

R E S O L U T I O N

WHEREAS, Joseph DeCesaris is the owner of a 5.94-acre parcel of land known as Lot 400, (Plat Book 193@63), Tax Map 115 in Grid C-2, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on May 10, 2006, Vendemia & DeCesaris Builders, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for disapproval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05085 for Oak Lawn Lots 401 & 402 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 July 13, 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 DISAPPROVAL of the application with conditions; and

WHEREAS, on July 13, 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 DISAPPROVED the Type I Tree Conservation Plan (TCPI/13/01-01), and further DISAPPROVED Preliminary Plan of Subdivision 4-05085, Oak Lawn for Lots 401 & 402 due to inadequate fire and rescue staffing levels pursuant to Section 24-122.01(e) of the subdivision regulations.

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, does not meet 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 Oaklawn Drive, approximately 300 feet east of its intersection with Oakdale Street. The site is surrounded by single-family dwellings in the R-E and R-R Zones.

3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-E	R-E
Use(s)	Vacant	Single-family Dwellings
Acreage	5.94	5.94
Lots	1	2
Parcels	0	0
Dwelling Units:	0	2
Public Safety Mitigation Fee		No

4. **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 subject application was accepted on May 10, 2006.

The Prince George’s County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station, Allentown Road Company 32, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George’s County Fire Department.

The Fire Chief report for adequate equipment is contained in a memorandum dated March 28, 2006. That memorandum states: “The department has adequate equipment and has developed an equipment replacement program to meet all the service delivery needs for all areas of the county.”

The Fire Chief report for current staffing of the Fire Department is contained in a memorandum dated March 28, 2006. That memorandum states that the number of “net operational employees” is 672, which equates to 96.97 percent of the authorized strength of 692 fire and rescue personnel.

As previously noted, the subject application was accepted on May 10, 2006. Section 24-122.01(e)(2) of the Subdivision Regulations state: “If any of the required statements in this Subsection are not provided that meet the criteria specified in this Section on the date the application is accepted by the Planning Board or within the following three monthly cycles of response time reports, then the Planning Board may not approve the preliminary pla[n] until a mitigation plan between the applicant and the County is entered into and filed with the Planning Board.”

One key element to the ordinance language cited above is the creation of a window for the application of the fire and rescue adequacy test that runs from “the date the application is accepted by the Planning Board or within the following three monthly cycles of response time reports.” This means that an application is afforded the opportunity to pass the test in a time frame that spans approximately 90 days. With regard to data on fire and rescue staffing levels prior to receipt of the March 28, 2006, letter from the Fire Chief, some clarity needs to be provided.

Since January 1, 2006 (the beginning of the time frame when the standard of 100 percent of the authorized strength of 692 fire and rescue personnel must be met), staff has received four memorandums from the Fire Chief (dated January 1, 2006, February 1, 2006, March 5, 2006, and March 28, 2006). The data presented in these four memorandums varies in their description of the personnel being counted as applicable to the percentage of the authorized strength standard. While the number of personnel presented varies only slightly (694, 694, 696 and 693 respectively), the description of the status of these personnel has changed or has been clarified from memorandum to memorandum.

It seems clear to staff that since the beginning of 2006, each reporting of personnel has included certain numbers of trainees and/or recruits that were not intended to be considered applicable to the minimum percentage requirement. This becomes apparent when comparing the January 1 and February 1 memorandums. Both reflect a total authorized strength of 694 personnel, but the February 1 memorandum identifies 46 members of that complement in the training academy. The March 5 memorandum does not provide a breakdown of the 696 personnel total, but the March 28 memorandum identifies 21 recruits as part of the "actual total strength" of 693.

Given the totality of the information identified above, staff concludes that since the acceptance of the subject application, the minimum staffing level for fire and rescue personnel, as required by Section 24-122.01(e)(1)(B)(ii), has not been met. Therefore, pursuant to Section 24-122.01(e)(2), staff is compelled to recommend disapproval of the subject application at this point in time.

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 Eley, seconded by Commissioner Clark, with Commissioners Eley, Clark, Squire, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, July 13, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of September 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator