

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on July 17, 2003 regarding Detailed Site Plan DSP-02047 for Indianhead Woods, the Planning Board finds:

1. A Preliminary Subdivision Plan, 4-93013, was approved for the subject property, known as Indianhead Woods, on February 9, 1993 (PGCPB No. 93-156), for 17 lots. Detailed Site Plan DSP-02047 is being submitted in fulfillment of a condition of approval of Preliminary Plan 4-93013

2. **Development Summary**

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Vacant	Single-family residential
Acreage	13.85 acres	13.85 acres
Lots	17	17
		16 dwelling units
Parcels	0	0
Square Footage/GFA	NA	NA

The development statistics for the subdivision are as follows:

Total disturbed area 7.00 acres  
There are no wetlands, floodplains or streams on this site.

Number of Lots Permitted 17  
Number of Lots Proposed 17

Minimum Lot Size Permitted 20,000 sq.ft.  
Maximum Lot Size Proposed 41,291 sq.ft.

The subject site contains 13.85 acres of land known as Indianhead Woods and is located on the east side of Indian Head Highway. The adjacent properties are as follows:

North - Single-family residential  
South - Single-family residential  
East - Indian Head Highway (MD 210)  
West - Single-family residential

Access to the property is from Indian Head Highway.

The subject Detailed Site Plan includes site/grading, landscape and architectural plans for the subdivision.

The applicant is proposing the following architectural models for the subdivision:

<u>Model</u>	<u>Square Feet</u>
Montgomery	2,010 sq.ft.
Potomac	2,559 sq.ft.
Lexington I, II, III	1,958 sq.ft.
Frederick	2,891 sq.ft.

3. The proposed models have various options like brick facades, shutters, windows, window trim, bay windows and entrance porches. The proposed design features contribute to the overall superior quality of architecture proposed for this development.
4. The following conditions of the Preliminary Plan 4-93013 are applicable to the subject Detailed Site Plan:

#2 A Type II Tree Conservation Plan shall be approved for this site by the Planning Board prior to the issuance of any grading permits.

The applicant has submitted a Type II Tree Conservation Plan, TCPII/90/02, and the Environmental Planning Section has recommended approval of the TCPII with conditions. The Type II Tree Conservation Plan is discussed in detail in Finding 12.

*#5 Prior to issuance of any permits, the applicant, his heirs, successors, and/or assigns, shall submit a Limited Detailed Site Plan which shall be reviewed and approved by the Planning Board:*

- a. The site plan shall address landscaping and buffering of the development from Indian Head Highway, tree conservation, house locations and architecture.*

The applicant has provided substantial landscape buffers to screen the development from Indian Head Highway. Conditions of approval have been added to enhance the proposed architecture. The applicant has not provided any details regarding any proposed signage. A condition of approval has been added to require the same.

- b. The site plan shall address building materials and landscaping necessary to abate exterior noise from MD 210 and assure that interior noise levels will not exceed 45 dBA for Lots 1,2, 16 and 17.*

An eight-foot-high fence is proposed along Indian Head Highway to mitigate the noise

impacts from Indian Head Highway. Brick piers are proposed for this fence to reduce the monotonous appearance of a wood fence along Indian Head Highway. Conditions of approval have been added regarding house locations and architecture to address noise impacts. The applicant is proposing an eight-foot-high wooden fence along Indian Head Highway along the rear yards of Lots 11, 12, 14 and 15. The fence will be set back ten feet from the property line. The proposed setback is not consistent with the Zoning Ordinance. The applicant has submitted a variance application for the proposed setback. The variance application is discussed in Finding 14. The proposed fence, which is also a noise barrier, along the remaining lots meets the requirements of the Zoning Ordinance. The applicant has not provided details of this fence. A condition of approval has been added to require the same.

5. The proposal is subject to the requirements of Section 4.1 (Residential requirements), Section 4.6 (Buffering residential development from streets) and Section 4.7 (Buffering incompatible uses) of the *Landscape Manual*. A "C" bufferyard is required along the eastern property line of Lots 6 and 7 to buffer the Southern Maryland Electric Company easement (public utility use) and to meet the requirements of Section 4.7 of the *Landscape Manual*. A condition of approval has been added to require the applicant to comply with the requirements of the *Landscape Manual* along this property line. With the proposed conditions, the landscaping complies with the requirements of the *Landscape Manual*.

#### **Referral Comments**

6. The Permits Review Section (Windsor to Whitmore, October 14, 2002) has requested minor changes to the site plans. Conditions of approval have been added to require the same.
7. The Transportation Planning Section (Masog to Whitmore, October 2, 2002) has stated that the proposal is acceptable and the conditions of the Preliminary Plan have been fulfilled.
8. The Department of Environmental Resources (De Guzman to Whitmore, October 8, 2002) has stated that the proposed site plan is consistent with the approved stormwater management concept plan, #8004290-1993-01.
9. The State Highway Administration (SHA) (McDonald to Whitmore, October 15, 2002) has stated that the applicant must obtain a permit from the State Highway Administration for access improvements. At the time of the permit, storm drain plans and a traffic count must be submitted for review to the appropriate divisions. SHA indicates that implementation of the transportation conditions of the Preliminary Plan is required consistent with SHA guidelines.
10. The Subdivision Section (Del Balzo to Whitmore, November 15, 2002) has stated that the property is the subject of Record Plat VJ 169@51, recorded in June 1994. The lotting pattern and road configuration match the record plat and the buffers and easements shown on the Detailed Site Plan also match the buffers and easements shown on the record plats. The subject Detailed Site Plan must comply with the requirements of Condition 5 of the Preliminary Plan. Compliance with this condition is addressed in Finding 5.

11. The Environmental Planning Section (Stasz to Srinivas, June 11, 2003) has stated that no historic or scenic roads are affected by this proposal. There are no floodplains on this property. Indian Head Highway is a significant nearby noise source. There are no rare, threatened, or endangered species in the vicinity of this property. The principal soils on this site are in the Aura, Beltsville and Sassafras soils series. The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in size, it contains more than 10,000 square feet of woodland, and has a previously approved Type I Tree Conservation Plan TCPI/8/93. The section has recommended minor changes to the tree conservation plan. Conditions of approval have been added to require the same. A noise study, dated August 12, 2002, was submitted with the review package. The study concluded that unmitigated noise levels in the rear yards of proposed Lots 11 to 16 will be above 65 dBA Ldn and a noise barrier can shift the 65 dBA Ldn traffic noise level to the woodland conservation easements of proposed Lots 11, 12 and 13. The study did not address the fact that Lots 1, 2, 3, 14, 15 and 16 are within the 65 dBA Ldn noise contour. Staff directed the applicant to revise the noise study to show how noise will be mitigated to meet the minimum state noise standards. Provision of berms was suggested as a possible measure to meet the required conditions.

A revised noise study, submitted on May 8, 2003, shows the locations for two additional noise barriers adjacent to Lot 1 and one to the south and east of the proposed stormwater management pond. The noise mitigation barrier along Indian Head Highway mitigates the noise on Lots 11, 12 and 13 to meet the state noise standards. Noise levels on proposed Lots 1, 2, 3, 14, 15 and 16 have not been mitigated to the state noise standards. A berm and a noise barrier would provide noise mitigation for Lots 1, 2 and 3. Noise mitigation could be provided for Lots 14, 15 and 16 if the lots were graded with a retaining wall and a solid board fence was placed on top of the retaining wall. Since one of the noise barriers is more than six feet in height, it requires a variance. The Environmental Planning Section supports the variance. Conditions of approval have been added to require the applicant to reduce noise in outdoor activity areas to 65 dBA Ldn or less for Lots 1, 2, 3, 14, 15 and 16 and address building construction measures to attain an interior noise level of 45 dBA Ldn.

12. The Community Planning Division (Rovelstad to Whitmore and Srinivas, November 1, 2002 and May 12, 2003) has stated that requirements of the limited detailed site plan review for the subject application reinforce the recommendations of the master plan regarding the design and acoustical/visual buffering of residential development along major highways. The State Highway Administration approved an access permit for the subject property. Although the upgrade of MD 210 to a freeway status was officially approved after the approval of the Preliminary Plan 4-93013, it was anticipated during the review of the Preliminary Plan. The Accokeek Development Review District Commission (ADRDC) sent a letter dated October 25, 2002, with comments regarding the subject Detailed Site Plan. ADRDC has also expressed concerns regarding the direct access to the travel lanes of MD 210 from this subdivision.
13. The Accokeek Development Review District Commission (Thompson to Whitmore, October 25, 2002) has requested minor changes to the proposed architectural design elements and orientation of the proposed houses to ensure an attractive appearance for the subdivision and ensure privacy

of the houses. Conditions of approval requiring a minimum of three design elements on the rear and side elevations and a large percentage of evergreen trees in the landscape buffers have been added to require the same.

## **Variance**

14. Section 27-465 (a), Fences and Walls, of the Zoning Ordinance states that:

“Unless otherwise provided, fences and walls (including retaining walls) more than six (6) feet high shall not be located in any required yard, and shall meet the setback requirements for the main buildings.”

Section 27-442(e), Regulations, of the Zoning Ordinance requires a minimum 25-foot setback in both the front and the rear yards for all buildings on “through” lots (because on “through” lots both of these yards technically qualify as front yards).

The applicant is proposing an eight-foot-high fence (wood fence with 2-foot x 2-foot brick piers at 16 feet center to center) along the rear yards of Lots 11, 12, 14 and 15 along Indian Head Highway. Lots 11 and 12 also abut Indian Hill Court on the southeast and Lots 14 and 15 abut Indian Hill Road to the east. According to Section 27-107.01 (144) of the Zoning Ordinance, a “through” lot is an interior lot fronting on two or more streets. Section 27.107.01(261) of the Zoning Ordinance states that any yard that abuts a street on a “through” lot is a front yard. Therefore, Lots 11, 12, 14 and 15 have two front yards and two side yards. The required setback along Indian Head Highway for an eight-foot-high fence is 25 feet.

Section 27-230 of the Zoning Ordinance requires the Planning Board to make the following findings prior to approving an application for a variance:

- (1) *A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;*

In order to reduce the outdoor noise levels to acceptable levels, the applicant must provide an eight-foot-high fence along Indian Head Highway. Providing the required setback for this fence would not effectively reduce the outdoor noise levels to acceptable levels. The most efficient placement of the fence is as close to the noise source as possible, which in this case is Indian Head Highway, to reduce the noise levels effectively. Placing the fence further away from the noise source would render it ineffective. The fence has to be set back 10 feet from the property line because there is a public utility easement within 10 feet of the property line. Therefore, a variance of 15 feet from the front setback requirements is needed. The noise mitigation requirements necessitate the provision of a fence within the required setbacks.

- (2) *The strict application of this Subtitle will result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon the owner of the property; and*

The strict application of this subtitle would result in noise levels above acceptable levels in the

rear yards of the subject lots. Therefore, the applicant has proposed the eight-foot-high fence within the required setbacks. Although the applicant has proposed the fence within the required setbacks, adequate area has been provided to accommodate landscaping within the proposed setbacks. The proposal meets all other requirements of the R-R Zone. The setbacks for the proposed houses meet the requirements of the R-R Zone. The variances are being requested only for the eight-foot-high fence. Therefore, the granting of the variance is justified. The strict application of this subtitle by locating the fence behind the normal setback would result in peculiar or unusual difficulties to the owner of the property because it would result in noise levels above acceptable levels in the rear yards of the subject lots.

(3) *The Variance will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan.*

The proposed use, if modified in accordance with the proposed conditions below, will be consistent with recommendations for noise/visual screening of residential uses along major highways. Brick piers are proposed for the fence to improve the appearance of the fence along Indian Head Highway in accordance with master plan guidelines. Therefore, the granting of the variance will not substantially impair the intent, purpose or integrity of the General Plan or master plan.

Staff finds that the approval of the variance application, VD-02047, is justified based on the fulfillment of the criteria mentioned above.

15. With the proposed conditions, Detailed Site Plan SP-02047 represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Type II Tree Conservation Plan (TCPII/90/02) and further APPROVED Detailed Site Plan DSP-02047 for the above-described land, subject to the following conditions:

1. Prior to certification of the Detailed Site Plan:
  - a. The applicant shall revise the site/grading, landscaping and architectural drawings to show the following:
    - (1) Minimum lot area, maximum lot coverage, and required yards.
    - (2) Bearings and distances.
    - (3) Building setbacks.
    - (4) All surrounding uses and zoning.

- (5) Square footage of each lot.
  - (6) Landscape schedules for Section 4.1, Section 4.6 and Section 4.7 of the *Landscape Manual* revised to show the tree counts provided for each lot and a landscape palette showing a minimum 60 percent of evergreen trees in the total number of plant units required.
  - (7) Design, details and location of entrance feature sign (if proposed).
  - (8) Construction details of the fence along the rear of Lots 1, 2, 3, 14, 15 and 16.
  - (9) Landscaping to meet the requirements of Section 4.7 of the *Landscape Manual* along the eastern property lines of Lots 6 and
  - (10) A minimum of three design elements on the rear and side elevations of the proposed houses
- b. The tree conservation plan shall be revised and approved by the Environmental Planning Section to address noise mitigation measures for Lots 1, 2, 3, 14, 15 and 16 to reduce noise in outdoor activity areas to 65 dBA Ldn or less. Options like changing the position of houses on the lots, provision of noise berms or barriers in addition to or in place of the proposed fence shall be considered.
- c. The Type II Tree Conservation Plan shall be revised to show the following:
- (1) Replacement of the Tree Conservation notes with:
    - (a) Cutting or clearing of woodland not in conformance with this plan or without the expressed written consent of the Planning Director or designee shall be subject to a \$1.50 per square foot mitigation fee.
    - (b) The Department of Environmental Resources (DER) must be contacted prior to the start of any work on the site to address implementation of tree conservation measures shown on this plan.
    - (c) Property owners shall be notified by the developer or contractor of any Woodland Conservation Areas (Tree Save Areas, Reforestation Areas, Afforestation Areas, or Selective Clearing Areas) located on their lot or parcel of land and the associated fines for unauthorized disturbances to these areas. Upon the sale of the property the owner/developer or owner's representative shall notify the purchaser of the property of any Woodland Conservation Areas.
    - (d) All appropriate bonds will be posted with the Building Official prior to

the issuance of any permits. These bonds will be retained as surety by the Building Official until all required activities have been satisfied.

- (e) The location of all Tree Protective Devices (TPDs) shown on this Plan shall be flagged or staked in the field prior to the preconstruction meeting with the Sediment and Erosion Control Inspector from DER. Upon approval of the flagged or staked TPD locations by the inspector, installation of the TPDs may begin. TPD installation shall be completed prior to installation of initial sediment controls. No cutting or clearing of trees may begin before final approval of TPD installation.
- (f) Woodland Conservation - Tree Save Areas and/or Reforestation Areas shall be posted as shown at the same time as Tree Protective Device installation and/or start of reforestation activities. These signs shall remain in place in perpetuity.

- (2) Revision of the calculation in the worksheet to indicate the nearest one-hundredth of an acre.

(3) *Signature of a qualified professional who prepared the plan.*

2. Prior to issuance of building permits:

- a. The architectural plans shall be certified by a professional engineer with competency in acoustical analysis that building shells on all lots will attenuate noise levels to an interior level not to exceed 45 dBA Ldn.
- b. Lot coverage for each lot shall be shown on the site plan.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with the District Council of Prince George=s County within thirty (30) days following the final notice of the Planning Board=s decision.



\* \* \* \* \*

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 Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Eley, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, July 17, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 31st day of July 2003.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:LS:rmk