

R E S O L U T I O N

WHEREAS, Vendernia and DeCasaris Builders, Inc. is the owner of a 5.94-acre parcel of land known as Parcel 400 of Oak Lawn, said property being in the 9<sup>th</sup> Election District of Prince George's County, Maryland, and being zoned R-E (Residential-Estate); and

WHEREAS, on May 6, 2009, Vendernia and DeCasaris Builders, Inc. filed an application for approval of a Preliminary Plan of Subdivision for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-07073 for Oak Lawn 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 October 8, 2009, 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 October 8, 2009, 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/013/01-01), and further APPROVED Preliminary Plan of Subdivision 4-07073, Oak Lawn for 2 lots with the following conditions:

1. 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/013/01-01) 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.”

2. The final plat shall show the portion of the conservation easement shown on Record Plat REP 193 @ 63 and its companion note as it relates to the subject property.

3. Development of this site shall be in conformance with Stormwater Management Concept Plan CSD 5095-2009-00 and any subsequent revisions.
4. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall be paid in the amount of \$7,560 (\$3,780 x 2 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.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located on the south side of Oaklawn Road, approximately 300 feet east of its intersection with Oakdale Street.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>APPROVED</b>
Zone	R-E	R-E
Use(s)	Vacant	Single-Family Residential
Acreage	5.94	5.94
Lots		2
Outlots	0	0
Parcels	1	0
Dwelling Units:		
Detached	0	2
Public Safety Mitigation Fee	No	Yes

Pursuant to Section 24-199(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision Review Committee (SRC) on May 29, 2009.

4. **Environmental**—The 5.94 acre property is in the R-E Zone on the south side of Oaklawn Drive, approximately 300 feet east of its intersection with Oakdale Street. The stream, wetlands, and 100-year floodplain on the property are associated with Tinkers Creek in the Potomac River watershed. Current air photos indicate that the entire site is forested. The southern portion of the

site is a regulated area as designated in the *Approved Countywide Green Infrastructure Plan*. No scenic or historic roads are affected by this proposal. There are no nearby sources of traffic-generated noise. The proposed use is not expected to be a noise generator. 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 on this property or on adjacent properties. The *Prince George's County Soil Survey* indicates that the principal soils on the site are in the Chillum, Bibb, and Beltsville series. Marlboro clay does not occur in this area. The site is in the Developing Tier according to the *Prince George's County Approved General Plan*.

#### **Environmental Issues Addressed in the Henson Creek Master Plan**

The master plan contains policies that must be considered as part of the review of any development. With regards to this particular property, the principal policy is “[p]rotect, preserve and enhance the identified green infrastructure network within the Henson Creek planning area.”

The Type I tree conservation plan (TCPI) proposes preservation of the best on-site woodlands, unavoidable impacts to sensitive environmental features, and preservation of most of the specimen trees.

#### **Summary**

The TCPI conforms to the Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area by preserving priority woodlands within the designated regulated area of the Countywide Green Infrastructure Plan.

#### **Conformance with the Countywide Green Infrastructure Plan**

The southern portion of the site is a regulated area as designated in the *Approved Countywide Green Infrastructure Plan*. The following policies support the stated measurable objectives of the Countywide Green Infrastructure Plan:

#### **Policy 1: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.**

The TCPI conforms to the Countywide Green Infrastructure Plan by preserving priority woodlands within the regulated area.

#### **Policy 2: Preserve, protect, and enhance surface and ground water features and restore lost ecological functions.**

Preservation of water quality in this area will be provided through the protection of the expanded stream buffers and the application of best stormwater management practices for stormwater management.

**Policy 3: Preserve existing woodland resources and replant woodland, where possible, while implementing the desired development pattern of the 2002 General Plan.**

The TCPI conforms to the Countywide Green Infrastructure Plan by preserving priority woodlands within the regulated area.

**Summary of Master Plan Conformance**

The proposed development and TCPI conform to the Countywide Green Infrastructure Plan for the reasons stated above.

**Environmental Review**

A signed Natural Resources Inventory, NRI/116/05-01, was included with the application package. The southern portion of the site is a regulated area as designated in the *Approved Countywide Green Infrastructure Plan*. There is a stream, wetlands, and 100-year floodplain on the property which are associated with Tinkers Creek in the Potomac River watershed. The TCPI and the preliminary plan show the same expanded buffer as delineated on the NRI. No revisions are required for conformance to the NRI.

This site is subject to the provisions of the Woodland Conservation and Tree Preservation Ordinance because the site has a previously approved tree conservation plan. A tree conservation plan is required. A Type I Tree Conservation Plan, TCPI/13/01, encompassing the subject property and Lots 398 and 399 was approved with Preliminary Plan 4-01062 and is noted on Record Plat REP 193 @ 63. Lot 398 has an approved Type II Tree Conservation Plan, TCPII/141/02, and Lot 399 has an approved Type II Tree Conservation Plan, TCPII/142/02. This application proposes additional clearing and constitutes a major revision to the approved TCPI.

The revised Type I Tree Conservation Plan, TCPI/13/01-01, including the area of Lots 398 and 399, proposes clearing 1.72 acres of the existing 6.95 acres of upland woodland and no clearing of any of the 1.25 acres of floodplain woodland. The woodland conservation requirement has been correctly calculated as 2.17 acres. The plan proposes on-site preservation of 2.17 acres in an area that will provide protection to all of the significant environmental features on the site and retention of an additional 3.06 acres of woodland that is not part of any requirement. Development subject to the restrictions of the revised TCPI shall be addressed in a note placed on the final plat of subdivision.

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The expanded stream buffer was reviewed and approved as part of Preliminary Plan 4-01062 and placed into a conservation easement shown on Record Plat REP 193 @ 63. The proposed subdivision has no impact on the conservation easement. The final plat shall show the conservation easement shown on Record Plat REP 193 @ 63 and its companion note.

The *Prince George's County Soil Survey* indicates that the principal soils on the site are in the Chillum, Bibb, and Beltsville series. Beltsville soils are in hydrologic soils group C, have a

K factor of 0.43, and may exhibit perched water tables, impeded drainage, and slow permeability. Bibb soils are in hydrologic soils group D, and may exhibit high water table, flood hazard, and poor drainage. Chillum soils are in hydrologic soil group C, but do not pose special difficulties to development.

A Stormwater Management Concept Plan, CSD 5095-2009-00, was approved by the Prince George's County Department of Public Works and Transportation on March 19, 2009. The plan requires the use of drywells as shown on the TCPII. No further action regarding stormwater management is required as it relates to this preliminary plan of subdivision review.

5. **Community Planning**—The application is located 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. This application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier by maintaining a pattern of low- to moderate-density suburban residential communities. Specifically, this application is consistent with Developing Tier goals to: “Maintain low- to moderate-density land uses (except in Centers and Corridors)” and to “Reinforce existing suburban residential neighborhoods.” (p. 37)

This application conforms to the residential, low-density land use recommendation of the 2006 *Approved Master Plan and Sectional Map Amendment for Henson Creek-South Potomac Master Planning Area*. This application proposes two residential dwelling units on a 5.94-acre site.

6. **Parks and Recreation**—In accordance with Section 24-134(a)(3)(B) of the Subdivision Regulations, both lots being created by this subdivision have a net acreage over one acre and are therefore exempt from mandatory dedication of parkland.
7. **Trails**—There are no master plan trail issues for this property. No trail requirements were identified for this site in the approved Henson Creek-South Potomac master plan.
8. **Transportation**—The application is a preliminary plan of subdivision for a residential subdivision consisting of two lots being created within a single platted lot, for one net lot. The proposed development of one net lot would generate a net of 1 AM and 1 PM weekday peak-hour vehicle trip. The traffic generated by the proposed preliminary plan would impact the intersection of Allentown Road and Oaklawn Road, which is unsignalized.

The subject property is located within the Developing Tier, as defined in the *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

- a. Links and signalized intersections: Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

- b. Unsignalized intersections: *The Highway Capacity Manual* (Transportation Research Board) 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, it is 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 critical intersection of Allentown Road and Oaklawn Road is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

Staff has no recent turning movement counts at the critical intersection of Allentown Road and Oaklawn Road. Nonetheless, due to the limited trip generation of the additional development proposed for the site, the site's impact at this location is de minimus. The Planning Board finds that 1 AM and 1 PM peak-hour trip will have a de minimus impact upon delay in the critical movements at the Allentown Road and Oaklawn Road intersection.

Adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved. No transportation-related conditions are recommended at this time.

9. **Vehicular Access**—The property will utilize a shared right-of-way easement to access both proposed lots as permitted per Section 24-128(b)(1) of the Subdivision Regulations. Such easement is permitted provided that the easement has a minimum width of 22 feet connecting to the public road, each lot has a minimum net lot area of two acres, and the use of such lot is restricted to one-family dwelling or agricultural purposes. The proposed easement is 50 feet wide, covering the entire entry stem of proposed Lot 402. Proposed Lot 401 is three acres and proposed Lot 402 is 2.94 acres. Only one-family dwellings are proposed.

The applicant provided a revised exhibit stamped received October 1, 2009 showing the driveway and public utility easement. This exhibit showed the proposed driveway running parallel to existing Pamper Lane. Proposed sewer and water connections were removed from the path of the proposed driveway and a line of six flowering trees and five shade trees were proposed to fill the gap between the proposed driveway and Pamper Lane. At its public hearing, the Planning Board heard the staff's presentation of this exhibit and staff's recommendation to remove the proposed conditions concerning the location of the driveway and the sewer and water lines. Based on the staff presentation and examination of the applicant's exhibit, the Planning Board finds that the vehicular access to this site is adequate.

10. **Schools**—The Planning Board reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CR-23-2003 and finds the following:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	2 DU	2 DU	2 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	0.32	0.26	0.28
Actual Enrollment	4,507	3,954	7,230
Total Enrollment	4,507.32	3,954.26	7,230.28
State Rated Capacity	4,781	4,983	7,792
Percent Capacity	94.3%	79.3%	92.8%

Source: Prince George’s County Planning Department, M-NCPPC, April 2009

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-95/495 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. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,177 and \$14,019 to be paid at the time of issuance of each building permit.

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

11. **Fire and Rescue**—The Planning Board 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) thru (E) of the Subdivision Regulations.

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/EMS Department.

Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn fire and rescue personnel staffing levels.

The Fire/EMS Chief reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.

12. **Police Facilities**—The subject property is located in Police District V. The standard response time 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 was accepted for processing by the Planning Department on May 6, 2009.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date <u>5/6/2009</u>	5/2008-4/2009	11.0 minutes	11.0 minutes
Cycle 1	6/2008-5/2009	12.0 minutes	11.0 minutes
Cycle 2	7/2008-6/2009	12.0 minutes	11.0 minutes
Cycle 3	8/2008-7/2009	12.0 minutes	10.0 minutes
Cycle 4	9/2008-8/2009	12.0 minutes	10.0 minutes
Cycle 5			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were not met September 21, 2009.

The rolling twelve-month average for response times in District V were provided for four monthly cycles following the acceptance of the subject application.

If the response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls are not met by the third monthly cycle of response time reports, the applicant must 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 Police Chief reported that the department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, Prince George’s County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A, B) of the Subdivision Regulations regarding sworn police personnel staffing levels.

This application does not meet the emergency response time standard for police. County Council Bill CB-56-2005 provides for mitigation of fire, rescue, and 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. The applicant has committed to the payment of this fee.

13. **Water and Sewer**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage



Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2008 *Water and Sewer Plan*, as adopted by CR-91-2008, placed this property in water and sewer Category 4, Community System Adequate for Development Planning.

14. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for Oak Lawn and has no comments to offer.
15. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, CSD 5095-2009-00, has 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 this approved plan.
16. **Cemeteries**—There are no cemeteries identified on the property.
17. **Historic**—The proposed subdivision for two residential lots will have no effect on identified historic sites, resources, or districts.

A Phase I archeological survey is not recommended on the 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. Most of the property contains steep slopes. Archeological sites are not typically found on slopes over 10 percent. However, the applicant should be aware that there are five previously identified archeological sites, one historic, one prehistoric, and three multicomponent sites, located within a one-mile radius of the subject property. In addition, there are two County historic sites, Bellview, outbuildings and cemetery (81B-001) and Terrett House/Bird Lawn Manor (76B-012).

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 date of notice of 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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Cavitt abstaining at its regular meeting held on Thursday, October 8, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 29<sup>th</sup> day of October 2009.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

OSR:FJG:RD:arj