

R E S O L U T I O N

WHEREAS, Land & Commercial, Alpha is the owner of a 8.56-acre parcel of land known as Parcel 87, Tax Map 96 in Grid A-2, said property being in the 12th Election District of Prince George's County, Maryland, and being zoned R-30 & R-55; and

WHEREAS, on September 27, 2005, Chesapeake Custom Homes filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 2 outlots and 2 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-05055 for Livingston Forest was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on February 16, 2006, 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 DISAPPROVAL of the application with conditions; and

WHEREAS, on February 23, 2006, 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/24/94-01), APPROVED a variation to Section 24-130, and further APPROVED Preliminary Plan of Subdivision 4-05005, Livingston Forest for Parcels, A, B, C and D with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
  - a. Revise the net tract area for density calculation purposes, to remove Parcel A (.11 acre) and Parcel B (1.28 acres), which are encumbered by a parking lot associated with the Northbridge Gardens Apartments, and the R-55-zoned portion of Parcel C (.58), resulting in a net tract area of 6.13 and an allowable density of 73 dwelling units.
  - b. Remove yard, parking and lot coverage notes.
  - c. Indicate the conceptual stormwater management plan approval date.
  - d. Reflect Parcel D to be conveyed to the HOA.
  - e. Correctly reflect that the applicant is proposing 72 units not 70.

2. A Type II tree conservation plan shall be approved with the detailed site plan.
3. Development of this site shall be in conformance with the approved stormwater management concept plan and any subsequent revisions.
4. Prior to the approval of the final plat the applicant shall submit deeds for Parcel B and C, executed by all parties, for the conveyance to the Northbridge Homeowners Association. If the Northbridge Homeowners Association does not agree to accept the conveyance of Parcels B and C, the land shall be retained by the subject condominium association and be reflected on the final plat as outlots. In that case, the record plat shall carry a note that these outlots are encumbered by existing improvements associated with the Northbridge Homeowners Association.
5. Prior to the issuance of a grading permit for the development, A Public safety mitigation fee shall be paid in the amount of \$272,160 (\$3,780 x 72 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.
6. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall convey to the condominium association open space land. 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.
7. Prior to the approval of building permits, the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
  8. The applicant, his heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFA) to DRD for construction of recreational facilities on homeowners land, for approval prior to the submission of final plats. Upon approval by DRD, the RFA shall be recorded among the county land records.
  9. 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.
  10. Prior to signature approval of the preliminary plan, the applicant shall submit a copy of the approved conceptual stormwater management plan and approval letter.
  11. The applicant, his heirs, successors and/or assignees shall provide a standard sidewalk along the subject site's frontage of Livingston Road, unless modified by DPW&T.
  12. Prior to signature approval of the preliminary Plan, the Type I tree conservation plan shall be revised as follows:
    - a. Show all stormwater management outfalls and limits of disturbance in accordance with the SWM Concept Plan;
    - b. Count woodlands located within the right-of-way dedicated for Livingston Road as cleared.
    - c. Revise the Woodland Conservation Worksheet to address changes to the plan; and
    - d. Have the revised plan signed and dated by the qualified professional who prepared the plan.

13. 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/24/94-01), 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.”

14. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffer, except for areas of approved variation, and shall be reviewed by the Environmental Planning Section prior to approval of the final plat. The following note shall be placed on the plat:

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

15. At the time of building permit the applicant shall be required to provide improvements at the intersection of MD 414 and Livingston Road. These improvements include:
- a. Modify the eastbound approach of MD 414 from one left turn lane, one through lane, and one shared through/right turn lane to one left turn lane, one through lane, and one right turn lane.
  - b. Modify the westbound approach of MD 414 from one left turn lane, one through lane, and one right turn lane to one left turn lane, two through lanes, and one right turn lane.
  - c. Modify the traffic signal phasing at MD 414 and Livingston Road by removing the north/south split phasing and adding concurrent north/south phasing with exclusive left turns.
  - d. The applicant will be responsible for any additional signage, pavement markings, and traffic signal modifications at the intersection of MD 414 and Livingston Road.
  - e. The applicant will be responsible for any additional physical road widening at MD 414 and Livingston Road including the lane approaches and receiving lanes as required by the State Highway Administration.
16. Prior to the approval of the detailed site plan within the subject property, the applicant shall conduct a traffic signal warrant study at the intersection of Livingston Road and the Site Access Road and submit it to the Prince George’s County Department of Public Works and Transportation. If a traffic signal is deemed warranted by the Prince George’s County Department of Public Works and Transportation, the applicant shall bond the signal prior to the

release of any building permits within the subject property, and install the signal at a time when directed by DPW&T. The applicant will be responsible for any additional pavement markings and signage at the intersection.

17. The applicant shall dedicate 40 feet of right of way from the master plan centerline of Livingston Road at the time of final plat.

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 Livingston Road approximately 700 feet south of its intersection with Indian Head Highway (MD 210). The property to the north is zoned R-18 and is developed with the Northbridge Garden Apartments. To the east is R-O-S-zoned land owned by M-NCPPC, known as the Glassmanor Park. To the south is one single-family dwelling unit fronting Livingston Road and other undeveloped acreage parcels in the R-55 Zone. The properties directly southwest across Livingston Road from the subject property are zoned C-S-C and C-O and are generally developed with commercial retail and office uses.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	R-30C/R-55	R-30C (7.98 acres) R-55 (.58 acres)
Use(s)	Vacant	Multifamily dwellings
Acreage	8.56	8.56
Parcels	1	2
Oulots	0	2
Dwelling Units:		
Multifamily	0	72
Public Safety Mitigation Fee		Yes

4. **Environmental**—The Environmental Planning Section has reviewed the revised preliminary plan and Type I tree conservation plan for Livingston Forest, stamped as received by the Countywide Planning Division on February 3, 2006. The Environmental Planning Section recommends approval of Preliminary Plan 4-04055 and Type I Tree Conservation Plan TCPI/24/94-01 subject to the conditions.

The Environmental Planning Section has previously reviewed the subject property as Preliminary Plan 4-94037, in conjunction with TCPI/24/94, which were approved with conditions. This preliminary plan expired prior to platting. In 1996, Type II Tree Conservation Plan TCPII/29/96 was approved for rough grading of the access road and was later revised in 2003. This work was never completed. The site was again reviewed in 2004, as Preliminary Plan 4-04015, but was withdrawn prior to the Planning Board hearing. The subject property was last reviewed as Preliminary Plan 4-04191, in conjunction with TCPI/24/94-01, which were withdrawn. The current application requests the subdivision of an 8.56-acre parcel in the R-30C and R-55 Zones to allow the development of 72 residential dwelling units in three multifamily buildings.

### **Site Description**

The site is characterized with terrain sloping toward the north of the property and drains into unnamed tributaries of the Oxon Run watershed in the Potomac River basin. The predominant soil types on the site are Sassafra, Beltsville, Iuka, Aura and Croom. These soil series generally exhibit slight to moderate to severe limitations to development due to steep slopes, impeded drainage, high water table and flood hazard. The site is currently undeveloped and fully wooded for the most part, except for the clearing that has occurred along the northern boundary of the property, due to the incursion of a parking lot constructed with the adjacent Northbridge Gardens project.

Based on information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, within the sensitive species project review area layer there are no rare, threatened or endangered species found to occur in the vicinity of this site. There is a 100-year floodplain and a stream on and adjacent to the site. There are no Marlboro clays or scenic or historic roads located on or adjacent to the subject property. The subject property is located on Livingston Road, a collector roadway generally not regulated for noise. This property is located in the Developed Tier as delineated on the approved General Plan. The site contains network gaps identified on the Countywide Green Infrastructure Plan.

