



PGCPB No. 11-30

File No. 4-10009

## RESOLUTION

WHEREAS, Russell Litten is the owner of a 18,730-square foot parcel of land known as Outlot A and Outlot B, located on Tax Map 133 in Grid B-3, said property being in the 5<sup>th</sup> Election District of Prince George's County, Maryland, and being zoned Rural Residential (R-R); and

WHEREAS, on January 20, 2011, Majestic Homes, Inc. filed an application for approval of a Preliminary Plan of Subdivision for 1 lot; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-10009 for Windbrook, Lot 9 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 March 31, 2011, 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 March 31, 2011, 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 Preliminary Plan of Subdivision 4-10009, Windbrook, Lot 9, including a Variance from Section 27-442(b) of the Zoning Ordinance for 1 lot 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 30 to also state the minimum lot size and remove reference to 0.0288 acre.
  - b. Revise General Note 32 to reflect the allowable density of 2.17 in the Rural Residential (R-R) Zone.
  - c. Remove General Note 13.
  - d. Revise General Note 18 to provide the stormwater management concept plan number and approval date.

2. The applicant and the applicant's heirs, successors, and/or assignees shall provide a four-foot-wide sidewalk along the subject site's entire frontage of Windbrook Drive, unless modified by the Department of Public Works and Transportation (DPW&T).
3. Development of this site shall be in conformance with approved Stormwater Management Concept Plan 30420-2010-00 and any subsequent revisions.
4. At the time of final plat, the applicant shall dedicate a ten-foot public utility easement (PUE) along the public rights-of-way as delineated on the approved preliminary plan of subdivision. The PUE shall remain free and clear of site improvements unless express permission is granted by all of the affected utility companies.
5. The applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to DPW&T for the placement signage, unless modified by DPW&T. A note shall be placed on the final plat for payment to be received prior to the issuance of the building permit.
6. At the time of building permit, the applicant and the applicant's heirs, successors, and/or assignees shall provide a driveway with turnaround capability in order to minimize the need for vehicles accessing this lot to have to back onto Windbrook Drive.
7. Prior to approval of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of the mandatory dedication of parkland in accordance with the requirements of Section 24-135 of the Subdivision Regulations for the area of Outlot A (7,801.76 square feet).
8. Prior to final plat, Type II Tree Conservation Plan TCP11/080/05 (Preliminary Plan of Subdivision 4-03034) shall be revised to remove the area of Outlot B and the calculations shall be adjusted accordingly.

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	Residential
Acreage	18,730 sq. ft.	18,730 sq. ft.
Lots	0	1
Outlots	2	0
Parcels	0	0
Dwelling Units:		
Detached	0	1
Public Safety Mitigation Fee		No
Variance	No	Yes (Section 27-442(b))
Variation	No	No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on February 4, 2011.

3. **Environmental**—The revised preliminary plan of subdivision, stamped as received on January 21, 2011, has been reviewed. The site has a signed Natural Resources Inventory (NRI/56/06) that covers the land area of the subject application—Outlots A and B.

The subject application presents a unique situation where a parcel of land that was created in 1967 and predates the Woodland Conservation Ordinance (Outlot A) is being combined with an outlot from a previous preliminary plan of subdivision (Outlot B). Outlot B was part of a previously approved Preliminary Plan, 4-03034, and an associated Type I Tree Conservation Plan, TCPI/32/03, for a 5.60-acre tract which was approved subject to PGCPB Resolution No. 03-194. The approved preliminary plan was for seven lots and two outlots in the R-R Zone. A Type II Tree Conservation Plan (TCP/80/05) was subsequently approved. This application seeks the approval of a preliminary plan to combine Outlot B with Outlot A for the creation of one single-family residential lot. The total area of the subject application is 18,730 square feet.

At the time of review and approval of the preliminary plan (which included Outlot B), the TCPI, and the TCP/II, the property owner's intent to combine Outlot B in the future with Outlot A was clearly expressed by the fact that Outlot B contains no woodland conservation. In order to update the TCP/II for woodland conservation, the existing TCP/II should be revised prior to final plat on the current application to remove Outlot B from the

TCPII of which it will no longer be a part. The proposed lot would then be exempt from woodland conservation.

#### **Site Description**

The subject property is located on Windbrook Drive, approximately 900 feet southeast of the intersection of Windbrook Drive and Piscataway Road (MD 223), and is relatively flat. The site drains into the Piscataway Creek in the Potomac River watershed. There are no streams, floodplain, or wetlands on the property. The principal soils on the site are in the Beltsville and Croom soils series. There are no Marlboro clays or Christiana complex soils located on or adjacent to the subject property. Based on information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this site. No designated scenic or historic roads are affected by this proposal. Noise was not analyzed because roadways of collector status are not regulated by the Planning Board. The site is in the Developing Tier as delineated on the approved *Prince George's County Approved General Plan*.

#### **Master Plan Conformance**

The site is within Planning Area 81B of the current 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. There are no specific environmental recommendations or design standards pertaining to the proposal that require review for conformance.

#### **Countywide Green Infrastructure Plan Conformance**

The site does not contain any regulated areas, evaluation areas, or network gaps within the designated network of the *Approved Countywide Green Infrastructure Plan*. There are no sensitive environmental features or sensitive habitat areas in this location.

#### **Environmental Review**

The site has a signed natural resources inventory (NRI) that was submitted with the application. The site does not contain any regulated environmental features. The elements of the signed NRI are correctly reflected on the preliminary plan.

Outlot B was subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance at the time of Preliminary Plan 4-03034 and associated TCPI/32/03 and subsequent TCPII/080/05. Ownership of Outlot B was retained by the applicant at the time of preliminary plan approval with the intention of obtaining the abutting Outlot A to create a single building site. This intention was clearly expressed by the fact that Outlot B contains no woodland conservation areas related to the overall subdivision's requirements and the fact that the overall subdivision can stand on its own with regard to meeting the woodland conservation requirements without Outlot B. Type II Tree Conservation Plan TCPII/080/05 will need to be revised to reflect the removal of Outlot B and the requirements should be recalculated accordingly.

Subtitle 25, Division 3: Tree Canopy Coverage Ordinance requires a minimum percentage of tree canopy coverage (TCC) on all applications that require a tree conservation plan or letter of exemption. Properties zoned R-R are required to provide a minimum of 15 percent of the gross tract area in tree canopy. The gross tract area is 18,730 square feet resulting in a requirement for TCC of 0.06 acre, which will be required to be met at the time of permit approval by The Maryland-National Capital Park and Planning Commission (M-NCPPC).

The *Prince George's County Soil Survey* indicates that the principal soils on the site are in the Beltsville and Croom soils series.

4. **Community Planning**—The applicant proposes construction of a single-family dwelling. In accordance with the General Plan, this application is located in the Developing Tier.

The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The preliminary plan of subdivision application is consistent with the General Plan Development Pattern policies for the Developing Tier.

The proposed land use is consistent with the *Approved Subregion 5 Master Plan and Sectional Map Amendment*.

Approval of the variance for 1,256 square feet will not change the character of the lotting pattern, and is not inconsistent with the General Plan or master plan.

5. **The Department of Parks and Recreation (DPR)**—In accordance with Section 24-134(a) of the Subdivision Regulations, the applicant should pay a fee-in-lieu of parkland dedication for the area of Outlot A because the land available for dedication is unsuitable due to its size and location, and has not previously been the subject of mandatory dedication. Outlot B was previously the subject of mandatory dedication as a part of Preliminary Plan 4-03034 and is therefore exempt pursuant to Section 24-134(a)(3)(D).
6. **Trails**—The preliminary plan was reviewed for conformance with the *Countywide Master Plan of Transportation (MPOT)* and the *Approved Subregion 5 Master Plan and Sectional Map Amendment*.

The subject property is located on Windbrook Drive. Sidewalks are currently present along Windbrook Drive. A shared roadway and sidewalks are recommended in the Subregion 5 Master Plan to accommodate bicyclists and pedestrians between Piscataway Road (MD 223) and Thrift Road. Bikeway warning signage should be placed on Windbrook Drive by the applicant to implement the bikeway. The sidewalk along Windbrook Drive should be improved or replaced by the applicant, and will be determined

by the Department of Public Works and Transportation (DPW&T) when frontage improvements are permitted.

Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities would exist to serve the proposed subdivision as required under Section 24-123 of the Subdivision Regulations if the application is approved with conditions.

7. **Transportation**—The applicant proposes the construction of a single-family dwelling on one lot. Therefore, it is determined that the proposed subdivision would generate 1 AM and 1 PM weekday peak-hour vehicle trips. The traffic generated by the proposed preliminary plan would impact the intersection of Piscataway Road MD 223 and Windbrook Drive. The intersection is unsignalized.

#### **Analysis of Traffic Impacts**

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

- **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 the Developing and Rural Tiers. 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 critical intersection of MD 223 and Windbrook Drive 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.

No recent turning movement counts are available at the critical intersection of MD 223 and Windbrook Drive. Due to the limited trip generation of this site, the Planning Board could deem the site's impact at this location to be de minimus. It is therefore recommended that the Planning Board find that 1 AM and 1 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the MD 223 and Windbrook Drive intersection.

The lot being created would have direct driveway access to Windbrook Drive. In consideration of the current and planned function of the roadway as a collector and given current operating speeds and traffic volumes, the driveway onto proposed Lot 9 should be constructed with turnaround capabilities in order to minimize the need for vehicles accessing this lot to back onto Windbrook Drive.

The site is adjacent to Windbrook Drive, a master plan collector facility. Adequate right-of-way in accordance with master plan requirements has already been dedicated or deeded. Therefore, no further right-of-way dedication is required of this plan.

8. **Schools**—The preliminary plan has been reviewed for 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 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	1 DU	1 DU	1 DU
Pupil Yield Factor	.16	.13	.14
Subdivision Enrollment	0.16	0.13	0.14
Actual Enrollment	4,490	3,923	7,081
Total Enrollment	4,490.16	3,923.13	7,081.14
State Rated Capacity	4,781	4,983	7,792
Percent Capacity	94%	79%	91%

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

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-95/495 (Capital Beltway) 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 \$8,299 and \$14,227 to be paid at the time of the 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.

9. **Fire and Rescue**—This preliminary plan of subdivision includes construction of a single-family dwelling on one residential lot.

This preliminary plan is within the required seven-minute response time for the first due fire station, Clinton, Company 25, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

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

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

**Capital Improvement Program (CIP)**

The Prince Georges County Capital Budget and Program for Fiscal Years 2011–2016 provides funding for a replacement fire/EMS station at 14201 Brandywine Road.

The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the "Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities."

10. **Police Facilities**—The subject property is located in Police District IV, Oxon Hill.

The response time standard for emergency calls is ten minutes and the standard for nonemergency calls is 25 minutes. 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 January 20, 2011.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Cycle 1	1/2010–12/2010	10 minutes	11 minutes
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met on January 24, 2011.

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

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



11. **Health Department**—The Prince George's County Health Department, Environmental Engineering Program, has reviewed the preliminary plan of subdivision and has the following comments to offer:
  - a. No evidence of a structure on the property was observed.
  - b. Any abandoned well found within the confines of the property during future development activities should be backfilled and sealed in accordance with Code of Maryland Regulations (COMAR) 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department.
  - c. Any abandoned septic tank found within the confines of the property during future development activities must be pumped out by a licensed scavenger and either removed or backfilled in place prior to record plat approval.
12. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is not required. The plan shows the total area of disturbance as 4,800 square feet. The stormwater management concept approval letter dated October 22, 2010 notes that this project is exempt from stormwater management requirements because the area to be disturbed is less than 5,000 square feet. A Stormwater Management Concept Plan, 30420-2010-00, 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.
13. **Historic**—A Phase I archeological survey is not recommended on the subject 18,730-square-foot property located at 412108 Windbrook Drive in Clinton, Maryland. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates that the probability of archeological sites within the subject property is low.

Moreover, Section 106 review may 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 state or federal monies or federal permits are required for a project.

The subject property has no the effect on identified historic sites, resources, or districts.
14. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider must include the following statement in the dedication documents established on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a ten-foot public utility easement (PUE) along the public rights-of-way as requested by the utility companies. The PUE must remain free and clear from any site improvements including parking.

15. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2008 *Water and Sewer Plan*, as adopted by CR-91-2008, placed this property in water and sewer Category 3, Community System and will therefore be served by public systems.

16. **Variance Request for Section 27-442(b), Net Lot Area**—The subject property has been envisioned to provide a lot for a single-family dwelling through the subdivision of land to the north of the property (Preliminary Plan of Subdivision 4-03034). This preliminary plan envisioned Outlot B to be combined with existing Outlot A to create one lot. The final plat (REP 201 @ 45) evidences the applicant’s intent with a plat note:

“Outlot ‘B’ ownership to be retained by T.T. Math Inc., to be combined with Outlot ‘A’ (when property sale becomes available) for future single lot development.”

The Planning Board approved that plan on September 25, 2003.

The size of Lot 9 (18,744 square feet) is consistent with the established lots adjacent to the property. A variance of 1,256 square feet is approved by the Planning Board. Section 27-442(b), Table I of the Zoning Ordinance establishes a minimum lot size for lots in the R-R Zone of 20,000 square feet. Proposed Lot 9 has a net lot area of 18,744 square feet.

The criteria for approving a variance is set forth in Section 27-230(a) of the Zoning Ordinance as follows:

- (a) A variance may only be granted when the Planning Board finds that:
- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

The property does have exceptional shape and extraordinary conditions. The property does not meet the minimum lot area and is in fact smaller than abutting properties. The two current outlots are not consistent with surrounding properties. The consolidation of the outlots into one buildable lot is consistent with the surrounding properties and would complete the streetscape in the established neighborhood. The outlots are the result of earlier subdivisions.

- (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property;**

Not approving the variance would present the applicant with an unusual practical difficulty because the owner would have two separate outlots that are not buildable. The potential loss of development for Outlot B, which was intended for development along with Outlot A, would be an undue hardship. The owner purchased the adjoining Outlot A in anticipation of combining the two outlots to create one buildable lot.

- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Granting this variance will not substantially impair the intent, purpose, or integrity of the 2009 *Approved Subregion 5 Master Plan and Sectional Map Amendment*. The plan calls for low to moderated suburban residential density which, if the variance is approved, would allow for the completion of the streetscape. The potential development of this site would be consistent with the intent of the plan. The subject application presents an opportunity to develop two unusable outlots into a buildable lot that would be consistent with the residential density in this area.

The Planning Board grants a variance of 1,256 square feet from the minimum net lot area of 20,000 square feet for Lot 9.

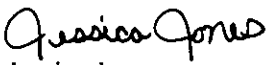
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

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 and Vaughns voting in favor of the motion, and with Commissioners Clark and Parker absent at its regular meeting held on Thursday, March 31, 2011, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 28<sup>th</sup> day of April 2011.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Acting Planning Board Administrator

PCB:JJ:JT:arj

APPROVED AS TO LEGAL SUFFICIENCY

  
M-NCPPC Legal Department

Date 4-6-11