

R E S O L U T I O N

WHEREAS, Michael Johnson is the owner of a 5.05-acre parcel of land known as Parcels 10 and 45, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on March 20, 2006, Michael Johnson filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 6 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06010 for Johnson Estates 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 September 7, 2006, 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 September 7, 2006, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/30/05), and further APPROVED Preliminary Plan of Subdivision 4-06010, Johnson Estates, Lots 1-6 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Revise general note no. 21 to reflect that the mandatory dedication of parkland will be handled by fee-in-lieu for lots 3 and 4 only, and that lots 5 and 6 are exempt because they are over one acre in size. Lots 1 and 2 are exempt because they were improved with existing dwellings at the time of subdivision.
  - b. Label Livingston Road as having a right-of-way width of 80 feet (a master plan collector facility). The plan correctly shows dedication of 40 feet from the centerline.
  - c. Delineate the height of all existing fences and demonstrate on the plan if the fences are to remain, or to be removed.
  - d. Label the portion of the existing fence line within the Livingston Road and Gaddy Lane dedication areas as "to be removed," or "to be relocated to the property line."

- e. Provide the plat reference for the adjoining Woodmeade Homes property to the south. (South Accokeek, REP 200 @ 04).
  - f. Delineate a proposed standard sidewalk to be provided within the extended Gaddy Lane cul-de-sac.
  - g. Label the existing dwellings and sheds on Lots 1 and 2 “to remain” and provide an existing structures note.
  - h. Delineate the proposed water and sewer extensions within the Gaddy Lane cul-de-sac, and the proposed water and sewer house connections for Lots 1 and 2.
  - i. If Lots 1 and 2 are currently served by private well and septic systems, both the wells serving the existing dwellings, as well as the limits of each septic field must be delineated on the preliminary plan.
  - j. Provide a general note that states that there are no rare, threatened, or endangered species found to occur within the vicinity of the subject property.
  - k. Provide a general note on the preliminary plan that references the companion Tree Conservation plan (TCPI/30/05), and the approved Natural Resources Inventory (NRI/062/05).
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
  3. Development of this site shall be in conformance with the Stormwater Management Concept Plan, #772-2004-00 and any subsequent revisions.
  4. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/30/05). The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restriction shown on the approved Type I Tree Conservation Plan (TCPI/30/05), 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 and Subtitle 25. This property is subject to the notification provisions of CB-60-2005.”
  5. 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 3 and 4.
  6. Prior to the issuance of building permits, the applicant, his heirs, successors 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, which is a designated as 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.

7. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along the proposed extension of Gaddy Lane unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
8. Prior to signature approval of the preliminary plan, the applicant shall determine the extent of the land that should be the subject of a Phase I archaeological investigation with the concurrence of the Development Review Division (DRD), which shall include research into the property history and archaeological literature for those lands determined to be subject, and four copies of the approved final report submitted to M-NCPPC Historic Preservation staff. Prior to approval of Final Plats, the applicant shall submit Phase II and Phase III investigations as determined by DRD staff as needed. 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.
9. Prior to approval of the Final Plat of subdivision the applicant, his heirs, successors and or assignees shall dedicate a right-of-way width of 40-feet from the centerline of the existing pavement of Livingston Road.
10. Prior to the issuance of grading permits the applicant, his heirs, successors and or assignees shall demonstrate that any abandoned wells or septic systems serving Lots 1 and 2 have been pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department.
11. Prior to the approval of the Final Plat of subdivision, the applicant, his heirs, successors, and/or assignees shall submit documentation to the Subdivision Section that demonstrates that the existing dwellings on Lots 1 and 2 have been connected to public water and public sewer.

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 southeast side of Livingston Road, approximately 1,400 feet north of its intersection with Old Marshall Hall Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone Use(s)	<b>EXISTING</b>	<b>PROPOSED</b>
	R-R Single-Family Residences	R-R Single-Family Residences
Acreage	5.05	5.05
Lots	0	6
Parcels	2	0
Dwelling Units:		
Detached	2	6 (4 new)
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for Johnson Estates, Lot 1-6, 4-06010, stamped as received by the Environmental Planning Section on May 1, 2006 and the revised Type I Tree Conservation Plan, TCPI/30/05, stamped as received by the Environmental Planning Section on June 23, 2006. The Environmental Planning Section recommends approval of 4-06010 and TCPI/30/05 subject to conditions.

The Environmental Planning Section previously reviewed Preliminary Plan 4-04150 and TCPI/30/05 for the subject property. However, those applications were withdrawn prior to being heard by the Planning Board. The current application proposes six lots in the R-R zone.

The site is partially wooded and has several existing structures. There are no streams, wetlands or 100-year floodplain on the property. The site eventually drains into the Potomac River watershed. According to the “Prince George’s County Soils Survey” the principal soils on this site are in the Adelphia, Bibb, Fallsington, Marr, Sassafra and Westphalia series. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, rare, threatened, or endangered species do not occur in the vicinity of this property. No designated scenic or historic roads are affected by this development. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the adopted General Plan.

An approved Natural Resources Inventory (NRI), NRI/062/05, was submitted with the application. The plan shows that there are no streams, wetlands or 100-year floodplain on-site. A review of the information on the M-NCPPC GIS indicates that there are no regulated environmental areas on or near the property and that no portion of the property is within the Green Infrastructure Plan network. The Forest Stand Delineation notes a single forest stand of mixed hardwoods and pine covering the eastern 3.41 acres of the property. The only specimen trees are Virginia pines. The information on the NRI is correctly shown on the Preliminary Plan and the Type I Tree Conservation Plan

The property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in size and contains more 10,000 square feet of existing woodland. A Type I Tree Conservation Plan (TCPI/30/05) was submitted with this application.

The plan proposes clearing 1.30 acres of the existing 3.41 acres of woodland. The worksheet correctly calculates the woodland conservation requirement for this proposal as 1.34 acres. The plan proposes to meet this requirement by providing 1.34 acres of on-site preservation and preserving an additional 0.77 acres of woodland that are not part of any requirement.

The proposed woodland conservation area is a contiguous area that does not significantly impact the use of either of the two large lots where it is located. The note that Final Plat of Subdivision should carry:

"Development is subject to restrictions shown on the approved Type I Tree Conservation Plan."

According to the approved Natural Resources Inventory and the "Prince George's County Soils Survey" the principal soils on this site are in the Beltsville series. Beltsville soils often exhibit high water tables and impeded drainage. 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.

A copy of the Stormwater Management Concept Approval Letter, CSD #772-2004-00, was submitted with the application. The plan requires bioretention for Lots 3 through 6 and over-compensation to account for the paving created for the new cul-de-sac of Gaddy Lane. No further action regarding stormwater management is required for this Preliminary Plan of Subdivision review.

### **Water and Sewer Categories**

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

5. **Community Planning**—The subject property is located in Planning Area 83 within the Accokeek Community, and is within the limits of the 1993 *Subregion V Master Plan*. The master plan land use recommendation is for low-suburban residential land use up to 2.6 dwelling units per acre. The proposed development conforms to the land use recommendations within the 1993 *Subregion V Master Plan*.

The 2002 *Prince George's County Approved General Plan* locates the property 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.

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 3 and 4 because the land available for dedication is unsuitable due to its size and location.

In accordance with Section 24-134(a) of the Prince George's County Subdivision Regulations, Lots 5 and 6 in the subject subdivision are exempt from Mandatory Dedication of Parkland requirements because they are over 1 acre in size. Lots 1 and 2 are exempt because they are improved with existing dwellings at the time of subdivision.

7. **Trails**—The Adopted and Approved Subregion V Master Plan designates Livingston Road as a master plan bikeway. Livingston Road is open section with no sidewalks in the vicinity of the subject property. The Transportation Planning Section recommends the provision of one "Share the Road with a Bike" sign to designate this bikeway. If road frontage improvements are required, the provision of a wide asphalt shoulder is encouraged to safely accommodate bicycle movement. The subject site has approximately 350 feet of road frontage along Livingston Road.

#### **Sidewalk Connectivity**

Existing Livingston Road is open section with no sidewalks in the vicinity of the subject site. The existing portion of Gaddy Lane includes a standard sidewalk along one side. The Transportation Planning Section recommends the continuation of this cross-section along the portion of Gaddy Lane that will be extended to the subject property.

8. **Transportation**—This application involves six proposed lots, two of which contain existing dwellings that will remain. The addition of four net residences would have a minimal impact on adjacent roadways.

**Site Access Evaluation:** The two existing residences have access to Livingston Road. Access to the four new residences would be via an extension of Gaddy Lane, which is acceptable.

**Master Plan Rights-of-Way to be dedicated or recommended to be placed in reservation:** Livingston Road is a master plan collector facility, and the plan correctly shows dedication of 40 feet from centerline along this roadway.

#### **TRANSPORTATION STAFF FINDINGS**

The application is a preliminary plan of subdivision for a residential development consisting of 6 single-family lots to be created within two existing parcels. Two of the proposed lots contain existing dwellings. The proposed net development of four residences would generate 3 AM and 4 PM peak hour vehicle trip as determined using *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The site is within the developing tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

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

**Unsignalized intersections:** The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The traffic generated by the proposed preliminary plan would impact the intersection of MD 210 and Pine Lane. This intersection is unsignalized. There are no projects to improve this intersection in either the County Capital Improvement Program or the State Consolidation Transportation Program.

Staff has no recent counts at the critical intersection of MD 210 and Pine Lane. Due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. The Transportation Planning Section would therefore recommend that the Planning Board find that 3 AM and 4 PM net peak hour trips will have a de minimus impact upon delay in the critical movements at the MD 210 and Pine Lane intersection.

Livingston Road is a master plan collector facility with a proposed right-of-way of 80 feet. The submitted plan shows right-of-way dedication of 40 feet from centerline along Livingston Road.

## **TRANSPORTATION STAFF CONCLUSIONS**

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with conditions.

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

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	4 sfd	4 sfd	4 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.96	0.24	0.48
Actual Enrollment	3946	5489	9164
Completion Enrollment	121	64	127
Cumulative Enrollment	15.84	107.88	215.76
Total Enrollment	4083.80	5661.12	9507.24
State Rated Capacity	4033	6114	7792
Percent Capacity	101.26%	92.59%	122.01%

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 on 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 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 & 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 **Accokeek, Company 24**, 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, 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 standard for emergency calls response is 10 minutes and 25 minutes for non-emergency calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on March 20, 2006.

Reporting Cycle	Date	Emergency Calls	Non-emergency
Acceptance Date	01/05/05-02/05/06	10.00	24.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for non-emergency calls were met on 02/05/2006.

The Police Chief has 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 suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for Johnson Estates and has the following comment to offer:

If the houses and sheds are to be razed, a permit must be obtained through the Department of Environmental Resources. Any hazardous materials located in the structures must be removed and properly stored or discarded prior to the structures being razed.

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, #772-2004-00 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**—Phase I (Identification) archeological investigations were completed at the subject property, and a draft report, "Phase I Archaeological Survey of the Johnson Estates Property in Prince George's County, Maryland," was submitted on December 15, 2006. Planning

Department staff requested additional information at that time.

A revised draft and four copies of an approved final report should be submitted to the Planning Department staff for review.

In accordance with the approved Planning Board *Guidelines for Archeological Review* (May 2005), a qualified archaeologist must conduct all investigations and follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole, 1994) and the Prince George's County Planning Board *Guidelines for Archeological Review* (May 2005). These investigations must be presented in a draft report following the same guidelines. Following approval of the draft report, four copies of the final report must be submitted to M-NCPPC Historic Preservation staff. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations is required prior to signature approval of the preliminary plan.

Upon receipt of the report by the Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to Planning Board approval of any detailed site plan or final plat, the applicant shall provide a plan for:

- i.) Evaluating the resource at the Phase II level, or
- ii.) Avoiding and preserving the resource in place.

Section 106 review may also 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 federal monies, federal properties, or federal permits are required for a project.

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 Eley, seconded by Commissioner Clark, with Commissioners Eley, Clark, Vaughns, and Parker voting in favor of the motion, and with Commissioner Squire temporarily absent at its regular meeting held on Thursday, September 7, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of October 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JF:bjs