

R E S O L U T I O N

WHEREAS, Prince George's Baptist Church is the owner of a 3.38-acre parcel of land known as P/O Lot 1, 22@1, Block A, said property being in the 7<sup>th</sup> Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on May 10, 2001, Prince George's Baptist Association filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 1 lot; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-01043 for Forest Hills 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 July 19, 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 July 19, 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 1 Tree Conservation Plan (TCP1/01/99), and further APPROVED Preliminary Plat of Subdivision 4-01043, Lot 20, Block A for Forest Hills, including a variation to Section 24-121 of the Subdivision Regulations, with the following conditions:

1. Prior to signature approval of the preliminary plan:
  - a. The note on the lower right hand corner of the preliminary plan concerning noise impacts shall be removed.
2. The Stormwater Management Concept approval date shall be added to the preliminary plan.
3. The Woodland Conservation Summary Sheet shall be revised to reflect the correct woodland conservation requirement.
2. At time of final plat, the delineated PMA, minus any variation requests granted, shall be placed in a conservation easement to provide long-term protection. The conservation easement shall be described by bearings and distances and be reviewed by the

Environmental Planning Section prior to approval. The following note shall be placed on the plat:

"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."

3. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCP I/01/99). The following note shall be placed on the Final Plat of Subdivision:

"Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCP I/01/99), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy"

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

■Crain Highway (MD 3) is classified as a divided freeway. The 65 dBA noise contour is located approximately 2,200 feet from the centerline of the roadway based on a standard noise model. If a residential use is proposed for this site, a Phase II noise study will be required to evaluate these impacts and recommend mitigation measures will be required at time of permit.●

Prior to the issuance of permits for residential units, certification by a professional engineer with competency in acoustical analysis shall be provided to the Environmental Planning Section that within the Maryland Route 3 noise corridor mitigation measures have been incorporated to attenuate interior noise levels to 45 dBA(Ldn) and exterior (active rear yard) noise levels to 65 dBA(Ldn) or less. The permit package shall include all information necessary to implement mitigation measures.

5. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved. At time of TCP II review, the final location of woodland conservation on this site will be based on priority areas located on this site, and coordination with TCP II/08/98 on the adjacent lot to the south to provide a large contiguous block of woodland.
6. At the time of final plat, the applicant, his heirs, successors and/or assigns shall dedicate right-of-way along MD 3 as indicated on the Transportation Section Exhibit in the file.
7. Total development within proposed Lot shall be limited to a single-family detached home, or other permitted uses which generate no more than 1 AM and 1 PM peak hour vehicle trips. Any development which generates more trips than specified herein shall require an additional Preliminary Plan of Subdivision with a new determination of the adequacy of transportation facilities and a reexamination of the variation request.

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 of MD 3, approximately 1,500 feet south of its intersection with MD 450.
3. Environmental Issues - Proposed Lot 20 is undeveloped and is mostly wooded. The property is located in water and sewer categories W-6 and S-6. Private systems are proposed on-site.

The site is located in the White Marsh Branch watershed, which is a tributary to the Patuxent River. A perennial stream flows roughly parallel to the northern boundary of this site. This stream has an associated 100-year floodplain, which is shown on the TCP I and preliminary plan. White Marsh Branch provides a greenway connection from White Marsh Park, owned by the City of Bowie, to the Patuxent River Greenway, located east of this property. The delineation of the Patuxent River Primary Management Area (PMA) has been provided, and is correct. The soils on the site are in the Collington Series, which pose few difficulties for development. No Marlboro clay has been identified on this site. The site is not located in a rural legacy area, or along a designated scenic and/or historic road. No rare, threatened or endangered species have been identified.

Steep slopes (slopes > 25 percent) on the site are mostly associated with the stream adjacent to the north. Because the soils found on-site have a K factor of less than 0.37, as determined in the *Soil Survey, Prince George's County, Maryland (USDA; April 1967)*, the delineation of the severe slopes (slopes between 15 percent and 25 percent) is not required.

Noise impacts have been identified on this site which will need to be addressed if a residential use is proposed now or in the future. Crain Highway (MD 3) is classified as a divided freeway, with the 65 dBA noise contour occurring approximately 2,200 feet from the centerline of the roadway. A note on the plan states that:

■Prior to the issuance of building permit, a Phase One Noise Level Study or applicable mitigation will be performed. If any use other than residential is proposed on the subject site, a Phase Two Noise Level Study will be performed.●

The noise modeling that has already been done by the Commission identifies the potential extent of impacts on the site, which is the purpose of a Phase One Noise Study. The purpose of a Phase Two Noise Study is to identify mitigation measures. This note is incorrect and should be removed.

The following note has been added to the preliminary plan at the direction of the Environmental Planning Section to address noise, and should be placed on the final plat:

■Crain Highway (MD 3) is classified as a divided freeway. The 65 dBA noise contour is located approximately 2,200 feet from the centerline of the roadway based on a standard noise model. If a residential use is proposed for this site, a Phase II noise study will be required to evaluate these impacts and recommend mitigation measures will be required at time of permit.●

Prior to the issuance of permits for residential units, certification by a professional engineer with competency in acoustical analysis should be provided to the Environmental Planning Section that within the MD 3 noise corridor mitigation measures have been incorporated to attenuate interior noise levels to 45 dBA (Ldn) and exterior (active rear yard) noise levels to 65 dBA(Ldn) or less. The permit package should include all information necessary to implement mitigation measures.

This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site 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. A Forest Stand Delineation (FSD) has been submitted and reviewed. The sampling data points have been provided. The sample points note the presence of specimen trees on the site, which have not been located as part of the FSD. The FSD has been revised to include information regarding stand types, a narrative concerning tree stands, information concerning the priority for preservation of on-site woodlands, an identification of specimen trees, and indication of existing forest stands.

The Tree Conservation Plan, TCP I/01/99, has been reviewed. The minimum requirement for this site is 0.85 acres (25 percent of the Net Tract) and an additional 0.44 acres are required due to removal of woodland, for a total minimum requirement of 1.28 acres. The applicant has incorrectly identified the Woodland Conservation Required on the Woodland Conservation Summary Sheet.

The applicant has proposed to meet the requirement with 1.40 acres of on-site preservation, based on 1.75 acres of clearing. The shape and location of the woodland preservation area proposed includes priority woodlands adjacent to the stream, and provides for a large contiguous block. The location of woodland conservation should be coordinated with adjacent Tree Conservation Plans, particularly TCP II/08/98 for the adjacent site to the south.

4. Community Planning - The 1982 *General Plan* places this property within Category III Policy Area. The 1991 *Bowie-Collington-Mitchellville and Vicinity Master Plan* recommends large lot residential development. The 1991 Sectional Map Amendment retained the property in the R-E Zone.

The plan includes guidelines that pertain to the development of this lot. The guidelines state the following : (1) Occupants of new developments adjoining highways shall be

protected from visual intrusion by the use of reverse frontage, setbacks, landscaping and fencing, as required by county ordinances, and should be protected from the negative impacts of noise and air pollution to the degree that is legally possible; (2) Properties adjacent to MD 3/US 301, should be required, at the time of subdivision or building permit approval, to preserve existing vegetation and/or to have a landscape/ buffering plan approved. Such plans should provide appropriate noise and visual mitigation measures to reduce the impact of these new or improved transportation facilities on future development. Further, these landscape/buffering plans should be implemented upon approval so that vegetation will be mature by the time the facility is constructed. These areas will remain as permanent undisturbed buffer areas.

5. Parks and Recreation - The proposal is exempt from the requirements of Section 24-134 of the Subdivision Regulations for mandatory park dedication because the proposed lot is greater than one acre in size.
6. Trails - There are no master plan trail issues associated with this application.
7. Transportation Issues and Variation Request - The application is a preliminary plan of subdivision for a residential development consisting of one lot in the R-E Zone. Assuming no more than one single-family dwelling unit, the proposed development would generate 1 AM and 1 PM peak hour vehicle trips as determined using *Guidelines for the Analysis of the Traffic Impact of Development Proposals (Guidelines)* (April 1989).

The traffic generated by the proposed preliminary plan would impact the following intersection of Sylvan Drive and the southbound lanes of MD 3. 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 Sylvan Drive/US 3 intersection, when analyzed with total future traffic as developed using the *Guidelines*, was found to be operating at LOS D or better.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests. Staff supports the variation to allow access to MD 3 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 public safety, health and welfare. In this case, one driveway will access MD 3. It is important that an adequate turn around space be provided on that driveway so that cars will not have to back out onto MD 3. With a turn around, safety and access can be improved.

- 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.** This is a unique situation because without the variation, no access would be granted and the property would be denied development rights. The applicant is attempting to bring an illegal property into conformance with the law and a variation is necessary to accomplish that.
- 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 since access would be denied altogether. This would deny the property owner access, and therefore use, of the property.

While the variation to allow a single-family home access to MD 3 is acceptable, a use that would generate more traffic may not be as safe. Therefore, the variation applies only to a single-family home and that any more intense use be subject to a new variation and preliminary plat. Since the affected intersection operates at a level-of-service **D**, additional traffic generated by this site may cause the intersection to fail. A new preliminary plan should examine not only the effect of a more intense proposal on the adequacy of the affected intersection, but also on the prudence of the variation to allow access to an arterial highway.

Based on the foregoing discussion, adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved. This finding is subject to a condition that the applicant dedicate appropriate right-of-way and a condition limiting development to that which would generate no more than one AM and PM peak hour trip.

- 8. Schools - 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 2001) (CR-4-1998). The proposed subdivision is exempt from adequate public facilities test for schools because it is less than 36 dwelling units and not served by public water and sewer.
- 9. Fire and Rescue - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities.

- a. The existing fire engine at Bowie Fire Station, Company 39, located at 15454 Annapolis Road, has a service response time of 3.60 minutes which is within the 5.25 minutes response time guideline.
- b. The existing ambulance at Bowie Fire Station, Company 39, has a service response time of 3.60 minutes, which is within the 6.25 minutes response time guideline.
- c. The existing paramedic at Bowie Fire Station, Company 43, located at 16400 Pointer Ridge Drive has a service response time of 7.68 minutes, which is beyond the 7.25 minutes response time guideline. The nearest fire station Bowie, Company 39, is 3.60 minutes from the development. This facility would be within the recommended response time for paramedic service.

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. Police Facilities - The proposed development is within the service area for District II-Bowie. In accordance with Section 24-122.1(c) of the Subdivision Regulations of Prince George's County, the staff concludes that the existing County's police facilities will be adequate to serve the proposed Forest Hills development. This police facility will adequately serve the population generated by the proposed subdivision.
11. Health Department - The Health Department reviewed the application in accordance with state and county law. The subject property was once part of a larger lot. The other part of the lot is developed with a single-family detached home, served by a well and septic system. Staff of the Health Department is currently unaware of a back up system on the adjoining parcel. To ensure that the home on the adjoining lot continues to be viable, the Health Department will require the subject property to provide a Sewage Disposal Reserve Easement for possible use by the adjoining property should the system on that property fail. This easement is noted on the preliminary plan and contains language approved by the Health Department. Should the system on the adjoining property fail, the owner of that property may use the easement after a determination that no other areas on that property are acceptable to the Health Department for a septic system.

Subdivision Section staff point out that this is a rare action. Normally, property owners are not required to ensure that adjoining property owners have secure septic systems. But, this is a rare case, involving the separation of two already separate parcels. The provisions recommended by the Health Department are intended to ensure that the separation of these lots will not harm either.

With regard to conformance to Subtitle 24 (Subdivision Regulations), both property owners have what are now viewed as illegal lots that have been created outside of the subdivision process after 1982. The subject application will rectify this situation for the

subject property only. The adjoining property owner was strongly urged to join this process, but after several attempts, he declined. His decline retains the status of his property being considered an illegal lot, for which future permitting (buildings, pool, deck, fencing, etc.) may be in jeopardy. To rectify that situation, that property owner (or a subsequent owner of that property) will need to file another preliminary plan of subdivision to create a record lot as defined by the Prince George's County Zoning Ordinance.

12. Stormwater Management - The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management may be required. A Stormwater Management Concept Plan, # 998003170, has been approved for the subdivision of land only. A new concept approval will be required before issuance of building permits. The approval is valid through December 17, 2001. The approval number is shown on the plan, but the approval date must be added.
13. Public Utility Easement - The required 10-foot-wide public utility easement is shown on the preliminary plan and will be included on the final plat.

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 Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Brown, and Hewlett voting in favor of the motion, and with Commissioner Eley absent at its regular meeting held on Thursday, July 19, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6<sup>th</sup> day of September 2001.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator