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## Preliminary Plan 4-04061

Application	General Data
<b>Project Name:</b> <b>SILVER FARM</b>  <b>Location:</b> West side of Piscataway Road opposite its intersection with Windbrook Drive.  <b>Applicant/Address:</b> Silver Farm, LLC. 3150 West Ward Road, Suite #401 Dunkirk, MD. 20754	Date Accepted: 05/28/04
	Planning Board Action Limit: 11/14/04
	Plan Acreage: 40.98
	Zone: R-E
	Lots 23
	Parcels 2
	Planning Area: 81B
	Tier: Developing
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 215SE03

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners Previous Parties of Record 03/1/04 Registered Associations: (CB-58-2003)
	Sign(s) Posted on Site: 10/04/04

Staff Recommendation		Staff Reviewer: Tom Lockard	
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 Subdivision Plat 4-04061  
Silver Farm, Lots 1-23 and Parcels A and B

OVERVIEW

The site contains approximately 40.98 acres of land in the R-E Zone. It appears on Tax Map 133, Grid A-2, as Parcels 9 and 13. These two parcels were divided by deed in 1989, however, that occurred subsequent to the date where subdivision by deed was no longer allowed (January 1, 1982), unless it conformed to an appropriate exemption contained in Section 27-107(c) of the Subdivision Regulations. The applicant is showing the 6.9-acre Parcel 13 (the Simmons property) as Lot 23 in order to show the entire property in the same configuration as it existed in 1982. Despite the applicant's good faith effort to remedy the illegal subdivision by making Parcel 13 into Lot 23, the owner of Parcel 13 has made her position abundantly clear that she does not wish to be included in this subdivision. A second parcel has been carved out of the site; it is 0.46 acre described as Parcel 10 (the Lemley property). This parcel was legally created by deed in 1967.

Access to most of the site will be either directly from a 60-foot-wide primary residential street intersecting MD 223 opposite Windbrook Drive ("Silver Farm Drive"), or a cul-de-sac ("Rose Glen Court"). The applicant proposes access to Lot 22 directly from Piscataway Road, necessitating a variation from Section 24-121(a)(3). In addition, there are several areas of disturbance to the extended stream buffer for which the applicant seeks variations from Section 24-130.

In addition to the 23 lots shown on the preliminary plan, the applicant is also showing two parcels. Parcel A is 4.6 acres located in the southwest corner of the site and is cut off from the remainder of the site by a stream and deep ravine. It is shown to be retained by the owner. Parcel B is 2.9 acres in the center of the site and contains a stream, steep slopes and the pond. It is to be incorporated into the site's stormwater management plan and conveyed to a homeowner's association.

SETTING

The site is located on the west side of Piscataway Road (MD 223), opposite its intersection with Windbrook Drive. The site is developed with an old single-family home, a trailer, and several outbuildings. The majority of the site is wooded. The middle of the site is wetlands associated with Tinkers Creek and is the location of a large farm pond. The surrounding properties to the north and south are zoned R-E and are developed with single-family residences. To the east are single-family residences in the R-E Zone, R-R Zone, and a convenience store site in the C-S-C Zone. To the west are several large undeveloped parcels formerly mined for sand and gravel.

## FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

Zone Uses	EXISTING	PROPOSED
	R-E Single-Family Residences Outbuildings	R-E Single-Family Residences
Acreage	40.98	40.98
Lots	0	23
Parcels	2	2
Dwelling Units	2	23

2. **Environmental**—This site contains streams, 100-year floodplain, a manmade pond and wetlands associated with Tinkers Creek in the Potomac River watershed. The Subregion V Master Plan indicates that there are substantial areas designated as natural reserve on the site. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled *Ecologically Significant Areas in Anne Arundel and Prince George's Counties*, December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. Piscataway Road is designated in the Subregion V Master Plan as a historic road. There are no nearby sources of traffic-generated noise. The proposed development is not expected to be a noise generator. According to the *Prince George's County Soil Survey*, the principal soils on the site are in the Beltsville, Croom, Ochlockonee and Sassafras series. Marlboro clay does not occur in this area. The site is in the Developing Tier according to the General Plan.

### Grading

The conceptual grading shown on the Type I tree conservation plan shows extensive areas with proposed cut and minimal areas with proposed fill. The pattern is strongly suggestive of a surface mining operation for the extraction of sand and gravel resources. A special exception is required for surface mining; however, if the grading is determined to be necessary for the development of a subdivision, a special exception is not required. It is not possible to determine if the grading is necessary based upon the information submitted.

A calculation of the volume of material that is proposed to be cut and the volume of material to be used on site for fill is essential for evaluating whether this is grading to accomplish the layout of the subdivision or if a substantial volume would need to be removed from the site. If a significant volume is to be removed from the subject property, then the proposed disposition of the material needs to be indicated because the Natural Resources Conservation Service will require an erosion/sediment control plan for the receiving site and the receiving site will need to be evaluated with regard to the Woodland Conservation Ordinance.

A cut/fill locations report, dated September 30, 2004, was submitted. The report illustrates the areas of cut and fill based upon the grading shown on the Type I tree conservation plan. The calculations in the report indicate that approximately 145,000 cubic yards of earth will be excavated, approximately 80,000 to 92,000 cubic yards will be used for on-site fill, and that 53,000 to 65,000 cubic yards of material will be exported from the site. No deposition site for the material is indicated.

## **Streams, Wetlands and Floodplain**

This site contains streams, 100-year floodplain, and wetlands associated with Tinkers Creek in the Potomac River watershed. These natural features are required to be protected under Section 24-130 of the Subdivision Regulations. The Subregion V Master Plan, adopted in 1993, indicates that there are substantial areas designated as natural reserve on the site associated with the stream valleys.

A plan labeled jurisdictional determination plan and certified by the US Army Corps of Engineers was submitted. The plan clearly delineates wetlands, streams and other regulated waters of the US. The pond is within the regulatory authority of the U.S. Army Corps of Engineers, the Maryland Department of the Environment, and the Prince George's County Department of Environmental Resources and the Subdivision Regulations. The minimum 25-foot wetland buffers required by Section 24-130(b)(7) of the Subdivision Regulations are shown on the preliminary plan and the Type I tree conservation plan. A 100-year floodplain is shown on the plans; however, it is not clear if the delineation is from a study approved by the Prince George's County Department of Environmental Resources. If the area of the 100-year floodplain increases, the resulting change would create a change in the calculations of the Type I TCP and would have minor effects on several net lot areas. The minimum 50-foot stream buffers required by Section 24-130(b)(6) of the Subdivision Regulations are not shown on the preliminary plan or the Type I tree conservation plan; however, it appears that these were considered when determining the extent of the expanded stream buffers. Because the pond has been determined to be jurisdictional waters of the U.S., the minimum 50-foot buffer shown on the plans is appropriate. The expanded stream buffers are correctly shown.

### **Variation Request: Section 24-130**

The plan proposes impacts to wetlands and wetland buffers. Section 24-130 of the Subdivision Regulations prohibits impacts to these buffers unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. One variation request, dated September 29, 2004, has been submitted.

A detailed review of the expanded stream buffer and limit of disturbance illustrated on the Type I tree conservation plan indicates that at least eight variations are required. These impacts are: (1) the proposed grading for Lot 11, (2) the proposed grading for lots 4 and 5, (3) the grading for the stream crossing of Silver Farm Drive, (4) grading to retrofit the existing outfall on the pond to meet county standards, (5) grading for the stormdrain outfall by lots 14 and 15, (6) grading for the intersection of Silver Farm Drive and Rose Glen Court, (7) grading for lot 12, and (8) grading for lot 14. The justification statement does not clearly address the required findings of Section 24-113 of the Subdivision Regulations for each individual impact and does not show all of the impacts shown on the plans. Proposed impacts #1, #2, #7 and #8 are only for the purpose of grading for lots and should be removed.

The Environmental Planning Section notes that the portion of the property west of the main stream valley could be accessed in the future from development of the property to the west and impact #3 for the stream crossing would not be needed. When these types of alternatives exist, they should be fully explored prior to approval of impacts to sensitive features. Impacts #4 and #5 appear to be necessary for the development in its entirety because they both directly relate to required stormwater management. Impact #6 can be eliminated or reduced by redesign of the streets.

The design should be revised to avoid any impacts to streams and their associated buffers unless the impacts are essential for the development as a whole. Staff will not support impacts to sensitive environmental features that are not associated with necessary road construction or the installation of public utilities that are required to serve the development as a whole.

### **Woodland Conservation**

The revised forest stand delineation (FSD) has been reviewed. The FSD is based on seven sample areas; it identifies three forest stands totaling 24.88 acres and 14 specimen trees. The plan clearly shows soils boundaries that conform to the *Prince George's County Soils Survey*. The soils chart indicating the erodibility and hydric characteristics of each soil type is correct. All wetlands, streams, 100-year floodplain and areas with are severe slopes and areas with steep slopes containing highly erodible soils are correctly shown.

Forest Stand "A" covers an area of about 2.59 acres in the eastern portion of the site. From a review of air photos it is apparent that this woodland has naturally generated since 1965. No specimen trees are within this stand and the majority of trees are small box elder and cherry. Because of low species diversity, presence of invasive plants and lack of sensitive environmental features, Stand "A" is a very low priority area for preservation.

Forest Stand "B" covers approximately 17.91 acres and flanks the stream valley in the center of the site. This woodland is characterized by American beech, red maple and tulip poplar, with American holly in the understory. Ten specimen trees are located in this stand. The area is mostly steep slopes with highly erodible soils and severe slopes associated with the streams on the property. Stand "B" is high priority woodland for preservation.

Forest Stand "C" contains about 4.36 acres and is associated with the floodplain and stream bottomland in the center of the property. The principal trees are yellow poplar and sweet gum. The location of this woodland within the core of the stream valley causes Stand "C" to be a high priority area for preservation.

This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in area and contains more than 10,000 square feet of woodland. A Type I tree conservation plan is required.

The Type I Tree Conservation Plan, TCPI/56/04, has been reviewed. The plan proposes clearing 11.01 acres of the existing 23.52 acres of upland woodland, clearing 0.53 acre of the existing 1.36 acres of woodland within the 100-year floodplain, and clearing 0.14 acre of off-site woodland. The woodland conservation threshold is 9.91 acres. The woodland conservation requirement has been correctly calculated as 13.33 acres. The plan proposes to meet the requirement by providing 10.05 acres of on-site preservation and 3.28 acres of on-site reforestation/afforestation.

Although the plan proposes to meet all of the woodland requirements on site, the design of the plan does not meet the intent of the Woodland Conservation Ordinance. The plan shows the preservation of the woodlands on natural steep and severe slopes associated with the stream valley and afforestation of areas within the 100-year floodplain to create a contiguous woodland which meets the intent of the Woodland Conservation Ordinance as stated within the *Prince George's County Woodland Conservation and Tree Preservation Policy Document* regarding priority areas. The proposed planting areas on newly created steep slopes in the rear yards of lots 16-19 do not relate to protection of stream valleys, creation of large contiguous forest, or serve to meet a bufferyard that might be required by the *Landscape Manual*.

The plan has a cryptic note regarding the woodland conservation on the Simmons Parcel that is a portion of this application. The note suggests that 1.50 acres of woodland could be cleared and the parcel would retain conformance to the Woodland Conservation Ordinance. If that area is calculated as cleared, then the worksheet should reflect the clearing and the plan should indicate with a pattern that the area has been calculated as cleared. Given the owner's wishes to be left alone and not be made part of this application, staff would prefer to see no woodland conservation being proposed

As noted earlier, the proposed grading of this site should be reevaluated and at a minimum remove unnecessary impacts to the expanded stream buffer. Those changes will result in changes to the proposed woodland preservation areas.

### **Historic Roads**

Piscataway Road is designated in the Subregion V Master Plan as a historic road. While the master plan proposes that the existing rural roadway be upgraded to primary residential street standards in a 60-foot-wide right-of-way, there are historic characteristics that should be identified and preserved as part of the proposed subdivision.

The *Design Guidelines and Standards for Scenic and Historic Roads* provides guidance for the review of applications that could result in the need for roadway improvements. The manual currently states that when a scenic or historic road is adjacent to a proposed subdivision "...a team [to include M-NCPPC staff] will complete a study of the scenic or historic roads around or within the subject site which will include an inventory of scenic and historic features and an evaluation of features most worthy of preservation." A visual inventory was submitted with the application.

The preliminary plan provides a 40-foot-wide landscape buffer adjacent to the 10-foot public utility easement along Piscataway Road. This area is currently devoid of trees. No specific treatment of this area has been proposed. Because no specific treatment within the landscape buffer has been proposed, it is not possible to determine if the historic character of Piscataway Road will be protected.

### **Soils**

According to the *Prince George's County Soil Survey*, the principal soils on the site are in the Beltsville, Croom, Ochlockonee and Sassafras series. Beltsville and Croom soils are highly erodible and pose problems for control of erosion and sediment control when associated with slopes in excess of 15 percent. Ochlockonee and Sassafras soils pose no special problems for development.

### **Water and Sewer Categories**

The water and sewer service categories are W-4 and S-4 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources. The proposed development will utilize public systems.

3. **Community Planning**—The property is in Planning Area PA 81B/Tippett. The 2002 General Plan places the property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial

centers, and employment areas that are increasingly transit serviceable. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. The 1993 Subregion V Master Plan recommends Suburban Estate/Low-Density Planned Neighborhood residential land use at up to 1.5 dwelling units per acre. This application conforms to the master plan recommendation.

4. **Parks and Recreation**—In accordance with Section 24-134 of the Prince George’s County Subdivision Regulations, Lots 1, 8, 9, 11, 12, 14, 18, 21, and 23 of the subject subdivision are exempt from mandatory dedication of parkland requirements because they are over one acre in size.

In accordance with Section 24-134(a) of the of the Prince George’s County Subdivision Regulations, the Park Planning and Development Division recommends that the Prince George’s County Planning Board require a payment of a fee-in-lieu of dedication as applicable from the remainder of the subject subdivision because land available for dedication is unsuitable due to its size, location and topography.

5. **Trails**—There are no master plan trail issues identified in the 1993 master plan. However, MD 223 (Piscataway Road) is a route used by on-road cyclists. If road frontage improvements are required, staff recommends the provision of a paved shoulder or wide curb lane along the site’s road frontage to safely accommodate bicycle traffic. MD 223 (Piscataway Road) is an open-section roadway with no sidewalks in the vicinity of the subject property. The nearby Windbrook subdivision has sidewalks along both sides of most internal roads, as does Mary Catherine Estates south of MD 223, and some portions of Mary Catherine Estates north of MD 223. If a closed cross section is used, staff recommends the provision of sidewalks along all internal roads, unless modified by DPW&T.
6. **Transportation**—Due to the size of the subdivision, staff has not required that a traffic study be done. The staff did request traffic counts, and the requested counts dated March 2004 were provided by the applicant. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

#### **Growth Policy—Service Level Standards**

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.

## **Staff Analysis of Traffic Impacts**

The intersection of MD 223 and Windbrook Drive is determined to be the critical intersection for the subject property. This development's primary access would form a fourth leg of that intersection and would serve virtually all of the site-generated traffic. The intersection is unsignalized and is, therefore, evaluated according to unsignalized intersection criteria. The applicant provided traffic counts dated March 2004. These counts indicate that the critical intersection operates with a maximum delay of 31.1 seconds during the AM peak hour. During the PM peak hour, the intersection operates with a maximum delay of 26.0 seconds.

There are no funded capital projects at this intersection in either the county's Capital Improvement Program or the state's Consolidated Transportation Program that would affect the critical intersection. There are five approved but unbuilt developments in the immediate area that would affect the intersection. With background growth added, the critical intersection would operate as follows: AM peak hour—53.0 seconds of maximum delay; PM peak hour—34.2 seconds of maximum delay.

With the development of 22 residences, the site would generate 18 AM (4 in and 14 out) and 20 PM (13 in and 7 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 5 percent—south along Windbrook Drive; 15 percent—southwest along MD 223; and 80 percent—northeast along MD 223. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—293.2 seconds of maximum delay; PM peak hour—44.5 seconds of maximum delay. Therefore, it is noted that the critical intersection operates unacceptably, in accordance with the Planning Board's guidelines, under background and total traffic.

The State Highway Administration (SHA) and the County Department of Public Works and Transportation (DPW&T) have reviewed these results. It appears that DPW&T favors further study of signalization, while SHA indicates that a follow-up traffic signal warrant study at MD 223 and Windbrook Drive will not be necessary. However, in response to a finding of inadequacy at an unsignalized intersection, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal if it is deemed warranted by the appropriate operating agency. The warrant study is, in itself, a more detailed study of the adequacy of the existing unsignalized intersection, and it is appropriate that the higher level of analysis be done in order to determine adequacy at this time. This study shall be recommended by the Transportation Planning Section.

### **Variation Request: Section 24-121(a)(3)**

Proposed Lot 22 is shown with access solely via a driveway onto MD 223. Platting a lot with driveway access solely via an arterial facility requires a variation from Section 24-121(a)(3), which limits individual lot access onto arterial facilities. The applicant has filed a variation request, and SHA has indicated no opposition to the granting of the variation request. In reviewing the subdivision plan as well as the justification, the following determinations are made:

1. Lot 22 has frontage on MD 223, and is somewhat physically separated from the rest of the property by existing homes that are not part of this plan. There is currently a driveway connecting Lot 22 to the area of the proposed street, but the grading proposed by the applicant to construct the public street and the lots along it would obliterate the existing driveway.



2. The use of a public street to serve Lot 22 is impractical, as the public street would have a very detrimental impact on adjacent existing residences that are not part of this plan.
3. The current plan would consolidate the driveway to serve Lot 22 into an easement with an existing driveway that serves one of the adjacent residences. Therefore, the situation being approved by way of the variation request, from a transportation standpoint, is no worse than a situation that would be in full compliance with the regulations.
4. The State Highway Administration (SHA) must approve any access onto MD 223, which is a state facility, and that agency has indicated that they do not oppose the access.

For these reasons, the Transportation Planning Section supports the variation from 24-121(a)(3). It must be noted that approval of such a variation by the Planning Board only constitutes conceptual agreement that circumstances exist which necessitate direct access onto an arterial facility by a driveway. The responsible agency that owns and maintains the roadway—which is SHA in this case—must still review any driveway access point, and that agency has the right to impose conditions upon its construction or even deny it.

MD 223 is a master plan arterial facility, and the plan indicates correct dedication of 60 feet from centerline.

#### **Transportation Staff Conclusions**

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 the following conditions:

1. **MD 223 at Windbrook Drive:** Prior to the issuance of any building permits within the subject property, the applicant shall submit an acceptable traffic signal warrant study to SHA and DPW&T for a possible signal at the intersection of MD 223 and Windbrook Drive. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of SHA. If a signal is deemed warranted by the responsible agency at that time, the applicant shall bond the signal prior to the release of any building permits within the subject property, and install it at a time when directed by the appropriate permitting agency. The requirement for this study shall be waived upon a future determination by SHA in writing that peak hour volumes are insufficient to meet minimum signal warrants. Such determination shall not be made more than three months prior to issuance of the initial building permit.
2. At the time of final plat approval, the applicant shall dedicate right-of-way along MD 223 of 60 feet from centerline as shown on the submitted plan.
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 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	23 sfd	23 sfd	23 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	5.52	1.38	2.76
Actual Enrollment	4,096	4,689	8,654
Completion Enrollment	180.48	86.22	158.07
Cumulative Enrollment	154.56	44.04	88.08
Total Enrollment	4,436.56	4,820.64	8,902.91
State-Rated Capacity	4,214	5,114	7,752
Percent Capacity	105.28	94.26	114.85

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

These figures are correct on the day the referral memo was written. 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 amount of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

The school surcharge may be used for the construction of additional school facilities, which are expected to accommodate the new students that will be generated by this development proposal. This project meets the adequate public facilities policies of Section 24-122.02, CB-30-2003, CB-31-2003 and CR-23-2003.

8. Fire and Rescue—The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 7.59 minutes, which is beyond the 5.25-minute travel time guideline.

The existing ambulance service Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 7.59 minutes, which is beyond the 6.25-minute travel time guideline.

The existing paramedic service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 7.25 minutes, which is within the 7.25-minute travel time guideline for lots 1-3 and lots 12-23. All other lots are beyond. The remaining nine lots are beyond response time, with the furthest lot being 7.59 minutes from the Clinton Fire Station.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system should 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.

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

The Historic Preservation and Public Facilities Planning Section has concluded that the entire development is beyond the recommended response times from existing facilities that provide ambulance and paramedic service. This finding is based on using the existing road system and existing stations. The staff also found that the planned Brandywine emergency services facility, which is shown in the General Plan, will be the first due station that will provide ambulance and paramedic service to this development.

In order to mitigate the ambulance and paramedic response time deficiencies, the staff recommends that the applicant participate in providing a fair share contribution toward the construction of the Brandywine emergency services facility.

The fee amount is based upon the total cost of the facility (\$1,275,000) plus ambulance (\$131,000) and paramedic unit (\$131,000) divided by the total amount of residential and employment population within the service area in 2006. The service areas include those areas that will be served by the planned facility. The fair share fee is \$479 per dwelling unit, for paramedic and ambulance service

2006 Service Area Population/Workers 10,024  
Station/Ambulance and Paramedic Cost \$1,537,000/10,024=\$153.33  
3.13 Planning Area Dwelling Unit Size x \$153.33 =\$479.93 Per Dwelling  
No. of Dwellings (9) x beyond response time for paramedic \$479.92=\$4,311

9. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. Therefore, in accordance with Section 24-122.01(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed development.
10. **Health Department**—The Health Department reviewed the application and noted a significant amount of trash and other debris has been illegally dumped on the property, including domestic trash and tires. This must be removed prior to final plat approval. A licensed scrap tire hauler must remove the tires to a licensed scrap tire disposal/recycling facility. A receipt must be submitted to the Health Department. In addition, abandoned wells and septic tanks within the confines of the subject property must be properly removed in accordance with state and county regulations. Finally, a raze permit is required prior to removal of any of the structures (two barns, one house, one trailer and one metal shed) on the site.
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 has been submitted, but is not yet approved. To ensure that development of this site does not result in on-site or downstream flooding, this concept plan must be approved prior to signature approval of the preliminary plan. Development must be in accordance with an approved plan.

12. **Cemeteries**—There are no known cemeteries on the subject property. However, there are prehistoric archeological sites in similar settings in the vicinity of the property. Therefore, a Phase I archeological investigation should be required.
13. **Public Utility Easement**—The preliminary plan includes the required ten-foot-wide public utility easement. This easement will be shown on the final plat.
14. **Prior Approvals**—The subject property has no prior approvals.
15. **Parcel 13 (Lot 23)**—As previously discussed, Parcel 13 was incorrectly created by deed from the remainder of the subject property in 1989 and subsequently purchased by another party, Ms. Simmons. In order to now subdivide this property, the applicant must show the site in its pre-1982 (after which time subdivision by deed was greatly restricted) configuration, which they do by including Parcel 13 as Lot 23. If this application were approved, this would bring Parcel 13 into conformance as a recorded lot. For whatever reason, however, Ms. Simmons does not wish to join in this subdivision process, in spite of the obvious benefits to her. Thus, the applicant is showing land they do not own or control as part of this application in defiance of the property owner's stated objections. Further, they are encumbering it with woodland conservation.

Staff recognizes and lauds the applicant's good faith effort to include Ms. Simmons in this application. That notwithstanding, staff must also recognize Ms. Simmons' right to be left alone, if that is her wish. The applicant's need to show Parcel 13 as part of this application does not confer to it the ability to do so over Ms. Simmons' objections. However murky its creation, Parcel 13 is land owned in fee simple by a separate entity other than the applicant. Fee simple land ownership provides landowners with certain rights, and such rights may not be usurped by another except in limited circumstances and then (except in extraordinary cases) only with their expressed permission. To approve this application showing Parcel 13 as Lot 23 with an encumbrance could potentially deny Ms. Simmons her rights as a landowner, and to include it in this application over her objections, no matter how beneficent the intent, should not be permitted. The applicant must either gain Ms. Simmons permission to include Parcel 13 or find another means of legally separating the two parcels.

## RECOMMENDATION

DISAPPROVAL, due to the applicant's inability to resolve environmental issues as well as the issues associated with Parcel 13.