

RESOLUTION

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, a new Zoning Ordinance, Subtitle 27, Prince George’s County Code went into effect on April 1, 2022; and

WHEREAS, the subject property is within the Commercial, General and Office (CGO); and

WHEREAS, pursuant to Section 27-1704(b) of the Zoning Ordinance, certain development applications may be reviewed and decided in accordance with the Zoning Ordinance in existence at the time of submission and acceptance of the application; and

WHEREAS, therefore, the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed this application under the Zoning Ordinance in existence prior to April 1, 2022; and

WHEREAS, in consideration of evidence presented at a public hearing on December 15, 2022, regarding Detailed Site Plan DSP-20030 for Livingston of Fort Washington, the Planning Board finds:

- Request:** This detailed site plan (DSP) requests construction of a 78,812-square-foot integrated shopping center.
- Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	CGO(Prior C-S-C)	CGO (Prior C-S-C)
Use(s)	Vacant	Retail/Office
Total Gross Acreage	12.27	12.27
Total Gross Floor Area (GFA)		78,812 sq. ft.

Parking Spaces

	NUMBER OF SPACES REQUIRED	NUMBER OF SPACES APPROVED
Total	271	298

Loading Spaces

	Required	APPROVED
Total	3	3

3. **Location:** The subject site is located at the northeast corner of Livingston Road, at its intersection with MD 210, in Planning Area 80 and Council District 08. The site is zoned Commercial, General and Office (CGO) and was previously zoned Commercial Shopping Center (C-S-C).
4. **Surrounding Uses:** The site is surrounded by single-family vacant lots zoned Residential Estate (RE), to the north and east. Located across MD 210 is other CGO-zoned property and the Olde Fort Village Shopping Center.
5. **Previous Approvals:** The subject property is 12.28 acres in area and is located on Tax Map 132 in Grid B2. It consists of one deed parcel known as Parcel 151, recorded in Prince George's County Land Records in Liber 20797 at folio 529. The property is zoned CGO; however, this DSP was submitted for review under the prior Prince George's County Zoning Ordinance. The property is the subject of Preliminary Plan of Subdivision (PPS) 4-07050, which was approved by the Prince George's County Planning Board on December 6, 2007, and the resolution of approval was adopted on January 3, 2008 (PGCPB Resolution No. 07-233). The PPS approved five parcels for development of 80,000 square feet of commercial, retail, and bank use. There are no final plats for the property recorded at this time. Final plats for the property should be accepted, prior to expiration of the PPS, which is December 31, 2022.
6. **Design Features:** This application is for development of a 78,812-square-foot integrated shopping center consisting of three buildings. There will be a two-story building with 32,206 square feet of retail space and 32,206 square feet of office space above located on Parcel A. There will be a one-story 7,800-square-foot building for retail use located on Parcel B, and a 6,600-square-foot building for retail use located on Parcel C. The site will be accessed from Gunpowder Drive. There will be a total of 298 surface parking spaces, to include 7 handicap-accessible spaces. The site will contain three 36-foot by 50-foot loading spaces. The building architecture will be constructed of high-quality building material and will include a combination of stone veneer, stucco banding, architectural trim, seam metal, and fiberglass roofs. A 5-foot-tall, 6-foot-wide entry monument sign is proposed with painted stucco, black coated aluminum frame, black metal lettering, and stone veneer at the base. Building-mounted signage is also being proposed as storefront signage for future tenants. The site lighting will utilize full cut-off fixtures to limit light spill-over into adjacent properties.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The DSP application has been reviewed for compliance with the requirements of the C-S-C Zone of the prior Zoning Ordinance. The *2006 Approved Master Plan and Sectional Map Amendment (SMA) for the Henson Creek-South Potomac Planning Area* (Henson Creek-South Potomac Master Plan and SMA) recommends

commercial land use for the subject property within the C-S-C Zone. This application is for a commercial use, which is consistent with the master plan and SMA.

a. Conformance with Section 27-281 for the purpose of detailed site plans.

(b) General purposes.

(1) The general purposes of Detailed Site Plans are:

- A. To provide for development in accordance with the principles for the orderly, planned, efficient and economical development contained in the General Plan, Master Plan, or other approved plan;**

The development conforms to the *Approved Plan Prince George's 2035 General Plan* (Plan 2035) and the approved Henson Creek-South Potomac Master Plan and SMA. This site proposes a commercial use that is consistent with the General Plan.

- B. To help fulfill the purposes of the zone in which the land is located;**

The subject property is located in the C-S-C Zone. The purposes of the C-S-C Zone are found in Section 27-454, C-S-C Zone (Commercial Shopping Center), of the prior Zoning Ordinance, which states:

(a) Purposes.

(1) The purposes of the C-S-C Zone are:

- (A) To provide locations for predominantly retail commercial shopping facilities;**
- (B) To provide locations for compatible institutional, recreational, and service uses;**
- (C) To exclude uses incompatible with general retail shopping centers and institutions; and**

(D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.

The integrated shopping center has been reviewed and is in conformance with the purposes of the zone, as described below.

C. To provide for development in accordance with the site design guidelines established in this Division;

The development is designed in accordance with the site design guidelines in this Division, as described below.

Section 27-283. - Site design guidelines.

(a) The Detailed Site Plan shall be designed in accordance with the same guidelines as required for a Conceptual Site Plan (Section 27-274).

The development has been designed to conform to the requirements of the design guidelines outlined in Section 27-274, as described below.

(b) The guidelines shall only be used in keeping with the character and purpose of the proposed type of development, and the specific zone in which it is to be located.

The development is consistent with the character and purpose of the C-S-C Zone, as described below.

(c) These guidelines may be modified in accordance with Section 27-286.

This development has been designed in conformance with the guidelines and no modifications have been requested.

b. Conformance with the requirements of Section 27-454 of the Zoning Ordinance, as permitted uses in the C-S-C Zone.

(A) To provide locations for predominantly retail commercial shopping facilities;

The development is for an integrated shopping center and the primary use will be for retail commercial use, which satisfies this requirement.

(B) To provide locations for compatible institutional, recreational, and service uses;

The development is for a shopping center for commercial use. Institutional and recreational services uses are not proposed, and this requirement does not apply.

(C) To exclude uses incompatible with general retail shopping centers and institutions; and

This development is only for a retail and commercial use. All incompatible uses have been excluded.

(D) For the C-S-C Zone to take the place of the C-1, C-2, C-C, and C-G Zones.

This development is located in the C-S-C Zone, which has taken the place of prior zones C-1, C-2, and C-C. This application is being reviewed under the prior Zoning Ordinance, which allows it to be reviewed under the prior C-S-C Zone.

This development is for office and retail use within an integrated shopping center, which is a use permitted by-right, and the project will be in conformance with all of the above requirements for permitted uses in the zone.

c. Conformance with the applicable design guidelines, as referenced in Sections 27-283 and 27-274 of the Zoning Ordinance.

- Parking, loading, and circulation
- Lighting
- Views
- Green area
- Site and streetscape amenities
- Grading
- Service areas
- Public spaces
- Architecture

The project meets the setback and height requirements of the zone and is consistent with the characteristics of the surrounding area. The development has safe and efficient vehicular and pedestrian circulation and exceeds the amount of required parking spaces. The site contains landscaping and buffering that will minimize the visual impact to surface parking and adjacent residential-zoned properties. There is adequate lighting being provided and the buildings will be constructed with high-quality building materials, including a combination of stone veneer, stucco banding, architectural trim, seam metal, and fiberglass roofs. There are easily accessible public spaces provided to enhance the commercial development. Service areas are not visible from public views. Slopes visible

on the site will appear natural with the site layout. Streetscape and site amenities enhance the use and enjoyment of the development. As such, the development will conform with the applicable design guidelines.

8. **Preliminary Plan of Subdivision 4-07050:** On December 6, 2007, the Planning Board approved PPS 4-07050, with 18 conditions (PGCPB Resolution No. 07-233). The relevant conditions are discussed, as follows:

3. **Development of the site shall be in conformance with the Stormwater Management Concept Plan, 12498-2007-00, and any subsequent revisions.**

A copy of the stormwater management concept plan and letter, approved on August 26, 2019, was submitted with the subject DSP.

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/127/90-01, 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 and Tree Preservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved tree conservation plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”

This requirement will be further reviewed at the time of final plat.

6. **Prior to final plat, the applicant, his heirs, successors, and or assignees, shall have a detailed site plan approved in accordance with Part 3, Division 9 of the Prince George’s County Zoning Ordinance. The detailed site plan shall be reviewed by both the Planning Board, and the District Council in accordance with Condition 2 of Zoning Map Amendment A-9739-C.**

This application has been submitted, in order to meet this condition. Following approval of the DSP by the Planning Board, it should be reviewed by the Prince George’s County District Council, in accordance with Condition 2 of Zoning Map Amendment A-9739-C.

12. **Total development within the subject property shall be limited to 80,000 square feet of retail space, or equivalent development which generates no more than 56 AM peak hour and 384 PM peak hour new vehicle trips, in consideration of pass-by rates for retail centers. Any development generating a traffic 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.**

This development proposal includes 32,206 square feet of office space and 46,606 square feet of retail space, totaling 78,812 square feet of development. The Planning Board has reviewed the subject project and determined that this proposed development is within the trip cap established with the PPS. It was determined that the subject application would be reviewed as an integrated shopping center, and pass-by rates would be considered. It was also determined that the site did not exceed the trip cap, as established in the PPS.

- 14. Livingston Road and Gunpowder 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:**

- c. At the time of detailed site plan submission, the applicant, his heirs, successors, and or assignees shall submit an acceptable traffic signal warrant study to DPW&T for signalization at the intersection of Livingston Road and Gunpowder Drive. The applicant shall utilize a new 12-hour count, and shall analyze signal warrants under total future traffic, as well as existing traffic, at the direction of the operating agency. If a signal, or other traffic control improvements are deemed warranted at that time, the applicant shall bond the signal with the appropriate agency, prior to the release of any building permits within the subject property and install it within a timeframe directed by that agency.**

The Planning Board has reviewed the subject project and determined that the signalized intersection of Livingston Road is not warranted.

- 15. At the time of final plat approval, the applicant shall dedicate right-of-way along existing Livingston Road of 40 feet from centerline.**

The submitted DSP shows right-of-way dedication of 40 feet from the centerline, along Livingston Road.

- 16. Prior to final plat approval, the applicant, his heirs, successors, and or assigns shall prepare a plat of reservation and shall place in reservation Parcels D and E, as right-of-way for the proposed MD 210 and Livingston Road/East Swan Creek Road interchange, as recommended in the Henson Creek-South Potomac Master Plan, per the requirements of Sections 24-139, 24-140, and 24-141 of the Subdivision Regulations. This reservation shall be subject to the following requirements:**

- a. The reservation period shall continue for three years and commence with the recordation of a reservation plat recorded with the final plat of subdivision. The reservation area shall also be shown on the final plat. The**

reservation plat shall comply with all requirements for recording plats among the Land Records of Prince George's County.

- b. At the end of the reservation period, if the reservation has not been renewed, or if the land reserved has not been acquired for public use and proceedings for acquisition have not been initiated, the reservation shall expire. Prior to the expiration of the three-year reservation period and with the written consent of all land owners, the Planning Board may renew the reservation for additional periods of time (not less than one year) if agreeable to the landowners.**
- c. With the exception of the applicant's stormwater management facility, as per the approved stormwater management concept plan, during the reservation period, no building or structure, other than validly approved utilities, roads and public infrastructure, shall be erected upon the reserved land unless otherwise approved by the Planning Board. No trees, topsoil, or cover shall be removed or destroyed, no grading shall be done, and no drainage structures shall be built so as to discharge water upon the reserved land except as provided in Section 24-140(d) of the Subdivision Regulations.**
- d. All reserved land shall be maintained by the owner as required by county law. The Planning Board shall be notified immediately upon the sale of any land so reserved.**
- e. If, prior to the expiration of the reservation period, the Planning Board determines that the reservation no longer appears necessary, the Planning Board may cancel the reservation with the written consent of the owner. Parcel D is shown incorporated into proposed Parcels A and C in the DSP for development, and Parcel E has been incorporated into Parcel B.**

The Planning Board has reviewed the subject project and determined that the Henson Creek-South Potomac Master Plan recommends commercial land use on the subject property. The property is shown on the Land Use Map to be affected by the Maryland State Highway Administration (SHA) interchange concept design, that needs further verification on its status.

- 17. 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.**

The development with this DSP is consistent with the land uses evaluated with the PPS, which does not include residential development. Conformance with this condition has been demonstrated.

- 9. 2010 Prince George's County Landscape Manual:** The application is subject to Section 4.2, Requirements for Landscape Strips along Streets; Section 4.3, Parking Lot Requirements;

Section 4.4, Screening Requirements; Section 4.7, Buffering Incompatible Uses; and Section 4.9, Sustainable Landscaping Requirements, of the 2010 *Prince George's County Landscape Manual*. The landscape plan provided with the subject DSP contains the required schedules, demonstrating conformance to these requirements. The PPS required a 50-foot-wide buffer line along the entire perimeter of Parcel A.

10. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** This property is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the property is greater than 40,000 square feet in area and contains more than 10,000 square feet of existing woodland. A Type II Tree Conservation Plan (TCPII-054- 03-01) was submitted with the current application.

Based on the submitted TCPII, the application area was previously cleared for the original phase of the project for the existing CVS development. The original TCPII showed 0.69 acre and the proposed development will clear 9.02 acres of woodland in the net tract area and 0.45 acre within the wooded floodplain. The original phase provided 0.41 acre of natural regeneration and the current phase proposes to preserve 0.75 acre and reforest 0.40 acre, to meet the woodland conservation requirement of 5.38 acres. Technical revisions are required to the TCPII, which are included herein as conditions.

11. **Prince George's County Tree Canopy Coverage Ordinance:** The DSP is subject to the requirements of the Tree Canopy Coverage Ordinance. Section 25-128 of the Prince George's County Code requires a minimum percentage of tree canopy coverage (TCC) on projects that propose more than 5,000 square feet of disturbance. The subject DSP provides the required schedule, demonstrating conformance to these requirements through new plantings on the subject property. The percentage required should be included in the Tree Canopy Coverage schedule on the plan. A condition is included herein, requiring the applicant to add the percentage of TCC to the Tree Canopy Coverage schedule on the plans.

12. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized, as follows, and are incorporated herein by reference:

- a. **Subdivision Review**—The Planning Board has reviewed and adopts the memorandum dated November 14, 2022 (Vatandoost to Butler), in which the Subdivision Section noted that the DSP has been found to be in substantial conformance with the approved PPS. It was also stated that there are no final plats for the property recorded at this time and final plats for the property should be accepted, prior to expiration of the PPS, which is December 31, 2022. Technical corrections are included herein as conditions.
- b. **Transportation Planning**—The Planning Board has reviewed and adopts the memorandum dated November 21, 2022 (Patrick to Butler), in which the Transportation Planning Section determined that this plan is acceptable, with conditions that are included herein.

- c. **Environmental Planning**—The Planning Board has reviewed and adopts the memorandum dated November 14, 2022 (Schneider to Butler), in which the Environmental Planning Section stated the subject property has been preserved, to the fullest extent possible, and there are no new regulated environmental features as part of this application.
 - d. **Historic Preservation**—The Planning Board has reviewed and adopts the email dated November 14, 2022 (Stabler to Butler), which noted that the subject property does not contain, and is not adjacent to, any designated Prince George’s County historic sites or resources.
 - e. **Permit Review**—The Planning Board has reviewed and adopts the memorandum dated November 14, 2022 (Jacobs to Butler), which noted that the plan was acceptable.
 - f. **Community Planning**—The Planning Board has reviewed and adopts the memorandum dated November 10, 2022 (Umeozulu to Bishop), which noted the Henson Creek-South Potomac Master Plan recommends commercial land use on the subject property. The property is shown on the land use map to be affected by the SHA interchange concept design, that needs further verification on its status.
13. As required by Section 27-285(b)(1) of the prior Zoning Ordinance, the DSP, if revised as conditioned, represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the County Code, without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.
14. Per Section 27-285(b)(4) of the prior Zoning Ordinance, which became effective on September 1, 2010, a required finding for approval of a DSP is, as follows:

The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible.

Based on the level of design information submitted with this application, the regulated environmental features on the subject property have been preserved and/or restored, to the fullest extent possible. No impacts to regulated environmental features are proposed with this DSP.

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 Type II Tree Conservation Plan TCPH-054-03-01, and further APPROVED Detailed Site Plan DSP-20030 for the above-described land, subject to the following conditions:

1. Prior to certification of the detailed site plan (DSP), the applicant and the applicant's heirs, successors, and/or assignees shall:
 - a. Show and label the 10-foot-wide public utility easement along the entire frontage of Parcel A with MD 210, in conformance with Preliminary Plan of Subdivision 4-07050.
 - b. Provide striped crosswalks along the internal site entrances along Gunpowder Drive.
 - c. Provide a striped crosswalk along Gunpowder Drive at Livingston Road.
 - d. Provide bicycle racks at both proposed retail pad sites.
 - e. Revise the site plan coversheet and the landscape plan coversheet to be consistent and reflect the correct use, parking calculations, and square footage.
 - f. Revise the Tree Canopy Coverage Schedule to include the acreage and the percentage required.
2. Prior to signature approval of the detailed site plan, the Type II tree conservation plan shall be revised to correct the sheet numbering.
 - a. Revise all TCP numbers to "II," instead of "2."
 - b. On the revised plans, add a note in the revision block and update signatures.

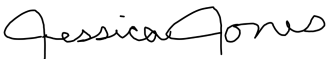
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

* * * * *

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 Washington, seconded by Commissioner Doerner, with Commissioners Washington, Doerner, and Shapiro voting in favor of the motion, and with Commissioners Bailey and Geraldo absent at its regular meeting held on Thursday, December 15, 2022, in Upper Marlboro, Maryland.

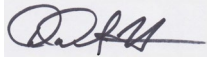
Adopted by the Prince George's County Planning Board this 5th day of January 2022.

Peter A. Shapiro
Chairman

By 
Jessica Jones
Planning Board Administrator

PAS:JJ:TB:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: January 4, 2023