

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

SITTING AS THE DISTRICT COUNCIL

2002 Legislative Session

Bill No. _____ CB-42-2002 _____

Chapter No. _____ 34 _____

Proposed and Presented by _____ Council Member Shapiro _____

Introduced by _____ Council Member Shapiro _____

Co-Sponsors _____

Date of Introduction _____ May 21, 2002 _____

ZONING BILL

1 AN ORDINANCE concerning

2 Minor Site Plan Revisions and Limited Departures from Design Standards

3 For the purpose of amending sign posting and public hearing procedures and requirements for
4 minor revisions, limited in scope and nature, of Conceptual Site Plans, Detailed Site Plans, and
5 Special Exception site plans, and for limited departures from design standards for signs, parking
6 and loading spaces and facilities, and other structures; authorizing the Planning Director to
7 approve such minor revisions and limited departures administratively, without public hearing;
8 providing for notice and allowing interested persons to request Planning Board public hearings in
9 all such cases; and making related and other technical amendments to the Zoning Ordinance.

10 BY repealing and reenacting with amendments:

11 Sections 27-142.01, 27-239.01, 27-279, 27-289,

12 27-325, 27-587, 27-588, and 27-612,

13 The Zoning Ordinance of Prince George's County, Maryland,

14 being also

15 SUBTITLE 27. ZONING.

16 The Prince George's County Code

17 (1999 Edition, 2001 Supplement).

18 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
19 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
20 District in Prince George's County, Maryland, that Sections 27-142.01, 27-239.01, 27-279,

27-289, 27-325, 27-587, 27-588 and 27-612 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 3. ADMINISTRATION.

DIVISION 1. GENERAL ZONING PROCEDURES.

[SUBDIVISION 6. SIGN POSTING.]

Sec. [27-142.01. Signs] 27-125.03. Sign for posting.

(a) Posting, in general.

(1) [The sign] Signs for posting shall be provided by the Planning Board, or Board of Appeals where applicable, and shall have (at least) the following information [shown on it]:

- (A) The title of "Hearing";
- (B) The type of application;
- (C) The application number;
- (D) The request;
- (E) Date, time, and place of the public hearing;
- (F) A phone number for additional information.

(2) If the property has frontage on one (1) or more improved streets, there shall be one (1) sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign(s) shall be posted on the property near the street right-of-way, so as to be visible from the improved portion of the street. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.

(3) If the property does not have frontage on an improved public street, then one (1) sign shall be placed on the property. This sign shall be near the boundary of the property and visible from an adjoining property. Another sign shall be placed near to, and visible from, the improved portion of the nearest, most-traveled street. This sign shall indicate it is not on the subject property.

(4) All signs posted shall be durable, and they shall be conspicuous and legible for the length of the required [advertising] posting period. The Planning Board may establish more specific sign posting standards, if necessary.

(5) The applicant shall be responsible for reasonable maintenance of all signs. In the event a sign is removed, falls down, or otherwise is not on the property or in the right-of-way

1 during the pendency of and until the date of the hearing, or until the end of the required posting
 2 period, it shall be the responsibility of the applicant to repost the sign.

3 (6) The person posting the sign shall file a written statement in the record of posting.
 4 A photograph of each posted sign shall also be submitted and included in the record file for the
 5 case. The applicant shall inspect the sign at least one time a week during the [advertising]
 6 posting period to ensure that required signs are maintained.

7 (7) Any unauthorized person removing, destroying, defacing, obstructing, or
 8 otherwise interfering with a posted sign (directly or indirectly) shall be subject to the penalties
 9 provided by law.

10 **(b) Posting, Planning Director administrative approvals.**

11 (1) Signs posted for applications which the Planning Director is authorized to
 12 approve administratively shall comply with and are subject to all requirements in (a), except
 13 (a)(1).

14 (2) Signs for such applications shall have the following:

15 (A) The title, "Notice: Right to Request Public Hearing";

16 (B) The type of minor site plan change or limited departure from design
 17 standards proposed in the application;

18 (C) The application number;

19 (D) The request, or a description of its scope and nature;

20 (E) A clear statement that the Director will act on the application without a
 21 public hearing unless a hearing is requested by a certain date, which shall be at least twenty (20)
 22 days after the date of first posting;

23 (F) A clear statement that any person interested has a right to review the
 24 application and request a public hearing or submit written comments;

25 (G) Instructions how to request a hearing or submit written comments and how
 26 to obtain additional information.

27 **DIVISION 5. APPEALS AND VARIANCES.**

28 **SUBDIVISION 4. DEPARTURES FROM DESIGN STANDARDS.**

29 **Sec. 27-239.01. Departures from Design Standards.**

30 (a) **Authorization, Planning Board and Planning Director.**

1 (1) A departure from the design standards contained in Part 11 or Part 12 of this
2 Subtitle or contained in the Landscape Manual may be permitted by the Planning Board or
3 Planning Director, if authorized, in accordance with the provisions of this Section.

4 (b) **Procedures.**

5 (1) Application.

6 (A) All requests for a Departure from Design Standards shall be in the form of
7 an application filed with the Planning Board. The Planning Board shall determine the contents
8 of the application and shall provide the application form.

9 (B) Along with the application, the applicant shall submit the following:

10 (i) Six (6) copies of a site plan, and other graphic illustrations which are
11 considered necessary to indicate what is being proposed;

12 (ii) Six (6) copies of a written explanation by the applicant telling why the
13 proposed design serves the purposes of this Subtitle better than the prescribed Design Standards;
14 and

15 (iii) A list of the names and addresses of each municipality if any part of the
16 property is located within the municipal boundaries and a set of preaddressed envelopes or
17 mailing labels.

18 (2) Filing fees.

19 (A) Upon filing the application, the applicant shall pay to the Planning Board a
20 filing fee of Four Hundred Dollars (\$400.00) to help defray the costs of processing the
21 application. A reduction in the fee may be permitted by the Planning Board when it finds that
22 payment will cause undue hardship upon the applicant.

23 (B) Sign posting fees.

24 (i) In addition to the filing fee, a fee of Thirty Dollars (\$30.00) shall be
25 paid for posting each public notice sign to be posted by the Planning Board.

26 (ii) When the application involves a utility right-of-way, the fee shall be
27 Thirty Dollars (\$30.00) each for the first four (4) signs, plus Five Dollars (\$5.00) for each sign
28 over four (4).

29 (iii) No part of a fee shall be refunded or waived unless the Planning Board
30 determines that one (1) of the following applies:

(aa) The fee was paid by mistake, and the applicant has requested (in writing) a refund; or

(bb) The application is withdrawn prior to posting the sign. In this case, the entire sign posting fee shall be refunded.

(3) Hearing.

(A) Prior to making a decision on a Departure from Design Standards, the Planning Board shall hold a public hearing on the matter. The Planning Board shall determine the procedures under which the hearing will be held.

(4) Notice.

(A) The property shall be posted with at least one (1) sign giving notice of the hearing. The contents of the sign and the number of signs required shall be determined by the Planning Board.

(B) Additional notice may be given, as determined by the Planning Board.

(C) A notice shall be sent in accordance with Section 27-125.01.

(5) Referral.

(A) The Planning Board shall refer applications for Departures from Sign Design Standards to the Department of Environmental Resources for its comments or recommendations. These comments or recommendations (if any) shall be available for public examination at least seven (7) days prior to the public hearing.

(6) Technical Staff Report.

(A) The Technical Staff shall analyze the request and shall forward its comments and recommendations to the Planning Board. These comments and recommendations shall be available for public examination at least seven (7) days prior to the public hearing.

(7) Record.

(A) The record shall consist of:

- (i) The application form and accompanying data;
- (ii) Comments and recommendations of the Department of Environmental Resources (if any) and Technical Staff;
- (iii) All correspondence relative to the application;
- (iv) All testimony at the public hearing; and
- (v) Other items which the Planning Board deems necessary.

1 (B) At the conclusion of the public hearing, the Planning Board may close the
2 record, or may leave the record open (for a specified time) for receipt of additional written
3 evidence.

4 (8) Planning Board decision.

5 (A) After the close of the record, the Planning Board shall take action on the
6 request. The decision of the Planning Board shall be based on the record, and shall be embodied
7 in a resolution.

8 (B) The Planning Board shall give written notice of its decision to all persons of
9 record and to the District Council.

10 (9) Required findings.

11 (A) In order for the Planning Board to grant the departure, it shall make the
12 following findings:

13 (i) The purposes of this Subtitle will be equally well or better served by
14 the applicant's proposal;

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

17 (iii) The departure is necessary in order to alleviate circumstances which
18 are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

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

21 (B) For a departure from a standard contained in the Landscape Manual, the
22 Planning Board shall find, in addition to the requirements in paragraph (9) (A), above, that there
23 is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which
24 would exhibit equal or better design characteristics.

25 (10) Considerations.

26 (A) For properties in the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H
27 Zones, where an applicant proposes development of multifamily dwellings and also proposes
28 that the percentage of dwelling units accessible to the physically handicapped and aged will be
29 increased over the minimum number of units required by Subtitle 4 of the Prince George's
30 County Code, the Planning Board may consider this proposed increase in accessible units in
31 making its required findings.

1 (11) Appeal.

2 (A) The Planning Board's decision may be appealed to the District Council upon
3 petition of any person of record. The petition shall be filed with the Clerk of the Council within
4 thirty (30) calendar days after the date of the notice of the Planning Board's decision. The
5 District Council may vote to review the Planning Board's decision on its own motion within
6 thirty (30) days after the date of the notice.

7 (B) The Clerk of the Council shall notify the Planning Board of any appeal or
8 review decision concerning Departures from Sign Design Standards. Within seven (7) calendar
9 days after receiving this notice, the Planning Board shall transmit to the District Council a copy
10 of the file on the proposed Departure from Design Standards, all written evidence and materials
11 submitted for consideration by the Planning Board, a transcript of the public hearing on the
12 proposed departure, and any additional information or explanatory material deemed appropriate.

13 (C) The District Council shall schedule a public hearing on the appeal or review.
14 The hearing shall be held in accordance with Section 27-132 (District Council hearing
15 procedures). The Clerk of the Council shall give at least fourteen (14) calendar days notice of
16 the hearing to all persons of record and the Planning Board, all of whom shall be entitled to
17 appear at the hearing. Testimony at the hearing shall be limited to the facts and information
18 contained within the record made at the hearing before the Planning Board. In addition, the
19 Council may take judicial notice of any evidence contained in the record of any earlier phase of
20 the approval process relating to all or a portion of the same property, including the approval of a
21 preliminary plat of subdivision.

22 (D) Within sixty (60) days after the close of the Council's hearing, the Council
23 shall affirm, reverse, or modify the decision of the Planning Board, or return the proposed
24 departure to the Planning Board to take further testimony or reconsider its decision.

25 (E) The Council shall give its decision in writing, stating the reasons for its
26 action. Copies of the decision shall be sent to all persons of record and the Planning Board.

27 (c) **Facilities for the physically handicapped.**

28 (1) A Departure from the Design Standards for parking facilities for the physically
29 handicapped shall not be granted unless an exemption from the requirements for the handicapped
30 in the applicable building codes has been obtained from the State and County agencies
31 responsible for administering those codes.

1 **(d) Limited departures from design standards.**

2 (1) The Planning Director is authorized to approve administratively, without public
 3 hearing, limited departures from the design standards in Part 11 or Part 12 of this Subtitle.

4 (2) Limited departures may be approved for a maximum of ten percent (10%) of
 5 standard requirements.

6 (3) Before approving a limited departure, the Director shall make the findings
 7 required in (b)(9) above and all others the Planning Board would be required to make, if it
 8 reviewed the application.

9 (4) The Director is not authorized to waive requirements in this Subtitle, grant
 10 variances, or modify conditions, considerations, or other requirements imposed by the Planning
 11 Board or District Council in any case.

12 (5) The applicant's property shall be posted within ten (10) days of the Director's
 13 acceptance of filing of the application. Posting shall be in accordance with Part 3, Division 1.
 14 On and after the first day of posting, the application may not be amended.

15 (6) If a written request for public hearing is not submitted within the posted time
 16 period, then the Director may act on the application. The Director's approval concludes all
 17 proceedings.

18 (7) If the Director denies the application or a timely hearing request is submitted, then
 19 the application shall be treated as refiled on the date of that event. The applicant, Director, and
 20 Technical Staff shall then follow the procedures for Planning Board review in (b) above.

21 **DIVISION 9. SITE PLANS.**

22 **SUBDIVISION 2. REQUIREMENTS FOR CONCEPTUAL SITE PLANS.**

23 **Sec. 27-279. Amendment.**

24 **(a) General.**

25 An application to amend a Conceptual Site Plan shall be filed with the Planning Board
 26 by the owner or [his] authorized owner representative. [The application shall be subject to all of
 27 the requirements of this Division which apply to the filing and consideration of an original
 28 Conceptual Site Plan.] No amendment of a Conceptual Site Plan shall be permitted without the
 29 approval of the Planning Board or Planning Director, as provided in this Section. The Director
 30 may authorize staff to take any action the Director may take under this Section.
 31

(b) **Amendment, Planning Board.**

All requirements for the filing and review of an original Conceptual Site Plan shall apply to an amendment. The Planning Board shall follow the same procedures and make the same findings.

(c) **Limited minor amendment, Planning Director.**

(1) The Planning Director is authorized to approve limited minor amendments administratively, without public hearing, to approved Conceptual Site Plans.

(2) The Director may approve minor amendments if limited in scope and nature, and only if they do not:

(A) Add or delete a land use, as uses are shown on the approved site plan;

(B) Relocate significantly an approved land use;

(C) Alter significantly an approved circulation plan; or

(D) Increase the density or intensity of uses shown on the approved site plan.

(3) Before approving a minor amendment, the Director shall make all findings the Planning Board would be required to make, if it reviewed the application.

(4) The Director is not authorized to waive requirements in this Subtitle, grant variances, or modify conditions, considerations, or other requirements imposed by the Planning Board or District Council in any case.

(5) The applicant's property shall be posted within ten (10) days of the Director's acceptance of filing of the application. Posting shall be in accordance with Part 3, Division 1. On and after the first day of posting, the application may not be amended.

(6) If a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Director's approval concludes all proceedings.

(7) If the Director denies the application or a timely hearing request is submitted, then the application shall be treated as refiled on the date of that event. The applicant, Director, and Technical Staff shall then follow the procedures for Planning Board review of the application.

SUBDIVISION 3. REQUIREMENTS FOR DETAILED SITE PLANS.

Sec. 27-289. Amendment.

(a) **General.**

1 An application to amend a Detailed Site Plan shall be filed with the Planning Board by
 2 the owner or [his] authorized owner representative. [The application shall be subject to all of the
 3 requirements of this Division which apply to the filing and consideration of an original Detailed
 4 Site Plan.] No amendment of a Detailed Site Plan shall be permitted without the approval of the
 5 Planning Board or Planning Director, as provided in this Section. The Director may authorize
 6 staff to take any action the Director may take under this Section.

7 **(b) Amendment, Planning Board.**

8 All requirements for the filing and review of an original Detailed Site Plan shall apply
 9 to an amendment. The Planning Board shall follow the same procedures and make the same
 10 findings.

11 **(c) Limited minor amendment, Planning Director.**

12 (1) The Planning Director is authorized to approve limited minor amendments
 13 administratively, without public hearing, to approved Detailed Site Plans.

14 (2) The Director may approve only the following minor amendments, if limited in
 15 scope and nature:

16 (A) An increase of no more than ten percent (10%) in the gross floor area of a
 17 building;

18 (B) An increase of no more than ten percent (10%) in the land area covered by a
 19 structure other than a building;

20 (C) The redesign of parking or loading areas;

21 (D) The redesign of a landscape plan;

22 (E) New or alternative architectural plans that are equal or superior to those
 23 originally approved, in terms of overall size and quality;

24 (F) Changes required by engineering necessity to grading, utilities, stormwater
 25 management, or related plan elements; or

26 (G) Changes to any other plan element determined by the Planning Director to
 27 have minimal effect on the overall design, layout, quality, or intent of the approved site plan.

28 (3) Before approving a minor amendment, the Director shall make all findings the
 29 Planning Board would be required to make, if it reviewed the application.

30 (4) The Director is not authorized to waive requirements in this Subtitle, grant
 31 variances, or modify conditions, considerations, or other requirements imposed by the Planning

1 Board or District Council in any case.

2 (5) The applicant's property shall be posted within ten (10) days of the Director's
 3 acceptance of filing of the application. Posting shall be in accordance with Part 3, Division 1.
 4 On and after the first day of posting, the application may not be amended.

5 (6) The Director may waive posting after determining, in writing, that the proposed
 6 minor change is so limited in scope and nature that it will have no appreciable impact on
 7 adjacent property.

8 (7) If a written request for public hearing is not submitted within the posted time
 9 period, then the Director may act on the application. The Director's approval concludes all
 10 proceedings.

11 (8) If the Director denies the application or a timely hearing request is submitted, then
 12 the application shall be treated as refiled on the date of that event. The applicant, Director, and
 13 Technical Staff shall then follow the procedures for Planning Board review of the application.

14 **PART 4. SPECIAL EXCEPTIONS.**

15 **DIVISION 1. ADMINISTRATIVE PROCEDURES.**

16 **SUBDIVISION 10. AMENDMENTS OF APPROVED SPECIAL EXCEPTIONS.**

17 **Sec. 27-325. Minor changes.**

18 **(a) Minor changes, in general.**

19 (1) The Planning Board and Planning Director are authorized to approve minor
 20 changes to site plans for approved Special Exceptions, as provided in this Section. The Director
 21 may authorize staff to take any action the Director may take under this Section.

22 (2) The Planning Board is authorized to grant the minor changes [covered by] listed
 23 in this Section, and any variance requested in conjunction with the minor change. The minor
 24 change request shall be in the form of an application filed with the Planning Board. The contents
 25 of the application shall be determined by the Planning Board. Along with filing the application,
 26 the applicant shall submit a revised site plan, and shall pay a fee in accordance with Section 27-
 27 297. The Planning Board shall hold a hearing on the request in accordance with the Rules of
 28 Procedure established by the Planning Board. The Planning Board shall give notice of the
 29 hearing in a manner determined by the Planning Board. The Planning Board's decision shall be
 30 in the form of a resolution. A copy of the resolution shall be sent to all persons of record and the
 31 Clerk of the Council.

1 [(2)] (3) If the change is approved, the revised site plan shall be made a part of the
2 record of the original application.

3 [(3)] (4) The revised site plan shall comply with all applicable requirements of this
4 Subtitle, and with any conditions, relating to the use, imposed in the approval of the Special
5 Exception or of any applicable Zoning Map Amendment, subdivision plat, or variance.

6 [(4)] (5) A notice shall be sent in accordance with Section 27-125.01.

7 **[(b) Less than five (5) acres in size.**

8 (1) Changes of site plans for property of less than five (5) acres may be permitted by
9 the Planning Board, provided that either of the following two (2) situations exists:

10 (A) Situation No. 1.

11 (i) There is a proposed increase in gross floor area of a building or in land
12 area covered by a structure other than a building (over that approved on the original site plan)
13 which is not greater than ten percent (10%) of the gross floor area or covered land area or five
14 hundred (500) square feet, whichever is less (see Figure 40); or

15 (ii) There is a proposed relocation (in any direction) of any improvement
16 (approved on the original site plan) which is not greater than ten percent (10%) of the distance to
17 the boundary line of the Special Exception property or twenty (20) feet, whichever is less (see
18 Figure 41).

19 (B) Situation No. 2.

20 (i) There is a proposed change in the design of a parking lot or loading
21 area; or

22 (ii) There is a proposed change in a landscape plan.

23 **(c) Five (5) or more acres in size.**

24 (1) Changes of site plans for property of greater than five (5) acres may be permitted
25 by the Planning Board, provided that either of the following two (2) situations exists:

26 (A) Situation No. 1.

27 (i) There is a proposed increase in gross floor area of a building or in land
28 area covered by a structure other than a building (over that approved on the original site plan)
29 which is not greater than fifteen percent (15%) of the gross floor area or covered land area (see
30 Figure 40); or

(ii) There is a proposed relocation (in any direction) of any improvement (approved on the original plan) which is not greater than fifteen percent (15%) of the distance to the boundary line of the Special Exception property or twenty (20) feet, whichever is less (see Figure 41).

(B) Situation No. 2.

(i) There is a proposed change in the design of a parking lot or loading area; or

(ii) There is a proposed change in a landscape plan.]

(b) Minor changes, Planning Board.

(1) The Planning Board is authorized to approve the following minor changes:

(A) An increase of no more than fifteen percent (15%) in the gross floor area of a building;

(B) An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;

(C) The redesign of parking or loading areas; or

(D) The redesign of a landscape plan.

(2) The Planning Board is further authorized to approve the minor changes described in (d) and later subsections below.

(3) In reviewing proposed minor changes, the Board shall follow the procedures in (a) above.

(c) Limited minor changes, Planning Director.

(1) The Planning Director is authorized to approve minor changes administratively, without public hearing, in cases listed in (b), but only if the proposed minor changes are limited in scope and nature, including an increase in gross floor area or land covered by a structure other than a building up to ten percent (10%). The Director shall deny any administrative approval request proposing site plan changes which will have a significant impact on adjacent property.

(2) Before approving a minor change, the Director shall make all findings the Planning Board would be required to make, if it reviewed the application.

(3) The Director is not authorized to waive requirements in this Subtitle, grant variances, or modify conditions, considerations, or other requirements imposed by the Planning Board or District Council in any case.

(4) The applicant's property shall be posted within ten (10) days of the Director's acceptance of filing of the application. Posting shall be in accordance with Part 3, Division 1. On and after the first day of posting, the application may not be amended.

(5) The Director may waive posting after determining, in writing, that the proposed minor change is so limited in scope and nature that it will have no appreciable impact on adjacent property.

(6) If posting is waived or a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Director's approval concludes all proceedings.

(7) If the Director denies the application or a timely hearing request is submitted, then the application shall be treated as refiled on the date of that event. The applicant, Director, and Technical Staff shall then follow the procedures for Planning Board review in (a) above.

(d) Changes of golf course site plans.

[(1)] Changes of a site plan for an approved golf course may be permitted by the Planning Board or Planning Director, if authorized, for any modifications or additions which are found to be in accordance with the purposes and uses generally associated with golf courses, including swimming pools, tennis courts, and clubhouses/restaurants. The Planning Board shall not approve any use previously disapproved as part of the original Special Exception.

(e) Changes of pari-mutuel racetrack site plans.

[(1)] Changes of a site plan for an approved pari-mutuel racetrack may be permitted by the Planning Board or Planning Director, if authorized, for any modifications related to racetrack activities, upon submittal of a letter from the Maryland Racing Commission advising that the modifications have been directed or approved by the Commission and are necessary to benefit racing. The Planning Board shall not approve any use previously disapproved as part of the original Special Exception.

(f) Changes of gas station site plans.

(1) Changes of a site plan for an approved gas station may be permitted under the site plan amendment procedures in Section 27-324. The Planning Board and Planning Director may permit the following modifications under the procedures in this Subsection and in (a) and (c) above:

(A) The enlargement or relocation of pump islands;

1 (B) The addition of one (1) pump island;

2 (C) The addition, relocation, or modification of a fence, kiosk, island shelter,
3 island canopy, storage area, trash enclosure, vending area, or lavatory facility;

4 (D) The addition, relocation, or modification of an accessory building used
5 solely for the storage of automotive replacement parts or accessories. The accessory building
6 shall be wholly enclosed. The building shall either be constructed of brick (or another building
7 material similar in appearance to that of the main structure) and placed on a permanent
8 foundation, or it shall be entirely surrounded with screening material. Screening shall consist of
9 a wall, fence, or sight-tight landscaping material, which shall be at least as high as the accessory
10 building. The type of screening shall be approved as a part of the minor change;

11 (E) Any [situation] amendment described in [Subsection] (b)[or (c)] above.

12 (2) The Planning Board's decision shall be sent to all persons of record in the hearing
13 before the Planning Board, and to the District Council. This decision may be appealed to the
14 District Council upon petition by any person of record. The petition shall be filed with the Clerk
15 of the Council within thirty (30) days after the date of the notice of the Planning Board's
16 decision. The District Council may vote to review the Planning Board's decision on its own
17 motion within thirty (30) days after the date of the notice. The Clerk of the Council shall notify
18 the Planning Board of any appeal or review decision. Within seven (7) calendar days after
19 receiving this notice, the Planning Board shall transmit to the District Council a copy of all
20 written evidence and materials submitted for consideration by the Planning Board, a transcript of
21 the public hearing on the revised plan, and any additional information or explanatory material
22 deemed appropriate. The District Council shall schedule a public hearing on the appeal or
23 review. The Council shall give at least fourteen (14) calendar days notice of the hearing to all
24 persons of record and the Planning Board, all of whom shall be entitled to appear at the hearing.
25 Testimony at the hearing shall be limited to the facts and information contained within the record
26 made at the hearing before the Planning Board. Within sixty (60) days after the close of the
27 Council's hearing, the Council shall affirm, reverse, or modify the decision of the Planning
28 Board, or return the revised plan to the Planning Board to take further testimony or reconsider its
29 decision. Where the Council approves a revised site plan, it shall make the same findings which
30 are required to be made by the Planning Board. If the Council fails to act within the specified
31 time, the Planning Board's decision is automatically affirmed. The Council shall give its

1 decision, in writing, stating the reasons for its action. Copies of the decision shall be sent to all
2 persons of record and the Planning Board.

3 **(g) Changes of adaptive reuse of surplus public school site plans.**

4 (1) Changes of a site plan for an approved adaptive reuse of a surplus public school
5 may be permitted by the Planning Board or Planning Director, if authorized, for the following
6 modifications:

7 (A) The relocation or addition of porches, patios, decks, exterior stairways, and
8 the like;

9 (B) The relocation or addition of accessory storage buildings, playground
10 equipment, picnic areas, barbecue pits, bicycle and pedestrian ways, and the like;

11 (C) The relocation or addition of driveways and off-street parking lots and
12 loading areas;

13 (D) The relocation or addition of landscaping or screening areas;

14 (E) The relocation or addition of fences and retaining walls; and

15 (F) The relocation of freestanding business signs.

16 **(h) Changes of multifamily housing for elderly/handicapped site plans.**

17 [(1)] Changes of a site plan for approved multifamily housing for the elderly and/or
18 handicapped may be permitted by the Planning Board or Planning Director, if authorized, in
19 order to increase the amount of off-street parking. The Planning Board shall not approve any
20 change previously proposed and specifically disapproved as part of the original Special
21 Exception.

22 **(i) Changes of drive-in and fast-food restaurant site plans.**

23 (1) Changes of a site plan for an approved drive-in or fast-food restaurant may be
24 permitted under the site plan amendment procedures in Section 27-324. The Planning Board
25 may permit the following modifications under the procedures in this Subsection and (a) and (c)
26 above:

27 (A) The addition, relocation, or modification of a freezer on the sides or rear of
28 the restaurant building;

29 (B) The addition, relocation, or modification of gross floor area in order to
30 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 [situation] amendment described in [Subsection] (b) [or (c)] above.

(2) The Planning Board's decision [(resolution)] shall be sent to all persons of record in the hearing before the Planning Board and to the District Council. This decision may be appealed to the District Council upon petition of any person of record. The petition shall be filed with the Clerk of the Council within thirty (30) days after the date of the notice of the Planning Board's decision. The District Council may vote to review the Planning Board's decision on its own motion within thirty (30) days after the date of the notice. The Clerk of the Council shall notify the Planning Board of any appeal or review decision. Within seven (7) calendar days after receiving this notice, the Planning Board shall transmit to the District Council a copy of the file on the proposed revision, all written evidence and materials submitted for consideration by the Planning Board, a transcript of the public hearing on the revised plan, and any additional information or explanatory material deemed appropriate. The District Council shall schedule a public hearing on the appeal or review. The Clerk of the Council shall give at least fourteen (14) calendar days notice of the hearing to all persons of record and the Planning Board, all of whom shall be entitled to appear at the hearing. Testimony at the hearing shall be limited to the facts and information contained within the record made at the hearing before the Planning Board. Within sixty (60) days after the close of the Council's hearing, the Council shall affirm, reverse, or modify the decision of the Planning Board, or return the revised plan to the Planning Board to take further testimony or reconsider its decision. Where the Council approves a revised site plan, it shall make the same findings that are required to be made by the Planning Board. If the Council fails to act within the specified time, the Planning Board's decision is automatically affirmed. The Council shall give its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record and the Planning Board.

(j) Changes of site plans for uses within a Chesapeake Bay Critical Area Overlay Zone.

[(1)] Changes of a site plan for an approved use within a Chesapeake Bay Critical Area Overlay Zone may be approved by the Planning Board, if such changes are necessary in order to

conform to the approved Conservation Plan and Conservation Agreement. The Planning Board shall not approve any change previously proposed and specifically disapproved as part of the original Special Exception.

(k) Changes of site plans necessitated by erosion/sediment control or stormwater management regulations.

(1) Changes of a site plan not otherwise provided for in this Section, for an approved use for which on-site erosion/sediment control or stormwater management facilities are required, may be permitted by the Planning Board or Planning Director, if authorized, provided that:

(A) Such changes are the minimum necessary in order to conform to the approved plans for the required erosion/sediment control or stormwater management facilities and do not include the relocation of stormwater management facilities onto land not proposed for development; and

(B) The agency having jurisdiction over approval of those plans advised the Planning Board that development in accordance with the approved Special Exception site plan would result in a violation of erosion/sediment control or stormwater management regulations.

(l) Changes of site plans for public electric utility uses or structures.

[(1)] The Planning Board or Planning Director, if authorized, may permit changes to a site plan for approved public electric utility uses or structures for the addition, relocation, or modification of foundations and equipment, including ground wires, control houses, and associated structures, within the existing fence line.

(m) Changes of marina site plans.

[(1)] Changes of a site plan for approved marinas may be permitted by the Planning Board or [its designee] Planning Director, if authorized, for renovation in kind, replacement or repair for facilities such as the bulkheads or boat slips, floating and fixed docks boat storage facilities and other structures. [Any other changes require Planning Board approval.]

PART 11. OFF-STREET PARKING AND LOADING.

DIVISION 4. EXCLUSIONS, WAIVERS, AND DEPARTURES.

Sec. 27-587. Departures from Design Standards.

(a) Authorization.

(1) In order to accomplish the purposes of this Part, the Design Standards (Division 2, Subdivision 2; and Division 3, Subdivision 2) shall normally be complied with. A departure

1 from these Design Standards may be permitted by the Planning Board or Planning Director, [in
2 accordance with the provisions of Section 27-239.01,] or by a municipality if this authority has
3 been delegated by the District Council to a Municipal Corporation or through the establishment
4 of a Revitalization Overlay District.

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

7 (3) The Planning Director is authorized to approve administratively, without public
8 hearing, limited departures from Design Standards, for a maximum of ten percent (10%) of
9 standard requirements. The Director shall follow procedures and make the findings required in
10 Part 3, Division 5.

11 **Sec. 27-588. Departures from the number of parking and loading spaces required.**

12 (a) **Authorization.**

13 (1) In order to accomplish the purposes of this Part, the numbers of off-street parking
14 and loading spaces required by Sections 27-568 and 27-582 shall generally be provided. A
15 departure from these minimum numbers of spaces may be permitted by the Planning Board or
16 Planning Director, in accordance with this Section, or by a municipality if this authority has been
17 delegated by the District Council to a Municipal Corporation or through the establishment of a
18 Revitalization Overlay District.

19 (b) **Procedures.**

20 (1) **Application.**

21 (A) All requests for a departure shall be in the form of an application filed with
22 the Planning Board. The Planning Board shall determine the contents of the application and
23 shall provide the application form.

24 (B) The application form shall be accompanied by the following:

25 (i) Three (3) copies of a site plan and other graphic illustrations which are
26 considered necessary to clearly indicate what is being proposed;

27 (ii) Three (3) copies of a written statement by the applicant addressing the
28 requirements of paragraph (8), below. The applicant shall be responsible for providing all
29 information that is necessary for the Planning Board to make its decision under paragraph (8);

(iii) A list containing the names and addresses of each municipality if any part of the property in the application is located within the municipal boundaries or is located within one (1) mile of the municipality, and a set of preaddressed envelopes or mailing labels.

(2) **Fees.**

(A) Upon filing the application, the applicant shall pay to the Planning Board a filing fee to help defray the costs related to processing the application. The filing fee shall be determined by the Planning Board; except that a fee for a departure for a church or other place of worship (operated as a permitted use in a building originally constructed as a one-family detached dwelling) shall not exceed One Hundred dollars (\$100.00). A reduction in the fee may be permitted by the Planning Board when it finds that payment will cause undue hardship upon the applicant.

(B) In addition to the filing fee, a sign posting fee shall also be paid by the applicant to the Planning Board at the time the application is filed. The fee shall be determined by the Planning Board. No part of the fee shall be refunded or waived, unless the Planning Board determines that one (1) of the following applies:

(i) The fee was paid by mistake, and the applicant has requested (in writing) a refund; or

(ii) The application is withdrawn prior to posting the signs. In this case the entire sign posting fee shall be refunded.

(3) **Hearing.**

(A) Prior to making a decision on the departure, the Planning Board shall hold a public hearing on the matter. The Planning Board shall determine the procedures under which the hearing will be held.

(4) **Notice.**

(A) Notice of public hearing.

(i) Notice of the date, time, and place of the hearing shall be sent to all persons of record, any municipality within which the subject property is located, and each municipality located within one (1) mile of the subject property. Other than posting (see subparagraph (B), below), additional notice may be provided by the Planning Board.

(B) Posting.

(i) The Planning Board shall post the property with a durable sign at least fifteen (15) days prior to the scheduled hearing date. Signs shall be posted in accordance with Section 27-142.01.

(C) Informational mailing.

(i) A notice shall be sent in accordance with Section 27-125.01.

(5) **Technical Staff Report.**

(A) The Technical Staff shall analyze the request, and shall forward its comments and recommendations to the Planning Board. These comments and recommendations shall be available for public examination at least seven (7) calendar days prior to the public hearing.

(6) **Record.**

(A) The record shall consist of:

- (i) The application form and accompanying data;
- (ii) Comments and recommendations of the Technical Staff;
- (iii) All correspondence relative to the application;
- (iv) All testimony at the public hearing; and
- (v) Other items which the Planning Board deems necessary.

(7) **Planning Board decision.**

(A) After the close of the record, the Planning Board shall take action on the request. The decision of the Planning Board shall be based on the record, and shall be embodied in a resolution adopted at a regularly scheduled public meeting.

(B) The Planning Board shall give written notice of its decision to all persons of record and the District Council.

(8) **Required findings.**

(A) In order for the Planning Board to grant the departure, it shall make the following findings:

- (i) The purposes of this Part (Section 27-550) will be served by the applicant's request;
- (ii) The departure is the minimum necessary, given the specific circumstances of the request;

(iii) The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;

(iv) All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and

(v) Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.

(B) In making its findings, the Planning Board shall give consideration to the following:

(i) The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within five hundred (500) feet of the subject property;

(ii) The recommendations of an Area Master Plan, or County or local revitalization plan, regarding the subject property and its general vicinity;

(iii) The recommendations of a municipality (within which the property lies) regarding the departure; and

(iv) Public parking facilities which are proposed in the County's Capital Improvement Program within the general vicinity of the property.

(C) In making its findings, the Planning Board may give consideration to the following:

(i) Public transportation available in the area;

(ii) Any alternative design solutions to off-street facilities which might yield additional spaces;

(iii) The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within five hundred (500) feet of the subject property;

(iv) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and

1 aged will be increased over the minimum number of units required by Subtitle 4 of the Prince
2 George's County Code.

3 (9) **Appeal.**

4 (A) The Planning Board's decision may be appealed to the District Council upon
5 petition of any person of record. The petition shall be filed with the Clerk of the Council within
6 thirty (30) calendar days after the date of the notice of the Planning Board's decision. The
7 District Council may vote to review the Planning Board's decision on its own motion within
8 thirty (30) days after the date of the notice.

9 (B) The Clerk of the Council shall notify the Planning Board of any appeal or
10 review decision. Within seven (7) calendar days after receiving this notice, the Planning Board
11 shall transmit to the District Council a copy of the file on the proposed departure from Design
12 Standards, all written evidence and materials submitted for consideration by the Planning Board,
13 a transcript of the public hearing on the proposed departure, and any additional information or
14 explanatory material deemed appropriate.

15 (C) The District Council shall schedule a public hearing on the appeal or review.
16 The hearing shall be held in accordance with Section 27-132 (District Council hearing
17 procedures). The Clerk of the Council shall give at least fourteen (14) calendar days notice of
18 the hearing to all persons of record and the Planning Board, all of whom shall be entitled to
19 appear at the hearing. Testimony at the hearing shall be limited to the facts and information
20 contained within the record made at the hearing before the Planning Board. In addition, the
21 Council may take judicial notice of any evidence contained in the record of any earlier phase of
22 the approval process relating to all or a portion of the same property, including the approval of a
23 preliminary plat of subdivision.

24 (D) After the close of the Council's hearing, the Council shall affirm, reverse, or
25 modify the decision of the Planning Board, or return the proposed departure to the Planning
26 Board to take further testimony or reconsider its decision.

27 (E) The Council may only approve a departure from the minimum number of
28 off-street parking and loading spaces required contrary to the recommendation of a municipality
29 containing the subject land within its boundaries, upon an affirmative vote of two-thirds (2/3) of
30 the members of the full Council.

(F) The Council shall give its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record and the Planning Board.

(10) Applicability of the departure.

(A) An approved departure shall apply only to the use specified in the application.

(c) Limited departures from the number of parking and loading spaces required.

(1) The Planning Director is authorized to approve administratively, without public hearing, limited departures from the number of parking and loading spaces required.

(2) Limited departures may be approved for a maximum of ten percent (10%) of standard requirements, not to exceed 100 parking spaces or one loading space.

(3) Before approving a limited departure, the Director shall make the findings required in (b)(8) above and all others the Planning Board would be required to make, if it reviewed the application.

(4) The Director is not authorized to waive requirements in this Subtitle, grant variances, or modify conditions, considerations, or other requirements imposed by the Planning Board or District Council in any case.

(5) The applicant's property shall be posted within ten (10) days of the Director's acceptance of filing of the application. Posting shall be in accordance with Part 3, Division 1. On and after the first day of posting, the application may not be amended.

(6) If a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Director's approval concludes all proceedings.

(7) If the Director denies the application or a timely hearing request is submitted, then the application shall be treated as refiled on the date of that event. The applicant, Director, and Technical Staff shall then follow the procedures for Planning Board review in (b) above.

(d) Departures not permitted.

[(1)] A departure from the number of spaces required for the physically handicapped (Section 27-566) shall not be granted unless an exception from the requirements for the handicapped in applicable building codes has been obtained from the State and County agencies responsible for administering those codes. If the exception is granted, this Section may be applied to Section 27-566.

PART 12. SIGNS.

DIVISION 2. ADMINISTRATION.

SUBDIVISION 4. DEPARTURES FROM DESIGN STANDARDS.

SUBDIVISION 4. DEPARTURES FROM SIGN DESIGN STANDARDS.

Sec. 27-612. Authorization and procedures.

(a) Except for [the] signs exempt from permit requirements [set forth] ,as provided in Section 27-602, departures from [the] sign design standards may be permitted by the Planning Board or Planning Director, [in accordance with the provisions of Section 27-239.01,] or by a municipality if this authority has been delegated by the District Council to a Municipal Corporation or through the establishment of a Revitalization Overlay District.

(b) No departures from [Design Standards] design standards shall be permitted for any sign erected in violation of this Subtitle, and for which a sign permit was not obtained at the time the sign was erected.

(c) No departures from design standards shall be permitted for any sign in the U-L-I Zone.

(d) The Planning Board is authorized to approve departures from sign design standards, under procedures and requirements in Part 3, Division 5.

(e) The Planning Director is authorized to approve administratively, without public hearing, limited departures from sign design standards, for a maximum of ten percent (10%) of standard requirements. The Director shall follow procedures and make the findings required in Part 3, Division 5.

1 SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
2 (45) calendar days after its adoption.

Adopted this 18th day of June, 2002

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Acting Clerk of the Council

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.