

R E S O L U T I O N

WHEREAS, Richard B. Baumann is the owner of a 2-acre parcel of land known as Parcel 33, Tax Map 18 in Grid B-2, said property being in the 1st Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on September 21, 2005, Richard Baumann 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 4-04110 for Baumann Subdivision 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 February 16, 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 February 16, 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 4-04110, Baumann Subdivision, including a Variation from Section 24-121(a)(3) 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. Provide the stormwater management concept plan number and approval date.
  - b. Provide reference to the approval of the variations for access to serve Lots 1 and 2.
  - c. Label the required ten-foot-wide public utility easement abutting and adjacent to the public right-of-way of Powder Mill Road.
  - d. Add the following note: Prior to the approval of a building permit for Lot 1, the applicant, his heirs, successors and or assignees shall provide evidence that the portion of the existing dwelling on proposed Lot 2 that extends onto Lot 1 has been razed and that the dwelling on Lot 2 meets the minimum required setbacks from the common lot line between Lots 1 and 2.

- e. Correct the area of Lot 3 to reflect .61 acres, consistent with the square footage provided on the preliminary plan of 26,627 square feet.
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 approved Stormwater management concept plan and any subsequent revisions.
4. Prior to the approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures within prescribed noise corridors have been designed to reduce interior noise levels to 45dBA (Ldn) or less.
5. Prior to signature approval of the preliminary plan, a copy of the approved concept stormwater management plan and the stormwater management concept approval letter shall be submitted.
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 for Lots 1 and 3.
7. Prior to the approval of a building permit for Lot 1, the applicant, his heirs, successors and/or assignees shall provide evidence that the portion of the existing dwelling on proposed Lot 2 that extends onto Lot 1 has been razed and that the dwelling on Lot 2 meets the minimum required setbacks from the common lot line between Lots 1 and 2.
8. The adopted and approved Glenn Dale-Seabrook-Lanham and Vicinity Master Plan recommends that Powder Mill Road (MD 212) be designated as a Class III bikeway with appropriate signage. Because MD 212 is a state right-of-way, the applicant, and the applicant's heirs, successors, and/or assignees shall provide the installation of one "Share the Road with a Bike" sign in accordance with state requirements. However, prior to the Planning Board conditioning the placement of the signs, SHA should have the opportunity to review the proposed locations to ensure they are acceptable. The developer would purchase the signs from the state and install them in accordance with the state's *Manual on Uniform Traffic Control Devices* dealing with the section on bicycle facilities. A note shall be placed on the final plat that installation will take place prior to the issuance of the first building permit.
9. At the time of final plat approval, the applicant shall dedicate a right-of-way along MD 212 (Powder Mill Road) of 60 feet from the centerline of the existing pavement, as shown on the submitted plan.
10. The driveway to each lot shall be designed with a turn-around capability in order to minimize the need for vehicles backing onto MD 212. This shall be reviewed at the time of building permit.

11. Prior to final plat and approval of the technical stormwater management plan, an on-site inspection shall occur and shall include representatives of the Department of Environmental Resources (Development Services Branch), the applicant and their engineer, and the owners of Lot 5 to the west (the Turners), to review the existing storm drain system on Lot 5 for proper functioning. The proposed technical SWM plan for the subject property shall ensure that run-off from the subject site not adversely impact the existing storm drain system on 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 on the west side of Powder Mill Road, approximately 1,000 feet south of its intersection with Cherry Hill Road. The property is surrounded by developed single-family dwelling units zoned R-R. This acreage parcel is infill development and is compatible with the surrounding properties. Across Powder Mill Road are single-family dwelling units zoned R-R.
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	R-R	R-R
Use(s)	Single-family dwelling (to remain)	Single-family dwellings (2-new)
Acreage	2.0	2.0
Lots	0	3
Outlots	0	
Parcels	1	0
Dwelling Units:		
Detached	1 (to remain)	3-total
Public Safety Mitigation Fee		No

4. **Environmental**—The site contains no regulated environmental features and a standard letter of exemption to the Prince George's County Woodland Conservation Ordinance has been issued to the applicant because there is less than 10,000 square feet of existing woodland associated with the site. The Environmental Planning Section recommends approval of Preliminary Plan of Subdivision 4-04110 subject to two conditions found at the end of this memorandum.

The Environmental Planning Section has not reviewed previous applications for the subject property. The site is currently developed with one single-family detached dwelling on one lot. The plan proposes the creation of two additional lots for the construction of two single-family detached houses on each lot. The existing dwelling will remain on proposed Lot 2.

## **Site Description**

The site is located on the west side of Powder Mill Road (MD 212), south of its intersection with Cherry Hill Road. The property is zoned R-R and contains two acres. Based on year 2000 air photos, the site is not wooded but has several specimen trees and several smaller trees scattered on the property. Based on available information, there are no regulated environmental features associated with the site such as a stream, nontidal wetlands, areas of 100-year floodplain, and steep or severe slopes.

According to the Soils Survey of Prince George's County, one soil series is present at the site—Sassafras gravelly loam (two types in this series). This soil series does not have development constraints associated with it. Based on available information, Marlboro clay is not found at this location.

There are no scenic or historic roads in vicinity of the site. According to 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 and endangered species are not found at this site. According to the adopted Countywide Green Infrastructure Plan, no features from the plan, such as Regulated areas and evaluation areas are associated with the site. The property is in the Paint Branch watershed of the Anacostia River basin.

The segment of Powder Mill Road along the site's frontage has a 120-foot right-of-way and is a planned arterial road. A revised preliminary plan has been submitted; it indicates that the 65dBA Ldn is consistent with the rear building line of the dwelling units, allowing for outdoor activity areas outside the 65 dBA Ldn noise contour.

The Environmental Planning Section's noise model indicates the approximate location of the 65-dBA (Ldn) is 181 feet from the centerline of the Powder Mill Road. The noise contour is located at the rear outer walls of the existing house and the two proposed houses. It appears that the future location of the houses will reduce noise impacts in the outdoor activity areas of each lot so that noise levels may not exceed state standards. However, it also appears that interior noise levels will exceed 45-dBA (Ldn) unless mitigation is provided.

A certification by a professional engineer with competency in acoustical analysis should be provided at the time of the building permits stating that building shells of structures within prescribed noise corridors have been designed to reduce interior noise levels to 45dBA (Ldn) or less.

## **Water and Sewer Categories**

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

5. **Community Planning**—The subject property is located within the limits of the 1990 Master Plan for Subregion I, Planning Area 61, in the Beltsville and Vicinity Community. The master plan land use recommendation is for low suburban residential development. The preliminary plan is consistent with the master plan based on the recommendations and findings of this report. The 2002 General Plan locates this property in the Developing Tier. One of the visions of the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential development. Single-family dwellings that were subdivided in conformance with the R-R Zone surround the property. The applicant's proposal is consistent with the surrounding neighborhood and abutting lots. The preliminary plan is consistent with the recommendations of the 2002 General Plan, and supports the surrounding neighborhood.
6. **Parks and Recreation**—In accordance with Section 24-135 of the Subdivision Regulations. Staff recommends that the applicant pay a fee-in-lieu of the requirements of mandatory dedication of parkland because the land available is unsuitable for parkland because of its size and location. Lot 2 is exempt from the requirement of a payment of fee-in-lieu because a dwelling existed on the lot at the time of subdivision.
7. **Trails**—The Adopted and Approved Subregion I Master Plan recommends that Powder Mill Road (MD 212) be designated as a Class III bikeway with appropriate signage. Because Powder Mill Road is a state right-of-way, the applicant should provide the installation of one "Share the Road with a Bike" sign in accordance with state requirements. However, prior to the Planning Board conditioning the placement of the signs, SHA should have the opportunity to review the proposed locations to ensure they are acceptable. The developer would purchase the signs from the state and install them in accordance with the state's *Manual on Uniform Traffic Control Devices* dealing with the section on bicycle facilities. A note should be placed on the final plat that installation will take place prior to the issuance of the first building permit.
8. **Transportation**—The Transportation Planning Section has reviewed the subdivision application referenced above. The subject property consists of approximately two acres of land in the R-R Zone. The property is located on the north/west side of MD 212, approximately 1,000 feet southwest of its intersection with Cherry Hill Road.

The applicant has not prepared a traffic impact study nor was one required by the transportation staff given the limited amount of development being requested. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the 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 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 warranted traffic controls) if deemed warranted by the appropriate operating agency.

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

The application is a plan for a residential subdivision consisting of three single-family detached residences (one existing, two new). The proposed development would generate 2 AM (0 in, 2 out) and 3 PM (2 in, 1 out) peak-hour vehicle trips as determined using *The Guidelines for the Analysis of the Traffic Impact of Development Proposals*. The traffic generated by the proposed plan would primarily impact the intersection of MD 212 and Cherry Hill Road, which is signalized. Staff has no recent counts at the critical intersection. However, 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. Staff would, therefore, recommend that the Planning Board find that 2 AM and 3 PM peak-hour trips will have a de minimus impact upon delay in the critical movements at the MD 212/Cherry Hill Road intersection.

MD 212 is a master plan arterial facility, and sufficient dedication of 60 feet from centerline is reflected on the submitted plan. The site currently has an existing residence with a circular driveway with two access points. The applicant proposes two lots with a point of access at the common property line shared access driveway and a third lot with its own driveway. Given that the plan proposes new lots with access onto a planned arterial facility, the applicant has filed a variation request regarding Section 24-121(a)(3), which establishes that proposed parcels fronting on a roadway of an arterial classification or higher shall be designed to front on either an interior street or service road.

The subject property has sole frontage on and proposes direct vehicular access onto Powder Mill Road (MD 212), which is an arterial roadway.

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 evidence presented to it in each specific case that:**

**Comment:** The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-121(a)(3) could result in practical difficulties to the applicant that could result in the applicant not being able to reasonably develop this property, based on its size, and location.

**(1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;**

**Comment:** There exists an expectation to the traveling public along this section of MD 212 that a large number of individual properties are served by driveways with direct access onto MD 212. Over a 3,350-foot section of MD 212 south of Cherry Hill Road, which includes the frontage of this property, there are approximately 19 residential driveways (not including the proposed driveways). This is very different from a situation where an isolated driveway is proposed from the standpoint of safety. At this location on Powder Mill Road, an expectation exists that vehicles will be pulling out onto the roadway because of the number of lots fronting on the street. In addition, the street is fully improved with sidewalks and curb cuts for each lot.

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

**Comment:** The entire property only has access onto MD 212. The property has no other ability for direct vehicular access to a public street. The subject property is entirely surrounded, save for the frontage with Powder Mill Road, with developed single-family dwelling units that have been the subject of a preliminary plan of subdivision.

The use of a public street to serve three lots appears to be impractical, as the minimum right-of-way of 50 feet would require a sizable swath of the property. In addition, the property does not have adequate depth to dedicate and construct a public street and create three lots that conform to the minimum requirements for the development in the R-R Zone.

The use of a service roadway to serve the three lots is also not practical because the Subdivision Regulations requires that a service roadway connect with a local interior public street. Such a connection is not possible, once again, due to the existing developed properties north and south of the subject site.

**(3) The variation does not constitute a violation of any other applicable law,**

**ordinance, or regulation;**

**Comment:** It must be noted that approval of such a variation by the Planning Board based on the required findings is an indication that circumstances exist that necessitate direct access onto an arterial facility by a driveway. The responsible agency that maintains the roadway—which is SHA in this case—must still review any driveway access point, and that agency has the right to impose additional conditions upon the driveway construction.

- (4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if strict letter of these regulations is carried out;**

As indicated, single-family dwelling units on generally 20,000 square-foot lot sizes surround the site. The subject property is two acres and has never been the subject of a preliminary plan of subdivision. Because of the particular physical improvements on the surrounding properties, no other alternative for access is available. The subject property is three times the size of the surrounding properties and, as mentioned, most lots along the same side of the street have direct access to Powder Mill Road and were approved through the preliminary plan process. To deny the applicant the additional two lots could result in a particular hardship by not allowing the applicant to benefit from the reasonable use and development of the property.

The abutting property to the south was subdivided in 2000, pursuant to the Planning Board's approval of Preliminary Plan 4-00065 (PGCPB Resolution No. 01-34). That preliminary plan was consistent with the subject application in that the site had no alternative for access and was too small to dedicate and construct a public street and retain a reasonable use of the property. In that case, the Planning Board approved a variation to Section 24-121(a)(3) for access to Powder Mill Road for the subdivision into two lots (REP 195@41).

For these reasons, the Planning Board approves the variation from 24-121(a)(3) for the purpose of gaining access onto an arterial roadway. Staff is recommending that the three lots be served by two curb cuts onto MD 212, with each lot being constructed with a driveway with turn-around capabilities, to minimize the likelihood of vehicles backing onto Powder Mill Road.

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.



9. **Schools**—The Historic Preservation and Public Facilities Planning Section has 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:

**Finding**

School table

**Final APF School Numbers**

Affected School Clusters #	Elementary School Cluster 1	Middle School Cluster 1	High School Cluster 1
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	5453	1585	4278
Completion Enrollment	68	19	40
Cumulative Enrollment	0.72	0.72	0.36
Total Enrollment	5522.20	1604.84	4318.60
State Rated Capacity	4858	1759	4123
Percent Capacity	113.67%	91.24%	104.74%

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia, \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts 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 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 staff finds that this project is consistent with public 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 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.

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, Beltsville Company 41, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire Department.

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

The Fire Chief has reported by letter, dated 12/01/05 that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The Prince George's County Planning Department has determined that this preliminary plan is located in Police District VI. The response standard is 10 minutes for emergency calls 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 September 21, 2005.

Reporting Cycle	Date	Emergency Calls	Non-emergency
Acceptance Date	01/05/05-08/05/05	9.00	16.00

The Police Chief has reported that the current staff complement of the Police Department is 1,302 sworn officers, 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 standards of 10 minutes for emergency calls and 25 minutes for non-emergency calls were met on 08/05/05. In accordance with Section 23-122.01 of the Subdivision Regulations, all applicable tests for adequacy of police and fire facilities have been met.

12. **Health Department**—The Health Department notes that a raze permit will be required to remove that portion of the existing dwelling extending onto proposed Lot 2. Prior to the approval of a building permit for Lot 1, the applicant must provide evidence that the portion of the existing dwelling on proposed Lot 2 has been razed and that the dwelling on Lot 2 meets the minimum required setbacks from the common lot line between Lots 1 and 2.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A stormwater management concept plan has been submitted but is not yet approved. Prior to signature approval of the preliminary plan, the applicant should submit a copy of the concept approval letter and indicate the approval date on the preliminary plan. Development must be in accordance with that approved plan to ensure that development of this site does not result in on-site or downstream flooding.
14. **Historic**—A Phase I (identification) archeological survey is not recommended by the Planning Department on the above-referenced property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicate no known archeological sites in the vicinity and no known historic structures within the vicinity of the subject property.

Section 106 review may require archeological survey for state or federal agencies, however. 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. **Planning Board hearing**—At the hearing on February 16, 2006 the abutting property owners of Lot 5 to the west (The Turners) raised concerns to the Planning Board regarding drainage and stormwater management. Based on information presented by the Turners, including letters and development plans, they have worked with the Department of Environmental Resources, Programs and Planning Section, from roughly 1995 through 2002 to address drainage issues on their property.

The Turners presented a copy of an easement agreement that they entered into with Prince George's County to allow DER to install a storm drain system on their property along the east and south properties lines of Lot 5. While the Turners have indicated that the system is working adequately, they are concerned that the development of the subject site could adversely impact the system installed by DER. The Turners have indicated that DER has not inspected the system in a number of years.

At the hearing the applicant submitted a copy of the approval letter for conceptual stormwater management concept plan. The Planning Board in order to address the concerns of Mr. and Mrs. Turner have added Condition 11, which requires that prior to the approval of the final plat and the technical stormwater management plan; the DER, the Turners, the applicant and the applicants

engineer will meet on the site. This would allow for the inspection of the existing system on Lot 5 by DER and a discussion regarding the conceptual stormwater management plan for the subject site and possible modification to the technical stormwater plan for the subject site to ensure that all of the water from this site, that can be, is captured on site.

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 Eley, seconded by Commissioner Vaughns, with Commissioners Eley, Vaughns, Squire and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, February 16, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 9th day of March 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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