

R E S O L U T I O N

WHEREAS, Route 210 Associates, L.C. is the owner of a 109.69-acre parcel of land known as Parcels 98, 101, 577, Tax Map 114 in Grid A-1, said property being in the 12th Election District of Prince George's County, Maryland, and being zoned R-R and R-80; and

WHEREAS, on September 22, 2004, Route 210 Associates, L.C. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 140 lots and 9 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04138 for Potomac Ridge II was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on February 17, 2005, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on February 17, 2005, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/61/02-1), and further APPROVED Preliminary Plan of Subdivision 4-04138, Potomac Ridge II for Lots 1-140 and Parcels A-I including variations to Section 24-130 of the Subdivision Regulations with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the plan shall be revised as follows:
 - a. Delineate any abandoned well and/or septic tank, and place a note on the preliminary plan appropriately.
 - b. Extend Parcel F behind Lot 1, Block C, maintaining a conventional R-R lot size.
 - c. Indicate the stormwater management concept plan number and approval date.
2. A Type II tree conservation plan shall be approved with the approval of the Limited Detailed Site Plan,
3. Development of this site shall be in conformance with the stormwater management concept plan and any subsequent revisions.

4. Prior to approval of the final plat of subdivision, a limited detailed site plan shall be approved by the Planning Board or its designee to:
 - a. Ensure noise mitigation measures are established on homeowners open space land to mitigate noise to 65dBA Ldn from MD 210, and those usable outdoor activity areas outside the 65dBA Ldn mitigated noise contour are provided and shall be an attractive feature for the community and views from MD 210. The mitigation measures will also be reviewed for construction methods that ensure a long lifespan of the mitigation measures and the aesthetic appearance.
 - b. Review all private and public recreational facilities. Review shall include conformance to the *Parks and Recreational Facility Guidelines*, establishing a bonding amount and triggers for construction of the recreational facilities.
 - c. To review grading and mitigation measures for potentially unstable slopes. The Preliminary Plan and Type I Tree Conservation Plan shall be revised to show all 1.5 safety factor lines based upon the grading shown on the TCPI. Unless agreed to by DER, no part of any lot may be included within 25-feet of any 1.5 safety factor line.
 - d. Grading, which shall include the submittal of a soils study that shall be prepared and reviewed and approved by the Prince George's Health Department, the Prince George's County Department of Environmental Resources, and the M-NCPPC, Environmental Planning Section. The report shall contain logs of all boreholes. The boreholes shall be sufficient in number and location to establish the horizontal and vertical limits of the Class III fill. The report shall include an assessment of volatile organic compounds, current methane generation, and presence of heavy metals. Any soils found to contain excessive organics or hazardous constituents shall not be reburied on site, even in nonstructural areas. Unuseable fill materials shall be removed from the site and disposed of properly.
 - e. Submit a Phase I archeological investigation and, if determined to be needed by Planning Department staff, a Phase II and Phase III investigation. If necessary the LDSP and final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.
 - f. Landscaping and buffering of all of the common open space elements, stormwater management facilities and any entrance features on Parcels A thru I.

the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted.”

11. Prior to the issuance of any permits 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.
12. Prior to signature approval of the preliminary plan or the Type I tree conservation plan, copies of the approved stormwater management concept plan and letter shall be submitted. The preliminary plan and TCPI shall be revised to reflect the proposed stormwater structures.
13. The applicant and the applicant’s heirs, successors, and/or assignees shall provide the following at the time of street construction permits:
 - a. The applicant shall provide standard sidewalks along the property’s entire street frontage of Oxon Hill Road and on both sides of the internal public streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
 - b. The adopted and approved Subregion VII Master Plan and the 1985 Equestrian Addendum to the adopted and approved Countywide Trails Plan recommend that Oxon Hill Road be designated as a Class III bikeway with appropriate signage. Because Oxon Hill Road is a county right-of-way, the applicant, and the applicant’s heirs, successors, and/or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for the placement of this signage. A note shall be placed on the final plat.
14. Prior to the issuance of grading permits the applicant shall demonstrate that any abandoned well or septic system has been pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department.
15. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
16. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFAs) to DRD for construction of recreational facilities on homeowners land, for approval prior to the submission of final plats. Upon approval by DRD, the RFA shall be recorded among the County Land Records.
17. 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.
18. The applicant, his heirs, successors and/or assignees shall submit to the Park Planning and Development Division submit three original recreational facilities agreements (RFA)s 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, the RFA shall be recorded among the County Land Records and noted on the final plat of subdivision.
 19. 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 park property prior to the approval of building permits.
 20. 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*.
 21. 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 limited detailed site plan. The relocation of the tot lot on Parcel I may result in a loss of lots.
 22. The applicant, his successors and/or assignees shall construct in accordance with the recreational facilities plan and an approved limited detailed site plan, an eight-foot-wide asphalt trail, connecting Street D cul-de-sac to the M-NCPPC Henson Creek Trail, immediately to the south of the subject site on the adjoining M-NCPPC parkland. In addition, an internal private trail shall extend from the western edge of the proposed trail on Parcel G, to Potomac Ridge Road north of Block E in the Potomac Ridge I Subdivision to the west, across Parcel D. If wet areas must be traversed, suitable structures shall be constructed to assure dry passage along the trail.
 23. The applicant, his successors and/or assignees, with submission of the limited detailed site plan (LDSP), shall submit construction drawings for the construction of the trail on adjacent parkland for DPR review and approval. The LDSP 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 of the LDSP shall include a determination of appropriate triggers for construction of the trail.
 24. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 32.22± acres of open space land (Parcels A-I). Land to be conveyed shall be subject the following:

- a. Conveyance shall take place prior to the issuance of building permits.
 - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
 - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement, and 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.
25. 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 the SHA/DPW&T:
- a. MD 210 at Kerby Hill Road/Livingston Road: Reconstruct the eastbound approach for Kerby Hill Road as a four-lane approach, with three left-turn lanes and a shared through/right-turn lane. This improvement would include any signal, signage, and pavement marking modifications that are determined to be necessary.
26. 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 the SHA/DPW&T:

- a. MD 210 at Palmer Road/Livingston Road: Reconstruct the eastbound approach for Livingston Hill Road as a three-lane approach, with two left-turn lanes and a shared through/right-turn lane. This improvement would include any signal, signage, and pavement marking modifications that are determined to be necessary.
 - b. MD 210 at Palmer Road/Livingston Road: Reconstruct the westbound approach for Palmer Road as a three-lane approach, with an exclusive left-turn lane, an exclusive through lane, and an exclusive right-turn lane. This improvement would include any signal, signage, and pavement marking modifications that are determined to be necessary.
27. At the time of final plat approval, the applicant shall dedicate right-of-way along Oxon Hill Road of 40 feet from the centerline of the existing pavement. Improvements within the right-of-way shall be determined by DPW&T.
28. At the time of final plat approval, the applicant shall dedicate right-of-way along MD 210 of 150 feet from the centerline of MD 210. Improvements within the right-of-way shall be determined by SHA.
29. The applicant shall disclose the potential change in access as a part of MD 210 improvements to homebuyers within the subject development. This disclosure shall indicate that the right-in, right-out access to the site from MD 210 is approved by the SHA as a temporary access, and that once planned interchanges along MD 210 at Kerby Hill/Livingston Roads and Palmer/Livingston Roads are constructed, this access could be replaced by service road access to the north or the south. This disclosure shall be made directly to potential homebuyers, and shall also be included as a note on the record plat.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

- 1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
- 2. The subject property is located on the east side of Oxon Hill Road and on the west side of Indian Head highway between Palmer Road and Livingston Road.
- 3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-80 (29.88 acres) R-R (79.81 acres)	R-80 (29.88 acres) R-R (79.81 acres)
Use(s)	Residential	Single-family residential
Acreage	109.69	109.69
Lots	0	140

Parcels	3	9
Dwelling Units:		
Detached	2 (to be razed)	140 (new)

4. **Environmental**—Approximately one-half of the site is wooded. A review of the information available indicates that streams, wetlands, and 100-year floodplain associated with Henson Creek in the Potomac Watershed occur on this property. According to the *Prince George’s County Soil Survey* the principal soils on the site are in the Adelpia, Aura, Beltsville, Bibb, Butlertown, Collington, Keyport, Magnolia, Matapeake, Mattapex, Ochlockonee, Sassafras and Shrewsbury soils series. A significant area of fill is located on the site. Indian Head Highway is the nearest source of traffic-generated noise. The proposed use is not expected to be a noise generator. There are no rare, threatened or endangered species located in the vicinity of this property based on information provided by the Maryland Department of Natural Resources, Natural Heritage Program. No historic or scenic roads are affected by this proposal.

The adopted and approved Subregion VII master plan refers to “clay beds of the Patapsco Formation” (page 33), which are subject to slide, slump or flow. The map showing “Landslide Susceptibility in Prince George’s County, Maryland,” a document prepared by the U.S. Geological Survey, indicates an area of medium to high susceptibility to landsliding associated with Potomac Group sediments on the subject property. The Patapsco Formation is a geologic unit within the Potomac Group.

The Type I tree conservation plan shows extensive grading of steep and severe slopes. The plan also proposes creating slopes in excess of 3:1 on residential lots. Because of the presence of Potomac Group sediments, a geotechnical report regarding stability of existing and proposed slopes is required for review of the proposed development for conformance with Section 24-131 of the Subdivision Regulations. No part of any 1.5 safety factor line may be on a lot. All 1.5 safety factor lines require a minimum 25-foot building restriction line in conformance with Section 24-131(a)(1) of the Subdivision Regulations.

A detailed geotechnical study was submitted for review. The study includes a map showing the locations of boreholes, logs of boreholes, laboratory test results from samples, cross-sections analyzed, discussion of the methods used to evaluate slope stability, results of the analyses, and recommendations for mitigation. Neither the TCPI nor the preliminary plan show existing conditions 1.5 safety factor lines or proposed conditions 1.5 safety factor lines; however, the areas of concern can be deduced from the report. The report does quite clearly identify areas where slope stability remains a significant issue and mitigation is unresolved at this time.

Five cross-sections were analyzed. Cross-sections A, B and C indicate no slope stability problems in the northern portion of the site. Cross-section D analyzed under existing conditions showed areas where slope stability was lower than 1.5; however, an analysis using the proposed grading shown on the TCPI indicates that no unstable areas would remain. The analysis of cross-section E indicates that slope stability is a significant problem when examined under existing conditions and utilizing the proposed grading shown on the TCPI.

The area near Street H and Street D including Lots 18-30, Block E, requires further evaluation. At a meeting with the applicant and geotechnical engineers on January 21, 2005, staff concluded that modifications to the grading for the cul-de-sac for proposed Street D could mitigate all existing areas of potential slope failure. The proposed remedies would not affect the overall lot layout of the subdivision or circulation patterns within the subdivision; however, there may be a loss of lots and an increase in the size of the HOA parcel.

Indian Head Highway is the nearest traffic-generated noise source. The noise model used by the Environmental Planning Section predicts that the 65dBA noise contour is about 397 feet from the centerline of Indian Head Highway. The noise model used by the Environmental Planning Section contains assumptions that are not appropriate for this site because they are based on a noise model that does not include significant changes in elevation. In particular, the noise model assumes no topographic relief. The rise in elevation of the property from Indian Head Highway will result in an increase in noise levels and the 65 dBA Ldn noise contour will exist farther into the site. Additionally, the noise model used by the Environmental Planning Section does not address potential noise impacts above ground level.

For residential uses, outdoor activity areas must have noise levels of 65 dBA Ldn or less to be in conformance with the state noise standards. The outdoor activity areas on the impacted lots are the areas within 40 feet of the rears of the affected houses. A Phase II noise study was required for the review of the applicant's proposed berming along MD 210 in order to mitigate noise impacts on Lots 1-6, Block C, and Lots 1-11, Block A.

The preliminary plan and Type I tree conservation plan show the unmitigated ground-level 65 dBA Ldn noise contour approximately 463 feet from the centerline of Indian Head Highway. The noise study further analyzes the site with a hypothetical sound berm. The study concludes that the installation of a berm or the construction of a sound wall adjacent to the right-of-way for Indian Head Highway can shift the ground-level 65 dBA Ldn noise contour closer to Indian Head Highway and provide minimum 40-foot-deep outdoor activity areas in the rear of each lot.

All constructed noise barriers should be on land dedicated to the homeowners association (HOA), and not on individual lots, to ensure the long-term maintenance of the noise barrier to benefit the entire community. Additionally, the responsibility of the noise wall should be the responsibility of the HOA. Parcel A is HOA open space between the lots fronting Street A and MD 210. The open space parcel will be utilized to construct the necessary noise attenuation. In addition, Parcel F should be extended behind Lot 1, Block C, to provide for the noise attenuation on HOA land. All of the lots abutting MD 210 conform to Section 24-121 and have a minimum lot depth of 300 feet.

Both ground-level and upper-level interior noise impacts can easily be mitigated with the use of proper building materials that will ensure that the interiors of all affected structures will attain the state standard of 45 dBA Ldn.

A significant area of Class III fill is located on the site. This fill was placed after the *Prince*

George's County Soil Survey was published and is located in the eastern portion of the subject property. The nature of this fill is unknown. The area of fill must be shown on the FSD.

Conceptual final grades are shown on the TCPI; however, it is not clear if the material within the Class III fill is going to be entirely removed and transported to another property, partially removed, or reused on site. This issue was discussed in detail during the review of Preliminary 4-02104, Potomac Ridge I, to the west.

The property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the property is larger than 40,000 square feet in area and contains more than 10,000 square feet of woodland. A Type I tree conservation plan is required.

A Type I Tree conservation plan, TCPI/61/02, was approved for the portion of the property that was the subject of 4-02104 and needs to be revised to include the additional acreage that is included in this application. A Type II tree conservation plan, TCPII/102/03, was approved for the area of 4-02104 and will need to be revised in the future to include only that portion of 4-02104 that is not part of the current application. A Type II tree conservation plan, TCPII/180/03, was approved for Parcel 101 as part of the permit for the construction of a sanitary sewer and will need to be revised in the future to include all of the additional property in the current application.

The revised Type I tree conservation plan, TCPI/61/02-01, has been reviewed and was found to require additional revisions. The worksheet correctly includes the clearing approved by TCPII/180/03 and TCPII/102/03. The worksheet includes the entire acreage shown for Preliminary Plan 4-02104 and the additional acreage included in the subject application. As noted earlier, the plan needs to be redesigned to provide the noise berm in a different location than shown on the plans and have the grading revised in the southern portion of the site to mitigate slope stability issues. These changes will reduce the woodland conservation areas shown on Lots 1-11, Block A, and Lots 1-4, Block C, but may increase woodland conservation along the southern property line. Of the 59 specimen trees identified, only 16 are proposed for removal.

The plan proposes to meet the woodland conservation threshold of 28.91 acres on site and all additional requirements by providing off-site conservation for a total woodland conservation requirement of 55.02 acres. Overall the plan proposes to preserve most of the woodlands within sensitive environmental features and preserves additional woodlands that serve to provide buffering and screening from Indian Head Highway.

The adopted and approved Subregion VII master plan shows an area of conditional reserve on the site. The Subdivision Ordinance provides for the protection of streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, adjacent areas of slopes in excess of 25 percent, and adjacent areas of slopes between 15 and 25 percent with highly erodible soils. These areas compose the expanded buffer on the site. The plan shows streams, wetlands and floodplain on the site. The Prince George's County Department of Environmental Resources has approved the 100-

year floodplain for existing channel conditions. The U.S. Army Corps of Engineers and the Maryland Department of the Environment have approved the wetlands delineation. All sensitive environmental features required by Section 24-130 of the Subdivision Regulations are adequately shown on the preliminary plan and the Type I tree conservation plan.

The plan proposes impacts to stream buffers and wetland buffers. A variation request indicating six individual impacts was submitted with the application. Each impact is depicted on a map on 8.5- by 11-inch paper and notes the quantity of impact proposed for each individual impact. Some of the impacts illustrated were approved with the approval of 4-02104, PGCPB Resolution No. 03-65 on May 8, 2003.

All disturbance not essential to the development of the site as a whole is prohibited within stream and wetland buffers without the approval of a variation request. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), road crossings, and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare. Impacts for essential development features require variations to the Subdivision Regulations.

Six requests, in conformance with Section 24-113 of the Subdivision Regulations, for impacts to sensitive environmental features have been submitted. Requests 1, 3 and 5 are for the construction of a sanitary sewer on the site to serve all of the Potomac Ridge subdivision and the National Harbor Project. Requests 2, 4 and 6 are for internal streets to serve the subdivision.

Staff notes that the proposed sanitary sewer within the expanded stream buffers has been reviewed in great detail by all permit agencies as part of a CIP improvement to serve a much larger community than the lots proposed by this subdivision. Additionally, the property has several streams and extensive areas of severe slopes and highly erodible soils that create a proportionately high area of expanded stream buffers.

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:

Comment: The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

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

Comment: The installation of a sanitary sewer as described by impacts 1, 3 and 5 is required to provide for public safety, health and welfare. The street construction addressed in impacts 2, 4 and 6 is required to provide access for emergency vehicles and safe travel. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with other regulations. These regulations require that the designs are not injurious to other property.

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

Comment: The only available sanitary sewer mains to serve development of this property are wholly within expanded stream buffers. Many other properties can connect to existing sanitary sewer lines without requiring a variance; however, that option is not available for this particular site. The Washington Suburban Sanitary Commission determines the number and placement of sanitary sewer connections. The property contains many stream valleys that dissect the land into developable pods and one relatively large area that cannot be served by a public street without a stream crossing.

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

Comment: The installation of sanitary sewer connections and road construction is required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws. The alignment of the sanitary sewer has been reviewed and approved by all permitting agencies.

(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 property has several streams and extensive areas of severe slopes and highly erodible soils that create a proportionately high area of expanded stream buffers. The denial of impacts 1, 3 and 5 would result in the loss of not only all lots within the Potomac Ridge Subdivision but would also impact other areas of approved development. The denial of impacts 2, 4 and 6 would result in the loss of all 39 lots in the southeastern portion of the site.

Staff supports the applicant's variation requests.

The Department of Environmental Resources has not yet issued a stormwater management concept approval letter but staff has been advised by that Department that the stormwater management concept plan has been approved and the approval letter is forthcoming.

Water and Sewer Categories

The water and sewer service categories for Parcels 101 and 577 are W-4 and S-4, and W-3 and S-3 for part of Parcel 98, according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and will, therefore, be served by public systems.

5. **Community Planning**—The subject property is located within the limits of the 1981 Master Plan for Subregion VII, Planning Area 80 in the Forte Foote community. The master plan land use recommendation for the property is suburban residential at a density of up to 3.5 dwelling units per acre. The 1984 Subregion VII sectional map amendment (SMA) retained this site in the R-R and R-80 Zones. The preliminary plan is consistent with the recommendations of the master plan and subsequent SMA.

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 that are increasingly transit serviceable. The proposed preliminary plan is not inconsistent with this recommendation.

6. **Parks and Recreation**—The applicant was advised in a memorandum of October 7, 2004, from the Department of Parks and Recreational (DPR) recommending that the preliminary plan should be revised to provide sufficient private on-site recreational facilities and a trail connection to the Henson Creek Stream Valley Park to the south.

DPR, in its memorandum of October 7, 2004 (Asan to Chellis), requested that the required on-site recreational facilities be provided in “appropriate and developable areas” and that a trail connection to the Henson Creek Stream Valley Park to the south be provided. On October 8, 2004, DPR requested that the applicant provide a proposed recreational facilities package that could be evaluated by staff. The applicant submitted a proposed recreational facilities package on February 7, 2005.

The plan proposes to construct a pedestrian trail connection to the Henson Creek Trail (M-NCPPC), three sitting areas, two tot-lots, and an internal pedestrian trail. The location of the tot-lot on

Parcel I is not properly sited and should be relocated. The tot-lot is located too close to the dwelling on Lot 19, Block E and should be more centrally located. A more appropriate location can be determined with the review of the required limited detailed site plan (LDSP), and could result in a loss of a lot.

The applicant has proposed an internal trail system. However, the trail terminates at a dead end with the abutting Potomac Ridge I subdivision to the west and should be extended. The applicant has verbally proffered this continuation onto Parcel D within the Potomac Ridge I subdivision. The applicant in this case is also the developer of that subdivision and has the ability to implement the connection. The current application is an extension of Potomac Ridge I and will be under one umbrella homeowners association (HOA). Without the connection the recreational facilities package proposed by the applicant is not sufficient.

7. **Trails**—The adopted and approved Subregion VII Master Plan and the 1985 equestrian addendum to the adopted and approved Countywide Trails Plan identify one master plan trail issue that impacts the subject site. Oxon Hill Road is designated as a master plan bicycle/trail corridor. DPW&T is currently studying different alternatives for the improvement of this road. Comprehensive bicycle and pedestrian facilities will be provided along this road through this project. Currently under consideration are in-road bike lanes and wide sidewalks. Staff recommends the provision of “share the road with a bike” signage and a standard sidewalk along the subject site’s frontage of Oxon Hill Road. This will accommodate pedestrians and alert motorists to the possibility of on-road bicycle traffic. Comprehensive bicycle and pedestrian facilities will be provided for the entire corridor through a future DPW&T capital improvement project. However, the recommended improvements will help to accommodate nonmotorized traffic until the comprehensive facilities are completed.

The existing M-NCPPC Henson Creek Trail is immediately to the south of the subject site on the adjoining M-NCPPC parkland. This stream valley trail currently runs from Oxon Hill Road to Temple Hills Road. The trail goes under MD 210 in the vicinity of the subject site. The adopted and approved Subregion VII Master Plan, the 1985 Equestrian Addendum to the adopted and approved Countywide Trails Plan, and the Heights Master Plan recommend the extension of the trail from Temple Hills Road to the Branch Avenue Metro. This extension will further enhance the usefulness of the trail both as a recreational facility and a transportation facility for some trips to Metro. Staff recommends the provision of a trail connection from the subject site to the existing stream valley trail. This connection will link the residents of Potomac Ridge to the existing recreational facility and also provide opportunities for making some trips by walking or bicycling. This connection could be located from the end of Street D, through HOA Parcel E, and to the existing trail just south of the property line. The trail would go around stormwater management pond 2 and could possibly utilize the stormwater management access road.

SIDEWALK CONNECTIVITY:

The existing subdivisions both to the north and south of the subject site have sidewalks along

both sides of all internal roads. Sidewalks were also recommended along both sides of the internal roads for Potomac Ridge I, including Street D that connects to the subject site. Staff recommends the provision of sidewalks on both sides of all internal roads on the subject site, unless modified by DPW&T. It should also be noted that Potomac Ridge I allows for a future trail connection to the adjacent Fort Foote Elementary School, if desired by the community and Board of Education.

8. **Transportation**—The transportation staff prepared a memorandum dated February 2, 2005, that recommended disapproval of this project. Subsequent to the Planning Board hearing of February 10, 2005, the issues that resulted in a recommendation for disapproval have been resolved.

Access to the site and circulation within the site is a major issue associated with the development of this site. At the Subdivision Review Committee meeting of October 8, 2004, transportation staff indicated that access onto MD 210 could not be shown, and that the circulation plan for the site would need to be significantly changed. This recommendation was based upon the master plan recommendation for MD 210 as an expressway/freeway facility. Since the Subdivision Review Committee meeting, the following has occurred:

1. SHA has indicated that the subject property has a right of access to MD 210. This right was granted when MD 210 was transferred from the federal government to SHA.
2. SHA intends to grant temporary right-in, right-out access to MD 210. This access is temporary in that at such time that SHA constructs a limited access grade-separated freeway along MD 210, with the potential for service roads between interchanges, that access would be redirected onto a service road.
3. On February 1, 2005, a meeting occurred between the applicant, SHA, and transportation staff regarding access. According to the Final Environmental Impact Study (FEIS) for the MD 210 Multi-Modal Access Study dated June 2004, there appeared to be no provision made for a service road in the area of the subject property. At that meeting, it was clarified that the selected alternative could include a service road to the north with the Kerby Hill Road ramps connecting to it, while directing a service road to the south to Livingston Road. Although considered within the scope of the alternative, this appeared to have severe environmental impacts upon the Henson Creek stream valley that would require a new review in that immediate area. However, neither an alignment for a service road nor a typical section including a service road in the area of this site is shown in the FEIS.
4. Following the February 1 meeting, the applicant conceptually designed a typical section for MD 210 with a service road in front of the subject property. SHA has agreed that right-of-way of 150 feet from the centerline of MD 210 would provide sufficient area for future improvements along MD 210 and the construction of a service road, if needed, to serve the subject property and other properties along the west side of MD 210 between Kerby Hill Road and Livingston Road.

It was discussed at that meeting, and agreed by the applicant, that a disclosure of the potential change in access be made to homebuyers within the subject development. A disclosure condition, enforceable as a note on the plat and as a separate disclosure to homebuyers, should be included.

With the resolution of ultimate access along the eastern side of the subject property, other comments made at the Subdivision Review Committee regarding site layout are no longer applicable. The current plan as submitted is acceptable.

The Transportation Planning Section has reviewed the subdivision application referenced above. The subject property consists of approximately 109.69 acres of land in the R-R and the R-80 Zones. The property is located on the west side of MD 210 between Kerby Hill Road and Palmer Road/Livingston Road. The applicant proposes a residential subdivision consisting of 140 single-family detached residences.

The applicant has submitted a traffic study dated August 2004. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the "Guidelines for the Analysis of the Traffic Impact of Development Proposals." Comments from the county's Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA) were received.

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, is permitted 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 study and install the signal (or other less costly traffic controls) if deemed warranted by the appropriate operating agency.

Staff Analysis of Traffic Impacts

The applicant has prepared a traffic impact study in support of the application using new counts taken in November 2003. With the development of the subject property, the traffic consultant has determined that adequate transportation facilities in the area can be attained with off-site

transportation improvements that are identified in the study. The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections:

- MD 210/Kerby Hill Road/Livingston Road
- MD 210/Palmer Road/Livingston Road
- Oxon Hill Road/site entrance (planned/unsignalized)

The following conditions exist at the critical intersections:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume		Level of Service	
	(AM & PM)		(AM & PM)	
MD 210/Kerby Hill Road/Livingston Road	1,707	1,814	F	F
MD 210/Palmer Road/Livingston Road	1,722	1,869	F	F
Oxon Hill Road/site entrance	Planned		--	--
*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.				

The area of background development includes several approved but unbuilt properties in the vicinity of the subject property. Also, background conditions also assume through traffic growth of 2.0 percent annually in the area. There are no programmed improvements in the county's Capital Improvement Plan (CIP); the state's Consolidated Transportation Program (CTP) includes a funded park-and-ride lot south of the site along MD 210. SHA did not comment on the trip reduction attributable to that lot. Background conditions are summarized below:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume		Level of Service	
	(AM & PM)		(AM & PM)	
MD 210/Kerby Hill Road/Livingston Road	1,850	1,971	F	F
MD 210/Palmer Road/Livingston Road	1,897	2,020	F	F
Oxon Hill Road/site entrance	Planned		--	--
*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.				

The site is a proposed residential subdivision of 140 single-family detached residences. The resulting site trip generation would be 105 AM peak-hour trips (21 in, 84 out) and 126 PM peak-hour trips (84 in, 42 out).

The site is proposed to be served by a right-in, right-out entrance (i.e., no median break) along MD 210. It is noted that the study assumes that about 85 percent of traffic leaving the subdivision and 70 percent of traffic entering the subdivision would use the MD 210 entrance, with the remainder using streets within the adjacent Potomac Ridge subdivision for access back to Oxon Hill Road. With site traffic, the following operating conditions were determined:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume		Level of Service	
	(AM & PM)		(AM & PM)	
MD 210/Kerby Hill Road/Livingston Road	1,871	1,994	F	F
MD 210/Palmer Road/Livingston Road	1,963	2,026	F	F
Oxon Hill Road/site entrance	22.1*	17.0*	--	--
*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.				

The traffic analysis identifies severe inadequacies at the MD 210/Kerby Hill/Livingston and the MD 210/Palmer/Livingston intersections. In response to the inadequacy at these intersections, the applicant has proffered mitigation. This intersection is eligible for mitigation under the fourth criterion in the "Guidelines for Mitigation Action" (approved as CR-29-1994). The applicant recommends the improvements described below to mitigate the impact of the applicant's development in accordance with the provisions of Sec. 24-124(a)(6). The improvements include:

MD 210/Kerby Hill Road/Livingston Road:

1. The addition of a fourth westbound lane along Kerby Hill Road, to result in double left-turn lanes, a shared through/left-turn lane, and an exclusive right-turn lane on that approach.
2. The addition of a third left-turn lane along Livingston Road, to result in triple left-turn lanes, an exclusive through lane, and an exclusive left-turn lane on that approach.

MD 210/Palmer Road/Livingston Road:

1. The addition of a third lane along Livingston Road, to result in double left-turn lanes and a shared through/right-turn lane on that approach.

2. The addition of a third lane along Palmer Road, to result in an exclusive left-turn lane, an exclusive through lane, and an exclusive right-turn lane on that approach.

The applicant has not indicated what roadway improvements would be needed to achieve the LOS D standard in both peak hours, and has not provided any justification for the use of Section 24-124(a)(6) in lieu of meeting the standard.

The impact of the mitigation actions at these intersections is summarized as follows:

IMPACT OF MITIGATION				
Intersection	LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 210/Kerby Hill Road/Livingston Road				
Background Conditions	F/1850	F/1971		
Total Traffic Conditions	F/1871	F/1994	+21	+23
Total Traffic Conditions w/Mitigation	F/1726	F/1793	-145	-201

IMPACT OF MITIGATION				
Intersection	LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 210/Palmer Road/Livingston Road				
Background Conditions	F/1897	F/2020		
Total Traffic Conditions	F/1963	F/2026	+66	+6
Total Traffic Conditions w/Mitigation	F/1802	F/1790	-161	-236

As the CLV is greater than 1,813 during both peak hours at both intersections, the proposed mitigation action must mitigate at least 100 percent of the trips generated by the subject property during each peak hour and bring the CLV to no greater than 1,813. The above table indicates that the proposed mitigation action would mitigate at least 100 percent of site-generated trips during both peak hours at each intersection, while reducing the computed CLV to no greater than 1,813 during each. Therefore, the proposed mitigation actions at MD 210 and Kerby Hill Road/Livingston Road and the proposed mitigation at MD 210 and Palmer Road/Livingston Road meet the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.

The mitigation plan was reviewed by DPW&T and SHA. Comments from both agencies were

received. SHA agreed that the mitigation was acceptable. DPW&T did not raise objection to the mitigation that was proposed. SHA agreed to the mitigation improvements as proffered in the traffic study.

Each agency included comments regarding site access. DPW&T originally suggested that SHA would not approve access onto MD 210 and that Oxon Hill Road needed further study as a result. However, as discussed above SHA has indicated that the access point onto MD 210 would be approved and this minimizes the need for further study along Oxon Hill Road.

Transportation Staff Conclusions

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

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

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	140 sfd	140 sfd	140 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	33.60	8.40	16.80
Actual Enrollment	4183	4688	8866
Completion Enrollment	158.40	69.06	136.68
Cumulative Enrollment	22.32	31.02	62.04
Total Enrollment	4397.32	4796.48	9081.52
State Rated Capacity	4512	5114	7752
Percent Capacity	97.46%	93.79%	117.15%

Source: Prince George's County Planning Department, M-NCPPC, December 2004

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.

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.

10. **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 Oxon Hill Fire Station, Company 21, located at 7600 Livingston Road, has a service travel time of 4.09 minutes, which is within the 5.25-minute travel time guideline.
 - b. The existing ambulance service at Oxon Hill Fire Station, Company 21, located at 7600 Livingston Road, has a service travel time of 4.09 minutes, which is within the 6.25-minute travel time guideline.
 - c. The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service travel time of 6.36 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.”

11. **Police Facilities**—The proposed development is within the service area for Police District IV-Oxon Hill. The Planning Board’s current test for police adequacy applicable to the subject application 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.
12. **Health Department**—The Health Department notes that any abandoned well or septic system should be delineated on the preliminary plan. These facilities should be properly abandoned and backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A stormwater

management concept plan has been submitted and approved. The Department of Environmental Resources has not yet issued a stormwater management concept approval letter but staff has been advised by that department that the approval letter is forthcoming.

Because a significant amount of impervious surfaces are proposed and on-site ponds may be required, a copy of the approved concept plan will be essential in the review of the grading and development plans. The sizing of these ponds may affect the Type I tree conservation plan and lotting pattern. An approved stormwater management plan is essential to ensure that development of this site does not result in on-site or downstream flooding.

14. **Historic**—The Planning Board has determined that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications, and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. The Brook families are documented to have been living in the area pre-Civil War and it is possible that this property may have been a part of their land holdings. 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 any disturbance occurring on this property, the applicant should submit a Phase I archeological investigation to the Planning Department staff for review and concurrence, and if determined to be needed, a Phase II and Phase III investigation. If necessary, the final plat should provide for the avoidance and preservation of the resources in place and should provide appropriate plat notes ensuring the mitigation of any adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist 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.

15. **Lot Size Averaging**- The applicant has submitted (February 11, 2005) an exhibit that proposes to utilize the lot size averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for the portion of this property in the R-R Zone.

Section 27-423 of the Prince George's County Zoning Ordinance establishes the zoning requirements for lot size averaging. Specifically:

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

Of the 140 lots proposed, the applicant is proposing only nine lots between with 15,000 and 20,000 square feet in size. Therefore, the proposed subdivision meets the minimum zoning ordinance

standards for lot size averaging.

Section 24-121(a)(12) requires that the Planning Board make the following findings (A-C) in permitting the use of lot size averaging.

- A. The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.**

The open space Parcel A abutting MD 210 provides the area necessary for noise attenuation. LSA allows a reasonable lot yield while locating noise attenuation off the lots, creating a better environment than that allowed by the exclusive use of standard lots.

- B. The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.**

The subdivision is a mix of lot sizes. The lot size averaging allows for a comparable lotting pattern with other lots in the subdivision and appropriate transitions.

- C. The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.**

This finding is not applicable in this case, there are no immediate features.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Harley, seconded by Commissioner Eley, with Commissioners Harley, Eley and Hewlett voting in favor of the motion, and with Commissioners Vaughns and Squire absent at its regular meeting held on Thursday, February 17, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of March 2005.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:WC:rmk