

R E S O L U T I O N

WHEREAS, James L. and Joseph A. Goldring are the owners of a 9.85-acre parcel of land known as Parcel 24, Tax Map 115, Grid E-4, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on March 25, 2003, Marco Homes filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 13 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-03018 for Temple Hills Property 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 July 24, 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 July 24, 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/22/03), and further APPROVED Preliminary Plan of Subdivision 4-03018, Temple Hills Property for Lots 1-13 and Parcel A, including Variation Requests to Section 24-130 of the Subdivision Regulations with the following conditions:

1. 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/22/03), 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.”

2. A Type II Tree Conservation Plan shall be approved prior to the issuance of permits.

3. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams

or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

4. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

5. At the time of final plat, the applicant, his heirs, successors and/or assignees shall pay a fee-in-lieu of mandatory park dedication.
6. At the time of road construction, the applicant, his heirs, successors and/or assignees shall construct a standard sidewalk along the property's entire frontage of Temple Hills Road to connect to the existing sidewalk to the south. If the Department of Public Works and Transportation declines this sidewalk, this condition shall be void.
7. At the time of final plat approval, the applicant, his heirs, successors and/or assignees shall dedicate a right-of-way along Temple Hill Road of 40 feet from the centerline of pavement, as shown on the submitted plan.
8. A note shall be placed on the final plat that proposed Lot 1 shall receive access from the internal street and shall not have driveway access onto Temple Hill Road.
9. No building permits shall be issued for this subdivision until the percent capacity, as adjusted pursuant to the School Regulations, at all the affected school clusters, are less than or equal to 105 percent or 6 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.
10. Development of the site shall be in conformance with the approved stormwater concept plan, Concept # 429-2003-00, or any approved revisions thereto.
11. Prior to signature approval, the preliminary plan shall be revised to show proposed Parcel "A" as an outparcel.
12. The applicant, his heirs, successors and/or assignees, shall plant two staggered rows of white pines, six-eight feet in height, ten feet on center, along the rear property lines of proposed Lots 9

and 10.

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 temple Hills Road, at its intersection with Salima Street, approximately 2,500 feet north of Piscataway Road in Clinton.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	Undeveloped	Single-family detached dwellings
Acreage	9.85	9.85
Lots	0	13
Parcels	1	1
Detached Dwelling Units:	0	13

4. **Environmental**—The site is predominantly wooded and contains some areas of steep slopes. There are no wetlands on the property. A stream and 100-year floodplain on the property are associated with Pea Hill Branch in the Potomac River watershed. 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 publication titled “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. According to the Prince George’s County Soils Survey the principal soils on this site are in the Aura, Beltsville, Bibb, Howell, and Iuka soils series. According to available information, Marlboro clays are not found to occur in the vicinity of this property. This property is located in the Developing Tier as reflected in the adopted General Plan.

Woodland Conservation

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet and there are more than 10,000 square feet of existing woodland on-site. The revised Forest Stand Delineation (FSD) has been reviewed and was found to meet the requirements of the Woodland Conservation Ordinance.

The Type I Tree Conservation Plan, TCPI/22/03, has been reviewed. The plan proposes clearing 6.40 acres of the existing 9.60 acres of upland woodland and clearing 0.05 acre of the existing 1.52 acres of floodplain woodland. The woodland conservation requirement has been correctly

calculated as 3.32 acres. The plan proposes to meet the requirements by providing 1.77 acres of on-site preservation and 1.56 acres of off-site conservation.

Except for minor clearing for essential development activities, all priority woodland on the site is proposed to be preserved. Woodland conservation areas are proposed on only two of the lots. Each lot will have appropriately-sized usable yard areas.

Natural Reserve Area

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The Subregion VI Master Plan indicates that there are substantial areas designated as Natural Reserve on the site. As noted on page 42 of the Subregion V Master Plan:

“The Natural Reserve Area is composed of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas must be preserved in their natural state.”

The plan has been revised to be in conformance with the Subregion V Master Plan and preserves the areas shown as Natural Reserve. For the purposes of this review, these areas include the entire expanded stream buffer and any isolated sensitive environmental features.

Streams, Buffers, Floodplain and Variation Requests

The wetland delineation report submitted with the application has been reviewed. The Environmental Planning Section concurs that there is a stream but no wetlands on the subject property. The 100-year floodplain has been reviewed and approved by staff of the Prince George's County Department of Environmental Resources. All areas with steep slopes on highly erodible soils are indicated. The minimum 50-foot stream buffer required by Section 24-130 of the Subdivision Regulations is shown. An expanded stream buffer required by Section 24-130 of the Subdivision Regulations is also shown.

All disturbance not essential to the development of the site as a whole is prohibited within stream and wetland buffers. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), streets, and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, parking areas, and so forth, which do not relate directly to public health, safety or welfare. The location of stormwater management facilities is examined closely. Although these are necessary, the specific locations may vary. Impacts for essential development features require variations to the Subdivision Regulations.

The plan proposes impacts to stream buffers and wetland buffers. Impacts to these buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Even if approved by the Planning Board, the applicant will need to obtain federal and state permits prior to the issuance of any grading permit. The additional permit review will assure that the impacts are minimized and that there will be no detrimental effects to public safety, health, or welfare, or be injurious to other property. Requests for two individual impacts have been submitted.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. While they must be accompanied by specific findings, variations are less strictly enforced than are variances. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

- A. That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.**
- 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.**
- C. The variation does not constitute a violation of any other applicable law, ordinance, or regulation.**

- 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.**

Comments

Variation request #1 is for the construction of a storm drain outfall and will impact 750 square feet of expanded buffer. This outfall is required by the Prince George's County Department of Environmental Resources to provide for adequate control of stormwater. This is a necessary impact that will ensure public safety, health and welfare by adequately controlling stormwater. The details of construction will be reevaluated during the review of the Stormwater Design Plan to further reduce impacts. The proposal is not a violation of any other applicable law, ordinance or regulation because state and federal permits are required prior to construction. A hardship would befall the applicant if this variation were not approved because the property would not be developable without its approval. Staff supports variation request #1.

Variation request #2 is for the construction of a sanitary sewer and will temporarily impact 3,500 square feet of expanded buffer. This connection is required at this location by the Washington Suburban Sanitary Commission (WSSC) in order that the proposed development connect to an existing sanitary sewer line. This connection ensures public health, safety and welfare by adequately handling sewage needs of the proposed lots. The details of construction will be reevaluated by WSSC prior to construction to further reduce impacts. The proposal is not a violation of any other applicable law, ordinance or regulation because state and federal permits are required prior to construction. A hardship would befall the applicant if this variation is not approved because the property would not be developable without its approval. Staff supports variation request #2.

The sensitive environmental features of this site have been preserved to the fullest extent possible.

Soils

According to the Prince George's County Soils Survey the principal soils on this site are in the Aura, Beltsville, Bibb, Howell, and Iuka soils series. Aura soils are in the B-hydric group and are highly erodible. Beltsville soils are in the C-hydric group, are highly erodible and may be subject to a perched water table and impeded drainage. Bibb soils are associated with floodplains. Howell soils are in the B-hydric group, are highly erodible, may have slow permeability, and have a potential shrink-swell characteristics. Iuka soils are in the C-hydric group and may have a high water table and impeded drainage. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit review process.

Water and Sewer Categories

The property is in Water Category W-4 and Sewer Category S-4 and will be served by public systems.

5. **Community Planning**—The property is in Planning Area 81A, Clinton. The 2002 General Plan locates the property in the Developing Tier. 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. The 1993 Subregion V Master Plan recommends residential land use at the low-suburban density of up to 2.6 dwelling units per acre. The 1993 Subregion V SMA classified this property in the R-R Zone.

This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. This application conforms to the recommendations of the master plan for low-suburban residential land use. There are no master plan land-use issues associated with this preliminary subdivision application for 13 single-family, detached residential lots in the R-R Zone.

6. **Parks and Recreation**—The site is subject to the requirements of Section 24-134 of the Subdivision Regulations for mandatory park dedication. However, the size and location of land available for dedication is unsuitable for park purposes. Therefore, staff recommends a fee-in-lieu of park dedication be required.
7. **Trails**—There are no master plan trails issues associated with this application. However, a standard sidewalk is recommended along the property's entire frontage of Temple Hills Road to extend the existing sidewalk to the south. If the Department of Public Works and Transportation declines the sidewalk, the condition would be void.
8. **Transportation**—Due to the size of the subdivision, staff has not required that a traffic study be done. The staff is relying upon traffic counts taken in 2002 by another applicant in support of preliminary plan 4-02132. Therefore, 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*.

Growth Policy - Service Level Standards

The subject property is in 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 is required in the developing tier.

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.

Staff Analysis of Traffic Impacts

The intersection of Temple Hill Road and Kirby Road is determined to be the critical intersection for the subject property. This intersection is the nearest signalized intersection to the site and would serve virtually all of the site-generated traffic. The transportation staff has available counts taken by another applicant in 2002. These counts indicate that the critical intersection operates at Level-of-Service (LOS) D, with a critical lane volume (CLV) of 1,345, during the AM peak hour. During the PM peak hour, the intersection operates at LOS E with a CLV of 1,468.

There is a funded capital project at this intersection in the county Capital Improvement Program which would modify the intersection to add a free right-turn lane on the westbound approach and a left-turn lane on the southbound approach. With background growth added, the critical intersection would operate as follows: AM peak hour—LOS D, with a CLV of 1,314; PM peak hour—LOS D, with a CLV of 1,445.

With the development of 13 residences, the site would generate 10 AM (2 in and 8 out) and 12 PM (8 in and 4 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 40 percent—north along Temple Hill Road, 35 percent—east along Kirby Road, and 25 percent—south along Temple Hill Road. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—LOS D, with a CLV of 1,319; PM peak hour—LOS D with a CLV of 1,450.

Plan Comments

Temple Hill Road is a master plan collector facility with a proposed right-of-way of 80 feet, or 40 feet from centerline. Dedication should be provided at the time of final plat.

Given the amount of traffic using Temple Hill Road at this location, there are issues with platting additional lots with potential driveway access points to this roadway. As Lot 1 has frontage on both Temple Hill Road and the internal street, access should be directed onto the internal street.

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with the two transportation-related conditions included in this report.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public 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).

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	13 sfd	13 sfd	13 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	3.12	0.78	1.56
Actual Enrollment	4452	4598	8393
Completion Enrollment	180	66	132
Wait Enrollment	20	15	29
Cumulative Enrollment	235.68	150.54	301.08
Total Enrollment	4890.80	4830.32	8856.64
State Rated Capacity	4175	5114	7752
Percent Capacity	117.14%	94.45%	114.25%
Funded School	N/a	N/a	N/a

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

The affected elementary and high school clusters percent capacities are greater than 105 percent. There is no Funded School in the affected elementary school cluster. The Surrattsville addition is the Funded School in the affected high school cluster. Therefore, in accordance with Section 24-122.02, this subdivision can be approved with to conditions, including a six-year waiting period.

County Council Bill CB-31-2003 establishes school facilities surcharges in the amount of \$7,000 per dwelling if a building is located between interstate highway 495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts on existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. The school surcharge is to

be used for the construction of additional school facilities, which will accommodate the new students that will be generated by this development proposal.

This law becomes effective on July 28, 2003. Since this application is before the Planning Board on July 24, 2003, staff has analyzed the proposal under existing law. The standard condition, imposing a six-year wait, has been applied. However, on July 28, 2003, this wait will be legislatively abolished and the applicant will be required to pay a school facilities surcharge of \$12,000 per dwelling unit at the time of building permit issuance.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities.

- a. The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service travel time of 3.32 minutes, which is within the 5.25-minute travel time guideline.
- b. The existing ambulance service at Clinton Fire Station, Company 25, has a service travel time of 3.32 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Clinton Fire Station, Company 25, has a service travel time of 3.32 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. These 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 of Prince George's County, existing county police facilities will be adequate to serve the proposed Temple Hills Property development. This police facility will adequately serve the population generated by the proposed subdivision.

The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of 6/30/2002, the county had 874 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for additional 69 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.

12. **Health Department**—The Health Department's only comment was that the property was in Water and Sewer Categories W-5 and S-5, respectively. As such, the preliminary plan could not be approved. However, an application for a category change was approved by CR-7-2003. The property is now in W-4 and S-4 and the preliminary plan may be approved.

13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #429-2003-00, 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, or any revisions thereto.

14. **Cemeteries**^{3/4} The applicant's engineer has certified that there are no known cemeteries on the property. If human remains are found on the property, state law requires all activity to cease.
15. **Public Utility Easement**—The preliminary plan includes the required 10-foot-wide public utility easement. This easement will be included on the final plat.
16. **Lot Size Averaging**^{3/4} Section 24-121(a)(12) 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.**
Comment: The design of this subdivision respects the natural features on, and shape of, this property. The property exhibits a large area of floodplain in the rear. Development is concentrated nearer the front of the property where no environmental features exist. The floodplain will be protected by a conservation easement.
 - 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.** *Comment:* The property abuts Hyde Field Estates to the south and Clinton View to the north. Hyde Field Estates was developed under the cluster provisions with lots as small as 10,000 square feet. Lots abutting the subject property range from 10,000 to 21,000 square feet. Clinton Acres was also developed under the cluster provisions. The three lots abutting the subject property are 14,295, 20,527 and 49,415 square feet. Larger lots are proposed where the property abuts the 49,415-square-foot lot. The proposed subdivision fits well with the surrounding cluster developments.
 - 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.** *Comment:* By preserving the floodplain in the rear of the property to the fullest extent possible, the property provides a link between two preserved floodplain areas, creating a long, contiguous conservation area.

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 (20,000 square feet). *Comment:* In this case, with 9.85 acres and a minimum lot size of 20,000 square feet, the maximum number of lots allowed is 21. The applicant proposes 13 lots.

B. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (20,000 square feet). *Comment:* As proposed, 7 of the proposed 13 lots (or 53+ percent) exceed 20,000 square feet. Therefore the proposed subdivision meets the minimum zoning ordinance standards for lot size averaging.

17. At the hearing, the applicant proffered to plant trees along the rear property lines of Lots 9 and 10. The applicant met with an adjoining property owner just prior to the hearing. That property owner abuts proposed Lot 10. He was concerned with the lack of trees behind his home. The applicant proffered to plant white pines, in staggered rows, 6 to 8 feet in height and 10 feet on-center. This proffer shall become a condition of 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.

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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 Scott, seconded by Commissioner Eley, with Commissioners Scott, Eley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Lowe absent at its regular meeting held on Thursday, July 24, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of September 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JD:rmk