

December 27, 2000

MEMORANDUM

To: Prince George's County Planning Board

From: Alan S. Hirsch, Planning Supervisor, Subdivision Section

Subject: Preliminary Plat 4-91054, Walker Pontiac  
Reconsideration Hearing

**BACKGROUND**

The subject preliminary plat was originally approved on October 31, 1991 (PGCPB No. 91-393(c)). The subdivision consisted of approximately 19.09 acres of land in the C-H and R-R Zones. The applicant proposed the subdivision of the site into five lots and one outparcel. The Walker Pontiac car dealership existed on the property at the time of the preliminary plat submission.

By a letter dated November 8, 2000, the applicant requested that the Planning Board reconsider condition No. 4 of the original approval. Condition No. 4 states:

4. The applicant, his heirs, successors, and or assigns, shall verify at the time of Detailed Site Plan that the proposed uses on these lots are consistent with the uses identified on the Preliminary Plat and only replace existing uses found elsewhere on the site. Any development shown on the Detailed Site Plan for Lots 2 through 5 of the proposed Preliminary Plat, together with the retained existing activities (proposed Lot 1), shall not generate more than 80-peak-hour vehicle trips.

The applicant's November 8, 2000 letter portrayed condition No. 4 as impermissibly restricting uses that are permitted by right of zoning. At the November 30, 2000 public hearing to consider the request for a reconsideration, staff presented an interpretation of the condition that would allow for the condition to be viewed as not restricting permitted uses. Given the nature of the debate as to the meaning of the condition, the Planning Board deemed it appropriate to grant the reconsideration of the Preliminary Plat so that condition No. 4 could be clarified. The hearing for the reconsideration was set in for January 4, 2001 and notice of the this hearing was sent to all parties of record in the subject application, in accordance with Section 10f. of the Planning Board's Rules of Procedure.

## **FINDINGS AND REASONS FOR STAFF RECOMMENDATION**

Staff reviewed the file for the subject application and the Minutes from the October 31, 1991 Planning Board hearing. It seems clear from those records that the intent of the Planning Board was to cap the amount of total transportation impact from the 19.09 acre site to no more than 80-peak-hour vehicle trips. It also seems clear from those records that Planning Board intended that development causing more than 80-peak-hour vehicle trips would have to be authorized pursuant to the submission of a new preliminary plat of subdivision.

Because all parties agree that the restriction of permitted uses is inappropriate, staff recommends that condition No. 4 be amended to delete the language referring to use. This can be accomplished by simply removing the first sentence in the condition. Condition No. 4 would then read as follows:

4. Any development shown on the Detailed Site Plan for Lots 2 through 5 of the proposed Preliminary Plat, together with the retained existing activities (proposed Lot 1), shall not generate more than 80-peak-hour vehicle trips.

Amending the condition in this fashion removes any doubt regarding restrictions of use, while preserving the intent of the condition which is to limit the transportation impact pursuant to the adequate public facilities requirements of the Subdivision Regulations (Subtitle 24 of the Prince George's County Code). Because condition No. 4, as originally approved, is cited verbatim on the Record Plat of Subdivision as Plat Note #7, the applicant should be permitted to file a new final plat that reflects condition No. 4 as amended above.

## **RECOMMENDATION**

It is staff's recommendation, that the Planning Board approve Preliminary Plat of Subdivision 4-91054 with all the original findings and conditions with the exception of a substitute condition No. 4. The substitute condition reads as follows:

4. Any development shown on the Detailed Site Plan for Lots 2 through 5 of the proposed Preliminary Plat, together with the retained existing activities (proposed Lot 1), shall not generate more than 80-peak-hour vehicle trips.

Furthermore, staff recommends that the applicant be permitted to file a new final plat that reflects substitute condition No. 4 as reflected above.