

C O R R E C T E D R E S O L U T I O N

WHEREAS, Ronald W. Bundy is the owner of a 3.88-acre parcel of land known as Lot 16 of Bird Lawn, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on June 8, 2007, Ronald W. Bundy filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 5 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06158 for Bundy's Subdivision of Birdlawn 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 15, 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 November 15, 2007, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/02/98-01), and further APPROVED Preliminary Plan of Subdivision 4-06158, Bundy's Subdivision of Birdlawn, including a Variation from Section 24-130 for Lots 1-5 with the following conditions:

1. Development shall be in conformance with the approved Stormwater Management Concept Plan 98-2007-00 and any subsequent approved revisions thereto.
2. In conformance with the *Approved Master Plan and Proposed Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*, the applicant and the applicant's heirs, successors, and/or assigns shall provide the following:
 - a. The Henson Creek-South Potomac Master Plan recommends that Allentown Road be designated as a Class III bikeway with appropriate signage. Because Allentown Road is a county right-of-way, the applicant, and the applicant's heirs, successors, and/or assigns shall provide a financial contribution of \$210 to the Department of Public Works and Transportation (DPW&T) for the placement of this signage. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit.
 - b. Provide a standard sidewalk along both sides of the internal cul-de-sac, unless modified

by DPW&T.

3. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
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 2–5.
5. Prior to signature approval, the applicant shall revise the TCPI as follows:
 - a. Show a conceptual limit of disturbance (LOD) and eliminate the proposed tree line from the plan. Provide a symbol in the legend for the LOD.
 - b. Revise the plan to eliminate woodland in the existing 100-year floodplain as being counted as woodland preservation.
 - c. Show and label all existing structures and the disposition of the existing structures.
 - d. Show the proposed house footprints for all proposed lots.
 - e. Provide a minimum 40 feet or useable rear yard area for all proposed Lots.
 - f. Revise the worksheet to reflect the acreage of clearing within the 100-year floodplain
 - g. Revise the worksheet as necessary.
 - h. Have the revised plan signed and dated by the qualified professional who prepared the plan.
6. The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/002/98-01), 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. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the office of the Maryland-National Capital Park and Planning Commission.”
7. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

8. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams, or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

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 site is located on the west side of Allentown Road, approximately 2,200 feet south of the intersection with Tucker Road. Adjoining the property to the south is the Allentown Road Volunteer Fire Department. To the north and west are single-family residences in the R-R Zone. To the east across Allentown Road are the Tayac Elementary School and the Isaac Gourdine Middle School.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	Single-family Residence	Single-family Residences
Acreage	2.54	2.54
Lots	1	5
Outparcels	0	0
Parcels	0	0
Dwelling Units:	1 (to be retained)	5 (4 new)
Public Safety Mitigation Fee		No

4. **Environmental**— This 3.88-acre property in the R-R Zone is located on the west side of Allentown Road, to the north of Alderton Avenue. The site is approximately one-third forested with one existing structure on-site. According to the “Prince George’s County Soils Survey,” the principal soils on this site are in the Aura, Beltsville, Chillum, and Keyport hydrologic groups. Marlboro clay does not occur in the area. A 100-year floodplain, a stream and expanded buffers occur on the property. This property is in the Hunters Mill watershed. There are no nearby traffic-generated noise sources. The proposed subdivision is not expected to be a noise generator. No designated scenic or historic roads are affected by this proposal. The site is in the Developing Tier according to the adopted General Plan.

Environmental Issues Addressed in the Henson Creek Planning Area

There are no significant recommendations regarding environmental issues contained in the plan.

Conformance with the Countywide Green Infrastructure Plan

The stream valley on the west side of the property is identified as a Regulated Area in the Green Infrastructure Plan. There are no Evaluation Areas or Network Gaps within the network on-site. The TCPI implements the Green Infrastructure Plan through the preservation of the on-site woodland adjacent to the stream.

Natural Resources Inventory

A signed Natural Resource Inventory, NRI/090/06, was submitted with the application. There is a perennial stream, non-tidal wetlands and 100-year floodplain located on-site. The Forest Stand Delineation indicates one forest stand totaling 1.56 acres. Nine specimen trees are noted. The submitted TCPI and preliminary plan correctly show the regulated features depicted on the approved NRI.

Woodland Conservation

This property is subject to provisions of the Prince George's County Woodland Conservation Ordinance because the site has a previously approved Type I Tree Conservation Plan, TCPI/002/98.

A Type I Tree Conservation Plan was submitted with this application that reflects the current layout proposed and was found to require revisions. The TCPI proposes clearing 0.50 acres of the existing 1.36 acres of upland woodland and clearing of none of the 0.20 acres of woodland within the 100-year floodplain. The woodland conservation threshold has been correctly calculated at 0.74 acres. Based upon the proposed clearing, the total woodland conservation requirement has been calculated as 0.86 acres. The plan proposes to meet the requirement by providing 0.86 acres of on-site preservation within the expanded buffer and 100-year floodplain. Woodland cannot be counted as preservation in the 100-year floodplain.

Additional revisions are required to meet the ordinance requirements. The plan does not show a conceptual limit of disturbance for the site and the proposed tree line must never be used on any tree conservation plan because it is confusing. The plan needs to show all existing and proposed structures, including the proposed house footprints for the proposed lots. For proposed Lots 4 and 5 the house footprints must be oriented to provide a minimum of 40 feet of useable rear yard area from the proposed woodland conservation and/or expanded buffer. There will be clearing in the floodplain that will need to be added to the worksheet.

Because the plan does not show a limit of disturbance it is not possible to evaluate the proposed

woodland conservation on the site. The applicant must revise the TCPI to show a conceptual limit of disturbance.

Environmental Impacts and Variation to Section 24-130

The site contains a segment of a stream, wetlands and 100-year floodplain. Impacts to these features and their associated buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation in accordance with Section 24-113. Staff will not support disturbances within the expanded buffers unless they are for required infrastructure necessary to the development of the site as a whole. Essential development includes such features as stormwater pond outfalls, public utility lines, road crossings, and so forth, which are mandated for public health and safety.

A variation request for two impacts has been submitted. The submitted exhibit shows both impacts. The first impact is for a necessary sanitary sewer connection. The second impact is for a stormdrain outfall that is necessary to safely convey stormwater to the on-site stream.

Section 24-113 of the Subdivision Regulations contains four required findings [text in bold] to be made before a variation can be granted.

(a) **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 storm drain and sanitary sewer are required by other ordinances to provide for public safety, health and welfare. 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 only available existing sanitary sewer that can be utilized to serve this property is wholly within the expanded stream buffer. The storm drain outfall must be placed as shown and is unique to the property.

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

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

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

The topography provides no alternative for the connection to existing sanitary sewer that is required to serve the development. Without the required public street and sanitary sewer connection, the property could not be properly developed in accordance with the R-R Zone. The topography also dictates the location of the stormdrain outfall.

Soils

According to the “Prince George’s County Soil Survey” the principal soils on the site are in the Aura and Bibb series. Aura soils are highly erodible and are in the C-hydric group. Bibb soils are associated with floodplains. This information is provided for the applicant’s benefit. The Prince George’s County Department of Environmental Resources will require a soils report in conformance with CB-94-2004 during the permit process review.

5. **Community Planning**—The property is within the limits of the 2006 *Approved Master Plan and Proposed Sectional Map Amendment for the Henson Creek-South Potomac*, Planning Areas 75A and 75B, PA 75A/Suitland. The master plan recommended land use is for a medium suburban residential use. The 2002 *Prince George’s County Approved General Plan* places the site 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. The proposed preliminary plan for five single-family residential lots is consistent with the recommendations of the master plan and the 2002 General Plan.
6. **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 mandatory park dedication because land available for dedication is unsuitable due to size and location. Lot 1 is exempt since it contains an existing residence which is to remain.
7. **Trails**— The Henson Creek-South Potomac Master Plan includes the following strategy regarding bicycle and pedestrian accommodations along Allentown Road:

“Provide continuous sidewalks and designated bike lanes along Allentown Road.”
(Master Plan, page 71.)

The master plan also recommends neighborhood sidewalk connections to schools, parks, and activity centers. The subject site’s frontage of Allentown Road includes an existing sidewalk. Tayac Elementary School and Isaac J. Gourdine Middle School are along the east side of Allentown Road immediately across from the subject site. Several striped crosswalks exist across Allentown Road in the vicinity.

Staff recommends the provision of one “Share the Road with a Bike” sign to designate the master plan bikeway. Striping to accommodate designated bike lanes can be considered comprehensively for the corridor at the time of road resurfacing, restriping, or improvement.

8. **Transportation**—The application is a preliminary plan of subdivision for four additional residential lots (from one existing to five proposed). The four additional lots now not part of background would generate 3 AM and 4 PM new peak-hour vehicle trips as determined using “Guidelines for the Analysis of the Traffic Impact of Development Proposals.” The guidelines state that the Planning Board may find that the traffic impact of any development generating five or fewer peak-hour trips is a de minimus, or insignificant impact.

The subject property is located within the Developing Tier, as defined in the *Prince George’s County Approved General Plan*. As such, it is to be 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 lower.

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 additional information, such as assessment of additional geometric improvement(s), or traffic signal warrant study, and demonstrate the required improvement(s) are fully funded for construction, if deemed warranted by the appropriate operating agency.

The traffic generated by this proposal would impact the intersection of Allentown Road and Tucker Road/Arundel Drive. This intersection is signalized. There are no projects to improve this intersection in either the Capital Improvement Program (Prince George’s County) or the Consolidated Transportation Program (Maryland Department of Transportation).

The Transportation Planning Section has no recent counts available for this intersection. Nonetheless, 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 recommend that the Planning Board find the 3 AM and 4 PM net peak-hour trips will have a de minimus impact on the affected intersection.

The plan shows rights-of-way dedication of 40 feet from existing centerline for Allentown Road, which is acceptable.

Findings and Recommendations

Based on the fact that the subject application is considered to be de minimus, the Planning Board finds that 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.

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 and CB-30-2003 and CR-23-2003 and concluded the following.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	4 DU	4 DU	4 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	.96	.24	.48
Actual Enrollment	4,518	5,968	9,696
Completion Enrollment	168.96	90	181
Cumulative Enrollment	13.44	32.58	65.16
Total Enrollment	4,701.36	6,090.82	9,942.64
State Rated Capacity	4,775	6,114	10,392
Percent Capacity	98.45%	99.62%	95.67%

Source: Prince George’s County Planning Department, M-NCPPC, January 2007

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,671 and \$13,151 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003, CB-31-2003, and CR-23-2003.

8. **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 7-minute response time for the first due fire station Allentown Road, Company 32, 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, 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.

10. **Police Facilities**—The subject property is located in Police District IV. The response standard is 10-minutes for emergency calls and 25-minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on June 8, 2007.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Non-emergency
Acceptance Date June 8, 2007.	6/06-6/07	10 minutes	18 minutes
Cycle 1	7/06-7/07		
Cycle 2	8/06-8/07		
Cycle 3	9/06-9/07		

The response time standards of 10-minutes for emergency calls and 25-minutes for nonemergency calls were met on June 8, 2007.

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, 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 Health Department reviewed the application and has no comments.
- 13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. Stormwater Management Concept Plan 98-2007-00 has been approved. 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 Preservation**—Phase I archeological survey is not recommended on the above-referenced 3.88-acre property located at 8701 Allentown Road in Fort Washington, Maryland. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The property has been previously impacted by the construction of a house on the east side of the tract and an outbuilding in the central portion. However, the applicant should be aware that there is one known archeological site, 18PR634 Belleview, within a one-mile radius of the subject property. In addition, there are two historic sites, 76B-12 Terrett House/Bird Lawn Manor and 81B-1 Belleview Outbuildings and Cemetery, located within a one-mile radius of the subject property. It is unlikely that any archeological sites will be identified on this property.

Moreover, Section 106 review may 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 state or federal monies or federal permits are required for a project.

- 15. **Public Utility Easement**—The preliminary plan includes the required ten-foot-wide public utility easement. This easement should be shown 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 date of notice of 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 Vaughns, seconded by Commissioner Cavitt, with Commissioners Vaughns, Cavitt, Clark and Parker voting in favor of the motion, and with Commissioner Squire *~~temporarily absent~~ abstaining at its regular meeting held on Thursday, November 6, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of December 2007.

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Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator

OSR:FJG:TL:bjs

*Denotes correction
[~~Brackets~~] denotes deletion
Underlining denotes addition