

R E S O L U T I O N

WHEREAS, G.L. and R.B. Swanson are the owners of a 28.92-acre parcel of land known as Bowling Heights, said property being in the 3rd Election District of Prince George's County, Maryland, and being zoned R-A; and

WHEREAS, on May 17, 2000, Richard Snyder/Travel Consultants, Inc. filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for one lot and two parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00027, 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 October 19, 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 October 19, 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/19/00) and the variation to Section 24-130 of the Subdivision Regulations, and further APPROVED Preliminary Plat of Subdivision 4-00027 with the following conditions:

1. Prior to the issuance of a building permits for a residential use, the applicant, his heirs, successors and/or assigns shall pay an Adequate Public Facilities fee of \$3,280.00 per dwelling unit for the elementary and high schools, unless fully offset by a school facility surcharge payment. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines. This adequate public facilities fee would be placed in an account to relieve overcrowding at Patuxent Elementary and Frederick Douglass High Schools.
2. No permits shall be issued for a residential use for this subdivision until the projected percentage of capacities at all the affected schools are less than or equal to 130 percent or four years have elapsed since date of the adoption of the resolution of the approval of this preliminary plat of subdivision.
3. Prior to signature approval, the preliminary plat shall be revised:
 - a. To include a note that the property is to be served by private water and sewer

systems.

- b. To include a note providing the approved stormwater management concept plan number.
 - c. To revise the net tract area to reflect the approved plan.
 - d. To locate the approved percolation test sites.
4. Development of this property shall be in conformance with the approved Stormwater Concept Plan, Concept #008006640.
5. Prior to the issuance of building permits the applicant, his heirs, successors and/or assigns shall pay a fee of \$83.00 (October 2000 dollars) for each resident or employee to Prince George's County. The fee shall serve as the fair share contribution towards the provision of a fire station and an ambulance. Staff shall determine the exact amount of the fee, including an appropriate inflation factor at the time of application for building permit. Proof of payment shall be submitted to the Subdivision Section prior to approval of building permits.
6. At the time of building permit, the applicant shall pay to Prince George's County the following share of costs for improvements to US 301 between MD 725 and MD 214:

A fee calculated as $\$30,090.00 \times (\text{Engineering News-Record Highway Construction Cost Index at time of payment}) / \text{Engineering News-Record Highway Construction Cost Index for 2nd quarter, 1989}$.

The total payment shall be pro-rated at the time of the building permit at a rate of \$300.90 per vehicle trip generated, with vehicle trips generated determined by adding AM plus PM vehicle trips generated.
7. Total development within the subject property shall be limited to one single family dwelling unit, or uses which generate no more than one AM and one PM peak hour vehicle trips. Any development greater than that identified herein above shall require a new preliminary plat of subdivision with a new determination of the adequacy of transportation facilities.
8. The applicant, his heirs, successors, and/or assigns, shall reserve portions of the subject property as right-of-way for the proposed relocation of US 301 as the F-10/A-61 facilities, as recommended in the *Subregion VI Master Plan*, per the requirements of Sections 24-139, 24-140, and 24-141 of the Subdivision Regulations. The reservation shall include all of that portion of Lot 4 within the right-of-way of A-61 as determined by the SHA. This reservation shall be subject to the following requirements:
 - a. The reservation period shall continue for three years and commence with the recordation of a Reservation Plat recorded with the Final Plat of Subdivision.

The reservation area shall also be shown on the Final Plat. The Reservation Plat shall comply with all requirements for recording plats among the Land Records of Prince George's County.

- b. At the end of the reservation period, if the reservation has not been renewed or if the land reserved has not been acquired for public use and proceedings for acquisition have not been initiated, the reservation shall expire. Prior to the expiration of the three-year reservation period and with the written consent of all land owners, the Planning Board may renew the reservation for additional periods of time (not less than one year) if agreeable to the land owners.
- c. During the reservation period, no building or structure, other than validly approved utilities, roads and public infrastructure, shall be erected upon the reserved land unless otherwise approved by the Planning Board. No trees, topsoil, or cover shall be removed or destroyed, no grading shall be done, and no drainage structures shall be built so as to discharge water upon the reserved land except as provided in Section 24-140(d) of the Subdivision Regulations.
- d. All reserved land shall be maintained by the owner as required by County law. The Planning Board shall be notified immediately upon the sale of any land so reserved.
- e. If, prior to the expiration of the reservation period, the Planning Board determines that the reservation no longer appears necessary, the Planning Board may cancel the reservation with the written consent of the owner.

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 west side US 301, 200 feet north of Village Drive West.
- 3. The property is subject to the provisions of the Woodland Conservation Ordinance because the site is more than 40,000 square feet and contains more than 10,000 square feet of woodland. A Tree Conservation Plan is required to satisfy the requirements of the Woodland Conservation Ordinances. A Tree Conservation Plan, was submitted by the applicant. The plan proposes on-site tree conservation of 11.25 acres to meet the minimum requirements of the Woodland Conservation Ordinance. Staff recommends approval of TCP I/19/00.
There are wetlands, streams, and floodplain on this site, but no impacts are proposed. The soils pose no special problems for development. There are noise impacts associated with this property if developed with a residential use. A residential use should be

discouraged. There are no designated Historic or Scenic roads associated with this proposal.

The property is in Water and Sewer Category 6 and will be served by private systems.

4. Section 24-121(a)(3) of the Subdivision Regulations establishes design guidelines for lots that front on arterial roadways. This Section requires that these lots be developed to provide direct vehicular access to either a service road or an interior driveway when feasible. This design guideline encourages an applicant to develop alternatives to direct access onto an arterial roadway.

The subject property has frontage on and proposes direct vehicular access via the Crain Highway US 301 service road identified as A-61 in the master plan. The service road is to be built to arterial roadway standards and would therefore require the applicant to obtain approval of a variation from Section 24-121(a)(3) of the Subdivision Regulations.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variations requests. Staff supports the variation to allow access to a proposed arterial in this case and makes the following findings:

- A. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** One of the purposes of limiting access to an arterial is to enhance the public safety, health and welfare. In this case the State Highway Administration (SHA) has proposed A-61 to serve local traffic along US 301 without necessitating the need to access the freeway. The purposes of the service road is to provide an efficient roadway system to move local traffic that promotes the health, safety and welfare of motorists. To allow access to A-61 will not be detrimental to the public.
- 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 subject property has frontage on and proposes direct vehicular access via the A-61 right-of-way to the east. The subject property is irregular in shaped and is zoned R-A, surrounded entirely by R-S zoned property. To the west is the comprehensive design zone golf course community known as Beech Tree.

The Beech Tree approved development plans contain homeowners open space between 5 feet and 25 feet-wide abutting this site, with no stub streets or possible future points of vehicular access for this property through the Beech Tree development. The homeowners associated land makes access through Beech Tree unlikely for use by future development on this site. The properties to the north and south are primarily developed. These existing conditions are unique and are not generally shared by other properties.

- C. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** This will not result in a violation of other applicable laws, ordinances or regulations.
- 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.**

The applicant would suffer a particular hardship if the strict letter of the regulations is followed. The subject property is very unusual in shape with the greatest width of the property along A-61. The property Apeaks@ along its west property line with the most developable portion of the property fronting A-61.

The A-61 service road provides the only street frontage to the site. The purpose of the service road is to provide access for properties that currently front on US 301, such as the subject site. However, because the service road is being constructed to an arterial standard to adequately serve local through traffic, the applicant could be prohibited from using it. To deny the applicant access via the existing frontage would essentially render this property un-developable and could constitute a disproportionate imposition of the regulation on this owner.

- 5. The subject property is within the 1993 *Subregion VI Area Master Plan*, Planning Area 79. The master plan recommendation for land use proposes this property for urban residential use, which is part of a larger area extending to the west and south as part of the proposed Villages of Belmont, a.k.a. Beech Tree development.

No other master plan issues arise in the consideration of this application.

- 6. In accordance with Section 24-134(a)(3)(B) the subject site is exempt from the requirements of mandatory dedication because the lot being created is in a one-family zone and has a net lot area greater than one acre.
- 7. There are no master plan trail issues associated with the application.
- 8. No traffic study was requested of the applicant nor was one submitted for review. 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*.

Staff was initially informed that development on the site would be limited to a single family residential unit. However, the applicant has since suggested that other types of uses that could be obtained via the special exception process might be desired. For uses

which generate 50 trips or more in any peak hour, the Planning Board requires that a traffic study be done. In the case of the subject property, the staff believes that a use exceeding 50 trips should be further studied to determine the adequacy of access and to ensure that off-site impacts are properly evaluated as established in Subtitle 24, prior to approval. Previous cases in the area which have provided a great deal of transportation background information have significantly simplified the level of analysis necessary for this site, for uses up to 50 vehicle trips.

Capping the subject property at 50 AM and 50 PM peak hour vehicle trips would allow a variety of residential and non-residential uses to occur without a need for a revised preliminary plat of subdivision. Some of the uses suggested by the applicant, such as a miniature golf course or a driving range, would be able to occur within that cap. A small health club or recreational facility could be constructed within the cap, although more typically-sized facilities would likely require a new subdivision.

The majority of vehicle trips generated by the subject property would utilize the link of US 301 between MD 725 and MD 214. This highway link and each intersection along this link would operate unacceptably when considering future traffic, including future traffic generated by other approved developments in the area. Recent analyses conducted by the transportation staff include those for A-6965 (the Basic Plan for Collington South), A-9284 (the Basic Plan for Collington Corporate Center) and CDP-9706 (the Comprehensive Design Plan for Beech Tree), along with their succeeding approvals,

The current County CIP proposes a project to improve US 301 between MD 214 and MD 725. This project would involve adding an additional through lane northbound and southbound along US 301. It would also involve considerable improvements to the intersections along the highway. These improvements to US 301 are fully funded for construction in the current CIP. However, the CIP also notes that AOther@ funding will come from developer contributions and the State of Maryland. AOther@ funding makes up 100 percent of construction costs. More precisely, the project description in the CIP states that State funding and developer contributions would be the source of funding. Of the \$24,000,000 cost of the project (2nd quarter 1989 costs), the Department of Public Works and Transportation (DPW&T) estimates that developers will be required to provide \$2,500,000 toward the final cost, with the State to fund the remainder.

Of the \$711,355.69 in costs which have not been allocated to date, the subject application=s share would be calculated as $\$711,355.69 \times 4.23\% = \$30,090$ (where 4.23% equals the number of AM plus PM peak hour trips generated by the application, 100, divided by the total number of peak hour trips generated by other approved developments, 2366). The pro-rata amount would be \$300.90 per vehicle trip, adding AM plus PM vehicle trips. Since the cost estimate used for this project was based on second quarter 1989 data, the actual amount payable to Prince George=s County would be inflated to account for the effects of inflation. With the improvements to be funded by this pro-rata payment in place, the requirement of adequate transportation facilities set forth in Subtitle 24 would be met.

The transportation recommendations in the *Subregion VI Master Plan* include a recommendation that existing US 301 be upgraded to a freeway facility, F-10. Areas adjacent to US 301 are proposed to receive access via a parallel arterial facility which is designated as A-61. In the area of the subject property A-61 is the more westerly facility, and F-10 is more easterly. This is in accordance with the Master Plan as well as the State Highway Administration's *US 301 Access Control Study*, dated March 1999.

In response to an initial request by the applicant, the transportation staff referred the plan for potential reservation to the County Department of Public Works and Transportation (DPW&T), the County Executive, the County Council and the State Highway Administration (SHA). The SHA requested that the required right-of-way for A-61/F-10 be dedicated (comments attached - there is no response on file from the DPW&T). This request reflected the SHA's view that the property would get primary access from A-61, and that dedication would be appropriate in this circumstance.

Approximately six months ago an interagency Corridor Preservation Team was formed. This team is comprised of Development Review Division and Transportation Planning Section staff, as well as staff from the DPW&T and the SHA. The purpose of the team is to review specific cases of potential reservation and to make appropriate recommendations to the Planning Board. The Planning Board received a briefing on the Corridor Preservation Team on May 18, 2000.

The Corridor Preservation Team met concerning the subject application on September 28, 2000. A number of options including full reservation, partial reservation/dedication and full dedication were discussed. The subject property fronts on an arterial that will be used for primary access in the future, therefore the team members deemed it necessary to request some amount of dedication. Because the right-of-way impact of the A-61/F-10 facilities along the frontage of the property ranges from 60 feet to over 200 feet, the team determined that a rational nexus did not exist to require dedication of the entire right-of-way. Typically in cases where an arterial facility is required along the frontage of a property, a dedication of 60 feet, or one-half of the future right-of-way requirement, is normally sought. The Corridor Preservation Team recommended that the subject plan be revised to show the following:

1. Dedication along the existing US 301 frontage of 60 feet.
2. Reservation of the property between the dedicated right-of-way and the line indicated by the SHA for the future A-61/F-10 right-of-way.

The SHA indicated that the purchase of the reserved portion could be completed within three years, and that they would begin an internal review as well as discussions with the property owner once the reservation is established. The SHA also directed Subdivision Section staff to prepare a map showing the recommended areas of dedication and reservation. This map has been completed, reviewed by the SHA, and attached. The

team unanimously voted to make these findings a part of the staff recommendation to the Planning Board.

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.

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

If the above subdivision is developed with a commercial use it will be exempt from an adequate public facilities test for schools. However, if the above subdivision is developed with a residential use, the following APF test for schools would apply.

Finding

Projected Impact on Affected Public Schools

Affected School Name	D.U. by Type	Pupil Yield Factor	Development Pupil Yield	5- Year Enrollment	Adjusted Enrollment	Total Projected Enrollment	State Rated Capacity	Percentage of Capacity
Patuxent Elementary School	1 SFD	0.22	0.22	798	0	798.22	516	154.69%
James Madison Middle school	1 SFD	0.08	0.08	817	0	817.08	864	94.57%
Frederick Douglass High School	1 SFD	0.13	0.13	1777	0	1777.13	1200	148.09%

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

Since the affected Patuxent Elementary and Frederick Douglass High Schools projected percentage of capacities are greater than 105 percent, the Adequate Public Facilities fee is \$3,280.00 per dwelling unit. The amount of the Adequate Public Facilities fee for schools shall be offset by the School Facilities Surcharge. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines.

Section 24-122.02(a)(4) states that if any affected school=s projected percentage of capacity exceeds 130 percent no permits may be issued until (a) capacity exists below 130 percent in all affected schools; or (b) four (4) years have elapsed since the time of the approval of the preliminary plan of subdivision

10. Growth Policy and Public Facilities Planning has reviewed the subdivision plans for adequacy of fire and rescue facilities in accordance with Section 24-122.01 of the Subdivision Regulations and concludes the following.
 - a. The existing fire engine service at Marlboro Fire Station, Company 20 located at 14815 Pratt Street has a service response time of 4.51 minutes, which is beyond the 3.25 minutes response time guideline.
 - b. The existing ambulance service at , Marlboro Fire Station, Company 20 located at 14815 Pratt Street has a service response time of 4.51 minutes, which is beyond the 4.25 minutes response time guideline.
 - c. The existing paramedic service at Marlboro Fire Station, Company 20 located at 14815 Pratt Street has a service response time of 4.51 minutes, which is within the 7.25 minutes response time guideline.
 - d. The existing ladder truck service at Marlboro Fire Station, Company 45 located at 7710 Croom Road has a service response time of 8.89 minutes, which is beyond the 4.25 minutes response time guideline.

Ambulance service is beyond response time standards and the provision of sprinklers does not effectively mitigate this inadequacy. To mitigate this inadequacy for the adjoining Beech Tree development the Planning Board required a fair share fee towards the construction of the Leeland Road Fire station (PGCPB Resolution 98-311, Condition 15, File 4-98063). Therefore, staff recommends that this applicant provide a fair share fee towards the provision of this service. The service area includes those areas that are not being served within the minimum response time standards. Once the Leeland Road Station is operational these defined areas will be within the response time guideline standard. The pro-rata fee amount should be based upon the construction cost of the station (\$3,000,000) and the purchase price of the ambulance (\$132,000) divided by the total amount of population and employees within the service area at buildout.

It is recommended that the applicant provide a combined fee of \$83.00 (in October 2000 dollars) for each resident or employee proposed prior to the issuance of building permits for construction of the station and purchase of an ambulance. Staff shall determine the exact amount of the fee, including an appropriate inflation factor at the time of application for building permit. The inflation factor for the station will be based on the Engineering News Record Cost Index (ENRI), the inflation factor for the ambulance will be based on the Consumer Price Index (CPI). This fee shall go towards the provision of the proposed Leeland Road station which will include the required ambulance service.

In addition, to alleviate the negative impact on fire and rescue services, the Fire Department recommends that all commercial structures be fully sprinkled in accordance

with National Fire Protection Association Standard 13 and all applicable Prince George's County Laws. The above 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*.

11. The proposed development is within the service area for Police District II- Bowie. In accordance with Section 24-122.01 of the Subdivision Regulations, the staff concludes that the existing County's police facilities will be adequate to serve the proposed Bowling Heights development. This police facility will adequately serve the population generated by the proposed subdivision.
12. The original referral dated June 9, 2000, from the Health Department identified several concerns. However, the Health Department has advised this office that since the original referral staff has conducted a site visit and performed percolation tests. Approved percolation sites have been identified on site by the Health Department. The preliminary plan should be revised to accurately locate the approved test sites.
13. A Stormwater Management Concept Plan, # 008006640, has been approved to ensure that development of this site does not result in on-site or downstream flooding. A separate concept approval will be required for future development on site. Development must be in accordance with the approved plan.
14. At the October 19, 2000, Planning Board hearing the applicant raised concerns regarding the amount of dedication requested and delineated on Staff Exhibit AA.@ The applicant stated that because there was no development proposed at this time, the amount of dedication appropriate to serve future development could not be established. A request for dedication could not be justified until a use and the amount of development associated with that use was determined.

Staff reminded the applicant that they (the applicant) had requested a cap on development that would reflect the greatest number of trips possible based on existing traffic data. This request by the applicant resulted in the initial trip cap of 50 AM and 50 PM trips. Based on this amount of development, the 301 South Preservation Corridor Team requested dedication as reflected on Staff Exhibit AA.@

At the hearing the applicant proffered to cap development on site to 1AM and 1PM peak hour trip, the Planning Board therefore agreed to place the entire portion of the A-61 right-of-way into reservation based on this limit of development. The actions of the applicant and the Planning Board were based on the understanding that any development over this cap would require a new preliminary plat of development. The Planning Board established and the applicant agreed that at the time of review of a new preliminary plat the amount of right of way dedication necessary to support the development proposed will be evaluated and requested for the construction of A-61.

The Planning Board=s action on the subject preliminary plat shall not be construed as

waiving their ability to exercise further their authority to require dedication for the construction of A-61 at the time of the new preliminary plat for development on this site.

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.

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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 Lowe, seconded by Commissioner Eley, with Commissioners Lowe, Eley and Hewlett voting in favor of the motion and with Commissioner Brown absent, at its regular meeting held on Thursday, October 19, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 30th day of November.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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