

R E S O L U T I O N

WHEREAS, Donald and Deva Loweth is the owner of a 3.05-acre parcel of land known as Lot 2, Block F, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-80 and C-S-C; and

WHEREAS, on December 31, 2002, Advance Auto Parts filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02125 for Advance Auto Parts 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 May 15, 2003, 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 May 15, 2003, 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 4-02125, Advance Auto Parts for Parcel A with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
 - a. To provide the total gross floor area of the proposed building.
 - b. To label the property as Parcel A.
 - c. To provide a note that only one point of access was approved for this property pursuant to the approval of a variation to Section 24-121 of the Subdivision Regulations.
 - d. To provide a note that the site is exempt from the requirement of the *Tree Conservation and Preservation Manual*.
 - e. To provide the conceptual stormwater management plan number and approval date.
 - f. To provide a 10-foot PUE along the property's street frontage.

- g. To locate the 65 dBA Ldn noise contour.
- 2. Prior to the approval of the final plat of subdivision, the plan shall demonstrate dedication along Woodyard Road in accordance with the approved preliminary plan of subdivision and SHA Exhibit A. Access shall be limited to one entrance.
- 3. Development of this property shall be in accordance with the approved conceptual stormwater management plan to ensure that development of this property will not result in any on-site or downstream flooding.
- 4. Prior to the approval of the final plat of subdivision the applicant, his heirs, successors and/or assignees shall demonstrate to the satisfaction of the Health Department that the abandoned vehicle located at the rear of the property has been properly removed and discarded.
- 5. An automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.
- 6. The applicant shall provide standard sidewalks along the properties entire street frontage unless modified by the State Highway Administration.
- 7. The applicant, his heirs, successors and/or assignees shall construct a limited right-in/right-out channelized access driveway in accordance with the SHA standards and the attached SHA Exhibit A, or as modified by SHA.
- 8. The total development within the subject property shall be limited to 7,000 square feet of retail development, or equivalent development, which is permitted and generates no more than 34 PM peak-hour vehicle trips.

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 subject is located on the south side of Woodyard, approximately 1,600 linear feet west of Brach Avenue, in Clinton

3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-80/C-S-C	R-80/C-S-C
Use(s)	Residential/SFD	Retail/ 3,800 sq.ft.
Acreage	3.05	3.05
Lots	1	0
Parcels	0	1
Dwelling Units:		
Detached	1	0

4. **Environmental**—This property is not subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the area of existing woodland is less than 10,000 square feet. Based on the simplified FSD and 2000 aerial photography, there are no existing woodlands on this property. There, this property is exempt from the requirements of the Prince George’s County Woodland Conservation Ordinance.

A review of the available information indicates that streams, wetlands, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are not found to occur on the property. Transportation-related noise impacts associated with Woodyard Road have been found to impact this property.

The soils found to occur, according to the Prince George’s County Soil Survey, include Sassafras fine sandy loam and Matawan loamy sand, which have no significant limitations, and Beltsville silt loam, which has limitations with respect to high water tables but no limitation that would affect the development of this property. According to available information, Marlboro clay is not found to occur on this property. The sewer and water service categories are S-3 and W-3 according to information obtained from the Department of Environmental Resources dated September 2001.

According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Tinkers Creek watershed of the Potomac River Basin.

Although transportation-related noise has been found to impact this property, the current level of impact will have no adverse affect on the proposed use and development of this property at this time. The 65 dBA Ldn noise contour associated with Woodyard Road extends approximately 212 feet from the centerline of the road, based on staff modeling. The noise impact zone is entirely within the C-S-C portion of the property.

5. **Community Planning**—The subject property is located within the limits of the 1993 *Subregion V Master Plan* in Planning Area 81A in Clinton. The 2002 General Plan locates the property in the Developing Tier.

The General Plan “promotes development and redevelopment of higher intensity residential and nonresidential mixed use at appropriate locations along key transportation routes. This type of development should occur at local centers and other appropriate nodes within one-quarter mile of major intersections or major transit stops along the Corridor, in concert with existing and planned investments in public infrastructure. Compatibility of higher intensity development with existing communities is essential, thus, close attention needs to be paid to design and land use relationships within and surrounding each project. Accordingly, it is anticipated that policies will differ for Corridors and Corridor segments within each Tier.

“Developing Tier Corridors generally contain less intense residential and nonresidential land uses than the Developed Tier Corridors and with a mix of uses that are more community-oriented in scope. This development should occur at designated corridor nodes and be planned as transit oriented development.

“In particular, it should be noted that when a limited access highway is designated as a Corridor, nodes extend one-quarter mile from the designated interchanges.”

Application 4-02125 is located in the Developing Tier, approximately one-quarter mile from a designated Corridor Node along MD 5 at the interchange with Woodyard Road. The vision for Centers and Corridors is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. Goals for the Centers and Corridors that appear relevant to review of the land use proposed in this application include to:

- a. “Capitalize on public investment in existing transportation system.”
- b. “Promote compact, mixed-use development at moderate to high densities.”
- c. “Ensure transit-supportive and transit-serviceable development.”
- d. “Require pedestrian-oriented and transit-oriented design.”
- e. “Ensure compatibility with surrounding neighborhoods.”

Development Pattern policies and strategies for Centers and Corridors that are particularly relevant to review the type of land use proposed by this application include:

Policy 1: “Promote development of mixed residential and nonresidential uses at moderate to high densities and intensities in context with surrounding neighborhoods and with a strong emphasis on transit-oriented design.”

- a. Strategy II: “Evaluate and revise existing master plans, sector plans, and zoning techniques....”
- b. Strategy III: “Create development concept plans to guide future development...”
- c. Strategy VI: “Provide incentives...”

Master plans and regulations have yet to be revised for the concepts outlined in the General Plan pertaining to Corridor development. The Subregion V Master Plan is not scheduled for revision in the foreseeable future, although a MD 5 Transit Corridor Planning Study is currently in the Planning Department FY 2003 work program. At this time, commercial development of the subject property in accordance with existing regulations is not inconsistent with the 2002 General Plan Centers and Corridors Policy 1 and the land use recommendation in the master plan.

6. **Parks and Recreation**—In accordance with Section 24-134(a)(3)(C), the proposed preliminary plan is exempt from the requirements of mandatory dedication of parkland because the lot being created by the subdivision is improved with a legally existing dwelling unit at the time of this subdivision.
7. **Trails**— There are no master plan trail issues associated with this application. However, staff recommends that the applicant construct a standard sidewalk along the property's frontage on Woodyard Road, if agreed to by the State Highway Administration.
8. **Transportation**—The property is located along the north side of Woodyard Road (MD223) and west of the signalized intersection with Pine View Lane. The applicant proposes to remove the existing residential structure in the R-80 Zone and construct a retail building (Advance Auto Parts), totaling 6,800 square feet on a single lot to be created by this subdivision.

The findings and recommendations outlined below are based upon a review of these 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*.

Growth Policy—Service Level Standards

The subject property is located within the Developed Tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better.

Unsignalized intersections: The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Staff requested recent weekday AM and PM peak-period traffic counts for the intersections of Woodyard Road with Pine View Lane and Woodyard Road/Piscataway Road with Old Branch

Avenue/ Piscataway Road. Staff received these counts from the applicant. The Maryland State Highway Administration indicated that access from the proposed site would be limited to a channelized right-in/right-out entrance (SHA Exhibit “A”). Staff believes there would be no significant impact on traffic operations at the Woodyard Road/Piscataway Road with Old Branch Avenue/Piscataway Road intersection. As a result, staff has determined that the intersection of Woodyard Road with Pine View Lane is the development’s critical intersection. The counts provided indicate that the critical intersection operates at LOS B, with a CLV of 1,022, during the AM peak hour. During the PM peak hour, the intersection operates at LOS C with a CLV of 1,152.

Staff has identified several approved but unbuilt developments in the vicinity of the subject site. With growth added, the critical intersection would operate as follows: AM peak hour—LOS C with a CLV of 1,358; PM peak hour—LOS D with a CLV of 1,392.

With the development of 6,800 square feet of retail space, the site would generate zero AM and 34 PM peak-hour vehicle trips. The site was analyzed with the following trip distribution: 40 percent—east along MD 223; 60 percent—south along Pine View Lane, of which 20 percent would head north along Old Branch Road, 20 percent south along Brandywine Road and 20 percent are oriented west along Piscataway Road. Given this trip generation, and with the assumption that 50 percent are pass-by trips, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—LOS C with a CLV of 1,358; PM peak hour—LOS D with a CLV of 1,416. Given these analyses, staff finds that the nearest critical intersection would operate with acceptable levels of service.

MD 223 is an arterial facility with a maximum prescribed right-of-way of 120 feet, or 60 feet from the existing centerline. Although individual lot access to arterial facilities is not recommended, the limited right-in/right-out access approved by the MD SHA (attached SHA exhibit “A”) is acceptable. Considering the site does not have access to any other roadway, staff is in support of the applicant’s variation request to Section 24-121 of the Subdivision Regulations to gain access to Woodyard Road, an arterial facility, as discussed further in Finding 12 of this report.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Subdivision Regulations.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002) and concluded that the subdivision is exempt from the APF test for schools because it is a commercial use.
10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities and concluded the following:
 - a. The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 0.71 minutes, which is **within** the 3.25-

minute travel time guideline.

- b. The existing ambulance service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 0.71 minutes, which is **within** the 4.25-minute travel time guideline.
- c. The existing paramedic service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 0.71 minutes, which is **within** the 7.25-minute travel time guideline.
- d. The existing ladder truck service at Marlboro Fire Station, Company 45, located at 7710 Croom Road has a service travel time of 13.22 minutes, which is **beyond** the 4.25-minute travel 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*.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, the Fire Department recommends that a fire suppression system be installed in all commercial structures in accordance with National Fire Protection Association Standard 13 and all applicable Prince George's County laws.

- 11. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. In accordance with Section 24-122.1(c) of the Subdivision Regulations, the existing county police facilities will be adequate to serve the proposed Advance Auto Parts development.
- 12. **Health Department**—The Health Department has evaluated the proposed preliminary plan and notes that an abandoned vehicle has been dumped in the rear of the property. The applicant should submit verification from the Health Department that the vehicle has been properly removed and disposed of prior to the approval of the final plat.
- 13. **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 has been submitted but is not yet approved. To ensure that development of this site does not result in on-site or downstream flooding, this concept plan must be approved prior to signature approval of the preliminary plan. Development must be in accordance with this approved plan.
- 14. **Variation to 24-121^{3/4}** Section 24-121(a)(3) of the Subdivision Regulations limits access to arterials by requiring that lots having frontage on arterials be designed in a manor so as to have frontage and access to an interior street or service road. A variation is required to allow access to Woodyard Road, an arterial facility under the jurisdiction of SHA.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for the approval

of a variation request. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;**

The SHA advised the applicant that only one access permit would be issued for this property and that the applicant could retain the one access point that served the dwelling or create a new restricted access to serve the property. SHA has indicated that access in and out of the site along Woodyard Road should be regulated to ensure the public health and safety. The applicant worked with SHA to design a limited access scenario to serve all proposed development on the property and ensure safe access.

- (2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

This property is the only split-zoned property along the south side of Woodyard Road between Pine View Lane and Kinney Place. All of the lots along this portion of Woodyard Road have been subdivided along the zoning line, which splits the subject property. If the new access location were to be denied, the property would be restricted to the access currently serving as a driveway to the existing dwelling unit, a driveway that would not be adequate to serve the proposed commercial use.

- (3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation;**

Access to Woodyard Road is under the jurisdiction of the SHA. Appropriate access permits will be required by SHA as part of the permitting process required by the Department of Environmental Resources. These permit processes will ensure that the access will not violate any other applicable law, ordinance or regulation.

- (4) 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 strict letter of these regulations is carried out;**

Because the properties surrounding the site do not provide for access, the only option for access is via Woodyard Road. If access is not approved that could serve both the commercial portion of the property and the residentially zoned portion of the property, a particular hardship could result to the owner. The use of this three-acre property would be limited to one single-family dwelling unit, notwithstanding the partial rezoning of the property to C-S-C in 1993. By allowing a new access location, the public health is preserved and a greater use of the property allowed. The State Highway Administration is requiring improvements along the properties frontage of Woodyard Road that are recommended to improve the public safety.

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, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, May 15, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of June 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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