



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Consent Item #
6/5/08

MEMORANDUM

DATE: May 23, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

Catherine Conlon, Subdivision Supervisor *CA*
Development Review Division

FROM: Richard A. Weaver (301-495-4544) *RAW*
Development Review Division

REVIEW TYPE: Preliminary Plan Consent Amendment

APPLYING FOR: Request to amend condition relating to Lois Green Conservation Park parking lot

PROJECT NAME: Airpark North Business Park

CASE NO. 12004018C

REVIEW BASIS: Pursuant to Chapter 50, the Subdivision Regulations

ZONE: I-4

LOCATION: On the east side of Snouffer School Road opposite the intersection with Alliston Hollow Way

MASTER PLAN: Gaithersburg and Vicinity

APPLICANT: Webb Tract, L.L.C./Center Park West, L.L.C.

ATTORNEY: Lerch, Early and Brewer

ENGINEER: Gutschick, Little and Weber

FILING DATE: March 17, 2008

HEARING DATE: June 5, 2008



Staff Recommendation: Approval of the proposed amendment to Preliminary Plan No. 12004018C to revise Condition No. 21 as follows:

- 21) Prior to [April 30, 2008] August 31, 2009, applicant to engineer and construct a paved parking lot, and an adequate entrance off of Snouffer School Road for such parking lot, at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road.

All other previous conditions of approval as contained in the Planning Board Opinion dated July 24, 2004 remain in full force and effect.

SITE DESCRIPTION and SURROUNDING AREA:

Airpark North Business Park, formerly known as the "Webb Tract", is a 134-acre undeveloped property located within the boundaries of the 1985 *Gaithersburg Vicinity Master Plan*. The property is located on Snouffer School Road near Centerway Road and is zoned I-4 (low-intensity, light industrial). The site is entirely within the Great Seneca Creek watershed, a Use I watershed. The 134-acre site includes 27 acres of forest and a stream and associated floodplain and wetlands that bisect the property in a southwest to northeast fashion. There are 27.4 acres of stream buffer along this stream.

A vacated Army Reserve Center is located immediately adjacent to the subject property to the north and is also zoned I-4. Also adjacent to the northern boundary of the property is a residential development in Montgomery Village, which is in the Town Sector Zone. To the immediate east and south of the subject site is the M-NCPPC, Lois Green Farm Conservation Park, which is zoned R-200. The Montgomery County Airpark is located to the southeast of the subject site just beyond the park property. The land immediately surrounding the Airpark is zoned I-4 and is known as the Airpark Industrial Park. The subject property has considerable frontage along Snouffer School Road. Across Snouffer School Road to the west of the site is a residential development, known as Hunter's Woods, in the R-200 zone. Alliston Hollow Way intersects with Snouffer School Road and is the sole point of access for the Hunter's Woods neighborhood.

PREVIOUS APPROVALS

Preliminary Plan Approval (See Figure 1)

The subject preliminary plan was originally brought before the Planning Board for a public hearing on July 15, 2004, and was approved for up to 559,300 square feet of research and development office use, up to 247,626 square feet of business park use (i.e., generally light industrial and commercial office uses), and up to 461,285 square feet of warehouse use, or a combination of non-residential development with an equivalent number of weekday morning and evening peak hour trips. The approval was granted subject to conditions as set forth in the Opinion of the Board mailed on July 26, 2004 (Attachment A). The property is now under consideration as a relocation for many of the county functions now located at the Shady Grove /Crabbs Branch Road sites.

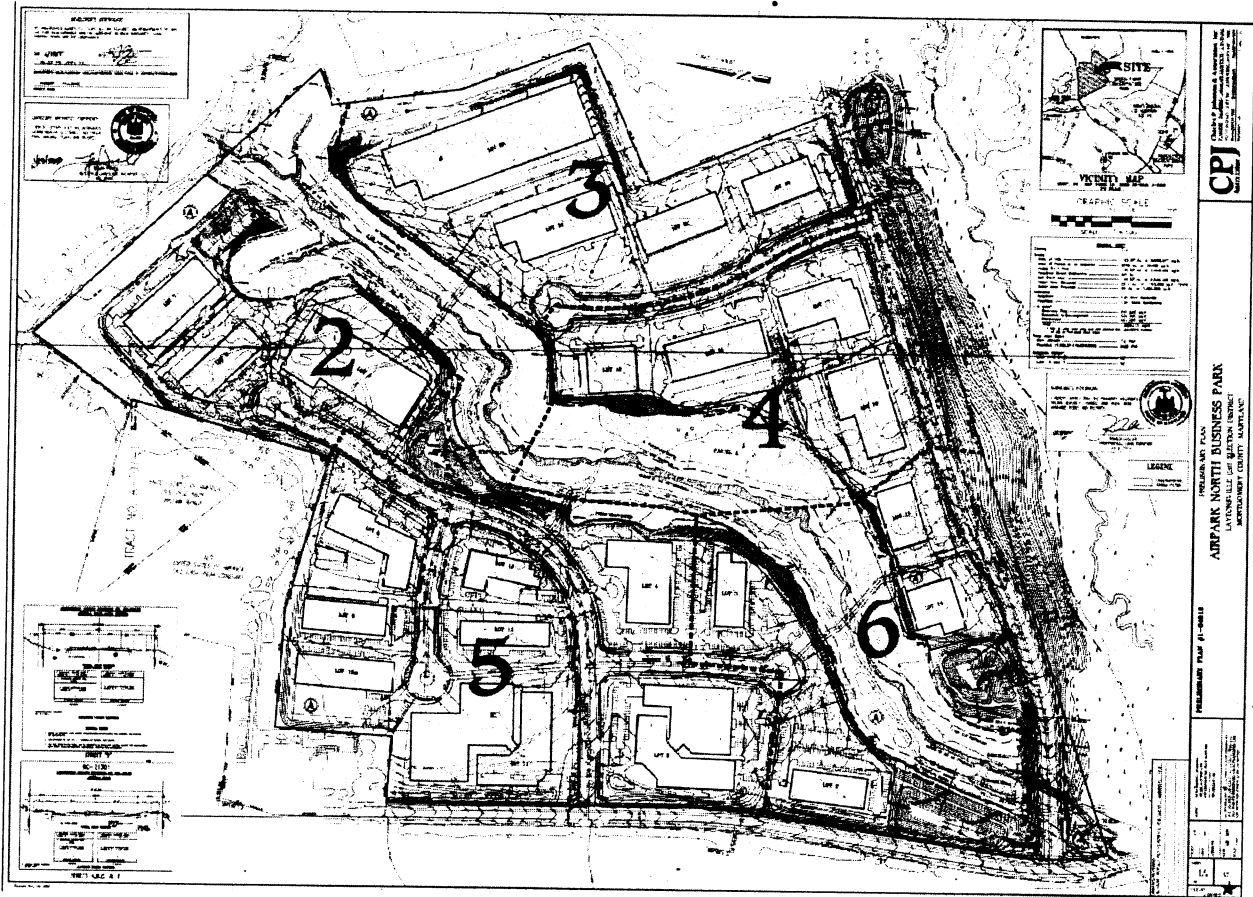


Figure 1

In their deliberations of the preliminary plan at the July 15, 2004 hearing, the Planning Board considered the approved Lois Y. Green Farm Conservation Park Master Plan that set forth a number of important goals necessary to improve the adjacent Lois Green Park to make it accessible and usable by the public and to best protect its natural resources. A primary goal set forth in the Park Master Plan was to establish an entrance road and parking lot in a safe location on Snouffer School Road. The road would serve as the primary access to the park and the parking lot would serve the needs of the Natural Discovery Area and trails established in the Park Master Plan. The entrance road to the Lois Green Park is shown on the far right side of the subject property as shown in Figure 1.

The Airpark North Business Park Plan provides for the construction of both a public road to provide shared, safe access to the Park and the business park, and a parking lot for trail users. The parking lot is not on the subject property but is located immediately south of it on Snouffer School Road. Park Planning and Resource Analysis Staff found the concept presented to them to be in conformance with the Lois Y. Green Farm Conservation Park Master plan and supported the concept. Condition #21 as described below, established a time frame for the parking lot to be constructed.

Prior to the end of the validity period for the first stage, (see condition #27), applicant to engineer and construct a paved parking lot, and an adequate entrance off of Snouffer School Road for such parking lot, at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road.

Condition #27 of the approval established a validity period for the first stage of 37 months from the date of mailing of the opinion (July 24, 2006) or August 24, 2007.

First Preliminary Plan Amendment (12004018A)*

On March 16, 2007, the applicant submitted a request for an amendment to condition No. 21 because it was apparent that the parking lot would not be completed by the end of the validity period for the first stage. The applicant's letter outlined a rationale as to why an amendment to the condition extending the parking lot completion date to April 30, 2008, was warranted. The letter identified issues regarding the location of the floodplain, resulting in a shift to the parking lot and the resulting delays in redesign. The letter also cited significant delays by the Park Permit section in issuing permits to access the property to perform the necessary soil boring tests on the land slated for the parking lot. The soil borings found shallow bedrock which further resulted in a redesign of the stormwater management concept.

Based on the practical difficulties outlined in this letter the Board approved an amendment to condition No. 21 that extended the design and construction date of the parking lot for nine months, to April 30, 2008. The amended condition reads as follows:

Prior to April 30, 2008, applicant to engineer and construct a paved parking lot, and an adequate entrance off of Snouffer School Road for such parking lot, at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road.

ANALYSIS OF AMENDMENT REQUEST

The applicant has submitted a letter dated March 17, 2008, (Attachment A) which again outlines, in great detail, the delays that prevented the applicant from meeting the deadline for parking lot construction. The applicant cites delays beyond their control that have made it impossible to meet their April 30, 2008 deadline for construction of the parking facility. That date has, in fact, passed. The majority of these delays are purported to be caused by environmental staff delays in the review of, or responses to, plan submittals. The request is to modify the date at which time the parking lot would be constructed, however, as per their letter, the applicant now requests that the construction be complete prior to issuance of any building permit for an occupiable structure for the Airpark North development.

In reading this letter and in consultation with Park staff, planning staff is swayed by the argument that the applicant has been persistent and diligent in their pursuit of the necessary

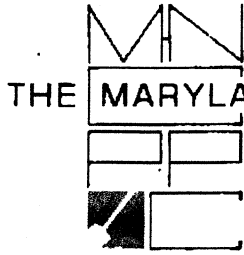
*12004018B is currently under review by staff to amend road configuration

permits to initiate construction. In fact, a supplemental letter dated April 22, 2008, (Attachment C) from the applicant's counsel indicates that since the March 13, 2008 letter, authorization from the State's, Water Management Administration has been secured, as well as a Floodplain District Permit, a Sediment Control Permit, and a Park Construction Permit. Construction of the parking lot commenced on April 16, 2008.

In consideration of the applicant's request to eliminate a date certain for completion of the parking lot and replace it with a commitment to complete "*prior to issuance of a building permit for an occupiable building*", staff continues to believe that a date certain remains appropriate. It is difficult to grasp just when the first permit for a structure may be ready to be processed for a project of this size and complexity. Staff continues to recommend that there be a new date for completion of the parking lot established in the conditions. Given that the applicant has been diligently pursuing the permits for this project and that construction has begun in earnest, staff supports setting the new completion date at August 31, 2009. This affords the construction crews two summer seasons when weather is typically more conducive to construction activity. Staff believes that this is more than ample time to complete the parking lot given that construction has now begun.

CONCLUSION

Staff recommends that the previously approved condition No. 21 for preliminary Plan No. 12006018 be amended to reflect a parking lot completion date of August 31, 2009.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Date Mailed: July 26, 2004

Action: Approved Staff Recommendation

Motion of Comm. Wellington, seconded by Comm. Bryant with a vote of 4-0;

Comms. Berlage, Bryant, Robinson and Wellington voting in favor; Comm. Perdue absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-04018

NAME OF PLAN: North Airpark Business Park

On 09/11/03, Airpark North Business Park submitted an application for the approval of a preliminary plan of subdivision of property in the I-4 zone. The application proposed to create 23 lots on 134.07 acres of land. The application was designated Preliminary Plan 1-04018. On 07/15/04, Preliminary Plan 1-04018 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-04018 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-04018.

Approval, Subject to the Following Conditions:

- 1) As outlined in the Transportation Planning memorandum dated July 2, 2004 (Attachment C), limit the preliminary plan to up to 559,300 square feet of research and development office use, up to 247,626 square feet of business park use (i.e., generally light industrial and commercial office uses), and up to 461,285 square feet of warehouse use, or a combination of non-residential development with an equivalent number of weekday morning and evening peak hour trips.
- 2) Satisfy Local Area Transportation Review (LATR) at the intersection of Goshen Road and Centerway Road by constructing separate northbound and southbound Goshen Road right-turn lanes prior to release of building permits for the last 10% of the total approved development (i.e., or up to 1,141,390 square feet of the total 1,268,211 square feet). As an alternative,

contribute the equivalent cost of the intersection improvement to the anticipated future Montgomery County Department of Public Works and Transportation's (DPWT) Capital Improvements Program (CIP) project to widen Goshen Road between Odendhal Avenue and Warfield Road, if construction funding is readily anticipated prior to release of the initial building permits.

- 3) Satisfy LATR at two intersections along Snouffer School Road at Centerway Road and Alliston Hollow Way/proposed northwestern main site access point at Street "A" by widening Snouffer School Road from two to four through lanes with a fifth lane for a separate left-turn lane at the approaches to these two intersections.
- 4) Satisfy Policy Area Transportation Review (PATR) by widening Snouffer School Road from two to four through lanes from Centerway Road to Goshen Road with a fifth center lane for a separate left-turn lane approaching intersecting streets. Include a five-foot sidewalk with a landscaped street panel on the northeast side. A sidewalk on the southwest side of Snouffer School Road would take or damage existing mature trees and is not recommended.

The contract to reconstruct Snouffer School Road from two through lanes to four through lanes from Centerway Road westerly across the site frontage (including installation of traffic signals at the two site access driveways if determined to be warranted by DPWT) shall be let prior to release of the first building permit. The contract to construct the remainder of the Snouffer School Road widening from the western property line to Goshen Road shall be let at the earlier of either of two occurrences:

- a. Prior to release of building permits for 75% or more of the total approved development.
 - b. Three years after the first building permit is released.
- 5) If determined to be warranted by DPWT, install traffic signals at two intersections along Snouffer School Road:
 - a. Existing Alliston Hollow Way/proposed northwestern main site access point at Street "A".
 - b. Existing access point to Green Farm Conservation Park/proposed southeastern site access point at Street "D".
 - 6) Dedicate approximately eight feet of right of way for 80 feet from the opposite right-of-way line along Snouffer School Road and provide a five-foot sidewalk along the property frontage.
 - 7) Provide a maximum of 30 bike racks with one or two racks at each of the 23 proposed buildings. The specific location of the bike racks is to be determined in coordination with Park and Planning's Bicycle Coordinator and DPWT.
 - 8) Pay the transportation - development impact tax with credits for the cost of the transportation improvement described in Condition No's. 2, 3, 4 and 5 as legally permitted.
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- 9) All road right-of ways shown on the approved preliminary plan shall be dedicated and constructed, by the applicant, to the full width mandated by the Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
 - 10) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
 - 11) Compliance with the Montgomery County Department of Permitting Services (MCDPS) requirements for complex structures, as determined by MCDPS.
 - 12) Record plat to reflect a Category I easement over all areas of forest conservation and stream valley buffers.
 - 13) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
 - 14) Compliance with conditions of MCDPS stormwater management approval letter dated, June 29, 2004.
 - 15) On-site lighting plan to be submitted to MNCPPC staff prior to release of individual building permits that show conformance to Illuminating Engineers Society of North America (IESNA) standards. Light fixture to have zero cutoff and no light intrusion into neighboring residential properties.
 - 16) Applicant to construct, at Applicant's expense, a paved entrance road to the Lois Green Conservation Park along the south side of the Applicant's property to extend from Snouffer School Road at a location approved by appropriate State, County and M-NCPPC transportation staff, into parkland and ending just past the current driveway entrance to the historic house. Limits of disturbance for the road grading and construction on Park property to be located outside of stream buffers, and applicable engineering plans to be approved by M-NCPPC staff. Both sides of the entrance road and any park areas disturbed by its construction to be planted and landscaped as approved by M-NCPPC staff with the goal of creating an aesthetically pleasing, park like entrance. Applicant's plantings to be maintained and guaranteed by Applicant for at least three (3) years.
 - 17) Applicant to engineer, construct and maintain a stormwater management facility sufficient to accommodate stormwater from the constructed park entrance road, the southeast corner of Applicant's property, and the future parking area and improvements to be constructed by M-NCPPC on the portion of Green Conservation Park draining to this facility. M-NCPPC to supply Applicant with concept drawings adequate to determine the needed stormwater control capacity. Applicable engineering plans to be approved by M-NCPPC staff. Necessary easements to allow Applicant to maintain the portions of stormwater facility on parkland to be provided by M-NCPPC.
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- 18) The entrance road's stream crossing to be constructed to minimize impacts on the stream and downstream aquatic resources.
 - 19) Prior to the end of the validity period for the first stage, (see conditions #27), applicant to dedicate to M-NCPPC, the land that lies on the south side of the newly constructed park entrance road (not to include the stormwater facility proposed at the corner of the new road and Snouffer School Road, or RPZ).
 - 20) Prior to the end of the validity period for the first stage, (see conditions #27), Park entrance monument and signage to be provided by Applicant and located at the corner of Snouffer School Road and the new park entrance road. Monumentation and signage to be approved by M-NCPPC staff.
 - 21) Prior to the end of the validity period for the first stage, (see conditions #27), applicant to engineer and construct a paved parking lot, and an adequate entrance off of Snouffer School Road for such parking lot, at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road.
 - 22) Prior to the end of the validity period for the first stage, (see conditions #27), applicant to provide engineering and construction of an adequate stormwater management facility for such parking lot and entrance. Parking lot size, configuration and exact location to be determined by M-NCPPC staff but shall not be larger than 44 parking spaces. Design to include adequate turn around area for buses. All designs and engineering plans to be approved by M-NCPPC staff. If Applicant is unable to obtain the needed permits and approvals for such parking lot at this location, Applicant shall construct the parking lot on park property at a location off of the new park entrance road to be determined by M-NCPPC staff.
 - 23) A plat of reservation for all lots and property affected by the RPZ for a period not to exceed three years to allow potential purchase by the Montgomery County Revenue Authority and/or Federal Aviation Administration (FAA).
 - 24) Prior to recordation of plat(s) for Lots 14 through 17, relocation of Street "D" as shown on the approved preliminary plan, as necessary, to avoid the Montgomery County Airpark's Runway Protection Zone (RPZ), to the extent required by the Federal Aviation Administration or the Montgomery County Revenue Authority.
 - 25) Prior to recordation of initial plat, applicant to provide staff with a copy of an executed agreement between the FAA and/or the Montgomery County Revenue Authority and applicant regarding the right to over flight, noise and vibration associated with the Montgomery County Airpark, and to address the other conditions as prescribed in the Revenue Authority's letter dated July 8, 2004, as applicable.
 - 26) Compliance with approved landscape plan for Snouffer School Road frontage
 - 27) The Preliminary Plan will remain valid for one hundred forty-five (145) months from the date of mailing of the Planning Board Opinion. Record plats must be recorded in phases based upon the following schedule:
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- Phase I (expires 37 months from the date of mailing of the Planning Board Opinion): 200,000 square feet of the approved density.
- Phase II (expires 73 months from the date of mailing of the Planning Board Opinion): 400,000 square feet of the approved density.
- Phase III (expires 109 months from the date of mailing of the Planning Board Opinion): 300,000 square feet of the approved density.
- Phase IV (expires 145 months from the date of mailing of the Planning Board Opinion): all remaining development.

Prior to the expiration period, the final record plat for all remaining lots within each phase must be recorded, or a request for extension must be filed.

- 28) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for one hundred forty-five (145) months from the date of mailing of the Planning Board Opinion.
- 29) No plat(s) to be recorded prior to thirteen (13) months from the mailing date of the Planning Board opinion.
- 30) Prior to recordation of initial plat, applicant to resubmit landscape plan for the Snouffer School frontage to MNCPPC technical staff to address long term screening with overstory and understory of the buildings fronting on Snouffer School Road.
- 31) Concurrent with condition ^(#29)~~#30~~, MNCPPC to explore the purchase of, or easement on, Lot #7 to provide access for local neighborhood to Lois Green Farm Conservation Park.
- 32) Other necessary easements shall be shown on the record plats.

Miller & Smith.

Attachment B

ONE VISIT CAN CHANGE EVERYTHING

March 17, 2008

Ms. Catherine Conlon
Subdivision Supervisor
Montgomery County Planning Department
Development Review Division
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Request for Consent Agenda Amendment
Preliminary Plan 12004018-C Airpark North Business Park; Lois Green
Conservation Park Parking Lot Condition
Letter of Explanation

Dear Ms. Conlon:

The purpose of this letter is to provide an explanation for the accompanying consent agenda amendment application for the Airpark North Business Park preliminary plan (12004018) to amend the completion of the parking lot construction deadline, due to delays incurred beyond the applicant's control. Miller and Smith is in the final stages of receiving approval signatures on permits that other agencies had completed, but could not issue during the 8 ½ month approval period that occurred for the NRI/FSD and FCP. The construction contract is in place and construction will begin as soon as the permits are signed, a preconstruction meeting is held, and weather permits. The condition's deadline of construction by April 30, 2008 cannot be met under these circumstances.

Request

This consent agenda amendment is limited to modifying conditions 21 (from preliminary plan 12004018-A) and 22 (from preliminary plan 1-04018) regarding construction of the Lois Green Conservation Park Parking Lot as shown below with insertions (proposed new language) and [deletions]:

21. Prior to [April 30, 2008] issuance of any building permit for an occupiable building, applicant to engineer and construct a paved parking lot, and an adequate entrance off of Snouffer School Road for such parking lot, at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road.
22. Prior to [the end of the validity period of the first stage, (see conditions #27)] issuance of any building permit for an occupiable building, applicant to provide engineering and construction of an adequate stormwater management facility for such parking lot and entrance. Parking lot size, configuration and exact location to be determined by M-NCPPC staff but shall not be larger than 44 parking spaces. Design to include adequate turn around area for buses. All designs and engineering plans to be approved by M-NCPPC staff. If Applicant is unable to obtain the needed permits and approvals for such parking lot at this location, Applicant shall construct the parking lot on park property at a location off of the new park entrance road to be determined by M-NCPPC staff.

8401 Greensboro Drive, Suite 300 ■ McLean, VA 22102
703.821.2500 ■ 703.821.2040 FAX
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All other previous conditions of approval as contained in the Planning Board Opinion dated July 26, 2004 remain in full force and effect.

The revised conditions ensure that the parking lot is constructed before construction of any of the approved buildings in the Centerpark subdivision, and they will reduce the potential impact of delays that have been and may be encountered through the permitting and construction process.

Background

Miller and Smith has been diligently pursuing permits for construction of the Lois Y. Green Conservation Park parking lot since August 2006, well before the Planning Board's May 24, 2007 approval of an amendment to set the revised April 30, 2008 date for construction of the parking lot. At the time of that May 24, 2007 hearing, Miller and Smith anticipated that construction would begin in late summer or early fall of 2007. Since then, staff have raised a series of issues that required lengthy research, negotiations, and approval time. The largest delay was attributable to the 8 ½ month review process for the Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) and Forest Conservation Plan (FCP) by the Environmental Planning Division. A summary of the review process is attached.

- 1. Environmental Planning Division extended the initial review period of the NRI/FSD and FCP from 30 days to 48.** On July 6, 2007, the Environmental Planning Division sent a letter "initiating a 15-day extension period based on extenuating circumstances (22A-11(b)(1)). During the review period of this plan there has been delays due to illness of both the primary and secondary reviewers for NRI/FSD plans." The first review comments indicated the application was (1) "Adequate as Submitted" (2) required to be signed by the certified preparer, (3) expand coverage to the whole parcel, (4) amend the stream valley buffers, (5) add a stream on south side, (6) amend stream and canopy linework, and, (7) to verify the scale. *Delayed 2 ½ weeks from July 6, 2007 to July 24, 2007.*
- 2. Department of Permitting Services and Parks Department disagreed on landscaping species in the biofilter.** *Delayed 6 weeks from August 29, 2007 to October 9, 2007.*
- 3. Environmental Planning Division review of second submission took 32 days.** The required revisions were made and submitted in 20 days (on August 14, 2007). The second review, issued September 6, 2007 limited comments to (1) "Adequate as Submitted," (2) resubmission of pages that hadn't changed, and (3) add a wetland to the table. The pages were submitted and the wetland was a labeling error that needed to be removed instead of added. Based on the non-substantive nature of these comments, we anticipated a quick approval during the third review and to start construction in the fall of 2007.
- 4. Environmental Planning Division review of third submission took 27 days and identified new issues not raised in first two reviews.** The third submission occurred on September 24, 2007, and the third review was issued on October 22, 2007. The review indicated the application was (1) "Adequate as Submitted", (2) required to remove FCP info and that no FCP review will be conducted, (3) required the revision of priority ranking of Forest Stand A, (4) required to remove the "no floodplain" note or provide

DPS documentation of the floodplain, and (5) required to show the forest area to be cleared for the Runway Protection Zone (RPZ) for the Montgomery County Airpark.

- 5. Environmental Planning Division provided additional verbal comments on October 30, 2007 saying that they didn't support the removal of trees at the entrance and wanted the driveway to be moved into the floodplain or we needed to plant additional trees.** Miller and Smith was then required to (1) submit a Statement of Justification in support of removing trees to keep the driveway and parking lot out of the floodplain and (2) to request relief from staff request to reforest at a 2:1 ratio even though this is not required by the Forest Conservation Law since there was a 13.53 acre credit for retention above the Conservation Threshold. The initial location of the parking lot was approved by the Parks Department and Planning Board as part of the park master plan. In 2006 the driveway was lengthened by 300 feet to move the parking lot out of the floodplain. The size was a direct result of the increased driveway length to minimize floodplain impacts, and the Planning Board's approved requirement for 44 cars and a bus-turnaround and drop-off area. The Statement of Justification was submitted on November 12, 2007. Plans could not be resubmitted until we received a decision from Environmental Planning. On December 5, 2007 staff concurred that the driveway should not be moved into the floodplain, the forest clearing in the RPZ had not been approved (and did not need to be shown), and that reforestation was not required. Therefore no changes were required on the plan. *Delayed 36 days. The supporting research and drafting took 13 days from October 30, 2007 to November 12, 2007 and Environmental Planning Division's review of the letter took 23 days from November 12, 2007 to December 5, 2007.*
- 6. DPS took 43 days to provide floodplain studies on the adjacent properties.** DPS indicated that there was no approved floodplain on a remote (not impacted by the proposed parking lot) floodplain that Environmental Planning requested to be documented. DPS reviewed their files and provided floodplain studies on December 5, 2007. While waiting for information from DPS, Miller and Smith's November 12, 2007 Statement of Justification requested a waiver based on Section 22A-10(3) which states that "the Planning Director [or designee] may waive any requirement for information that is unnecessary for a specific site." This request indicated that the subject stream was on the other side of a ridge from the parking lot and was not impacted. This request was not acted on before DPS provided the floodplain data on December 5, 2007. The review of the studies and the necessary revisions to the NRI/FSD were completed in 13 days and confirmed that the floodplain was not impacted. *Delayed 57 days from October 22, 2007 to December 5, 2007.*
- 7. Environmental Planning Division indicated in early January 2008 that a newer floodplain map showed that the entire parking lot and driveway were located in the floodplain.** Miller and Smith had to request a copy of the floodplain map that the interpretation was based on. It was provided on January 4, 2008 and it was determined that staff had misread the FEMA Floodplain Insurance Rate Map (FIRM).

8. **Environmental Planning Division review of fourth submission and approval of the NRI/FSD took 24 days.** The fourth submission was made on December 18, 2007 and approved on January 11, 2008. The only condition that was added in the approval letter was a standard condition for all NRI/FSDs. Staff had indicated on December 5, 2007 that the review could be done in one week. *Delayed 17 days.*
9. **Environmental Planning Division review of the final submission of the Forest Conservation Plan took 45 days.** The Forest Conservation Plan was resubmitted on December 18, 2007 and approved on January 22, 2008. This time period included an eight day gap between the date of the approval letter and the date that the Parks Department and Miller and Smith received the letter by fax on February 1, 2008. No changes were required as a result of the NRI/FSD approval. Staff had indicated on December 5, 2007 that the review could be done in one week. *Delayed 38 days.*
10. **Environmental Planning Division took 10 days to sign the Mylar set of the Forest Conservation Plan.** The Mylar set was submitted on February 5, 2008 and approved on February 15, 2008. No changes were required as a result of the FCP letter of approval so it was necessary to just confirm that the plans matched.

The most significant time delays were due to lengthy staff review times and to the applicant having to research items raised by the staff (where staff ended up agreeing with the applicant or the matter proved to be not relevant). There also were a number of issues that were raised by staff that turned out to be incorrect or had previously been resolved. The resolution of these issues required significant time and expense, which unnecessarily put an approved preliminary plan at risk of not being able to comply with a condition of approval. These delays were in addition to those considered by the Planning Board in the previous amendment in May 2007.

Conclusion

The revised conditions are requested due to delays incurred beyond the applicant's control. The review and approval process for the NRI/FSD and FCP took 8 ½ months by the Environmental Planning Division. During that time, staff raised a number of issues that Miller and Smith diligently responded to and has not resulted in any substantive changes to the overall plan.

The proposed changes in the conditions deadline still ensures that this privately-funded public facility will be constructed before building construction occurs on Centerpark, as originally intended by the Planning Board. It also allows for the issuance of permits associated with non-occupiable structures, such as retaining walls. Due to the amount of on-site development work (grading; utilities; stormwater management, etc.) required for the Centerpark development, the parking lot will be completed well before the construction of any buildings. Since the approved development has no impact on, and does not generate the need for, the parking lot, the revised schedule creates no adverse impacts on the public or the Parks Department. The revised deadline ensures the timely provision of the parking lot and is justified under the circumstances.

Parks Department staff has continually expressed support of our perseverance and diligent pursuit of the necessary permits. We have discussed the need for this condition change with Doug Powell of the Parks Department staff and he supports the revised condition.

Ms. Catherine Conlon
March 17, 2008
Page 5 of 5

Approval signatures are being gathered for permits that other agencies had long-since completed, but could not issue until FCP was approved. The construction contract is in place and construction will begin as soon as the permits are signed, a preconstruction meeting is held, and weather permits. We look forward to completing the parking lot for the Parks Department and future users of the Lois Green Conservation Park. Thank you for your favorable consideration of this consent agenda amendment request.

Sincerely,



Robert J. Spalding, AICP

cc (without attachments):
Rose Krasnow
Rich Weaver
Doug Powell

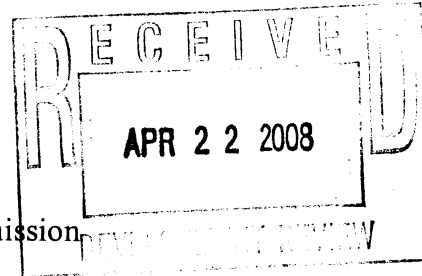
Attachments

Application Form
Fee Worksheet
Application Fee
Notification List (2 sets of labels and one paper copy)
Approved Planning Board Opinion
Approved Preliminary Plan (Certified Set)
Application Notice

April 22, 2008

By Hand

Ms. Cathy Conlon
Supervisor
Development Review Division
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910



Re: Airpark North Business Park Preliminary Plan Amendment 12004018-C
Lois Y. Green Farm Conservation Park Parking Lot and Improvements

Dear Ms. Conlon:

This letter provides a status update for the Airpark North Business Park Preliminary Plan Amendment (No. 12004018-C), which our client, Webb Tract, LLC/Miller and Smith (the "Applicant"), filed with the Maryland-National Capital Park and Planning Commission ("M-NCPPC") on March 17, 2008. Specifically, this letter addresses the Applicant's progress regarding the parking lot and other improvements to the Lois Y. Green Farm Conservation Park (the "Property").

Recent developments include:

1. The Water Management Administration of the Maryland Department of the Environment ("MDE") issued a letter of authorization effective March 26, 2008, which authorizes the M-NCPPC to construct the proposed parking lot on the Property.
2. The Montgomery County Department of Permitting Services ("DPS") issued to M-NCPPC a Floodplain District Permit on March 31, 2008.
3. DPS issued to M-NCPPC a Sediment Control Permit on March 31, 2008.
4. M-NCPPC issued to the Applicant a permit on April 9, 2008 for the following work on the Property: (a) installation of storm water management structures and two bio-retention ponds; (b) construction of entrance, asphalt roadways, parking areas, concrete curbs, sidewalks and 245' of gravel trench drywall; (c) grading and landscaping as shown on approved plans; and (d) installation of temporary asphalt paving, construction of 5 ft. wide path.



ATTORNEYS

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5. Construction commenced on April 16, 2008 pursuant to a construction contract entered into between the Applicant and R.F. Kline dated March 19, 2008.
6. The Applicant has held pre-construction meetings.
7. Last week, the Applicant began installation of sediment control and tree protection fencing, and a temporary construction entrance.

We will continue to update you on its progress regarding this matter. Please let us know when this matter has been scheduled for the Consent Agenda. Thank you very much.

Very truly yours,

Robert G. Brewer, Jr.

cc: Ms. Rose Krasnow
Mr. Bob Spalding
Mr. Chuck Ellison