

R E S O L U T I O N

WHEREAS, Kurt D. Baumann is the owner of a 2.19-acre parcel of land known as Parkcrest, said property being in the 19th Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on April 21, 2000, Kurt D. Baumann/Chester Assoc. filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for eight lots and one parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00021, 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 5, 2000, 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, in a memorandum dated October 4, 2000, recommended Approval of the application with conditions; and

WHEREAS, on October 5, 2000, 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/16/00), and further APPROVED Preliminary Plat of Subdivision 4-00021, Lots 1-8 and Parcel A with the following conditions:

1. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCP I/16/00). 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 (TCP I/16/00), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy."

2. A Type II Tree Conservation Plan shall be approved in conjunction with the Detailed Site Plan, or prior to issuance of permits if no detailed site plan is required.
3. Development shall be in conformance with the approved stormwater concept plan,

Concept # 948005290.

4. At the time of final plat, the applicant shall dedicate Parcel AA@ to the M-NCPPC in fulfillment of mandatory park dedication requirements, subject to the following:
 - a. A copy of an unrecorded, special warranty deed for the property to be used for recreational facilities shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
 - b. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
 - c. The land to be used for on-site private recreational facilities shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - d. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a Homeowners Association. The location and design of drainage outfalls that adequate impact property to be conveyed, shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
 - e. Temporary or permanent use of land to be used for recreational facilities or stormwater management shall be approved by DRD.
 - f. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the recreational facilities.
 - g. Any disturbance to the land to be used for recreational facilities shall be in accordance with an approved Detailed Site Plan or shall require the written consent of the DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
5. Prior to signature approval of the preliminary plat:
 - a. The preliminary plat shall be revised to include the location of the cemetery and Note 11 shall be revised accordingly.
 - b. The applicant, his heirs, successors and/or assigns shall stake the corners of the cemetery in the field.

6. Prior to final plat approval, the applicant, his heirs successors and/or assigns shall either:
 - a. Relocate all grave sites off the property in accordance with State law; or
 - b. Receive approval of a detailed site plan in accordance with Section 27-286 of the Zoning Ordinance to ensure that all requirements of Section 24-135.02 are met. In addition, the preservation of the cemetery may involve minor modifications to the street layout and lotting pattern and may result in the reduction of lots.

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 northeast corner of the 60th Avenue/Tennyson Street intersection.
3. This site is subject to the provisions of the Woodland Conservation Ordinances because the site is more than 40,000 square feet and contains more than 10,000 square feet of woodland. A Tree Conservation Plan is required to satisfy the requirements of the Woodland Conservation Ordinances.

Tree Conservation Plan, TCP I/16/00 has been reviewed and is approved. The Type I Tree Conservation Plan has been revised to include a combination of off-site preservation and a fee-in-lieu of on-site conservation. The Type I Tree Conservation Plan now satisfies all requirements of the Prince George's County Woodland Conservation Ordinance.

There are no wetlands, streams, and floodplain on this site. The Christiana soils pose special problems for development when associated with slopes. There are no noise impacts associated with this proposal. There are no designated Historic or Scenic roads associated with this proposal. The property is in Water and Sewer Category 3 and will be served by public systems.

4. The 1994 *Master Plan for Bladensburg-New Carrollton and Vicinity*, recommends the property for residential development at low-suburban density. The 1994 Sectional Map Amendment rezoned the property from R-55 to R-80. There are no master plan issues associated with this application.
5. The proposal is subject to the mandatory park dedication requirements of Section 24-134 of the Subdivision Regulations. Originally, the plan proposed to dedicate Parcel AA, which is 1,317 square feet. This parcel did not meet the minimum requirement for dedication, which is 7,177 square feet for this property..

The plan has been revised and now shows seven development lots (instead of eight) and one 7,200" square foot parcel for dedication to M-NCPPC in fulfilment of the mandatory park dedication requirements. The proposed subdivision now satisfies mandatory park dedication requirements of the Subdivision Regulations

6. There are no master plan trails issues associated with this proposal.
7. A traffic impact study was not requested by the transportation staff. Staff did make peak hour observations at the intersection of MD 201 and Tennyson Road in support of its findings, however. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals (Guidelines)*.

The applicant proposes to subdivide the subject property into 8 lots. With one residence currently existing on the property, the subdivision would result in a net of 7 single family detached residences. The 7 net residences would generate 5 AM (1 in, 4 out) and 6 PM (4 in, 2 out) peak hour vehicle trips, using the trip rates provided in the *Guidelines*. The trips generated by the new residences would be distributed to the local roadway network as follows:

55% - northbound along MD 201
45% - southbound along MD 201

Virtually all of the vehicle trips generated by the subject property would utilize the intersection of MD 201 and Tennyson Road. This is an unsignalized intersection with a median break along MD 201. In lieu of making the applicant pay for new counts, the staff has utilized 5-year-old counts along MD 201 north and south of this location, used published growth factors along MD 201, and observed turning movements during the peak hours in and out of Tennyson Road. The MD 201 counts were done after Paint Branch Parkway was opened, and the Riverside development along River Road was either existing or has been counted as background development. Using these recent counts, this intersection operates at a maximum vehicle delay of 17 seconds during the AM peak hour, and a delay of 21 seconds during the PM peak hour. These maximum delays increase to 23 seconds and 24 seconds respectively under background traffic. These delays would remain unchanged between background and total traffic.

The Prince George's County Planning Board, in the *Guidelines*, has defined a maximum vehicle delay exceeding 45.0 seconds in any movement as an unacceptable operating condition for unsignalized intersections on the transportation system. Based on the counts that the transportation staff has at hand and the analyses documented above, the critical intersection of MD 201 and Tennyson Road will operate well within acceptable limits if the Preliminary Plat of Subdivision is approved.

On-site circulation is acceptable. The site is not affected by any planned Master Plan transportation facilities.

The Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved.

8. Growth Policy and Public Facilities Planning has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.01 and 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* (revised January 2000) (CR-4-1998). The proposed subdivision is exempt from the APF test for schools because it is less than 36 dwelling units and located in a Revitalization Tax District.

9. Growth Policy and Public Facilities Planning has reviewed the subdivision plans for adequacy of public facilities and concluded the following.

The existing fire engine service at Riverdale Heights Fire Station, Company 13 located at 6101 Roanoke Avenue has a service response time of 2.04 minutes, which is within the 5.25 minutes response time guideline.

The existing ambulance service at Riverdale Heights Fire Station, Company 13 located at 6101 Roanoke Avenue has a service response time of 2.04 minutes, which is within the 6.25 minutes response time guideline.

The existing paramedic service at College Park Fire Station, Company 12 located at 8115 Baltimore Avenue has a service response time of 3.88 minutes, which is within the 7.25 minutes response time guideline.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for engine, ambulance and medic service.

10. The proposed development is within the service area for Police District I- Hyattsville. In accordance with Section 24-122.1 (c) (1) (A) and (B) of the Subdivision Regulations of Prince George's County, the staff concludes that the existing County's police facilities will be adequate to serve the proposed Parkcrest development. This police facility will adequately serve the population generated by the proposed subdivision.
11. The Health department notes that any onsite sewage disposal system and well will need to be pumped, backfilled and sealed by a licensed scavenger.
12. The Department of Environmental Resources (DER), Development Services Division, has determined that onsite stormwater management will be required. A Stormwater

Management Concept Plan, # 948005290, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. This plan is valid through March 14, 2003. Development must be in accordance with this approved plan.

13. The plan includes the required 10-foot side public utility easements. These easements will be included on the final plat.
14. The proposal uses the lot size averaging technique allowed by the zoning ordinance. Section 24-121(a)(12) or the subdivision regulations requires that the Planning Board make the following findings in permitting the use of lot size averaging:
 - A. **The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.** The property is long and narrow, and it abuts 60th Street near its end and its intersection with Tennyson Street. Creating an appropriate access point is difficult. It should be located as far from the existing intersection as possible. This has the effect of squeezing the lots to the north. Any 9,500 square foot lots along the north side of proposed Tennyson Court would be wide and shallow, an often problematic shape for a residential lot.
 - B. **The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.** Surrounding properties are zoned R-55; lot sizes are varied. The smaller, 8,000 square foot lots abut oddly-configured lots, including some very narrow rear yards. The proposed lots provide an adequate transition.
 - C. **The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.** Few natural features exist on or near the property. However, the proposed subdivision design locates larger lots near parkland, allowing a transition from the adjoining neighborhood park to the rest of the neighborhood.

In addition, Section 27-423 of the Prince George's County Zoning Ordinance sets the zoning requirements for lot size averaging. Specifically, in the R-R Zone

- A. **The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (9,500 square feet).** The property is 95,396 square feet. Therefore, 10 lots would be allowed provided all other requirements were met. Seven lots are proposed.
- B. **At least 50 percent of the lots created shall equal or exceed the largest**

minimum lot size in the zone (9,500 square feet). Four of the seven lots are proposed to exceed 9,500 square feet.

15. Staff of the Historic Preservation Section visited the site on October 4, 2000, to meet with citizens and a representative of the property owner to verify the existence of grave sites. At the time of the field inspection, staff was taken to the site where, ostensibly, the remains of four people are buried. The site was not easily identifiable as a grave site. However, the neighboring residents did note that Gasch=s Funeral Homes had handled the burials. (See attached memorandum, Pearl to Del Balzo, October 4, 2000.) Staff researched the Gasch=s records and found unmistakably that at least three bodies are buried on the site in the area of the proposed cul-de-sac.

The Subdivision Ordinance includes several provisions for properties containing cemeteries. Section 24-135.02 states:

- a. **When a proposed preliminary plat of subdivision includes a cemetery within the site, and there are no plans to relocate the human remains to an existing cemetery, the applicant shall observe the following requirements:**
1. **The corners of the cemetery shall be staked in the field prior to preliminary plat submittal. These stakes shall be maintained until preliminary plat approval.**
 2. **An inventory of existing cemetery elements (such as walls, gates, landscape features, tombstones, including a record of their inscriptions) and their condition shall be submitted as part of the preliminary plat application.**
 3. **The placement of lot lines shall promote long term maintenance of the cemetery and protection of existing elements.**
 4. **An appropriate fence or wall constructed of stone, brick, metal or wood shall be maintained or provided to delineate the cemetery boundaries. The design of the proposed enclosure and a construction schedule shall be approved by the Planning Board or its designee prior to the issuance of any permits. When deemed appropriate, the Planning Board may require a limited review Detailed Site Plan in accordance with Section 27-286 of the Prince George=s County Code, for the purpose of reviewing the design of the proposed enclosure.**
 5. **If the cemetery is not conveyed and accepted into municipal ownership, it shall be protected by arrangements sufficient to assure the Planning Board of its future maintenance and protection. The applicant shall establish a fund in an amount sufficient to provide**

income for the perpetual maintenance of the cemetery. These arrangements shall ensure that stones or markers are in their original location. Covenants and/or other agreements shall include a determination of the following:

- A. Current and proposed property ownership;**
 - B. Responsibility for maintenance;**
 - C. A maintenance plan and schedule;**
 - D. Adequate access; and**
 - E. Any other specifications deemed necessary by the Planning Board.**
- b. Appropriate measures to protect the cemetery during the development process shall be provided, as deemed necessary by the Planning Board.**
- c. The Planning Board, or its designee, shall maintain a registry of cemeteries identified during the subdivision review process.**
- d. Upon approval of a preliminary plat of subdivision, any cemetery approved in accordance with the Section which does not meet the regulations of the zone in which it is located, shall be deemed to be a certified nonconforming use unless otherwise specified by the Planning Board.**

The existence of this cemetery was discovered relatively late in the process. The proposed preliminary plan indicated there were no cemeteries on-site. Therefore, presubmission requirements were not met. Staff believes that the presubmission requirements can be carried out now, prior to signature approval, without harm. However, other requirements are not carried out as easily. Staff is concerned that this cemetery went undiscovered by the applicant for so long. Moreover, staff is concerned that the proposed subdivision layout will be detrimental to the cemetery. State law provides for the relocation of cemeteries. If these grave sites are relocated, the proposed subdivision can move forward as proposed. If not, more lots may be lost and measures in accordance with Section 24-135.02 above will need to be taken. Staff believes it is altogether appropriate to require a limited detailed site plan for this property if the grave sites are to remain. If they are to remain, they must be adequately protected and this preliminary plat does not afford that protection; a limited detailed site plan will.

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

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Lowe, with Commissioners Eley, Lowe and Hewlett voting in favor of the motion and with Commissioner Brown absent, at its regular meeting held on Thursday, October 5, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of November 2000.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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