

Case No.: CDP-0506

Applicant: Mercantile Bank Real Estate Services

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

ORDER AFFIRMING PLANNING BOARD DECISION,  
WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the Planning Board's decision in Resolution PGCPB No. 06-274 to approve with conditions a comprehensive design plan for 552 single-family attached and detached residential dwelling units, on property known as Locust Hill, described as approximately 503.53 acres of land in the R-L Zone, located on the north and south side of Oak Grove Road, east of Church Road, and east and west of Popes Creek Branch, Upper Marlboro, is:

AFFIRMED, for the reasons stated by the Planning Board in its resolution, which are hereby adopted as the findings of fact and conclusions of law of the District Council.

Affirmance of the Planning Board's decision is subject to the following conditions.

1. If it is determined that potentially significant archaeological resources exist in the project area, prior to Planning Board approval of the preliminary plan of subdivision, the applicant shall provide a plan for:
  - a. Evaluating the resource at the Phase II level, or
  - b. Avoiding and preserving the resource in place.
2. Prior to signature approval of the subject Comprehensive Design Plan, applicant shall respond adequately in the opinion of Historic Preservation Section staff, to further comments offered by the HPC regarding the Phase I Archeological Investigation Report.
3. Prior to issuance of any building permits for the subject project the applicant and the applicant's heirs, successors, and/or assignees shall provide the following:
  - a. Construct the master trail along the subject site's portion of the Collington Branch. Park dedication and the alignment of the trail shall be coordinated with the Department of Parks and Recreation.
  - b. Construct a Class I Master Plan Trail (or side path) along the subject site's entire frontage of Oak Grove Road.
  - c. Construct a Class I Master Plan Trail (or side path) along the subject site's entire frontage of Church Road.

- d. Construct the master plan trail along the subject site's portion of Black Branch. This trail shall either be within land dedicated to DPR or within a public use easement on HOA land.
4. A detailed analysis of the master plan trails, internal trail network, sidewalk network, and neighborhood connector trails will be completed at the time of specific design plan. Trail locations may be contingent upon the location of environmentally sensitive features and other constraints. Connector trails to the master plan trails, to other park and recreation facilities, and between neighborhoods should be provided.
5. All future submissions to the Development Review Division regarding Locust Hill, CDP-0506 shall indicate the PMA as shown on the NRI submitted with the subject application.
6. All private recreational facilities to be provided for the proposed development shall be constructed in accordance with the standards outlined in the Parks and Recreation Facilities Guidelines.
7. With the submission of each building permit, the applicant, his heirs, successors or assignees shall pay to Prince George's County a fee calculated as  $\$1,550/\text{DU} \times (\text{FHWA Construction Cost Index at time of payment})/(\text{FHWA Construction Cost Index for 2nd quarter, 1989})$  as its share of costs for improvements to US 301 between MD 725 and MD 214.
8. In lieu of the payment of fees which otherwise would be required above, and subject to approval by the Department of Public Works & Transportation (DPW&T) and the State Highway Administration (SHA), the applicant, his heirs, successors or assignees may be required to construct a third northbound through lane on US 301 from a point just north of Leeland Road to a point just north of Trade Zone Avenue. Additionally, the improvement may include a third eastbound left turn lane along Leeland Road at its intersection with US 301. The total cost of these improvements, or other variation determined by SHA shall not exceed an amount calculated as  $\$2,170,000.00 \times (\text{FHWA Construction Cost Index at time of payment})/(\text{FHWA Construction Cost Index for 2nd quarter, 1989})$ .
9. At the time of preliminary plan, the applicant shall be conditioned to dedicate all rights-of-way for MC-600 (Leeland Road) as identified by the Planning Department.
10. Prior to the issuance of any building permit, the following improvements shall be in place, under construction, bonded (or letter of credit given to the appropriate agency for construction), 100 percent funded in a CIP/CTP or otherwise provided by the applicant, his heirs, successors or assignees:
  - a. Leeland Road
    - Construct Leeland Road-Oak Grove Road to provide a minimum of 2 lanes of the ultimate 4-lane master plan alignment between US 301 and MD 193, in accordance with DPW&T standards.

- b. MD 193/Oak Grove Road Intersection (roundabout)
    - The applicant shall provide an exclusive right turn lane at the westbound approach.
  - c. MD 202/MD 193 Intersection
    - Provide a left turn, a shared left/through lane, and a right turn lane on the southbound MD 193 approach.
    - Provide a second left turn on the eastbound MD 202 (towards Upper Marlboro) approach.
11. Prior to the issuance of any building permit, the applicant shall conduct signal warrant studies at the following intersections, and install said signal if deemed to be warranted, or provide an alternate improvement as deemed necessary by DPW&T:
    - Leeland Road/Safeway Access
    - Leeland Road/ Site Access B
    - Leeland Road/ Site Access A
    - Oak Grove Road/ Church Road
    - Oak Grove Road/Whistling Duck Drive
  12. At time of Specific Design Plan submission, each SDP shall include a statement regarding how the proposal uses green building techniques and alternative energy sources.
  13. The following note shall be placed on the preliminary plan and all future Tree Conservation Plans: “All community lighting shall use full cut-off optics and be directed downward to reduce glare and light spill-over.”
  14. Prior to certification of the CDP, note five of the NRI shall be revised to correctly address all rare, threatened, and endangered species on the site. The NRI shall also be revised to include a wetland delineation that includes the area to the east of the railroad tracks.
  15. Prior to certification of the CDP, the TCP I shall be revised to add the following note below the TCPI worksheet: “The acreage of all clearing within the 100-year floodplain is reflected in the worksheet column for PMA clearing and off-site impacts. PMA clearing for the master planned roadways is included in the site clearing calculations.”
  16. The TCP I submitted with the preliminary plan shall identify each clearing area by type: Net Tract Clearing, PMA Clearing (Master Plan Road), PMA Clearing (includes floodplain), and Off-Site Clearing. Each of the clearing types shall be identified using a different symbol. A chart indicating the type and size of each isolated clearing area in its respective category shall also be added to the plan.

17. At least 30 days prior to Planning Board hearing for the preliminary plan, a detailed geotechnical report based on the existing conditions of the site, including the most current topographical information (or as shown on the NRI) shall be submitted. It shall also address the existing outcrop pattern of Marlboro clays and areas of slope stability concerns with respect to the existing conditions. The study shall provide the appropriate plans and/or exhibits, showing the location of all slope stability cross-sections, and identify the unmitigated 1.5 safety factor lines. The unmitigated 1.5 safety factor lines based on that report shall then be placed on the TCP I and the preliminary plan.
18. At least 30 days prior to any Planning Board hearing on the preliminary plan application, the existing conditions and proposed 1.5 safety factor line shall be shown on the preliminary plan and Type I Tree Conservation Plan. No structures, septic fields, or lots less than 40,000 square feet in area shall be placed within the mitigated 1.5 safety factor line. All subsequent plans shall also show this information. If proposed engineering of the site will change the location of the existing 1.5 safety factor line, the proposed 1.5 safety factor line must also be shown on all plans.
19. At least 30 days prior to any Planning Board hearing for the preliminary plan, the associated TCP I shall be revised to show a 100-foot protection buffer for rare, threatened and endangered species with respect to all streams and wetlands on the site. The PMA shall be revised to include that 100-foot buffer. Impacts shown to the 100-foot buffer and PMA on the TCP I associated with the CDP shall be re-evaluated and reduced or eliminated during the review of the preliminary plan. Impacts should be limited to those that are essential for the development of the site.
20. Prior to signature approval of the preliminary plan, a copy of the stormwater management concept plan shall be submitted. The plan shall include the use of sheet flow buffers, vegetated channels, and rooftop and non-rooftop disconnection to the fullest extent possible in addition to other stormwater management techniques.
21. At least 30 days prior to any Planning Board Hearing on the preliminary plan application, a conceptual Habitat Protection and Management Program shall be submitted for approval with the Preliminary Plan of Subdivision. The program shall include, but not be limited to:
  - a. Hydrologic monitoring for a minimum of a year prior to the issuance of the first grading permit to establish a baseline of data, during construction, and post construction for the following elements: water quality, benthic macroinvertebrate, hydrologic flow, sedimentation.
  - b. Monitoring during construction for the following: sediment and erosion control measures, stormwater management controls, special protection measures for rare, threatened and endangered species habitat.
  - c. Monitoring of the rare, threatened and endangered species during and post-construction.

22. At least 30 days prior to any Planning Board hearing on the first SDP application, a detailed Habitat Protection and Management Program shall be submitted to be approved with the first SDP which addresses specific implementation methodologies for the long-term protection and assessment of the rare, threatened and endangered species habitat on this site. Prior to issuance of the first grading permit, a minimum of one year of hydrologic monitoring data, as determined by the program, shall be submitted, to establish a baseline for evaluation impacts to the RTE habitat resulting for construction activities, and post development.
23. As part of the submission package for the first SDP, a plan and text shall be submitted that addresses a sediment and erosion control protocol that is more stringent than the minimum required. It shall include phasing of the site in such a way that the erosion prevention and sediment control mechanisms such as sediment basins stay in place until the last lot is built in the phase. The plan shall incorporate additional control measures and inspections to ensure maximum filtration of runoff and complete implementation of the plan. The package will be reviewed by the Environmental Planning Section staff in coordination with the staff of the Soil Conservation District.
24. Prior to certificate approval of the CDP, the TCP I shall be revised as follows:
  - a. Add the following note: "The limits of disturbance shown on this plan are conceptual and do not depict approval of any impacts to regulated features."
  - b. Clearly identify the proposed master planned trails and show the associated width.
25. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or Waters of the U.S., copies of all federal and State wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans shall be submitted to the Planning Department.
26. Prior to certification of the CDP, the Type I Tree Conservation Plan, TCP I/24/06, shall be revised as follows:
  - a. Add the following note: "Woodland cleared within the PMA 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."
  - b. Revise note 1 as follows: "This plan is conceptual in nature and is submitted to fulfill the woodland conservation requirements of CDP-0506. The TCP I will be modified by a TCP I in conjunction with the review of the Preliminary Plan of Subdivision and subsequently by a Type II Tree Conservation Plan (TCP II) in conjunction with the approval of a SDP and/or a grading permit application."
  - c. Add the following note: "Reforestation and afforestation areas shall be delineated on-site through the use of two-rail split-rail fences or some other permanent device that is aesthetically compatible with the development. Fence locations and details shall be specified on the Type II TCP."

- d. Calculate all woodland on lots less than 20,000 square feet as woodland cleared, add lot sizes to the plan, add a table calculating all woodland treatment areas, and label all areas appropriately.
  - e. Eliminate the use of a “proposed tree line” and only use a limit of disturbance.
  - f. Show a continuous match-line for each match-line boundary on each sheet.
  - g. Show one continuous limit of disturbance for all areas proposed for development, particularly the master planned roadway located outside the eastern boundary of the site.
  - h. Remove the proposed structure from the parcel located north of Lot 1, Block G.
  - i. Show the conceptual clearing for Parcels R and T.
  - j. Add the following note: “Prior to contract signing, the seller shall show the prospective buyer a copy of this Type I Tree Conservation Plan or the subsequent Type II Tree Conservation Plan, whichever plan is most current and has received signature approval, as required by CB-60-2005.”
  - k. Revise the worksheet as necessary.
  - l. Have the plans signed and dated by the qualified professional who prepared the plans.
- 27. Prior to signature approval of the preliminary plan, submit written authorization from the Department of Parks and Recreation for any woodland conservation provided on land to be dedicated.
  - 28. At the time of Specific Design Plan, the SDP and TCP II shall have the same sheet sections, sheet key, and sheet order. The sheet key shall be placed on all sheets.
  - 29. Prior to the issuance of the building permits for lots adjacent to planting areas, all afforestation and associated fencing shall be installed. A certification prepared by a qualified professional may be used to provide verification that the afforestation and fence installation have been completed. It must include, at a minimum, photos of the afforestation areas and the associated fencing for each lot, with labels on the photos identifying the locations, and a plan showing the locations where the photos were taken.
  - 30. At least 30 days prior to Planning Board hearing for the preliminary plan, the TCP I associated with that plan shall be revised to show the scenic easement with a minimum width of 40 feet located outside of the ultimate right-of-way and exclusive of the public utility easement and proposed master planned trail adjacent to the realigned Oak Grove Road.
  - 31. At the time of Specific Design Plan, all planting within the scenic easement shall be native plant material.

32. At time of final plat, a 40-foot-wide scenic easement shall be established adjacent to Oak Grove Road, and a note shall be placed on the final plat as follows:  
  
 “Oak Grove Road is a designated Historic Road. The scenic easement described on this plat is an area 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.”
33. The applicant shall dedicate 48± acres of parkland to M-NCPPC, including the Collington Branch and Black Branch Stream Valleys, and 8.5 acres of developable land for active recreation as shown on DPR Exhibit “A.”
34. The land to be conveyed to the M-NCPPC shall be subject to the conditions of attached Exhibit “B.”
35. The applicant shall construct recreational facilities on dedicated parkland typical for the neighborhood park. The applicant shall develop the park development concept plan and incorporate into the preliminary plan of the subdivision. The concept plan shall be reviewed and approved by DPR staff.
36. The applicant shall construct an eight-foot-wide master plan hiker/biker trail along Collington Branch Stream Valley, and six-foot wide feeder trails to the development pods. The applicant shall connect the section of the master planned trail in Locust Hill to the trails in the Beech Tree and Woodside Village developments. The applicant shall construct any needed structure to provide a dry passage.
37. The applicant shall construct an eight-foot-wide hiker/biker trail (extension from Oak Creek) along Black Branch Stream Valley, and six-foot-wide feeder trails to the development pods. The applicant shall connect the master plan trail to the Oak Creek trail system. The applicant shall construct any needed structures to provide a dry passage.
38. Prior to submission of the Specific Design Plan (SDP), the applicant shall develop detailed construction drawings for park facilities and submit them to DPR for their review and approval, prior to submission of the SDP.
39. All trails shall be constructed to assure dry passage. If wet areas must be traversed, suitable structures shall be constructed. Designs for any needed structures shall be reviewed by DPR.
40. The handicapped accessibility of all trails shall be determined during SDP review.
41. The applicant shall allocate appropriate and developable areas for the private recreational facilities on Home Owners Association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of the DRD for adequacy and property siting. The private recreational package shall be approved by Planning Board at the time of SDP.

42. The applicant shall provide suitable vehicular access to the parkland from realigned Oak Grove Road at the location approved by DPR and DPW&T staff.
43. All additional accesses to the parkland from development pods shall be at least 30 feet wide.
44. The applicant shall work with the owners of Parcels 2 and 6 to realign the existing access driveway and easement from Leeland Road to the properties on the north to minimize impacts to the planned park. The final determination of the easement location shall be made at the time of preliminary plan of subdivision.

Ordered this 9th day of April, 2007, by the following vote:

In Favor: Council Members Exum, Bland, Campos, Dean, Dernoga, Harrington, Knotts, Olson and Turner

Opposed:

Abstained:

Absent:

Vote: 9-0

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: \_\_\_\_\_  
Camille A. Exum, Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council