



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

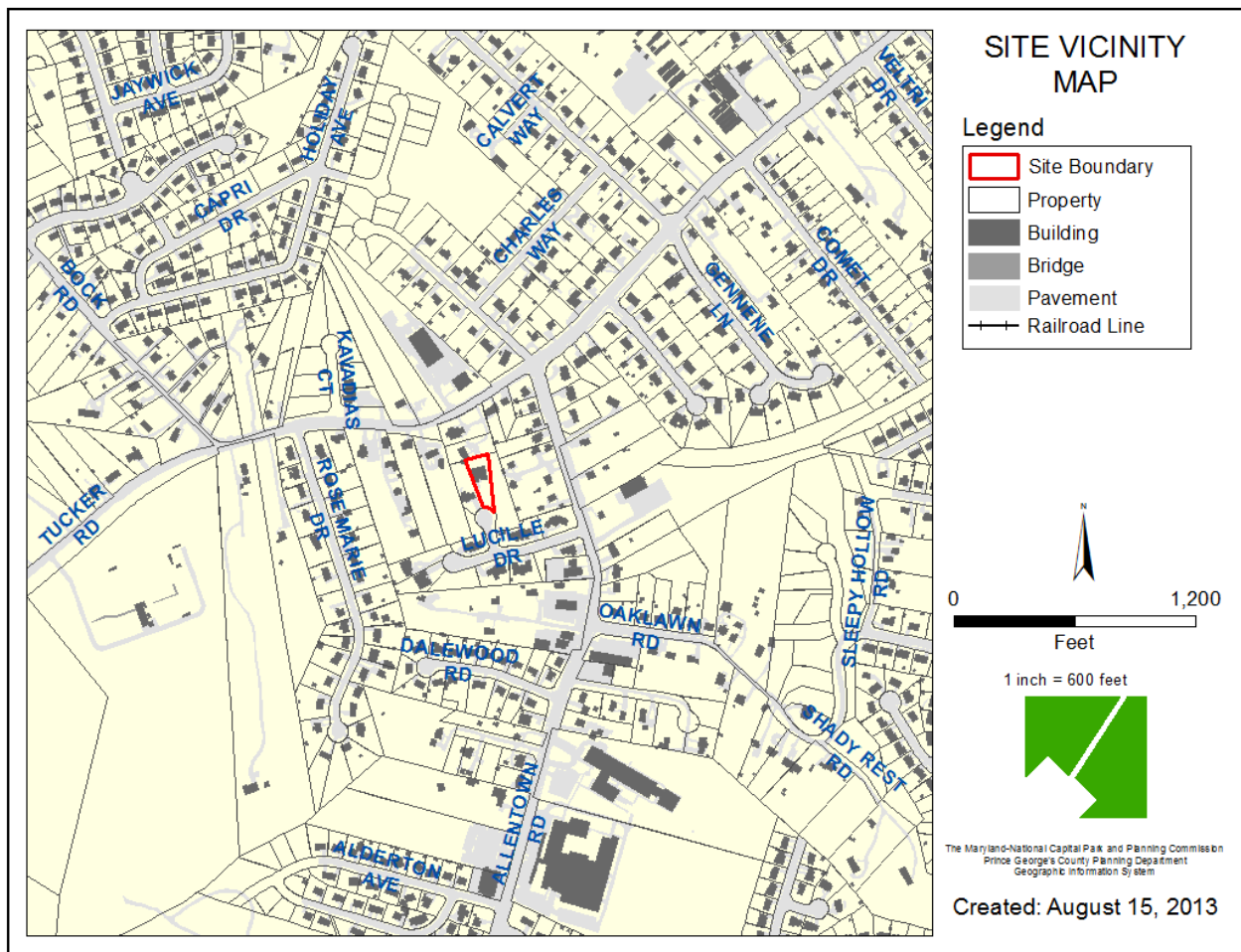
Special Exception
Departure from Design Standards
Departure from Parking & Loading Standards

SE-4704
DDS-613
DPLS-373

Application	General Data	
Project Name: In Loving Hands Location: Located at the terminus of Lucille Court, approximately 210 feet north of its intersection with Lucille Drive. Applicant/Address: Carlos Watson 8402 Lucille Court Fort Washington, MD 20744 Property Owner: Carlos Watson 8402 Lucille Court Fort Washington, MD 20744	Planning Board Hearing Date:	09/26/13
	Staff Report Date:	09/10/13
	Date Accepted:	04/24/12
	Planning Board Action Limit:	N/A
	Plan Acreage:	0.48
	Zone:	R-R
	Gross Floor Area:	4,084 sq. ft.
	Lots:	1
	Parcels:	N/A
	Planning Area:	76B
	Tier:	Developing
	Council District:	08
	Election District	05
	Municipality:	N/A
	200-Scale Base Map:	211SE03

Purpose of Application	Notice Dates	
SE-4704: A congregate living facility for up to 15 residents in the R-R Zone. DDS-613: A departure of 12 feet from the required 22-foot-wide driveway aisle width and a departure from Section 4.7 of the Landscape Manual. DPLS-373: The waiver of three of the required four parking spaces.	Informational Mailing:	08/11/11 & 01/02/12
	Acceptance Mailing:	03/27/12
	Sign Posting Deadline:	08/27/13

Staff Recommendation		Staff Reviewer: John Ferrante Phone Number: 301-952-3665 E-mail: John.Ferrante@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT

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

VIA: Jimi Jones, Zoning Supervisor, Development Review Division

FROM: John Ferrante, Senior Planner, Zoning Section, Development Review Division

SUBJECT: **Special Exception Application No. SE-4704**
Departure from Design Standards Application No. DDS-613
Departure from Parking and Loading Standards Application No. DPLS-373
In Loving Hands

REQUEST: **SE-4704:** A congregate living facility with up to 15 residents in the R-R Zone.

DDS-613: A departure of 12 feet from the 22-foot-wide minimum driveway aisle width required for two-way traffic and a departure from Section 4.7 of the Landscape Manual along the eastern and western property lines.

