

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed Departure from Design Standards Application No. DDS-640, Starbucks Coffee, Beltsville, requesting a revision to update an existing eating and drinking establishment with drive-through services for the addition of a front patio, a bike rack, directional signage, a fence along the east side of the property, and to clad the freezer box to match the parapet screening utility features 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 14, 2017, the Prince George’s County Planning Board finds:

A. **Location and Field Inspection:** The subject property consists of 0.57± acre in the Commercial Shopping Center (C-S-C) Zone. The property is located on the northwest corner of Baltimore Avenue (US 1) and St. Mary’s Street, known as 10906 Baltimore Avenue. It is improved with a 2,877-square-foot single-story building. Ingress and egress to the property is via US 1 and St. Mary’s Street.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C	C-S-C
Use(s)	Fast-Food restaurant	Fast-Food restaurant
Acreage	0.57	0.57
Square Footage/GFA	4,561	4,561

C. **History:** A fast-food restaurant (eating and drinking establishment with drive-through service) was first established on this site in 1985 pursuant to Special Exception SE-3580, which was approved by the District Council on April 11, 1985, along with a modification of the parking schedule. The Board of Appeals later approved a variance of 4 feet from the 10-foot-wide landscape strip requirement along the street lines to construct the structure on May 22, 1985. A Revision of Special Exception, ROSP-3580-01, was approved in 1992 for the addition of a freezer unit. A Revision of Special Exception, ROSP-3580-02, was recently approved in 2016 at the Planning Director level for the conversion of the vacant building to an eating and drinking establishment with a drive-through, as well as other associated site improvements. The records in the file of ROSP-3580-02 indicate that all previous conditions of approval were incorporated into the current approved site plan.

- D. **Master Plan and General Plan Recommendations:** The application is consistent with the Plan Prince George’s 2035 policies for established communities and conforms to the institutional land use recommendation for the subject property in the 2010 *Approved Master Plan and Sectional Map Amendment for Subregion 1 (Planning Areas 60, 61, 62, and 64)* (Subregion 1 Master Plan and SMA).
- E. **Request:** The applicant seeks a departure from Section 4.2 of the Prince George’s County Landscape Manual and a revision of site plan to allow for exterior improvements for the addition of a front patio, a bike rack, directional signage and a fence along the east side of the property, and to clad the freezer box to match the parapet screening of utility features.
- F. **Surrounding Uses:** The neighborhood in which the property is located is described as Baltimore Avenue (US 1) to the east and St. Mary’s Street to the south. The neighborhood is predominately commercial, except to the west where the land uses are primarily residential. The subject property is surrounded by land in the C-S-C Zone that is developed with other commercial businesses as well residentially zoned land (R-R and R-18) developed with single-family homes. These boundaries were accepted by the District Council pursuant to the approval of the Subregion 1 Master Plan and SMA. The properties immediately surrounding the subject site are:
- North—** Shell Gas station, and other commercial development zoned C-S-C
- East—** Across US 1, Costco and other commercial development zoned C-S-C
- South—** Across St. Mary’s Street TD Bank and other commercial development zoned C-S-C
- West—** Commercial development zoned C-S-C and single-family detached residential zoned R-R.
- G. **Zone Standards:** The proposal is within the applicable development requirements and regulations set forth in Section 27-454, C-S-C (Commercial Shopping Center) Zone; and Section 27-462, Regulations in Commercial Zones, of the Zoning Ordinance. The subject application meets all the regulations for development in the commercial zone. Section 27-461(b), Uses Permitted in Commercial Zones, indicates that an eating and drinking establishment with drive-through services is a permitted use in the C-S-C Zone. However, Footnote 24 requires any fast-food restaurant operating pursuant to a special exception approved prior to 2005, may only be amended through the revision to special exception process.
- H. **Design Requirements:**
- Signage—**Only directional signage is included. Any future signage proposed on this property will require approval of a revised special exception site plan prior to approval of a sign permit. The site plan identifies the location of the directional signage and the approved free-standing sign in conformance with the required setbacks for such signs.

Parking Regulations—The site plan shows the required number of parking spaces for the site.

Prince George’s County Landscape Manual Requirements—The subject application is not subject to the 2010 *Prince George’s County Landscape Manual* (Landscape Manual) because of the limited improvements with no increase in gross floor area or impervious areas for parking and/or loading.

Tree Canopy Coverage Ordinance—This application is not subject to the Tree Canopy Coverage Ordinance, as it does not propose disturbance of 5,000 square feet or greater.

- I. **Departure from Section 4.2, Requirements for Landscape Strips Along Streets:** The requirements for landscape strips along streets requires a 10-foot landscape strip along Baltimore Avenue (US 1). The applicant has requested a departure from this requirement. Currently, there is landscaping in this location. In April 2017, the Alternative Compliance Committee presented the following discussion in review of an associated pre-alternative compliance application, AC-16018:

“The applicant has requested Alternative Compliance for relief from Section 4.2, Requirements for Landscape Strips Along Streets along the southern property line, fronting on Baltimore Avenue – US Route 1. The proposal is for the removal of the existing plant units and green area approved on the previous plan from its current location along the street-line and replacing it with a concrete patio area of approximately 406 square feet, along with railings, tables, and chairs.

“At the time of the previous review of a revision to Special Exception, ROSP-3580-02, findings concluded that the site was not subject to Section 4.2 because there was no increase in the gross floor area of the building. The submission did not propose a change to the previously approved landscape strip that was required with the original construction of the building. This current proposal does not include an increase in the gross floor area of the building, but the proposed patio addition eliminates the previously approved landscape strip along the right-of-way, thereby increasing the impervious area of the site.

“The Committee finds the proposed Landscaping Concepts does not conform to the requirements of Section 4.2 and recommends denial of Alternative Compliance and the applicant should file a Departure from Design Standards.”

The subject DDS-640 was filed in response to this issue. It is the applicant’s desire not to comply with the requirement. No alternative has been offered either via alternative compliance or via the current request. Section 27-239.01(b)(7) of the Zoning Ordinance includes the required findings for approval of a DDS, as well as the following specific required finding for approval of a departure from a standard contained in the Landscape Manual:

- (B) For a departure from a standard contained in the Landscape Manual, the Planning Board shall find, in addition to the requirements in paragraph (7)(A), above, that there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.**

The Alternative Compliance Committee already concluded, in their review of AC-16018, that there was no feasible proposal for alternative compliance that would exhibit equally effective design characteristics.

Section 27-239.01(b)(7)(A) of the Zoning Ordinance states that, in order for the Planning Board to grant a departure from design standards, 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 subject property is being used as a drive-through fast-food restaurant, as it was developed in 1985. However, the current restaurant, coffee and tea shop, encourages patrons to enjoy their beverage in a welcoming place. The property is in an area that has experienced significant redevelopment. The inclusion of the patio generally meets the purposes and objectives of Section 4.2 Requirements for Landscape Strips Along Streets. While the Design Guidelines of Section 4.2 do not allow for any paved area in the landscape strip, the proposal will enhance the visibility of the greater Beltsville area by promoting the pedestrian activity. In this instance, the general aesthetic can be achieved by mirroring design elements from the southwest corner development and the use of some of the existing planting materials in planters.

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

The departure of 10 feet is the minimum necessary. All existing conditions are shown on the site plan. The request allows for the entire landscape strip to be used to its maximum potential. There are no additional impacts on the surrounding uses.

- (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 property was developed as a drive-through fast-food restaurant sometime in 1985. The departure is necessary to alleviate circumstances that are unique to the site, because the property is zoned residential, and residentially-zoned developed land surrounds the property to the west, but visually shares the aesthetic of the adjacent commercial office use to the east. The property is unique in that it bridges the residential

and commercial office uses that surround the site. This departure is necessary for the use and at the present location.

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

The departure will improve the visual, functional, and environmental quality or integrity of the site or of the surrounding neighborhood through improved design of the patio as a neighborhood amenity. The applicant is visually enhancing the neighborhood by creating an inviting community space that will enhance and encourage pedestrian activity in the area. The existing adjacent residential areas will not be infringed upon.

Therefore, the departure request is approved, with conditions, to include brick piers with wrought-iron fencing to mirror the design located on the southwest side off US 1. The applicant shall also save existing or provide new plant materials in planters in the patio area.

J. Required Findings: Section 27-317(a) of the Zoning Ordinance states 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 the Zoning Ordinance, as noted in Section 27-102, are generally to protect the health, safety and welfare of the public and promote compatible relationships between various land uses. The improvements to the existing eating and drinking establishment with drive-through services are both in harmony and in conformance with the purpose and meet the applicable requirements and regulations of this subtitle. It will provide for a restaurant, which provides quick and convenient meals at a location near residential, employment, and shopping areas.

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

The applicant has requested a departure from Section 4.2 of the Landscape Manual. The departure is in conformance with all the applicable requirements and regulations of the Subtitle.

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.

The application is consistent with the Plan Prince George's 2035 policies for established communities and complies with the commercial land use recommendation for the subject property in the Subregion 1 Master Plan and SMA. The project promotes improvement to an established eating and drinking establishment with drive-through services. Thus, it can be concluded that the improvements 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.

(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 continuation of the restaurant with drive-through use, subject to specific conditions, will adversely affect the health, safety, or welfare of residents or workers in the area.

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

The improvements are for the betterment of the adjacent properties and the general neighborhood. There are no adverse impacts from the improvements, therefore, the use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

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

The site has an approved Natural Resources Inventory (NRI-103-16), and is exempt from the requirements of the Woodland and Wildlife Habitat Conservation Ordinance, per Woodland Conservation Ordinance Letter of Exemption (SE-082-16), because the property is less than 40,000 square feet in size and has less than 10,000 square feet of woodland on-site, and no previously approved tree conservation plan.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

There are no regulated environmental features on the property that require preservation or restoration.

Subdivision 10.—Amendments of Approved Special Exceptions

Section 27-325.—Minor Changes

Section 27-325(i) Changes of drive-in and fast-food restaurant site plans.

- (1) **Changes of a site plan for an approved drive-in or fast-food restaurant may be permitted under the site plan amendment procedures in Section 27-324. The Planning Board may permit the following modifications under the procedures in this Subsection and (a) and (c) above:**
 - (A) **The addition, relocation, or modification of a freezer on the sides or rear of the restaurant building;**
 - (B) **The addition, relocation, or modification of gross floor area in order to provide rest rooms to serve the physically handicapped;**
 - (C) **The addition, relocation, or modification of vestibules above and around points of access to the restaurant building;**
 - (D) **The addition, relocation, or modification of a fence, storage area, or trash enclosure; or**
 - (E) **Any amendment described in (b) above.**

The minor changes are permitted through Section 27-325(i) of the Zoning Ordinance as amendments pursuant to Section 27-325(b), Minor Changes, Planning Board.

- K. **Referrals:** Following are a summary of comments generated from referrals by internal divisions and external agencies. Any outstanding plan revisions that remain are included as conditions of approval.

Community Planning—There are no General Plan or master plan issues raised by this application.

Historic Preservation—This project will have no impact on any historic sites, resources or known archeological resources.

Parks—There are no impacts on existing parklands.

Special Projects—The development and departure will have no impact on public facilities.

Transportation—Baltimore Avenue (US 1) is a master plan arterial facility. The master plan right-of-way line is approximately ten feet behind the existing sidewalk. This is consistent with improvements shown on the plan, and therefore, it is determined that there are no conflicts between any elements of this plan and the ultimate right-of-way. The site is located on recorded Parcel B of Holbrook. There are no caps on development that would restrict either the use or this expansion of the use. Because the site is currently developed and no construction is proposed, there will be no preliminary plan. All changes to the plan are acceptable.

Maryland State Highway Administration—There are no objections to plan approval from this agency.

L. Determinations:

The criteria for granting a Revision of Special Exception, ROSP-3580-03, are met. The subject property currently serves the community as an eating and drinking establishment with drive-through service and is compatible with all of the adjacent uses. Therefore, the use will not adversely affect the health, safety, or welfare of residents or workers in the area, or be detrimental to the use or development of adjacent properties or the general neighborhood, as no increase in the interior gross floor area is being proposed and the use will continue to function as a fast-food restaurant (eating and drinking establishment with drive-through service), as it has since its initial construction in 1985. Moreover, the proposed minor revisions are so limited in scope and nature that they will have no appreciable impact on either adjacent properties or the previously-approved site plan.

The requested departures are necessary to bring the existing conditions of the subject property into conformance with the requirements of the Zoning Ordinance. The building was constructed on the subject property in 1985 and has since operated with commercial use. The proposed patio addition and screening can provide a visual transition that can bridge this northern section of Baltimore Avenue (US 1) to the development along St. Mary's Street and the southern part of US 1. The proposed fast-food use is permitted by-right and will not alter the relationship between the subject property and the surrounding neighborhood.

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 conditions:

1. Prior to certification of the site plan, the site plan should be revised to provide the following:
 - a. Include brick piers with wrought-iron fencing to mirror the design located on the southwest side off Baltimore Avenue (US 1).
 - b. Show planters in the patio area. The applicant should save existing or provide new plant materials in planters in the patio area.
 - c. The patio should be constructed using pervious concrete or a similar material.
 - d. Add the plat reference (WWW 72-61) to the site information.
 - e. Add the building-restriction line as depicted on the plat.

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 Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, Doerner, and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, September 14, 2017, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of October 2017.

Elizabeth M. Hewlett
Chairman

By Jessica Jones
Planning Board Administrator

EMH:JJ:IRT:rpg