

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed SE-4686, McDonalds-University Boulevard requesting a special exception for the expansion of a nonconforming fast-food restaurant 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 April 12, 2012, the Prince George’s County Planning Board finds:

A. **Location and Field Inspection:** The subject property is an irregularly shaped lot located on the north side of University Boulevard, 375 feet west of 24th Avenue. The site, also known as 2306 University Boulevard, is improved with a one-story, brick, fast-food restaurant with a drive-through window and an asphalt parking lot. Access to the site is gained from University Boulevard via two driveways. The applicant is proposing to close the westernmost driveway leaving a single point of access at the location of the existing entrance drive.

B. **Development Data Summary:**

	<b>EXISTING</b>	<b>APPROVED</b>
Zone(s)	C-S-C	C-S-C
Use(s)	Fast-food Restaurant	Fast-food Restaurant
Gross Floor Area (GFA)	4,000 sq. ft.	4,372 sq. ft.
Acreage	1.07	1.07
Parcels	2	2

C. **History:** The subject site was placed in the C-S-C Zone upon adoption of the 1989 &1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67*. In 1984, the use was certified nonconforming due to changes in the Zoning Ordinance and Special Exception SE-3527 was approved for an expansion of the existing building. The District Council approved Special Exception SE-4096 in 1993 to add a soft playland and the Planning Board approved Departure from Parking and Loading Standards DPLS-158 to waive five of the 80 required parking spaces. In 1997, the District Council approved a third Special Exception (SE-4201) which enclosed the playland and waived the additional resulting parking through Departure from Parking and Loading Standards DPLS-206. The playground enclosure was ultimately never built.

D. **Master Plan Recommendation:** This application conforms to the land use recommendations of the 1989 &1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment (SMA) for Planning Areas 65, 66 and 67* for retail

commercial land uses. The 2002 *Prince George's County Approved General Plan* placed the property in the Developed Tier. The vision for the Developing Tier is a network of sustainable transit supporting mixed-use, pedestrian oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is proposing to raze and rebuild the McDonalds fast-food restaurant that has existed at this location since 1960. The resulting restaurant would be slightly larger and incorporate new architectural features and materials. The applicant is also requesting a departure of 18 parking spaces, since some of the existing parking on the site would be taken by a proposed dual drive through. In order to retain the existing freestanding sign along University Boulevard, the applicant must obtain a departure from sign design standards. Two additional departures are necessary; one for a substandard landscape yard and a second for a slight decrease in the width of a driveway to serve a loading space. The applicant is further requesting alternative compliance from Section 4.7 (Buffering Incompatible Uses) of the 2010 *Prince George's County Landscape Manual*.
- F. **Neighborhood and Surrounding Uses:** The appropriate neighborhood to be considered in this case is bounded on the northwest by a PEPCO (Potomac Electric Power Company) transmission line, on the east by the Northwest Branch and on the south by University Boulevard. This neighborhood includes a mixture of commercial and residential uses. Commercial development dominates the University Boulevard frontage. Medium density, single-family attached houses characterize the interior of the neighborhood. This is the neighborhood which was adopted in Special Exceptions SE-3527, SE-4096 and SE-4201.

The property is surrounded by the following uses:

- North—** A shopping center in the C-S-C Zone and a Pepco power line in the O-S Zone.
- East—** A shopping center in the C-S-C Zone.
- South—** Across University Boulevard is a gas station, convenience store and Laundromat in the C-S-C Zone.
- West—** A gas station in the C-S-C Zone.

G. **Specific Special Exception Requirements**

**Section 27-242 Alteration, extension or enlargement** establishes that certified nonconforming uses may be expanded via a special exception. The use was certified nonconforming in 1984 per Permit No. 50520-84U.

**Section 27-384 Nonconforming buildings, structures, and uses; alteration, enlargement, extension, or reconstruction** sets forth the specific special exception findings:

- (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:**

Since the subject property is not located in the Chesapeake Bay Critical Area Overlay Zone, the following sub-sections apply:

- (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;**

As mentioned above, the existing McDonald's restaurant on the subject property has been in operation since 1960. The existing use became nonconforming in 1984 when the Zoning Ordinance was amended. The lot is as it existed 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;**

The existing McDonald's restaurant is still in operation.

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

With the approval of the departure and the imposition of the recommended site plan revisions, the use and site plan will adhere to the Ordinance's parking regulations (Part 11).

- (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.**

The applicant intends to comply with this provision.

- (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.**

The site plan complies with the regulations of the commercial zone and the applicant is not requesting any variances or departures.

- (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."**

**Comment:** Since the subject property is not located within a one hundred (100) year floodplain, this sub-section does not apply.

- (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.**

Since the subject property is not located within a one hundred (100) year floodplain or Chesapeake Bay Critical Area, this sub-section does not apply.

- (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).**

A copy of the existing Use and Occupancy permit is included in the application package.

- H. **Landscape Manual Requirements and Alternative Compliance Request:** The site is subject to the 2010 *Prince George's County Landscape Manual*, Sections 4.2, 4.3, 4.4, 4.7, and 4.9. The applicant has filed for Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along portions of the western, northern, and eastern property lines to allow the location of a proposed dumpster with screen wall and surface parking within a portion of the required bufferyard.

REQUIRED: 4.7 Buffering Incompatible Uses, along the northwestern property line adjacent to a Potomac Electric Power Company (PEPCO) right-of-way.

Length of bufferyard	50 feet
Building setback	40 feet
Landscape yard	30 feet
Fence or wall (for 30 linear feet)	Yes
Plant units (120 per 100 l.f.)	42

PROVIDED: 4.7 Buffering Incompatible Uses, along the northwestern property line adjacent to a Potomac Electric Power Company (PEPCO) right-of-way.

Length of bufferyard	50 feet
Building setback (to 8-foot tall dumpster screen wall)	12 feet
Landscape yard	12-30
Fence or wall (for 30 linear feet)	Yes
Plant units (80 per 100 l.f.)	59

REQUIRED: 4.7 Buffering Incompatible Uses, along the northern and eastern property lines adjacent to Adelphi Plaza shopping center.

Length of bufferyard	406 feet
Building setback	30 feet
Landscape yard	20 feet
Fence or wall	No
Plant units (80 per 100 l.f.)	326

Provided: 4.7 Buffering Incompatible Uses, along the northern and eastern property lines adjacent to Adelphi Plaza shopping center.

Length of bufferyard	406 feet
Building setback	50 feet
Landscape yard	5–20 feet
Fence or wall	No
Plant units (80 per 100 l.f.)	164

**Justification of Recommendation:**

Alternative Compliance is requested from Section 4.7, Buffering Incompatible Uses, of the 2010 *Prince George’s County Landscape Manual* to reduce the size of the buffer required along the northwestern property line abutting a PEPCO right-of-way and to reduce the size of the landscape buffer and plant materials required along the northern and eastern property lines.

Section 4.7 of the *Prince George’s County Landscape Manual* categorizes a “drive-in” or fast-food restaurant as a high-impact use. Along the northwestern property line, the subject property abuts a PEPCO right-of-way with overhead power lines, which is categorized as a low-impact use in the Landscape Manual. A “Type C” buffer, inclusive of a 40-foot building setback and a 30-foot-wide landscape yard, is required along this portion of the northwestern property line. In this area, the applicant proposes a dumpster with an eight-foot-high brick enclosure that is approximately 12 feet from the northwestern property line, which encroaches into the landscape yard. A mix of proposed evergreen and shade trees, one existing tree, and shrubs is provided to mitigate the encroachment. The Alternative Compliance Committee believes the request is justified, as the setback of the proposed McDonald’s building is over 135 feet from the northwestern property line, which demonstrates substantial conformance with the Section 4.7 building setback requirement. Additionally, the Alternative Compliance Committee believes that the dumpster enclosure will serve as a wall to mitigate any incompatibility between the subject development and the adjacent public utility. With the mix of proposed plant materials and the proposed brick screen wall, the Alternative Compliance Committee finds the proposal to be an equally effective alternative to the normal requirements of the *Prince George’s County Landscape Manual* along the northwestern property line.

Alternative Compliance is also requested from Section 4.7, Buffering Incompatible Uses, along the northern and eastern property lines where the property abuts Adelphi Plaza, a commercial shopping center with less than 60,000 square feet of development. In this area, a “Type B” bufferyard inclusive of a 30-foot building setback and a 20-foot-wide landscape yard is required. The applicant proposes a minimum 60-foot building setback and an average five-foot-wide landscape strip between the parking lot and property line, which does not meet the minimum requirements of Section 4.7. The Alternative Compliance Committee finds that the proposals for Section 4.7, Buffering Incompatible Uses, along the northern and eastern property lines are not

equally effective compared to the normal requirements of the *Prince George's County Landscape Manual*.

The Planning Board recommends approval of Alternative Compliance for Section 4.7 along the northwestern property line. The Planning Board recommends denial of Alternative Compliance for Section 4.7 along the northern and eastern property lines, adjacent to the Adelphi Plaza shopping center, and recommends that the applicant pursue a Departure from Design Standards application pursuant to Section 1.3(f) of the 2010 *Prince George's County Landscape Manual*.

- I. **Referral Comments:** None of the referral replies received had any objection to the application. The Transportation Planning Section agrees that the 53 spaces should be adequate to serve the use based on the studies of restaurants with a drive through, but would like the applicant to install a bike rack at the entrance. The Environmental Planning Section indicated that the site is exempt from the Woodland Conservation and Tree Preservation Ordinance requirements and that no environmental issues were identified. The Urban Design Section points out that the landscape plan submitted needs to be revised because it differs slightly from that recommended for approval in the Alternative Compliance application.
- J. **Zone Standards:** The site plan, with the approved request for alternative compliance and departures, along with recommended conditions, will be in conformance with all zoning requirements and regulations.
- 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;**

The purposes of Subtitle 27 are set forth in Section 102. They are varied, but can generally be summed up to be to protect the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the county. With the recommended site plan revisions and departure approval, all applicable Zoning Ordinance requirements and regulations will be satisfied. The conditions of approval will further ensure that the purposes of the Subtitle are met.

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

The applicant has met all the applicable requirements and regulations of the Subtitle with the exception of compliance to the *Prince George's County Landscape Manual* requirements and two parking standards. The applicant has requested, and staff has recommended approval of alternative compliance and necessary departures. With the recommended site plan revisions and departure approval, all applicable Zoning Ordinance requirements and regulations will be satisfied.

**(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 Map Plan, the General Plan;**

The nature and intensity of the use will not be changed, so the master plan's commercial land use recommendation will not be impaired; nor the 50-year history of the use's compatibility at this location. Thus, 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;**

None of the responses from any referring agencies received indicate that the proposed fast food restaurant, with the included conditions, will adversely affect the health, safety, or welfare of residents or workers in the area. By redesigning the interior traffic flow and reducing the access points from two to one, the applicant is improving the safety of the site significantly.

**(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and**

In consideration of the referral responses and other findings, the proposal will not be detrimental to the use or development of adjacent properties or the general neighborhood. As indicated earlier, the applicant plans to raze the existing structure and redevelop the property with a modern restaurant, which will meet the needs and expectations of the community. The applicant intends to maintain the landscaping previously approved for the site, which has been determined to properly screen/buffer this use from the adjacent commercially zoned properties. The applicant's proposal does not contemplate the assemblage of more property. Conversely, the applicant intends to redevelop the same area of the property that is currently developed. This will ensure that the proposed development will not be detrimental to the adjacent properties.

**(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.**

This property is exempt from the provisions of the Woodland Conservation and Tree Preservation Ordinance because the site contains less than 10,000 square feet of woodland. A letter of exemption dated May 4, 2010, was submitted.

**(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.**

There are no regulated environmental features on the site.

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 application, and further APPROVED Alternative Compliance AC-11028 in part, subject to the following conditions:

1. The special exception landscape plan should be updated to reflect what was reviewed and recommended for approval by the Alternative Compliance Committee and the Planning Director.
2. The loading space shall be shifted farther to the east, out of the drive-through lane.
3. The applicant shall install bicycle parking adjacent to the main entrance to the building. Bicycle parking shall be provided with u-shaped racks on a concrete pad.

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 Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Squire, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, April 12, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10<sup>th</sup> day of May 2012.

Patricia Colihan Barney  
Executive Director

By Jessica Jones  
Planning Board Administrator

PCB:JJ:TL:arj