



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

Preliminary Plan 4-03132

Application	General Data
Project Name: BROCK HALL Location: East of Iargo Road, west of Rail Road, between Willoughby Road and Bethwood Court. Applicant/Address: Oxbridge Development 600 Jefferson Plaza, Suite #500 Rockville, MD. 20852	Date Accepted: 12/18/03
	Planning Board Action Limit: 05/21/04
	Plan Acreage: 29.65
	Zone: R-E
	Lots: 20
	Election District: 03
	Planning Area: 79
	Tier: Developing
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 205SE13

Purpose of Application	Notice Dates
This residential subdivision case was continued from the Planning Board hearing of April 22, 2004 at the request of the applicant, to provide additional time to meet with citizens.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 04/07/04

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

May 12, 2004

MEMORANDUM

TO: Prince George's County Planning Board

FROM: Whitney Chellis
Subdivision Section

SUBJECT: Preliminary Plan 4-03132, Brock Hall

At the request of the applicant, this preliminary plan of subdivision was continued from the April 22, 2004, Planning Board hearing to May 20, 2004. At the April hearing citizens raised concerns regarding the impact that this development may have on the community. The Planning Board granted the applicant's request for a continuance to provide additional time for the applicant to meet with citizens. A meeting with the applicant and citizens has been scheduled for May 12, 2004, at 7:30 p.m. Staff will be in attendance at the request of the citizens.

Subsequent to the April 22, 2004, public hearing on this matter, a written statement (attached) was received from a citizen.

Attachment

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-03132
Brock Hall Lots 1-20 and Parcel A

OVERVIEW

The property is located on Tax Map 92, Grid F-1 and is known as Parcel 51. The property is approximately 29.65 acres and zoned R-E. The applicant is proposing to subdivide the property into 20 lots and one parcel. The applicant has proposed to utilize the optional design approach of Lot Size Averaging (LSA) as discussed further in Finding 12 of this report. Parcel A is approximately 5.9 acres and is to be conveyed to a homeowners association (HOA). Parcel A is proposed to contain the required stormwater management facility and the majority of the environmental features of the site.

The property abuts the Pope's Creek Railroad line to the east and the Brock Hall subdivision to the north, west and south. The property has significant environmental features, steep and severe slopes. The property is a natural extension of the existing Brock Hall Subdivision. Vehicular access is via the existing dedicated public streets, internal to the Brock Hall Subdivision.

The property has previously been the subject of a record plat of subdivision recorded in the county land records in 1961, WWW43@29, known as Brock Hall Plat Seven. That record plat contained 25 lots and was abandoned in 1965. At the time of the subdivision, the environmental constraints of the property were not taken into consideration and there was not lot depth requirement. Since 1965 a required lot depth along a transit line was established at 200 feet and was subsequently increased to 300 feet. Also, significant improvements have been made in the evaluation and consideration of the preservation of environmental features of a property.

The applicant has proposed a preliminary plan with lots that do not meet the minimum lot depth requirement of 300 feet. The applicant has submitted a request for a variation to Section 24-121 of the Subdivision Regulations as discussed further in Finding 2 of this report. Specifically, Lot 1 is proposed with a lot depth of 232 feet and Lot 2 is proposed with a lot depth of 276 feet. The lots are to be located on the extension of Willoughby Drive, a proposed cul-de-sac within the limits of this subdivision. Lots 1 and 2 are located abutting the transit right-of-way on the east and Willoughby Drive on the west. Although these proposed lots are consistent with the lots abutting to the north, the lots abutting to the north were subdivided in 1960, shown on Brock Hall Plat Six, when there was no required lot depth.

One of the purposes of the 300-foot lot depth requirement is to provide the greatest flexibility and opportunity to locate dwellings away from the transit lines. Part of the preliminary plan process is to take into consideration the General Plan and the master plan relating to future development scenarios. Staff would note that if the master plan called for the conversion of the transit line to a pedestrian park trail facility, staff would be more inclined to support a variation to Section 24-121. However, the master plan specifically provides for planning purposes the intensification of the use of the transit line abutting this property.

The Circulation and Transportation chapter of the master plan states, "... the potential for commuter rail service along the Pope's Creek Railroad line is acknowledged" and the following guideline is provided:

- “1. Rights-of-way should be acquired and/or protected in order to provide for the future extension or expansion of planned transportation facilities at reasonable costs, with minimum property displacement.”

The adopted plan shows the Conrail railroad as a proposed transit facility. This assumes that there may be a future change in track usage, which may result in additional noise and vibration impacts greater than what is currently known. Staff does not support the lot depth reduction requested by the applicant.

On July 19, 1994, CB-39-1994, a bill was passed to amend the Subdivision Regulations to increase the minimum lot depth requirement for residential lots adjacent to transit rights-of-ways, from 200 feet to 300 feet. The purpose of this legislation was to allow sufficient distance between dwelling units and transit rights-of-way. The standard, which is a minimum lot depth of 300 feet, is consistent with the required lot depth when the lot abuts a freeway, since the noise and vibration levels are comparable. The preliminary plan should be revised to delete Lot 1 and 2 and incorporate that area of land into Parcel A.

The applicant has proposed two flag lots, Lots 13 and 16. Staff has provided a discussion in part of the applicant's proposal for flag lots. Additional discussion is provided in Finding 13 of this report.

Flag lots are permitted in the R-E Zone where the Planning Board makes specific findings as follows:

(f) Findings:

(1) Prior to the approval of any preliminary plan submitted under these regulations, the Planning Board shall find that:

(A) The design is clearly superior to what would have been achieved under conventional subdivision techniques;

Comment: Staff has evaluated the proposed preliminary plan and has found that the flag lot design is not clearly superior to what could be achieved under conventional development. The applicant has proposed lots that are severely restricted by environmental features. The plan proposes to setback the buildable area of Lots 13 and 16 in order to reduce the minimum lot width at the front street line. Under flag lot design the minimum lot width at the front street line is 25 feet, conventional development requires a minimum lot width at the front street line of 50 feet. By utilizing flag lot design the applicant has maximized the use of the street frontage but jeopardized a reasonable lotting pattern. The plan creates lots that have severely restricted usable outdoor activity areas. The usable lot area for Lot 13 is 15,211 square feet, exclusive of the flag stem and the area of conservation for environmental features. The usable lot area for Lot 16 is 17,800 square feet. The minimum lot size in the R-E Zone is 40,000 square feet; with lot size averaging, lots are allowed at a minimum of 30,000 square feet. Staff would suggest that the applicant has proposed lots that more closely resemble lots in the R-80 (9,500 square feet) and R-R Zone (20,000 square feet).

(B) The transportation system will function safely and efficiently; and

Comment: No issues.

- (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**

Comment: The adjoining properties have been developed with a conventional lotting pattern. There are no flag lots on abutting properties. Staff would note that the original preliminary plan for this property did not propose flag lots. The design does not blend with the site or adjacent developments. Staff believes that the proposed lotting pattern may jeopardize the environmental features on the lots because in order to use the lots for outdoor activity areas, encroachment into conservation areas is likely to occur.

While the purposes of the flag lot design are envisioned to take advantage of environmentally sensitive areas, the applicant has missed the structure of the design requirements. Section 24-138.01(e)(1) of the flag lot standards establishes evaluation criteria that the Planning Board shall take into consideration when evaluating the design of flag lots and includes; “outdoor activity likely to occur on any individual lot” and “on-site storage locations.” Staff does not believe that the proposed lots take into consideration adequate areas for these criterions.

- (D) **The privacy of adjoining property owners has been assured in accordance with the evaluation criteria established above.**

Comment: The applicant has not provided sketch plans for the proposed flag lots as required by Section 24-138.01 of the Subdivision Regulations and requested on January 5, 2004. Notwithstanding the lack of information on the orientation of the dwellings, landscaping proposed, and driveway locations, staff does not believe that a courtyard effect can be created as encouraged pursuant to Section 24-138.01(e)(2) of the Subdivision Regulations.

In addition, the dwelling unit on Lot13 would be located in the rear yard area of the existing dwellings located on Lots 34 and 35 in the abutting subdivision known as Brock Hall, Plat 6.

Staff believes that the applicant has essentially proposed to stack the lots and recommends that the preliminary plan be revised to delete Lots 13 and 16 and the area of those lots be incorporated into abutting lots.

SETTING

The subject property is located at the terminus of Brock Hall Drive and Willoughby Road in the Brock Hall subdivision. The property abuts the Pope’s Creek Railroad to the east. The property is interior to the Brock Hall Subdivision. The surrounding properties are zoned R-E and developed with single-family dwelling units. The property is east of Largo Road (MD 202).

