

RESOLUTION

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 December 15, 2005, regarding Detailed Site Plan DSP-95027 for Agape, the Planning Board finds:

1. **Request:** The subject application requests approval of an increase in the number of children in the previously approved day care center located at 4318 Rhode Island Avenue in Brentwood, Maryland, within a church known as the Faith Outreach Center, Inc. The proposed enrollment is from 48 students to 63 students.
2. **Development Data Summary**

Zone	<b>EXISTING</b> M-U-I/D-D-O	<b>PROPOSED</b> M-U-I/D-D-O
Use(s)	Church/Day care center for children	Church/Day care center for children
Acreage	.735	.735
Parcels	0	0
Lots	5	5
Building Square Footage/GFA	11,668	11,668

**OTHER DEVELOPMENT DATA**

	<b>REQUIRED</b>	<b>PROPOSED</b>
Total parking spaces	29	28
Handicapped parking spaces	2	2
Loading spaces	0	0

3. **Location:** The site is in Planning Area 68, Council District 2. More specifically, it is located at the southwest quadrant of the intersection of Rhode Island Avenue and Volta Avenue.
4. **Surroundings and Use:** The subject property is bounded to the north by single-family residential land use and to the west by an auto repair shop. To the east is commercial development across Volta Avenue and to the south are commercial uses.
5. **Previous Approvals:** The Planning Board approved a Detailed Site Plan DSP-95027 for the existing day care center on September 7, 1995.

6. **Design Features:** The application does not propose any additions to the current square footage of the site and does not propose any site changes at this time. However, in order to support the proposed enrollment, both parking and play areas are required to be expanded. The applicant has agreed to expand the single existing play area and is asking for a departure from the required parking for the site.

#### COMPLIANCE WITH EVALUATION CRITERIA

7. **Requirements of the Approved Sector Plan and Sectional Map Amendment (SMA) for the Gateway Arts District:** The sector plan and SMA superimpose a Development District Overlay Zone over designated sub areas called “character areas” to ensure that the development of the land meets the sector plan goals. The development district standards follow and implement the recommendations in the sector plan and sectional map amendment. The proposed project falls within the arts production and entertainment character area under the sector plan.

Section 27-548.25(b) requires that in approving the detailed site plan, the Planning Board shall find that the site plan meets applicable development district standards. However, because this application does not propose any increase in gross floor area, and the use legally existed as of the date of the SMA, this application is exempt from the development district standards and is not considered nonconforming. Detailed site plan review is required because the day care center is substantially expanding its enrollment, which requires a revision to an existing detailed site plan and because that application includes a request for a departure from the number of parking spaces required under Section 27-568(a).

8. **The Requirements of the Zoning Ordinance in the M-U-I Zone:** The subject application has been reviewed for compliance with the requirements of the M-U-I Zone and the site plan design guidelines of the Zoning Ordinance. If the conditions of approval are adopted, the subject application will be in conformance with the general requirements, which governs day care centers in residential and commercial zones, Section 27-445.03 and Section 27-464.02, respectively.
9. **Departure Request:** The applicant is asking for a departure from the number of parking spaces required under the Zoning Ordinance. The applicant proposes to provide 28 parking spaces on the site, instead of 29 spaces as required per Part 11 of the Zoning Ordinance.

Part 10A, Overlay Zones, Division 3, D-D-O (Development District Overlay) Zone, Section 27-548.25 of the Zoning Ordinance provides that if a use requires a departure, a separate application shall not be required, but that the Planning Board shall find the application is in conformance to the development district standards. In this case, since the application is exempt from the DDOZ standards, staff has reviewed the departure request for conformance with Section 588(b)(8) of the Zoning Ordinance, which provides that in order for the Planning Board to grant a departure from parking and loading standards, it shall make the following findings:

- (i) **The purposes of Section 27-550 will be served by the applicant’s request.**

The purposes of Section 27-550 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 applicant's request to provide one space less parking space on the site than required will remain in harmony with and continue to serve the above purposes.

With regard to the one-space parking reduction, there is substantial information to show that the requirement for one additional space is unnecessary at this location.

The applicant provides the following argument in letter dated November 16, 2005, for the required findings below for this departure:

“The departure should be granted to us because the Child Care Center is in operation from 6:30 am–6:00 pm, Mondays–Fridays and the Church does not hold services in the building when the Child Care Center is operating. The Church's services are held on Wednesday, Thursday and Friday evenings from 7:00 pm – 9:00 pm, and on Sundays at 8:30 am.”

**Comment:** The staff considers this a reasonable and sufficient justification for a one-space reduction in the parking requirement.

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

Comment: The departure is the minimum necessary. The parking regulations require 8 spaces for 63 students in the day care (i.e., 1 space per 8 students) and 21 spaces for the church. The site plan indicates 28 existing spaces, and, as there is no additional room on the property to accommodate additional spaces, the departure is the minimum necessary.

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

Comment: The departure is necessary in order to alleviate circumstances, which are special to the subject use, given its nature at this location. The subject use is located over five lots, which were originally assembled to create a fire station. Since then, the structure has been used for social services, a post office, night club, and furniture store, according to the applicant. The site is encumbered with a stormdrain easement at the rear of the property. The entire developable area of the site consists of either paving, building or play area. This portion of the county was substantially developed prior to 1949.

- (iv) **All methods for calculating the number of spaces required have either been used or found to be impractical.**

Comment: The applicant has applied the correct method for calculating the number of spaces required. The Gateway Arts District will provide for a reduced number of parking spaces to be provided when the parking district is established, but the parking district has not been established at this time; therefore, that standard cannot be applied at this time.

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

Comment: Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted. As noted above, the applicant's site plan shows 28 parking spaces on site. Of those available spaces, 21 spaces are required for the church. However, since the church does not operate during the week when the academy is in session (6:30 a.m.–6:00 p.m.), the available 21 spaces for the church use are not being utilized.

- (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 500 feet of the subject property.**

As noted above, a total of 28 parking spaces are available on site. Of that number, 21 spaces are not being utilized on a daily basis, given the hours of operation for the church. For that reason, parking conditions within the general vicinity of the subject property will not be infringed upon.

- (ii) **The recommendations of an area master plan, or county or local revitalization plan, regarding the subject property and its general vicinity.**

Planning Area 68 acknowledges commercial development for the subject property. Since the DDOZ allows, by detailed site plan approval, a day care center, this use is presumed to be compatible with the recommendations of the approved plans for the area.

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

Comment: The Town of Brentwood reviewed the proposed application on October 17, 2005, and the mayor and the Town Council passed a motion to go on record to interpose no objection to the application expanding the day care center “as long as they meet all Park and Planning requirements.”

**(iv) Public parking facilities, which are proposed in the county’s Capital Improvement Program within the general vicinity of the property.**

Comment: There are no public parking facilities proposed in the county CIP within the general vicinity of the property.

Comment: Based on the preceding evaluation of the required findings for the departure from parking and loading spaces, staff believes that approval of the application is amply justified.

10. ***Landscape Manual:*** The proposed development was exempt from the requirements of the *Landscape Manual* when the project was originally approved in 1995 and this change in the number of students does not change that status.
11. **Woodland Conservation Ordinance:** The property is not subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the gross tract area of the subject property is less than 40,000 square feet and there is less than 10,000 square feet of existing woodland.
12. The Community Planning Division found that this application is not inconsistent with the 2002 General Plan development pattern policies for the Developed Tier. The application conforms to the land use recommendations for the arts production and entertainment character area of the 2004 Prince George’s County Gateway Arts District Sector Plan and SMA. The sector plan rezoned the underlying zone from C-M to M-U-I within the Gateway Arts District Development District Overlay Zone (DDOZ). More importantly, the sector plan designated this property in the arts production and entertainment character area.

Page 139 of the Gateway Arts District Plan, Standard 7, provides that the minimum number of off-street surface parking spaces permitted for each land use type shall comply with Section 27-568(a) of the Zoning Ordinance. A departure from the provisions of Section 27-568(a) would require a detailed site plan review (see PGCPB No. 04-199, page 9, Item 13), as stated below:

**Parking and Loading, Standard 7—If a parking district (s) is established for the Arts District or individual municipalities, the minimum number of off-street surface parking spaces...The minimum number of off-street parking spaces permitted for each land use type shall comply with Section 27-568(a) of the Zoning Ordinance. Departure from the provisions of Section 27-568(a) would require a detailed site plan review.**

In the case of the day care center, 29 parking spaces are required. The applicant is providing 28 parking spaces. The Community Planning Division suggested that the applicant request a departure from the required parking through the DSP and amend their site plan to request the departure based on the fact that the church use and day care use operate on different days and times so as not to necessitate the full complement of parking spaces for each use.

13. **Transportation**—The site plan shows Volta Avenue mislabeled as Volta Street.

14. **Permits**—the following comments were generated by the Permit Review office:

“a. Is the site plan in accordance with the previously approved detailed site plan?”

Comment: This revision to the plan is in keeping with the originally approve detailed site plan.

“b. Per day care Note 2, the required and proposed size of the play area must be revised to reflect the increase in enrollment.”

Comment: This comment is recommended to be a condition of the approval of this plan, which demonstrates that the outdoor play area shall have at least 75 square feet of play area per child for 50 percent of the licensed capacity and a note should be added to the plan stating that no more than 50 percent of the licensed capacity will use the play area at one time.

“c. The increase in play area size must be demonstrated on the site plan.”

Comment: This is recommended as a condition of the approval of the plan.

“d. Per daycare note 3, the parking required and provided must be revised to reflect the increase in enrollment.”

Comment: This will become a condition of the approval of the plan.

“e. The review of this referral does not include the review of any signage.”

Comment: No signage is proposed with this revision to the detailed site plan.

15. As required by Section 27-285(b) of the Zoning Ordinance, the detailed site plan 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.

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 Detailed Site Plan DSP-95027/01, subject to the following conditions:

1. Prior to signature approval of the plans, applicant shall revise the plans as follows:
  - a. The zoning of the property shall be revised to indicate the M-U-I Zone.
  - b. The proposed size of the play area, as shown in note form and as shown as an increase in the size of the play area, shall be revised to reflect the increase in enrollment of 15 students.
  - c. A note shall be added to the plan that states that no more than 50 percent of the licensed capacity will use the play area at one time.
  - d. The plan shall be revised to change Volta Street to Volta Avenue.

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.

\* \* \* \* \*

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 Squire, seconded by Commissioner Eley, with Commissioners Squire, Eley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, December 15, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 5<sup>th</sup> day of January 2005.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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