PGCPB No. 04-105 File No. 4-04031

R E S O L U T I O N

WHEREAS, Jean Thieboux is the owner of a 17.97-acre parcel of land known as Parcels 47 and 236, being located on Tax Map 123 and Grid F-1, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on March 8, 2004, Spring Ridge, LLC, filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 22 lots, 2 parcels, 1 outparcel and 1 outlot; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04031 for Spring Ridge 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 13, 2004, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on May 13, 2004, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/21/04), and further APPROVED Preliminary Plan of Subdivision 4-04031, with a Variation to Section 24-130for Lots 1-22 and Parcels A, B and Outparcel B and Outlot C with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:

    a. To remove reference to varying lot size in the General Notes.

    b. To correct the size of Parcel A as either 3.88 on the plan or 3.89 as indicated in the General Notes.

    c. To indicate the disposition of existing structures.

    d. To relabel Parcel B as an outparcel and Parcel C as an outlot.

    e. To provide the stormwater management concept plan number, approval date, and a copy of the approved plan for the conventional layout.

f. To relabel Lot 4 as Parcel B and indicate that it is an open space parcel to be conveyed to an HOA.

2. Prior to signature approval the applicant shall provide evidence:

a. That the Department of Public Works and Transportation (DPW&T) as to the adequacy of the "T" turnaround to serve Lot 22, or the lot all be deleted and the area incorporated into Parcel A.

b. Adequate bufferyards and yard area can be provided on Lot 22.

3. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.

4. Prior to building permits the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association

5. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 4.33± acres of land (Parcel A and Parcel B). Land to be conveyed shall be subject the following:

a. Conveyance shall take place prior to the issuance of building permits.

b. A copy of the unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.

c. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.

d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse, or similar waste matter.

e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.

f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely

impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.

g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.

h. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.

6. Prior to the approval of the final plat the applicant shall demonstrate conformance to the disclosure requirements of Section 27-548.43 of the Zoning Ordinance regarding the proximity of this subdivision to a general aviation airport.

7. Development of this property shall be conformance with the approved Stormwater Management Concept Plan.

8. Prior to the approval of grading or building permits a Type II tree conservation plan shall be approved.

9. At the time of final plat, the applicant, his heirs, successors and/or assignees shall dedicate 30 feet of right-of-way from the centerline of Airport Drive.

10. The applicant, his heirs, successors and/or assignees shall be construct any frontage improvements along Airport Drive required by the Department of Public Works and Transportation.

11. The applicant, his heirs, successors and/or assignees, shall dedicate right-of-way and make improvements to Old Allentown Road as required by the Department of Public Works and Transportation.

12. 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/21/04), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy."

13. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

> "Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written

consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

14. The applicant shall provide private, on-site recreational facilities in accordance with the *Parks and Recreational Facilities Guidelines.*

15. The applicant, his heirs, successors and/or assignees shall submit three original Recreational Facilities Agreements (RFA) to DRD for approval prior to the submission of final plats, for construction of recreational facilities on homeowners land. Upon approval by the DRD, the RFA shall be recorded among the county Land Records.

16. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on homeowners land.

17. A Limited Detailed Site Plan shall be approved by the Planning Board or its designee for the development of a tot-lot on Parcel B prior to the issuance of the first building permit.

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 property is located on the south side of Airport Drive approximately 600 feet east of its intersection with Allentown 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) | Residential | Residential |
| Acreage | 17.97 | 17.97 |
| Lots | 0 | 21 |
| Parcels | 2 | 2 |
| Outparcel | 0 | 1 |
| Outlot | 0 | 1 |
| Dwelling Units: | | |
| Detached | 1 (to be razed) | 22 (new) |

4. **Environmental**—There is a stream, but no wetlands or 100-year floodplain, on the property. The site drains into Piscataway Creek in the Potomac River watershed. According to the *Prince George's County Soils Survey*, the principal soils on this site are in the Aura and Beltsville series.

Marlboro clay does not occur in the 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 occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Developing Tier as reflected in the adopted General Plan.

**Woodland Conservation**

A forest stand delineation (FSD) based upon four sample points describes two forest stands totaling 13.76 acres and containing four specimen trees. The FSD shows the stream, severe slopes, steep slopes containing highly erodible soils, the locations of the specimen trees, soils boundaries, and a soils chart correctly indicating the characteristics of the soils. The FSD meets the requirements of the Woodland Conservation Ordinance. No further action regarding the FSD is required with regard to this Preliminary Plan of Subdivision review.

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

A Type I Tree Conservation Plan, TCPI/21/04, has been reviewed. The plan proposes clearing 7.87 acres of the existing 13.76 acres of woodland. The woodland conservation requirement has been correctly calculated as 5.56 acres. The plan proposes on-site preservation of 4.94 acres, on-site planting of 0.07 acre, and off-site conservation of 0.55 acre for a total of 5.56 acres. Additionally, the plan shows the on-site preservation of of 0.95 acre that is not used to meet any requirement.

An abundance of larger diameter Virginia pine (*Pinus virginiana*) is located within the proposed tree preservation areas. This species is relatively short-lived and is subject to windfall. The plan contains a specific note regarding the removal of Virginia pine to be demonstrated on the Type II Tree Conservation Plan.

**Wetlands, Streams and Buffers**

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. For the purposes of this review, these areas include all of the expanded stream buffer and any isolated sensitive environmental features. The expanded stream buffer is correctly shown on the Preliminary Plan and the Type I TCP.

The plan proposes impacts to an expanded stream buffer. Impacts to expanded stream buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Staff notes that the expanded stream buffer bisects the property. A variation request, dated April 2004, in conformance with Section 24-113 of the Subdivision Regulations, has been submitted.

The proposed impact is for the construction of an access to the proposed stormwater management pond. This will disturb a total of 1,600 square feet of the expanded stream buffer. No federal or state wetland permits will be required for the proposed impact. Based on the following findings, staff supports the variation requests.

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 the 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.**
>
> Comment: The installation of the stormwater management pond is 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.**
>
> Comment: The only available access to the stormwater management pond is through an expanded stream buffer.
>
> **(3) The variation does not constitute a violation of any other applicable law, ordinance or regulation.**
>
> Comment: The installation of the stormwater management pond is required by other regulations and the variation request is only for Section 24-130 of the Subdivision Regulations. No other applicable law, ordinance or regulation will be violated.
>
> **(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.**

Comment: The extent of the expanded stream buffer provides no alternative for the access to the stormwater management pond that is required to serve the development.

**Soils**

According to the *Prince George's County Soils Survey*, the principal soils on this site are in the Aura and Beltsville series. Both of these soil types are highly erodible. Beltsville soils may have a perched water table. A soils report may be required by the Prince George's County Department of Environmental Resources 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.

5. **Community Planning**—The subject property is located within the limits of the 1993 Subregion V Master Plan, Planning Area 81B in the Tippett Community. The master plan land use recommendation for the property is low suburban residential land use at up to 2.6 dwelling units per acre. The 2002 General Plan locates the property in the Developing Tier. A vision for a portion of the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities. The proposed preliminary plan is consistent with the recommendations of the master plan and the General Plan.

This application is located under the traffic pattern for a small general aviation airport (Potomac Airfield) and is between 3,000 and 3,900 feet northwest of the north end of the runway. This area is subject to Aviation Policy Area regulations adopted by CB-51-2002 as Sections 27-548.32 through 27-548.48 of the Zoning Ordinance. Specifically, the subject property is located in Aviation Policy Area APA-6.

Residential land uses are allowed in these aviation policy areas in accordance with the zoning regulations of the underlying zone. The APA regulations contain additional height requirements in Section 27-548.42 and purchaser notification requirements for residential property sales in Section 27-548.43 that are relevant to evaluation of this application.

**APA 6**:

Section 27-548.39(b) requires that every application for permit and preliminary plan shall demonstrate compliance with height restrictions of Section 27-548.42(b). This section restricts the height of residential structures to no greater than 50 feet unless the applicant demonstrates compliance with FAR Part 77 of the Federal Aviation Regulations.

Section 27-548.43(a) requires a general aviation airport environment disclosure statement be

included as an addendum to the contract for sale of any residential property. In addition, Section 27-548.43(b)(1) requires that subdivisions that have a homeowners association (HOA) demonstrate prior to the approval of the final plat of subdivision that the declaration of covenants for the property includes proper disclosure that the subdivision is within one mile of a general aviation airport. The recorded Declaration of covenants, liber/folio will be noted on the final plat.

6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, the Planning Board determined that the applicant would provide private, on-site recreational facilities for the fulfillment of the requirements of mandatory dedication of parkland. Access to recreational facilities in the nearby Rose Valley Neighborhood Park and the Rose Valley Elementary School could be difficult for the residents of this subdivision. The pedestrian access to these facilities would be via the existing dedicated public streets in the community. Citizens of the community testified at the public hearing that there are no sidewalks, saving a small area in front of the school. The citizens also testified that excessive speeding on the community streets is known to occur. Due to safety concerns for the residents, the Planning Board determined that on-site recreational facilities are appropriate to serve the proposed subdivision.

7. **Trails**—There are no master plan trail issues associated with this application.

8. **Transportation**—Staff determined that a traffic study was not required from the applicant due to the size of the proposed development. A recent traffic count was made available to staff. The count for the intersection of Allentown Road and Old Allentown Road was taken in October 2003. 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.

**Analysis of Traffic Impacts**

The application was a plan for a residential development originally consisting of 28 single-family dwelling units. The proposed development would generate 21 AM (4 in, 17 out) and 25 PM (16 in, 9 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 intersection of Allentown Road and Old Allentown Road, which is not signalized. The Prince George's County Planning Board, in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals," has defined an upper limit of 50.0 seconds of delay in any movement as the lowest acceptable operating condition on the transportation system. The following conditions exist at the critical intersection: AM peak hour, maximum average delay of 40.0 seconds and in the PM peak hour, a maximum average delay of 28.8 seconds.

An annual growth rate of 2.0 percent was assumed for through traffic along Allentown Road. The following background traffic conditions were determined: AM peak hour, maximum average delay of 42.1 seconds and in the PM peak hour, a maximum average delay of 30.0 seconds. With site traffic, the following operating conditions were determined: AM peak hour, maximum average delay of 49.0 seconds and in the PM peak hour, a maximum average delay of 31.8. Therefore, the average delay at the critical intersection is adequate under the guidelines, falling below the maximum acceptable operating condition of 50.0 seconds.

**Site Plan Comments**

The proposed residential development would be served by Streets A and B that would connect to Old Allentown Road to the north. The site is adjacent to existing Airport Drive. The applicant will be required to dedicate 30 feet of right of way from the centerline of Airport Drive. Frontage improvements to Airport Drive may be required by the Prince George's County Department of Public Works and Transportation. A new four-way intersection would be created at Old Allentown Road and the site access point.

**Master Plan Comments**

The site is not within or adjacent to any master plan transportation facilities. The nearest master plan facility is Allentown Road, which is listed in the *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B* (1993) as a four-lane collector roadway (C-517). Site traffic will access Allentown Road via Old Allentown Road.

Based on the preceding findings, adequate transportation facilities exist to service 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 subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the

Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

| Affected School Clusters # | Elementary School Cluster **5** | Middle School Cluster 3 | High School Cluster 3 |
|---|---|---|---|
| Dwelling Units | 21 sfd | 21 sfd | 21 sfd |
| Pupil Yield Factor | 0.24 | 0.06 | 0.12 |
| Subdivision Enrollment | 5.04 | 1.26 | 2.52 |
| Actual Enrollment | 4096 | 4689 | 8654 |
| Completion Enrollment | 180.46 | 86.22 | 158.07 |
| Cumulative Enrollment | 144.96 | 41.52 | 83.04 |
| Total Enrollment | 4426.46 | 4818 | 8897.63 |
| State Rated Capacity | 4214 | 5114 | 7752 |
| Percent Capacity | 105.04% | 94.21% | 114.78% |

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

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

a. The existing fire engine service at Allentown Road Fire Station, Company 32, located at 8709 Allentown Road, has a service travel time of 2.59 minutes, which is within the 5.25-minute travel time guideline.

b. The existing ambulance service Allentown Road Fire Station, Company 32, located at 8709 Allentown Road, has a service travel time of 2.59 minutes, which is within the 6.25-minute travel time guideline.

c. The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 4.78 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services. The above findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan* (1990) and the "Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities."

**11.** **Police Facilities—**The proposed development is within the service area for Police District IV-Oxon Hill. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision

12. **Health Department**—The Health Department notes the a raze permit will be required to remove the existing structures located on the property and that any hazardous materials located in any structures must be removed and properly stored or discarded prior to the structures being razed.

A significant amount of domestic trash and other debris was found on the property and should also be removed and stored or properly discarded.

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, #29352-2003-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding.

However, that stormwater management approval was for the original cluster subdivision design. The applicant has submitted a revised concept plan to DER. That plan is currently under review. The revision to the plan is the relocation of the stormwater facility and a reduction in the number of lots proposed. Prior to the signature approval of the preliminary plan the applicant should demonstrate DER approval of the concept plan and provide staff a copy. Development should be in conformance with that approved plan.

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, Harley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, May 13, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 3rd day of June 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WSC:meg