

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND  
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION  
4699**

**DECISION**

Application:	Alternation, Enlargement, Extension or Reconstruction of a Certified Non-Conforming Use; Alternative Compliance 10013
Applicant:	The Evergreens at Laurel
Opposition:	None
Hearing Date:	November 21 and 29, 2011
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

**NATURE OF PROCEEDINGS**

(1) Special Exception 4699 is a request for the Alternation, Enlargement, Extension or Reconstruction of a Certified Non-Conforming Use to add four (4) additional dwelling units, to add a community building, to validate parking constructed pursuant to a permit issued in error and to update signage, all on approximately 9.09 acres of land in the R-18 (Multifamily Medium Density Residential) Zone located in the southern corner of the intersection of South Laurel Drive and Laurel-Bowie Road (MD 197), also identified as 11701, 11703, 11705, 11707, 11709, 11711, 11713, 11715, 11717, 11719, 11721, 11723, 11729, 11731, 11733, 11735 and 11737 South Laurel Drive, Laurel, Maryland.

(2) The Planning Board did not elect to consider the instant Application (Exhibit 31) and adopted the Technical Staff Report (Exhibit 12) which recommended approval of the Special Exception and the Alternative Compliance with a condition.

(3) At the conclusion of the evidentiary hearing the record was kept open for inclusion of additional information which was submitted and the record was closed on February 29, 2012.

**FINDINGS OF FACT**

**Subject Property**

(1) The subject property is an approximately 9.09 parcel of land located in the southwest corner of the intersection of South Laurel Drive and Laurel-Bowie Road (MD 197). It is improved with a 198 dwelling unit garden apartment complex and 294 parking spaces constructed between 1970 and 1972.

(2) This development was certified as a Non-Conforming Use in 1999 (NCU-8496-98U) due to its failure to conform to the current bedroom percentage regulations of the Zoning Ordinance. Exhibit 24(b)

(3) In 2000, Permit 9361-2000-CG was issued for the construction of additional parking spaces to be added on the northern side of the subject property along Laurel-Bowie Road. This permit was issued in error as a Special Exception was required to modify the approved Non-Conforming Use and expand the parking. Additionally, the parking expansion was in violation of the 1990 Prince George's County Landscape Manual.

(4) On July 8, 2010, the Planning Board approved Detailed Site Plan DSP-09026 for a single story detached 5,403 square foot community building on the subject property. Exhibit 25(b)

### **Master Plan and Sectional Map Amendment**

(5) The 2010 Approved Subregion I Master Plan recommends medium-high density residential use for the subject property and the 2010 Approved Subregion I Sectional Map Amendment retained the subject property in the R-18 Zone.

(6) The 2002 Prince George's County Approved General Plan places the subject property in the Developing Tier. The vision for the 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. This Application is consistent with General Plan Development Pattern Policies for the Developing Tier, specifically, the goal of "reinforcing existing suburban residential neighborhoods." (GP p. 37)

### **Neighborhood and Surrounding Uses**

(7) The neighborhood boundaries are as follows:

Northeast - Laurel-Bowie Road (MD 197)

West - South Laurel Drive

South - Potomac Electric Power Company (PEPCO) right-of-way

(8) The uses immediately surrounding the proposed Special Exception are as follows:

North - Retail development in the C-A Zone and single family residences in the R-R Zone

South - Potomac Electric Power Company (PEPCO) in the R-R Zone

East - Undeveloped land in the C-O Zone

West - South Laurel Drive, multifamily complex in the R-18 Zone, motorcycle dealership in the C-S-C Zone

(9) The subject property is surrounded by single family zoned and developed properties north of the Evergreens on the opposite side of Laurel-Bowie Road, and property in the C-O Zone that is wooded and undeveloped is situated along the eastern boundary. A motorcycle sales and service center is on the west side of South Laurel Drive. South and west of the Evergreens is property zoned for multifamily uses and are developed with apartment communities. Undeveloped land lies to the immediate east. The expansive utility right-of-way along the Evergreens' rear southern boundary separates it from the adjacent apartment community.

### **Applicant's Proposal**

(10) The Applicant is requesting a major modification to a Certified Non-Conforming Use through the instant Application to alter, enlarge, extend or reconstruct the Evergreens at Laurel apartment complex. The Applicant is seeking approval for the construction of four (4) additional one (1) bedroom units within existing building footprints, the addition of an existing parking area (21 parking spaces) constructed pursuant to Permit 9361-2000-CG which was issued in error, the community building approved pursuant to DSP-09026, and new signage.

### **LAW APPLICABLE**

(1) A Certified Non-Conforming Use may be altered, enlarged or extended pursuant to the provisions of §27-384. Such an Application may be approved if the Application meets the requirements of §27-317 and other applicable code provisions delineating the requirements for the R-18 Zone and use, such as landscaping and parking.

(2) Section 27-242(a) provides:

(a) In general.

(1) A nonconforming building or structure, or a certified nonconforming use (except as provided for in this Section) may be altered, enlarged, or extended, provided that:

(A) The alteration, enlargement, or extension conforms to the building line setback, yard, and height regulations of the zone in which the use is located; and

(B) A special exception has been approved by the District Council, in accordance with Part 4 of this Subtitle.

(3) Section 27-384(a) and (b) provides:

(a) The alteration, enlargement, extension, or reconstruction of any nonconforming building or structure, or certified nonconforming use (except those certified nonconforming uses not involving buildings, those within the Chesapeake Bay Critical Area Overlay Zones as specified in paragraph 7, below, unless otherwise provided, and except for outdoor advertising signs), may be permitted subject to the following:

(1) A nonconforming building or structure, or a building or structure utilized in connection with a certified nonconforming use, may be enlarged in height or bulk, provided that the requirements of Part 11 are met with respect to the area of the enlargement.

(2) A certified nonconforming use may be extended throughout a building in which the use lawfully exists, or to the lot lines of the lot on which it is located, provided that:

(A) The lot is as it existed as a single lot under single ownership at the time the use became nonconforming; and

(B) The requirements of Part 11 are met with regard to the extended area.

(3) A certified nonconforming use may be reconstructed, provided that:

(A) The lot on which it is reconstructed is as it existed as a single lot under single ownership at the time the use became nonconforming;

(B) Either the nonconforming use is in continuous existence from the time the Special Exception application has been filed through final action on the application, or the building was destroyed by fire or other calamity more than one (1) calendar year prior to the filing date;

(C) The requirements of Part 11 are met with respect to the entire use; and

(D) The Special Exception shall terminate unless a building permit for the reconstruction is issued within one (1) calendar year from the date of Special Exception approval, construction in accordance with the building permit begins within six (6) months from the date of permit issuance (or lawful extension), and the construction proceeds to completion in a timely manner.

(4) When not otherwise allowed, a certified nonconforming use may be otherwise altered by the addition or relocation of improvements, such as fencing, landscaping, off-street parking and loading areas, and outdoor trash enclosures, or the relocation of buildings or other improvements within the boundary lines of the lot as it existed as a single lot under single ownership at the time the use became nonconforming.

(5) Any new, or any addition to, or alteration or relocation of an existing building or other improvement (which is either nonconforming or utilized in connection with a certified nonconforming use), shall conform to the building line, setback, yard, and height regulations of the zone in which the certified nonconforming use is located. The District Council may further restrict the location and bulk of the building or structure where the evidence so warrants. If the use is presently permitted by Special Exception in the zone, the new building, improvement, or addition shall conform to all of the physical requirements of the specific Special Exception use.

(6) The District Council may grant this Special Exception for property within a one hundred (100) year floodplain only after it has determined that the proposed enlargement, extension, reconstruction, or alteration will:

(A) Not require additional filling in the floodplain;

(B) Not result in an increase in elevation of the one hundred (100) year flood; and

(C) Conform with all other applicable requirements of this Subtitle and of Division 2 of Subtitle 4, "Building," of this Code, entitled "Construction or Changes in Floodplain Areas."

(7) In a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted where the existing impervious surface coverage exceeds that allowed by Section 27-548.17, and which would result in a net increase in the existing impervious surface coverage. In addition, a Special Exception shall not be granted which would result in converting a property which currently meets the impervious surface coverage requirements of Section 27-548.17 to a nonconforming status regarding impervious surface coverage, except if a finding of extenuating circumstances is made, such as the necessity to comply with other laws and regulations.

(b) Applications for this Special Exception shall be accompanied by a copy of the Use and Occupancy Permit for the certified nonconforming use, as provided for in Section 27-241(b).

(4) Section 27-317 provides:

(a) A Special Exception may be approved if:

(1) The proposed use and site plans are in harmony with the purpose of this Subtitle;

(2) The proposed use is in conformance with all 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;

- (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;
- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
- (6) The proposed site plan is 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 in accordance with the requirement of Subtitle 24-130 (b)(5).

(5) The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Special Exception use. The Special Exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Special Exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Plan.

The Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a Special Exception use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested Special Exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg V. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

(6) The appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg, supra.

(7) A proposed Special Exception use must be found to be “in harmony” with the Comprehensive Plan but does not have to meet the higher burden of proving that the use will be “consistent” with the Comprehensive Plan. Schultz, supra, Trail v. Terrapin Run LLC, 174 Md. App. 43 (2007)

(a) “The expertise of the agency in its own field should be respected”, Marzullo v. Kahl, 366 Md. 158, 172 (2001), and an administrative decision may not be reversed unless it is premised upon an erroneous conclusion of law. Days Cove Reclamation Co. v. Queen Anne County, 146 Md. App. 469, 484-85, *cert. denied*, 372 Md. 431 (2002), Swoboda v. Wilder, 173 Md. App. 615 (2007)

### CONCLUSIONS OF LAW

(1) There is no proposed enlargement of the height or bulk of the existing buildings. §27-384(a)(1)

(2) The Evergreens at Laurel, Parcel A, was recorded in Plat Book WWW 58@93 on December 22, 1965. It is a single parcel that existed under single ownership since 1972 when it became a Non-Conforming Use. Parcel A remains intact since 1972 minus the portion of land acquired for right-of-way by the State Highway Administration. The existing 294 parking spaces meet the requirements of Part 11 of the Zoning Ordinance. §27-384(a)(2)

(3) No reconstruction of existing structures is proposed. §27-384(a)(3)

(4) The parking lot expansion in 2000 pursuant to Permit 9361-2000-CG was constructed to replace required parking in an area of land conveyed to the State Highway Administration for right-of-way purposes. §27-384(a)(4)

(5) The instant Application is in conformance with the applicable building line, setback, yard and height regulation of the R-18 Zone. §27-384(a)(5)

(6) The subject property is not located within a 100 year floodplain. §27-384(a)(6)

(7) The subject property is not located within the Chesapeake Bay Critical Area. §27-384(a)(7)

(8) The proposed use and Site Plan (Exhibits 10 and 28 (c)-(e)) are in conformance with the general purposes of the Zoning Ordinance, §27-102, as follows:

***(1) To protect and promote the health, safety, morals comfort, convenience, and welfare of the present and future inhabitants of the County;***

There will be no appreciable impact on the health, safety, morals, comfort, convenience, and welfare on the present or future inhabitants of the County by the addition of the four (4) one bedroom dwelling units within existing buildings at the Evergreens of Laurel; this is also true for the validation of the 21 existing parking spaces.

***(2) To implement the General Plan, Area Master Plans, and Functional Master Plans;***

The Evergreens at Laurel was built between 1970-1972 and existed as it is today at the time of the 2000 General Plan and 2010 Subregion I Master Plan. The requested modification adds four (4) one bedroom dwellings units within existing buildings on the property that existed at the time of the adoption of both Plans. The 21 parking spaces also existed at the time of both Plan approvals. The approval of the four (4) one bedroom dwelling units and the validation of the 21 parking spaces is an implementation of these Plans.

***(3) To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;***

The four (4) one bedroom dwelling units will be constructed within existing buildings at the Evergreens of Laurel community; the 21 parking spaces currently exist. There are adequate public facilities and services already in existence. The expansion of this community is in concert with the purposes of the Zoning Ordinance.

***(4) To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;***

The four (4) one bedroom dwelling units will be constructed within existing buildings at the Evergreens of Laurel community; the 21 parking spaces currently exist. These units provide for orderly growth and provide additional housing within an existing community.

***(5) To provide adequate light, air, and privacy;***

There will be no exterior changes that will have any impact on the light, air or privacy of the existing development.

***(6) To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;***

The Evergreens of Laurel was developed in the 1970's, and the majority of the development that abuts the subject property (inclusive of the additional four (4) one bedroom units and parking) has already taken place. There will be no adverse impacts to adjoining developments.

***(7) To protect the County from fire, flood, panic, and other dangers;***

The four (4) one bedroom units as well as the entire project will have a sprinkler system thus protecting against fire. The subject development will also have exterior lighting which will provide further protection to future residents.

***(8) To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;***

This Purpose is not applicable to the instant Application except as it creates jobs during construction.

***(9) To encourage economic development activities that provide desirable employment and a broad, protected tax base;***

The additional four (4) one bedroom dwelling units enhance the property's value and further broadens the County's tax base.

***(10) To prevent the overcrowding of land;***

Building the four (4) one bedroom units within existing buildings and validating the 21 parking spaces which already exist will not overcrowd the land as no visible change will take place.

***(11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;***

The Technical Staff Report (Exhibit 12) states that "...this trip impact is of a deminimus size..." Therefore, all elements of the transportation system will continue with their usefulness.

***(12) To insure the social and economic stability of all parts of the County;***

Construction of the four (4) one bedroom dwelling units and validation of the existing 21 parking spaces is providing for social and economic stability within this area of the county.

***(13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;***

The 21 parking spaces currently exist and the four (4) one bedroom units will be built within existing structures, and no disturbance of the land will occur. There is no impact to natural features, stream valleys, steep slopes, lands of natural beauty, dense forest, scenic vistas, or other similar features. The subject property is not located in the 100 year floodplain or the Chesapeake Bay Critical Area.

***(14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and***

The four (4) one bedroom dwelling units will be placed within existing structures and the 21 parking spaces already exist. There will be no impact to the open space at the Evergreens of Laurel. As an ancillary element of the Special Exception Site Plan, an approved recreational building is being added to the Site Plan.

***(15) To protect and conserve the agricultural industry and natural resources***

The four (4) one bedroom dwelling units will be constructed within existing structures without changes to the buildings footprint. No grading or removal of trees will take place. The 21 parking spaces already exist, so no grading or tree removal will take place to provide for them.



Approval of this request at this location will help protect and conserve agriculture and natural resources by not impacting undeveloped land. §27-317(a)(1)

(9) The proposed use and Site Plan (Exhibits 10 and 28 (c)-(e)) are in conformance with the specific purposes of the R-18 Zone, §27-436(a)(1), as follows:

***(A) To make available suitable sites for multifamily developments of low and moderate density and building bulk;***

The property that is the subject of Special Exception S.E. 4699 is in the R-18 Zone. The Applicant is proposing to utilize existing space within four (4) existing structures (building addresses are 11703, 11709, 11717 and 11729) for the proposed four (4) one bedroom units. Since the four (4) proposed units are within the existing structures there will be no change to the buildings bulk. The addition of the four (4) proposed one building units will not exceed the permitted density.

***(B) To provide for this type of development at locations recommended in a Master Plan, or at other locations which are found suitable by the District Council;***

The 2000 General Plan and 2010 Subregion I Master Plan recommends multifamily for the subject property. The Evergreens at Laurel were built between 1970-1972 and existed at the time of the adoption of both Plans. The four (4) proposed one bedroom units will be built within the existing structures.

***(C) To provide for this type of development at locations in the immediate vicinity of the moderate-sized commercial centers of the County; and***

The subject property is close to transportation, and moderate sized commercial centers on Laurel-Bowie Road. Nearby is Pheasant Run Shopping Center and developed properties in the C-M Zone and C-A Zone.

***(D) To permit the development of moderately tall multifamily buildings, provided they are surrounded by sufficient open space in order to prevent detrimental effects on the use or development of other properties in the general vicinity.***

The four (4) proposed one bedroom units will be built within four (4) structures that currently exist on the subject property. The height of these buildings will remain as they are today, and the open space that exists will not be impacted. §27-317(a)(1)

(10) The proposed alteration is in conformance with all of the applicable requirements and regulations of the Zoning Ordinance. No variances or departures are required. The additional four (4) one bedroom dwelling units are within the allowable density of the R-18 Zone and the parking lot, community center and signage are in conformance of the regulations of the Zoning Ordinance. §27-317(a)(2)

(11) The proposed use is in conformance with the 2010 Approved Subregion I Master Plan and is also consistent with the 2002 General Plan Development Pattern Policies for the Developing Tier. §27-317(a)(3)

(12) Neither the responses from any of the referring agencies, nor the testimony adduced at the evidentiary hearing indicate that the alteration of the existing use, which has been in existence on the subsequent property for approximately 40 years, will adversely affect the health, safety or welfare of residents or workers in the area. §27-317(a)(4)

(13) Multifamily residential uses have operated on the subject property for several decades and have had no detrimental effects on the use or development of adjacent properties or the general neighborhood. The surrounding properties have existing multifamily apartment development adjacent to its southern and western border and there is also existing commercial service development that abuts the community. The interior changes to the buildings and the prior existence of this apartment community has not impeded development that has come to the area within or proximate to the neighborhood since the original construction in 1970-1972. §27-317(a)(5)

(14) As the subject property has less than 10,000 square feet of existing on site woodland it is exempt from the requirements of the Woodland Conservation Ordinance. (Exhibit 28(b)) §27-317(a)(6)

(15) As no grading or construction is proposed, with the exception of the community center approved pursuant to DSP 09026 (Exhibit 25(b)), the proposed Site Plans, Exhibits 10 and 28 (c)-(e), demonstrate the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible. §27-317(a)(7)

### **Parking and Loading**

(16) Non-Conforming Use Permit NCU-8496-98-4 required 248 parking spaces. The addition of the community center and the four (4) one bedroom units increased the total parking required for the development to 289 parking spaces; 290 parking spaces are designated on the Site Plan, Exhibits 10 and 28 (c)-(e), which includes 258 existing spaces, 21 compact spaces, one (1) standard and 10 van-accessible parking spaces for the physically handicapped. The construction of the development was completed in approximately 1972; the Applicant's Site Plan correctly demonstrates parking and loading spaces and driveway aisle widths that are sized in accordance with the 1970 Zoning Ordinance standards. One (1) loading space is required to serve the development and is provided.

### **Landscape Manual**

(17) The subject property is also subject to the requirement of the 1990 Prince George's Landscape Manual, specifically Section 4.2, Commercial and Industrial Landscape Strip; Section 4.3 Parking Lot Requirements; Section 4.4, Screening Requirements; and Section 4.7, Buffering Incompatible Uses. Alternative Compliance, AC-10013, is recommended for approval for the parking lot expansion located at the northern edge of the subject site adjacent to Laurel-Bowie Road. This Application is not subject to the 2010 Prince George's County Landscape Manual requirements.

Alternative Compliance is requested from Section 4.3(a), Parking Lot Requirements, of the 1990 Prince George's County Landscape Manual, for an area of parking fronting on Laurel-Bowie Road along the northern property line.

## **Background**

The instant Application, Special Exception S.E. 4699, is proposing to change the bedroom percentages in a multifamily development that was constructed in phases in the late 1960's and early 1970's. The Application also requests to validate and bring into legal conformance a permit issued in error (9361-2000-CG) to expand the parking lot adjacent to Laurel-Bowie Road.

The site is the subject of a Certified Non-Conforming Use Permit No. NCU-8496-98-4. A Detailed Site Plan for a single-story, 5,403 square-foot, community building in a certified, non-conforming, multifamily housing development was approved by the Prince George's County Planning Board on July 8, 2010. During the course of the review of the Detailed Site Plan for the community building, DSP-09026, it was discovered that Permit No. 9361-2000-02 was issued for an expansion of a parking compound on November 2, 2000. That permit did not take into account the 1990 Prince George's County Landscape Manual requirements, and was, therefore, issued in error. The Applicant applied for Alternative Compliance in conjunction with the Detailed Site Plan and the Application was processed and recommended for approval by the Planning Director. (Exhibit 23) However, it was subsequently determined that the Alternative Compliance Application could not be approved as part of the Detailed Site Plan, as the expansion of the parking lot required the approval of a Special Exception. A condition of approval was included in PGCPB Resolution No. 10-65 (DSP-09026) that required the Applicant to make the area of parking that was constructed pursuant to the permit issued in error a legal part of the site through the approval of a Special Exception (prior to the issuance of a use and occupancy permit for the community building) as stated below:

2. Prior to the issuance of the use and occupancy permit for the community building, the parking area approved through Permit 9361-2000-CE shall be made a legal part of the improvements to the site. Exhibit 25(b)

The instant Application conforms to this condition. The site is not subject to the 2010 Prince George's County Landscape Manual as the building permits for the community building were approved prior to the Manual's effective date of December 13, 2010, and the current request involves no changes to the site that would necessitate new building or grading permits. This request for Alternative Compliance will bring the site into conformance with the requirements of the 1990 Prince George's County Landscape Manual, while taking into consideration the limitations of the site as it has been constructed.

## **Request**

The Applicant has filed this request for Alternative Compliance from Section 4.3(a), Parking Lot Requirements, of the 1990 Prince George's County Landscape Manual, along the right-of-way of Laurel-Bowie Road.

**REQUIRED:** 4.3(a) Parking Lot Requirements adjacent to the right-of-way of Laurel-Bowie Road.

Length of bufferyard:	76 linear feet
Landscape yard width:	10 feet
Fence or wall:	No
Plant materials (1 shade tree + 10 shrubs/35 linear feet)	
Shade trees (10 plant units per tree)	3 shade trees
Evergreen trees (5 plant unit per tree)	0 evergreen trees
Shrubs (1 plant unit per shrub)	22 shrubs
Total plant units	52 plant units

**PROVIDED:** 4.3(a) Parking Lot Requirements adjacent to the right-of-way of Laurel-Bowie Road.

Length of bufferyard:	76 linear feet
Landscape yard width:	0-9 feet
Fence or wall:	No
Plant materials (1 shade tree + 10 shrubs/35 linear feet)	
Shade trees (10 plant units per tree)	6 shade trees
Evergreen trees (5 plant units per tree)	6 evergreen trees
Shrubs (1 plant unit per shrub)	14 shrubs
Total plant units	104 plant units

### **Justification of Recommendation**

The strict application of the 1990 Prince George's County Landscape Manual, Section 4.3(a), Parking Lot Requirements requires the Applicant to provide a ten-foot-wide landscaped strip between parking areas and public rights-of-way. A permit was issued in error for the additional parking for this site which was constructed without the required ten-foot landscaped strip. The Applicant has provided full compliance with Section 4.3(a) for the remaining 132 linear feet where the ten-foot setback was available. Alternative Compliance has been requested for the 76 linear feet of property line where less than the required number of planting materials. Plant materials that could not be placed in the appropriate location due to a lack of space between the property line and the parking lot have been placed to either side of the area for which the Applicant is seeking Alternative Compliance. The Alternative Compliance Committee found that providing twice the required planting materials for this 76-foot section of parking lot is equal to or better than normal compliance with the 1990 Prince George's County Landscape Manual. (Exhibit 23)

### **Signage**

(18) All signage shall be in accordance with the Sign Ordinance.

### **DISPOSITION**

Special Exception 4699 and Alternate Compliance 10013 are APPROVED.

The Approved Site Plan is Exhibits 10 and 28 (c)-(e).