The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the site is larger than 40,000 square feet, contains more than 10,000 square feet of woodlands, and is subject to an approved tree conservation plan. A revised Type I Tree Conservation Plan (TCPI-24/94-01) was reviewed and found to require minor revisions to conform to the requirements of the Woodland Conservation Ordinance.

The woodland conservation threshold for the site is 1.62 acres, with an additional 0.95 acre of replacement based on the clearing of woodlands under the current design, for a total woodland conservation requirement of 2.57 acres. The plan shows the requirement being met with 2.65 acres of woodland preservation on-site, which exceeds the requirement.

Because there are extensive areas of expanded buffer on the site, the woodlands are considered a high priority for preservation. The entire woodland conservation requirement has appropriately been met with on-site preservation. In addition, 1.91 acres of woodlands have been preserved

within the expanded stream buffer, which is not part of any requirements. Minor revisions are needed to the TCPI to bring it into full compliance with the Woodland Conservation Technical Manual.

Almost the entire site is located within the expanded stream buffer delineated on the NRI, due mostly to extensive steep and severe slope adjacent to the stream. Section 24-130(b)(6) of the Subdivision Regulations requires that the plat provides a buffer at least 50 feet in width adjacent to any stream, and that the Planning Board may require the expansion of this buffer to include sensitive environmental areas of the site deemed necessary to protect the stream.

The grading plan submitted with the application shows substantial encroachments proposed into the expanded buffer for the construction of three multifamily residential buildings, an access road, parking areas, retaining walls, and a stormwater outfall.

Staff generally recommends approval of variations to impact the expanded stream buffer for the installation of public road and utilities, if they are designed to preserve the expanded stream buffer to the fullest extent possible. Staff generally does not recommend approval of expanded stream buffer impacts for lots, structures, or septic field clearing and grading when alternative designs would reduce or eliminate the impacts.

A variation request was submitted with the review package for the purpose of constructing three multifamily buildings, a private road, a drain outfall, and associated retaining walls with the expanded stream buffer.

### **Review of the Variation Request Submitted**

The variation request proposes the disturbance of 3.54 acres of steep and severe slopes within the expanded stream buffer in order to develop the site in accordance with the grading plan submitted. The Livingston Forest property is located within the Developed Tier of the General Plan, where planning goals include the encouragement of appropriate infill and capitalization on investments in transportation and other infrastructure. Infill development on this property, where transportation and infrastructure are already available, would be impossible without impacts to the expanded stream buffer. The minimum 50-foot stream buffer has been provided in all areas of the site, and an average stream buffer width of 100 feet has been provided in tree preservation.

Minor impacts to the 100-year floodplain are proposed to provide for a stormwater management outfall and for the location of the access road. Retaining walls are proposed to reduce grading impacts to the steep and severe slopes, and underground parking is proposed for each of the three buildings to reduce the amount of clearing and impervious surface related to the development. The TCPI provides all required woodland conservation as on-site preservation and includes an additional 1.91 acres of preserved woodland not part of any requirement.

Impacts to these buffers are restricted by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113. Even if approved by the Planning Board, the applicant will need to obtain federal and state permits prior to the issuance of any grading permit. Each variation is described individually below. However, for purposes of discussion relating to Section 24-113(a) of the Subdivision Regulations the impacts were discussed collectively. Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

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

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property.

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

The variation requested is not detrimental to the public safety or health, or injurious to any adjacent property. The TCPI proposes to provide all woodland conservation requirements on-site thorough preservation, and additional preservation above requirements. The applicant has proposed significant reductions to the original proposed impacts to assist in the stabilization of the slopes on site while still reasonably developing the property.

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

This property is unique in that the entire site is located within the expanded stream buffer for a stream and 50-foot stream buffer that is located offsite. If this variation were not granted, this infill site within the Developed Tier with existing infrastructure could not be reasonably developed.

