

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed DDS-607, McDonald's (Seat Pleasant) requesting to allow an exterior loading space to be located within 50 feet of the residentially zoned property in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on May 31, 2012, the Prince George's County Planning Board finds:

1. **Request:** The subject application is for approval of a departure from design standards (DDS-607) to allow an exterior loading space to be located within 50 feet of the residentially zoned property.
2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Eating or Drinking Establishment with Drive-Through Service	Eating or Drinking Establishment with Drive-Through Service
Acreage	1.05	1.05
Square Footage/GFA	3,812	4,217
Parcels	2	2

Parking Requirements*

	REQUIRED	APPROVED
Total Parking Spaces (1 space per every 3 seats for 65 seats plus 1 space per 50 square feet for 1,595 sq. ft.)	54	40*
Of which Handicap Spaces	3	3 (2 Van-Accessible)
 Total Loading space	 1	 1

Note: * A Departure from the number of parking and loading spaces required (DPLS-362) for the reduction of 14 parking spaces from the 54 spaces required by the Zoning Ordinance has been filed as a companion case with this DSP. See Finding 7(f) below for discussion.

3. **Location:** The 1.05-acre property is located at 6131 Martin Luther King Jr. Highway, on the southeast side of Martin Luther King Jr. Highway (MD 704), approximately 160 feet north of its intersection with Cabin Branch Drive in the City of Seat Pleasant. The site is also located in Planning Area 72, Council District 7, within the Developed Tier.
4. **Surrounding Uses:** The subject site is bounded on the north by the right-of-way (ROW) of Martin Luther King Jr. Highway. Further across the highway are developments in the R-18 (Multifamily Medium-Density Residential) and R-T (Townhouse) Zones. To the south and east of the subject property is open space zoned R-O-S (Reserved Open Space) owned by the City of Seat Pleasant that includes the Cabin Branch Tributary and a park owned by The Maryland-National Capital Park and Planning Commission (M-NCPPC). To the south of the subject property in the C-S-C Zone is an unused/abandoned gas station.
5. **Previous Approvals:** The subject site consists of two parcels that were recorded among the Land Records in the 1960s. Subsequently, the site was developed and the primary structure was built in 1964. The site has a Special Exception SE-3536, which was approved by the District Council (via Zoning Ordinance No. 62-1984, enacted on January 2, 1985) for a fast-food restaurant. The 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* retained the subject property in the Commercial Zone and rezoned the adjoining residential property from the R-35 (One-family Semidetached, and Two-family Detached, Residential) Zone to the R-O-S Zone.
6. **Design Features:** The subject site has three existing vehicular access points off Martin Luther King Jr. Highway. The proposed DSP eliminates the middle access point and shifts the two remaining ones closer to the two ends of the elongated rectangular site.

The application proposes to construct a new 4,217-square-foot McDonald's restaurant on an existing McDonald's restaurant site to replace an existing 3,812-square-foot building. The existing building will be demolished before the new building will be constructed on the site. The new restaurant building is set back approximately 60 feet from the front property line. The rectangular building is oriented toward Martin Luther King Jr. Highway with a drive-through window at the rear of the property adjoining the existing residential open-space-zoned property. All on-site surface parking spaces are oriented parallel to the building and most of them are located between the restaurant building and the ROW of Martin Luther King Jr. Highway. The trash receptacle is located at the southern end of the site. The proposed exterior loading space is located behind the enclosed trash receptacle and will not be visible from Martin Luther King Jr. Highway, but will be within 50 feet of the property line.

The proposed McDonald's restaurant building is one of the franchise's latest architectural models and has a contemporary appearance with many architectural features. Two main entrances to the building are located on the north and west (Martin Luther King Jr. Highway frontage) sides. The

one-story, flat-roof building with a building height of 20 feet is finished with a combination of red brick, stone veneer and aluminum trellis system on four sides. The aluminum trellis system has been used as an accent element to break up the dominance of brick and stone on all of the elevations. The roof section is clad with corrugated metal panels. The tower element has been used at the two entrances. The flat plane of the roof of the tower element is broken with the addition of a stone veneer parapet and a golden, metal, sloping curve as a roof-cap design element. Darker brick is proposed on the south side of the building in the area of the drive-through pick-up windows, and in the form of wide horizontal bands between the pick-up windows. Additional stone veneer is proposed mostly in the area where the dining area is located. Awnings with yellow and orange bands are proposed above the dining room windows. The northern and western elevations are designed as the main elevations of the building. The southern and the eastern (where the drive-through windows are located) elevations are designed as the secondary elevations.

The lighting fixtures proposed include pole lights for the site and building-mounted wall sconce fixtures for the building. The pole lights are 24 feet high, with fully cut-off luminaires. However, there are no specifications for the proposed wall sconce fixtures provided. A condition has been included in this report to require a cut sheet to be provided, reviewed, and approved by the Urban Design Section as the designee of the Planning Board prior to certification. The Photometric Lighting Plan shows an average 4.2-foot-candle reading along the property line, meaning that a strong lighting spill-over may be impacting the adjacent property, specifically the open-space property to the north and east of the site. Since the west and south of the site are either bounded by the ROW of Martin Luther King Jr. Highway or commercial property, the foot-candle reading specifically along the north and eastern property lines should be reduced to an average of two, which is the minimum required lighting level for a public space without ambient lighting. A condition has been included in this resolution to require the applicant to reduce the foot-candle reading along the above identified property lines to an average of two in order to avoid too much light spill-over onto the open-space property adjacent to the subject property.

A total of 141 square feet of building-mounted and 181.9 square feet of site signage have been proposed with this DSP. The signage includes a typical McDonald's golden arch corporate sign and other site signs, including directional signs. The two identification signs along with the golden arch logos are located on the northern and eastern elevations. Two additional golden arches are located on the western elevation that fronts on Martin Luther King Jr. Highway. The site plan also includes a 104-inch by six-foot nine-inch menu board in front of the drive-through lane. One flag pole for an American flag and another flag pole for a McDonald's corporate flag are proposed on the northwest corner of the site near the Martin Luther King Jr. Highway frontage. United States, state and municipal flags and a menu board which is solely used to inform passengers of specific foods offered in a "Drive-in Restaurant" or a "Fast-Food Restaurant" with a drive-through window, are permitted and are not considered signage from the standpoint of the Zoning Ordinance. However, the McDonald's corporate flag is considered as a freestanding sign in accordance with Part 12 of the Zoning Ordinance.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The site plan includes an outdoor loading space behind the trash receptacle located in the southeast corner of the site. The property adjacent to site to the east is currently zoned R-O-S and is undeveloped. However, since the loading space is less than ten feet from the property line and is located within fifty feet of the R-O-S-zoned property, a departure from design standards is required in accordance with Section 27-579 as follows:

Section 27-579 Location

- (a) **Except as otherwise provided in this Subtitle, a surface loading area may be located in any yard.**
- (b) **No portion of an exterior loading space, and no vehicular entrances to any loading space (including driveways and doorways), shall be located within fifty (50) feet of any Residential Zone (or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan). (See Figure 63.)**

In accordance with Section 27-587, Departure from Design Standards, the procedures and requirements for a departure from design standards are under section 27-239.01 within Subdivision 4 in Part 3, Division 5 as follows:

Section 27-587 Departure from Design Standards

- (a) **Authorization**
 - (2) **The Planning Board is authorized to approve departures from Design Standards in this Part, under procedures and requirements in Part 3, Division 5.**

Specifically, the provisions of Section 27-239.01-Departure from Design Standards, requires that the Planning Board must make the following findings in order to approve the departure from design standards application:

Section 27-239.01 Departure from Design Standards

- (b) **Procedures**
 - (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 Subtitle will be equally well or better served by the applicant's proposal;**

The purposes of this subtitle (Subtitle 27) as stated in Section 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;**
- (2) **To implement the General Plan, Area Master Plans, and Functional Master Plans;**
- (3) **To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;**
- (4) **To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;**
- (5) **To provide adequate light, air, and privacy;**
- (6) **To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;**
- (7) **To protect the County from fire, flood, panic, and other dangers;**
- (8) **To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;**
- (9) **To encourage economic development activities that provide desirable employment and a broad, protected tax base;**
- (10) **To prevent the overcrowding of land;**
- (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;**

- (12) **To insure the social and economic stability of all parts 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;**
- (14) **To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and**
- (15) **To protect and conserve the agricultural industry and natural resources.**

Of the above 15 purposes, items 8, 13, 14 and 15 are not relevant to the subject DSP. For the reasons discussed herein the proposed redevelopment of this existing site with a new McDonald's restaurant will better serve the rest of the purposes of this subtitle than the current improvements.

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

The subject site is a very shallow, linear property parallel to the ROW of Martin Luther King Jr. Highway. The site was developed with a McDonald's restaurant previously. The proposed detailed site plan is to demolish the existing restaurant and to replace it with McDonald's new, more attractive prototype building. The confines of the site limit the location of the loading space to this location. The current site design tries to hide the loading space behind the trash receptacle from the views of Martin Luther King Jr. Highway. As such, this departure is the minimum necessary in order to alleviate a very shallow site condition.

- (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;**

The subject site was developed in the 1960s and is located at the end of a commercial strip along Martin Luther King Jr. Highway. The adjacent properties are predominantly residentially zoned. The physical layout shows a very shallow site with an average lot depth of less than 125 feet. In order to have easy access to the roadway, to facilitate efficient on-site circulation, and to be screened from the views from Martin Luther King Jr. Highway, the loading space must be located as far away as possible

from the site's street frontage. This necessitates its location within 50 feet of the property line. The constraints presented by the shape of the property create circumstances that 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.

The proposed site design takes many site factors into consideration and will result in a very efficient fast-food restaurant site layout. In addition, the property immediately adjacent to the subject site (from which the loading space is located approximately 15 feet) is zoned R-O-S. Therefore, the departures will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

In summary, the requested relief from the strict implementation of the required 50-foot setback is indispensable to the development given the shallowness of the site and the residentially-zoned open space surrounding it. The departure is the minimum necessary in order to screen views from a major roadway- Martin Luther King Jr. Highway. The purpose of this Subtitle will be equally well or better served by this detailed site plan. The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood. Therefore, the Planning Board approved this departure from design standards.

8. **Prince George's County Landscape Manual:** The application for McDonald's restaurant is subject to Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Parking Lot Interior Planting Requirements; Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the 2010 *Prince George's County Landscape Manual*.
 - a. The subject site is oriented toward Martin Luther King Jr. Highway with approximately 433 feet of frontage excluding driveway entrances. Section 4.2 provides two options to meet the landscape strip requirements. The Landscape Plan uses Option 1 under Option A to provide a ten-foot landscape strip to be planted with a minimum one shade tree and ten shrubs for every 35 linear feet of frontage, excluding driveway openings. The Landscape Plan shows 13 shade trees and 125 shrubs that meet the requirements of Section 4.2.
 - b. Section 4.3(c)(2) requires that for any parking lot with an area between 7,000 and 49,999 square feet, eight percent of the parking lot area be interior planting area. The DSP has approximately 32,408 square feet of parking lot area and has provided 11 percent of the parking lot area as interior planting area to be planted with one shade tree for each 160 square feet of interior planting area. The Landscape Plan shows 13 shade trees, which is one shade tree more than required. The site meets the requirements of Section 4.3(c)(2).

- c. Section 4.4 Screening Requirements requires any loading spaces, loading docks and maintenance areas be screened from constructed public streets. The DSP shows one loading space behind a proposed on-site trash receptacle in the southern corner of the site. The trash receptacle is properly screened with brick walls on three sides that match the restaurant building. The loading space is also completely screened from the views from Martin Luther King Jr. Highway. However, since the property to the east of the site is residentially zoned and the loading space is located less than ten feet from the property line, a departure from design standards in accordance with Section 27-579 of the Zoning Ordinance is required. See above Finding 7 for detailed discussion of the departure from design standards DDS-607.
- d. The site adjacent to the subject site to the south is an abandoned gas/automobile filling station, which is a high impact use according to Section 4.7 of the 2010 *Prince George's County Landscape Manual*. Even though the site is currently abandoned, according to Section 4.7, it is not a vacant site because the site still has a structure and vehicular surface area within 200 feet of the subject property line. Since the proposed fast-food restaurant with drive-through service is also a high impact use in accordance with Section 4.7, there is no bufferyard required between the two properties.
- e. Section 4.9 requires a minimum percentage of the plants of each plant type to be native species and/or cultivars. The percentage is specified as follows:

Shade trees	50%
Ornamental trees	50%
Evergreen trees	30%
Shrubs	30%

Native plant materials should also be identified as such in the planting schedule on the landscape plan. The Landscape Plan provides 100 percent native shade trees, ornamental trees and evergreen trees and native shrubs that exceed the above native plant percentage requirements.

- 9. **Prince George's County Woodland and Wildlife Habitat Conservation and Tree Canopy Coverage Ordinance:** The project is not subject to the Woodland and Wildlife Habitat Conservation Ordinance because the subject site contains less than 10,000 square feet of woodland and has no previously approved tree conservation plans. The site also does not contain any regulated environmental features. The applicant has submitted an approved letter of exemption to the Woodland Conservation Ordinance that is valid until May 9, 2013 and an approved Natural Resources Inventory (NRI-037-2011) that is valid until May 9, 2016.

The Tree Canopy Coverage Ordinance came into effect on September 1, 2010. All activities that require a grading permit after September 1, 2010 must provide the tree canopy coverage percentages required by Section 25-128 of the Prince George's County Woodland and Wildlife Habitat Conservation and Tree Canopy Coverage Ordinance. A tree canopy coverage schedule has

been provided on the Landscape Plan that demonstrates the site's conformance with the requirement. The required tree canopy for this site is ten percent of the site area or a total of 4,590 square feet. The site provides 4,750 square feet of tree canopy coverage that exceeds the requirements for the site.

10. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Community Planning**—The Planning Board adopted the following findings:

The DSP is not inconsistent with the 2002 General Plan Development Pattern policies for the Developed Tier and conforms to the commercial land use recommendation of the 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment*. Under the planning issue section, the community planner noted that the proposed site plan will result in pedestrians crossing the internal circulation lanes and the two remaining points of vehicular ingress and egress.

The proposed site layout keeps two existing vehicular access points off Martin Luther King Jr. highway to the subject site. The two access points are approximately 285 feet apart. Two sidewalk connections have been provided at the two site access points that enable pedestrians from the sidewalk to enter the new building on a clearly marked pedestrian path. Since there is one row of parking spaces and a 22-foot-wide internal driveway between the ROW of Martin Luther King Jr. Highway and the new McDonald's building, pedestrians must cross the internal driveway in order to walk into the restaurant building. This kind of site arrangement is not uncommon for the type of restaurant with drive-through service, given the confined size and location of the site. The locations of the pedestrian connections are acceptable in providing safe on-site circulation.

- b. **Subdivision Review**—Pursuant to Section 24-111(c) (2) of the Subdivision Regulations, the site is exempt from the requirement of filing a preliminary plan of subdivision because the final plats were approved prior to October 27, 1970 and the total gross floor area of the development does not exceed 5,000 square feet. There are no other subdivision issues at this time.
- c. **Transportation Planning**—The Planning Board reviewed the site plan along with the companion departure from design standards and departure from the number of parking and loading spaces required.

Plats indicate that the right-of-way along MD 704 is 110 feet dedicated. 60 feet was dedicated from the east side; 50 feet from the west side.

The master plan ROW width for MD 704 is 120 feet to serve vehicular traffic, plus five feet each side for bike lanes, plus three feet for a side path, for a total of 133 feet. The side

path will be on the east side of the highway including a 5-foot standard sidewalk plus a 3-foot paving for a total of an 8-foot side path.

On the east side (the McDonald's side), ROW needs are 60 feet plus five feet (bike lane) plus three feet (side path), for a total of 68 feet. Existing dedication is 60 feet. The ultimate R/W line is 8 feet beyond the existing R/W, and must be reflected on the plan.

On the west side (no application at this time), ROW needs are 60 feet plus five feet (bike lane) plus zero feet (NO side path), for a total of 65 feet. Existing dedication is 50 feet.

The submitted parking analysis uses real parking data from a typical McDonald's restaurant located within Prince George's County with similar targeted sales and concludes that a total of 34 parking spaces is required during the peak hours. Based on this study, the applicant proposes a total of 40 parking spaces for this site and as such a departure of 14 spaces from the required 54 is requested. Based on the above Finding 7, the requested DPLS is the minimum necessary and meets all required findings for approval. The Planning Board approved DPLS-362 based on the analysis of the parking study.

The subject site with a redevelopment proposal of approximately 4,217 square feet is not subject to a new preliminary plan of subdivision. As such, additional ROW dedication is not required at time of detailed site plan review.

The Planning Board also reviewed the applicable elements of the *Approved Countywide Master Plan of Transportation* and the 2010 *Approved Subregion 4 Master Plan and Adopted Sectional Map Amendment* and concludes that adequate bicycle and pedestrian transportation facilities will exist to serve the proposed use if bicycle parking is provided. A condition requiring the applicant to provide a u-shaped bicycle parking facility prior to certification has been included in this resolution.

- d. **Permit Review**—All Permit Section's comments have been addressed during the review process through a revised site plan.
- e. **Department of Public Works and Transportation (DPW&T)**—DPW&T stated that Martin Luther King Jr. Highway is a State-maintained roadway that requires concrete curbs and gutters. Prior to approval of the detailed site plan, the applicant needs to obtain a new stormwater management plan. In conclusion, DPW&T has no objection to the proposed DSP-11007, DDS-607 and DPLS-362

The applicant provided a new, approved stormwater management concept from DPW&T with case number 14329-2011-00, which is valid through January 4, 2015.

- f. **Prince George's County Police Department**—In an e-mail dated February 6, 2012, the Community Services Division reviewed the site plan for conformance with the design guidelines of CPTED (Crime Prevention Through Environmental Design) and concluded

that there are no CPTED or traffic-related issues with this DSP. According to Lieutenant B.E Devaney, the new design of the drive-through appears to be much more user-friendly than the existing one.

- g. **The Maryland State Highway Administration (SHA)**—SHA stated no comment on DPLS-362, and DDS-607; SHA has conditionally approved DSP-11007. The applicant is obligated to fulfill SHA's conditions at the time of application for access permits from SHA.
- h. **The Prince George's County Fire/EMS Department**—In three standard memoranda dated December 23, 2011, the Fire Department listed applicable regulations regarding access and turning radius for fire apparatus, fire lane and location and performance of fire hydrants. Nothing specific to this DSP was mentioned. The subject site plan is in conformance with the applicable regulations.
- i. **The municipalities within a one-mile radius of the subject site**—Those municipalities include Seat Pleasant, Fairmount Heights and Cheverly. At the time this report was written, none of the municipalities has responded to the referral request.
- j. **Health Department**—The Health Department provided comments regarding the number of carry-out and convenience store food facilities, and supermarket or grocery stores within a ½-mile radius of the site, and possible light pollution from the site. The Health Department also notes that because the site is located approximately 70 feet from an outdoor recreational facility and approximately 150 feet from residential property, additional attention should also be given to the possible noise and dust impact on the adjacent property.

The issues raised in the memorandum of the Health Department have been discussed with the applicant. Those concerns related to construction will be addressed in the process of construction administration. The possible light pollution has been discussed in Finding 6 above.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted DDS application.


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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Bailey, seconded by Commissioner Shoaff, with Commissioners Bailey, Shoaff, Squire and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, May 31, 2012, in Upper Marlboro, Maryland.


Adopted by the Prince George's County Planning Board this 28th day of June 2012.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:HZ:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 6/7/12