



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

Preliminary Plan 4-04100

Application	General Data
Project Name: CLINTON GARDENS Location: West of Stuart Lane, approximately 1,500 feet south of Woodyard Road. Applicant/Address: Centex Homes 9108 Gaither Road Gaithersburg, MD. 20877	Date Accepted: 05/6/04
	Planning Board Action Limit: 10/24/04
	Plan Acreage: 27.74
	Zone: R-80
	Lots: 53
	Parcels: 3
	Planning Area: 81A
	Tier: Developing
	Council District: 09
	Municipality: N/A
200-Scale Base Map: 212SE06	

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners Previous Parties of Record Registered Associations: 04/1/04 (CB-58-2003)
	Sign(s) Posted on Site: 8/30/04

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

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-04100
Clinton Gardens Lots 1-53 and Parcels A, B and C

OVERVIEW

The property is located on Tax Map 116 in Grid E-3. Part of the property is the subject of record plat BB 8@24, recorded in land records in 1940, specifically, Lots 11-14 and 11A, 12A, 13A, 14A, part of 15A, and 16A. Also included in that final plat of subdivision BB 8@24 was the dedication of Patrick Drive and Wade Drive. The applicant is required to vacate those portions of the public street within the subdivision that are not to be utilized for development. The remaining portion of the property is known as the residue of Lot 6 and Lot 7, which were originally created via BB 6@16 and further subdivided in 1984 via record plat NLP 121@93. The residue of Lot 6 was further subdivided by additional right-of-way taking for Woody Terrace.

The subject property fronts Stuart Lane and Woody Terrace. Wade Drive extends onto the property from Stuart Lane. A medical office facility and accessory parking is surrounded on three sides by the proposed subdivision. The office building is located on the east side of Patrick Drive and is zoned C-O. A parking lot serving the facility is located on the west side of Patrick Drive, zoned R-80. The entrance to the medical office building is via Wade Drive; that is also to be the sole vehicular access for 47 of the 53 lots proposed.

To the south and west are existing R-80-zoned single-family subdivisions. To the north, abutting the site is the Clinton Nursing Home and a vacant C-S-C-zoned parcel. Four existing single-family dwelling units front Stuart Lane between Woody Terrace and Wade Drive. Because of the incompatible nature of the surrounding developed commercial uses, development of the site is subject to additional setbacks and buffering required by the *Landscape Manual*. The applicant has provided adequate yard areas for the provision of the required bufferyards. While the zoning of the property requires a minimum lot size of 9,500 square feet, the applicant has proposed lots that range in size from 9,560 to 26,247 square feet. All of the lots proposed exceed the minimum lot size for conventional development in the R-80 Zone, however, careful house siting is still essential because of the mix of uses in the area as well as the additional restrictions because of the abutting incompatible uses.

The access for 47 of the 53 lots proposed is via Wade Drive, which extends 520 feet west from Stuart Lane on the north side of the medical office building. Wade Drive then extends onto the subject property at the intersection with Patrick Drive past the medical office building. Patrick Drive is used as an internal driveway between the medical office building and the parking lot serving the office building. No other traffic utilizes Patrick Drive; all other portions of Patrick Drive are or will be vacated as a condition of this subdivision. At the terminus of Wade Drive, 520 feet from its intersection with Stuart Lane, the applicant has proposed the entrance for the subdivision. Staff has requested a strong delineation and buffering between the entrance to the commercial parking lot and medical building and the entrance to the subdivision. The entrance to the subdivision must be clearly defined with landscaping, fencing and

an entrance feature to ensure no confusion in the distinction between the residential limits and the commercial limits. Staff does not believe that adequate land area exists to provide the necessary elements and recommends that Lot 39 be deleted and an open space parcel be provided along Patrick Drive on the south side of the entrance drive. This will also ensure that adequate area exists for the required recreational facilities on Parcel C. An open space parcel should also be created abutting Lot 40, on the north side of the entrance drive, to provide for the entrance feature, buffering and fencing. This could be accommodated by shifting the existing lot lines to the north in accordance with (Staff Exhibit B).

As indicated, 6 of the 53 lots proposed will not be accessed via Wade Drive. These six lots are located along the perimeter of the site. Lots 50-53 are located in the southeast corner of the site and front Stuart Lane across from developed single-family dwelling units. Lots 43 and 44 are located in the northeast corner of the site and front Woody Terrace, across from the entrance to the “Park and Ride” and abut C-S-C-zoned land to the north. These six lots will not have access internally to the subdivision. The six lots along the perimeter of the site will not utilize the proposed entrance off of Wade Drive and will not have the appearance or feel of being a part of the subdivision. However, the proposed six lots will be part of the homeowners association and will be subject to the payment of any required HOA fees.

Moreover, the frontage of this subdivision with Stuart Lane and Woody Terrace is wooded. The applicant has proposed to meet the woodland conservation and preservation requirements with over 50 percent of the required woodland conservation off site. Staff believes that in this case that percentage is excessive. The applicant has a great opportunity to increase the amount of woodland conservation in areas that will complement the entire community. Staff recommends that the applicant delete Lots 50-53 and Lots 44 and 43 and retain those areas along the property’s frontage in woodland conservation. This revision will increase the on-site woodland conservation by two acres. Of the 9.61 acres of woodland conservation required, the applicant is now proposing 4.84 acres off site. The staff recommendation would increase the on-site woodland conservation to 6.84 acres, or 71 percent on-site.

SETTING

The property is located on the west side of Stuart Lane and Woody Terrace. Wade Drive extends west onto the property from Stuart Lane. The property is west of Branch Avenue and south of MD 223. The surrounding properties are mixed use. The Park and Ride is located east across Woody Terrace. The Clinton Nursing Home is abutting to the northwest, zoned C-S-C. The existing Clinton Gardens Subdivision is west, developed with single-family dwellings in the R-80 Zone. To the south is developed single-family dwellings in the R-80 Zone. A C-O-zoned property is surrounded by the subject property, fronting on Stuart Lane and Wade Drive.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone	R-80	R-80
Use(s)	Vacant	Vacant
Acreage	27.74	27.74
Lots	10	53
Outlots	0	1
Parcels	0	3
Dwelling Units:		

2. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for Clinton Gardens, 4-04100, and the revised Type I Tree Conservation Plan, TCPI/39/04, stamped as accepted for processing on August 23, 2004. The Environmental Planning Section recommends approval of TCPI/39/04 subject to the conditions.

There are streams, wetlands and 100-year floodplain associated with Piscataway Creek in the Potomac Watershed on the subject property. Current air photos indicate that about 95 percent of the site is forested. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. No scenic or historic roads are affected by the application. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. According to the *Prince George’s County Soils Survey*, the predominant soil types on site are in the Fallsington, Galestown, Mattawan, Rumford and Sassafras series.

This site contains expanded stream buffers associated with Piscataway Creek in the Potomac River watershed. These natural features are required to be protected under Section 24-130 of the Subdivision Regulations. A wetlands report was included with the forest stand delineation; the Prince George’s County Department of Environmental Resources Floodplain Study #200406 has determined the 100-year floodplain and the streams conform to those shown in the *Prince George’s County Soils Survey*. The streams, wetlands, 100-year floodplain and expanded stream buffers are correctly depicted on the plans. The site has been well designed to avoid placing any of the expanded stream buffer on any residential lot.

At the time of final plat, bearings and distances should describe a conservation easement. The conservation easement should contain the expanded stream buffer, excluding those areas where variation requests have been approved. Disturbance to sensitive environmental features are shown on the TCPI. All disturbance not essential to the development of the site as a whole is prohibited within expanded stream buffers. Essential development includes such features as public utility lines [including sewer and stormwater outfalls], streets, and so forth, that are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, that do not relate directly to public health, safety or welfare. Impacts for essential development features require variations to the Subdivision Regulations. Staff will not support impacts to sensitive environmental features that are not associated with necessary road construction or the installation of public utilities.

Three variation requests were submitted. Request “A” is for the construction of an outfall for the stormwater management pond and will impact 757 square feet of the expanded stream buffer. Request “B” is an impact of 1,970 square feet to an expanded stream buffer that is required for improvements to existing Stuart Lane. The proposed outfall for the stormwater management facility and road improvements to Stuart Lane appears to be necessary and unavoidable.

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

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

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

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

The installation of stormwater management is required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare. Improvements to Stuart Lane are required by the Department of Public Works and Transportation to provide access for emergency vehicles and safe travel. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with other regulations. These regulations require that the designs are not injurious to other property.

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

The specific topography of the site requires the use a stormwater management pond and an outfall to adequately serve the proposed development. The alignment of Stuart Lane and the required improvements to bring it up to current standards allow no flexibility. Thus, all of the requested variations are not generally applicable to other properties.

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

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

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

The topography provides no alternative for the locations of the stormwater outfalls that are required to serve the development. Without the required stormwater management facilities, the property could not be properly developed in accordance with the regulations

of the R-80 Zone. The improvements to Stuart Lane are required not only for this application but also to provide safe travel for the neighboring communities. Staff supports variation requests “A” and “B” for the reasons stated above.

A third variation (Request “C”) was submitted to construct a pedestrian trail from the rears of Lots 50-53 to the cul-de-sac of Street C. The applicant’s proposal to provide a connection in this area has shifted several times. Therefore, staff has evaluated this impact in broad terms and based on the following does not support Request “C.”

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

The installation of the trail to provide pedestrian access for the residents of four dwelling units would not be detrimental to public safety, health or welfare and does not injure other property.

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

It is not unique that small areas of buildable land are isolated from the main portion of the developable area on a tract of land. Generally these areas are preserved as open space or utilized for woodland conservation. In fact there are two areas on this site that are isolated and, therefore, not unique generally, the areas of Lots 50-53 and Lots 43 and 44. Staff is recommending that these areas be preserved for woodland conservation.

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

The installation of the pedestrian trail to serve four dwellings is a significant impact for the resulting benefit. Based on experience and professional judgment, staff does not believe that the applicant will be able to obtain the necessary permits from other local, state and federal agencies as required by their regulations because the impact is not proportional to the benefit.

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

Staff does not believe that a hardship would result if the applicant were not granted the ability to

impact the features behind Lots 50-53. The applicant proposed four lots along Stuart Lane with no ability to provide pedestrian access to the recreational facilities on Parcel C. Staff did not suggest the development of the area of Lots 50-53 and believes that the area would be better utilized to meet the applicant's requirement for on-site tree conservation, thus improving the quality of life for the residents in the community as well as the residents of the proposed subdivision. The applicant will benefit from this land area as either lots or woodland conservation; therefore, staff does not see the denial of the variation for Request "C" as a particular hardship on the property owner. The denial of the variation will not result in the property being unusable; to the contrary, the applicant will have to purchase less off-site woodland conservation areas to fulfill the mandatory requirements.

The forest stand delineation (FSD) has been reviewed. The FSD, based upon six sample points, describes a single forest stand containing four specimen trees. The FSD includes a wetlands report. The soils boundaries and streams are a reasonable representation of those shown in the *Prince George's County Soils Survey*. The FSD meets the requirements of the Woodland Conservation Ordinance.

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. A tree conservation plan is required.

The revised Type I Tree Conservation Plan, TCPI/39/04, proposes clearing 17.98 acres of the existing 23.99 acres of upland woodland and no clearing of any of the 2.16 acres of floodplain woodland. The woodland conservation requirement for this project has been correctly calculated as 9.61 acres. The plan proposes to meet the requirement by providing 4.35 acres of on-site preservation, 0.42 acre of on-site planting, and 4.84 acres of off-site conservation for a total of 9.61 acres. The plan proposes to preserve an additional 1.66 acres of woodland on site that cannot be used as part of any requirement because it does not meet dimensional or locational requirements. All proposed woodland conservation is provided on HOA land and serves to protect the sensitive environmental features on the site. However, the applicant has proposed more than 50 percent of the required tree conservation off site.

According to the *Prince George's County Soils Survey*, the predominant soil types on site are in the Fallsington, Galestown, Mattawan, Rumford and Sassafras series. Fallsington soils are in the D-hydric group, typically have poor drainage and a high water table, and frequently have associated nontidal wetlands. Mattawan soils are in the C-hydric group and may have a seasonally high water table and poor drainage. Galestown, Rumford and Sassafras soils have no special problems for development.

The Environmental Planning Section supports the variation requests for the reasons stated in this memorandum.

Water and Sewer Categories

The water and sewer service categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003.

3. **Community Planning**—The subject property is located within the limits of the 1993 Subregion V Master Plan, Planning Area 81A in the Clinton Community. The proposed development conforms to the suburban residential land use recommendations of the 1993 Subregion V Master Plan for this area. The 2002 General Plan locates the property in the Developing Tier. An

applicable vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities. The applicant's proposal is consistent with the residential zoning of the property.

The proposed development is adjacent to a major community activity center (MCAC) proposed around the intersection of MD 5 and Woodyard Road. The plan text indicates (pp. 71-72) that the west side of this activity center, specifically the Clinton Plaza shopping center, is an excellent location for a small regional mall or a specialty outlet incorporating one or more major retailers to serve the residents of the area. Since the plan was approved, major retailers such as Wal-Mart and Lowe's Home Improvement have located in Clinton Plaza. The portion of the activity center south of Woodyard Road, while not envisioned for development at the same intensity, provides an opportunity for smaller-scale commercial retail or office space and for consideration of mixed-use development. Although the properties immediately adjacent to this proposed subdivision are currently vacant, development issues for the western section of the MCAC include the protection of adjoining residential homes. This concern should be addressed as development proposals are submitted for this portion of the MCAC.

4. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations staff recommends that the applicant provide private on-site recreational facilities to serve the residents of this community. The applicant has proposed Parcel C (23,522 square feet) for the placement of the required on-site recreational facilities. Staff has several concerns with proposed Parcel C. First, the location is not very desirable. Parcel C wraps the C-O-zoned property on the north and east and has over 425 linear feet of frontage on proposed Street A. The usable area of Parcel C for required facilities is located abutting Lot 39 and is approximately 14,506 square feet. Staff is concerned that adequate area may not exist to provide appropriate bufferyards from the C-O-zoned property, adequate setbacks from the street, and area for optimum layouts for the recreational facilities. The Zoning Ordinance requires the review of a detailed site plan for private homeowners association recreational facilities. If, at the time of review of the limited detailed site plan for the recreational facilities, adequate area does not exist on Parcel C to provide the required on-site recreational facilities, Lot 38 should be deleted and that area incorporated into Parcel C.

The applicant has proposed 53 lots; at this time six of those proposed lots will not have access to the private on-site recreational facilities. Lots 50-53 are located in the southwest corner of the site fronting Stuart Lane. These lots are isolated from the rest of the community and back onto Parcel A, a 6.10-acre homeowners open space that contains significant environmental features. The applicant has proposed to construct a trail across Parcel A to the cul-de-sac of Street C to provide pedestrian access for Lots 50-53. Staff does not support the construction of this trail and does not believe that the Maryland Department of the Environment (MDE) will approved the impact. A significant amount of permanent impacts would occur to the environmental feature on Parcel A to construct a trail for the four proposed dwellings. The amount of impact to the sensitive environmental feature for a trail to serve four lots is not supported as discussed further in Finding 2 of this report. In addition, staff would not support the head of this private internal trail between Lots 50 and 51 on Stuart Lane. Staff is concerned that this may appear to be an invitation to the general public to utilize the private facilities within the subdivision.

The other option for access to the facilities for Lots 50-53 is via the public street system (Stuart Lane to Wade Drive to Street A) to Parcel C, where the on-site recreational facilities are to be located. However, Stuart Lane is an open-section road with no sidewalks. Should DPW&T require the applicant to construct sidewalks, they would only be required to construct the sidewalks along the site's frontage. A gap would exist in the sidewalk between Lots 50-53 and

Wade Drive, the main entrance to the subdivision. Over 350 linear feet of frontage between Lots 50-53 and Wade Drive is not under the applicant's ownership and, therefore, DPW&T will not be requiring street improvements to include sidewalks where the C-O-zoned property fronts Stuart Lane. Also, Lots 43 and 44 are located in the southeast corner of the site and front Woody Terrace. Woody Terrace is an open-section road with no sidewalks. Again DPW&T may require the construction of sidewalks in front of these lots but a gap would exist from these lots to Wade Drive to Street A to Parcel C and the on-site recreational facilities.

The property has proven difficult to develop. The applicant has proposed several changes that resulted in a three-lot reduction from the original layout, changes that have benefited the layout and ultimately the residents of the community. The site has an unusual configuration because of the commercially-zoned property in the middle of the site (fronting on Stuart Lane) and the limited location for access. Careful site planning is essential to provide a livable community for all of the residents of the subdivision. With a number of commercial properties surrounding the site, on-site recreational facilities and sidewalks are of great importance for the health and recreation of the residents. It is important that there is a strong connectivity between all of the lots and the open space parcels. The development of Lots 50-53 and 43 and 44, may not be realized because of the site constraints.

5. **Trails**—There are no master plan trails proposed in the vicinity of the subject site in the adopted and approved Subregion V Master Plan. A park and ride site is proposed near the site in the vicinity of MD 223 and Branch Avenue.

A variety of road cross sections are present in the vicinity of the subject site. Sidewalks are not present on some streets, are along one side of the road in others, and along both sides of the road in other areas. Stuart Lane is open section with no sidewalks along the subject site. However, immediately to the south of the subject site a sidewalk has been constructed. Staff recommends the continuation of this sidewalk along the site's frontage. Sidewalks are also absent along Woody Lane, but exist further north along the road, but on the opposite side. Sidewalks are recommended along this frontage as well. Due to the density of the subject application, standard sidewalks are recommended along both sides of all internal roads, per the concurrence of DPW&T.

6. **Transportation**—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;

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 applicant presented staff with a traffic study that was prepared in March 2004. The study,

with input from staff, identified the following intersections as the ones on which the proposed development would have the most impact, the critical intersections:

EXISTING CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223/MD 5	B/1000	C/1253
MD 223/Pine View Lane	A/860	B/1042
MD 223/Woody Terrace (Unsignalized) **	F/456.5 Seconds	F
**In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.		

The traffic study identified six background developments that collectively would have an impact on one or all of the above-mentioned intersections. An analysis of the impact of these background developments was done and the following results were determined:

BACKGROUND CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223/MD 5	B/1060	D/1316
MD 223/Pine View Lane	A/899	B/1098
MD 223/Woody Terrace (Unsignalized)	F/722.4	F

Using the *Guidelines For The Analysis Of The Traffic Impact Of Development Proposals*, the study has indicated that the proposed development of 54 single-family units will be adding 40 (8 in; 32 out) AM peak-hour trips and 49 (32 in; 17 out) PM peak-hour trips at the time of full build-out. Applying a growth rate of 1.4 percent per year for through traffic along MD 4 and MD 223, and combining the site-generated traffic along with background developments, the following results were determined:

TOTAL CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223/MD 5	B/1071	D/1327
MD 223/Pine View Lane	A/899	B/1100
MD 223/Woody Terrace (Unsignalized)	F/866.2	F

All of the analyses indicate a delay at the MD 223/Woody Terrace (unsignalized) intersection of greater than 50 seconds. In circumstances where delay exceeds 50 seconds, a traffic signal warranty for said intersection is generally required. However, staff has been in discussion with the State Highway Administration (SHA), and SHA has indicated that it would support

signalization at the subject intersection. The traffic study analyzed the MD 223/Woody Terrace intersection as if it were signalized and found the following result:

TOTAL CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
MD 223/Woody Terrace (signalized)	C/1232	C/1351

On the basis of a signal being installed at the MD 223/Woody Terrace intersection, staff concludes that the intersection would operate adequately. There are no on-site circulation issues. The Countywide Planning Division concludes that adequate access roads will exist as required by Section 24-124 of the Prince George’s County Code if the application is approved with conditions.

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

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	55 sfd	55 sfd	55 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	13.20	3.30	6.60
Actual Enrollment	4096	4689	8654
Completion Enrollment	180.48	86.22	158.07
Cumulative Enrollment	154.56	44.04	88.08
Total Enrollment	4444.24	4822.56	8906.75
State Rated Capacity	4214	5114	7752
Percent Capacity	105.46	94.30	114.90

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

These figures are correct on the day the referral memo was written. At that time the applicant had proposed 55 dwelling units. The figures are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution of approval will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area

Transit Authority; or \$12,000 per dwelling for all other buildings.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue facilities and concluded the following:
 - a. The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 1.92 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 1.92 minutes, which is within the 6.25-minute travel time guideline.
 - c. The existing paramedic service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road has a service travel time of 1.92 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 services. These findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan* (1990) and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

9. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. 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 comments.
11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A stormwater management concept plan, # 15029-2004-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan. Because of the location of the two required stormwater management facilities, a limited detailed site plan should be approved to ensure pleasing views of these facilities from abutting properties and lots. Enhancements include plant materials and ornamental fencing if appropriate.
13. **Historic**—The Planning Board has identified that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications,

and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. The Warner family is documented to have been living in the area pre-Civil War; what is not known at this time is if this family were slave owners.

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

Prior to the submittal or approval of any grading or clearing on site, the applicant should determine the extent of the land that should be the subject of a Phase I archeological investigation. The applicant's findings should be submitted to the DRD staff for review and concurrence. If any portion of the property is determined to be subject, the applicant should complete a Phase I investigation that may include research into the property history and archeological literature. At that time staff will determine if archeological resources exist in the project area, and if so the applicant will be advised of the requirement of a Phase II or Phase III archeological investigation. The investigation should provide a plan for avoiding and preserving the resource in place, or provide a plan for mitigating the adverse effect upon these resources.

All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

14. **Outlot**-The applicant has proposed the creation of Outlot A, a 4,875-square-foot triangle of land in the northwest corner of the site. The property owner of a developed single-family lot (Parcel 77) has an existing accessory structure that appears to be constructed on the subject property. The applicant proposes to convey to the property owner of Parcel 77, Outlot A. If the property owner of Parcel 77 does not accept the conveyance of Outlot A at the time of record plat, Outlot A is to be incorporated into Lots 2, 3 and 4.

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 Lots 43, 44 and 50-53.
 - b. To provide a note that in accordance with Section 24-112 of the Subdivision Regulations, the applicant shall vacate that portion of Wade Drive and Patrick Drive necessary for the implementation of the subdivision.
 - c. To revise General Note 12 to reflect the approved stormwater management concept plan number and approval date.
 - d. To provide an existing structures note.
 - e. To delete Lot 39 and increase the area of Parcel C and create Parcel D. Create Parcel E (out of Lot 40) to contain entrance features, buffering, and fencing at the entrance to the

subdivision (Staff Exhibit B).

2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
3. Development of this site shall conform to the approved Stormwater Management Concept Plan #15029-2004-00 and any subsequent revisions.
4. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 8.89± acres of open space land (Parcels A, B, C, D and E). 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.
5. Prior to the approval of final plats, a limited detailed site plan shall be approved by the Planning Board or its designee for:
 - a. Entrance features and open space elements on Parcels C, D and E.
 - b. Stormwater management facilities on Parcels A and B,

6. 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.
7. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFAs) to DRD for approval prior to the submission of final plats, for construction of recreational facilities on homeowners land. Upon approval by DRD, the RFA shall be recorded among the county land records.
8. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on homeowners land prior to the issuance of building permits.
9. 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.”
10. 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.
11. 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/39/04), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy.”
12. Prior to the approval of grading or building permits, the applicant shall determine the extent of the land that shall be the subject of a Phase I archeological investigation with the concurrence of DRD. If any portion of the property is determined to be subject, the applicant shall complete a Phase I investigation that may include research into the property history and archeological literature. At that time staff will determine if archeological resources exist in the project area, and if so the applicant shall be advised of the requirement of a Phase II or Phase III archeological investigation.
13. Prior to the approval of the final plat of subdivision, in accordance with Section 24-112 of the Subdivision Regulations, the applicant shall vacate that portion of Wade Drive and Patrick Drive necessary for the implementation of the subdivision.
14. The applicant, with the concurrence of the Department of Public Works and Transportation (DPW&T), shall construct the following sidewalks within the public rights-of-way:
 - a. Standard sidewalks along both sides of all internal roads.

- b. A standard sidewalk along the subject site's entire frontage of Stuart Lane.
 - c. A standard sidewalk along the subject site's entire frontage of Woody Lane.
15. Prior to the issuance of any building permit on the subject property, the following improvements at the intersection of MD 223/Woody Terrace shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
- a. Install a traffic signal at the intersection of MD 223/Woody Terrace, in accordance with the standards of the SHA.
16. The applicant shall submit an executed deed of conveyance of Outlot A to the property owner of Parcel 77 at the time of approval of the final plat and shall submit a recorded deed of conveyance prior to the approval of a grading permit. If Outlot A is not conveyed to the owner of Parcel 77, the land area shall be incorporated into Lots 2, 3 and 4.

STAFF RECOMMENDS APPROVAL OF TREE CONSERVATION PLAN TCPI/39/04 AND APPROVAL OF TWO VARIATIONS TO SECTION 24-130 OF THE SUBDIVISION REGULATIONS AND DISAPPROVAL OF A THIRD.