



The Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Development Review Division  
301-952-3530

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# Detailed Site Plan Remand Hearing Checkers Laurel

## DSP-20006

REQUEST	STAFF RECOMMENDATION
Remand Hearing	APPROVAL with conditions

<b>Location:</b> On the east side of US 1 (Baltimore Avenue), approximately 400 feet north of its intersection with Mulberry Street.	
Gross Acreage:	0.84
Zone:	C-S-C / R-55
Dwelling Units:	N/A
Gross Floor Area:	1,170 sq. ft.
Planning Area:	62
Council District:	01
Election District:	10
Municipality:	N/A
200-Scale Base Map:	219NE08
<b>Applicant/Address:</b> Mar-Chek, Inc. c/o Keith Martin 7810 Clark Road, Suite T-1 Jessup, MD 20794	
<b>Staff Reviewer:</b> Adam Bossi <b>Phone Number:</b> 301-780-8116 <b>Email:</b> Adam.Bossi@ppd.mncppc.org	



Planning Board Date:	05/20/2021
Planning Board Action Limit:	05/24/2021
Memorandum Date:	05/06/2021
Date Received:	03/25/2021
Persons of Record Mailing:	04/29/2021
Sign Posting:	04/28/2021

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# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
[www.pgplanning.org](http://www.pgplanning.org)

May 6, 2021

## MEMORANDUM

TO: The Prince George's County Planning Board

VIA: Jill Kosack, Supervisor, Urban Design Section, Development Review Division *JSK*

FROM: Adam Bossi, Planner Coordinator, Urban Design Section, Development Review Division *AB*

SUBJECT: Detailed Site Plan DSP-20006 (Remanded)  
Checkers Laurel

## BACKGROUND

Detailed Site Plan DSP-20006 was approved by the Prince George's County Planning Board on October 29, 2020, and a final resolution was adopted on November 19, 2020 (PGCPB Resolution No. 2020-152). The Prince George's County District Council elected to review this application on January 25, 2021. The District Council conducted oral arguments on March 8, 2021 and remanded the DSP back to the Planning Board for further consideration on March 22, 2021. The Order of Remand was transmitted to the Planning Board on March 25, 2021. The Order of Remand requires the applicant to submit a revised site plan and for the Planning Board to reopen the record and take further testimony or evidence on five specific issues.

The subject DSP was originally filed by the applicant, in accordance with Section 27-282 of the Prince George's County Zoning Ordinance, to request approval of a 1,170-square-foot eating and drinking establishment with drive-through service on a 0.84-acre site that is split-zoned between the Commercial Shopping Center (C-S-C) Zone and One-Family Residential (R-55) Zone.

## ORDER OF REMAND FINDINGS

The Order of Remand was mailed out to all parties of record on March 25, 2021. Within the Order of Remand, the District Council ordered the Planning Board to reopen the record and take further testimony or evidence on five specific issues (in **BOLD**, followed by staff's analysis), as follows:

**1. The revised site plan's compliance with the setback requirements of the C-S-C Zone;**

The setback requirements for all commercial zones are defined in Section 27-462(b), Table 1 – SETBACKS, of the Zoning Ordinance. The submitted revised site plan provided the following table:

**SETBACK CALCULATIONS (SECTION 27-462)**

SETBACK	REQUIREMENT	NOTES
FROM STREET	10'	PROVIDED 60'
FROM SIDE LOT LINE OF ADJOINING LAND IN ANY RESIDENTIAL ZONE:		
SIDE YARD	12' OR BUFFER REQUIRED BY LANDSCAPE MANUAL, WHICHEVER IS GREATER 30'	PROVIDED 40'
REAR YARD	25' OR BUFFER REQUIRED BY LANDSCAPE MANUAL, WHICHEVER IS GREATER 30'	PROVIDED 40'
FROM REAR LOT LINE OF ADJOINING LAND IN ANY RESIDENTIAL ZONE:		
SIDE YARD	12' OR BUFFER REQUIRED BY LANDSCAPE MANUAL, WHICHEVER IS GREATER 30'	PROVIDED 40'
REAR YARD	25' OR BUFFER REQUIRED BY LANDSCAPE MANUAL, WHICHEVER IS GREATER 30'	PROVIDED 40'
FROM ADJOINING LAND IN ANY NONRESIDENTIAL ZONE	NONE, EXCEPT WHERE BUILDING IS 30 FEET HIGH, A DISTANCE EQUAL TO 1/3 THE TOTAL BUILDING HEIGHT OR BUFFER REQUIRED BY LANDSCAPE MANUAL, WHICHEVER IS GREATER	PROVIDED 40'

The applicant's revised DSP shows a setback from the street of 60 feet, which exceeds the 10-foot setback requirement. Landscape buffers for the side and rear yards are required to be 30 feet wide, which is greater than the 12-foot side yard and 25-foot rear yard setbacks otherwise required by Section 27-462(b). The revised DSP shows landscape buffers of at least 40 feet in width are provided, which is in excess of the requirements of Section 27-462(b). Therefore, the application meets all setback requirements of the C-S-C Zone as shown on the revised site plan.

**2. The revised site plan's compliance with the requirements of the 2010 Landscape Manual for incompatible uses;**

As stated previously, the subject-property is split-zoned between the C-S-C Zone and the R-55 Zone. The eating and drinking establishment, with drive-through service, will be located entirely on the C-S-C-zoned portion. The R-55 portion of the subject property, which borders the C-S-C portion to the east and south, will contain a stormwater management (SWM) facility and landscaping. Because an eating and drinking establishment with drive-through service is not a permitted use in the R-55 Zone, the District Council concluded that the proposed Checkers does, in fact, border incompatible uses. According to the District Council, the applicant is required to revise the landscape buffers between the C-S-C and

R-55 portions of its property to comply with Section 4.7 of the 2010 *Prince George's County Landscape Manual* (Landscape Manual), which addresses buffering incompatible uses.

Section 4.7(c)(2)(G) of the Landscape Manual, however, provides that “[i]n the case of a lot that is located in more than one zone, the establishment of a required bufferyard is based on the platted or recorded property line(s), not the zoning lines(s).”

Incompatible use buffers are required in two locations, along a portion of the site’s southern boundary and along its eastern boundary shared with Lot 12. The revised site plan is in compliance with the Landscape Manual requirements of Section 4.7, Buffering Incompatible Uses, which are based on the compatibility of abutting uses for the applicable portion of the site’s southern boundary. A Section 4.7 buffer is provided along the site’s southern boundary shared with the adjoining Nuzback property, which is developed with an eating and drinking establishment that is considered a medium-impact use. The proposed eating and drinking establishment with drive-through service on the subject site is considered a high-impact use. As provided by Table 4.7-2 of the Landscape Manual, a Type ‘B’ bufferyard is required between the proposed high-impact use and existing medium-impact use. A Type ‘B’ bufferyard must include a minimum building setback of 30 feet, a minimum landscaped yard of 20 feet, and installation of at least 80 plant units per 100 linear feet of property line (204 plant units required) within the bufferyard. Section 4.7 allows for a 50 percent reduction in the required quantity of plant units when a six-foot-high, sight-tight fence or wall is provided. In addition, the number of required plant units may be further reduced when existing non-invasive vegetation within the bufferyard is retained.

The Section 4.7 bufferyard provided with the revised landscape plan exceeds all minimum requirements. A 40-foot building setback and 27-foot-wide landscape yard is provided. Minimum plant unit requirements have been exceeded as well. The landscape plans show 22 percent of the bufferyard vegetated by existing non-invasive trees and a six-foot-high, sight-tight fence is provided. With the existing vegetation and fence, the minimum number of required plantings within the bufferyard could be reduced to 79 plant units. However, the landscape plan provides 207 plant units, which exceeds the minimum quantity required, without counting reductions for the existing non-invasive vegetation and fence. The design of the bufferyard, including fence location, plant species selection, and planting locations are acceptable. All requirements of Section 4.7, Buffering Incompatible Uses, applicable to this bufferyard have been satisfied, with all minimum requirements exceeded.

Regarding the eastern property boundary shared with Lot 12, the revised plan provides for the continuation of the six-foot-high, sight-tight fence, retention of existing vegetation, and installation of 29 shrubs. As provided by Table 4.7-2 of the Landscape Manual, a Type ‘D’ bufferyard is required in this location with a 50-foot building setback and 40-foot landscaped yard planted with 160 plant units per 100 linear feet. The revised plan does not provide a landscape schedule to demonstrate conformance with the applicable requirements in this location. A condition is recommended for the required landscape schedule to be shown on the plan. If conformance cannot be demonstrated, the applicant may request alternative compliance, in accordance with Section 1.3 of the Landscape Manual.

In addition, while not required to buffer incompatible uses, the landscape plan revisions also include an extension of the six-foot-high, sight-tight fence and additional plantings along the site's eastern and southern boundary of Magnolia Street. This treatment will provide for a more seamless buffer along the entire southern property boundary than previously approved. Staff finds the revised Section 4.7 bufferyard and additional screening provided along Magnolia Street to be acceptable.

**3. The revised site plan's inclusion of residential property to satisfy the 2010 Landscape Manual standards to serve a commercial zone or use;**

The applicant's "Responses to District Council Remand" letter dated April 21, 2021 (Tedesco to Hewlett), pages 2 through 11, provides a detailed discussion that supports the location of the proposed SWM facility in the R-55 Zone portion of the subject property. The revised DSP and landscape plan retains the SWM facility in its originally proposed location. A six-foot-high, sight-tight fence and additional plantings are located between the SWM facility and Magnolia Street as screening for the facility. While not required, staff finds this additional landscape screening to be an improvement to the DSP. Staff also concurs with the applicant's analysis and finds the location of the proposed SWM facility to be acceptable.

This DSP is subject to Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the Landscape Manual. Sections 4.3 and 4.4 require planting in parking lots and screening of certain maintenance area and equipment, respectively, regardless of what zone they are located in or what use they are associated with, except for certain vehicle-related uses. Section 4.9 requires sustainable landscaping practices be incorporated as part of a site plan, regardless of the zone or use.

Section 4.2, Requirements for Landscape Strips Along Streets, of the Landscape Manual applies along abutting public or private streets for any nonresidential use in any zone and all parking lots (Landscape Manual, page 42). In addition, Section 4.7, Buffering Incompatible Uses, of the Landscape Manual specifically says the following:

*"(G) In the case of a lot that is located in more than one zone, the establishment of a required bufferyard is based on the platted or recorded property line(s), not the zoning line(s)." (Landscape Manual, page 77)*

Therefore, the Landscape Manual offers no impediment to using residential property to serve a commercial zone or use as the requirements apply regardless of zone or use, or apply along property lines, not zoning lines.

**4. The revised site plan's compliance with Conditions 1.c. and 1.d. in Zoning Ordinance No. 3-1996; and**

The subject property, now known as Lot 23, was resubdivided pursuant to a record plat dated July 24, 2015, and recorded in Plat Book SJH 243 at Plat No. 3. Former Lots 4-11, in Block 3, of the Oak Crest Subdivision (Plat Book LIB A at Plat No. 108) were consolidated into Lots 22 and 23. The subject DSP includes Lot 23 and the area of Magnolia Street that was acquired by a quiet title action for the unclaimed portion.

Condition 1.c. of Zoning Ordinance No. 3-1996 reads as follows:

**Screening and buffering shall be provided for Lot 11, Block 3 and for Lots 14 through 17, Block 4 in accordance with the provisions of the Landscape Manual; a portion of Lots 8 and 9 on the subject site shall also be used for landscaping and screening.**

The revised landscape plan shows enhanced screening and buffering of the previous Lot 11, Block 3 and Lots 14 through 17, Block 4. Specifically, additional plantings and a six-foot-high, sight-tight fence, have been added to increase screening for Lot 11, Block 3. A fence is now proposed along the former centerline of Magnolia Street, with evergreen trees to be installed on the south side of the fence and shrub plantings on the north side of the fence. As discussed above, under Issue 2 of the Order of Remand, this screening and buffer treatment exceeds the Type B bufferyard requirements for Section 4.7, Buffering Incompatible Uses, of the Landscape Manual. In addition, the same screening fence and planting arrangement is carried through from the incompatible use bufferyard along the remainder of the south side of the property to provide additional screening of Lots 14 through 17, Block 4. The revised landscape plan also shifts the location of the trash enclosure further north, away from these former lots, and provides additional plantings. Staff finds that the revised landscape plan adequately addresses the requirement of Condition 1.c.

Condition 1.d. of Zoning Ordinance No. 3-1996 reads as follows:

**The landscape plan shall also show the preservation of the large tree shown on Lot 10 of the applicant's survey of January 1994, if feasible.**

The original DSP, and revised materials submitted in response to the Order of Remand, provide a discussion that indicate the large tree shown on Lot 10 of the applicant's January 1994 survey is not feasible to preserve.

Staff concurs with the applicant's rationale that preservation of this specific tree is not feasible, as it has already been previously impacted by paving on the property, which covers a large portion of the tree's root zone. Any redevelopment of the property to remove or resurface this existing paving, in order to implement current SWM regulations, will involve a large impact to the root zone and require an unreasonable amount of protection to ensure the viability of the tree. Allowing an impacted tree such as this to remain would create a potential hazard should it die and fall onto the adjacent commercial or residential properties.

In addition, the general area of the large tree on Lot 10 is proposed to be planted with 11 evergreen trees and 21 shrubs. While the preservation of this specific tree is not feasible, the landscape plan provides for these replacement plantings and the preservation of other large trees on the site, which is appropriate. Staff finds that the applicant's revised submission satisfactorily addresses this requirement.

**5. The gross acreage and zone classifications of Lot 23, including the 25-foot-wide portion of the Magnolia Street right-of-way.**

The gross acreage associated with the portions of Lot 23 in the C-S-C and R-55 Zones were adjusted on the revised site plan to include the 25-foot-wide portion of the former Magnolia Street right-of-way in the R-55 Zone. These figures are included in General Note 2 of the revised DSP and show the site area to consist of 25,705 square feet of C-S-C-zoned land and 10,885 square feet of R-55-zoned land. The inclusion of this portion of the former Magnolia Street right-of-way increased the total square footage of site area in the R-55 Zone by 3,385 square feet, with an equal decrease in square footage of site area in the C-S-C Zone. Staff finds this revision meets the requirements of the Order of Remand and corrects the gross area of the site located within the two zones.

**RECOMMENDATION**

Based on the forgoing supplemental evaluation and analysis, the Urban Design Section recommends that the Planning Board adopt the additional findings of this memorandum to address the five specific issues subject of this Order of Remand and issue an amendment to PGCPB Resolution No. 2020-152, subject to one new condition:

1. Prior to certification, the detailed site plan shall be revised, or additional information shall be provided, as follows:
  - f. Provide a Section 4.7, Buffering Incompatible Uses, schedule demonstrating conformance with the bufferyard required along Lot 12, or obtain approval of an alternative compliance from the requirements.