

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on July 20, 2006 regarding Detailed Site Plan DSP-02034/04 for Capital Commerce Park – Brian's Mitchell's Crab Cafe, the Planning Board finds:

1. **Request:** The subject application is for approval of a detailed site plan for a 15,000 square foot sit-down restaurant.

2. **Development Data Summary:**

	Existing	Proposed
Zone	I-3	I-3
Use	Vacant	Restaurant
Gross tract area of this DSP (Acre)	1.8	1.8

3. **Location:** The project is located in Council District 6, Planning Area 73. More specifically, the project is located in the northwestern quadrant of the intersection of Arena Drive and Landover Road (MD 202).
4. **Surroundings and Use:** The proposed project is bounded to the north by a post office on Apollo Drive and vacant land (the subject of approved detailed site plan DSP-02034/03 for a Wachovia bank and proposed detailed site plan DSP-02034/05 for a Rite Aid drug store); to the east by Arena Drive with Largo Town Center beyond; to the west by vacant land, the proposed site of a future Hilton Hotel; and to the south by MD 202/Landover Road and Arena Drive and the entrance to the Lake Arbor residential subdivision.
5. **Previous Approvals:** The property was the subject of Conceptual Site Plan CSP-87168, approval of which was formalized in Resolution PGCPB No. 88-59. The property was also the subject of a preliminary plan of subdivision 4-89129 approved by the Planning Board on August 3, 1989. The resolution of approval, PGCPB Resolution 89-407 was then adopted by the Planning Board on August 3, 1989, formalizing the action. The property is also the subject of record plat NLP 150@83. The property was then the subject of a detailed site plan approval DSP-02034 that was approved by the Planning Board on July 25, 2002. The Planning Board adopted PGCPB Resolution 02-177 on that same date, formalizing the approval. DSP-02034 has been revised twice. The first revision was for infrastructure and was accomplished at staff level. The second revision was for the construction of a Wachovia Bank. Lastly, the site received stormwater management concept approval from the Department of Environmental Resources on May 5,

2004. Such approval will expire on October 17, 2006.

6. **Design Features:** The subject property's location on the corner of MD 202 and Arena Drive gives it excellent visibility, especially because the proposed building on the site fronts the corner. The site plan calls for vehicular access to the proposed project from two locations on an existing private road leading off Apollo Drive on the western boundary of the subject site. The two access points lead into parking areas that surround the building

The front elevation of the building is especially well articulated with varied fenestration and a combination of architectural features including columns, a balustrade, pilasters, dentils and wall signage under the roof's pediment. A combination of brick and dryvit is used for the architectural materials for the building.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject project is in compliance with Section 27-473 of the Zoning Ordinance regarding permitted uses in industrial zones. More specifically, the use is permitted by Section 27-473 (1)(A)(V) that permits commercial eating and drinking establishments within an industrial park of between 25 and 100 acres, excluding a fast-food restaurant. The project is also in compliance with Section 27-474 of the Zoning Ordinance regarding the various applicable regulations in industrial zones, except as follows:

- a. Section 27-471(f)(2). I-3 Zone (Planned Industrial Employment Park) states that not more than twenty-five (25 percent) of any parking lot and no loading space shall be located in the yard to which the building's main entrance is oriented, except that the Planning Board may approve an additional fifteen (15 percent) in its discretion if increased parking better serves the efficiency of the particular use; improves views from major arteries or interstate highways; and makes better use of existing topography or complements the architectural design of the building.

In the instant case, the parking along Landover Drive (one of the two sides to which the front door is located) exceeds the permitted 25 percent by 9 percent for a total of 34 percent. Therefore, as part of the subject application, the applicant is requesting that the Planning Board grant permission to provide 34 percent of the parking along Landover Drive in accordance with the authority granted by Section 27-471(f)(2). I-3 Zone (Planned Industrial Employment Park) as cited above.

This increase in maximum allowed parking in the yard to which the building's main entrance is oriented may be justified by the architectural design of the building in its orientation toward the corner of the site. Such placement improves the view from adjacent roadways, and allowing a slight increase in the maximum permitted parking in one of the yards to which the front door is oriented would increase the convenience of future patrons of the proposed restaurant.

- b. The application is also not in conformance with the requirements of Section 27-258(a) of

Part 11, Off-Street Parking and Loading, of the Zoning Ordinance. Based on the 268 seats proposed for the subject restaurant, 90 spaces would be required where only 76 spaces are included in the plans. Specifically, Part 11 requires one parking space for every three seats in an eating and drinking establishment (not to include drive-ins and fast-food restaurants). A recommended condition below, agreed to by the applicant, would require removal of 40 seats in the planned restaurant, bringing the plans into conformance in this respect with the requirements of Part 11 of the Zoning Ordinance.

8. **Preliminary Plan of Subdivision 4-89129:** The property is subject to the requirements of the approval of Preliminary Plan of Subdivision 4-89129, approved by the Planning Board on August 3, 1989. The resolution of approval, PGCPB Resolution 89-407 was then adopted by the Planning Board, formalizing the action, on August 3, 1989. The property is also the subject of record plat NLP 150@83. The following conditions contained in the resolution of approval are applicable to the subject project. Staff's comments below follow the listing of each relevant condition:

1. **Compliance with all conditions of approved SP-87168/01, and conformance with SP-87168/01.**

Comment: Staff has reviewed the subject case against the requirements of SP-87168/01 and found it to be substantially in conformance with its requirements.

3. **Development of this site must be in accordance with the approved Conceptual Stormwater Management Plan, CSD 87288.**

Comment: In comments dated February 7, 2006, the Department of Environmental Resources stated that the site plan for DSP-02034/04 is consistent with approved stormwater concept 27746-2005. Staff has confirmed with the Department of Environmental Resources that approved stormwater concept 27746-2005 is a revision of CSD 87288.

5. **Development shall be limited to 300,000 square feet of general office development or any other amount of development, which would generate no more than 580 AM peak hour vehicular trips and 537 PM peak hour vehicular trips.**

Comment: In revised comments dated June 9, 2006, the Transportation Planning Section stated the proposal complies with the trip cap established at the time of preliminary plan, which is included in the above requirements.

6. **The Arena Drive reconstruction as a six-lane divided roadway shall be completed and maintenance responsibility accepted by the Prince George's County Department of Public Works and Transportation prior to the extension of Apollo Drive to Arena Drive.**

Comment: This has been done.

9. **Record Plat NLP 150@83:** Record Plat NLP 150@83 contains four notes. Each note of the subject approval is listed below, followed by staff's comments.

Plat Note 1. Requires conformance to the Approved and any Revised/Amended Site Development Plans.

Comment: Staff has reviewed the subject proposal against the prior approved detailed site plan and the revisions thereto and finds it in general conformance with the requirements of those prior approvals.

Plat Note 2. Requires that development conform to the "Traffic Conditions" of Resolution 89-407 (4-89129).

Comment: As per revised comments dated June 6, 2006, the development conforms to the traffic conditions as established in the above-cited resolution that formalized the approval of the subject preliminary plan of subdivision.

Plat Note 3. Denies access to Landover Road (MD 202) and Arena Drive.

Comment: The subject site plan accesses neither Landover Road (MD 202) nor Arena Drive.

Plat Note 4. "The architectural plan submitted for building permit application for the development of this site shall comply with the following requirements:

- a. **Address the provision of specific up-to-date security hardware such as adequate deadbolt locks.**
- b. **Any breaking and entering, thefts or vandalism at the construction site shall be reported immediately upon the knowledge of such crimes. Construction equipment/trailers shall be in a central location and fenced. Subsequent to any breaking or entering, the developer or builder shall be required to fully alarm all points of access (windows and doors) to the construction office/trailer's), and implement any reasonable crime prevention measures recommended by the Police Department to help prevent future occurrences.**
- c. **Ground floor units of the office building shall be alarmed with adequate intrusion alarms. Consideration should be given to individual alarms for individual suites.**
- d. **All appliances, electrical fixtures, carpeting, plumbing fixtures and cabinets shall be stored in secured construction trailers or in secured buildings.**

Comment: A condition below requires notes regarding the above requirements be added to the plans.

10. **Conceptual Site Plan CSP-87168/01:** Staff has reviewed the subject proposal against the requirements of Conceptual Site Plan CSP-87168/01 and found it to be substantially in

conformance.

11. **Detailed Site Plan DSP-04088:** Staff has reviewed the subject proposal against the requirements of Detailed Site Plan DSP-04088 and found it to be substantially in conformance.
12. ***Landscape Manual:*** The project is subject to the requirements of Section 4.2 and Section 4.3 of the *Landscape Manual*. Staff has reviewed the project against the requirements of the applicable sections of the *Landscape Manual* and finds it to be generally in conformance with the requirements. However, staff has recommended a condition below that would ensure that the landscaping shown along Arena Drive and Landover Road meets the requirements of 4.2(b) of the *Landscape Manual*.
13. **Woodland Conservation Ordinance:** The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is greater than 40,000 square feet; there are more than 10,000 square feet of existing woodland on the site; and there is a prior Tree Conservation Plan approval for the site (TCP/23/95). The Type II Tree Conservation Plan, TCP/23/95, was approved in conjunction with DSP-94045 for the proposed construction of a Caldor Department store on this site. That TCP was later revised in conjunction with the detailed site plan for infrastructure, DSP-02034.

The Type II Tree Conservation Plan, TCP/23/95-03, as most recently revised on December 22, 2003, addresses the requirements of the Prince George's County Woodland Conservation Ordinance. The 10.94-acre property with a net tract of 8.96 acres has a Woodland Conservation Threshold of 1.34 acres (15 percent). The amount of required woodland conservation based on the amount of clearing approved is 5.17 acres.

The TCP has proposed to meet the requirement with a 0.5. acre of on-site preservation and 4.67 acres of off-site mitigation, which meets the requirement of the Woodland Conservation Ordinance.

However, the Environmental Planning Section noted that the application package contained a copy of TCP/23/95-02 approved April 25, 2004, which was not the most recent plan. Since that time the applicant has submitted a copy of the most recently approved TCP, TCP/23/95-03 revised by Ken Wallis on December 2, 2003, and signed by John Markovich on December 22, 2003, for inclusion in the case file.

14. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

Historic Preservation—In comments dated February 2, 2006, the Historic Preservation Planning Section stated that the proposed project would have no effect on historic resources.

Archeological Review—In a memorandum dated June 13, 2006, the Staff Archeologist did not recommend a Phase 1 Archeological survey for the subject property as a search of current and historic photographs, topographic and historic maps and locations of currently known archeological sites indicates that the probability of finding archeological sites is low. She

mentioned, however, that a Section 106 archeological review may be required of state or federal agencies if federal monies, properties or permits are involved.

Community Planning—In a memorandum dated June 22, 2006, the Community Planning Division stated that there are no master plan or General Plan issues related to this detailed site plan.

Transportation—In a revised memorandum dated June 9, 2006, the Transportation Planning Section cited several conditions of approval attached to the approval of the relevant preliminary plan of subdivision. They found that the proposed plans were in conformance with all conditions. They mentioned, however, that with respect to Condition 5, while the proposal complies with the trip cap established at the time of preliminary plan, the PM trip cap is almost fully utilized by the proposed project, the 20,000 square foot post office already built on the site and a 4,068 square foot bank that is the subject of an approved detailed site plan. Please see table below.

DSP	Development Quantity	Status	AM Trip Generation	PM Trip Generation
None	20,000 sq. ft. post office	Built	160	218
DSP-02034/03	4,068 sq. ft. bank	Approved DSP	50	186
Less 10 percent of AM/PM trips shared with post office			-5	-19
Subject	15,000 sq. ft. restaurant	Proposed	12	164
Less 10 percent of PM trips shared with post office/bank			0	-16
Total			217	533

Further, they stated that the issue was carefully noted during the review of DSP-02034/03 but was not addressed since that time and is not currently being addressed. Lastly, with respect to Condition 5, they stated that although there may be a greater interaction between the uses that might reduce the overall trip impact for the uses, or some degree of passerby travel, that that issue requires greater study, that existing Lot 2 of Capital Commerce Park will have to be resubdivided in order to find adequacy for its full buildout and that the pending site plan for a Rite Aid, DSP-02034/05 would exceed the PM trip cap. On another issue, they stated that access to and circulation within the site are acceptable. In closing, they stated that the subject property was the subject of a 1989 traffic study, was given subdivision approval pursuant to a finding of adequate transportation facilities made in 1989 for Preliminary Plan of Subdivision 4-89247 and that, insofar as the subject plan currently conforms to that approval, the Transportation Planning Section can recommend approval of the plan, noting however that if DSP-02034/05 was to move ahead of the subject plan in the approval process, in light of the impact of that plan upon the trip cap, that the transportation staff would have to revisit its recommendation.

Subdivision—In a memorandum dated February 17, 2006, the Subdivision Section stated that the property is the subject of Preliminary Plan 4-89129, approved by the Planning Board on August 3, 1989. The resolution of approval, PGCPB Resolution 89-407 was adopted on August 3, 1989. The property is the subject of record plat NLP 150@83. For a detailed description of the subject

project's compliance with the conditions of the preliminary plan of subdivision approval and plat notes please see Findings 8 and 9 above.

Trails—In a memorandum dated March 6, 2006, the Transportation Planning Section stated that the Adopted and Approved Morgan Boulevard and Largo Town Center Metro Areas Sector Plan designates Arena Drive as a master plan trail corridor and that designation has been implemented along various segments of Arena Drive (the FedEx Field site and several locations outside the Capital Beltway) as eight-foot-wide concrete sidewalks, generally placed within the public right-of-way. The senior trails planner suggested similar sidewalk for this site along Arena Drive with a five-foot-wide sidewalk along the private drive. In addition, he noted that Landover Road (MD 202) is designated as a master plan bikeway in the sector plan. Therefore, he stated that striping for bike lanes, other pavement markings, and/or bikeway signage should be considered by the State Highway Administration at the time of road resurfacing or improvement. No recommendations were made, however, by the senior trails planner as improvements should more appropriately be planned for the entire corridor at one time, not as individual properties develop.

Permits—In comments dated February 22, 2006, the Permit Review Section offered numerous comments that have either been addressed by revisions to the plans or in the recommended conditions below.

Environmental Planning—In a memorandum dated February 22, 2006, the Environmental Planning Section offered the following:

1. A Detailed Forest Stand Delineation (FSD) was submitted and approved during the review of Detailed Site Plan, SP-94045.

Discussion: No further information with respect to the Detailed Forest Stand Delineation is required with this application.

2. This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is greater than 40,000 square feet; there are more than 10,000 square feet of existing woodland on-site; and there is a prior Tree Conservation Plan approval for this site (TCPII/23/95). The Type II Tree Conservation Plan, TCPII/23/95, was approved in conjunction with DSP-94045 for the proposed construction of a Caldor department store on this site. That TCPII was later revised in conjunction with the Detailed Site Plan for Infrastructure, DSP-02034. The Type II Tree Conservation Plan, TCPII/23/95-03, as most recently revised on December 22, 2003, addresses the requirements of the Prince George's County Woodland Conservation Ordinance. This 10.94-acre property with a net tract of 8.96 acres has a Woodland Conservation Threshold of 1.34 acres (15 percent). The amount of required woodland conservation based on the amount of clearing approved is 5.17 acres. The TCPII has proposed to meet the requirement with 0.50 acre of on-site preservation and 4.67 acres of off-site mitigation, which meets the requirements of the Woodland Conservation Ordinance. Application package contains a copy of TCPII/23/95-02 approved April 25, 2003, which is not the most current plan. The most current TCPII

must be submitted with the application package.

Required Information: Submit a copy of the most recently approved TCPII, TCPII/23/95-03 revised by Ken Wallis on December 2, 2003, and signed by John Markovich on December 22, 2003, with the application package.

3. This site is located near the headwaters of Southwest Branch, which is a tributary to the Patuxent River. Section 24-101 of the Subdivision Ordinance provides the definition of the features of the Patuxent River Primary Management Area (PMA). The stream, wetlands, and 100-year floodplain that comprise the PMA appear to be correct based on a Jurisdictional Determination (JD) previously reviewed for this portion of the site. The previously approved preliminary plan of subdivision and site plan did not propose any protection for these features. There are valid permits from the U.S. Army Corps of Engineers and the Maryland Department of the Environment to permanently disturb these features. As part of this application, valid wetland permits were submitted for informational purposes (Permit/Certification Number: 91-NT-01247/199261183, with an expiration date of July 23, 2007).

Discussion: No additional information is required with respect to the PMA and proposed PMA impacts.

4. This property is located within a transportation-related noise impact zone due to its proximity to MD 202. However, the property is zoned I-3 and proposes commercial uses for the site, not residential uses that would be subject to a requirement for noise mitigation.

Discussion: No further information is required with respect to the transportation-related noise impacts or for noise attenuation measures because no residential uses are proposed for this site and the state noise standards for commercial uses have been met. A condition requiring the submission of the most current TCPII prior to signature approval has been included in the Recommendation section of this report.

Department of Environmental Resources (DER)—In comments dated February 7, 2006, DER stated that the site plan for Capital Commerce Park, Lot 2C, Detailed Site Plan DSP-02034/02 is consistent with approved stormwater concept #27746-2005.

Fire Department —At the time of this writing, the Prince George's County Fire/EMS Department has not offered comment on the proposed project.

Department of Public Works and Transportation (DPW&T) – In a memorandum dated February 27, 2006, DPW&T stated:

*Right-of-way dedication in accordance with DPW&T's urban arterial road standards is required for Arena Drive.

*A street construction permit has been issued for the Arena Drive frontage of this site. The

permit will be revised to increase the proposed sidewalk width along the frontage from five feet as shown on the existing permit plan to eight feet in order to bring the plans in conformance with a prior M-NCPPC resolution. The proposed sidewalk will have six feet of green space between the existing curb and the proposed sidewalk. An easement for the proposed sidewalk will be required along the site's frontage.

*Sidewalks are required along all roadways within the property limits in accordance with Sections 23-105 and 23-135 of the County Road Ordinance.

*All storm drainage systems and facilities are to be designed in accordance with the Department of Environmental Resources' requirements. DPW&T requirements, however, will be enforced through their separate permitting process.

Washington Suburban Sanitary Commission (WSSC)—In a memorandum dated February 22, 2006, WSSC stated that water and sewer is available to the site and that an on-site plan review package should be submitted. In addition, they suggested that the applicant contact their Permit Services Unit for additional information.

Maryland State Highway Administration (SHA)—In a letter dated February 20, 2006, the State Highway Administration stated that, while they had no objection to the Detailed Site Plan DSP-02034/02 approval, the developer would have to coordinate with SHA's Engineering Access Permit Division in order to obtain an Access Permit for the proposed improvements along MD 202.

14. As required by Section 27-285(b), the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Type II Tree Conservation Plan (TCP/23/95-03) and further APPROVED Detailed Site Plan DSP-02034/04 for the above-described land, subject to the following conditions:

1. Prior to signature approval, the applicant shall provide the following additional materials or make the indicated revisions to the plans:
 - a. Notes shall be added to the plans stating the following:
 - (i) "Any breaking and entering, thefts or vandalism at the construction site shall be reported immediately upon the knowledge of such crimes. Construction equipment/trailers shall be in a central location and fenced. Subsequent to any breaking or entering, the developer or builder shall be required to fully alarm all points of access (windows and doors) to the construction office/trailer's), and implement any reasonable crime prevention measures recommended by the

Police Department to help prevent future occurrences.”

- (ii) All appliances, electrical fixtures, carpeting, plumbing fixtures and cabinets shall be stored in secured construction trailers or in secured buildings.
 - (iii) Applicant shall install specific up-to-date security hardware such as adequate deadbolt locks for the subject restaurant.
- b. Applicant shall include a schedule for Section 4.2(b) of the *Landscape Manual*, Commercial and Industrial Landscaped Strip Requirements in the I-3 Zone, on the landscape plan demonstrating compliance with its requirements. Such schedule and landscape plan shall be reviewed and approved by Urban Design staff as designee of the Planning Board..
- c. Indicate the number of stories in the general notes.
- d. Dimension the handicapped parking spaces.
- e. Correct the number of seats in the restaurant from 268 to 228 and amend the parking schedule accordingly.
- f. Submit an overall site plan that demonstrates per Section 27-471(a)(1)(i) that the minimum area of the Planned Employment/Industrial Park is 25 acres.
- g. If the dumpster is to be located externally to the building, a wholly enclosed dumpster pad shall be indicated on the plans, constructed of masonry material, consistent with the exterior of the building.
- h. Add the legal description for the subject property to the landscape plan.
- i. Add a note to the plans stating that the signage on the site shall be limited to the wall signage on the front elevation of the subject building.
- j. Applicant shall provide an eight-foot-wide sidewalk along the subject site’s entire frontage of Arena Drive, with the public right-of-way, unless modified by DPW&T.
- k. Applicant shall provide a standard sidewalk along the subject site’s entire frontage of the existing private drive.
- l. A note shall be added to the plans stating that all on-site lighting shall employ cut-off light fixtures.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board’s action must be filed with the District Council of Prince George’s County within thirty (30) days following the final notice of the Planning Board’s decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Eley, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, July 20, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of September 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:RG:bjs