

Case No.: A-9803-C-01
(Amendment of Conditions)
Kenwood Village

Applicants: BHC, Inc.
Mid-Atlantic Builders
Walton Maryland, LLC
Roger M. Lebbin

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL ZONING APPROVAL

AN ORDINANCE to incorporate Applicant(s) acceptance of conditional rezoning to amend conditions, previously approved in Zoning Ordinance 51-1992, which rezoned 15.7 acres of the total 63.10 acreage of the subject property, from R-E (Residential Estates) located on the south side of White House Road, approximately 1,300 feet east of Ritchie Marlboro Road, identified as Tax Map 75, Grids A-4 and B-4, Tax Map 83, Grids A-1 and B-1, and recorded among the Land Records of Prince George's County in Plat Book SJH 242, Plats No. 50-56, in Upper Marlboro, Maryland, to the R-S (Residential Suburban Development) Zone.

WHEREAS, the District Council in enacting Zoning Ordinance 2 -2023, approved the Applicant(s) request to amend certain conditions of Zoning Ordinance 51-1992; and

WHEREAS, the District Council, pursuant to its decision in Zoning Ordinance 2 -2023, deems it appropriate to accept Applicant(s) consent to the conditions as amended, and new or additional conditions, in Zoning Ordinance 2 -2023; and approve final conditional zoning.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

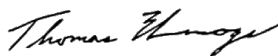
SECTION 1. Final conditional zoning approval of Zoning Ordinance 2 -2023, is hereby granted. Applicant(s) written acceptance of the conditions, as amended, and new or additional

conditions in Zoning Ordinance 2 -2023, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

SECTION 2. Use of the subject property, as conditionally reclassified, shall be subject to all requirements in the applicable zones and to the requirements in the conditions referenced above. Failure to comply with any stated condition shall constitute a zoning violation, and shall constitute sufficient grounds for the District Council to annul the rezoning approved herein; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; and/or to take any other action deemed necessary to obtain compliance.

SECTION 3. This Ordinance is effective March 10, 2023, the date of receipt of the Applicant(s) acceptance of the revised conditions, as amended, and new or additional conditions in Zoning Ordinance 2 -2023.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF THE
MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

By: 

Thomas E. Dernoga, Chair

ATTEST:



Donna J. Brown
Clerk of the Council



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

March 2, 2023

DISTRICT COUNCIL PRELIMINARY NOTICE OF CONDITIONAL ZONING APPROVAL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland, requiring notice of decision of the District Council, a copy of Zoning Ordinance No. 2 - 2023 granting preliminary conditional zoning approval of A-9803-C-01 (Amendment of Conditions) Kenwood Village, is attached.

In compliance with the provisions of Section 27-157(b) of the Zoning Ordinance, the applicant must file a written acceptance or rejection of the land use classification as conditionally approved within ninety (90) days from the date of approval by the District Council. Upon receipt by the Clerk's Office of a written acceptance by the applicant, a final Order will be issued with an effective date for conditional approval shown as the date written acceptance was received by the Clerk's Office.

The failure to accept the conditions in writing within ninety (90) days from the date of approval shall be deemed a rejection. Rejection shall void the Map Amendment and revert the property to its prior zoning classification.

Written approval or rejection of conditions must be received by the Clerk's Office no later than the close of business (5:00 p.m.) on May 30, 2023.

CERTIFICATE OF SERVICE

This is to certify that on March 2, 2023, this notice and attached Order were mailed, postage prepaid, to the attorney/correspondent and applicant(s). Notice of final approval will be sent to all persons of record.

A handwritten signature in cursive script, reading "Donna J. Brown".

Donna J. Brown
Clerk of the Council



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

March 2, 2023

**RE: A-9803-C-01 (Amendment of Conditions) Kenwood Village
Mid-Atlantic Builders, Applicant**

NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed a copy of Zoning Ordinance No. 2 - 2023 setting forth the action taken by the District Council in this case on February 27, 2023.

CERTIFICATE OF SERVICE

This is to certify that on March 2, 2023 this notice and attached Council order were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, reading "Donna J. Brown".

