

Case No.: CDP-0601

Applicant: MD XI, L.P.

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. 08-121, approving with conditions a comprehensive design plan for construction of up to 1,496 residential dwelling units, to include about 1,276 attached and detached single-family units, and 220 multifamily units, for a project referred to as Woodside Village, described as 381.96 acres in the R-M Zone, located on the southern side of Westphalia Road, approximately 2,000 feet west of its intersection with Ritchie-Marlboro Road, Upper Marlboro, is hereby:

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. Prior to signature approval of the subject CDP, the applicant shall revise the plans as follows and/or provide the specified documentation:
 - a. Provide documentation that the Department of Parks and Recreation staff shall review and approve the revised comprehensive design plan that shows approximately 61 acres of parkland dedication.
 - b. Provide the master plan Hiker-Biker-Equestrian Trail along the subject site's entire portion of the Cabin Branch Stream Valley subject to Department of Parks and Recreation coordination and approval.

- c. Provide an eight-foot-wide side path or wide sidewalk along the subject property's entire frontage of Suitland Parkway extended (MC-631), unless modified by DPW&T.
- d. Provide an eight-foot-wide side path or wide sidewalk along the subject site's entire road frontage of Westphalia Road (C-626), unless modified by DPW&T.
- e. Provide bicycle and pedestrian accommodations along P616, unless modified by DPW&T. The exact nature of accommodations will be determined at time of specific design plan approval.
- f. Provide an eight-foot-wide side path or wide sidewalk along the subject site's entire road frontage of P-619, unless modified by DPW&T.
- g. Provide standard sidewalks along both sides of all internal roads (excluding alleys), unless modified by DPW&T.
- h. Provide the internal connector trails as conceptually shown on the submitted landscape and recreation plan.
- i. The lighter orange color utilized on the comprehensive design plan graphic shall be included in the legend for the plan and correctly identified as a single-family detached use and the spelling of the adjacent Marlboro Ridge development shall be corrected.
- j. A note shall be added to the subject comprehensive design plan document stating that:
 - 90 percent of all single-family detached models shall have a full front façade (excluding gables, bay windows, trim, and door) of brick, stone, stucco, or other masonry treatment. At time of SDP approval, applicant may request that the Planning Board allow other masonry materials of equivalent quality.
 - At least 90 percent of all single-family attached units shall have a full front façade (excluding gables, bay windows, trim and door) of brick, stone, stucco, or other masonry treatment. At time of SDP approval, applicant may request that the Planning Board allow other masonry materials of equivalent quality.
 - All chimneys shall be of masonry or stone.
 - Every side elevation on a corner lot that is visible from the public street shall display significant architectural features as provided in one of the following options:
 - 1. Full brick, stone, stucco, or other masonry treatment (excluding gables, bay windows, trim and door) combined

with at least three windows, doors, or other substantial architectural features: or

2. Brick, stone, stucco, or other masonry treatment (excluding gables, bay windows, trim and door) with at least four windows, or one side entry door. At time of SDP approval, applicant may request that the Planning Board allow other masonry materials of equivalent quality.
 - Architecture for the condominium buildings shall be of a balanced and harmonious design and shall include at least 80 percent brick, stone, stucco, or other masonry treatment. At time of SDP approval, applicant may request that the Planning Board allow other masonry materials of equivalent quality.
 - Specific architecture for the project shall be approved at time of specific design plan approval for the project.
- k. All wood specified for the project to be used for benches and other amenities shall be replaced by a durable, non-wood, low sheen construction material to be approved more particularly at time of approval of specific design plan(s) for the project.
- l. A continuous buffer of green space/open area shall be provided at the periphery of the project. Exceptions to this requirement will be along the shared property line with the Sun Valley Estates subdivision to the west, and where roads and/or sidewalks or trails cross the site's boundaries and along the southeastern boundary where it is intended to provide a lotting pattern/street network that will dovetail with that of a replatted Marlboro Ridge.
- m. A note shall be added to the plans stating that the homeowners association park site be completed prior to the issuance of the 748th building permit for the project. In the interim, the applicant will coordinate a program by which the residents may use the community center and pool in the adjacent Marlboro Ridge development until the homeowner's association park site can be completed.
- n. A note shall be added to the plans that the following design guidelines should be adhered to for development of the townhouse lots:
 - That no more than 60 percent of the units included in the development be townhouse/two over two units.
 - That no townhouse (with the exception of rear loaded townhouses) yard shall measure smaller than 800 square feet if the unit does not have a deck and no less than 500-square feet if a deck is provided.

- That a maximum of 15 percent of the townhouse/two over two units measure a minimum of 16 feet wide, with the remainder of the townhouse/two over two units measuring a minimum of 18 feet wide.
2. Prior to approval of a preliminary plan for the subject site:
- a. The applicant shall prepare a draft perpetual maintenance easement for the Magruder Family Cemetery to be attached to the legal deed (i.e., the lot or parcel delineated to include the cemetery). Evidence of this easement shall be presented to and approved by the Planning Board or its designee prior to final plat.
 - b. The applicant shall demonstrate that the Dunblane (Magruder family) Cemetery (Historic Resource #78-010) shall be preserved and protected in accordance with Section 24-135.02 of the subdivision regulations including:
 - (1) An inventory of existing cemetery elements which shall be provided to Historic Preservation staff for review and approval.
 - (2) Measures to protect the cemetery during development, which shall be provided to Historic Preservation staff for review and approval.
 - (3) An appropriate fence or wall constructed of stone, brick, metal or wood shall be maintained or provided to delineate the cemetery boundaries. The design of the proposed enclosure and a construction schedule shall be reviewed and approved by Historic Preservation staff.
 - c. The applicant shall be conditioned to dedicate all rights-of-way for Westphalia Road as identified by the Planning Department.
 - d. The TCPI shall be revised to conceptually show the proposed stormwater management ponds as amenities and be labeled as such.
 - e. The Primary Management Area shall be preserved to the greatest extent possible. Protection and restoration of these areas is a priority. Impacts shall be limited to necessary road crossings, installation of sanitary sewer lines and connections, creation of a lake, a portion of which may be located on the subject property and stormwater management outfalls. PMA impacts for the trails and future lake on property to be dedicated to M-NCPPC will be evaluated at time of preliminary plan and subsequent specific design plan review.

3. Prior to the acceptance of a specific design plan application (or applications) for the area including 18PR894, 18PR898, 18PR900, 18PR901 or the cemetery:
 - a. The applicant shall provide a final report detailing the Phase II investigations on sites 18PR894, 18PR898, 18PR900, and 18PR901, and shall ensure that all artifacts are curated to MHT standards.
 - b. If an archeological site has been identified as significant and potentially eligible to be listed as a Historic Site or determined eligible to the National Register of Historic Places, the applicant shall provide a plan for:
 1. Avoiding and preserving the resource in place; or
 2. Phase III Data Recovery investigations and interpretation.
 - c. The applicant's Phase III Data Recovery plan, if required, shall be approved by The M-NCPPC staff archeologist. The Phase III (Treatment/Data Recovery) final report, if required, shall be reviewed for compliance with the *Guidelines for Archeological Review* before any ground disturbance or before the approval of any grading permits within 50 feet of the perimeter of the archeological site(s) identified for Phase III investigation.
 - d. The applicant shall provide for buffering of the Magruder/McGregor Family Cemetery and/or an archeological site designated as a Historic Site, in compliance with the *Prince George's County Landscape Manual*.
 - e. The applicant shall provide a plan for any interpretive signage to be erected (based on the findings of the Phase I, Phase II, or Phase III archeological investigations). The location and wording of the signage shall be subject to approval by the Historic Preservation Commission and M-NCPPC staff archeologist.
4. Prior to the issuance of the first building permit for the development, the applicant shall:
 - a. The applicant and the applicant's heirs, successors and/or assignees, shall pay a pro-rata share of the cost of construction of an interchange at MD 4 and Old Marlboro Pike-Westphalia Road. The pro rata share shall be payable to Prince George's County (or its designee), with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be \$522.47 per dwelling unit x (*Engineering News Record* Highway Construction Cost Index at the time of building permit application) / (*Engineering News Record* Highway Construction Cost Index for the second quarter 2006).

- b. The applicant shall have the option to obtain approval of a Transportation Facilities Mitigation Plan (TFMP) at time of preliminary plan, pursuant to the *2002 Guidelines for the Analysis of the Traffic Impact of Development Proposals* in lieu of providing a pro-rata contribution pursuant to condition 4(a).
- c. The above improvement shall have full financial assurances through either private money and/or full funding in the CIP, in a SCRP, (which requires the Planning Board to adopt a resolution establishing the SCRP) State CTP, Public Financing Plan approved by the Council.
- d. Prior to the issuance of any building permits within the subject property, except model homes within the subject property, the following road improvements or sections of roads shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
 - (1) **Sansbury Road/Ritchie Marlboro Road intersection (signalized)**
 - Install a third westbound and eastbound through lane on Ritchie-Marlboro Road.
 - (2) **White House Road/Ritchie-Marlboro Road intersection**
 - Restripe the three approach lanes of northbound Ritchie-Marlboro Road to provide double left and a shared left-thru-right-turn lane.
 - Provide a third through lane along westbound Ritchie Marlboro Road to receive traffic from three left-turn lanes.
 - (3) **Westphalia Road/ MD 4 intersection**
 - Provide a pro-rata contribution pursuant to conditions 4(a) and 4(c), or fully fund the improvement(s) approved in a TFMP.
 - (4) **D'Arcy Road and Westphalia Road**
 - Conduct a signal warrant study and install signal if deemed necessary by DPW&T.
 - (5) **D'Arcy Road and Sansbury Road**
 - Conduct a signal warrant study and install signal if deemed necessary by DPW&T.

- e. Prior to the initial SDP for residential units a timetable for the phasing, construction, and financing of the following road improvements shall be determined:
- (1) **Westphalia Road**
 - Construct a standard collector section along the south side of Westphalia Road along the property frontage
 - (2) **Westphalia Road and Ritchie Marlboro Road**
 - Conduct a signal warrant study and install signal if deemed necessary by DPW&T. The timing for the installation of a signal shall be determined by DPW&T prior to the first SDP.
5. Prior to approval of the final plat that includes the park/school site acreage, the applicant shall dedicate approximately 61 acres parkland to M-NCPPC as shown on Department of Parks and Recreation Exhibit "A", which shall be conveyed to M-NCPPC subject to the conditions of DPR's Exhibit "B", included as plat notes on the final plat.
6. Prior to issuance of each building permit for a residential unit, per the applicant's proffer, the applicant and the applicant's heirs, successors and/or assignees shall make a monetary contribution or provide in-kind services in the amount of \$3,500 per dwelling unit in 2006 dollars. The applicant may make a contribution to the "park club" or provide an equivalent amount of recreational facilities. The choice between a monetary contribution and the provision of in-kind services shall be at the sole discretion of the Department of Parks and Recreation. Notwithstanding the above, DPR acknowledges that it prefers that the applicant provide in-kind services (such as park improvements, trails, crossing, etc.) and that DPR's approval of said services shall not be unreasonably withheld. The value of the recreational facilities shall be reviewed and approved by the Department of Parks and Recreation staff. Monetary contributions may be used for construction, operation and maintenance of the recreational facilities in the central park and/or the other parks that will serve the Westphalia Study Area. The park club shall be established and administered by the Department of Parks and Recreation.
7. Prior to the first final plat of subdivision, the applicant shall enter into an agreement with the Department of Parks and Recreation establishing a mechanism for payment of fees into an account administered by M-NCPPC. The agreement shall note that the value of the in-kind services shall be determined by the DPR staff based on a cost estimate to be provided by the applicant. If not previously determined, the agreement also shall establish a schedule for payments and/or a schedule for park construction. The payment shall be adjusted from the base year of 2006 pursuant to Consumer Price

- Index (CPI) to account for inflation. The agreement shall be recorded in the Prince George's Land Records by the applicant prior to final plat approval.
8. The applicant shall develop a specific design plan (SDP) for the portion of Central Park on the Woodside Village Site. The SDP for the Central Park shall be submitted to the Planning Board in conjunction with the SDP containing the 225th dwelling unit for the area covered by CDP-0601. A specific design plan shall be prepared by a qualified urban park design consultant working in cooperation with a design team from the Department of Parks and Recreation. Department of Parks and Recreation staff shall review the credentials and approve the selected design consultant, prior to development of the SDP plans. The SDP shall include a phasing plan. Should the applicant seek to have the residential component of CDP-0601 included in a single specific design plan, plans for the approximately 61-acre park/school site shall be included in that plan. The public recreational facilities shall include a ten-foot-wide asphalt master planned trail along the Cabin Branch and a six-foot-wide trail connectors to the neighborhoods. 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 and approved by the Department of Parks and Recreation. Grade separated crossings shall be provided for the master planned Cabin Branch Stream Valley Trail at all major road crossings. The SDP for the Central Park shall identify the needed road crossings the value of which shall be credited to the applicant as an in-kind-contribution toward its required per dwelling park fee.
 9. The recreational facilities to be constructed on dedicated parkland shall be built in phase with development but no later than the issuance of the 748th building permit.
 10. Three original, executed recreational facilities agreements (RFA) for the construction of the recreational facilities on dedicated parkland shall be submitted to DPR for its approval, six weeks prior to a submission of a final plat of subdivision for any land adjoining the parkland. Upon approval by the DPR, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
 11. A performance bond, letter of credit or other suitable financial guarantee, in an amount to be determined by the Department of Parks and Recreation, shall be submitted to DPR at least two weeks prior to applying for the first grading permit for the Central Park property or the issuance of the 600th building permit whichever comes first.
 12. At least 35 days prior to any public hearing for specific design plans for each portion of the property containing a stormwater management pond, the stormwater management ponds shall be designed as visual and recreational amenities to the community with features such as utilizing the natural contours of the site, providing extensive landscaping, providing walking trails where appropriate, and may include stormwater management techniques, such as the use of forebays to trap sediment, bioretention, french drains, depressed parking lot islands, and the use of native plants as approved by DPW&T.

13. Private recreational facilities for the project, the majority of which shall be located on the centrally-located homeowner's association land, shall consist of the following facilities or alternate facilities of equal value of \$1,853,600± which shall be determined at time of SDP:
- 2 picnic areas
 - 3 sitting areas
 - 4 tot lots
 - 2 open play areas
 - 2 pre-teen areas
 - 4 tennis courts
 - 1 swimming pool with six lanes (25 meters long) with at least a 30-foot by 30-foot training area and additional area for wading for toddlers
 - 1 volleyball court
 - 1 basketball court
 - 1 community building including a meeting room measuring a minimum of 5,000 square feet in addition to space acquired by pool facilities or as may be increased at the time of consideration and approval of the specific design plan for the subject project that includes the community building.

Recreational facilities not located on the centrally-located homeowners' association land shall be distributed throughout the subdivision so that all units have convenient access to a portion of the recreational facilities. Phase 5 of the deployment, which includes the centrally-located homeowners' association land, shall be completed prior to the issuance of the 748th building permits, while the remainder of the private recreational facilities shall be completed as they are included on individual specific design plans and prior to issuance of 50-percent of the building permits for units included on each respective specific design plan. Exact location of all the recreational facilities for the development shall be generally in accordance with Applicant's Exhibit #1 and confirmed at time of specific design plan approval.

14. At least 35 days prior to any Planning Board hearing on the preliminary plan,
- a. A stream corridor assessment using the Maryland Department of Natural Resources protocol shall be submitted and used to further develop the stormwater management design for the site. Outfalls shall be carefully placed to ensure stream stability. If stream restoration recommendations are appropriate, they shall be included in the report and shown on the specific design plan. Streams shall not be piped unless absolutely necessary to address a water quality or water conveyance problem.

- b. The applicant shall coordinate a joint meeting with the staff reviewers of DPW&T, DPR and the Environmental Planning Section of M-NCPPC to evaluate the results of the stream corridor assessment and recommend the final stormwater design for the site.
 - c. The NRI shall be revised to correctly show the total acreage of the site, total floodplain acreage, and the total wooded acreage in the floodplain for the subject site. Any other figures that need to be corrected as a result of these changes shall also be revised.
15. Prior to acceptance of the review package of the SDP, it shall be evaluated to ensure that it includes a statement from the applicant regarding how green building techniques and energy conservation methodologies have been incorporated to the greatest extent possible.
16. The following note shall be placed on all future plans for the project:
NOTE: All on-site lighting shall use full cut-off optics and be directed downward to reduce glare and light spill-over.
17. Prior to certification of the CDP, and at least 35 days prior to any hearing by the Planning Board on the preliminary plan, the TCP 1 shall be revised as follows:
- a. Include the following label on the TCP I for the area of natural regeneration: "Existing shrub/scrub area of natural regeneration."
 - b. Remove woodland preservation located on the school/park site and revise the worksheet unless written permission from the Department of Parks and Recreation has been obtained.
 - c. Have the plan signed and dated by the qualified professional who prepared it.
18. Prior to acceptance of the preliminary plan application, the package shall be evaluated to ensure that it contains a revised geotechnical report based on the proposed grading of the site. The geotechnical report, prepared following the guidelines established by the Environmental Planning Section and the Prince George's County Department of Environmental Resource, shall state how the grading addresses the proposed 1.5 safety factor on the TCP I. The TCP I shall show proposed grading and the resulting 1.5 safety factor line. The 1.5 safety factor line shall not occur on any proposed residential lots. The report must contain an original signature and date; a signature stamp is not allowed.
19. Prior to the issuance of any permits which impact wetlands, wetland buffers, streams or waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approved conditions have been complied with, and associated mitigation plans.

20. Prior to the issuance of a building permit for any lot immediately adjoining a lot or parcel occupied by an archeological site or cemetery, applicant shall:
 - a. Install all required signage, if any, decided at time of specific design plan approval
 - b. Install a permanent wall or fence to delineate the Dublane (McGruder/McGregor Family) cemetery boundaries and provide for the placement of an interpretive marker at a location close to or attached to the cemetery fence/wall. The applicant shall submit the design of the wall or fence and proposed text for the marker for review and approval by the Historic Preservation Commission at the time of approval of the SDP that includes the cemetery.
21. 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 (TCP I/006/08), 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 and Tree Preservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved tree conservation plans for the subject property are available in the offices of The Maryland-National Capital Park and Planning Commission.

Ordered this 9th day of February, 2009, by the following vote:

In Favor: Council Members Bland, Campos, Dean, Dernoga, Harrison, Knotts and Turner.

Opposed:

Abstained:

Absent: Council Members Exum and Olson.

Vote: 7-0

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: _____
Marilynn M. Bland, Chairperson

Redis C. Floyd
Clerk of the Council