

PGCPB No. 06-98

File No. 4-05120

R E S O L U T I O N

WHEREAS, Naz Auto & Paint, LLC. is the owner of a 2.68-acre parcel of land known as Parcel 92, Tax Map 161 in Grid A-4, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned C-M; and

WHEREAS, on January 10, 2006, Naz Auto & Paint, LLC. 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 4-05120 for Naz Auto 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 April 20, 2006, 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 April 20, 2006, 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 the Type I Tree Conservation Plan (TCPI/03/06), and further APPROVED Preliminary Plan of Subdivision 4-05120, Naz Auto for Parcel A with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised to include the following technical corrections:
 - a. Delineate the existing and proposed water and sewer connections.
 - b. General note 13 must be revised to demonstrate the Type I tree conservation plan number, and remove the Type II tree conservation plan number.
 - c. Provide the height, square footage, dimensions, building setbacks, and proposed use of the single-family dwelling that will be converted to an office use.
 - d. Delineate the required 40-foot building setback along the northeast property line in accordance with Section 4.7 of the *Landscape Manual*.
 - e. Delineate Livingston Road as an 80-foot-wide right-of-way in accordance with the Subregion V master plan. Dedication of 40 feet of right-of-way from the master plan

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centerline of Livingston Road is required.

- f. Label the existing use on the Charles Seals property (Parcel 52—across Livingston Road from the subject property) as a landscaping contractor's business approved per Special Exception 3882.
 - g. Label the existing concrete pad, as well as any other structures within the required landscape bufferyard, as "to be removed."
 - h. Provide the underlying parcel designation (Parcel 92) in the general notes.
- 2. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan, 36805-2003-00, and any subsequent revisions.
- 3. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall provide a financial contribution of \$210.00 to the Department of Public Works and Transportation for the placement of a bikeway sign(s) along Livingston Road, a designated Class III bikeway. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If the Department of Public Works and Transportation declines the signage, this condition shall be void.
- 4. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the wetlands and wetland buffer and be reviewed by the Environmental Planning Section prior to final plat approval. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."
- 5. The following note shall be placed on the Final Plat of Subdivision:

"Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/03/06), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005."
- 6. 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.
- 7. Prior to the issuance of grading permits the applicant shall submit evidence from the Health

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Department that the tires found on the property have been hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility.

8. Prior to issuance of grading permits evidence must be provided to the Health Department that the existing house at 17412 Livingston Road is connected to public water, and the abandoned shallow well and septic tank has been removed, backfilled, and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or scavenger and witnessed by a representative of the Health Department. The existing well can remain operational for the use of irrigational or agricultural purposes, only if deemed acceptable by the Prince Georges's County Health Department's Division of Environmental Health.
9. Prior to the approval of permits, a limited detailed site plan (LDSP) shall be approved by the Planning Board or its designee. The review of the LDSP shall include, but not be limited to, compliance with master plan recommendations for access points, peripheral landscaping treatment, building mass and architectural design of the proposed building, and to ensure the attractiveness of business development and enhance compatibility with residential uses that share the Livingston Road frontage.
10. A Type II tree conservation plan shall be approved with the LDSP.
11. **MD 210 and Pine Drive:** Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county's capital program, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - a. Submission of an acceptable traffic signal warrant study to SHA for the intersection of MD 210 and Pine Drive. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of SHA. If a signal is deemed warranted by SHA, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by SHA. The requirement for this signal warrant study may be waived by SHA if that agency determines in writing that there are sufficient recent studies available to make a determination regarding a signal.
12. Any residential development of the subject property shall require the approval of a new preliminary plan of subdivision prior to the approval of any building permits.
13. Total development within the subject property shall be limited to 11,525 square feet of commercial development, or equivalent development that generates no more 30 AM and 34 PM peak-hour trips. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
14. The record plat shall dedicate 40 feet from the centerline of Livingston Road as reflected on the

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approved preliminary plan.

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 on the east side of Livingston Road approximately 500 hundred feet northeast from its intersection with Bernice Lane.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	C-M	C-M
Use(s)	Single-family dwelling	Auto repair service with office
Acreage	2.68	2.68
Lots	0	0
Parcels	1	1
Dwelling Units:		
Detached	1 (to remain)	0
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed the Type I Tree Conservation Plan, TCPI/03/06, stamped as received by the Environmental Planning Section on February 13, 2006.

The Environmental Planning Section previously reviewed a Type II Tree Conservation Plan, TCPII/32/04, as part of an application for a grading permit. The current proposal is for one parcel in the C-M Zone. A review of the available information indicates that streams, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are not found to occur on the property. The plans show an area of wetlands on the site. No portion of the property contains or is near any regulated area, evaluation area or network gap as indicated in the Countywide Green Infrastructure Plan.

According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled "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 nearby sources of transportation-related noise. The proposed use is not expected to be a noise generator. No scenic or historic roads are affected by the proposed development. This property is located in the Mattawoman Creek watershed of the Potomac River basin and in the Developing Tier as reflected in the adopted General Plan.

A signed natural resources inventory (NRI), NRI-86-05, was submitted with the application. The

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NRI contains a forest stand delineation and a wetlands report. The FSD is based on two sample areas, identifies one forest stand totaling 0.73 acre and no specimen trees. The plan clearly shows soils boundaries that conform to the Prince George's County Soils Survey. The soils chart indicating the erodibility and hydric characteristics of each soil type is correct. All wetlands and wetland buffers are correctly shown.

Forest Stand "A" covers an area of about 0.73 acre in the northern portion of the site. No specimen trees are within this stand and the majority of trees are immature. Because of low species diversity, presence of invasive plants, and lack of sensitive environmental features, Stand "A" is a very low priority area for preservation.

Section 24-130(b)(7) of the Subdivision Ordinance requires that wetlands and their associated 25-foot wetland buffer be preserved. A wetlands study was submitted with the application. The limit of an area of wetlands and the required 25-foot wetland buffer are shown. No impacts to the wetlands or wetlands buffers are proposed.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because it has an approved Tree Conservation Plan. A Type II Tree Conservation Plan, TCPII/32/04, was approved as part of an application for a grading permit; however, the permit was never implemented. A Type I Tree Conservation Plan, TCPI/03/06, has been submitted with this application and reviewed. The plan proposes clearing 0.40 acre of the existing 1.11 acres of woodland. The woodland conservation threshold is 0.40 acre. The woodland conservation requirement has been correctly calculated as 0.50 acre. The plan proposes to meet the requirement by providing 0.71 acre of on-site preservation.

According to the Prince George's County Soil Survey the soils on the site are in the Beltsville series. According to available information, Marlboro clay does not occur in the vicinity of this property. Although these limitations will ultimately affect the construction phase of this development, there are no limitations that would affect the site design or layout. During the review of building permits the Department of Environmental Resources may require a soils study as part of a permit review.

Water and Sewer Categories

The water and sewer service categories are W-4 and S-3 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources, and will therefore be served by public systems.

There is a sewer line in Livingston Road, approximately 600 feet north of the property. A sewer extension is required to serve the property.

5. **Community Planning**—The subject property is located within the limits of the 1993 master plan for Subregion V, Planning Area 83, in the Accokeek Community. The master plan designates the site as "Employment Industrial." The proposed development conforms to the intent and policies of the master plan.

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The 2002 General Plan designates the subject site within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The proposed use is consistent with the development pattern goals and policies of the General Plan as set forth in this report.

The master plan, which identifies land use recommendations for the Accokeek area (see page 89), locates this property in Employment Area "F." The master plan states, "Due to its intended character, configuration and location, specific attention during the subdivision and permit review process should be given to access points and service lane provisions, peripheral landscaping treatment, building mass and architectural design. To ensure the attractiveness of business development, and to enhance compatibility with residential land uses that share the Livingston Road frontage, development proposals should be closely monitored. Zones requiring site plan approval, conditional zoning, conditional subdivision, and the full provisions of the landscape ordinance need to be utilized."

In order to achieve the master plan recommendations for access points, peripheral landscaping treatment, building mass, and architectural design, and to ensure the attractiveness of business development, and enhance compatibility with residential land uses that share the Livingston Road frontage, staff recommends a limited detailed site plan (LDSP) to be approved by the Planning Board or its designee prior to the approval of permits.

6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations, the subdivision is exempt from the mandatory dedication of parkland requirements because the parcel is over one acre in size.
7. **Trails**—The adopted and approved Subregion V master plan identifies Livingston Road as a master plan bicycle corridor. This has been implemented through the provision of bikeway signage on other previously approved subdivisions along the Livingston Road corridor, including approved 4-03015. Existing Livingston Road is open section with no sidewalks in the vicinity of the subject site.
8. **Transportation**—The subject property consists of approximately 2.68 acres of land in the C-M Zone. The property is located west of MD 210 and along Livingston Road, approximately 500 feet from the intersection of Bernice Lane and Livingston Road. The applicant proposes a commercial use of 11,524 square feet. This includes the proposed structure and an existing residential building to be used by Naz Auto Body for office space.

Transportation staff requested that the applicant provide a traffic count at the intersection of MD 210 and Pine Drive for the purpose of making adequacy findings. A traffic count taken on March 6, 2006, was provided to staff. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

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Growth Policy—Service Level Standards

The subject property is located within the developing 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) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the guidelines.

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 Analysis of Traffic Impacts

The transportation staff evaluated one critical intersection, which is unsignalized. The traffic generated by the proposed preliminary plan would impact the intersection of MD 210 and MD 810E (Pine Drive). The critical intersection is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

The intersection of MD 210 and MD 810E is currently unsignalized. Beech Lane is located on the opposite side of MD 810E (Pine Drive) to form a four-way intersection. The site would generate 30 AM and 34 PM peak-hour trips; this impact is not sufficient to require a full traffic study, but an adequacy finding must be made and for that reason the traffic count was requested. These trip rates are based on the *Institute of Transportation Engineers Trip Generation Manual, 7th Edition*. Although ITE does not have a specific category for auto body shops; staff felt that the trip rates for Code 942, Automobile Care Center, most closely estimated the number of expected trips during the AM and PM peak hours.

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. The Prince George's County Department of Public Works and Transportation also recommends that applicants explore other means to improve vehicle delay at unsignalized intersections, such as adding turn lanes. Staff assumed two lane approaches on Pine

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Drive and Beech Lane. The vehicle delay shown below is based on two lane approaches.

MD 210/Pine Drive/Beech Lane	Existing	Background	Total
AM Peak Hour	366.6*	748.1*	958.1*
PM Peak Hour	175.4*	241.5*	293.2*

*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.

The table shows vehicle delay in excess of 50.0 seconds, therefore a traffic signal warrant study is recommended at the critical intersection.

Site Plan Comments

Access points are proposed along Livingston Road. This is a standard commercial driveway entrance to the proposed auto body shop. Most of the vehicles would access the site from the MD 210 and MD 810A (Pine Drive) intersection. Staff assumed a 60/40 directional split in favor of the critical intersection entrance versus the access point to the south at MD 210 and Livingston Road. The applicant would be responsible for any frontage improvements along Livingston Road required by the Prince George’s County Department of Public Works and Transportation (DPW&T), through the permitting authority.

Master Plan Comments

The Subregion V Master Plan (1993) lists Livingston Road as a collector road with an ultimate right-of-way of 80 feet. Dedication of 40 feet from the master plan centerline of Livingston Road should be required. This does not appear to be shown correctly on the plan. The subdivision plan shows 20 feet from the baseline of Livingston Road and should be revised to show dedication of 40 feet from the baseline center line.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

9. **Schools**—The subdivision does not impact the school cluster because the proposed development is commercial and therefore exempt from Adequate Public Facilities test for schools.
10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has

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reviewed this subdivision plan for adequacy of public facilities and concluded the following:

The existing fire engine service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road, has a service travel time of 3.18 minutes, which is within the 3.25-minute travel time guideline.

The existing ambulance service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road, has a service travel time of 3.18 minutes, which is within the 4.25-minute travel time guideline.

The existing paramedic service at Allentown Road Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 11.06 minutes, which is beyond the 7.25-minute travel time guideline.

The existing ladder truck service at Oxon Hill Fire Station, Company 21, located at 7600 Livingston Road, has a service travel time of 16.02 minutes, which is beyond the 4.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, 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.

The above findings are in conformance with the standards and guidelines contained in the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

The existing paramedic service located at Allentown Road Fire Station, Company 47, is beyond the recommended travel time guideline. The nearest fire station, Accokeek, Company 24, is located at 16111 Livingston Road, which is 3.18 minutes from the development. This facility would be within the recommended travel time for paramedic service if an operational decision to locate this service at that facility is made by the county.

11. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. Therefore, in accordance with Section 24-122.01(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed development.
12. **Health Department**—The Health Department noted that numerous tires were found on the property. The tires must be hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility, and a receipt for tire disposal must be submitted to the Health Department. All other trash, including automobile parts found scattered in the woods, must be removed and properly discarded.

The existing house at 17412 Livingston Road should be connected to public water and sewer

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service, and the abandoned shallow well must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department. The abandoned septic tank should be pumped out by a licensed scavenger and either removed or backfilled in place as part of the grading permit.

13. **Planning Board**—At the Planning Board Hearing, the applicant had requested that the existing well on the property remain operational so that it may be used for irrigational purposes only, and therefore would like the ability to petition the Department of Environmental Health for continued use of the well for this reason. The Planning Board added additional language to Condition 8 that would extend to the applicant the opportunity to gain approval from the Health Department for the well to remain unsealed, and used for agricultural/irrigational purposes only, at the discretion of the Health Department.

Approximately 15 abandoned vehicles and 4 full roll-off dumpsters were found on the property. All abandoned vehicles and dumpsters should be removed and properly stored or discarded.

14. **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, #36805-2003-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.

15. **Historic**—Phase I (Identification) archeological survey is not recommended on this property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates no known archeological sites in the vicinity and no known historic structures within the vicinity of the subject property.

Section 106 review may require archeological survey for state or federal agencies, however. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when federal monies, federal properties, or federal permits are required for a project.

16. The subject property is zoned C-M. While the subject application is not proposing any residential development, if legislation would permit such a land use, a new preliminary plan should be approved. Because there exist different adequate public facility tests, and there are considerations for recreational components for residential subdivisions, a new preliminary plan should be required if residential development is to be considered.

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.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince

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George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Vaughns, with Commissioners Eley, Vaughns, Clark and Parker voting in favor of the motion, and with Commissioner Squire temporarily absent at its regular meeting held on Thursday, April 20, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 11th day of May 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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