

Tax Map/Block/Parcel
No. 77-22-467

Building Permit/Zoning
Certificate No. 05-1925

Case 5101

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPELLANT: Rt. 97 Enterprises, LLC
7891 Old Washington Road
Woodbine, MD 21797

REQUEST: An appeal of a Planning Commission denying final plat approval for the South Carroll Gateway Industrial Park, 10 lot subdivision (plus reconfiguration of Lot 1).

LOCATION: The site is located on the west side of MD Rt. 97 at Hoods Mill Road, Woodbine, on property zoned "I-G" General Industrial District in Election District 14.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-186 A (1) and 223-188 B and F

HEARING HELD: August 4, 2005

FINDINGS AND CONCLUSION

The subject property is 26.79 acres of land on the west side of Maryland Route 97 south of Hoods Mill Road and Kabik Court in the Freedom area. The property is zoned "I-G" General Industrial and is currently undeveloped. The Appellant is proposing to develop the property as a 10 lot industrial park. The Carroll County Planning and Zoning Commission approved a preliminary plan for the subdivision on October 19, 2004. However, the Planning and Zoning Commission denied the final plan for the industrial subdivision on May 17, 2005. In accordance with Chapter 223-188B, the Appellant filed an appeal of the denial of the final plan to this Board. Based on the evidence and testimony presented, the Board makes the following findings of fact.

The principal point of contention in this case is the presence of 2 access locations along Maryland Rt. 97 to serve the proposed industrial park. According to the Director of the Department of Planning, the location of the two entrances caused the Planning and Zoning Commission to deny the final plan due to "safety issues".

OFFICIAL DECISION

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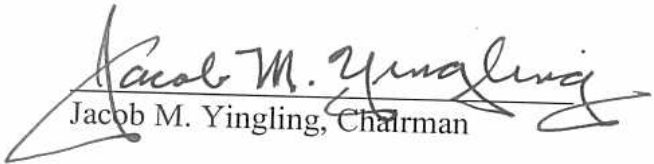
This Board heard credible, uncontroverted testimony from a qualified traffic expert called by the Appellant who performed a traffic impact study for the proposed development. She concluded that potential traffic generated by the industrial park would result in a "C" level of service at the intersection of Route 97 and Hoods Mill Road during the peak morning hours and "B" during the peak evening hour. The other proposed access to Maryland Rt. 97 at Wedekind Court would operate at "C" level of service during the morning and evening hours. In other words, both intersections would function at an acceptable level of service if the park was approved. In addition, the Maryland State Highway Administration, in a letter dated September 17, 2004, to the Appellant's engineer, (Exhibit 7) voiced no objection to the two entrance points, so long as certain conditions, including improvements to Rt. 97, were performed by the Appellants.

From the evidence presented, it appears that the second entrance is necessitated by the fact that there is a utility easement for the Colonial Pipeline which runs underneath a portion of the property. In order to eliminate the second entrance, it would be necessary for vehicles to cross over the pipeline in the industrial park. This would require extraordinary and impractical measures to protect the pipeline, including possible pipe reconstruction. Although it is theoretically possible for the Appellant to construct a bridge or other structure over the pipeline, the cost would be prohibitive.

Based upon all of the above evidence, the Board respectfully disagrees with the decision of the Planning and Zoning Commission to deny the final plan. We heard no evidence that the proposed industrial park with 2 access points would substantially exacerbate traffic problems. Whether there is one entrance or two, the traffic will be the same. In addition, the Appellant is prepared to make improvements to Route 97 to benefit the public safety of motorists. Accordingly, the decision of the Planning Commission is reversed, and the Appellant's final plat of the South Carroll Gateway Industrial Park is approved subject to the conditions imposed by the Planning Commission in the approval of the preliminary plan on October 19, 2004.

8-30-05

Date


Jacob M. Yingling, Chairman