

R E S O L U T I O N

WHEREAS, PK Real Property of Maryland, LLC. is the owner of a 10.17-acre parcel of land known as Parcel I, Parcel II and Parcel III, Tax Map 93 in Grid C-1, said property being in the 3rd Election District of Prince George's County, Maryland, and being zoned C-M and R-A; and

WHEREAS, on October 3, 2007, Eastern Petroleum Corporation filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-07075 for BP Amoco (Upper Marlboro – Crain Highway) was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on February 14, 2008, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on February 14, 2008, 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/32/01), and further APPROVED Preliminary Plan of Subdivision 4-07075, BP Amoco (Upper Marlboro – Crain Highway), including a Variation from Section 24-121 (a) (3) for BP Amoco (Upper Marlboro – Crain Highway) with the following conditions:

1. The detailed site plan and Type II tree conservation plan for the subject property shall show a minimum of a 10-foot-wide setback from the limits of disturbance from the retaining wall, and impacts to the delineated PMA shall be limited to those approved at time of preliminary plan.
2. At time of TCPIII submittal, the plan shall reflect the extent of road construction requirements for Village Drive Extended as determined by the Department of Public Works and Transportation.
3. Prior to signature approval of TCPI/32/01-02, the plan shall be revised to delineate the three development phases proposed on the SWM concept plan.

4. 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/32/01-02), 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.”

5. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the delineated Patuxent River Primary Management Area except for the three 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.”

6. Prior to the issuance of any permits which impact 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.
7. 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.
8. Development shall be in conformance with the approved Stormwater Management Concept Plans 15111-2005-00 (Phase 1) and 15134-2005-00 (Phase 2) and any subsequent revisions.
9. Direct vehicular access to US 301 shall be limited to right-in only. The location of this direct vehicular access shall be approved by SHA. This access shall in no way be connected to the access for adjacent Parcel X.
10. The applicant shall provide sufficient and uninterrupted access to Parcel X, either along the existing recorded right-of-way or through some other means mutually agreeable to all parties. This access shall in no way be connected to the commercial development.
11. Any abandoned well or septic system shall be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04 by a licensed well driller or witnessed by a representative of the Health Department prior to final plat approval.

12. In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system shall be provided in all new buildings proposed in this special exception unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.
13. The proposed development shall be limited to a mix of uses where the net new trips shall not exceed 68 AM and 86 PM peak-hour trips. Any development generating a traffic 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. 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:

**US 301 – Village Drive intersection**

- a. Pursuant to SHA requirement, widen the eastbound approach to at least 44 feet to provide a left turn lane, a shared left-through lane and an exclusive right turn lane.
  - b. Pursuant to SHA requirement, provide a deceleration lane on the southbound approach.
  - c. Access shall be limited to a right-in only from southbound US 301.
15. At the time of final plat, the applicant shall dedicate to public use a 125-foot long section of 80-foot wide right-of-way for Village Drive Extended.
  16. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
  17. Prior to signature approval of this preliminary plan, Phase I (Identification) archeological investigations, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), shall be conducted on the woodland preservation area to determine if any cultural resources are present. Only 3.69 acres of the site, designated on TCPI/32/01 as "Woodland Preservation" shall be surveyed for archeological sites. 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 of the preliminary plan.
  18. 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:

- a. Evaluating the resource at the Phase II level, or
  - b. Avoiding and preserving the resource in place.
19. 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 any ground disturbance or the approval of any grading permits.
  20. Depending upon the significance of findings (at Phase I, II, or III level), the applicant shall provide interpretive signage. The location and wording shall be subject to approval by the staff archeologist.
  21. Prior to signature approval, the preliminary plan shall be revised to reflect a minimum 125-foot-long section of 80-foot-wide right-of-way for Village Drive Extended to be dedicated to public use.

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 situated on the west side of southbound US 301 (Crain Highway) opposite its intersection with Village Drive.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	C-M / R-A	C-M/R-A
	2.38 / 7.79	2.38/7.79
Use(s)	Vacant	Gas station, convenience store, car wash
Acreage	10.17	10.17
Lots	0	0
Outparcel	0	0
Parcels	3	2
Public Safety Mitigation Fee		No

4. **Subdivision**—The subject property is zoned C-M and R-A. The subject application is not proposing any residential development; however, because a portion of the site is residentially zoned property and 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**—There are streams, wetlands, 100-year floodplains, severe slopes, and steep slopes on highly erodible soils found on this property. The site is approximately seventy-five percent wooded, and contains cleared and developed areas on a triangular area adjacent to US 301. The soil series found on this property include Ochlockonee sandy loam (OcB) and Westphalia fine sandy loam (WaC2, WaC3). Ochlockonee soils generally occur along the bottom of slopes, around the head of drainage ways, and on the rims of depressions. It has poor stability for pipeline construction and maintenance; road locations, and dikes, levees and embankments, and is found on approximately half of the site. Westphalia soils are in hydrologic soil group B, but are considered highly erodible. Based on available information, Marlboro clay is expected to occur on the site. According to the Sensitive Species Protection Review Area (SSPRA) GIS layer, obtained from the Maryland Department of Natural Resources Natural Heritage Program, no endangered species are found to occur in the vicinity. There are no designated scenic or historic roads adjacent to this site. The site is adjacent to US 301, which is designated as a master planned freeway. The ultimate master plan right-of-way for the site, as determined by the Transportation Planning Section, must be delineated on the preliminary plan and TCPI. Noise impacts are not anticipated to be of concern due to the proposed usage of the site for commercial purposes. The property is located in the Collington Branch watershed of the Patuxent River basin. The property is located in the Developing Tier as reflected in the *Prince George's County Approved General Plan*. According to the *Approved Countywide Green Infrastructure Plan*, the site includes Regulated Areas and Evaluation Areas.

#### **Conformance with SE-4398 Notice of Decision**

All conditions of the notice decision were addressed prior to signature approval of the special exception site plan and Type I tree conservation plan, except for one condition which will need to be addressed at time of detailed site plan, and should be carried forward.

Condition 2.a. states the following:

- “a. As part of the detailed site plan submission, the plan shall show a minimum of a 10-foot-wide setback of the limits of disturbance from the retaining wall, and no impacts to the PMA.”

**Comment:** The detailed site plan and Type II tree conservation plan for the subject property must show a minimum of a 10 foot-wide setback from the limits of disturbance from the retaining wall, and impacts to the delineated primary management area (PMA) shall be limited to those approved at time of preliminary plan.

#### **Natural Resources Inventory**

The preliminary plan application package included signed Natural Resources Inventory NRI/007/05. The NRI stated that its gross tract area is 10.6 acres, and it stated by way of note that the property boundaries on the NRI have not been verified, and should the boundaries change for future application the NRI must be revised. The area of the 100-year floodplain and the area in each of the zoning categories were not consistent with the preliminary plan and TCPI. A revised NRI has been submitted and signed.

### **Woodland Conservation**

This property is subject to the provisions of the Prince George's County *Woodland Conservation and Tree Preservation Ordinance* because Type I Tree Conservation Plan TCPI/32/01 was previously submitted and approved for a portion of this site with SE-4398. A subsequent application to the Environmental Planning Section (EPS) for expansion of the limits of the TCPI has not been approved, but will go before the Planning Board as part of this application.

The woodland conservation threshold (WCT) for this site is 4.09 acres, based on the revised quantity of 100-year floodplain, and the revised amount of property located in each of the two zones present on the site. The clearing of 2.20 acres of woodlands on-site, and 0.19 acres of woodlands off-site, results in a total woodland conservation requirement of 4.83 acres. The most recent revised TCPI under review proposes to meet the woodland conservation requirement with 3.69 acres of on-site preservation, and 1.14 acres of off-site mitigation, which fulfills the woodland conservation requirement for the site.

The TCPI delineates the ultimate right-of-way for US 301, based on the referral comments provided by the Transportation Planning Section, and the line is now clearly labeled. Woodland preservation or afforestation will not be credited within the ultimate right-of-way of any master planned road per direction provided by the State Highway Administration (SHA). The revised TCPI shows proposed grading based on the placement of a significant retaining wall, and provides a 10-foot-wide work strip below the proposed retaining wall in order to allow for construction and maintenance of the wall structure.

The revised TCPI shows the general location of the extension of Village Drive West to provide access to the gas station. A full extension of Village Drive West, to a secondary access point to the Beechtree subdivision located north and west of this property, has been removed from the plan. The extension of this roadway was shown on the approved conceptual design plan (CDP) for Beechtree. Because it is not a master planned roadway, EPS cannot prohibit the use of the future alignment for woodland conservation; but if any area of this alignment is dedicated to public use, it needs to be reflected on the plans and this area cannot be used for woodland conservation. If the applicant is required by the Department of Public Works and Transportation (DPW&T) to build Village Drive Extended or any additional portion of Village Drive Extended, the clearing associated with this construction and the associated requirements will need to be shown on the TCPII.

### **Environmental Impacts**

Wetlands, streams, 100-year floodplains, severe slopes and steep slopes on highly erodible soils are found to occur on this property. These features and the associated buffers comprise the Patuxent River PMA on the subject property in accordance with Section 24-101(b) (10) of the Subdivision Ordinance. The elements that comprise the Patuxent River PMA have been fully and correctly identified on the TCPI and preliminary plan in accordance with the signed revised natural resources inventory.

The Subdivision Ordinance mandates that the PMA be preserved to the fullest extent possible. Staff generally recommends approval of PMA impacts for unavoidable impacts such as the installation of public road crossings and public utilities, if they are designed to preserve the PMA to the fullest extent possible. Staff generally do not recommend approval of PMA impacts for lots, structures or septic field clearing and grading when alternative designs would reduce or eliminate the impacts.

On-site and off-site clearing and grading within the PMA with permanent impacts are shown for a connection to water and sewer lines located to the north of this site. An impact to the PMA is also proposed for the construction of a stormwater management outfall west of the sewer connection. A letter of justification dated November 1, 2007, was submitted for identified impacts to the PMA addressing the necessity for each impact.

The connection to the water and sewer line located north of this property, resulting in 0.06 acres of permanent impacts, is a justifiable impact directly related to a required public utility and is supported by EPS.

The proposed outfall for the SWM pond has been relocated on-site and the proposed 0.03 acres of impact to the PMA has been eliminated.

### **Soils**

The soils found on this property include soils that may have limitations with respect to 100-year floodplain or seasonally high water tables. Although these limitations may affect the construction phase of this development there are no limitations that would affect the subdivision proposed. During the review of building permits the county may require a soils study addressing the soil limitations with respect to the placement of specific structural elements.

### **Unsafe Land: Marlboro Clay**

This property is located in an area with extensive amounts of Marlboro clay that is known as an unstable, problematic geologic formation when associated with steep and severe slopes. The presence of this formation raises concerns about slope stability and the potential for the placement of structures on unsafe land. A geotechnical report is required for the subject property. This report must be in conformance with the guidelines established by the Department of Environmental Resources.

Two geotechnical reports have been submitted for this site. A geotechnical report was prepared by Marshall Engineering, Inc. for Amoco Village Drive West and dated October 4, 2005. The report concluded that the Marlboro clay was located at a depth below which it would impact geotechnical design and construction. A significant amount of structural fill is being proposed on this site.

A second study was prepared by ECS LLC Mid-Atlantic, dated February 22, 2006, and concluded that the geotechnical difficulties of the site could be addressed by engineering measures during filling, grading, and construction. No further information regarding Marlboro clay on this site is required at this time.

### **Water and Sewer Categories**

The water and sewer service categories are W-4 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources (DER), dated June 2003, and the property will, therefore, be served by public systems. The preliminary plan and revised TCPI show the correct location of a sewer and water connection project that is currently underway.

6. **Community Planning**—This application is not inconsistent with the 1993 Subregion VI Study Area Master Plan which recommends a retail or service commercial land use (CR-66-1993, Amendment 5, and plan text, page 288). The applicant is proposing two parcels, one of which, Parcel A, is recommended for commercial development. This application conforms to the recommendations of the 1993 Subregion VI Study Area Master Plan for a commercial land use.

This application is located in the developing tier. The vision for the developing tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable.

7. **Parks**—The staff of the Department of Parks and Recreation has reviewed the above referenced application for conformance with the requirements of the current subdivision regulations as they pertain to public parks and recreation. Proposed Parcel A is exempt from mandatory dedication of parkland requirements because it consists of non-residential development. Parcel B is exempt because it is over one acre in area.
8. **Trails**—The Subregion VI Study Area Master Plan contains no trails issues that impact the subject site.



9. **Transportation**—The subject application proposes the construction of an 8-pump (16 fuelling positions) gas station, with a food mart and a car wash. Because the proposed development could potentially generate more than fifty trips, a traffic study was required of the applicant by staff. The applicant presented staff with a traffic study that was prepared in April 2007. The proposed development of an 8-pump (16 fuelling position) gas station with a food mart and a gas station would generate 170 (87 in; 83 out) AM peak hour trips and 214 (107 in; 107 out) PM peak hour trips at the time of full build-out. Typically, some “trips” to and from gas stations would normally be already on the road (to/from other destinations) and therefore would not be considered as new trips. The Institute of Transportation Engineers (ITE) *Trip Generation* manual, 7<sup>th</sup> edition, indicates that 60 percent of the trips are already on the road and are considered pass-by trips. Hence, the actual number of **new** trips being generated by the proposed site would be 170 x 40 percent or 68 AM trips and 214 x 40 percent or 86 PM trips.

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

- US 301-Village Drive

The subject property is located within the developing tier as defined in the General Plan. 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; **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.

As indicated in the traffic study, the critical intersection is projected to operate inadequately under background and total traffic conditions. Since the intersection is located along a transportation corridor where the use of mitigation (pursuant to CR-29-1994) is allowed, the applicant offered aforementioned improvements to said intersection. The results of a new analysis based on the proffered improvements show that the proposed improvements would mitigate 240 percent of the AM critical trips and 150 percent of the PM critical trips. Pursuant to the guidelines, the applicant was required to mitigate at least 150 percent of the AM trips and 100 percent of the PM trips. Based on the results, the applicant has exceeded both thresholds.

The subject property consists of two different zoning categories, R-A and C-M. While the 7.47 acres in the R-A zoning could be developed with a trip yield of about three peak hour trips, the 2.38 acres in the C-M zone could potentially yield 157 peak hour trips. Since the finding of adequacy for the proposed uses was predicated on total trips (68 AM trips and 86 PM trips) that are below the ultimate yield, staff is therefore recommending a trip cap of 68 AM trips and 86 PM trips.

**Traffic Study Analyses:**

Based on the scoping agreement, the study identified the US 301- Village Drive Intersection, as the critical intersection for the proposed development. The results of the traffic analyses revealed the following:

EXISTING CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301-Village Drive	B/1134	D/1307

The traffic study identified eight (8) background developments whose impact would affect the subject intersection. Additionally, a growth rate of 1 percent was applied to the existing traffic counts at the subject intersections. A second analysis was done to evaluate the impact of the background developments on existing infrastructure. The analysis revealed the following results:

BACKGROUND CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301-Village Drive	<b>E/1494</b>	<b>F/1839</b>

Using the ITE *Trip Generation* manual, the study has indicated that the proposed development of an 8-pump (16 fuelling position) gas station with a food mart and a gas station would generate 170 (87 in; 83 out) AM peak hour trips and 214 (107 in; 107 out) PM peak hour trips at the time of full build-out. The manual indicates that 60 percent of the trips are already on the road and are considered pass-by trips. Hence, the actual number of **new** trips being generated by the proposed site would be 170 x 40 percent or 68 AM trips and 214 x 40 percent or 86 PM trips.

Approximately 20 percent of the site-generated trips will be oriented to and from the north and south, while 60 percent will be oriented to/from the east.

A third analysis was done, whereby the impact of the proposed development was evaluated. The results of that analysis are as follows:

TOTAL CONDITIONS		
Intersection	AM	PM
	(LOS/CLV)	(LOS/CLV)
US 301-Village Drive	<b>E/1586</b>	<b>F/1958</b>

Because of the projected inadequacy at the subject intersection, and pursuant to the provisions outlined in the mitigation guidelines (CR-29-1994) and Section 24-124(a) (6), the applicant has proffered the following improvements:

- Widen the eastbound approach to at least 44 feet to provide a left turn lane, a shared left-through lane and an exclusive right turn lane.
- Provide a deceleration lane on the southbound approach

Based in the proffered improvements, the intersection would operate with a LOS/CLV of **D/1365 and F/1779** during the AM and PM peak hours respectively. Additionally, the proposed improvements will reduce the site’s AM and PM critical trips by 240 percent and 150 percent respectively.

**Staff review and comments:**

Upon review of the applicant’s traffic study, staff concurs with its findings and conclusion. In addition to the planning staff, the State Highway Administration (SHA) reviewed the study. SHA, in its review of the traffic study, also concurred with its findings.

**Variation Request to Section 24-121(a)(3)**

The commercial development along US 301 and the residential use on Parcel X are proposed to be served by a shared easement directly from US 301. To provide for access, a variation to Section 24-121(a)(3), which limits individual lot access onto roads of arterial or higher classification, would be necessary. Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

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

**case that:**

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

The subject application is proposing a single right-in right-out access to US 301, which currently functions as an arterial road. Pursuant to Section 24-121(a) (3) of the Subdivision Regulations, the applicant has filed a variation request, which if granted by the Planning Board, would allow access to an arterial road. The proposed location of the access point is approximately 550 feet north of the intersection with Village Drive. In reviewing this request, staff has safety concerns regarding the functionality of this access point. Specifically, if a motorist whose destination is eastbound Village Drive or northbound US 301 were to exit the gas station via this access point, the close proximity of this access relative to the intersection at Village Drive could potentially create unsafe vehicular maneuvers. A few years ago, these types of maneuvers were very evident at the southbound approach to the intersection of US 301 and Excalibur Road (referred by some citizens as the “Wal-Mart Weave”), a few miles north of the subject property. After several requests were submitted to the State Highway Administration to correct those operational problems, SHA responded by constructing a channelized barrier along the southbound approach to the US 301-Excalibur Road intersection, thereby eliminating the potential for conflicting movements. Despite SHA’s silence on the functionality of this proposed right-in right-out access for the subject application, it is staff’s opinion that such a recurrence can be avoided at the US 301-Village Drive intersection by restricting the proposed access to US 301 to a **right-in** only access. Under this scenario, all egress from the site would be confined to the signal-controlled access on the west side of US 301.

Staff is also concerned with the location of the northern access point. As shown, it is within a 50 foot easement on the residentially-zoned portion of the property and would provide access to Parcel X. Curiously, it does not touch the C-M zoned portion of the site so staff is uncertain how it would provide access to the gas station. In addition, this is inconsistent with the access shown on the approved special exception site plan for RO SP-4398/01. That plan shows a right-in only access point within the C-M zoned portion of the site and does not combine with the access for Parcel X. In staff’s view, this is the correct scenario.

- (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 applicant is proposing primary access from the traffic light-controlled intersection at Village Drive. However, the applicant is constrained by the lack of additional frontage on a public road, steep slopes and the fact that the commercial site is surrounded by residentially-zoned property. Additional access beyond Village Drive Extended is necessary and can be safely provided from US 301 provided it is right-in only, as depicted on the approved special exception site plan. This situation is not generally applicable to other properties.

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

Because the applicant will have to obtain the access permit from SHA in accordance with 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 combination of uses on this site will attract large numbers of vehicles, including large trucks making deliveries of gas and merchandise. Given the rather tight configuration of buildings and pumps on the site made necessary by the steep slopes, additional access beyond Village Drive Extended is necessary to provide for proper circulation and to avoid conflicts. Due to the lack of other viable alternatives for access, a particular hardship to the landowner would result if this access to US 301 were not permitted.

Based on the preceding discussion, staff supports the variation subject to the proposed access to US 301 for the commercial development being limited to a **right-in** only access. Under this scenario, all egress from the site would be confined to the signal-controlled access on the west side of US 301. Access over the subject property for adjacent Parcel 4 should be limited to that necessary to serve the existing residential home and in no case should this access and the commercial access have any physical connection.

#### **Transportation Staff Conclusions**

Based on the preceding findings, the Transportation Planning Section concludes that adequate access roads will exist as required by Section 24-124 of the Prince George's County Code if the application is approved with conditions consistent with the above findings.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24 122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

The existing engine service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street, has a service travel time of 3.25 minutes, which is within the 3.25-minute travel time guideline.

The existing paramedic service at Marlboro Fire Station, Company 20, located at 14815 Pratt Street, has a service travel time of 3.25 minutes, which is within the 7.25-minute travel time guideline.

The existing ladder truck service at Marlboro Fire Station, Company 45, located at 7710 Croom

Road has a service travel time of 7.95 minutes, which is beyond the 4.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service discussed, an automatic fire suppression system should be provided in all new buildings proposed unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.

The existing ladder truck service located at Marlboro, Company 45 is beyond the recommended travel time guideline. The nearest fire station, Marlboro Company 20, is located at 14815 Pratt Street, which is 3.25 minutes from the development. This facility would be within the recommended travel time for ladder truck service if an operational decision to locate this service at that facility is made by the county.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

11. **Police Facilities**—The proposed development is within the service area for Police District II, Bowie. 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 and they are:

Station space per capita: 141 square feet per 1,000 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 guideline of 141 square feet per 1,000 residents, 116,398 square feet of space for police is needed. The current amount of space, 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. Any abandoned shallow well and deep well on the site 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. A raze permit is required prior to the removal of any existing structures and any hazardous materials located in any of the structures must be properly removed, stored or discarded prior to the structures being razed. A raze permit can be obtained through the Department of Environmental Resources (DER), Office of Licenses and Permits.

14. **Stormwater Management**—Two stormwater management (SWM) concept approval letters and a SWM concept plan were submitted. Letter 15111-2005-00 is for Phase 1, and only calls for a fee-in-lieu. Letter 15134-2005-00 is for Phase 2, and refers to a SWM quality pond that will be provided in Phase 3. Phases are not indicated on the SWM concept plan and must be added. Development of the site must be in accordance with these approved plans.
15. **Public Utilities Easement**—The applicant has shown the ten-foot public utilities easement on the preliminary plan as requested.
16. **Archeology**—A tributary of East Branch runs through the eastern part of the parcel. An examination of aerial photographs indicates that the western portion of the property has been developed over the second half of the 20<sup>th</sup> century. The area next to the stream appears to have remained undeveloped throughout most of the 20<sup>th</sup> century. Prehistoric sites have been found in similar settings.

There are 14 known archeological sites within a one-mile radius of the subject property. These sites are primarily 18<sup>th</sup> to 20<sup>th</sup> century farmsteads, but two sites contain late woodland prehistoric material and three are prehistoric lithic scatters. There are seven historic sites within a one-mile radius of the subject property. The potential for the presence of prehistoric and historic archeological resources is moderate.

In accordance with the Planning Board's directives, as described in the *Guidelines for Archeological Review*, May 2005, and consistent with Subtitle 24-104, 121(a)(18), and 24-135.01, the subject property shall be the subject of a Phase I archeological investigation to identify any archeological sites that may be significant to the understanding of the history of human settlement in Prince George's County, including the possible existence of slave quarters and slave graves, as well as archeological evidence of the presence of Native American peoples.

17. **Historic Preservation**—The subject application for preliminary plan of subdivision has no effect on historic resources.
18. **Easements**—An existing right-of-way (L. 3196, F. 140) across the subject property follows an old farm road to provide access to an otherwise landlocked parcel (Parcel X). The owner of this property presently gains access to US 301 via a 10-foot-wide gravel driveway within the right-of-way. The applicant provides for an alternative 15-foot-wide ingress/egress easement connecting to a 50-foot easement, which in turn connects to US 301. As previously discussed, staff does not support this 50-foot-wide shared access easement at this location. The applicant must continue to provide sufficient and uninterrupted access to Parcel X. Such access must be provided either along the existing right-of-way or through some other means mutually agreeable to all parties.
19. **Village Drive Extended**—Village Drive currently terminates at US 301. The large residential development to the west of the subject property (Beech Tree) shows Village Drive Extended across the subject property, connecting to become an additional point of access. The approved special exception plan for this site also shows this road, with a note saying that it will be

dedicated to public use. However, this road is not shown in the current master plan and thus need not be dedicated in its entirety by the applicant. Staff is recommending, however, that the applicant dedicate a 125-foot long section of 80-foot-wide right-of-way for Village Drive Extended to preserve that segment of the road and to ensure essential additional access to the site from a public road. The applicant needs only to pave that portion of the road necessary to gain access to their driveway.

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 Clark, with Commissioners Squire, Clark, Vaughns and Cavitt voting in favor of the motion, and with Commissioner Parker absent at its regular meeting held on Thursday, February 14, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of March 2008.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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