

R E S O L U T I O N

WHEREAS, Abood Family, LLC, et al is the owner of a 42.24-acre parcel of land known as Parcels 148 & 187, Tax Map 127, Grid C-3, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned OS & R-R; and

WHEREAS, on June 10, 2004, Landmark Property Development, LLC filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 47 lots and 7 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04105 for Snyder Property was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on October 10, 2004, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on October 28, 2004, 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/76/03), and further APPROVED Preliminary Plan of Subdivision 4-04105, Snyder Property for Lots 1-47 and Parcels A-G with the following conditions:

1. Prior to signature approval of the preliminary plan:
 - a. The plan shall be revised as follows:
 - (1) Outparcel G shall be renamed "Parcel G."
 - (2) The Furgang House shall be identified as a historic site.
 - (3) No lot shall be less than 15,000 square feet in size.
 - (4) To show the location of any required outfall structures. The outfall structures shall be located so that there are no additional impacts to the expanded stream buffer above those previously requested and approved by the Planning Board.
 - (5) The delineation of the expanded stream buffer shall be revised if necessary to include the entire 100-year floodplain, based on a 100-year floodplain study

approved by the Department of Environmental Resources.

- (6) To delineate a building restriction line 100 feet from the centerline of the existing railroad track.
 - (7) To label the 65 dBA Ldn noise contour line.
- b. Prior to signature approval of the Preliminary Plan, revise the FSD as follows:
- (1) Revise the FSD plan and/or text to provide additional information about the location and affects of the timber harvest. This shall include the limits of the harvest and additional sampling points within the harvest area. Additional management techniques that may be required for woodland conservation within the harvest area shall be addressed in the preparation of the TCPII.
 - (2) Submit a copy of the logging permit.
 - (3) Have the revised FSD signed and dated by the qualified professional who prepared it.
- c. Prior to signature approval of the preliminary plan, revise the TCPI as follows:
- (1) Delineate an expanded stream buffer to include additional 100-year floodplain if it is identified.
 - (2) Remove all woodland conservation areas from within public utility easements.
 - (3) Revise the woodland conservation worksheet to reflect all revisions required.
 - (4) Correctly identify afforestation areas where no woodlands previously existed.
 - (5) Remove Note 15 or correct it to accurately describe how the woodland conservation requirement will be met for the subject property.
 - (6) Afforestation proposed on private lots adjacent to the railroad tracks shall provide an active rear yard area no less than 40 feet wide.
 - (7) To show the location of any required outfall structures. The outfall structures shall be located so that there are no additional impacts to the expanded stream buffer above those previously requested and approved by the Planning Board.
 - (8) To delineate a building restriction line 100 feet from the centerline of the existing railroad track.
 - (9) Have the revised plan signed and dated by the qualified professional who

prepared it.

- d. The approved 100-year floodplain study shall be submitted.
 - e. A stormwater management concept plan shall be approved and all associated plans shall be submitted to the Development Review Division.
2. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along at least one side of internal public streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
 3. US 301 and Old Indian Head Road/Rosaryville Road: Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county's capital program, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - a. Retiming the existing traffic signal to provide split-phase operations.
 - b. Modification of the lane use on the eastbound Rosaryville Road approach to provide an exclusive left-turn lane and a shared right-turn/through/left-turn lane.
 4. At the time of final plat approval, the applicant shall dedicate a right-of-way along US 301 of 150 feet in addition to the current right-of-way.
 5. At the time of final plat, the applicant, his heirs, successors and/or assignees shall dedicate to M-NCPPC 4,200+ square feet of open space, as shown on DPR Exhibit A, for the pedestrian and maintenance access to the adjacent parkland. Land to be conveyed subject to the following:
 - a. An original, special warranty deed for the property to be conveyed (signed by the WSSC assessment supervisor) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the final plat.
 - b. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to final plat.
 - c. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits, which include such property.
 - d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration,

repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for grading permits.

- e. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - f. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled and underground structures shall be removed. DPR shall inspect the site and verify that land is in acceptable condition for conveyance, prior to dedication.
 - g. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of DPR.
 - h. The applicant shall terminate any leasehold interests on property to be conveyed to M-NCPPC.
 - i. No stormwater management facilities, or tree conservation or utility easements shall be proposed on land owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
6. The applicant shall construct a multipurpose court, tot-lot and gazebo on the HOA open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of DRD for adequacy and property siting, prior to approval of the preliminary plan by the Planning Board.
- a. The applicant, his successors, and/or assignees shall provide adequate, private recreational facilities on site in accordance with the standards outlined in the Parks and Recreation Facilities Guidelines.
 - b. A site plan shall be submitted to the Development Review Division (DRD) of the Prince George's County Planning Department, which complies with the standards outlined in the Parks and Recreation Facilities Guidelines.
 - c. Submission of three original, executed Recreational Facilities Agreements (RFA) to DRD for their approval, three weeks prior to a submission of a final plat. Upon approval by DRD, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.

- d. Submission to DRD of a performance bond, letter of credit or other suitable financial guarantee, in an amount to be determined by DRD, within at least two weeks prior to applying for building permits.
- e. The developer, his successor and/or assigns shall satisfy the Planning Board that there are adequate provisions to assure retention and a future maintenance of the proposed recreational facilities.
- f. The land to be conveyed to a homeowners association shall be subject to the following:
 - (1) Conveyance shall take place prior to the issuance of building permits.
 - (2) 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.
 - (3) 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.
 - (4) The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - (5) Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved specific design plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements required by the approval process.
 - (6) 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.
 - (7) Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
 - (8) Storm drain outfalls shall be designed to avoid adverse impacts on adjacent land owned by or to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC). If the outfalls require drainage improvements on land to be conveyed to or owned 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.

- (9) 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.
 - (10) 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.
7. The final plat shall include a note that Parcel G may be converted to a lot when the cell tower is removed. A final plat in accordance with Section 24-108 of the Subdivision Regulations must be approved.
8. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/76/03). The following notes shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/76/03), 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.”
9. A Type II tree conservation plan shall be approved prior to the issuance of any permits.
10. Prior to approval of a TCPII for the subject property showing reforestation within a stormwater management easement, the reforestation area must be shown on the approved stormwater management technical plans. All proposed reforestation areas shall have a minimum width of 35 feet, a minimum size of 2,500 square feet; the reforestation areas shall be protected with a permanent tree protection device and signage, as determined appropriate at time of TCPII; and the stocking requirements shall be a minimum of 1,000 seedlings per acre or equivalent.
11. The TCPII shall provide a two-rail, split-rail fence or equivalent permanent tree protection device for all afforestation and reforestation areas. Afforestation and reforestation areas shall be planted with trees with a minimum size of one-inch caliper or greater at the required seedling equivalent stocking rate.
12. 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.
13. At the time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated expanded stream buffer except for approved impacts and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. 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 allowed.”

14. At time of final plat, a building restriction line shall be delineated 100 feet from the centerline of the Pope’s Creek Railroad Line. The following note shall be placed on the plat:

“The building restriction line placed 100 feet from the centerline of the Pope’s Creek Railroad Line prohibits the placement of structures due to the affect of vibration from the tracks.”

15. At time of final plat, the following note shall be placed on the plat:

“Lots 1 through 12 shall be subject to limited detailed site plan approval prior to the issuance of any permit to address the mitigation of exterior noise levels in outdoor activity areas to 65 dBA or less, and interior noise levels to 45 dBA Ldn or less.”

16. Prior to signature approval of the preliminary plan, the applicant shall determine the extent of the land that should be the subject of a Phase I archeological investigation with the concurrence of the Development Review Division (DRD). The applicant shall complete and submit a Phase I investigation (including research into the property history and archeological literature) for those lands determined to be subject. Prior to approval of final plats, the applicant shall submit Phase II and Phase III investigations as determined by DRD staff as needed. The plan shall provide for the avoidance and preservation of the resources in place or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.
17. Prior to signature approval, the plan shall be revised to identify the Furgang House as a historic site.
18. The Environmental Setting of the Historic Site shall be revised to include Lot 12 and the areas occupied by Parcels A and B (to be recorded as a single lot). The portions of the Environmental Setting formerly identified as Parcels A and B shall be landscaped with a naturalized mix of evergreen and deciduous trees in order to screen the Historic Site from the adjacent new construction in accordance with the *Prince George’s County Landscape Manual*. The applicant shall record a conservation easement for those portions of the Historic Site’s Environmental Setting formerly identified as Parcels A and B.
19. The applicant shall be required to initiate the rehabilitation of the Furgang Farm Historic Site (82A-023) prior to the issuance of the first building permit for any part of the property. The rehabilitation of the Furgang Farm including the main house and nearby outbuildings, the demolition or construction of existing outbuildings, the construction of new buildings, and the

fencing and landscaping of the Environmental Setting shall be reviewed and approved by the Historic Preservation Commission through the Historic Area Work Permit (HAWP) process and shall include details of required interior and exterior work for the main house as well as necessary work associated with the property's outbuildings, including demolition or relocation, and any proposed alterations to landscape features such as the installation of landscaping and fencing. The cost of the rehabilitation project shall be no less than \$90,000.00. The rehabilitation of the Historic Site shall be completed and reviewed by the Historic Preservation Commission prior to the issuance of 20th building permit for the development

20. The applicant shall be required to relocate the outbuilding on Lot 14 (identified as the "barn") within the Furgang Farm Historic Site's Environmental Setting (Lot 12) and rehabilitate it. If this is technically infeasible or financially impractical, this structure shall (1) be offered to the public for relocation and reconstruction elsewhere, or (2) significant elements of this building shall be salvaged for reuse in a new carriage house or garage structure on the property, or any salvageable material shall be donated to the Newel Post, the county's salvage depot. The applicant shall also be required to salvage any usable materials from the carriage house on the property for reuse in the new carriage house or garage to be constructed near the main house.
21. The architecture of the proposed houses on the Historic Site's original 27-acre parcel should be reviewed for compatibility with the Historic Site by the Planning Board or its designee and the Historic Preservation Commission prior to the issuance of building permits pursuant to a limited detailed site plan. The limited detailed site plan shall address the siting, massing, design and materials of proposed dwellings as well as landscaping and other site related features.
22. The final plat of subdivision shall include a note that states that "there shall be no further subdivision of the Furgang Farm Environmental Setting (Historic Site #82A-023), also known as Lot 12."

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located on the north side of Old Indian Head Road, approximately 2,000 feet north of its intersection with Crain Highway (US 301).
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone	EXISTING R-R	PROPOSED R-R
Use(s)	Golf driving range and cell tower	Single-family detached homes; private recreational facilities; cell tower
Acreage	42.24	42.24
Lots	0	47
Parcels	2	7
Detached Dwelling Units	1	47 (46 new + 1 existing)

4. **Environmental**—A stream with nontidal wetlands and possible 100-year floodplain is found in the northwest corner of the site, adjacent to Crain Highway, leading to a pipe that flows under that road’s right-of- way, connecting with a stream system to the west. The site is partially wooded and the topography is gently sloping toward the stream. The soils found on this property include Beltsville, Bibb, Galestown, Marr, Rumford, and Sassafra. Beltsville soils are in hydrologic soils group C and have a K factor of 0.43, indicating a potential for impeded drainage, and high erodibility on steep slopes. Bibb soils are in hydrologic class D and may experience development limitations with respect to impeded drainage or seasonally high water tables. Galestown, Marr, Rumford and Sandy land soils are not hydric or highly erodible and do not pose significant difficulties for development. Westphalia soils are not hydric but are highly erodible and may create difficulties when associated with severe and steep slopes. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this lot. There are no designated scenic or historic roads located adjacent to the property or in the vicinity of the property, but there is a historic site located on the property. Adverse noise impacts from transportation sources are anticipated due to classification of adjacent roadways and the vibration and noise impacts associated with the adjacent railroad tracks. The property is located in the Piscataway Creek watershed and the Potomac River basin. The site is located in the Developing Tier as reflected in the adopted General Plan. This site is impacted by the master plan right-of-way for US 301 along the western portion of the property, which impacts sensitive environmental features of the site.

Woodland Conservation

A revised detailed forest stand delineation (FSD) has recently been submitted. It does not address comments made in two previous memos regarding the logged areas of the property.

The FSD text describes four stands on the site. A review of historic (1938) aerial photography indicates that Stands 1, 2 and 4 were found to exist in 1938. Stand 3 consists of an area of regenerated agricultural fields, which includes smaller, successional trees. Logging of Stand 2 was proposed in 2000, and has occurred according to Note 12, but the FSD text and plan do not contain any indication of the location of the timber harvest or details about the affect of the harvest on the stands where it occurred. No additional information has been submitted. This information is critical to the evaluation of the woodland conservation areas. Prior to signature

approval of the preliminary plan, several revisions to the FSD are required.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because it is greater than 40,000 square feet in gross tract area, there are more than 10,000 square feet of existing woodland, and more than 5,000 square feet of woodland clearing is proposed. A Type I Tree Conservation Plan (TCPI/76/03) was submitted concurrent with the preliminary plan application. After approval, the TCPI will supersede the previously approved Type II tree conservation plan and numbered letter of exemption.

The revised Tree Conservation Plan (TCPI/76/03) recently submitted has been reviewed. The minimum requirement for this site, according to the submitted plan, is 8.18 acres of woodland conservation plus additional woodland replacement acreage due to removal of 9.06 acres of woodland outside the 100-year floodplain and 1.20 acres within the 100-year floodplain, for a total minimum requirement of 14.39 acres. This calculation of the woodland conservation requirement does not appear to include off-site impacts necessary for the construction of the proposed sewer line, as required.

The TCPI proposes to meet the requirement with 4.52 acres of on-site preservation, 3.01 acres of afforestation, and 6.86 acres of off-site mitigation, for a total of 14.39 acres of woodland conservation. Additional woodland conservation may be necessary to fulfill requirements based on off-site impacts on the east and west side of US 301. Preserved woodlands have been proposed as a largely contiguous block encompassing the expanded stream buffer, which is the priority location for woodland retention on this site, but the effects of the prior logging operations have not been fully evaluated due to incomplete information. The TCPI shows the conceptual location of houses on the site, and conceptual grading that supports the TCPI, as a reasonable solution for preserving woodlands in the area proposed.

The TCPI requires additional information and revisions based on the required submittal of additional information. An unapproved 100-year floodplain study has been submitted. An approved 100-year floodplain study is required to determine the net tract area of the site and the subsequent woodland conservation requirement.

The major area of woodland retention is located adjacent to Crain Highway (US 301). The expansion of US 301 to a planned freeway will require the dedication of additional right-of-way. The TCPI has been revised to show the location of the ultimate right-of-way for US 301 based on the most recent study available.

Afforestation has been proposed on Parcels A and B, which are areas where "D" bufferyards are required adjacent to the historic site. Afforestation in these locations must meet the stocking requirements for woodland conservation in order to be counted as such and the plant unit and size requirements of the *Landscape Manual* must be met at the time of TCPII approval. The ownership of the proposed parcels, several of which contain woodland conservation areas, has not been identified. Afforestation has been inappropriately proposed within delineated public utility easements.

Note 15 under the TCPI general notes is inaccurate in describing how the woodland conservation requirement will be met and should be corrected.

An unapproved stormwater management concept plan was submitted for the site that proposes two ponds and four bioretention facilities, one of which is located off-site. Two of the proposed bioretention ponds shown on the concept plan are located in areas indicated for retention on the TCPI. No stormwater management concept approval letter or approved plans were submitted with the application. The final design of the stormwater management facilities shall be in conformance with the approved TCPI.

The TCPI proposes the placement of a reforestation area within the proposed stormwater management easement. Any proposal for planting within the stormwater management easement must meet several criteria: It must be shown on the approved stormwater management technical plans; the minimum width of all planting areas shall be 35 feet, the minimum size of planting area shall be 2,500 square feet; and the reforestation areas shall be protected with a permanent tree protection device and signage, as determined appropriate at time of TCPII.

The reforestation area proposed adjacent to the SWM facility meets the requirements to be credited as woodland conservation if found acceptable by the Department of Environmental Resources.

The TCPI proposes to provide afforestation on the private lots adjacent to the railroad tracks. The size of the lots (over 20,000 square feet) makes this possible if specific criteria are adhered to: The afforestation area must be protected with permanent tree protection devices; the afforestation must provide for an active rear yard area at a minimum distance of 40 feet from the dwelling; and the afforestation area shall be planted with trees with a minimum size of one-inch caliper or greater, at the required seedling equivalent stocking rate.

Floodplain, Streams, Wetlands and Buffers

The preliminary plan shows the location of significant environmental features, which occur on this site including streams and a minimum 50-foot-wide stream buffer. In combination, these environmental features, along with nontidal wetlands, wetland buffers, and 100-year floodplain if present, compose the expanded stream buffer in accordance with Section 24-130 of the Subdivision Ordinance. The final delineation of the expanded stream buffer on the preliminary plan or the TCPI cannot be confirmed without an approved 100-year floodplain study.

The Subdivision Ordinance requires that the expanded stream buffer be preserved in a natural state unless the Planning Board approves a variation request. The preliminary plan submitted only proposes impacts to the expanded stream buffer in order to install a sewer line. The preliminary plan and TCPI do not indicate outfalls from the two stormwater management ponds and variation requests for impacts to the expanded stream buffer for these have not been proposed.

If impacts to the expanded stream buffer cannot be eliminated for necessary public utility connections, a variation request must be submitted in accordance with Section 24-113 of the Subdivision Regulations. A revised variation request for temporary impacts to the expanded

stream buffer dated August 13, 2004, was submitted with this application.

The revised variation request proposes temporary impacts to 7,100 square feet of expanded stream buffer on site and 3,500 square feet of off-site expanded stream buffer to allow for the extension of sewer service to the subject property. All of the environmental features are within the Potomac River watershed, are elements of the expanded stream buffer, and are required to be preserved.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. While the requirements for granting zoning variances must be accompanied by specific findings, the requirements for granting subdivision variations are considered less onerous than the granting of zoning variances. 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 the evidence presented to it in each specific case that:

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

Comment: The installation of the sewer line is required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

- (2) The conditions on which the variations are based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

Comment: The specific topography of the site requires the placement of the sewer line through the expanded stream buffer to connect with the existing sewer on the west side of US 301. The sewer line is necessary to adequately serve the proposed development.

- (3) The variation does not constitute a violation of any other applicable law, ordinance or regulation; and**

Comment: The installation of sewer line is required by other regulations. The proposed impacts are not a violation of any other applicable law, ordinance or regulation, if all appropriate wetland permits are received by federal and state agencies.

- (4) Because of the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulation is carried out.**

Comment: The topography and location of existing utilities provide no alternative for the location of the sewer line to serve the development. Without the sewer line, the property could not be properly developed in accordance with the R-R Zone.

Based on these findings, staff supports the variation request.

At the time of final plat, a conservation easement should be described by bearings and distances and should contain the delineated expanded stream buffer except for approved impacts and shall be reviewed by the Environmental Planning Section prior to approval of the final plat.

Soils

The Beltsville and Bibb soil series have limitations that may affect the development of this property such as high water tables, impeded drainage, slope, slow permeability, and stability. During the review of building permits the Department of Environmental Resources may require a soils study addressing the limitations of these soils with respect to the construction of homes.

Noise

Noise and vibration related to the proximity of the railroad line have been identified as a concern on this site, due to the proposed residential use. The subject property abuts a railroad track along the southern boundary of the site.

The preliminary plan and TCPI show the location of the centerline of the existing railroad track and should be revised to delineate a building restriction line 100 feet from the centerline that is required to address the effect of vibration from the tracks on foundations. This building restriction line will also need to be shown on the final plat.

There are noise impacts associated with this property due to the proximity of the railroad. According to a noise study in Environmental Planning Section files prepared for the development of Preliminary Plan 4-00062 (Putter's Choice), which also abuts this rail line, noise generated by railroad traffic on the Pope's Creek Railroad exceeds the state standard of 65dBA (Ldn) for the exterior of residential uses within 285 feet of the centerline of the track. This affects proposed dwellings on Lots 1 through 11, the existing dwelling on Lot 12, and active rear yard areas with noise levels exceeding 65 dBA Ldn.

The preliminary plan and TCPI show the 65 dBA (Ldn) noise contour 285 feet from the centerline of the railroad track. The preliminary plan and TCPI shows that adequate space exists

for the provision of earthen berms, plant materials, and/or fencing to provide mitigation from transit-related noise impacts. It is recommended that noise mitigation requirements for Lots 1 through 12 be addressed through a limited detailed site plan.

The Subdivision Ordinance in Section 24-121. (A)(4) requires that:

“Residential lots adjacent to existing or planned roadway or freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing and/or the establishment of a building restriction line, when appropriate.”

All lots adjacent to the railroad right-of-way or master planned freeway right-of-way meet the minimum of 300 feet in depth.

Crain Highway (US 301) is master planned to be upgraded to a freeway. The current traffic volume (2002) is 53,650 vehicles per day. An estimation of the location of the 65 dBA Ldn noise contour was made to determine potential impacts on the proposed residential uses for this site, and to evaluate mitigation potential. Using the Environmental Planning Section noise model, the 65 dBA Ldn noise contour will fall approximately 409 feet from the centerline of the master planned road. The 65 dBA Ldn line has been delineated on the preliminary plan and the TCPI, but has not been labeled on the preliminary plan. No outdoor activity areas or structures are proposed within the 65 dBA Ldn noise contour.

Water and Sewer Categories

The water and sewer categories are W-3 and S-3 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources. The property will be served by public systems.

5. **Community Planning**—The property is in Planning Area 82A/Marlton. Most of it is in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit serviceable. A small portion of the property is located in the Rural Tier. The vision for the Rural Tier is the protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, and preservation of rural character and vistas that now exist. No development is proposed in the Rural Tier. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing and Rural Tiers.

The 1993 Subregion VI Study Area Master Plan recommends residential land use at the Low-Suburban density of up to 2.6 dwelling units per acre for the portion of the property proposed for development. The 1994 Sectional Map Amendment for the Subregion VI Study Area retained the subject property in the R-R Zone. However, 14,619 square feet of land in the southeast corner of Parcel 148, separated from the rest of Parcel 148 by the Conrail Railroad right-of-way (Pope's Creek Branch), was retained in the O-S Zone and is recommended Low-Rural land use. This

application conforms to the 1993 Subregion VI Study Area Master Plan recommendation for Low-Suburban and Low-Rural residential land use.

6. **Parks and Recreation**—The staff of the Department of Parks and Recreation has reviewed the above-referenced preliminary plan and evaluated it for conformance with the Approved Master Plan for Subregion VI (PA 82A), the Prince George’s County Subdivision Ordinance, and the *Park and Recreation Guidelines* as they pertain to public parks and recreation.

The property is subject to the mandatory park dedication requirements of Section 24-134 of the Subdivision Regulations. The mandatory dedication requirement for the subject preliminary plan is 2± acres. To address requirements for the mandatory dedication of parkland, the applicant proposes a combination of private recreational facilities on the HOA open space land and the dedication of 4,200 square feet of the open space land to the Commission for access to the adjacent undeveloped South Marlton Community Park. The Department of Parks and Recreation finds that the proposed dedication will provide direct access to the future recreational facilities in the park. In the meantime, the residents of the subdivision will be better served by the proposed private recreational facilities on the HOA land.

7. **Trails**—There are no master plan trail issues identified in the Adopted and Approved Subregion VI Master Plan. However, due to the density of the proposed subdivision, standard sidewalks are recommended along at least one side of all internal roads, unless modified by DPW&T. This recommendation is consistent with existing road cross sections in the nearby Cheltenham community (west of US 301). If a closed cross-section is used for internal roadways, standard sidewalks are recommended along at least one side of all internal roads, unless modified by DPW&T.
8. **Transportation**—The transportation staff determined that a traffic study detailing weekday analyses was needed. In response, the applicant submitted a traffic study in support of the previous application (Preliminary Plan of Subdivision 4-03123) dated December 2003 that was referred for comment; comments from the county Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA) were attached to the memorandum prepared for the prior application, but will be cited and addressed in this memorandum. 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*.

Growth Policy—Service Level Standards

Development proposed on the subject property is located within the Developing Tier, as defined in the General Plan for Prince George’s County. As such, the subject application 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.

Analysis of Traffic Impacts

The traffic study for this site examined the site impact at four intersections:

- US 301/Old Indian Head Road/Rosaryville Road (signalized)
- US 301/Old Indian Head Road/Blackstone Avenue (unsignalized)
- Old Indian Head Road/site access (unsignalized)

The existing conditions at the study intersections are summarized below:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
US 301 and Old Indian Head Road/Rosaryville Road	1,356	1,249	D	C
US 301 and Old Indian Head Road/Blackstone Ave	125.1*	137.6*	--	--
Old Indian Head Road and site access	future		--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy. This criterion is applicable to roundabouts as well as standard four-way or three-way intersections.				

The area of background development does not include any properties in the immediate vicinity of the subject property. Generous traffic growth of 2.5 percent per year was assumed along US 301. There are no programmed improvements in the county Capital Improvement Program (CIP) or the state Consolidated Transportation Program (CTP). Background conditions are summarized below:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
US 301 and Old Indian Head Road/Rosaryville	1,460	1,359	E	D

Road				
US 301 and Old Indian Head Road/Blackstone Ave	202.8*	211.9*	--	--
Old Indian Head Road and site access	future		--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy. This criterion is applicable to roundabouts as well as standard four-way or three-way intersections.				

The site is proposed for development as a residential subdivision. The site is proposed to be developed with 47 single-family detached residences, which would generate 35 (7 in, 28 out) AM peak-hour vehicle trips and 42 (28 in, 14 out) PM peak-hour vehicle trips. With the trip distribution and assignment as assumed, the following results are obtained under total traffic:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
US 301 and Old Indian Head Road/Rosaryville Rd.	1,472	1,371	E	D
US 301 and Old Indian Head Road/Blackstone Ave	241.2*	292.1*	--	--
Old Indian Head Road and site access	8.7*	8.5*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy. This criterion is applicable to roundabouts as well as standard four-way or three-way intersections.				

The traffic study identifies inadequacies at the unsignalized intersection of US 301/Old Indian Head Road/Blackstone Avenue, as well as the signalized intersection of US 301/Old Indian Head Road/Rosaryville Road. In response to the inadequacies, the applicant recommends the following:

- At US 301 and Old Indian Head Road/Rosaryville Road, retime the signal to provide a split phase operation. Also, modify the lane use on the eastbound Rosaryville Road approach to provide an exclusive left-turn lane and a shared right-turn/through/left-turn lane. In the AM peak hour, this improvement would provide LOS D with a CLV of 1,414.
- At US 301 and Old Indian Head Road/Blackstone Avenue, the applicant has suggested that the traffic volumes do not warrant further study for signalization. SHA has indicated that both side streets at this location provide two approach lanes, and that the future volumes would not meet the peak-hour warrants (normally the easiest warrant to meet). Therefore,

SHA does not believe that further studies are needed, and that no further actions are required at this intersection to have acceptable operations. With this affirmation by SHA, staff will find that the intersection operates acceptably.

SHA concurred with the results of the traffic study. DPW&T largely concurred with the study as well, except to suggest that the Old Indian Head Road approach to US 301 would require an exclusive right-turn lane of 150 feet in length. The approach opposite Blackstone Avenue is already two lanes, as reported by SHA, and would be used by the majority of vehicles exiting the site. It appears that the approach opposite Rosaryville Road does require widening; however, that approach to US 301 would not be used by site traffic, and for that reason it is not possible to require this improvement of this applicant.

Plan Comments

US 301 is proposed by the master plan to be replaced by F-10, a freeway facility. This facility will require 150 feet in addition to the current right-of-way, and the current plan shows adequate right-of-way within an open space parcel. It is recommended that dedication of the right-of-way required. The applicant is not proposing access to US 301, and such access would not be supported.

Transportation Conclusions

Based on these findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with the two transportation-related conditions included in this report.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	47 sfd	47 sfd	47 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	11.28	2.82	5.64
Actual Enrollment	5334	5131	10098
Completion Enrollment	351.84	217.62	398.97
Cumulative Enrollment	484.08	280.86	562.20
Total Enrollment	6181.20	5632.30	11064.81

State Rated Capacity	5384	4688	8770
Percent Capacity	114.80%	120.14%	126.17%

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

These figures were correct on the day the referral memorandum was written. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers that will be used in the resolution will be the ones that will apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

This project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003, and CR-23-2003. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

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

- a. The existing fire engine service at Marlboro Fire Station, Company 45, located at 7710 Croom Road, has a service travel time of 6.19 minutes, which is beyond the 5.25-minute travel time guideline.
- b. The existing ambulance service at Marlboro Fire Station, Company 45, has a service travel time of 6.19 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road, has a service travel time of 7.25 minutes, which is within the 7.25-minute travel time guideline for Lot 1. All other proposed lots are beyond. The nearest fire station, Marlboro, Company 45, is 6.19 minutes from the development. This facility would be within the recommended travel time for paramedic service if an operational decision to locate this service at that facility is made by the county.

These findings are in conformance with the standards and guidelines contained in the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. To alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate. Because this is a matter of law for residential structures in Prince George's County, no condition is necessary.

11. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.
12. **Health Department**—The Health Department reminds the applicant that raze permits are required prior to demolition of any structure on the site. The Health Department also noted that wells and septic systems to be abandoned must be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04.
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, Concept 39564-2003-00, has been filed but not yet approved. To ensure that development of this site does not result in on-site or downstream flooding, a stormwater management concept plan must be approved prior to signature approval of the preliminary plan. Development must be in accordance with this approved plan or any revisions thereto. It is not expected that stormwater management facilities will affect the proposed lotting pattern.
14. **Historic Sites and Cemeteries**^{3/4} The property is the site of the Furgang House, a historic site. There is also a possibility of items of archeological historic significance. The applicant's subdivision plan presumes a revision to the Furgang Farm Historic Site's Environmental Setting, which currently includes the entire 27-acre± parcel. The applicant has submitted a request for determination of Environmental Setting, which the Historic Preservation Commission (HPC) must act on separately from its review of the proposed subdivision plan. The Historic Preservation Commission (HPC) had been set to hear this case on September 19, 2004, but will now hear the case at its meeting on September 26, 2004, five days beyond the public release date of this report. The HPC recommendation will be presented at the Planning Board hearing. The preliminary plan shows the Furgang House as a historic resource. This is incorrect. Prior to signature approval, the plan shall be revised to identify this as a historic site.
15. **Public Utility Easement**—The preliminary plan includes the required ten-foot-wide public utility easement parallel and contiguous to all public rights-of-way. The easement will be shown on the final plat.
16. **Flag Lots**—The applicant proposes one flag lot in the subdivision. The flag lot is shown as Outparcel G and contains the existing cell tower. The applicant plans to maintain the cell tower on the property for a time and then construct a home on the outparcel when the cell tower is removed. With that as the plan, the outparcel should be labeled a "parcel" and all findings for the creation of a lot should be made at this time. A note allowing the parcel to be designated a lot in the future should be included on the final plat.

Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. Staff supports this flag lot based on the following findings and reasons.

- a. A maximum of two tiers is permitted. The proposed flag lots represent the second tier.
- b. Each flag stem is a minimum width of 25 feet for the entire length of the stem.
- c. At nearly 33,000 square feet, the net lot area for proposed outparcel G (exclusive of the flag stem) exceeds the minimum lot size in the of 20,000 square feet in the R-R Zone.
- d. A building envelope must be established at the time of preliminary plan. The applicant has not included a building envelope on the preliminary plan. This envelope must be included on the preliminary plan prior to signature approval.
- e. Shared driveways are only permitted under certain circumstances. The proposal includes no shared driveways.
- f. Where rear yards are oriented toward driveways, an “A” bufferyard is required. This does not occur on the plan.
- g. Where front yards are oriented toward rear yards, a “C” bufferyard is required. This does not occur on the plan.

Prior to approval of a flag lot, the Planning Board must make the following findings of Section 24-138.01(f):

A. The design is clearly superior to what would have been achieved under conventional subdivision techniques.

Comment: The proposed flag lot yields a superior design to that which would be allowed conventionally. Although the applicant is providing access to the adjoining M-NCPPC public park, the applicant also proposes a rather large on-site recreational area. As many as three additional lots could be achieved without this recreational area. The creation of this recreational area influences the design of the subdivision and creates the flag lot shape.

B. The transportation system will function safely and efficiently.

Comment: The flag lot adds one driveway to an internal secondary residential road. No significant impact on the transportation system is expected.

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

Comment: The flag lot will blend harmoniously with the rest of the development. The home on the flag lot will front onto the open recreational area and the rear will back to

open space and the adjoining church property.

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

Comment: Given the size of the net lot area, nearly 33,000 square feet, and the required bufferyards, the flag-style development of the lot will not impair the privacy of either the homeowner of this lot or the homeowners of other lots.

Given these findings, staff recommends approval of the flag lot.

17. **Lot Size Averaging**—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.

Comment: The design of this subdivision respects the natural features on this property. Two 50-foot-wide parcels provide buffering for the historic site. Environmental features are protected. Large, deep lots are proposed along the railroad tracks and smaller lots are kept to the interior.

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.

Comment: The property abuts M-NCPPC land to the east, railroad tracks to the south, residentially zoned land to the west, and a church to the north. Smaller lots are only proposed abutting the parkland. Large lots will surround the on-site historic resource. Only one lot will abut the residentially zoned land to the west: the large flag lot. The lotting pattern provides an adequate transition from residential land, the church, and the railroad tracks to the parkland.

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.

Comment: The limited on- and off-site environmental features are well protected by this plan. In the one place where the environmental features abut similar features on an adjoining property, a wide parcel is provided to ensure that this area remains undisturbed.

In addition, Section 27-423 of the Prince George's County Zoning Ordinance sets the zoning requirements for lot size averaging. Specifically, in the R-R Zone

- A. The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (20,000 square feet).**

Comment: In this case, with 41.98 acres in the R-R Zone and a minimum lot size of 20,000 square feet, the maximum number of lots allowed is 91. The applicant proposes 47 lots.

- B. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (20,000 square feet).**

Comment: As proposed, 24 of the proposed 47 lots (or 51+ percent) exceed 20,000 square feet. Therefore the proposed subdivision meets the minimum Zoning Ordinance standards for lot size averaging. However, one lot is less than 13,000 square feet. This is not permitted. The preliminary plan must be revised, prior to signature approval, to show no lots smaller than 15,000 square feet in size.

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 Harley, seconded by Commissioner Squire, with Commissioners Harley, Squire, Eley, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, October 28, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of October 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator