

R E S O L U T I O N

WHEREAS, Tony R. and Cynthia A. Brazelton are the owners of a 23.96-acre parcel of land known as Parcel 123, Tax Map 108 in Grid F-4, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on December 19, 2005, Tony R. and Cynthia A. Brazelton filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 17 lots and 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05078 for Brazelton Property 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 May 18, 2006, 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 May 18, 2006, 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/1/06), including a Variation from Section 24-130, and further APPROVED Preliminary Plan of Subdivision 4-05078, Brazelton Property for Lots 1-17 and Parcels A & B with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised to make the following technical corrections:
  - a. Demonstrate dedication of 40 feet from the centerline along the property's entire frontage with Rosaryville Road.
  - b. Provide a general note that demonstrates that the existing structures on the property are to be razed.
  - c. Delineate the location of the shallow, abandoned well serving 8119 Rosaryville Road.
  - d. Delineate the location of the two additional sheds on the property that are not shown on the preliminary plan.

- e. Provide a general note that states that raze permits must be obtained through the Department of Environmental Resources, Office of Licenses and Permits prior to the removal of any structures on site.
  - f. Provide all adjacent uses, zones, and parcel designations.
  - g. Clarify the distance on Lot 7 along the internal road.
  - h. Provide the accurate distances around the property's boundary.
  - i. Show proposed water and sewer connections.
  - j. Provide a 10-foot wide public utility easement adjacent and contiguous to the public right-of-way. This includes the entire street frontage along Rosaryville Road.
  - k. Delineate a 4.6 Bufferyard on Lot 17 in accordance with the *Landscape Manual*, adjacent to Rosaryville Road.
  - l. Reflect DPR Exhibit A, creating a new HOA parcel by dividing proposed Parcel B.
  - m. Add a general note regarding the DER conservation easement.
2. Prior to the approval of permits, a Limited Detailed Site Plan (LDSP) shall be approved by the Planning Board or its designee for the proposed stormwater management facility on Parcel A. The review shall ensure pleasing views from abutting lots and Rosaryville Road. The review shall include but not be limited to, landscaping and possible fencing if determined appropriate.
  3. Prior to the issuance of any grading permit, TCPII/143/91 shall be revised to show the required changes to the conservation easement that is currently recorded in Land Records as Liber 9099, Folio 190.
  4. Development of this site shall be in conformance with the Stormwater Management Concept Plan, #35566-2005-00 and any subsequent revisions.
  5. Prior to approval of the Final Plat of subdivision the applicant, his heirs, successors and or assignees shall pay a fee-in-lieu of parkland dedication.
  6. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 4.71 +/- acres of open space land (Parcels A and a portion of Parcel B). 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 storm drain 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. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
7. Prior to the 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.
  8. Prior to the issuance of grading permits the applicant, his heirs, or successors shall demonstrate that the abandoned well 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.
  9. Prior to the issuance of grading permits the applicant, his heirs, or successors shall demonstrate that the unlabeled plastic drums containing liquid that were found at the garage on the property were evaluated and disposed of in an appropriate manner by a licensed hazardous waste company. A copy of the manifest must be submitted to the Health Department's Division of Environmental Health.
  10. Prior to final plat, the applicant, his heirs, successors and assignees shall submit copies of the

revised Declaration of Conservation Easement and Covenants for Woodland Preservation Area that is currently recorded in Land Records as Liber 9099, Folio 190 to the Development Review Division and the Environmental Planning Section. Prior to submission to M-NCPPC, the revised conservation easement shall be signed by the Prince George's County Office of Law and re-recorded in Land Records. Should the Prince George's County Office of Law not authorize revisions to the existing conservation easement, all building lots or improvements proposed within the limits of the recorded easement must be deleted from the preliminary plan of subdivision, and the preliminary plan revised to demonstrate the conservation easement in its original recorded configuration.

11. Prior to signature of the preliminary plan of subdivision, the Preliminary Plan and Type I Tree Conservation Plan shall be revised to ensure that no portion of any conservation easement is on any lot.
12. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers and the easement dedicated to Prince George's County, except for areas where variation requests for stormwater management outfalls and sanitary sewer connections have been granted. The Environmental Planning Section prior to certification shall review the final plat. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed. No portion of any conservation easement may be used to satisfy the requirements of the Woodland Conservation Ordinance for purposes other than as required by TCPII/143/91."
13. Prior to the approval of any permits which 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.
14. The limits of the Prince George's County Conservation Easement for Woodland Preservation shall be delineated on the final plat and the amended liber and folio reflected.
15. Prior to signature of the Preliminary Plan, the Type I TCP shall be revised to:
  - a. Remove grading into the expanded stream buffer on Lot 7
  - b. Remove woodland conservation areas from all lots
  - c. Remove woodland conservation from all conservation easements
  - d. Revise the worksheet as needed
  - e. Have the revised plan signed and dated by the qualified professional who prepared the

plan.

16. The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/1/06), 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 Ordinance. This property is subject to the notification provisions of CB-60-2005.”

17. The applicant shall provide standard sidewalks along the property’s entire street frontage unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.

18. Prior to the issuance of a grading permit for the development, A Public Safety Mitigation Fee shall be paid in the amount of \$64,260 (\$3,780 x 17 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the Consumer Price Index for All Urban Consumers. The actual fee to be paid will depend upon the year the grading permit is issued.

19. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the M-NCPPC, 11.0 ± acres of land, as demonstrated in DPR Exhibit A. Land to be conveyed shall be subject the following:

- a. At the time of final plat the applicant an original, special warranty deed for the property to be conveyed, (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the Final Plat.
- b. The M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to Final Plat.
- c. The boundaries and acreage of land to be conveyed to the M-NCPPC shall be indicated on all development plans and permits, which include such property.
- d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by The M-NCPPC

development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, The M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.

- e. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by The M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by The M-NCPPC, the DPR shall review and approve the location and design of these facilities. The DPR may require a performance bond and easement agreement prior to issuance of grading permits.
  - f. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled and underground structures shall be removed. The DPR shall inspect the site and verify that land is in acceptable condition for conveyance, prior to dedication.
  - g. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of the DPR.
  - h. The applicant shall terminate any leasehold interests on property to be conveyed to the Commission.
  - i. No stormwater management facilities, or utility easements shall be proposed on land owned by or to be conveyed to The M-NCPPC without the prior written consent of the DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by the DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
20. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency.
- Install a traffic signal at the intersection of Rosaryville Road and Williamsburg Drive
  - Conduct a traffic signal warrant study for the intersection of Rosaryville Road and Gambier Drive, and install said signal if approved by DPW&T, or other intersection improvements deemed to be necessary by DPW&T.
21. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees, shall pay a pro-rata share of the road improvements along MD 223 at Rosaryville Road, as described in the Prince George's County Capital Improvement Program for CIP No. FD669451: 2006-2011 (MD 223 Widening). The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$812.00 per dwelling unit x (*Engineering News Record* Highway Construction Cost Index at the time of building permit application) / (*Engineering News*

*Record Highway Construction Cost Index for the second quarter 2001).*

22. Prior to signature approval of the preliminary plan of subdivision it shall be revised to reflect the master plan 40-foot wide public use hiker-equestrian trail easement within Parcel B from Rosaryville Road to the land being dedicated to M-NCPPC along Piscataway Creek. This easement shall include a connection to the existing equestrian easement on the Piscataway Creek development to the northwest (NLP 156 P 28).
23. Prior to signature approval of the preliminary plan the DRD shall determine the extent of the land that should be the subject of a Phase I archaeological investigation with the concurrence of the Development Review Division (DRD), which shall include research into the property history and archaeological literature for those lands determined to be subject, and four copies of the approved final report submitted to M-NCPPC Historic Preservation staff. Prior to approval of Final Plats, the applicant shall submit Phase II and Phase III investigations as determined by DRD staff as needed. 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 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. Section 106 review may also require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when federal monies, federal properties, or federal permits are required for a project.

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 property is located on the west side of Rosaryville Road approximately 300 feet north of its intersection with Williamsburg Drive.

3. **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)	1 Single-Family Dwelling	17 Single-Family Dwellings
Acreage	23.96	23.96
Lots	0	17
Parcels	1	2
Dwelling Units:		
Detached	1	17
Public Safety Mitigation Fee		Yes

4. **Environmental**—The Environmental Planning Section has reviewed the revised preliminary plan of subdivision for the Brazelton property, 4-05078, and the revised Type I tree conservation plan, TCPI/1/06, stamped as received by the Environmental Planning Section on April 20, 2006. The Environmental Planning Section supports the variation requests for impacts to sensitive environmental features and recommends approval of Preliminary Plan 4-05078 and TCPI/1/06 subject to the conditions noted.

The Environmental Planning Section previously approved a Type II Tree Conservation Plan, TCPII/143/91, to satisfy a violation of the Woodland Conservation Ordinance for the subject property. As part of the settlement of that violation, 14.70 acres of the property were placed within a conservation easement controlled by Prince George’s County. The proposal is for 17 lots and two parcels in the R-R Zone.

According to the Green Infrastructure Plan, the eastern upland portion of the site is an evaluation area that abuts the regulated area associated with the stream valley. According to the “Prince George’s County Soils Survey,” the principal soils on this site are in the Bibb and Westphalia series. Marlboro clay does not occur in the area. 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, rare, threatened, or endangered species do not occur in the vicinity of this property. No designated scenic or historic roads will be affected by the proposed development. There are no sources of traffic-generated noise. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the adopted General Plan.

A signed natural resources inventory, NRI/96/05, was submitted with the application. There are two streams, wetlands, and 100-year floodplain on the property associated with Piscataway Creek in the Potomac River watershed. A forest stand delineation (FSD) and wetland report were submitted with the NRI. The FSD indicates three forest stands totaling 15.18 acres with 29 specimen trees.



Forest Stand 1 occupies approximately 3.82 acres in the southeastern portion of the site and is associated with the stream valley. This is a mid-successional woodland dominated by American beech and sweetgum of 20 to 30 inches diameter at breast height with 13 specimen trees. The understory contains flowering dogwood and few invasive plants.

Forest Stand 2 occupies approximately 11.04 acres in the western portion of the site and is associated with the stream valley. This is a mid-successional woodland dominated by red maple and sweetgum of 20 to 30 inches diameter at breast height with 13 specimen trees. The understory contains spicebush, lizard's tail, jack-in-the-pulpit, cinnamon fern, skunk cabbage, and few invasive plants.

Forest Stand 3 occupies approximately 0.50 acre the central portion of the site. This is young woodland dominated by tulip poplar of 12 to 20 inches diameter at breast height with no specimen trees. The understory contains spicebush and some invasive plants.

A portion of the property has an existing conservation easement of 14.70 acres dedicated to Prince George's County and recorded in the Land Records at L.9099 F.190. This easement was created to mitigate a violation of the Woodland Conservation Ordinance by a previous owner of the property. It is our understanding that the applicant for this subdivision has negotiated changes to the conservation easement with Prince George's County. The proposed changes would remove 0.37 acre from the existing easement and add 0.70 acre to the existing easement as shown on the Type I tree conservation plan. The area removed from the conservation easement contains no sensitive environmental features and the area to be added will assist in preserving the stream valley. No portion of any existing conservation easement may be used to meet the requirement of the Woodland Conservation Ordinance for the proposed development. Because the subdivision utilizes the provisions for lot size averaging, no portion of any conservation easement should be on any lot.

Prior to signature approval of the preliminary plan, the preliminary plan and Type I tree conservation plan should be revised to ensure that no portion of any conservation easement is on any lot, and a conservation easement should be established that contains the expanded stream buffers and the easement dedicated to Prince George's County, except for areas where variation requests for stormwater management outfalls and sanitary sewer connections have been granted.

Additionally, prior to the approval of the final plat, any required changes to the conservation easement, currently recorded in the Land Records at L.9099 F.190, should be recorded in Land Records with copies submitted to the Development Review Division and Environmental Planning Section. TCPII/143/91 will also need to be revised to show the required changes to the conservation easement, currently recorded in the Land Records at L.9099 F.190

Impacts to significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations are proposed. The design of any subdivision should avoid impacts to streams, wetlands, or their associated buffers unless the impacts are essential for the development as a whole. The Environmental Planning Section generally will not support impacts to sensitive environmental features that are not associated with essential development activities.

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. A variation request for six impacts, dated April 13, 2006, in accordance with Section 24-113 of the Subdivision Regulations was submitted.

Proposed impacts "A" through "E" are for stormdrain outfalls. Proposed impact "F" is for the installation of a sanitary sewer to serve the development. No request for the proposed impact grading on Lot 7 was requested. This impact must be eliminated.

Section 24-113 of the Subdivision Regulations contains four required findings (text in **bold**) to be made before a variation can be granted.

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

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

The installation of the stormdrain outfalls and installation of a sanitary sewer line are required by other regulations to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

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

Stormwater must be conveyed off of this property because the soils are unsuitable for the amount of infiltration that would be otherwise required. Because the property is essentially trisected by two streams and the only existing sanitary sewer is wholly within an expanded stream buffer, the sanitary sewer must cross portions of the expanded stream buffer.

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

The installation of the stormwater outfall and installation of sanitary sewer are required by other regulations. Because permits from other local, state and federal agencies are required by their

regulations, the approval of this variation request would not constitute a violation of other applicable laws.

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

Design of stormwater management outfalls requires that they be placed where they will provide the proper drainage; the specific topography of the site dictates the location. Because the property is essentially trisected by two streams and the only existing sanitary sewer is wholly within an expanded stream buffer, the sanitary sewer must cross portions of the expanded stream buffer.

The Environmental Planning Section supports the variation requests for the reasons stated above. Prior to the issuance of any permits that impact jurisdictional wetlands, wetland buffers, streams or waters of the U.S., the applicant would need to submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the property has a previously approved Type II Tree Conservation Plan, TCPII/143/91.

Type I Tree Conservation Plan TCPI/1/06 has been reviewed and was found to require technical revisions. The plan proposes clearing 0.66 acre of the existing 3.76 acres of upland woodland, clearing 0.08 acre of the 10.60 acres of woodland in the 100-year floodplain, and no off-site clearing. The woodland conservation threshold is 2.66 acres. Based upon the proposed clearing, the woodland conservation requirement is 2.91 acres. The plan proposes to meet the requirement by providing 0.35 acre of on-site preservation, 0.31 acre of on-site planting, and 2.25 acres of off-site conservation. An additional 2.75 acres of upland woodland will be preserved on the property; however, none of this acreage may be used to satisfy any requirement of the Woodland Conservation Ordinance because it is currently within the conservation easement dedicated to Prince George's County and subject to the requirements of TCPII/143/91.

According to the Green Infrastructure Plan, the eastern upland area is an evaluation area that abuts the regulated area associated with the stream valley. The priority preservation areas are those associated with the stream valley and the upland woodland contiguous with the stream valley.

With the recommended changes, the plan will meet the policies established by the Woodland Conservation Ordinance and Green Infrastructure Plan by preserving a large contiguous woodland stream valley, which will provide each lot with a sufficient large useable outdoor recreation area.

According to the Prince George's County Soils Survey, the principal soils on this site are in the Bibb and Westphalia series. Bibb soils are associated with floodplains. Westphalia soils are in hydrologic class B and are highly erodible, but have few other development limitations.

This information is provided for the applicant's benefit. The Prince George's County Department of Environmental Resources will require a soils report in conformance with CB-94-2004 during the permit process review.

A Stormwater Management Concept Plan, CSD 35566-2005-00, was approved by the Prince George's County Department of Environmental Resources. The Type I Tree Conservation Plan shows a stormwater management pond near Rosaryville Road and five outfalls.

#### **Water and Sewer Categories**

The water and sewer service categories are W-4 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003 and the site will, therefore, be served by public systems.

5. **Community Planning**—The property is located in Planning Area 82-A within the Rosaryville community, and is located in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The proposed development is consistent with the 2002 General Plan development pattern policies for the Developing Tier.

The subject property is within the limits of the 1993 Subregion VI Study Area Master Plan. This application, as described in this report, conforms to the low suburban residential land use recommended in the 1993 Subregion VI Study Area Master Plan.

6. The Department of Parks and Recreation (DPR) has reviewed the above-referenced preliminary plan application for conformance with the requirements and recommendations of the *Approved Master Plan and Sectional Map Amendment for Subregion VI*, Planning Area 82B, the Land Preservation and Recreation Program for Prince George's County, and current zoning and subdivision regulations as they pertain to public parks and recreation.

The subject property is approximately 23.96 acres in size and includes 10.66 acres of the floodplain along the Piscataway Creek Stream Valley. The applicant proposes developing the site with 17 single-family residential lots, which will result in population of approximately 49 new residents.

The Subregion VI, Planning Area 8A, master plan recommends dedication of the Piscataway Creek Stream Valley and hiker/biker trail construction along the Piscataway Creek and construction of a trail connector from Rosaryville Road to the stream valley trail

through the subject property.

DPR staff reviewed the plan and finds that dedication along the Piscataway Stream Valley is important to preserve the creek and fulfill the master plan's recommendations. DPR staff has also determined that the master planned stream valley hiker/biker and equestrian trail will not be constructed on the section of the Piscataway Creek Stream Valley that is adjacent to the Brazelton property. However, a connector trail is recommended for construction on subject property.

Section 24-134(a)(4) states, when the land is shown for preservation as part of a stream valley park on an official master plan, such land may be dedicated or preserved in lieu of active recreation, provided that the Planning Board finds that there is a reasonable amount of active recreation in the general area and that any trails shown on the master plan are provided. This community is in high need for active recreational facilities.

Since the applicant cannot develop the floodplain, the applicant proposes dedication of the 100-year floodplain to the homeowners association (HOA). DPR staff recommends that the applicant instead dedicate a portion of the floodplain along Piscataway Creek, as shown on DPR Exhibit "A", to M-NCPPC and the remainder to the HOA. The proposed dedication will preserve the stream valleys as public open space available to all Prince George's County residents and will provide the opportunity for trail linkages to existing and future recreational facilities in the public park system.

DPR staff believes that construction of the master planned hiker/biker and equestrian trail connector is inappropriate at this time, because the master planned trail has not been constructed in this section of the Piscataway Creek Stream Valley. However, an easement on the HOA land should be established for a future connector trail.

Because the area is in a high need category for active recreational facilities, DPR staff recommends that the applicant be required to provide a fee-in-lieu of the mandatory dedication of parkland.

- Trails**—The approved Subregion VI Master Plan includes three master plan trail recommendations that impact the subject site. The master plan designates an equestrian trail corridor extending from Piscataway Creek to Rosaryville Road through Parcel B of the site. The subject property is near Rosaryville State Park, which includes an extensive trail network for hikers and equestrians. In addition, the community surrounding the subject property includes an active equestrian community, including members of the Rosaryville Conservancy. Equestrian easements have been acquired that link to the state park and connect to the subject property. Staff recommends the provision of a 40-foot-wide public use hiker/equestrian easement within Parcel B. This easement should connect from the land being dedicated to M-NCPPC along Piscataway Creek to Rosaryville Road, as shown on the master plan.

A master plan park trail is designated along Piscataway Creek. The land along this stream valley should be dedicated to the Department of Parks and Recreation. The timing and location of this

master plan trail should be determined by DPR. However, the land dedicated along Piscataway Creek would accommodate the master plan trail, if it is determined by DPR that the trail should be along the east side of Piscataway Creek in the vicinity of the subject site. The decision regarding the necessity for trail construction on the subject site at this time will be made by DPR.

A trail corridor is also designated along Rosaryville Road. This is intended along the east side of the road to accommodate equestrians riding to Rosaryville State Park. Where road frontage improvements have been made along Rosaryville Road, standard sidewalks have been provided. These sidewalks are separated from the road with a grass strip, which should also assist in accommodating equestrians to the park. Staff supports the proposed sidewalks along both sides of the internal road.

8. **Transportation**—At the Planning Board Hearing on May 11, 2006, there were testimony presented by planning staff, the applicant and citizens residing in the immediate vicinity of the subject property. There were some disagreements between the applicant, staff and the citizens regarding access, adequacy of intersections, cut-through traffic, general congestion and the impact of staff's recommendation to access the subject property via the James Street stub within the Williamsburg Estates Subdivision. So much so, that the Planning Board granted a one-week continuance to the hearing for the sole purpose of providing staff and the applicant, an opportunity to try and resolve many of the outstanding issues relating to the staff's recommendations.

To that end, staff organized a meeting with the applicant that was held on Tuesday May 15, 2006. Prior to the meeting, staff was presented with additional analyses from the applicant involving the following intersections:

- Rosaryville Road/Site Access
- Rosaryville Road/Williamsburg Drive

Both intersections were analyzed with different assumptions from those that were used in previous analyses that formed the basis for staff's previous recommendations. The first assumption pertains to the traffic volumes at the site access intersection with Rosaryville Road. In this new analysis, the traffic volumes were based on a combination of actual field data collected at intersections closer to the site access, plus growth in through traffic projected to a base year of 2007, rather than 2008. Given the modest size of this development (17 lots), staff accepts the premise that this development could conceivably be developed within that growth timeline. This new analysis revealed a delay of 40.7 seconds/vehicle. This result corresponds to a level of service "E", which is considered acceptable, pursuant to our *Guidelines*.

Regarding the intersection of Rosaryville Road/Williamsburg Drive, the new analysis was predicated on the intersection being signalized. The results of that analysis showed LOS/CLV of D/1446 during the AM peak hour, and D/1381 during the PM peak hour. In review of these new analyses, The Transportation Section concurs with the new findings.

Both the applicant and staff agreed in the meeting that the proposed condition regarding the signal study requirement for the Rosaryville Road-Gambier Drive intersection would remain unchanged.

The intersection of MD 223 and Rosaryville Road is part of a larger MD 223 corridor (between Dower House Road and Rosaryville Road) that is programmed for improvement with 100% construction funding within the next six years in the current Prince George's County *Capital Improvement Program*. While these improvements are shown to be fully funded however, that full funding is heavily contingent upon developer contributions. Of the \$2.75 million cost, developer contributions—either direct or via collections of smaller amounts by the county—make up \$2.25 million of the total. The Planning Board has approved several developments (including Mill Creek, PGCPB No. 05-232, 4-05025) where the applicant was conditioned to pay a pro-rata contribution of \$812.00 per dwelling. Given the fact that approximately 70% of this applicant's traffic will be passing through this intersection, a similar condition shall be placed on this application.

**TRANSPORTATION STAFF CONCLUSIONS**

The Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code.

- 9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for 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	17 sfd	17 sfd	17 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	4.08	1.02	2.04
Actual Enrollment	3,965	7,218	10,839
Completion Enrollment	176	112	223
Cumulative Enrollment	59.04	13.68	28.44
Total Enrollment	4,204.12	7,344.70	11,092.48
State-Rated Capacity	4,140	6,569	8,920
Percent Capacity	101.55%	111.81%	124.36%

Source: Prince George's County Planning Department, M-NCPPC, December 2005

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. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and 12,706 to be a paid at the time of issuance of each building permit.

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 public 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 services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Clinton, Company 25, using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire Department.

The Fire Chief reported that the current staff complement of the Fire Department was above the staff standard of 657 or 95 percent of authorized strength of 692 as stated in CB-56-2005 for a preliminary plan accepted in 2005.

The Fire Chief has reported by letter, dated 12/01/05 that the department has adequate equipment to meet the standards stated in CB-56-2005.



11. **Police Facilities**—The Prince George’s County Planning Department has determined that this preliminary plan is located in Police District V. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months, beginning with January 2005. The preliminary plan was accepted for processing by the Planning Department on December 19, 2005.

<b>Reporting Cycle</b>	<b>Date</b>	<b>Emergency Calls</b>	<b>Nonemergency</b>
Acceptance Date	01/05/05-11/05/05	12.00	23.00
Cycle 1	01/05/05-12/05/05	12.00	22.00
Cycle 2	01/05/05-01/05/06	12.00	21.00
Cycle 3	01/05/05-02/05/05	12.00	21.00

The Police Chief reported that the current staff complement of the Police Department was 1,302 sworn officers, which is within the standard of 1,278 officers or 90 percent of the authorized strength of 1,420 as stated in CB-56-2005.

The response time standard of ten minutes for police emergency calls were not met on the date of acceptance or within the following three monthly cycles. In accordance with Section 24-122.01 of the Subdivision Regulations, Preliminary Plan 4-05078 fails to meet the standards for police emergency response calls. The Planning Board may not approve a preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board in accordance with the County Council adopted *Guidelines for the Mitigation of Adequate Public Facilities for Public Safety Infrastructure*. The applicant has entered into a Public Safety mitigation agreement.

12. **Health Department**—The abandoned shallow well adjacent to the existing house at 8119 Rosaryville Road must be backfilled and sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative from the Health Department as part of the raze permit. The location of the well should be located on the preliminary plan.

Several unlabeled plastic drums (two at approximately 10 gallons each and two at 55 gallons each) were found at the garage located on the property. A portion of the drums contained some type of liquid. The liquid must be evaluated and disposed of in an appropriate manner by a licensed hazardous waste company. A copy of the manifest must be submitted to this office prior to preliminary plan approval. If the drums are not removed as part of preliminary plan approval, this office will contact the Hazardous Materials Section of the Prince George’s County Fire Department for proper disposal.

A raze permit is required prior to the removal of any of the structures (house, garage, three sheds) on site. A raze permit can be obtained through the Department of Environmental Resources, Office of Licenses and Permits. Any hazardous material located in any structure on site must be removed and properly stored or discarded prior to the structures being razed. The location of the two additional sheds should be located on the preliminary plan. A note needs to be affixed to the

preliminary plan that requires that the structures are to be razed and the well properly abandoned at the appropriate stage of the development process.

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, 35566-2005-00 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.

In addition, the Department of Environmental Resources has expressed concerns with providing any alternative access to James Street to the southeast, and the possible flooding issues associated with that alternative, as set forth in the memorandum dated May 16, 2006, Thompson to Hirsch.

14. **Lot Size Averaging**—The applicant has proposed to utilize the lot size averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for a portion of this property.

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

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

The applicant proposes 17 lots; 9 of the proposed lots meet or exceed 20,000 square feet. Therefore, the proposed subdivision meets the minimum zoning ordinance standards for lot size averaging.

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

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

Comment: The property consists of 23.96 acres; however, only 9.21 acres of the property is currently available for development as the remaining 14.71 acres are encumbered with a woodland conservation easement that was conveyed to Prince George's County. The utilization of lot size averaging on the eastern portion of this property will eliminate the need for any additional impacts to sensitive environmental features that are on the west side of the property. If the road dedication is changed pursuant to the recommendations of the Transportation Planning Section, better access will be accomplished.

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

Comment: The applicant has proposed eight lots between 15,000 and 20,000 square feet. The lots are located east of the proposed internal road. This location provides for a better environment than that which could be achieved by the exclusive use of standard lots, as the abutting adjoining lots within the Williamsburg Estates Subdivision primarily consist of 10,000-square-foot lots. The maximum lot size within abutting Block A in the Williamsburg Estates Subdivision is 14,833 square feet.

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

Comment: Utilizing lot size averaging on the east side of the internal road will allow a natural transition between the subject property and the abutting lots within Williamsburg Estates. This will also allow all of the lots on the western side of the proposed internal road to be developed under conventional standards with minimal impacts to sensitive environmental features. The first two building lots at the entrance of the subdivision will also be developed under conventional standards on both sides of the proposed internal road. This will provide a more natural transition as you access the subdivision and will provide the appearance of conventional development as viewed from Rosaryville Road.

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

15. **Historic**—The property shares a boundary with the National Historic Landmark site, His Lordship's Kindness, which is located within one mile of the property, to the west.

The residence was originally called Poplar Hill, which was a 7,000-acre land grant from Lord Baltimore. Robert Darnall built the structure between 1784 and 1787. The plantation was next owned by members of the Sewall and Daingerfield branches of the same family. Records indicate that Robert Sewall, Robert Darnall's nephew, inherited the property in 1803. His son, Robert Darnall Sewall, inherited the property in 1821; his nieces, Susan and Ellen Daingerfield inherited it upon his death, in 1853. The families were large landholders in the county and owned slaves throughout this period.

Piscataway Creek runs north/south through the western portion of the property. Prehistoric archeological sites have been located in similar settings.

In accordance with Subtitle 24-104, 121(a)(18), and 24-135.01, the subject property should be the subject of a Phase I archeological investigation to identify any archeological sites that may be

significant to the understanding of the history of human settlement in Prince George's County, including the possible existence of slave quarters and slave graves, as well as archeological evidence of the presence of Native American peoples.

Phase I archeological investigations should be conducted according to Maryland Historical Trust (MHT) guidelines, *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), and the Prince George's County Planning Board *Guidelines for Archeological Review* (May 2005), and report preparation should follow MHT guidelines and the *American Antiquity* or *Society of Historical Archaeology* style guide. Archeological excavations shall be spaced along a regular 15-meter or 50-foot grid and excavations should be clearly identified on a map to be submitted as part of the report. The archeological investigation should address the possibility that graves may be located on this property. The archeological consultant should be made aware that files regarding His Lordship's Kindness are available at the Planning Department.

In accordance with the approved Planning Board *Guidelines for Archeological Review* (May 2005), a qualified archeologist must conduct all investigations and follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole, 1994) and the Prince George's County Planning Board *Guidelines for Archeological Review* (May 2005). These investigations must be presented in a draft report following the same guidelines. Following approval of the draft report, four copies of the final report must be submitted to M-NCPPC Historic Preservation staff. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations is required prior to signature approval of the preliminary plan.

The design of a Phase I archeological methodology should be appropriate to identify slave dwellings and burials. Documentary research should include an examination of known slave burials and dwellings in the surrounding area and their physical locations as related to known structures, as well as their cultural interrelationships. The field investigations should include a pedestrian survey to locate attributes such as surface depressions, fieldstones, and vegetation common in burial/cemetery environs.

Upon receipt of the report by the Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to Planning Board approval of the final plat of subdivision, the applicant should provide a plan for:

- a. Evaluating the resource at the Phase II level, or
  - b. Avoiding and preserving the resource in place.
16. **DER Conservation Easement** - On October 20, 1993, the previous owner of the subject property, Alex P. Lee, granted Prince George's County a perpetual conservation easement over a portion of the subject property, thereby restricting and limiting the use of the land and contiguous water areas of the property. The Declaration of Conservation Easement and Covenants for Woodland Preservation Area, recorded in Liber 9099, Folio 190, sets aside 640,570.48 square

feet, or 14.7055 acres of woodland conservation easement area. The purpose of this conservation easement is to preserve and protect the environment of the property and to maintain permanently the natural and open space values of the property, particularly the mature forest and the dominant scenic, historic, cultural, rural, agricultural, woodland and wetland character of the property, with special emphasis on habitat preservation for forest interior birds.

The preliminary and tree conservation plans submitted for this application currently propose to encroach into the existing conservation easement for the purposes of retaining two building lots located along the edge of the cul-de-sac of the proposed internal road. The applicant has submitted a request to the county's Office of Law to revise the limits of the existing conservation easement, which upon approval, would allow the two proposed building lots to remain. The applicant's proposal that was submitted to the county's Office of Law requests a partial release of the conservation easement that consists of 15,074 square feet, or 0.3690 acre, that is within the limits of the proposed lotting pattern. In exchange for the partial release of the conservation easement within the proposed limits of the subdivision, the applicant is proposing to convey 30,588 square feet or 0.7022 acre of unencumbered land to Prince George's County for the purposes of including the acreage as additional conservation easement area at another location on the property.

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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns, Eley and Parker voting in favor of the motion at its regular meeting held on Thursday, May 18, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 8th day of June 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator