

R E S O L U T I O N

WHEREAS, Downigh Trustee is the owner of a 65.38-acre parcel of land known as Parcel 7, Tax Map 148, Grid F-1, said property being in the 4th Election District of Prince George's County, Maryland, and being zoned O-S; and

WHEREAS, on April 12, 2004, Bernard Downing filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 12 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04074 for Cedars of Nottingham 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 September 23, 2004, 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 September 23, 2004, 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/35/04), and further APPROVED Preliminary Plan of Subdivision 4-04074, Cedars of Nottingham for Lots 1 - 12 with the following conditions:

1. Prior to signature approval of the preliminary plan, revise the FSD text and plan as follows:
 - a. Delineate the Forest Interior Dwelling Species Habitat ("FIDS Habitat"), the 300-foot-wide buffer, and label accordingly;
 - b. Add all graphic symbols and labels to the key; and
 - c. Have the revised FSD signed and dated by the qualified professional who prepared it.
2. Prior to signature approval of the preliminary plan, revise the TCPI as follows:
 - a. Confirm the correct amount of 100-year floodplain on the property based on an approved 100-year floodplain study;

- b. Revise the woodland conservation worksheet, lot by lot woodland conservation table, and plan as necessary to reflect additional on-site woodland conservation, both through preservation and afforestation;
 - c. Show the 300-foot-wide building restriction lines on all lots, and revise lots as necessary to move house footprints to the edge or outside of the FIDS habitat.
 - d. Show all proposed grading and reduce the limits of disturbance wherever possible, while retaining a 40 foot deep active rear yard area, and 20-foot-wide side and front yard areas; and
 - e. Have the revised TCPI signed and dated by the qualified professional who prepared it.
3. 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/35/04), 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 signature approval of the Preliminary Plan, the Preliminary Plan and TCPI shall be revised to relocate the house pads on Lots 5, 6, 7 and 8 to the north to retain FIDS habitat to the greatest extent possible.
5. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. 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 are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
6. Prior to signature approval of the Preliminary Plan, revise the TCPI to show additional vegetative screening on Lots 1, 2, and 3, adjacent to a public right-of-way. Also, show additional vegetative screening along the eastern property lines of Lots 1 and 8 where they adjoin park property.
7. At time of final plat, a 100-foot-deep building restriction line shall be delineated from Nottingham Road and Tanyard Road.
8. At time of final plat, a 40-foot-wide scenic easement shall be delineated adjacent to the Tanyard Road right-of-way, behind the public utility easement, and the following note shall be placed on the final plat:

“Tanyard Road is a county-designated Historic Road. The scenic easement described on this plat is an area where the installation of structures and roads and/or the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches or trunks is allowed.”

9. Roadway improvements on Tanyard Road shall be carried out in accordance with design guidelines and standards for scenic and historic roads prepared by the Department of Public Works and Transportation. The applicant shall coordinate a conceptual preapplication meeting between the Department of Public Works and Transportation and M-NCPPC to determine what the improvements are prior to paving and stormdrain plan submittal.
10. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
11. Prior to signature approval of the preliminary plan, submit a copy of the approved stormwater management concept letter and associated plans; and revise the preliminary plan and TCPI, if necessary, to show the proposed location of stormwater management facilities.
12. The applicant shall provide a fee to Prince George’s County, which shall serve as a fair share contribution towards the construction of the proposed Croom-Naylor Station, and acquisition of an ambulance. The fee shall be paid at time of the issuance of building permits. The fair share fee is \$1,302 per lot.
13. The applicant and the applicant's heirs, successors, and/or assigns shall provide a financial contribution of \$420 to the Department of Public Works and Transportation for the placement of “Share the Road With a Bike” signage. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit.
14. If road frontage improvements are required along Nottingham and/or Tanyard Road, wide asphalt shoulders shall be provided to safely accommodate bicycle traffic, per the concurrence of DPW&T.
15. A Type II tree conservation plan shall be approved prior to the issuance of any permits.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property (Parcel 7) is located south of the intersection of Candy Hill Road and Nottingham Road, extending to the north side of Tanyard Road.
3. **Development Data Summary**—The following information relates to the subject preliminary

plan application and the proposed development.

	EXISTING	PROPOSED
Zone	O-S	O-S
Uses	Cropland	Single-family homes
Acreage	65.38	65.38
Lots	0	12
Parcels	1	0
Detached Dwelling Units	0	12

4. **Environmental**—There are streams, wetlands, 100-year floodplains and their associated buffers on the property. Two streams converge on the property, cutting the site approximately in half. Areas of severe and steep slopes exist adjacent to streams. The soils found on this property include Bibb, Beltsville, Donlondon, Galestown, Howell, Matapeake, and Sandy loam. Some of these soils have limitations with respect to impeded drainage or seasonally high water tables while others have limitations with respect to steep slopes and erodibility. 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 lot. There is a substantial block of forest interior dwelling species habitat (FIDS) located on-site, which is linked with other identified FIDS habitat by the stream valley corridor. Tanyard Road is a designated historic road located adjacent to the property. No adverse noise impacts from transportation are anticipated related to this proposal. The property is located in the Patuxent River watershed, in the Rural Tier as reflected in the approved General Plan, and in the Patuxent Rural Legacy Area.

Woodland Conservation

A Detailed Forest Stand Delineation (FSD) was submitted with this application. A revised FSD was received August 19, 2004. The revised FSD did not address all the comments in the May 13, 2004, memorandum. Of specific concern is the information required regarding Forest Interior Dwelling Species habitat has not been shown. This information is required for the delineation of the PMA. The map and text require revisions and additional information in order to meet all requirements.

Aerial photography from 2000 indicates that there was a hedgerow of trees located in the eastern portion of the site, which is not shown on the FSD plan. This was considered an important and historic landscape feature and would serve to provide important visual buffers on the site. Unfortunately, the hedgerow was removed to provide agricultural access between the north and south side of the site after the sale of the adjacent property to M-NCPPC. The woodland on the western portion of the subject property is part of a contiguous block of Forest Interior Dwelling Species (FIDS) habitat that connects to the Patuxent River Park to the east of the subject property. The *State Forest Conservation Technical Manual* describes priority retention areas as: “Contiguous forest [that] is either 100 acres or larger, or is 300 feet or more in width and connects to forest area located off-site which is 100 acres or more.”

The *Woodland Conservation Policy Document for Prince George's County* states that: "The following areas shall have priority for consideration as preservation and enhancement through reforestation or afforestation:

Large contiguous wooded areas that connect the largest undeveloped or most vegetated tracts on land within or adjacent to the property and diverse forest stands in wooded areas;"

The preservation of FIDS habitat is also addressed by the Patuxent River Primary Management Area Preservation Area, which is defined in Section 24-101(b)(10) of the Subdivision Ordinance as follows:

A buffer established or preserved along perennial streams within the Patuxent River watershed excluding the area within the Chesapeake Bay Critical Area Overlay Zones, which as a minimum includes:

- (A) **All perennial streams and a minimum of 50 feet of preserved or established vegetation on the side of each bank;**
- (B) **The one-hundred (100) year floodplain;**
- (C) **All wetlands adjacent to the perennial stream or the one hundred (100) year floodplain;**
- (D) **All areas having slopes of twenty-five percent (25%) or greater abutting or adjoining the perennial stream, the one hundred (100) year floodplain or stream-side wetlands;**
- (E) **All areas having highly erodible soils on slopes of fifteen percent (15%) or greater abutting the perennial stream, the one hundred (100) year floodplain or stream-side wetlands;**
- (F) ***Specific areas of rare or sensitive wildlife habitat, as determined by the Planning Board.*** [emphasis added]

Forest Interior Dwelling Species habitat is a sensitive wildlife habitat area, and its delineation along with the 300-foot-wide buffer is necessary for an accurate delineation of the PMA on the preliminary plan and Type I Tree Conservation Plan.

To assist the Environmental Planning Section in completing this evaluation, the FSD plan should be revised to graphically illustrate areas of forest interior woodland habitat and the 300-foot-wide buffers. Where existing woodlands extend to the property line, the delineation of the existing tree line outside of the subject property should be expanded from 100 feet to 300 feet. This expanded off-site tree line allows for edge effect from outside properties to be evaluated. To conduct the delineation, start with the existing tree line and measure into the woodland 300 feet to establish the buffer. The remaining area should then be identified as "FIDS Habitat."

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. A Type I Tree Conservation Plan (TCPI/35/04) was submitted concurrent with the preliminary plan application as required.

The revised Tree Conservation Plan (TCPI/35/04) has been reviewed. The gross tract area of this property is now given as 65.38 acres (previous acreage was 64.95 acres). The amount of 100-year floodplain has been stated in the woodland conservation worksheet as 11.41. The source of the 100-year floodplain determination has not been stated. An approved 100-year floodplain study is required at this time so the correct net tract area can be confirmed for woodland conservation calculations.

Assuming that the subject property is 65.38 acres in size, and 11.41 acres of 100-year floodplain exist on the property, the woodland conservation threshold is 26.99 (50 percent of the net tract) plus additional acreage due to 8.76 acres of clearing, for a total woodland conservation requirement of 34.59 acres. The TCPI proposes to meet the requirement on-site with 19.32 acres of on-site preservation and 7.85 acres of on-site reforestation, and 7.50 acres of proposed off-site mitigation for a total of 34.67 acres of woodland conservation provided.

This level of off-site mitigation is inappropriate in the Rural Tier, where the retention and re-establishment of woodlands on-site is in keeping with the desired rural character. Opportunities for additional afforestation exist adjacent to the M-NCPPC property to the east, and adjacent to the Nottingham Road right-of-way. The site needs to be redesigned to minimize the clearing of priority FIDS habitat west of the stream. The 300-foot-wide building restriction lines should be shown on all lots, and redesign of the lots may be appropriate to move the house pads outside or to the edge of the delineated FIDS habitat. The houses and septic systems should be grouped to reduce the amount of clearing proposed on each lot. On the east side of the site, woodland conservation provided on-site through additional afforestation should be maximized. There are large areas that are shown to be cleared with no grading indicated, and the limit of disturbance proposed is expansive. The limit of disturbance shall be revised to indicate far less disturbance of the site.

Specimen trees have been identified on the plan, and a specimen tree table has been provided. A lot-by-lot woodland conservation table has been provided. The quantity of 100-year floodplain indicated in the table differs from the quantity indicated on the woodland conservation worksheet. Further revisions to the lot-by-lot table may be required to reflect additional on-site preservation and afforestation.

Patuxent River Primary Management Area

Section 24-130 of the Subdivision Ordinance requires that the Patuxent River Primary Management Area (PMA) be clearly shown and that the PMA be preserved to the fullest extent possible. The

PMA contains streams, a 50-foot stream buffer, adjacent wetlands, a 25-foot wetland buffer, adjacent 100-year floodplains, adjacent areas of slopes in excess of 25 percent, adjacent areas of slopes between 15 and 25 percent on highly erodible soils, and special habitats (FIDS). The PMA as currently delineated includes all of these features except for the FIDS habitat.

The Subdivision Regulations require that the PMA be preserved to the fullest extent possible. Impacts to the PMA are generally supported only for the construction of necessary public roads and utilities. The revised preliminary plan proposes impacts to the FIDS habitat, which is an element of the PMA. A condition is proposed which would relocate the house pads on Lots 5, 6, 7 and 8 to the north to retain FIDS habitat to the greatest extent possible.

Historic Roads and Rural Character

The preliminary plan proposes the placement of Lots 1, 2, and 3 that are less than 5 acres in size along the frontage of Nottingham Road. The proposed dwellings on Lots 1, 2, 3, and 4 have been set back 100 feet or more from the right-of-way, and a 100-foot-wide building restriction line has been delineated. The subject property is located in the Rural Tier, where the preservation of rural character is encouraged. The placement of small lots, less than the 5 acres required in the O-S Zone, is contrary to Rural Tier Policy 2 that states: "Design future development to retain and enhance rural character."

In addition, Nottingham Road and Tanyard Road are the "gateways" to the historic port town of Nottingham, situated to the east of the subject property. M-NCPPC has recently acquired the property directly adjacent to the east of this site with Rural Legacy funds in order to protect archaeological resources and the rural viewshed. To retain the rural character of the viewshed along Nottingham Road and Tanyard Road, it is desirable for any lot adjacent to the road to provide the appearance of the required 5-acre lot size and through the placement of vegetative buffers to screen views of the proposed dwellings, providing access from within the subdivision (off the private right-of-way) and/or the establishment of building restriction lines along Nottingham and Tanyard Roads.

Tanyard Road was designated a historic road in the Historic Sites and District Plan. This has been indicated by note on the preliminary plan. The functional classification for Tanyard Road from Nottingham Road to Croom Road (MD 382) is a local road. An Inventory of Significant Visual Features for the right-of-way and site was required to provide a baseline for the review of the scenic/historic road viewshed. A 40-foot-wide scenic easement, set behind the public utility easement as currently delineated on the plans, is recommended along the frontage of the historic road. Within the scenic easement the preservation of existing trees or planting of a landscape buffer equivalent to the D bufferyard is recommended. Any planting proposed within the scenic easement shall include a mixture of evergreen and hardwood natives plant materials in a random and naturalistic planting pattern.

Any improvements within the right-of-way of a historic road are subject to approval by the DPW&T under the *Design Guidelines and Standards for Scenic and Historic Roads*. Before a Paving and Storm Drain Plan is submitted to DPW&T, and preferably before engineering design

of roadway improvements has begun, a conceptual preapplication meeting with the applicant, DPW&T and M-NCPPC staff is required in accordance with the *Design Guidelines and Standards for Scenic and Historic Roads*. At the conceptual preapplication meeting, the applicant will be required to make available adequate base information so that attending agencies can make fundamental design decisions. Roadway design criteria will be determined for the roadway by DPW&T with consideration for the scenic and historic features of the site. Decisions will represent a compromise agreement based on the design guidelines and standards for scenic and historic roads, minimum DPW&T safety standards, and minimum AASHTO design standards.

Wetlands

The site contains streams or wetland areas that may be impacted, and may be regulated by federal and state requirements. Prior to the issuance of any permits that impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant must submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

Soils

The Bibb, Beltsville, Donlondon, Galestown, Howell, Matapeake, and Sandy loam soil series have limitations that could affect the development of this property including high water tables, impeded drainage, slope, slow permeability, and stability. Although these limitations may affect the construction phase of this development, there are no limitations that would affect the site design or layout. During the review of building permits the Department of Environmental Resources may require a soils study addressing the soil limitations with respect to the construction of homes.

Water and Sewer Categories

The property is in water category 6 and sewer category 6; it will be served by private systems.

5. **Community Planning**—This property is located in the Rural Tier as identified by the 2002 General Plan. The vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Rural Tier.

The property is in Planning Area 82B/Mount Calvert-Nottingham. The 1993 *Subregion VI Study Area Master Plan* recommends low-density, large-lot residential development with densities of up to one dwelling unit per five acres. The proposed preliminary plan density is in conformance with large-lot development recommendations of the master plan.

General Plan Policies

The submitted application is located in the Rural Tier as defined by the 2002 General Plan. The General Plan acknowledges that large-lot estate development is anticipated and emphasizes that it needs to be “carefully balanced with agricultural pursuits and preservation to maintain its rural character.... The preservation of the remaining environmentally sensitive features in this Tier is a priority for any future development” (2002 General Plan, p. 40). The vision for the Rural Tier is the “protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist.” The goals in the Rural Tier include:

- “• Preserve environmentally sensitive features.
- Retain sustainable agricultural land.
- Maintain rural character.
- Allow large-lot residences.
- Limit nonagricultural land uses.
- Maintain the integrity of a rural transportation system.”

Development Pattern policies and strategies for the Rural Tier that are relevant to the residential development proposed by this application include:

- “Policy 1: Retain or enhance environmentally sensitive features and agricultural resources.
- Policy 2: Design future development to retain and enhance rural character.
- Strategy I: 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 roadway design, setbacks, buffering, tree retention, fencing, screening, and building bulk standards.”

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