

R E S O L U T I O N

WHEREAS, Kazem Omedvar is the owner of a 33.23-acre parcel of land known as Parcel 47, Tax Map 160, Grid E-3, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-A; and

WHEREAS, on October 6, 2004, Greg McAnich filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 9 lots and 2 outparcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04161 for Timber Highlands 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 December 9, 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 December 9, 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/84/04), and further APPROVED Preliminary Plan of Subdivision 4-04161, Timber Highlands for Lots 1-9 and Outparcels A and B with the following conditions:

1. Prior to signature approval of the preliminary plan, the plan shall be revised as follows:
 - a. Outparcel A shall be combined with Lot 1.
 - b. Outparcel B shall be redesignated Outlot A.
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
3. A stormwater management concept plan shall be approved and the approval number and date shall be added to the preliminary plan prior to signature approval.
4. Prior to approval of the final plat the applicant shall submit a Phase I archeological investigation and a Phase II and Phase III investigation, as determined appropriate by DRD staff. If necessary, the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist and must follow *The Standards and*

Guidelines for Archeological Investigations in Maryland (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

5. 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/84/04), 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.”

6. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, 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 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.”

7. Prior to the issuance of any permits which impact jurisdictional 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.
8. The Final Plat shall show all 1.5 safety factor lines. The location of the 1.5 safety factor lines shall be reviewed and approved by M-NCPPC, Environmental Planning Section, and the Prince George's County Department of Environmental Resources prior to Planning Board approval of the plat. The Final Plat shall contain the following note:

“The building restriction line labeled “1.5 Safety Factor BRL” is a restriction line based upon unstable soils. No part of a principal structure may be permitted to encroach beyond the building restriction line (BRL). Accessory structures may be positioned beyond the BRL, subject to prior written approval of the Planning Director, M-NCPPC, and DER.”

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 site is located on the south side of Accokeek Road, approximately 1,230 feet west of Old Marshall Hall Road

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

	EXISTING	PROPOSED
Zone	R-A	R-A
Uses	Vacant	Single-Family Residences
Acreage	33.23	33.23
Lots	0	9
Parcels	1	0
Outparcels	0	2
Dwelling Units	0	9

4. **Environmental**—There are streams, wetlands and 100-floodplain on the property. The site eventually drains into Mattawoman Creek in the Potomac River watershed. According to the *Prince George's County Soils Survey*, the principal soils on this site are in the Aura, Beltsville, Bibb and Mattapex series. Marlboro clay occurs on the property. 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, rare, threatened, or endangered species occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the adopted General Plan.

Woodland Conservation

A Detailed Forest Stand Delineation (FSD) has been reviewed. The FSD, based upon nine sample points, notes five forest stands totaling 31.70 acres and 12 specimen trees. The plan shows streams, wetlands, 100-year floodplain, all areas with severe slopes, and areas with steep slopes containing highly erodible soils.

Forest Stand #1 covers about 12.9 acres in the southern area of the site and is a mature mixed hardwood oak-poplar-hickory woodland with very few invasive or exotic plants. Preservation priority is high where this woodland occurs on steep slopes.

Forest Stand #2 covers about 6.0 acres in the east-central portion of the property and is a maturing woodland with an understory containing multiflora rose, Japanese honeysuckle, and other invasive species. Preservation priority is moderate to low.

Forest Stand #3 covers about 7.5 acres near the northern boundary and is a maturing sweetgum/red maple woodland with 20 to 30 percent of the forest floor covered by Japanese honeysuckle. Preservation priority is high within areas containing sensitive environmental features but low in all other areas.

Forest Stand #4 is a 1.6-acre area along the northern boundary dominated by Virginia pine. A portion was apparently blown down in a high-intensity storm. Preservation priority is very low.

Forest Stand #5 is a mature red maple-sweetgum-poplar woodland associated with the stream along the southern property line. There are very few invasive or exotic plants. Preservation priority is very high.

The FSD meets the requirements of the Woodland Conservation Ordinance.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area of the property is greater than 40,000 square feet and there are more than 10,000 square feet of existing woodland.

A Type I Tree Conservation Plan, TCPI/84/04, has been reviewed. The plan proposes clearing 8.66 acres of the existing 30.45 acres of upland woodland and no clearing of any of the 1.25 acres of woodland within the 100-year floodplain. The woodland conservation threshold is 15.99 acres and the woodland conservation requirement is 18.16 acres. The plan proposes to meet the requirements by providing 18.16 acres of on-site woodland preservation. An additional 3.63 acres of woodland will be retained but is not part of any requirement.

The general design of the proposed woodland conservation areas meets the intent of the Woodland Conservation Ordinance because it contains almost all of the sensitive environmental features on the site, avoids forest fragmentation, and provides usable outdoor activity areas on each lot.

Streams, Wetlands and Floodplain

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The same areas comprise the Natural Reserve shown on the Subregion V master plan. For the purposes of this review, these areas include all of the expanded stream buffer. A wetlands delineation was submitted with the application. All streams, 50-foot stream buffers, wetlands, 25-foot wetland buffers, the 100-year floodplain, areas with severe slopes, areas with steep slopes containing highly erodible soils, and the expanded stream buffer are shown on the plans.

Variation Request: Section 24-130

Impacts to significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations are proposed. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. Staff will not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), streets, and so forth, which are mandated for public health and safety; nonessential activities are those such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health,

safety or welfare. Impacts to sensitive environmental features require variations to the Subdivision Regulations. One impact for the construction of the access street has been proposed. The proposed street appears to be necessary and unavoidable.

Section 24-113 of the Subdivision Regulations contains four required findings to be made before a variation can be granted.

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 evidence presented to it in each specific case that:

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The installation of a public street is required by the Prince George's County Department of Public Works and Transportation to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with other regulations. These regulations require that the designs are not injurious to other property.

- (2) The conditions on which the variations are based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The expanded stream buffer bisects the property near the only public street abutting the site. The requested variations are not generally applicable to other properties.

- (3) The variation does not constitute a violation of any other applicable law, ordinance or regulation; and**

The installation of a public street is required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

- (4) Because of the peculiar 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 regulation is carried out.**

The location of the only public street abutting the site provides no alternative for the location of the access road required to serve the development. Without the required street, the property could

not be properly developed in accordance with the regulations of the R-A Zone.

The Environmental Planning Section supports the variation request for the reasons stated above.
Marlboro Clay

Marlboro clay occurs on the property. A report was submitted with the application noting that Marlboro clay is too deep to be a significant factor. The Environmental Planning Section concurs with that analysis; however, the extensive areas of severe slopes on the site may have slope stability problems. The Preliminary Plan and TCPI show the 1.5 safety factor lines associated with the severe slopes. The rational method for computation of the 1.5 safety factor line is acceptable.

Soils

According to the *Prince George's County Soils Survey* the principal soils on this site are in the Aura, Beltsville, Bibb, and Mattapex series. Aura soils are highly erodible and in the B-hydric group. Beltsville soils are highly erodible, may have a perched water table, and are in the C-hydric group. Bibb soils are associated with floodplains. Mattapex soils are highly erodible, may exhibit slow permeability, and are in the C-hydric group.

Water and Sewer Categories

The water and sewer service categories are W-6 and S-6 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources. The proposed development will utilize private systems.

5. **Community Planning**—The property is in Planning Area 83/Accokeek. The 2002 General Plan places the property in the Rural Tier. The vision for the Rural Tier is the protection of large amounts of land for woodland wildlife habitat, recreation and agricultural pursuits and preservation of the rural character and vistas that now exist. A number of policies and strategies are suggested for achieving this goal; however, none have been implemented through legislation as yet. Regardless, a limited amount of large-lot residential development is recognized as appropriate where compatible with adjacent land uses and infrastructure. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Rural Tier. The 1993 Subregion V master plan recommends a Rural Living Area development pattern at densities up to 0.5 dwelling units per acre for the subject property. This application conforms to the master plan recommendation.
6. **Parks and Recreation**—In accordance with Section 24-134 of the Prince George's County Subdivision Regulations, the subject subdivision is exempt from mandatory dedication of parkland requirements because all lots are over one acre in size.
7. **Trails**—There are no master plan trail issues identified in the 1993 Subregion V master plan.

8. **Transportation**—The application is a preliminary plan of subdivision for a residential development consisting of nine single-family detached residences. The proposed development would generate 7 AM and 8 PM peak-hour vehicle trips as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, consideration of the underlying plat suggests that there would be a net reduction of development on the site.

The site is within the Rural Tier, as defined in the 2002 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) C, with signalized intersections operating at a critical lane volume (CLV) of 1,300 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 Livingston Road and Old Marshall Hall Road, which is unsignalized. Staff has no recent counts at the critical intersection of Livingston Road and Old Marshall Hall Road. However, the transportation staff believes that about half of the AM and PM peak-hour trips generated by the proposed nine lots could utilize this critical intersection and the other half could access Livingston Road via Accokeek Road. The net results of four additional vehicle trips assigned to this intersection would result in no significant impact on traffic operations at this intersection.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	9 sfd	9 sfd	9 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	2.16	0.54	1.08
Actual Enrollment	4433	4689	8654
Completion Enrollment	156.96	86.22	158.07
Cumulative Enrollment	42	96.36	192.72
Total Enrollment	4634.12	4872.12	9005.87
State Rated Capacity	4512	5114	7752
Percent Capacity	102.71%	95.27%	116.17%

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

The school surcharge may be used for the construction of additional school facilities, which are expected to accommodate the new students that will be generated by this development proposal. This project meets the adequate public facilities policies of Section 24-122.02, CB-30-2003, CB-31-2003 and CR-23-2003.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities:

The existing fire engine service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road has a service travel time of 3.3 minutes, which is within the 5.25-minute travel time guideline.

The existing ambulance service Accokeek Fire Station, Company 24, located at 16111 Livingston Road has a service travel time of 3.3 minutes, which is within the 6.25-minute travel time guideline.

The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road has a service travel time of 12.94 minutes, which is within the 7.25-minute

travel time.

The existing paramedic service located at Allentown Road Fire Station, Company 47, is beyond the recommended travel time guideline. The nearest fire station Accokeek Fire Station, Company 24, is located at 16111 Livingston Road, which is 3.3 minutes from the development. This facility would be within the recommended travel time for paramedic service if an operational decision to locate this service at that facility were made by the county.

The above findings are in conformance with the standards and guidelines contained in the *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 IV-Oxon Hill. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. Therefore, in accordance with Section 24-122.01(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed development.
12. **Health Department**—The Health Department is currently reviewing perk tests for the subject property. Our conversations with Health Department staff indicate that the perk tests will support the proposed septic recovery areas shown on the plan. These tests and the location of the septic recovery areas must be approved prior to signature approval of the preliminary plan. Any lots without approved perk tests will need to be combined with other lots. No outparcels or outlots should be created.
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 has been submitted, but is not yet approved. To ensure that development of this site does not result in on-site or downstream flooding, this concept plan must be approved prior to signature approval of the preliminary plan. Development must be in accordance with an approved plan.
14. **Cemeteries**—There are no known cemeteries on the subject property. However, there are prehistoric archeological sites in similar settings in the vicinity of the property. Therefore, a Phase I archeological investigation should be required.
15. **Public Utility Easement**—The preliminary plan includes the required ten-foot-wide public utility easement. This easement will be shown on the final plat.
16. **Outparcels A and B**—The applicant is proposing two outparcels as part of this application. Outparcel A is 7.07 acres located at the southeast quadrant of the intersection of Accokeek Road and the site entrance. It is shown for future development if and when successful perk tests are obtained. As a policy, staff does not support the creation of outlots or outparcels due to the

inability of land to perk. Outparcel A should be combined with Lot 1. If successful perk tests can be obtained at some later date, the owner of Lot 1 can apply to subdivide. Outparcel B is 1.16 acres at the southwest quadrant of the intersection of Accokeek Road and the site entrance. It is shown for conveyance to the adjoining Parcel 74, which must cross it to gain access to Accokeek Road. Because proposed Outparcel B is 1.16 acres in size and its creation has nothing to do with adequate public facilities, it should be designated as an outlot and not an outparcel.

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 Squire, seconded by Commissioner Eley, with Commissioners Squire, Eley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Harley absent at its regular meeting held on Thursday, December 9, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of January 2005.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:TL:rmk