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## Preliminary Plan 4-03128

Application	General Data
<b>Project Name:</b> <b>FAIRWOOD</b> <b>Phase I, Part 4 &amp; Phase II, Part 2</b>  <b>Location:</b> Northeast quadrant of the intersection of Church Road and John Hanson Highway.  <b>Applicant/Address:</b> Rouse-Fairwood Limited Partnership Rouse Company 10275 Little Patuxent Parkway Columbia, MD 21044	Date Accepted: 12/17/03
	Planning Board Action Limit: 05/19/04
	Plan Acreage: 348.27
	Zone: M-X-C
	Lots: 460
	Parcels: 19
	Planning Area: 71A
	Tier: Developing
	Council District: 07
	Municipality: N/A
	200-Scale Base Map: 206/7NE12/13

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 04/14/04

Staff Recommendation		Staff Reviewer: Whitney Chellis	
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 4-03128

OVERVIEW

The proposed preliminary plan is part of the Fairwood development approved by Zoning Ordinance No. 24-1994, File A-9894-C, for 1,058 acres in the Mixed-Use Community (M-X-C) Zone. Currently Fairwood is divided into two phases. The subject property is approximately 348 acres and is Part 4, Phase I, and Part 2, Phase II. The applicant is proposing 460 single-family dwelling units and 19 parcels. This is the last remaining portion of the Fairwood development that has not been the subject of a preliminary plan of subdivision. The property is located on Tax Maps 46 and 54 and is currently known as part of Parcel 78, Parcels 54, 2, 42 and 43.

All but three of the proposed 19 parcels are to be conveyed to a homeowners association. Parcel F, Block II (1.47± acres) is to be retained by the applicant, as discussed below. Parcel A, Block GG (53.63 ± acres) is indicated on the preliminary plan that it is to be retained by the applicant, which is north of US 50, to the east of the PEPCO right-of-way, and west of Church Road. The property is subject to significant development restrictions due to its proximity to Freeway Airport as discussed further in Finding 3 of this report. The final development plan indicates that this area is proposed as a community use area. At the time of DSP, a determination will be made if Parcel A, Block GG is necessary to fulfill the requirements of the M-X-C Zone for a community use area. This determination will be reflected on the final plats of subdivision. Parcel B, Block II (20± acres) is to be conveyed to M-NCPPC for public park purposes as discussed further in Finding 4 of this report.

The property is currently improved with an existing single-family dwelling unit known as the DeClairmont House, which is to remain. The applicant is proposing to locate the dwelling on Parcel F, Block II, and it is to be retained by the applicant. The dwelling will be included in the homeowners association and be subject to all the applicable covenants and restrictions, saving any exceptions provided in the homeowners association documents. The DeClairmont House is not a historic site or resource. Currently the dwelling is served by private well and septic systems. Once public water and sewer are available, the dwelling should be connected, ensuring that at no time the dwelling is left without a potable water supply.

Part 10 of the Prince George's County Zoning Ordinance guides development in the M-X-C Zone. Specifically, Section 27-546.08 sets forth the following order of approvals in the M-X-C Zone: preliminary development plan, a comprehensive sketch plan, preliminary plan of subdivision, final development plan, detailed site plan, and final plat of subdivision. Unique to the M-X-C Zone is the requirement that the preliminary plan of subdivision and the final development plan be filed concurrently. However, concurrent action by the approving authority is not required. The final development plan for this portion of the property (FDP-0301) was submitted concurrently with this application and is pending.

The preliminary development plan for Fairwood was approved as part of Zoning Map Amendment A-9894-C for the overall development. This preliminary development plan set forth the total development

scenario of 1,799 dwelling units with 100,000 square feet of retail and 250,000 square feet of office/service/institutional. Comprehensive Sketch Plan CP-9504 was approved for Phase I in its entirety, 471 acres; and Comprehensive Sketch Plan CP-0101 was approved for Phase II in its entirety, 586.69 acres.

A maximum of 25 percent of the total dwelling units in the zone can be townhouse dwellings, pursuant to Section 27-546.03 of the Zoning Ordinance. Therefore, of the total 1,799 dwelling units approved by A-9894-C, 449 townhouses can be constructed in the overall development. The applicant has proposed 804 dwelling units in Phase I, 318 single-family attached and 486 single-family dwellings, and proposes 995 dwelling units in Phase II, 133 single-family attached and 862 single-family dwelling units, for a total of 1,799 dwelling units.

Although the proposed preliminary plan does not propose townhouses, staff would note that based on the distribution noted above, the cumulative number of townhouses proposed (451) would exceed the maximum number of allowable townhouses (449) for the overall development. The applicant requested flexibility to distribute townhouses between Phase I and Phase II with no intention of exceeding the maximum allowable. It is the applicant's intent to use the conceptual phase of planning to explore each parcel's potential for the maximum number of townhouses in the layout, where permitted. At the time of detailed site plan the applicant will lock in the total number of townhouses to no more than 449, the maximum allowed pursuant to Section 27-546.03 of the Zoning Ordinance. Moreover, the Planning Board, through the approval of previous preliminary plans, did not increase the maximum number of townhouse units allowed in the zone, only allowed a greater degree of flexibility during conceptual phases of planning. The previous approvals are not to be construed as authorization to increase the allowable townhouse units as set forth in Section 27-546.03 of the Zoning Ordinance.

## SETTING

The Fairwood property is located on the southeast side of Annapolis Road, approximately 700 feet from its intersection of Enterprise Road (MD 193) and north of John Hanson Highway (US 50). The subject property is interior to the Fairwood Turf Farm development and has frontage on Church Road to the east and US 50 to the south. The subject preliminary plan is known as Phase II, Part 4, which is located to the east of the PEPCO right-of-way, west of Church Road, and north of Fairview Vista Drive, and Phase II, Part 2, located east of Church Road.

## FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone	M-X-C	M-X-C
Use(s)	Vacant	Residential
Acreage	348	348
Lots	0	460
Parcels	5	19
Dwelling Units:		
Detached	1	460 proposed + 1 existing to remain

2. **Environmental**—This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet, there are more than 10,000 square feet of existing woodland on-site, and there is a previously

approved Type I Tree Conservation Plan, TCPI/8/01. The revised Type I Tree Conservation Plan, TCPI/8/01-01, has been reviewed and was found to address the requirements of the Prince George's County Woodland Conservation Ordinance. This 348.27-acre application is the last part of a larger property totaling 1,058 acres. The TCPI was evaluated to ensure that this application is in compliance with the Woodland Conservation Ordinance and that the overall site remains in conformance. Because of this large phased project being considered as a whole, some of the corresponding numbers for the individual phases appear to provide far less woodland conservation than that required.

The Woodland Conservation requirements for this application total 89.85 acres including 2:1 replacement for 30.71 acres of woodland clearing. This requirement is being satisfied by 26.07 acres of on-site preservation in priority retention areas and 48.58 acres of on-site afforestation in priority afforestation areas. The overall site requirement of 214.50 acres is being satisfied by 218.21 acres of woodland conservation or an excess of 3.71 acres. Type I Tree Conservation Plan TCPI/8/01-01 is recommended for approval.

This site is located near the headwaters of Northeast Branch and Collington Branch, tributaries to the Patuxent River. The Patuxent River primary management area (PMA) is defined by Section 24-101 of the Subdivision Ordinance to include streams, a 50-foot stream buffer, wetlands, a 25-foot wetland buffer, the 100-year floodplain, steep slopes (15 to 25 percent) with highly erodible soils, severe slopes of 25 percent or greater, and special habitat areas. The PMA has been shown correctly.

The Subdivision Ordinance, Section 24-130(b)(5), requires that the PMA be preserved in a natural state to the fullest extent possible. The plans as submitted have generally avoided impacts to the PMA. A total of ten PMA impacts are proposed by this application, including two impacts associated with the widening of Church Road, three impacts associated with trails, and five impacts associated with stormwater management outfalls. Each of the proposed impacts has been minimized to the fullest extent possible based on the information available during this phase of the development process. With the exception of the trails there is little possibility of further reducing the proposed impacts. As for the trails, these have generally been located in the vicinity of existing farm roads or trails, and the actual extent of any impacts should be negligible. The Environmental Planning Section supports the proposed PMA impacts as shown. It should be noted that each impact will be further evaluated and could be reduced during the review of the detailed site plan.

### **Water and Sewer Categories**

The water and sewer service categories are W-3 and S-3 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources.

3. **Community Planning**—The subject property is located within the limits of the Bowie-Collington-Mitcheville and Vicinity master plan, Planning Area 72A in Community VI. The master plan land use recommendation for the property is for suburban estate. The master plan recommends a planning community to be considered for development under the alternative low-density development technique concept. The M-X-C zoning of the property provides for a planned community on the property as part of the overall Fairwood Development. The preliminary plan is consistent with the master plan recommendation for this property.

The 2002 General Plan locates this property in the Developing Tier. One of the visions for the Developing Tier is to maintain a pattern of low- to moderate-density suburban-residential

communities. The proposed preliminary plan is consistent with the recommendations of the General Plan.

This application is located under the traffic pattern for a small general aviation airport (Freeway Airport) beginning near the north end of the runway. This area is subject to aviation policy area regulations adopted by CB-51-2002 (DR-2) as Section 27-548.32 through 27-548.49 of the Zoning Ordinance. The subject property is located in Aviation Policy Areas APA-1, -2, -3M, -4, -5 and -6.

Generally, APA-1, -2, -3M, -4 and -5 regulations have criteria that place varying restrictions on the location of residential land uses within their boundaries. Residential land uses are allowed in APA-6 in accordance with standard zoning regulations. The regulations contain additional height requirements in Section 27-548.42 and purchaser notification requirements for residential property sales in Section 27-548.43 that apply within all APAs.

Part of Phase II, Part 1, in this application is titled "Lotting Reconfiguration Addressing Airport Legislation." This submitted plan proposes no lots within APA-1 and -5; one portion of a lot within APA-2; 24 lots within APA-3M; and 43 lots within APA-4. Numerous other lots are located within APA-6. Below is a table summarizing the relationship between this proposal and the Aviation Policy Area regulations.

APA	Zoning Ordinance Citation	Use Restrictions	Proposal	Consistent with APA regulations
1	27-548.38(b)(1)	No new residential structures	No residential structures are proposed.	Yes.
1	27-548.38(d)(2)	Above-ground storage of flammable materials is prohibited.	No uses are proposed in APA -1.	Yes.
1	27-548.39(a)(2)	Site plans shall show the height of all proposed buildings, structures and vegetation.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
1	27-548.41(a), (b)(1)	Maintain all undeveloped land as open area.	No development is proposed in APA -1.	Yes.
2	27-548.38(b)(2)	No new residential structures, except on lots platted before September 1, 2002.	No new residential structures are proposed.	Yes.
2	27-548.38(c)(2)	Development on a lot may not exceed 0.25 floor-to-area ratio.	No development is proposed in APA-2.	Yes.
2	27-548.38(c)(3)	Yards are permitted for structures located outside APA-2.	A portion of the yard for Lot 67 is proposed in APA-2.	Yes.
2	27-548.38(d)(2)	Above-ground storage of flammable materials is prohibited.	No uses are proposed in APA -2.	Yes.

2	27-548.39(a)(2)	Site plans shall show the height of all proposed buildings, structures and vegetation.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
2	27-548.41(a), (b)(2)	50% open area required.	This proposal exceeds this requirement.	Yes.
3M	27-548.38(a)	All structures shall be located as far as possible from the runway centerline.	The proposed development is located as far as possible from the runway centerline.	Yes.
3M	27-548.38(b)(3)	Density of 0.2 dwelling units per acre is permitted, if clustered using APA mitigation subdivision techniques 0.5 dwelling units per acre is permitted.	Acreage in APA 3M = 48 acres. Using APA mitigation subdivision techniques, 24 dwellings are permitted; 24 dwellings are proposed. The density is 0.5 dwelling units per acre. The proposed lots are clustered away from the end of the runway or extended runway centerline and vary in size from 9,100 to 25,041 square feet.	Yes, complies with the APA mitigation subdivision regulations.
3M	27-548.38(c)(2)	Development on a lot may not exceed 0.25 floor-to-area ratio.	FAR are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
3M	27-548.38(c)(3)	Lots or open space may be located in multiple APAs.	Several lots and open space are located in multiple APAs.	Yes.
3M	27-548.38(d)(1)	Certain types of uses are prohibited.	None of these prohibited uses are proposed.	Yes.
3M	27-548.39(a)(1)	Site plans shall delineate APA boundaries.	Boundaries have been identified.	Yes.
3M	27-548.39(a)(2)	Site plans shall show the height of all proposed buildings, structures and vegetation.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
3M	27-548.41(a), (b)(3)	20% open area required.	The proposal far exceeds the requirement.	Yes.
4	27-548.38(b)(4)	Same density as underlying zone.	Proposed density is that allowed by M-X-C Zone.	Yes.
4	27-548.39 (b)	Every application shall demonstrate compliance with the height restrictions.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.

4	27-548.41(a), (b)(4)	30% open area required.	The proposal exceeds the requirement; 41% open area is proposed, with majority located along extended runway centerline.	Yes, see comments regarding tree planting.
4	27-548.42(a)	No building permit shall be approved for any structure higher than 50' unless compliance with height restrictions is demonstrated.	Heights are not identified in the FDP or the subdivision plan.	Implemented at the time of building permit.
5	27-548.38(b)(2)	No new residential structures, except on lots platted before September 1, 2002.	No new residential structures are proposed.	Yes.
5	27-548.38(c)(2)	Development on a lot may not exceed 0.25 floor-to-area ratio.	No development is proposed in APA-5.	Yes.
5	27-548.38(d)(1)	Certain types of uses are prohibited.	None of the prohibited uses are proposed.	Yes.
5	27-548.39 (a)(2)	Site plans shall show the height of all proposed buildings, structures and vegetation.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
5	27-548.39 (b)	Every application shall demonstrate compliance with the height restrictions.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
6	27-548.38(b)(4)	Same density as underlying zone.	Proposed density is that allowed by M-X-C Zone.	Yes.
6	27-548.39(b)	Every application shall demonstrate compliance with the height restrictions.	Heights are not identified in the FDP or the subdivision plan.	Not evaluated by Community Planning Division.
6	27-548.42(a)	No building permit shall be approved for any structure higher than 50' unless compliance with height restrictions is demonstrated.	Heights are not identified in the FDP or the subdivision plan.	Implemented at the time of building permit.
All APAs	27-548.41(d)(3)	Generally, land uses shall not endanger the safe operation of aircraft, specific activities also mentioned.	From the information submitted, the only activity identified that may endanger the safe operation of aircraft is a stormwater management pond in APA 3M that may attract birds.	See comments regarding lighting standards and tree planting.

All APAs	27-548.42(b)	Height of any structure more than 50' is to be reviewed by FAA or MAA.	Compliance of any structure exceeding 50' will be determined with review of Detailed Site Plan.	Not evaluated by Community Planning Division.
All APAs	27-548.43(a)	Disclosure of airport location to be provided at purchase contract.	Sellers are responsible for providing prospective buyers with the statement.	Implemented by others.
All APAs	27-548.43(b)(1)	Declaration of covenants for HOA shall include notice of airport environment prior to final plat approval.	The applicant is responsible for preparing declaration.	Implemented prior to final plan approval.

Section 27-548 requires that certain percentages of open area be retained in APAs-1 through -4 for the purpose of providing strategically located areas under flight paths which provide for a successful emergency landing without hitting an occupied structure and allow aircraft occupants to survive the landing without serious injury. This section of the Zoning Ordinance clarifies that “open area” in aviation policy areas generally refers to stormwater management ponds, field crops, golf courses, pasture lands, streets or parking lots, recreational facilities such as ball parks, or yards, if the area is relatively level and free of objects such as overhead lines and large trees and poles. It further explains that because a pilot’s discretion in selecting an emergency landing site is reduced when the aircraft is at low altitude, open areas should be designed as one or more contiguous acres. The minimum percentage of open area required in APA-4 is 30 percent and the minimum percentage of open area in APA-3M is 20 percent. The land in APAs -1 and -2 is not proposed for any development so the open area requirement for those APAs is exceeded with this application.

Prior to approval of the APA regulations, there was concern that a large number of homes were allowed by the M-X-C Zone development plan within APA-2, -3M, and -4 (230 dwelling units, per a letter dated May 3, 2001, from Kurt J. Fischer, representing the developer, to the planning director, Dr. Fern Piret). This would have resulted in a dense pattern of homes on small lots located close to the end of the airport runway and underneath the landing and take-off pattern where aircraft are close to the ground and have limited maneuverability. With passage of CB-51-2002 (DR-2), regulations addressing the relationship between airport operations and land use became a part of the Zoning Ordinance, and the previously approved development concept for this area had to be redesigned. The applicant has completed that task for this application by moving the single-family units previously planned in APAs -2, -3M and -4 to other parts of the property. In order to accomplish these relocations, lot sizes and lot frontages have been reduced and development shifted to other parts of the project.

With respect to APA-4, in the first submittal of this application the lot pattern proposed for Block FF, Lots 67 to 77 and 52 to 60, had been configured with little open space along the extended runway center line, and a number residential structures lined up perpendicular to the flight path. Although the 30 percent open area requirement had been met, the proposed open area could be redesigned to provide greater opportunities for a safe emergency landing within the aviation policy area. It was brought to the attention of the applicant that this was a situation that the aviation policy area regulations sought to address. Subsequently, a reconfiguration of the lotting pattern was prepared to comply with the intent of the zoning regulations. In the current proposal, the proposed lotting pattern within APA-4 provides for 41 percent open area. Although the entire length of APA-4 does not consist of open area, the bulk of the proposed open areas are located at



the end of APA-4, closer to the airport. The total open area exceeds the 30 percent required by the Zoning Ordinance.

Notwithstanding any conditions of the tree conservation plan that address tree height, it is suggested that there be homeowner association covenants to prevent the planting of tall tree species along streets, in yards or on HOA property within the open areas identified in APA-3M and APA-4.

Street light design standards are an issue addressed in Section 27-548.38(d)(3) of the Zoning Ordinance which states: "In all APA's, uses of land should, to the extent possible, not: ... (D) Make it difficult for pilots to distinguish between airport lights and other lights, or impair pilot or ground operator visibility in the vicinity of an airport." Any street lights located along sections of Church Road, Fairwood Parkway, Fairview Vista Drive, and any future streets within APA-2, -3M or -4, should have cut-off type lighting fixtures to direct glare downward. The Department of Public Works and Transportation should suggest acceptable street light fixtures that comply with this regulation. Additionally, light standards should not be located within the identified open areas.

The proposed preliminary plan meets and exceeds the minimum standards established by CB-51-2002 applicable to this phase of development.

4. **Parks and Recreation**—The staff of the Department of Parks and Recreation (DPR) has reviewed the submitted preliminary plan. The subject preliminary plan includes a relocation of master-planned Collington West Community Park. On February 19, 2004, a Detailed Site Plan, DSP-03068, was approved by the Planning Board (Resolution PGCPB No. 04-29) with a requirement to convey the 20-acre parcel in the northeast corner of US 50 and Church Road to the Commission for the master-planned park.

PGCPB Resolution No. 04-29, Condition 2 states: "Prior to final plat for any portion of the property covered in DSP-03068, an original, special warranty deed for the 20-acre parkland to be conveyed to The Maryland-National Park and Planning Commission (M-NCPPC) to replace Parcel D as approved in Preliminary Plan of Subdivision 4-02023 as parkland shall be submitted to Subdivision Section of the Development Review Division, M-NCPPC."

PGCPB Resolution #04-29, Condition 3 states: "Land to be dedicated to M-NCPPC shall be subject to Conditions 1 to 9 of Exhibit 'A' attached to the memorandum (Asan to Zhang, February 2, 2004)."

The proposed community park (Parcel B, Block II) is adjacent to and south and west of the proposed subdivision. Only one trail connector is shown from the community to the park. As previously discussed with the applicant, staff recommends that a minimum of two trail connections to the community park be provided from the residential pods to the community park.

The park parcel has 1,050 linear feet of frontage on Church Road; however 900 feet of the road frontage is encumbered by the ramp to the bridge over US 50. Only 150 feet of the road frontage is available for a park entrance. The park entrance is not shown on the preliminary plan, but staff has obtained DPW&T conceptual approval for the location of a park entrance.

The applicant is required to make a improvements along the Church Road north of US 50 The access to the park is an essential part of the community park relocation and conformance to conditions of approval regarding the public park component of the Fairwood development. DPR

recommends that the applicant be required to obtain a street construction permit for park access and construct a curb cut/concrete apron for future park entrance.

5. **Trails**—The proposed preliminary plan reflects prior approvals and recent discussions regarding trail connections and the pedestrian network. The master plan trail/bicycle facility is shown along the subject site's frontage of Church Road. Numerous neighborhood trail connections are shown within linear parks, to pocket parks, and across the creek in Parcel A.

The composite plan also reflects the addition of two short neighborhood trail connections to the planned sidewalk along Old Stage Road from the end of Stanley Ardor Court and the end of Rosemarys Folly Court, as discussed by the applicant and the trails planner.

The Park Planning and Development Division is recommending that an additional trail connection be required to the public park (Parcel B, Block II) internal to the Fairwood development, as discussed further in Finding 4 of this report.

6. **Transportation**—The applicant did not prepare a traffic impact study, and the transportation staff did not request one, for reasons discussed further below. The findings and recommendations outlined below are based upon a review of the materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

### **Growth Policy - Service Level Standards**

The subject property is in 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 signalized intersections operating at a critical lane volume (CLV) of 1,450 or better is required in the Developing Tier.

**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.

Issues regarding transportation adequacy along MD 450 for the entire Fairwood site were addressed during the review of previous applications associated with Phase I of Fairwood. While Phase I was reviewed as Comprehensive Sketch Plan CP-9504, the definitive findings were associated with Preliminary Plan of Subdivision 4-97024 and Final Development Plan FDP-9701. The applicant submitted considerable material in this regard when CP-0101, the second underlying sketch plan for Fairwood and the governing sketch plan for this site, was reviewed.

The 4-97024 and FDP-9701 applications included a condition requiring the applicant to make contributions of roadway improvements and cash payments totaling \$5.5 million, and the condition states that this contribution constitutes the entire financial responsibility of Fairwood toward MD 450, with Fairwood consisting of 1,799 dwelling units and 350,000 square feet of nonresidential uses. This is Condition 10 of the Planning Board's resolution approving 4-97024

and Condition 4 of the District Council's order approving FDP-9701. The bearing of these conditions upon the findings required for the subject application was a matter of appeal to the Circuit Court. In reviewing the testimony provided and the studies conducted, the Circuit Court determined that there was substantial evidence to support a finding of adequacy for the entire project, and the court let stand all previous decisions. The applicant and the State Highway Administration in 2001 executed an agreement that will provide for the funding as described in the condition. Therefore, the condition has been satisfied.

Therefore, the transportation staff did not anticipate reviewing a comprehensive study as a part of the subject application and did not request one. Sufficient materials were reviewed in connection with past preliminary plans/final development plans. Specific on-site traffic issues were reviewed under CP-0101. With the review of past decisions and materials, staff believes that all needed findings can be made without benefit of a new traffic study. For these reasons, staff believes that adequate transportation facilities will exist to support the proposed development at intersections along MD 450 as well as at the major intersections along Church Road within Fairwood. Major capacity improvements along MD 450 are under construction and will near completion this year, and the applicant is providing significant funding to ensure that these improvements are built as development of the Fairwood site begins.

There is a concern that Old Stage Road be fully constructed through this portion of Fairwood to ensure adequate circulation. More specifically, there is a need to ensure that, as this property develops, it will not be served only by the western connection of Old Stage Road onto Church Road and that the eastern connection into Old Stage Knolls is made available. Based on a site inspection by staff, it was determined that Old Stage Road is built southward to Pleffner Court, which would complete the off-site portion of this eastern connection. Within the site, the county Department of Public Works and Transportation will determine the timing of actual construction within the public right-of-way.

All uses would receive access via streets or driveways to Old Stage Road, Fairwood Parkway, or Fairview Vista Drive and eventually to Church Road or MD 450. Proposed dedication along Church Road is adequate. The right-of-way and proposed cross-section along the other three major streets noted above are consistent with prior approvals. All lesser streets within the development are appropriately sized (i.e., appropriate right-of-way—60 feet versus 50 feet—for the amount of development served).

The A-44 facility crosses the subject property north to south. Given the findings and determinations made for two nearby properties during the past two years—one south of this site (4-02063 for Collingbrook, just south of US 50) and one north of this site (4-02073 for Spring Meadows, about 4,800 feet north of this site), the plan was not referred for potential reservation. With regard to both sites noted above, neither the State Highway Administration or the county's Department of Public Works and Transportation expressed a willingness to pursue purchase of the proposed right-of-way. The City of Bowie did not support reservation for A-44 for either property. Given the actions taken by the Planning Board on two adjacent properties north and south of this site, there is little need to pursue reservation or other strategies for right-of-way preservation for A-44 on this site.

A-9894 and CP-0101 contain a number of transportation-related conditions. It is also important to note three earlier applications, CP-9504, 4-97024, and FDP-9701, and indicate that the plan is consistent with these approvals. With regard to the preliminary plan condition in 4-97024, staff would note that the required agreements between the applicant and the responsible agencies have been fully executed. Therefore, there is no need to carry this condition over to this plan. The status of other related conditions is summarized below:

**A-9894:**

Condition 2: This condition concerns traffic calming to potentially lower the speed of traffic along C-48 through the community. This issue was discussed extensively during review of CP-0101 and will be addressed during detailed site plan review.

Condition 3: This condition concerns the staging of the connection of Church Road between the subject property and MD 450. Traffic analyses provided by the applicant during review of CP-0101 have shown that the connection of Church Road between Phase II and Westwood is not needed for the development of Phase II. Existing Church Road, along with Fairwood Parkway, provides adequate connections between the Fairwood project and surrounding roadways.

Condition 20: This condition requires that alignments for several master plan roadways be established at the time of comprehensive sketch plan. These alignments, to the extent applicable, were satisfactorily established upon approval of CP-0101.

Condition 21: This concerns the use of site design to encourage usage of transit and other nonvehicular modes. While the subject application uses good principles of arranging land uses, the potential for accessibility to transit and other modes should be further examined in regard to street layout, lotting patterns, pedestrian and bicycle facility locations, and building locations at the time of detailed site plan.

**CP-0101:**

Condition 3: This condition requires an improvement at the existing MD 450/Church Road intersection in the event that construction on Phase II begins prior to Fairwood Parkway being constructed. This condition should be carried over to the subject plans to ensure that it is enforced.

Condition 4: This condition is similar to condition 3 above and also should be carried over to the subject plans to ensure that it is enforced.

CP-9504 is the underlying plan for a portion of this site. Once again, there are no outstanding conditions associated with this plan.

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

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

## Finding

### Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 3	Middle School Cluster 2	High School Cluster 2
Dwelling Units	460 sfd	460 sfd	460 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	119.52	29.88	59.76
Actual Enrollment	6,141	5,131	10,098
Completion Enrollment	198.24	217.62	398.97
Cumulative Enrollment	0	0	0
Total Enrollment	6,458.76	5,378.50	10,556.73
State Rated Capacity	5,858	4,688	8,770
Percent Capacity	110.26	114.73	120.37
Funded School	Bowie, Whitehall	N/A	N/A

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

These figures are correct on the day this referral memo was written for this preliminary plan. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts on 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.

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 Historic Preservation and Public Facilities Planning Section staff 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.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue facilities and concluded the following:
  - a. The existing fire engine service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard, has a service travel time of 6.25 minutes, which is beyond the 5.25-minute travel time guideline.
  - b. The existing ambulance service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard, has a service travel time of 6.25 minutes, which is within the 6.25-minute travel time guideline.

- c. The existing paramedic service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard, has a service travel time of 6.25 minutes, which is within the 7.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate. Since this is a matter of existing law, no condition is necessary.

The above findings are in conformance with the standards and guidelines contained in the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

9. **Police Facilities**—The proposed development is within the service area for Police District II-Bowie. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.
10. **Health Department**—The Health Department notes that fuel storage tanks were found on the property that must be removed and the contents properly discarded. A representative from the Health Department should evaluate the soils beneath these tanks for possible contamination, and the soils should be properly discarded if contamination has occurred. Numerous tires were also found on the property. The tires must be hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility and a receipt for tire disposal must be submitted to the Health Department. All other trash, including discarded cars, must be removed and properly discarded.
11. **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, #37109-2003-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.
12. **Conformance with Preliminary Development Plan and Zoning Ordinance No. A-9894-C**● On May 9, 1994, the District Council approved Preliminary Development Plan and Zoning Ordinance No. A-9894-C for the subject site. The approval included 22 conditions of approval. The following conditions relate to the review of the proposed preliminary plan:

**Condition 2:** Encourages lower speeds along the C-48 facility through the community and requires that the applicant consider strategies which would serve a traffic calming function, such as traffic circles. The location and design of such features shall be determined in cooperation with Department of Public Works and Transportation (DPW&T) and the Prince George's County Planning Department.

**Comment:** It has been determined by DPW&T and the Prince George's County Planning Department that traffic calming devices to encourage lower speeds on Church Road are not needed pursuant to discussions in PGCPB Resolution No. 02-17, File CP-0101.

**Condition 5:** Requires that development north of Freeway Airport be developed subject to applicable state or federal aviation regulations.

**Comment:** Subsequent to the approval of A-9894-C, CB-51-2002 was enacted to address issues associated with general aviation airports, to include Freeway Airport, as discussed further in Finding 3 of this report.

**Condition 6.** Total development of this 1,058-acre site shall be limited to 1,799 dwelling units, 100,00 square feet of retail space, and 250,000 square feet of office/service/institutional uses and such other ■community space• determined to be appropriate during subsequent phases of approval.

**Comment:** The applicant has indicated that 804 dwelling units are proposed in Phase I, 318 single-family attached and 486 single-family dwellings, and 995 dwelling units are proposed in Phase II, 133 single-family attached and 862 single-family dwelling units for a total of 1,799 dwelling units. The subject preliminary plan proposed 460 single-family dwelling units. Development of the 100,000 square feet of retail space, 250,000 square feet of office/service/institutional uses, and such other ■community space” was proposed in conjunction with Phase I and part of Phase II. There are 460 single-family dwelling units proposed with this application. A general note should be added to the preliminary plan to provide a tracking table demonstrating conformance to the allowable buildout for the Fairwood Development.

**Condition 11:** Requires setbacks associated with Freeway Airport.

**Comment:** Subsequent to the approval of Zoning Ordinance No. A-9894-C, CB-51-2002 was approved to specifically address issues associated with municipal airports and development within aviation policy areas (APA), as discussed further in Finding 3 of this report.

**Condition 18.b.** Requires the dedication of 10 acres to M-NCPPC for public parkland.

**Comment:** Preliminary Plan 4-02023 addressed this issue with the dedication of 10 acres abutting the Collington West Community Park to the west. Subsequent to the Planning Board’s approval, the applicant and the Department of Parks and Recreation entered into negotiations regarding an alternative dedication scenario, which would fulfill the intent of this condition. The applicant proffered to dedicate 20 acres (Parcel B, Block II) in the southeast quadrant of the intersection of Church Road and US 50, in lieu of the dedication abutting the Collington West Community Park. The proffer doubled the dedication required and proposed a more centralized park location with greater visibility and access potential.

The condition for conveyance of Parcel B, Block II, is contained in PGCPB Resolution 04-29 for DSP-03068. The condition for conveyance establishes that prior to final plat for any portion of the property covered in DSP-03068, an original, special warranty deed for the 20-acre parkland (Parcel B, Block II) to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC) to replace Parcel D as approved in Preliminary Plan of Subdivision 4-02023 as parkland shall be submitted to the Subdivision Section of the Development Review Division, M-NCPPC.

**Condition 20:** Requires that alignments for several master plan roadways be established at the time of comprehensive sketch plan.

**Comment:** These alignments, to the extent applicable, were satisfactorily established upon approval of CP-0101.

**Condition 21:** Requires the consideration of the use of site design to encourage usage of transit and other nonvehicular modes.

**Comment:** While the subject application uses good principles of arranging land uses, the potential for accessibility to transit and other modes should be further examined at the time of detailed site plan.

13. **Conformance with Comprehensive Sketch Plan CP-9504**—On February 24, 1997, the District Council approved CP-9504, affirming the Planning Board's decision contained in PGCPB Resolution No. 96-241 for the subject site. The approval contained 10 conditions. The following conditions relate to the review of the proposed plan, specifically Phase I, Part 4:

**Condition 2a.** Requires a detailed forest stand delineation (FSD) to be submitted for review in conjunction with each preliminary plan.

**Comment:** An FSD was submitted and reviewed with this application as discussed further in Finding 2 of this report.

**Condition 2.b.** Requires a noise study shall be submitted for each preliminary plat of subdivision, which contains land area adjacent to US 50 and the realigned Church Road. The analysis shall include typical cross sections with the location of the 65 dBA noise contour.

**Comment:** The preliminary plan does not provide the location of the 65 dBA along Church Road. The noise study submitted by the applicant, dated October 15, 2003, indicates that the 65dBA line is located between 87 and 107 feet from the centerline of Church Road. The noise study indicates that the noise line could alter based on the ultimate road elevation. The preliminary plan should locate the ultimate 107-foot 65 dBA line consistent with the noise study. The required detailed site plan should ensure that dwellings and adequate usable yard areas are located outside the 65 dBA noise line.

The mitigated and unmitigated 65 dBA line has been provided on the preliminary plan for US 50. However, the applicant has proposed dwelling units within this mitigated noise line. The DSP should ensure that the dwelling units and usable yard areas are provided outside the 65 dBA line. If the applicant is unable to relocate impacted lots, the lots should be deleted.

**Condition 2.c.** Requires the review of a Type I Tree Conservation Plan.

**Comment:** The applicant has submitted a Type I Tree Conservation plan which is recommended for approval as discussed further in Finding 2 of this report. The Department of Parks and Recreation has provided comments to the Environmental Planning Section on the Type I tree conservation as appropriate.

**Condition 2.e.** Requires that preliminary plans that contain land area adjacent to Church Road shall include design techniques to minimize impacts to scenic and historic nature of the road.

**Comment:** Staff is recommending that a 40-foot scenic and historic road easement, outside the 10-foot public utility easement, be created along Church Road. A viewshed analysis should be conducted at the time of review of the required DSP.

**Condition 2.g.** Requires conceptual sewer plans and proposed impacts.



**Comment:** The preliminary plan demonstrates sewer alignments and proposed impacts to the environmental features on site, as discussed in Finding 2 of this report.

**Condition 2.i.** Requires that the location of all planned pedestrian trails shall be located on the preliminary plan of subdivision.

**Comment:** The preliminary plan is consistent with this recommendation as discussed further in Finding 5 of this report.

**Condition 4.** Requires a study of the alignment of Church Road.

**Comment:** The alignment of Church Road has been evaluated and approved by the Department of Public Works and Transportation with concurrence from the Transportation Planning Section and previous action of the Planning Board in the approval of CP-0101.

**Condition 8.** Requires that to the extent possible, the existing gravel lands shall be utilized as part of the overall trail network.

**Comment:** The preliminary plan and FDP have been evaluated by the trails coordinator and are recommended for approved. Conditions of the FDP address this issue.

14. **Conformance with Comprehensive Sketch Plan CP-0101**—On June 5, 2002, the District Council approved CP-0101, affirming the Planning Board's decision contained in PGCPB Resolution No. 02-17 for the subject site. The approval contained 15 conditions. The following conditions relate to the review of the proposed preliminary plan, specifically Phase II, Part 2:

**Condition 2.a.** Requires a revised TCP if it is determined that the woodland conservation in the vicinity of the northern flight path does not conform to applicable federal, state and county aviation regulations.

**Comment:** The preliminary plan and tree conservation plan have been evaluated for conformance to CB-51-2002, a bill concerning general aviation airports and aviation policy areas, and has been found to conform to all applicable regulations, as discussed in Finding 3 of this report.

**Condition 2.b.** Requires that a noise study shall be submitted for each preliminary plat of subdivision that contains land area adjacent to US 50 and the realigned Church Road. The analysis shall include typical cross sections with the location of the 65 dBA noise contour.

**Comment:** The preliminary plan does not provide the location of the 65 dBA along Church Road. The noise study submitted by the applicant, dated October 15, 2003, indicates that the 65dBA line is located between 87 and 107 feet from the centerline of Church Road. The noise study indicates that the noise line could alter based on the ultimate road elevation. The preliminary plan should locate the ultimate 107-foot 65 dBA line consistent with the noise study. The required detailed site plan should ensure that dwellings and adequate usable yard areas are located outside the 65 dBA noise line.

The mitigated and unmitigated 65dBA line has been provided on the preliminary plan for US 50. However, the applicant has proposed dwelling units within this mitigated noise line. The DSP should ensure that the dwelling units and usable yard areas are provided outside the 65 dBA line. If the applicant is unable to relocate impacted lots, the lots should be deleted.

**Condition 2.c.** Requires as part of the preliminary plan of subdivision application, a viewshed analysis, as defined by the *Design Guidelines and Standards for Scenic and Historic Roads*, should be provided for all residential areas of this application that abut Church Road.

**Comment:** The applicant has provided the viewshed analysis. The preliminary plan should be revised to delineate a 40-foot scenic and historic road easement outside of the 10-foot PUE. The easement area may be utilized for noise mitigation if determined appropriate at the time of review of the DSP.

**Condition 2.d.** requires provision for how appropriate notice may be provided to any prospective future residents of areas impacted by airport operations.

**Comment:** Section 27-548.43 of the Zoning Ordinance has specific requirements for developments that are located with APA areas. Notification includes a requirement that a disclosure notice be included as an addendum to the contract for sale of any residential property impacted by an APA. Also required is notification within the homeowners association declaration of covenants for the property.

**Condition 2.A.** Requires the dedication of a 10-acre park parcel. The applicant is proposing the conveyance of Parcel B to M-NCPPC, located in the southwest quadrant of the intersection of US 50 and Church Road.

**Comment:** The applicant has worked with the Department of Parks and Recreation to ensure that adequate access to the park will be provided and that the parkland is usable for active recreation, as discussed further in Finding 4 of this report.

**Condition 3 and 4.** Address circulation relating to Fairwood Parkway and Church Road, as discussed further in Finding 6 of this report.

**Condition 5.** Requires the dedication of a minimum of a 90-foot right-of-way for Church Road.

**Comment:** The preliminary plan is consistent with this condition and demonstrates adequate dedication.

**Condition 8.** Requires that the preliminary plan of subdivision shall address issues of safety associated with the airport operations of Freeway Airport to the south.

**Comments:** The site has been evaluated for conformance to CB-51-2002 concerning general aviation airport and aviation policy areas as discussed further in Finding 3 of this report.

**Condition 15.** Requires that at the time of appropriate DSP noise mitigation measures shall be provided to reduce noise impacts to 65 dBA or less in outdoor activity areas.

**Comment:** Lots 324, 325, 326, 334, 335, 336, 337 and 338 are impacted by the mitigated 65 dBA line from US 50. These lots should be deleted and the land area incorporated into the abutting open space unless at the time of review of the DSP the applicant demonstrates conformance to this condition. The preliminary plan does not provide the 65 dBA line along Church Road. Impacted lots should be deleted and the land area incorporated into the abutting open space unless at the time of review of the DSP the applicant demonstrates conformance to this condition.

15. **Historic**—The Planning Board has recently identified that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications, and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. The Historic Preservation staff has indicated that this property was once a part of a larger plantation/farm that operated from the late 18<sup>th</sup> century until the present and there is every likelihood that slaves and tenant farmers may have been buried on this property.

Prior to the submittal of the required detailed site plan or any grading or clearing on site, the applicant should determine the extent of the land that should be the subject of a Phase I archeological investigation. The applicant's findings should be submitted to the DRD staff for review and concurrence. If any portion of the property is determined to be subject, the applicant should complete a Phase I investigation that may include research into the property history and archeological literature, and submit the Phase I investigation with the application for DSP.

At the time of DSP review, staff will determine if archeological resources exist in the project area, and if so, the applicant will be advised of the requirement of a Phase II or Phase III archeological investigation. The investigation should provide a plan for avoiding and preserving the resource in place, or provide a plan for mitigating the adverse effect upon these resources.

All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

16. **City of Bowie**—The property is located to the west and south of the City of Bowie and was referred to the city for comment. The City of Bowie identified several issues associated with the review of the preliminary plan in their March 18, 2004, memo, Chaisson to Chellis. The following is a discussion of the relevant items:

**Item 2.** Requests a determination regarding access to Old Stage Knolls. Staff is recommending that the applicant be required to construct that portion of Old Stage Knolls necessary to provide access to the property.

**Item 3.** Relates the adequacy of transportation facilities and is addressed in Finding 6 of this report.

**Items 4, 5 and 6.** Relate to the aviation policy area regulations and are addressed in Finding 3 of this report.

**Item 8.** Relates to access to the proposed park parcel and is addressed in Finding 3 of this report.

**Item 10 and 11.** Relates to views from Church Road and will be addressed with the DSP as required in Condition 1.b. and 3 of this recommendation, which provide for a 40-foot buffer and landscaping.

## RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
  - a. To label the 65 dBA line along Church Road (107 feet from the center line) consistent with the ultimate line established by the October 15, 2003, noise study submitted by the applicant.
  - b. To delineated a 40-foot scenic and historic road easement outside of the 10-foot PUE along Church Road.
  - c. To clearly indicate what structures are to be removed and retained surrounding the site of the DeClairemont House.
  - d. To add a general note to provide a tracking table demonstrating conformance to the allowable build out for the Fairwood development.
  - e. To relabel Parcel F, Block 11, as a lot.
2. Prior to the approval of the Detailed Site Plan, a Type II Tree Conservation Plan shall be approved.
3. At the time of review of the DSP the plan shall address the following:
  - a. Dwelling units with usable yard areas shall be located outside the mitigated 65 dBA line along Church Road or be deleted and the land area incorporated into abutting lots or open space unless the applicant can demonstrate at the time of DSP appropriate mitigation measures, with the submittal of a Phase II noise study.
  - b. Lots 324, 325, 326, 334, 335, 336, 337 and 338 are impacted by the mitigated 65 dBA line from US 50, as delineated on the preliminary plan. These lots should be deleted and the land area incorporated into the abutting open space unless at the time of review of the DSP the applicant demonstrates appropriate mitigation measures, with the submittal of a Phase II noise study.
  - c. The landscape strip and planting areas along and adjacent to Church Road shall be treated to enhance the historic character of the road through the use of vernacular plant materials, landscape planting patterns or other appropriate means.
  - d. To show a minimum of two trail connections to the community park (Parcel B, Block B) from the residential pods.
  - e. To determine if Parcel A, Block G, is required for the fulfillment of community use areas and if it is to be retained by the HOA.
4. The following condition (PGCPB Resolution 04-29, for DSP-03068) establishes the trigger for the conveyance of Parcel B, Block II to M-NCPPC.

“Prior to final plat for any portion of the property covered in DSP-03068, an original, special warranty deed for the 20-acre parkland (Parcel B, Block II) to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC) to replace Parcel D as approved in Preliminary Plan of Subdivision 4-02023 as parkland shall be submitted to the Subdivision Section of the Development Review Division, M-NCPPC.”

5. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 107.54± acres of open space land. 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.
  - 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 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 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.
6. Prior to building permits the applicant, his 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. The homeowner association covenants shall prevent the planting of tall tree species along streets, in yards or on HOA property within the open areas identified in APA-3M and APA-4.
7. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFA) to DRD for approval prior to the submission of final plats, for

construction of recreational facilities on homeowners land. Upon approval by the DRD, the RFA shall be recorded among the county Land Records.

8. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on homeowners land.
9. The DeClairmont House shall be connected to public water and sewer upon availability. Potable water shall be available at all times. Once the dwelling is connected to public water and sewer, the existing well and septic systems shall be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department.
10. Development of this site shall be in conformance with the approved stormwater management concept plan #37109-2003-00.
11. Roadway improvement on Church Road shall be carried out in accordance with Design Guidelines and Standards for Scenic and Historic Roads prepared by the Department of Public Works and Transportation. The applicant shall coordinate a conceptual preapplication meeting between the Department of Public Works and Transportation and M-NCPPC to determine what these are prior to detailed site plan and/or paving and stormdrain plan submittal.
12. Prior to signature approval of the Type I Tree Conservation Plan, TCPI/8/01-01 shall be revised as follows:
  - a. Correct the label showing the acreage being cleared for woodland removal area (WRA#5).
  - b. Label all woodland areas being retained but not part of the requirement as such and indicate the acreage of those areas on the plan and in a table.
  - c. Revise the TCPI worksheet as necessary after the other corrections.
  - d. Add a note to the TCPI that addresses how the excess woodland conservation requirements will be addressed by the TCPII.
  - e. The plans shall be sealed, signed, and dated by the licensed landscape architect, licensed forester or other qualified professional who prepared the plan.
13. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit to the M-NCPPC Planning Department copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
14. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain all of the Patuxent River primary management area except for areas of approved impacts. 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. Prior to the issuance of grading permits the applicant shall submit evidence from the Health Department that the tires found on the property have been hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility.
16. Prior to the issuance of grading permits the applicant shall submit a manifest demonstrating that the fuel storage tanks located on the property have been properly disposed of by a licensed waste company and reclamation of any contaminated soils has occurred under the direction of the Health Department.
17. The applicant shall ensure conformance to Section 27-548.43 of the Zoning Ordinance, Notification of Airport Environment, and all applicable notice requirements for development.
18. At the time of Detailed Site Plan, the applicant, his heirs, successors and/or assignees shall demonstrate that the construction drawings for the Church Road improvement include the provision of a commercial entrance (32 feet wide) to the community park parcel. The applicant shall obtain a DPW&T construction permit for the park entrance from Church Road and construct a 32-foot-wide curb cut/apron at the future park entrance. The timing for construction of the park entrance shall be determined at the time of DSP.
19. Prior to approval of the construction drawings by DPW&T, the Church Road improvements along the park parcel shall be reviewed and approved by DPR.
20. Prior to submittal of the DSP, the applicant shall determine the extent of the land that should be the subject of a Phase I archeological investigation with the concurrence of DRD. The applicant shall complete and submit a Phase I investigation with the application for DSP (including research into the property history and archeological literature) for those lands determined to be subject. At the time of review of the DSP, the applicant shall submit Phase II and Phase III investigations as determined by DRD staff as needed. The plan shall provide for the avoidance and preservation of the resources in place or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

STAFF RECOMMENDS APPROVAL OF TREE CONSERVATION PLAN TCPI/08/01-01.