

R E S O L U T I O N

WHEREAS, 141-acre parcel of land known as Parcels 17 and 191, Tax Map 109, Grid 109, A-4, said property being in the 15th Election District of Prince George's County, Maryland, and being zoned R-R; and

WHEREAS, on August 8, 2005, Koch Homes, Inc. filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 185 lots, 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05025 for Mill Creek was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on November 3, 2005, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on November 3, 2005, 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/28/05), and further APPROVED Preliminary Plan of Subdivision 4-05025, Mill Creek for Lots 1-185, Parcels A-C including a variation to Section 24-130 of the Subdivision Ordinance with the following conditions:

1. Prior to signature of the Preliminary Plan, the revised Natural Resource Inventory shall be signed.
2. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the PMA, the expanded stream buffers and isolated wetlands and their buffers, except for areas where impacts 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."

3. 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.

4. Prior to signature approval of the preliminary plan, the TCI shall be revised to add the following note: "The trails shown to be installed through the floodplain and expanded buffer shall be field located and minimal clearing or grading shall be done for their installation."
5. Prior to signature approval of the preliminary plan, the TCPI shall be revised to show the locations of the conceptual house pads, building restriction lines and associated conceptual grading. The conceptual house pads shall reflect current building sizes (2,000 – 3,000 square foot footprints) and shall be placed so that a minimum of 20 feet of cleared areas is provide on each side and 40 feet in the rear. None of the lots may have the 40 foot deep rear yard activity areas extend beyond the lot lines. Preservation Area #8 shall be eliminated from counting toward meeting the requirements.
6. The existing entrance onto Rosaryville Road shall not be used as the construction entrance. A note to this affect shall be placed on the TCPII.
7. Reforestation Areas 1, 2, 3 and 5 and their associated fencing shall be planted prior to the issuance of the first building permit. Reforestation Area 4 shall be planted prior to the issuance of building permits on any of the adjacent lots. A certification prepared by a qualified professional may be used to provide verification that the reforestation has been completed. It must include, at a minimum, photos of the reforestation areas and the associated fencing for each Reforestation Area, with labels on the photos identifying the locations and a plan showing the locations where the photos were taken. The Reforestation Areas shall be fenced where adjacent to lots or roads with a two-rail split rail fence or equivalent in perpetuity.
8. 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/25/05), 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. CB-60-2005 requires that property owners notify buyers at the time of contract signing of the presence of woodland conservation."*
9. In conformance with the Adopted and Approved Subregion VI Master Plan, the applicant the applicant's heirs, successors, and/or assigns shall provide the master plan hiker/equestrian trail, as indicated on the submitted preliminary plan. This trail shall be located within a public use easement in an HOA or conservation buffer, in keeping with the Green Infrastructure Plan.
10. The applicant shall provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.
11. The applicant, and the applicant's heirs, successors, and/or assigns shall provide a financial

contribution of \$210 to the Department of Public Works and Transportation for the placement of a "Share the Road With a Bike" sign. A note shall be placed on the final plat for payment to be received prior to the issuance of the first building permit. If road frontage improvements are required by DPW&T, wide asphalt shoulders are encouraged.

12. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
13. Development of this site shall be in conformance with the approved Stormwater Management Concept Plan and any subsequent revisions.
14. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall convey to the homeowners association (HOA) 38.1± acres of open space land (Parcels A & B), in accordance with Staff Exhibit A. Land to be conveyed shall be subject 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 stormdrain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
  - f. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
  - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved by DRD.
  - h. 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.

15. Prior to building permits the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
16. Prior to the approval of the final plat, a limited detailed site plan (LDSP) shall be approved by the Planning Board or its designee for the construction of private on-site recreational facilities on Parcel B, establishing appropriate bonding amounts and determining triggers for construction, in accordance with the *Parks and Recreation Facilities Guidelines*.
17. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFAs) to DRD for construction of recreational facilities on homeowners land for approval prior to the submission of final plats. Upon approval by DRD, the RFA shall be recorded among the County Land Records.
18. The applicant, his heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on homeowners land, prior to the issuance of building permits.
19. Prior to approval of the final plat of subdivision and/or any disturbance occurring on this property, the applicant shall submit a final Phase I archeological investigation, and if determined to be needed by Planning Department staff, a Phase II and Phase III investigation. If necessary, the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist 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.
20. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
  - a. **US 301/Rosaryville Road-Old Indian Head Road intersection**
    - (1) Provide a left turn, and a shared left-through-right turn lane on the eastbound approach
    - (2) Modify the traffic signal that would allow a split phasing in the east-west movement.
21. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees, shall pay a pro-rata share of the road improvements along MD 223 at Roasaryville and Dower

House Roads, as described in the Prince George's County Capital Improvement Program for CIP No. FD666951: 2006-2011 (Md 223 Widening). The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$812.00 per dwelling unit x (*Engineering News Record* Highway Construction Cost Index at the time of building permit application) / (*Engineering News Record* Highway Construction Cost Index for the second quarter 2001).

22. Prior to the issuance of a grading permit for the development, a public safety mitigation fee shall be paid in the amount of \$699,300 (\$3,780 x 185 dwelling units). Notwithstanding the number of dwelling units and the total fee payments noted in this condition, the final number of dwelling units shall be as approved by the Planning Board and the total fee payment shall be determined by multiplying the total dwelling unit number by the per unit factor noted above. The per unit factor of \$3,780 is subject to adjustment on an annual basis in accordance with the percentage change in the consumer price index for all urban consumers. The actual fee to be paid will depend upon the year the grading permit is issued.

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 site is located on the northeast side of Rosaryville Road, approximately 3,500 feet south of its intersection with Woodyard 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
Use(s)	Single-family dwellings	Single-family dwellings
Acreage	141.49	141.49
Lots	0	185
Parcels	2	3
Dwelling Units:	3 (to remain)	185 (182 new)

4. **Environmental**—This 141-acre property in the R-R Zone is located on the east side of Rosaryville Road, approximately 3,500 feet south of its intersection with Woodyard Road. There are streams, wetlands and 100-floodplain on the property. The site drains into Charles Branch in the Patuxent River watershed and into Piscataway Creek in the Potomac River watershed. According to the "Prince George's County Soils Survey" the principal soils on this site are in the Adelphia, Bibb, Fallsington, Marr, Sassafras and Westphalia series. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources, Natural

Heritage Program publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” December 1997, rare, threatened, or endangered species do not occur in the vicinity of this property. No designated scenic or historic roads are affected by this development. There are no nearby sources of traffic-generated noise. The proposal is not expected to be a noise generator. This property is located in the Developing Tier as reflected in the adopted General Plan.

### **Woodland Conservation**

The property is subject to the requirements of the Prince George’s County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in size and contains more 10,000 square feet of existing woodland. A Type I Tree Conservation Plan, TCPI/28/05, was submitted with this application.

The revised Type I Tree Conservation Plan, TCPI/25/05, proposes clearing 42.64 acres of the existing 65.69 acres of upland woodland, clearing 0.06 acre of the existing 8.13 acres of woodland within the 100-year floodplain and the clearing of 1.89 acres of woodland off-site. The off-site clearing is principally for the construction of a sanitary sewer main that is needed to serve not only this development, but also other properties in the area. The woodland conservation threshold for the site is 26.49 acres and the woodland conservation requirement, based upon the proposed clearing, is 41.67 acres. The plan proposes to meet the requirement by providing 21.74 acres of on-site preservation, 7.83 acres of on-site planting, and 12.10 acres of off-site conservation for a total of 41.67 acres. An additional 1.31 acres of woodland will be preserved on-site but not used to meet any requirement.

In addition to the natural reserve illustrated in the Subregion VI Master Plan, the Green Infrastructure Plan shows much of the subject property as an evaluation area, providing an important connection between the Piscataway Creek stream valley, which drains into the Potomac River, and the Charles Branch stream valley, which connects into the Patuxent River. Additionally, this connection is currently in equestrian use by the local community. In addition to preserving the significant environmental features on-site, the plan shows the preservation of a significant portion of the connection between the headwaters of the two stream valleys. It is appropriate that none of the lots of less than 20,000 square feet in area are encumbered with a conservation easement.

The design of the woodland conservation areas generally meet the environmental requirements of Section 24-121(12)(A) and (C) of the Subdivision Regulations for lot size averaging, meet the goals of the Green Infrastructure Plan, and generally satisfy the requirements of the Woodland Conservation Ordinance.

There are some site development and timing issues that need to be addressed. The preservation area shown as PA-8 is isolated and very small and serves no viable purpose. It should be eliminated from being counted toward meeting the requirements. The existing driveway into the site crosses a 100-year floodplain. Staff is concerned that this existing entrance may be converted to a construction entrance during development. This should be prevented because the installation of a

construction entrance will result in the widening of the roadway and unnecessary impacts to the floodplain. A significant amount of reforestation is proposed on-site. To ensure the timely planting of the required reforestation, a timing mechanism is needed. The TCPI doesn't show conceptual house pad locations and conceptual grading based on those locations as required.

### **Natural Resources Inventory and Variation Request to Section 24-130**

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The Subregion VI Master Plan indicates that there are substantial areas designated as natural reserve on the site. As noted on page 306 of the Subregion VI Master Plan:

“The Natural Reserve Area is composed of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas which under the terms of the County's Subdivision Ordinance must be preserved in their natural state.”

For the purposes of this review, the natural reserve includes all expanded stream buffers, the Patuxent River Primary Management Area (PMA), and all isolated wetlands. The natural resource inventory (NRI) shows all of the elements used to delineate the expanded stream buffers, PMA, and isolated wetlands and their buffers. These resources are required to be illustrated on the preliminary plan and the Type I tree conservation plan. These sensitive environmental features comprise the designated regulated areas in the Green Infrastructure Plan.

A revised NRI, NRI/009/05-01, was submitted. Although it has not yet been signed, the changes are based upon floodplain study 200511 approved by the Prince George's County Department of Environmental Resources. This delineation replaces a preliminary 100-year floodplain that had been calculated by the project engineers. The regulated sensitive environmental features and their buffers are correctly delineated on the revised NRI, revised TCPI, and revised preliminary plan.

Impacts to significant environmental features within both the Patuxent and Potomac watersheds are required to be protected by Section 24-130 of the Subdivision Regulations. Impacts to the expanded buffer require variation requests in conformance with Section 24-113 of the Subdivision Regulations. Impacts to the PMA require letters of justification specifically stating how the design preserves the PMA to the fullest extent possible. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. Staff generally will not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines [including sewer and stormwater outfalls], street crossings, and so forth, which are mandated for public health and safety; nonessential activities are those such as grading for lots, stormwater management ponds, parking areas, and so forth, which do not relate directly to public health, safety or welfare.

Variation requests with exhibits were submitted for seven impacts. Impacts 1-4 are for the installation of stormwater management devices, impact 5 is for the connection of the proposed

development to an existing sanitary sewer main that is wholly within the expanded stream buffer. Two proposed impacts, 6 and 7, are for the construction of a trail; however, because the trail is to be unimproved and field-located, no clearing and grading impacts will occur. The condition recommended below addresses the areas illustrated as impacts, which in fact will not result in impacts to the regulated features. Impacts proposed to the PMA are discussed below.

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 the stormwater management outfalls are required by the Prince George's County Department of Environmental Resources to provide for public safety, health and welfare. County Code requires that the proposed development be served by sanitary sewer and public water. 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 the stormwater management facilities shown on the plans to adequately serve the proposed development. The existing sanitary sewer is wholly within the expanded stream buffer.

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

The installation of stormwater management facilities and connection to the existing sanitary sewer are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of



this variation request would not constitute a violation of other applicable laws.

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

The topography provides no alternative for the location of the stormwater facilities that are required to serve the development. The only existing sanitary sewers to serve this property are wholly within the expanded stream buffer. Without the required stormwater management facilities, sanitary sewer connections or water main, the property could not be properly developed in accordance with the R-E zoning.

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

#### **Patuxent River Primary Management Area (PMA)**

Wetlands, streams and 100-year floodplains associated with the Patuxent River watershed occur on this property. These features and the associated buffers, including adjacent slopes in excess of 25 percent and slopes from 15 percent to 25 percent on highly erodible soils, comprise the Patuxent River Primary Management Area (PMA) on the subject property in accordance with Section 24-101(b)(11) of the Subdivision Ordinance. The PMA is correctly delineated on the revised NRI, revised TCPI, and revised preliminary plan. The Subdivision Ordinance mandates that the PMA be preserved to the fullest extent possible. Four impacts to the PMA are proposed.

A letter of justification describing the purposes for four proposed impacts and exhibits showing their locations has been reviewed. Three of the proposed impacts are for stormdrain outfalls and one is for the installation of a sanitary sewer line. The impacts are necessary and sufficient for the development of the eastern half of the property. The total area of the PMA to be impacted is approximately 4,800 square feet. Staff notes that the remainder of the PMA will be placed within

a designated woodland conservation area and the TCPI also shows significant afforestation of areas abutting the PMA that will provide off-setting mitigation for the proposed impacts.

#### **Soils**

According to the "Prince George's County Soils Survey," the principal soils on this site are in the Adelphia, Bibb, Fallsington, Marr, Sassafras and Westphalia series. Adelphia soils often exhibit high water tables and impeded drainage. Bibb soils are associated with floodplains. Fallsington soils are indicative of high water table areas that typically contain wetlands. Marr and Sassafras soils pose no special problems for development. Westphalia soils are highly erodible and are in the C-hydric group.

### **Water and Sewer Categories**

The water and sewer service categories are W-4 and S-4 according to water and sewer maps dated June 2003 obtained from the Department of Environmental Resources. Therefore, the property will be served by public systems.

5. **Community Planning**—The subject property is located within the limits of 1993 Subregion VI Study Area master plan in Planning Area/82A/Rosaryville. The land use recommendation of the master plan for this property is for Low-Suburban residential land use at up to 2.6 dwelling units per acre. The 2002 General Plan placed the site 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. This proposal is in conformance with the recommendations of both plans.
6. **Parks and Recreation**—The proposed subdivision is subject to the mandatory dedication requirements of Section 24-134 of the Subdivision Regulations. The Department of Parks and Recreation recommends that the applicant provide on-site private recreational facilities in lieu of dedication of parkland. The preliminary plan shows a hiker/equestrian path located on Parcels A and B and alludes to additional on-site recreation facilities to be placed on Parcel B. This parcel will be subject to limited detailed site plan approval in accordance with Section 27-445.
7. **Trails**—The adopted and approved Subregion VI master plan indicates several master plan trail connections to Rosaryville State Park. These are envisioned as hiker/equestrian trail connections from surrounding equestrian stables and the local equestrian community to the extensive equestrian trail network and world-class facilities at Rosaryville State Park.

Extensive trails have been developed and mapped in and around Rosaryville State Park and its immediate vicinity. The Rosaryville Conservancy has been especially active in preserving and developing equestrian trails in the vicinity of the subject site and the state park. The conservancy has used a GPS system to map the existing trails in the area, and this network has been added to the draft Countywide Trails Plan, which is one element of the draft Countywide Master Plan of Transportation.

The master plan trail connection shown on the submitted preliminary plan accurately reflects one of the existing trail connections from the surrounding community to Rosaryville State Park. This trail corresponds with a trail connection mapped by the Rosaryville Conservancy and used by the local equestrian community. Staff supports the provision of this trail connection shown by the applicant and recommends the provision of this trail within a wooded buffer on the subject site. The trail should be located within a preserved HOA or conservation buffer with an easement for public use, as recommended in the recently approved Green Infrastructure Plan.

The master plan also designates Rosaryville Road with a Class III bikeway. This can be accommodated through the provision of bikeway signage and a paved shoulder along the site's frontage.

### Sidewalk Connectivity

The adjoining Estonia Estates development includes sidewalks along both sides. Staff recommends the provision of sidewalks along both sides of all internal roads, unless modified by DPW&T.

8. **Transportation**—As part of the development application, the applicant presented staff with a traffic study that was prepared in August 2005.

The study identified the following intersections as the ones on which the proposed development would have the most impact:

EXISTING CONDITIONS		
Intersection	AM (LOS/CLV)	PM (LOS/CLV)
Rosaryville Road-Old Indian Head Road/US 301	D/1,399	C/1,209
Rosaryville Road/Frank Tippet Road	C/1,195	A/918
Rosaryville Road/Woodyard Road (MD 223)	D/1,384	E/1,567
Dower House Road/MD 223 ** (unsignalized)	F/1,959	F/1,475
** Unsignalized intersections are analyzed using the highway capacity software. The results show the level-of-service and the intersection delay measured in seconds/vehicle. A level-of-service "E," which is deemed acceptable, corresponds to a maximum delay of 50 seconds/car. For signalized intersections, a CLV of 1,450 or less is deemed acceptable as per the guidelines.		

The traffic study identified eight background developments whose impact would affect some or all of the study intersections. Additionally, a growth rate of 2 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 (LOS/CLV)	PM (LOS/CLV)
Rosaryville Road-Old Indian Head Rd/US 301	E/1,522	D/1,320
Rosaryville Road/Frank Tippet Road	D/1,387	B/1,135
Rosaryville Road/Woodyard Road (MD 223)	F/1,625	F/1,862
Dower House Road/MD 223 ** (Unsignalized)	F/**** secs.	F/**** secs.

Using the *Guidelines For The Analysis Of The Traffic Impact Of Development Proposals*, the study has indicated that the proposed development of 205 single-family dwelling units will be

adding 154 (31 in; 123 out) AM peak-hour trips and 185 (120 in; 65 out) PM peak-hour trips at the time of full build-out. 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 (LOS/CLV)	PM (LOS/CLV)
Rosaryville Road-Old Indian Head Road/US 301	E/1,540	D/1,347
Rosaryville Road-Old Indian Head Road/US 301/ with Mitigation Imp.	E/1,477	D/1,329
Rosaryville Road/Frank Tippet Road	D/1,397	C/1,163
Rosaryville Road/Woodyard Road (MD 223)	F/1,674	F/1,929
Rosaryville Road/Woodyard Road (MD 223) / with CIP imp.	C/1,286	C/1,249
Dower House Road/MD 223 ** (Unsignalized)	F/**** secs.	F/****

Based on the results indicated above, the traffic study concluded that with the exception of the Frank Tippet Road/Rosaryville Road intersection, all of the signalized intersections within the study area are projected to operate at failing levels-of-service, with or without the subject application. However, with the inclusion of CIP-funded improvements, at the MD 223-Rosaryville Road intersection, the study concluded that that intersection would operate adequately.

Regarding the US 301/Rosaryville Road-Old Indian Head Road intersection, the traffic study identified this facility as being eligible for the use of mitigation as outlined in CR-29-1994 legislation. Specifically, the applicant proposed a re-striping on the eastbound approach (western leg) of the intersection to provide a left-turn lane and a shared left-through-right turn lane. Based on that lane configuration, the intersection would still operate with a CLV that is greater than 1,450; however, the computed CLV under “total condition” would be reduced by a margin that is greater than 150 percent of the site-generated CLV, as required by the mitigation guidelines.

The traffic study did not offer specific improvements that would alleviate the delays at the unsignalized intersection of MD 223 and Dower House Road. It made the assumption that the improvements outlined in the county CIP (FD666951: 2006–2011) will provide capacity improvements. To that end, the study cited previous development cases where the same transportation facilities were being impacted as the ones outlined in the traffic study. Many of those previous cases were allowed to pay a pro-rata share of the overall cost cited in the CIP, and this applicant is offering to pay similar amounts of approximately \$800 per dwelling unit.

In closing, the traffic study offered the following:

**At the US 301/Rosaryville Road-Old Indian Head Road intersection**

- Provide a left turn and a shared left-through-right turn lane
- Modify the traffic signal that would allow a split phasing in the east-west movements

**At the Dower House Road intersection**

- Pay a pro-rata share into the CIP improvements along MD 223 from Rosaryville Road to Dower House Road. The amount will be approximately \$800 per dwelling indexed to the *2001 Construction Cost Index*.

**Transportation Staff review and comments:**

Upon review of the applicant's traffic study, staff does not totally concur with its findings and conclusion. In addition to the planning staff, the study was reviewed by two other agencies, the State Highway Administration (SHA) and the Department of Public Works and Transportation (DPW&T). In a September 26, 2005, memorandum to staff (Issayans to Burton), DPW&T staff suggested that the Frank Tippet Road/Rosaryville Road intersection be modified to provide a two-lane approach on the Frank Tippet leg of the intersection. Additionally, DPW&T also recommended that Rosaryville Road just west of the intersection be widened to accept the two left-turning lanes from the south. DPW&T justifies these improvements based on their perception of delays at the intersection.

While these improvements cited by DPW&T would indeed reduce delays at the intersection, they are not necessary for meeting the minimum level-of-service threshold of "D," pursuant to our guidelines; consequently, staff does not have the basis for making these improvements a condition of approval.

SHA, in its review of the traffic study, provided staff with an October 6, 2005, memorandum (Foster to Foster), in which it made the following findings:

**US 301/Rosaryville Road-Old Indian Head Road intersection**

- SHA found the applicant's mitigation proffer to provide a left turn and a shared left-through-right turn lane to be unacceptable. The agency found that such improvement would necessitate the need to modify the signal timing, resulting in a decrease of the overall efficiency of the intersection operation.

**MD 223/Rosaryville Road intersection**

- SHA has begun the preparation of design drawings for the conversion of the current intersection alignment to a two-lane roundabout. The tentative production date of this proposal would be about the summer of 2006. Consequently, SHA is discouraging any

proposal to upgrade the intersection based on its current configuration.

#### **Dower House Road/MD 223 intersection**

- SHA acknowledged that the applicant did not proffer any specific improvements for this intersection. It further acknowledged that installation of a traffic signal without additional intersection improvements would not provide adequate operations. It therefore suggested the extending of existing turn lanes at all of the approaches, in addition to a traffic signal warrant after the issuance of the 150<sup>th</sup> building permit

#### **Transportation Staff Findings**

Transportation staff has reviewed this application as a preliminary plan of subdivision for a residential development consisting of 205 single-family dwelling houses. The applicant now proposes 185 lots on the site, which does not significantly change the transportation analysis. Using the *Guidelines For The Analysis Of The Traffic Impact of Development Proposals*, the proposed development of 205 single-family dwelling units will be adding 154 (31 in, 123 out) AM peak-hour trips and 185 (120 in, 65 out) PM peak-hour trips at the time of full build-out. The traffic generated by the proposed preliminary plan would impact the following intersections:

- Rosaryville Road-Old Indian Head Rd/US 301
- Rosaryville Road/Frank Tippet Road
- Rosaryville Road/Site Access
- Rosaryville Road/Woodyard Road (MD 223)
- Dower House Road/MD 223 \*\* (unsignalized)

The intersection site access road with Rosaryville Road was projected to operate with delays greater than 50 seconds per car. As mentioned previously, 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.

The following intersections, identified above, are programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program:

- Rosaryville Road/Woodyard Road (MD 223)

- Dower House Road/MD 223 \*\* (unsignalized)

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. 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.

The following intersections, when analyzed with the programmed improvements and total future traffic as developed using the guidelines, were found to be operating at or better than the policy service level defined above:

- Rosaryville Road/Woodyard Road (MD 223)
- Dower House Road/MD 223 \*\* (unsignalized)

The analyses were conducted based on CIP-funded improvements being provided at the MD 223/Rosaryville Road intersection as well as the Dower House Road/MD 223 intersection. While these improvements are shown to be fully funded, that full funding is heavily contingent upon developer contributions. Of the \$2.75 million cost, developer contributions—either direct or via collections of smaller amounts by the county—make up \$2.25 million of the total. For that reason, and because the improvements at MD 223/Dower House Road are needed for adequacy for the subject property, the assumed improvements should occur concurrently with the development of the subject property. Therefore, this application should be conditioned on the improvements, which include signalization and construction of an exclusive right-turn lane along eastbound Dower House Road.

Regarding the intersection of MD 223 and Rosaryville Road, the Planning Board has approved several developments (including Woodyard Estates 4-03064, PGCPB 03-221) where the applicants were conditioned to pay a pro-rata contribution rather than actual construction. Staff finds that a pro-rata contribution of \$812.00 per dwelling from the applicant would be consistent with past practices of the Planning Board.

The US 301/Rosaryville Road-Old Indian Head Road intersection, when analyzed with background as well as total future traffic as developed using the guidelines, was **not** found to be operating at or better than the policy service level defined above. The application meets the geographic eligibility criteria for a Transportation Facilities Mitigation Plan (TFMP) established by the Prince George's County Council in CR-29-1994, "Guidelines for Mitigation Actions." In an effort to mitigate the

failing level-of-service at this intersection, the applicant has proffered the following improvements:

**At the US 301/Rosaryville Road-Old Indian Head Road intersection**

- Provide a left turn and a shared left-through-right turn lane
- Modify the traffic signal that would allow a split phasing in the east-west movements.

If the above-mentioned improvements were implemented, they would lower the site-generated CLVs by a margin of 350 percent. The mitigation guidelines require the site-generated CLVs to be reduced by at least 150 percent. The proposed improvements are therefore deemed to be acceptable by staff. The applicant has also proffered to perform a Signal Warrant Study at the intersection of Rosaryville Road and the proposed site access.

**Transportation Staff Conclusion**

Adequate transportation facilities would not 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 consistent with these findings.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002) and concluded the following.

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 4	Middle School Cluster 2	High School Cluster 2
Dwelling Units	185 sfd	185 sfd	185 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	44.40	11.10	22.20
Actual Enrollment	4395	5307	10580
Completion Enrollment	317.28	189.24	378.24
Cumulative Enrollment	28.32	14.16	28.32
Total Enrollment	4785	5521.50	11008.76
State Rated Capacity	5384	4688	8770
Percent Capacity	88.87%	117.78%	125.53%

Source: Prince George's County Planning Department, M-NCPPC, December 2004



County Council bill CB-31-2003 establishes a school facilities surcharge (as adjusted by the percentage change in the Consumer Price Index for All Urban Consumers) in the amount of \$7,161 per dwelling if a building is located between I-495 and the District of Columbia; \$7,161 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 \$12,276 per dwelling for all other buildings. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The school surcharge may be used for the construction of additional school facilities, which are expected to accommodate the new students that will be generated by this development proposal. The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the policies of Section 24-122.02, CB-30-2003 and CB-31-2003.

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

The Prince George's County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Clinton, Company 25, using the 7 Minute Travel Times and Fire Station Locations map provided by the Prince George's County Fire Department.

The Fire Chief has reported that the current staff complement of the Fire Department is 98.99 percent, which is within the standards stated in CB-56-2005.

The Fire Chief has reported by letter, dated August 1, 2005, that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The Prince George's County Planning Department has determined that this preliminary plan is located in District V. The Prince George's County Police Department reports that the average yearly response times for that district are 23.03 minutes for non-emergency calls, which meets the standard of 25.00 minutes, and 12.96 minutes for emergency calls, which does not meet the standard of 10.00 minutes for emergency calls.

The Police Chief reported that the current staff complement of the Police Department is 1,302 sworn officers and 43 student officers in the academy, for a total of 1,345 personnel, which is within the standard of 1,278 officers.

This application does not meet the emergency response time standard for police. CB-56-2005 provides for mitigation of fire, rescue and police inadequacies through approval of a mitigation plan. These mitigation plans are to be created in accordance with guidelines that have been enumerated by the District Council in CR-78-2005, which establishes a police facilities

mitigation charge (as adjusted by the percentage change in the Consumer Price Index for all urban consumers) in the amount of \$3,780 per dwelling unit. The applicant has committed to the payment of this fee.

12. **Health Department**—The Health Department notes that any abandoned septic recover fields or wells that may be located on the property should be properly abandoned and/or backfilled in accordance with COMAR 26.04.04, if identified. In addition, a raze permit is required prior to the removal of any existing structures.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. The site has an approved stormwater management concept plan (15445-2005-00). To ensure that development of this site does not result in on-site or downstream flooding, development must be in accordance with this approved plan.
14. **Lot Size Averaging**—The applicant has proposed to utilize the lot size averaging (LSA) provision provided for in Section 24-121(a)(12) of the Subdivision Regulations for the portion of this property in the R-R Zone.

This proposed subdivision is in the R-R Zone. Section 27-423 and 27-442(a) of the Prince George's County Zoning Ordinance establishes the zoning requirements for lot size averaging. Specifically, in the R-R Zone:

- a. The maximum number of lots permitted is equal to the gross acreage divided by the largest minimum lot size in the zone (20,000 square feet).
- b. At least 50 percent of the lots created shall equal or exceed the largest minimum lot size in the zone (20,000 square feet). The remaining lots shall be a minimum of 15,000 square feet.

For the 141.49 gross acres located in the R-R Zone, 308 lots would be allowed. The applicant originally proposed 205 lots. Following discussions with staff, the applicant redesigned the layout to be 185 lots with less pavement and additional open space. Of the proposed 185 lots, 105 lots meet or exceed 20,000 square feet. Therefore, the proposed subdivision meets the minimum Zoning Ordinance standards for lot size averaging.

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

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

The use of lot size averaging has facilitated a significant reduction in the potential environmental impacts of development. This approach has allowed for larger areas of tree conservation and preservation throughout the entire site, including priority retention areas.

**B. The subdivision design provides for an adequate transition between the proposed lot sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.**

The layout has provided a buffer of open space (Parcels A and B) along the northwestern, northern and eastern property lines that separate smaller lots from the adjoining properties. With the exception of four lots, the proposed lots that abut the southern property line are consistent with the R-R Zone. These lots range in size between 17,601 square feet and 32,566 square feet and provide for a transition with the proposed lots and the lot size that would be required on the abutting properties if developed. The lots along the southwestern property line, where the site abuts Rosaryville Road, meet the 20,000 square foot minimum, with the exception of Lot 4 at 17,312 square feet. Lot 4 is constricted by the bulb of the cul-de-sac to the east and a required bufferyard along Rosaryville Road to the west, making for an unreasonably narrow developable area. Staff recommends Lot 4 be combined with Lot 5 to ensure consistently deep lots meeting minimum standards are met along the exterior road frontages.

**C. The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.**

The applicant has proposed Parcels A and B along the northwest, north and east property lines to contain the stream and areas of 100-year floodplain that are shared natural features with the properties to the north and east.

Staff supports the applicant's proposal to utilize the LSA provision for the development of this property, with the exception noted above.

15. **Historic Preservation**—The Planning Board has determined that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications, and that potential means for preservation of these resources should be considered. A draft Phase I archeological investigation has been submitted and is now under review by the Historic Preservation staff. Phase II and III investigations may be required based on the results of the Phase I review.

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

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Squire, with Commissioners Eley, Squire, Vaughns and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, November 3, 2005, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 22nd day of December 2005.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:TL:rmk