

R E S O L U T I O N

WHEREAS, Samuel S. and Marion W. Bevard are the owners of a 2.91-acre parcel of land known as Parcel 340, Tax Map 106, Grid F-4, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on November 4, 2005, Marrick Properties filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 9 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05108 for Kirby Woods 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 5, 2006, 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 5, 2006, 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 4-05108, Kirby Woods for Lots 1 -9 with the following conditions:

1. 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/10/03), 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 Ordinance.”

2. The applicant shall obtain approval from the Department of Public Works and Transportation and the State Highway Administration for the construction of double access aprons to be constructed for Lots 54 and 55, 56 and 57, 58 and 59, and 60 and 61. Any modification to this condition shall require the approval by the Planning Director or the designee.

3. The development of this property is subject to approved Stormwater Management Concept Approval #8005380-1986-00 and any revisions.

4. Prior to the issuance of permits a Type II tree conservation plan shall be approved.

5. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall be paid in the amount of \$34,020 (\$3,780 x 9 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for All Urban Consumers. The actual fee to be paid will depend upon the year the grading permit is issued.
6. 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.
7. The applicant shall provide a standard sidewalk along the entire frontage of Kirby Drive and Marwood Drive unless modified by the Department of Public Works and Transportation.
8. The final plat shall provide a note that direct vehicular access to Lot 62 will be provided via Marwood Drive unless modified for safety reasons by the Department of Public Works and Transportation.
9. The final plat shall provide a note that the applicant shall provide driveways with turnaround capabilities to each lot with vehicular access onto Kirby Road in order to minimize the need for vehicles accessing these lots to back onto Kirby Road.
10. At the time of final plat approval, the applicant shall dedicate right-of-way along Kirby Road of 40 feet from centerline, as shown on the submitted plan.
11. Prior to the issuance of any building permits within the subject property, the applicant shall conduct a traffic signal warrant study at the intersection of Temple Hill Road and Kirby Road. If a traffic signal is deemed warranted by the Prince George's County Department of Public Works and Transportation at this intersection, the applicant and /or others or a combination there of shall bond a pro-rata share of the cost of the signal, provided that full funding for the signal, through any combination of public funding and funding by other private parties, is available and provided that an equitable arrangement can be coordinated with DPW&T. Otherwise, the applicant shall bond the full cost of the signal prior to the release of any building permits within the subject property and install the signal at a time when directed by DPW&T, along with any additional pavement markings and signage at the intersection. The requirement for this study shall be waived upon a future determination by DPW&T in writing that peak hour volumes are insufficient to meet minimum signal warrants. Such determination shall not be made more than three months prior to issuance of the initial building permit.
12. The existing Kirby Woods entrance monument that is located on proposed Lot 62 can remain. The applicant will renovate it in its present location or, if necessary, reconstruct it on Lot 62. The applicant will create an easement for the perpetual existence of the entrance monument on Lot 62. The easement will run to the benefit of a homeowners association to be established by the

existing Kirby Woods subdivision. In the alternative, the applicant will create a homeowners association for its subdivision and the easement will run to the benefit of that homeowners association. The appropriate entity will be identified prior to final plat approval.

13. Prior to the issuance of the final building permit or earlier, the applicant, his heirs, successors and/or assignees shall install two staggered rows of Leland cypress or white pine trees. The trees shall be 6 feet in height at the time of planting and will be planted with a spacing of 16 feet on-center with an 8-foot stagger. The trees will be planted either within a landscape easement to be established along the rear of proposed Lots 56–62 inclusive, or along the rear of the abutting lots in the existing Kirby Woods subdivision to the north. All trees to be planted shall have a one-year warranty.
14. Dwelling units shall be constructed with 100 percent brick fronts and have a minimum floor area of 2,600 square feet. They will be colonial in style with garages.
15. Property owners of Lots 10–15 in the abutting Kirby Woods subdivision to the north have expressed concerns over stormwater management. The applicant will work with individual lot owners in the existing Kirby Woods subdivision to coordinate grading so as to ensure that no stormwater flooding occurs on existing lots in the Kirby Woods subdivision to the north as a result of grading operations for the subject property.
16. Development activity for the construction of single-family dwelling units shall be limited to 7:30 a.m. to 5:00 p.m., Monday thru Friday.

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 subject property is located in the northeast quadrant of the intersection of Kirby Road and Marwood Drive.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-80	R-80
Use(s)	Vacant	Residential (single family)
Acreage	2.91	2.91
Lots	0	9
Parcels	1	0
Dwelling Units:		
Detached	0	9

4. **Environmental**—This property is subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because the area of existing woodland is greater than 10,000 square feet and the area of the property is greater than 40,000 square feet. A Type I Tree Conservation Plan, TCPI/10/03, date stamped as revised on February 7, 2003, was reviewed and found to address the requirements of the Woodland Conservation Ordinance.

This 2.91-acre property has a 20 percent woodland conservation threshold of 0.58 acre and replacement requirements of 0.67 acre, for a total requirement of 1.25 acres. The requirement for this property is to be satisfied by 1.25 acres of off-site mitigation at a site to be determined prior to the approval of a Type II Tree Conservation Plan and the issuance of any grading permits. No woodland conservation is proposed on this site because of the small size of the lots and the species composition of the existing woodlands. TCPI/10/03 is recommended for approval subject to conditions.

A review of the available information indicates that streams, wetlands, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are not found to occur on the property. The soils found to occur, according to the Prince George’s County Soil Survey, include Beltsville silt loam, Chillum silt loam, and Sandy silt loam, which have an assortment of limitations that have no direct effect on the layout of this development. According to available information, Marlboro clay is not found to occur on this property.

There are no transportation-related noise impacts associated with Kirby or Temple Hill Roads. The sewer and water service categories are S-3 and W-3, according to information obtained from the Department of Environmental Resources dated September 2001. 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, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Tinkers Creek watershed of the Potomac River Basin.

Water and Sewer—The 2001 Water and Sewer Plan designates this property in Water and Sewer Category 3. Water lines abut and traverse the property. A sewer line extension is required to serve the proposed subdivision and must be approved by the Washington Suburban Sanitary Commission before recordation of a final plat. A sewer line extension is required.

5. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location. The proposed preliminary plan is consistent with the land use recommendations for park issues in the master plan and General Plan.
6. **Trails**—There are no master plan trail issues identified in the adopted and approved Subregion V

master plan that impact the subject site. Staff recommends the provision of a standard sidewalk along the subject site's entire frontage of Kirby Road, unless modified by DPW&T. This is consistent with improvements made along Kirby Road in other areas. This sidewalk should connect to the exiting sidewalk along Marwood Drive.

7. **Transportation**—The Transportation Planning Section has reviewed the subdivision application referenced above. The subject property consists of 2.91 acres of land in the R-80 Zone. The property is located on the north side of Kirby Road, approximately 1,000 feet east of its intersection with Temple Hill Road. The applicant proposes a residential subdivision consisting of 9 single-family detached dwellings.

The applicant was not required to provide traffic data. Staff relied upon a traffic study dated July 2005 submitted in support of Clinton Industrial Center, Preliminary Plan of Subdivision 4-05044. The findings and recommendations outlined below are based upon the 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 subject property is in 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 is required in the Developing Tier.

**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 intersection of Temple Hill Road and Kirby Road is determined to be the critical intersection for the subject property. This intersection is the nearest major intersection to the site and would serve the majority of the site-generated traffic. It is unsignalized; therefore, the vehicle delay measure computed using the Highway Capacity Manual is appropriate. The turning movement counts indicate that the critical intersection operates with a maximum turning movement delay of 28.8 seconds during the AM peak hour. During the PM peak hour, the intersection operates with a maximum turning movement delay of 415.9 seconds.

There are three approved but unbuilt developments that would affect the intersection (including

the recently approved Clinton Industrial Center). With background growth added, the critical intersection would operate as follows: AM peak hour—maximum delay of 70.0 seconds; PM peak hour—maximum delay of 923.2 seconds.

With the development of nine single-family detached residences, the site would generate 7 AM (1 in and 6 out) and 8 PM (6 in and 2 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 35 percent—east along Kirby Road, 50 percent—north along Temple Hill Road, and 15 percent—south along Temple Hill Road. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—maximum delay of 71.9 seconds; PM peak hour—maximum delay of 932.8 seconds. It is found, therefore, that the critical intersection operates unacceptably as an unsignalized intersection under existing, background and total traffic.

The traffic study done for Clinton Industrial Center, and the resulting Planning Board recommendation, included a recommendation for the performance of a traffic signal warrant study at the Temple Hill Road/Kirby Road intersection. 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 Temple Hill Road/Kirby Road. In response to this situation, the Planning Board has 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. Although the site is not large and has a small impact individually on the intersection, the critical intersection for this site operates at an unacceptable level of service.

#### Plan Issues

Kirby Road is a master plan collector facility. The plan shows correct dedication for Kirby Road of 40 feet from the existing centerline.

It is noted that the subdivision plan proposes that most lots in this subdivision would have driveway access onto Kirby Road. Typically collector roadways are designed to carry more through traffic at a higher vehicle speed, and where possible lot access to this type of facility is not recommended. Considering the physical configuration of the subject property, an exception to this practice is warranted, provided the applicant minimizes the number of driveways and minimizes the likelihood of vehicles backing onto Kirby Road from residences. To this end, it is recommended that the access to proposed Lot 62 shall be from Marwood Drive. Furthermore, the applicant should make use of shared-access driveways for the remaining lots, and the driveway to each lot should be designed with a turnaround capability.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

6. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact on 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 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	9 sfd	9 sfd	9 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	2.16	0.54	1.08
Actual Enrollment	4145	5489	9164
Completion Enrollment	97	64	127
Cumulative Enrollment	12	4.08	8.16
Total Enrollment	4256.16	5557.62	9300.24
State Rated Capacity	3771	6114	7792
Percent Capacity	112.87%	90.90%	119.36%

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 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. 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.

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

9. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(B)(E) of the Zoning Ordinance.

**Fire Facilities**

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, Clinton, Company 25, using the *7 Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire/EMS Department.

The Fire Chief has reported that the current staff complement of the Fire/EMS Department is 704 (101.73 percent), which is above the staff standard of 657, or 95 percent, of authorized strength of 692 as stated in CD-56-2005.

The Fire Chief has reported by letter dated November 1, 2005, that the department has adequate equipment to meet the standards stated in CB-56-2005.

10. **Police Facilities**

The Prince George’s County Planning Department has determined that this preliminary plan is located in Police District V. The standard for emergency calls response is 10 minutes and 25 minutes for non-emergency calls. The times are based on a rolling average for the proceeding 12 months, beginning with January of 2005.

The preliminary plan was accepted for processing by the Planning Department on November 14, 2005.

<b>Reporting Cycle</b>	<b>Date</b>	<b>Emergency Calls</b>	<b>Non-emergency</b>
Acceptance Date	01/05/05-10/05/05	12.00	22.00
Cycle 1	01/05/05-11/05/05	12.00	23.00

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 (95 percent) personnel, which is within the standard of 1,278 officers, or 90 percent, of the authorized strength of 1,420 as stated in CB-56-2005.

The response time standard of 10 minutes for emergency calls for police was not met on the date of acceptance or within the following monthly cycle. In accordance with Section 24-122.01 of the Subdivision Regulations, Preliminary Plan 4-05108 fails to meet the standards for police emergency response time. The Planning Board may not approve a preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board in accordance with the County Council adopted *Guidelines for the Mitigation of Adequate Public Facilities for Public Safety Infrastructure*.

11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is not required. A



Stormwater Management Concept Plan, #8005380-1986-00, 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 that approval.

12. **Health Department**—The environmental engineering program has reviewed the preliminary plan of subdivision for Kirby Woods and has no comments to offer.
13. **Historic Preservation**—The Historic Preservation and Public Facilities division has reviewed the subject area and has found that there is no effect on historic resources.
14. At the Planning Board hearing of March 27, 2003, for Preliminary Plan 4-02132, residents of the Kirby Woods Subdivision to the north voiced concerns regarding several issues relating to the development of this subdivision. It is noted that the entrance feature for the existing Kirby Woods Subdivision was constructed off-site on the subject property (Parcel 340). Residents of the existing Kirby Woods Subdivision requested assurances that the entrance feature will remain. The applicant has proffered to convey an easement containing the entrance feature prior to final plat of the subject property. However, the Kirby Woods Subdivision to the north does not have a homeowners association (HOA) established to accept the conveyance of the easement.

The Planning Board has established a condition that provides the Kirby Woods subdivision residents additional time to create an HOA to accept the entrance feature easement. If the abutting Kirby Woods Subdivision to the north does not create an HOA by the time the applicant is ready to go to final plat, the applicant will create an HOA for the subject property to accept the conveyance of an easement for the entrance signage, in an effort to ensure the retention of the signage.

Residents of the Kirby Woods subdivision to the north also voiced concerns regarding drainage, stormwater management, buffering, and the appearances of the dwellings to be constructed on the subject property. Conditions were proffered by the applicant and agreed to by the residents and added by the Planning Board as conditions of the development of this property, for the previous preliminary plan. Those conditions have been brought forward with this approval.

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 Eley, seconded by Commissioner Vaughns, with Commissioners Eley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, January 5, 2006, in Upper Marlboro, Maryland.

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Adopted by the Prince George's County Planning Board this 26th day of January 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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