



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Departure from Design Standards **DDS-597 (Remanded)**

Application	General Data	
Project Name: The Tire Depot, LLC Location: Located at the intersection of Scott Key Drive and Foster Street, east of Marlboro Pike (MD 725). Applicant/Address: The Tire Depot, LLC 6208 Marlboro Pike District Heights, MD 20747 Property Owner: Africa Women's Health and Social Empowerment Association, LLC 2203 Dunrobin Drive Mitchellville, MD 20721-2831	Planning Board Hearing Date:	10/06/11
	Addendum Date:	09/07/11
	Date Accepted:	12/11/09
	Planning Board Action Limit:	N/A
	Plan Acreage:	0.3049
	Zone:	C-S-C & R-55
	Gross Floor Area:	10,771 sq. ft.
	Lots:	2, 3, and 15
	Parcels:	N/A
	Planning Area:	75A
	Tier:	Developed
	Council District:	06
	Election District	06
	Municipality:	District Heights
	200-Scale Base Map:	204SE06

Purpose of Application	Notice Dates	
Pursuant to the request of the applicant, this case is continued from the Planning Board hearing date of September 15, 2011 to October 6, 2011 due to additional review required by the District Council's Order of Remand dated March 15, 2011 Departure for the location of a loading space less than 50 feet from a residential zone and 3 feet from the height requirement for a loading space located within a building greater than 3,000 square feet of gross floor area.	Informational Mailing	09/10/09
	Acceptance Mailing:	12/10/09
	Sign Posting Deadline:	08/23/10

Staff Recommendation		Staff Reviewer: Taslima Alam Phone Number: 301-952-4976 E-mail: Taslima.Alam@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

ADDENDUM TO TECHNICAL STAFF REPORT

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jimi Jones, Zoning Supervisor

FROM: Taslima Alam, Senior Planner, Zoning Section

SUBJECT: **Departure from Design Standards No. DDS-597 (Remanded)**
The Tire Depot, LLC

REQUEST: Departure to allow a loading area to be located within 50 feet of a residential zone and to permit a structure 3 feet above the height requirement for a building with more than 3,000 square feet of gross floor area.

BACKGROUND

On September 23, 2010, the subject application, Departure from Design Standards DDS-597 with the companion application Special Exception SE-4673, was presented before the Prince George's County Planning Board for a public hearing. At that time, the Planning Board recommended approval of both applications and recommended these cases to be forwarded to the Prince George's County District Council for final decision. After review of the administrative record and hearing oral argument, on October 15, 2011, the District Council remanded the DDS application back to the Planning Board and Special Exception SE-4673 to the Zoning Hearing Examiner to have the applicant revise the site plan, take further evidence on the plan, and to allow additional staff and public comment. The Order of Remand states:

Applicant and staff shall respond to these questions:

- (1) Is the auditorium (social hall) use permitted on a special exception site used for a vehicle parts or tire store with installation?**
- (2) Is auditorium (social hall) use permitted on a special exception site used for a vehicle parts or tire store with installation that has an interior loading space?**
- (3) Will these uses adversely affect the health, safety or welfare of residents or workers in the area?**

- (4) **Is parking adequate for vehicle parts or tire store with installation or in conjunction with auditorium?**
- (a) **Are 55 parking spaces grandfathered for the fire station and auditorium *public use* also grandfathered for their *proposed private use* vehicle parts or tire store with installation?**

Subsequent to the release of the remanded staff report, the applicant had submitted a revised site plan on September 2, 2011. The revised site plan responds to the District Council's concerns that relate to the approval of the special exception plan. The amended special exception site plans have been revised to remove its proposed use of the second floor as an auditorium (social hall). Rather, the applicant intends to have only one use (i.e., a vehicle parts and tire store with installation facilities) on the property and to forgo the use of its second floor for any other uses unrelated to its tire store operation. The applicant's attorney, Abigale Bruce-Watson, in e-mail exchange with staff on September 5, 2011, had further clarified that the second floor is proposed to be used as an accessory office/storage excluding tire storage. Detailed discussion has been provided below in regards to the revised plan, which basically changed the proposed use for the second story of the existing building and its parking calculations accordingly.

ANALYSIS

Subsequent to the District Council hearing, the Zoning Section has reviewed the site plan for the subject property. Based upon analysis of the subject application and the Order of Remand dated October 15, 2011, Zoning staff stands by its original recommendation for approval of Departure from Design Standards DDS-597, which meets all of the required findings of Section 27-239.01(b)(7) of the Zoning Ordinance as follows:

- (A) **In order for the Planning Board to grant the departure, it shall make the following findings:**
- (i) **The purposes of this Subtitle will be equally well or better served by the applicant's proposal;**
 - (ii) **The departure is the minimum necessary, given the specific circumstances of the request;**
 - (iii) **The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;**
 - (iv) **The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.**

ANSWER TO THE DISTRICT COUNCIL'S ORDER OF REMAND

- (1) **Is the auditorium (social hall) use permitted on a special exception site used for a vehicle parts or tire store with installation?**

Comment: A vehicle parts or tire store including installation facilities is permitted by special exception approval and an auditorium (social hall) is permitted by right in the Commercial Shopping Center (C-S-C) Zone. The Zoning Ordinance does not specify any restriction for combining the two uses within the same building. However, the applicant has amended its special exception site plan to remove its

proposed use of the second floor as an auditorium (social hall). The applicant proposes to use the entire building, including the second floor, for uses relating to vehicle parts and tire store with installation facilities. The second floor is proposed to be used as an accessory office/storage excluding tire storage.

(2) Is auditorium (social hall) use permitted on a special exception site used for a vehicle parts or tire store with installation that has an interior loading space?

Comment: The applicant proposes an interior loading space which does not meet the height and setback requirements; therefore, the applicant requested a departure from design standards. An auditorium is a use that is permitted by right in the C-S-C Zone. This use is therefore permitted on a special exception site used for a vehicle parts or tire store with installation that has an interior loading space. However, the site plan has been revised to change the use of the second floor of the existing building to that which only relates to tire sales and services with installation facilities. Therefore, multiple and incompatible uses are no longer a factor. Furthermore, the Zoning Ordinance does not designate the specific location of a loading space on a site. However, it does require that each loading space shall meet certain height, width, and setback requirements in accordance with Sections 27-578(b) and 27-579(b) of the Zoning Ordinance.

In this case, having an interior loading space located in the same building with a tire installation facility is necessary in order to alleviate circumstances that are unique to the site. First, the change in use from a fire department building to a tire store with installation facility required a loading space that was not required before. The applicant is unable to provide an exterior loading space elsewhere on the site due to site constraints. Second, the existing 50-year-old building site and its parking lot has very limited space to provide any outdoor loading space without the loss of parking spaces from the existing parking lot. To that end, no other viable locations on the property can be found for the loading space or driveway access to the loading space on this site other than to utilize an existing bay within the existing building. Given the site's constraints and that the building was constructed prior to 1949, the applicant is unable to comply with the height and setback requirements for the loading space. In order to meet the setback and height requirements, the applicant would have to renovate the entire building. For this reason, an interior loading space is found to be most suitable for the proposed site.

(3) Will these uses adversely affect the health, safety or welfare of residents or workers in the area?

Comment: Both the amended site plan and the statement of justification in response to the order of remand indicate that the entire site will have only one use. With the proposed change in use for the second floor of the building as mentioned above, staff's recommendation remains unchanged as this question was addressed at the time of its initial review. Nonetheless, this question is addressed as a finding in the companion application, Special Exception SE-4673. The Planning Board found that the proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area. In fact, the applicant's proposal will improve the existing pedestrian and vehicle access at the intersection of Scott Key Drive and Marlboro Pike (MD 725). Currently, the Scott Key Drive intersection is offset from Marlboro Pike with no curb or sidewalk on Scott Key Drive. Specifically, the applicant's proposal would extend curb and gutter from Foster Street down to Marlboro Pike. This new site design will channelize traffic flow to a single, defined access point onto Marlboro Pike. The applicant is also proposing to extend the sidewalk down the new curb to provide a safe pedestrian connection from Foster Street down to Marlboro Pike. The applicant will cut back the existing guardrail on Marlboro Pike to allow for a wider and non-obstructed sidewalk area. In addition to the above improvements, the applicant is proposing additional landscaping along the 111 feet of frontage of the rear parking lot to buffer the residential uses across Foster Street. Additional plant units are proposed to be incorporated along the west side of the building to further breakup and soften the views of the existing concrete building. With the incorporation

