

C O R R E C T E D R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed Revision of Site Plan SE-4306/1 requesting a minor change to an approved Special Exception Site 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 October 11, 2001, the Prince George's County Planning Board finds:

A. Location and Field Inspection: The subject property is 0.6± acre in area and is located on the northwest side of Allentown Road, 800± feet northeast of its intersection with Maxwell Avenue. The site is developed with a vacant building which has been used as a variety of fast-food restaurants over the last 30 years. The site is part of a larger group of uses which was at one time an integrated shopping center. One of the major anchors of that center, a Memco retail store, has been closed for many years and is currently occupied by a church. The property continues to share access to Allentown Road with the church and other nearby retail businesses.

B. History: The building on the site was originally constructed in 1970 as a Jr. Hot Shoppe restaurant. At that time, "eating and drinking establishments" were a permitted use in the C-S-C Zone. After changing to a Roy Rogers, the use became nonconforming in 1978, when the District Council passed legislation requiring a special exception for fast-food restaurants. In 1990, when the restaurant was sold to Hardees, it was certified as a legally established nonconforming use.

In 1998, the McDonald's Corporation received permission from the District Council to convert the site to a McDonald's restaurant as part of a major site redesign pursuant to SE-4306. The existing building was to be razed and a new building constructed. However, McDonald's has since decided not to pursue development of the site.

C. Master Plan Recommendation: The 1981 Master Plan for Subregion VII recommends retail-commercial use for the site.

D. Request:

The applicant seeks permission to make the following renovations:

1. Remodel the interior and exterior facade of the building.
2. Provide a new preview board, menu board and speaker to facilitate drive-through orders.
3. Restripe parking spaces, crosswalks and spaces for the handicapped.
4. Replace the existing freestanding sign.

E. Neighborhood and Surrounding Uses: The site is surrounded by the following uses:

Northwest: A church in the C-S-C Zone
Northeast: A real estate business and a flea market in the C-S-C Zone.
South and East: Across Allentown Road is the Andrews Air Force Base in the I-1 Zone.

The neighborhood is defined by the following boundaries:

North and Northwest: The Capital Beltway (I-495)
Northeast: Suitland Road
South and Southeast: Allentown Road
West: Auth Road

This is the same neighborhood accepted in SE-4306. It contains strip-commercial uses along Allentown Road. The southwest corner of the neighborhood near Auth Road is developed with garden apartments and single-family residences in the Andrews Manor subdivision.

F. Minor Change Provisions: Section 27-325(b) - Minor Changes to Special Exception Site Plans:

(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 exist:

(A) Situation No. 1

- (i) There is a proposed increase in gross floor area of 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; 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.**

(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 landscaped plan.**

*Section 27-325(i) - Changes of Drive-in and Fast-food Restaurant Site Plans:

- (1) Changes of a site plan for an approved drive-in or fast-food restaurant may be permitted by the Planning Board for the following modifications:

(A) The addition, relocation, or modification of a freezer on the sides or rear of the restaurant building;

(A) The addition, relocation, or modification of gross floor area in order to provide rest rooms to serve the physically handicapped;

(A) The addition, relocation, or modification of vestibules above and around points of access to the restaurant building; or

(A) The addition, relocation, or modification of a fence, storage area, or trash enclosure.

(A) Any situation described in Subsection (b) or (c)

Finding: The building approved as part of SE-4306 was 3,246 square feet in area. The applicant is proposing to use the existing building, which is 3,340 square feet. The resulting 94-square-foot difference is less than a ten percent increase. In addition, the applicant is proposing changes to the parking lot.

G. Specific Special Exception Requirements: Section 27-350 - Drive-in or fast-food restaurant.

- (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;

Finding: The nearest residentially zoned land is more than 200 feet away.

- (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;**

Finding: A bicycle rack for six bicycles is shown on the site plan.

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

Finding: There has been a fast-food restaurant on this site for more than 30 years. During that time it has not, nor will it, restrict the availability or upset the balance of land use in the neighborhood for other commercial uses. The other commercial uses in the neighborhood include the Andrews Manor Shopping Center, which is well-leased. There is little vacant commercial land in the area.

- (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.

Finding: The site is located along a heavily-used commercial strip, which will not be negatively impacted by the same type of use which has existed on the property for more than 30 years. However, the site plan must be amended to show the location of and required screening for the trash dumpster.

- H. Landscape Manual Requirements: When SE-4306 was approved in 1998, it was subject to the approval of an Alternative Compliance application (AC-97078). The applicant must show this landscaping on the site plan.

*Denotes correction

[Brackets] denote deletion

Underlining denotes addition

- I. Zone Standards: The proposed development is in compliance with the regulations of the C-S-C Zone.
- J. Sign Regulations: The applicant proposes to replace the existing freestanding sign. The sign location on the site plan exceeds the setback criteria from the right-of-way. However, the applicant should note that the sign must also comply with the height and area requirements of the sign regulations.
- 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.**

Finding: The purposes for zoning are contained in Section 27-102. These purposes generally seek to protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the county. With the recommended conditions, the proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The proposal will simply continue a use that has occurred on this site for many decades.

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

Finding: With the conditions recommended, the proposed use and site plan are in conformance with the applicable regulations and requirements.

- (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.**

Finding: The proposed use is consistent with the recommendation of the *Subregion VII Master Plan*, which recommends retail-commercial use for the property.

- (4) The proposed use 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.**

Finding: The subject property has been developed with a fast-food restaurant since 1970. It has functioned as a “pad site,” part of a larger commercial development sharing common access points and relying on shared circulation. Because this application simply represents a continuation of this situation, the site is expected to function as before and will not create a negative impact on the surrounding area. With the exception of the drive aisle departure, which staff views as unnecessary, there will be no adverse effects on the health, safety or welfare.

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

Finding: The site is exempt from this provision in that it is less than 40,000 square feet in area and does not have a previously approved TCP.

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 [Recommended APPROVAL of] *APPROVED ROSP-SE-4306, subject to the following conditions:

- 1. The site plan shall be revised to show the following:
 - a. The location of and required screening for the dumpster.
 - b. A 22-foot-wide drive aisle.
 - c. The landscaping approved in AC-97078, or as otherwise required by any approved revision to AC-97078.

[BE IT FURTHER RESOLVED, that an appeal of the Planning Board’s action must be filed with the Circuit Court for Prince George’s County, Maryland within thirty (30) days of the final notice of the Planning Board’s decision.]

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*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 Eley, seconded by Commissioner Lowe, with Commissioners Eley, Lowe, Brown and Hewlett voting in favor of the motion, and with Commissioner Scott absent at its regular meeting held on Thursday, October 11, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 1st day of November 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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