

R E S O L U T I O N

WHEREAS, Gary M. and Leanne M. Mead is the owner of a 1.37-acre parcel of land known as Livingston Grove, Lots 4 and 5, Plat Book BB12@34, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on September 8, 2001, Gary Mead filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 3 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00047, Livingston Grove 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 January 25, 2001, 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 DISAPPROVAL of the application, and

WHEREAS, on January 25, 2001, 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 DISAPPROVED the Type I Tree Conservation Plan (TCPI/31/00), and DISAPPROVED Variance Application No. VP-00047A, and further DISAPPROVED Preliminary Plat of Subdivision 4-00047, Livingston Grove for 3 Lots.

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 property is located at the intersection of Pine Lane and Holly Way in the Livingston Grove Subdivision.
2. Environmental - This 1.37 acre property is zoned R-R and is located at the southeastern corner of Pine Lane and Holly Way in Accokeek. There are no streams, wetlands, 100-year floodplains, severe slopes or steep slopes found to occur on this property. No adverse noise impacts have been identified which would limit the development of this property. There are no rare, threatened or endangered species located in the vicinity of this property based on information provided by the Maryland Department of Natural Resources - Natural Heritage Program.

The soils found on this property include Leonardtown silt loam and Beltsville silt loam both of which have impeded drainage and seasonally high water tables. The applicant is

advised to recognize this if houses with basements are being considered for this site.

The property is subject to the Woodland Conservation and Preservation Manual. The Forest Stand Delineation (FSD) submitted with this application has been reviewed and found to satisfy the requirements for a FSD as provided for in the A Woodland Conservation and Tree Preservation Technical Manual for Prince George=s County, Maryland.@

The Type I Tree Conservation Plan (TCPI/31/00) was reviewed and found to satisfy the requirements of the Prince George=s County Woodland Conservation Ordinance. This 1.37 acre property has a Woodland Conservation Threshold (WCT) of 20% or 0.27 acres and a woodland replacement requirement of 0.13 acres for a total requirement of 0.40 acres. That requirement is being satisfied by 0.42 acres of on-site preservation.

The property is in Water Category 3 and Sewer Category 4. Sewer Category 3 must be obtained prior to final plat.

3. Variance(s) - The proposal is to resubdivide two existing lots into three. The two existing lots exceed the minimum 20,000 square feet of net lot area required in the R-R Zone. Lot 4 is 30,000 square feet and has an existing dwelling which is to remain. Lot 5 is 30,000 square feet and is vacant. The applicant could currently construct a dwelling unit on existing Lot 5, insofar as zoning regulations allow. However the applicant would like to subdivide this property further to create one additional lot, above the two already existing. This further subdivision would necessitate a variance from the minimum lot size for all three lots proposed.

A preliminary plat is required for the resubdivision of existing Lots 4 and 5. Through the subdivision process appropriate rights-of-way for Pine Lane and Holly Way will be implemented. Holly Way and Pine Lane are substandard residential streets with rights-of-way of 30 feet each. Pine Lane is a State right-of-way, while Holly Way is a County right-of-way. The State Highway Administration and the Department of Public Works have submitted written recommendations in concurrence with the Transportation Section=s recommendation that the plan should reflect dedication for the minimum standard secondary residential street of 25 feet from the existing center lines of both streets. With this dedication the total net tract area of the property is reduced from 60,000 square feet to 55,100.

Lot 25 is proposed at 19,000 square feet requiring a 1,000 square foot variance. Lot 26 is proposed at 17,100 square feet requiring a 2,900 square foot variance and Lot 27 is proposed at 19,000 square feet requiring a 1,000 square foot variance. Since the platting of the subject property in 1949 three resubdivision applications have been reviewed and approved by the Planning Board for subdivisions fronting on either Pine Land or Holly Way. All three subdivisions have had associated street dedication required through the subdivision process. All of the lots created meet or exceed the minimum 20,000 square foot lot size required in the R-R Zone.

Section 27-230(a) sets forth the required findings for variance approval. A variance may only be approved if the Planning Board finds:

A. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic condition, or other extraordinary situation of condition;

In review of this application staff has found no quality exceptional to the subject site. The property has an oblong shape with generous street frontage. It is not exceptionally narrow or shallow when compared to the adjoining lots or to those in the neighborhood.

The Environmental Planning Section has stated that this site has no exceptional feature associated with it, to include no exceptional topographical or environmental conditions. Staff had identified no other extraordinary situation or feature associated with this property.

Further, the justification statement submitted by the applicant, dated December 8, 2000, is silent to this required finding.

B. The strict application of this Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and

The denial of these variance applications would not jeopardize the applicants ability to maintain the existing dwelling on a lot and develop a second lot. To deny the variances would not appear to constitute an exceptional or undue hardship on the applicant. The applicant will develop one additional lot instead of two if the variances are denied. Staff does not believe that this would result in a peculiar or unusual difficulty on this property owner.

Further, the justification statement submitted by the applicant, dated December 8, 2000, is silent to this required finding.

C. The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

Staff has reviewed the subject application and associated variance for compliance with the current master plan and has found the application in general conformance with the recommendations for land use. Staff believes this application will not impair the intent, purpose, or integrity of the General Plan or Master Plan as proposed.

These three required findings were specifically pointed out to the applicant prior to the

applicant filing the required justification statement in support of the variance requests. The applicants justification statement did not address the required findings.

The submitted justification statement dated December 8, 2000, states that the applicant A *feels that it would be unjust for the county to take property, then tell him his lots will not be of legal size to subdivide.*@ The applicant has two existing lots that were previously subdivided. These two existing lots are of the size and character of the existing lots in the neighborhood. The implementation of adequate roads is a function of the subdivision process. Both the County and the State have provided written request for the implimentation of adequate rights-of-way in this neighborhood which currently has substandard residential streets. This request is consistent with the actions of the Planning Board in this neighborhood for resubdivisions fronting Pine Lane and Holly Way. In these previous subdivision applications dedication was required and the minimum lot size required in the R-R Zone was preserved, without the need for variances. Those subdivisions are WWW 57 @ 14, NLP 111 @ 29, NLP 116 @ 93, and VL 157 @ 31.

In the justification statement the applicant states that *AI=ve done some research and there are lots in the immediate vicinity that have been subdivide either by deed or plat that are compatible in size. Across from proposed Lot 25 there [is] a deeded lot containing 10,000 square feet.*@ Staff however has found that the only subdivision plats along Pine Lane and Holly Way, other than the original subdivision plat, (all mentioned above) created no lot below the minuum 20,000 square-foot lot size required in the R-R Zone. Further, the applicants statement that a 10,000 square-foot lot was created by deed is not wholly correct. There was the conveyance of 10,000 square feet by deed, however that land was conveyed from Lots 2 and 3 to the adjoining lot owner of 25. That conveyance was to add 10,000 square feet into Lot 25. The conveyance did not create a new lot. In fact the tax assessment records describe this portion of the property as the A rear 50 feet of lots 1 and 2.@ In review of aerial photos it is apparent that portion of Lots 2 and 3 which was conveyed to the owner of Lot 25 is being utilized for access and is being maintained in a manor consistent with the larger portion of Lot 25 as a whole.

4. Community Planning - The proposed residentail use is in conformance with the land use recommendations of the *1993 Subregion V Master Plan*. The land use recommendation for this property is Low Suburban residential development land use.
5. Parks and Recreation - In accordance with Section 24-134(a)(3)(C) of the Subdivision Regulations proposed Lot 26 is exempt form the Mandatory Dedication requirements because the lot contains an existing dwelling unit. A payment of a fee-in-lieu of dedication should be required for proposed Lots 25 and 27 because the land available for dedication is unsuitable for park land due to location and size.

Development of the existing Lot 5 will not require the payment of a fee-in-lieu for mandatory park dedication.

6. Trails - There are no master plan trail issues associated with this subdivision.

7. Transportation - The traffic generated by the proposed preliminary plan would impact the unsignalized intersection of MD 210 and Pine Lane. The staff has no recent counts at hand, and has determined that 1 AM and 1 PM peak hour trips generated by the site is sufficiently minor that they would have a de minimus impact on peak hour traffic operations at this location. Therefore, the Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved.
8. Schools - Growth Policy and Public Facilities Planning has reviewed the preliminary plat 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 2001) (CR-4-1998) concludes the following:

Finding

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
Henry G. Ferguson Elementary School	2 SDF	0.24	0.48	795	0	795.48	444	179.16%
Eugene Burroughs Middle School	2 SDF	0.06	0.12	869	0	869.12	999	87.00%
Gwynn Park High School	2 SDF	0.12	0.24	1687	0	1687.24	1274	132.44%

Source: Prince George's County Planning Department, M-NCPPC, January 2001

Since the affected Henry G. Ferguson Elementary and Gwynn Park High Schools projected percentage of capacities are greater than 105 percent, the Adequate Public Facilities fee is \$3,360.00 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% 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.

9. Fire and Rescue - 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 Accokeek Fire Station, Company 24 located at 16111 Livingston Road has a service response time of 2.08 minutes, which is within the 5.25 minutes response time guideline.
- b. The existing ambulance service at Accokeek Fire Station, Company 24 located at 16111 Livingston Road has a service response time of 2.08 minutes, which is within the 6.25 minutes response time guideline.
- c. The existing paramedic service at Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service response time of 9.68 minutes, which is beyond the 7.25 minutes response time guideline.
- d. The existing paramedic service located at Allentown Road, Company 47, is beyond the recommended response time guideline. The nearest fire station Accokeek, Company 24 is located at 16111 Livingston Road, which is 2.08 minutes from the development. This facility would be within the recommended response time for paramedic service.

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*.

10. Police Facilities - The proposed development is within the service area for Police District IV- Oxon Hill. In accordance with Section 24-122.1(c)(1)(A) and (B) of the Subdivision Regulations the existing County's police facilities will be adequate to serve the proposed Livingston Grove development. This police facility will adequately serve the population generated by the proposed subdivision.
11. Health Department - The existing dwelling on proposed Lot 26 is currently being served by public systems. Previously the dwelling was served by private water and sewer systems. The existing shallow well should be backfilled and the septic system which served the existing dwelling scavenged and backfilled prior to final plat. The underground fuel storage tank should be located on the preliminary plan and removed prior to building permit.
12. Stormwater Management - The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is not required. A Stormwater Management Concept Plan, # 8321845-2000, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.

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 Brown, seconded by Commissioner Lowe, with Commissioners Brown, Lowe, Eley and Hewlett voting in opposition of the motion, at its regular meeting held on Thursday, January 25, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of February 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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