DPLS-373: The waiver of three of the required four parking spaces.

RECOMMENDATION: **Approval with Conditions**

NOTE:

The Planning Board has scheduled this application for a public hearing on the agenda date of September 26, 2013. The Planning Board also encourages all interested persons to request to become a person of record for this application.

Requests to become a person of record should be made in writing and addressed to The Maryland-National Capital Park and Planning Commission, Development Review Division, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. Please call 301-952-3530 for additional information.

FINDINGS

- A. **Location and Field Inspection:** The property is located at the terminus of Lucille Court, approximately 210 feet from its intersection with Lucille Drive. The property consists of 20,819 square feet in the Rural Residential (R-R) Zone and is currently improved with a detached single-family dwelling.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Single-Family DU/ Congregate Living Facility with up to 8 Residents	Congregate Living Facility with up to 15 Residents
Acreage	0.48	0.48
Lots	1	1
Parcels	0	0
Square Footage/GFA	7,168	7,168
Variance	Yes (Lot Coverage)	No

- C. **History:**

August 6, 1992—Preliminary Plan of Subdivision 4-92059 and Type I Tree Conservation Plan TCPI-003-92 were approved by the Planning Board for Lots 1 through 11 and Parcel A, Block A, and Lot 1, Block B, Krause's Addition to Bird Lawn (PGCPB Resolution No. 92-221).

October 4, 1994—Final Plat VJ 170@80 was recorded in Prince George's County Land Records for Krause's Addition to Bird Lawn.

September 15, 1994—Type II Tree Conservation Plan TCPII-079-94 was approved for Krause's Addition to Bird Lawn. Five subsequent revisions to the approved Type II tree conservation plan have been approved since that time.

July 10, 2002—Appeal No. V-79-02 was approved by the Board of Zoning Appeals to permit the new construction of a detached single-family dwelling and driveway that is in excess of the 25 percent maximum amount of lot coverage allowed in the R-R Zone. A variance of 2.5 percent was granted.

July 22, 2002—Building Permit 20431-2002 was approved for the new construction of a detached single-family dwelling and a driveway.

July 18, 2007—Use and Occupancy Permit 27720-2007-00 was approved by the Permit Review Section for a congregate living facility for the elderly and physically-handicapped with up to eight residents.

March 21, 2013—Alternative Compliance AC-11030 was denied by the Planning Director.

June 26, 2013—Natural Resources Inventory Equivalency Letter NRI-066-13 was issued by the Environmental Planning Section.

- D. **Master Plan Recommendation:** The 2002 *Prince George's County Approved General Plan* locates the subject property within the Developing Tier. The vision for Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit-serviceable.

General Plan: Within a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier by maintaining low- to moderate-density land uses.

Master Plan: Within a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application conforms to the residential low-density land use recommendation in the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* (Henson Creek-South Potomac Master Plan and SMA).

The Henson Creek-South Potomac Master Plan and SMA retained the subject property in the R-R Zone.

- E. **Request—SE-4704:** The applicant, In Loving Hands, seeks approval of a special exception application for a congregate living facility in the R-R Zone with up to 15 elderly or physically-handicapped residents.

Section 27-107.01(a)(54) of the Zoning Ordinance defines a congregate living facility as follows:

- (54) **Congregate Living Facility:** A residential facility for four (4) to twenty (20) elderly or physically handicapped residents, within which sheltered care services are provided, which may include, but need not be limited to, living and sleeping facilities, meal preparation, laundry services, housekeeping, personal observation and direction in the activities of daily living, transportation for routine social and medical appointments, and the availability of a responsible adult for companionship or nonclinical counseling. The term shall not include an "Adult Day Care Center," "Hospital," "Nursing or Care Home," "Family," or "Group Residential Facility," as defined elsewhere in this Subtitle. A Congregate Living Facility shall comply with the licensing and other regulatory requirements of Subtitle 12, Division 7, of this Code.

Request—DDS-613: In conjunction with the applicant's special exception request, the property is now subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual) as well as the parking space requirements and design standards contained in Part 11 of the Zoning Ordinance. As a result, the applicant is requesting a departure of 12 feet from the required 22-foot-wide driveway aisle width and a departure from Section 4.7 (Buffering Incompatible Uses) of the Landscape Manual along the eastern and western property lines.

Request—DPLS-373: The applicant had requested a departure to waive five of the six required parking spaces. However, there is an error on the site plan's parking schedule concerning the total number of parking spaces that are required to serve the property. The parking schedule indicates six parking spaces are required to serve the property when only four are required.

Due to the spacial constraints associated with the existing residential driveway, the applicant proposes to provide only the required van-accessible parking space for the physically-handicapped. As a result, the correct departure the applicant should be requesting is the waiver of three of the required four parking spaces.

- F. **Neighborhood and Surrounding Uses:** Within the submitted statement of justification, the applicant describes the property as being situated south of the Capital Beltway (I-95/495), east of Indian Head Highway (MD 210), and just west of Allentown Road.

The applicant described the location of the property, but did not submit specific neighborhood boundaries. Therefore, staff submits that the appropriate neighborhood to be considered in this case is bounded to the north by Allentown and Tucker Roads, to the south by Steed and Allentown Roads, to the east by Temple Hill Road and Tinkers Creek, and to the west by Indian Head Highway (MD 210).

The property is surrounded by the following uses:

North— A detached single-family dwelling in the R-R Zone
West— A detached single-family dwelling in the R-R Zone
South— Lucille Court (50-foot-wide public right-of-way)
East— A vacant lot in the R-R Zone

- G. **Specific Special Exception Requirements:** Section 27-344(a) of the Zoning Ordinance provides the following specific special exception requirements for a congregate living facility:

- (a) **A congregate living facility for more than eight (8) elderly or physically handicapped residents, as defined by Section 12-168(a) of this Code, may be permitted, subject to the following:**

- (1) **There is a demonstrated need for the facility;**

Comment: At the time of acceptance, the applicant was required to submit a needs assessment to the Planning Department's Research Section in order to demonstrate compliance with Section 27-344(a)(1). Within the justification statement that was submitted for the subject application, the applicant further stated the following:

“According to a study on senior housing conducted by The Maryland-National Capital Park & Planning Commission (M-NCPPC), the 65+ population is projected to grow at a faster pace in Prince George's County than in Maryland and the U.S. (Study, Part 1. Profile of Prince Georges County and DC Metro Area, Page 41) Further, the study notes that ‘Prince George's County is underserved relative to independent living, assisted living and Alzheimer's care.’ Additionally, the study concludes that ‘the elderly population will continue to increase for at least the next decade’, and so will the demand for elderly services. (Study, Part 2. Trends: Conclusions, Page 50)”

The applicant frequently must turn away potential residents due to its licensing limitations. The applicant is therefore seeking to expand an existing use that meets the

definition of a congregate living facility. Approval of the requested special exception would permit the applicant to serve a larger number of elderly residents in an intimate, friendly, home-style environment in a location that provides a tranquil residential setting.

In an email dated July 16, 2012, the Research Section stated that the applicant has met the criteria for the needs assessment and has proven that there is a demonstrated need for the facility.

- (2) **The facility is in compliance with the physical requirements of Subtitle 12, Division 7, of this Code, and shall be operated in accordance with the licensing and other requirements of that Subtitle; and**

Comment: Within the justification statement that was submitted for the subject application, the applicant stated the following:

“The Applicant’s facility shall comply with the physical requirements of Subtitle 12, Division 7, of this Code, and shall be operated in accordance with the licensing and other requirements of the Subtitle. Additionally, the facility will meet all applicable requirements of state and county ordinances. No alterations to the exterior of the building are being proposed, and the interior floor area of the dwelling complies with the regulations of the Maryland Department of Health and Mental Hygiene. The facility is currently licensed by, and is in good standing with, that agency.”

- (3) **There shall be a separate bedroom of a minimum of one hundred (100) square feet for each resident, or a separate bedroom of a minimum of one hundred and sixty (160) square feet for every two residents, or any combination of the above, so as to satisfy the accommodations requirements of the “Regulations for Congregate Living Facilities” (required by Section 12-173(d) of this Code), for the maximum number of permitted residents.**

Comment: In Loving Hands contains eight bedrooms, ranging in size from 160 square feet to 900 square feet. The Zoning Ordinance requires a single room to contain no less than 100 square feet and a double room no less than 160 square feet. This translates into eight double rooms in the existing space, for a total of 15 residents.

- H. **Parking Regulations:** The required parking for a congregate living facility is one parking space for every four residents. The applicant proposes to have 15 residents at the facility. Therefore, the parking requirement for the proposed use is four parking spaces.

The parking schedule on the applicant’s site plan further states that two additional parking spaces are required to serve the dwelling. During the pre-acceptance review for the subject application, staff requested that the site plan be revised to show that two parking spaces are required to serve the dwelling. However, during the review of the subject application, the applicant clarified that, should the special exception application be approved for the congregate living facility, the applicant would no longer be residing on the premises. Therefore, the two standard parking spaces that are typically required for all detached single-family dwellings would no longer be needed on the property. As a result, a total of four parking spaces are required to serve the proposed use. A condition has been recommended to have the parking schedule on the site plan corrected prior to final disposition of the case to remove the required parking spaces for the dwelling.

Due to spacial constraints associated with the width of the existing driveway, the applicant proposes only to provide the required van-accessible parking space for the physically-handicapped and has requested a departure to waive the other required parking spaces. The applicant currently operates a congregate living facility with no more than eight residents which is allowed by right in the R-R Zone. In implementing the special exception use to request more than eight residents in the facility, the site would now be subject to the commercial parking lot standards contained in Part 11 of the Zoning Ordinance.

The two parking spaces in the garage will continue to be utilized by the staff of the facility for parking on a daily basis. However, the garage spaces are unable to be counted as provided parking spaces because a vehicle would have to “drive-through” and/or “back-over” the van-accessible handicapped parking space in order to gain access to the two parking spaces inside the garage. Piggyback parking is not allowed for any use other than residential dwelling units. As a result, adequate driveway aisles cannot be provided to serve the two parking spaces inside the garage.

- I. **Prince George’s County Landscape Manual Requirements:** The applicant currently operates a congregate living facility with no more than eight residents which is allowed by right in the R-R Zone. A special exception is required for a congregate living facility once the number of residents in the facility exceeds eight. In implementing the special exception use to request a congregate living facility with up to 15 residents, the site would now be considered a change from a lower to a higher impact use. As a result, the property is now fully subject to the requirements of the 2010 *Prince George’s County Landscape Manual*.
- J. **Zone Standards:** Section 27-442 of the Zoning Ordinance includes regulations for development in residential zones, including the R-R Zone. Section 27-442(c) lists the maximum percentage of lot coverage allowed for various uses. For “other allowed uses,” such as the proposed congregate living facility in the R-R Zone, 60 percent lot coverage is allowed.

The submitted site plan demonstrates that the existing lot coverage on the site is approximately 31 percent.

- 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;

Comment: The primary purposes of the Zoning Ordinance are to protect public health, safety, and welfare; to promote the most beneficial relationship between the uses of land and buildings; and to protect landowners from adverse impacts of adjoining development. A congregate living facility with over eight residents is permitted through the special exception process in the R-R Zone. Therefore, there is a legislative presumption that the use can be carried out in harmony with the purposes of this Subtitle with no adverse impacts on health, safety, and welfare.

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

Comment: The applicant’s facility shall comply with the physical requirements of Subtitle 12, Division 7, of the County Code, and shall be operated in accordance with the licensing and other requirements of the Subtitle. Additionally, the facility will meet all applicable requirements of

state and county ordinances. No alterations to the exterior of the building are being proposed as a part of the special exception application and the interior floor area of the facility complies with the regulations of the Maryland Department of Health and Mental Hygiene. The facility is currently licensed by, and is in good standing with, that agency. With the requested departures and recommended conditions, the use will be in conformance with all of the applicable requirements and regulations of this Subtitle.

(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 Master Plan, the General Plan;

Comment: In a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application conforms to the residential low-density land use recommendation in the 2006 Henson Creek-South Potomac Master Plan and SMA, and further stated that the application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier by maintaining low- to moderate-density land uses. As a result, the proposed use will not substantially impair the integrity of the approved master plan or General Plan.

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

Comment: The applicant has operated the use on this property since approximately July 18, 2007 when Use and Occupancy Permit 27720-2007-00 was approved for a congregate living facility for the elderly and physically-handicapped with up to eight residents. Adding seven more residents to the facility, as proposed through the subject special exception application, will have no adverse effects on 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; and

Comment: The residents of the facility are primarily 75 years of age or older. From the outside, the facility has the appearance of a typical detached single-family dwelling, and that is what the applicant hopes to maintain under the current proposal. By requesting the companion departure applications, the applicant is hoping to avoid installing a commercial parking compound in the front yard that would alter the appearance of the existing residential use and character of the neighborhood.

According to a study on senior housing conducted by The Maryland-National Capital Park and Planning Commission (M-NCPPC), the 65+ population is projected to grow at a faster pace in Prince George's County than in Maryland and the U.S. (Study, Part 1. Profile of Prince George's County and DC Metro Area, Page 41). Further, the study notes that "Prince George's County is underserved relative to independent living, assisted living and Alzheimer's care." Additionally, the study concludes that "the elderly population will continue to increase for at least the next decade," and so will the demand for elderly services (Study, Part 2. Trends: Conclusions, Page 50).

The applicant frequently must turn away potential residents due to its licensing limitations which is currently capped at eight residents. Approval of the requested special exception application would allow the applicant to have seven additional elderly residents for a total of 15 residents. The facility provides an intimate, friendly, home-style environment in a location that provides a tranquil residential setting.

In an email dated July 16, 2012, the Research Section stated that the applicant has met the criteria for the needs assessment and has proven that there is a demonstrated need for the facility. The applicant proposes no new construction or increase in gross floor area, and the use has been in operation on the property since approximately 2007. Therefore, the applicant's request to add seven additional residents (for a total of 15) would 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.

Comment: This property is subject to the Prince George's County Woodland Conservation Ordinance because the site has two prior approved Tree Conservation Plans, TCPI-039-07 and TCP2-079-94/06. In a memorandum dated August 19, 2013, the Environmental Planning Section stated the following:

The Environmental Planning Section finds conformance with the required environmental findings for a special exception and recommends approval of Special Exception SE-4704 and Type II Tree Conservation Plan TCPII-079-94-06, subject to the following condition:

1. Prior to final disposition of the special exception application and Type II tree conservation plan, the fee-in-lieu required to mitigate prior clearing, as shown on revised TCPII-079-94-06, shall be paid to the county Woodland Conservation Fund.

With the recommended condition, the proposed site plan will be in conformance with an approved tree conservation plan.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

Comment: Because there are no regulated environmental features on the site except for woodland conservation under an approved and implemented Type II tree conservation plan, the site was eligible to receive a natural resources inventory (NRI) equivalency letter. On June 26, 2013, NRI-066-13 was issued for the property by the Environmental Planning Section.

- L. **Required Findings—Departure from Parking and Loading Standards DPLS-373:** Section 27-588(b)(7)(A) of the Zoning Ordinance provides that, in order for the Planning Board to grant a departure from parking and loading standards (DPLS), it shall make the following findings:

Section 27-588. Departure from the number of parking and loading spaces required.

(b)(7) Required Findings

- (A) **In order for the Planning Board to grant the departure, it shall make the following findings:**

- (i) **The purposes of this Part (Section 27-550) will be served by the applicant's request;**

Section 27-550. Purposes

- (a) **The purposes of this Part 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.**

Comment: In this case, the applicant proposes a congregate living facility with up to 15 residents in the R-R Zone. The use requires one parking space for every four residents and, therefore, requires a total of four parking spaces. This facility is located in a residential neighborhood and the applicant is concerned that, if all of the required parking were to be constructed in the front yard area of the single-family dwelling, it would certainly have a negative effect on the character of the neighborhood. The applicant's request is in compliance with the purposes of this part in seeking to protect the residential character of residential areas.

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

Comment: Due to spacial constraints associated with the width of the existing driveway, the applicant proposes only to provide the required van-accessible parking space for the physically-handicapped. The two parking spaces in the garage will continue to be utilized by the staff for parking on a daily basis. However, the garage spaces are unable to be counted as provided parking spaces because a vehicle would have to "drive-through" and/or "back-over" the van-accessible handicapped parking space in order to gain access to the two parking spaces inside the garage. Piggyback parking is not allowed for any use other than residential dwelling units. With piggyback parking not being permitted in this instance, the driveway's existing configuration could only accommodate one parking space, which in this case, has to be the van-accessible parking space for the physically-handicapped as required per ADA Standards (Americans with Disabilities Act). As a result, 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 special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;**

Comment: A congregate living facility such as this one provides a supportive environment of care to elderly residents who are unable to live independently and require assistance with daily living activities such as bathing, dressing, toileting, eating, and the management of medications. All of the residents of this facility are approximately 75 years of age or older and they do not drive. The facility has a shuttle bus that is used to bring the residents to and from medical appointments and recreational events.

The applicant's statement of justification states that there is usually no more than two staff members at the facility at all times, and the two parking spaces in the garage are adequate to serve the staff's parking needs. The driveway is very long and has always been more than capable of providing adequate parking for any visitors. Lucille Court only serves two dwellings, with one of them being the subject property. The driveway and garage parking will provide sufficient off-street parking for the facility without negatively impacting the county right-of-way. With the facility being located in a quiet neighborhood, the applicant strives to maintain the property in a fashion that blends with the surrounding neighbors and community and is, therefore, seeking the departure in an effort to not turn the front yard area into a commercial parking lot. As a result, the departure is necessary to alleviate circumstances which are special to the subject use, given its nature at this location.

- (iv) **All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and**

Comment: In this case, there is only one method for calculating the number of spaces required which is based on the total number of residents that are proposed at the facility.

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

Comment: The property is located in the cul-de-sac area of Lucille Court. Lucille Court, as a whole, only serves two dwellings, with one of them being the subject property, and an undeveloped lot exists on the east side of the property. The dwelling that abuts the subject property to the west has a double-car garage and a double-wide concrete driveway that appears to be more than adequate to serve that property. Due to the pie-shaped lot configuration of the subject property and the 80-foot-wide front building restriction line that is shown on the approved final plat of subdivision for the property, the existing dwelling had to be set back approximately 141 feet from Lucille Court when it was initially constructed.

For clarity purposes, the 80-foot building restriction line is not located 80 feet from the limits of the Lucille Court right-of-way, but rather located in the area where the lot finally opens up enough to provide the minimum lot width of 80 feet at the front building line. In this case, due to the pie-shaped configuration of the property, the 80-foot front building line is set back, on an average of, approximately 130 feet from the Lucille Court right-of-way. The building restriction line ultimately dictated how far the dwelling had to be set back on the subject property, and further dictated that a very long driveway would be needed to serve the dwelling. The lot is only 20,819 square feet in size. As a result, the applicant had to obtain approval of a variance request in July 2002 from the Board of Zoning Appeals (V-79-02) for exceeding the maximum lot coverage requirement of 25 percent in the R-R Zone by 2.5 percent just to construct the large dwelling on the property and the long, mostly single-width, concrete driveway.

With the submission of a special exception application for a congregate living facility, the maximum lot coverage requirement changes from 25 percent of the net lot area (as required for a detached single-family dwelling) to 60 percent of the net lot area (as required for other allowed uses). As a result, lot coverage is no longer an issue with the proposed use and no new lot coverage is being proposed at this time. However, the very small size of this property could not accommodate the construction of a new commercial parking lot in the front yard without drastically altering the residential character of the neighborhood, and possibly not without requiring some additional clearing of woodland.

Within their August 3, 2012 memorandum, the Transportation Planning Section stated that the size of the facility does not appear to trigger the need for additional studies of traffic impacts and would typically be determined to be de minimus. The adequacy of transportation facilities is not an issue in the review of this use. The review of special exception applications is strictly within the required findings of health, safety, and welfare. Although the Transportation Planning Section did not feel that the departure was well justified in the applicant's initial justification statement, they ultimately concluded that the proposal for expanded uses on the site, in consideration that the net trip generation is relatively small, would not pose unanticipated safety issues on adjacent roadways.

In consideration that the anticipated number of peak hour trips in and out of the facility would be de minimus, and that the construction of a new parking compound in the front yard would change the residential character of the property, staff is of the opinion that a departure of three parking spaces is justified. As a result, the parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.

- (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 five hundred (500) feet of the subject property;**

Comment: The area within 500 feet of the subject property is characterized by other detached single-family dwellings in the R-R Zone, all of which have their own off-street parking facilities. There is no indication of a shortage in parking spaces within the general vicinity of this facility. There are no off-street parking spaces that are available to the applicant within 500 feet of the property. However, only two properties, including the subject property, currently have vehicular access to Lucille Court. Therefore, Lucille Court could accommodate some temporary on-street parking should any overflow conditions occur on the subject property.

(ii) The recommendations of an Area Master Plan, or County or local revitalization plan, regarding the subject property and its general vicinity;

Comment: The Henson Creek-South Potomac Master Plan and SMA recommends a residential low-density land use for the subject property. Neither the proposed use (a congregate living facility in the R-R Zone) nor the DPLS request would have a detrimental impact on the plan's recommendation.

(iii) The recommendations of a municipality (within which the property lies) regarding the departure; and

Comment: The subject property is not located within a municipality. There are no comments or recommendations submitted by a municipality.

(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 for this area.

(C) In making its findings, the Planning Board may give consideration to the following:

(i) Public transportation available in the area;

Comment: This congregate living facility provides elderly care services for residents ranging in age from 65 to 90. There is a bus stop about a quarter of a mile away, but this distance is too far for the elderly residents to walk. Some of the residents have metro access that they use where the van will come directly to the facility. This service is provided by a subcontracting company for Metro. However, the majority of the time, the facility provides transportation services through the use of their own shuttle bus which adequately meets the needs of the residents.

(ii) Any alternative design solutions to off-street facilities which might yield additional spaces;

Comment: The applicant seeks a waiver of three of the required four parking spaces and proposes to provide the required van-accessible parking space for the physically-handicapped. The double garage is available for parking and will be

utilized by the staff for parking. None of the residents at the facility drive due to their age, and the facility's shuttle bus is available to take residents to medical appointments and recreational events as needed. The applicant further believes that the existing long driveway, in its existing configuration, is more than adequate to accommodate any visitors without negatively impacting the county right-of-way.

In a memorandum dated July 2, 2012, the Department of Public Works and Transportation (DPW&T) stated that they do not support the parking departure (which at that time was requested for a total of five parking spaces) because it would impact the operation of the roadway, and they do not support the requested departure of 12 feet from the required 22-foot-wide driveway aisle (for no specific reasons stated).

DPW&T further stated that a 30-foot-wide commercial driveway entrance should be installed along with street lights, street trees, and traffic plans. DPW&T further ended the memo by stating that they have no objections to the special exception request for the proposed expansion of the congregate living facility, however, they do not support the companion departure requests, DPLS-373 and DDS-613.

In generating their comments, DPW&T did not review any traffic studies, nor were they aware of the anticipated number of peak hour trips associated with adding a total of seven more residents to this congregate living facility. By not supporting the departures in any form, they are essentially requesting that a commercial parking lot be installed in the front yard of this property. Further, in requesting the new installation of a 30-foot-wide commercial driveway entrance, (as would typically be required for a gas station, shopping mall, or other commercial or industrial use), DPW&T has no consideration in maintaining the residential character of the neighborhood, or what impact that type of commercial construction could have on the adjacent residential properties. Staff is of the opinion that requiring the applicant to install a commercial parking lot that meets all zoning requirements and a new 30-foot-wide commercial driveway entrance is unwarranted for a use that is anticipated to have a de minimus impact on AM and PM peak hour traffic.

The applicant would prefer to not add any parking to the site other than a van-accessible parking space for the physically-handicapped. They believe that the existing driveway, which is over 130 feet in length, has always been more than adequate to serve their parking needs, and will continue to be adequate with the addition of seven more residents. However, in response to DPW&T's comments, the applicant submitted an exhibit (PowerPoint Slide 15 of 21) in an effort to show the Planning Board what a possible expansion of the existing driveway would look like if six parking spaces were added, including the required van-accessible parking space for the physically-handicapped.

The issue with the applicant's exhibit is that the required 22-foot-wide driveway aisle is still not provided for any of the parking spaces. Only a 12-foot-wide driveway aisle is being provided on the plan. Only four parking spaces are required for the use and six spaces are shown on the plan. Further, like any parking expansion on this site, turn-around capability appears to be

compromised. Staff also prepared an exhibit (PowerPoint Slide 16 of 21) for the Planning Board's review showing a possible expansion of the parking compound to provide the full required 22-foot-wide driveway aisle width, the four required parking spaces, including the required van-accessible parking space for the physically-handicapped, and a 30-foot-wide commercial driveway entrance. However, constructing the parking lot in the front yard of this dwelling will negatively impact the residential character of the neighborhood, and even with the required 22-foot-wide driveway aisle width being fully provided, turn-around capability would still appear to be compromised. Currently, the applicant's home looks like all of the other homes in the neighborhood from the outside and the applicant would be unable to maintain that setting if a commercial parking lot had to be constructed in the front yard.

Although staff supports the departure request for three parking spaces, both exhibits showing a possible expansion of the parking compound are provided for the Planning Board's review. As a result, any alternative design solutions to off-street facilities which might yield additional spaces have been provided for the Planning Board's review purposes.

(iii) The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within five hundred (500) feet of the subject property;

Comment: There are no business uses that are located within 500 feet of the subject property. The specific nature of this use is a congregate living facility that provides a supportive environment of care to elderly residents who are unable to live independently and require assistance with activities of daily living including management of medications, bathing, dressing, toileting, and eating. The applicant also provides sleeping facilities, preparation of meals, laundry services, housekeeping, transportation services to and from regular social and medical appointments, 24-hour supervision and observation, and non-clinical counseling to the elderly residents. The residents are all over 75 years of age and do not drive.

(iv) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.

Comment: The subject property is located in the R-R Zone. The above finding is not applicable to the subject application.

- M. **Required Findings—Departure from Design Standards DDS-613:** In conjunction with the applicant's special exception request, the property is now subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual), as well as the parking space requirements and design standards contained in Part 11 of the Zoning Ordinance. As a result, the applicant is requesting a departure of 12 feet from the required 22-foot-wide driveway aisle width that is required for two-way traffic, and a departure from Section 4.7 (Buffering Incompatible Uses) of the Landscape Manual along the eastern and western property lines.

Section 27-239.01(b)(7)(B) of the Zoning Ordinance states that:

For a departure from a standard contained in the Landscape Manual, the Planning Board shall find, in addition to the requirements in paragraph (7)(A), above, that there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.

The alternative compliance application that was recently reviewed for the property (AC-11030) was denied by the Planning Director on March 21, 2013. The following text was derived from the staff report that was prepared by the Alternative Compliance Committee for AC-11030.

The site is subject to the *Prince George's County Landscape Manual* (Landscape Manual) Sections 4.2, 4.3, 4.7, and 4.9. The applicant has filed this request for Alternative Compliance from Section 4.7, Buffering Incompatible Uses, to allow a reduction in the width and planting units of the required bufferyards along the western and eastern property lines.

REQUIRED: 4.7 Buffering Incompatible Uses, along the western property line adjacent to a single-family residence.

Length of bufferyard	209 feet
Building setback	30 feet
Landscape yard	20 feet
Fence or wall	Yes (six-foot-high, sight-tight)
Plant units (80 per 100 l.f.)	105

PROVIDED: 4.7 Buffering Incompatible Uses, along the western property line adjacent to a single-family residence.

Length of bufferyard	209 feet
Building setback	9 feet
Landscape yard	9 feet
Fence or wall	Yes (six-foot-high, sight-tight) 157 feet or 75%
Plant units	0

REQUIRED: 4.7 Buffering Incompatible Uses, along the eastern property line adjacent to a single-family residence.

Length of bufferyard	250 feet
Building setback	30 feet
Landscape yard	20 feet
Fence or wall	No
Plant units (80 per 100 l.f.)	200

PROVIDED: 4.7 Buffering Incompatible Uses, along the eastern property line adjacent to a single-family residence.

Length of bufferyard	250 feet
Building setback	8 feet
Landscape yard	8 feet
Fence or wall	No
Plant units	0

Justification of Recommendation:

The applicant is requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along the western property line adjacent to a single-family residence, to allow a reduction in the minimum building setback, landscaped yard width, and required plant units. In this area, the applicant is proposing to provide a nine-foot building setback, and a six-foot-high, vinyl, sight-tight fence along 75 percent of the required bufferyard length. No plant units are proposed in the side landscape yard. The remainder of the required landscaped yard is to be paved as it is the driveway. The applicant justifies that the existing fence provides an adequate buffer that is equal to the *Prince George's County Landscape Manual* requirement. While the committee notes that the fence will help reduce the impact of the congregate living facility on the adjoining residential use, it is not justification for the 70 percent reduction in the required building setback width, the 55 percent reduction in landscape yard, and the 100 percent reduction in the required plant units. The Alternative Compliance Committee finds that the proposal along the western property line for Section 4.7, Buffering Incompatible Uses, is not equally effective compared to the normal requirements of the *Prince George's County Landscape Manual*.

The applicant is also requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along the eastern property line adjacent to a vacant single-family residential lot, to allow a reduction in the minimum building setback, landscaped yard width, and required plant units. In this area, the application indicates an eight-foot-wide building setback. The applicant argues that the existing mature tree on the adjoining lot provides an adequate buffer that is equal to the *Prince George's County Landscape Manual* requirement. The adjacent lot is vacant and will most likely be built upon in the future. The existing vegetation may not remain if the lot is built upon. The 73 percent reduction in the required building setback width, the 60 percent reduction in landscape yard, and the 100 percent reduction in the required plant units does not justify the granting of alternative compliance. Landscaping on adjacent lots is only permitted to be counted towards a bufferyard if it is shown on an approved landscape plan. The Alternative Compliance Committee finds that the proposal for Section 4.7, Buffering Incompatible Uses, is not equally effective compared to the normal requirements of *Prince George's County Landscape Manual*.

Recommendation:

The Alternative Compliance Committee recommends DENIAL of Alternative Compliance for Section 4.7 and recommends that the applicant apply for a Departure from Design Standards to seek relief from the *Prince George's County Landscape Manual*.

Comment: Based on the recommendation from the Alternative Compliance Committee, the applicant has applied for the subject departure from design standards (DDS) to seek relief from the Landscape Manual.

Section 27-239.01(b)(7) of the Zoning Ordinance sets forth the required findings for a DDS:

(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;

Comment: The purposes of the Zoning Ordinance, as set forth in Section 27-102 will be equally well or better served by granting the requested departures. These purposes include protecting and promoting health, safety, and welfare, guiding orderly growth, promoting the most beneficial relationship between land uses and buildings, encouraging economic development, and lessening the danger of traffic on the streets.

As a part of the companion special exception process, the applicant has clearly demonstrated that there is a need for the proposed congregate living facility. Although the applicant has operated this facility with eight residents since the approval of Use and Occupancy Permit 27720-2007-00 on July 18, 2007, in order to increase the number of residents beyond eight, the approval of a special exception application is required. In conjunction with the applicant's special exception request, the property is now subject to the Landscape Manual as well as the parking space requirements and design standards contained in Part 11 of the Zoning Ordinance. As a result, the applicant is requesting a departure of 12 feet from the required 22-foot-wide driveway aisle width and a departure from Section 4.7 (Buffering Incompatible Uses) of the Landscape Manual.

The size of the property is only 20,819 square feet in size, and due to the pie-shaped lot configuration of the lot and the 80-foot-wide front building restriction line that is shown on the approved final plat of subdivision for the property, the existing dwelling had to be set back approximately 141 feet from Lucille Court when it was initially constructed. As a result, a very long driveway (currently 1,780 square feet) was also needed to serve the dwelling. Further, a tree save area encumbers 16.74 percent of the lot along the rear of the property as shown on the companion Type 2 Tree Conservation Plan, TCP2-079-94/06. With the irregular-shaped lot, the location of the building restriction line, and the designated tree save area shown along the back of the property, the building envelope on the property was very small to begin with.

The applicant's developer, Krause Homes, had to obtain approval of a variance request in July 2002 from the Board of Zoning Appeals (V-79-02) for exceeding the maximum lot coverage requirement of 25 percent in the R-R Zone by 2.5 percent just to construct the large dwelling on the property and the long, mostly single-width, concrete driveway. The dwelling has a first floor building footprint of 4,084 square feet, and is 7,668 square feet in total. The structure is set back just nine feet from the property line on the west side, and eight feet from the property line on the east side. As a result, the applicant has no ability to comply with the planting and building setback requirements within Section 4.7 of the Landscape Manual.

The existing driveway is ten feet in length at its smallest point. As a result, the applicant is requesting a departure of 12 feet from the 22-foot-wide minimum driveway aisle width for two-way traffic. It is staff's opinion that congregate living facilities, such as this one, are permitted in the R-R Zone with an approved special exception because they provide

the elderly and physically-handicapped with the same residential setting as a typical dwelling would. Therefore, there is a legislative presumption that the use can be carried out in harmony with the purposes of this Subtitle with no adverse impacts on health, safety, and welfare.

In this case, the applicant proposes no increase in gross floor area and no new structures are being proposed on the property. With the approval of the requested departures, the visual appearance of this property will continue to be nothing more than that of a typical detached single-family dwelling. As long as that appearance is maintained, there would be no reason to further buffer the use from the adjacent residential properties. As a result, the purposes of the Zoning Ordinance will be equally well or better served by granting the requested departure.

(ii) The departure is the minimum necessary, given the specific circumstances of the request;

Comment: The existing dwelling's setback from the eastern and western property lines is ultimately dictating the width of any landscaped bufferyard and building setback that could be provided to fulfill the requirements of Section 4.7 of the Landscape Manual. A congregate living facility is considered a low-impact use for the purposes of Section 4.7. When the use abuts a single-family dwelling, a minimum building setback of 30 feet is required, 20 feet of which must be landscaped.

The length of the required landscaped bufferyard on the west side is 209 feet and 105 plant units are required. The length of the required landscaped bufferyard on the east side is 250 feet and 200 plant units are required. The structure is set back just nine feet from the property line on the west side and eight feet from the property line on the east side. As a result, the applicant has no ability to comply with the planting and building setback requirements within Section 4.7. A six-foot-high vinyl fence is located along a majority of the western property line where the property abuts a detached single-family dwelling, and the property to the east is heavily wooded and currently undeveloped.

Along the rear property line (the northern property line), 46 plant units are required and 80 plants units are provided. This area is a designated tree save area as shown on the companion Type 2 Tree Conservation Plan, TCP2-079-94/06. The full required landscaped bufferyard and building setback are provided in this area along with almost double the plant units required by Section 4.7. The site is also in full compliance with Section 4.2 (Requirements for Landscape Strips along Streets) and Section 4.9 (Sustainable Landscaping Requirements) of the Landscape Manual.

There is little opportunity to provide any plantings along the eastern and western sides of the dwelling where the departure is requested. A six-foot-high vinyl fence exists along a majority of the western property line and along all of the northern property line. A walkway exists around the eastern side of the dwelling adjacent to the undeveloped wooded lot which appears to possibly be for ADA access. One of the purposes of the Landscape Manual is to shield incompatible uses from each other. With approval of the requested departures, the visual appearance of this property will continue to be nothing more than that of a typical detached single-family dwelling. As a result, there would be no reason to further buffer the use from the adjacent residential properties.

Staff finds that the departure of 21 feet on the west side and 22 feet on the east side from the required 30-foot building setback, and a departure of 20 feet on both the west and east sides from the 20-foot-wide landscaped yard requirement is the minimum necessary. Further, a departure of 105 plant units on the west side and 200 plant units on the east side is the minimum necessary, given the specific circumstances of the request.

The existing driveway is ten feet wide at its smallest point. Therefore, the applicant is requesting a departure of 12 feet from the 22-foot-wide minimum driveway aisle width required for two-way traffic. Staff finds that the requested departure is the minimum necessary in order to maintain the driveway in its existing configuration.

- (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;**

Comment: The location on the dwelling and the irregular shape of the lot prevent the applicant from full complying with the requirements of Section 4.7 of the Landscape Manual.

Constructing the parking lot in the front yard of this dwelling will negatively impact the residential character of the neighborhood and, even with the required 22-foot-wide driveway aisle width being fully provided, turn-around capability would still be compromised. Currently, the applicant's home looks like all the other homes in the neighborhood from the outside and the applicant would be unable to maintain that setting if a commercial parking lot had to be constructed in the front yard. Staff is of the opinion that requiring the applicant to install a commercial parking lot that meets all zoning requirements and a new 30-foot-wide commercial driveway entrance is unwarranted for a use that is anticipated to have a de minimus impact on AM and PM peak hour traffic.

The double garage is available for parking and will be utilized by the staff for parking. None of the residents at the facility drive due to their age, and the facility's shuttle bus is available to take the residents to medical appointments and recreational events as needed. The applicant further believes that the existing long driveway, in its existing configuration, is more than adequate to accommodate any visitors without negatively impacting the county right-of-way.

At the time of the writing of this report, staff has not received any complaints from the adjacent neighbors concerning the lack of available parking at this facility which has operated with up to eight residents since July 2007.

The applicant states that the existing driveway, which is over 130 feet in length, has always been more than adequate to serve their parking needs, and will continue to be adequate with the addition of seven more residents. The construction of a commercial parking lot could negatively impact the residential character of the neighborhood. As a result, the departure is necessary in order to alleviate circumstances which are unique to the site.

- (iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.**

Comment: The applicant seeks relief from the strict requirements of the Landscape Manual because it is not possible to comply with the building setback and landscaped yard requirements within Section 4.7 along the eastern and western property lines of the subject property, due to the location of the existing dwelling. The applicant has requested a departure of 12 feet from the 22-foot-wide minimum driveway aisle width requirement, as well as the companion parking departure, so that a commercial parking lot would not have to be constructed in the front yard area of the subject property. With approval of the requested departures, the existing dwelling will continue to look like every other dwelling in the neighborhood, therefore, helping to preserve the residential character of the neighborhood. As a result, staff concurs with the applicant's assertion that the departure will not impair the visual, functional, or environmental quality or integrity of the site or the surrounding neighborhood.

CONCLUSION

Special Exception SE-4704

Based on the preceding analysis and findings, it is recommended that Special Exception Application No. SE-4704 for a congregate living facility in the R-R Zone with up to 15 residents be APPROVED subject to the following conditions:

1. Prior to final disposition of the case, the following revisions shall be made to the site plan:
 - a. Provide a general note on the site plan concerning the square footage of the residents' bedrooms in order to demonstrate compliance with Section 27-344(a)(3) of the Zoning Ordinance.
 - b. Remove General Note 20 concerning Alternative Compliance Pre-Application ACP-11030. This information is no longer relevant to the application since AC-11030 was denied by the Planning Director on March 21, 2013.
 - c. Revise the parking schedule to remove the two required parking spaces for the dwelling.
 - d. Revise General Note 5 to include the gross floor area of the garage.
 - e. Show the limits of the existing tree line along the eastern property line, so that it is consistent with the Type II tree conservation plan.
2. Prior to final disposition of the case, the following revisions shall be made to the landscape plan:
 - a. Remove the freestanding sign.
 - b. Revise the landscape schedules for Section 4.7 as follows:
 - (1) Designate the proposed use as a "Low-Impact" use, and the impact of the adjoining properties as "One-Family Detached."
 - (2) Remove the reference to alternative compliance and replace it with "DDS-613."

- (3) Remove “Side A” and “Side B” and replace with “Eastern Property Line” and “Western Property Line.”
 - (4) Add the required number of plant units to each schedule.
 - (5) Correct the Section 4.7 schedule for the rear property line to indicate that the minimum required width of the landscaped yard is 20 feet (not ten feet).
 - (6) Update the revision box after all of the required changes have been made to the plan.
3. Prior to approval of a use and occupancy permit, the fee-in-lieu required to mitigate prior clearing, as shown on revised TCPII-079-94-06, shall be paid to the county Woodland Conservation Fund.

Departure from Design Standards DDS-613

Staff further recommends APPROVAL of Departure from Design Standards Application No. DDS-613 for a waiver of 12 feet from the required 22-foot-wide driveway aisle width for two-way traffic, and from Section 4.7 of the *Prince George’s County Landscape Manual* along the eastern and western property lines.

Departure from Parking and Loading Standards DPLS-373

Staff further recommends APPROVAL of Departure from Parking and Loading Standards No. DPLS-373 for a waiver of three parking spaces.