

A M E N D E D   R E S O L U T I O N

WHEREAS, \*TLBU Foundation, Inc. is the owner of a 342.40-acre parcel of land known as Tax Map 117 in Grid E-3, said property being in the 11<sup>th</sup> Election District of Prince George's County, Maryland, and being zoned \*Residential Suburban Development R-S; and

WHEREAS, on March 3, 2008, ~~\*[MD-XLLP.]~~ the TLBU Foundation, Inc. filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for ~~\*[409 lots, 5 parcels and 1 outparcel]~~ [410 lots and 8 parcels]; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-07005 for TLBU 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 July 17, 2008, 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 DISAPPROVAL of the application; and

WHEREAS, on July 17, 2008, 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]~~ WHEREAS, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board DISAPPROVED the Type II Tree Conservation Plan (TCPII/110/91), and further DISAPPROVED Preliminary Plan of Subdivision 4-07005, TLBU Property, for Lots 1-409, Parcels A-E and Outparcel A because it did not meet the requirements of Section 24-132, Woodland Conservation of the Prince George's County Subdivision Regulations and the Planning Board found that the Preliminary Plan did not conform to the Green Infrastructure Plan, which serves as a functional Master Plan.

\*WHEREAS, by a letter dated September 23, 2008, the applicant requested a reconsideration for the purpose of addressing the Woodland Conservation Ordinance and the Countywide Green Infrastructure Plan and adjusting the lotting pattern to accommodate the same; and

\*WHEREAS, on October 30, 2008, the Planning Board approved the request for reconsideration based on the good cause associated with the Green Infrastructure Plan and Woodland Conservation conformance; and

\*WHEREAS, on October 29, 2009, the Planning Board heard testimony regarding the reconsideration.

\*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/110/90-02), and further APPROVED Preliminary Plan of Subdivision 4-07005, TLBU Property, including Variations from Section 24-130 for 410 lots and 8 parcels with the following conditions:

- \*1. Prior to signature approval the preliminary plan of subdivision Applicant Exhibit A shall be revised to reflect the following technical corrections:
  - a. Provide dimensions on all property lines (ie Parcel A, Parcel G).
  - b. Provide the ultimate right-of-way (ROW) of all streets including Pirouette Court, and label as public streets.
  - c. Label all stormwater management locations.
  - d. Label Parcel A as possible future day care center.
  - e. Label entrance feature locations with easements, if proposed.
  - f. Label the trail on M-NCPPC parkland as Public trail with the width. Label the HOA trail as private and the arrangement by which Merrymount riders have access. Include the width and material.
  - g. Provide the disposition of all existing structures, with all to be razed on future homeowner's association (HOA) land.
  - h. Provide evidence from DPW&T that no additional ROW dedication is required along Old Frank Tippet Road, or revise the plan accordingly.
  - i. Delineate the required 100-foot buffer along Frank Tippet Road.
  - j. Reflect the master plan trails and HOA Connector Trails, per the approved CDP.
  - k. Combine notes 8 and 9, and modify to reflect "Water and Sewer Category 3."
- \*2. A Type II tree conservation plan shall be approved at the time of specific design plan (SDP).
- \*3. Development of this site shall be in conformance with the Stormwater Management Concept Plan, 8327602-2000-04 and any subsequent revisions.
- \*4. Upon the adoption of the resolution of approval for Preliminary Plan of Subdivision 4-07005 the approval for Preliminary Plan of Subdivision 4-00064 (PGCPB Amended Resolution No. 01-79(A)) shall be null and void.

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- \*5. Prior to the approval of building permits the applicant and the applicant's heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
- \*6. The applicant and the applicant's heirs, successors and/or assignees shall submit three original Recreational Facilities Agreements (RFA) to the Development Review Division (DRD) of M-NCPPC for construction of equestrian trail facilities, and connector trails to the public trail system on homeowners land, for approval prior to the submission of final plats. Upon approval by the DRD, the RFA shall be recorded among the County Land Records.
- \*7. The applicant and the applicant's heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of equestrian trail facilities and connector trails on homeowners' land, to the Development Review Division (DRD) of M-NCPPC prior to the issuance of building permits.
- \*8. The applicant and the applicant's heirs, successors and/or assignees shall submit to DPR of M-NCPPC three original Recreational Facilities Agreements (RFA) for the Community Park (Parcel E) grading and installation of the ten-foot-wide asphalt trail along Dressage Drive on park property. The RFA shall be approved prior to the approval of final plats. Upon approval by DPR of M-NCPPC, the RFA shall be recorded among the County Land Records and noted on the final plat of subdivision.
- \*9. The applicant and the applicant's heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the grading of Parcel E and installation of the ten-foot-wide asphalt trail along Dressage Drive on park property to DPR of M-NCPPC prior to the approval of building permits.
- \*10. Prior to the approval of building permits, the applicant and the applicant's heirs, successors and/or assignees shall convey to the homeowners association (HOA) 61.47± acres of open-space land (Parcels B, C, G and H). Land to be conveyed shall be subject the following:

  - a. Conveyance shall take place prior to the issuance of building permits.
  - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.

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- c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
  - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
  - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved specific design plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
  - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. 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.
  - i. All existing structures shall be razed and properly abandoned prior to conveyance.
- \*11. Prior to the approval of final plats, the applicant and the applicant's heirs, successors and/or assignees shall convey to M-NCPPC 120± acres of open-space land (Parcel D and E) as shown on the Department of Parks and Recreation (DPR) Exhibit A and maybe modified by the approved specific design plan (SDP) which includes Parcels D and E. Land to be conveyed shall be subject 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.

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- 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 the M-NCPPC shall be indicated on all development plans and permits, which include such property.
- d. Subsequent to dedication, the land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.
- e. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by the M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by the M-NCPPC, the DPR shall review and approve the location and design of these facilities. The 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. The 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 the DPR.
- h. The applicant shall terminate any leasehold interests on property to be conveyed to the 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 the M-NCPPC without the prior written consent of the DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by the DPR, a performance bond, maintenance and easement agreements shall be required prior to the issuance of grading permits.

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- \*12. Prior to the approval of each building permit, the applicant and the applicant's heirs, successors and/or assignees shall contribute a per dwelling unit fee to DPR (M-NCPPC). Funds shall be placed in a account specifically established for the Community Park on Parcel E, as set forth in CDP-0701.
- \*13. Prior to the approval of the first final plat the applicant and the applicant's heirs, successors and/or assignees shall obtain approval of a specific design plan which includes:
- a. The design, specific of the location, and trigger for the construction of a ten-foot-wide asphalt trail and equestrian trail along the south side of Dressage Drive from Frank Tippet Road, crossing Dressage Drive and then the ten-foot-wide trail along the entire frontage of Parcel E, at the location as shown on DPR Exhibit A. Detailed construction drawings including trail locations, grading and details shall be reviewed and approved and reflected on street construction permits approved by DPW&T, either within the ROW or on Parcels D and E. The trail shall be constructed in phase with Dressage Drive construction, or as determined with the SDP.
  - b. At the time of Dressage Drive road construction, the applicant and the applicant's heirs, successors and/or assignees shall provide a curb cut for the future vehicular access the Community Park. DPR staff shall review and approve location and width of the curb cut at the time of SDP approval.
  - c. The applicant and the applicant's heirs, successors and/or assignees shall rough grade and stabilize 15 acres of the Community Park area (Parcel E) north of Dressage Drive in phase with development. Rough grading shall be completed prior to issuance of 100<sup>th</sup> building permit, or as determined appropriate with the SDP. The grading plan for the Community Park shall be reviewed and approved by DPR staff at the time of SDP approval for the purpose of assuring that the park is usable.
  - d. Determine the appropriate location for one vehicular access from an interior public street to Parcel D (M-NCPPC) at the proposed locations as shown on DPR Exhibit A. The boundary between Parcel C (HOA) and Parcel D shall be adjusted to provide direct vehicular access from the park property to the internal public street.
- \*14. At time of final plat, conservation easements (24-130), shall be described by bearings and distances. No part of any conservation easement shall be permitted on any residential lot. The conservation easements shall contain the expanded stream buffers, excluding those

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areas where variation requests have been approved during the review of the preliminary plan of subdivision, and all areas preserved or to be planted with the exception of land to be dedicated to DPR. The proposed final plat shall be reviewed by the Environmental Planning Section prior to approval of the 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.”

\*15. The following note shall be placed on the final plat:

“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.”

\*16. Prior to signature approval of the preliminary plan, the TCPI shall be revised to reflect the following:

- a. Confine the use of afforestation to those areas that are adjacent to the regulated areas.
- b. Ensure woodland conservation areas are at least 35-feet-wide.
- c. Ensure that no woodland conservation areas are within existing or proposed utility easements.
- d. Label the existing buildings as existing and state the proposed disposition of the buildings. Revise the limit of disturbance to allow for removal of buildings. Provide reforestation where existing buildings are to be removed from or adjacent to regulated areas.
- e. Provide clarification regarding what areas of woodland conservation that are to be placed on land to be dedicated to DPR. Areas must be labeled with appropriate acreages and separated out from the overall calculations.
- f. Revise the worksheet as needed.

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g. Have the revised plan signed and dated by the qualified professional who prepared the plan.

\*17. The following note shall be placed on the final plat of subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/110/90-02), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s Planning Department.”

\*18. Prior to signature approval the preliminary plan and Type I tree conservation plan, the plans shall be revised to demonstrate the preservation of a 200-foot-wide corridor from Stand ‘D’ to Piscataway Creek along the northern property line. The lots (Lots 114 thru 127) located within this area of preservation shall be removed from the plans and may be relocated in accordance with Applicant Exhibit A with no additional disturbance to the expanded buffer. The preliminary plan approval includes 410 lots. No lots shall be shown within the 200-foot-wide corridor along the northern property line. If, at the time of review of the specific design plan for this area, minor incursions into the required 200-foot-wide preservation corridor less than 50 feet wide are needed for temporary grading to allow the development to fit the contours of the property, then such grading may be permitted if the area of incursion is shown on the TCPII to be replanted. The east-west equestrian trail shall be field located within this area with input from the Environmental Planning Section.

\*19. Prior to the issuance of any building permit, the following improvements shall be in place, under construction, bonded (or letter of credit given to the appropriate agency for construction), 100 percent funded in a CIP/CTP or otherwise provided by the applicant and the applicant’s heirs, successors or assigns:

a. **At the intersection of Rosaryville Road & Gambier Drive**

- Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T

b. **At the intersection of Rosaryville Road and Williamsburg Drive**

- Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T

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**c. At the intersection of Rosaryville Road and Frank Tippet Road**

- Provide a 475-foot double left-turn bay plus a 120-foot taper on the northbound approach.
  - Provide a second receiving lane along westbound Rosaryville Road, the length and taper to be determined by DPW&T
- \*20. Prior to the issuance of building permits, the applicant and the applicant's heirs, successors and/or assignees, shall pay a pro-rata share of the road improvements along Piscataway/Woodyard Road (MD 223) at Rosaryville Road, as described in the Prince George's County Capital Improvement Program for CIP No. FD669451: 2008-2013 (MD 223 Widening). The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$812.00 per dwelling unit x (*Engineering News Record* Highway Construction Cost Index at the time of building permit application) / (*Engineering News Record* Highway Construction Cost Index for the second quarter 2001).
- \*21. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised to locate sites 18PR971 and 18PR996.
- \*22. Prior to Planning Board approval of a specific design plan which includes 18PR971 and/or 18PR996, the applicant and the applicant's heirs, successors and/or assignees shall provide a plan for:
- a. Evaluating the resources at the Phase II level, or
  - b. Avoiding and preserving the resources in place.
- \*23. Prior to the approval of the first specific design plan the applicant and the applicant's heirs, successors, and/or assignees shall provide a final report detailing the Phase II and/or Phase III investigations and ensure that all artifacts are curated in accordance with the *Guidelines for Archeological Review*.
- \*24. Prior to the approval of the first specific design plan, the applicant and the applicant's heirs successors, and/or assignees, shall provide a plan for any interpretive signage to be erected and public outreach measures (based on the findings of the Phase I, Phase II, or Phase III archeological investigations). The location and wording of the signage and the public outreach measures shall be subject to approval by the Historic Preservation

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Commission and the M-NCPPC staff archeologist. The SDP shall include the timing for the installation of the signage and the implementation of public outreach measures.

- \*25. The applicant and the applicant's heirs, and/or assignees, shall coordinate all Section 106 review with the Historic Preservation Section (M-NCPPC), the US Army Corp of Engineers, and the Maryland Historical Trust. National Historic Preservation Act Section 106 requires Federal agencies to take into account the effects of the development on historic resources, to include archeological sites.
- \*26. Any specific design plan for the portion of the development north and west of the northern entrance street from Frank Tippet Road (Passage Drive), adjacent to the Joshua Turner House (Historic Site 82A-017), shall be reviewed for its impact on the adjacent historic site. The review shall include but not be limited to; appropriate buffering requirements, street lighting, the orientation of buildings, and the specific character and materials of the proposed architecture that may be visible from Joshua Turner House.
- \*27. The street names shall be approved by the Development Review Division (DRD) with input from the Historic Preservation Section (M-NCPPC) and shall be based on equestrian terms that reflect both the area's equestrian heritage and the operation of the adjacent Turner House Historic Site as Merrymount Equestrian Center.
- \*28. The first specific design plan shall demonstrate an attractive treatment of Parcel A in its interim state, prior to the filing of a SDP for development of Parcel A as a day care center. This treatment may include the planting of vegetation near the roadway frontage, planting of a wildflower mix or any other treatment that will provide for an attractive view from the roadway, unless the development of Parcel A is the first SDP.
- \*29. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised to eliminate the portion of Parcel B that is intervening between the right-of-way of Frank Tippet Road and Parcel A, so that Parcel A has frontage on Frank Tippet Road.
- \*30. Prior to the approval of the first final plat, in conformance with the 1993 and 1994 *Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area (Planning Areas 79, 82A, 82B, 86A, 86B, 87A, 87B) CDP-0701 (PGCPB Resolution No. 08-111)*, the applicant and the applicant's heirs, successors, and/or assignees shall construct the following trail improvements, subject to the approval of a specific design plan:

  - a. Provide a standard sidewalk along the subject site's entire frontage of Frank Tippet Road, unless modified by DPW&T.

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- b. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.
  - c. The applicant shall construct the East-West Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The timing of construction shall be determined at the time of specific design plan.
  - d. The applicant shall construct the Tributary Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The timing of construction shall be determined at the time of specific design plan.
  - e. The design of the equestrian trails should be in accordance with the *Park and Recreation Facilities Guidelines*. Alignment of the trails (the Tributary and East-West Trails) shall preserve mature tree specimens as much as possible. The developer shall be responsible for clearing the trails to a width of 12 feet with a vertical clearance of 12 feet. The trail surface shall be eight feet wide, of compacted earth with stumps removed and shall afford dry passage. The use of geofabrics may be necessary in wet areas, applied beneath a gravel base course. Fords at stream crossings shall afford safe footing for horses and the approach slopes be minimized to prevent erosion.
  - f. The trail along Dressage Drive shall be designed to accommodate equestrians from Frank Tippet Road to the Tributary Trail. A minimum four-foot-wide grass strip shall be included adjacent to the paved trail. This grass strip shall be free of landscaping, above ground utilities and other obstructions. The equestrian component of the trail shall be indicated on the approved SDP.
  - g. Signage shall be required and reviewed at the time of SDP indicating that the Tributary Trail and East-West Trail are for the use of residents of the subject site and patrons of Merrymount Equestrian Center only, and shall include the triggers for construction.
- \*31. Prior to the issuance of building permits, the applicant and the applicant's heirs, successors and/or assignees shall provide a financial contribution of \$210.00 DPW&T for the placement of a bikeway sign(s) along Frank Tippet Road, designated a Class III Bikeway. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If DPW&T declines the signage, this condition shall be void. If road frontage improvements are required by DPW&T, wide outside curb lanes or asphalt shoulders are recommended to accommodate bicycle traffic.

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- \*32. Prior to the approval of the first final plat the applicant and the applicant's heirs and or assignees shall record in land records of Prince George's County the cooperative use agreement for part of Parcel F between the applicant and Merrymount Equestrian Center dated July 12, 2008. The applicant shall also demonstrate at that time, a cooperative use agreement between the HOA (applicant) and Merrymount Equestrian Center for the equestrian trails on Parcel B and C. Both agreements shall terminate in the event that Equestrian Center ceases to operate, unless extended with the agreement of all parties to the easement.
- \*33. At the time of final plat the applicant, his heirs, successors and/or assignees shall dedicated a 10-foot public utility easement (PUE) along all the public rights-of-way.
- \*34. The applicant and the applicant's heirs, successors, and/or assignees shall dedicate right-of-way of 40 feet from the center line of Frank Tippet Road at the time of final plat. Dedication of right-of-way along Old Frank Tippet Road shall be in accordance with the approved preliminary plan, as determined appropriate by DPW&T.
- \*35. All structures shall be fully sprinklered in accordance with National Fire Protection Association (NFPA) Standard 13 and all applicable County laws.

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.
- ~~\*[1. The subdivision, as modified, does not meet the legal requirements of Subtitle 24 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.]~~
- \*2. OVERVIEW

This preliminary plan is the subject of a previous denial by the Planning Board (PGCPB Resolution No. 08-112). The Planning Board in that action found that the preliminary plan was not in conformance with the 2005 *Approved Countywide Green Infrastructure Plan* and the *Woodland Conservation Ordinance*, which serves as a functional master plan. On October 30, 2008, the applicant requested, and the Planning Board granted, a reconsideration of that action as it relates to the Green Infrastructure Plan and Woodland Conservation.

The subject property consists of 342.4 acres of land in the Residential Suburban Development (R-S) Zone. The property is located on Tax Map 117, Grid F-3 and is

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known as Parcel 1, and is generally undeveloped with the exception of a number of structures and buildings associated with the abutting Merrymount equestrian center. The plan is for a development consisting of 410 single-family residential dwelling units, and eight parcels. The CDP established a minimum lot size of 8,000 square feet. The lots located adjacent to the Williamsburg Estates Subdivision, the Piscataway Creek and the Dower House Pond Branch, have a minimum lot size of 10,000 square feet. All of the lots exceed the minimum standard, and range in size from 8,024 to 15,080 square feet. All of the lots meet the minimum lot width at the front street line of 25 feet, and the minimum lot width at the front building line of 60 feet, at the front building setback of 20 feet, as established by the CDP.

Eight parcels are provided. Four parcels (Parcels B, C, G and H) are to be conveyed to the homeowners association (HOA) and total 61.47 acres. Two parcels (Parcels D and E) are to be conveyed to the Maryland-National Capital Park and Planning Commission (M-NCPPC) and total 120.83 acres. The last two parcels (Parcels A and F) are to be retained by the applicant and total 36.09 acres.

Parcels D and E, to be conveyed to M-NCPPC, are a combination of land required for the fulfillment of the mandatory dedication requirement (17 acres), and donated land. The applicant is dedicating Parcel E (25 acres) for mandatory dedication which is in conformance to Section 24-134 of the Subdivision Regulations. Parcel E is a large centrally located area of land, for a future active park. Parcel E contains wetlands, but includes developable land for purposes of the fulfillment of mandatory dedication. The second parcel, Parcel D is 95.83 acres and contains the Piscataway Creek and Dower House stream valleys. These stream valleys create an important opportunity to implement two master plan trail connections. The applicant has proffered to donate these areas to M-NCPPC to provide for the implementation of the trail system on public land, and as conditioned by the approved Basic Plan (A-9738-C).

Parcels A and F are to be retained by the owner. Parcel A is 3.24 acres and is the location of a possible future day care center. The day care center is provided for in the basic plan approval (A-9738-C). Condition 3 of that approval restricts the day care center to a maximum of 150 children and Consideration 7 establishes layout considerations which would be reviewed at the time of specific design plan (SDP) for Parcel A, if the day care center is constructed. Parcel F is 32.85 acres and is located in the north east quadrant of the property, and surrounds the abutting Merrymount Equestrian Center located on Parcel 91. Parcel 91 is the environmental setting for an historic site known as the Joshua Turner House (No. 82A-17) and is an active equestrian facility. The equestrian center has an agreement (dated July 12, 2008), with the applicant for the continued and cooperative use of 16.63 acres of Parcel F for equestrian purposes. Currently a number of accessory barns, pastures, a riding rink, and equestrian trails are located on proposed Parcel F. The

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agreement provides for the continuation of the equestrian use on Parcel F as long as the equestrian center remains. A portion of an equestrian trail system serving Merrymount currently exists on Parcel F and is to remain. A larger portion of the existing equestrian trail exists where lots are proposed within the subdivision. That portion of the trail is to be relocated onto Parcel C (HOA) to create a loop connection for use by the HOA and Merrymount Equestrian Center, to the Piscataway and Dower House Stream Valley public trail system. This extension and repair of the existing equestrian trail to remain, will be implemented by the applicant. The extension of the existing equestrian trail onto Parcel C (HOA) will be a private trail, and serve the proposed development and the Merrymount Equestrian Center. There is no use proposed on Parcel F at this time. If a use is proposed it must be within the overall trip cap for the development.

On May 14, 1990, the District Council approved Basic Plan A-9738-C for this site with conditions which rezoned the property from the Rural Residential (R-R) and Residential Agricultural (R-A) to the Residential Suburban Development (R-S) Zone, as discussed further. The property is the subject of a previously approved (PGCPB Amended Resolution No. 01-79(A)) Preliminary Plan of Subdivision (4-00064) to create one 92-acre parcel for the development of a private university for 900 students, a 250 room hotel, conference center, and dormitories. A 250-acre outparcel surrounded the interior parcel. That preliminary plan (4-00064) remains valid until December 31, 2010 pursuant to County Council Bill CB-008-2009. Upon the adoption of the resolution of approval of this Preliminary Plan of Subdivision (4-07005) the approval for Preliminary Plan of Subdivision 4-00064 (PGCPB Amended Resolution No. 01-79(A) is null and void.

The land uses for the approved Basic Plan (A-9738-C) are for single-family detached units, a day care facility and an equestrian use. Comprehensive Design Plan CDP-0701 was approved by the District Council on November 18, 2008 with conditions. The preliminary plan has been found to conform with the approved basic plan and comprehensive design plan as set forth herein.

#### SETTING

The subject property is located on the west side of Frank Tippet Road, south of its intersection with Rosaryville Road.

- ~~\*[2. The subject property consists of 342.4 acres of land zoned Residential Suburban Development (R-S), located primarily on the west side of Frank Tippet Road, to the south Rosaryville Road. The property is located on Tax Map 117, Grid F-3; the property is identified as Parcel 1 and is currently undeveloped. The property is located on the west side of Frank Tippet Road, south of its intersection with Rosaryville Road.]~~

\*Denotes Amendment

Underlining indicates new language

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

	<b><u>EXISTING</u></b>	<b><u>APPROVED</u></b>
<u>Zone</u>	<u>R-S</u>	<u>R-S</u>
<u>Use(s)</u>	<u>Generally vacant</u>	<u>Single-family dwelling units and day care center</u>
<u>Acreage</u>	<u>342.4</u>	<u>342.4</u>
<u>Lots</u>	<u>0</u>	<u>410</u>
<u>Parcels</u>	<u>1</u>	<u>8</u>
<u>Dwelling Units:</u>		
<u>Detached</u>	<u>0</u>	<u>410</u>
<u>Non-residential</u>	<u>0</u>	<u>Day care center (150 child max.)</u>
<u>Public Safety Mitigation Fee</u>		<u>No</u>

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

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>
<u>Zone</u>	<u>R-S</u>	<u>R-S</u>
<u>Use(s)</u>	<u>Vacant</u>	<u>Residential</u>
<u>Acreage</u>	<u>342.4</u>	<u>342.4</u>
<u>Parcels</u>	<u>1</u>	<u>5</u>
<u>Lots</u>	<u>0</u>	<u>409</u>
<u>Outparcels</u>	<u>0</u>	<u>1</u>
<u>Detached Dwelling Units</u>	<u>0</u>	<u>8</u>
<u>Public Safety Mitigation Fee</u>		<u>No</u>

- \*4. **Basic Plan A-9738-C**—On May 14, 1990, the District Council approved Basic Plan A-9738-C, with conditions which rezoned the property from the Rural Residential (R-R) and Residential Agricultural (R-A) to the Residential Suburban Development (R-S) Zone.

The Basic Plan contains 9 conditions **in bold**:

**1. Land uses shall be only as shown on the Basic Plan.**

The approved basic plan land uses for this site are for a single-family detached dwelling unit community with an equestrian land use component and a day care center not to exceed 150 children. The preliminary plan is consistent with the land use recommendations of the basic plan.

**2. The minimum lot size for the proposed development shall be 8,000 square feet. Those lots adjacent to the Williamsburg Estates subdivision, Piscataway**

**Creek and Dower House Pond Branch shall be a minimum of 10,000 square feet.**

The lots located adjacent to the Williamsburg Estates Subdivision, the Piscataway Creek and the Dower House Pond branch, have a minimum lot size of 10,000 square feet. All of the lots exceed the minimum standard, and range in size from 8,024 to 15,080 square feet. The lots located more than 200 feet from the north property line are found not to be adjacent to the Williamsburg Estates subdivision, and therefore found not to be required to be 10,000 square feet. Lots 8 and 12, Block A are found not to be adjacent to the Dower House Pond branch, but are adjacent to a side channel, and are therefore found not to be required to be 10,000 square feet in size.

**3. The proposed day care center shall be limited to a maximum of 150 children.**

A location for a day care center has been shown on the preliminary plan (but not labeled and should be), consistent with the approved CDP, on proposed Parcel A to be retained by the applicant. The numbers of residential units that are currently being proposed are less than the number in the traffic study. Therefore, a day care center of 150 children on Parcel A would be within the capacity analysis contained herein without the need for a new analysis of traffic. Any development of Parcel F would require a new preliminary plan if it is not within the limits of the approved trip cap.

**4. There shall be no grading or cutting of trees on the site prior to approval of the Comprehensive Design Plan, except on a selective basis with the written permission of the Prince George's County Planning Board.**

The Basic Plan for this site was approved prior to the enactment of the County's Woodland Conservation and Tree Preservation Ordinances; current County law prohibits land grading or cutting of trees without the prior approval of a Type II Tree Conservation Plan, which would be approved at a subsequent phase of development. Since the approval of the basic plan in 1990, the site has remained unchanged.

**5. The Basic Plan shall be modified as follows:**

**a. The northernmost entrance shall be at least 820± feet south of the south boundary of the Merrymount Riding Academy property. The equestrian center use shall be located north of the boulevard entrance and interior roadway.**

Prior to its certification, the Basic Plan was modified to reflect this condition. The northernmost entrance is proposed to be located approximately 1,100 feet south of the Merrymount property.

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- b. A 50-foot-wide undisturbed buffer shall be provided on the north boundary adjacent to Williamsburg Estates. However, the proposed trail system may be included within this buffer to the extent feasible.**

CDP approval recommends that the Planning Board make a final decision regarding the preservation of a 300-foot buffer along Williamsburg Estates. A 200-foot undisturbed buffer adjacent to the Williamsburg Estates subdivision has been required.

- c. That portion of the property adjacent to Frank Tippet Road shall be supplemented with plant materials or other screening.**

A buffer of at least 100 feet in depth has been provided along the property's Frank Tippet Road frontage. This buffer will be supplemented with afforestation plantings to provide a denser screen from Frank Tippet Road and should be labeled on the preliminary plan.

- d. No driveways shall have direct access to Frank Tippet Road. All access shall be from the internal roadway system.**

No lots are proposed to have frontage on Frank Tippet Road; there will be a buffer of at least 100 feet in depth between Frank Tippet Road and any lot boundaries. However, this condition may limit access to Parcel A, where the Daycare center is planned to be placed. The applicant may petition the District Council to remove this condition if the DPW&T determine that the safest access point to the site is along Frank Tippet Road rather than the collector road.

- e. All trails shall be in accordance with the recommendations of the Trails Coordinator, Exhibit 44, as recited in the body of the decision.**

Exhibit 44 recommends the construction of four equestrian trails: An east-west trail through the Williamsburg Estates buffer; a Piscataway Creek trail in the stream valley park; a Dower House Branch trail in the stream valley park; and a tributary trail running along the north-south stream from the equestrian center to Dower House Pond Branch. These four trails have been generally shown on the preliminary plan and shown on CDP. The hiker-biker trails are not specified by Exhibit 44 to be in any particular location, but are to be a separate system from the equestrian trails. The hiker/biker trails are to connect to the stream valley trails and to the recreational facilities. The review of the specific trail location, will be pursuant to a SDP.

- 6. The Equestrian Center and facilities and equestrian trails shall be designed, located and approved prior to any other approvals by plan, plat or permit.**

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This plan was approved with the CDP, and the preliminary plan is consistent with that approval.

- 7. The day care center shall not be co-located with the Equestrian Center. If located adjacent to any facility or area used for equestrian center purposes, the play area shall not border on and shall be buffered from any area wherein horses shall be located or traverse.**

The day care center site is not co-located with the Equestrian Center. The layout of the day care center facilities will be pursuant to a SDP which will be required for development.

- 8. Continued cooperative use of property “designated” equestrian center use and equestrian trails by the Merrymount Equestrian Center shall be assured by appropriate contractual and covenanted arrangement recorded among the land records of Prince George’s County. Subject, however, to Merrymount Equestrian Center’s continuing operations as an Equestrian Center. Upon discontinuance of Merrymount, the “designated” property shall be used for public recreational purposes. Therefore, the property “designated” shall qualify as recreational property to meet County recreational requirements and for incremental increases.**

At present, the Merrymount equestrian center continues to use areas of the property by permission, for their operations, including pasturage, riding trails, two riding rings, and other facilities. This use is intended to continue, through the intertwined nature of the proposed development with the existing equestrian facility. The area surrounding the facility is not being counted as recreational property towards recreational requirements or towards density increment.

The cooperative use agreement for part of Parcel F between the applicant and Merrymount Equestrian Center dated July 12, 2008, will be recorded in land records prior to the approval of the first final plat. An additional cooperative use agreement between the HOA (applicant) and Merrymount Equestrian Center for the equestrian trails on Parcel B and C is also required. The July 12, 2008 agreement expires once the equestrian uses ceases to exist. The additional agreement between Merrymount Equestrian Center and the HOA, which establishes the continued/and new use of the Tributary Trail and the East West Trail, will also terminate in the event that Equestrian Center ceases to operate, unless extended by agreement of all parties.

- 9. Applicant shall file an amended Basic Plan incorporating the requirements of this decision for review and approval of the Office of the Zoning Hearing Examiner prior to any further proceedings upon their request.**

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The Amended Basic Plan was filed and certified in 1990.

The basic plan approval contains 16 considerations which have been addressed and includes the following note: Consideration 7 which requires a 17-acre park and that the central park have a minimum 200 feet of frontage on the internal primary roadway; Consideration 9 requires a minimum 50-foot buffer along the north property line with Williamsburg Estates, which has been increased to 200 feet with this preliminary plan; Consideration 10 requires that building lots adjacent to Frank Tippet Road be in accordance with the R-R zoning standards or not less than 80 feet in this instance; Consideration 11 prohibits the extension of three stub streets from Williamsburg estates into the subject site. Specifically that James Court, Williamsburg Drive and Green Apple Farms shall not connect to provide access to Rosaryville Road.

The preliminary plan conforms to the conditions and consideration of the basic plan based on the findings of this decision.

- \*5. **Comprehensive Design Plan CDP-0701**-The District Council approved CDP-0701 on November 18, 2008, and the final order was issued on November 24, 2008, which contains 31 conditions. Comments have been provided as appropriate and applicable to the preliminary plan of subdivision:

**1. At the time of final plat, the applicant shall dedicate all rights-of-way for Frank Tippet Road, as identified by the Planning Department.**

A condition is included as part of this approval for the dedication of 40 feet from the center line of Frank Tippet Road, a collector facility.

**2. Prior to the issuance of any building permit, the following improvements shall be in place, under construction, bonded (or letter of credit given to the appropriate agency for construction), 100 percent funded in a CIP/CTP or otherwise provided by the applicant and the applicant's heirs, successors or assignees:**

**a. At the intersection of Rosaryville Road & Gambier Drive:**

**Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T.**

**b. At the intersection of Rosaryville Road and Williamsburg Drive:**

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Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T.

c. At the intersection of Rosaryville Road and Frank Tippet Road:

Provide a 475-foot double left-turn bay plus a 120-foot taper on the northbound approach. Provide a second receiving lane along westbound Rosaryville Road, the length and taper to be determined by DPW&T.

These transportation conditions are carried forward in their entirety with this application and are necessary for the fulfillment of the adequacy of transportation facilities.

3. Prior to the issuance of building permits, the applicant, applicant heirs, successors and/or assignees, shall pay a pro-rata share of the road improvements along MD 223 at Rosaryville Road, as described in the Prince George's County Capital Improvement Program for CIP No. FD669451: 2008-2013 (MD 223 Widening). The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$812.00 per dwelling unit x (Engineering News Record Highway Construction Cost Index at the time of building permit application) / (Engineering News Record Highway Construction Cost Index for the second quarter 2001).

This transportation condition is carried forward in its entirety with this application and is necessary for the fulfillment of the adequacy of transportation facilities.

4. At the time of final plat, the applicant shall dedicate approximately 115 acres to M-NCPPC for a stream valley park and a community park. The exact acreage of each park shall be determined at the time of the approval of the preliminary plan of subdivision. Land to be conveyed shall be subject to the following conditions:

- a. The facilities developed in the community park shall be designed to accommodate the recreation needs of the residents of the TLBU property and the surrounding community.
- b. The applicant and M-NCPPC shall work in partnership with the Brookwood-Hollaway Civic Association and the Williamsburg Estates Citizens Association on the nature of the recreation facilities to be constructed on the land to be conveyed for a community park.

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- c. 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.
- d. 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.
- e. 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.
- f. Subsequent to dedication, the land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.
- g. 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 or owned by M-NCPPC, the DPR shall review and approve the location and design of these facilities. The DPR may require a performance bond and easement agreement prior to issuance of grading permits.
- h. 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. The DPR shall inspect the site and verify that land is in acceptable condition for conveyance, prior to dedication.
- i. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of the DPR.

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These conditions are brought forward as appropriate to guide the development of the future public park. In total the applicant is conveying 120.89 acres to M-NCPPC.

**5. The applicant shall terminate any leasehold interests on property to be conveyed to the Commission.**

This condition is included as part of this approval.

**6. 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 the DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by the DPR, a performance bond, maintenance and easement agreements shall be required prior to the issuance of grading permits.**

This condition is included as part of this approval.

**7. Tree conservation shall be allowed on dedicated parkland as approximately shown on DPR Exhibit "A." Prior to certificate approval of the TCP I, DPR shall review and approve the location and amount of tree conservation on dedicated parkland.**

DPR Exhibit A from the approved CDP was modified slightly for the preliminary plan (DPR Exhibit A), based on the layout revisions associated with Applicant Exhibit A. M-NCPPC has agreed to allow tree conservation on park property in accordance with the TCPI submitted with this application.

**8. Provide a standard sidewalk along the subject site's entire frontage of Frank Tippet Road, unless modified by DPW&T.**

This condition is included as part of this approval.

**9. The applicant, and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and transportation for the placement of Class III bikeway signage. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit. If road frontage improvements are required by DPW&T, wide outside curb lanes or asphalt shoulders are recommended to accommodate bicycle traffic.**

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This condition is included as part of this approval.

**10. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.**

This condition is included as part of this approval.

**11. The applicant shall dedicate land along Piscataway Creek to the M-NCPPC in conformance with DPR Exhibit "A" to accommodate the future provision of the master plan trail along Piscataway Creek. This trail will be provided through a future M-NCPPC capital improvement program project.**

DPR Exhibit A from the approved CDP was modified slightly for the preliminary plan (DPR Exhibit A). The M-NCPPC has agreed to allow tree conservation on park property in accordance with the TCPI approved with this application. The applicant proposes to donate land along the Piscataway Creek in accordance with (DPR Exhibit A).

**12. The applicant shall dedicate land along Dower House Pond Branch to the M-NCPPC in conformance with DPR Exhibit "A" to accommodate the future provision of the master plan trail along Dower House Pond Branch. This trail will be provided through a future M-NCPPC capital improvement program project.**

DPR Exhibit A from the approved CDP was modified slightly for the preliminary plan (DPR Exhibit A), based on the layout revisions necessary to show conformance to the Green Infrastructure Plan.

**13. The applicant shall construct the East-West Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The "appropriate contractual and covenanted arrangement" required in Condition 8 of A-9738-C shall include provision for the maintenance of the East-West Trail.**

The appropriate contractual arrangement was presented to the Planning Board at the time of review of the CDP. The agreement dated July 12, 2008 requires that Merrymount Equestrian Center maintain that portion of the equestrian trail that is located within that part of Parcel F delineated in the agreement. The remainder of the equestrian trail located on Parcel C and B are to be maintained by the HOA. The portion of the trail on Parcels C and B are private and to be shared by the HOA and Merrymount until the equestrian use no longer exists, at which time the right of access for the property owner of Parcel 91 may no longer exist.

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- 14. The applicant shall construct the Tributary Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The “appropriate contractual and covenanted arrangement” required in Condition 8 of A-9738-C shall include provision for the maintenance of the Tributary Trail.**

This condition is included as part of this approval.

- 15. Prior to certificate approval of the subject comprehensive design plan application:**

**a. Phase I (Identification) archeological investigations, according to the Planning Board’s Guidelines for Archeological Review (May 2005), shall be conducted on the above-referenced property to determine if any cultural resources are present. The entire 343.35 acres shall be surveyed for archeological sites. The applicant shall submit a Phase I Research Plan for approval by the staff archeologist prior to commencing Phase I work. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations is required prior to signature approval.**

**b. Upon receipt of the report by the Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to Planning Board approval of the first of either a preliminary plan of subdivision or a specific design plan, the applicant shall provide a plan for:**

**(1) Evaluating the resource at the Phase II level, or**

**(2) Avoiding and preserving the resource in place.**

**If a Phase II and/or Phase III archeological evaluation or mitigation is necessary the applicant shall provide a final report detailing the Phase II and/or Phase III investigations and ensure that all artifacts are curated in a proper manner, prior to any ground disturbance or the approval of any grading permits.**

The CDP plan has been certified (September 2009) and the Phase I report was submitted. Conditions contained herein relate to the Phase II and possible Phase III investigations.

- 16. Prior to the approval of a specific design plan, the applicant shall provide a plan for any interpretive signage to be erected and public outreach measures (based on the findings of the Phase I, Phase II, or Phase III archeological**

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investigations). The location and wording of the signage and public outreach measures shall be subject to approval by the Historic Preservation Commission and M-NCPPC staff archeologist. The installation of the signage and the implementation of public outreach measures shall occur prior to the issuance of the first building permit for the development.

This condition is included as part of this approval.

- 17. Prior to the approval of a specific design plan for the portion of the developing property adjacent to the Joshua Turner House (Historic Site No. 82A-017), the applicant shall consider the impact of proposed development in this area on the historic site by submitting plans that address the buffering requirements of the Prince George's County Landscape Manual, the layout of streets and street lighting, the pattern of building lots, the orientation of buildings, and the specific character and materials of the proposed architecture that may be visible from Joshua Turner House.**

This condition is included as part of this approval.

- 18. At time of final plat, conservation easements shall be described by bearings and distances. The conservation easements shall contain the expanded stream buffers, excluding those areas where variation requests have been approved during the review of the Preliminary Plan of Subdivision, and be reviewed by the Environmental Planning Section prior to certification of the 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.”**

This condition is included as part of this approval.

- 19. The Preliminary Plan of Subdivision and all subsequent plans shall ensure that no part of any conservation easement is on any residential lot. When the TCP II is formulated with the SDP, consideration shall be given to the placement of woodland conservation areas into permanent, recorded conservation easements because they will not be located on residential lots.**

This condition is included as part of this approval.

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- 20. At the time of approval of the preliminary plan and tree conservation plan by the Planning Board, consideration shall be given to removal of the stream crossing at the north end of proposed Dressage Drive.**

At the time of review of the CDP and the original preliminary plan submitted with this application, the stream crossing was found not to be consistent with the policies of the Green Infrastructure Plan. The reconsidered preliminary plan has now removed the stream impact and relocated the 25 lots which were served by the road crossing. The area has now been converted to woodland conservation and is a part of Forest Stand D, west of Parcel 91 and just south of the Williamsburg Estates subdivision, in the north east portion of the site.

- 21. 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.**

This condition is included as part of this approval.

- 22. Prior to certification of the CDP and prior to the Planning Board approval of a preliminary plan, the CDP's Type I TCP shall reflect the following:**
- a. Ensure woodland conservation areas are at least 35 feet wide.**
  - b. Ensure that no woodland conservation areas are within existing or proposed utility easements.**
  - c. Provide the correct acreages for upland woodland and floodplain woodland in the worksheet and if necessary, revise the NRI.**
  - d. Add a symbol to the plan and the legend indicating woodland areas preserved but not part of any requirement.**
  - e. Label the existing buildings as existing and state the proposed disposition of the buildings. Provide reforestation where existing buildings are to be removed from or adjacent to regulated areas.**
  - f. Revise the worksheet as needed.**
  - g. Have the revised plan signed and dated by the qualified professional who prepared the plan.**

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This condition is addressed in the findings of this decision.

**23. The following note shall be placed on the Final Plat of Subdivision:**

**“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCP I/110/90-01), 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 Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission, Prince George’s Planning Department.”**

This condition is included as part of this approval.

**24. Prior to the approval of building permits for the proposed residential structures, the applicant, applicant’s heirs successors and/or assignees shall place on the building permit a certification by a professional engineer with competency in acoustical analysis demonstrating that the design and construction of the building shells will reduce interior noise levels to 45 dBA (Ldn) or less.**

Based on the July 2007 Aircraft Installation Compatibility Use Zone Study (ACIUZ) this property is not impacted by overflight noise associated with Andrews Air Force Base. There are no other noise issues associated with this preliminary plan.

**25. The following note shall be placed on the Final Plat of Subdivision:**

**“Properties within this subdivision have been identified as possibly having noise levels that exceed the state noise standards for residential uses (65 dBA Ldn) due to military aircraft overflights. This level of noise is above the Maryland-designated acceptable noise level for residential uses.”**

Based on the July 2007 ACIUZ this property is not impacted by overflight noise associated with Andrews Air Force Base. There are no other noise issues associated with this preliminary plan.

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- 26. The stormwater management ponds shown on the TCP I associated with the preliminary plan shall show the use of forebays for improved water quality and ease of long-term maintenance.**

This condition is addressed in the findings of this decision.

- 27. Prior to signature approval of the CDP, the following information shall be provided and/or changes made to the plans:**

- a. The plans shall provide for a minimum 2.0-acre buildable area for the provision of a day care center located at the entrance to the subject property, in the vicinity of Lots 50–53, as shown on the illustrative plan, with frontage on Frank Tippet Road. The area shall be labeled on the plan as a future day care center. No other commercial uses shall be allowed on the subject property.**
- b. The plan shall be revised to remove the 31 acres shown on the CDP as a “future residential subdivision” from the gross tract area for purposes of density calculation, unless it is intended that the acreage be dedicated to a future homeowners association. The label “future residential subdivision” shall be removed from the plans and the area shall be clearly indicated for equestrian use.**
- c. The plans shall be revised to clearly indicate the minimum 10,000-square-foot lot area adjacent to Williamsburg Estates, Piscataway Creek and Dower House Pond Road.**
- d. The 100-foot buffer along Frank Tippet Road shall be extended along the entire frontage of the roadway.**
- e. The plans shall be revised to indicate the East-West Trail and the Tributary Trail as described in Exhibit 44 of Approved Basic Plan A-9738-C.**

The proposed preliminary plan layout is consistent with this condition.

- 28. Prior to approval of a Specific Design Plan, the following shall be demonstrated:**

- a. That portion of the property adjacent to Frank Tippet Road shall be supplemented with plant materials or other screening.**

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- b. No driveways shall have direct access to Frank Tippet Road. All access shall be from the internal roadway system.**
- c. Design of the equestrian trails shall be in accordance with the Parks and Recreation Facilities Guidelines and shall preserve mature trees to the extent possible.**
- d. The width of building lots adjacent to Frank Tippet Road shall be 70 feet at the street line.**
- e. Those lots adjacent to the Williamsburg Estates subdivision, Piscataway Creek and Dower House Pond Branch shall be a minimum of 10,000 square feet.**
- f. Access shall not be provided to Rosaryville Road via adjacent stub streets on the north boundary: James Street, Williamsburg Drive, and Green Apple Turn.**

The proposed preliminary plan is consistent with this condition as applicable to lot size, access and lot width.

**29. All structures shall be fully sprinklered in accordance with National Fire Protection Association Standard 13 and all applicable County laws.**

This condition is included as part of this approval.

**30. Prior to the approval of a preliminary plan, the Planning Board shall make a final decision regarding the following issues:**

- a. Preservation of Forest Stand “D” through the elimination of the proposed stream crossing that forms the extension of Dressage Drive.**

The stream crossing has been eliminated preserving that portion of Forest Stand D.

- b. Elimination of lots that are adjacent to the northern property line and provide a 300-foot-wide buffer in this area as a land bridge to the portion of Forest Stand “D” that will be preserved between the two stream valleys.**

A 200-foot corridor along the Williamsburg Estates subdivision resulted in the relocation of 14 lots. The 200-foot corridor is a requirement consistent with the recommendations of the Green Infrastructure plan for an environmental “corridor,” which acts as a land bridge

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for plant and animal life. This corridor will be sufficient to connect Forest Stand D to the east, with the Piscataway Stream Valley to the west. This connection is an important component to the health of the forest stand, and the animal and plant species which occupy this area.

**c. Preservation of an area within 300 feet of the floodplain of Piscataway Creek, and**

**d. The use of afforestation in those areas that are adjacent to the regulated areas.**

The plan provides an average 200-foot-wide area of preservation on the preliminary plan. The topography, tree stands, and environmental features along the 100-year floodplain make the implementation of a linear requirement impractical. The organic nature of the layout of the subdivision and the elements of the stream valley are complimented by the preliminary plan layout and found to be appropriate. The preliminary plan provides an average of 220 feet, which should be maintained with the review of specific design plan applications.

**31. The applicant shall meet and work with M-NCPPC Parks and Recreation staff and the parties of record to assist in the selection and construction of recreational facilities for the parkland being dedicated. At the time of building permit, the applicant shall contribute \$500 per unit to a Parks and Recreation fund for the construction of a recreational park, as part of a future recreational center. The applicant is permitted up to 410 units on the property.**

Conditions have been included in this approval which require the payment indicated above prior to the approval of each building permit. The DPR has indicated that capital improvement funds (CIP) funds will be necessary to construct facilities on this property to serve the residents and the community. Based on the 410 units, \$205,000 dollars will be available from the private sector. Therefore, CIP funds will be necessary. The CIP funds are identified through a public budget process and will provide opportunity for the community and the DPR to work together, with the applicant, to identify appropriate facilities for the proposed public park on Parcel E.

- \*6. Community Planning**—The subject property is in Planning Area 82A-Rosaryville, within the Developing Tier, and Council District 9. One of the visions for the Developing Tier is to maintain a pattern of low-to moderate-density suburban residential communities. The subject property was classified in the R-S Zone by Basic Plan A-9738-C in 1990. The 1993 & 1994 Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area (Planning Areas 79, 82A, 82B, 86A, 86B, 87A, 87B) retained the subject

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property in the R-S Zone. The proposal for 410 residential lots and day care center is consistent with the low suburban residential development with a density yield of 1.6–2.6 dwelling units per acre. This application is consistent with the 2002 General Plan Development Pattern Policies for the Developing Tier. The development proposal conforms to the 1993 Subregion VI master plan recommendations for living areas in the Rosaryville community of this planning area. The recommended buffer to separate the Williamsburg Estates subdivision from the TLBU property development is appropriate. This is consistent with the District Council approval of the Basic Plan (A-9738-C) in 1990.

~~\*[4. **Community Planning**—The subject property is in Planning Area 82A Rosaryville, within the Developing Tier, and Council District 9. 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. The subject property was classified in the R-S Zone by application A-9738-C in 1990. The 1994 *Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area (Planning Areas 79, 82A, 82B, 86A, 86B, 87A, 87B)* retained the subject property in the R-S Zone. The proposal for 409 residential lots is consistent with the low suburban residential development with a density yield of 1.6–2.6 dwelling units per acre. This application is consistent with the 2002 General Plan Development Pattern Policies for the Developing Tier. The development proposal conforms to the 1993 Subregion VI Study Area Master Plan recommendations for living areas in the Rosaryville community of this planning area. The applicant proposes a fifty-foot buffer to separate the Williamsburg Estates subdivision from the TLBU Property. This is consistent with the County Council approval of the Zoning Map Amendment (A-9738-C) in 1990. However, Environmental Planning Staff recommends a 300-foot buffer in this area to preserve high priority woodlands and provide adequate buffer for the equestrian trail.]~~

~~\*7. **Environmental**—The Environmental Planning Section reviewed the revised preliminary plan for the TLBU Property, 4-07005, stamped as received by the Environmental Planning Section on September 29, 2009 and the revised Type I Tree Conservation Plan, TCPI/110/90-02 stamped as received by the Environmental Planning Section on August 4, 2009, and Applicant Exhibit A.~~

### Site Description

The 342.40-acre property in the R-S Zone is bounded by Piscataway Creek on the west, Frank Tippet Road on the east and Dower House Branch on the southeast. There are streams, wetlands and 100-year floodplains on the property associated with Piscataway Creek in the Potomac River watershed. There are no nearby sources of traffic-generated noise. The proposed development is not a noise generator. According to the *Prince*

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George's County Soil Survey the principal soils on the site are in the Adelphia, Aura, Beltsville, Bibb, Chillum, Croom, Fallsington, Iuka, Marr, Matapeake, Ochlockonee, Sassafras, Shrewsbury and Westphalia series. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, a Sensitive Species Project Review Area as delineated on the SSPRA GIS layer is found to on this property. No designated scenic or historic roads are affected by this development. The site is in the Developing Tier according to the 2002 *Prince George's County Approved General Plan*.

### **MASTER PLAN CONFORMANCE**

This preliminary plan is in conformance with the Master Plan based on the findings contained in this resolution of approval. It is important to understand the ecological significance and uniqueness of the subject site. This property contains upland woodland that served as a woodlot for a working farm. Almost all drier upland woodlands with relatively flat topography in the Maryland Coastal Plain were converted to agricultural fields during the Colonial Era; however, working agricultural lands required woodlots to supply hardwoods for consumption and construction. These woodlots were carefully managed to provide a continuous supply of essential materials. Because these forests were not cultivated, they retain in the understory a diversity of native woodland species that have been lost by intensive agricultural practices and possess irreplaceable features of the natural heritage of Prince George's County. Preservation of highly valued woodlands is the highest priority in the Woodland Conservation and Tree Preservation Ordinance.

In the approved Master Plan and Sectional Map Amendment for Subregion VI Study Area, the Environmental Envelope Section contains goals, objectives, and guidelines. The following guidelines are applicable to the current project. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

- 1. An open space and conservation network, based on existing soil conditions, slopes, watercourses, vegetation, natural ecological features, and estimated future population needs, should be established and maintained.**

Implementation of the Countywide Green Infrastructure Plan will ensure compliance with this guideline. The preliminary plan and TCPI provide preservation of woodland to protect the stream valleys and tracts of contiguous woodland to be placed in HOA open space or as dedicated parkland, which create a conservation network appropriate for this property.

- 2. Developers shall be encouraged to utilize the Comprehensive Design Ordinance, the cluster provisions and site plan review provisions of the subdivision regulations and other innovative techniques that ensure responsible environmental consideration.**

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The Comprehensive Design Ordinance is being used as the framework for the development of the property.

**3. Land dedicated in accordance with the subdivision regulations for the provision of needed recreational facilities should not consist solely of floodplains or other parts of the Natural Reserve Area.**

The preliminary plan requires the dedication of developable parkland and contains large areas outside the natural reserve area and 100-year floodplain.

**4. The responsibility for environmentally sound development practices should apply equally to private and public interests; decisions concerning the selection and use of properties should be based on environmental considerations.**

The subject site contains highly sensitive land features and vegetation, in association with Piscataway Creek. Section 24-130 of the Subdivision Regulations, the Woodland Conservation Ordinance and implementation of the Countywide Green Infrastructure Plan were used to focus development in an environmentally sound manner. However, additional environmental considerations on this property may be identified through the review of the specific design plans.

**5. Developers shall be encouraged to capitalize on natural assets through the retention and protection of trees, streams and other ecological features.**

The TCPI conforms to the master plan and creates an open space and conservation network based on existing soil conditions, slopes, watercourses, vegetation and natural ecological features; it capitalizes on natural assets through the retention and protection of trees, streams and other ecological features; it conserves large contiguous tracts of woodland in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio.

**6. Woodlands associated with floodplains, wetlands, stream corridors and steep slopes shall be given priority for preservation.**

This guideline mirrors the requirements of the Woodland Conservation Ordinance. The TCP proposes preservation of wooded stream corridors, and conforms to the Woodland Conservation Ordinance which will result in the preservation of woodlands of the highest priority and not create forest fragments.

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- 7. To the extent practicable, large contiguous tracts of woodland should be conserved in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio.**

This guideline is a standard practice for all tree conservation plans. The TCP shows areas of connectivity. Preservation of highly valued woodlands is the highest priority in the Woodland Conservation Ordinance and is accommodated with this plan.

- 8. The Natural Reserve Areas, containing floodplain and other areas unsuitable for development, should be restricted from development except for agricultural, recreational and similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.**

The Natural Reserve Areas described in the master plan are areas that have been superseded by the Regulated Areas in the Countywide Green Infrastructure Plan. There are extensive Regulated Areas located both on and adjacent to the site. The proposed disturbances to Regulated Areas are discussed in detail in the Environmental Review below. Additional conditions have been included to ensure compliance with federal and state regulations.

- 9. All development proposals should provide effective means for the preservation and protection of Natural Reserve Areas, the development plans for lands containing open space and conservation areas should specify how and by whom these areas will be maintained.**

This preliminary plan proposes the creation of parcels that will be owned and maintained by the future homeowners or by the Department of Parks and Recreation. The Regulated Areas that are not disturbed for construction will be placed in conservation easements on the final plats.

- 10. Limited development should be permitted in Conditional Reserve Areas, based on the significant physiographic constraints and natural processes of the land.**

The Subregion VI Master Plan does not identify any areas of Conditional Reserve on the subject property; however, the Countywide Green Infrastructure Plan superseded the master plan for these designations when it was adopted in 2005. The site contains Regulated, Evaluation and Network Gap Areas that provide connectivity of existing woodlands. The TCPI reflects conformance with the master plan because of the substantial amount of protection of on-site woodlands of the highest priority.

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- 11. In the Perceptual Liability Areas, land uses such as schools, residences, nursing homes, and libraries that are sensitive to noise intrusion, air pollution and other characteristics of excessive vehicular traffic should be protected by suitable construction techniques and by the enforcement of legally mandated standards.**

The subject property is not within the Aircraft Installation Compatibility Use Zone (AICUZ).

- 12. Developers shall be encouraged to include careful site planning and construction techniques which are designed to reduce the adverse impact of point and nonpoint source noise that exceeds the State's current maximum allowable levels for receiving land uses.**

Based on the July 2007 ACIUZ study, this property is not impacted by over flight noise associated with Andrews Air Force Base.

- 13. Farming conservation measures such as diversions, terraces, and grassed waterways in conjunction with contour strip cropping and crop rotations should be implemented.**

No farming is proposed.

#### **GREEN INFRASTRUCTURE PLAN CONFORMANCE**

The site is within the designated network of the Green Infrastructure Plan and includes large areas designated as Regulated Areas, Evaluation Areas and Network Gaps. The Regulated Areas contain the same features as the Natural Reserve as defined in the Subregion VI Master Plan. The Evaluation Areas are the forested areas contiguous with the Regulated Areas that contain special environmental features that are being preserved. The subject site contains woodland and wildlife habitat that is unique and in need of careful consideration for preservation within the design. The following policies support the stated measurable objectives of the Countywide Green infrastructure Plan:

#### **Policy 1: Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.**

The subject property contains Regulated Areas, Evaluation Areas, and Network Gaps Areas as identified in the Countywide Green Infrastructure Plan adjacent to Piscataway Creek and Dower House Branch. Dower House Branch is a master plan designated primary corridor connection between Piscataway Creek in the Potomac River watershed

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and Charles Branch in the Patuxent River watershed. The TCPI conforms to the Countywide Green Infrastructure Plan because it preserves priority woodlands within Evaluation Areas of the highest quality. The TCPI will conform to the Woodland Conservation Ordinance and ensure the preservation of significant forests on-site that will not create forest fragments. Preservation of highly valued woodlands is the highest priority in the Woodland Conservation Ordinance.

**Policy 2: Preserve, protect, and enhance surface and ground water features and restore lost ecological functions.**

The TCPI shows the provision of traditional pipe-and-pond technologies to address stormwater run-off. This type of technology is out-dated and other options need to be considered. At a minimum, the design needs to consider the use of forebays to the ponds to allow for the settling of the majority of the sediment and pollutants before the quantity is discharged into the main pond. This technique results in better water quality of the water discharged and easier long-term maintenance of the system.

The base requirements for stormwater management are due to change because of ordinance changes required by the Maryland Department of Environment that must be implemented by May 4, 2010. Unless a property has an approved erosion/sediment control plan by that date, it will have to be redesigned to meet all new requirements. The stormwater ponds shown on the TCPI will not be sufficient to meet the new requirements. The approval of this preliminary plan does not provide the applicant with an exemption or grandfathering for the new stormwater management regulations. The applicant should be advised that revisions could result in modifications to the layout. Any modification cannot disturb the limits of the expanded buffer beyond that approved with this preliminary plan and tree conservation plan with the exception of required outfalls.

**Policy 3: Preserve existing woodland resources and replant woodland, where possible, while implementing the desired development pattern of the 2002 General Plan.**

Preservation of highly valued woodlands is the highest priority in the Woodland Conservation Ordinance. Most of the high priority upland woodland is proposed to be preserved.

**Summary of Conformance with the Countywide Green Infrastructure Plan:** The preliminary plan conforms to the 2005 Approved Countywide Green Infrastructure Plan because it preserves priority woodland within the master plan designated Evaluation Areas of the highest quality. With the provision of a 200-foot corridor along the north property line, conformance with the Countywide Green Infrastructure Plan can be found. This additional preservation will provide preservation of woodland which will further protect

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the stream valleys and tracts of contiguous woodland. This preservation is to be placed in HOA open space which will establish a conservation network appropriate for this property.

### **BASIC PLAN A-9738-C CONFORMANCE**

A Final Decision was issued by the District Council on May 14, 1990 on Basic Plan A-9738-C. The decision contains a list of conditions and considerations on the approved rezoning of the property. The following are analysis of the environmental considerations from the Council Decision applicable to the review of the preliminary plan. The text from the Final Decision has been shown in BOLD typeface, while the evaluation has been shown in standard typeface.

**Consideration 1—The applicant shall prepare a tree stand delineation plan for approval by the Natural Resources Division. Where possible, major stands of trees shall be preserved, especially along streams, adjoining roads and property lines.**

A forest stand delineation (FSD) was submitted with the Natural Resource Inventory (NRI). The TCPI shows preservation of woodlands along streams and adjoining roads; and a major forest stand identified by the NRI (Forest Stand “D”). The TCPI conforms to Consideration No.1 of A-9738-C to preserve the major stand of trees on the northern portion of the site that is adjacent to a stream and property lines.

**Consideration 2—The applicant shall submit a 100-year floodplain study and a stormwater management concept plan for approval by the Department of Environmental Resources.**

A 100-year floodplain study was approved on November 20, 1989. A Stormwater Concept Plan, CSD No.8327607-2000-04, has been approved by the Department of Public Works and Transportation (DPW&T). Because the 100-year floodplain study was approved more than 18 years ago, a confirmation of the validity of the study was requested. A letter from Dawit Abraham, Associate Director, DPW&T, dated September 22, 2009, indicates that floodplain study, FPS No. 900058, approved on November 20, 1989 remains valid.

**Consideration 3—A minimum 50-foot wide buffer shall be retained along all streams. This area shall be expanded to include the 100-year floodplain, wetlands, steep slopes and areas of erodible soils.**

In conformance with this consideration, the NRI and TCPI provides all of the required expanded stream buffers on the property.

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## **CDP-0701 CONFORMANCE**

A Final Decision was issued by the District Council on November 24, 2008 for Comprehensive Design Plan CDP-0701. The decision contains a list of conditions and considerations to be applied at various review points in the process.

The following are analysis of the environmental conditions, limitations and considerations from the Council Decision. Conditions 18 through 25 have either been addressed or will be carried forward. The text from the Final Decision has been shown in **BOLD** typeface, while the evaluation has been shown in standard typeface.

- 26. The stormwater management ponds shown on the TCPI associated with the preliminary plan shall show the use of forebays for improved water quality and ease of long-term maintenance.**

The revised TCPI does not show the use of forebays. Stormwater management is discussed further below.

- 30. Prior to the approval of a preliminary plan, the Planning Board shall make a final decision regarding the following issues:**

- a. Preservation of Forest Stand “D”: through the elimination of proposed stream crossing that forms the extension of Dressage Drive.**

The stream crossing has been eliminated and additional area of Forest Stand “D” is preserved.

- b. Elimination of lots that are adjacent to the north property line and provide a 300-foot wide buffer in this area as a land bridge to the portion of Forest Stand “D” that will be preserved between the two stream valleys.**

A 300-foot-wide land bridge has not been provided. However, a 200-foot buffer is provided consistent with the recommendations of the Green Infrastructure Plan, which defines a corridor as having a minimum width of 200 feet.

- c. Preservation of an area within 300 feet of the floodplain of Piscataway Creek.**

Some of the area within 300 feet of the floodplain of Piscataway Creek is not shown as a woodland conservation area. However, the average width of the area of preservation (220 feet) is generally consistent with this recommendation.

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**d. The use of afforestation in those areas that are adjacent to regulated areas.**

Afforestation is a much lower priority for woodland conservation than the preservation of high quality, on-site woodlands. The afforestation needs to be limited to the re-establishment of woodlands along and within stream buffers.

**Summary of Conformance with CDP-0701:** The preliminary plan and TCPI comply with paragraphs b. and c. of Condition 30. Conformance with CDP-0701 is found.

**Environmental Review**

As revisions are made to the plans submitted the revision boxes on each plan sheet should be used to describe what revisions were made, when, and by whom.

A revised Natural Resource Inventory (NRI), NRI/030/05, was signed by the Environmental Planning Section on June 30, 2008. The NRI contains forest stand delineation and a wetlands report. The forest stand delineation describes four forest stands totaling 183.61 acres (53 percent of the property). There are 143.91 acres of upland woodlands and 39.70 acres of woodlands within the 100-year floodplain, based on the 1989 floodplain delineation.

The purpose of an NRI and FSD are to provide sufficient information to identify areas that should not be impacted by development, priority areas for preservation and areas for development that will minimize impacts to the natural environment. As described above, there are woodlands on this site that are part of the cultural and natural heritage of Prince George's County that should be the focus of woodland conservation on-site.

Only sixteen specimen trees were identified which suggests that logging may have occurred in the past. Of the 16 specimen trees, nine are noted to be in poor condition and none are significant by either county or state standards.

Stand "A" contains 93.68 acres of bottomland forest dominated by red maple, sweetgum and yellow poplar. The average diameter at breast height is 11.7 inches. The boundaries of this forest stand are apparent on the 1938 air photos because, except for Stand "D", the remainder of the property was either agricultural fields or pasture. Thirteen specimen trees occur in this stand. Because this stand is almost wholly within the expanded stream buffers addressed in Consideration 3 of Basic Plan A-9738-C, the buffers required by Section 24-130 of the Subdivision Regulations, and the Regulated Areas shown in the Countywide Green Infrastructure Plan, this stand has a very high priority for preservation.

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Stand “B” contains 37.37 acres of early successional mixed hardwoods dominated by red oak, sweetgum and yellow poplar. The average diameter at breast height is 5.3 inches. In 1938 all of the areas occupied by this stand were in pasture or agricultural use. The 1965 air photos show that these areas were no longer being cultivated and beginning to generate into woodland.

Stand “C” contains 8.36 acres of early successional woodland dominated by Virginia pine and red oak. The average diameter at breast height is 8.6 inches. In 1938 all of the areas occupied by this stand were in pasture or agricultural use. The 1965 air photos show that these areas were no longer being cultivated and beginning to generate into woodland. Only one specimen tree occurs in these stands. Neither Stand “B” nor Stand “C” contain any expanded stream buffers and do not abut expanded stream buffers. Portions of these stands are within Evaluation Areas designated by the Countywide Green Infrastructure Plan. Because these stands are relatively immature, have low diversity of trees and low diversity of understory species with no special characteristics, they are rated as fair to low priority for preservation.

Stand “D” contains 44.20 acres of upland hardwoods dominated by white oak, yellow poplar, hickory, American beech and red oak. The average diameter at breast height is 14.3 inches. The boundaries of this forest stand are apparent on the 1938 air photos because, except for Stand “A” and Stand “D”, the remainder of the property was either agricultural fields or pasture. Two specimen trees occur in this stand. This stand contains a high diversity of tree species, a high diversity of shrub species and a high diversity of native herbaceous species. The stand forms an upland connection between the mainstem of Piscataway Creek on the west to the headwaters of the streams on the east. On September 7, 2007 staff of the Maryland Department of Natural Resources, Natural Heritage Program and the Environmental Planning Section conducted a field visit. Stand “D” was extensively studied and determined to be a “rich woods” which is an uncommon designation within any portion of the Maryland Coastal Plain. The Environmental Planning Section (M-NCPPC) classify this woodland type as exceptional because small patches of this type of woodland are rarely encountered and many of the understory species are uncommon. All of Stand “D” is within a designated Evaluation Area of the Countywide Green Infrastructure Plan. Because of the age of this woodland, the high plant diversity in all elements of its structure, the size of this uncommon woodland type, continuity with the Piscataway Creek stream valley and inclusion within a designated Evaluation Area of the Countywide Green Infrastructure Plan, this stand has a very high priority for preservation. Specimen tree No. 5, a 44-inch beech tree identified to be preserved and located in the common HOA area and not on an individual lot.

According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, a Sensitive Species Project Review Area as delineated on the SSPRA GIS layer is found to occur on this property. A state-listed endangered species,

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few-flowered tick-trefoil (*Desmodium pauciflorum*) was discovered within the area of Stand “D” on a field visit in 1990. Although this species was not found on a September 7, 2007 field visit by staff of the Environmental Planning Section and the Maryland Department of Natural Resources Natural Heritage Program, it is not to be construed that the species no longer occurs on the site. This is one of the reasons why Forest Stand “D” is an extremely high priority for preservation – even though the plant has not been physically located, it may still occur in this area, and if the woodlands are preserved, it may be physically located in the future.

A revised NRI was submitted on June 10, 2008. The environmental features shown on the plan have been correctly reflected on the TCPI.

#### **Variations to Section 24-130**

Impacts to significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations require variation requests in conformance with Section 24-113 of the Subdivision Regulations. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. If there are existing stream crossings, these should be used. Staff generally will not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines [including sewer and stormwater outfalls], street crossings, and so forth, which are mandated for public health and safety; non-essential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

Variation requests for nine impacts, dated February 6, 2008, were submitted with the application and revised plans showing some differences were stamped as received on August 4, 2009. Revised plans and revised variation requests, dated September 22, 2009, are evaluated below.

One impact, No. 1, is for the installation of an outfall for a stormwater management facility. Six of the proposed impacts are to allow connection of new development to existing sanitary sewer lines that are wholly within the expanded stream buffers and include variation requests No. 2, No. 3, No. 5, No. 6, No. 8 and No. 9. Two of the proposed impacts, No. 4 and No. 7 are for installation of the public roads that will serve the majority of the property. Not all impacts for outfalls for stormwater management ponds are shown; however, some additional ones may be required when the designs for the ponds are finalized and will be revised with the TCP II.

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

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**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:**

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to reasonably develop this property as proposed.

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

The installation of public streets, stormwater management and sanitary sewer connections are required by Prince George's County 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;**

The expanded stream buffers form not only the western and southern boundaries of the property, but also divide the largest developable portion of the site from the sole public street that can be used for access. The existing sanitary sewer lines are wholly within expanded stream buffers.

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

The installation of public streets, stormwater management facilities and sanitary sewer connections are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

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**(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.**

The expanded stream buffers create a barrier to access to some portions of the property. Without the required two public streets from Frank Tippet Road, connection to existing sanitary sewers that are wholly within expanded stream buffers, and construction of mandatory stormwater management pond outfalls, the property could not be properly developed in accordance with the R-S zoning.

The Planning Board approves variation requests No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, and No. 9.

The property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in size and contains more than 10,000 square feet of existing woodland. This site also has a previously approved Tree Conservation Plan that has not been implemented. A revised Type I Tree Conservation Plan, TCPI/110/90-02, has been submitted that reflects the currently proposed use.

Applicant Exhibit A which includes the Type I TCP, increased the area of woodland conservation by roughly three acres and decreases the area of afforestation/reforestation. The worksheet on the plan proposes clearing 82.31 acres of the existing 135.90 acres of upland woodland, clearing 3.81 acres of the existing 47.16 acres of woodland in the 100-year floodplain. The woodland conservation threshold for this property is 49.73 acres. Based upon the proposed clearing, the woodland conservation requirement is 74.12 acres. The plan proposes 52.38 acres of on-site preservation and 22.02 acres of on-site planting. Some of the proposed woodland conservation is on land proposed for dedication to the Department of Parks and Recreation; staff of DPR has indicated that this is acceptable. The worksheet indicates that 1.21 acres of woodland will be retained on-site but not used as part of any requirement because it will be on parkland. Clarification regarding the acreage of woodland to be placed on public parkland should be provided.

The NRI indicates there are 143.91 acres of woodland in the upland, not 135.90 acres as stated on the TCPI. The NRI indicates 39.70 acres of woodland within the 100-year floodplain, not 47.03. This is especially problematic because the NRI is supposedly based on the 1989 100-year floodplain study and it is not clear what the floodplain delineation on the TCPI reflects (NRI total woodlands are 183.61 acres; TCPI total woodlands are 182.93)

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The purpose of an NRI and FSD are to provide sufficient information to identify areas that should not be impacted by development, priority areas for preservation and areas for development that will minimize impacts to the natural environment. The FSD and site visits confirm that Forest Stand “D” is highly valuable woodland with excellent species diversity in all layers of the forest. This woodland is not only significant for the property because of its high diversity, but also from a countywide perspective. Working agricultural lands required woodlots to supply hardwoods for consumption and construction. These woodlots were carefully managed to provide a continuous supply of essential materials. Because these forests were not cultivated, they retain in the understory a diversity of native woodland species that have been lost by intensive agricultural practices and possess irreplaceable features of the natural heritage of Prince George’s County.

The design of the plan conforms to the master plan, the *Countywide Green Infrastructure Plan*, the Woodland Conservation Ordinance, Consideration No.1 of A-9738-C and conditions of approval of CDP-0701. The TCPI conforms to the master plan by creating an open space and conservation network, based on existing soil conditions, slopes, watercourses, vegetation and, natural ecological features; which will capitalize on natural assets through the retention and protection of trees, streams and other ecological features; and conserve large contiguous tracts of woodland in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio. The TCPI conforms to the *Approved Countywide Green Infrastructure Plan* and preserves woodlands of highest priority within Evaluation Areas. The TCPI conforms to the Woodland Conservation Ordinance because it will not create forest fragments and preserves high quality woodlands.

The 200-foot wide corridor is sufficient to serve as a wildlife corridor between the fragment of Forest Stand “D” and the main Piscataway Creek stream valley, and is a design element that is necessary to find conformance with the *Approved Countywide Green Infrastructure Plan*. During the review of the previous application, staff requested that the plans be revised to provide a minimum of a 300-foot-wide corridor along the northern property line to connect Stand ‘D’ to Piscataway Creek to provide a 300-foot-wide corridor on the subject property adjacent to Piscataway Creek. The habitat of forest interior dwelling species (FIDS) has been described by the Maryland Department of Natural Resources as interior woodland of at least ten acres that is at least 300 feet from the edge of the forest. Riparian wildlife corridors are the wooded corridors at least 300 feet wide associated with a stream. Piscataway Creek is a primary corridor as designated in the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*. The *Countywide Green Infrastructure Plan* adopted measures of “countywide significance” with regard to mapping of corridors and network gaps. To be of “countywide significance”, a corridor has to be at least 200 feet wide or wider in the Rural and/or Developing Tiers. Because the resources in this area are clearly of countywide

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significance given their location and composition, a corridor of at least 200 feet is appropriate and required by the Planning Board.

The topography in the northern part of the site may be problematic for the creation of a limit of disturbance that is 200 feet wide along its entire length adjacent to single-family homes. Such a strict standard could result in the need for large retaining walls that are not advisable adjacent to homes or adjacent to areas of wildlife habitat. If, at the time of review of the specific design plan for this area, minor incursions less than 50 feet wide are needed for temporary grading to allow the development to fit the contours of the property, then such grading may be permitted if the area of the 200-foot wide corridor if the incursion is replanted.

The afforestation should be limited to the re-establishment of woodlands along and within stream buffers.

According to the *Prince George's County Soil Survey* the principal soils on the site are in the Adelphia, Aura, Beltsville, Bibb, Chillum, Croom, Fallsington, Iuka, Marr, Matapeake, Ochlockonee, Sassafras, Shrewsbury and Westphalia series. Development has been placed in areas where the soils should not pose special problems for foundation or drainage. This information is provided for the applicant's benefit. A soils report may be required by Prince George's County during the permit process review.

The TCPI shows the provision of traditional pipe-and-pond technologies to address stormwater run-off. This type of technology is out-dated and other options should to be considered. At a minimum, the design needs to consider the use of forebays to the ponds to allow for the settling of the majority of the sediment and pollutants before the quantity is discharged into the main pond. This technique results in better quality of the water discharged and easier long-term maintenance of the system.

The base requirements for stormwater management are due to change as required by the Maryland Department of Environment which will be implemented by May 4, 2010. Unless a property has an approved sediment erosion control and technical plans by that date, it will have to be redesigned to meet the new requirements. It appears that the stormwater ponds shown on the TCPI will not be sufficient to meet the new requirements and it is unlikely that the applicant will obtain the proper permits prior to the change in stormwater management regulations. The stormwater management ponds shown on the TCPIII associated with the specific design plan will most likely be required to conform to the new requirements for stormwater management design. In addition, Condition 26 of CDP-0701 requires that the plans show the use of forebays and the plans should be revised accordingly. Additional imports may be necessary to the expanded buffer for revised stormwater management outfalls and shall be limited to outfalls associated with required stormwater management revisions only.

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\*[5. ~~**Environmental**~~ The design of the comprehensive design plan fails to conform to the master plan, the *Approved Countywide Green Infrastructure Plan*, the Woodland Conservation and Tree Preservation Ordinance and Consideration No. 1 of A 9738 C. The TCPI fails to conform to the master plan because it does not create an open space and conservation network, based on existing soil conditions, slopes, watercourses, vegetation and, natural ecological features; does not capitalize on natural assets through the retention and protection of trees, streams and other ecological features; and does not conserve large contiguous tracts of woodland in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio. The TCPI fails to conform to the *Approved Countywide Green Infrastructure Plan* because it fails to preserve priority woodlands within Evaluation Areas and proposes to mitigate the removal of these valuable existing woodlands by planting existing field areas that are not part of the Countywide Green Infrastructure Network and will not contribute to the purposes of the network. The TCPI fails to conform to the Woodland Conservation Ordinance because it creates forest fragments. The TCPI fails to conform to Consideration No. 1 of A 9738 C because it does not preserve the major stand of trees along the northern property line. In addition, the TCPI shows afforestation of large areas of the site. Afforestation is a much lower priority for woodland conservation than the preservation of high quality, on-site woodlands. The afforestation needs to be revised to be limited to the re-establishment of woodlands along and within stream buffers.

#### **MASTER PLAN CONFORMANCE**

**It is not possible for the Environmental Planning Section to find conformance with the master plan at this time because of the many outstanding design issues related to the review of the CDP, that may result in substantive changes to the preliminary plan.**

The approved master plan for this area is the Subregion VI Study Area Approved Master Plan (September 1993) and Approved Sectional Map Amendment (May 1994). The Environmental Envelope Section of this plan contains goals, objectives, and guidelines. The following guidelines have been determined to be applicable to the current project. The text in **BOLD** is the text from the master plan and the plain text provides comments on plan conformance.

It is important to understand the ecological significance and uniqueness of the subject site. This property contains upland woodland that served as a woodlot for the working farm. Almost all drier upland woodlands with relatively flat topography in the Maryland Coastal Plain were converted to agricultural fields during the Colonial Era; however, working agricultural lands required woodlots to supply hardwoods for consumption and construction. These woodlots were carefully managed to provide a continuous supply of essential materials. Because these forests were not cultivated, they retain in the under story

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a diversity of native woodland species that have been lost by intensive agricultural practices and possess irreplaceable features of the natural heritage of Prince George's County.

1. ~~An open space and conservation network, based on existing soil conditions, slopes, watercourses, vegetation, natural ecological features, and estimated future population needs, should be established and maintained.~~

**Comment:** Implementation of the Countywide Green Infrastructure Plan and the proposed conditions of approval proposed on the CDP will ensure compliance with this guideline. If the CDP is revised in conformance with the recommended conditions, the preliminary plan will show the preservation of parcels that will protect the stream valleys and tracts of contiguous woodland.

2. ~~Developers shall be encouraged to utilize the Comprehensive Design Ordinance, the cluster provisions and site plan review provisions of the subdivision regulations and other innovative techniques that ensure responsible environmental consideration.~~

**Comment:** The Comprehensive Design Ordinance is being used as the framework for the development of the property. To date, the design of the proposed subdivision uses all conventional design principles and does not utilize innovative techniques.

3. ~~Land dedicated in accordance with the subdivision regulations for the provision of needed recreational facilities should not consist solely of floodplains or other parts of the Natural Reserve Area.~~

**Comment:** The preliminary plan proposes dedication of parkland; however, the determination of its conformance with this guideline will be dealt with by the Department of Parks and Recreation.

4. ~~The responsibility for environmentally sound development practices should apply equally to private and public interests; decisions concerning the selection and use of properties should be based on environmental considerations.~~

**Comment:** The subject site contains highly sensitive land features and vegetation, in association with Piscataway Creek. If the staff's proposed conditions of CDP 0701 are adopted by the Planning Board, conformance with this provision could be found. Section 24-130 of the Subdivision Regulations, the Woodland Conservation Ordinance and implementation of the Countywide Green Infrastructure Plan will also help to focus development in an environmentally sound manner. However, this preliminary plan does

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not conform to the recommendations of staff for CDP-0701.

**5. ~~Developers shall be encouraged to capitalize on natural assets through the retention and protection of trees, streams and other ecological features.~~**

**Comment:** The TCPI submitted proposes placing lots in developable envelopes, but proposes impacts to existing natural features that are not necessary for the development of the site as a whole. The TCPI fails to conform to the master plan because it does not create an open space and conservation network, based on existing soil conditions, slopes, watercourses, vegetation and natural ecological features; it does not capitalize on natural assets through the retention and protection of trees, streams and other ecological features; it does not conserve large contiguous tracts of woodland in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio. Sheet 1 of the preliminary plan shows five residential lots adjacent to the wetland buffer, there are two stormwater management ponds that will have environmental impacts, as well as a proposed stream crossing to support the development of 27 residential lots.

**6. ~~Woodlands associated with floodplains, wetlands, stream corridors and steep slopes shall be given priority for preservation.~~**

**Comment:** This guideline mirrors the requirements of the Woodland Conservation Ordinance. On the revised plan submitted, an impact to a wetland is proposed that is not necessary for the development of the site and a stream crossing is proposed that results in severe forest fragmentation. Although the TCP proposes preservation of wooded stream corridors, it fails to conform to the Woodland Conservation Ordinance because it fails to preserve important priority woodlands and creates forest fragments.

**7. ~~To the extent practicable, large contiguous tracts of woodland should be conserved in both upland and bottomland situations in order to reduce forest fragmentation, maximize woodland interiors, and reduce the edge/area ratio.~~**

**Comment:** This guideline is a standard practice for all tree conservation plans. The TCP shows areas of connectivity; however, it also proposes creation of woodland fragments, reduction in the overall forest interior area and an increase in the edge/area ratio.

**8. ~~The Natural Reserve Areas, containing floodplain and other areas unsuitable for development, should be restricted from development except for agricultural, recreational and similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.~~**

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**Comment:** The Natural Reserve Areas described in the master plan are areas that have been superseded by the Regulated Areas in the Green Infrastructure Plan. There are extensive Regulated Areas designated in the plan both on and adjacent to the site. With the proposed conditions in the Environmental Planning Section memorandum for CDP-0701, land grading is reduced and forest connectivity is increased.

**9. — ~~All development proposals should provide effective means for the preservation and protection of Natural Reserve Areas, the development plans for lands containing open space and conservation areas should specify how and by whom these areas will be maintained.~~**

**Comment:** This CDP proposes the creation of parcels that will be owned and maintained by the future homeowners or by the Department of Parks and Recreation. Conservation easements will be placed on the regulated features on the final plats. In the Environmental Planning Section memorandum for CDP-0701 is a discussion of the large area of afforestation proposed in an area designated as recreational open space for equestrian or other public park uses, shown as Outparcel A on the preliminary plan. The TCPI shows the area as afforestation. The establishment of afforestation in this area is in conflict with the proposed uses required per condition 6 of the basic plan, A-9738-C. This requirement has not been met prior to any approval and could potentially have a cascading effect on the layout of the preliminary plan.

**10. — ~~Limited development should be permitted in Conditional Reserve Areas, based on the significant physiographic constraints and natural processes of the land.~~**

**Comment:** The Subregion VI Master Plan does not identify any areas of Conditional Reserve on the subject property; however, the Countywide Green Infrastructure Plan superseded the master plan for these designations when it was adopted in 2005. The site contains Regulated, Evaluation and Network Gap Areas that provide connectivity of existing woodlands. A substantial portion of the Evaluation Areas is proposed for development. As noted in the Environmental Planning Section Memorandum for CDP-0701, the TCPI does not reflect conformance with the master plan because of substantial clearing of on-site priority woodlands.

**11. — ~~In the Perceptual Liability Areas, land uses such as schools, residences, nursing homes, and libraries that are sensitive to noise intrusion, air pollution and other characteristics of excessive vehicular traffic should be protected by suitable construction techniques and by the enforcement of legally mandated standards.~~**

**Comment:** The master plan shows that the subject property is within the Aircraft

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Installation Compatibility Use Zone (AICUZ) in the 65-70 dBA range. Because the property is zoned for the proposed uses, these issues will need to be addressed through the use of appropriate building materials.

- 12. ~~Developers shall be encouraged to include careful site planning and construction techniques which are designed to reduce the adverse impact of point and nonpoint source noise that exceeds the State's current maximum allowable levels for receiving land uses.~~**

**Comment:** Noise at or exceeding 65 dBA Ldn is generated by a flight path that runs from east to west across the central third of the site. Although it will not be possible to reduce outdoor noise levels to provide all residential lots with noise levels less than 65 dBA Ldn or less because the noise is from an overhead source (Andrews AFB), all residential structures will need to have interior noise levels of 45 dBA Ldn or less. To the extent possible, community outdoor recreational areas should be placed outside of areas where aircraft noise exceeds 65 dBA Ldn to show conformance with the master plan. The proposed land to be dedicated to the Department of Parks and Recreation is only partially within 65 dBA Ldn noise contour, but is located on the portion of the property that is least subject to noise from Andrews Air Force Base.

- 13. ~~Farming conservation measures such as diversions, terraces, and grassed waterways in conjunction with contour strip cropping and crop rotations should be implemented.~~**

**Comment:** No farming is proposed.

- 14. ~~Citizens, developers and others should be encouraged to seek current information on the area's sensitive environmental condition, and on all aspects of related regulatory systems and functional programs from the appropriate local, State and Federal agencies.~~**

**Comment:** Information available at PGAtlas.com provides generalized information regarding sensitive environmental features of the region and the Natural Resource Inventory (NRI) submitted provides detailed information regarding the subject property. The NRI should be used to formulate the appropriate areas for development on the site.

#### **CONFORMANCE WITH THE GREEN INFRASTRUCTURE PLAN**

The site is within the designated network of the Green Infrastructure Plan and includes large areas designated as Regulated Areas, Evaluation Areas and Network Gaps. The Regulated Areas contain the same features as the Natural Reserve as defined in the Subregion VI Master Plan. The Evaluation Areas are the forested areas contiguous with the Regulated Areas that contain special environmental features that should be considered

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for preservation. As previously noted, the subject site contains woodland and wildlife habitat that is unique and in need of careful consideration prior to development.

The following policies support the stated measurable objectives of the Countywide Green infrastructure Plan:

**Policy 1: ——— Preserve, protect, enhance or restore the green infrastructure network and its ecological functions while supporting the desired development pattern of the 2002 General Plan.**

**Comment:** The subject property contains Regulated Areas, Evaluation Areas, and Network Gaps Areas as identified in the Countywide Green Infrastructure Plan adjacent to Piscataway Creek and Dower House Pond Branch. Dower House Pond Branch is a master plan designated primary corridor connection between Piscataway Creek in the Potomac River watershed and Charles Branch in the Patuxent River watershed. The TCPI fails to conform to the Countywide Green Infrastructure Plan because it fails to preserve priority woodlands within Evaluation Areas. The TCPI fails to conform to the Woodland Conservation Ordinance because it fails to preserve significant forests on-site and creates forest fragments.

**Policy 2: ——— Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded.**

**Comment:** Preservation of water quality in this area will be provided through the protection of the expanded stream buffers and the application of best stormwater management practices for stormwater management. It is recommended that low impact development stormwater management methods be applied on this site, to the fullest extent possible.

**Policy 4: ——— Reduce overall energy consumption and implement more environmentally sensitive building techniques.**

**Comment:** The development is conceptual at the present time. In future applications, the use of environmentally sensitive building techniques overall energy consumption should be addressed.

**Policy 5: ——— Reduce light pollution and intrusion into residential, rural and environmentally sensitive areas.**

**Comment:** Lighting should use full cut-off optics to ensure that off-site light intrusion into residential and environmentally sensitive areas is minimized.

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**Policy 6: ~~Reduce adverse noise impacts to meet State of Maryland noise standards.~~**

Aircraft noise associated with Andrews Air Force Base may be extensive, and will require mitigation for residential uses. Residential uses or outdoor activity areas that are proposed within the 65 dBA Ldn noise contour will require mitigation. This issue is discussed in detail in the Environmental Review Section below.

**Policy 7: ~~Protect wellhead areas of public wells.~~**

The site is not in a wellhead protection area and does not propose any public wells.

**Summary of Master Plan Conformance:** The review of the preliminary plan can not find conformance to CDP-0701 because the technical staff report can only describe in general terms compliance with the master plan. The technical staff report for CDP-0701 fails to demonstrate compliance with the specific provisions of the master plan described above and does not contain any language with regard to conformance with the Green Infrastructure Plan. The TCPI fails to conform to the Countywide Green Infrastructure Plan because it fails to preserve priority woodland within Evaluation Areas. As such, the preliminary plan does not meet the adequacy finding for Subdivision Regulation 24-132 for Woodland Conservation.

**CONFORMANCE WITH DISTRICT COUNCIL FINAL DECISION ON A-9738-C**

A Final Decision was issued by the District Council on May 14, 1990 on the Zoning Map Amendment A-9738-C. The decision contains a list of conditions and considerations on the approved rezoning of the property to be applied at various review points in the process.

The following are staff's analysis of the environmental conditions, limitations and considerations from the Council Decision. The text from the Final Decision has been shown in **BOLD** typeface, while the evaluation has been shown in standard typeface.

**Conditions of the Final Decision for Revised A-9738-C**

**Condition 4. ~~There shall be no grading or cutting of trees on this site prior to approval of the Comprehensive Design Plan, except on a selective basis with the written permission of the Prince George's County Planning Board.~~**

**Comment:** As of this date, this condition has been met because no grading or cutting of trees has occurred on this site prior to the approval of the Comprehensive Design Plan.

**Condition 5b. ~~A 50-foot-wide undisturbed buffer shall be provided on the north~~**

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~~boundary adjacent to Williamsburg Estates. However, the proposed trail may be included within this buffer to the extent feasible.~~

**Comment:** This condition has been met because a 50 foot boundary is provided.

**Condition 8.** ~~“Continued cooperative use of the property “designated” for equestrian center use and equestrian trails by the Merrymount Equestrian Center shall be assured by appropriate contractual and covenanted arrangement recorded among the land records of Prince George’s County. Subject, however, to Merrymount Equestrian Center’s continuing operations as an Equestrian Center. Upon discontinuance of Merrymount, the “designated” property shall be used for public recreational purposes. Therefore, the property “designated” shall qualify as recreational property to meet County recreational requirements and for incremental increases.”~~

**Comment:** Evidence has not been provided that the required “contractual and covenanted arrangement” has been recorded in the land records. The area in question is located along the Frank Tippet Road frontage, in the large open field. The basic plan (condition 6) calls for equestrian uses in this area. The CDP shows this area as reserved for future development. The preliminary plan shows this area as an Outparcel. All of these proposed uses are incompatible with the use shown on the TCPI of 15.51 acres of afforestation.

**Consideration 1.** ~~The applicant shall prepare a tree stand delineation plan for approval by the Natural Resources Division. Where it is possible, major stands of trees shall be preserved, especially along streams, adjoining roads and property lines.~~

**Comment:** The forest stand delineation was submitted with the Natural Resource Inventory. The TCPI shows preservation of woodlands along streams and adjoining roads; however, it fails to preserve a major forest stand identified by the NRI. The TCPI fails to conform to Consideration #1 of A 9738 C because it does not preserve the major stand of trees on the northern portion of the site adjacent to off site properties and relies too heavily on the afforestation of areas to be used in the future for other uses that are incompatible with woodland conservation. Preservation of highly valued woodlands is the highest priority in the Woodland Conservation Ordinance.

**Consideration 2.** ~~The applicant shall submit a 100-year floodplain study and a stormwater management concept plan for approval by the Department of Environmental Resources.~~

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**Comment:** A 100-year floodplain study was approved on November 20, 1989. A Stormwater Concept Plan, CSD #8327607-2000-04, has been approved by the Department of Public Works and Transportation. Because the 100-year floodplain study was approved more than 18 years ago, a confirmation of the validity of the study from the current Prince George's County agency that approves 100-year floodplain elevations should be submitted.

**Required Information:** A confirmation of the validity of the 1989 floodplain study from the current Prince George's County agency that approves 100-year floodplain elevations shall be submitted.

**Consideration 3.** ~~A minimum 50-foot-wide buffer shall be retained along all streams. This area shall be expanded to include the 100-year floodplain, wetlands, steep slopes and areas of erodible soils.~~

**Comment:** In conformance with this consideration, the NRI and TCPI show all of the required expanded stream buffers on the property.

#### **Environmental Review**

A revised Natural Resource Inventory (NRI), NRI/030/05, was stamped as received by the Environmental Planning Section on June 10, 2008. The NRI contains forest stand delineation (FSD) and a wetlands report. The forest stand delineation describes four forest stands totaling 183.61 acres (53 percent of the property). There are 143.91 acres of upland woodlands and 39.70 acres of woodlands within the 100-year floodplain.

The purpose of an NRI and FSD are to provide sufficient information to identify areas that should not be impacted by development, priority areas for preservation and areas for development that will minimize impacts to the natural environment. As described above, there are woodlands on this site that are part of the cultural and natural heritage of Prince George's County that should be the focus of woodland conservation on site. Only sixteen specimen trees were identified which suggests that logging may have occurred in the past. Of the 16 specimen trees, nine are noted to be in poor condition and none are significant by either county or state standards.

Stand "A" contains 93.68 acres of bottomland forest dominated by red maple, sweetgum and yellow poplar. The average diameter at breast height is 11.7 inches. The boundaries of this forest stand are apparent on the 1938 air photos because, except for Stand "D", the remainder of the property was either agricultural fields or pasture. Thirteen specimen trees occur in this stand. Because this stand is almost wholly within the expanded stream buffers addressed in Consideration 3 of A-9738-C, the buffers required by Section 24-130 of the Subdivision Regulations, and the Regulated Areas shown in the Countywide Green Infrastructure Plan, this stand has a very high priority for preservation.

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Stand “B” contains 37.37 acres of early successional mixed hardwoods dominated by red oak, sweetgum and yellow poplar. The average diameter at breast height is 5.3 inches. In 1938 all of the areas occupied by this stand were in pasture or agricultural use. The 1965 air photos show that these areas were no longer being cultivated and beginning to generate into woodland.

Stand “C” contains 8.36 acres of early successional woodland dominated by Virginia pine and red oak. The average diameter at breast height is 8.6 inches. In 1938 all of the areas occupied by this stand were in pasture or agricultural use. The 1965 air photos show that these areas were no longer being cultivated and beginning to generate into woodland. Only one specimen tree occurs in these stands. Neither Stand “B” nor Stand “C” contain any expanded stream buffers and do not abut expanded stream buffers. Portions of these stands are within Evaluation Areas designated by the Countywide Green Infrastructure Plan. Because these stands are relatively immature, have low diversity of trees and low diversity of under story species with no special characteristics, they are rated as fair to low priority for preservation.

Stand “D” contains 44.20 acres of upland hardwoods dominated by white oak, yellow poplar, hickory, American beech and red oak. The average diameter at breast height is 14.3 inches. The boundaries of this forest stand are apparent on the 1938 air photos because, except for Stand “A” and Stand “D”, the remainder of the property was either agricultural fields or pasture. Two specimen trees occur in this stand. This stand contains a high diversity of tree species, a high diversity of shrub species and a high diversity of native herbaceous species. The stand forms an upland connection between the main stem of Piscataway Creek on the west to the headwaters of the streams on the east.

On September 7, 2007, staff of Maryland Department of Natural Resources Natural Heritage Program and the Environmental Planning Section conducted a field visit. Stand “D” was extensively studied and determined to be a “rich woods” which is an uncommon designation within any portion of the Maryland Coastal Plain. Staff of the Environmental Planning Section classifies this woodland type as exceptional because small patches of this type of woodland are rarely encountered and many of the under story species are uncommon. All of Stand “D” is within a designated Evaluation Area of the Countywide Green Infrastructure Plan. Because of the age of this woodland, the high plant diversity in all elements of its structure, the size of this uncommon woodland type, continuity with the Piscataway Creek stream valley and inclusion within a designated Evaluation Area of the Countywide Green Infrastructure Plan, this stand has a very high priority for preservation.

According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, a Sensitive Species Project Review Area as delineated on the SSPRA GIS layer is found to occur on this property. A state listed endangered species,

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few flowered tick-trefoil (*Desmodium pauciflorum*) was discovered within the area of Stand "D" on a field visit in 1990. Although this species was not found on a September 7, 2007, field visit by staff of the Environmental Planning Section and the Maryland Department of Natural Resources Natural Heritage Program, it is not to be construed that the species no longer occurs on the site. This is one of the reasons why Forest Stand "D" is an extremely high priority for preservation—even though the plant has not been physically located, it may still occur in this area, and if the woodlands are preserved, it may be physically located in the future. A revised NRI was submitted on June 10, 2008. The environmental features shown on the plan have been correctly reflected on the TCPI.

Conservation easements should be described by bearings and distances on the final plat. The conservation easements should contain the expanded stream buffers, excluding those areas where variation requests have been approved and be reviewed by the Environmental Planning Section prior to certification of the preliminary plan. All subsequent plans should ensure that no part of any conservation easement is on any residential lot. When the TCPII is formulated with the SDP, consideration should be given to the placement of woodland conservation areas into permanent, recorded conservation easements because they will not be located on residential lots.

Impacts to significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations require variation requests in conformance with Section 24-113 of the Subdivision Regulations. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. If there are existing stream crossings, then these should be used. Staff generally will not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines [including sewer and stormwater outfalls], street crossings, and so forth, which are mandated for public health and safety; non-essential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

Variation requests for ten impacts, dated February 6, 2008, were submitted with the application; however, revised plans showing some differences were stamped as received by the Environmental Planning Section on June 10, 2008. Staff has analyzed the proposed impacts; however, additional changes to plans may be required after the Planning Board has heard the CDP. Approximately eleven impacts to expanded stream buffers are shown on the current plans. One impact, #1, is for the installation of an outfall for a stormwater management facility. Six of the proposed impacts are to allow connection of new development to existing sanitary sewer lines that are wholly within the expanded stream buffers and conform to variation requests #2, #4, #6, #7, #9 and #10. Two of the proposed impacts, #5 and #8 are for installation of the public roads that will serve the majority of the property. One impact, #3, is for an internal road and sanitary sewer to serve a cul-de-

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~~sac with a maximum of 25 lots which is located in Forest Stand D. As noted above, and as discussed extensively in the review of the CDP, this area is a woodland of high priority for preservation. This impact is not necessary for the development of the property and should be eliminated. Not all impacts for outfalls for stormwater management ponds are shown; however, some additional ones may be required when the designs for the ponds are finalized.~~

~~Section 24-113 of the Subdivision Regulations contains four required findings [text in bold] to be made before a variation can be granted.~~

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

~~The installation of public streets, stormwater management and sanitary sewer connections are required by Prince George's County 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;**~~

~~The expanded stream buffers form not only the western and southern boundaries of the property, but also divide the largest developable portion of the site from the sole public street that can be used for access. The existing sanitary sewer lines are wholly within expanded stream buffers.~~

~~These features are collectively unique to the subject property.~~

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

~~The installation of public streets, stormwater management facilities and sanitary sewer connections are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.~~

- ~~(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.**~~

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The expanded stream buffers create a barrier to access to some portions of the property. Without the required two public streets from Frank Tippet Road, connection to existing sanitary sewers that are wholly within expanded stream buffers, and construction of mandatory stormwater management pond outfalls, the property could not be properly developed in accordance with the R-S zoning.

The Environmental Planning Section supports in concept variation requests #1, #2, #4, #5, #6, #7, #8, #9, #10 and #11 and does not support variation request #3 for the reasons stated above. The TCPI shall be revised to remove the impacts to the stream crossing at the north end of proposed Dressage Drive. 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.

The property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in size and contains more 10,000 square feet of existing woodland. This site also has a previously approved Tree Conservation Plan that has not been implemented. A revised Type I Tree Conservation Plan, TCPI/110/90-01, has been submitted with CDP-0701 that reflects the currently proposed use. Extensive review comments were provided during the review of the CDP that have not been addressed to date. A revised Type I Tree Conservation Plan is needed in conformance with the approved CDP.

According to the *Prince George's County Soil Survey* the principal soils on the site are in the Adelphia, Aura, Beltsville, Bibb, Chillum, Croom, Fallsington, Iuka, Marr, Matapeake, Ochlockonee, Sassafra, Shrewsbury and Westphalia series. Development has been placed in areas where the soils should not pose special problems for foundation or drainage. This information is provided for the applicant's benefit. A soils report may be required by Prince George's County during the permit process review.

Based on the most recent Air Installation Compatible Use Zone Study released to the public in August 1998 by the Andrews Air Force Base, aircraft generated noise in the vicinity is significant. The study indicates that the noise threshold is between 65 and 70 dBA (Ldn). Unfortunately, the noise contours cover the most developable portions of the site. The noise levels present are above the State Acceptable Noise Level of 65 dBA (Ldn) for residential land uses. It will not be possible to mitigate aircraft noise in the outdoor activity areas associated with each residence; however, proper construction materials must be used to ensure that the noise inside of the residential structures does not exceed 45 dBA (Ldn).

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~~The TCPI shows the provision of traditional pipe and pond technologies to address stormwater run-off. This type of technology is out-dated and other options need to be considered. At a minimum, the design needs to consider the use of fore bays to the ponds to allow for the settling of the majority of the sediment and pollutants before the quantity is discharged into the main pond. This technique results in better water quality of the water discharged and easier long-term maintenance of the system. The stormwater management ponds shown on the TCPI associated with the preliminary plan should show the use of fore bays for improved water quality and ease of long-term maintenance.~~

~~The Environmental Planning Section cannot recommend approval of 4-07005 at this time because of the many outstanding issues related to the review of the CDP that may cause substantive changes to the preliminary plan. The Planning Board approved CDP-0701 with conditions that include revisions that impact the preliminary plan.]~~

- \*8. **Urban Design**—On May 14, 1990, the District Council approved Basic Plan A-9738-C which rezoned the property from the Rural Residential (R-R) and Residential Agricultural (R-A) to the Residential Suburban Development (R-S) Zone. The land uses for the approved Basic Plan (A-9738-C) are for single-family detached units, a day care facility and an equestrian use. The following considerations (in bold) of the basic plan relate to the review of the preliminary plan of subdivision:

#### Considerations

- 4. The character and visual image of Frank Tippet Road shall be protected and maintained as equestrian/suburban through design techniques such as trees, berms, and vegetative buffers. The layout of building lots and internal streets shall be planned so that the rear view of houses will not clearly be visible from Frank Tippet Road.**

A 100-foot (minimum) buffer will be provided along Frank Tippet Road, which will afford the opportunity to provide afforestation and other buffering techniques to maintain the semi-rural character of the viewshed from the roadway at the time of the approval of the Specific Design Plan for the development of the site. However, it is anticipated that the development of Parcel A may not occur during the initial phases of development. Therefore, an attractive treatment of Parcel A should be planted in its interim state. This treatment may include the planting of vegetation near the roadway frontage, planting of a wildflower mix or any other treatment that will provide for an attractive view from the roadway, and should be a part of the first SDP.

CDP-0701 was approved by the District Council on November 18, 2008 with conditions. The preliminary plan has been reviewed for conformance with the comprehensive design

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plan and is found to be in conformance with that approval. The District Council approved a maximum of 410 single-family dwelling units and the preliminary plan should be revised accordingly.

The CDP established a minimum lot size of 8,000 square feet for the site except for those lots located adjacent to the Williamsburg Estates Subdivision, Piscataway Creek and Dower House Pond branch, which are required to be a minimum of 10,000 square feet. The preliminary plan is consistent with these requirements.

Parcels A and F are to be retained by the owner. Parcel A is 3.24 acres and is the location of a possible future day care center. Any future specific design plan for the development of the site as a day care center will be required to meet all of the conditions of the approval of previously approved plans. In order to provide a more marketable site for Parcel A as a day care center, the plan should be revised to eliminate the portion of Parcel B that is intervening between the right-of-way of Frank Tippet Road and Parcel A, so that Parcel A has frontage on Frank Tippet Road.

- \*[6. ~~Urban Design~~ Urban Design staff has reviewed the subject preliminary plan. The subject site currently has a Comprehensive Design Plan (CDP 0701) pending. The preliminary plan refines the residential development consisting of 409 single family residential dwelling units, five parcels and Outparcel A. The property is subject to basic plan requirements (Basic Plan A-9738-C). There are a significant number of outstanding issues that affect the overall design of the preliminary plan that can not be adequately addressed until outstanding issues are resolved at the time of the approval of the CDP. Most of these issues relate the conformance to the basic plan. The relevant conditions are stated below:

**1. ~~Land uses shall be only as shown the basic plan.~~**

**Comment:** The day care center has not been shown on the Comprehensive Design Plan (CDP); therefore, the plans cannot be found to be in conformance with the condition above. Staff recommends, prior to signature approval of the CDP that an area of land of approximately 2.0 acres be set aside for use as a day care center. This area should be located at the entrance into the subdivision with frontage along Frank Tippet Road in the vicinity of proposed lots 50-53 as shown on the preliminary plan.

In regard to the basic plan's requirement that part of the property be set aside for equestrian facilities to be used by the Merrymount Equestrian Center (which owns land directly adjacent to the subject property), the CDP indicates the subject land area as both "future residential development" and as part of the "Equestrian Center." In addition, the TCPI shows this area as encumbered with tree conservation. The plans indicate that 31.0 acres of land area are proposed as future residential subdivision.

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It appears that the applicant is attempting to reserve the 31.0 acres for future use as a residential subdivision, irrespective of the basic plan conditions relating to preservation of that area for equestrian use by the adjacent Merrymount Equestrian Center. The approved basic plan indicates that the 31.0 acres shown on the plan as a future subdivision are to be reserved for equestrian center use. Therefore, staff is of the opinion that, in order to meet the requirement of the basic plan, this area should not be encumbered with tree preservation.

- 2. ~~Those lots adjacent to the Williamsburg Estate subdivision, Piscataway Creek, and Dower House Pond Branch shall be a minimum of 10,000 square feet.~~**

**Comment:** This is adequately noted on the preliminary plan. All subsequent plans, including specific design plan, should indicate the minimum lot areas noted above.

- 6. ~~The Equestrian Center and facilities and equestrian trails shall be designed, located and approved prior to any other approvals by plan, plat or permit.~~**

**Comment:** The CDP indicates the location of the adjacent Merrymount Equestrian Center and the on-site equestrian facilities; however, this area is shown as encumbered with tree preservation and the facilities designed, located and approved have not yet occurred. The CDP does not indicate the design or location of any of the equestrian trails to remain on the property. The condition above suggests that the design and location of the equestrian trails were considered paramount to the design of the community. The CDP could have been the vehicle for the design and the location of the facilities in order to show conformance with basic plan, Condition No. 6, but the CDP seems to have ignored the issue.

- 7. ~~The day care center shall not be co-located with the Equestrian Center. If located adjacent to any facility or area used for equestrian center purposes, the play area shall not border on and shall be buffered from any area wherein horses shall be located or traverse.~~**

**Comment:** The CDP should be revised to locate the day care center in the vicinity of proposed lots 50-53 along Frank Tippet Road, as shown on the illustrative plan. This land area should be indicated to be reserved by the owner on the subject plans and future plans, for future development as a day care center.

- 8. ~~Continued cooperative use of property "designated" for equestrian center use and equestrian trails by the Merrymount Equestrian Center shall be assured by appropriate contractual and covenanted arrangement recorded~~**

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~~among the land records of Prince George's County. Subject, however, to Merrymount Equestrian Center's continuing operations as an Equestrian Center. Upon discontinuance of Merrymount, the "designated" property shall be used for public recreational purposes. Therefore, the property "designated" shall qualify as recreational property to meet county recreational requirements and for incremental increases.~~

**Comment:** The applicant has not provided evidence that continued cooperative use of the "designated" area for an equestrian center use and the associated trails on the subject property is assured by either a contractual or covenanted arrangement (until such time as equestrian use by the adjacent Merrymount Center is discontinued). The agreement may have impacts to the layout and use of the property, which is not reflected on the preliminary plan and should prior to approval. Upon discontinuance of the adjacent Merrymount equestrian use, the condition above requires the subject property to be used for "public recreational purposes." The condition above further indicates that the property will qualify to meet the requirements of both "county recreational requirements and for incremental increases." The applicant is not in need of additional density increments for density purposes and the Department of Parks and Recreation has indicated that M-NCPPC is not interested in taking possession of the property. This issue has not been fully addressed by the applicant.

**13. — ~~Prior to comprehensive design plan approval, a plan shall be developed and approved by the Owners, the Developer and the Urban Design Staff of The Maryland National Capital Park and Planning Commission that shall grant as a benefit to each purchaser of a home upon the property, some use of the Merrymount Equestrian Center which shall economically benefit the owners, said benefit to be paid for by developer and/or builder(s) of homes upon the property, and the specific benefit to be agreed upon by owners. If the details of such program can not be established to the satisfaction of Developer, Owners and Urban Design Staff, then also prior to comprehensive design plan approval, an equivalent program, that also grants a direct benefit to purchasers of homes upon the property involving the use of Merrymount Equestrian Center, shall be developed and approved by Developer, Owners and Urban Design Staff.~~**

**Comment:** As of the writing of the technical staff report for the CDP, the applicant is working on an agreement that will benefit both the Merrymount Equestrian Center and the future homeowners of the community. If the applicant is unable to reach an agreement that satisfies both the owners of Merrymount and the Planning Board, then staff recommends that the case be continued in order to resolve this issue prior to approval of the comprehensive design plan and preliminary plan.

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**14. — ~~Except as expressly stated otherwise, the Agreement, Exhibit 85, shall run with the land, so long as Merrymount continues to operate primarily as an equestrian center, with or without a residence, and all benefits and obligations of the parties to this Agreement shall bind and inure to the benefit of their respective legal representatives, heirs, successors and/or assigns.~~**

**Comment:** The applicant has submitted the agreement, but it has not been recorded.]

\*9. **Department of Parks and Recreation (DPR)**—The Department of Parks and Recreation (DPR) has reviewed the preliminary plan of subdivision. The review considered the approved Basic Plan A-9738-C, Comprehensive Design Plan CDP-0701, the Subregion VI master plan, the 2002 Prince George's County Approved General Plan, the Land Preservation and Recreational Program for Prince George's County, current subdivision regulations, and existing conditions in the vicinity of the proposed development.

Using current occupancy statistics for single-dwelling units in this planning area the proposed development will result generally in an addition of 1,198 new residents in the community.

The Subregion VI master plan designates a floating park symbol within the southern portion of this subdivision between the Dower House Pond Branch and Piscataway Creek Stream Valleys to serve the active recreational needs of the surrounding community. In addition, both the Piscataway Creek and Dower House Pond Branch Stream Valleys are designated Stream Valley Parks.

The Piscataway Creek and Dower House Pond Branch Stream Valleys are critical connections for the stream valley park system. Dower House Pond Branch is part of the planned stream valley system which will provide a trail connection between the Potomac and Patuxent Rivers via Rosaryville State Park. M-NCPPC has been successful in recent years in acquiring several adjacent sections of the Dower House Pond Branch and Piscataway Stream Valley to accommodate this future trail connection. The applicant proposes to donate both the Piscataway Creek and Dower House Pond Branch stream valleys which exist on the subject property.

The requirements of Section 24-134 of the Subdivision Regulations require that the applicant dedicate 17 acres of land suitable for active recreation based on the density and acreage of this subdivision. The applicant is dedicating approximately 25 acres of parkland for active and passive recreation and donating an additional 95 acres, which does include tree-preservation, steep slopes, 100-year floodplain, and wetlands.

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The approved basic plan (A-9738-C) includes the following consideration applicable to the review of this preliminary plan of subdivision as it relates to park facilities:

Consideration 7 states: **The applicant shall designate 17+ acres adjacent to the Dower House Pond Branch and Piscataway Creek for public park purposes suitable for active recreational development. This acreage could be combined with adjoining property, if acquired by Maryland-National Capital Park and Planning Commission, to provide continuous open space within the established stream valley park acquisition program. This parkland will also provide active neighborhood recreation opportunities. The entrance for the 17+ acres shall have a minimum 200-foot frontage on the primary roadway.**

The applicant is proposing the dedication of approximately 120 acres of parkland, which include 15 acres of unencumbered, developable land suitable for active recreation. This developable acreage contains well over 200 feet of frontage on Dressage Drive, the primary roadway for this subdivision. The proposed frontage should remain and not be reduced through the approval of any future specific design plan.

The following Conditions 4, 7, 11, 12 and 31 were approved as part of Comprehensive Design Plan CDP-0701 and relate to park and recreation issues of note:

- 4.b. The applicant and M-NCPPC shall work in partnership with the Brookwood-Hollaway Civic Association and the Williamsburg Estates Citizen's Association on the nature of the recreational facilities to be constructed on the land to be conveyed for a community park.**
- 7. Tree conservation shall be allowed on dedicated parkland as approximately shown on DPR Exhibit "A". Prior to certificate approval of the TCP I, DPR shall review and approve the location and amount of tree-conservation on dedicated parkland.**
- 11. The applicant shall dedicate land along Piscataway Creek to the M-NCPPC in conformance with DPR Exhibit "A" to accommodate the future provision of the master planned trail along Piscataway Creek. This trail will be provided through a future M-NCPPC capital improvement program project.**
- 12. The applicant shall dedicate land along Dower House Pond Branch to the M-NCPPC in conformance with DPR Exhibit "A" to accommodate the future provision of the master planned trail along Dower House Pond Branch. This trail will be provided through a future M-NCPPC capital improvement program project.**

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**31. The applicant shall meet and work with M-NCPPC Park and Recreation staff and the parties of record to assist in the selection and construction of recreational facilities for the parkland being dedicated. At the time of building permit, the applicant shall contribute \$500 per unit to a Parks and Recreation fund for the construction of a recreational park, as part of a future recreational center. The applicant is permitted up to 410 units on the property.**

The preliminary plan proposes the dedication and donation of land in excess of 120 acres which includes 15 acres of developable land for active recreation along Dressage Drive. The 15 acres of developable land are surrounded by the residential development and are centrally located within the community. This portion of the dedicated parkland will be affected by grading on residential lots and road construction. As a part of the development of the site the applicant will rough grade the future community park area in phase with development to establish appropriate drainage patterns for the entire central core which includes the community park area. This will help to minimize future disturbance of the residents during construction of the park. The community park is envisioned to be available to the residents as an open play area until the construction of facilities occurs. In accordance with Condition 31 of the CDP the applicant will be contributing approximately \$205,000 dollars toward the construction of the recreation facilities on Parcel E over the course of the development of this subdivision. DPR will work with the community in developing the amenities package for the public park and envision the construction of the park to be a public/private partnership with CIP funds being available in the future.

A portion of the master planned trail is proposed along the south side of Dressage Drive which is an extension of the Dower House Branch trail that will extend across Frank Tippet Road from the south property line of the Corner Stone Baptist Church (4-04117) property. It is designated as a Stream Valley Park on the approved 2009 master plan for Subregion VI. This portion of the stream valley is a major east-west connection to the existing Rosaryville State Park to the east. The trail construction should occur in phase with Dressage Drive construction. The conceptual location of the proposed trail along the road is shown on DPR Exhibit A, and is reflected on the preliminary plan. In addition, during the construction of Dressage Drive the applicant shall construct a curb cut for the future vehicular access to the community park. The TCPI plan shows that the tree-preservation would not impact the future development of the dedicated parkland (Parcel E) as anticipated by the master plan and previous approvals.

The applicant has worked diligently to attain the goals and vision of the master plan, Subdivision Regulations and the previous approvals for this project. The dedication of 120 acres of parkland, as part of a future recreational center and Piscataway Creek and Dower House Pond Branch will enhance the development and the community at large. In addition, the grading of the parkland in preparation for the future construction of the

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recreational park and construction of the portion of the master planned trail along proposed Dressage Drive will enhance pedestrian circulation and recreational component of the development and the surrounding community.

- \*[7. ~~**Parks**~~ Staff of the Department of Parks and Recreation (DPR) has reviewed the above referenced comprehensive design plan. Staff review considered the recommendations of the approved Basic Plan A-9738-C, the Subregion VI Master Plan, the Prince George's County Approved General Plan, the Land Preservation and Recreational Program for Prince George's County, current subdivision regulations and existing conditions in the vicinity of the proposed development.

### **Comprehensive Design Zone Findings**

Section 27-511 of the Zoning Ordinance states that the purposes of the R-S Zone are to "Establish (in the public interest) a plan implementation zone, in which (among other things):

- ~~Permissible residential density is dependent upon providing public benefit features and related density increment factors and;~~
- ~~The location of the zone must be in accordance with the adopted and approved General Plan, master plan or public urban renewal plan;~~
- ~~Encourage amenities and public facilities to be provided in conjunction with residential development."~~

The R-S Zone allows a base residential density of 1.6 dwelling units per gross acre. This subdivision is proposing a residential density of approximately 1.2 units per acre, lower than the allowable base density under the R-S zone. The applicant is not required to provide additional public benefit features at this density. However, the applicant proposes dedication of "open space" to M-NCPPC for public parkland.

### **Master Plan Findings**

The Subregion VI Master Plan designates a 50-acre floating park symbol located within the southern portion of this subdivision in between the Dower House Pond Branch and Piscataway Creek stream valleys to serve the active recreational needs of the surrounding community. In addition, both the Piscataway Creek and Dower House Pond Branch stream valleys are designated on the master plan as Stream Valley Parks.

The Piscataway Creek and Dower House Pond Branch stream valleys are critical connections for the stream valley park system. Dower House Pond Valley Branch is part of a future stream valley trail system envisioned to connect the Potomac and Patuxent Rivers via Rosaryville State Park. M-NCPPC has been successful in recent years in

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acquiring several adjacent sections of the Dower House Pond Branch and Piscataway Stream Valley to accommodate this future connection.

### **General Plan Findings**

The applicant is proposing 409 single-family dwelling units. Using current occupancy statistics for single-family dwelling units, the development will provide approximately 1,198 new residents. The Approved 2002 Prince George's County General Plan recommends the provision of 15 acres of M-NCPPC local parkland (or the equivalent amenity in terms of parks and recreation service) and 20 acres of regional, countywide and special M-NCPPC parks per 1,000 population. Given the size of this project, 24 acres of Regional Parkland and 18 acres of local M-NCPPC parkland is required to serve this community.

### **Basic Plan Findings**

The following considerations were approved as part of Basic Plan A-9738-C.

**Consideration 7 of the above mentioned basic plan states:** The applicant shall designate 17<sup>±</sup> acres adjacent to the Dower House Pond Branch and Piscataway Creek for public park purposes suitable for active recreational development. This acreage could be combined with adjoining property, if acquired by The Maryland National Capital Park and Planning Commission, to provide continuous open space within the established stream valley park acquisition program. This parkland will also provide active neighborhood recreation opportunities. The entrance for the 17<sup>±</sup> acres shall have a minimum 200-foot frontage on the primary roadway.

**Consideration 8 of the above mentioned basic plan states:** The stormwater management facility may be located on park dedication land providing the facility is designated as a multipurpose wet pond and upgraded with landscaping and recreational amenities.

The applicant is proposing the dedication of approximately 122 acres of parkland, which include 19 acres of unencumbered, developable land suitable for active recreation. This developable acreage contains well over 200 feet of frontage on the Dressage Drive, the primary roadway for this subdivision.

### **Basic Plan Finding**

The following condition was approved as part of Basic Plan A-9738-C.

8. ~~Continued cooperative use of property “designated” for equestrian center use and equestrian trails by the Merrymount Equestrian Center shall be assured by appropriate contractual and covenanted arrangement recorded~~

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~~among the land records of Prince George's County. Subject, however, to Merrymount Equestrian Center's continuing operations as an Equestrian Center. Upon discontinuance of Merrymount, the "designated" property shall be used for public recreational purposes. Therefore, the property "designated" shall qualify as recreational property to meet Prince George's County recreational requirements and for incremental increases.~~

DPR does not have the option of acquiring this land as the Merrymount Equestrian Center is currently active and the "designated" area is being used for pasture land for the horses associated with the center. The applicant is meeting mandatory dedication requirements and master plan recommendations by providing 122 acres of land to service the community for active and passive recreation at this location.

M-NCPPC is currently servicing the needs of the equestrian community in the southern portion of the county through the operation of Prince George's Equestrian Center at Showplace Arena, located approximately a 12 minute drive from this site. M-NCPPC is not planning to operate another equestrian center and does not have the resources to do so. There is no evidence that Merrymount Equestrian Center is discontinuing operation and the applicant is currently allowing the "designated" area for use associated with the equestrian center. We therefore believe that the applicant has met parkland requirements for this subdivision with conveyance of land located outside of the "designated" equestrian area.

#### **Subdivision Ordinance Findings**

The statutory requirements of subdivision section 24-134 require that the applicant provide 17 acres of land suitable for active recreation based on the density and acreage of this subdivision. The applicant is providing approximately 19 acres of developable parkland and an additional 103 acres including tree preservation, steep slopes, 100-year floodplain and wetlands.

#### **General Findings**

DPR staff met with the applicant on April 25, 2008 and discussed the need for parkland for active and passive recreation as per the master plan and General Plan requirements. Staff recommended that the 50-acre master planned community park could be accommodated through the dedication of the stream valleys as well as 30 acres within the center of this project area to be used for active recreation.

On June 10, 2008, the applicant presented a plan showing the dedication of 122<sup>±</sup> acres of parkland including 19 developable acres along Dressage Drive. The applicant is proposing that a portion of the park parcel be placed in a tree conservation easement to accommodate their on-site requirements. DPR has agreed to allow tree conservation on property to be conveyed to M-NCPPC with the condition that the tree conservation will not affect the

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~~planned recreational facilities on dedicated parkland. DPR staff prepared a concept plan for the development of the future park and trail system and determined that the tree-preservation area as proposed by the applicant was unacceptable to DPR as it encumbered too much developable area. Staff has amended the tree conservation limits to eliminate impacts to the future recreational facilities. These changes can be seen on DPR Exhibit “A”.~~

~~In addition to tree preservation within the active park, the applicant is proposing some tree preservation along the southern bank of the Dower House Pond Branch within the proposed parkland. DPR staff amended the tree preservation area along the Dower House Pond Branch along the rear lots facing Piaffe Circle and Snaffle Court. This area was originally designated to be conveyed to the HOA as tree preservation. DPR staff is recommending dedication of this area to M-NCPPC to accommodate the future master-planned trail. Tree conservation at this area will be adjusted to provide space for the master-planned trail. DPR is recommending that tree preservation be reduced by 20 feet away from the floodplain area to allow DPR to field locate and maintain this trail in the future.~~

### **CONCLUSION**

~~DPR staff and the applicant have worked diligently to attain the goals and vision of the master plan, subdivision ordinance and previous approvals for this project. Staff is pleased with the result and believes that the provision of a community and stream valley park system will greatly enhance the future recreational needs of the community and serve future residents as the surrounding area continues to grow.]~~

- \*10. **Trails**—Stream valley trails are proposed along both Piscataway Creek and Dower House Branch. Frank Tippet Road is designated as a master plan bike/trail corridor. Piscataway Creek is one of the major stream valley trail corridors in southern Prince George’s County and is envisioned as part of a “cross-county” trail that would also utilize Charles Branch. Together, the Piscataway Creek Trail and Charles Branch Trail will ultimately provide access from the Patuxent River to the Potomac River. M-NCPPC owns land along the stream valley both to the north and south of the subject site. The applicant is donating land along both stream valleys at this time. The trail construction will be provided through future Capital Improvement Program projects. The master plan trail along Dower House Branch will provide for equestrian access to the existing facilities at Rosaryville State Park, as well as serve other trail users.

It should also be noted that the property immediately to the west of the subject site includes an extensive network of natural surface trails and is owned by Maryland Environmental Services. When the Piscataway Creek Trail is completed, it may be appropriate to consider trail access to those trails from the master plan trail. Exhibit 44 from approved Basic Plan A-9738-C requires the provision of an equestrian trail crossing

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to existing trails on the Maryland Environmental Services site. This connection can be provided at the time of construction of the Piscataway Creek Trail. Exhibit 44 is a November 10, 1988 memorandum from the Trails Coordinator to the Zoning Section, both of the M-NCPPC.

Frank Tippet Road is also designated as a master plan bikeway. This can be accommodated through the provision of bikeway signage, and either a paved shoulder or wide outside curb lane. Where frontage improvements have been made along Frank Tippet Road, a standard sidewalk has been provided. Existing subdivisions in the corridor include standard sidewalks along both sides of all internal roads both to the north and south of the subject application. This includes Williamsburg Drive, which extends to the boundary of the subject site.

Approved Basic Plan A-9738-C included numerous conditions of approval and considerations regarding trail facilities. Conditions of approval relating to trail facilities including the following:

- 5.e. All trails shall be in accordance with the recommendations of the Trails Coordinator, Exhibit 44, as recited in the body of the decision.**
- 6. The Equestrian Center and facilities and equestrian trails shall be designed, located and approved prior to any other approvals by plan, plat or permit.**
- 7. The day care center shall not be co-located with the Equestrian Center. If located adjacent to any facility or area used for equestrian center purposes, the play area shall not border on and shall be buffered from any area wherein horses shall be located or traverse.**
- 8. Continued cooperative use of property “designated” for equestrian center use and equestrian trails by the Merrymount Equestrian Center shall be assured by appropriate contractual and covenanted arrangement recorded among the land records of Prince George’s County. Subject, however, to Merrymount Equestrian Center’s continuing operations as an Equestrian Center. Upon discontinuance of Merrymount, the “designated” property shall be used for public recreational purposes. Therefore, the property “designated” shall qualify as recreational property to meet County recreational requirements and for incremental increases.**

Basic Plan A-9738-C also included the following considerations regarding trail facilities:

- 5. The proposed hiker-biker trail shall be incorporated into the pedestrian system to afford the residents with convenient access to both internal and**

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regional open space networks. This can be furthered by providing continuous open space in two locations. Both the site's central open space and pedestrian trails shall be extended westward through the west building envelope and connected with Piscataway Creek trail to create a loop circulation pattern for the overall trail system.

**6. Design of the equestrian trails shall be in accordance with the *Park and Recreation Facilities Guidelines* and shall preserve mature trees.**

A large component of the planned trail network for the site will be comprised of the stream valley trails. These trails will provide access to the surrounding trails network, including other stream valley trails in Southern Prince George's County. In addition, the planned trail along Dower House Branch will provide trail access to the natural surface hiking, mountain bike, and the equestrian trails in Rosaryville State Park. Piscataway Creek will provide access to developing residential communities in the stream valley to the southwest, as well as Cosca Regional Park.

The Basic Plan also references Exhibit 44 which is a November 10, 1988 memorandum from Bruce Hancock to Helen Payne on A-9738. Basic Plan A-9738-C Condition 5.e. required that all trails be in conformance with Exhibit 44. In summary, Exhibit 44 made the following recommendations:

**a. Continue the use agreement between the subject site and Merrymount Equestrian Center for the continuing use of the land around the equestrian center for equestrian uses.**

This is reflected on the approved plans and appropriate agreement between the involved parties is referenced in the conditions of approval.

**b. East-West Trail.**

This trail connection will begin at the Equestrian Center and extend across the property's northern edge. This trail is reflected on the approved plans and will be constructed by the applicant.

**c. Piscataway Creek Trail.**

The applicant is dedicating the necessary land to accommodate the future construction of this master plan trail. A more detailed analysis of the constraints, opportunities, and environmental features along the corridor will have to be evaluated in more detail to determine the appropriate alignment of this trail along its entire length. The submitted plans reflect the dedication necessary to accommodate the trail at the time it is constructed

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through M-NCPPC Capital Improvement Program (CIP) project. Exhibit 44 notes that the master plan trail will provide access to both the north and south.

**d. Trail connection to Maryland Environmental Services.**

Exhibit 44 reads: “The current practice is to ford Piscataway Creek at the point about midway south along its length. A spur trail should be provided from the main trail to a suitable spot where horses are able to safely ford the stream.”

**e. Dower House Branch Trail.**

The applicant is dedicating the necessary land to accommodate the future construction of this master plan trail. The Department of Parks and Recreation anticipates that this trail will be constructed via a CIP project. Exhibit 44 also discusses trail connections to Rosaryville State Park. It is noted that the master plan trail along Dower House Branch will be the primary route to the state park, although some informal connections may continued to be used.

**f. Tributary Trail.**

Exhibit 44 also requires a trail along the tributary running from Dower House Branch to behind the Equestrian Center. The submitted plans include this trail and will be constructed by the applicant.

Approved CDP-0701 includes conditions of approval regarding pedestrian and trail facilities. These conditions addressed internal sidewalk connections, Frank Tippet Road, internal trail connections, and the master plan trails. Conditions 8–14 of approved CDP-0701 are below:

- 8. Provide a standard sidewalk along the subject site’s entire frontage of Frank Tippet Road, unless modified by DPW&T.**
- 9. The applicant, and the applicant’s heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of Class III bikeway signage. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit. If road frontage improvements are required by DPW&T, wide outside curb lanes or asphalt shoulders are recommended to accommodate bicycle traffic.**
- 10. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.**

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- 11. The applicant shall dedicate land along Piscataway Creek to the M-NCPPC in conformance with DPR Exhibit “A” to accommodate the future provision of the master plan trail along Piscataway Creek. This trail will be provided through a future M-NCPPC capital improvement program project.**
- 12. The applicant shall dedicate land along Dower House Pond Branch to the M-NCPPC in conformance with DPR Exhibit “A” to accommodate the future provision of the master plan trail along Dower House Pond Branch. This trail will be provided through a future M-NCPPC capital improvement program project.**
- 13. The applicant shall construct the East-West Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The “appropriate contractual and covenanted arrangement” required in Condition 8 of A-9738-C shall include provision for the maintenance of the East-West Trail.**
- 14. The applicant shall construct the Tributary Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The “appropriate contractual and covenanted arrangement” required in Condition 8 of A-9738-C shall include provision for the maintenance of the Tributary Trail.**

It should be noted that the Tributary Trail follows a largely established equestrian trail corridor, while the East-West Trail will be a new trail extension of that existing equestrian trail. Improvements to the Tributary Trail will only involve improvements to bring it into conformance with the *Park and Recreation Facilities Guidelines* as set forth in Exhibit 44 of the Basic Plan. Construction of the East-West Trail shall also be in conformance with these guidelines. In addition, the trail along Dressage Drive which extends north from Dressage Drive to Merrymount on HOA land should include accommodations for equestrians from Frank Tippet Road to the private Tributary Trail which is intended to serve Merrymount and the HOA. This will also accommodate equestrian users riding to and from Rosaryville State Park from Merrymount. The equestrian component adjacent to the 10-foot wide hiker biker trail along Dressage Drive from Frank Tippet Road will serve the public with access to the Piscataway and Dower House stream valley trails on public land (M-NCPPC), and the new public park on Parcel E.

The Dower House Branch and Piscataway Creek are the major master plan trail corridors in the area and will accommodate the majority of the trail users traveling to Rosaryville State Park and other regional trail destinations. The Tributary Trail and East-West Trail will be on Homeowner’s Association land and will service the residents of the subject application and users of the Merrymount Equestrian Center. Signage should be required at

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the time of SDP indicating that these connections are not open to the general public and are for the use of the Merrymount Equestrian Center and the homeowners.

At the Planning Board hearing for this case, the method of notification to the public that the Tributary and East-West trails are private was a concern. Gating of the entrances from the general public may be appropriate but will be evaluated with the first SDP. The applicant and staff should be prepared to discuss appropriate measures for notice to future homeowners of the future trail locations (both private and public), and maintaining private access to the tributary and east-west trail for the HOA and the Merrymount Equestrian Center. Signage alone may not be adequate.

The subject application is in conformance with Condition 5.e. of approved Basic Plan A-9738-C due to the required construction of the East-West Trail, the Tributary Trail, and the dedication of land to the M-NCPPC Department of Parks and Recreation (DPR) to accommodate the future provision of master plan trails along both Piscataway Creek and Dower House Branch. The portions of the Tributary Trail and East-West Trail that are outside of the Equestrian Center Plan (Exhibit A) will be maintained by the homeowner's association. The facilities within the equestrian center (as defined in Exhibit A) are covered under the July 12, 2008 covenanted agreement between TLBU Foundation, Inc. and Merrymount Equestrian Center.

~~\*[8. — **Trails** — The Adopted and Approved Subregion VI Master Plan identifies three master plan trail issues that impact the subject site. Stream valley trails are proposed along both Piscataway Creek and Dower House Pond. And, Frank Tippet Road is designated as a master plan bike/trail corridor.~~

~~Piscataway Creek is one of the major stream valley trail corridors in southern Prince George's County and is envisioned as part of a "cross county" trail that would also utilize Charles Branch. Together, the Piscataway Creek Trail and Charles Branch Trail will ultimately provide access from the Patuxent River to the Potomac River. M-NCPPC owns land along the stream valley both to the north and south of the subject site. Decisions regarding land dedication and trail construction will be made by the Department of Parks and Recreation. However, it should be determined that DPR has buildable land free of wetlands or other environmental constraints to construct the master plan trail. It appears that DPR will be requiring land dedication at this time and that the trail will be provided through a future Capital Improvement Program project.~~

~~The master plan trail along Dower House Pond Branch will provide for equestrian access to the existing facilities at Rosaryville State Park, as well as serve other trail users. Decisions regarding trail construction and land dedication are deferred to the Department of Parks and Recreation. It appears that DPR will be requiring land dedication at this time and that the trail will be provided through a future Capital Improvement Program (CIP)~~

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project.

It should also be noted that the property immediately to the west of the subject site includes an extensive network of natural surface trails and is owned by Maryland Environmental Services. When the Piscataway Creek Trail is completed, it may be appropriate to consider trail access to these trails from the master plan trail. Exhibit 44 from approved Basic Plan A-9738-C requires the provision of an equestrian trail crossing to existing trails on the Maryland Environmental Services site. This connection can be provided at the time of construction of the Piscataway Creek Trail.

Frank Tippet Road is also designated as a master plan bikeway. This can be accommodated through the provision of bikeway signage and either a paved shoulder or wide outside curb lane. Where frontage improvements have been made along Frank Tippet Road, a standard sidewalk has been provided. Existing subdivisions in the corridor include standard sidewalks along both sides of all internal roads both to the north and south of the subject application. This includes Williamsburg Drive, which extends to the boundary of the subject site.

#### BASIC PLAN CONDITIONS:

Approved Basic Plan A-9738-C included numerous conditions of approval and considerations regarding trail facilities. The conditions of approval include the following:

- 5 e. — All trails shall be in accordance with the recommendations of the Trails Coordinator, Exhibit 44, as recited in the body of the decision.
6. — The Equestrian Center and facilities and equestrian trails shall be designed, located and approved prior to any other approvals by plan, plat or permit.
7. — The day care center shall not be co-located with the Equestrian Center. If located adjacent to any facility or area used for equestrian center purposes, the play area shall not border on and shall be buffered from any area wherein horses shall be located or traverse.
8. — Continued cooperative use of property “designated” for equestrian center use and equestrian trails by the Merrymount Equestrian Center shall be assured by appropriate contractual and covenanted arrangement recorded among the land records of Prince George’s County. Subject, however, to Merrymount Equestrian Center’s continuing operations as an Equestrian Center. Upon discontinuance of Merrymount, the “designated” property shall be used for public recreational purposes. Therefore, the property “designated” shall qualify as recreational property to meet county recreational requirements and for incremental increases.

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Basic Plan A-9738-C also included the following considerations regarding trail facilities:

5. ~~The proposed hiker-biker trail shall be incorporated into the pedestrian system to afford the residents with convenient access to both internal and regional open space networks. This can be furthered by providing continuous open space in two locations. Both the site's central open space and pedestrian trails shall be extended westward through the west building envelope and connected with Piscataway Creek trail to create a loop circulation pattern for the overall trail system.~~
6. ~~Design of the equestrian trails shall be in accordance with the *Park and Recreation Facilities Guidelines* and shall preserve mature trees.~~

~~A large component of the planned trail network for the site will be comprised of the stream valley trails. These trails will provide access to the surrounding trails network, including other stream valley trails in Southern Prince George's County. In addition, the planned trail along Dower House Pond Branch will provide trail access to the natural surface hiking, mountain bike, and the equestrian trails in Rosaryville State Park. Piscataway Creek will provide access to developing residential communities in the stream valley to the southwest, as well as Cosca Regional Park. Internal trails providing access within the community need to be evaluated to supplement the sidewalk network and provide trail access within the community, to on-site recreational facilities, and to the master plan trails.~~

#### EXHIBIT 44:

The basic plan also references Exhibit 44 which is a November 10, 1988 memorandum from Bruce Hancock to Helen Payne on A-9738. Basic Plan A-9738-C Condition 5e required that all trail be in conformance with Exhibit 44. In summary, Exhibit 44 made the following recommendations:

- a. ~~Continue the use agreement between the subject site and Merrymount Equestrian Center for the continuing use of the land around the equestrian center for equestrian uses. This is reflected on the submitted plans and appropriate agreement between the involved parties is referenced in the conditions of approval.~~
- b. ~~East-West Trail. This trail connection will begin at the Equestrian Center and extend across the property's northern edge. This trail is reflected on the submitted plans and will be constructed by the applicant.~~
- c. ~~Piscataway Creek Trail. The applicant is dedicating the necessary land to~~

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~~accommodate the future construction of this master plan trail. A more detailed analysis of the constraints, opportunities, and environmental features along the corridor will have to be evaluated in more detail to determine the appropriate alignment of this trail along its entire length. The submitted plans reflect the dedication necessary to accommodate the trail at the time it is constructed through a M-NCPPC Capital Improvement Program (CIP) project. Exhibit 44 notes that the master plan trail will provide access to both the north and south.~~

- d. ~~Trail connection to Maryland Environmental Services. Exhibit 44 reads, "The current practice is to ford Piscataway Creek at the point about midway south along its length. A spur trail should be provided from the main trail to a suitable spot where horses are able to safely ford the stream."~~
- e. ~~Dower House Branch Trail. The applicant is dedicating the necessary land to accommodate the future construction of this master plan trail. The Department of Parks and Recreation anticipates that this trail will be constructed via a CIP project. Exhibit 44 also discusses trail connections to Rosaryville State Park. It is noted that the master plan trail along Dower House Pond Branch will be the primary route to the state park, although some informal connections may continued to be used.~~
- f. ~~Tributary Trail. Exhibit 44 also requires a trail along the tributary running from Dower House Pond Branch to behind the Equestrian Center. The submitted plans include this trail and will be constructed by the applicant.~~

~~Staff finds that the subject application is in conformance with Condition 5e of approved Basic Plan A-9738-C due to the required construction of the East-West Trail, the Tributary Trail, and the dedication of land to The M-NCPPC Department of Parks and Recreation to accommodate the future provision of master plan trails along both Piscataway Creek and Dower House Pond Branch. However, conformance to basic plan, condition 6, could result in a modification to the trail locations on the subject property. }~~

\*11. **Transportation**—On May 14, 1990, the District Council approved Basic Plan A-9738-C, with conditions and considerations, in Zoning Ordinance 25-1990. This enacted a rezoning of 342.4 acres of land from R-R and R-A to the R-S Zone. The approval of the basic plan by the District Council contained 9 conditions and 16 considerations pertaining to transportation:

- a. **No driveways shall have direct access to Frank Tippet Road. All access shall be from the internal roadway system.**

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- b. Access shall not be provided to Rosaryville Road via adjacent stub streets on the north boundary: James Court, Williamsburg Drive and Green Apple Turn.

### **TRAFFIC STUDY ANALYSIS**

A December 16, 2007, traffic study in support of the preliminary plan of subdivision was reviewed. The study identified the following intersections as the ones on which the proposed development would have the most impact:

<b><u>EXISTING CONDITIONS</u></b>		
<b><u>Intersection</u></b>	<b><u>AM</u></b>	<b><u>PM</u></b>
	<u>(LOS/CLV)</u>	<u>(LOS/CLV)</u>
<u>MD 223 &amp; Dowerhouse Road</u>	<u>B/1018</u>	<b><u>D/1384</u></b>
<u>MD 223 &amp; Rosaryville Road</u>	<u>D/1311</u>	<u>F/1910</u>
<u>Rosaryville Road &amp; Frank Tippet Road</u>	<u>C/1213</u>	<u>A/738</u>
<u>US 301 &amp; Frank Tippet Road</u>	<u>A/984</u>	<u>C/1225</u>
<u>Rosaryville Road &amp; Haislip Road **</u>	<u>C/15.7 seconds</u>	<u>B/11.4 seconds</u>
<u>Rosaryville Road &amp; Gambier Drive **</u>	<u>E/43.4 seconds</u>	<u>C/22.7 seconds</u>
<u>Rosaryville Road &amp; Williamsburg Drive**</u>	<u>F/62.4 seconds</u>	<u>F/56.7 seconds</u>
<u>**Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the level-of-service (LOS) and the intersection delay measured in seconds/vehicle. A level-of-service “E” which is deemed acceptable corresponds to a maximum delay of 50 seconds/car. For signalized intersections, a critical lane volume (CLV) of 1450 or less is deemed acceptable as per the <i>Guidelines</i></u>		

The study cited twelve approved background developments that collectively, will impact the above intersections during the morning and evening peak hours. Additionally, a regional growth rate of 1 percent was applied to the through traffic for two years, to reflect a 2011 build-out. A second analysis of the background developments (which included growth factor) was done, and revealed the following results:

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<b>BACKGROUND CONDITIONS</b>		
<b><u>Intersection</u></b>	<b><u>AM</u></b>	<b><u>PM</u></b>
	(LOS/CLV)	(LOS/CLV)
<u>MD 223 &amp; Dowerhouse Road</u> <u>With eastbound right turn lane</u>	<u>C/1189</u>	<u>D/1438</u>
<u>MD 223 &amp; Rosaryville Road</u> <u>With CIP Improvements</u>	<u>F/1700</u> <u>D/1303</u>	<u>F/2375</u> <u>C/1367</u>
<u>Frank Tippet &amp; Rosaryville Road</u> <u>With northbound double lefts</u>	<u>E/1472</u> <u>B/1135</u>	<u>B/1047</u> <u>A/853</u>
<u>US 301 &amp; Frank Tippet Road</u>	<u>B/1100</u>	<u>D/1332</u>
<u>Rosaryville Road &amp; Haislip Road **</u>	<u>B/19.2 seconds</u>	<u>B/14.5 seconds</u>
<u>Rosaryville Road &amp; Gambier Drive **</u>	<u>F/139 seconds</u>	<u>F/86.2 seconds</u>
<u>Rosaryville Road &amp; Williamsburg Drive **</u>	<u>F/999 seconds</u>	<u>F/999 seconds</u>

Using the “Guidelines for the Analysis of The Traffic Impact of Development Proposals,” the proposed development of 450 single-family units would generate 338 (68 in, and 270 out) AM peak-hour trips and 405 (263 in, 142 out) PM peak-hour trips at the time of full build-out. The study acknowledged the fact that the subject property was previously approved (PGCPB Amended Resolution No. 01-079(A) and Preliminary Plan of Subdivision 4-00064); with a trip cap (all of which are vested) of 253 AM and 320 PM. Given the number of trips that are vested, the test for transportation adequacy would be based on the difference between the generated trips and the vested trips. Consequently, the analyses were based on a net of 85 AM and 85 PM peak-hour trips. While the pending preliminary plan is only required to meet adequacy for 85 AM and PM new trips, in analyzing the traffic data under total condition, all of the traffic associated with the previous development were re-distributed to reflect the change to a single family development.

The numbers of residential units that are currently being proposed are less than the number on which the original traffic study was based. The overall trips based on the reduced dwelling units in combination with the day care center is less than the number of trips that were used in the original traffic study. Preliminary Plan of Subdivision 4-07005 is for the development of 410 single-family units resulting in excess capacity with this

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analysis. Therefore, the development of the day care center on Parcel A, to be retained by the applicant, would be within the capacity analysis contained herein without the need for a new analysis of traffic impact for a day care center of 150 children as provided for in Basic Plan A-9738-C. There is no use proposed on Parcel F. If a use was proposed it would be subject to the trip cap for the development.

As was the case for the background analyses, the study assumed full build-out up to the year 2011. Applying a growth rate of one percent per year for through traffic and combining the site-generated traffic along with background developments, the following results were determined:

<b>TOTAL CONDITIONS</b>		
<b>Intersection</b>	<b>AM</b>	<b>PM</b>
	<u>(LOS/CLV)</u>	<u>(LOS/CLV)</u>
<u>MD 223 &amp; Dowerhouse Road</u> <u>With eastbound right turn lane</u>	<u>C/1180</u>	<u>D/1444</u>
<u>MD 223 &amp; Rosaryville Road</u> <u>With CIP Improvements</u>	<u><b>F/1617</b></u> <u>C/1296</u>	<u><b>F/2372</b></u> <u>C/1349</u>
<u>Frank Tippet &amp; Rosaryville Road</u> <u>With northbound double lefts</u>	<u><b>E/1586</b></u> <u>B/1198</u>	<u><b>B/1012</b></u> <u>A/845</u>
<u>US 301 &amp; Frank Tippet Road</u>	<u>B/1116</u>	<u>D/1397</u>
<u>Rosaryville Road &amp; Haislip Road **</u>	<u>B/20.5 seconds</u>	<u>B/13.7 seconds</u>
<u>Rosaryville Road &amp; Gambier Drive **</u>	<u><b>F/158 seconds</b></u>	<u><b>F/74.8 seconds</b></u>
<u>Rosaryville Road &amp; Williamsburg Drive **</u>	<u><b>F/999 seconds</b></u>	<u><b>F/999 seconds</b></u>
<u>Frank Tippet Road &amp; North Site Access</u>	<u>E/47.1 seconds</u>	<u>E/35.8 seconds</u>
<u>Frank Tippet Road &amp; South Site Access</u>	<u>C/19.7 seconds</u>	<u>C/20.1 seconds</u>

Based on the results shown in the aforementioned table, all of the intersections were shown to operate at adequate levels of service, with the exception of:

- Rosaryville Road & Gambier Drive

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• Rosaryville Road & Williamsburg

In light of the projected operation of the two unsignalized intersections, the traffic study acknowledged the need for traffic signal warrant studies. It also concluded that with all of the CIP funded improvements along Piscataway/Woodyard Road (MD 223), plus the provision of an additional left-turn lane on the northbound approach to the Frank Tippet Road-Rosaryville Road intersection, that the proposed development will satisfy the county's transportation adequacy requirements.

**PLAN COMMENTS**

The Planning Board concurs with the traffic study findings and conclusions as they pertained to the analyses of the various intersections. In addition, the study was reviewed by two other agencies, the State Highway Administration (SHA) and the Department of Public Works and Transportation (DPW&T). In a February 7, 2008 memorandum to staff (Issayans to Burton), the DPW&T appears to be in general agreement with the study conclusions. The DPW&T offered the following recommendations:

- a. Acceleration lanes must be provided on Frank Tippet Road at both proposed Site Access points.
- b. A left-turn lane should be provided in the northbound direction of Frank Tippet Road at each of the proposed Site Access points.
- c. At the intersection of Frank Tippet Road and Crain Highway (US 301), a free right/channelized right turn should be provided for the eastbound Frank Tippet Road approach.
- d. Queuing analysis be performed to determine the necessary storage bay length needed for the northbound left turn movement at Crain Highway (US 301) and Frank Tippet Road. Based on the projected AM peak-hour volumes, the existing storage length does not appear to be adequate.
- e. A 275-foot storage bay plus a 120-foot taper should be provided for the northbound left-turn movement from Piscataway/Woodyard Road (MD 223) onto Dower House Road. Based on the projected AM peak-hour volumes, the existing storage length does not appear to be adequate.
- f. A 475-foot left-turn bay plus a 120-foot taper should be provided on the northbound Frank Tippet Road approach at Rosaryville Road.

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g. Signal warrant analysis should be performed for the intersections of Rosaryville Road at Gambier Drive and Rosaryville Road at Williamsburg Drive.

In a February 12, 2008 memorandum to staff (Foster to Burton), the State Highway Administration (SHA) also expressed its concurrence with all of the traffic study findings regarding adequacy. SHA noted however, that the subject application will generate more traffic than its approved predecessor will, and pro rata contribution will be required of the applicant.

### **TRANSPORTATION FINDINGS**

The application is a preliminary plan of subdivision for a single-family residential development consisting of 450 units. The proposed developments would generate 338 (68 in, and 270 out) AM peak-hour trips and 405 (263 in, 142 out) PM peak-hour trips at the time of full build-out, as determined using “Guidelines for the Analysis of the Traffic Impact of Development Proposals,” as well as the Institute of Transportation Engineer’s (ITE) *Trip Generation Manual* (7<sup>th</sup> edition).

The traffic generated by the proposed developments would impact the following intersections and links:

- MD 223 & Dowerhouse Road
- MD 223 & Rosaryville Road
- Rosaryville Road & Frank Tippet Road
- US 301& Frank Tippet Road
- Rosaryville Road & Haislip Road
- Rosaryville Road & Gambier Drive
- Rosaryville Road & Williamsburg Drive
- Frank Tippet Road & North Site Access
- Frank Tippet Road & South Site Access

None of the aforementioned intersections is programmed for improvement with 100 percent construction funding within the next six years in the current (FY 2007–2012) Prince George’s County *Capital Improvement Program* (CIP) with the exception of the following:

- MD 223 & Dowerhouse Road
- MD 223 & Rosaryville Road

The subject property is located within the Developing Tier as defined in the *General Plan for Prince George’s County*. As such, the subject property is evaluated according to the following standards: **Links and signalized intersections:** Level-of-service (LOS) D, with

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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 requires 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.

All of the critical intersections identified above, when analyzed with the total future traffic as developed using the Guidelines, and ITE's manual, were found to be operating adequately except the following:

- Rosaryville Road & Frank Tippet Road
- Rosaryville Road & Gambier Drive
- Rosaryville Road & Williamsburg Drive

In consideration of the findings above, this applicant should be required to provide the following improvements:

**At the intersection of Rosaryville Road & Gambier Drive**

- Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T

**At the intersection of Rosaryville Road and Williamsburg Drive**

- Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T

**At the intersection of Rosaryville Road and Frank Tippet Road**

- Provide a 475-foot left-turn bay plus a 120-foot taper on the northbound approach.

The three intersections identified above will operate acceptably as a result of the improvements proffered by the applicant. All of the remaining critical intersections will operate adequately, provided all of the improvements in the traffic study are implemented. The intersections along Piscataway/Woodyard Road (MD 223) at Rosaryville Road and Dowerhouse Road are projected to operate adequately as a result of upgrades that are funded in a county CIP. As part of the funding schedule for the CIP, there is a provision for developer contribution, consequently, the SHA is still requiring that the applicant participate in this funding contribution by providing a pro rata contribution.

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A pro rata contribution of \$812.00 per dwelling unit was previously included as conditions of approval in the following Planning Board resolutions:

- Mill Creek, PGCPB Resolution No. 05-232, approved November 3, 2005
- Brazelton, PGCPB Resolution No. 06-119, approved May 18, 2006

### **TRANSPORTATION CONCLUSIONS**

Adequate access roads will exist as required by Section 24-124 of the Subdivision Regulations.

~~\*[9. **Transportation** The approval of basic plan, A-9738-C, by the District Council was predicated on nine (9) conditions and sixteen (16) considerations, including the following pertaining to transportation:~~

~~a. No driveways shall have direct access to Frank Tippet Road. All access shall be from the internal roadway system.~~

~~b. Access shall not be provided to Rosaryville Road via adjacent stub streets on the north boundary: James Court, Williamsburg Drive and Green Apple Turn.~~

~~The preliminary plan conforms to these transportation relation conditions through the creation of an internal road system and the provision of a 50-foot buffer along the north boundary.~~

### **TRAFFIC STUDY ANALYSIS**

~~Staff is in receipt of a December 16, 2007, traffic study in support of the Comprehensive Design Plan and Preliminary Plan of Subdivision phases of the subject property's review. The study identified the following intersections as the ones on which the proposed development would have the most impact:~~

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EXISTING CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223 & Dowerhouse Road	B/1018	<b>D/1384</b>
MD 223 & Rosaryville Road	D/1311	F/1910
Rosaryville Road & Frank Tippet Road	C/1213	A/738
US 301 & Frank Tippet Road	A/984	C/1225
Rosaryville Road & Haislip Road <sup>**</sup>	C/15.7 seconds	B/11.4 seconds
Rosaryville Road & Gambier Drive <sup>**</sup>	E/43.4 seconds	C/22.7 seconds
Rosaryville Road & Williamsburg Drive <sup>**</sup>	F/62.4 seconds	F/56.7 seconds
<sup>**</sup> Unsignalized intersections are analyzed using the Highway Capacity Software. The results show the level of service and the intersection delay measured in seconds/vehicle. A level of service "E" which is deemed acceptable corresponds to a maximum delay of 50 seconds/car. For signalized intersections, a CLV of 1450 or less is deemed acceptable as per the <i>Guidelines</i> .		

The study cited twelve approved background developments that collectively, will impact the above intersections during the morning and evening peak hours. Additionally, a regional growth rate of one percent was applied to the through traffic for two years, to reflect a 2011 build-out. A second analysis of the background developments (which included growth factor) was done, and revealed the following results:

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BACKGROUND CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223 & Dowerhouse Road <i>With eastbound right turn lane</i>	- <i>C/1189</i>	- <i>D/1438</i>
MD 223 & Rosaryville Road <i>With CIP Improvements</i>	<b>F/1700</b> <i>D/1303</i>	<b>F/2375</b> <i>C/1367</i>
Frank Tippet & Rosaryville Road <i>With northbound double lefts</i>	<b>E/1472</b> <i>B/1135</i>	<b>B/1047</b> <i>A/853</i>
US 301 & Frank Tippet Road	B/1100	D/1332
Rosaryville Road & Haislip Road **	B/19.2 seconds	B/14.5 seconds
Rosaryville Road & Gambier Drive **	F/139 seconds	F/86.2 seconds
Rosaryville Road & Williamsburg Drive **	F/999 seconds	F/999 seconds

Using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals,” the proposed development of 450 single family units would generate 338 (68 in, and 270 out) AM peak hour trips and 405 (263 in, 142 out) PM peak hour trips at the time of full build out. The study acknowledged the fact that the subject property was previously approved (PGCPB-01-079A: 4-00064) with a trip cap (all of which are vested) of 253 AM and 320 PM. Given the number of trips that are vested, the test for transportation adequacy would be based on the difference between the generated trips and the vested trips. Consequently, the analyses were based on a net of 85 AM and 85 PM peak hour trips. While the pending preliminary plan is only required to meet adequacy for 85 AM and PM new trips, in analyzing the traffic data under total condition, all of the traffic associated with the previous development were re-distributed to reflect the change to a single family development. The traffic study did not take into account the equestrian facility or daycare uses discussed in the basic plan.

As was the case for the background analyses, the study assumed full build out up to the year 2011. Applying a growth rate of one percent per year for through traffic and combining the site generated traffic along with background developments, the following results were determined:

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TOTAL CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223 & Dowerhouse Road <i>With eastbound right turn lane</i>	- <i>C/1180</i>	- <i>D/1444</i>
MD 223 & Rosaryville Road <i>With CIP Improvements</i>	F/1617 <i>C/1296</i>	F/2372 <i>C/1349</i>
Frank Tippet & Rosaryville Road <i>With northbound double lefts</i>	E/1586 <i>B/1198</i>	B/1012 <i>A/845</i>
US 301 & Frank Tippet Road	B/1116	D/1397
Rosaryville Road & Haislip Road **	B/20.5 seconds	B/13.7 seconds
Rosaryville Road & Gambier Drive **	F/158 seconds	F/74.8 seconds
Rosaryville Road & Williamsburg Drive **	F/999 seconds	F/999 seconds
Frank Tippet Road & North Site Access	E/47.1 seconds	E/35.8 seconds
Frank Tippet Road & South Site Access	C/19.7 seconds	C/20.1 seconds

Based on the results shown in the aforementioned table, all of the intersections were shown to operate at adequate levels of service, with the exception of:

- ~~\_\_\_\_\_ Rosaryville Road & Gambier Drive~~
- ~~\_\_\_\_\_ Rosaryville Road & Williamsburg~~

In light of the projected operation of the two unsignalized intersections, the traffic study acknowledged the need for traffic signal warrant studies. It also concluded that with all of the CIP-funded improvements along MD 223, plus the provision of an additional left turn lane on the northbound approach to the Frank Tippet Road-Rosaryville Road intersection, that the proposed development will satisfy the county's transportation adequacy requirements.

#### STAFF REVIEW AND COMMENTS

Upon review of the applicant's traffic study, staff concurs with its findings and conclusions as they pertained to the analyses of the various intersections. In addition to the planning staff, the study was reviewed by two other agencies, the State Highway

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Administration (SHA) and the Department of Public Works and Transportation (DPW&T). In a February 7, 2008 memorandum to staff (*Issayans to Burton*), the DPW&T appears to be in general agreement with the study conclusions. It did however, made some recommendations, most of which affect traffic operations. Some of those recommendations are as follows:

- ~~Acceleration lanes must be provided on Frank Tippet Road at both proposed Site Access points.~~
- ~~A left turn lane should be provided in the northbound direction of Frank Tippet Road at each of the proposed Site Access points.~~
- ~~At the intersection of Frank Tippet Road and US 301, a free right/channelized right turn should be provided for the eastbound Frank Tippet Road approach.~~
- ~~We recommend that queuing analysis be performed to determine the necessary storage bay length needed for the northbound left turn movement at US 301 and Frank Tippet Road. Based on the projected AM peak hour volumes, the existing storage length does not appear to be adequate.~~
- ~~A 275 foot storage bay plus a 120 foot taper should be provided for the northbound left turn movement from MD 223 onto Dower House Road. Based on the projected AM peak hour volumes, the existing storage length does not appear to be adequate.~~
- ~~A 475 foot left turn bay plus a 120 foot taper should be provided on the northbound Frank Tippet Road approach at Rosaryville Road.~~
- ~~Signal warrant analysis should be performed for the intersections of Rosaryville Road at Gambier Drive and Rosaryville Road at Williamsburg Drive.~~

In a February 12, 2008 memorandum to staff (*Foster to Burton*), the SHA also expressed its concurrence with all of the traffic study findings regarding adequacy. SHA noted however, that the subject application will generate more traffic than its approved predecessor will, and pro rata contribution will be required of the applicant.

#### TRANSPORTATION FINDINGS

The application is a preliminary plan of subdivision for a single family residential development consisting of 450 units. The proposed developments would generate 207 (88 in, and 119 out) AM peak hour trips and 677 (350 in, 327 out) PM peak hour trips at the time of full build out, as determined using “Guidelines for the Analysis of the Traffic

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Impact of Development Proposals,” as well as the Institute of Transportation Engineer’s (ITE) *Trip Generation Manual* (7<sup>th</sup> edition). The traffic generated by the proposed developments would impact the following intersections and links:

- ~~MD 223 & Dowerhouse Road~~
- ~~MD 223 & Rosaryville Road~~
- ~~Rosaryville Road & Frank Tippet Road~~
- ~~US 301 & Frank Tippet Road~~
- ~~Rosaryville Road & Haislip Road~~
- ~~Rosaryville Road & Gambier Drive~~
- ~~Rosaryville Road & Williamsburg Drive~~
- ~~Frank Tippet Road & North Site Access~~
- ~~Frank Tippet Road & South Site Access~~

None of the afore-mentioned intersections is programmed for improvement with 100 percent construction funding within the next six years in the current (FY 2007–2012) Prince George’s County Capital Improvement Program (CIP) with the exception of the following:

- ~~MD 223 & Dowerhouse Road~~
- ~~MD 223 & Rosaryville Road~~

The subject property is evaluated according to the following standards set for the Developing Tier: **Links and signalized intersections:** Level of service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better; **Unsignalized intersections:** The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

All of the intersections identified above, when analyzed with the total future traffic as developed using the “Guidelines,” and ITEs Manual, were found to be operating adequately except the following:

- ~~Rosaryville Road & Frank Tippet Road~~
- ~~Rosaryville Road & Gambier Drive~~
- ~~Rosaryville Road & Williamsburg Drive~~

In consideration of the findings above, this applicant will be required to provide the

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following improvements:

~~At the intersection of Rosaryville Road & Gambier Drive~~

- ~~• Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T.~~

~~At the intersection of Rosaryville Road and Williamsburg Drive~~

- ~~• Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T.~~

~~At the intersection of Rosaryville Road and Frank Tippet Road~~

- ~~• Provide a 475 foot left turn bay plus a 120 foot taper on the northbound approach.~~

~~The intersections identified above will operate acceptably as a result of the improvements proffered by the applicant. All of the remaining intersections previously identified above will operate adequately, provided all of the improvements in the traffic study are implemented. The intersections along MD 223 at Rosaryville Road and Dowerhouse Road are projected to operate adequately as a result of upgrades that are funded in a county CIP. As part of the funding schedule for the CIP, there is a provision for developer contribution, consequently, the SHA is still requiring that the applicant participate in this funding contribution by providing a pro rata contribution.~~

~~A pro rata contribution of \$812.00 per dwelling unit was previously included as conditions of approval in the following Planning Board resolutions:~~

- ~~• Mill Creek, PGCPB No. 05-232, November 3, 2005~~
- ~~• Brazelton, PGCPB No. 06-119, May 18, 2006~~

~~Transportation staff has recommended as part of the approval of CDP-0701 that prior to the issuance of building permits, the applicant and the applicant's heirs, successors and/or assignees, should pay a pro rata share of the road improvements along MD 223 at Rosaryville Road, as described in the Prince George's County Capital Improvement Program for CIP No. FD669451: 2008-2013 (MD 223 Widening). The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$812.00 per dwelling unit x (Engineering News Record Highway Construction Cost Index at the time of building permit application) / (Engineering News Record Highway Construction Cost Index for the second quarter 2001). The Planning Board approved CDP-0701 with the recommended conditions.]~~

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- \*12. **Schools**—The preliminary plan has been reviewed for its impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and County Council Bill CB-30-2003 and County Council Resolution CR-23-2003 and the following was found:

**Impact on Affected Public School Clusters**

<b><u>Affected School Clusters #</u></b>	<b><u>Elementary School Cluster 4</u></b>	<b><u>Middle School Cluster 2</u></b>	<b><u>High School Cluster 2</u></b>
Dwelling Units	<u>411 DU</u>	<u>411 DU</u>	<u>411 DU</u>
Pupil Yield Factor	<u>.24</u>	<u>.06</u>	<u>.12</u>
Subdivision Enrollment	<u>98.64</u>	<u>24.66</u>	<u>49.32</u>
Actual Enrollment	<u>3,933</u>	<u>6,782</u>	<u>10,542</u>
Completion Enrollment	<u>165</u>	<u>117</u>	<u>234</u>
Cumulative Enrollment	<u>179.52</u>	<u>77.10</u>	<u>154.44</u>
Total Enrollment	<u>4,376.16</u>	<u>7,000.76</u>	<u>10,979.56</u>
State Rated Capacity	<u>4,140</u>	<u>6,356</u>	<u>10,254</u>
Percent Capacity	<u>105.70%</u>	<u>110.14 %</u>	<u>107.07%</u>

*Source: Prince George's County Planning Department, M-NCPPC, January 2007*

The above analysis was prepared based on a 411-lot preliminary plan which has subsequently been revised to 410 lots.

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 (WMATA); or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,870 and \$13,493 to be paid at the time of issuance of each building permit. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The project meets the adequate public facilities policies for school facilities contained in Section 24-122.02 of the Subdivision

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Regulations and County Council Bills CB-30-2003 and CB-31-2003, and County Council Resolution CR-23-2003.

\*[10. ~~School~~ The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following.

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	411 DU	411 DU	-411 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	98.64	-24.66	49.32
Actual Enrollment	-3,933	-6,782	-10,542
Completion Enrollment	-165	-117	-234
Cumulative Enrollment	-179.52	77.10	-154.44
Total Enrollment	-4,376.16	7,000.76	-10,979.56
State Rated Capacity	-4,140	-6,356	-10,254
Percent Capacity	-105.70%	-110.14 %	-107.07%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

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. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,870 and \$13,493 to be paid at the time of issuance of each building permit. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The Special Projects Planning Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.]

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- \*13. **Fire and Rescue**—The preliminary plan has been reviewed for the adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Regulations for the nonresidential and residential uses proposed with this application.

**RESIDENTIAL**

This preliminary plan is within the required 7-minute response time for the first due fire station Clinton Company 25, using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department.

Pursuant to County Council Resolution CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn fire and rescue personnel staffing levels. The fire chief has reported that the department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005.

**NONRESIDENTIAL**

The existing fire engine service at Upper Marlboro Fire Station, Company 45 located at 7710 Croom Road, Upper Marlboro, Maryland, has a service travel time of 3.25 minutes, which is within the 3.25-minutes travel time guideline.

The existing paramedic service at Clinton Fire Station, Company 25 located at 9025 Woodyard Road, Clinton, Maryland, has a service travel time of 5.68 minutes, which is within the 7.25-minutes travel time guideline.

The existing ladder truck service at Upper Marlboro Fire Station, Company 45 located at 7710 Croom Road, Upper Marlboro, Maryland, has a service travel time of 3.25 minutes, which is within the 4.25-minutes travel time guideline.

- \*[11. **Fire and Rescue**—The Special Projects Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance. Public Facilities staff have determined that this preliminary plan is within the required 7-minute response time for the first due fire station Clinton Company #25, using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn fire and rescue personnel staffing levels. The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.]

- \*14. **Police**—The subject property is located in Police District V. The following evaluation was made for the residential and nonresidential uses proposed with this application:

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### **RESIDENTIAL**

The response time standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on March 3, 2008.

<b><u>Reporting Cycle</u></b>	<b><u>Previous 12 Month Cycle</u></b>	<b><u>Emergency Calls</u></b>	<b><u>Nonemergency Calls</u></b>
<u>Acceptance Date</u> <u>March 3, 2008</u>	<u>February 2007-</u> <u>February 2008</u>	<u>10 minutes</u>	<u>12 minutes</u>

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met March 11, 2008. The police chief has reported that the department has adequate equipment to meet the standards stated in County Council Bill CB-56-2005. Pursuant to County Council Resolution CR-69-2006, the Prince George's County Council and the County Executive temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

### **NON-RESIDENTIAL**

The police facilities test is performed on a countywide basis for non-residential development in accordance with the policies of the Planning Board. There is 267,660 square feet of space in all of the facilities used by the Prince George's County Police Department and the July 1, 2008 (U.S. Census Bureau) county population estimate is 820,520. Using the 141 square feet per 1,000 residents, it calculates to 115,693 square feet of space for police. The current amount of space, 267,660 square feet, exceeds the guideline and is adequate.

~~\*[12. **Police** The subject property is located in Police District V. The response time standard is 10 minutes for priority calls and 25 minutes for nonpriority calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on March 3, 2008.~~

<b><u>Reporting Cycle</u></b>	<b><u>Previous 12 Month Cycle</u></b>	<b><u>Priority Calls</u></b>	<b><u>Non-priority Calls</u></b>
<del>Acceptance Date</del> <del>March 3, 2008</del>	<del>2/07 - 2/08</del>	<del>10 minutes</del>	<del>12 minutes</del>

~~The response time standards of 10 minutes for priority calls and 25 minutes for nonpriority calls were met March 11, 2008. The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions~~

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~~of Section 24-122.01(e)(1)(A, B) regarding sworn police personnel staffing levels.]~~

\*15. **Stormwater Management**—A Stormwater Management Concept Plan No. 8327602-2000-04 was approved by the DPW&T on February 9, 2007, and remains valid until February 9, 2010. Copies of the stormwater management concept approval, CSD No. 8327602-2000-04, letter and plan were submitted with this application. Development of the site should be in accordance with this approved plan and any subsequent revisions.

\*16. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision. A site visit did not detect any wells, or septic tanks and recovery fields on site. However, as noted on the preliminary plan any abandoned shallow wells should be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative from the Health Department as part of any raze permit. Any abandoned septic tank found within the confines of the property should be backfilled after a licensed scavenger has pumped it out.

A raze permit is required prior to the removal of any of the structures on site. A raze permit can be obtained through the Department of Environmental Resources (DER). Any hazardous materials located in any structures on-site must be removed and properly stored or discarded prior to the structure being razed.

~~\*[13. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision and noted that any abandoned shallow wells found within the confines of the TLBU property must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative from the Health Department as part of the raze permit. Any abandoned septic tank found within the confines of the property must be backfilled after a licensed scavenger has pumped it out. The location of the septic system should be located on the preliminary plan. The location should be indicated on the preliminary plan. A raze permit is required prior to the removal of any of the structures on site. A raze permit can be obtained through the Department of Environmental Resources (DER), Office of Licenses and Permits. Any hazardous materials located in any structures on-site must be removed and properly stored or discarded prior to the structure being razed. A note should be affixed to the preliminary plan that requires that the structure is to be razed and the well properly abandoned before the release of the grading permit.]~~

\*17. **Historic Preservation**—The Historic Preservation Commission (HPC) reviewed this application and associated comprehensive design plan in March 2008. At that time, the HPC provided findings, conclusions and recommended conditions to the Planning Board.

The subject property does not include any identified historic resources, but is adjacent to the Joshua Turner House (Historic Site 82A-017, located at 8801 Frank Tippet Road (Tax

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Map 118 A-2)). The Joshua Turner House, built in 1880s, is a two-and-one-half story, cross-gable frame dwelling with paneled gable peaks and a twentieth-century stucco covering. The house was built for Joshua J. Turner, a Baltimore entrepreneur who specialized in agricultural fertilizers. The house, which also exhibits elegant Victorian interior trim, is significant as the late 19th century country house of a successful business, and its fine Queen Anne style decorative detail. The Historic Site's Environmental Setting includes all of Parcel 91.

The Turner House Historic Site has included an equestrian training and riding facility operated by its current owners for approximately 30 years. This equestrian operation, Merrymount, has relied for a portion of its operations on uses within the developing property, through cooperative agreements between the owners of Merrymount and the owners of the adjacent property. Over time, Merrymount has become a prominent local and regional equestrian facility. The portion of the developing property that includes some of the Merrymount facilities is currently proposed for development through the subject application. Great concern was expressed at the March 19, 2008 HPC meeting about the viability of the equestrian operation so close to a dense residential development, even if Parcel F adjacent to the Joshua Turner House continues as open space.

As currently proposed on the subject plan, the applicant's street names are based on equestrian terms that reflect both the area's equestrian heritage and the operation of the adjacent Turner House Historic Site as the Merrymount equestrian facility.

The subject plan calls for future residential development in the vicinity of the Joshua Turner House (Historic Site 82A-017). As a result, this portion of the development may have a direct visual impact on the Historic Site and its Environmental Setting. Therefore, the specific design plan for this portion of the proposed development should address the buffering requirements of the *Prince George's County Landscape Manual*, the street lighting, the orientation of buildings, and the specific character and materials of the proposed architecture that may be visible from Joshua Turner House.

The use of the Joshua Turner House Historic Site as an equestrian facility is part of the long-standing equestrian heritage of Prince George's County that dates to the 18<sup>th</sup> century. Although the portion of the developing property that includes some of the Turner property equestrian facilities is not proposed for development through the subject application, the retention and expansion of these facilities as an amenity for the developing community would enhance and continue the county's historic equestrian tradition. The character and design of the developing property should reflect the presence of the adjacent equestrian facility and provide tangible connections to it through a network of pedestrian and equestrian trails and employ street names that are commemorative the county's equestrian heritage. Every effort should be made to assure the protection of the equestrian facility.

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## Archeology

Piscataway Creek runs along the western boundary and Dower House Pond Branch runs along the southeastern boundary of the subject property. A north-south watercourse flows through the eastern portion of the subject property and empties into Dower House Pond Branch in the east-central portion of the property. There are several flat terraces located above these water courses. Prehistoric sites have been found in similar settings and the probability of identifying prehistoric archeological resources is moderate to high.

The subject property was once part of the 550-acre Joshua Turner farm. There are no houses shown on this property in the 1861 Martenet Map or the 1878 Hopkins Map. However, these were subscription maps and only show the locations of paying subscribers. Two possible houses appear on the 1894 Hopkins Map. In the early 20<sup>th</sup> century the Turner farm contained three tenant houses and at least two barns. A 1930s sale notice by Leo J. Long, a subsequent owner, notes that there were 4 houses on the property, 3 barns, corn cribs, tool houses, garages, hen houses, a dairy house, meat house, wood shed, hog pens, and land suitable for tobacco, truck, and general farming. Many of these structures were probably concentrated near the Turner farmhouse; however, many of them may have been located just outside of the Historic Site's current Environmental Setting. The subject property also may have been the site of an earlier historic occupation, as it was once part of the early "His Lordship's Kindness" and "Mount Airy" land grants.

Nine archeological sites have been identified within a one-mile radius of the subject property. Eight of the sites date to the historic period and one site (18PR563) consists of a prehistoric lithic scatter. Three of these sites (18PR136, 18PR221, and 18PR439) contain late 17<sup>th</sup> or 18<sup>th</sup> century artifacts and indicate this area was settled during an early period in the County's history. The subject property is also within a one-mile radius of Mount Airy (Historic Site 82A-016), His Lordships Kindness/Poplar Hill (Historic Site 81A-001), and Mill Site (Historic Resource 81A-002).

Section 106 review may also require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies or permits are required for a project as is the case with this application.

In accordance with the Planning Board's directives, as described in the Guidelines for Archeological Review, May 2005, and consistent with Subtitle 24-104, 121(a)(18), and 24-135.01 of the Subdivision Regulations, Historic Preservation staff recommended that the subject property should be the subject of a Phase I archeological investigation to identify any archeological sites that may be significant to the understanding of the history

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of human settlement in Prince George's County, including the possible existence of slave quarters and slave graves, as well as archeological evidence of the presence of Native American peoples.

Phase I archeological investigations were conducted in May 2009 on the subject property. Four copies of the final Phase I report were submitted and were approved by Historic Preservation staff on August 6, 2009. Three archeological sites were identified in the survey. Site 18PR971 is an early 20th century domestic site; site 18PR972 consists of the ruins of a 20th century tenant farmer house and adjacent barn; and site 18PR973 is a dense scatter of brick that likely represents a 19th century tobacco barn that had been destroyed by the late 20th century. No further work was recommended on any of the archeological sites. Staff concurs that no additional archeological work is necessary on sites 18PR972 and 18PR973.

The Planning Board does not concur with the report's conclusion that no additional work is necessary on site 18PR971. Site 18PR971 represents a late 19th to early 20th century tenant house, a type of property well represented but not well studied archeologically, in Prince George's County. A Phase II investigation will be conducted on site 18PR971 and 18PR996 to determine if any intact cultural deposits or features are present. A Phase II work plan should be submitted to Historic Preservation staff prior to beginning any work.

The area in the southeastern portion of Field F2 where brick and some 19th century domestic material was found (in the location of transects YA through YC of the archeological survey), constitutes an archeological site (staff found a piece of undecorated pearlware and an olive green wine bottle neck during site visits in the area where the brick pieces were identified in the shovel test pit survey). The applicant's archeological consultant has recorded the brick fragments and associated 19th century artifacts as an archeological site designated 18PR996. Although the subject property was not the primary residence of any of the 18th or 19th century owners, it is likely that tenant houses or slave quarters were located on the subject property. The Calverts, Brookes, and Sewalls, who owned the property during the course of the 18th and 19th centuries, were all large slave holders. These types of sites leave few physical remains or extensive artifact scatters that are visible on the surface. However, subsurface features may still exist. This sparse scatter of brick and domestic material may represent one such site. Several 1-x-1 m test units should be excavated in this area to confirm the presence or absence of subsurface features. This work shall be included in the Phase II work plan.

~~\*[14. **Archeology** Piscataway Creek runs along the western boundary and Dower House Pond Branch runs along the southeastern boundary of the subject property. A north-south watercourse flows through the eastern portion of the subject property and empties into Dower House Pond Branch in the east-central portion of the property. There are several flat terraces located above these water courses. Prehistoric sites have been found in similar~~

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settings and the probability of identifying prehistoric archeological resources is moderate to high.

The subject property was once part of the 550-acre Joshua Turner farm. There are no houses shown on this property in the 1861 Martenet Map or the 1878 Hopkins Map. However, these were subscription maps and only show the locations of paying subscribers. Two possible houses appear on the 1894 Hopkins Map. In the early 20th century the Turner farm contained three tenant houses and at least two barns. A 1930s sale notice by Leo J. Long, a subsequent owner, notes that there were 4 houses on the property, 3 barns, corn cribs, tool houses, garages, hen houses, a dairy house, meat house, wood shed, hog pens, and land suitable for tobacco, truck, and general farming. Many of these structures were probably concentrated near the Turner farmhouse; however, many of them may have been located just outside of the historic site's current environmental setting. The subject property also may have been the site of an earlier historic occupation, as it was once part of the early "His Lordship's Kindness" and "Mount Airy" land grants.

Nine archeological sites have been identified within a one-mile radius of the subject property. Eight of the sites date to the historic period and one site (18PR563) consists of a prehistoric lithic scatter. Three of these sites (18PR136, 18PR221, and 18PR439) contain late 17<sup>th</sup>- or 18<sup>th</sup>-century artifacts and indicate this area was settled during an early period in the County's history. The subject property is also within a one-mile radius of Mount Airy (Historic Site #82A-016), His Lordships Kindness/Poplar Hill (Historic Site No. 81A-001), and Mill Site (Historic Resource No. 81A-002).

Section 106 review may also require archeological survey for state or federal agencies. 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies or permits are required for a project.

In accordance with the Planning Board's directives, as described in the Guidelines for Archeological Review, May 2005, and consistent with Subtitle 24-104, 121(a)(18), and 24-135.01, the subject property should be the subject of a Phase I archeological investigation to identify any archeological sites that may be significant to the understanding of the history of human settlement in Prince George's County, including the possible existence of slave quarters and slave graves, as well as archeological evidence of the presence of Native American peoples. CDP-0701 condition 15 requires the completion of the Phase I archeological study prior to certificate approval of the CDP. As of the writing of this staff report, a Phase I archeological study has not been submitted for review.}]

\*[15. ~~Historic Preservation~~—The Historic Preservation Commission (HPC) received a staff

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briefing on the related comprehensive design plan application (CDP-05003) at its February 19, 2008, meeting, and heard a presentation by the applicant and testimony from citizens at its March 19, 2008, meeting. Testimony provided the following findings and conclusions:

The Comprehensive Design Plan (CDP-0701) does not include any identified historic resources, but is adjacent to the Joshua Turner House (Historic Site No. 82A-017, located at 8801 Frank Tippet Road (Tax Map 118 A-2). The Joshua Turner House, built in 1880s, is a two and one half story, cross gable frame dwelling with paneled gable peaks and a twentieth century stucco covering. The house was built for Joshua J. Turner, a Baltimore entrepreneur who specialized in agricultural fertilizers. The house, which also exhibits elegant Victorian interior trim, is significant as the late 19<sup>th</sup> century country house of a successful business, and its fine Queen Anne style decorative detail. The Historic Site's Environmental Setting includes approximately five acres (Part of Parcel 91).

The Turner House Historic Site has included an equestrian training and riding facility operated by its current owners for approximately 30 years. This equestrian operation, Merrymount, has relied for a portion of its operations on uses within the adjacent developing property, through cooperative agreements between the owners of Merrymount and the owners of the adjacent property. Over time, Merrymount has become a prominent local and regional equestrian facility. The portion of the developing property that includes some of the Merrymount facilities is not currently proposed for development through the subject application. Great concern was expressed at the March 19, 2008, HPC meeting about the viability of the equestrian operation so close to a dense residential development, even if the outparcel adjacent to the Joshua Turner House continues as open space.

As currently proposed on the subject plan, the applicant's street names based on famous single malt scotch whiskeys would appear to be unrelated to the history of the subject property and the county's equestrian heritage. The applicant's proposed street names for the developing community should be revised to focus on the historic significance of the developing property, the immediate vicinity and the area's equestrian heritage.

The subject plan calls for future residential development in the vicinity of the Joshua Turner House (Historic Site No. 82A-017). As a result, this portion of the development may have a direct visual impact on the Historic Site and its Environmental Setting. Therefore, the specific design plan for this portion of the proposed development should address the buffering requirements of the *Prince George's County Landscape Manual*, the layout of streets and street lighting, the pattern of building lots, the orientation of buildings, and the specific character and materials of the proposed architecture that may be visible from Joshua Turner House.

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The use of the Joshua Turner House Historic Site as an equestrian facility is part of the long-standing equestrian heritage of Prince George's County that dates to the 18th century. Although the portion of the developing property that includes some of the Turner property equestrian facilities is not proposed for development through the subject application, the retention and expansion of these facilities as an amenity for the developing community would enhance and continue the county's historic equestrian tradition. The character and design of the developing property should reflect the presence of the adjacent equestrian facility and provide tangible connections to it through a network of pedestrian and equestrian trails and employ street names that commemorative the county's equestrian heritage. Every effort should be made to assure the protection of the equestrian facility.]

~~\*[16. **Planning Board Hearing**—There was a discussion at the Planning Board Hearing regarding whether the Tree Conservation Plan reviewed with the Preliminary Plan conformed to the Green Infrastructure Plan, which requires the preservation of high priority woodlands. Environmental Planning staff recommended revisions to the Tree Conservation Plan that would preserve the high priority woodlands located in the northwest portion of the subject property. Both the preliminary plan and the tree conservation plan, reviewed by staff, illustrate development in this section of the property, preserving only a portion of the high priority woodlands identified by environmental planning staff. The Green infrastructure Plan serves as a function Master Plan, which requires the preservation of those high priority woodlands. Given the development shown, on both the Tree Conservation Plan and the Preliminary Plan, the Planning Board finds that the preliminary plan is not in conformance to the Master Plan because the development is not in conformance with the requirements of the Green Infrastructure Plan.]~~

\*18. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2001 Water and Sewer Plan as amended, designates this property in Water and Sewer Category 3, and the site will therefore be served by public systems. The preliminary plan should be revised to reflect this information.

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 date of notice of 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~~

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~~George's County Planning Board of The Maryland National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Cavitt and Parker voting in favor of the motion, and with Commissioner Vaughns absent at its regular meeting held on Thursday, July 17, 2008, in Upper Marlboro, Maryland.~~

~~Adopted by the Prince George's County Planning Board this 18th day of September 2008 \*and corrected on October 14, 2008.~~

\*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 Clark, seconded by Commissioner Squire, with Commissioners Clark, Squire, Cavitt, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, October 29, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 19<sup>th</sup> day of November 2009.

Patricia Colihan  
Acting Executive Director

By Frances J. Guertin  
Planning Board Administrator

PCB:FJG:\*[~~IT:bjs~~] WC:arj

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