

Case No.: A-9975-01  
Locust Hill  
(Amendment of Basic  
Plan and Conditions)

Applicant: WBLH, LLC

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

ZONING ORDINANCE NO. 6-2019

AN ORDINANCE to amend the Basic Plan and Conditions previously approved by the District Council in Zoning Map Amendment A-9975-C.

WHEREAS, the District Council in enacting Zoning Ordinance No. 19-2006, approved A-9975-C, an application to rezone approximately 425.2 acres of land in the R-A Zone and 91.8 acres of land in the R-E Zone, north and south of Oak Grove Road and south of Leeland Road, Upper Marlboro, to the R-L Zone, with a basic plan, subject to conditions; and

WHEREAS, A-9975-01 is a request to amend the Basic Plan and Conditions for Locust Hill to increase the proportion of attached dwelling units, to add conventional townhouses, to revise the layout and to revise conditions of approval pursuant to §27-197(c) of the Zoning Ordinance, on approximately 505.81 acres of land, in the R-L (Residential Low Development) Zone, a Comprehensive Design Zone, located on the north and south sides of Oak Grove Road, west of Leeland Road and east of Church Road, approximately 1.2 miles west of US 301 (Robert Crain Highway), Upper Marlboro, Maryland, Councilmanic Districts 6 and 4; and

WHEREAS, the application was advertised and the property was posted prior to public hearings, in accordance with all requirement of law; and

WHEREAS, the application to amend the Basic Plan and Conditions was reviewed by the Planning Department's Technical Staff; and

WHEREAS, Technical Staff recommended that the application be approved with conditions; and

WHEREAS, after consideration of the evidence presented at the public hearing held on September 20, 2018, the Planning Board recommended that the application be approved with conditions; and

WHEREAS, on November 7, 2018, an evidentiary hearing was held on the application to amend the Basic Plan and Conditions before the Zoning Hearing Examiner; and

WHEREAS, on February 14, 2019, the Zoning Hearing Examiner issued a notice of decision, recommending that the application to amend the Basic Plan and Conditions be approved with conditions; and

WHEREAS, a second evidentiary hearing was held on April 2, 2019 before the Zoning Hearing Examiner, which reopened the record in order to include certain documents<sup>1</sup> and the record was closed at the conclusion of the hearing; and

WHEREAS, on April 2, 2019, the Zoning Hearing Examiner issued a notice of decision reflecting the second evidentiary hearing; and

WHEREAS, the Examiner recommended that the application to amend the Basic Plan and Conditions be approved with conditions; and

WHEREAS, as the basis for its final decision, the District Council adopts and incorporates by reference, as if fully stated herein, the Examiner's decision issued on April 2, 2019.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

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<sup>1</sup> A technically revised Planning Board Resolution dated February 19, 2019 was included in the record during the second evidentiary hearing, April 2, 2019, which was held for the sole purpose of submitting the revised Planning Board Resolution (Exhibit 50) and a revised Affidavit (Exhibit 51) into the record.

SECTION 1. The request to amend the Basic Plan and Conditions for Locust Hill to increase the proportion of attached dwelling units, to add conventional townhouses, to revise the layout and to revise conditions of approval pursuant to §27-197(c) of the Zoning Ordinance, on approximately 505.81 acres of land, in the R-L (Residential Low Development) Zone, a Comprehensive Design Zone, located on the north and south sides of Oak Grove Road, west of Leeland Road and east of Church Road, approximately 1.2 miles west of US 301 (Robert Crain Highway), Upper Marlboro, Maryland, Councilmanic Districts 6 and 4, is hereby conditionally APPROVED.

SECTION 2. Use of the subject property shall be subject to all requirements in the applicable zones and to the requirements in the conditions herein. 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 and Basic Plan as conditionally approved; 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.

Amendment of the Basic Plan and Conditions in A-9975-01, is subject to the following Conditions and Considerations:

### **Conditions**

1. The Basic Plan shall be revised to show the following land use locations, types and quantities:

Total Area:	505.81 acres
Land in the 100-year floodplain:	69.21 acres
Adjusted Gross Area: (total area less half the floodplain (34.6 acres)	471.21 acres
Density Permitted under the R-L Zone:	1.0-1.5 dwellings (d.u.)/acre
Permitted Dwelling Unit Range:	471-706 d.u.

Approved Land Use Types and Quantities\*:

Approved Dwelling Unit Range:	471-706 d.u.
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## Residential Single-Family Detached:

Minimum Range (65%)	306-459 d.u
Maximum Range (90%)	424-635 d.u.

## Residential Attached Dwellings

(attached dwellings shall not exceed 35 percent of the maximum density):

Minimum Range (10%)	47-71 d.u.
Maximum Range (35%)	165-247 d.u.

Total Dwellings	471-706 d.u.
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Public Open Space (parkland and parks, a minimum of 10 acres shall be developable):	58 acres
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Private Open Space Buffer:	65 acres
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\*Maximum achievable density shall be determined at the time of Comprehensive Design Plan (CDP) not to exceed 706 d.u. (Note-single-family detached should include large lot units, with dimensions to be determined at the time of CDP)

2. Development shall preserve the Patuxent River Primary Management Area (PMA) to the fullest extent possible. Impacts to the PMA shall be minimized by limiting the number of road crossings, by making all necessary road crossings perpendicular to the streams, and by using existing road crossings to the extent possible.
3. Alignment of the master planned collector roadway (MC-600) shall be evaluated in detail to determine the location that results in the preservation of the existing natural resources to the fullest extent possible.
4. Natural Resources Inventory (NRI), signed by appropriate staff, shall be submitted with the CDP. All subsequent plan submittals shall clearly show the PMA as shown on the signed NRI.
5. A protocol for surveying the locations of all rare, threatened and endangered species within the subject property shall be obtained from the Maryland Department of Natural Resources prior to the acceptance of the CDP and this protocol shall be part of the submittal package. The completed surveys and required reports shall be submitted as part of any Application for Preliminary Plans.
6. The Woodland Conservation Threshold (WCT) shall be 25 percent. The WCT requirements shall be met on-site. The Type I Tree Conservation Plan required with the CDP Application shall focus on the creation of contiguous woodland. Priority areas for tree preservation shall be concentrated in areas within the framework of the

approved Green Infrastructure Master Plan. No woodland conservation shall be provided on any residential lot.

7. Woodland cleared within the PMA's Preservation Area shall be mitigated on-site at a ratio of 1:1 for all impacts associated with development of the subject parcels. Woodland cleared within the PMA for the construction of the master planned roadway shall be mitigated in conformance with the standards of the Woodland Conservation Ordinance. This note shall also be placed on all Tree Conservation Plans.
8. A Marlboro Clay geotechnical report that identifies the location and elevation of the Marlboro Clay layer throughout the site shall be submitted as part of the CDP Application package.
9. A Phase I noise study shall be submitted with the Preliminary Plan Application package. The noise study should address the location of the 65 dBA Ldn noise contour related to the CSX Railroad tracks, and what mitigation measures, if any, will be required to reduce noise impacts to 65 dBA Ldn in outdoor activity areas.
10. If noise mitigation is required to reduce noise levels to below 65 dBA Ldn in outdoor activity areas, a Phase II noise study shall be submitted with the Preliminary Plan Application package. The Phase II noise study shall address how noise has been mitigated to 65 dBA Ldn in outdoor activity areas and 45 dBA Ldn interior.
11. No residential lots shall be located within 150 feet of the centerline of the CSX Railroad tracks.
12. The Applicant and its heirs, successors, and/or assignees shall provide the following trail facilities.
  - a. Construct the portion of the 10-foot-wide Master Plan hiker-biker trail located on the subject property's portion of the Collington Branch Stream Valley. The 10-foot width of the Master Plan trail may be modified at appropriate locations to respond to environmental constraints. Trail alignments shall be determined by the Department of Parks and Recreation of the M-NCPPC. Appropriate feeder trail connections from the project to the Master Plan hiker-biker trail shall be determined at CDP.
  - b. Construct the 8-foot wide Master Plan hiker-biker trail (extension from Oak Creek development) along the Black Branch stream valley and 6-foot wide feeder trails to the development pods in Locust Hill. Trail alignments shall be determined by the Department of Parks and Recreation.
  - c. Construct a Class I Master Plan trail (or side path) along the subject property's entire frontage of both Oak Grove Road and Church Road. The location of the Class I Master Plan trail (or side path) will be located along or adjacent to the Oak Grove and Church Road rights-of-way, except where environmental

constraints require otherwise. In the event that environmental constraints require a different alignment, the Master Plan trail shall be routed around said constraint to ensure a continuous connection.

- d. The location of trail facilities shall be determined at the time of Comprehensive Design Plan and Preliminary Plan of Subdivision (PPS) review. Any realignment of trails and/or relocation of stream crossings required under this Condition, due to existing environmental constraints, shall be reviewed and approved by the Department of Parks and Recreation (DPR). Any structures required to ensure dry passage shall be reviewed and approved by DPR at time of Specific Design Plan (SDP).
13. In the event the Applicant elects to develop both Locust Hill and the adjacent Willowbrook communities with shared private recreational amenities, the Applicant shall submit for DPR's approval, prior to the time of CDP approval, appropriate covenants that shall be recorded in the County Land Records at the final plat for both the Locust Hill and Willowbrook properties. The covenants are to ensure that residents within both the Locust Hill and Willowbrooks communities will have equal access to membership in and use of open space and recreational facilities in both developments.
  14. At the time of Comprehensive Design Plan and Preliminary Plan of Subdivision submissions, the Applicant or its heirs, successors, and/or assignees shall provide a traffic study that analyzes the following intersections:
    - US 301/MD 725
    - US 301/Village Drive
    - US 301/Leeland Road
    - US 301/Trade Zone Avenue
    - Leeland Road/Safeway Access
    - Oak Grove Road/Church Road
    - Oak Grove Road/MD 193
    - MD 202/MD 193
    - Link of Leeland Road-Oak Road, between US 301 and MD 202
  15. All stream and wetland mitigation for impacts to environmentally regulated site features shall be provided within the Collington Branch watershed, or, if mitigation sites cannot be found, within the Western Branch watershed, to the fullest extent possible, as determined by the permitting agency.
  16. Prior to any ground disturbance or the approval of any grading permits, the Applicant shall ensure that all artifacts recovered from the archeological survey on the subject property are curated in a proper manner and deposited with the Maryland Archeological Conservation Lab at the Jefferson Patterson Park and Museum in St. Leonard, MD. Proof of disposition of the artifacts shall be provided to the Historic Preservation Section.

17. Prior to approval a PPS for that portion of the subject property that is believed to include a cemetery in the southern portion of Parcel 30, the Applicant shall perform archeological investigations of the site to include geophysical survey(s), such as ground-penetrating radar, electrical resistivity and/or magnetometer survey, or limited shovel testing, hand excavation, and selected shallow surface removal, to determine the possible existence of burials. If it is determined that burials are present, the Applicant shall avoid the area defined as containing burials.
18. If a determination is made at the time of CDP, based on the proposed total density, that the proposed dedication of public parkland and public recreational facilities are insufficient, additional on-site and/or off-site dedication of public parkland and/or public recreational facilities shall be provided to satisfactorily meet the recreational needs of this community.
19. At the time of CDP, the Applicant shall demonstrate the public benefit features above those previously required will be provided to justify the density proposed with this Application.
20. These Conditions of approval shall be printed on the face of the Basic Plan prior to approval and submitted to the Office of the Zoning Hearing Examiner for inclusion in the record.
21. The Basic Plan revised in accordance with these Conditions and Considerations shall be approved by the Zoning Hearing Examiner prior to CDP review.

### **Considerations**

1. A detailed analysis of parkland, Master Plan trails, internal trail networks, sidewalk networks and neighborhood connector trails should be completed at the time of Specific Design Plan review.
2. At the time of CDP review, specific acreage of parkland dedications shall be determined. Such dedication should include the Collington Branch and Black Branch stream valleys and 10 acres of developable land for active recreation as provided in the January 27, 2006, memo from the DPR. (A-9975, Exhibit 30(a))
3. At the time of CDP review the Applicant shall address its plan to grade a 10-acre developable portion of the dedicated parkland on the northeast corner of the property next to the Pennsylvania Railroad right-of-way to accommodate ball fields and a parking lot. The parkland shall have a direct frontage on proposed Oak Grove Road.
4. At the time of CDP review the Application shall provide adequate, private recreational facilities to meet the future subdivision requirements for the proposed development. The private recreational facilities shall be constructed in accordance with the standards outlined in the Park and Recreation Facilities Guidelines.

5. The Applicant shall obtain approval from the Planning Board for any transfer of Locust Hill recreation facilities/funds to be used at the Willowbrook property at the time of CDP approval.
6. Single-family dwelling units shall have a range of lot sizes and lot standards to ensure a variety of housing types.
7. To ensure that the increase from 20 percent to 35 percent in single-family attached units will continue to provide a high-quality suburban development and will be in keeping with previous approvals and surrounding developments in terms of site design, lot size, dwelling units size, even "architecture and scale" (Master Plan page 179), at the next stages of the review process, such as at the time of the CDP, PPS, and SDP, the development proposal shall be carefully reviewed and attention should be given to the design of the project to ensure the site provides various lot sizes, house types, and architectural design that is compatible with surrounding land uses.

To support the residential low (R-L) zoning of the community, but also allow the flexibility requested by the Applicant, a varied housing stock is appropriate. The carriage home lot sizes shall be comparable to the CDP approved lot sizes, to be determined with the CDP. This will ensure a more integrated layout with single-family dwellings on varying lot sizes, attached carriage homes on large lots, and townhouses, which will provide for a varied ownership interest that will support an integrated development. The increase in dwelling units and change in house types will require careful site planning to preserve the natural features of the site.

8. As the original Basic Plan required carriage homes, there shall be some percentage of carriage homes provided.
9. An alternative community or institutional use may be provided in lieu of the church site previously approved with A-9975-C.

SECTION 3. The Ordinance shall become effective upon enactment.

ENACTED this 13<sup>th</sup> day of May, 2019, by the following vote:

In Favor: Council Members Anderson-Walker, Davis, Dernoga, Franklin, Glaros, Harrison, Hawkins, Ivey, Streeter, Taveras, and Turner.

Opposed:

Abstained:

Absent:

Vote: 11-0.



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: \_\_\_\_\_  
Todd M. Turner, Chair

ATTEST:

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Redis C. Floyd  
Clerk of the Council