

PGCPB No. 02-13

File No. 4-01069

R E S O L U T I O N

WHEREAS, WAWA, Inc. is the owner of a 10.51-acre parcel of land known as Parcels 14 & 38, Tax Map 164, Grid F-1 said property being in the 11th Election District of Prince George's County, Maryland, and being zoned C-M & R-R; and

WHEREAS, on August 27, 2001, WAWA, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 1 lot; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-01069 for WAWA, Inc. was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on January 17, 2002, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on January 17, 2002, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan of Subdivision 4-01069, WAWA, Inc. for Parcel A with the following conditions:

1. Prior to signature approval of the preliminary plan, a copy of an approved Stormwater Management Concept Approval Letter shall be submitted. The approval number and date must be reflected on the preliminary plan.
2. Prior to signature approval of the preliminary plan of the Detailed Site Plan, a Sewer and Water Service Category change approval is required.
3. Total development within the subject property shall be limited to a convenience store/gas station as approved under SE-4362, or equivalent development which is permitted within the C-M Zone which generates no more than 31 AM and 36 PM peak hour vehicle trips. Any development that generates more peak hour vehicle trips than identified herein shall require an additional preliminary plan with a new determination of the adequacy of transportation facilities.
4. The applicant and/or the applicant's heirs, successors or assignees shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and

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constructed through the formation of a Road Club which will include the applicant, the Montgomery Wards Brandywine Distribution Center, the Brandywine Commerce Center, the Mattawoman-Brandywine Commerce Center, the Brandywine Business Park, the Brandywine/301 Industrial Park, the Hampton CDZ, and other property owners in the area designated as Employment Area "C" in the Subregion V Master Plan, as well as any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George's County) and Mattawoman Creek, and any other properties for which participation is deemed necessary by the Planning Board.

For development of the subject property, the applicant's sole funding responsibility toward the construction of these off-site transportation improvements shall be the payment of the following:

A fee calculated as \$1.41 per gross square foot X (the most recent FHWA Highway Construction Cost Composite Index four-quarter average available at the time of building permit application) / (FHWA Highway Construction Cost Composite Index for first quarter, 1993)

Payment is to be made in trust to the Road Club escrow agent and shall be due, on a pro rata basis, at the time of issuance of building permits. Prior to issuance of any building permit(s), the applicant shall provide written evidence to M-NCPPC that the required payment has been made.

The off-site transportation improvements to be constructed are set forth below. Construction of these improvements shall occur in the numerical sequence in which they appear. Each improvement shall be constructed if and only if sufficient funds for engineering, full design, and construction have been deposited into the Road Club escrow account by Road Club members or said funds have been provided by public agencies. The off-site transportation improvements shall include:

- a. Widen US 301/MD 5 from a four (4) lane road to a six (6) lane road beginning at Timothy Branch (north of Cedarville Road) and extending northerly to the US 301/MD 5 interchange (at T.B.). The construction shall be in accordance with presently-approved SHA plans.
- b. Install a traffic signal at the A-63/Cedarville Road intersection, provided said signal is deemed warranted by DPW&T.
- c. Make minor widening/stripping improvements to the US 301/MD 5 interchange ramps.
- d. Widen US 301 from a four- (4) lane road to a six- (6) lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of MD 381.

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- e. Reconstruct the traffic signal at US 301/MD 381.
 - f. Install a traffic signal at the MD 381/A-63 intersection, provided said signal is deemed warranted by DPW&T and SHA.
 - g. Provide a grade separation at the point the Spine Road crosses US 301 northeast of T.B.
 - h. Reconstruct the traffic signal at MD 5/Brandywine Road.
 - i. Construction of an interchange in the area of US 301/MD 5 and Cedarville/McKendree Roads.
 - j. Construction of an interchange in the area of MD 5 and A-63 north of T.B.
 - k. Construction of A-63 as a six-lane arterial roadway (where off-site) between the US 301/MD 5/Cedarville Road./McKendree Rd. intersection and MD 5 north of T.B.
 - l. Widen US 301/MD 5 from a six- (6) lane road to an eight- (8) lane road beginning at the T.B. interchange (US 301/MD 5) and extending southerly to Mattawoman Creek.
 - m. Widen MD 5 from a four- (4) lane road to a six (6) lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of the planned intersection with A-63.
- 5. At the time of final plat approval, the applicant shall dedicate right-of-way along McKendree Road as shown on the submitted preliminary plan. Any improvements within the dedicated right-of-way will be determined by DPW&T.
 - 6. A note shall be placed on the final plat stating that the access to US 301 is restricted to right-in/right-out only.
 - 7. Prior to signature approval, the preliminary plan shall be revised:
 - a. To graphically depict the 10-foot Public Utility Easement or to include a note referencing this easement.
 - b. Correct Note 15 to identify the county as APrince George=s County.@
 - c. Revise Notes 13 and 14 to identify the correct water and sewer categories.
 - 8. Development of this site shall be in conformance with the approved stormwater management concept plan, Concept # 8003180-2000-00, or any revisions thereto.

