

R E S O L U T I O N

WHEREAS, Waterside Conservation is the owner of a 92.2-acre parcel of land known as part of Parcel 8, Tax Map 141, Grid E-2 said property being in the 5thth Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on December 31, 2002, Waterside Conservation L.L.C. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 56 lots and 3 outparcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-02122 for Waterford Conservation L.L.C. 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 24, 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 24, 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/18/00-01), and further APPROVED Preliminary Plan of Subdivision 4-02122, Waterford Conservation for Lots 1-56 and Outparcels 1-3, including a Variation to Section 24-130 of the Subdivision Regulations with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. To provide the approved Stormwater Management Concept Plan number and approval date.
 - b. To provide a note that the property is located within the limits of the Mount Vernon Viewshed as defined by the Trust for Public Lands' 1995 document, *Preserving Mount Vernon's Historic View: A New Strategy for Development*.
 - c. To provide a note that the development of flag lots shall be in conformance with Section 24-138.01 of the Subdivision Regulations and the *Landscape Manual*.
 - d. To adjust the lot areas to accommodate the density proposed and revise the Summary Table accordingly.
 - e. To revise the title block to include the proposed lots, parcels and outparcels.

- f. To provide street “A” as a 60-foot-wide right-of-way as required by DPW&T or provide evidence that a 50-foot-wide right-of-way is acceptable.
2. Prior to the issuance of permits a Type II Tree Conservation Plan shall be approved.
3. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/18/00-01). 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/18/00-01), 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 and Subtitle 25.”
4. 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.
5. At the time of final plat approval, the applicant shall dedicate a right-of-way along Old Fort Road South of 80 feet from the opposite right-of-way line, as shown on the subdivision plan. Improvements within the right-of-way shall be determined by DPW&T
6. Prior to the issuance of any building permits within the subject property, the following road improvement 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:
 - a. MD 210 at Old Fort Road South: Modify the westbound approach to provide an exclusive right-turn lane, an exclusive through lane, and dual left-turn lanes.
 - b. Modify the eastbound approach to provide additional pavement for the purpose of extending the dual-lane approach. This will be limited within the existing right-of-way, and a length no greater than 75 feet, subject to the approval by the responsible operating agency.
7. All lots having frontage on both Old Fort Road South and the internal street shall have driveway access directed toward the internal street.
8. Prior to signature approval of the preliminary plan, the 1.5 safety factor line shall be reviewed by the M-NCPPC Environmental Planning Section and the Prince George’s County Department of Environmental Resources.

9. The final plat shall show the 1.5 safety factor line as a building restriction line and shall be described by bearings and distances. The final plat shall contain the following note:

“Due to the potential for slope failure, no structures or accessory structures may be placed beyond the rear building restriction line on Lots 13-16, 19-22, or 39-43.”

10. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the entire expanded stream buffer except for approved variations and shall be reviewed by the Environmental Planning Section prior to certificate approval. 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."

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

12. 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 organic content 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. Unusable 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.

13. A Chesapeake Bay Critical Area Conservation Area coinciding with the limits of the Chesapeake Bay Critical Area Overlay Zone shall be described on the record plat by bearings and distances. The following note shall be placed on the final plat:

“No structures or impervious surfaces are permitted within the Chesapeake Bay Critical Area Conservation Area. The establishment of lawns, gardens and other horticultural uses are permitted.”

14. Prior to signature approval of the Type I Tree Conservation Plan, TCPI/18/00-01, the plan shall be revised to:

- a. Revise the patterns on the plan and in the legend to distinguish woodland retained as part of the requirement and woodland retained but not part of any requirement.

- b. Revise the plan to show all building restriction lines, all conservation easements, and conceptual house locations that demonstrate 40-foot usable rear yards and 20-foot side yards unencumbered by designated woodland conservation areas or conservation easements on all lots except those that contain portions of the CBCA Critical Area.
- c. Replace the General Notes on sheet 1 of 2 with:
 - (1) This plan is conceptual in nature and is submitted to fulfill the woodland conservation requirements of 4-02122. The TCPI will be modified by a Type II Tree Conservation Plan in conjunction with the approval of a detailed site plan, a specific design plan, and/or a grading permit application.
 - (2) The Type II Tree Conservation Plan will provide specific details on the type and location of protection devices, signs, reforestation, afforestation, and other details necessary for the implementation of the Woodland Conservation Ordinance on this site.
 - (3) Significant changes to the type, location, or extent of the woodland conservation reflected on this plan will require approval of a revised Type I Tree Conservation Plan by the Prince George's County Planning Board.
 - (4) Cutting, clearing, or damaging woodlands contrary to this plan or as modified by a Type II Tree Conservation Plan will be subject to a fine not to exceed \$1.50 per square foot of woodland disturbed without the expressed written consent of the Prince George's County Planning Board or designee. The woodlands cleared in conflict with an approved plan shall be mitigated on a 1:1 basis. In addition, the Woodland Conservation replacement requirements ($\frac{1}{4}$:1, 2:1, and/or 1:1) shall be calculated for the woodland clearing above that reflected on the approved TCP.
 - (5) Property owners shall be notified by the Developer or Contractor of any Woodland Conservation Areas (Tree Save Areas, Reforestation Areas, Afforestation Areas, or Selective Clearing Areas) located on their lot or parcel of land and the associated fines for unauthorized disturbances to these areas. Upon the sale of the property the owner/developer or owner's representative shall notify the purchaser of the property of any Woodland Conservation Areas.
 - (6) Plans for stormwater management are contained in Conceptual Stormdrain Plan, CSD #38989-2002. It is understood that final design plans for stormwater management will be approved prior to the approval of any grading permit.
 - (7) Lands to be dedicated to a public agency will only be used to fulfill the woodland conservation requirements if the agency provides written authorization for the use of those lands prior to the approval of the Type I Tree Conservation Plan.
 - (8) Any project that proposes clearing on public land beyond that shown on the TCPI

shall require a revised TCPI.

- d. Have the revised plan signed and dated by the qualified professional.
- 15. Prior to signature approval of the Type I Tree Conservation Plan, TCPI/18/00-01, all public agencies allowing the use of land for meeting the woodland conservation requirements shall provide a written approval to the Development Review Division.
- 16. The following notes shall be placed on the Type II Tree Conservation Plan:

WOODLAND CONSERVATION AREA MANAGEMENT NOTES

Removal of Hazardous Trees or Hazardous Limbs By Developers or Builders

The developer and/or builder is responsible for the complete preservation of all forested areas shown on the approved plan to remain undisturbed. Only trees or parts thereof designated by the Department of Environmental Resources as dead, dying, or hazardous may be removed.

- a. A tree is considered hazardous if a condition is present which leads a Licensed Arborist or a Licensed Tree Expert to believe that the tree or a portion of the tree has a potential to fall and strike a structure, parking area, or other high use area and result in personal injury or property damage.
- b. If a hazardous condition may be alleviated by corrective pruning, the Licensed Arborist or a Licensed Tree Expert may proceed without further authorization. The pruning must be done in accordance with the latest edition of the ANSI A-300 Pruning Standards (Tree, Shrub, and Other Woody Plant Maintenance¾ Standard Practices).
- c. Corrective measures requiring the removal of the hazardous tree or portions thereof shall require authorization by the building or grading inspector if there is a valid grading or building permit for the subject lots or parcels on which the trees are located. Only after approval of the appropriate inspector may the tree be cut by chainsaw to near the existing ground level. The stump may not be removed or covered with soil, mulch or other materials that would inhibit sprouting.
- d. Debris from the tree removal or pruning that occurs within 35 feet of the woodland edge may be removed and properly disposed of by recycling, chipping or other acceptable methods. All debris that is more than 35 feet from the woodland edge shall be cut up to allow contact with the ground, thus encouraging decomposition. The smaller materials shall be placed into brush piles that will serve as wildlife habitat.

Removal of Hazardous Trees, Hazardous Limbs, Noxious Plants, Invasive Plants or Nonnative Plants in Woodland Conservation Areas Owned by Individual

Homeowners

- a. If the developer or builder no longer has an interest in the property, the homeowner shall obtain a written statement from the Licensed Arborist or Licensed Tree Expert identifying the hazardous condition and the proposed corrective measures prior to having the work conducted. The tree may then be removed by the arborist or tree expert. The stump shall be cut as close to the ground as possible and left in place. The removal or grinding of the stumps in the woodland conservation area is not permitted.
- b. The removal of noxious, invasive, and nonnatives plant species from the woodland conservation areas may be done with the use of hand-held equipment only such as pruners or a chain saw. These plants may be cut near the ground and the material less than two inches diameter may be removed from the area and disposed of appropriately. All material from these noxious, invasive, and non-native plants greater than two inches diameter shall be cut to allow contact with the ground, thus encouraging decomposition.
- c. The use of broadcast spraying of herbicides is not permitted. However, the use of herbicides to discourage resprouting of invasive, noxious, or nonnative plants is permitted if done as an application of the chemical directly to the cut stump immediately following cutting of plant tops. The use of any herbicide shall be done in accordance with the label instructions.

Note: The use of chainsaws is extremely dangerous and should not be conducted with poorly maintained equipment, without safety equipment, or by individuals not trained in the use of this equipment for the pruning and/or cutting of trees.

Protection of Reforestation and Afforestation Areas by Developers or Builders

- a. Reforestation and afforestation areas shall be planted prior to the occupancy of the nearest building or residence. If planting cannot occur due to planting conditions, the developer or property owner shall install the fencing and signage in accordance with the approved Type II Tree Conservation Plan. Planting shall then be accomplished during the next planting season. If planting is delayed beyond the transfer of the property title to the homeowner, the developer shall obtain a signed statement from the purchaser indicating that they understand that the reforestation area is located on their property and that reforestation will occur during the next planting season. A copy of that document shall be presented to the Grading Inspector and the Environmental Planning Section.
- b. Reforestation areas shall not to be mowed, however, the management of competing vegetation around individual trees is acceptable.

Protection of Reforestation and Afforestation Areas by Individual Homeowners

- a. Reforestation fencing and signage shall remain in place in accordance with the approved Type II Tree Conservation Plan or until the trees have grown sufficiently to have crown closure.
- b. Reforestation areas shall not to be mowed, however, the management of competing vegetation around individual trees is acceptable.

Woodland Areas not Counted as Part of the Woodland Conservation Requirements

- a. A revised Tree Conservation Plan is required prior to clearing any woodland area which is not specifically identified to be cleared on the most recently approved Type II Tree Conservation (TCP) on file in the office of the M-NCPPC Environmental Planning Section located on the 4th floor of the County Administration Building at 14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20772, phone 301-952-3650. Additional mitigation will be required for the clearing of all woodlands beyond that reflected on the approved plans. Although clearing may be allowed, it may be subject to additional replacement requirements, mitigation, and fees which must be reflected on TCP revisions approved by the M-NCPPC Environmental Planning Section.
 - b. Homeowners or property owners may remove trees less than two inches in diameter, shrubs, and vines in woodland areas which are saved but not part of the Woodland Conservation requirements after all permits have been released for the subject property. This area may not be tilled or have other ground disturbances which would result in damage to the tree roots. Raking the leaves and overseeding with native grasses, native flowers or native ground covers is acceptable. Seeding with invasive grasses including any variety of Kentucky 31 fescue is not acceptable.
17. In conformance with the *Adopted and Approved Subregion VII Master Plan* and the 1985 *Equestrian Addendum* to the *Adopted and Approved Countywide Trails Plan*, and per discussions with the Department of Public Works and Transportation, the applicant and the applicant's heirs, successors, and/or assignees shall construct a half section of the roadway including 26 feet of paving from the edge of the centerline of the road to the face of the curb, plus a 6-foot-wide concrete sidewalk along the subject property's entire frontage of Old Fort Road, per the concurrence of DPW&T.
 18. Prior to signature approval of the preliminary plan the applicant shall revise Lot 19 to meet the minimum lot width at the front street line of 50 feet or revise Lot 19 to meet the design standards for flag lot development. If a conventional lot layout or a flag lot layout cannot be accommodated, the result will be the loss of Lot 19.

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 south side of Old Fort Road, approximately 920 feet east of Fort Washington Road in Fort Washington.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone	EXISTING R-E/R-C-O	PROPOSED R-E/R-C-O
Use(s)	Single-family Residential	Single-family Residential
Acreage	92.22	92.22
Lots	0	56
Outlots	0	3
Parcels	1	0
Dwelling Units:		
Detached	0	56

4. **Environmental**—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 has more than 10,000 square feet of woodland. The Forest Stand Delineation (FSD) has been reviewed. The FSD is based upon 31 sample areas and includes the 132.23 acres that were the subject of 4-00019 and wholly encompasses the area of the subject application. Eight forest stands comprising 113.21 acres are described and the locations of 17 specimen trees shown. The plan clearly shows the streams, wetlands, floodplain, areas with severe slopes and areas with steep slopes containing highly erodible soils. The plan and text meet the requirements of the Woodland Conservation Ordinance. Staff is recommending approval of TCPI/18/00-01 subject to conditions.

A Type I Tree Conservation Plan, TCPI/18/00, was approved by PGCPB Resolution No. 00-107. The current application proposes significantly more clearing than previously approved. A major revision to the previously approved TCP was required. The revised Type I Tree Conservation Plan, TCPI/18/00-01, has been reviewed. The plan includes the 132.23 acres that were the subject of 4-00019 and wholly encompasses the area of the subject application. The plan proposes clearing 24.09 acres of the existing 103.50 acres of upland woodland and clearing 0.15 acre of the existing 9.71 acres of floodplain woodland. The calculations include off-site clearing for the installation of the sewer line. The worksheet correctly calculates the woodland conservation requirement as 35.33 acres.

The applicant proposes to meet the requirement by providing 35.33 acres of on-site preservation. An additional 44.85 acres of woodland is proposed to be retained but is not part of any requirement. The plan fails to distinguish the woodland retained as part of the requirement from

woodlands retained that are not part of the requirement. At a minimum, the expanded stream buffer on Lots 13 through 22 and Lots 39 through 43 and a 40-foot wide strip adjacent to the

public utility easement along Old Fort Road on Lots 1 through 13 should be included in designated woodland conservation areas.

When woodlands not used to meet the requirement are retained on lots, homeowners often desire to remove some to increase their useable yard area. This increase in clearing would increase the requirement for the site. Lots 10, 11, 12, 15, 16, 17, 20, 43, 45, 46, 47 and 48 do not appear to have useable rear yard areas at least 40 feet in depth. The limits of disturbance shown and the need for conservation easements to protect sensitive areas make the construction of dwellings with useable yards difficult, the applicant has been clearly advised of this concern and the restriction on these lots.

According to the "Mount Vernon and Piscataway Quadrangles Geological and Environmental Atlas" produced by the Maryland Geological Survey, Marlboro Clay occurs on the site. Significant areas of the site are unsafe due to the potential for landslide and are subject to review under Section 24-131 of the Subdivision Regulations.

A geotechnical report has been reviewed. The report contains the logs of 27 boreholes. Three holes encountered Marlboro clay between elevations 124 and 132. Based upon that information the projected outcrop area is shown on the plans. On March 19, 2003, subsequent to the preparation of the geotechnical report, staff visited the site with representatives of the Prince George's County Department of Environmental Resources and the applicant. Marlboro clay was found near the location of the proposed stormwater management outfall and beyond the limits shown on the plan. The 1.5 safety factor line shown on the plan is based upon a continuous band of Marlboro clay outcropping between elevations 124 and 132. Structures may not be placed beyond the 1.5 safety factor line.

The Subregion VII Master Plan indicates that there are substantial areas designated as Natural Reserve on the site. As noted on page 42 of the Subregion VII Master Plan:

"The Natural Reserve Area is composed of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas must be preserved in their natural state."

For the purposes of this review, these areas include all of the expanded stream buffer and any isolated sensitive environmental feature. All disturbance not essential to the development of the site as a whole is prohibited within stream buffers. Essential development includes such features as public utility lines, including sewer and stormwater outfalls, that are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, and parking areas, that do not relate directly to public health, safety or welfare. Impacts for essential development features require variations to the Subdivision Regulations. Variation requests for two impacts were submitted with this application.

Impacts to these buffers are restricted 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. Each variation is described individually below. However, for purposes of discussion relating to Section 24-113(a) of the Subdivision Regulations, the impacts were discussed collectively.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;*
- (2) The Conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;*
- (3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation;*
- (4) 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 strict letter of these regulations is carried out;*

Variation request #1 is for the connection of the proposed development to an existing sewer line and will create a temporary impact of 17,400 square feet on-site and 20,000 square feet off-site to the expanded stream buffer. The Washington Suburban Sanitary Commission has determined that this connection is required in this specific location to properly connect to the existing sewer line. There are no practical alternatives for this alignment because of the locations of the existing sewer lines and the topography of the site for the proposed development. A detailed study of the existing sewer system shows that the failure to grant this variation request would result in the loss of 12 of the 56 proposed lots (21 percent loss). 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 request #1.

Variation request #2 is for the construction of stormwater management berms, outfall and check-dams that will impact the expanded stream buffer. This request is intended to fulfill existing regulations regarding stormwater management. The proposal is not a violation of any

other applicable law, ordinance or regulation because state and federal permits are required prior to construction. These stormwater management facilities have been reconfigured from previous submissions to minimize impacts to the extended buffer; however, no outfall for the pond can be created that would not impact the expanded buffer. The berms will impact 10,000 square feet, the outfall will impact 13,800 square feet, and the three check-dams will impact a total of 900 square feet. The Environmental Planning Section supports variation request #2.

The site was used as a dredge disposal site for Fort Washington Marina and was the subject of Chesapeake Bay Critical Area Conservation Plan CP-80004, which was approved by the Planning Board on September 25, 1988. The area of dredge spoil may not be suitable for development. The area of dredge spoil is shown on the FSD and borehole logs in the geotechnical report indicate some of the thickness. Preliminary information suggests the presence of heavy metals and minor amounts of organics.

Prior to the issuance of any grading permit, a soils study should 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 should contain logs of all boreholes and the boreholes should be sufficient in number and location to establish the horizontal and vertical limits of the fill. The report should also include an assessment of organic content and presence of heavy metals. Any soils found to contain excessive organics or hazardous constituents should not be reburied on-site, even in nonstructural areas. Unusable fill materials should 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 should be submitted.

The subject parcel contains a portion of land within the R-C-O Zone of the Chesapeake Bay Critical Area. A Chesapeake Bay Critical Area Conservation Plan, CP-80004, was approved by the Planning Board on September 25, 1988, to allow for grading and clearing of the dredge disposal project. The current application proposes no grading within the Chesapeake Bay Critical Area and in that respect conforms to the approved plan. Substantial portions of proposed Lots 42 through 52 are within the R-C-O Zone. To comply with the requirements of the Prince George's County Chesapeake Bay Critical Area Program, residential structures and accessory structures are not permitted within the R-C-O portions of these lots.

Moreover, future homeowners may not be aware of the restrictions associated with the R-C-O Zone without the addition of a conservation easement over this area. The final plat should provide notification to prospective homeowners that restriction relating to the placement of dwellings and accessory structures exists on the lots. The final plat should locate a Chesapeake Bay Critical Area Conservation area coinciding with the limits of the Chesapeake Bay Critical Area Overlay Zone on the subject lots. The applicant has been advised that the proposed lots containing the CBCA are extensively restricted for development insofar as the placement of structures and would recommend full disclosure to future residences of these restrictions.

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 Washington-Broad Creek Community. The 2002 General Plan locates this property in the Developing Tier. The master plan land use

recommendation for this property is estate residential land use at up to one dwelling unit per acre. The applicant has proposed the use of lot size averaging which is consistent with the density of one dwelling unit per acre in the R-E Zone.

The property is located within the Mount Vernon viewshed as defined by the Trust for Public Lands' 1995 document, *Preserving Mount Vernon's Historic View: A New Strategy for Development*. The applicant's proposal is consistent with the recommendations in that document, to include the preservation of existing forest areas, siting of new structures and the guidelines for new roads. However, staff would recommend that the applicant take into consideration the design and color guidelines for new construction contained in Chapter VII. These guidelines provide recommendation regarding roof colors and materials and siding colors and materials.

The master plan contains a floating symbol for a proposed community park at this location. The Department of Parks and Recreation has evaluated the proposed plan and does not recommend the reservation of this property to implement the floating master plan symbol as noted further in Finding 4 of this report.

The proposed preliminary plan is consistent with the recommendation contained in the master plan and the 2002 General Plan.

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 mandatory dedication of parkland because the land available is unsuitable due to its size and location.
7. **Trails**—The *Adopted and Approved Subregion VII Master Plan* designates Old Fort Road as a master plan trail/bikeway corridor. The 1985 Equestrian Addendum to the Adopted and Approved *Countywide Trails Plan* recommends a Class II Trail (eight-foot wide and hard surface) along Old Fort Road. More recently, Old Fort Road was recently included as part of the recently mapped Potomac Heritage Trail On-Road Bike Route. This route is currently a mostly on-road bicycle route linking the National Park Service land, historic sites, and recreational facilities on or near the Potomac in Prince George's County. The National Park Service recently hired a consultant to investigate the possibility of nominating the bike route as part of the official Potomac Heritage corridor.

In conjunction with this designation, it is hoped that road improvements along this route will accommodate bicycle and pedestrian improvements to accommodate trail users. Old Fort Road is an important component of this on-road network and provides a scenic route to Fort Washington National Park. However, bicycle and pedestrian accommodations are necessary along this road. The Department of Public Works and Transportation has indicated that Old Fort Road is planned as a major collector roadway. It is their preliminary recommendation that the applicant construct their one-half road section, which will include 26 feet of paving from the centerline of the road to the face of the curb, plus a 6-foot wide concrete sidewalk to accommodate pedestrians. The 26-foot-wide pavement will accommodate a wide outside curb lane for vehicular traffic and bicycles.

In conformance with the *Adopted and Approved Subregion VII Master Plan* and the 1985

Equestrian Addendum to the Adopted and Approved *Countywide Trails Plan*, and per discussions with the Department of Public Works and Transportation, the applicant should construct a half section of the roadway including 26 feet of paving from the edge of the centerline of the road to

the face of the curb, plus a 6-foot-wide concrete sidewalk along the subject property's entire frontage of Old Fort Road, per the concurrence of DPW&T.

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 2002 General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

Unsignalized intersections: The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other 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 December 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/Old Fort Road South
Fort Washington Road/Old Fort Road South (unsignalized)
Old Fort Road South/Washington Drive (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/Old Fort Road South	1,373	1,396	D	D
Fort Washington Road/Old Fort Road South	9.2*	9.7*	--	--
Old Fort Road South/Washington Drive	8.5*	8.4*	--	--
*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 list of nearby developments is long, and it comprises several approved projects. These projects include more than 1,500 residences in the area. As the site is situated with water on two sides of it, however, there is little approved development in the immediate area. The bulk of the background development is north and south along MD 210. Traffic along MD 210 includes a factored increase of two percent annually to account for growth in through traffic. The traffic study assumes no funded capital projects in the area, and staff agrees that there are none. Given the 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/Old Fort Road South	1,447	1,468	D	E
Fort Washington Road/Old Fort Road South	9.2*	9.7*	--	--
Old Fort Road South/Washington Drive	8.5*	8.4*	--	--
*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 analyzed in the traffic study as a residential subdivision of 83 residences. Environmental

factors have resulted in the plan being revised, and the current plan shows 56 single-family detached residences. The resulting site trip generation would be 42 AM peak hour trips (8 in, 34 out) and 50 PM peak hour trips (34 in, 16 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/Old Fort Road South	1,462	1,482	E	E
Fort Washington Road/Old Fort Road South	9.2*	9.9*	--	--
Old Fort Road South/Washington Drive	8.7*	8.6*	--	--
*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 inadequacies at the MD 210/Old Fort Road South intersection in each peak hour. The study identified improvements at this intersection that would provide adequacy:

- a. Restripe the eastbound approach to provide an exclusive left-turn lane and a shared through/right-turn lane (i.e., eliminate left-turns from the rightmost lane).
- b. Modify the westbound approach to provide an exclusive right-turn lane, an exclusive through lane, and dual left-turn lanes.

The site traffic impact has consequently decreased from the original 83-lot purpose, and staff has determined that improvement (a) above is not needed to achieve adequacy. Given that the through/right-turn lane of the eastbound approach to the critical is very short and its use is limited when traffic is queued, staff believes that a limited amount of pavement within the current right-of-way would be of benefit. Extending the through/right-turn lane for approximately 75 feet with additional pavement within the existing right-of-way will help alleviate AM peak hour congestion which occurs in lieu of (a) above. Staff has discussed this determination with both the applicant and SHA, and both parties agree with the finding. With modification (b) above in place, and the changes to the eastbound approach discussed above, staff determines that the MD 210/Old Fort Road South intersection would operate with a CLV of 1,450 and LOS D in the AM peak hour, and with a CLV of 1,443 and LOS D in the PM peak hour. Therefore, with the improvement to the westbound approach in place, the critical intersection would operate acceptably in both peak hours. Staff is unaware of any other developments in the area that have a similar condition to improve the MD 210/Old Fort Road South intersection.

SHA and DPW&T both reviewed the traffic study, and both agencies agreed with the findings of

the traffic study.

Access to the site and circulation within the site are acceptable. Old Fort Road South is a master plan collector facility, and the plan shows adequate dedication along the frontage of 80 feet from the opposite right-of-way limit. A number of lots have frontage on both Old Fort Road South and on the internal street, Carina Drive. These lots should have driveway access directed onto the internal street.

The Department of Public Works and Transportation, in a referral dated March 12, 2003, has requested that the internal public street "A" be revised to a 60-foot-wide right-of-way from 50 feet as shown on the preliminary plan. The original preliminary plan submittal was a proposal for 83 lots; the plan has since been revised to 56. The DPW&T review appears to have been based on the 84-lot subdivision. Staff recommends that verification from DPW&T be provided to ensure that a 50-foot-wide right-of-way is acceptable and sufficient to DPW&T. If a 60-foot-wide right-of-way is required, the preliminary plan must be revised to reflect adequate lot sizes in conformance with the lot size averaging provision. This revision could result in a loss of lots.

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

10. **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 CR-38-2002) 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	56 sfd	56 sfd	56 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	13.44	3.36	6.72
Actual Enrollment	4651	4598	8393
Completion Enrollment	82	66	132
Wait Enrollment	39	15	29
Cumulative Enrollment	53.28	25.32	50.64
Total Enrollment	4838.72	4707.68	8611.36
State Rated Capacity	4492	5114	7752
Percent Capacity	107.72%	92.05%	111.09%
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 memorandum 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 at the time of original submittal. The Planning Board resolution will be adjusted to reflect the total number of lots applicable to this subdivision if approved.

The affected elementary, and high school cluster percent capacities are greater than 105 percent. There is no Funded School in the affected elementary 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, staff finds that the subdivision may be approved subject to conditions, in accordance with Section 24-122.02 of the Subdivision Regulations.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of fire and rescue facilities and concluded the following:

- a. The existing fire engine service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 5.25 minutes, which is **within**

the 5.25-minute travel time guideline.

- b. The existing ambulance service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 5.25 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 5.25 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 services.

- 11. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. In accordance with Section 24-122.1(c) of the Subdivision Regulations the existing county police facilities will be adequate to serve the proposed Waterford Cove development. This police facility will adequately serve the population generated by the proposed subdivision
- 12. **Health Department**—The Health Department has concerns regarding the dredge spoil site on the property. Those concerns are being addressed in Finding 2 of this report and related conditions.
- 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, # 38989-2002, 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.

The Department of Environmental Resources notes that the 1.5 safety factor line as it relates to slope stability is located on several lots along the south property line. DER recommends that the conservation easement be expanded to include the 1.5 safety factor within the conservation easement on the lots.

- 14. **Lot Size Averaging**^{3/4} The applicant has proposed to utilize the Lot Size Averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for the portion of this property in the R-E Zone.

Section 27-423 of the Prince George's County Zoning Ordinance establishes the zoning requirements for Lot Size Averaging. Specifically, in the R-E Zone:

- A. **The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (40,000 square feet).**
- B. **At least 50 percent of the lots created shall equal or exceed the largest minimum lot**

size in the zone (40,000 square feet).

For the 50.78 acres utilized for development of single-family dwelling units, located in the R-E Zone, 55 lots would be allowed (40,000). The applicant proposes 56 lots. In order to propose 56 lots, the area utilized for development must be increased by 28,000 square feet. Prior to signature approval of the preliminary plan, the applicant will reduce the area of Outparcel 1 and include it into lots along Old Fort Road. With that revision 28 of the proposed lots will meet or exceed 40,000 square feet. Therefore, the proposed subdivision will meet the minimum Zoning Ordinance standards for lot size averaging.

Further, Section 24-121(a)(12) requires that the Planning Board make the following findings in permitting the use of lot size averaging:

- A. The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.**

The subdivision is situated approximately 1,400 linear feet north of Piscataway Creek, with 5.9 acres of the southern portion of the site within the Chesapeake Bay Critical Area. Forty acres along the southeast property line of this site have previously been conveyed to the National Park Service. This area includes a Late Successional Oak Forest along the slopes of a perennial stream. The use of lot size averaging gives the design the ability to put the large lots adjacent to these areas and the smaller lots centralized away from them, thereby protecting these natural features.

- B. The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.**

Through the use of lot size averaging the larger lots are placed along Old Fort Road across the street from existing residential development. The proposed lots are approximately twice the size of the existing lots in the Tantallion Hills subdivision, providing an adequate buffer and ensuring compatibility. The same situation occurs along the west property line abutting Washington Drive and the Fort Washington Estates subdivision. Tree save areas are proposed on these larger lots along the street frontages with Old Fort Road and Washington Drive. The smaller lots (30,000 square feet) are generally clustered within the interior of the subdivision.

- C. The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.**

As outlined in the first required finding above, the property is adjacent to the Chesapeake Bay Critical Area and fronting on Piscataway Creek. The use of lot size averaging allows for the placement of larger lots along this property line to open up the viewshed at the properties' frontage along the Chesapeake Bay.

Staff supports the applicant's proposal to utilize the LSA provision for the development of this property.

15. **Flag Lots**^{3/4} The proposal includes two flag lots, proposed Lots 18 and 19. Flag lots are

permitted pursuant to Section 24-138.01 of the Subdivision Regulations. The flag lot design standards are provided for in Section 24-138.01(d) as follows:

- a. **A maximum of two tiers are permitted.** The applicant is proposing two flag lots.
- b. **The flag stem has a minimum width of 25 feet for the entire length of the stem.** The applicant is proposing a 25-foot-wide flag stem for Lot 18. However, Lot 19 is unusual in design and staff believes that a modification to the plan could accommodate a standard lot in lieu of the flag lot or it could be redesigned to accommodate a flag lot. Proposed Lot 19 does not meet the flag lot standards and should be removed if a standard design cannot be accommodated without additional disturbances to the expanded buffer.
- c. **The net lot area, exclusive of the stem, must meet the minimum lot size standard.** The preliminary plat does not distinguish the area of the stem from the net lot area on Lot 18, and Lot 19 does not have a stem but proposes 25 feet of frontage at the front street line. The proposal for Lot 19 does not meet the minimum 50 feet at the front street line for conventional development nor does it meet the design standards for flag lot development. Lot 19 must be revised to provide a conventional R-E lot or a standard flag lot. Prior to the signature approval of the preliminary plat it should be revised to provide the net lot area(s) exclusive of the flag stem(s).

Section 24-138.01(d)(6) of the Subdivision Regulations required that the preliminary plan demonstrate compliance to the *Landscape Manual* where a rear yard is oriented toward a driveway that accessed other lots, or toward a front or side yard of another lot. The preliminary plan should be revised to reflect the required bufferyards in accordance with the *Landscape Manual*.

Section 24-138.01(f) establishes specific findings for the approval of the use of flag lots. The Planning Board must find the following:

- (A) **The design is clearly superior to what would have been achieved under conventional subdivision techniques;**

Due to the significant environmental features on site, the use of flag lots provides additional opportunity to provide enclaves of dwellings tucked back from the street overlooking streams, wetlands, woodlands that would not be available with the use of standard lots along the street.

- (B) **The transportation system will function safely and efficiently; and**

Access will be reviewed by the Department of Public Works and Transportation for all lots fronting on the dedicated public street, ensuring that the transportation system will function safely and efficiently.

- C. **The use of flag lots will result in the creative design of a development that blends harmoniously with the site and with adjacent development; and**

The flag lot design proposes to utilize existing tree stands on site to provide effective buffers

between the dwellings. The majority of the surrounding properties are wooded with older, large-caliper trees near the dwellings. Flag lots will allow the applicant to fold the proposed dwellings into the landscape of this site.

D. The privacy of adjoining property owners has been assured in accordance with the evaluation criteria established above.

Staff recommends that the plan be revised to reflect conformance with Section 24-138.01 of the Subdivision Regulations, which establishes buffering for dwelling unit orientation on flag lots.

16. Parcel 8 was originally the subject of Preliminary Plan of Subdivision 4-00019, approved by the Planning Board by PGCPB Resolution 00-107 and adopted June 29, 2000. Subsequent to that approval the preliminary plan expired. That proposal was for the subdivision of Parcel 8 (132.26 acres) into three parcels. The land area of Parcels 1 and 2 are the subject of this preliminary plan. Parcels 1 and 3 were to be conveyed to governmental agencies for public use by the record plat of subdivision. Subsequent to the preliminary plan approval, the applicant conveyed what was proposed as Parcel 3 (40 acres) to the National Park Service by deed Liber 14909, Folio 308. Section 24-107 of the Subdivision Regulations provides that the conveyance of land by deed to a governmental agency for a public use is exempt from the requirement of filing a preliminary plan of subdivision. The deed division of Parcel 8 for purposes of conveying land to the National Park Service for a public use was a legal subdivision of Parcel 8.

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 Scott, seconded by Commissioner Eley, with Commissioners Scott, Eley and Hewlett voting in favor of the motion, and with Commissioner Lowe absent at its regular meeting held on Thursday, April 24, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of May 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk