



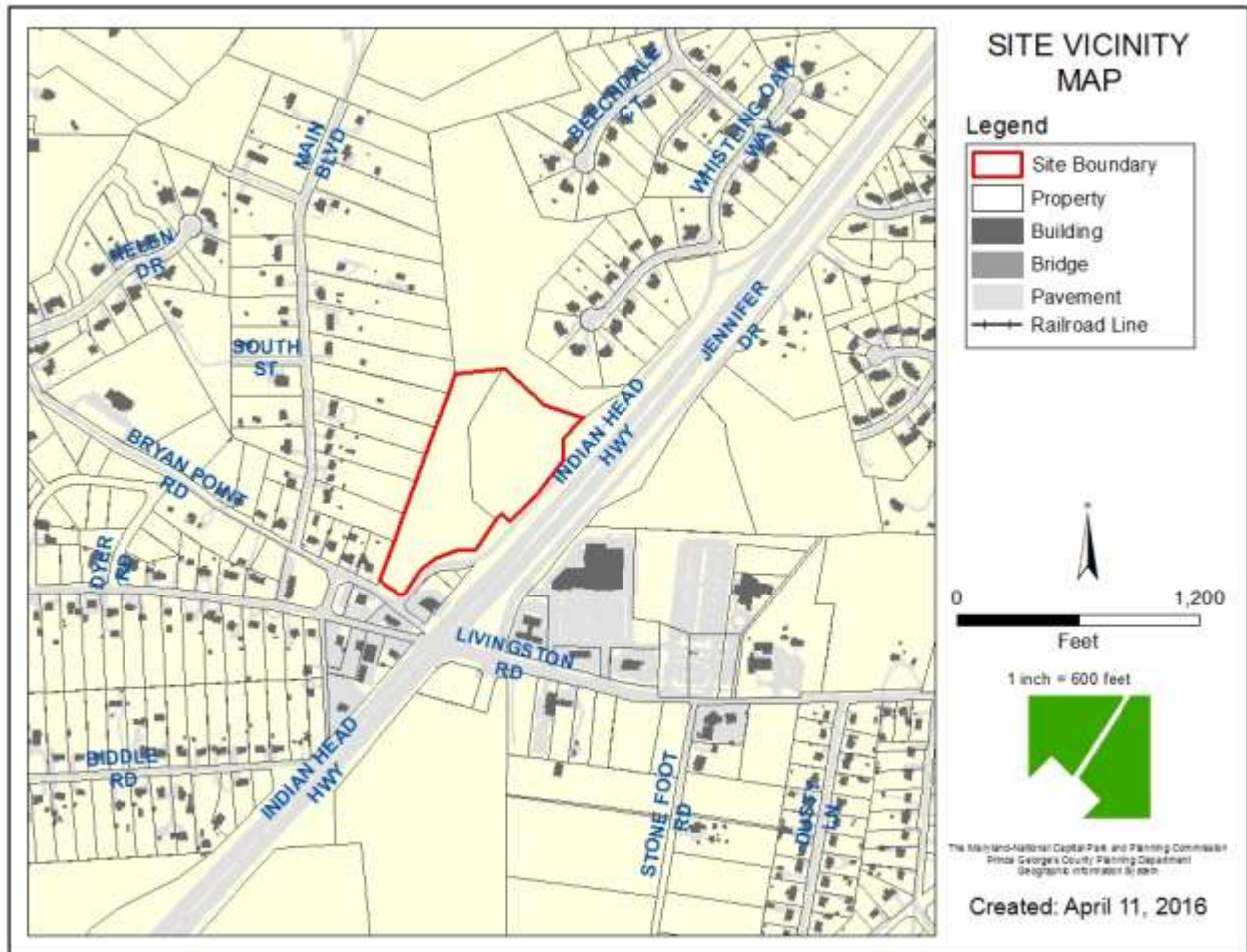
Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-95065 Reconsideration Hearing

Application	General Data	
Project Name: Farmington Woods Location: Northern quadrant of the intersection of Indian Head Highway (MD 210) and Bryan Point Road, fronting on Hickory Knoll Road. Applicant/Address: John R. Henson 705 Lochnese Circle Fort Washington, MD 20744 Property Owner: John R. Henson (Parcel D) and Tyson Construction, LLC (Parcel C)	Planning Board Hearing Date:	06/02/16
	Memorandum Date:	05/24/16
	Date Received:	03/29/16
	Planning Board Action Limit:	N/A
	Plan Acreage:	12.41
	Zone:	C-S-C/C-O
	Gross Floor Area:	63,100 sq. ft.
	Lots/Dwelling Units:	N/A
	Parcels:	2
	Planning Area:	83
	Council District:	09
	Election District:	05
	Municipality:	N/A
	200-Scale Base Map	220SW01

Purpose of Application	Notice Dates	
Reconsideration Hearing	Previous Parties of Record (Applicant)	N/A
	Parties of Record (M-NCPPC)	04/11/16 05/20/16

Staff Recommendation		Staff Reviewer: Whitney Chellis Phone Number: 301-952-4325 E-mail: Whitney.Chellis@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



May 24, 2016

MEMORANDUM

TO: The Prince George's County Planning Board

FROM: Whitney Chellis, Supervisor, Subdivision Review Section, Development Review Division

SUBJECT: Reconsideration Hearing for Farmington Woods
Preliminary Plan of Subdivision 4-95065

By letter dated March 29, 2016, Andre Gingles, representing the owner of Parcel D (5.57 acres) being zoned Commercial Office (C-O), requested a waiver of the Planning Board's Rules of Procedure and a reconsideration of Preliminary Plan of Subdivision (PPS) 4-95065. On April 21, 2016, the Planning Board granted the waiver and the request for reconsideration for other good cause in furtherance of substantial public interest.

The reconsideration is limited to the findings and conditions of approval (PGCPB Resolution No. 95-393) that bring forward District Council Zoning Ordinance No. 26-1990 for Zoning Map Amendment A-9796-C, which rezoned the subject property from the Real Estate (R-E) Zone to the Commercial Shopping Center (C-S-C) and C-O Zones. The zoning map amendment (ZMA) was approved prior to the PPS and required a detailed site plan (DSP) for the development of Parcels C and D, a requirement that is not standard in these zones. The PPS approval is replete with reference to the ZMA and the conditions of that approval.

The conditions of the ZMA overwhelmingly dealt with requiring a DSP to conduct an environmental review that today is standard as part of a PPS review and approval, but was not standard 25 years ago when the ZMA was approved. Parcels C and D have never been developed and are both currently vacant. After review of the Official Zoning Maps, it had been determined that the ZMA conditions are not applicable to the development of the property. In particular, two Prince George's County Code provisions required that the ZMA be indicated on the zoning maps if conditions of that approval were to apply:

Section 27-157(b)(4) of the Zoning Ordinance (Conditional approvals of ZMA requests) states, in pertinent part:

- (4) Conditions imposed by the DC shall become a permanent part of the ZMA, and shall be binding for as long as the zone remains in effect on the property (unless amended by the Council).**

Subsection (b)(6) then says:

- (6) All ZMAs which are approved subject to conditions shall be shown on the Zoning Map with the letter “C” after the application number.**

In this case, as detailed in the applicant’s request dated March 29, 2016, the Official Zoning Maps of Prince George’s County do not reflect the ZMA-C. In fact, staff is unable to determine at what point the ZMA was removed from the zoning maps or if it ever was depicted. Since the ZMA was approved in 1990, there have been two comprehensive plans and re-zonings including the property which have confirmed the current zones with no conditions. Given the particulars of this case, in discussion with Matthew T. Mills, M-NCPPC Senior Counsel, and the Planning Director, Dr. Fern Piret, it is the opinion of the Planning Department, in furtherance of the applicant’s due process and fundamental fairness, that the conditions of Zoning Ordinance No. 26-1990 approving A-9796-C are not applicable to the development of Parcels C and D because of subsequent comprehensive re-zonings approved by the District Council with no reference to conditions and because the ZMA is not reflected on the Official Zoning Maps (see Andre Gingles’ request dated March 29, 2016 (Gingles to Hewlett)).

The PPS approved two parcels that are currently under separate ownership. Parcel C is zoned C-S-C (5.25 acres) and is owned by Tyson Construction LLC. Mr. Gingles’ letter requesting the waiver and reconsideration states that the “request is applicable only to the C-O portion of the land,” which is Parcel D. Mr. Gingles, representing John R. Henson, has indicated that he is in discussion with the property owner of Parcel C to have them consent to the approval of the recommendation for the development of Parcels C and D.

The Planning Board granted the applicant’s request on April 21, 2016 with the understanding that, prior to the hearing, Tyson Construction LLC should consent to the request. If the applicant is unable to bring Tyson Construction LLC (Parcel C) to the table, the only other avenue for Mr. Gingles’ client (Parcel D) is to file a new PPS in order to allow his client to proceed with the development of the property in a timely and orderly fashion. Staff does not believe that the PPS reconsideration should be approved without both parties’ consent. At the time of the writing of this memorandum, Mr. Gingles has not provided evidence that the owner of Parcel C is in agreement with the reconsideration, which affects their property. The amended resolution will allow for each parcel to be developed independently, requiring a natural resources inventory, a Type 2 tree conservation plan, and a minor final plat, prior to permit.

Staff has prepared an amended resolution of approval removing reference to the ZMA and associated conditions, which is also scheduled for Planning Board review on the same day as this reconsideration hearing which will require separate action for the adoption of the resolution. If consent of the owner of Parcel C is not provided prior to the hearing, staff will recommend disapproval of the reconsideration and denial of the amended resolution (PGCPB Resolution No. 95-393(A)).

RECOMMENDATION

APPROVAL of the reconsideration.