

R E S O L U T I O N

WHEREAS, Criss Brothers Partnership is the owner of a 2.5-acre tract of land known as Lot 1, Block B, Tax Map 50 in Grid D-4, said property being in the 2nd Election District of Prince George's County, Maryland, and being zoned I-2/I-D-O; and

WHEREAS, on August 7, 2007, Randy Wocy/Superior Concrete Materials, Inc., filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-07056 for Edmond's Subdivision 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 November 8, 2007, 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 November 8, 2007, 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 4-07056, Edmond's Subdivision, including a Variation from Section 24-121(a)(3) of the Subdivision Regulations for Lots 6 and 7, Block B with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Revise general note 11 to indicate that a Standard Letter of Exemption to the Woodland Conservation Ordinance was issued by the Environmental Planning Section on November 28, 2006.
  - b. Add a general note which references the variance application no. (VC-07005), and provide a brief description of the variances requested (as demonstrated on the variance exhibit plan).
2. Development of this site shall be in conformance with the Stormwater Management Concept Plan, # 49412-2006-00 and any subsequent revisions.
3. At the time of final plat, the applicant, his heirs, successors, and or assignees shall be required to dedicate 60 feet of right-of-way from the master plan centerline of MD 201 (Kenilworth Avenue).

4. Total development within the subject property shall be limited to the existing 34,668 square feet of warehouse space or industrial manufacturing/storage facilities, or equivalent development which generates no more than 14 AM and 14 PM peak-hour vehicle trips. Any development generating an impact greater than that identified herein shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
5. 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.
6. Prior to signature approval of the preliminary plan of subdivision, the staff-signed, certified copy of the Chesapeake Bay Critical Area Conservation Plan (CBCA), application no. CP-07005 shall be submitted to the Subdivision Section. The CBCA plan shall include the approval of the required variances under variance application, VC-07005.
7. At the time of final plat, the applicant, his heirs, successors, and/or assignees shall dedicate 35 feet from the existing centerline of Lloyd Street for Lots 6 and 7, Block B. The land area on Lot 6, Block B, which is currently improved with an industrial warehouse building, shall not be included as a part of any right-of-way dedication per the request of the Department of Public Works and Transportation.
8. Prior to signature approval of the preliminary plan of subdivision, two copies of companion, Chesapeake Bay Critical Area Plan, (CP-07005), shall be submitted which reflects the right-of-way dedication along Lloyd Street.

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 along the west side of Kenilworth Avenue at its intersection with Lloyd Street.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	I-2/I-D-O	I-2/I-D-O
Use(s)	Industrial	Industrial
Acreage	2.5	2.5
Lots	1	2
Parcels	0	0
Public Safety Mitigation Fee		N/A

4. **Environmental**—The Environmental Planning Section has reviewed the Preliminary Plan of Subdivision 4-07056, stamped as received by the Environmental Planning Section on August 10, 2007.

### **Background**

The Environmental Planning Section has previously reviewed Preliminary Plan 4-06124 for this property. However, the prior application was withdrawn before being heard by the Planning Board. The subject property is located within the Chesapeake Bay Critical Area. As such, approval of a Conservation Plan is required prior to any Planning Board approval of the Preliminary Plan. Chesapeake Bay Critical Area Plan Application no., CP-07005, is currently under review by the Environmental Planning Section.

### **Site Description**

There are no floodplains, streams steep slopes, or wetlands on the property. Current air photos indicate that the site contains existing structures and is not wooded. No historic or scenic roads are affected by this proposal. The Baltimore & Ohio Railroad is a nearby noise source and the proposed use is not expected to be a noise generator to nearby residentially zoned properties. Noise is not a major consideration in this review due to the industrial zoning of the property. No species listed by the State of Maryland as rare, threatened or endangered are known to occur in the general region. The Prince George's County Soils Survey indicates that the principal soil on the site is in the Elsinboro soil series, which poses no significant difficulties to development except when it occurs on steep slopes. The site is in the Developed Tier according to the adopted 2002 General Plan.

### **Bladensburg, New Carrollton and Vicinity Master Plan Conformance**

The subject property is located within Analysis Area 4 of the Bladensburg, New Carrollton and Vicinity Master Plan. There are no specific environmental recommendations or design standards that require review for conformance. The environmental requirements for woodland preservation and stormwater management are addressed within the Environmental Review Section.

### ***Countywide Green Infrastructure Plan Conformance***

The site contains Network Gaps within the designated network of the *Countywide Green Infrastructure Plan*. This portion of the Network Gap is associated with Evaluation Areas to the north and the site is currently developed. The intent of the Green Infrastructure Plan is to connect Network Gaps with Evaluation and Regulated Areas. There are no existing environmental features available on the subject property to facilitate any connections to the network features located off-site.

### **Environmental Review**

The preliminary plan application has a signed Natural Resources Inventory, (NRI/141/06), dated December 22, 2006, which was included within the application package. The preliminary plan shows all the required information correctly and no further revisions will be required to demonstrate conformance with the signed NRI.

This property is not subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the site is within the Chesapeake Bay Critical Area. The Standard Letter of Exemption, issued November 28, 2006, does not reference this method of exemption. However, since the CBCA exemption is also a Standard Exemption due to no woodland existing on the site, a revised letter is not required. No further action is needed as it relates to the Woodland Conservation Ordinance requirements. The Letter of Exemption should accompany all future applications for plans and permits.

An approved Stormwater Management Concept Plan, # 49412-2006-00, and the associated approval letter have been submitted with this application. Since no new development is proposed at this time, there are no stormwater management devices being required by DPW&T. Any future development proposed on the subject property will require a separate stormwater management concept plan to be approved by DPW&T.

### **Water and Sewer Categories**

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

5. **Community Planning**—The subject property is located within Employment Subarea 2 of the *1994 Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity*. The master plan recommends a Heavy Industrial land use for the subject property. This application proposes a Heavy Industrial land use which is consistent with the land use recommendation within the *1994 Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity*.

The 2002 General Plan locates the subject property within the Developed Tier. One of the visions for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The proposed use is consistent with the development pattern goals and policies of the General Plan.

The 1994 *Bladensburg-New Carrollton and Vicinity Sectional Amendment Map* retained the subject property within the I-2 (Heavy Industrial) Zone.

6. **Parks and Recreation**— In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations, this application is exempt from Mandatory Dedication of Parkland requirements because it consists of non-residential development.

7. **Trails**—There are no master plan trails issues identified in the Adopted and Approved Bladensburg-New Carrollton and Vicinity Master Plan that impact the subject property. The property is situated outside of the Bladensburg Town Center. Existing Lloyd Street is open section for its entire length. Similarly, Kenilworth Avenue (MD 201) includes no sidewalks for the majority of its length from MD 450 to the District of Columbia line. The provision of sidewalks in this largely industrial area is best addressed through a comprehensive sidewalk retrofit project, rather than piece-meal for individual properties. There are no master plan trail recommendations.
8. **Transportation**—The Transportation Planning Section has reviewed the preliminary plan application for Edmond's Subdivision, and determined that a traffic study was not warranted by the size of the proposed development. Traffic counts were not requested because the applicant is not proposing any changes to the existing land use, or the development of any new buildings or structures.

The applicant is not proposing any changes in use or additional square footage. Therefore, no additional trips are expected to occur during the AM or PM peak hours. There would be no additional impacts on any adjacent intersections other than what the existing uses on the site are currently generating. Any change in use which generates trips beyond the trip cap provided in this report, will require the submission and approval of a new preliminary plan. The trip generation rates and the associated trip cap were determined in accordance with the requirements provided within *The Guidelines for the Analysis of Traffic Impact of Development Proposals*. The subject property is located within the Developed Tier, as defined within the General Plan for Prince George's County.

The Transportation Planning Section has calculated the number of AM and PM peak-hour trips which are currently generated from the existing uses on the site using the designated rates for warehouse space within the guidelines. The rates used are based on trips per 1,000 square feet of gross floor area. The existing building on Lot 1 has an approximate gross floor area of 34,668 square feet. Based on the existing gross floor area of the building, a transportation trip cap has been established. The trip cap will be set at 14 AM peak hour trips and 14 PM peak-hour trips (or 0 new AM and PM peak-hour trips).

The Prince George's County Planning Board could deem the site's impact at this location to be de minimus, since the existing trips being generated from the site are already impacting the road network, and no new development is proposed by this application. Secondly, since there is no new construction proposed as a part of this application, there is no additional net traffic impact on the nearby intersections. Therefore, the Transportation Planning Section recommends that the Planning Board find that 0 new AM and PM peak-hour vehicle trips would have a de minimus impact upon delay at the critical intersection of MD 201 and Lawrence Street.

Both of the proposed lots are abutting Lloyd Street, which has an existing right-of-way width of 40 feet. According to the Zoning Ordinance (Subtitle 27) for industrial zones, and Part 7, Table of Uses, "For this regulation, a street shall mean a right-of-way line, as shown on the current approved

Master Plan, Functional Master Plan of Transportation, or General Plan, Prince George's County Capital Improvement Program, or Maryland State five (5) Year Highway Construction Program, whichever indicates the greatest right-of-way width. Any other street shall be deemed to have a right-of-way of a least seventy (70) feet." Based on Part 7, Table of Uses, within the Zoning Ordinance, the right-of-way width of Lloyd Street must be deemed at least 70 feet. However, it was determined that the existing building on Lot 6 is less than 10 feet from the existing edge of pavement along Lloyd Street. A dedication of 35 feet from the centerline of Lloyd Street would extend well into the existing building. At this time, since no new development is proposed as a part of this application, Lloyd Street is deemed to meet the requirements of the Zoning Ordinance, and no further dedication on Lloyd Street will be required.

The 1994 Bladensburg, New Carrollton, and Vicinity Master Plan designates Kenilworth Avenue (MD 201) as an arterial roadway with a minimum right-of-way width of 120 feet. As a result, the applicant will be required to dedicate 60 feet from the master plan centerline of Kenilworth Ave (MD 201). The required dedication of 60 feet is properly reflected on the submitted preliminary plan.

Direct access to existing or planned roadways of arterial classification require Planning Board approval of a variation request from Section 24-121(a)(3) of the Subdivision Regulations. Although the applicant's direct driveway access to Kenilworth Avenue has possibly existed since 1952, when the building was initially constructed, the submittal of a preliminary plan of subdivision application requires that any direct access point, whether existing or proposed, to a roadway of arterial designation be approved by the Planning Board. On August 7, 2007, the applicant submitted a justification statement in support of the requested variation. The legal findings for a variation request contained in Section 24-113 of the Subdivision Regulations have been addressed below.

**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;**

Comment: The variation request is for direct access to Kenilworth Avenue, MD 201, which is classified as an arterial roadway with an ultimate right-of-way width of 120-feet. Two existing commercial driveway entrances are currently being used to provide access to proposed Lot 6 directly from MD 201. This section of MD 201 (Kenilworth Avenue) already contains numerous curb cuts and side entrances from adjoining parcels. According to the applicant, the industrial

building currently situated on proposed Lot 6 was built in approximately 1952. The existing commercial entrances from MD 201 have been in use for decades, and there is no evidence to indicate that allowing the existing entrances to remain open would be detrimental to public safety, health, or injurious to other property.

**(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;**

Comment: The size of the industrial building and the building's existing configuration would preclude any access to the building's front entrance and driveway, unless the existing access point can continue to occur along MD 201. The companion CBCA plan (CP-07005) currently being processed by the Environmental Planning Section includes a variance application (VC-07005) for the industrial building's inadequate setbacks from the Lloyd Street right-of-way. This would prohibit access from being provided along Lloyd Street, as the building is currently setback only three feet from the existing right-of-way, and the main building line itself, occupies a majority of the Lloyd Street road frontage which is allocated to Lot 6, therefore, leaving the only viable access for Lot 6 to be provided along Kenilworth Avenue. These conditions do not generally exist on other area properties.

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

Comment: The variation does not constitute a violation of any other applicable law, ordinance, or regulation and no new access permits will be required.

**(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;**

Comment: A large portion of the industrial building currently has no setback along the southern property line, as it is constructed directly on the property line, and extends the length of Lot 6 until terminating just three feet from the Lloyd Street right-of-way. Because a portion of the building spans the entire length of the lot from north to south, vehicular access to the southern portion of the building, where setbacks are being provided, can only be accomplished from Kenilworth Avenue due to the shape of the specific property involved. Access to this portion of the building can not be provided from Lloyd Street.

The applicant is not proposing any new development as part of this preliminary plan application, and the requested variances are only to validate existing conditions associated with the older nonconforming building and fencing. Without the continued use of the existing Kenilworth Avenue driveway entrances, the owner would lose, not only the vehicular access to the southern portion of the building where loading may occur, but also their vehicular access to the front of the building resulting in a particular hardship, as distinguished from a mere inconvenience, if the

strict letter of these regulations is carried out.

The Transportation Planning Section supports the requested Variation from Section 24-121(a)(3), for the applicant's continued use of the property's driveway entrances along Kenilworth Avenue.

### **Transportation Staff Conclusions and Recommendations**

Based on the preceding findings, the Transportation Planning Section has concluded that 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 Historic Preservation and Public Facilities Planning Section have concluded that the review of this preliminary plan for school facilities in accordance with Section 24-122.02 of the Subdivision Regulations, CB-30-2003 and CR-23-2003, is not required because the application proposes an industrial use.
10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section have reviewed the preliminary plan application for fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance. The application proposes an industrial use within the I-2 Zone.

The existing fire engine service at Bladensburg Fire Station, Company 9, located at 4213 Edmonston Road, has a service travel time of 2.26 minutes, which is within the 3.25-minute travel time guideline.

The existing paramedic service at Bunker Hill Fire Station, Company 55, located at 3716 Rhode Island Avenue, has a service travel time of 3.38 minutes, which is within the 7.25-minute travel time guideline.

The existing ladder truck service at Bunker Hill Fire Station, Company 55, located at 3716 Rhode Island Avenue has a service travel time of 3.38 minutes, which is within the 4.25-minute travel time guideline.

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

11. **Police Facilities**—The approved 2002 General Plan addresses the provision of public facilities which will be needed to serve existing and future county residents. The plan includes planning guidelines for police facilities and they are:

Station space per capita: 141 square feet per 1,000 county residents

The police facilities test is performed on a countywide basis in accordance with the policies of the



Planning Board. There are 267,660 square feet of space in all of the facilities used by the Prince George's County Police Department, and the latest population estimate is 825,520. Using the standard of 141 square feet per 1,000 residents, 116,398 square feet of space for police facilities are required. The current amount of space available, 267,660 square feet, is above the guideline. The proposed development is within the service area for Police District I, Hyattsville.

12. **Health Department**— The Environmental Engineering Program has reviewed the preliminary plan of subdivision application for Edmonds Subdivision and have no comments to offer.
13. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #49412-2006-00 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.
14. **Historic**<sup>3/4</sup> A Phase I archeological survey is not recommended on the 2.50-acre property located along Kenilworth Avenue at intersection with Lloyd Street. This plan proposes a subdivision to create two lots for the continuation of an industrial use. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. Aerial photographs indicate that most of the property has previously been impacted by the construction of commercial and industrial buildings and parking lots, indicating that any archeological sites that may have been present on the property have already been adversely impacted. However, the applicant should be aware that there are numerous National Register properties, Historic Sites, and Historic Resources related to the town of Bladensburg within a one-mile radius of the subject property. There is also one historic archeological site, 18PR96, the George Washington Inn, located within a one-mile radius of the subject property.  
  
Moreover, Section 106 review may require an archeological survey for state or federal agencies. 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 state or federal monies, or federal permits are required for a project.
15. **Residential Land Use**<sup>3/4</sup> The subject property is zoned I-2. 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.
16. **At the Public Hearing** – At the public hearing for this application on November 8, 2007, the Subdivision Section had informed the Planning Board that a revised DPW&T recommendation had been received since the time the staff report was written. The revised DPW&T recommendation related to the needed right-of-way dedication along Lloyd Street, and required that two new conditions be added to the application, (Conditions 7 and 8). The applicant's

attorney, Mr. Daniel Lynch, was in agreement with the two new conditions, which were based on a November 6, 2007, meeting between DPW&T, Mr. Lynch, and staff from the Subdivision Section. The Planning Board concurred with the language within two new conditions. Conditions 7 and 8 have been added accordingly.

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 date of notice of 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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Cavitt, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, November 8, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of December 2007.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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