

R E S O L U T I O N

WHEREAS, Michael A. Dyke is the owner of a 5.98-acre parcel of land known as Parcel 129, Tax Map 116 in Grid F-2, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on November 23, 2005, Landesign, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 7 lots and 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05127 for Tall Cedars 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 4, 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 May 4, 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/52/05), and further APPROVED Preliminary Plan of Subdivision 4-05127, Tall Cedars for Lots 1-7 and Parcels A & B with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised to make the following technical corrections:

a. Add the following note:

“If at the time of final plat the applicant cannot submit executed deeds for the conveyance of the land containing the existing prescriptive easement to the owners of Parcel 6 and 7, and possibly Parcel 5, then the area delineated on the preliminary plan containing the area of the easement (12,601 square feet) should be incorporated into proposed Lot 7 and the existing prescriptive easement reflected on the final plat. It should be noted that the area of the easement could be conveyed to one of the property owners if an agreement cannot be reached with either one or the other. Joint ownership of one parcel, which would tie these property owners together on the tax rolls is discouraged.”

b. Label the air installation compatible use zone for Andrews Air Force Base and delineate that the southeastern corner of the property is within the 65-70 dBA (Ldn) noise contours

(9,370 square feet).

- c. Label dedication of 30 feet from the centerline of Tall Cedar Lane and make the appropriate lot adjustments.
  - d. Indicate the net lot areas for proposed Lot 3 and 7, exclusive of the flag stem.
  - e. Add a note that the required bufferyards are being fulfilled with 100 percent of on-site woodland conservation.
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 Stormwater Management Concept Plan 22841-2005-00 and any subsequent revisions.
  4. Prior to the issuance of a grading permit for the development, A public safety mitigation fee shall be paid in the amount of \$26,460 (\$3,780 x 7 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.
  5. 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.
  6. 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.”
  7. During the review of the Type II tree conservation plan, staff will examine in detail the area of the impact to the wetlands buffer for access to Lot 7 and shall make recommendations to reduce or eliminate the impact without the loss of the lot.
  8. Prior to the issuance of any permits that impact jurisdictional wetlands or wetland buffers, 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 tree conservation Plan shall be revised to:

- a. Correct the worksheet to indicate 1.81 acres of on-site preservation and not as off-site conservation.
  - b. Correct the area of woodland retained not part of any requirement.
  - c. Correct Note 1 to indicate the preliminary plan number.
  - d. 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/52/05), 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. This property is subject to the notification provisions of CB-60-2005.”
11. Prior to approval of the final plat, the applicant shall submit executed deed(s) of conveyance of the land containing the existing prescriptive easement along the south property line (12,601 square feet) to the owners of abutting parcels to the south (Parcels 5, 6 and/or 7). The parcel(s) shall contain the existing prescriptive easement serving those lots. The final plat shall carry a plat note that lot line adjustments involving these parcels shall not result in additional buildable lots without a new preliminary plan of subdivision. The applicant shall demonstrate due diligence in obtaining executed deeds for the conveyance of the easement area to the abutting property owners. If the property owners to the south are unwilling to accept the conveyance of the area of the parcel(s) containing the easement, the land area shall be incorporated into Lot 7 and the final plat shall acknowledge the existing prescriptive easement.
12. The final plat shall demonstrate right-of-way dedication along Tall Cedar Lane of 30 feet from the centerline of the right-of-way.
13. The following note shall be placed on the final plat:
- “Lot 7 has been identified as possibly having noise levels that exceed the state noise standards for residential uses (65 dBA Ldn) due to military aircraft over flights. This level of noise is above the Maryland designated acceptable noise level for residential uses.”
14. The building permit for Lot 7 shall conform to “Applicant’s Exhibit for Flag Lot Development” which relates to house siting, setbacks and clearing, as set forth in Finding 14.

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 east side of Tall Cedar Lane approximately 500 feet south of its intersection of Woodyard Road.
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)	Vacant	Single-family residential
Acreage	5.98	5.98
Lots	0	7
Outlots	0	2
Parcels	1	0
Dwelling Units:		
Detached	0	7
Public Safety Mitigation Fee		Yes

4. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for Tall Cedars, 4-05127, and the revised Type I Tree Conservation Plan, TCPI/52/05, stamped as received by the Environmental Planning Section on March 20, 2006. The Environmental Planning Section supports the variation requests for impacts to sensitive environmental features as discussed further below and approval of TCPI/52/05 subject to conditions. The Environmental Planning Section has no record of any previous application for the subject property.

The site eventually drains into Piscataway Creek in the Potomac River watershed. Marlboro clay does not occur in this area. 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 nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator.

Based on the most recent Air Installation Compatible Use Zone Study released to the public in August 1998 by Andrews Air Force Base, aircraft-generated noise is significant. The study indicates that the noise threshold in the southeastern corner is within the 65-70 dBA (Ldn) noise contours. This noise level is above the state-acceptable noise level for residential land uses. Because only a very small portion of the property is affected (approximately 9,370 square feet) and no houses or outdoor activity areas are proposed in this area, there is no significant impact on the layout of the subdivision. No further action regarding noise is necessary; however, staff is

recommending a plat note notifying future property owners.

A signed natural resources inventory, NRI/114/05, was submitted with the application. There are no streams or 100-year floodplain on the property. There is an area of wetlands in the central portion of the site. A forest stand delineation indicates two forest stands totaling 5.77 acres and six specimen trees. According to the *Green Infrastructure Plan*, none of the property is in or near any regulated area, evaluation area or network gap. Based upon this analysis, the only priority woodlands on-site are associated with the wetlands.

Impacts to significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations will require approval of a variation request in conformance with Section 24-113 of the Subdivision Regulations. The subdivision design should avoid any impacts to streams, wetlands, and 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), street crossings, 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. Two variation requests, dated March 14, 2006, were submitted.

On May 11, 2005, the plan was presented to the Interagency Committee consisting of the federal, state and local agencies with permit authority for impacts to wetlands. The impacts shown on the plan for access to proposed Lot 3 and Lot 7 were reviewed and were found to meet the standard for avoidance and minimization. Several alternatives for access to Lot 3 were discussed over the course of this review and no viable alternative was found. However, it does appear that the impact associated with Lot 7 could be minimized or even eliminated. A more detailed analysis is recommended with the review of the Type II tree conservation plan, which is required for development of this site.

Section 24-130 of the Subdivision Regulations restricts impacts to these buffers unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Even if approved by the Planning Board, the applicant will need to obtain federal and state permits prior to the issuance of any grading permit. Each variation is described individually below. However, for purposes of discussion relating to Section 24-113(a) of the Subdivision Regulations, the impacts were discussed collectively.

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

**Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that**

**substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to develop a large portion of this property, which includes the area associated with Lots 3 and 7, or 2.79 acres of this 5.9-acre property.

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

Access to a public street for all lots is required to provide service for emergency vehicles and safe travel. 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;**

A wetland crosses nearly the entire property from the north to the south and effectively breaks the developable area into two sections. The location of the existing access easement to the residence south of proposed Lot 7 further limits the location of any driveway to serve that lot. Because the wetland area crosses nearly the entire property, Lot 3 cannot be served by a public street without impact "A" to wetlands and wetland buffers. Because of the proximity of the existing driveway for the adjacent property to the on-site wetlands, a minor impact to a wetland buffer may be needed to provide access to Lot 7. Staff proposes a condition to address a potential reduction or elimination of the impact for access to Lot 7, which can be further evaluated at the time of review of the Type II tree conservation plan, as mentioned.

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

Access to 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.**

Because the wetland area crosses nearly the entire property, and because no alternative access can be provided for proposed Lots 3 and 7, access to a public street cannot be provided to Lot 3 and probably Lot 7 without an impact to the wetlands and wetland buffers. Because of the proximity of the existing driveway for the adjacent property to the on-site wetlands, a minor impact to a wetland buffer is needed to provide access to Lot 7. The denial of impact "A" would result in the loss of one of the proposed seven lots. The denial of impact "B" would result in the loss of one of the proposed seven lots.

The Planning Board approved the two variation requests for impacts to sensitive environmental features for the reasons stated.

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/52/05, has been reviewed and was found to require revisions. The plan proposes clearing 2.44 acres of the existing 5.77 acres of woodland. The woodland conservation threshold is 1.20 acres. Based upon the proposed clearing, the woodland conservation requirement has been correctly calculated as 1.81 acres. The plan proposes to meet the requirement by providing 1.81 acres of on-site woodland conservation. An additional 1.52 acres of woodland will be preserved on-site but are not part of any requirement.

The plan preserves the priority woodland associated with the wetlands and additional woodlands contiguous to those. The plan allows for a 40-foot deep cleared area to the rear of each proposed structure and 20-foot-wide cleared areas at each side of each proposed structure from the woodland conservation. The design supports and is in conformance with the *Green Infrastructure Plan* and the Woodland Conservation Ordinance.

The worksheet contains a few errors that should be revised prior to signature approval. The plan shows on-site preservation of 1.81 acres; however, the worksheet indicates this acreage as off-site. Because the worksheet uses the entered values to calculate other values, the area of woodland retained not part of any requirement is in error. TCP Note 1 should indicate the number of the preliminary plan and not the TCPI number.

As mentioned, according to the Prince George's County Soils Survey the principal soils on this site are in the Chillum, Iuka and Galestown series. Chillum and Galestown soils pose no special problems for development. Iuka soils may have a high water table, impeded drainage and exhibit ponding. This information is provided for the applicant's benefit. The Prince George's County Department of Environmental Resources will require a soils report in conformance with CB-94-2004 during the permit process review.

### **Water and Sewer Categories**

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

5. **Community Planning**—The property is located within the limits of the 1993 approved Subregion V Master Plan, Planning Area 81A in the Clinton Community. The master plan recommendation is for low suburban residential land use. The proposed subdivision is consistent with the recommendations of the master plan as set forth in the findings of this report.

*The Prince George's County Approved General Plan* locates this property in the Developing Tier. One of the visions of the Developing Tier is to maintain a pattern of low- to moderate-density residential communities. The preliminary plan is consistent with the recommendations of the General Plan as set forth in this report.

6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.
7. **Trails**—There are no master plan trail issues identified in the approved Subregion V Master Plan. Tall Cedar Lane is open section with no sidewalks. There are no master plan trail recommendations.
8. **Transportation**—The site is not within or adjacent to any master plan transportation facilities. The preliminary plan should correctly indicate the dedication of 30 feet from the centerline of the right-of-way along Tall Cedars Lane. The preliminary plan currently demonstrates approximately 27 to 28 feet of dedication from the centerline. Adequate lot area exists to accommodate this revision without the loss of lots.

The application is a preliminary plan of subdivision for a residential development consisting of seven single-family lots to be created within an existing parcel that is undeveloped. As the parcel could be legally developed with one residence without need of subdivision, the proposed net development would be six residences. The net development of six residences would generate 5 AM and 5 PM peak-hour vehicle trips as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

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.

The traffic generated by the proposed preliminary plan would impact the intersection of MD 223 and Tall Cedars Lane, which is unsignalized. There are no projects to improve this intersection in either the county's Capital Improvement Program or the state's Consolidation Transportation Program.

Staff has no recent counts at the critical intersection of MD 223 and Tall Cedars Lane. Due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. Staff would, therefore, recommend that the Planning Board find that 5 AM and 5 PM net peak-hour trips will have a de minimus impact upon delay in the critical movements at the MD 223 and Tall Cedars Lane 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.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary 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 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	7 sfd	7 sfd	7 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	1.68	0.42	0.84
Actual Enrollment	4,145	5,489	9,164
Completion Enrollment	97	64	127
Cumulative Enrollment	392.16	104.16	208.32
Total Enrollment	4,635.84	5,657.58	9500.16
State-Rated Capacity	3,771	6,114	7,792
Percent Capacity	122.93%	92.53%	121.92%

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

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. Council bill CB-31-2003 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 adequate public facilities 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 Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

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 Clinton, Company 25, 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 above the staff standard of 657 or 95 percent of authorized strength of 692 as stated in CD-56-2005, for a

preliminary plan accepted prior to January 1, 2006.

The Fire Chief has reported by letter, dated November 1, 2005, 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 V. 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. The preliminary plan was accepted for processing by the Planning Department on December 14, 2005

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	01/05/05-11/05/05	12.00	23.00
Cycle 1	01/05/05-12/05/05	12.00	22.00
Cycle 2	01/05/05-01/05/06	12.00	21.00
Cycle 3	01/05/05-02/05/06	12.00	21.00

The Police Chief reported that the then-current staff complement of the Police Department was 1,302 sworn officers, which is within the standard of 1,278 officers or 90 percent of the authorized strength of 1,420 as stated in CB-56-2005, for a preliminary plan accepted prior to January 1, 2006.

The response time standard of ten minutes for emergency calls for police was not met on the date of acceptance or within the following three monthly cycles. In accordance with Section 24-122.01 of the Subdivision Regulations, Preliminary Plan 4-05127 fails to meet the standard for police emergency response time. The Planning Board may not approve a preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board in accordance with the County Council adopted *Guidelines for the Mitigation of Adequate Public Facilities for Public Safety Infrastructure*.

In accordance with CR-78-2005, the applicant has entered into a mitigation agreement and has chosen to pay solely the mitigation fee.

12. **Health Department**—The Health Department has reviewed the preliminary plan and has no comment.
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, 22841-2005-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Because of the limited development, no on-site pond is needed. Drywells will be used to provide for water quality from the rooftops of each proposed structure. The approval gives credit for retention of the existing forested wetlands. Development must be in accordance with this approved plan.

14. **Flag Lots**—The proposal includes two flag lots, proposed Lots 3 and 7. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations, in certain circumstance, and only upon the Planning Board's approval. The proposed flag lots satisfy the design standards found in Section 24-138.01(d) as follows:
- a. **A maximum of two tiers are permitted.** The applicant is proposing only one flag lot tier for each lot.
  - b. **The flag stem has a minimum width of 25 feet for the entire length of the stem.** The applicant is proposing a 25-foot wide flag stem.
  - c. **The net lot area, exclusive of the stem, must meet the minimum lot size standard.** Proposed Lot 3 is 1.32 acres excluding the flag stem (6,878 square feet) and proposed Lot 7 is 1.13 acres excluding the flag stem (7,447 square feet) both exceeding the minimum 20,000 square feet of net lot area required for conventional development in the R-R Zone. However, the preliminary plan does not distinguish the area of the stem from the net lot area. Prior to the signature approval of the preliminary plan, it should be revised to show the net lot areas for proposed Lot 3 and 7, exclusive of the flag stem.

Section 24-138.01(d)(6) of the Subdivision Regulations required that the preliminary plan demonstrate compliance to the *Landscape Manual* where a rear yard is oriented toward a driveway that accessed other lots, or toward a front or side yard of another lot. The applicant has provided a concept plan that demonstrates conformance. The required bufferyards are being fulfilled with 100 percent existing woodland. A note to this effect should be placed on the preliminary plan.

Section 24-138.01(f) establishes specific findings for the approval of the use of flag lots. The Planning Board must find the following:

- (A) **The design is clearly superior to what would have been achieved under conventional subdivision techniques;**

**Comment:** The depth of the existing parcel to be subdivided allows for the creation of building envelopes on the flag lots which are setback over 295 feet from the dwellings on the lots immediately adjacent to Tall Cedar Lane. The use of flag lots allows for the creation of two lots that are twice the size normally required in the R-R Zone (20,000 square feet). The flag stems remove the need to extend a public street into this area of site, which would increase the amount of paving and impervious surface area.

- (B) **The transportation system will function safely and efficiently; and**

**Comment:** The Transportation Planning Section and the Department of Public Works

and Transportation have evaluated the applicant's proposed layout and find that the location of the driveway for the flag lot does not adversely impact the safety or efficiency of the street layout. The location of the driveways onto Tall Cedar Lane conforms to the setbacks and spacing standards required by Subtitle 23 (Roads and Sidewalks).

(C) **The use of flag lots will result in the creative design of a development that blends harmoniously with the site and with adjacent development; and**

**Comment:** The flag lots contain over 2.7 acres of the 5.9 acres of land of the entire site, or 46 percent. The use of flag lots allows for the reasonable development of the property while protecting the environment. The area of the flag lots could support an estimated five lots, however, this would require the extension of a dedicated public street into the site. A dedicated public street would cause considerable impact to the existing environmental features on the site and increase the need for stormwater management.

(D) **The privacy of adjoining property owners has been assured in accordance with the evaluation criteria established above.**

**Comment:** The dwellings on the flag lots are surrounded almost entirely by woodland conservation. The dwellings on the flag lots will be set back approximately 295 feet from the dwellings immediately fronting on Tall Cedar Lane. Moreover, a 235 woodland conservation area separates the dwellings on the flag lots from the dwellings along Tall Cedar Lane. The woodland conservation area is required and is reflected on the Type I tree conservation plan. A large portion of this area of woodland conservation will be placed in a conservation easement at the time of final plat.

At the Planning Board hearing of May 4, 2006 the applicant proffered a condition for house siting on Lot 7 to address concerns of a citizen who lives on the abutting property to the east. The revised house siting orients the dwelling on proposed Lot 7 toward the south, southwest and maintains a 40-foot rear yard. The revised house siting establishes a 70-foot setback from the common property to the west. The 70-foot setback includes the existing 20-foot sanitary sewer easement, a 25-foot existing woodland buffer, and a 25-foot setback from the edge of the existing woodland to the dwelling. The applicant's exhibit also proposes to relocate the sanitary sewer line connection for this site, south from what was proposed on the preliminary plan. Shifting the connection to the south ensures that there is no clearing to the east of the dwelling, maintaining a 25-foot existing woodland buffer between the dwelling on Lot 7 and the dwelling on the abutting property to the east. The building permit for Lot 7 should demonstrate conformance to the "Applicants Exhibit for Flag Lot Development."

15. **Historic**—A Phase I (Identification) archeological survey is not recommended by the Planning Department on the subject property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates no known archeological sites in the vicinity and no known historic structures within the immediate vicinity of the subject property.

Section 106 review may require an archeological survey for state or federal agencies, however. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties to include archeological sites. This review is required when federal monies, federal properties, or federal permits are required for a project.

The Joseph Stephenson House, Historic Resource 81A-6, is located approximately 366 feet south of the subject property, in the southwest quadrant of the intersection of Tall Cedar Lane and Clinton Vista Lane. Development of this site has no adverse impact on the historic resource.

16. **Existing Easement**—The property is currently encumbered by a prescriptive easement in the form of a driveway that benefits Parcels 6 and 7 to the south. The driveway crosses, but is not utilized by the owner of Parcel 5. All of these properties also have frontage on Clinton Vista Lane to their south. It appears, based on 1965 aerial photographs, that an easement by prescription exists on the subject property serving Parcels 6 and 7. The preliminary plan also demonstrates that the actual location of the driveway crosses onto Parcel 5. The deed for the subject property does not include a descriptive easement for access. In order to remove the easement the applicant would have to obtain the agreement from those benefited parties.

Based on the preliminary plan the applicant does not intend to alter the existing easement and the easement is to remain. The applicant has proposed to create one or more parcels to contain the easement and convey those parcels to the owners of Parcels 6 and 7 upon their agreement. Also discussed was the conveyance of a portion of the land to Parcel 5 to create a waterfall effect of ownership of the land containing the easement. It is the intent of the conveyance that the benefited properties will now have ownership of the land that they use for alternative vehicular access.

At the time of final plat, if the applicant cannot demonstrate executed deeds for the conveyance of the land to the owners of Parcel 6 and 7, and possibly Parcel 5, then the area delineated on the preliminary plan containing the area of the easement (12,601 square feet) should be incorporated into Lot 7 and the existing prescriptive easement reflected on the final plat. It should be noted that the area of the easement could be conveyed to one of the property owners if an agreement cannot be reached with either one or the other. What staff would discourage, is the joint ownership of one parcel, which would tie these property owners together on the tax rolls.

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, Clark and Parker voting in favor of the motion at its regular meeting held on Thursday, May 4, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 25th day of May 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:WC:bjs