

R E S O L U T I O N

WHEREAS, Jose T. and Merlyn L. Sotto are the owners of a 1.74-acre parcel of land known as Parcels 12 and 13, being located on Tax Map 35 and Grid D-2, said property being in the 14th Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on December 31, 2003, Greenbelt Builders, Inc., filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for four lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-03142 for Kagle 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 May 20, 2004, 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 May 20, 2004, 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 Plan of Subdivision 4-03142, Kagle Property for Lots 1-4 including a variation from Section 24-121 with the following conditions:

1. Prior to signature approval of the preliminary plan, it shall be revised to remove all references to a tree conservation plan and all information related strictly to a TCP shall be removed.
2. Prior to the approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures within prescribed noise corridors have been designed to reduce interior noise levels to 45dBA (Ldn) or less.
3. Development shall be in conformance with the approved Stormwater Management Concept Plan #42202-2003-00.
4. 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 for Lots 1 and 3 only.
5. The existing abandoned well shall be backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department

prior to final plat approval.

6. At the time of final plat approval, the applicant shall dedicate a right-of-way along MD 193 (Greenbelt Road) of 60 feet from the centerline of the existing right-of-way.
7. The construction of a standard sidewalk along the subject property's entire road frontage of MD 193 is required, per the concurrence of SHA. This sidewalk shall connect to the existing sidewalk along Baywood Drive.
8. Prior to the approval of final plats, a detailed site plan shall be approved by the Planning Board. The site plan shall examine the views from adjacent properties, paying special attention to compatibility and technical stormwater management issues.

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 south side of MD 193 (Greenbelt Road), approximately 40 feet east of Baywood 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                             |
| Uses                    | 2 single-family homes | 4 single-family homes            |
| Acreage                 | 1.74                  | 1.74                             |
| Lots                    | 0                     | 4                                |
| Parcels                 | 2                     | 0                                |
| Detached Dwelling Units | 2                     | 4 (existing 2 plus 2 additional) |

4. **Environmental**—Based on available information, the site has several large trees but no streams, 100-year floodplain, or wetlands. According to the soils survey for Prince George's County, soils present at the site include: Christiana silt loam (CeB2) and Keyport (KpB2). Christiana soil is moderately erodible and Keyport soil is characteristic of severe slopes that are highly erodible. According to available information, Marlboro clay is not present at the site. There are no scenic or historic roads in the vicinity of the site. The site has approximately 260 feet of frontage along MD 193, an existing six-lane major arterial road. Noise impacts from MD 193 are anticipated. Based on available information from the Maryland Department of Natural Resources (MDNR) Wildlife and 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 in vicinity of the subject property. The site is in the Bald Hill Branch watershed of the Patuxent River basin and the Developing Tier of the 2002 approved General Plann

### **Woodland Conservation**

A simplified forest stand delineation (FSD) map has been submitted. The FSD identifies four specimen trees and a row of pine trees along the west property line. These areas of trees do not meet the definition of a forest. As a result, the finding has been made that there are no existing woodlands found on the property and, therefore, the site is exempt from the Prince George's County Woodland Conservation Ordinance.

Despite being exempt from the Woodland Conservation Ordinance, a Type I Tree Conservation Plan (TCPI) was combined with the preliminary plan initial plan submittal. The revised plan submittal again combines the two plans. Based on the above findings, a TCPI is not required for this site and the preliminary plan should be revised to remove all reference to the TCPI-related information. This includes the existing tree line (which is incorrect), soil boundaries and soil table, the TCPI notes, and the Environmental Planning Section's TCP signature approval block.

### **Noise**

Noise-related impacts from MD 193 are anticipated. MD 193 is a six-lane major arterial road with a posted speed limit of 45 miles per hour in the vicinity of this site. Based on the Environmental Planning Section's noise model, the 65 dBA Ldn noise contour occurs 228 feet from the centerline of MD 193. The revised preliminary plan shows the 65 dBA Ldn noise contour in relation to the edge of the MD 193 right-of-way.

The layout of the proposed new homes results in the creation of a shielding effect for the outdoor activity areas in the rear yards. No additional noise mitigation measures are needed for exterior noise levels in outdoor activity areas.

Interior noise levels will need to be mitigated through the use of specific building methods and materials. The condition provided below will address the requirement that the interior noise levels be at 45 dBA Ldn or less to meet the state noise standards. Certification by a professional engineer with competency in acoustical analysis should be placed on the building permits, stating that building shells of structures within prescribed noise corridors have been designed to reduce interior noise levels to 45dBA (Ldn) or less.

### **Water and Sewer Categories**

The property is in water category W-3 and sewer category S-3; it will be served by public systems.

5. **Community Planning**—The property is located in a Corridor in the Developing Tier, as defined by the 2002 General Plan. The vision for Corridors is mixed residential and nonresidential use at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. This development should occur at local centers and other appropriate nodes within one-quarter mile of major intersections or transit stops along the corridor. The application is not

inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The property is in Planning Area 70/Lanham-Severn Road Community. The *Approved Master Plan and Sectional Map Amendment for Glenn Dale- Seabrook- Lanham and Vicinity (Planning Area 70)* (1993) recommends Suburban Residential land use. The eastern portion of the property is shown on the natural features and environmental facilities map as woodland. The subject property was retained in the R-80 Zone through the Glenn Dale SMA in 1993. The application is in conformance with the land use recommendation of the master plan.

A master plan guideline in the Living Areas Chapter states that appropriate setbacks and landscaping should be utilized to reduce the visual impact for residents of new development adjoining an arterial highway. Because proposed homes on the property will be set back a minimum of 110 feet from Greenbelt Road, no adverse impacts to the visual quality of Greenbelt Road are expected.

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 the mandatory dedication of parkland because the land available for dedication is unsuitable due to its size and location. Lots 2 and 4, with existing homes, are exempt.
7. **Trails**—The adopted and approved Glenn Dale-Seabrook-Lanham and Vicinity master plan designates MD 193 as a bicycle/pedestrian corridor. This may ultimately involve in-road bicycle facilities and/or a side path or wide sidewalk. The provision of these facilities will occur comprehensively through an SHA road improvement project. However, the construction of a standard sidewalk along the subject property's entire road frontage of MD 193 is recommended, per the concurrence of SHA. This sidewalk should connect to the existing sidewalk along Baywood Drive.
8. **Transportation**—The applicant has not prepared a traffic impact study nor was one required by the transportation staff given the limited amount of development being proposed. 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 Policy¾ Service Level Standards**

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. 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 site encompasses two existing parcels, both of which are developed with single-family residences that are proposed to remain. Therefore, the net proposed development of two residences would generate 2 AM and 2 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 plan would primarily impact the intersection of MD 193 and Soil Conservation Road/Goddard Drive, which is signalized.

Staff has no recent counts at the critical intersection. However, there is a project in the federal capital improvement program to relocate Soil Conservation Road, and final design for the relocation away from the critical intersection is nearing completion. That change will improve operations at the critical intersection.

Due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. Staff would, therefore, recommend that the Planning Board find that 2 AM and 2 PM peak-hour trips will have a de minimus impact upon delay and traffic operations in the critical movements at the MD 193/Soil Conservation Road/Goddard Drive intersection.

MD 193 is a master plan arterial facility, and sufficient dedication of 60 feet from centerline is reflected on the submitted plan. The applicant has filed a variation request, in accordance with Section 24-113(a) of the Subdivision Regulations, to Section 24-121(a)(3) of the Subdivision Regulations that limits individual lot access onto arterial facilities.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. 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 evidence presented to it in each specific case that:**

- (1) **The granting of the variation will not be detrimental to the public safety,**

**health, or injurious to other property.**

*Comment:* The current plan consolidates each of the two new driveways with existing access points. One driveway would be combined with an existing driveway; the other would be combined with a relocated driveway to the second residence. Consolidating the driveways in this way ensures that the number of curb cuts required along MD 193 $\frac{3}{4}$  which is currently two $\frac{3}{4}$  would be limited to two. Therefore, the situation being approved by way of the variation request, from a transportation safety standpoint, is no worse than the situation that exists.

- (2) **The Conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties.**

*Comment:* The use of a public street to serve the two new lots appears to be impractical, as the construction of a street would appear to necessitate demolition of **the two existing residences.**

- (3) **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.**

*Comment:* The State Highway Administration (SHA) must approve any modifications to access points along MD 193, which is a state facility. In their referral, SHA recommended that the four lots be consolidated to two points of access, and this has been done.

- (4) **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 strict letter of these regulations is carried out;**

*Comment:* The entire property only has access onto MD 193. There are no other apparent locations for the subject property to obtain access. To deny access would be to deny reasonable use of the property.

For these reasons, staff supports the variation from 24-121(a)(3). It must be noted that approval of such a variation by the Planning Board only constitutes conceptual agreement that circumstances exist that necessitate direct access onto an arterial facility by a driveway. The responsible agency that owns and maintains the roadway, the State Highway Administration (SHA) in this case, must still review and approve any driveway access point, and that agency has the right to impose conditions upon its construction if approved.

Based on these findings, 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.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

| Affected School Clusters # | Elementary School Cluster 2 | Middle School Cluster 2 | High School Cluster 2 |
|----------------------------|-----------------------------|-------------------------|-----------------------|
| Dwelling Units             | 2 sfd                       | 2 sfd                   | 2 sfd                 |
| Pupil Yield Factor         | 0.24                        | 0.06                    | 0.12                  |
| Subdivision Enrollment     | 0.48                        | 0.12                    | 0.24                  |
| Actual Enrollment          | 5,623                       | 5,131                   | 10,098                |
| Completion Enrollment      | 327.84                      | 217.62                  | 398.97                |
| Cumulative Enrollment      | 148.80                      | 123.96                  | 247.92                |
| Total Enrollment           | 6,100.12                    | 5,472.70                | 10,745.13             |
| State Rated Capacity       | 5,892                       | 4,688                   | 8,770                 |
| Percent Capacity           | 103.53%                     | 116.74%                 | 122.52%               |

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of \$7,000 per dwelling if a building is located between I-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 may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

This project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

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:
- The existing fire engine service at West Lanham Hills Fire Station, Company 48, located at 8501 Goodluck Road has a service travel time of 2.84 minutes, which is within the 5.25-minute travel time guideline.
  - The existing ambulance service at West Lanham Hills Fire Station, Company 48, located at 8501 Goodluck Road has a service travel time of 2.84 minutes, which is within the

6.25-minute travel time guideline.

- c. The existing paramedic service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard has a service travel time of 4.68 minutes, which is within the 7.25-minutes 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 service. The above findings are in conformance with the standards and guidelines contained in the *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 II-Bowie. 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 January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is the capacity for additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.
12. **Health Department**—The Health Department notes that an abandoned shallow well was found on the property. The well must be backfilled and sealed prior to the approval of the final plat. In addition, a significant amount of domestic trash and other debris was found on the property including a water heater, stoves, and a washer and dryer. The trash should be removed and properly discarded and or stored.
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, # 42202-2003-00, was approved on January 6, 2004, 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. **Cemeteries**<sup>¾</sup> There are no known cemeteries on or adjoining the subject property. However, the applicant should be aware that if burials are found during any phase of the development process, development activity must cease in accordance with state law.
15. **Public Utility Easement**—The 10-foot required public utility easement is correctly indicated along the property’s frontage with Greenbelt Road and shall be reflected on the final plat of subdivision.
16. At the hearing, residents of adjoining properties testified that there is significant stormwater runoff currently affecting their properties. Citizens also testified that the property is unkempt. Although this is not an issue specifically germane at the subdivision stage, the Planning Board notes that the site needs to be cleaned up to satisfy Health Department requirements. The neighbors also were concerned about the style of homes, the elevation of the construction, and the



impact on their properties. A property owner to the east noted that one proposed driveway would be very near his home. Given these issues, a detailed site plan is appropriate and will be required prior to approval of the final plats.

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 Harley, with Commissioners Eley, Harley, Squire and Hewlett voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, May 20, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of June 2004.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JD:meg:wrc