

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed DPLS-387, Comunicar requesting a waiver of six parking spaces from the required nine parking spaces for a tax and travel service office in accordance with Subtitle 27 of the Prince George’s County Code; and

Whereas, the applicant also proposes additional landscaping along the Kenilworth Avenue frontage of the property in order to comply with a request for landscaping from the Town of Riverdale Park; and

WHEREAS, after consideration of the evidence presented at the public hearing on October 24, 2013, the Prince George’s County Planning Board finds:

A. **Location and Field Inspection:** The property, with an address of 5309 Kenilworth Avenue, Riverdale, Maryland, is located in the southeastern quadrant of the intersection of Kennedy Street and Kenilworth Avenue (MD 201) in the Commercial Office (C-O) Zone. The property is currently improved with a 2,272-square-foot, three-story, former single-family detached dwelling and its associated parking lot with three parking spaces, which is presently being used as a tax and travel service office. It is screened from the adjacent residential community by existing six-foot-high wooden fences and an approximately three-foot-high chain-link fence located along part of the northeastern and southwestern property lines. The wooden fence along the northeastern side of the property is very poorly maintained and is deteriorating, and some of the concrete stairwells on MD 201 are crumbling while the other steps are well kept. Both the wooden fence and the concrete stairs need to be repaired. The property has frontage on MD 201 and Kennedy Street. Access to the site is via an existing parking lot from Kennedy Street and a three-foot-wide stairwell on Kenilworth Avenue.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	C-O	Unchanged
Use(s)	Real Estates Sales Office	Tax and Travel Service office
Acreage	0.159	Unchanged
Lots	1	Unchanged
Parcels	N/A	N/A
Square Footage/GFA	6,924 / 2,272	Unchanged
Dwelling Units:	1	Unchanged

C. **History:** The existing building was originally constructed as a single-family dwelling in 1940. The property was rezoned to the C-1 (Local Commercial, Existing) Zone in January 1959 by Zoning Map Amendment ZMA-3247. In July 1982, pursuant to the adoption of a sectional map, the

subject property was rezoned to the C-S-C (Commercial Shopping Center) Zone. In May 1994, pursuant to the adoption of the *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity (Planning Area 69)* (Bladensburg-New Carrollton Master Plan and SMA), the subject property was placed in the C-O Zone. The single-family detached dwelling on the site was converted to commercial use, as a real estate office, in 1968 by the issuance of Use and Occupancy Permit 13903-U and was used as such until 2011. No previously approved site plan could be located from the prior permit to confirm the existing parking and its conformance to prior permit regulations. However, per aerial photos, it appears that the parking spaces on the property with access from Kennedy Street were in existence prior to 1970.

- D. **Master Plan Recommendation:** The property is located in an area identified in the 2002 *Prince George's County Approved General Plan* (General Plan) as the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. This application is consistent with the General Plan Development Pattern policies for the Developed Tier. This application is also in conformance with the Bladensburg-New Carrollton Master Plan and SMA. The master plan's vision is to preserve and enhance established residential areas and protect them from encroachment of incompatible uses.
- E. **Request:** The applicant is requesting a departure of six parking spaces from the required nine parking spaces in the Zoning Ordinance for a tax and travel service office in the C-O Zone.
- F. **Surrounding Uses (refer to the zoning map):**
- | | |
|--------|---|
| North— | Immediately across Kennedy Street, near the intersection of Kennedy Street and Kenilworth Avenue (MD 201), opposite the subject property, is a strip commercial center (i.e. liquor store, Chinese restaurant, grocery store, etc.) in the C-S-C Zone. East of the retail uses are single-family detached homes in the R-55 (One-Family Detached Residential) Zone. |
| South— | Immediately adjacent to the site are residential single-family detached homes in the C-S-C Zone. |
| East— | Contiguous to the subject property is a residential development in the R-55 zone. |
| West— | Across Kenilworth Avenue (MD 201), opposite to the subject property, are various mixtures of commercial office and an established residential single-family development in the C-O Zone. |
- G. **Design Requirements:**
1. **Number of Required Parking and Loading Spaces**—Section 27-568(a)(6) of the Zoning Ordinance requires one parking space for every 250 square feet for the first

2,000 square feet of gross floor area (GFA) and one space for each additional 400 square feet above the first 2,000 square feet of GFA for office space. According to the applicant's parking schedule, the site has a total of 2,272 square feet of office space which requires a total of nine parking spaces.

The site plan shows a total of three parking spaces including one required van-accessible space for the physically-handicapped, and the applicant has additionally reserved a paved portion of the site for his own personal parking use. The plan is deficient by six parking spaces. As a result, a departure from the parking and loading spaces (DPLS) requirement is needed.

2. **Prince George's County Landscape Manual**—The application is exempt from the 2010 *Prince George's County Landscape Manual* (Landscape Manual) pursuant to Section 1.1(b), which states:

Exiting conditions on developed sites not in conformance with the requirements of this manual that were otherwise lawful on December 13, 2010 and not the subject of any building or grading permit, may continue as a matter of right.

3. **Signs**—The site has an existing freestanding sign located within the public right-of-way easement. The site plan indicates that this sign will be removed. No new freestanding signs are proposed for the subject use. Any sign that will be placed on the property must meet all area, height, and setback requirements.

H. **Further Planning Board Findings and Comments from Other Entities:**

The Town of Riverdale Park—The proposed site is located within the Town of Riverdale Park. The Mayor and Council of the Town are in support of the proposed departure request with the stipulation that the applicant is encouraged to install landscaping along the property on Kenilworth Avenue (MD 201), as space allows, as part of an overall beautification effort for the MD 201 corridor.

Department of Permitting, Inspection, and Enforcement (DPIE)—In a memorandum dated August 13, 2013, DPIE stated that on-street parking cannot be designated for use by a private business. DPIE suggested that the applicant investigate shared parking with the commercial property located at the northwest corner of the intersection of Kenilworth Avenue (MD 201) and Kennedy Street as a solution. In addition, DPIE has objections to the proposed DPLS because there are safety and operational concerns about vehicles backing out of the parking spaces onto Kennedy Street, so close to the intersection with MD 201.

Transportation Planning—In memorandum dated August 12, 2013, the Transportation Planning Section recommended that the DPLS be denied because the applicant does not present a reasonable justification or evidence for granting the departure.

Community Planning—In a memorandum dated August 28, 2013, The Community Planning Division stated that a number of the objectives in the Circulation and Transportation section of the Bladensburg-New Carrollton Master Plan and SMA support this departure request. These objectives include “enabling residents and employees to minimize vehicular miles traveled” and “to encourage... and support an efficient and comfortable mass transit system.” By providing fewer parking spaces, the applicant is encouraging visitors and employees to use other forms of transportation. On-street parking is available if needed.

Maryland State Highway Administration (SHA)—SHA has no objection to the proposed use.

I. Required Findings—Departure from Parking and Loading Standards:

1. Section 27-588(b)(7)(A) of the Zoning Ordinance provides that, in order for the Planning Board to grant the departure, it shall make the following findings:

(i) **The purposes of Section 27-550 will be served by the applicant’s request.**

The proposed parking regulations, Section 27-550(a), are as follows:

- (1) **To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;**
- (2) **To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;**
- (3) **To protect the residential character of residential areas; and**
- (4) **To provide parking and loading areas which are convenient and increase the amenities in the Regional District.**

The purposes of the parking regulations will be served by the applicant’s request. The purposes seek to ensure sufficient parking and loading areas to serve the needs of the uses and to aid in relieving traffic congestion on the streets by reducing the use of public streets for parking and loading.

Although the applicant did not submit a parking survey to justify adequate parking or an alternative parking solution for the proposed use, the on-line business strategies and use of public transportation are two alternative solutions suggested by the applicant to address the deficiency of parking. Zoning staff believes that the proposal is sufficient to accommodate the actual parking demand for the use. The site is located in a corner lot

which is surrounded by both residential and commercial uses. The subject property was occupied by a real estate office use for the last 40 years with the same parking area. The property's parking lot is located off of a typical residential street, which is characterized by single-family detached homes on a small lot upon which this property's parking lot is accessed. There is some on-street parking available on the side of Kennedy Street. However, due to the nature of the business, a large number of its customers will not come to the office; rather, they will use internet technology for tax and travel services. Thus, a lesser number of customers are expected to come to the site. Additionally, clients who do come to the site to drop-off or pick-up documents either walk to the office from the immediate community or close proximity of the site, or utilize public transportation such as the Metro bus system located on Kenilworth Avenue, immediately in front of the building. Based on these facts, staff believes that the existing parking is adequate and that there will be no disruption to traffic flow or parking conditions on the surrounding streets resulting from the proposed use. Consequently, the nearby residential properties are not likely to be affected by the proposed departure, and the purposes of this subsection will be served by the requested departure.

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

The departure is the minimum necessary, given the specific circumstances of the request. Due to the physical limitations of the site, the applicant cannot expand the existing parking lot. The site is bounded by existing single-family residential development along the northeastern and southwestern property lines and public rights-of-way along the northern and western property lines. In addition, this property was reduced in size many years ago due to a right-of-way taking by SHA. Therefore, no other open space is available to provide additional parking spaces. As such, the departure is the minimum necessary because there are no other open areas on the site where additional parking spaces can be provided.

(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.

The departure is necessary in order to alleviate circumstances which are special to the subject use. The subject building was built in 1940 as a single-family dwelling on a small lot. Over the years, it was converted to different commercial uses making it difficult to meet the current zoning regulations for specific uses because there is limited land available to expand the parking lot. Since 1968, the property has been operating as a real estate office with the same parking area. This departure will merely validate a situation that existed on the property for over 43 years without causing any detrimental impact to the adjacent neighborhood. Hence, the departure requested in this case alleviates the physical

limitations exhibited by the subject property which were created prior to November 29, 1949.

(iv) All methods for calculating the number of spaces required have either been used or found to be impractical.

All methods for calculating have been used and found impractical to further reduce the parking requirement. There is not enough space left on the site to accommodate all of the required number of spaces. The method chosen is the most viable and practical option.

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

The parking and loading needs of the adjacent residential areas will not be infringed upon if the departure is granted for the reasons mentioned above.

2. Section 27-588(b)(7)(B) of the Zoning Ordinance provides that, 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 500 feet of the subject property.

The area within 500 feet of the subject property is characterized by commercial and single-family residential uses. The adjoining and nearby uses have their own off-street parking and loading facilities. The applicant does not anticipate the use of parking on adjacent properties. However, DPIE, in a memorandum dated August 13, 2013, suggested that the applicant seek shared parking with the adjacent commercial property located at the northeastern corner of the intersection of Kenilworth Avenue (MD 201) and Kennedy Street. The adjacent owner refused to sign any easement agreement for shared parking, but verbally agrees (based upon testimony from the applicant) to let the applicant use their parking lot if needed. In addition, while there is some on-street parking available on Kennedy Street, these spaces cannot be designated for use by a private business as shown on the site plan. The site plan should be revised to remove the marked parking spaces on the public road. In addition, the note entitled "Note Additional Parking Shown" should be deleted in its entirety from the site plan.

(ii) The recommendations of an area master plan, or County or local revitalization plan, regarding the subject property and its general vicinity.

The 1994 Bladensburg-New Carrollton Master Plan and SMA recommends commercial office use for the subject property. The proposed use is consistent with the plan's recommendations and will not impair the integrity of the master plan.

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

This subject property is within the municipal boundaries of the Town of Riverdale Park, which is in support of this application.

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

There are no public parking facilities proposed for this area.

3. Section 27-588(b)(7)(C) of the Zoning Ordinance provides that, in making its findings, the Planning Board may give consideration to the following:

(i) Public transportation available in the area.

There is a Metro bus stop on Kenilworth Avenue (MD 201) directly in front of the subject property. Residents in this area utilize public transportation and the subject property is easily-accessible to it.

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

As indicated above, the parking demand generated by the proposed use cannot be adequately accommodated due to the insufficient land area of the site. Therefore, no alternative design solutions could be used to create additional parking.

(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 500 feet of the subject property.

The subject property is located in a mixed-use of commercial and residential areas where on-street parking and public transportation is available. The hours of operation for customers are between 10:00 a.m. and 8:00 p.m. The applicant anticipates significant utilization of public transportation and internet technology for the use; for these reasons staff believes that the three existing parking spaces on-site will be adequate for the proposed use. There will be no disruption to traffic flow or parking conditions on the surrounding streets resulting from the proposed use. The proposal will not affect the nature and hours of operation of other uses within 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 aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.

The subject property is in the C-O Zone; therefore, the above section is not applicable.

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. The site plan and the parking schedule on the site plan shall be revised to remove the existing on-street parking spaces and the note entitled "Note Additional Parking Shown" shall be deleted in its entirety from the site plan.
2. The concrete stairwell on Kenilworth Avenue (MD 201) and the existing wooden fence along the northeastern property line shall be repaired in a commercially-reasonable fashion.
3. The applicant shall install landscaping along the Kenilworth Ave frontage of the subject property in accordance with Applicant's Exhibit No. 1.

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 Bailey, seconded by Commissioner Geraldo, with Commissioners Bailey, Geraldo, Shoaff, Washington and Hewlett voting in favor of the motion at its regular meeting held on Thursday, October 24, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 14th day of November 2013.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator