

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed Special Permit Application No. SP-210002, Seafood Subs & Sides, requesting a 12-seat café on the ground level of an existing single-family detached dwelling, in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, a new Zoning Ordinance, Subtitle 27, Prince George’s County Code went into effect on April 1, 2022; and

WHEREAS, the subject property is within the Neighborhood Activity Center Zone (NAC) and is also within the Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zone; and

WHEREAS, pursuant to Section 27-1903(c) of the Zoning Ordinance, development applications submitted and accepted as complete before April 1, 2024, may be reviewed and decided in accordance with the prior Zoning Ordinance; and

WHEREAS, therefore, the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed this application under the Zoning Ordinance in existence prior to April 1, 2022; and

WHEREAS, after consideration of the evidence presented at the public hearing on October 19, 2023, the Prince George’s County Planning Board finds:

1. **Request:** This special permit, with companion Detailed Site Plan DSP-21025 and Chesapeake Bay Critical Area Conservation Plan CP-21004, approved a 12-seat café on the ground level of an existing single-family detached dwelling. The upper floor of the existing dwelling will remain as a dwelling unit.

2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	NAC	Prior M-U-I/D-D-O
Use(s)	Residential	Mixed
Acreage	0.1269	0.1269
Net tract area	0.1269	0.1269
Area within existing 100-year floodplain	0	0
Number of lots	1	1
Minimum lot area (square feet)	N/A	N/A
Parking spaces required*	1	4

Note: *The parking space requirement is based on dwelling units (1 space per unit) and approved seats for the café (1 space per 3 seats). Based on one dwelling unit and 12 approved seats, the requirement is 5 spaces. However, per the 2004 *Gateway Arts District Approved Sector Plan and Sectional Map Amendment* (sector plan) standards, 80 percent of the required parking spaces are allowed, which lowers the requirement to 4 spaces. The applicant has provided four parking spaces.

3. **Location:** The property is located at 4514 Rhode Island Avenue, in the Town of North Brentwood, Maryland, at the intersection of Rhode Island Avenue and Wallace Road. The property is within Planning Area 68 and Council District 2.
4. **Surrounding Uses:** The subject property is located at the southwest intersection of Rhode Island Avenue and Wallace Road. North and south of the subject property are vacant properties with a mix of residential and commercial uses beyond. To the east, beyond Rhode Island Avenue, are commercial uses in the Neighborhood Activity Center (NAC) Zone. West of the subject property are residential uses in the NAC Zone, and beyond in the Residential Single-Family 65 Zone.
5. **Previous Approvals:** A Natural Resources Inventory Plan (NRI-049-13) was approved on April 4, 2013. The property is currently subject to NRI-049-13-01, which was approved on September 30, 2021. A SWM Concept Plan, 42831-2021-0, was approved on January 7, 2022. There are no other approvals for this property.
6. **Design Features:** The subject site is improved with an existing two-story, single-family detached dwelling that was constructed in the early 1900s and has a gross floor area of approximately 1,330 square feet. A portion of the property is within the Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zone. There is an existing concrete parking area that was constructed by a prior owner circa 2000, without a permit or CP.

The sector plan superimposed the Development District Overlay (D-D-O) Zone on the subject property, placing the property in the Neighborhood Arts and Production (NAP) Character Area.

Signage

The applicant included a signage detail with this DSP. The painted 4-foot by 8-foot, 32-square-foot, flat mounted plywood panel sign will be mounted to the northeast façade which faces Wallace Road. The sign's trim and color scheme will complement the existing building's trim and colors. The 32-square-foot total area conforms to the 50-square-foot maximum, as regulated by Section 27-613(c)(3)(D) of the prior Prince George's County Zoning Ordinance. No other signage is approved with this application.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements of the prior Mixed Use-Infill (M-U-I) and D-D-O Zones and the site plan design guidelines of the Zoning Ordinance.

- a. The subject application is in conformance with the requirements of Section 27-546.17 of the prior Zoning Ordinance. Both the eating and drinking establishment without a drive-through use and the dwelling unit within a building containing a commercial use are permitted. However, the D-D-O Zone standards in the NAP Character Area require that “Cafes, for table and/or bar service of tea, coffee, other beverages and food” are permitted with an SP and require a DSP.
- b. Section 27-239.02(6), Special Permits, of the prior Zoning Ordinance, prescribes the following required finding for approval of an SP:

(C) The Planning Board may grant a Special Permit in other zones, as provided in the use tables, if it finds:

- (i) The site plan generally conforms with design guidelines in an approved Master Plan or other applicable plan; and**
- (ii) The site plan shows that the proposed use will not be incompatible with adjacent properties because of building or site design.**

This application is subject to the D-D-O Zone standards in the sector plan. The sector plan seeks to:

1. Facilitate the development, redevelopment, and renovation of small businesses compatible with the surrounding neighborhood, but discourage stores whose primary goods include beer, wine, cigarettes, and lottery tickets.
2. To encourage neighborhood and convenience services and retail establishments within easy walking distance of residences.
3. To offer opportunities for residential and artist studio spaces above ground-level retail.
4. To provide design, landscaping, and screening methods to mitigate the impact of neighborhood commercial uses on the traditional residential neighborhoods.

The approved arts café is in harmony with the surrounding mix of residential and commercial uses, as it will maintain its single-family dwelling character while offering services within walking distance of residential uses. The café will also maintain residential space above ground level. The approved use has adequate off-street parking, landscaping, and lighting. Also, the use has been designed to mitigate impacts on neighboring residential uses. Parking is designed towards Rhode Island Avenue, and lighting is directed so as not to encroach on

neighboring residential uses. Existing fencing and approved landscaping will further mitigate impacts. The Planning Board finds that the arts café use is compatible with the goals of the D-D-O Zone standards.

- c. Section 27-548.25, Site Plan Approval, of the prior Zoning Ordinance, gives the following additional considerations for sites in development districts:

(b) In approving the Detailed Site Plan, the Planning Board shall find that the site plan meets applicable Development District Standards.

The Planning Board finds that the companion DSP conforms to all applicable development district standards. This is discussed further in Finding 8 below.

8. **2004 Gateway Arts District Approved Sector Plan and Sectional Map Amendment:** The subject property is within the NAP Character Area of the Gateway Arts District D-D-O Zone.

The companion DSP is exempt from the development district standards per Exemption 9(a) of the sector plan which states:

9. Miscellaneous. The following are exempt from the development district standards and DSP review, if the existing or proposed use is permitted:

- a. **Permits for alteration or rehabilitation, with no increase of the existing gross floor area, including existing porches or decks.**

This application includes no alteration, rehabilitation, or increase in gross floor area. However, as required in the sector plan, uses that are permitted with an SP require a DSP. A café in the NAP character area requires an SP and a DSP.

The applicable D-D-O Zone standards for the NAP character area are as follows:

Parking and Loading

3. **Parking for a residential and live/work use shall be a minimum of 1 and a maximum of 2 on-site spaces per unit. If additional parking is provided, it shall be structured.**
6. **If a parking district(s) is established in the Arts District or individual municipality, the number of off-street surface parking spaces, for uses with at least 35,000 SF of GFA, other than artist studio, residential and live/work shall not exceed 80 percent of the number of off-street parking spaces required by Section 27-568(a) of the Zoning Ordinance. If additional parking is provided, it shall be structured. Required parking may be on or off site but shall be located within on-quarter mile of the development site. This section's requirements shall apply to all developments under 35,000 SF of GFA.**

This development is under 35,000 square feet of gross floor area. The required parking for the approved uses is one space for the dwelling unit and one space for every three seats in the café. The café includes 12 seats which would require 4 spaces. The combined total would be five spaces. However, per the parking requirements set forth in Part 11 of the sector plan, only 80 percent of the parking spaces are required, which lowers the overall requirement to 4 spaces. The companion DSP includes four spaces, which the Planning Board finds acceptable.

Siting and Access

- 4. Parking shall not be located between the sidewalk or street and the building.**

Parking is located to the side of the building and is accessed from Wallace Road.

Fencing, Walls, Screening, and Buffering

- 1. Opaque walls and fences, with the exception of required screening, shall not exceed four feet in height. Non-opaque fences shall not exceed six feet in height.**

The existing fencing on the subject property is exempt from this requirement per Exemption 9(a) of the sector plan.

Dumpsters, Services, Utilities, Outdoor Storage, and Stormwater

- 1. New techniques and methods of collecting and treating stormwater should be used as they emerge, such as micromanagement described in the current version of the design manual.**

The approved SWM meets these standards.

Lighting

- 2. Illumination shall be provided for main entrances, passageways, parking lots, recycling areas, service entrances and areas, alleys, pathways, and plazas.**

The approved and existing lighting, shown on the companion DSP, meet this requirement.

- 4. Fixtures should be located and shielded so that light does not spill from a parking lot onto an adjacent one-family residential property or into residential building windows.**

The approved and existing light fixtures are mounted on the building and are directed away from adjacent residential property.

Landscaping

- 2. Shade trees with a minimum of 2 ½ to 3-inch caliper shall be provided at the rate of one shade tree per every 5,000 square feet of the gross site area.**

Two approved shade trees are provided for the subject property's 5,526 square feet of area.

- 3. Parking lots shall be planted with a minimum of one shade tree per every ten spaces in the provided corners, bump-outs, or islands, from above or at the ground level.**

The companion DSP includes a total of four parking spaces and, as a result, is required to provide one shade tree to meet this requirement. The companion DSP includes two shade trees and will meet this requirement, as approved.

Signage

- 4. Sign locations should be incorporated into the overall architectural design of the building.**

The approved flat-mounted sign will complement the existing building's color.

- 9. Sign area shall not exceed the regulations of Section 27-613(c), (f), and 27-107.01 of the Zoning Ordinance.**

Section 27-613(c)(3)(D) limits the maximum sign area to 50 square feet. The approved 4-foot by 8-foot, flat-mounted sign, as shown on the plans, is 32 square feet.

- 9. 2010 Prince George's County Landscape Manual:** The site plan is not subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual). The development district standards contained in the sector plan replace all those contained in the Landscape Manual.
- 10. 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The site is exempt from the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the property contains less than 10,000 square feet of woodland on-site and has no previous tree conservation plan approvals. A Standard Letter of Exemption (S-184-2021) from the WCO was issued for this site and expires on September 29, 2023. Prior to certification of the companion DSP, a valid exemption letter is required.
- 11. Prince George's County Tree Canopy Coverage Ordinance:** Subtitle 25, Division 3, of the County Code requires a minimum percentage of tree canopy coverage (TCC) on projects that require a grading or building permit for more than 5,000 square feet of disturbance. Properties that are zoned M-U-I are required to provide a minimum of 10 percent of the gross tract area in TCC. According to the TCC schedule, the site is 0.1269 acre, resulting in a TCC requirement of

553 square feet. The schedule shows that the requirement will be met on-site through approved landscaping.

12. **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. **Historic Preservation**—The Planning Board reviewed and adopts the memorandum dated August 3, 2023 (Stabler to Price), stating that the subject property does not contain and is not adjacent to any designated Prince George’s County historic sites or resources.
- b. **Community Planning**—The Planning Board reviewed and adopts the memorandum dated September 14, 2023 (Selvakumar to Price), stating that the application conforms to the goals of the sector plan and cited no issues.
- c. **Transportation Planning**—A memorandum, dated September 18, 2023 (Ryan to Price), was provided to staff and this analysis was included in the technical staff report adopted by the Planning Board at its October 19, 2023 hearing. The Planning Board finds that the application meets the criteria for an SP, as outlined in Section 27-239.02.
- d. **Subdivision**—The Planning Board reviewed and adopts the memorandum dated August 30, 2023 (Heath to Price), stating that the subject property is exempt from a preliminary plan of subdivision, as the property is the subject of a final plat approved prior to October 27, 1970; that the approved development is an addition to a development in existence prior to January 1, 1990; and that it does not exceed 5,000 square feet of gross floor area.
- e. **Environmental Planning**—The Planning Board reviewed and adopts the memorandum dated September 21, 2023 (Juba to Price), including the following comments regarding the subject application:

Background

The following applications and associated plans have been reviewed for the subject site:

Development Review Case Number	Associated Tree Conservation Plan or Natural Resources Inventory Number	Authority	Status	Action Date	Resolution Number
N/A	NRI-049-13-01 (NRI-EL)	Staff	Approved	9/30/2021	N/A
N/A	S-184-2021	Staff	Approved	9/21/2021	N/A
SP-210002	NA	Planning Board	Approved	10/19/2023	2020-111
DSP-21025	NA	Planning Board	Approved	10/19/2023	2023-109
CP-21004	NA	Planning Board	Approved	10/19/2023	2023-110

Environmental Review

Natural Resources Inventory

The subject site has an approved Natural Resource Inventory Equivalency Letter (NRI-042-2019-01) dated September 30, 2021.

Woodland Conservation (Applicable to Area Outside of CBCA Only)

The site is exempt from the provisions of the WCO because the property contains less than 10,000 square feet of woodland and has no previous tree conservation plan approvals.

Preservation of Regulated Environmental Features/Primary Management Area

For the area located outside of the CBCA only

Section 27-285(b)(4) of the prior Zoning Ordinance requires the following finding: “The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130 (b)(5).”

No regulated environmental features (REF) exist on-site; therefore, none will be impacted by the approved development.

Chesapeake Bay Critical Area Commission Review

No comments were received from the CBCA Commission regarding this application.

Chesapeake Bay Critical Area Conservation Plan

One site plan was submitted for the DSP, CP, and SP. The required information such as existing and approved conditions, lot coverage calculations, and approved landscape planting information was included in this set of plans. Since much of the site was previously developed without permits, the lot coverage calculations have included both the previously built but not permitted structures and all approved structures with this application to validate them.

The overall lot coverage for the site will increase; however, there is no maximum for CBCA lot coverage requirement within the I-D-O Zone. Similarly, there is also no minimum allowable lot coverage for the underlying M-U-I Zone. The lot coverage approved is 65.2 percent based on CBCA lot coverage calculations, and 52.6 percent based on Zoning Ordinance lot coverage calculations.

Ten Percent Pollution Reduction Calculations

The 10 percent pollutant reduction calculations demonstrating that the post-development impervious area of the site will result in at least a 10 percent reduction in pollutant run-off from the site are required for projects in the I-D-O Zone. The calculations are shown on the companion CP, but demonstrate that the requirement has not been fully met with this design. The calculations on the plans show a pollution requirement of

0.095 pounds per year of total phosphorous removal; however, only 0.044 pounds per year are being approved using a rain garden and rain barrels. It was noted that DPIE did not mention the 10 percent requirement for final design on their SWM approval letter (42831-2021-00) and the calculations were not shown on the associated plans. These calculations are usually also included on the SWM concept plan or conditioned to be included on the technical SWM plan by DPIE.

Chesapeake Bay Conservation and Planting Agreement

A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded prior to certification approval for development of the site.

Chesapeake Bay Conservation Easement

A conservation easement will not be required for this site. The site does not contain any woodland that is to remain.

Stormwater Management

An approved SWM Concept Letter and Plan (42831-2021-00) was submitted with this application, which expires on January 7, 2025.

- f. **Prince George’s County Fire/EMS Department**—In an email dated July 17, 2023, a representative of the Fire/EMS Department offered no comments.
 - g. **Prince George’s County Department of Permitting, Inspections, and Enforcement (DPIE)**—In a memorandum dated July 18, 2023, a representative of DPIE commented that the subject property is served via public water and sewer facilities.
 - h. **Prince George’s County Police Department**—As of the writing of this resolution, the Police Department did not provide comments.
 - i. **Prince George’s County Health Department**—In a memorandum dated July 20, 2023 , a representative of the Health Department offered five comments and recommendations that have been included herein by reference.
 - j. **Washington Suburban Sanitary Commission (WSSC)**—As of the writing of this resolution, WSSC did not provide comments.
 - k. **Town of North Brentwood**—As of the writing of this resolution, the Town of North Brentwood did not provide comments.
13. Based on the foregoing analysis, and as required by Section 27-285(b) of the prior Zoning Ordinance, the DSP represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the County Code, without requiring unreasonable cost and without detracting substantially from the utility of the approved development for its intended use.

14. As required by Section 27-285(b)(4), the Prince George’s County Planning Board found that the REFs on a site have been preserved and/or restored in a natural state, to the fullest extent possible, in accordance with the requirements of Section 24-130(b)(5) of the prior Prince George’s County Subdivision Regulations. No REFs exist on the subject site; therefore, this finding is not applicable.
15. **Community Feedback:** The Planning Board did not receive any community feedback or opposition regarding this application.

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, subject to the following condition:

1. Prior to certificate approval of Special Permit SP-210002, the applicant shall delete the proposed dimensions from the “Conservation Plan – Existing Conditions Plan” sheet.


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

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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, Doerner, Geraldo, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, October 19, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of November 2023.

Peter A. Shapiro
Chairman


By Jessica Jones
Planning Board Administrator

PAS:JJ:TP:rpg


Approved for Legal Sufficiency
M-NCPPC Office of General
Counsel

Dated 11/2/23