

A M E N D E D R E S O L U T I O N

WHEREAS, Barron S. Mitchell is the owner of a 12.71-acre parcel of land known as Parcel 21, Tax Map 5, Grid D-2, said property being in the 10th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on March 28, 2000, Baig, Mirza Hussain Ali filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 18 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00017, Sandy Spring Estates, 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 September 7, 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, including a variation per Section 24-130; and

WHEREAS, on September 7, 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/10/00), and further APPROVED Preliminary Plat of Subdivision 4-00017, Lots 1-18, including a Variation from Section 24-130 with the following conditions:

1. Prior to signature approval the applicant shall make the following revisions to TCPI/10/00.
  - a. Correct the worksheet to reflect the 3.98 acres of woodland conservation provided.
  - b. Accurately reflect the area of woodland conservation being provided on each lot and parcel.
  - c. Delete the TCP General Site Information Table from the plan.

\*Denotes amendment

[Brackets denote deletion]

Underlining denotes addition

- d. Provide off-site mitigation for any portion of the woodland conservation requirement that is not being satisfied with on-site preservation or on-site selective clearing.
  - e. Reflect the same gross tract area on the Preliminary Plan and TCP.
  - f. Correct the key to accurately reflect the type of Woodland Conservation being provided.
2. Prior to the issuance of any permits the applicant shall submit a Type II Tree Conservation Plan for review and approval. That plan shall identify the location of all off-site mitigation areas. The plan shall also provide detailed information on the selective clearing areas with respect to the number, size and species of the existing trees and with respect to which trees will be removed. If support planting is necessary the plan shall also provide that information.
3. \*Prior to approval of building permits for proposed Lots 15 - 18, the applicant shall construct a noise barrier to mitigate noise impacts from I-95. This shall be noted on the final plat. Prior to approval of the final plat for Lots 15 - 18, a limited detailed site plan shall be approved by the Planning Board to ensure that the proposed noise barrier will attenuate the adverse noise impacts associated with Interstate I 95 and to provide a safe and attractive neighborhood for future residents. The plan shall include the proposed grading, house locations and house types for Lots 15 - 18. The Site Plan shall also reflect the location and design of the proposed barrier along with proposed screening through the use of trees, shrubs and other plant materials. Finally, the plan shall be submitted to PEPCO or BGE to evaluate the location of the proposed noise barrier with respect to the location of the existing overhead electrical transmission lines. If determined necessary by PEPCO or BGE, the overhead electrical lines may need to be relocated or elevated by the applicant. The materials used for the construction of a wall, as a sound barrier, shall be limited to concrete and/or masonry materials or other materials found to be acceptable by the Environmental Planning Section due to the longevity of the materials and the need for little or no maintenance.\*
4. At the time of final plat, the applicant, his heirs, successors and/or assigns shall dedicate Parcel AA@ to M-NCPPC, subject to the following:
- a. A copy of an unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
  - b. All waste matter of any kind shall be removed from the property, prior to

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conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.

- c. The land to be conveyed shall not be filled or disturbed in any way without prior, written consent of the DRD.
  - d. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - e. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - f. Stormdrain outfalls shall be designed to avoid adverse impacts on adjacent land owned by, or to be conveyed to, The Maryland-National Capital Park and Planning Commission (M-NCPPC). If the outfalls require drainage improvements on land to be conveyed to or owned by M-NCPPC, the Department of Parks and Recreation (DPR) shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
  - g. There shall be no disturbance of any adjacent land that is owned by, or to be conveyed to, M-NCPPC, without the review and approval of DPR.
  - h. The Planning Board, or its designee, shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
5. Prior to signature approval of the preliminary plat, the stormwater management concept plan shall be approved, and its number and approval date shall be added to the plan. Development shall be in conformance with this concept plan.
- [6.] [Prior to signature approval, the preliminary plat shall be revised, as necessary, to ensure that all lots have a contiguous net lot area of at least 20,000 square feet.]\*
- [7.]\*6. At the time of Detailed Site Plan, the relationship of a trail connection to an end treatment for Walker Branch Drive, as required by DPW&T, shall be established.

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 north side of Old Sandy Spring Road, just west of I-95.
3. The Type I Tree Conservation Plan (TCPI/10/00) as revised on August 7, 2000, has been reviewed and requires several minor revisions to be found acceptable. This 12.71-acre property has a net tract area of 11.42 acres and a Woodland Conservation Threshold (WCT) of 20 percent, or 2.28 acres. In addition, there is a 1.70-acre replacement requirement for a total requirement of 3.98 acres of woodland conservation. This requirement will be satisfied by a combination of on-site preservation in priority retention areas, selective clearing and off-site mitigation. TCPI/10/00 is recommended for approval subject to several modifications required prior to signature approval (there is certain incorrect information on the TCP that needs to be corrected).

The revised Noise Study, prepared by Staiano Engineering, Inc. on August 3, 2000, has been reviewed and found to be acceptable. The study found that there were adverse noise impacts to Lots 15-18 and that noise attenuation measures would be required. The study provides specific information for the design of a noise barrier. Several alternatives are noted in the study as being acceptable as long as the height of the barrier is satisfied. The alternatives noted in the study include a berm, a berm and wall combination and a wall. Although the most effective attenuation measure would be the construction of a berm, it is doubtful that there is sufficient area available for the construction of a berm the height that would be necessary without the loss of four (4) lots. If the applicant chooses a barrier design which utilizes a wall, the materials used for the construction of the wall may not include wood. The use of wood is unacceptable since wood structures require periodic maintenance and replacement of various wall components which would then be the responsibility of one or more of the lot owners. Since the expense associated with this maintenance could be significant, staff recommends that the materials used for the construction of a wall shall require little or no maintenance, such as concrete and/or masonry. Staff recommends a condition requiring the applicant to construct a noise barrier to attenuate adverse noise impacts associated with I-95. A limited detailed site plan should also be required to ensure the wall is attractive and will not interfere with overhead PEPCO and BGE transmission lines. The applicant should be aware that, based on the final site design with respect to the barrier location, the houses and the overhead utilities, one or more lots could be lost.

This property slopes from a high point along the road to a low point along Walker

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Branch, which flows into the Patuxent River. The proposed development of this site has generally avoided impacts to the Walker Branch and the associated buffers, including the 100-year floodplain, nontidal wetlands and the 50-foot stream buffer. However, there is an existing sewer line located on this property approximately 10 feet to 20 feet from the edge of the stream bank that the applicant will be connecting into and thus impacting the stream buffer. There will also be some impact to the stream buffer due to the construction of a stormdrain outfall to convey the stormwater collected on this site to the stream. Failure to connect the stormdrain outfall into the stream would result in significant erosion and buffer degradation since there would be significant amounts of overland flow in the buffer which would erode the soils and pollute the stream.

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.** Connecting the stormdrain to the streambed will promote public health, safety and welfare by ensuring adequate stormwater management. Allowing a sewer connection to the existing sewer line ensures adequate sewer systems.
- 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 property is unique in that it already has a sewer line in the environmentally sensitive area. Since it is appropriate to connect to the existing line, disturbance is warranted. This arrangement is not generally applicable to other properties.
- c. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** No other applicable laws, ordinances or regulations are violated by the approval of this variation request.
- 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.** Staff has evaluated the variation request and finds that failure to permit the disturbances would result in undue hardship to the applicant. It would deny the applicant the use of a significant portion of the land or it would result in potentially significant adverse environmental impacts.

The impacts have been limited to those absolutely necessary for the development of this

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property. Given these findings, staff supports the variation request for the construction of a stormdrain outfall and a sewer outfall in the stream buffer for Walker Branch as reflected on the preliminary plat.

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

4. The 1990 *Master Plan for Subregion I* recommends residential development at low-suburban density. The 1990 Sectional Map Amendment retained the R-R Zone on the property. Floodplain and floodplain soils are found in the northwestern portion of the property. The entire property is shown to be in a *Perceptually Sensitive Area* reflecting the noise impact from I-95. Portions of the property are also shown to be in a *Conditional Reserve Area*.
5. There are no master plan trails issues raised by this application. However, a trail connection to the adjoining West Laurel Neighborhood Park is recommended (see Parks and Recreation finding, below).
6. The property is subject to the mandatory park dedication requirements of Section 24-134 of the Prince George's County Subdivision Regulations. The applicant proposes to dedicate 0.68" acres of land to M-NCPPC. This dedication is to provide for a future trail connection to the West Laurel Neighborhood Park.
7. No traffic study was requested or received of the applicant. The findings and recommendations outlined below are based upon a review of 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 traffic impact analysis was limited to the intersection of MD 198 and Sweitzer Lane, which is a signalized intersection. This intersection was studied extensively as a part of the staff's review of 4-99013, Old Gunpowder Center and 4-99030, the Sweitzer Lane Property. At that time, the transportation staff identified background developments in the immediate area of the intersection, and assumed an annual growth rate of 2.0 percent per year along MD 198 to account for growth in through traffic. Improvements which are funded in the State Consolidated Transportation Program as a part of the East-West Intersection Improvement Program were considered; the improvements assumed last year are nearly complete now but not yet open to traffic. The staff utilized traffic counts taken on May 26, 1999; as prescribed by the *Guidelines* these traffic counts were less than one year old at the time of the subject application.

The subject property would be developed with 18 single-family detached residences.

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Under the trip generation rates listed in the *Guidelines*, the proposed subdivision would generate 3 inbound and 11 outbound trips during the AM peak hour, and 11 inbound and 5 outbound trips during the PM peak hour. A trip distribution of 5 percent northbound (via Bond Mill Road), 70 percent eastbound and 25 percent westbound was assumed.

An analysis of existing, background and total traffic for the MD 198/Sweitzer Lane intersection indicates the following results: Existing traffic: AM - level-of-Service (LOS) D, with a critical lane volume (CLV) of 1,321; PM - LOS D, with a CLV of 1,312. Background traffic: AM - LOS D, with a CLV of 1,342; PM - LOS D, with a CLV of 1,373. Total traffic: AM - LOS D, with a CLV of 1,353; PM - LOS D, with a CLV of 1,378. Therefore, the intersection of MD 198 and Sweitzer Lane operates acceptably under total future traffic with the development of the subject property and with modifications which are currently nearing completion at that intersection.

There are no further transportation issues concerning the subject property. The transportation staff has determined that a substandard horizontal radius along Sandy Road has been reviewed and approved by DPW&T. The issue of an end treatment at the point where Walker Branch Drive stubs into the subject property can be enforced by DPW&T under Subtitle 23. Because a trail connection passes the location where this end treatment might be constructed, the planning staff elected to make no recommendation, and allow the applicant to settle the issue with the Parks Department and DPW&T prior to final plat.

Based on the preceding findings, the Transportation Planning Section concludes that 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.

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
Bond Mill Elementary School	18 sfd	0.22	3.96	576	0	579.96	519	111.75%

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Martin Luther King Jr Middle School	18 sfd	0.08	1.44	927	0	928.44	842	110.27%
Laurel High School	18 sfd	0.13	2.34	2037	0	2039.34	1980	103.00%

Source: Prince George's County Planning Department, M-NCPPC, January 1999

Since the affected Bond Mill Elementary and Martin Luther King Jr Middle Schools projected percentage of capacities are greater than 105 percent, the Adequate Public Facilities fee is \$2,940.00 per dwelling unit. The amount of the Adequate Public Facilities fee for schools to be paid may offset by the School Facilities Surcharge, partially or in full.

9. The Growth Policy and Public Facilities Planning Section has reviewed the application 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 Laurel Fire Station, Company 10, located at 7411 Cherry Lane, has a service response time of 4.17 minutes, which is within the 5.25-minute response time guideline.
  - b. The existing ambulance service at Laurel Rescue Squad, Company 49, located at 14910 Bowie Road, has a service response time of 5.78 minutes, which is within the 6.25-minute response time guideline.
  - c. The existing paramedic service at Laurel Rescue Squad, Company 49, located at 14910 Bowie Road, has a service response time of 5.78 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 service area for Police District VI- Beltsville. In accordance with Section 24-122.1(c)(1)(A) and (B) of the Subdivision Regulations of Prince George's County, the staff concludes that the existing County police facilities will be adequate to serve the proposed Sandy Spring Estates development. This police facility will adequately serve the population generated by the proposed subdivision.

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11. The Prince George=s County Health Department has reviewed the application and raised no public health issues.
12. The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #998003380, has been submitted, but not yet approved. To ensure that development of this site does not result in on-site or downstream flooding, this concept plan must be approved prior to signature approval of the preliminary plat. Development must be in accordance with this approved plan.
13. The preliminary plat includes the required 10-foot wide public utility easement. This easement will be shown on the final plat.
14. [Section 27-442(b) of the Prince George=s County Planning Board requires a minimum net lot area of 20,000 square feet in the R-R Zone. Section 27-107.01(a)(161) defines A New Lot Area@ as the **Atotal contiguous area included within the >Lot Lines= of a > Lot,= excluding....land lying within a 100 year floodplain...@ Proposed Lots 6-10 are bisected at a large area of floodplain. Contiguous land between the street and floodplain on these lots may not be 20,000 square feet. Prior to signature approval, the preliminary plat will need to be revised to certify that each lot has a minimum of 20,000 square feet. This may involve the removal of one or more lots.]\***

\*At the time the preliminary plat was approved, several lots did not meet this minimum standard. Staff reviewed the application as a conventional subdivision proposal, but the applicant intended the staff to analyze the application as a proposal using the Lot Size Averaging technique permitted by the Zoning Ordinance. While this was not clearly presented to staff, a small note was added to the final version of the preliminary plat before the Planning Board referencing Lot Size Averaging. Since the reconsideration was approved, staff has analyzed the application for Lot Size Averaging and offers the following comments.

All of the 18 proposed lots exceed 20,000 square feet of gross lot area. However, the Zoning Ordinance requires a minimum of 20,000 square feet of **net lot area** in the R-R Zone. **Net lot area** is defined as:

**The total contiguous area included within the Lot Lines of a Lot, excluding . . . land lying within a 100 year floodplain . . . .**

Proposed Lots 6 - 10 range in size from 33,600" to 43,000" square feet in gross lot area. However, the floodplain which traverses these lots reduces the Acontiguous area@ to between 16,000" and 18,000" square feet of net lot area. The applicant proposes that the Lot Size Averaging technique be applied to allow these lots with less net lot area than 20,000 square feet.

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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 design of this subdivision respects the natural features on this property. In fact, the subdivision is impacted by two major features which restrict its use. First, the floodplain encumbers the northern third of the property. Second, the property is impacted by its proximity to I-95. The combined impact of these features render this property difficult to develop. Staff believes the proposed layout minimizes the impact to the floodplain while allowing more lots to be created farther away from the noise generating I-95.
- 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 environmentally sensitive land and other R-R Zoned residential lots. The subdivision has been designed to maximize lot size where lots abut these adjoining properties; given the large gross lot area of the lots, the subdivision will appear to have larger than required lot sizes. This will be a positive impact on adjoining properties.
- 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.** More floodplain abuts the property to the northeast. The floodplain on the subject property will remain densely wooded and provide an adequate transition and buffer to the adjoining floodplain.

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 12.71 acres and a minimum lot size of 20,000 square feet, the maximum number of lots allowed is 27. The applicant proposes 18 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).** As proposed, 13 of the proposed 18 lots exceed 20,000 square feet of net lot area. Five of the proposed lots have a minimum net lot area exceeding 15,000 square feet. Therefore the

proposed subdivision meets the minimum zoning ordinance standards for lot size averaging.

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 Brown, seconded by Commissioner Lowe, with Commissioners Brown, Lowe, Eley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, February 1, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 1st day of March 2001.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JPD:bj

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