

R E S O L U T I O N

WHEREAS, Edna Ford is the owner of a 1.1456-acre parcel of land known as Parcel 47, Tax Map 73, Grid B-1 said property being in the 18th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on August 20, 2008, Edna Ford filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-08015 for Ford Property, Lots 1 and 2 was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on December 18, 2008, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on December 18, 2008, 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/029/08), and APPROVED Variance Application No. VP-08015 to Section 27-442 for 2 lots, and further APPROVED Preliminary Plan of Subdivision 4-08015, Ford Subdivision, with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the TCPI shall be revised to correct the required woodland conservation acreage to 0.24 acre, and show the fee-in-lieu amount in the worksheet.
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 Stormwater Management Concept Plan 17822-2008 and any subsequent revisions.
4. 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/029/08), 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, Prince Georges County Planning Department.”

5. At the time of final plat, the applicant shall dedicate 40 feet of right-of-way from the master plan centerline of Rollins Avenue.
6. Prior to approval of the final plat, the applicant shall construct a driveway to access Lot 1 directly from Rollins Avenue as shown on the preliminary plan.

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 Rollins Avenue, approximately 425 feet south of the intersection of Rollins Avenue and Central Avenue (MD 332).
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

|                              | <b>EXISTING</b>            | <b>PROPOSED</b>            |
|------------------------------|----------------------------|----------------------------|
| Zone                         | R-R                        | R-R                        |
| Use(s)                       | Single-family<br>Dwellings | Single-family<br>Dwellings |
| Acreage                      | 1.15                       | 1.15                       |
| Lots                         | 0                          | 2                          |
| Outlots                      | 0                          | 0                          |
| Parcels                      | 1                          | 0                          |
| Dwelling Units:              |                            |                            |
| Detached                     | 2                          | 2                          |
| Public Safety Mitigation Fee | (To Remain)                | No                         |

4. **Variance**—The subject property fronts on Rollins Avenue. The existing dwellings are set back approximately 36 feet (Lot 1) and 40 feet (Lot 2) from the existing right-of-way. Because Rollins Avenue is designated as a collector roadway, the applicant will dedicate additional land 40 feet from the centerline of the existing paving. While this dedication will serve the public interest in providing the full right-of-way for this segment of roadway, it will also establish a right-of-way line that is closer than 25 feet to the existing houses. Given this new road dedication, the approval

of variances will be necessary for the front yard setback for each lot. In addition to the two variances for front yard setbacks, three other variances are necessary to validate the existing structures and create the lots. Four variances are necessary for Lot 1 and one variance is necessary for Lot 2.

The applicant requests the following four variances for Lot 1:

- a. A variance of 3.4 feet is requested to validate the existing side yard setback of the house from the northern boundary. The front corner of the existing house will be 4.6 feet from the property line. An eight-foot minimum side yard is required.
- b. A variance of 11.6 feet is requested for the front yard setback. The existing covered front porch will be 13.4 feet from the new right-of-way for Rollins Avenue. A 25-foot setback is required.
- c. A variance of 0.79 feet is requested for the shed in the rear yard. The existing shed is 1.21 feet from the new property line. A two-foot setback is required.
- d. A variance of 4.55 feet is requested for the lot width for Lot 1. The new property line will establish a width of 75.45 feet for Lot 1. The minimum lot width at the building line for a lot served by public water is 80 feet in the R-R Zone.

The applicant requests the following variance for Lot 2:

- a. A variance of 8.15 feet is requested for the front yard setback. The existing front of the house will be 16.85 feet from the new right-of-way for Rollins Avenue. A 25-foot setback is required.

Section 27-230(a) of the Zoning Ordinance establishes criteria for granting variances. 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 is unique because it contains two single-family residences, while all other nearby lots contain only one single-family residence. Keeping the existing residences intact forces the applicant to pursue variances in order to legitimize the property and the location of the existing houses in contemporary zoning.

The variance to the front setback on each house is caused by the dedication of additional right-of-way to Rollins Avenue. The property is 158.44 feet wide, a distance of 1.56 feet less than the required width for two lots in the R-R Zone. As pointed out in the

applicant's statement of justification, the property was adequately wide to subdivide when it was zoned R-55 and R-T.

This parcel is the only one of its shape in the vicinity. Most other lots on Rollins Avenue are half the width of this property, allowing them to develop in the R-R Zone while preventing them from subdividing.

**(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; and**

The property is improved with two single-family residences, one of which has been on the site since 1920, the other which was built over 43 years ago. These variances are requested to legitimize these existing houses on a recently rezoned property. Strict application of the Zoning Ordinance will result in the removal of portions of the structures.

Further, staff requested the new property line not be overly complex or make multiple turns attempting to move around existing sheds and fences. The property line also needs to appear logical to avoid future conflict between neighbors. The applicant complied with these requests by creating a mostly straight division at a logical place. The Board finds that the approved property line forces a variance for proximity of the shed to the property line on Lot 1 and increases the amount of variance necessary for the width of Lot 1.

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

Variances for the front setbacks on both lots are necessitated by the widening of Rollins Avenue to the 80 foot width established in the 2000 *Approved Sector Plan and Sectional Map Amendment for the Addison Road Metro Town Center and Vicinity*. Without this widening, these front setback variances would not be required.

Establishment of this property line will permit the preservation of two long standing single-family dwellings. The Capitol Heights TDDP, which rezoned the property to R-R, calls for development in the area to be single-family detached and of suburban neighborhood character.

5. **Driveway**—The house on Lot 1 is currently served by a driveway that crosses neighboring Parcel 407. Parcel 407 is not owned by the applicant and is not part of this preliminary plan. Section 24-128(a) of the Subdivision Regulations states that no subdivision shall be approved that provides for an easement as the means of vehicular access to any lot. This preliminary plan does not conform to any exceptions established in that section.

As this plan is legitimizing existing buildings, there will be no detailed site plans or building

permits to establish a time frame for compliance with a condition to move the driveway. Further, after the final plat is recorded, the property owner will be able to sell the property. It is important that proper access be in place entirely on the property of Lot 1 prior to any sale so as not to transfer the cost to an unsuspecting new buyer.

6. **Background**

The Environmental Planning Section previously reviewed and signed Natural Resources Inventory NRI/023/08 for the subject property. The current application is for 2 lots in the R-R Zone.

**Site Description**

There are no streams, wetlands, or 100-year floodplain on the property. No designated scenic or historic roads are affected by this proposal. There are no nearby sources of traffic-generated noise. The proposed use is not expected to be a noise generator. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on this property or on adjacent properties. According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Collington soil series. Marlboro clay does not occur in this area. The site is in the Developed Tier according to the *Prince George's County Approved General Plan*.

The *Approved Master Plan for Suitland-District Heights and Vicinity (Planning Areas 75A and 75B)* does not note any environmental issues associated with this property. The site contains no elements of the *Approved Countywide Green Infrastructure Plan*.

**Environmental Review**

A signed NRI was submitted with the application. There are no streams, wetlands, or 100-year floodplain on the property. Based upon two sample points, one forest stand exists on the site. The forest stand contains approximately 0.35 acre. There are two specimen trees on the site. No further action regarding the NRI is required.

This site is subject to the provisions of the Woodland Conservation and Tree Preservation Ordinance. The Type I Tree Conservation Plan, TCPI/029/08, has been reviewed. The woodland conservation requirement has been calculated as 0.22 acre of fee-in-lieu. Other than the relocation of the driveway for Lot 1 into an area that is presently clear, no clearing or disturbance is proposed. Therefore, no limit of disturbance is shown on the plan. The correct requirement should be 0.24 acre according the Environmental Planning Section's TCPI worksheet. The on-site woodland will be retained, but not counted toward the requirement. This is appropriate when the remaining requirement is less than one acre. The worksheet needs to be revised to show the amount of fee-in-lieu.

According to the *Prince George's County Soil Survey*, the principal soils on this site are in the Collington soils series. No disturbance to the existing soils is anticipated.

A Stormwater Management Concept Plan (17822-2008) was submitted with the application. The

concept is correctly reflected on the TCPI.

**Water and Sewer Categories**

The water and sewer categories are W-3 and S-3 according to the 2001 *Water and Sewer Plan*, and the site is served by public systems.

- 7. Community Planning**—The property is located in Planning Area 75A in the unincorporated area between Capitol Heights and Seat Pleasant. The property is within the limits of the 1985 *Approved Master Plan for Suitland-District Heights and Vicinity, Planning Areas 75A and 75B* and was recently rezoned by the 2008 *Approved Capitol Heights Transit District Development Plan and Transit District Overlay Zoning Map Amendment*. The TDDP/TDOZ amends the 1986 *Approved Master Plan*. Before being rezoned R-R, the property was split zoned R-T and R-55. This rezoning by the 2008 TDDP/TDOZ was designed “to implement the plan’s vision of a lower-density, environmentally sensitive, and attractive single-family detached residential district for the suburban neighborhood character area.” (p. 57). The plan retains two existing single-family detached homes, preserving the existing suburban character of the neighborhood. Therefore, the development application conforms to the land use recommendations of the 2008 *Approved Capitol Heights Transit District Development Plan and Transit District Overlay Zoning Map Amendment*.

Among the goals of the Developed Tier are to strengthen existing neighborhoods, capitalize on investments in infrastructure, and design sites in accordance with modern development patterns. As stated in Finding 3 above, the plan for this site is to maintain two existing single-family dwellings. The applicant will provide right-of-way for the expansion of existing Rollins Avenue. This approval brings the property into conformance with modern subdivision regulations. This application is not inconsistent with the 2002 General Plan, Development Pattern policies for the Developed Tier.

- 8. Parks and Recreation**—In accordance with Section 24-134(a)(3)(C) of the Prince George’s County Subdivision Regulations, the subject subdivision is exempt from mandatory dedication of parkland requirements because dwellings legally exist upon the lots being created at the time of subdivision.
- 9. Trails**—No sidewalks or bikeways are recommended in the approved Suitland-District Heights and vicinity master plan (1985) for Rollins Avenue, but the plan does include a general circulation guideline to create a “system of trails and walks for pedestrians, bicyclists and equestrians” that connects to various areas (p. 229). Central Avenue (MD 332) has a sidepath facility located on the south side of the road for bicyclists and pedestrians. This sidepath leads to the Addison Road Seat Pleasant Metro Station. The area surrounding this property was the subject of the Central Avenue Corridor Planning Project. This planning project made recommendations to improve Central Avenue (MD 332). No specific recommendations for the subject site are made in the plan.

Currently, there are no sidewalks along Rollins Avenue near the subject property. The master plan does not recommend any sidewalks or bikeways there, but sidewalks along Rollins Avenue would enhance access to the Central Avenue (MD 332) sidepath and provide safe access to the Addison Road Seat Pleasant Metro Station.

10. **Analysis of Traffic Impacts**

The application is a preliminary plan of subdivision for a residential subdivision consisting of two single-family lots, both of which are developed, for a net increase of zero residences. The proposed development of zero net residences would generate 0 AM and 0 PM peak-hour vehicle trips as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

The subject property is located within the Developed Tier, as defined in the General Plan. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, 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 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 Central Avenue (MD 332) and Rollins Avenue. This intersection is unsignalized. There are no projects to improve this intersection in either the County Capital Improvement Program or the State Consolidated Transportation Program. No recent turning movement counts at the critical intersection of Central Avenue (MD 332) and Rollins Avenue are available. Nonetheless, 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. It is therefore recommended that the Planning Board find that 0 AM and 0 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the Central Avenue (MD 332) and Rollins Avenue intersection.

The site is adjacent to Rollins Avenue, which is a master plan collector facility. The submitted plan shows adequate dedication of 40 feet from centerline along Rollins Avenue. The only proposed construction is a driveway to serve Lot 1. Currently there are several properties along this section of Rollins Avenue with direct driveway access to Rollins Avenue. Therefore, the addition of the driveway is not an issue.

**TRANSPORTATION CONCLUSIONS**

For the reasons stated above, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George’s County Code.

- 11. **Schools**—The proposed development is in the Developed Tier and therefore exempt from the school facilities test pursuant to Section 24-122.02(b)(4) of the Subdivision Regulations.
- 12. **Fire and Rescue**—This preliminary plan is within the required seven-minute response time for the first due fire station, Capitol Heights, Company 5, 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 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 CB-56-2005.

- 13. **Police Facilities**—The subject property is located in Police District III, Palmer Park. The response time standard is ten 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 August 20, 2008.

| Reporting Cycle                    | Previous 12 Month Cycle | Emergency Calls | Nonemergency Calls |
|------------------------------------|-------------------------|-----------------|--------------------|
| Acceptance Date<br>August 20, 2008 | 7/07 –7/08              | 8 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 July 1, 2008.

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

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

- 14. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for the Ford Property and has no comments to offer.



15. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that no on-site stormwater management is required. Stormwater Management Concept Plan 17822-2008 dated August 13, 2008, has been approved with conditions recognizing no new construction is involved. Development must be in accordance with this approved plan.
16. **Cemeteries**—No cemeteries exist on the property.
17. **Historic**—A Phase I archeological survey is not recommended for the Ford Property. This proposal is for the division of one lot into two. The two houses currently on this property will remain. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. Tax records indicate that at least one of the houses on the subject property was built in 1920. However, the applicant should be aware that three County historic sites, DC Boundary Marker East (72-20), DC Boundary Marker SE1 (75B-2), and St. Margaret's Church (72-007-01), and one historic resource, William Sidney Pittman House (72-009-18), are located within a one-mile radius of the subject property. One archeological site has been identified within a one-mile radius of the subject property.

Moreover, Section 106 review may require an 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 funds, 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 Clark, seconded by Commissioner Squire, with Commissioners Clark, Squire, Vaughns, Cavitt and Parker voting in favor of the motion at its regular meeting held on Thursday, December 18, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 29th day of January 2009.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

OSR:FJG:RD:rmk