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-E
Use(s)	Vacant	Residential
Acreage	29.65	29.65
Lots	0	20
Parcel(s)	1	1
Dwelling Units:		
Detached	0	20

2. **Environmental**—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 Type I Tree Conservation Plan, TCPI/78/03, was found to address the requirements of the Prince George’s County Woodland Conservation Ordinance.

This 29.65-acre site, with a net tract area of 26.05 acres, has a Woodland Conservation Threshold of 25 percent or 6.51 acres. In addition, there is a 4.39-acre replacement requirement for clearing above the WCT, clearing in the 100-year floodplain, and off-site clearing for the sewer outfall. The 10.90-acre requirement is proposed to be satisfied by 9.93 acres of on-site preservation and 0.97 acre of off-site mitigation. Because of lot depth issues associated with the transportation facility adjacent to this property and the disturbances to the PMA that are proposed, there is a potential for additional on-site preservation. TCPI/78/03 is recommended for approval subject to conditions.

A review of the available information indicates that streams, wetlands, 100-year floodplain, areas of steep slopes with highly erodible soils, and severe slopes are found to occur within the limits of this application. These features along with their respective buffers comprise the Patuxent River Primary Management Area, or PMA, which has been accurately shown on the Preliminary Plan of Subdivision and the Type I Tree Conservation Plan. The Wetland Delineation Report submitted was reviewed and was found to meet the requirements. A 100-year floodplain study was not submitted but the limit of the 100-year floodplain shown on the plan is consistent with that shown by the GIS data available to the Planning Department. This property is located in the Collington Branch watershed of the Patuxent River basin.

The Subdivision Ordinance, Section 24-130(b)(5), requires that the PMA be preserved in a natural state to the fullest extent possible. The TCPI proposes seven distinct impacts to the PMA including impacts for infrastructure and impacts solely for grading lots to create reasonable yard areas. The Letter of Justification submitted on April 5, 2004, was reviewed. It states that approximately 20 percent of the PMA on this site would be impacted by this application. The letter failed to identify the impacts individually and did not clearly identify the purpose of those impacts. Instead the impacts were placed in broad classifications of impacts associated with infrastructure into which grading for lot yard areas were placed.

The Environmental Planning Section has further characterized the types of disturbances as follows:

Impact #	Type of Impact	Environmental Planning Section Recommendation
1	Grading on Lots 13-15	This impact is not supported because the grading could be further refined to avoid these impacts or a couple of small retaining walls could be constructed.
2	Sewer outfall between Lots 16 and 20; includes off-site impacts for the sewer connection	These impacts are supported because they are necessary for the development of this site, and they have been minimized to the fullest extent possible.
3	Impacts associated with the construction of Pond #2	The PMA at this portion of the site is very erratic due to the inclusion of some slope areas. Because this is the most reasonable location for the pond, the impacts have been minimized to the fullest extent possible; these impacts are supported.
4	Grading on Lots 5 and 6	These impacts are associated with a very irregular portion of the PMA that extends far on to the lots because of slopes. In order to reasonably grade these lots, the impacts are necessary but could be further minimized. These impacts should be further evaluated and minimized during the review of the TCPII.
5	This impact is associated with the construction of the water line between the two cul-de-sacs on this property.	This impact has been minimized to the fullest extent possible and is supported. The only possible way to further minimize this impact would be for WSSC to indicate that this loop connection is not necessary.
6	This impact is to create a reasonable yard area on Lot 3	This impact is supported with the condition that the impact be further minimized by the use of retaining walls in order to avoid impacts to the wetland buffer.
7	This impact is associated with the construction of Pond #1 and the associated outfall	This impact is supported with a condition that it be further evaluated along with a possible elongated pond design located closer to the railroad tracks and outside the PMA.

In summary, Impact 1 is not supported, Impacts 2, 3 and 5 are being supported without any conditions, and Impacts 4, 6 and 7 are being supported with a condition that the impacts be further minimized during the review of the Type II Tree Conservation Plan.

According to available information, Marlboro clay is present on this site. The Environmental Planning Section reviewed the Geotechnical Report and the Addendum to the Geotechnical Report date stamped as received by the Environmental Planning Section on March 29, 2004. The original report submitted for review had analyzed the existing site conditions without any proposed grading or structures. That report identified several areas where the slope safety factors are less than 1.5 and the creation of lots would be potentially unsafe. However, the addendum to the report proceeded to the next step and analyzed the proposed grading and house construction to determine what impacts the proposed grading, road construction, infrastructure construction, and house construction would have on the potential slope failure areas. According to the report the proposed conceptual grading as shown on the TCPI will eliminate the potential for slope failure on the lots in this application. Therefore, the slope safety factor is greater than 1.5, and there are no unsafe lands based on the proposed conceptual grading.

This site is adjacent to the Baltimore and Washington Railroad tracks used by CSX freight trains and is impacted by the transportation-related noise generated by those trains. The Noise Study submitted with this application was found to address the potential adverse noise impacts to this site based on the current track use. Based on the Noise Study submitted with this application, the 65 dBA Ldn noise contour is located 85 feet from the center line of the tracks and extends onto proposed Lots 1 and 2 and Parcel A. The 65 dBA Ldn noise contour is located within the limits of a tree save area and does not extend into the outdoor activity areas. Therefore, no additional noise attenuation measures are required. The proposed houses on these lots have been located outside the 150-foot setback from the tracks to mitigate for potential vibration impacts associated with the current use of the tracks.

**Variation Request to Sec. 24-121(a)(4)
Required Lot Depth Adjacent to an Existing or Proposed Transit Right-of-Way**

The Subdivision Ordinance in Section 24-121. (a)(4) requires that:

“Residential lots adjacent to existing or planned roadway or freeway or higher classification, or an existing or planned transit right-of-way, shall be platted with a depth of three hundred (300) feet. Adequate protection and screening from traffic nuisances shall be provided by earthen berms, plant materials, fencing and/or the establishment of a building restriction line, when appropriate.”

The revised Preliminary Plan and TCPI show two lots, Lots 1 and 2, that do not meet the 300 foot minimum lot depth. The applicant is requesting a variation to the 300 foot lot depth requirement for these lots.

Master Plan Guidance

The Subregion VI Study Area Approved Master Plan (September 1993) included a discussion of noise intrusion within the study area in the Environmental Envelope chapter and identified railroad traffic as a prominent noise-generating source. Based upon the standards defined by the State of Maryland, the limits of the noise zone along roadways, airports and railway lines were identified within the subregion. The plan indicates that the 65 dBA Ldn noise contour along the Conrail track was located at 567 feet (from the centerline) based on “ultimate road design service flow.” The study acknowledges that “... these contours assume a complete lack of natural and manmade noise barriers. In reality, the contours will be narrower than shown because hills, woodland and buildings often serve as barriers to dampen the impacts. Therefore, the indicated contours are only a guide in identifying where potential noise problems may exist.”

In the Circulation and Transportation chapter, “... the potential for commuter rail service along the Pope’s Creek Railroad line is acknowledged” and the following guideline is provided:

- “1. Rights-of-way should be acquired and/or protected in order to provide for the future extension or expansion of planned transportation facilities at reasonable costs, with minimum property displacement.”

The Adopted Plan shows the Conrail railroad as a proposed transit facility. This assumes that there may be a future change in track usage, which may result in additional noise and vibration impacts.

Evaluation of Variation Request

In a letter submitted with this application, the applicant requested a variation of 68 feet from the 300 foot lot depth requirement (23 percent) for Lot 1 and 24 feet from the 300 foot lot depth

requirement (8 percent) for Lot 2 because “ ... The rationale behind the 300 foot lot depth requirement is to minimize visibility of the transit way from the lot and to protect adjacent residents from the noise generated by various transportation facilities including a transit way.” The applicant argues that based on the existing noise and vibration impacts of the existing track use, the variation should be granted because the noise and visibility issues have been addressed. But unlike automobile traffic, it is very difficult to predict what noise or vibration impacts may be associated with future transit uses. The master plan specifically requests that:

“Rights-of-way should be acquired and/or protected in order to provide for the future extension or expansion of planned transportation facilities.”

It is further argued by the applicant that an existing contiguous lot located to the north of this site was platted with a lot depth of less than 300 feet. The contiguous lot addressed by the applicant was recorded in Plat WWW 37@80 in 1960 prior to approval of the Subregion VI Master Plan, prior to the pertinent section of the Subdivision Ordinance, and prior to CB-39-94, and should not be considered as a basis on which to approve a variation for proposed Lots 1 and 2.

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;**

Comment: Granting the variation may be detrimental to the public safety, health, or welfare, because planned future transit uses in the subject right-of-way may result in additional noise or vibration impacts that can best be mitigated at reasonable public cost by providing the required lot depth during the subdivision process.

- (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;**

Comment: The conditions upon which the variations are based are not unique to the property. There are many properties that have undergone subdivision adjacent to this transit way, and all have complied with the 300-foot minimum lot depth requirement since it has been in place.

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

Comment: Approval of the variation would 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;**

Comment: A particular hardship to the owner does not result if this variation is not approved. If Lots 1 and 2 are incorporated into Parcel A, it could permit the applicant to satisfy all the requirements of the Woodland Conservation Ordinance on-site as opposed to purchasing off-site mitigation easements. Therefore, a benefit could result for the applicant and the community.

Staff recommends that the variation for lot depth be disapproved and the land area of Lots 1 and 2 be combined into Parcel A.

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.

3. **Community Planning**—The subject property is located within the limits of the 1993 Subregion VI Study Area Master Plan, in Planning Area 79 in the Marlboro Community. The land use recommendation for the property is for residential estates lots at up to one dwelling unit per acre. The proposed preliminary plan is consistent with this recommendation.

The 2002 General Plan locates this property in the Developing Tier. The vision for this portion of the Developing Tier is to maintain a pattern of low-to moderate-density suburban residential. The proposed preliminary plan is consistent with the recommendations of the General Plan.

4. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Division recommends that the applicant pay a fee-in-lieu of parkland dedication for all lots under one acre, because the land available for dedication is unsuitable due to its size and location. Lots of one acre or greater are exempt from the requirement of mandatory dedication of parkland.
5. **Trails**— There are no master plan trails issues identified in the adopted and approved Subregion VI master plan that impact the subject site. A master plan trail is recommended along the Western Branch. However, this stream valley is on the other side of the railroad from the subject site and does not impact this application.
6. **Transportation**— Due to the size of the subdivision, staff has not required that a traffic study be submitted by the applicant. The staff did have traffic counts available dated September 2003 at the critical intersection. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

Growth Policy - Service Level Standards

The subject property is in the Developing Tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better is required in the Developing Tier.

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

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

The intersection of MD 202 and MD 193 is determined to be the critical intersection for the subject property. This intersection is the nearest signalized intersection to the site and would serve virtually all of the site-generated traffic. The transportation staff has available counts taken by a traffic consultant in 2003. These counts indicate that the critical intersection operates at Level-of-Service (LOS) D, with a critical lane volume (CLV) of 1,364, during the AM peak hour. During the PM peak hour, the intersection operates at LOS A with a CLV of 999.

There are no funded capital projects at this intersection in either the county Capital Improvement Program or the state Consolidated Transportation Program that would affect the critical intersection. There are several approved but unbuilt developments that would affect the intersection. With background growth added, the critical intersection would operate as follows: AM peak hour—LOS E, with a CLV of 1,551; PM peak hour—LOS C, with a CLV of 1,153.

With the development of 20 residences, the site would generate 15 AM (3 in and 12 out) and 18 PM (12 in and 6 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 30 percent—south along MD 202, 15 percent—northeast along MD 193, and 55 percent—north along MD 202. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—LOS E, with a CLV of 1,554; PM peak hour—LOS C with a CLV of 1,159.

After an extensive evaluation, it is determined that if an additional westbound lane could be added along MD 193 the intersection would operate at LOS D (CLV 1,409) during the AM peak hour and would meet the level-of-service standard. The westbound MD 193 approach would be striped to provide a left-turn lane, a through lane, and a right-turn lane. The same condition has been placed upon other recent developments in the area, including Austin Meadows (4-03056) and Forest Hills (4-03071).

The site is not within or adjacent to any master plan rights-of-way.

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.

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.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	20 sfd	20 sfd	20 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	4.80	1.20	2.40
Actual Enrollment	5,334	5,131	10,098
Completion Enrollment	351.84	217.62	398.97
Cumulative Enrollment	0	0	0
Total Enrollment	5,690.64	5,351.02	10,501.77
State Rated Capacity	5,384	4,688	8,770
Percent Capacity	105.70%	114.12%	119.72%
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 the referral memo was written for this preliminary plan. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of \$7,000 per dwelling if a building is located between I- 495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts 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 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 public facilities and concluded the following.
 - a. The existing fire engine service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street has a service travel time of 4.74 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street has a service travel time of 4.74 minutes, which is within the 6.25-minute travel time guideline.

- c. The existing paramedic service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street has a service travel time of 4.74 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic service. These findings are in conformance with the standards and guidelines contained in the *Adopted and 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 II-Bowie. The Planning Board’s current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.
- 10. **Health Department**—The Health Department has no comment.
- 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. DER has verbally indicated that the approval is forthcoming.
- 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 this R-E zoned property.

Section 27-423 of the Prince George’s County Zoning Ordinance establishes the zoning requirements for lot size averaging. Specifically, in the R-E Zone:

- A. **The maximum number of lots permitted is equal to the gross acreage (29.65) divided by the largest minimum lot size in the zone (40,000 square feet).**
- B. **At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (40,000 square feet). The remaining lots have a minimum net lot area of 30,000 square feet.**

For the 29.65 acres located in the R-E Zone, 32 lots would be allowed. The applicant proposes 20 lots. Nine of the proposed lots meet or exceed 40,000 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.**

Comment: The use of LSA provides for preservation of the environmental features of the site.

- 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.**

Comment: In the evaluation of the LSA the applicant has provided a transition with the abutting lots. The original submittal has been revised to provide lots in compatible lot sizes to the abutting subdivisions. Specifically, the applicant has revised Lots 8 and 9 to meet the minimum lot size of 40,000 and is now compatible with Lots 21 and 22 of the Brock Hall Subdivision to the north.

- 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.**

Comment: The proposed layout provides for an adequate transition with the natural features of this site and the features associated with the environmental features.

Staff supports the applicant's proposal to utilize the LSA provision for the development of this property.

13. **Flag Lots**—The subject application includes two flag lots, proposed Lot 13 and Lot 16. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. The proposed flag lot satisfies the design standards found in Section 24-138.01(d) as follows:

- a. **A maximum of two tiers are permitted.** The applicant is proposing 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 net lot area of Lot 13 is 97,506 and the net lot area of Lot 16 is 53,268, exceeding the minimum net lot area.

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 towards a driveway that accesses another lot or toward a front or side yard of another lot. The applicant has not provided a proposed landscape plan to demonstrate conformance.

Notwithstanding the above, Section 24-138.01(f) establishes specific findings for the approval of the use of flag lots as discussed in the Overview Section of this report. Staff does not support the use of flag lots and recommends that Lot 13 and 16 be deleted and the area of those lots be incorporated into the abutting lots.

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 delete Lot 1 and 2 and incorporate that area of land into Parcel A.

- b. To delete Lots 13 and 16 and incorporate the area of the land equally into the abutting lots.
 - c. To provide the Stormwater Management Concept Plan number and approval date.
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 the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication for all lots less than one acre.
4. 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.
5. 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.
6. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 5.9 ± acres of open space land (Parcel A). Land to be conveyed shall be subject the following:
 - a. Conveyance shall take place prior to the issuance of building permits.
 - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
 - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - e. Any disturbance of land to be conveyed to a homeowners association shall require the written consent of DRD. 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 may be required to warrant restoration, repair or improvements, required by the approval process.
 - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
 - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
 - h. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.

7. Prior to the issuance of any building permits within the subject property, the following road improvement shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with SHA:

Construct a third approach lane on westbound MD 193 at MD 202. This will provide exclusive right-turn, through, and left-turn lanes. This improvement shall also include any signal, signage, and pavement marking modifications and additions to be determined by SHA.

8. Prior to signature approval of the Type I Tree Conservation Plan, it shall be signed and dated by the licensed landscape architect, licensed forester, or qualified professional that prepared the plans.

9. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/78/03). The following notes shall be placed on the Final Plat of Subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/78/03), 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.”

10. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area, except for areas with approved impacts, and shall be reviewed by the Environmental Planning Section prior to certificate approval for accuracy. In addition, 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 permitted.”

11. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans shall be submitted to the M-NCPPC Planning Department.

12. Prior to signature approval of the Type II Tree Conservation Plan, the proposed grading for PMA impacts associated with the grading on Lots 3, 5, and 6 and those associated with pond #1 shall be further evaluated and reduced by tightening up the proposed grading where feasible and/or through the use of retaining walls.

13. At time of final plat, a building restriction line shall be delineated 150 feet from the centerline of the Pope’s Creek Railroad Line for Lots 1 and 2 if approved by the Planning Board. The following note shall be placed on the plat:

“The building restriction line placed adjacent to the railroad tracks prohibits the placement of structures due to the effect of vibration from the tracks on the integrity of foundations.”

STAFF RECOMMENDS APPROVAL OF TREE CONSERVATION PLAN TCPI/ AND DENIAL OF
A VARIATION FROM SECTION 24-121.