

R E S O L U T I O N

WHEREAS, Nicholas J. Conte, Jr. is the owner of a .64-acre parcel of land known as Lot 8 and 9 Block B and 64th Avenue, a dedicated public right-of-way, and Tax Map 59, Grid B-1 said property being in the 2nd Election District of Prince George's County, Maryland, and being zoned R-55; and

WHEREAS, on November 13, 2002 Nicholas J. Conte filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 3 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02102 for Rea Addition to Cheverly 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 March 27, 2002, 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 March 27, 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/62/02), and APPROVED Variance Application No. VP-02102, and further APPROVED Preliminary Plan of Subdivision 4-02102, Rea Addition to Cheverly for Lots 1-3 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. To provide reference to the approved variances.
 - b. To re-label Lots 1–3, Lots 14–16, Block B.
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved. The Type II tree conservation plan shall show the proposed dwelling unit locations and shall show proposed grading. At the time of preparation of the Type II TCP, the proposed grading will ensure the preservation of the woodland on the lots. The applicant must demonstrate to the Environmental Planning Section that on-site Woodland Preservation is not feasible if off-site Woodland Preservation is proposed.

3. Development of this property shall be in accordance with the approved Stormwater Management Concept Plan # 978004710.
4. The final plat shall carry a note that identical dwellings shall not be constructed on abutting lots.
5. Prior to approval of the final plat of subdivision, the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication.
6. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/62/02). The following note shall be placed on the final plat of subdivision:

“Development is subject to restriction shown on the approved Type I Tree Conservation Plan (TCPI/62/02), 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 and Subtitle 25.”

7. Prior to the approval of the final plat of subdivision, in accordance with Section 24-112 of the Subdivision Regulations, the applicant shall vacate that portion of 64th Avenue necessary for the implementation of the subdivision.

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 on the north side of Joslyn Place, approximately 341 feet east of its intersection with 62nd Avenue in Cheverly.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-55	R-55
Use(s)	Vacant	Single-family Residential
Acreage	.6455	.6455
Lots	2	3
Dwelling Units:		

Detached

0

3

4. **Environmental**—This property is subject to the provisions of the Woodland Conservation Ordinance because it contains more than 10,000 square feet of woodland and has a previously approved Type II tree conservation plan for part of the subject property. A simplified forest stand delineation (FSD), submitted in lieu of a revised detailed FSD as requested, was found to address the requirements for an FSD in accordance with the *Prince George's County Woodland Conservation and Tree Preservation Technical Manual*. Recent aerial photos show that the subject property has been cleared in compliance with approved Type II Tree Conservation Plan TCPII/100/99, dated September 1999. The Environmental Planning Section recommends approval of TCPI/62/02 subject to conditions.

Noise impacts were identified in the 1994 *Bladensburg-New Carrollton and Vicinity Master Plan*, for noise associated with Landover Road and US 50 on the north and south, respectively. The subject property is located approximately 1,500 feet from Landover Road and approximately 2,000 feet from US 50. Using the Environmental Planning Section's noise model, the 65 dBA Ldn noise contours from these roadways are approximately 301 feet from centerline for Landover Road and approximately 500 feet from centerline for US 50. The subject property is not within the 65 dBA Ldn noise contours for either of these roadways.

The Type II Tree Conservation Plan, TCPII/100/99, previously submitted and stamped as received on November 22, 2002, does not meet the submission requirements for a preliminary plan. Because a preliminary plan requires a Type I tree conservation plan, the approved TCPII/100/99 has been revised to become TCPI/62/02. The revised TCPI (TCPI/62/02) now includes the adjoining 64th Avenue right-of-way not previously included as part of the approved Type II TCP. The Type I tree conservation plan worksheet as submitted has been revised to account for previously approved woodland clearing, and the designated woodland conservation area on the plan has been increased.

The plan proposes to meet the entire 0.22-acre requirement through the preservation of woodland on-site. The preservation of woodlands on lots below 20,000 is no longer the policy of the Environmental Planning Section; however, because the lots in question had woodland conservation approved previously, these areas will be allowed to remain. If the woodland cannot be preserved on the lots as shown due to proposed grading, the proposed woodland conservation may be provided at an off-site location without revising the TCPI.

The plan as submitted appears to show two streams flowing west to east. Section 24-130 requires the preservation of stream buffers associated with regulated streams. It does not appear that the streams are regulated, according to federal and state laws, because they are the extreme upper reaches of the drainage area, or are only ephemeral streams and as such are not regulated.

According to information obtained from the Maryland Department of National Resources National Heritage Program publication entitled, "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.

According to the sewer service and water service maps produced by DER, the property is in categories S-3, and W-3. The predominant soil type on-site is sandy and clayey. These soil types generally exhibit moderate limitations to development due to steep slopes, poor stability and high shrink/swell potential. There are no noise issues associated with the proposal because it is located some distance away from major noise generators. There are no Marlboro clay outcrops or Scenic and Historic Roads affected by this proposal.

5. **Community Planning**—The subject property is located within the limits of the *1994 Blandensburg-New Carrollton and Vicinity Master Plan*, in Planning Area 69 in Cheverly. The 2002 General Plan locates this property in the Developed Tier. The master plan land use recommendation for the property is for medium suburban single-family residential. The proposed subdivision is consistent with the land use recommendation of the master plan and the General Plan.

The master plan map shows a natural reserve area on the site indicating steep or severe slopes associated with highly erodible soils. The master plan indicates such areas should be restricted from development except for nonstructural uses. The site plan indicates slopes between 15-25 percent. The master plan also recommends establishing a goal of 25 percent woodland cover for the area and reforestation. Such a minimum should be required to be maintained on this wooded property. Particular emphasis on environmental compatibility is important in the review of this proposal because master plan guideline 3 states: “...decisions concerning the selection and use of properties should be based on environmental considerations.” Through the preliminary plan review process, the applicant will be required to provide woodland conservation on site and establish a conservation easement on each lot to protect the environmentally sensitive areas on the proposed lots.

A recommendation in the Living Areas Chapter (Page 48) is that: “A mixture of housing styles should be required in new subdivisions. Identical houses should not be located next to each other.... This should be implemented via conditions placed on subdivision approvals....” Accordingly, identical dwellings cannot be located next to one another.

6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Department of Parks and Recreation recommends that the applicant pay a fee-in-lieu of the requirement of the mandatory dedication of parkland because the land available is unsuitable due to its size and location.
7. **Trails**—There are no master plan trail issues associated with this application.
8. **Transportation**—The application is a preliminary plan of subdivision for a residential development consisting of three single-family dwelling units. The site encompasses two recorded

lots, Lots 8 and 9, of REA Addition to Cheverly (plat 40), making the subdivision a net of one lot. The proposed net development would generate 1 AM and 1 PM peak-hour vehicle trip as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The site is within the Developed Tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better.

Unsignalized intersections: The *Highway Capacity Manual* 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. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The traffic generated by the proposed preliminary plan would impact the intersection of MD 202 and Cheverly Avenue. Staff has no recent counts at this intersection. Due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. There are no significant transportation issues known to staff in the vicinity. Staff would, therefore, recommend that the Planning Board find that 1 AM and 1 PM peak-hour trip will have a de minimus impact upon delay in the critical movements at the MD 202/Cheverly Avenue intersection.

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.

10. **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 concluded that the subdivision is exempt from the APF test for schools because it is located in the Developed Tier.
11. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities and concluded the following:
 - a. The existing fire engine at Kentland Fire Station, Company 33, located at 7701 Landover Road has a service travel time of 2.98 minutes, which is within the 5.25-minute travel time guideline.

- b. The existing ambulance at Bladensburg Fire Station, Company 9, located at 4213 Edmonston Road has a service travel time of 2.94 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic at Landover Hills Fire Station, Company 30, located at 68th Street and Annapolis Road has a service travel time of 2.94 minutes, which is within the 7.25-minute travel time.

The above findings are in conformance with the 1990 *Adopted and Approved Public Safety Master Plan* 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 service.

- 12. **Police Facilities**— The proposed development is within the service area for District I–Hyattsville. In accordance with Section 24-122.1(c) of the Subdivision Regulations, the existing county police facilities will be adequate to serve the proposed REA Addition to Cheverly development. This police facility will adequately serve the population generated by the proposed subdivision.
- 13. **Health Department**—The Health Department has no comment to offer.
- 14. **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, # 978004710, 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.
- 15. **Variance** – Lots 2 and 3 do not meet the minimum lot width at the front building line of 65 feet for conventional development in the R-55 Zone. Lot 2 is 63.24 feet and Lot 3 is 61.50 (Lot 1 is 65.50). Therefore, a variance of 1.76 feet for Lot 2 and 3.5 feet for Lot 3 from Section 27-442(d), Table III, of the Zoning Ordinance is required from the minimum lot width at the front building line.

Section 27-230 of the Zoning Ordinance sets forth the required findings for approval of variance requests. The applicant addressed the required findings in the statement of justification. Staff concurs and supports the variance. A variance may only be approved if:

- A. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**

Lots 2 and 3 have no exceptional topographic conditions, however, because of the utilization of the public street in the composition of the creation of three lots, staff has found that an extraordinary situation exists. No other lots in the subdivision were created utilizing a portion of a vacated

public street. By resubdividing all of the land area of two lots and the vacated public street, lots are created that are comparable to the rest of the existing subdivision that was created in 1953.

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

Unusual practical difficulties could result if the variances were not granted to allow for compatible lots within the existing subdivision. Unusually large or small lots are avoided by allowing the redistribution of the land area into three lots. The variances will allow for equivalent lots to be created to those that were created in 1955.

- C. **The variance will not substantially impair the integrity of the General Plan or Master Plan.**

The three lots being created are compatible with the surrounding existing subdivision. The existing land use pattern is continued along the existing block with the approval of the requested variances. The proposed preliminary plan is consistent with the recommendations in the master plan and 2002 General Plan.

15. **Town of Cheverly**—This preliminary plan application was referred to the Town Administrator of Cheverly. The town has no objection to the proposed subdivision, based on a referral from the Town of Cheverly dated February 27, 2003.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Lowe, seconded by Commissioner Eley, with Commissioners Lowe, Eley, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, March 27, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of April 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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