

R E S O L U T I O N

WHEREAS, Shelwick I, LLC. is the owner of a 13.13-acre parcel of land known as Parcel 247, Tax Map 151 in Grid F-4, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on July 23, 2007, Shelwick I, LLC. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 13 lots and 5 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-07054 for Lillian's Choice 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 November 29, 2007, 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 November 29, 2007, 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/006/07), and further APPROVED Preliminary Plan of Subdivision 4-07054, Lillian's Choice, including a Variation from Section 24-130 for Lots 1 through 13, and Parcels A through E with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
  - a. Label the existing single-family dwelling and all accessory sheds as "To Be Removed."
  - b. Provide a general note which demonstrates that a joint use agreement with SMECO has been recorded in land records for the transmission line right-of-way crossings.
  - c. Locate the abandoned shallow well along the slope of the stream bank.
  - d. Delineate the limits of the septic tank currently serving the dwelling at 15755 Livingston Road.
  - e. Revise Lot 3 to provide a minimum of 60-feet at the front street line along the cul-de-sac of Street "B".

- f. Since Lot 8 does not provide the 80-foot lot width at the 25-foot building restriction line, provide a setback from the front street line, to where the lot does meet the required 80-foot width. Include the setback distance on both the preliminary plan and the TCPI.
  - g. Verify the correct width of the SMECO right-of-way. The preliminary plan shows a right-of-way width of 110-feet. However, the signed joint use agreement with SMECO demonstrates a right-of-way width of 100-feet. The deed reference shown on the plan for the SMECO right-of-way is also not consistent with the deed referenced within the joint use agreement, and needs to be clarified.
  - h. Label the square footage of the Livingston Road right-of-way dedication (0.75 acres per the general notes).
  - i. Number the general notes.
  - j. Label the area on the plan where the Variation from Section 24-130 has been requested, and delineate the square footage of the proposed impact. Also provide a general note which references the requested variation.
  - k. Provide a general note which references the companion NRI, (NRI/128/06), and the companion TCPI (TCPI/006/07).
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
  3. Development of this site shall be in conformance with Stormwater Management Concept Plan 41591-2006-00 and any subsequent revisions.
  4. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers, excluding those areas where variation requests have been approved, and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

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

6. Prior to signature of the preliminary plan, the Type I TCP shall be revised to:
  - a. Show all specimen trees and their critical root zones.
  - b. Add the following note:

“The Type II TCP shall address the removal by hand of all Virginia pines (*Pinus virginiana*) greater than 6 inches in diameter within 40 feet of the final proposed limit of disturbance or the boundary of the property.”
  - c. Have the revised plan signed and dated by the qualified professional who prepared the plan.
7. 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/006/07, 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 and Tree Preservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved tree conservation plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”
8. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 4.35 ± acres of open-space land (Parcels A, B, C, D and E). Land to be conveyed shall be subject to 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 require the written consent of DRD or be in accordance with an approved detailed site plan if one is required. This shall include, but not be limited to, the location of sediment control

measures, tree removal, temporary or permanent stormwater management facilities, utility placement and stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.

- f. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. Stormdrain outfalls shall be designed to avoid adverse impacts on adjacent land, owned by or to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC). If the outfalls require drainage improvements on land to be conveyed to or owned by M-NCPPC, the Department of Parks and Recreation (DPR) shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
  - i. There shall be no disturbance of any adjacent land that is owned by, or to be conveyed to, M-NCPPC, without the review and approval of DPR.
  - j. 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.
  - k. Parcel E (containing the potential right-of-way for John Dailey Road,  $0.22 \pm$  acres) shall be conveyed to DPW&T upon demand.
9. 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.
10. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFA) to DRD for construction of recreational facilities on homeowners land, for approval prior to the submission of final plats. Upon approval by DRD, the RFAs shall be recorded among the County Land Records.
11. The applicant shall allocate appropriate and developable areas for the private recreational facilities on homeowners association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Section of DRD for adequacy and property siting in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*, at the time of limited detailed site plan approval.
12. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of

- credit, or other suitable financial guarantee for the construction of recreational facilities on homeowners land, prior to the issuance of building permits.
13. The applicant, his heirs, successors and or assignees shall construct an eight-foot-wide asphalt, Class II Trail along the subject property's entire street frontage of MD 373, unless modified by SHA.
  14. The applicant, his heirs, successors and or assignees shall provide standard sidewalks along both sides of the internal public street unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
  15. Prior to signature approval of the preliminary plan, the applicant, his heirs, successors and or assignees shall record the late 19<sup>th</sup> century house on a Maryland Inventory of Historic Properties (MIHP) form. Two copies of the MIHP form and four copies of the final report shall be submitted to the Historic Preservation Section prior to signature approval of the preliminary plan.
  16. Prior to the approval of the final plat, the joint use agreement with SMECO shall be recorded in land records, and a copy of the recorded agreement shall be submitted to the Subdivision Section at the time of final plat submission.
  17. At the time of final plat approval, the applicant shall dedicate right-of-way along existing MD 373 of 60 feet from the existing right-of-way line.
  18. MD 210 at MD 373: Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county's capital program, (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:
    - a. Provide a right-turn lane, a through lane, and a left-turn lane along the westbound approach to the MD 373/MD 210 intersection.
  19. Prior to the issuance of grading permits the applicant, his heirs, or successors 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.
  20. 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.
  21. Lots 7 and 8 shall be denied direct access to John Dailey Road.
  22. All lots shall be denied direct access to Livingston Road, (MD 373).
  23. Prior to the approval of any building permits, 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 be consistent with the following items:

- a. The private recreational facilities shall be reviewed for adequacy and property siting in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
- b. Landscaping, buffering, and if needed, fencing for the stormwater management facility.
- c. If necessary, any additional landscaping adjacent to the SMECO right-of-way.

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 along the north side of Livingston Road, (MD 373), at its intersection with Dusty Lane.
- 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)	Single-Family	Single-Family
Acreage	13.13	13.13
Lots	0	13
Parcels	1	5
Dwelling Units:		
Detached	1 (to be razed)	13 (new)
Public Safety Mitigation Fee		No

- 4. **Environmental**—The Environmental Planning Section has reviewed the revised Preliminary Plan of Subdivision for Lillian’s Choice, 4-07054, and the revised Type I Tree Conservation Plan, TCPI/006/07, stamped as received by the Environmental Planning Section on July 27, 2007. The Environmental Planning Section supports the variation request for the impact to the sensitive environmental features and recommends approval of Preliminary Plan 4-07054 and TCPI/006/07 subject to conditions.

## **BACKGROUND**

The Environmental Planning Section has previously reviewed Pre-Preliminary Plan, P-04007, Preliminary Plan 4-06009 and TCPI/006/07 for the subject property. Preliminary Plan 4-06009 and TCPI/006/07 were withdrawn prior to being heard by the Planning Board. The current application is for 13 lots and 5 parcels in the R-R zone.

## **SITE DESCRIPTION**

There is a stream, wetlands and 100-year floodplain on the property associated with Piscataway Creek in the Potomac River watershed. According to the *Prince George's County Soils Survey* the principal soils on this site are in the Aura, Beltsville and Leonardtown series. Marlboro clay does not occur in the area. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, rare, threatened, or endangered species are not known to occur in the vicinity of this property. No designated historic or scenic roads are affected by the proposed development. There are no nearby sources of existing 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 *Prince George's County Approved General Plan*.

### **Environmental Issues Addressed in the Subregion V Master Plan.**

The Subregion V Master Plan indicates that there are substantial areas designated as Natural Reserve on the site. The Natural Reserve has been superseded by the Regulated Areas as designated by the *Approved Countywide Green Infrastructure Plan*. Livingston Road is designated as an arterial roadway and is a source of traffic-generated noise.

### **Countywide Green Infrastructure Plan**

According to the Countywide Green Infrastructure Plan, there are Regulated Areas, Evaluation Areas and Network Gaps on the subject property. According to the Countywide Green Infrastructure Plan, Regulated Areas, Evaluation Areas and Network Gaps encompass most of the property. The proposed woodland conservation areas preserve most of the Regulated Areas and provide woodlands along the SMECO right-of-way in conformance with the policies of the Countywide Green Infrastructure Plan.

## **ENVIRONMENTAL REVIEW**

Signed Natural Resources Inventory NRI/128/06 was submitted with the review package. The NRI indicates that there are streams, wetlands, and 100-year floodplain on the subject property. The location of the 100-year floodplain is based upon a floodplain study, FPS 200602, approved by the Prince George's County Department of Environmental Resources. The forest stand delineation notes three stands totaling 7.60 acres and 13 specimen trees.

Forest Stand A covers about 3.42 acres on the northeastern portion of the site and is dominated by maturing sweetgum, red maple, and Virginia pines that average nine inches in diameter at breast height. There are no specimen trees in this stand. Because of the abundance of maturing Virginia pines that are subject to windfall and the lack of sensitive environmental features in this stand, preservation of this woodland is not a high priority.

Forest Stand B covers about 1.75 acres on the northwestern portion of the site and is dominated by mature tulip poplars that average 21 inches in diameter at breast height. Two specimen trees are located in this stand. Because of the sensitive environmental features present, preservation of this woodland is a high priority.

Forest Stand C covers about 2.43 acres on the north-central portion of the site and is dominated by early successional mixed hardwoods that average 11 inches in diameter at breast height. Three specimen trees occur in this stand. The shrub layer is dominated by invasive species. Because the woodland is young and contains invasive plants, only the portions within the stream buffers are of high priority for preservation because of their ability to protect water quality.

Eight additional specimen trees are outside the woodland area, and are associated with the existing structures within the southern portion of the property.

The expanded stream buffers depicted on the NRI are also shown on the preliminary plan and TCPI. Although proposed Lots 5, 6 and 13 do meet, or slightly exceed, the minimum net tract area of 20,000 square feet as required in the R-R Zone, each lot will be severely encumbered by restrictive conservation easements due to the presence of the existing stream.

The plan proposes impacts to the expanded stream buffers. Impacts to these buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113.

The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. The Environmental Planning Section will not generally 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), street crossings, and so forth, which are mandated for public health and safety. Non-essential activities such as grading for lots, stormwater management ponds, parking areas, and so forth, are those which do not relate directly to public health, safety or welfare.

A variation request, dated September 26, 2006, was submitted to request impacts to significant environmental features to construct a road crossing and connect the proposed development to an existing sanitary sewer. These impacts are the minimum necessary and sufficient to develop the proposed subdivision. The Environmental Planning Section notes that the impacts have been combined to reduce the overall impact, and alternative access points were evaluated during the review.



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 sanitary sewer connection and the construction of an internal public street are being required by various Prince George's County agencies 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;**

The only available existing sanitary sewer that can be utilized to serve this property is wholly within the expanded stream buffer. The Department of Public Works and Transportation has denied access to the property from John Dailey Road because it is substandard. These conditions generally distinguish the subject property from other area properties.

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

The installation of the public street and the connection to the sanitary sewer are required by other regulations. Because the applicant will have to obtain permits from other local, state, and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

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

The topography provides no alternative for the connection to the sanitary sewer which is required to serve the development. The road crossing is required to provide service to six of the 13 proposed lots. Without the required public street and sanitary sewer connection, the property could not be properly developed in accordance with the R-R Zone.

The Environmental Planning Section supports the variation requests for the reasons stated above.

This property is subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the gross tract area of the property is greater than 40,000 square feet and there are more than 10,000 square feet of existing woodland.

A Type I tree conservation plan was submitted with this application. The worksheet proposes clearing 4.49 acres of the existing 7.00 acres of upland woodland and clearing of 0.08 acres of the 0.27 acres of woodland within the 100-year floodplain. The woodland conservation threshold is 2.22 acres. Based upon the proposed clearing, the woodland conservation requirement has been correctly calculated as 3.42 acres. The plan proposes to meet the requirement by providing 1.41 acres of on-site preservation, 0.20 acres of on-site planting and 1.81 acres of off-site mitigation. An additional 1.16 acres of woodland will be retained on-site but not as part of any requirement.

Some technical errors need to be revised. Forest stand A has an abundance of maturing Virginia pines that are subject to windfall and will need to be addressed on the TCPII.

According to the *Prince George's County Soils Survey* the principal soils on this site are in the Aura, Beltsville and Leonardtown series. Aura soils are highly erodible and are in the B-hydric series. Beltsville soils are highly erodible, may have a perched water table and are in the C-hydric group. Leonardtown soils are may have a perched water table, poor drainage, wetlands inclusions and are in the D-hydric group. This information is provided for the applicant's benefit. A soils report in conformance with CB-94-2004 will be required during the permit process review.

Copies of the Stormwater Management Concept Approval Letter and plan CSD 41591-2006-00 were submitted. The plan requires a pond for retention of runoff from a one-year storm and water quality control by extended detention. The pond shown on the TCPI is consistent with this approval. No further action regarding stormwater management is required.

## **SUMMARY**

The Environmental Planning Section supports the variation requests for the impacts to sensitive environmental features for the reasons stated above, and recommends approval of Preliminary Plan 4-07054 and TCPI/006/07 subject to conditions.

### **Water and Sewer Categories**

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

5. **Community Planning**—The property is located in Planning Area 84 within the Accokeek Community, and is within the limits of the 1993 Subregion V Master Plan. The master plan land use recommendation for this property is for a low-suburban residential land use at up to 2.6 dwelling units per acre. This application proposes a low-suburban residential land which is consistent with the land use recommendation within the 1993 Subregion V Master Plan.

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 which is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The 1993 Subregion V Sectional Map Amendment classified this property in the R-R Zone.

6. **Parks and Recreation**—The applicant should allocate appropriate and developable areas for the private recreational facilities on homeowners association (HOA) open space land. The private recreational facilities should be reviewed by the Urban Design Section of DRD for adequacy and property siting in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines* at the time of limited detailed site plan approval.
7. **Trails**—The Subregion V Master Plan recommends an Accokeek to Brandywine Pedestrian/Bikeway (recommendation 12 of the trails section). A portion of this route will utilize Livingston Road, (MD 373), including the frontage of the subject property. An existing park and ride lot and the Accokeek Library are immediately to the west of the subject property along MD 373. The Transportation Planning Section recommends the provision of a Class II trail along the subject property's entire frontage of MD 373. Upon its completion in the Accokeek area, this trail will accommodate safe pedestrian and bicycle traffic to the library, the park and ride, and the Accokeek village activity center proposed on the master plan. The master plan trail is reflected on the submitted preliminary plan. The Accokeek Village development constructed this Class II Trail along their frontage of Livingston Road to the west of the subject site.

### **SIDEWALK CONNECTIVITY:**

Recently completed subdivisions in the area, including Treeview Estates and Horizon Estates, include standard sidewalks along at least one side of all internal roads. Sidewalks will help to ensure safe pedestrian movement to nearby public facilities such as the library and village activity center. Standard sidewalks are recommended along both sides of all internal roads, unless modified by

DPW&T.

8. **Transportation**—The applicant proposes a residential subdivision consisting of 13 single-family detached lots. Due to the size of the subdivision, the Transportation Planning Section did not require a traffic study to be done. The Transportation Planning Section had traffic analyses and findings available in connection with Preliminary Plan of Subdivision 4-06069 for Belle Oaks Estates, for the purpose of making an adequacy finding. The matter is somewhat complicated by the fact that the critical intersection for this site required mitigation in accordance with Section 24-124(a)(6) when it was reviewed under 4-06069. Mitigation is treated as an alternative means of determining adequacy, and both the ordinance and the “Guidelines for the Analysis of the Traffic Impact of Development Proposals” are clear that the use of mitigation is not an entitlement, as it is a deviation from the transportation standard that must be requested and reviewed on its merits. As a means of making a finding that would be reasonable and consistent with recent approvals, the applicant was asked to proffer the use of mitigation at the critical intersection. This request was made in writing. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the Transportation Planning Section, consistent with the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

#### **Growth Policy—Service Level Standards**

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

**Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better is required in the Developing Tier.

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

#### **Staff Analysis of Traffic Impacts**

The intersection of MD 210 and MD 373 has been determined to be the critical intersection for the subject property. Existing traffic conditions were based on traffic counts done during 2006. Existing conditions are summarized as follows: AM peak hour, a critical lane volume (CLV) of 1,386, operating at a level-of-service (LOS) D; and PM peak hour, a CLV of 1,626, operating at LOS F.

There are no funded capital projects within the study area in either the County Capital Improvement Program or the State Consolidated Transportation Program that would affect the critical intersections. Fourteen approved but unbuilt developments that would directly affect the critical intersections were identified. Annual through traffic growth of 2.5 percent per year was added to account for development and traffic growth in the general area. With background growth added, the following results are obtained: AM peak hour, a CLV of 1,663, operating at LOS F; and PM peak hour, a CLV of 1,915, operating at LOS F.

With the development of 13 single-family detached residences, the site would generate 10 AM (2 in and 8 out) and 12 PM (8 in and 4 out) peak hour vehicle trips. The site was analyzed with the following trip distribution:

70 percent—North along MD 210  
10 percent—Southwest along MD 210  
20 percent—Northeast along MD 373/Livingston Road

Given this trip generation and distribution, the impact of the proposal has been analyzed. With the site added to the local roadway network, the following results are obtained: AM peak hour, a CLV of 1,670, operating at LOS F; and PM peak hour, a CLV of 1,915, operating at LOS F.

At the MD 210 and MD 373 intersection, the applicant has proposed the use of mitigation in accordance with Section 24-124(a)(6) of the Subdivision Regulations. The Subdivision Ordinance indicates that “consideration of certain mitigating actions is appropriate” in accordance with the Guidelines for Mitigation Action and the requirements set forth in Section 24-124. The applicant proposes to employ mitigation by means of criterion (d) in the Guidelines for Mitigation Action, which were approved by the District Council as CR-29-1994. Criterion (d) allows mitigation at intersections along MD 210, which are outside of the Beltway, (among other facilities), and the council resolution was not superceded by the approval of the 2002 *Prince George’s County Approved General Plan*.

At the MD 210 and MD 373 intersection, the applicant recommends the widening of the westbound approach of MD 373 (i.e., the east leg of the intersection) to mitigate the impact of the applicant's development in accordance with the provisions of Section 24-124(a)(6). These improvements would involve widening the westbound approach to provide separate through and right-turn lanes.

The impact of the mitigation actions at this intersection is summarized as follows:

IMPACT OF MITIGATION				
Intersection	LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 210/MD 373				
Background Conditions	F/1663	F/1915		
Total Traffic Conditions	F/1670	F/1915	+7	+0
Total Traffic Conditions w/Mitigation	E/1476	F/1915	-194	-0

As the CLV at MD 210/MD 373 is between 1,450 and 1,813 during the AM peak hour, the proposed mitigation action must mitigate at least 150 percent of the trips generated by the subject property in accordance with the Guidelines. The table above indicates that the proposed mitigation action would mitigate far, far in excess of the required 150 percent of site-generated trips during the AM peak hour.

The PM peak hour requires further discussion. The CLV at MD 210/MD 373 is greater than 1,813 during the PM peak hour. Therefore, the proposed mitigation action must mitigate at least 100 percent of the trips generated by the subject property during each peak hour and bring the CLV to no greater than 1,813, in accordance with the Guidelines. The table above indicates that the proposed mitigation action provides no improvement to the operating conditions in the PM peak hour and leaves the CLV over 1,813. However, it is also noted that the site has no impact upon the critical movements during the PM peak hour at this location. As a result, there is no nexus between transportation improvements under this circumstance and the impact of the site. While the circumstance is somewhat uncommon, it is not unusual when considering a small development.

In summary, the proposed improvement would mitigate the site's impact during the AM peak hour, and it is determined that the site has no PM peak hour impact on the critical movements within the MD 210/MD 373 intersection. Therefore, the proposed mitigation at MD 210 and MD 373 meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.

The State Highway Administration (SHA) and DPW&T both reviewed the mitigation improvement as part of their referral package. DPW&T did not indicate a concern with the TFMP at MD 210 and MD 373. SHA did concur that the improvements in the TFMP would mitigate the site's traffic impact at the MD 210/MD 373 intersection.

The Subregion V Master Plan shows MD 373 as a master plan arterial roadway, designated as A-55. Because of the existing development on the south side of MD 373, the master plan was presumed to offset the right-of-way along the frontage of this property, with the south side of the

existing right-of-way being coincident with the south side of the planned right-of-way. As a result, the master plan appears to require the dedication of 90 feet along this site's frontage. In further review of the recommendations of the Subregion V Master Plan, a maximum of four lanes is required along MD 373. Within an urban section, four lanes with a median can be accommodated within the existing 30-foot right-of-way plus an additional 60 feet (for a total of 90 feet). Therefore, it is determined that the 60 feet of dedication shown on the submitted plan along the MD 373 frontage is acceptable and can meet the needs of the master plan.

John Dailey Road appears to exist as a privately owned parcel which is 15 feet in width and which serves several properties. However, there is at least one platted lot using this roadway for access, and it appears that there is some frontage north of this site that is publicly dedicated. Furthermore, it appears that John Dailey Road is the only means of access to these properties. Given that there may be a need for other properties north of the subject property to subdivide, the strategy of providing a 25-foot-strip for dedication upon demand to DPW&T is an acceptable method of providing access to other parcels in the area.

**Transportation Staff Conclusions**

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

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

Impact on Affected Public School Clusters

Affected School Clusters	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	13 DU	13 DU	13 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	3.12	.78	1.56
Actual Enrollment	4,518	5,968	9,696
Completion Enrollment	168.96	90	181
Cumulative Enrollment	26.88	37.74	75.48
Total Enrollment	4,716.96	6,096.52	9,954.04
State Rated Capacity	4,775	6,114	10,392
Percent Capacity	98.78%	99.71%	95.78%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

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 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 \$7,870 and \$13,493 to be 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 finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003, CB-31-2003, and CR-23-2003.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section have reviewed the preliminary 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.

Public Facilities staff have determined that this property is within the required 7-minute response time for the first due fire station, Accokeek Company No. 24, using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George’s County Fire Department.

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

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

11. **Police Facilities**—The subject property is located in Police District IV. The response time standards are 10 minutes for emergency calls and 25 minutes for non-emergency 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 July 23, 2007.

Reporting Cycle	Previous 12 Month Cycle	Emergency Calls	Non-emergency
Acceptance Date July 23, 2007	6/06-6/07	10 minutes	17 minutes
Cycle 1	7/06-7/07		
Cycle 2	8/06-8/07		
Cycle 3	9/06-9/07		



The response time standards of 10 minutes for emergency calls and 25 minutes for non-emergency calls were met on July 31, 2007.

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

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

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for Lillian's Choice, and has the following comments to offer.

The abandoned shallow wells, found adjacent to the house at 15755 Livingston Road, and along the steep slope of the stream bank, 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 grading permit. One of the wells, along with a pump house, is shown on the submitted preliminary plan. However, the other well, located along the slope of the stream bank, is not shown on the plan.

Once the existing house is razed, the abandoned septic tank must be pumped out by a licensed scavenger and either removed or backfilled in place as part of the grading permit. The location of the septic system should be located on the preliminary plan.

Prior to the removal of any of the existing structures, a raze permit must be obtained through the Department of Environmental Resources, Office of Licenses and Permits. Any hazardous materials located in the structures must be removed and properly stored or discarded prior to the structures being razed. A note needs to be affixed to the preliminary plan which requires that the structure be razed and the well and septic systems properly abandoned prior to the release of the grading permit.

13. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering has determined that on-site stormwater management is required. Stormwater Management Concept Plan 41591-2006-00 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**—A Phase I archeological survey was completed on the 13-acre Lillian's Choice (Matisse) Property in August 2007. A draft report entitled, Phase I Cultural Resources Inventory of the Matisse Property in Prince George's County, Maryland, Preliminary Plan 4-07054, has been received by the Historic Preservation and Public Facilities Section and was reviewed on October 9, 2007. One multicomponent archeological site, 18PR912, a prehistoric lithic scatter, and a late 19<sup>th</sup> century farmstead, were identified in the survey. Due to the paucity of artifacts and the lack of intact subsurface features or deposits, no further work was recommended. Staff concur with the report's findings that no further archeological work is necessary on the Lillian's

Choice (Maise) Property. However, staff has asked the archeological contractor to record the late 19<sup>th</sup> century house on a Maryland Inventory of Historic Properties (MIHP) form. Once the MIHP form and four copies of the final report have been received and approved, all county archeological conditions for this property will have been fulfilled.

However, Section 106 review may 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 state or federal monies, or federal permits are required for a project.

15. **Accokeek Development Review District Commission**—This preliminary plan application is within the Accokeek Development Review District. All the associated plans were referred to the ADRDC on July 26, 2007. The applicant did meet with the ADRDC at their scheduled monthly meeting. However, at the time of the writing of the staff report, no comments had been received from the commission.

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 date of notice of 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 Cavitt, with Commissioners Squire, Cavitt, Vaughns, Clark and Parker voting in favor of the motion at its regular meeting held on Thursday, November 29, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of December 2007.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator