

R E S O L U T I O N

WHEREAS, Krause Design and Construction is the owner of a 1.87-acre parcel of land known as Lot 9, Tax Map 161 in Grid B-2, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on October 20, 2006, Krause Design and Construction filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 3 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06119 for Livingston Grove 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 11, 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 11, 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/50/06), and further APPROVED Preliminary Plan of Subdivision 4-06119, Livingston Grove, for Lots 1-3 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Label Livingston Road as having an 80-foot right-of-way width.
 - b. Label the existing use of the adjacent properties as single-family residential.
 - c. Provide a revision box on the plan that clearly demonstrates the date revisions were made, and the purpose of the revisions.
 - d. Number the general notes.
 - e. Revise the general notes to demonstrate the correct rear setback of 20-feet in the R-R Zone.
 - f. Revise the general notes to indicate that Lot 9, Livingston Grove, is the underlying

description, and not the underlying parcel.

- g. Revise the general notes to correct the spelling of the water and sewer categories.
 - h. Provide a general note that indicates the Stormwater Concept Approval number and date.
 - i. Provide a general note that indicates that all driveways within the subdivision will have turn-around capability.
 - j. Correct the plat reference of Livingston Grove Subdivision within the general notes and within the title box to (BB 9 @ 86).
 - k. Provide a general note that demonstrates that no rare, threatened, or endangered species are found to occur within the limits of the subject property.
 - l. Provide a general note that references the companion TCPI, (TCP-I/50/06), and NRI, (NRI/129/06) application numbers.
 - m. Continue the 10-foot wide PUE along the Livingston Road street frontage for Lots 2 and 3.
 - n. Provide the correct net lot area of Lot 2.
 - o. Correct the internal distances provided for the south property line of Lot 3.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
 3. Prior to the issuance of building permits, the applicant, his heirs, successors and or assignees shall provide a financial contribution of \$210.00 to the Department of Public Works and Transportation for the placement of a bikeway sign along Livingston Road, designated a Class III Bikeway. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If the Department of Public Works and Transportation declines the signage, this condition shall be void.
 4. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along the property's entire street frontage unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
 5. The driveway for each lot shall be designed with turnaround capability in order to minimize the need for vehicles to back onto Livingston Road. The design of the driveways for each lot shall be verified at the time of building permit.
 6. At the time of final plat approval, the applicant shall dedicate right-of-way along Livingston Road of 40 feet from centerline, as shown on the submitted plan.

7. 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 1–3.
8. Prior to signature approval of the preliminary plan of subdivision the applicant shall submit two copies of the signed stormwater concept plan and approval letter, and delineate the stormwater concept plan approval number and approval date on the preliminary plan and TCPI. Any required stormwater facilities shall be shown on the TCPI.
9. Prior to signature of the Preliminary Plan or Type I Tree Conservation Plan, the Type I Tree Conservation Plan shall be revised to:
 - a. Indicate the existing woodland as 1.70 acres.
 - b. Indicate the cumulative clearing as 1.05 acres.
 - c. Indicate the woodland conservation requirements as 0.63 acres.
 - d. Revise the worksheet to show the requirement being met using fee-in-lieu.
 - e. Have the revised plan signed and dated by the qualified professional who prepared the plan.
10. 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/50/06), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.

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 the east side of Livingston Road approximately 1,000 feet south of its intersection with Pine Lane.
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)	Undeveloped	Single-Family Dwellings
Acreage	1.87	1.87
Lots	1	3
Parcels	0	0
Dwelling Units:		
Detached	0	3
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for Livingston Grove, 4-06119, and the revised Type I Tree Conservation Plan, TCPI/50/06, stamped as received by the Environmental Planning Section on December 20, 2006. The Environmental Planning Section recommends approval of 4-06119 and TCPI/50/06 subject to the conditions.

Background

The Environmental Planning Section previously approved a Type II Tree Conservation Plan, TCPII/154/04, as part of a building permit application. This application is for three lots in the R-R Zone.

Site Description

There are no streams, wetlands or 100-year floodplain on the property. The site eventually drains into the Piscataway Creek in the Potomac Watershed. Current aerial photos indicate that most of the site is forested. The proposal is not expected to be a noise generator. No scenic or historic roads are affected by the application. 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. According to the Prince George’s County Soils Survey the predominant soil types on-site are in the Beltsville series. The site is in the Developing Tier according to the General Plan.

Environmental Review

A signed natural resources inventory, NRI/129/06, was submitted with the application. The Forest Stand Delineation indicates one forest stand totaling 1.27 acres and notes the species, size and condition of seven specimen trees.

This woodland is composed of maturing mixed hardwoods, including red maple, black gum, and willow oak, with an average of 12 inches diameter at breast height. The understory includes American holly, American beech, highbush blueberry, greenbrier and spicebush. There are no invasive plant species. There is no priority woodland on-site. No further action regarding sensitive environmental features is required.

This site is subject to the provisions of the Woodland Conservation Ordinance because it has a previously approved tree conservation plan. The Environmental Planning Section previously approved a Type II Tree Conservation Plan, TCPII/154/04, as part of a building permit application. A Type I Tree Conservation Plan is required.

The Type I Tree Conservation Plan, TCPI/33/06, has been reviewed and was found to require revisions. The plan proposes clearing 0.62 acres of the existing 1.27 acres of woodland.

When TCPII/154/04 was approved, there were 1.70 acres of woodland on the site. In order to correctly calculate the requirement of the Woodland Conservation Ordinance, the worksheet must account for the existing woodland at the time of TCPII/154/04 and indicate the cumulative woodland cleared. Based upon a comparison of TCPII/154/04 and the submitted TCPI, the existing woodland on TCPI/50/06 should read 1.70 acres, the area of woodland cleared should read 1.05 acres and the woodland conservation requirement should read 0.63 acres.

The Countywide Green Infrastructure Plan indicates that no portion of the property is within the designated network. Unless there are woodlands rating a high priority for preservation, the encumbrance of lots with woodland conservation areas is not consistent with the purposes of the Woodland Conservation Ordinance or the Countywide Green Infrastructure Plan. The woodland areas remaining after clearing for development are fragments that are contrary to the preservation policies established in the Ordinance and those of the Countywide Green Infrastructure Plan. Because the woodlands are of a good quality with few invasive species, woodlands may be retained on lots and do not need to be calculated as cleared. Because of these factors, the use of a fee-in-lieu to accommodate the requirement is appropriate and meets the intent of the Woodland Conservation Ordinance.

According to the "Prince George's County Soils Survey", the predominant soil types on-site are in the series. Beltsville soils are in the C-hydric series and are highly erodible. 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.

Copies of the Stormwater Management Concept Approval Letter and/or plan were not submitted with this application. The TCPI shows the use of dry wells for each lot. No on-site pond should be needed because of the minimal size of this project.

The Environmental Planning Section recommends approval of 4-06119 and TCPI/50/06 subject to conditions.

Water and Sewer Categories

The water and sewer service categories are W-3 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and will therefore be served by public systems.

5. **Community Planning**—The property is located in Planning Area 83 within the Accokeek Community and is within the limits of the 1993 approved Subregion V Master Plan and Sectional Map Amendment. The master plan recommends a Low-Suburban residential land use for the subject property. This application conforms to the Low-Suburban residential land use recommendation within the 1993 Subregion V master plan.

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 retained the subject property within the R-R Zone.

This application is located within the Accokeek Development Review District. Pursuant to Section 27-687 of the Zoning Ordinance, the Accokeek Development Review District Commission (ADRDC) should be listed as a party of record.

6. **Parks and Recreation**—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 1–3 because the land available for dedication is unsuitable due to its size and location.
7. **Trails**—The Adopted and Approved Subregion V Master Plan designates Livingston Road as a master plan bicycle/pedestrian corridor. Currently, Accokeek Road is open section with no sidewalks. The majority of the roads in the vicinity of the subject site are open section with no sidewalks, although some of the newer subdivisions include sidewalks along one side. This bicycle pedestrian corridor can be accommodated with the provision of standard sidewalks and bikeway signage. The Transportation Planning Section supports the provision of the standard sidewalk reflected on the preliminary plan and one bikeway sign to alert motorists to the possibility of bicycle traffic. At the time of road improvement or resurfacing, bicycle compatible pavement markings may be provided and should be addressed for the entire road corridor rather than an individual, property-by-property basis.

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 subject application involves three proposed lots that could be deemed to have a minimal impact on adjacent roadways. Therefore, the applicant was not required to submit a traffic study.

Access to the new lots would be via Livingston Road, which is a planned collector facility. In consideration of current operating speeds and volumes, driveways onto each of the proposed lots should utilize a turnaround capability in order to minimize the need for vehicles accessing these lots to back onto Livingston Road. Sufficient right-of-way dedication of 40 feet from centerline is reflected correctly on the plan.

TRANSPORTATION STAFF FINDINGS

The application is a preliminary plan of subdivision for a residential development consisting of three lots. The proposed development would generate 2 AM and 3 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 traffic controls) if deemed warranted by the appropriate operating agency.

The traffic generated by the proposed preliminary plan would impact the intersection of Pine Lane and Livingston Road.

The Transportation Planning Section has no recent traffic counts or analyses that have been done at the critical intersection. Due to the limited trip generation of the site, however, 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 2 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the Pine Lane and Livingston Road intersection.

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.

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	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	3,946	5,489	9,164
Completion Enrollment	121	64	127
Cumulative Enrollment	17.52	118.48	221.52
Total Enrollment	4,085.24	5,664.66	9,512.88
State Rated Capacity	4,033	6,114	7,792
Percent Capacity	101.29%	92.65%	122.08%

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

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 interstate highway 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 a 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 7-minute response time for the first due fire station Company 24, Accokeek using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George’s County Fire Department.

Pursuant to CR-69-2006, The 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 IV. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan application was accepted for processing by the Planning Department on October 20, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	9/05/05-9/05/06	9.00	22.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on September 5, 2006.

Pursuant to CR-69-2006, The 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.

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for Livingston Grove and has no comments to offer.

13. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), has determined that on-site stormwater management is required. A Stormwater Management Concept Plan has been submitted but not yet approved. Prior to signature approval of the preliminary plan of subdivision the applicant should submit two copies of the signed stormwater concept plan and approval letter and provide the stormwater concept plan approval number and approval date on the preliminary plan and tree conservation plan. Development must be in accordance with that approved plan to ensure that development of this site does not result in on-site or downstream flooding.
14. **Historic**—Phase I archeological survey is not recommended for this property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. There are several swales running through the property. However, the applicant should be aware that there are nine prehistoric sites within a one-mile radius of the subject property. The prehistoric sites were discovered on land not previously developed and at locations close to Mattawoman Creek. There are also several archeological sites, historic sites, and historic resources within a two-mile radius of the subject property, including Bellevue, an 1840 plantation house.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies, or federal permits are required for a project.

15. **Flag Lots**—The applicant proposes two flag lots within the subdivision. The flag lots are shown as Lots 2 and 3.

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 lots proposed are single tier. The houses would be sited such that each would have a private rear yard area.
- b. The flag stem is a minimum width of 25 feet for the entire length of the stem. A 25-foot stem has been provided for each flag lot.
- c. The net lot area for the proposed lots exclusive of the flag stem exceeds the minimum lot size of 20,000 square feet as required in the R-R Zone. Both of the proposed flag lots exceed 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. No shared driveways are proposed.

- e. Where rear yards are oriented toward driveways they shall be screened by an “A” bufferyard. This orientation does not occur in this instance.
- f. Where front yards are oriented toward rear yards, a “C” bufferyard is required. This relationship does occur. A bufferyard has been provided on the preliminary plan. However, the type and width of the provided buffer is not delineated on the preliminary plan. The required 40-foot buffer width is being provided between Lots 1 and 2, however, a small portion of the landscape buffer provided between Lots 1 and 3 falls below the required 40-foot width. Ample area does exist for the required bufferyard, and 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. A majority of the required landscape bufferyard will be fulfilled by preserving existing woodlands, which are of good quality, and contain few invasive species. The applicant has also proffered plant materials on Lot 1, which will be installed at the rear building line of the proposed dwelling, continue down each side property line, and connect to the “C” bufferyard at the rear of Lot 1. These additional screening materials will benefit all three lots by ensuring privacy and protecting the views from all three dwellings.

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 layout of the flag lots has been completely redesigned since the initial preliminary plan submission for this application. The landscape bufferyards required for the flag lots will help to further screen the development on these lots from Livingston Road. 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 the redesign of the flag lots and the 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. The applicant’s proffered plant materials will provide additional screening

measures that will benefit the three proposed lots, as well as the adjacent existing 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 are completely buffered. The applicant's proffered landscaping and the utilization of existing, good quality woodlands within the landscape bufferyards will help to ensure additional privacy.

16. **Accokeek Development Review District Commission**—This application was forwarded to the Accokeek Development Review District Commission upon the acceptance of the preliminary plan application. At the time of the writing of the staff report no comments have been received from the ADRDC.

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 Eley, seconded by Commissioner Clark, with Commissioners Eley, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, January 11, 2007, in Upper Marlboro, Maryland.

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

R. Bruce Crawford
Executive Director

By Frances J. Guertin
Planning Board Administrator