

R E S O L U T I O N

WHEREAS, a 4.67-acre parcel of land known as Parcel 20, Tax Map 54 in Grid D-3, said property being in the 7th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on October 30, 2006, Galey Bayard filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 3 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06071 for Bayard 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 January 18, 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 January 18, 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 Preliminary Plan of Subdivision 4-06071, Bayard Property for Lots 1-3 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
  - a. Revise the lot coverage within general note 7 to read 20 percent.
  - b. Update the revision box to include the 1/2/07 revision, or other appropriate revision.
  - c. Further label the easterly limits of the flag lot stem as having a 25-foot width.
  - d. Provide the stormwater concept approval information within general note 13.
  - e. Label the public utility easement within the flag lot stem.
  - f. Provide a general note that demonstrates that the property is exempt from the Woodland Conservation and Tree Preservation Ordinance, and include the date (11/16/06) the exemption letter was issued.

2. Prior to signature approval of the preliminary plan of subdivision, the applicant shall submit two copies of the signed stormwater concept plan and approval letter, and delineate the stormwater concept plan approval number and approval date on the preliminary plan and TCPI. Any required stormwater facilities shall be shown on the TCPI.
3. Roadway improvements along Church Road shall be carried out in accordance with the Design Guidelines and Standards for Scenic and Historic Roads, as prepared by the Department of Public Works and Transportation. Prior to the submission of a grading permit or stormdrain and paving plan, whichever comes first, the applicant, his heirs, successors, and or assignees shall coordinate a conceptual pre-application meeting with the Department of Public Works and Transportation (DPW&T) and M-NCPPC to determine the specific applicable guidelines and standards for the scenic and historic roadway improvements.
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.
5. In accordance with the Bowie-Collington-Mitchellville and Vicinity Master Plan and SMA, the applicant, his heirs, successors, and or assignees shall construct a six-foot wide asphalt shoulder along the property's entire street frontage of Church Road to safely accommodate bicycle traffic along this master plan bicycle corridor, unless modified by DPW&T at the time of improvements within the right-of-way of Church Road.
6. At the time of final plat approval, the applicant, his heirs, successors, and or assignees shall dedicate right-of-way along Church Road of 45 feet from its centerline.
7. The driveways for each lot shall be designed with turnaround capability in order to minimize the need for vehicles to back onto Church Road. The design of the driveways for each lot shall be verified at the time of building permit.
8. Prior to the issuance of building permits the applicant, his heirs, or successors shall demonstrate that any abandoned well or septic system has been pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or scavenger and witnessed by a representative of the Health Department.
9. Prior to the issuance of a grading permit for Lots 1 and 3, the applicant, his heirs, successors, and or assignees shall submit documentation to the Subdivision Section that demonstrates that the existing dwelling on Lot 2 has been connected to public water and public sewer.
10. Prior to the approval of the final plat the applicant shall demonstrate conformance to the disclosure requirements of Section 27-548.43 of the Zoning Ordinance regarding the proximity of this subdivision to a general aviation airport.
11. Prior to signature approval of the preliminary plan, the applicant shall revise the Phase I archaeological investigation to include the entire property with the concurrence of the

Development Review Division (DRD), which shall include research into the property history and archeological literature for those lands determined to be subject, and four copies of the approved final report shall be submitted to M-NCPPC Historic Preservation staff. Prior to approval of final plats, the applicant shall submit Phase II and Phase III investigations as determined to be needed by DRD staff. The plan shall provide for the avoidance and preservation of the resources in place or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist, must follow *The Standards and Guidelines for Archeological Investigations in Maryland (Schaffer and Col, 1994)*, and must be presented in a report following the same guidelines.

12. Prior to approval of the first building permit for the development, the applicant, his heirs, successors, and or assignees shall submit a landscape plan to the Environmental Planning Section that demonstrates proposed planting, woodland preservation, woodland afforestation, or other landscape treatment within the 40-foot wide Scenic/Historic Easement along Church Road.

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 east side of Church Road, approximately 200 feet south of Dawn Whistle Way.
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
Use(s)	Single-Family	Single-Family
Acreage	4.67	4.67
Lots	0	3
Parcels	1	0
Dwelling Units:		
Detached	1	3 (2-New)
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed revised Preliminary Plan 4 06071, stamped as received on December 19, 2006. The Environmental Planning Section recommends approval of Preliminary Plan of Subdivision 4-06071 subject to conditions..

### Background

The Environmental Planning Section has not previously reviewed plans associated with this site.

### **Site Description**

According to available information there are no regulated features associated with the site such as a stream, wetlands, 100-year floodplain, or steep and severe slopes on highly erodible soils. Aerial photos taken in the year 2005 demonstrate that no woodlands exist on-site. According to the Prince George's County Soil Survey, one soil series, Monmouth fine sandy loam (three types in this series), is found to occur on this property. All three soils have K-factors of 0.43, and have limitations associated with them. Based on available information Marlboro clays are not associated with the site. There are no traffic noise-generators in the vicinity of the site. Church Road is a designated scenic and historic road. Based on available information from the Maryland Department of Natural Resources, Natural Heritage Program, no rare, threatened, or endangered species are found at this site. According to the *Countywide Green Infrastructure Plan*, the site is not located within the designated network. The property is within the limits of the Bowie and Vicinity Master Plan and SMA, the Western Branch watershed of the Patuxent River basin, and the Developing Tier of the *Prince George's County Approved General Plan*.

### **Environmental Review**

The staff signed Natural Resources Inventory NRI/058/06 was included within the preliminary plan submittal. The preliminary plan shows all the required information correctly. No further information regarding the NRI is necessary.

On November 16, 2006, the Environmental Planning Section issued a standard letter of exemption from the Woodland Conservation and Tree Preservation Ordinance. No woodlands exist on-site and no previously approved tree conservation plans are associated with the property. Therefore, the site is exempt from the ordinance. This letter is valid through November 16, 2008. A copy of the letter should be included in all county permit applications associated with this site. No further information regarding woodland conservation is required.

Church Road is a designated scenic and historic road. Because of this designation, the preliminary plan has been revised to show the 40-foot-wide scenic easement along Church Road behind the 10-foot-wide public utility easement (PUE).

An unapproved copy of the stormwater management concept plan was previously submitted. No other information regarding the proposed stormwater management method has been submitted. This is not a concern because of the small area of development proposed. Stormwater management structures are not likely to be required. A copy of the approved stormwater management concept plan and concept plan approval letter should be submitted prior to signature approval of the preliminary plan.

### **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 the site will therefore be served by public systems.

5. **Community Planning**—The property is located in Planning Area 71A within the Bowie Community, and is within the limits of the 2006 Bowie and Vicinity Master Plan and SMA. The master-plan recommended land use is for low-suburban residential land use at up to 2.6 dwelling units per acre. This application is proposing a low-suburban residential land use, and is therefore consistent with the land use recommendation within the 2006 Bowie and Vicinity Master Plan and SMA.

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 is proposing a low-suburban residential community and is therefore consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

## PLANNING ISSUES

This site is located within Aviation Policy Area (APA) 6, which means the following regulations apply to the site:

Aviation Policy Area	Zoning Ordinance Reference	Regulations
APA 6	27-548.38 (b)(4)	Same uses/density as underlying zone
	27-548.42 (b)	Heights of structures to comply with federal/state regulations; may not exceed 50 ft. without review by MAA
All APAs	27-548.38 (d)(3)	Generally, land uses shall not endanger the safe operation of aircraft, specific activities also mentioned
	27-548.43	Disclosure requirements: required in HOA covenants, on final plat, with permits, and at the time of contract signing

The subject property is affected by air traffic from Freeway Airport. Portions of this site fall within Aviation Policy Area 6. Regulations for development in the vicinity of general aviation airports are detailed in Sections 27-548.32 to 27-548.49 of the Prince George's County Zoning Ordinance. Future development of the subject property needs to be consistent with these regulations.

Within all aviation policy areas, properties are required to disclose to prospective purchasers information regarding their proximity to the airport. In APA-6, applications to build structures that are more than 50 feet in height are required per Section 27-548.42(b) to demonstrate compliance with the Federal Aviation Regulations Part 77 or Code of Maryland, COMAR 11.03.05. Obstructions to Air Navigation.

The 2006 Bowie and Vicinity Master Plan and SMA retained the subject property within the R-E Zone.

6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George’s County Subdivision Regulations, Lot 2 in the subject subdivision is exempt from mandatory dedication of parkland requirements because there is an existing dwelling to remain on site.

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 for Lots 1 and 3 because the land available for dedication is unsuitable due to its size and location.

7. **Trails**— The 2006 Bowie and Vicinity Master Plan and SMA includes a master plan trail proposal that impacts the subject property. Church Road is designated as a master plan trail/bikeway corridor. Based on prior discussions with the Department of Public Works and Transportation (DPW&T) and representatives of the Fairwood development, it was determined that Church Road will be an open section roadway, with six-foot wide asphalt shoulders along both sides. The shoulders will serve as the master plan bicycle facility for the subject property and adjacent communities. The applicant should construct this shoulder along the subject property’s entire frontage of Church Road to safely accommodate bicycle traffic along this master plan bicycle corridor. This recommendation is consistent with the recently approved Collingbrook Subdivision (4-02063), which abuts the subject property.
8. **Transportation**—The Transportation Planning Section has reviewed the preliminary plan of subdivision application for the Bayard Property. The applicant proposes a residential subdivision consisting of three lots. One of the lots is currently improved with an existing dwelling that is proposed to remain. Consequently, an adequacy finding will be based on two net new lots.

Based on the “Guidelines for the Analysis of the Traffic Impact of Development Proposals,” the two-lot single-family development will generate 2 AM peak hour trips, and 2 PM peak hour trips. The subject property is located within the Developing Tier as defined in the General Plan. 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.

Pursuant to the 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.

The property fronts a 90-foot wide master plan roadway. A minimum dedication of 45 feet from its centerline is required.

The Transportation Planning Section has no issues regarding the on-site circulation of traffic.

#### **Transportation Staff Conclusions**

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

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

Impact on Affected Public School Clusters

Affected School Clusters	Elementary School Cluster 3	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	5,137	7,218	10,839
Completion Enrollment	178	112	223
Cumulative Enrollment	32.40	305.58	612.24
Total Enrollment	5,347.88	7,635.70	11,674.48
State Rated Capacity	4,838	6,569	8,920
Percent Capacity	110.54%	116.24%	130.88%

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 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 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 \$7,671 and \$13,151 to be a 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 and Public Facilities Planning Section has 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 seven-minute response time for the first due fire station Bowie, Company 43, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince



George's County Fire 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 standard response time is 10 minutes for emergency calls and 25 minutes for non-emergency 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 October 30, 2006.

Reporting Cycle	Date	Emergency Calls	Non-emergency
Acceptance Date	09/05/05-09/05/06	10.00	22.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for non-emergency calls were met on September 5, 2006.

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

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.

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for the Bayard Property and has the following comments to offer:

The abandoned shallow well found adjacent to the existing shed on proposed Lot 2 must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department. The location of the shallow well should be located on the preliminary plan.

Once the existing house at 3707 Church Road (proposed Lot 2) is connected to public water, the abandoned drilled well located in the front yard must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative from the Health Department. The site of the drilled well should be located on the preliminary plan.

Once the existing house at 3707 Church Road (proposed Lot 2) is connected to public sewer, the abandoned septic tank must be pumped out by a licensed scavenger and either removed or backfilled in place. The site of the septic system should be located on the preliminary plan.

13. **Stormwater Management**—The Department of Public Works and Transportation has determined that on-site stormwater management is required. A stormwater management concept plan has been submitted but not yet approved. Prior to signature approval of the preliminary plan, the applicant should submit two copies of the signed concept plan and approval letter and indicate the approval date on the preliminary plan and TCPI. Development must be in accordance with the approved plan to ensure that development of this site does not result in on-site or downstream flooding.
14. **Historic**—A Phase I archeological survey was completed on the Bayard Property in December 2006. A draft report, A Phase I Archeological Survey of a Portion of the Bayard Property: A 2.27-Acre Parcel Located on the East Side of Church Road in Prince George’s County, Maryland (Development Case No. 4-06071), was received on December 19, 2006 and has been reviewed. The entire subject property consists of 4.67 acres, of which 2.27 acres were covered in the archeological survey. The portion of the property covered by Lot 2 is believed to be the former location of Elverton Hall, owned by Charles C. Hill in the 1860s. Charles C. Hill was a slaveholder and this portion of the property may contain slave quarters associated with Elverton Hall. There is presently a 1950s or early 1960s ranch house on the portion of the property that was not surveyed. This portion of the property was not surveyed presumably because no new development or grading will occur there. However, it is noted in the report that a greatly altered outbuilding, possibly associated with Elverton Hall, is located on Lot 2. The archeological consultant was asked to photo document this structure and provide additional descriptive information. The present house on the property may have been sited on the former location of Elverton Hall, but this is not certain. Prior to signature approval of the preliminary plan of subdivision, the Phase I archeological survey should be revised to include the entire limits of the developing property.

Section 106 review may also require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when federal monies, federal properties, or federal permits are required for a project.

15. **Flag Lots**—The applicant is proposing one flag lot within the subdivision. The flag lot is shown as Lot 2. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. Staff supports the flag lot based on the following findings and reasons.
  - a. A maximum of two tiers is permitted. The flag lot proposed is a single tier.
  - b. The flag stem is a minimum width of 25 feet for the entire length of the stem. A 25-foot stem has been provided for the flag lot.
  - c. The net lot area for the proposed lot exclusive of the flag stem exceeds the minimum lot

size of 40,000 square feet as required in the R-E Zone. The flag lot proposed will have a net area of 114,156 square feet, which exceeds the 40,000 square foot minimum net lot area required in the R-E Zone, exclusive of the flag lot stem. The flag stem will consist of approximately 7,752 square feet, bringing the gross tract area of the flag lot to 121,908 square feet.

- d. The proposal includes no shared driveways. No shared driveways are proposed.
- e. Where rear yards are oriented toward driveways they shall be screened by an “A” bufferyard. This orientation does not occur in this instance.
- f. Where front yards are oriented toward rear yards, a “C” bufferyard is required. This relationship does occur. A “C” bufferyard has been provided on the preliminary plan.

Prior to approval of a flag lot, the Planning Board must make the following findings of Section 24-138.01(f):

**A. The design is clearly superior to what would have been achieved under conventional subdivision techniques.**

**Comment:** The proposed flag lot yields a superior design to that which would be allowed conventionally. The flag lot will contain an existing dwelling, which is proposed to remain. The landscape bufferyards required for the flag lot will help ensure privacy and will further screen the two developing lots fronting on Church Road from the existing dwelling within the flag lot. The landscape bufferyards will also help to screen the existing dwelling from Church Road, which is a master plan designated scenic and historic roadway. In this instance, the flag lot design is superior to what would have been achieved under conventional subdivision techniques.

**B. The transportation system will function safely and efficiently.**

**Comment:** No significant impact on the transportation system is expected.

**C. The use of flag lots will result in the creative design of a development that blends harmoniously with the site and the adjacent development.**

**Comment:** The proposed flag lot will be surrounded on three sides by the adjacent Collingbrook Subdivision. The large tract of land designated for the flag lot, (121,908 square feet), will provide a visual and spacious buffer from the adjacent development, as well as the development proposed within the limits of the subject property. Both the large tract of land that will be included in the flag lot and the plant materials that will be installed to meet the requirements of the *Prince George's County Landscape Manual* will result in a development that

blends harmoniously with the site and the adjacent development.

**D. The privacy of property owners has been assured in accordance with the evaluation criteria.**

**Comment:** The existing dwelling within the proposed flag lot is approximately 240-feet from the rear property line of the two lots proposed along Church Road. Appropriate landscape buffers will be provided in accordance with the Landscape Manual. The landscape bufferyards, along with the large tract of land that will be contained within the flag lot, will help preserve privacy and ensure that back-to-front views are completely buffered from all three dwellings within the subdivision.

16. **City of Bowie**—In a referral dated November 6, 2006, the City of Bowie has stated that the preliminary plan application will have no impact on the city, and therefore they offer “no comment.”
17. **At the Public Hearing**—At the public hearing for this application on January 18, 2007, the applicant had requested that the timing within Conditions 8 and 9 be revised. The conditions as written created a timing problem for the applicant in regards to the proper abandonment of the septic system which currently serves the existing dwelling, and requiring the existing dwelling to connect to public water and sewer. The proposed sewer line, which will serve the subdivision, will be extended from the adjacent Rodenhauser Property, for which the applicant may require a grading permit to install. Therefore, the Planning Board agreed that Condition 8, which requires the existing septic system to be abandoned, can be revised from prior to the issuance of a grading permit, to prior to the issuance of a building permit. Condition 9 which requires the existing dwelling to be connected to public water and sewer can be revised from prior to approval of the final plat, to prior to the issuance of a grading permit for Lots 1 and 3.

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 Vaughns, with Commissioners Squire, Vaughns, Eley, Clark and Parker voting in favor of the motion at its regular meeting held on Thursday, January 18, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 22nd day of February 2007.

R. Bruce Crawford  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

RBC:FJG:JF:bjs