

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 April 29, 2004, regarding Detailed Site Plan DSP-03095 for Washington Business Park (Lots 36, 37 and Residue of Lot 43, Block A), the Planning Board finds:

1. **Request:** Approval of a detailed site plan for 141,791 square feet of flex office space on 10.93 acres in the I-1 Zone. Approval of a variance for a 10-foot-high fence within the building restriction line along MD 450.

2. **Development Data Summary**

	EXISTING	PROPOSED
Zone(s)	I-1	I-1
Use(s)	Vacant	Office/Warehouse
Acreage	10.93	10.93
Lots	3	3
Parcels	0	0
Square Footage/GFA	0	141,791 SF
Dwelling Units:	N/A	N/A

Other Development Data

	REQUIRED	PROPOSED
Total Parking Spaces:	301	302
Handicap Spaces	8	14
Loading Spaces:	3	3

3. **Location:** The site is located in Planning Area 70 and Council District 05. It is also located on the south side of Annapolis Road, MD 450, approximately 1,500 feet east of the intersection with Forbes Boulevard. The site has access from an internal street to the business park, Business Parkway. Access to MD 450 from the site is not proposed (see Finding 15 below).
4. **Surroundings and Uses:** The site is surrounded by industrial uses to the east, west and south. Across MD 450 are existing detached residential dwellings.
5. **Previous Approvals:** The site was rezoned to the I-1 Zone by Zoning Map Amendment, Z.O. No. 44-1979 in April of 1979, requiring detailed site plan review. The site also has an approved Preliminary Plan, 4-86120.

6. **Design Features:** The site plan is for two office/warehouse buildings totaling 141,791 square feet on 10.92 acres of land. Building 1 is 31 feet high and Building 2 is 35 feet high. The buildings will be constructed of tilt-up concrete with anodized aluminum storefront and metal canopies over the entrances. The front and sides of the buildings will be the elevations that will be visible from the streets. The buildings are sited so that the back of the buildings, where the loading occurs, will not be visible from the public streets. Where loading areas would be visible to streets, screen walls, berms and landscaping have been employed to minimize or eliminate the impact. The concrete on the buildings will be painted with a Texcote material, which is acrylic paint with a granular material to give the exterior walls a textured appearance. The building materials and treatments are generally consistent with the materials and treatments of the Freeman Decorating building adjacent to the property to the west, recently approved by the Planning Board and currently under construction. In a memorandum dated March 17, 2004 (Fields to Wagner), the Community Planning Division indicates that the effort to screen the nonoffice portion of the building with berms, landscaping and walls is adequate to meet the intent of the master plan but that the applicant has not demonstrated efforts to provide architectural compatibility with the overall employment park. The Freeman building was required to provide a decorative cornice treatment to the top of the building elevation. The Urban Design Section is of the opinion that the architecture for this site plan should be subject to the same condition.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application is in general conformance with the requirements of the Zoning Ordinance for development in the I-1 Zone. A 10-foot-high fence is proposed along MD 450 that does not meet the setback requirements. A fence higher than six feet must meet setback requirements. In this case, the fence is an extension of a fence on the adjacent property to the west, Freeman Decorating (DSP-02068), which was granted approval of a variance to the setback requirements. The 10-foot-high fence for this site will also require a variance.

8. **Variance, VD-03095:**

The applicant has requested a variance for a 10-foot-high fence that is within the building restriction line along MD 450. Section 27-465(a) of the Zoning Ordinance requires that fences and walls over six feet in height meet setback requirements of Section 27-474. In this case, a 25-foot setback is required along MD 450 and the applicant is requesting a variance of 15 feet.

The criteria for granting a variance are set forth in Section 27-230 of the Prince George's County Zoning Ordinance. Specifically, a variance may be granted when the Planning Board finds that:

"(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

(2) The strict application of this subtitle will result in peculiar and unusual practical

difficulties to, or exceptional or undue hardship upon, the owner of the property; and

- (3) The variance will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan."**

The applicant's justification for the variance is as follows:

"The applicant submits that each of these criteria are satisfied in this case. First, the subject property has exceptional topographic conditions and other extraordinary situations or conditions which justify the requested variance. The subject property is located in an industrial zoning category. The property across MD Rte 450 is located in a residential zoning category. A desire has been expressed by the residents of the property across MD Rte 450 to be substantially screened from as much industrial activity on the subject property as possible. The proposed landscape plan and site plan prepared by the applicant is intended to screen the loading activities on the subject property. The screening plan includes three components, an earthen berm, two screening walls, and landscaping. The earthen berm and fence combination will provide immediate screening of trucking and loading areas on the property from MD 450 and the residential area directly across MD Rte 450. A second screen wall will be built as an extension of a building wall to screen the loading area. The landscaping is intended to not only enhance the attractiveness along the perimeter of the property, but is also intended to provide a consistent transition between the adjoining properties. The topography of the subject property, in relation to MD Rte 450, does not require the construction of a fence in order to achieve the screening referenced above. The topography of the residential property across the street, however, necessitates not only the construction of a fence, but a fence which exceeds 6 feet in height. The Prince George's County Landscape Manual requires that loading areas be screened from land in a residential zone, and recommends the use of a 6-foot high sight-tight fence. The Landscape Manual notes, however, that additional screening may be required due to the specific conditions of a site if the normally required screening measures do not achieve the desired level of concealment. In this case, providing a higher fence within the limited 35-foot area to accommodate the topography of the residentially zoned property across from MD Rte 450 is consistent with the Landscape Manual. As a result, the topography of the subject property in relation to the residential property across the street and the zoning of the subject property in an industrial zoning category across from a residential area are extraordinary conditions which, consistent with the recommendations of the Landscape Manual, support the addition of a fence greater than 6 feet in height to achieve adequate screening of industrial activity on the subject property.

"The second criteria which must be met to justify the approval of a variance is that strict application of Subtitle 27 will result in peculiar and unusual practical difficulties to or exceptional or undue hardship upon the owner of the property. Lots 36 and 43 both have frontage on public streets. As developed, the property constitutes a through lot. It is virtually impossible to use the subject property in accordance with its industrial zoning and provide loading areas which are not visible from a street unless adequate screening is provided. The loading area is screened from Business Parkway by a wall extending from the western side of the building. There is no

topographical variation along the western boundary, however. On the eastern side of the property, the loading area cannot be completely screened from MD Rte. 450 and the residentially zoned property directly across the street without a variance. As the residentially zoned property extends away from MD Rte. 450, however, the topography rises 10-12 feet. The addition of the fence/screen wall at the height of 10 feet achieves an immediate level of complete screening of the loading area. Further, the Applicant is only requesting the variance along the limited area of the property frontage necessary to comply with the Ordinance requirements. To strictly apply Subtitle 27 to require a level of screening which cannot be achieved without the construction of a fence of adequate height to accomplish this goal would be an undue hardship upon the owner of the subject property, since the property is zoned for industrial activities. Given the topography of the residential area, virtually any use of the property will require a similar level of screening and failure to permit such screening would essentially deny the reasonable use of the property.

“The final criteria for granting a variance is the variance will not substantially impair the intent, purpose or integrity of the General Plan or the Master Plan. In this case, the granting of the proposed variance will not impair the integrity of the Master Plan. The Master Plan recognizes the importance of separating the industrial and the residential activities. The Master Plan recommends that if a building is to be oriented toward MD Rte 450 that such business should be of an office style development rather than an industrial style development. In this particular case, the office face of the building is being oriented toward MD Rte. 450. The topographical conditions which could allow views into the property unless screening is provided dictate that additional screening be provided. Thus, the applicant has fully complied with the Master Plan and the granting of the variance will ensure that the buffering of the residential uses from the industrial uses is achieved.”

Staff agrees with the applicant’s justification for the variance and that the criteria have been met. The fence that is being provided by the applicant matches the fence on the Freeman Decorating site in that it has split-faced block columns 30 feet on center with board-on board fencing to be stained a color that is naturalistic and blends with the surroundings.

During the public hearing, the applicant agreed to take out the fence on the site prior to construction so that the citizens could see where it is located.

9. **Zoning Ordinance No. 44-1979:** The detailed site plan is in conformance with the conditions of the Zoning Map Amendment. Each site plan is supposed to show the location and height of each building; the general uses proposed for each building; the location, type and extent of proposed landscaping and screening; and the existing and proposed physical characteristics of the site and the general nature of the existing development of adjoining properties.
10. **Preliminary Plan, 4-86120:** The detailed site plan is in conformance with the Preliminary Plan and applicable conditions of approval.
 - a. Condition 2 requires combined entrances between lots along MD 450 to minimize curb cuts.

Comment: Access to MD 450 is not proposed.

- b. Condition 3 requires approval of a Conceptual Stormwater Management Plan.

Comment: A Conceptual Stormwater Management Plan has been approved by DER for the site; Case #39861-2003-00.

11. **Landscape Manual:** The detailed site plan is in general conformance with requirements of the *Landscape Manual*. The plan is not in conformance to Section 4.3 (c), interior planting area. The parking lot is divided into five different parking compounds. The parking compounds should be combined so that no more than two or three compounds are provided.
12. **Woodland Conservation Ordinance:** In a memorandum dated March 29, 2004 (Shirley to Wagner), the Environmental Planning Section offered the following comments:

Background

This site was previously reviewed by the Environmental Planning Section in conjunction with rezoning applications: A-8320, A-8772, A-8773, A-8894 and A-8921: and Preliminary Plan of Subdivision, 4-86120. All of these applications were approved with no environmentally related conditions. In 2002, Detailed Site Plan DSP-02068 and Type II Tree Conservation Plan TCPII/6/03 were reviewed for the Washington Business Park, Lots 33–37, and 40–42, and approved with two environmentally related conditions. The scope of the current review is a Detailed Site Plan for Lots 36, 37, and 43, Block A, and a revision of the Type II Tree Conservation Plan (TCPII/6/03-01).

Site Description

This scope of the TCPII is a 23.29-acre I-1 zoned site is located on the south side of Business Parkway and the south side of MD 450. Recent air photos indicate that the majority of this site has been previously graded. A review of the available information indicates that wetlands and 100-year floodplain are found to occur on the property. There are no streams, areas of severe slopes or areas of steep slopes with highly erodible soils located on this property. MD 450 is a significant noise generator; however, the proposed industrial use will not require noise mitigation. The soils found to occur according to the Prince George's County Soil Survey include soils in the Keyport and Bibb series. The Bibb soils are in Hydrologic Group D and have limitations due to high water table and poor drainage. The Keyport soils are considered highly erodible. According to available information, Marlboro clay is not found to occur on this property. According to information from the Maryland Department of Natural Resources Natural Heritage Program there are no rare, threatened, or endangered species found to occur within this project site. There are no designated scenic and historic roads in the vicinity of this site. This property is located in the Folly Branch watershed of the Patuxent River basin and in the Developing Tier as reflected in the 2002 General Plan.

Summary of Prior Conditions of Approval

Approval of the Detailed Site Plan (DSP-02068) reviewed in 2002 included two environmental conditions that are addressed as follows:

- a. Condition 1 reads as follows:

“Prior to certification of the Detailed Site Plan, TCPII/6/03 shall be revised to provide the location of the off-site mitigation.”

Comment: Prior to approval of TCPII/06/03 the plans were revised to identify the off-site mitigation area, and recorded easements were submitted to the TCPII file prior to the issuance of grading permits. The off-site tree mitigation was provided at the Cedarville Woodland Conservation Area (TCPII/47/96) and is recorded at L. 18125 F. 400.

- b. Condition 2 reads as follows:

“Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall provide the Environmental Planning Section with copies of all Federal and State wetland permits, evidence that approval conditions have been complied with, and any associated mitigation plans.”

Comment: Washington Business Park, Lots 33 through 35, which were the subject of the previous DSP, did not impact wetlands. The development now proposed for Lots 36, 37 and 43, proposes to impact emergent wetlands located on the site. This will be addressed under the Environmental Review Section below.

Environmental Review

- a. A Forest Stand Delineation (FSD) submitted with TCPII/06/03 was found to address the criteria for an FSD in accordance with the Prince George’s County Woodland Conservation and Tree Preservation Technical Manual.

This property is subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet and there are more than 10,000 square feet of existing woodland on-site. The previously approved Type II Tree Conservation Plan (TCPII/6/03) proposed to meet the 5.59-acre woodland conservation requirement with 0.30 acres of on-site preservation and 5.29 acres of off-site mitigation.

The proposed revision to the Tree Conservation Plan (TCPII/6/03-01) includes 0.26 acres of additional clearing required for the development of Lots 36, 37 and 43, which results in an additional woodland conservation replacement requirement of 0.09 acres. Because the applicant previously obtained an off-site mitigation easement for 5.29 acres, and additional off-site mitigation requirement is small, the applicant has proposed to fulfill

the additional requirement by the payment of a fee-in-lieu of \$1,176.00. The Environmental Planning Section supports the payment of a fee-in-lieu in fulfillment of woodland conservation requirements.

Recommended Condition: Prior to the issuance of permits, a fee-in-lieu for the additional woodland conservation requirement as approved on TCPII/06/03-01 shall be paid to the Department of Environmental Resources.

- b. This site contains isolated areas of nontidal wetlands and floodplain and this application proposes impacts to these features. Copies of all State and Federal permits for impacts to wetlands or Waters of the U.S. must be submitted to the Environmental Planning Section prior to the issuance of building permits.

Recommended Condition: Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall provide the Environmental Planning Section with copies of all Federal and State wetland permits, evidence that approval conditions have been complied with, and any associated mitigation plans.

- 13. 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.

REFERRAL COMMENTS

- 14. In a memorandum dated April 5, 2004 (Masog to Wagner), the Transportation Planning Section offered the following comments:

Review Comments

The subdivision includes no formal trip cap condition. However, staff has determined that Preliminary Plan of Subdivision 4-86120 considered the construction of up to 735,000 square feet of I-1 uses within an industrial subdivision that included the subject property but was bigger than the subject property. All lots created under that subdivision have been platted; the total platted lot area is approximately 49.04 acres. The Washington Business Park has been assumed to be in the background (i.e., an approved development) for the purposes of analyzing other development proposals in the area. Had a trip cap condition been written, it would have restricted development on the entire site to uses generating no more than 632 AM and 632 PM peak-hour vehicle trips. Based upon all constructed and approved development within the area of the subdivision, staff has determined the following trip generation totals:

- a. Under the detailed site plan for Lot 20B, the lot was approved for 62,843 square feet of warehouse space. Based on the parking ratio, however, staff assumes the use to be more like that of light service industrial. The site trip generation is 54 AM and 54 PM

peak-hour trips. That plan was approved as detailed site plan DSP-85115 and is built.

- b. Under the detailed site plan for Lot 24B, the lot was approved for 45,060 square feet of industrial space. The site trip generation determined at the time of site plan review is 33 AM and 31 PM peak-hour trips. That plan was approved as detailed site plan DSP-00037 and is built.
- c. Lot 39A contains a service station with a car wash and a convenience store. The service station includes 16 fueling positions. Accounting for pass-by travel, the use would generate 66 AM and 93 PM new vehicle trips.
- d. Lot 32A is being developed with a mini-warehouse storage facility of 119,460 square feet. The site trip generation is estimated at 18 AM and 31 PM peak hour trips. That plan was approved as detailed site plan DSP-02054.
- e. Lots 33-35A and 40-42A are approved for development with 159,600 square feet of warehouse facilities. The site trip generation is estimated at 64 AM and 64 PM peak-hour vehicle trips. That plan was detailed site plan DSP-02068.
- f. The subject plan includes 143,363 square feet, which is proposed to be 50 percent office and 50 percent warehouse space. This plan includes lots 36, 37, and 43A. The estimated site trip generation for this site is 172 AM and 162 PM peak hour vehicle trips.

The total trip generation resulting from the approved plus the pending plan is 407 AM and 435 PM peak hour trips. Therefore, all constructed and approved development plus the pending application would be well below the assumed trip level for the entire site. Seven lots totaling 9.54 acres (a total of 19.45 percent of the platted lot area of the subdivision) remain undeveloped with no current development proposals, with 225 AM and 197 PM trips remaining under the presumptive trip cap.

In summary, the site plan is acceptable and consistent with prior underlying approved plans.

15. In a memorandum dated February 26, 2004 (McDonald to Wagner), the State Highway Administration (SHA) offered the following comments:

“The subject property has frontage along MD 450 and Business Parkway. SHA pursues an effort to maintain free flow movement along arterials to the greatest extent possible. The goal is lessen friction points in the major corridors by reducing access locations. With regard to evaluating the subject plan, we note that two driveways on to Business Parkway provide adequate ingress/egress to the public road system. Given this fact, access to MD 450 is not essential to the development. Since ingress/egress onto the lower functioning facility is reasonable and sufficient, we recommend that the plan be revised to reflect our findings.”

As a result of the comments by the SHA and concerns from the community, the applicant removed the entrance onto MD 450.

16. In a memorandum dated March 12, 2004 (Chellis to Wagner), the Subdivision Section offered the following comments:

The three parcels are the subject of Preliminary Plan 4-86120, PGCPB Resolution #86-370 and recorded in land records in NLP 152@26. Resolution #86-370 contains 7 Conditions; the following apply to the review of this DSP:

Condition 2 Requires that combined entrances, between lots, shall be required to minimize curb cuts on MD 450. The final plat of subdivision NLP 152@26 further restricts access. Plat Note 3 requires that "Lots 42 and 43 shall have common access."

The proposed DSP does not demonstrate this required access. It appears that Lot 42 was developed without the provision for the future common access with Lot 43. The plan should be revised to address this issue or a new final plat should be recorded to remove the plat note, if it is determined that the common access is not necessary.

The Urban Design Section notes that the access to MD 450 has been removed from the plan.

The DSP site plan does not match the final plat of subdivision NLP 152@26. The eastern property line with Outparcel B, at Annapolis Road, differs from the plat and should be revised or the applicant should demonstrate why there is a discrepancy. The DSP plan should be revised to remove the language that the site contains a "residue" of Lot 43 unless the applicant provides evidence to the contrary.

17. In a memorandum dated March 8, 2004 (DeGuzman to Wagner), the Department of Environmental Resources, Stormwater Management Concept Section indicates that the site plan is not consistent with the approved SWM concept plan, and that all the proposed stormwater is not shown on the plan. The applicant should correct this deficiency prior to signature approval of the detailed site plan.

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 (TCPII/6/03-01) and APPROVED Variance Application No. VD-03095, and further APPROVED Detailed Site Plan DSP-03095 for the above-described land, subject to the following conditions:

1. Prior to certification, the detailed site plan shall be revised as follows:
 - a. The landscape schedules for Section 4.3(c), interior planting area, shall be revised to combine the parking compounds into two to three areas.

- b. The architectural elevations shall be revised to provide a decorative cornice treatment, similar to the Freeman Decorating building, on all elevations of the buildings.
 - c. Provide all stormwater management devices on the site plan subject to DER approval.
 - d. The fence along MD 450 shall be extended from the ending point depicted on the site plan to a point approximately halfway down the front of the building. The fence should transition from ten feet high to six feet high along the property frontage in a manner sufficient to screen the loading area.
- 2. Prior to the issuance of permits, a fee-in-lieu for the additional woodland conservation requirement as approved on TCPII/06/03-01 shall be paid to the Department of Environmental Resources.
 - 3. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall provide the Environmental Planning Section with copies of all Federal and State wetland permits, evidence that approval conditions have been complied with, and any associated mitigation plans.

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 Harley, seconded by Commissioner Eley, with Commissioners Harley, Eley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Squire recusing at its regular meeting held on Thursday, April 29, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of May 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:GW:rmk