

A M E N D E D R E S O L U T I O N

WHEREAS, McDermott is the owner of a 11.32-acre parcel of land known as Parcel 49, Tax Map 100 in Grid E-1, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned\* R-R; and

WHEREAS, on January 20, 2006, Chesapeake Custom Homes filed an application for a Preliminary Plan of Subdivision (Staff Exhibit #1) for \*[15]14 lots; and

\* WHEREAS, the preliminary plan application was denied by the Planning Board on June 1, 2006, due to inadequate fire department staffing levels; and on October 5, 2006, the Planning Board approved the applicant's request for a waiver of the rules of procedure that require that a reconsideration request be filed within 14 calendar days of the notice of the final decision; and also approved the applicant's request for reconsideration of the denial.

WHEREAS, the application for \*[disapproval]approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05137 for McDermott \*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 \*[June 1]December 14, 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 \*~~DISAPPROVAL~~ APPROVAL of the application with conditions; and

WHEREAS, on [June 1, 2006] December 14, 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 \*~~DISAPPROVED~~ APPROVED Preliminary Plan of Subdivision 4-05137, McDermott Property for Lots 1-\*[15]14 [due to inadequate fire and rescue services pursuant to Section 24-122.01(e) of the subdivision regulations]\*with the following conditions:

- \*1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Provide general notes that address the utilization of lot size averaging in accordance with Section 27-423 of the Zoning Ordinance.

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- \*b. Provide a breakdown on the number of lots proposed to be developed in accordance with

the conventional standards, and the number of lots proposed to be developed in accordance with the lot size averaging provisions, and reference the minimum net lot area required for each approach.

- \*c. Provide a separate square footage for all flag lot stems in accordance with Section 24-138.01(d)(3) of the Subdivision Regulations.
- \*d. Label the flag lot stems as having a minimum width of 25-feet at the front street line, and demonstrate that this minimum width shall be maintained from the street line to the lot area in accordance with Section 24-138.01(d)(2) of the Subdivision Regulations.
- \*e. Provide a “C” bufferyard in accordance with the Section 4.7 of the *Landscape Manual* between Lots 1 and 2, and between Lots 3 and 4 to ensure that views from the front yard into adjacent rear yards are completely buffered.
- \*f. Label the right-of way width of the proposed internal road and provide a setback from the centerline, to the property line.
- \*g. Label Old Marlboro Pike as having an ultimate right-of-way width of 80-feet.
- \*h. Label the centerline of Old Marlboro Pike and delineate a setback of 40-feet from the centerline to the property line.
- \*i. Provide a general note that demonstrates that Old Marlboro Pike is a designated historic road.
- \*j. Provide a general note that demonstrates that no rare, threatened, or endangered species are found to occur within the vicinity of the property.
- \*k. Correct the plat reference for adjacent Parcel H to REP 198 @ 4, and label the ownership of adjacent Parcels G and H as “Charles Hill Homeowners Association.”
- \*l. Provide the lot and block numbers of all adjacent lots within the Charles Hill Subdivision.
- \*m. Provide a reference on the adjacent property to the east regarding The Chesapeake Bay Foundation’s National Register Property “The Cottage.”
- \*n. Label the required 40-foot scenic/historic buffer adjacent to Old Marlboro Pike.

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- \*o. Clearly delineate any right-of-way dedication area for Old Marlboro Pike, and provide the square footage of the dedication area.
- \*2. The final plat shall carry a note that states that any direct access to Old Marlboro Pike for Lots 1, 2, and 13 shall be denied.
- \*3. Development of this site shall be in conformance with the Stormwater Management Concept Plan, #44475-2005-00 and any subsequent revisions.
- \*4. Prior to approval of the final plat, the applicant, his heirs, successors and/or assignees shall have a limited detailed site plan approved by the Planning Board or its designee. The limited detailed site plan shall include, but not be limited to:
  - a. Addressing the conservation of the scenic/historic easement along Old Marlboro Pike with regard to landscaping, viewshed, and building setbacks.
  - b. Appropriate buffering of the historic site in accordance with the *Landscape Manual*.
  - c. Elevations and materials for Lots 10, 11, 12 and 13 to ensure that the architecture of the elevations which will face the environmental setting are compatible with the Charles Hill Historic Site.
  - d. Any trenching and excavation work to provide public water and sewer to the Charles Hill Historic Site.
  - e. The installation of a permanent wall or fence to delineate the cemetery boundaries, and the placement and proposed text of the interpretive marker for the Pumphrey-Fraser-Walker Cemetery.
- \*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 for Lots 1–13.
- \*6. Prior to the issuance of building permits, the applicant, his heirs, successors and or assignees shall provide a financial contribution of \$210.00 to the Department of Public Works and Transportation for the placement of a bikeway sign along Old Marlboro Pike, designated a Class III Bikeway. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If the Department of Public Works and Transportation declines the signage, this condition shall be void.

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- \*7. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along the property's entire street frontage of Old Marlboro Pike unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
- \*8. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along both sides of internal public streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
- \*9. The environmental setting of the historic site shall be revised to include Lot 14 (3.56 acres). The portions of the environmental setting abutting the lot lines of Lots 10, 11, 12 and 13 shall be landscaped with a naturalized mix of evergreen and deciduous trees in order to screen the historic site from the adjacent new construction in accordance with the Prince George's County Landscape Manual. Prior to final plat, the applicant shall record a conservation easement to ensure that the landscaped buffering between the developing lots and Charles Hill and the open viewshed between Charles Hill and Old Marlboro Pike are maintained in perpetuity.
- \*10. The applicant shall be required to initiate the exterior rehabilitation including, but not limited to, a new standing seam green metal roof of Charles Hill Historic Site (78-017) prior to the issuance of the first building permit for any part of the property. The exterior rehabilitation project(s) of Charles Hill shall be reviewed and approved by the Historic Preservation Commission through the Historic Area Work Permit (HAWP) process and shall include details of required exterior work for the main house as well as necessary work associated with the property's outbuildings, and any proposed alterations to landscape features such as the installation of landscaping and fencing. The rehabilitation of the historic site shall be completed and reviewed by the Historic Preservation Commission prior to the issuance of 7<sup>th</sup> building permit for the development.
- \*11. The final plat shall state that a limited detailed site plan will be required for any future accessory buildings that homeowners may want to erect.
- \*12. Prior to signature approval of a preliminary plan, the applicant shall demonstrate that the Pumphrey-Fraser-Walker Cemetery shall be preserved and protected in accordance with the Prince George's County Subdivision Regulations Sec. 24-135-02 including:
- a. Arrangements for perpetual maintenance. A perpetual maintenance easement shall be prepared and attached to the legal deed (i.e., the lot delineated to include the cemetery).
  - b. Evidence of this easement shall be presented to and approved by the Planning Board or its designee prior to final plat.

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- \*13. Prior to the issuance of the 7<sup>th</sup> building permit, a permanent wall or fence shall be provided to delineate the cemetery boundaries, and an interpretive marker shall be placed at a location close to or attached to the cemetery fence/wall through a HAWP. The applicant shall submit for review and approval by the Historic Preservation staff, a proposed text for the marker at the Pumphrey-Fraser-Walker Cemetery.
- \*14. The General Notes on the submitted plan correctly indicate that Lot 14 includes the “Charles Hill and Cemetery, Historic Site 78-017.” The applicant shall work with the Historic Preservation & Public Facilities Planning Section staff to identify a street name that reflects the historic significance of the developing property. Both the proper identification of the historic site and an historically appropriate street name shall appear on the final plat.
- \*15. Prior to the removal of any of the existing structures, a raze permit must be obtained through the Department of Environmental Resources. Any hazardous materials located in the structures must be removed and properly stored or discarded prior to the structures being razed.
- \*16. Prior to the issuance of grading permits the applicant, his heirs, successors, and/or assignees 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 scavenger and witnessed by a representative of the Health Department.
- \*17. Prior to the approval of any building permits, the applicant, his heirs, successors, and/or assignees shall submit documentation to the Subdivision Section that demonstrates that the Charles Hill Historic Site has been connected to public water and public sewer.

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, \*[does not] meet~~s~~ 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 north side of Old Marlboro Pike, approximately 800 feet west of Ritchie Marlboro Road, north of Pennsylvania Avenue (MD 4).
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

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|                 | <b>EXISTING</b>                  | <b>PROPOSED</b>                      |
|-----------------|----------------------------------|--------------------------------------|
| Zone            | R-R                              | R-R                                  |
| Use(s)          | Single-family<br>(Historic site) | Single-family                        |
| Acreage         | 11.32                            | 11.32                                |
| Lots            | 0                                | *[15] <u>14</u>                      |
| Parcels         | 1                                | 0                                    |
| Dwelling Units: |                                  |                                      |
| Detached        | 1 (to remain)                    | *[15] <u>14</u> (including existing) |

\*[4. ~~**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 subject application was accepted on January 20, 2006.]~~

~~[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, Marlboro, Company 20, using the Seven Minute Travel Times and Fire Station Locations Map provided by the Prince George’s County Fire Department.]~~

~~\*[The Fire Chief report for adequate equipment is contained in a memorandum dated March 28, 2006. That memorandum states that the “...Department has adequate equipment and has developed an equipment replacement program to meet all the service delivery needs for all areas of the county.”]~~

~~\*[The Fire Chief report for current staffing for the Fire Department is contained in a memorandum dated March 28, 2006. That memorandum states that the number of “net operational employees” is 672, which equates to 96.97 percent of the authorized strength of 692 fire and rescue personnel.]~~

~~\*[As previously noted, the subject application was accepted on January 20, 2006. Section 24-122.01(e)(2) of the Subdivision Regulations state: “If any of the required statements in this Subsection are not provided that meet the criteria specified in this Section on the date the application is accepted by the Planning Board or within the following three (3) monthly cycles of response time reports, then the Planning Board may not approve the preliminary plan until a mitigation plan between the applicant and the County is entered into and filed with the Planning Board.”]~~

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~~\*[One key element to the ordinance language cited above is the creation of a window for the application of the fire and rescue adequacy test that runs from "...the date the application is accepted by the Planning Board or within the following three (3) monthly cycles of response time reports...." This means that an application is afforded the opportunity to pass the test in a time frame that spans approximately 90 days. With regard to data on fire and rescue staffing levels prior to the receipt of the March 28, 2006, letter from the Fire Chief, some clarity needs to be provided.]~~

~~\*[Since January 1, 2006 (the beginning of the time frame when the standard of 100 percent of the authorized strength of 692 fire and rescue personnel must be met), staff has received four memorandums from the Fire Chief (January 1, 2006, February 1, 2006, March 5, 2006, and March 28, 2006). The data presented in these four memorandums varies in the description of the personnel being counted as applicable to the percentage of the authorized strength standard. While the number of personnel presented varies only slightly (694, 694, 696, and 693 respectively), the description of the status of these personnel has changed or been clarified from memorandum to memorandum.]~~

~~\*[It seems clear to staff that since the beginning of 2006, each reporting of personnel has included certain numbers of trainees and/or recruits that were not intended to be considered applicable to the minimum percentage requirement. This becomes apparent when comparing the January 1 and February 1 memorandums. Both reflect a total authorized strength of 694 personnel, but the February 1 memorandum identifies 46 members of that complement in the training academy. The March 5 memorandum does not provide a breakdown of the 696 personnel total, but the March 28 memorandum identifies 21 recruits as part of the "actual total strength" of 693.]~~

~~\*[Given the totality of the information identified above, since the acceptance of the subject application, the minimum staffing level for fire and rescue personnel, as required by Section 24-122.01(e)(1)(B)(ii), has not been met. Therefore, pursuant to Section 24-122.01(e)(2), the Planning Board disapproves the subject application.]~~

- \*4. Environmental—The Environmental Planning Section has reviewed the above referenced Preliminary Plan of Subdivision stamped as received by the Environmental Planning Section on March 17, 2006. The site contains no regulated features. Because there are less than 10,000 square feet of existing woodland associated with the site, a standard letter of exemption to the Prince George's County Woodland Conservation Ordinance was issued on February 3, 2006. The Environmental Planning Section recommends approval of Preliminary Plan 4-05137 subject to conditions.

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## BACKGROUND

The Environmental Planning Section has previously reviewed this site with Pre-Preliminary Plan of Subdivision, P-05004.

## SITE DESCRIPTION

This 11.32-acre property in the R-R Zone is located on the north side of Old Marlboro Pike approximately 6,000 feet west of its intersection with Ritchie-Marlboro Road. There are no streams, wetlands or 100-year floodplain on the property. The site eventually drains into Western Branch in the Patuxent River watershed. According to the "Prince George's County Soils Survey" the principal soils on this site are in the Westphalia series. Marlboro clay does not occur in this 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. Old Marlboro Pike is a designated historic road. MD 4 is the nearest source of traffic-generated noise; however, because of the distance there is no significant noise impact on the subject property. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the approved General Plan.

## ENVIRONMENTAL REVIEW

A staff signed natural resources inventory, NRI/144/05, was submitted with the application. Information on the NRI indicates there are no regulated environmental features and no woodlands on the site.

The forest stand delineation (FSD) indicates two forest stands totaling 0.5 acres, and nine specimen trees, including a 62-inch tulip poplar that is located off-site. A site visit was made on February 2, 2006, to further evaluate the forest stands described in the FSD. Forest stand one, adjacent to the existing access to the site is more characteristic of a hedgerow than forest and cannot be counted as woodland. It is evident that portions of this area are periodically cleared and mowed. Forest stand two is less than 10,000 square feet. Based on this evaluation, the overall site contains less than 10,000 square feet of woodland. No further action regarding the natural resources inventory is required.

Based on the site visit, the site is exempt from the Prince George's County Woodland Conservation Ordinance because there are less than 10,000 square feet of existing woodlands on-site. The Environmental Planning Section issued a standard letter of exemption on February 3, 2006. This letter is valid for a time period of two years from the date of issuance. A copy of the letter must be included in all county permit applications, beginning with the grading permit.



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Old Marlboro Pike is a designated historic road. Improvements along this road must address the “Design Guidelines and Standards for Scenic and Historic Roads” prepared by the Prince George’s County Department of Public Works and Transportation.

To preserve the scenic viewshed along the historic road, a scenic easement, with a minimum width of 40 feet located outside of the ultimate right-of-way and exclusive of the 10-foot-wide, public utility easement, is shown on the preliminary plan. The monumental sign that was previously proposed has been removed, further preserving the scenic viewshed and maintaining the rural character of the area. Within the scenic easement, protection of significant visual elements, preservation of existing woodlands, limiting of access points, building restriction lines and supplemental landscaping may be appropriate to conserve and enhance the viewshed of the historic road and complement the desired rural character.

An inventory of significant visual features for the frontage of the subject property on Old Marlboro Pike has been submitted. The inventory shows a hedgerow of trees along Old Marlboro Pike, most of which are covered with invasive vegetation. A limited detailed site plan is recommended to address conservation of the scenic easement with regard to the viewshed and necessary landscaping.

The plan will also need revisions to provide adequate building setbacks for all proposed house footprints adjacent to the scenic and historic easements. A minimum of 10 feet from the scenic easement is necessary to allow adequate access around the house without encumbering the easement. A limited detailed site plan should be required to address the scenic easement with regard to landscaping, viewshed, and building setbacks.

According to the *Prince George’s County Soils Survey* the principal soils on this site are in the Westphalia series. Westphalia soils are highly erodible and are in the C-hydric group. This information is provided for the applicant’s benefit. A soils report may be required by the Prince George’s County Department of Environmental Resources during the permit process review.

#### **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 will therefore be served by public systems.

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- \*5. **Community Planning**—The property is located in Planning Area 78 within the Westphalia Community, and is within the limits of the 1994 Approved Melwood-Westphalia Master Plan and Sectional Map Amendment. The master plan recommended land use is for a low-suburban residential land use at up to 2.6 dwelling units per acre. This application is proposing a low-suburban residential land use, and is therefore consistent with the land use recommendation within the 1994 Approved Melwood-Westphalia Master Plan and Sectional Map Amendment.

The 2002 General Plan locates the subject property within 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. This application proposes a low- to moderate-density suburban residential community and is therefore consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

Historic site 78-17, Charles Hill, is located on the subject property. Another historic site, 78-00-18, The Cottage and Outbuildings, is located on the Chesapeake Bay Foundations property that adjoins to the east.

The subject property was placed in the R-R Zone via the 1994 Approved Melwood-Westphalia Master Plan and Sectional Map Amendment. The April 2006 Westphalia Sector Plan and SMA recommends retaining the subject property within the R-R Zone.

- \*6. **Parks and Recreation**—In accordance with Section 24-134(a) of the Prince George’s County Subdivision Regulations, Lot 14 within the subject subdivision is exempt from mandatory dedication of parkland requirements because there is an existing house on the lot.

In accordance with Section 24-134(a) of the Prince George’s County Subdivision Regulations, the Park Planning and Development Division recommends that the Prince George’s County Planning Board require the payment of a fee-in-lieu of dedication as applicable from Lots 1-13 in subject subdivision because land available for dedication is unsuitable due to its size and location.

- \*7. **Trails**—The 1994 Approved Melwood-Westphalia Master Plan and SMA designates Old Marlboro Pike as a bikeway corridor (Recommendation 10, page 153). This has been implemented in the vicinity of the subject site on numerous prior approvals through the provision of “Share the Road with a Bike” signage (including 4-01097 and 4-03096). The Transportation Planning Section encourages the provision of a paved shoulder or wide outside curb lane traffic along the site’s frontage of Old Marlboro Pike to safely accommodate bicycle traffic.

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A variety of road improvements and road cross sections are present along Old Marlboro Pike in the vicinity of the subject property. Much of the road is currently open section with narrow shoulders. In other areas, a wider shoulder has been provided, and in some areas where road frontage improvements have been required, curb, gutter and sidewalk has been provided along Old Marlboro Pike (such as in front of the Melwood Park subdivision). Recently, curb, gutter, and sidewalks have been installed along Old Marlboro Pike (MD 725) by SHA within Upper Marlboro.

#### SIDEWALK CONNECTIVITY:

The Transportation Planning Section recommends the provision of a standard sidewalk along the subject site's entire frontage of Old Marlboro Pike, unless modified by DPW&T. The Transportation Planning Section also recommends the provision of a standard sidewalk along one side of the internal road, unless modified by DPW&T.

\*8. **Transportation**—The following are the Transportation Planning Section's comments concerning the traffic impact of the subject application.

#### **TRANSPORTATION STAFF FINDINGS**

The application is a preliminary plan of subdivision for a development consisting of 14 (including 1 existing residence) single-family dwelling units. The 13 new dwelling units would generate 10 AM and 12 PM peak-hour vehicle trips as determined using "Guidelines for the Analysis of the Traffic Impact of Development Proposal."

The traffic generated by the proposed preliminary plan would impact the unsignalized intersection of:

#### **Old Marlboro Pike and Melwood Road**

This intersection is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program:

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

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**Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better;

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

The table below identifies the intersection on which the proposed development would have the most impact:

| <u>EXISTING CONDITION</u>                          |                       |                             |
|--|-----------------------|-----------------------------|
| <u>Intersection</u>                                | <u>AM</u>             | <u>PM</u>                   |
|  | <u>LOS/delay</u>      | <u>LOS/delay</u>            |
| <u>Old Marlboro Pike/Melwood Road intersection</u> | <u>B/13.2 seconds</u> | <b><u>B/11.1seconds</u></b> |

The Transportation Planning Section's research of background developments revealed two (2) developments that could potentially affect the referenced intersection. With the inclusion of trips from these developments, the analysis revealed the following results:

| <u>BACKGROUND CONDITION</u>                        |                       |                              |
|--|-----------------------|------------------------------|
| <u>Intersection</u>                                | <u>AM</u>             | <u>PM</u>                    |
|  | <u>LOS/CLV</u>        | <u>LOS/CLV</u>               |
| <u>Old Marlboro Pike/Melwood Road intersection</u> | <u>B/14.4 seconds</u> | <b><u>B/11.6 seconds</u></b> |

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Citing the trip generation rates from the Guidelines, the proposed development would generate 10 AM and 12 PM peak-hour vehicle trips. By combining site-generated trips with background traffic, the results are as follows:

| <u>TOTAL CONDITION</u>                             |                       |                              |
|--|-----------------------|------------------------------|
| <u>Intersection</u>                                | <u>AM</u>             | <u>PM</u>                    |
|  | <u>LOS/CLV</u>        | <u>LOS/CLV</u>               |
| <u>Old Marlboro Pike/Melwood Road intersection</u> | <u>B/14.7 seconds</u> | <u><b>B/11.7 seconds</b></u> |

The results of the analyses showed that adequate transportation facilities would continue to exist if this application is approved. The Transportation Planning Section has no issues with the site layout and on-site circulation. The plan shows future dedication for Old Marlboro Pike (C-604), which is consistent with the Melwood-Westphalia master plan requirement.

**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.

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

**Finding**

Impact on Affected Public School Clusters

| <u>Affected School Clusters #</u> | <u>Elementary School Cluster 4</u> | <u>Middle School Cluster 2</u> | <u>High School Cluster 2</u> |
|-----------------------------------|------------------------------------|--------------------------------|------------------------------|
| <u>Dwelling Units</u>             | <u>13 sfd</u>                      | <u>13 sfd</u>                  | <u>13 sfd</u>                |
| <u>Pupil Yield Factor</u>         | <u>0.24</u>                        | <u>0.06</u>                    | <u>0.12</u>                  |
| <u>Subdivision Enrollment</u>     | <u>3.12</u>                        | <u>0.78</u>                    | <u>1.56</u>                  |
| <u>Actual Enrollment</u>          | <u>3965</u>                        | <u>7218</u>                    | <u>10839</u>                 |
| <u>Completion Enrollment</u>      | <u>176</u>                         | <u>112</u>                     | <u>223</u>                   |
| <u>Cumulative Enrollment</u>      | <u>2.40</u>                        | <u>0.60</u>                    | <u>1.20</u>                  |
| <u>Total Enrollment</u>           | <u>4146.52</u>                     | <u>7331.38</u>                 | <u>11064.76</u>              |
| <u>State Rated Capacity</u>       | <u>4140</u>                        | <u>6569</u>                    | <u>8920</u>                  |
| <u>Percent Capacity</u>           | <u>100.16%</u>                     | <u>111.61%</u>                 | <u>124.05%</u>               |

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

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

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

- \*10. **Fire and Rescue**—The Historic Preservation & Public Facilities Planning Section has reviewed this subdivision plan for 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 7-minute response time for the first due fire station Marlboro, Company 20, using the 7 Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A,B) regarding sworn police and fire and rescues personnel staging levels.

The Fire Chief has reported by letter, dated December 1, 2005, 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 property is located in Police District II. The response standard for emergency calls is 10 minutes and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on January 20, 2006.

| <b>Reporting Cycle</b> | <b>Date</b>              | <b>Emergency Calls</b> | <b>Nonemergency</b> |
|------------------------|--------------------------|------------------------|---------------------|
| <u>Acceptance Date</u> | <u>10/05/05-10/05/06</u> | <u>10.00</u>           | <u>22.00</u>        |
| <u>Cycle 1</u>         |                          |                        |                     |
| <u>Cycle 2</u>         |                          |                        |                     |
| <u>Cycle 3</u>         |                          |                        |                     |

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on October 5, 2006.

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Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A,B) regarding sworn police and fire personnel staffing levels.

The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

- \*12. **Health Department**—The Environmental Engineering Program has reviewed the pre-preliminary plan of subdivision for McDermott Property and has the following comments to offer:

A raze permit is required prior to the removal of any of the structures (barns and sheds) on-site. A raze permit can be obtained through the Department of Environmental Resources, Office of Licenses and Permits. Any hazardous materials located in any structures on-site must be removed and properly stored or discarded prior to the structures being razed. The location of the shed found at the junction of proposed Lots 11,12 and15 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 and septic systems properly abandoned before the release of the grading permit.

Once both houses on the historic site are connected to public water, the abandoned deep and shallow wells adjacent to the existing houses 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.

Once both houses on the historic site are connected to public sewer, the abandoned septic system(s) serving the existing houses must be pumped out by a licensed scavenger and either removed or backfilled in place. The location of the septic system(s) should be located on the preliminary plan.

- \*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, #44475-2005-00 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.

- \*14. **Historic**—The Historic Preservation Commission (HPC) considered this application at its April 18<sup>th</sup> and May 16<sup>th</sup> meetings and offer the following recommendations. The recommendations are based on the staff report and the testimony of the applicant and preservation organizations at the meeting. Minor modifications to the recommendations, reflecting revised lot numbers and the size of the environmental setting, are reflected within this memorandum.



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This revised preliminary plan application proposes 14 lots on an 11.32± acre tract on the north side of Old Marlboro Pike, approximately 800 feet west of Ritchie Marlboro Road. The property is zoned R-R. The entire 11.32± acre tract is the environmental setting for Charles Hill & Cemetery (Historic Site 78-017). Charles Hill & Cemetery was designated as Historic Site 78-017 in the Historic Sites & Districts Plan, 1981. The property contains a cemetery, known as the Pumphrey-Fraser-Walker cemetery, as well as carriage house, sheds and three modern (circa 1980) horse stables. The house, outbuildings and cemetery sit on the top of a knoll and are approached by a long narrow lane.

Adjoining the property on the west side is the 83.2-acre Charles Hill Cluster subdivision with 139 houses being constructed. The common property line is marked with a six-foot high white vinyl fence as part of the required bufferyard for the adjoining property. On the east side this 11-acre parcel adjoins the Chesapeake Bay Foundation's National Register Property "The Cottage."

The HPC reviewed this application at its April 18<sup>th</sup> meeting, and requested revisions to the site plan. Subsequently the applicant met with two HPC members, subdivision staff and historic preservation staff to refine the plans so no rear elevations of new houses will face the revised environmental setting of Charles Hill and to provide a large vista in front of the historic house.

### **Findings**

The HPC reviewed the following findings at its April meeting. This memo will focus on Findings 4, 5, 6, 8 and 9.

### **Archeology**

A Phase I archeological survey was completed for this property by Applied Archeology and History Associates, Inc., in November 2006, in anticipation of the present submission. The report, entitled, *A Phase I Archeological Survey of the McDermott Property*, described the pedestrian walkover and excavation of 81 shovel test pits spaced at regular 15-meter intervals. The area proposed to be protected in the environmental setting of the Historic Site (2.5 acres) was not examined. No cultural material was recovered in this archeological survey and excavations. The Planning Department's consultant, Dr. Paula Bienenfeld, agreed with the report conclusions that based on the archival research, and the Phase I archeological fieldwork, no additional archeological investigation is required.

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The applicant has submitted an inventory of the Pumphrey-Fraser-Walker cemetery with photos of cemetery stones, as well as photos of the red plastic staked five feet away from the outermost stones, to protect the cemetery until a permanent fence is erected in accordance with subdivision regulations. The design of the fence will require a HAWP.

### **Historic Preservation**

The applicant's subdivision plan presumes a revision to the Charles Hill Historic Site's environmental setting, which currently includes the entire 11-acre± parcel. The applicant has submitted a request for determination of environmental setting, which the Historic Preservation Commission (HPC) must act on by separate motion during its review of the proposed subdivision plan.

The plan establishes proposed Lot 14 to be 3.56 acres as the revised environmental setting for the historic site. As previously, Lot 14 would include the existing carriage house and sheds near the main house, but not include three modern outbuildings at a greater distance, which are proposed for demolition (They are on Lots 10 & 11). The applicant proposes to retain the historic entry lane to the historic site from Old Marlboro Pike and part of the front pastures. The Pumphrey-Fraser-Walker cemetery would be surrounded by an "Estate Style Cemetery Fence." The entire environmental setting will be surrounded by the existing post and rail fences. The additional 0.5 acres has been created by expanding the area at the base of the knoll to the east, connecting to the new cul-de-sac.

The applicant's subdivision plan is organized around a single and shorter cul-de-sac southeast of the historic site. The applicant has reduced the number of lots west of the cul-de-sac to 4, Lots 10-13. Lots 10-13 adjoin the proposed revised environmental setting, separated by a 40-foot buffer ("historic easement"). The houses have the 50-foot building setback that is required next to the historic site.

The front façades of the houses on the two lots now facing the historic lane will provide a more attractive setting.

Through a site inspection, including a tour of the house, staff found that the house is in generally good condition, although the paint is peeling on a corrugated metal roof. The applicant proposes to renovate the historic site for resale. The applicant has discussed with staff a proposal to put a new standing seam roof on the entire house and the "carriage house." The applicant also indicates a desire to enhance the buffering of the house from the new development by planting trees with larger caliper than required and using existing topography to screen views of other buildings from the house.

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Among the Historic Preservation recommendations in the approved Master Plan for Melwood/Westphalia (March 1994) is the following:

“The environmental settings for individual historic properties should be established during the subdivision review process or prior to any further development. The following features could be considered in establishing the preferred acreage around the historic house:

- (1) Important manmade features such as outbuildings, walkways, walls, terraces, trees, entry drives, gate posts and gravestones.
- (2) Landscape elements that are natural or manmade such as land contours and terraces, trees, plantings, hedgerows, gardens, lawns and ponds.
- (3) Important vistas or views which could include a tree-lined entrance drive, prominent knolls and groves of trees.
- (4) Unique features of the topography.”

The topography of the subject property within the historic site’s existing environmental setting is relatively rolling and most of the site has been cleared of trees for agricultural/equestrian purposes. In this revised plan, Charles Hill will no longer overlook rears of houses. However, the houses on Lots 10-13 have been shifted to the west approximately 40 feet and are directly in front of Charles Hill. The present vista from the house is greatly impacted because the house has historically had open views, which would now be blocked in part by the landscape buffer and subdivision houses.

The proposed landscaped bufferyard on Lots 10-13 is an attempt to screen the historic site from adjacent new construction since these areas are now fully cleared. The applicant has proposed using larger caliper trees than normally required in order to mitigate the impact of these houses. This proffer may indeed help to screen the views which would otherwise take many years to achieve this goal.

### **Conclusions**

Although the reduction of this 11-acre landmark setting is a significant change to the historic site, staff believes that with the shifting of the setting south and east from 3.3 acres to 3.56 acres, and the lots closest to the historic house being between 21,116 to 25,786 square feet, this proposal addresses the essential elements of criteria 1, 2, 3 and 4 of the above listed features. The larger lots will have an impact but will not destroy the quality of the setting because of the remaining open field, and the quality of the proffered buffer plantings.

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Because of their proximity to and visibility from the historic site, the siting, massing, height, design and materials of proposed houses on Lots 9 through 13 should be reviewed for compatibility with the historic site by the Planning Board or its designee through the limited detailed site plan process.

Any supplementary accessory buildings should have limited detailed site plan review.

\*15. **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.

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).**

For the 11.32 acres located within the R-R Zone, 24 lots would be allowed. The applicant is proposing 14 lots. Nine 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.

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

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

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Comment: The entire 11.32-acre property was the environmental setting for the Charles Hill Historic Site and the Pumphrey-Fraser-Walker Cemetery. Charles Hill and the cemetery were designated as Historic Site 78-017 in the Prince George's County Historic Sites and Districts Plan, (1981). The preliminary plan submitted includes the 50-foot building setback and 40-foot landscaped yard that is required to screen the historic site from the adjacent developing lots in accordance with Section 4.7 of the *Landscape Manual*. Developing the subject property utilizing the lot size averaging provisions has provided for greater flexibility within the design of the proposed lotting pattern and access points. This will help to ensure the protection and enhancement of the historic resources associated with the property to the greatest extent possible, and provides for a better environment, and a better environmental setting, than that which could be achieved 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.**

Comment: The adjacent Charles Hill Subdivision to the north and west of the subject property was developed and approved utilizing the optional cluster design approach, with some of the abutting lots having a net lot area of just over 10,000 square feet. The five lots proposed within the subject subdivision that are utilizing the lot size averaging provisions are required to have a minimum net lot area of 15,000 square feet. All the lots proposed adjacent to the Charles Hill Subdivision will be conventional lots, having a minimum net lot area that meets or exceeds 20,000 square feet. Existing 40-foot-wide landscape buffers, improved with a six-foot-high, white vinyl fence along the common property line, were established as part of the adjacent Charles Hill Subdivision and dedicated to their respective homeowners association. The adjacent property to the east is the Chesapeake Bay Foundation's National Register property known as "The Cottage." Therefore, a 50-foot building setback and 40-foot landscaped yard is also required along the eastern property line to screen this adjacent historic site from the developing lots within the subject property in accordance with Section 4.7 of the *Landscape Manual*. Both the lot sizes as designed, and the existing, and proposed 40-foot wide landscape buffers, will provide for an adequate transition between the subject property and the adjacent residentially zoned properties.

**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.**

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Comment: Utilizing the lot size averaging provisions on the eastern side of the proposed subdivision will allow a majority of the proposed density to be located away from the Charles Hill Historic Site and cemetery that exists on the western side of the property. A 40-foot-wide landscape buffer with a 50-foot building setback is proposed between the five dwellings that will be located on lots utilizing lot size averaging and the adjacent property to the east. To preserve the scenic and historic viewshed along Old Marlboro Pike and to maintain the rural character of the area, a 40-foot-wide scenic easement will be required along the property's entire street frontage of Old Marlboro Pike. Therefore, the entire property will be enclosed by either existing, or proposed landscape buffers, which will provide an adequate transition between the proposed natural features of the site and any natural features of adjacent property.

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

\*16. **Flag Lots**—The applicant proposes five flag lots within the subdivision. The flag lots are shown as Lots 2, 3, 6, 9 and 10;.

Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. Staff supports the flag lot based on the following findings and reasons.

- a. A maximum of two tiers is permitted. The flag lots proposed are single tier. The houses would be sited such that each would have a private rear yard area.
- b. The flag stem is a minimum width of 25 feet for the entire length of the stem. A 25-foot stem has been provided for each flag lot.
- c. The net lot area for the proposed lots exclusive of the flag stem exceeds the minimum lot size of 15,000 square feet as required in the R-R Zone utilizing the lot size averaging provisions, and 20,000 square feet utilizing the conventional standards of the R-R Zone. Although the preliminary plan submitted does not reflect a separate square footage for the flag lot stems, per staff's conversation with the engineer, the net lot areas shown on the preliminary plan exclude the square footage of the flag lot stems. Therefore, all of the proposed flag lots exceed the minimum net lot area required in the R-R Zone, exclusive of the flag lot stems. A technical revision has been included within this report that requires the preliminary plan to be revised to include a separate square footage for each of the flag lot stems prior to any signature approval of the preliminary plan.
- d. The proposal includes no shared driveways. No shared driveways are proposed.

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- \*e. Where rear yards are oriented toward driveways, an “A” bufferyard is required. This orientation does not occur in this instance.
- f. Where front yards are oriented toward rear yards, a “C” bufferyard is required. This relationship does occur, and “C” bufferyards have been provided. However, the preliminary plan incorrectly provides an “A” bufferyard on two of the proposed lots where a “C” bufferyard is required. Ample area does exist for the required bufferyard, and a technical revision has been included within this report that requires the preliminary plan to be revised to provide the correct bufferyard width prior to any signature approval of the preliminary plan..

Prior to approval of a flag lot, the Planning Board must make the following findings of Section 24-138.01(f):

**A. The design is clearly superior to what would have been achieved under conventional subdivision techniques.**

**Comment:** The proposed flag lots yield a superior design to that which would be allowed conventionally. The location of the proposed flag lots have been designed to protect the environmental setting of the historical site to the greatest extent possible. The landscape bufferyards required for the flag lots will help to further screen the development on these lots from the historical site, which in this instance, provides a design that is superior to what would have been achieved under conventional subdivision techniques.

**B. The transportation system will function safely and efficiently.**

**Comment:** The flag lots will access the proposed internal street. No significant impact on the transportation system is expected.

**C. The use of flag lots will result in the creative design of a development that blends harmoniously with the site and the adjacent development.**

**Comment:** The flag lot will blend harmoniously with the rest of the development. Landscape bufferyards will be provided where any front yards are oriented toward rear yards, and the 40-foot-wide landscape bufferyard proposed along the entire eastern property line will help buffer the site and the adjacent development.

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**\*D. The privacy of property owners has been assured in accordance with the evaluation criteria.**

**Comment:** Appropriate landscape buffers will be provided in accordance with Section 4.7 of the *Landscape Manual*. The bufferyards will help preserve privacy, and ensure that views from the front yard into adjacent rear yards are completely buffered. Sufficient room is available to provide the required bufferyards.

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 Eley, seconded by Commissioner Clark, with Commissioners Eley, Clark, Vaughns, Squire and Parker voting in favor of the motion at its regular meeting held on Thursday, December 14, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 11th day of January 2007.

R. Bruce Crawford  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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