

**THE GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING, HISTORIC PRESERVATION OFFICE  
801 North Capitol Street, N.E., Third Floor  
Washington, D.C. 20002**

**IN RE:**

**Application for Subdivision**

**HPA #04-145**

**Tregaron  
3100 Macomb Street, N.W.  
Washington, D.C.**

**DECISION AND ORDER  
(Subdivision of Tregaron Estate – Eight Residential Lots  
and Initial Rehabilitation Plan of Conservancy)**

**Background**

Pursuant to District of Columbia Official Code § 6-1106 (2001 ed.), Subdivisions, a public hearing was held on February 22, 2006, before Rohulamin Quander, Senior Administrative Judge and Mayor’s Agent for Historic Preservation (the “Mayor’s Agent), under the authority of the District of Columbia Administrative Procedure Act and D.C. Law 2-144, the District of Columbia Historic Landmark and Historic District Protection Act of 1978 (the “Act”), D.C. Official Code, §. 6-1101 *et seq.* (2001 ed.), and the regulations enacted pursuant thereto in 10A District of Columbia Municipal Regulations, Chapter 1, *et seq.* (2004 ed.) (the “Regulations”).

The Applicant seeks approval of a subdivision of Lot 839 in Square 2084 to create eight record lots for the purpose of developing eight single family residences along the Macomb Street and Klinge Road frontages of the landmark Tregaron Estate. The Applicant also seeks approval for seven of the eight lots to also create seven assessment and taxation lots which constitute smaller portions of the same record lots for conveyance to individual homeowner(s) or builder(s). The purpose of the two types of lots for seven houses is to provide a record lot which meets minimum zoning standards for each house but to actually convey smaller lots for ownership by individual homeowners, thereby minimizing the impact on the landmark.

The Act provides that before the Mayor may admit to record any subdivision of a historic landmark, the Mayor shall find that the subdivision is “necessary in the public interest.” See D.C. Official Code, § 6-1106(e). The term “necessary in the public interest” is defined as “consistent with the purposes of the Act” or “necessary to construct a project of special merit” See D.C. Official Code, § 6-1102(10). The term “project of special merit” is defined, as “a plan or building having significant benefits to the District of Columbia or to the community by virtue

of exemplary architecture, special features of land planning or social or other benefits having a high priority for community services.” See D.C. Official Code, § 6-1102(11).

Among its mandates, the Act requires that the Mayor or his Agent review and hold a public hearing on applications for subdivision of the site of historic landmarks. The Applicant in this case is the Tregaron Limited Partnership (the “TLP” or the “Applicant”). The landmark at issue is the Tregaron estate, a 20.6 acre former country house estate which currently consists of two lots: (1) an improved, six-acre parcel owned by the Washington International School (“WIS”), and occupied by the original historic mansion and modern school buildings; and (2) an unimproved, 14-acre parcel owned by the Applicant that wraps around the WIS lot and contains most of the historic landscape which surrounded the mansion. The landscape is a highly significant, albeit, degraded historic element.

Attending and/or providing written testimony at the Mayor’s Agent hearing of February 22, 2006, were representatives from the Friends of Tregaron (“FOT”), the Tregaron Conservancy (the “Conservancy”), the Washington International School (“WIS”), the D.C. Office of Planning (the “OP”), the Historic Preservation Office (the “HPO”), the D.C. Office of the Attorney General (the “AG”), Advisory Neighborhood Commission 3-C (“ANC-3C”), and the Cleveland Park Historic Society (the “Historical Society”). All parties and witnesses testified that proposed development and landscape rehabilitation constituted a project of “special merit” because of its importance and contribution to the health, welfare and safety of surrounding community. The Conservancy appeared at the hearing to testify as to its commitment to implement a landscape plan. The record contains no evidence of opposition to the proposal, although additional restrictions proposed by the Cleveland Park Citizens Association were rejected by HPRB at its January 26, 2002 meeting.

For the reasons set forth below, the Application for Subdivision is **GRANTED**.

### **ISSUE**

The issue to be decided is whether this Application for a subdivision in this historic landmark property should be granted as necessary in the public interest to achieve a project of special merit,

### **LEGAL ANALYSIS**

The grounds for TLP’s application are that the proposed subdivision for eight new residences located on the edges of the landscape is necessary to permit the conveyance of approximately 10 acres of the more significant area of the landscape to the Conservancy, a nonprofit organization, which will serve as the steward of the historic landscape for future generations. The proposed subdivided lots will also generate income to subsidize the preservation and rehabilitation of the historic landscape. The subdivision will provide a significant benefit to the City and the community with the preservation and much needed rehabilitation of the degraded landscape. The subdivision will enable the Conservancy to clean up the landscape of dead and fallen trees and remove invasive plant material. The Conservancy will also make the historic landscape accessible for public use and enjoyment in perpetuity.

Based upon these benefits, the Applicant asserts that the proposed subdivision and associated Conservancy plan to preserve, rehabilitate and provide public access to the historic landscape is a project of “special merit” and therefore “necessary in the public interest” in accordance with the Act.

On January 25, 2006, the Applicant, along with WIS and FOT, (collectively the “parties”) entered into an agreement (the “Agreement”), which memorializes all of the terms and conditions agreed to by the three designated signatory parties – TLP, WIS and FOT – regarding the proposed subdivision, limited development of the site to include eight new residences and a new soccer field for WIS and land conveyances among the parties. The Agreement also established design standards for the eight new residential lots, covenants for the protection and maintenance of the historic landscape, and associated enforcement mechanisms. It included a detailed cultural landscape report (the “CLReport”) prepared by Heritage Landscapes that sets forth an integrated plan for the stabilization, rehabilitation and maintenance of the entire 20.6 acre Tregaron Estate.

The Agreement is founded on financial and other commitments by TLP, WIS and FOT, on behalf of the Conservancy. WIS’s contributions, which are subject to further regulatory approvals, will include cash payments to the Conservancy of approximately \$1.3 million, intensive landscaping of its six acres, and an agreement in perpetuity that the three acres it will receive from TLP will be part of the Conservancy landscape and maintained at WIS’s cost. Implementation of the entire Agreement is necessary to achieve all of the landscape rehabilitation objectives set forth in the Agreement. A copy of the Agreement and its numerous exhibits has been submitted to the Mayor’s Agent for inclusion in the record.

On January 26, 2006, the Historic Preservation Review Board (the “HPRB”) considered this matter and provided the following comments to the Mayor’s Agent:

1. Tregaron is an extraordinarily rare and important architectural and landscape resource. Due to the type of resource involved – a designed country-house landscape – and its exceptional level of significance, the Board has required that the property be documented and any proposals for its rehabilitation and reuse be based on a Cultural Landscape Report, the appropriate tool for assessing and analyzing the history, characteristics, existing conditions and integrity of a landscape resource;

2. The Board has reviewed and concurs with the findings of the Cultural Landscape Report prepared by Heritage Landscapes which documents that while Tregaron’s landscape has a high level of significance, it has a low level of integrity, is in serious decline, and in danger of losing many of the characteristics for which it has been found significant. The HPRB has acknowledged that if nothing is done at Tregaron, the landscape will continue to deteriorate, erode and eventually be lost;

3. Several years of concerted efforts by the Friends of Tregaron to locate preservation-minded buyers or raise the funds necessary to purchase and rehabilitate the property have been unsuccessful. The HPRB has accepted that accommodating some limited development, while inherently incompatible with the character of a planned landscape garden,

may be the only way to generate the funds necessary for rehabilitation of the majority of the site;

4. The HPRB has encouraged a collaborative effort between the three primary stakeholders involved in the property – the Tregaron Limited Partnership (the owner of the land), the Washington International School (the owner of the remainder of the site which has long leased the TLP property for school use), and the Friends of Tregaron (a neighborhood-based organization dedicated to the landmark’s protection). As directed by the Board, the parties have negotiated and entered into an agreement that outlines the terms for limited development, a budget and funding sources for achieving rehabilitation of the landscape, and a plan for management of the site in the future. While the agreement between the parties is valuable in establishing a general road map, the Board believes an enforceable performance plan needs to be developed that establishes specific dates or milestones and measurable outcomes;

5. While the HPRB believes further subdivision of Tregaron is inherently inconsistent with the original unified character of the property, it finds that the conceptual plan developed by TLP and its consultants Miller Hull Architects and Heritage Landscapes, and as codified in the agreement between TLP, FOT and WIS, establishes both substantive restrictions and shared management responsibilities to mitigate the potential adverse impacts of subdivision. Similarly, while the Board believes that residential construction on the site is inherently inconsistent with the character of this designed landscape, through careful siting, massing, design, landscaping and proposed construction techniques, the conceptual proposal for eight houses is exemplary in terms of its architecture and land use planning in minimizing the impacts of those houses on the landscape, ensuring that the houses will be invisible from the most important vistas and vantage points within the estate, and will preserve and respect important topographical, man-made and natural features and characteristics;

6. The HPRB finds the landscape rehabilitation plan for Tregaron, guided by the CLReport prepared by Heritage Landscapes, and management of a substantial portion of the property by a landscape conservancy dedicated to the rehabilitation, stewardship, interpretation and ensuring public access to the site, would constitute an unusual and substantial historic preservation accomplishment with clear benefits to the public and have a direct relation to the public interest in perpetuating, enhancing and promoting appreciation of one of the city’s unique cultural assets;

7. That if the Mayor’s Agent finds subdivision of the property is necessary in the public interest to achieve a project of special merit, the applicants be directed to return to the HPRB for review of more fully developed plans for new construction.

Following the HPRB meeting, the Applicant submitted a letter to the Mayor’s Agent indicating its intention to base its subdivision request on “special merit.” TLP also submitted a summary of the key terms of the lengthy Agreement, which has direct bearing on the Applicant’s special merit case. Attached to the summary is a plan for the initial phase of the rehabilitation of the ten-acre parcel which TLP will donate to the Conservancy in accordance with the Landscape Plan. The Landscape Plan addresses HPRB’s request for a 2-3 year enforceable plan which “establishes specific dates or milestones and measurable outcomes.”

The Landscape Plan provides that upon conveyance of the ten-acre TLP parcel, the Conservancy will begin efforts to clear the property of dead, diseased and fallen trees as well as large, exotic, invasive plant material. The Conservancy will also develop and implement a program for public access to the site. The Landscape Plan is a key component of the Applicant's special merit case. Implementation of the Landscape Plan will entail obtaining necessary permits for the removal of some of the invasive and diseased trees as required by the District of Columbia's Urban Forest Preservation Act of 2002. The Applicant proposes that the simultaneous issuance of such a permit(s) with the subdivision permit will satisfy the requirements of D.C. Official Code, § 6-1106(f), for simultaneous issuance of permits for the special merit plan and the subdivision.

### **FINDINGS OF FACT**

The foregoing having been considered, the following Findings of Fact are made:

1. The Applicant has made application to subdivide portions of the Tregaron Estate, a historic landmark listed on the D.C. Inventory of Historic Sites and located at 3100 Macomb Street, N.W. Tregaron is a 20.6-acre former country house estate which currently consists of two lots: (1) a six acre parcel at the top of the hill which is owned by WIS and is occupied by the original historic mansion and outbuildings as well as more modern school buildings; and (2) a 14 acre parcel owned by the Applicant that wraps around the south, east and north side of the WIS lot and which comprises the highly significant, but substantially degraded, landscaped grounds of the historic estate.

2. The Applicant is proposing to subdivide a portion of the landmark to create eight residential building lots (collectively comprising just over one acre) consisting of: (1) two lots located on the Macomb Street frontage of the property; and (2) six lots on the Klingle Road frontage of the property. (Five of the Klingle Road houses are located on a portion of Klingle Road which is currently closed to traffic due to the degraded condition of the roadbed, and one house is located on the open portion of Klingle Road). The subdivision has two components: (1) eight record lots which meet the applicable zoning requirements; and (2) seven smaller Assessment and Taxation lots for seven of the eight houses which will constitute the portion of the record lots that will actually be conveyed to private homeowners/builders for development and use as private residences.

3. The record reflects through testimonial and other evidence that TLP, FOT, WIS, HPO, and ANC-3C have engaged in numerous consultations and negotiations over a six-month period to arrive at an enforceable agreement that would recite the precise terms and design standards for the development of the proposed eight residential lots and the preservation and rehabilitation of the balance of the TLP property.

4. On January 24, 2006, the Conservancy was issued a certificate of incorporation as a nonprofit corporation by the District of Columbia, and on February 7, 2006, at the Conservancy Board's initial meeting, the Conservancy adopted the Agreement, including the CLReport. The Conservancy has also raised more than \$600,000 in pledges to date.

5. The record reflects that WIS is an integral party to the Agreement and that WIS plans promptly to address certain issues raised by HPRB with respect to the soccer field and landscaping, and to seek approval from HPRB and the Mayor's Agent of its revised plans.

6. Other parties that were consulted and participated throughout this process, but who did not execute the Agreement were the Cleveland Park Citizens Association, the Cleveland Park Historical Society, and ANC-3C.

## DISCUSSION

In the interest of clarity, consistency, and certainty for all parties, the Mayor's Agent recites certain critical terms and standards of the Summary Agreement:

7. TLP shall be permitted to develop eight lots for single family residences, and in connection therewith, shall be permitted to subdivide its land (together with any land conveyed by WIS pursuant to the Agreement) into eight record lots and seven smaller Assessment and Taxation lots and to sell lots or develop residences on one record lot and seven Assessment and Taxation lots subject to the deed restrictions contained in the Summary Agreement, as set forth on Schedule 4, attached thereto.

8. TLP will convey to WIS approximately one-half acre for the soccer field development, and WIS will convey contemporaneously to TLP up to one-half acre which shall be included in the proposed TLP subdivision lot(s) on Macomb Street.

9. On the earlier to occur of (i) the receipt of record lot subdivision approval for the lots described in paragraph 1 above, and (ii) twelve months after the date of this Order, TLP shall convey to the Conservancy approximately ten acres, which ten acres will become part of a land conservancy, subject to the deed restrictions contained in the Agreement.

10. Contemporaneously with the conveyance described in paragraph 3 above, TLP will convey to WIS approximately three acres to be maintained as open space and, subject to further regulatory approvals and the terms and conditions of the Agreement, maintained by WIS as part of the Conservancy landscape.

11. TLP will contribute to the Conservancy (i) the amount of \$100,000 upon the sale of each of Lots 1 and 2 (as described in the Agreement) (or \$100,000 if only one Lot can be sold or developed on Macomb Street) either in cash, or, if agreed to by the Conservancy, in rehabilitation of an area of the Conservancy landscape pursuant to the CLReport, (ii) the amount of \$60,000 cash upon the sale of each of Lots 4, 5, 6, 7 and 8, (iii) the amount of \$500,000 upon the sale of Lot 3, either in cash, or, if agreed to by the Tregaron Conservancy, in rehabilitation of an area of the Tregaron Conservancy landscape pursuant to the CLReport (or, if TLP develops rather than sells Lot 3, \$250,000 upon issuance of a building permit for Lot 3 and \$250,000 upon closing of the sale of such house), and (iv) an amount equal to twenty percent (20%) of the net proceeds that TLP receives above (A) \$4,800,000 from the sale of Lots 1 through 3 and (B) \$9,300,000 in the aggregate from the sale of all lots.

12. Upon receipt of the aforementioned ten acre land conveyance from TLP, the Conservancy will proceed to begin rehabilitation of the ten acres and provide for community access to the same for passive recreational activity.

13. In addition to maintaining a substantial portion of its land pursuant to the Conservancy landscape plan as described in paragraph 4, WIS will, subject to the terms and conditions of the Agreement and requisite regulatory approvals, contribute \$1.3 million to the Conservancy, which contributions of land and funds will help to ensure that the entirety of the Tregaron Conservancy landscape will be preserved, rehabilitated, maintained, and made accessible to the community into the future for posterity.

### **CONCLUSIONS OF LAW**

Having considered the record herein, the Mayor's Agent makes the following Conclusions of Law:

The proposed subdivision of portions of the Tregaron, a historic landmark in the District of Columbia, is consistent with D.C. Official Code, § 6-1101(b)(2), as the end result will significantly retain and enhance the landmark landscape, and cause it to be adapted for current use.

Consistent with the language recited in the Summary Agreement, the Mayor's Agent adopts the Summary Agreement as the primary legal basis for his decision that the proposed subdivision is necessary in the public interest, and is in line with the requirements of D.C. Official Code, §§. 6-1102(10), 6-1104(e), and 6-1107(e).

The Agreement contains the terms and legal standards that the signatories, and consulting parties have negotiated over an extensive period of time, and have affirmed and ratified as reasonable, appropriate, and necessary for the subdivision of the TLP portion of Tregaron in accordance with the requirements of the Act. The Mayor's Agent therefore adopts and ratifies the terms and standards of the Agreement as the basis for his determination that this is a project of special merit having significant benefits to the District of Columbia and to the community by virtue of exemplary architecture, special features of land planning, social or other benefits having a high priority for community services, consistent with D.C. Official Code, § 6-1102(11).

Donating approximately 13 acres of the landmark site for conservancy purposes to be preserved as a landmark in perpetuity (three acres of which are to be owned by WIS but part of the Tregaron landscape) and approximately 10 acres of which are to be available for community use and enjoyment is a significant benefit to the entire community, and has a high priority for community services. See D.C. Official Code, § 6-1102(10) and (11).

### **ORDER**

**ACCORDINGLY, it is this 30th day of March, 2006,**

**ORDERED**, that the application by the Tregaron Limited Partnership for subdivision of a portion of Tregaron, a historic landmark listed on the District of Columbia Inventory of Historic Sites and located at 3100 Macomb Street, N.W., in HPA # 04-145 is **GRANTED**, on the grounds that it is necessary in the public interest as a project of special merit pursuant to and consistent with the requirements of D.C. Official Code § 6-1102(10) and (11), & 6-1106(e), and it is

**FURTHER ORDERED**, that simultaneously with the recordation of the subdivision, FOT and/or the Conservancy shall obtain a permit for the removal of dead, diseased or invasive species trees in accordance with the Initial Rehabilitation Plan; and it is

**FURTHER ORDERED**, that pursuant to 10 DCMR § 2523.4, this Order will take effect fifteen (15) days from the date of its service as evidenced by the following Certificate of Service pursuant to 10 DCMR, § 2503.5(c).

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**ROHULAMIN QUANDER**  
**Senior Administrative Judge, and**  
**Mayor's Agent For Historic Preservation**

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing decision and order was served this 30th day of March, 2006, by mailing a copy of the same via e-mail or U.S. Mail, postage prepaid, to the following:

Copies to:

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