

R E S O L U T I O N

WHEREAS, Marion W. Bevard is the owner of a 17-acre parcel of land known as Parcel 28, Tax Map 107, Grid A-3, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned I-1; and

WHEREAS, on August 10, 2005, The Michael Companies, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 4 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05044 for Clinton Industrial Center 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 November 3, 2005, 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 November 3, 2005, 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/23/05), and further APPROVED Preliminary Plan of Subdivision 4-05044, Clinton Industrial Center for Parcels F – I, including a Variation to Section 24-130 for stormwater outfalls and sanitary sewer connection with the following conditions:

1. Prior to signature of the Preliminary Plan, the Type I TCP shall be revised to:

- a. Remove the pattern for the off-site woodland conservation
- b. Correct the pattern for the on-site woodland preservation
- c. Add the following note:

“All afforestation and associated fencing shall be installed prior to the issuance of the first building permit. A certification prepared by a qualified professional may be used to provide verification that the afforestation has been completed. It must include, at a minimum, photos of the afforestation areas and the associated fencing for each lot, with labels on the photos identifying the locations and a plan showing the locations where the photos were taken.”

- d. Have the revised plan signed and dated by the qualified professional who prepared the plan.
2. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/27/05). The following note shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/27/05), 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.”
3. An automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George’s County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.
4. Development of this subdivision shall be in compliance with the approved stormwater management concept plan (CSD 30280-2005-00) or any approved revision thereto.
5. The applicant shall be allowed to construct a storm water management pond on adjacent parkland in accordance with the applicable Department of Parks and Recreation guidelines and subject to their review and approval. Prior to approval of any grading permits, the storm water management pond construction drawings shall be reviewed and approved by DPR.
6. The applicant shall submit a performance bond, letter of credit or other suitable financial guarantee, for the construction of the stormwater management pond on adjacent parkland in an amount to be determined by the DPR, within at least two weeks prior to approval of grading permit. The applicant shall enter into joint Multi-Use Stormwater Management Pond Maintenance Agreement with the County Department of Environmental Resources and M-NCPPC, Department of Parks and Recreation for the construction, operation and maintenance of the stormwater management facility on parkland.
7. The applicant shall enter into a right-of-entry agreement prior to entering onto M-NCPPC property.
8. Prior to signature approval of the preliminary plan, the configuration and layout of Ogden Drive with two adjacent culs-de-sac separated by approximately 100 feet must be approved by DPW&T. Any additional physical or geometric improvements required by DPW&T at this location will be the responsibility of the applicant.
9. Prior to the issuance of any building permits within the subject property, the applicant shall conduct traffic signal warrant studies at the intersections of Kirby Road and Temple Hill Road and Kirby Road and Ogden Road. If a traffic signal is deemed warranted by the Prince George’s County Department of Public Works and Transportation at one or both of the intersections, the

applicant shall bond the signal(s) prior to the release of any building permits within the subject property and install the signal(s) it at a time when directed by DPW&T. The applicant will be responsible for any additional pavement markings and signage at the intersections.

10. Prior to the issuance of building permits, the applicant will be responsible for bonding an additional approach lane on the southbound leg of the intersection of Kirby Road and Ogden Drive if required by DPW&T to reduce excessive amounts of delay during the AM or PM peak hour. This improvement may take the form of additional pavement markings and/or physical construction of an additional turn lane. DPW&T shall determine the timing for completion of the final signage and markings for the operation of these approach lanes.
11. Total development within the subject property shall be limited to 250,000 square feet of light industrial/warehouse space, or equivalent development which generates no more than 215 AM and 215 PM peak-hour trips. Any development other than that identified herein shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

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 at the northern end of Ogden Drive, 1,500 feet north of its intersection with Dower House Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	I-1	I-1
Uses	Vacant	Warehouse/Light Industrial
Acreage	17	17
Parcels	1	4
Outparcels	0	0
Lots	0	0
Square Footage	0	250,000

4. **Environmental**—There are streams, wetlands and 100-year floodplain on the property. The site drains into Tinkers Creek in the Potomac River watershed. According to the “Prince George’s County Soils Survey” the principal soils on this site are in the Aura, Galestown, Matapeake and Sassafras series. A portion of the site had been mined for sand and gravel. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication entitled “Ecologically Significant Areas

in Anne Arundel and Prince George's Counties," December 1997, 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.

### **Natural Resources Inventory and Variation Request from Section 24-130**

An approved Natural Resources Inventory (NRI) was submitted with the application. The inventory indicates that there are streams, wetlands and 100-year floodplain on the property and the plan delineates the extent of the expanded stream buffers. Approximately 4.21 acres (24.8 percent of the property) are within the expanded stream buffers. The plans submitted show the NRI information correctly.

The plan proposes three impacts to the expanded stream buffer for the installation of an outfall for a stormwater management pond and for the installation of a stormdrain pipe. Section 24-130 of the Subdivision Regulations prohibits impacts to these buffers unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Staff notes that the topography of the site controls stormwater drainage patterns. Three variation requests, dated August 8, 2005, in conformance with Section 24-113 of the Subdivision Regulations, have been reviewed.

The proposed impacts to the expanded stream buffer are required to install the stormwater management facilities to serve the proposed development and to connect the development to the existing sanitary sewer. These will disturb a total of 392 square feet of the expanded stream buffer. The details of construction will be reevaluated by the Department of Environmental Resources during the review of the construction permits to further reduce impacts. No federal or state wetland permits will be needed.

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 the 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 facilities are required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare. County Code requires that sanitary sewer 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.

- (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 facilities 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 stormwater management facilities and connection to the existing sanitary sewer are required by other regulations. The proposed impact is not a violation of any other applicable law, ordinance or regulation.

- (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 facilities that are required to serve the development. The only existing sanitary sewer to serve this property is wholly within the expanded stream buffer. Without the required stormwater management facilities or sanitary sewer connection, the property could not be properly developed in accordance with the I-1 Zone.

### **Woodland Conservation**

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 contains more than 10,000 square feet of woodland. A Type I Tree Conservation Plan is required.

A Type I Tree Conservation Plan, TCPI/27/05, has been reviewed. The plan proposes clearing 8.55 acres of the existing 11.95 acres of upland woodland, clearing 0.01 acres of the existing 0.86

acres of floodplain woodland and clearing of 1.98 acres of off-site woodland. The woodland conservation requirement has been correctly calculated as 6.54 acres. The plan proposes to meet the requirements by providing 3.37 acres of on-site preservation, 1.17 acres of on-site planting, and 2 acres of off-site conservation for a total of 6.54 acres.

The on-site preservation and planting areas are concentrated in the sensitive areas of the site. One planting area is within a wetland area that was previously disturbed by mining activities and this planting will improve the environmental value of that area. The off-site clearing and off-site mitigation were anticipated by the applicant and are in complete conformance with the approved Type II Tree Conservation Plan, TCPII/64/96, for the adjacent property to the north. The design of the woodland conservation areas on-site furthers the goals of the Woodland Conservation Ordinance and the Green Infrastructure Plan by retaining wooded stream valleys and restoring previously degraded areas.

There are some minor technical errors on the plan. The legend shows a pattern for on-site woodland preservation that is the same as on the plans. The proposed off-site woodland conservation area should not have a pattern. The timing of on-site planting is not specified.

### **Soils**

According to the "Prince George's County Soils Survey" the principal soils on this site are in the Aura, Galestown, Matapeake and Sassafra series. A portion of the site had been mined for sand and gravel. Because the site is to be developed in industrial uses and not residential uses, a soils report focusing on the previously mined areas is not required at this time.

### **Water and Sewer Categories**

The water and sewer service categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and the development will be served by public systems.

5. **Community Planning**—The property is in Planning Area 81A/Clinton. The 2002 General Plan places the subject 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 site is subject to the recommendation of the 1993 Master Plan for Subregion V, which calls for an industrial/employment use. This application conforms to the recommendations of both documents.

6. **Parks and Recreation**—This site is exempt from mandatory dedication because it is a nonresidential development. The plan shows a proposed stormwater management pond within an easement on the adjacent parkland to the north. However, the applicant has not yet provided copies of the easement document. Until recorded documents have been submitted and reviewed for legal sufficiency, no stormwater management facilities should be proposed on land owned by M-NCPPC without prior written consent.
7. **Trails**—There are no master plan trail issues identified in the 1993 Master Plan for Subregion V for this property.
8. **Transportation**— The applicant submitted a traffic study dated July 7, 2005. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

#### **Growth Policy – Service Level Standards**

The site is 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 applicant has prepared a traffic impact study in support of the application using new counts taken during June 2005. With the development of the subject property, the traffic consultant concluded that two unsignalized intersections within the study area would have side street vehicle delays exceeding 50.0 seconds, an unacceptable operating condition. These include the intersections of Kirby Road and Ogden Road and Kirby Road and Temple Hill Road.

The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections during weekday peak hours:

Kirby Road/Temple Hill Road (unsignalized)  
Kirby Road/Ogden Road (unsignalized)

Kirby Road/Old Branch Avenue (signalized)

The following conditions exist at the critical intersections:

<b>EXISTING TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Kirby Road/Temple Hill Road	28.8*	415.9*	--	--
Kirby Road/Ogden Road	19.5*	24.6*	--	--
Kirby Road/Old Branch Avenue	697	1,135	A	B
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy.				

Background developments included a nursing home (108 beds) and 13 single-family units. Background traffic along the study area roads was also increased by three percent for three years to account for overall growth up to the design year 2008. This is the expected year of full build-out. Given these assumptions, background conditions are summarized below:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Kirby Road/Temple Hill Road	38.3*	687.5*	--	--
Kirby Road/Ogden Road	22.9*	30.5*	--	--
Kirby Road/Old Branch Avenue	770	1,249	A	C
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy.				



Under background traffic conditions the average vehicle delay exceeds 50.0 seconds at the intersections of Kirby Road/Temple Hill Road and Kirby Road/Ogden Road. The level of service is acceptable at the signalized intersection of Kirby Road and Old Branch Avenue within the study area.

The site is proposed for development as an industrial subdivision consisting of 250,000 square feet of light industrial/warehouse space. The trip rates were obtained from the guidelines. The resulting site trip generation would be 215 AM peak-hour trips (173 in, 42 out), and 215 PM peak-hour trips (42 in, 173 out). With site traffic, the following operating conditions were determined:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Kirby Road/Temple Hill Road	70.0*	923.2*	--	--
Kirby Road/Ogden Road	44.5*	133.6*	--	--
Kirby Road/Old Branch Avenue	831	1,297	A	C
<p>*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy.</p>				

Under total traffic conditions the average vehicle delay continues to exceed 50.0 seconds at the two unsignalized intersections of Kirby Road/Temple Hill Road and Kirby Road/Ogden Road. The level of service remains acceptable at the signalized intersection of Kirby Road and Old Branch Avenue.

The applicant's traffic consultant recommended traffic signal warrant studies at the two unsignalized intersections experiencing significant amounts of delay. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections, which is the case at Kirby Road/Temple Hill Road and Kirby Road/Ogden Road. In response to this, 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.

It is noted that the most significant delay at Kirby Road/Ogden occurs on the north leg (i.e.,

southbound approach) of the intersection, which is a one-lane approach. Therefore, it is recommended that the applicant provide an additional approach lane on the southbound leg of this intersection.

### **Site Plan Comments**

The site is located north of Kirby Road in an industrial area. Staff recommends that the applicant be required to submit a detailed site plan. Staff will provide additional comments at the detailed site plan stage. Currently there is a cul-de-sac at the end of Ogden Drive. Ogden Drive is shown with 70 feet of right-of-way. This will provide access to Parcel F. A second proposed cul-de-sac will provide access to Parcels G, H, and I to the west. Access will be provided to Kirby Road from Ogden Drive.

Staff did not receive any comments from the Prince George's County Department of Public Works and Transportation or from the State Highway Administration.

### **Master Plan Comments**

There are no master plan roads in the immediate vicinity of the proposed site. Nearby Kirby Road is listed as a collector with 80 feet of right-of-way and four travel lanes in the Subregion V (1993) master plan.

### **Transportation Finding**

Based on the preceding findings, adequate transportation facilities exist to service the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with the conditions found at the end of this report.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003. The proposed subdivision is exempt from the review for schools because it is a commercial use.
10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section reviewed the subdivision plans for adequacy of fire and rescue facilities applicable to the proposed use.

The existing fire engine service at Clinton Fire Station, Company 25 located at 9025 Woodyard Road has a service travel time of 4.43 minutes, which is beyond the 3.25-minute travel time guideline.

The existing ambulance service at Clinton Fire Station, Company 25 located at 9025 Woodyard Road has a service travel time of 4.43 minutes, which is beyond the 4.25-minute travel time guideline.

The existing paramedic service at Clinton Fire Station, Company 25 located at 9025 Woodyard Road has a service travel time of 4.43 minutes, which is within the 7.25-minute travel time guideline.

The existing ladder truck service at Oxon Hill Station, Company 21 located at 7600 Livingston Road has a service travel time of 15.64 minutes, which is beyond the 4.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/ EMS Department determines that an alternative method of fire suppression is appropriate.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan* 1990 and the Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.

11. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. The police chief has reported that the current staff complement of the Police Department is 1,302 sworn officers and 43 student officers in the academy, for a total of 1,345 personnel, which is within the standard of 1,278 officers. 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**—The Department of Environmental Resources (DER), Development Services Division, has determined that stormwater management is required. A Stormwater Management Concept Plan, CSD #30280-2005-00, has been approved. As previously discussed, the proposed water quality and quantity pond that will serve the property is located on the adjacent parkland to the north.
14. **Historic**—The Planning Board has recently identified that the possible existence of historic and prehistoric archeological sites on certain properties must be considered in the review of development applications and that potential means for preservation of these resources should be considered. This area is located just south of Payne's Branch, a branch of Tinker's Creek. Prehistoric sites are known to exist in settings similar to that in the project area. The applicant has submitted a Phase I archeological survey. Upon review of the survey, staff may recommend a Phase II and Phase III investigation, if determined appropriate. The final plat should, if necessary, provide for the avoidance and preservation of the resources in place and should provide appropriate plat notes ensuring the mitigation of any adverse effect upon these resources.
15. **Public Utility Easement**—The plan shows a ten-foot-wide public utility easement adjacent to Ogden Drive. This easement will be included on the final plat.

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 and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, November 3, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of December 2005.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator