

R E S O L U T I O N

WHEREAS, Harbor Place, LLC is the owner of a 74.68-acre parcel of land known as parcel 98, Tax Map 113, Grid F-2, said property being in the 12th Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on November 19 2002, The Peterson Companies filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 95 lots, 4 parcels and 1 outparcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02104 for Potomac Ridge 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 10, 2003, 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 10, 2003, 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/61/02), and further APPROVED Preliminary Plan of Subdivision 4-02104, Potomac Ridge for Lots 1-11, Block A; Lots 1-8, Block B; Lots 1-9, Block C; Lots 1-15, Block D; Lots 1-30, Block E; Lots 1-22, Block F; Parcels A-D and Outparcel A, including a Variation Request from Section 24-130 with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
 - a. To create two additional open space parcels on either side of the proposed road crossing to allow platting of some open space prior to a determination of the use of Outparcel A.
 - b. To straighten the lot line between Lots 21 and 22, block E on Street B cul-de-sac.
 - c. To provide the ultimate right-of-way of Oxon Hill Road.
 - d. To provide a 20-foot-wide access free and clear of the PMA to the Fort Foote Elementary School site to the west. Label this "possible future trail connection" from the end of Street D to the Fort Foote Elementary School property. This corridor shall be part of the HOA land (Parcel A) and shall be a buildable strip of land clear of the stream buffer.

The possible future trail connection shall be clearly located and labeled on the final plat.

- e. To provide a note that disturbance to the PMA shall not be permitted for stormwater management or road crossing if Outparcel A is developed with nonresidential uses.
2. Prior to the issuance of permits a Type II Tree Conservation Plan shall be approved.
3. Prior to approval of final plat(s) that include Lots 5–9, Block C; Lots 1–5, Block E; and Lots 1–15, Block D, the applicant shall submit sufficient evidence of the use of Outparcel A. The stream crossing shall not be permitted for stormwater management or road crossing if Outparcel A is developed with nonresidential uses.
4. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 13.76± acres of open space land. Land to be conveyed shall be subject 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 detailed site 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, utility placement and stormdrain 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. Stormdrain 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. Stormdrain 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 by 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.
- 5. Prior to building permits the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
- 6. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/61/02). The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restriction shown on the approved Type I Tree Conservation Plan (TCPI/61/02), 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 and Subtitle 25.”
- 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.
- 8. Development of this site shall be in accordance with Stormwater Management Concept Plan, #33217-2001-00.
- 9. The applicant shall provide standard sidewalks along the properties’ entire street frontage of Oxon Hill Road and on both sides of the internal public streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
- 10. No building permits shall be issued for this subdivision until the percent capacity, as adjusted pursuant to the School Regulations, at all the affected school clusters **is** less than or equal to 105 percent, or 6 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.

11. At the time of final plat approval, the applicant shall dedicate right-of-way along Oxon Hill Road of 40 feet from the center line of the existing pavement. Improvements within the right-of-way shall be determined by DPW&T
12. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with the SHA/DPW&T:
 - MD 210 at Kerby Hill Road/Livingston Road: Reconstruct the eastbound approach for Kerby Hill Road as a four-lane approach, with three left-turn lanes and a shared through/right-turn lane. This improvement would include relocation of the existing median, widening of the roadway, milling and overlay, and any signal, signage and pavement marking modifications that are determined to be necessary.
13. If Outparcel "A" is to be developed in a residential use, then connection to existing Stardust Place to the north shall be denied and all traffic must be directed to Oxon Hill Road. If Outparcel "A" is to be developed in a commercial use, then lots 1-15, Block D, shall connect to existing Stardust Place to the north and the stream crossing shall be denied.
14. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all 100-year floodplain, stream buffers, wetlands and wetland buffers, except for areas with approved variation requests, and shall be reviewed by the Environmental Planning Section prior to certificate 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."
15. Prior to the issuance of any permits that impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
16. Prior to signature of the Preliminary Plan of Subdivision, the variation requests and exhibits shall be corrected. The text shall include accurate calculations of each proposed disturbance and the figures shall match the appropriate sections of the Type I Tree Conservation Plan.
17. Prior to the issuance of any grading permit, a soils study shall be prepared and reviewed and approved by the Prince George's Health Department, the Prince George's County Department of Environmental Resources, and the M-NCPPC, Environmental Planning Section. The report shall contain logs of all boreholes. The boreholes shall be sufficient in number and location to establish the horizontal and vertical limits of the fill. The report shall include an assessment of

volatile organic compounds, current methane generation, and the presence of heavy metals. Any soils found to contain excessive organics or hazardous constituents shall not be reburied on site, even in nonstructural areas. Unuseable fill materials shall be removed from the site and disposed of properly. If a substantial volume of material is to be removed from the site, a grading plan of the final proposed grades shall be submitted to the Environmental Planning Section for review.

18. Prior to signature of the Preliminary Plan of Subdivision, the Type I Tree Conservation Plan, TCPI/61/02 shall be revised to
 - a. Clear additional woodland on lots to provide for minimum 40-foot useable rear yards and 20-foot useable side yards.
 - b. Revise the limit of disturbance for the raingarden and outfall behind lot 1, Block A.
 - c. Revise the worksheet accordingly.
 - d. Have the revised plan signed and dated by the qualified professional.
19. Prior to the approval of the final plat the stem of Lot 4, Block B shall be made an outlot and conveyed to an abutting property owner or conveyed to a HOA. The net lot area of Lot 4 shall be in accordance with zoning.

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 east side of Oxon Hill Road approximately 1,800 linear feet south of its intersection with Fort Foote Road north.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-80	R-80
Use(s)	Residential	Residential
	Single-family	Single-family
Acreage	74.68	74.68
Lots	0	95
Outlots	0	1
Parcels	1	4
Dwelling Units:		
Detached	1 (to be razed)	95

4. **Environmental**—Approximately one-half of the site is wooded. A review of the information available indicates that streams, wetlands, and 100-year floodplain associated with Henson Creek in the Potomac watershed occur on this property. According to the *Prince George's County Soil Survey*, the principal soils on the site are in the Adelphia, Aura, Beltsville, Bibb, Butlertown, Collington, Keyport, Magnolia, Matapeake, Mattapex, Ochlockonee, Sassafras and Shrewsbury series. A significant area of fill is located on the site. Indian Head Highway is the nearest source of traffic-generated noise. The proposed use is not expected to be a noise generator. There are no rare, threatened, or endangered species located in the vicinity of this property based on information provided by the Maryland Department of Natural Resources–Natural Heritage Program. No historic or scenic roads are affected by this proposal. The sewer and water service categories are S-3 and W-3. The site is in the Developing Tier according to the adopted General Plan.

The *Adopted and Approved Subregion VII Master Plan* describes certain environmental issues in the text and depicts the location on plan maps. The Comprehensive Plan indicates a relatively large area of Conditional Reserve in the eastern portion of the subject property. Conditional Reserve Areas are described on page 44 of the Master Plan:

“Condition Reserve Areas have moderate development constraints and some bearing on natural processes. Parts of the Conditional Reserve Areas are appropriate for active recreation facilities, and some portions may bear limited development within prescribed guidelines. Development is permissible; but careful, innovative site planning is required to protect the environmental assets and to meet environmental needs.”

The rationale for a Conditional Reserve in this location is supported by other information within the Master Plan. The Environmental Features Map shows an area of wooded steep slopes associated with a stream valley. The Open Space Implementation Map indicates an area of unsafe land with reference to Section 24-131 of the Subdivision Regulations. Unsafe Lands include areas subject to flooding, erosive stream action, high water table, unstable soils, or severe slopes, or to manmade conditions on the property such as, but not confined to, unstable slopes or fills.

The revised Forest Stand Delineation (FSD), accepted for processing on February 13, 2002, has been reviewed. Four forest stands and 59 specimen trees have been identified. The plan now shows all streams, wetlands, 100-year floodplain, severe slopes and steep slopes with highly erodible soils. The soils boundaries and information on the table conform with the *Prince George's County Soil Survey*. The text and plan meet all requirements of the Woodland Conservation Ordinance. No further action regarding the Forest Stand Delineation is required at this time.

Type I Tree Conservation Plan TCPI/61/02 has been reviewed. The plan now shows all streams, wetlands, 100-year floodplain, severe slopes, and steep slopes with highly erodible soils. Patterns are used to distinguish woodland areas cleared, woodland areas retained to meet requirements, areas to be planted to meet requirements, and areas retained but not used to meet requirements. An additional table listing individual woodland clearing areas, woodland preservation areas, and

afforestation areas was also provided. A table listing the species, size, condition and proposed disposition of the 59 specimen trees is provided as required.

The plan proposes clearing 13.25 acres of the existing 46.08 acres of upland woodland and clearing 0.03 acre of the existing 1.18 acres of floodplain woodland. The required woodland conservation for this proposal has been correctly calculated as 17.62 acres. The plan proposes to meet this requirement by providing 13.25 acres of on-site preservation, 0.41 acre of on-site reforestation, and 3.96 acres of on-site afforestation for a total area of 17.86 acres. The design is generally acceptable; however, some changes are needed to increase the useable yard area on several lots. Even though the woodlands retained are not part of any proposed woodland conservation area, additional woodlands will need to be cleared on lots 3-4, Block B; 4-6, Block D; 2-4, 17, and 19 Block E; and 21-22, Block F to provide minimum 40-foot useable rear yards. The limit of disturbance for the proposed rain garden and outfall behind lot 1, Block A is not correctly shown. Prior to signature of the Preliminary Plan of Subdivision, the Type I Tree Conservation Plan, TCPI/61/02 needs to be revised as follows:

- a. Show clearing of additional woodland on lots to provide for minimum 40-foot useable rear yards and 20-foot useable side yards.
- b. Revise the limit of disturbance for the rain garden and outfall behind lot 1, Block A, to eliminate impacts to the wetland buffer except for the outfall.
- c. Revise the worksheet as needed.
- d. Have the revise plan signed and dated by the qualified professional.

The *Adopted and Approved Subregion VII Master Plan* shows an area of Conditional Reserve on the site. The Subdivision Ordinance provides for the protection of streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, adjacent areas of slopes in excess of 25 percent, and adjacent areas of slopes between 15 and 25 percent with highly erodible soils. The plan shows streams, wetlands and floodplain on the site. The 100-year floodplain has been approved for existing channel conditions by the Prince George's County Department of Environmental Resources. The wetlands report and delineation have been reviewed and a delineation was approved by the U.S. Army Corps of Engineers. The report and delineation indicate wetlands that occur on the site and are within the jurisdiction of the U.S. Army Corps of Engineers. Additionally, the report and delineation indicate wetlands that occur on the site but are not within the jurisdiction of the U.S. Army Corps of Engineers; however, these wetlands may be in the jurisdiction of the Maryland Department of the Environment. Staff is not aware of any determination by the Maryland Department of the Environment.

Nontidal wetlands are defined in Section 24-101(b)(7) of the Subdivision Regulations:

“An area which is:

“(A) Inundated or saturated by surface or groundwater at a frequency and duration

sufficient to support, and under normal circumstances supports, a prevalence of vegetation typically adapted for life in saturated soils conditions: commonly known as hydrophytic vegetation; or

- “(B) Identified as a nontidal “wetland” in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, published in 1989 and as amended.”

In both (A) and (B), it is crucial to determine if the area is subject to *normal circumstances*. “Normal circumstances” include both naturally occurring and certain man-induced wetlands that existed prior to the enactment of the Clean Water Act in 1972. “Normal circumstances” does not include stormwater management facilities, aquaculture facilities, erosion/sediment control facilities, or similar constructs. “Normal circumstances” does not include areas accidentally created by recent grading.

Staff have examined the wetland report in detail and reviewed the recent history of activities on the site. This analysis is based upon examination of air photos from 1939, 1959, 1967, 1981, 1987, 1988, 1994, 1997, 1998, 1999, and 2000 and the examination of topographic maps from 1973, 1988, and 2000. National Wetland Inventory Maps from 1981 and Maryland DNR Wetland Guidance Maps from 1989 do not show any wetlands on the site. At some period after 1987, the western portion of the site was excavated as a borrow pit for highway construction. Prior to that date there is no evidence that wetlands occurred in the disturbed area except directly in association with streams. After the area was used as a borrow pit, the excavated area was used as a Class III fill. Staff of the Environmental Planning Section have determined that most of the wetland areas west of the main north/south stream are not jurisdictional with regard to the Subdivision Regulations.

The plan proposes impacts to stream buffers and wetland buffers. Impacts to these 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. All disturbance not essential to the development of the site as a whole is prohibited within stream and wetland buffers. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), streets and so forth, that are mandated for public health and safety; nonessential activities are those such as grading for lots, stormwater management ponds, parking areas and so forth, that do not relate directly to public health, safety or welfare. Impacts proposed for nonessential activities are generally not recommended for approval. Variation requests for 15 impacts were submitted with this application.

Review of Variation Requests

The plan proposes impacts to stream buffers and wetland buffers. Impacts to these 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. Even if approved by the Planning Board, the applicant will need to obtain federal and state permits prior to the issuance of any grading permit. The additional permit review will assure that the impacts are

minimized and that there will be no detrimental effects to public safety, health, or welfare, or be injurious to other property.

The variation requests are dated February 6, 2002, and were accepted for processing on the same day. New exhibits, but no revised text, were submitted on March 27, 2003. The text and the exhibits do not agree in details; however, the concepts remain the same. The variation text and exhibits do not match the revised Type I Tree Conservation Plan accepted for processing on March 27, 2003. The specific square footages of the proposed impacts are not correct; however, the figures stated are within the same order of magnitude as shown on the TCP. The Environmental Planning Section has reviewed the concepts of the 15 variation requests in light of the impacts shown on the Type I Tree Conservation Plan. Proposed impacts shown on the TCP but not addressed in the variation requests are not supported.

Variation request #1 is not needed because the isolated wetland is not jurisdictional.

Variation request #2 is not needed because the area is not jurisdictional.

Variation request #3 is not needed because the isolated wetland is not jurisdictional.

Variation request #4 is stated to be for road construction; however, staff notes that even if the road location were slightly adjusted, a similar impact would be required for the construction of the sanitary sewer. This impact is evaluated with impacts #12–14 below.

Variation request #5 is for a road crossing that will impact the minimum 50-foot stream buffer required by Section 24-130 of the Subdivision Regulations. The Environmental Planning Section, after consultation with staff of the Subdivision Section and the Transportation Section, has determined that this impact is not required if Outparcel A is rezoned from R-80 to M-X-T or a commercial zone. The northern 15 lots could be served by a connection to Stardust Place and the proposed connection to Outparcel A would be denied. If, however, Outparcel A remains zoned R-80 or is placed into another residential zone, then the connection to Stardust Place should be denied and the stream crossing will be necessary to serve the proposed 15 lots and Outparcel A. The Environmental Planning Section conditionally supports variation request #5.

Variation request #6 is not needed because the isolated wetland is not jurisdictional.

Variation request #7 is not needed because the isolated wetland is not jurisdictional.

Variation request #8 is not needed because the area is not jurisdictional.

Variation request #9 is for a stormwater management outfall. The TCP shows grading for the rain garden that extends into the minimum 25-foot wetland buffer required by Section 24-130 of the Subdivision Regulations. The grading is conceptual because no final design has been approved. Except for a small outfall, the final design can avoid impact to the mandated wetland buffer. The rain garden will provide pretreatment of stormwater for water quality and the outfall is a required safety device for overflow. The Environmental Planning Section supports variation request #9 for

a stormwater management outfall only because the evidence presented clearly shows that the findings required by Section 24-113 of the Subdivision Regulations can be made. Variation request #10 is for the stormwater outfall for the proposed main stormwater management pond. The general location of the pond is determined by the topography of the site. The pond will be constructed in an upland area and will have no impacts to stream or wetland buffers. The stormwater management pond will provide pretreatment of stormwater for water quality and stormwater quantity control for the proposed development. The outfall is a required safety device for overflow. The Environmental Planning Section supports variation request #10 for a stormwater management outfall only because the evidence presented clearly shows that the findings required by Section 24-113 of the Subdivision Regulations can be made.

Variation request #11 is for the placement of a stormwater management outfall to serve stormwater management pond #2. This will impact the 50-foot stream buffer required by Section 24-130 of the Subdivision Regulations. The pond will be constructed in an upland area and have no impacts to stream or wetland buffers. The stormwater management pond will provide pretreatment of stormwater for water quality and stormwater quantity control for the proposed development. The outfall is a required safety device for overflow. The Environmental Planning Section supports variation request #11 for a stormwater management outfall only because the evidence presented clearly shows that the findings required by Section 24-113 of the Subdivision Regulations can be made.

Variation requests #12, #13, #14, and #15 are for the construction of the sanitary sewer to serve the proposed development. Location #15 is not on the subject property and outside of the review of this application for a Preliminary Plan of Subdivision. The Washington Suburban Sanitary Commission has determined that this sanitary sewer is required to serve the proposed development. There are no practicable alternatives for this alignment because the topography of the site and the location of existing sewer mains. The proposal is not a violation of any other applicable law, ordinance or regulation because state and federal permits are required prior to construction. The Environmental Planning Section supports variation requests #4, #12, #13, and #14 because the evidence presented clearly shows that the findings required by Section 24-113 of the Subdivision Regulations can be made.

Prior to signature approval of the preliminary plan, the variation requests and exhibits need to be corrected. The text shall include accurate calculations of each proposed disturbance and the figures shall match the appropriate sections of the Type I Tree Conservation Plan. Furthermore, a conservation easement should be described by bearings and distances on the final plat, containing all 100-year floodplain, stream buffers, wetlands and wetland buffers, except for areas with approved variation requests, and shall be reviewed by the Environmental Planning Section prior to approval. An appropriate note shall be placed on the plat

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

Indian Head Highway is the nearest traffic-generated noise source. The noise model used by the Environmental Planning Section predicts that the 65dBA noise contour is about 449 feet from the centerline of Indian Head Highway. This line does not impact the subject property. No further action regarding noise is required for this Preliminary Plan of Subdivision.

According to the *Prince George's County Soil Survey*, the principal soils on the site are in the Adelphia, Aura, Beltsville, Bibb, Butlertown, Collington, Keyport, Magnolia, Matapeake, Mattapex, Ochlockonee, Sassafra and Shrewsbury series.

The site was disturbed by excavation after the *Prince George's County Soil Survey* was published. Air photos and topographic maps from 1988 show that the western half of the site was excavated in places to a depth of 20 feet. Subsequent to that excavation, Class III fill was placed on the site.

A soils report was submitted for review. The limited investigation shows the presence of Class III fill that includes rebar, concrete, wood, and in several locations, an odor of petroleum. The limited number of boreholes is not sufficient to describe the horizontal or vertical limits of the fill.

The Environmental Planning Section concurs with the Prince George's County Health Department that the Class III fill material is unacceptable for development because of the risk of differential settling affecting foundations, roads, and water and sewer lines. Additionally, there is a risk for methane generation in the fill. Finally, the reports provided evidence of petroleum contamination that has not been addressed by a proper environmental assessment. Prior to the issuance of any grading permit, a soils study must be prepared and reviewed and approved by the Prince George's Health Department, the Prince George's County Department of Environmental Resources, and the M-NCPPC, Environmental Planning Section. The report shall contain logs of all boreholes. The boreholes shall be sufficient in number and location to establish the horizontal and vertical limits of the fill. The report shall include an assessment of volatile organic compounds, current methane generation, and the presence of heavy metals. Any soils found to contain excessive organics or hazardous constituents shall not be reburied on site, even in nonstructural areas. Unuseable fill materials shall be removed from the site and disposed of properly. If a substantial volume of material is to be removed from the site, a grading plan of the final proposed grades shall be submitted.

The *Adopted and Approved Subregion VII Master Plan* refers to "clay beds of the Patapsco Formation" (page 33), which are subject to slide, slump or flow. The Map Showing Landslide Susceptibility in Prince George's County, Maryland, a document prepared by the U.S. Geological Survey, indicates an area of medium-to-high susceptibility to land sliding associated with Potomac Group sediments on the subject property. The Patapsco Formation is a geologic unit within the Potomac Group. Land sliding in the Patapsco Formation is associated with extensive cut on steep slopes.

The Environmental Planning Section has reviewed the proposed grading and soils report. There is no significant concern regarding slope failure because the proposed excavation is not in an area with significant slopes and will not create steep slopes. No further action regarding slope failure is required with regard to this Preliminary Plan of Subdivision.

5. **Community Planning**—The subject property is located within the limits of the 1981 Subregion VII Master Plan in Planning Area 80 in the Fort Foote Community. The 2002 General Plan locates the property in the Developing Tier. The master plan land use recommendation is for Suburban Residential. The proposed preliminary plan is compatible with the existing, moderate density, and residential subdivisions in the Fort Foote area and is consistent with the land use recommendation of the master plan and the General Plan.

Conditional Reserve areas are shown throughout the central portion of the site, indicating moderate development constraints associated with steep and severe slopes and streams and drainage areas. These areas are being evaluated in conjunction with the required tree conservation and preservation plan as discussed further in Finding 4.

6. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations the Department of Parks and Recreation recommends the payment of a fee-in-lieu of the requirement of the mandatory dedication of land because the land available for dedication is unsuitable due to its size and location.
7. **Trails**—One master plan trail impacts the subject site. Oxon Hill Road is designated as a master plan trail/bikeway corridor in the 1985 Equestrian Addendum to the Countywide Trails Plan and the Adopted and Approved Subregion VII Master Plan. Improvements to Oxon Hill Road are currently being considered by DPW&T for the entire Oxon Hill Road corridor, and pedestrian and bicycle facilities will be provided by DPW&T as part of this project. The master plan trail is currently planned along the west side of Oxon Hill Road. A standard sidewalk is recommended along the subject property's frontage.

Also, because of the location of the existing Fort Foote Elementary School adjacent to the subject property, an easement for a possible future trail connection is recommended to provide safe access to the school from the neighborhood. This would allow for the future provision of a neighborhood connection to the school, if deemed necessary by the residents and BOE.

8. **Transportation**—The applicant has submitted a traffic study dated December 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*. Comments from the county Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA) are attached.

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. Mitigation, as

defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the *Guidelines*.

Unsignalized intersections: The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Staff Analysis of Traffic Impacts

The applicant has prepared a traffic impact study in support of the application using new counts taken in April 2002. With the development of the subject property, the traffic consultant has determined that adequate transportation facilities in the area can be attained with off-site transportation improvements that are identified in the study. The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections:

MD 210/Kerby Hill Road/Livingston Road
Oxon Hill Road/Kerby Hill Road
Oxon Hill Road/Fort Foote Road (north intersection)
Oxon Hill Road/Fort Foote Road (south intersection)
Oxon Hill Road/Livingston Road/Old Fort Road North
Oxon Hill Road/site entrance (planned/unsignalized)

The following conditions exist at the critical intersections:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/Kerby Hill Road/Livingston Road	1,797	1,732	F	F
Oxon Hill Road/Kerby Hill Road	1,116	1,054	B	B
Oxon Hill Road/Fort Foote Road (north)	1,178	924	C	A
Oxon Hill Road/Fort Foote Road (south)	697	858	A	A
Oxon Hill Road/Livingston Road/Old Fort Foote Road North	1,093	1,304	B	D
Oxon Hill Road/site entrance	planned		--	--
*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.				

The transportation staff did not agree with the study's approach to determining background traffic. Staff had two issues:

- a. National Harbor was the only approved development included. Salubria should have been included, with 500,000 square feet of office space, generating 1,000 AM and 925 PM peak-hour trips, with 10 percent of trips oriented southbound along MD 210 and another 10 percent oriented southbound along Oxon Hill Road. The Wharton's Rest and the Indian Queen South developments are substantially built out and need not have been included. The Willows, with 12 detached residences, should have been included. Staff has considered these developments in its analysis of background traffic.
- b. The study takes a trip reduction for the construction of a park-and-ride lot farther south along MD 210. While the lot at MD 210/MD 373 is funded, it is not clear how many lot patrons were otherwise informally parking along the MD 210 service road in that area. Staff supports reducing that reduction by one-half.

Given these revised assumptions, the following background traffic conditions were determined:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/Kerby Hill Road/Livingston Road	1,902	1,831	F	F
Oxon Hill Road/Kerby Hill Road	1,210	1,133	C	B
Oxon Hill Road/Fort Foote Road (north)	1,272	1,003	C	B
Oxon Hill Road/Fort Foote Road (south)	791	938	A	A
Oxon Hill Road/Livingston Road/Old Fort Road	1,146	1,351	B	D
North				
Oxon Hill Road/site entrance	planned		--	--
*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.				

The site is a proposed residential subdivision of 95 single-family detached residences. The resulting site trip generation would be 71 AM peak hour trips (14 in, 57 out) and 86 PM peak hour trips (57 in, 29 out). With site traffic, the following operating conditions were determined:

TOTAL TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)
MD 210/Kerby Hill Road/Livingston Road	1,914	1,840	F F
Oxon Hill Road/Kerby Hill Road	1,239	1,178	C C
Oxon Hill Road/Fort Foote Road (north)	1,319	1,048	D B
Oxon Hill Road/Fort Foote Road (south)	795	944	A A
Oxon Hill Road/Livingston Road/Old Fort Road North	1,166	1,366	C D
Oxon Hill Road/site entrance	24.8*	18.3*	-- --
*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.			

The traffic analysis identifies a severe inadequacy at the MD 210/Kerby Hill/Livingston Road intersection. In response to the inadequacy at this intersection, the applicant has proffered mitigation. This intersection is eligible for mitigation under the fourth criterion in the Guidelines for Mitigation Action (approved as CR-29-1994). The applicant recommends the improvements described below to mitigate the impact of the applicant's development in accordance with the provisions of Section 24-124(a)(6). The following improvement is proposed:

- The addition of a fourth westbound through lane along Kerby Hill Road.

The applicant has suggested that right-of-way is not an issue at this location. The applicant proposes that the existing median be moved, and that eastbound Kerby Hill Road be striped and signed to allow three left-turn lanes and a single lane for through/right-turn movements.

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 210/Kerby Hill Road/Livingston Road				
Background Conditions	F/1,902	F/1,831		
Total Traffic Conditions	F/1,914	F/1,840	+12	+9
Total Traffic Conditions w/Mitigation	E/1,807	D/1,811	-107	-29

As the CLV is greater than 1,813 during both peak hours, the proposed mitigation action must mitigate at least 100 percent of the trips generated by the subject property during the AM peak hour and bring the CLV to no greater than 1,813. The above table indicates that the proposed Mitigation Action would mitigate at least 100 percent of site-generated trips during both peak hours, while reducing the computed CLV to no greater than 1,813 during each. **Therefore, the proposed mitigation at MD 210 and Kerby Hill Road/Livingston Road meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.**

The mitigation plan was reviewed by DPW&T and SHA. Comments from both agencies are attached. SHA agreed that the mitigation was acceptable. DPW&T did not raise objection to the mitigation that was proposed. However, DPW&T stated that the background traffic analysis did not consider several approved developments in the area. DPW&T also stated that traffic growth would be higher than the 2.1 percent annual growth assumed. Staff did identify and check several developments in the area and found some that should have been included in background traffic; that was done in staff's analysis. Concerning future traffic growth along Oxon Hill Road, by including a number of other approved developments in the staff's analysis, the effective rate of traffic growth along Oxon Hill Road used is much closer to 4.6 percent per year.

Access to the site and circulation within the site poses complex issues due to environmental constraints. A small portion of the lots and an outparcel are to the east of a stream valley within the site. It might have been acceptable to have these few lots gain access via Stardust Place, which stubs into the property from the adjacent Brook Manor community. But the outparcel would have had to utilize the same access, leading to unacceptable impacts upon local streets within Brook Manor. There is a rezoning application for the outparcel (and other adjacent properties) which is pending. The access and circulation shown on the subdivision plan is certainly appropriate to serve the development of the outparcel under the current zone, and that is the presumption which must be made at this time.

Adequate transportation facilities will exist to serve the proposed subdivision as required under

Section 24-124 of the Prince George's County Code.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001) and concluded the following:

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	95 sfd	95 sfd	95 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	22.80	5.70	11.40
Actual Enrollment	4651	4598	8393
Completion Enrollment	82	66	132
Wait Enrollment	39	15	29
Cumulative Enrollment	30.48	13.98	27.96
Total Enrollment	4825.28	4698.68	8593.36
State Rated Capacity	4492	5114	7752
Percent Capacity	107.42%	91.88%	110.85%
Funded School	N/a	N/a	Surrattsville addn.

Source: Prince George's County Planning Department, M-NCPPC, January 2003

These figures are correct on the day the referral was written. They are subject to change under the provisions of CB-40 and CR-23. 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 of approval are the ones that apply to this project.

The affected elementary and high school clusters percent capacities are greater than 105 percent. There is no Funded School in the affected elementary school cluster. The Surrattsville addition is the Funded School in the affected high school cluster. Therefore, this subdivision can be approved with a six-year waiting period.

Based on this information, the subdivision may be approved subject to conditions, in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001).

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities and concluded the following.
 - a. The existing fire engine service at Oxon Hill Fire Station, Company 21, located at 7600 Livingston Road, has a service travel time of 3.57 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Oxon Hill Fire Station, Company 21, located at 7600 Livingston Road, has a service travel time of 3.57 minutes, which is within the 6.25-minute travel time guideline.
 - c. The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 4.65 minutes, which is within the 7.25-minute travel time guideline.

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*.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic service.

11. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. In accordance with Section 24-122.01(c) of the Subdivision Regulations the existing county police facilities will be adequate to serve the proposed Potomac Ridge development. This police facility will adequately serve the population generated by the proposed subdivision.
12. **Health Department**—The Health Department has commented on the proposed subdivision. A discussion of the Health Department issue is found in Environmental Finding 2 of this report.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, # 33217-2001-00, 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. The subject property is located on Tax Map 113 in Grid F-2 and is known as Parcel 98. The property is approximately 74.68 acres, zoned R-80 and improved with a single-family dwelling unit and several accessory barns. All of the existing structures are to be removed.

The applicant is proposing to subdivide this property into 95 lots, four parcels and one outparcel. The lots will be utilized for the construction of single-family dwelling units. Parcels A, B, C and D are open space parcels to be conveyed to a homeowners association (HOA) and total 13.76 acres. Outparcel A is approximately 28.4 acres and is to be retained by the applicant for future development.

The property has frontage on Oxon Hill Road, a collector facility with an ultimate right-of-way of 80 feet. The applicant is proposing to serve the development via internal public streets, dedicated to public use. The main spine road is proposed with a right-of-way of 60 feet. The remaining internal streets are proposed at 50 feet wide. Ten of the 95 lots proposed have frontage on Oxon Hill Road. Staff recommends only eight of those lots have direct vehicular access to Oxon Hill Road, a collector facility with a right-of-way width of 80 feet. Two lots are corner lots having frontage on an internal public street and Oxon Hill. Those lots should be restricted to direct vehicular access to the internal public street.

The property is currently a part of a pending rezoning application, A-9949. The rezoning application contains approximately 154.88 acres and includes two additional parcels of land that are not the subject of this preliminary plan. Parcel 1 is 30 acres and is located to the east, fronting on MD 210. Parcel 101 is 46.37 acres and is located to the south abutting the Tor-Bryan Estates Subdivision. Parcels 1 and 101 are zoned R-R, with the subject property being zoning R-80. The rezoning application is a request to rezone these properties to M-X-T.

Under the M-X-T Zone, the applicant is proposing a mixed-use development with 600,000 square feet of retail commercial oriented toward Indian Head Highway and up to 400,000 square feet of flexible-office/light industrial space. The concept plan for A-9949 includes the subject property (Parcel 98), Parcel 101 and Parcel 1 and proposes a major road through the property connecting Indian Head Highway with Oxon Hill Road. The concept plan proposes no connection to the existing subdivisions to the north or south.

Notwithstanding the rezoning application, the applicant is proposing the subdivision of Parcel 98, not including Parcels 1 and 101, in accordance with the conventional R-80 zoning standards. At this time the applicant is not proposing to develop the entirety of Parcel 98 and therefore proposes an outparcel to contain the remainder of Parcel 98, approximately 28.4 acres, to be known as Outparcel A. Outparcel A is proposed for commercial development as part of rezoning application A-9949. If that application is denied, the applicant may choose to propose residential development of Outparcel A.

Relating to the possible use scenarios of Outparcel A is an expanded environmental buffer located on the subject site that includes streams, wetlands, 100-year floodplain and buffers. The applicant is proposing to cross this feature with a road and facilities in support of stormwater management, causing significant disturbance to serve 15 dwelling unit lots, located to the north and east of the expanded buffer, as shown on this preliminary plan. The impacts to this environmental feature are not justified to serve the 15 lots, as discussed further in Finding 4 of this report. Stardust Place (north), a stub street originally intended to extend into this property for access from the north, should be utilized to serve the 15 lots and cul-de-sac to the north and east of the expanded

buffer. The remaining lots would be served via Oxon Hill Road with Stardust Place (south) extended to a cul-de-sac to the south of the expanded buffer. However, the use of Outparcel A should be taken into consideration when evaluating the impact of the proposed development on the surrounding communities and the expanded environmental buffer.

If Outparcel A is developed with retail/commercial uses, access through the proposed residential subdivision access through the proposed residential subdivision should be avoided and the plan revised to remove the stub street into Outparcel A. Access should be oriented toward Indian Head Highway if the Outparcel is developed in accordance with the M-X-T Zone and addressed as part of a Conceptual Site Plan and Detailed Site Plan review process required for all uses and improvements in the M-X-T Zone.

If Outparcel A is developed as an extension of this preliminary plan in accordance with the conventional R-80 zoning standards, the Planning Board finds that the crossing of the environmental feature if necessary, with sole access via Oxon Hill Road, Stardust Place (south) to serve this development and Outparcel A with no connection to Stardust Place (north). If Outparcel A is developed residentially the need for the expanded buffer impacts for the road crossing become more apparent as discussed further in Finding 4 of this report. In addition, with the road crossing of the expanded buffer, the extension of Stardust Place (north) would not be necessary or recommended to serve the development.

In order to preserve the greatest degree of flexibility for the applicant and ensure the orderly development of this property, a determination of the use of Outparcel A be identified prior to final plat approval for those lots which would be impacted: specifically, Lots 5–9, Block C; Lots 1–5, Block E; and 1–15, Block D. Sequential platting of the property could occur for those lots not impacted by the road crossing, stormwater management facilities and the possible cul-de-sac of both the north and south extension of Stardust Place.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Scott, with Commissioners Eley, Scott and Hewlett voting in favor of the motion, and with Commissioner Lowe absent at its regular meeting held on Thursday, April 10, 2003 in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 8th day of May 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk