

R E S O L U T I O N

WHEREAS, Samuel and Marion Bevard, Jr. is the owner of a 2.91-acre parcel of land known as Parcel 340, Tax Map 106, Grid F-4, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on December 31, 2002, Marrick Properties filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 9 Lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02132 for Kirby Woods 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 27, 2003, 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 27, 2003, 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/10/03), and further APPROVED Preliminary Plan of Subdivision 4-02132, Kirby Woods for Lots 54-62, Block A with the following conditions:

1. Prior to the issuance of permits a Type II tree conservation plan shall be approved.
2. Prior to final plat the applicant shall provide evidence of the removal of the 15-foot right-of-way for the four-inch water main extension that crosses Lot 59. If the extension is not removed the lot area of Lot 59 shall be distributed between the remaining lots, resulting in a reduction of one lot.
3. The final plat shall provide a note that direct vehicular access to Lot 62 will be provided via Kirby Road unless modified for safety reasons by the Department of Public Works and Transportation.
4. The final plat shall provide a note that the applicant shall provide driveways with turnaround capabilities to each lot with vehicular access onto Kirby Road in order to minimize the need for vehicles accessing these lots to back onto Kirby Road.

5. No building permits shall be issued for this subdivision until the capacity, as adjusted pursuant to the School Regulations, at all the affected school clusters is less than or equal to 105 percent or six years have elapsed since the time of the approval of the preliminary plan of subdivision; or pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.
6. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/10/03). 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/10/03), 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.”
7. Prior to signature approval of the Type I Tree Conservation plan, the worksheet shall be revised to reflect a woodland conservation threshold of 20 percent.
8. The applicant shall provide a standard sidewalk along the entire frontage of Kirby Drive and Marwood Drive unless modified by the Department of Public Works and Transportation.
9. Development of this site shall be in conformance with the approved conceptual Stormwater Management Concept Plan, # 8005380-1986-00.
10. Prior to approval of the final plat of subdivision, the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication.
11. Prior to the issuance of grading permits the applicant shall submit evidence from the Health Department that the tires found on the property have been hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility.
12. The applicant shall obtain approval from DPW&T/SHA for the construction of double access aprons to be constructed for Lots 54 and 55, 56 and 57, 58 and 59, and 60 and 61. Any modification to this condition shall require the approval by the Planning Director or the designee.
13. The existing Kirby Woods entrance monument that is located on proposed Lot 62 can remain. The applicant will renovate it in its present location or, if necessary, reconstruct it on Lot 62. The applicant will create an easement for the perpetual existence of the entrance monument on Lot 62. The easement will run to the benefit of a homeowners association to be established by the existing Kirby Woods subdivision. In the alternative, the applicant will create a homeowners association for its subdivision and the easement will run to the benefit of that homeowners association. The

appropriate entity will be identified prior to final plat approval.

14. Prior to the issuance of the final building permit or earlier the applicant, his heirs, successors and or assignees shall install two staggered rows of Leland cypress or white pine trees. The trees shall be 6 feet in height at the time of planting and will be planted with a spacing of 16 feet on-center with an 8-foot stagger. The trees will be planted either within a landscape easement to be established along the rear of proposed Lots 56-62 inclusive, or along the rear of the abutting lots in the existing Kirby Woods subdivision to the north. All trees to be planted shall have a one-year warranty.
15. Dwelling units shall be constructed with 100% brick fronts and have a minimum floor area of 2,600 sq. ft. They will be colonial in style with garages.
16. Property owners of Lots 10 – 15 in the abutting Kirby Woods subdivision to the north have expressed concerns over stormwater management. The applicant will work with individual lot owners in the existing Kirby Woods subdivision to coordinate grading so as to ensure that no stormwater flooding occurs on existing lots in the Kirby Woods subdivision to the north as a result of grading operations for the subject property.
17. Development activity for the construction of single-family dwelling units shall be limited to 7:30 AM to 5:00 PM Monday thru Friday.

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. In subject property is located in the northeast quadrant of the intersection of Kirby Road and Marwood Drive.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

| | EXISTING | PROPOSED |
|-----------------|----------|----------------------------|
| Zone | R-80 | R-80 |
| Use(s) | Vacant | Residential, single-family |
| Acreage | 2.91 | 2.91 |
| Lots | 0 | 9 |
| Parcels | 1 | 0 |
| Dwelling Units: | | |
| Detached | 0 | 9 |

4. **Environmental**— This property is subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the area of existing woodland is greater than 10,000 square feet and the area of the property is greater than 40,000 square feet. A Type I Tree Conservation Plan, TCPI/10/03, date stamped as revised on February 7, 2003, was reviewed and found to address the requirements of the Woodland Conservation Ordinance.

This 2.91-acre property has a 20 percent woodland conservation threshold of 0.58 acres and replacement requirements of 0.67 acres, for a total requirement of 1.25 acres. The requirement for this property is to be satisfied by 1.25 acres of off-site mitigation at a site to be determined prior to the issuance of any grading permits. No woodland conservation is proposed on this site because of the small size of the lots and the species composition of the existing woodlands. TCPI/10/03 is recommended for approval subject to conditions.

A review of the available information indicates that streams, wetlands, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are not found to occur on the property. The soils found to occur, according to the Prince George’s County Soil Survey, include Beltsville silt loam, Chillum silt loam and Sandy silt loam, which have an assortment of limitations that have no direct affect on the layout of this development. According to available information, Marlboro clay is not found to occur on this property.

There are no transportation-related noise impacts associated with Kirby or Temple Hill Roads. The sewer and water service categories are S-3 and W-3, according to information obtained from the Department of Environmental Resources dated September 2001. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication entitled *Ecologically Significant Areas in Anne Arundel and Prince George’s Counties*, December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Tinkers Creek watershed of the Potomac River Basin.

5. **Community Planning**—The subject property is located within the limits of the 1993 Subregion V Master Plan, in Planning Area 81A in the Clinton Community. The 2002 *General Plan* locates this property in the Developing Tier. The land use recommendation for the subject property is for Suburban residential land use.

The submitted application is located in the Developing Tier as defined by the 2002 General Plan. One of the challenges cited for future development in the Developing Tier is “to direct growth in order to encourage design of new communities and neighborhoods, and existing communities to be more land efficient, more environmentally sensitive, and more transit supporting than conventional subdivisions.... 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.” Goals for the Developing Tier that appear relevant to review of the land use proposed in this application include:

- Maintain low- to moderate-density land uses (except in Centers and Corridors).
- Reinforce existing suburban residential neighborhoods.
- Preserve and enhance environmentally sensitive areas.
- Balance the pace of development with the ability of the private sector to provide adequate transportation and public facilities.
- Encourage contiguous expansion of development where public facilities and services can be more efficiently provided.

Development pattern policies and strategies for the Developing Tier that are particularly relevant to review the type of land use proposed by this application include:

- Policy 1: Encourage low- to moderate-density, transit- and pedestrian-oriented development.
 - o Strategy I: Promote a greater mix of uses and housing choices in neighborhoods and communities focused around human-scale, mixed-use centers accessible by multiple transportation modes.
 - o Strategy II: Revise master plans, sector plans and land use regulations to encourage compact neighborhood development on large sites.

Neither the master plan nor land use regulations have been revised pursuant to the policies of the General Plan. Regardless, a preliminary subdivision application prepared in accordance with existing zoning regulations is consistent with the 2002 General Plan Developing Tier Policy 1. The area in which this application is located is recommended for Low Suburban land use as part of a low-density suburban living area in the Clinton community.

6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location. The proposed preliminary plan is consistent with the land use recommendations of the master plan and General Plan.
7. **Trails**—There are no master plan trail issues associated with this application. However, if road improvements are required by the Department of Public Works and Transportation, a standard sidewalk is recommended along the subject site's entire frontage of Kirby Road and Marwood Drive. This is consistent with improvements made along Kirby Road in other areas. The sidewalk should connect to the existing sidewalk along Marwood Drive.

8. **Transportation**— The application is a preliminary plan of subdivision for nine residential lots. The proposed development would generate 7 AM and 9 PM peak-hour vehicle trips as determined using *The Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The traffic generated by the proposed preliminary plan would impact the signalized intersection of Temple Hill Road and Kirby Road. This intersection is the nearest signalized intersection to the site and would serve virtually all of the site-generated traffic. Staff requested recent AM and PM peak period traffic counts, since no recent count was available. The transportation staff received a copy of the required traffic counts.

The intersection of Temple Hill Road and Kirby Road is programmed for additional improvement within the next six years in the current Prince George's County Capital Improvement Program (CIP).

The subject property is located within the Developing Tier, as defined in the *General Plan for Prince George's County*. 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

The intersection of Temple Hill Road and Kirby Road, when analyzed with existing, background and total future traffic as developed using the *Guidelines*, were found not to be operating at or better than the policy service level. The staff analysis of the critical intersection is summarized below:

| | CLV (AM/PM) | LOS (AM/PM) |
|-----------------------|---------------|-------------|
| W/ Existing Traffic | 1,345 / 1468 | D / E |
| W/ Background Traffic | 1,348 / 1474 | D / E |
| W/ Total Traffic | 1,352 / 1,477 | D/ E |

However, with the funded improvements as stated in the CIP (the provision of a free right-turn lane on the westbound approach to Temple Hill Road and a bypass lane on the southbound approach to Kirby Road), this intersection would be operating at acceptable LOS D (CLV=1,314 and CLV=1,445) with total traffic during the AM and PM peak hour, respectively.

Therefore, the Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code to serve the proposed

development.

The submitted site plan is proposing most lots will have access to Kirby Road, a collector facility. Typically collector roadways are designed to carry more through traffic and, where possible, lot access to these types of facilities is not recommended. However, considering the physical limitation of the subject property, exception to this practice is warranted, provided the applicant shows efforts have been taken to minimize the number of such access points. Staff recommends that the applicant use share-access driveways for the remaining lots and the driveways are designed with adequate turn-around capabilities.

9. **Schools**— The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002) and concluded the following.

Finding

Impact on Affected Public School Clusters

| Affected School Clusters # | Elementary School Cluster 5 | Middle School Cluster 3 | High School Cluster 3 |
|----------------------------|-----------------------------|-------------------------|-----------------------|
| Dwelling Units | 9 sfd | 9 sfd | 9 sfd |
| Pupil Yield Factor | 0.24 | 0.06 | 0.12 |
| Subdivision Enrollment | 2.16 | 0.54 | 1.08 |
| Actual Enrollment | 4452 | 4598 | 8393 |
| Completion Enrollment | 180 | 66 | 132 |
| Wait Enrollment | 20 | 15 | 29 |
| Cumulative Enrollment | 18.24 | 13.44 | 26.88 |
| Total Enrollment | 4672.40 | 4692.98 | 8581.96 |
| State Rated Capacity | 4175 | 5114 | 7752 |
| Percent Capacity | 111.91% | 91.77% | 110.71% |
| Funded School | N/a | N/a | Surrattsville Addn. |

Source: Prince George's County Planning Department, M-NCPPC, January 2003

The affected elementary and high school cluster capacities are greater than 105 percent. There is no

funded school in the affected elementary cluster. The Surrattsville addition is the funded school in the affected high school cluster. Therefore, this subdivision can be approved with a six-year waiting period.

Based on this information, the subdivision may be approved subject to conditions, in accordance with Section 24-122.02.

10. **Fire and Rescue**— The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities and concluded the following:
 - a. The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 5.09 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 5.09 minutes, which is within the 6.25- minute travel time guideline.
 - c. The existing paramedic service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 5.09 minutes, which is within the 7.25- minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance, and paramedic services.

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*.

11. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. In accordance with Section 24-122.1(c) of the Subdivision Regulations, the existing county police facilities will be adequate to serve the proposed Kirby Woods development. This police facility will adequately serve the population generated by the proposed subdivision
12. **Health Department**—The Health Department notes that numerous tires were found on the property. The tires must be hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility and a receipt for tire disposal must be submitted to the Health Department. All other trash, including discarded roofing shingles and empty tar buckets, must be removed and properly discarded.
13. **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, # 8005380-1986-00, 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.

14. At the Planning Board hearing of March 27, 2003 residence of the Kirby Woods Subdivision to the north voiced concerns regarding several issues relating to the development of this subdivision. It is noted that the entrance feature for the existing Kirby Woods Subdivision was constructed off-site on the subject property (Parcel 340). Residence of the existing Kirby Woods Subdivision requested assurances that the entrance feature will remain. The applicant has proffered to convey an easement containing the entrance feature prior to final plat of the subject property. However, the Kirby Woods Subdivision to the north does not have a homeowners association established to accept the conveyance of the easement.

The Planning Board has established a condition that provides the Kirby Woods subdivision residences additional time to create an HOA to accept the entrance feature easement. If the abutting Kirby Woods Subdivision to the north does not create an HOA by the time the applicant is ready to go to final plat the applicant will create an HOA for the subject property to accept the conveyance of an easement for the entrance signage, in an effort to ensure the retention of the signage.

Residences of the Kirby Woods subdivision to the north also voiced concerns regarding drainage, stormwater management, buffering and the appearances of the dwellings to be constructed on the subject property. Conditions 13 – 17 were proffered by the applicant and agreed to by the residence and added by the Planning Board as conditions of the development of this property.

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 Lowe, seconded by Commissioner Scott, with Commissioners Lowe, Scott, Eley and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, March 27, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 8th day of May 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk