

R E S O L U T I O N

WHEREAS, Goddard Farms is the owner of a 57-acre parcel of land known as Parcels 28, 29, 31, 94 and 95, being located on Tax Map 125, Grids D-2 and D-3, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on March 10, 2004, Image Development Corporation filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 85 lots and 4 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-04021 for Simmons Ridge Cluster was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on June 17, 2004, 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 June 17, 2004, 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/14/04), and further APPROVED Preliminary Plan of Subdivision 4-04021, for Lots 1-85 and Parcels A-D with the following conditions:

1. Prior to signature approval of the Preliminary Plan:
  - a. The plan shall be revised as follows:
    - (1) Include the Stormwater Management Concept Plan approval number and date on the Preliminary Plan.
    - (2) Include the Stormwater Management Concept Plan approval number and date.
  - b. Prior to signature approval of the Preliminary Plan of Subdivision, the Type I Tree Conservation Plan shall be revised to:
    - (1) Add a table indicating the species, size, condition and disposition of each specimen tree.
    - (2) Add the following note:

“The Type II TCP shall address the removal by hand of all Virginia pines (*Pinus virginiana*) greater than six inches in diameter within 40 feet of the final proposed limit of disturbance or the boundary of the property. The TCP II shall include a supplemental planting schedule and/or provide details as to how the natural regeneration will be managed to fully restock the site.”

- (3) Correct the footnote to the worksheet regarding off-site clearing to read 8.40 acres and 0.35 acre instead of 8.60 acres and 1.13 acres.
  - (4) Correct the worksheet to indicate 8.40 acres of woodland on net tract not cleared and the area for woodland retained not part of any requirements to read 0.35 acre.
  - (5) Provide the number of the approved Stormwater Management Concept Plan.
  - (6) Have the revised plan signed and dated by the qualified professional who prepared the plan.
2. **MD 5 at Surratts Road:** 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: provision of dual left-turn lanes along the northbound and the southbound approaches of MD 5.
3. **Brandywine Road at Floral Park Road:** Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county’s capital program, (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency: restriping and minor widening along the eastbound approach to the intersection to provide separate left-turn and right-turn lanes.
4. Prior to the issuance of each building permit, the applicant shall pay to Prince George’s County the following share of costs for improvements to the Brandywine Road/Surratts Road intersection and the link of Surratts Road between Brandywine Road and Beverly Lane:
  - a. A fee calculated as  $\$1,760/\text{residence} \times (\text{Engineering News-Record Highway Construction Cost Index at time of payment}) / \text{Engineering News-Record Highway Construction Cost Index for March, 2003}$ .
5. The applicant shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and constructed through the formation of a Road Club that will include the applicant and any other properties for which Road Club participation is deemed necessary by the Planning Board.

For development of the subject property, the applicant's sole funding responsibility toward the construction of these off-site transportation improvements shall be the payment of the following:

For each single family detached unit, a fee calculated as  $\$297 \times$  (the average Federal Highway Administration Federal-aid highway composite bid price index for the latest available four previous quarters at the time of payment) / (the average Federal Highway Administration Federal-aid highway composite bid price index for the four quarters preceding and including the first quarter of 1993).

Payment is to be made in trust to the Road Club escrow agent and shall be due, on a pro rata basis, at the time of issuance of building permits. Prior to issuance of any building permit(s), the applicant shall provide written evidence to M-NCPPC that the required payment has been made.

The off-site transportation improvements to be constructed are set forth in other resolutions requiring participation in the Brandywine Road Club and are subject to the same requirements regarding phasing. However, if deemed appropriate by the county Department of Public Works and Transportation, the above pro-rata payment may be directed toward needed off-site improvements along Brandywine Road between MD 5 and MD 223, and the above pro-rata payment may be combined with the pro-rata payment required under Condition 4.

6. At the time of final plat approval, the applicant, his heirs, successors and/or assignees shall dedicate a right-of-way along Brandywine Road of 40 feet from centerline, as shown on the submitted plan. As required by the county Department of Public Works and Transportation, the applicant shall provide acceleration and deceleration lanes along Brandywine Road at Simmons Lane.
7. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan, Concept #37990-2003-00, or any approved revisions thereto.
8. The applicant, his heirs, successors, and/or assignees shall provide standard sidewalks along the property's entire street frontage and along both sides of all internal streets unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
9. The applicant, his heirs, successors, and/or assignees shall provide an asphalt shoulder or a wide curb lane along the property's entire Brandywine Road frontage unless modified by the Department of Public Works and Transportation at the time of issuance of street construction permits.
10. Prior to submittal of the DSP, the applicant shall determine the extent of the land that should be the subject of a Phase I archaeological investigation with the concurrence of the DRD. The applicant shall complete and submit a Phase I investigation with the application for DSP (including research into the property history and archaeological literature) for those lands determined to be subject. At the time of review of the DSP, the applicant shall submit Phase II and Phase III investigations as determined by DRD staff as needed. The plan shall provide for the avoidance and preservation of the

resources in place, or shall provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland (Schaffer and Cole: 1994)* and must be presented in a report following the same guidelines.

11. The applicant, his heirs, successors, and/or assignees shall provide adequate, private recreational facilities in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
12. The applicant shall allocate appropriate and developable areas for the private recreational facilities on homeowners association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of the Development Review Division (DRD) for adequacy and property siting, prior to approval of the detailed site plan by the Planning Board.
13. A site plan shall be submitted to DRD of the Prince George's County Planning Department, which complies with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
14. The applicant, his heirs, successors and/or assignees shall submit three original, executed Recreational Facilities Agreements (RFA) to DRD for their approval, three weeks prior to a submission of a final plat. Upon approval by DRD, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
15. The applicant, his heirs, successors and/or assignees shall submit to DRD a performance bond for the recreation facilities, letter of credit or other suitable financial guarantee in an amount to be determined by DRD, within at least two weeks prior to applying for building permits.
16. The applicant, his heirs, successors and/or assignees shall satisfy the Planning Board that there are adequate provisions to assure retention and a future maintenance of the proposed recreational facilities.
17. The land to be conveyed to a homeowners association shall be subject to the following:
  - a. Conveyance shall take place prior to the issuance of building permits.
  - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
  - c. All waste matter of any kind shall be removed from the property prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
  - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.

- e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved detailed site plan or shall require the written consent of DRD. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
  - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. Storm drain outfalls shall be designed to avoid adverse impacts on adjacent land owned by or to be conveyed to The Maryland-National Capital Park and Planning Commission (M-NCPPC). If the outfalls require drainage improvements on land to be conveyed to or owned by M-NCPPC, the Department of Parks and Recreation (DPR) shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
  - i. There shall be no disturbance of any adjacent land that is owned by, or to be conveyed to, M-NCPPC, without the review and approval of DPR.
  - j. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
18. A detailed site plan shall be approved prior to the approval of final plats.
19. 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/14/04), 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/Tree Preservation Policy.”
20. A Type II Tree Conservation Plan shall be approved in conjunction with the detailed site plan.
21. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, excluding those areas where variation requests have been approved, and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

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

22. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
23. Prior to the issuance of permits, the applicant, his heirs, successors and/or assignees shall have the scrap tires hauled by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility. A receipt shall be turned in to the Health Department.

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located on the east side of Brandywine Road, approximately 1.5 miles south of the intersection of Brandywine Road and Surratts Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Uses	Single-family detached dwelling units and farm outbuildings	Single-family homes, private recreational facilities, woodland conservation and stormwater management
Acreage	56.00	56.00
Lots	0	85
Parcels	2	4
Detached Dwelling Units	0	85

4. **Cluster Development Data as Proposed by Applicant**

Zone	R-R
Gross Tract Area	56.00 acres
Area with Slopes Greater than 25%	2.06 acres
Area within Preliminary 100-year	

Floodplain	3.83 acres
Cluster Net Tract Area	50.11 acres
Minimum Lot Size Permitted	10,000 sq.ft.
Minimum Lot Size Proposed	10,000 sq.ft.
Number of Lots Permitted	112
Number of Lots Proposed	85
Flag lots proposed	0
Cluster Open Space Required	11.62 acres
2/3 of Required Open Space to be Located Outside of the 100-Year Floodplain and Stormwater Management Facilities	7.74 acres
Cluster Open Space Proposed Outside of the 100-Year Floodplain and Stormwater Management Facilities	16.42 acres
Cluster Open Space Provided	21.60 acres
Mandatory Dedication Required	2.8 acres
Mandatory Dedication Proposed	Private Recreation Facilities
Total Open Space Required (Cluster plus Mandatory Dedication)	11.62 acres
Total Open Space Provided	21.60 acres
Open Space to be Conveyed to Homeowners Association	21.60 acres
Open Space to be Conveyed to M-NCPPC	0.0 acres
Open Space to be Conveyed to Prince George's County	0.0 acres
Slopes Exceeding 25% in grade	2.06 acres
25% of Steep Slopes	0.515 acres
Area of Steep Slopes to be Disturbed	0.510 acres
Area of Nontidal Wetlands and Waters of the U.S.	0.18 acres

Modification in Dimensional Standards Permitted in Cluster

Standard in Zone

Modification Allowed Proposed

27-442(c)	Net Lot Coverage	25%	30%	30%
27-442(d)	Lot Width at Bldg. Line	80'	75'	75'
	Lot Frontage Along Street Line	70'	50'	50'
	Lot Frontage Along Cul-de-sac	60'	50'	50'

5. **Cluster Findings**—The design for the proposed cluster subdivision meets the purposes and criteria for approval of cluster developments in the R-R Zone found in Subtitles 27-Zoning and 24-Subdivision of the Prince George’s County Code. The following findings are required in accordance with Section 24-137 of the subdivision regulations:

- a. **Individual lots, streets, buildings and parking areas will be designed and situated in conformance with the provisions for woodland conservation and tree preservation set forth in Subtitle 25 of the Prince George’s County Code, and in order to minimize alteration of the historic resources or natural site features to be preserved.**

*Comment:* The proposal is in conformance with the Woodland Conservation Ordinance. All woodland conservation is provided on-site.

- b. **Cluster open space intended for a recreational or public use, conservation purposes, or as a buffer for a historic resource is appropriate, given its size, shape, topography and location, and is suitable for the particular purposes it is to serve on the site.**

*Comment:* The applicant originally proposed one location for private recreational facilities on approximately a third of an acre and to the rear of the site. This was inappropriate for a subdivision this large. The applicant has retained that tot-lot, but added a one-acre parcel in the center of the property for additional recreational facilities. These two sites combine to make the land for recreational facilities appropriate and well spaced throughout the community.

- c. **Cluster open space will include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, steep slopes, individual trees of significant size, and rock outcroppings).**

*Comment:* All of the required woodland conservation is proposed on-site. In addition, the streambed at the rear of the property is preserved and visually accessible to the community. This is a well-conceived plan.

- d. **Cluster open space intended for recreational or public use will be easily accessible to pedestrians; and the means of access will meet the needs of the physically handicapped and elderly.**

*Comment:* The main recreation area at the center of the community is well placed at the corner of two streets and will be made easily accessible by the provision of standard sidewalks throughout the community.

- e. **Cluster open space intended for scenic value will achieve this purpose through the retention of irreplaceable natural features described above; or where such natural features do not exist, such techniques as berms planted with trees and the use of landscaping material may be required to eliminate visual monotony of the landscape.**

*Comment:* Although no open space is provided strictly for scenic purposes, much of the open space that is proposed has tremendous scenic quality. Not only will many of the homes back to woodland, several “windows” into the open space are provided along the subdivision’s main road. The view coming down the main road will be into the streambed and associated woodland.

- f. **Diversity and originality of lot layout and individual building design, orientation, and location will achieve the best possible relationship between development and the land.**

*Comment:* A variety of lot widths are provided, and most of the subdivision will appear as a standard R-R subdivision. Many lots back to woods, while others back to neighboring houses, providing variety in the lotting pattern. The subdivision as proposed represents the best possible relationship between the development and the land. Lot sizes are not minimized to the fullest extent allowed by the Zoning Ordinance, to 10,000 square feet. There are few 10,000-square-foot lots in the subdivision, and many are nearer to 15,000 square feet.

- g. **Individual lots, buildings, parking areas, and streets will be arranged, designed, situated, and oriented so as to harmoniously relate to surrounding properties, to improve the view from dwellings, and to lessen the area devoted to motor vehicle access and circulation.**

*Comment:* Surrounding properties are developed either to old R-R standards (Connemara Hills to the north) or under the R-R cluster regulations (The Walls Property to the south), both allowing minimum lot sizes of 10,000 square feet.

- h. **Individual lots, buildings, parking areas, and streets will be so situated and oriented as to avoid the adverse effects of shadows, noise, and traffic on, and afford privacy to, the residents of this site.**

*Comment:* The subdivision is well laid out. Lots will back to trees or other lots, as is typical in many standard subdivisions. No adverse impacts from street traffic, noise or shadows is expected. Originally, the application had several flag lots that could have posed privacy problems. At staff’s suggestion, the applicant has removed the flag lots from the proposal.

- i. **Not more than one-fourth (1/4) of any of the land having slopes greater than twenty-**

**five percent (25%) will be removed or altered, and then only when the slopes are isolated, small, or otherwise occur as insignificant knolls, so that the design of the development or cluster open space will not be adversely affected.**

*Comment:* The applicant proposes to disturb just under 25 percent of the steep slopes on the property.

- j. Appropriate landscape screening techniques will be employed at each entrance to the subdivision and along adjoining existing streets, so as to assure the compatibility of the appearance of the cluster subdivision with that of surrounding existing and planned residential development not approved for cluster development, and to provide an attractive appearance from streets. Individual lots shall also be appropriately landscaped in such a manner as to provide an attractive appearance.**

*Comment:* This issue will be fully addressed at the time of detailed site plan review.

6. **Environmental**—There are streams, wetlands and 100-year floodplain on the property associated with Piscataway Creek in the Potomac River watershed. Current air photos indicate that about one-third of the site is forested. The Subregion V Master Plan indicates that there is an area of Natural Reserve on the site associated with the stream along the eastern boundary of the property. No designated scenic or historic roads are affected by this proposal. There are no nearby sources of traffic-generated noise. The proposed use is not expected to be a noise generator. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. The *Prince George’s County Soils Survey* indicates that the principal soils on the site are in the Beltsville, Bibb, Croom, Galestown, Howell, Iuka, Keyport and Westphalia soils series. A gravel pit is also indicated. Marlboro Clay does not occur in this area. The site is in the Developing Tier according to the adopted General Plan.

### **Woodland Conservation**

The Forest Stand Delineation (FSD), based upon 16 sample points, indicates three forest stands totaling 15.85 acres and notes six specimen trees. The plan correctly shows all specimen trees, streams, areas with severe slopes, areas with steep slopes containing highly erodible soils, and the 100-year floodplain. The FSD meets the requirements of the Woodland Conservation Ordinance.

This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in size and has more than 10,000 square feet of woodland.

The revised Type I Tree Conservation Plan, TCPI/14/04, has been reviewed. The plan correctly shows the proposed limit of disturbance, all specimen trees, streams, minimum 50-foot stream buffers, areas with severe slopes, areas with steep slopes containing highly erodible soils, the 100-year floodplain, and an accurate delineation of the expanded stream buffer.

The cluster plan proposes clearing 4.53 acres of the existing 12.93 acres of upland woodland, clearing 0.07 acre of off-site woodland, and clearing 0.03 acre of the existing 2.91 acres of floodplain woodland. Based upon 15.84 acres of woodland for the site, the woodland conservation requirement has been correctly calculated as 13.19 acres. The plan proposes to meet the requirement by providing 8.05 acres of on-site preservation and 5.14 acres of on-site planting for a total of 13.19 acres. Additionally, the plan proposes on-site preservation of 0.35 acres that are not part of any requirement.

The cluster plan proposes to meet all woodland conservation requirements on-site. The lots will have usable outdoor activity areas because all of the woodland is removed from them. At least 40 feet of unencumbered rear yard area provides room for construction of the homes and allows for future changes in house types that may impact the clearing and grading around each house. No woodland conservation is proposed on any lot, and all woodland conservation will be on HOA property; this ensures the long-term protection of the preserved woodland. Five of the six specimen trees are proposed to be preserved. An abundance of larger diameter Virginia pine (*Pinus virginiana*) is located within the proposed tree preservation areas. This species is relatively short-lived and is subject to windfall. A condition is recommended to address this problem. Overall the plan fulfills the requirements of the Woodland Conservation Ordinance by preserving priority woodlands and avoiding forest fragmentation.

The plan has some technical errors. TCPI General note #1 contains the wrong number for the preliminary plan of subdivision. The footnote to the worksheet regarding off-site clearing should read 8.40 acres and 0.35 acres instead of 8.60 acres and 1.13 acres. The worksheet should indicate 8.40 acres of woodland on net tract not cleared, and the area for woodland retained not part of any requirements should read 0.35 acre. The plan lacks a table indicating the species, size, condition and proposed disposition of the specimen trees.

### **Natural Features**

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The Subregion V Master Plan indicates that there are substantial areas designated as Natural Reserve on the site. As noted on page 136 of the Subregion V Master Plan:

“The Natural Reserve Area is comprised of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas must be preserved in their natural state.”

The *Subregion V Master Plan* elaborates on page 139:

“The Natural Reserve Areas, containing floodplain and other areas unsuitable for development should be restricted from development except for agricultural, recreational and other similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.”

The plan must be in conformance with the Subregion V Master Plan and preserve to the greatest extent possible the areas shown as Natural Reserve. For the purposes of this review, these areas include the expanded stream buffer, any isolated sensitive environmental features, and the 100-year floodplain.

### **Floodplain, Streams, Wetlands and Buffers**

The Preliminary Plan of Subdivision and Type I Tree Conservation Plan correctly show all streams on the site, the required minimum 50-foot stream buffers, the 100-year floodplain, all slopes exceeding 25 percent, all slopes between 15 and 25 percent containing highly erodible soils, and the expanded stream buffers.

The plan proposes impacts to stream buffers and wetland buffers. Section 24-130 of the Subdivision Regulations prohibits impacts to these buffers unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Staff notes that the existing sanitary sewer main is entirely within the expanded stream buffer, and that the topography of the site controls stormwater drainage patterns. Two variation requests, stamped as accepted for processing on March 12, 2004, in conformance with Section 24-113 of the Subdivision Regulations, have been reviewed.

The proposed impacts to the expanded stream buffer are required for the construction of two stormwater management pond outfalls to serve the proposed development. These will disturb a total of 800 square feet of the expanded stream buffer. The alignment of the sewer is constrained by the topography of the site. The details of construction will be reevaluated by the Department of Environmental Resources during the review of the construction permits to further reduce impacts. No federal or state wetland permits will be needed.

Staff supports the variations requested based on the following findings. 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 the evidence presented to it in each specific case that:**

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

The installation of both stormwater outfalls are required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

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

The specific topography of the site requires the use of two stormwater management ponds and two outfalls to adequately serve the proposed development.

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

The installation of stormwater management facilities is required by other regulations. The proposed impacts are not a violation of any other applicable law, ordinance or regulation.

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

The topography provides no alternative for the locations of the stormwater outfalls that are required to serve the development. Without the required stormwater management facilities, the property could not be properly developed in accordance with the R-R Zone.

### **Soils**

The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Beltsville, Bibb, Croom, Galestown, Howell, Iuka, Keyport and Westphalia soils series. A gravel pit is also indicated.

The gravel pit was examined during the review of 4-03003 (The Walls Property). The area was determined not to be a significant factor regarding the development of the site because the excavation was shallow and there was no significant amount of fill. A careful examination of air photos has revealed that the area of the gravel pit depicted in the *Prince George's County Soils Survey* is an overestimate and no mining took place on the property that is the subject of this application. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

### **Water and Sewer Categories**

The property is in Water Category W-3 and Sewer Category S-3; it will be served by public systems.

7. **Community Planning**—The property is located in Planning Area 81A/Clinton. It is located in the Developing Tier as defined in the 2002 General Plan. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial Centers, and employment areas that are increasingly transit-serviceable. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The 1993 Subregion V Master Plan recommends residential land use at the Low-Suburban density of up to 2.6 dwelling units per acre. The 1993 Subregion V SMA classified this property in the R-R Zone. This application conforms to the recommendations of the master plan for Low-Suburban residential land use.

8. **Parks and Recreation**—The proposal is subject to the mandatory park dedication requirements of Section 24-134 of the Subdivision Regulations. In accordance with Section 24-135(b) of the Subdivision Regulations, the Park Planning and Development Division of the Department of Parks and Recreation recommends that the Planning Board require on-site private recreational facilities in-lieu-of mandatory park dedication.

9. **Trails**—The Adopted and Approved Subregion V Master Plan recommends that Brandywine Road be designated as a Class III bikeway with appropriate signage. Bikeway signage has already been recommended for the property immediately to the south of the subject site (Timber Ridge a.k.a. Walls Property) and no additional signage is needed in this vicinity. However, if road frontage improvements are required for Brandywine Road, an asphalt shoulder or a wide curb lane is encouraged to accommodate bicycle movement, per the concurrence of DPW&T. A standard sidewalk is also recommended along the subject property's frontage, in keeping with the developments immediately to the north of the site.

Standard sidewalks are recommended along both sides of all internal roadways, per the concurrence of DPW&T. This is consistent with the existing roadways in the adjoining subdivision directly to the north of the subject site.

10. **Transportation**—The transportation staff determined that a traffic study detailing weekday analyses was needed. In response, the applicant submitted a traffic study dated February 2004 that was referred for comment. Comments from the county Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA) are in the file. 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 Developing Tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections within any Tier subject to meeting the geographical criteria in the guidelines.

**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.

### **Analysis of Traffic Impacts**

The traffic study for this site examined the site impact at six intersections:

- MD 5/Surratts Road (signalized)
- Brandywine Road/Surratts Road (signalized)
- Brandywine Road/Simmons Road (unsignalized)
- Brandywine Road/Brooke-Jane Drive/Northgate Parkway (unsignalized)
- Brandywine Road/Kaine Drive/Danford Drive (unsignalized)
- Brandywine Road/Floral Park Road (unsignalized)

The existing conditions at the study intersections are summarized below:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 5 and Surratts Road	1,599	1,521	E	E
Brandywine Road and Surratts Road	1,452	1,535	E	E
Brandywine Road and Simmons Road	12.1*	9.9*	--	--
Brandywine Road and Brooke-Jane/Northgate	16.6*	19.5*	--	--
Brandywine Road and Kaine Drive/Danford Drive	13.2*	17.2*	--	--
Brandywine Road and Floral Park Road	14.8*	16.4*	--	--
*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, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy.				

The area of background development includes 19 properties in the vicinity of the subject property. Background conditions also assume through traffic growth of 2.0 percent annually along MD 5. Background conditions also assume the widening of Surratts Road between Beverly Drive and Brandywine Road. Given that the project is shown in the current county Capital Improvement Program (CIP) with 100 percent funding within six years, staff has allowed the traffic study to include this improvement as a part of the background condition. While this improvement has an unusually long history of full funding in the CIP without being constructed, there are actions being taken to commit county and developer funding to get this improvement constructed soon. This improvement is particularly important to traffic circulation in the area. Widening the link of Surratts Road eastward from Brandywine Road is anticipated to provide an outlet for traffic using Brandywine Road. Also, the intersection improvements at Brandywine Road/Surratts Road that are a part of this CIP project are important because this intersection currently operates poorly in both peak hours.

In reviewing the background development assignments, it appears that the impact of considerable traffic from Saddle Creek using Moore's Road was not fully considered, and the analysis has been adjusted to reflect this. Also, the Heritage Reserve subdivision, preliminary plan 4-03072, was approved after the study was scoped for this application and is included in the analysis.

Background conditions are summarized below:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 5 and Surratts Road	1,879	1,866	F	F
Brandywine Road and Surratts Road	1,094	1,171	B	C
Brandywine Road and Simmons Road	17.4*	11.5*	--	--
Brandywine Road and Brooke-Jane/Northgate	28.7*	40.1*	--	--
Brandywine Road and Kaine Drive/Danford Drive	19.3*	28.1*	--	--
Brandywine Road and Floral Park Road	40.8*	61.5*	--	--
*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, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy.				

The site is proposed for development as a residential subdivision. The site is proposed to be developed with 85 single-family detached residences. The site trip generation would be 64 AM peak-hour trips (13 in, 51 out) and 77 PM peak-hour trips (51 in, 26 out).

The site trip distribution and assignment used in the traffic study has been reviewed in light of traffic conditions that exist in the area. Because this development is south of the proposed improvements at Surratts Road and Brandywine Road, and because Surratts Road is deemed to be an effective option to use of MD 5, the site trip distribution and assignment used in the traffic study is appropriate. With the trip distribution and assignment as assumed, the following results are obtained under total traffic:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 5 and Surratts Road	1,894	1,879	F	F
Brandywine Road and Surratts Road	1,106	1,192	B	C
Brandywine Road and Simmons Road	23.6*	21.8*	--	--
Brandywine Road and Brooke-Jane/Northgate	32.4*	43.0*	--	--
Brandywine Road and Kaine Drive/Danford Drive	19.7*	31.1*	--	--
Brandywine Road and Floral Park Road	44.2*	68.3*	--	--
*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, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure and should be interpreted as a severe inadequacy.

Given these analyses, two intersections within the study area would operate unacceptably in at least one peak hour. Furthermore, another intersection, the Brandywine Road/Surratts Road intersection, requires further discussion below:

***MD 5/Surratts Road***

In response to the inadequacy at the MD 5/Surratts Road intersection, the applicant has proffered mitigation. This intersection is eligible for mitigation under the fourth criterion in the *Guidelines for Mitigation Action* (approved as CR-29-1994). The applicant recommends that both the southbound and the northbound approaches of MD 5 be widened to provide two left-turn lanes. The impact of the mitigation actions at this intersection is summarized as follows:

<b>IMPACT OF MITIGATION</b>				
Intersection	LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
<b>MD 5/Surratts Road</b>				
Background Conditions	F/1879	E/1866		
Total Traffic Conditions	F/1894	E/1879	+15	+13
Total Traffic Conditions w/Mitigation	E/1789	D/1806	-105	-73

The options for improving this intersection to LOS D, the policy level of service at this location, are very limited. Additional through lanes along MD 5 through the intersection would not be effective; MD 5 is essentially two through lanes northbound and southbound at this location, but already widens to a third through lane northbound and southbound through the intersection. The west leg of Surratts Road has four approach lanes with a channelized right-turn lane; the east leg has three approach lanes, also with a channelized right-turn lane. The only identifiable improvement that would result in LOS D operations at this location would be the construction of the planned MD 5/Surratts Road interchange. This interchange was included in an environmental study of the MD 5 corridor by SHA, but there has been no funding to date for design, right-of-way acquisition, or construction.

As the CLV at MD 5/Surratts is above 1,813 during both peak hours, 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 action would mitigate at least 100 percent of site-generated trips during each peak hour. This table also indicates that the resulting CLV under total traffic with

the mitigation improvements is 1,813 or less in both cases. Therefore, the applicant's proposed mitigation at MD 5 and Surratts Road meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.

SHA does concur with the mitigation that is proposed. Given past actions by the Planning Board regarding mitigation proposals in this area, the staff recommendation will include the applicant's proffer of the mitigation actions as a condition of approval for this application.

### **Brandywine Road and Surratts Road**

The improvement for Surratts Road is, in fact, fully funded in the CIP, but the full funding is contingent upon developer contributions. The needed improvements at this location include the following:

- The widening of Surratts Road to two lanes in each direction between Beverly Avenue and Brandywine Road.
- The widening of Brandywine Road to two lanes in each direction between Surratts Road and Thrift Road.
- The improvement of the Brandywine Road/Surratts Road intersection to include separate through and right-turn lanes along northbound Brandywine Road, an exclusive left-turn lane along southbound Brandywine Road, and an exclusive left-turn lane and a shared right-turn/left-turn lane along westbound Surratts Road.

These improvements have long been planned by DPW&T, and they are advancing due to the formation of a partnership between DPW&T and several developers along Brandywine Road. The partnership would serve to fund and assist in constructing the improvements needed for adequacy. It is essential for adequacy that the subject property be conditioned on these improvements and the applicant participate in their funding and construction.

As noted earlier, SHA concurs with the report findings. DPW&T requested that acceleration and deceleration lanes be provided along Brandywine Road at Simmons Lane, which serves as the main access to the site. DPW&T also requested that the developer perform restriping and/or minor widening along the eastbound approach to the Brandywine Road/Floral Park Road intersection to provide separate left-turn and right-turn lanes. As other developers have received this same condition, it is reasonable to place the same condition on the subject property.

### **Plan Comment**

Brandywine Road is a master plan collector, and correct dedication of 40 feet from centerline is reflected on the subject plan.

### **Transportation 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 requiring the noted improvements. At the hearing, the applicant proffered to pay a pro-rata share of the costs for improvements to the Brandywine Road/Surratts Road intersection and the link of Surratts Road between Brandywine Road and Beverly Lane. The applicant also proffered to pay a pro-rata share for other off-site improvements required. The Planning Board accepted these proffers.

11. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	85 sfd	85 sfd	85 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	20.40	5.10	10.20
Actual Enrollment	4,096	4,689	8,654
Completion Enrollment	180.48	86.22	158.07
Cumulative Enrollment	154.56	44.04	88.08
Total Enrollment	4,451.44	4,824.36	8,910.35
State Rated Capacity	4,214	5,114	7,752
Percent Capacity	105.63%	94.34%	114.94%

Source: Prince George's County Planning Department, M-NCPPC, December 2003

These figures were correct on the day the referral memorandum was written. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. In addition, the number of lots proposed has been reduced. The numbers that will be used in the resolution will be the ones that will apply to this project.

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

\$12,000 per dwelling for all other buildings.

This project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003, and CR-23-2003. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

12. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section reviewed the subdivision plans for adequacy of public fire and rescue facilities.
  - a. The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service travel time of 4.69 minutes, which is within the 5.25-minute travel time guideline.
  - b. The existing ambulance service Clinton Fire Station, Company 25, has a service travel time of 4.69 minutes, which is within the 6.25-minute travel time guideline.
  - c. The existing paramedic service at Clinton Fire Station, Company 25, has a service travel time of 4.69 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services. These findings are in conformance with the standards and guidelines contained in the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

13. **Police Facilities**—The proposed development is within the service area for Police District V-Clinton. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision
14. **Health Department**— The Health Department noted the presence of domestic trash and scrap tires on the property. The trash and debris must be disposed of properly. The tires must be hauled by a licensed scrap tire hauler to a licensed scrap tire disposal/recycling facility. A receipt must be turned in to the Health Department. The Health Department reminds the applicant that raze permits are required prior to demolition of any structure on the site. The Health Department also noted that wells and septic systems to be abandoned must be pumped, backfilled and/or sealed in accordance with COMAR 26.04.04.
15. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #37990-2003-00, has been approved with conditions to ensure that

development of this site does not result in on-site or downstream flooding. The approval is valid through February 28, 2007. Development must be in accordance with this approved plan or any revisions thereto. The approval number and date should be included on the preliminary plan prior to signature approval.

16. **Cemeteries?** This land is close to and may be part of the antebellum landholdings of the Gwynn and Edelen families. Because there is a reasonable likelihood that part or all of the subject property was operated as a plantation during the antebellum period, documentary and archeological investigation will be required to determine whether there may exist physical evidence of slave dwellings or burials.
  
17. **Public Utility Easement**—The preliminary plan does not include the required ten-foot-wide public utility easement parallel and contiguous to all public rights-of-way. Prior to signature approval the preliminary plan must be revised to show this easement. The easement will be established by the recordation on the final plat.

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 Harley, seconded by Commissioner Vaughns, with Commissioners Harley, Vaughns, Eley, and Squire voting in favor of the motion, and with Chairman Hewlett absent at its regular meeting held on Thursday, June 17, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of July 2004.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator