



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

Preliminary Plan 4-06107

Application	General Data
Project Name: CLINTON CROSSROADS Location: Located at the terminus of Lusby's Turn and the terminus of Brightwood Drive in Brandywine. Applicant/Address: Landesign, Inc. 2905 Mitchellville Road, Suite #111 Bowie, Maryland 20716	Date Accepted: 9/25/06
	Planning Board Action Limit: 12/4/06
	Plan Acreage: 8.36
	Zone: R-R
	Lots: 12
	Parcels: 2
	Planning Area: 85A
	Tier: Developing
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 215SE07

Purpose of Application		Notice Dates	
RESIDENTIAL SUBDIVISION Including a variation request from Section 24-130 of the Subdivision Regulations.		Adjoining Property Owners	
		Previous Parties of Record	8/22/06
		Registered Associations: (CB-58-2003)	
		Sign(s) Posted on Site and Notice of Hearing Mailed:	10/30/06
Staff Recommendation		Staff Reviewer: John Ferrante	
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 4-06107
Clinton Crossroads, Lots 1–12, and Parcels A & B

OVERVIEW

The subject property is located on Tax Map 135, Grid A-2 and is known as Parcel 145. The property is acreage parcel that consists of approximately 8.36 acres within the R-R Zone. The applicant is proposing to subdivide the property into 12 lots and 2 parcels for the development of detached single-family dwellings.

The property has been the subject of two prior preliminary plans of subdivision applications, both of which were withdrawn by the applicant prior to any public hearing. Prior preliminary plan applications, 4-05009, and 4-05128 both experienced inadequate fire, rescue and police staffing levels pursuant to Section 24-122.01(e)(2) of the Subdivision Regulations. The applicant withdrew the applications in anticipation of a disapproval recommendation, and due to the inability to obtain Planning Board approval within the respective application's mandatory review period.

Parcel A, which will consist of approximately 54,632 square feet will contain the property's sensitive environmental features, including nontidal wetlands, 100-year floodplain, the 50-foot stream buffer, and the expanded stream buffer. Portions of Parcel A will also contain some isolated areas where steep slopes occur, as well as an existing 20-foot-wide WSSC sewer right-of-way. A variation request from Section 24-130 of the Subdivision Regulations has been submitted for a minor disturbance to the expanded stream buffer within Parcel A. The disturbance will consist of approximately 225 square feet, for the installation of a stormdrain outfall. This minor disturbance is considered essential, and the impact proposed is the minimum necessary to develop the property in accordance with the applicant's approved stormwater concept plan. Further discussion regarding the variation request is contained in Finding 2 of this staff report. Parcel A is proposed to be dedicated to the homeowners association at the time of any final plat.

The terminus of Brightwood Drive stubs up to the subject property's western property line, just north of proposed Parcel A. Any continuation of Brightwood Drive into the limits of the subject property would require further impacts to the expanded stream buffer. Therefore, Brightwood Drive will continue to remain as a stub street, and the proposed subdivision's single access point will be via the extension of Lusby's Turn. Lusby's Turn is also an existing stub street, which terminates at the property's northern property line, and has a right-of-width of 60-feet. Lusby's Turn will be extended into the property to serve all the proposed lots, and will terminate into a cul-de-sac just north of Parcel A.

Parcel B, which consists of approximately 2,346 square feet, was part of the adjacent property to the east. This parcel was included in preliminary plan application, 4-05129, which was approved by the Planning Board on May 4, 2006, (PGCPB No. 06-107), for the Clinton Crossroads II Subdivision.

Condition No. 10 of the adopted resolution for Clinton Crossroads II Subdivision states that Parcel B shall be conveyed to the adjacent property owner of Parcel 145 (this applicant) to be included in the subdivision process for that property. Parcel B will abut the western property line of proposed Lot 1. A dwelling currently exists on Lot 1, which is proposed to be razed to allow the construction of a new dwelling on this lot. Lot 1 has a lot depth of only approximately 83-feet, and the existing dwelling does not meet the setbacks from the front street line as required in the R-R Zone. Parcel B will be utilized as additional land for Lot 1, and will help to eliminate the need for variances to be approved for the new dwelling that is proposed to be constructed on this lot.

Lot 4 is proposed to be a flag lot in accordance with Section 24-138.01 of the Subdivision Regulations. Council Bill, CB-4-2006 (DR-3), adopted by the District Council on July 18, 2006, amended the County Code to only allow the use of flag lots for preliminary plan applications that were accepted prior to November 1, 2006. This preliminary plan application was accepted on September 25, 2006, and can therefore utilize the optional design approach of flag lot development in accordance with Section 24-138.01 of the Subdivision Regulations.

SETTING

The property is located at the terminus of Lusby's Turn and the terminus of Brightwood Drive within the Brandywine Community. To the north is the Clinton Acres Subdivision (WWW 39 @ 81), (WWW 59 @ 26), (WWW 68 @ 24), which consists of detached single-family dwellings within the R-R Zone. To the south is a large undeveloped parcel in the R-R Zone. To the west is a portion of the Clinton Acres Subdivision (WWW 59 @ 26), and the Earnshaw Estates Subdivision (REP 193 @ 16), (REP 193 @ 17), which consists of detached single-family dwellings in the R-R Zone and includes a 2.4 acre parcel that was dedicated to Prince George's County. To the east is the Clinton Crossroads-II Subdivision, which was approved per Preliminary Plan 4-05129 for 17 lots and 3 parcels for the development of detached single-family dwellings in the R-R Zone. The Clinton Crossroads II Subdivision is not yet constructed, however, the applicant is currently pursuing the final plat process.

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	R-R	R-R
Use(s)	Detached Single-Family Dwelling	Detached Single-Family Dwellings
Acreage	8.36	8.36
Lots	0	12
Parcels	1	2
Dwelling Units:		
Detached	1 (To Be Razed)	12 (New)
Public Safety Mitigation Fee		Yes

2. **Environmental**—The Environmental Planning Section has reviewed the Preliminary Plan of Subdivision for Clinton Crossroads, 4-06107, and the Type I Tree Conservation Plan, TCPI/12/05, stamped as received by the Environmental Planning Section on October 30, 2006. The Environmental Planning Section supports the variation requests for the impact to sensitive

environmental features for the reasons stated in this memorandum and recommends conditions of approval for Preliminary Plan 4-06107 and TCPI/12/05.

Background

The Environmental Planning Section previously reviewed and approved a Type II Tree Conservation Plan, TCPII/43/92, for the construction of the existing house on the subject property. Prior Preliminary Plan 4-05009 and TCPI/12/05 were withdrawn prior to being heard by the Planning Board, and Preliminary Plan 4-05128 and TCPI/12/05 were also withdrawn prior to being heard by the Planning Board. The current application is for 12 lots and two parcels in the R-R Zone.

There are wetlands and 100-year floodplain on the property associated with Piscataway Creek in the Potomac River watershed. A stream is just off-site to the west. There are minor areas of severe slopes on the property. There are no nearby sources of traffic-generated noise. The proposed development is not a noise generator. According to the "Prince George's County Soil Survey" the principal soils on the site are in the Sassafras series. Marlboro clay is not found to occur in the vicinity of this property. 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. No designated historic or scenic roads are affected by the proposed development. The site is in the Rural Tier according to the approved General Plan.

Environmental Review

A signed natural resources inventory (NRI), NRI/048/05, was submitted with the application. The stream, wetlands, 100-year floodplain, associated buffers and the expanded stream buffer are shown on the NRI.

Based upon eight samples points, three forest stands are indicated and seven specimen trees are noted. Forest stand A contains approximately 0.37 acres of young trees and contains invasive bamboo. Forest stand B is approximately 0.64 acres and is successional woodland that has grown since 1965. Forest stand C in the stream valley is the oldest on-site and conforms to the woodland shown in year 1938 aerial photos. Stands A and B are low priority for retention because they contain many invasive plants. Stand C should be preserved to the extent possible because it contains the stream valley.

According to the Green Infrastructure Plan, the stream valley is a regulated area and the adjacent upland area is an evaluation area.

The Type I Tree Conservation Plan, TCPI/12/05, has been reviewed. The plan proposes clearing 2.32 acres of the existing 2.32 acres of woodland, clearing of none of the existing 1.01 acres of woodland within the 100-year floodplain and no clearing of any off-site woodland. The woodland conservation threshold is 1.47 acres. Based upon the proposed clearing, the woodland conservation requirement has been correctly calculated as 3.15 acres. The plan proposes to meet the requirement by providing 3.15 acres of off-site woodland conservation.

The plan proposes retaining woodlands on-site; however, none of the retained woodland is proposed to be used to meet any requirement. The use of off-site woodland conservation is

appropriate in this development because the only on-site priority woodland for preservation will be preserved in the regulated areas. The woodland retained on lots is mostly the successional and weedy woodlands of forest stand B that has grown up beyond the fenced pasture. Because the woodland to remain on the lots contains significant areas of invasive species, the Type I TCP calculates all of the woodland areas retained on lots as cleared to allow property owners to manage these areas in any way they deem appropriate.

The plan proposes impacts to the expanded stream buffer. Impacts to this buffer are prohibited 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.

The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. Staff will not generally support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), street crossings, and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

A variation request, dated October 26, 2006, was submitted for a single impact to significant environmental features to construct a stormwater outfall. This impact is the minimum necessary and sufficient to develop the proposed subdivision.

Section 24-113 of the Subdivision Regulations contains four required findings (**text in bold**) to be made before a variation can be granted.

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:

- (1) **The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The installation of the stormwater management outfall is required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

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

The specific topography of the site requires the use of the stormwater management outfall shown on the plans to adequately serve the proposed development.

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

The installation of the stormwater management is required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

(4) Because of the peculiar 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 regulation is carried out.

The topography provides no alternative for the location of the stormwater outfall that is required to serve the development. Without the required stormwater management facilities, the property could not be properly developed in accordance with the R-R zoning.

The Environmental Planning Section supports the variation request for the reasons stated above.

According to the "Prince George's County Soils Survey" the principal soils on this site are in the Sassafras series. Sassafras soils do not pose any special problems for development. This information is provided for the applicant's benefit. No further action is needed as it relates to this Preliminary Plan of Subdivision review. The Prince George's County Department of Environmental Resources will require a soils report in conformance with CB-94-2004 during the permit process review.

The Prince George's County Department of Environmental Resources has approved Stormwater Management Concept, CSD #39591-2004-02. The plans show the use of an open road section with grass swales and drywells.

Water and Sewer Categories

The water and sewer service categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and will therefore be served by public systems.

3. **Community Planning**—The property is located in Planning Area 85A within the Brandywine Community and is within the limits of the 1993 Approved Master Plan for Subregion V. The master plan land use recommendation is for a low suburban residential land use at up to 2.6 dwelling units per acre. This application conforms to the low suburban residential land use recommendation within the 1993 Approved Master Plan for Subregion V.

The 2002 General Plan locates the subject 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 proposes a low- to moderate-density suburban residential community, and is therefore consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The 1993 Subregion V Sectional Map Amendment classified the subject property within the R-R Zone.

4. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.
5. **Trails**—There are no master plan trails issues identified in the Approved Subregion V Master Plan.

The majority of the roads within the vicinity of the property are open section with no sidewalks. There are isolated and fragmented sections that contain sidewalks, but no continuous sidewalk network exists. Lusby's Turn is open section with no sidewalks.

6. **Transportation**—The Transportation Planning Section has reviewed the subdivision application for Clinton Crossroads. The applicant proposes a residential subdivision consisting of 12-lots and two parcels for the development of detached single-family dwellings within the R-R Zone.

Due to the size of the subdivision, the Transportation Planning Section has not required that a traffic study be done. Counts at the intersection of MD 5 and Earnshaw Drive/Burch Hill Road were requested of the applicant and provided. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the Transportation Planning Section, consistent with the "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

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 traffic controls) if deemed warranted by the appropriate operating agency.

Staff Analysis of Traffic Impacts

The intersection of MD 5 and Earnshaw Drive/Burch Hill Road is determined to be the critical intersection for the subject property. This intersection is the nearest major intersection to the site and would serve most of the site-generated traffic. The turning movement counts indicate that the critical intersection operates poorly as an unsignalized intersection, with an average vehicle delay exceeding 999 seconds in both the eastbound and westbound movements during both the AM and the PM peak hours. Once again, these operating conditions are determined using the Highway

Capacity Manual, and vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections.

There are no funded capital projects at this intersection in either the County Capital Improvement Program or the State Consolidated Transportation Program that would affect the critical intersection. There are seven approved but un-constructed developments that would affect the intersection. With background growth added, the critical intersection would continue to operate with an average vehicle delay exceeding 999 seconds in both the eastbound and westbound movements during the AM and the PM peak hours.

With the development of 12 single-family detached residences, the site would generate 9 AM (2 in and 7 out) and 11 PM (7 in and 4 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 65 percent—north along MD 5, and 35 percent—south along Lusby's Lane to Dyson Road and US 301. Given this trip generation and distribution, the Transportation Planning Section has analyzed the impact of the proposal. With the site added, the critical intersection would continue to operate with an average vehicle delay exceeding 999 seconds in both the eastbound and westbound movements during both the AM and the PM peak hours. Therefore, the critical intersection operates unacceptably as an unsignalized intersection under existing, background, and total traffic.

Under total future traffic as developed using the Guidelines, adding the impact of the proposed development, the critical intersection was found to be operating with excessive delay. In response to inadequacies identified at unsignalized intersections, 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.

The Transportation Planning Section believes that this study is needed at the intersection of MD 5 and Earnshaw Drive/Burch Hill Road, and that the applicant should be responsible for any improvements identified as necessary by the warrant study. With such a condition, the Transportation Planning Section believes that the critical intersection will operate acceptably in both peak hours. This condition is identical to the one provided for prior preliminary plan applications, 4-02056, 4-02057, and 4-05129, as well as other developments approved in the area.

The site is not within or adjacent to any master plan transportation facilities.

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 conditions.

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for 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.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	12 sfd	12 sfd	12 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	2.88	0.72	1.44
Actual Enrollment	4145	5489	9164
Completion Enrollment	97	64	127
Cumulative Enrollment	402.24	108.12	216.24
Total Enrollment	4,647.12	5,661.84	9,508.68
State Rated Capacity	3,771	6,114	7,792
Percent Capacity	123.23%	92.60%	122.03%

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

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 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 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 \$7,671 and \$13,151 to be 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 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 & Public Facilities Planning Section has reviewed this subdivision plan for fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required 7-minute response time for the first due fire station Clinton, Company 25, using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

9. **Police Facilities**—The property is located in Police District V. The response standard for emergency calls is 10 minutes and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on September 25, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	08/05/05-08/05/06	11.00	20.00
Cycle 1	09/05/05-09/05/06	12.00	20.00
Cycle 2			
Cycle 3			

Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The applicant may enter into a mitigation plan with the county and file such plan with the Planning Board. The Planning Board may not approve this preliminary plan until a mitigation plan is submitted and accepted by the county.

10. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision application for Clinton Crossroads and has the following comments to offer.

Prior to the removal of any of the existing structures, a raze permit must be obtained through the Department of Environmental Resources. Any hazardous materials located in the structures must be removed and properly stored or discarded prior to the structures being razed.

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, #39591-2004-02 has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. The concept plan proposes water quality for individual lots to be achieved with infiltration drywells. Grass swales are also proposed within the open sections of the proposed internal road to provide limited water quality volume. Development must be in accordance with this approved plan or any approved revision thereto.

12. **Historic**—A Phase I archeological survey is not required on the subject property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The subject property contains many slopes above 15 percent and a portion has been impacted by modern building activity.

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. **Flag Lots**—The applicant proposes one flag lot within the subdivision. The flag lot is shown as Lot 4.

Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. Staff supports the flag lot based on the following findings and reasons.

- a. A maximum of two tiers is permitted. The flag lot is a single tier. The houses would be sited such that each would have a private rear yard area.
- b. The flag stem is a minimum width of 25 feet for the entire length of the stem.
- c. The net lot area for the proposed lot (22,754 square feet) exclusive of the flag stem exceeds the minimum lot size of 20,000 square feet in the R-R Zone.
- d. The proposal includes no shared driveways.
- e. Where rear yards are oriented toward driveways, an “A” bufferyard is required. This orientation does not occur in this instance.
- f. Where front yards are oriented toward rear yards, a “C” bufferyard is required. This occurs in this instance, with ample area for the required bufferyard.

Prior to approval of a flag lot, the Planning Board must make the following findings of Section 24-138.01(f):

- A. The design is clearly superior to what would have been achieved under conventional subdivision techniques.**

Comment: The proposed flag lot yields a superior design to that which would be allowed conventionally. The location of the proposed flag lot will be utilizing an area of the property where two property lines meet together to form a 90-degree angle. A flag lot in this location allows the orientation of the proposed dwelling to be designed in a manner that best utilizes the irregular property boundary at this location, and will help facilitate a more usable yard area for the future homeowners than could be achieved under a conventional lot.

- B. The transportation system will function safely and efficiently.**

Comment: The flag lot would access the internal street. No significant impact on the transportation system is expected.

- C. The use of flag lots will result in the creative design of a development that blends harmoniously with the site and the adjacent development.**

Comment: The flag lot will blend harmoniously with the rest of the development. A majority of the existing woodlands located at the rear of the proposed flag lot are outside

the limits of disturbance, and will remain to help buffer the site and the adjacent development.

D. The privacy of property owners has been assured in accordance with the evaluation criteria.

Comment: Only one of the proposed 12-lots within the subdivision will be a flag lot. Appropriate landscape buffers will be provided in accordance with Section 4.7 of the *Landscape Manual*. The bufferyards will help preserve privacy, and to ensure that views from the front yard into adjacent rear yards are completely buffered. Sufficient room is available to provide the required bufferyards.

Given these findings, staff recommends approval of the flag lot.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Add a general note that demonstrates that the underlying parcel is Parcel 145, and further include this information within the title box.
 - b. Provide the total lot area of Lot 4, (25,998 sq. ft.), the net lot area of Lot 4, (22,754 sq. ft.), and further provide a separate square footage for the flag lot stem located on Lot 4, (3,234 sq. ft.).
 - c. Revise general note no. 28 to indicate that the required lot width at the front building line is 80-feet, or remove all the setback requirements from the preliminary plan entirely.
 - d. Provide bearings and distances for Parcel B.
 - e. Provide the adjacent uses on the preliminary plan.
 - f. Reference the approved Preliminary Plan 4-05129, on the adjacent property to the east.
 - g. Label Parcel A as “to be dedicated to the HOA”.
 - h. Label Parcel B as “to be retained by owner”
 - i. Revise Lots 4 and/or 5 to provide a “C” bufferyard between the two proposed dwellings.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved.
3. Development of this site shall be in conformance with the Stormwater Management Concept Plan, #39591-2004-02 and any subsequent revisions.
4. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers, except for those areas with approved variation requests, and be reviewed by the Environmental Planning Section prior to certification. 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.”

5. 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/12/05), 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 Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005.”

6. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
7. Prior to approval of the Final Plat of subdivision the applicant, his heirs, successors and/or assignees shall pay a fee-in-lieu of parkland dedication.
8. Prior to the issuance of any building permits within the subject property, the applicant, his heirs, successors and/or assignees shall conduct a traffic signal warrant study at the intersection of MD 5 and Earnshaw Drive/Burch Hill Road. The performance of a new study may be waived by SHA in writing if SHA determines that an acceptable recent study has been conducted. If a traffic signal is deemed warranted by SHA, the applicant shall bond a pro rata share of the cost of the signal, provided that full funding for the signal, through any combination of public funding and funding by other private parties, is available and provided that an equitable arrangement can be coordinated with SHA. Otherwise, the applicant shall bond the full cost of the signal prior to the release of any building permits within the subject property and install it at a time when directed by SHA. The applicant will be responsible for any additional pavement markings and signage at the intersection.
9. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall be paid in the amount of \$45,360 (\$3,780 x 12 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.
10. Prior to the removal of any of the existing structures, a raze permit must be obtained through the Department of Environmental Resources. Any hazardous materials located in the structures must be removed and properly stored or discarded prior to the structures being razed.
11. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 1.25± acres of open space land (Parcel A). 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 require the written consent of DRD or be in accordance with an approved detailed site plan if one is required. 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. 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.
12. 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.
13. Prior to the issuance of grading permits the applicant, his heirs, successors and/or assignees shall demonstrate that any abandoned well or septic system has been pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or scavenger and witnessed by a representative of the Health Department.

STAFF RECOMMENDS APPROVAL OF TYPE I TREE CONSERVATION PLAN TCPI/12/05