



Fulks Property: Preliminary Plan Amendment 11984196A and Montgomery Airpark Business Center: Site Plan Amendment 81985114B

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- ☐ Richard Weaver, Chief, Area 3, Richard.Weaver@montgomeryplanning.org, 301-495-4544

Description

Completed: 8/28/2020

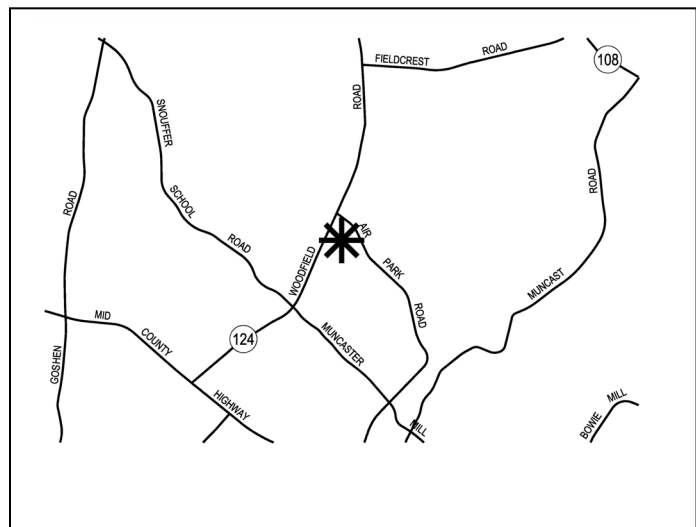
A. Fulks Property, Preliminary Plan Amendment No. 11984196A

Request to modify adequate public facilities findings and dissolve the Floor Area Ratio (FAR) Allocation Agreement associated with Preliminary Plan No. 119841960, Preliminary Plan No. 11984196R, and Preliminary Plan No. 119861260

B. Montgomery Airpark Business Center, Site Plan Amendment No. 81985114B

Request to remove the subject property from Site Plan No. 819851140.

- Located at 7560 Lindbergh Drive; 1.24 acres zoned IL-1.0: H-50, 2004 *Upper Rock Creek Master Plan*, *Upper Rock Creek Overlay*, *Upper Rock Creek Special Protection Area*
- Application accepted: April 21, 2020
- Applicant: Casey Holdings, LLC
- Review Basis: Chapter 50 and Chapter 59



Summary

Staff recommendation: Approval of the preliminary plan amendment and site plan amendment with conditions.

- The Preliminary Plan Amendment establishes a new Adequate Public Facilities finding for the ultimate density envisioned for this lot.
- Future building must be reviewed under current zoning ordinance if the proposed building exceeds 10% of the existing square footage to qualify for the grandfathering provisions in Section 59.7.7.1.C.2.
- Montgomery County Department of Permitting Services will review an application for construction of a new building through the building permit process.
- Over the last three decades, all road improvements conditioned as part of Preliminary Plan No. 119841960 have been completed, which rendered the FAR Allocation Agreement intended to limit vehicle trips obsolete and unnecessary.

SECTION 1: PRELIMINARY PLAN AMENDMENT NO. 11984196A, RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan Amendment No. 11984196A, Fulks Property. All previously approved plans, findings, and conditions of approval remain in full force and effect, except as modified by the following conditions.¹

1. Approval is limited to 30,000 square feet of warehouse uses for the 1.24 acre Subject Property only.
2. The Floor Area Ratio Agreement dated February 24, 1989 is dissolved by the Planning Board for all properties covered under the agreement because all public facilities improvements cited in the Planning Board Opinion dated January 17, 1985 have been completed.
3. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of the Planning Board Resolution.

SECTION 2: SITE PLAN AMENDMENT NO. 81985114B, RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan Amendment 81985114B, Montgomery Airpark Business Center, for removal of the Subject Property from Site Plan No. 819851140 due to the fact that the proposed land use in the IL-1.0: H-50 zone does not require review and approval of a site plan.

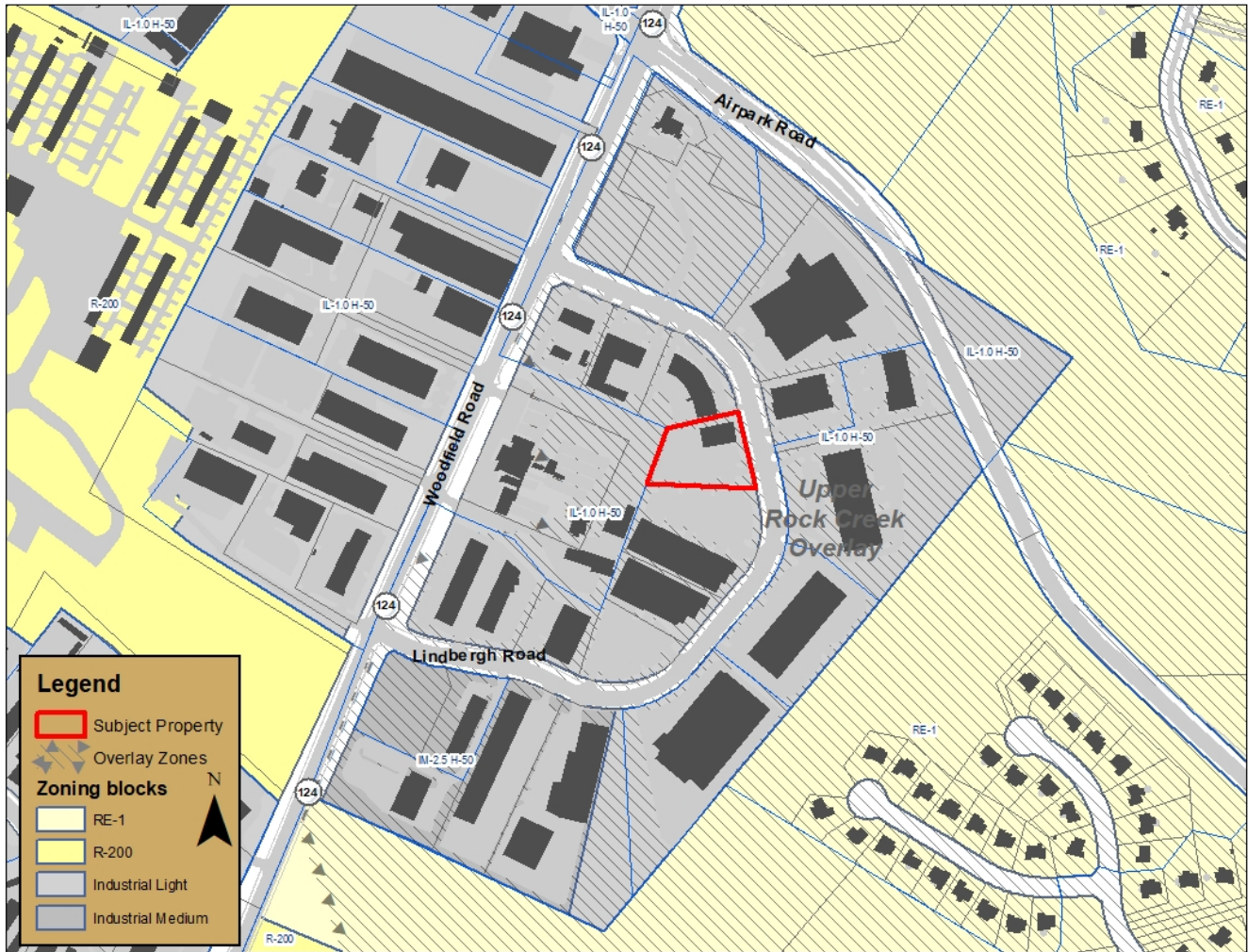
Because this Site Plan Amendment removes the Subject Property from Site Plan No. 819851140, all conditions from the Planning Board Opinion dated December 19, 1985, are no longer applicable to the Subject Property. There are no new conditions applicable to this Site Plan Amendment because the proposed use, as a permitted use, does not require site plan approval under Section 59.7.3.4.A.8 of the Zoning Ordinance.

SECTION 3: SITE DESCRIPTION

Site Vicinity

The property is located at 7560 Lindbergh Drive (“Subject Property” or “Property”) which is approximately 740 feet from the intersection at Lindbergh Drive and MD 124/Woodfield Road. The Property is identified as Lot 4, Block 4, Montgomery Airpark Business Center on Plat #16078 located at Book 8060, Page 003. The adjacent land use consists of light industrial/office related use. The Property will be served by Lindbergh Drive which is a loop road that connects to Woodfield Road at two points. The Subject Property is surrounded by similar commercial/light industrial buildings with parking lots to the north and south and an existing brick yard to the west.

¹ For the purposes of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.



Site Analysis

The Subject Property is approximately 1.24 acres in size in the IL-1.0, H-50 zone as well as the Upper Rock Creek Overlay Zone. The Property is improved with a 9,360 square foot commercial building, paved parking lot, and associated appurtenances. The entire property drains to the east into Lindbergh Drive. The Property is currently served by public water and sewer service. The Property is within the Upper Rock Creek watershed. There are no forest, streams or any other significant natural features on the Property.



Figure 2 – Aerial View

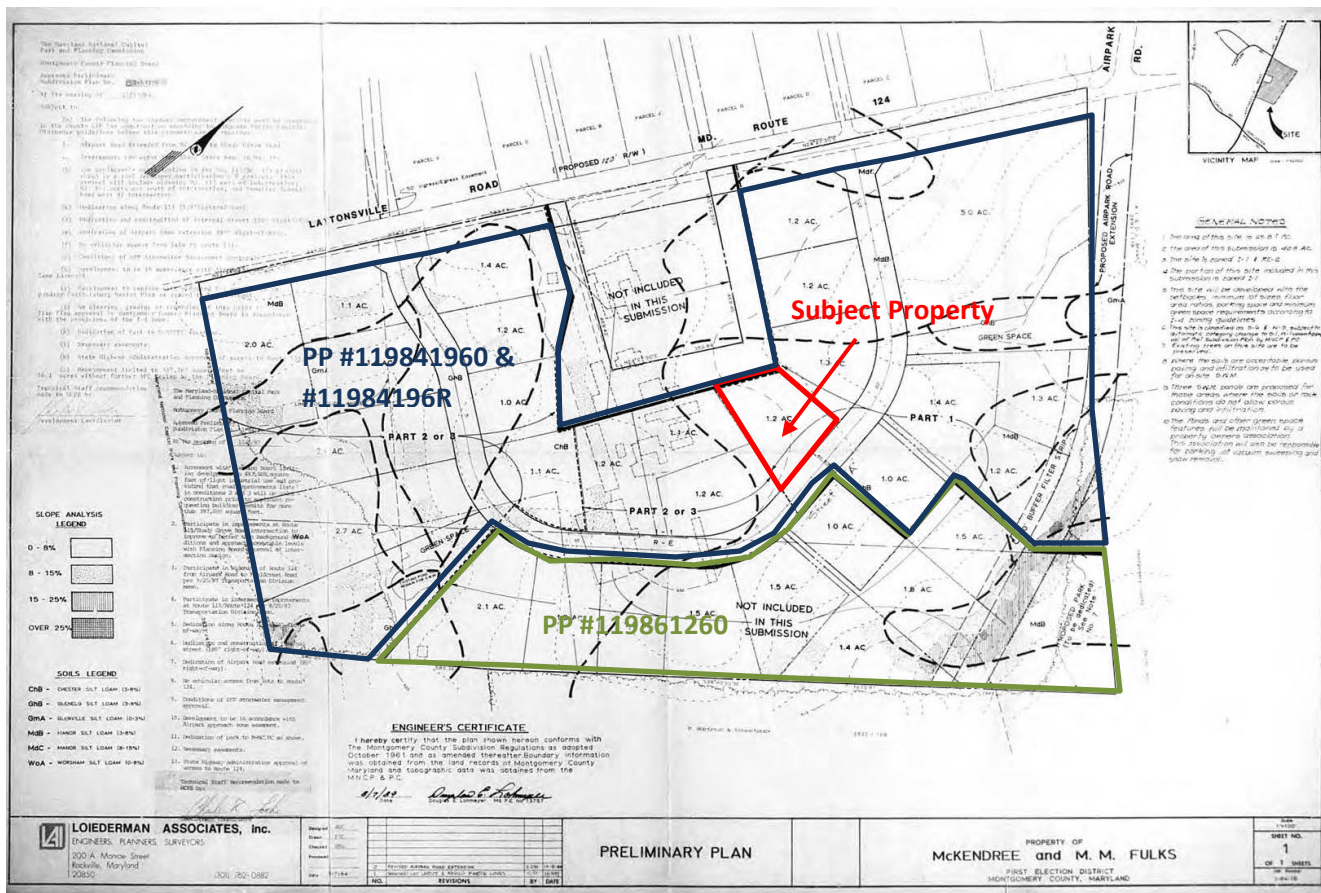


Figure 4 – Preliminary Plan No. 119841960

FAR Allocation Agreement

In conjunction with the approval of Preliminary Plan No. 11841960, Fulks Property, on February 24, 1989, the Planning Board accepted a FAR Allocation Agreement with the Leonard Kapiloff Family Limited Partnership which limited the allowable square footage on individual lots for a total FAR of 397,000 square feet (Attachment 4). Preliminary Plan No. 11984196R was a minor revision to Preliminary Plan 11841960 which added to condition limiting driveway access to MD-124.

Preliminary Plan No. 119861260 (shown in green in Figure 4) (Attachment 4) created nine lots on 13.60 acres in the I-4 zone. This preliminary plan is not part of this Preliminary Plan Amendment but is subject to the collective FAR Allocation Agreement because it is common traffic generator within the industrial area.

Site Plan No. 819851140

On December 19, 1985, the Planning Board approved Site Plan No. 819851140 (also known as 8-85114), Montgomery Airpark Business Center, which covered all 24 lots approved under Preliminary Plan No. 119841960.

Site Plan No. 81985114A

Site Plan Amendment 81985114A was approved to accommodate a day care facility and the construction of an associated outdoor play area on a different lot in the subdivision. This particular site plan amendment is a separate property from the Subject Property covered by this Site Plan Amendment.

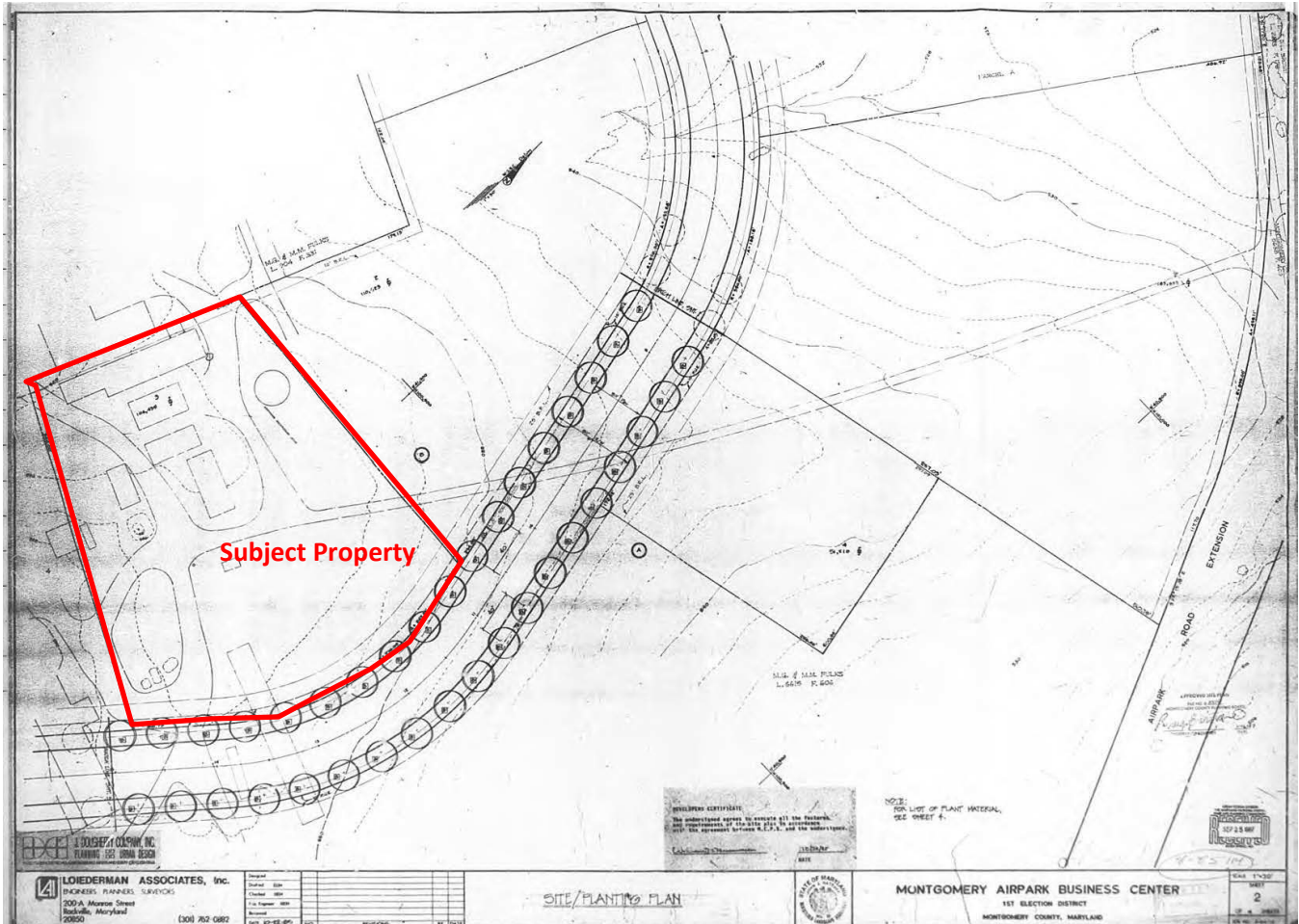


Figure 5 – Site Plan No. 91985114B – Sheet 2

Proposal

The joint preliminary plan amendment (“Preliminary Plan Amendment”) and site plan amendment (“Site Plan Amendment”) are the first steps towards redeveloping the Property in the future with up to a 30,000 square foot warehouse use (classified as a storage facility under Section 59.3.6.8.E of the Zoning Ordinance) with associated parking, stormwater controls, and landscaping. The Preliminary Plan Amendment seeks to dissolve the FAR Allocation Agreement which limits the allowed square footage on the Subject Property as well as all other properties in the area. This amendment also makes a new Adequate Public Facilities (APF) finding for the Subject Property. The Site Plan Amendment seeks to remove the Subject Property from Site Plan No. 819851140 because the additional square footage proposed in the Preliminary Plan Amendment will exceed the grandfathering provisions in the Zoning Ordinance and the current IL-1.0, H-50 zone does not require site plan approval for this use.

The future redevelopment of the Property and its compliance with the Zoning Ordinance will be monitored by the Montgomery County Department of Permitting Services at the time of building permit application.

SECTION 5: PRELIMINARY PLAN AMENDMENT ANALYSIS AND FINDINGS

1.) *Public Facilities will be adequate to support and service the area of the subdivision*

Transportation

Access

Current improvements on Lindbergh Drive include two travel lanes with sidewalks on both sides along the full length of the Subject Property's frontage. The 2004 *Upper Rock Creek Master Plan* ("Master Plan") "does not make any specific recommendations for secondary or tertiary roads" (Page 67) which is the classification of Lindbergh Drive due to its omission from the table of streets and highway classifications in the Master Plan. Lindbergh Drive is a closed section, two-lane roadway with 5-foot sidewalks on both sides within an 80-foot right-of-way dedicated by Plat #16078. The existing road cross section and right-of-way is adequate for a road with a secondary or tertiary classification such as Lindbergh Drive.

Vehicular access to the Property is provided directly from Lindbergh Drive. Currently, there is one full movement vehicular access point. No changes to the access are proposed.

Adequate Public Facilities

As conditioned, the Preliminary Plan Amendment for an additional 20,640 square feet (30,000 square feet total) of warehouse uses satisfies the Local Area Transportation Review (LATR) requirements of the Adequate Public Facilities (APF) review because it does not generate more than 50 person trips during the AM and PM peak hour.

Local Area Transportation Review

Trip Generation

The peak-hour trip generation estimated for this Preliminary Plan Amendment is based on trip generation rates for the *ITE Trip Generation Manual, 10th Edition* and adjusted for the Rural East Policy Area for a warehouse use. The Subject Property currently has approval for 16,204 square feet of warehouse use as a tool rental facility under the FAR Allocation Agreement. The Applicant is requesting to amend their current APF based on the uses indicated in the Traffic Impact Study Exemption Statement (Attachment 6). The Preliminary Plan Amendment proposes to add 20,640 square feet of warehouse uses that generate a net increase of 3 person trips in the AM peak hour and 3 additional person trips in the PM peak hour.

The Applicant is not required to submit a traffic study to satisfy the LATR test because the proposed land use generates fewer than 50 peak-hour person trips within the weekday morning and evening peak periods.

Floor Area Allocation (FAR) Agreement

The FAR Agreement (Attachment 4) was approved in conjunction with Preliminary Plan No. 119841960 (and subsequently revised 11984196R) and Preliminary Plan No. 119861260 because these preliminary plans, encompassing 60.60 acres, could not meet adequate public facilities at the time without substantial improvements, some of which are outlined in the County's Capital Improvement Program (CIP).

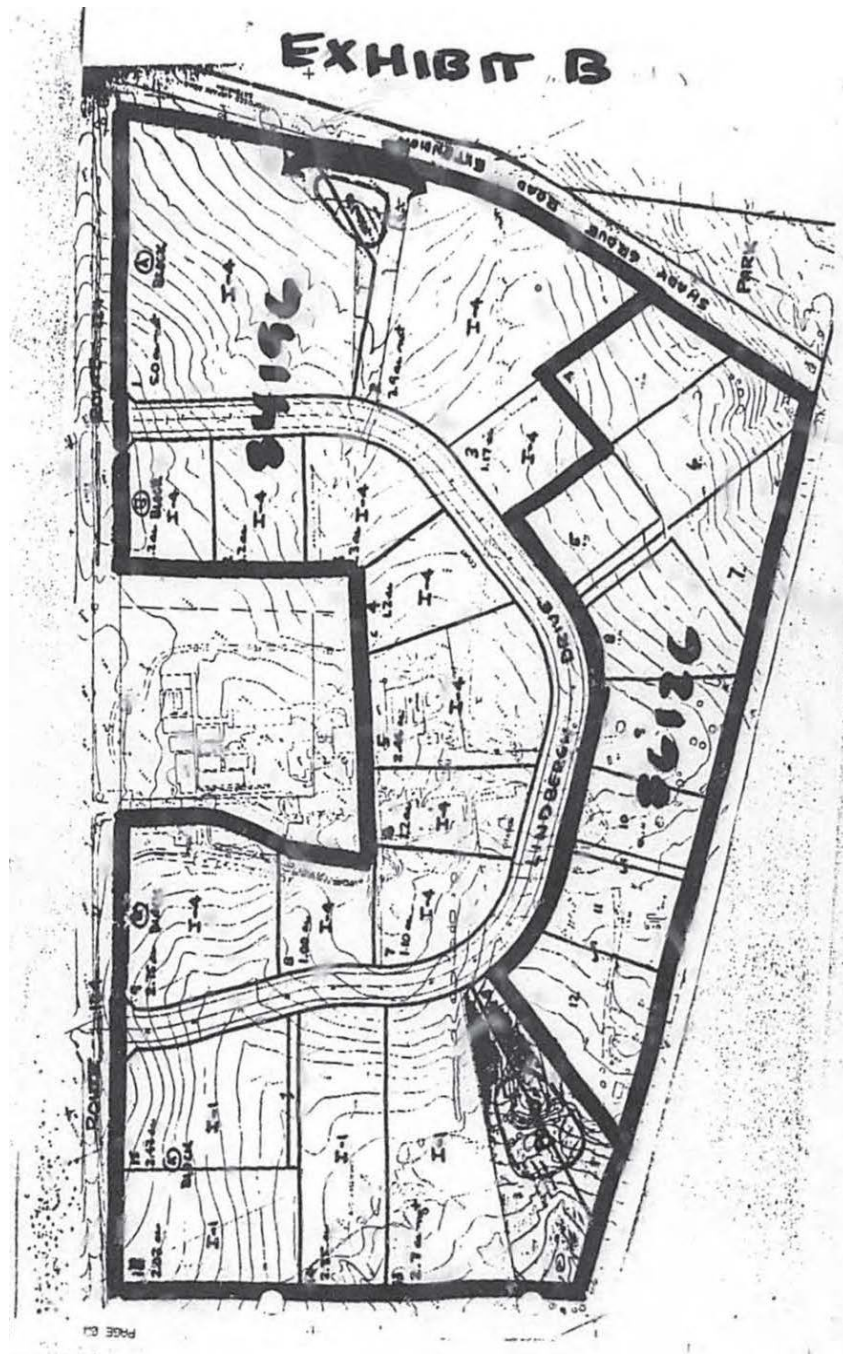


Figure 6 – Properties covered by the FAR Allocation Agreement, Page 6 of the FAR Allocation Agreement

These improvements may have taken years, possibly decades, to complete. In order to allow the project to move forward, the Planning Board and the Leonard Kapiloff Family Limited Partnership entered into this FAR Allocation Agreement to artificially limit the square footage, and as a result the vehicle trips, of each lot covered by the FAR agreement. The FAR agreement includes a table distributing specific square footages to each lot ultimately limiting the subdivision to a total of 397,000 square feet.

Thirty-five years later, Staff has confirmed that all of the public facilities improvements, including those in the County's CIP program, have been completed. This fulfills the premise of the FAR Agreement and renders it

unnecessary. Unfortunately, the FAR Agreement does not contain a “sunset” provision or specific timeframe of validity. However, Condition #9 of the FAR Agreement states:

“The Planning Board, The Maryland-National Capital Park and Planning Commission, and Montgomery County, Maryland, have the right to bring an action for any legal or equitable relief necessary to enforce the restrictions created herein.”

In addition, Condition #10 states:

“Upon request of the Kapiloffs, the Planning Board shall release the Property from these restrictions if it finds that public facilities are adequate pursuant to Section 50-35(k) of the Montgomery County Code for additional development of the Property”

Finally, Condition #12 allows for:

“This Agreement may only be modified in a written agreement approved by the Planning Board and the Kapiloffs or their heirs, successors or assigns”

Based on the conditions quoted above, the Planning Board has the right to provide relief from this FAR Allocation Agreement. The FAR Allocation Agreement can be modified at the request of the Kapiloffs or their heirs, successors or assigns. Under the FAR Allocation Agreement, the Applicant is an heir, successor, or assign with a right to request modification. Finally, the Planning Board has the authority to release the property/properties covered by the FAR Allocation Agreement if it finds public facilities to be adequate. Since all the conditioned improvements outlined in the Planning Board Opinion for Preliminary Plan No. 119841960 have been completed and the basis to justify the execution of the FAR Allocation Agreement has been satisfied, adequate public facilities are adequate in the context of Preliminary Plan No. 119841960 and Preliminary Plan No. 119861260 and the FAR Allocation Agreement. Therefore, Staff recommends that the Planning Board dissolve the FAR Allocation Agreement in its entirety for all properties covered by the agreement.

With the FAR Allocation Agreement dissolved, future redevelopment will be allowed to increase square footage within the bounds of the Zoning Ordinance and adequate public facilities requirements in place at the time of any future application submittal.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lot. The Property is located in the W-1/S-1 water and sewer service categories and utilizes existing water and sewer infrastructure. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy in effect at the time that the Preliminary Plan Amendment was submitted.

2. *The Preliminary Plan Amendment satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A and Chapter 19. EROSION, SEDIMENT CONTROL AND STORMWATER MANAGEMENT.*

An exemption from submitting a Forest Conservation Plan (#42021012E) was confirmed for this Property on August 12, 2020 (Attachment 7). This plan identifies the environmental features and resources on the Property. The Property does not contain any forest. There are no streams, wetlands, 100-year floodplain,

stream buffers, highly erodible soils, or slopes greater than 25 percent located on or immediately adjacent to the Property.

Based on Section 19-62(b) of Montgomery County Code, the Property was confirmed to be exempt from the requirements of the Upper Rock Creek Special Protection Area in an email, dated July 2, 2020 (Attachment 8) from the Montgomery County Department of Permitting Services, due to the industrial zoning of the Subject Property.

SECTION 6: SITE PLAN ANALYSIS

This analysis only applies to the Subject Property and this Site Plan Amendment. Site Plan No. 819951140 was approved in 1985 in the I-1 zoning district under the Zoning Ordinance in effect prior to October 29th, 2014. Under this Zoning Ordinance, site plan approval was required.

The Applicant ultimately seeks a 69% increase in square footage from 9,360 square feet to 30,000 square feet. Under Section 59.7.7.1.C.2 of the Zoning Ordinance, properties in Commercial/Residential, Employment, or Industrial zones may expand by up to 10% of the gross floor area or 30,000 square feet under the zoning ordinance in effect on October 29, 2014. This Site Plan Amendment easily exceeds the 10% gross floor area threshold to allow it to be reviewed under the previous Zoning Ordinance. As a result, this Site Plan Amendment is required to be reviewed under the current Zoning Ordinance in effect on October 30, 2014.

In reviewing this Site Plan Amendment under the current Zoning Ordinance, the proposed warehouse use which is classified as a Storage Facility under Section 59.3.6.8.E is a permitted use in the IL-1.0: H-50 zone. According to the table in Section 59.7.3.4.A.8 of the Zoning Ordinance, a permitted use in an industrial zone which abuts or confronts another industrial zone or industrial floating zone does not require site plan approval. As a result, the Subject Property is no longer subject to site plan approval.

However, the Subject Property is still subject to the approved Site Plan from 1985 and redeveloping the Subject Property would be a violation of the approved site plan. Therefore, this Site Plan Amendment proposes to remove the Subject Property from the 1985 Site Plan because the Zoning Ordinance no longer makes the Property, combined with the proposed permitted use, subject to site plan requirements.

CONCLUSION

The Preliminary Plan Amendment and Site Plan Amendment comply with the general requirements and findings of the Zoning Ordinance and the Subdivision Regulations. Therefore, Staff recommends approval of Preliminary Plan Amendment No. 11984196A and Site Plan Amendment No. 81985114B with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment 1 - Statement of Justification

Attachment 2 – Preliminary Plan No. 119841960

Attachment 3 – Site Plan No. 81985114B

Attachment 4 – Preliminary Plan No. 119841960 and Preliminary Plan No. 119861260 Planning Board Opinion with FAR Allocation Agreement

Attachment 5 – Site Plan No. 819851140 Planning Board Opinion

Attachment 6 – Traffic Impact Study Exemption Statement

Attachment 7 – Forest Conservation Approval #42021012E, August 12, 2020

Attachment 8 – Water Quality Plan Exemption, July 2, 2020

STATEMENT OF JUSTIFICATION

MONTGOMERY AIRPARK BUSINESS CENTER

LOT 4, BLOCK B

June 19, 2020

**PRELIMINARY PLAN AMENDMENT APPLICATION
M-NCPPC FILE No. 11984196A**

I. INTRODUCTION

The Applicant, Casey Holdings, LLC ("Applicant"), hereby submits this Preliminary Plan Amendment Application for approval. Lot 4, Block B, Montgomery Airpark Business Center, is recorded by deed in Liber 8060 / Folio 003 and by Plat Book 139, Plat 16078. The property is zoned IL-1.0 H-50 and comprises 1.24348 acres.

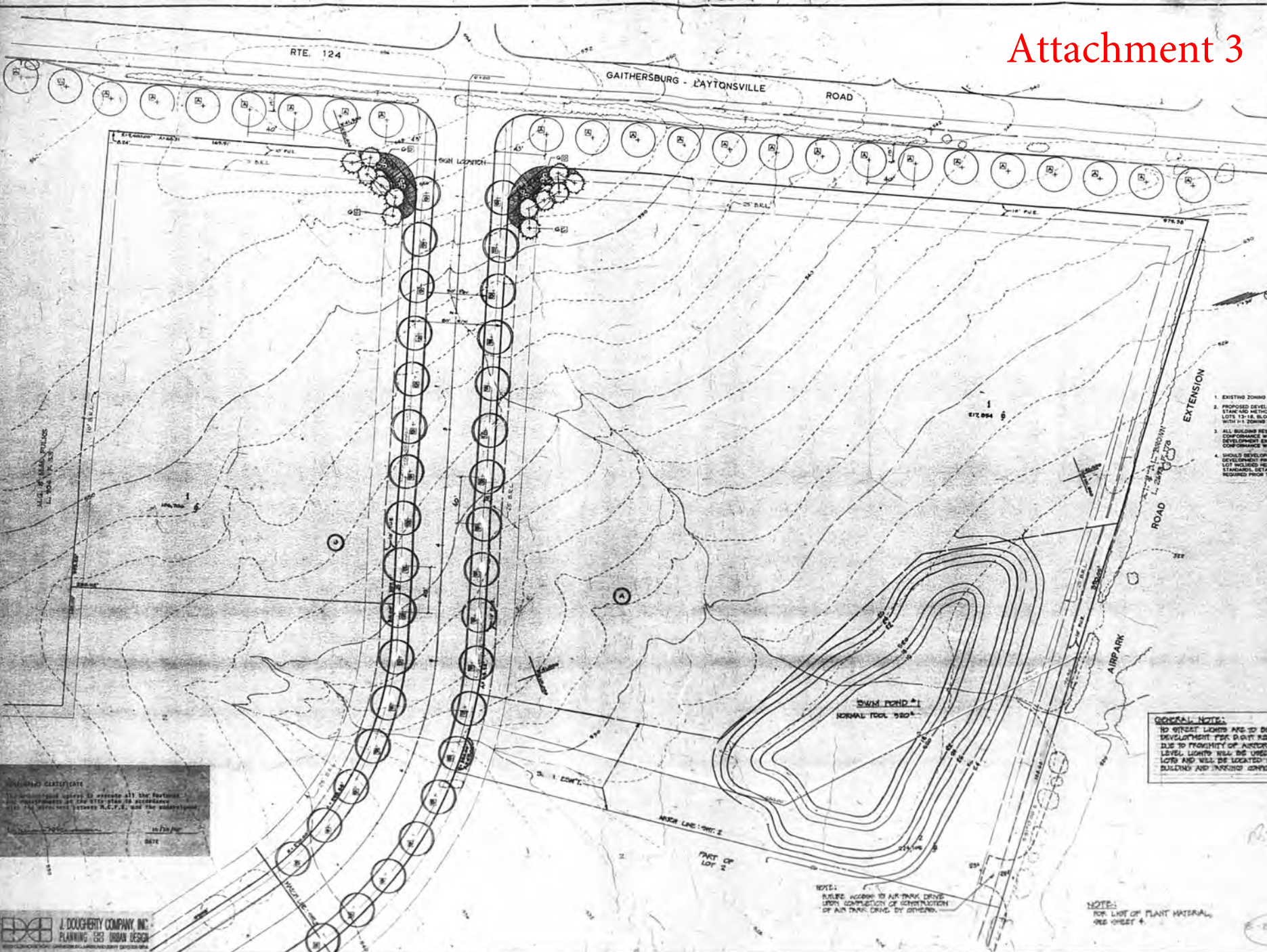
II. EXISTING CONDITIONS AND SURROUNDING AREA

The subject property proposed for development is comprised of 1.24348 acres ($\pm 54,297$ square feet) of land and is currently improved with a 9,360 square foot (per current tax records) commercial building, paved parking lot, and associated appurtenances. The subject property is currently accessed via Lindbergh Drive. The subject property is bounded by similar commercial buildings and parking lots to the north and south and by a brick yard to the west. The entire property drains to the eastern front of the property and / or to Lindbergh Drive. The existing building is currently served by public water and sewer and is currently used by the applicant for warehousing material storage and support office space. The property was developed pursuant to a 1984 Preliminary Plan (Fulks Property, #119841960) and a 1985 Site Plan (Montgomery Airpark Business Center, #819841140). Under the 1984 Preliminary Plan, the development of the industrial park was limited by Adequate Public Facilities (APF).

III. PROPOSED PRELIMINARY PLAN AMENDMENT

Since the approval of the initial preliminary plan, significant development has taken place in the surrounding areas and the required public transportation improvements have been completed. This amendment proposes to remove the limitations of the prior APF finding and modify the accompanying Floor Area Ratio (FAR) Allocation Agreement to allow the Applicant to construct a new building with up to 30,000 square feet of commercial/warehouse/office space (as limited by the current zoning), on-site parking, and required stormwater management.

Attachment 3



ZONING NOTES

- EXISTING ZONING IS 1-1.
- PROPOSED DEVELOPMENT SHALL CONFORM TO 1-1 ZONING FOR STANDARDS AND METHOD OF DEVELOPMENT FOR ALL LOTS EXCEPT LOTS 13-18, BLOCK A, WHICH WILL BE DEVELOPED TO CONFORM WITH 1-2 ZONING STANDARDS.
- ALL BUILDING RESTRICTION LINES SHOWN HEREON ARE IN CONFORMANCE WITH 1-1 ZONING FOR STANDARDS METHOD OF DEVELOPMENT EXCEPT FOR LOTS 13-18, BLOCK A, WHICH ARE IN CONFORMANCE WITH 1-2 ZONING STANDARDS.
- SHOULD DEVELOPMENT UNDER THIS SPECIAL METHOD OF DEVELOPMENT BE DESIRED AT A LATER DATE FOR ANY LOT INCLUDED HEREIN THAT A HOME DEVELOPER MEETING THE STANDARDS, DETAILED SITE PLAN REVIEW AND APPROVAL WILL BE REQUIRED PRIOR TO ISSUANCE OF THE RESPECTIVE BUILDING PERMIT.

GENERAL NOTES

TO GREAT LIGHTS ARE TO BE USED IN THE DEVELOPMENT FOR 24-HOUR ILLUMINATION. DUE TO PROXIMITY OF AIRPARK, ONLY LOW LEVEL LIGHTS WILL BE USED ON THE INDIVIDUAL LOTS AND WILL BE LOCATED ONCE THE FINAL BUILDING AND INTERIOR CONSTRUCTIONS ARE KNOWN.

UNIMPAID CERTIFICATE
This document serves to certify all the features and improvements in the site plan as recorded with the relevant states R.C.T.S. and the subdivision.

J. DOUGHERTY COMPANY, INC.
PLANNING, ENG. URBAN DESIGN

LOIEDERMAN ASSOCIATES, Inc.
ENGINEERS, PLANNERS, SURVEYORS
200-A Monroe Street
Rockville, Maryland
20850
(301) 762-0882

| | |
|----------|----------|
| Designed | ESM |
| Checked | ESM |
| Prepared | ESM |
| Reviewed | ESM |
| Drawn | ESM |
| Scale | AS SHOWN |
| Date | 08/11/00 |

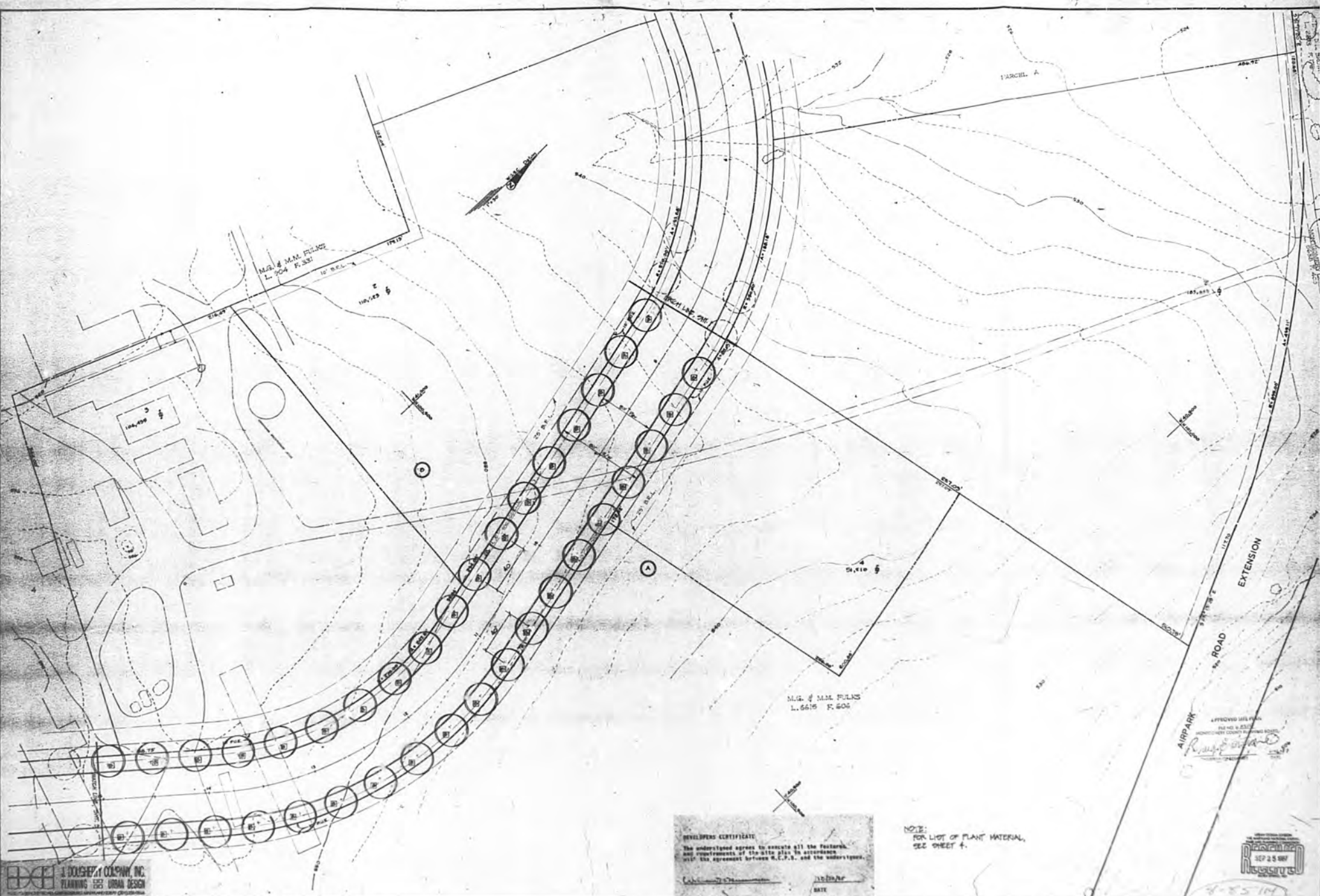
SITE/PLANTING PLAN



MONTGOMERY AIRPARK BUSINESS CENTER
1ST ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND



08/11/00
1
08/11/00



JOHNSON & JOHNSON, INC.
PLANNING - 1952 URBAN DESIGN

LOIEDERMAN ASSOCIATES, Inc.
ENGINEERS, PLANNERS, SURVEYORS
200-A Monroe Street
Rockville, Maryland
20850
(301) 762-0882

| | |
|----------------|----------|
| Designed | EGM |
| Checked | EGM |
| Field Engineer | EGM |
| Recorded | |
| DATE | 10-25-89 |

SITE/PLANTING PLAN

DEVELOPER'S CERTIFICATE
The undersigned agree to execute all the features and improvements of the site plan in accordance with the agreement between M.C.P.S. and the undersigned.

DATE

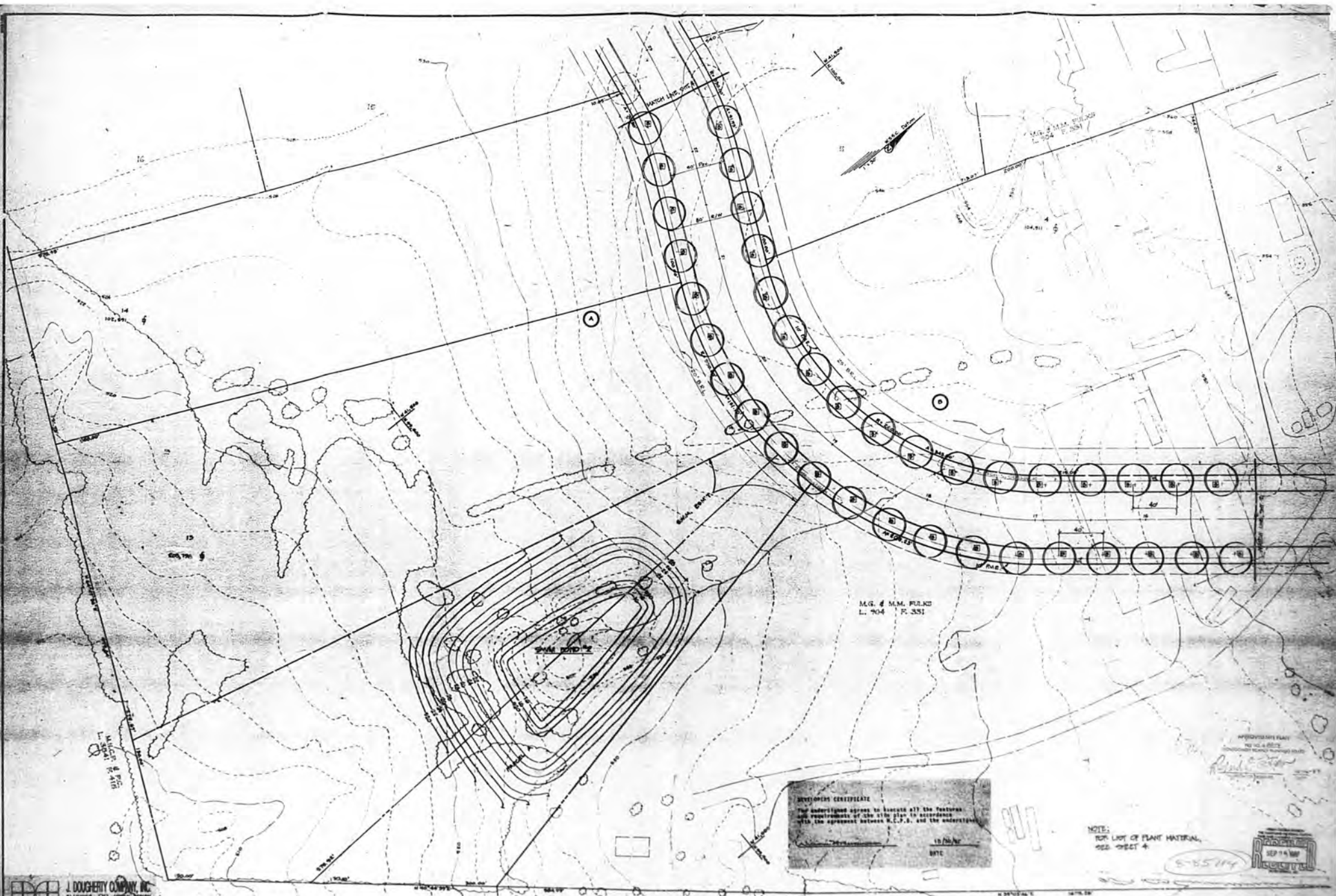
NOTE:
FOR LIST OF PLANT MATERIAL,
SEE SHEET 4.



MONTGOMERY AIRPARK BUSINESS CENTER
1ST ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND



SCALE 1"=30'
SHEET
2
OF 4 SHEETS
CIR NO. 2-84-10



J. DOUGHERTY COMPANY, INC.
PLANNING DESIGNS

LOIEDERMAN ASSOCIATES, Inc.
ENGINEERS PLANNERS SURVEYORS
200 A Monroe Street
Rockville, Maryland
20850
TEL 762-0882

| | |
|----------------|----------|
| Designed | EDM |
| Drawn | EDM |
| Checked | EDM |
| Proj. Engineer | EDM |
| Reviewed | |
| DATE | 12-22-81 |

SITE/PLANTING PLAN

DEVELOPERS CERTIFICATE
The undersigned agrees to execute all the features and improvements of the site plan in accordance with the agreement between M.C.P.A. and the undersigned.

S.R. ELLISON ET AL.
L. 9225 P. 266



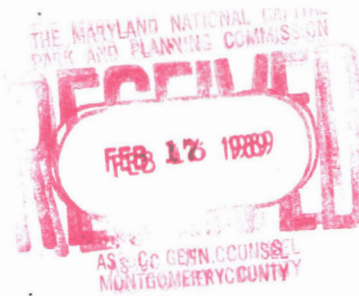
MONTGOMERY AIRPARK BUSINESS CENTER
1ST ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

NOTE:
TOP LIST OF PLANT MATERIAL
SEE SHEET 4



3
12-22-81
12-22-81

Attachment 4



Legal file

ATTACHMENT I

ROUTING SHEET FOR AGREEMENT EXECUTED IN ACCORDANCE WITH PRELIMINARY PLAN OPINION

Re: Preliminary Plan No.: 1-84196 & 1-86126

Project Name: FULKS PROP (MONT. AIRPARK BUS. CTR)

① Charlie 1/31

Unusual format - totals loop ok but I don't see reference to road improvements being under const. prior to 397 K (see opinion 1-84196) Engineer (Broda) thinks roads are already being constructed. Can we let our Trans. Div verify. I'll bring it to their attention

They need to revise to more standard format and include reference to 483 K and 397 K. At least one of the improvements is not yet under construction.

1a) Charlie 2/15

Totals on Exhibit A now agree with prel. including the provision for a max of 397 K before rds. are under construction

Reviewed By
Initials Date

Division/Department

A. Development Review

Agreement is in accordance with Preliminary Plan Opinion

ORL 2/15/89

B. Transportation Division

Agreement satisfies condition(s) of Preliminary Plan

BL 2/16/89

C. Legal Department

Agreement has been reviewed for legal sufficiency

fy 2/22/89

D. Director's Office

1. Director's Signature
2. Forwarded to Development Review Division

BP 2/21/89
LRP 2/24/89

E. Development Review Division

1. Copy of Agreement sent to Applicant *mail J Broda eng.*
2. Original Agreement sent to Legal Office
3. Development Review Procedures Complete

gc 2/24/89
gc 2/24/89
gc 2/24/89

④ Barbara

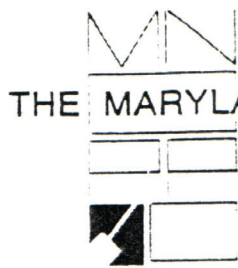
2 copies need signature
I will date *J*

② 2/16

Bud opinions & Trans. memo of 5-14-87 attached

③ Legal 2/17

It would be easier to understand - once-easier to verify - so language could be taken out of the PP opinion (s) regarding the restrictions, improvements etc. & put into the body of the agreement instead of an attachment. I suppose it's a personal preference however and affects clarity & not substance. *py*



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-86126

NAME OF PLAN: FULKS PROPERTY

On 05-01-86, DR. LEONARD KAPILOFF, submitted an application for the approval of a preliminary plan of subdivision of property in the I 4 zone. The application proposed to create 9 lots on 13.80 ACRES of land. The application was designated Preliminary Plan 1-86126. On 06-11-87, Preliminary Plan 1-86126 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 1-86126 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-86126, subject to the following conditions:

1. Participation in Route 124/Route 115 intersection improvements.
2. Improvements to Route 115/Shady Grove Road extended intersection per 5-14-87 Transportation Division memo.
3. Agreement with Planning Board limiting development to 226,600 square feet of Light Industrial use.
4. Dedication of Airpark Road Extended (80' right-of-way).
5. No driveways from lots to Airpark Road.
6. Necessary easements.
7. Property to be sewered to Seneca Basin.
8. Staff approval of grading at the property line to insure preservation of trees on adjacent property or agreement with applicant to identify a grading line limit.

6374
Date of Mail: ^{Fulks 3-84-16} October 8, 1987

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

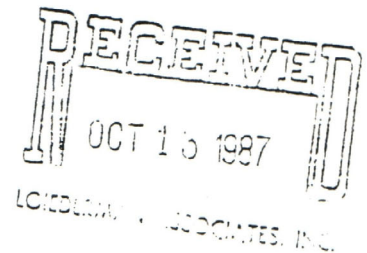
Action: Approved Staff Recommendation with modification. (Motion of Comm. Floreen, seconded by Comm. Hewitt, with a vote of 4-0; Commissioners Christeller, Henry, Floreen and Hewitt voting in favor, Commissioner Keeney temporarily absent).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-84196

NAME OF PLAN: MCKENDREE & FULKS PROPERTY



On 08-14-84, LEONARD KAPILOFF, submitted an application for the approval of a preliminary plan of subdivision of property in the I-1 zone. The application proposed to create 24 lots on 46.80 ACRES of land. The application was designated Preliminary Plan 1-84196. On 10-02-87, Preliminary Plan 1-84196 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 1-84196 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-84196, subject to the following conditions:

1. Agreement with Planning Board limiting development to 483,000 square foot of light industrial use and providing that road improvements listed in conditions 2 and 3 will be under construction prior to applicant requesting building permits for more than 397,000 square feet.
2. Participate in improvements at Route 115/Shady Grove Road intersection to improve to better than background conditions and approach acceptable levels with Planning Board approval of intersection design.
3. Participate in widening of Route 124 from Airpark Road to Fieldcrest Road per 9/25/87 Transportation Division memo.
4. Participate in intersection improvements at Route 115/Route 124 per 9/25/87 Transportation Division memo.
5. Dedication along Route 124 (120' right-of-way).

6. Dedication and construction of internal street (180' right-of-way).
7. Dedication of Airpark Road extension (80' right-of-way).
8. No vehicular access from lots to Route 124.
9. Conditions of DEP stormwater management approval.
10. Development to be in accordance with Airpark approach zone easement.
11. Dedication of park to M-NCPPC as shown.
12. Necessary easements.
13. State Highway Administration approval of access to Route 124.

AGREEMENT

FAR ALLOCATION - FULKS PROPERTY

This AGREEMENT made this 24th day of FEBRUARY, 1989, by and between the Leonard Kapiloff Family Limited Partnership; the K and K General Partnership; and Leonard Kapiloff (hereinafter called the Kapiloffs) and the Montgomery County Planning Board of the Maryland National Capital Park and Planning Commission (hereinafter the "Planning Board"):

WHEREAS, the Kapiloffs are the owners in fee simple of the Fulks property, located on Route 124 within the upper Rock Creek Planning Area, Montgomery County, Maryland, ("Property"), more particularly identified on Exhibit "B" attached hereto and made a part hereof, subject to easements, rights-of-way, covenants and restrictions of record; and

WHEREAS, the Kapiloffs have submitted three (3) plans of subdivisions for the Fulks property located on Route 124 in the Upper Rock Creek Planning Area; and

WHEREAS, the Planning Board has approved three (3) Preliminary Plans of Subdivision for the Fulks property (plan numbers 1-84196, 1-84196R, and 1-86186); and

WHEREAS, subdivision of the Property required three (3) reviews by the Planning Board of the adequacy of the public facilities available to serve the Property; and

WHEREAS, in order to pass the adequate public facilities review, the size, use and operation of improvements to the Property must be severely restricted; and

WHEREAS, the Kapiloffs and the Planning Board agreed that the Property could be subdivided provided the necessary restrictions were contained in an agreement which shall bind the Kapiloffs, their heirs, successors and assigns and which shall be noted on all future record plats for the Property; and

WHEREAS, by the execution of this instrument, the Kapiloffs intend to create restrictions on the Property necessary to meet the conditions of subdivision approval. The purpose of these restrictions are to limit the construction of structures on the Property and to limit the use of the Property so that persons and properties will not be harmed by overburdened public facilities.

The Kapiloffs intend that the restrictions created by this instrument shall be binding on them, their successors, assigns, and lessees and on the land and improvements described herein in perpetuity or until released with the consent of the Planning Board.

NOW, THEREFORE, in consideration of the mutual promises and stipulations set forth herein, other goods and valuable consideration, receipt of which is hereby acknowledged, and in accordance with the approval of the subdivision of the Property and of the premises and the covenants contained herein, the parties, their successors, and assigns, hereby covenant and agree as follows:

1. The recitals set forth above are hereby incorporated herein by reference and made a part hereof.
2. The attached Exhibit A dated 2/8/89 shall be the basis for the issuance of any building permit approval by the Planning Board.
3. The Kapiloffs have established for each lot sold in the past and will establish for each lot sold in the future, the floor area allocations for each lot, in an agreement between the Kapiloffs and each lot purchaser, in accordance with the allocations set forth in Exhibit A dated 2/8/89.
4. The Kapiloffs will not reduce any allocation of floor area to any lot after a lot is sold to any purchaser of a lot within the Fulks Property.
5. Reallocation of floor area between any unsold lots within preliminary plan numbers 1-84196, 1-84196R, and 1-86126 may be made by the Kapiloffs, provided that the total floor area does not exceed the combined total allocation approved by the Planning Board for the property.
6. A notation of this Agreement must be made on any record plat presented for the Planning Board's approval after the date of this Agreement.
7. The Kapiloffs and their successors or assigns must notify the Planning Board of an application for a building permit or a use and occupancy permit for the Property. The Kapiloffs or their heirs, successors or assigns must not seek a building permit or a use and occupancy permit for a structure or use on the Property that violates the restrictions created herein. In the event permits are sought which violate the restrictions

created herein, neither the Planning Board nor The Maryland-National Capital Park and Planning Commission need recommend issuance of any such permit, and Montgomery County, Maryland, may withhold issuance of any such permit.

8. Representatives or designees of the Planning Board may enter upon the Property from time to time for the purpose of inspection and enforcement of the terms, conditions, and restrictions created herein. Wherever possible, a representative of the Kapiloffs, or their heirs, successors or assigns shall be present at an inspection. In the event that the representative or designee determines on the basis of the inspection that the restrictions created herein are being violated, the representative or designee must promptly advise the Kapiloffs concerning the problem.

9. The Planning Board, The Maryland-National Capital Park and Planning Commission, and Montgomery County, Maryland, have the right to bring an action for any legal or equitable relief necessary to enforce the restrictions created herein.

10. Upon request of the Kapiloffs, the Planning Board shall release the Property from these restrictions if it finds that public facilities are adequate pursuant to Section 50-35 (k) of the Montgomery County Code for additional development of the Property.

11. This Agreement shall bind and insure to the Kapiloffs, their heirs, successors and assigns. Wherever this Agreement refers to the Montgomery County Planning Board, it shall also refer to any successor agency, if any, who will administer the "Adequate Public Facilities" Ordinance (Section 50-35 (k) of the Montgomery County Code).

12. This Agreement may only be modified in a written agreement approved by the Planning Board and the Kapiloffs or their heirs, successors or assigns.

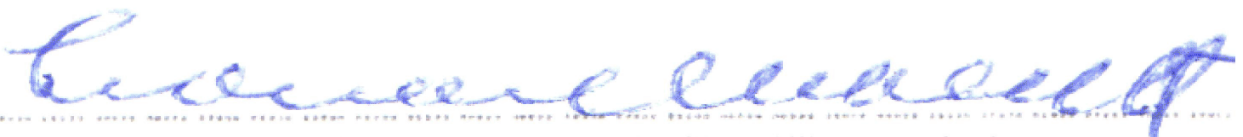
IN WITNESS WHEREOF, this Agreement has been executed by the Kapiloffs and the Planning Board on the day and year hereinafter written.

ATTEST:

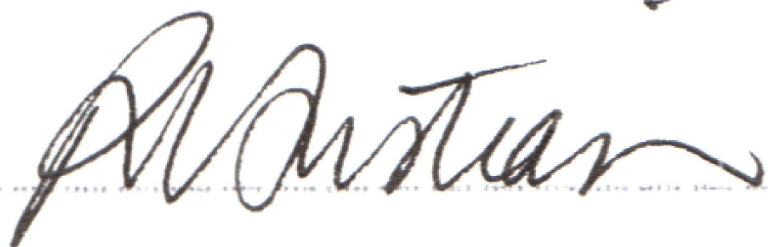
William Rossmann

Leonard Kapiloff
Leonard Kapiloff

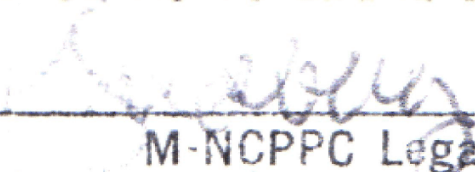
K & K General Partnership
Leonard Kapiloff
General Partner


Leonard Kapiloff Family
Limited Partnership
Leonard Kapiloff
General Partner

MONTGOMERY COUNTY PLANNING
BOARD

By : 

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 2/27/89

EXHIBIT A

FAR ALLOCATIONS - FULKS PROPERTY

Date: 1/20/89

| Preliminary Plan Parcel Number (1) | Purchaser | Anticipated Use | Preliminary Plan of Subdivision Number | | | | 34196 & 86126 Total |
|------------------------------------------|--------------------|----------------------------|----------------------------------------|--------|----------------|-------------|------------------------|
| | | | 84196 | 84196R | Total 84196 | 86126 | |
| A1 | Not Sold | Shopping/Warehouse/Bank | -- | 64,614 | 64,614 | -- | 64,614 |
| A2 | Nash | Warehouse | 85,000 | -- | 85,000 | -- | 85,000 |
| A3 | Quality Biological | Laboratory | 15,759 | -- | 15,759 | -- | 15,759 |
| A4 | Not Sold | Warehouse/Light Industrial | -- | -- | -- | 19,602 | 19,602 |
| A5 | Not Sold | Warehouse/Light Industrial | -- | -- | -- | 16,918 | 16,918 |
| A6 | Not Sold | Warehouse/Light Industrial | -- | -- | -- | 29,541 | 29,541 |
| A7 | Not sold | Warehouse/Light Industrial | -- | -- | -- | 23,685 | 23,685 |
| A8 | Not Sold | Warehouse/Light Industrial | -- | -- | -- | 25,377 | 25,377 |
| A9 | Not Sold | Warehouse/Light Industrial | -- | -- | -- | 25,377 | 25,377 |
| A10 | Not Sold | Warehouse/Light Industrial | -- | -- | -- | 22,908 | 22,908 |
| A11 | Security Storage | Warehouse/Light Industrial | -- | -- | -- | 16,988 | 16,988 |
| A12 | Security Storage | Warehouse/Light Industrial | -- | -- | -- | 46,204 | 46,204 |
| A13 | Nebel | Warehouse/Light Industrial | 42,500 | -- | 42,500 | -- | 42,500 |
| A14 | Nebel | Warehouse/Light Industrial | 30,709 | -- | 30,709 | -- | 30,709 |
| A15 | Not Sold | Warehouse/Light Industrial | 31,755 | -- | 31,755 | -- | 31,755 |
| A16 | Not Sold | Warehouse/Light Industrial | 26,528 | -- | 26,528 | -- | 26,528 |
| B1 | May | Gasoline Station | 16,074 | -- | 16,074 | -- | 16,074 |
| B2 | Mikk | Furniture | 15,812 | -- | 15,812 | -- | 15,812 |
| B3 | Dean | Warehouse/Light Industrial | 16,988 | -- | 16,988 | -- | 16,988 |
| B4 | Morley | Tool Rental | 16,204 | -- | 16,204 | -- | 16,204 |
| B5 | Nebel | Warehouse/Light Industrial | 31,500 | -- | 31,500 | -- | 31,500 |
| B6 & B7 | Nebel | Warehouse/Light Industrial | 32,700 | -- | 32,700 | -- | 32,700 |
| B8 | Kiang | Warehouse/Light Industrial | 22,000 | -- | 22,000 | -- | 22,000 |
| B9 | Not Sold | Warehouse/Light Industrial | 13,471 | 21,386 | 34,857 | -- | 34,857 |
| Total FAR Allowed | | | 397,000 | 86,000 | 483,000 (2) | 226,600 (3) | 709,600 |

1) For locations of Preliminary Plan parcel number see Exhibit B.

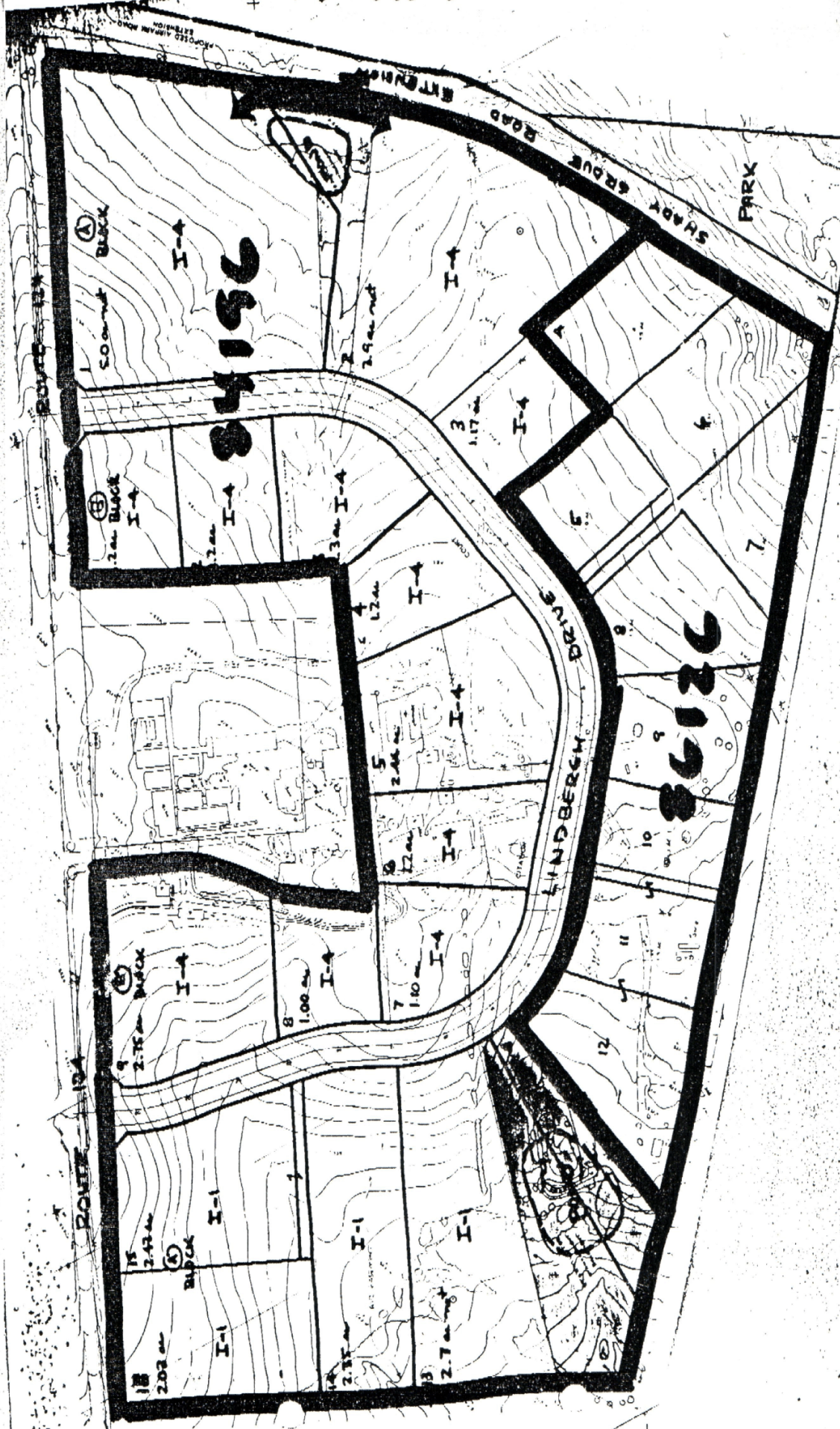
2) Requested building permits within 84196 shall not exceed 397,000 SF until the following road improvements are under construction:

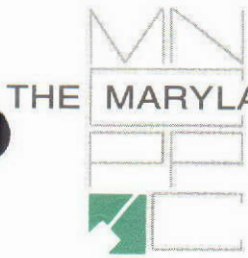
A. Participate in improvements at Route 115/Shady Grove Road intersection to improve to better than background conditions and approach acceptable levels with Planning Board approval of intersection design.

B. Participate in widening of Route 124 from Airpark Road to Fieldcrest Road per 9/25/87 Transportation Division memo.

3) Building permits within 86126 require improvements to the Route 115/Shady Grove Road extended intersection per 5/14/87 Transportation Division memo, and staff approval grading at the property line to insure preservation of trees on adjacent property or agreement with applicant to identify a grading line limit.

EXHIBIT B





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Site Plan Review #8-85114

Project Montgomery Airpark Business Center

On November 13, 1985, Loiederman Associates, Inc. submitted an application for the approval of a site plan for property in the I-1, I-4 pending zone. The application was designated Site Plan Review #8-85114, Montgomery Airpark Business Center hereinafter referred to as the Site Plan.

On December 19, 1985, the Site Plan 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 on the testimony and evidence presented by the staff in the staff report hereby adopted by the Montgomery County Planning Board, which is attached hereto and made a part hereof, the Montgomery County Planning Board finds:

1. the site plan meets all of the requirements of the zone in which it is located;
2. the location of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;
3. each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development; and
4. the site plan is consistent with the approved Preliminary Plan #1-84176.

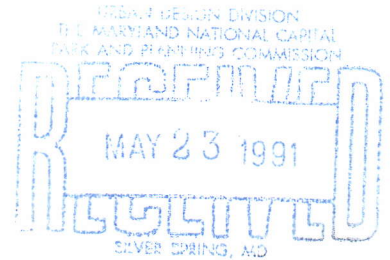
and approves Site Plan Review #8-85114 subject to the following conditions:

1. Reduce the standard 15' width of sidewalk to accommodate a planting strip and street trees on Lindbergh Drive. Construction of a 5' minimum sidewalk on both sides of Lindbergh Drive or as acceptable by MCDOT.
2. Provide a final landscape plan for staff review, prior to building permit.
3. Provide Site Plan Enforcement Agreement, Development Program and Community Association documents for staff review prior to building permit.

4. Both stormwater management ponds shall incorporate 24-hour retention as well as subsurface release features. The applicant shall submit detailed construction drawings of both ponds to DEP and M-NCPPC-EPD staff for review and approval prior to release of building permits.
5. The applicant shall establish a maintenance agreement/association prior to the release of building permits. This association prior to the release of building permits. This association shall be responsible for ownership and permanent maintenance of all stormwater management facilities including areas of porous pavement.

The Hallowell Corporation

May 17, 1991



Mr. Brooks T. Robinson
MNCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Lindbergh Drive
Site Plan No: 8-85114

Dear Brooks:

As discussed at our meeting on Thursday May 16, 1991, Hallowell Corporation would like to amend the current site plan enforcement agreement. This agreement states that we need to install sidewalk and street trees before occupancy of first building. We would like for this agreement to read: "The installation of sidewalk and street trees will be completed as the lots are finished".

If you have any questions please contact me.

Sincerely,

Jeff Stitely
The Hallowell Corporation

JS:jrb

COPY OF APPROVED SITE PLAN
CONTAINING MINOR REVISIONS
APPROVED BY STAFF AS SHOWN
FILE NO. 8-85114
MONTGOMERY COUNTY PLANNING DEPARTMENT

AUTHORIZED SIGNATURE
DATE 6-7-91

The Hallowell Corporation

March 17, 1995

Mr. Brook T. Robinson
Plan Enforcement
Development Review Division
The Maryland National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

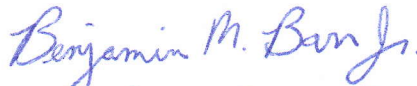
Re: Airpark Business Center
Site Plan #8-85114

Dear Mr. Robinson,

This letter is a follow-up to our meeting on March 15, 1995 with Mike Hunt. We would like to plant the street trees along Route 124 this fall using the plan that you marked up. There will be a total of forty five trees of three varieties, ten Kwanzan, seventeen Purple-leaf Plum and eighteen Pin Oaks. They will be 2" - 2.5" caliper.

If you have any questions, please call me at the number below.

Sincerely,



Benjamin M. Barr, Jr.
The Hallowell Corporation

BMB/dr

mncppc.124

LAW OFFICES

LINOWES AND BLOCHER

SUITE 302
1150 17TH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 293-8510
TELECOPIER (202) 293-8513

SUITE 402
6411 IVY LANE
GREENBELT, MARYLAND 20770
(301) 982-3382
TELECOPIER (301) 982-0595

SUITE 1000
1010 WAYNE AVENUE
SILVER SPRING, MARYLAND 20910-5600
(301) 588-8580

TELECOPIER (301) 495-9044
TTY/TDD (301) 588-3380

145 MAIN STREET
ANNAPOLIS, MARYLAND 21404
(410) 268-0881
TELECOPIER (410) 261-2603

SUITE 102
228 W. PATRICK STREET
FREDERICK, MARYLAND 21701
(301) 695-0244
TELECOPIER (301) 663-6656

SUITE B215
10015 OLD COLUMBIA ROAD
COLUMBIA, MARYLAND 21046
(410) 312-5457
TELECOPIER (410) 290-5285

September 13, 1995

WRITER'S DIRECT DIAL NUMBER

(301) 650-7057

Mr. Anthony Ricciuti
Chief of Traffic Operations Section
Traffic and Parking Services
Montgomery County Department of
Transportation
101 Monroe Street, 11th Floor
Rockville, Maryland 20850-4168

Re: Montgomery Airpark Business Center; Site Plan No. 8-85114
MCDOT Permit No. GP86-393 and GP87-229 ("Permits")

Dear Mr. Ricciuti:

Our client, Rock Creek Town of Rockville, Inc./Kap Development ("Permittee"), has provided us with a copy of a letter dated February 24, 1995, copy from James A. Taylor, Chief, Subdivision Development Section, a copy of which is attached for your convenience, regarding the Permits. This letter indicates that the Subdivision Development Office is awaiting confirmation from the Division of Transportation Mobility Services, that the Permittee has fulfilled the requirements of the "Street Light Procedures" in order to officially accept Lindbergh Drive for maintenance by the County and release the Permittee's Bonds. It is our further understanding that your office has requested documentation from the Permittee that street lighting was not required for Lindbergh Drive. Lindbergh Drive has been fully constructed.

With reference to the street lighting, please be advised that this requirement was waived when the preliminary plan and site plan were approved in 1987. This waiver is evidenced by the Approved Site Plan, a copy of which is attached, which states as follows:

"No street lights are to be used in the development per D.O.T. recommendation, due to proximity of Airport. Only low level lights will be used on the individual lots and will be located once the final building and parking configurations are known."

LINOWES AND BLOCHER

Mr. Anthony Ricciuti
September 13, 1995
Page 2

We have reviewed the procedures that were applicable in 1987 with regard to obtaining such a waiver, with the Montgomery County Planning Board which is responsible for the implementation of the Subdivision Regulations and site plan provisions of the Zoning Ordinance. Our discussions with Malcolm Shaneman confirm that the note on the Site Plan signed by the Director of Planning, reflect the conditions of approval of the Planning Board and stand as evidence of the street light waiver. No other procedure was required at the time. In this regard, we have requested that Mr. Shaneman indicate his confirmation of this practice as indicated below. Under the circumstances, we respectfully request that you provide the requested confirmation to Mr. Taylor so that the bonds pursuant to the Permits may be released.

Should you have any questions, please feel free to call on me. Thank you for your attention to this matter.

Very truly yours,

LINOWES AND BLOCHER


Barbara A. Sears

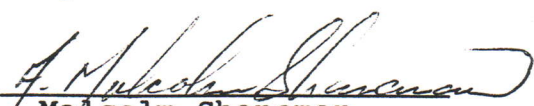
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Enclosure

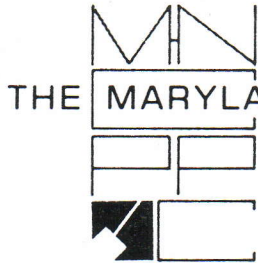
cc: Malcolm Shaneman
Darryl H. Porterfield
James A. Taylor
Bud Worthington

SEEN AND CONSENTED TO:

MONTGOMERY COUNTY PLANNING BOARD
Development Review Division

By: 
Malcolm Shaneman

8847.009
ricc.ltr



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

March 6, 1995

Mr. Ben Barr
Hallowell Corp.
7258 Muncaster Mill Road
Rockville, MD 20855

RE: Airpark Business Center
Site Plan #8-85114


Dear Mr. Barr:

This letter is a follow-up to our meeting this morning with Kirby Barger of SHA. I have enclosed a marked drawing showing a suggested tree planting scheme. Each tree on the list costs roughly \$100 wholesale, which is the price of a 2-2.5" caliper Bradford Pear. The following table lists the trees.

| | | |
|------------------------------------------------------------------|----------------------|-------------|
| Koelreuteria paniculata (Golden Rain) | Size= 2-2.5" caliper | Quantity=10 |
| Prunus cerasifera atropurpurea "Thundercloud" (Purple-leaf Plum) | 2-2.5" caliper | 17 |
| Quercus phellos (Willow Oak) | 2-2.5" caliper | 18 |

If there are any questions, please contact me at 495-4521.

Sincerely,


Brooks T. Robinson
Plan Enforcement
Development Review Division

Attachment 6

ITE Vehicle Trips: Warehouse Usage (Code 150)

Per the 10th Edition of the Trip Generation Manual, a "warehouse is primarily devoted to the storage of materials, but it may also include office and maintenance areas." Under this analysis, the warehouse and office components of the existing / proposed uses will not be separated as the entire building will be occupied by a single tenant; any office space provided (up to 35% GFA of building may be office per current zoning) will be used in support of warehouse use.

| Proposed | Source | Units: 1,000 SF | Rate (X = units) | AM | PM |
|------------------------------------|-----------------------------------|-----------------|------------------------------------|----|----|
| Proposed 30,000 square feet | | | | | |
| Warehouse: Assume 30,000 s.f. | ITE, 10th Edition Trip Generation | 30 | T = 0.12 (X) +25.32 (Vol 2, pg 68) | 29 | - |
| | | | T = 0.12 (X) +27.82 (Vol 2, pg 70) | - | 31 |

| Existing | Source | Units: 1,000 SF | Rate (X = units) | AM | PM |
|-----------------------------------------------------|----------------------------------------|-----------------|------------------------------------|----|----|
| Existing 9,360 square feet (per tax records) | | | | | |
| Warehouse: 9,360 s.f. (per tax records) | (per ITE, 10th Edition Trip Generation | 9.36 | T = 0.12 (X) +25.32 (Vol 2, pg 68) | 26 | - |
| | | | T = 0.12 (X) +27.82 (Vol 2, pg 70) | - | 29 |

| | | | | | |
|-----------------------------|---------------------------|--|--|----------|----------|
| TOTAL TRIPS INCREASE | (Proposed minus Existing) | | | 2 | 2 |
|-----------------------------|---------------------------|--|--|----------|----------|

Step 2: Adjusted Vehicle Trips

| | | | |
|-----------------|---------------------------------|--------------------------|------------------------------------------------------------------------------------|
| Policy Area: | 29 - Rural East | Industrial Storage Usage | |
| Proposed | (TYPE vehicle trips from above) | 100% | <-- Update this cell with policy area value from 2017 LATR Guidelines, Appendix 1a |
| AM | 2 | 2 | |
| PM | 2 | 2 | |

Step 3: Person Trips

| | | | |
|----------------------------------------------|-------------------------------------------|--------------------------|------------------------------------------------------------------------------------|
| Mode Split Assumption: Auto Driver LATR ONLY | | | |
| | | Industrial Storage Usage | |
| Proposed | TYPE Adjusted Vehicle Trips (from Step 2) | 75.80% | <-- Update this cell with policy area value from 2017 LATR Guidelines, Appendix 1b |
| AM | 2 | 3 | |
| PM | 2 | 3 | <--Person Trips for Project |

The Applicant is not required to submit a traffic study to satisfy the LATR test because the proposed land use generates fewer than 50 peak-hour net new person trips within the weekday morning and evening peak periods



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

August 12, 2020

Mr. Steve Casey
Casey Holdings, LLC
8340 Beechcraft Ave., Suite #B
Gaithersburg, MD. 20879

Re: Forest Conservation Exemption 42021012E; Montgomery Airpark Business Center

Dear Mr. Casey:

Based on the review by staff of the Montgomery County Planning Department, the Forest Conservation Exemption Request submitted on July 29, 2020 for the plan identified above, is confirmed. The project site is exempt from Article II of the Montgomery County Code, Chapter 22A (Forest Conservation Law), Section 22A-5(s)(1) because this activity is being conducted on a tract less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet.

An on-site pre-construction meeting is not required because no grading is proposed. The submittal of this plan was part of a proposed Preliminary Plan Amendment for 11984196A (Fulks Property). You may contact me at david.wigglesworth@montgomeryplanning.org or at (301) 495-4581 if you have further questions.

Sincerely,

David Wigglesworth

Sr. Planner
Development Applications & Regulatory Coordination

CC: Eric Tidd (CAS Eng.)



GENERAL NOTES

- Boundary information and two-foot contour data are based upon surveys performed by CAS Engineering, dated April, 2020.
- Total lot area: Lot 4 = 54,296 sq. ft. (per plat)
- Property is located on Tax Map GU341 and WSSC 200' Sheet 226NW07.
- Property is located on Soils Survey Map Number 13.
- Soil type(s): 2B, Glenelg Silt Loam, HSG 16'.
- Flood zone "X" per F.E.M.A. Firm Maps, Community Panel Number 24031C0195D.
- Property is located in the Upper Rock Creek Watershed.
- Water Category - 1, Sewer Category - 1
- Local utilities include:
 - Water / Sewer - Washington Suburban Sanitary Commission
 - Electric - PEPCO
 - Telephone - Verizon
 - Gas - Washington Gas
- Per Section 4.9.20.B(f) of the Montgomery County Zoning Ordinance, development in any Industrial or Commercial/Residential zone is exempt from the Upper Rock Creek Overlay Zone.
- This plan was created without the benefit of a title report.

ZONING DATA

- Zoning:** IL-1.0, H-50
 - Minimum Floor Area Ratio (FAR) = 1.0
 - Front B.R.L. = 10 ft.
 - Maximum Building Height = 50 ft.
 - Rear B.R.L. = 0 ft.
 - Minimum Open Space = 10%
 - Side B.R.L. = 0 ft.

NR/IFSD NOTES

- Owner Information:**
 - Casey Holdings, LLC
 - 8340 Beechcroft Ave. #B
 - Gaithersburg, Maryland 20879
- Property Information:**
 - Lot 4, Block B, Montgomery Airpark Business Center
 - 54,296 s.f. (1.23 ac) per Plat 16078
 - Tax Account 01-02653660
- This site is located in the Rock Creek watershed. Watershed use class I-P.
- The site is located in the Upper Rock Creek Special Protection Area (S.P.A.).
- This site does not contain any perennial or intermittent streams or their associated buffers.
- There are no floodplains or associated buffers located onsite per F.E.M.A. Firm Maps, Community Panel Number 24031C0195D. Subject property located in Flood zone "X".
- There are no steep slopes (25% or greater) or slopes between 15% and 25% on highly erodible soils on site.
- There are no wetlands or their associated buffers located onsite per onsite observation.
- No rare, threatened, or endangered (R.T.E.) species were observed during our site analysis. A letter requesting Maryland Department of Natural Resources input was sent, via email, on June 20, 2020.
- No cultural and/or historical features exist onsite based on available records, onsite observation, and the use of the MNCPPC on-line locator wizard.
- No forest or specimen trees exist on site.
- There are no state and/or county champion trees or trees > 75% of the current state and/or county champion located on this site.
- Tree diameter measurements were obtained utilizing a tree diameter tape.
- The NRI field analysis for this project was conducted in July 2020 by James W. Witmer, EAP Consultants, LLC.
- Subject property is located in the IL-1.0, H-50 zone (at the time of plan preparation).
- The location of offsite trees, improvements, and other structures beyond the subject property's plat boundary lines (extent of topographic survey) are approximate. Offsite features are shown per available MNCPPC topographic records and are provided for illustrative purposes only.

SOILS TABLE

- Glenelg Silt Loam, 3 to 8 percent slopes
- This soil is very deep, well drained and moderately permeable. Available water capacity is high. Productivity is high. Erosion hazard is slight. Potential for frost action is moderate. Capability subclass is. Glenelg silt loam is a prime agricultural soil.

SOILS TABLE

| SYMBOL | SOIL | HYDRIC | PRIME FARMLAND | HIGH ERODIBLE | SERPENTINITE |
|--------|-------------------|--------|----------------|---------------|--------------|
| 2B | GLENELG-SILT LOAM | NO | NO | NO | NO |

NARRATIVE STATEMENT AND EXEMPTION REQUEST

This 54,297 square foot (1.23 acre) site is improved with a single commercial/industrial building, asphalt driveway and parking area, and associated appurtenances. The property contains one (1) significant tree and no other trees larger than 24" D.B.H. No steep slopes, highly erodible soils, forest, streams, flood plains, stream buffers or flood plain buffers exist on the property or within 100-feet. The property contains a maintained lawn.

The subject property is bounded by similar lots containing commercial uses to the north, south and west, Lindbergh Drive abuts the property to the east.

Exemption Request

The property qualifies for a forest conservation exemption pursuant to Section 22a-5(e)(1):

an activity occurring on a tract if land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the reforestation requirements would not exceed 10,000 square feet.

This project is required to comply with Chapter 22A as part of a proposed Preliminary Plan Amendment for 11984196A (Fulks Property). This amendment does not propose any land disturbance, but is part of an administrative amendment to remove the limitations of the prior APF finding and modify the accompanying Floor Area Ratio (FAR) Allocation Agreement.

ENVIRONMENTAL DATA TABLE

| FEATURE | ACREAGE |
|---------------------------------------|---------|
| Area of Steep Slopes | 0 ac. |
| Forested Floodplain Area | 0 ac. |
| Environmental Buffer Area | 0 ac. |
| Total Forested Area | 0 ac. |
| Forested Environmental Buffer | 0 ac. |
| 100-year Flood Plain | 0 ac. |
| Wetlands | 0 ac. |
| Forested Wetlands | 0 ac. |
| Average Width of Environmental Buffer | 0 ft. |
| Linear Extent of Stream | 0 ft. |

TREE TABLE

| Tree # | Common Name | Scientific Name | Dia (in) | Condition | Notes |
|--------|-------------|-----------------|----------|-----------|---------------------------------------------------------------|
| 274 | Red Maple | Acer rubrum | 25 | good | Save; Multi-stem w/included bark; high probability of failure |

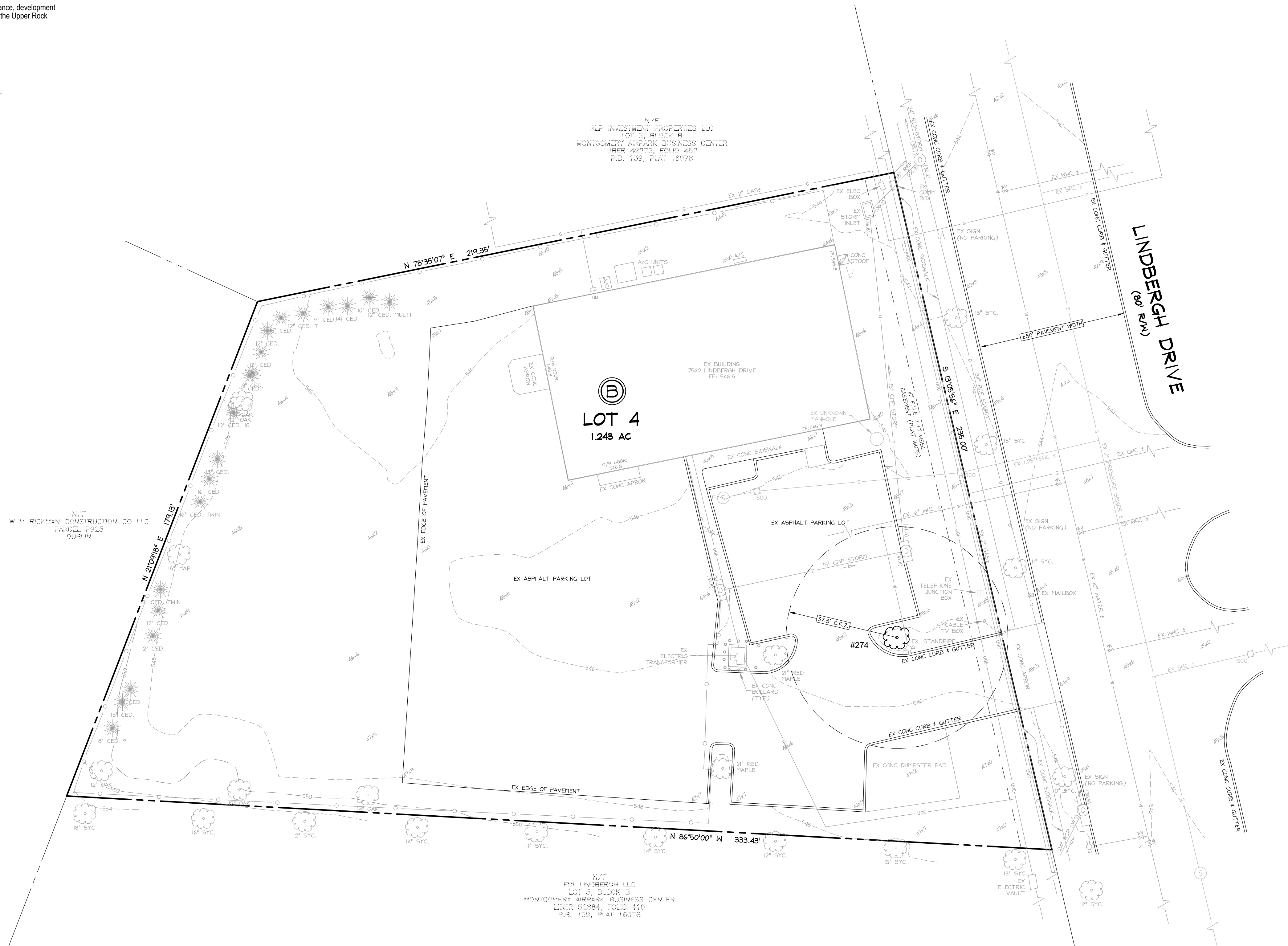
UTILITY INFORMATION

EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE AND MUST BE FIELD VERIFIED. UTILITY LOCATIONS ARE BASED UPON AVAILABLE RECORDS AND ARE SHOWN TO THE BEST OF OUR ABILITY.

| UTILITY CO. | REQUEST DATE | BY | INFO RECEIVED | PLAN REVISED | BY |
|---------------------------------|--------------|-----|---------------|---------------|-----|
| AT&T | 05/14/2019 | PJS | 07/17/2019 | NO FACILITIES | EBT |
| COMCAST | 05/14/2019 | PJS | 05/14/2019 | 04/20/2020 | EBT |
| PEPCO | 05/14/2019 | PJS | 05/28/2019 | 04/21/2020 | EBT |
| VERIZON/MS | 05/14/2019 | PJS | 05/15/2019 | NO FACILITIES | EBT |
| WASH. GAS | 05/14/2019 | PJS | 05/21/2019 | 04/20/2020 | EBT |
| W.S.S.C. | | | | | |
| SEWER CONTRACT DRAWING | 05/14/2019 | | 04/20/2020 | | EBT |
| WATER CONTRACT DRAWING | 05/14/2019 | | 04/20/2020 | | EBT |
| HOUSE CONNECTION PLUMBING CARDS | 05/14/2019 | | 04/20/2020 | | EBT |

MISS UTILITY

FOR LOCATION OF UTILITIES, CALL "MISS UTILITY" AT 1-800-257-7777, OR LOG ON TO WWW.MISSUTILITY.ORG. IN ORDER IN ADVANCE OF ANY WORK IN THE VICINITY THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDER GROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION. THE EXCAVATOR IS RESPONSIBLE FOR COMPLIANCE WITH REQUIREMENTS OF CHAPTER 22A OF THE MONTGOMERY COUNTY CODE.



LEGEND

| EXISTING FEATURES | |
|-------------------|-----------------------------------|
| | Ex. Sewer Line with Cleanout |
| | Ex. Sewer Manhole and Invert |
| | Ex. Water Line with Valve |
| | Ex. Gas Line with Valve |
| | Ex. Overhead Utility with Pole |
| | Ex. Downspout Pipe / Spilled |
| | Ex. Underground Utility Line |
| | Ex. Two- And Ten-Foot Contours |
| | Ex. Spot Elevation |
| | Ex. Chain Link or Wire Fence |
| | Ex. Wood or Stockade Fence |
| | Ex. Metal or Iron Fence |
| | Ex. Subject Property Line |
| | Ex. Adjoiner Property Line |
| | Ex. Significant Tree With C.R.Z. |
| | Ex. Soil Boundary with Soil Types |

OWNER/APPLICANT

Casey Holdings, LLC
Attn: Steve Casey
8340 Beechcroft Avenue #B
Gaithersburg, MD 20879
(301) 977-0374 Phone
scasey@caseyconstruction.com

CAS ENGINEERING-MD

10 South Davis Street
Frederick, Maryland 21701
301-607-8031 Phone
info@casengineering.com
www.casengineering.com

CAS ENGINEERING-DC, LLC

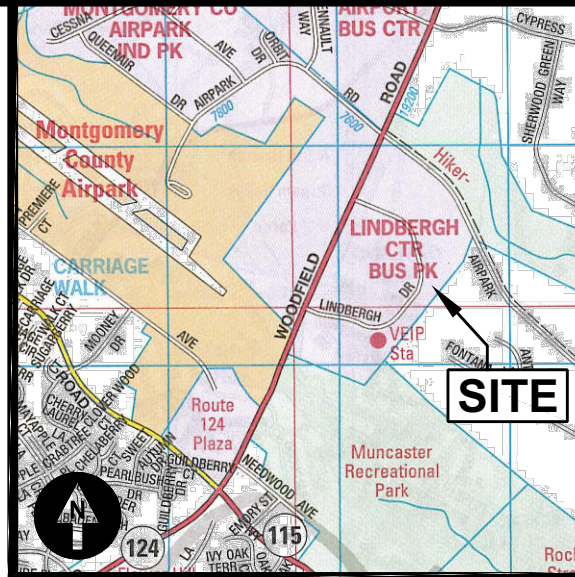
1001 Connecticut Avenue, NW, Suite 401
Washington, DC 20036
202-363-7200 Phone
info@cas-dc.com
www.cas-dc.com



SHEET TITLE:

NRI / FSD
Existing Conditions Plan,
Forest Cons. Exemption

7560 Lindbergh Drive
Lot 4, Block B,
Montgomery Airpark Business Center
NRI/IFSD - Existing Conditions Plan
Forest Conservation Exemption Plan
#42021012E



VICINITY MAP

ADC MAP 5048, GRID F-4, SCALE: 1" = 200'

CAS JOB NO.: 19-278
DATE: 04/2020

DATE REVISION

| | |
|----------|----------------------------------------------------------------|
| 07/17/20 | EBT - Initial Submission of Existing Conditions Plan to MNCPPC |
| 07/29/20 | EBT - Final Submission of Existing Conditions Plan to MNCPPC |

QUALIFIED PROFESSIONAL CERTIFICATION:

I hereby certify that these documents were prepared in accordance with Maryland state and Montgomery County Forest Conservation Laws and MNCPPC Guidelines. (DNR / COMAR 08.19.06.01)

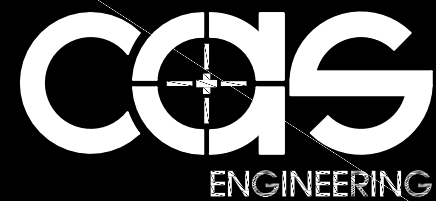
JEFFREY A. ROBERTSON

07/29/2020

DISCLAIMER: Trees are living things whose livability and structural integrity are subject to a wide array of natural factors and impacts, among those impacts are genetics, climate, weather, water regime, soils, insects, and disease. As such, trees are subject to changes in health or condition very slowly over time or very abruptly. I do not take liability for these actions or other factors upon the health or structure of the trees involved in this document. This plan should not be interpreted as a tree hazard evaluation as internal, structural, or aerial inspections were not performed on or upon these trees, conditions and weaknesses may exist out of sight from the human eye.

Lot 4, Block B, Montgomery Airpark Business Center
Plat Book 139, Plat No. 16078, Recorded 07/1986
Laytonville (13th) Election District, Montgomery County, MD
7560 Lindbergh Drive
Gaithersburg, Maryland 20879

TAX MAP: GU341
WSSC: 226NW07



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Washington, DC 20036
202-363-7200 Phone
info@cas-dc.com
www.cas-dc.com

From: [Eric](#)
To: [Sigworth, Ryan](#)
Cc: [Pereira, Sandra](#); [Penn, Joshua](#)
Subject: RE: 7560 Lindbergh Drive; MNCPPC 11984196A / 81985114B
Date: Thursday, July 2, 2020 12:46:52 PM

Thanks Ryan.

We're already working to address these items. Please save us a spot for immediately after the break.

Thanks.

Eric B. Tidd, P.E.

Senior Project Manager

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Experience You Can Build On.

10 South Bentz Street
Frederick, MD 21701
301-703-2342 office
301-471-9460 mobile
eric@casengineering.com
<http://casengineering.com>

From: Sigworth, Ryan <Ryan.Sigworth@montgomeryplanning.org>
Sent: Thursday, July 2, 2020 10:55 AM
To: Eric <eric@casengineering.com>
Cc: Pereira, Sandra <sandra.pereira@montgomeryplanning.org>; Penn, Joshua <joshua.penn@montgomeryplanning.org>
Subject: RE: 7560 Lindbergh Drive; MNCPPC 11984196A / 81985114B

Eric,

This is sufficient to address the exemption for the water quality plan.

Sincerely,

Ryan Sigworth, AICP
Senior Planner – Area 3
Maryland National Capital Parks and Planning Commission

Address:
8787 Georgia Avenue
Silver Spring, MD 20910

Telephone: (301) 495-2112
Fax: (301) 495-1304
Email: ryan.sigworth@montgomeryplanning.org

Website: MontgomeryPlanning.org



From: Eric <eric@casengineering.com>
Sent: Thursday, July 2, 2020 9:29 AM
To: Sigworth, Ryan <Ryan.Sigworth@montgomeryplanning.org>
Subject: Fwd: 7560 Lindbergh Drive; MNCPPC 11984196A / 81985114B

Ryan,

Can you confirm that the below email from Leo Galanko will be sufficient?

Thanks.

Eric Tidd
CAS Engineering

Sent from my iPhone

Begin forwarded message:

From: "Galanko, Leo" <Leo.Galanko@montgomerycountymd.gov>
Date: July 2, 2020 at 9:03:09 AM EDT
To: Eric <eric@casengineering.com>
Cc: "Etheridge, Mark" <Mark.Etheridge@montgomerycountymd.gov>
Subject: **FW: 7560 Lindbergh Drive; MNCPPC 11984196A / 81985114B**

Eric,

You are correct that uses in industrial or commercial zones are exempt from the environmental overlay zone which pertains to impervious cover limitations. However, we don't write exemption letters. MNCPPC will review this as part of the process as they are the lead agency on impervious limit enforcement for anything going through a MNCPPC process. It looks like they were asking you to show compliance with the SPA requirements (different than the overlay zone) and if there is no land disturbance proposed then the SPA requirements don't apply (look under applicability, 19-62 (b) of the County Code).

This email should suffice as showing compliance with the SPA requirements.

Leo M. Galanko, CPESC, CPSWQ
Special Protection Area Coordinator
Land Development/Water Resources
Montgomery County Department of Permitting Services
255 Rockville Pike, Rockville Maryland 20850-4166

Phone (240) 777-6242
leo.galanko@montgomerycountymd.gov

From: Eric <eric@casengineering.com>
Sent: Wednesday, July 1, 2020 5:09 PM
To: Etheridge, Mark <Mark.Etheridge@montgomerycountymd.gov>
Cc: Eric <eric@casengineering.com>
Subject: 7560 Lindbergh Drive; MNCPPC 11984196A / 81985114B

[EXTERNAL EMAIL]

Mark,

We are working with MCNPPC to administratively amend a 1984 Preliminary Plan and a 1985 Site Plan for the above referenced property. The preliminary plan amendment intends to show that transportation improvements required by the 1984 approval are in place and that any FAR agreements should be abolished; the site plan amendment seeks to remove the subject property from the requirements of the site plan as the current zone (IL-1.0, H-50) does not require a site plan. These amendments do not include any land disturbance.

As part of MNCPPC's peer review, they have requested we provide compliance with the requirements of the Upper Rock Creek SPA. Given the properties current zoning (Light Industrial), Section 4.9.20.B(1)(a) states that "Development in any Industrial of Commercial/Residential zone" is exempt from Section 4.9.20, what information do we need to provide to obtain an exemption letter from DPS for this item?

Thanks.

Eric B. Tidd, P.E.
Senior Project Manager

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Frederick, MD 21701
301-703-2342 office
301-471-9460 mobile
eric@casengineering.com
<http://casengineering.com>

Take 10 minutes to be counted now – visit: <https://2020census.gov/>



For COVID-19 Information and resources, visit: www.montgomerycountymd.gov/COVID19