

R E S O L U T I O N

WHEREAS, John Lewis is the owner of a 7.30-acre parcel of land known as Parcels 52, 18 and Outlot A, NLP 101 @21, Tax Map 133, Grid B-2, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on December 31, 2002, John Lewis filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02130 for Lewis 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 March 13, 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 March 13, 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/7/03), and further APPROVED Preliminary Plan of Subdivision 4-02130, Lewis Property for Parcel A with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised to label the property as Parcel A.
2. Prior to the issuance of permits a Type II Tree Conservation Plan shall be approved.
3. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer and be reviewed by the Environmental Planning Section prior to certification. 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.”

4. The applicant shall construct a standard sidewalk along the property's entire street frontage of

Piscataway Road unless modified by the State Highway Administration at the time of issuance of street construction permits.

5. All (new) commercial structures shall be fully sprinklered in accordance with National Fire Protection Association Standard 13D and all applicable Prince George's County laws.
6. Prior to the issuance of grading permits the applicant shall submit a manifest demonstrating that the drum located on the property has been properly disposed of by a licensed waste company.
7. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/07/03). 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/07/03), 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.”

8. Total development within the subject property shall be limited to 14,000 square feet of church facilities (excluding the existing parsonage), or equivalent development that is permitted within the R-R Zone, which generates no more than 20 AM and 20 PM peak-hour vehicle trips. Development of up to 5,000 additional square feet of church space shall not constitute a significant change in trip generation. Any development greater than that identified herein shall require an additional preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

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 southeast side of Piscataway Road approximately 800 feet north of its intersection with Windbrook Drive.

3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	SFD	14,000 plus parsonage
Acreage	7.2	7.2
Parcels	2	1

4. **Environmental**— 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 has more than 10,000 square feet of woodland. A simplified Forest Stand Delineation has been reviewed. The plan shows all of the required features and meets the requirements of the Woodland Conservation Ordinance. A Type I Tree Conservation Plan, TCPI/7/03, has been reviewed and is recommended for approval by the Environmental Planning Section.

The TCP proposes clearing 0.27 acre of the existing 1.38 acres of woodland. The woodland conservation required for this proposal has been correctly calculated as 1.65 acres. The plan proposes to meet the 1.65 acre requirement by providing 0.77 acre of on-site preservation and 0.88 acre of on-site reforestation. The reforestation areas will provide additional buffering of the site from the adjacent school property, provide pretreatment of stormwater before it enters the stormwater management pond, and provide an additional buffer along the stream.

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The Preliminary Plan of Subdivision and Forest Stand Delineation correctly indicate that there are no wetlands or 100-year floodplain on the subject property. However, a stream is shown on the property that is associated with Piscataway Creek in the Potomac River watershed. The minimum 50-foot stream buffer and expanded buffer required by Section 24-130 of the Subdivision Regulations are correctly shown

A review of soils maps, National Wetland Inventory Maps, and other information on the M-NCPPC Geographic Information System (GIS) database suggests that there are no wetlands or floodplain on the site. Current air photos indicate that little of the site is forested. The *Subregion V Master Plan* does not indicate any areas of Natural Reserve or Conditional Reserve on the site. No designated scenic or historic roads are affected by this proposal. There are no nearby sources of traffic-generated noise. The proposed use is not expected to be a noise generator.

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. According to the Sewer Service and Water Service maps produced by DER, the property is in categories S-3 and W-3.

The *Prince George’s County Soils Survey* indicates that the principal soils on the site are in the

Aura, Beltsville, and Croom soils series. Marlboro clay does not occur in this area. The soils information included in the review package indicates that the principal soils on the site are highly erodible and require special care for erosion/sediment control when associated with slopes exceeding 15 percent. Additionally, Beltsville soils may have a perched water table and impeded drainage. A soils report may be required by the Department of Environmental Resources during the permit process review.

5. **Community Planning**— The subject property is located within the limits of the 1993 *Subregion V Master Plan*, in Planning Area 81B in the Tippet Community. The 1993 *Subregion V SMA* classified this property in the R-R Zone. The proposed preliminary plan is consistent with the recommendations of the master plan and the *General Plan*.

The submitted application is located in the Developing Tier as defined by the 2002 *General Plan*. One of the challenges cited for future development in the Developing Tier is “to direct growth in order to encourage design of new communities and neighborhoods, and existing communities to be more land efficient, more environmentally sensitive, and more transit supporting than conventional subdivisions...The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable.” Goals for the Developing Tier that appear relevant to review of the land use proposed in this application include:

- Maintain low- to moderate-density land uses (except in Center and Corridors).
- Reinforce existing suburban residential neighborhoods.
- Preserve and enhance environmentally sensitive areas.
- Balance the pace of development with the ability of the private sector to provide adequate transportation and public facilities.
- Encourage contiguous expansion of development where public facilities and services can be more efficiently provided.

Development Pattern policies and strategies for the Developing Tier that are particularly relevant to the type of land use proposed by this application include:

Policy 1: Encourage low- to moderate-density, transit- and pedestrian-oriented development.

Strategy I: Promote a greater mix of uses and housing choices in neighborhoods and communities focused around human-scale, mixed-use centers accessible by multiple transportation modes.

Strategy II: Revise master plans, sector plans and land use regulations to encourage compact neighborhood development on large sites.

Neither the master plan nor land use regulations have been revised pursuant to the policies of the *General Plan*. Regardless, a preliminary subdivision application for a church within a residential community, prepared in accordance with existing regulations in this part of the Developing Tier,

is not inconsistent with the 2002 *General Plan* Developing Tier Policy 1. The area in which this application is located is recommended for Low Suburban land use as part of a low-density suburban living area in the Tippet Community. A church is an integral element of a residential community and conforms to the living area recommendations of the master plan

6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the preliminary plan is exempt from the requirement of the mandatory dedication of parkland because the parcel being created is greater than one acre in size and it is a nonresidential use.
7. **Trails**—There are no master plan trail issues associated with this application. However, it is recommended that the applicant construct a standard sidewalk along the subject property's frontage of Piscataway Road.
8. **Transportation**—The original application was for construction of a church with a total of 14,000 gross square feet (GSF) while maintaining the existing house and accessory structures for related church activities. The applicant was advised that the use proposed would have a maximum allowable peak hour trip cap of 20 vehicles in the AM and PM peak hour, based on recent traffic counts for the intersection of Piscataway Road (MD223) and Tippet Road. The applicant was advised that an increase over that would require the submittal of a traffic study.

The preliminary plan was revised to include an additional use but a traffic study was not submitted. The applicant would ultimately like to provide childcare services for a total of 50 children in addition to the proposed church and the related church activities. The applicant had indicated that the addition of a childcare use is not anticipated to occur for some time if at all. The addition of the day care use would increase the total peak hour vehicle trips to 59 AM and 63 PM as determined using the Guidelines for the Analysis of the Traffic Impact of Development Proposals. In accordance with the guidelines, a traffic impact study would be required because the total uses on site would generate more than 50 vehicle trips.

Prior to the Planning Board hearing, the applicant was advised that the preliminary plan was within its first 70-day review period. The applicant had an opportunity for an additional 70 days for review if the applicant chose to grant a 70-day waiver. Staff advised the applicant that by granting the 70-day waiver, a traffic study could be submitted and evaluated. The review could then determine if the addition of a childcare use would require the installation of a signal at Piscataway Road (MD223) and Tippet Road. The applicant was advised that once this preliminary plan of subdivision was approved with a limit on development, any additional use that would generate more impact would be cause for the requirement of a new preliminary plan of subdivision.

The traffic generated by the proposed preliminary plan would impact the unsignalized intersection of Piscataway Road (MD223) and Tippet Road. This intersection is the nearest intersection to the site and would serve virtually all of the site-generated traffic. Staff requested recent AM and PM peak period traffic counts, since no recent count was available.

The intersection of Piscataway Road (MD223) and Tippet Road is not programmed for

additional improvement within the next six years in the current Prince George's County Capital Improvement Program (CIP), or the Maryland Department of Transportation–Consolidated Transportation Program (CTP).

The subject property is located within the Developing 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 1,450 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 intersection of Piscataway Road (MD223) and Tippet Road, when analyzed with existing, background and total future traffic as developed using the Guidelines, was found to be operating at or better than the policy service level. The staff analysis of the critical intersection is summarized below:

	Avg. Vehicle Delay (AM/PM) in seconds
W/ Existing Traffic	40/46
W/ Background Traffic	40/46
W/ Total Traffic (Church Only)	44/49.5
W/ Total Traffic (Church & Daycare)	999/999*
<i>*Reported delay of +999 is an indication that the resulting average delay is outside of the procedures and should only be interpreted as excessive.</i>	

Based upon the preceding findings, The Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Subdivision Regulations.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of school 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 that the subdivision is exempt from APF test for schools because it is an institutional use.
10. **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 service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service travel time of 6.38 minutes, which is beyond the

3.25-minute travel time guideline.

- b. The existing ambulance service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service travel time of 6.38 minutes, which is beyond the 4.25-minute travel time guideline.
- c. The existing paramedic service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service travel time of 6.38 minutes, which is within the 7.25-minute travel time guideline.
- d. The existing ladder truck service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road, has a service travel time of 8.79 minutes, which is beyond the 4.25-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*.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, the Fire Department recommends that a fire suppression system be installed in all commercial structures in accordance with National Fire Protection Association Standard 13 and all applicable Prince George's County laws.

- 11. **Police Facilities**— The proposed development is within the service area for Police District IV-Oxon Hill. In accordance with Section 24-122.1(c) of the Subdivision Regulations the existing county police facilities will be adequate to serve the proposed Lewis Property development. This police facility will adequately serve the population generated by the proposed subdivision.
- 12. **Health Department**—The Health Department has performed a site inspection of the property and notes that trash and other debris as well as abandoned vehicles have been found to occur on the property. An unlabeled drum was also found on the property that contains some type of liquid.

The applicant should provide evidence that the trash and other debris have been removed and properly discarded. The applicant must also demonstrate that the contents of the drum located on the property have been properly evaluated and disposed of in an appropriate manner by a licensed hazardous waste company, if appropriate.

- 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, # 41111-2002-00, 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.

14. **Variation for Access**^{3/4 3/4} Section 24-121(a)(3) of the Subdivision Regulations establishes that proposed parcels fronting on a roadway of an arterial classification or higher shall be designed to front on either an interior street or service road. The subject property has primary frontage on Piscataway Road, an arterial roadway, and proposes one direct vehicular access.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

- A. That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.**

The location, type and extent of the improvements at the site entrance will be reviewed and approved by the State Highway Administration (SHA). Allowing the access to Piscataway and not requiring that the applicant access via Bork Drive provides for better safety and the possibility of less conflict between the neighborhood traffic and the church traffic.

- 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.**

The property is unique in its configuration and use. The uses generally surrounding this property are single-family dwelling units with access to internal neighborhood streets. The impact of this development having to share internal neighborhood public streets may cause conflict. The conditions associated with this request are not generally shared by the surrounding properties.

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

The granting of the variation requests will not constitute a violation of any other law, ordinance, or regulation because the other laws, ordinances, and regulations will be addressed during subsequent reviews, approvals, and permitting processes. Development of the access is permitted by SHA. Appropriate improvements will be implemented through the permitting processes. This mechanism ensures that the approval of this

variation would not constitute a violation of 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 primary frontage to the property is on Piscataway Road, to require the applicant to access the site via Bork Drive could cause conflict between the communities and could result in a particular hardship on the owner.

Staff recommends approval of a variation request from Section 24-121 of the Subdivision Regulations to allow one direct vehicular access point onto Piscataway Road for the subject property.

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 Eley, seconded by Commissioner Lowe, with Commissioners Eley, Lowe, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, March 13, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of April 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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