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Preliminary Plan 4-06045 Reconsideration

Application	General Data
Project Name: ESPERANZA ESTATES Location: South side of Old Stage Road, approximately 350 feet east of the intersection with Pleasant View Drive. Applicant/Address: James E. House 14011 Old Stage Road Bowie, Maryland 20720	Date Accepted: 10/31/06
	Planning Board Action Limit: Not Applicable
	Plan Acreage: 2.31
	Zone: R-R
	Lots: 4
	Parcels: 0
	Planning Area: 71A
	Tier: Developing
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 207NE12

Purpose of Application	Notice Dates
RECONSIDERATION HEARING: The Preliminary Plan was DENIED by the Planning Board on April 5, 2007 and the resolution was adopted on May 3, 2007. Larry Taub, of O'Malley, Miles Nylen & Gilmore, PA, by letter dated May 21, 2007, requested a Reconsideration of that action as reflected in PGCPB 07-80. On June 14, 2007, the Planning Board granted this request.	Adjoining Property Owners Previous Parties of Record Registered Associations: 08/21/07 (CB-58-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: 08/20/07

Staff Recommendation		Staff Reviewer: Ivy R. Thompson	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-06045
Esperanza Estates, Lots 1 through 4

OVERVIEW

In a letter dated May 21, 2007, the applicant requested a reconsideration of the action taken by the Planning Board as reflected in PGCPB Resolution No. 07-80. On June 14, 2007, the Planning Board granted this request.

The requisite review and action by the County Council for water and sewer category changes did not occur and all applications for the August cycle (2006) were carried over to the December cycle (2006). The applicant, anticipating a review during the December cycle, submitted the preliminary plan application for a four-lot subdivision on October 31, 2006, which was the last date for submission of any preliminary plan of subdivision utilizing flag lots. The subject application was reviewed at the November 17, 2006, Subdivision Review Committee meeting, where again it was noted that the subject property was designated in water and sewer category five. Staff and the applicant both noted that the category change application was submitted previously for the August cycle and would be reviewed as part of the December 2006 cycle. Again, the review and action by the County Council for water and sewer category changes did not occur; therefore, the applicant submitted a 70-day waiver in anticipation of the County Council reviewing the water and sewer category changes prior to the end of the mandatory 140-day time limit. The water and sewer category change legislation in which the subject property, 4-06047 Esperanza Estates, was included was introduced on March 13, 2007, and the public hearing was scheduled for April 17, 2007. The County Council reviewed and adopted the legislation for water and sewer category changes on April 24, 2007.

The subject property is located on Tax Map 46, Grid D-4, and is known as Parcel 130. The property is approximately 2.61 acres in area and is zoned R-R. The applicant is proposing to subdivide the site into four lots for single-family residences. There is an existing single-family residence that is to remain on Lot 1. The site is partly wooded. All four of the lots gain access from Old Stage Road. The applicant's proposal is for a subdivision utilizing flag lots. Staff is in support of the use of flag lots for the proposed development.

The subject property was originally reviewed as a pre-preliminary plan of subdivision. Pre-preliminary Plan P-06013 proposed the development of four lots and was the subject of discussion at the Subdivision Review Committee meeting on May 5, 2006. The water and sewer service categories were W-5 and S-5 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003. The property is able to be served by public systems. Water and sewer lines abut the property. A category change application was submitted to the Department of Environmental Resources for a water and sewer category change for the August 2006 cycle.

SETTING

The subject property is located on the south side of Old Stage Road, approximately 350 feet east of the intersection with Pleasant View Drive. Adjoining the site to the west are single-family residences, all in the R-R Zone, which are also flag lots. Adjacent to the subject site are single-family residences also zoned R-R.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **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)	Single-family Residences	Single-family Residences
Acreage	2.31	2.31
Lots	0	4
Outparcels	0	0
Parcels	1	0
Dwelling Units:	1 (to remain)	4 (3 new)
Public Safety Mitigation Fee		No

2. **Environmental**—A review of available information indicates there are no regulated environmental features associated with the site such as 100-year floodplain and wetlands; however, an intermittent stream is located in vicinity of Old Stage Road. Based on a review of year 2005 air photos, the site is approximately 60 percent wooded. According to the Prince George's County Soil Survey, three soil types in the Monmouth (two types in this series) and Mixed Alluvial Land series are associated with the site. Both Monmouth soils have K-factors of 0.43. Marlboro clay is not found to occur in the vicinity of this site. Based on information obtained from the Maryland Department of Natural Resources, Wildlife and Natural Heritage Program staff, rare, threatened and endangered species do not occur in vicinity of the site. There are no designated scenic and historic roads or traffic-noise generators in vicinity of the site. According to the *Countywide Green Infrastructure Plan*, there are no network features from the plan located on-site. The property is in the Collington Branch watershed of the Patuxent River basin, the Bowie and Vicinity Planning Area Master Plan, and the Developing Tier of the General Plan.

Master Plan Conformance

There are no specific environmental requirements or design standards that require review for conformance. The environmental requirements for woodland conservation and stormwater management are addressed in the Environmental Review section below.

Countywide Green Infrastructure Plan

There are no network features from the plan, such as regulated areas, evaluation areas, and network gaps located on-site. There are no opportunities to make connections of existing woodlands on-site in relation to the abutting residential areas to the east, south and west. The residential properties to the south and west are cluster lots in the Old Stage neighborhood and the land to the east is developed with large residential lots with existing single-family development that has not undergone development review.

Environmental Review

A staff signed natural resources inventory (NRI/118/06) was included in the submittal of the preliminary plan. The NRI has been reviewed in relation to the preliminary plan and TCPI. All the required information on the NRI has been shown correctly on the latter two plans.

A modified forest stand delineation (FSD) was conducted. There are 1.25 acres of existing woodland on-site. Two forest stands were identified (Stands 1 and 2). Stand 1 has co-dominant species in yellow poplar and sweet gum. Stand 2 has sweet gum as the dominant species. A total of nine specimen trees were located. Eight specimen trees are located in Stand 2 and one specimen tree is located in Stand 1. Both stands have a low priority retention rating due to the lack of regulated features associated with them.

The site contains a regulated intermittent stream associated with the Patuxent River basin and is within the Patuxent River Primary Management Area (PMA). The PMA is to be preserved to the fullest extent possible as required in Section 24-130(b)(5) of the Subdivision Ordinance. The preliminary plan and TCPI show the PMA delineation correctly based on the signed NRI.

Several proposed impacts to the PMA are shown on the revised TCPI. Generally, impacts to the PMA are only recommended for essential development features. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), road crossings, etc., which are mandated for public health and safety. Nonessential activities are those such as grading for lots, stormwater management ponds, and parking areas, which do not relate directly to public health, safety or welfare.

The revised plan shows the intermittent stream along Old Stage Road was previously piped. The February 21, 2007, letter of justification describes the impacts as being essential to the development. The intermittent stream channel and open space areas within the PMA constitute approximately 0.41 acre. Mandatory extension of the existing box culvert to the eastern property line was a condition for approval of the stormwater management concept by the Department of Environmental Resources (DER). The Department of Public Works and Transportation (DPW&T), included as part of their Subdivision Review Committee comments, the requirement to extend the box culvert. As a result of the culvert extension, the entire stream channel on the property will be eliminated, thereby eliminating the PMA. In addition, mandatory frontage improvements in accordance with DPW&T's urban primary residential road standards also impact the PMA. These road improvements include installation of curb and gutter for the control of road runoff and a sidewalk to provide safe pedestrian flow. Therefore, the elimination of the PMA is justified since the culvert extension is an essential development feature, which is in the best interest of public health and safety.

Summary of Impact Evaluations

The impacts to the intermittent stream and associated PMA are appropriate for necessary planned infrastructure improvements in the site's overall development; therefore, these impacts are supported. Staff recommends that the Planning Board find that the PMA has been preserved to the fullest extent possible.

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.

A revised Type I Tree Conservation Plan, TCPI/54/06, was submitted and reviewed. Minor revisions are required in order for the plan to meet the requirements of the ordinance.

The site has 1.25 acres of existing woodland. The site's woodland conservation threshold (WCT) is 0.46 acre and the woodland conservation requirement is 1.22 acres. All of the existing woodland is proposed to be cleared and the site's requirement is proposed to be met with 1.22 acres of fee-in-lieu payment. Because this site is not located within the designated Green Infrastructure Network it is appropriate to meet the site's requirement with a fee-in-lieu payment.

The soils layers, the standard details for the forest conservation signs, and the plastic mesh tree protection fence detail should be removed from the plan because these are not appropriate on the TCPI. After these revisions have been made, the qualified professional who prepared the plan should sign and date it. Prior to signature approval of the preliminary plan, a revised Type I tree conservation plan should be submitted. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/54/06). A note should be placed on the final plat of subdivision describing the restrictions.

No specific information regarding stormwater management has been submitted except for the conceptual stormdrain plan case number from DER referenced in Note 6 of the TCPI standard notes. A copy of the approved stormwater management concept plan and stormwater management concept plan approval letter should be submitted before signature approval of the preliminary plan. Prior to signature approval of the preliminary plan, a copy of the approved stormwater management concept plan and concept approval letter should be submitted.

Water and Sewer Categories

The water and sewer service categories are W-4 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003. The property will be served by public systems. Water and sewer lines about the property.

3. **Community Planning**— This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. This application is located 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 conforms to the master plan recommendations for residential low-density land use.
4. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations, the Park Planning and Development Division recommends that the Prince George's County Planning Board require a payment of a fee-in-lieu of dedication from Lots 2-4 as applicable from the subject subdivision because land available for dedication is unsuitable due to its size and location. Lot 1 is exempt because it contains an existing dwelling unit that is to remain.
5. **Trails**—The approved Bowie and Vicinity Master Plan designates Old Stage Road as a master plan bikeway. This can be implemented through the provision of bikeway signage and bicycle compatible roadway striping. Currently, there are a variety of cross sections present along Old Stage Road. Some segments have been improved with curb, gutter, and sidewalks, while other areas remain open section or have been improved with no sidewalks. No sidewalks currently exist to either the east or west of the subject site's frontage of the south side of Old Stage Road. However, sidewalks have been provided in other areas along the south side of Old Stage Road to

the east of the subject site. Staff recommends the provision of a standard sidewalk along the subject site's frontage of Old Stage Road unless modified by DPW&T. The provision of bike lanes can be explored by DPW&T at the time of road resurfacing or road improvement. Staff recommends the provision of a standard sidewalk and one "Share the Road with a Bike" sign at this time.

6. **Transportation**— The applicant proposes a residential subdivision consisting of four lots. One of those lots is currently improved with an existing house which shall remain. Consequently, an adequacy finding will be based on three net new lots. Based on the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, the three-lot single-family development will generate 2 AM peak-hour trips, and 3 PM peak-hour trips. The subject property is located 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.

Pursuant to provisions in the *Guidelines*, the Planning Board may find that traffic impact of small developments is *de minimus*. A *de minimus* development is defined as one that generates five trips or fewer in any peak period. The property fronts a 60-foot roadway, and consequently, a dedication of 30 feet from its centerline will be required. Regarding on-site circulation of traffic, staff has no issues.

Transportation Staff Conclusions

Based on the fact that the subject application is considered to be *de minimus*, the Transportation Planning Section concludes that 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.

7. **Police**—The preliminary plan is located in Police District II. The response time 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 10/31/06.

Reporting Cycle	Date	Emergency Calls	Non-emergency
Acceptance Date	09/05/05-09/05/06	10.00	22.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standard of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on 09/05/2006. The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

8. **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 Bowie, Company 39, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department. Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels. The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.
9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact on 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 3	Middle School Cluster 2	High School Cluster 2
Dwelling Units	4 sfd	4 sfd	4 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.96	0.24	0.48
Actual Enrollment	5137	7218	10839
Completion Enrollment	178	112	223
Cumulative Enrollment	32.40	305.58	612.24
Total Enrollment	5,348.36	7,635.82	11,674.72
State Rated Capacity	4,838	6,569	8,920
Percent Capacity	110.55	116.24	130.88

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

These figures are correct on the day this memo was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

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 \$7,671 and \$13,151 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. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision and noted that the existing house at 14011 Old Stage Road is connected to public water. The abandoned shallow well located in the front yard must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative from the Health Department. The location should be indicated on the preliminary plan. Once the existing house at 14011 Old Stage Road is connected to public sewer, the abandoned septic tank must be pumped, backfilled, and/or sealed by a licensed scavenger and either removed or backfilled in place. The location should be indicated on the preliminary plan. A raze permit is also required prior to the removal of any existing buildings. Any hazardous materials located in any structures on site must be removed and properly stored or discarded prior to the structures being razed. This too should be noted on the preliminary plan.
11. **Stormwater Management**— A stormwater management concept plan, 5958-2006, was approved. Prior to signature approval of the preliminary plan the applicant shall submit two copies of the approved concept plan and letter. The approval number and date should be indicated on the plan and letter. Development must be in accordance with this approved plan.
12. **Archeology**—A Phase I archeological survey is not recommended on the subject 2.31-acre property in Bowie, Maryland. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The property appears to have been previously impacted by construction of an extant house, shed, and driveway. Although the property lies on a small tributary of Collington Branch, it is felt that modern construction has already adversely impacted any archeological resources that may be present. However, the applicant should be aware that there are six archeological sites, two historic and four prehistoric, and one National Register site, Belair Mansion (71B-004) within a one-mile radius of the subject property. There are also numerous archeological sites, historic sites, and historic resources within a two-mile radius of the subject property.

Moreover, Section 106 review may require archeological survey for state or federal agencies. 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 state or federal funds or federal permits are required for a project.

13. **Historic Preservation**— The subject application for preliminary plan of subdivision has no effect on historic resources.
14. **Flag Lot**—The applicant proposes two flag lots within the subdivision. The flag lots are shown as Lots 1 and 4.

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

- a. A maximum of two tiers is permitted. The flag lots proposed are consistent with the regulation.

Comment: Staff supports the flag lot configuration as presented.

- b. The flag stem is a minimum width of 25 feet for the entire length of the stem.

Comment: The applicant proposes two 25-foot stems for the two proposed flag lots.

- c. The net lot area for the proposed lot exclusive of the flag stem exceeds the minimum lot size of 20,000 square feet as required in the R-R Zone.

Comment: The proposed flag lot exceeds the 20,000-square-foot minimum net lot area required in the R-R Zone, exclusive of the flag lot stems.

- d. The proposal includes no shared driveways, however, a note on the preliminary plan covering both flag stems (“Ingress/Egress Easements and P.U.E.”) should be removed.

Comment: No shared driveways are proposed.

- e. Where rear yards are oriented toward driveways they shall be screened by an “A” bufferyard.

Comment: This orientation does not occur in this instance.

- f. Where front yards are oriented toward rear yards, a “C” bufferyard is required.

Comment: This orientation does not occur in this instance.

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 configuration does yield a superior design to that which would be allowed conventionally. The landscaped median between the driveways help to create a courtyard effect. The bufferyards required for the flag lots also contribute to further screen the development.

B. The transportation system will function safely and efficiently.

Comment: 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 applicant's configuration is in conformance with other lotting patterns that exist in the area. There are at least three other flag lot developments in the area. The subject site is adjacent to a flag lot development to the east.

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

Comment: The applicant has addressed privacy by providing a ten-foot buffer between each of the lots and illustrating the siting of the proposed residences at an angle. Staff believes that given the size of the net lot areas, the flag style developments of the lots are sufficient.

15. **City of Bowie**—The city of Bowie has reviewed the proposed preliminary plan and has determined that there is no impact on the city.

RECOMMENDATION:

Therefore, staff recommends APPROVAL of preliminary plan 4-06045 and TCPI/54/06 with the following conditions:

1. Prior to signature approval of the preliminary plan, submit a revised Type I tree conservation plan with the following:
 - a. Remove the soils layers from the plan.
 - b. Remove the standard details for the forest conservation signs and the plastic mesh tree protection fence from the plan.
 - c. After these revisions have been made, have the qualified professional who prepared the plan sign and date it.
2. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/54/06). 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/54/06), 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. Copies of all approved tree conservation plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”

3. Prior to signature approval of the preliminary plan of subdivision, the applicant shall submit two copies of the signed stormwater concept plan and approval letter and delineate the stormwater concept plan approval number and approval date on the preliminary plan and TCPI. Any required stormwater facilities shall be shown on the TCPI.
4. The applicant or the applicant’s heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of “Share the Road with a Bike” signage along Old Stage Road. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit.
5. The applicant or the applicant’s heirs, successors, and/or assignees shall provide a standard sidewalk along the subject property’s entire frontage of Old Stage Road, unless modified by DPW&T.
6. 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 for Lots 2–4.
7. Development of this site shall be in conformance with an approved stormwater management concept plan (5958-2006) and any subsequent revisions.
8. Prior to the removal of any of the existing structures, a raze permit must be obtained through the Department of Environmental Resources. Any hazardous materials located in the structures must be removed and properly stored or discarded prior to the structures being razed.
9. Prior to approval of the final plat of subdivision, the abandoned shallow well located in the front yard must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative from the Health Department. The location should be indicated on the preliminary plan.
10. Once the existing house at 14011 Old Stage Road is connected to public sewer, abandoned septic tank must be pumped, backfilled, and/or sealed by a licensed scavenger and either removed or backfilled in place.
11. Prior to signature approval of the preliminary plan, the plan shall be revised to:
 - a. Remove the note: “Ingress/Egress Easements and P.U.E.” from the flag lot stems; and
 - b. Show the location of the septic tank to be abandoned.