

R E S O L U T I O N

WHEREAS, Charles Hill Farm, LLC is the owner of a 83.20-acre parcel of land known as Charles Hill Cluster, Parcel 21, Tax Map 100, Grid D-1 said property being in the 15th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on November 29, 2001, Cherrywood Development filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 139 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-01097 for Charles Hill Cluster 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 April 25, 2002, 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 April 25, 2002, 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/23/2001), and further APPROVED Preliminary Plan of Subdivision 4-01097, Charles Hill Cluster for Lots 1-139 and Parcel A with the following conditions:

1. A detailed site plan shall be approved by the Planning Board prior to approval of the final plats.
2. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCP I/23/01). 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 TCP I/23/01, 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/Tree Preservation Policy."

3. A Type II Tree Conservation Plan shall be approved in conjunction with the Detailed Site Plan.

4. A minimum 40-foot buffer of retained woodland and/or landscaping shall be provided as a scenic easement adjacent to the proposed right-of-way for Old Marlboro Pike. The buffer shall be placed adjacent to the 10-foot-wide public utility easement. The scenic easement and woodland conservation and/or landscaping treatment shall be reviewed as part of the Detailed Site Plan.
5. The scenic easement along Old Marlboro Pike shall be shown with metes and bounds on the final plats and be reviewed by the Environmental Planning Section before approval of the final plats.
6. Prior to signature approval, the preliminary plan shall be revised to:
 - a. Show the minimum 50-foot stream buffer in all appropriate locations.
 - b. Show the Patuxent River Primary Management Area Preservation Area on the preliminary plan to encompass all features included in the definition of the PMA.
 - c. Provide a legend for all elements of the PMA shown on the plan.
 - d. Graphically depict the 10-foot public utility easement.
 - e. Show separate parcels around each Stormwater Management Facility, for possible conveyance to a homeowners' association or Prince George's County. Each parcel shall have sufficient access. The remaining parcels for dedication to the M-NCPPC shall also have sufficient access.
 - f. Change General Note 4 to read A Prince George's @ rather than AP.G.@ County.
7. Prior to signature approval of the preliminary plan, the Type I Tree Conservation Plan shall be revised to:
 - a. Remove woodland conservation areas from lots.
 - b. Calculate any woodland remaining on lots as cleared and revise the plan to illustrate these areas.
 - c. Revise the worksheet in accordance with Aa@ and Ab@ above.
 - d. Have the plan signed and dated by the qualified professional.
8. The Detailed Site Plan shall show each element of the Patuxent River Primary Management Preservation Area and the boundary of the PMA.
9. At time of final plat, a conservation easement shall be described by bearings and

distances. The conservation easement shall contain the Patuxent River Primary Management Area Preservation Area and shall be reviewed by the Environmental Planning Section prior to certificate approval of the Final Plat. 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 is prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted."

10. The following note shall be placed on the Final Plat:

APrior 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. @

11. During the review of the Detailed Site Plan, the use of low-impact development (LID) techniques shall be fully evaluated. Appropriate LIDs shall be incorporated into the Detailed Site Plan.
12. No building permits shall be issued for this subdivision until the percent capacity at all the affected school clusters are less than or equal to 105 percent or three years have elapsed since the time of the approval of the preliminary plan of subdivision; or pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.
13. At the time of final plat approval, the applicant shall dedicate right-of-way along Old Marlboro Pike as shown on the submitted plan. Improvements within the dedicated right-of-way shall be determined by DPW&T.
14. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, or (b) have been permitted for construction through the operating agency=s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
- a. At MD 4/Dower House Road, provision of modified striping along the northbound Dower House Road approach to provide two exclusive left-turn lanes and a shared left-turn/through/right-turn lane.
 - b. At MD 223/Old Marlboro Pike, provision of modified striping along the westbound Old Marlboro Pike approach to provide an exclusive left-turn lane and a shared through/right-turn lane. It is understood that the right-turn island along southbound Melwood Road may need to be slightly modified. Completion of

this condition is subject to State Highway Administration approval and review.

15. Development of this site shall be in accordance with the approved Stormwater Concept Plan, Concept 22627-2001-00, or any revisions thereto.
16. Review of the Detailed Site Plan shall include, but not be limited to, the following:
 - a. The 40-foot landscaped buffer on proposed lots adjoining the historic site. The review shall focus on usable rear yards, elimination of woodland conservation on the lots and the possibility of creating a homeowners= open space parcel between the lots and the historic site for the implementation of the landscaped buffer. The applicant shall demonstrate that the chosen tree types will screen the Historic Site from adverse visual impact from the proposed new houses.
 - b. The possible elimination of several lots along the boundary with the historic site.
17. Prior to the release of building permits for Lots 6 through 21, a 40-foot bufferyard shall be planted along the common boundaries between the property and the Historic Site.
18. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall provide a financial contribution of \$210.00 to the Department of Public Works and Transportation for the placement of a bikeway sign along Old Marlboro Pike, designated a Class III Bikeway. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit.
19. Prior to the issuance of the any building permit on a lot abutting park property, his heirs, successors and/or assignees, shall construct the trail along the subject property=s portion of Back Branch in conformance with Department of Parks and Recreation standards.
20. Prior to the issuance of any building permit on a lot abutting park property, the applicant, his heirs, successors and/or assignees, shall construct a trail connection within the open space on the western portion of the subject property from Old Marlboro Pike to the stream valley trail. This trail shall be a minimum of eight-feet wide and asphalt, and within land dedicated either to DPR or to a homeowners association.
21. The conveyance to the M-NCPPC of 20.5 acres of cluster open space as show on the Department of Parks and Recreation (DPR) Exhibit AA,@ subject to the following:
 - a. An original, special warranty deed for the property to be conveyed (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the Final Plat.
 - b. The M-NCPPC shall be held harmless for the cost of public improvements

associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to Final Plat.

- c. The boundaries and acreage of land to be conveyed to the M-NCPPC shall be indicated on all development plans and permits which include such property.
 - d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - f. All waste matter of any kind shall be removed from the property to be conveyed. The DPR shall inspect the site and verify that it is in acceptable condition for conveyance, prior to Final Plat approval.
 - g. No Stormwater Management Facilities or tree conservation or utility easements shall be proposed on lands owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
22. The subdivider, his successors, and/or assigns shall submit a letter to the Subdivision Section indicating that the Department of Parks and Recreation has conducted a site inspection and found the land to be dedicated to M-NCPPC in acceptable condition for conveyance. The letter shall be submitted with the final plat of subdivision.
23. The conveyance to the Homeowners Association (HOA) of 11 acres of cluster open space as shown on DPR Exhibit AA@. Land to be conveyed shall be subject to the following:
- a. Conveyance shall take place prior to the issuance of building permits.

- b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
 - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - e. Any disturbance of land to be conveyed to a Homeowners Association shall be in accordance with an approved Specific Design Plan or shall require the written consent of DRD. This shall include, but not be limited to: the location of sediment control measures, tree removal, temporary or permanent Stormwater Management Facilities management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
 - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a Homeowners Association. The location and design of drainage outfalls that adversely impact property to be conveyed, shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
 - g. Temporary or permanent use of land to be conveyed to a Homeowners Association for stormwater management shall be approved by DRD.
 - h. Storm drain outfalls shall be designed to avoid adverse impacts on adjacent land, owned by or to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC). If the outfalls require drainage improvements on land to be conveyed to or owned M-NCPPC, the Department of Parks and Recreation (DPR) shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - i. There shall be no disturbance of any adjacent land that is owned by, or to be conveyed to M-NCPPC without the review and approval of DPR.
 - j. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
24. The public recreational facilities on land to be conveyed to M-NCPPC shall include the 10-foot-wide master plan trail along the Back Branch and western property line as

shown on DPR Exhibit AA@.

25. No tree conservation shall be proposed on land to be conveyed to M-NCPPC within the 40-foot-wide master plan trail.
26. The trail shall be constructed in accordance with the applicable standards in the *Parks and Recreation Facilities Guidelines*. The exact location of the trail shall be determined at the time of Detailed Site Plan review and approved by DPR and shall be subject to the following:
 - a. Detailed drawings for trail construction, including a grading plan and sections, shall be submitted to DPR for review and approval prior to submission of the application for the Detailed Site Plan.
 - b. Submission of three original, executed Recreational Facilities Agreements (RFA) to the DPR for approval, three weeks prior to a submission of a final plat. Upon approval by DPR, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
 - c. Submission to DPR of a performance bond, letter of credit, or other suitable financial guarantee, in an amount to be determined by DPR, within at least two weeks prior to applying for building permits.
27. All trails shall be constructed to assure dry passage. If wet areas must be traversed, suitable structures shall be constructed. Designs for any needed structures shall be reviewed by DPR.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The subject property is located on the north side of Old Marlboro pike, approximately one mile east of its intersection with Melwood Road.
3. Cluster Development Data as approved

Zone	R-R
Gross Tract Area	83.2 acres
Area with Slopes Greater than 25 Percent	5.43 acres
Area within Preliminary 100-year Floodplain	4.98 acres
Cluster Net Tract Area	72.79 acres
Minimum Lot Size Permitted	10,000 square feet

Minimum Lot Size Proposed	10,000 square feet
Number of Lots Permitted	145
Number of Lots Proposed	139
Flag Lots Proposed	0
Cluster Open Space Required	22.17 acres
2/3 of Required Open Space to be Located Outside of the 100-Year Floodplain and Stormwater Management Facilities	14.78 acres
Cluster Open Space Proposed Outside of the 100-Year Floodplain and Stormwater Management Facilities	24.34 acres
Cluster Open Space Provided	31.52 acres
Mandatory Dedication Required	4.16 acres
Mandatory Dedication Proposed	4.16 acres
Total Open Space Required (Cluster plus Mandatory Dedication)	22.17 acres
Total Open Space Provided	31.52 acres
Open Space to be Conveyed to Homeowners' Association	11.02 acres
Open Space to be Conveyed to M-NCPPC	20.5 acres
Open Space to be Conveyed to Prince George=s County	0 acres
Slopes Exceeding 25 Percent in Grade	5.43 acres
25 Percent of Steep Slopes	1.36 acres
Area of Steep Slopes to be Disturbed	0.20 acres
Area of Nontidal Wetlands and Waters of the U.S.	6.25 acres

Modification in Dimensional Standards Permitted in Cluster		Standard Modification		
		In Zone	Allowed	Proposed
27-442(d)	Net Lot Coverage	25%	30%	30%
	Lot Width at Building. Line	80'	75'	75'
	Lot Frontage Along Street Line	70'	50'	50'
	Lot Frontage Along Cul-de-sac	60'	50'	50'

4. The design for the proposed cluster subdivision does not meet the purposes and criteria for approval of cluster developments in the R-R Zone found in Subtitles

27-Zoning and 24-Subdivision of the Prince George=s County Code. The following findings are required in accordance with Section 24-137 of the subdivision regulations:

- a. **Individual lots, streets, buildings and parking areas will be designed and situated in conformance with the provisions for woodland conservation and tree preservation set forth in Subtitle 25 of the Prince George=s County Code, and in order to minimize alteration of the historic resources or natural site features to be preserved.**

Comment : Woodland and tree conservation on the subject property will occur at the site=s perimeter in open space land to be dedicated to M-NCPPC. This approach is supported by the Environmental Planning Section and the Department of Parks and Recreation and will provide a degree of buffering between the subject and adjoining properties. The overall layout of individual lots, streets, buildings and parking areas has been designed and situated so as to minimize alteration of the remaining woodland natural site features to be preserved.

- b. **Cluster open space intended for arecreational or public use, conservation purposes, or as a buffer for a historic resource is appropriate, given its size, shape, topography and location, and is suitable for the particular purposes it is to serve on the site.**

Comment: The cluster open space in this instance is proposed for dedication to the M-NCPPC in furtherance of its Stream Valley Park program. Given this, the applicant appropriately clustered lots away from the proposed open space and has created suitable open space for dedication. However, the applicant also proposes to dedicate the several stormwater management ponds to the Commission. Separate parcels should be created so the ponds can be conveyed to the homeowners association or Prince George=s County.

- c. **Cluster open space will include irreplaceable natural features located on the tract (such as, but not limited to, streambeds, significant stands of trees, steep slopes, individual trees of significant size, and rock outcroppings).**

Comment: The proposal preserves Patuxent River Primary Management Areas (PMA), stream, floodplain and wetland features. There are few steep slopes and no rock outcroppings affected by the proposal. However, there are proposed disturbances to wetlands. The law requires these to be minimal in the PMA in any development scheme. The proposal clearly preserves these more than conventional development in that the wetlands are kept completely off lots. In the one instance of the road crossing the wetland buffer, the impact has been restricted to the bare minimum.

- d. **Cluster open space intended for recreational or public use will be easily accessible to pedestrians; and the means of access will meet the needs of the physically handicapped and elderly.**

Comment: All of the cluster open space intended for recreational or public use is easily accessible to pedestrians. At several locations, access from the internal public street is given to the open space.

- e. **Cluster open space intended for scenic value will achieve this purpose through the retention of irreplaceable natural features described above; or where such natural features do not exist, such techniques as berms planted with trees and the use of landscaping material may be required to eliminate visual monotony of the landscape.**

Comment: The cluster open space is very scenic and has been opened in several locations for views not only from rear yards, but from the street as well. The possible use of berms and tree plantings will be addressed at the detailed site plan stage.

- f. **Diversity and originality of lot layout and individual building design, orientation, and location will achieve the best possible relationship between development and the land.**

Comment: The property is irregular in shape. Lots have been designed with high density away from the environmental features, with many backing to open space. In other instances the open space is incorporated into the street pattern. This results in a highly desirable relationship between the development and the land.

- g. **Individual lots, buildings, parking areas, and streets will be arranged, designed, situated, and oriented so as to harmoniously relate to surrounding properties, to improve the view from dwellings, and to lessen the area devoted to motor vehicle access and circulation.**

Comment: With a few exceptions, the individual lots and buildings are arranged and oriented so that they will face each other and back up to open space. The proposed road layout does provide for a minimum of pavement area devoted to motor vehicle access and circulation. There are no parking areas proposed. Individual lots, buildings, and streets are arranged, designed, situated, and oriented so as to harmoniously relate to surrounding properties, to improve the view from dwellings, and to lessen the area devoted to motor vehicle access and circulation. As noted previously, the open space is incorporated into the subdivision for view from most of the lots.

- h. **Individual lots, buildings, parking areas, and streets will be so situated and**

oriented as to avoid the adverse effects of shadows, noise, and traffic on, and afford privacy to, the residents of this site.

Comment: As stated, many of the lots back to open space creating well-secluded backyards that will afford privacy to the future residents. No flag lots are proposed so other lots will back to each other rather than have a front-to-back orientation.

- i. Not more than one-fourth (1/4) of any of the land having slopes greater than twenty five percent (25%) will be removed or altered, and then only when the slopes are isolated, small, or otherwise occur as insignificant knolls, so that the design of the development or cluster open space will not be adversely affected.**

Comment: Of the 5.43 acres of steep slopes on the site, only 0.20 acres (or "3.7 percent") will be disturbed.

- j. Appropriate landscape screening techniques will be employed at each entrance to the subdivision and along adjoining existing streets, so as to assure the compatibility of the appearance of the cluster subdivision with that of surrounding existing and planned residential development not approved for cluster development, and to provide an attractive appearance from streets. Individual lots shall also be appropriately landscaped in such a manner as to provide an attractive appearance.**

Comment: This issue is best dealt with at the detailed site plan stage. The details of the frontage appearance will be determined at detailed site plan if this application is approved. The lots near the entrance have a larger appearance and rears will be buffered from streets.

- 5. Environmental Issues and Variation Request** The streams, wetlands, and floodplain on the property are part of the Patuxent River watershed. Current air photos indicate that 90 percent of the site is wooded. Old Marlboro Pike is a historic road. Pennsylvania Avenue (MD 4) is the nearest noise source. The proposed use is not expected to be a noise generator. No species listed by the State of Maryland as rare, threatened or endangered are known to occur in the general region. According to the Sewer Service and Water Service maps produced by DER, the property is in categories W-3 and S-3. The A Prince George's County Soils Survey@ indicates that the principal soils on the site are in the Westphalia, Shrewsbury, Sandy Land, and Iuka soils series.

This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in size and contains more than 10,000 square feet of woodland. A Tree Conservation Plan is required. The Forest Stand

Delineation, including the species, vigor, and location of seven specimen trees, meets the requirements of the Woodland Conservation Ordinance. No further action is needed at this time.

A Type I Tree Conservation Plan, TCP I/23/01, has been submitted for review. At this time, the timber harvest plan approved on TCP II/101/98 has not been implemented. The Type I TCP includes a note that the approved TCP II for timber harvesting is null and void. The TCP worksheet shows clearing of 45.85 acres of the existing 75.01 acres of woodland. The retained 29.16 acres of woodland is proposed to meet the minimum requirement of 27.11 acres. The plan shows preservation of a substantial proportion of the priority woodland on site.

The Type I Tree Conservation Plan, TCP I/23/01, requires some revisions before it can be certified. The plan shows woodland conservation on the east side of lots 20 through 39, on lots 135 and 138, within the historic buffer on lots 14, 15, 16, and 20, and in the scenic buffer on lots adjacent to Old Marlboro Pike. As a matter of policy, woodland conservation areas cannot be on lots in cluster subdivisions because clusters result in smaller lot sizes than the underlying zone, and the purpose is to create more public open space than would occur in a conventional subdivision. The plan also shows an area of afforestation in the scenic buffer along Old Marlboro Pike, but does not show any afforestation in the worksheet. If the Preliminary Plan of Subdivision is revised to create a separate parcel for Homeowners= Open Space to contain the historic buffer and/or the scenic buffer, then these areas can be used to contribute to the required woodland conservation. Prior to signature approval of the preliminary plan, these revisions to the Type I Tree Conservation Plan need to be made.

Old Marlboro Pike is a designated historic road. Improvements along this road must address the ADesign Guidelines and Standards for Scenic and Historic Roads@ prepared by the Prince George=s County Department of Public Works and Transportation. The Environmental Planning Section recommends a minimum 40-foot-wide buffer of retained woodland or landscaping adjacent to the right-of-way for Old Marlboro Pike to preserve the historic nature of the road. This 40-foot-wide buffer is consistent with the buffer afforded the adjacent historic site to the east. A minimum 40-foot buffer of retained woodland and/or landscaping should be provided as a scenic easement adjacent to the proposed right-of-way for Old Marlboro Pike. This buffer should be placed adjacent to the public utility easement. The easement and woodland conservation and/or landscaping treatment shall be reviewed as part of the Detailed Site Plan. The scenic easement along Old Marlboro Pike should be shown with metes and bounds on the final plat and be reviewed by the Environmental Planning Section before approval of the Final Plat.

Traffic on MD 4 is a noise generator. Because the closest part of the property is more than 1,000 feet from the highway, no noise impact is expected. No further action is needed at this time.

The site contains significant natural features, which are required to be protected under Section 24-130 of the Subdivision Regulations. The Patuxent River Primary Management Area Preservation Area (PMA) includes all the features defined in Sec. 24-101(b)10 of the Subdivision Regulations.

The applicant submitted a Jurisdictional Determination of the extent of the wetlands and waters of the United States, dated September 9, 2001. The wetlands are correctly shown on the plan. The minimum 25-foot wetland buffers and the 100-year floodplain are correctly shown on the plan. Not all streams are shown on the plan, nor are the minimum 50-foot stream buffers. All areas having highly erodible soils on slopes of 15 percent or greater abutting or adjoining the perennial stream, the 100-year floodplain or streamside wetlands, and all areas with slopes of 25 percent or greater are correctly shown. The boundary of the PMA is not entirely correct.

There are several areas where the plan proposes impacts to the PMA. Section 24-130(b)(5) requires that the PMA be preserved in a natural state to the fullest extent possible. A Letter of Justification and a plan showing the location of each impact was submitted. Impact areas #2 and #4 are necessary to connect the proposed subdivision to the existing sewer main. The existing sewer is already located within the PMA and there are no practical alternatives to connect to the line. Impact area #3 is needed to connect the proposed subdivision to the existing water main. There is no practical alternative to connect to the line.

Approval of one variation request is needed to permit impacts to the minimum 25-foot wetland buffer required by Section 24-130(b)(7) in the location labeled "Impact Area #1" on the exhibit dated January 23, 2002. Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests. Staff supports all the proposed impacts in that they are deemed to be necessary and finds:

- A. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** The activities proposed will not result in adverse impacts to other properties or individuals. The disturbances are associated with infrastructure and are very minor given the total acreage of environmental features on the site.
- B. **The conditions of which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties.** These impacts are unique since the wetlands and floodplain are located not only at the perimeter of the site but extend well into the site and in one area severing one large portion of the property from the other.
- C. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** This will not result in a violation of other applicable laws, ordinances or regulations subject to the applicant receiving authorization for the disturbances from the Corps of Engineers and/or

Maryland Department of Environment prior to the issuance of any grading permits impacting these areas.

- D. **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 the strict letter of these regulations is carried out.** There is little room between the boundary line and the wetland buffer to allow for a public street. The proposed impact is small and should not affect the viability of the wetland. A denial of the variation would result in the unnecessary loss of a nearly 25 percent of the usable portion of the property. This would present a hardship to the applicant.

A Stormwater Management Concept Plan, CSD#22627-2001-00, has been approved by the Prince George's County Department of Environmental Resources. The stormwater management ponds result in extensive cleared areas directly adjacent to sensitive streams and wetlands, which is not consistent with the preservation goals within the Patuxent River Policy Plan. These areas are priorities for preservation and, if left uncleared, could be used to meet the Woodland Conservation Ordinance requirements. In addition, the Conceptual Site Plan shows four storm drain outfalls that would result in the release of untreated stormwater into wooded areas. The stormwater management concept approval letter does not mention this as an acceptable run-off treatment method. It does not appear that any form of bioretention was included in the concept application to the Department of Environmental Resources.

As a cluster subdivision application, the proposed subdivision must result in a better environment than that allowed by right. One method to achieve this goal would be to provide some method other than standard pipe-and-pond technology to treat and release the stormwater run-off. There are at least a dozen Low Impact Development (LID) techniques that could be implemented on this site that would result in the need for less clearing of existing vegetation and an overall reduction in infrastructure costs.

The Prince George's County Soils Survey indicates that the principal soils on the site are in the Westphalia, Shrewsbury, Sandy Land, and Iuka soils series. Westphalia soils are highly erodible and require careful installation of erosion/sediment control devices on slopes in excess of 15 percent. Shrewsbury soils typically have a high water table and poor drainage. Sandy Land soils are associated with steep and severe slopes. Iuka soils have a high water table, impeded drainage, and are associated with floodplain areas. Except for the need to provide adequate erosion/sediment control devices, the proposed lotting and road pattern avoid the areas with severe constraints for development.

6. Community Planning The 2000 *Interim General Plan* places the property in the Developing Tier. The approved *Melwood-Westphalia Master Plan*, March 1994, recommends residential land use at suburban densities. The Sectional Map Amendment for Melwood-Westphalia, adopted March 1994, placed this property in the R-R Zone.

The main planning issue concerns the preservation of the environmental setting for the Charles Hill historic site, abutting the subject property. Conditions to assure the compatibility of the proposed development with this adjacent property are addressed in the memorandum from the Historic Preservation Section addressed later in this report. Site planning issues will be addressed at the time of detailed site plan review. The proposed subdivision is consistent with the type of development envisioned by the master plan as well as with the policies for land use in the Developing Tier as defined in the 2000 *Interim General Plan*.

7. Parks and Recreation In accordance with Section 24-137 of the Subdivision Regulations, the Department of Parks and Recreation recommends that the cluster open space, less the Stormwater Management Facilities, be dedicated to the M-NCPPC. Furthermore, staff recommends that the applicant construct certain trail facilities on park property and within homeowners' association open space in lieu of mandatory park dedication requirements. The open space and trails will further the Stream Valley Park and Trail systems.
8. Trails Old Marlboro Pike is recommended as a Class III bikeway in the master plan and should be designated as a bikeway with appropriate signage. Because Old Marlboro Pike is a county right-of-way, the applicant, and the applicant's heirs, successors, and/or assigns should provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of this signage. A note should be placed on the final plat for payment to be received prior to the issuance of the first building permit. If road improvements are required, a minimum of four-foot wide, hard surface shoulders are recommended.

The land along Back Branch is recommended as M-NCPPC stream valley parkland in the master plan. A multiuse trail is also recommended along Back Branch. In conformance with these recommendations, the applicant should construct the trail along the subject property's portion of Back Branch in conformance with Department of Parks and Recreation (DPR) standards. This should be accomplished prior to the issuance of the 50th building permit.

A master plan trail is also recommended within the open space on the western portion of the subject property from Old Marlboro Pike to the stream valley trail. This trail should be a minimum of eight-feet wide and asphalt, and within land dedicated either to DPR or to a homeowners' association. Again, this should be accomplished prior to the issuance of the 50th building permit.

9. Transportation The applicant prepared a traffic impact study dated January 2002. 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*. The traffic study was referred to the Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA). Staff

received comments from both agencies, and their comments are incorporated into the staff recommendation.

Staff Analysis of Traffic Impacts

The traffic study examined the site impact at five intersections in the area:

MD 4/Dower House Road (signalized)
MD 4 EB Ramps/MD 223 (unsignalized)
MD 4 WB Off-Ramp/MD 223 (unsignalized)
MD 223/Old Marlboro Pike (unsignalized)
Old Marlboro Pike/site access (future/unsignalized)

The transportation staff has fully reviewed the traffic study as submitted by the applicant. We have noted that the study attempted to analyze the two ramp intersections within the MD 4/MD 223 interchange as a single intersection. This is misleading, and has been corrected by staff in the review of the study. The existing conditions at the study intersections are summarized below:

EXISTING CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 4 and Dower House Road	1,863	1,612	F	F
MD 4 EB Ramps and MD 223	18.0*	15.4*	--	--
MD 4 WB Off-Ramp and MD 223	25.5*	15.5*	--	--
MD 223 and Old Marlboro Pike	26.8*	11.7*	--	--
Old Marlboro Pike/site entrance	future		--	--
<p>*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i>, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Delays of +999 are outside the range of the procedures, and should be interpreted as excessive.</p>				

Under existing traffic, there are operating issues at the MD 4/Dower House Road intersection during both peak hours. The *Guidelines* identify signalized intersections operating at LOS E or F during any peak hour as unacceptable. Also, the *Guidelines* identify unsignalized intersections having delays exceeding 50.0 seconds in any movement as unacceptable, and under that criterion all unsignalized intersections in the

study area operate acceptably as currently configured.

The traffic study shows approved development in the area. The traffic study also assumes programmed at-grade improvements shown in the county Capital Improvement Program (CIP) along MD 4 in the vicinity of Dower House Road. SHA has completed study and design of more significant improvements at this location that will provide a grade-separated interchange. But these ultimate improvements are not funded for construction. Background conditions are summarized below:

BACKGROUND CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 4 and Dower House Road	1,686	1,712	F	F
MD 4 EB Ramps and MD 223	20.9*	18.0*	--	--
MD 4 WB Off-Ramp and MD 223	44.7*	18.5*	--	--
MD 223 and Old Marlboro Pike	32.1*	12.0*	--	--
Old Marlboro Pike/site entrance	future		--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Delays of +999 are outside the range of the procedures, and should be interpreted as excessive.				

The site is proposed for development as a residential subdivision. The site is proposed to be developed with 139 single-family detached residences, with access from a single new street to connect with existing Old Marlboro Pike. The site trip generation would be 104 AM peak-hour trips (21 in, 83 out) and 125 PM peak-hour trips (82 in, 43 out).

The site trip distribution shown in the traffic study is reasonable. Using the trip distribution and assignment described above, we obtain the following results under total traffic:

TOTAL TRAFFIC CONDITIONS		
Intersection	Critical Lane Volume (AM & PM)	Level of Service (LOS, AM & PM)

MD 4 and Dower House Road	1,700	1,725	F	F
MD 4 EB Ramps and MD 223	22.5*	22.0*	--	--
MD 4 WB Off-Ramp and MD 223	38.9*	20.8*	--	--
MD 223 and Old Marlboro Pike	42.5*	12.9*	--	--
Old Marlboro Pike/site entrance	13.1*	10.5*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Delays of +999 are outside the range of the procedures, and should be interpreted as excessive.				

Under the analysis performed, no inadequacy has been identified at the unsignalized intersections within the study area. The Prince George's County Planning Board, in the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, has defined vehicle delay in any movement exceeding 50.0 seconds as an unacceptable operating condition at unsignalized intersections. None of the unsignalized intersections operates unacceptably under this criteria.

However, the traffic study has identified severe operational issues at the MD 4/Dower House Road intersection, even with funded at-grade improvements in place. In response, the applicant has identified improvements in the traffic impact study which mitigate the impact of the site at the MD 4/Dower House Road intersection. This intersection is eligible for mitigation under the fourth criterion in the *Guidelines for Mitigation Action* (approved as CR-29-1994). The applicant recommends that the northbound approach of Dower House Road at MD 4 be modified to provide two left-turn lanes (as currently exist) and a third lane which would operate as a shared left-turn/through/right-turn lane. The improvements at the MD 4/Dower House Road intersection are suggested to mitigate the impact of the applicant's development in accordance with the provisions of Sec. 24-124(a)(6). The impact of the mitigation actions at this intersection is summarized as follows:

IMPACT OF MITIGATION				
Intersection	LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 4/Dower House Road:				
Background Conditions	F/1686	F/1712		
Total Traffic Conditions	F/1700	F/1725	+14	+13

Total Traffic Conditions w/Mitigation	E/1581	F/1578	-119	-147
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As the CLV at MD 4/Dower House Road is between 1,450 and 1,813 during each peak hour, the proposed mitigation action must mitigate at least 150 percent of the trips generated by the subject property during these peak hours, according to the *Guidelines*. The above table indicates that the proposed mitigation action would mitigate at least 150 percent of site-generated trips during either peak hour. **Therefore, the proposed mitigation at MD 4 and Dower House Road meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.**

Comments from the operating agencies are attached. DPW&T has noted that frontage improvements, including an eastbound left-turn bypass lane, will be required along the site=s frontage of Old Marlboro Pike. Also, DPW&T recommends that the current Old Marlboro Pike approach to MD 223/Melwood be restriped to include an exclusive left-turn lane and a through/right-turn lane, under the reasoning that this modification would reduce delay at this location since the right-turn movement is very low. Staff agrees with this recommendation and recommends the condition with the understanding that no new pavement is needed (only a slight modification to the existing right-turn island along southbound Melwood Road) and that this modification is subject to SHA approval. Otherwise, DPW&T did not find fault with the proposed mitigation plan.

SHA has indicated that the proposed mitigation improvement is acceptable. SHA also indicated that the improvements along MD 4 which are funded in the CIP have no commitment of public money and stated that the applicant should pay a fair share of the cost of these improvements. Staff would note that an adjacent subdivision, Melwood Park (preliminary plan of subdivision 4-94012) was approved by the Planning Board under similar circumstances, with the Board assuming that the improvements were funded. Nothing has changed since that time. Given the prior action, there seems little justification to ask this applicant to pay funds toward that improvement. This applicant has committed to improving operations at the MD 4/Dower House Road intersection through the mitigation plan.

Staff initially had a concern about the layout of the subdivision. The transportation staff is particularly concerned about having one access point serving 139 residences. However, the site has a number of environmental constraints which limit the points of access. Given that the proposed internal street system is properly sized, the layout shown on the current plan is acceptable.

Old Marlboro Pike is a master plan collector facility and dedication of 40 feet from center line is required.

The applicant has submitted a subdivision application and submitted a traffic study in support of that application. In order to achieve adequacy as required by Section 24-124, the traffic study has identified a geometric improvement which would attempt to address

transportation problems at the development=s critical intersection. This improvement, at the MD 4/Dower House Road intersection, is recommended by the applicant to mitigate the impact of the applicant's development in accordance with the provisions of Sec. 24-124(a)(6). This intersection is eligible for mitigation under the fourth criterion in the *Guidelines for Mitigation Action*, approved as CR-29-1994.

An analysis by staff indicates that the proposed mitigation at MD 4/Dower House Road meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts. Comments received from DPW&T and SHA have affirmed the proposed mitigation action.

Therefore, based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Subdivision Regulations if the application is approved with the transportation conditions included in this report.

10. Schools CThe Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001).

Impact on Affected Public School Clusters

Affected School Cluster #	Dwelling Units	Pupil Yield Factor	Subdivision Enrollment	Actual Enrollment	Completion Enrollment	Wait Enrollment	Cumulative Enrollment	Total Enrollment	State-Rated Capacity	Percent Capacity	Funded School
Elementary School Cluster 4	139 sfd	0.24	33.36	5264	263	591	17.76	6169.12	4594	134.29%	Rosaryville, Marlton
Middle School Cluster 2	139 sfd	0.06	8.34	4397	201	189	6.19	4801.53	3648	131.62%	East Central
High School Cluster 2	139 sfd	0.12	16.68	12045	412	377	12.36	12859.04	10811	118.94%	Surrattsville addition

Source: Prince George's County Planning Department, M-NCPPC, January 2002

The affected elementary, middle and high school clusters= percent capacities are greater than 105 percent. Rosaryville and Marlton are the funded schools in the affected elementary school cluster. East Central is the funded school in the affected middle school cluster. The Surrattsville addition is the funded school in the affected high school cluster. Therefore, in accordance with Section 24-122.02 of the Subdivision Regulations, this

subdivision can be approved subject to conditions.

11. Fire and Rescue The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public fire and rescue facilities.
 - a. The existing fire engine service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street, has a service response time of 6.82 minutes, which is beyond the 5.25 minutes for response time guidelines.
 - b. The existing ambulance service at Marlboro Fire Station, Company 20, has a service response time of 6.82 minutes, which is beyond the 6.25 minutes for response time guidelines.
 - c. The existing paramedic service at Marlboro Fire Station, Company 20, has a service response time of 7.25 minutes, which is within the 7.25 minutes for response time guidelines for Lots 1-13, 87-106, and 122-139. All other lots are beyond.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. To alleviate the negative impact on fire and rescue services due to the inadequate service discussed, the Fire Department requires that all residential structures be fully sprinklered in accordance with National Fire Protection Association Standard 13D and all applicable Prince George's County laws. Because this is a matter of existing law, no condition is necessary.

12. Police Facilities The proposed development is within the service area for District II-Bowie. In accordance with Section 24-122.1(c) of the Subdivision Regulations of Prince George's County, existing county police facilities will be adequate to serve the proposed Charles Hill Cluster development. This police facility will adequately serve the population generated by the proposed subdivision.
13. Health Department The Health Department reviewed the application and noted that any abandoned wells and/or septic systems must be backfilled, pumped and sealed in accordance with COMAR regulations. All existing structures are indicated on the plan to be razed. A raze permit is required prior to demolition.
14. 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, # 22627-2001-00, was approved with conditions on November 20, 2001, to ensure that development of this site does not result in on-site or downstream flooding. This approval is valid through June 30, 2004. Development must be in accordance with this approved plan.

15. Public Utility Easement The preliminary plan does not include the required 10-foot-wide public utility easement. Prior to signature approval, this easement should be added to the preliminary plan along all public streets.
16. Impact on Historic Site The property partially wraps around Charles Hill, Historic Site #78-17. Charles Hill is a three-part frame, side-gabled dwelling, which stands on a knoll on the north side of the old Washington-Marlborough Turnpike (now Old Marlboro Pike). Its Environmental Setting comprises 11.3 acres of rolling farmland (Tax Map 100, Parcel 49). The main block of the house was constructed in the 1840s for Rector Pumphrey on land which he inherited from his father. It is a fine example of the side-hall-and-double-parlor-plan plantation houses that were representative of mid-nineteenth-century Prince George's County. Two wings were added (1890s and 1940s) to the east side of the main block, possibly incorporating an early kitchen building. A terraced lawn falls away from the house to the south, and there is a large field between the house and the road. The unpaved drive borders this field on the west, leading to the house; a white rail fence defines the field. To the east of the house is a paddock, and to the north is an old carriage house.

A short distance northwest of the house is a small family burial ground with four stones from the mid-nineteenth century marking the burials of five members of the Pumphrey family and their Walker and Fraser connections. General Note 4 on the preliminary plan correctly indicates that historic resources and cemetery located adjacent to the site are registered under No. 78-17 of the Inventory of Historic sites [sic] of P.G. County. @

The land proposed for development (Parcel 21) adjoins the north and west boundaries of the Historic Site (Parcel 49). Proposed lots 6-8, 10-16, and 18-20 directly adjoin the Historic Site boundary; proposed lots 9, 17 and 21 are very slightly separated from the boundary but potentially visible from the Historic Site.

The submitted preliminary plan shows a 40-foot (D) bufferyard to be planted along the common boundaries between the Historic Site and the developing property, as required by the *Landscape Manual*. Proposed Lots 10, 11 and 12 are small and very close to the historic house at Charles Hill, Historic Site #78-17. The regulations regarding buffering and setback are insufficient to protect the historic house from adverse visual impact from development on these three lots.

The *Adopted and Approved Master Plan for Melwood Westphalia*, 1994 (page 29, Historic Preservation Guidelines) contains the following language regarding development adjoining Historic Sites and Resources:

4. **Where new commercial and/or housing developments are planned, projects should be designed to be sensitive to the scenic, historic character of the area. Innovative site design, use of rural cluster or the Agricultural Preservation Development (Section 27-445.1 of the County Code) should be used to preserve viewsheds along designated scenic and**

historic roads, and rural character.

Because the developing property adjoins a Historic Site, a 40-foot bufferyard will be required (as shown on the preliminary plan) along the common boundaries, and any houses to be built on the developing property must be set back an additional 10 feet from that boundary. The applicant should ensure (through choice of tree types in the buffer) that there will be minimal adverse visual impact upon the Historic Site. The Detailed Site Plan should ensure that architecture, materials, and placement of the houses proposed for Lots 6 through 21 are compatible with the Historic Site.

Because Lots 10, 11 and 12 are small and very close to the historic house at Charles Hill (Historic Site 78-17), and because the standard regulations regarding buffering and setback are insufficient to protect the Historic Site from development of these lots, these three lots should be eliminated or redesigned to ensure minimum adverse impact upon the Historic Site.

In order to preserve the setting of the Charles Hill Historic Site, the Historic Preservation Guidelines (page 29 of the *Adopted and Approved Master Plan for Melwood Westphalia*) should be cited and implemented. For example, it is important that the placement of new houses should be compatible with the adjacent Historic Site. Detailed Site Plan review should ensure that the natural contours of the land are preserved wherever possible and should also ensure the best treatment (i.e., architecture, lighting, garages and driveways, fencing, etc.) of the developing properties visible from the Historic Site.

17. OtherCGeneral Note 4 on the preliminary plan states:

AHistoric resources and cemetery located adjacent to the site are registered under No. 78-17 of the Inventory of Historic sites [sic] of P.G. County.@

The use of the term AP.G.@ is not acceptable and has not been for quite some time. Note 4 should be revised to identify this county as APrince George=s County.@

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 Brown, seconded by Commissioner Lowe, with Commissioners Brown, Lowe, Eley, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, April 25, 2002, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of June 2002.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JD:rmk