

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

WHEREAS, Jemal's Post, LLC. is the owner of a 33.35-acre parcel of land known as Parcel 23, Tax Map 90 in Grid A-1, said property being in the 6th Election District of Prince George's County, Maryland, and being zoned I-1; and

WHEREAS, on *~~May 3~~, February 22, 2007, Jemal's Post, LLC. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 7 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06145 for Jemal's Post was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on May 3, 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 *May 3, 2007, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

WHEREAS, on May 24, 2007 the Planning Board adopted its resolution of approval PGCPB No. 07-96; and

WHEREAS, by a letter dated June 12, 2007, the applicant requested a reconsideration of the preliminary plan for review of Conditions 1, 2, 3, 5, 7 and Findings 5 and 10.

WHEREAS, on July 12, 2007, the Planning Board granted this request.

WHEREAS, on July 12, 2007 the Planning Board approved the applicant's request for reconsideration based on the good cause associated with variation requests to pipe the stream and providing adequate circulation for emergency vehicles, pedestrian and truck traffic; and

WHEREAS, the applicant submitted revised variation requests pursuant to §24-130; and

WHEREAS, on October 11, 2007, the Prince George's County Planning Board heard testimony regarding the reconsideration.

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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/11/07), and further APPROVED Preliminary Plan of Subdivision 4-06145, Jemal's Post, including a Variation from Section 24-130 for Lots 1-7 with the following conditions:

- *[1]. ~~Prior to signature approval of the preliminary plan, the preliminary plan and the TCPI shall be revised to eliminate impacts C, D and F.~~
- *[2]. ~~At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, except for the areas of approved impacts, and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:~~

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

- 1[3]. Prior to signature approval of the preliminary plan, the Type I Tree Conservation Plan shall be revised as follows:
 - a. Revise the plan and the legend to include symbols for: stream centerline, stream buffer, wetlands, wetland buffer, expanded buffer and any other symbols used on the plan.
 - b. Remove tree protection devices from the legend.
 - c. Provide detailed sheets at a scale of 1”=50’ in addition to the overall cover sheet.
 - d. Revise the plan and the legend to show one continuous limit of disturbance with the same symbol in the legend and on the plan.
 - *e. ~~Revise the TCPI worksheet to include the preservation on site of the woodlands within the stream system that are to be preserved and adjust all plan notes accordingly.~~
 - *e[f]. Add the Standard TCPI Notes and insert the appropriate plan numbers as required.
 - *f[g]. Have the revised plan signed and dated by the qualified professional who prepared the plan.

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- *2[4]. Development of this subdivision shall be in compliance with an approved Type I Tree

Conservation Plan (TCPI/11/07). 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/11/07), 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 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."

- *3[~~5~~]. Prior to signature approval of the preliminary plan, the stormwater management plan shall be revised to reflect both the TCPI and as necessary the preliminary plan.
- *4[~~6~~]. Prior to the approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures have been designed to reduce interior noise levels to 52 dBA (Ldn) or less.
- *5[~~7~~]. Development shall be in conformance with the approved Stormwater Management Concept Plan, 1837-2005-01 and any subsequent revisions.
- *6[~~8~~]. Any residential development of the subject property, other than one single-family dwelling, shall require the approval of a new preliminary plan of subdivision prior to the approval of any building permits.
- *7[~~9~~]. The applicant shall provide a standard sidewalk along the subject site's entire frontage of Forestville Road, unless modified by DPW&T.
- *8[~~10~~]. Provide a standard sidewalk along both sides of all internal roads, unless modified by DPW&T.

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*9[~~11~~]. Prior to signature approval of the preliminary plan, a Phase I (Identification) archeological investigation, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), is required on the subject property to determine if any cultural resources are present. The entire 33.35 acres shall be surveyed for archeological sites. A title search should be performed on the property tracing the title back as far as possible. A search shall be made of census records to determine if past owners held slaves. The applicant shall submit a Phase I Research Plan for approval by the staff archeologist prior to commencing Phase I work. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations is required prior to signature approval.

*10[~~12~~]. Upon receipt of the report by the Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to Planning Board approval of any detailed site plan or final plat, the applicant shall provide a plan for:

- i.) Evaluating the resource at the Phase II level, or
- ii.) Avoiding and preserving the resource in place.

*11[~~13~~]. If a Phase II and/or Phase III archeological evaluation or mitigation is necessary the applicant shall provide a final report detailing the Phase II and/or Phase III investigations and ensure that all artifacts are curated in a proper manner, prior to approval of any grading permits.

*12[~~14~~]. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

- A. MD 4/Forestville Road: Provide a third westbound through lane along MD 4 through the intersection, and provide a second left-turn lane along the northbound Forestville Road approach. Modify signals, signage, and pavement markings as needed.

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- B. Forestville Road/Stewart Road: At the time of submittal of the initial Detailed Site Plan within the subject property, the applicant shall submit an acceptable traffic signal warrant study and lane usage plan to the transportation planning staff and DPW&T for signalization at the intersection of Forestville Road and Stewart Road. The applicant should utilize a new 12-hour count, and should analyze signal warrants under total future traffic as well as existing traffic at the direction of DPW&T. If a signal or other traffic control improvements are deemed warranted at that time, the applicant shall bond the signal with DPW&T prior to the release of any building permits within the subject property, with installation to occur at the time directed by DPW&T. The recommended lane usage and traffic control shall be made a part of the recommendation for the initial Detailed Site Plan within the subject property.
- C. Forestville Road/Leona Street: The existing Leona Street approach will be modified to serve right-in right-out movements. The site access opposite this street shall be designed for right-in right-out movements. Associated with these requirements, the applicant shall provide a short section of median along the centerline of Forestville Road in the vicinity of Leona Street as a means of preventing left-turns associated with Leona Street and the northern site entrance. Prior to the approval of the initial Detailed Site Plan within the subject property, the applicant must hold a community meeting to inform citizens along Leona Street about the proposed changes in the traffic patterns at Forestville Road and Leona Street, and the applicant must provide documentation of this meeting, with any results and/or changes, for the review of DPW&T and the Transportation Planning Section as a part of the Detailed Site Plan review.

*13[15]. Total development within the subject property shall be limited to uses which generate no more than 305 AM and 697 PM peak-hour vehicle trips, with trip generation determined in a consistent manner with the February 2007 traffic study. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

*14[16]. Prior to the issuance of any building permit a Detailed Site Plan is required to examine the architecture, landscaping, traffic, pedestrian and vehicular circulation visibility and neighborhood compatibility of the proposed development.

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*15. Prior to the approval of the detailed site plan, a conceptual stream restoration plan shall be submitted to M-NCPPC. The plan shall provide a scope of work for restoration of a site or sites on public property within the main stem of Henson Creek to be approved by the Planning Board or its designee. The scope of work shall be based on a completed stream corridor assessment, either prepared by the applicant, or by the Department of Environmental Resources. The plan shall show mitigation of a section of stream at least equivalent to the impacts on and adjacent to the subject property. A detailed stream restoration plan shall be submitted and approved by the Planning Board or designee and the Department of Public Works and Transportation or other appropriate agency and the work shall be bonded prior to the issuance of the first permit. The plan shall be implementation of the Plan shall commence prior to the issuance of the second building permit on the overall subject property. In no event shall the non-issuance of a stream restoration permit or other approval preclude the issuance of the first building permit on-site provided a bond is posted and the plan approved.

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The subject property is located east on Forestville Road, south of Pennsylvania Avenue and west of the Capital Beltway.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

| | EXISTING | PROPOSED |
|------------------------------|--------------------|--|
| Zone | I-1 | I-1 |
| Use(s) | Wooded/Undeveloped | Industrial / Commercial (321,069 square feet) |
| Acreage | 33.35 | 33.35 |
| Lots | 0 | 7 |
| Outparcel | 0 | 0 |
| Parcels | 1 | 1 |
| Public Safety Mitigation Fee | | No |

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4. **Subdivision**—The subject property is zoned I-1. The subject application is not proposing any residential development; however, because different adequate public facility tests exist, and there are considerations for recreational components for residential subdivision, any future consideration for residential development beyond one single-family dwelling should require the approval of a new preliminary plan of subdivision.

5. **Environmental**—A review of the available information indicates that streams, wetlands, severe slopes, and areas of steep slopes with highly erodible soils are found to occur on this property. The site is vacant and predominantly wooded. There is no 100-year floodplain that is associated with the site. The predominant soil types found to occur on this site according to the Prince George's County Soil Survey are Adelphia, Croom, Christiana Matapeake and Beltsville. These soil types have moderate limitations with respect to steep slopes, impeded drainage, slow permeability and perched water table but will not affect the site layout. According to available information, Marlboro clay does not occur on this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic or historic roads in the vicinity of this application. The subject property is located south of Pennsylvania Avenue (MD 4), an arterial, and along the entrance ramp to the Capital Beltway (I-95), a freeway, both noise generators and generally regulated for noise. The site is also located in the AICUZ study area of Andrews Air Force Base within the 70-80 dBA (Ldn) noise contour. This property is located in the Henson Creek watershed of the Potomac River basin and in the Developed Tier as reflected in the 2002 General Plan.

Suitland District Heights and Vicinity Master Plan Conformance

The subject property is located within Analysis Area 3 (Employment Area) of the Suitland District Heights and Vicinity Master Plan. There are no specific environmental recommendations or design standards that require review for conformance. The environmental requirements for woodland preservation, stormwater management and noise are addressed in the Environmental Review section below

Countywide Green Infrastructure Plan

The site is not within the designated network of the Countywide Green Infrastructure Plan.

Environmental Review

An approved Natural Resources Inventory, NRI/168/06, dated February 15, 2007, was submitted with the application. The preliminary plan and the TCP show all the required information correctly. The streams, isolated wetlands and steep slopes have been correctly located on the plans and verified to be correct as reflected on the NRI. The site is traversed by a stream which separates it into two halves, east and west. The stream is piped on both ends off the subject property which are substantially developed. The site is predominantly wooded and contains two wetlands in close proximity to the stream. The conservation of woodlands on-site is highly desirable in areas along the Capital Beltway and Pennsylvania Avenue to provide some buffering

from the roadways; however, due to the proximity of the subject site to two major roadways, this industrially-zoned site should be efficiently developed.

The site contains significant environmental features that are required to be protected by Section 24-130 of the Subdivision Regulations. All disturbances not essential to the development of the site as a whole are prohibited within stream and wetland buffers. Essential development includes such features as stormwater pond outfalls, public utility lines, road crossings, and so forth, which are mandated for public health and safety.

The ~~*[revised]~~ TCPI as submitted shows major permanent impacts to the stream and stream buffer in conjunction with the development. The impacts and grading include three stream crossings and the elimination of two wetlands. *A revised TCPI was submitted as part of the reconsideration which addresses the piping of the stream.

The Subdivision Ordinance requires the preservation of streams and wetlands and their associated buffers in their entirety, unless the Planning Board approves a variation and can make the required findings of Section 24-113. Variation requests for proposed impacts were submitted with the review package and show impacts to waters of the US and its associated stream buffer, and elimination of the two wetland areas.

Variation requests are generally supported for impacts that are essential to developments, such as road crossings to isolated portions of a parcel or impacts for the construction and installation of necessary public utilities, if the impacts are minimized. The plan as submitted shows proposed impacts for two stream crossings and for the construction of a cul-de-sac. In addition, impacts are proposed to two wetlands for the construction of parking.

The cul-de-sac will be required by the County Code at the end of Penn Belt Place if this roadway is to be used as one of the entrances. The only other impact that is necessary for the proposed development is one of the two stream crossings proposed. Because Impact B is shown at an existing crossing this is the place where the stream should be crossed. It should also be noted that the storm drainage system shown on the Tree Conservation Plan and the justification exhibits are different from those shown on the approved Stormwater Management Concept Plan. This discrepancy should be resolved prior to signature approval of the preliminary plan.

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~~*[A previous submission showed the entire stream to be piped because the stream is piped on both ends. It is not clear whether or not this alternative would be a better fit for the subject property because insufficient time was provided for evaluation of this alternative. If the applicant seeks to implement this alternative in the future, a revised preliminary plan with a Variation request and a Letter of Justification would be required.]~~

***[Review] Summary of the Variation Requests**

*A revised variation request, stamped as received by the Environmental Planning Section on September 19, 2007, illustrates impacts to the entire on-site stream system and its associated stream buffer, as well as, impacts to the two adjacent wetland areas. The submitted exhibits do not show the proposed grading or desired development. The only infrastructure shown on the exhibits is a storm drain pipe.

*The submitted variation requests includes a total of two impacts. Impact A (located at Penn Belt Place) totals 100,970 square feet and results in the filling and grading of the entire stream and its associated buffer. According to the text, the proposed impact is to pipe the entire stream for the construction of a cul-de-sac and completion of a stormdrain system to provide adequate access to the land on the east side of the stream, and water and sewer connections. The preliminary plan application was approved for two access points, one associated with an existing road crossing, and one on the central south portion of the site where Penn Belt Place intersects. The TCPI now proposes to show the entire area to be paved for additional parking areas.

*Impacts B and C total 24,223 square feet and are located in the north section of the property on the east side of the on-site stream. The impacts are for the permanent fill of the adjacent wetland and wetland buffers for the construction of parking areas.

*The variation request did not discuss any provisions for controlling and treating the increased run-off that would result from the proposed impacts, or reducing the physical downstream impacts on an already severely degraded stream.

*Section VI (b) of the applicant's letter (page 7) proposes a payment of \$310,880 in lieu of providing on-site mitigation in conjunction with a revised approved stormwater management concept plan. The applicant proffers that this money should be used for the mitigation of the stream impacts. It should be noted that these are two distinctly different issues. The fee-in-lieu is paid because the plan proposes no on-site water quality features. The fee-in-lieu monies are to be used to mitigate the impacts of not providing water quality controls on-site.

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*If the stream is piped, mitigation will be required as part of the applicant's permit review from the Corps. The mitigation for piping the stream should be provided in the Henson Creek watershed, so that there is a rational nexus between the impact and the remedy. The length of the stream to receive mitigation as compensation for piping the stream as part of this development should be no shorter than the length of stream impacted, which is approximately 750 feet (in length). In order to ensure that maintenance problems are not created by the piping of the stream on-site, the portion of the stream north of the site should be piped to connect with the outfall

under MD 4 (an additional 140 feet of piping). This will ensure a closed system that will not be undermined by small portions of open ditches or cause “patches” of areas where maintenance is an issue.

*When a stream system is evaluated as a whole, and there are opportunities for stream restoration that might provide greater benefits in one area than the effect of impacts in another, it may be appropriate to allow impacts to regulated features that might otherwise be preserved in place. As such, the Planning Board has the option to find that the impacts to pipe the entire stream and impact the wetlands are appropriate given the mitigation to be provided within the watershed.

Impact Area “A” (~~Penn Belt Place Impact~~)*Stream Area

~~*[This variation request is for the construction of a cul-de-sac and the installation of a storm drainage system. This includes permanent impacts of 2,599 square feet to the stream for construction of the cul-de-sac and the installation of 160 linear feet of storm drain pipe, and 14,526 square feet of disturbance to the expanded stream buffer. Staff supports impact area “A” because the site could not be developed without the improvements to the public roadway and required stormwater management piping.]~~

*The proposed permanent impacts to the stream and stream buffer in conjunction with the development of Jemal’s Post site are associated with the piping of the on-site stream that bisects the property from the north to the south. These include permanent disturbance of 10,689 square feet ± to Waters of the US and 90,281 square feet ±, to its associated stream buffer.

*Permanent disturbance is due to the construction of the cul-de-sac and storm drain completion for the system on Penn Belt Place, for providing adequate access to the land on the east of the stream, and required water and sewer connections and utilities. The Waters of the US are not in a natural state to the north or to the south of the subject property.

*The applicant proposes to pipe the stream through Property. To the south, the stream is piped from the property line under Penn Belt Place and beyond. To the north, the stream is open through the State Police Barracks site, but is piped under Pennsylvania Avenue and exists in a concrete channel around dense commercial and industrial development to the north.

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Impact Area “B” *Isolated Wetland and Buffer Area B

~~*[This variation request is for the crossing of the stream to provide vehicular access to proposed Lot 3. Because this impact was not calculated separately as required, the total amounts of the impact cannot be provided. Impact area “B” is located at an existing stream crossing. As such this is the appropriate place to cross the stream. This impact is supported.]~~

*Impacts to Wetland and Wetland buffers for construction of the parking compound to serve the proposed development include a permanent disturbance of Wetlands totaling 8,189 square feet and a permanent disturbance of Wetland Buffer totaling 8,234 square feet.

**Impact Area "C" Isolated Wetland and Buffer Area "C"*

[This impact is for another crossing of the stream. There are already two entrances to proposed Lot 3, one at Penn Belt Place and another proposed as Impact B. This would be a third access point and as such, is not necessary. Because this impact was not calculated separately as required, the total amounts of the impact cannot be provided. Impact Area "C" is not supported because it is not necessary for the development of proposed Lot 3].

*Impacts to Wetland and Wetland buffers for construction of the parking compound to serve the proposed development include a permanent disturbance of Wetlands totaling 1,454 square feet and a permanent disturbance of Wetland Buffer totaling 6,346 square feet.

**[Impact Area "D"]*

[This variation request is for impacts to a wetland and wetland buffers for the construction of parking to serve the proposed development; it includes the disturbance of 8,189 square feet of wetlands and 8,435 square feet of wetland buffer areas. Impact "D" is not supported because it is not necessary for the reasonable use of proposed Lot 3. The parking area can be designed to avoid this impact.]

**[Impact Areas "E-1" and "E-2"]*

*[This variation request is for impacts to the expanded buffer for future sanitary sewer connections. Impact areas E-1 and E-2 are supported because they are essential to the development.]

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**[Impact Area "F"]*

*[This variation request is for impacts to a wetland and wetland buffers for the construction of parking to serve the proposed development; it includes the permanent disturbance of 1,454 square feet of wetlands and 6,346 square feet of wetland buffer. Impact "F" is not supported because it is not necessary for the reasonable use of proposed Lot 3. The parking area can be designed to avoid this impact.]

**[Summary] Review of Proposed Impacts*

Staff supports the variation requests for impact areas A, B, *~~[E-1]~~ and ~~[E-2]~~ C and recommends that the Planning Board approve these requests. ~~[The remaining impacts are considered by staff to be not essential for the reasonable development of proposed Lot 3 and as such are not supported.]~~

The following is an analysis of the required findings of Section 24-113 with regard to variation requests A, B, *~~[E-1]~~ and ~~[E-2]~~ C:

(a) **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 the evidence presented to it in each specific case that:**

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

~~*[The variations are required to address the regulations associated with the construction of the cul-de-sac, reasonable access for safety, storm drainage and the connection to the sanitary sewer system. All of these activities are required to meet the requirements for public safety and health and are not injurious to other properties.]~~

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*The granting of this variation request will not be detrimental to the public safety, health and welfare. Currently, Penn Belt Place dead-ends at the Property, allowing no room for turn around traffic, including trucks and emergency vehicles. The applicant proposes to extend Penn Belt Place to the north end of the Property, ending in a cul-de-sac. Provision of a cul-de-sac in this location will provide adequate turn-around room for these vehicles; enabling them to turn safely, without the need to back up on a trafficked road. In addition, providing access from Penn Belt Place will allow truck traffic to be separate from passenger car traffic. Keeping trucks and cars separate is a major benefit of the proposed design. While there will be some crossover traffic, it is expected that most trucks, including delivery trucks and customers who are contractors, will access the Property from Penn Belt Place, while most residential customers will use access from Forestville Drive. Allowing adequate access enhances public safety by providing additional opportunities to help separate truck and passenger vehicle traffic.

In addition to providing adequate traffic flow and access, piping the stream will allow for the

provision of required water and sewer connections and utilities to the uses on the Property. They are required improvements and as such will not pose a threat to public safety, health or welfare. In fact, the provision of these connections and utilities is a public necessity.

With regard to the impact to the wetlands and wetland buffers, these areas are near where the stream will be piped; therefore, maintaining the wetlands and buffers near it will have little environmental benefit. Eliminating this wetland will have no impact on public safety, health or welfare.

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

~~*[The conditions of the property are unique with respect to the existing stream that bisects the property and limits the access to a substantial portion of the developable portions of the property. The location of the stream and associated wetlands provide unique challenges to the design of the development.]~~

*The stream impacted by this variation is piped to the south, starting at the Property. The piped stream is actually under Penn Belt Place. Additionally, the isolated wetland serves little purpose. The Water Quality Report notes that water leaving the Property is the same quality as that entering the site just north of this isolated wetland. This is unique in the area; no other properties have a similar situation.

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

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~~*[All the proposed impacts are necessary to address a provision of the County Code. 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.]~~

*State, Federal and County permits will be required before any work done to the stream. No other applicable law, ordinance or regulation is violated by this approval. The applicant is aware, however, that if these approvals are not granted, the stream can not be piped and the wetlands disturbed.

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

*[The location of the stream isolates a large portion of the developable area of the subject property. Without the proposed impacts that portion of the property could not be developed for any reasonable use for which it is zoned.]

*At a minimum, the Department of Public Works and Transportation (DPW&T) will require a cul-de-sac be located on the property at the existing terminus of Penn Belt Place. Because this cul-de-sac is necessary to provide turn around capabilities, denying it would disallow development of a portion of the property, creating a practical hardship to the owner, as opposed to a mere inconvenience. Extending the street into the Property and providing the cul-de-sac at the north end of the Property will allow for better circulation.

*With regard to the rest of this impact, if piping is not approved, a particular hardship to the owner would result. The property is virtually bisected by the stream. This creates a natural division of the land, which in turn drives the potential uses. The portion of the Property to the east of the stream is a large lot, suitable for a large user, creating the need for large parking facilities and multiple points of access. The proposed use requires both adequate access and parking. Access is a safety and circulation issue. The type of use, a large home improvement store, requires multiple access points to allow for the opportunity to separate large truck access from passenger car access. Piping the stream allows the flexibility to provide multiple access points. If these multiple points of access and the parking were not permitted, the owner could not move forward with the proposed use. This presents an economic hardship to the owner as well as a practical difficulty. When weighed against the relatively small potential harm of the environmental impacts, denying the access and parking would presents a hardship and a practical difficulty.

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*With regard to the impact to the wetlands and wetland buffers, the property as noted is virtually bisected by the stream. This creates a natural division of the land, which in turn drives the potential uses. The portion of the Property to the east of the stream is a large lot, suitable for a large user, creating the need for large parking facilities. This Property is in the Developed Tier and is in a very urban setting, with industrial, public and commercial uses surrounding it. Denying this variation to disturb a small wetland in this setting would place this property at a distinct disadvantage in the area, creating a hardship on the owner, rather than a mere inconvenience.

*~~[Prior to signature approval of the preliminary plan, the preliminary plan and the TCPI should be revised to eliminate impacts C, D and F. At the time of final plat, a conservation easement should be described by bearings and distances. The conservation easement should contain the expanded stream buffer, except for the areas of approved impacts, and should be reviewed by the Environmental Planning Section prior to approval of the final plat. A note should be placed on the plat noting the conservation easements.]~~

The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the site is greater than 40,000 square feet in area and contains more than 10,000 square feet of woodland. A Type I Tree Conservation Plan, TCPI/011/07, has been submitted. The woodland conservation threshold for the site is 5.00 acres based on a net tract area of 33.35 acres. An additional 10.42 acres of woodland conservation are required due to the removal of woodlands, for a total woodland conservation requirement of 15.42 acres. The plan proposes to meet the entire woodland conservation requirement with 15.42 acres of off-site mitigation on another property.

The site plan as submitted shows extensive grading with no woodland preservation on-site proposed. A notation on the TCPI reflects woodland conservation on-site in the amount of 2.03 acres that is not shown on the plan or the worksheet. Another notation has the amount of cleared woodlands as 24.65 acres, which is incorrect (woodland cleared is shown to be 26.68 acres). This number will need to be adjusted when the plans are revised to show the actual amount of disturbance for the single stream crossing. There are other minor revisions required for the plan to be in compliance with the Woodland Conservation Ordinance. Prior to signature approval of the preliminary plan, the Type I Tree Conservation Plan should be revised. Development of this subdivision should be in compliance with an approved Type I Tree Conservation Plan (TCPI/11/07). Notes detailing the restrictions of the Tree Conservation Plans should be placed on the Final Plat of Subdivision.

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Underlining indicates new language

[Brackets] and ~~strickthrough~~ indicate deleted language

Copies of the approved stormwater management concept letter and associated plan were submitted with this application. The approved stormwater management concept plan submitted with this application shows a different lot layout from the preliminary plan and the TCPI. The concept plan also shows the expanded buffer incorrectly and labels it "PMA." The TCPI does not show the proposed underground facilities that are to be used as the method to meet stormwater management requirements on this site. A revised Stormwater Management Concept Plan is needed that reflects the proposed lot configuration as shown on both the preliminary plan and the TCPI and associated concept.

Prior to signature approval of the preliminary plan, the TCPI and as necessary the preliminary plan, should be revised to reflect the currently approved stormwater management plan or a revised concept plan shall be obtained and that approval should be shown on the TCPI and as necessary the preliminary plan.

Noise impacts have been identified on this site, which should be addressed because of the high levels and because this will be an employment center. Based on the most recent AICUZ Study for Andrews Air Force Base released in 1998, it was noted that this property is located within the 70-80 dBA (Ldn) noise contour. A noise level reduction of 28 decibels at the minimum should be

incorporated into the shells of buildings, in order to maintain an interior noise level of 52 dBA (Ldn) for employment uses. Furthermore, this site is in close proximity to I-95, a freeway and a major noise generator which adds to the need for interior noise mitigation. Certification by a professional engineer with competency in acoustical analysis should be placed on the building permits prior to their approval stating that the building shells of structures have been designed to reduce interior noise levels to 52 dBA (Ldn) or less.

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 property will, therefore, be served by public systems

6. **Community Planning**—This application is not inconsistent with the 2002 General Plan Development Pattern policies for Developed Tier Centers. The applicant is proposing seven lots ranging in size from 35,870 to 703,666 square feet for Industrial development, which is in conformance with the Employment Land Use recommended in the *1985 Approved Master Plan and 1986 Sectional Map Amendment for Suitland – District Heights and Vicinity (Planning Areas 75A and 75B)*, which retained this property in the I-1 Zone.

The property is located in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The vision for Centers is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development.

7. **Parks**—In accordance to Section 24-134(a) of the Prince George's County Subdivision Regulations, the subject subdivision is exempt from mandatory dedication of parkland requirements because it consists of non-residential development.
8. **Trails**—There are no master plan trails issues in either the Adopted and Approved Suitland-District Heights Master Plan or the 1985 Equestrian Addendum to the Adopted and Approved Countywide Trails Plan that impact the subject site. The existing portion of the industrial park immediately to the south of the subject site includes standard sidewalks along both sides of all internal roads including Penn-Belt Drive and Penn-Drive, which is proposed to be extended onto the subject site.

Existing Forestville Road is open section with no sidewalks for most of its length in the vicinity of the subject site. However, where frontage improvements have been made (such as along the east side of Forestville Road just south of MD 4), a standard sidewalk has been provided.

9. **Transportation**—The transportation staff determined that a traffic study detailing weekday analyses was needed. In response, the applicant submitted a traffic study dated February 2007. The study was referred to the County Department of Public Works and Transportation (DPW&T) and the Maryland State Highway Administration (SHA), and the comments from both DPW&T and SHA have been incorporated into the transportation staff findings. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses

conducted by the staff of the Transportation Planning Section, consistent with the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.”

Growth Policy—Service Level Standards

The subject property is located within the developed 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) E, 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 warranted traffic controls) if deemed warranted by the appropriate operating agency.

Staff Analysis of Traffic Impacts

The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections:

- Forestville Road and Marlboro Pike (signalized)
- MD 4 and Forestville Road (signalized)
- Forestville Road and Leona Street (unsignalized)
- Forestville Road and Stewart Road (unsignalized/future signalized)
- Forestville Road and Penn-Belt Drive (unsignalized)
- Suitland Parkway WB and Forestville Road (signalized)
- Suitland Parkway EB and Forestville Road (signalized)

Existing traffic conditions were based on traffic counts taken in February 2004. Existing conditions within the study area are summarized as follows:

| EXISTING TRAFFIC CONDITIONS | | | | |
|-----------------------------------|------------------------------------|-------|------------------------------------|----|
| Intersection | Critical Lane Volume (AM & PM) | | Level of Service (LOS, AM & PM) | |
| | Forestville Road and Marlboro Pike | 901 | 913 | A |
| MD 4 and Forestville Road | 1,624 | 1,536 | F | E |
| Forestville Road and Leona Street | 24.2* | 33.2* | -- | -- |

| | | | | |
|--|-------|-------|----|----|
| Forestville Road and Stewart Road | 14.1* | 24.8* | -- | -- |
| Forestville Road and Penn-Belt Drive | 16.3* | 24.7* | -- | -- |
| Suitland Parkway WB and Forestville Road | 1,449 | 794 | D | A |
| Suitland Parkway EB and Forestville Road | 646 | 1,508 | A | E |

*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the *Guidelines*, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.

There are no funded capital projects at these intersections in either the County Capital Improvement Program or the State Consolidated Transportation Program that would affect the traffic operations. A large approved development was identified in the traffic study; however, that development is actually an existing apartment complex that was being certified as a nonconforming use, and therefore should not have been included. Staff has identified several other developments in the area, which are listed below:

- Beth Shalom AME Zion Church, 17,000 square foot church, 4-06137
- Forestville Center, 329,325 square feet light industrial, 4-86026
- Forestville Business Park, 79,100 square feet light industrial, 4-02046
- Forestville Comm Center, 34,000 square feet warehouse, 4-04054
- Children of Promise, 84 student private school, DSP-05081

The analyses for MD 4/Forestville and the two Suitland Parkway intersections are corrected to remove the impact of the single development that should not have been included and to add the impact of the developments that are relevant. Also, it is noted that background traffic was misassigned to the Suitland Parkway WB/Forestville Road intersection, and any discrepancies have been corrected. Growth of two percent per year in through traffic along MD 4 was assumed.

Under the background scenario with the changes noted above, the critical intersections would operate as follows:

| BACKGROUND TRAFFIC CONDITIONS | | | | |
|--------------------------------------|------------------------------------|-------|------------------------------------|----|
| Intersection | Critical Lane Volume (AM & PM) | | Level of Service (LOS, AM & PM) | |
| | Forestville Road and Marlboro Pike | 910 | 923 | A |
| MD 4 and Forestville Road | 1,797 | 1,657 | F | F |
| Forestville Road and Leona Street | 28.1* | 40.6* | -- | -- |
| Forestville Road and Stewart Road | 15.4* | 28.6* | -- | -- |
| Forestville Road and Penn-Belt Drive | 17.7* | 30.4* | -- | -- |

| | | | | |
|--|-------|-------|---|---|
| Suitland Parkway WB ramps and Forestville Road | 1,477 | 803 | E | A |
| Suitland Parkway EB ramps and Forestville Road | 656 | 1,514 | A | E |

*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the *Guidelines*, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.

In the traffic study, the site is proposed for development with general retail development and with a home improvement superstore. It is fully appropriate to analyze the home improvement superstore separately because it has very different trip generation characteristics. It is not as trip intensive as general retail on weekdays, but it has a fairly higher trip generation during the AM peak hour in comparison to general retail. Site trip generation is summarized below:

| | AM Peak Hour | | | PM Peak Hour | | |
|--------------------------------|-----------------------------------|------------|------------|--------------|------------|------------|
| | In | Out | Total | In | Out | Total |
| <i>General Retail</i> | <i>150,000 Square feet</i> | | | | | |
| Total Trips | 122 | 78 | 200 | 480 | 480 | 960 |
| Pass-By (50%) | -61 | -39 | -100 | -240 | -240 | -480 |
| New Trips | 61 | 39 | 100 | 240 | 240 | 480 |
| <i>Home Improvement</i> | <i>171,069 Square feet</i> | | | | | |
| Total Trips | 111 | 94 | 205 | 197 | 222 | 419 |
| Pass-By (48% PM only) | -0 | -0 | -0 | -95 | -107 | -202 |
| New Trips | 111 | 94 | 205 | 102 | 115 | 217 |
| <i>TOTAL SITE</i> | 172 | 133 | 305 | 342 | 355 | 697 |

Total traffic is summarized below:

| TOTAL TRAFFIC CONDITIONS | | | |
|--------------------------------------|--------------------------------|---------------------------------|-------|
| Intersection | Critical Lane Volume (AM & PM) | Level of Service (LOS, AM & PM) | |
| Forestville Road and Marlboro Pike | 938 | 1,002 | A B |
| MD 4 and Forestville Road | 1,827 | 1,710 | F F |
| Forestville Road and Leona Street | 42.1* | 48.9* | -- -- |
| Forestville Road and Stewart Road | +999* | +999* | -- -- |
| Forestville Road and Penn-Belt Drive | 19.2* | 40.5* | -- -- |

| | | | | |
|--|-------|-------|---|---|
| Suitland Parkway WB ramps and Forestville Road | 1,511 | 872 | E | A |
| Suitland Parkway EB ramps and Forestville Road | 690 | 1,585 | A | E |

*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the *Guidelines*, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.

Traffic Impacts: The following improvements are determined to be required for the development of the subject property in the traffic study:

- A. Forestville Road/Stewart Road: Revise the lane use to add exclusive left-turn and right-turn lanes on southbound and northbound Forestville Road respectively. Provide an exclusive left-turn lane and shared through/left-turn lane on eastbound Stewart Road. Provide an exclusive left-turn lane and shared through/left-turn lane on the egress driveway from the site. Provide signalization.
- B. Forestville Road/Leona Street: Provide exclusive left-turn lane on the southbound Forestville Road approach. Provide exclusive right-turn lanes on the northbound and westbound approaches. Modify Leona Street approach to allow right-in right-out movements only.

In response to the inadequacy at the MD 4/Forestville Road intersection, the applicant has proffered mitigation. This intersection is eligible for mitigation under the first criterion in the *Guidelines for Mitigation Action* (approved as CR-29-1994). The applicant proposes to add a third westbound through lane along MD 4, and also to provide a second northbound left-turn lane along Forestville Road. 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 4/Forestville Road | | | | |
| Background Conditions | F/1797 | E/1657 | | |
| Total Traffic Conditions | F/1827 | E/1710 | +30 | +53 |
| Total Traffic Conditions w/Mitigation | E/1468 | F/1623 | -359 | -87 |

The options for improving this intersection to LOS E, the policy level of service at this location, are somewhat limited due to available right-of-way. As the CLV at MD 4/Forestville is above 1,813 during the AM peak hour, the proposed mitigation actions must mitigate at least 100

percent of the trips generated by the subject property, and the actions must reduce the CLV to no worse than 1,813 during either peak hour, according to the Guidelines. The above table indicates that the proposed mitigation action would bring the intersection to the LOS E policy standard during the AM peak hour. As the CLV at MD 4/Forestville is between 1,450 and 1,813 during the PM peak hour, the proposed mitigation must mitigate at least 150 percent of the trips generated by the subject property. The table indicates that the proposed mitigation action would mitigate 164 percent of the trips generated by the subject property. **Therefore, the applicant's proposed mitigation at MD 4 and Forestville Road meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.**

DPW&T has expressed a couple of concerns with the study and the proposal, and these are discussed in more detail below:

- DPW&T notes that a signal warrant study must be submitted for Forestville Road at Stewart Road. This will be required prior to Detailed Site Plan approval.
- Due to the short distance between MD 4 and the northern site entrance at Leona Street, no left turns will be allowed into the site at that location. The left turns can be accommodated at the main access point opposite Stewart Road. In association with that requirement, DPW&T indicates that a short section of median will be required along the centerline of Forestville Road in the vicinity of Leona Street as a means of preventing left-turns associated with Leona Street and the northern site entrance.
- DPW&T indicates that the applicant must hold a community meeting to inform citizens along Leona Street about the proposed change in the traffic pattern. Current left-turn movements at Leona can be fully supported by the signal at Stewart Road; nonetheless, this meeting must occur prior to approval of the Detailed Site Plan.

SHA has expressed several comments about the study. However, SHA does indicate support for the proposed mitigation improvements at MD 4 and Forestville Road. Likewise, DWP&T has indicated support for these improvements in their memorandum.

I-95/I-495 is a master plan freeway facility, and Forestville Road is a master plan collector facility. In both cases, adequate right-of-way consistent with master plan recommendations exists along the property's frontage. Therefore, no further dedication is required of this plan along these facilities.

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 if the application is approved with conditions.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed the commercial subdivision plan for proposed retail and industrial facilities for adequacy of

public facilities. The existing engine service at Forestville Fire Station, Company 23, located at 8321 Old Marlboro Pike, has a service travel time of 2.27 minutes, which is within the 3.25-minute travel time guideline. The existing paramedic service at Silver Hill Fire Station, Company 29, located at 3900 Old Silver Hill Road, has a service travel time of 6.27 minutes, which is within the 7.25-minute travel time guideline. The existing ladder truck service at District Heights Fire Station, Company 26, located at 6208 Marlboro Pike has a service travel time of 3.41 minutes, which is within the 4.25-minute travel time guideline. The above findings are in conformance with the *Approved Public Safety Master Plan* and the “Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities.”

11. **Police**—The proposed development is within the service area for Police District V, Clinton. The approved 2002 General Plan addresses the provision of public facilities that will be needed to serve existing and future county residents. The Plan includes planning guidelines for police facilities and they are:

Station space per capita: 141 square feet per 1,000 county residents

The police facilities test is performed on a countywide basis in accordance with the policies of the Planning Board. There are 267,660 square feet of space in all of the facilities used by the Prince George’s County Police Department and the latest population estimate is 825,520. Using the standard of 141 square feet per 1,000 residents, 116,398 square feet of space for police facilities are needed. The current amount of space available, 267,660 square feet, is above the guideline.

12. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision 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 above subdivision is exempt from a schools review because it is a commercial use.
13. **Health Department**—The Health Department reviewed the subject application and has no comments to offer.
14. **Stormwater Management**—Stormwater Management Concept Plan 12636-2006-00 was approved with conditions. Development of the site must be in accordance with this approved plan, or any revisions.
15. **Public Utilities Easement**—The applicant has shown the ten-foot public utilities easement on the preliminary plan as requested. However, prior to signature approval of the preliminary plan, revised plans should be sent to each of the utilities for conformance review.
16. **Archeology**—The proposed development includes several industrial buildings. A small tributary runs through the center of the property and prehistoric archeological sites have been found in similar settings. There are two currently known archeological sites, 18PR447 (Belle Chance Plantation) and 18PR448, a 20th century ruin, within a one-mile radius of the property. Epiphany Church and Cemetery (PG:75A-6), Forestville M.E. Church and Cemetery (PG:75A-8), and

Forestville School (PG:75A-7), all County Historic Resources, are also located within a one-mile radius of the subject property.

A residence belonging to T. Ryon (no longer standing) is identified on the 1861 Martenet map and the 1878 Hopkins Map, within the subject property. An examination of aerial photographs shows a house on the property from 1938 until about 1988. This house was probably demolished around 1988, shortly after the tract was purchased by Penn Forrest Associates Limited Partnership, as it is no longer visible in the 1993 aerial photograph. A Thomas Ryon of the Marlborough District of Prince George's County is listed in the 1850 Slave Schedules as holding 6 slaves and in 1860 as holding 13 slaves. Phase I (Identification) archeological investigations, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), are recommended on the subject property.

17. **Historic Preservation**—The subject application for preliminary plan of subdivision has no effect on historic resources.

18. **Detailed Site Plan** – The subject property has a prominent location along the Capital Beltway. As such, a Detailed Site Plan is being recommended for each lot to assess the visual impact of the proposed development from the Capital Beltway. While the existing Master Plan, the *1985 Approved Master Plan and 1986 Sectional Map Amendment for Suitland – District Heights and Vicinity*, does not comment on the aesthetics of the area, it should be noted that more recent Master Plans for locations and areas that border the Capital Beltway have discussed the use of Detailed Site Plans for properties that have a viewshed of the Capital Beltway. Of notable concern is the neighborhood compatibility of the proposed development, visibility of the proposed development from the Capital Beltway, landscaping and traffic impacts for the adjacent communities.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Cavitt and Parker voting in favor of the motion, and with Commissioner Vaughns absent at its regular meeting held on Thursday, October 11, 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

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By Frances J. Guertin
Planning Board Administrator

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