

R E S O L U T I O N

WHEREAS, Peggy Brooks Smith, et al., is the owner of a 15.62-acre parcel of land known as Brooks Smith Property (Lots 1-26 and Parcel 1), said property being in the 12 Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on February 7, 2000, Holly Ridge Development Co., c/o Patrell filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 26 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00007, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on June 8, 2000, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on June 8, 2000, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/4/00), and further APPROVED Preliminary Plat of Subdivision 4-00007 with the following conditions:

1. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/4/00). The following note shall be placed on the Final Plat of Subdivision:

"Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/4/00), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy."
2. A Type II Tree Conservation Plan shall be approved prior to issuance of building permits.
3. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assigns shall provide a financial contribution of \$210.00 to the Department of Public Works and Transportation for the placement of a bikeway sign along Fort Foote Road,

designated a Class III Bikeway. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit.

4. Prior to issuance of any building, construction or use and occupancy permits, the applicant, his heirs, successors and/or assigns shall bond to construct an eight-foot-wide Class II Bikeway in the Oxon Hill Road right-of-way along the property=s frontage. The construction shall be in accordance with Department of Public Works and Transportation standards, if required.
5. At the time of final plat approval, the applicant, his heirs, successors and/or assigns shall dedicate a right-of-way along Oxon Hill Road of 40 feet from the center line of the existing pavement, as shown on the submitted preliminary plat.
6. Prior to signature approval of the preliminary plat, the applicant shall obtain approval of a new or revised stormwater concept plan that reflects the proposed development. Development of this site shall be in accordance with the approved stormwater concept plan.
7. Prior to signature approval, the preliminary plat and Type I Tree Conservation Plan shall be revised to:
  - a. Include the stormwater concept plan approval number and date of approval.
  - b. Redesign Lots 18 and 19 to have abutting driveways.
  - c. Move the house footprints on Lots 17 and 18 out of the stream buffer.
  - d. Reflect a reforestation area in the stream buffer area between Brooks Court and the proposed Tree Save Area on Lots 16 and 17.
  - e. Reflect the location of the stream buffer on the TCP I and Preliminary Plan of Subdivision.
8. Prior to the issuance of any permits which impact the stream or stream buffer the applicant shall provide the Environmental Planning Section with copies of all required Federal and/or State permits allowing disturbance to the stream and stream buffer.
9. All Woodland Conservation Areas shall be shown as Woodland Conservation Easements on the Final Plat of Subdivision.
10. Prior to signature approval of the preliminary plat, the Type I Tree Conservation Plan shall be revised as follows:
  - a. Remove sewer outfalls through Tree Save Area at the northwest corner of the property.

- b. Provide on-site reforestation around the Stormwater Management Pond and at the rear of Lots 1 and 2.
- c. Provide a realistic limit of woodland clearing for the public utility easements.
- d. Relocate the house on Lot 9 to provide a more realistic side yard area.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

- 1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
- 2. The property is located on the southwest corner of Oxon Hill Road/Fort Foote Road (South) intersection. It is surrounded by the M-NCPPC Henson Creek Stream Valley Park to the east, south and southwest in the O-S Zone.
- 3. An area in the southwest portion of the property has identified as Waters of the U.S. by the Wetland Delineation Report and is thus classified as a stream. No wetlands or 100-year floodplain have been found to occur on this property. The preliminary plat and Type I Tree Conservation Plan (TCP) as submitted on May 8, 2000, have accurately located the stream but fail to reflect the 50-foot stream buffer which is required by Section 24-130 of the Subdivision Ordinance. During a field visit, following the receipt of the Wetland Delineation, staff observed that the stream channel was indeed on the property and that the channel was dry even though there had been rain on the previous day. The two channels of the stream on this property originate approximately 200 feet inside the property and flow to the south onto lands owned by M-NCPPC.

The proposed subdivision would impact approximately 90 linear feet of the stream and 21,241 square feet of stream buffer. The proposed stream impacts are associated with the construction of Brooks Court and access to Lot 18. The proposed buffer impacts are associated with access to Lots 18 and 19, construction of Brooks Court and the house locations on Lot 17 and 18. Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests. Staff supports all the proposed impacts in that they are deemed to be necessary and finds:

- A. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** The impacts proposed will not result in any adverse health, safety or welfare issues since the impacts proposed are relatively minor impacts near the origin of the stream channels and the channels have very minimal flow.
- B. **The conditions of which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other**

**properties.** The stream channels identified by the Wetland Delineation Report are classified as Waters of the U.S. and therefore as such a stream. Staff found that the stream channels subject to this variation request had little to no flow even after a storm event. However, the same channels did exhibit flow after converging on the adjacent M-NCPPC property. This is a unique situation in that the stream originates on the property and has flow only after major storm events.

- C. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** No other laws, ordinances or regulations will be violated should this variation be approved.
- D. **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.** Failure to grant this variation could result in the loss of between 6 and 7 lots, or approximately 25 percent of the total proposed lot yield simply due to the location of the stream and the shape of the property.

While staff supports the variation to Section 24-130 of the Subdivision Ordinance, several conditions are necessary. To minimize impacts to the stream and stream buffer,

- a. Lots 18 and 19 should have abutting driveways.
- b. The house footprints on Lots 17 and 18 should be revised to move them out of the stream buffer.
- c. The TCP I should be revised to reflect a reforestation area in the stream buffer area between Brooks Court and the proposed Tree Save Area on Lots 16 and 17.
- d. The stream buffer should be reflected on the TCP I and Preliminary Plan of Subdivision.

It should also be noted that Type I Tree Conservation (TCPI/4/00) as revised on May 8, 2000, has been reviewed and found to require the following revisions:

- a. Sewer outfalls are going through the Tree Save Area at the northwest corner of the property effectively eliminates a significant portion of the Tree Save Area.
- b. The drainage area through the Tree Save Area on Lots 25 and 26 should be redesigned to flow to the east in order to preserve a larger contiguous Tree Save Area.
- c. Provide on-site reforestation around the Stormwater Management Pond and at the rear of Lots 1 and 2.

- d. It is questionable if the public utility easements on both sides of Brooks Court and Fort Foote Road are indeed woodland areas that will not be cleared since the utilities will need to access the rest of the subdivision through these areas. Provide a realistic limit of clearing for the public utility easements.
- e. Relocate the house on Lot 9 to provide a more realistic side yard area.

No other significant environmental impacts have been identified for this site.

The property is in Water and Sewer Category 3 and will be served by public systems.

- 4. The *1981 Master Plan for Subregion VII* recommends residential land use at the low suburban density of 1.6 to 2.6 dwellings per acre. The plan identifies a Conditional Reserve Area on northwest part of property. The *1984 Subregion VII Sectional Map Amendment* retained the property in the R-R Zone.

This proposal conforms with the land use recommendation of the 1981 master plan. There are no significant master planning issues. The Community Planning Division referral included several comments regarding the proposed layout of the site. The original cluster proposal raised several concerns to staff of the Community Planning Division and the Subdivision Section. The revised layout satisfies these concerns.

- 5. The property is subject to the mandatory park dedication requirements of Section 24-135 of the Prince George's County Subdivision Regulations. Staff recommends the applicant provide a fee-in-lieu of mandatory dedication because the size and location of available land is not suitable for park purposes. Staff notes that this property is adjacent to the Henson Creek Stream Valley Park, but this land is not appropriate for acquisition.
- 6. The *1981 Master Plan for Subregion VII* designates Oxon Hill Road as a Class II Bikeway and Fort Foote Road as a Class III Bikeway. The trails will connect to the existing Henson Creek Stream Valley Trail.
  - a. Class II Bikeway along Oxon Hill Road - The Department of Public Works and Transportation includes the Class II Bikeway as part of planned improvements in the Oxon Hill Road right-of-way. In these cases, the applicant is required to construct the Class II Bikeway as part of required frontage improvements. Staff recommends the applicant construct the Class II Bikeway along the property's Oxon Hill Road frontage.
  - b. Class III Bikeway along Fort Foote Road - In cases involving Class III Bikeways along County rights-of-way, the Planning Board has typically required the applicant to provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of this signage. Staff recommends the payment be required in this case.

7. No traffic study was requested of the applicant, but up-to-date traffic counts were requested and supplied. The findings and recommendations outlined below are based upon a review of these and other relevant materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals (Guidelines)*.

The proposed development would generate 21 AM (4 in, 17 out) and 25 PM (17 in, 8 out) peak hour vehicle trips as determined using the *Guidelines*. The site was analyzed using the following trip distribution:

Oxon Hill Road from the north: 60%  
Old Fort Road from the east: 20%  
Livingston Road from the south: 5%  
Livingston Road from the north: 15%

The traffic generated by the proposed preliminary plan would impact the intersections of Oxon Hill Road/Fort Foote Road and Oxon Hill Road/Livingston Road/Old Fort Road. The Prince George's County Planning Board, in the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, has defined Level-of-Service D (LOS D) as the lowest acceptable operating condition on the transportation system. The existing conditions exist at the critical intersections:

<b>EXISTING TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Oxon Hill Road/Fort Foote Road (south intersection)	760	814	A	A
Oxon Hill Road/Livingston Road/Old Fort Road	1040	1133	B	B

Three nearby developments were included in background traffic, along with an annual rate of through traffic growth of 1.4 percent. The following background traffic conditions were determined:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Oxon Hill Road/Fort Foote Road (south intersection)	785	850	A	A
Oxon Hill Road/Livingston Road/Old Fort Road	1333	1196	D	C

With site traffic, the following operating conditions were determined:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Oxon Hill Road/Fort Foote Road (south intersection)	796	861	A	A
Oxon Hill Road/Livingston Road/Old Fort Road	1336	1201	D	C

The Prince George's County Planning Board, in the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, has defined Level-of-Service D (LOS D) as the lowest acceptable operating condition for signalized intersections on the transportation system. Under total future traffic as developed using the *Guidelines*, adding the impact of the proposed development, both critical intersections were found to be operating with service levels of LOS D or better.

The transportation staff has no additional comments on the plan as submitted. Dedication along Oxon Hill Road, a Master Plan collector, is acceptable as shown.

Based on these findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with a condition requiring dedication of right-of-way along Oxon Hill Road.

8. The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.01 and 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* ( revised January 2000) (CR-4-1998) and concluded the following:

Projected Impact on Affected Public Schools

Affected School Name	D.U. by Type	Pupil Yield Factor	Development Pupil Yield	5-Year Projection	Adjusted Enrollment	Total Projected Enrollment	State Rated Capacity	Projected% Capacity
Indian Queen Elementary School	28 SFD	0.22	6.16	412	0	418.16	594	70.40%
Oxon Hill Middle School	28 SFD	0.08	2.24	801	0	803.24	864	92.97%
Oxon Hill High School	28 SFD	0.13	3.64	2478	0	2481.64	2014	123.22%

Source: Prince George's County Planning Department, M-NCPPC, January 2000

Since the affected Oxon Hill High School projected percentage of capacity is greater than 105 percent, the Adequate Public Facilities fee is \$1,300.00 per dwelling unit. The amount of the Adequate Public Facilities fee for schools shall be offset by the School Facilities Surcharge fee for each dwelling unit. Therefore, no Adequate Public Facilities fee is required.

9. The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities and concluded that the proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for engine, ambulance and medic service.
  - a. The existing fire engine service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service response time of 3.33 minutes, which is within the 5.25-minute response time guideline.
  - b. The existing ambulance service at Allentown Road Fire Station, Company 47,

has a service response time of 3.33 minutes, which is within the 6.25-minute response time guideline.

- c. The existing paramedic service at Allentown Road Fire Station, Company 47, has a service response time of 3.33 minutes, which is within the 7.25-minute response time guideline.

These findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

- 10. The proposed development is within the District IV-Oxon Hill police service area. In accordance with Section 24-122.01 (c) (1) (A) and (B) of the Subdivision Regulations of Prince George's County, the staff concludes that the existing County's police facilities will be adequate to serve the proposed Brooks Smith development. This police facility will adequately serve the population generated by the proposed subdivision.
- 11. The Health Department has reviewed this application and offers no comments.
- 12. The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, Concept # 008003730, was approved on January 20, 2000. However, the proposed plan has change dramatically since that original approval. To ensure that development of this site does not result in on-site or downstream flooding, a new or revised concept plan must be approved prior to signature approval of the preliminary plat. Development must be in accordance with the new, approved plan.
- 13. The plan includes the required 10-foot Public Utility Easement. This easement will be reflected on the final plat.
- 14. 24-121(a)(12) requires that the Planning Board make the following findings in permitting the use of lot size averaging:
  - A. **The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.** The site is oddly shaped. Its location between two roads and a large park property make it difficult to develop. Internal circulation patterns are dictated by the unique shape of the property. A conventional lotting pattern would result in oddly shaped lots. The use of lot size averaging allows smaller lots to be concentrated in the interior of the property while larger lots are located along the perimeter. This ensures that large lots will be seen from the roads and that the larger lots line the park property reducing impact to the natural setting of the Stream Valley Park.

- B. The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.** The property abuts park property and other R-R-zoned residential lots. The subdivision has been designed to maximize lot size where lots abut these adjoining properties, providing an adequate transition from the smaller lots in the interior of the subdivision.
- C. The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.** As previously stated, lots along the edge of the subdivision are larger than those in the interior, and larger lots abutting the park site are generally wooded in the rear. This wooded area will provide an adequate buffer and transition from the park to the subdivision.

In addition, Section 27-423 of the Prince George's County Zoning Ordinance sets the zoning requirements for lot size averaging. Specifically, in the R-R Zone

- A. The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (20,000 square feet).** In this case, with 15.62 acres and a minimum lot size of 20,000 square feet, the maximum number of lots allowed is 34. The applicant proposes 26 lots.
- B. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (20,000 square feet).** Fifteen of the proposed 26 lots exceed 20,000 square feet. Therefore the proposed subdivision meets the minimum Zoning Ordinance standards for lot size averaging.

Given this discussion, staff believes the findings for approval of Lot Size Averaging can be met. Equally important, staff believes the proposed subdivision provides a unique opportunity to showcase the use of the Lot Size Averaging technique. It provides a well-designed subdivision that respects the configuration of adjoining properties and protects the adjacent park property and the Broad Creek Historic District.

- 15. This subdivision adjoins the northeast boundary of the Broad Creek Historic District, adjoining M-NCPPC-owned parkland side of the historic district. Its northern perimeter is an approach to one of the historic district's entrances (at Broad Creek Church Road). The character on the south side of Fort Foote Road and Oxon Hill Road is rural and wooded in this area.

The Broad Creek Historic District Advisory Committee had reviewed the earlier cluster version of this subdivision, and reviewed the Lot Size Averaging version at two meetings: its April 11th meeting with developer, John Petrella, present; and at its May 9th meeting, the formal submission. At the May meeting, the Committee commented that the applicant had adjusted the lot lines of Lots, 9, 10 and 11 to accommodate the concerns of the Committee about the siting of houses, and the possibility that night time lights

might have the potential to be seen (in winter) through the M-NCPPC parkland buffer.

At the April meeting of the Historic District Advisory Committee, the applicant proffered a commitment to build one of the entryways to the Historic District, as proposed in the M-NCPPC study, *Livingston Road Streetscape Alternatives and Guidelines*, 1995.

The Historic Preservation Section recommends the applicant use subdivision and street names that relate to the history of the area. The land in this area was first patented by George Aithey in 1687. Historic tract names are Stoney Hill and Wharton=s Rest. This is not a condition of approval, however, the applicant is urged to incorporate these names into the subdivision. A Brooks Smith at Stoney Hill@ might be an example of a nice subdivision name with streets bearing the A Wharton=s Rest@ designation. A worthy alternative might be A Wharton=s Rest at Stoney Hill,@ with streets carrying the A Brooks Smith@ name.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with Circuit Court for Prince George=s County, Maryland within thirty (30) days following the adoption of this Resolution.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner McNeill, seconded by Commissioner Brown, with Commissioners McNeill, Brown and Hewlett voting in favor of the motion, and with Commissioner Boone absent, at its regular meeting held on Thursday, June 8, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of July 2000.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JPD:meg