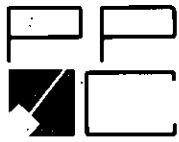


MN
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



PGCPB No. 10-106

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File No. DSDS-664

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed DSDS-664 requesting a 472-square-foot sign departure for a building sign attached to an awning 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 September 23, 2010, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property is located at the intersection of Scott Key Drive and Foster Street, with a small amount of property frontage on Marlboro Pike, in District Heights. The site is comprised of approximately 10,641 square feet (0.30 acre) of land and is zoned C-S-C (Commercial Shopping Center) and R-55 (One-Family Detached Residential). It is currently improved with a two-story brick building used as a vehicle parts and tire store with four installation service bays, a storage shed, and a parking lot to serve its customers. The main entrance of the building is on Scott Key Drive. The main building on the subject property is located within the C-S-C Zone. The parking associated with this use is located across a 20-foot alley, in the R-55 Zone. The entire site is paved with nine existing parking spaces.

During the field inspection, it was noted that the property had an unauthorized freestanding sign along Marlboro Pike and few tire sale banner signs hanging from the service bay along the property frontage on Scott Key Drive. The applicant is currently providing full installation services to its customers without an approved special exception. Also, it was noted that a few cars were queued on the driveway on Scott Key Drive waiting to be serviced. This may cause traffic congestion on Marlboro Pike and Scott Key Drive. This is also a significant safety issue for bicyclists and pedestrians crossing the road. The second floor of the existing building and the shed on the north side of the property are currently used for vehicle parts and tire storage. The property has frontage along Scott Key Drive, Foster Street, and Marlboro Pike. Access to the site is via driveway entrances on Scott Key Drive and Marlboro Pike and a 20-foot alley from Foster Street. The driveway apron is also used for vehicle parking and vehicle repair. Parking for patrons arriving by vehicle is also provided on a separate lot behind the main structure.

B. Development Data Summary

	EXISTING	APPROVED
Zone(s)	C-S-C & R-55	Unchanged
Use(s)	Vehicle Parts and Tire Store	Vehicle Parts and Tire Store with installation
Acreage	0.30	Unchanged
Lots	15 & parts of lots 2 & 3	Unchanged
Parcels	N/A	N/A
Square Footage/GFA	10,771	Unchanged
Dwelling Units	N/A	N/A

C. History: The subject property (Lot 15 in the C-S-C Zone) was acquired by the District Heights Volunteer Fire Department (DHVFD) in August 1944. The fire house building was first constructed in 1946. Two subsequent additions to the main building were done, one in 1954 and another in 1962. In 1961, the adjacent parking lot property (part of Lots 2 and 3 in the R-55 Zone) was conveyed to DHVFD by deed, less and except 625 square feet of land from Lots 2 and 3, which were conveyed to the Perpetual American Savings and Loan Association (PASALA), but also together with those 325 square feet of land conveyed to DHVFD by PASALA. Upon ownership, the existing parking lot, across the 20-foot alleyway adjacent to the subject property, was established prior to 1970 to serve the former District Heights Volunteer Fire Department uses. In 1981, a new deed, including a plat of survey in Liber 5455 and Folio 739 and 747, was recorded to reflect the exchange of land between DHVFD and PASALA.

The proposed use is an adaptive re-use of the of the former District Heights Volunteer Fire Department building and its adjoining parking lot. No new construction is being proposed as part of this special exception application. The existing building on the subject property was originally constructed and used as a fire house and social hall from 1949 until September 2008. In December 2008, the applicant purchased the building and the parking lot from the District Heights Fire Department. Upon acquisition of the property, in February 2009, a Certificate of Occupancy Permit, 39603-2008-U, was obtained to operate the site as a vehicle parts or tire store without installation facilities. At the time of permit approval, it was specifically noted in the permit comments derived on January 13, 2009 by the Maryland-National Capital Park and Planning Commission, Permit Review Section, that the subject property is not to have any installation facilities. If the applicant decides to expand his business to include installation, an approval of a special exception (SE) has to be obtained. However, Tire Deport, LLC has been performing tire installation without an appropriate permit. Moreover, the applicant has been performing tire installation outside of the building. On June 3, 2009, Prince George's County Code Enforcement authorities issued a citation for providing installation services on the property without the approval of a special exception and a legal use and occupancy permit. The applicants' failure to comply with existing requirements and various other regulations resulted in the issuance of a court order on December 15, 2009, from the District Court of Maryland for Prince George's County, enjoining the applicant to comply with Zoning Ordinance issues. On December 23, 2009, the Prince

George's County Fire/EMS Department, Fire Prevention Unit, issued a correction order for various fire safety deficiencies. The correction order directed that a fire protection engineer be consulted to ensure safety compliance. The applicant is now seeking this special exception approval to legalize the tire installation facilities as part of his overall service to its customers and a departure to address deficiencies regarding the setback of a loading area and the height requirement for a doorway entrance to the interior loading space.

D. Master Plan and General Plan Recommendation

General Plan: The property is located in an area identified in the 2002 *Prince George's County Approved General Plan* as the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. This application is consistent with the 2002 Approved General Plan Development Pattern policies for the Developed Tier.

Sector Plan: The 2009 Approved Marlboro Pike Master Plan and Sectional Map Amendment Planning Area 75A retained the property in the C-S-C and R-55 Zones. The sector plan recommends residential medium land use for Lot 3 and commercial land use for Lot 15 of this property. The approved use will not substantially impair the recommendation of the sector plan. While the existing parking lot is in a residential zone, it predates the recommendation of the sector plan and had served as a use in a commercial zone for many years.

E. Request

DSDS-664: The applicant is requesting a 472-square-foot sign departure for a building sign attached to an awning. The applicant's proposed sign is an awning that is 140 square feet in size; however, it is deemed to be larger because the awning is being mounted on a 612-square-foot existing metal grate which becomes part of the overall sign area calculation. In the statement of justification, the applicant also requested a departure from the setback requirements, as the sign is set back 6.15 feet from the right-of-way of Scott Key Drive. Upon further review, it was determined that no such departure request was necessary per Section 27-613(d), Projecting Signs.

F. Neighborhood and Surrounding Uses: The property is surrounded by strip commercial uses oriented to Marlboro Pike in the C-S-C Zone. The north and east sides of the property are developed with single-family detached dwellings in the R-55 Zone.

The neighborhood is defined by the following boundaries:

North—	Cabot Street
South—	Marlboro Pike
East—	County Road
Northwest—	Delano Lane

The uses surrounding the subject property are:

North—Across Foster Street, opposite the subject property, is single-family residential development in the R-55 Zone. West of the single-family residential development, immediately across from Scott Key Drive, is commercial development (i.e. Meineke Mufflers operations) in the C-S-C Zone.

South—Along Marlboro Pike, immediately connecting to the subject property, are commercial developments (i.e. pizza shop, barber shop, video store, etc.) in the C-S-C Zone.

East and southeast—Contiguous to the subject property's parking lot is a property with a vacant Crestar Bank building and its parking lot. Across County Road, opposite the parking lot, are single-family detached developments in the R-55 Zone.

West—Across Marlboro Pike, opposite the subject property, is strip commercial development (i.e. beauty supply store, vacant tune-lube facility, church etc.) in the C-S-C Zone.

- G. **Sign Regulations:** The applicant is proposing a new building sign for the vehicle parts and tire store with installation services and its auditorium. The applicant's sign is a 140-square-foot awning which will be affixed to the front face of the existing 12-foot-high by 51 feet long or 612-square-foot metal grate that was used by the former District Heights Volunteer Fire Department as their building sign. With respect to the sign size, the applicant's actual signage is only 140 square feet, which is slightly less than the permitted sign area, when calculated based on the Zoning Ordinance. The applicant's signage however is deemed to be larger because the awning is being mounted on an existing metal grate; therefore, the entire dimension becomes part of the sign area calculation.

Under the regulations of Section 27-613(c)(3)(B)(ii) of the Zoning Ordinance, the area of signs on a building shall be not more than two square feet of each one linear foot of width along the front of the building, to a maximum of 400 hundred square feet. As the width of the subject building front is 70.5 feet, the building is permitted a maximum of 141.1 square feet of signage. Based on this interpretation, the applicant's proposed sign is 612 square feet. Consequently, the applicant is requesting a departure of 472 square feet of sign area as part of this application.

Section 27-589 of the Zoning Ordinance contains the following purposes for regulating signs:

- (1) **To promote the health, safety, and welfare of the present and future inhabitants of the Regional District;**
- (2) **To encourage and protect the appropriate use of land, buildings, and structures;**
- (3) **To regulate unsightly and detrimental signs which could depreciate the value of property and discourage quality development in the Regional District;**
- (4) **To regulate signs that are a hazard to safe motor vehicle operation;**

- (5) **To eliminate structurally unsafe signs that endanger a building, structure, or the public;**
- (6) **To prevent the proliferation of signs that could detract from the scenic qualities of the landscape or the attractiveness of development; and**
- (7) **To control the location and size of signs, so as to provide for adequate identification and advertisement in a manner that is compatible with land uses in the Regional District.**

The applicant's statement of justification provides the following argument regarding the purposes of sign regulation:

"The Applicant's proposed sign is attractive and seeks to not only soften the appearance of the front façade of the building, but it will provide the customers and workers in the area with a covering during inclement weather. The requested departures for the proposed sign are to accommodate adequate signage on the Property. The Applicant seeks to provide an awning of 140 square feet, which is less than the allowable sign area per Section 27-613(c)(3)(B)(ii) of the Zoning Ordinance. However, since the metal grate (12' X 51'), which is part of the existing building, is considered as part of the overall sign area, the request departure is needed. While the previous sign on the building consisted of individualized letters, which were mounted directly onto the existing metal grate, this Applicant is proposing an awning to provide a more inviting entrance for its customers. Unlike the former use of the building, the Applicant's proposed use is customer base, and therefore, it would be more appealing to soften the appearance of the existing building by providing an awning, which will serve a dual purpose (i.e., advertise the business and protect the customers from inclement weather. The proposed sign, however, is of sufficient size to ensure that the lettering will be visible from Scott Key Drive, and thus assist motorists traveling on Scott Key Drive and Marlboro Pike to safely identify the Applicant's use. As a result, the Applicant's proposal not only maintains quality development, but it prevents the proliferation of signs that could detract from the scenic quality of the landscape or the attractiveness of the development due to its layout, size and quality of the proposed sign.

"In addition, the residents of the area will appreciate the replacement of the existing sign with a new sign, which furthers the aesthetic appeal and is compatible with the surrounding development. Furthermore, the grant of this departure will in no way impair the health, safety or welfare of residents or workers in the area. On the contrary, the new sign will not only soften the appearance of the front façade of the building, but it will allow the safe identification of the proposed facility. Also, it will be structurally safe and will in no way endanger the public. Therefore, the requested departures are consistent with the purposes of the Sign Ordinance."

While the applicant is claiming to comply with some of the sign regulation purposes mentioned above, the Planning Board contests that they do not meet Purposes 3 and 6. Although the size of the proposed awning will be compatible with the commercial uses of the property and with the overall streetscape along Marlboro Pike and Scott Key Drive, it will be unsightly and detrimental if it is affixed on the existing metal grate. Keeping the huge metal grate in addition to the proposed awning could distract the scenic qualities of the landscape or attractiveness of the development. The Planning Board believes that in order to accomplish the applicant's sign purpose, the awning does not have to be mounted to the existing metal grate rather it can be directly affixed on the front wall of the building. The Urban Design memorandum dated July 27, 2010 also suggests that the applicant remove the existing metal grate from the building façade and place the proposed sign directly on the building, meeting the size requirements of the Zoning Ordinance and presenting a much more pleasant aspect.

Departure from Sign Design Standards: Section 27-239.01(b)(7)(A) of the Zoning Ordinance provides that 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;**

In general, the purposes of the sign ordinance are to regulate unsightly and hazardous signs, to provide adequate identification and advertisement, to protect and promote the health, safety, and welfare of the residents of the county, and to foster the appropriate use of land, buildings and structures.

Unlike the previously approved fire department building, the proposed vehicle parts and tire store with installation facilities is consumer based. The applicant contends that the projecting building sign will be equally or better served by the applicant's proposal. The Planning Board disagrees with the applicant's proposal. The proposed awning sign affixed to its existing 612-square-foot metal grate will be detrimental to two of the main purpose of the sign regulations:

“To regulate unsightly and detrimental signs which could depreciate the value of property and discourage quality development in the Regional District.”

“To prevent the proliferation of signs that could detract from the scenic qualities of the landscape or the attractiveness of development.

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

The applicant has stated that the departure is necessary to adequately advertise the proposed use without unduly detracting from the safety of passing motorist. Furthermore, the applicant seeks to replace individual channel letters, which were previously affixed on the metal grate on the front façade of the building with a hang on awning to provide a covering of its customers in the event of

inclement weather. The Planning Board believes that since the existing building is set back only 6.15 feet from the street, the applicant's purpose could easily be met even if the awning is directly projected from the building and not from the metal grate. For this reason, the Planning Board does not support the departure as the minimum necessary, given the specific circumstance of the request.

(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 applicant's justification statement states that the departure is necessary in order to alleviate a unique design element of the building that existed on the building for 30 years. The front façade of the building is covered by a 12-foot by 51-foot metal grate. As the applicant is proposing to affix an awning onto the front wall of the building, it must do so on top of the metal grate, which encompasses almost the entire front of the building. There is no other place on which to hang the applicant's proposed awning. The front façade of the building does not have enough room to directly affix the awning. Removing the metal grate will tear up the front of the building. To that end, this unique design element of the building requires the applicant's requested departure.

The existing metal grate is not a design element of the building. It is part of the former DHVFD sign. Behind the metal grate is an existing beautiful glass window. While the width measurement between the service doors to the window is not provided by the applicant, the Planning Board believes there is ample space on the front façade of the building to accommodate the three and one-half-foot-high awning sign directly on the wall of the building. Removing the metal grate will provide more lighting for the proposed social hall on the second floor of the building. Additionally, it will make the building more attractive and appealing to its customers and surrounding land owners. The unique circumstances could be satisfied with the removal of the unattractive metal grate.

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

The applicant lists the same reasons as mentioned before to justify that the proposed sign will meet this finding. The Planning Board finds that the departure would allow a sign that impairs the visual quality or integrity of the site or of the surrounding neighborhood. The proposed awning can be directly mounted on the front façade of the building. This would provide signage more in keeping with the character of the neighborhood.

H. **Zone Standards:** The proposed use is in the C-S-C and R-55 Zones. The site plan, with the approved requests for departures, along with recommended conditions, will be in conformance with all zoning requirements and regulations.

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

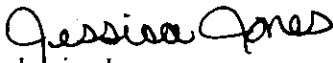
Planning Commission adopted the findings contained herein and recommends to the District Council for Prince George's County, Maryland that the above-noted application be DISAPPROVED.

* * * * *

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 Vaughns, seconded by Commissioner Cavitt, with Commissioners Vaughns, Cavitt, Clark and Parker voting in favor of the motion, and with Commissioner Squire opposing the motion at its regular meeting held on Thursday, September 23, 2010, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 21st day of October 2010.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Acting Planning Board Administrator

PCB:JJ:TA:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCP&C Legal Department

Date 10/5/10