

Case No. SP-06025

Applicant: Largo Block D Associates, LLC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

REVISED ORDER AFFIRMING PLANNING BOARD DECISION,
WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 06-286, to approve with conditions a detailed site plan for a mixed-use development of 318 single-family dwelling units, 79,749 square feet of office space, and 18,872 square feet of commercial/retail and restaurant uses, for a project referred to as Largo Park, on property described as approximately 9.24 acres of land in the M-U-I and DDO zones, in the northwest corner of Arena Drive and Lottsford Road, Largo, is:

REVISED, and, as revised, AFFIRMED, for the reasons stated by the Planning Board, whose decision is hereby adopted as the findings of fact and conclusions of law of the District Council, except as follows:

A. On page 5 of PGCPB No. 06-286, the Planning Board finds:

The subject application proposes a combination of surface parking and structured parking for both the office mixed-use building and three residential mixed-use buildings. Total parking provided exceeds the maximum parking allowed according to the Development District Standards by 22 spaces. The applicant requested an amendment to the parking standards to allow them to retain the 22 parking spaces during the public hearing for this case on December 14, 2006. The Planning Board disapproved this parking standard amendment. A condition has been proposed in the recommendation section to require the applicant to remove the extra parking for this site, especially the excessive surface parking spaces to comply with the parking requirements of the Development District Standards.

This finding is the basis for condition 1 (c) in the Planning Board's resolution:

Revise the parking calculation table in accordance with parking requirements of the Development District Standards for site design and provide a breakdown between the structured parking and surface parking spaces. Reduce the surface parking spaces to be within the maximum allowable number of parking spaces for this site. A minimum of 90 percent of the parking provided shall be in the form of structured parking.

B. In place of the Planning Board's finding on page 5, the District Council approves the following finding:

The applicant requested a waiver from the Largo Sector Plan Development District Standards for parking. Largo Sector Plan Parking Requirement Standard A, on page 96, states that the maximum number of off-street parking spaces permitted for each land use type shall be the minimum number of off-street parking spaces required by Section 27-568 (a) of the Zoning Ordinance. Parking Requirement Standard (a) (1) modifies this requirement to permit the number of parking spaces to be increased for multifamily dwellings if substantially all (90 percent) of the parking is provided as structured parking. The Planning Board resolution reflects that the multifamily dwellings require 608 parking spaces and that the applicant has provided 847 parking spaces in the proposed parking garage. The applicant meets the requirement that 90 percent of the parking be provided in the form of structured parking.

The applicant has requested a waiver from Parking Requirement Standard A to construct 22 additional surface parking spaces, to serve the proposed restaurant in the office building and the retail uses on the first floor of the mixed-use building. (A justification letter to Planning Board Chair Samuel J. Parker dated December 11, 2006, was submitted in support of the waiver.) The District Council finds that the waiver requested by the applicant, and the additional 22 surface parking spaces proposed as the alternate to the Sector Plan requirement, will benefit the development in the development district and will not substantially impair implementation of the Sector Plan. The District Council shares the applicant's concern that adequate convenient parking spaces be provided to serve desired restaurant and retail uses. If such uses cannot be attracted, or fail due to insufficient convenient parking, the implementation of the Sector Plan's mixed-use vision will be impaired. The District Council agrees with the applicant's justification that since on-street parking is not permitted on the public streets abutting the subject property, convenient surface spaces should be provided on site. The District Council further notes that the subject property is located on the fringe of the core area identified in the Sector Plan,

decreasing the likelihood that a large number of the patrons of the proposed retail and restaurant tenants will walk from the Metro Station. The minimal increase in the number of parking spaces provided over the number required by Section 27-568 (a) (2.3% of the total required parking) will not impair implementation of the Sector Plan.

C. In its revision to condition 7 of the Council's order approved May 14, 2007, the District Council finds, as stated by the applicant in its petition to revise conditions, that the phasing of construction of the project should be modified, to accommodate continued construction of the project under current economic conditions affecting the real estate market in Prince George's County. This approval of revisions to conditions 2 and 7 shall restart the validity period for this detailed site plan, as of the date of approval of the Council's revised order.

Affirmance of the Planning Board's decision is subject to the following conditions:

1. Prior to certificate approval of this detailed site plan, the following revisions shall be submitted:
 - a. Provide a minimum of four bicycle racks accommodating at least 10 bicycle parking spaces each. At least one rack shall be placed at the office building and at each of the three residential buildings and located in conformance with Design Standard J.
 - b. Show the sign face area calculation for each sign on the plan.
 - c. Revise the parking calculation table in accordance with parking requirements of the Development District Standards for site design and provide a breakdown between the structured parking and surface parking spaces, in accordance with the approved waivers of the Development District Standards.
 - d. Identify the required parking spaces for the handicapped on the site plan.
 - e. Identify the required loading spaces on the site plan.
 - f. Provide all building setback requirements.
 - g. Identify the site as being located within the Subarea 2 of the Largo Town Center.
 - h. Show depressed curbing and ramping on the site plan.

- i. Revise the proposed site access to Arena Drive right in/right out per DPW&T standards. In the event that DPW&T approves a traffic signal at the site access and Arena Drive and a reconfiguration of the site access, a revised detailed site plan may be approved by the Planning Board or its designee to reflect the approved reconfiguration.
 - j. Provide a Phase II noise study to be reviewed and approved by the Environmental Planning Section as the designee of the Planning Board.
- 2. Pursuant to the applicant's proffer, prior to issuance of the 164th use and occupancy permit for multifamily residential units, the applicant shall provide evidence that either:
 - a. The applicant has completed construction of an ornamental metal fence, stone piers, and a park sign, located in the Largo Town Center Lakeside Park, as specified on the plans for the Largo Town Center Park, prepared for the M-NCPPC by P.E.L.A. Design, Inc., dated October 2002, and the technical specifications dated July 18, 2002, requested by M-NCPPC staff. The applicant shall also be responsible for obtaining construction permits from the County; or
 - b. The applicant has paid a fee in lieu to DPR, if DPR has constructed the ornamental fence, stone piers, and park sign, as specified on the plans for the Largo Town Center Park. The fee in lieu shall be in the amount of \$111,000 in 2006 dollars. This amount shall be adjusted for inflation in accordance with the CPI to the end of the fiscal year preceding the year in which DPR completes the construction.
- 3. The applicant shall fulfill the following off-site recreational facility requirements:
 - a. Submit three original, executed public Recreational Facilities Agreements (RFAs) for construction of off-site recreational facilities to the Department of Parks and Recreation (DPR) for their approval, six weeks prior to application for grading permit. Upon approval by the DPR, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
 - b. Submit a performance bond, letter of credit or other suitable financial guarantee for construction of off-site recreational facilities in an amount to be determined by the DPR, at least two weeks prior to applying first building permit.

4. The applicant shall fulfill the following on-site recreational facility requirements:
 - a. Construct on-site private recreational facilities in accordance with the Parks and Recreation Facilities Guidelines.
 - b. Submit a performance bond, letter of credit or other suitable financial guarantee for construction of on-site private recreational facilities, in an amount to be determined by the Development Review Division, within at least two weeks prior to applying for building permits.
 - c. The on-site recreational facilities shall be constructed and complete with the first residential building.
 - d. Provide a specific provision in the condominium document to ensure the proposed on-site private recreational facilities to be properly maintained by the condominium association.
5. Prior to issuance of any building permits for the proposed residential structure, the applicant shall submit a certificate by a professional engineer with competency in acoustical analysis to the Urban Design Section demonstrating that the design and construction of the building within the noise corridors of Arena Drive and Lottsford Road will reduce interior noise level to 45 dBA Ldn or less.
6. All lighting fixtures shall use full cut-off optics to reduce glare and light pollution.
7. The building permit for the construction of the mixed-use building containing only commercial uses shall be issued prior to or concurrent with the first building permit for the proposed residential structure.

Notwithstanding the foregoing, building permits may be issued for residential uses on the property, and such uses constructed, prior to the issuance of building permits for the mixed-use building containing only commercial uses provided that the applicant first submits to the Prince George's County Planning Board the following: (a) a report from a licensed commercial real estate broker active in commercial leasing in Prince George's County stating that the office uses have been professionally marketed to potential tenants for at least 18 months; and (b) a statement from the applicant that the result of such effort has been insufficient to produce a level of pre-leasing required to finance the construction of the office uses under standard commercial terms and conditions.

The applicant shall construct, on the first floor, the commercial retail uses concurrently with the residential uses located in the same building.

No more than 318 residential units shall be allowed to be constructed on the property now or in the future. The portion of the property proposed for the mixed-use building containing only commercial uses shall be precluded in perpetuity from any residential development. A note shall be added to Detailed Site Plan detailing this preclusion.

The applicant, its successors and assigns, hereby irrevocably and in perpetuity authorizes and empowers the Office of People's Zoning Counsel, in accordance with Section 27-139.01 (b) and (d) of the Prince George's County Zoning Ordinance, to appear in any court having jurisdiction, and on behalf of the applicant, its successors and assigns, to confess judgment against the applicant, its successors and/or assigns to temporarily and permanently enjoin and prohibit the construction of any residential dwellings on the portion of the property designated the mixed-use building with only commercial uses on the approved Detailed Site Plan.

The applicant, its successors and assigns hereby consents to such permanent injunction, and (a) agrees to the entry of a Consent Judgment to enforce the injunction, and (b) agrees to pay all costs of any such action for injunctive relief, including attorneys fees incurred by the County in its enforcement of this restriction on residential development, and (c) expressly waives any and all legal defenses to the entry of an injunction and/or Consent Judgment that precludes residential construction on the portion of the property designated on the Detailed Site Plan as a mixed-use building containing only commercial uses.

The applicant shall execute a Consent Judgment prior to certification of the Detailed Site Plan. The Office of People's Zoning Counsel shall retain the signed Consent Judgment in escrow. A copy shall be provided to the M-NCPPC. The Office of People's Zoning Counsel shall file the Consent Judgment in a court of law only if the applicant, its successors and/or assigns, attempts to violate the prohibition against residential uses. The Consent Judgment shall survive any future amendment of the Detailed Site Plan and shall be enforceable in a court of law against the applicant, its successors and assigns, notwithstanding any future amendment to the conditions attached to the Detailed Site Plan.

Ordered this 18th day of October, 2010, by the following vote:

In Favor: Council Members Dernoga, Bland, Campos, Dean, Exum, Harrison, and Olson

Opposed:

Abstained:

Absent: Council Members Knotts and Turner

Vote: 7-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

By: _____
Thomas E. Dernoga, Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council