

R E S O L U T I O N

WHEREAS, William A. and Emma T. Gallahan, et al is the owner of a 34.0-acre parcel of land known as Parcels 104 and 105, Tax Map 132, Grid D-2, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on October 20, 2004, Cherrywood Development, LLC filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 25 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04143 for Gallahan I 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 6, 2005, 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 6, 2005, 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/22/04), and further APPROVED Preliminary Plan of Subdivision 4-04143, Gallahan I for Lots 1-25 including a Variation Request from Section 24-130 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. Provide reference to the pending lot line adjustment deed between Parcels 104 and Parcel 105, and submit a copy of the deed with the date stamp accepted by the County Land Records.
 - b. Indicate the conceptual stormwater management plan number and approval date.
 - c. Method of fulfillment of mandatory dedication of parkland.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
3. Prior to the approval of the final plat, the applicant shall submit a copy of the recorded lot line adjustment deed between Parcels 104 and 105, pursuant to Section 24-107 of the Subdivision

Regulations.

4. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan 34118-2003-00, and any subsequent revisions.
5. Prior to approval of the final plat of subdivision and/or any disturbance occurring on this property, the applicant shall submit a Phase I archeological investigation and if determined to be needed by Planning Department staff, a Phase II and Phase III investigation. If necessary, the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to 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.
6. 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 under one-acre (Lots 1, 3-8, 12, 15-17, 24 and 25).
7. At the time of final plat approval, the applicant shall dedicate right-of-way along Floral Park Road of 40 feet from centerline, as shown on the submitted plan.
8. The applicant, his heirs, successors and or assignees shall provide wide asphalt shoulders (7 to 10 feet wide) to safely accommodate bicycle traffic along the subject site's entire road frontage of Gallahan Road, per the concurrence of DPW&T.
9. Prior to the issuance of grading permits the applicant shall submit a manifest demonstrating that the fuel storage tanks located on the property have been properly disposed of by a licensed waste company and reclamation of any contaminated soils has occurred under the direction of the Health Department.
10. The final plat shall show all 1.5 safety factor lines and a 25-foot building restriction line from the 1.5 safety factor line. The location of the 1.5 safety factor lines shall be reviewed and approved by M-NCPPC, Environmental Planning Section and the Prince George's County Department of Environmental Resources. The final plat shall contain the following note:

“No part of a principal structure may be permitted to encroach beyond the 25-foot building restriction line (BRL) established adjacent to the 1.5 safety factor line. Accessory structures may be positioned beyond the BRL, subject to prior written approval of the Planning Director, M-NCPPC and DER.”
11. Prior to signature of the Preliminary Plan, the FSD shall be revised to:
 - a. Show the 100-year floodplain and state the source of the delineation.

- b. Have the revised plan signed and dated by the qualified professional who prepared the plan.
12. Prior to signature of the Preliminary Plan, the Type I Tree Conservation Plan shall be revised to add the following note:

“The Type II TCP shall show permanent fencing and the planting of trees 1-2 inches in diameter along all boundaries of the planting areas” and the revised plan shall be signed and dated by the qualified professional who prepared the plan.
13. 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/22/04), 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.”
14. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall show conservation easements for all on-site planting areas 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.”
15. Prior to the issuance of any permits that 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.
16. A scenic easement, a minimum of 40 feet wide adjacent to the 10-foot public utility easements parallel to the land to be dedicated for Piscataway Road, shall be shown on the final plats as a scenic easement and the following note shall be placed on the plats:

“Scenic easements described on this plat are areas where the installation of structures 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 permitted.”

The 40-foot-wide scenic easement shall be reviewed with the Type II Tree Conservation Plan. The landscaping shall be sufficient to preserve the scenic character of Gallahan Road.

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 west side of Gallahan Road, approximately 0.8 miles south of its intersection with Old Fort Road South.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-E	R-E
Use(s)	Vacant	Single-family residential
Acreage	34 acres	34 acres
Lots	0	25
Parcels	2	0
Dwelling Units:		
Detached	0	25

4. **Environmental**—According to the *Prince George's County Soils Survey* the principal soils on this site are in the Aura series. Marlboro clay occurs on the site. Streams and expanded stream buffers associated with Piscataway Creek occur on the property. There are no nearby traffic-generated noise sources. The proposal is not expected to be a noise generator. Gallahan Road is a designated scenic road.

The plan shows a 1.5 safety factor line associated with Marlboro clay based upon the geotechnical report that was submitted. Section 24-131 of the Subdivision Regulations controls the development of potentially unsafe land. As a matter of policy, no lot with an area of less than 40,000 square feet may have any portion impacted by a 1.5 safety factor line; however, this site has been carefully evaluated and staff is comfortable in this case to allowing the 1.5 safety factor line on a lot if there is a minimum 40-foot separation from the rear of the house. At a minimum, a 25-foot building restriction line should be established along the 1.5 safety factor line. This will allow a reasonable use of the property while maintaining the safety of the future residence.

Only 2.73 acres of the 34.00-acre property contains woodland. The single forest stand, containing two specimen trees, is limited to the areas of severe and steep slopes near the stream along the northwest boundary of the site. This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area of the property is greater than 40,000 square feet and there are more than 10,000 square feet of existing woodland.

The Type I Tree Conservation Plan, TCPI/22/04 has been reviewed. The plan proposes clearing

0.23 acres of the existing 2.73 acres of upland woodland and no clearing of any of the 0.03 acres of woodland within the 100-year floodplain. The woodland conservation requirement has been correctly calculated as 7.03 acres. The plan proposes to meet the requirement by providing 2.32 acres of on-site preservation and 4.71 acres of on-site planting.

The woodland conservation areas have been principally designed to create an area of contiguous woodlands in the sensitive environmental areas of the site. All lots will have areas 20 feet wide on the sides and 40 feet wide on the rears that are free of woodland conservation. The design of the woodland conservation areas meets the goals of the Woodland Conservation Ordinance.

Because the area of existing woodland is low, the site requires afforestation. The plan proposes extensive on-site planting on proposed lots. To assure protection in perpetuity, as required by Maryland law, both permanent fencing and easements should be required.

One impact is proposed to the expanded buffer. Impacts to these buffers are restricted 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. Even if approved by the Planning Board, the applicant will need to obtain federal and state permits prior to the issuance of any grading permit. Each variation is described individually below. However, for purposes of discussion relating to Section 24-113(a) of the Subdivision Regulations the impacts were discussed collectively.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;**

Comment: The installation of stormwater management is required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare.

All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with other regulations. These regulations require that the designs are not injurious to other property.

- (2) The Conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

Comment: The specific topography of the site and soil types require the use a stormwater management pond and an outfall to adequately serve the proposed development. The requested variations are not generally applicable to other properties.

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

Comment: The installation of stormwater management structures is 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 particular 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 strict letter of these regulations is carried out;**

Comment: The topography provides no alternative for the location of the stormwater outfall that is required to serve the development. Without the required stormwater management structure, the property could not be properly developed in accordance with the regulations of the R-E Zone.

Gallahan Road is a designated scenic road. The *Design Guidelines and Standards for Scenic and Historic Roads* provides guidance for the review of applications that could result in the need for roadway improvements. The plans provide 40-foot-wide landscape buffers adjacent to the 10-foot public utility easement parallel to the land to be dedicated for Gallahan Road. This treatment is consistent with previously approved plans along scenic roads. The landscaping should be approved with the Type II Tree Conservation Plan and placed in a conservation easement at the time of record plat.

Water and Sewer Categories

The water and sewer service categories are W-4 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 within the limits of the 1981 master plan for Subregion VII, Planning Area 80 in the Friendly Community. The master plan recommended land use is for estate residential. The 2002 General Plan locates the property in the Developing Tier. One of the visions for the Developing Tier is to maintain a pattern of low-to moderate-density residential communities. The proposed preliminary plan, with an average lot size of 1.3 acres, is consistent with the recommendations of the master plan and the 2002 General Plan.
6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location. Section 24-134 exempts lots from the requirement of mandatory dedication of parkland when they exceed one-acre or 43,560 square feet. Twelve of the 25 lots proposed are exempt from the requirement of mandatory dedication; thirteen lots are subject.
7. **Trails**—There are no master plan trails issues identified in the Adopted and Approved Subregion VII Master Plan or the 1985 Equestrian Addendum to the Adopted and Approved Countywide Trails Plan. However, Gallahan Road has recently been designated as part of the Potomac Heritage Trail On-Road Bicycle Route. This bicycle route was developed by M-NCPPC in cooperation with the community, Oxon Hill Bicycle and Trails Club, Southern Prince George's Trails Coalition, and the National Park Service. Wide asphalt shoulders are recommended to safely accommodate bicycle movement along the subject site's frontage of Gallahan Road, per the concurrence of DPW&T.

SIDEWALK CONNECTIVITY:

Due to the low density, large lots proposed on the subject site, internal sidewalks are not recommended but may be required by the Department of Public Works and Transportation (DPW&T) at the time of review and approval of the street construction permits.

8. **Transportation**—Due to the size of the subdivision, staff did not require a traffic study. The staff did request traffic counts of the applicant, and turning movement counts at Old Fort Road South and Gallahan Road (the critical intersection) dated April 2004 were provided. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

Growth Policy—Service Level Standards

The subject property is in the Developing Tier, as defined in the 2002 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 is required in the Developing Tier.

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 study and install the signal (or other less costly traffic controls) if deemed warranted by the appropriate operating agency.

The intersection of Old Fort Road South and Gallahan Road is determined to be the critical intersection for the subject property. This intersection is the nearest intersection to the site and would serve all of the site-generated traffic. The critical intersection is unsignalized.

The traffic counts taken by the applicant in 2004 indicate that the critical intersection operates with a maximum delay in any movement of 11.4 seconds during the AM peak hour. During the PM peak hour, the intersection operates with a maximum delay of 10.4 seconds.

There are no funded capital projects at this intersection in either County Capital Improvement Program or the State Consolidated Transportation Program that would affect the critical intersection. There are seven approved but unbuilt developments that would affect the intersection. With background growth added, the critical intersection would operate as follows: AM peak hour—14.8 seconds of delay; PM peak hour—13.0 seconds of delay.

With the development of 25 detached residences, the site would generate 19 AM (4 in and 15 out) and 23 PM (15 in and 8 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 70 percent—north along Old Fort Road South; 10 percent—southwest along Old Fort Road South; and 20 percent—southeast along Gallahan Road. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—15.1 seconds of delay; PM peak hour—13.2 seconds of delay. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections; it is determined that this intersection operates acceptably as an unsignalized intersection under existing, background, and total traffic.

Gallahan Road adjacent to the site is a master plan collector facility, and the plan shows adequate dedication of 40 feet from centerline. The Transportation Planning Section supports the concept of providing a stub street connection of Orchard Hill Drive to the south. Normally the transportation staff is reluctant to support such a connection with a 50-foot right-of-way street. After a thorough review of environmental constraints, however, it appears that regulated areas, steep slopes, and Marlboro clays greatly limit additional development south of this site. Any development would occur in the form of a few lots; no large flat areas exist that could support other types of permitted uses. Therefore, 50-foot right-of-way is deemed to be sufficient along Orchard Hill Drive, the proposed internal public through street.

Based on the preceding findings, 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 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 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	25 sfd	25 sfd	25 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	6.00	1.50	3.00
Actual Enrollment	4183	4688	8866
Completion Enrollment	158.40	69.06	136.68
Cumulative Enrollment	0.96	2.70	5.40
Total Enrollment	4348.36	4761.26	9011.08
State Rated Capacity	4512	5114	7752
Percent Capacity	96.37%	93.10%	116.24%

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

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

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the 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 adequacy of public facilities and concluded the following:

- a. The existing fire engine service at Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service travel time of 4.29 minutes, which is within the 5.25-minute travel time guideline.
- b. The existing ambulance service Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service travel time of 4.29 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Allentown Road Fire Station, Company 47 located at 10900 Fort Washington Road has a service travel time of 4.29 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services.

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

11. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. 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 notes that four above ground fuel storage tanks were found on the property. These tanks must be removed and the contents properly discarded. A representative from the Health Department should evaluate the soils beneath these tanks for possible contamination and the soils properly discarded if contamination has occurred. Also found on the property were an estimated 100 Port-A Johns that will be removed and properly discarded by the applicant prior to grading.
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 34118-2003-00, 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.

14. **Historic Preservation**—The Planning Board has determined that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. The Hatton and Schaaf families' properties that became part of the Chapel Hill community and settled by freed slaves after the Civil War are documented to have been living in this area.

It is possible the site was actively farmed, and it is also possible that there were slave dwellings, and slave burials on this property. Documentary and archeological investigation should be required to determine whether there exists physical evidence of slave dwellings or burials.

Prior to approval of the final plat and/or any disturbance occurring on this property, the applicant should submit a Phase I archeological investigation to the Planning Department staff for review and concurrence and if determined to be needed, a Phase II and Phase III investigation. The final plat, if necessary, should provide for the avoidance and preservation of the resources in place and should provide appropriate plat notes ensuring the mitigation of any adverse effect upon these resources, if necessary. 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.

15. The applicant, who is the contract purchaser of the property, has drafted a lot line adjustment deed between Parcels 104 and 105 pursuant to Section 24-107 of the Subdivision Regulations, which is reflected on the subject preliminary plan. The preliminary plan should be revised to provide reference to the pending lot line adjustment deed. Prior to signature approval of the preliminary plan, the applicant must demonstrate that the lot line adjustment deed has been submitted to land records for recordation.

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 Harley, seconded by Commissioner Eley, with Commissioners Harley, Eley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, January 6, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of January, 2005.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk