



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

## Preliminary Plan 4-05055

Application	General Data
<b>Project Name:</b> <b>LIVINGSTON FOREST</b>  <b>Location:</b> The property is located on the east side of Livingston Road approximately 700 feet south of its intersection with Indian Head Highway (MD 210).  <b>Applicant/Address:</b> Chesapeake Custom Homes 6196 Oxon Hill Road, Suite 340 Oxon Hill, MD. 20745	Date Accepted: 09/27/05
	Planning Board Action Limit: 03/01/06
	Plan Acreage: 8.56
	Zone: R-30C/R-55
	Lot: 0
	Parcels: 4
	Planning Area: 76A
	Tier: Developed
	Council District: 08
	Municipality: N/A
	200-Scale Base Map: 207SE01

Purpose of Application	Notice Dates
THIS CASE WAS CONTINUED FROM THE PLANNING BOARD HEARING OF FEBRUARY 16, 2006 AT THE REQUEST OF THE APPLICANT.	Adjoining Property Owners Previous Parties of Record Registered Associations: 06/28/05 (CB-58-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: 01/17/06

Staff Recommendation		Staff Reviewer: Whitney Chellis	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

February 22, 2006

**MEMORANDUM**

**TO:** Planning Board

**FROM:** Whitney Chellis  
Subdivision Section

**SUBJECT:** Livingston Forest 4-05055, Supplemental Agenda Item 21

This preliminary plan application was continued from the Planning Board hearing of February 16, 2006, at the request of the applicant to address transportation planning issues. Subsequent to that hearing date the applicant has not contacted staff to address the issues raised in the original technical staff report.

This preliminary plan application is scheduled on the last possible Planning Board hearing date within the 140-day mandatory action time frame (03/01/06). At the writing of this memorandum, staff continues to recommend disapproval due to inadequate transportation facilities.

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-05055  
Livingston Forest Parcel A, B, C and D

OVERVIEW

The subject property is located on Tax Map 96, Grid A-2, and is known as Parcel 87. The property is 8.56 acres and is zoned R-30C (7.98 acres) and R-55 (.58 acre). The applicant is proposing to develop the property with 70 multifamily dwelling units in conformance with the standards of the R-30C Zone. Access is proposed via Livingston Road to the south.

At the writing of this staff report staff is compelled to recommend disapproval of the preliminary plan due to inadequate transportation facilities, as discussed further in Finding 6 of this report. In short, staff required the submittal of a traffic study. The traffic study proposed the use of traffic mitigation. Section 24-124 (a)(6) of the County Code authorizes the Planning Board to consider traffic mitigation procedures only on US 301, MD 4, MD 5, MD 3 and MD 210. Depending on the critical lane volumes under total traffic conditions, an applicant is required to mitigate 100 percent or 150 percent of the site-generated trips. In all other cases mitigation is not permitted and an applicant is required to improve wholly any transportation inadequacies.

In this case the applicant has proposed the use of mitigation for the inadequacies found at the critical intersection of MD 4 and Livingston Road. The Guidelines require that the operating agencies approve the mitigation measures proposed by an applicant in their traffic study. In this case the SHA does not agree with the applicant's proposed improvements to mitigate the site-generated trips, and therefore staff recommends disapproval.

The applicant is proposing four parcels. Parcel A (.11 acre) and Parcel B (1.28 acres) are located on the north side of the site, abutting the Northbridge Gardens Apartments. Both of these parcels are encumbered by improvements associated with the apartments to the north. Parcel A is improved with yard area currently grassed and maintained by the Northbridge HOA and Parcel B is improved with a driveway and parking area. The applicant is proposing to convey these parcels to the homeowners association of the Northbridge Garden Apartments. Prior to the approval of the final plat, the applicant should demonstrate the acceptance of this arrangement by that HOA. If that HOA will not accept the conveyance, these parcels should be retained by the HOA for the subject site with the record plat reflecting and acknowledging the existing improvements.

Parcel D (.38 acre) is located along the southern property line; that area of the site is encumbered by an existing 20-foot-wide access easement (Liber 2317 Folio 87). The easement serves two parcels (Parcels 95 and 96) that are in private ownership to the east. The easement provides access to Livingston Road for the existing single-family dwelling units. In addition, the easement is to the benefit of M-NCPPC. Parcel D is proposed to be conveyed to the HOA and will not alter in any way the right of access for Parcels 95 and 96. Eventually, a public trail may be provided from Livingston Road to the existing park facilities to the east if Parcels 95 & 96 are purchased by M-NCPPC.

For the purposes of calculating allowable density, the area of the site zoned R-55 cannot be included. Multifamily dwelling units are not permitted in the R-55 Zone. In addition, although not specifically prohibited, the area of the site encumbered with improvements associated with the Northbridge Garden Apartments has not been included in the calculation of net tract area for density purposes.

The property has been the subject of three preliminary plans of subdivision: 4-94037 (PGCPB No. 94-278) was approved for the development of 94 multifamily dwelling units, and expired prior to approval of a final plat; 4-04015 was withdrawn by the applicant prior to a Planning Board hearing; and 4-04191 was withdrawn by the applicant due to inadequate fire/rescue services prior to a Planning Board hearing. The original preliminary plan for the subject application proposed the construction of five multifamily buildings with a total of 94 dwelling units. Because of density issues and the fact that the site is almost entirely encumbered by the expanded buffer, as discussed further in Finding 2 of this report, the applicant has reduced the proposed number of multifamily buildings to three and proposes 70 dwelling units.

## SETTING

The property is located on the east side of Livingston Road approximately 700 feet south of its intersection with Indian Head Highway (MD 210). The property to the north is zoned R-18 and is developed with the Northbridge Garden Apartments. To the east is R-O-S-zoned land owned by M-NCPPC, known as the Glassmanor Park. To the south is one single-family dwelling unit fronting Livingston Road and other undeveloped acreage parcels in the R-55 Zone. The properties directly southwest across Livingston Road from the subject property are zoned C-S-C and C-O and are generally developed with commercial retail and office uses.

## FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	R-30C/R-55	R-30C (7.98 acres) R-55 (.58 acres)
Use(s)	Vacant	Multifamily dwellings
Acreage	8.56	8.56
Parcels	1	2
Oulots	0	2
Dwelling Units:		
Multifamily	0	70
Public Safety Mitigation Fee		Yes

2. **Environmental**—The Environmental Planning Section has reviewed the revised preliminary plan and Type I tree conservation plan for Livingston Forest, stamped as received by the Countywide Planning Division on February 3, 2006. The Environmental Planning Section recommends approval of Preliminary Plan 4-04055 and Type I Tree Conservation Plan TCPI/24/94-01 subject to the conditions.

The Environmental Planning Section has previously reviewed the subject property as Preliminary Plan 4-94037, in conjunction with TCPI/24/94, which were approved with conditions. This preliminary plan expired prior to platting. In 1996, Type II Tree Conservation Plan TCPII/29/96 was approved for rough grading of the access road and was later revised in 2003. This work was never completed. The site was again reviewed in 2004, as Preliminary Plan 4-04015, but was

withdrawn prior to the Planning Board hearing. The subject property was last reviewed as Preliminary Plan 4-04191, in conjunction with TCPI/24/94-01, which were withdrawn. The current application requests the subdivision of an 8.56-acre parcel in the R-30C and R-55 Zones to allow the development of 70 residential dwelling units in three multifamily buildings.

### **Site Description**

The site is characterized with terrain sloping toward the north of the property and drains into unnamed tributaries of the Oxon Run watershed in the Potomac River basin. The predominant soil types on the site are Sassafras, Beltsville, Iuka, Aura and Croom. These soil series generally exhibit slight to moderate to severe limitations to development due to steep slopes, impeded drainage, high water table and flood hazard. The site is currently undeveloped and fully wooded for the most part, except for the clearing that has occurred along the northern boundary of the property, due to the incursion of a parking lot constructed with the adjacent Northbridge Gardens project.

Based on information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, within the sensitive species project review area layer there are no rare, threatened or endangered species found to occur in the vicinity of this site. There is a 100-year floodplain and a stream on and adjacent to the site. There are no Marlboro clays or scenic or historic roads located on or adjacent to the subject property. The subject property is located on Livingston Road, a collector roadway generally not regulated for noise. This property is located in the Developed Tier as delineated on the approved General Plan. The site contains network gaps identified on the Countywide Green Infrastructure Plan.

The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the site is larger than 40,000 square feet, contains more than 10,000 square feet of woodlands, and is subject to an approved tree conservation plan. A revised Type I Tree Conservation Plan (TCPI-24/94-01) was reviewed and found to require minor revisions to conform to the requirements of the Woodland Conservation Ordinance.

The woodland conservation threshold for the site is 1.62 acres, with an additional 0.95 acre of replacement based on the clearing of woodlands under the current design, for a total woodland conservation requirement of 2.57 acres. The plan shows the requirement being met with 2.65 acres of woodland preservation on-site, which exceeds the requirement.

Because there are extensive areas of expanded buffer on the site, the woodlands are considered a high priority for preservation. The entire woodland conservation requirement has appropriately been met with on-site preservation. In addition, 1.91 acres of woodlands have been preserved within the expanded stream buffer, which is not part of any requirements. Minor revisions are needed to the TCPI to bring it into full compliance with the Woodland Conservation Technical Manual.

Almost the entire site is located within the expanded stream buffer delineated on the NRI, due mostly to extensive steep and severe slope adjacent to the stream. Section 24-130(b)(6) of the Subdivision Regulations requires that the plat provides a buffer at least 50 feet in width adjacent to any stream, and that the Planning Board may require the expansion of this buffer to include sensitive environmental areas of the site deemed necessary to protect the stream.

The grading plan submitted with the application shows substantial encroachments proposed into the expanded buffer for the construction of three multifamily residential buildings, an access road, parking areas, retaining walls, and a stormwater outfall.

Staff generally recommends approval of variations to impact the expanded stream buffer for the installation of public road and utilities, if they are designed to preserve the expanded stream buffer to the fullest extent possible. Staff generally does not recommend approval of expanded stream buffer impacts for lots, structures, or septic field clearing and grading when alternative designs would reduce or eliminate the impacts.

A variation request was submitted with the review package for the purpose of constructing three multifamily buildings, a private road, a drain outfall, and associated retaining walls with the expanded stream buffer.

### **Review of the Variation Request Submitted**

The variation request proposes the disturbance of 3.54 acres of steep and severe slopes within the expanded stream buffer in order to develop the site in accordance with the grading plan submitted. The Livingston Forest property is located within the Developed Tier of the General Plan, where planning goals include the encouragement of appropriate infill and capitalization on investments in transportation and other infrastructure. Infill development on this property, where transportation and infrastructure are already available, would be impossible without impacts to the expanded stream buffer. The minimum 50-foot stream buffer has been provided in all areas of the site, and an average stream buffer width of 100 feet has been provided in tree preservation.

Minor impacts to the 100-year floodplain are proposed to provide for a stormwater management outfall and for the location of the access road. Retaining walls are proposed to reduce grading impacts to the steep and severe slopes, and underground parking is proposed for each of the three buildings to reduce the amount of clearing and impervious surface related to the development. The TCPI provides all required woodland conservation as on-site preservation and includes an additional 1.91 acres of preserved woodland not part of any requirement.

Impacts to these buffers are restricted by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Even if approved by the Planning Board, the applicant will need to obtain federal and state permits prior to the issuance of any grading permit. Each variation is described individually below. However, for purposes of discussion relating to Section 24-113(a) of the Subdivision Regulations the impacts were discussed collectively. Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

**Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

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

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

The variation requested is not detrimental to the public safety or health, or injurious to any adjacent property. The TCPI proposes to provide all woodland conservation requirements on-site thorough preservation, and additional preservation above requirements. The applicant has proposed significant reductions to the original proposed impacts to assist in the stabilization of the slopes on site while still reasonably developing the property.

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

This property is unique in that the entire site is located within the expanded stream buffer for a stream and 50-foot stream buffer that is located offsite. If this variation were not granted, this infill site within the Developed Tier with existing infrastructure could not be reasonably developed.

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

The variations requested do not constitute a violation of any other applicable law, ordinance or regulation, if approval is obtained from the Department of Environmental Resources for minor impacts proposed to the 100-year floodplain. No federal or state permits must be obtained before the construction can proceed.

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

Due to its shape, location and topography, the entire site is within the expanded stream buffer, and failure to grant the requested variation would constitute a particular hardship by eliminating reasonable use of the site under its existing zoning.

The Environmental Planning Staff has reviewed the proposed impacts to steep and severe slopes within the expanded stream buffer on the subject property, and finds that the proposed subdivision has been designed to minimize the effect of development on land, streams and wetland; assists in the attainment and maintenance of water quality standards; and preserves and enhances the environmental quality of the adjacent stream valley. An expanded stream buffer has been preserved to the fullest extent possible and alternative designs have been explored to reduce and eliminate the impacts to the expanded stream buffer to fullest extent possible while allowing reasonable development of the site. Staff recommends that the Planning Board approve the variation for 3.54 acres of disturbance steep and severe slopes within expanded stream buffer.

### **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, and will, therefore, be served by public systems.

3. **Community Planning**—The property is located within the limits of the 2000 *Approved Master Plan and Sectional Map Amendment for the Heights and Vicinity, Planning Area 76A* in the Eastover-Forest Heights community. The recommended land use for the site is for urban density. The proposed preliminary plan is consistent with the master plan land use recommendation.

The 2002 General Plan locates the property in the Developed Tier. One of the visions for the Developed Tier is to encourage a network of sustainable medium- to high-density neighborhoods. The preliminary plan is consistent with the recommendations of the 2002 General Plan based on the recommendations and findings of this report.

4. **Parks and Recreation**—In accordance with Section 24-135(b), staff recommends that the applicant provide private on-site recreational facilities to serve the residence. Possible future access from Livingston Road to the existing park facilities to the east may be constructed in the future. At this time a pedestrian trail could conflict with the existing use of the driveway serving the two houses to the east on Parcels 95 and 96. The Department of Parks has indicated a desire to purchase the parcels that are benefited by the easement and surrounded entirely by parkland.
5. **Trails**—There are no master plan trails issues identified in the Approved Heights Master Plan. Livingston Road has sidewalks in most areas where road frontage improvements have been made. If road frontage improvements are required, staff recommends the provision of a standard sidewalk along the subject site's frontage of Livingston Road, unless modified by DPW&T. This is consistent with frontage improvements along Livingston Road in the vicinity of the subject property, and will help to safely accommodate pedestrians along this busy roadway.
6. **Transportation**—The Transportation Planning Section has reviewed the subdivision application referenced above. The subject property consists of approximately 8.56 acres of land in the R-30C Zone. The property is located inside of the Capital Beltway (I-95/I-495) on MD 210 (Indian Head Highway). The applicant proposes a residential subdivision consisting of 70 condominium units.

The applicant submitted a traffic study dated November 28, 2005. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by 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 located within the Developed Tier, as defined in the 2002 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) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the Guidelines.

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



study and install the signal (or other less costly traffic controls) if deemed warranted by the appropriate operating agency.

### Staff Analysis of Traffic Impacts

The applicant has prepared a traffic impact study in support of the application using new counts taken during November 2005. With the development of the subject property, the traffic consultant concluded that all of the signalized intersections would operate within acceptable standards; LOS E with a critical lane volume (CLV) of 1,600 or better, with the exception of MD 414 and Livingston Road. The unsignalized intersection of Livingston Road and Site Access Road is projected to operate with delays exceeding 50 seconds during the AM peak hour. 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 traffic controls) if deemed warranted by the appropriate operating agency.

The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections during weekday peak hours:

MD 210/Livingston Road (signalized)  
 Livingston Road/Livingston Terrace (signalized)  
 Livingston Road/Site Access Road (unsignalized)  
 Livingston Road/Birchwood Road (signalized)  
 MD 414/Livingston Road (signalized)

The following conditions exist at the critical intersections:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
MD 210/Livingston Road	1,244	752	C	A
Livingston Road/Livingston Terrace	1,108	1,078	B	B
Livingston Road/Site Access Road	--	--	--	--
Livingston Road/Birchwood Road	1,375	1,081	D	B
MD 414/Livingston Road	1,536	1,538	E	E
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Background developments included 114 apartment units and 349,327 square feet of office space. Background traffic was also increased by one and one half percent to account for overall growth up to the design year 2007. This is the expected year of full buildout. There are no funded capital improvements in the area, so the resulting transportation network is the same as was assumed under existing traffic. Given these assumptions, background conditions are summarized below:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
MD 210/Livingston Road	1,301	819	D	A
Livingston Road/Livingston Terrace	1,151	1,126	C	B
Livingston Road/Site Access Road	--	--	--	--
Livingston Road/Birchwood Road	1,432	1,129	D	B
MD 414/Livingston Road	1,735	1,699	F	F
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Based on background traffic conditions, the signalized intersection of MD 414/Livingston Road will operate at LOS F, with a critical lane volume above 1,600.

The site is proposed for development as a residential subdivision, with 70 condominium units. The trip rates were obtained from the Guidelines. The resulting site trip generation would be 49 AM peak hour trips (10 in, 39 out), and 56 PM peak hour trips (36 in, 20 out). With site traffic, the following operating conditions were determined:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
MD 210/Livingston Road	1,311	829	D	A
Livingston Road/Livingston Terrace	1,161	1,144	C	B
Livingston Road/Site Access Road	78.3*	32.1*	--	--
Livingston Road/Birchwood Road	1,436	1,139	D	B
MD 414/Livingston Road	1,744	1,710	F	F
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Staff notes that under total traffic, the signalized intersection of MD 414/Livingston Road will operate at LOS F, with a critical lane volume above 1,600 during the AM and PM peak hours. During the PM peak hour, delays exceed 50 seconds at the intersection of Livingston Road and the Site Access Road.

The applicant proposed several improvements to mitigate the site's traffic based on a Transportation Facilities Mitigation Plan. Section 24-124 (a)(6) of the County Code authorizes the Planning Board to consider traffic mitigation procedures, identified in Transportation Facilities Mitigation Plans, or TFMPs, to allow development to proceed in certain areas experiencing unacceptable transportation service levels. Mitigation represents a departure from

the guidelines. The provision of mitigation could allow development to proceed in certain areas experiencing unacceptable transportation service levels.

The applicant's traffic consultant proposed two options to mitigate traffic at the intersection of MD 414 and Livingston Road but failed to identify the criterion that qualifies the site for the use of mitigation. The Guidelines specify five criteria that determine where mitigation may be employed.

1. The development is in a designated revitalization area.
2. The development impacts roads inside the Beltway, which are built out to ultimate master plan sections.
3. The development impacts major regional road facilities that have a significant proportion of external traffic.
4. The development is located within one mile of a Metrorail or MARC station.
5. The development is located within ½ mile of a bus stop having 15 minute headways or better and load factors of 100 percent or less.

The two proposed options for mitigation that were presented by the applicant for the MD 414/Livingston Road intersection:

#### Option 1

Modify the eastbound MD 414 approach from the existing one left turn lane, one through lane, and one through/right lane to one left turn lane, one through lane, and one right turn lane. Modify the westbound MD 414 approach from the existing one left turn lane, one through lane, and one right turn lane to one left turn lane, two through lanes, and one right turn lane.

<b>IMPACT OF MITIGATION – OPTION 1</b>				
Intersection	LOS/CLV (AM & PM)		CLV Diff (AM & PM)	
MD 414/Livingston Road	--	--	--	--
Background Conditions	F/1,735	F/1,699	--	--
Total Traffic Conditions	F/1,744	F/1,710	+9	+11
Total Traffic Conditions/Mitigation	E/1,545	F/1,716*	-199	+6
*It is notable that the proposed mitigation action actually deteriorates the service level during the PM peak hour. Solely for that reason, the transportation staff cannot support Option 1.				

#### Option 2

Modify the eastbound MD 414 approach from the existing one left turn lane, one through lane, and one through/right lane to one left turn/through lane, one through lane, and one right turn lane. Modify the westbound MD 414 approach from the existing one left turn lane, one through lane, and one right turn lane to one left/through turn lane, one through lane, and one right turn lane. Modify the MD 414 traffic signal phasing from concurrent signal phasing to split signal phasing.

IMPACT OF MITIGATION – OPTION 2				
Intersection	LOS/CLV (AM & PM)		CLV Diff (AM & PM)	
MD 414/Livingston Road	--	--	--	--
Background Conditions	F/1,735	F/1,699	--	--
Total Traffic Conditions	F/1,744	F/1,710	+9	+11
Total Traffic Conditions/Mitigation	E/1,606	F/1,656	-138	-54

The State Highway Administration did not support either Option 1 or Option 2. SHA's comments include the following determinations: "Based upon the inadequate mitigating results for Option 1 improvements at the MD 414/Livingston Road intersection, SHA does not support the acceptance by M-NCPPC of this proposal. Option 2 improvements at the MD 414/Livingston Road intersection include the proposal to split phase MD 414....The split phasing of MD 414 will disrupt the through traffic flow along this significant state roadway....Therefore,...SHA recommends that M-NCPPC require the applicant to explore alternative intersection improvements that will fully mitigate the site traffic impact and will not cause the need to split phase MD 414 at the MD 414/Livingston Road intersection."

DPW&T supports Option 1 for providing intersection improvements at MD 414 and Livingston Road although this is a SHA intersection. They are also requiring a by-pass lane along Livingston Road at the site's access point.

#### Master Plan Comments

The Heights and Vicinity master plan (2000) lists Livingston Road as a collector road with 80 feet of right of way. Dedication of 40 feet from the master plan centerline of Livingston Road would be required. This does not appear to be shown correctly on the preliminary plan.

#### Transportation Staff Conclusions and Recommendations

The applicant's traffic consultant proposed two options for traffic mitigation at the intersection of MD 414 and Livingston Road. In accordance with Section 24-124, SHA has provided written evidence that neither option is acceptable. Neither staff nor SHA can support the first option because it does not meet the requirements of Section 24-124 (a)(6). SHA also does not support the second option for improvements at the MD 414 and Livingston Road intersection that includes split phasing the signal operation. SHA anticipates that the split phasing will disrupt traffic flow along MD 414 and create additional delays for motorists. Furthermore, no evidence is provided to indicate that the site even meets the criteria for the use of mitigation.

The applicant's traffic consultant also did not recommend a traffic signal warrant study or other remedies at the intersection of Livingston Road and the site access point where delay will exceed 50 seconds. This is considered an unacceptable operating condition at unsignalized intersections according to the guidelines.

Based on the preceding findings, the Transportation Planning Section concludes that a finding of adequate transportation facilities as required under Section 24-124 of the Prince George's County Code **cannot be made**, and recommends disapproval of the preliminary plan of subdivision.

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

**Finding**

**Impact on Affected Public School Clusters**

Affected School Clusters #	Elementary School Cluster 7	Middle School Cluster 4	High School Cluster 4
Dwelling Units	70 sfd	70 sfd	70 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	16.80	4.20	8.40
Actual Enrollment	3,5388	11,453	16,879
Completion Enrollment	218	52	105
Cumulative Enrollment	18.24	4.56	9.12
Total Enrollment	35,641.04	11,513.76	17,001.52
State Rated Capacity	39,187	11,272	15,314
Percent Capacity	90.95	102.14	111.02

Source: Prince George's County Planning Department, M-NCPPC, December 2005

These figures were 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 of approval 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. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and 12,706 to be a paid at the time of issuance of each building permit.

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

The 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 services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(B)(E) of the Zoning Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Oxon Hill, Company

42, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire Department.

The Fire Chief has reported that the current staff complement of the Fire Department is 704 (101.73 percent), which is above the staff standard of 657 or 95 percent of authorized strength of 692, as stated in CD-56-2005.

The Fire Chief has reported by letter, dated December 1 2005, that the department has adequate equipment to meet the standards stated in CB-56-2005.

The Police Chief has reported that the current staff complement of the Police Department is 1,302 sworn officers and 43 student officers in the academy for a total of 1345 (95 percent) personnel, which is within the standard of 1,278 officers or 90 percent of the authorized strength of 1,420 as stated in CB-56-2005.

9. **Police Facilities**—The Prince George's County Planning Department has determined that this preliminary plan is located in Police District IV. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months beginning with January 2005. The preliminary plan was accepted for processing by the Planning Department on 09/27/05.

Reporting Cycle	Date	Emergency Calls	Non-emergency
Acceptance Date	01/05/05-08/05/05	11.00	23.00
Cycle 1	01/05/05-09/05/05	11.00	23.00
Cycle 2	01/05/05-10/05/05	11.00	24.00
Cycle 3	01/05/05-11/05/05	11.00	24.00

The response time standard of ten minutes for emergency calls for police was not met on the date of acceptance or within the following three monthly cycles. In accordance with Section 24-122.01 of the Subdivision Regulations, Preliminary Plan 4-05055 fails to meet the standard for police emergency response time. The Planning Board may not approve a preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board in accordance with the County Council adopted *Guidelines for the Mitigation of Adequate Public Facilities for Public Safety Infrastructure*.

In accordance with CR-78-2005, the applicant has agreed in principle to enter into a mitigation agreement and chosen to pay solely the mitigation fee.

10. **Health Department**—The Health Department has no comments.
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 not yet approved. Prior to signature approval of the preliminary plan, the applicant should submit a copy of the concept approval letter and approved plan. The concept approval number and date should be indicated on the preliminary plan. Development must be in accordance with that approved plan to ensure that development of this site does not result in on-site or downstream flooding.
12. **Historic**—Phase I (Identification) archeological survey is not recommended by the Planning Department on the above-referenced property. A search of current and historic photographs,

topographic and historic maps, and locations of currently known archeological sites indicates no known archeological sites in the vicinity and no known historic structures within the vicinity of the subject property.

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

13. **Recommendation of Disapproval**—Based on findings of fact contained in the Transportation Section of this report (Finding 6), staff is compelled to recommend disapproval of this preliminary plan. However, as set forth in this report, the transportation inadequacy remains the only outstanding issues, as found by staff. If the applicant were to provide evidence of the approval of the traffic mitigation plan by the operating agency and those improvements conform to the minimum requirement for the use of mitigation, staff would recommend approval of the preliminary plan with the following conditions in addition to transportation improvements required with the transportation mitigation plan:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
  - a. Revise the net tract area for density calculation purposes, to remove Parcel A (.11 acre) and Parcel B (1.28 acres), which are encumbered by a parking lot associated with the Northbridge Gardens Apartments, and the R-55-zoned portion of Parcel C (.58), resulting in a net tract area of 6.13 and an allowable density of 73 dwelling units.
  - b. Remove yard, parking and lot coverage notes.
  - c. Indicate the conceptual stormwater management plan approval date.
  - d. Reflect Parcel D to be conveyed to the HOA.
2. A Type II tree conservation plan shall be approved with the detailed site plan.
3. Development of this site shall be in conformance with the approved stormwater management concept plan and any subsequent revisions.
4. Prior to the approval of the final plat the applicant shall submit deeds for Parcel B and C, executed by all parties, for the conveyance to the Northbridge Homeowners Association. If the Northbridge Homeowners Association does not agree to accept the conveyance of Parcels B and C, the land shall be retained by the subject condominium association and be reflected on the final plat as outlots. In that case, the record plat shall carry a note that these outlots are encumbered by existing improvements associated with the Northbridge Homeowners Association.
5. Prior to the issuance of a grading permit for the development, A Public safety mitigation fee shall be paid in the amount of \$264,600 (\$3,780 x 70 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board

and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for all urban consumers. The actual fee to be paid will depend upon the year the grading permit is issued.

6. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall convey to the condominium association 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 stormdrain 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. Stormdrain 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.
7. Prior to the approval of 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.
8. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFA) to DRD for construction of recreational facilities on homeowners land, for approval prior to the submission of final plats. Upon approval by DRD, the RFA shall be recorded among the county land records.



9. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on homeowners land, prior to the issuance of building permits.
10. Prior to signature approval of the preliminary plan, the applicant shall submit a copy of the approved conceptual stormwater management plan and approval letter.
11. The applicant, his heirs, successors and/or assignees shall provide a standard sidewalk along the subject site's frontage of Livingston Road, unless modified by DPW&T.
12. Prior to signature approval of the preliminary Plan, the Type I tree conservation plan shall be revised as follows:
  - a. Show all stormwater management outfalls and limits of disturbance in accordance with the SWM Concept Plan;
  - b. Count woodlands located within the right-of-way dedicated for Livingston Road as cleared.
  - c. Revise the Woodland Conservation Worksheet to address changes to the plan; and
  - d. Have the revised plan signed and dated by the qualified professional who prepared the plan.
13. The following note shall be placed on the final plat of subdivision.

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/24/94-01), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy.”
14. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, except for areas of approved variation, and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

RECOMMENDATION:

STAFF RECOMMENDS DISAPPROVAL DUE TO INADEQUATE TRANSPORTATION FACILITIES.