

A M E N D E D R E S O L U T I O N

WHEREAS, Arthur and Yasmin Shepard are the owners of a 95.05-acre parcel of land known as Parcel 31, Tax Map 168, Grid C-2, said property being in the 4th Election District of Prince George's County, Maryland, and being zoned O-S; and

WHEREAS, on September 2, 2004, Archer's Glen Partners, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 19 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04142 for Bennington Farm 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 December 9, 2004, 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 December 9, 2004, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

*WHEREAS, on December 9, 2004 the Planning Board approved Preliminary Plan of Subdivision 4-04142; and

*WHEREAS, on December 22, 2005, the Circuit Court remanded the Preliminary Plan of Subdivision to the Planning Board for further proceedings; and

*WHEREAS, the basis of that remand was for the limited purpose of adding further findings demonstrating the preliminary plan's compliance with the Subregion VI Master Plan (1993) and the 2002 General Plan; and

*WHEREAS, on May 25, 2006, the Planning Board reconsidered the Preliminary Plan of Subdivision and approved the subject application with all of the original conditions and findings, with the addition of finding related specifically to conformance with the Subregion VI Master Plan (1993) and the 2002 General Plan.

*Denotes Amendment

Underlining indicates new language

[Brackets } indicate deleted language

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/13/04), and further APPROVED Preliminary Plan of Subdivision 4-04142, Bennington Farm for Lots 1-19 with the following conditions:

1. Prior to signature approval of the preliminary plan, the submitted Phase I archeological investigation shall be approved by the Planning Board or its designee. Prior to approval of the final plats, the applicant shall submit Phase II and Phase III investigations if determined by necessary Planning Department staff. The plan shall provide for the avoidance and preservation of the resources in place or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.
2. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of a bikeway sign along Bald Eagle School 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.
3. The applicant shall provide a fee to Prince George's County, which shall serve as a fair share contribution toward the construction of the proposed Croom-Naylor fire station and acquisition of an ambulance and paramedic unit. The fee shall be paid at time of the issuance of building permits. Eleven lots that are beyond both ambulance and paramedic response time standards shall pay a fee of \$1,302 per dwelling unit. Eight units that are beyond the response time standards for paramedic service shall pay a fee of \$1,194 per dwelling unit.
4. Prior to signature approval of the preliminary plan, the FSD text and plan shall be revised as follows:
 - a. Reconcile the total site area, quantity of existing woodland, and quantity of woodland in each stand in the text and on the plan;
 - b. Include the graphic element shown on the plan for soils boundary in the legend;
 - c. Identify all severe slopes and steep slopes on highly erodible soils on the plan;
 - d. Indicate in the revision block what revisions have been made, when and by whom; and
 - e. Have the revised FSD plan and text signed and dated by the qualified professional who prepared them.

5. Prior to signature approval of the preliminary plan, the TCPI shall be revised as follows:
 - a. Provide a complete delineation of the Patuxent River Primary Management Area (PMA) with all the component elements shown based on correct delineation of regulated slopes;
 - b. Combine the areas labeled “priority afforestation” with areas labeled “afforestation;”
 - c. Place afforestation areas on the highest priority areas of the site including severe and steep slopes on highly erodible soils and unvegetated PMA;
 - d. Include all graphics used on the plan in the legend and provide appropriate labels; and
 - e. Have the revised TCPI signed and dated by the qualified professional who prepared it.
6. 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/13/04), 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/Tree Preservation Policy.”
7. If the wetland delineation plan has been revised it shall be revised to note the revisions made, have a revision date added and be submitted prior to certification of the preliminary plan.
8. Prior to signature approval of the preliminary plan, the preliminary plan of subdivision and TCPI shall be revised to show the maximum extent of the PMA based on a complete delineation of the severe slopes and steep slopes on highly erodible soils.
9. Prior to signature approval of the preliminary plan, and after the PMA has been correctly delineated, the preliminary plan of subdivision and TCPI shall be revised to eliminate PMA impacts on lots through the relocation of septic recovery areas and building footprints and minimize PMA impacts resulting from the construction of Clark Lane to the fullest extent possible.
10. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. 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.”

11. Prior to the issuance of any permits that impact 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.
12. Development of the property shall be in conformance with the approved stormwater management concept plan #2339-2004-0, or any approved revisions thereto.
13. A Type II tree conservation plan shall be approved prior to the approval of permits

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 east side of Bald Eagle School Road, south of its intersection with Westwood Road and approximately 4,000 feet north of its intersection with Baden-Westwood Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	O-S	O-S
Uses	Vacant	Single-family detached dwellings
Acreage	95.05	95.05
Lots	0	19
Parcels	1	0
Detached Dwelling Units	0	19

4. **Environmental**—The site contains wooded areas and areas that are currently being farmed. There are streams, wetlands, and 100-year floodplains and their associated buffers on the property. A large tributary generally follows the northern property line of the site, with smaller tributaries crossing the site and flowing into the large stream from the south. Extensive areas of severe and steep slopes exist, many of which are adjacent to streams. The soils found on this property include Beltsville silt loam, Matapeake silt loam, Mixed alluvial land, Sandy land steep, Sassafras gravelly sandy loam, and Westphalia-Evesboro complex. Some of these soils have limitations with respect to impeded drainage or seasonally high water tables, while others have limitations with respect to steep slopes and erodibility. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this lot. A limited amount of forest interior dwelling species (FIDS) habitat is located on site, but it is not

significant in size, or contiguous with other identified FIDS habitat along the stream valley corridor. There are no designated scenic and historic roads located adjacent to the property or in the vicinity of the property. No adverse noise impacts from transportation are anticipated related to this proposal. The property is located in the Patuxent River watershed and is in the Rural Tier as reflected in the adopted General Plan.

Woodland Conservation

A revised detailed forest stand delineation Plan (FSD) was requested in the September 15, 2004, memo from the Environmental Planning Section. A revised plan was submitted, but no revised text was received. The total site area on the FSD plan is now stated to be 95.04 acres; the site area previously stated in the text was 96.75 acres. The amount of existing woodlands and the area of Stand 1 as stated on the plan did not previously match areas given in the text. Consistency with a revised text cannot be confirmed since revised text was not submitted.

The plan lacks required information that was previously requested, or has information that has not been correctly and completely labeled. Not all severe slopes and steep slopes on highly erodible soils have been shown. The centerlines of all streams have now been shown on the FSD plan, and the label "Waters of the U.S." has been correctly revised to "stream." The plan legend does not contain the graphic element used on the plan for soil boundaries.

The site contains two stands of mature, upland deciduous forest that are largely homogeneous. Dominant canopy species include tulip poplar, oaks (e.g. white oak southern oak, north red oak) beech, and Virginia Pine. There are 19 specimen trees ranging from 30 to 48 inches diameter at breast height. Priority areas for afforestation occur within the delineated PMA.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the area of existing woodland is greater than 10,000 square feet and the area of the property is greater than 40,000 square feet. A Type I tree conservation plan (TCPI/13/04) was submitted concurrent with the preliminary plan application as required.

The Tree Conservation Plan (TCPI/13/04) has been reviewed. Assuming that the subject property is 95.04 acres in size, the woodland conservation threshold is 46.45 (50 percent of the net tract). The requirement is increased due to 16.09 acres of clearing, for a total woodland conservation requirement of 51.14 acres. The TCPI proposes to meet the requirement on-site with 45.13 acres of on-site preservation and 6.21 acres of on-site afforestation, for a total of 51.34 acres of woodland conservation provided, which exceeds the required amount.

The Patuxent River Primary Management Area (PMA) has not been completely or correctly delineated at this time, because the steep slopes on highly erodible soils have not been identified. It appears that preservation has been focused in the environmentally sensitive areas of the site, and the afforestation is proposed in contiguous, large blocks, and in infill locations. After the PMA has been correctly delineated, an adjustment of afforestation areas may be necessary to include these areas of higher priority.

Specimen trees have been identified on the plan, and a specimen tree table has been provided. A lot-by-lot woodland conservation table has also been provided. The existing tree line has been shown and a limit of disturbance has been provided. The term "conservation" has been inappropriately used to label areas that are proposed for preservation. A separate graphic symbol has been used to identify "priority afforestation." Priority afforestation areas should be combined with other afforestation areas, and not identified separately. Afforestation areas shown on Lots 5, 14, 15, 17, 18 and 19 should be reconfigured to focus on higher priority afforestation areas of the site, such as severe or steep slopes on highly erodible soils abutting areas proposed for tree preservation, and provide usable yard areas a minimum of 40 feet from the rear of dwellings, and 20 feet from the sides of dwellings.

Development of this subdivision shall be in compliance with the approved Type I tree conservation plan (TCPI/13/04) approved as part of this application.

Streams, Wetlands and Floodplain

The site contains significant natural features required to be protected under Sec. 24-129 and/or 130 of the Subdivision Ordinance. The site contains streams or wetland areas that may be impacted, and may be regulated by federal and state requirements.

A revised wetlands delineation plan was submitted on October 5, 2004, according to the transmittal memorandum from the engineer, although there is no indication on the plan that any revisions were made. No revisions are noted in the title block, and the date of signature by the preparer has not been altered. If there has been a revision to the wetlands delineation plan, which may impact the delineation of the PMA, it should be clearly stated in the revision block of the revised plan. The Environmental Planning Section previously requested no revision to the wetlands delineation plan.

Section 24-130 of the Subdivision Ordinance requires that the Patuxent River PMA be clearly shown and that the PMA be preserved to the fullest extent possible. The PMA comprises streams, a 50-foot stream buffer, adjacent wetlands, a 25-foot wetland buffer, adjacent 100-year floodplains, adjacent areas of slopes in excess of 25 percent, adjacent areas of slopes between 15 and 25 percent on highly erodible soils, and areas of special wildlife habitat. Each of these features shall be shown on the FSD and the maximum extent reflected as the PMA on the TCPI. The FSD plan as currently submitted does not reflect all severe slopes and/or steep slopes on highly erodible soils, which has resulted in an incorrect delineation of the PMA on the TCPI.

The Subdivision Regulations require that the PMA be preserved to the fullest extent possible. Impacts to the PMA are generally supported only for the construction of necessary public roads and utilities. Impacts for the creation of lots and/or grading for lots are generally not supported. A determination regarding the extent of proposed impacts to the PMA cannot be made definitively until the PMA is fully and correctly delineated. Based on the revised plan, it appears that impacts to the PMA on lots can be eliminated through the relocation of septic recovery areas

or of building footprints. PMA impacts to Lots 13 and 14 are also proposed for the extension of Clark Lane, a public right of way, from the adjacent Archer's Glen Subdivision to the south. These impacts are necessary for the construction of the public road, connecting to a platted right-of-way, and appear to have been minimized to the extent possible.

After the PMA delineation is completed, the TCPI and preliminary plan should be revised to eliminate all proposed impacts to the PMA on lots for the placement of septic fields and structural footprints and to minimize to the greatest extent possible impacts resulting from the construction of the necessary public road, if any exist.

Soils

The Beltsville, Matapeake, Mixed alluvial, Sandy land, Sassafras and Westphalia-Evesboro soil series have limitations that could affect the development of this property including high water tables, impeded drainage, slope, slow permeability, and stability. Although these limitations may affect the construction phase of this development, there are no limitations that would affect the site design or layout. During the review of building permits the Department of Environmental Resources may require a soils study addressing the soil limitations with respect to the construction of homes.

Water and Sewer Categories

The property is in water category W-6 and sewer category S-6; it will be served by private well and septic systems.

5. **Community Planning**—The property is in Planning Area 87A/Westwood. It is located in the Rural Tier as defined by the 2002 General Plan. The vision for the Rural Tier is the protection of large amounts of land for woodland wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. A goal of the Rural Tier is to allow large lot, estate residences. This application is not inconsistent with guidelines for development in the Rural Tier as defined in the General Plan.

The 1993 Subregion VI Study Area Master Plan recommends residential land use at the Low Rural density of 0.2 average dwelling units per acre. The 1994 Sectional Map Amendment for the Subregion VI Study Area retained the subject property in the O-S Zone. This application conforms to the Low Rural residential land use characteristics recommended in the master plan. There are no master plan issues associated with this application.

Section 24-121(a)(5) of the Subdivision Regulations states: “The plat shall conform to the area master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant plan recommendations no longer appropriate or the District Council has not imposed the recommended zoning.”

Several elements of the plan, as approved with conditions and as noted in various review referrals, demonstrate conformance to the maps and text of the master plan and general plan. No rare, threatened or endangered species of plants or animals will be impacted by the development. No designated scenic or historic roads will be impacted by the development. Of the approximate 51 acres of woodland conservation required, all will be on-site in the form of existing preservation (88%) and afforestation (12%). All of site’s environmentally sensitive area of Patuxent River Primary Management Area (PMA) is conditioned to remain undisturbed. To protect the rural environment, lots along Bald Eagle School Road meet or exceed five acres in size. The permitted smaller lots (less than five acres in size) are located in the interior of the subdivision. Conservation easements are required over the environmental features to additionally provide for the retention of a quasi-public open space system. The lotting pattern established provides for the implementation of high-end estate housing. The transportation system was found to meet the minimum level of service (LOS) C criteria established for the Rural Tier. The private sector builder will be required to fund a portion of the needed infrastructure in the form of fire and rescue facilities. The private sector builder will be required to contribute towards the implementation of a Class III bikeway. The lot sizes conform to the minimum standards established for the O-S Zone. The overall project density is consistent with the O-S Zone and the land use recommendation. The ultimate development of the 19 lots created by this subdivision are not in conflict with the hundreds of dwelling units envisioned in the Rural Tier over the next approximate 20 years, given one percent of the County’s residential growth in that time frame.

The 2002 General Plan established seven goals for the Rural Tier. While it is acknowledged that this specific property, with this specific development proposal will not retain sustainable agricultural land, nor will it limit non-agricultural uses, it will preserve environmentally sensitive features; it will help to maintain rural character; it will allow for large lot estate residences; it will protect the land owners’ equity in their land; and it will maintain the integrity of the rural transportation system.

6. **Parks and Recreation**—The proposed subdivision is exempt from the mandatory park dedication requirements of Section 24-134 of the Subdivision Regulations because all lots are greater than one acre in size.

*Denotes Amendment

Underlining indicates new language

[Brackets } indicate deleted language

7. **Trails**—The adopted and approved Subregion VI Master Plan designates Bald Eagle School Road as a Class III bikeway and recommends appropriate signage. In cases along county rights-of-way, the Planning Board has typically required the applicant to provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of this signage. Staff recommends the payment be required in this case.
8. **Transportation**—The proposed development would generate 14 AM (3 in, 11 out) and 17 PM (11 in, 6 out) peak-hour vehicle trips as determined using *The Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The traffic generated by the proposed preliminary plan would impact the intersection of Bald Eagle School Road and Croom Road (MD 382). This intersection 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:

The subject property is located within the Rural 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) C, with signalized intersections operating at a critical lane volume (CLV) of 1,300 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 Bald Eagle School Road/Croom Road intersection, when analyzed with existing traffic, was found to be operating with a delay of 9.6 seconds/car during the AM peak hour, and 9.3 seconds/car during the PM peak hour. Both delays are well below the 50-second threshold. When the subject intersection was analyzed under total traffic conditions, the delays were computed as 9.7 seconds/car and 9.5 seconds/car during the AM and PM peak hours respectively.

Transportation Conclusion

Adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 3	High School Cluster 3
Dwelling Units	19 sfd	19 sfd	19 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	4.56	1.14	2.28
Actual Enrollment	5334	4689	8654
Completion Enrollment	351.84	86.22	158.07
Cumulative Enrollment	533.28	96.90	193.80
Total Enrollment	6223.68	4873.26	9008.15
State Rated Capacity	5384	5114	7752
Percent Capacity	115.60%	95.29%	116.20%

Source: Prince George's County Planning Department, M-NCPPC, December 2003

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.

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. 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.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public fire and rescue facilities.

The existing fire engine service at Baden Fire Station, Company 36, located at 16608 Brandywine Road has a service travel time of 6.21 minutes, which is beyond the 5.25-minute travel time guideline.

The existing ambulance service at Baden Fire Station, Company 36, located at 16608 Brandywine Road has a service travel time of 6.21 minutes, which is within the 6.25-minute travel time guideline for Lots 1-8. All other lots are beyond.

The existing paramedic service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road has a service travel time of 12.30 minutes, which is beyond the 7.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate. Because sprinkler systems are required in all residences in Prince George's County, no condition is necessary.

The above findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan (1990)* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

In order to mitigate the ambulance and paramedic response time deficiencies, staff recommends that the applicant participate in providing a fair share contribution toward the construction of the planned Croom-Naylor services facility.

The fee amount is based upon the total cost of the facility (\$1,275,000), ambulance (\$131,000) and paramedic unit (\$131,000) divided by the total amount of residential and employment population within the service area in 2006. The service areas include those areas that will be served by the planned facility. The fair share fee is \$1,302 per dwelling unit for ambulance and paramedic service.

Paramedic and Ambulance

2006 service area population/workers=3,541
\$1,537,000/3541=\$434 per resident/employee.
3.0 planning area household size x \$434=\$1,302 per dwelling
11 x 1,302=\$14,322 ambulance and paramedic fee

Paramedic Only

2006 service area population/workers is 3,541
1,405,000/3541=\$398 per resident/employee.
3.0 planning area household size x 398=\$1,194 per dwelling
8 x \$1194=\$9552 (paramedic only fee)
Grand total =\$9552+\$14322=\$23,874 (total fee)

11. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.

12. **Health Department**—The Health Department reviewed the application and noted that there are approved percolation tests for all 19 proposed lots. Ultimately, the location and configuration of the recovery fields may change slightly. This will not have a significant impact on the lotting pattern. Final design will take place prior to Health Department signature of the final plats.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A stormwater management concept plan (#2339-2004-00) was approved on February 5, 2004. Development must be in accordance with this approved plan or any revisions thereto.
14. **Cemeteries**—This land is part of a 17th-century land grant known as Archer's Pasture, used by the Anglican clergy during the 18th century. The applicant should be aware that if burials are found during any phase of the development process, development activity must cease in accordance with state law. Because this is a likely burial site, a Phase I archeological study was required and has been submitted. It must be approved prior to signature approval of the preliminary plan. Phase II and III studies may be required prior to final plat approval.
15. **Public Utility Easement**—The preliminary plan includes the required ten-foot-wide public utility easement parallel and contiguous to all public rights-of-way and within each access easement. The easement will be shown on the final plat.
16. **Varying Lot Sizes**—The applicant is proposing to use varying lot sizes as permitted by the Prince George's County Zoning Ordinance. Unlike the provision for the use of lot size averaging (R-55, R-80, R-R and R-E Zones), the use of varying lot sizes in the R-A and O-S Zones does not require specific findings for approval. Only the minimum standards outlined in the Zoning Ordinance must be met.

Section 27-442(b)(Table I) of the Zoning Ordinance sets the minimum standards for varying lot sizes. In the O-S Zone, the creation of varying lot sizes is permitted as long as the total tract being subdivided is at least 50 acres in size. In this case the total tract area is 95.05 acres. Further, at least 60 percent of the lots created using varying lot sizes must meet or exceed the minimum lot size of five acres in the O-S Zone. This requirement has been met with the submitted preliminary plan: 12 of the proposed 19 lots (or 65 percent) are a minimum of five acres in this subdivision.

The Zoning Ordinance allows one 2-acre lot for every 50 acres of land in the tract. With 95.05 acres of land in the O-S tract, a maximum of one 2-acre lot is permitted. The remaining lots are required to exceed three acres. The submitted preliminary plan includes one lot between two and three acres in area; the remaining six lots exceed three acres. This arrangement meets the minimum standards set forth in Section 27-442(b)(Table I) of the Zoning Ordinance for the use of varying lot sizes. To protect the rural environment, the applicant is proposing a five-acre lot along Bald Eagle School Road. The smaller lots in the subdivision (less than five acres in size) are located in the interior of the subdivision.

17. **Boundary Dispute**—An attorney for a neighboring property owner to the north (Ms. Naylor) has submitted a letter into the record accusing the applicant of including a portion of her property in this application. At dispute is the location of the northern boundary line separating the two properties, which is recorded (and shown on the plan) as the centerline of a stream. This letter further states that even if the boundary line is correctly shown, Ms. Naylor has met the criteria for acquiring the land through adverse possession, though no such determination has ever been made. It has long been the policy of the Planning Board to not interject itself into boundary disputes or adverse possession claims. If Ms. Naylor believes her property rights are being violated, the correct recourse would be to file suit in the court of competent jurisdiction.

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 Clark, with Commissioners Vaughns, Clark, Squire and Parker voting in favor of the motion, and with Commissioner Eley absent at its regular meeting held on Thursday, May 25, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 13th day of July 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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