

Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530

Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm

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PRELIMINARY PLAN

4-02005

Application	General Data
Project Name: BRAEMAR Location: Northwest Quadrant of Accokeek Road & Berry Road. Applicant/Address: Enterprise Realty Services, Inc. P.O. Box 59347 Potomac, MD 20854	Date Accepted 01/16/02
	Planning Board Action Limit 03/26/02
	Tax Map & Grid 152/B-03
	Plan Acreage 120.92
	Zone R-R
	Lots 54
	Parcels 2
	Planning Area 84
	Council District 09
	Municipality N/A
	200-Scale Base Map 220SE02

Purpose of Application		Notice Dates	
RESIDENTIAL SUBDIVISION		Adjoining Property Owners (CB-15-1998)	N/A
		Previous Parties of Record (CB-13-1994)	N/A
		Sign(s) Posted on Site	03/06/02
		Variance(s): Adjoining Property Owners	N/A
Staff Recommendation		Staff Reviewer: Del Balzo	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-02005
Braemar, Lots 1 - 54 and Parcels ■F• and ■G•

OVERVIEW

The property consists of approximately 120.92 acres of land in the R-S Zone. It is undeveloped and mostly wooded. The property is currently known as Berry Woods, a subdivision of 212 single-family lots, with attendant open space, subdivided under the provisions of the R-S Comprehensive Design Zone. Berry Woods was the subject of Preliminary Plan 4-94138, which was eventually platted as VJ 184 @ 34 - 41. This subdivision has not been developed. The applicant proposes to resubdivide the property into 54 residential lots and 2 parcels under the provisions of the R-A Zone, as allowed by CB-11-2000. The proposed development is significantly less intensive than the approved and recorded subdivision that now exists.

Preliminary Plan 4-00045 was approved by the Planning Board in January 2001. That preliminary plan proposed 44 lots under the provisions of the R-A Zone. The applicant now proposes to increase the density by 10 lots, still well below the 212 lots recorded in the R-S Zone. Though it includes more lots than 4-00045, the current design employs the use of the Varying Lot Size technique and produces much less impact to environmental features than did that previous approval. Staff supports the application with conditions included at the end of this report.

SETTING

The property is located in the northwest quadrant of the Berry Road/Accokey Road intersection in Accokeek. Surrounding properties to the north, east and south are occupied with large lot single-family homes and farmland in the R-E and R-A Zones. To the west are single-family detached homes in the R-R Zone.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. Environmental Issues and Variation Request •The streams, wetlands and floodplain on the property are part of the Potomac River Watershed. Current air photos indicate that 75 percent of the site is wooded. Accokeek Road is a historic road. There are no nearby noise sources. The proposed use is not expected to be a noise generator. No species listed by the State of Maryland as rare, threatened or endangered are known to occur in the in the general region. The property is in water and sewer categories W-3 and S-3 and will be served by public systems. The principal soils on the site are in the Aura, Beltsville, Croom, Leonardtown, and Ochlockonee soils series.

The site is subject to the Woodland Conservation Ordinances because it is more than 40,000 square feet in size and contains more than 10,000 square feet of woodland. A Tree Conservation Plan is required. A Type I Tree Conservation Plan, TCPI/69/94, was approved with CDP-9402. A revised Type I Tree Conservation, TCPI/69/94-01, was approved by Planning Board Resolution No. 00-210 as part of the approval of Preliminary Plan of Subdivision 4-00045.

A Forest Stand Delineation (FSD), prepared by Loiederman Associates, Inc., dated February 1994 has been reviewed and determined to meet the requirements of the Woodland Conservation Ordinance. The FSD shows that the site contains many trees over 24 inches in diameter.

A revised Tree Conservation Plan was submitted for review. The plan proposes clearing of 0.49 acre of floodplain woodland and 35.47 acres of upland woodland. The minimum required woodland conservation is 75.15 acres. The plan proposes on-site preservation of 66.88 acres and 8.27 acres of on-site reforestation/replacement, for a total of 75.15 acres. A woodland buffer 4.88 acres in size along Accokeek Road, a designated historic road, is proposed to be afforested. The plan preserves most of the priority woodland on the site and uses afforestation to provide additional screening of the site from a designated historic road. Staff recommends approval of TCPI/69/94-02.

The site contains significant natural features, which are required to be protected under Section 24-130 of the Subdivision Regulations. A Jurisdictional Determination (JD) from the Corps of Engineers has been provided with the application, which shows the location of existing wetlands and the determination of where the ephemeral portion of the streams end and where the intermittent portion of streams begin. Wetlands are correctly shown on the Preliminary Plan of Subdivision. Section 24-130(b)(7) requires a minimum 25-foot wetland buffer, which is correctly shown on the plan. A minimum 50-foot stream buffer is shown on the plan. The Preliminary Plan of Subdivision correctly shows all areas of severe and steep slopes and the extent of the 100-year floodplain. The extended stream and wetland buffers are correctly shown on the revised preliminary plan of subdivision, stamped as revised February 19, 2002, and the revised Tree Conservation Plan, stamped as received by the Countywide Planning Division on February 20, 2002. At the time of final plat, a Conservation Easement should be described by bearings and distances. The conservation easement should contain all 100-year floodplain, stream buffers and wetland buffers, except for approved variation requests, and be reviewed by the Environmental Planning Section prior to approval. An appropriate plat note is also recommended.

As shown of the Forest Stand Delineation, the principal soils on the site are in the Aura, Beltsville, Croom, Leonardtown, and Ochlockonee soils series. Problem areas include the extreme slopes where erosion and sediment control is difficult. Special attention should be placed upon installation of silt fence and other sediment control devices. The plateau of the southern half of the site is underlain by soils in the Leonardtown series. These soils can have a perched water table and poor drainage. Care should be taken to assure proper drainage around proposed building foundations. This information is provided for the applicant's information. No further action is needed regarding this application. The Prince George's County Department of Environmental Resources may require additional information at the time of building permit review.

Accokeek Road is a designated historic road and subject to the guidelines of the Prince George's County Department of Public Works and Transportation. A Historic Road Report, Accokeek Road (MD 373) prepared by Loiederman Associates, Inc., and dated October 13, 1997, is in the Environmental Planning Section file. The report contains an inventory of scenic and historic features, pictures and maps which illustrate the significant visual features of Accokeek Road. The Tree Conservation Plan proposes an area of afforestation not less than 50 feet deep along the entire right-of-way of Accokeek Road. This measure adequately maintains the historic and scenic character of the road. No further action is needed regarding this application. The proposed afforestation area is not shown on the Tree Conservation Plan; therefore, a condition is recommended to address this issue.

A Stormwater Management Concept Plan, CSD#8320640-2000-00, has been approved by the Prince George's County Department of Environmental Resources. The use of a rural road section is one element of Low Impact Development which reduces the need for stormwater management ponds. The plateau of the southern half of the site is underlain by soils in the Leonardtown series which can have a perched water table and poor drainage. This limits the implementation of extensive Low Impact Development techniques. Prior to signature approval, the preliminary plan should be revised to add a note indicating that the streets will be constructed as rural road sections.

Review of Variation Requests

A series of variation requests have been submitted in a letter dated January 15, 2002, with an attached map labeled ■Variance Request Location Plan.● The letter and plan meet the submission requirements for variation requests and thoroughly describe the proposed impacts.

The variation requests are to allow disturbance to the stream and wetland buffers for the purpose of building public streets and the installation of necessary underground pipe systems for sanitary sewer, public water and stormwater management. In concept, staff supports the variation requests because of the following special circumstances unique to the subject property, and because the impacts have been reduced from the previously approved preliminary plan.

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests. Staff supports the variation requests because of the following special circumstances unique to the subject property.

- A. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** The granting of the variation requests is for the purpose of providing public health, safety and welfare and will not be injurious to other properties. The topography of the site in relation to existing infrastructure severely limits the development potential if the Subdivision Ordinance is strictly interpreted. The activities requiring the variation requests follow good planning principles and do not violate any other applicable law, ordinance or regulation
- B. **The conditions of 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 streams and wetlands fragment the property into eight pieces. The largest piece fronts onto Accokeek Road, but access to Accokeek Road has been denied. The largest portion with frontage on a public road is about 13 acres or 10 percent of the total tract, which also provides access to about half of the remaining acreage of the site. This is a unique situation in the area and provides rationale and need for the variation.
- C. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** The activities requiring the variation requests follow good planning principles and do not violate any other applicable law, ordinance or regulation. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., copies of all federal and state wetland permits, evidence that approval conditions have been

complied with, and associated mitigation plans shall be submitted to the M-NCPPC Planning Department.

- D. **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.** Two road crossings have been designed to result in the least possible impacts to streams and wetlands. The alignment of the streets is controlled by the topography of the site and proper engineering is required to provide road grades that ensure public safety. Sanitary sewer and public water are being provided. The Ten Year Water and Sewer Plan mandates that new systems in this area must tie into the existing infrastructure. The topography of the site, designated points of tie-in and proper engineering restrict the site layout. Natural re-vegetation of the areas cleared for construction will replace some of the functions of the buffers that are lost due to construction. The conditions of the property would result in a hardship to the applicant if the strict interpretation of the Subdivision Regulations regarding stream buffers and wetland buffers is carried out because the existing streams would deny access to about half of the remaining portions of the site.

The variation requests for 4-02005 parallel those previously approved for 4-00045. The road alignment in both plans is the same, but the Jurisdictional Determination completed since the approval of 4-00045 has reduced the area of wetlands and streams that are under the review. The sanitary sewer, water lines, and stormwater pipes have been re-engineered to create significantly less impact.

2. Community Planning The 1993 Master Plan for Subregion V recommends the property for Suburban Estate/Low-Density Planned Neighborhood land use at a density of up to 1.5 dwelling units per acre. The plan states (p.49) that these areas are located along the edges of the identified suburban corridor communities, where they function primarily as a transition to the rural living areas. This site is at the eastern edge of the Accokeek suburban community, adjacent to the Piscataway-Danville rural living area located across Berry Road and Accokeek Road to the east and south. Either large lot estate or smaller lot, neighborhood cluster development is appropriate at such locations.

To the north, the Plan recommends Suburban Estate/Low-Density Planned Neighborhood land use for undeveloped land in the R-E Zone. To the east and south, the Plan recommends Rural or Semi-Rural living areas in the R-A Zone; undeveloped land, several rural home sites, a plant nursery/garden center, and a privately owned golf course are developed in these areas. Along the southwest boundary, a small (undeveloped) M-NCPPC neighborhood park property is recognized. To the west, Low Suburban residential land use is recommended in recognition of existing, small lot subdivisions in the R-R Zone.

The 1993 Plan map of Natural Features and Environmental Facilities indicates the site was mostly wooded in 1990; several cleared areas (fields) are shown in the central and southeastern parts of the property. A Natural Reserve area is shown along the streams located on the north central and southwestern parts of the property; these streams are shown on the proposed site plan. Also, an existing sewer line is shown on the 1993 Plan map crossing the property parallel to the westernmost stream.

The 1993 Sectional Map Amendment for Subregion V retained this property in the R-S Comprehensive Design Zone. The property had been classified in the R-A Zone by the 1979 Accokeek-Piscataway-Tippett SMA prior to approval of rezoning application A-9804 for the R-S Zone on September 6, 1991. The subject development proposal follows the regulations of the R-A Zone pursuant to CB-11-2000, which revised Section 27-477 (c) of the Zoning Ordinance.

The proposed large lot, estate residential development generally conforms with the range of Master Plan land use recommendations for this location, which is at a point of transition between a suburban community and a low density rural living area.

This proposal is in the area covered by Accokeek Development Review District Commission (ADRDC). Hopefully, comments will be forthcoming. The ADRDC was supportive of the previous proposal in that it greatly reduced density and provided large lots for estate-type housing.

3. Parks and Recreation The proposed subdivision is exempt from the requirements of Section 24-134 of the Subdivision Regulations for mandatory park dedication because all lots are greater than one acre in size.
4. Trails The Adopted and Approved Subregion V Master Plan designates Accokeek Road (MD 373) as a Class III bikeway and recommends appropriate signage. Accokeek Road is a state right-of-way. In cases along state rights-of-way, the Planning Board has typically required the applicant to provide the installation of one "Share the Road With a Bike" sign. Staff recommends this sign be required in this case. Staff notes, however, that in all cases involving signs within state rights-of-way, the state may decline the sign. If the state ultimately declines the sign, the condition would be void. A note shall be placed on the final plat that installation will take place prior to the issuance of the first building permit. If road improvements are required by SHA for the subject property's road frontage of MD 373, a minimum four-foot wide, hard surface shoulder is recommended.

There are no master plan trails recommendations contained in the Subregion V Master Plan regarding Berry Road. However, if road improvements are required along this road by DPW&T, a minimum four-foot-wide, hard surface shoulder should be considered along the subject property's frontage of this road as well.

5. Transportation Because the existing parcel has been previously subdivided, the proposed subdivision would generate no additional net trips as a result of the resubdivision. There would be no resulting impact on traffic operations at the development's critical intersections, which were determined to be the following in 1994:

- MD 210 and Farmington Road (signalized)
- MD 210 and MD 373 (signalized)
- Livingston Road and Farmington/Berry Roads (unsignalized)
- MD 373 and Livingston Road (unsignalized)
- MD 373 and Berry Road (unsignalized)

Notwithstanding the finding of no net impact above, the original development had a number of transportation-related conditions. Dedication conditions were satisfied at the time of Record Plat. Signals were determined not to be warranted at the MD 373/Berry Road and the MD 373/Livingston Road intersections. Other conditions are considered to still be in effect, and will remain as a part of the staff recommendation for this application. These conditions include a southbound right-turn lane

along Berry Road approaching MD 373, acceleration and deceleration lanes along Berry Road at the site entrance, and payment of a pro rata share that has been determined by the Department of Public Works and Transportation (DPW&T) toward improvements at Livingston/Farmington/Berry Roads.

Previous dedication has provided adequate right-of-way along MD 373 and Berry Road in support of master plan recommendations. MD 373 is a master plan arterial, and Berry Road is a master plan collector. Because MD 373 is an arterial roadway, access to it is denied pursuant to Section 24-121 of the Subdivision Regulations.

Based on these findings, adequate access roads will exist as required by Section 24-124 of the Prince George's County Code. This finding of adequacy is subject to the transportation related conditions included in this report.

6. **Schools** - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001).

Impact on Affected Public School Clusters

Affected School Clusters #	Dwelling Units	Pupil Yield Factor	Subdivision Enrollment	Actual Enrollment	Completion Enrollment	Wait Enrollment	Cumulative Enrollment	State Rated Capacity	Percent Capacity	Funded School
Elementary School Cluster 6	54 sfd	0.24	12.96	4549	122	10	4693.96	4512	104.03%	n/a
Middle School Cluster 3	54 sfd	0.06	3.24	4959	43	15	5020.24	5114	98.17%	n/a
High School Cluster 3	54 sfd	0.12	6.48	9317	172	30	9525.48	8767	108.65%	Surrattsville addn.

Source: Prince George's County Planning Department, M-NCPPC, January 2002

The affected high school cluster percent capacity is greater than 105 percent. The Surrattsville addition is the Funded School in the affected high school cluster. Therefore this subdivision would normally be approved with a three-year waiting period.

The subject application is a proposed resubdivision of previously approved project known as Berry Woods. The Berry Woods project was approved pursuant to the regulations pertaining to the R-S Comprehensive Design Zone and has completed all the plan review applications necessary to obtain building permits. The Final Plats of Subdivision were approved on March 5, 1998, and recorded on September 3, 1998. These plats created a total of 212 building lots for single-family detached dwelling units. The next step in the development process for this platted subdivision is the filing of building permits.

On May 2, 2000, the District Council approved CB-11-2000. This legislation permits any Comprehensive Design Zone project that was approved on land previously in either the R-E, R-A or

O-S Zones, in essence, to revert back to the previous zoning standards for the purpose of a new development proposal. While the Comprehensive Design Zone is still the official zoning for the property, an owner may propose a new preliminary plan that conforms to the standards of the previous zone. Upon approval of a new preliminary plan in accordance with the previous zoning of the property, all approvals and conditions associated with the Comprehensive Design Zone ■ . . shall be null and void. In the case of the subject application, the property was previously zoned R-A. The R-A Zone has a conventional minimum net lot area requirement of two acres. The current R-S zoning permitted lots to be created that are as small as 8,400 square feet in size. The applicant proposes varying lot sizes in accordance with the requirements of the R-A Zone, with four lots being a minimum of one acre in size.

The review process for the subject preliminary plan identified that **High School Cluster 3** has a current enrollment of over 105 percent of capacity. The strict application of the current school APF test would require that a condition be placed upon the subject application that would establish a potential maximum three-year wait on the issuance of building permits. The only reduction of this three-year wait would be if all the affected schools had attained an enrollment that was equal to or less than 105 percent of capacity. In lieu of this wait, CB-40-2001 allows the applicant to pursue an executed school facilities agreement where by the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.

Preliminary Plan 4-00045 was approved in 2000, allowing 44 lots. In accordance with CB-11-2000, that approval voided the approval of the original 212 units. In the approval of Preliminary Plan 4-00045, the Planning Board found that the 44 lots presented a dramatically reduced impact on schools than the already platted 212 lots would have. In that case, the Planning Board did not impose the then-four-year wait. The applicant could move forward and plat the 44 lots in accordance with the Planning Board's approval of Preliminary Plan 4-00045. A waiting period would not be applied to those lots. Therefore, staff is of the opinion that the subject application is unique and that a three-year wait condition should not be applicable to those 44 lots. The three-year wait should be applied to the additional 10 lots this application proposes.

7. Fire and Rescue The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public fire and rescue facilities.

- a. The existing fire engine service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road, has a service response time of 6.25 minutes, which is beyond the 5.25-minute response time guideline.
- b. The existing ambulance service at Accokeek Fire Station, Company 24, has a service response time of 6.25 minutes, which is within the 6.25-minute response time guideline for Lots 1-5; Lots 12-24 and Lots 46-54. All other Lots are beyond.
- c. The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service response time of 11.51 minutes, which is beyond the 7.25-minute response time guideline. The nearest fire station, Accokeek, Company 24, is 6.25 minutes from the development. This facility would be within the recommended response time for paramedic service.

These findings are in conformance with the Adopted and Approved *Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. The Fire Department requires that all residential structures be fully sprinklered in accordance with National Fire Protection Association Standard 13D and all applicable Prince George's County laws. Therefore, no condition is necessary.

8. Police Facilities●The proposed development is within the service area for Police District IV- Oxon Hill. In accordance with Section 24-122.1(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed Braemar development. This police facility will adequately serve the population generated by the proposed subdivision.
9. Health Department●The Health Department has reviewed the application and offered no comments.
10. Stormwater Management●The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, # 8320640-2000-02, was approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. This concept plan, which includes the use of Low Impact Development techniques, is valid through June 30, 2004. Development must be in accordance with this approved plan.
11. Public Utility Easement●The preliminary plan includes the required 10-foot-wide public utility easement. This easement will be depicted on the record plat.
12. Private Roads●The plan proposes internal private roads in accordance with Section 24-128(B)(11) of the Subdivision Regulations. This section allows private roads to serve residential lots in the R-A Zone with the following requirements:
 - a. **The roads shall be constructed to public standards.**
 - b. **Covenants shall be recorded conveying the roads and maintenance responsibility to a homeowners association.**
 - c. **The Fire Chief shall approve the roads, ensuring accessibility to emergency vehicles.**Internal streets are all a minimum of 60 feet wide. This is sufficient to provide a rural section in accordance with county standards. Prior to final plat approval, the applicant should provide evidence that the Fire Chief has approved the roads.
13. Underlying Plats●The subdivision is a resubdivision of existing record plats. Berry Woods consists of Record Plats VJ 184 @ 34 - 41. These plats include dedicated roadways. Prior to the approval of final plats for the subject application, the applicant must vacate the existing record plats.
14. Varying Lot Sizes●The applicant is proposing to use varying lot sizes as permitted by the Prince George's County Zoning Ordinance. Unlike the provision for the use of Lot Size Averaging (R-55, R-80, R-R and R-E Zones), the use of varying lot sizes in the R-A and O-S Zones does not require specific findings for approval. Only the minimum standards outlined in the Zoning Ordinance must be met.

Section 27-442(b)(Table I) of the Zoning Ordinance sets the minimum standards for varying lot sizes. In the R-A Zone, the creation of varying lot sizes is permitted as long as the total tract being subdivided is at least 25 acres in size. In this case the total tract area is 120.92 acres. Further, at least 60 percent of the lots created using varying lot sizes must meet or exceed the minimum lot size in the zone, which is two acres in the R-A Zone. This requirement has been met for this subdivision with the submitted preliminary plan. Thirty-three (or 60 percent) of the 54 lots are a minimum of 2 acres on this subdivision.

The Zoning Ordinance allows one, 1-acre lot for every 25 acres of land in the tract. With 120 acres of land in the R-A tract, four 1-acre lots are the maximum permitted. The remaining lots are required to exceed 50,000 square feet. The submitted preliminary plan includes four lots between one acre and 50,000 square feet in size, with the remaining 17 lots exceeding 50,000 square feet. This arrangement meets the minimum standards set forth in Section 27-442(b)(Table I) of the Zoning Ordinance for the use of varying lot sizes.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to the issuance of any building permit for the subject property, the following improvements shall (a) be fully funded by the applicant, the applicant's heirs, successors and/or assignees, (b) have been bonded and permitted for construction, and (c) have an agreed-upon timetable for construction with the SHA or the DPW&T:
 - MD 373/Berry Road:
 - Provide a 200-foot southbound right-turn lane along Berry Road
 - Berry Road/site entrance:
 - Provide acceleration and deceleration lanes in accordance with DPW&T requirements
2. Prior to the issuance of any building permit for the subject property, the applicant shall pay a pro rata share of \$9,825 to the DPW&T toward the cost of the following improvements:
 - Livingston/Farmington/Berry Roads:
 - Install a traffic signal
 - Provide a 110-foot northbound left-turn lane along Livingston Road
 - Provide a 300-foot southbound left-turn lane along Livingston Road
3. Prior to the issuance of the first building permit, the applicant, and the applicant's heirs, successors, and/or assignees shall provide the installation of one "Share the Road with a Bike" sign along Accokeek Road in accordance with state requirements. If road improvements are required by SHA for the subject property's road frontage of MD 373, a minimum four-foot-wide, hard surface shoulder is recommended. If the state declines either the sign or the road improvements, the condition requiring them shall be void.

4. Prior to final plat approval, the applicant, his heirs, successors and/or assignees shall provide evidence that the Fire Chief has approved the internal private roads.
5. No residential building permit, beyond the 44th, shall be issued until the percent capacity at all the affected school clusters are less than or equal to 105 percent, or three years have elapsed since the time of the approval of the preliminary plan of subdivision; or pursuant to the terms of an executed school facilities agreement where by the subdivision applicant, to avoid a waiting period, agrees with the County Executive and County Council to construct or secure funding for construction of all or part of a school to advance capacity.
6. Prior to certification of TCP I/69/94-02, the afforestation area indicated on the worksheet shall be shown on the plan.
7. Prior to certification of TCPI/69/94-02, the plan shall be signed and dated by a qualified professional.
8. At time of final plat, a Conservation Easement shall be described by bearings and distances. The conservation easement shall contain all 100-year floodplain, stream buffers and wetland buffers, except for approved variation requests, and be reviewed by the Environmental Planning Section prior to approval. The following note shall be placed on the plat:

"Conservation Easements described on this plat are areas where the installation of structures and roads and the removal of vegetation is prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches or trunks is allowed."
9. Prior to signature approval, the preliminary plan shall be revised to add the following note:

■Braemar Court, Julian Court, and Hillary Court shall be constructed using a rural road section.●
10. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans shall be submitted to the M-NCPPC Planning Department.
11. Development of this subdivision shall be in compliance with the approved Type I Tree Conservation Plan (TCPI/69/94-02). 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/69/94-02), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy."
12. Prior to the issuance of grading permits, a Type II Tree Conservation Plan shall be approved.

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13. Development shall be in accordance with the approved stormwater concept plan, Concept 8320640-2000-02.
14. A note shall be placed on the final plat that there shall be no direct access to MD 373 from any individual lot.
15. Prior to approval of the final plats, the underlying record plats, VJ 184 @ 34 - 41, shall be vacated.

STAFF RECOMMENDS APPROVAL OF TYPE I TREE CONSERVATION PLAN TCP I/69/94-02, AND THE VARIATION REQUESTS TO SECTION 24-130 OF THE SUBDIVISION REGULATIONS