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## Preliminary Plan

**4-04151**

Application	General Data
<b>Project Name:</b> <b>MARLBORO POINTE CLUSTER</b>  <b>Location:</b> East side of Ritchie Marlboro Road, 727 feet southeast of its intersection with Foyette Lane.  <b>Applicant/Address:</b> Oxbridge Development at Ritchie Marlboro, L.C. 600 Jefferson Plaza, Suite #550 Rockville, MD. 20852	Date Accepted: 09/29/04
	Planning Board Action Limit: 03/02/04
	Plan Acreage: 74.97
	Zone: R-R
	Lots: 108
	Parcels: 4
	Planning Area: 79
	Tier: Developing
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 206/7SE11

Purpose of Application	Notice Dates
<b>RESIDENTIAL CLUSTER SUBDIVISION</b>	Adjoining Property Owners Previous Parties of Record Registered Associations: 07/21/04 (CB-58-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: 11/09/04

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 4-04151  
Marlboro Pointe Cluster Lots 1-13, Block A; Lots 1-17, Block B; Lots 1-10, Block C;  
Lots 1-16, Block D; Lots 1-10, Block E; Lots 1-14, Block F; Lots 1-28, Block G and  
Parcel A-D

OVERVIEW

The subject property is located on Tax Map 92, Grid A-4, in the Marlboro Community. The property is approximately 74.97 acres and is zoned R-R. The applicant is proposing to subdivide this property into 108 lots for the construction of single-family dwelling units utilizing the optional design approach of cluster subdivision. Parcels A –D, totaling 30.02 acres, are proposed to be conveyed to a homeowners association (HOA). These parcels will contain cluster open space intended for passive and active recreational opportunities and the preservation of sensitive environmental features, also preserved for their scenic value.

A previous preliminary plan (4-04022) was withdrawn by the applicant to allow additional opportunity to meet with the citizens of the area and further refine the layout of the subdivision. The preliminary plan as proposed is a result of a lengthy design process that staff believes has resulted in a subdivision that conforms to the purposes of the cluster subdivision design, as discussed further in Finding 2 of this report. The original cluster preliminary plan proposed 128 lots; the second revision proposed 112, and the final layout proposed with this preliminary plan is for 108 single-family residential lots.

The applicant has proposed a conceptual recreational facilities package that can accommodate all ages. While the final design and determination of the types of recreation amenities will be determined with the required detailed site plan (DSP), the layout of the subdivision provides a variety of open space areas sufficient to accommodate and locate a diverse facilities package. Central to the conceptual recreation package is the provision of an internal trail and sidewalk system that will connect sitting areas and a gazebo with tot lots, preteen playgrounds, and a tennis court. In addition, the applicant has proposed to construct an off-site trail connection to and then onto abutting park property (M-NCPPC) that is part of the larger Kings Grant Community Park. This park is located to the north of the subdivision and contains trails, a lake, and a variety of recreational amenities.

Careful consideration of the vehicular traffic pattern has resulted in a street layout that takes advantage of the existing lay of the land. The design of the subdivision provides a curvilinear street layout to accentuate the 30 acres of open space elements that frame the development. The layout will provide the greatest opportunities of views of the open space for all of the residents of the subdivision. The open space elements have been strategically located to encourage pedestrian movement and to be centrally located to the east and west side of the site.

The applicant originally proposed three points of vehicular access to Ritchie Marlboro Road. This design created two concerns. First was the concern with the excessive amount of public street

connection on Ritchie Marlboro Road, an arterial roadway. Staff and the Department of Public Works and Transportation raised this safety concern. The second issue was due to the separation that was caused by the third connection to Ritchie Marlboro Road. The connection was in the southern portion of the property and was proposed as a cul-de-sac with no internal pedestrian or vehicular connection to the rest of the development, essentially isolating this portion of the development from the amenities of the entire site. In order to address these concerns, the applicant revised the plan and reduced to two the number of public street connections to Ritchie Marlboro Road and connected the southern pod of development internally to the site.

**SETTING**

The property is located on the east side of Ritchie Marlboro Road, approximately 700 feet southeast of Foyette Lane and 2,100 feet north of its intersection with Old Marlboro Pike. To the east is the Prince George’s County impound lot and further east of that use is the county jail. Along the entire north and northeast property line is public parkland zoned R-O-S in the ownership of M-NCPPC. Further to the northeast is the Kings Grant subdivision.

**FINDINGS AND REASONS FOR STAFF RECOMMENDATION**

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

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	R-R	R-R
Use(s)	Agricultural	Single-Family Residential
Acreage	74.97	74.97
Lots	0	108
Parcels	1	4
Dwelling Units:		
Detached	0	108

2. **Cluster Regulations Section 24-137**—Purposes of cluster development are to permit a procedure for development that will result in improved living environments; promote more economic subdivision layout; encourage a variety of designs of dwellings; encourage ingenuity and originality in total subdivision layout and individual site and building design; encourage compatibility with surrounding properties; preserve open space to serve recreational, scenic, and public service purposes within the densities established for the cluster net tract area. To achieve these purposes:

- (1) Modifications in net lot areas, lot coverages, frontages, and yards are permitted;
- (2) Procedures are established to assure adequate maintenance and restricted use of open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public use; and
- (3) Procedures are established to assure protection of existing and potential developments adjoining cluster developments.

Modification of yard, frontage, lot coverage, and net lot area requirements may be permitted by the Planning Board in accordance with the pertinent provisions of the Zoning Ordinance for lots within the interior of the cluster subdivision and cannot be modified for lots at entrances to

cluster developments unless a combination of cluster open space and lot areas will result in development that appears to have occurred without approval of modified development regulations. The proposed preliminary plan conforms to these requirements as demonstrated in Finding 3 of this report and as demonstrated in applicant's Exhibit 1, which demonstrates that all of the lots along Ritchie Marlboro Road, when combined with the abutting homeowners open space land, results in lots that appear to be a minimum of 20,000 square feet in lot size. In addition, the applicant has proposed lot widths that are more consistent with the lot widths required for conventional R-R zoning standards of 80 feet.

In each zone allowing cluster development, the net lot area may be reduced from the general net lot area for that zone to a specified minimum net lot area for cluster development, subject to the restrictions. All such reductions will be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, for recreational or conservation purposes, or for schools, community buildings, or related uses. Improvements shall be limited to serving such purposes. Up to one-third of such net lot area reductions may be located either in a 100-year floodplain, or on land dedicated for a community building or school site, or for a stormwater management facility that provides scenic or recreational amenities for the community. Cluster open space does not include areas devoted to streets. The proposed preliminary plan is consistent with these requirements as demonstrated in Finding 3 of this report

The Subdivision Regulations require that through creative design and variety the subdivision will provide for a total environment better than that which would normally be achieved under standard regulations. The following are considerations when reviewing the preliminary plan:

- (1) Individual lots, buildings, streets, and parking areas will be designed and situated in conformance with the provisions for woodland conservation and tree preservation set forth in Subtitle 25 of the Prince George's County Code and in order to minimize alteration of the historic resource or natural site features to be preserved.
- (2) Cluster open space intended for a recreational or public use, conservation purposes, or as a buffer for a historic resource is appropriate, given its size, shape, topography, and location, and is suitable for the particular purpose it is to serve on the site.
- (3) Cluster open space will include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, steep slopes, individual trees of significant size, and rock outcroppings).
- (4) Cluster open space intended for a recreational or public use will be easily accessible to pedestrians; and the means of access will meet the needs of the physically handicapped and elderly.
- (5) Cluster open space intended for scenic value will achieve this purpose through the retention of those irreplaceable natural features described in paragraph (3) above; or where such natural features do not exist, such techniques as berms planted with trees and the use of landscaping materials may be required to eliminate visual monotony of the landscape.
- (6) Diversity and originality in lot layout and individual building design, orientation, and location will achieve the best possible relationship between development and the land.

- (7) Individual lots, buildings, parking areas, and streets will be arranged, designed, situated, and oriented so as to harmoniously relate to surrounding properties, to improve the view from dwellings, and to lessen the area devoted to motor vehicle access and circulation.
- (8) Individual lots, buildings, parking areas, and streets will be so situated and oriented as to avoid the adverse effects of shadows, noise, and traffic on, and afford privacy to, the residents of the site.
- (9) Not more than one-fourth of any land having slopes greater than 25 percent will be removed or altered, and then only when such slopes are isolated, small, or otherwise occur as insignificant knolls, so that the design of the development or cluster open space will not be adversely affected. See Finding 4 of this report, where the applicant has requested a variation to allow the disturbance of more than one-fourth of the 25 percent slopes on the property. This request is conditionally supported by staff and will not adversely affect the layout of the subdivision, and in fact improves the layout.
- (10) Appropriate landscaped screening techniques will be employed at each entrance to the subdivision and along adjoining existing streets, so as to assure the compatibility of the appearance of the cluster subdivision with that of surrounding existing and planned residential development not approved for cluster development, and to provide an attractive appearance from streets. Individual lots will also be appropriately landscaped in such a manner as to provide an attractive appearance. With the preliminary plan, adequate open space areas have been ensured to provide for appropriate landscaping.
- (13) All dwellings and other buildings will be served by public water and sewerage. The site is within water and sewer service 3, as indicated in Finding 5 of this report.

The applicant originally submitted a conventional R-R Zoning layout that staff did not believe resulted in an improved living environment for the residents, as could be achieved with a cluster design. The preliminary plan was revised and the applicant proposed a cluster subdivision. The plan has gone through significant revisions and staff believes that the plan as currently proposed conforms to the purposes of the cluster regulations as stated above and demonstrated in the findings below. The layout of the subdivision is unique and promotes the conservation of open space areas for scenic purposes, recreational needs, and conservation. The layout promotes a more economic layout by clustering the needed infrastructure and generally creates a better environmental than that which could be achieved through the exclusive use of a conventional design. The applicant has proposed a variety of lot sizes, with 35 percent of the lots being between 15,000 and 25,000 square feet, 35 percent of the lots being between 12,000 and 15,000 square feet, and 38 percent of the lots being between 10,000 and 12,000 square feet. In addition, the applicant has proposed lot widths that are more consistent with the lot widths required for conventional R-R zoning standards of 80 feet.

Through review of the required DSP, further modification and improvements can be required, as determined appropriate by the Planning Board. Staff supports the applicants' proposal to utilize the optional design technique of cluster subdivision.

### 3. Cluster Development Data

#### **Zone R-R**

Gross Tract Area

79.97

Area with Slopes Greater than 25%	8.64
Area within Preliminary 100-year Floodplain	.70
Cluster Net Tract Area	65.63
Minimum Lot Size Permitted	10,000
Minimum Lot Size Proposed	10,050 to 24,652
Number of Lots Permitted	148
Number of Lots Proposed	108
Flag Lots Proposed	0
Cluster Open Space Required	16.36
<b>R-R</b>	
2/3 of Required Open Space to be Located Outside of the 100-Year Floodplain and Stormwater Management Facilities	10.90
Cluster Open Space Proposed Outside of the 100-Year Floodplain and Stormwater Management Facilities	27.21
Cluster Open Space Provided	30.02
Mandatory Dedication Required	3.75
Mandatory Dedication Proposed	0
Total Open Space Required (Cluster plus Mandatory Dedication)	
Total Open Space Provided	30.02
Open Space to be Conveyed to Homeowners Association	30.02
Open Space to be Conveyed to M-NCPPC	0
Open Space to be Conveyed to Prince George's County	0
Slopes Exceeding 25% in grade	8.64
One-Quarter of Slopes Exceeding 25%	2.16
Area of Steep Slopes to be Disturbed	3.83*

\*Variation to Section 24-137(g)(9), see Finding 3

Modification in Dimensional Standards Permitted in Cluster R-R Zone	Standard in Zone	Modification	
		Allowed	Proposed
27-443.2(c) Net Lot Coverage	25%	30%	30%
27-442(d) Lot Width at Bldg. Line	80'	75'	75'
Lot Frontage Along Street Line	70'	50'	50'
Lot Frontage Along Cul-de-Sac	60'	50'	50'

4. **Variation to Section 24-137(g)(9)**—The Subdivision Regulations require that in a cluster subdivision, no more than one-quarter of the total area of slopes of 25 percent or greater can be disturbed, without the Planning Board granting a variation. One of the stated purposes of the cluster regulations is to preserve irreplaceable natural features including steep slopes (25 percent).

In this case, the total area of slopes of 25 percent or greater is 8.64 acres. Therefore, the applicant cannot disturb more than 2.16 acres (one-quarter) of the 25 percent slopes. The applicant has proposed to disturb 3.83 acres, or 44 percent. Originally staff indicated to the applicant that staff would not support a variation to this section of the cluster regulations. However, after careful consideration and evaluation of this particular property and the unique circumstances, staff recommends approval of the requested variation, with conditions, based with on the following evaluation.

Approximately 2.16 of the 8.64 acres of severe slopes were manmade as a result of prior grading activities that were associated with the agricultural uses on site (1.75 acres) and implementation of existing Ritchie Marlboro Road (.53 acre). Therefore, only 6.48 acres are naturally occurring severe slopes; of the 6.48 acres of naturally occurring 25 percent slopes, the applicant is proposing to disturb only 1.67 acres, or 25.8 percent. However, the cluster subdivision regulation does not distinguish between naturally occurring and manmade slopes, therefore, to meet the technical requirement of Section 24-137(g)(9) the approval of a variation is required.

The three areas of severe slopes proposed to be disturbed are generally located in the central to western portions of the site and are identified as highly erodable, which are unstable when combined with sever slopes (25 percent), and generally unsafe.

The first severe slope area (Area A) is located along a ridge that runs in a northerly direction from Lot 11, Block 'B,' to Lot 4, Block 'E.' This area accounts for approximately 60 percent of the severe slopes that are proposed to be disturbed by this application. The second area (Area B) is located at the western end of Street 'B' leading up to a knoll that is located outside the PMA but sandwiched between two PMAs. The third area (Area C) bisects Street 'A' near its intersection with Street 'D'; this area is also located outside the PMA yet sandwiched between two areas of PMA. This site is unique in that the majority of the severe slopes are not associated with the PMA and other environmental features. The severe slopes proposed to be disturbed are located outside the limits of the Patuxent River PMA and not associated with any naturally occurring irreplaceable environmental feature of the property.

Staff recommends the granting of the additional disturbance because it is of manmade slopes, for which the removal is in the public interest and safety due to their instability on highly erodible soils. Of the existing steep slopes (8.64 acres) only 6.48 acres are naturally occurring; the applicant is exceeding the maximum disturbance of the naturally occurring steep slopes on site by 0.8 percent or 2,178 square feet. Staff has reviewed the variation request to Section 24-137(g)(9) of the Subdivision Ordinance to allow disturbance of 3.83 acres (44 percent) of the total area of 25 percent slopes or 2.16 acres of the total severe slopes. Of the total area of disturbance of the 25 percent slopes (3.83 acres), 2.16 acres is of manmade 25 percent slopes and 1.67 acres is of naturally occurring 25 percent slopes or (25.8 percent) of the naturally occurring slopes. Staff supports approval of only one-quarter of the naturally occurring 25 percent slopes and recommends that with the review of the detailed site plan, the applicant reduce the disturbance of naturally occurring slopes to 1.62 acres (25 percent), or by a minimum of 2,178 square feet.

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

**Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative**

**proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:**

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant and could result in a public safety issue if the variation is not granted to allow the removal of unstable steep slopes on this property.

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;**

**Comment:** The geotechnical report prepared for this site identified the ridge of severe slopes that runs in a northerly direction from Lot 11, Block 'B,' to Lot 4, Block 'E,' as a potential slope failure area. Because a slope failure associated with this area would affect a significant portion of the site, the grading of this area is necessary to eliminate the potentially unstable slopes. The proposed disturbance to the other severe slopes is necessary for the construction of Streets 'A' and 'B' that are necessary to provide safe access to and within this site. Disturbance of the 25 percent slopes along Ritchie Marlboro Road is being required by DPW&T.

The Soil Conservation District will require the approval of a sediment and erosion control plan that will contain any erosion that may occur during the development of the site. The purpose of the sediment and erosion control plan is to ensure that there are no impacts related to the earth moving that are detrimental to the public safety, health, or welfare or injurious to other property. Staff supports the requested variation because the work is internal to the site and will be regulated to control off-site impacts.

- (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:** This site is unusual in that the majority of the severe slopes are not associated with the expanded stream buffer or the PMA as is typical. The majority of the severe slopes are isolated from these protected features and are situated on the site such that avoidance would create small, disconnected pockets of development. In addition, most of the perimeter of the site is protected because of the presence of several streams and the PMA. As a result there are few alternatives to the development of the interior portion of the site where most of the severe slopes are located. The site is unique, and as such the approval of the variation would not generally apply to other properties.

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

**Comment:** There are other applicable laws, ordinances or regulations that specifically protect severe slopes. However, the scope of those laws is limited to the protection of



severe slopes associated with expanded stream buffers or the Patuxent River Primary Management Area (PMA). Because the slopes to be disturbed are not part of an expanded stream buffer or part of the PMA, there is no other specific protection afforded these severe slopes beyond that associated with the cluster provision of the Subdivision Ordinance. In addition, other regulations regarding grading and sediment and erosion control will result in the needed protections to off-site properties and on-site sensitive features. No other permits, variances or variations are required for the aspect of the development.

- (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:** The topographic conditions of the site are quite unusual and do not allow for the design of an orderly subdivision. If the strict letter of these regulations were carried out it would be extremely difficult to design a subdivision that addresses all issues of public health, safety and welfare. The severe slopes would remain and be a burden on future property owners. The development pods would be isolated and a cohesive neighborhood would not be created.

Staff supports the variation request to Section 24-137(g)(9) of the Subdivision Ordinance that would allow the grading of a total of 3.78 acres or 43 percent, a reduction from the 3.83 acres or 44 percent requested by the applicant. Staff recommends that the applicant be required to reduce the amount of grading of 25 percent naturally occurring slopes to 1.62 or a reduction from that proposed by 2,178 square feet at the time of review of the DSP. Therefore, if the variation is approved with this condition, the disturbance of any natural occurring 25 percent slopes does not exceed that normally allowed by Section 24-137(g)(9). At time of review of the detailed site plan, additional opportunities to reduce the amount of severe slopes disturbed should be explored and implemented.

5. **Environmental**—The Environmental Planning Section has reviewed the revised preliminary plan of subdivision, the Type I tree conservation plan, the geotechnical report addendum, wetland study, the Phase I noise study addendum, and the variation request for disturbance to more than 25 percent of the severe slopes on this site. All of this information is date-stamped as received by the Environmental Planning Section on November 8, 2004. The Type I Tree Conservation Plan, TCPI/27/04, is recommended for approval.

A review of the available information indicates that streams, wetlands, severe slopes in excess of 25 percent, and steep slopes between 15 and 25 percent with highly erodible soils are found on this site. Ritchie Road has been identified as a transportation-related noise generator that will impact portions of this site. The soils found to occur, according to the Prince George's County Soil Survey, include the Adelpia, Marr, Mixed alluvial, Ochlockonee, Sandy land steep, Shrewsbury and Westphalia soil series. Some of these soils have limitations with respect to the high water tables, impeded drainage, or steep slopes that may affect the construction phase of the development but will not affect the proposed lot layout or the number of proposed lots.

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. Ritchie Road is a designated scenic and historic road located along the frontage of this property. This property is located in the Western Branch watershed of the Patuxent River basin.

This property has 24.40 acres of existing woodland areas that are associated with the streams and wetland areas along the northern perimeter of the property. The other significant woodland area located in the central portion of the site is isolated and occurs on an area of severe slopes. The woodlands on this property are generally comprised of deciduous overstory trees of reasonably good quality and understory vegetation that includes a mixture of native and invasive species. Stand E, located on the central ridgeline, is the forest stand with the lowest retention potential because of the generally young age of the trees and a higher percentage of invasive species found throughout the stand. The other stands on the property also have areas of invasive species, but those forest stands are more closely associated with the stream and wetland system that composes the Patuxent River PMA and the percentage of invasive species present is somewhat lower.

The detailed forest stand delineation (FSD) has been found to address the requirements for a detailed FSD in accordance with the Prince George's County Woodland Conservation Ordinance, and no further information is required with respect to the FSD.

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, there are more than 10,000 square feet of existing woodland on-site, and there are no previously approved tree conservation plans for this site.

The Type I Tree Conservation Plan TCPI/27/04 addresses the requirements of the Prince George's County Woodland Conservation Ordinance. This property has a net tract area of 73.93 acres (for purposes of calculating woodland conservation) and a woodland conservation threshold (WCT) of 20 percent or 14.79 acres. There are additional ¼:1, 1:1 and 2:1 replacement requirements totaling 8.33 acres associated with the clearing of woodlands above the WCT, clearing woodlands below the WCT, clearing woodlands in the 100-year floodplain, and clearing woodlands for off-site infrastructure improvements. The 23.12-acre requirement will be satisfied by 8.90 acres of on-site preservation in priority retention areas and 14.27 acres of on-site afforestation in priority afforestation areas.

Streams, wetlands, 100-year floodplain, severe slopes in excess of 25 percent, and steep slopes between 15 and 25 percent on highly erodible soils are found on this property. These features along with their respective buffers compose the Patuxent River PMA. The Environmental Planning Section concurs with the conclusions of the wetland study submitted for review, with respect to the presence and extent of the wetlands on this site. Although a 100-year floodplain study was not submitted, the information available to the Environmental Planning Section and that reflected on the approved stormwater management concept plan indicate that the 100-year floodplain as shown on the plans is generally accurate and is contained within the limits of the 50-foot stream buffer. Some of the areas of steep slopes with highly erodible soils and severe slopes are appropriately not included within the limits of the Patuxent River PMA because these areas are somewhat isolated from the stream buffer, wetlands, wetland buffer, and 100-year floodplain. Each of these features that compose the PMA and the associated buffers are clearly shown on the plans along with the ultimate limit of the PMA that has been accurately reflected on the plans.

The Subdivision Ordinance, in Section 24-130(b)(5), requires that the PMA be preserved in a

natural state to the fullest extent possible. This application proposes five distinct PMA impacts that are addressed by the letter of justification received as part of the original application package. The TCPI and letter of justification identify two PMA impacts associated with the construction of stormwater management outfalls and three impacts for road construction.

The impacts associated with the stormwater management outfalls are necessary to safely convey water from the proposed ponds to the streams to ensure that adverse erosion of the stream and surrounding PMA does not occur.

Two of the proposed road impacts are associated with the widening of Ritchie Road in accordance with the requirements of the Department of Public Works and Transportation. The only alternative to the proposed impacts would be to avoid the widening of Ritchie Road, for which the applicant in this case has no control. The improvements along this segment of Ritchie Road could be offset to the southern side of the roadway, thereby reducing or eliminating the extent of the proposed PMA impacts associated with the widening of Ritchie Road. However, the ultimate road alignment has been determined by the Department of Public Works and Transportation, and is accurately reflected on the preliminary plan.

The last PMA impact is associated with the construction of proposed Street 'B' to access the seven lots at the southern end of this site. The previously submitted Preliminary Plan of Subdivision, 4-04022, initially proposed a separate access point to these lots from Ritchie Road. However, the Department of Public Works and Transportation and the Transportation Section of M-NCPPC recommended that the separate access point be eliminated due to existing site conditions that could result in the creation of an unsafe access point. Therefore, this PMA impact is necessary for public safety and welfare and is unavoidable.

The five proposed PMA impacts identified by the letter of justification have been minimized to the fullest extent possible. Because a detailed site plan will be prepared for this site, it is recommended that each of the proposed impacts be further evaluated and minimized if possible during the preparation and review of the detailed site plan.

A copy of the approved Stormwater Management Concept Plan, #35758-2003, was submitted for review with this application. Although the stormwater management concept plan is generally consistent with the Type I tree conservation plan, there are some discrepancies with the lot layout, but the overall concept is reasonably similar. During subsequent reviews the discrepancies between the two plans will be refined so that the stormwater management technical plan approval and the Type II tree conservation plan approval will be consistent prior to the issuance of any permits. No further information is required with respect to the stormwater management concept plan.

According to available information, Marlboro clay is found to occur in the vicinity of this property but is not a constraint for this site. The geotechnical report submitted with this application found that the Marlboro clay is located at the northern edge of the property and is approximately 20 to 30 feet or more below the existing and proposed grades. Therefore, the Marlboro clay will not adversely impact the development of this site.

Although the geotechnical report, dated June 4, 2003, and June 28, 2004, indicated that there are no slope stability issues associated with the Marlboro clays, it did conclude that several of the severe slope areas on the site have slope stability problems and a slope safety factor of less than 1.5. The existing and proposed 1.5 safety factor lines have not been shown on the plans as submitted and the

geotechnical report is not clear regarding the issue of whether the proposed grading will correct the problem slope areas. A letter dated June 28, 2004, from Geolab Geotechnical Engineering indicates that the proposed grading will remove all potential slope failure areas from the developable portion of this application. Because a detailed site plan is required for this site, additional information regarding the exact nature of the grading is not required at this time. However, during the review of the detailed site plan specific information addressing the mitigated 1.5 safety factor areas will be required, ensuring removal of unstable slopes.

This property is located along Ritchie Road, a master planned arterial roadway that is an identified transportation-related noise generator. The noise study submitted with the application was found to address the projected noise impacts to this site. The projected 65 dBA Ldn noise contour is located 170 feet from the centerline of Ritchie Road and will impact 13 of the proposed lots. Although some lots will be subjected to both exterior and interior noise impacts above the state noise standard (Lots 1A, 1B, 14B, 48B, 1G, 1H, 7H and 8H), other lots will only experience exterior noise impacts above state standards (Lots 10-13B and 15B). The noise study proposes the use of noise barriers and structural components to address these adverse impacts to the residential lots noted above. It also suggests that a Phase II noise study be prepared once final grading plans have been prepared and that an outdoor-to-indoor analysis be completed once the architectural plans become available prior to the submittal of the Detailed Site Plan.

Ritchie Road is a designated scenic and historic road. A viewshed analysis is typically requested to provide baseline information for the evaluation of the proposed development. Because an analysis was recently prepared for the Addison property on the opposite side of Ritchie Road and a site visit was conducted during July 2004, it is not necessary that another evaluation along this segment of the road be prepared. A narrow strip of trees and vines that do not meet the definition of a woodland and would likely be cleared for any road improvements dominates the existing vegetation along the frontage of this property.

The recommended 40-foot scenic buffer easement is shown on the Type I tree conservation plan. Because a detailed site plan is required for this cluster subdivision, the Environmental Planning Section will evaluate the proposed buffer in greater detail during the review of that application.

### **Water and Sewer Categories**

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

6. **Community Planning**—The property is located within the limits of the 1993 Subregion VI Study Area, Planning Area 79, in the Marlboro Community. The recommended land use for the property is rural residential. The 2002 General Plan locates the property in the Developing Tier. One of the visions for the Developing Tier is to maintain a pattern of low to moderate density suburban residential communities. The proposed preliminary plan is consistent with the recommendations of the master plan and the 2002 General Plan.
7. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the requirement for the mandatory dedication of parkland requirement is 3.7 acres. The applicant proposes to fulfill this requirement by providing private on-site recreational facilities and constructing a trail connector from the subject subdivision to the existing trail on adjacent parkland. This trail will provide access to the trail system in the park and provide access to the

recreational facilities in King's Grant Community Park. The community park includes a lake, trails, a playground, a picnic area, two football/soccer fields, two softball fields, a ball wall, and four tennis courts.

The Park Planning and Development Division staff recommends approval of the preliminary plan with conditions.

8. **Trails**—The adopted and approved Subregion VI Master Plan recommends a master plan trail within the M-NCPPC property immediately behind the subject site. This trail has been completed through several of the subdivisions immediately adjacent to the subject site. This trail connects existing Foyette Lane (off Ritchie-Marlboro Road) with the existing Kings Grant development. Staff of the Department of Parks and Recreation have met with the applicant concerning a trail connection from the site to the existing master plan trail and have reached an agreement regarding the location of this connection. Staff supports the connection at the previously agreed to location. This connection will provide the residents of the development with access to an existing master plan trail, as well as the recreational facilities located along the trail. The location reflected on the submitted plan appears to be acceptable. However, the location should be agreeable to the Department of Parks and Recreation.

The adopted and approved Melwood-Westphalia Master Plan recommends a trail/bike facility along Ritchie-Marlboro Road. The recently approved site plan for the nearby Clagett Farm Property recommends that this facility be implemented along the west side of Ritchie-Marlboro Road. This is the frontage across the street from the subject site. There are no recommendations for the subject application regarding this facility, as the trail will be completed on the opposite side of the road from the subject property.

#### SIDEWALK CONNECTIVITY:

The subdivision to the north of the subject site includes sidewalks along at least one side of all internal roads. The nearby Kings Grant subdivision includes sidewalks along both sides of all internal roads. Existing Ritchie-Marlboro Road is an open section roadway with no sidewalks in the vicinity of the subject site. Staff recommends the provision of standard sidewalks along both sides of all internal roads, unless modified by DPW&T. These sidewalks, along with the proposed trail connection, will provide pedestrian and bicycle access for the residents of the proposed development to adjoining trails and facilities.

9. **Transportation**—The applicant submitted a traffic study dated September 23, 2003. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

#### Growth Policy—Service Level Standards

The subject property is located within the developing tier, as defined in the 2002 General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, may be considered at

signalized intersections subject to meeting the geographical criteria in the guidelines.

**Unsignalized intersections:** The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The applicant has prepared a traffic impact study in support of the application using counts taken during September 2003. With the development of the subject property, the traffic consultant concluded that the unsignalized intersection of Ritchie Marlboro Road and Westphalia Road would experience delays exceeding 50 seconds, which is deemed to be an unacceptable condition. The traffic impact study that was prepared and submitted on behalf of the applicant analyzed the following intersections during weekday peak hours:

- Ritchie Marlboro Road/Old Marlboro Pike (signalized)
- Ritchie Marlboro Road/Westphalia Road (unsignalized)

Staff visited the site and field-checked the lane configurations and traffic operations at the intersections included in the traffic study. Ritchie Marlboro Road is a two lane arterial roadway that provides a connection between MD 4 and I-95/I-495 (Capital Beltway) via a new interchange. The roadway is posted 40 MPH in the vicinity of the site.

Adjustments were made to the traffic study by staff since the proposed development was reduced to 108 single-family dwellings and one site access point was eliminated.

The following conditions exist at the critical intersections:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
Ritchie Marlboro Road/Old Marlboro Pike	1,201	1,012	C	B
Ritchie Marlboro Road/Westphalia Road	17.9*	14.8*	--	--
*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.				

Background developments included 1,074 single-family units, 410 townhouses, a church, and a day care center. The background developments included the projects of Sun Valley Estates and the Claggett property. These two developments contain a total of 1,109 dwelling units. There are no funded capital improvements in the area, so the resulting transportation network is the same as was assumed under existing traffic. Given these assumptions, background conditions are summarized below:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
	Ritchie Marlboro Road/Old Marlboro Pike	1,427	1,238	D
Ritchie Marlboro Road/Westphalia Road	63.0*	54.4*	--	--
*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.				

Based on background traffic conditions, the unsignalized intersection of Ritchie Marlboro Road and Westphalia Road would experience delays exceeding 50 seconds, which is deemed to be an unacceptable condition. The other intersection operates within acceptable standards, i.e., below LOS D (CLV 1,450).

The site is proposed for development as a residential subdivision with 108 single-family dwellings. These would be located along Ritchie Marlboro Road just south of the intersection of Ritchie Marlboro Road and Foyette Lane. With site traffic, the following operating conditions were determined:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
	Ritchie Marlboro Road/Old Marlboro Pike	1,438	1,374	D
Ritchie Marlboro Road/Westphalia Road	73.8*	64.2*	--	--
Ritchie Marlboro Road/Site Access #1	24.3*	19.7*	--	--
Ritchie Marlboro Road/Site Access #2	23.1*	19.0*	--	--
*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.				

Staff notes that Site Access #3, a cul-de-sac with access to Ritchie Marlboro Road, was dropped from consideration by the applicant and combined with other subdivision roads to create just two access points to Ritchie Marlboro Road, an arterial roadway. Site Access #3 only served eight lots.

Based on total traffic conditions, the unsignalized intersection of Ritchie Marlboro Road and Westphalia Road would experience delays exceeding 50 seconds, which is deemed to be an unacceptable condition. The signalized intersection of Ritchie Marlboro Road and Old Marlboro Pike operates within acceptable standards, i.e., below LOS D (CLV 1,450). This intersection would operate at LOS D (CLV 1,438) during the AM peak hour and LOS D (CLV 1,374) during

the PM peak hour.

DPW&T reviewed the traffic study and site plan and recommended that the applicant:

1. Provide for frontage improvements for two lanes of traffic on northbound Ritchie Marlboro Road and provide left turn lanes at the site access points on southbound Ritchie Marlboro Road.
2. Provide for geometric improvements at the intersection of Ritchie Marlboro Road and Westphalia Road to include an eastbound two lane approach on Westphalia Road and two thru lanes along northbound and southbound Ritchie Marlboro Road.

The State Highway Administration reviewed and provided comments on the traffic study and recommended that the applicant:

1. Conduct a traffic signal warrant study at the intersection of Ritchie Marlboro Road and Westphalia Road.

The State Highway Administration concurred with the findings in the traffic study and deferred comments on a possible traffic signal at the intersection of Ritchie Marlboro Road and Westphalia Road to the Prince George's County Department of Public Works and Transportation.

#### **Site Plan Comments**

The proposed residential lots would have access to Ritchie Marlboro Road by Street A and Street C. These two subdivision streets would be approximately 1,200 feet apart, which is acceptable. Based on the number of proposed dwelling units, staff recommends that proposed Street A, between Ritchie Marlboro Road and Street B, and Street C, between Ritchie Marlboro Road and Street B, have 60 feet of rights-of-way instead of 50 feet. This will provide an additional turn lane out of the subdivision and improve safety along these sections of Street A and Street C. Implementation of these rights-of-way shall not be accommodated with easements on individual lots and may result in a loss of lots.

Sight distance appears adequate at these locations, although they will require the approval of DPW&T. As mentioned above, DPW&T will require frontage improvements along Ritchie Marlboro Road along with left turn lanes on southbound Ritchie Marlboro Road. The posted speed limit for this section of Ritchie Marlboro Road is 40 MPH.

The applicant will be required to provide any necessary acceleration and deceleration lanes at the site entrances and make any necessary safety improvements along Ritchie Marlboro Road.

#### **Master Plan Comments**

The Melwood-Westphalia Master Plan (1994) lists Ritchie Marlboro Road (A-39) as a four- to six- lane arterial roadway with a 120-foot right-of-way. Dedication of a 60-foot right-of-way from the master plan centerline of Ritchie Marlboro Road will be required. DPW&T may require widening along this section of Ritchie Marlboro Road. There are no other master plan roads in the immediate vicinity of the site.

Based on the preceding findings, the Transportation Planning Section concludes that adequate



transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with conditions.

10. **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 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	108 sfd	108 sfd	108 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	25.92	6.48	12.96
Actual Enrollment	5334	5131	10098
Completion Enrollment	351.84	217.62	398.97
Cumulative Enrollment	222.24	137.94	276.36
Total Enrollment	5934	5493.04	10786.29
State Rated Capacity	5384	4688	8770
Percent Capacity	110.22	117.17	122.99

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

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

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

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

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

The subject site is located in an area recommended by the adopted and approved Subregion VI Master Plan with a proposed floating elementary school symbol. This proposed floating elementary school symbol should be removed from the recommendation in this area with the acquisition of the Brooke Lane proposed elementary school site.

11. **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 5.25 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 5.25 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 5.25 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.

The above findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan (1990)* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

12. **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 the capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.
13. **Health Department**—The Health Department notes that there are tires, one fuel tank, and several unlabeled drums on the property that must be removed and properly disposed of prior to grading permits.
14. **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, # 35758-2003-00, 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.
15. **Historic**—The 74.97±-acre tract contained a house known as Navajo Tenant House, which was included as Historic Resource #79-00-36 in the Inventory of Historic Resources of the *Historic Sites & Districts Plan*, 1981 and 1992. The Navajo Tenant House was one of a group of nineteenth-century dwellings built near Upper Marlboro for the Clagett family; the house was demolished in September 1987. The site of the tenant house, however, is still a historic resource and is protected by the Historic Preservation Ordinance.

The Navajo farm was part of a large agricultural area near Upper Marlboro that was composed of several tracts acquired early in the nineteenth century by Thomas Clagett VI of Weston and developed into plantations for his children and grandchildren. The Clagett family held the

Navajo Tenant House parcel from 1831 through 1973. The actual construction date of the building had not been determined, prior to its demolition. Surviving dwellings of the Clagett family in this immediate area include Keokuk, Ingleside, The Cottage, Oakland, and Strawberry Hill; these houses are prominent features of the still-agricultural landscape and important representatives of the agricultural practices of prominent nineteenth-century Prince George's County families.

A large area (the "Clagett Agricultural Area," circa six square miles), including all of the Navajo property, The Cottage and Strawberry Hill, and several other Clagett family properties, has been determined eligible for listing in the National Register of Historic Places because of its unique historical and architectural importance.

Staff requested that the applicant submit a Phase I archeological report but the applicant submitted only a partial study. The applicant submitted a Phase IA archeological report in May 2004, entitled "A Phase IA Background Cultural Resources Investigation of the Proposed Marlboro Pointe Development, Prince George's County, Maryland." The report identified the likelihood for prehistoric, historic, and antebellum resources on the property. The report concluded that a Phase IB report would not be necessary and that no significant archaeological features exist on the property. After reviewing the report, however, the M-NCPPC archeological consultant recommends that a Phase IB archeological survey is warranted, as originally requested.

Review of the 1850 and 1860 slave censuses indicates that the Clagett family held a number of slaves, although their dwellings and places of burial are unknown. However, page 27 of the Phase IA report states, "...it is not beyond the realm of possibility that housing or burials could have been located within the Study Area." The report's recommendation for no additional investigation is inconsistent with the data cited above.

The subject property was certainly a part of the Navajo farmstead. Therefore, it should be investigated for potential archeological significance associated with antebellum habitation by enslaved African Americans, as well as the potential for archeological significance associated with Native American habitation.

16. **Urban Design-** The Urban Design Section offers the following comments:

- a. The site is subject to Section 4.1, Residential Requirements, and the compliance with Section 4.1 will be addressed at the time of detailed site plan (DSP) review.
- b. The site is subject to Section 4.6, Buffering Residential Development from Streets, because the site layout of the subdivision results in rear yards of some lots orienting toward Ritchie Marlboro Road, which is an arterial and also a historic scenic road. Per Section 4.6, a minimum 50-foot-wide buffer area to be planted with six shade trees, 18 evergreen trees, and 40 shrubs per 100 linear feet of right-of-way should be provided between the lots and right-of-way. A 50-foot-wide landscape easement has been shown along the site's entire frontage onto Ritchie Marlboro Road. The site plan is in general compliance with Section 4.6 and the number of the required planting units will be reviewed at time of detailed site plan.
- c. The site is also subject to Section 4.7, Buffering Incompatible Uses, because adjacent to the east is a high-impact auto storage yard owned by Prince George's County. Per Section 4.7, a Type D bufferyard is required between the adjacent site and the subject

site. A Type D bufferyard requires a minimum 50-foot building setback and a minimum 40-foot-wide landscape yard to be planted with 160 plant units per 100 feet of property line. The applicant has shown a 50-foot-wide landscape bufferyard on the adjacent property, and provided evidence that the county will enter into an easement agreement if the preliminary plan is approved. Evidence that the applicant has recorded an off-site landscape easement among the Land Records of Prince George's County should be provided at the time of review of the DSP. If a landscape easement is not obtained, the landscape bufferyard should be provided on the subject site prior to the approval of the DSP. This may cause a significant shift in the lotting pattern and a reduction in the number of dwelling units. A new preliminary plan of subdivision could be required if a significant alteration to the street layout occurs and environmental impacts are required greater than those evaluated with the preliminary plan of subdivision.

- d. The preliminary plan shows two locations for on-site recreation facilities. The two recreation areas are conceived as the focal points to terminate the views from the main entrance to the subdivision and from one of the important internal street. The locations of recreation areas are acceptable.
- e. Two trail segments have been proposed on the plan. One portion of trail across the northern boundary line is to connect the subject site to the regional public park (M-NCPPC). The other trail that has been proposed along the east side of Street C runs parallel with a future sidewalk in the street right-of-way on HOA land. Since the sidewalk will be provided along the both sides of the internal streets, the Urban Design Section recommends that this portion of trail be provided in a loop connecting the SWM pond, recreational facilities, and public sidewalks, and be reflected on the DSP.

## 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. Indicate that the standard lot width at the front building line in this case in the R-R Zone is 80 feet (public water and sewer).
  - b. Indicate lot dimensions.
  - c. Label 150-foot lot depth.
  - d. Width of all streets and indicate public.
  - e. Indicate mitigated and unmitigated 65 dBA Ldn.
  - f. Label centerline and ultimate right-of-way of Ritchie Marlboro Road.
  - g. Note the Historic Resource 79-000-36, Site of the Navajo Tenant House, on the plan and in the general notes.
  - h. Revise applicant Exhibit A (25 percent slopes exhibit) to reflect 8.63 acres total of severe slopes; 2.16 isolated manmade slopes (Area A + Ritchie Marlboro Road); 6.48 acres

remaining; 1.62 acres remaining area; 1.67 total area of severe slopes exclusive of Area A + Ritchie Marlboro Road; and remove "Note."

2. Prior to signature approval of the preliminary plan, a conceptual site plan shall be submitted consistent with the preliminary plan approved by the Planning Board.
3. In conformance with the adopted and approved Melwood-Westphalia Master Plan, the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
  - a. A trail connection from the subject site to the existing master plan trail on the adjacent M-NCPPC land at a location agreeable to the Department of Parks and Recreation.
  - b. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.
4. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan No. 35758-2003-00, and any subsequent revisions.
5. Prior to the issuance of grading permits, the applicant shall submit a manifest demonstrating that the fuel storage tanks located on the property have been properly disposed of by a licensed waste company and reclamation of any contaminated soils has occurred under the direction of the Health Department.
6. Prior to the issuance of grading permits, the applicant shall submit evidence from the Health Department that the tires found on the property have been hauled away by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility.
7. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction, and (c) have an agreed-upon timetable for construction with DPW&T:
  - a. The applicant shall provide frontage improvements for two lanes of traffic on northbound Ritchie Marlboro Road and provide left turn lanes at the two proposed access points on southbound Ritchie Marlboro Road. Frontage improvements will include any necessary acceleration and deceleration lanes and safety improvements required by DPW&T along Ritchie Marlboro Road.
  - b. The applicant shall conduct a traffic signal warrant study at the intersection of Ritchie Marlboro Road and Westphalia Road. If a traffic signal is deemed warranted by DPW&T, the applicant shall bond the signal prior to the release of any building permits within the subject property and install it at a time when directed by DPW&T. The applicant will be responsible for any additional pavement markings and signage at the intersection.
  - c. The applicant shall provide geometric improvements at the intersection of Ritchie Marlboro Road and Westphalia Road to include a two lane eastbound approach on Westphalia Road and two through lanes and left turn lane and right turn lane approaches along northbound and southbound Ritchie Marlboro Road. The applicant will be responsible for any additional pavement markings and signage at the intersection.

8. At the time of final plat approval, the applicant shall dedicate right-of-way along Ritchie Marlboro Road of 60 feet from the master plan right-of-way centerline of pavement.
9. Prior to signature approval of the preliminary plan, it shall be revised to show a 60-foot right-of-way along Street A, between Ritchie Marlboro Road and Street B, and a 60 foot right-of-way along Street C, between Ritchie Marlboro Road and Street B. The additional rights-of-way shall not be accommodated with easements on individual lots and may result in a loss of lots.
10. 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.
11. 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 private on-site recreational facilities on homeowners land. Upon approval by DRD, the RFA shall be recorded among the County Land Records.
12. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on homeowners land. Recreational facilities shall conform to the *Parks and Recreation Facilities Guidelines*.
13. The applicant, his heirs, successors and/or assignees shall to the Park Planning and Development Division submit three original recreational facilities agreements (RFAs) for construction of recreational trail facilities on park property. The RFA shall be approved prior to the approval of final plats. Upon approval by the PP&D Division, the RFA shall be recorded among the County Land Records and noted on the final plat of subdivision.
14. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee prior to building permits for the construction of recreational facilities on park property (M-NCPPC).
15. Prior the issuance of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 30.02 acres of cluster open space land (Parcels A–D). Land to be conveyed shall be subject the following:
  - a. Conveyance shall take place prior to the issuance of building permits.
  - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
  - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
  - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
  - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance

with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.

- f. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
16. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/27/04). 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/27/04), 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.”
17. The Type II tree conservation plan planting schedule shall include a mixture of plant sizes for all reforestation areas within 100 feet of residential lot lines. At a minimum, the planting schedule shall provide at least 35 percent of the planting stock as being one- to two-inch caliper trees. The planting schedule for afforestation areas more than 100 feet from lot lines shall provide at least 10 percent of the planting stock at one-inch caliper or greater.
18. All afforestation areas abutting residential lot lines shall be fenced with permanent fencing such as split-rail fencing or the equivalent prior to the issuance of the use and occupancy permit for the adjacent lots. All required fencing shall be shown on the TCPII and a detail of the fencing shall be provided.
19. Prior to submittal of the detailed site plan, the applicant shall meet with the Environmental Planning Section to evaluate alternatives that may allow for a reduction in the extent of the proposed PMA impacts associated with the widening of Ritchie Road and the construction of proposed Street B. Those alternatives determined to be feasible shall then be incorporated into the detailed site plan.
20. 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.”

21. Prior to the issuance of any permits that 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.
22. Prior to the issuance of any permits, the Type II tree conservation plan and the technical stormwater management plan shall be consistent. A copy of the approved technical stormwater management plan shall be submitted to the Environmental Planning Section for inclusion in the TCPH file prior to the issuance of any grading permits. In the event the TCPH and technical stormwater management plans are not consistent one or both plans shall be revised as necessary prior to the issuance of the grading permits.
23. Prior to approval of the detailed site plan, the geotechnical engineer shall sign a statement on the detailed site plan indicating that the site grading has mitigated all potential slope failure areas and that there are no slopes with a slope safety factor of less than 1.5 located on any portion of any residential lot.
24. As part of the detailed site plan submittal, a Phase II noise study shall be submitted addressing the proposed noise attenuation measures necessary for the mitigation of transportation-related noise impacts for proposed lots located within 170 feet of the centerline of Ritchie Road. All mitigation measures and areas of disturbance for installation of noise attenuation measures shall be shown on the detailed site plan and Type II tree conservation plan, on HOA lands. Any lots where interior and/or exterior noise levels cannot be mitigated to meet the state noise standards shall be eliminated.
25. The following certification shall be placed on all building permits and shall be signed and dated by an engineer with expertise in acoustical engineering: “The construction shown on this building permit has been evaluated and will result in interior noise levels of 45 dBA Ldn or less.”
26. The detailed site plan shall address the specific landscape treatments proposed for the 40-foot scenic easement and show how those treatments are coordinated with the proposed noise attenuation measures.
27. At time of detailed site plan, the applicant shall reduce the disturbance of naturally occurring slopes to 1.62 acres (25 percent) or by a minimum of 2,178 square feet. Additional opportunities to reduce the amount of severe slopes disturbed shall be explored and implemented by the applicant's engineer and reviewed by applicable agencies.
28. In accordance with Part III, Division 9 of the Zoning Ordinance, a detailed site plan shall be approved prior to final plat approval. A Type II tree conservation plan shall be approved at the time of approval of the DSP.
29. The applicant shall submit a complete Phase I investigation with the application for DSP that



shall include research into the property history and archeological literature, approximate dates, condition and character, as well as digital photographs of the buildings labeled “to be removed.” At the time of review of the DSP, the applicant shall submit Phase II and Phase III investigations as determined by Planning Department staff as needed. Depending on the results of any study required, the Historic Preservation staff may schedule a hearing before the Historic Preservation Commission to evaluate Historic Resource 79-000-36 and/or require a historic marker or other interpretive devices be placed at the site. The plan shall provide for the avoidance and preservation of the resources in place or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines. Grading permits may be issued for areas not subject to a Phase I archeological investigation, subject to the required order of approvals.

30. The applicant, his successors and/or assignees, shall provide adequate, private and public recreational facilities in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*. If wet areas must be traversed, suitable structures shall be constructed to assure dry passage along the trail.
31. The applicant shall allocate appropriate and developable areas for the private recreational facilities on homeowners association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of DRD for adequacy and property siting at the time of review of the detailed site plan.
32. The applicant, his successors and/or assignees shall construct an eight-foot-wide asphalt trail, connecting the subject property to the existing trail system in the adjoining King’s Grant Community Park.
33. The applicant, his successors and/or assignees, with submission of the detailed site plan, shall submit construction drawings for the construction of the trail on adjacent parkland for DPR review and approval. The DSP shall include a grading plan, limit of disturbance, and construction details for trail construction on park property. The location of the trail shall be staked in the field and approved by DPR prior to construction. All trails shall be constructed to assured dry passage. If wet areas must be traversed, suitable structures shall be constructed to assure dry passage along the trail. Review shall include a determination of appropriate triggers for construction of the trail.

STAFF RECOMMENDS APPROVAL OF THE TYPE I TREE CONSERVATION PLAN TCPI/27/04 AND A VARIATION TO SECTION 24-121(G)(9) OF THE SUBDIVISION REGULATIONS WITH CONDITIONS.