

R E S O L U T I O N

WHEREAS, Community Management Company is the owner of a 17.43-acre parcel of land known as Parcels C and D, WWW 56 @ 88, said property being in the 21st Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on December 1, 2000, AD&C Management Company filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 21 lots and 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00070, Jaeger Property, 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 April 26, 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 APPROVAL of the application with conditions; and

WHEREAS, on April 26, 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 APPROVED the Type I Tree Conservation Plan (TCPI/48/00), and further APPROVED Preliminary Plat of Subdivision 4-00070, Jaeger Property for Lots 1-21 and parcels F and G, including a variation from Section 24-130 with the following conditions:

1. At time of final plat, a Conservation Easement shall be described by bearings and distances. The conservation easement shall contain all 100-year floodplain, stream buffers, wetlands and wetland buffers except for approved variation requests, and be reviewed by the Environmental Planning Section prior to certificate approval. The following note shall be placed on the plat:

A Conservation Easements described on this plat are areas where the installation of structures and roads and the removal of vegetation is prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.@

2. The following note shall be placed on the final plat:

A Prior to the issuance of any permit which impacts floodplain, streams, stream buffers, wetlands, or wetland buffers, the applicant shall obtain all necessary

federal and state permits. Copies of the approved permits shall be filed with the Environmental Planning Section.@

3. The following note shall be placed on the final plat:

A Development of this site shall adhere to the conclusions and recommendations of the Subsurface Exploration and Geotechnical Report, dated February 14, 2001, prepared by Geotechnical Laboratories, Inc., and/or any other subsequent report approved by the Environmental Planning Section, M-NCPPC, or Permits and Review Division, DER.@

4. At the time of final plat, the applicant, his heirs, successors and/or assigns shall pay a fee-in-lieu of mandatory park dedication.
5. Prior to final plat approval, the applicant, his heirs, successors and/or assigns shall provide the Subdivision Section with documentation as to the viability and disposition of the private sewer easement traversing the eastern portion of the property. A letter from WSSC shall satisfy this condition.
6. To define the tree preservation area, a two-rail, split-rail fence shall be installed in the rear yards of Lots 2-13. The fence shall be installed prior to the issuance of the certificate of occupancy for these lots.
7. Prior to signature approval of the preliminary plat, the stormwater concept plan shall be approved. Its approval number and date shall be recorded on the preliminary plat.
8. Prior to signature approval, the flag lots shall be eliminated from the preliminary plat and incorporated into either adjacent lots or parcels.

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 subject property is located in the southeast quadrant of the Kenilworth Avenue (MD 201)/Westchester Park Drive intersection.
3. Environmental Issues and Variation Request C The Soils Survey shows a sand or gravel pit was located in this area in 1963. Air photos on file were examined. In 1965 the area was an eroding, abandoned sand and gravel pit. In 1968 the site was extensively regraded in conjunction with the construction of the southern portion of Westchester Park. From 1977 through March 1987 there was no apparent activity on the site. In August 1987 some regrading resulted in the loss of wetlands. Since August 1987 no apparent activity has occurred on the site. Nontidal wetlands occur in the northwestern portion of the

property. Current air photos indicate that the majority of the site is open or lightly wooded with secondary growth. No historic or scenic roads are affected by this proposal. Because Kenilworth Avenue is more than 400 feet from the nearest property line, no significant noise impact is expected. No rare/threatened/endangered species are known to occur in the project vicinity. According to the Sewer Service and Water Service maps produced by DER, the property is in categories W-3 and S-3. A Stormwater Concept Plan is in the file but no CSD approval number is noted.

This site is subject to the provisions of the Woodland Conservation Ordinance because it is more than 40,000 square feet in size and contains more than 10,000 square feet of woodland. A Tree Conservation Plan is required to satisfy the requirements of the Woodland Conservation Ordinance. The Forest Stand Delineation meets the requirements of the Ordinance. A Tree Conservation Plan, TCPI/48/00, dated March 27, 2001, has been reviewed. The property has a woodland conservation threshold of 3.49 acres. Of the existing 9.66 acres, 4.96 acres are proposed to be cleared. There are 4.75 acres needed to meet the minimum requirements of the Woodland Conservation Ordinance. The plan proposes preservation of 3.35 acres on-site and 1.40 acres of reforestation/replacement on-site. Conceptual house locations have been shown to indicate minimum 40-foot rear yards and 25-foot side yards. The plan proposes 1.40 acres of afforestation within nontidal wetlands which currently contain only emergent vegetation. The planting of trees within the existing nontidal wetland may assist in alleviating water table problems on the site.

The site contains significant natural features, which are required to be protected under Section 24-130 of the Subdivision Regulations. At the time of final plat, a Conservation Easement should be described by bearings and distances. The conservation easement should contain all 100-year floodplain, stream buffers, wetlands and wetland buffers except for approved variation requests, and be reviewed by the Environmental Planning Section prior to final plat approval.

The wetland delineation was certified as correct by the U.S. Army Corps of Engineers on November 13, 2000. The 25-foot wetland buffers are correctly shown. The 100-year floodplain as shown on the plan meets the requirements. The streams and stream buffers are adequately shown on the plans.

Section 24-130(b)(6) of the Subdivision Regulations requires the provision of a minimum 50-foot stream buffer. Section 24-130(b)(7) of the Subdivision Regulations requires the provision of a minimum 25-foot wetland buffer.

The subject application contains three variation requests. 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.

- 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.**
- c. The variation does not constitute a violation of any other applicable law, ordinance, or regulation.**
- 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.**

Variation Request 1 describes the need to upgrade and relocate an existing road to comply with safety design standards for public roads. The single proposed road crossing of a stream/wetland system is needed to access 42 percent of the total site and 7 proposed lots. There is no practical alternative alignment due to the configuration of the property and the location of wetlands. The road crossing will be subject to further review by federal, state and county agencies during the permit process. The permit review will ensure that the crossing minimizes environmental impacts and will not be injurious to properties upstream or downstream of the crossing.

Staff supports the variation request for the stream crossing for the access road. The Environmental Planning Section supports the variation request for the stream crossing for the access road because the strict letter of the regulations creates a particular hardship to the owner.

Variation Request 2 is to permit the disturbance of two very small, isolated, manmade wetlands. Staff examined these two wetland pockets and determined that their loss would not create any significant environmental impact. Because of this limited impact, the granting of the variation would not have a negative impact on other properties. Furthermore, staff recommends that permits be obtained to fill wetland areas like these for the purpose of removing attractive nuisances because of safety issues. Staff supports the variation request for the filling of the two small wetlands on proposed Lots 6, 7, and 8.

Because this is a former sand and gravel pit and regrading has been done without any permits, the nature of the existing soils was unknown. The presence of wetlands indicates a high water table. Staff requested a detailed soils report.

The requested soils report, dated February 14, 2001, prepared by a qualified geotechnical engineer, including test pit and/or borehole logs, a map of the test pit/borehole locations, a description of materials encountered, a description of potential development problems and recommended solutions, has been reviewed by the Environmental Planning Section

with specific reference to Section 24-131 of the Subdivision Regulations.

4. Community PlanningCThe 1989 *Approved Langley Park-College Park-Greenbelt Master Plan* recommends that the subject property be developed with residential uses under the Comprehensive Design Zone R-M (5.8 to 7.9 dwelling units per acre.) However, the property could also be developed under the existing R-R Zone with a maximum density of 2.17 dwelling units per acre. The 1990 *Adopted Langley Park-College Park-Greenbelt Sectional Map Amendment* (Planning Areas 65, 66 and 67) rezoned the subject property from the R-P-C/R-R and R-H Zones to the R-R Zone. The sectional map amendment indicates that the subject property is encouraged for the Comprehensive Design Zone as specified in the master plan. Since the proposed subdivision is generally in conformance with the regulations of the R-R Zone, it does not raise any major land use issues impeding the goals, concepts and guidelines of the master plan.
5. Parks and RecreationCThe proposed subdivision is subject to the mandatory park dedication requirements of Section 24-134 of the Subdivision Regulations. Because the location and the size of the land would be inappropriate for dedication, staff recommends the application be required to pay a fee-in-lieu of dedication in accordance with Section 24-135.
6. TrailsCThere are no master plan trails issues associated with this application.
7. TransportationCThe application is a preliminary plat of subdivision for a residential development consisting of 21 single-family dwelling units. The proposed development would generate 16 AM and 19 PM peak hour vehicle trips as determined using *Guidelines for the Analysis of the Traffic Impact of Development Proposals (Guidelines)*.

The traffic generated by the proposed preliminary plan would impact the intersection of MD 201 at Pontiac Street and Westchester Park Drive. This intersection is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

The Prince George's County Planning Board, in the *Guidelines*, has defined Level-of-Service D (LOS D) as the lowest acceptable operating condition on the transportation system. The affected intersection of MD 201 and Pontiac Street/Westchester Park Drive, when analyzed with existing traffic, operates at Level-of-Service A during the AM peak hour and Level-of-Service C during the PM peak hour. By including the proposed site-generated trips to the existing traffic volumes, the intersection level of service was computed as Level-of-Service A during the AM peak and Level-of-Service C during the PM peak hour as developed using the *Guidelines*.

Based on the forgoing discussion, 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 CThe Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public school 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). The proposed subdivision is exempt from Adequate Public Facilities test for schools because it has fewer than 36 dwelling units and is located in a Revitalization Tax District.
9. Fire and Rescue CThe Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities.
 - a. The existing fire engine service at Branchville Fire Station, Company 11, located at 4905 Branchville Road, has a service response time of 4.67 minutes, which is within the 5.25-minute response time guideline.
 - b. The existing ambulance service at Berwyn Heights Fire Station, Company 14, located at 8811 60th Avenue, has a service response time of 2.12 minutes, which is within the 6.25-minute response time guideline.
 - c. The existing paramedic service at College Park Fire Station, Company 12, located at 8115 Baltimore Avenue, has a service response time of 6.84 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*. The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services.

10. Police Facilities CThe proposed development is within the service area for Police District I- Hyattsville. In accordance with Section 24-122.1(c)(1)(A) and (B) of the Subdivision Regulations of Prince George's County, the existing county police facilities will be adequate to serve the proposed Jaeger Property development. This police facility will adequately serve the population generated by the proposed subdivision.
11. Health Department CIn their memorandum, the Health Department raised several issues similar to those raised by the Environmental Planning Section regarding the nature of the soils and the property=s history as a mine and possible fill site. These issues were addressed by the applicant=s soils study, which includes conclusions and recommendations for development. The staff recommendation includes a condition that all development adhere those findings and conditions.
12. Stormwater Management CThe Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan 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. Public Utility Easement CThe preliminary plat includes the required 10-foot-wide public utility easement. This easement will be included on the final plat.
14. Flag Lots CThe proposed preliminary plat includes two flag lots. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. The proposed flag lots do not satisfy all of the standards for approval.
 - a. A maximum of two tiers is permitted. The proposed flag lots represent the second tier.
 - b. Each flag stem is a minimum width of 25 feet for the entire length of the stem.
 - c. At more than 20,000 square feet, the net lot area for proposed Lots 13 and 16 (exclusive of the flag stem) exceeds the minimum lot size in the of 20,000 square feet in the R-R Zone. However, the exact area of the net lot area, excluding the flag stem, should be shown on the preliminary plat.
 - d. A building envelope must be established at the time of preliminary plat. The applicant has not included a building envelope on the preliminary plat. However, the applicant did provide a conceptual sketch plan of the flag lot development. It shows homes that will face the rears of others
 - e. Shared driveways are only permitted under certain circumstances. The proposal includes no shared driveways.
 - f. Where rear yards are oriented toward driveways, an AA@ bufferyard is required. In this case, no rear yard is oriented toward a driveway.
 - g. Where front yards are oriented toward rear yards, a AC@ bufferyard is required. In this case, the front yards are oriented toward rear yards; a AC@ bufferyard can be accommodated on these lots.

Prior to approval of a flag lot, the Planning Board must make the following findings of Section 24-138.01(f):

- A. **The design is clearly superior to what would have been achieved under conventional subdivision techniques.** The proposed flag lot yields an inferior design to that which would be allowed conventionally. The only benefit to allowing them appears to be that the flag lots create developable lots, which increases lot yield at the expense of good design. Notwithstanding the applicant's persuasive justification statement, these lots appear to be afterthoughts, fit in where street frontages were available.

- B. **The transportation system will function safely and efficiently.** The flag lots add two driveways to a short cul-de-sac. No significant impact on the transportation system is expected.
- C. **The use of flag lots will result in the creative design of a development that blends harmoniously with the site and the adjacent development.** Although the flag lots are in the interior of the site and will be hidden from view from adjacent development, they do not blend harmoniously with the rest of the development. In Section 24-138.01(d), the Subdivision Regulations call for flag lots to be created in a Acourt-like@ setting. These types of arrangements can be both functional and aesthetically pleasing. Staff acknowledges that the Subdivision Regulations do not *mandate* such a setting for flag lots, but this type of setting begins to address the Asuperior@ design requirement. These lots are not superior and merely increase lot yield.
- D. **The privacy of property owners has been assured in accordance with the evaluation criteria.** Given the size of the net lot, more than 20,000 square feet, the flag-style development of the lot with a home will not impair the privacy of either the homeowner of these lots or the homeowners of other lots.

Given these findings, the flag lots should be eliminated.

- 15. National Park Service CThe property is surrounded for the most part by Greenbelt National Park. In a letter dated January 9, 2001, the National Park Service (NPS) raised several concerns, including the following:
 - a. Sewer EasementCA private sewer easement traverses the eastern portion of the property from north to south, and it enters Greenbelt National Park as it leaves the subject property. It is not clear whether or not WSSC will take control of this line. According to NPS the Asewer was the subject of a significant spill of effluent into a stream on adjoining park lands in 1991 . . . [although] . . . WSSC performed emergency, temporary repairs [the sewer] has not been permanently repaired and brought up to WSSC standards.@ Apparently, it remains in private ownership. This easement does not merely traverse the property and serve other properties, the applicant=s preliminary plat shows sewer connections to this easement; therefore, it is incumbent upon the applicant to ensure that future ruptures do not occur, either on-site or off. The disposition and functionality of this sewer line should be addressed prior to approval of the final plat.
 - b. Tree Conservation PlanCThe NPS found the tree conservation plan, which included preservation along its common boundary with the eastern boundary of the site, acceptable. However, NPS was concerned that the viability of such a preservation area along the rear yards was suspect. Staff has recently become more aware of the problems with such preservation areas as well. Many times, well-meaning homeowners clear in those areas unaware of the tree preservation

requirement. In recent cases, the Planning Board has required applicants to provide fencing and signs to mark the preservation area (Montpelier Ridge Detailed Site Plan, SP-98026 and Mill Branch Subdivision 4-01002). In this case, staff recommends a two-rail, split-rail fence be located along the tree preservation area. The fence is not meant to be an impenetrable barrier, simply a visual barrier as a reminder that what lies beyond is a tree preservation area.

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 Hewlett, with Commissioners Brown, Hewlett, and Eley voting in favor of the motion, and with Commissioner Lowe opposing the motion at its regular meeting held on Thursday, April 26, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of May 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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