of the proposed landscaping, curb/gutter, and sidewalk improvements, the overall appearance and safety of the property is significantly improved for the benefit of residents or workers in the area.

Staff believes that the proposed loading space will not have an adverse effect on the health, safety, or welfare of residents or workers in the area because the loading truck will not continuously run in the loading dock and contaminate the entire building.

(4) Is parking adequate for vehicle parts or tire store with installation or in conjunction with auditorium?

(a) Are 55 parking spaces grandfathered for the fire station and auditorium *public use* also grandfathered for their *proposed private use* vehicle parts or tire store with installation?

Comment: Pursuant to Section 27-568 of the Zoning Ordinance, the proposed vehicle parts and tire store requires three parking spaces for every service bay in addition to one parking space for every 500 square feet of additional gross floor area (GFA) of the building (sales office and storage). An auditorium requires one parking space for every four seats.

The parking calculations are as follows:

- 3 bays: 3 spaces/bay = 9 spaces
- Retail sales and storage areas: 8,617 square feet at 1 space/500 square feet = 18 spaces

The applicant's parking schedule is consistent with this requirement. The proposed use requires a total of 27 parking spaces. Only 11 existing parking spaces are shown on the plan in accordance with pre-1970 standards and 34 parking spaces ($45 - 11 = 34$) can be grandfathered, pursuant to Section 27-584 of the Zoning Ordinance which states:

(a) The following shall not be required to comply with the provisions of this Part:

- (1) Any legally existing use that complies with the previous requirements for parking and loading areas (in effect at the time the use began). If the use is a certified nonconforming use, the parking lot or loading area used with it shall not be reduced, except in accordance with this Part;**
- (2) Any legally existing use for which any of the parking or loading requirements had previously been waived or reduced by the District Council or the Board of Zoning Appeals, not including departures granted under Section 27-588; and**
- (3) Any future use occupying the same premises as either of the above, provided there is no expansion or change of use that would require a greater number of parking or loading spaces (per Sections 27-568 and 27-582) than the number of spaces legally existing under the prior regulations. If the use began prior to the establishment of parking or loading regulations for that use, the phrase "number of spaces legally existing under the prior regulations" shall mean the current regulations of this Part (for the prior legally existing use). In both cases, where additional spaces are created, only the area occupied by the additional spaces shall be required to conform to the Design Standards.**

The former fire department was put into operation prior to the establishment of parking regulations; therefore, staff calculated the parking space requirements based on current regulations. After careful review of the site plan and its proposed use, staff realized that, instead of grandfathering 45 parking spaces, only 34 parking spaces should have been grandfathered since 11 parking spaces existed on the site at the time the fire department use was in effect ($45 - 11 = 34$). With the proposed new use in the second story of the building, the applicant has adequate parking for a vehicle parts or tire store with installation. However, prior to approval of the Special Exception, SE-4673 and Departure from Design Standards DDS-597, the site plan shall be revised to show the correct number of total parking spaces provided and the note regarding the approval date for DDS-597 should be removed from the site plan.

CONCLUSION

Based on the preceding analysis, staff recommends APPROVAL of Departure from Design Standards DDS-597 (Remanded) with following conditions:

1. The site plan shall be revised to show the correct parking schedule. The number of parking spaces provided, including the 11 existing parking spaces, shall be 45 not 56.
2. The approval date of Departure from Design Standards DDS-597 (Remanded) shall be deleted from the site plan.