

PGCPB No. 01-34

File No. 4-00065

R E S O L U T I O N

WHEREAS, William J. Millar, Jr. is the owner of a 1.02-acre parcel of land known as Parcel 32, Tax Map 18 Grid B-2 said property being in the 1st Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on November 20, 2000, Jack Jordan filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-00065, Millar Properties, 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 February 15, 2001, 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 conditions of the application with conditions; and

WHEREAS, on February 15, 2001, 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 Plat of Subdivision 4-00065, Millar Properties, for Lots 1 and 2, including a Variation Request to Section 24-121 with the following conditions:

1. Prior to the issuance of a building permits, the applicant, his heirs, successors and/or assigns shall pay an Adequate Public Facilities fee of \$2,880.00 per dwelling unit for the schools, unless fully offset by a school facility surcharge payment. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines. This adequate public facilities fee would be placed in an account to relieve overcrowding at Cherokee Lane Elementary and Buck Lodge Middle School.
2. No permits shall be issued for this subdivision until the projected percentage of capacities at all the affected schools are less than or equal to 130 percent or four years have elapsed since date of the adoption of the resolution of the approval of this preliminary plat of subdivision.
3. Development of this property shall be in conformance with Stormwater Concept approval, Concept # 8328151-2000.
4. Prior to signature approval the preliminary plat shall be revised:

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- a. To provide the Conceptual Stormwater Management number.
 - b. To remove reference to the 20-foot wide ingress and egress easement for access.
 - c. To locate the 65 dBA line.
5. Prior to approval of the final plat the applicant, his assessors and/or assigns shall pay a fee-in-lieu of park dedication for Lot 2.
 6. Prior to the issuance of the first building permit, the applicant his heirs, successors, and/or assigns shall provide the installation of one AShare the Road with a Bike@ sign in accordance with State requirements and upon State approval.
 7. The final plat of subdivision shall provide a note requiring the following to be demonstrated at the time of appropriate permit review for development on Lot 2.
 - a. The applicant shall show limits of disturbance that would preserve the existing specimen trees and woodland on Lot 2 to the greatest extent possible.
 - b. The applicant shall certify conformance to the recommendations contained in the Noise Study, prepared by KCI Technologies Inc., dated December 19, 2000, for the construction of the dwelling on Lot 2.
 - c. Building permit site plans for Lot 2 shall demonstrate a driveway with turnaround capabilities to minimize the need for vehicles backing onto Powder Mill Road

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 Powder Mill Road approximately 1,400 feet southwest of its intersection with Cherry Hill Road.
3. Environmental - The property is not subject to the provisions of the County Woodland Conservation Ordinance because although the property is greater than 40,000 square feet, it contains less than 10,000 square feet of woodland. The site is characterized with relatively flat terrain which drains and flows into tributaries of the Paint Branch.

The site is partially wooded along the northwest property line of lot 2, and contains some specimen trees. Although the subject property is exempt from the Woodland Conservation Ordinance, the existing specimen trees and woodlands are recommended

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for preservation. No encroachment into woodlands is currently proposed, however, at the time of grading permit the applicant should show limits of disturbance consistent with the preliminary plat and preserve the existing specimen trees and woodland on Lot 2.

4. Variation - Section 24-121(a)(3) of the Subdivision Regulations establishes design guidelines for lots that front on arterial roadways. This section requires that these lots be developed to provide direct vehicular access to either a service road or an interior driveway when feasible. This design guideline encourages an applicant to develop alternatives to direct access onto an arterial roadway.

The subject property has frontage on and proposes direct vehicular access via Powder Mill Road an arterial roadway with a right-of-way width of 120 feet. The existing dwelling on proposed Lot 1 is to remain with little alteration to the existing driveway location.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval to allow access to a proposed arterial. The variation is recommended for approval based on the following findings:

- A. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** One of the purposes of limiting access to an arterial is to enhance public safety, health and welfare. The applicant has proposed to widen the existing 10-foot wide drive way to 20 feet wide. The lot line between lots 1 and 2 will fall in the middle to provide 10 feet of paving on each lot. The applicant will provide abutting driveways that will enhance the public safety. Instead of providing two separate curb cuts for access, the abutting driveways will have one access point onto Powder Mill Road.

In order to reduce the need for property owners to back out onto Powder Mill Road, the driveway to be constructed will be required to provide for turnaround capabilities on Lot 2.

- B. **The conditions of which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties.** The existing lot is unique in square footage and configuration generally to the existing lots on the west side of Powder Mill Road. Lots along the west side of Powder Mill Road are substantially smaller while one lot to the north is substantially larger. Due to the layout of existing development on the subject property the conditions exist which will allow the development of an additional dwelling without increasing the number of vehicular access points on to Powder Mill Road. The applicant has proposed abutting driveways for proposed Lots 1 and 2.

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- C. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** This will not result in a violation of other applicable laws, ordinances or regulations.
 - D. **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.** The applicant would suffer a particular hardship if the strict letter of the regulations is followed since Powder Mill Road provides the only possible access to the site. To deny the variation would deny the applicant access for Lot 2, rendering proposed Lot 2 unbuildable.
5. Noise Issues - The subject property is located on the west side of Powder Mill Road, an arterial which is State maintained. Because of its status as an arterial roadway, it is a significant noise generator. The Environmental Planning Section requested and has reviewed the noise study, stamped as received by Development Review Division on December 20, 2000. It is the opinion of staff that the 65Ldn noise contour line as shown in the study, accurately reflects the anticipated noise environment of the area.
- Based on the review and analysis of the evidence submitted, including the site plan, building footprint, and design specifications contained in the noise study, it appears that the mitigation measures as proposed will provide adequate insulation and shielding of the site from the highway traffic noise. The Noise Study, prepared by KCI Technologies, Inc., dated December 19, 2000, appears to meet all appropriate regulations to ensure acceptable maximum noise levels of 65dBA(Ldn) exterior and 45 dBA (Ldn) interior.
- The proposed dwelling on Lot 2 should comply with the recommendations contained in the noise study as follows:
- a. Reduce the total area of windows or other acoustically weaker building elements
 - b. Seal off Aleaks@ around windows, doors, and vents and improve the actual sound attenuating properties of small building elements such as windows, doors, etc.
 - c. Use double pane windows for all windows.
 - d. Provide for central air conditioning to reduce the need to open windows.
6. Community Planning - The subject property is located within the 1990 *Master Plan for Subregion I*, which recommends residential development at a low-suburban density for the subject property. The preliminary plat as proposed is consistent with that recommendation.

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7. Parks and Recreation - In accordance with Section 24-134(a)(3)(C) of the Subdivision Regulations, proposed Lot 1 is exempt from the mandatory dedication requirements because the lot being created has a legally existing dwelling unit.

In accordance with Section 24-134(a) of the Subdivision Regulations, proposed Lot 2 is subject to the payment of a fee-in-lieu of park dedication because the proposed lot is unsuitable for dedication because of its size and location.

8. Trails - The Adopted and Approved Subregion I Master Plan recommends that Powder Mill Road (MD 212) be designated as a Class III bikeway with appropriate signage. Because Powder Mill Road is a State right-of-way, the applicant should provide the installation of one "Share the Road with a Bike" sign in accordance with State requirements. However, prior to the placement of the signs, SHA should have the opportunity to review the proposed locations to ensure that they are acceptable. The developer would purchase the signs from the State and install them in accordance with the State's Manual on Uniform Traffic Control Devices dealing with the section on bicycle facilities.

9. Transportation - Powder Mill Road (MD 212), is a Master Plan arterial facility. The plan accurately demonstrates dedication of 120 feet from the eastern right-of-way line as shown. Approval of a variation request to Section 24-113 is necessary for the approval of this preliminary plat.

The traffic generated by the proposed preliminary plan would impact the unsignalized intersection of MD 212 and Pleasant Acres Drive. The staff has no recent counts at hand, and has determined that 1 AM and 1 PM peak hour trips generated by the site is sufficiently minor that they would have a de minimus impact on peak hour traffic operations at this location. Therefore, adequate access roads will exist as required by Section 24-124 of the Prince George's County Code.

10. Schools - Growth Policy and Public Facilities Planning has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* (revised January 2001) (CR-4-1998) concluded the following:

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Projected Impact on Affected Public Schools

| Affected School Name | D.U. by Type | Pupil Yield Factor | Development Pupil Yield | 5-Year Projection | Adjusted Enrollment | Total Projected Enrollment | State Rated Capacity | Projected% Capacity |
|---------------------------------|--------------|--------------------|-------------------------|-------------------|---------------------|----------------------------|----------------------|---------------------|
| Cherokee Lane Elementary School | 1 sfd | 0.24 | 0.24 | 708 | 0 | 708.24 | 444 | 159.51% |
| Buck Lodge Middle School | 1 sfd | 0.06 | 0.06 | 880 | 0 | 880.06 | 797 | 110.42% |
| High Point High School | 1 sfd | 0.12 | 0.12 | 2290 | 0 | 2290.12 | 2385 | 96.02% |

Source: Prince George's County Planning Department, M-NCPPC, January 2001

Since the affected Cherokee Lane Elementary and Buck Lodge Middle Schools projected percentage of capacities are greater than 105%, the Adequate Public Facilities fee is \$2,880.00 per dwelling unit.

Section 24-122.02(a)(4) states that if any affected school=s projected percentage of capacity exceeds 130%, no permits may be issued until (a) capacity exists below 130% in all affected schools; or (b) four (4) years have elapsed since the date of adoption of the resolution for the approved preliminary plan of subdivision.

11. Fire and Rescue - Growth Policy and Public Facilities Planning has reviewed the subdivision plans for adequacy of public facilities and concluded the following.
 - a. The existing fire engine service at Beltsville Fire Station, Company 41 located at 3939 Powdermill Road has a service response time of 1.56 minutes, which is within the 5.25 minutes for response time guidelines.
 - b. The existing ambulance service at Beltsville Fire Station, Company 41 located at 3939 Powdermill Road has a service response time of 1.56 minutes, which is within the 6.25 minutes for response time guidelines.
 - c. The existing paramedic service at College Fire Station, Company 12 located at 8115 Baltimore Avenue has a service response time of 7.30 minutes, which is beyond the 7.25 minutes for response time guidelines.
 - d. The existing paramedic service located at College Park, Company 12, is beyond the recommended response time guideline. The nearest fire station Beltsville, Company 41 is located at 3939 Powdermill Road, which is 1.56 minutes from the development. This facility would be within the recommended response time for paramedic service.

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*.

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12. Police Facilities - The proposed development is within the service area for District VI-Beltsville. In accordance with Section 24-122.1(c)(1)(A) and (B) of the Subdivision Regulations, the County's police facilities will be adequate to serve the proposed Millar Property development. This police facility will adequately serve the population generated by the proposed subdivision.
13. Health Department - The Health Department has reviewed the proposed subdivision and has no comment.
14. Stormwater Management - The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is not required. A Stormwater Management Concept Plan, # 8328151-2000, has been reviewed and requires a fee-in-lieu payment for improvements to ensure that development of this site does not result in on-site or downstream flooding. Development should be in accordance with this approval.

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.

* * * * *

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 Brown, with Commissioners Eley, Brown, Lowe and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, February 15, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 1st day of March 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk