

R E S O L U T I O N

WHEREAS, a 19.19-acre parcel of land known as Parcels 77, 80, 81, 235 and 260, Tax map 1230 in Grid 2 said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on August 19, 2005, Thorne Corners, LLC 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 4-05066 for Thorne Corners 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 January 12, 2006, 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 January 12, 2006, 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/31/05), and further APPROVED Preliminary Plan of Subdivision 4-05066, Lots 1-12 for Thorne Corners with the following conditions:

1. The applicant and the applicant's heirs, successors, and/or assignees shall provide a standard sidewalk along the subject site's entire frontage of Old Fort Road, unless modified by DPW&T.
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
3. Development of this site shall be in conformance with an approved stormwater management concept plan and any subsequent revisions. Prior to signature approval, the concept plan number and date shall be noted on the preliminary plan.
4. Prior to approval of the final plat of subdivision, the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication.
5. The applicant shall dedicate 50 feet of right-of-way from the master plan centerline of Old Fort Road North.
6. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall

be paid in the amount of \$45,360 (\$3,780 x 12 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for all urban consumers. The actual fee to be paid will depend upon the year the grading permit is issued.

7. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the wetlands and their buffers, except for areas where variation requests have been granted, 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.”

8. Prior to the issuance of any permits that 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.
9. Prior to signature of the Preliminary Plan, the Type I TCP shall be revised to:
  - a. Remove preservation areas 1, 3 and 4 from contributing to the woodland conservation requirement.
  - b. Provide additional clearing on Lots 8 and 9, but not within the expanded stream buffer.
  - c. Provide all woodland conservation on-site, if feasible, or provide up to 1.00 acre as fee-in-lieu.
  - d. Revise the worksheet as needed.
  - e. Have the revised plan signed and dated by the qualified professional who prepared the plan.
10. 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/31/05), 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 Ordinance.”

11. Prior to signature approval, the plan shall be revised to show 50 feet of street frontage along the

private road serving Lot 6.

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 southwest side of Old Fort road North, approximately 250 feet southeast of Thorne Drive.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-E	R-E
Use(s)	Single-Family Residence	Single-Family Residences
Acreage	19.19	19.19
Lots	0	12
Outlots	0	0
Parcels	1	0
Dwelling Units	1 (to be removed)	12

4. **Environmental**—There is no 100-floodplain on the property; however, the eastern and southern portions of the site contain wetland seeps and streams in incised stream valleys. The site eventually drains into Tinkers Creek in the Potomac River watershed. According to the Green Infrastructure Plan, part of the southern area is an evaluation area that surrounds the regulated area associated with the stream valley. According to the “Prince George’s County Soils Survey,” the principal soils on this site are in the Aura, Beltsville, Chillum and Iuka series. Marlboro clay does occur nearby but does not affect the subject property. 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, rare, threatened, or endangered species do not occur in the vicinity of this property. No designated scenic or historic roads will be affected by the proposed development. There are no 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.

#### **Natural Resources Inventory**

A signed natural resources inventory (NRI), NRI-051-05, was submitted with the application. There is no 100-floodplain on the property; however, the eastern and southern portions of the site contain wetland seeps and streams in incised stream valleys. The site eventually drains into Tinkers Creek in the Potomac River watershed. A forest stand delineation (FSD) and wetland report were submitted with the NRI. The FSD indicates two forest stands totaling 15.18 acres and

two specimen trees.

### **Environmental Impacts and Variation to 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 of any subdivision should avoid impacts to streams, wetlands, or their associated buffers unless the impacts are essential for the development as a whole. Staff generally 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), road crossings, and so forth, that 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.

Three impacts are proposed. Proposed impacts 1 and 2 are for stormdrain outfalls. Proposed impact 3 is for the installation of a sanitary sewer to serve the development

Section 24-113 of the Subdivision Regulations contains four required findings (text in bold) 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 the stormdrain outfalls and installation of sanitary sewer are required by other regulations 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 the 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;**

Stormwater must be conveyed off of this property because the soils are unsuitable for the amount of infiltration that would be otherwise required. Because the property is essentially trisected by two streams and the only existing sanitary sewer is wholly within an expanded stream buffer, the sanitary sewer must cross portions of the expanded stream bufferr

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

**The installation of the stormwater outfall and installation of sanitary sewer are required by other regulations. Because permits from other local, state and federal agencies are 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.**

Design of stormwater management outfalls require that they be placed where they will provide the proper drainage; the specific topography of the site dictates the location. Because the property is essentially trisected by two streams and the only existing sanitary sewer is wholly within an expanded stream buffer, the sanitary sewer must cross portions of the expanded stream buffer.

Staff supports the variation requests for the reasons stated above.

### **Woodland Conservation**

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

**The Type I Tree Conservation Plan, TCPI/31/05, has been reviewed and was found to require technical revisions. The plan proposes clearing 6.41 acres of the existing 15.18 acres and clearing 0.80 acre off site for a sanitary sewer main. The woodland conservation threshold is 4.80 acres and the woodland conservation requirement is 7.20 acres. The plan proposes to meet the requirement by providing 7.20 acres of on-site preservation.**

**According to the Green Infrastructure Plan, part of the southern area is an evaluation area that surrounds the regulated area associated with the stream valley. Based upon this analysis, the priority woodlands on site are associated with the streams and areas contiguous to them.**

**Proposed tree preservation areas 1, 3 and 4 cannot be used to contribute to any requirement because they are fragments that do not serve to protect and sensitive environmental features and are not required by any provision of the *Landscape Manual*. These will reduce the proposed 7.20 acres of on-site preservation to 6.32 acres. Additionally, the plan should provide some additional clearing on Lots 8 and 9, but not within the expanded stream buffer, in order that these lots have sufficiently large useable outdoor activity areas. If, after these changes are made and there is a deficit of 1.00 acre or less of off-site**

**preservation, fee-in-lieu may be used for the difference.**

**With the recommended changes, the plan will meet the policies established by the Woodland Conservation Ordinance and Green Infrastructure Plan by preserving a large contiguous woodland stream valley will provide each lot with sufficient large useable outdoor recreation areas.**

### **Soils**

According to the Prince George's County Soils Survey, the principal soils on this site are in the Aura, Beltsville, Chillum and Iuka series. Aura soils are in hydrologic class C, and are highly erodible, but have few other development limitations. Beltsville soils are in hydrologic class C, and are highly erodible, but have few other development limitations. Chillum soils can have problems when associated with steep slopes. Iuka soils may have high water tables and impeded drainage.

### **Water and Sewer Categories**

The water and sewer service categories are W-3 and S-3, according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources. The site will, therefore, be served by private systems.

5. **Community Planning**—The property is in Planning Area 80/South Potomac. The 2002 General Plan places the subject property in the Developing Tier. 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. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. The site is subject to the recommendation of the 1981 Master Plan for Subregion VII, which calls for residential estate densities of up to one dwelling unit to the acre. This application conforms to the recommendations found in both of these documents. The Preliminary Henson Creek-South Potomac Master Plan adopted by the Planning Board on December 1, 2005, retains the estate density recommendation.
6. **Parks and Recreation**—Pursuant to Section 24-134(a) of the Subdivision Regulations, the Park Planning and Development Review Division recommends that the applicant pay a fee-in-lieu of the mandatory dedication of parkland requirements for this application because the land available for dedication is unsuitable due to its size and location.
7. **Trails**— There are no master plan trails issues identified in the adopted and approved Subregion VII Master Plan that impact the subject application. The majority of Old Fort Road is open section in the immediate vicinity of the subject site. However, where improvements have been made, a standard sidewalk has been provided.
8. **Transportation**—The transportation staff determined that a traffic study was not warranted by the size of the proposed development. However, a recent traffic count (September 2005) was made

available to staff at the intersection of Old Fort Road North and Allentown Road. This was used to determine adequacy. Therefore, the findings and recommendations outlined below are based upon a review of relevant materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the Guidelines for the Analysis of the Traffic Impact of Development Proposals.

### **Growth Policy—Service Level Standards**

The site is 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.

### **Staff Analysis of Traffic Impacts**

The application is a plan for a residential development of 12 single-family dwelling units. The proposed development would generate 9 AM (2 in, 7 out) and 11 PM (7 in, 4 out) peak-hour vehicle trips as determined using the Guidelines for the Analysis of the Traffic Impact of Development Proposals.

The traffic generated by the proposed plan would primarily impact the unsignalized intersection of Old Fort Road North and Allentown Road. In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicular delay. An average vehicle delay exceeding 50.0 seconds indicates inadequate traffic conditions. The traffic count indicates that the amount of vehicular delay at the critical intersection is 29.6 seconds during the AM peak hour and 26.7 seconds during the PM peak hour. With background development and traffic growth included, the vehicle delay is 32.9 seconds during the AM peak hour and 29.9 seconds during the PM peak hour. There are no programmed improvements in the county's Capital Improvement Program (CIP) or the state's Consolidated Transportation Program (CTP))

The site is proposed for development as a residential subdivision. With the assignment of 9 AM peak-hour trips and 11 PM peak-hour trips, the vehicle delay increases slightly to 33.7 seconds (AM peak hour) and 31.1 seconds (PM peak hour). Therefore, the vehicle delay at the critical intersection does not exceed 50.0 seconds.

### **Site Plan Comments**

Access to the site would be from two new culs-de-sac along Old Fort Road North. These access points would have to be approved by the Department of Public Works and Transportation (DPW&T). Street B is approximately 250 feet from the intersection of Old Fort Road North and Old Fort Road East. Access to Lots 5 and 6 would be from a private road via Thorne Drive to the west. One access point on Old Fort Road North would be preferable. Any frontage improvements required by DPW&T along Old Fort Road North will be the responsibility of the applicant. As shown, Lot 6 has 25 feet of frontage at the end of the private road. The road should be extended into Lot 6 to a point where the minimum 50 feet of street frontage is achieved.

### **Master Plan Comments**

Old Fort Road North is a collector roadway listed in the Subregion VII Master Plan (1981) as a four-lane roadway with 80 feet of right-of-way. However, the preliminary Henson Creek-South Potomac Master Plan adopted by the Planning Board on December 1, 2005, recommends that Old Fort North be upgraded to a major collector with 100 feet of right-of-way and four travel lanes. The site plan shows 40 feet of dedicated right-of-way from the centerline of Old Fort Road North but should reflect the dedication of 50 feet from the master plan centerline of Old Fort Road North.

Old Fort Road North is identified as MC-703 in Table 1 of the preliminary Henson Creek-South Potomac Master Plan with 80 to 100 feet of right-of-way and four travel lanes. The plan is scheduled to go to the District Council for a worksession in January 2006 and is expected to be approved shortly thereafter.

### **Findings and Recommendations**

Based on the preceding findings, the Transportation Planning Section finds that adequate transportation facilities exist to service the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with a condition requiring 50 feet of dedication from the master plan centerline of Old Fort Road North.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for 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:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	12 sfd	12 sfd	12 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	2.88	0.72	1.44
Actual Enrollment	3946	5489	9164
Completion Enrollment	121	64	127
Cumulative Enrollment	4.32	4.62	9.24
Total Enrollment	4074.20	5558.34	9301.68
State Rated Capacity	4033	6114	7792
Percent Capacity	101.02%	90.91%	119.37%

Source: Prince George's County Planning Department, M-NCPPC, December 2005

County Council bill CB-31-2003 establishes a school facilities surcharge, as adjusted by the percentage change in the Consumer Price Index for all urban consumers 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. Council bill CB-21-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and \$12,706 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003, and CR-23-2003.

10. **Fire and Rescue**—The Prince George's County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Allentown Road, Company 47, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department.

The Fire Chief has reported that the current staff complement of the Fire Department is 685 (98.99 percent), which is within the staff standard of 657 (or 95 percent of authorized strength of 692) as stated in CD-56-2005.

The Fire Chief has reported by letter, dated 10/01/05 that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The Prince George’s County Planning Department has determined that this preliminary plan is located in Police District IV. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months, beginning with January 2005. The subject application was accepted on August 19, 2005.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	01/05/05-07/05/05	11.00	23.00
Cycle 1	01/05/05-08/05/05	11.00	23.00
Cycle 2	01/05/05-09/05/05	11.00	23.00
Cycle 3	01/05/05-10/05/05	11.00	24.00

This application does not meet the emergency response time standard for police. CB-56-2005 provides for mitigation of police inadequacies through approval of a mitigation plan. These mitigation plans are to be created in accordance with guidelines that have been enumerated by the District Council in CR-78-2005, which establishes a police facilities mitigation charge (as adjusted by the percentage change in the Consumer Price Index for all urban consumers) in the amount of \$3,780 per dwelling unit. Any approval of this application would be subject to the payment of this charge.

12. **Health Department**—The Health Department reviewed the application and reminds the applicant that abandoned wells and septic tanks within the confines of the subject property must be properly removed in accordance with state and county regulations. Also, a raze permit is required prior to removal of any of the structures on the site.
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 has not yet been approved. To ensure that development of this site does not result in on-site or downstream flooding, development must be in accordance with an approved plan or any approved revision thereto.
14. **Flag Lots**—The applicant proposes one flag lot in the subdivision. The flag lot is shown as Lot 9.

Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. Staff supports these flag lots based on the following findings and reasons.

- a. A maximum of two tiers is permitted. The flag lot is a single tier. The houses would be sited such that each would have a private rear yard area.
- b. The flag stem is a minimum width of 25 feet for the entire length of the stem.

- c. The net lot area for the proposed lot (71,000 square feet) exclusive of the flag stem far exceeds the minimum lot size of 40,000 square feet in the R-E Zone.
- d. The proposal includes no shared driveways.
- e. Where rear yards are oriented toward driveways, an “A” bufferyard is required. This orientation does not occur in this instance.
- f. Where front yards are oriented toward rear yards, a “C” bufferyard is required. This occurs in this instance, with ample area for the required bufferyard.

Prior to approval of a flag lot, the Planning Board must make the following findings of Section 24-138.01(f):

- a. The design is clearly superior to what would have been achieved under conventional subdivision techniques.

**Comment:** The proposed flag lot yields a superior design to that which would be allowed conventionally. The combination of the expanded stream buffer and a 500-foot-deep parcel (Parcel 78) leaves nearly two acres of land inaccessible except through either a flag stem or a stream crossing. In this instance, the flag stem is the preferred alternative and results in a large (1.7± acre) lot tucked in among a forested section of the site.

- b. The transportation system will function safely and efficiently.

**Comment:** The flag lot would access the internal street. No significant impact on the transportation system is expected.

- c. The use of flag lots will result in the creative design of a development that blends harmoniously with the site and the adjacent development.

**Comment:** The flag lots will blend harmoniously with the rest of the development. The home on the flag lot continues a linear arrangement as if located on Street A, without having to gain access via an unnecessary and unwarranted stream crossing.

- d. The privacy of property owners has been assured in accordance with the evaluation criteria.

**Comment:** Given the size of the net lot areas, the flag-style development of the lot will not impair the privacy of either the homeowner of this lot or the homeowners of other lots. Ample room exists to provide for the required bufferyards.

Given these findings, staff recommends approval of the flag lots.

13. **Historic Preservation**— Phase I archeological survey is not recommended by the Planning Department on the above-referenced property. Section 106 review may require archeological survey for state or federal agencies, however.

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 Squire, seconded by Commissioner Eley, with Commissioners Squire, Eley, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, January 12, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of February 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:TL:rmk