Donna J. Brown
Clerk of the Council

Case No.: A-9803-C-01
Amendment of Conditions
Kenwood Village

Applicants: BHC, Inc.
Mid-Atlantic Builders
Walton Maryland, LLC
Roger M. Lebbin

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 2 –2023

AN ORDINANCE to amend certain conditions in Zoning Ordinance 51-1992,¹ which rezoned 15.7 acres of the total 63.10 acreage of the subject property, from R-E (Residential Estates) located on the south side of White House Road, approximately 1,300 feet east of Ritchie Marlboro Road, identified as Tax Map 75, Grids A-4 and B-4, Tax Map 83, Grids A-1 and B-1, and recorded among the Land Records of Prince George's County in Plat Book SJH 242, Plats No. 50-56, in Upper Marlboro, Maryland, to the R-S (Residential Suburban Development) Zone.

WHEREAS, on November 9, 1992, the District Council granted two application requests or A-9802-C (Zoning Ordinance No. 50-1992) and A-9803-C (Zoning Ordinance No. 51-1992) to rezone the entire 63.10 acres of the subject property and imposed fourteen (14) conditions and four (4) considerations, which were subsequently accepted on January 27, 1993, as follows:

¹ A companion Zoning Ordinance is enacted simultaneously to amend certain conditions in Zoning Ordinance 50-1992 or A-9802-C, which rezoned the remaining 47.3 acres of the subject property and imposed the same conditions and considerations. Enactment of this companion Zoning Ordinance is necessary because when the original applications were filed, A-9803 (or the instant application) requested to rezone 15.7 acres of the subject property to the L-A-C (Local Activity Center) Zone, and A-9802 (the companion application) requested to rezone the remaining 47.3 acres of the subject property from R-E (Residential Estates) to R-M (Residential Medium Development) Zone. After the District Council remanded both applications to the Board for reconsideration, both applications were amended to request rezoning of the entire property from R-E to the R-S (Residential Suburban Development). Subsequently, the District Council granted both applications, subject to the same conditions and considerations. Staff Report, Statement of Justification.

Conditions:

1. No direct access to any residential lots shall be permitted from White House Road or Harry S. Truman Drive.
2. The applicant/developer, his heirs, successors and/or assigns, shall dedicate a 120-foot right-of-way for Ritchie-Marlboro Road relocated (A-39) (Harry S. Truman Drive).
3. The applicant/developer, his heirs, successors and/or assigns, shall dedicate a 60-foot right-of-way from the proposed centerline for White House Road (A-36). The applicant/developer, his heirs, successors and/or assigns, shall construct or bond to construct a half section of White House Road for the entire segment of this roadway through the subject parcel per DPW&T requirements prior to the issuance of building permits. This construction shall accommodate a left turn lane along eastbound White House Road at Harry S. Truman Drive extended (A-38).
4. The location and width of the internal trails proposed shall be evaluated and determined by the Trails Coordinator prior to Phase II approval.
5. At no time prior to Phase II approval or construction of the proposed development shall the Chesapeake Beach trail corridor be damaged, filled with debris or become a storage area for supplies or equipment.
6. There shall be no grading or cutting of trees on the site prior to Phase II approval, except with the written permission of the Planning Board.
7. The minimum lot size shall be 6,000 square feet in Development Envelopes A through D and 10,000 square feet in Development Envelope E.
8. The 50-foot buffers along the east and south boundaries are labeled as non-disturbance buffers and shall include a six-foot high black vinyl clad chain link fence, extending to the east side of Harry S. Truman Drive.
9. A Type I Tree Conservation Plan (TCP) in accordance with the County Woodland Conservation and Tree Conservation Program is required for review by the Natural Resources Division to be approved by the Planning Board prior to CDP approval. Woodland conservation of 25 percent of the net tract is recommended.
10. Phase II shall show consistency with the Patuxent River Policy Plan in buffering of streams.

11. Approval of existing conditions 100-year floodplain and stormwater management concept plan by the County Department of Environmental Resources (DER), prior to the approval of a preliminary plan of subdivision, unless determined by DER prior to submittal of the preliminary plat that this study will not be required until time of Specific Design Plan. At a minimum, the following shall be included: 50-foot buffers between the floodplain and lot lines; stormwater management ponds shall provide 2-10-100-year attenuation; water quality shall be achieved by infiltration or ponds; water quality ponds shall be located outside of wetland areas; and all impervious areas shall drain directly to a water quality facility.
12. The applicant shall submit a 100-year floodplain study and a stormwater management concept plan to DER for approval prior to approval of the preliminary plat of subdivision. The stormwater management concept plan shall also address road improvements to White House Road and construction of Harry S. Truman Drive.
13. The minimum 50-foot non-disturbance buffers along the east and south boundaries shall apply along both sides of all streams and shall be expanded to include the 100-year floodplain, wetlands, steep slopes and soils with erodibility factors of .35 and greater. Such buffers shall be approved by the Natural Resources Division prior to Specific Design Plan, Phase III. Additional screen plantings may be required to provide adequate screening, to be approved by the Urban Design Section.
14. The applicant shall submit a detailed soils study to demonstrate the site is geologically suitable for the proposed development, for approval by the Soil Conservation District and the Natural Resources Division, prior to Specific Design Plan approval.

Considerations:

1. The character and visual image of White House Road shall be protected and maintained through preservation of the undisturbed buffer along both sides of the adjacent stream. The buffer design shall be approved by the Urban Design Section prior to Specific Design Plan approval.
2. The site shall be developed to maintain compatibility with the surrounding neighborhood with emphasis on the boundaries of the subject site. This shall be accomplished through design techniques such as berms, additional screen plantings and through compatible lot sizes prior to Specific Design Plan approval.

3. The depths of all lots adjacent to Harry S. Truman Drive and White House Road shall be adequate to provide visual and sound screening as part of Specific Design Plan approval.
4. The dwellings in all Development Envelopes shall front on the primary street to the greatest extent possible, with the rears of dwellings oriented toward the interior of the envelopes. Landscape Manual buffering requirements shall apply to any dwellings whose rears face Harry S. Truman Drive. Preservation of existing trees shall be the preferred buffering technique to be supplemented as required by the Landscape Manual.

WHEREAS, since the subject property was rezoned in accordance with the conditions and considerations set forth above, a Comprehensive Design Plan (CDP-0303), a Preliminary Plan of Subdivision (PPS 4-06159), and a Specific Design Plan (SDP-0805) were approved but the subject property was not developed in accordance with said approvals; and

WHEREAS, the proposed Basic Plan Amendment is being requested to allow for the re-subdivision of the subject property into as many as 124 smaller lots in order to accommodate a new narrow-frontage detached single-family dwelling type, which will provide a more affordable housing type than currently available detached dwellings, but a larger and more commodious dwelling type than attached townhouses, which is described in detail on Pages 7-9 of the amended Statement of Justification filed on August 8, 2022; and

WHEREAS, while the original Basic Plan approved allowed for the density which will be proposed by the new development, certain Conditions in A-9802-C (Zoning Ordinance No. 50-1992) and A-9803-C (Zoning Ordinance No. 51-1992) will prevent the creation of the lots required to accommodate this new dwelling type; and

WHEREAS, to accommodate this new dwelling type, the application proposes to delete Condition 4, amend Conditions 7, 8, and 13, and minor changes to the Basic Plan layout; and

WHEREAS, on November 2, 2022, the Zoning Hearing Examiner held an evidentiary hearing to consider the application request; and

WHEREAS, on January 25, 2023, the Zoning Hearing Examiner, based on a finding of good cause, recommended approval of the instant application request as follows:

Condition 4 is deleted.

Condition 7 is amended, renumbered Condition 6, and reads: The minimum lot size shall be 4,200 square feet in all development envelopes.

Condition 8 is amended, renumbered Condition 7, and reads: A 50-foot buffer shall be provided along the eastern property boundary and shall include a 6-foot-high black vinyl-clad chain link fence (or approved alternative), extending to the south side of White House Road. The only disturbance to this buffer shall be for the construction of stormwater management facilities located with 550-feet from the right-of-way of White House Road. A 25-foot landscaped buffer shall be provided along the southern property boundary and provide the number of plant units required for a “B” buffer yard, as required by the *2010 Prince George’s County Landscape Manual*, and shall include a 6-foot-high black vinyl-clad chain link fence (or approved alternative), extending to the east side of Harry S Truman Drive.

Condition 13 is amended, renumbered Condition 12, and reads: A 75-foot non-disturbance buffer shall apply along both sides of all streams and shall be expanded to include the 100-year floodplain, wetlands, steep slopes, and soils with erodibility factors of .35 and greater. Such buffers shall be approved by the Environmental Planning Section prior to Specific Design Plan, Phase III. Additional screen plantings may be required to provide adequate screening, to be approved by the Urban Design Section.

WHEREAS, the Zoning Hearing Examiner having found good cause to recommend approval of the instant application, also recommended the imposition of three (3) new or additional Conditions as follows:

14. At the time of review of the Preliminary Plan of Subdivision, the Applicant(s) shall allocate developable areas to provide adequate on-site recreational facilities.

15. The Basic Plan shall be modified to conceptually show a second entrance onto Harry S. Truman Drive extended. At the time of future development applications, the second entrance shall not be required if the Applicant(s) demonstrate the feasibility of reducing the number of access connections to the site through an operational and queuing analysis.
16. The Applicant(s) shall provide an interconnected network of pedestrian and bikeway facilities, internal to the site. The exact location and design of said facilities shall be evaluated with future applications.

WHEREAS, as a basis for its final decision, the District Council adopts the findings and conclusions of the Zoning Hearing Examiner on good cause to approve/grant the instant application request to delete Condition 4, amend Conditions 7, 8, and 13, which are renumbered Conditions 6, 7, and 12, and to impose new or additional Conditions 14, 15, and 16.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland–Washington Regional District in Prince George’s County, Maryland, remains amended, in accordance with Zoning Ordinance 50-1992 and Zoning Ordinance 51-1992, and is further amended in accordance with approval of the instant application request.

SECTION 2. The application as approved/granted is subject to timely acceptance of the following conditions and considerations:

Conditions

1. No direct access to any residential lots shall be permitted from White House Road or Harry S. Truman Drive.
2. The Applicant(s)/developer(s) and the Applicant(s) heirs, successors, and/or assignees shall dedicate a 120-foot right-of-way for Ritchie Marlboro Road relocated (A-39) (Harry S. Truman Drive).
3. The Applicant(s)/developer(s) and the Applicant(s) heirs, successors, and/or assignees shall dedicate a 60-foot right-of-way from the proposed centerline for White House Road (A-36). The Applicant(s)/developer(s) and the Applicant(s) heirs, successors, and/or assignees shall construct or bond

to construct a half section of White House Road for the entire segment of this roadway through the subject parcel per DPW&T requirements prior to the issuance of building permits. This construction shall accommodate a left turn lane along eastbound White House Road at Harry S. Truman Drive extended (A-38).

4. At no time prior to Phase II approval or construction of the proposed development shall the Chesapeake Beach trail corridor be damaged, filled with debris or become a storage area for supplies or equipment.
5. There shall be no grading or cutting of trees on the site prior to Phase II approval, except with the written permission of the Prince George's County Planning Board.
6. The minimum lot size shall be 4,200 square feet in all development envelopes.
7. A 50-foot buffer shall be provided along the eastern property boundary and shall include a 6-foot-high black vinyl-clad chain link fence (or approved alternative), extending to the south side of White House Road. The only disturbance to this buffer shall be for the construction of stormwater management facilities located within 550-feet from the right-of-way of White House Road. A 25-foot landscaped buffer shall be provided along the southern property boundary and provide the number of plant units required for a "B" buffer yard, as required by the *2010 Prince George's County Landscape Manual*, and shall include a 6-foot-high black vinyl-clad chain link fence (or approved alternative), extending to the east side of Harry S. Truman Drive.
8. A Type I Tree Conservation Plan, in accordance with the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance, is required for review by the Environmental Planning Section to be approved by the Planning Board prior to Comprehensive Design Plan approval. Woodland Conservation of 25 percent of the net tract is recommended.
9. Phase II shall show consistency with the Patuxent River Policy Plan in buffering of streams.
10. Approval of existing Conditions, 100-year Floodplain, and Stormwater Management (SWM) Concept Plan by the Prince George's County Department of the Environment (DOE), prior to the approval of a Preliminary Plan of Subdivision, unless determined by DOE prior to submittal of the Preliminary Plan that this study will not be required until time of specific Design Plan. At a minimum, the following shall be included: 50-foot buffers between the floodplain and lot lines; SWM ponds

shall provide 2-10-100-year attenuation; water quality shall be achieved by infiltration or ponds; water quality ponds shall be located outside of wetland areas; and all impervious areas shall drain directly to a water quality facility.

11. The Applicant(s) shall submit a 100-year Floodplain Study and a Stormwater Management (SWM) Concept Plan to the Prince George's County Department of Environmental Resources for approval prior to approval of the Preliminary Plan of Subdivision. The SWM Concept Plan shall also address road improvements to White House Road and construction of Harry S. Truman Drive.
12. A 75-foot non-disturbance buffer shall apply along both sides of all streams and shall be expanded to include the 100-year floodplain, wetlands, steep slopes and soils with erodibility factors of .35 and greater. Such buffers shall be approved by the Environmental Planning Section prior to Specific Design Plan, Phase III. Additional screen plantings may be required to provide adequate screening, to be approved by the Urban Design Section.
13. The Applicant(s) shall submit a detailed soils study to demonstrate the site is geographically suitable for the proposed development, for approval by the Prince George's Soil Conservation District and the Environmental Planning Section, prior to the Specific Design Plan approval.
14. At the time of review of the Preliminary Plan of Subdivision, the Applicant(s) shall allocate developable areas to provide adequate on-site recreational facilities.
15. The Basic Plan shall be modified to conceptually show a second entrance onto Harry S. Truman Drive extended. At the time of future development applications, the second entrance shall not be required if the Applicant(s) demonstrate the feasibility of reducing the number of access connections to the site through an operational and queuing analysis.
16. The Applicant(s) shall provide an interconnected network of pedestrian and bikeway facilities, internal to the site. The exact location and design of said facilities shall be evaluated with future applications.

Considerations

1. The character and visual image of White House Road shall be protected and maintained through preservation of the undisturbed buffer along both sides of the adjacent stream. The buffer design shall be approved by the Urban Design Section prior to Specific Design Plan approval.

2. The site shall be developed to maintain compatibility with the surrounding neighborhood with emphasis on the boundaries of the subject site. This shall be accomplished through design techniques such as berms, additional screen plantings and through compatible lot sizes prior to Specific Design Plan approval.
3. The depths of all lots adjacent to Harry S. Truman Drive and White House Road shall be adequate to provide visual and sound screening as part of Specific Design Plan approval.
4. The dwellings in all development envelopes shall front on the primary street to the greatest extent possible, with the rears of dwellings oriented toward the interior of the envelopes. The *2010 Prince George's County Landscape Manual* (Landscape Manual) buffering requirements shall apply to any dwellings whose rears face Harry S. Truman Drive. Preservation of existing trees shall be the preferred buffering technique to be supplemented, as required by the Landscape Manual.

SECTION 3. Use of the subject property shall be subject to all requirements in the applicable zones and conditions referenced above. Failure to comply with any stated condition herein shall constitute a zoning violation and shall constitute sufficient grounds for the District Council to annul the rezoning approved in Zoning Ordinance 50-1992 and Zoning Ordinance 51-1992; to revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; and/or to take any other action deemed necessary to obtain compliance.

SECTION 4. This Ordinance shall become effective on the date of its enactment.

ENACTED on February 27, 2023, by the following vote:

In Favor: Council Members Burroughs, Blegay, Dernoga, Fisher, Harrison, Hawkins, Ivey, Olson, Oriadha, Watson.

Opposed:

Abstained:

Absent: Council Member Franklin.

Vote: 10-0.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF THE
MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

By: Thomas E. Dernoga
Thomas E. Dernoga, Chair

ATTEST:

Donna J. Brown
Donna J. Brown
Clerk of the Council