

R E S O L U T I O N

WHEREAS, a 5.06-acre parcel of land known as Parcel 203, Tax Map 161 in Grid E-2, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on November 27, 2006, Boot Hill, LLC. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 5 lots and 2 outlots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04219 for Kelly 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 April 19, 2007, 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 April 19, 2007, 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/56/06), and further APPROVED Preliminary Plan of Subdivision 4-04219, Kelly Property, including a Variation from Section 24-130 for Lots 1-5 and Outlots A & B with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Provide the square footage for Outlots A and B.
  - b. Delineate the existing sewer easement that is shown on the TCPI.
  - c. Correct general note 4 to indicate that Accokeek, Company 24 is the first due fire station, or remove the note from the plan entirely.
  - d. Correct general note 5 to indicate that the property is located in Police District IV, or remove the note from the plan entirely.
  - e. Revise the plat reference for adjacent Lot 25, Bellevue Estates, to REP 197 @ 23.

- f. Revise the plat description for adjacent Bellevue Estates (NLP 129 @ 54) to remove Outlot A.
  - g. Revise the graphics within Outlot A to provide a legible distance between the Boot Hill Court right-of-way and abutting Lot 4, Block 4, Bellevue Estates.
  - h. Label the centerline of Boot Hill Road.
- 2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
- 3. Development of this site shall be in conformance with the Stormwater Management Concept Plan, #44659-2006-00 and any subsequent revisions.
- 4. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the regulated environmental features and their buffers except for areas of approved impacts and shall be reviewed by the Environmental Planning Section prior to certification. The conservation easement shall not be on any proposed lots. 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. 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.
- 6. 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/56/06), 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.”  
Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department.
- 7. 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.

8. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along at least one side of internal public streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
9. Prior to signature approval of the preliminary plan, the applicant, his heirs, successors and or assignees shall submit four copies of the final Phase I archeological investigation report to M-NCPPC Historic Preservation Section. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations are required.
10. Prior to final plat, the applicant, his heirs, successors, and or assignees shall submit executed deeds of conveyance by all parties for Outlots A and B. The applicant, his heirs, successors, and or assignees shall demonstrate due diligence in obtaining the agreement for the conveyance of Outlot A to the abutting property owner of Lot 4, Block 4, Bellevue Estates, and the conveyance of Outlot B to the abutting property owner of Parcel 147. Should the adjacent land owners choose not to accept the additional land, the applicant shall petition the DPW&T to accept the land area within Outlots A and B as additional right-of-way dedication. If the abutting property owners and DPW&T are unwilling to accept the land area within the outlots, both outlots shall be removed from the preliminary plan and TCPI, and the area of land within Outlots A and B be incorporated into Lot 5.

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 along the northwest side of Boot Hill Road, approximately 300 feet south of its intersection with Rollingtree Road.
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
Acreage	5.06	5.06
Lots	0	5
Outlots	0	2
Parcels	1	0
Dwelling Units:		
Detached	0	5
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for the Kelly Property, 4-04219, and the revised Type I Tree Conservation Plan, TCPI/056/06, stamped as received by the Environmental Planning Section on March 19, 2007. The Environmental Planning Section supports the variation requests for the impacts to sensitive environmental features and recommends approval of Preliminary Plan 4-04219 and TCPI/056/06 subject to the conditions.

#### **BACKGROUND**

The Environmental Planning Section has no records of any previous applications for the subject property. The proposal is for five lots in the R-R Zone.

#### **SITE DESCRIPTION**

This 5.06-acre property in the R-R Zone is completely wooded. According to the “Prince George’s County Soils Survey” the principal soils on this site are in the Aura and Beltsville series. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, rare, threatened, or endangered species do not occur in the vicinity of this property. No designated scenic or historic roads will be affected by the proposed development. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the approved General Plan.

#### **Environmental Issues Addressed in the Subregion V Master Plan**

The Master Plan does not indicate any environmental issues associated with this property.

#### **Countywide Green Infrastructure Plan**

The property does not contain, nor is it near, any areas designated in the Green Infrastructure Plan network.

#### **ENVIRONMENTAL REVIEW**

A signed Natural Resources Inventory, NRI/146/05, was submitted with the application. There are streams and wetlands on the property associated with Mattawoman Creek in the Potomac River watershed. There is no 100-year floodplain on the property. The Forest Stand Delineation indicates one forest stand totaling 5.06 acres. There are two specimen trees on the property.

According to the Green Infrastructure Plan, none of the property is in or near any regulated area, evaluation area or network gap. Based upon this analysis, the only area of significant woodland is associated with the expanded stream buffers. The expanded stream buffers are correctly shown on the Preliminary Plan and the Type I Tree Conservation Plan.

It appears that to have any development on the site that an impact to the expanded buffer will be

necessary. Impacts to significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations require variation requests in conformance with Section 24-113 of the Subdivision Regulations. The design should avoid any impacts to streams, wetlands and their associated buffers unless the impacts are essential for the development as a whole. The Environmental Planning Section will generally not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), street crossings, and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

Impacts to sensitive environmental features require variations to the Subdivision Regulations. Two variation requests, dated March 12, 2007, were submitted. One impact is for the installation of a stormwater management outfall and the other is for a connection to the existing sanitary sewer. By placing both of the impacts in proximity, the total impact has been somewhat reduced.

Section 24-113 of the Subdivision Regulations contains four required findings (text in bold) to be made before a variation can be granted. All three impacts are discussed together because they are similar in nature.

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 request would not be detrimental to public safety, health or welfare and does not injure other property;**

The installation of the stormwater management outfall is required by the Prince George's County Department of Public Works to provide for public safety, health and welfare. County Code requires that public sanitary sewer lines serve the proposed development. 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. The impacts to the regulated features have been reduced by redesign to place the pipes in proximity to each other.

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

The specific topography of the site requires the use of the stormwater management outfall shown on the plans to adequately serve the proposed development. The existing sanitary sewer is wholly within the expanded stream buffer.

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

The installation of a stormwater management outfall and connection to the existing sanitary sewer are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

**(4) Because of the peculiar 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 regulation is carried out.**

The topography provides no alternative for the location of the stormwater outfall that is required to serve the development. The only existing sanitary sewer to serve this property is within the expanded stream buffer. Without the required stormwater management facilities and sanitary sewer connections, the property could not be properly developed in accordance with the R-R zoning.

The Environmental Planning Section supports the variation requests for the reasons stated above.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the site is more than 40,000 square feet in area and there are more than 10,000 square feet of existing woodland on-site.

The Type I Tree Conservation Plan, TCPI/056/06 has been reviewed. The plan proposes clearing 2.73 of the existing 5.06 acres of woodland. The woodland conservation threshold for the project is 1.01 acres. Based upon the proposed clearing, the total woodland conservation requirement is 1.70 acres. The plan proposes preserving 2.14 acres on-site to meet the requirement.

Without impacting any expanded stream buffer, the TCPI provides at least 40 feet of cleared area behind every residential structure to provide useable rear yards and a safe distance between the proposed houses and woodland preservation areas. The proposed woodland preservation area is contiguous woodland that serves to protect the sensitive environmental features on-site. This specific woodland preservation area will provide a critical connection to the stream valley corridor established by TCPI/87/95-01 for the neighboring Belle Oaks Estates and protect valuable headwaters. The design meets the goals of the Woodland Conservation Ordinance and supports the implementation of the Countywide Green Infrastructure Plan.

According to the Prince George's County Soils Survey the principal soils on this site are in the Aura and Beltsville series. Aura soils are highly erodible. Beltsville soils are highly erodible and may have impeded drainage and a high water table. This information is provided for the

applicant's benefit. The Prince George's County Department of Environmental Resources will require a soils report in conformance with CB-94-2004 during the permit process review.

A Stormwater Management Concept Plan, CSD #44659-2006-00, has been approved by the Department of Public Works and Transportation. The outfall shown on the Type I Tree Conservation Plan is consistent with this approval. No further action regarding stormwater management is required as it relates to this Preliminary Plan of Subdivision review.

## **SUMMARY**

The Environmental Planning Section supports the variation request for the impacts to sensitive environmental features for the reasons stated in this memorandum, and recommends approval of Preliminary Plan 4-04219 and TCPI/056/06 subject to conditions.

## **Water and Sewer Categories**

The water and sewer service categories are W-4 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and will therefore be served by public systems.

5. **Community Planning**—The property is located in Planning Area 83 within the Accokeek Community and is within the limits of the 1993 Approved Master Plan for Subregion V. The master plan recommends a low-suburban residential land use for the subject property. This application proposes a low-suburban residential land use, and is therefore consistent with the land use recommendation within the 1993 Approved Master Plan for Subregion V.

The 2002 General Plan locates the subject property within 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 proposes a low- to moderate-density suburban residential community, and is therefore consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

This application is in the Accokeek Development Review District. Pursuant to Section 27-687 of the Zoning Ordinance, the Accokeek Development Review District Commission has been listed as a party of record.

The 1993 Subregion V Sectional Map Amendment retained this property within the R-R Zone.

6. **Parks and Recreation**—In accordance with Section 24-134(a) 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.

7. **Trails**—There are no master plan trails issues identified in the Adopted and Approved Subregion V Master Plan that impact the subject property.
8. **Transportation**—The Transportation Planning Section has reviewed the subdivision application for the Kelly Property. The subject property consists of approximately 5.06 acres of land within the R-R Zone. The property is located on the northwest side of Boot Hill Road, generally in the area between Manning Road, MD 373, Bealle Hill Road, and MD 228. The applicant proposes a residential subdivision consisting of five single-family detached residences.

The subject property is not large enough to warrant a traffic study and would have a minimal impact on area roadways. The findings and recommendations outlined below are based upon a review of relevant materials and analyses conducted by 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 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 traffic controls) if deemed warranted by the appropriate operating agency.

#### **Analysis of Traffic Impacts**

The site's primary impact would occur at the MD 373/Menk Road intersection, which is unsignalized. Staff has recent counts at this location that indicate that this intersection would operate acceptably as an unsignalized intersection under existing and future traffic. A similar finding was made for the Belle Oaks Estates plan, Preliminary Plan of Subdivision, 4-06069. 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. With five residences, the site would generate 4 AM and 5 PM peak-hour trips. The definition of de minimus within the Guidelines indicates that the site is eligible because this application is "a development which generates 5 or fewer peak hour trips." The Transportation Planning Section would therefore recommend that the Planning Board find that 4 AM and 5 PM peak hour trips will have a de minimus impact upon delay in the critical movements at the MD 373/Menk Road intersection.

Preliminary Plan of Subdivision, 4-06069, was recommended by the Transportation Planning Section to provide improvements at the MD 210/MD 373 intersection. That application was also recommended to provide improvements along Menk Road. Given the location of the subject property, along with the relative sizes of the two sites (the subject site is 5 lots while the Belle Oaks site is 85 lots), it is reaffirmed that the impact of the subject property can be considered de minimus by the Planning Board. There would appear to be little, if any, relationship between the limited development proposed for this site and the roadway improvements associated with the other much larger development. The site is not within or adjacent to any master plan transportation facilities.

### **Transportation Staff Conclusions**

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. No transportation-related conditions are recommended at this time.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section have reviewed this preliminary plan for 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 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	5 du	5 du	5 du
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	1.20	0.30	0.60
Actual Enrollment	4,518	5,968	9,696
Completion Enrollment	168.96	90	181
Cumulative Enrollment	.96	8.88	17.76
Total Enrollment	4,689.12	6,067.18	9,895.36
State Rated Capacity	4,775	6,114	10,392
Percent Capacity	98.201465%	99.2232%	95.22093%

Source: Prince George's County Planning Department, M-NCPPC, December 2005

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts 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 an 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. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and \$12,706 to be paid at the time of issuance of each building permit.

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.

The Historic Preservation and Public Facilities Planning Section finds that 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 & Public Facilities Planning Section have reviewed this subdivision plan for fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required 7-minute response time for the first due fire station Accokeek, Company 24, using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The subject property is located in Police District II. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on November 27, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date 10/05/06	10/05-10/06	9:00	22:00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on November 30, 2006.

Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for the Kelly Property and has no comments to offer.
13. **Stormwater Management**—The Department of Public Works and Transportation has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #44659-2006-00 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. **Historic**—A Phase I archeological survey has been completed on the Kelly Property and a draft report, A Phase I Archeological Survey of the Kelly Property: A 5.063-Acre Parcel Located on Boot Hill Road in Accokeek, Prince George's County, Maryland (Development Case No. 4 -04219) has been presented to the Planning Department. The report was reviewed and draft comments sent to the archeological contractor on March 30, 2007. No archeological sites were identified in the survey and therefore, no further work was recommended on the property. The Historic Preservation & Public Facilities Planning Section concurs that no further archeological work is necessary on the Kelly Property and that the archeological requirements have been fulfilled. Prior to signature approval of the preliminary plan, the applicant should submit four copies of the final Phase I archeological investigation report to M-NCPPC Historic Preservation Section. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations are required.

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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Eley, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, April 19, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 31st day of May 2007.

R. Bruce Crawford  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

RBC:FJG:JF:bjs