

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on April 25, 2019, regarding Detailed Site Plan DSP-18046 for Burger King #1155, the Planning Board finds:

1. **Request:** The subject application requests expansion of a certified nonconforming use of an existing eating and drinking establishment with drive-through, specifically a Burger King. The specific changes include façade, sidewalk, and signage improvements; the removal of a 33-square-foot vestibule; the addition of a 182-square-foot pay station window to the existing building; and the validation of the 20-space parking lot located at the eastern side of the property, abutting 40th Place.

2. **Development Data Summary:**

	EXISTING	APPROVED
Zone	M-X-T/D-D-O	M-X-T/D-D-O
Use(s)	Eating and drinking establishment with drive-through	Eating and drinking establishment with drive-through
Acreage	1.639	1.639
Gross Square Footage	3,127 (33 to be removed)	3,276 (182 proposed)

Parking and Loading**Parking Requirements:**

99 seats @ 1 space/3 seats	33
500 sq. ft. @ 1 space/50 sq. ft. of gross floor area	10
Total Parking Required	43
Handicap-Accessible Spaces	2 (included in total required)
Total Parking Provided	61

3. **Location:** The subject site is located on the south side of Bladensburg Road and on the north side of Newark Road, at the intersection with 40th Avenue. The property is described as Parcels B and E, as shown on Tax Map 50, Grid B4. The site is within Planning Area 68 and Council District 5.

4. **Surrounding Uses:** The subject site and all the surrounding properties are located within the Bladensburg Road/Main Street Character Area of the Development District Overlay (D-D-O) Zone, established by the 2009 *Approved Port Towns Sector Plan and Sectional Map Amendment* (Port Towns Sector Plan and SMA). The property is bounded to the east by 40th Place, with Mixed Use-Transportation Oriented (M-X-T) zoned property, developed with an eating and drinking establishment with drive-through beyond; to the south by Newark Road with One-Family Detached Residential zoned properties developed with single-family detached residences beyond; to the west by 40th Avenue, with the Port Towns shopping center beyond; and to the north by Bladensburg Road, with M-X-T zoned properties developed with single-family detached residences beyond.
5. **Previous Approvals:** The subject property, known as Parcels B and E, recorded in Plat Book NLP 95-27 on August 26, 1976, was developed in the Commercial Shopping Center Zone with the 3,127-square-foot Burger King in 1979. The property was certified as a nonconforming use, CNU-26589-08, administratively on September 12, 2008. The subject property was rezoned to M-X-T with the adoption of the Port Towns Sector Plan and SMA, which also imposed the D-D-O Zone on the property.
6. **Site Design:** This detailed site plan (DSP) proposes façade, sidewalk, and signage improvements; the removal of a 33-square-foot vestibule; the addition of a 182-square-foot pay station window to the existing building; and the validation of the 20-space parking lot located at the eastern side of the property.

The brick, single-story, 3,127-square-foot building housing the eating and drinking establishment will increase to 3,276 square feet, with no increase to the existing 99 seats. The building is located at the center of the site, facing Bladensburg Road, with entrances on both the front and side elevations. The proposed addition for the drive-through is located at the rear of the building, facing Newark Road. Parking for the development remains unchanged at the front, sides, and rear of the building. The 20-space parking lot located along 40th Place was constructed without a permit, and not included as part of the administrative nonconforming use approval. Pedestrian accessibility is provided to the building via proposed and existing connections to Bladensburg Road, 40th Place, and 40th Avenue. Parking for three bicycles is provided adjacent to the side entrance. The existing enclosed dumpster is located at the rear portion of the site, adjacent to Newark Road. An existing 8-foot-high, sight-tight fence located to the side of the concrete dumpster enclosure is proposed to be removed.

Signage—The applicant proposes minimal signage throughout the development. Section 27-613 of the Prince George’s County Zoning Ordinance specifies that signage may be attached to the walls, to the roof of a building, or to a canopy that is located at least 10 feet behind a street line. The site plan shows the locations for four proposed signs to replace existing building-mounted signage. Three of the four signs are internally lit. Two signs are located at the building entrances and one is located above the drive-through window. The fourth sign, located at the front of the building, consists of individual letters above the front entrance. The signage is acceptable, relative to the building and site.

COMPLIANCE WITH EVALUATION CRITERIA

7. **2009 Approved Port Towns Sector Plan and Sectional Map Amendment:** The subject application has been reviewed for compliance with the requirements of the Bladensburg Road Gateway/Main Street Character Area of the Port Towns Sector Plan and SMA.

Per the sector plan (page 208), fast food establishments with drive-through windows are not a permitted use within the sector plan. However, the sector plan provides the following exemption for nonconforming buildings, structures, and uses (page 151):

6. **Nonconforming Buildings, Structures, and Uses**

- b. **Except for improvements listed in the ‘Miscellaneous’ paragraph, a property owner may not expand a certified nonconforming use, or a use or structure that was lawful on the date of the SMA approval but does not conform to the standards, *unless a detailed site plan is approved with findings that the expansion is compatible with adjacent uses and meets the goals of the sector plan. (emphasis added)***

Therefore, the applicant has filed the subject application for a DSP, in accordance with this exemption. The improvements classified as expansion of the certified nonconforming use are the building addition and the validation of the existing parking lot along 40th Place, which was not part of the nonconforming use certification. Under ‘Miscellaneous’ Exemption 7 (page 152), the alterations to the façade, signage, and sidewalks are exempt from the development district standards and DSP review.

The only required findings for approval of this DSP by the Planning Board are that the expansion is compatible with adjacent uses and meets the goals of the sector plan. The goals of the Port Towns Sector Plan and SMA applicable to this site are as follows:

a. **Bladensburg Road Gateway/Main Street Character Area**

Goal: To promote a mixed-use, pedestrian-friendly boulevard that serves as a gateway to Prince George’s County and the Port Towns while also serving as the main street of Colmar Manor and Cottage City. (page 149-150)

The use has existed on the property for 40 years. Per the applicant’s statement of justification, the proposed improvements enhance the aesthetic appearance and improve the use’s functionality. The adjacent uses are primarily commercial beyond the existing rights-of-way, and the building addition is located internal to the site. Additionally, the parking lot expansion has also existed on-site for more than 25 years and will not increase existing impacts on adjacent uses.

The goal of the Bladensburg Road Gateway/Main Street Character Area is to promote pedestrian access along the boulevard. Neither the proposed building addition, nor the existing parking lot, will impact pedestrian improvements. However, bicycle and pedestrian safety is a particular

concern, especially around private fast-food sites. For the health, welfare, and safety of pedestrians and bicyclists, the applicant has provided marked pedestrian accesses from the public rights-of-way to the building entrance. However, some of these are not continuous all the way to the sidewalks within the public rights-of-way. Therefore, a condition has been included in this resolution requiring continuous pedestrian connections. The applicant has also provided three bicycle parking spaces near the building entrance.

Another goal of the sector plan is to provide improved public open space. At the northeast quadrant of Bladensburg Road and 40th Avenue, there is an existing landscaped open space area with seating and brick paver sidewalks. This area was improved through a public-private partnership between the applicant and the Town of Colmar Manor. This green area is now connected to all public-rights-of-way through this development, which further advances the goals of the sector plan and the Bladensburg Road Gateway/Main Street Character Area.

Given the addition of the proposed bike and pedestrian amenities and the minor nature of the expansion, the Planning Board found that the proposed expansion can be found to be compatible with adjacent uses and meet the goals of the sector plan. The proposed improvements serve the overall function of the site and services the area more efficiently.

8. **Prince George's County Zoning Ordinance:** The subject application has been reviewed to ensure that the expansion is compatible with the adjacent uses and meets the goals of the sector plan, as compared with the requirements in the M-X-T and D-D-O Zones and the site plan design guidelines of the Zoning Ordinance.
 - a. The use is legally existing on-site as a nonconforming use (CNU) and can be approved through DSP review per Exemption 6.b., as discussed in Finding 7 above.
 - b. This expansion to a nonconforming use can be approved through showing compatibility with the adjacent uses, as discussed in Finding 7 above. Therefore, the requirements of the M-X-T Zone can be used as a *guideline* for demonstrating compatibility with the surrounding development, as that is what adjacent properties would be subject to (*emphasis added*). The subject application is in general conformance with the requirements of Section 27-548 of the Zoning Ordinance, which allows for the improvements shown on a DSP to determine the regulations in the M-X-T Zone.
 - c. **Site Design Guidelines**—Section 27-283 of the Zoning Ordinance provides that a DSP should be designed in accordance with the same design guidelines for a conceptual site plan (Section 27-274) regarding parking, loading and circulation, lighting, views, green area, site and streetscape amenities, grading, service areas, public spaces, and architecture.

The requirements of Section 27-274(a) of the Zoning Ordinance that need discussion are as follows:

(2) Parking, loading, and circulation

- (A) Surface parking lots should be located and designed to provide safe and efficient vehicular and pedestrian circulation within the site, while minimizing the visual impact of cars. Parking spaces should be located to provide convenient access to major destination points on the site.**
- (B) Loading areas should be visually unobtrusive and located to minimize conflicts with vehicles or pedestrians.**
- (C) Vehicular and pedestrian circulation on a site should be safe, efficient, and convenient for both pedestrians and drivers.**

This DSP is in general conformance with the site design guidelines contained in Section 27-274 regarding provisions for safe and efficient on-site pedestrian and vehicular circulation, as well as provisions for adequate illumination.

There are 61 total parking spaces for the proposed uses. The vehicular access to the site from Bladensburg Road, 40th Avenue, and 40th Place is via dual ingress/egress driveway, which provides two-way traffic to the site. The drive aisle dimensions should be noted on the site plan. Parking spaces are located at the front, sides, and rear of the building, with only approximately 15 of the spaces in front of the building.

(3) Lighting

- (A) For uses permitting nighttime activities, adequate illumination should be provided. Light fixtures should enhance the design character. To fulfill this goal, the following guidelines should be observed:**
 - (i) If the development is used at night, the luminosity, orientation, and location of exterior light fixtures should enhance user safety and minimize vehicular/pedestrian conflicts;**
 - (ii) Lighting should be used to illuminate important on-site elements such as entrances, pedestrian pathways, public spaces, and property addresses. Significant natural or built features may also be illuminated if appropriate to the site;**
 - (iii) The pattern of light pooling should be directed on-site;**

The light fixtures include existing 10-foot and 12-foot-high, pole-mounted

lighting evenly distributed throughout the site, that provide a balanced lighting pattern throughout the property. The lighting placement enhances the building entrances, pedestrian pathways, site design character, and improves safety. Full cut-off optic light fixtures should be used to reduce light pollution onto adjacent uses, and conditions have been included in this resolution requiring that this be addressed.

(4) Views.

- (A) Site design techniques should be used to preserve, create, or emphasize scenic views from public areas.**

This DSP is designed to preserve, create, or emphasize views from the public roads to the green areas. The building is designed to provide a modern and clean presence and is located away from the roadway, to not block views.

(5) Green Area.

- (A) On-site green area should be designed to complement other site activity areas and should be appropriate in size, shape, location, and design to fulfill its intended use.**

This DSP provides landscaping interior to the parking lot and all around the edges of the development.

(6) Site and streetscape amenities.

- (A) Site and streetscape amenities should contribute to an attractive, coordinated development and should enhance the use and enjoyment of the site.**

The applicant is not proposing any site or streetscape amenities, except for pedestrian connections. Redevelopment of the site will contribute to an attractive and coordinated development.

(7) Grading.

- (A) Grading should be performed to minimize disruption to existing topography and other natural and cultural resources on the site and on adjacent sites. To the extent practicable, grading should minimize environmental impacts.**

The redevelopment is being proposed on a site that is existing and relatively flat. No grading is proposed.

(8) Service Areas.

(A) Service areas should be accessible, but unobtrusive.

There are no service areas proposed.

(9) Public Spaces.

(A) A public space system should be provided to enhance a large-scale commercial, mixed use, or multifamily development.

This not a large-scale commercial, mixed use or multifamily development. However, as noted previously, there is a landscaped public open space area with seating and brick paver sidewalks at the northeast quadrant of Bladensburg Road and 40th Avenue.

(10) Architecture.

(A) When architectural considerations are references for review, the Conceptual Site Plan should include a statement as to how the architecture of the buildings will provide a variety of building forms, with unified, harmonious use of materials and styles.

(B) The guidelines shall only be used in keeping with the character and purpose of the proposed type of development and the specific zone in which it is to be located.

(C) These guidelines may be modified in accordance with Section 27-277.

The existing building is generally rectangular and includes a flat roof across the length of the building. The proposed building façade is finished mainly in gray brick and fiber cement panels, with brown brick surrounding the base of the building. The main entrance doors are surrounded by red ceramic tile and tan fiber cement panels. Gray brick surrounds the windows. The proposed building materials are high-quality and acceptable.

9. **2010 Prince George's County Landscape Manual:** The development district standards of the Port Towns Sector Plan and SMA replace the requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual). However, as discussed in Finding 7, this DSP is exempt from the development district standards, and the only requirements that apply to this DSP are that the expansion is compatible with adjacent uses and meets the goals of the sector plan. Therefore, the Landscape Manual requirements, while not applicable, are being used as guidelines to help determine compatibility.

A landscape strip, with a minimum amount of planting, would be required along the public rights-of-way, if the project were not nonconforming. This DSP provides landscaping in the form of a 10-foot-wide grass strip along its frontage with 40th Avenue, Newark Road, and 40th Place. Parcel E, which has frontage on Bladensburg Road, is planted to mirror the landscaped open space area, with seating and brick paver sidewalks at the intersection of Bladensburg Road and 40th Avenue. Mechanical equipment, loading areas, and trash facilities, among other things, are typically required to be screened from public view. The trash area shown for the development is appropriately screened with a concrete enclosure; however, the Planning Board required the addition of three evergreens at the rear of the enclosure, adjacent to Newark Road, to further mitigate the incompatibility of the trash facilities with the residential properties to the south. Therefore, a condition is included in this resolution requiring these trees to be added.

With this addition and the existing landscaping on-site, the Planning Board finds that the landscape plan is compatible with adjacent uses and meets the goals of the sector plan.

10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The project is exempt from the Woodland and Wildlife Habitat Conservation Ordinance and was granted a Standard Letter of Exemption, S-120-2018, which expires on August 15, 2023. It also has a Natural Resources Inventory Equivalency Letter (NRI-079-11-01) that expires on August 15, 2023.
11. **Prince George's County Tree Canopy Coverage Ordinance:** The proposed development is not subject to the Tree Canopy Coverage Ordinance because it proposes less than 5,000 square feet of disturbance.
12. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized, as follows:
 - a. **Community Planning**—The Planning Board adopted herein by reference a memorandum dated March 21, 2019 (Irminger to Thompson), which provided discussion on the sector plan, which has been incorporated into Finding 7 above.
 - b. **Environmental Planning**—The Planning Board adopted herein by reference a memorandum dated March 27, 2019 (Schneider to Thompson), which noted the submission of a Natural Resources Inventory (NRI-079-11-01) issued on August 15, 2018. The site has a standard exemption letter (S-120-2018), a Stormwater Management Concept Approval Letter (43908-2018-00), and an associated plan was issued on October 16, 2018 with this project from the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE).
 - c. **Transportation Planning**—The Planning Board adopted herein by reference a memorandum dated March 21, 2019 (Masog to Thompson), which noted that, aside from a small modification leading to the drive-through window, access and circulation will remain unchanged, and are deemed to be acceptable. The 149-square-foot expansion, in

consideration of pass-by traffic, would result in 3 AM and 2 PM peak-hour vehicle trips. The small expansion proposed by this plan can be considered to be de minimus by virtue of generating five or fewer peak-hour trips.

The site is adjacent to Bladensburg Road (US 1 Alt), a master plan arterial facility. An 80-foot right-of-way exists along US 1 Alt; the 2009 *Approved Countywide Master Plan of Transportation* recommends an ultimate 120-foot right-of-way. The right-of-way shown on PGAtlas is 100 feet wide, and neither the 100-foot, nor the 120-foot right-of-way can be substantiated in either the Port Towns Sector Plan and SMA or the preceding 1994 *Approved Master Plan and Sectional Map Amendment for Planning Area 68*. Nonetheless, expansion of the right-of-way would have impacts limited to Parcel E only and would not affect any structures (either existing or proposed) associated with the use.

From the standpoint of transportation, it is determined that this plan is acceptable and meets the findings required for a DSP, as described in the Zoning Ordinance.

- d. **Trails**—The Planning Board adopted herein by reference a memorandum dated March 18, 2019 (Lewis-DeGrace to Thompson), which provided a discussion of bike and pedestrian accessibility, as discussed in Finding 7 above.
- e. **Historic Preservation**—The Planning Board adopted herein by reference a memorandum dated February 19, 2019 (Stabler to Bishop), which determined that there are no County designated historic sites or resources on, or adjacent to, the subject property.

A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low. A Phase I archeological survey is not recommended on the subject property. This proposal will not impact any historic sites or resources or known archeological sites.

- f. **Subdivision Review**—The Planning Board adopted herein by reference a memorandum dated March 8, 2019 (Onyebuchi to Thompson), which found that the property was the subject of Preliminary Plan of Subdivision 4-75078, for which there are no available records. The submitted DSP correctly reflects the lot size, bearings, and distances described on the record plat. Other technical comments have been addressed through revisions to the plan.
- g. **Permits**—The Planning Board adopted herein by reference a memorandum dated February 26, 2019 (Bartlett to Bishop), which included comments that were either addressed by revisions to the plans, or as conditions in this resolution.
- h. **Prince George's County Department of Permitting, Inspections and Enforcement (DPiE)**—The Planning Board adopted herein by reference a memorandum dated

March 18, 2019 (Giles to Bishop), in which DPIE did not offer any objections regarding the subject project and indicated that the DSP is consistent with the approved Site Development Concept, 43908-2018-00, dated October 16, 2018.

- i. **Prince George's County Police Department**—As of the writing of this report, the Police Department did not offer any comment regarding the subject project.
 - j. **Prince George's County Health Department**—As of the writing of this report, the Health Department did not offer any comment regarding the subject project.
 - k. **Town of Colmar Manor**—The Planning Board adopted herein by reference a letter dated April 2, 2019 (Barrow to Thompson), the Mayor of Colmar Manor indicated that the Town supports the proposed improvements.
13. Based on the foregoing and as required by Section 27-285(b)(1) of the Zoning Ordinance, the DSP, if revised as conditioned, represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code, without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.
14. As there are no regulated environmental features located on the subject property, the required finding of Section 27-285(b)(4) of the Zoning Ordinance that regulated environmental features are preserved and/or restored to the fullest extent possible need not be made for the subject DSP.

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 Detailed Site Plan DSP-18046 for the above described land, subject to the following condition:

1. Prior to certification of the detailed site plan (DSP), the applicant shall revise the plan, as follows:
 - a. Indicate that all lighting fixtures will be full cut-off.
 - b. Provide three evergreen trees at the rear of the trash enclosure adjacent to Newark Road.
 - c. Revise the general notes to state that this property is within the Development District Overlay (D-D-O) Zone and the appropriate exemption from the development district standards, including the certified nonconforming use permit number.
 - d. On Sheet 7 of the DSP, identify the specific sign detail for each box (e.g., Menu Board Detail, Clearance Bar Detail, Canopy Sign Detail, etc.).
 - e. Label the compact parking spaces on the site plan.
 - f. Remove the “proposed loading area” label from the site plan.
 - g. Show all sidewalk widths and building dimensions on the site plan.
 - h. Show one continuous pedestrian connection from the sidewalk, within each adjacent public right-of-way, to the sidewalks adjacent to the building.

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 Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Doerner, and Hewlett voting in favor of the motion, and with Commissioner Bailey absent at its regular meeting held on Thursday, April 25, 2019, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of May 2019.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

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