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



The variations requested do not constitute a violation of any other applicable law, ordinance or regulation, if approval is obtained from the Department of Environmental Resources for minor impacts proposed to the 100-year floodplain. No federal or state permits must be obtained before the construction can proceed.

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

Due to its shape, location and topography, the entire site is within the expanded stream buffer, and failure to grant the requested variation would constitute a particular hardship by eliminating reasonable use of the site under its existing zoning.

The Environmental Planning Staff has reviewed the proposed impacts to steep and severe slopes within the expanded stream buffer on the subject property, and finds that the proposed subdivision has been designed to minimize the effect of development on land, streams and wetland; assists in the attainment and maintenance of water quality standards; and preserves and enhances the environmental quality of the adjacent stream valley. An expanded stream buffer has been preserved to the fullest extent possible and alternative designs have been explored to reduce and eliminate the impacts to the expanded stream buffer to fullest extent possible while allowing reasonable development of the site. Staff recommends that the Planning Board approve the variation for 3.54 acres of disturbance steep and severe slopes within expanded stream buffer.

#### **Water and Sewer Categories**

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

5. **Community Planning**—The property is located within the limits of the 2000 *Approved Master Plan and Sectional Map Amendment for the Heights and Vicinity, Planning Area 76A* in the Eastover-Forest Heights community. The recommended land use for the site is for urban density. The proposed preliminary plan is consistent with the master plan land use recommendation.

The 2002 General Plan locates the property in the Developed Tier. One of the visions for the Developed Tier is to encourage a network of sustainable medium- to high-density neighborhoods. The preliminary plan is consistent with the recommendations of the 2002 General Plan based on the recommendations and findings of this report.

6. **Parks and Recreation**—In accordance with Section 24-135(b), staff recommends that the applicant provide private on-site recreational facilities to serve the residence. Possible future access from Livingston Road to the existing park facilities to the east may be constructed in the future. At this time a pedestrian trail could conflict with the existing use of the driveway serving the two houses to the east on Parcels 95 and 96. The Department of Parks has indicated a desire to purchase the parcels that are benefited by the easement and surrounded entirely by parkland.
7. **Trails**—There are no master plan trails issues identified in the Approved Heights Master Plan. Livingston Road has sidewalks in most areas where road frontage improvements have been made. If road frontage improvements are required, staff recommends the provision of a standard sidewalk along the subject site's frontage of Livingston Road, unless modified by DPW&T. This is consistent with frontage improvements along Livingston Road in the vicinity of the subject property, and will help to safely accommodate pedestrians along this busy roadway.
8. **Transportation**—The Transportation Planning Section has reviewed the subdivision application referenced above. The subject property consists of approximately 8.56 acres of land in the R-30C and R-55 zones. The property is located inside of the Capital Beltway (I-95/I-495) and near the intersection of MD 210 (Indian Head Highway) and Livingston Road. The applicant proposes a residential subdivision consisting of 72 condominium units. This revision is based on additional information provided by the applicant's traffic consultant.

The applicant submitted a traffic study dated November 28, 2005. An appended traffic study and analysis was provided to TPD staff during February 2006. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

#### **Growth Policy – Service Level Standards**

The subject property is located within the developed tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 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.

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

The applicant has prepared a traffic impact study in support of the application using new counts taken during November 2005. With the development of the subject property, the traffic consultant concluded that all of the signalized intersections would operate within acceptable standards; LOS E with a critical lane volume (CLV) of 1,600 or better, with the exception of MD 414 and Livingston Road. The unsignalized intersection of Livingston Road and Site Access Road is projected to operate with delays exceeding 50 seconds during the AM peak hour. 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 traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections during weekday peak hours:

MD 210/Livingston Road (signalized)  
Livingston Road/Livingston Terrace (signalized)  
Livingston Road/Site Access Road (unsignalized)  
Livingston Road/Birchwood Road (signalized)  
MD 414/Livingston Road (signalized)

The following conditions exist at the critical intersections:

<b>EXISTING TRAFFIC CONDITIONS</b>				
<b>Intersection</b>	<b>Critical Lane Volume (AM &amp; PM)</b>		<b>Level of Service (LOS, AM &amp; PM)</b>	
MD 210/Livingston Road	1,244	752	C	A
Livingston Road/Livingston Terrace	1,108	1,078	B	B
Livingston Road/Site Access Road*	--	--	--	--
Livingston Road/Birchwood Road	1,375	1,081	D	B
MD 414/Livingston Road	1,536	1,538	E	E
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, 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.				

Background developments included 114 apartment units and 349,327 square feet of office space. Background traffic was also increased by one and one half percent to account for overall growth up to the design year 2007. This is the expected year of full build-out. There are no funded capital improvements in the area, so the resulting transportation network is the same as was assumed under existing traffic. Given these assumptions, background conditions are summarized below:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/Livingston Road	1,301	819	D	A
Livingston Road/Livingston Terrace	1,151	1,126	C	B
Livingston Road/Site Access Road*	--	--	--	--
Livingston Road/Birchwood Road	1,432	1,129	D	B
MD 414/Livingston Road	1,735	1,699	F	F
<p>*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.</p>				

Based on background traffic conditions, the signalized intersection of MD 414/Livingston Road will operate at LOS F, with a critical lane volume above 1,600.

The site is proposed for development as a residential subdivision, with 72 condominium units. The trip rates were obtained from the *Guidelines*. The resulting site trip generation would be 49 AM peak hour trips (10 in, 39 out), and 56 PM peak hour trips (36 in, 20 out). With site traffic, the following operating conditions were determined:

<b>TOTAL TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/Livingston Road	1,311	829	D	A
Livingston Road/Livingston Terrace	1,161	1,144	C	B
Livingston Road/Site Access Road	78.3*	32.1*	--	--
Livingston Road/Birchwood Road	1,436	1,139	D	B
MD 414/Livingston Road	1,744	1,710	F	F
*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.				

Staff notes that under total traffic, the signalized intersection of MD 414/Livingston Road will operate at LOS F, with a critical lane volume above 1,600 during the AM and PM peak hours. During the PM peak hour delays exceed 50 seconds at the intersection of Livingston Road and the Site Access Road.

With regard to Livingston Road and the Site Access Road, when delays in any movement exceed 50 seconds, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install a signal if warranted. It is recommended, therefore, that a signal warrant study be done at the time of Detailed Site Plan.

With regard to MD 414 and Livingston Road, the applicant proposed several improvements to mitigate the site's traffic based on a Transportation Facilities Mitigation Plan. Section 24-124 (a)(6) of the County Code authorizes the Planning Board to consider traffic mitigation procedures, identified in Transportation Facilities Mitigation Plans, or TFMPs, to allow development to proceed in certain areas experiencing unacceptable transportation service levels. Mitigation represents a departure from the *Guidelines*. The provision of mitigation could allow development to proceed in certain areas experiencing unacceptable transportation service levels.

The applicant’s traffic consultant proposed three options to mitigate traffic at the intersection of MD 414 and Livingston Road. The *Guidelines* specify five criteria that determine where mitigation may be employed:

1. The development is in a designated revitalization area.
2. The development impacts roads inside the Beltway are built out to ultimate Master Plan sections.
3. The development impacts major regional road facilities which have a significant proportion of external traffic.
4. The development is located within 1 mile of a Metrorail or MARC station.
5. The development is located within ½ mile of a bus stop having 15 minute headways or better and load factors of 100% or less.

Although the applicant has not indicated the criterion by which the site qualifies for the use of mitigation, further study indicates that the site would meet the first criterion. The three proposed options for mitigation that were presented by the applicant for the MD 414/Livingston Road intersection:

**Option 1**

Modify the eastbound MD 414 approach from the existing one left turn lane, one through lane, and one through/right lane to one left turn lane, one through lane, and one right turn lane. Modify the westbound MD 414 approach from the existing one left turn lane, one through lane, and one right turn lane to one left turn lane, two through lanes, and one right turn lane.

<b>IMPACT OF MITIGATION – OPTION 1</b>				
Intersection	LOS/CLV (AM & PM)		CLV Diff (AM & PM)	
<b>MD 414/Livingston Road</b>	--	--	--	--
Background Conditions	F/1,735	F/1,699	--	--
Total Traffic Conditions	F/1,747	F/1,714	+12	+15
Total Traffic Conditions/Mitigation	E/1,548	F/1,720*	-199	+6
<p><b>*It is notable that the proposed mitigation action actually deteriorates the service level during the PM peak hour. Solely for that reason, the transportation staff cannot support Option 1.</b></p>				

**Option 2**

Modify the eastbound MD 414 approach from the existing one left turn lane, one through lane, and one through/right lane to one left turn/through lane, one through lane, and one right turn lane. Modify the westbound MD 414 approach from the existing one left turn lane, one through lane, and one right turn lane to one left/through turn lane, one through lane, and one right turn lane. Modify the MD 414 traffic signal phasing from concurrent signal phasing to split signal phasing.

<b>IMPACT OF MITIGATION – OPTION 2</b>				
<b>Intersection</b>	<b>LOS/CLV (AM &amp; PM)</b>		<b>CLV Diff (AM &amp; PM)</b>	
<b>MD 414/Livingston Road</b>	--	--	--	--
Background Conditions	F/1,735	F/1,699	--	--
Total Traffic Conditions	F/1,747	F/1,714	+12	+15
Total Traffic Conditions/Mitigation	E/1,609	F/1,660	-138	-54

**Option 3**

Modify the eastbound approach of MD 414 from one left turn lane, one through lane, and one through/right turn lane to one left turn lane, one through lane, and one right turn lane. Modify the westbound approach of MD 414 from one left turn lane, one through lane, and one right turn lane to one left turn lane, two through lanes, and one right turn lane. Modify the traffic signal by removing the split phase operation on the north/south approaches (Livingston Rd) and provide exclusive left turn phasing.



IMPACT OF MITIGATION – OPTION 3				
Intersection	LOS/CLV (AM & PM)		CLV Diff (AM & PM)	
<b>MD 414/Livingston Road</b>	--	--	--	--
Background Conditions	F/1,735	F/1,699	--	--
Total Traffic Conditions	F/1,747	F/1,714	+12	+15
Total Traffic Conditions/Mitigation	E/1,548	F/1,684	-199	-30

The State Highway Administration did not support either Option 1 or Option 2, and made the following determinations: “Based upon the inadequate mitigating results for Option #1 improvements at the MD 414/Livingston Road intersection, SHA does not support the acceptance by the M-NCPPC of this proposal. Option #2 improvements at the MD 414/Livingston Road intersection includes the proposal to split phase MD 414....The split phasing of MD 414 will disrupt the through traffic flow along this significant State roadway....Therefore,...SHA recommends that the M-NCPPC require the applicant to explore alternative intersection improvements that will fully mitigate the site traffic impact and will not cause the need to split phase MD 414 at the MD 414/Livingston Road intersection.”

This case was originally scheduled before the Planning Board on February 16, 2006. At that hearing the applicant requested a continuance to the Planning Board hearing of February 23, 2006, because staff was recommending disapproval of the preliminary plan because the mitigation options proposed to SHA were unacceptable (Option 1 and 2).

The applicant’s traffic consultant explored alternative intersection improvements at the intersection of MD 414 and Livingston Road. Option 3 modifies the traffic signal operations at MD 414/Livingston Road and changes the lane configurations of the eastbound and westbound approaches of MD 414. SHA approves Option 3 and the applicant’s recommended changes and modifications.

As noted above, Section 24-124 (a)(6) of the County Code authorizes the Planning Board to consider traffic mitigation procedures, identified in Transportation Facilities Mitigation Plans, or TFMPs, to allow development to proceed in certain areas experiencing unacceptable transportation service levels. Option 3 meets the TFMP’s requirement to mitigate 150% of the site’s impact in each peak hour at MD 414 and Livingston Road.

DPW&T supports Option 1 for providing intersection improvements at MD 414 and Livingston

Road although this is a State Highway Administration intersection. They are also requiring a by-pass lane along Livingston Road at the site's access point. DPW&T's comments are attached.

### **Site Plan Comments**

One site access point is proposed along Livingston Road. It is desirable to align opposite commercial driveways and proposed subdivision roads. Additional information needs to be provided by the applicant at the time of Detailed Site Plan. Staff will also need to review the site access point and circulation patterns at the time of Detailed Site Plan.

As noted above the applicant will be required to provide a by-pass lane along Livingston Road at the site access point to allow motorists to southbound bypass left turning vehicles. The applicant may be required to provide frontage improvements Livingston Road to improve safety, if required by DPW&T. The applicant may also be required to provide any necessary acceleration and deceleration lanes at the site entrance and any other necessary safety improvements.

### **Master Plan Comments**

The *Heights and Vicinity Master Plan* (2000) lists Livingston Road as a collector road with 80 feet of right of way. Dedication of 40 feet from the master plan centerline of Livingston Road would be required. This does not appear to be shown correctly on the subdivision plan, and the record plat must demonstrate correct dedication.

### **Transportation Staff Conclusions and Recommendations**

The applicant's traffic consultant proposed three options for traffic mitigation at the intersection of MD 414 and Livingston Road. Option 3 meets the requirements of Section 24-124 (a)(6) that authorizes the Planning Board to consider traffic mitigation procedures identified in transportation Facilities Mitigation Plans or TFMPs. The recommended improvements, under Option 3 and endorsed by SHA, mitigate 150% of the site's impact at MD 414 and Livingston Road.

The applicant's traffic consultant did not recommend a traffic signal warrant study or other remedies at the intersection of Livingston Road and the site access point where delay will exceed 50 seconds. This is considered an unacceptable operating condition at unsignalized intersections according to the *Guidelines*.

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

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

**Final APF School Numbers**

**Finding**

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 7	Middle School Cluster 4	High School Cluster 4
Dwelling Units	74 sfd	74 sfd	74 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	31.08	4.44	8.88
Actual Enrollment	35388	11453	16879
Completion Enrollment	218	52	105
Cumulative Enrollment	76.56	19.14	38.28
Total Enrollment	35713.64	11528.58	17031.16
State Rated Capacity	39187	11272	15314
Percent Capacity	91.14%	102.28%	111.21%

Source: Prince George's County Planning Department, M-NCPPC, December 2005

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia, \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority, or \$12,000 per dwelling for all other buildings. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,412 and 12,706 to be a paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

10. **Fire and Rescue**— The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(B)(E) of the Zoning 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 Oxon Hill, Company 42, using the *Seven-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 704 (101.73 percent), which is above the staff standard of 657 or 95 percent of authorized strength of 692, as stated in CD-56-2005.

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

The Police Chief has 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 1345 (95 percent) personnel, which is within the standard of 1,278 officers or 90 percent of the authorized strength of 1,420 as stated in CB-56-2005.

11. **Police Facilities**—The Prince George's County Planning Department has determined that this preliminary plan is located in Police District IV. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the proceeding 12 months beginning with January 2005. The preliminary plan was accepted for processing by the Planning Department on 09/27/05.

<b>Reporting Cycle</b>	<b>Date</b>	<b>Emergency Calls</b>	<b>Non-emergency</b>
Acceptance Date	01/05/05-08/05/05	11.00	23.00
Cycle 1	01/05/05-09/05/05	11.00	23.00
Cycle 2	01/05/05-10/05/05	11.00	24.00
Cycle 3	01/05/05-11/05/05	11.00	24.00

The response time standard of ten minutes for emergency calls for police was not met on the date of acceptance or within the following three monthly cycles. In accordance with Section 24-122.01 of the Subdivision Regulations, Preliminary Plan 4-05055 fails to meet the standard for police emergency response time. The Planning Board may not approve a preliminary plan until a mitigation plan between the applicant and the county is entered into and filed with the Planning Board in accordance with the County Council adopted *Guidelines for the Mitigation of Adequate Public Facilities for Public Safety Infrastructure*.

In accordance with CR-78-2005, the applicant has entered into a mitigation agreement and chosen to pay solely the mitigation fee.

12. **Health Department**—The Health Department has no comments.
13. **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 has been submitted but not yet approved. Prior to signature approval of the preliminary plan, the applicant should submit a copy of the concept approval letter and approved plan. The concept approval number and date should be indicated on the preliminary plan. Development must be in accordance with that approved plan to ensure that development of this site does not result in on-site or downstream flooding.

14. **Historic**—Phase I (Identification) archeological survey is not recommended by the Planning Department on the above-referenced property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates no known archeological sites in the vicinity and no known historic structures within the vicinity of the subject property.

Section 106 review may require archeological survey for state or federal agencies, however. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties to include archeological sites. This review is required when federal monies, federal properties, or federal permits are required for a project.

15. The applicant is proposing four parcels. Parcel A (.11 acre) and Parcel B (1.28 acres) are located on the north side of the site, abutting the Northbridge Gardens Apartments. Both of these parcels are encumbered by improvements associated with the apartments to the north. Parcel A is improved with yard area currently grassed and maintained by the Northbridge HOA and Parcel B is improved with a driveway and parking area. The applicant is proposing to convey these parcels to the homeowners association of the Northbridge Garden Apartments. Prior to the approval of the final plat, the applicant should demonstrate the acceptance of this arrangement by that HOA. If that HOA will not accept the conveyance, these parcels should be retained by the HOA for the subject site with the record plat reflecting and acknowledging the existing improvements.

Parcel D (.38 acre) is located along the southern property line; that area of the site is encumbered by an existing 20-foot-wide access easement (Liber 2317 Folio 87). The easement serves two parcels (Parcels 95 and 96) that are in private ownership to the east. The easement provides access to Livingston Road for the existing single-family dwelling units. In addition, the easement is to the benefit of M-NCPPC. Parcel D is proposed to be conveyed to the HOA and will not alter in any way the right of access for Parcels 95 and 96. Eventually, a public trail may be provided from Livingston Road to the existing park facilities to the east if Parcels 95 & 96 are purchased by M-NCPPC.

16. For the purposes of calculating allowable density, the area of the site zoned R-55 cannot be included. Multifamily dwelling units are not permitted in the R-55 Zone. In addition, although not specifically prohibited, the area of the site encumbered with improvements associated with the Northbridge Garden Apartments has not been included in the calculation of net tract area for density purposes.

17. The property has been the subject of three preliminary plans of subdivision: 4-94037 (PGCPB No. 94-278) was approved for the development of 94 multifamily dwelling units, and expired prior to approval of a final plat; 4-04015 was withdrawn by the applicant prior to a Planning Board hearing; and 4-04191 was withdrawn by the applicant due to inadequate fire/rescue services prior to a Planning Board hearing. The original preliminary plan for the subject application proposed the construction of five multifamily buildings with a total of 94 dwelling units. Because of density issues and the fact that the site is almost entirely encumbered by the expanded buffer, the applicant reduced the proposed number of multifamily buildings to three and proposes 72 dwelling units.

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 Vaughns, seconded by Commissioner Squire, with Commissioners Vaughns, Squire, Eley, and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, February 23, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of March 2006.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:WC:bjs