

R E S O L U T I O N

WHEREAS, Richard A. Smith is the owner of a 7.52-acre parcel of land known as Parcels 53, 241 and 254, Tax Map 101, Grid E-1 and E-2, said property being in the 3rd Election District of Prince George's County, Maryland, and being zoned R-8; and

WHEREAS, on September 9, 2002, Washington Homes filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 17 lots and 4 parcels and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02075 for Smith 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 February 6, 2003, 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 February 6, 2003, 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/43/02), and further APPROVED Preliminary Plan of Subdivision 4-02075, Smith Property for Lots 1-17 and Parcels A-D with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. A dimension shall be provided along the boundary line between proposed Parcel B and Lot 1.
 - b. The final amount and configuration of the area of land currently devoted to Lots 1 through 9 will be determined at the time of Detailed Site Plan.
 - c. The location of the grave discovered on February 3, 2003, shall be identified on the plan.
 - d. Provide notations listing and inventory of the existing elements of the Tyler Family Cemetery.
2. No building permits shall be issued for this subdivision until the percent capacity, as adjusted pursuant to the School Regulations, at all the affected school clusters are less than or equal to 105

percent or 6 years have elapsed since the time of the approval of the preliminary plan of subdivision; or pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.

3. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/43/02). 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 (TCPI/43/02), 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. In conjunction with the approval of the Detailed Site Plan for this site, a Type II Tree Conservation Plan shall be approved. In addition to the normal requirements, the TCPII shall provide a specific management plan for hazard reduction in the Woodland Preservation Areas.
5. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) Parcels A, B and C. Land to be conveyed shall be subject the following:
 - a. Conveyance shall take place prior to the issuance of building permits.
 - b. A copy of 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.
 - c. All waste matter of any kind shall be removed from the property prior to 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.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements required by the approval process.

- f. Storm drain 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 adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
 - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
 - h. Storm drain 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.
 - i. 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.
 - j. 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.
- 6. Prior to the approval of the final plat of subdivision, a Detailed Site Plan shall be approved by the Planning Board pursuant to Finding 16 and 17 of this resolution and it shall include:
 - a. A plan showing the footprint and location of Historic Site 79-19-1 in relation to the proposed house on Lot 1.
 - b. A section drawing showing topography and sight lines from Historic Site 79-19-1 to the proposed house.
 - c. Architectural elevation drawings showing dimensions and roof lines of the proposed house on Lot 1.
- 7. An appropriate fence or wall constructed of stone, brick, metal or wood shall be maintained or provided to delineate the cemetery boundaries, and its design shall be approved by the Planning Board at the time of Detailed Site Plan.
- 8. Prior to the approval of a Detailed Site Plan, the applicant will cooperate with the Town of Upper Marlboro, the Department of Environmental Resources, the State Highway Administration, and any other appropriate governmental agencies to address feasible alternatives to providing a stormwater management pond on the property as currently required by the approved Conceptual Stormwater Management Plan. In the event that an alternative is identified that eliminates or reduces the amount of land required for stormwater management, the Detailed Site Plan shall address the conversion of the land into additional lots, but in no case shall the total number of lots exceed 19.

9. Sixty (60) days prior to the submission of the Detailed Site Plan, an analysis/evaluation (report), including an inventory and recommendations, shall be submitted to the Historic Preservation and Public Facilities Planning Section and the Town of Upper Marlboro for review. This report shall be for the entire $\frac{3}{4}$ -acre property of the former Marlborough Methodist Episcopal Church and an area fifty (50) feet out from the southern and western boundaries.

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 along the west edge of Old Marlboro Pike across from its intersection with Elm Street in the Town of Upper Marlboro.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-80	R-80
Use(s)	Residential	Residential
Acreage	7.52	7.52
Lots	17	17
Parcels	3	4
Dwelling Units:		
Detached	0	17

4. **Environmental**—The Environmental Planning Section reviewed the subject Preliminary Plan of Subdivision, Forest Stand Delineation and Type I Tree Conservation Plan stamped as revised by the Subdivision Section on January 29, 2003. The plans as submitted have been found to address the requirements of the Prince George's County Woodland Conservation Ordinance and the other environmental constraints of this property.

As revisions are made to the plans, the revision boxes on each plan sheet need to describe what revisions were made, when, and by whom. The revision blocks for the previously revised plans had not been completed to indicate the changes that have been made to the plans. It should be noted that the revision blocks for the currently submitted revised plans have now been completed

to indicate the changes that have been made to the plans.

This 7.52-acre property is located on the west side of Old Marlboro Pike at its intersection with Old Mill Road. A review of available information indicates that streams, wetlands, 100-year floodplain, severe slopes, and steep slopes with highly erodible soils are not found to occur on this property. No transportation-related noise impacts have been found to impact this property. The soil found to occur according to the Prince George's County Soil Survey include Collington fine sandy loam and Galestown gravelly loamy sand, which have no significant limitations which would affect the development of this property. There are no Marlboro clays found in the vicinity of this property. The sewer and water service categories are S-3 and W-3. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, publication titled "Ecologically Significant Areas in Anne Arundel and Prince George's Counties," December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. Old Crain Highway, which is located approximately 300 feet south of this property, is a designated historic road. The property is located in the Western Branch watershed of the Patuxent River basin and in the Rural Tier as reflected in the adopted *General Plan*.

A Detailed Forest Stand Delineation (FSD) as revised on January 29, 2003, was found to address the requirements for a Forest Stand Delineation. No further information is required with respect to the Forest Stand Delineation.

This property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the gross tract area is more than 40,000 square feet and there are more than 10,000 square feet of woodland. This 7.52-acre property in the R-80 zone has a 20 percent Woodland Conservation Threshold (WCT) of 1.50 acres, a ¼:1 replacement requirement for all woodlands cleared above the WCT and a 2:1 replacement requirement for all woodlands cleared below the WCT. The 3.00-acre requirement is proposed to be satisfied by 1.54 acres of on-site preservation and 1.46 acres of off-site mitigation. The Type I Tree Conservation Plan, TCPI/43/02, and Preliminary Plan of Subdivision, 4-02075, are recommended for approval subject to conditions.

5. **Community Planning**— The site is located in Planning Area 79 in the Marlboro Community and is subject to the *Approved Master Plan for Subregion VI Study Area*, September 1993. The property was retained in the R-80 Zone by the 1994 *Approved Sectional Map Amendment for the Subregion VI Study Area* (CR-54-1994).

The property is located within the Rural Tier as defined by the 2002 *Prince George's County General Plan*. With the exception of a 6±-acre property on the town's eastern boundary, the entire Town of Upper Marlboro is included in the Rural Tier in recognition of the desire to protect the town's rural, small-town character. It should be noted, however, that inclusion in the Rural Tier does not affect zoning designation for any property within the town. Rural Tier strategies that may be applicable to the development of the subject property include the following:

“Adopt rural design guidelines and standards to ensure that public and private development

projects are designed and constructed consistent with the prevailing character of rural areas including ... buffering, tree retention, ...”

The 1993 Master Plan includes a chapter providing guidance for the development of the Town of Upper Marlboro. The subject property is specifically addressed in this chapter (along with the Claggett property, Tax Map Parcel 55 to the south). The plan text sets guidelines for development of the two properties as follows (p. 110):

“This Plan recommends a development concept that:

- “Continues the Town’s traditional street pattern by extending Elm Street to School Lane.
- “Maintains a wooded buffer on the east along Old Marlboro Pike and on the south along the boundary with “Kingston.”
- “Uses stormwater management facilities as a significant visual feature.
- “Creates strong pedestrian links to Elm and Main Streets.
- “Proposes houses compatible in scale and architecture with nearby residences.”

The plan text provides an illustrative drawing and further states that:

“Typical lot sizes should average 9,500 square feet with a minimum lot size of 8,000 square feet and minimum lot width of 60 feet. One and a half to two-story houses should average 1,800 to 2,400 square feet in size and be designed to be architecturally compatible with the established residential character of Upper Marlboro.”

The illustrative drawing included in the master plan shows a street extending from Elm Street to School Lane through the subject property. Access to the Claggett property to the south is shown from a loop street extending to the south from the through street; both properties would use a single point of access from Old Marlboro Pike. A close examination of the dedicated right-of-way for School Lane (Record Plat BB 10 @ 12) reveals that it does not fully extend to the subject property.

The master plan’s guidelines for development of the property concerning the desired character of future development are compatible with and more detailed than the recommendations of the *General Plan*. The proposed subdivision is in conformance with the master plan’s guidelines as to lot size: all of the proposed lots are at least 9,500 square feet. Conformance with other master plan guidelines is lacking or unclear:

- The proposed cul-de-sac does not conform to the plan’s desire for reinforcement of the town’s traditional street pattern.
- The cul-de-sac also hinders the plan’s desire to create strong pedestrian links to Elm and

Main Streets.

- The appearance of the bioretention pond is unclear; it will occupy a prominent location along Old Marlboro Pike.
 - Information is not included in the proposed subdivision concerning housing style and size.
6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, the Park Planning and Development Division recommended that the Planning Board require payment of a fee-in-lieu of dedication since land available for dedication is unsuitable because of its size and location.
 7. **Trails**— There are no master plan trails recommendations contained in the Adopted and Approved Subregion VI Master Plan for the subject site.
 8. **Transportation**— The Transportation Planning Section reviewed the subject application. The subject property consists of approximately 7.5 acres of land in the R-80 Zone. The property is located on the east side of Old Marlboro Pike, opposite the Elm Street-Old Marlboro Pike intersection. The applicant originally proposed a residential subdivision consisting of 19 single-family detached residences.

Given the size of the proposed development, and the fact that it would generate fewer than 50 peak-hour trips, the transportation staff did not require a traffic impact study; therefore the applicant did not prepare one. The applicant did, however, provide to staff a peak-hour turning movement traffic count taken at the Elm Street-Old Marlboro Pike intersection. The findings and recommendations outlined below are based upon analyses of these counts by staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The analysis of traffic impacts for this site is based on the original proposal to develop 19 single-family detached residences. Based on the *Guidelines*, the site trip generation would be 14 AM peak hour trips (3 in, 11 out) and 17 PM peak hour trips (11 in, 6 out). Staff, assumed that 60 percent of the site-generated trips will be oriented toward points north of the site, while 40 percent will be oriented to points south of the site. Using the *Highway Capacity Manual's* (HCM) procedure for unsignalized intersections, staff found that the existing delays at the "T" intersection were 13.3 seconds during the AM peak hour and 13.8 seconds during the PM peak hour. In reviewing the Planning Department's database for background development, staff could not identify any approved development in the pipeline that would significantly impact this intersection. Consequently, no background trips were included in the analyses. When the site-generated trips were incorporated in the analyses, the delays at the proposed 4-legged intersection were computed as 27.8 seconds during the AM peak hour and 34.0 seconds during the PM peak hour.

The HCM's procedure for unsignalized intersections is not a true test of adequacy but rather an

indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections.

Regarding on-site circulation of traffic, staff supports the provision of a stub street to Parcel 55. This will alleviate the need to establish future street access to Parcel 55 directly on to Old Marlboro Pike in the close vicinity with its intersection with Main Street.

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. **Schools**— The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001 and CR-38-2002) and concluded the following. These findings are subject to change in accordance with the provisions of CR-23-2001 and CR-38-2002.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	19 sfd	19 sfd	19 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	4.56	1.14	2.28
Actual Enrollment	5416	4896	9660
Completion Enrollment	281	197	393
Wait Enrollment	604	225	451
Cumulative Enrollment	5.76	3.54	7.08
Total Enrollment	6311.32	5322.68	10513.36
State Rated Capacity	5364	4638	8770
Percent Capacity	117.66%	114.76%	119.88%
Funded School	N/a	N/a	Frederick Douglass addn.

Source: Prince George's County Planning Department, M-NCPPC, January 2003

These figures are correct on the day this memo was written. They are subject to change under the provisions of CB-40 and CR-23. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers that will be shown in the resolution of approval are the ones that will apply to this project.

The affected elementary, middle, and high school cluster percent capacities are greater than 105 percent. There is no Funded School in the affected elementary school cluster. There is no Funded School in the affected middle school cluster. The Frederick Douglass addition is the Funded School in the affected high school cluster. Therefore, this subdivision can be approved with a six-year waiting period. Based on this information, staff finds that the subdivision may be approved subject to a condition, in accordance with Section 24-122.02.

10. **Fire and Rescue**— The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities.
 - a. The existing fire engine service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street, has a service travel time of 1.19 minutes, which is within the 5.25-minute travel time guideline.

- b. The existing ambulance service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street, has a service travel time of 1.19 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street, has a service travel time of 1.19 minutes, which is within the 7.25-minute travel time guideline.

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*. The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services.

- 11. **Police Facilities**—The proposed development is within the service area for District II-Bowie. In accordance with Section 24-122.01(c)(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 Smith Property development. This police facility will adequately serve the population generated by the proposed subdivision.
- 12. **Health Department**—The Division of Environmental Health reviewed the subject application and had no comments to offer.
- 13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #29753-2002-00, was approved with conditions on January 14, 2003, to ensure that development of this site does not result in on-site or downstream flooding. This approval is valid through January 14, 2006.

The stormwater management facility will utilize infiltration water quality controls and be required to provide water quantity controls of the 2-, 10- and 100-year attenuation. It will be a dry pond with an infiltration trench. The facility is subject to the following DER conditions:

“School Lane drainage improvements to alleviate the current street flooding is required. All drainage structures and storm drain pipe on School Lane to connect to the proposed SWM pond. The pond shall be designed as a dry pond to provide the 1-year/24-hour extended detention and 100-year storm event control. A soil report is required to show that all storage volumes below the principal spillway can infiltrate the ground in less than six hours. The outfall system as shown on the plan is conceptual as the shown SHA future connection have not been built. Currently the SHA storm drain system is scheduled to advertise in February 25th, 2003, with a notice to proceed on June 9th, 2003. This is subject to change. A new concept approval and drainage improvements along MD-725 are required in case the alternative outfall system is utilized. An extensive landscape plan at a minimum width of 35 feet is required for the SWM pond. A pre and post study is required to show that drainage is decreased in the swale at the back of existing Lot 17. The water quality requirements for the project may be satisfied within an offline

infiltration facility or within the pond as dictated adequate by technical review. Please refer to the approved concept plan for other requirements.”

In response to concerns over a stormwater management pond raised by the Town of Upper Marlboro, the applicant proffered at the public hearing to explore other feasible alternatives. The applicant also proffered a condition that would require this exploration to occur prior to the approval of a detailed site plan.

14. **Historic Review and Cemeteries**^{3/4} The parcel proposed for subdivision is located across Old Marlboro Pike from Historic Site 79-19-18, the Digges-Sasscer House, and from Historic Site 79-19-1, the Thomas J. Turner House. Site plan review, with specific considerations, should be required for the house proposed for Lot 1, which is directly across from the Digges-Sasscer House and the Thomas J. Turner House. Additionally, just south of the parcel adjacent to the subject property (Parcel 55) is the historic site Kingston, listed in the National Register of Historic Places. While the subject property does not contain any Historic Site or historic resource that is subject to the Prince George’s County Historic Preservation Ordinance, it does contain two historic cemeteries that are protected by county and state regulations.

The Tyler Family Cemetery is located in the northwest corner of Parcel 53. This small cemetery contains at least five burials, dating from 1829 to 1851, of members of the family of 19th-century Register of Wills Truman Tyler. It is located on the revised plan within a 1.23-acre tree preservation area to be owned by the homeowners association.

In the easterly section of Parcel 53, almost directly across from the west end of Elm Street, is the site of the Marlborough Methodist Episcopal Church. In 1845 a three-quarter-acre parcel of land, triangular in shape and fronting on the Old Marlboro Pike, was conveyed to Methodist trustees “to build a house or place of worship for the Methodist Episcopal Church.” The church was erected by the early part of 1846, but went out of use in the 1880s, and was demolished by the end of the 19th century. Surviving records indicate that there was a graveyard on the grounds of this church. Court depositions of 1898 (Prince George’s County Equity #2486) indicate that at that time six to eight tombstones were visible. Pursuant to a recommendation by Planning Department staff, the applicant determined by survey the precise location of the 3/4-acre Methodist Church lot, and the boundaries of the lot were marked.

The applicant contracted with Applied Archaeology and History Associates (AAHA) to examine the property for the purpose of locating the graves cited in the 1898 Equity Court case. Jeanne Ward, Registered Professional Archaeologist of AAHA, conducted the field investigation in mid-October and submitted a report (*Management Summary, Cemetery Identification, Smith Property*, dated November 15, 2002) on her findings.

- a. The report included information from some historic documents, including 1861 and 1878 maps of Upper Marlborough. (The report incorrectly stated that the Marlborough Methodist Episcopal Church (MMEC) was not shown on the 1861 Martenet map.)
- b. The report indicated that the field investigations had revealed no depressions, tombstones

or other potential grave markers at the site of the church.

- c. The report made the following recommendation: "If setting aside the entire 3/4-acre MMEC parcel is not possible, further archaeological investigation is recommended [as] follows: 1) a remote sensing survey of the probably burial locations or 2) the carefully monitored excavation of trenches at regular intervals across the area . . ." Of the two types of investigation, remote sensing (i.e., by ground penetrating radar) was recommended.

The applicant has designed the subdivision to avoid building any houses on the 3/4-acre property of the Marlborough Methodist Episcopal Church. However, the subdivision plan proposes construction of a road through the middle of the church property.

Pursuant to instructions by the applicant, on February 3, 2003, the consultant performed an investigation of the area of the proposed road by using a backhoe to gently scrape back a small portion of the top layer of earth. According to the M-NCPPC historian who was able to witness some of this work while it was being performed, at least one grave and evidence of the footings for the church were found. According to the M-NCPPC historian, the applicant is expected "...to request that he not be required to provide [a] sidewalk on the north side of the proposed entrance road, thereby narrowing the [right-of-way] by enough to avoid building over the grave."

Burial Grounds are protected by state law (Sections 265 and 267 of Article 27 of the *Annotated Code of Maryland*). Burials discovered during ground disturbance will require work to be stopped. Applications for authorization to remove and reinter burials must be addressed to the office of the State's Attorney. In the case of an unmarked burial site, the entity requesting authorization to relocate has the burden of proving by archaeological excavation or other acceptable methods the precise location and boundaries of the burial site. [Section 265 (d) (8)]

The subdivision has been designed so that the Tyler Family Cemetery will be appropriately protected in the tree preservation area owned by the homeowners association. Requirements outlined in Sec. 24-135.02 include the following:

- a. As part of the preliminary plat application, the applicant must submit an inventory of existing cemetery elements (such as walls, gates, landscape features and tombstones, including a record of their inscriptions) and their condition.
 - b. An appropriate fence or wall constructed of stone, brick, metal or wood must be maintained or provided to delineate the cemetery boundaries, and its design must be approved by the Planning Board or its designee prior to the issuance of any permits.
13. **Town of Upper Marlboro**^{3/4} Staff met twice with the Town Commissioners of Upper Marlboro. The latest meeting was on January 13, 2003. At that meeting, the commissioners expressed a number of concerns including the location and nature of stormwater management, impacts to the transportation system, appropriate disposition of the cemeteries and an easement, and land that is not reflected on the plan that is purported to be owned by the town.

On January 14, 2003, the town held a public hearing on the subject application. At that hearing, as reflected in a letter dated January 22, 2003, the town voted to oppose the subject application because it did "...not have sufficient information to make sound judgment involving issues of stormwater management, traffic, lot size, the question of the current location of both cemeteries on the property, i.e., the question of accuracy in the location of the cemetery delineated on the plan at the west end of the property, as well as the lack of identification of the cemetery at the lower (east) end of the property nearest to Old Marlboro Pike. In addition, the question of accuracy in the description of the Town's property and Rights-of-Way"

Since that hearing and subsequent letter, many events have taken place in a short period of time. The applicant has revised the submitted plans, met again with the town, and obtained approval of a conceptual stormwater management plan from the county. The town has met with the county to explore other options regarding stormwater management. The applicant's consultant, while performing a site investigation on February 3, 2003, "...found at least one grave site at the edge of the proposed [entry road for the subdivision]." It has also come to staffs' attention that there may be a specific deed reference dating back to the 1800s that would indicate that the Tyler Family Cemetery (northwestern portion of the site) was never conveyed with the whole of what has become to be known as Parcel 53. The ownership and disposition of the Tyler Family cemetery should be resolved at the time of detailed site plan.

The applicant proffered at the public hearing to establish a dialogue on an on-going basis with the Town of Upper Marlboro and the citizens that expressed concerns.

16. **Lot Size Averaging**^{3/4} The applicant has proposed to utilize the lot size averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for development of this property.

The property is approximately 7.52 acres and in the R-80 Zone. Section 27-423 of the Prince George's County Zoning Ordinance establishes the zoning requirements for LSA. Specifically, in the R-80 Zone:

- a. The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone.
- b. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (40,000 square feet).

For the 7.52 acres located in the R-80 Zone, 34 lots would be allowed. The applicant proposes 17 lots; 11 of the proposed lots meet or exceed 9,500 square feet. Therefore, the proposed subdivision meets the minimum Zoning Ordinance standards for lot size averaging.

Further, Section 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 site is predominately wooded, with two cemeteries located generally at either end (east/west) of the property. The applicant has utilized LSA to locate these features in open space to be conveyed to a homeowners association (HOA).

- 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.*

For the most part, staff believes this finding can be made. Staff is primarily concerned about the lot (Lot 1) at the entrance of the subdivision. While there is a small amount of open space with proposed tree buffer between it and Old Marlboro Pike, the configuration of the lot (because of its relationship to the required location of the entry road) is such that the building envelope is somewhat limited. Lot 1 also backs right up to the existing lots along Rectory Lane, the first four of which are effectively double the size of other lots in the immediate area. This concern is shared by the town as well. In response to this point, the applicant revised the plan to lengthen the front street of the lot by 2 feet, the rear lot line by 4 feet, which increased the lot area by 432 square feet. Staff believes this revision to Lot 1 is minimal and does not effectively deal with the concern. Additionally, the latest revised plan shifted the 10-foot-wide open space access (which used to be located between Lots 2 and 3) to a location closer to the cemetery between Lots 8 and 9. The shifting of the open space window was requested by staff to create a more functional relationship between the access and the location of the Tyler Family Cemetery. This shifting, however, in conjunction with the cul-de-sac design, creates an awkward configuration for Lot 8. Additionally, the narrower and non-tangential property lines for Lots 8 and 9 force the houses to be placed on these lots to be set back much farther than the minimum front yard area, thereby making them even closer to the Tyler Family Cemetery. Staff believes that a great deal can be accomplished by removing one of the nine lots in the current configuration.

- 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.*

The subject property has significant vegetation on site that extends into surrounding properties. The applicant has proposed the use of open space for those woodlands adjacent to the smaller lots. The proposed design, with the exception of the discussion in B above, provides an appropriate transition to the adjacent properties in the vicinity with regard to the existing woodland.

17. **Detailed Site Plan**^¾ Because of the numerous issues raised regarding the look and methodology of the stormwater management, the relationship of the proposed architecture on all the lots to the

adjacent historic sites, as well as the immediate community, the specific location and disposition of the cemeteries (including an evaluation/analysis of the former Methodist Episcopal Site), and the adjustment of the lotting pattern to accommodate the discussion under the Lot Size Averaging, staff believes that a full Detailed Site Plan should be approved by the Planning Board prior to the approval of the final plat of subdivision. While the review of a Detailed Site Plan is generally not intended to search for new items to deal with, in this circumstance it is not unreasonable for the Planning Board to consider any item that has yet to be raised if it deems it to be appropriate to protect the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

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 Scott, seconded by Commissioner Eley, with Commissioners Scott, Eley and Hewlett voting in favor of the motion, and with Commissioner Lowe absent at its regular meeting held on Thursday, February 6, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of March 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:AH:rmk