

R E S O L U T I O N

WHEREAS, William and Betsy Olden is the owner of a 27.90-acre parcel of land known as Parcels 39 and 40, Tax Map 82, E-4, F-4 and Grid 90 F-1, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on December 31, 2002, Mediterranean Homes Corporation filed an application for approval of a Preliminary Subdivision Plan for 45 lots and 1 outparcel; and

WHEREAS, the plan was revised to include 43 lots, 2 parcels and 1 outlot (Staff Exhibit #1); and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02131 for Sun Valley Estates 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 May 15, 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 May 15, 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/08/03), and further APPROVED Preliminary Plan of Subdivision 4-02131, Sun Valley Estates for Lots 1-43 and Parcels A, B and Outlot A with the following conditions:

1. Prior to signature approval of the preliminary plan:
  - a. General Note 9 shall be corrected to indicate that there is a historic cemetery on the adjoining property, Historic Resource PG#78-10.
  - b. A stormwater management plan shall be approved.
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** is less than or equal to 105 percent or six 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/8/03). The following notes shall be placed on the final plat of subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/8/03), 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.”

4. Prior to the issuance of any permits on the site, a Type II tree conservation plan shall be approved.
5. The following notes shall be placed on the final plat of subdivision and on the Type II tree conservation plan:
  - a. Prior to the occupancy of any house abutting afforestation and/or reforestation areas, permanent fencing and signage indicating the presence of the afforestation and/or reforestation shall be constructed.
  - b. All afforestation and/or reforestation shall be completed the first planting season after the issuance of the initial grading permit unless an extension of time is granted by the Environmental Planning Section.
6. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the Patuxent River Primary Management Area except for approved impacts. 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.”
7. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall provide a financial contribution of \$210.00 to the Department of Public Works and Transportation for the placement of a bikeway sign along Westphalia Road, designated a Class III bikeway. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit.
8. Prior to grading permit approval, the applicant shall submit evidence that the discarded tires on site have been removed in accordance with Health Department requirements.
9. Prior to the issuance of any building permit on the subject property, the applicant shall dedicate a right-of-way along Westphalia Road as shown on the preliminary plan.

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 south side of Westphalia Road, east of Castle Drive in Westphalia Estates.
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)	Undeveloped	Single-family detached homes
Acreage	27.9	27.9
Lots	0	43
Parcels	2	2
Outlots	0	1
Detached Dwelling Units	0	43

4. **Environmental**—A review of the available information indicates that streams, wetlands, severe slopes, and areas of steep slopes with highly erodible soils are found to occur on the property. There are no transportation-related noise impacts associated with nearby Westphalia Road. The soils found to occur, according to the Prince George's County Soil Survey, include Adelphia fine sandy loam; Galestown-Evesboro loamy sand; Sandy land, steep; Sassafras fine sandy loam, and Westphalia-Evesboro complex. Some of these soils have limitations that would affect the development of this site but not the layout of the development. According to available information, Marlboro clay is not found to occur on this property. The sewer and water service categories are S-4 and W-4, according to information obtained from the Department of Environmental Resources dated September 2001. According to information obtained from the Maryland Department of Natural Resources, Natural 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. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Western Branch watershed of the Patuxent River basin and in the Developing Tier as reflected in the adopted General Plan.

#### **Woodland Conservation**

The revised forest stand delineation (FSD) date-stamped March 11, 2003, has been found to generally address the requirements for an FSD. This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the area of existing woodland is greater than 10,000 square feet and the area of the property is greater than 40,000 square feet. The Type I Tree Conservation Plan, TCPI/8/03, date-stamped March 19, 2003, has been reviewed and found to address the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance.

This 29.04-acre property in the R-R Zone has a woodland conservation threshold (WCT) of 20 percent, or 5.81 acres, and a replacement requirement of 2.18 acres for a total requirement of 7.99 acres. This 7.99-acre requirement is proposed to be satisfied by 4.62 acres of on-site preservation and 3.37 acres of on-site afforestation and reforestation. TCPI/8/03 is recommended for approval subject to conditions included in this report.

### **Patuxent River Primary Management Area (PMA)**

Although no areas of 100-year floodplain are found on this property, a stream and wetland area are found in the southwest corner of the property. These features, along with the 50-foot stream buffer, the 25-foot wetland buffer, adjacent areas of slopes greater than 25 percent, and adjacent areas of slopes between 15 and 25 percent with highly erodible soils comprise the Patuxent River Primary Management Area (PMA). Each of these features and the PMA have been accurately shown on the preliminary plan of subdivision and the TCPI.

The Subdivision Ordinance, Section 24-130(b)(5), requires that the PMA be preserved in a natural state to the fullest extent possible. A letter of justification, dated March 5, 2003, identified each of the proposed PMA impacts and provided information on how those impacts have been minimized in accordance with Section 24-130(b)(5) of the Subdivision Ordinance.

The two proposed impacts are associated with the infrastructure necessary for the development of this parcel. In addition, the extent of the proposed impacts have been reduced beyond that reflected by the original application. The first impact is associated with a stormdrain outfall that is required to transmit stormwater from the proposed pond to the existing drainage within the PMA. The second impact is required for the sewer connection to the existing sewer outfall located within the PMA. Both impacts are minimal and necessary for the development of this site; the PMA has been preserved to the greatest extent possible.

### **Water and Sewer Category**

The property is in water and sewer category 3 and will be served by public systems.

5. **Community Planning**—The property is in Planning Area 78, Westphalia. The 2002 General Plan placed the property in the Developing Tier. The *Melwood-Westphalia Approved Master Plan and SMA* (1994) recommends residential land use at the low-suburban density. The *Melwood-Westphalia Approved Master Plan and SMA* rezoned the subject property from the R-A Zone to the R-R Zone, consistent with the plan's recommendation for low-suburban planned community residential development. Specifically, this property is within the boundaries of the Westphalia planned community, described on pages 66 and 80 of the master plan. As such, the plan is intended for this subdivision to be part of a larger community. The proposed subdivision is consistent with the master plan.
6. **Parks and Recreation**—The site is subject to the requirements of Section 24-134 of the Subdivision Regulations for mandatory park dedication. However, the size and location of land available for dedication is unsuitable for park purposes. Therefore, staff recommends a

fee-in-lieu of park dedication be required.

7. **Trails**—Two master plan trails impact the subject property. The *Melwood-Westphalia Approved Master Plan and SMA* designates Westphalia Road as a bikeway. Bikes can safely be accommodated along this road with wide asphalt shoulders. Bikeway signage is also recommended to alert motorists to the possibility of bicycle traffic. In cases along county rights-of-way, the Planning Board has typically required the applicant to provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of this signage. Staff recommends that the payment be required in this case. The master plan also recommends a trail facility along the master plan roadway C-632. This road will not be constructed by the applicant.
8. **Transportation**—Because the proposed development would generate fewer than 50 trips, a traffic study was not required of the applicant. The applicant did, however, present staff with a traffic study that was prepared using data collected in September 2002. 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:

**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 study identified the following unsignalized intersections as the ones on which the proposed development would have the most impact:

EXISTING CONDITIONS		
Intersection	AM	PM
	Delay (Seconds.)	
Westphalia Road/D’Arcy Road	B/11.6	B/10.5
Sansbury Road/D’Arcy Road	B/13.3	C/15.5

The traffic study identified two background developments (East Gate and 4-93085) that were in the immediate vicinity of the subject property, and would have an impact on the above-mentioned intersections. An analysis of the impact of these background developments was done and the following results were determined:

BACKGROUND CONDITIONS		
Intersection	AM	PM
	Delay (Seconds.)	
Westphalia Road/D'Arcy Road	B/14.6	B/11.6
Sansbury Road/D'Arcy Road	B/23.4	C/17.9

Using the *Guidelines For The Analysis Of The Traffic Impact Of Development Proposals*, the study has indicated that the proposed development of 43 single-family units will be adding 32 (6 in; 26 out) AM peak-hour trips and 38 (25 in; 13 out) PM peak-hour trips at the time of full buildout. Applying the site-generated traffic along with background developments, the following results were determined:

TOTAL CONDITIONS		
Intersection	AM	PM
	Delay (Seconds.)	
Westphalia Road/D'Arcy Road	B/14.6	B/11.6
Sansbury Road/D'Arcy Road	B/23.4	C/17.9
Westphalia Road/Site Access	B/10.8	B/10.1

None of the above mentioned intersections are programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program, nor the Prince George's County Capital Improvement Program (CIP).

In its conclusion, the traffic stated that the proposed development would not have an adverse impact on traffic conditions in the vicinity of the site. Upon review of the study, staff concurs with that finding. The traffic study was also reviewed by the staff at the State Highway Administration (SHA) as well as the staff at the Department of Public Works and Transportation (DPW&T). The SHA staff concurred with the study findings; however, in an April 10, 2003, letter to staff from DPW&T (Issayans to Burton), Mr. Issayans felt that a growth factor should have been included in the analysis of the future levels-of-service. Although staff agrees with the principle of applying a growth factor to the analyses of future levels-of-service, in-house data

have revealed that the traffic volumes along D'Arcy Road have not risen over the years to have any statistical significance to the computations. Even if a conservative growth rate of three percent had been applied to the analyses, the resulting level-of-service would still be well within the acceptable threshold. The DPW&T staff also requested that an acceleration and deceleration lane be provided at the proposed site access road and Westphalia Road. Staff supports this request.

Regarding overall site layout and access, staff finds no issues. The application has shown frontage dedication along Westphalia Road consistent with the county's master plans.

Based on these findings, the Transportation Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved with a condition requiring dedication along Westphalia Road.

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.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	43 sfd	43 sfd	43 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	10.32	2.58	5.16
Actual Enrollment	5416	4896	9660
Completion Enrollment	281	197	393
Wait Enrollment	604	225	451
Cumulative Enrollment	12.96	13.86	27.72
Total Enrollment	6324.28	5334.44	10536.88
State Rated Capacity	5364	4638	8770
Percent Capacity	117.90%	115.02%	120.15%
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 the referral memorandum 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 included in the resolution will be the ones that 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 cluster. There is no funded school in the affected middle cluster. The Frederick Douglass addition is the funded school in the affected high school cluster. Therefore, this subdivision can be approved subject to conditions, in accordance with Section 24-122.02, including a six-year waiting period.

10. **Fire and Rescue**—The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities and concluded the following:
  - a. The existing fire engine service at Forestville Fire Station, Company 23, located at 8321 Old Marlboro Pike has a service travel time of 4.10 minutes, which is within the 5.25-minute travel time guideline.
  - b. The existing ambulance service at Forestville Fire Station, Company 23, has a service travel time of 4.10 minutes, which is within the 6.25-minute travel time guideline.



- c. The existing paramedic service at Kentland Fire Station, Company 46, located at 10400 Campus Way South, has a service travel time of 11.63 minutes, which is beyond the 7.25-minute travel time guideline. The nearest fire station, Company 46, located at 10400 Campus Way South, has a service travel time of 4.10 minutes. This facility would be within the recommended travel 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*.
11. **Police Facilities**—The proposed development is within the service area for Police District II-Bowie. In accordance with Section 24-122.01(c) of the Prince George’s County Subdivision Regulations, existing county police facilities will be adequate to serve the proposed Sun Valley Estates development. This police facility will adequately serve the population generated by the proposed subdivision.
12. **Health Department**—The Health Department has reviewed the application and notes that numerous tires were found on the property. The Health Department requires that these tires be hauled and discarded by a licensed scrap tire disposal/recycling facility. This should be done prior to approval of the final plat.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. An application for approval of a stormwater management concept plan has been filed but not yet approved. To ensure that development of this site does not result in on site or downstream flooding, this plan must be approved prior to signature approval of the preliminary plan. Development must be in accordance with the approved stormwater concept plan, or any revisions thereto.
14. **Cemeteries**¾ The applicant’s engineer has certified that there are no known cemeteries on the subject property. However, there is a cemetery on the adjoining property to the east. See Finding 14, Historic Preservation.
15. **Lot Size Averaging**—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.**  
  
*Comment:* The design of this subdivision respects the natural features on this property. The property exhibits several areas of steep slopes. It is separated from the adjoining historic resource by a 40-foot-wide outlot that will be in HOA ownership until it may be acquired by the county for road construction purposes. Superior access is achieved by eliminating the need for direct access to proposed Dower House Road Extended.
  - 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.**

*Comment:* The property abuts Westphalia Estates to the west. Proposed lots sizes are consistent with Westphalia Estates. Lots adjoining Westphalia Estates are at least 20,000 square feet in size. In addition, all of the lots along Westphalia Road are 20,000 square feet or better. Smaller lots are in the rear of the subdivision.

- 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.**

*Comment:* The Patuxent River Primary Management Area (PMA) encroaches the southern portion of the property and the adjoining properties to the east and south. This area will remain densely wooded and provide an adequate transition and buffer to the adjoining properties and PMA.

In addition, Section 27-423 of the Prince George's County Zoning Ordinance sets the zoning requirements for lot size averaging. Specifically, in the R-R Zone:

- d. **The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (20,000 square feet).**

*Comment:* In this case, with 27.90 acres and a minimum lot size of 20,000 square feet, the maximum number of lots allowed is 56. The applicant proposes 45 lots.

- e. **At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (20,000 square feet).**

*Comment:* As proposed, 28 of the proposed 43 lots (or 65+ percent) exceed 20,000 square feet. Therefore, the proposed subdivision meets the minimum zoning ordinance standards for lot size averaging. Moreover, while 22 lots may be as small as 15,000 square feet in this subdivision, 8 of the 15 lots that are smaller than 20,000 square feet are 19,000 square feet or better. This is a well-conceived lot size averaging plan.

16. **Historic Preservation**<sup>3/4</sup> The proposed subdivision is located immediately west of the Dunblane Site and Cemetery (Historic Resource #78-10, listed in the Inventory of Historic Resources in *The Historic Sites and Districts Plan*, 1992). Located on the Dunblane property is the Magruder family cemetery, preserved in good condition and containing tombstones dating from 1810 to 1915. The original 18<sup>th</sup>-century Dunblane house was destroyed in 1969, but because of its architectural and historical significance, its site may have considerable archaeological significance.

Historic Resource #78-10 has not been evaluated by the Historic Preservation Commission (HPC), according to the historical and architectural criteria, for possible Historic Site status. When that evaluation takes place, either all or part of the historic resource will be designated as a Historic Site under the County's Historic Preservation Ordinance, or the entire property will be deleted from the Inventory of Historic Resources, and will thereafter no longer be subject to the Preservation Ordinance. It will be necessary for the HPC to evaluate Historic Resource #78-10.

This evaluation (which will be scheduled within the next few months) will determine whether all or any of the existing environmental setting of the resource should be designated as a Historic Site, or deleted from the inventory. Because of the loss of the original Dunblane house, and the construction of modern buildings on the property, the HPC may decide to designate only a portion of the existing environmental setting of the historic resource, which is presently all of Parcel 19, Tax Map 82 (76.01 acres).

The *Landscape Manual* requires a 40-foot-wide (D) bufferyard along the common boundary between a developing property and any designated Historic Site. If the entire existing Environmental Setting of Historic Resource #78-10 (76.01 acres) is designated as a Historic Site, a 40-foot bufferyard will be required on the developing property along all of its common boundary with the Historic Site. If a smaller portion of the existing environmental setting is designated (for example, the cemetery, plus the site of the original house for potential archaeological investigation), and if this smaller area does not directly adjoin the developing property, the 40-foot bufferyard will not be required.

General Note #9 incorrectly indicates that “There is no evidence of a cemetery on or near the subject property.” Prior to signature approval, this note should be corrected to indicate that there is a historic cemetery on the adjoining property, Historic Resource PG#78-10.

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 Lowe, with Commissioners Scott, Lowe, Eley, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, May 15, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12th day of June 2003.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JD:rmk