirements in the Landscape Manual, or other conditions, will adequately protect abutting residential property;**

The existing restaurant is in compliance with the setback requirement of 200 feet. The proposed expansion will be constructed within the existing area of disturbance.

- (2) **A bicycle rack for at least six (6) bicycles shall be provided on the premises, unless the applicant demonstrates to the satisfaction of the District Council that the requirement is inappropriate because of the location or nature of the establishment;**

A bicycle rack for at least six bicycles is shown on the site plan near the northwestern corner of the building. However, there is no bike rack currently located on the premises.

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- (3) **The use will not restrict the availability, or upset the balance, of land use in the neighborhood for other commercial uses;**

This request is to upgrade the existing restaurant and, therefore, will not upset the balance of land use in the neighborhood for other commercial uses.

- (4) **Special consideration shall be given to advertisement, outdoor display, outdoor activity, lighting, hours of operation, and other aspects of the proposed operation to assure that the health, safety, and general welfare of the community will be protected.**

The subject site is completely surrounded by commercial development. The facility operates Monday through Saturday from 6:00 a.m. to 1:00 a.m. It is closed on Sundays. The existing directional lighting and signage were previously approved and comply with the requirements of the Zoning Ordinance.

- (b) **A special exception shall not be required for the conversion of a drive-in restaurant to a fast-food restaurant, or the conversion of a fast-food restaurant to a drive-in restaurant, provided that no enlargement or extension takes place. The addition of a window or other facility to provide for drive-in service shall not be construed to be an enlargement or extension. The conversion shall be permitted for a drive-in or fast-food restaurant which has become a certified nonconforming use or was established pursuant to a Special Exception, provided that any conditions of the Special Exception remain in effect.**

This application is in compliance.

- K. **Required Findings:** Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) **The proposed use and site plan are in harmony with the purposes of this Subtitle.**

The purposes of the Zoning Ordinance are listed in Section 27-102. The proposed use is in harmony with the purposes of the Subtitle in that it will provide for a restaurant which provides quick and convenient meals at a location near residential, employment, and shopping areas.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

With the exception of the width of the drive aisle and number of parking spaces, the proposed use and the revised site plan conform to all applicable requirements. The parking requirements are being addressed through a departure from parking and loading standards.

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- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**

This application is in compliance with the Bowie and Vicinity Master Plan and SMA recommendation. The master plan recommends commercial land uses on the subject property. This proposal demonstrates compliance.

- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area. The proposal was designed to provide for the safe internal flow of vehicles and pedestrians on-site and for the safe ingress and egress of vehicles.

- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and**

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

- (6) **The proposed site plan is in conformance with an approved Tree Conservation Plan.**

A note on the plan indicates it is in compliance with Type II Tree Conservation Plan TCP/II/161/91.

- (7) **The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.**

The proposed expansion occurs within the existing areas of disturbance. There are no regulated environmental features on the property.

- L. **Parking Regulations:** The proposed site plan shows the required number of parking spaces for the site (51) and indicates a required loading space as well. However, it was noted during the field inspection that there are only 48 existing parking spaces on the site. Three parking spaces were removed to include a connection to the adjoining property (Rip's Restaurant parking lot) [for employee parking]. The subject property is currently deficient by three parking spaces and is not in conformance with current parking regulations. The applicant's attorney has informed staff that the three spaces will be replaced and it is not their desire to increase their departure from five to eight parking spaces. However, staff contends that any departure approved should be for eight parking spaces.

The site plan shows a one-way circulation pattern for most of the site, using an aisle width of 18 feet in many areas. Transportation Planning staff noted that the southern drive aisle will be

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reduced to 17.5 feet after the proposed modifications are implemented. Transportation staff believes this may be problematic for those parking spaces closest to the second drive-through aisle. The minimum required width is 18 feet and should be provided for on the site plan. While 18 feet is in accordance with the requirements for the travel lanes in a parking area, a loading area requires a 22-foot-wide aisle regardless of circulation patterns, per Section 27-581 of the Zoning Ordinance. If there is no satisfactory alternative site plan layout which will provide for a 22-foot-wide access, the applicant will be required to obtain approval of a departure from design standards in accordance with Section 27-587.

M. **Departure from Parking and Loading Standards:** Section 27-588(b)(7) provides the following requirements for approval of departures from the number of parking and loading spaces:

(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;**

Section 27-550. Purposes

(a) **The purposes of this Part are:**

- (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 regulations will be served by the applicant's request. The applicant seeks to ensure sufficient parking to serve the needs of the patrons of this Chick-Fil-A restaurant and to relieve on-site traffic and circulation congestion by reducing the number of spaces on this relatively small property. The underlying purpose of this revision is to provide additional square footage to increase the drive-through service area of the restaurant. No additional patron seating is being provided, as such, the applicant does not anticipate the need for additional parking.

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

The departure is the minimum necessary per the site plan conditions. However, as noted previously, existing conditions indicate a shortage of three additional parking spaces. As such, the requested departure should increase to eight. Fifty-one parking spaces are currently required. Forty-eight parking spaces exist. The increase in square footage requires an additional five parking spaces. Given the size of the property, a departure of eight spaces is the minimum necessary given the circumstances of the property.

- (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 the minimum necessary. While there are no residential areas proximal to the subject site, the site is adjacent to commercial properties to the north and south, each of which has sufficient and well-utilized parking. The departure is necessary in order to alleviate circumstances which are special to the subject use given the nature and physical limitations of this site, which is surrounded by existing commercial development. The purposes of the Parking Regulations will be served by the request. The purpose of the expansion is to accommodate the dual drive-through, which will eliminate the need for additional on-site parking.

- (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 been fully applied to this site. The applicant has applied the correct method for calculating the number of spaces required.

- (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. The nearest residentially-zoned property is 240 feet from the subject property and is not yet developed with residential homes.

- (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;**

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There is no indication of a shortage of parking within the general vicinity of this restaurant.

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

The proposed use is consistent with the plan recommendations and will not impair the integrity of the master plan.

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

The subject property is not located within a municipality. However, the City of Bowie has provided comments.

- (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 not an option at this location. It is not anticipated that patrons will use public transportation to visit this restaurant.

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

There are no alternative design solutions to off-street facilities which might yield additional spaces. There are seven on-street parking spaces available for public use.

- (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 demands for the subject site will remain unchanged regardless of the hours of operation. Parking conditions on the surrounding streets and traffic flow will not be disrupted as a result of this proposal.

- (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**

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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 located in the C-M Zone, therefore, not subject to this provision.

- N. **Further Planning Board Findings and Comments from Other Entities:** Following are comments generated from referral comments by internal divisions and external agencies. Most comments were integrated into this technical staff report. Comments from the Urban Design and Permit Review sections of The Maryland-National Capital Park and Planning Commission (M-NCPPC), Development Review Division, were integrated into the overall staff report. Any outstanding plan revisions that still remain have been included as conditions of approval.

The City of Bowie—The subject property is not located within the corporate limits of the City of Bowie. However, the City has submitted comments requesting that the addition to the existing building be architecturally compatible with the existing building; the restoration of three parking spaces and the required aisle widths are shown on the certified plan. The City is recommending that the Planning Board approve the application with conditions (Conditions 8-11).

The Community Planning—There are no General Plan or master plan issues raised by this application.

The Environmental Planning—The Environmental Planning Section previously reviewed Lot 10, Rip's Subdivision as part of Type I Tree Conservation Plan TCPI/105/90, approved in conjunction with Special Exception SE-3966. The TCPI was later revised with the review and approval of Preliminary Plan of subdivision 4-94074, which took into account woodland conservation areas impacted by the Prince George's Stadium and Ball Park Road. The preliminary plan was approved, with conditions of approval contained in PGCPB Resolution No. 94-298(A), several of which pertain to the review of a limited detailed site plan and the associated Type II tree conservation plan as discussed below.

A Type II Tree Conservation Plan (TCPII/161/91) was initially approved in conjunction with a grading permit for the site and revised prior to the construction of Ball Park Road. A revised TCPII, TCPII/161/91-02, was approved with Detailed Site Plan DSP-00019 by the Planning Board on July 6, 2000, subject to conditions of approval contained in PGCPB Resolution No. 00-128. The subject application is not subject to the environmental regulations of Subtitles 24 and 27 that came into effect on September 1, 2010 because the site has a previously approved preliminary plan, special exception site plan, and detailed site plan. The application is not subject to the Woodland and Wildlife Habitat Conservation Ordinance, Subtitle 25, Division 2, which became effective September 1, 2010 and February 1, 2012, because there are previously approved Type I and Type II tree conservation plans, and the TCPII was previously implemented.

Historic Preservation—A Phase I archeological study is not recommended for the subject property. This project will have no impact on any historic sites or resources, or known archeological resources.

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The Maryland State Highway Administration (SHA)—SHA has no objections to plan approval.

Parks—There are no impacts on exiting parklands.

Special Projects—The proposed development and departure will have no impact on public facilities.

Transportation—The applicant's justification for the revision being sought is to "facilitate and organize vehicular movement on-site." In reviewing the proposed changes, staff concurs that these changes would indeed enhance traffic circulation on-site. The application requests a waiver of the design standards for the parking spaces as a result of the proposed expansion. In evaluating the current parking needs, it would appear that an open unpaved area immediately adjacent to the subject site is being used as overflow parking. This would suggest that the spaces on-site are not enough to facilitate the needs of the current customers plus the staff of the restaurant. While there is no ironclad proof that the overflow parking demands exist, the fact that there is an opening in the existing parking lot that leads directly to this parking area, and the close proximity of this parking area to the subject property, lends credence to this speculation. An evaluation of the adjacent neighborhood through aerial photography indicates that there are no residential communities nearby. Consequently, the potential impact of this parking deficit is not likely to impact any residential neighborhood. However, the use of the adjacent property as a parking overflow is still a major concern, and ought to be given consideration in approving this departure from parking and loading standards application.

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, subject to the following conditions:

1. Prior to certification of the site plan, the site plan should be revised to provide the following:
 - a. The dimensions of the driveway access which both must be a minimum of 22 feet wide.
 - b. Provide evidence that the area of disturbance is less than 1,500 square feet, provide a tree canopy coverage (TCC) worksheet showing the requirement being met on-site, or obtain approval of a waiver to the TCC requirement.
 - c. Revise the limit of disturbance on the site plan to be inclusive of all proposed site improvements.
 - d. Clearly identify the loading space on the site plan and the required 22-foot access; the loading cannot be served by a one-way drive aisle.

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- e. The required aisle widths (18 feet).
 - f. A plant schedule per Section 4.9 of the 2010 *Prince George's County Landscape Manual*.
 - g. Typical parking space sizes to ensure that the spaces meet the requirements of the Zoning Ordinance.
 - h. The height and the proposed dimensions of the proposed building.
- 2. At the time of any permit application, a valid Certificate of Landscape Maintenance shall be submitted.
 - 3. Signage should be posted in the parking area where the drive aisles are one way.
 - 4. The exterior of the addition shall be finished with the same color, texture, pattern, and style brick used on the existing exterior of the restaurant.
 - 5. The existing vehicular connection in the southwestern portion of the site, leading to Lot 9 (Rip's Property), shall be removed and the three lost parking spaces shall be reinstalled.
 - 6. Prior to issuance of building permits, install bike racks as illustrated on the site plan.

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 Shoaff, with Commissioners Washington, Shoaff, Bailey, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, March 21, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 11th day of April 2013.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:IT:arj

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department

Date 3/27/13