

R E S O L U T I O N

WHEREAS, Michael Johnson is the owner of a 5.05-acre parcel of land known as Johnson Estates, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on September 6, 2005, Michael Johnson filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 6 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04150 for Johnson Estates 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 January 26, 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 January 26, 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/30/05), and further DISAPPROVED Preliminary Plan of Subdivision 4-04150, Lots 1-6, due to lack of sufficient notice.

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 southeast side of Livingston Road, approximately 1,400 feet north of Old Marshall Hall Road. The rear of Parcel 45 is located at the northern terminus of Gaddy Lane. Both parcels are developed with single-family residences oriented toward Livingston Road. The rear two-thirds of Parcel 45 (where the new lots are to be created) are wooded. The surrounding neighborhood is developed with single-family residences, many on large wooded parcels in the R-R and R-A Zones.

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)	Single-family Residences	Single-family Residences
Acreage	5.05	5.05
Lots	0	6
Parcels	2	0
Dwelling Units	2	6 (4 new)
Public Safety Mitigation Fee		Yes

4. **Environmental**—The site is partially wooded and has several existing structures. There are no streams, wetlands or 100-foot floodplain on the property. The site eventually drains into the Potomac River watershed. According to the “Prince George’s County Soils Survey,” the principal soils on this site are in the Adelphia, Bibb, Fallsington, Marr, Sassafra and Westphalia series. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled “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 are affected by this development. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. No portion of the property is a regulated or review area designated in the Green Infrastructure Plan. This property is located in the Developing Tier as reflected in the adopted General Plan.

Natural Resources Inventory

An approved natural resources inventory (NRI) was submitted with the application. The plan shows that there are no streams, wetlands, or 100-year floodplain on-site. A review of the information on the M-NCPPC GIS indicates that there are no regulated environmental areas on or near the property and that no portion of the property is a review area designated in the Green Infrastructure Plan. The forest stand delineation notes a single forest stand of mixed hardwoods and pine covering the eastern 3.41 acres of the property. The only specimen trees are Virginia pines.

Woodland Conservation

The property is subject to the requirements of the Prince George’s County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in size and contains more 10,000 square feet of existing woodland. A Type I tree conservation plan was submitted with this application.

The Type I Tree Conservation Plan, TCPI/30/05, has been reviewed. The plan proposes clearing 1.30 acres of the existing 3.41 acres of woodland. The worksheet correctly calculates the woodland conservation requirement for this proposal as 1.34 acres. The plan proposes to meet this requirement by providing 1.34 acres of on-site preservation and preserving an additional 0.77 acre of woodland but not part of any requirement. The proposed woodland conservation area is a contiguous area that does not significantly impact the use of either of the two large lots where it is located.

Soils

According to the approved natural resources inventory and the “Prince George’s County Soils Survey,” the principal soils on this site are in the Beltsville series. Beltsville soils often exhibit high water tables and impeded drainage.

Water and Sewer Categories

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

5. **Community Planning**—The subject property is located within the limits of the 1993 Subregion V master plan, in Planning Area 83/Accokeek. The master plan land use recommendation for this 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. 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. The proposed preliminary plan is consistent with the land use recommendation of the master plan and the General Plan.
6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations the Department of Parks and Recreation recommends the payment of a fee-in-lieu of the requirement of the mandatory dedication of parkland for Lots 3 and 4 because the land available is not suitable due to its size and location. Proposed lots 1 and 2 are exempt from mandatory dedication since they contain existing dwellings, while Lots 5 and 6 are exempt because they are more than one acre in size.
7. **Trails**—The adopted and approved Subregion V master plan designates Livingston Road as a master plan bikeway. Livingston Road is open section with no sidewalks in the vicinity of the subject property. Staff recommends the provision of one “Share the Road with a Bike” sign to designate this bikeway. If road frontage improvements are required, the provision of a wide asphalt shoulder is encouraged to safely accommodate bicycle movement. The subject site has approximately 350 feet of road frontage along Livingston Road.

Sidewalk Connectivity

Existing Livingston Road is open section with no sidewalks in the vicinity of the subject site. The existing portion of Gaddy Lane includes a standard sidewalk along one side. Staff recommends the continuation of this cross-section along the portion of Gaddy Lane included on the subject site.

8. **Transportation**—The application is a preliminary plan of subdivision for a residential development consisting of six single-family lots to be created within two existing parcels containing two existing residences. The proposed net development of four residences would generate 3 AM and 4 PM peak-hour vehicle trips as determined using *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 210 and Pine Lane. This intersection is unsignalized. There are no projects to improve this intersection in either the county Capital Improvement Program or the state Consolidated Transportation Program.

Staff has no recent counts at the critical intersection of MD 210 and Pine 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 3 AM and 4 PM net peak-hour trips will have a de minimus impact upon delay in the critical movements at the MD 210 and Pine Lane intersection.

Livingston Road is a master plan collector facility with a proposed right-of-way of 80 feet. The submitted plan shows right-of-way dedication of 40 feet from centerline along Livingston Road.

Transportation Staff Conclusion

Based on the preceding findings, 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 with a condition requiring dedication of 40 feet from the centerline of Livingston Road.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for the 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 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	6 sfd	6 sfd	6 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	1.44	0.36	0.72
Actual Enrollment	4,183	4,688	8,866
Completion Enrollment	158.4	69.06	136.68
Cumulative Enrollment	61.44	41.4	82.8
Total Enrollment	4,404.28	4,798.82	9,086.2
State Rated Capacity	4,512	5,114	7,752
Percent Capacity	97.61%	93.84%	117.21%

Source: Prince George's County Planning Department, M-NCPPC, December 2004

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. 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 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)(B)(E) of the Zoning 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 Accokeek, Company 24, using the *7 Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire/EMS Department.

The Fire Chief has reported that the current staff complement of the Fire/EMS Department is 685 (98.99 percent), which is within the staff standard of 657, or 95 percent, of authorized strength of 692 as stated in CB-56-2005.

The Fire Chief has reported by letter dated August 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 IV. The standard for emergency calls response is 10 minutes and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months, beginning with January 2005. The preliminary plan was accepted for processing by the Planning Department on September 6, 2005.

Reporting Cycle	Date	Emergency Calls	Non-emergency
Acceptance Date	01/05/05-08/05/05	11.00	23.00
Cycle 1	01/05/05-09/05/05	11.00	23.00
Cycle 2	01/05/05-10/05/05	11.00	24.00
Cycle 3	01/05/05-11/05/05	11.00	24.00

The Police Chief has reported that the current staff complement of the Police Department is 1,302 sworn officers and 43 student officers in the academy for a total of 1,345 (95 percent) personnel, 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.

This application does not meet the emergency response time standard for police. CB-56-2005

provides for mitigation of police inadequacies through approval of a mitigation plan. These mitigation plans are to be created in accordance with guidelines that have been enumerated by the District Council in CR-78-2005, which establishes a police facilities mitigation charge (as adjusted by the percentage change in the Consumer Price Index for all urban consumers) in the amount of \$3,780 per dwelling unit. Any approval of this application would be subject to the payment of this charge.

12. **Health Department**—The Health Department reminds the applicant that a raze permit is required prior to the removal of any structures on the site. In addition, any abandoned wells or septic tanks must be handled in accordance with applicable state and county laws.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A copy of the approved Stormwater Management Concept approval letter, CSD #772-2004-00, was submitted with the application. The plan requires bioretention for Lots 3 through 6 and over-compensation to account for the paving created for the new cul-de-sac of Gaddy Lane. Development of this property should be in conformance with the approved plan.
14. **Historic**—Phase I (Identification) archeological investigations are recommended on the above-referenced property. The property is located approximately one mile northwest of Mattawoman Creek and less than ½-mile west of an unnamed branch of the creek. Numerous prehistoric archeological sites are located within one mile of the property area.

Phase I archeological investigations should be conducted according to Maryland Historical Trust (MHT) guidelines, *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), and report preparation should follow MHT guidelines and the *American Antiquity* or *Society of Historical Archaeology* style guide. Archeological excavations shall be spaced along a regular 15-meter or 50-foot grid and excavations should be clearly identified on a map to be submitted as part of the report.

15. **Public Notice**—Section 2(b) of the Administrative Practices requires all preliminary plans of subdivision to be posted a minimum of 30 days prior to the public hearing. The applicant signed and received a copy of a document clearly spelling out this requirement at the September 23, 2005, Subdivision Review Committee meeting. In this case, the applicant should have posted the site on or before December 27, 2005. The applicant posted this site on January 9, 2006. Therefore, the site has been posted 17 of the required 30 days. The applicant is seeking a waiver of 13 days. Staff cannot find that the sign posting of 17 out of a required 30 days constitutes sufficient public notice. Therefore, staff is recommending disapproval of both the waiver request and of this application.

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 Vaughns, seconded by Commissioner Squire, with Commissioners Vaughns, Eley, Squire and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, January 26, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of February 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator