



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

Preliminary Plan 4-04109

Application	General Data
Project Name: KAHN PROPERTY Location: Located in the northwest quadrant of the intersection of MD 210 and Pine Drive Applicant/Address: Greg Wilby 6196 Oxon Hill Road, Suite #340 Oxon Hill, MD. 20745	Date Accepted: 07/1/04
	Planning Board Action Limit: 12/03/04
	Plan Acreage: 16.74
	Zone: R-R
	Lots: 17
	Parcels: 2
	Planning Area: 83
	Tier: Developing
	Council District: 09
	Municipality: N/A
200-Scale Base Map: 222SW02	

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners Previous Parties of Record Registered Associations: 05/6/04 (CB-58-2003)
	Sign(s) Posted on Site: 10/18/04

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

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-04109
Khan Property Lots 1-17 and Parcels A and B

OVERVIEW

The property is located on Tax Map 161, Grid A-4, and is known as Lots 24, 25 and 26, recorded in land records in 1942 in Plat Book BB 9@35. The property has frontage on Pine Drive to the south and MD 210 to the east. At that time of the original subdivision of this property, the right-of-way of MD 210 did not abut this property and Pine Drive (40 feet wide) was a cul-de-sac just to the south of this property. Pine Drive extends south from Livingston Road. Subsequent to the recordation of the record plat, the MD 210 right-of-way was implemented along the southern boundary of the property, removing the cul-de-sac of Pine Drive and providing direct access to MD 210.

Because of the proximity of the development to MD 210, the property is significantly impacted by noise. The applicant has submitted a Phase II noise study that indicates that noise attenuation measures are necessary to mitigate noise levels to a minimum of 65dBA Ldn on-site. Staff recommends that mitigation be sufficient to allow for a minimum of 40-foot rear yard areas outside the 65 dBA Ldn on the lots backing to MD 210. Staff recommends that a limited detailed site plan be reviewed to ensure the proper mitigation and placement of noise barriers off of the lots and within homeowners' common open space parcels.

The property is approximately 16.74 acres and zoned R-R. The applicant is proposing to subdivide the property into 17 lots for the construction of single-family dwelling units, in accordance with the standards for conventional development in the R-R Zone. The applicant has proposed two parcels that are to be conveyed to a homeowners association (HOA). Parcel A is 1.97± acres and will contain a small private recreational area to serve the residents of the community as well as any necessary noise attenuation measures. Parcel B is 2.83± acres and almost entirely impacted by wetlands. Parcel A is located on the east side of the subdivision abutting MD 210. Parcel B is located on the west side of the subdivision. Both parcels are generally located at the entrance to the subdivision and are located on either side of the proposed 60-foot-wide public street that will serve as access for all of the proposed lots.

The applicant has been advised of two design and layout issues on the proposed preliminary plan. Lot 6 is impacted by wetlands and in order to locate a dwelling on this lot, the dwelling unit must be set back from the street over 170 feet; this results in the "stacking" effect of a poorly designed flag lot. The front of the dwelling on Lot 6 is oriented to the rear of the dwelling on Lots 5 and 7 and is on the cul-de-sac. Lot 6 has the minimum lot width at the front street line (60 feet) for a conventional lot and is, therefore, not technically a flag lot, however, because of the dwelling unit setback it appears as a flag lot. A flag lot may only be used when the Planning Board makes required findings (Section 24-138.01). Because this is not technically a flag lot, there are no findings required. Staff recommends that the applicant delete Lot 6 and distribute the land area between the remaining lots. This removal of one lot would also allow more homeowners association property for the location of the noise wall and the

recreational facilities.

Currently the plan proposes to place a small portion of the noise wall on private homeowners' lots (Lots 8 and 9) within an easement. The applicant has been advised that the noise wall or other approved noise mitigation measures cannot be located on individual homeowners' lots but must be located on homeowners association land. The preliminary plan should be revised to incorporate the "15-foot fence easement" area into Parcel A. This reduction in square footage of Lots 8 and 9 should be able to be accommodated without a loss of lots.

SETTING

The property fronts on the north side of Pine Drive and on the west side of MD 210 in the Accokeek Community, east of Livingston Road. Like the subject property, all of the surrounding properties are all zoned R-R. Abutting to the northeast is the Accokeek Lodge West community, developed with single-family dwelling units. To the west and southwest is undeveloped land.

The property has frontage on and proposes direct access to Pine Drive, an existing 40-foot-wide right-of-way. The applicant will dedicate 40-feet from the centerline of existing Pine Drive, which is a master plan proposed 80-foot-wide collector facility. Pine Drive connects to Livingston Road to the west and MD 210 to the east. Improvements to Pine Drive will be determined by the Department of Public Works and Transportation at the time of review and issuance of the required street construction permits.

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)	Vacant	Single-family dwellings
Acreage	16.74	16.74
Lots	3	17
Parcels	0	2
Dwelling Units:		
Detached	0	17

2. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for the Kahn Subdivision, 4-04109, and the revised TCPI/57/03 stamped as accepted for processing on October 18, 2004. The Environmental Planning Section supports the variation requests and recommends approval of TCPI/57/04.

A review of the available information indicates that streams, 100-year floodplain, severe slopes and areas of steep slopes with highly erodible soils are not found to occur on the property. However, the National Wetlands Inventory indicates that wetlands are found on the property and previous plans showed areas of wetlands on the site. Transportation-related noise impacts exist from MD 210. According to the Prince George's County Soil Survey the soils on the site are in the Beltsville, Fallsington, Iuka and Woodstown series. According to available information, Marlboro clay does not occur in the vicinity of this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled "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. There are no designated scenic and historic roads in the vicinity of this property. This property is located in the Mattawoman Creek watershed of the Potomac River basin.

MD 210 is a nearby source of traffic-generated noise. The noise model used by the Environmental Planning Section predicts that the 65 dBA (Ldn) noise contour is 362 feet from the centerline of MD 210. A noise study, dated September 3, 2004, was submitted and the unmitigated 65 dBA Ldn ground level noise contour approximately 270 feet from the centerline of MD 210, the unmitigated 65 dBA Ldn upper level noise contour approximately 470 feet from the centerline of MD 210 and the mitigated 65 dBA Ldn noise contour approximately 230 feet from the centerline of MD 210 are shown on the Preliminary Plan and the Type I Tree Conservation Plan.

The noise study indicates that the proposed rear yards of Lots 9-17 are located within the unmitigated 65 dBA Ldn noise zone. The study also indicates that the upper levels of structures on Lots 1-4 and Lots 7-17 are impacted by noise exceeding 65 dBA Ldn. The noise study concludes that use of proper building materials can reduce the interior noise of the upper levels of proposed structures to less than 45 dBA Ldn and that a noise wall could reduce ground level noise in outdoor activity areas to less than 65 dBA Ldn with the proper use of berms or a noise wall. Staff concurs with the findings and general recommendations of the noise report.

The Preliminary Plan and TCPI show a 25-foot-wide strip of land to allow for the construction of a wall that could mitigate ground-level noise. Details of a wall are shown in the noise study. The study indicates that the proposed wall will exceed 6 feet in height. A wall greater than 6 feet in height must be set back 25-feet from the property line or obtain a variance. No variance was submitted with this application. Staff has determined that there are optional designs for the wall that could result in no need for a variance. Staff recommends that a limited Detailed Site Plan to address traffic-generated noise and appropriate mitigation measures be approved by the Planning Board. Sufficient cleared area for the construction of the noise mitigation measures should be provided. In addition, a certification by a professional engineer with competency in acoustical analysis should be provided on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 45 dBA (Ldn) or less.

The revised Forest Stand Delineation (FSD) has been reviewed. Based upon 12 sample points, the FSD text indicates two forest stands of 16.74 acres and notes that there are three specimen trees; however, the FSD plan indicates that there are no specimen trees. The FSD text does not state the species, size or condition of the specimen trees. The FSD submitted with 4-03093 noted the presence of Virginia pines that are specimen trees because they are greater than 17 inches dbh and are 75 percent or more of the diameter of the Prince George's County Champion for that species (dbh=23inches). The FSD data sheets submitted with the current application for sample points 5 and 10 note Virginia pines of 18inches dbh. The Forest Stand Delineation should be revised to:

- a. Show all specimen trees on the plan and include a table noting the species, size and condition of each specimen tree
- b. Have the revised plan signed and dated by the qualified professional who prepared the plan

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet and there are more than

10,000 square feet of existing woodland on-site. The property has a woodland conservation threshold of 3.35 acres. Based upon the clearing shown, the woodland conservation requirement is 5.24 acres. The plan proposes to meet the requirement by providing 9.09 acres of on-site preservation.

All lots correctly show clearing that provides 20-foot-wide cleared areas at the sides of each proposed structure and 40-foot-wide clearing at the rears of each proposed structure. Except for impacts discussed below, the woodland conservation areas preserve all of the priority woodlands on the site.

There are some technical errors that need to be corrected. The plan fails to show the limit of disturbance required to provide clearing to construct an appropriate noise barrier. The plan shows a proposed tree line and a limit of disturbance; however, the proposed tree line should not be shown. As noted previously, the specimen trees are not shown. Prior to signature approval of the Preliminary Plan and prior to submission of the limited Detailed Site Plan, the Type I Tree Conservation Plan should be revised to:

- a. Show the limit of disturbance to provide clearing on Lots 9-17 and Parcel A to provide sufficient space for construction of a noise wall
- b. Remove the proposed tree line from the plan and the legend
- c. Show all specimen trees on the plan and include a table noting the species, size condition of each specimen tree and proposed disposition
- d. Revise the worksheet as needed
- e. Have the revised plan signed and dated by the qualified professional who prepared the plan

Section 24-130(b)(7) of the Subdivision Ordinance requires that wetlands and their associated 25-foot wetland buffer be shown on the Preliminary Plan of Subdivision. According to the National Wetland Inventory guidance maps there are wetlands found on this property near Pine Drive. Staff conducted a site visit and found sufficient evidence to suggest that wetlands may exist at this location on this property. The limit of an area of wetlands and the required 25-foot wetland buffer are shown. A wetlands study was submitted with the application.

Staff notes that some wetlands occurring on the property should be regarded as problem areas as discussed in Part IV, Section G of the *Corps of Engineers Wetlands Delineation Manual*. The general lack of topographic relief in concert with D-hydric Leonardtown soils and C-hydric Beltsville soils provides for isolated wetland inclusions and jurisdictional wetlands with indistinct boundaries. Because seasonal rainfall and not groundwater seepage is the principal source for the local hydrology, vegetation must be carefully analyzed to make the correct determination for any particular area.

The wetlands and wetland buffers shown on the plans are acceptable for the review of this application; however, if during the subsequent review of a wetlands permit by the Maryland Department of the Environment or the US Army Corps of Engineers, the extent of wetlands increases and impacts to these areas are proposed, a loss of lots could occur or a new Preliminary Plan of Subdivision could be required to evaluate additional variation requests.

The plan proposes impacts to the wetland buffer shown and there may be impacts to other wetlands and buffers that occur on the site. All disturbance not essential to the development of the site as a whole is prohibited within stream and wetland buffers. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), streets, 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. Impacts for essential development features require variations to the Subdivision Regulations. Two variation requests were submitted.

Variation request 1 addresses the impact associated with the construction of the principal access into the site. Variation request 2 is for a separate impact associated with the widening of Pine Drive in the southwestern portion of the property.

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 request would not be detrimental to public safety, health or welfare and does not injure other property;**

Street construction is required to provide access for emergency vehicles and safe travel. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with other 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 property contains extensive wetlands. The majority of the developable land cannot be served

by a public street without impact #1 to the wetlands and wetland buffers. The location of existing Pine Road and required improvements dictate the need for impact #2. Thus, both of the requested variations are not generally applicable to other properties.

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

Road construction 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 property has extensive areas of wetlands that create a proportionately high area of wetland buffers. The denial of impact #1 would result in the loss of all of the proposed 17 lots. The denial of impact #2 would result in an unsafe road.

The Environmental Planning Section supports requests #1 and #2 for the reasons stated above.

According to the *Prince George's County Soil Survey*, the soils on the site are in the Beltsville, Fallsington, Iuka and Woodstown series. The Beltsville, Fallsington and Iuka soils have limitations that could affect the development of this property and include high water tables, impeded drainage and slow permeability. The design of the site must consider appropriate grading and drainage because the lack of topography creates the potential for ponding. The soils pose problems for foundations and potential for flooding of basements. Although these limitations will ultimately affect the construction phase of this development, there are no limitations that would affect the site design or layout. It is important to understand that during the review of building permits, the Department of Environmental Resources will likely require a soils study addressing the soil limitations with respect to the construction of homes.

The Preliminary Plan and Type I TCP indicate that a Stormwater Management Concept, CSD#13682-2004-00, has been approved by the Prince George's County Department of Environmental Resources. The plan provides credit for the extensive preservation of woodlands on-site and sheet flow disconnect that serve to control both water quantity and water quality.

Water and Sewer Categories

The water and sewer service categories are W-4 and S-4 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 subject property is located within the limits of the 1993 Subregion V Master Plan, Planning Area 83 in the Accokeek Community. The recommended land use for the property is low suburban. The 2002 General Plan locates this property in the Developing Tier. One of the visions for the Developing Tier is to maintain a pattern of low to moderate density suburban residential communities. The proposed preliminary plan is consistent with the recommendations of the master plan and the General Plan. There are no master plan or General

Plan issues.

This application is located in the Accokeek Development Review District. Pursuant to Section 27-687 of the Zoning Ordinance, a referral has been sent to the Accokeek Development Review District Commission and the commission has been entered as a party of record. At the writing of this staff report, comments have not been received from the commission.

4. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, staff recommends that the applicant provide private on-site recreational facilities in accordance with the *Parks and Recreational Facilities Guidelines*. The review and approval of a limited detailed site plan is required for the recreation area on Parcel A.
5. **Trails**—The preliminary plan was reviewed for conformance with the countywide trails plan and the area master plan and found that there are no trail impacts on the property.

SIDEWALK CONNECTIVITY:

The majority of the roads in the vicinity of the subject site are open section with no sidewalks. Pine Road and Livingston Road are open section with no sidewalks. The recently constructed subdivision adjacent to the site includes a standard sidewalk along one side of all internal roads. The applicant is proposing an open section internal public right-of-way. The applicant should provide sidewalks within the public right-of-way to provide pedestrian access to the recreational facilities on Parcel A, unless modified by the Department of Public Works and Transportation. If road frontage improvements are required, a standard sidewalk is recommended along the site's frontage to Pine Drive, unless modified by SHA.

6. **Transportation**—The property is located northwest of the intersection of MD 210 and MD 810E (Pine Drive), both under the authority of the State Highway Administration (SHA). The applicant proposes a residential subdivision consisting of 17 single-family dwellings.

The transportation staff determined that a traffic study from the applicant was not required due to the size of the proposed development. However, a traffic count and traffic signal warrant study for the intersection of MD 210 and MD 810E (Pine Drive) was done as a result of a previous application and was used to determine adequacy. Therefore, the findings and recommendations outlined below are based upon a review of relevant 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 located within the Developing 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) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, may be considered at signalized intersections 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 warranted traffic controls) if deemed warranted by the appropriate operating agency.

The traffic generated by the proposed preliminary plan would impact the unsignalized intersection of MD 210 and MD 810E (Pine Drive). The critical intersection is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

The intersection of MD 210 and MD 810E is currently unsignalized. Beech Lane is located on the opposite side of MD 810E (Pine Drive) to form a four-way intersection. The intersection is maintained by the State Highway Administration.

The application is a plan for a residential development of 17 single-family dwelling units. The proposed development would generate 13 AM (3 in, 10 out) and 15 PM (10 in, 5 out) peak-hour vehicle trips as determined using the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*. The site was analyzed using the following trip distribution:

80 percent—North along MD 210

20 percent—South along MD 210

The traffic generated by the proposed plan would primarily impact the intersection of MD 210 and Pine Drive (MD 810E) by creating some additional delay. The Prince George's County Planning Board, in the *Guidelines for the Analysis of the Traffic Impact of Development Proposals* has defined an upper limit of 50.0 seconds of delay in any movement as the lowest acceptable operating condition on the transportation system. The following conditions exist at the critical intersection: AM peak hour, maximum average delay of 54.2 seconds and in the PM peak hour, a maximum average delay of 544.9 seconds.

An annual growth rate of 2.0 percent was assumed for through and background traffic along US 301. The following background traffic conditions were determined: AM peak hour, maximum average delay of 61.0 seconds and in the PM peak hour, a maximum average delay of 742.7 seconds. With site traffic, the following operating conditions were determined: AM peak hour, maximum average delay of 67.3 seconds and in the PM peak hour, a maximum average delay of 799.2 seconds.

In analyzing unsignalized intersections, average vehicle delay for various movements through an intersection is measured in seconds of vehicle delay. According to the Guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values above "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy. Staff has determined that the minimum delay exceeds 50.0 seconds during both the AM and PM peak hours at the intersection of MD 210 and MD 810E (Pine Drive).

Since the amount of delay exceeds 50.0 seconds staff would normally recommend a traffic signal

warrant study to determine the feasibility of a new traffic signal at this location. However, a traffic signal warrant study was recently completed by another consultant for the Summerwood development located on the opposite side of MD 210 at Beech Lane. None of the eight signal warrants were met to justify a traffic signal at this location. Moreover, the amount of traffic expected from the current proposal would also not be enough to justify a traffic signal at MD 210. Staff anticipates that the current proposed residential subdivision would add ten additional AM and PM peak hour trips to the intersection of MD 210 and MD 810E (Pine Drive).

Site Plan Comments

All of the residential lots would be accessed by Street A at Pine Drive. The applicant is proposing a cul-de-sac residential street with 60-feet of right-of-way. This will be an open section roadway, which requires a minimum right-of-way width of 60 feet to allow for proper drainage. Street A will be offset from Baretta Drive, which is located near MD 210. The alignment of Street A on MD 810E is acceptable. A median break exists on MD 210 to allow left turns from eastbound Pine Drive to northbound MD 210. There will be no driveway access from any of the lots to MD 210. The State Highway Administration recommended that the note “No Direct Access” be placed on the final record plat for those lots abutting MD 210.

Master Plan Comments

The Subregion V master plan recommends MD 210 as an expressway facility with a right-of-way width of 250 feet and four travel lanes, which currently exist. No additional dedication along MD 210 will be required. Staff notes that a Final Environmental Impact Statement was completed with recommendations for improvements along MD 210 between I-95/I-495 (Capital Beltway) and MD 228. The current proposal at Pine Drive is just to the south of the study area and will not affect the selected alternative.

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

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

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	19 sfd	19 sfd	19 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	4.56	1.14	2.28
Actual Enrollment	4433	4689	8654
Completion Enrollment	156.96	86.22	158.07
Cumulative Enrollment	18.72	67.92	135.84

Total Enrollment	4613.24	4844.28	8950.19
State-Rated Capacity	4512	5114	7752
Percent Capacity	102.24	94.73	115.46

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 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.

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

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue facilities and concluded the following:
 - a. The existing fire engine service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road has a service travel time of 3.40 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road has a service travel time of 3.40 minutes, which is within the 6.25-minute travel time guideline.
 - c. The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road has a service travel time of 10.84 minutes, which is beyond the 7.25-minute travel time guideline. The nearest fire station Accokeek, Company 24, is located at 16111 Livingston Road, which is 3.40 minutes from the development. This facility would be within the recommended travel time for paramedic service if an operational decision to locate this service at that facility were made by the county.

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*.

9. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. 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 additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.

10. **Health Department**—The Health Department notes that a significant amount of domestic trash and other debris was found scattered along Pine Drive and within the wetland and should be removed and properly stored or discarded. The applicant should be aware of the adverse impact that significant amounts of trash on this property has on the surrounding community.
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, #13682-2004-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.
12. **Historic**—The Planning Board has determined that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications, and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. This property is close to and may be a part of the E.R. Boswell antebellum properties.

It is possible the site was actively farmed and it is also possible that there were slave dwellings and slave burials on this property. Documentary and archeological investigation should be required to determine whether there exists physical evidence of slave dwellings or burials.

At the time of review of the limited detailed site plan, the applicant should submit a Phase I archeological investigation to the Planning Department staff for review and concurrence and a Phase II and Phase III investigation if determined appropriate. The final plat should provide for the avoidance and preservation of the resources in place and should provide appropriate plat notes ensuring the mitigation of any adverse effect upon these resources if necessary. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. Remove General Note 9 regarding MPDUs.
 - b. Provide an existing structures note.
 - c. Remove the dwelling-unit footprints.
 - d. Remove “Indian Head Highway” from the plan retaining MD 210 only.

- e. Note that direct access to MD 210 is denied.
 - f. Delete Lot 6 and incorporate that area of land into abutting lots in an effort to increase the area associated with the private recreation area.
 - g. Increase Parcel A to include the area of the 15-foot-wide fence easement along the northeast property line.
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
 3. Prior to approval of the final plat of subdivision, a limited detailed site plan shall be approved by the Planning Board or its designee to:
 - a. Address traffic-generated noise and appropriate mitigation measures and shall be shown on the Type II Tree Conservation Plan. Sufficient cleared area for the construction of the noise mitigation measures shall be provided.
 - b. Review the on-site private recreational facilities on Parcel A. Review shall include conformance to the *Parks and Recreational Facility Guidelines*, establishing a bonding amount and triggers for construction of the recreational facilities.
 - c. Submit a Phase I archeological investigation and a Phase II and Phase III investigation, as determined appropriate by M-NCPPC Planning Department staff. If necessary, the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.
 4. Development of this site shall conform to the approved Stormwater Management Concept Plan #13682-2004-00 and any subsequent revision.
 5. Prior to the issuance 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.
 6. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 4.8± acres of open space land (Parcels A and B) or as modified by the approved limited detailed site plan. 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 plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
 - f. 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. The applicant, his heirs, successors and/or assignees shall submit three original Recreational Facilities Agreements (RFAs) to DRD for approval prior to the submission of final plats, for construction of recreational facilities on homeowners land. Upon approval by DRD, the RFA shall be recorded among the County Land Records.
 8. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on homeowners land.
 9. The applicant shall provide sidewalks within the public right-of-way along side the open section right-of-way to provide pedestrian access to the recreational facilities on Parcel A along both side of the internal public street, unless modified by the Department of Public Works and Transportation. If road frontage improvements are required, a standard sidewalk is recommended along the site's frontage of Pine Drive, unless modified by SHA.
 10. Prior to the approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 45 dBA (Ldn) or less.
 11. Prior to signature approval of the Preliminary Plan and prior to submission of the limited Detailed Site Plan, the Forest Stand Delineation shall be revised to:
 - a. Show all specimen trees on the plan and include a table noting the species, size and condition of each specimen tree
 - b. Have the revised plan signed and dated by the qualified professional who prepared the plan

12. 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/57/04), 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.”
13. If, during the subsequent review of a wetlands permit by the Maryland Department of the Environment or the US Army Corps of Engineers, the extent of wetlands increases and impacts to these areas are proposed, a loss of lots could occur or a new Preliminary Plan of Subdivision shall be required to evaluate additional variation requests.
14. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the wetlands and wetland buffer, excluding those areas where variation requests have been approved, and be reviewed by the Environmental Planning Section prior to final plat approval. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
15. Prior to the issuance of any permits which impact jurisdictional wetlands or wetland buffers, the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
16. Prior to signature approval of the Preliminary Plan and prior to submission of the limited Detailed Site Plan, the Type I Tree Conservation Plan shall be revised to:
 - a. Show the limit of disturbance to provide clearing on Lots 9-17 and Parcel A to provide sufficient space for construction of a noise wall
 - b. Remove the proposed tree line from the plan and the legend
 - c. Show all specimen trees on the plan and include a table noting the species, size condition of each specimen tree and proposed disposition
 - d. Revise the worksheet as needed
 - e. Have the revised plan signed and dated by the qualified professional who prepared the plan
17. The Final Plat shall deny direct access from any lot to MD 210.
18. At the time of final plat approval, the applicant, or his/her heirs, successors, or assignees shall dedicate 30 feet from centerline on MD 810E (Pine Drive).
19. The applicant or his/her heirs, successors, or assignees will be responsible for any frontage improvements on Pine Drive (MD 810E) as required by the State Highway Administration

(SHA). This may include acceleration and/or deceleration lanes or other safety improvements deemed necessary by SHA.

STAFF RECOMMENDS APPROVAL OF TYPE I TREE CONSERVATION TCPI/57/03 AND A VARIATION TO SECTION 24-130.