

R E S O L U T I O N

WHEREAS, Edward D. Middleton is the owner of a 3.84-acre parcel of land known as Parcel 158, Tax Map 144 in Grid F-2, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on August 3, 2006, Edward D. Middleton 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 4-06074 for Middleton's Addition to Dyson 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 October 26, 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 October 26, 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 the Type I Tree Conservation Plan (TCPI/82/95), and further APPROVED Preliminary Plan of Subdivision 4-06074, Middleton's Addition to Dyson for Lots 1-3 with the following conditions:

1. The following note shall be placed on the final plat of subdivision:  
  
"Development is subject to restrictions shown on approved Type I Tree Conservation Plan TCPI/82/95, or as modified by the Type II tree conservation plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved tree conservation plan and will make the owner subject to mitigation under the woodland conservation/tree preservation policy."
2. Prior to the issuance of permits a Type II tree conservation plan shall be approved
3. The applicant and/or the applicant's heirs, successors, or assigns shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and constructed through the formation of a Road Club which will include the applicant, the Montgomery Wards Brandywine Distribution Center, the Brandywine Commerce Center, the Mattawoman-Brandywine Commerce Center, the Brandywine Business Park, the Brandywine/301 Industrial Park, the Hampton CDZ,

and other property owners in the area designated as Employment Area "C" in the Subregion V Master Plan and SMA, as well as any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George's County) and Mattawoman Creek, and any other properties for which participation is deemed necessary by the Planning Board. For development on the subject property, the applicant's sole funding responsibility toward the construction of these off-site transportation improvements shall be the payment of the following:

For each single-family detached unit, a fee calculated as  $\$1,377 \times (\text{Engineering News-Record Highway Construction Cost index at time of payment}) / (\text{Engineering News-Record Highway Construction Cost Index for first quarter, 1993})$ .

Payment is to be made in trust to the Road Club escrow agent and shall be due, on a pro rata basis, at the time of issuance of building permits. Prior to issuance of any building permit(s), the applicant shall provide written evidence to the M-NCPPC that the required payment has been made.

The off-site transportation improvements to be constructed are set forth below. Construction of these improvements shall occur in the numerical sequence in which they appear. Each improvement shall be constructed if and only if sufficient funds for engineering, full design, and construction have been deposited into the Road Club escrow account by Road Club members or said funds have been provided by public agencies. The off-site transportation improvements shall include:

- a. Widen US 301/MD 5 from a four lane road to a six lane road beginning at Timothy Branch (north of Cedarville Road) and extending northerly to the US 301/MD 5 interchange (at T.B.). The construction shall be in accordance with presently-approved SHA plans.
- b. Install a traffic signal at the A-63/Cedarville Road intersection, provided said signal is deemed warranted by DPW&T.
- c. Make minor widening/striping improvements to the US 301/MD 5 interchange ramps.
- d. Widen US 301 from a four lane road to a six lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of MD 381.
- e. Reconstruct the traffic signal at US 301/MD 381.
- f. Install a traffic signal at the MD 381/A-63 intersection, provided said signal is deemed warranted by DPW&T and SHA.
- g. Provide a grade separation at the point the Spine Road crosses US 301 northeast of T.B.
- h. Reconstruct the traffic signal at MD 5/Brandywine Road.
- i. Construction of an interchange in the area of US 301/MD 5 and

Cedarville/McKendree Roads.

- j. Construction of an interchange in the area of MD 5 and A-63 north of T.B.
  - k. Construction of A-63 as a six-lane arterial roadway (where off-site) between the US 301/MD 5/Cedarville Road/McKendree Road intersection and MD 5 north of T.B.
  - l. Widen US 301/MD 5 from a six lane road to an eight lane road beginning at the T.B. interchange (US 301/MD 5) and extending southerly to Mattawoman Creek.
  - m. Widen MD 5 from a four lane road to a six lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of the planned intersection with A-63.
- 4. At the time of final plat approval, the applicant shall dedicate right-of-way along Dyson Road of 40 feet from the centerline of the existing pavement, as shown on the submitted plan.
  - 5. The driveway to each lot shall be designed with a turnaround capability in order to minimize the need for vehicles accessing each lot to have to back onto Dyson Road. The design of the driveways to each shall be verified at the time of building permit.
  - 6. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall be paid in the amount of \$11,340 (\$3,780 x 3 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.
  - 7. 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 and 3.
  - 8. The applicant and/or the applicant's heirs, successors, or assigns shall construct the eight-foot-wide master plan trail along the subject property's entire frontage of Dyson Road (the ultimate 80-foot right-of-way).

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 comprises one deed parcel (Parcel 158) located on Tax Map 144 at Grid F-2.

The subject property is zoned R-R and it consists of approximately 3.84 acres (167,207 square feet), which the applicant is proposing to subdivide into three lots for single-family residences, all with frontage access along Dyson Road.

3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone	EXISTING	PROPOSED
	R-R	R-R
Use(s)	Single Family Residence	Single Family Residential
Acreage	3.84	3.84
Lots	0	3
Outlots	0	0
Parcels	1	0
Dwelling Units:		
Detached	0	3
Mitigation		Yes

4. **Environmental**—The Environmental Planning Section has reviewed the Preliminary Plan of Subdivision for Middleton’s Addition to Dyson, 4-06074 and the Type I Tree Conservation Plan TCPI/82/95, stamped as received by the Environmental Planning Section on August 14, 2006. The Environmental Planning Section recommends approval of 4-06074 and TCPI/82/95 subject to the condition noted at the end of this memorandum.

**BACKGROUND**

The Environmental Planning Section previously reviewed Preliminary Plan 4-95116, Preliminary Plan 4-04076 and TCPI/82/95 for the subject property. These applications were withdrawn before being heard by the Planning Board.

**Site Description**

This 3.84-acre property in the R-R Zone is on the north side of Dyson Road at its intersection with Brandywine Road. There are no streams, wetlands or 100-floodplain on the property. The site eventually drains into Piscataway Creek in the Potomac River watershed. According to the Prince George’s County Soil Survey the principal soils on this site are in the Beltsville and Elkton series. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, rare, threatened, or endangered species do not occur in the vicinity of this property. No designated scenic or historic roads will be affected by the proposed development. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the *Prince George’s County Approved General Plan*. Elements associated with the Countywide Green Infrastructure Plan do not occur on this site.

## **ENVIRONMENTAL REVIEW**

The signed Natural Resources Inventory NRI/011/05 was included with the preliminary plan application. The TCPI and the preliminary plan show all the required information correctly. No revisions are required for conformance to the NRI.

According to the Prince George's County Soil Survey the principal soils on this site are in the Beltsville and Elkton series. Beltsville soils are highly erodible, frequently have a high water table and impeded drainage. Elkton soils typically have a high water table and impeded drainage. Because this site is so flat, stormwater drainage may be a problem. The installation of basements is not recommended. 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.

Stormwater Management Concept Approval Letter CSD 40912-2004-00 has been issued by the Prince George's County Department of Environmental Resources and was submitted with this application. No further information regarding stormwater management is required for the review of this preliminary plan.

This property is subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in area and there is more than 10,000 square feet of existing woodland.

The Type I tree conservation plan has been reviewed. The woodland conservation threshold for this site is 0.768 acres. The plan proposes clearing 0.48 acres of the existing 2.39 acres of woodland. Based upon the proposed clearing and the woodland conservation threshold, the woodland conservation requirement has been correctly calculated as 0.89 acres. The plan proposes preserving 0.89 acres of on-site woodland and retaining an additional 1.02 acres of on-site woodland that are not part of any requirement.

In general the proposal meets the intent of the Woodland Conservation and Tree Preservation Ordinance. The retention of woodland on-site will aid in controlling runoff. Not only will there be a smaller total area of impervious surfaces, but the trees will also remove water from the upper soil layers during the growing season. The clearing for the rear yard areas is minimal; however, this can easily be adjusted to ensure larger outdoor activity areas when the Type II TCP is prepared because there is an excess amount of woodland at this time, which will allow additional clearing and still meet woodland conservation requirements on-site. A note should be placed on the final plat of subdivision detailing the restrictions as associated with Type I Tree Conservation Plan TCPI/82/95, or as modified by the Type II tree conservation plan, and associated woodland conservation/tree preservation policy.

The Environmental Planning Section recommends approval of 4-06074 and TCPI/82/95 subject to conditions.

### **Water and Sewer Categories**

The water and sewer categories are W-3 and S-3 according to water and sewer maps dated December 2001 obtained from the Department of Environmental Resources. The development will therefore be served by public systems. The Washington Suburban Sanitary Commission must approve the sewer extensions before the recordation of the final plat.

5. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George’s County Subdivision Regulations, Lot 1 of the subject subdivision is exempt from mandatory dedication of park requirements because the lot is over one acre in size.

In accordance with Section 24-134(a) of the Prince George’s County Subdivision Regulations, the Park Planning and Development Division recommends that the Prince George’s County Planning Board require a payment of a fee-in-lieu of dedication as applicable for the remainder of the subject subdivision because land available for dedication is unsuitable due to its size and location.

6. **Trails**—The *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A, and 85B*, designates Dyson Road as a planned trail corridor. Several previously approved subdivisions along Dyson Road have required the construction of this master plan trail. These include the approved preliminary plans for 4-99048, 4-03130, and 4-4093. Upon its completion, this trail will provide safe bicycle and pedestrian access to the nearby Gwynn Park Middle School, and a portion of the Piscataway Creek Stream Valley Park. The properties along Dyson Road immediately to the north of the subject site are open section with no sidewalks. The applicant should construct the eight-foot-wide master plan trail along the subject property’s entire frontage of Dyson Road (the ultimate 80-foot right-of-way).

7. **Transportation**—The Transportation Planning Section has reviewed the subdivision application referenced above. The subject property consists of approximately 3.84 acres of land in the R-R Zone. The property is located on the north side of Dyson Road near its intersection with Brandywine Road. The application proposes a residential subdivision consisting of three single-family detached lots.

The applicant has not prepared a traffic impact study nor was one requested by the Transportation Planning staff. The findings and recommendations outlined below are based upon a review of all relevant 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,” and in consideration of findings made in connection with past applications.

### **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**

This applicant proposes three single family detached lots. Based upon rates in the Guidelines, three residences would generate 2 AM and 3 PM peak hour vehicle trips. The traffic generated by the proposed plan would primarily impact the intersection of MD 5/Brandywine Road. Staff has recent counts and analyses that show that both intersections operate poorly. Those analyses indicate that the critical intersection would operate at level-of-service (LOS) F, with a critical lane volume (CLV) of 3,742 during the AM peak hour when considering all approved development in the area (i.e., background development). Similarly, this intersection would operate at LOS F with a CLV of 4,168 during the PM peak hour under background development. There are no funded improvements to this intersection in either the Capital Improvement Program (Prince George's County) or the Consolidated Transportation Program (Maryland Department of Transportation), although one developer is required to provide some improvements that mitigate the impacts of that single development (Lakeview at Brandywine, 4-04072).

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*. This would be based upon the definition of *de minimus* in the Guidelines, which is "a development which generates five or fewer peak hour trips." However, there also exists a means, the Brandywine Road Club, by which developments in the area have been conditioned to contribute a pro-rata share toward ultimate transportation improvements at the critical intersection.

The Brandywine Road Club has posed several issues for the Planning Board in the past, and these issues are briefly summarized below:

- a. The use of the Brandywine Road Club in approving a development poses an issue of concurrency. In other words, Section 24-124 of the Subdivision Ordinance, the section that governs findings of adequate transportation facilities, is intended to ensure that needed transportation facilities occur concurrently with development or within a reasonable time thereafter. However, transportation inadequacies in the area have been documented since 1989. Many properties have been approved with a condition to pay

funds toward a Brandywine Road Club, beginning in 1990. But since those initial approvals, no improvements have been constructed. Furthermore, there is nothing in either the current county Capital Improvement Program or the state Consolidated Transportation Program that suggests that needed improvements are funded for construction.

- b. Council Resolution CR-60-1993 approved the amendment for the Subregion V Master Plan and SMA. As a part of that resolution, A-9878 for Brandywine Village was approved with conditions that allow that particular property to participate in the Brandywine Road Club as a means of determining transportation adequacy. The same condition allows such Road Club participation by “any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George’s County) and Mattawoman Creek.” This has been carefully considered, and it has been determined by staff that the subject property is not technically along the identified section of US 301/MD 5. It is recognized that the subject property is just east of the roadway—approximately 0.3 miles, and for that reason it is truly a judgment call that the Planning Board can make. Furthermore, even if the site were not deemed to meet the geographic criteria noted above, the same condition in CR-60-1993 allows Brandywine Road Club participation for properties “for which participation is deemed necessary by the Planning Board.” This language clearly suggests that the Planning Board can and should determine circumstances where Brandywine Road Club participation is appropriate.
- c. As noted earlier, the improvements needed to address the adequacy issues noted above would include an interchange at the MD 5/Brandywine Road intersection (the master plan does in fact propose an interchange at that location). There is recognition that the scope and cost of improvements needed would far exceed the ability of an applicant of this size to fund them.

It is noted that the Hampton development (Preliminary Plan 4-99048), which is slightly north and east of the subject property, was approved with a condition to pay \$1,377 per residence (to be adjusted for inflation) toward the Brandywine Road Club improvements. While the Planning Board can determine that the subject development has a *de minimus* impact, it is also fair that homes to be constructed within the subject property pay toward the Brandywine Road Club just as other developments have been required to do.

All three residential lots are proposed to receive access via Dyson Road, which is a planned collector facility. In consideration of current operating speeds and volumes, driveways onto the three proposed lots should utilize a turnaround capability in order to minimize the need for vehicles accessing these lots to back onto Dyson Road.

As noted, Dyson Road is a master plan collector, and the submitted plan indicated adequate right-of-way of 40 feet from the centerline.

**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 if the application is approved with conditions.

- 8. **School Facilities**—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, 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	3 sfd	3 sfd	3 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	0.72	0.18	0.36
Actual Enrollment	4,145	5,489	9,164
Completion Enrollment	97	64	127
Cumulative Enrollment	390.24	106.80	213.60
Total Enrollment	4,632.96	5,659.98	9,504.96
State-Rated Capacity	3,771	6,114	7,792
Percent Capacity	122.86	92.57	121.89

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

These figures are correct on the day the referral was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

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 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 staff 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.

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)(1)(B)-(E) of the Subdivision 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 Marlboro, Company 40, 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 Prince George’s County Planning Department has determined that this preliminary plan is located in Police District V. The standard for response time 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 August 3, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	07/05/05-07/05/06	11.00	20.00
Cycle 1	08/05/05-08/05/06	11.00	20.00
Cycle 2			
Cycle 3			

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 and fire and rescue personnel staffing levels. The applicant may enter into a mitigation plan with the county and file such plan with the Planning Board. The Planning Board may not approve this preliminary plan until a mitigation plan is submitted and accepted by the county.

11. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for Middleton’s Addition to Dyson and has no comments to offer.
12. **Stormwater Management**—Stormwater management concept approval letter CSD 40912-2004-00,

was submitted and approved.

13. **Archeology**—The subject property is a 3.84-acre parcel in the R-R zone on the north side of Dyson Road near its intersection with Brandywine Road and Accokeek Road (Tax Map 144, Grid F2). The application proposes three single-family building lots. Across the intersection of Brandywine Road to the south and separated by an undeveloped triangular green, is the Marlow-Huntt Store (Historic Site 85A-033-14). The historic site faces the intersection of Dyson Road, Brandywine Road, and Accokeek Road and is at the center of the crossroad village known as T.B. The building is the only surviving remnant of the once-thriving 19<sup>th</sup> century agricultural settlement. The historic site, a one-and-one-half story frame, front-gabled general store built circa 1867, has been rehabilitated recently for use as an ice cream parlor.

The historic village of T.B. has been largely developed with 20<sup>th</sup> century buildings of mixed sizes and uses. The area is dominated by the nearby Gwynn Park High School. On either side of the developing property, lots have been developed with single-family residences. As a result, the subject application, which proposes three single-family lots north of the Marlow-Huntt Store on the north side of Dyson Road, will have no effect on the character of the historic site.

Phase I archeological survey on the above-referenced property is not recommended by the Historic Preservation and Public Facilities Section. However, Section 106 review by state or federal agencies may require archeological survey work.

14. **Historic Preservation**—The Historic Preservation and Public Facilities Section has reviewed the subject area and has found that there is no effect on historic resources.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Eley, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, October 26, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of November 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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