



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco

PGCPB No. 11-73

File No. DSP-88063/03

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 July 14, 2011, regarding Detailed Site Plan DSP-88063/03 for Mercantile Place, the Planning Board finds:

1. **Request:** The subject application is for approval of a day care use for 48 children and associated outdoor play area within an existing office building complex.
2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	I-3	I-3
Use(s)	General Office, Day care	General Office, Day care
Acreage	6.95	6.95
Lots/Parcels	1 lot	1 lot
Square Footage	95,434	95,434 (2,110 Prop. Day care)

Parking Data

Required

Day care with 48 Children (1 space per 8 children)	6
Total	6

Approved

Standard	190
Compact	98
Handicapped	13
Total	301*

*This is the provided number of parking spaces for the entire office building complex, which is sufficient to meet the requirement of the current uses within the buildings, including the proposed day care use.

3. **Location:** The subject property is located west of the intersection of Mercantile Lane and Technology Way in Planning Area 73 and Council District 6.

4. **Surrounding Uses:** The subject site is bounded to the east by the public right-of-way of Mercantile Lane. To the north, south, and west are properties developed with office buildings in the I-3 Zone.
5. **Previous Approvals:** On October 11, 1979, the Planning Board approved Conceptual Site Plan SP-79029 for an office park development, which included the subject site. Subsequently, Detailed Site Plan DSP-84031 was approved for the subject office building development by the Planning Board on June 14, 1984, subject to one condition. This DSP was then revised on December 11, 1990 to add signage designs and locations to the plans. The separate Detailed Site Plan, DSP-88063, was originally approved for the subject property by the Planning Board on June 30, 1988, subject to one condition, for the addition of a 3,400-square-foot day care center for 76 children within the office building. Subsequently, this DSP had two revisions approved at Planning Director level for expansion of this day care use to 106 students and to add 22 parking spaces to the site. Subsequently, Preliminary Plan of Subdivision, 4-98064, was approved by the Planning Board on December 10, 1998. A final plat was approved and recorded at VJ 186 @ 20 on March 11, 1999 for Lot 2, Block B, Largo Park.
6. **Design Features:** The subject property is a rectangular shape and is developed with a U-shaped office building, totaling 95,434 square feet, and a 301-space parking lot. The site is surrounded by a public right-of-way and other I-3-zoned properties developed with office buildings. The site is accessed via two driveways off of Mercantile Lane to the east. The two-story building is surrounded by parking lots, sits with the open end facing north, and is set into the grade as it falls across the site. There is an existing day care center located in the upper level of the middle section of the office building, facing south. The proposed day care center use will be located in the middle of one of the ends of the U-shape, on the lower level along the western side of the building. The proposed outdoor play area will be located within an existing grassed area along the southern property line, immediately adjacent to the existing outdoor play area for the existing day care use. The improvements associated with the outdoor play area, which are discussed further in Finding 7 below, include fencing, traffic signage, a crosswalk, and additional concrete sidewalk and trees.

No architectural, parking, or signage changes have been proposed with this detailed site plan revision.

7. **Zoning Ordinance:** The proposed children's day care use and outdoor play area are in conformance with Section 27-471, I-3 Zone; Section 27-473, Uses Permitted in the I-3 Zone; and Section 27-474, Regulations in the I-3 Zone of the Zoning Ordinance. The proposed day care center is a permitted use in the I-3 Zone as long as it conforms to Section 27-475.02(a)(1), which sets forth additional requirements for a day care center for children as follows:

(A) **An ample outdoor play or activity area shall be provided, in accordance with the following:**

- (i) **All outdoor play areas shall have at least seventy-five (75) square feet of play space per child for fifty percent (50%) of the licensed capacity or**

seventy-five (75) square feet per child for the total number of children to use the play area at one (1) time, whichever is greater;

According to this requirement, an 1,800-square-foot outdoor play area is required for 24 children, half of the proposed day care center's maximum enrollment of 48 children. The proposed play area is 1,820 square feet, which is adequate to meet this requirement.

- (ii) All outdoor play areas shall be located at least twenty-five (25) feet from any dwelling on an adjoining lot, and shall be enclosed by a substantial wall or fence at least four (4) feet in height;**
- (iii) A greater set back from adjacent properties or uses or a higher fence may be required by the Planning Board if it determines that it is needed to protect the health and safety of the children utilizing the play area;**

The proposed outdoor play area is not located within 25 feet of any dwelling on any adjoining lot and is proposed to be completely enclosed with a four-foot-high, vinyl coated, chain-link fence. The proposed play area is located in the far corner of the office park, set back at least ten feet from nearby parking areas, and is immediately adjacent to an existing play area that is enclosed with a four-foot-high chain link fence. Therefore, a greater setback or higher fence is not necessary to protect the health and safety of the children utilizing the play area.

- (iv) An off-premises outdoor play or activity area shall be located in proximity to the daycare center, and shall be safely accessible without crossing (at grade) any hazardous area, such as a street or driveway;**

The proposed day care center is on the lower level of an existing office building that has an existing sidewalk and parking in front of it. To access the play area, children will be led from the day care entrance, to the south along the existing sidewalk, between the building and parking areas, and across a driveway for a loading space, which is internal to the building. This driveway, which is currently minimally used, will be improved with a yellow striped crosswalk and one traffic sign, labeled "Slow—Children Playing," to alert the trucks and vehicles to move slowly. After crossing this drive, the children will continue along the existing sidewalk, between the building and parking lot, and across a new sidewalk to the proposed play area. The minimal conflicts with driveways, along with the proposed crosswalk, signage, and sidewalk improvements, will create a sufficiently safe access path from the day care center to the outdoor play area.

- (v) The play area shall contain sufficient shade during the warmer months to afford protection from the sun;**

The proposed play area is located in an open grassed area, along the southern property line, south of the existing building on-site. There are existing trees near the play area to the

north and south, on the adjacent property, and the applicant has proposed to add two new red oak trees to the east of the play area. However, to ensure there is sufficient shade during the warmer months, the Planning Board found that one more red oak tree be added to the plan within the southwest corner of the proposed play area. A condition requiring this has been included in this approval.

- (vi) **Sufficient lighting shall be provided on the play area if it is used before or after daylight hours to insure safe operation of the area; and**

The plans indicate that the play area will be limited to daylight hours. Therefore, the play area will not be used during times of darkness and is not required to be lit.

- (vii) **Outdoor play shall be limited to the hours between 7 A.M. and 9 P.M.**

The plans indicate that outdoor play will be restricted to daylight hours between 7:00 a.m. and 9:00 p.m.

8. **Conformance to Conceptual Site Plan SP-79029:** Conceptual Site Plan SP-79029 was approved by the Planning Board on October 11, 1979 along with Variance VP-98064. The concept plan was approved subject to the following conditions:

1. **Arena Drive shall be a 120-foot right-of-way across the southern limits of the property.**

Though Arena Drive is adjacent to the entire parcel that was the subject of SP-79029, it is not directly adjacent to the subject project site.

2. **No lots shall have direct access to Landover Road or Arena Drive; all access shall be through the proposed internal streets.**

The proposed project does not propose any new accesses and does not have direct access to Landover Road (MD 202) or Arena Drive, but has sole access from Mercantile Lane, an internal street.

9. **Conformance to Preliminary Plan of Subdivision 4-98064:** Preliminary Plan 4-98064 was approved by the Planning Board on December 10, 1998. The Planning Board adopted PGCPB Resolution No. 98-324 on January 7, 1999. The following condition of approval applies to the review of the subject detailed site plan:

2. **Total development of Lots 2 and 3, as shown on the preliminary plat, shall be limited to the general office buildings which currently exist on the site, or other permitted uses which generate no more peak hour vehicle trips than the uses which exist. Any development other than that identified herein above shall require an additional**

Preliminary Plat of Subdivision with a new determination of the adequacy of transportation facilities.

The subject property was Lot 2 of the preliminary plan, as referenced in this condition.

The condition was clearly written to require a new subdivision if the use of the site were to be changed or if additional development were to occur. However, the addition of a day care center within the existing building is not clearly addressed. Various sources suggest that the general office use is intended to serve a variety of tenants and possibly a bank and/or food service establishment, along with other services that serve accessory purposes. Given that the day care facility is about 2,100 square feet out of the approximately 95,434 square feet that exists on the site, it is not deemed to effectively be a change in use from general office use that was considered under Preliminary Plan of Subdivision 4-98064. Therefore, the Planning Board found that the plan is consistent with Condition 2 of the resolution approving that plan.

10. **Conformance to Detailed Site Plans DSP-84031 and DSP-88063:** Detailed Site Plan DSP-84031 was originally approved for the subject office building development by the Planning Board on June 14, 1984, subject to one condition. Detailed Site Plan DSP-84031 was then approved at Planning Director level on December 11, 1990, with no conditions, to add signage designs and locations to the plans. The separate Detailed Site Plan, DSP-88063, was originally approved for the subject property by the Planning Board on June 30, 1988, subject to one condition, for the addition of a 3,400-square-foot day care center for 76 children within the office building. Subsequently, this DSP had two revisions approved at Planning Director level for expansion of this day care use to 106 students and to add 22 parking spaces to the site. None of the conditions of the previous approvals are applicable to the review of this detailed site plan revision, which does not involve any new building, signage, or parking improvements.
11. **Prince George's County Landscape Manual:** The proposed day care use and associated playground are exempt from the requirements of the Landscape Manual because the proposed improvements will not require a building or grading permit, do not involve a change of use from a lower to a higher intensity use category or from a residential to a nonresidential use, and do not involve an increase in gross floor area (GFA).
12. **Woodland and Wildlife Habitat Conservation Ordinance:** The subject site is exempt from the requirements of the Woodland and Wildlife Habitat Conservation Ordinance as it has no previously approved tree conservation plan and contains less than 10,000 square feet of woodland on-site. The property was issued a standard letter of exemption on May 5, 2011.

The current application proposes the addition of a day care center inside an existing building and the construction of an outdoor play area. The project proposes less than 5,000 square feet of disturbance and will not require a grading permit.

The project is not subject to the environmental regulations in Subtitle 27 that came into effect September 1, 2010 because there is an approved detailed site plan for the property and, as such, the project is considered grandfathered from these provisions.

Because the subject detailed site plan revision will not require a grading permit per Section 4-273(a)(6)(A) of the Prince George's County Code, the following items are not required for this review:

- a. A natural resources inventory
- b. A Type 2 tree conservation plan or a letter of exemption
- c. Demonstration of compliance with Division 3 of Subtitle 25, The Tree Canopy Coverage Ordinance

13. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Community Planning**—The application is consistent with the 2002 *Prince George's County Approved General Plan* Development Pattern policies for employment areas within the Developing Tier. The application conforms to the land use recommendations of the 1990 *Approved Master Plan and Adopted Sectional Map Amendment for Largo-Lottsford, Planning Area 73* for employment-related development at this site. No master plan issues were identified for this application.
- b. **Transportation Planning**—The subject property was given subdivision approval pursuant to a finding of adequate transportation facilities made in 1998 for Preliminary Plan of Subdivision 4-98064. This subdivision was, in turn, composed of lots duly approved and created pursuant to a 1979 subdivision. The uses proposed on this site plan are generally consistent with the uses proposed at the time of preliminary plan, making the basis for the prior findings valid. Therefore, it is determined that the subject project meets the criteria of site plan approval, from the standpoint of transportation, as noted in Subtitle 27 of the County Code.
- c. **Subdivision Review**—The Planning Board reviewed an analysis of the DSP's conformance to the notes on Final Plat VJ 186 @ 20, as recorded on March 11, 1999. The record plat contains five notes and the following notes in bold relate to the review of this application:
 - 1. **Approval of this plat is predicated upon public water and sewer being available prior to construction.**

The property is in water and sewer Category 3, Public Community System.

3. **Development of this property must conform to the Conceptual Site Development Plan which was approved by the Prince George's County Planning Board on 10-11-79 No. SP-79029 or as amended by any subsequent revisions thereto, including that variance numbered VP-98064 approved by Prince George's County Planning Board together with Preliminary Plan No. 4-98064.**

Conformance to Conceptual Site Plan SP-79029 is discussed in Finding 8 above. Proposed DSP-88063-03 is in substantial conformance with approved Preliminary Plan 4-98064. The approved Variance, VP-98064, is for the relief of 2.5 feet from the 20-foot side yard setback requirement in the I-3 Zone for the building on Lot 3. The variance does not pertain to the subject property, Lot 2.

4. **An Automatic fire suppression system shall be provided in all proposed buildings.**

This note should be added to the detailed site plan.

5. **Lot 2 shall be limited to existing development or other permitted uses which generate no more peak hour vehicle trips than the uses which exist. Any other development shall require an additional Preliminary Plat of subdivision with a new determination of the adequacy of transportation facilities.**

Conformance of the proposed day care center to the vehicles trips generated by the existing development is discussed in Finding 9 above.

The Subdivision comments have been included as conditions of this approval.

- d. **Permit Review**—The Permit Review comments are either not applicable at this time, have been addressed through revisions to the plans, or are addressed through proposed conditions of this approval.
 - e. **Environmental Planning**—As discussed in Finding 12, there are no required findings that are applicable to this case and no further comments are required.
 - f. **City of Glenarden**—The City of Glenarden did not provide comments on the subject application.
14. As required by Section 27-285(b) of the Zoning Ordinance, 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.

Since the site contains no regulated environmental features, the finding required by Section 27-285(b)(4) of the Zoning Ordinance need not be made in this case.

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 Detailed Site Plan DSP-88063/03, subject to the following conditions:

1. Prior to certificate approval, the DSP shall be revised to show the following:
 - a. One additional proposed red oak tree within the southwestern corner of the proposed outdoor play area.
 - b. The ten-foot-wide public utility easement (PUE) as reflected on the record plat.
 - c. The common use driveway easement, Liber 6379 Folio 495, as reflected on the record plat.
 - d. Add a note regarding the automatic suppression system as reflected on the record plat.
 - e. Label the existing day care center and outdoor area as "to remain."

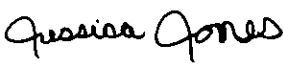
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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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 Cavitt, seconded by Commissioner Bailey, with Commissioners Cavitt, Bailey, Washington, Squire and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 14, 2011, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28th day of July 2011.

Patricia Colihan Barney
Executive Director


By Jessica Jones
Planning Board Administrator

PCB:JJ:JK:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 7/18/11