Case No.: CDP-0701

Applicant: TLBU Foundation, Inc.

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

ORDER AFFIRMING PLANNING BOARD DECISION

IT IS HEREBY ORDERED, after review of the administrative record, that the Planning Board's decision in Resolution PGCPB No. 08-111, approving with conditions a comprehensive design plan for construction of 410 single-family detached residential dwelling units, for a project referred to as TLBU, located on the west side of Frank Tippett Road, approximately 1,000 feet south of its intersection with Rosaryville 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. At the time of final plat, the applicant shall dedicate all rights-of-way for Frank Tippett Road, as identified by the Planning Department.

2. 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 and the applicant's heirs, successors or assignees:

    a. At the intersection of Rosaryville Road & Gambier Drive:

        Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T.

b. At the intersection of Rosaryville Road and Williamsburg Drive:

Conduct a traffic signal warrant study, and install traffic signal if deemed to be warranted and approved by DPW&T.

c. At the intersection of Rosaryville Road and Frank Tippett Road:

Provide a 475-foot double left-turn bay plus a 120-foot taper on the northbound approach. Provide a second receiving lane along westbound Rosaryville Road, the length and taper to be determined by DPW&T.

3. Prior to the issuance of building permits, the applicant, applicant heirs, successors and/or assignees, shall pay a pro-rata share of the road improvements along MD 223 at Rosaryville Road, as described in the Prince George's County Capital Improvement Program for CIP No. FD669451: 2008-2013 (MD 223 Widening). The pro rata share shall be payable to Prince George's County, with evidence of payment provided to the Planning Department with each building permit application. The pro rata share shall be $812.00 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 2001).

4. At the time of final plat, the applicant shall dedicate approximately 115 acres to M-NCPPC for a stream valley park and a community park. The exact acreage of each park shall be determined at the time of the approval of the preliminary plan of subdivision. Land to be conveyed shall be subject to the following conditions:

a. The facilities developed in the community park shall be designed to accommodate the recreation needs of the residents of the TLBU property and the surrounding community.

b. The applicant and M-NCPPC shall work in partnership with the Brookwood-Hollaway Civic Association and the Williamsburg Estates Citizens Association on the nature of the recreation facilities to be constructed on the land to be conveyed for a community park.

c. An original, special warranty deed for the property to be conveyed, (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the Final Plat.

d. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalls, curbs and gutters, and front-foot benefit charges prior to and subsequent to Final Plat.

e. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits, which include such property.

f. Subsequent to dedication, the land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, the DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.

g. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed o or owned by M-NCPPC, the DPR shall review and approve the location and design of these facilities. The DPR may require a performance bond and easement agreement prior to issuance of grading permits.

h. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled and underground structures shall be removed. The DPR shall inspect the site and verify that land is in acceptable condition for conveyance, prior to dedication.

i. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of the DPR.

5. The applicant shall terminate any leasehold interests on property to be conveyed to the Commission.

6. No stormwater management facilities, or tree conservation or utility easements shall be proposed on land owned by or to be conveyed to M-NCPPC without the prior written consent of the DPR. The DPR shall review and approve the location and/or design of these features. If such proposals are approved by the DPR, a performance bond, maintenance and easement agreements shall be required prior to the issuance of grading permits.

7. Tree conservation shall be allowed on dedicated parkland as approximately shown on DPR Exhibit "A." Prior to certificate approval of the TCP I, DPR shall review and approve the location and amount of tree conservation on dedicated parkland.

8. Provide a standard sidewalk along the subject site's entire frontage of Frank Tippett Road, unless modified by DPW&T.

9. The applicant, and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of $210 to the Department of Public Works and Transportation for the placement of Class III bikeway signage. A note shall be placed on the final record plat for payment to be received prior to the issuance of the first building permit. If road frontage improvements are required by DPW&T, wide outside curb lanes or asphalt shoulders are recommended to accommodate bicycle traffic.

10. Provide standard sidewalks along both sides of all internal roads, unless modified by DPW&T.

11. The applicant shall dedicate land along Piscataway Creek to the M-NCPPC in conformance with DPR Exhibit "A" to accommodate the future provision of the master plan trail along Piscataway Creek. This trail will be provided through a future M-NCPPC capital improvement program project.

12. The applicant shall dedicate land along Dower House Pond Branch to the M-NCPPC in conformance with DPR Exhibit "A" to accommodate the future provision of the master plan trail along Dower House Pond Branch. This trail will be provided through a future M-NCPPC capital improvement program project.

13. The applicant shall construct the East-West Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The "appropriate contractual and covenanted arrangement" required in Condition 8 of A-9738-C shall include provision for the maintenance of the East-West Trail.

14. The applicant shall construct the Tributary Trail required as part of Exhibit 44 of approved Basic Plan A-9738-C. The "appropriate contractual and covenanted arrangement" required in Condition 8 of A-9738-C shall include provision for the maintenance of the Tributary Trail.

15. Prior to certificate approval of the subject comprehensive design plan application:

a. Phase I (Identification) archeological investigations, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), shall be conducted on the above-referenced property to determine if any cultural resources are present. The entire 343.35 acres shall be surveyed for archeological sites. The applicant shall submit a Phase I Research Plan for approval by the staff archeologist prior to commencing Phase I work. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations is required prior to signature approval.

b. Upon receipt of the report by the Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to Planning Board approval of the first of either a preliminary plan of subdivision or a specific design plan, the applicant shall provide a plan for:

(1) Evaluating the resource at the Phase II level, or

(2) Avoiding and preserving the resource in place.

If a Phase II and/or Phase III archeological evaluation or mitigation is necessary the applicant shall provide a final report detailing the Phase II and/or Phase III investigations and ensure that all artifacts are curated in a proper manner, prior to any ground disturbance or the approval of any grading permits.

16. Prior to the approval of a specific design plan, the applicant shall provide a plan for any interpretive signage to be erected and public outreach measures (based on the findings of the Phase I, Phase II, or Phase III archeological investigations). The location and wording of the signage and public outreach measures shall be subject to approval by the Historic Preservation Commission and M-NCPPC staff archeologist. The installation of the signage and the implementation of public outreach measures shall occur prior to the issuance of the first building permit for the development.

17. Prior to the approval of a specific design plan for the portion of the developing property adjacent to the Joshua Turner House (Historic Site No. 82A-017), the applicant shall consider the impact of proposed development in this area on the historic site by submitting plans that address the buffering requirements of the *Prince George's County Landscape Manual,* the layout of streets and street lighting, the pattern of building lots, the orientation of buildings, and the specific character and materials of the proposed architecture that may be visible from Joshua Turner House.

18. At time of final plat, conservation easements shall be described by bearings and distances. The conservation easements shall contain the expanded stream buffers, excluding those areas where variation requests have been approved during the review of the Preliminary Plan of Subdivision, and be reviewed by the Environmental Planning Section prior to certification of the 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."

19. The Preliminary Plan of Subdivision and all subsequent plans shall ensure that no part of any conservation easement is on any residential lot. When the TCP II is formulated with the SDP, consideration shall be given to the placement of woodland conservation areas into permanent, recorded conservation easements because they will not be located on r residential lots.

20. At the time of approval of the preliminary plan and tree conservation plan by the Planning Board, consideration shall be given to removal of the stream crossing at the north end of proposed Dressage Drive.

21. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

22. Prior to certification of the CDP and prior to the Planning Board approval of a preliminary plan, the CDP's Type I TCP shall reflect the following:

    a. Ensure woodland conservation areas are at least 35 feet wide.

    b. Ensure that no woodland conservation areas are within existing or proposed utility easements.

    c. Provide the correct acreages for upland woodland and floodplain woodland in the worksheet and if necessary, revise the NRI.

    d. Add a symbol to the plan and the legend indicating woodland areas preserved but not part of any requirement.

    e. Label the existing buildings as existing and state the proposed disposition of the buildings. Provide reforestation where existing buildings are to be removed from or adjacent to regulated areas.

f. Revise the worksheet as needed.

g. Have the revised plan signed and dated by the qualified professional who prepared the plan.

23. 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/110/90-01), 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 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, Prince George's Planning Department."

24. Prior to the approval of building permits for the proposed residential structures, the applicant, applicant's heirs successors and/or assignees shall place on the building permit a certification by a professional engineer with competency in acoustical analysis demonstrating that the design and construction of the building shells will reduce interior noise levels to 45 dBA (Ldn) or less.

25. The following note shall be placed on the Final Plat of Subdivision:

"Properties within this subdivision have been identified as possibly having noise levels that exceed the state noise standards for residential uses (65 dBA Ldn) due to military aircraft overflights. This level of noise is above the Maryland-designated acceptable noise level for residential uses."

26. The stormwater management ponds shown on the TCP I associated with the preliminary plan shall show the use of forebays for improved water quality and ease of long-term maintenance.

27. Prior to signature approval of the CDP, the following information shall be provide and/or changes made to the plans:

a. The plans shall provide for a minimum 2.0-acre buildable area for the provision of a day care center located at the entrance to the subject property, in the vicinity of Lots 50–53, as shown on the illustrative plan, with frontage on Frank Tippett Road. The area shall be labeled on the plan as a future day care center. No other commercial uses shall be allowed on the subject property.

b. The plan shall be revised to remove the 31 acres shown on the CDP as a "future residential subdivision" from the gross tract area for purposes of density calculation, unless it is intended that the acreage be dedicated to a future homeowners association. The label "future residential subdivision" shall be removed from the plans and the area shall be clearly indicated for equestrian use.

c. The plans shall be revised to clearly indicate the minimum 10,000-square-foot lot area adjacent to Williamsburg Estates, Piscataway Creek and Dower House Pond Road.

d. The 100-foot buffer along Frank Tippett Road shall be extended along the entire frontage of the roadway.

e. The plans shall be revised to indicate the East-West Trail and the Tributary Trail as described in Exhibit 44 of Approved Basic Plan A-9738-C.

28. Prior to approval of a Specific Design Plan, the following shall be demonstrated:

a. That portion of the property adjacent to Frank Tippett Road shall be supplemented with plant materials or other screening.

b. No driveways shall have direct access to Frank Tippett Road. All access shall be from the internal roadway system.

c. Design of the equestrian trails shall be in accordance with the Parks and Recreation Facilities Guidelines and shall preserve mature trees to the extent possible.

d. The width of building lots adjacent to Frank Tippett Road shall be 70 feet at the street line.

e. Those lots adjacent to the Williamsburg Estates subdivision, Piscataway Creek and Dower House Pond Branch shall be a minimum of 10,000 square feet.

f. Access shall not be provided to Rosaryville Road via adjacent stub streets on the north boundary: James Street, Williamsburg Drive, and Green Apple Turn.

29. All structures shall be fully sprinklered in accordance with National Fire Protection Association Standard 13 and all applicable County laws.

30. Prior to the approval of a preliminary plan, the Planning Board shall make a final decision regarding the following issues:

a. Preservation of Forest Stand "D" through the elimination of the proposed stream crossing that forms the extension of Dressage Drive.

b. Elimination of lots that are adjacent to the northern property line and provide a 300-foot-wide buffer in this area as a land bridge to the portion of Forest Stand "D" that will be preserved between the two stream valleys.

c. Preservation of an area within 300 feet of the floodplain of Piscataway Creek.

d. The use of afforestation in those areas that are adjacent to the regulated areas.

31. The applicant shall meet and work with M-NCPPC Parks and Recreation staff and the parties of record to assist in the selection and construction of recreational facilities for the parkland being dedicated. At the time of building permit, the applicant shall contribute $500 per unit to a Parks and Recreation fund for the construction of a recreational park, as part of a future recreational center. The applicant is permitted up to 410 units on the property.

Ordered this 18th day of November, 2008, by the following vote:

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

Opposed:

Abstained:

Absent: Council Member Dernoga

Vote: 8-0

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: _____
Samuel H. Dean, Chairman

ATTEST:

_____
Redis C. Floyd
Clerk of the Council