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Preliminary Plan 4-03072

Application	General Data
Project Name: HERITAGE RESERVE Location: North side of Floral Park Road, 1,800 feet west of Brandywine Road. Applicant/Address: Berg Limited Partnership Leo Bruso 14416 Old Mill Road, Suite #201 Upper Marlboro, MD. 20772	Date Accepted: 07/24/03
	Planning Board Action Limit: 01/25/03
	Plan Acreage: 193.12±
	Zone: R-R & R-E
	Lots: 209
	Parcels: 4
	Planning Area: 85A
	Council District: 09
	Municipality: N/A
200-Scale Base Map: 217SE5/6	

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 12/31/03
	Variance(s): Adjoining Property Owners: N/A

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 4-03072
Heritage Reserve Lots 1-209 and Parcels A, B, C and D

OVERVIEW

The subject property is located on Tax Map 144, Grids B-1, C-1 and D-1, and is known as Parcels 8, 9, 10, 11, 12 and part of Parcel 89. A lot line adjustment deed was recorded on November 27, 2002, between Parcels 39 and 89, pursuant to Section 24-107(c)(9) of the Subdivision Regulations, to adjust a common boundary line (Liber 16507, Folio 700). The preliminary plan submitted is consistent with the common boundary line adjustment deed.

The property is approximately 193.12 acres and is zoned R-E and R-R. The R-E-zoned portion of the property is approximately 10 acres and is proposed for open space to serve the residents of the subdivision. That R-E-zoned portion of the property is along the western property line and will assist in buffering this development from those properties to the west. The R-R-zoned portion of the property is approximately 183.12 acres. The applicant is proposing to subdivide the R-R-zoned portion of the property into 209 lots for the construction of single-family dwelling units. The applicant is proposing to utilize the optional design approach of lot size averaging (LSA) as provided for in Section 24-121 of the Subdivision Regulations and Section 27-442(a) and 27-423 of the Zoning Ordinance, as discussed further in Finding 12 of this report. The site contains significant natural features, lending itself to the use of LSA design principles.

The applicant has proposed four open space parcels. Parcel A is approximately 11.34 acres and is to be dedicated to M-NCPPC for the fulfillment of the mandatory dedication of parkland requirements as discussed further in Finding 4 of this report. The proposed public park will have over 730 feet of street frontage along Floral Park Road. The Department of Parks and Recreation has indicated that the park will be developed with active recreation to include ball fields and playgrounds. The park will include on-site parking facilities to help ensure that public parking demand will be met on the park site and not on internal streets to the proposed subdivision. The applicant has proposed only a 25-foot wide internal private pedestrian connection to the park for the residents of this subdivision in an effort to minimize other public access. Lots 2-13, Block A, will be sited with the rears facing Parcel A, which is to be dedicated to M-NCPPC and utilized as an active park. Staff would recommend that a "B" bufferyard be required on the rears of those lots at the time of building permit to ensure adequate buffering is in place once the park property is developed.

Parcels B and C are proposed as open space parcels to be conveyed to a homeowners association (HOA). Parcel B is approximately 61.28 acres and Parcel C is approximately 1.70 acres. Both parcels contain significant environmental features including 100-year floodplain and streams. The applicant has provided appropriate buffers. Minimal disturbance of these areas for the placement of infrastructure is proposed, as discussed further in Finding 2 of this report. These environmental features will be protected by a conservation easement that will be reflected on the record plat(s).

The applicant has proposed to retain one open space parcel. Parcel D is approximately 1.25 acres and will contain an area of wetlands along Floral Park Road. This area of wetlands is located immediately behind Lots 12 thru 20. The use of this area could significantly impact the future residents of those lots and should be preserved and controlled by the homeowners association. In addition, an estimated 7,500 square feet of this parcel will be encumbered by the scenic easement along Floral Park Road to protect its rural character. Staff would recommend that Parcel D be conveyed to the HOA and not retained by the applicant.

The preliminary plan proposes 23 lots that do not meet the minimum standards for development in the R-R Zone. Each of these 23 lots does not meet the minimum lot width at the front street line of 60 feet on a cul-de-sac. The coversheet of the preliminary plan recognizes this minimum standard in the general notes but the lots are engineered with an average front street line of 52 feet. As discussed, the site has significant environmental features that have caused careful consideration of the siting of the proposed lots in the most beneficial relationship possible. The applicant did not file variances for the reduction in lot widths; therefore, the preliminary plan should be revised to provide required street frontages. The necessary revision to the preliminary plan could cause a revision to the lotting pattern proposed that would not be supported by staff. In order to ensure that the most beneficial relationship is created without jeopardizing the layout recommended for approval by staff, the plan should be revised to delete Lots 13, 38, 47, 93, 98, 147, 166 and 176. The deletion of these lots in strategic location will allow an increase in the street frontage available for the remaining lots. The deletion will allow those lots remaining to meet the minimum standard for the width of a lot at the front street line. If the applicant can demonstrate a beneficial lotting pattern while conforming to the minimum standards for development, some or all of the lots may remain.

SETTING

The subject property is located on the north side of Floral Park Road approximately 1,800 feet west of its intersection with Brandywine Road. To the north is the Saddle Creek Cluster Subdivision, approved with 389 lots and 15 open space parcels. To the west is R-E-zoned land generally undeveloped, and to the east is generally undeveloped R-R-zoned land. All of these lands are rural in character.

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-E/R-R	R-E/R-R
Use(s)	Vacant	Single-family dwellings
Acreage	193.12	193.12
Lots	0	209
Parcels	6	4
Dwelling Units:		
Detached	0	209

2. **Environmental**—This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in size and has more than 10,000 square feet of woodland. The revised Type I Tree Conservation Plan has been reviewed. The plan proposes clearing 107.46 acres of the existing 167.20 acres of upland woodland and the clearing of 0.15 acre of the existing 7.56 acres of floodplain woodland. The woodland conservation requirement has been correctly calculated as 64.56 acres. The plan proposes to meet the requirement by providing

39.87 acres of on-site preservation, 2.82 acres of on-site reforestation, and 21.87 acres of preservation on the adjacent Saddle Creek subdivision (4-02/126). During the review and approval of Saddle Creek Cluster subdivision by the Planning Board and the Type I Tree Conservation Plan, TCPI/9/03, no provision for the use of excess woodland as a bank for off-site projects was proposed or approved. No specific off-site location needs to be designated at this time. However, the off-site easement must be recorded prior to issuance of any building or grading permit.

The proposed on-site woodland conservation areas serve to protect the sensitive environmental features on the property, create a large contiguous woodland, and aid in retaining the historic character of Floral Park Road. Additionally, sufficient clearing of woodland has been provided to create adequate useable yard areas on all of the proposed lots.

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The *Subregion V Approved Master Plan and Sectional Map Amendment* (1993) indicates that there are substantial areas designated as natural reserve on the site. As noted on page 136 of the Subregion V master plan:

“The Natural Reserve Area is composed of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas must be preserved in their natural state.”

The Subregion V master plan elaborates on page 139:

“The Natural Reserve Areas, containing floodplain and other areas unsuitable for development should be restricted from development except for agricultural, recreational and other similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.”

For the purposes of this review, these areas include the expanded stream buffer and any isolated sensitive environmental features.

The Preliminary Plan of Subdivision and the Type I Tree Conservation Plan show the streams on the site, the required minimum 50-foot stream buffers, the wetlands on the site, the required minimum 25-foot wetland buffers, a 100-year floodplain, all slopes exceeding 25 percent, all slopes between 15 and 25 percent with highly erodible soils, and an expanded stream buffer. The delineation of the expanded stream buffer meets the requirements of the Subdivision Ordinance.

The plan proposes impacts to stream buffers and wetland buffers. Impacts to these buffers 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. 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. The additional permit review will assure that the impacts are minimized and that there will be no detrimental effects to public safety, health, or welfare, or be injurious to other property. Staff notes that the subject property contains several streams, steep and severe slopes, and extensive stream buffers.

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:

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other 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;*
- (3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation;*
- (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 strict letter of these regulations is carried out;*

Nine variation requests, labeled “A” through “I,” have been reviewed. These requests appear to include all impacts required for the development of the site.

Impacts “A,” “B,” “C,” and “D” are for the construction of sanitary sewers to serve the development. The locations of these required infrastructure elements are determined by the particular topography of the site and the location of the sewer main along Piscataway Creek to the northwest. The design has minimized the required impacts to those necessary and sufficient to serve the development. The details of construction will be reevaluated during the review of the Type II Tree Conservation Plan to further reduce impacts. The proposal is not a violation of any other applicable law, ordinance or regulation because state and federal permits are required prior to construction. The Environmental Planning Section supports variation requests “A,” “B,” “C,” and “D.”

Variation request “E” is for improvements to existing Floral Park Road. The road has been designed to meet standards of the Department of Public Works and Transportation. The construction will impact 3,540 square feet of wetlands and wetland buffers. The details of construction will be reevaluated during the review of the Type II Tree Conservation Plan to further reduce impacts. The proposal is not a violation of any other applicable law, ordinance or regulation because state and federal permits are required prior to construction. The Environmental Planning Section supports variation request “E.”

Impacts “F,” “G,” “H,” and “I” are for the construction of outfalls for stormwater management ponds to serve the development. The locations of these required infrastructure elements are determined by the particular topography of the site. The design has minimized the required impacts to those necessary and sufficient to serve the development. The details of construction will be reevaluated during the review of the Type II Tree Conservation Plan to further reduce

impacts. The proposal is not a violation of any other applicable law, ordinance or regulation because state and federal permits are required prior to construction. The Environmental Planning Section supports variation requests “F,” “G,” “H,” and “I.”

Prior to the issuance of any permits that impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant should submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

Floral Park Road is designated in the Subregion V master plan as a historic road. There are historic characteristics that should be preserved as part of the proposed subdivision. The *Design Guidelines and Standards for Scenic and Historic Roads* provides guidance for the review of applications that could result in the need for roadway improvements. The manual currently states that when a scenic or historic road is adjacent to a proposed subdivision “...a team [to include M-NCPPC staff] will complete a study of the scenic or historic roads around or within the subject site which will include an inventory of scenic and historic features and an evaluation of features most worthy of preservation.” A visual inventory prepared by the applicant was accepted on September 9, 2003. The inventory shows that the length of the property is wooded with man-made features restricted to a few telephone poles.

The plan provides two well-spaced entrances to the site and a 40-foot-wide landscape buffer adjacent to the ten-foot public utility easement parallel to the land to be dedicated for Floral Park Road. Additionally, all proposed lots will front on streets internal to the subdivision and none will have direct access to Floral Park Road. These features serve to retain the historic character of Floral Park Road. The 40-foot landscape buffer outside the ten-foot public utility easement (PUE) should be shown on the final plats as a scenic easement and a note placed on the final plat(s). At the time of review of the Type II Tree Conservation Plan the Environmental Planning Section should determine if supplemental planting is necessary along the right-of-way of Floral Park Road within the 40-foot scenic easement.

The *Prince George’s County Soils Survey* indicates that the principal soils on the site are in the Aura, Beltsville, Bibb, Chillum, Croom, Elkton, Leonardtown, Marr, Sassafra, and Westphalia soils series. Bibb soils are associated with floodplains. Sassafra soils pose no special problems for development except when associated with extreme slopes. The southeastern portion of the property is dominated by soils in the Leonardtown, Elkton and Beltsville series. These soils are subject to perched water tables, impeded drainage, and poor drainage. This information is provided for the applicant’s benefit. No further action is needed as it relates to this preliminary plan of subdivision review. A soils report may be required by the Prince George’s County Department of Environmental Resources during the permit process review.

3. **Community Planning**—The subject property is located within the limits of the 1993 Subregion V master plan, Planning Area 85A in the Brandywine Community. The land use recommendation of the master plan for this property is for Low-Suburban residential land use at up to 2.6 dwelling units per acre for the eastern 183.12 acres of the site
4. **Parks and Recreation**—The staff of the Department of Parks and Recreation (DPR) has reviewed the above referenced preliminary plan application for conformance with the requirements of the adopted and approved Subregion V master plan, the Land Preservation and Recreation Program for Prince George’s County, and current zoning and subdivision regulations as they pertain to public parks and recreation.

Section 24-134 of the Prince George's County Subdivision Regulations requires the mandatory dedication of ten acres of parkland suitable for active and passive recreation. The applicant proposes dedication of 11.3 acres to M-NCPPC. The dedicated parkland has 750 feet frontage on Floral Park Road and usable for active recreation.

The Brandywine Community (Planning Area 85A) is experiencing a large amount of growth, becoming the second largest population center after the Tippet community in Subregion V. It is anticipated that the existing and proposed park sites in Planning Area 85A will also serve portions of the Cedarville community (Planning Area 85B). In order to meet build out population projections, the master plan proposes to acquire 459± acres for local parks and 1,009± acres for regional/countywide/special parks. Within the acreage recommended for acquisition is 70± acres for a community park on Floral Park Road near its intersection with Springfield Road. DPR staff believes that the dedication of 11 acres as proposed, on Floral Park Road, will contribute toward meeting the community need for land usable for active recreation in the Brandywine community.

5. **Trails**—No master plan trails impact the subject site. However, if road frontage improvements to Floral Park Road are required by DPW&T, wide asphalt shoulders are recommended to safely accommodate bicycle traffic. If a closed road section is used for internal roads, a standard sidewalk is recommended along one side of all internal roads, per the concurrence of DPW&T.
6. **Transportation**—Transportation staff determined that a traffic study detailing weekday analyses was needed. In response, the applicant submitted a traffic study, dated September 2003, that was referred for comment. The applicant provided a supplement dated December 2003; this supplement only increased the number of residences slightly and did not introduce new data or recommendations and, therefore, was not referred for comment. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

The subject property is located within 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. 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 warranted traffic controls) if deemed warranted by the appropriate operating agency.

Analysis of Traffic Impacts

The traffic study for this site examined the site impact at six intersections:

- MD 5/Brandywine Road (signalized)
- MD 5/Moores Road (existing unsignalized/proposed signalized in AM)
- Brandywine Road/Moores Road (unsignalized)
- Brandywine Road/Floral Park Road (unsignalized)
- Floral Park Road/east site entrance (unsignalized)
- Floral Park Road/west site entrance (unsignalized)

It should be noted that a previous applicant, Saddle Creek (4-02126), was required to study and install a half-signal at the MD 5/Moores Road intersection in order to serve traffic generated by that development. This half-signal would stop southbound traffic while allowing northbound traffic to continue through the intersection. It would not be operational during the PM peak period. At the time that Saddle Creek was reviewed, there were concerns about this operational policy. However, since neither SHA nor DPW&T indicated issues with this arrangement at that time, the part-time half-signal was accepted as a means of providing adequate transportation facilities. This arrangement has been incorporated into the subject traffic study, and because the signal is nonoperational during the PM peak hour (and, therefore, not used by the subject property for access at that time), this intersection is deemed to be noncritical during the PM peak hour.

The existing conditions at the study intersections are summarized below:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 5 and Brandywine Road	1,864	2,174	F	F
MD 5 and Moores Road	+999*	--	--	--
Brandywine Road/Moores Road	10.8*	11.9*	--	--
Brandywine Road/Floral Park Road	12.2*	21.7*	--	--
Floral Park Road/east site entrance	Future			
Floral Park Road/west site entrance	Future			
*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.				

The area of background development includes 21 properties in the vicinity of the subject property. Background conditions also assume through traffic growth of 2.0 percent annually along MD 5. There are no programmed improvements in the county's Capital Improvement Program (CIP) or the state's Consolidation Transportation Program (CTP). The study has indicated that the MD 5/Moores Road half-signal is part of background conditions; technically, it cannot be included because the signal installation is not a bonded or funded improvement at this

time, nor is it designed or scheduled for installation. Background conditions are summarized below:

BACKGROUND TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)
MD 5 and Brandywine Road	2,236	2,641	F F
MD 5 and Moores Road	+999*	--	-- --
Brandywine Road/Moores Road	12.1*	13.8*	-- --
Brandywine Road/Floral Park Road	17.2*	168.6*	-- --
Floral Park Road/east site entrance	Future		
Floral Park Road/west site entrance	Future		
*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.			

The site is proposed for development as a residential subdivision. The site is proposed to be developed with 209 single-family detached residences. The site trip generation would be 157 AM peak-hour trips (31 in, 126 out) and 188 PM peak-hour trips (126 in, 62 out).

The site trip distribution and assignment used in the traffic study has been reviewed in light of traffic conditions that exist in the area. Based on staff observations in the field that were part of the record for 4-02126 (Saddle Creek cluster), the traffic using Brandywine Road north of Piscataway Creek appears to be generated within the community north of Piscataway Creek. At the time when congestion along MD 5 was greatest, there was little traffic using Brandywine Road through the Thrift, Surratts, and MD 223 intersections. Conversely, as traffic congestion along MD 5 was easing, congestion along Brandywine Road north of Piscataway Creek was just beginning. Because this development is at the bottom of Brandywine Road with an effective option to use MD 5, it is determined that studying intersections north of Piscataway Creek along Brandywine Road is not a necessary part of a determination of adequacy. Therefore, the study area used, along with the site trip distribution and assignment, is appropriate. With the trip distribution and assignment as assumed, the following results are obtained under total traffic:

TOTAL TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)
MD 5 and Brandywine Road	2,281	2,641	F F
MD 5 and Moores Road	1,280	--	D --
Brandywine Road/Moores Road	12.9*	20.6*	-- --
Brandywine Road/Floral Park Road	45.7*	201.6*	-- --
Floral Park Road/east site entrance	12.2*	12.6*	-- --

Floral Park Road/west site entrance	10.7*	11.5*	--	--
<p>*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.</p>				

Given these analyses, two intersections within the study area would operate unacceptably in at least one peak hour. Furthermore, another intersection, MD 5/Moores Road, requires further discussion below:

MD 5/Moores

The traffic study identifies an inadequacy at the unsignalized intersection of MD 5/Moores Road. In response to the inadequacy, the applicant accepts and utilizes a recommendation from a previously approved subdivision that a half-signal be studied and installed at MD 5/Moores in order to serve traffic generated by the subject development. As noted earlier, this half-signal would stop southbound traffic while allowing northbound traffic to continue through the intersection. It would also not be operational during the PM peak period.

As noted earlier, there were concerns about this operational policy. However, since neither SHA nor DPW&T indicated issues with this arrangement when Saddle Creek was reviewed, the part-time half-signal was accepted as a means of providing adequate transportation facilities. However, the conditions regarding this half-signal that were incorporated into the resolution approving Saddle Creek should be incorporated into any approval for the subject site. This is an essential component of access to the site, and must be the responsibility of this applicant if the other project does not advance.

Brandywine Road and Floral Park Road

The traffic study recommends that the eastbound approach of this intersection be restriped to provide separate right-turn and left-turn lanes. Provided that it is recognized that that a minor widening will probably be required to accomplish the improvement, this improvement will provide an acceptable service level.

MD 5/Brandywine Road

The traffic study identifies an inadequacy at the MD 5/Brandywine Road intersection. The Planning Board found in 1990 that future development overwhelms this existing intersection and several others along US 301 and MD 5 in the Brandywine area, and little has changed to alter that finding. The improvements that are part of a Brandywine road club would provide adequacy in the area by widening the major facilities and by replacing the signalized intersections with interchanges. While the use of a pro-rata share toward these interchanges was used to approve a number of major developments prior to 1993, it is unclear that allowing applicants to "participate in" improvements that provide adequacy is consistent with a current reading of Section 24-124. The following points must be noted:

1. Prior to late 1993, Section 24-124(a)(5) allowed adequacy to be found with "participation in" improvements that would provide adequacy in accordance with the guidelines. With the passage of CB-61-1993, however, the language in that section was modified to restrict participation to those situations involving a surplus capacity reimbursement

procedure, as described in Section 24-124(b).

2. The bulk of development in the immediate area was approved during 1993 or earlier. Since that time, the Planning Board has approved several residential developments using the pro-rata formula developed for the Brandywine road club.
3. There are references to the use of road clubs for funding needed transportation improvements in the Subregion V master plan, approved in September 1993. The language in the plan was developed well in advance of CB-60-1993; furthermore, a master plan document is a guideline, and does not supercede actual law.
4. The Subregion V master plan also includes a sectional map amendment that approved a Basic Plan on the west side of US 301 in the Brandywine area. The Basic Plan specifically allowed the use of the Brandywine road club as a tool for determining adequacy for that development. This is important, as a sectional map amendment is a legislative action. It is unclear, however, whether findings within a sectional map amendment or the Subdivision Ordinance should determine the appropriate action regarding the subject property and other properties in the area.
5. The transportation improvements listed in the road club developed prior to the master plan and the sectional map amendment were established as a mechanism to implement commercial/industrial development in the 1,000+ acres known as the Brandywine Business Park. The master plan does not set a geographical boundary nor a specific land use consideration for the use of road clubs, but it does state: "Strict use of the Adequate Public Facilities Ordinance may be tempered, **in selected cases**, by the use of mechanisms such as road clubs for funding transportation improvements." Emphasis added.

In response to the inadequacy at this intersection, the traffic study indicates that widening MD 5 from four to six lanes, along with construction of a grade-separated interchange in the vicinity of MD 5/Brandywine Road/MD 373, would be required. While the traffic study suggests that the payment of a pro-rata share toward these improvements by means of the Brandywine road club is appropriate, for the reasons stated above the continued use of a pro-rata share is not appropriate. The applicant should be required to construct the improvements needed to achieve adequacy.

Floral Park Road is a master plan collector, and correct dedication of 40 feet from centerline is reflected on the subject plan.

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

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002) and concluded the following.

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	209 sfd	209 sfd	209 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	50.16	12.54	25.08
Actual Enrollment	4096	4689	8654
Completion Enrollment	180.48	86.22	158.07
Cumulative Enrollment	0	0	0
Total Enrollment	4254.64	4787.76	8837.15
State Rated Capacity	4214	5114	7752
Percent Capacity	100.96	93.62	114.00
Funded School	N/A	N/A	N/A

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

These figures are correct on the day of the writing of the referral for this staff report. They are subject to change under the provisions of CB-40 and CR-23. 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 are 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 Interstate Highway 495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts on existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

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

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plans for adequacy of fire and rescue facilities in conformance with the *Adopted and Approved Public Safety Master Plan* (1990) and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities* and concluded the following:

- a. The existing fire engine service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road has a service travel time of 5.25 minutes, which is within the 5.25-minute travel time guideline for Block A, Lots 185-189; Block B, Lots 16-20. All other lots are beyond.
- b. The existing ambulance service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road has a service travel time of 6.25 minutes, which is within the

6.25-minute travel time guideline for Block A, Lots 1-87 and Lots 106-189; Block B, Lots 1-20. All other lots are beyond.

- c. The existing paramedic service at Brandywine Fire Station, Company 40, located at 14201 Brandywine Road has a service travel time of 6.49 minutes, which is within the 7.25- minute travel time guideline.

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

The Historic Preservation and Public Facilities Planning Section has concluded that 18 of the 209 lots proposed for this development are beyond the recommended response time standards from existing facilities that provide ambulance service. This finding is based on using the existing road system and existing stations.

The planned Brandywine special study area emergency services facility will be the first new station that will provide ambulance and paramedic service to this development. The cost of this emergency services facility and ambulance is \$1,405,000.

In order to mitigate the ambulance response time deficiencies the applicant should participate in providing a fair share contribution toward the construction of the Brandywine special study area emergency services facility. The fee amount is based on the construction cost of the facility (\$1,275,000) and ambulance (\$130,000), divided by the total amount of residential and employment population within the entire service area in 2006 (10,024). The service area includes those areas that will be served by the planned facility. The fair share fee is \$140.16 per person for this development.

2006 service area population/workers=10,024
Station Cost of \$1,405,000/10,024=\$140.16 per person
\$140.16 x 3.13 planning area household size=\$439.81 per du/\$440.

The subject development has 18 dwelling units beyond response time standards. Hence, fair share=18 lots x \$440=total fee of \$7,920

The Historic Preservation and Public Facilities Planning Section recommends approval with conditions.

- 9. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. In accordance with Section 24-122.01(c) of the Subdivision Regulations, the existing county police facilities will be adequate to serve the proposed Heritage Reserve development. This police facility will adequately serve the population generated by the proposed subdivision.

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 6/30/02, the county had 874 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for additional 69 sworn personnel.

The Public Facilities Planning Section has identified this subdivision as being within water and sewer service categories W-4 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources dated September 2002.

10. **Health Department**—The Health Department notes that if any abandoned vehicles, tires or other debris have been dumped on the property, appropriate measures must be taken to properly discard the materials. Any abandoned septic recover fields or wells that may be located on the property should be properly abandoned and/or backfilled in accordance with COMAR 26.04.04 if identified.
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. To ensure that development of this site does not result in on-site or downstream flooding, this concept plan must be approved prior to signature approval of the preliminary plan. Development must be in accordance with this approved plan.
12. **Lot Size Averaging**—The applicant has proposed to utilize the lot size averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for the portion of this property in the R-E Zone.

Approximately 183.12 acres of the 193.12 acres of this subdivision are in the R-R Zone. Section 27-423 and 27-442(a) of the Prince George's County Zoning Ordinance establishes the zoning requirements for lot size averaging. Specifically, in the R-R Zone:

- A. The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (20,000 square feet).
- B. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (20,000 square feet). The remaining lots shall be a minimum of 15,000 square feet.

For the 183.12 gross acres located in the R-R Zone, of which 182.66 is outside the 100-year floodplain, 398 lots would be allowed. The applicant proposes 209 lots; 120 of the proposed lots meet or exceed 20,000 square feet. Therefore, the proposed subdivision meets the minimum zoning ordinance standards for lot size averaging.

Further, Section 24-121(a)(12) requires that the Planning Board make the following findings in permitting the use of lot size averaging:

- A. **The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.** The use of lot size averaging has facilitated a significant reduction in the potential environmental impacts of development. This approach has allowed for larger areas of tree conservation and preservation throughout the entire site, including priority retention areas.
- B. **The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent**

residentially zoned parcels. The layout has provided a buffer of R-E-zoned land along the west and a buffer along the north property line. HOA open space Parcel B abuts both these property lines. The proposed lots that abut the east property line are consistent with the R-R Zone. These lots range in size between 22,624 square feet and 40,519 square feet and provide for a transition with the proposed lots and the lot size that would be required on the abutting properties if developed.

- C. The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.** The applicant has proposed Parcel B along the north and west property lines to contain the stream and areas of 100-year floodplain that are shared natural features with the properties to the north and west.

This preliminary plan is a resubmittal of a previous preliminary plan for the same site that was withdrawn by the applicant prior to being heard by the Planning Board because of environmental and layout issues. Staff did not support the use of lot size averaging with the original preliminary plan. The applicant then filed a new preliminary plan that significantly reduced the number of flag lots proposed, increased a large number of lot sizes, and provided a greater buffer along the property's frontage with Floral Park Road. Staff supports the applicant's proposal to utilize the LSA provision for the development of this property.

13. **Flag Lots**—The proposal includes several flag lots. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. The proposed flag lots satisfy the design standards found in Section 24-138.01(d) as follows:
- a. **A maximum of two tiers are permitted.** The applicant is proposing only two tiers.
 - b. **The flag stem has a minimum width of 25 feet for the entire length of the stem.** The applicant is proposing a 25-foot-wide flag stem.
 - c. **The net lot area, exclusive of the stem, must meet the minimum lot size standard.** The preliminary plan should be revised to demonstrate the minimum 20,000 square feet of net lot area for conventional development in the R-R Zone exclusive of the flag stem. However, the preliminary plan does not distinguish the area of the stem from the net lot area. Prior to the signature approval of the preliminary plan, it should be revised to show the net lot areas.

Section 24-138.01(d)(6) of the Subdivision Regulations required that the preliminary plan demonstrate compliance to the *Landscape Manual* where a rear yard is oriented toward a driveway that accessed other lots, or toward a front or side yard of another lot. The applicant has provided a proposed landscape plan to demonstrate conformance, however, the preliminary plan should be revised to reflect additional bufferyards along the all the property lines of the perimeters of the flag lots not including the flag stems.

Section 24-138.01(f) establishes specific findings for the approval of the use of flag lots. The Planning Board must find the following:

- (A) **The design is clearly superior to what would have been achieved under conventional subdivision techniques;** By utilizing flag lots, the dwellings on these lots can be set back from the street increasing the privacy while utilizing the site area in the most efficient

manner.

- (B) **The transportation system will function safely and efficiently; and....** The Transportation Planning Section and the Department of Public Works and Transportation has reviewed and approved the applicant's on-site circulation proposal, ensuring that the system will operate safely and efficiently.
- (C) **The use of flag lots will result in the creative design of a development that blends harmoniously with the site and with adjacent development; and....** The use of flag lots enables the applicant to create a layout the fits into the contours of the entire site. The use of additional *Landscape Manual* bufferyards helps the flag lots blend with the other lots in the subdivision and with adjacent development by providing sufficient buffers to soften the views of the dwellings from one another.
- (D) **The privacy of adjoining property owners has been assured in accordance with the evaluation criteria established above.** The provision of additional bufferyards increases the privacy and helps to ensure the privacy of all of the lot owners.

Lots 36, 37, 130 and 131 are unique flag lots in that the stems are unusually short. Generally a flag lot is utilized to extend a buildable lot area into environmentally sensitive areas without creating a need to extend a road system. However, in this particular case, staff has agreed that these unusual lots create a beneficial relationship, but staff does not generally support this particular configuration of lots.

- 14. **Historic**—There are no Historic Sites or Historic Resources located on the property and no known cemeteries. However, the property is part of a larger landholding farmed by the Coe, Townshend, Gwynn and Marbury families during the nineteenth century. Several family cemeteries of the Coe and Townshend families have been identified and documented a short distance to the east of the subject property. Therefore, the developers should be advised of the possibility for cemeteries on this site and, if identified, work should stop immediately in accordance with state law.
- 15. **Limited Detailed Site Plan**—The applicant has proposed four stormwater management facilities to support development on this site. These facilities are located in close proximity to proposed lots and possible house sitings. Staff would recommend that an LDSP be approved by the Planning Board or its designee to ensure pleasing views of these stormwater management facilities from adjoining lots. Improvements may include landscaping and ornamental fencing.

RECOMMENDATION

APPROVAL, subject to the following conditions:

- 1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. To provide the net lot area exclusive of the flag stem for flag lots. The net lot area shall be 20,000 square feet.
 - b. To lot out that portion of Parcel C behind Lots 168, 175, 176, 177 and 180.

- c. To adjust the lot line between Lot 97 and 98 to increase the lot area of Lot 98.
 - d. To revise the general notes to include the total floodplain on site and calculate the net tract area.
 - e. To revise the total allowable density in accordance with the net tract area.
 - f. To provide a note that direct vehicular access is not permitted from the lots fronting on Floral Park Road.
 - g. To label the “landscape easement as a “scenic landscape easement” along Floral Park Road.
 - h. To label Parcel D to be conveyed to the HOA.
 - i. To delete Lots 13, 38, 47, 93, 98, 147, 166 and 176, unless lot line adjustments can accommodate a standard lotting pattern that is to be determined by staff.
2. Prior to the issuance of permits, a Type II Tree Conservation Plan shall be approved. At the time of review of the Type II Tree Conservation Plan, the Environmental Planning Section shall determine if supplemental planting is necessary along the right-of-way of Floral Park Road within the 40-foot scenic easement.
 3. The final plat shall note that direct vehicular access is not permitted from the lots fronting on Floral Park Road.
 4. Prior to building permits, the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
 5. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 64.23± acres of open space land (Parcels B, C and D). 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.
6. At the time of final plat, the applicant, his heirs, successors and or assignees shall dedicated to the Maryland-National Capital Park and Planning Commission 11.34 acres (Parcel A) in accordance with DPR Exhibit A. Lands to be dedicated shall be subject to the following:
- a. An original, special warranty deed for the property to be conveyed (signed by the Assessment Supervisor, Washington Suburban Sanitary Commission) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the final plat.
 - b. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges, prior to and subsequent to final plat.
 - c. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits that include such property.
 - d. The land to be conveyed shall not be disturbed or filled in any way without the prior, written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair, or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for permits.
 - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to the issuance of grading permits.
 - f. All waste matter of any kind shall be removed from the property to be conveyed. DPR shall inspect the site and verify that it is in acceptable condition for conveyance prior to final plat approval.
 - g. No stormwater management facilities or tree conservation or utility easements shall be

proposed on lands owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.

- h. The applicant, his successors and/or assigns shall submit a letter to the Subdivision Section, DRD, prior to final plat indicating that the Department of Parks and Recreation has conducted a site inspection and found the land to be dedicated to M-NCPPC in acceptable condition for conveyance.
7. Development of this property shall be in conformance with the approved Stormwater Management Concept Plan. Prior to signature approval a copy of the Stormwater Management Concept Plan approval letter and approved plan shall be submitted to DRD.
8. Building permit plans for flag lots shall demonstrate an “A Bufferyard,” as defined by the *Landscape Manual* along the rear and side lot lines. A bufferyard shall not be required along the side lot lines of the flag stem.
9. The final plat shall demonstrate: (A) A ten-foot public utility easement (PUE) abutting all public rights-of-way including Floral Park Road; (B) A 40-foot scenic landscape easement along Floral Park Road outside the 10-foot PUE; (C) Entrance feature easements, located at the two entrances to the subdivision on both sides of Street A and Street B, outside the 10-foot PUE and the 40-foot scenic landscape easement; and (D) A 20 x 20 easement for Verizon.
10. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along at least one side of the internal public streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
11. The applicant shall provide a fee to Prince George’s County, which shall serve as a fair share contribution toward the construction of the Brandywine special study area station and acquisition of an ambulance. The fee is based upon the cost of the facility and ambulance divided by the expected population of the service area. The fee shall be paid prior to the issuance of each building permit for lots beyond the recommended response time guidelines for fire engine service and ambulance service. The fair share fee is \$440 per dwelling.
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/6/03), 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. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, 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.”

14. Prior to the issuance of any permits that 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.
15. The 40-foot landscape buffer shall be shown on the final plats as a scenic easement and the following note shall be placed on the plats:

“Scenic easements described on this plat are areas where the installation of structures 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 permitted.”
16. Prior to signature approval of the Preliminary Plan of Subdivision, a copy of the approved Stormwater Management Concept plan shall be submitted.
17. Prior to signature approval of TCPI/06/03, the plan shall be revised to remove the reference to use of off-site credits on the Saddle Creek subdivision.
18. MD 5 at Moores Road: Prior to the application for building or grading permits for the subject property, the applicant shall submit an acceptable traffic signal warrant study to SHA and, if necessary, DPW&T for a possible half-signal at the intersection of MD 5 and Moores Road. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic as well as existing traffic at the direction of SHA. If a signal is deemed warranted by the responsible agency at that time, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by the appropriate permitting agency.
19. Brandywine Road at Floral Park Road: Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county’s capital program, (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency: restriping and minor widening along the eastbound approach to the intersection to provide separate left-turn and right-turn lanes.
20. MD 5 at Brandywine Road: Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - a. Provision of an additional northbound and southbound through lane through the intersection and through the adjacent MD 5/MD 373 intersection.
 - b. Provision of a grade-separated interchange at or near this location.
21. At the time of final plat approval, the applicant shall dedicate right-of-way along Floral Park Road of 40 feet from centerline, as shown on the submitted plan.

22. Building permits for Lots 2-13, Block A, shall demonstrate a “B” bufferyard along the rear property lines to provide buffering of the future M-NCPPC active park on Parcel A.
23. The Planning Board or its designee shall approve a Limited Detailed Site Plan for each stormwater management facility prior to grading permits, which include a SWM facility. The LDSP shall ensure pleasing views of these facilities from adjoining lots.

STAFF RECOMMENDS APPROVAL OF TREE CONSERVATION PLAN TCPI/06/03 AND A VARIATION TO SECTION 24-130 OF THE SUBDIVISION REGULATIONS.