

## R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed Revision of Site Plan Special Exception 4082, requesting a reconstruction of a McDonald's fast food restaurant and a minor revision of the parking lot design and landscape plan 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 May 16, 2002, the Prince George's County Planning Board finds:

A. Location and Field Inspection: The subject property is located on the south side of Annapolis Road, approximately 400 feet east of the Capital Beltway. It is about .8 acre in size and currently developed with a 4,787-square-foot McDonald's Restaurant with a playground and drive-thru window.

B. History: The restaurant was constructed in 1968 in the C-M Zone, prior to the enactment of special exception requirements for fast-food restaurants. The drive-thru window was added in 1980 pursuant to a permit, which was later validated as having been issued in error (ERR-87). The validation of this permit also conferred upon the site the status of a legal nonconforming use.

In 1980, Special Exception 3864 for a new restaurant was approved, but was never utilized and was ultimately revoked. In 1992 McDonald's obtained Special Exception 4082 for the purpose of adding a playground structure and other minor site revisions.

C. Master Plan Recommendation: The *Adopted and Approved Master Plan for Glenn Dale-Lanham-Seabrook and Vicinity* recommends commercial use for the subject property.

D. Request: The applicant desires to raze the existing building and reconstruct a slightly smaller restaurant (4,007 square feet) on the site. There will be minor modifications to the parking lot, primarily to change the location of the loading area. The site will continue to have a parking lot oriented to a one-way circulation pattern, in conjunction with the drive-thru window traffic. The playground will be eliminated and additional landscaping will take its place.

E. Neighborhood and Surrounding Uses: The neighborhood defined for this case is the same neighborhood identified for SE 4082:

North - Annapolis Road

East and South - National Railroad Passenger Corporation Railway Line tracks

West - Capital Beltway

The neighborhood is comprised of retail and service-commercial uses. The following uses surround the property:

North - a hotel, offices, two restaurants, and an auto dealership in the C-M Zone.

East - auto repair, funeral home and motel in the C-M Zone

South - across the railroad tracks are apartments in the R-18 Zone

West - restaurants, an office building and the Lanham Station Shopping Center in the C-M Zone.

F. Minor Change Provisions Sec. 27-325.:

(a) Minor changes, in general.

(1) The Planning Board is authorized to grant the minor changes covered by this section, and any variance requested in conjunction with the minor change.

(b) Less than five (5) acres in size.

(1) Changes of site plans for property of less than five (5) acres may be permitted by the Planning Board, provided that either of the following two (2) situations exists:

(A) Situation No. 1.

(i) There is a proposed increase in gross floor area of a building or in land area covered by a structure other than a building (over that approved on the original site plan) which is not greater than ten percent (10%) of the gross floor area or covered land area or five hundred (500) square feet, whichever is less (see Figure 40); or

(ii) There is a proposed relocation (in any direction) of any improvement (approved on the original site plan) which is not greater than ten percent (10%) of the distance to the boundary line of the Special Exception property or twenty (20) feet, whichever is less (see Figure 41).

(B) Situation No. 2.

(i) There is a proposed change in the design of a parking lot or loading area; or

(ii) There is a proposed change in a landscape plan.

This application satisfies the minor change criteria of Section 27-325. There is no increase in floor area proposed, and there will also be a change in parking lot design and landscape plan; thus, both Subsections (A) and (B) above apply.

G. Specific Special Exception Requirements Sec. 27-350.:

(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 proposed parking lot will be located approximately 90 feet from residentially zoned land and the building will be located about 163 feet from residentially zoned land. However, this residentially zoned land is located within the right-of-way of the adjoining railroad tracks. The railroad right-of-way is approximately 170 feet wide at the location of the subject property. Half of the right-of-way from the subject property line to the centerline of the railroad is in the C-M Zone. The other half adjoining R-R and R-18 zoned land to the south is in those respective residential zones. A reduction of the 200-foot wide setback requirement is, therefore, appropriate. The actual setback of the proposed parking lot on the subject property will be 175 feet, and the setback for the building will be 248 feet, from land in residential use. Moreover, the railroad tracks which intervene, form an effective buffer and are themselves more likely to impact adjoining properties than the subject restaurant.

The site plan currently refers to the split zoning of the railroad right-of-way but fails to provide specific information on the location of the centerline. This information must be shown on the site plan.

- (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 is shown on the proposed site plan.

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

As noted in the history of this property, a fast-food restaurant has existed in this location for 34 years. The surrounding neighborhood has a variety of retail and service-commercial uses, which includes both fast-food and other restaurants. The continuation of this use will not upset the balance of land uses in the neighborhood.

- (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.**

Given the subject property's location in a commercial area, there is no need to require unusual restrictions on advertisement, lighting, hours of operation, or activity.

H. Parking Regulations:

The proposed use requires 66 parking spaces. The applicant's site plan shows 41 spaces within the boundaries of the special exception and an additional 27 spaces on an adjoining lot to the rear of the adjacent Jerry's Subs restaurant. A stream and small area of wetlands are located on this adjoining property, which would require state and federal wetland permits prior to filling and construction. For this reason, the applicant is not relying upon these parking spaces and has filed the companion departure from parking and loading spaces application.

I. Landscape Manual Requirements: The proposed landscape plan complies with the regulations of the *Landscape Manual*, per the February 6, 2002, referral reply from the Urban Design Section.

J. Zone Standards: The proposed site plan indicates compliance with the regulations of the C-M Zone.

K. Sign Regulations: A freestanding sign is indicated in a location ten feet from the right-of-way for the Annapolis Road service road in compliance with the sign regulations.

L. 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 general purposes of the Zoning Ordinance can be summarized as protecting and promoting the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the county, by promoting beneficial land use relationships. The District Council has found on two occasions that this restaurant exists in harmony with the purposes of this Subtitle, and the proposed revision will not alter that relationship.

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

With the approval of the requested departure, this use will be in conformance with all applicable requirements and regulations.

**(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 use conforms to the recommendations of the applicable master plan.

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

The proposed revision will not alter the prior findings that a fast-food restaurant at this location will not adversely affect the health, safety or welfare of residents or workers in the area.

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

The proposed revision will not change the previous findings that the use is not, and 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.**

The proposed use is exempt from the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is less than 40,000 square feet and does not have a previously approved Tree Conservation Plan. (Environmental Planning Section referral reply, January 25, 2002)

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 condition:

1. The site plan shall be amended to show the centerline of the adjoining railroad right-of-way and the distance of residentially zoned property from the subject property line, in accordance with Section 27-350(a).

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.

© © © © © © © © © ©

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 Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Brown and Hewlett voting in favor of the motion, and with Commissioner Eley absent at its regular meeting held on Thursday, May 16, 2002, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of June 2002.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