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1. The following note shall be placed on the final plat:

AAAn automatic fire suppression system shall be provided in all proposed buildings in accordance with National Fire Protection Association Standard 13 and all applicable Prince George=s County laws.@

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located in the northwest quadrant of the US 301/McKendree Road intersection.
3. Environmental Issues - The site is wooded on the far northern end and is characterized with terrain gradually sloping toward the north and into Timothy Branch, a tributary of Mattawoman Creek in the Potomac River watershed. The predominant soil types on the site are Beltsville, Leonardtown Sassafras and Bibb. These soil series generally exhibit slight to extreme limitations to development due to perched water table, slow permeability, poor drainage, flood hazard and steep slopes. There are floodplains, streams, Waters of the U.S., wetlands, and erodible soils on the site. There are no noise issues associated with this use. There are no Marlboro clays located on or adjacent to the subject property.

The site is subject to the provisions of the Woodland Conservation Ordinance because it is more than 40,000 square feet in size and contains more than 10,000

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square feet of woodlands; however, the activity proposed will result in a cumulative disturbance of less than 5,000 square feet of woodland during the next 5 years. This makes the activity proposed eligible for a numbered exemption from the ordinance requirements. A numbered Letter of Exemption from the Ordinance (E/19/99) was issued by the Environmental Planning Section, Countywide Planning Division, dated April 14, 1999. This Letter of Exemption has expired and should be renewed. A new and revised Letter of Exemption (E/19/99-01) has been issued. This Letter of Exemption should accompany all future applications for plans and permits. However, should any encroachment into woodlands be proposed, the letter of exemption would no longer be valid, and a Detailed Forest Stand Delineation and a Tree Conservation Plan will be required.

The proposed stormwater discharge for the parcel will be directed to the Timothy Branch 100-year floodplain (Zone A-4) as shown per reference map entitled AFirm Flood Insurance Rate Map Prince George=s Co., Maryland @ panel 65 of 120 Community Panel #245208-0065. The applicant has received stormwater concept approval.

McKendree Road is a designated historic road. A site plan for SE-4362 has been approved for the site and an alternative compliance plan (AC-99051) was approved December 1, 1999. The road is approved to be widened to a 120-foot-wide right-of-way in this section. The historic landscape character of this site was of open agricultural fields. The applicant is providing a landscape strip and a D bufferyard from the adjacent active agricultural property. Due to the road improvements required, and commercial zoning of the site, preservation of the original road section and the historic landscape is not possible. No further action is needed at this time.

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According to the Sewer Service and Water Service maps produced by DER, the property was in categories S-6 and W-6, respectively, when the application was filed. Appropriate service category changes have been approved, and the property is now in S-4C and W-4C. A change to S-3 and W-3 is necessary prior to final plat approval.

Though the plan indicates the presence of a 100-year floodplain, a floodplain study has not been provided. Because there are no impacts with regard to Woodland Conservation, a floodplain study is not essential to this level of review; however, a 25-foot-wide building setback for residential structures is required from the floodplain. This line has not been shown on the plan and should be added. The preliminary plan should be revised to show the 25-foot-wide building setback from the 100-year floodplain.

The wetland delineation as shown seems to be abrupt or incomplete and, while a symbol appears to be used for the delineation, no legend has been provided. A complete delineation of the wetlands is needed and must be shown on the plan. In addition, the required 25-foot-wide wetlands buffer and the required 50-foot-wide stream buffer have not been provided on the plan. The preliminary plan should be revised to show the complete wetlands delineation, add a legend to denote the use of symbols, and add the required 25-foot-wide wetlands buffer and the 50-foot-wide stream buffer. Typically, this would be required prior to a hearing, but because this area is far removed from any proposed development, the revisions can be made prior to signature approval.

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4. Community Planning - In the *2000 Biennial Growth Plan*, the property is located in a designated Corridor in the Developing Tier and in a potential future Center (Brandywine). The *1993 Subregion V Master Plan* recommends commercial land use for the property. The 1993 SMA retained the C-M and R-R Zone at this location. Special Exception SE-4362 for a food and beverage store with gasoline service was approved on January 29, 2000. The proposed subdivision for a food and beverage store with gasoline service in the C-M Zone is consistent with master plan recommendations for commercial land use in this community and SE-4362. The western and northern part of the property shown in the C-M and R-R Zones is indicated for Timothy Branch or future highway right-of-way.
5. Parks and Recreation - The property is exempt from the requirements of Section 24-134 of the Subdivision Regulations for mandatory dedication because only a commercial use is proposed in the commercial zone. Any development of the residential portion of this property will require approval of a new preliminary plan.
6. Trails - There are no master plan trails issues associated with this application. The Special Exception approval requires a five-foot sidewalk along McKendree Road.
7. Transportation Issues, Including Variation Request - No traffic study was requested of the applicant nor was one submitted for review. The findings and recommendations outlined below are based upon a review of relevant materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

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Summary of Traffic Impacts

The application is a preliminary plan of subdivision for a commercial parcel which is proposed to contain a 4,694-square-foot food and beverage store along with a gas station with 16 fueling positions, as was shown on detailed site plan SP-01020 and special exception SE-4362. Under an analysis which was conducted for SE-4362, a 4,694-square foot food and beverage store with a 16-fueling position service station would generate a total of 194 AM and 222 PM peak hour vehicle trips. The transportation staff estimates that 163 AM and 186 PM trips are pass-by trips (i.e., already on the road - US 301/MD 5 in front of the subject property), while 31 AM and 36 PM trips are new trips. The site was analyzed using the following trip distribution:

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Cedarville from the east:

5%

McKendree from the west: 5%

US 301/MD 5 from the north: 50%

US 301/MD 5 from the south: 50%

Staff assumed that 40 percent of pass-by trips would occur from southbound US 301/MD 5, while the remaining pass-by trips were assumed to occur proportionally with traffic volumes northbound and southbound during the respective peak hours.

The traffic generated by the proposed preliminary plan would impact the signalized intersection of US 301 and Cedarville/McKendree Roads. There are no improvements at this intersection which are currently funded for construction in either the County Capital Improvement Program or the Maryland Department of Transportation Consolidated Transportation Program.

The Prince George's County Planning Board, in the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, has defined Level-of-Service D (LOS D) as the lowest acceptable operating condition on the transportation system. The intersection of US 301 and Cedarville/McKendree Roads, when analyzed under existing traffic, was found to be operating at a critical lane volume (CLV) of 1,441, or Level-of-Service (LOS) D, in the AM peak hour and at a CLV of 1,677 and LOS F during the PM peak hour. With growth in through traffic and a considerable amount of approved development, background traffic was found to be operating at a CLV of 3,806 and LOS F in the AM peak hour and at a CLV of 4,082 and LOS F during the PM peak hour. Under total future traffic as developed using the *Guidelines*, adding the impact of the proposed development, the critical intersection was found to be

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operating with a CLV of 3,848 and LOS F in the AM peak hour and at a CLV of 4,116 and LOS F during the PM peak hour. Therefore, the critical intersection is operating unacceptably, at LOS E or F, in both peak hours.

In reviewing other nearby properties, the transportation staff has noted ongoing issues regarding poor traffic service levels in this area, and the Planning Board has acted on a number of nearby cases. A memorandum dated December 4, 1990, documents the assumptions regarding the Brandywine Road Club and its potential member properties, and establishes the improvements which are required in the area for Adequate Public Facilities. This memorandum is in the file for the subject application and attached to the staff report.

No geographic limits for the Road Club membership have been defined, but include property owners within Employment Area AC, @ property owners along US 301/MD 5 between T.B. and Mattawoman Creek, and the Brandywine Village M-A-C property, along with any adjacent properties to these, as current or prospective members of the Road Club. The subject property is within along US 301/MD 5 and adjacent to Employment Area "C" as defined in the *Subregion V Master Plan*.

The December 4, 1990, memorandum sets forth the improvements associated with prospective Road Club members. Because the points of access for the properties on the east side of US 301 are so similar, all current or prospective Road Club properties on the east side of US 301 have similar list of Road Club improvements associated with them. Only in cases where a property does not have direct access to A-63 (otherwise known as the Spine Road) on-site does the list of improvements change, along with the

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corresponding payment to the Road Club. In the case where a property on the east side of US 301 is required to construct the on-site portion of the Spine Road, a payment of \$1.41 per gross square foot of building space to cover the cost of Road Club improvements is required. In the case where a property on the east side of U.S. 301 is not required to construct the on-site portion of the Spine Road, a payment of \$2.07 per square foot to cover the cost of Road Club improvements plus a share of the cost of the Spine Road is required.

To ensure that adequate funding is available in the future to construct the facilities needed to provide adequacy, the County Council, in a May 21, 1991 letter, requested that cost estimates and future pro rata payments include an inflation factor.

McKendree Road along the frontage of the subject property is a Master Plan arterial (A-63). Right-of-way dedication as shown on the submitted plan is required at the time of final plat.

US 301/MD 5 along the frontage of the subject property is a Master Plan arterial (A-64). The *Subregion V Master Plan* proposes that the function of existing US 301/MD 5 be shifted onto a new facility, F-9, which follows the rear property line of the subject property. Regarding this future right-of-way, there are several findings which need to be made by staff:

- a. The plans for SP-01020 and SE-4362 for the convenience store/gas station have been determined to be consistent with the planned alignment for F-9. The only use identified for the property is the proposed convenience store/gas station, and that use is limited to an area at the southern end of the property totaling approximately 2.7 acres.

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- b. The planned rights-of-way have significant impacts to the northern two-thirds of the subject property; however, there is no development proposal which has been put forward for analysis by staff at this time. Therefore, staff concludes that, outside of the 2.7 acres covered by SP-01020 and SE-4362, development of the property is not imminent.
- c. Concerning the possibility of dedicating the future F-9 right-of-way, staff could not identify a legal basis for requiring the dedication, as the use would not be allowed to gain access to that right-of-way.
- d. Concerning the possibility of reserving the future F-9 right-of-way, staff found that possible purchase of the planned right-of-way is not imminent. The State Highway Administration (SHA) is studying options for upgrading access controls along existing US 301 or possibly relocating the entire facility. Decisions regarding future improvements along US 301 within Charles County will be made within the coming year, and these decisions will affect right-of-way needs adjacent to the subject property.

Given the above findings, the transportation staff has no recommendation at this time regarding the F-9 facility. Should a resubdivision of the subject property occur in the future, the transportation staff will re-examine F-9 right-of-way needs as they relate to the subject property. Given the proposed development, however, other conditions recommended within this memorandum will serve to regulate potential development within the planned F-9 right-of-way.

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The applicant proposes direct access to US 301, a freeway. Section 24-121 of the Subdivision Regulations prohibits direct access to roadways classified as arterial or greater. The applicant has filed a variation request to allow the access. In accordance with Subdivision Regulations requirements, the variation request was filed 30 days prior to the Planning Board hearing and discussed at a Subdivision Review Committee meeting. Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests. Staff supports the variation to allow access to US 301 in this case and makes the following findings:

- a. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** One of the purposes of limiting access to an arterial is to enhance public safety, health and welfare. In this case, one driveway will access US 301 as a right-in/right-out driveway onto southbound US 301. Alternative access, for those coming from McKendree Road or those wishing to go north on US 301, is provided on McKendree Road. The State Highway Administration has determined that this configuration is acceptable and will not be detrimental to public health, safety and welfare.
- b. **The conditions of which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties.** The applicant argues, in the variation request, that the subject property has a rather unique size and orientation that requires a uniform situation of the building structures, canopy, and any other vehicle-related accouterments. @

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Notwithstanding the lack of a cogent argument presented by the applicant, staff believes that the development situation for this property is unique. Allowing access only from McKendree Road could create confusing circulation patterns. Finally, when US 301 is ultimately constructed, the existing southbound lanes will become a service road. This is unique in the county.

- c. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** This will not result in a violation of other applicable laws, ordinances or regulations. Special Exception SE-4362 was approved by the District Council, at which time this access was approved.
- d. **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.** The applicant argues, in the variation request:

AA considerable hardship would arise if the applicant was precluded from implementing the design that the District Council has already approved via the Special Exception. With the >strict letter of [the] regulations carried out,= the applicant, and collaterally, the community, suffers a severe constraint economically and physically when the grant of the request would require only minimal alternative action.@

With all due respect, this does not address the issue of hardship whatsoever. If this variation

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is denied, the applicant would need to revise the special exception site plan to eliminate the access. While that may be an inconvenience, it is certainly not a hardship; special exception plans get revised frequently for one reason or another. One wonders how the Acommunity@ would suffer if the applicant were required to revise its special exception, but that is neither here nor there. Staff believes it would be inappropriate at this location to limit access to McKendree Road, and therefore believes the hardship lies in the applicant=s inability to develop the site in an appropriate fashion without the variation. The special exception was approved with safety and circulation in mind and the District Council found that the design did not pose a health, safety or welfare threat.

Based on these findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with the transportation-related conditions included in this report.

8. Schools - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.01 and 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* (revised January 2001) (CR-4-1998). The above subdivision is exempt from adequacy test for public schools because it is commercially zoned and proposes a commercial use only. Development of the R-R-zoned portion of the property is not proposed at this time. Should development ever be proposed here, a new preliminary plan must be approved.

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9. Fire and Rescue - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public fire and rescue facilities.
 - a. The existing fire engine service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road, has a service response time of 5.37 minutes, which is beyond the 3.25-minute response time guideline.
 - b. The existing ambulance service at Brandywine Fire Station, Company 40, has a service response time of 5.37 minutes, which is beyond the 4.25-minute response time guideline.
 - c. The existing paramedic service at Brandywine Fire Station, Company 40, has a service response time of 5.37 minutes, which is within the 7.25-minute response time guideline.
 - d. The existing ladder truck service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service response time of 9.66 minutes, which is beyond the 4.25-minute response time guideline.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. To alleviate the negative impact on fire and rescue services due to the inadequate service discussed above, the Fire Department recommends that all commercial structures be fully sprinklered in accordance with National Fire Protection Association Standard 13 and all applicable Prince George=s County laws.

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10. Police Facilities - The proposed development is within the service area of the District V-Clinton. In accordance with Section 24-122.01(c) of the Subdivision Regulations of Prince George's County, existing county police facilities will be adequate to serve the proposed Wawa, Inc., development.
11. Health Department - The Health Department notes that there are existing well and septic systems on the property that will be abandoned. Any abandoned wells and septic systems will need to be backfilled or pumped and sealed in accordance with COMAR 26.04.04. Raze permits are required prior to the removal of any structures.
12. Stormwater Management - The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, # 8003180-2000-00, was approved with conditions on March 18, 2001, to ensure that development of this site does not result in on-site or downstream flooding. The plan is valid through March 18, 2004. Development must be in accordance with this approved plan.
13. Public Utility Easement - The preliminary plan does not show the required 10-foot-wide public utility easement along all street frontages. Prior to signature approval, the preliminary plan must be revised to include this easement.
14. Note 15 - Note 15 on the preliminary plan states:

A development is exempt from P.G. Co. Woodland Conservation and Tree Preservation Ordinance Requirement per exemption letter by Robert Metzger, Letter #E/19/99 dated April 14th, 1999. @

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The use of the term AP.G.@ is not acceptable and has not been for quite some time. Note 15 should be revised to identify this county as APrince George=s County.@

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with Circuit Court for Prince George=s County, Maryland within thirty (30) days following the adoption of this Resolution.

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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 Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Eley, Brown and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, January 17, 2002, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of February, 2002.

Trudye Morgan Johnson
Executive Director

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By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JD:wrc