

R E S O L U T I O N

WHEREAS, Peter and Southamine Barlo are the owners of a 7.10-acre parcel of land known as Parcel 130, being located on Tax Map 123 and Grid C-3, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on February 23, 2004, Tiburon Group, LLC, filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for two lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04060 for Thornhill 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 13, 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 13, 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 the Type I Tree Conservation Plan (TCPI/12/04), and further APPROVED Preliminary Plan of Subdivision 4-04060, Thornhill for Lots 1-2 with the following conditions:

1. Development of this subdivision shall be in conformance with an approved Type I Tree Conservation Plan (TCPI/12/04). 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/12/04), 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. 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."

3. The final plat shall show the 1.5 safety factor lines and they shall be labeled "1.5 Safety Factor BRL." The location of the 1.5 safety factor lines shall be reviewed and approved by M-NCPPC, Environmental Planning Section, and the Prince George's County Department of Environmental Resources. The Final Plat shall contain the following note:

"No part of the principal structure may be permitted to encroach beyond the 1.5 Safety Factor BRL. Accessory structures may be positioned beyond the BRL, subject to prior written approval of the Planning Director, M-NCPPC, and DER."

4. Development of the property shall be in conformance with the approved stormwater management concept plan CSD #3284-2004, or any approved revisions thereto.
5. A Type II Tree Conservation Plan shall be approved prior to the approval of permits.

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 site is located on the south side of Thorne Drive, 2,500± feet southeast of its intersection with Old Fort Road North.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-E	R-E
Uses	Vacant	Single-Family Residences
Acreage	7.1	7.1
Lots	0	2
Parcels	1	0

4. **Environmental**—This 7.11-acre property in the R-E Zone is located on the south side of Thorne Drive about 2,500 feet from its intersection with Old Fort Road. There are streams and floodplain on the property associated with Broad Creek in the Potomac River watershed. 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. There are no nearby sources of traffic-generated noise. The proposed use is not expected to be a noise generator. There are no designated scenic and historic roads in

the vicinity of this property. According to the *Prince George's County Soil Survey* the principal soils on the site are in the Beltsville series. According to available information, Marlboro clay occurs on this property. This property is located in the Developing Tier as reflected in the approved General Plan.

Environmental Review

- a. A Forest Stand Delineation (FSD) was submitted. The FSD, based upon 13 sample points, indicates that the entire site is wooded with three forest stands totaling 7.11 acres and containing one specimen tree. The FSD meets the requirements of the Woodland Conservation Ordinance.
- b. 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 Type I Tree Conservation Plan, TCPI/12/04, proposes clearing 1.25 acres of the existing 6.05 acres of upland woodland and no clearing of the 1.06 acres of woodland within the 100-year floodplain. The woodland conservation requirement has been correctly calculated as 1.83 acres. The plan proposes to meet the requirement by providing 1.83 acres of on-site preservation and retain an additional 2.97 acres of woodland that is not part of any requirement.

The proposed woodland conservation areas fulfill the intent of the Woodland Conservation Ordinance by protecting woodlands along stream valleys.

- c. This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The Subregion VII master plan indicates that there are substantial areas designated as natural reserve on the site. As noted on page 42 of the Subregion VII 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."

- d. Marlboro clay occurs on the property. Available information indicates that the top of the clay layer is at 160 feet above sea level. The rational method for determining the location of the 1.5 safety factor line places the line approximately 250 feet from the 160-foot contour. The proposed structures appear to be at least 25 feet from the line. The Prince George's County Department of Environmental Resources (DER) concurs that the use of the rational method is satisfactory.
- e. According to the *Prince George's County Soil Survey* the principal soils on the site are in the Aura, Beltsville and Iuka series. Aura soils are in the B-hydric series and are highly erodible. Beltsville soils are in the C-hydric series, are high erodible, and are subject to

perched water tables and impeded drainage. Iuka soils are associated with floodplains.

Water and Sewer Categories

The property is in water category W-3 and sewer category S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003.

5. **Community Planning**—The property is in Planning Area 80/Friendly. The 2002 General Plan places 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. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. The 1981 Master Plan for Subregion VII recommends estate density (up to one dwelling per acre) for single-family detached residences. The master plan also shows conditional reserve areas extending through the property, in recognition of the slopes and floodplain. This application conforms to the master plan recommendation.
6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the subject subdivision is exempt from mandatory dedication of parkland requirements because all lots are over one acre in area.
7. **Trails**—There are no master plan trails issues regarding the subject application.
8. **Transportation**—The applicant proposes a residential subdivision consisting of two single-family detached residences. Since two lots are being created from a single original lot, any finding of adequacy would be based on a single new lot being created.

Based on the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, a one-lot, single-family development will generate 1 AM peak-hour trip and 1 PM peak-hour trip. 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. Pursuant to provisions in the guidelines, the Planning Board may find that traffic impact of small developments is *de minimus*. A *de minimus* development is defined as one that generates five trips or fewer in any peak period.

Regarding on-site circulation of traffic, staff has no issues.

Transportation Staff Conclusions

Based on the fact that the subject application is considered to be *de minimus*, 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:

Finding

Impact on Affected Public School Clusters			
Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
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	4,433	4,689	8,654
Completion Enrollment	156.96	86.22	158.07
Cumulative Enrollment	0.96	25.38	50.76
Total Enrollment	4,591.4	4,800.72	8,863.07
State Rated Capacity	4,512	5,114	7,752
Percent Capacity	101.76%	93.87%	114.33%

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

These figures are correct on the day the referral memo was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

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 school facilities, which are expected to accommodate the new students that will be generated by this development proposal. This project meets the adequate public facilities policies of Section 24-122.02, CB-30-2003, 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.

- a. The existing fire engine service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 3.74 minutes, which is within the 5.25-minute travel time guideline.
- b. The existing ambulance service at Allentown Road Fire Station, Company 47, has a service travel time of 3.74 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Allentown Road Fire Station, Company 47, has a service travel time of 3.74 minutes, which is within the 7.25-minute travel time guideline.

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

These findings are in conformance with the standards and guidelines contained in the 1990 *Approved Public Safety Master Plan* 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 IV-Oxon Hill. 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 capacity for an additional 57 sworn personnel. Therefore, in accordance with Section 24-122.01(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed development.
12. **Health Department**—The Health Department reviewed the application and had no comments.
13. **Stormwater Management**— A Stormwater Management Concept Plan, CSD #3284-2004, was approved by the Prince George’s County Department of Environmental Resources. The plan indicates the use of drywells to provide water quality treatment.
14. **Cemeteries**—There are no known cemeteries on the subject property.
15. **Public Utility Easement**—The preliminary plan shows a 10-foot-wide public utility easement adjacent to Thorne Drive.
16. **Prior Approvals**—The subject property has no prior approvals.
17. **Variation Request**— The plan proposes impacts to an expanded stream buffer. Impact to this buffer is 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. Staff notes that the existing sanitary sewer main is entirely within the expanded stream buffer. One variation request, dated March 22, 2004, in conformance with Section 24-113 of the Subdivision Regulations, has been submitted.

The proposed impact to the expanded stream buffer is required for the construction of parallel sanitary sewer connections to serve the proposed development. These will disturb a total of 800 square feet of the expanded stream buffer. The alignment of the sewer is constrained by the topography of the site. The required connection is to the existing sewer main that is wholly within the expanded stream buffer. The details of construction will be reevaluated by the Washington Suburban Sanitary Commission during the review of the construction permits to further reduce impacts. No federal or state wetland permits will be needed.

Section 24-113 of the Subdivision Regulations states:

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;**

Discussion: The installation of a sanitary sewer line is required by other regulations to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

- (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;**

Discussion: The only available sanitary sewer main to serve development of this property is wholly located within an expanded stream buffer. Many other properties can connect to an existing sanitary sewer without requiring a variation; however, that option is not available for this particular site. The specific topography of the site requires the use of two parallel sanitary sewer connections to adequately serve the proposed development.

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

Discussion: The variation does not constitute a violation of any other applicable law, ordinance or regulation.

- (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;

Discussion: The location of the existing sewer main provides no alternative for the connection of the sanitary sewer lines that are required to serve the development. Without the sewer connection, the property could not be developed with any single-family residential structures.

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 Harley, seconded by Commissioner Eley, with Commissioners Harley, Eley, Vaughns, Squire and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, May 13, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 3rd day of June 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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