

R E S O L U T I O N

WHEREAS, American Legion Post 28 is the owner of a 6.43-acre parcel of land known as Tax Map 12 in Grid B-4 and is also known as Parcel 61, said property being in the 1st Election District of Prince George's County, Maryland, and being zoned Townhouse (R-T); and

WHEREAS, on September 29, 2011, American Legion Post 28 filed an application for approval of a Preliminary Plan of Subdivision for 17 lots and 3 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-11006 for American Legion 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 February 23, 2012, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on February 23, 2012, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type 1 Tree Conservation Plan (TCP1-012-11), and further APPROVED Preliminary Plan of Subdivision 4-11006, American Legion, including a Variation from Section 24-121(a)(3) for 17 lots and 3 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Show the additional five-foot-wide dedication of public right-of-way along Powder Mill Road (MD 212) or 65 feet from master plan centerline.
 - b. Revise General Notes 1 and 2 to reflect the acreage of road dedication.
 - c. Revise General Note 12 to reflect the approved stormwater management plan number.
 - d. Add a general note that states "The entire site is located within the unmitigated day-night level 65dBA Ldn noise contour associated with Powder Mill Road."
 - e. Revise the square footage of the American Legion facility on Parcel 1 to 5,825 square feet.

- f. Label on the plan and add a note to indicate the overhead wire (OHW) and utility pole, "To be relocated onto Parcel 1."
2. Prior to approval of the final plat, the applicant and the applicant's heirs, successors, and/or assignees shall pay a fee-in-lieu of parkland dedication for the portion of the development to be developed with townhouses.
3. Prior to certification of the preliminary plan, the Type 1 tree conservation plan TCP1 shall be revised as follows:
 - a. Show all proposed woodland conservation to meet the minimum requirements outlined in Section 25-122(b) of the Woodland and Wildlife Habitat Conservation Ordinance.
 - b. Label the proposed disposition of all existing structures, foundations, fences, and utilities (to remain or to be removed).
 - c. Revise the worksheet as necessary to address plan revisions.
 - d. After revisions have been made, have the qualified professional who prepared the plan sign and date it and update the revision box with a summary of the revision.
 - e. Add a general note that states "The entire site is located within the unmitigated day-night level 65 dBA Ldn noise contour associated with Powder Mill Road."
4. Development of this subdivision shall be in conformance with an approved Type 1 Tree Conservation Plan (TCP1-012-11). The following note shall be placed on the final plat of subdivision:

"This development is subject to restrictions shown on the approved Type 1 Tree Conservation Plan (TCP1-012-11 or most recent revision), or as modified by the Type 2 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 and Wildlife Habitat 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 County Planning Department."
5. Prior to certification of the preliminary plan, a valid Stormwater Management Concept Plan (34431-2008-00) approval letter for proposed Parcel 1 shall be submitted.
6. At the time of detailed site plan for the development of townhouses, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:

- a. A Phase II noise study that demonstrates the location of noise mitigating barriers, at a minimum distance of ten feet from any proposed lot line, exclusive of stormwater management design features, and on land to be conveyed to a homeowners association (HOA).
 - b. Infiltration berm and bioswales shall not be located on townhouse lots. Stormwater management features should be located on land to be conveyed to an HOA, with the exception of rooftop disconnects located in front yards.
7. The applicant and the applicant's heirs, successors, and/or assignees shall construct a five-foot-wide sidewalk along the entire subject property frontage, unless modified by the Department of Public Works and Transportation (DPW&T).
8. At the time of record plat, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
 - a. Dedicate to public use right-of-way of 65 feet from the master plan centerline along Powder Mill Road (MD 212) as delineated on the approved preliminary plan of subdivision.
 - b. Dedicate a ten-foot-wide public utility easement (PUE) along the public and private rights-of-way as delineated on the approved preliminary plan of subdivision.
9. Total development within proposed Parcel 1 (American Legion) shall be limited to equivalent development which generates no more than 14 AM and 26 PM peak-hour vehicle trips. Any development generating a traffic impact greater than that identified herein-above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
10. Total development on Lots 1 through 17 and Parcels A and B shall be limited to equivalent development which generates no more than 12 AM and 14 PM peak-hour vehicle trips. Any development generating a traffic impact greater than that identified herein-above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
11. Prior to approval of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall demonstrate that a homeowners association (HOA) has been established and that the common areas (Parcels A and B) have been conveyed to the HOA.
12. Prior to the issuance of building permits, the applicant and the applicant's heirs, successors, and/or assignees shall convey to the homeowners association (HOA) 1.97 acres (Parcels A and B). Land to be conveyed shall be subject to the following:

- a. Conveyance shall take place prior to issuance of building permits.
 - b. A copy of an unrecorded special warranty deed for the property to be conveyed shall be submitted to the Subdivision Review Section of the Development Review Division (DRD) of The Maryland-National Capital Park and Planning Commission (M-NCPPC) along with the final plat.
 - c. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section, or the entire project.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse, or similar waste matter.
 - e. Any disturbance of land to be conveyed to a HOA shall be in accordance with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and stormdrain outfalls.
 - f. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a HOA. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to issuance of grading or building permits, and shall conform to the approved detailed site plan.
 - g. Temporary or permanent use of land to be conveyed to a HOA 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.
13. Prior to issuance of building permits for proposed residential structures, the applicant shall submit certification by a professional engineer with competency in acoustical analysis to the Environmental Planning Section demonstrating that the design and construction of building shells within the noise corridor of Powder Mill Road (MD 212) will attenuate noise to interior noise levels of 45 dBA Ldn or less.
 14. The existing utility poles which include overhead wires serving Parcel 1 from Powder Mill Road (MD 212) across Parcel A shall be relocated by the applicant to provide direct service from MD 212 and reflected on the detailed site and special exception plans as appropriate.

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	R-T	R-T
Use(s)	Vacant	Residential (17 units) Private Club (5,825 sq. ft.)
Acreage	6.43	6.43
Lots	0	17
Outlots	0	0
Parcels	1	3
Dwelling Units	0	17
Public Safety Mitigation Fee	No	No
Variance	No	No
Variation	No	Yes
		(Section 24-121(a)(3))

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations, this case was heard before the Subdivision and Development Review Committee (SDRC) on October 14, 2011. The requested variation to Section 24-121(a)(3) of the Subdivision Regulations was accepted on September 29, 2011 as discussed further in the Transportation section of this report, and was heard on October 14, 2011 at SDRC as required by Section 24-113(b) of the Subdivision Regulations.

3. **Community Planning**—The 2002 *Prince George's County Approved General Plan* (General Plan) designates the subject site within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. Approval of this application does not violate the General Plan's growth goals for the year 2025, upon review of the current Prince George's County General Plan Growth Policy Update.

The 2010 *Approved Subregion 1 Master Plan and Sectional Map Amendment* retained this property in the R-T Zone. The preliminary plan is in general conformance with the residential medium-density land use recommendations of the master plan by proposing townhouses. The reconstruction of the American Legion private club will require a special exception prior to submission of a detailed site plan.

4. **Urban Design**—The 2010 *Prince George's County Landscape Manual* and the Zoning Ordinance contain site design guidelines and requirements that are applicable to the development of this property.

Zoning Ordinance

The proposal for the reconstruction of the American Legion private club on proposed Parcel 1 will require special exception approval in accordance with Section 27-441, Uses permitted in the residential zones, of the Zoning Ordinance.

A detailed site plan is required for all attached dwellings, in accordance with Section 27-433(k), Site Plans, of the Zoning Ordinance. The proposal for the construction of 17 townhomes on private lots will require detailed site plan approval prior to final plat of subdivision. The minimum required lot size for townhomes in the R-T Zone is 1,800 square feet. The preliminary plan indicates that interior lots will be 1,800 square feet and corner lots will be 2,700 square feet, which conforms to the Zoning Ordinance requirement.

2010 Prince George's County Landscape Manual

The proposal is subject to the requirements of the 2010 *Prince's George's County Landscape Manual* (Landscape Manual). Compliance with these requirements will be judged at the time of detailed site plan and special exception review respectively.

Per Section 4.7 of the Landscape Manual, the private club is a medium impact use. A Type C bufferyard inclusive of a 40-foot building setback and 30-foot-wide landscape yard is required between the private club and the proposed townhomes. If the required bufferyard is shared between Parcels 1 and B, a landscape easement should be reflected on the final plat if it is not shown on a tree conservation plan.

The applicant should be made aware that rear yards of townhomes that are oriented toward an arterial street, such as Powder Mill Road (MD 212), require a 50-foot-wide buffer. Applicability of this requirement will be evaluated at the time of detailed site plan review when detailed information is available and should not be provided on individual townhouse lots, but in common open space.

In accordance with Section 4.10 of the Landscape Manual, street trees will be required along private streets. Street trees shall be located in a minimum five-foot-wide strip between the street edge and the sidewalk. This requirement may result in minor modifications with the review of the DSP.

5. **Environmental**—This preliminary plan has been reviewed for conformance to the environmental regulations within Division 5 of the Subdivision Regulations, the Woodland and Wildlife Habitat Conservation Ordinance, and the appropriate area master plan. A signed Natural Resources Inventory (NRI-026-11) and Type 1 Tree Conservation Plan (TCP1-012-11) have been submitted and reviewed.

According to mapping research and as documented on the approved NRI, streams, wetlands, and floodplain are not found to occur on the property. The site is located within the Paint Branch watershed, located in the Potomac river basin. Small areas of steep slopes occur on the property. The predominant soils found to occur on-site, according to the US Department of Agriculture

(USDA), Natural Resource Conservation Service (NRCS) Web Soil Survey (WSS), include Chillum-Urban land complex, Downer-Mammonton-Urban land complex, and Sassafras-Urban land complex. According to available information, Marlboro clay and Christiana complexes are not mapped on this property. This information is provided for the applicant's benefit. The county may require a soils report in conformance with County Council Bill CB-94-2004 regarding sub-surface water conditions for proposed residential construction with a basement, during the building permit review process.

According to the Sensitive Species Project Review Area (SSPRA) map prepared by the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered (RTE) species mapped to occur on or in the vicinity of this property. There are no scenic or historic roads located on or adjacent to this property.

Master Plan Conformance

The master plan for this area is the 2010 *Approved Subregion 1 Master Plan and Sectional Map Amendment*. In the Subregion 1 Master Plan and Sectional Map Amendment, the Environmental Infrastructure section contains goals, policies, and strategies. 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.

POLICY 1: Protect, preserve and enhance the identified green infrastructure network within the Subregion 1 plan area.

The preliminary plan is reviewed further in this report for conformance with the *Approved Countywide Green Infrastructure Plan*.

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

The preliminary plan is reviewed further in this report for conformance with a stormwater management concept plan.

POLICY 3: Implement the State Storm Water Management Act of 2007 in Subregion 1 as of the adoption of this Plan to enhance the water quality and control flooding in the Anacostia and Patuxent River watersheds.

The preliminary plan is reviewed further in this report for conformance with a stormwater management concept plan.

POLICY 4: Implement more environmentally sensitive building techniques and reduce overall energy consumption.

The use of green building techniques and energy conservation techniques should be encouraged with the review of the DSP.

POLICY 5: Reduce light pollution and intrusion, especially into the Rural Tier and environmentally sensitive areas.

The site is not located in the vicinity of environmentally sensitive areas and is not located in or adjacent to the Rural Tier.

POLICY 6: Reduce air pollution by placing a high priority on transportation demand management (TDM) projects and programs.

A sidewalk across the entire property frontage has been recommended by the Transportation Planning Section. This should provide connectivity to the existing crosswalk located to the northeast of the subject site on Powder Mill Road.

POLICY 7: Reduce adverse noise impacts to meet State of Maryland noise standards.

The proposed development is not expected to be a noise generator. Traffic related noise is discussed in the Environmental Review section.

Conformance with the Green Infrastructure Plan

The subject property is not located within the designated network of the Countywide Green Infrastructure Plan.

Environmental Review

The NRI shows no regulated environmental features on or within 100 feet of the subject property. The forest stand delineation (FSD) indicates the presence of two forest stands totaling 3.75 acres and two specimen trees on-site. The removal of specimen trees requires a variance to Section 25-122(b)(1)(G) of the Woodland and Wildlife Habitat Conservation Ordinance as part of the development review process. No specimen trees are shown as to be removed on the plans as submitted.

The NRI indicates that Virginia pine is present on-site. Because Virginia pine is a species that is especially vulnerable to damage from construction and is susceptible to windthrow when left along a newly created woodland edge, the areas containing Virginia pine that are not shown to be cleared may require selective clearing. The TCP1 Note 12, currently shown on the plan, adequately addresses the issue of Virginia pine at this time; however, the selective removal of Virginia pine may be necessary as part of future approvals.

The property is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the gross tract area is greater than 40,000 square feet in size, the property contains more than 10,000 square feet of woodland, and there are no previously approved tree conservation plans for the property.

The woodland conservation threshold (WCT) for this 6.43-acre property is 20 percent of the net tract area or 1.29 acres. The subject site has a total woodland conservation requirement of 1.90 acres based on the amount of proposed clearing. This requirement is proposed to be satisfied with 1.26 acres of woodland preservation, 0.14 acre of on-site reforestation, and 0.50 acre of off-site mitigation.

The plan requires technical changes to be in conformance with the Woodland and Wildlife Habitat Conservation Ordinance. The proposed woodland conservation areas need to be revised to meet the minimum dimension and area sizes specified in Section 25-122(b) of the County Code. Several existing structures, foundations, fences, and utilities are located on-site and it is unclear whether these structures are proposed to remain or to be removed. A label should be added to the TCP to indicate the proposed disposition of the existing structures (to remain vs. to be removed) as reflected in the preliminary plan of subdivision. After all revisions have been made, have the qualified professional who prepared the plan sign and date it and update the revision box with a summary of the revisions made.

The site has frontage on Powder Mill Road (MD 212), a master-planned roadway designated as arterial that is a traffic noise generator. A noise study dated December 13, 2011, prepared by Acoustical Design Collaborative, LTD, was stamped as received January 13, 2012. The report evaluated on-site noise generated by the traffic along Powder Mill Road based on on-site measurements over a 24-hour time period. The results of the measurements indicate that the entire site exceeds a day-night level of 65 dBA Ldn. Because the entire site is located within the 65 dBA Ldn noise contour, and because the noise contour has not been shown on the plan, a note should be added to the plan to indicate that the entire site is located within the unmitigated 65 dBA Ldn.

The report proposes mitigation for all proposed lots in the form of two six-foot-high barrier fences along the lot lines of Lots 1, 2, 3, 15, 16, and 17. However, because these barriers are designed to provide mitigation for all lots on-site (not just the lots on which the barriers are proposed), it is recommended that the proposed noise barriers be located on land to be conveyed to an HOA and at a minimum distance of ten feet from the proposed lot lines for access and maintenance purposes, which should be reflected on the detailed site plan.

The noise report submitted with this preliminary plan application identifies the location of the unmitigated 65 dBA Ldn noise contour and demonstrates that mitigation to noise levels less than 65 dBA Ldn for all lots is feasible. The noise report sufficiently demonstrates that the proposed subdivision will not create lots that cannot meet the state noise standards at the time of building permit. However, the exact location of the noise mitigation barriers should be addressed further at the time of detailed site plan. It may be possible to provide noise barriers on the proposed HOA parcel closer to Powder Mill Road that would not only provide mitigation for the proposed lots, but create useable open space for the HOA. At the time of detailed site plan application, a Phase II noise study should be submitted to finalize the location of the proposed noise mitigation barrier.

6. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. Two

stormwater management concept plans and approval letters were submitted with the application for this site. Stormwater Management Concept Plan 34431-2008-00 was approved for the proposed American Legion building on proposed Parcel 1. This concept plan was approved on November 14, 2008 and was valid until November 14, 2011. Stormwater Management Concept Plan 19335-2011 was approved for the 17 proposed townhouse lots and proposed Parcels A and B (to be conveyed to the homeowner's association). This concept was approved January 10, 2012 and is valid until January 9, 2015. The approved concept plans contain conditions to ensure that development of this site does not result in on-site or downstream flooding. Stormwater Management Concept Plan 34431-2008-00 for proposed Parcel 1 should be valid prior to certification of the preliminary plan.

Stormwater Management Concept Plan 19335-2011 for the proposed townhouses shows the use of environmental site design (ESD) in the form of a proposed bioswale straddling and extending along the back lot lines of Lots 9 through 16 and a proposed infiltration berm extending along the back lot lines of Lots 1 through 8. The plan also shows a proposed retaining wall ranging from approximately two to nine feet in height centrally on-site, essentially dividing the stormwater management requirements of the two sides of the site. The proposed ESD features will provide infiltration for water quality purposes as well as the one-year attenuation for water quantity control. A stormwater management fee was also approved in lieu of providing on-site attenuation and quality control measures beyond the one-year attenuation. Typically, DPW&T will require an agreement with the land owners for the maintenance of the stormwater management ESD features.

The ESD features shown on the approved concept plan are located both on land to be conveyed to an HOA and on private townhouse lots. Because these features are proposed to be located on individual lots, it will ultimately be the responsibility of individual homeowners to maintain these features. Due to the infiltrating nature of the proposed features, no filling of the areas or the construction of fences would be allowed in these areas. The area would also need to be accessible for inspection purposes and would generally restrict the useable portions of what are already small back yards for the future homeowners. For practical purposes and long-term functionality of the stormwater management on this site, it is recommended that the larger stormwater management structures be redesigned to be located on common HOA property. This would ensure the long-term functionality of the structures and provide the homeowners with a usable yard area. Individual rooftop disconnects may be provided in front yards as a part of the large stormwater management design, which is acceptable, and reflected on the current stormwater management plan.

Stormwater Management Concept Number 19335-2011 for the proposed townhouses demonstrates that ESD features can be used to address the stormwater requirements of this site; however, at the time of detailed site plan, the plans should be designed to provide the larger stormwater management facilities wholly on land to be conveyed to an HOA and not on individual townhouse lots. At the time of detailed site plan, a revised stormwater management design should also consider the location of the barrier proposed for noise mitigation purposes. The design should demonstrate ESD features exclusive of the proposed noise barriers.

7. **Parks and Recreation**—For the townhouse development, in accordance with Section 24-134(a)(3)(A) of the Subdivision Regulations, it is recommended that the payment of a fee-in-lieu will meet the requirement of mandatory dedication of parkland because the land available for dedication is unsuitable due to size and location. Based on the Department of Parks and Recreation (DPR) analysis, there is a low need for recreational facilities in this area. There are three parks, Cherryvale Neighborhood Park, Calverton Park, and the Paint Branch Stream Valley Park, within one-half mile of the site. The preliminary plan shows open space that can provide passive recreational activities for this small 17-lot townhouse development.

For proposed Parcel 1, in accordance with Section 24-134(a)(3)(A) of the Subdivision Regulations, the mandatory dedication of parkland requirement is not applicable because it consists of nonresidential development.

8. **Trails**—This preliminary plan has been reviewed for conformance with Section 24-123 of the Subdivision Regulations, the *Approved Countywide Master Plan of Transportation* (MPOT), and the appropriate area master plan in order to implement planned trails, bikeways, and pedestrian improvements.

Powder Mill Road is part of a larger network of bicycle lanes, sidepaths and trails that were approved with the master plan of transportation. The network will connect to planned functional bicycle routes and recreation trails, such as the Anacostia Tributary Trail System (ATTS), which is a unified and signed system of stream valley trails that join the Northwest Branch, Northeast Branch, Indian Creek and Paint Branch stream valley parks, set aside and maintained by the Maryland-National Capital Park and Planning Commission in the northeastern Maryland suburbs of Washington, D.C.. There is an existing sidewalk on Powder Mill Road on the western portion of the subject property. This sidewalk is adjacent to the road curb with no separation from the roadway.

The MPOT recommends that Powder Mill Road (MD 212) contain sidewalks and bicycle lanes from the Montgomery County line to Edmonston Road (MD 201). The right-of-way dedication shall include five feet for bicycle lanes for a total of 65 feet of dedication from the centerline of Powder Mill Road. It is also recommended that the applicant reconstruct the existing sidewalk on Powder Mill Road and construct a new five-foot-wide sidewalk along the subject property frontage with adequate separation.

Based on the preceding analysis, adequate bicycle and pedestrian transportation facilities would exist to serve the proposed subdivision as required pursuant to Section 24-123 of the Subdivision Regulations.

9. **Transportation**—The application is for a residential subdivision consisting of 17 townhouse lots along with a parcel to accommodate the rebuilding of a private club. There is a foundation for a 5,825-square-foot private club and two existing outbuildings consisting of 1,025 square feet which will remain. Trip generation rates in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals" will be used for the townhouses. The private club trip generation is based

on a past recent example (Special Exception SE-4645), where rates from two outside sources were combined to estimate the trip rate for a private club of this type, and the same computed rate per 1,000 square feet is used for this use. The trip generation for the site is summarized as follows:

Trip Generation Summary, 4-11006, American Legion								
Land Use	Use Quantity	Metric	AM Peak Hour			PM Peak Hour		
			In	Out	Tot	In	Out	Tot
Townhouses	17	units	2	10	12	9	5	14
Private Club	5,825	square feet	9	5	14	16	10	26
Total			11	15	26	25	15	40

It is determined that the proposed development would generate 26 AM and 40 PM weekday peak-hour vehicle trips. The traffic generated by the proposed preliminary plan would impact the following intersections, interchanges, and links in the transportation system:

- MD 212 and Cherry Hill Road (signalized)

The proposal is not of sufficient size that it will generate 50 or more vehicle trips, and so a full traffic study was not required. However, weekday traffic counts for the intersection of Powder Mill Road (MD 212) and Cherry Hill Road were requested for the purpose of making an adequacy finding. Counts dated April 2011 were submitted by the applicant. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the Transportation Planning Section, consistent with the "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

The subject property is located within the Developing Tier, as defined in the *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the Transportation Guidelines.

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

The following critical intersection identified above, when analyzed with existing traffic using counts taken in April 2011 and existing lane configurations, operates as follows:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 212 at Cherry Hill Road	1,170	1,182	C	C

The critical intersection identified above is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation "Consolidated Transportation Program" (CTP) or the Prince George's County "Capital Improvement Program" (CIP). Background traffic has been developed for the study area. No approved but unbuilt developments were identified in the vicinity that would impact the critical intersection. A sizable quantity of approved but unbuilt development exists in Montgomery County just beyond the county line that would impact the critical intersection. Transportation Planning staff has a traffic study (2008) for the Washington Adventist Hospital; background and site traffic additions from that study have been taken, reduced by 30 percent (to account for development constructed since the study was done), and assigned to the critical intersection with 40 percent from the north, 35 percent from the east, and 25 percent from the south. A 0.5 percent annual growth rate in through traffic over a two-year period is assumed. The critical intersection, when analyzed with background traffic and existing lane configurations, operates as follows:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 212 at Cherry Hill Road	1,235	1,253	C	C

The following critical intersection, when analyzed with the programmed improvements and total future traffic as developed for the site, including the site trip generation as described above and a distribution of 35 percent north along MD 212, 20 percent east along Cherry Hill Road, 25 percent south along MD 212, and 25 percent west along Cherry Hill Road, operates as follows:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 212 at Cherry Hill Road	1,238	1,262	C	C

No inadequacies in either peak hour are noted in the table above. Notwithstanding this determination, a trip cap consistent with the trip generation for the overall site is recommended.

The site is adjacent to Powder Mill Road (MD 212), which is a master plan arterial roadway. The master plan indicates that a right-of-way width of 120 feet is necessary to accommodate ultimate roadway facilities. Also, the *Approved Countywide Master Plan of Transportation* (MPOT) also indicates planned five-foot-wide bike lanes in each direction. The total right-of-way needed for these recommendations is 130 feet, or 65 feet from centerline. This dedication shall be reflected on the final approved preliminary plan and dedicated at the time of record plat in accordance with the request of the Maryland State Highway Administration (SHA), as noted in the letter from SHA (Foster to Nguyen) dated October 26, 2011.

DPW&T and SHA Comments

The Department of Public Works and Transportation (DPW&T) advises that sidewalks are required along all roadways within the property limits in accordance with Subtitle 23 of the County Code. Also, street construction permits are required for improvements within the private roadway right-of-way, and maintenance of the private street is the responsibility of the HOA.

SHA advises that an access permit for entrance improvements and grading within the SHA right-of-way will be required.

Variation to Section 24-121(a)(3) of the Subdivision Regulations

Access is proposed from MD 212 by means of a private street serving the townhouses and a driveway to serve proposed Parcel 1. It is noted that MD 212 is a master plan arterial facility. Section 24-121(a)(3) of the Subdivision Regulations requires that lots proposed on land adjacent to an existing or proposed planned roadway of arterial or higher classification be designed to front on either an interior street or service roadway. The applicant requests a variation pursuant to Section 24-113 of the Subdivision Regulations for Parcel 1.

Section 24-113(a) sets forth the following required finding for approval of variation requests:

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:

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 24-121 could result in practical difficulties to the applicant that could result in the applicant not being able to develop Parcel 1. There are four criteria that must be met for this variation to be approved. The criteria, with discussion, are noted below:

1. **The granting of the variation will not be detrimental to the public safety, health, welfare, or injurious to other property;**

This access was initially proposed to remain at its current location. SHA has indicated that the access should be moved slightly to the south. The access will be reviewed further by SHA with the special exception for the private club, and again through the SHA access permit process.

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

The uniqueness of the property is the dual use of the property and the lack of any other means to gain access through adjacent properties, as the site is a rectangular shape with a very wide frontage onto MD 212, a shape not generally shared with abutting properties, and has no frontage to any other street. This is a situation that generally does not exist for other properties along this roadway.

3. **The variation does not constitute a violation of any law, ordinance, or regulation;**

Access to MD 212 is regulated by SHA. By letter dated October 26, 2011, SHA has indicated that this access is supported.

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

The site is a rectangular shape with a very wide frontage onto MD 212, a shape not generally shared with abutting properties, and has no frontage to any other street, which will make it difficult for development to occur on Parcel 1 without access to MD 212. Connecting the driveway to the private street serving the townhouses is not permitted and could lower the value of the townhouse lots. There are no other options for the private club to receive access.

Based on the preceding findings, the criteria for approval of a variation have been met for the proposed access onto Powder Mill Road (MD 212) for Parcel 1. Adequate access roads will exist as required by Section 24-124 of the Subdivision Regulations.

10. **Schools**—The proposed preliminary plan has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (County Council Resolutions CR-23-2001 and CR-38-2002), with the following conclusions:

Residential

Impact on Affected Public School Clusters

Affected School Cluster #	Elementary School Cluster 1	Middle School Cluster 4	High School Cluster 1
Dwelling Units	17	17	17
Pupil Yield Factor	0.14	0.11	0.10
Subdivision Enrollment	2.4	1.9	1.7
Actual Enrollment	5,038	9,899	4,007
Total Enrollment	5,040.4	9,900.9	4,008.7
State Rated Capacity	4,850	11,571	4,123
Percent Capacity	104%	86%	97%

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

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between the Capital Beltway (I-95/ 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 (WAMATA); 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 \$8,565 and \$ 14,682 to be paid at the time of issuance of each building permit.

The school facilities surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

Nonresidential

The recreational use portion of this preliminary plan has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001 and CR-38-2002), and concluded that the subdivision is exempt from a review for schools because it is a nonresidential use.

11. **Fire and Rescue**—The proposed preliminary plan has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)–(E) of the Subdivision Regulations.

Residential

The proposed development is within the seven-minute required response time for the first due fire station using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

First Due Fire/EMS Company #	Fire/EMS Station	Address
41	Beltsville	3939 Powder Mill Road

Pursuant to 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/EMS Chief has reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.

Nonresidential

The subdivision has been reviewed for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)–(E) of the Subdivision Regulations.

Fire/EMS Company #	Fire/EMS Station Name	Service	Address	Actual Travel Time (minutes)	Travel Time Guideline (minutes)	Within/ Beyond
41	Beltsville	Engine	3939 Powder Mill Road	0.80	3.25	Within
31	Beltsville	Ladder Truck	4911 Prince George's Avenue	3.88	4.25	Within
12	College	Paramedic	8115 Baltimore Avenue	6.22	4.25	Beyond
41	Beltsville	Ambulance	3939 Powder Mill Road	0.80	7.25	Within

Company 41, Beltsville, would be within the recommended travel time for paramedic service if an operational decision to locate a paramedic at the station is made by the county.

Capital Improvement Program (CIP)

There are no County Capital Improvement Program (CIP) projects for public safety facilities proposed in the vicinity of the subject site. The above findings are in conformance with the 2008 *Approved Public Safety Facilities Master Plan* and the "Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure."

12. **Police Facilities**—The subject property is located in Police District VI, Beltsville. The response time standard is ten minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on September 29, 2011.

Residential

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Nonemergency Calls
Acceptance Date 9/29/2011	9/2010-8/2011	8 minutes	6 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of ten minutes for emergency calls and 25 minutes for nonemergency calls were met October 5, 2011.

The Police Chief has reported that the Police 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 temporarily suspended the provisions of Section 24-122.01(e)(1)(A) and (B) of the Subdivision Regulations regarding sworn police personnel staffing levels.

Nonresidential

The proposed development is within the service area of Police District VI, Beltsville. 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, 2009 (U.S. Census Bureau) county population estimate is 834,560. Using 141 square feet per 1,000 residents, it calculates to 117,672 square feet of space for police. The current amount of space, 267,660 square feet, is within the guideline.

13. **Water and Sewer**—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 2008 *Water and Sewer Plan* placed this property in water and sewer Category 3, Community System. Water and sewer lines in Powder Mill Road (MD 212) abut the property. A sewer line in Dyson Road is within close proximity to the property. Water and sewer line extensions may be required to service the proposed subdivision and must be approved by the Washington Suburban Sanitary Commission (WSSC). The subdivision will be served by public water and sewer service.
14. **Health Department**—The Prince George's County Health Department has evaluated the proposed preliminary plan of subdivision and has no comments.
15. **Public Utility Easement (PUE)**—In accordance with Sections 24-122(a) and 24-128(b)(12) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a ten-foot-wide public utility easement (PUE) along the public and private rights-of-way as requested by the utility companies and will be required on the record plat.

The preliminary plan shows a proposed utility easement for the existing overhead power lines to service Parcel 1, the American Legion, crossing Parcel A. An easement for the overhead power lines and poles would encumber the HOA land (Parcel A) for the townhouse development. The encumbrance would reduce the open space area and may interfere with the location of the noise wall for the townhouse development. The HOA land should not be encumbered by any utilities that do not service the townhouse development. The overhead power lines and poles to service the American Legion shall be relocated to provide direct service to Parcel 1 from the public right-of-way and reflected on the preliminary plan and detailed site plan/special exception.

16. **Historic**—A Phase I archeological survey is not recommended on the above-referenced 6.43-acre property located at 3510 Powder Mill Road in Beltsville, Maryland. The application proposes 17 townhouse lots and rebuilding of the American Legion club. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. Portions of the subject property have been previously graded and disturbed. This proposal will not impact any known historic sites, resources, or documented properties.
17. **Residential Conversion**—The subject application is not proposing any residential development on Parcel 1; however, if a residential land use were proposed on Parcel 1, a new preliminary plan is recommended. There exist different adequate public facility tests comparatively between residential and nonresidential uses, and there are considerations for recreational components for a residential subdivision. A new preliminary plan is recommended if residential development is to be proposed on Parcel 1.

Parcels A and B and Lots 1 through 17 were analyzed based on the proposal for residential development. The analysis includes access, mandatory dedication, and public facilities specifically related to the residential land use proposed with this application. While the subject application is not proposing any nonresidential development on Parcels A and B and Lots 1 through 17, if such a land use were proposed, a new preliminary plan should be required.

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 George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Bailey, seconded by Commissioner Squire, with Commissioners Bailey, Squire, Shoaff and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, February 23, 2012, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 22nd day of March 2012.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:QN:arj

APPROVED AS TO LEGAL SUFFICIENCY.



M-NCPPC Legal Department

Date 3/1/12