

R E S O L U T I O N

WHEREAS, a 10.09-acre parcel of land known as Parcel A, Parcel B and Lot 7, Block B, Tax Map 134 in Grid F-3, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on August 22, 2006, PDC Loveless, LLC. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 4 lots and 2 parcels lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06039 for Loveless Property 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 25, 2007, 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 January 25, 2007, 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/30/02-01), and APPROVED Variance Application No. VP-06039, and further APPROVED Preliminary Plan of Subdivision 4-06039, Loveless, including a variation from Section 24-130 of the Subdivision Regulations for Lots 17 and 18, Block A; Lots 7 and 27, Block B and Parcels G and F with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Delineate a 35-foot landscape bufferyard on Lot 17, Block A, adjacent to Shady Oak Parkway as shown on the submitted flag lot exhibit, and in accordance with Section 4.6(b) of the *Landscape Manual*.
  - b. Delineate a 35-foot landscape bufferyard on Lot 18, Block A, adjacent to Shady Oak Parkway in accordance with Section 4.6(b) of the *Landscape Manual*.
  - c. Provide a "C" bufferyard in accordance with the *Landscape Manual* to prevent front-to-back views between the dwellings on Lots 17 & 18, Block A.
  - d. Label the existing easement within Lot 17, Block A.

- e. Label the western portion of the flag lot stem on Lot 17, Block A, as having a 25-foot width.
  - f. Delineate the limits of the proposed 35-foot landscape bufferyard on Parcel G. The bufferyard should continue along the southwestern portion of Parcel G to buffer views from adjacent Lot 7, Block B.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
  3. Development of this site shall be in conformance with the Stormwater Management Concept Plans 41833-2005-01, (Phase 3, Moores Road), 20190-2003-02, (Phase 2), and 29709-2002-03 (Parent Concept, Phases 1, 2 and 3), and any subsequent revisions.
  4. Prior to signature approval of the preliminary plan of subdivision, the proposed access easement for the stormwater management pond on Parcel G shall be approved by the Department of Public Works and Transportation. Written evidence of this approval must be submitted.
  5. Prior to signature approval of the preliminary plan of subdivision, the tree conservation plan shall be revised to reflect the same lot and block numbers shown on the preliminary plan and the recorded final plats.
  6. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers, 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.”
  7. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
  8. Prior to signature of the Preliminary Plan, the Type I Tree Conservation Plan shall be revised to:
    - a. Account for clearing within the 100-year floodplain.
    - b. Correctly label the expanded stream buffer.
    - c. Revise the worksheet as needed.

- d. Correct the approval block.
  - e. Have the revised plan signed and dated by the qualified professional who prepared the plan.
9. 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/30/02-01), 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.
10. 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 17 & 18, Block A.
  11. Prior to the issuance of a grading permit for the development, A public safety mitigation fee shall be paid in the amount of \$15,120 (\$3,780 x 4 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for all urban consumers. The actual fee to be paid will depend upon the year the grading permit is issued.
  12. Lots 17 and 18, Block A, shall have driveway access via New Ashram Road. The final plat shall note that direct access to Shady Oak Parkway, a designated master plan collector roadway, shall be denied.
  13. Prior to signature approval of the preliminary plan of subdivision, the applicant shall submit two copies of stormwater concept plans, 41833-2005-01, (Phase 3, Moores Road), 20190-2003-02, (Phase 2), and 29709-2002-03, (Parent Concept, Phases 1, 2 and 3). Each individual concept plan shall contain a signed certification from either DER or DPW&T.
  14. At the time of final plat, the applicant, his heirs, successors, and or assignees shall convey Parcels G and F to the Prince George's County government.
  15. Prior to the approval of permits, a limited detailed site plan (LDSP) shall be approved by the Planning Board, or its designee, for the proposed stormwater management facilities on Parcels F

and G. The review shall be limited to: Landscaping, fencing if deemed appropriate, potential views from the adjacent dwellings, and potential views from Shady Oak Parkway, Ashram Road and New Relief Terrace.

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 Along New Ashram Road at its intersection with Shady Oak Parkway and along the northern cul-de-sac of New Relief Terrace.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone Use(s)	EXISTING	PROPOSED
	R-R SWM Facility/Single-Family	R-R Revised SWM Facility/ Single-Family
Acreage	10.09	10.09
Lots	1	4
Parcels	2	2
Dwelling Units:		
Detached	0	4
Public Safety Mitigation Fee		Yes

4. **Environmental**—The Environmental Planning Section has reviewed the revised preliminary plan of subdivision for the Loveless Property, 4-06039, and the revised TCPI, TCPI/30/02-01, stamped as received by the Environmental Planning Section on December 27, 2006. The Environmental Planning Section supports the variation request for impacts to sensitive environmental features for the reasons stated in this memorandum and recommends approval of Preliminary Plan 4-06039 and TCPI/30/02-01 subject to conditions.

**Background**

The Planning Board approved Preliminary Plan 4-02056 and TCPI/30/02. The property was subsequently platted and a Type II Tree Conservation Plan, TCPII/181/03, was approved by the Environmental Planning Section for a grading permit. This application is for the resubdivision of two parcels that were created as part of Preliminary Plan 4-02056. The original subdivision was approved utilizing the provisions of lot size averaging.

### **Site Description**

Portions of the site to the south were previously mined for sand and gravel and have since been vegetated by pine and other early successional species. The site is characterized with gradually rolling terrain with areas of severe slopes and is traversed by tributaries of the Piscataway Creek in the Potomac River Basin. There are streams, wetlands, and 100-year floodplain on the site. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. The predominant soil types on-site are Beltsville, Bibb and Sassafras series. Marlboro clay does not occur in this area. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. No designated scenic or historic roads are affected by this development.

### **Environmental Review**

The parcels in this application were planned to be used exclusively for stormwater management. The Prince George's County Department of Environmental Resources has approved Stormwater Management Concept CSD 41833-2005-00 showing ponds on the subject parcels. The two stormwater management ponds shown on the revised Type I tree conservation plan are required for water quality and quantity control. These ponds have been downsized from those shown on the original Type I Tree Conservation Plan, TCPI/30/02, because the parameters used to calculate the required storage volume have changed since the approval of Preliminary Plan 4-02056.

The proposed resubdivision of Parcel B will place the required stormwater management pond in a location without frontage on a public street. The revised Type I Tree Conservation Plan, TCPI/30/02-01, shows a proposed access from Moores Lane, then through the SMECO easement, and then behind the rear of new Lot 23.

A signed natural resources inventory, NRI/100/06, was submitted with the application. Streams and expanded stream buffers associated with Piscataway Creek occur on the property. The site is mostly wooded; however, there is a cleared overhead power line right-of-way. Additionally, grading permits have been issued and the site is currently being developed in accordance with Preliminary Plan 4-02056, TCPI/30/02, and TCPII/180/03. The expanded stream buffers shown on the NRI are shown on the preliminary plan and on the revised TCPI.

Impacts to significant environmental features are required to be protected by Section 24-130 of the Subdivision Regulations and will require variation requests in conformance with Section 24-113 of the Subdivision Regulations. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. The Environmental Planning Section generally will not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), street crossings, and so forth, which are mandated for public health and safety; nonessential activities are those such as grading for lots, stormwater management ponds, parking areas, and so forth,

which do not relate directly to public health, safety or welfare. Impacts to sensitive environmental features require variations to the Subdivision Regulations.

One variation request for an impact to the expanded stream buffer was approved with Preliminary Plan 4-02056. The impact was for the construction of the stormwater management pond and outfall on Parcel B. Because the pond is being downsized, there is no need to impact the expanded stream buffer to construct the pond. Because this is a new application proposing different circumstances, a variation request for proposed impacts to the expanded stream buffer is required. Three variation requests, dated October 5, 2006, were submitted. The proposed impacts to the expanded stream buffers are for the installation of a connection to an existing sanitary sewer line, installation of a stormwater management pond outfall, and installation of a water line loop required by the Washington Suburban Sanitary Commission. Impacts to these 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.

Section 24-113 of the Subdivision Regulations contains four required findings (text in bold) to be made before a variation can be granted. All three impacts are discussed together because they are similar in nature.

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The installation of the stormwater management outfall is required by Prince George's County to provide for public safety, health and welfare. County Code requires that sanitary sewer serve the proposed development. 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;**

The specific topography of the site requires the use of the stormwater management outfall shown on the plans to adequately serve the proposed development. The existing sanitary sewer is within the expanded stream buffer.

- (3) The variation does not constitute a violation of any other applicable law, ordinance or regulation; and**

The installation of a stormwater management outfall and connection to the existing sanitary sewer are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

- (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.**

The topography provides no alternative for the location of the stormwater outfall that is required to serve the development. The only existing sanitary sewer to serve this property is within the expanded stream buffer. Without the required sediment control, stormwater management facilities, sanitary sewer connections or water main, the property could not be properly developed in accordance with the R-R zoning.

The Environmental Planning Section supports the variation requests for the reasons stated above.

This property is subject to the provisions of the Woodland Conservation Ordinance because it has previously approved tree conservation plans. A Type I Tree Conservation Plan, TCPI/30/02, was approved with Preliminary Plan 4-02056. A Type II Tree Conservation Plan, TCPII/181/03, was approved for a grading permit.

The revised Type I Tree Conservation Plan, TCPI/30/02-01, has been reviewed and has some technical errors. The plan proposes clearing 21.27 acres of the existing 35.52 acres of upland woodland and the worksheet proposes no clearing of the 7.64 of woodland within the 100-year floodplain. The woodland conservation threshold is 7.41 acres. Based upon the proposed clearing, the woodland conservation requirement has been correctly calculated as 12.73 acres. The plan proposes to meet the requirement by providing 11.24 acres of on-site preservation and 1.49 acres of off-site woodland conservation for a total of 12.73 acres. An additional 3.01 acres of woodland will be preserved on site but not as part of any requirement in the form of small woodland areas on lots.

The revised plan has a slightly higher requirement and provides fractionally less on-site preservation. The revised plan removes the previously approved on-site planting and substitutes off-site conservation.

In addition to preserving sensitive environmental features and the expanded stream buffers, the addition of upland woodland abutting these areas creates large contiguous woodlands and woodland corridors. The plan provides minimum cleared areas at least 20 feet wide at each side and 40 feet deep at the rear of each proposed structure. It is appropriate that none of the lots less than 20,000 square feet in area are encumbered with a conservation easement or woodland conservation. The design of the woodland conservation areas meets the goals of the Green Infrastructure Plan and generally satisfies the requirements of the Countywide Woodland Conservation Ordinance.

The plan shows some clearing within the 100-year floodplain that is not reflected in the worksheet. The expanded stream buffer is labeled "PMA" on the plan, which must be labeled as

“expanded buffer.” The approval stamp should delineate the original approval on 1/16/03 as done by R. Metzger and leave the 01 line blank.

According to the Prince George’s County Soils Survey, the principal soils on this site are in the Aura, Matapeke and Sassafras series. Aura soils are highly erodible and are in the C-hydric group. Matapeke and Sassafras soils pose no special problems for development. This information is provided for the applicant’s benefit. The Prince George’s County Department of Environmental Resources will require a soils report in conformance with CB-94-2004 during the permit process review.

The Environmental Planning Section supports the variation request for impacts to sensitive environmental features for the reasons stated and recommends approval of Preliminary Plan 4-06039 and TCPI/30/02-01 subject to conditions.

#### **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 and the site will, therefore, be served by public systems.

5. **Community Planning**—The property is located in Planning Area 85A within the Brandywine Community. The property is within the limits of the 1993 Master Plan for Subregion V. The master plan recommends a low suburban residential land use at up to 2.6 dwelling units per acre. The application proposes a low suburban residential land use and is, therefore, consistent with the land use recommendation within the 1993 Master Plan for Subregion V.

The 2002 General Plan locates the subject property within 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 proposes a low- to moderate-density suburban residential community and is, therefore, consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The 1993 Subregion V Sectional Map Amendment classified this property within the R-R Zone.

6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George’s County Subdivision Regulations, Lot 27, Block B in the subject subdivision is exempt from mandatory dedication of parkland requirements because it is over one acre in size.

In accordance with Section 24-134(a) of the Subdivision Regulations, the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication for Lots 17 and 18, Block A, because the land available for dedication is unsuitable due to its size and location.



7. **Trails**—The approved Subregion V Master Plan recommends a master plan trail facility along proposed Shady Oak Parkway (C-613). This facility will be completed at the time the master plan road is constructed. It will consist of either an eight-foot-wide side path or an eight-foot-wide concrete sidewalk. There are no recommendations concerning this planned trail for the subject site. However, this master plan trail should be constructed at the time the master plan road is constructed.

There are no master plan trails recommendations at this time.

8. **Transportation**—The following are the Transportation Planning Section’s comments concerning the site access, geometric design and traffic impact of the subject application.

The application involves four proposed lots with one of the four lots already existing. Subsequently, the proposed subdivision’s impact on transportation facilities will be evaluated based on the three new lots proposed. This proposal would have a minimal impact on the adjacent roadways. Therefore, the submission of a traffic study was not required.

**Site Access Evaluation:** All lots will have direct driveway access to minor streets. Lots 7 and 27, Block B, will access New Relief Terrace. Lots 17 and 18 will access New Ashram Road; these lots should not access Shady Oak Parkway, which is a planned collector facility.

**Master Plan Rights-of-Way to be dedicated or recommended to be placed in reservation:** Shady Oak Parkway is a master plan collector facility. Adequate right-of-way has been previously dedicated, so no further dedication is required of this plan.

#### **TRANSPORTATION STAFF FINDINGS**

The application is a preliminary plan of subdivision for a residential development consisting of three single-family lots to be created within two existing parcels. The proposed development of three residences would generate 2 AM and 3 PM peak-hour vehicle trip 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 5 and Burch Hill Road/Earnshaw Drive. This intersection is unsignalized. There are no projects to improve this intersection in either the county's Capital Improvement Program or the state's Consolidated Transportation Program.

Recent counts at the critical intersection of MD 5 and Burch Hill Road/Earnshaw Drive indicate that the intersection operates unacceptably as an unsignalized intersection. 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. The Transportation Planning Section would, therefore, recommend that the Planning Board find that 2 AM and 3 PM peak hour trips will have a de minimus impact upon delay in the critical movements at the MD 5 and Burch Hill Road/Earnshaw Drive intersection.

The site is adjacent to Shady Oak Parkway, which is a master plan collector facility. Adequate right-of-way has been previously dedicated, so no further dedication is required of this plan. Nonetheless, Lots 17 and 18, Block A are both adjacent to Shady Oak Parkway, but it is preferable that these lots access New Ashram Road.

#### **TRANSPORTATION STAFF CONCLUSIONS**

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.

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.

**Impact on Affected Public School Clusters**

Affected School Clusters	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	3 sfd	3 sfd	3 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.72	0.18	0.36
Actual Enrollment	4,145	5,489	9,164
Completion Enrollment	97	64	127
Cumulative Enrollment	304.88	111.66	222.48
Total Enrollment	4,647.80	5,664.66	9,613.84
State-Rated Capacity	3,771	6,114	7,792
Percent Capacity	123.24%	92.65%	122.9%

Source: Prince George's County Planning Department, M-NCPPC, December 2006

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 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. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for 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 Marlboro, Company 40, 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.

11. **Police Facilities**—The subject property is located in Police District V. The standard for emergency calls response is 10 minutes and 25 minutes for non-emergency 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 August 22, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	01/05/05-07/05/06	11.00	20.00
Cycle 1	11/05/05-11/05/06	11.00	19.00
Cycle 2			
Cycle 3			

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 Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

The applicant may enter into a mitigation plan with the County and file such plan with the Planning Board. The Planning Board may not approve this preliminary plan until a mitigation plan is submitted and accepted by the County. The applicant has entered into Public Safety Mitigation Agreement in the amount of \$15,120.00 to be paid prior to the issuance of a Grading Permit for the development.

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for the Loveless Property and has no comments to offer.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. Stormwater Management Concept Plans 41833-2005-01 (Phase 3, Moores Road), 20190-2003-02 (Phase 2), and 29709-2002-03 (Parent Concept, Phase 1, 2, 3) have been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with the approved plans.

14. **Variance Request for Section 27-442(d), Lot Width at Front Street Line (Lot 27, Block B)**

Section 27-442(b), Table I and Table III of the Zoning Ordinance establish minimum lot size and minimum lot frontage respectively for lots in the R-R Zone. Variances may be granted provided the application meets the following criteria, contained within Section 27-230(a) of the Prince George's County Code.

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

The property does have exceptional narrowness and exceptional topographical conditions. The subject property was previously recorded and approved to contain a stormwater management facility in accordance with the applicant's prior stormwater management concept approval. Since that time, the applicant has obtained approval of a revised stormwater management concept plan that reduces the size of the stormwater pond that was originally proposed. The applicant proposes through this preliminary plan application to create an additional building lot on the portion of the land area originally proposed for the stormwater pond. Because the original parcel was created for stormwater management, it was platted with a 50-foot-width rather than the 60-foot-width necessary for a building lot. These factors combine to create an extraordinary situation not generally applicable to other properties in the area.

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

The hardship to the owner would be the loss of a building lot that meets all applicable criteria for a residential lot within the R-R Zone, with the exception of the width at the front street line. As noted, Parcel B was platted and recorded with 50 feet of street frontage. Due to previously recorded residential building lots existing to the south and east of the subject property, the applicant does not have the ability to adjust common property lines to provide the full required lot width at the front street line. Staff considers this scenario as an undue hardship to the property owner and sees no public purpose being served should the strict application of this Subtitle be required.

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

The granting of this variance will not substantially impair the intent, purpose, or integrity of the 1993 Master Plan for Subregion V. The plan calls for a low suburban residential land use, which is what is proposed by the subject application.

Staff supports this variance request for these reasons.

15. **Historic**—A Phase I archeological survey was requested on this 10.09-acre property under pre-preliminary plan P-06004. After further examination of aerial photographs and the topography of the site, it was determined that the northern parcel containing Lots 17 and 18, Block A, has already been graded and impacted by pond construction. A conservation easement protects most of the southern parcel, containing Lot 27. Only a small portion of the western part of the property appears to be relatively undisturbed. Therefore, a Phase I archeological survey is not necessary on the 10.09 acres covered within preliminary plan 4-06039 due to modern disturbance, steep slopes, and a conservation easement over most of the southern parcel.

16. **Flag Lot**—The applicant proposes one flag lot within the subdivision. The flag lot is shown as Lots 17, Block A.

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

a. A maximum of two tiers is permitted. The flag lot proposed is a single tier.

**Comment:** The flag lot proposed is a single tier.

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

**Comment:** A 25-foot stem has been provided for the flag lot.

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.

**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 relationship does occur. A bufferyard has been provided on the preliminary plan between Lots 17 and 18, Block A. However, a technical revision has been included within this report that requires the preliminary plan to be revised to provide the full bufferyard width, prior to any signature approval of the preliminary plan.

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 lots yield a superior design to that which would be allowed conventionally. The landscape bufferyards required for the flag lot will help to further screen the development on this lot from Shady Oak Parkway. In this instance, the flag lot design is superior to what would have been achieved under conventional subdivision techniques.

**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:** Due to plant materials to be installed to meet the requirements of the *Landscape Manual* and Woodland Conservation Ordinance, the proposed development will blend harmoniously with the site and the existing adjacent development.

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

**Comment:** Appropriate landscape buffers will be provided in accordance with the *Landscape Manual*. The bufferyards will help preserve privacy, and to ensure that views between the dwellings and from adjacent Shady Oak Parkway are completely buffered.

17. **At The Public Hearing** – At the public hearing for this case on January 25, 2007, the applicant had requested that Condition 15, which requires a limited detailed site plan (LDSP) for the proposed stormwater management facilities, be limited to only include landscaping, fencing if deemed appropriate, and address potential views from the adjacent dwellings, and potential views from Shady Oak Parkway, Ashram Road and New Relief Terrace. The applicant requested the change to Condition 15 because the stormwater management facilities have already been constructed on the subject property. The Planning Board concurred with the applicant's request, and Condition 15 was revised accordingly.

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 Vaughns, seconded by Commissioner Eley, with Commissioners Vaughns, Eley, Squire, Clark and Parker voting in favor of the motion at its regular meeting held on Thursday, January 25, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 1st day of March 2007.

R. Bruce Crawford  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

RBC:FJG:JF:bjs