

THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

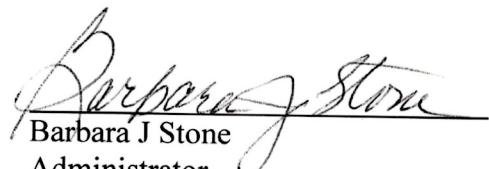
OF BOARD OF APPEALS

RE: Case No. AA-1745 & AA-1748 Amazon.com Fit out Mega Project (Amazon)

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: September 15, 2021.

CERTIFICATE OF SERVICE

This is to certify that on _____, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Administrative Appeals

June 21, 2022

Petitioner: Amazon.com Fit out Mega Project (Amazon)

Appeal Nos.: AA-1745, AA-1748

Subject Property: Parcel B, Tax Map Grid 036D2, Georgeland Corp Property-Resub Subdivision, 7100 Holladay Tyler Road, Glen Dale, Prince George's County, Maryland.

Counsel for Prince George's County Department of Permitting, Inspections and Enforcement
(DPIE): Benjamin E. Rupert, Esq., Associate County Attorney

Witnesses: Ruth Grover, Planner

Lawrence Green, Engineer

James Thomas, Stormwater Engineer

Mary Giles, Associate Director, DPIE

James Hunt, Planning Division Chief, MNCPPC

Bellur Ravishankar, Associate Director, DPIE

Heard: March 24, 2021 and September 15, 2021

Decided: September 15, 2021

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia Johnson, Member (*not present at the September 15, 2021 Hearing)

RESOLUTION

This appeal was filed with the Board of Appeals (Board) for Prince George's County, Maryland, sitting as the Board of Administrative Appeals, to issue a Denial of the application to operate and occupy dwelling on I-1 (Light Industrial) Zoned, property located on Parcel B, Tax Map Grid 036D2, Georgeland Corp. Property-Resub Subdivision, 7100 Holladay Tyler Road, Glenn Dale, Prince George's County, Maryland.

EVIDENCE PRESENTED

The following testimony and evidence were presented to the Board for consideration:

AA-1745

1. The subject property is located on Parcel B, Tax Map Grid 036D2, Georgeland Corp. Property-Resub Subdivision, 7100 Holladay Tyler Road, Glenn Dale, Prince George's County. The total area is 24.80 acres in the I-1 Light Industrial Zone (Exh. 4).

2. On August 28, 2020 and amended on August 31, 2020, Dwkye Bidjou, et. al. (Appellants), through undersigned attorney Macy Nelson, appealed the approval by DPIE of the Conditional Use (CU) Permit No. 9993-20202-0 for an "Amazon.com Fitout Mega Project" authorizing "Tenant improvements to existing warehouse space" at 7100 Holladay Tyler Road, Glenn Dale, Maryland (Exh. 1 AA-1745).

3. Appellants argued Respondent's permit is at issue for not accurately stating the particular use. The permit indicates that the intended uses are for a storage yard, storage, commercial vehicle, warehouse/storage/distribution (Exh. 4).

4. Appellants claimed the permitted use would allow massive parking lots internally and externally on the property (Exh. 12 A-F).

5. Appellants, through its witness Ruth Grover, alleged that commercial parking lot and storage yard did not accurately defined the offsite impacts of the intended use. Additionally, the residents could not determine the offsite impacts to the surrounding community.

6. Appellants, through its witness Larry Green, alleged the parking lot, as permitted, would allow nine (9) times as many trips versus the standard commercial warehouse parking lot.

7. Respondent, through undersigned attorney Matthew Gordon, indicated that the permit identified the adaptive reuse for the warehouse (Exhs. 6,8).

8. Further, Respondent stated that the Maryland Court of Appeals determined that permitted uses do not need an independent analysis of the impact to surrounding communities.

9. Dpie, through its witness James Hunt, testified that MNCPPC is a referral agency concerning permits pertaining to the Zoning Ordinance.

10. Mr. Hunt confirmed that the aforementioned property is in the I-1 (Light Industrial) Zone. Further, he stated nothing from the Planning Board or District Council required any additional approvals.

11. Mr. Hunt testified that he reviewed his staff's comments and recommended approval. He concluded after reviewing the parking and use calculations that no additional traffic studies were triggered.

12. Further, he testified that 27.473 of the Zoning Ordinance allows for the permitted use. The use is existing and discretionary view is not needed (Exh. 3).

13. Appellants, through undersigned attorney Macy Nelson, asked Mr. Hunt if use was "permitted by right" or "permitted with exceptions. Mr. Hunt testified that the use is "permitted by right" (Ex. 3).

14. Additionally, Appellants claimed that the permit requested by the Respondent is for "wholesale or distribution. Mr. Hunt testified that the requested use is not wholesale or distribution and the appropriate use is warehouse (Ex. 3).

15. Mr. Hunt testified that the permitted site did have a parking lot and he was unaware of the number of spaces contained within the building. He stated the required parking spaces for this use is 199 and the property contains 228 parking spaces (Exh. 5).

16. Respondent alleged that the stated uses do not fall under the guideline of the permit. Mr. Hunt stated that the use is "storage yard, storage, commercial vehicle, warehouse/storage/distribution" and that property is in the I-1 Zone (Exhs. 4,5).

17. Dpie, through its witness, Bellur Ravishankar, stated that the Agency is not involved in decision or compliance as it relates to the Zoning Ordinance. He further stated that MNCPPC is the sole agency responsible for this permit compliance to the Zoning Ordinance.

18. Appellants, through several citizens' testimony, referred to the noise created by the prior use of the property. Also, citizens were concerned about the noise associated with the use of the onsite train.

19. Appellants were concerned that the permit did not mention the maximum allowed parking onsite or the trip caps to the property.

20. Further, appellants stated this site would turn into a "last mile distribution" site and the noise pollution from the trains would interfere with their quiet enjoyment of their properties.

AA-1748

1. On September 23, 2020, Appellants, through undersigned attorney Macy Nelson, filed appeal of the Stormwater Management Concept Approval, Case Number 33386-2020-0 for Amazon.com Services at 7100 Holladay Tyler Road, Glenn Dale, Maryland (Exh. 1 AA-1748).
2. Appellants, through its witness James Thomas, presented testimony that the lot was impervious and not a gravel lot (Exh. 6).
3. Mr. Thomas indicated that he reviewed the stormwater concept approval plan, response letter, preconstruction letter, concept sit development plan, sediment control plans, and fine grading permits submitted by Dpie to make his determination (Exh. 13).
4. Respondent, through its undersigned attorney Matthew Gordon, stated that the stormwater approval letter supplied on September 20th did not depict whether the stormwater grading was complete (Exh. 13).
5. Dpie, through its witness Mary Giles, testified that the agency did not have authority to require a new stormwater management as the gravel lot was preexisting.
6. Ms. Giles reviewed plans and the asphalt overlay did not trigger new stormwater management on the preexisting lot.
7. Respondent, through undersigned attorney Matthew Gordon, stated that the Stormwater Management Concept Plan is not under the Zoning Ordinance, and the appropriate provision is Subtitle 32 Division 3 of the County Code (Exh. 10).
8. Further, Mr. Gordon argued that there is no express provision in the County Code that would allow the Board to hear this case (Exh. 10).

FINDINGS

Based on the evidence adduced, the Board finds that:

1. On August 28, 2020 and amended on August 31, 2020, Appellants filed an appeal of Dpie CU Permit Number 9993-2020-0 Amazon.com Fitout Mega Project authorizing Tenant improvements to existing warehouse space at 7100 Holladay Tyler Road, Glen Dale, Maryland.
2. The Appellants raised four (4) issues: 1) The proposed use is not a permitted use at the site 2) The applicant failed to provide adequate public notice to the community about the proposed application 3) Parking calculations for the site do not comport with the requirements of Part 11 of the Zoning Ordinance and 4) A traffic analysis should have been performed to study the anticipated increase in trip generation with the change in use.
3. The Board determined that: 1) The use was permitted in the I-1 (Light Industrial) Zone under 27.473 of the Zoning Ordinance 2) Public notice was not a requirement for a preexisting “permitted by right” use 3) The permit provides parking on the property that fully complies with Part 11 of the Zoning Ordinance and 4) A trip generation analyses is not a requirement in the Zoning Ordinance for this property.
4. On September 23, 2020, Appellants filed an appeal of the Stormwater Management Concept Approval, Case Number 33386-2020-0 for Amazon.com Services at 7100 Holladay Tyler Road, Glenn Dale.
5. The Appellants raised two (2) issues: 1) The applicant failed to provide adequate public notice to the community about the proposed application and 2) The Stormwater Management Concept Approval does not comply with the applicable legal requirements.

6. The Board accepted Respondent's Motion to Dismiss for Lack of Jurisdiction as there is no authority under the Zoning Ordinance to review.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that the determination of the Department of Permitting, Inspections and Enforcement, Inspections Division, be **AFFIRMED** as to AA-1745 and Motion to Dismiss **GRANTED** as to AA-1748.

BOARD OF ADMINISTRATIVE APPEALS

By: 
Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.