

R E S O L U T I O N

WHEREAS, Krause Design and Construction, Inc. is the owner of a 0.78-acre parcel of land known as Parcel A, Tax Map 115 in Grid A-1, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on January 14, 2008, Krause Design and Construction, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 1 lot; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-07109 for 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 March 20, 2008, 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 March 20, 2008, 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/039/07), and further APPROVED Preliminary Plan of Subdivision 4-07109, Birdlawn, including a Variation from Section 24-130 for Lot 12, Block A with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Label the net lot area of Parcel A (33,986 square feet).
 - b. Provide plat references and the existing use for all abutting properties.
 - c. Provide a general note that indicates that a variation from Section 24-130 has been requested for impacts to the isolated wetland area.
 - d. Show the existing regulated features and their buffers on the preliminary plan and TCPI in accordance with the staff-signed NRI.
 - e. Label the property as proposed Lot 12, Block A (formerly Parcel A).

- f. Show the limits of the ten-foot PUE on the TCPI.
 - g. Provide a revision box and indicate the date and purpose of any revisions.
 2. Development of this site shall be in conformance with Stormwater Management Concept Plan 28594-2006-00 and any subsequent revisions.
 3. Prior to signature approval of the preliminary plan, the TCPI shall be revised to:
 - a. Include the zoning (R-R) on the Woodland Conservation worksheet on the plan.
 - b. Reference the preliminary plan number in Note 1.
 - c. Provide a general note referencing the approved stormwater management concept plan.
 - d. Replace the TCPI approval block with the current block.
 - e. Show only the existing tree line and the LOD and remove "Former Tree line."
 - f. Show the wetland and its buffer per the approved NRI.
 - g. Have the revised plans signed and dated by the qualified professional who prepared them.
 4. 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/039/07), 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 offices of The Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."
 5. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams, or Waters of the U.S., copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans shall be submitted to the M-NCPPC Planning Department.
 6. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers, excluding those areas where

variation requests have been approved, and be reviewed by the Environmental Planning Section prior to approval. In addition, 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 permitted."

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 along the northern side of Lucille Court, approximately 90 feet north of its intersection with Lucille Drive.
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)	Undeveloped	Single-Family
Acreage	0.78	0.78
Lots	0	1
Parcels	1	0
Dwelling Units:		
Detached	0	1
Public Safety Mitigation Fee		No

4. **Environmental**—The Environmental Planning Section has reviewed the preliminary plan of subdivision for Birdlawn, 4-07109, and the Type I Tree Conservation Plan, TCPI/039/07, stamped as received on January 25, 2008. The Environmental Planning Section recommends approval of 4-07109 and TCPI/039/07 subject to conditions.

Background

The subject property was reviewed as part of a previous subdivision, Krause's Addition to Birdlawn (VJ 170@80), which established the subject property as a "parcel ." A Type II Tree Conservation Plan, TCPII/079/94, was previously approved by the Environmental Planning Section as part of the larger, original Birdlawn subdivision.

Site Description

There are no streams, 100-year floodplain, or severe slopes found on this property. There is an isolated wetland located on-site. According to the Prince George's County Soil Survey, the soils found on this property are in the Beltsville series. This soil series is in the C hydrologic group and is considered highly erosive. Marlboro clays are not found to occur in the vicinity of this property. The proposed development is not expected to be a noise generator. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, rare, threatened or endangered species are not found to occur in the vicinity of this property. There are no designated scenic or historic roads adjacent to this site. This site is not located within the designated network of the *Countywide Green Infrastructure Plan*. The site is located within the Developing Tier.

Environmental Review

The preliminary plan application has a staff-signed Natural Resources Inventory (NRI/078/07) that was included with the application package. The NRI indicates that there is a wetland and its associated buffer located on-site. The forest stand delineation notes that there is one forest stand located on-site with a total of 0.70 acre of forest and no specimen trees. No further action regarding the NRI is required.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the property is part of a larger subdivision that has a previously approved TCP. Because the subject property is required to undergo the preliminary plan process, a Type I tree conservation plan is required.

A Type I Tree Conservation Plan, TCPI/039/07, was submitted with the preliminary plan of subdivision package. The TCPI correctly calculates the woodland conservation required for this proposal as 0.23 acre based upon the woodland conservation threshold, clearing performed in accordance with TCPII/079/94, and proposed future clearing. The plan proposes to meet the requirement by providing 0.23 acre of woodland preservation on-site.

The TCPI, as submitted, requires some technical revisions. The woodland conservation worksheet shown on the TCPI should be revised to reflect the property's R-R zoning category. The preliminary plan number, 4-07109, should be inserted into Note 1 on the plan. Optional Note 6, referencing the stormwater management plan, should be included within the notes on the plan. The current version of the TCPI signature approval block should replace the old approval block shown on the plan. Only the existing tree line and the limits of disturbance should be shown on the plan, and the symbol for "Former Tree line (removed)" should be deleted from the plan.

The approved NRI shows a wetland and its associated buffer on the subject site. These features are not shown on the submitted TCPI or the preliminary plan. Both plans should be revised to correctly show the limits of the wetland and its associated 25-foot buffer.

An isolated wetland is located on this property. Impacts to the wetland buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113.

The design should avoid any impacts to streams, wetlands, or their associated buffers unless the impacts are essential for the development as a whole. Staff will not generally support impacts to sensitive environmental features that are not associated with essential development activities. Essential development activities include such features as public utility lines (including sewer and stormwater outfalls), street crossings, and so forth, which are mandated for public health and safety. Nonessential activities are those such as grading lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

A variation request dated December 12, 2007, was submitted to request impacts to the wetland and wetland buffer located on-site. The permanent impacts proposed are associated with the construction of a one-story, single-family house. A letter of authorization for a Category I activity permit for minor nontidal fills has been issued from the Maryland Department of the Environment (MDE), Water Management Administration, dated October 19, 2006. The issuance of a permit by the MDE was premature because the local approval authority rests with the Planning Board when a preliminary plan of subdivision is required.

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

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:

- 1. The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The granting of the variation request for this site does not pose a risk to public safety, health or welfare and does not injure 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 isolated wetland found on-site is specific to this site and does not apply generally to other properties.

3. The variation does not constitute a violation of any other applicable law, ordinance or regulations; and

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 regulations is carried out.

The environmental conditions on-site make it such that an impact to this very isolated wetland is the most appropriate. Without the approval of the variation request, the site could not be developed in accordance with its R-R zoning designation.

The Environmental Planning Section supports the impacts proposed because the wetland is so isolated in nature, and because the wetland is not historical in nature (it does not appear on the national wetlands inventory maps). Further, the site does not contain any elements of the *Countywide Green Infrastructure Plan*. Because of these reasons, the Environmental Planning Section supports the impacts proposed.

The soils found to occur on this property are in the Beltsville series. This information is provided for the applicant's benefit. No further action is needed as it relates to this preliminary plan of subdivision review. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

The application included an approved Stormwater Management Concept Plan (Case 28594-2006-00) and its associated approval letter. Stormwater management will be met on-site by utilizing two dry wells located on each site of the proposed structure.

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 site will therefore be served by public systems.

5. **Community Planning**—The property is located in Planning Area 76B within the Henson Creek community and is within the limits of the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*. The master plan recommends a residential, low-density land use (at up to 3.5 dwelling units per acre). This application proposes a residential, low-density land use which is consistent with the land use recommendation within the 2006 approved Henson Creek-South Potomac master plan and SMA.

The 2002 General Plan locates the subject property within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. This application proposes a low- to moderate-density suburban residential community which is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The 2006 approved Henson Creek-South Potomac master plan and SMA retained the subject property within the R-R Zone.

6. **Parks and Recreation**—Because a previous fee-in-lieu was paid for this property, the subject application is exempt from the requirement of mandatory park dedication pursuant to Section 24-134(a)(3)(D) of the Subdivision Regulations.
7. **Trails**—There are no master plan trails issues identified in the approved Henson Creek-South Potomac master plan that impact the subject property. Lucille Court is fully constructed and was built without sidewalks at the time the subdivision was initially developed. Lucille Drive includes a standard sidewalk along the south side and provides pedestrian access to Allentown Road.
8. **Transportation**—The following are the Transportation Planning Section's comments concerning the site access, geometric design, and traffic impact of the subject application.

The application proposes the development of one single-family dwelling. This amount of development would have a minimal impact on adjacent roadways. Therefore, traffic counts were not requested from the applicant.

Site Access Evaluation: Access to the proposed lots would be via existing Lucille Court, a secondary residential street having a right-of-way width of 50 feet. The Transportation Planning Section finds the proposed access to be acceptable.

Geometric Evaluation: The right-of-way along Lucille Court was previously dedicated to public use per final plat, (VJ 170@80).

Master Plan Rights-of-Way to be dedicated or recommended to be placed in reservation:
The site is not within or adjacent to any master plan transportation rights-of-way.

TRANSPORTATION STAFF FINDINGS

The application is a preliminary plan of subdivision for a residential development consisting of one single-family lot. The proposed development of one residence would generate 1 AM and 1 PM peak-hour vehicle trip as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The site 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.

The traffic generated by the proposed preliminary plan 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 county Capital Improvement Program or the state Consolidated Transportation Program.

The Transportation Planning Section has no available turning movement counts at the critical intersection of Allentown Road and Tucker Road/Arundel Drive that are less than one year old. Analyses done in a traffic study in 2002 indicated that the intersection would operate at level-of-service E during the PM peak hour, and the resulting development was conditioned to make improvements that would bring the service level up to a level-of-service C in both peak hours. The conditioned improvements have been completed. Furthermore, it is noted that the site was shown as a parcel within Preliminary Plan of Subdivision 4-92059, and adequacy at this intersection was determined at that time without any conditions for physical improvements.

Therefore, 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. The Transportation Planning Section would therefore recommend that the Planning Board find that 1 AM and 1 PM peak-hour trip will have a de minimus impact upon delay in the critical movements of the Allentown Road and Tucker Road/Arundel Drive intersection.

TRANSPORTATION STAFF CONCLUSIONS

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

9. **Schools**—The Historic Preservation and Public Facilities Planning Section have reviewed the 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.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	1 DU	1 DU	1 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	.24	.06	.12
Actual Enrollment	4,518	5,968	9,696
Completion Enrollment	168.96	90	181
Cumulative Enrollment	55.2	56.88	94.56
Total Enrollment	4,742.40	6,114.94	9,971.68
State Rated Capacity	4,775	6,114	10,392
Percent Capacity	99.31%	100.01%	95.95%

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 \$7,870 and \$13,493 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 and CB-31-2003, and CR-23-2003.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section have reviewed the preliminary 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 Historic Preservation and Public Facilities Planning Section have determined that this property

property is within the required seven-minute response time for the first due fire station, Allentown Road, Company #32, using the *7- Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn fire and rescue personnel staffing levels.

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

11. **Police Facilities**—The subject property is located in Police District IV. The response time standard is 10 minutes for priority calls and 25 minutes for nonpriority 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 January 14, 2008.

Reporting Cycle	Previous 12 Month Cycle	Priority Calls	Nonpriority Calls
Acceptance Date January 14, 2008	12/06 - 12/07	10 minutes	15 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for priority calls and 25 minutes for nonpriority calls were met on January 14, 2008.

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

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police personnel staffing levels.

12. **Health Department**—The Environmental Engineering Program reviewed the preliminary plan of subdivision for Birdlawn and has no comments to offer.
13. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #28594-2006-00, 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 this approved plan.

14. **Historic**—A Phase I archeological survey is not recommended on the 0.78-acre property located at 8406 Lucille Court in Fort Washington, Maryland. The preliminary plan proposes the construction of one single-family detached home on the property. 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. However, the applicant should be aware that there is one historical archeological site, 18PR634 Belleview, located within a one-mile radius of the subject property. In addition, there are two county historic sites, Belleview Outbuildings and Cemetery (PG:81B-1) and the Terrett House/Birdlawn Manor (PG:76B-12), within a one-mile radius of the subject property.

Moreover, Section 106 review may require an 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.

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 Squire, seconded by Commissioner Vaughns, with Commissioners Squire, Vaughns, Cavitt and Parker voting in favor of the motion, and with Commissioner Clark temporarily absent at its regular meeting held on Thursday, March 20, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of April 2008.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator