

R E S O L U T I O N

WHEREAS, Michael's View, LLC is the owner of a 6.99-acre parcel of land known as Parcel 93, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned Rural-Residential (R-R); and

WHEREAS, on May 22, 2009, Michael's View, LLC filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for 10 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-09009 for Michael's View 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 29, 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 29, 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/07/09), and further APPROVED Preliminary Plan of Subdivision 4-09009, Michael's View for 10 lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
 - a. Remove the Building Restriction Line (BRL) from the plan.
 - b. Correct spelling errors on the plan.
 - c. Truncate the corner of Lot 1.
 - d. Correct Note 24 to reflect ten lots.
 - e. Correct note 26 to reflect the approval of Stormwater Management Concept Plan 11344-2009-00.
 - f. Remove the proposed water and sewer category from Note 14.

2. Development of this site shall be in conformance with Stormwater Management Concept Plan 11344-2009-00 and any subsequent revisions.
3. Prior to final plat approval, the abandoned deep well must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller. A copy of the abandonment shall be submitted to the Health Department prior to approval.
4. At the time of final plat approval, the applicant shall dedicate right-of-way (ROW) along Brandywine Road of 40 feet from centerline.
5. At the time of final plat, the applicant shall dedicate a ten-foot public utility easement along the public right-of-way (ROW) as delineated on the approved preliminary plan of subdivision.
6. A standard sidewalk shall be provided along the subject site's entire frontage of Brandywine Road, unless modified by the Department of Public Works and Transportation.
7. Prior to approval of the final plat of subdivision, the applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of parkland dedication.
8. Prior to signature approval of the preliminary plan, the Type I Tree Conservation Plan (TCPI/007/09) shall be revised as follows:
 - a. Provide minimum 40-foot-deep cleared areas at the rear of each proposed structure unless such clearing would endanger a specimen tree to be retained.
 - b. Provide a symbol on the plan and in the legend to illustrate the area of woodlands retained but calculated as cleared.
 - c. Account for off-site woodland clearing on all properties that do not have approved tree conservation plans.
 - d. Provide all required woodland conservation in the form of off-site mitigation.
 - e. Add the following note:

“The Type II TCP shall address the removal by hand of all Virginia pines greater than 6 inches in diameter within 40 feet of the final proposed limit of disturbance or the boundary of the property.”
 - f. Correct the project name in the worksheet.
 - g. Correct the CSD number in TCPI Note 4.

- h. Show house footprints that contain at least 2,000 square feet.
 - i. Have the revised plan signed and dated by the qualified professional who prepared the plan.
9. The final plat shall contain the following note:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/007/09), 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, Planning Department.”

10. Prior to the approval of the Type II tree conservation plan, the following note shall be placed on the TCPII:

“A homeowner may treat the woodland areas remaining on their lot in any fashion they deem appropriate without violating the Woodland Conservation Ordinance.”

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. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	R-R	R-R
Use(s)	Vacant	Single-family detached dwellings
Acreage	6.99	6.99
Lots	0	10
Outlots	0	0
Parcels	0	0
Public Safety Mitigation Fee	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision Review Committee (SRC) on June 12, 2009.

3. **Environmental**—An approved Natural Resources Inventory, NRI/014/08, was submitted with the application. The NRI indicates that there are no streams, wetlands, 100-year floodplain, or woodlands on the subject property. The property contains six specimen trees and 4.26 acres of woodland. The preliminary plan is in conformance with the NRI. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, rare, threatened, or endangered species do not occur on this property or on adjacent properties.

The property is subject to the provisions of the Woodland Conservation and Tree Preservation Ordinance because it is more than 40,000 square feet in area and has more than 10,000 square feet of existing woodland. A Type I Tree Conservation Plan, TCPI/007/098, has been reviewed and will require revisions. The plan calculates the clearing of all the existing 4.29 acres of woodland. The woodland conservation threshold is 1.40 acres. Based upon the proposed clearing, the woodland conservation requirement has been correctly calculated at 3.51 acres. The worksheet proposes to meet the requirement by providing fee-in-lieu for 3.51 acres; however, fee-in-lieu should be used only for requirements of less than one acre.

There are no sensitive environmental features on-site, none of the property is near any regulated area of the *Approved Countywide Green Infrastructure Plan*, and lots of this size should not be encumbered by woodland conservation areas without a compelling reason. The plans correctly calculate the entire site as cleared because the remaining woodland areas would be small fragmented pieces and are located on lots too small to sustain them. By calculating the woodlands as cleared, a future homeowner may treat the woodland areas remaining on their lots in any fashion they deem appropriate without violating the Woodland Conservation Ordinance.

The property is proposed to be served by a sanitary sewer line that, upon installation, will impact other properties. In part, this will affect TCPII/149/02, for an adjoining property. The applicant should be advised that off-site clearing may require additional permits from the Department of Environmental Resources.

An abundance of larger diameter Virginia pine is located on the property. This species is relatively short-lived and is subject to windfall.

According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Croom, Iuka, and Galestown series. Marlboro clay does not occur in this area. A stormwater management concept plan has been submitted and is being reviewed by the Department of Public Works and Transportation (DPW&T).

The subject property is located within the designated network of the *Approved Countywide Green Infrastructure Plan* and includes areas designated as evaluation areas and network gaps. The evaluation areas are the forested areas contiguous with the regulated areas that contain special environmental features that should be considered for preservation. Although the TCPI calculates

all of the woodland on-site as cleared because the lots are too small, portions of the evaluation areas will not be cleared as part of the initial development plans. No designated scenic or historic roads will be affected by the approved subdivision. There are no nearby sources of traffic-generated noise. The approved development is not predicted to be a noise generator. This property is located in the Developing Tier as reflected in the 2002 *Prince George's County Approved General Plan*.

4. **Community Planning**—The 2002 General Plan designates the subject site within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The approved subdivision of this parcel into ten residential lots is not inconsistent with the development pattern goals and policies of the General Plan.

The approved subdivision conforms to the land use recommendations of the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B (SMA)* and the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment* for low residential development.

5. **Department of Parks and Recreation (DPR)**—In accordance with Section 24-135 of the Subdivision Regulations, the applicant shall pay a fee-in-lieu of mandatory dedication of parkland because the land available for dedication is unsuitable due to its size, location, and topography.
6. **Trails**—The approved 1993 Subregion V master plan designates Brandywine Road as a master plan bicycle/pedestrian corridor, and a master-planned “pedestrian bikeway” is recommended along Brandywine Road (page 168). Currently, a variety of road cross sections exist along the road, with some sections being open section with no sidewalks and other areas included curb, gutter, and standard sidewalks. Brandywine Road is open section with no sidewalks along the entire length of the subject site.

The approved 1993 Subregion V master plan recommends that a safe and efficient transportation system be created in the preliminary Subregion 5 master plan area that “maximizes accessibility and movement of people and goods” (page 101). To meet this goal the plan has an objective to develop an interconnected system of non-vehicular facilities such as pedestrian walks, hiking trails, and bicycle paths which may link residential areas to commercial retail facilities, employment centers, and recreational areas.

There are no proposed sidewalks for the subject plan, but internal sidewalks in this residential subdivision is necessary to provide safe access for children, elderly, and people with special needs.

7. **Transportation**—The subject property consists of approximately 6.99 acres of land in the R-R Zone. The property is located on the east side of Brandywine Road, approximately midway between its intersections with Burch Hill Road and Floral Park Road. The applicant proposes a residential subdivision of ten single-family detached lots.

Analysis of Traffic Impacts

The application is a preliminary plan of subdivision for a residential subdivision consisting of ten single-family detached lots. Using trip generation rates in the “Guidelines for the Analysis of the Traffic Impact of Development Proposals” for residential development, it is determined that the approved development would generate 8 AM (2 inbound and 6 outbound) and 9 PM (6 inbound and 3 outbound) weekday peak-hour vehicle trips. The traffic generated by the approved preliminary plan would impact the following intersection in the transportation system:

- **Brandywine Road and Burch Hill Road (unsignalized)**

A traffic study was not required to be done because the project will not generate enough traffic counts to require a traffic study. Traffic counts at the critical intersection were requested for the purpose of making an adequacy finding, and counts dated July 2009 were submitted by the applicant. The use of summer counts and the adjustment recommended in the guidelines was permitted after consultation with the applicant. The findings and conditions are consistent with the guidelines.

The subject property is located within the Developing Tier, as defined in the 2002 *Prince George’s County Approved General Plan*. 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. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the guidelines.

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 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, when analyzed with existing traffic and existing lane configurations, operates as follow:

EXISTING TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (CLV,AM & PM)		Level of Service (LOS, AM & PM)
Brandywine Road and Burch Hill Road	9.4*	19.8*	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.			

The critical intersection identified above 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." Background traffic has been developed using three approved developments in the area (4-05041, 4-02126, and 4-03012) and 1.6 percent annual growth rate in through traffic along Brandywine Road. The critical intersection, when analyzed with background traffic and existing lane configurations, operates as follow:

BACKGROUND TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (CLV,AM & PM)		Level of Service (LOS, AM & PM)
Brandywine Road and Burch Hill Road	12.1*	42.0*	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.			

The critical intersection, when analyzed with total future traffic as developed using the guidelines, including the site trip generation as described above and a distribution of 35 percent north along Brandywine Road, 40 percent northeast along Burch Hill Road, and 25 percent south along Brandywine Road, operates as follow:

TOTAL TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)
Brandywine Road and Burch Hill Road	12.2*	43.9*	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.			

It is found that the critical intersection of Brandywine Road and Burch Hill Road operates acceptably as an unsignalized intersection under existing, background, and total traffic in both peak hours. Therefore, the critical intersection can be found to be operating at or better than the policy service level defined for the Developing Tier.

The site is adjacent to Brandywine Road, which is a master plan collector facility. The plan demonstrates dedication of 40 feet from centerline, which is adequate and consistent with master plan recommendations along this roadway.

8. **Schools**—This preliminary plan of subdivision has been reviewed for its impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Resolution CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	10 DU	10 DU	10 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	1.6	1.3	1.4
Actual Enrollment	3,702	3,954	7,230
Total Enrollment	3,703.6	3,955.3	7,231.4
State Rated Capacity	3,761	4,983	7,792
Percent Capacity	98.4%	79.4%	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 Interstate 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 (WMATA); 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 \$8,120 and \$13,921 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.

The Prince George’s County Board of Education (BOE) evaluated the approved preliminary plan of subdivision and has no comments to offer.

9. **Fire and Rescue**—This preliminary plan of subdivision has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)–(E) of the Subdivision Regulations.

The subject property is within the required seven minute response time for the first due fire station, Brandywine, Company 40, located at 14201 Brandywine Road, Brandywine, Maryland. This determination used the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire/EMS Department.

Pursuant to County Council Resolution 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,B) regarding sworn fire and rescue personnel staffing levels.

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

10. **Police Facilities**—The approved development is within the service area for Police District V, Clinton.

The response time standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on May 22, 2009.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Non-emergency Calls
Acceptance Date 5/22/2009	5/2008-4/2009	10 minutes	11 minutes

Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met October 5, 2009.

The Police Chief has reported that the Prince George’s County Police Department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005.

Pursuant to County Council Resolution 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, B) of the Subdivision Regulations regarding sworn police personnel staffing levels.

11. **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 Adopted 2008 Water and Sewer Plan placed this property in water and sewer Category 4, Community System. It should be noted that the applicant must obtain a Category 3 designation for the property through an administrative amendment procedure. This shall occur prior to the approval of a final plat. Additionally, water and sewer line extensions are required to service the approved subdivision and must be approved by the Washington Suburban Sanitary Commission (WSSC) before approval of a final plat.

12. **Health Department**—The Prince George’s County Health Department evaluated the approved preliminary plan of subdivision and offered the following:

The Health Department records (Percolation Test Report for Lot 7 dated October 20, 2004) indicate a deep well located 50 feet from the “existing house to be demolished”. During a site investigation conducted June 1, 2009 it was observed that the house has already been razed even though there is no record of a raze permit on E-Permits. No well was observed during the June 1, 2009 site investigation; however, the high vegetation was obstructing a clear view of the site. No Health Department records were found to indicate that the well has already been backfilled and sealed. Therefore, the abandoned deep well shall be backfilled and sealed by a licensed well driller then the well driller shall submit a copy of the abandonment report to the Health Department immediately.

13. **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, 11344-2009-00, has been approved with conditions to

ensure that development of this site does not result in on-site or downstream flooding. Development shall be in accordance with this approved plan.

14. **Cemeteries**—No cemeteries have been identified on the property.
15. **Historic**—Phase I archeological survey was conducted in July 2009 on the above-referenced seven-acre property located at 12726 Brandywine Road in Brandywine, Maryland. No archeological sites were identified on the subject property. No further archeological work was recommended on the property. The Planning Board concurs with the conclusions of the Phase I archeology report that, due to the lack of intact archeological resources, no further work is necessary on the Michael's View property.

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

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.

* * * * *

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 Cavitt, with Commissioners Squire, Cavitt, Clark, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, October 29, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 19th day of November 2009.

Patricia Colihan Barney
Acting Executive Director

By Frances J. Guertin
Planning Board Administrator