

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed ROSP-3728-02, McDonald’s – Allentown Road, requesting a revision of the site plan to replace an existing 4,259-square-foot building with a 4,393-square-foot building, and to replace the existing single-lane drive-through with a dual-lane drive-through 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 May 1, 2014, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is a combination of two parcels located at the southwest corner of the intersection of Temple Hill Road and Allentown Road. The site, also known as 7100 Allentown Road, is improved with a one-story, brick, fast-food restaurant with a drive-through window and an asphalt parking lot. The building is located on Parcel A in the Commercial Shopping Center (C-S-C) Zone, while most of the parking is contained on Parcel 86 in the One-Family Detached Residential (R-80 Zone). Access to the site is gained from Allentown Road via two driveways (one full, one right-in/right-out) and from a single driveway along Temple Hill Road. The applicant is proposing to close the right-in/right-out driveway along Allentown Road. The use is separated from a residence to the southwest by a 75-foot-wide landscaped buffer and an eight-foot-high fence.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-S-C/R-80	C-S-C/R-80
Use(s)	Fast-Food Restaurant	Fast-Food Restaurant
Gross Floor Area (GFA)	4,259 sq. ft.	4,393 sq. ft.
Acreage	1.91	1.91
Parcels	2	2

C. **History:** The original McDonald’s on Parcel A was established in 1965 as a permitted use. In 1984, the use was certified nonconforming due to changes in the Prince George’s County Zoning Ordinance which required a special exception for a fast-food restaurant. The District Council approved Special Exception SE-3728 in 1987 to bring the use into compliance. At the same time, the District Council also approved SE-4736 to allow parking on the residentially-zoned Parcel 86 to serve the special exception use. In 1991, the Prince George’s County Planning Board approved the first minor revision to the special exception site plan to add a soft play land and shift the location of the bike racks and flagpoles. On June 11, 2013, the District Council approved County Council Bill CB-14-2013, which makes an eating and drinking establishment with drive-through service a permitted use provided the subject property is subject to a previously approved special exception for a parking lot on residential land serving an adjacent property in a commercial zone and the adjacent property is developed with an eating or drinking establishment with drive-through

service. Thus, the portion of the building and parking on Parcel 86 is now a permitted use no longer requiring a special exception. However, it is an integral part of the development, providing the parking and has a portion of the building on it. While the application reflects only the 0.835 acre contained in Parcel A, the Planning Board has reviewed the case based on the total acreage of both parcels as a matter of expediency. This is the second minor revision to the site plan.

- D. **Master Plan Recommendation:** This application conforms to the land use recommendations of the 2006 *Approved Master Plan and Sectional Map Amendment for Henson Creek-South Potomac Planning Area* (Henson Creek-South Potomac Master Plan and SMA). The subject property is within the Padgett's Corner Activity Center. The master plan envisions this area as a community-scaled commercial area that supports the residential neighborhoods by providing locally serving retail, offices, and public uses closely integrated with residential development. The 2002 *Prince George's County Approved General Plan* (General Plan) classified the site in 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.
- E. **Request:** The applicant is proposing to raze and rebuild the McDonald's fast-food restaurant that has existed at this location since 1965. The resulting restaurant would be slightly larger and incorporate new architectural features and materials. The applicant is also requesting a departure of 16 parking spaces, since some of the existing parking on the site would be taken by a proposed dual-lane drive-through and relocation of the trash enclosure. The applicant is further requesting alternative compliance from the 2010 *Prince George's County Landscape Manual*; more specifically from Section 4.6 (Buffering Development from Special Roadways) along Allentown Road and from Section 4.7 (Buffering Incompatible Uses) along the western and southern property lines.
- F. **Neighborhood and Surrounding Uses:** The neighborhood previously identified as appropriate in this case is bounded on the north by Allentown Road, on the east by Temple Hill Road, and on the south and west by Webster Lane and the Tinkers Creek Stream Valley Park. This neighborhood includes a mixture of commercial and residential uses. The western and southern portions of the neighborhood contain single-family residences, a church, and a regional park.

The property is surrounded by the following uses:

North— Across Allentown Road is a gas station and a small shopping center in the C-S-C Zone.

East— Across Temple Hill Road is Padgett's Corner Shopping Center in the C-S-C Zone.

South and West— Single-family residences in the R-80 Zone.

- G. **Required Findings:** Section 27-325(a) of the Zoning Ordinance authorizes the Planning Board and the Planning Director to approve certain minor changes to approved special exception site

plans. The following sections also provide the parameters for what constitutes a minor change, specific criterion for varied approvals, and minor changes to fast-food restaurant site plans:

Section 27-325(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.**

The proposed revisions will not increase the gross floor area of the use beyond 15 percent and is, therefore, eligible for review as a minor change. The proposal also involves the redesign of the parking area and landscape plan.

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 proposed relocation of the trash enclosure in the parking area is permitted by this section of the Zoning Ordinance.

Section 27-350. Drive-in or fast-food restaurant.

- (a) A drive-in or fast-food restaurant may be permitted, subject to the following:
- (1) All proposed buildings, structures, and outdoor facilities (including vehicle parking) shall be located at least two hundred (200) feet from the nearest property line of any land in any Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may reduce this setback requirement when it determines that the landscaping, screening, and buffering requirements in the Landscape Manual, or other conditions, will adequately protect abutting residential property;
 - (2) A bicycle rack for at least six (6) bicycles shall be provided on the premises, unless the applicant demonstrates to the satisfaction of the District Council that the requirement is inappropriate because of the location or nature of the establishment;
 - (3) The use will not restrict the availability, or upset the balance, of land use in the neighborhood for other commercial uses; and
 - (4) Special consideration shall be given to advertisement, outdoor display, outdoor activity, lighting, hours of operation, and other aspects of the proposed operation to assure that the health, safety, and general welfare of the community will be protected.
- (b) A special exception shall not be required for the conversion of a drive-in restaurant to a fast-food restaurant, or the conversion of a fast-food restaurant to a drive-in restaurant, provided that no enlargement or extension takes place. The addition of a window or other facility to provide for drive-in service shall not be construed to be an enlargement or extension. The conversion shall be permitted for a drive-in or fast-food restaurant which has become a certified nonconforming use or was established pursuant to a Special Exception, provided that any conditions of the Special Exception remain in effect.

The application satisfies the specific requirements for a fast-food restaurant found in Section 27-350. The use has served the community for almost 50 years and is compatible with all of the adjacent uses. On March 9, 1987, through their approval of SE-3728, the District Council waived the 200-foot setback requirement and found that the use will not unduly restrict the availability of land or upset the balance of land use in the neighborhood for other uses. The Planning Board believes these findings continue to be valid.

H. **Landscape Manual Requirements and Alternative Compliance Request:** The application is subject to Section 4.2, Requirements for Landscaped Strips along Streets; Section 4.3, Parking Lot Requirements; Section 4.4, Screening Requirements; Section 4.6, Buffering Development from Special Roadways; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) because it involves an increase in gross floor area and impervious surface. The applicant has filed this request for Alternative Compliance from Section 4.6, Buffering Development from Special Roadways, along Allentown Road and from Section 4.7, Buffering Incompatible Uses, along the western and southern property lines.

REQUIRED: Section 4.6, Buffering Development from Special Roadways, along Allentown Road.

Length of bufferyard:	266 feet
Minimum bufferyard width:	20 feet
Fence:	No
Plant Units (80 per 100 linear feet)	213

PROVIDED: Section 4.6, Buffering Development from Special Roadways, along Allentown Road.

Length of bufferyard:	266 feet
Bufferyard width:	10–36 feet
Fence:	No
Plant Units	234

REQUIRED: Section 4.7 Buffering Incompatible Uses, along the western property line, adjacent to an existing single-family detached house.

Length of bufferyard:	328 feet
Minimum building setback:	50 feet
Landscape yard:	40 feet
Bufferyard occupied by in ex. trees:	0 percent
Fence or wall:	Yes
Plant Units (160 per 100 l. f.):	263

PROVIDED: Section 4.7 Buffering Incompatible Uses, along the western property line, adjacent to an existing single-family detached house.

Length of bufferyard:	328 feet
Minimum building setback:	120+ feet

Landscape yard:	39–40 feet
Bufferyard occupied by in ex. trees:	0 percent*
Fence or wall:	Yes, six-foot-high, sight-tight fence
Plant units:	263*

*Note: The proposed plant units include individual existing landscape trees that are to remain, so they are not counted as a percentage of the bufferyard.

REQUIRED: Section 4.7 Buffering Incompatible Uses, along the southern property line, adjacent to a vacant residentially-zoned property.

Length of bufferyard:	94 feet
Minimum building setback:	50 feet
Landscape yard:	40 feet
Bufferyard occupied by in ex. trees:	75 percent
Fence or wall:	Yes
Plant Units (160 per 100 l. f.):	19**

**Note: Fifty percent reduction allowed for provision of additional sight-tight fence.

PROVIDED: Section 4.7 Buffering Incompatible Uses, along the southern property line, adjacent to a vacant residentially-zoned property.

Length of bufferyard:	94 feet
Minimum building setback:	184+ feet
Landscape yard:	26.5–40 feet
Bufferyard occupied by in ex. trees:	75 percent
Fence or wall:	Yes, six-foot-high, sight-tight
Plant units:	20***

***Note: Plant unit count if revised as conditioned; discussion below.

Justification of Recommendation

The underlying ROSP application proposes to tear down and redevelop the existing McDonald’s fast-food restaurant with drive-through and parking lot. The applicant is requesting Alternative Compliance from Section 4.6, Buffering Development from Special Roadways, and Section 4.7, Buffering Incompatible Uses, of the Landscape Manual.

In the Developed Tier, a Section 4.6 minimum 20-foot-wide buffer, planted with 80 plant units per 100 linear feet, is required along the property’s Allentown Road frontage since it is a designated historic road. The proposed parking lot encroaches into this 20-foot width by up to 10 feet for

approximately 75 linear feet. As an alternative to the normal requirements of Section 4.6, the applicant states that they are providing a 10- to 36-foot-wide varying buffer, with an average of 20 feet, and the full quantity of plant materials required, plus an additional 20 units which are concentrated in the reduced width area. The Planning Board agrees that the additional bufferyard area and plant materials will aid in creating a substantial buffer between the proposed development and the designated historic roadway. Given the provision of more than the required amount of plants and the additional bufferyard area, the Planning Board finds the applicant's proposed alternative compliance measures to be equally effective as normal compliance with Section 4.6 of the Landscape Manual.

A Section 4.7, Type D bufferyard, which includes a 50-foot building setback and a 40-foot landscaped yard, is required along the western property boundary adjacent to an existing single-family detached home. The proposed parking lot encroaches into the required landscaped yard by one foot, reducing it to a minimum width of 39 feet at the southern end of the site. The applicant is asking for relief due to the fact that the encroachment occurs farthest away from the actual house and the landscaped yard measures over 70-feet-wide at the northern end closest to the house. Additionally, the full amount of plant material, including a six-foot-high, solid, sight-tight fence is being provided along the entire property line. During plan review, it was discovered that a small wedge of property at the northwestern corner of the site was illegally deeded to the subject site and would have to revert back to the adjacent property to the west. This would cause the proposed fence and landscaped yard area to shift further to the east to be fully on the subject property. The plans were not revised to show this as the applicant is still working through the issue with staff. It appears that this shift would not affect the plan's alternative conformance with Section 4.7; however, if it does, a revision to the alternative compliance approval would be necessary prior to issuance of any grading permit. Given the provision of the full required amount of plants and the minor nature of the reduction farthest away from the adjacent incompatible use, the Planning Board finds the applicant's proposed alternative compliance measures to be equally effective as normal compliance with Section 4.7 of the Landscape Manual.

A Section 4.7, Type D bufferyard, which includes a 50-foot building setback and a 40-foot landscaped yard, is required along the southern property boundary adjacent to vacant residentially-zoned land. The proposed dumpster enclosure encroaches into the required landscaped yard, reducing it to a minimum width of 26.5 feet for approximately 35 linear feet. The applicant is asking for relief due to the fact that the dumpster area will be enclosed by an eight-foot-high masonry wall, in addition to the six-foot-high, solid, sight-tight fence being provided along the entire property line. Approximately 75 percent of the bufferyard is covered by existing woods and the applicant does not propose to add any more plant units. The Planning Board recommends that the plan should be revised to provide four additional evergreen trees, adjacent to the dumpster enclosure area, within the bufferyard. This would add to the total screening provided between these incompatible uses in the area of encroachment. Given the provision of the full required amount of plants, if revised as conditioned, and the provision of a sight-tight fence, the Planning Board finds the applicant's proposed alternative compliance measures to be equally effective as normal compliance with Section 4.7 of the Landscape Manual.

An error was made with the plan's conformance to the requirements of Section 4.3, Parking Lot Requirements. The plan counts two shade trees provided along the southern edge of the parking lot towards meeting the interior planting requirements, when they cannot count if they are outside of the perimeter of the parking lot. Additionally, the plan counts two ornamental trees provided along the western edge of the parking area towards meeting the interior planting requirements, when they are outside the perimeter of the parking lot and they are not shade trees. Therefore, a recommended condition for revisions has been included in order to address these deficiencies.

- I. **Sign Requirements:** Section 27-614(a)(4) of the Zoning Ordinance requires freestanding signs in all commercial and industrial zones (except the I-3 Zone), to be located at least ten feet behind the street line. The existing sign is shown to be relocated slightly to meet the required setback and is shown to be 25 feet in height, the maximum permitted.
- J. **Referral Comments:** None of the referral replies received had any objection to the application. The Transportation Planning Section agrees that the 50 spaces should be adequate to serve the use based on the studies of restaurants with a drive-through. The Environmental Planning Section indicated that the site is exempt from the Woodland and Wildlife Habitat Conservation Ordinance and the Tree Canopy Coverage Ordinance requirements, and that no environmental issues were identified.
- K. **Zone Standards:** The site plan, with the approved request for alternative compliance and departure, along with recommended conditions, will be in conformance with all zoning requirements and regulations.
- L. **Subdivision Issues:** The current configuration of the property is the result of several divisions of land which took place after January 1, 1982. Parcel 86, which currently contains 1.08 acres of land, was created on April 2, 1987 being a part of Parcel 153 (Liber 685 at Folio 263) and a part of Lot 1 as shown on a plat of subdivision entitled, "Lots 1 thru 3, Reader's Division" (Plat Book NLP 116-82). The Quit-Claim Deed for part of Lot 1 was recorded in Liber 6178 at Folio 467 on September 20, 1985. Neither of these deed divisions meet a legal exemption provided for in Sections 24-107 or 24-111 of the Subdivision Regulations. Subsequent to the aforementioned illegal deed divisions, two fee-simple conveyances of land were made to Prince George's County along the northern property boundaries that abut Allentown Road and Temple Hill Road, recorded in Liber 6969 at Folio 487 on May 12, 1988 and in Liber 15455 at Folio 668 on February 6, 2002. These public dedications were legal divisions of land pursuant to Section 24-107 of the Subdivision Regulations.

The second illegal division should be rectified by recording a corrective deed for Lot 1 and Parcel 86 to make Lot 1 whole as reflected on Plat NLP 116-82. The special exception site plan should reflect the reduction in site area (1,688 square feet) and change in property boundary prior to approval. To resolve the first illegal division, the course of action that is most in line with the requirements of the Subdivision Regulations would be to recreate the original parent tract by consolidating Parcel 86 with adjacent Parcel 153 (Liber 13815 at Folio 599) by deed, plat the

consolidated property, and then adjust the lots lines of the new parcel with Parcel A to achieve the desired property boundary.

The Planning Board acknowledges that there have been several approved development applications and permits since the illegal division occurred in 1985 and 1987, and the onerous nature of a condition that would require the applicant to enter into a contractual agreement with the owner of Parcel 153, over 25 years after the division. As an alternative, a final plat for Parcel 86 should be approved and recorded to bring it into a legal status, subsequent to recordation of the corrective deed removing the part of Lot 1 from the site area. The total cumulative development on the property, however, should be restricted to 5,000 square feet of gross floor area, or one single-family dwelling, in accordance with Section 24-107(c)(7) of the Subdivision Regulations, a limitation which would have been in place if a legal subdivision would have occurred.

M. **Required Findings:** Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle;

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

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

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

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

The nature and intensity of the use will not be changed, so the master plan's commercial land use recommendation will not be impaired; nor the 50-year history of the use's compatibility at this location. Thus, the proposed use will not substantially impair the integrity of any validly approved master plan or functional master plan, or in the absence of a master plan or functional master plan, the General Plan.

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

None of the responses from any of the referring agencies received by staff indicate that the continuation of this use, with the included conditions, will adversely affect the health, safety, or welfare of residents or workers in the area. By redesigning the interior traffic flow and reducing the access points from three to two, the applicant is improving the safety of the site significantly.

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

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

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

This property is exempt from the provisions of the Woodland and Wildlife Habitat Conservation Ordinance and the Tree Canopy Coverage Ordinance because the site contains less than 10,000 square feet of woodland. A letter of exemption dated August 9, 2012 was submitted.

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

There are no regulated environmental features on the site.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Alternative Compliance No. AC-14003, and further APPROVED the Revision of Site Plan ROSP-3728-02, subject to the following conditions:

1. Prior to final disposition of the case, the applicant shall:
 - a. Revise the site plan general notes to specify the building gross floor area proposed on each parcel.

- b. Revise the landscape plan to reflect the legal western property line and adjust the fence, plants, and landscape requirements, if necessary. If this results in a further reduction in conformance to the Section 4.7 requirements of the 2010 *Prince George's County Landscape Manual* than what is approved herein, a revision to the alternative compliance approval shall be approved prior to issuance of any grading permit.
 - c. Revise the landscape plan to add a minimum of four evergreen trees, adjacent to the proposed dumpster enclosure, within the Section 4.7 bufferyard along the southern property line.
 - d. Revise the landscape plan to provide ten shade trees within planting areas within the interior of the parking lot in conformance with the requirements of Section 4.3 of the 2010 *Prince George's County Landscape Manual*.
2. Prior to approval of a permit, a final plat shall be approved and recorded for Parcel 86. The final plat shall include the following note:

“This plat has been prepared in accordance with Section 24-107(c)(7) of the Subdivision Regulations. The total cumulative development of more than 5,000 square feet of gross floor area or more than one (1) single-family dwelling shall require a new Preliminary Plan of Subdivision.”
3. Prior to approval of the final plat for Parcel 86, a corrective deed shall be recorded to make Lot 1 whole, as shown on Plat Book NLP 116-82.
4. Prior to final disposition of the case, remove the part of Lot 1 from the special exception area, pursuant to the corrective deed in Condition 3.

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.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Shoaff, Bailey and Hewlett voting in favor of the motion at its regular meeting held on Thursday, May 1, 2014, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 22nd day of May 2014.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator

PCB:JJ:TL:arj